1. Meeting Agenda

   Documents:

   CC_261021_AGENDA.PDF

2. Item 1A

   Appeal of Planning Commission Resolution No. 26-10 Regarding Coastal Development Permit No. 23-034 (33008 Pacific Coast Highway, APN 4473-017-009, Owner Bluff Top 1 LLC, Appellant Mark Mackey) (Continued from September 23, 2026)

   Documents:

   CC_261021_ITEM_1A.PDF

Malibu City Council
Special Meeting Agenda

Wednesday, October 21, 2026

2:00 P.M. – CITY COUNCIL SPECIAL MEETING
City Hall – Council Chambers
23825 Stuart Ranch Road

Zoom Webinar Link:
https://us02web.zoom.us/j/87985644870

GUIDE TO THE CITY COUNCIL PROCEEDINGS AND DECORUM

ROLE OF THE PRESIDING OFFICER: The presiding officer of the City Council, who shall be the Mayor, shall be responsible for maintaining the order and decorum of meetings. It shall be the duty of the presiding officer to ensure that these rules of procedure and decorum are followed at all times. The presiding officer shall maintain control of communication between Councilmembers, between the Council and the public, and chair each meeting in a fair and impartial manner. It shall be the duty of each Councilmember to support the presiding officer in maintaining the order and decorum of Council meetings.

On specific agenda items Councilmembers may question any person addressing the City Council at the conclusion of all public testimony on that agenda item before the Council. Councilmembers shall not engage any member of the public in a dialogue with themselves other Councilmembers, city staff or other members of the public. Specific rules for public hearings are described in more detail below.

MEMBERS OF THE AUDIENCE: Members of the audience shall not engage in disorderly or boisterous conduct, including clapping, whistling, stamping of feet, or other acts which disturb, disrupt, impede or otherwise disturb the orderly conduct of the City Council meeting. Persons addressing the City Council shall not engage in disorderly conduct which disrupts, or otherwise impedes the orderly conduct or Council meetings. Any person who so disrupts a Council meeting may, at the discretion of the presiding officer or a majority of the City Council, be subject to ejection from that meeting.

MEETING PARTICIPATION: Members of the public may participate in-person or remotely via Zoom Webinar.

Remote participation: In order to participate remotely, you must be present in the Zoom Webinar during the item that you would like to speak on and use the Raise Hand feature to request to speak when the Mayor calls the item. When you join the Zoom Webinar you may see a pop-up asking you to enter an email address, but a valid email address is not required. To join by phone: Dial 1-669-444-9171 or 1-669-900-9128 (Toll Free) and enter Meeting ID: 879-8564-4870. To raise your hand via a phone-in please press *9 and unmute when you are called on by pressing *6. If you are participating via the web platform or application, please press the raise your hand icon and the unmute button when prompted.

In-person participation: If you would like to speak in-person, you must complete and submit to the Recording Secretary a Speaker Slip at the meeting prior to the beginning of the item being announced by the Mayor.

When each item is called, the Mayor will announce a final call for Speaker Slips and raised hands.

Speaker Time: Members of the public will have the opportunity to speak on items on the agenda. Remote and in-person participants will have three (3) minutes to speak on each item on the agenda. In-person participants may also surrender their time to speak on an item on the agenda by deferring one (1) minute to another speaker, not to exceed a total of five (5) minutes. Speakers receiving time deferrals may be participating in-person or remotely. The individuals deferring time must be present in Chambers when the item is heard and their slips must be prior to the beginning of the item being announced by the Mayor. Speakers are taken in the order slips are submitted or hands are raised.

PUBLIC HEARINGS: For Public Hearings involving land use appeals/applications the appellant and applicant will be given 15 minutes each to present their position to the City Council, including rebuttal time. Following the initial presentations from the appellant and applicant and public testimony Councilmembers may address questions to any of the speakers, members of the public in attendance, chairpersons or a designated representative of city commissions, boards or committees, city staff or consultants. Following the question period, the appellant and applicant will have the opportunity to present rebuttal before the public hearing is closed.

Any written comments or audiovisual materials for the hearing from the applicants, appellants, and/or their representatives, including any that they intend to present at the hearing, must be submitted ten (10) business days in advance, by 5:00 p.m. on October 7, 2026. Any written comments or audiovisual materials from members of the public, including any that they intend to present at the hearing, must be submitted three (3) business days in advance, by 4:00p.m. on October 16, 2026. No additional materials from any party or the public will be accepted after these deadlines. All materials should be emailed to citycouncil@malibucity.org.

VIEW THE MEETING: The meeting will be live streamed at www.malibucity.org/video, www.youtube.com/CityofMalibu, and via Zoom Webinar.

Two p.m. **Regular Session**

Call to Order - Mayor

Roll Call - Recording Secretary

Pledge of Allegiance

Report on Posting of Agenda – September 17, 2026

Approval of Agenda

1. Ordinances and Public Hearings

For Public Hearings involving zoning matters the appellant and applicant will be given 15 minutes each to present their position to the City Council, including rebuttal time.

A. Appeal of Planning Commission Resolution No. 26-10 Regarding Coastal Development Permit No. 23-034 (33008 Pacific Coast Highway, APN 4473-017-009, Owner Bluff Top 1 LLC, Appellant Mark Mackey) (Continued from September 23, 2026)

Recommended Action: Either: 1) Adopt Resolution No. 26-63 (Exhibit A) denying Appeal (AP) No. 26-006 (Exhibit C), determining the project is categorically exempt from the California Environmental Quality Act (CEQA), and approving Coastal Development Permit (CDP) No. 23-034, an application for the construction of a new two-story, 18-foot (ft.) high, 4,856 square foot

(sf.) single-family residence, including a 791 sf., attached garage and an 824 sf., second unit, landscaping, hardscape, grading, fire department turnaround area, vehicular access gate, and the installation of a new onsite wastewater treatment system (OWTS); including Minor Modification (MM) No. 25-009 for up to a 50 percent reduction of the front yard setback located in the Rural Residential, Two-Acre (RR-2) zoning district at 33008 Pacific Coast Highway (PCH) (Bluff Top 1 LLC); or 2) Direct staff to bring back a resolution consistent with the City Council's decision.

Staff Contact: Community Development Director Bundy, 456-2489, ext. 229

Adjournment

Copies of the staff reports or other written documentation relating to each item of business described above are on file in the office of the City Clerk, Malibu City Hall, 23825 Stuart Ranch Road, Malibu, California, and are available for public inspection during regular office hours, which are 7:30 a.m. to 5:30 p.m. Monday through Thursday and 7:30 a.m. to 4:30 p.m. Friday. Written materials distributed to the City Council within 72 hours of the City Council meeting are available for public inspection immediately upon distribution in the City Clerk's office at 23825 Stuart Ranch Road, Malibu, California (Government Code Section 54957.5.b.2). Copies of staff reports and written materials may be purchased for $0.10 per page.

The City Hall phone number is (310) 456-2489. To contact City Hall using a telecommunication device for the deaf (TDD), please call (800) 735-2929 and a California Relay Service operator will assist you. In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact Community Development Director Yolanda Bundy, (310) 456-2489, ext. 229. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting. [28 CFR 35.102-35.104 ADD Title II].

I hereby certify under penalty of perjury, under the laws of the State of California that the foregoing agenda was posted in accordance with the applicable legal requirements. Special meeting agendas may be amended up to 24 hours in advance of the meeting. Dated this 17th day of September 2026 at 1:00 p.m.

Christina Muñoz, Deputy City Clerk

Council Agenda Report

City Council Meeting
10-21-26
Item 1.A.

To: Mayor Silverstein and Honorable Members of the City Council

Prepared by: Didier Murillo, Principal Planner

Reviewed by: Yolanda Bundy, Community Development Director
Tyler Eaton, Assistant Community Development Director

Approved by: Joseph D. Irvin, City Manager

Date prepared: September 17, 2026 Meeting Date: October 21, 2026

Subject: Appeal of Planning Commission Resolution No. 26-10 Regarding Coastal Development Permit No. 23-034 (33008 Pacific Coast Highway, APN 4473-017-009, Owner Bluff Top 1 LLC, Appellant Mark Mackey) (Continued from September 23, 2026)

RECOMMENDED ACTION: Either: 1) Adopt Resolution No. 26-63 (Exhibit A) denying Appeal (AP) No. 26-006 (Exhibit C), determining the project is categorically exempt from the California Environmental Quality Act (CEQA), and approving Coastal Development Permit (CDP) No. 23-034, an application for the construction of a new two-story, 18-foot (ft.) high, 4,856 square foot (sf.) single-family residence, including a 791 sf., attached garage and an 824 sf., second unit, landscaping, hardscape, grading, fire department turnaround area, vehicular access gate, and the installation of a new onsite wastewater treatment system (OWTS); including Minor Modification (MM) No. 25-009 for up to a 50 percent reduction of the front yard setback located in the Rural Residential, Two-Acre (RR-2) zoning district at 33008 Pacific Coast Highway (PCH) (Bluff Top 1 LLC); or 2) Direct staff to bring back a resolution consistent with the City Council's decision.

FISCAL IMPACT: There is no fiscal impact associated with the recommended action.

STRATEGIC PLAN IMPLEMENTATION: N/A.

DISCUSSION: This item was scheduled for the September 23, 2026 Special City Council meeting. However, the City Council continued the item to the October 21, 2026 Special City Council meeting prior to opening the public hearing.

The matter before the City Council is an appeal of the Planning Commission's approval of CDP No. 23-034 and MM No. 25-009, an application to allow for the construction of a new two-story, 18-ft., high, single-family residence and associated development. The appeal was filed by Mark Mackey, represented by Jackson D. McNeill of Holland & Knight LLP (formerly with Elkins Kalt) (Exhibit C).

Project Background

On February 17, 2026, the Planning Commission considered the project, and following deliberation, approved CDP No. 23-034 and MM No. 25-009 on a 4-0-1 vote (with the one vote being an Abstention). The February 17, 2026 staff report and related correspondence are included as Exhibit D and provide additional detail regarding the project and the basis for the Planning Commission's decision.

On February 26, 2026, Mark Mackey filed Appeal No. 26-006. Video of the Planning Commission deliberation can be found on the City's website at https://www.malibucity.org/662/Public-Meeting-Video-Archive.

Leading up to the February 17, 2026 Regular Planning Commission meeting, the project was continued three times to allow staff additional time to address comments received from California Coastal Commission staff regarding the proposed reduction of the bluff edge setback and concerns raised by the adjacent property owner to the north and other members of the public regarding potential private view impacts. In addition, the item was continued one year prior to allow the applicant additional time to modify the proposed roof deck to address privacy concerns. For a complete chronology of the report, see City Council Resolution No. 26-63.[1]

Project Overview

As shown in Figure 1, the subject parcel is a vacant, parallelogram-shaped blufftop lot of approximately 0.67 acres in size. The property is accessed from a private driveway easement stemming south from PCH, which is designated as a scenic road in the Local Coastal Program (LCP) Land Use Plan (LUP) where proposed development must be assessed for potential visual impacts on scenic areas. Residential development is permitted on the parcel, subject to the non-beachfront residential development standards of the Malibu Municipal Code (MMC) and LCP.

[1] All referenced Planning Commission agenda reports are available online at malibucity.org/agendacenter.

Figure 1: Aerial Map



Source: City GIS 2026

The project site is not designated as an Environmentally Sensitive Habitat Area (ESHA) as shown on the LCP ESHA Overlay Map; however, a mapped blueline stream exists offsite 104 feet west of the project site and warrants protection as ESHA pursuant to LIP Chapter 4. To minimize potential ESHA impacts, LIP Section 4.6.1 requires a minimum 100-ft. buffer from ESHA.

Developed residential properties with existing fuel modification zones and ongoing fuel modification activities are located between the stream ESHA and the project site. The proposed residence would be located 104 feet from the stream and within these existing, overlapping fuel modification zones. Therefore, the Los Angeles County Fire Department (LACFD)-approved fuel modification required for the proposed residence would not extend into previously unaffected ESHA or result in new ESHA impacts. Pursuant to Land Use Plan Section 3.1, fuel modification areas required by the LACFD for existing, legal structures do not meet the definition of ESHA. However, where an existing fuel modification area overlaps a stream, the stream itself remains ESHA. The LCP distinguishes between vegetative ESHA, such as coastal sage scrub or chaparral ESHA, and stream and wetland ESHA, which are subject to a higher level of protection. In response to concerns raised during the Planning Commission hearing regarding the project's proximity to the 100-foot stream setback, the Planning Commission imposed a

condition limiting development to a 10,000 square foot development area, which would be required if the development impacted ESHA (LIP Section 4.7.1).

The parcel is currently vacant, except for an unpermitted nonconforming six-foot-high solid gate and fence along the front property line.[2] City records show the current fence was constructed around November 2022. The proposed scope of work would replace the nonconforming fence with a compliant, visually permeable fence up to six feet in height within the front yard setback.

The project scope approved by the Planning Commission is the following:

a) Construction of a 4,856 square foot, two-story, single-family residence, 18 feet in height, including a 791 square foot attached garage;
b) 824 square foot, second unit above the garage;
c) Construction of outdoor decks;
d) Installation of new landscaping and hardscape;
e) Grading;
f) Construction of a new OWTS;
g) Vehicular access gate; and
h) Fire department turnaround area.
i) Discretionary Request: MM No. 25-009 for a 37 percent reduction of the front yard setback.

APPEAL TO THE CITY COUNCIL

The appellant's representative, Jackson D. McNeill, provided written and oral testimony during the public hearing before the Planning Commission. In the appeal, the appellant contends that the findings are not supported by the evidence, and that the decision was contrary to law. The specific arguments are summarized below in italics. The full text of the appeal documents is included as Exhibit C.

Appeal Item 1. The decision is contrary to law, and the evidence fails to support the findings because the Planning ESHA analysis relies on an incorrect measurement methodology; when correctly measured, an ESHA buffer exists that conflicts with the project.

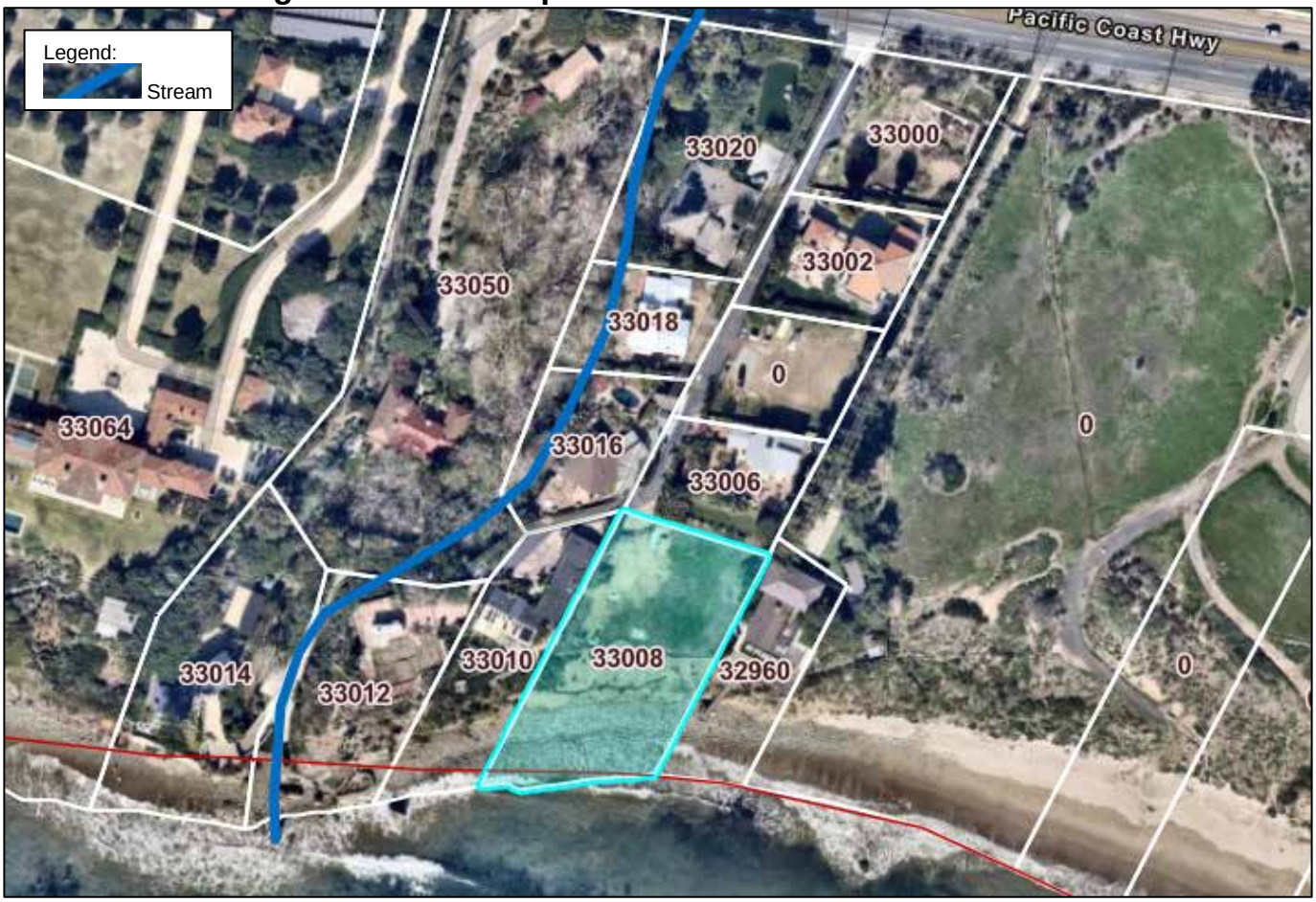
Staff Response

The project's distance from the stream is in conformance with LIP Chapter 4 as demonstrated by materials submitted by the applicant, including a letter from Ford Biological Consulting and a drone aerial exhibit. The City Biologist reviewed these

[2] An active code violation case is open for the unpermitted gate and face and would be resolved if the CDP is approved and the project constructed. An inspection would be conducted to verify the violation was remediated. If the CDP is not approved, code enforcement staff will require the gate be addressed immediately.

materials and confirmed that the proposed development is located 104 ft. from the mapped blue line stream to the west. It was further confirmed that the project area is located within the existing fuel modification zones of adjacent single-family residences, as shown in Figure 2 below. The figure illustrates that the existing single-family residences and access road are closer to the stream than the proposed project. Nevertheless, the proposed project maintains a 104-ft. setback from the stream, exceeding the required 100-foot buffer. As stated previously, pursuant to Land Use Plan Section 3.1, fuel modification areas required by the LACFD for existing, legal structures do not meet the definition of ESHA. Furthermore, the development is located 100 feet from the stream as required by the LCP, and no new fuel modification encroaches into the ESHA buffer zone.

Figure 2: Aerial Map with Blue Line Stream Location



Source: City GIS 2026

<u>Appeal Item 2.</u> The project fails to account for Coastal ESHA.

<u>Staff Response</u>

Based on information provided by the project biologist and reviewed by the City Biologist, the project area and bluff were confirmed to be within the existing fuel modification zones

associated with adjacent single-family residences. The vegetation on the bluff is dominated by non-native species, and no ESHA was identified within the bluff area. Accordingly, the bluff was not determined to constitute ESHA. As mentioned previously, the development is located 104 feet from the stream and no new fuel modification would encroach into the required stream buffer. In addition, the appellant has not provided substantial evidence that ESHA is present within the project site.

Appeal Item 3. The decision violates the LCP's Archaeological Requirements.

Staff Response:

The originally submitted Archaeological Report (Phase I) found that further archaeological study was not needed. Planning Division staff included recommendations from the archeologist's report as conditions of approval to ensure that should any cultural resources be found onsite during excavation and construction, they will be properly addressed.

Prior to the December 1, 2025 Regular Planning Commission meeting, staff received correspondence from the appellant's counsel stating that the applicant's Phase I Archaeology Report was insufficient and that human remains and other cultural resources likely exist on the site. A letter was also submitted from a Chumash Elder (David Dominguez) who cited another Chumash Elder (Julie Tumamait-Stenslie) allegedly in support of the concern raised. As a result, the project was continued to a date uncertain to provide the applicant time to pursue further archeological study and consultation with Chumash representatives.

Following the continuance, staff received correspondence directly from Chumash Elder Julie Tumamait-Stenslie stating that she was misquoted by Chumash Elder David Dominguez and also stating she had not made statements, nor was she aware of evidence supporting the appellant's concerns regarding the subject property at 33008 PCH. Chumash Elder Julie Tumamait-Stenslie also stated that she spoke with Chumash Elder David Dominguez by telephone and asked him to retract his letter. To date, Chumash Elder David Dominguez has not retracted his letter.

LIP Section 11.3 establishes the LCP's archaeological resource review requirements required for development. As mentioned, the initial Phase 1 inventory concluded that no additional studies were necessary because the resources found were not determined to constitute significant cultural resources. However, in response to the conflicting information described above, City staff required an additional Phase 1 evaluation to further evaluate the nature of the significance of the materials identified. In addition, Chumash Elder would act as a third-party intermediary to determine if the resources discovered were significant.

On January 2, 2026, Matthew A. Boxt, Ph.D., prepared an extended archaeological study which included an intensive evaluation of the project area included in the original Phase 1

Report. This study incorporated subsurface testing, including auger borings, laboratory analysis, and cultural resource monitoring Chumash Elder Julie Tumamait-Stenslie who validated the findings of both Phase 1 studies.

The extended study concluded that the subsurface soils within the project area are "archaeologically sterile," meaning that the project site does not contain intact or significant cultural resources. The extended study characterized the project site as an "artificial or pseudo-site" created by earth-moving activities decades earlier from the property to the north. In addition, it concluded that the project did not exhibit indicators that would reflect past human activity and confirmed that the proposed development would not adversely affect cultural resources.

Although the extended study did not identify significant cultural resources, it recommended precautionary measures in the event previously unidentified resources are found during construction. These measures were included as conditions of approval in the adopted Planning Commission resolution No. 26-10 (Exhibit B).

Under LIP Section 11.3(F), when a Phase I identifies "one or more significant" cultural resources, a negative declaration, mitigated negative declaration, focused environmental impact report, or an environmental impact report are required to be prepared. The Phase 1 study, including the extended study, did not identify a significant cultural resource. As such, no further evaluation is required.

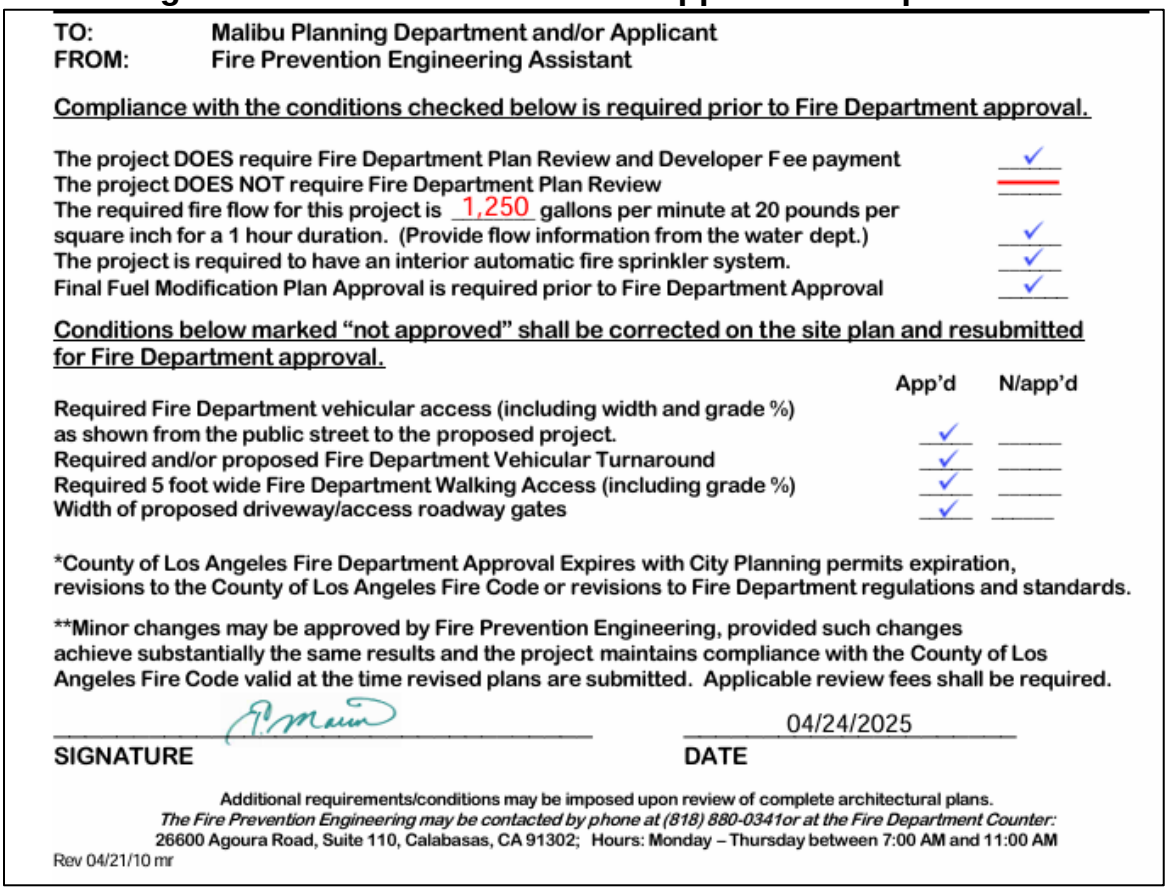
The archaeological investigations did not identify significant cultural resources with proposed area. The appellant has not provided substantial evidence challenging the Phase 1 studies conducted. Furthermore, the applicant has carried their burden and provided substantial evidence through the Phase 1 studies conducted on site in consultation with a qualified Chumas Cultural Resource Monitor.

Appeal Item 4. The project violates County Fire requirements.

Staff Response

The appellant states that the project fails to demonstrate compliance with various Fire Code sections as stated in their appeal letter regarding; access road, width, and defensible space. However, the Los Angeles County Fire Department (LACFD) approved the project in a letter dated April 24, 2025. Figure 3 is a screenshot of a portion of the LACFD review sheets where it indicated the project as submitted was approved for vehicular access (including width and grade percentage), required fire department vehicular turnaround, required 5 ft., walking area (including grade percentage), and width of proposed driveway/access roadway gates. If the City Council approves the project, it may require the applicant to obtain updated approvals from LACFD to be submitted during the plan check process.

Figure 3: Screenshot of LACFD Approved Components



TO: Malibu Planning Department and/or Applicant
FROM: Fire Prevention Engineering Assistant

Compliance with the conditions checked below is required prior to Fire Department approval.

The project DOES require Fire Department Plan Review and Developer Fee payment	✓
The project DOES NOT require Fire Department Plan Review	—
The required fire flow for this project is 1,250 gallons per minute at 20 pounds per square inch for a 1 hour duration. (Provide flow information from the water dept.)	✓
The project is required to have an interior automatic fire sprinkler system.	✓
Final Fuel Modification Plan Approval is required prior to Fire Department Approval	✓

Conditions below marked "not approved" shall be corrected on the site plan and resubmitted for Fire Department approval.

	App'd	N/app'd
Required Fire Department vehicular access (including width and grade %) as shown from the public street to the proposed project.	✓	
Required and/or proposed Fire Department Vehicular Turnaround	✓	
Required 5 foot wide Fire Department Walking Access (including grade %)	✓	
Width of proposed driveway/access roadway gates	✓	

*County of Los Angeles Fire Department Approval Expires with City Planning permits expiration, revisions to the County of Los Angeles Fire Code or revisions to Fire Department regulations and standards.

**Minor changes may be approved by Fire Prevention Engineering, provided such changes achieve substantially the same results and the project maintains compliance with the County of Los Angeles Fire Code valid at the time revised plans are submitted. Applicable review fees shall be required.

SIGNATURE 04/24/2025 DATE

Additional requirements/conditions may be imposed upon review of complete architectural plans.
The Fire Prevention Engineering may be contacted by phone at (818) 880-0341or at the Fire Department Counter:
26600 Agoura Road, Suite 110, Calabasas, CA 91302; Hours: Monday – Thursday between 7:00 AM and 11:00 AM

Rev 04/21/10 mr

Source: LCFD Review Sheet

Appeal Item 5: The decision was improper because the applicant failed to consult with the State Lands Commission (SLC) and the LIP does not permit staff to substitute its own judgement for the SLC.

Staff Response

It has been a long-standing policy of the Planning Division and confirmed by review of many coastal bluff projects in Malibu by the California Coastal Commission (CCC), that the requirement to obtain written determination from the State Lands Commission is only applicable to beachfront properties pursuant to LIP Section 10.5(C-E). While the subject property is oriented toward the ocean, a steep bluff is located between the proposed building pad and the ocean. The proposed development further incorporates the blufftop setback requirements of LIP Section 10.4(D). Being setback far from the mean high tide line and the beach below the bluff, there is no evidence that the proposed development would encroach into State Lands. Further, there is no development proposed along the shoreline or bluff, nor does the project propose a shoreline stabilization device or other development along the bluff such as drainage devices or beach access.

The subject project does not propose any development along the shoreline or the beach and it is solely located beyond the bluff on flat land. As mentioned previously this interpretation has been consistently applied by the City and the CCC. Blufftop properties that do not include beachfront development are not subject to State Lands determinations because they are not necessary as those properties are not located on public tidelands or wouldn't adversely impact tidelands. LIP Section 10.5(C) requires that all new development along the shoreline or beach obtain a SLC letter to determine the impact upon the boundary between public tidelands and private property. Being far away from the public tidelands below the bluff, the project location does not require an SLC determination.

Appeal Item 6: The applicant and City failed to invite parties with easement interests to join as co-applicants; abstaining from erecting new structures within the easement did not cure this issue.

Staff Response

Pursuant to LIP Section13.6.2(C), all holders or owners of any other interest of record in the affected property shall be notified in writing of the permit application and invited to join as co-applicant. Therefore, when there is no development taking place on neighboring properties, in this case, the shared private access easement, the City does not require co-application notices. The subject project does not propose any development within the shared private access easement with other properties. Revised plans were submitted to further clarify that no development will be proposed within the portion of the shared easement. The access easement on adjacent properties will remain as is. The prior version of the plans erroneously stated that the area was existing pavement to remain but confirmed to be existing decomposed granite (DG) to remain. Therefore, staff did not require a co-application. Furthermore, this was originally identified as an incomplete item; the applicant then clarified that no improvements were proposed within the easement, and the previous Planning Director and Senior Planner no longer required the co-application submittal.

Appeal Item 7: The project landscaping violates the MMC and LCP.

Staff Response

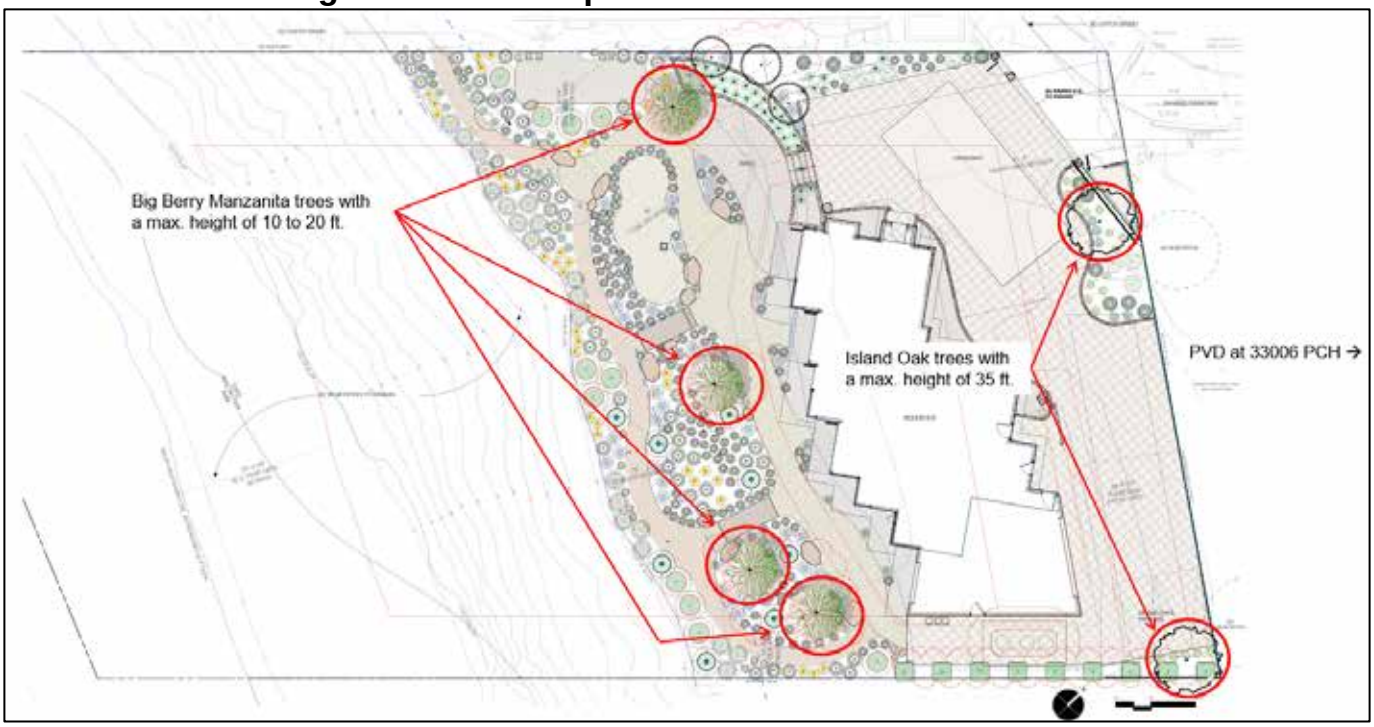
As previously described, the project consists of a two-story, 18-foot-tall single-family residence with associated improvements and landscaping. The approved landscaping plan shows proposed Big Berry Manzanita trees and Oak trees that the appellant is claiming violates the MMC and LCP. The appellant states that proposed landscaping will obstruct their existing Primary View Determination (PVD). However, three of the four Big Berry Manzanita trees with a maximum height of 10 to 20 ft., will be located behind the proposed single-family residence; and one of the two proposed Island Oak trees with a maximum height of 35 ft., will be located at the northeast corner of the site as seen on

Figure 4 below. Conditions of approval addressing view impacts were included in the Planning Commission Resolution 26-10:

Condition No. 43 Vegetation shall be situated on the property so as not to significantly obstruct the primary view from private property at any given time (given consideration of its future growth; and

Condition No. 44 Vegetation in excess of six feet in height shall not obstruct the primary view of existing residences located within a 1,000-foot radius at any given time (given consideration of its future growth).

Figure 4: Landscape Plans with Staff Illustration



Source: Project Plans Approved by Planning Commission (2/17/2026)

As previously stated, the proposed project will not exceed 18 feet in height. Staff conducted a visual analysis of the proposed project from the neighbor's primary viewing area to document the view obstruction. It was determined that any proposed building would obstruct private bluewater views regardless of structure location or height on the lot due to the configuration of the parcel. Nonetheless, the proposed project does not exceed the 18 ft. height limit and is not requesting additional height over 18 ft., pursuant to a site plan review. The vegetation has been conditioned to not impact views within the PVD. Alternatively, a condition of approval can be added to the project to revise the landscape plan to eliminate the trees or proposed other low growing landscaping.

Appeal Item 8: The decision violates longstanding policy on processing code enforcement cases and the decision failed to address the unpermitted bluff development.

Staff Response

As previously mentioned, the site has an active code violation case from 2022 which remains open for an unpermitted gate and face and would be resolved if the CDP is approved and the project constructed. An inspection would be conducted to verify the violation was remediated. If the CDP is not approved, code enforcement staff will require the gate be addressed immediately. The CDP was submitted in 2024. The gate is not proposed to remain and is not before the Council or part of the project.

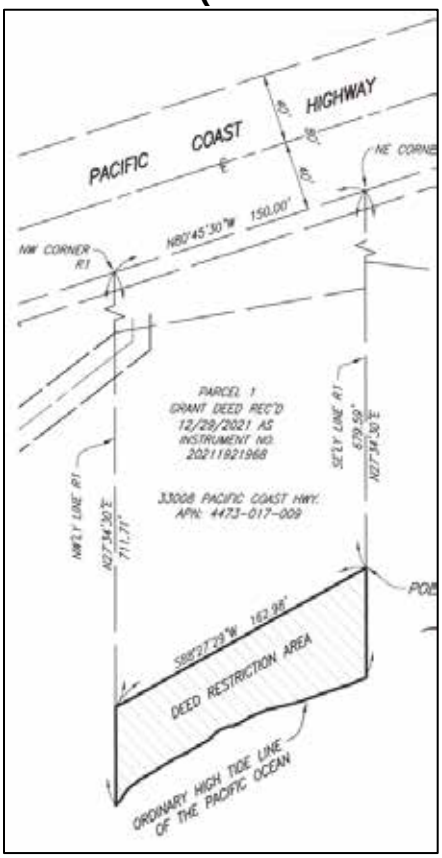
Resolution of code enforcement cases through an application to approve or alter unpermitted development is in fact common, and sometimes necessary, to resolve a violation. The case cited by appellant was exceptional, as a CDP was granted to cure the violation but then was never constructed, and the violation was not resolved for over a decade after approval of the CDP. Nevertheless, regardless of what happens with this application code enforcement will require remediation of the unpermitted gate and fence. The existence of an active code enforcement matter does not provide grounds for denial of a project where the evidence supports the required findings.

Appeal Item 9: The project does not comply with the certificate of compliance and non-compliance prohibits approval.

Staff Response

The appellant states that the original Conditional Certificate of Compliance (CoC) No. 29220 was recorded against title in 1986 and required as a condition that the owner dedicate to the County the right to restrict the erection of buildings and/or other structures because the property and/or its access has portions within a flood-prone area at the toe of the bluff. A CoC was recorded on September 4, 2025, which states that no buildings, improvements, structures and/or obstructions of any kind shall be constructed on the portion of the property being located within the flood-prone area located on the southern portion of the site and has an area of approximately 7,335 sf.

Figure 5: CoC Exhibit (area of deed restriction)



CoC – Exhibit E

The CoC did not just require the owner to dedicate a deed restriction to the flood-mapped portions of the Property. The CoC from 2025 has cleared the conditions stated in 1986 and the deed restriction area satisfies the requirements. There is no proposed development in the deed restricted area.

Appeal Item 10: CEQA grounds for appeal (the decision improperly relies upon mitigation measures to support a Categorical Exemption from CEQA; the City unlawfully attempted to mitigate impacts to cultural resources in order to utilize a Categorical Exemption from CEQA; the project will have a significant environmental effect; alternatively, features of the project create unusual circumstances and the project presents the reasonable possibility of an adverse environmental impact; and the LCP independently requires additional CEQA review.

Staff Response

The construction project is categorically exempt from the provisions of CEQA pursuant to Sections 15303(a) and (e) - New Construction. Further, as previously addressed in the response to appeal item 3 the applicant complied with the Archaeological requirements of LIP Section 11.3 which details what is required to meet the LCP's archaeological resource

requirements. As mentioned, the archaeological study (Phase I) did not recommend that further archaeology study was warranted. Staff included the recommendations of the archeologist as conditions of approval addressing cultural resources as a precautionary measure and not meant to be mitigation measures to evade CEQA. This is a common practice that many planning commission resolutions and City Council resolutions resolving appeals have incorporated for many decades. LIP Section 11.3(F) states that:

"if" *on the basis of the Phase I Inventory described above, one or more significant cultural resources is found, a Phase I Inventory may be required to include: … Recommendations for Phase II. Evaluations and a negative declaration, mitigated negative declaration, focused environmental impact report or an environmental impact report shall be prepared.*

The initial Phase I report indicated no significant resources were onsite but implemented conditions to ensure compliance with State law. The applicant prepared a separate Extended Phase I Archaeological Study with an independent tribal monitor from the Chumash Tribe, after challenges from the neighbor, which characterized the project site as an "artificial or pseudo-site" created by earth-moving decades earlier on other property, that the project did not exhibit indicators that would reflect past human activity, and confirmed that the proposed development would not adversely affect significant cultural resources. The appellant has not provided evidence of unusual circumstances. Nor has the appellant provided evidence of a significant environmental effect. Nothing in CEQA requires an initial study to be conducted when no significant cultural resources are found and the City's LIP only requires a negative declaration, mitigated negative declaration, focused environmental impact report, or an environmental impact report when significant resources are found. Although some deposits were found they were determined by the onsite archaeologist and Chumash tribal monitor to not be significant and not native to the site as demonstrated by the two Phase 1 studies conducted on site. The cultural resource conditions discussed in response to appeal item 3 were added to the resolution to ensure that even if such resources are found they will be dealt with appropriately through the requirements of the LCP and state law.

ENVIRONMENTAL REVIEW: Pursuant to the authority and criteria contained in CEQA, the Planning Division has analyzed the project. The Planning Commission found that this project is listed among the classes of projects that have been determined not to have a significant adverse effect on the environment. Therefore, the proposed project is categorically exempt from the provisions of CEQA pursuant to Sections 15303(a) and (e) - New Construction. Further, none of the six exceptions to the use of a categorical exemption apply to this project (CEQA Guidelines Section 15300.2).

PUBLIC CORRESPONDENCE: Correspondence received in connection with the February 17, 2026 Planning Commission hearing is included in Exhibit F. Correspondence received after the hearing is included in Exhibit G. Note: On September 10, 2026, the applicant also submitted a compilation of letters in support of the project; those letters had previously been provided to and considered by the Planning Commission.

PUBLIC NOTICE: On September 17, 2026, a Notice of City Council Public Hearing was published in a newspaper of general circulation within the City, and public notice was mailed to the owners and occupants of all properties within a radius of 500 feet of the subject property (Exhibit H).

SUMMARY: Based on the information in this report, provided with the staff report presented to the Planning Commission, project plans, and other documents, the City Council shall provide directions to staff to bring back a resolution consistent with the City Council's decision.

EXHIBITS:

A. Resolution No. 26-63
B. Adopted Planning Commission Resolution 26-10
C. Appeal No 26-006
D. February 17, 2026 Planning Commission Agenda Report
E. Certificate of Compliance, recorded on September 4, 2025
F. Correspondence considered by the Planning Commission
G. Correspondence Received after the February 17, 2026 Planning Commission Meeting
H. Notice of Public Hearing

RESOLUTION NO. 26-63

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MALIBU, DENYING APPEAL NO. 26-006, DETERMINING THE PROJECT IS CATEGORICALLY EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT AND APPROVING COASTAL DEVELOPMENT PERMIT NO. 23-034 TO CONSTRUCT A NEW TWO STORY, 18 FOOT HIGH 4,856 SQUARE FOOT SINGLE FAMILY RESIDENCE, INCLUDING A 791 SQUARE FOOT ATTACHED GARAGE AND A 824 SQUARE FOOT SECOND UNIT, LANDSCAPING, HARDSCAPE, GRADING, FIRE DEPARTMENT TURNAROUND AREA, VEHICULAR ACCESS GATE, AND THE INSTALLATION OF A NEW ONSITE WASTEWATER TREATMENT SYSTEM, INCLUDING MINOR MODIFICAITON NO. 25-009 FOR UP TO A 50 PERCENT REDUCTION OF THE FRONT YARD SETBACK LOCATED IN THE RURAL RESIDENTIAL, TWO ACRE ZONING DISTRICT AT 33008 PACIFIC COAST HIGHWAY (BLUFF TOP 1 LLC)

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

SECTION 1. Recitals.

A. On May 17, 2023, an application for Coastal Development Permit (CDP) No. 23 034 and Code Violation (CV) No. 23-047 was submitted to the Planning Division by applicant, Schmitz and Associates, Inc., on behalf of the owner, Bluff Top 1 LLC. The application was routed to the City Biologist, City coastal engineering consultant reviewer, City Environmental Health Administrator, City geotechnical consultant, Public Works Department, Los Angeles County Fire Department (LACFD) and Los Angeles County Waterworks District No. 29 (WD29) reviewers for review.

B. On April 29, 2025, a Notice of Coastal Development Permit Application was posted on the subject property.

C. On August 15, 2025, story poles representing the location and height of the proposed addition to the detached garage were installed.

D. On August 29, 2025, Planning Division staff conducted a site visit to document site conditions, the property and surrounding area and to determine potential visual impacts of the proposed project on any scenic area, scenic road, or public viewing area.

E. On September 9, 2025, Planning Division staff deemed the application complete.

F. On September 25, 2025, a Notice of Planning Commission Public Hearing was published in a newspaper of general circulation within the City of Malibu and was mailed to all property owners and occupants within a 500-foot radius of the subject property.

G. On October 1, 2025, an amended agenda was published for the October 6, 2025 Regular Planning Commission meeting and the item was removed from the agenda.

H. On October 9, 2025, a Notice of Planning Commission Public Hearing was published in a newspaper of general circulation within the City of Malibu and was mailed to all property owners and occupants within a 500-foot radius of the subject property.

I. On October 3, 2025, following publication of the staff report, the Planning Division received comments from California Coastal Commission staff recommending that additional site-specific details be included in the Shoreline and Bluff Development Findings required by Local Coastal Program (LCP) Local Implementation Plan (LIP) Section 10.3(A), specifically with respect to the reduction of the bluff edge setback from 100 feet to 50 feet pursuant to LIP Section 10.4(D).

J. On October 20, 2025, consistent with the Planning Commission's protocol that public hearings be opened before 10:30 p.m., the item was continued, without opening the public hearing, to the November 3, 2025 Regular Planning Commission meeting.

K. On November 3, 2025, due to staffing changes and correspondence received from the adjacent property owner to the north and other members of the public raising various concerns, including potential impacts to private views, the Planning Commission continued the item, prior to opening the public hearing, to the December 1, 2025 Regular Planning Commission meeting to allow staff additional time to investigate the concerns raised.

L. On December 1, 2025, the Planning Commission continued the project to a date uncertain prior to opening the public hearing.

M. On February 5, 2026, a Notice of Planning Commission Public Hearing was published in a newspaper of general circulation within the City of Malibu and was mailed to all property owners and occupants within a 500-foot radius of the subject property.

N. On February 18, 2025, the Planning Commission continued the item to the March 3, 2025 Regular Planning Commission meeting to allow the applicant additional time to modify the proposed roof deck to address privacy concerns.

O. On February 17, 2026, the Planning Commission held a duly noticed public hearing on the subject application, reviewed and considered the staff report, reviewed and considered written reports, public testimony, and other information in the record.

P. On February 26, 2026, Mark Mackey (Appellant) filed an appeal of the Planning Commission's action (Appeal No. 26-006).

Q. On August 20, 2026, a Notice of City Council Public Hearing was published in a newspaper of general circulation within the City of Malibu and was mailed to all property owners and occupants within a 500-foot radius of the subject property.

R. On September 23, 2026, prior to opening the public hearing, the City Council continued the item to the October 21, 2026 Special City Council meeting.

S. On February 17, 2026, a Notice of City Council Public Hearing was published in a

newspaper of general circulation within the City of Malibu and was mailed to all property owners and occupants within a 500-foot radius of the subject property.

T. On October 21, 2026, the City Council held a duly noticed public hearing on the subject application, reviewed and considered written reports including the agenda report and attachments for the February 17, 2026, Planning Commission Meeting, public testimony, and other information in the record.

SECTION 2. Environmental Review.

Pursuant to the authority and criteria contained in the California Environmental Quality Act (CEQA), the City Council has analyzed the proposed project. The City Council has found that the project is listed among the classes of projects that have been determined not to have a significant adverse effect on the environment. Therefore, the project is categorically exempt from the provisions of CEQA pursuant to Sections 15303 (a) and (e) – New Construction. The City Council has further determined that none of the six exceptions to the use of a categorical exemption apply to this project (CEQA Guidelines Section 15300.2).

SECTION 3. Appeal of Action.

The appellant contends that the Planning Commission's findings for approval of the project are not supported by the evidence, that the Planning Commission's decision is not supported by the findings, and that the Planning Commission's decision is contrary to law. Specifically, the appellant contends that (1) Environmentally Sensitive Habitat Area (ESHA) analysis relies on an incorrect measurement methodology; (2) the project fails to account for Coastal ESHA; (3) the decision violate the LCP's archaeological requirements; (4) the project violates County Fire requirements; (5) the decision is improper because the applicant failed to consult with State Lands Commission; (6) the applicant and City failed to invite parties with easement interest to join as co-applicants; (7) the project violated the Malibu Municipal Code and LCP; (8) the decision violates longstanding policy on processing code enforcement cases; (9) the project does not comply with certificate of compliance; and (10) CEQA ground for appeal.

Based on the evidence in the record, as detailed below, in the agenda report, and at the hearing on the matter, the City Council has determined that the project conforms to the Local Coastal Program (LCP) and Malibu Municipal Code (MMC), denying the appeals, and approving the project. The Council finds that the evidence supports the findings and is consistent with the City's past application of the applicable provisions of the LIP.

1. The project's distance from the stream is in conformance with LIP Chapter 4 as demonstrated by materials submitted by the applicant, including a letter from Ford Biological Consulting and a drone aerial exhibit. The City Biologist reviewed these materials and confirmed that the proposed development is located 104 ft. from the mapped blue line stream to the west. It was further confirmed that the project area is located within the existing fuel modification zones of adjacent single-family residences. Figure 2 in the staff report illustrates that the existing single-family residences and access road are closer to the stream than the proposed project. Nevertheless, the proposed project maintains a 104-ft. setback from the stream, exceeding the required 100-foot buffer. As stated previously, pursuant to Land Use Plan Section 3.1, fuel modification areas

required by the LACFD for existing, legal structures do not meet the definition of ESHA. Furthermore, the development is located 100 feet from the stream as required by the LCP, and no new fuel modification encroaches into the ESHA buffer zone. Furthermore, this determination lines up with the direction given by the previous Planning Director and Senior Planning Staff (as stated in the approved Biology Review Sheet dated June 6, 2025).

2. Based on information provided by the project biologist and reviewed by the City Biologist, the project area and bluff were confirmed to be within the existing fuel modification zones associated with adjacent single-family residences. The vegetation on the bluff is dominated by non-native species, and no ESHA was identified within the bluff area. Accordingly, the bluff was not determined to constitute ESHA. As mentioned previously, the development is located 104 feet from the stream and no new fuel modification would encroach into the required stream buffer. In addition, the appellant has not provided substantial evidence that ESHA is present within the project site.

3. The originally submitted Archaeological Report (Phase I) did not recommend that further archaeological study was needed. Planning Division staff (previous Planning Director and Senior Planner) included recommendations from the archeologist's report as conditions of approval to ensure that any cultural resources found onsite during excavation and construction, will be properly addressed.

Prior to the December 1, 2025 Regular Planning Commission meeting, staff received correspondence from the appellant's counsel stating that the applicant's Phase I Archaeology Report was insufficient and that human remains and other cultural resources likely exist on the site. A letter was also submitted from a Chumash Elder (David Dominguez) who cited another Chumash Elder (Julie Tumamait-Stenslie) allegedly in support of the concern raised. As a result, the project was continued to a date uncertain to provide the applicant time to pursue further archeological study and consultation with Chumash representatives.

Following the continuance, staff received correspondence directly from Chumash Elder Julie Tumamait-Stenslie stating that she was misquoted by Chumash Elder David Dominguez and also stating she had not made statements, nor was she aware of evidence supporting the appellant's concerns regarding the subject property at 33008 PCH. Chumash Elder Julie Tumamait-Stenslie also stated that she spoke with Chumash Elder David Dominguez by telephone and asked him to retract his letter. To date, Chumash Elder David Dominguez has not retracted his letter.

LIP Section 11.3 establishes the LCP's archaeological resource review requirements required for development. As mentioned, the initial Phase 1 inventory concluded that no additional studies were necessary because the resources found were not determined to constitute significant cultural resources. However, in response to the conflicting information described above, City staff required an additional Phase 1 evaluation to further evaluate the nature of the significance of the materials identified. In addition, Chumash Elder would act as a third-party intermediary to determine if the resources discovered were significant.

On January 2, 2026, Matthew A. Boxt, Ph.D., prepared an extended archaeological study which included an intensive evaluation of the project area included in the original Phase 1 Report. This study incorporated subsurface testing, including auger borings, laboratory analysis, and cultural

resource monitoring Chumash Elder Julie Tumamait-Stenslie, who validated the findings of both Phase 1 studies.

The extended study concluded that the subsurface soils within the project area are "archaeologically sterile," meaning that the project site does not contain intact or significant cultural resources. The extended study characterized the project site as an "artificial or pseudo-site" created by earth-moving activities decades earlier from the property to the north. In addition, it concluded that the project did not exhibit indicators that would reflect past human activity and confirmed that the proposed development would not adversely affect cultural resources.

Although the extended study did not identify significant cultural resources, it recommended precautionary measures in the event previously unidentified resources are found during construction. These measures were included as conditions of approval in the adopted Planning Commission resolution No. 26-10 (Exhibit B).

Under LIP Section 11.3(F), when a Phase I identifies "one or more significant" cultural resources, a negative declaration, mitigated negative declaration, focused environmental impact report, or an environmental impact report are required to be prepared. The Phase 1 study, including the extended study, did not identify a significant cultural resource. As such, no further evaluation is required.

The archaeological investigations did not identify significant cultural resources with proposed area. The appellant has not provided substantial evidence challenging the Phase 1 studies conducted. Furthermore, the applicant has carried their burden and provided substantial evidence through the Phase 1 studies conducted on site in consultation with a qualified Chumas Cultural Resource Monitor.

4. The appellant states that the project fails to demonstrate compliance with various Fire Code sections as stated in their appeal letter regarding the following: access road, width, and defensible space. The Los Angeles County Fire Department (LACFD) approved the project as noted in their approved referral letter dated April 24, 2025. The LACFD review sheet indicated that the project as submitted was approved for vehicular access (including width and grade percentage), required fire department vehicular turnaround, required 5 ft., walking area (including grade percentage), and width of proposed driveway/access roadway gates.

5. It has been a long-standing policy of the Planning Division and confirmed by review of many coastal bluff projects in Malibu by the California Coastal Commission (CCC), that the requirement to obtain written determination from the State Lands Commission (SLC) is only applicable to beachfront properties pursuant to LIP Section 10.5(C-E). While the subject property is oriented toward the ocean, a steep bluff is located between the proposed building pad and the ocean. The proposed development further incorporates the blufftop setback requirements of LIP Section 10.4(D). Being setback far from the mean high tide line and the beach below the bluff, there is no indication that the proposed development would encroach into State Lands. Further, there is no development proposed along the shoreline or bluff, nor does the project propose a shoreline stabilization device or other development along the bluff such as drainage devices or beach access.

The subject project does not propose any development along the shoreline or the beach and it is solely located beyond the bluff on flat land. As mentioned previously this interpretation has been consistently applied by the City and the CCC. Blufftop properties that do not include beachfront development are not subject to State Lands determinations because they are not necessary as those properties are not located on public tidelands or wouldn't adversely impact tidelands. LIP Section 10.5(C) requires that all new development along the shoreline or beach obtain a SLC letter to determine the impact upon the boundary between public tidelands and private property. Being far away from the public tidelands below the bluff, the project location does not require an SLC determination.

6. Pursuant to LIP Section 13.6.2(C) all holders or owners of any other interest of record in the affected property shall be notified in writing of the permit application and invited to join as co-applicants. Therefore, when there is no development taking place on neighboring properties, in this case, the shared access easement, the City does not require co-application notices. The subject project does not propose any development within the shared private access easement with other properties. Revised plans were submitted to further clarify that no development will be proposed within the portion of the shared easement. The access easement on adjacent properties will remain as is. The prior version of the plans erroneously stated that the area was existing pavement to remain but confirmed to be existing decomposed granite (DG) to remain. Therefore, staff did not require a co-application. Furthermore, this was originally identified as an incomplete item, the applicant then clarified that no improvements were proposed within the easement and the previous Planning Director and Senior Planner no longer required the co-application submittal.

7. As previously described, the project consists of a two-story, 18-foot-tall single-family residence with associated improvements and landscaping. The approved landscaping plan shows proposed Big Berry Manzanita trees and Oak trees that the appellant is claiming violated the MMC and LCP. The appellant states that approved landscaping will obstruct their existing Primary View Determination (PVD). However, three of the four Big Berry Manzanita trees with a maximum height of 10 to 20 ft., will be located behind the proposed single-family residence; and one of the two proposed Island Oak trees with a maximum height of 35 ft., will be located at the northeast corner of the site. Conditions of approval addressing view impacts were included in the Planning Commission Resolution 26-10:

Condition No. 43 Vegetation shall be situated on the property so as not to significantly obstruct the primary view from private property at any given time (given consideration of its future growth; and

Condition No. 44 Vegetation in excess of six feet in height shall not obstruct the primary view of existing residences located within a 1,000-foot radius at any given time (given consideration of its future growth).

As previously stated, the proposed project will not exceed 18 ft., in height. Staff conducted a visual analysis of the proposed project from the neighbor's primary viewing area to document the view obstruction. However, it was determined that the project would obstruct private bluewater views regardless of structure location or height on the lot due to the configuration of the parcel. Nonetheless, the proposed project does not exceed the 18 ft. height limit and is not requesting

additional height over 18 ft., pursuant to a site plan review. The vegetation has been conditioned to not impact views within the PVD.

8. The site has an active code violation case from 2022 which remains open for an unpermitted gate and fence and would be resolved if the CDP is approved and the project constructed. An inspection would be conducted to verify the violation was remediated. If the CDP is not approved, code enforcement staff will require the gate be addressed immediately. The CDP was submitted in 2024.

Resolution of code enforcement cases through an application to approved or alter unpermitted development is in fact a common, and sometimes necessary, to resolve a violation. The case cite by the appellant was exceptional as a CDP was granted to cure the violation but then was never constructed and the violation was not resolved for over a decade after approval of the CDP. Nevertheless, regardless of what happens with this application code enforcement will require remediation of the unpermitted gate and fence. The existence of an active code enforcement matter does not provide grounds for denial of a project where the evidence supports the required findings.

9. The appellant states that the original Conditional Certificate of Compliance (CoC) No. 29220 was recorded against title in 1986 and required as a condition that the owner dedicate to the County the right to restrict the erection of buildings and/or other structures because the property and/or its access has portions within a flood-prone area at the toe of the bluff. A CoC was recorded on September 4, 2025, which states that no buildings, improvements, structures and/or obstructions of any kind shall be constructed on the portion of the property being located within the flood-prone area located on the southern portion of the site and has an area of approximately 7,335 sf.

The CoC did not just require the owner to dedicate a deed restriction to the flood-mapped portions of the Property. The CoC from 2024 has cleared the conditions stated in 1986 and the deed restriction area satisfies the requirements. There is no proposed development in the deed restricted area.

10. The construction project is categorically exempt from the provisions of CEQA pursuant to Sections 15303(a) and (e) – New Construction. Further, as previously addressed in the response to appeal item 3 the applicant complied with the Archaeological requirements of LIP Section 11.3 which details what is required to meet the LCP's archaeological resource requirements. As mentioned, the archaeological study (Phase I) did not recommend that further archaeological study was warranted. Staff included the recommendations of the archeologist as conditions of approval addressing cultural resources as a precautionary measure and not meant to be mitigation measures to evade CEQA. This is a common practice that many planning commission resolutions and City Council resolutions resolving appeals have incorporated for many decades. LIP Section 11.3(F) states that:

"if" *on the basis of the Phase I Inventory described above, one or more significant cultural resources is found, a Phase I Inventory may be required to include: … Recommendations for Phase II. Evaluations and a negative declaration, mitigated negative declaration, focused environmental impact report or an environmental impact report shall be prepared.*

The initial Phase I report indicated no significant resources were onsite but implemented conditions to ensure compliance with State law. The applicant prepared a separate Extended Phase I Archaeological Study with an independent tribal monitor from the Chumash Tribe, after challenges from the neighbor, which characterized the project site as an "artificial or pseudo-site" created by earth-moving decades earlier on other property, that the project did not exhibit indicators that would reflect past human activity, and confirmed that the proposed development would not adversely affect significant cultural resources. The appellant has not provided evidence of unusual circumstances. Nor has the appellant provided evidence of a significant environmental effect. Nothing in CEQA requires an initial study to be conducted when no significant cultural resources are found and the City's LIP only requires a negative declaration, mitigated negative declaration, focused environmental impact report, or an environmental impact report when significant resources are found. Although some deposits were found they were determined by the onsite archaeologist and Chumash tribal monitor to not be significant and not native to the site as demonstrated by the two Phase 1 studies conducted on site. The cultural resource conditions discussed in response to appeal item 3 were added to the resolution to ensure that even if such resources are found they will be dealt with appropriately through the requirements of the LCP and state law..

SECTION 4. Coastal Development Permit Findings.

Based on substantial evidence contained within the record (including the analysis, findings of fact, and conclusions set forth by staff in the Council Agenda Report and Planning Commission Agenda Reports, as well as the testimony and materials considered by the Planning Commission and City Council), and pursuant to LIP Section 13.7(B), the City Council adopts the analysis in the agenda report, incorporated herein, the findings of fact below, and approves CDP No. 23-034 for construction of a new two-story, 18-foot high, 4,856 square foot single-family residence, including a 791 square foot attached garage and an 824 square foot second-story second unit, landscaping, hardscape, grading, fire department turnaround area, vehicular access gate, and the installation of a new onsite wastewater treatment system (OWTS); including Minor Modification (MM) No. 25-009 for up to a 50 percent reduction of the front yard setback located in the Rural Residential, Two-Acre (RR-2) zoning district at 33008 Pacific Coast Highway (PCH).

The City Council finds the project is consistent with the LCP's zoning, grading, cultural resources, water quality, and wastewater treatment system standards requirements. The project, as conditioned, has been determined to be consistent with all applicable LCP codes, standards, goals, and policies. The required findings are made herein.

A. General Coastal Development Permit (LIP Chapter 13)

1. The Planning Division, City Biologist, City coastal engineering consultant reviewer, City Environmental Health Administrator, City geotechnical consultant reviewers, LACFD and WD29 reviewed the project for conformance with the LCP. The proposed single family residence is consistent with the property's RR-2 residential zoning district, a zone designated for residential uses. As discussed herein, based on submitted reports, project plans, visual analysis and site investigation, the proposed project, as conditioned, conforms to the LCP

in that it meets all applicable non-beachfront residential development standards.

2. The project is located between the first public road and the sea. However, the project will not adversely affect public access or recreation because due to the orientation of the project site atop a coastal bluff and existing public access between PCH and the beach in the vicinity. As shown on the LCP Park Lands Map, vertical access between PCH and the beach and lateral access along the beach is available at El Pescador State Beach less than 200 feet east of the project site, La Piedra State Beach located approximately 1,600 feet further to the east, and Robert M. Meyer Memorial State Beach approximately a mile to the east. An existing single-family residence is located between the subject property and El Pescador State Beach to the east and all proposed development is located atop a coastal bluff and setback from the bluff edge. No development is proposed or required on the bluff or beach. As adequate public access exists nearby and no proposed development would adversely affect existing or planned public access in the vicinity or along the shoreline, the project conforms to the public access and recreation policies of the Coastal Act.

3. There is no evidence that an alternative project would substantially lessen any potential significant adverse impacts of the development on the environment. The proposed project consists of the construction of a new single-family residence and associated development consistent with the RR-2 land use and zoning designations. Adjacent properties are currently developed with similar single-family residences. The City Biologist, City Coastal Engineering Consultant Reviewers, City Environmental Health Administrator, and City Geotechnical Consultant Reviewers reviewed the project, and these specialists found the project to meet the non beachfront residential development policies of the LCP and MMC. The project proposes a reduction of the bluff edge setback from 100 feet to 50 feet, pursuant to LIP Section 10.4(D) for the proposed residence. The proposed 50-foot bluff edge setback has been determined to be a sufficient distance to ensure that proposed development will not be endangered or threatened by erosion or slope instability for a projected 100-year economic life of the structure. Additional details related to project's consistency with LIP Section 10.4(D) are discussed in the LIP Chapter 10 findings. The proposed project, as conditioned, will comply with all applicable requirements of State and local law.

The residence could be relocated elsewhere on the project site and/or be reduced in size. However, the soils testing conducted on site determined the OWTS and associated dispersal fields would be best sited in the proposed locations for optimal percolation. Moreover, because LACFD required a turnaround area to be provided onsite, the available development area was further reduced. The residence could be redesigned to a two-story configuration above 18 feet in height, which could avoid the need for the MM or increase the bluff edge setback. However, given the orientation of existing homes in the area, development above 18 feet in height would likely obstruct more private bluewater views from surrounding residences and be more visible from the beach southeast of the subject property. As designed, the proposed project complies with the requirements of the LCP. The proposed project has been determined not to result in adverse biological, scenic or visual resource impacts, and is the least environmentally damaging feasible alternative.

B. Minor Modification – Reduction in the Front Yard Setback (LIP Chapter 13.27)

1. The project, with the inclusion of the requested MM, as designed and conditioned,

conforms to all applicable LCP policies and provisions. A reduction in the front yard setback is requested to maintain an 18-foot height limit for the proposed residence consistent with LIP Section 3.6 non-beachfront residential development standards, and ensure the structure footprint complies with the minimum 50-foot bluff edge setback pursuant to LIP Section 10.4(D).

2. Story poles were placed on the project site to demonstrate the project's potential for public view impacts to the surrounding area including PCH and the beach. The project's height and bulk will not adversely affect neighborhood character as viewed from public viewing areas due to the existing pattern of residential development adjacent to and in the vicinity of the RR-2 neighborhood. The neighborhood is developed with single-family residences of varying size and height and is characterized by a mix of one and two-story homes. The project proposed has less TDSF and impermeable coverage than is otherwise allowed, and does not exceed 18 feet in height.

3. The project will comply with all applicable requirements of state and local law and is conditioned to comply with any relevant approvals, permits, and licenses from the City of Malibu. The project has been reviewed and conditionally approved by the City Biologist, City geotechnical consultant reviewers, City Public Works Department, City Environmental Health Administrator, and the LACFD and it meets the City's residential development policies. The proposed project will comply with their respective standards through conditions of approval. The project must also be approved by WD29 and the City Community Development Department, prior to issuance of City building permits.

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

1. The proposed project includes the development of a single-family residence and associated development. Staff analyzed the project's visual impact from public viewing areas through site reconnaissance and architectural plans and an investigation of the neighborhood. Based on a staff site visit after story poles were installed, it was determined the proposed development is not expected to have significant adverse scenic or visual impacts. No existing public bluewater views are present from PCH and when viewing the proposed project against the backdrop of the existing landscaping and bluff development from nearby public viewing areas, no significant public views of the Pacific Ocean are adversely affected. As designed, the proposed residence does not exceed 18 feet, proposes less TDSF than is otherwise allowed, and maintains a minimum 50-foot setback from the bluff edge. Therefore, the project, as proposed, will not have significant adverse scenic or visual impacts due to project design, location or other reasons. Standard conditions of approval have been included for colors, materials, and lighting.

2. The project as conditioned will not have significant adverse scenic or visual impacts. The project has been conditioned to include limitations on exterior lighting and colors of exterior finishes used to prevent any visual impacts to scenic areas.

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

4. The project, as designed and conditioned, is not expected to adversely affect scenic and visual resources and no feasible alternatives would avoid or substantially lessen any significant adverse impacts on scenic and visual resources. As designed, the proposed residence does not exceed 18 feet, proposes less TDSF than is otherwise allowed, and maintains a minimum 50-foot

setback from the bluff edge. A MM is requested to further reduce the required 47-foot front yard setback to the north (PCH side) by 37 percent to ensure the proposed structure can maintain 18 feet in height and a minimum 50-foot setback to the bluff edge.

5. The subject property is visible from nearby public beaches; however, the proposed project does not exceed 18 feet, proposes less TDSF than is otherwise allowed, and maintains a minimum 50-foot setback from the bluff edge. A MM is requested to further reduce the required 47-foot front yard setback to the north (PCH side) by 37 percent to ensure the proposed structure can maintain 18 feet in height and a minimum 50-foot setback to the bluff edge. No development is proposed or required on the bluff or beach. Therefore, the proposed development, as designed, is sited to eliminate, minimize or otherwise contribute to conformance to sensitive resources.

D. Hazards (LIP Chapter 9)

1. Evidence in the record demonstrates that the project will neither be subject to nor increase the instability of the site from geologic, flood, or fire hazards. LIP Section 10.4.(D) includes a provision to allow a reduction in the setback from the bluff edge from 100 feet to a minimum of 50 feet from the bluff edge to structures if the City geotechnical reviewers determine the required factors of safety are met. The City geotechnical consultant reviewers determined the proposed geotechnical setback line, which is set back 50 feet from the geological top of slope, meets the requirements of LIP Section 10.4(D). All structural footings will be located landward of this line. Ancillary structures without footings, such as patios, walkways, and barbecues, may be located no closer than 15 feet from the bluff edge. The project, as conditioned, incorporates all recommendations contained in the above cited reports and conditions required by the City coastal engineering consultant reviewer, City Environmental Health Administrator and City geotechnical consultant reviewers, including foundations and drainage. The project will neither be subject to nor increase the instability of the site from geologic, flood, or fire hazards.

2. As discussed in Finding 1, the proposed project, as designed, conditioned and approved by the applicable departments and agencies, will not have any significant adverse impacts on the site stability or structural integrity from geologic or flood hazards due to project modifications and other conditions.

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

4. The Planning Division, City Biologist, City coastal engineering consultant reviewer, City Environmental Health Administrator, and City geotechnical consultant reviewers analyzed the proposed development for the hazards listed in LIP Chapter 9. These specialists determined that the proposed project does not impact site stability or structural integrity.

5. As previously discussed in Section A, the proposed project, as designed and conditioned, is the least environmentally damaging alternative and no adverse impacts to sensitive resources are anticipated.

E. Shoreline and Bluff Development (LIP Chapter 10)

1. As previously discussed in Section A, Finding 2, the proposed project is not

anticipated to interfere with public access to the ocean. The project site is located on a coastal bluff in western Malibu. The project proposes a reduction of the bluff edge setback from 100 feet to 50 feet, pursuant to LIP Section 10.4(D). The proposed 50-foot bluff edge setback has been determined to be a sufficient distance to ensure that the proposed development will not be endangered or threatened by erosion or slope instability for a projected 100-year economic life of the structure. The project geotechnical consultant has evaluated gross static and pseudostatic slope stability for the site based on requirements of LIP Chapter 9.4 and the City of Malibu Geotechnical Guidelines (both 2002 and 2013) and evaluated bluff retreat rates in accordance with LIP Section 10.4 for the 100-year economic life of the project. The consultants projected a bluff retreat rate of two inches per year, or 16.7 feet, for the 100- year economic life of the development. The 100 year bluff retreat line, based on where the 1.5 geotechnical factor of safety line (static) is located, is 44.34 feet and the 100-year bluff retreat line, based on where the 1.1 geotechnical factor of safety line (seismic) is located, is 48.51 feet. The analysis included a projected sea level rise of 6.6 feet for the 100-year economic life of the development. While 4.9 feet of sea level rise at year 2100 is most applicable for development classified within an Intermediate-High Scenario (i.e., residential development with a medium-high risk aversion), as described in the updated 2024 CCC Sea Level Rise Policy, the use of 6.6 feet was included in the analysis. Note that 6.6 feet represents the projected sea level rise in year 2100 for the High Scenario, which is intended for uses with little to no adaptive capacity (e.g., new wastewater treatment plants, power stations, highways, or other critical infrastructure). The proposed project is solely for residential development and does not include critical infrastructure within the High Scenario.

The City geotechnical consultant reviewers determined that the development will not encroach into the 50-foot bluff-top setback and the proposed project is not expected to destabilize the structural integrity of the bluff or impact shoreline access along the beach at the rear (south) of the property.

As previously discussed in Section A, Finding 2, the proposed project is not anticipated to interfere with public access to the ocean. The proposed structures and related sub-surface construction activities maintain at least 50 feet from the bluff edge. Vertical public access between PCH and the beach is available at El Pescador State Beach less than 200 feet east of the project site, La Piedra State Beach located approximately 1,600 feet further to the east, and Robert M. Meyer Memorial State Beach approximately a mile to the east. No development is proposed or required on the bluff or beach, and the project will not affect the shoreline sand supply or other shoreline resources such as existing or planned public access along the shoreline as the proposed development is setback from the bluff above and the structure has a finished floor elevation of 126 feet above sea level. The proposed development complies with the reduced 50-foot setback from the coastal bluff edge as the static factor of safety is greater than 1.5. Therefore, the proposed project will not have significant adverse impacts on public access, shoreline sand supply or other resources due to project design, location on the site or other reasons.

2. As discussed in Finding 1, the proposed project, as designed and conditioned and approved by the City coastal engineering consultant reviewers and the City geotechnical consultant reviewers, will not have any significant adverse impacts on public access or shoreline sand supply or other resources.

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

alternative.

4. As previously discussed in Section A and Finding 1 above, the proposed project, as designed and conditioned, will not have any significant adverse impacts on existing or planned public access or shoreline sand supply or other resources.

SECTION 5. City Council Action.

Based on the foregoing findings and evidence contained within the record, the City Council hereby approves CDP No. 23-034 and MM No. 25-009, subject to the conditions in Section 6.

SECTION 6. Conditions of Approval.

1. The property owners, and their successors in interest, shall indemnify and defend the City of Malibu and its officers, employees and agents from and against all liability and costs relating to the City's actions concerning this project, including (without limitation) any award of litigation expenses in favor of any person or entity who seeks to challenge the validity of any of the City's actions or decisions in connection with this project. The City shall have the sole right to choose its counsel and property owners shall reimburse the City's expenses incurred in its defense of any lawsuit challenging the City's actions concerning this project.

2. Approval of this application is to allow for the project described herein. The scope of work approved includes:
    a. Construction of a 4,856 square foot, two-story, single-family residence, 18 feet in height, including a 791 square foot attached garage;
    b. 824 square foot, second unit above the garage;
    c. Construction of outdoor decks;
    d. Installation of new landscaping and hardscape;
    e. Grading;
    f. Construction of a new OWTS;
    g. Vehicular access gate; and
    h. Fire department turnaround area.
    i. Discretionary Request:
        a. MM No. 25-009 for up to a 50 percent reduction of the front yard setback (approximately 37 percent proposed).

3. Except as specifically changed by conditions of approval, the proposed development shall be constructed in substantial conformance with the approved scope of work, as described in Condition No. 2 and depicted on plans on file with the Planning Division date stamped November 12, 2025. The proposed development shall further comply with all conditions of approval stipulated in this resolution and Department Review Sheets attached hereto. In the event project plans conflict with any condition of approval, the condition shall take precedence.

4. Pursuant to LIP Section 13.18.2, this permit and rights conferred in this approval shall not be effective until the property owner signs and returns the Acceptance of Conditions

Affidavit accepting the conditions set forth herein. The applicant shall file this form with the Planning Division within 10 days of this decision and/or prior to issuance of any development permits.

5. The applicant shall digitally submit a complete set of plans to the Planning Division for consistency review and approval prior to plan check and again prior to the issuance of any building or development permits.

6. This CDP shall expire if the project has not commenced within three (3) years after issuance of the permit. Extension of the permit may be granted by the approving authority for due cause. Extensions shall be requested in writing by the applicant or authorized agent prior to expiration of the three-year period and shall set forth the reasons for the request. In the event of an appeal, the CDP shall expire if the project has not commenced within three years from the date the appeal is decided by the decision-making body or withdrawn by the appellant.

7. Any questions of intent or interpretation of any condition of approval will be resolved by the Community Development Director upon written request of such interpretation.

8. All development shall conform to requirements of the City Biologist, City coastal engineering consultant reviewer, City Environmental Health Administrator, City geotechnical consultant reviewers, City Public Works Department, WD29 and LACFD, as applicable. Notwithstanding this review, all required permits shall be secured

9. Minor changes to the approved plans or the conditions of approval may be approved by the Community Development Director, provided such changes achieve substantially the same results and the project is still in compliance with the MMC and the LCP. Revised plans reflecting the minor changes and additional fees shall be required.

10. Pursuant to LIP Section 13.20, development pursuant to an approved CDP shall not commence until the CDP is effective. The CDP is not effective until all appeals, including those to the California Coastal Commission (CCC), have been exhausted. In the event that the CCC denies the permit or issues the permit on appeal, the CDP approved by the City is void.

11. The property owner must submit payment for all outstanding fees payable to the City prior to issuance of any building permit, including grading or demolition.

Cultural Resources

12. Prior to beginning any earthmoving activities, all construction personnel must be informed about the potential for discovery of archeological resources and/or human remains, and the appropriate measures to be taken should such resources be uncovered.

13. A qualified archaeologist shall be present onsite during all earthmoving activities and shall remain present onsite to monitor until he or she determines that it would be unlikely for further work to encounter cultural resources. Should the presence of important

archaeological cultural resources be found, a Phase II Evaluation and Phase III Mitigation Program shall be conducted by a qualified archaeologist. The Community Development Director shall review and approve all design/work plans for Phase III Mitigation Programs and reports which detail the evaluative techniques and results.

14. Prior to final Planning Division approval of construction plans, the applicant shall submit evidence of a signed contract with a qualified archaeologist, meeting the Secretary of the Interior's Professional Qualification Standards, to provide archaeological monitoring and reporting services during earthmoving activities. The contract shall include provisions for on-call monitoring, discovery procedures, and reporting consistent with applicable City and State requirements. Verification of the executed contract shall be reviewed and approved by the Planning Division prior to issuance of any grading or building permit.

15. A final report shall be prepared by the monitoring archaeologist and submitted to the Planning Division prior to the Planning final inspection of the completed project.

16. In the event that potentially important cultural resources are found in the course of geologic testing or during construction, work shall immediately cease until a qualified archaeologist can provide an evaluation of the nature and significance of the resources and until the Community Development Director can review this information. Thereafter, the procedures contained in LIP Chapter 11 and those in MMC Section 17.54.040(D)(4)(b) shall be followed.

17. If human bone is discovered during geologic testing or during construction, work shall immediately cease and the procedures described in Section 7050.5 of the California Health and Safety Code shall be followed. Section 7050.5 requires notification of the coroner. If the coroner determines that the remains are those of a Native American, the applicant shall notify the Native American Heritage Commission by phone within 24 hours. Following notification of the Native American Heritage Commission, the procedures described in Section 5097.94 and Section 5097.98 of the California Public Resources Code shall be followed.

Lighting

18. Exterior lighting must comply with the Dark Sky Ordinance and shall be minimized, shielded, or concealed and restricted to low intensity features, so that no light source is directly visible from public view. Permitted lighting shall conform to the following standards:
    a. Lighting for walkways shall be limited to fixtures that do not exceed two feet in height and are directed downward, and limited to 850 lumens (equivalent to a 60-watt incandescent bulb);
    b. Security lighting controlled by motion detectors may be attached to the residence provided it is directed downward and is limited to 850 lumens;
    c. Driveway lighting shall be limited to the minimum lighting necessary for safe vehicular use. The lighting shall be limited to 850 lumens;
    d. Lights at entrances as required by the Building Code shall be permitted provided that such lighting does not exceed 850 lumens;

e. Site perimeter lighting shall be prohibited; and
f. Outdoor decorative lighting for aesthetic purposes is prohibited.

19. Night lighting for sports courts or other private recreational facilities shall be prohibited.

20. No permanently installed lighting shall blink, flash, or be of unusually high intensity or brightness. Lighting levels on any nearby property from artificial light sources on the subject property(ies) shall not produce an illumination level greater than one foot-candle.

21. Night lighting from exterior and interior sources shall be minimized. All exterior lighting shall be low intensity and shielded directed downward and inward so there is no offsite glare or lighting of natural habitat areas. High intensity lighting of the shore is prohibited.

22. String lights are allowed in occupied dining and entertainment areas only and must not exceed 3,000 Kelvin.

23. Motion sensor lights shall be programmed to extinguish ten minutes after activation.

24. No lighting can exceed 18 feet in height except as required by the California building code.

25. Three violations of the conditions by the same property owner will result in a requirement to permanently remove the outdoor light fixture(s) from the site.

Fencing and Walls

26. The applicant shall include an elevation of the proposed electronic driveway gate on the architectural plans that are submitted for building plan check. The gate and all fencing along the front property line shall comply with the regulations set forth in LIP Section 3.5.

27. The height of fences and walls shall comply with LIP Section 3.5.3(A). No retaining wall shall exceed six feet in height or 12 feet in height for a combination of two or more walls.

28. For the portion of front fencing and gates above 42 inches, the slats shall be no more than one inch in diameter.

Colors and Materials

29. The project is visible from scenic roads or public viewing areas, therefore, shall incorporate colors and exterior materials that are compatible with the surrounding landscape.
    a. Acceptable colors shall be limited to colors compatible with the surrounding environment (earth tones) including shades of green, brown and gray, with no white or light shades and no bright tones. Colors shall be reviewed and approved by the Community Development Director and clearly indicated on the building plans.

b. The use of highly reflective materials shall be prohibited except for solar energy panels or cells, which shall be placed to minimize significant adverse impacts to public views to the maximum extent feasible.
c. All windows shall be comprised of non-glare glass.

30. All driveways shall be a neutral color that blends with the surrounding landforms and vegetation. Retaining walls shall incorporate veneers, texturing and/or colors that blend with the surrounding earth materials or landscape. The color of driveways and retaining walls shall be reviewed and approved by the Community Development Director and clearly indicated on all grading, improvement and/or building plans.

Construction/Framing

31. Prior to the issuance of a building/demolition permit, an Affidavit and Certification to implement waste reduction and recycling shall be signed by the Owner or Contractor and submitted to the Environmental Sustainability Department. The Affidavit shall indicate the agreement of the applicant to divert at least 65 percent (in accordance with CalGreen) of all construction waste from the landfill.

32. The applicant shall submit a copy of a Construction Management Plan to the Planning Division. The Construction Management Plan shall include a dedicated parking location for construction workers and storage of construction material. Prior to permit issuance, the Construction Management Plan must be acceptable to the Community Development Director and, if applicable, to the Building Official and Public Works Director.

33. A construction staging plan shall be reviewed and approved by the Building Official prior to final plan check approval.

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

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

36. All new development, including construction, grading, and landscaping shall be designed to incorporate drainage and erosion control measures prepared by a licensed engineer that incorporate structural and non-structural Best Management Practices (BMPs) to control the volume, velocity and pollutant load of storm water runoff in compliance with all requirements contained in LIP Chapter 17, including:
    a. Construction shall be phased to the extent feasible and practical to limit the amount of disturbed areas present at a given time.
    b. Grading activities shall be planned during the southern California dry season (April through October).

c. During construction, contractors shall be required to utilize sandbags and berms to control runoff during on-site watering and periods of rain in order to minimize surface water contamination.
d. Filter fences designed to intercept and detain sediment while decreasing the velocity of runoff shall be employed within the project site.

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

38. For the transportation of heavy construction equipment and/or material, which requires the use of oversized-transport vehicles on State highways, the applicant / property owner is required to obtain a transportation permit from the California Department of Transportation.

Biology/Landscaping

39. Prior to installation of any landscaping, the applicant shall obtain a plumbing permit for the proposed irrigation system from the Building Safety Division.

40. Prior to final Planning inspection or other final project sign off (as applicable), the applicant shall submit to the Community Development Director for review and approval a certificate of completion in accordance with MMC Chapter 17.53. The certificate shall include the property owner's signed acceptance of responsibility for maintaining the landscaping and irrigation in accordance with the approved plans and MMC Chapter 17.53.

41. Prior to a final plan check approval, the property owner /applicant must provide a landscape water use approval from the Los Angeles County Waterworks District No. 29.

42. Vegetation forming a view impermeable condition serving the same function as a fence or wall (also known as a hedge) located within the side or rear yard setback shall be maintained at or below a height of six feet. A hedge located within the front yard setback shall be maintained at or below a height of 42 inches. Three violations of this condition will result in a requirement to permanently remove the vegetation from the site.

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

44. Vegetation in excess of six feet in height shall not obstruct the primary view of existing residences located within a 1,000-foot radius at any given time (given consideration of its future growth).

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

46. No non-native plant species shall be approved greater than 50 feet from the residential structure.

47. The landscape plan shall prohibit the use of building materials treated with toxic compounds such as creosote or copper arsenate.

48. Any site preparation activities, including removal of vegetation, between February 1 and September 15 will require nesting bird surveys by a qualified biologist at least five days prior to initiation of site preparation activities. Should active nests be identified, a buffer area no less than 150 feet (300 feet for raptors) shall be fenced off until it is determined by a qualified biologist that the nest is no longer active. A report discussing the results of nesting bird surveys shall be submitted to the City within two business days of completing the surveys.

49. All new development including structures, septic systems, or landscaping, shall be set back no less than 100 feet from the stream.

50. Night lighting from exterior and interior sources shall be minimized. All exterior lighting shall be low intensity and shielded directed downward and inward so there is no offsite glare or lighting of natural habitat areas. High intensity lighting of the shore is prohibited.

51. Necessary boundary fencing shall be of an open rail-type design with a wooden rail at the top (instead of wire), be less than 40-inches high, and have a space greater than 14-inches between the ground and the bottom post or wire. A split rail design that blends with the natural environment is preferred.

52. Except as permitted pursuant to the provisions in LUP policies 3.18 and 3.20, throughout the City of Malibu, development that involves the use of pesticides, including insecticides, herbicides, rodenticides or any other similar toxic chemical substances, shall be prohibited in cases where the application of such substances would have the potential to significantly degrade Environmentally Sensitive Habitat Areas or coastal water quality or harm wildlife. Herbicides may be used for the eradication of invasive plant species or habitat restoration, but only if the use of non-chemical methods for prevention and management such as physical, mechanical, cultural, and biological controls are infeasible. Herbicides shall be restricted to the least toxic product and method, and to the maximum extent feasible, shall be biodegradable, derived from natural sources, and used for a limited time.

53. Plantings required for fuel modification, except for within irrigated Zone A nearest to approved residential structures, must be native, drought-tolerant species and shall blend with the existing natural vegetation and natural habitats on the site.

54. Grading and/or demolition shall be scheduled only during the dry season from April 1 – October 31. If it becomes necessary to conduct grading activities from November 1 – March 31, a comprehensive erosion control plan shall be submitted for approval prior to issuance of a grading permit and implemented prior to initiation of vegetation removal and/or grading activities.

55. The use of wood chips and shredded rubber is prohibited anywhere on the site. Flammable mulch material, including shredded bark, pine needles, and artificial turf, are prohibited between zero and five feet of a structure. Non-continuous use of flammable mulch (excluding wood chips and shredded rubber) is allowed between 5 and 30 feet from the eave/overhang of a structure with limited application areas. Any mulch materials (excluding wood chips and shredded rubber) are allowed 30 feet or more from a structure with no limitation on application area.

Fuel Modification

56. Prior to the issuance of final building permits, the project shall receive LACFD approval of a Final Fuel Modification Plan.

Environmental Health

57. All final project plans shall be submitted for Environmental Health review and approval. These plans must be approved by the Building and Safety Division prior to receiving Environmental Health final approval.

58. Reference Plans: Reference architectural and grading/drainage plans shall be submitted to Environmental Health during building plan check review of the proposed OWTS. Approvable building plans will show a new single-family residence with no more than 2 bedrooms and 41 drainage fixture units and a second unit with no more than 1 bedroom and 10 drainage fixture units.

59. Final OWTS Plot Plan: Prior to final Environmental Health approval, a final OWTS plot plan prepared by a City Registered OWTS Designer shall be submitted showing an OWTS design meeting the minimum requirements of the MMC and the LCP, including necessary construction details, the proposed drainage plan for the developed property and the proposed landscape plan for the developed property. The OWTS plot plan shall show essential features of the OWTS and must fit onto an 11-inch by 17-inch sheet leaving a five-inch margin clear to provide space for a City applied legend. If the scale of the plans is such that more space is needed to clearly show construction details and/or all necessary setbacks, larger sheets may also be provided (up to a maximum size of 18-inches by 22 inches).

60. Final OWTS Design Report, Plans, and System Specifications: If the OWTS design and/or bedroom/drainage fixture unit counts are modified in any way subsequent to the Planning stage review, then a final OWTS design report and large set of construction drawings with system specifications (four sets) shall be submitted to describe the OWTS design basis and all components (i.e., alarm system, pumps, timers, flow equalization devices, backflow devices, etc.) proposed for use in the construction of the proposed OWTS. For all OWTS, final reports must be signed by a City registered OWTS Designer, and the plans stamped by a California Geologist. The final OWTS design report and construction drawings shall be submitted to the City Environmental Health Administrator with the designer's wet signature, professional registration number and stamp (if applicable).

61. The final design report shall contain the following information (in addition to the items

listed above). a. Required treatment capacity for wastewater treatment and disinfection systems. The treatment capacity shall be specified in terms of flow rate, gallons per day, and shall be supported by calculations relating the treatment capacity to the number of bedroom equivalents, plumbing drainage fixture equivalents, and the subsurface effluent dispersal system acceptance rate. The drainage fixture unit count must be clearly identified in association with the design treatment capacity, even if the design is based on the number of bedrooms. Average and peak rates of hydraulic loading to the treatment system shall be specified in the final design;

a. Required treatment capacity for wastewater treatment and disinfection systems. The treatment capacity shall be specified in terms of flow rate, gallons per day, and shall be supported by calculations relating the treatment capacity to the number of bedroom equivalents, plumbing drainage fixture equivalents, and the subsurface effluent dispersal system acceptance rate. The drainage fixture unit count must be clearly identified in association with the design treatment capacity, even if the design is based on the number of bedrooms. Average and peak rates of hydraulic loading to the treatment system shall be specified in the final design;
b. Sewage and effluent pump design calculations (as applicable).
c. Description of proposed wastewater treatment and/or disinfection system equipment. State the proposed type of treatment system(s) (e.g., aerobic treatment, textile filter ultraviolet disinfection, etc.); major components, manufacturers, and model numbers for "package" systems; and conceptual design for custom engineered systems;
d. Specifications, supporting geology information, and percolation test results for the subsurface effluent dispersal portion of the onsite wastewater disposal system. This must include the proposed type of effluent dispersal system (drainfield, trench, seepage pit subsurface drip, etc.) as well as the system’s geometric dimensions and basic construction features. Supporting calculations shall be presented that relate the results of soils analysis or percolation/infiltration tests to the projected subsurface effluent acceptance rate, including any unit conversions or safety factors. Average and peak rates of hydraulic loading to the effluent dispersal system shall be specified in the final design. The projected subsurface effluent acceptance rate shall be reported in units of total gallons per day and gallons per square foot per day. Specifications for the subsurface effluent dispersal system shall be shown to accommodate the design hydraulic loading rate (i.e., average and peak OWTS effluent flow, reported in units of gallons per day). The subsurface effluent dispersal system design must take into account the number of bedrooms, fixture units and building occupancy characteristics; and
e. All final design drawings shall be submitted with the wet signature and typed name of the OWTS designer. If the scale of the plan is such that more space is needed to clearly show construction details, larger sheets may also be provided (up to a maximum size of 18 inch by 22 inch, for review by Environmental Health). Note: For OWTS final designs, full-size plans are required for review by the Building Safety Division and/or the Planning Division.

62. All project traffic rated slab plans shall be prepared by a California licensed civil engineer and submitted for Environmental Health review and approval. These plans must be

approved by the Building Safety Division prior to receiving Environmental Health final approval.

63. Prior to final Environmental Health approval, the construction plans for all structures and/or buildings with reduced setbacks must be approved by the City Building Safety Division. The architectural and/or structural plans submitted to Building and Safety plan check must detail methods of construction that will compensate for the reduction in setback (e.g., waterproofing, concrete additives, etc.). For complex waterproofing installations, submittal of a separate waterproofing plan may be required. The architectural/structural/ waterproofing plans must show the location of OWTS components in relation to those structures from which the setback is reduced, and the plans must be signed and stamped by the architect, structural engineer, and geotechnical consultants (as applicable).

64. Proof of Ownership: Proof of ownership of subject property shall be submitted to the City Environmental Health Administrator.

65. Operations and Maintenance Manual: An operations and maintenance manual specified by the OWTS designer shall be submitted to the property owner and maintenance provider of the proposed OWTS.

66. Maintenance Contract: A maintenance contract executed between the owner of the subject property and an entity qualified in the opinion of the City of Malibu to maintain the proposed onsite wastewater disposal system after construction shall be submitted. Note only original “wet signature” documents are acceptable.

67. Advanced OWTS Covenant: Prior to final Environmental Health approval, a covenant running with the land shall be executed between the City of Malibu and the holder of the fee simple absolute as to subject real property and recorded with the Office of the Los Angeles County Recorder. Said covenant shall serve as constructive notice to any future purchaser for value that the onsite wastewater treatment system serving subject property is an advanced method of sewage disposal pursuant to the City of MMC. Said covenant shall be provided by the City of Malibu Environmental Health Administrator.

68. Project Geologist/Geotechnical Consultant Approval: Project Geologist/Geotechnical Consultant final approval of the OWTS plan shall be submitted to the Environmental Health Administrator.

69. City of Malibu Geologist/Geotechnical Approval: City of Malibu geotechnical consultant reviewer’s final approval of the OWTS plan shall be submitted to the Environmental Health Administrator.

70. City of Malibu Public Works Approval: City of Malibu Public Works final approval of the OWTS plan shall be submitted to the Environmental Health Administrator.

71. City of Malibu Planning Approval: City of Malibu Planning Division final approval of the OWTS plan shall be obtained.

72. Environmental Health Final Review Fee: A final fee in accordance with the adopted fee schedule at the time of the final approval shall be paid to the City of Malibu for Environmental Health review of the OWTS design and system specification.

73. Operating Permit Application and Fee: In accordance with MMC, an application shall be made to the Environmental Health office for an OWTS operating permit. An operating permit fee in accordance with the adopted fee schedule at the time of final approval shall be submitted with the application.

Geology

74. All recommendations of the consulting certified engineering geologist or geotechnical engineer and/or the City Geologist shall be incorporated into all final design and construction including foundations, grading, sewage disposal, and drainage. Final plans shall be reviewed and approved by the City geotechnical consultant reviewers prior to the issuance of a grading permit.

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

Grading/Drainage/Hydrology (Public Works)

76. Clearing and grading during the rainy season (extending from November 1 to March 31) shall be prohibited for development that:
    a. Is located within or adjacent to ESHA, or
    b. Includes grading on slopes greater than 4 to 1.

    Approved grading for development that is located within or adjacent to ESHA or on slopes greater than 4 to 1 shall not be undertaken unless there is sufficient time to complete grading operations before the rainy season. If grading operations are not completed before the rainy season begins, grading shall be halted and temporary erosion control measures shall be put into place to minimize erosion until grading resumes after March 31, unless the City determines that completion of grading would be more protective of resources.

77. Exported soil from a site shall be taken to the Los Angeles County Landfill or to a site with an active grading permit and the ability to accept the material in compliance with LIP Section 8.3.

78. A grading and drainage plan containing the following information shall be approved, and submitted to the Public Works Department prior to the issuance of grading permits for the project:
    a. Public Works Department general notes;
    b. The existing and proposed square footage of impervious coverage on the property shall be shown on the grading plan (including separate areas for buildings, driveways, walkways, parking, tennis courts and pool decks);

c. The limits of land to be disturbed during project development shall be delineated and a total area shall be shown on this plan. Areas disturbed by grading equipment beyond the limits of grading, areas disturbed for the installation of the septic system, and areas disturbed for the installation of the detention system shall be included within the area delineated;
d. The limits to land to be disturbed during project development shall be delineated and a total area of disturbance should be shown on this plan. Areas disturbed by grading equipment beyond the limits of grading shall be included within the area delineated;
e. If the property contains rare, endangered or special status species as identified in the Biological Assessment, this plan shall contain a prominent note identifying the areas to be protected (to be left undisturbed). Fencing of these areas shall be delineated on this plan is required by the City Biologist;
f. The grading limits shall include the temporary cuts made for retaining walls, buttresses and over excavations for fill slopes; and
g. Private storm drain systems shall be shown on this plan. Systems greater than 12 inch in diameter shall also have a plan and profile for the system included with this plan.

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

80. The ocean between Latigo Point and the west City limits has been established by the State Water Resources Control Board as an Area of Special Biological Significance (ASBS) as part of the California Ocean Plan. This designation prohibits the discharge of any waste, including stormwater runoff, directly into the ASBS. The applicant shall provide a drainage system that accomplishes the following:
a. Installation of BMPs that are designed to treat the potential pollutants in the stormwater runoff so that it does not alter the natural ocean water quality. These pollutants include trash, oil and grease, metals, bacteria, nutrients, pesticides, herbicides and sediment.
b. Prohibits the discharge of trash.
c. Only discharges from existing storm drain outfalls are allowed. No new outfalls will be allowed. Any proposed or new storm water discharged shall be routed to existing storm drain outfalls and shall not result in any new contribution of waste to the ASBS (i.e., no additional pollutant loading).
d. Elimination of non-storm water discharges.

81. A Storm Water Management Plan (SWMP) shall be submitted for review and approval of the Public Works Director. The SWMP shall be prepared in accordance with the LIP Section 17.3.2 and all other applicable ordinances and regulations. The SWMP shall be supported by a hydrology and hydraulic study that identifies all areas contributory to the property and an analysis of the pre-development and post-development drainage of the site.

The SWMP shall identify the site design and source control BMPs that have been implemented in the design of the project. The SWMP shall be reviewed and approved by the Public Works Department prior to the issuance of the grading or building permit for this project.

82. A Local Storm Water Pollution Prevention Plan (LSWPPP) shall be provided prior to issuance of grading/building permits. This plan shall include an Erosion and Sediment Control Plan (ESCP) that includes, but is not limited to:

Erosion Controls Scheduling	Erosion Controls Scheduling Preservation of Existing Vegetation
Sediment Controls	Silt Fence Sand Bag Barrier Stabilized Construction Entrance
Non-Storm Water Management	Water Conservation Practices Dewatering Operations
Waste Management	Material Delivery and Storage Stockpile Management Spill Prevention and Control Solid Waste Management Concrete Waste Management Sanitary/Septic Waste Management

All Best Management Practices (BMP) shall be in accordance to the latest version of the California Stormwater Quality Association (CASQA) BMP Handbook. Designated areas for the storage of construction materials, solid waste management, and portable toilets must not disrupt drainage patterns or subject the material to erosion by site runoff.

83. A Water Quality Mitigation Plan (WQMP) shall be submitted for review and approval of the Public Works Director. The WQMP shall be supported by a hydrology and hydraulic study that identifies all areas contributory to the property and an analysis of the predevelopment and post development drainage on the site. The QQMP shall meet all the requirements of the City's current Municipal Separate Stormwater Sewer System (MS4) permit. The following elements shall be included within the WQMP:
    a. Site Design Best Management Practices (BMPs):
    b. Source Control BMPs;
    c. Treatment Control BMPs that retain on-site Stormwater Quality Design Volume (SWQDv). Or where it is technically infeasible to retain on-site, the project must biofiltrate 1.5 times the SWQDv that is not retained on-site;
    d. Drainage improvements;
    e. A plan for the maintenance and monitoring of the proposed treatment BMPs for the expected life of the structure;
    f. Methods of onsite percolation, site re-vegetation and an analysis for off-site project impacts;
    g. Measures to treat and infiltrate runoff from impervious areas;
    h. A copy of the WQMP shall be filed against the property to provide constructive notice to future property owners of their obligation to maintain the water quality

measure installed during construction prior to the issuance of grading or building permits; and

i. The WQMP shall be submitted to the Public Works Department and the fee applicable at the time of submittal for review of the WQMP shall be paid prior to the start of the technical review. The WQMP shall be approved prior the Public Works Department's approval of the grading and drainage plan and/or building plans. The Public Works Department will tentatively approve the plan and will keep a copy until the completion of the project. Once the project is completed, the applicant shall verify the installation of the BMP's, make any revisions to the WQMP, and resubmit to the Public Works Department for approval. The original signed and notarized document shall be recorded with the Office of the Los Angeles County Recorder. A certified copy of the WQMP shall be submitted to the Public Works Department prior to the issuance of the certificate of occupancy.

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

Noise

85. Onsite noise, including that which emanates from swimming pool and air conditioning equipment, shall be limited as described in MMC Chapter 8.24 (Noise).

Prior to Occupancy

86. Prior to, or at the time of a Planning final inspection, the property owner / applicant shall submit to the Community Development Department the plumbing permit for the irrigation system installation signed off by the Building Safety Division.

87. Prior to the issuance of a Certificate of Occupancy, the City Biologist shall inspect the project site and determine that all Planning Division conditions to protect natural resources are in compliance with the approved plans.

88. Prior to a final Building inspection, the applicant shall provide a Recycling Summary Report (Summary Report) and obtain the approval from the Environmental Sustainability Division. Applicant must provide haul tickets and diversion information. The final Summary Report shall designate the specific materials that were land filled or recycled, and state the facilities where all materials were taken.

89. The applicant shall request a final Community Development Department inspection prior to final inspection by the City of Malibu Building Safety Division. A Certificate of Occupancy shall not be issued until the Community Development Department has determined that the project complies with this coastal development permit. A temporary Certificate of Occupancy may be granted at the discretion of the Community Development Director, provided adequate security has been deposited with the City to ensure compliance should the final work not be completed in accordance with this permit.

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

Deed Restrictions

91. Prior to final Planning Division approval, the applicant shall be required to execute and record a deed restriction reflecting lighting requirements set forth in Condition Nos. 18 - 25. The property owner shall provide a copy of the recorded document to the Planning Division prior to final Planning Division approval.

92. The property owner is required to acknowledge, by recordation of a deed restriction, that the property is subject to wave action, erosion, flooding, landslides, or other hazards associated with development on a beach or bluff, and that the property owner assumes said risks and waives any future claims of damage or liability against the City of Malibu and agrees to indemnify the City of Malibu against any liability, claims, damages or expenses arising from any injury or damage due to such hazards. The property owner shall provide a copy of the recorded document to the Planning Division prior to final Planning Division approval.

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

94. The property owner is required to acknowledge, by the recordation of a deed restriction, that new development on a bluff-top lot, or where demolition and rebuilding is proposed, where geologic or engineering evaluations conclude that the development can be sited and designed so as to not require a shoreline protection structure as part of the proposed development or at any time during the life of the development, the property owner shall be required to record a deed restriction against the property that ensures that no shoreline protection structure shall be proposed or constructed to protect the development approved and which expressly waives any future right to construct such devices that may exist pursuant to Public Resources Code Section 30235.

95. The property owner is required to acknowledge, by recordation of a deed restriction, that no more than one secondary residential unit is permitted to exist on the subject property. Said document shall include the definitions of a second unit and guest house as defined by the LIP Section 2.1, and shall be recorded with the Los Angeles County Recorder's Office. The applicant shall submit a copy of the recorded document to the Planning Division.

Fixed Conditions

96. This CDP shall run with the land and bind all future owners of the property.

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

SECTION 7. The City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

PASSED, APPROVED AND ADOPTED this 21st day of October 2026.

BRUCE SILVERSTEIN, Mayor

ATTEST:

KELSEY PETTIJOHN, City Clerk
(seal)

APPROVED AS TO FORM:

THIS DOCUMENT HAS BEEN REVIEWED
BY THE CITY ATTORNEY'S OFFICE

TREVOR RUSIN, Interim City Attorney

Any action challenging the final decision of the City made as a result of the public hearing on this application must be filed within the time limits set forth in Section 1.12.010 of the MMC and Code of Civil Procedure. Any person wishing to challenge the above action in Superior Court may be limited to raising only those issues they or someone else raised at the public hearing, or in written correspondence delivered to the City of Malibu at or prior to the public hearing.

CITY OF MALIBU PLANNING COMMISSION
RESOLUTION NO. 26-10

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MALIBU DETERMINING THE PROJECT IS CATEGORICALLY EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, AND APPROVING COASTAL DEVELOPMENT PERMIT NO. 23-034 FOR THE CONSTRUCTION OF A NEW TWO-STORY, 18-FOOT HIGH, 4,856 SQUARE FOOT SINGLE-FAMILY RESIDENCE, INCLUDING A 791 SQUARE FOOT ATTACHED GARAGE AND AN 824 SQUARE FOOT SECOND-STORY SECOND UNIT, LANDSCAPING, HARDSCAPE, GRADING, FIRE DEPARTMENT TURNAROUND AREA, VEHICULAR ACCESS GATE, AND THE INSTALLATION OF A NEW ONSITE WASTEWATER TREATMENT SYSTEM; INCLUDING MINOR MODIFICATION NO. 25-009 FOR UP TO A 50 PERCENT REDUCTION OF THE FRONT YARD SETBACK LOCATED IN THE RURAL RESIDENTIAL, TWO-ACRE ZONING DISTRICT AT 33008 PACIFIC COAST HIGHWAY (BLUFF TOP 1 LLC)

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

SECTION 1. Recitals.

A. On May 17, 2023, an application for Coastal Development Permit (CDP) No. 23-034 and Code Violation (CV) No. 23-047 was submitted to the Planning Division by applicant, Schmitz and Associates, Inc., on behalf of the owner, Bluff Top 1 LLC. The application was routed to the City Biologist, City coastal engineering consultant reviewer, City Environmental Health Administrator, City geotechnical consultant, Public Works Department, Los Angeles County Fire Department (LACFD) and Los Angeles County Waterworks District No. 29 (WD29) reviewers for review.

B. On April 29, 2025, a Notice of Coastal Development Permit Application was posted on the subject property.

C. On August 15, 2025, story poles representing the location and height of the proposed addition to the detached garage were installed.

D. On August 29, 2025, Planning Division staff conducted a site visit to document site conditions, the property and surrounding area and to determine potential visual impacts of the proposed project on any scenic area, scenic road, or public viewing area.

E. On September 9, 2025, Planning Division staff deemed the application complete.

F. On September 25, 2025, a Notice of Planning Commission Public Hearing was published in a newspaper of general circulation within the City of Malibu and was mailed to all property owners and occupants within a 500-foot radius of the subject property.

G. On October 1, 2025, an amended agenda was published for the October 6, 2025 Regular Planning Commission meeting and the item was removed from the agenda.

H. On October 9, 2025, a Notice of Planning Commission Public Hearing was published in a newspaper of general circulation within the City of Malibu and was mailed to all property owners and occupants within a 500-foot radius of the subject property.

EXHIBIT B

I. On October 20, 2025, the Planning Commission continued the project to the November 3, 2025 Regular Planning Commission meeting prior to opening the public hearing.

J. On November 3, 2025, the Planning Commission continued the project to the December 1, 2025 Regular Planning Commission meeting prior to opening the public hearing.

K. On December 1, 2025, the Planning Commission continued the project to a date uncertain prior to opening the public hearing.

L. On February 5, 2026, a Notice of Planning Commission Public Hearing was published in a newspaper of general circulation within the City of Malibu and was mailed to all property owners and occupants within a 500-foot radius of the subject property.

M. On February 17, 2026, the Planning Commission held a duly noticed public hearing on the subject application, reviewed and considered the staff report, reviewed and considered written reports, public testimony, and other information in the record.

SECTION 2. Environmental Review.

Pursuant to the authority and criteria contained in the California Environmental Quality Act (CEQA), the Planning Commission has analyzed the proposed project. The Planning Commission found that this project is listed among the classes of projects that have been determined not to have a significant adverse effect on the environment. Therefore, the project is categorically exempt from the provisions of CEQA pursuant to Sections 15303(a) and (e) – New Construction. The Planning Commission has further determined that none of the six exceptions to the use of a categorical exemption apply to this project (CEQA Guidelines Section 15300.2).

SECTION 3. Coastal Development Permit Findings.

Based on evidence contained within the record and pursuant to Local Implementation Plan (LIP) including Sections 13.7(B) and 13.9, the Planning Commission adopts the analysis in the agenda report, incorporated herein, the findings of fact below, and approves CDP No. 23-034 for construction of a new two-story, 18-foot high, 4,856 square foot single-family residence, including a 791 square foot attached garage and an 824 square foot second-story second unit, landscaping, hardscape, grading, fire department turnaround area, vehicular access gate, and the installation of a new onsite wastewater treatment system (OWTS); including Minor Modification (MM) No. 25-009 for up to a 50 percent reduction of the front yard setback located in the Rural Residential, Two-Acre (RR-2) zoning district at 33008 Pacific Coast Highway (PCH).

The project is consistent with the Local Coastal Program's (LCP's) zoning, grading, cultural resources, water quality, and wastewater treatment system standards requirements. The project, as conditioned, has been determined to be consistent with all applicable LCP codes, standards, goals, and policies. The required findings are made herein.

A. General Coastal Development Permit (LIP Chapter 13)

1. The Planning Division, City Biologist, City coastal engineering consultant reviewer, City Environmental Health Administrator, City geotechnical consultant reviewers,

LACFD and WD29 reviewed the project for conformance with the LCP. The proposed single-family residence is consistent with the property's RR-2 residential zoning district, a zone designated for residential uses. As discussed herein, based on submitted reports, project plans, visual analysis and site investigation, the proposed project, as conditioned, conforms to the LCP in that it meets all applicable non-beachfront residential development standards.

2. The project is located between the first public road and the sea. However, the project will not adversely affect public access or recreation because due to the orientation of the project site atop a coastal bluff and existing public access between PCH and the beach in the vicinity. As shown on the LCP Park Lands Map, vertical access between PCH and the beach and lateral access along the beach is available at El Pescador State Beach less than 200 feet east of the project site, La Piedra State Beach located approximately 1,600 feet further to the east, and Robert M. Meyer Memorial State Beach approximately a mile to the east. An existing single-family residence is located between the subject property and El Pescador State Beach to the east and all proposed development is located atop a coastal bluff and setback from the bluff edge. No development is proposed or required on the bluff or beach. As adequate public access exists nearby and no proposed development would adversely affect existing or planned public access in the vicinity or along the shoreline, the project conforms to the public access and recreation policies of the Coastal Act.

3. There is no evidence that an alternative project would substantially lessen any potential significant adverse impacts of the development on the environment. The proposed project consists of the construction of a new single-family residence and associated development consistent with the RR-2 land use and zoning designations. Adjacent properties are currently developed with similar single-family residences. The City Biologist, City Coastal Engineering Consultant Reviewers, City Environmental Health Administrator, and City Geotechnical Consultant Reviewers reviewed the project, and these specialists found the project to meet the non-beachfront residential development policies of the LCP and MMC. The project proposes a reduction of the bluff edge setback from 100 feet to 50 feet, pursuant to LIP Section 10.4(D) for the proposed residence. The proposed 50-foot bluff edge setback has been determined to be a sufficient distance to ensure that proposed development will not be endangered or threatened by erosion or slope instability for a projected 100-year economic life of the structure. Additional details related to project's consistency with LIP Section 10.4(D) are discussed in the LIP Chapter 10 findings. The proposed project, as conditioned, will comply with all applicable requirements of State and local law.

The residence could be relocated elsewhere on the project site and/or be reduced in size. However, the soils testing conducted on site determined the OWTS and associated dispersal fields would be best sited in the proposed locations for optimal percolation. Moreover, because LACFD required a turnaround area to be provided onsite, the available development area was further reduced. The residence could be redesigned to a two-story configuration above 18 feet in height, which could avoid the need for the MM or increase the bluff edge setback. However, given the orientation of existing homes in the area, development above 18 feet in height would likely obstruct more private bluewater views from surrounding residences and be more visible from the beach southeast of the subject property. As designed, the proposed project complies with the requirements of the LCP. The proposed project has been determined not to result in adverse biological, scenic or visual resource impacts, and is the least environmentally damaging feasible alternative.

B. Minor Modification - Reduction in the Front Yard Setback (LIP Section 13.27)

1. The project, with the inclusion of the requested MM, as designed and conditioned, conforms to all applicable LCP policies and provisions. A reduction in the front yard setback is requested to maintain an 18-foot height limit for the proposed residence consistent with LIP Section 3.6 non-beachfront residential development standards, and ensure the structure footprint complies with the minimum 50-foot bluff edge setback pursuant to LIP Section 10.4(D).

2. Story poles were placed on the project site to demonstrate the project's potential for public view impacts to the surrounding area including PCH and the beach. The project's height and bulk will not adversely affect neighborhood character as viewed from public viewing areas due to the existing pattern of residential development adjacent to and in the vicinity of the RR-2 neighborhood. The neighborhood is developed with single-family residences of varying size and height and is characterized by a mix of one and two-story homes. The project proposed has less TDSF and impermeable coverage than is otherwise allowed, and does not exceed 18 feet in height.

3. The project will comply with all applicable requirements of state and local law and is conditioned to comply with any relevant approvals, permits, and licenses from the City of Malibu. The project has been reviewed and conditionally approved by the City Biologist, City geotechnical consultant reviewers, City Public Works Department, City Environmental Health Administrator, and the LACFD and it meets the City's residential development policies. The proposed project will comply with their respective standards through conditions of approval. The project must also be approved by WD29 and the City Community Development Department, prior to issuance of City building permits.

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

1. The proposed project includes the development of a single-family residence and associated development. Staff analyzed the project's visual impact from public viewing areas through site reconnaissance and architectural plans and an investigation of the neighborhood. Based on a staff site visit after story poles were installed, it was determined the proposed development is not expected to have significant adverse scenic or visual impacts. No existing public bluewater views are present from PCH and when viewing the proposed project against the backdrop of the existing landscaping and bluff development from nearby public viewing areas, no significant public views of the Pacific Ocean are adversely affected. As designed, the proposed residence does not exceed 18 feet, proposes less TDSF than is otherwise allowed, and maintains a minimum 50-foot setback from the bluff edge. Therefore, the project, as proposed, will not have significant adverse scenic or visual impacts due to project design, location or other reasons. Standard conditions of approval have been included for colors, materials, and lighting.

2. The project as conditioned will not have significant adverse scenic or visual impacts. The project has been conditioned to include limitations on exterior lighting and colors of exterior finishes used to prevent any visual impacts to scenic areas.

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

4. The project, as designed and conditioned, is not expected to adversely affect scenic and visual resources and no feasible alternatives would avoid or substantially lessen any significant

adverse impacts on scenic and visual resources. As designed, the proposed residence does not exceed 18 feet, proposes less TDSF than is otherwise allowed, and maintains a minimum 50-foot setback from the bluff edge. A MM is requested to further reduce the required 47-foot front yard setback to the north (PCH side) by 37 percent to ensure the proposed structure can maintain 18 feet in height and a minimum 50-foot setback to the bluff edge.

5. The subject property is visible from nearby public beaches; however, the proposed project does not exceed 18 feet, proposes less TDSF than is otherwise allowed, and maintains a minimum 50-foot setback from the bluff edge. A MM is requested to further reduce the required 47-foot front yard setback to the north (PCH side) by 37 percent to ensure the proposed structure can maintain 18 feet in height and a minimum 50-foot setback to the bluff edge. No development is proposed or required on the bluff or beach. Therefore, the proposed development, as designed, is sited to eliminate, minimize or otherwise contribute to conformance to sensitive resources.

D. Hazards (LIP Chapter 9)

1. Evidence in the record demonstrates that the project will neither be subject to nor increase the instability of the site from geologic, flood, or fire hazards. LIP Section 10.4.(D) includes a provision to allow a reduction in the setback from the bluff edge from 100 feet to a minimum of 50 feet from the bluff edge to structures if the City geotechnical reviewers determine the required factors of safety are met. The City geotechnical consultant reviewers determined the proposed geotechnical setback line, which is set back 50 feet from the geological top of slope, meets the requirements of LIP Section 10.4(D). All structural footings will be located landward of this line. Ancillary structures without footings, such as patios, walkways, and barbecues, may be located no closer than 15 feet from the bluff edge. The project, as conditioned, incorporates all recommendations contained in the above cited reports and conditions required by the City coastal engineering consultant reviewer, City Environmental Health Administrator and City geotechnical consultant reviewers, including foundations and drainage. The project will neither be subject to nor increase the instability of the site from geologic, flood, or fire hazards

2. As discussed in Finding 1, the proposed project, as designed, conditioned and approved by the applicable departments and agencies, will not have any significant adverse impacts on the site stability or structural integrity from geologic or flood hazards due to project modifications and other conditions.

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

4. The Planning Division, City Biologist, City coastal engineering consultant reviewer, City Environmental Health Administrator, and City geotechnical consultant reviewers analyzed the proposed development for the hazards listed in LIP Chapter 9. These specialists determined that the proposed project does not impact site stability or structural integrity.

5. As previously discussed in Section A, the proposed project, as designed and conditioned, is the least environmentally damaging alternative and no adverse impacts to sensitive resources are anticipated.

E. Shoreline and Bluff Development (LIP Chapter 10)

1. As previously discussed in Section A, Finding 2, the proposed project is not anticipated to interfere with public access to the ocean. The project site is located on a coastal bluff in western Malibu. The project proposes a reduction of the bluff edge setback from 100 feet to 50 feet, pursuant to LIP Section 10.4(D). The proposed 50-foot bluff edge setback has been determined to be a sufficient distance to ensure that the proposed development will not be endangered or threatened by erosion or slope instability for a projected 100-year economic life of the structure. The project geotechnical consultant has evaluated gross static and pseudostatic slope stability for the site based on requirements of LIP Chapter 9.4 and the City of Malibu Geotechnical Guidelines (both 2002 and 2013) and evaluated bluff retreat rates in accordance with LIP Section 10.4 for the 100-year economic life of the project. The consultants projected a bluff retreat rate of two inches per year, or 16.7 feet, for the 100- year economic life of the development. The 100-year bluff retreat line, based on where the 1.5 geotechnical factor of safety line (static) is located, is 44.34 feet and the 100-year bluff retreat line, based on where the 1.1 geotechnical factor of safety line (seismic) is located, is 48.51 feet. The analysis included a projected sea level rise of 6.6 feet for the 100-year economic life of the development. While 4.9 feet of sea level rise at year 2100 is most applicable for development classified within an Intermediate-High Scenario (i.e., residential development with a medium-high risk aversion), as described in the updated 2024 CCC Sea Level Rise Policy, the use of 6.6 feet was included in the analysis. Note that 6.6 feet represents the projected sea level rise in year 2100 for the High Scenario, which is intended for uses with little to no adaptive capacity (e.g., new wastewater treatment plants, power stations, highways, or other critical infrastructure). The proposed project is solely for residential development and does not include critical infrastructure within the High Scenario.

The City geotechnical consultant reviewers determined that the development will not encroach into the 50-foot bluff-top setback and the proposed project is not expected to destabilize the structural integrity of the bluff or impact shoreline access along the beach at the rear (south) of the property.

As previously discussed in Section A, Finding 2, the proposed project is not anticipated to interfere with public access to the ocean. The proposed structures and related sub-surface construction activities maintain at least 50 feet from the bluff edge. Vertical public access between PCH and the beach is available at El Pescador State Beach less than 200 feet east of the project site, La Piedra State Beach located approximately 1,600 feet further to the east, and Robert M. Meyer Memorial State Beach approximately a mile to the east. No development is proposed or required on the bluff or beach, and the project will not affect the shoreline sand supply or other shoreline resources such as existing or planned public access along the shoreline as the proposed development is setback from the bluff above and the structure has a finished floor elevation of 126 feet above sea level. The proposed development complies with the reduced 50-foot setback from the coastal bluff edge as the static factor of safety is greater than 1.5. Therefore, the proposed project will not have significant adverse impacts on public access, shoreline sand supply or other resources due to project design, location on the site or other reasons.

2. As discussed in Finding 1, the proposed project, as designed and conditioned and approved by the City coastal engineering consultant reviewers and the City geotechnical consultant reviewers, will not have any significant adverse impacts on public access or shoreline sand supply or other resources.

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

4. As previously discussed in Section A and Finding 1 above, the proposed project, as designed and conditioned, will not have any significant adverse impacts on existing or planned public access or shoreline sand supply or other resources.

SECTION 4. Planning Commission Action.

Based on the foregoing findings and evidence contained within the record, the Planning Commission hereby approves CDP No. 23-034 and MM No. 25-009, subject to the following conditions.

SECTION 5. Conditions of Approval.

1. The property owners, and their successors in interest, shall indemnify and defend the City of Malibu and its officers, employees and agents from and against all liability and costs relating to the City's actions concerning this project, including (without limitation) any award of litigation expenses in favor of any person or entity who seeks to challenge the validity of any of the City's actions or decisions in connection with this project. The City shall have the sole right to choose its counsel and property owners shall reimburse the City's expenses incurred in its defense of any lawsuit challenging the City's actions concerning this project.

2. Approval of this application is to allow for the project described herein. The scope of work approved includes:
    a. Construction of a 4,856 square foot, two-story, single-family residence, 18 feet in height, including a 791 square foot attached garage;
    b. 824 square foot, second unit above the garage;
    c. Construction of outdoor decks;
    d. Installation of new landscaping and hardscape;
    e. Grading;
    f. Construction of a new OWTS;
    g. Vehicular access gate; and
    h. Fire department turnaround area.
    i. Discretionary Request:
        a. MM No. 25-009 for up to a 50 percent reduction of the front yard setback (approximately 37 percent proposed).

3. Except as specifically changed by conditions of approval, the proposed development shall be constructed in substantial conformance with the approved scope of work, as described in Condition No. 2 and depicted on plans on file with the Planning Division date stamped **November 12, 2025**. The proposed development shall further comply with all conditions of approval stipulated in this resolution and Department Review Sheets attached hereto. In the event project plans conflict with any condition of approval, the condition shall take precedence.

4. Pursuant to LIP Section 13.18.2, this permit and rights conferred in this approval shall not be effective until the property owner signs and returns the Acceptance of Conditions Affidavit accepting the conditions set forth herein. The applicant shall file this form with the Planning Division within 10 days of this decision and/or prior to issuance of any development permits.

5. The applicant shall digitally submit a complete set of plans to the Planning Division for consistency review and approval prior to plan check and again prior to the issuance of any building or development permits.

6. This CDP shall expire if the project has not commenced within three (3) years after issuance of the permit. Extension of the permit may be granted by the approving authority for due cause. Extensions shall be requested in writing by the applicant or authorized agent prior to expiration of the three-year period and shall set forth the reasons for the request. In the event of an appeal, the CDP shall expire if the project has not commenced within three years from the date the appeal is decided by the decision-making body or withdrawn by the appellant.

7. Any questions of intent or interpretation of any condition of approval will be resolved by the Community Development Director upon written request of such interpretation.

8. All development shall conform to requirements of the City Biologist, City coastal engineering consultant reviewer, City Environmental Health Administrator, City geotechnical consultant reviewers, City Public Works Department, WD29 and LACFD, as applicable. Notwithstanding this review, all required permits shall be secured.

9. Minor changes to the approved plans or the conditions of approval may be approved by the Community Development Director, provided such changes achieve substantially the same results and the project is still in compliance with the Malibu Municipal Code (MMC) and the LCP. Revised plans reflecting the minor changes and additional fees shall be required.

10. Pursuant to LIP Section 13.20, development pursuant to an approved CDP shall not commence until the CDP is effective. The CDP is not effective until all appeals, including those to the California Coastal Commission (CCC), have been exhausted. In the event that the CCC denies the permit or issues the permit on appeal, the CDP approved by the City is void.

11. The property owner must submit payment for all outstanding fees payable to the City prior to issuance of any building permit, including grading or demolition.

Cultural Resources

12. Prior to beginning any earthmoving activities, all construction personnel must be informed about the potential for discovery of archeological resources and/or human remains, and the appropriate measures to be taken should such resources be uncovered.

13. A qualified archaeologist shall be present onsite during all earthmoving activities and shall remain present onsite to monitor until he or she determines that it would be unlikely for further work to encounter cultural resources. Should the presence of important archaeological cultural resources be found, a Phase II Evaluation and Phase III Mitigation Program shall be conducted by a qualified archaeologist. The Community Development Director shall review and approve all design/work plans for Phase III Mitigation Programs and reports which detail the evaluative techniques and results.

14. Prior to final Planning Division approval of construction plans, the applicant shall submit evidence of a signed contract with a qualified archaeologist, meeting the Secretary of the Interior's Professional Qualification Standards, to provide archaeological monitoring and reporting services during earthmoving activities. The contract shall include provisions for on-call monitoring, discovery procedures, and reporting consistent with applicable City and State requirements. Verification of the executed contract shall be reviewed and approved by the Planning Division prior to issuance of any grading or building permit.

15. A final report shall be prepared by the monitoring archaeologist and submitted to the Planning Division prior to the Planning final inspection of the completed project.

16. In the event that potentially important cultural resources are found in the course of geologic testing or during construction, work shall immediately cease until a qualified archaeologist can provide an evaluation of the nature and significance of the resources and until the Community Development Director can review this information. Thereafter, the procedures contained in LIP Chapter 11 and those in MMC Section 17.54.040(D)(4)(b) shall be followed.

17. If human bone is discovered during geologic testing or during construction, work shall immediately cease and the procedures described in Section 7050.5 of the California Health and Safety Code shall be followed. Section 7050.5 requires notification of the coroner. If the coroner determines that the remains are those of a Native American, the applicant shall notify the Native American Heritage Commission by phone within 24 hours. Following notification of the Native American Heritage Commission, the procedures described in Section 5097.94 and Section 5097.98 of the California Public Resources Code shall be followed.

Lighting

18. Exterior lighting must comply with the Dark Sky Ordinance and shall be minimized, shielded, or concealed and restricted to low intensity features, so that no light source is directly visible from public view. Permitted lighting shall conform to the following standards:
    a. Lighting for walkways shall be limited to fixtures that do not exceed two feet in height and are directed downward, and limited to 850 lumens (equivalent to a 60-watt incandescent bulb);
    b. Security lighting controlled by motion detectors may be attached to the residence provided it is directed downward and is limited to 850 lumens;
    c. Driveway lighting shall be limited to the minimum lighting necessary for safe vehicular use. The lighting shall be limited to 850 lumens;

d. Lights at entrances as required by the Building Code shall be permitted provided that such lighting does not exceed 850 lumens;
e. Site perimeter lighting shall be prohibited; and
f. Outdoor decorative lighting for aesthetic purposes is prohibited.

19. Night lighting for sports courts or other private recreational facilities shall be prohibited.

20. No permanently installed lighting shall blink, flash, or be of unusually high intensity or brightness. Lighting levels on any nearby property from artificial light sources on the subject property(ies) shall not produce an illumination level greater than one foot-candle.

21. Night lighting from exterior and interior sources shall be minimized. All exterior lighting shall be low intensity and shielded directed downward and inward so there is no offsite glare or lighting of natural habitat areas. Lighting of the shore or the beach in excess of one foot candle is prohibited.

22. String lights are allowed in occupied dining and entertainment areas only and must not exceed 3,000 Kelvin.

23. Motion sensor lights shall be programmed to extinguish ten minutes after activation.

24. No lighting can exceed 18 feet in height except as required by the California building code.

25. Three violations of the conditions by the same property owner will result in a requirement to permanently remove the outdoor light fixture(s) from the site.

Fencing and Walls

26. The applicant shall include an elevation of the proposed electronic driveway gate on the architectural plans that are submitted for building plan check. The gate and all fencing along the front property line shall comply with the regulations set forth in LIP Section 3.5.

27. The height of fences and walls shall comply with LIP Section 3.5.3(A). No retaining wall shall exceed six feet in height or 12 feet in height for a combination of two or more walls.

28. For the portion of front fencing and gates above 42 inches, the slats shall be no more than one inch in diameter.

Colors and Materials

29. The project is visible from scenic roads or public viewing areas, therefore, shall incorporate colors and exterior materials that are compatible with the surrounding landscape.
    a. Acceptable colors shall be limited to colors compatible with the surrounding environment (earth tones) including shades of green, brown and gray, with no white or light shades and no bright tones. Colors shall be reviewed and approved by the Community Development Director and clearly indicated on the building plans.
    b. The use of highly reflective materials shall be prohibited except for solar energy panels or cells, which shall be placed to minimize significant adverse impacts to public views to the maximum extent feasible.

c. All windows shall be comprised of non-glare glass.

30. All driveways shall be a neutral color that blends with the surrounding landforms and vegetation. Retaining walls shall incorporate veneers, texturing and/or colors that blend with the surrounding earth materials or landscape. The color of driveways and retaining walls shall be reviewed and approved by the Community Development Director and clearly indicated on all grading, improvement and/or building plans.

Construction Conditions

31. Prior to the issuance of a building/demolition permit, an Affidavit and Certification to implement waste reduction and recycling shall be signed by the Owner or Contractor and submitted to the Environmental Sustainability Department. The Affidavit shall indicate the agreement of the applicant to divert at least 65 percent (in accordance with CalGreen) of all construction waste from the landfill.

32. The applicant shall submit a copy of a Construction Management Plan to the Planning Division. The Construction Management Plan shall include a dedicated parking location for construction workers and storage of construction material. Prior to permit issuance, the Construction Management Plan must be acceptable to the Community Development Director and, if applicable, to the Building Official and Public Works Director.

33. A construction staging plan shall be reviewed and approved by the Building Official prior to final plan check approval.

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

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

36. All new development, including construction, grading, and landscaping shall be designed to incorporate drainage and erosion control measures prepared by a licensed engineer that incorporate structural and non-structural Best Management Practices (BMPs) to control the volume, velocity and pollutant load of storm water runoff in compliance with all requirements contained in LIP Chapter 17, including:
    a. Construction shall be phased to the extent feasible and practical to limit the amount of disturbed areas present at a given time.
    b. Grading activities shall be planned during the southern California dry season (April through October).
    c. During construction, contractors shall be required to utilize sandbags and berms to control runoff during on-site watering and periods of rain in order to minimize surface water contamination.
    d. Filter fences designed to intercept and detain sediment while decreasing the velocity of runoff shall be employed within the project site.

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

38. For the transportation of heavy construction equipment and/or material, which requires the use of oversized-transport vehicles on State highways, the applicant / property owner is required to obtain a transportation permit from the California Department of Transportation.

Biology/Landscaping

39. Prior to installation of any landscaping, the applicant shall obtain a plumbing permit for the proposed irrigation system from the Building Safety Division.

40. Prior to final Planning inspection or other final project sign off (as applicable), the applicant shall submit to the Community Development Director for review and approval a certificate of completion in accordance with MMC Chapter 17.53. The certificate shall include the property owner's signed acceptance of responsibility for maintaining the landscaping and irrigation in accordance with the approved plans and MMC Chapter 17.53.

41. Prior to a final plan check approval, the property owner /applicant must provide a landscape water use approval from the Los Angeles County Waterworks District No. 29.

42. Vegetation forming a view impermeable condition serving the same function as a fence or wall (also known as a hedge) located within the side or rear yard setback shall be maintained at or below a height of six feet. A hedge located within the front yard setback shall be maintained at or below a height of 42 inches. Three violations of this condition will result in a requirement to permanently remove the vegetation from the site.

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

44. Vegetation in excess of six feet in height shall not obstruct the primary view of existing residences located within a 1,000-foot radius at any given time (given consideration of its future growth).

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

46. No non-native plant species shall be approved greater than 50 feet from the residential structure.

47. The landscape plan shall prohibit the use of building materials treated with toxic compounds such as creosote or copper arsenate.

48. Any site preparation activities, including removal of vegetation, between February 1 and September 15 will require nesting bird surveys by a qualified biologist at least five days prior to initiation of site preparation activities. Should active nests be identified, a buffer area no less than 150 feet (300 feet for raptors) shall be fenced off until it is determined by a qualified biologist that the nest is no longer active. A report discussing the results of nesting bird surveys shall be submitted to the City within two business days of completing the surveys.

49. All new development including structures, septic systems, or landscaping, shall be set back no less than 100 feet from the stream.

50. Night lighting from exterior and interior sources shall be minimized. All exterior lighting shall be low intensity and shielded directed downward and inward so there is no offsite glare or lighting of natural habitat areas. High intensity lighting of the shore is prohibited.

51. Necessary boundary fencing shall be of an open rail-type design with a wooden rail at the top (instead of wire), be less than 40-inches high, and have a space greater than 14-inches between the ground and the bottom post or wire. A split rail design that blends with the natural environment is preferred.

52. Except as permitted pursuant to the provisions in LUP policies 3.18 and 3.20, throughout the City of Malibu, development that involves the use of pesticides, including insecticides, herbicides, rodenticides or any other similar toxic chemical substances, shall be prohibited in cases where the application of such substances would have the potential to significantly degrade Environmentally Sensitive Habitat Areas or coastal water quality or harm wildlife. Herbicides may be used for the eradication of invasive plant species or habitat restoration, but only if the use of non-chemical methods for prevention and management such as physical, mechanical, cultural, and biological controls are infeasible. Herbicides shall be restricted to the least toxic product and method, and to the maximum extent feasible, shall be biodegradable, derived from natural sources, and used for a limited time.

53. Plantings required for fuel modification, except for within irrigated Zone A nearest to approved residential structures, must be native, drought-tolerant species and shall blend with the existing natural vegetation and natural habitats on the site.

54. Grading and/or demolition shall be scheduled only during the dry season from April 1 – October 31. If it becomes necessary to conduct grading activities from November 1 – March 31, a comprehensive erosion control plan shall be submitted for approval prior to issuance of a grading permit and implemented prior to initiation of vegetation removal and/or grading activities.

55. The use of wood chips and shredded rubber is prohibited anywhere on the site. Flammable mulch material, including shredded bark, pine needles, and artificial turf, are prohibited between zero and five feet of a structure. Non-continuous use of flammable mulch (excluding wood chips and shredded rubber) is allowed between 5 and 30 feet from the eave/overhang of a structure with limited application areas. Any mulch materials (excluding wood chips and shredded rubber) are allowed 30 feet or more from a structure with no limitation on application area.

Fuel Modification

56. Prior to the issuance of final building permits, the project shall receive LACFD approval of a Final Fuel Modification Plan.

Environmental Health

57. All final project plans shall be submitted for Environmental Health review and approval. These plans must be approved by the Building and Safety Division prior to receiving Environmental Health final approval.

58. Reference Plans: Reference architectural and grading/drainage plans shall be submitted to Environmental Health during building plan check review of the proposed OWTS. Approvable building plans will show a new single-family residence with no more than 2 bedrooms and 41 drainage fixture units and a second unit with no more than 1 bedroom and 10 drainage fixture units.

59. Final OWTS Plot Plan: Prior to final Environmental Health approval, a final OWTS plot plan prepared by a City Registered OWTS Designer shall be submitted showing an OWTS design meeting the minimum requirements of the MMC and the LCP, including necessary construction details, the proposed drainage plan for the developed property and the proposed landscape plan for the developed property. The OWTS plot plan shall show essential features of the OWTS and must fit onto an 11-inch by 17-inch sheet leaving a five-inch margin clear to provide space for a City applied legend. If the scale of the plans is such that more space is needed to clearly show construction details and/or all necessary setbacks, larger sheets may also be provided (up to a maximum size of 18-inches by 22-inches).

60. Final OWTS Design Report, Plans, and System Specifications: If the OWTS design and/or bedroom/drainage fixture unit counts are modified in any way subsequent to the Planning-stage review, then a final OWTS design report and large set of construction drawings with system specifications (four sets) shall be submitted to describe the OWTS design basis and all components (i.e., alarm system, pumps, timers, flow equalization devices, backflow devices, etc.) proposed for use in the construction of the proposed OWTS. For all OWTS, final reports must be signed by a City registered OWTS Designer, and the plans stamped by a California Geologist. The final OWTS design report and construction drawings shall be submitted to the City Environmental Health Administrator with the designer's wet signature, professional registration number and stamp (if applicable).

61. The final design report shall contain the following information (in addition to the items listed above).
    a. Required treatment capacity for wastewater treatment and disinfection systems. The treatment capacity shall be specified in terms of flow rate, gallons per day, and shall be supported by calculations relating the treatment capacity to the number of bedroom equivalents, plumbing drainage fixture equivalents, and the subsurface effluent dispersal system acceptance rate. The drainage fixture unit count must be clearly identified in association with the design treatment capacity, even if the design is based on the number of bedrooms. Average and peak rates of hydraulic loading to the treatment system shall be specified in the final design;

b. Sewage and effluent pump design calculations (as applicable).
c. Description of proposed wastewater treatment and/or disinfection system equipment. State the proposed type of treatment system(s) (e.g., aerobic treatment, textile filter ultraviolet disinfection, etc.); major components, manufacturers, and model numbers for "package" systems; and conceptual design for custom engineered systems;
d. Specifications, supporting geology information, and percolation test results for the subsurface effluent dispersal portion of the onsite wastewater disposal system. This must include the proposed type of effluent dispersal system (drainfield, trench, seepage pit subsurface drip, etc.) as well as the system's geometric dimensions and basic construction features. Supporting calculations shall be presented that relate the results of soils analysis or percolation/infiltration tests to the projected subsurface effluent acceptance rate, including any unit conversions or safety factors. Average and peak rates of hydraulic loading to the effluent dispersal system shall be specified in the final design. The projected subsurface effluent acceptance rate shall be reported in units of total gallons per day and gallons per square foot per day. Specifications for the subsurface effluent dispersal system shall be shown to accommodate the design hydraulic loading rate (i.e., average and peak OWTS effluent flow, reported in units of gallons per day). The subsurface effluent dispersal system design must take into account the number of bedrooms, fixture units and building occupancy characteristics; and
e. All final design drawings shall be submitted with the wet signature and typed name of the OWTS designer. If the scale of the plan is such that more space is needed to clearly show construction details, larger sheets may also be provided (up to a maximum size of 18 inch by 22 inch, for review by Environmental Health). Note: For OWTS final designs, full-size plans are required for review by the Building Safety Division and/or the Planning Division.

62. All project traffic rated slab plans shall be prepared by a California licensed civil engineer and submitted for Environmental Health review and approval. These plans must be approved by the Building Safety Division prior to receiving Environmental Health final approval.

63. Prior to final Environmental Health approval, the construction plans for all structures and/or buildings with reduced setbacks must be approved by the City Building Safety Division. The architectural and/or structural plans submitted to Building and Safety plan check must detail methods of construction that will compensate for the reduction in setback (e.g., waterproofing, concrete additives, etc.). For complex waterproofing installations, submittal of a separate waterproofing plan may be required. The architectural/structural/ waterproofing plans must show the location of OWTS components in relation to those structures from which the setback is reduced, and the plans must be signed and stamped by the architect, structural engineer, and geotechnical consultants (as applicable).

64. Proof of Ownership: Proof of ownership of subject property shall be submitted to the City Environmental Health Administrator.

65. Operations and Maintenance Manual: An operations and maintenance manual specified by the OWTS designer shall be submitted to the property owner and maintenance provider of the proposed OWTS.

66. Maintenance Contract: A maintenance contract executed between the owner of the subject property and an entity qualified in the opinion of the City of Malibu to maintain the proposed onsite wastewater disposal system after construction shall be submitted. Note only original "wet signature" documents are acceptable.

67. Advanced OWTS Covenant: Prior to final Environmental Health approval, a covenant running with the land shall be executed between the City of Malibu and the holder of the fee simple absolute as to subject real property and recorded with the Office of the Los Angeles County Recorder. Said covenant shall serve as constructive notice to any future purchaser for value that the onsite wastewater treatment system serving subject property is an advanced method of sewage disposal pursuant to the City of MMC. Said covenant shall be provided by the City of Malibu Environmental Health Administrator.

68. Project Geologist/Geotechnical Consultant Approval: Project Geologist/Geotechnical Consultant final approval of the OWTS plan shall be submitted to the Environmental Health Administrator.

69. City of Malibu Geologist/Geotechnical Approval: City of Malibu geotechnical consultant reviewer's final approval of the OWTS plan shall be submitted to the Environmental Health Administrator.

70. City of Malibu Public Works Approval: City of Malibu Public Works final approval of the OWTS plan shall be submitted to the Environmental Health Administrator.

71. City of Malibu Planning Approval: City of Malibu Planning Division final approval of the OWTS plan shall be obtained.

72. Environmental Health Final Review Fee: A final fee in accordance with the adopted fee schedule at the time of the final approval shall be paid to the City of Malibu for Environmental Health review of the OWTS design and system specification.

73. Operating Permit Application and Fee: In accordance with MMC, an application shall be made to the Environmental Health office for an OWTS operating permit. An operating permit fee in accordance with the adopted fee schedule at the time of final approval shall be submitted with the application.

Geology

74. All recommendations of the consulting certified engineer geologist or geotechnical engineer and/or the City geotechnical staff shall be incorporated into all final design and construction including foundations, grading, sewage disposal, and drainage. Final plans shall be reviewed and approved by the City geotechnical staff prior to the issuance of a grading permit.

75. Final plans approved by the City geotechnical staff shall be in substantial conformance with the approved CDP relative to construction, grading, sewage disposal and drainage. Any substantial changes may require a CDP amendment or a new CDP.

Grading/Drainage/Hydrology (Public Works)

76. Clearing and grading during the rainy season (extending from November 1 to March 31) shall be prohibited for development that:
    a. Is located within or adjacent to ESHA, or
    b. Includes grading on slopes greater than 4 to 1.

    Approved grading for development that is located within or adjacent to ESHA or on slopes greater than 4 to 1 shall not be undertaken unless there is sufficient time to complete grading operations before the rainy season. If grading operations are not completed before the rainy season begins, grading shall be halted and temporary erosion control measures shall be put into place to minimize erosion until grading resumes after March 31, unless the City determines that completion of grading would be more protective of resources.

77. Exported soil from a site shall be taken to the Los Angeles County Landfill or to a site with an active grading permit and the ability to accept the material in compliance with LIP Section 8.3.

78. A grading and drainage plan containing the following information shall be approved, and submitted to the Public Works Department, prior to the issuance of grading permits for the project:
    a. Public Works Department general notes;
    b. The existing and proposed square footage of impervious coverage on the property shall be shown on the grading plan (including separate areas for buildings, driveways, walkways, parking, tennis courts and pool decks);
    c. The limits of land to be disturbed during project development shall be delineated and a total area shall be shown on this plan. Areas disturbed by grading equipment beyond the limits of grading, areas disturbed for the installation of the septic system, and areas disturbed for the installation of the detention system shall be included within the area delineated;
    d. The limits to land to be disturbed during project development shall be delineated and a total area of disturbance should be shown on this plan. Areas disturbed by grading equipment beyond the limits of grading shall be included within the area delineated;
    e. If the property contains rare, endangered or special status species as identified in the Biological Assessment, this plan shall contain a prominent note identifying the areas to be protected (to be left undisturbed). Fencing of these areas shall be delineated on this plan is required by the City Biologist;
    f. The grading limits shall include the temporary cuts made for retaining walls, buttresses and over excavations for fill slopes; and
    g. Private storm drain systems shall be shown on this plan. Systems greater than 12 inch in diameter shall also have a plan and profile for the system included with this plan.

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

80. The ocean between Latigo Point and the west City limits has been established by the State Water Resources Control Board as an Area of Special Biological Significance (ASBS) as part of the California Ocean Plan. This designation prohibits the discharge of any waste, including stormwater runoff, directly into the ASBS. The applicant shall provide a drainage system that accomplishes the following:
    a. Installation of BMPs that are designed to treat the potential pollutants in the stormwater runoff so that it does not alter the natural ocean water quality. These pollutants include trash, oil and grease, metals, bacteria, nutrients, pesticides, herbicides and sediment.
    b. Prohibits the discharge of trash.
    c. Only discharges from existing storm drain outfalls are allowed. No new outfalls will be allowed. Any proposed or new storm water discharged shall be routed to existing storm drain outfalls and shall not result in any new contribution of waste to the ASBS (i.e., no additional pollutant loading).
    d. Elimination of non-storm water discharges.

81. A Storm Water Management Plan (SWMP) shall be submitted for review and approval of the Public Works Director. The SWMP shall be prepared in accordance with the LIP Section 17.3.2 and all other applicable ordinances and regulations. The SWMP shall be supported by a hydrology and hydraulic study that identifies all areas contributory to the property and an analysis of the pre-development and post-development drainage of the site. The SWMP shall identify the site design and source control BMPs that have been implemented in the design of the project. The SWMP shall be reviewed and approved by the Public Works Department prior to the issuance of the grading or building permit for this project.

82. A Local Storm Water Pollution Prevention Plan (LSWPPP) shall be provided prior to issuance of grading/building permits. This plan shall include an Erosion and Sediment Control Plan (ESCP) that includes, but is not limited to:

Erosion Controls Scheduling	Erosion Controls Scheduling
	Preservation of Existing Vegetation
Sediment Controls	Silt Fence
	Sand Bag Barrier
	Stabilized Construction Entrance
Non-Storm Water Management	Water Conservation Practices
	Dewatering Operations
Waste Management	Material Delivery and Storage
	Stockpile Management
	Spill Prevention and Control
	Solid Waste Management
	Concrete Waste Management
	Sanitary/Septic Waste Management

All Best Management Practices (BMP) shall be in accordance with the latest version of the California Stormwater Quality Association BMP Handbook. Designated areas for the

storage of construction materials, solid waste management, and portable toilets must not disrupt drainage patterns or subject the material to erosion by site runoff.

83. A Water Quality Mitigation Plan (WQMP) shall be submitted for review and approval of the Public Works Director. The WQMP shall be supported by a hydrology and hydraulic study that identifies all areas contributory to the property and an analysis of the predevelopment and post development drainage on the site. The QQMP shall meet all the requirements of the City's current Municipal Separate Stormwater Sewer System (MS4) permit. The following elements shall be included within the WQMP:
    a. Site Design Best Management Practices (BMPs):
    b. Source Control BMPs;
    c. Treatment Control BMPs that retain on-site Stormwater Quality Design Volume (SWQDv). Or where it is technically infeasible to retain on-site, the project must biofiltrate 1.5 times the SWQDv that is not retained on-site;
    d. Drainage improvements;
    e. A plan for the maintenance and monitoring of the proposed treatment BMPs for the expected life of the structure;
    f. Methods of onsite percolation, site re-vegetation and an analysis for off-site project impacts;
    g. Measures to treat and infiltrate runoff from impervious areas;
    h. A copy of the WQMP shall be filed against the property to provide constructive notice to future property owners of their obligation to maintain the water quality measure installed during construction prior to the issuance of grading or building permits; and
    i. The WQMP shall be submitted to the Public Works Department and the fee applicable at the time of submittal for review of the WQMP shall be paid prior to the start of the technical review. The WQMP shall be approved prior the Public Works Department's approval of the grading and drainage plan and/or building plans. The Public Works Department will tentatively approve the plan and will keep a copy until the completion of the project. Once the project is completed, the applicant shall verify the installation of the BMP's, make any revisions to the WQMP, and resubmit to the Public Works Department for approval. The original signed and notarized document shall be recorded with the Office of the Los Angeles County Recorder. A certified copy of the WQMP shall be submitted to the Public Works Department prior to the issuance of the certificate of occupancy.

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

Noise

85. Onsite noise, including that which emanates from swimming pool and air conditioning equipment, shall be limited as described in MMC Chapter 8.24 (Noise).

Site Specific Condition

86. The proposed development must be confined within a 10,000 square foot development area.

Prior to Occupancy

87. Prior to, or at the time of a Planning final inspection, the property owner / applicant shall submit to the Planning Division the plumbing permit for the irrigation system installation signed off by the Building Safety Division.

88. Prior to the issuance of a Certificate of Occupancy, the City Biologist shall inspect the project site and determine that all Planning Division conditions to protect natural resources are in compliance with the approved plans.

89. Prior to a final Building inspection, the applicant shall provide a Recycling Summary Report (Summary Report) and obtain the approval from the Environmental Sustainability Division. Applicant must provide haul tickets and diversion information. The final Summary Report shall designate the specific materials that were land filled or recycled, and state the facilities where all materials were taken.

90. The applicant shall request a final Planning Division inspection prior to final inspection by the City of Malibu Building Safety Division. A Certificate of Occupancy shall not be issued until the Planning Division has determined that the project complies with this CDP. A temporary Certificate of Occupancy may be granted at the discretion of the Community Development Director, provided adequate security has been deposited with the City to ensure compliance should the final work not be completed in accordance with this permit.

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

Deed Restrictions

92. Prior to final Planning Division approval, the applicant shall be required to execute and record a deed restriction reflecting lighting requirements set forth in Condition Nos. 18 - 25. The property owner shall provide a copy of the recorded document to the Planning Division prior to final Planning Division approval.

93. The property owner is required to acknowledge, by recordation of a deed restriction, that the property is subject to wave action, erosion, flooding, landslides, or other hazards associated with development on a beach or bluff, and that the property owner assumes said risks and waives any future claims of damage or liability against the City of Malibu and agrees to indemnify the City of Malibu against any liability, claims, damages or expenses arising from any injury or damage due to such hazards. The property owner shall provide a copy of the recorded document to the Planning Division prior to final Planning Division approval.

94. The property owner is required to execute and record a deed restriction which shall indemnify and hold harmless the City, its officers, agents, and employees against any and all claims, demands, damages, costs and expenses of liability arising out of the acquisition, design, construction, operation, maintenance, existence or failure of the permitted project in an area where an extraordinary potential for damage or destruction from wildfire exists

as an inherent risk to life and property. The property owner shall provide a copy of the recorded document to the Planning Division prior to final planning approval.

95. The property owner is required to acknowledge, by the recordation of a deed restriction, that new development on a bluff-top lot, or where demolition and rebuilding is proposed, where geologic or engineering evaluations conclude that the development can be sited and designed so as to not require a shoreline protection structure as part of the proposed development or at any time during the life of the development, the property owner shall be required to record a deed restriction against the property that ensures that no shoreline protection structure shall be proposed or constructed to protect the development approved and which expressly waives any future right to construct such devices that may exist pursuant to Public Resources Code Section 30235.

96. The property owner is required to acknowledge, by recordation of a deed restriction, that no more than one secondary residential unit is permitted to exist on the subject property. Said document shall include the definitions of a second unit and guest house as defined by the LIP Section 2.1, and shall be recorded with the Los Angeles County Recorder's Office. The applicant shall submit a copy of the recorded document to the Planning Division.

Fixed Conditions

97. This CDP shall run with the land and bind all future owners of the property.

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

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

PASSED, APPROVED AND ADOPTED this 17th day of February 2026.

ELIZABETH RIDDICK, Planning Commission Chair

ATTEST:

REBECCA EVANS, Recording Secretary

LOCAL APPEAL - Pursuant to Local Coastal Program Local Implementation Plan (LIP) Section 13.20.1 (Local Appeals) a decision made by the Planning Commission may be appealed to the City Council by an aggrieved person by written statement setting forth the grounds for appeal. An appeal shall be filed with the City Clerk within 10 days and shall be accompanied by an appeal form and filing fee, as specified by the City Council. Appeal forms may be found online at www.malibucity.org, in person at City Hall, or by calling (310) 456-2489, ext. 246.

COASTAL COMMISSION APPEAL – An aggrieved person may appeal the Planning Commission's approval to the Coastal Commission within 10 working days of the issuance of the City's Notice of Final Action. Appeal forms may be found online at www.coastal.ca.gov or in person at the Coastal Commission South Central Coast District office located at 89 South California Street in Ventura, or by calling (805) 585-1800. Such an appeal must be filed with the Coastal Commission, not the City.

Any action challenging the final decision of the City made as a result of the public hearing on this application must be filed within the time limits set forth in Section 1.12.010 of the MMC and Code of Civil Procedure. Any person wishing to challenge the above action in Superior Court may be limited to raising only those issues they or someone else raised at the public hearing, or in written correspondence delivered to the City of Malibu at or prior to the public hearing.

I CERTIFY THAT THE FOREGOING RESOLUTION NO. 26-10 was passed and adopted by the Planning Commission of the City of Malibu at the Regular meeting held on the 17th day of February 2026 by the following vote:

AYES:	4	Commissioners: Leonard, Mazza, Kamins, Riddick
NOES:	0	
ABSTAIN:	1	Commissioner: Peak
ABSENT:	0	

Rebecca Evans

REBECCA EVANS, Recording Secretary

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CITY OF MALIBU
RECEIVED
FEB 26 2026
PLANNING DIVISION

City of Malibu
23825 Stuart Ranch Road · Malibu, California · 90265-4861
Phone (310) 456-2489 · Fax (310) 456-3356 · www.malibucity.org

PLANNING DIVISION
COASTAL DEVELOPMENT PERMIT
NOTICE OF APPEAL CHECKLIST

Actions Subject to Local Appeal: Pursuant to Local Coastal Program (LCP) Local Implementation Plan (LIP) Section 13.20.1 (Local Appeals), a decision or any portion of the decision of the Community Development Director may be appealed to the Planning Commission by an aggrieved person, and any decision of the Planning Commission may be appealed to the City Council by an aggrieved person.

Deadline and Fees: Pursuant to LIP Section 13.20.1, an appeal shall be filed with the City Clerk within 10 days following the date of action for which the appeal is made, as indicated in the decision. If the tenth day falls on a weekend or a City-recognized holiday, the deadline shall extend to the close of business at City Hall on the first business day (whether whole or partial) following the weekend or a City-recognized holiday. Appeals shall be accompanied by the filing fee of $750 as specified by the City Council.

To perfect an appeal, the form must be completed, together with all the necessary attachments, and must be timely received by the City Clerk either in person or by mail addressed to City of Malibu, Attn: City Clerk, 23825 Stuart Ranch Road, Malibu, CA 90265. For more information, contact Patricia Salazar, Development and Operations Manager, at (310) 456-2489, extension 245.

Part I. Project Information

1. What is the file number of the Coastal Development Permit you are appealing?
   CDP No. 23-034; Minor Modification No. 25-009

2. On what date was the decision made which you are appealing?
   February 17, 2026

3. Who made the decision you are appealing?

   ☐ Community Development Director ☒ Planning Commission

4. What is the address of the project site at issue?
   33008 Pacific Coast Highway, Malibu, CA 90265

EXHIBIT C

Docusign Envelope ID: D6C3CFC0-C335-41B6-9205-D5BA9CF56E05

Part II. Appeal Summary

1. Indicate your interest in the decision by checking the appropriate box.

   ☐ I am the Applicant for the project

   ☒ I am the neighbors; Mark Mackey, Tamara Mackey

   ☐ Other (describe)

2. If you are not the applicant, please indicant the applicant's name:
   Bluff Top 1 LLC

3. Indicate the nature of your appeal.

   a) Are you appealing the ☒ approval or ☐ the denial of the application or ☐ a condition of approval?

   b) Each approval is accompanied by a list of specific conditions. If you are appealing one or more of the conditions of approval, list the condition number and state the grounds for your appeal. (Attach extra sheets if necessary.)

4. Check the appropriate box(es) to indicate which of the following reasons forms the basis of your appeal:

   ☒ The findings or conditions are not supported by the evidence, or the decision is not supported by the findings: or

   ☐ There was a lack of fair or impartial hearing: or

   ☒ The decision was contrary to law.

   You must next provide a specific statement in support of each of the bases for appeal that you have checked above. Appeals that are stated in generalities, legal or otherwise, are not adequate. (Attach extra sheets if necessary.)

   See Appeal Justification Letter

Docusign Envelope ID: D6C3CFC0-C335-41B6-9205-D5BA9CF56E05

Each coastal development permitting decision made by the Community Development Director or the Planning Commission is accompanied by written findings. The written findings set forth the basis for the decision. If you have checked the first box in this section as a ground for your appeal, you must indicate the specific finding(s) you disagree with and give specific reasons why you believe the finding(s) is/are not supported by the evidence or why the decision is not supported by the findings. Appeals stated in generalities, legal or otherwise, are not adequate. (Attach extra sheets if necessary.)

See Appeal Justification Letter

Part III. Appeal Checklist

ALL of the following must be timely filed to perfect an appeal.

1. ☒ Completed Appeal Checklist (This form with appellant's signature)

2. ☒ Appeal Fee $750

   The appeal fee must be submitted in the form of a check or money order made payable to the City of Malibu. Cash will not be accepted.

3. ☒ Mailing Labels and Radius Maps for Public Notice to Property Owners and Occupants

   Public Notice of an appeal must conform to the manner in which the original notice was given. The notice radius for appealable CDPs and non-appealable CDPs that do not require a public hearing is 100 feet for property owners and residents. The notice radius for non-appealable CDPs that require a public hearing is 300 feet for property owners and 100 feet for residents.

   The mailing labels and radius map **must be certified** by the preparer (a form is available at the public counter): certification may not be more than six months prior to the date of submittal; the radius map must be provided on an 8½" x 11" paper; the mailing labels must be printed on 8½" x 11" paper, 3 columns, 10 rows (e.g. Avery 5160).

Part IV. Signature and Appellant Information

I hereby certify that the appeal submittal contains all of the above items. I understand that if any of the items are missing or otherwise deficient, the appeal is ineffective and the filing fee may be returned. IN ORDER TO PERFECT AN APPEAL, ALL APPEAL SUBMITTALS MUST BE COMPLETE BY THE DEADLINE. NO EXTENSIONS WILL BE ALLOWED FOR APPELLANTS WHO ONLY PARTIALLY COMPLY WITH THESE REQUIREMENTS AS OF THE DEADLINE. IF AN APPEAL IS NOT PERFECTED BY THE DEADLINE, THE DECISION BECOMES FINAL.

Mark Mackey, for Mark and Tamara Mackey
PRINT APPELLANT'S NAME

[redacted]
TELEPHONE NUMBER

DocuSigned by:
Mark Mackey
APPELLANT'S SIGNATURE

2/24/26
DATE

Appellant's mailing address: [redacted]

Appellant's email address: [redacted]

OFFICE USE ONLY

Action Appealed: CDP No. 23-034, AP No. 26-006

Appeal Period: 2/18/26 - 2/27/26

Date Appeal Form and required documents submitted: 2/26/26 Received by: Rebecca Evans

Appeal Completion Date: 2/26/26 by: Rebecca Evans, Senior Management Analyst
(Name, Title)

ELKINS KALT

Jackson D. McNeill
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JMcneill@elkinskalt.com
Ref: 16168-0001

Elkins Kalt Weintraub Reuben Gartside LLP

February 25, 2026

VIA HAND DELIVERY

City of Malibu City Council
23825 Stuart Ranch Road
Malibu, CA 90265
Email: CityCouncil@malibucity.org

Kelsey Pettyjohn
City of Malibu, City Clerk
23825 Stuart Ranch Road
Malibu, CA 90265
Email: KPettijohn@malibucity.org

Re: Appeal of CDP No. 23-034 and Minor Mod. No. 25-009
Address: 33008 Pacific Coast Highway, Malibu, California

Dear Mayor Silverstein and Honorable City Councilmembers:

Our firm represents Mark and Tamara Mackey (collectively, our "Clients"), the owners of the real property and single-family residence located at [redacted] in Malibu, California. Bluff Top 1 LLC ("Applicant") requests a Coastal Development Permit (CDP No. 23-034) and Minor Modification (Minor Modification No. 25-009) (together, the "Application") to construct a new single-family residence and associated development (the "Project") on a coastal bluff property at 33008 Pacific Coast Highway (the "Property"). On February 17, 2026, the Planning Commission approved Resolution No. 26-10 ("Resolution") approving the Application and determining that the Project is exempt from CEQA ("Decision"). Through this letter and the documents submitted herewith, our Clients appeal the decision of the Planning Commission to the City Council pursuant to LIP section 13.20 *et seq.*

As discussed below, the Project violates the plain language of LCP, and the administrative record does not contain substantial evidence to support the required findings. Moreover, the City's erroneously determined that the project is exempt from the California Environmental Quality Act ("CEQA"). For these reasons, discussed in more detail below, the City Council should grant the appeal and deny the Project.

I. Statement of Aggrieved Person(s).

Appeals may only be made by aggrieved persons. (LIP § 13.20.1.) The LIP defines "Aggrieved Person" as:

> [A]ny person who, in person or through a representative, appeared at a public hearing of the City of Malibu or the California Coastal Commission in connection with the decision or action on a Coastal

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> Development Permit application, or who, by other appropriate means prior to a hearing, informed the City of Malibu or the California Coastal Commission of the nature of his/her concerns or who for good cause was unable to do either. "Aggrieved person" includes the applicant for a Coastal Development Permit.

(LIP § 2.1.)

Our Clients individually and collectively qualify as an "aggrieved person" or "aggrieved persons" in that, either personally or through their representatives, including our firm, they: (1) submitted written testimony, records, and objections to the project informing the City of Malibu of the nature of their concerns; (2) met with City staff in person and telephonically in order to the City of Malibu of the nature of their concerns; and (3) appeared at the public hearing of the Planning Commission and provided oral testimony informing the City of Malibu of the nature of their concerns.

II. Grounds for Appeal.

A. LCP Grounds for Appeal.

1. The Decision is Contrary to Law and the Evidence Fails to Support the Findings Because the Planning ESHA Analysis Relies on an Incorrect Measurement Methodology; When Correctly Measured, an ESHA Buffer Exists that Conflicts with the Project.

The Project lies close to a ESHA-designated blue line stream. While fuel modification zones exist around the stream, the presence of fuel modification zones does not affect whether or not a stream is designated ESHA. Indeed, neither the Staff Report nor the Applicant's biology materials contest that the stream constitutes ESHA. (February 17, 2026, Staff Report, p. 3-4; Forde Memorandum, November 12, 2025.)

The LCP requires a 100-foot ESHA buffer measured from the *outer edge of riparian vegetation*, not from the edge of the stream. (LIP § 4.6.1(A).) This buffer area exists regardless of whether fuel modification zones lie within the buffer area. This was confirmed during the Planning Commission in live testimony by City Biologist Courtney McCammon, who reviewed the project. Except for limited exceptions not applicable here, no development is permitted within the buffer area. (LIP § 4.5.4.)

Instead of calculating the ESHA buffer from the edge of the riparian habitat, however, the Applicant's biologist "determined that at its closet point the distance *from top of bank* to the

property line is 104 feet." (Forde Memorandum, November 12, 2025, p. 2, emphasis added.) At the same time, the Applicant's own biological assessment opines that "[a]long the perimeter of the stream various trees and associated riparian areas are present" and that the "ESHA area is a riparian woodland community." (Moorman Biological Assessment, July 2023, p. 10.) Clients' biologist, likewise, testified during the Planning Commission hearing that riparian vegetation exists south and east of the stream all the way to the easement road.

Thus, by measuring from the stream edge rather than from the outer edge of riparian vegetation, the Applicant's analysis systematically undermeasures the ESHA buffer. When the buffer is correctly measured, it overlaps the Property and multiple Project components. The Decision was therefore contrary to law because it failed to measure or account for the ESHA buffer.

The Decision's findings were also not supported by the evidence. To approve a CDP, the Planning Commission had to find that the Project conformed to the LCP and that the Project was the least environmentally damaging alternative. (LIP § 13.9; February 17, 2026, Staff Report p. 14.) However, City biologist Courtney McCammon and Applicant admitted during the hearing that the Applicant had presented no evidence as to whether riparian vegetation existed or that it had properly measured the ESHA buffer. Accordingly, the evidence does not support the findings.

2. The Project Fails to Account for Coastal ESHA.

Our Clients' biologist inspected the coastal bluff along the Property and concluded it qualifies as ESHA, providing a detailed, multi-page analysis. The applicant biologist's 1.5-page memorandum on November 12, 2025, and Applicant's previous biological assessment predate that analysis and do not rebut it. The presence of coastal bluff ESHA means that the Applicant must provide a 100-foot buffer from the top of the bluff, and its request for a 50-foot setback instead cannot be approved. (LIP § 4.6.1(D).) Similarly, the Project as approved includes various elements that conflict with the 100-foot required ESHA buffer. Accordingly, the Planning Commission's decision was contrary to law and the Planning Commission could not have appropriately found that the Project conformed with the LCP or that it constituted the least environmentally damaging alternative. (LIP § 13.9; February 17, 2026, Staff Report p. 14-15 [Findings Nos. 3-4 improperly omitting consideration of Coastal ESHA].)

3. The Decision Violates the LCP's Archaeology Requirements.

LIP section 11(F)(1) provides that "[i]f on the basis of the Phase I Inventory described above, one or more significant cultural resources is found, a Phase I Inventory may be required to include: (1) an evaluation of limited shovel test pits to determine whether a subsurface deposit is present and a negative declaration shall be prepared." (LIP § 11.5(F)(1), emphasis added.) The

record establishes that significant cultural resources were found at the Project site. The November 3, 2025 Staff Report states that "cultural resources found during the field survey included subsistence shell and stone tools," and the City's original Archaeology Review Sheet confirms that "potential cultural resources are located on the project site." The City's own Archaeology Review Letter imposed conditions "[t]o mitigate potential impacts on unknown archaeological resources to a level of insignificance," reflecting the City's recognition that significant resources are present. On this record, the predicate condition in LIP § 11(F)(1) was satisfied.

Consistent with that finding, the City required an extended Phase I study that included subsurface testing. The February 17, 2026 Staff Report confirms that the extended study "incorporated subsurface testing, including auger borings, laboratory analysis, and Native American monitoring by Chumash representatives." In addition, both David Paul Dominguez, a Chumash elder, and Chester King, Ph.D., a professional archaeologist, opined that the Property likely contains human remains based on the original Phase I report, artifacts found in the immediate vicinity (including human remains), and burial-associated beads. Their opinions have not been meaningfully addressed or rebutted in the record, and the Applicant testified at the hearing that Mr. Dominguez was not permitted access to the site during the extended Phase I investigation.

Under the plain language of LIP § 11(F)(1), once significant cultural resources are identified and subsurface testing is required, "a negative declaration shall be prepared." The provision does not condition this requirement on whether additional resources are ultimately discovered; it is triggered by the finding of significant resources and the need for subsurface evaluation. Because the City identified cultural resources on the Project site, and then required shovel test pits and other subsurface testing without preparing a negative declaration, the record does not contain substantial evidence supporting a finding that the Project complies with the LIP and the Decision is contrary to law.

4. The Project Violates County Fire Requirements.

The Project is required to comply with all applicable state and local law. (LIP § 13.27.5(B).) It is therefore required to comply with the LA County Fire Code requirements for fire access. (See also Resolution No. 26-10, p. 8 [Condition of Approval No. 8: Project must comply with LACFD requirements].) Further, the Fire Department Plan (Sheet A-0.5) expressly incorporates notes associated with the approval of the Fire Department Plan.

Fire Code section 503 and Note No. 1 both require a minimum unobstructed fire apparatus access road with a 20-foot width. The plans submitted to the Commission show fire vehicle access as narrow as eleven (11) feet at certain locations. There is no evidence in the record that a 20-foot unobstructed width can be achieved, secured, or legally improved within the shared access easement. Nor is there any evidence that the Fire Department granted a modification or waived the

20-foot requirement. Absent such evidence, the record does not support a finding of compliance with Fire Code § 503.

The Project likewise fails to demonstrate compliance with Note No. 15 and Fire Code § 503.2.3, which requires that fire apparatus access roads consist of asphalt, concrete, or approved driving surface capable of supporting imposed loads of not less than 75,000 pounds. The original Fire Department Plan included paving over existing decomposed granite within the shared private access easement, which would have complied with Section 503.2.3. However, as the February 17 Staff Report confirms, the Project was revised to eliminate development within the shared easement. (February 17, 2026, Staff Report, p. 3 ["Revised plans have been submitted to further clarify that no development will be proposed within the portion of the shared easement"].) The paving component was removed. (*Id.*) The Fire Department Plan is dated November 12, 2025, while the Fire Department Review Sheet confirm that the plan was approved on April 24, 2025. There is no evidence that the Fire Department reviewed or approved this material revision, and no evidence that the remaining decomposed granite surface satisfies the all-weather structural load requirements of Section 503.2.3.

Finally, the Project does not demonstrate compliance with Note No. 8 and Fire Code § 325. Notably, Fire Code § 325.2.1, requires maintenance of 100 feet of defensible space in wildfire-prone regions. The proposed residence is located less than 20 feet from a proposed Island Oak that will grow to approximately 35 feet in height, and four Big Berry Manzanita are proposed approximately 20-36 feet of the structure, and bordered with shrubs and perennials. The Landscape Plan was submitted on May 30, 2025, one month *after* the Fire Department Plan was approved. and there is no indication that defensible space requirements were evaluated, satisfied by the LA County Fire Department. In the absence of evidence showing compliance with the entirety of Fire Code § 325, the Commission lacked substantial evidence to conclude that the Project meets mandatory fire safety standards.

Accordingly, the Decision was contrary to law.

5. The Decision Was Improper Because the Applicant Failed to Consult with the State Lands Commission and the LIP Does Not Permit Staff to Substitute Its Own Judgment for the SLC's.

The Project qualifies as "shoreline development" under the Coastal Act and Malibu's LIP. The Property lies directly along the Pacific Ocean; state tidelands form its southern parcel boundary; and the proposed improvements sit atop a coastal bluff subject to coastal wave action. Indeed, staff's September 1, 2023, incomplete letter noted that "[d]ue to the fact the project abuts

the ocean per LIP Section 10.5(C) a Determination from the California State Lands Commission is required."

As such, the LIP required the Applicant to submit "written evidence of a review and determination from the State Lands Commission relative to the proposed project's location to or impact upon the boundary between public tidelands and private property." (LIP § 10.5(C).) "Such determination [is] a filing requirement for a Coastal Development Permit," and "any application filed without such determination shall be determined to be incomplete." (*Id.*; see also LIP § 13.6.2 ["Applicants for development along the shoreline property or fronting a beach shall submit written evidence of a review and determination from the California State Lands Commission relative to the project's location to or impact upon the boundary between public tidelands and private property."].)

No such determination was obtained. In fact, staff records personnel Jason Ernst indicated by email on October 14, 2025, that "[t]here was a note in the database stating that a state land's letter is not required for this project."

> Staff attempted to address this issue in the Staff Report, which stated: The requirement to obtain written determination from the State Lands Commission is only applicable to beachfront properties. While the subject property is oriented toward the ocean, a steep bluff is located between the proposed building pad and the ocean. The proposed development further incorporates the blufftop setback requirements of LIP Section 10.4(D). Being setback far from the mean high tide line and the beach below the bluff, there is no indication that the proposed development would encroach into State Lands. Further, there is no development proposed along the shoreline or bluff, nor does the project propose a shoreline stabilization device or other development along the bluff such as drainage devices or beach access.

(February 17, 2026, Staff Report, p. 2.)

In other words, City staff determined, on its own, that this bluff-top project along the ocean would not affect state tidelands. **The LIP, however, does not give the planning director or any other City personnel discretion to avoid the consultation requirement, which states in black and white that applicants "shall" submit written evidence of a determination (LIP § 10.5(C), emphasis added) and that, without such determination, the Application "shall be determined to be incomplete."** (LIP § 13.6.2, emphasis added) In other words, respectfully, City staff unlawfully substituted its own judgment for that of the State Lands Commission. The omission

rendered the application incomplete as a matter of law. Accordingly, the Decision was procedurally improper and contrary to law.

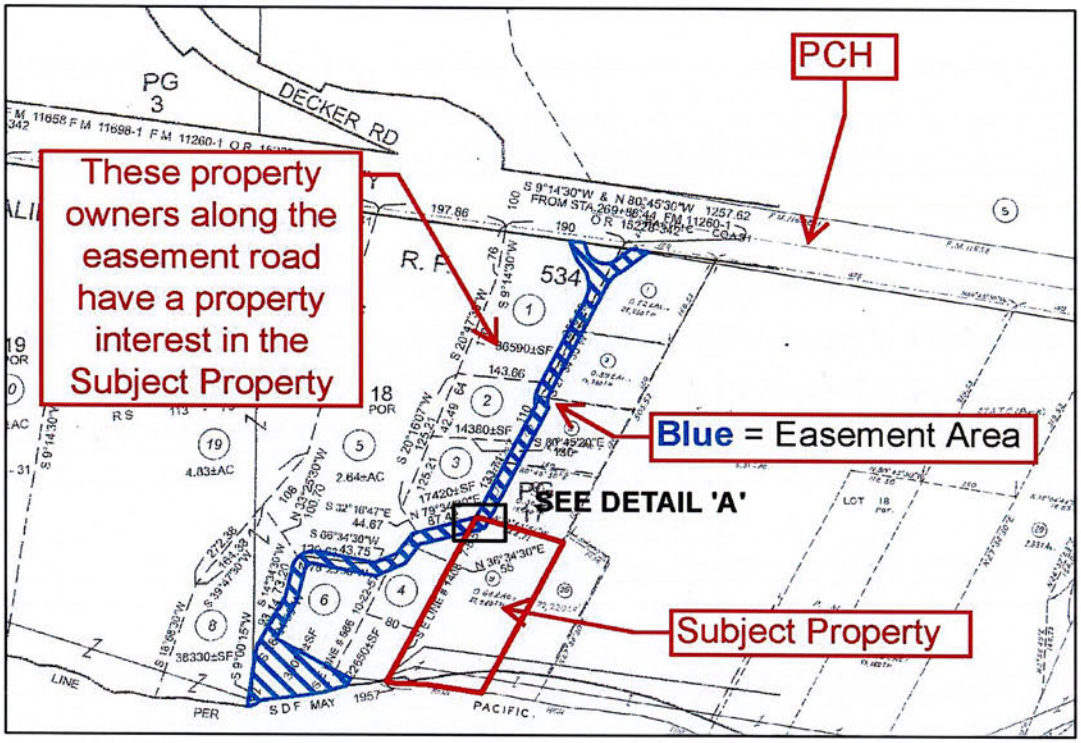
6. The Applicant and City Failed to Invite Parties with Easement Interests to Join as Co-applicants; Abstaining from Erecting New Structures Within the Easement Did Not Cure This Issue.

The Malibu LIP states that "[a]ll holders or owners of any other interest of record in the affected property shall be notified in writing of the permit application and invited to join as co-applicant." (LIP § 13.6.2(C).) This requirement is not new or unique: The Commission also requires developers to invite interests holders to join an application as co-applicants. (Cal. Code Regs., tit. 14, § 13053.5.) Indeed, staff's incomplete letter, dated February 10, 2025, stated that "Staff has been made aware that improvements are proposed within the access easement. Pursuant to LIP Section 13.6.2, all holders or owners of the easement shall be notified in writing of the subject permit application and invited to join as co-applicant."

Staff is correct: the Property is subject to an access easement and an easement road that connects several properties along the easement road to Pacific Coast Highway. (See Plans, Sheet T-2.1 [Survey].)

Importantly, all properties on the easement road have a right to use the entire easement as the easement was granted to "each party" to the easement agreement "along and under said strip of land to the end," stating "that said easements shall be used and enjoyed by said owners and their successors and assigns." The easement deed reiterates this point, noting that the easement is "appurtenant to and for the common benefit of all of the said lands, or portions thereof, above referred to." (*Id.*) Because these owners hold an easement over the Property, they have a property interest in it. (See, e.g., *County Sanitation Dist. v. Watson Land Co.* (1993) 17 Cal.App.4th 1268, 1278 ["An easement is an incorporeal interest in the land of another…"].)

The following depiction, prepared by Client's title company, Chicago Title, shows the area of the easement road:



City staff and Applicant purportedly addressed this issue prior to the Planning Commission hearing by removing any paving or "development" from the easement area. The February 17, 2026 staff report stated, for example: "Revised plans have been submitted to further clarify that no development will be proposed within the portion of the shared." (February 17, 2026, Staff Report, p. 3.)

This failed to address the issue. While Applicant has apparently agreed not to build any new structures in this area (legal or otherwise), both the LIP and the Coastal Act define "development" to include any "change in density or intensity of use of land," not just structures. (LIP § 2.1; Coastal Act § 30106.)

Here, a part of the easement that lies within the Property is presently not used for regular vehicular access, but instead is made of decomposed granite on the shoulder of access road. Once the Applicant builds the Project, however, this currently unused shoulder area will become a driveway and will be used for residential use, thereby dramatically increasing the intensity of the

use. The density of this area will also increase: it will go from having zero density (because no residential uses currently exist) to having residential density, as the shoulder will become a driveway that serves as part of the residential use. Thus, this still constitutes "development" within the easement area and the Applicant's failure to invite our Clients' to join as applicants was procedurally improper and contrary to law. (LIP § 13.6.2.)

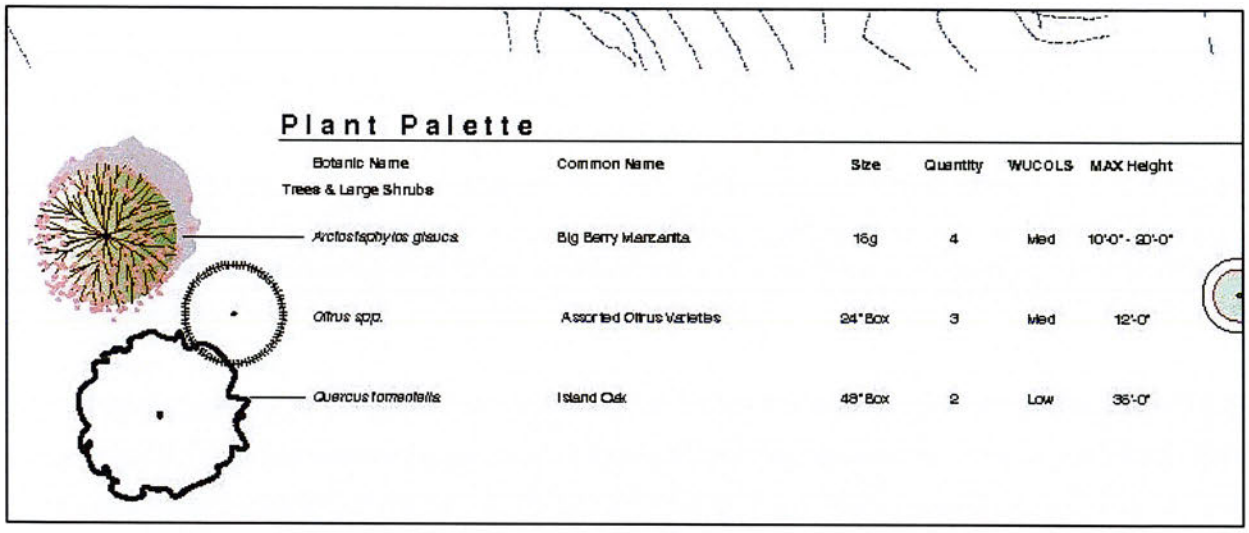
7. The Project Landscaping Violates the MMC and LCP.

One of our Clients, the upslope neighbor at [redacted] has a Primary View Determination, PVD No. 17-0036 ("PVD"). The PVD captures the view looking south from [redacted] directly over the Property in question.

The PVD protects our Client from landscape that would significantly obstruct our Client's view as documented in the PVD. (See MMC § 17.40.040(A)(17).) Our Clients also recognize that the Planning Commission Resolution includes a condition of approval that ostensibly prohibits the Project's landscaping from obstructing primary views. (Resolution No. 26-10, p. 12 Condition #43 ["Vegetation shall be situated on the property so as not to significantly obstruct the primary view from private property at any given time (given consideration of its future growth)."]; see also Condition #44 [prohibiting vegetation above six feet from obstructing primary view].)

Nevertheless, the Project's landscape plans include trees that appear destined to violate the PVD and the Project's conditions of approval. Sheet L3.00 of the landscape plans, for example, notes four proposed Big Berry Manzanita trees with a maximum height of 10 to 20 feet, three proposed citrus trees with a maximum height of 12 feet, and two proposed Island Oak trees with a maximum height of 35 feet. The Applicant proposes to scatter these trees around the Property.

Sheet L3.00 provides the following Plant Palette:



Although staff attempts to address this issue by referencing Condition of Approval Nos. 43 and 44 (prohibiting vegetation from blocking private views and limiting vegetation 6 feet in height), the current architecture and landscape plan inherently conflicts with that condition and the visual-resource findings required by LIP section 6.6.4. Approval of trees capable of growing five to six times the permitted view height invites a future code-enforcement action once the vegetation matures. In the alternative, if the Applicant deviates from this landscaping, they will have violated the conditions of approval requiring them to proceed in accordance with the approved plans. (Resolution No. 26-10, p. 12.) Either way, they will have violated the LCP. Accordingly. The Decision is contrary to law. (See LIP § 6.6.4(A)(1).)

8. The Decision Violates Longstanding Policy on Processing Code Enforcement Cases and the Decision Failed to Address the Unpermitted Bluff Development.

While the Resolution and Project purport to resolve some code enforcement violations, it fails to address other ones. Specifically, our Clients documented substantial unpermitted development on the Property's coastal bluff, including unpermitted trees and erosion control devices such as straw wattle, jute netting, sandbags, and fencing. The February 17, 2026 Staff Report acknowledges that the owner installed these measures to "protect the property and prevent erosion," and states that prior to installation, the owner of the Property inquired whether permits were required. (February 17, 2026, Staff Report, p. 4.) According to staff, in consultation with the Building Safety Division, the Public Works Department advised that "temporary erosion control measures could be placed on the property." (*Id.*)

This response is legally insufficient. Even assuming City staff informally indicated that temporary erosion control measures could be placed on the bluff, that informal assurance does not render the development lawful or exempt it from required coastal development, grading, or building permits. Nowhere does staff state that such development on a sensitive coastal bluff is categorically exempt from permitting requirements. Nor does the Staff Report identify any statutory or regulatory authority authorizing these installations without discretionary review.(February 17, 2026, Staff Report, p. 4.)

The Staff Report further asserts that the trees in question "existed prior to the fire and were not replanted," yet staff concedes that after reviewing historical aerial photographs from several sources, it was "unable to confirm the origins of these trees." (February 17, 2026, Staff Report p. 4) In other words, staff cannot verify whether the trees were lawfully established, whether they constitute unpermitted development, or whether they altered bluff conditions in violation of applicable coastal regulations. The Resolution nevertheless proceeds without resolving these uncertainties.

The City has long maintained that outstanding code enforcement matters must be resolved ***before*** new entitlement applications can be processed—let alone brought to hearing. To take just one example: in 2024, the owner of 25040 Pacific Coast Highway filed an application for a CDP and two variances related to new walls on the property (CDP No. 25-008; Variance No. 24-007). The property included an outdoor fireplace and patio for which permits had expired and final inspections had never occurred. When this came to the attention of Code Enforcement, City planning stated unequivocally:

> It has come to my attention that there is an open code enforcement case for the [property]. You cannot apply for a new application until the code enforcement case is resolved.

Only once the owner of 25040 PCH fully addressed *all of* the code enforcement issues did the City begin to process the CDP and variance application.

The City cannot take a contrary approach now. Consistency and fairness require that the same standard be applied here. Any other approach constitutes selective enforcement. The Decision violates this policy by failing to first resolve *all of* the outstanding code enforcement prior to Project approval.

9. The Project Does Not Comply With the Certificate of Compliance and Non-Compliance Prohibits Approval.

A Conditional Certificate of Compliance No. 29220, was recorded against title to the Property on October 30, 1986 by the Los Angeles County Department of Regional Planning (the "CoC"). In conformance with Government Code section 66499.35, subdivision (b), the CoC expressly provides that "the conditions listed below must be fulfilled before issuance of a building permit or other development approval." (*Id.*, p. 1.) Condition #2 of the CoC required the owner to:

> Dedicate to the County the right to restrict the erection of buildings and/or other structures because the property and/or its access is within a flood-prone area.

In purported satisfaction of this condition, the then-owner recorded a deed restriction prohibiting development within the flood-zone portion of the Property—approximately 7,335 square feet along the coastal bluff.

The dedication fails to comply with the CoC. The CoC did not just require the owner to dedicate a deed restriction to the flood-mapped portions of the Property. If it did, it would have said so. Instead, it required the County to retain authority to restrict the erection of buildings throughout the Property. By limiting the dedication to one corner of the site, the owner did not satisfy the CoC's conditions of approval. Accordingly, because the CoC's conditions remain unfulfilled, no building permit or other development approval may lawfully issue for the Property. (*Id.*; Government Code section 66499.35 ["the fulfillment and implementation of [a CoC's] conditions shall be required prior to subsequent issuance of a permit or other grant of approval for development of the property"].)

Moreover, even if the owner had complied by granting the County authority to restrict development throughout the entire parcel, any local development approval would still conflict with that County-held authority, leaving it unclear how the City could lawfully approve a project that the County would retain the power to order removed. Accordingly, the Decision is contrary to law.

B. CEQA Grounds for Appeal.

1. The Decision Improperly Relies Upon Mitigation Measures to Support a Categorical Exemption from CEQA.

The Planning Commission approved a Class 3 categorical exemption from CEQA. The Class 3 exemption generally applies to minor new construction, including single family homes. (Cal. Code Regs. Tit. 14, § 15303; see also February 17, 2026 Staff Report, p. 23 ["the proposed

project is categorically exempt from the provisions of CEQA pursuant to Sections 15303(a) and (e)"]; Resolution No. 26-10, p. 2 [stating a Class 3 exemption applies].)

The Class 3 categorical exemption does not apply to this Project. Importantly, "[a]n agency may not evade CEQA by adopting mitigation measures simply to qualify a project for a categorical exemption." (*Sunflower Alliance v. Department of Conservation* (2024) 105 Cal.App.5th 771, 789; see also *Azusa Land Reclamation Co. v. Main San Gabriel Basin Watermaster* (1997) 52 Cal.App.4th 1165, 1199–1200.) That is exactly what the City did here.

(a) The Record Demonstrates that the Property Contains Tribal Cultural Resources.

The record incontrovertibly shows that tribal cultural resources exist at the Property. The November 3, 2025, Staff Report, for example, explicitly acknowledges that the Applicant discovered Chumash tools and shells on the Property. (November 3, 2025, Staff Report, p. 8 ["The cultural resources found during the field survey included subsistence shell and stone tools…."].) The City's original Archaeology Review Sheet, likewise, also states "that potential cultural resources are located on the project site."

Further, Mr. David Paul Dominguez, a Chumash elder, and Chester King, PhD, a professional archaeologist, both opined that the Property likely contains human remains. Mr. Dominguez based this upon the original Phase I archaeology report prepared for the Property, the artifacts found in the immediate vicinity (including human remains), the discovery of certain beads that are consistent with Chumash burials and trading, among various other facts.

The testimony of neighbors confirms this result and is legally relevant. (See *Pocket Protectors v. City of Sacramento* (2004) 124 Cal.App.4th 903, 932 [relevant personal observations by area residents are properly considered in order to determine whether a reasonable possibility exists that a project will have a significant adverse impact on the environment]; see also *Bowman v. City of Berkeley* (2004) 122 Cal.App.4th 572, 583 ["[s]tatements of area residents who are not environmental experts may qualify as substantial evidence if they are based on relevant personal observations or involve 'nontechnical' issues"].)

Specifically, cultural artifacts were found on the property immediately east of the subject Property—including mortar, pestles, and hand tools. Neighbors also report that human remains have been found upslope of the Project at 33004 PCH. (Indeed, given the cultural resources found in the late 1990s, 33004 PCH remains undeveloped to this day.) This further demonstrates that tribal cultural resources exist at the Property.

At the hearing, the Applicant also presented testimony from an individual, Julie Tumamait-Stenslie, who identified herself as a member of the Chumash community but who is not a federally recognized tribal member. She testified that she had never made a statement to Mr. Dominguez regarding the sacred significance of the Project site. That testimony created an unnecessary "he said, she said" dynamic that obscured the record rather than clarified it. The relevant issue before the Commission was not whether a particular individual had previously used specific terminology, but whether substantial evidence supports the conclusion that the site may contain or be associated with culturally significant resources. Our expert and Mr. Dominguez, a federally registered Chumash elder, both raised concerns regarding the Project site's potential sacred significance. That evidence was never meaningfully analyzed or rebutted with competent study; instead, the discussion devolved into a credibility dispute that should never have supplanted formal cultural resource evaluation.

Importantly, Mr. Dominguez—who is a registered tribal member—was not permitted to access the Property to conduct a site visit. The Applicant testimony suggested that they believed he may have had an interest in the outcome of the decision. Denying access to a qualified tribal elder while simultaneously questioning the evidentiary weight of cultural concerns effectively foreclosed the very investigation that could have clarified the issue.

Allowing Mr. Dominguez a site visit could have resolved questions regarding the sacred or cultural significance of the Property in a professional and culturally appropriate manner. Instead, the record reflects resistance to independent review, leaving unresolved uncertainty that should have triggered further analysis rather than approval. This underscores the absence of substantial evidence and the failure to conduct the level of cultural resource evaluation required under the LCP and CEQA.

(b) The Project Presents the Reasonable Possibility of an Adverse Impact on Cultural Resources; the Extended Phase I Does Not Change this Conclusion.

Given the documented cultural resources on the Property, the Project—which involves approximately 2,974.6 cubic yards of cut and fill grading over 12,603.6 square feet of area (see Civil Plans, sheet C-3.0)—presents a reasonable possibility of adverse environmental impacts and, specifically, adverse impact on tribal cultural resources. Put differently, the tribal artifacts exist at or near the surface of the Property, but the Project proposes to scrape about two feet of topsoil away for the majority of the buildable area.

Archaeologist Chester King, PhD, meanwhile—who previously served the City's archaeologist from 1993 to 2000, did his PhD dissertation on the Chumash tribe, and has conducted and inspected various excavations in Malibu and Southern California—opines that "[t]he

construction of the house as planned is expected to cause substantial damage to suspected site deposits." He stated in his written restomny/report:

> Project plans indicate from sections of the house, that much of the area covered by the proposed house area will be excavated to two to three feet below the present ground surface before construction of the house. Utility trenches will also be excavated, and a septic tank will also be placed in a deep excavation. Observations of site deposits on mesa surfaces similar to those at the project site indicate that site deposits are usually less than two or three feet deep except in areas where house pits or other features such as earth ovens were excavated into subsoil. **The construction of the house as planned is expected to cause substantial damage to suspected site deposits.**

Chumash Elder and former cultural resources monitor David P. Dominguez described this as a "sacred area" and likewise opined in his written testimony that:

> [T]his proposed project will have extreme damage to unknown archeological and cultural resources and more than likely, will hit and discover unknown burials, that are consistent in the immediate bluff area.

Clearly, Dr. King and Mr. Dominguez' statements represent "expert opinion supported by facts" that each constitute substantial evidence of an adverse environmental impact under CEQA. (Cal. Code Regs. Tit. 14, § 15064, subd. (f)(5) [substantial evidence of adverse environmental impacts includes expert opinion supported by facts].)

Moreover, it does not matter that the Applicant has refused to let them access the Property directly: Expert opinion may qualify as substantial evidence under CEQA if supported by facts, even if not based on specific observations as to the site under review. (*Taxpayers for Accountable School Bond Spending v. San Diego Unified School Dist.* (2013) 215 Cal.App.4th 1013, 1036; *Pocket Protectors*, supra, 124 Cal.App.4th at 928 [expert opinion qualifies as substantial evidence "even if not based on specific observations as to the site under review"].)

We understand, of course, that the Applicant prepared an extended Phase I archaeology report. According to the staff report, "[t]he extended study concluded that the subsurface soils within the project area are 'archaeologically sterile' meaning that the project site does not contain intact or significant cultural resources." (February 17, 2026, Staff Report, p. 5.) This matters little. Dr. King and/or Mr. Dominguez to testified at the hearing and disagreed with the extended Phase

I's conclusions. In any event, to the to the extent the Applicant's Phase I archaeology report or extended Phase I contradicts Dr. King or Mr. Dominguez' conclusions, the City must err on the side of preparing an EIR. (Cal. Code Regs. Tit. 14, § 15064, subd. (g) ["in marginal cases where it is not clear whether there is substantial evidence that a project may have a significant effect on the environment, the lead agency shall be guided by the following principle: If there is disagreement among expert opinion supported by facts over the significance of an effect on the environment, the Lead Agency shall treat the effect as significant and shall prepare an EIR"]; see also *Quail Botanical Gardens Foundation, Inc. v. City of Encinitas* (1994) 29 Cal.App.4th 1597, 1607 [expert testimony indicated that there would be a significant impact upon views and even though this was contradicted expert testimony, city was required to prepare EIR]; *Pocket Protectors*, supra, 124 Cal.App.4th at 928 ["Where such expert opinions clash, an EIR should be done."].)

2. The City Unlawfully Attempted to Mitigate Impacts to Cultural Resources in Order to Utilize a Categorical Exemption from CEQA.

Unsurprisingly, the City all but admitted the potential adverse impact of the Project on these tribal resources by requiring the Applicant "[t]o mitigate potential impacts on unknown archaeological resources to a level of insignificance" through two proposed mitigation measures. (See Archaeology Review Letter, Exh. A, p. 1.) The previous, December 1, 2025, Staff Report likewise stated that in light of the shells and tools, "a condition of approval has been added … that requires monitoring by a qualified archaeologist for all earthmoving activities…." (December 1, 2025, Staff Report, p. 8.) The December 1, 2025, Staff Report further acknowledges that "Staff has included the recommendations of the archeologist as conditions of approval (Condition Nos. 12-17) addressing cultural resources." (*Id.* at 3.) The updated, February 17, 2026, staff report made similar changes to the conditions of approval in light of archaeological concerns. (See February 17, 2026, Staff Report, p. 12 ["archaeological monitoring was recommended for all earthmoving activities. Accordingly, a condition of approval has been added to Resolution No. 26-10 that requires monitoring by a qualified archaeologist for all earthmoving activities, which include gradings, trenching, potholing, shoveling, and soil core boring."].)

In other words, the City did exactly what it is not supposed to do: It acknowledged that the Project presents potential environmental impacts and then attempted to evade CEQA by adopting project-related measures to mitigate those impacts, both in the Archaeology Review letter[1] and through the conditions of approval.

[1] Our Clients assert that the Archaeology Review letter's requirement to avoid ground disturbing activities within a certain distance of the northern property boundary constitutes one such

A court will agree the City has unlawfully used mitigation measures to evade CEQA:

- In *Salmon Protection & Watershed Network v. County of Marin* (2004) 125 Cal.App.4th 1098, a county acknowledged that a residential construction project may have potential adverse impacts on adjacent stream habitat. It then adopted conditions of approval (e.g., requiring a riparian protection plan) designed to mitigate the potential adverse impacts and thereby qualify the project for a Class 3 categorical exemption. (*Id.* at 1104.) The court of appeal stated that mitigation measures under CEQA are only proper at later stages of the process, and the County unlawfully evaded that process by adopting mitigation measures to rely upon a categorical exemption. (*Id.* at 1107-08.) Here, just like in *Salmon Protection*, a court would reject the City's attempt to rely upon archaeological mitigation measures to obtain a Class 3 exemption.

- Similarly, in *Azusa Land Reclamation Co. v. Main San Gabriel Basin Watermaster* (1997) 52 Cal.App.4th 1165, an agency authorized the continued disposal of municipal waste at a landfill and declared the project categorically exempt from CEQA as the operation or minor alteration of an existing facility. (*Id.* at 1193.) In granting the categorical exemption, the agency in *Azusa* had acknowledged that pollutants were leaking from the landfill but had relied upon evidence that mitigation measures could prevent further pollution. (*Id.* at 1198.) The appellate court concluded this violated CEQA, stating that "proposed mitigation measures cannot be used to support a categorical exemption; they must be considered under the standards that apply to a mitigated negative declaration." (*Id.* at 1199.) Here too, the City cannot rely upon mitigation measures to avoid potentially significant effects on cultural resources.

Given the potentially adverse impacts to cultural resources, the City was required to prepare a mitigated negative declaration or EIR instead. (*Salmon Protection & Watershed Network v. County of Marin* (2004) 125 Cal.App.4th 1098, 1108 ["Reliance upon mitigation measures (whether included in the application or later adopted) … must be conducted under established

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mitigation measures. City staff stated that this measure only applies to the geologic excavation permit, not the Project itself. It matters little: There are a number of conditions of approval in the Planning Commission Resolution that indisputably apply to the project.

CEQA standards and procedures for EIRs or negative declarations."].) By proceeding by way of a categorical exemption, the City violated CEQA.

C. The Unusual Circumstances Exception Independently Precludes the Utilization of the Class 3 Categorical Exemption.

Even assuming, *arguendo*, the Project would normally qualify for a Class 3 categorical exemption (which our Clients dispute), at least one exception to the categorical exemption applies. (Cal. Code Regs., tit. 14, § 15300.2 [listing exceptions].) The most commonly raised exception is the "unusual circumstances" exception. (*World Business Academy v. California State Lands Commission* (2018) 24 Cal.App.5th 476, 491.) That exception provides that a categorical exemption may not be used "where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances." (*Id.*; Cal. Code Regs., tit. 14, § 15300.2, subd. (c).)

The party advocating for the application of the unusual circumstances exception bears the burden of demonstrating that the project falls within the exception. (*World Business Academy*, supra, 24 Cal.App.5th at 491.) That typically requires a two-part showing: (1) that the project has some feature that distinguishes it from others in the exempt class—i.e., that there is something unusual about the project—such as its size or location and (2) that there is "a reasonable possibility of a significant effect on the environment due to that unusual circumstance." (*Berkeley Hillside Preservation v. City of Berkeley* (2015) 60 Cal.4th 1086, 1105; *Respect Life South San Francisco v. City of South San Francisco* (2017) 15 Cal.App.5th 449, 456.) Alternatively, the party advocating for application of the unusual circumstances exception may make a heightened, one-element showing: that the project will have a significant environmental effect. (*Berkeley Hillside*, supra, 60 Cal.4th at p. 1105.)

1. The Project Will Have a Significant Environmental Effect.

Substantial evidence in the record demonstrated that the Project *will* have a significant environmental effect. Notably, as previously discussed, Mr. Dominguez' expert opinion—based upon the Phase I archaeology study, prior excavations and resources found in the immediate vicinity, his knowledge as a Chumash elder, and various other facts—concluded that "**this proposed project <u>will have</u> extreme damage to unknown archeological and cultural resources** and more than likely, will hit and discover unknown burials, that are consistent in the immediate bluff area." Likewise, Dr. King's expert opinion, based upon the plans, excavations in the immediate area, his academic specialty in Chumash culture and history, and his decades-long experience with tribal excavations in Southern California—similarly concluded that "[t]he construction of **the house as planned is expected to cause substantial damage to suspected site [tribal resource] deposits**." This constitutes substantial evidence that the Project will have a

significant effect on the environment. (See Cal. Code Regs. Tit. 14, § 15064, subd. (f)(5) [substantial evidence of adverse environmental impacts includes expert opinion supported by facts].)

Because substantial evidence exists that the Project *will* have a significant adverse environmental effect, the unusual circumstances exception applies without further analysis, and the City improperly relied upon the Class 3 categorical exemption. (*Berkeley Hillside*, supra, 60 Cal.4th at p. 1105, 184 Cal.Rptr.3d 643; see also *Walters v. City of Redondo Beach* (2016) 1 Cal.App.5th 809, 820 ["In other words, a showing by substantial evidence that a project *will have* a significant effect on the environment satisfies both prongs of the unusual circumstances exception under the second method of establishing the exception."].)

2. Alternatively, Features of the Project Create Unusual Circumstances and the Project Presents the Reasonable Possibility of an Adverse Environmental Impact.

(a) Unusual Circumstances Exist.

Even if the evidence in the record does not demonstrate that the Project *will* have a significant adverse environmental impact, the unusual circumstances exception still applies if the opponents "show evidence (1) the project is unusual because it 'has some feature that distinguishes it from others in the exempt class, such as its size or location'; and (2) there is 'a reasonable possibility of a significant effect due to that unusual circumstance.'" (*Protect Tustin Ranch v. City of Tustin* (2021) 70 Cal.App.5th 951, 961.)

As to the first prong, "[a]n unusual circumstance refers to some feature of the project that distinguishes it from others in the exempt class. In other words, 'whether a circumstance is '*unusual*' is judged relative to the *typical* circumstances related to an otherwise typically exempt project." (*Voices for Rural Living v. El Dorado Irrigation Dist.* (2012) 209 Cal.App.4th 1096, 1109, citations and punctuation omitted.)

Here, several features distinguish the Project from other projects in the exempt class. Among other things:

- First and foremost, unlike other projects in the exempt class, the Project contains identified tribal cultural resources and lies within a "sacred" Chumash area.

- Unlike other projects in the exempt class, the Project site is **not** consistent with the applicable land use regulations in that the Project indisputably requires a Minor Modification to the front yard setback in order to build the Project. (See October 9,

2025, Staff Report, p. 9 ["A minor modification is proposed for a 37 percent reduction in the required front yard setback to allow a 28.75-foot setback where a 47-foot setback is required."]; see also *Citizens for Environmental Responsibility v. State ex rel. 14th Dist. Ag. Assn.* (2015) 242 Cal.App.4th 555, 586 [in determining whether unusual circumstances exist, courts may look at whether project is consistent with zoning regulations].)

- The Project requires an unusually large amount grading and disturbed area—nearly the entire bluff top—which dramatically increase the risk posed to cultural resources.

These conditions constitute "unusual circumstances."

(b) The Project Presents the Reasonable Possibility of Significant Effect on the Environment Due to Unusual Circumstances.

These unusual circumstances create the reasonable possibility of a significant effect on the environment. Importantly, the fact that the site is "sacred" and contains existing cultural resources means that the Project—which involves 2,974.6 cubic yards of cut and fill grading over 12,603.6 square feet of area (see Civil Plans, sheet C-3.0)—will disturb and damage those resources. It does not matter if the extended Phase I did not yet uncover additional cultural resources. All that matters is that a *reasonable possibility* of a significant impact exists. Here, such a possibility certainly does.

The Minor Modification also results in the reasonable possibility of a significant effect on the environment. But for the Minor Modification, a significant portion of the front yard setback would remain undeveloped with structures; this is precisely the area in which the Archaeology Review letter prohibited excavation in order to protect cultural resources. Thus development in the front yard setback poses special risk to tribal resources.

Because the reasonable possibility of a significant effect on the environment due to unusual circumstances, the City cannot rely on the Class 3 categorical exemption. An MND or EIR should have been prepared. (*Berkeley Hillside*, supra, 60 Cal.4th at p. 1105, 184 Cal.Rptr.3d 643.)

D. The LCP Independently Requires Additional CEQA Review.

The LCP also prohibits utilizing a CEQA exemption. LIP section 11(F)(1) states that, "[i]f on the basis of the Phase I Inventory described above, one or more significant cultural resources is found, a Phase I Inventory may be required to include: 1. An evaluation of limited shovel test pits to determine whether a subsurface deposit is present and **a negative declaration shall be prepared**." (LIP § 11.5(F)(1), emphasis added.)

Here, the Applicant's archaeologist prepared a Phase I inventory that found one or significant cultural resources. This is beyond reasonable dispute. To reiterate: The November 3, 2025, Staff Report stated that "cultural resources found during the field survey included subsistence shell and stone tools…." The City's original Archaeology Review Sheet, likewise, also stated "that potential cultural resources are located on the project site." These resources were significant. Notably, the City's prior Archaeology Review Letter imposed conditions on earthmoving activities in order "[t]o mitigate potential impacts on unknown archaeological resources ***to a level of insignificance***. (Archaeology Review Letter, p. 1 [emphasis added].) Similarly, the Applicant's own memorandum offered "mitigation measures" in order to "mitigate potential impacts on unknown archaeological resources to a level of insignificance." Why would the City and the Applicant need to mitigate impacts to a "level of insignificance" if the potential impacts weren't significant to begin with?

Given the existence of significant resources, the City ordered an extended Phase I study. This included subsurface testing, such as shovel test pits. (See February 17, 2026, Staff Report, p. 5 ["This extended study incorporated subsurface testing, including auger borings, laboratory analysis, and Native American monitoring by Chumas representatives."].) **According to the plain language of the LIP, once an applicant must prepare an extended Phase I study and subsurface testing occurs, "a negative declaration shall be prepared."** (LIP § 11(F)(1).) It does not matter if the extended Phase I study ultimately does not determine any additional resources exist. The plain language requires a negative declaration, and it was improper for the City to ignore this provision and rely upon a CEQA exemption.

E. Additional Grounds for Appeal.

In addition to the above-described grounds for appeal, our Clients further assert the following and reserve the right to supplement these and every other grounds for appeal with additional evidence:

- The Decision improperly found that the Project is in conformity with the public access and recreation policies of Chapter 3 of the Coastal Act of 1976. (LIP § 13.9.) Among other bases, prescriptive rights exist on the currently undeveloped

Property that enhance and/or provide public access to the coast, and such access would be impaired or in conflict with the Project.

- Because the Project lies partially within ESHA buffer, and (separately) because Coastal ESHA exists, the Project has failed to undergo review by the Environmental Review Board as required by the LIP (see LIP § 13.9) and fails to comply with the ESHA overlay standards in Chapter 4 of the LIP.

- The Project is not the least environmentally damaging alternative because it: (1) proposes hazards to the coastal bluff; (2) increases water discharge to the coastal bluff; (3) endangers and/or threatens the coastal bluff with erosion or slope instability; and (4) proposes a large project where other, smaller or better situated/sited projects remain possible. For similar reasons, the Project increases instability of the site or structural integrity from geologic, flood, or fire hazards due to project design location on the site or other reasons. (See LIP ch. 9.)

- To the extent any grounds for appeal rely on state or local law not otherwise contained in the LCP, the Decision inappropriately found that the proposed project complies with all applicable requirements of state and local law, as required for the Minor Modification. (See LIP § 13.27.5(B).)

- The Project adversely affects neighborhood character due to, among other reasons: (1) its interference with ESHA buffer and riparian and coastal vegetation typical for the neighborhood; (2) the unusual size and bulk of the Project; (3) its reduced coastal bluff and/or front yard setbacks; and (4) its interference with Bluewater views of neighbors. (See LIP § 13.27.5(B).)

- The Project does not comply with the relevant LA County Code provisions for fire access, nor can the Project comply with conditions of approval requiring compliance with LACFD development standards.

- There are feasible alternatives to development that would avoid or substantially lessen any significant adverse impacts on scenic and visual resources. Further, the Project does not eliminate, minimize, or otherwise contribute to conformance to sensitive resource protection policies in that it proposed development in a stream/wetland ESHA buffer and adjacent to coastal bluff ESHA. (See LIP ch. 6.)

- The Project does not comply with the native plan species landscape requirements of LIP Chapter 3. Section 3.12.1 of the LIP requires landscape consisting of plant species identified in the *Recommended List of Plants for Landscaping in the Santa Monica Mountains*, dated February 5, 1996 over areas disturbed by construction activities. The Landscape Plan includes

several specifies of plants not in compliance with Section 3.12.1, including Island Oak and citrus trees. (See LIP § 3.12.1.)

- The Project's slope stability analysis is incomplete and/or inaccurate and/or otherwise violates LIP Chapter 9

III. Conclusion.

In sum, the administrative record is riddled with inconsistencies, incomplete analysis, and conclusory recommendations that do not withstand scrutiny. The Project was initially advanced for approval by a departing staff member, and when the matter was later re-noticed and reconsidered, no meaningful additional due diligence was undertaken to ensure that the requisite findings were supported by facts in the record. Instead of curing the defects, the City reaffirmed earlier assumptions without independently verifying whether the evidence substantiated each mandatory finding. The result is a record that lacks coherence, fails to grapple with material issues, and does not demonstrate that the Planning Commission's decision was grounded in substantial evidence.

Findings must be supported by substantial evidence in light of the whole record. Here, they are not. Nor can they be contrary to law. Here, as discussed above, the Project plainly violates the LIP and CEQA. In other cases, the record does not contain substantial evidence to support the required. Where the evidentiary foundation is deficient, and where the Project is contrary to law, the approval cannot stand. For these reasons, the City Council should overturn the Planning Commission's decision on appeal and deny the Project, or, at minimum, remand the matter for proper analysis and factual substantiation consistent with applicable law.

Very truly yours,



JACKSON D. McNEILL
Elkins Kalt Weintraub Reuben Gartside LLP

Commission Agenda Report

Planning Commission Meeting
02-17-26
Item 5.A.

To: Chair Riddick and Members of the Planning Commission

Prepared by: Didier Murillo, Principal Planner

Reviewed by: Joseph Smith, AICP, Contract Principal Planner

Approved by: Yolanda Bundy, MS, PE, CBO, CFCO, Community Development Director and Tyler Eaton, Assistant Community Development Director

Date prepared: February 5, 2026 Meeting date: February 17, 2026

Subject: Coastal Development Permit No. 23-034 and Minor Modification No. 25-009 – An application for the construction of a new single-family residence and accessory development

Location: 33008 Pacific Coast Highway, within the appealable coastal zone
APN: 4473-017-009
Owner: Bluff Top 1 LLC

RECOMMENDED ACTION: Adopt Planning Commission Resolution No. 26-10 (Attachment 1) determining the project is categorically exempt from the California Environmental Quality Act (CEQA), and approving Coastal Development Permit (CDP) No. 23-034 for the construction of a new two-story, 18-foot high, 4,856 square foot single family residence, including a 791 square foot attached garage and an 824 square foot second unit, landscaping, hardscape, grading, fire department turnaround area, vehicular access gate, and the installation of a new onsite wastewater treatment system (OWTS); including Minor Modification (MM) No. 25-009 for up to a 50 percent reduction of the front yard setback located in the Rural Residential, Two-Acre (RR-2) zoning district at 33008 Pacific Coast Highway (PCH) (Bluff Top 1 LLC).

DISCUSSION: This agenda report provides a project overview, a summary of the surrounding land uses and project setting, description of the proposed project, staff's analysis of the proposed project's consistency with Malibu Local Coastal Program (LCP) and Malibu Municipal Code (MMC) provisions, and environmental review pursuant to CEQA. The analysis and findings contained herein demonstrate the proposed project is consistent with the LCP and MMC.

Project History

The project was originally scheduled for the October 6, 2025, Regular Planning Commission meeting. However, the public hearing notice did not include the MM request for up to a 50 percent reduction of the front yard setback and the project was removed from the agenda and re-noticed for the October 20, 2025 Planning Commission Regular meeting. After the October 20, 2025 agenda report was published, the Planning Division received comments from California Coastal Commission (CCC) staff, who suggested site-specific details be included in the Shoreline and Bluff Development Findings required in LCP Local Implementation Plan (LIP) Section 10.3(A), specifically related to reduction of the bluff edge setback from 100 feet to 50 feet pursuant to LIP Section 10.4(D). This correspondence is included with the previous correspondence provided in Attachment 5. Additionally, one new condition of approval was added to the Planning Commission resolution related to construction personnel being informed about the potential for discovery of archaeological resources and measures to follow in such an event.

At the October 20, 2025 Regular Planning Commission meeting, the Commission was not able to open the public hearing for the item prior to 10:30 p.m. and continued the item to the November 3, 2025 Regular Planning Commission meeting. Prior to the November 3, 2025 Regular Planning Commission meeting, the project was reassigned due to staffing changes in the Planning Division. The City also received correspondence from the north adjacent neighbor and other members of the public raising various concerns about the project, including private view blockage. At the November 3, 2025 Regular Planning Commission meeting, the Commission continued the item to the December 1, 2025 Regular Planning Commission meeting prior to opening the public hearing to allow staff time to investigate the concerns raised. Those concerns and staff's responses are provided below:

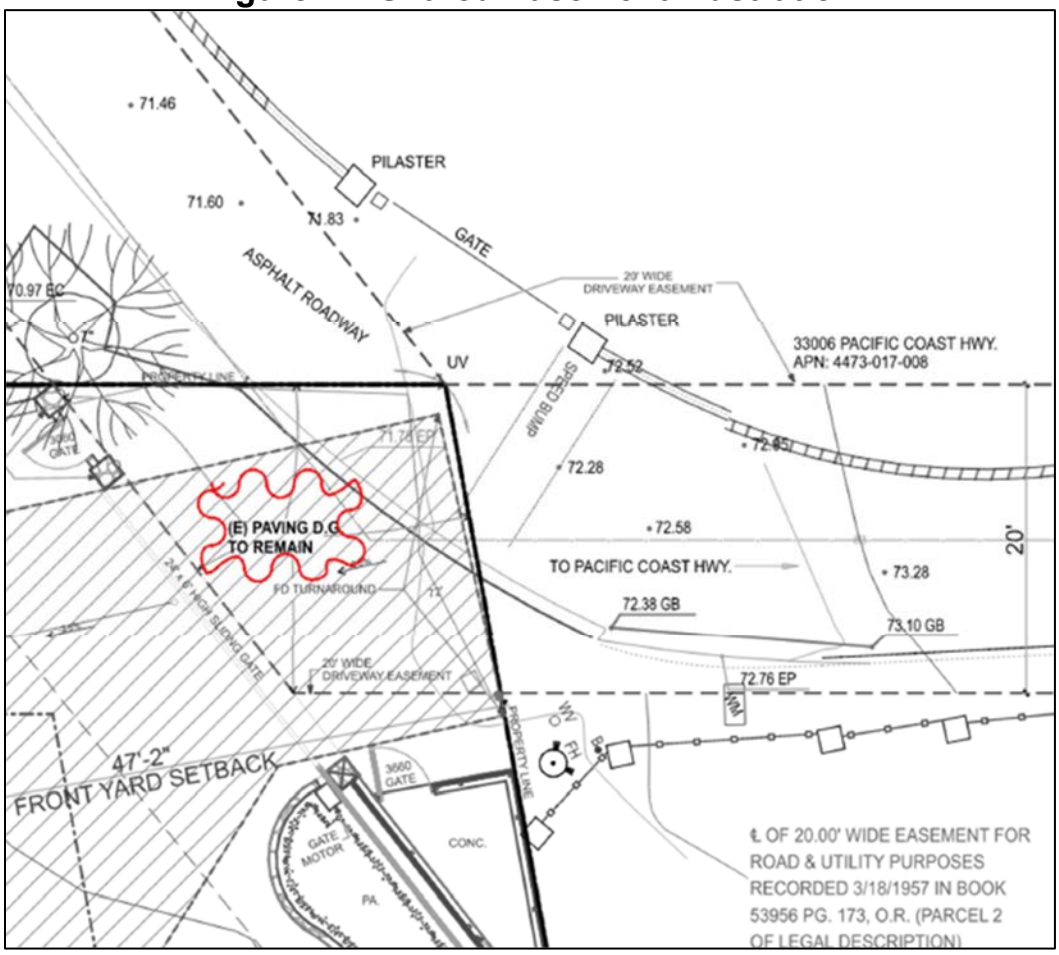
Comment 1 – State Lands Commission, LIP §§ 13.6.2(B) & 10.5(C): The applicant failed to obtain a written determination from the State Lands Commission for the subject project.

Staff Response: The requirement to obtain written determination from the State Lands Commission is only applicable to beachfront properties. While the subject property is oriented toward the ocean, a steep bluff is located between the proposed building pad and the ocean. The proposed development further incorporates the blufftop setback requirements of LIP Section 10.4(D). Being setback far from the mean high tide line and the beach below the bluff, there is no indication that the proposed development would encroach into State Lands. Further, there is no development proposed along the shoreline or bluff, nor does the project propose a shoreline stabilization device or other development along the bluff such as drainage devices or beach access.

Comment 2 – Co-Applicant, LIP § 13.6.2(C): No such invitation has been extended to the adjacent neighbor who has a shared easement over the property, including over areas proposed for development.

Staff Response: The subject project does not propose any development within the shared private access easement with other properties. Revised plans have been submitted to further clarify that no development will be proposed within the portion of the shared easement. See partial screen shot below (Figure 1) of the area within the easement which will remain as is. The prior version of the plans erroneously stated that the area was existing pavement to remain but confirmed to be existing decomposed granite (DG) to remain.

Figure 1 – Shared Easement Illustration



Source: Project Plans - Burdge Architects

Comment 3 – ESHA and Bluff EHSA: The project is proposing development within the required 100-foot buffer from a mapped blue line stream.

Staff Response: The project's distance from the stream is in conformance with LIP Chapter 4 as demonstrated by additional materials submitted by the applicant including a letter from Ford Biological Consulting (Attachment 6) and a drone exhibit (Attachment 7). These items were reviewed by the City's Biologist to confirm that the development is approximately 104 feet away from the mapped blue line stream to the west. Further, it was confirmed that the project area and bluff are located within the existing fuel modification

zones of adjacent single-family residences. Bluff vegetation is dominated by non-native species and not found to include any species in support of Environmentally Sensitive Habitat Area (ESHA); therefore, the bluff is not considered ESHA.

Comment 4 – Unpermitted Coastal Bluff Development: The project includes unpermitted development on the coastal bluff which includes; unpermitted trees, erosion controls (fencing and straw wattle). These were not reflected on the project plans.

Staff Response: Following the Woolsey Fire, much of the vegetation on the property burned. The loss of vegetation covering the property from the fire resulted in conditions making the bluff susceptible to erosion. The owner sought to protect their property and prevent erosion. Prior to installing erosion control measures, the owner inquired with the City to verify if permits were needed to implement the erosion control measures. In consultation with the Building Safety Division, the Public Works Department advised the owner that temporary erosion control measures could be placed on the property to prevent further erosion. Temporary measures installed included sandbags, jute netting, straw waddles and silt fencing oriented in a manner to protect the bluff. The owner has also confirmed that the trees in reference existed prior to the fire and were not replanted. Staff reviewed historical aerial photographs from several sources but was unable to confirm the origins of these trees.

Comment 5 – Archaeology Buffer: The Archaeology Review for this project expressly prohibits "geologic trenching, soil borings, ground clearance, grading, equipment placement, or similar surface-disturbing impacts" within 30 feet of the northern property boundary to protect potential Chumash artifacts.

Staff Response: The buffer mentioned in the comment was provided as a precaution implemented by City staff prior to obtaining an excavation permit for geotechnical borings through City geotechnical staff. The submitted Archaeological Report did not recommend that further archaeology study was needed. Planning Division staff included recommendations from the archeologist's report as conditions of approval in order to address the potential of cultural resources on the project site.

Prior to the December 1, 2025 Regular Planning Commission meeting, Planning Division staff received additional correspondence from the adjacent neighbor's legal counsel stating that the applicant's Phase I Archaeology Report was insufficient and that human remains and other cultural resources likely exist on the site. A letter was also submitted from a Chumash Elder (David Dominguez) who cited another Chumash Elder (Julie Tumamait-Stenslie) allegedly in support of the concern raised. As a result, the project was continued to a date uncertain to allow the applicant time to pursue further archeological study and consultation with Chumash representatives.

After the continuation, staff received further correspondence from Chumas Elder Julie Tumamait-Stenslie stating that she was misquoted by Chumash Elder David Dominguez

and further stated that she did not make statements in support of the concerns raised regarding the subject property (33008 PCH). Chumash Elder Julie Tumamait-Stenslie stated that she had a phone conversation with Chumash Elder David Dominguez asking him to retract his letter. To date, Chumas Elder David Dominguez has not retracted his letter and no further information was received.

As a result, the applicant opted to continue to work with their qualified archaeologist and pursue an Extended Phase I Archaeological Study to further investigate the potential for archaeological resources onsite. The extended study was prepared on January 2, 2026 by Matthew A. Boxt, Ph.D. and included an intensive evaluation of the same project area included in the original Phase 1 Report. This extended study incorporated subsurface testing, including auger borings, laboratory analysis, and Native American monitoring by Chumas representatives. The extended study concluded that the subsurface soils within the project area are “archaeologically sterile” meaning that the project site does not contain intact or significant cultural resources. The extended study characterized the project site as an “artificial or pseudo-site” created by earth-moving decades earlier on other property, that the project did not exhibit indicators that would reflect past human activity, and confirmed that the proposed development would not adversely affect cultural resources. Nonetheless, precautionary measures were recommended in the extended study and these are included as conditions of approval in the Planning Commission resolution.

Project Overview

As shown in Figure 2, the subject parcel is a vacant, parallelogram-shaped blufftop lot of approximately 0.67 acres in size. The property is accessed from a private driveway easement from PCH, which is designated as a scenic road in the LCP Land Use Plan (LUP) where proposed development must be assessed for potential visual impacts on a scenic area. Residential development is permitted on the parcel, subject to the non-beachfront residential development standards of the MMC and LCP. Beachfront development standards do not apply to the proposed development because it is not considered beachfront development due to its orientation at the top of a steep coastal bluff.

Figure 2 – Aerial Map



Source: City GIS 2025

The project site is not designated as ESHA as shown on the LCP ESHA Overlay Map; however, stream ESHA exists offsite approximately 104 feet west of the project site and warrants protection as ESHA pursuant to LIP Chapter 4. To minimize potential ESHA impacts, LIP Section 4.6.1 requires a minimum 100-foot buffer from ESHA.

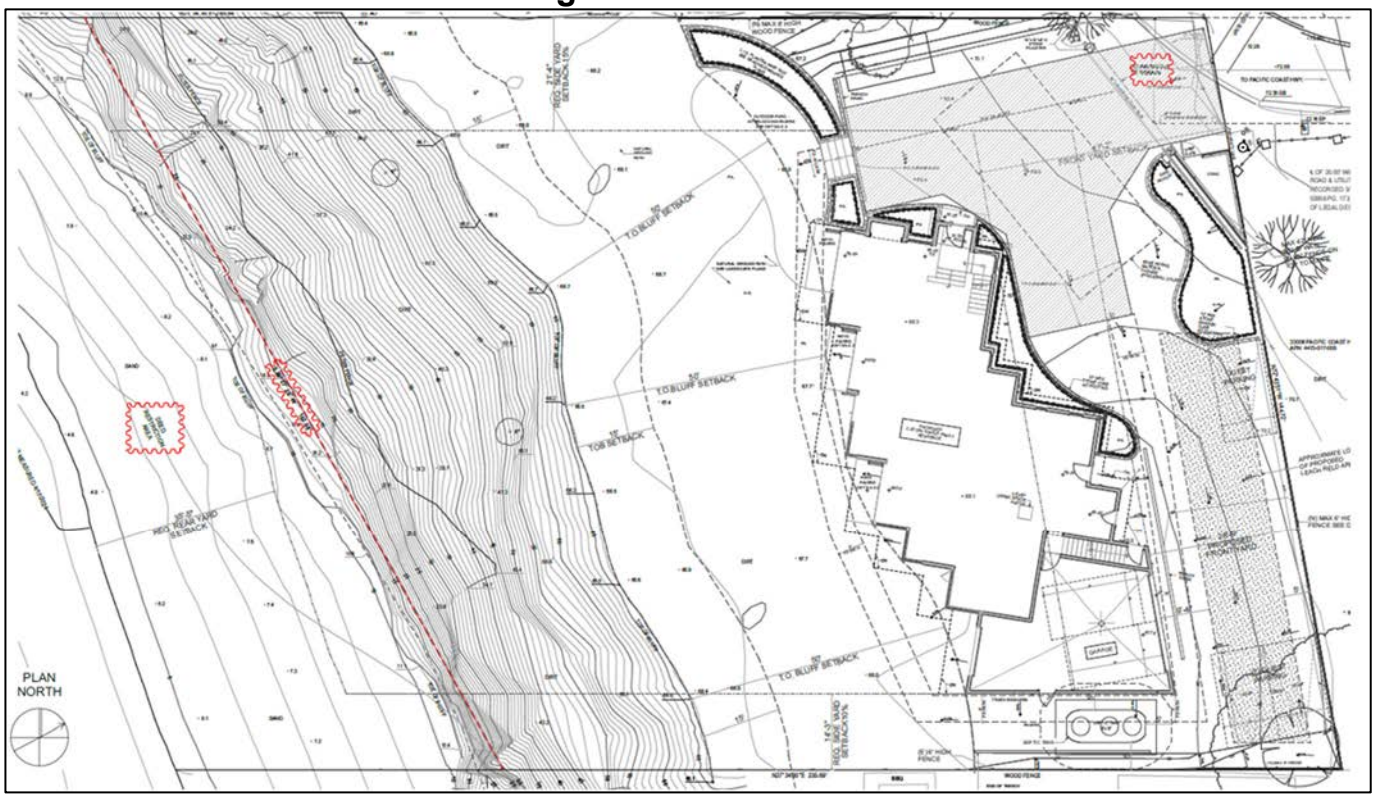
Located between the stream ESHA and the project site are residentially developed properties with existing fuel modifications zones and recurring fuel modification activities. Because the proposed residence is located approximately 104 feet from the stream, the project will not result in new ESHA impacts from the Los Angeles County Fire Department (LACFD)-approved fuel modification required for the proposed residence.

The parcel is currently vacant, except for an unpermitted nonconforming six-foot-high solid gate along the front property line.[1] City records show the current fence was constructed around November 2022. The proposed scope of work would replace nonconforming fence with a compliant visually permeable fence up to six feet in height within the front yard setback.

[1] An active code violation case (CV No. 23-047) is open for the unpermitted gate and would be resolved if the CDP is approved and the project constructed. An inspection would be conducted to verify the violation was remediated. If the CDP is not approved, code enforcement staff will require the gate be addressed immediately.

The proposed site plan is depicted in Figure 3 and as part of the project plans (Attachment 2). Due to topography and existing development, the project site is not visible from PCH but would be visible from El Matador State Beach to the east and a public beach located downcoast (southeast) of the subject property. Accordingly, the project has been assessed for potential impacts to scenic resources as required by LIP Chapter 6. The property has descending slopes from the access easement to the bluff edge that orients along the ocean, with an elevation difference across the flatter portion of the project of approximately 30 feet. Two of the four residentially zoned properties that separate the subject property from PCH are developed with two-story homes and obstruct bluewater public views over the subject property from PCH. In accordance with LIP Section 6.5(E)(1), the proposed two-story development would not exceed the PCH road grade elevation, thereby further ensuring the maximum protection of potential bluewater views even though public views are not impacted as a result of development from PCH. Zoning conformance is discussed in the *LIP Conformance Analysis* section below.

Figure 3 – Site Plan



Source: Project Plans

In August 2025, story poles representing the location and height of the proposed residence were installed (Attachment 3 – Story Pole Photos). Staff conducted an inspection of the story poles and visually assessed the proposed structure's potential to affect public views from scenic viewing areas. Based on the project plans and staff's site visit, it was determined that the proposed project would result in a residence that would be similar to other existing development in the area and would result in a less than significant visual

impact to public views from PCH, El Matador State Beach, and nearby public beaches. Staff found the proposed residence would impact sensitive resources, as discussed in the *Scenic, Visual and Hillside Resource Protection* section below.

In February 2018, a primary view determination (PVD) was recorded on the neighboring property immediately north of the project site at 33006 PCH, which currently has private ocean views across the vacant project site. In September 2025, staff received an email from the neighbor at 33006 PCH, who expressed concerns about the obstruction of private bluewater views from the proposed project. Staff conducted a visual analysis of the proposed project from the neighbor's primary viewing area to document the view obstruction. However, it was determined that the project would obstruct private bluewater views regardless of structure location or height on the lot due to the configuration of the parcel. Nonetheless, the proposed project does not exceed the otherwise allowed 18-foot height limit and is not requesting additional height over 18 feet pursuant to a site plan review.

Surrounding Land Uses and Project Setting

The project is proposed on a residentially zoned blufftop parcel located on the ocean side of PCH in a residentially developed neighborhood.

Table 1 provides a summary of the lot dimensions and lot area of the subject parcel.

Table 1 – Total Property Data	
Lot Depth	236 feet
Lot Width	142 feet
Gross Lot Area	33,786 square feet (0.78 acres)
Area Comprised of 1:1 Slopes	4,761 square feet
Area Comprised of Public Street Easement	0 square feet
Net Lot Area*	**29,025 square feet (0.67 acres**)

*Net Lot Area = Gross Lot Area minus the area of 1 to 1 slopes and public street easements.

The project site is located within the Appeal Jurisdiction of the CCC as depicted on the Post-LCP Certification Permit and Appeal Jurisdiction Map and confirmed per the definition of Appealable Coastal Development Permit in LIP Section 2.1 as the proposed development is located between the sea and first public road paralleling the sea. The project site has no trails on or adjacent to it according to the LCP Park Lands Map, but vertical access between PCH and the beach and lateral access along the beach is available at El Pescador State Beach less than 200 feet east of the project site, La Piedra State Beach located approximately 1,600 feet further to the east, and Robert M. Meyer Memorial State Beach approximately a mile to the east. According to the LCP Park Lands Map, the California Coastal Trail (CCT) is oriented along the shoreline at the base of the subject property.

The subject parcel is zoned RR-2 as are the surrounding parcels to the north, east, and west. All adjacent parcels are currently developed with single-family residences with accessory development including the property to the immediate east between the subject property and El Pescador State Beach which is zoned Public Open Space (POS). Table 2 provides a summary of the surrounding land uses immediately adjacent to the subject property.

Table 2 – Surrounding Land Uses				
Direction	**Address**	**Lot Size**	**Zoning**	**Land Use**
North	33006 PCH	0.36 acres	RR-2	Single-Family Residence
South	Pacific Ocean			
West	33010 PCH	0.52 acres	RR-2	Single-Family Residence
East	32960 PCH	0.51 acres	RR-2	Single-Family Residence

Source: City GIS

Project Description

The proposed scope of work is as follows:

a. Construction of a 4,856 square foot, two-story, single-family residence, 18 feet in height, including a 791 square foot attached two-car garage;
b. 824 square foot, second unit above the garage;
c. Construction of outdoor decks;
d. Installation of new landscaping and hardscape;
e. Grading;
f. Construction of a new OWTS;
g. Vehicular access gate; and
h. Fire department turnaround area.
i. Discretionary Request:
    i. MM No. 25-009 for up to 50 percent reduction of the front yard setback (approximately 37 percent proposed).

LCP Analysis

The LCP consists of the LUP and the LIP. The LUP contains programs and policies implementing the Coastal Act in Malibu. The LIP contains provisions to carry out the policies of the LUP to which every project requiring a CDP must adhere.

There are 14 LIP chapters that potentially apply depending on the nature and location of the proposed project. Of these, five are for conformance review only and contain no findings: 1) Zoning, 2) Grading, 3) Archaeological/Cultural Resources, 4) Water Quality, and 5) OWTS. These chapters are discussed in the *LIP Conformance Analysis* section.

The nine remaining LIP chapters contain required findings: 1) CDP; 2) ESHA; 3) Native Tree Protection; 4) Scenic, Visual and Hillside Resource Protection; 5) Transfer of Development Credits; 6) Hazards; 7) Shoreline and Bluff Development; 8) Public Access; and 9) Land Division. For the reasons described in this report, including the project site, the scope of work and substantial evidence in the record, only findings in the following chapters are applicable to the proposed project: CDP including the required findings for the requested MM, Scenic, Visual and Hillside Resource Protection, Hazards, and Shoreline and Bluff Development.[2] These chapters are discussed in the *LIP Findings* section of this report.

LIP Conformance Analysis

The proposed project has been reviewed by the Planning Division, City Biologist, City Coastal Engineer, City Environmental Health Administrator, City Public Works Department, City geotechnical consultant reviewers, Los Angeles County Waterworks District No. 29 (WD29), and the Los Angeles County Fire Department (LACFD) (Attachment 4 – Department Review Sheets). The project, as proposed and conditioned, has been found to be consistent with all applicable LCP codes, standards, goals and policies, inclusive of the requested MM.

Zoning (LIP Chapter 3)

The proposed project is subject to development and design standards set forth under LIP Sections 3.5 and 3.6. Conformance with LIP 10.4(D) in included due to blufftop setback requirements per LIP Section 3.6. Table 3 provides a summary and indicates the proposed project meets those standards, inclusive of the requested MM.

[2] The ESHA, Native Tree Protection, Transfer of Development Credits, Public Access, and Land Division findings are neither applicable nor required for the proposed project.

Table 3 – Zoning Conformance			
Development Requirement	**Allowed/ Required**	**Proposed**	**Comments**
SETBACKS (ft.)			
Front Yard	*47 ft. (min), reduced up to 23 ft. 5 in. (min) with approved MM*	*28 ft. 9 in.*	*MM No. 25-009*
Rear Yard	36 ft. 5 in. (min)	92 ft. 6 in	Complies
Side Yard (Minimum 10%)	14 ft. 2 in. (min)	14 ft. 3 in.	Complies
Side Yard	21 ft. 4 in. (min)	21 ft. 4 in.	Complies
Total Side Yard (Cumulative 25%)	43 ft. 3 in.	43 ft. 6 in.	Complies
Bluff Edge – Structures	100 ft. (min) from bluff edge or 50 ft. (min) with City geotechnical approval	50 ft. with City geotechnical approval	Complies
Bluff Edge – Ancillary	15 ft. (min)	50 ft	Complies
PARKING SPACES			
Enclosed (10 ft. x 18 ft.)	2	2	Complies
Unenclosed (10 ft. x 18 ft.)	3	3	Complies
Total Development Square Footage (TDSF)			
TDSF (sq.ft)	5,580 (max.)	4,856	Complies
Single-Family Residence	No min	3,241	-
Second Unit	900 (max)	824	Complies
HEIGHT (ft.)			
Single-Family Residence	18 ft.	18 ft	Complies
IMPERMEABLE COVERAGE (sq.ft.)	8,707	4,331	Complies
NON-EXEMPT GRADING (cu.yd.)	1,000	153	Complies
CONSTRUCTION ON SLOPES	3 to 1 and flatter	4 to 1 and flatter	Complies
FENCES/WALLS/HEDGES			
Retaining Walls	6 ft. max. 12 ft. cumulative	6 ft. max. 12 ft. cumulative	Complies
Front Yard			
Impermeable	42 in.	42 in.	Complies
Permeable	6 ft.	6 ft.	Complies
Rear & Side Yard	6 ft.	6 ft.	Complies

As shown in Table 3, the proposed project conforms to the development standards as set forth under LIP Chapters 3. The proposed project has been determined to be consistent with all applicable LCP codes, standards, goals, and policies.

Grading (LIP Chapter 8)

LIP Section 8.3 ensures that new development minimizes the visual resource impacts of grading and landform alteration by restricting the amount of non-exempt grading to a maximum of 1,000 cubic yards for a residential parcel. The total amount of grading is approximately 2,958 cubic yards as provided for on the Total Grading Yardage Verification Certificate on the grading plan cover sheet. The total amount of proposed non-exempt grading is approximately 153 cubic yards, which is less than the maximum allowable. The remaining grading is approximately 367 cubic yards of exempt understructure, 70 cubic yards of exempt safety grading, and 2,368 cubic yards of removal and recompaction. The proposed project complies with grading requirements set forth under LIP Section 8.3.

Archaeological / Cultural Resources (LIP Chapter 11)

LIP Chapter 11 requires certain procedures be followed to determine potential impacts on archaeological resources. A Phase I Archaeological Study was prepared by Matthew A. Boxt, Ph.D. for the subject property in March 2023. The cultural resources found during the field survey included subsistence shell and stone tools, but it was unclear if these resources were originally deposited on the subject property or moved there by disturbance processes on other properties, including the construction of the access road and the surrounding residences, burrowing animals, and/or erosion. At the time of the initial Phase I Archaeological Study, archaeological monitoring was recommended for all earthmoving activities. Accordingly, a condition of approval has been added to Resolution No. 26-10 that requires monitoring by a qualified archaeologist for all earthmoving activities, which include gradings, trenching, potholing, shoveling, and soil core boring.

As a result of correspondence received as discussed in the *Project History* section of the report, including information provided by a Chumash Elder that she was misquoted regarding the potential for resources on the subject property, the applicant opted to continue to work with their qualified archaeologist and pursue an Extended Phase I Archaeological Study to further investigate the potential for archaeological resources onsite. The extended study was prepared on January 2, 2026 by Matthew A. Boxt, Ph.D. and included an intensive evaluation of the same project area included in the original Phase 1 Report. This extended study incorporated subsurface testing, including auger borings, laboratory analysis, and Native American monitoring by Chumash representatives. The extended study concluded that the subsurface soils within the project area are “archaeologically sterile” meaning that the project site does not contain intact or significant cultural resources. The extended study characterized the project site as an “artificial or pseudo-site” created by earth-moving decades earlier on other property, that the project did not exhibit indicators that would reflect past human activity, and confirmed

that the proposed development would not adversely affect cultural resources. Nonetheless, precautionary measures were recommended in the extended study related to development.

Standard conditions of approval are included in the resolution, that correspond to the archaeologist's recommendations above, which state that in the event that potentially important cultural resources are found in the course of geologic testing or during construction, work shall immediately cease until a qualified archaeologist can provide an evaluation of the nature and significance of the resources, and until the Community Development Director can review this information.

Water Quality (LIP Chapter 17)

The City Public Works Department reviewed and approved the proposed project for conformance to LIP Chapter 17 requirements for water quality protection and requirements of the State Water Resources Control Board (SWRCB) because the property is located in an Area of Special Biological Significance (ASBS). The ocean between Latigo Point and the west City limits has been established by the SWRCB as an ASBS as part of the California Ocean Plan. Standard conditions of approval include the implementation of approved storm water management plans during construction activities and to manage runoff from the development, including recordation of a water quality mitigation plan, and best management practices in compliance with ASBS standards. With the implementation of these conditions, the proposed project conforms to the water quality protection standards of LIP Chapter 17.

Wastewater Treatment System Standards (LIP Chapter 18)

LIP Chapter 18 addresses OWTS. LIP Section 18.7 includes specific siting, design, and performance requirements. The proposed project includes a new OWTS to serve the proposed development. The proposed OWTS consists of a 3,634-gallon MicroSepTec ES12 with ultraviolet disinfection unit located at the northeastern portion of the property adjacent to the proposed residence, a 1,722 square foot dispersal field, and a 2,226 square foot future dispersal field, both of which are located between the proposed residence and the front property line to the north of the residence. The system has been reviewed by the City Environmental Health Administrator and found to meet the minimum requirements of the MMC and the LCP. The proposed OWTS will meet all applicable requirements, and operating permits will be required. An operation and maintenance contract and recorded covenant covering such must comply with the City's Environmental Health requirements. Conditions of approval have been included in the Planning Commission resolution, which require continued operation, maintenance, and monitoring of onsite facilities.

LIP Findings

A. Coastal Development Permit (LIP Chapter 13)

LIP Section 13.9 requires that the following four findings be made for all CDPs.

Finding 1. That the project as described in the application and accompanying materials, as modified by any conditions of approval, conforms with the certified City of Malibu Local Coastal Program.

The Planning Division, City Biologist, City coastal engineering consultant reviewer, City Environmental Health Administrator, City geotechnical consultant reviewers, LACFD and WD29 reviewed the project for conformance with the LCP. The proposed single-family residence, inclusive of the MM request, is consistent with the property's RR-2 residential zoning district, a zone designated for residential uses. As discussed herein, based on submitted reports, project plans, visual analysis and site investigation, the proposed project, as conditioned, conforms to the LCP in that it meets all applicable non-beachfront residential development standards.

Finding 2. If the project is located between the first public road and the sea, that the project is in conformity to the public access and recreation policies of Chapter 3 of the Coastal Act of 1976 (commencing with Sections 30200 of the Public Resources Code).

The project is located between the first public road and the sea. However, the project will not adversely affect public access or recreation because due to the orientation of the project site atop a coastal bluff and existing public access between PCH and the beach in the vicinity. As shown on the LCP Park Lands Map, vertical access between PCH and the beach and lateral access along the beach is available at El Pescador State Beach less than 200 feet east of the project site, La Piedra State Beach located approximately 1,600 feet further to the east, and Robert M. Meyer Memorial State Beach approximately a mile to the east. An existing single-family residence is located between the subject property and El Pescador State Beach to the east and all proposed development is located atop a coastal bluff and setback from the bluff edge. No development is proposed or required on the bluff or beach. As adequate public access exists nearby and no proposed development would adversely affect existing or planned public access in the vicinity or along the shoreline, the project conforms to the public access and recreation policies of the Coastal Act.

Finding 3. The project is the least environmentally damaging alternative.

There is no evidence that an alternative project would substantially lessen any potential significant adverse impacts of the development on the environment. The proposed project consists of the construction of a new single-family residence and associated development consistent with the RR-2 land use and zoning designations. Adjacent properties are

currently developed with similar single-family residences. The City Biologist, City Coastal Engineering Consultant Reviewers, City Environmental Health Administrator, and City Geotechnical Consultant Reviewers reviewed the project, and these specialists found the project to meet the non-beachfront residential development policies of the LCP and MMC. The project proposes a reduction of the bluff edge setback from 100 feet to 50 feet, pursuant to LIP Section 10.4(D) for the proposed residence. The proposed 50-foot bluff edge setback has been determined to be a sufficient distance to ensure that proposed development will not be endangered or threatened by erosion or slope instability for a projected 100-year economic life of the structure. Additional details related to project's consistency with LIP Section 10.4(D) are discussed in the LIP Chapter 10 findings. The proposed project, as conditioned, will comply with all applicable requirements of State and local law.

The residence could be relocated elsewhere on the project site and/or be reduced in size. However, the soils testing conducted on site determined the OWTS and associated dispersal fields would be best sited in the proposed locations for optimal percolation. Moreover, because LACFD required a turnaround area to be provided onsite, the available development area was further reduced. The residence could be redesigned to a two-story configuration above 18 feet in height, which could avoid the need for the MM or increase the bluff edge setback. However, given the orientation of existing homes in the area, development above 18 feet in height would likely obstruct more private bluewater views from surrounding residences and be more visible from the beach southeast of the subject property. As designed, the proposed project complies with the requirements of the LCP. The proposed project has been determined not to result in adverse biological, scenic or visual resource impacts, and is the least environmentally damaging feasible alternative.

Finding 4. If the project is located in or adjacent to an environmentally sensitive habitat area pursuant to Chapter 4 of the Malibu LIP (ESHA Overlay), that the project conforms with the recommendations of the Environmental Review Board, or if it does not conform with the recommendations, findings explaining why it is not feasible to take the recommended action.

The subject property is not in a designated ESHA or ESHA buffer as shown on the LCP ESHA and Marine Resources Map or was determined to be ESHA pursuant to information provided by the project biologist and review conducted by the City Biologist. Therefore, Environmental Review Board review was not required, and this finding does not apply.

B. Minor Modification – Reduction in the Front Yard Setback [LIP Section 13.27]

A MM is requested for an approximate 37 percent reduction in the required front yard setback to allow a 28 ft, 9 in. setback where a 47-foot setback is required. Three additional findings are required pursuant to LIP Section 13.27.5(B) in support of a MM. Based on the evidence contained in the record, the required findings for MM No. 25-009 can be made as follows:

Finding 1. The project is consistent with policies and provisions of the Malibu LCP.

As previously discussed in Section A, Finding 1, the project, with the inclusion of the requested MM, as designed and conditioned, conforms to all applicable LCP policies and provisions. A reduction in the front yard setback is requested to maintain an 18-foot height limit for the proposed residence consistent with LIP Section 3.6 non-beachfront residential development standards, and ensure the structure footprint complies with the minimum 50-foot bluff edge setback pursuant to LIP Section 10.4(D).

Finding 2. The project does not adversely affect neighborhood character.

Story poles were placed on the project site to demonstrate the project's potential for public view impacts to the surrounding area including PCH and the beach. The project's height and bulk will not adversely affect neighborhood character as viewed from public viewing areas due to the existing pattern of residential development adjacent to and in the vicinity of the RR-2 neighborhood. The neighborhood is developed with single-family residences of varying size and height and is characterized by a mix of one and two-story homes. The project proposed has less TDSF and impermeable coverage than is otherwise allowed, and does not exceed 18 feet in height.

Finding 3. The proposed project complies with all applicable requirements of state and local law.

As previously stated in Section A, Finding 1, the project will comply with all applicable requirements of state and local law and is conditioned to comply with any relevant approvals, permits, and licenses from the City of Malibu. The project has been reviewed and conditionally approved by the City Biologist, City geotechnical consultant reviewers, City Public Works Department, City Environmental Health Administrator, and the LACFD and it meets the City's residential development policies. The proposed project will comply with their respective standards through conditions of approval. The project must also be approved by WD29 and the City Community Development Department, prior to issuance of City building permits.

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

The subject property is not in a designated ESHA or ESHA buffer as shown on the LCP ESHA and Marine Resources Map or was determined to be ESHA pursuant to information provided by the project biologist and review conducted by the City Biologist. Therefore, the findings of LIP Section 4.7.6 do not apply.

D. Native Tree Protection (LIP Chapter 5)

There are no native trees on or adjacent to the subject parcel. Therefore, the findings of LIP Chapter 5 are not applicable.

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

The Scenic, Visual, and Hillside Resource Protection Chapter governs those CDP applications concerning any parcel of land that is located along, within, provides public views to or is visible from any scenic area, scenic road or public viewing area. On September 2025, staff visited the site to determine potential visual impacts of the proposed project on any scenic area, scenic road, or public viewing area. Based on the site visit, existing development, project plans, and photographs taken during the site visit, it was determined that the proposed project would not be visible from PCH, an LCP-designated scenic highway, but would be visible from public viewing areas located at El Pescador State Beach, located approximately 200 feet to the east, and along the shoreline to the southeast. Accordingly, the findings in LIP Section 6.4 are made for the proposed project as follows:

Finding 1. The project, as proposed, will have no significant adverse scenic or visual impacts due to project design, location on the site or other reasons.

The proposed project includes the development of a single-family residence and associated development. Staff analyzed the project's visual impact from public viewing areas through site reconnaissance and architectural plans and an investigation of the neighborhood. Based on a staff site visit after story poles were installed, it was determined the proposed development is not expected to have significant adverse scenic or visual impacts. No existing public bluewater views are present from PCH and when viewing the proposed project against the backdrop of the existing landscaping and bluff development from nearby public viewing areas, no significant public views of the Pacific Ocean are adversely affected. As designed, the proposed residence does not exceed 18 feet, proposes less TDSF than is otherwise allowed, and maintains a minimum 50-foot setback from the bluff edge. Therefore, the project, as proposed, will not have significant adverse scenic or visual impacts due to project design, location or other reasons. Standard conditions of approval have been included for colors, materials, and lighting.

Finding 2. The project, as conditioned, will not have significant adverse scenic or visual impacts due to required project modifications, landscaping or other conditions.

The project as conditioned will not have significant adverse scenic or visual impacts. The project has been conditioned to include limitations on exterior lighting and colors of exterior finishes used to prevent any visual impacts to scenic areas.

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

As previously discussed in Section A, Finding 3, the project is the least environmentally damaging feasible alternative.

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

The project, as designed and conditioned, is not expected to adversely affect scenic and visual resources and no feasible alternatives would avoid or substantially lessen any significant adverse impacts on scenic and visual resources. As designed, the proposed residence does not exceed 18 feet, proposes less TDSF than is otherwise allowed, and maintains a minimum 50-foot setback from the bluff edge. A MM is requested to further reduce the required 47-foot front yard setback to the north (PCH side) by 37 percent to ensure the proposed structure can maintain 18 feet in height and a minimum 50-foot setback to the bluff edge.

Finding 5. Development in a specific location on the site may have adverse scenic and visual impacts but will eliminate, minimize or otherwise contribute to conformance to sensitive resource protection policies contained in the certified LCP.

The subject property is visible from nearby public beaches; however, the proposed project does not exceed 18 feet, proposes less TDSF than is otherwise allowed, and maintains a minimum 50-foot setback from the bluff edge. A MM is requested to further reduce the required 47-foot front yard setback to the north (PCH side) by 37 percent to ensure the proposed structure can maintain 18 feet in height and a minimum 50-foot setback to the bluff edge. No development is proposed or required on the bluff or beach. Therefore, the proposed development, as designed, is sited to eliminate, minimize or otherwise contribute to conformance to sensitive resources.

F. Transfer of Development Credit (LIP Chapter 7)

The proposed project does not include a land division or multi-family development. Therefore, the findings of LIP Chapter 7 are not applicable.

G. Hazards (LIP Chapter 9)

Pursuant to LIP Section 9.3, written findings of fact, analysis and conclusions addressing geologic, flood and fire hazards, structural integrity or other potential hazards listed in LIP Sections 9.2(A)(1-7) must be included in support of all approvals, denials or conditional approvals of development located on a site or in an area where it is determined that the proposed project causes the potential to create adverse impacts upon site stability or structural integrity.

The Planning Division, City Biologist, City coastal engineering consultant reviewer, City Environmental Health Administrator and City geotechnical consultant reviewers analyzed the proposed development for the hazards listed in LIP Chapter 9. The required findings are made as follows:

Finding 1. The project, as proposed will neither be subject to nor increase instability of the site or structural integrity from geologic, flood, or fire hazards due to project design, location on the site or other reasons.

The applicant submitted geotechnical and engineering reports and addenda prepared by CalWest Geotechnical Consulting Engineers, Land Phases, Inc., and GeoSoils, Inc. All reports are on file at City Hall. In these reports, site-specific conditions are evaluated, and recommendations are provided to address any pertinent issues. Potential geologic hazards analyzed include geologic, seismic, and fault rupture, liquefaction, landslide, groundwater, wave uprush, sea level rise, tsunami, and flood hazards. Based on review of the project plans and associated reports by the City coastal engineering consultant reviewer, City Environmental Health Administrator, and the City geotechnical consultant reviewers, these specialists determined that adverse impacts to the project site related to the proposed development as designed and conditioned are not expected.

With respect to the bluff edge setback, LIP Section 10.4(D) includes a provision to allow a reduction in the bluff setback from 100 feet to a minimum of 50 feet from the bluff edge to the structure if the City geotechnical reviewers determine the required factors of safety are met. The City geotechnical consultant reviewers determined the proposed geotechnical setback line, which is set back 50 feet from the geological top of slope, meets the requirements of LIP Section 10.4(D). All structural footings will be located landward of this line. Ancillary structures without footings, such as patios, walkways, and barbecues, may be located no closer than 15 feet from the bluff edge. The project, as conditioned, incorporates all recommendations contained in the above cited reports and conditions required by the City coastal engineering consultant reviewer, City Environmental Health Administrator and City geotechnical consultant reviewers, including foundations and drainage. The project will neither be subject to nor increase the instability of the site from geologic, flood, or fire hazards.

Fire Hazard

The entire City of Malibu is designated as a Very High Fire Hazard Severity Zone, a zone defined by a more destructive behavior of fire and a greater probability of flames and embers threatening buildings. The subject property is currently subject to wildfire hazards. The scope of work proposed as part of this application is not expected to have an adverse impact on wildfire hazards. The proposed development may actually decrease the site's susceptibility to wildfire through compliance with fuel modification requirements and the use of appropriate building materials will be utilized during construction.

The City is served by the LACFD, as well as the California Department of Forestry, if needed. In the event of major fires, the County has "mutual aid agreements" with cities and counties throughout the State so that additional personnel and firefighting equipment can augment the LACFD. Conditions of approval have been included in the resolution to

require compliance with all LACFD development standards. As such, the proposed project, as designed, constructed, and conditioned, will not be subject to nor increase the instability of the site or structural integrity involving wildfire hazards.

Finding 2. The project, as conditioned, will not have significant adverse impacts on site stability or structural integrity from geologic, flood or fire hazards due to required project modifications, landscaping or other conditions.

As stated in Finding 1, the proposed project, as designed, conditioned and approved by the applicable departments and agencies, will not have any significant adverse impacts on the site stability or structural integrity from geologic or flood hazards due to project modifications, landscaping or other conditions.

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

As previously stated in Section A, the proposed project, as designed and conditioned, is the least environmentally damaging alternative.

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

The Planning Division, City Biologist, City coastal engineering consultant reviewer, City Environmental Health Administrator, and City geotechnical consultant reviewers analyzed the proposed development for the hazards listed in LIP Chapter 9. These specialists determined that the proposed project does not impact site stability or structural integrity.

Finding 5. Development in a specific location on the site may have adverse impacts but will eliminate, minimize or otherwise contribute to conformance to sensitive resource protection policies contained in the certified Malibu LCP.

As discussed in Section A, the proposed project, as designed and conditioned, is the least environmentally damaging alternative and no adverse impacts to sensitive resources are anticipated.

H. Shoreline and Bluff Development (LIP Chapter 10)

In accordance with LIP Section 10.2, the requirements of LIP Chapter 10 are applicable to the project and the required findings are made as follows:

Finding 1. The project, as proposed, will have no significant adverse impacts on public access, shoreline sand supply or other resources due to project design, location on the site or other reasons.

The project site is located between PCH and the Pacific Ocean. City geotechnical consultant reviewers reviewed and approved submitted geotechnical reports prepared by

CalWest Geotechnical Consulting Engineers, dated June 30, 2022, May 12, 2023, November 6, 2023, July 23, 2024, and November 15, 2024, Land Phases, Inc. dated April 29, 2023, August 4, 2023, July 15, 2024, November 12, 2024, and GeoSoils, Inc. dated April 2, 2023 and July 29, 2024.

The project site is located on a coastal bluff in western Malibu. The project proposes a reduction of the bluff edge setback from 100 feet to 50 feet, pursuant to LIP Section 10.4(D). The proposed 50-foot bluff edge setback has been determined to be a sufficient distance to ensure that the proposed development will not be endangered or threatened by erosion or slope instability for a projected 100-year economic life of the structure. The project geotechnical consultant has evaluated gross static and pseudostatic slope stability for the site based on requirements of LIP Chapter 9.4 and the City of Malibu Geotechnical Guidelines (both 2002 and 2013) and evaluated bluff retreat rates in accordance with LIP Section 10.4 for the 100-year economic life of the project. The consultants projected a bluff retreat rate of two inches per year, or 16.7 feet, for the 100-year economic life of the development. The 100-year bluff retreat line, based on where the 1.5 geotechnical factor of safety line (static) is located, is 44.34 feet and the 100-year bluff retreat line, based on where the 1.1 geotechnical factor of safety line (seismic) is located, is 48.51 feet. The analysis included a projected sea level rise of 6.6 feet for the 100-year economic life of the development. While 4.9 feet of sea level rise at year 2100 is most applicable for development classified within an Intermediate-High Scenario (i.e., residential development with a medium-high risk aversion), as described in the updated 2024 CCC Sea Level Rise Policy, the use of 6.6 feet was included in the analysis. Note that 6.6 feet represents the projected sea level rise in year 2100 for the High Scenario, which is intended for uses with little to no adaptive capacity (e.g., new wastewater treatment plants, power stations, highways, or other critical infrastructure). The proposed project is solely for residential development and does not include critical infrastructure within the High Scenario.

The City geotechnical consultant reviewers determined that the development will not encroach into the 50-foot bluff-top setback and the proposed project is not expected to destabilize the structural integrity of the bluff or impact shoreline access along the beach at the rear (south) of the property.

As previously discussed in Section A, Finding 2, the proposed project is not anticipated to interfere with public access to the ocean. The proposed structures and related sub-surface construction activities maintain at least 50 feet from the bluff edge. Vertical public access between PCH and the beach is available at El Pescador State Beach less than 200 feet east of the project site, La Piedra State Beach located approximately 1,600 feet further to the east, and Robert M. Meyer Memorial State Beach approximately a mile to the east. No development is proposed or required on the bluff or beach, and the project will not affect the shoreline sand supply or other shoreline resources such as existing or planned public access along the shoreline as the proposed development is setback from the bluff above and the structure has a finished floor elevation of 126 feet above sea level. The proposed development complies with the reduced 50-foot setback from the coastal bluff edge as the

static factor of safety is greater than 1.5. Therefore, the proposed project will not have significant adverse impacts on public access, shoreline sand supply or other resources due to project design, location on the site or other reasons.

Finding 2. The project, as conditioned, will not have significant adverse impacts on public access, shoreline sand supply or other resources due to required project modifications or other conditions.

As discussed in Finding 1, the proposed project, as designed and conditioned and approved by the City coastal engineering consultant reviewers and the City geotechnical consultant reviewers, will not have any significant adverse impacts on public access or shoreline sand supply or other resources.

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

As discussed in Section A, the proposed project, as designed and conditioned, is the least environmentally damaging alternative.

Finding 4. There are no alternatives to the proposed development that would avoid or substantially lessen impacts on public access, shoreline sand supply or other resources.

As previously discussed in Section A and Finding 1 above, the proposed project, as designed and conditioned, will not have any significant adverse impacts on existing or planned public access or shoreline sand supply or other resources.

Finding 5. In addition, if the development includes a shoreline protective device, that it is designed or conditioned to be sited as far landward as feasible, to eliminate or mitigate to the maximum extent feasible adverse impacts on local shoreline sand supply and public access, there are no alternatives that would avoid or lessen impacts on shoreline sand supply, public access or coastal resources and is the least environmentally damaging alternative.

The project does not include a shoreline protective device; therefore, this finding does not apply.

I. Public Access (LIP Chapter 12)

LIP Section 12.4 requires public access for lateral, bluff-top, and vertical access near the ocean, trails, and recreational access for the following cases:

A. New development on any parcel or location specifically identified in the Land Use Plan or in the LCP zoning districts as appropriate for or containing a historically used or suitable public access trail or pathway.

B. New development between the nearest public roadway and the sea.
C. New development on any site where there is substantial evidence of a public right of access to or along the sea or public tidelands, a blufftop trail or an inland trail acquired through use or a public right of access through legislative authorization.
D. New development on any site where a trail, bluff top access or other recreational access is necessary to mitigate impacts of the development on public access where there is no feasible, less environmentally damaging, project alternative that would avoid impacts to public access.

No official LCP trail is mapped on the subject property. Lateral public beach access exists along the State of California's "wet sand right of way" which allows public use of lands seaward of the MHTL and provides public access along and parallel to the sea and shoreline. Moreover, vertical public access between PCH and the beach is available at El Pescador State Beach less than 200 feet east of the project site, La Piedra State Beach located approximately 1,600 feet further to the east, and Robert M. Meyer Memorial State Beach approximately a mile to the east. The proposed project would not impede the ability of the public to reach and use public tidelands and coastal resources in the vicinity of the project site and therefore, no condition for lateral access has been required. Additionally, blufftop, trail, and recreational access are not applicable given the subject property's location.

Furthermore, the subject property and project do not meet any of the criteria described above in that no trails are identified on the LCP Park Lands Map on or adjacent to the property. Therefore, the requirement for public access of LIP Section 12.4 does not apply and further findings are not required.

J. Land Division (LIP Chapter 15)

This project does not include a land division. Therefore, the findings of LIP Chapter 15 are not applicable.

ENVIRONMENTAL REVIEW: Pursuant to the authority and criteria contained in CEQA, the Community Development Director has analyzed the proposed project. The Community Development Director found that this project is listed among the classes of projects that have been determined not to have a significant adverse effect on the environment. Therefore, the proposed project is categorically exempt from the provisions of CEQA pursuant to Sections 15303(a) and (e) - New Construction. The Community Development Director has further determined that none of the six exceptions to the use of a categorical exemption apply to this project (CEQA Guidelines Section 15300.2).

CORRESPONDENCE: As previously discussed, staff received public correspondence from the neighbor immediately north of the project site, who expressed concerns about the obstruction of private bluewater views. Because the project proposes a height of 18 feet, discretion is not required to assess the obstruction of scenically impressive views. In

addition, through the various continuations of this project, staff received public correspondence all of which has been included as Attachment 5. As of drafting of this agenda report, staff received a letter of support in favor of the project (also included in Attachment 5).

PUBLIC NOTICE: On February 5, 2026, staff published a Notice of Public Hearing in a newspaper of general circulation within the City of Malibu and mailed the notice to all property owners and occupants within a 500-foot radius of the subject property (Attachment 8).

SUMMARY: The required findings can be made that the proposed project complies with the LCP and MMC. Further, the Planning Division's findings of fact are supported by substantial evidence in the record. Based on the analysis contained in this report and the accompanying resolution, staff recommends approval of this project, subject to the conditions of approval contained in Section 5 (Conditions of Approval) of Planning Commission Resolution No. 26-10. The proposed project has been reviewed and conditionally approved for conformance with the LCP by Planning Division staff and appropriate City and County departments.

ATTACHMENTS:

1. Planning Commission Resolution No. 26-10
2. Project Plans
3. Story Pole Photos
4. Department Review Sheets
5. Public Correspondence
6. Ford Biological Consultant Letter
7. Drone Exhibit
8. Public Hearing Notice

CITY OF MALIBU PLANNING COMMISSION
RESOLUTION NO. 26-10

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MALIBU DETERMINING THE PROJECT IS CATEGORICALLY EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, AND APPROVING COASTAL DEVELOPMENT PERMIT NO. 23-034 FOR THE CONSTRUCTION OF A NEW TWO-STORY, 18-FOOT HIGH, 4,856 SQUARE FOOT SINGLE-FAMILY RESIDENCE, INCLUDING A 791 SQUARE FOOT ATTACHED GARAGE AND AN 824 SQUARE FOOT SECOND-STORY SECOND UNIT, LANDSCAPING, HARDSCAPE, GRADING, FIRE DEPARTMENT TURNAROUND AREA, VEHICULAR ACCESS GATE, AND THE INSTALLATION OF A NEW ONSITE WASTEWATER TREATMENT SYSTEM; INCLUDING MINOR MODIFICATION NO. 25-009 FOR UP TO A 50 PERCENT REDUCTION OF THE FRONT YARD SETBACK LOCATED IN THE RURAL RESIDENTIAL, TWO-ACRE ZONING DISTRICT AT 33008 PACIFIC COAST HIGHWAY (BLUFF TOP 1 LLC)

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

SECTION 1. Recitals.

A. On May 17, 2023, an application for Coastal Development Permit (CDP) No. 23-034 and Code Violation (CV) No. 23-047 was submitted to the Planning Division by applicant, Schmitz and Associates, Inc., on behalf of the owner, Bluff Top 1 LLC. The application was routed to the City Biologist, City coastal engineering consultant reviewer, City Environmental Health Administrator, City geotechnical consultant, Public Works Department, Los Angeles County Fire Department (LACFD) and Los Angeles County Waterworks District No. 29 (WD29) reviewers for review.

B. On April 29, 2025, a Notice of Coastal Development Permit Application was posted on the subject property.

C. On August 15, 2025, story poles representing the location and height of the proposed addition to the detached garage were installed.

D. On August 29, 2025, Planning Division staff conducted a site visit to document site conditions, the property and surrounding area and to determine potential visual impacts of the proposed project on any scenic area, scenic road, or public viewing area.

E. On September 9, 2025, Planning Division staff deemed the application complete.

F. On September 25, 2025, a Notice of Planning Commission Public Hearing was published in a newspaper of general circulation within the City of Malibu and was mailed to all property owners and occupants within a 500-foot radius of the subject property.

G. On October 1, 2025, an amended agenda was published for the October 6, 2025 Regular Planning Commission meeting and the item was removed from the agenda.

H. On October 9, 2025, a Notice of Planning Commission Public Hearing was published in a newspaper of general circulation within the City of Malibu and was mailed to all property owners and occupants within a 500-foot radius of the subject property.

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I. On October 20, 2025, the Planning Commission continued the project to the November 3, 2025 Regular Planning Commission meeting prior to opening the public hearing.

J. On November 3, 2025, the Planning Commission continued the project to the December 1, 2025 Regular Planning Commission meeting prior to opening the public hearing.

K. On December 1, 2025, the Planning Commission continued the project to a date uncertain prior to opening the public hearing.

L. On February 5, 2026, a Notice of Planning Commission Public Hearing was published in a newspaper of general circulation within the City of Malibu and was mailed to all property owners and occupants within a 500-foot radius of the subject property.

M. On February 17, 2026, the Planning Commission held a duly noticed public hearing on the subject application, reviewed and considered the staff report, reviewed and considered written reports, public testimony, and other information in the record.

SECTION 2. Environmental Review.

Pursuant to the authority and criteria contained in the California Environmental Quality Act (CEQA), the Planning Commission has analyzed the proposed project. The Planning Commission found that this project is listed among the classes of projects that have been determined not to have a significant adverse effect on the environment. Therefore, the project is categorically exempt from the provisions of CEQA pursuant to Sections 15303(a) and (e) – New Construction. The Planning Commission has further determined that none of the six exceptions to the use of a categorical exemption apply to this project (CEQA Guidelines Section 15300.2).

SECTION 3. Coastal Development Permit Findings.

Based on evidence contained within the record and pursuant to Local Implementation Plan (LIP) including Sections 13.7(B) and 13.9, the Planning Commission adopts the analysis in the agenda report, incorporated herein, the findings of fact below, and approves CDP No. 23-034 for construction of a new two-story, 18-foot high, 4,856 square foot single-family residence, including a 791 square foot attached garage and an 824 square foot second-story second unit, landscaping, hardscape, grading, fire department turnaround area, vehicular access gate, and the installation of a new onsite wastewater treatment system (OWTS); including Minor Modification (MM) No. 25-009 for up to a 50 percent reduction of the front yard setback located in the Rural Residential, Two-Acre (RR-2) zoning district at 33008 Pacific Coast Highway (PCH).

The project is consistent with the Local Coastal Program's (LCP's) zoning, grading, cultural resources, water quality, and wastewater treatment system standards requirements. The project, as conditioned, has been determined to be consistent with all applicable LCP codes, standards, goals, and policies. The required findings are made herein.

A. General Coastal Development Permit (LIP Chapter 13)

1. The Planning Division, City Biologist, City coastal engineering consultant reviewer, City Environmental Health Administrator, City geotechnical consultant reviewers,

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LACFD and WD29 reviewed the project for conformance with the LCP. The proposed single-family residence is consistent with the property's RR-2 residential zoning district, a zone designated for residential uses. As discussed herein, based on submitted reports, project plans, visual analysis and site investigation, the proposed project, as conditioned, conforms to the LCP in that it meets all applicable non-beachfront residential development standards.

2. The project is located between the first public road and the sea. However, the project will not adversely affect public access or recreation because due to the orientation of the project site atop a coastal bluff and existing public access between PCH and the beach in the vicinity. As shown on the LCP Park Lands Map, vertical access between PCH and the beach and lateral access along the beach is available at El Pescador State Beach less than 200 feet east of the project site, La Piedra State Beach located approximately 1,600 feet further to the east, and Robert M. Meyer Memorial State Beach approximately a mile to the east. An existing single-family residence is located between the subject property and El Pescador State Beach to the east and all proposed development is located atop a coastal bluff and setback from the bluff edge. No development is proposed or required on the bluff or beach. As adequate public access exists nearby and no proposed development would adversely affect existing or planned public access in the vicinity or along the shoreline, the project conforms to the public access and recreation policies of the Coastal Act.

3. There is no evidence that an alternative project would substantially lessen any potential significant adverse impacts of the development on the environment. The proposed project consists of the construction of a new single-family residence and associated development consistent with the RR-2 land use and zoning designations. Adjacent properties are currently developed with similar single-family residences. The City Biologist, City Coastal Engineering Consultant Reviewers, City Environmental Health Administrator, and City Geotechnical Consultant Reviewers reviewed the project, and these specialists found the project to meet the non-beachfront residential development policies of the LCP and MMC. The project proposes a reduction of the bluff edge setback from 100 feet to 50 feet, pursuant to LIP Section 10.4(D) for the proposed residence. The proposed 50-foot bluff edge setback has been determined to be a sufficient distance to ensure that proposed development will not be endangered or threatened by erosion or slope instability for a projected 100-year economic life of the structure. Additional details related to project's consistency with LIP Section 10.4(D) are discussed in the LIP Chapter 10 findings. The proposed project, as conditioned, will comply with all applicable requirements of State and local law.

The residence could be relocated elsewhere on the project site and/or be reduced in size. However, the soils testing conducted on site determined the OWTS and associated dispersal fields would be best sited in the proposed locations for optimal percolation. Moreover, because LACFD required a turnaround area to be provided onsite, the available development area was further reduced. The residence could be redesigned to a two-story configuration above 18 feet in height, which could avoid the need for the MM or increase the bluff edge setback. However, given the orientation of existing homes in the area, development above 18 feet in height would likely obstruct more private bluewater views from surrounding residences and be more visible from the beach southeast of the subject property. As designed, the proposed project complies with the requirements of the LCP. The proposed project has been determined not to result in adverse biological, scenic or visual resource impacts, and is the least environmentally damaging feasible alternative.

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B. Minor Modification - Reduction in the Front Yard Setback (LIP Section 13.27)

1. The project, with the inclusion of the requested MM, as designed and conditioned, conforms to all applicable LCP policies and provisions. A reduction in the front yard setback is requested to maintain an 18-foot height limit for the proposed residence consistent with LIP Section 3.6 non-beachfront residential development standards, and ensure the structure footprint complies with the minimum 50-foot bluff edge setback pursuant to LIP Section 10.4(D).

2. Story poles were placed on the project site to demonstrate the project's potential for public view impacts to the surrounding area including PCH and the beach. The project's height and bulk will not adversely affect neighborhood character as viewed from public viewing areas due to the existing pattern of residential development adjacent to and in the vicinity of the RR-2 neighborhood. The neighborhood is developed with single-family residences of varying size and height and is characterized by a mix of one and two-story homes. The project proposed has less TDSF and impermeable coverage than is otherwise allowed, and does not exceed 18 feet in height.

3. The project will comply with all applicable requirements of state and local law and is conditioned to comply with any relevant approvals, permits, and licenses from the City of Malibu. The project has been reviewed and conditionally approved by the City Biologist, City geotechnical consultant reviewers, City Public Works Department, City Environmental Health Administrator, and the LACFD and it meets the City's residential development policies. The proposed project will comply with their respective standards through conditions of approval. The project must also be approved by WD29 and the City Community Development Department, prior to issuance of City building permits.

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

1. The proposed project includes the development of a single-family residence and associated development. Staff analyzed the project's visual impact from public viewing areas through site reconnaissance and architectural plans and an investigation of the neighborhood. Based on a staff site visit after story poles were installed, it was determined the proposed development is not expected to have significant adverse scenic or visual impacts. No existing public bluewater views are present from PCH and when viewing the proposed project against the backdrop of the existing landscaping and bluff development from nearby public viewing areas, no significant public views of the Pacific Ocean are adversely affected. As designed, the proposed residence does not exceed 18 feet, proposes less TDSF than is otherwise allowed, and maintains a minimum 50-foot setback from the bluff edge. Therefore, the project, as proposed, will not have significant adverse scenic or visual impacts due to project design, location or other reasons. Standard conditions of approval have been included for colors, materials, and lighting.

2. The project as conditioned will not have significant adverse scenic or visual impacts. The project has been conditioned to include limitations on exterior lighting and colors of exterior finishes used to prevent any visual impacts to scenic areas.

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

4. The project, as designed and conditioned, is not expected to adversely affect scenic and visual resources and no feasible alternatives would avoid or substantially lessen any significant

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adverse impacts on scenic and visual resources. As designed, the proposed residence does not exceed 18 feet, proposes less TDSF than is otherwise allowed, and maintains a minimum 50-foot setback from the bluff edge. A MM is requested to further reduce the required 47-foot front yard setback to the north (PCH side) by 37 percent to ensure the proposed structure can maintain 18 feet in height and a minimum 50-foot setback to the bluff edge.

5. The subject property is visible from nearby public beaches; however, the proposed project does not exceed 18 feet, proposes less TDSF than is otherwise allowed, and maintains a minimum 50-foot setback from the bluff edge. A MM is requested to further reduce the required 47-foot front yard setback to the north (PCH side) by 37 percent to ensure the proposed structure can maintain 18 feet in height and a minimum 50-foot setback to the bluff edge. No development is proposed or required on the bluff or beach. Therefore, the proposed development, as designed, is sited to eliminate, minimize or otherwise contribute to conformance to sensitive resources.

D. Hazards (LIP Chapter 9)

1. Evidence in the record demonstrates that the project will neither be subject to nor increase the instability of the site from geologic, flood, or fire hazards. LIP Section 10.4.(D) includes a provision to allow a reduction in the setback from the bluff edge from 100 feet to a minimum of 50 feet from the bluff edge to structures if the City geotechnical reviewers determine the required factors of safety are met. The City geotechnical consultant reviewers determined the proposed geotechnical setback line, which is set back 50 feet from the geological top of slope, meets the requirements of LIP Section 10.4(D). All structural footings will be located landward of this line. Ancillary structures without footings, such as patios, walkways, and barbecues, may be located no closer than 15 feet from the bluff edge. The project, as conditioned, incorporates all recommendations contained in the above cited reports and conditions required by the City coastal engineering consultant reviewer, City Environmental Health Administrator and City geotechnical consultant reviewers, including foundations and drainage. The project will neither be subject to nor increase the instability of the site from geologic, flood, or fire hazards

2. As discussed in Finding 1, the proposed project, as designed, conditioned and approved by the applicable departments and agencies, will not have any significant adverse impacts on the site stability or structural integrity from geologic or flood hazards due to project modifications and other conditions.

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

4. The Planning Division, City Biologist, City coastal engineering consultant reviewer, City Environmental Health Administrator, and City geotechnical consultant reviewers analyzed the proposed development for the hazards listed in LIP Chapter 9. These specialists determined that the proposed project does not impact site stability or structural integrity.

5. As previously discussed in Section A, the proposed project, as designed and conditioned, is the least environmentally damaging alternative and no adverse impacts to sensitive resources are anticipated.

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E. Shoreline and Bluff Development (LIP Chapter 10)

1. As previously discussed in Section A, Finding 2, the proposed project is not anticipated to interfere with public access to the ocean. The project site is located on a coastal bluff in western Malibu. The project proposes a reduction of the bluff edge setback from 100 feet to 50 feet, pursuant to LIP Section 10.4(D). The proposed 50-foot bluff edge setback has been determined to be a sufficient distance to ensure that the proposed development will not be endangered or threatened by erosion or slope instability for a projected 100-year economic life of the structure. The project geotechnical consultant has evaluated gross static and pseudostatic slope stability for the site based on requirements of LIP Chapter 9.4 and the City of Malibu Geotechnical Guidelines (both 2002 and 2013) and evaluated bluff retreat rates in accordance with LIP Section 10.4 for the 100-year economic life of the project. The consultants projected a bluff retreat rate of two inches per year, or 16.7 feet, for the 100- year economic life of the development. The 100-year bluff retreat line, based on where the 1.5 geotechnical factor of safety line (static) is located, is 44.34 feet and the 100-year bluff retreat line, based on where the 1.1 geotechnical factor of safety line (seismic) is located, is 48.51 feet. The analysis included a projected sea level rise of 6.6 feet for the 100-year economic life of the development. While 4.9 feet of sea level rise at year 2100 is most applicable for development classified within an Intermediate-High Scenario (i.e., residential development with a medium-high risk aversion), as described in the updated 2024 CCC Sea Level Rise Policy, the use of 6.6 feet was included in the analysis. Note that 6.6 feet represents the projected sea level rise in year 2100 for the High Scenario, which is intended for uses with little to no adaptive capacity (e.g., new wastewater treatment plants, power stations, highways, or other critical infrastructure). The proposed project is solely for residential development and does not include critical infrastructure within the High Scenario.

The City geotechnical consultant reviewers determined that the development will not encroach into the 50-foot bluff-top setback and the proposed project is not expected to destabilize the structural integrity of the bluff or impact shoreline access along the beach at the rear (south) of the property.

As previously discussed in Section A, Finding 2, the proposed project is not anticipated to interfere with public access to the ocean. The proposed structures and related sub-surface construction activities maintain at least 50 feet from the bluff edge. Vertical public access between PCH and the beach is available at El Pescador State Beach less than 200 feet east of the project site, La Piedra State Beach located approximately 1,600 feet further to the east, and Robert M. Meyer Memorial State Beach approximately a mile to the east. No development is proposed or required on the bluff or beach, and the project will not affect the shoreline sand supply or other shoreline resources such as existing or planned public access along the shoreline as the proposed development is setback from the bluff above and the structure has a finished floor elevation of 126 feet above sea level. The proposed development complies with the reduced 50-foot setback from the coastal bluff edge as the static factor of safety is greater than 1.5. Therefore, the proposed project will not have significant adverse impacts on public access, shoreline sand supply or other resources due to project design, location on the site or other reasons.

2. As discussed in Finding 1, the proposed project, as designed and conditioned and approved by the City coastal engineering consultant reviewers and the City geotechnical consultant reviewers, will not have any significant adverse impacts on public access or shoreline sand supply or other resources.

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

4. As previously discussed in Section A and Finding 1 above, the proposed project, as designed and conditioned, will not have any significant adverse impacts on existing or planned public access or shoreline sand supply or other resources.

SECTION 4. Planning Commission Action.

Based on the foregoing findings and evidence contained within the record, the Planning Commission hereby approves CDP No. 23-034 and MM No. 25-009, subject to the following conditions.

SECTION 5. Conditions of Approval.

1. The property owners, and their successors in interest, shall indemnify and defend the City of Malibu and its officers, employees and agents from and against all liability and costs relating to the City's actions concerning this project, including (without limitation) any award of litigation expenses in favor of any person or entity who seeks to challenge the validity of any of the City's actions or decisions in connection with this project. The City shall have the sole right to choose its counsel and property owners shall reimburse the City's expenses incurred in its defense of any lawsuit challenging the City's actions concerning this project.

2. Approval of this application is to allow for the project described herein. The scope of work approved includes:
    a. Construction of a 4,856 square foot, two-story, single-family residence, 18 feet in height, including a 791 square foot attached garage;
    b. 824 square foot, second unit above the garage;
    c. Construction of outdoor decks;
    d. Installation of new landscaping and hardscape;
    e. Grading;
    f. Construction of a new OWTS;
    g. Vehicular access gate; and
    h. Fire department turnaround area.
    i. Discretionary Request:
        a. MM No. 25-009 for up to a 50 percent reduction of the front yard setback (approximately 37 percent proposed).

3. Except as specifically changed by conditions of approval, the proposed development shall be constructed in substantial conformance with the approved scope of work, as described in Condition No. 2 and depicted on plans on file with the Planning Division date stamped **November 12, 2025**. The proposed development shall further comply with all conditions of approval stipulated in this resolution and Department Review Sheets attached hereto. In the event project plans conflict with any condition of approval, the condition shall take precedence.

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4. Pursuant to LIP Section 13.18.2, this permit and rights conferred in this approval shall not be effective until the property owner signs and returns the Acceptance of Conditions Affidavit accepting the conditions set forth herein. The applicant shall file this form with the Planning Division within 10 days of this decision and/or prior to issuance of any development permits.

5. The applicant shall digitally submit a complete set of plans to the Planning Division for consistency review and approval prior to plan check and again prior to the issuance of any building or development permits.

6. This CDP shall expire if the project has not commenced within three (3) years after issuance of the permit. Extension of the permit may be granted by the approving authority for due cause. Extensions shall be requested in writing by the applicant or authorized agent prior to expiration of the three-year period and shall set forth the reasons for the request. In the event of an appeal, the CDP shall expire if the project has not commenced within three years from the date the appeal is decided by the decision-making body or withdrawn by the appellant.

7. Any questions of intent or interpretation of any condition of approval will be resolved by the Community Development Director upon written request of such interpretation.

8. All development shall conform to requirements of the City Biologist, City coastal engineering consultant reviewer, City Environmental Health Administrator, City geotechnical consultant reviewers, City Public Works Department, WD29 and LACFD, as applicable. Notwithstanding this review, all required permits shall be secured.

9. Minor changes to the approved plans or the conditions of approval may be approved by the Community Development Director, provided such changes achieve substantially the same results and the project is still in compliance with the Malibu Municipal Code (MMC) and the LCP. Revised plans reflecting the minor changes and additional fees shall be required.

10. Pursuant to LIP Section 13.20, development pursuant to an approved CDP shall not commence until the CDP is effective. The CDP is not effective until all appeals, including those to the California Coastal Commission (CCC), have been exhausted. In the event that the CCC denies the permit or issues the permit on appeal, the CDP approved by the City is void.

11. The property owner must submit payment for all outstanding fees payable to the City prior to issuance of any building permit, including grading or demolition.

Cultural Resources

12. Prior to beginning any earthmoving activities, all construction personnel must be informed about the potential for discovery of archeological resources and/or human remains, and the appropriate measures to be taken should such resources be uncovered.

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13. A qualified archaeologist shall be present onsite during all earthmoving activities and shall remain present onsite to monitor until he or she determines that it would be unlikely for further work to encounter cultural resources. Should the presence of important archaeological cultural resources be found, a Phase II Evaluation and Phase III Mitigation Program shall be conducted by a qualified archaeologist. The Community Development Director shall review and approve all design/work plans for Phase III Mitigation Programs and reports which detail the evaluative techniques and results.

14. Prior to final Planning Division approval of construction plans, the applicant shall submit evidence of a signed contract with a qualified archaeologist, meeting the Secretary of the Interior's Professional Qualification Standards, to provide archaeological monitoring and reporting services during earthmoving activities. The contract shall include provisions for on-call monitoring, discovery procedures, and reporting consistent with applicable City and State requirements. Verification of the executed contract shall be reviewed and approved by the Planning Division prior to issuance of any grading or building permit.

15. A final report shall be prepared by the monitoring archaeologist and submitted to the Planning Division prior to the Planning final inspection of the completed project.

16. In the event that potentially important cultural resources are found in the course of geologic testing or during construction, work shall immediately cease until a qualified archaeologist can provide an evaluation of the nature and significance of the resources and until the Community Development Director can review this information. Thereafter, the procedures contained in LIP Chapter 11 and those in MMC Section 17.54.040(D)(4)(b) shall be followed.

17. If human bone is discovered during geologic testing or during construction, work shall immediately cease and the procedures described in Section 7050.5 of the California Health and Safety Code shall be followed. Section 7050.5 requires notification of the coroner. If the coroner determines that the remains are those of a Native American, the applicant shall notify the Native American Heritage Commission by phone within 24 hours. Following notification of the Native American Heritage Commission, the procedures described in Section 5097.94 and Section 5097.98 of the California Public Resources Code shall be followed.

Lighting

18. Exterior lighting must comply with the Dark Sky Ordinance and shall be minimized, shielded, or concealed and restricted to low intensity features, so that no light source is directly visible from public view. Permitted lighting shall conform to the following standards:
    a. Lighting for walkways shall be limited to fixtures that do not exceed two feet in height and are directed downward, and limited to 850 lumens (equivalent to a 60-watt incandescent bulb);
    b. Security lighting controlled by motion detectors may be attached to the residence provided it is directed downward and is limited to 850 lumens;
    c. Driveway lighting shall be limited to the minimum lighting necessary for safe vehicular use. The lighting shall be limited to 850 lumens;

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d. Lights at entrances as required by the Building Code shall be permitted provided that such lighting does not exceed 850 lumens;
e. Site perimeter lighting shall be prohibited; and
f. Outdoor decorative lighting for aesthetic purposes is prohibited.

19. Night lighting for sports courts or other private recreational facilities shall be prohibited.
20. No permanently installed lighting shall blink, flash, or be of unusually high intensity or brightness. Lighting levels on any nearby property from artificial light sources on the subject property(ies) shall not produce an illumination level greater than one foot-candle.

21. Night lighting from exterior and interior sources shall be minimized. All exterior lighting shall be low intensity and shielded directed downward and inward so there is no offsite glare or lighting of natural habitat areas. Lighting of the shore or the beach in excess of one foot candle is prohibited.

22. String lights are allowed in occupied dining and entertainment areas only and must not exceed 3,000 Kelvin.

23. Motion sensor lights shall be programmed to extinguish ten minutes after activation.

24. No lighting can exceed 18 feet in height except as required by the California building code.

25. Three violations of the conditions by the same property owner will result in a requirement to permanently remove the outdoor light fixture(s) from the site.

Fencing and Walls

26. The applicant shall include an elevation of the proposed electronic driveway gate on the architectural plans that are submitted for building plan check. The gate and all fencing along the front property line shall comply with the regulations set forth in LIP Section 3.5.

27. The height of fences and walls shall comply with LIP Section 3.5.3(A). No retaining wall shall exceed six feet in height or 12 feet in height for a combination of two or more walls.

28. For the portion of front fencing and gates above 42 inches, the slats shall be no more than one inch in diameter.

Colors and Materials

29. The project is visible from scenic roads or public viewing areas, therefore, shall incorporate colors and exterior materials that are compatible with the surrounding landscape.
    a. Acceptable colors shall be limited to colors compatible with the surrounding environment (earth tones) including shades of green, brown and gray, with no white or light shades and no bright tones. Colors shall be reviewed and approved by the Community Development Director and clearly indicated on the building plans.
    b. The use of highly reflective materials shall be prohibited except for solar energy panels or cells, which shall be placed to minimize significant adverse impacts to public views to the maximum extent feasible.
    c. All windows shall be comprised of non-glare glass.

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30. All driveways shall be a neutral color that blends with the surrounding landforms and vegetation. Retaining walls shall incorporate veneers, texturing and/or colors that blend with the surrounding earth materials or landscape. The color of driveways and retaining walls shall be reviewed and approved by the Community Development Director and clearly indicated on all grading, improvement and/or building plans.

Construction Conditions

31. Prior to the issuance of a building/demolition permit, an Affidavit and Certification to implement waste reduction and recycling shall be signed by the Owner or Contractor and submitted to the Environmental Sustainability Department. The Affidavit shall indicate the agreement of the applicant to divert at least 65 percent (in accordance with CalGreen) of all construction waste from the landfill.

32. The applicant shall submit a copy of a Construction Management Plan to the Planning Division. The Construction Management Plan shall include a dedicated parking location for construction workers and storage of construction material. Prior to permit issuance, the Construction Management Plan must be acceptable to the Community Development Director and, if applicable, to the Building Official and Public Works Director.

33. A construction staging plan shall be reviewed and approved by the Building Official prior to final plan check approval.

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

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

36. All new development, including construction, grading, and landscaping shall be designed to incorporate drainage and erosion control measures prepared by a licensed engineer that incorporate structural and non-structural Best Management Practices (BMPs) to control the volume, velocity and pollutant load of storm water runoff in compliance with all requirements contained in LIP Chapter 17, including:
    a. Construction shall be phased to the extent feasible and practical to limit the amount of disturbed areas present at a given time.
    b. Grading activities shall be planned during the southern California dry season (April through October).
    c. During construction, contractors shall be required to utilize sandbags and berms to control runoff during on-site watering and periods of rain in order to minimize surface water contamination.
    d. Filter fences designed to intercept and detain sediment while decreasing the velocity of runoff shall be employed within the project site.

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

38. For the transportation of heavy construction equipment and/or material, which requires the use of oversized-transport vehicles on State highways, the applicant / property owner is required to obtain a transportation permit from the California Department of Transportation.

Biology/Landscaping

39. Prior to installation of any landscaping, the applicant shall obtain a plumbing permit for the proposed irrigation system from the Building Safety Division.

40. Prior to final Planning inspection or other final project sign off (as applicable), the applicant shall submit to the Community Development Director for review and approval a certificate of completion in accordance with MMC Chapter 17.53. The certificate shall include the property owner's signed acceptance of responsibility for maintaining the landscaping and irrigation in accordance with the approved plans and MMC Chapter 17.53.

41. Prior to a final plan check approval, the property owner /applicant must provide a landscape water use approval from the Los Angeles County Waterworks District No. 29.

42. Vegetation forming a view impermeable condition serving the same function as a fence or wall (also known as a hedge) located within the side or rear yard setback shall be maintained at or below a height of six feet. A hedge located within the front yard setback shall be maintained at or below a height of 42 inches. Three violations of this condition will result in a requirement to permanently remove the vegetation from the site.

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

44. Vegetation in excess of six feet in height shall not obstruct the primary view of existing residences located within a 1,000-foot radius at any given time (given consideration of its future growth).

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

46. No non-native plant species shall be approved greater than 50 feet from the residential structure.

47. The landscape plan shall prohibit the use of building materials treated with toxic compounds such as creosote or copper arsenate.

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48. Any site preparation activities, including removal of vegetation, between February 1 and September 15 will require nesting bird surveys by a qualified biologist at least five days prior to initiation of site preparation activities. Should active nests be identified, a buffer area no less than 150 feet (300 feet for raptors) shall be fenced off until it is determined by a qualified biologist that the nest is no longer active. A report discussing the results of nesting bird surveys shall be submitted to the City within two business days of completing the surveys.

49. All new development including structures, septic systems, or landscaping, shall be set back no less than 100 feet from the stream.

50. Night lighting from exterior and interior sources shall be minimized. All exterior lighting shall be low intensity and shielded directed downward and inward so there is no offsite glare or lighting of natural habitat areas. High intensity lighting of the shore is prohibited.

51. Necessary boundary fencing shall be of an open rail-type design with a wooden rail at the top (instead of wire), be less than 40-inches high, and have a space greater than 14-inches between the ground and the bottom post or wire. A split rail design that blends with the natural environment is preferred.

52. Except as permitted pursuant to the provisions in LUP policies 3.18 and 3.20, throughout the City of Malibu, development that involves the use of pesticides, including insecticides, herbicides, rodenticides or any other similar toxic chemical substances, shall be prohibited in cases where the application of such substances would have the potential to significantly degrade Environmentally Sensitive Habitat Areas or coastal water quality or harm wildlife. Herbicides may be used for the eradication of invasive plant species or habitat restoration, but only if the use of non-chemical methods for prevention and management such as physical, mechanical, cultural, and biological controls are infeasible. Herbicides shall be restricted to the least toxic product and method, and to the maximum extent feasible, shall be biodegradable, derived from natural sources, and used for a limited time.

53. Plantings required for fuel modification, except for within irrigated Zone A nearest to approved residential structures, must be native, drought-tolerant species and shall blend with the existing natural vegetation and natural habitats on the site.

54. Grading and/or demolition shall be scheduled only during the dry season from April 1 – October 31. If it becomes necessary to conduct grading activities from November 1 – March 31, a comprehensive erosion control plan shall be submitted for approval prior to issuance of a grading permit and implemented prior to initiation of vegetation removal and/or grading activities.

55. The use of wood chips and shredded rubber is prohibited anywhere on the site. Flammable mulch material, including shredded bark, pine needles, and artificial turf, are prohibited between zero and five feet of a structure. Non-continuous use of flammable mulch (excluding wood chips and shredded rubber) is allowed between 5 and 30 feet from the eave/overhang of a structure with limited application areas. Any mulch materials (excluding wood chips and shredded rubber) are allowed 30 feet or more from a structure with no limitation on application area.

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Fuel Modification

56. Prior to the issuance of final building permits, the project shall receive LACFD approval of a Final Fuel Modification Plan.

Environmental Health

57. All final project plans shall be submitted for Environmental Health review and approval. These plans must be approved by the Building and Safety Division prior to receiving Environmental Health final approval.

58. Reference Plans: Reference architectural and grading/drainage plans shall be submitted to Environmental Health during building plan check review of the proposed OWTS. Approvable building plans will show a new single-family residence with no more than 2 bedrooms and 41 drainage fixture units and a second unit with no more than 1 bedroom and 10 drainage fixture units.

59. Final OWTS Plot Plan: Prior to final Environmental Health approval, a final OWTS plot plan prepared by a City Registered OWTS Designer shall be submitted showing an OWTS design meeting the minimum requirements of the MMC and the LCP, including necessary construction details, the proposed drainage plan for the developed property and the proposed landscape plan for the developed property. The OWTS plot plan shall show essential features of the OWTS and must fit onto an 11-inch by 17-inch sheet leaving a five-inch margin clear to provide space for a City applied legend. If the scale of the plans is such that more space is needed to clearly show construction details and/or all necessary setbacks, larger sheets may also be provided (up to a maximum size of 18-inches by 22-inches).

60. Final OWTS Design Report, Plans, and System Specifications: If the OWTS design and/or bedroom/drainage fixture unit counts are modified in any way subsequent to the Planning-stage review, then a final OWTS design report and large set of construction drawings with system specifications (four sets) shall be submitted to describe the OWTS design basis and all components (i.e., alarm system, pumps, timers, flow equalization devices, backflow devices, etc.) proposed for use in the construction of the proposed OWTS. For all OWTS, final reports must be signed by a City registered OWTS Designer, and the plans stamped by a California Geologist. The final OWTS design report and construction drawings shall be submitted to the City Environmental Health Administrator with the designer's wet signature, professional registration number and stamp (if applicable).

61. The final design report shall contain the following information (in addition to the items listed above).
    a. Required treatment capacity for wastewater treatment and disinfection systems. The treatment capacity shall be specified in terms of flow rate, gallons per day, and shall be supported by calculations relating the treatment capacity to the number of bedroom equivalents, plumbing drainage fixture equivalents, and the subsurface effluent dispersal system acceptance rate. The drainage fixture unit count must be clearly identified in association with the design treatment capacity, even if the design is based on the number of bedrooms. Average and peak rates of hydraulic loading to the treatment system shall be specified in the final design;

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b. Sewage and effluent pump design calculations (as applicable).
c. Description of proposed wastewater treatment and/or disinfection system equipment. State the proposed type of treatment system(s) (e.g., aerobic treatment, textile filter ultraviolet disinfection, etc.); major components, manufacturers, and model numbers for "package" systems; and conceptual design for custom engineered systems;
d. Specifications, supporting geology information, and percolation test results for the subsurface effluent dispersal portion of the onsite wastewater disposal system. This must include the proposed type of effluent dispersal system (drainfield, trench, seepage pit subsurface drip, etc.) as well as the system's geometric dimensions and basic construction features. Supporting calculations shall be presented that relate the results of soils analysis or percolation/infiltration tests to the projected subsurface effluent acceptance rate, including any unit conversions or safety factors. Average and peak rates of hydraulic loading to the effluent dispersal system shall be specified in the final design. The projected subsurface effluent acceptance rate shall be reported in units of total gallons per day and gallons per square foot per day. Specifications for the subsurface effluent dispersal system shall be shown to accommodate the design hydraulic loading rate (i.e., average and peak OWTS effluent flow, reported in units of gallons per day). The subsurface effluent dispersal system design must take into account the number of bedrooms, fixture units and building occupancy characteristics; and
e. All final design drawings shall be submitted with the wet signature and typed name of the OWTS designer. If the scale of the plan is such that more space is needed to clearly show construction details, larger sheets may also be provided (up to a maximum size of 18 inch by 22 inch, for review by Environmental Health). Note: For OWTS final designs, full-size plans are required for review by the Building Safety Division and/or the Planning Division.

62. All project traffic rated slab plans shall be prepared by a California licensed civil engineer and submitted for Environmental Health review and approval. These plans must be approved by the Building Safety Division prior to receiving Environmental Health final approval.

63. Prior to final Environmental Health approval, the construction plans for all structures and/or buildings with reduced setbacks must be approved by the City Building Safety Division. The architectural and/or structural plans submitted to Building and Safety plan check must detail methods of construction that will compensate for the reduction in setback (e.g., waterproofing, concrete additives, etc.). For complex waterproofing installations, submittal of a separate waterproofing plan may be required. The architectural/structural/ waterproofing plans must show the location of OWTS components in relation to those structures from which the setback is reduced, and the plans must be signed and stamped by the architect, structural engineer, and geotechnical consultants (as applicable).

64. Proof of Ownership: Proof of ownership of subject property shall be submitted to the City Environmental Health Administrator.

65. Operations and Maintenance Manual: An operations and maintenance manual specified by the OWTS designer shall be submitted to the property owner and maintenance provider of the proposed OWTS.

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66. Maintenance Contract: A maintenance contract executed between the owner of the subject property and an entity qualified in the opinion of the City of Malibu to maintain the proposed onsite wastewater disposal system after construction shall be submitted. Note only original "wet signature" documents are acceptable.

67. Advanced OWTS Covenant: Prior to final Environmental Health approval, a covenant running with the land shall be executed between the City of Malibu and the holder of the fee simple absolute as to subject real property and recorded with the Office of the Los Angeles County Recorder. Said covenant shall serve as constructive notice to any future purchaser for value that the onsite wastewater treatment system serving subject property is an advanced method of sewage disposal pursuant to the City of MMC. Said covenant shall be provided by the City of Malibu Environmental Health Administrator.

68. Project Geologist/Geotechnical Consultant Approval: Project Geologist/Geotechnical Consultant final approval of the OWTS plan shall be submitted to the Environmental Health Administrator.

69. City of Malibu Geologist/Geotechnical Approval: City of Malibu geotechnical consultant reviewer's final approval of the OWTS plan shall be submitted to the Environmental Health Administrator.

70. City of Malibu Public Works Approval: City of Malibu Public Works final approval of the OWTS plan shall be submitted to the Environmental Health Administrator.

71. City of Malibu Planning Approval: City of Malibu Planning Division final approval of the OWTS plan shall be obtained.

72. Environmental Health Final Review Fee: A final fee in accordance with the adopted fee schedule at the time of the final approval shall be paid to the City of Malibu for Environmental Health review of the OWTS design and system specification.

73. Operating Permit Application and Fee: In accordance with MMC, an application shall be made to the Environmental Health office for an OWTS operating permit. An operating permit fee in accordance with the adopted fee schedule at the time of final approval shall be submitted with the application.

Geology

74. All recommendations of the consulting certified engineer geologist or geotechnical engineer and/or the City geotechnical staff shall be incorporated into all final design and construction including foundations, grading, sewage disposal, and drainage. Final plans shall be reviewed and approved by the City geotechnical staff prior to the issuance of a grading permit.

75. Final plans approved by the City geotechnical staff shall be in substantial conformance with the approved CDP relative to construction, grading, sewage disposal and drainage. Any substantial changes may require a CDP amendment or a new CDP.

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Grading/Drainage/Hydrology (Public Works)

76. Clearing and grading during the rainy season (extending from November 1 to March 31) shall be prohibited for development that:
    a. Is located within or adjacent to ESHA, or
    b. Includes grading on slopes greater than 4 to 1.

    Approved grading for development that is located within or adjacent to ESHA or on slopes greater than 4 to 1 shall not be undertaken unless there is sufficient time to complete grading operations before the rainy season. If grading operations are not completed before the rainy season begins, grading shall be halted and temporary erosion control measures shall be put into place to minimize erosion until grading resumes after March 31, unless the City determines that completion of grading would be more protective of resources.

77. Exported soil from a site shall be taken to the Los Angeles County Landfill or to a site with an active grading permit and the ability to accept the material in compliance with LIP Section 8.3.

78. A grading and drainage plan containing the following information shall be approved, and submitted to the Public Works Department, prior to the issuance of grading permits for the project:
    a. Public Works Department general notes;
    b. The existing and proposed square footage of impervious coverage on the property shall be shown on the grading plan (including separate areas for buildings, driveways, walkways, parking, tennis courts and pool decks);
    c. The limits of land to be disturbed during project development shall be delineated and a total area shall be shown on this plan. Areas disturbed by grading equipment beyond the limits of grading, areas disturbed for the installation of the septic system, and areas disturbed for the installation of the detention system shall be included within the area delineated;
    d. The limits to land to be disturbed during project development shall be delineated and a total area of disturbance should be shown on this plan. Areas disturbed by grading equipment beyond the limits of grading shall be included within the area delineated;
    e. If the property contains rare, endangered or special status species as identified in the Biological Assessment, this plan shall contain a prominent note identifying the areas to be protected (to be left undisturbed). Fencing of these areas shall be delineated on this plan is required by the City Biologist;
    f. The grading limits shall include the temporary cuts made for retaining walls, buttresses and over excavations for fill slopes; and
    g. Private storm drain systems shall be shown on this plan. Systems greater than 12 inch in diameter shall also have a plan and profile for the system included with this plan.

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

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80. The ocean between Latigo Point and the west City limits has been established by the State Water Resources Control Board as an Area of Special Biological Significance (ASBS) as part of the California Ocean Plan. This designation prohibits the discharge of any waste, including stormwater runoff, directly into the ASBS. The applicant shall provide a drainage system that accomplishes the following:
    a. Installation of BMPs that are designed to treat the potential pollutants in the stormwater runoff so that it does not alter the natural ocean water quality. These pollutants include trash, oil and grease, metals, bacteria, nutrients, pesticides, herbicides and sediment.
    b. Prohibits the discharge of trash.
    c. Only discharges from existing storm drain outfalls are allowed. No new outfalls will be allowed. Any proposed or new storm water discharged shall be routed to existing storm drain outfalls and shall not result in any new contribution of waste to the ASBS (i.e., no additional pollutant loading).
    d. Elimination of non-storm water discharges.

81. A Storm Water Management Plan (SWMP) shall be submitted for review and approval of the Public Works Director. The SWMP shall be prepared in accordance with the LIP Section 17.3.2 and all other applicable ordinances and regulations. The SWMP shall be supported by a hydrology and hydraulic study that identifies all areas contributory to the property and an analysis of the pre-development and post-development drainage of the site. The SWMP shall identify the site design and source control BMPs that have been implemented in the design of the project. The SWMP shall be reviewed and approved by the Public Works Department prior to the issuance of the grading or building permit for this project.

82. A Local Storm Water Pollution Prevention Plan (LSWPPP) shall be provided prior to issuance of grading/building permits. This plan shall include an Erosion and Sediment Control Plan (ESCP) that includes, but is not limited to:

Erosion Controls Scheduling	Erosion Controls Scheduling
	Preservation of Existing Vegetation
Sediment Controls	Silt Fence
	Sand Bag Barrier
	Stabilized Construction Entrance
Non-Storm Water Management	Water Conservation Practices
	Dewatering Operations
Waste Management	Material Delivery and Storage
	Stockpile Management
	Spill Prevention and Control
	Solid Waste Management
	Concrete Waste Management
	Sanitary/Septic Waste Management

All Best Management Practices (BMP) shall be in accordance with the latest version of the California Stormwater Quality Association BMP Handbook. Designated areas for the

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storage of construction materials, solid waste management, and portable toilets must not disrupt drainage patterns or subject the material to erosion by site runoff.

83. A Water Quality Mitigation Plan (WQMP) shall be submitted for review and approval of the Public Works Director. The WQMP shall be supported by a hydrology and hydraulic study that identifies all areas contributory to the property and an analysis of the predevelopment and post development drainage on the site. The QQMP shall meet all the requirements of the City's current Municipal Separate Stormwater Sewer System (MS4) permit. The following elements shall be included within the WQMP:
    a. Site Design Best Management Practices (BMPs):
    b. Source Control BMPs;
    c. Treatment Control BMPs that retain on-site Stormwater Quality Design Volume (SWQDv). Or where it is technically infeasible to retain on-site, the project must biofiltrate 1.5 times the SWQDv that is not retained on-site;
    d. Drainage improvements;
    e. A plan for the maintenance and monitoring of the proposed treatment BMPs for the expected life of the structure;
    f. Methods of onsite percolation, site re-vegetation and an analysis for off-site project impacts;
    g. Measures to treat and infiltrate runoff from impervious areas;
    h. A copy of the WQMP shall be filed against the property to provide constructive notice to future property owners of their obligation to maintain the water quality measure installed during construction prior to the issuance of grading or building permits; and
    i. The WQMP shall be submitted to the Public Works Department and the fee applicable at the time of submittal for review of the WQMP shall be paid prior to the start of the technical review. The WQMP shall be approved prior the Public Works Department's approval of the grading and drainage plan and/or building plans. The Public Works Department will tentatively approve the plan and will keep a copy until the completion of the project. Once the project is completed, the applicant shall verify the installation of the BMP's, make any revisions to the WQMP, and resubmit to the Public Works Department for approval. The original signed and notarized document shall be recorded with the Office of the Los Angeles County Recorder. A certified copy of the WQMP shall be submitted to the Public Works Department prior to the issuance of the certificate of occupancy.

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

Noise

85. Onsite noise, including that which emanates from swimming pool and air conditioning equipment, shall be limited as described in MMC Chapter 8.24 (Noise).

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Prior to Occupancy

86. Prior to, or at the time of a Planning final inspection, the property owner / applicant shall submit to the Planning Division the plumbing permit for the irrigation system installation signed off by the Building Safety Division.

87. Prior to the issuance of a Certificate of Occupancy, the City Biologist shall inspect the project site and determine that all Planning Division conditions to protect natural resources are in compliance with the approved plans.

88. Prior to a final Building inspection, the applicant shall provide a Recycling Summary Report (Summary Report) and obtain the approval from the Environmental Sustainability Division. Applicant must provide haul tickets and diversion information. The final Summary Report shall designate the specific materials that were land filled or recycled, and state the facilities where all materials were taken.

89. The applicant shall request a final Planning Division inspection prior to final inspection by the City of Malibu Building Safety Division. A Certificate of Occupancy shall not be issued until the Planning Division has determined that the project complies with this CDP. A temporary Certificate of Occupancy may be granted at the discretion of the Community Development Director, provided adequate security has been deposited with the City to ensure compliance should the final work not be completed in accordance with this permit.

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

Deed Restrictions

91. Prior to final Planning Division approval, the applicant shall be required to execute and record a deed restriction reflecting lighting requirements set forth in Condition Nos. 18 - 25. The property owner shall provide a copy of the recorded document to the Planning Division prior to final Planning Division approval.

92. The property owner is required to acknowledge, by recordation of a deed restriction, that the property is subject to wave action, erosion, flooding, landslides, or other hazards associated with development on a beach or bluff, and that the property owner assumes said risks and waives any future claims of damage or liability against the City of Malibu and agrees to indemnify the City of Malibu against any liability, claims, damages or expenses arising from any injury or damage due to such hazards. The property owner shall provide a copy of the recorded document to the Planning Division prior to final Planning Division approval.

93. The property owner is required to execute and record a deed restriction which shall indemnify and hold harmless the City, its officers, agents, and employees against any and all claims, demands, damages, costs and expenses of liability arising out of the acquisition, design, construction, operation, maintenance, existence or failure of the permitted project in an area where an extraordinary potential for damage or destruction from wildfire exists

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as an inherent risk to life and property. The property owner shall provide a copy of the recorded document to the Planning Division prior to final planning approval.

94. The property owner is required to acknowledge, by the recordation of a deed restriction, that new development on a bluff-top lot, or where demolition and rebuilding is proposed, where geologic or engineering evaluations conclude that the development can be sited and designed so as to not require a shoreline protection structure as part of the proposed development or at any time during the life of the development, the property owner shall be required to record a deed restriction against the property that ensures that no shoreline protection structure shall be proposed or constructed to protect the development approved and which expressly waives any future right to construct such devices that may exist pursuant to Public Resources Code Section 30235.

95. The property owner is required to acknowledge, by recordation of a deed restriction, that no more than one secondary residential unit is permitted to exist on the subject property. Said document shall include the definitions of a second unit and guest house as defined by the LIP Section 2.1, and shall be recorded with the Los Angeles County Recorder's Office. The applicant shall submit a copy of the recorded document to the Planning Division.

Fixed Conditions

96. This CDP shall run with the land and bind all future owners of the property.

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

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

PASSED, APPROVED AND ADOPTED this 17th day of February 2026.

_____
ELIZABETH RIDDICK, Planning Commission Chair

ATTEST:

_____
REBECCA EVANS, Recording Secretary

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LOCAL APPEAL - Pursuant to Local Coastal Program Local Implementation Plan (LIP) Section 13.20.1 (Local Appeals) a decision made by the Planning Commission may be appealed to the City Council by an aggrieved person by written statement setting forth the grounds for appeal. An appeal shall be filed with the City Clerk within 10 days and shall be accompanied by an appeal form and filing fee, as specified by the City Council. Appeal forms may be found online at www.malibucity.org, in person at City Hall, or by calling (310) 456-2489, ext. 246.

COASTAL COMMISSION APPEAL – An aggrieved person may appeal the Planning Commission's approval to the Coastal Commission within 10 working days of the issuance of the City's Notice of Final Action. Appeal forms may be found online at www.coastal.ca.gov or in person at the Coastal Commission South Central Coast District office located at 89 South California Street in Ventura, or by calling (805) 585-1800. Such an appeal must be filed with the Coastal Commission, not the City.

Any action challenging the final decision of the City made as a result of the public hearing on this application must be filed within the time limits set forth in Section 1.12.010 of the MMC and Code of Civil Procedure. Any person wishing to challenge the above action in Superior Court may be limited to raising only those issues they or someone else raised at the public hearing, or in written correspondence delivered to the City of Malibu at or prior to the public hearing.

I CERTIFY THAT THE FOREGOING RESOLUTION NO. 26-10 was passed and adopted by the Planning Commission of the City of Malibu at the Regular meeting held on the 17th day of February 2026 by the following vote:

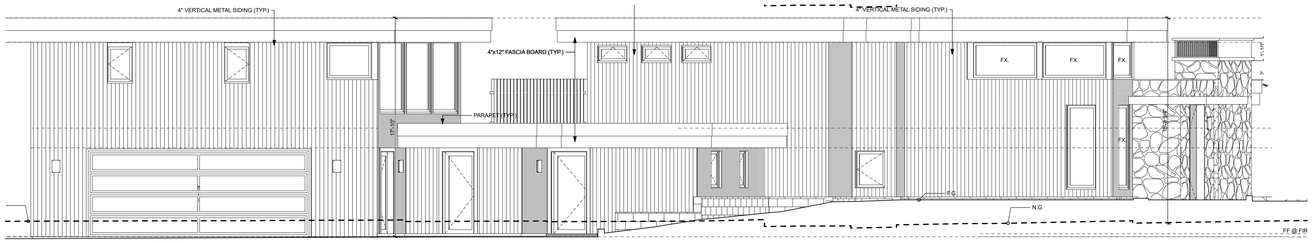
AYES:
NOES:
ABSTAIN:
ABSENT:

_____
REBECCA EVANS, Recording Secretary

DRAFT

BLUFFTOP 1, LLC

Received
Nov. 12, 2025
Planning Division



33008 PACIFIC COAST HWY, MALIBU, CA 90265

November, 12 2025

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SYMBOL LEGEND

NORTH ARROW
TRUE NORTH ARROW
INTERIOR ELEVATION FLAG
TYP. DOOR SCHEDULE SYMB.
TYP. WINDOW SCHEDULE SYMB.
ELEVATION DATUM
GRID LINE SYMB.
BUILDING ELEVATION/ SECTION
WALL SECTION
TYP. ELEVATION VIEW DETAIL CALL OUT
TYP. CUT DETAIL CALL OUT
WOOD FRAME
CONCRETE
CMU
STONE

ABBREVIATIONS

ADDITIONAL	ADD'L.	MANUFACTURE	MFR.
ADJUSTABLE	ADJ.	MANUFACTURER'S	MFR'S.
ABOVE FINISHED FLOOR	A.F.F.	MATERIAL	MATL.
ABOVE RAISED FLOOR	A.R.F.	MAXIMUM	MAX.
AIR CONDITIONING	A/C	MECHANICAL	MECH.
ALTERNATE	ALT.	METAL	MTL.
ARCHITECT (URAL)	ARCH.	MINIMUM	MIN.
AREA DRAIN	A.D.	MISCELLANEOUS	MISC.
BLOCKING	BLKG.	NORTH	N
BOARD	BD.	NOT IN CONTRACT	N.I.C.
BUILDING	BLDG.	NOT TO SCALE	N.T.S.
		NUMBER	NO. OR X
CABINET	CAB.		
CEILING	CLG.	ON CENTER	O.C.
CENTER	CTR.	OUTSIDE DIAMETER	O.D.
CENTER LINE	C.L.	OPENING	OPG.
CERAMIC TILE	C.T.		
CLEAR	CLR.	PAIR	PR.
CONCRETE	CONC.	PERFORATED(ED)	PERF.
CONCRETE MASONRY UNIT	C.M.U.	PIECE/PIECES	PC./PCS.
CONSTRUCTION	CONST.	PLANTER AREA	P.A.
CONTINUOUS	CONT.		
CONTROL JOINT	C.J.	QUANTITY	QTY.
DIAMETER	D.I.A.,	RADIUS	RAD.
DIMENSION	DIM.	REFERENCE	REF.
DOUBLE	DBL.	REFRIGERATOR	REFRIG.
DOUBLE HUNG	D.H.	REINFORCE/REINFORCING	REINF.
DOWN	DN.	REQUIRED	REQ.
DRAWING	DWG.	RETURN AIR	R.A.
		ROUGH OPENING	R.O.
ELECTRIC	ELECT.		
ELECTRIC PANEL	ELECT. PNL.	SHEET	SHT.
ELEVATOR	ELEV.	SIMILAR	SIM.
ENCLOSURE	ENCL.	SOUTH	S
ENGINEER	ENGR.	SMOKE DETECTOR	S.D.
EQUAL	EQ.	SPEAKER	SPKR.
EQUIPMENT	EQUIP.	SPECIFICATIONS	SPECS.
EXISTING	EXIST.	SPRINKLER HEAD	S.H.
EXTRUDE OR EXTRUSION	EXTR.	SQUARE	SQ.
		STAINLESS STEEL	S.S.
FABRICATE(ED)	FAB.	STANDARD	STD.
FINISH	FIN.	STEEL	STL
FIXTURE	FIXT.	STRUCTURAL	STRUCT.
FLOOR	FL.		
FLUORESCENT	FLUOR.	TELEPHONE	TEL.
FOOT	FT.	TELEVISION	TV
FRESH AIR INTAKE (OR INLET)	F.A.I.	TEMPORARY	TEMP.
FURNISH(ED)	FURN.	TONGUE AND GROOVE	T. & G.
FURRING	FUR.	TYPICAL	TYP.
GALVANIZED	GALV.	UNLESS OTHERWISE	U.O.N.
GAUGE	GA.	NOTED	
GROUND	GRND.		
GYPSUM BOARD	GYP. BD.	VERTICAL	VERT.
		VINYL COMPOSITION TILE	V.C.T.
HEIGHT	HT.		
HOLLOW METAL	H.M.	WITH	W/
HORIZONTAL	HORIZ.	WITHOUT	W/O
HOT WATER	H.W.	WOOD	WD.
INSIDE DIAMETER	I.D.		
JOINT	JT.		

PROJECT TEAM

ARCHITECT

BURDGE ARCHITECTS
24911 Pacific Coast Hwy
Malibu, CA 90265
T (310) 456-5905
BUAIA.com

EXPEDITOR/APPLICANT:

SCHMITZ & ASSOCIATES, Inc.
28230 Agoura Rd. Suite 200
Agoura Hills, CA 91301
Phone: (747) 444-6231

SURVEYOR:

PEARSON SURVEY
23371 Mulholland Dr. #330
Woodland Hills, CA 91364
Office: (818) 591-8709
Mobile: (818) 468-9714
Thomas McDermott, PLS

COASTAL ENGINEER:

GEOSOILS, INC
5741 Palmer Way
Carlsbad, CA 92010
T (760) 438-3155 | F(760) 931-0915
DAVE SKELLY, PE

GEOLOGIST:

LANDPHASES INC.
5158 Cochran Str.
Simi Valley, CA 93063
T (805) 522-5174 | C (805)657-0142
JAKE HOLT, PG, CEG, CHG

GEOTECHNICAL ENGINEER:

CALWEST GEOTECHNICAL
889 Pierce CT., Suite 101
Thousand Oaks, CA 91360
T (805) 497-1244 | F (818) 991-7148
ELI KATIBAH, PE

GEOLOGIC ENGINEER FOR PERCOLATION:

DONAL KOWALESKY
T (310) 457-2456 | C (310) 889-4625

OWTS ENGINEER:

ENSITU ENGINEERING INC.
7475 Carmelita Ave.
Atascadero, CA 93422
T (805) 772-0150 | C (805) 857-2570
JOHN YARCSLASKY, PE

CIVIL & STRUCTURAL ENGINEER:

TUSHSCER ENGINEERING GROUP, INC
1109 Garden St. Suite 202-204
San Luis Obispo, CA 93401
T (310) 613-9980 | C (310)
JAMES TUCHSCHER, PE

ARCHEOLOGIST:

MATTHEW A. BOXT Ph.D.
2043 S. Dunsmuir Avenue
Los Angeles, CA 90016
T (310) 739-4439

BIOLOGIST:

ELISABETH MOORMAN
T (805) 338-3236

LANDSCAPE:
BAREFOOT DESIGN
T (805) 697-7466 | C (805) 570-0927
JESSICA HARLIN, PLA

VICINITY MAP



SCOPE OF WORK

- PROPOSED NEW 4,856 SF, TWO-STORY, 18' HIGH, SINGLE-FAMILY RESIDENCE WITH ATTACHED 2 CARS GARAGE, ADU ABOVE GARAGE AND OUTDOOR DECKS
- NEW DRIVEWAY ACCESS WITH FIRE DEPARTMENT TURNAROUND AND ASSOCIATED GRADING AND SITE RETAINING WALLS
- NEW SEPTIC SYSTEM
- NEW LANDSCAPE AND OUTDOOR LIGHTING

DISCRETIONARY SUBMITTALS *:

- MINOR MOD FOR FRONT YARD SETBACK REDUCTION OF 39%

DEFERRED SUBMITTAL

Deferred submittal documents shall be submitted to the architect- or engineer-of-record, who shall review them and forward them to the building official with a notation that they have been reviewed and have been found to be in general conformance with the design of the building or structure. The deferred items shall not be installed until their design and submittal documents have been reviewed and approved by the building official.

DEFERRED SUBMITTAL ITEMS:
- TBD

APPLICABLE CODES

- 2022 County of Los Angeles Building Code
- 2022 County of Los Angeles Mechanical Code
- 2022 County of Los Angeles Plumbing Code
- 2022 County of Los Angeles Electrical Code
- 2022 California Energy Code
- 2022 California Residential Code
- 2022 Residential Building Energy Efficiency Standards

•ADDITIONAL APPLICABLE CODES:

Project shall comply with Title 24 and 2022 California Residential Code (CRC), California Mechanical Code (CMC), California Plumbing Code (CPC), California Electrical Code (CEC), and California Energy Code (CEnC) [§ R106.1.1 CRC]

PROJECT DATA

PROJECT INFORMATION:

•PROPERTY ADDRESS:	33008 PACIFIC COAST HIGHWAY,MALIBU,CA 90265
•A.P.N:	4473-017-009
•LEGAL DESCR.:	See Survey
•OWNER:	BLUFFTOP 1, LLC
•LCP ZONING:	RR2 (Residential Rural 2-Acres)
•APPEAL JURISDICTION:	YES
•ESHA AREA:	NO
•OCCUPANCY GROUP:	R-3/U
•TYPE OF CONSTRUCTION:	V-B
•NUMBER OF STORIES:	2
•FIRE ZONE:	VHFHSZ
•SPRINKLERED:	Yes (Sprinklered per LACo. Fire Dept. Requirements)
•SEWAGE:	OSWTS REQUIRED
•WIND LOAD:	Special wind Region (100mph)
•SYSMIC ZONE:	4

LOT DIMENSIONS:

- GROSS LOT AREA: **33,786** SF (0.88 Acres)
- NET LOT AREA: **28,637** SF (Gross minus1:1 Slope and Road Easement)

•LOT DEPTH: 235.9'
•LOT WIDTH: 142.4'

SETBACKS:

	REQUIRED	PROPOSED
FRONT	47.2'	28.7' *1
SIDE 10%	14.2'	14.2'
SIDE 15%	21.4'	37.5'
REAR	35.4'	144.6'

MAX. ALLOWABLE IMPERMEABLE COVERAGE

MAX. AMOUNT OF IMPERMEABLE COVERAGE:
LOT AREA 28,637 X 30% = 8,591 SF

PROPOSED IMPERMEABLE AREA:

BUILDING FOOTPRINT:	3,256 SF +
CONCRETE SLABS:	997 SF +
(E) ASPHALT:	78 SF =
TOTAL IMPERMEABLE AREA:	4,331 SF < 8,591 SF MAX ALLOWED

MAX. ALLOWABLE TOTAL DEVELOPMENT AREA

MAX. ALLOWED FLOOR AREA = **5,541** SF

PROPOSED TOTAL DEVELOPMENT AREA

FIRST FLOOR:	2,465 SF +
ATTACHED GARAGE:	791 SF +
SECOND FLOOR:	776 SF =
SUB TOTAL:	4,032 SF +
ADU ABOVE GARAGE:	824 SF =
GRAN TOTAL:	**4,856** SF

PROPOSED TDSF: 4,856 SF < 5,541 SF MAX ALLOWED

BULK AREA TABULATION: (2/3'S RULE)

AREA BELOW 18' = 3,256 SF

MAXIMUM ALLOWED OVER 18' = (3,256 x .667) = 2,170 SF

AREA OVER 18' = 0 SF < 2,170 SF

BUILDING HEIGHT:
Allowed max: 18'
Proposed max: 18'

PARKING:
Required: 2 Enclosed, 3 Unenclosed
Proposed: 2 Enclosed, 3 unenclosed

FENCE:
Allowed: 6' max, Front yard top 30" view permeable
Proposed: per code

RET WALLS:
Allowed: 6' max-height
Proposed: none

SHEET INDEX - ADD'L

APPROVAL STAMPS

BLUFFTOP 1, LLC

33008 PACIFIC COAST HIGHWAY
MALIBU, CA 90265

LICENSED ARCHITECT
DOUGLAS W. BURDGE
C-16899
RENEWAL 11/30/2025
STATE OF CALIFORNIA

THE DRAWINGS AND SPECIFICATIONS ARE THE PROPERTY AND COPYRIGHT OF THE ARCHITECT AND SHALL NOT BE USED ON ANY OTHER WORK EXCEPT BY WRITTEN AGREEMENT WITH THE ARCHITECT.

WRITTEN DIMENSIONS SHALL BE VERIFIED ON THE JOB SITE. DISCREPANCIES SHALL BE BROUGHT TO THE ATTENTION OF THE ARCHITECT PRIOR TO THE COMMENCEMENT OF ANY WORK.

MARK	DATE	DESCRIPTION

BURDGE ARCHITECTS

24911 PACIFIC COAST HWY.
MALIBU, CA 90265
TEL. 310-456-5905

SHEET TITLE

COVERSHEET / PROJECT INDEX

DRAWING NO.
T-1.1

PROJECT NO:	Project No. 1575-6
PROJECT	BLUFFTOP 1, LLC
DATE	Plot Date: 11/12/25
SCALE	
DRAWN BY	D.W.B.,

ATTACHMENT 2

K:\Users\Users\Documents\Burdge Files Work\Current Projects\2024\01 - BLUFFTOP 1 LLC - 33008 PCH\DWG\BLUFFTOP v21 2025-11-05.pln

G-2.1 SURVEY

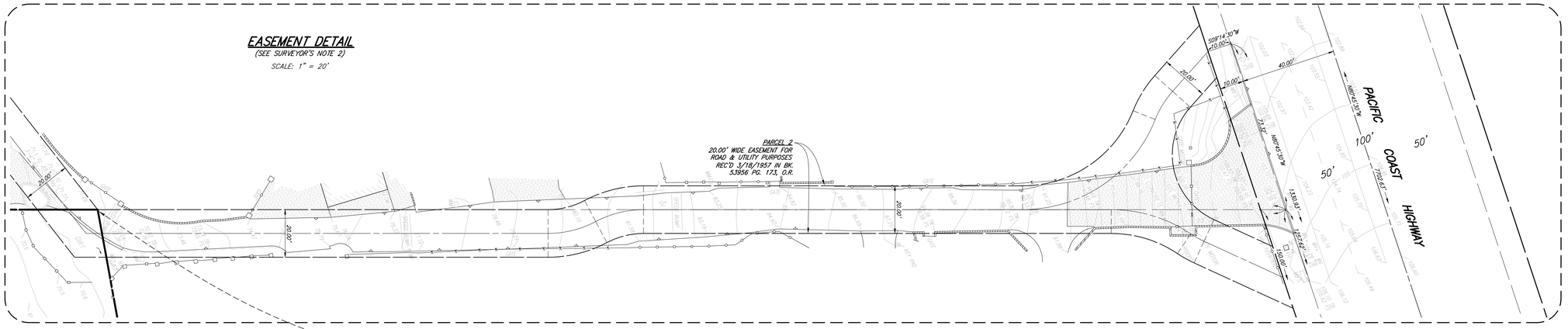
BOUNDARY AND TOPOGRAPHIC SURVEY

33008 PACIFIC COAST HIGHWAY

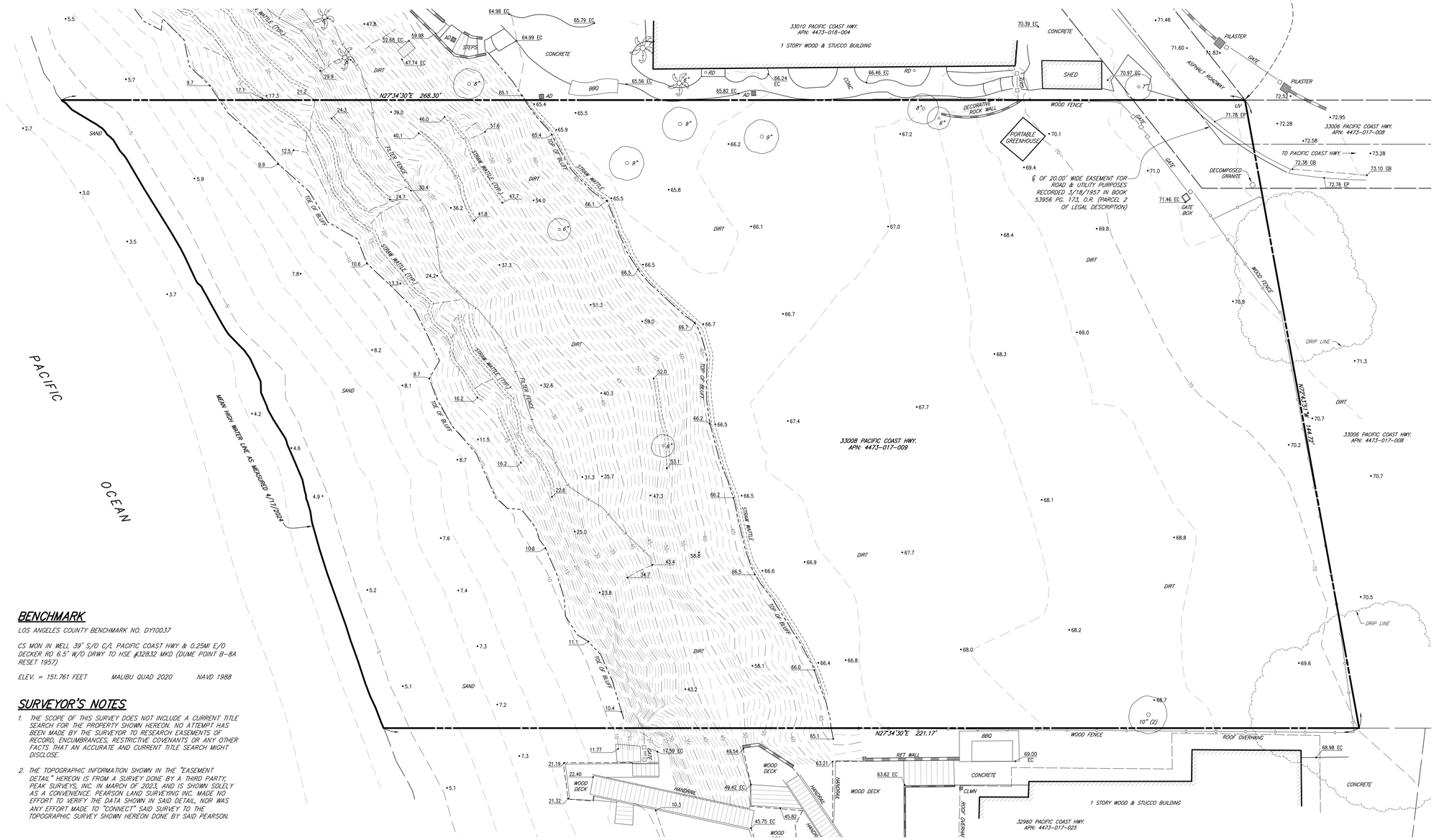
CLIENT: RON JENNY
33010 PACIFIC COAST HWY.
MALIBU, CA 90265

SITE ADDRESS: 33008 PACIFIC COAST HWY.
MALIBU, CA 90265

ASSESSOR'S PARCEL NO: 4473-017-009



IDENTICAL



BENCHMARK

LOS ANGELES COUNTY BENCHMARK NO. DY10037

CS MON IN WELL 39' S/O C/L PACIFIC COAST HWY & 0.25MI E/O DECKER RD 6.5' W/O DRWY TO HSE #32832 MKD (DUME POINT B--BA RESET 1957)

ELEV. = 151.761 FEET MALIBU QUAD 2020 NAVD 1988

SURVEYOR'S NOTES

1. THE SCOPE OF THIS SURVEY DOES NOT INCLUDE A CURRENT TITLE SEARCH FOR THE PROPERTY SHOWN HEREON. NO ATTEMPT HAS BEEN MADE BY THE SURVEYOR TO RESEARCH EASEMENTS OF RECORD, ENCUMBRANCES, RESTRICTIVE COVENANTS OR ANY OTHER FACTS THAT AN ACCURATE AND CURRENT TITLE SEARCH MIGHT DISCLOSE.

2. THE TOPOGRAPHIC INFORMATION SHOWN IN THE "EASEMENT DETAIL" HEREON IS FROM A SURVEY DONE BY A THIRD PARTY, PEAK SURVEYS, INC. IN MARCH OF 2023, AND IS SHOWN SOLELY AS A CONVENIENCE. PEARSON LAND SURVEYING INC. MADE NO EFFORT TO VERIFY THE DATA SHOWN IN SAID DETAIL, NOR WAS ANY EFFORT MADE TO "CONNECT" SAID SURVEY TO THE TOPOGRAPHIC SURVEY SHOWN HEREON DONE BY SAID PEARSON.

LEGEND

P.W.F.B.	COUNTY OF LOS ANGELES PUBLIC WORKS FIELD BOOK
C.E.F.B.	CITY OF LOS ANGELES ENGINEERS FIELD BOOK
O/S	OFFSET
P/L	PROPERTY LINE
C/L, ℄	CENTERLINE
R/W	RIGHT-OF-WAY
S. & W.	SPIKE & WASHER
I.P.	IRON PIPE
C.N.	CONCRETE NAIL
MAC N.	MAC NAIL
R/R SPK.	RAILROAD SPIKE
P.M.	PUNCH MARK
L. & TAG	LEAD & TAG
L. & TK.	LEAD & TK.
T.C., TC	TOP OF CURB
PROD.	PROLONGATION OF LINE
P.R.C.	POINT OF REVERSE CURVE
AD	AREA DRAIN
RD	ROOF DRAIN
GB	GRADE BREAK
RD	ROOF DRAIN
S.M.H.	SEWER MANHOLE
P.I.	POINT OF INTERSECTION
B.C.	BEGINNING OF CURVE
E.C.	END OF CURVE
CB	CATCH BASIN
MH	MANHOLE (SEWER, STORM DRAIN, POWER, TELEPHONE)
PP	POWER POLE
DS	DOWNSPOUT
GM/MM	GAS/WATER METER
GV/WV	GAS/WATER VALVE
PL	PLANTER
GP	GUARD POST
APPR.	DRIVEWAY APPROACH
WI	WROUGHT IRON (FENCE)
CHLK	CHAIN LINK (FENCE)
FL	FLOW LINE
TW	TOP OF WALL
TX	TOP OF X
BX	BOTTOM OF X
CD	CURB DRAIN
ST.T	STREET LIGHT
SLHB	STREET LIGHT PULL BOX
S'LY, E'LY, ETC.	SOUTHERLY, EASTERLY, ETC.
S/F, E/F, ETC.	SOUTH FACE, EAST FACE, ETC., OF IMPROVEMENT
( )	RECORD DATA PER UNDERLYING MAP
[ ]	RECORD DATA PER C.E.F.B.
	BUILDING FOOT PRINT LINE
	OVERHANG LINE
	EDGE OF ASPHALT
	OVERHEAD UTILITY LINE
	UNDERGROUND LINE W/SIZE OF LINE
	WALL
	YARD LIGHT
	DOOR
	TREE WITH TRUNK DIAMETER
	DIRECTION OF WATER DRAINAGE FLOW

LEGAL DESCRIPTION

PARCEL 1:

THAT PORTION OF THE RANCHO TOPANGA MALIBU SEQUIT, IN THE CITY OF MALIBU, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS CONFIRMED TO MATTHEW KELLER BY PATENT RECORDED IN BOOK 1, PAGE 407, ET SEQ, OF PATENTS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE SOUTHERLY LINE OF THE 80 FOOT STRIP OF LAND DESCRIBED IN THE DEED FROM T. R. CADWALADER, TRUSTEE, TO THE STATE OF CALIFORNIA, RECORDED IN BOOK 15228 PAGE 342, OF OFFICIAL RECORDS OF SAID COUNTY, DISTANT THEREON NORTH 80° 45' 30" WEST 1107.62 FEET FROM A POINT BEARING SOUTH 9° 14' 30" WEST 40 FEET FROM ENGINEER'S CENTER LINE STATION 269 PLUS 88.44 AT THE EASTERLY EXTREMITY OF THAT CERTAIN COURSE IN THE CENTER LINE OF SAID 80 FOOT STRIP OF LAND DESCRIBED IN SAID DEED AS SOUTH 80° 45' 30" EAST 7702.63 FEET; THENCE NORTH 80° 45' 30" WEST 150.00 FEET; THENCE SOUTH 27° 34' 30" WEST TO THE ORDINARY HIGH TIDE OF THE PACIFIC OCEAN; THENCE EASTERLY ALONG SAID TIDE LINE TO A LINE BEARING SOUTH 27° 34' 30" WEST FROM THE POINT OF BEGINNING; THENCE NORTH 27° 34' 30" EAST TO THE POINT OF BEGINNING.

EXCEPT THAT PORTION OF SAID LAND LYING NORTH OF A LINE BEARING NORTH 72° 43' 51" WEST 144.71 FEET FROM A POINT IN THE SOUTHEAST LINE OF SAID LAND DISTANT THEREON SOUTH 27° 34' 30" WEST 520.53 FEET FROM THE NORTHEAST CORNER OF SAID LAND TO A POINT IN THE NORTHWEST LINE OF SAID LAND DISTANT THEREON SOUTH 27° 34' 30" WEST 499.24 FEET FROM THE NORTHWEST CORNER OF SAID LAND.

EXCEPT THEREFROM ALL MINERALS, OIL, PETROLEUM, ASPHALTUM, GAS, COAL AND OTHER HYDROCARBON SUBSTANCES CONTAINED IN, ON, WITHIN AND UNDER SAID LAND, BUT WITHOUT THE RIGHT OF ENTRY, AS RESERVED IN THE DEED FROM MARBLEHEAD LAND COMPANY, A CORPORATION RECORDED ON NOVEMBER 13, 1942 IN BOOK 19637 PAGE 347, OF OFFICIAL RECORDS OF SAID COUNTY.

PARCEL 2:

AN EASEMENT FOR ROAD AND UTILITY PURPOSES, TO BE USED IN COMMON WITH OTHERS, OVER THAT PORTION OF RANCHO TOPANGA MALIBU SEQUIT, IN THE COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS CONFIRMED TO MATTHEW KELLER BY PATENT RECORDED IN BOOK 1 PAGE 407, ET SEQ, OF PATENTS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, INCLUDED IN THAT CERTAIN BASEMENT DEED, EXECUTED BY EDWARD C. CAZIER ET AL., RECORDED MARCH 18, 1957 AS INSTRUMENT NO. 4281, IN BOOK 53956 PAGE 173, OF OFFICIAL RECORDS.

PROFESSIONAL LAND SURVEYOR
THOMAS P. McDERMOTT
No. 8555
STATE OF CALIFORNIA

10' 5' 0' 10' 20'
SCALE: 1" = 10'

SIGNED _____ DATE: 8/5/2024

PEARSON LAND SURVEYING, INC.
Thomas McDermott, PLS 8555
23371 Mulholland Dr. #330
Woodland Hills, CA 91364
Phone: (818) 468-9714
info@pearsonlandsurveying.com

DRAWN BY: BT	JOB NO.: 24JEN0201	DATE: 4/17/2024
CHECKED BY: TPM	SCALE: 1" = 10'	SHEET 1 OF 1

D:\JOBS\JENSON_18-4414\DWG\PLS\24JEN0201_PL_TOPO01.dwg 10/7/2024 8:34 AM

G-2.2 SLOPE ANALYSIS SURVEY

SLOPE ANALYSIS MAP

33008 PACIFIC COAST HIGHWAY

CLIENT: RON JENNY
33010 PACIFIC COAST HWY.
MALIBU, CA 90265

SITE ADDRESS: 33008 PACIFIC COAST HWY.
MALIBU, CA 90265

ASSESSOR'S PARCEL NO: 4473-017-009

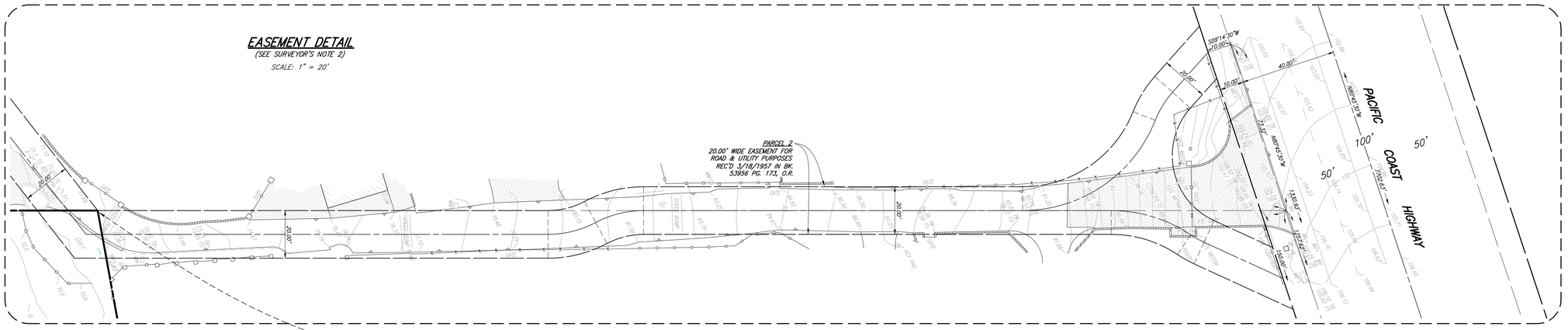
LEGEND

P.W.F.B.	COUNTY OF LOS ANGELES PUBLIC WORKS FIELD BOOK
O/S	OFFSET
P/L	PROPERTY LINE
C/L, ℄	CENTERLINE
R/W	RIGHT-OF-WAY
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APPR.	DRIVEWAY APPROACH
WI	WROUGHT IRON (FENCE)
CHLK	CHAIN LINK (FENCE)
FL	FLOW LINE
TW	TOP OF WALL
TX	TOP OF X
BX	BOTTOM OF X
CD	CURB DRAIN
ST.LT	STREET LIGHT
SLPB	STREET LIGHT PULL BOX
S3,Y, E3,Y, ETC.	SOUTHERLY, EASTERLY, ETC.
S/F, E/F, ETC.	SOUTH FACE, EAST FACE, ETC., OF IMPROVEMENT.
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	EDGE OF ASPHALT
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	DOOR
	TREE WITH TRUNK DIAMETER
	DIRECTION OF WATER DRAINAGE FLOW

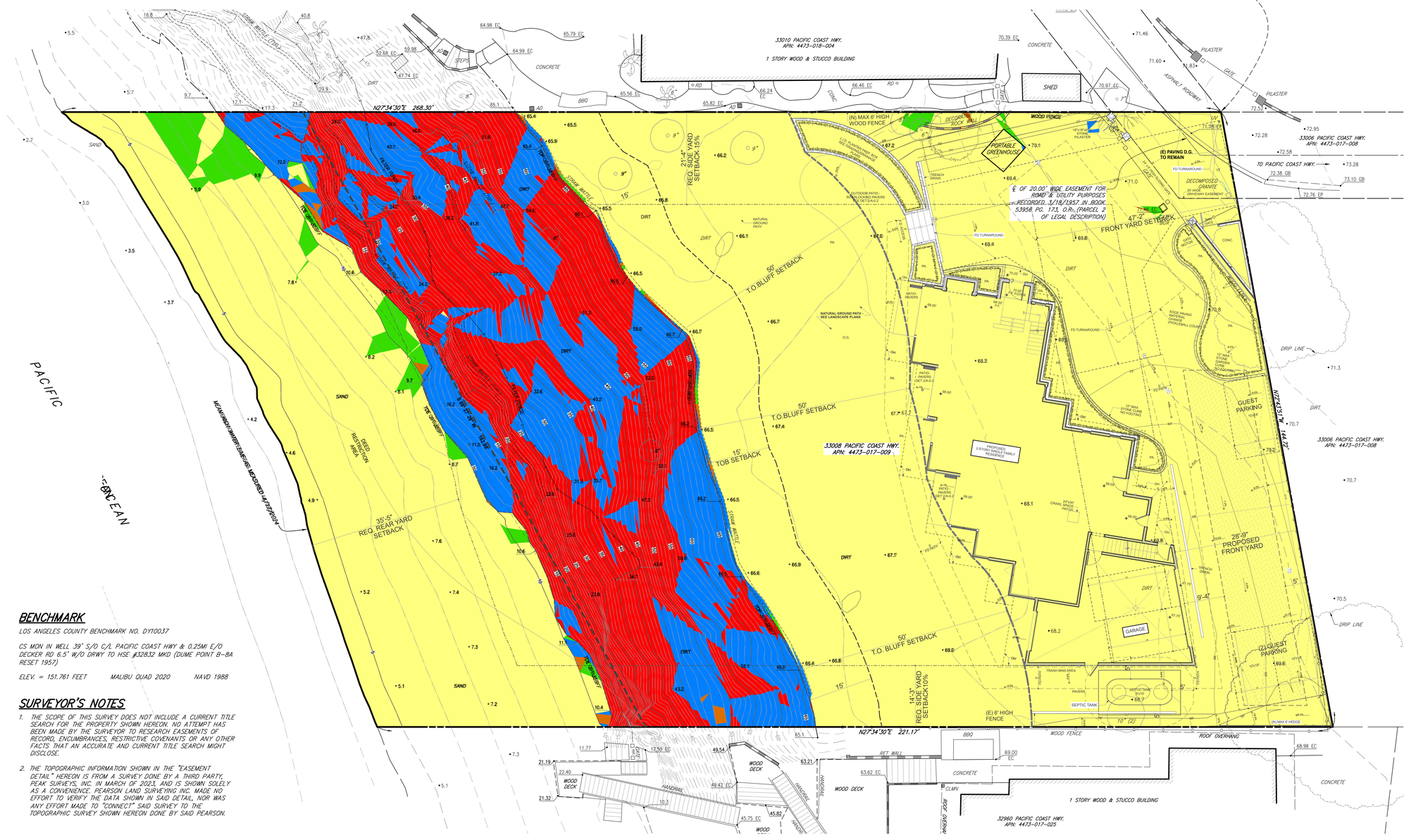
EASEMENT DETAIL

(SEE SURVEYOR'S NOTE 2)

SCALE: 1" = 20'



IDENTICAL



BENCHMARK

LOS ANGELES COUNTY BENCHMARK NO. DY10037

CS MON IN WELL 39' S/O C/L PACIFIC COAST HWY & 0.25MI E/O DECKER RD 6.5' W/O DRWY TO HSE #32832 MKD (DUME POINT B-8A RESET 1957)

ELEV. = 151.761 FEET MALIBU QUAD 2020 NAVD 1988

SURVEYOR'S NOTES

1. THE SCOPE OF THIS SURVEY DOES NOT INCLUDE A CURRENT TITLE SEARCH FOR THE PROPERTY SHOWN HEREON. NO ATTEMPT HAS BEEN MADE BY THE SURVEYOR TO RESEARCH EASEMENTS OF RECORD, ENCUMBRANCES, RESTRICTIVE COVENANTS OR ANY OTHER FACTS THAT AN ACCURATE AND CURRENT TITLE SEARCH MIGHT DISCLOSE.

2. THE TOPOGRAPHIC INFORMATION SHOWN IN THE "EASEMENT DETAIL" HEREON IS FROM A SURVEY DONE BY A THIRD PARTY, PEAK SURVEYS, INC. IN MARCH OF 2023, AND IS SHOWN SOLELY AS A CONVENIENCE. PEARSON LAND SURVEYING INC. MADE NO EFFORT TO VERIFY THE DATA SHOWN IN SAID DETAIL, NOR WAS ANY EFFORT MADE TO "CONNECT" SAID SURVEY TO THE TOPOGRAPHIC SURVEY SHOWN HEREON DONE BY SAID PEARSON.

SLOPE ANALYSIS LEGEND AND AREAS

SLOPE CATEGORY	AREA	% OF TOTAL
4:1 AND LESS	25,134 SQ. FT.	74.4%
4:1 TO 3:1	494 SQ. FT.	1.4%
3:1 TO 2.5:1	57 SQ. FT.	0.2%
2.5:1 TO 1:1	3,340 SQ. FT.	9.9%
1:1 AND GREATER	4,761 SQ. FT.	14.1%
	33,786 SQ. FT.	

PROFESSIONAL LAND SURVEYOR THOMAS P. MCDERMOTT No. 8555 STATE OF CALIFORNIA

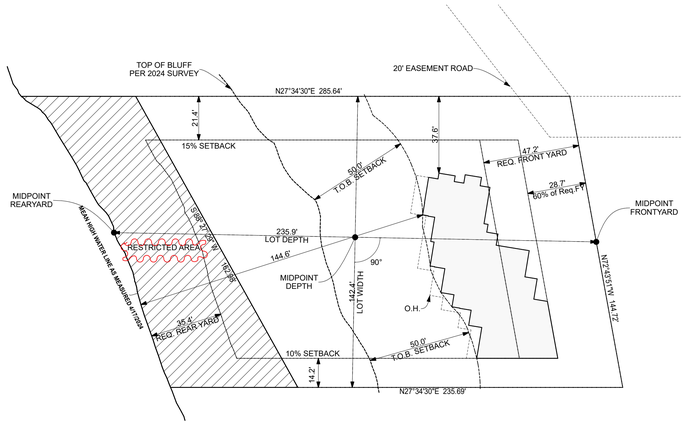
SCALE: 1" = 10'

SIGNED _____ DATE: 8/5/2024

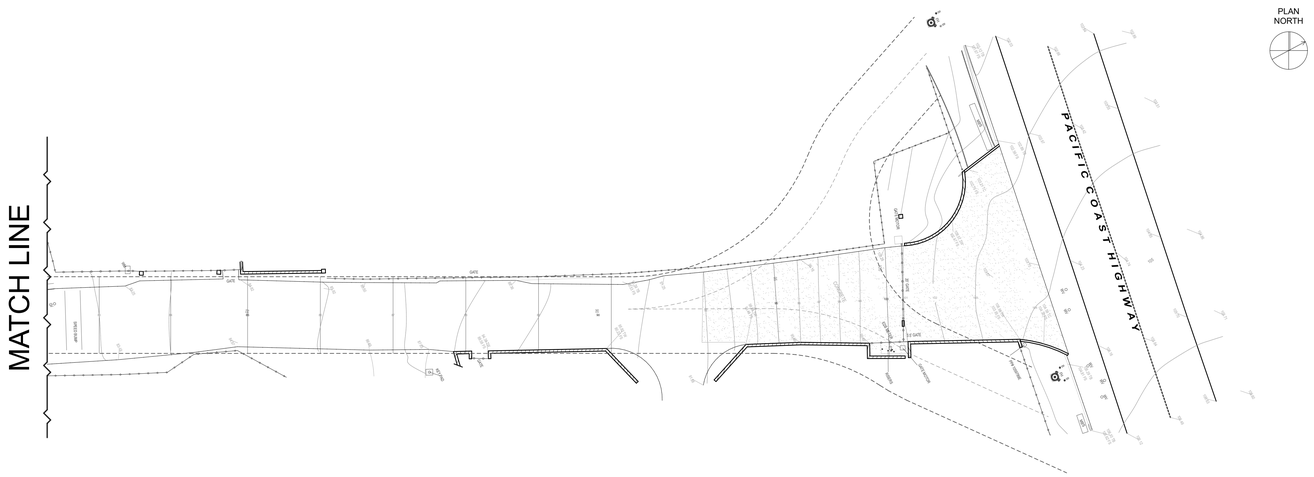
PEARSON LAND SURVEYING, INC.
Thomas McDermott, PLS 8555
23371 Mulholland Dr. #330
Woodland Hills, CA 91364
Phone: (818) 468-9714
info@pearsonlandsurveying.com

DRAWN BY: BT	JOB NO.: 24JEN0201	DATE: 4/17/2024
CHECKED BY: TPM	SCALE: 1" = 10'	SHEET 1 OF 1

D:\JOBS\24JEN0201_33-4018 SMCV\24JEN0201_PA_SLOPE01.dwg 10/7/2024 8:34 AM



SETBACK - HOUSE
SCALE: 1" = 30' 2





SITE PLAN
SCALE: 1/16" = 1'-0" 1

TYP FENCE ELEVATION
SCALE: 1/2" = 1'-0" 3

NOTES:

1

BLUFFTOP 1, LLC

33008 PACIFIC COAST HIGHWAY
MALIBU, CA 90265

LICENSED ARCHITECT
DOUGLAS W. BURDGE
C-16899
RENEWAL 11/30/2025
STATE OF CALIFORNIA

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WRITTEN DIMENSIONS SHALL BE VERIFIED ON THE JOB SITE. DISCREPANCIES SHALL BE BROUGHT TO THE ATTENTION OF THE ARCHITECT PRIOR TO THE COMMENCEMENT OF ANY WORK.

MARK	DATE	DESCRIPTION

BURDGE ARCHITECTS
24911 PACIFIC COAST HWY.
MALIBU, CA 90265
TEL. 310-456-5905

SHEET TITLE

SITE PLAN - SETBACKS

DRAWING NO.
A-0.1

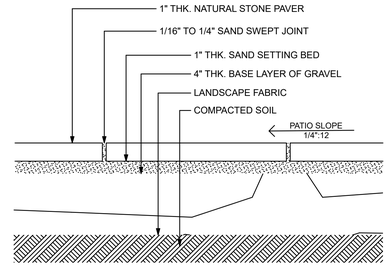
PROJECT NO:	Project No. 1575-6
PROJECT	BLUFFTOP 1, LLC
DATE	Plot Date: 11/12/25
SCALE	
DRAWN BY	D.W.B.,



SITE PLAN
SCALE: 1/8" = 1'-0" (1)

NOTES:

1) NO STRUCTURAL FOUNDATIONS, FOOTING, TO BE PLACED WITHIN THE 50' TOP OF BLUFF SETBACK ZONE. HOUSE PATIOS, FINISH MATERIAL TO BE PERVIOUS PAVERS SET ON GROUND, NO FOOTING, SEE DETAIL 2/A-0.2 FOR HARDSCAPE PLEASE SEE L1.00 AND L1.01



DRY-LAID FLAGSTONE PATIO DETAIL
SCALE: 3" = 1'-0" (2)

BLUFFTOP 1, LLC

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MALIBU, CA 90265

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C-16899
RENEWAL 11/30/2025
STATE OF CALIFORNIA

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MALIBU, CA 90265
TEL. 310-456-5905

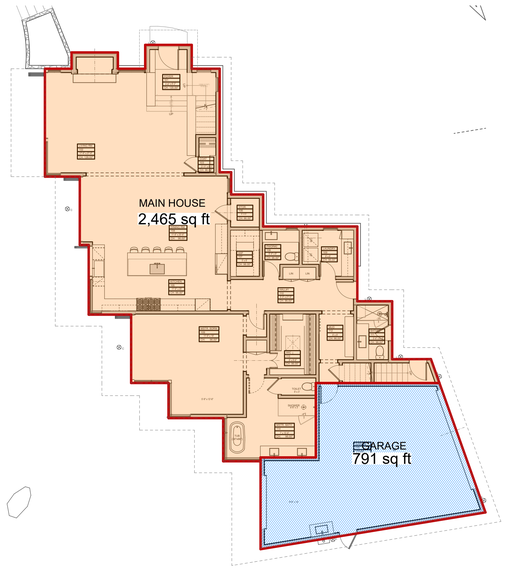
SHEET TITLE

PARTIAL SITE PLAN

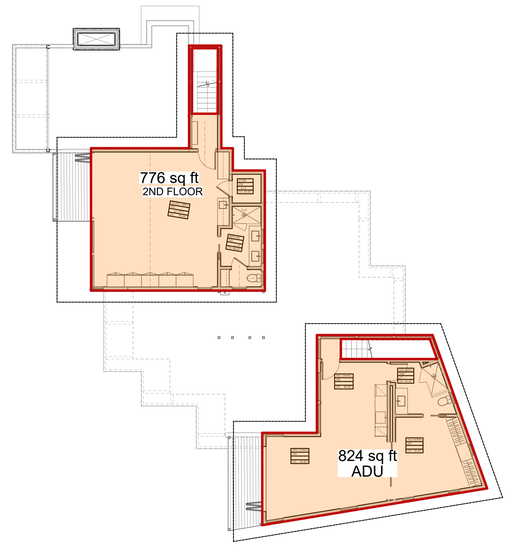
DRAWING NO.
A-0.2

PROJECT NO:	Project No. 1575-6
PROJECT	BLUFFTOP 1, LLC
DATE	Plot Date: 11/12/25
SCALE	
DRAWN BY	D.W.B.,

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AREA - FIRST FLOOR
SCALE: 3/32" = 1'-0" 1



AREA - SECOND FLOOR
SCALE: 3/32" = 1'-0" 2

HABITABLE AREA

GARAGE

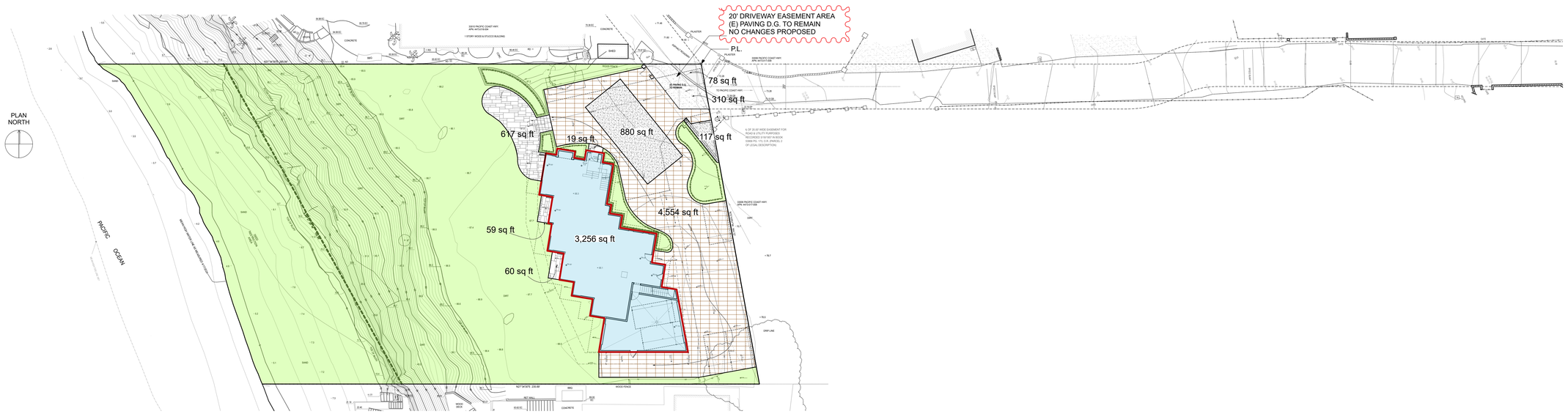
MAX. ALLOWABLE TOTAL DEVELOPMENT AREA

MAX. ALLOWED FLOOR AREA = 5,541 SF

PROPOSED TOTAL DEVELOPMENT AREA

FIRST FLOOR:	2,465 SF +
ATTACHED GARAGE:	791 SF +
SECOND FLOOR:	776 SF =
SUB TOTAL:	4,032 SF +
ADU ABOVE GARAGE:	824 SF =
GRAN TOTAL:	**4,856** SF

PROPOSED TDSF: 4,856 SF < 5,541 SF MAX ALLOWED



IMPERMEABLE COVERAGE LEGEND:

- BUILDING FOOTPRINT 3,256 SF
- CONCRETE SLABS 997 SF
- (E) ASPHALT PAVINGS 78 SF

PERMEABLE AREAS:

- INTERLOCKING PAVERS 4,554 SF
- MISC PERVIOUS PAVERS 736 S.F.
- (E) DECOMPOSITE GRANITE 310 SF
- LANDSCAPE

MAX. ALLOWABLE IMPERMEABLE COVERAGE

MAX. AMOUNT OF IMPERMEABLE COVERAGE:
LOT AREA 28,637 X 30% = 8,591 SF

PROPOSED IMPERMEABLE AREA:

BUILDING FOOTPRINT:	3,256 SF +
CONCRETE SLABS:	997 SF +
(E) ASPHALT:	78 SF =
TOTAL IMPERMEABLE AREA:	4,331 SF <8,591 SF MAX ALLOWED

IMPERMEABLE COVERAGE
SCALE: 1" = 20' 3

BLUFFTOP 1, LLC

33008 PACIFIC COAST HIGHWAY
MALIBU, CA 90265

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STATE OF CALIFORNIA

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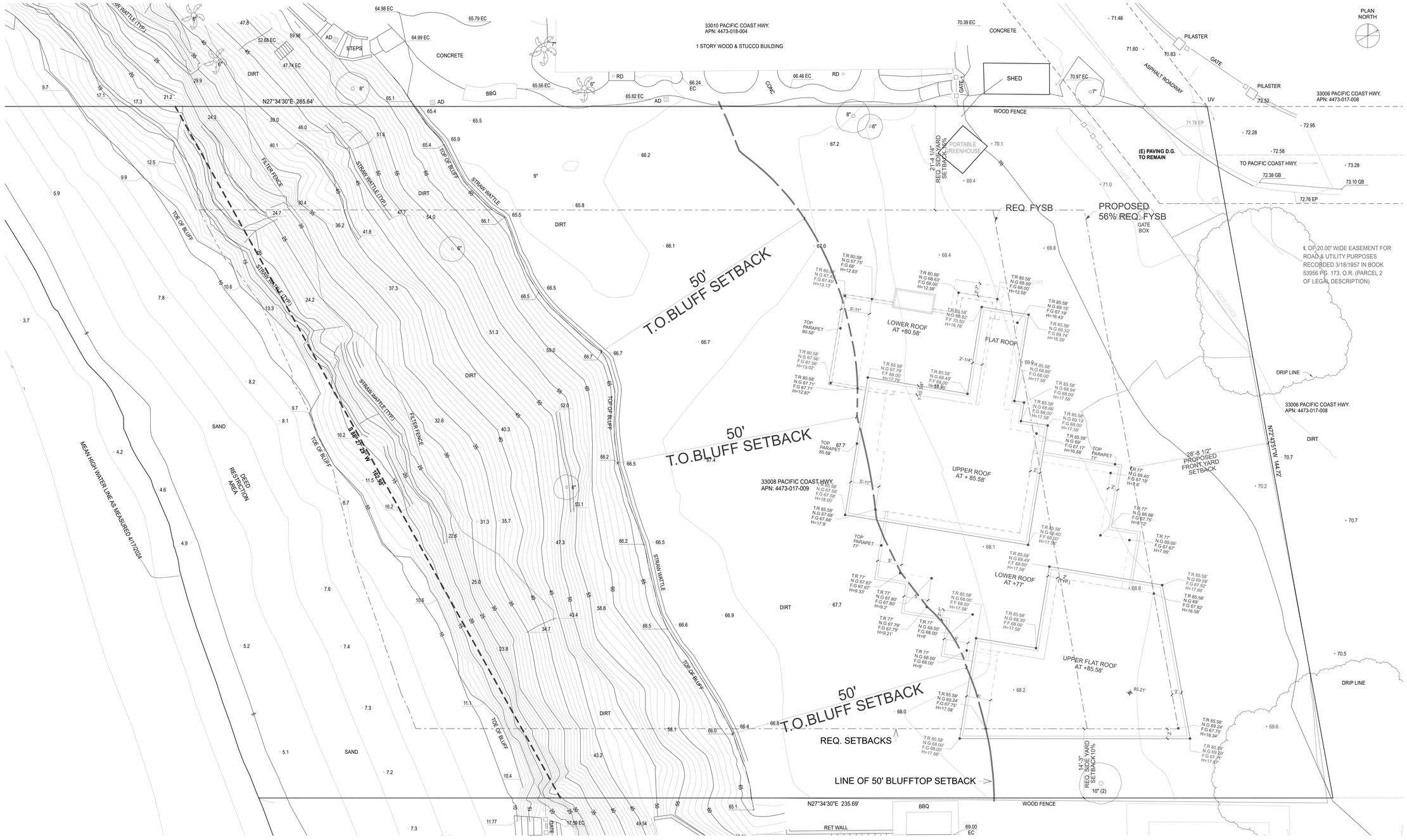
BURDGE ARCHITECTS
24911 PACIFIC COAST HWY.
MALIBU, CA 90265
TEL. 310-456-5905

SHEET TITLE

AREA TABULATION

DRAWING NO.
A-0.3

PROJECT NO:	Project No. 1575-6
PROJECT	BLUFFTOP 1, LLC
DATE	Plot Date: 11/12/25
SCALE	
DRAWN BY	D.W.B.,



NOTES:

LEGEND

T.R.= TOP OF ROOF
N.G.= NATURAL GRADE
F.G.= FINISH GRADE
H= HEIGHT OF BUILDING

BLUFFTOP 1, LLC

33008 PACIFIC COAST HIGHWAY
MALIBU, CA 90265

LICENSED ARCHITECT
DOUGLAS W. BURDGE
C-16899
RENEWAL 11/30/2025
STATE OF CALIFORNIA

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MARK	DATE	DESCRIPTION

BURDGE ARCHITECTS
24911 PACIFIC COAST HWY.
MALIBU, CA 90265
TEL. 310-456-5905

SHEET TITLE

OVERLAY SURVEY TO ROOF PLAN

DRAWING NO.
A-0.4

PROJECT NO:	Project No. 1575-6
PROJECT	BLUFFTOP 1, LLC
DATE	Plot Date: 11/12/25
SCALE	
DRAWN BY	D.W.B.,

FIRE DEPARTMENT NOTES

1) PROVIDE A MINIMUM UNOBSTRUCTED WIDTH OF 20 FEET, EXCEPT FOR APPROVED SECURITY GATES IN ACCORDANCE WITH SECTION 503.6 AND AN UNOBSTRUCTED VERTICAL CLEARANCE "CLEAR TO SKY" FIRE DEPARTMENT VEHICULAR ACCESS TO WITHIN 150 FEET OF ALL PORTIONS OF THE EXTERIOR BUILDING WALLS. FIRE CODE 503.2.1

2) AN APPROVED KEY BOX, LISTED IN ACCORDANCE WITH UL 1037 SHALL BE PROVIDED AS REQUIRED BY FIRE CODE 506. THE LOCATION OF EACH KEY BOX SHALL BE DETERMINED BY THE FIRE INSPECTOR.

3) PROVIDE APPROVED SIGNS OR OTHER APPROVED NOTICES OR MARKINGS THAT INCLUDE THE WORDS NO PARKING - FIRE LANE. SIGNS SHALL HAVE A MINIMUM DIMENSION OF 12 INCHES WIDE BY 18 INCHES HIGH AND HAVE RED LETTERS ON A WHITE REFLECTIVE BACKGROUND. SIGNS SHALL BE PROVIDED FOR FIRE APPARATUS ACCESS ROADS, TO CLEARLY INDICATE THE ENTRANCE TO SUCH ROAD, OR PROHIBIT THE OBSTRUCTION THEROF AND AT INTERVALS, AS REQUIRED BY THE FIRE INSPECTOR. FIRE CODE 503.3.

4) ALL FIRE HYDRANTS SHALL MEASURE 6" X 4" X 2-1/2", BRASS OR BRONZE, CONFORMING TO AMERICAN WATER WORKS ASSOCIATION STANDARD C503, OR APPROVED EQUAL, AND SHALL BE INSTALLED IN ACCORDANCE WITH THE COUNTY OF LOS ANGELES FIRE DEPARTMENT REGULATION 8.

5) FIRE DEPARTMENT VEHICULAR ACCESS ROADS MUST BE INSTALLED AND MAINTAINED IN A SERVICEABLE MANNER PRIOR TO AND DURING THE TIME OF CONSTRUCTION. FIRE CODE 501.4

6) WHEN SECURITY GATES ARE PROVIDED, MAINTAIN A MINIMUM ACCESS OF 20 FEET. THE SECURITY GATE SHALL PROVIDE AN APPROVED MEANS OF EMERGENCY OPERATION AND SHALL BE MAINTAINED OPERATIONAL AT ALL TIMES AND REPLACED OR REPAIRED WHEN DEFECTIVE. ELECTRIC GATE OPERATORS, WHERE PROVIDED, SHALL BE LISTED IN ACCORDANCE WITH UL 325. GATES INTENDED FOR AUTOMATIC OPERATION SHALL BE DESIGNED, CONSTRUCTED, AND INSTALLED TO COMPLY WITH THE REQUIREMENTS OF ASTM F2200. GATES SHALL BE OF THE SWINGING OR SLIDING TYPE. CONSTRUCTION OF GATES SHALL BE OF MATERIALS THAT ALLOW MANUAL OPERATION BY ONE PERSON. FIRE CODE 503.6.

7) APPROVED BUILDING ADDRESS NUMBERS, BUILDING NUMBERS OR APPROVED BUILDING IDENTIFICATION SHALL BE PROVIDED AND MAINTAINED SO AS TO BE PLAINLY VISIBLE AND LEGIBLE FROM THE STREET FRONTING THE PROPERTY. THE NUMBERS SHALL CONTRAST WITH THEIR BACKGROUND, BE ARABIC NUMERALS OR ALPHABET LETTERS, AND BE A MINIMUM OF 4 INCHES HIGH WITH A MINIMUM STROKE WIDTH OF 0.5 INCHES. FIRE CODE 505.1

8) CLEARANCE OF BRUSH AND VEGETATIVE GROWTH SHALL BE MAINTAINED PER FIRE CODE 325

9) DEAD-END FIRE APPARATUS ACCESS ROADS IN EXCESS OF 150 FEET IN LENGTH SHALL BE PROVIDED WITH AN APPROVED FIRE DEPARTMENT TURNAROUND. FIRE CODE 503.2.5

10) FIRE DEPARTMENT VEHICULAR ACCESS ROADS SHALL BE PROVIDED WITH A 32-FOOT CENTERLINE TURNING RADIUS. FIRE CODE 503.2.4

11) THE GRADIENT OF FIRE DEPARTMENT VEHICLE ACCESS ROADS SHALL NOT EXCEED 15% UNLESS APPROVED BY THE FIRE CODE OFFICIAL. FIRE CODE 503.2.7

12) A MINIMUM 5-FOOT WIDE APPROVED FIREFIGHTER ACCESS WALKWAY LEADING FROM THE FIRE APPARATUS ACCESS ROAD TO THE BUILDING EXTERIOR OPENINGS SHALL BE PROVIDED FOR FIREFIGHTING AND RESCUE PURPOSES. FIRE CODE 504.1

13) GRADE BREAKS SHALL NOT EXCEED THE MAXIMUM ANGLE OF APPROACH OR DEPARTURE FOR FIRE DEPARTMENT APPARATUS.
15) FIRE DEPARTMENT VEHICULAR ACCESS ROADS SHALL BE HARDSCAPE ALL-WEATHER ACCESS IN ACCORDANCE WITH THE DEPARTMENT'S ALL-WEATHER ACCESS REQUIREMENTS. FIRE CODE 503.2.3

14) FIRE APPARATUS ACCESS ROADS SHALL BE IDENTIFIED WITH APPROVED SIGNS. TEMPORARY SIGNS SHALL BE INSTALLED AT EACH STREET INTERSECTION WHEN THE CONSTRUCTION OF NEW ROADWAYS ALLOWS PASSAGE BY VEHICLES. SIGNS SHALL BE OF AN APPROVED SIZE, WEATHER RESISTANT, AND BE MAINTAINED UNTIL REPLACED BY PERMANENT SIGNS. FIRE CODE 505.1

15) PROVIDE AN APPROVED INTERIOR AUTOMATIC FIRE SPRINKLER SYSTEM THROUGHOUT THE RESIDENCE, ANY ATTACHED GARAGES AND IN ALL CONCEALED SPACES IN ACCORDANCE WITH NFPA 13. THE FIRE SPRINKLER SYSTEM SHALL BE DESIGNED IN ACCORDANCE WITH NFPA#13D WITH THE MOST REMOTE AREA WITH FOUR SPRINKLER HEADS, FLOWING SIMULTANEOUSLY

REASON: FIRE CODE 903.2.8 AND 903.2.11.7

TYPE OF FIRE SPRINKLER SYSTEM: FIRE CODE 903.3.1.3 - NFPA 13D

16) THE INSPECTION, HYDROSTATIC TEST, AND FLUSHING OF THE FIRE SPRINKLER PIPING SHALL BE WITNESSED BY AN AUTHORIZED FIRE DEPARTMENT REPRESENTATIVE. FIRE CODE 901.6

FIRE FLOW AVAILABILITY

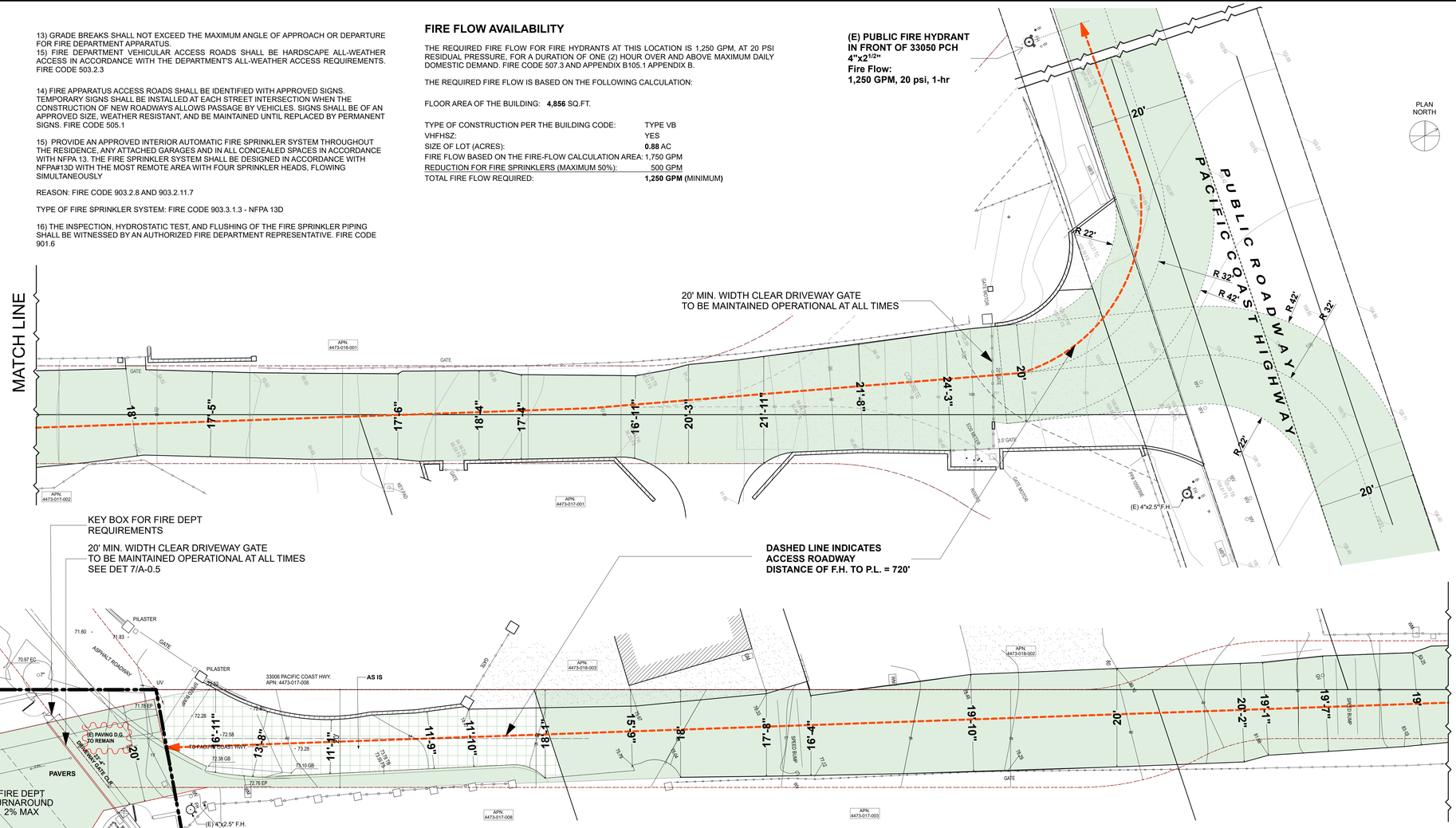
THE REQUIRED FIRE FLOW FOR FIRE HYDRANTS AT THIS LOCATION IS 1,250 GPM, AT 20 PSI RESIDUAL PRESSURE, FOR A DURATION OF ONE (2) HOUR OVER AND ABOVE MAXIMUM DAILY DOMESTIC DEMAND. FIRE CODE 507.3 AND APPENDIX B105.1 APPENDIX B.

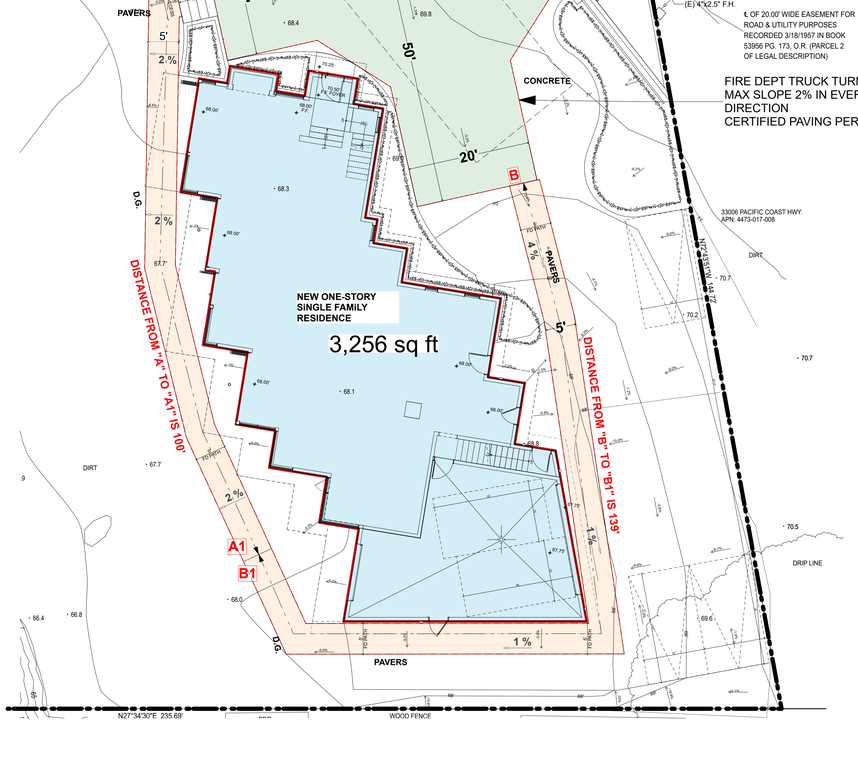
THE REQUIRED FIRE FLOW IS BASED ON THE FOLLOWING CALCULATION:

FLOOR AREA OF THE BUILDING: **4,856** SQ.FT.

TYPE OF CONSTRUCTION PER THE BUILDING CODE:	TYPE VB
VHFHSZ:	YES
SIZE OF LOT (ACRES):	**0.88** AC
FIRE FLOW BASED ON THE FIRE-FLOW CALCULATION AREA:	1,750 GPM
REDUCTION FOR FIRE SPRINKLERS (MAXIMUM 50%):	500 GPM
TOTAL FIRE FLOW REQUIRED:	**1,250 GPM** (MINIMUM)

(E) PUBLIC FIRE HYDRANT IN FRONT OF 33050 PCH 4"x2 1/2" Fire Flow: 1,250 GPM, 20 psi, 1-hr





FIRE DEPT TRUCK TURNAROUND
MAX SLOPE 2% IN EVERY DIRECTION
CERTIFIED PAVING PER FD CODE

SITE PLAN - FIRE DEPT ACCESS
SCALE: 1" = 10' (1)

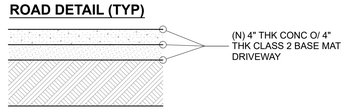
FIREFIGHTER WALKING ACCESS HOSE PULL DISTANCE

A —> A1 = 100'
B —> B1 = 139'

BUILDING AREA UNDER HORIZONTAL PROJECTION

3,758 SQ.FT.

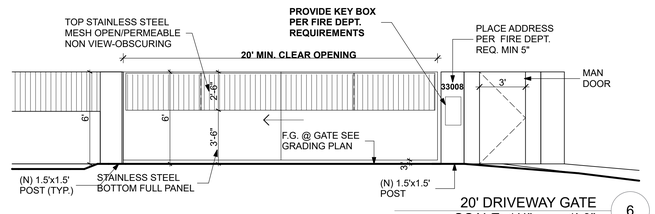
ROAD DETAIL (TYP)



FIRE DEPT. LEGEND

FIRE DEPT. VEHICULAR ACCESS

FIRE DEPT. WALKING ACCESS



20' DRIVEWAY GATE
SCALE: 1/4" = 1'-0" (6)

FOR THE DRIVEWAY PROFILE PLEASE SEE THE FOLLOWING SHEET CIVIL ENGINEER C-6.0

SHEET 1 of 2

BLUFFTOP 1, LLC

33008 PACIFIC COAST HIGHWAY
MALIBU, CA 90265

LICENSED ARCHITECT
DOUGLAS W. BURDGE
C-16899
RENEWAL 11/30/2025
STATE OF CALIFORNIA

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MARK	DATE	DESCRIPTION

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24911 PACIFIC COAST HWY.
MALIBU, CA 90265
TEL. 310-456-5905

SHEET TITLE

FIRE DEPT. PLAN

SHEET 1 of 2

DRAWING NO.
A-0.5

PROJECT NO:	Project No. 1575-6
PROJECT	BLUFFTOP 1, LLC
DATE	Plot Date: 11/12/25
SCALE	
DRAWN BY	D.W.B.,

C:\Users\mcruz.burdgearchitects\Box\Bluffgroup Box Files\Current Projects (ENVOY - BLUFFTOP 1 LLC - 33008 PCH\DOCS\DWG_LPP TOP-1ST-2025-11-05.pln

NOTES:



FIRST FLOOR PLAN
SCALE: 1/4" = 1'-0"
1

PLAN NORTH

BLUFFTOP 1, LLC

33008 PACIFIC COAST HIGHWAY
MALIBU, CA 90265

LICENSED ARCHITECT
DOUGLAS W. BURDGE
C-16899
RENEWAL 11/30/2025
STATE OF CALIFORNIA

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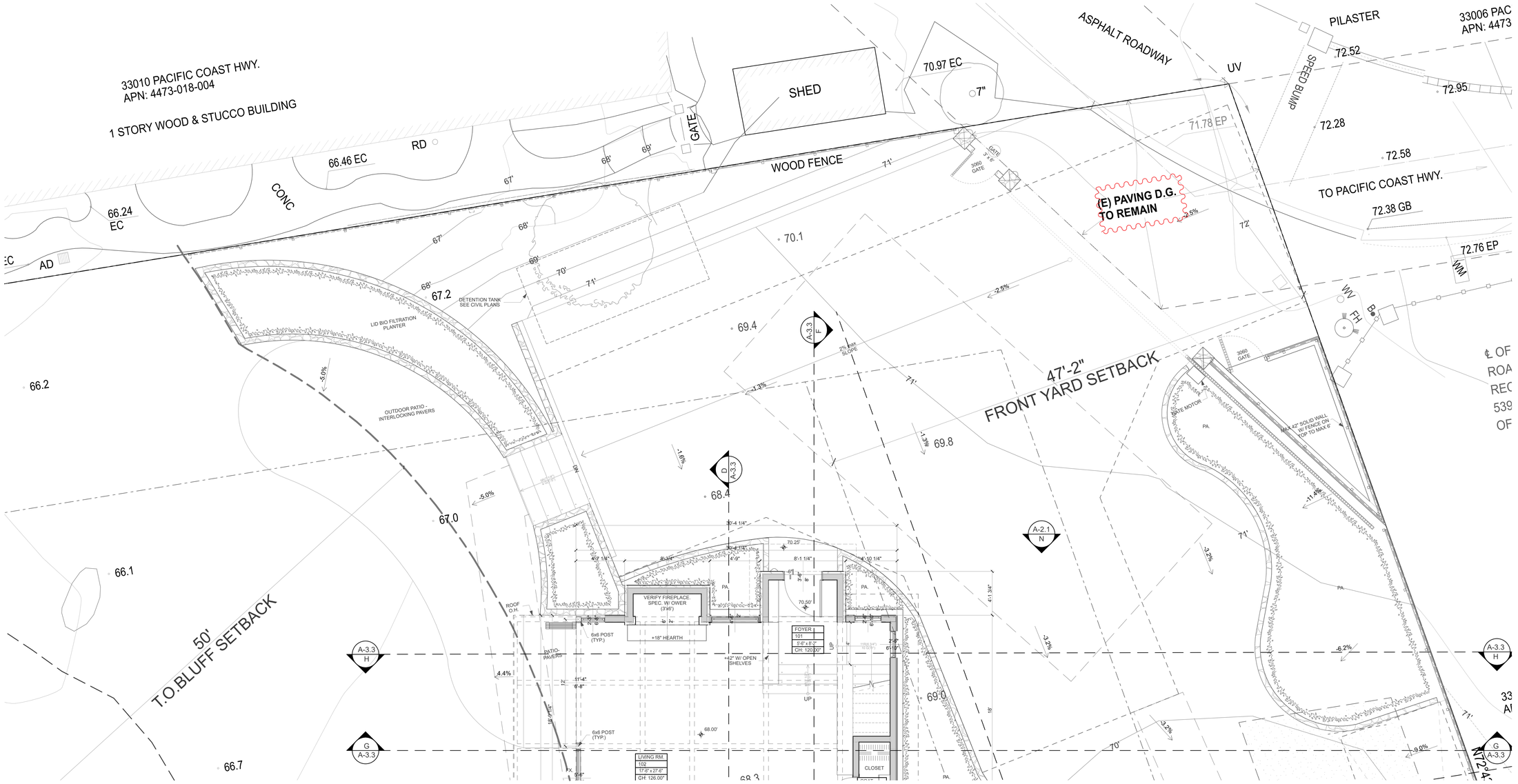
BURDGE ARCHITECTS
24911 PACIFIC COAST HWY.
MALIBU, CA 90265
TEL. 310-456-5905

SHEET TITLE

FIRST FLOOR PLAN PARTIAL

DRAWING NO.
A-1.1

PROJECT NO:	Project No. 1575-6
PROJECT	BLUFFTOP 1, LLC
DATE	Plot Date: 11/12/25
SCALE	
DRAWN BY	D.W.B.,



FIRST FLOOR PLAN
SCALE: 1/4" = 1'-0"

1

NOTES:

PLAN
NORTH

BLUFFTOP 1, LLC

33008 PACIFIC COAST
HIGHWAY
MALIBU, CA 90265

LICENSED ARCHITECT
DOUGLAS W. BURDGE
C-16899
RENEWAL
11/30/2025
STATE OF CALIFORNIA

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MARK	DATE	DESCRIPTION

BURDGE
ARCHITECTS

24911 PACIFIC COAST HWY.
MALIBU, CA 90265
TEL. 310-456-5905

SHEET TITLE

FIRST FLOOR
PARTIAL,
TURNAROUND

DRAWING NO.

A-1.2

PROJECT NO:	Project No. 1575-6
PROJECT	BLUFFTOP 1, LLC
DATE	Plot Date: 11/12/25
SCALE	
DRAWN BY	D.W.B.,

NOTES:

28'-8 1/2"
PROPOSED
FRONT YARD
SETBACK

50'
T.O.BLUFF SETBACK

REQ. SETBACKS

ACK

SECOND FLOOR
SCALE: 1/4" = 1'-0"

1

PLAN
NORTH

BLUFFTOP 1, LLC

33008 PACIFIC COAST
HIGHWAY
MALIBU, CA 90265

LICENSED ARCHITECT
DOUGLAS W. BURDGE
C-16899
RENEWAL
11/30/2025
STATE OF CALIFORNIA

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ARCHITECTS

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MALIBU, CA 90265
TEL. 310-456-5905

SHEET TITLE

SECOND FLOOR PLAN

DRAWING NO.
A-1.3

PROJECT NO:	Project No. 1575-6
PROJECT	BLUFFTOP 1, LLC
DATE	Plot Date: 11/12/25
SCALE	
DRAWN BY	D.W.B.,

T.R 80.58'
N.G 67.75'
F.G 68'
H=12.83'

T.R 80.58'
N.G 68.63'
F.G 68.00'
H=12.58'

T.R 80.58'
N.G 68.99'
F.G 68.00'
H=12.58'

T.R 80.58'
N.G 67.58'
F.G 67.45'
H=13.13'

T.R 85.58'
N.G 68.82'
F.F 70.50'
H=16.76'

T.R 85.58'
N.G 69.15'
F.G 67.19'
H=16.43'

T.R 85.58'
N.G 69.32'
F.G 69.74'
H=16.26'

5'-11"

LOWER ROOF
AT +80.58'

FLAT ROOF

TOP
PARAPET
80.58'

T.R 85.58'
N.G 68.86'
F.G 68.00'
H=17.58'

T.R 85.58'
N.G 68.94'
F.G 68.00'
H=17.58'

T.R 80.58'
N.G 67.56'
F.G 67.56'
H=13.02'

T.R 85.58'
N.G 67.79'
F.F 68.00'
H=17.79'

T.R 85.58'
N.G 68.49'
F.F 68.00'
H=17.58'

1'-10 3/4"

T.R 80.58'
N.G 67.71'
F.G 67.71'
H=12.87'

T.R 85.58'
N.G 68.86'
F.G 68.00'
H=17.58'

T.R 85.58'
N.G 69.13'
F.G 68.00'
H=17.58'

T.R 85.58'
N.G 69'
F.G 67.17'
H=16.58'

2'-1/4"

28'-8 1/2"
PROPOSED
FRONT YARD
SETBACK

TOP
PARAPET
77'

T.R 77'
N.G 69.40'
F.G 67.19'
H=7.6'

2'

2'

UPPER ROOF
AT + 85.58'

TOP
PARAPET
85.58'

T.R 77'
N.G 68.68'
F.G 67.75'
H=8.12'

5'-11"

T.R 77'
N.G 69.05'
F.G 67.67'
H=7.95'

T.R 85.58'
N.G 67.58'
F.G 67.58'
H=18.00'

T.R 85.58'
N.G 68.40'
F.F 68.00'
H=17.58'

T.R 85.58'
N.G 67.68'
F.G 67.68'
H=17.9'

T.R 85.58'
N.G 68.49'
F.F 68.00'
H=17.58'

T.R 85.58'
N.G 69.08'
F.G 67.92'
H=17.66'

T.R 85.58'
N.G 69'
F.G 67.92'
H=16.58'

TOP
PARAPET
77'

2'
(TYP.)

5'

LOWER ROOF
AT +77'

T.R 77'
N.G 67.67'
F.G 67.67'
H=9.33'

T.R 85.58'
N.G 68.00'
F.F 68.00'
H=17.58'

T.R 85.58'
N.G 68.30'
F.F 68.00'
H=17.58'

T.R 77'
N.G 67.80'
F.G 67.80'
H=9.2'

2'-1"

T.R 77'
N.G 68.00'
F.G 68.00'
H=9'

5'

T.R 77'
N.G 67.79'
F.G 67.79'
H=9.21'

UPPER FLAT ROOF
AT +85.58'

85.21'

2'

2'

T.R 77'
N.G 68.00'
F.G 68.00'
H=9'

T.R 85.58'
N.G 69.24'
F.G 67.75'
H=16.34'

T.R 85.58'
N.G 69.28'
F.G 67.71'
H=17.87'

5'

T.R 85.58'
N.G 69.28'
F.G 67.75'
H=17.58'

50'
T.O.BLUFF SETBACK

REQ. SETBACKS

T.R 85.58'
N.G 68.00'
F.G 68.00'
H=17.58'

14'-5"
REQ. SIDE YARD
SETBACK (10%

LINE OF 50' BLUFFTOP SETBACK

A-3.3 D

A-2.1 N

A-3.3 H

G A-3.3

C A-3.2

A-2.2 W

1 A-4.1

A-2.2 E

B A-3.2

B A-3.2

S A-2.1

E A-3.2

ROOF PLAN
SCALE: 1/4" = 1'-0"

1

PLAN
NORTH

NOTES:

LEGEND

T.R.= TOP OF ROOF
N.G.= NATURAL GRADE
F.G.= FINISH GRADE
H= HEIGHT OF BUILDING

BLUFFTOP 1, LLC

33008 PACIFIC COAST HIGHWAY
MALIBU, CA 90265

LICENSED ARCHITECT
DOUGLAS W. BURDGE
C-16899
RENEWAL 11/30/2025
STATE OF CALIFORNIA

THE DRAWINGS AND SPECIFICATIONS ARE THE PROPERTY AND COPYRIGHT OF THE ARCHITECT AND SHALL NOT BE USED ON ANY OTHER WORK EXCEPT BY WRITTEN AGREEMENT WITH THE ARCHITECT.

WRITTEN DIMENSIONS SHALL BE VERIFIED ON THE JOB SITE. DISCREPANCIES SHALL BE BROUGHT TO THE ATTENTION OF THE ARCHITECT PRIOR TO THE COMMENCEMENT OF ANY WORK.

MARK	DATE	DESCRIPTION

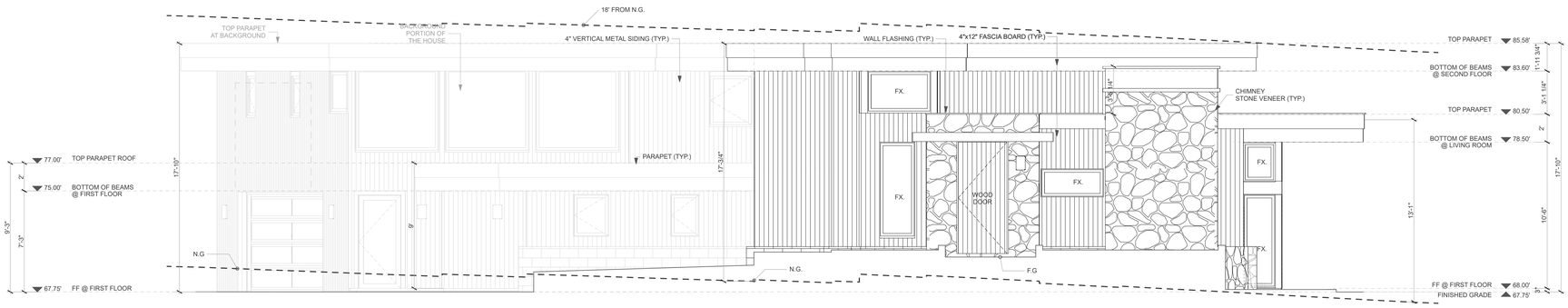
BURDGE ARCHITECTS
24911 PACIFIC COAST HWY.
MALIBU, CA 90265
TEL. 310-456-5905

SHEET TITLE

ROOF PLAN

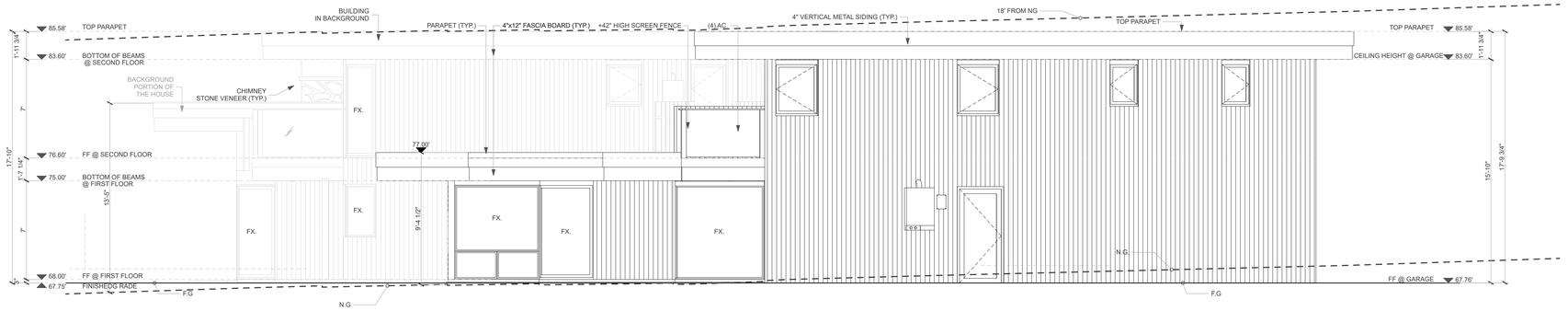
DRAWING NO.
A-1.4

PROJECT NO:	Project No. 1575-6
PROJECT	BLUFFTOP 1, LLC
DATE	Plot Date: 11/12/25
SCALE	
DRAWN BY	D.W.B.,



NORTH ELEVATION 1

SCALE: 1/4" = 1'-0"



SOUTH ELEVATION 2

SCALE: 1/4" = 1'-0"

NOTES:

LEGEND

N.G.= NATURAL GRADE

F.G.= FINISH GRADE

F.F. = FINISH FLOOR

F.S.= FINISH SLAB

LINE OF 18' FROM N.G.OR F.G.WHICHEVER IS LOWER

BLUFFTOP 1, LLC

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MALIBU, CA 90265

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DOUGLAS W. BURDGE
C-16899
RENEWAL 11/30/2025
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MARK	DATE	DESCRIPTION

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MALIBU, CA 90265
TEL. 310-456-5905

SHEET TITLE

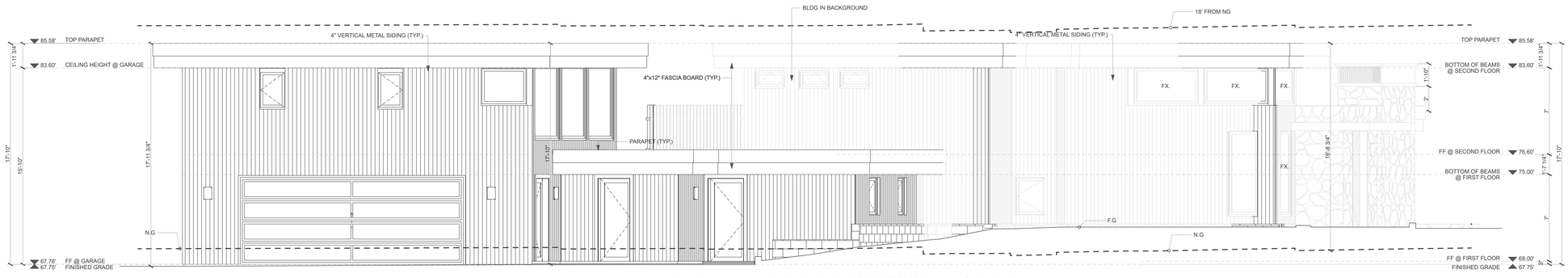
ELEVATIONS NORTH and SOUTH

DRAWING NO.

A-2.1

PROJECT NO:	Project No. 1575-6
PROJECT	BLUFFTOP 1, LLC
DATE	Plot Date: 11/12/25
SCALE	
DRAWN BY	D.W.B.,

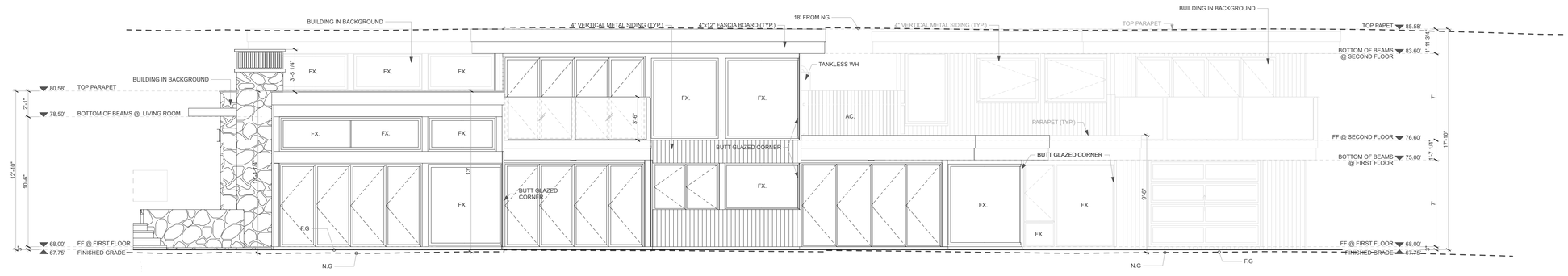
C:\Users\burdg\Library\CloudStorage\Box-Box\Current Projects\2025\07 - BLUFFTOP 1 LLC - 33008 PCH\2025\BLUFFTOP v21 2025-1119.pln



EAST ELEVATION

SCALE: 1/4" = 1'-0"

1



WEST ELEVATION

SCALE: 1/4" = 1'-0"

2

NOTES:

LEGEND

N.G.= NATURAL GRADE

F.G.= FINISH GRADE

F.F. = FINISH FLOOR

F.S.= FINISH SLAB

LINE OF 18' FROM N.G. OR F.G.WHICHEVER IS LOWER

BLUFFTOP 1, LLC

33008 PACIFIC COAST HIGHWAY
MALIBU, CA 90265

LICENSED ARCHITECT
DOUGLAS W. BURDGE
C-16899
RENEWAL 11/30/2025
STATE OF CALIFORNIA

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MALIBU, CA 90265
TEL. 310-456-5905

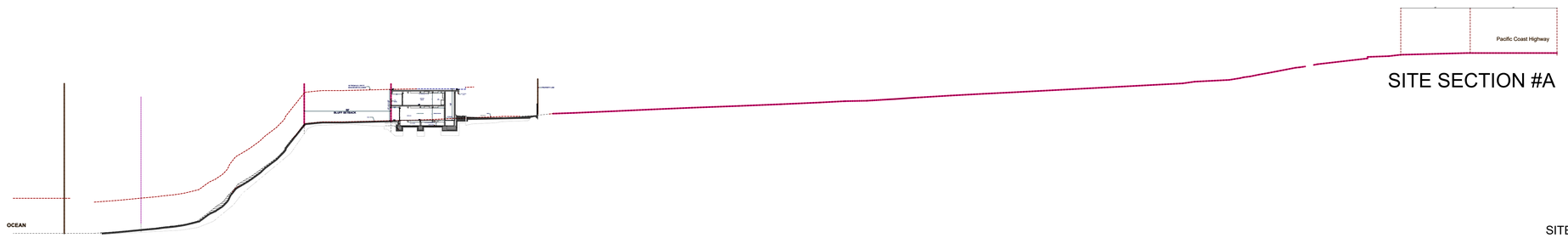
SHEET TITLE

ELEVATIONS EAST and WEST

DRAWING NO.

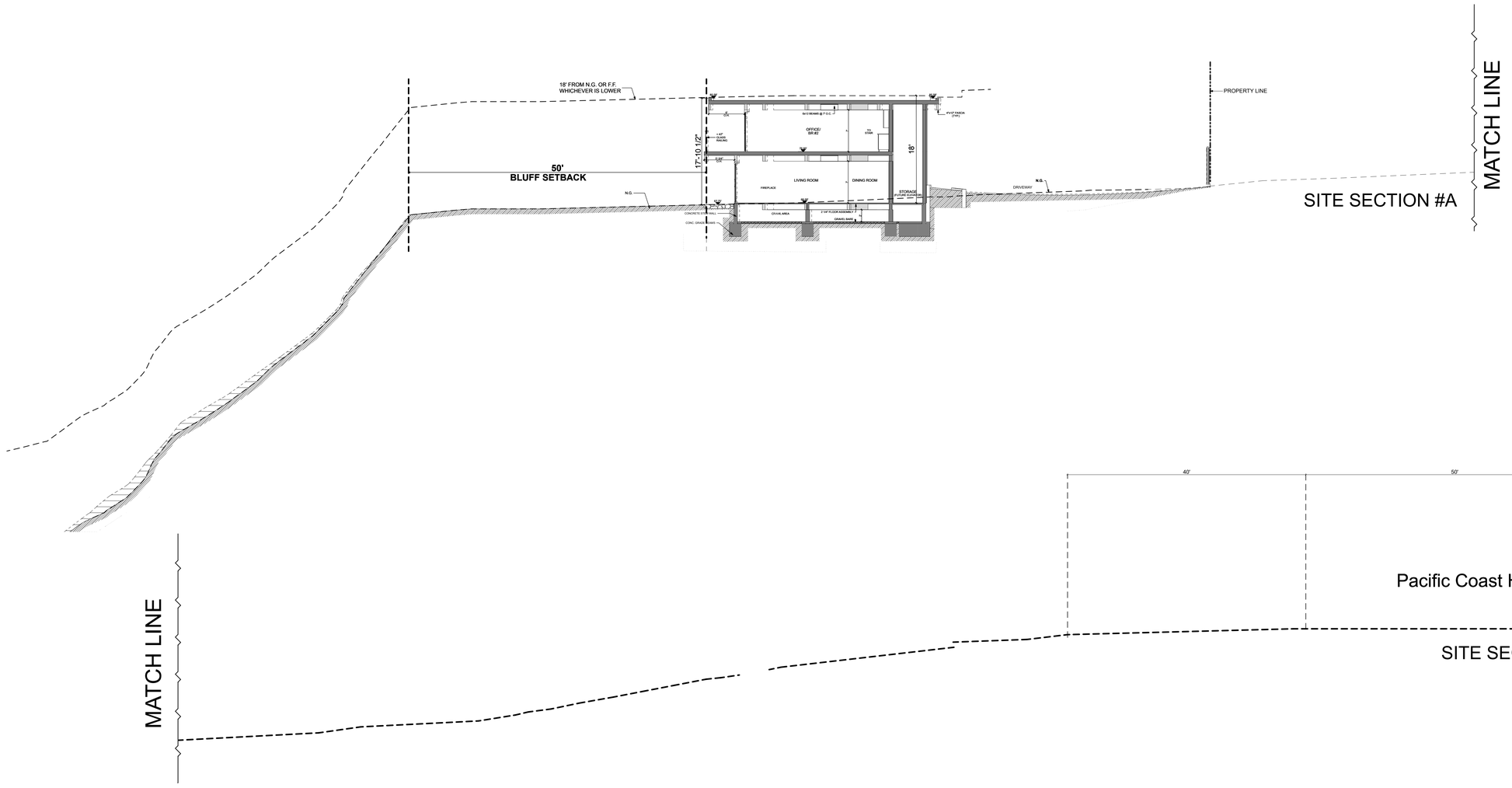
A-2.2

PROJECT NO:	Project No. 1575-6
PROJECT	BLUFFTOP 1, LLC
DATE	Plot Date: 11/12/25
SCALE	
DRAWN BY	D.W.B.,



SITE SECTION #A

SITE BUILDING SECTION A
SCALE: 1" = 30' 1



SITE SECTION #A

SITE BUILDING SECTION A
SCALE: 1/8" = 1'-0" 3

SITE SECTION #A

SITE BUILDING SECTION A
SCALE: 1/8" = 1'-0" 5

NOTES:

LEGEND
N.G.= NATURAL GRADE
F.G.= FINISH GRADE
F.F. = FINISH FLOOR
F.S.= FINISH SLAB
LINE OF 18' FROM N.G. OR F.G.WHICHEVER IS LOWER

BLUFFTOP 1, LLC

33008 PACIFIC COAST HIGHWAY
MALIBU, CA 90265

LICENSED ARCHITECT
DOUGLAS W. BURDGE
C-16899
RENEWAL 11/30/2025
STATE OF CALIFORNIA

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MARK	DATE	DESCRIPTION

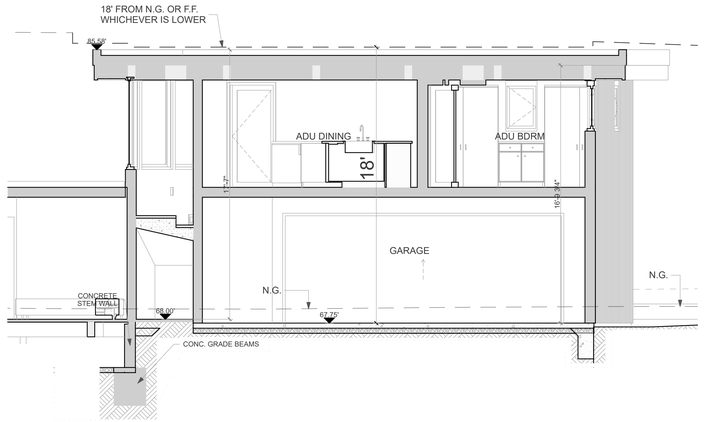
BURDGE ARCHITECTS
24911 PACIFIC COAST HWY.
MALIBU, CA 90265
TEL. 310-456-5905

SHEET TITLE

PROPOSED SITE SECTION A

DRAWING NO.
A-3.1

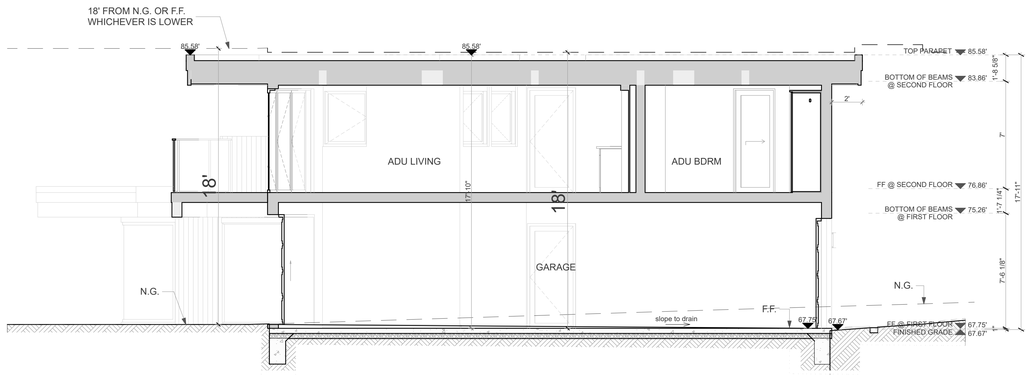
PROJECT NO:	Project No. 1575-6
PROJECT	BLUFFTOP 1, LLC
DATE	Plot Date: 11/12/25
SCALE	
DRAWN BY	D.W.B.,



BUILDING SECTION E

SCALE: 1/4" = 1'-0"

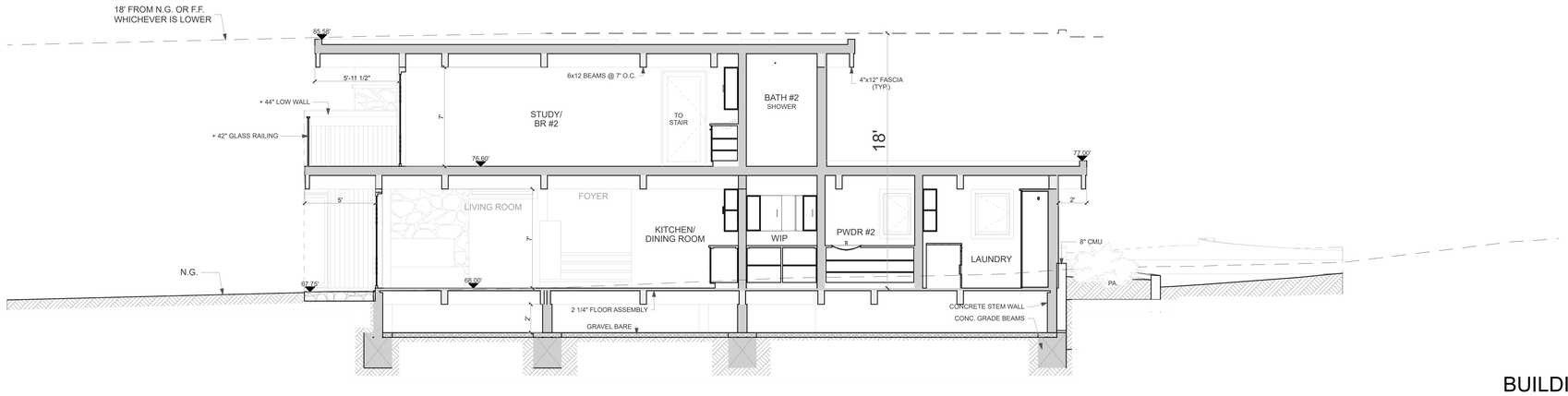
3



BUILDING SECTION B

SCALE: 1/4" = 1'-0"

1



BUILDING SECTION C

SCALE: 1/4" = 1'-0"

2

NOTES:

LEGEND

N.G.= NATURAL GRADE

F.G.= FINISH GRADE

F.F. = FINISH FLOOR

F.S.= FINISH SLAB

LINE OF 18' FROM N.G. OR F.G.WHICHEVER IS LOWER

BLUFFTOP 1, LLC

33008 PACIFIC COAST HIGHWAY
MALIBU, CA 90265

LICENSED ARCHITECT
DOUGLAS W. BURDGE
C-16899
RENEWAL 11/30/2025
STATE OF CALIFORNIA

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MARK	DATE	DESCRIPTION

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MALIBU, CA 90265
TEL. 310-456-5905

SHEET TITLE

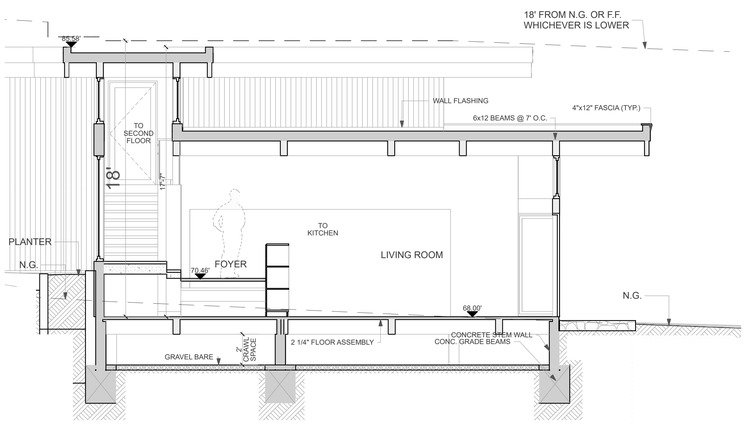
PROPOSED
SECTIONS B, C, E

DRAWING NO.

A-3.2

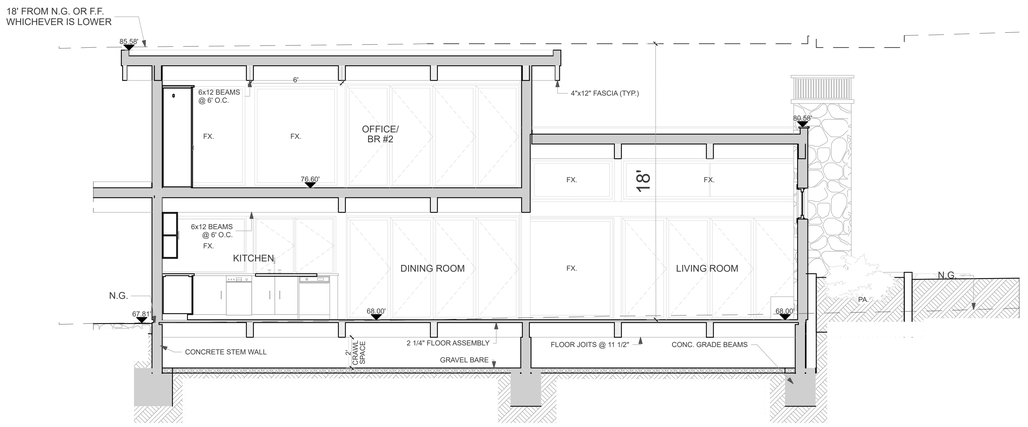
PROJECT NO:	Project No. 1575-6
PROJECT	BLUFFTOP 1, LLC
DATE	Plot Date: 11/12/25
SCALE	
DRAWN BY	D.W.B.,

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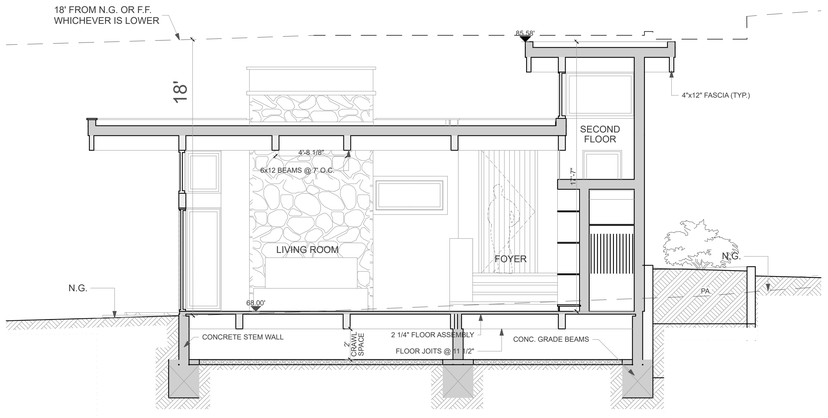
BUILDING SECTION H 4

SCALE: 1/4" = 1'-0"



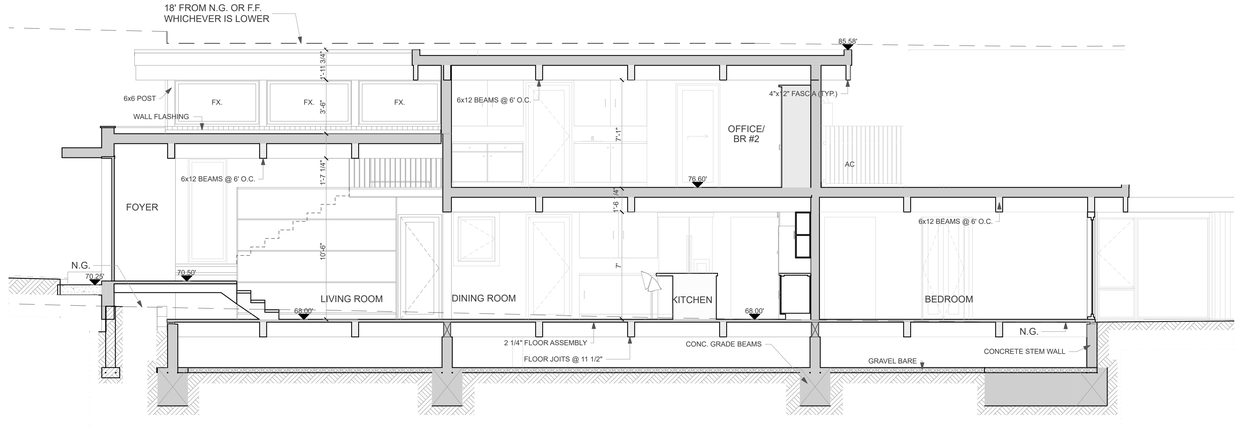
BUILDING SECTION D 1

SCALE: 1/4" = 1'-0"



BUILDING SECTION G 3

SCALE: 1/4" = 1'-0"



BUILDING SECTION F 2

SCALE: 1/4" = 1'-0"

NOTES:

LEGEND

N.G.= NATURAL GRADE

F.G.= FINISH GRADE

F.F. = FINISH FLOOR

F.S.= FINISH SLAB

LINE OF 18' FROM N.G. OR F.G.WHICHEVER IS LOWER

BLUFFTOP 1, LLC

33008 PACIFIC COAST HIGHWAY
MALIBU, CA 90265

LICENSED ARCHITECT
DOUGLAS W. BURDGE
C-16899
RENEWAL 11/30/2025
STATE OF CALIFORNIA

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MARK	DATE	DESCRIPTION

BURDGE ARCHITECTS

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MALIBU, CA 90265
TEL. 310-456-5905

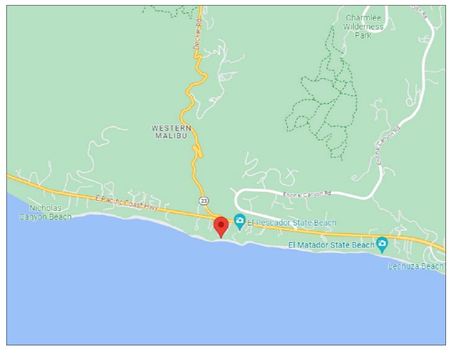
SHEET TITLE

PROPOSED
SECTIONS D, F, G, H,

DRAWING NO.
A-3.3

PROJECT NO:	Project No. 1575-6
PROJECT	BLUFFTOP 1, LLC
DATE	Plot Date: 11/12/25
SCALE	
DRAWN BY	D.W.B.,

JENNY RESIDENCE: CIVIL PLANS



VICINITY MAP | 1

PROJECT LOCATION
33008 PACIFIC COAST HWY
MALIBU, CA 90265

LEGAL DESCRIPTION
ASSESSOR ID#: 4473-017-009

PROJECT INFORMATION
ZONING: RR2
LOT SIZE: 24,132.8 SQ. FT.

TSUNAMI INUNDATION ZONE: YES
ESA ZONE: YES (ADJACENT)

PROJECT DATA | 2

OWNER
BLUFFTOP LLC C/O BURDGE & ASSOCIATES, INC.
24911 PACIFIC COAST HWY
MALIBU, CA 90265

PROJECT DESIGNER/ARCHITECT
BURDGE ARCHITECTS
24911 PACIFIC COAST HWY
MALIBU, CA 90265
310-456-5905

CIVIL ENGINEER
JAMES TUCHSCHER, P.E.
TEG, INC.
130 PINE AVE, 3RD FLOOR
LONG BEACH, CA 90802
310.613.9980

GEOTECHNICAL ENGINEER
CALWEST GEOTECHNICAL
889 PIERCE COURT, #101
THOUSAND OAKS, CA 91360
818.991.7148
INFO@LCEGROUPINC.COM

GEOLOGIST:
LANDSPHASES INC.
5158 COCHRAN ST,
SIMI VALLEY, CA 93063
805.522.5174

SURVEYOR:
PEAK SURVEYS INC.
2488 TOWNSGATE RD, SUITE D
WESTLAKE VILLAGE, CA 91361
805.497.0102

PROJECT DIRECTORY | 3

GRADING QUANTITIES (CU.YD.)

	EXEMPT			NON - EXEMPT	REMEDIAL	TOTAL
	R&R	UNDER - STRUCTURE	SAFETY			
CUT	1184.2	366.4	0.3	97.1	0	1648.0
FILL	1184.2	0.1	70.1	56.2	0	1310.6
TOTAL	2368.4	366.5	70.4	153.3	0	2958.6
IMPORT	0	0	69.8		0	0.0
EXPORT	0	366.3	0	40.9	0	337.4

GRADING INFORMATION | 4

SHEET	DESCRIPTION
C-1.0	TITLE SHEET
C-2.0	EXISTING SITE PLAN
C-3.0	GRADING PLAN
C-4.0	DRAINAGE PLAN - PROPOSED STRUCTURE
C-5.0	CIVIL DETAILS
C-6.0	DRIVEWAY PROFILE
SW-P	PRELIMINARY FOUNDATION PLAN

SHEET INDEX | 5

PROJECT GENERAL NOTES

1) PROPOSED STARTING DATE:
PROPOSED COMPLETION DATE:

2) THIS PLANS CONFORMS TO THE COASTAL DEVELOPMENT PERMIT APPROVED BY THE CITY FOR 33008 PACIFIC COAST HWY, MALIBU, CA 90265
3) EXPORTED SOIL FROM A SITE SHALL BE TAKEN TO THE COUNTY LANDFILL OR TO A SITE WITH AN ACTIVE GRADING PERMIT AND THE ABILITY TO ACCEPT THE MATERIAL IN COMPLIANCE WITH THE CITY'S LOCAL IMPLEMENTATION PLAN (LIP).

DESIGN ENGINEER STATEMENT

I HEREBY VERIFY THAT THIS GRADING PLAN WAS PREPARED UNDER MY SUPERVISION IN ACCORDANCE WITH SECTION 3318.1 OF THE MALIBU BUILDING CODE. ALL SOILS ENGINEER AND ENGINEERING GEOLOGY RECOMMENDATIONS WERE INCORPORATED IN THE PLAN.

DESIGN ENGINEER SIGNATURE DATE

GENERAL GEOTECHNICAL NOTES

1. ALL WORK MUST BE IN COMPLIANCE WITH THE RECOMMENDATIONS INCLUDED IN THE GEOTECHNICAL CONSULTANT'S REPORT(S) AND THE APPROVED GRADING PLANS AND SPECIFICATIONS.
2. GRADING OPERATIONS MUST BE CONDUCTED UNDER PERIODIC INSPECTIONS BY THE GEOTECHNICAL CONSULTANTS WITH MONTHLY INSPECTION REPORTS TO BE SUBMITTED TO THE GEOLOGY AND SOILS SECTION.
3. THE SOIL ENGINEER SHALL PROVIDE SUFFICIENT INSPECTIONS DURING THE PREPARATION OF THE NATURAL GROUND AND THE PLACEMENT AND COMPACTION OF THE FILL TO BE SATISFIED THAT THE WORK IS BEING PERFORMED IN ACCORDANCE WITH THE PLAN AND APPLICABLE CODE REQUIREMENTS.
4. ROUGH GRADING MUST BE APPROVED BY A FINAL ENGINEERING GEOLOGY AND SOILS ENGINEERING REPORT. AN AS-BUILT GEOLOGIC MAP MUST INCLUDED IN THE FINAL GEOLOGY REPORT. PROVIDE A FINAL REPORT STATEMENT THAT VERIFIES WORK WAS DONE IN ACCORDANCE WITH REPORT RECOMMENDATIONS AND CODE PROVISIONS. THE FINAL REPORT(S) MUST BE SUBMITTED TO THE GEOTECHNICAL AND MATERIALS ENGINEERING DIVISION FOR REVIEW AND APPROVAL.
5. FOUNDATION, WALL AND POOL EXCAVATIONS MUST BE INSPECTED AND APPROVED BY THE CONSULTING GEOLOGIST AND SOIL ENGINEER, PRIOR TO THE PLACING OF STEEL OR CONCRETE.
6. BUILDING PADS LOCATED IN CUT/FILL TRANSITION AREAS SHALL BE OVER-EXCAVATED A MINIMUM OF THREE (3) FEET BELOW THE PROPOSED BOTTOM OF FOOTING IF GEOTECHNICAL REPORT DOES NOT SPECIFY GUIDELINES.

CITY OF MALIBU GENERAL NOTES

1. ANY MODIFICATIONS OF OR CHANGES IN APPROVED GRADING PLANS MUST BE APPROVED BY THE BUILDING OFFICIAL.
2. A COPY OF THE GRADING PERMIT AND APPROVED GRADING PLAN MUST BE IN THE POSSESSION OF A RESPONSIBLE PERSON AND AVAILABLE AT THE SITE.
3. FIELD ENGINEER MUST SET GRADE STAKES FOR ALL DRAINAGE DEVICES AND THE CONTRACTOR SHALL OBTAIN INSPECTION BEFORE POURING.
4. ALL STORM DRAIN WORK IS TO BE DONE UNDER CONTINUOUS INSPECTION BY THE FIELD ENGINEER. WEEKLY STATUS REPORTS SHALL BE SUBMITTED BY THE FIELD ENGINEER TO THE CITY BUILDING DEPARTMENT.
5. PROVISIONS SHALL BE MADE FOR CONTRIBUTORY DRAINAGE AT ALL TIMES.
6. SEPARATE PLANS FOR TEMPORARY DRAINAGE AND WET WEATHER EROSION CONTROL MEASURES TO BE USED DURING THE RAINY SEASON MUST BE SUBMITTED PRIOR TO OCTOBER 1. THE EROSION CONTROL DEVICES SHOWN ON SAID PLANS MUST BE INSTALLED BY NOT LATER THAN NOVEMBER 1 AND MAINTAINED IN OPERABLE CONDITION UNTIL APRIL 15.
7. THE GRADING CONTRACTOR SHALL SUBMIT A WRITTEN STATEMENT VERIFYING THAT THE WORK DONE UNDER HIS DIRECTION WAS PERFORMED IN ACCORDANCE WITH THE APPROVED PLANS AND REQUIREMENTS OF CHAPTER 33 OF THE MALIBU BUILDING CODE OR DESCRIBING ALL VARIANCES FROM THE APPROVED PLANS AND REQUIREMENTS OF THE CODE.
8. ALL RECOMMENDATIONS INCLUDED IN THE CONSULTANT'S SOIL AND GEOLOGY REPORTS MUST BE COMPLIED WITH AND ARE A PART OF THE GRADING SPECIFICATIONS.
9. GRADING OPERATIONS MUST BE CONDUCTED UNDER PERIODIC GEOLOGIC INSPECTION WITH MONTHLY INSPECTION REPORTS TO BE SUBMITTED TO THE CITY BUILDING DEPARTMENT.
10. THE CONSULTING GEOLOGIST MUST APPROVE ROUGH GRADING BY FINAL REPORT. FINAL REPORT MUST INCLUDE AN AS-BUILT GEOLOGIC MAP.
11. GRADING SHALL NOT BE STARTED WITHOUT FIRST NOTIFYING THE GRADING INSPECTOR. A PRE-GRADING MEETING ON THE SITE REQUIRED BEFORE THE START OF GRADING WITH THE FOLLOWING PEOPLE PRESENT: OWNER, GRADING CONTRACTOR, DESIGN CIVIL ENGINEER, SOIL ENGINEER, GEOLOGIST, GRADING INSPECTOR, AND WHEN REQUIRED, THE ARCHAEOLOGIST AND PALEONTOLOGIST. THE REQUIRED INSPECTIONS FOR GRADING WILL BE EXPLAINED AT THIS MEETING.
12. FILL SHALL BE BENCHED INTO COMPETENT MATERIAL PER CITY OF MALIBU STANDARD OR SOILS ENGINEER'S DIRECTIONS.
13. ALL EXISTING FILLS SHALL BE APPROVED BY THE BUILDING OFFICIAL OR REMOVED PRIOR TO PLACING ADDITIONAL FILLS.
14. THE BUILDING OFFICIAL SHALL APPROVE STOCK PILING OF EXCESS MATERIAL PRIOR TO EXCAVATION.
15. THE FIELD ENGINEER, AS A CONDITION OF ROUGH GRADE APPROVAL, SHALL PROVIDE A BLUE TOP WITH ACCOMPANYING WITNESS STAKE, SET AT THE CENTER OF EACH PAD REFLECTING THE PAD ELEVATION FOR PRECISE PERMITS AND A BLUE TOP WITH WITNESS STAKE SET AT THE DRAINAGE SWALE HIGH POINT REFLECTING THE HIGH POINT ELEVATION FOR PRELIMINARY PERMITS.
16. ALL TRENCH BACKFILLS SHALL BE TESTED AND APPROVED BY THE SOIL ENGINEER.

CITY OF MALIBU GENERAL NOTES

17. SUB-DRAIN OUTLETS SHALL BE COMPLETED AT THE BEGINNING OF THE SUB-DRAIN CONSTRUCTION AND SURVEY FOR LOCATION. THE AS GRADED PLAN SHALL SHOW ALL SUB-DRAIN LOCATIONS AND ELEVATIONS.
18. ALL CUT SLOPES SHALL BE INVESTIGATED BOTH DURING AND AFTER GRADING BY THE ENGINEERING GEOLOGIST TO DETERMINE IF ANY SLOPE STABILITY PROBLEM EXISTS. SHOULD EXCAVATION DISCLOSE ANY GEOLOGICAL HAZARDS OR POTENTIAL GEOLOGICAL HAZARDS, THE ENGINEERING GEOLOGIST SHALL SUBMIT RECOMMENDED REMEDIATION TO THE BUILDING OFFICIAL FOR APPROVAL.
19. WHERE SUPPORT OR BUTTRESSING OF CUT AND NATURAL SLOPES IS DETERMINED TO BE NECESSARY BY THE ENGINEERING GEOLOGIST AND SOIL ENGINEER, THE SOIL ENGINEER SHALL SUBMIT DESIGN, LOCATIONS, AND CALCULATIONS TO THE BUILDING OFFICIAL PRIOR TO CONSTRUCTION. THE ENGINEERING GEOLOGIST AND SOIL ENGINEER SHALL INSPECT AND CONTROL THE CONSTRUCTION OF THE BUTTRESSING AND CERTIFY TO THE STABILITY OF THE SLOPE AND ADJACENT STRUCTURES UPON COMPLETION.
20. WHEN CUT PADS ARE BROUGHT TO NEAR GRADE, THE ENGINEERING GEOLOGIST SHALL DETERMINE IF THE BEDROCK IS EXTENSIVELY FRACTURED OR FAULTED AND WILL READILY TRANSMIT WATER. IF CONSIDERED NECESSARY BY THE ENGINEERING GEOLOGIST AND SOIL ENGINEER, A COMPACTED FILL BLANKET WILL BE PLACED.
21. THE COMPACTION REPORT AND APPROVAL FROM THE SOIL ENGINEER SHALL INDICATE THE TYPE OF FIELD TESTING PERFORMED. EACH TEST SHALL BE IDENTIFIED WITH THE METHOD OF OBTAINING THE IN PLACE DENSITY, WHETHER SAND CONE OR NUCLEAR GAUGE, AND SHALL BE SO NOTED FOR EACH TEST.
22. EXPORT SOIL MUST BE TRANSPORTED TO A LEGAL DUMP OR TO A PERMITTED SITE SHOWN CLEARLY ON APPROVED PLANS.
23. THE FIELD ENGINEER SHALL SUBMIT A LETTER OF CERTIFICATION TO THE BUILDING OFFICIAL STATING THAT THE GRADING WAS DONE IN COMPLIANCE WITH THE APPROVED GRADING PLAN.
24. PRELIMINARY SOIL AND GEOLOGY REPORTS AND ALL SUBSEQUENT REPORTS, AS APPROVED BY THE CITY OF MALIBU, ARE CONSIDERED A PART OF THE APPROVED GRADING PLAN. ALL RECOMMENDATIONS CONTAINED ARE TO BE COMPLIED WITH OR REVISIONS SUBMITTED FOR REVIEW.
25. ALL EXISTING DRAINAGE COURSES THROUGH THIS SITE SHALL REMAIN OPEN UNTIL FACILITIES TO HANDLE STORM WATER ARE APPROVED AND FUNCTIONAL; HOWEVER, IN ANY CASE, THE PERMITTEE SHALL BE HELD LIABLE FOR ANY DAMAGE DUE TO OBSTRUCTING NATURAL DRAINAGE PATTERNS.
26. ROOF GUTTERS SHALL BE INSTALLED TO PREVENT ROOF DRAINAGE FROM FALLING ON MANUFACTURED SLOPES. GUTTERS SHALL BE CONNECTED TO NON-EROSIVE PIPING OR OTHER METHOD ACCEPTABLE TO THE BUILDING OFFICIAL.
27. ANY EXCAVATIONS ADJACENT TO OTHER PROPERTY OR STRUCTURES ARE SUBJECT TO THE PROVISIONS OF THE CALIFORNIA CIVIL CODE, SECTION 832, AND IS THE RESPONSIBILITY OF THE PERMITTEE AND OR OWNER.
28. NO GRADING OR CONSTRUCTION SHALL OCCUR WITHIN THE PROTECTED ZONE OF ANY OAK TREE. THE PROTECTED ZONE SHALL MEAN THAT AREA WITHIN THE DRIP LINE OF AN OAK TREE EXTENDING THERE FROM A POINT AT LEAST FIVE FEET OUTSIDE THE DRIP LINE, OR 15 FEET FROM THE TRUNK(S) OF A TREE, WHICHEVER IS GREATER.

PUBLIC WORKS NOTES

1. ALL WORK ON THESE PLANS SHALL BE CONSTRUCTED IN ACCORDANCE WITH THE CURRENT EDITION OF THE STANDARD SPECIFICATIONS FOR PUBLIC WORKS CONSTRUCTION (SSPWC) "GREEN BOOK."
2. CONTRACTORS SHALL COMPLY WITH ALL APPLICABLE DIVISION OF INDUSTRIAL REGULATIONS (CAL-OSHA) SAFETY STANDARDS. IF REQUESTED BY THE INSPECTOR, THE CONTRACTOR SHALL PROVIDE PROOF OF A PERMIT FROM SAID DIVISION.
3. CONTRACTOR SHALL CALL THE PUBLIC WORKS INSPECTOR AT (310) 456-2489 EXT. 341 FOR PRE-CONSTRUCTION MEETING PRIOR TO THE COMMENCEMENT OF ANY CONSTRUCTION OR GRADING OPERATIONS. CONTRACTOR SHALL NOTIFY THE CITY PUBLIC WORKS INSPECTOR 48 HOURS PRIOR TO COMMENCING ANY CONSTRUCTION AND 24 HOURS IN ADVANCE OF SPECIFIC INSPECTION NEEDS DURING THE COURSE OF THE WORK.
4. NO IMPROVEMENTS ARE PROPOSED WITHIN THE PUBLIC RIGHT OF WAY.
5. STORAGE OF ANY CONSTRUCTION MATERIALS, CONSTRUCTION TRAILER, AND/OR PARKING AND ANY WORK WITHIN THE CITY PUBLIC RIGHT OF WAY SHALL REQUIRE A CITY ENCROACHMENT PERMIT. CALL THE PUBLIC WORKS INSPECTOR AT (310) 456-2489 EXT. 341 TO APPLY FOR A PERMIT.
6. STORAGE OF ANY CONSTRUCTION MATERIALS, CONSTRUCTION TRAILER, AND/OR PARKING AND ANY WORK WITHIN THE CALTRANS PUBLIC RIGHT OF WAY SHALL REQUIRE A CALTRANS ENCROACHMENT PERMIT. SUBMIT A COPY OF THE CALTRANS ENCROACHMENT PERMIT TO THE PUBLIC WORKS DEPARTMENT.
7. ALL WORK SHALL BE PERFORMED DURING CITY WORKING HOURS AND IN COMPLIANCE WITH THESE PLANS.
8. CONTRACTOR SHALL VERIFY ALL CONDITIONS AND DIMENSIONS AND SHALL REPORT ANY DISCREPANCIES TO THE ENGINEER PRIOR TO THE COMMENCEMENT OF ANY WORK.
9. CONTRACTOR SHALL LOCATE, PROTECT, AND SAVE ANY AND ALL SURVEY MONUMENTS THAT WILL BE OR MAY BE DAMAGED OR DESTROYED BY THEIR OPERATIONS. ONCE FOUND, THE CONTRACTOR SHALL THEN NOTIFY BOTH THE DEVELOPER'S SUPERVISING CIVIL ENGINEER AND THE PUBLIC WORKS INSPECTOR. THE SUPERVISING CIVIL ENGINEER SHALL RESET ALL SAID MONUMENTS PER THE REQUIREMENTS OF THE PROFESSIONAL LAND SURVEYOR'S ACT.
10. THE CONTRACTOR SHALL BE RESPONSIBLE FOR PROTECTING ALL PUBLIC AND PRIVATE PROPERTY INSOFAR AS IT MAY BE AFFECTED BY THESE OPERATIONS.
11. EXISTING TRAFFIC SIGNS ARE NOT TO BE REMOVED WITHOUT PRIOR NOTIFICATION AND APPROVAL OF THE CITY ENGINEER. AS A MINIMUM, CONSTRUCTION WORK ZONE TRAFFIC SIGNS AND STRIPING SHALL BE FURNISHED, INSTALLED, AND MAINTAINED IN ACCORDANCE WITH THE "WORK AREA TRAFFIC HANDBOOK" (THE "WATCH MANUAL"), PUBLISHED BY BNI BUILDING NEWS, INC. A TRAFFIC CONTROL PLAN, PREPARED BY THE DEVELOPER, MAY BE REQUIRED BY THE CITY.
12. DUST CONTROL SHALL BE MAINTAINED AT ALL TIMES.
13. EROSION CONTROL PLANS SHALL BE PROVIDED FOR ALL PROJECTS. GRADING AND CLEARING IS PROHIBITED FROM NOVEMBER 1 TO MARCH 31 FOR ALL DEVELOPMENTS WITHIN OR ADJACENT TO ESHA AND/OR INCLUDING GRADING ON SLOPES GREATER THAN 4:1.
14. ALL UNDERGROUND UTILITIES AND SERVICE LATERALS SHALL BE INSTALLED PRIOR TO CONSTRUCTION OF CURBS, GUTTERS, SIDEWALKS, AND PAVING UNLESS OTHERWISE PERMITTED BY THE CITY ENGINEER.

PUBLIC WORKS NOTES

15. THE DEVELOPER SHALL COMPLY WITH NPDES REQUIREMENTS. THE STORM WATER POLLUTION PREVENTION PLAN (SWPPP) SHALL BE AVAILABLE AT THE CONSTRUCTION SITE AT ALL TIMES AND SHALL BE KEPT UPDATED.
16. ALL RECOMMENDATIONS MADE BY THE GEOTECHNICAL/SOILS ENGINEER (AND ENGINEERING GEOLOGIST, WHERE EMPLOYED), AND CONTAINED IN THE REPORTS REFERENCED HERON, AS APPROVED OR CONDITIONS BY THE CITY, SHALL BE CONSIDERED A PART OF THE GRADING PLAN.
17. ALL STORM DRAIN PIPE WITHIN THE PUBLIC RIGHT OF WAY, AND EASEMENTS SHALL BE REINFORCED CONCRETE PIPE (RCP).
18. TERRACE DRAINS, INTERCEPTOR DRAINS, AND DOWN DRAINS SHALL BE CONSTRUCTED OF 3" P.C.C. REINFORCED WITH6"x6" x #10 W.W.M. AND SHALL BE EITHER SEMICIRCULAR OR TRIANGULAR CROSS SECTION. CONCRETE COLOR SHALL BE "OMAHA TAN" OR APPROVED EQUIVALENT.
19. GRADING QUANTITIES:
CUT 1648.0 CU.YD. FILL: 1310.6 CU.YD.
EXPORT 337.4 CU.YD. IMPORT: 0 CU.YD.
20. TOTAL DISTURBED AREA: 12603.6 (0.29 ACRE)
(INCLUDING GRADING, CLEARING, AND LANDSCARING AREA)
TOTAL EXISTING IMPERVIOUS SURFACE AREA: 0 SQ.FT.
TOTAL PROPOSED IMPERVIOUS SURFACE AREA: 9394.6 SQ.FT.
(0.22 ACRE)
21. ALL SLOPES ON PRIVATE PROPERTY ADJOINING STREETS, DRAINAGE CHANNELS, OR OTHER PUBLIC FACILITIES SHALL BE GRADED NOT STEEPER THAN 2:1 FOR CUT AND FILL UNLESS SPECIFICALLY APPROVED BY THE CITY ENGINEER ON RECOMMENDATION OF THE PROJECT'S GEOTECHNICAL/ SOILS CONSULTANT.
22. ALL CATCH BASINS AND DRAINAGE INLETS SHALL BE STENCILED WITH THE CITY OF MALIBU STORM DRAIN LOGO.

GENERAL NOTES | 6

TEG
TUCHSCHER ENGINEERING GROUP
130 PINE AVE, 3RD FLOOR
LONG BEACH, CA 90802
310.613.9980
www.TEGLosAngeles.com

STAMP
REGISTERED PROFESSIONAL ENGINEER JAMES TUCHSCHER C71649 CIVIL STATE OF CALIFORNIA

STAMP DATE 11/12/2025

DRAWING TITLE SHEET

PROJECT
JENNY RESIDENCE
33008 PACIFIC COAST HWY
MALIBU, CA 90265

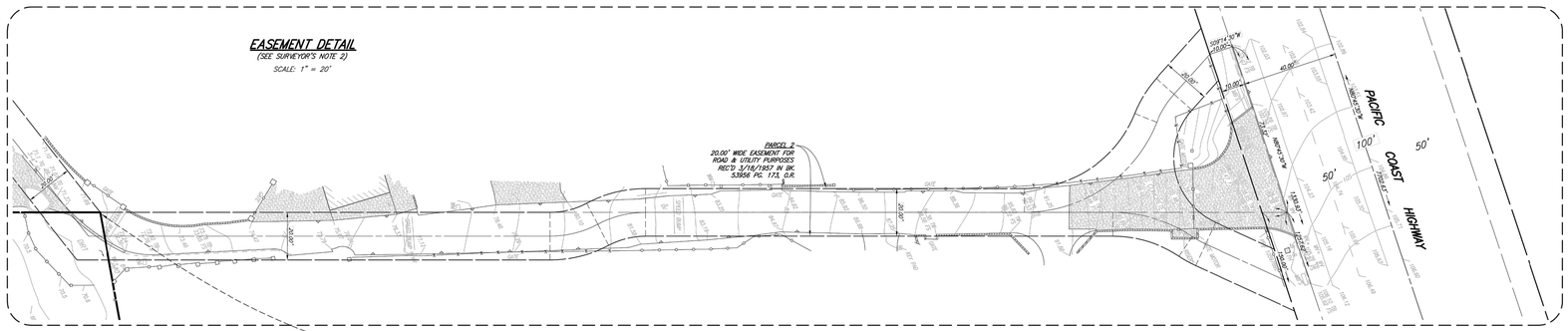
REVISIONS	BY
1 7/14/23	RC
2 11/13/23	MT
3 2/27/24	MT
4 10/24/24	MT
5 10/23/25	MT

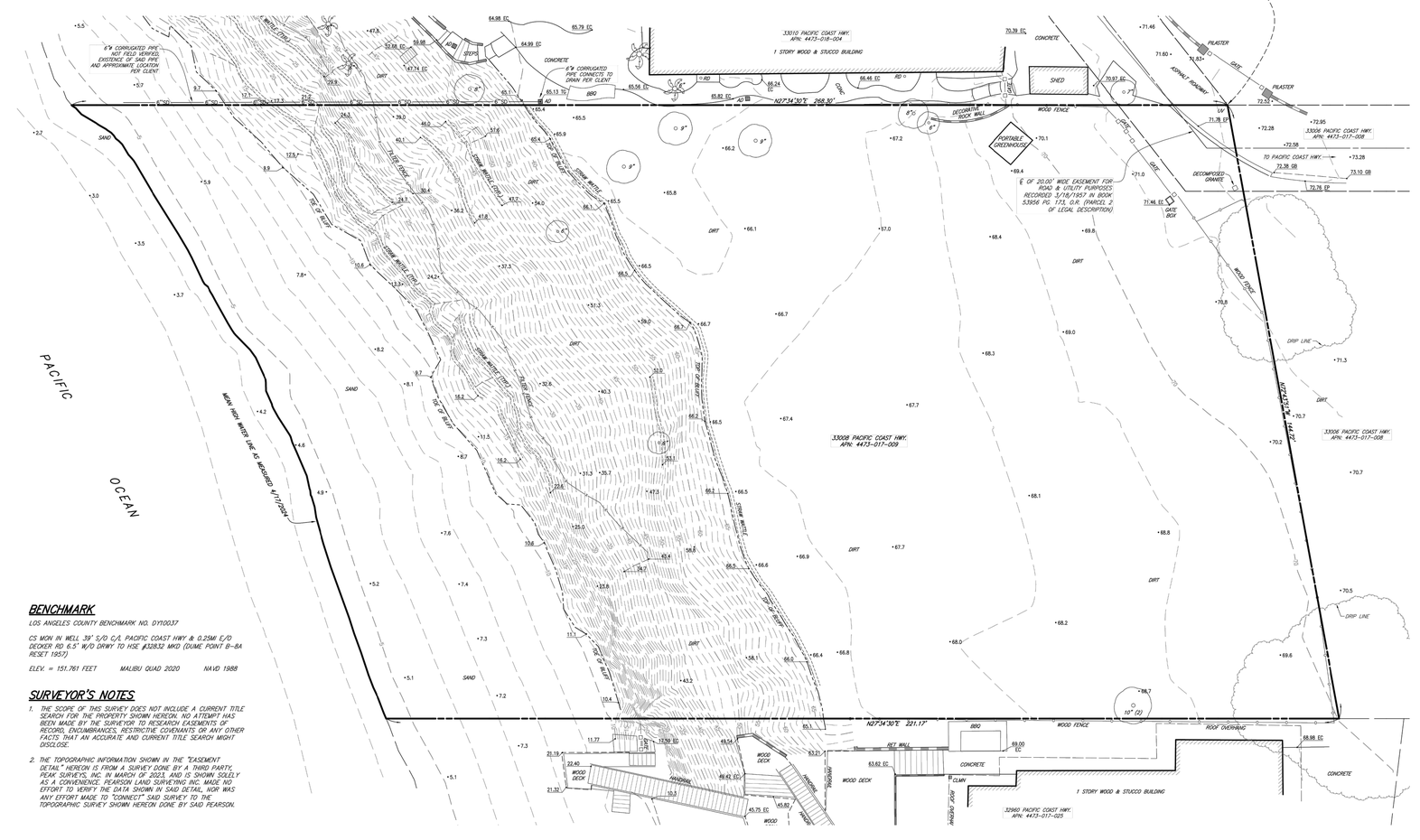
JOB #: 23-2457
DATE: 11/13/23
SCALE: NTS

C-1.0
SHEET 1 OF 7

PLANNING PC-2

JENNY RESIDENCE





BENCHMARK

LOS ANGELES COUNTY BENCHMARK NO. DY10037

CS MON IN WELL 39' S/O C/L PACIFIC COAST HWY & 0.25MI E/O DECKER RD 6.5' W/O DRWY TO HSE #33832 MKD (DUME POINT B–8A RESET 1957)

ELEV. = 151.761 FEET. MALIBU QUAD 2020 NAVD 1988

SURVEYOR'S NOTES

1. THE SCOPE OF THIS SURVEY DOES NOT INCLUDE A CURRENT TITLE SEARCH FOR THE PROPERTY SHOWN HEREON. NO ATTEMPT HAS BEEN MADE BY THE SURVEYOR TO RESEARCH EASEMENTS OF RECORD, ENCUMBRANCES, RESTRICTIVE COVENANTS OR ANY OTHER FACTS THAT AN ACCURATE AND CURRENT TITLE SEARCH MIGHT DISCLOSE.
2. THE TOPOGRAPHIC INFORMATION SHOWN IN THE "EASEMENT DETAIL" HEREON IS FROM A SURVEY DONE BY A THIRD PARTY, PEAK SURVEYS, INC. IN MARCH OF 2023, AND IS SHOWN SOLELY AS A CONVENIENCE. PEARSON LAND SURVEYING INC. MADE NO EFFORT TO VERIFY THE DATA SHOWN IN SAID DETAIL, NOR WAS ANY EFFORT MADE TO "CONNECT" SAID SURVEY TO THE TOPOGRAPHIC SURVEY SHOWN HEREON DONE BY SAID PEARSON.

BOUNDARY AND TOPOGRAPHIC SURVEY

33008 PACIFIC COAST HIGHWAY

CLIENT: RON JENNY
33010 PACIFIC COAST HWY.
MALIBU, CA 90265

SITE ADDRESS: 33008 PACIFIC COAST HWY.
MALIBU, CA 90265

ASSESSOR'S PARCEL NO: 4473-017-009

LEGEND

P.W.F.B.	COUNTY OF LOS ANGELES PUBLIC WORKS FIELD BOOK
C.E.F.B.	CITY OF LOS ANGELES ENGINEERS FIELD BOOK
O/S	OFFSET
P/L	PROPERTY LINE
C/L ℄	CENTERLINE
R/W	RIGHT-OF-WAY
S. & W.	SPIKE & WASHER
I.P.	IRON PIPE
C.N.	CONCRETE NAIL
B/C N.	BASE NAIL
R/R SPK.	RAILROAD SPIKE
P.M.	PUNCH MARK
L. & T/C	LEAD & TAG
L. & T/C	LEAD & TIC
T.C., TC	TOP OF CURB
PROL	PROLONGATION OF LINE
P.R.C.	POINT OF REVERSE CURVE
AD	AREA DRAIN
RD	ROOF DRAIN
GB	GRADE BREAK
RD	ROOF DRAIN
S.M.H.	SEWER MANHOLE
P.I.	POINT OF INTERSECTION
B.C.	BEGINNING OF CURVE
E.C.	END OF CURVE
CB	CATCH BASIN
MH	MANHOLE (SEWER, STORM DRAIN, POWER, TELEPHONE)
PP	POWER POLE
DS	DOWNSPOUT
GM/WM	GAS/WATER METER
GV/WV	GAS/WATER VALVE
PL	PLANTER
GP	GUARD POST
APPR.	DRIVEWAY APPROACH
W	WROUGHT IRON (FENCE)
CHLK	CHAIN LINK (FENCE)
FL	FLOW LINE
TW	TOP OF WALL
TF	TOP OF F.
BF	BOTTOM OF F.
CD	CURB DRAIN
ST.L	STREET LIGHT
SLPB	STREET LIGHT PULL BOX
E's & C's, ETC.	SOUTHERLY, EASTERLY, ETC.
S/F, E/F, ETC.	SOUTH FACE, EAST FACE, ETC., OF IMPROVEMENT
( )	RECORD DATA PER UNDERLYING MAP
( )	RECORD DATA PER C.E.F.B.
	BUILDING FOOT PRINT LINE
	OVERHANG LINE
	EDGE OF ASPHALT
	OVERHEAD UTILITY LINE
	UNDERGROUND LINE W/SIZE OF LINE
	WALL
	YARD LIGHT
	DOOR
	TREE WITH TRUNK DIAMETER
	DIRECTION OF WATER DRAINAGE FLOW

LEGAL DESCRIPTION

PARCEL 1:

THAT PORTION OF THE RANCHO TOPANGA MALIBU SEQUIT, IN THE CITY OF MALIBU, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS CONFIRMED TO MATTHEW KELLER BY PATENT RECORDED IN BOOK 1, PAGE 407, ET SEQ, OF PATENTS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE SOUTHERLY LINE OF THE 80 FOOT STRIP OF LAND DESCRIBED IN THE DEED FROM T. R. CADWALADER, TRUSTEE, TO THE STATE OF CALIFORNIA, RECORDED IN BOOK 15228 PAGE 342, OF OFFICIAL RECORDS OF SAID COUNTY, DISTANT THEREON NORTH 89° 45' 30" WEST 1107.82 FEET FROM A POINT BEARING SOUTH 0° 14' 30" WEST 40 FEET FROM ENGINEER'S CENTER LINE STATION 269 PLUS 88.44 AT THE EASTERLY EXTREMITY OF THAT CERTAIN COURSE IN THE CENTER LINE OF SAID 80 FOOT STRIP OF LAND DESCRIBED IN SAID DEED AS SOUTH 89° 45' 30" EAST 7702.63 FEET; THENCE NORTH 89° 45' 30" WEST 150.00 FEET; THENCE SOUTH 27° 34' 30" WEST TO THE ORDINARY HIGH TIDE OF THE PACIFIC OCEAN; THENCE EASTERLY ALONG SAID TIDE LINE TO A LINE BEARING SOUTH 27° 34' 30" WEST FROM THE POINT OF BEGINNING; THENCE NORTH 27° 34' 30" EAST TO THE POINT OF BEGINNING.

EXCEPT THAT PORTION OF SAID LAND LYING NORTH OF A LINE BEARING NORTH 72° 43' 51" WEST 144.71 FEET FROM A POINT IN THE SOUTHEAST LINE OF SAID LAND DISTANT THEREON SOUTH 27° 34' 30" WEST 529.13 FEET FROM THE NORTHEAST CORNER OF SAID LAND TO A POINT IN THE NORTHWEST LINE OF SAID LAND DISTANT THEREON SOUTH 27° 34' 30" WEST 499.24 FEET FROM THE NORTHWEST CORNER OF SAID LAND.

EXCEPT THEREFROM ALL MINERALS, OIL, PETROLEUM, ASPHALTUM, GAS, COAL AND OTHER HYDROCARBON SUBSTANCES CONTAINED IN, ON, WITHIN AND UNDER SAID LAND, BUT WITHOUT THE RIGHT OF ENTRY, AS RESERVED IN THE DEED FROM MARBLEHEAD LAND COMPANY, A CORPORATION RECORDED ON NOVEMBER 13, 1942 IN BOOK 19037 PAGE 347, OF OFFICIAL RECORDS OF SAID COUNTY.

PARCEL 2:

AN EASEMENT FOR ROAD AND UTILITY PURPOSES, TO BE USED IN COMMON WITH OTHERS, OVER THAT PORTION OF RANCHO TOPANGA MALIBU SEQUIT, IN THE COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS CONFIRMED TO MATTHEW KELLER BY PATENT RECORDED IN BOOK 1 PAGE 407, ET SEQ, OF PATENTS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY. INCLUDED IN THAT CERTAIN BASEMENT DEED, EXECUTED BY EDWARD C. CAZIER ET AL., RECORDED MARCH 15, 1957 AS INSTRUMENT NO. 4281, IN BOOK 53956 PAGE 173, OF OFFICIAL RECORDS.

REVISIONS

10/22/2024 ADDED 6"ø CORRUGATED STORM DRAIN PIPE PER DIRECTION FROM CLIENT. THE LOCATION AND EXTENT OF SAID PIPE IS NOT FIELD VERIFIED

PROFESSIONAL LAND SURVEYOR THOMAS F. MCDERMOTT No. 8555 STATE OF CALIFORNIA

SIGNED _____ DATE: 10/22/2024

PEARSON LAND SURVEYING, INC.
Thomas McDermott, PLS 8555
23371 Mulholland Dr. #330
Woodland Hills, CA 91364
Phone: (818) 468–9714
info@pearsonlandsurveying.com

DRAWN BY: BT	JOB NO.: 24JEN0201	DATE: 4/17/2024
CHECKED BY: TPM	SCALE: 1" = 10'	SHEET 1 OF 1

TEG
130 PINE AVE, 3RD FLOOR
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310.613.9980
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TUCHSCHER ENGINEERING GROUP

STAMP
REGISTERED PROFESSIONAL ENGINEER JAMES TUCHSCHER C 71649 CIVIL STATE OF CALIFORNIA

STAMP DATE 11/12/2025

DRAWING
EXISTING SITE PLAN

PROJECT
JENNY RESIDENCE
33008 PACIFIC COAST HWY
MALIBU, CA 90265

REVISIONS	BY
1 7/14/23	RC
2 11/13/23	MT
3 2/27/24	MT
4 10/24/24	MT
5 10/23/25	MT

JOB #: 23-2457
DATE: 11/13/23
SCALE: 1" = 15'-0"

C-2.0
SHEET 2 OF 7

PLANNING PC-2

JENNY RESIDENCE

CITY OF MALIBU GENERAL NOTES

1. ANY MODIFICATIONS OF OR CHANGES IN APPROVED GRADING PLANS MUST BE APPROVED BY THE BUILDING OFFICIAL.
2. A COPY OF THE GRADING PERMIT AND APPROVED GRADING PLAN MUST BE IN THE POSSESSION OF A RESPONSIBLE PERSON AND AVAILABLE AT THE SITE.
3. FIELD ENGINEER MUST SET GRADE STAKES FOR ALL DRAINAGE DEVICES AND THE CONTRACTOR SHALL OBTAIN INSPECTION BEFORE POURING.
4. ALL STORM DRAIN WORK IS TO BE DONE UNDER CONTINUOUS INSPECTION BY THE FIELD ENGINEER. WEEKLY STATUS REPORTS SHALL BE SUBMITTED BY THE FIELD ENGINEER TO THE CITY BUILDING DEPARTMENT.
5. PROVISIONS SHALL BE MADE FOR CONTRIBUTORY DRAINAGE AT ALL TIMES.
6. SEPARATE PLANS FOR TEMPORARY DRAINAGE AND WET WEATHER EROSION CONTROL MEASURES TO BE USED DURING THE RAINY SEASON MUST BE SUBMITTED PRIOR TO OCTOBER 1. THE EROSION CONTROL DEVICES SHOWN ON SAID PLANS MUST BE INSTALLED BY NOT LATER THAN NOVEMBER 1 AND MAINTAINED IN OPERABLE CONDITION UNTIL APRIL 15.
7. THE GRADING CONTRACTOR SHALL SUBMIT A WRITTEN STATEMENT VERIFYING THAT THE WORK DONE UNDER HIS DIRECTION WAS PERFORMED IN ACCORDANCE WITH THE APPROVED PLANS AND REQUIREMENTS OF CHAPTER 33 OF THE MALIBU BUILDING CODE OR DESCRIBING ALL VARIANCES FROM THE APPROVED PLANS AND REQUIREMENTS OF THE CODE.
8. ALL RECOMMENDATIONS INCLUDED IN THE CONSULTANT'S SOIL AND GEOLOGY REPORTS MUST BE COMPLIED WITH AND ARE A PART OF THE GRADING SPECIFICATIONS.
9. GRADING OPERATIONS MUST BE CONDUCTED UNDER PERIODIC GEOLOGIC INSPECTION WITH MONTHLY INSPECTION REPORTS TO BE SUBMITTED TO THE CITY BUILDING DEPARTMENT.
10. THE CONSULTING GEOLOGIST MUST APPROVE ROUGH GRADING BY FINAL REPORT. FINAL REPORT MUST INCLUDE AN AS-BUILT GEOLOGIC MAP.
11. GRADING SHALL NOT BE STARTED WITHOUT FIRST NOTIFYING THE GRADING INSPECTOR. A PRE-GRADING MEETING ON THE SITE REQUIRED BEFORE THE START OF GRADING WITH THE FOLLOWING PEOPLE PRESENT: OWNER, GRADING CONTRACTOR, DESIGN CIVIL ENGINEER, SOIL ENGINEER, GEOLOGIST, GRADING INSPECTOR, AND WHEN REQUIRED, THE ARCHAEOLOGIST AND PALEONTOLOGIST. THE REQUIRED INSPECTIONS FOR GRADING WILL BE EXPLAINED AT THIS MEETING.
12. FILL SHALL BE BENCHED INTO COMPETENT MATERIAL PER CITY OF MALIBU STANDARD OR SOILS ENGINEER'S DIRECTIONS.
13. ALL EXISTING FILLS SHALL BE APPROVED BY THE BUILDING OFFICIAL OR REMOVED PRIOR TO PLACING ADDITIONAL FILLS.
14. THE BUILDING OFFICIAL SHALL APPROVE STOCK PILING OF EXCESS MATERIAL PRIOR TO EXCAVATION.
15. THE FIELD ENGINEER, AS A CONDITION OF ROUGH GRADE APPROVAL, SHALL PROVIDE A BLUE TOP WITH ACCOMPANYING WITNESS STAKE, SET AT THE CENTER OF EACH PAD REFLECTING THE PAD ELEVATION FOR PRECISE PERMITS AND A BLUE TOP WITH WITNESS STAKE SET AT THE DRAINAGE SWALE HIGH POINT REFLECTING THE HIGH POINT ELEVATION FOR PRELIMINARY PERMITS.
16. ALL TRENCH BACKFILLS SHALL BE TESTED AND APPROVED BY THE SOIL ENGINEER.

CITY OF MALIBU GENERAL NOTES

17. SUB-DRAIN OUTLETS SHALL BE COMPLETED AT THE BEGINNING OF THE SUB-DRAIN CONSTRUCTION AND SURVEY FOR LOCATION. THE AS GRADED PLAN SHALL SHOW ALL SUB-DRAIN LOCATIONS AND ELEVATIONS.
18. ALL CUT SLOPES SHALL BE INVESTIGATED BOTH DURING AND AFTER GRADING BY THE ENGINEERING GEOLOGIST TO DETERMINE IF ANY SLOPE STABILITY PROBLEM EXISTS. SHOULD EXCAVATION DISCLOSE ANY GEOLOGICAL HAZARDS OR POTENTIAL GEOLOGICAL HAZARDS, THE ENGINEERING GEOLOGIST SHALL SUBMIT RECOMMENDED REMEDIATION TO THE BUILDING OFFICIAL FOR APPROVAL.
19. WHERE SUPPORT OR BUTTRESSING OF CUT AND NATURAL SLOPES IS DETERMINED TO BE NECESSARY BY THE ENGINEERING GEOLOGIST AND SOIL ENGINEER, THE SOIL ENGINEER SHALL SUBMIT DESIGN, LOCATIONS, AND CALCULATIONS TO THE BUILDING OFFICIAL PRIOR TO CONSTRUCTION. THE ENGINEERING GEOLOGIST AND SOIL ENGINEER SHALL INSPECT AND CONTROL THE CONSTRUCTION OF THE BUTTRESSING AND CERTIFY TO THE STABILITY OF THE SLOPE AND ADJACENT STRUCTURES UPON COMPLETION.
20. WHEN CUT PADS ARE BROUGHT TO NEAR GRADE, THE ENGINEERING GEOLOGIST SHALL DETERMINE IF THE BEDROCK IS EXTENSIVELY FRACTURED OR FAULTED AND WILL READILY TRANSMIT WATER. IF CONSIDERED NECESSARY BY THE ENGINEERING GEOLOGIST AND SOIL ENGINEER, A COMPACTED FILL BLANKET WILL BE PLACED.
21. THE COMPACTION REPORT AND APPROVAL FROM THE SOIL ENGINEER SHALL INDICATE THE TYPE OF FIELD TESTING PERFORMED. EACH TEST SHALL BE IDENTIFIED WITH THE METHOD OF OBTAINING THE IN PLACE DENSITY, WHETHER SAND CONE OR NUCLEAR GAUGE, AND SHALL BE SO NOTED FOR EACH TEST.
22. EXPORT SOIL MUST BE TRANSPORTED TO A LEGAL DUMP OR TO A PERMITTED SITE SHOWN CLEARLY ON APPROVED PLANS.
23. THE FIELD ENGINEER SHALL SUBMIT A LETTER OF CERTIFICATION TO THE BUILDING OFFICIAL STATING THAT THE GRADING WAS DONE IN COMPLIANCE WITH THE APPROVED GRADING PLAN.
24. PRELIMINARY SOIL AND GEOLOGY REPORTS AND ALL SUBSEQUENT REPORTS, AS APPROVED BY THE CITY OF MALIBU, ARE CONSIDERED A PART OF THE APPROVED GRADING PLAN. ALL RECOMMENDATIONS CONTAINED ARE TO BE COMPLIED WITH OR REVISIONS SUBMITTED FOR REVIEW.
25. ALL EXISTING DRAINAGE COURSES THROUGH THIS SITE SHALL REMAIN OPEN UNTIL FACILITIES TO HANDLE STORM WATER ARE APPROVED AND FUNCTIONAL; HOWEVER, IN ANY CASE, THE PERMITTEE SHALL BE HELD LIABLE FOR ANY DAMAGE DUE TO OBSTRUCTING NATURAL DRAINAGE PATTERNS.
26. ROOF GUTTERS SHALL BE INSTALLED TO PREVENT ROOF DRAINAGE FROM FALLING ON MANUFACTURED SLOPES. GUTTERS SHALL BE CONNECTED TO NON-EROSIVE PIPING OR OTHER METHOD ACCEPTABLE TO THE BUILDING OFFICIAL.
27. ANY EXCAVATIONS ADJACENT TO OTHER PROPERTY OR STRUCTURES ARE SUBJECT TO THE PROVISIONS OF THE CALIFORNIA CIVIL CODE, SECTION 832, AND IS THE RESPONSIBILITY OF THE PERMITTEE AND OR OWNER.
28. NO GRADING OR CONSTRUCTION SHALL OCCUR WITHIN THE PROTECTED ZONE OF ANY OAK TREE. THE PROTECTED ZONE SHALL MEAN THAT AREA WITHIN THE DRIP LINE OF AN OAK TREE EXTENDING THERE FROM A POINT AT LEAST FIVE FEET OUTSIDE THE DRIP LINE, OR 15 FEET FROM THE TRUNK(S) OF A TREE, WHICHEVER IS GREATER.

DISTURBED AREA

TOTAL DISTURBED AREA	12603.6 SQ.FT.	0.29 ACRES

CONSTRUCTION NOTES

1	OUTLINE OF HAMMERHEAD TURNAROUND, PER MALIBU FIRE DEPARTMENT REQUIREMENTS
2	PROPOSED TRASH ENCLOSURE
3	EXISTING PRIVATE DRIVEWAY FROM PACIFIC COAST HIGHWAY
4	GUEST PARKING AREA
5	EXISTING NEIGHBOR'S FENCE TO REMAIN
6	EXISTING SITE WALL
7	EXISTING NEIGHBORING STRUCTURE
8	TRENCH DRAIN OUTLINE
9	PROPOSED DISPERSAL FIELD
10	FUTURE DISPERSAL FIELD
11	SEPTIC TANK PER OWTS PLANS
12	ON-GRADE WOOD DECK PATIO
13	BIOFILTRATION PLANTER BOX PER DETAIL 8/C-5.0

GRADING PLAN LEGEND

- STRUCTURE OUTLINE ON GRADE
- (100') EXISTING MAJOR GRADE CONTOUR
- (101') EXISTING MINOR GRADE CONTOUR
- 100' PROPOSED MAJOR GRADE CONTOUR
- 101' PROPOSED MINOR GRADE CONTOUR
- (100') REMOVED MAJOR GRADE CONTOUR
- (101') REMOVED MINOR GRADE CONTOUR
- CUT & FILL TRANSITION
- GRADE TRANSITION
- DISTURBED AREA BOUNDARY
- (E) FENCE
- SETBACK LINE
- CUT AREA
- FILL AREA
- REMOVE AND RECOMPACT AREA
- SITE WALL

City of Malibu

23825 Stuart Ranch Road · Malibu, California · 90265-4861
Phone (310) 456-2489 · Fax (310) 456-7650 · www.malibucity.org

TOTAL GRADING YARDAGE VERIFICATION CERTIFICATE

PLANNING DEPARTMENT REVIEW LEVEL

PROJECT NUMBER:

PROJECT ADDRESS: 33008 PACIFIC COAST HIGHWAY, MALIBU, CA 90265

The completed form must be provided at the time of Planning Department application for grading approval. All applicable cubic yardages shall be completed in the table. **All calculations utilized to estimate the cubic yardages indicated shall be attached to this form.** This form and the required calculations must be prepared by a State of California Licensed Civil Engineer. The form and the calculations shall be stamped and wet signed by the preparing party.

	Exempt R&R	Exempt Understructure	Exempt Safety	Non-Exempt	Remedial	Total
Cut	1184.2 CU. YD.	356.4 CU YD.	3.3 CU YD.	97.1 CU YD.	0 CU.YD.	1648 CU.YD.
Fill	1184.2 CU. YD.	6.1 CU.YD.	78.1 CU.YD.	56.2 CU.YD.	0 CU.YD.	1310.8 CU.YD.
Total	2368.4 CU. YD.	366.5 CU. YD.	75.4 CU.YD.	153.3 CU.YD.	0 CU.YD.	2958.8 CU.YD.
Import			68.8 CU.YD.			
Export		366.5 CU.YD.		43.9 CU.YD.		337.4 CU.YD.

All quantities indicated shall be in cubic yards only.
R&R = Removal and Recompaction – *R&R must be balanced.*
Safety Grading is required grading for L.A. County Fire Department access approval beyond the 15 foot minimum access and may include turnouts, hammerheads, turnarounds, and access roadway widening.
Remedial grading is grading recommended by a full site geotechnical or soils report prepared by a licensed geologist or soils engineer which is necessary to correct physical deficiencies on the site for the construction of a primary residential structure or access to the lot.
Imported means soil that is brought on to the site. Exported means soil that is leaving the site. This information will be used to calculate the number of truck trips required for site preparation.

PREPARED BY: JAMES TUCHSCHER

DATE: 10/23/2025

Page 1 of 1
P:\Forms\COUNTER FORMS\PLN Grading Verification Certificate_100201.doc

DIGALERT — EXCAVATION NOTICE — BEFORE A PERMIT TO EXCAVATE WILL BE VALID, CONTACT DIG ALERT FOR DIG ALERT IDENTIFICATION NUMBER 48 HOURS BEFORE EXCAVATION — CALL 811

REMOVAL AND RECOMPACTION OF SOIL BELOW PROPOSED CONCRETE SLAB-ON-GRADE TO EXPOSE TERRACED DEPOSITS, WITH 3' HORIZONTAL OFFSET FROM THE OUTLINE OF SLAB-ON-GRADE, PER CALWEST GEOTECHNICAL REPORT, SECTION 10.1.2, DATED 6/2/22

REMOVAL AND RECOMPACTION OF SOIL BELOW PROPOSED CONCRETE SLAB-ON-GRADE TO EXPOSE TERRACED DEPOSITS, WITH 3' HORIZONTAL OFFSET FROM THE OUTLINE OF SLAB-ON-GRADE, PER CALWEST GEOTECHNICAL REPORT, SECTION 10.1.2, DATED 6/2/22

PER CALWEST RECOMMENDATIONS, LIMITS OF REMOVAL & RECOMPACTION SHALL NOT INCLUDE THE PROPOSED DISPERSAL FIELD. DURING CONSTRUCTION, SURFICIAL SOILS TO BE REMOVED BY SEPTIC CONTRACTOR AND DISPERSAL FIELD TO BE CONSTRUCTED PER OWTS PLANS.

REMOVAL AND RECOMPACTION OF SOIL BELOW PROPOSED CONCRETE SLAB-ON-GRADE TO EXPOSE TERRACED DEPOSITS, WITH 3' HORIZONTAL OFFSET FROM THE OUTLINE OF SLAB-ON-GRADE, PER CALWEST GEOTECHNICAL REPORT, SECTION 10.1.2, DATED 6/2/22

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LONG BEACH, CA 90802
310.613.9980
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STAMP

REGISTERED PROFESSIONAL ENGINEER JAMES TUCHSCHER C77649 CIVIL STATE OF CALIFORNIA

STAMP DATE 11/12/2025

DRAWING
GRADING PLAN

PROJECT
JENNY RESIDENCE
33008 PACIFIC COAST HWY
MALIBU, CA 90265

REVISIONS	BY
1 7/14/23	RC
2 11/13/23	MT
3 2/27/24	MT
4 10/24/24	MT
4.1 10/23/25	MT

JOB #: 23-2457
DATE: 11/13/23
SCALE: 1/8" = 1'-0"

C-3.0
SHEET 3 OF 7

PLANNING PC-2

JENNY RESIDENCE

GRADING PLAN — SCALE: 1/8" = 1'-0" — 1

PUBLIC WORKS NOTE
NO CITY/COUNTY STORM DRAIN INLETS WITHIN 250 FEET FROM PROPERTY LINE.

PUBLIC WORKS NOTE
INSTALL STENCIL AT ALL CATCH BASIN INLET DRAINS WITHIN 250 FT PER PER DETAIL 1/C-5.0

DRAINAGE PLAN LEGEND

- 1ST FLOOR OUTLINE
- 2ND FLOOR OUTLINE
- (100') EXISTING MAJOR GRADE CONTOUR
- (101') EXISTING MINOR GRADE CONTOUR
- 100' PROPOSED MAJOR GRADE CONTOUR
- 101' PROPOSED MINOR GRADE CONTOUR
- 4"Ø SOLID SCHEDULE 40 PVC PIPE
- 6"Ø SOLID SCHEDULE 40 PVC PIPE
- 3"Ø SOLID SCHEDULE 40 PVC PIPE
- 4"Ø PERFORATED SCHEDULE 40 PVC PIPE W/ HOLES FACING DOWNWARD
- DISTURBED AREA
- 4"Ø TRENCH DRAIN PER PLAN
- 4"Ø GUTTER
- 4"Ø AREA DRAIN W/ MIN. 2% SLOPE TO DRAIN
- 4"Ø DOWNSPOUT PER PLAN
- CLEANOUT PER PLAN
- CATCH BASIN PER PLAN
- IMPERMEABLE AREA
- NON-SPECIFIC PERMEABLE AREA
- NATURAL GRADE/LANDSCAPING AREA
- INTERLOCKING PERMEABLE PAVERS PER PLAN
- GRAVEL AREA
- LID LANDSCAPING AREA
- EXISTNG ASPHALT TO REMAIN
- DIRECTION OF PIPE FLOW (SLOPED AT 2% UNLESS OTHERWISE STATED)
- 2% SLOPE PERCENTAGE OF PIPE FLOW
- PERF DIRECTION OF PERFORATED PIPE FLOW
- PRESS DIRECTION OF PRESSURIZED PIPE FLOW
- DIRECTION OF DISCHARGE

CONSTRUCTION NOTES

1. 4" TRENCH DRAIN AT DRIVEWAY PER DETAIL 5/C-5.0
2. EXISTING PRIVATE DRIVEWAY FROM PACIFIC COAST HIGHWAY
3. 4" DOWNSPOUT PER DETAIL 3/C-5.0
4. 4" GUTTER W/ MIN. 2% SLOPE PER DETAIL 3/C-5.0
5. 4" CLEANOUT
6. 182.9 SQ.FT. PROPOSED BIOFILTRATION PLANTER PER DETAIL 8/C-5.0
7. 24" CLOSED-GRATE SQUARE CONCRETE CATCH BASIN PER DETAIL 2/C-5.0
8. SEE CONTINUATION OF PRESSURIZED PIPE ON C-4.1
9. GRAVEL GUEST PARKING AREA
10. 4" DOWNSPOUT PER DETAIL 3/C-5.0 TO DISCHARGE ONTO ROOF LEVEL BELOW
11. DECK WITH INTERLOCKING PERMEABLE PAVERS
12. 18" OPEN-GRATE SQUARE CONCRETE CATCH BASIN PER DETAIL 6/C-5.0
13. SEPTIC TANK PER OWTS PLANS
14. DISPERSAL FIELD PER OWTS PLANS
15. SEWAGE PIPES PER OWTS PLANS
16. 8" SQUARE CLOSED-GRATE CONCRETE CATCH BASIN AS CLEANOUT PER DETAIL 2/C-5.0
17. 12" SQUARE CLOSED-GRATE CONCRETE CATCH BASIN AS SPLASHBOX PER DETAIL 2/C-5.0
18. 24" SQUARE CONCRETE CATCH BASIN AS CLEANOUT
19. PARAPET
20. 4" SCUPPER
21. 4" OVERFLOW SCUPPER SET 2" ABOVE ROOF SURFACE
22. TREE, PER LANDSCAPING PLAN
23. PROPOSED CONCRETE PICKLEBALL COURT
24. FUTURE DISPERSAL FIELD PER OWTS PLANS
25. PROPOSED SITE WALL
26. 12" SWALE PER DETAIL 7/C-5.0
27. 12" SQUARE OPEN-GRATE CONCRETE CATCH BASIN AS SPLASHBOX PER DETAIL 6/C-5.0
28. (E) PAVING D.G. TO REMAIN 4.1
29. 5000 GAL DETENTION TANK BY JENSEN PER DETAIL 9/C-5.0
30. EXISTING 6'Ø PIPE

DRAINAGE NOTES

1. 2% MIN. SLOPE TO DRAINAGE DEVICE AND / OR STREET AT ALL PAD AREAS.
2. 2% MIN. SLOPE AWAY FROM BUILDINGS AT AREAS OF HARDSCAPE AT ADJACENT 5 FEET.
3. 5% MIN. SLOPE AWAY FROM BUILDINGS AT AREAS OF SOFTSCAPE AT ADJACENT 5 FEET.
4. PROVIDE CATCH BASIN INLET DRAINS WITH STENCIL PER DETAIL 1/C-5.0.

DISTURBED AREA		
TOTAL DISTURBED AREA	12603.6 SQ.FT.	0.29 ACRES

P/L L = 288.80'

P/L L=144.72'

P/L L = 255.37'

OVERFLOW PIPE

DISTURBED AREA BOUNDARY

50.00' BLUFF SETBACK

15.00' BLUFF SETBACK

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STAMP

REGISTERED PROFESSIONAL ENGINEER
JAMES TUCHSCHER
C71649
CIVIL
STATE OF CALIFORNIA

STAMP DATE
11/12/2025

DRAWING
DRAINAGE PLAN - PROPOSED STRUCTURE

PROJECT
JENNY RESIDENCE
33008 PACIFIC COAST HWY
MALIBU, CA 90265

REVISIONS	BY
1 7/14/23	RC
2 11/13/23	MT
3 2/27/24	MT
4 10/24/24	MT
4.1 10/23/25	MT

JOB #: 23-2457
DATE: 11/13/23
SCALE: 1/8" = 1'-0"

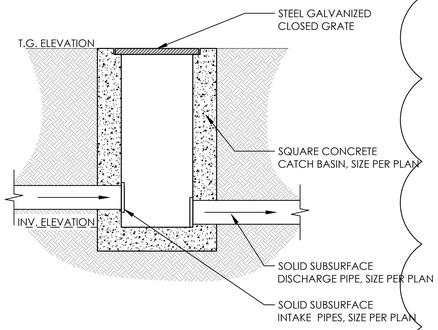
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SHEET 4 OF 7

PLANNING PC-2

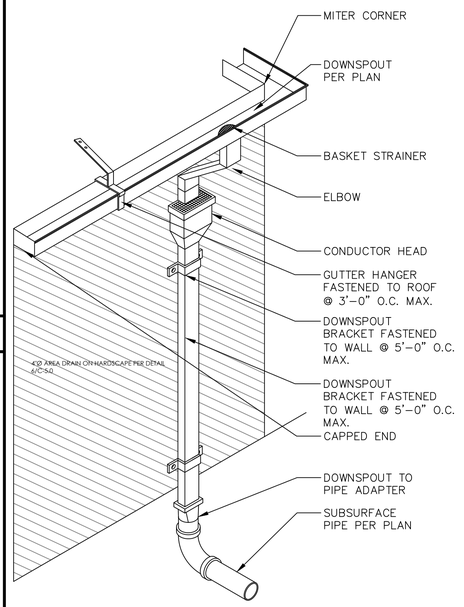
JENNY RESIDENCE



DRAIN SIGNAGE | 1



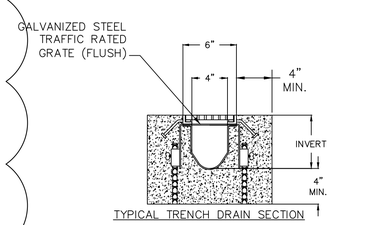
CATCH BASIN DETAIL | 2



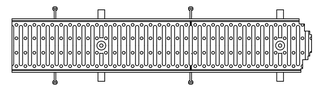
GUTTER AND DOWNSPOUT DETAIL | 3

NOT IN USE | 4

4



TYPICAL TRENCH DRAIN SECTION

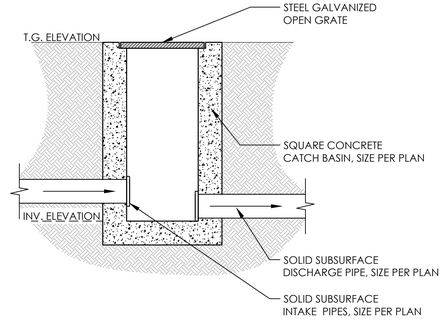


TYPICAL PLAN VIEW

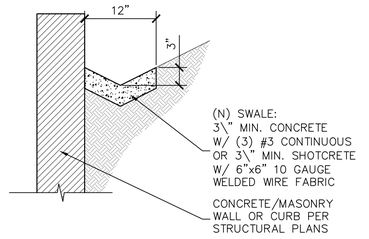


TYPICAL ELEVATION

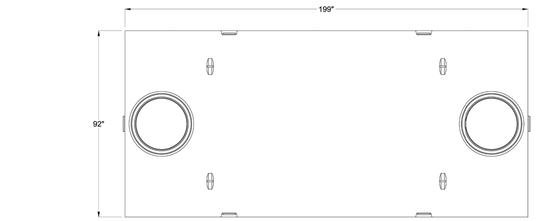
TRENCH DRAIN DETAIL | 5



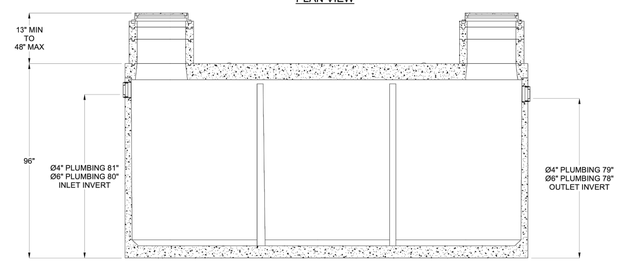
CATCH BASIN DETAIL | 6



CONCRETE SWALE DETAIL | 7



PLAN VIEW



CROSS SECTION

BURY DEPTH:	1.1' - 4.0' to Top		
WATER LEVEL:	Below Structure	WEIGHT:	37429.65 Lbs
DESIGN SPEC:	ASTM C890,ACI 318	LOADING SPEC:	A-16 (AASHTO HS20-44)
REINFORCEMENT TYPE:		LIFTING TYPE:	

JENSEN PRECAST EST. 1968
WWW.JENSENPRECAST.COM

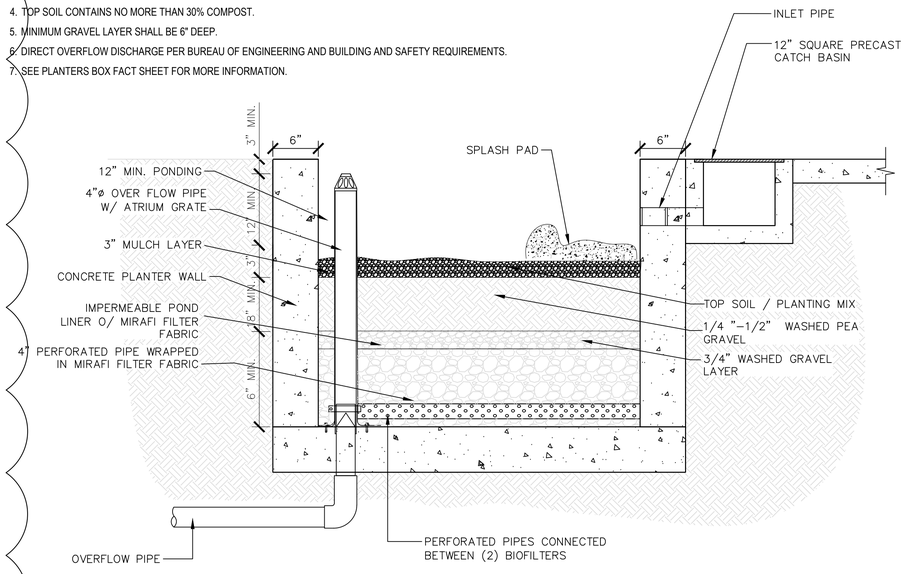
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DESCRIPTION:	Tank JZ 5000 Gallon 6 Inch Layout Holding Tank 24"E, 24"E No Baffle LAYOUT DRAWING		REV: D-2
PART NUMBER:	200033614	DRAWN BY:	E. Fine
CREATED:	1/31/2019	MODIFIED:	8/30/2022
			SHEET: 2 OF 2

JENSEN 5000 GAL DETENTION TANK DETAIL | 9

NOTES:

1. AT LEAST 15 INCHES SHALL BE PROVIDED BETWEEN THE PLANTING SURFACE AND THE CREST OF EACH PLANTER
2. PLANTERS SHALL NOT BE LOCATED ON UNEVEN OR SLOPED SURFACES.
3. TOP SOIL/PLANTING MIX IS AT LEAST 18" DEEP.
4. TOP SOIL CONTAINS NO MORE THAN 30% COMPOST.
5. MINIMUM GRAVEL LAYER SHALL BE 6" DEEP.
6. DIRECT OVERFLOW DISCHARGE PER BUREAU OF ENGINEERING AND BUILDING AND SAFETY REQUIREMENTS.
7. SEE PLANTERS BOX FACT SHEET FOR MORE INFORMATION.



BIO-FILTER PLANTER DETAIL | 8

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REGISTERED PROFESSIONAL ENGINEER JAMES TUCHSCHERER C71649 CIVIL STATE OF CALIFORNIA

STAMP DATE 11/12/2025

DRAWING
CIVIL DETAILS

PROJECT
JENNY RESIDENCE
33008 PACIFIC COAST HWY
MALIBU, CA 90265

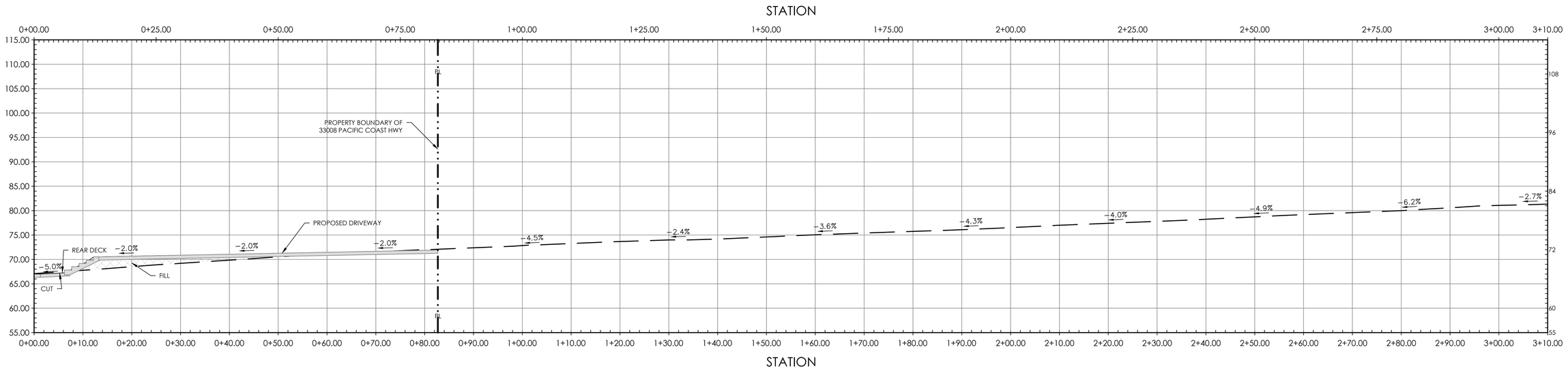
REVISIONS	BY
1 7/14/23	RC
2 11/13/23	MT
3 2/27/24	MT
4 10/24/24	MT
5 10/23/25	MT

JOB #: 23-2457
DATE: 11/13/23
SCALE: NTS

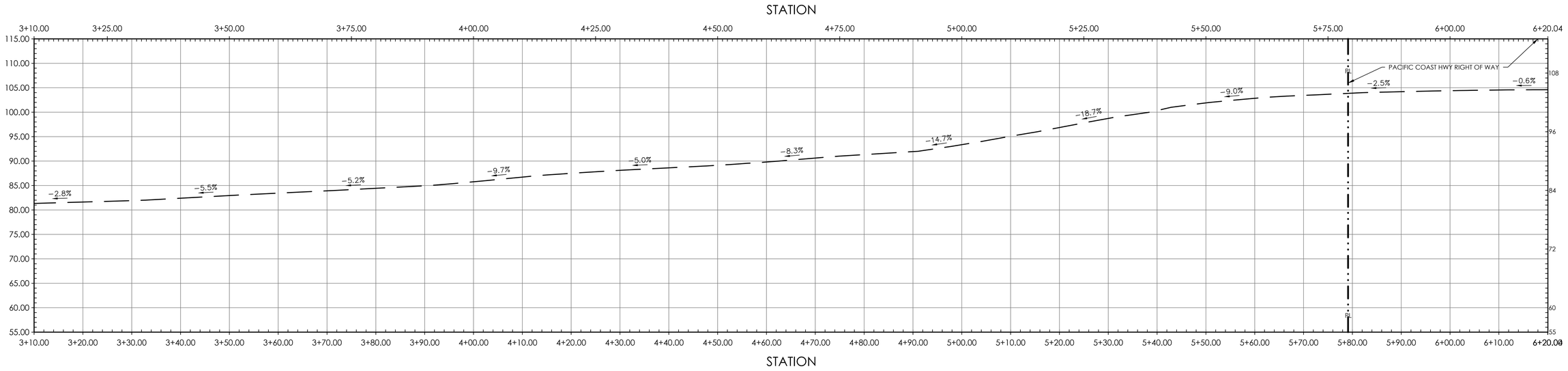
C-5.0
SHEET 5 OF 7

PLANNING PC-2

JENNY RESIDENCE



DRIVEWAY PROFILE (STA. 0+00.00 - 3+10.00) SCALE: 1" = 10'-0" 2



DRIVEWAY PROFILE (STA. 3+10.00 - 6+20.04) SCALE: 1" = 10'-0" 2

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C71649
CIVIL
STATE OF CALIFORNIA

STAMP DATE
11/12/2025

DRAWING
DRIVEWAY PROFILE

PROJECT
JENNY RESIDENCE
33008 PACIFIC COAST HWY
MALIBU, CA 90265

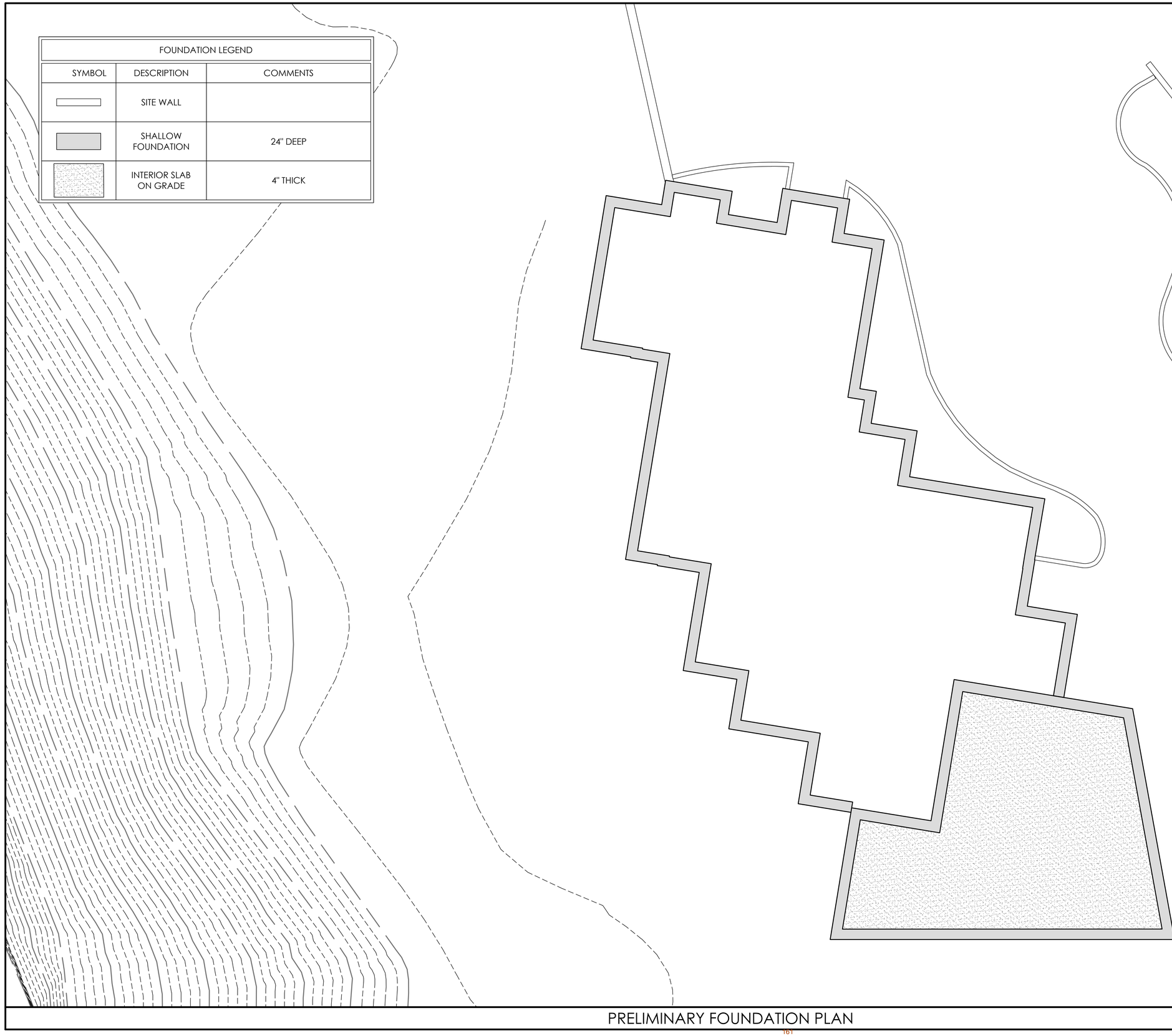
REVISIONS	BY
1 7/14/23	RC
2 11/13/23	MT
3 2/27/24	MT
4 10/24/24	MT
5 10/23/25	MT

JOB #: 23-2457
DATE: 11/13/23
SCALE: 1" = 10'-0"

C-6.0
SHEET 6 OF 7

PLANNING PC-2
JENNY RESIDENCE

FOUNDATION LEGEND		
SYMBOL	DESCRIPTION	COMMENTS
	SITE WALL	
	SHALLOW FOUNDATION	24" DEEP
	INTERIOR SLAB ON GRADE	4" THICK



PRELIMINARY FOUNDATION PLAN

SCALE: 3/16" = 1'-0"

1

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JAMES TUCHSCHER
C77649
CIVIL
STATE OF CALIFORNIA

STAMP DATE
11/12/2025

DRAWING
PRELIMINARY
FOUNDATION PLAN

PROJECT
JENNY RESIDENCE
33008 PACIFIC COAST HWY
MALIBU, CA 90265

REVISIONS	BY

JOB #: 23-2457
DATE: 8/10/23
SCALE: 3/16" = 1'-0"

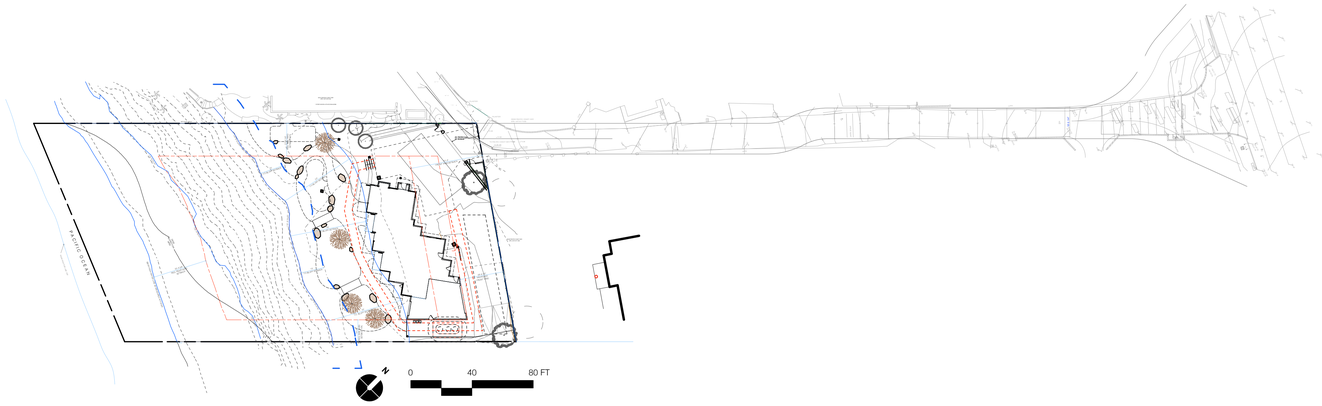
S1-P
SHEET 8 OF 8

PLANNING SUBMITTAL

JENNY RESIDENCE

33008 PACIFIC COAST HIGHWAY

MALIBU, CA 90265





vicinity map

Project Description

Exterior landscape, lighting and irrigation for new single family residence with attached garage.

Project Details

project address: 33008 Pacific Coast Highway
Malibu, CA 90265

owner: Ronald Jenny
33010 Pacific Coast Highway
Malibu, CA 90265

assessors number: 4473-017-009

zoning: RR2

total proposed landscape area: 3,417 SF
low water use - 3,327 SF
med water use - 90 SF
high water use - 0 SF

total irrigated landscape: 3,417 SF

water supply type: potable

water municipality: Los Angeles Water District 29

Consultants

architect: Burdge & Associates
24911 PCH
Malibu, CA 90265
p: 310.456.5905

landscape: Barefoot Design, Inc.
1187 Coast Village Road, #287
Santa Barbara, CA 93108
p: 805.697.7466

Sheet Index

sheet #	Title
L0.00	Cover Sheet
L1.00	Hardscape & Lighting Plan
L1.01	Hardscape Details
L2.00	Irrigation Plan
L2.01	Irrigation Details
L3.00	Planting Plan - Front
L3.01	Planting Details

Statement of Compliance

I have complied with the criteria of the Landscape Water Conservation Ordinance and applies them for the efficient use of water in the landscape design.

Preparer Name: Jessica Harlin

Preparer Signature:

Professional License / Designation: Landscape Architect, #6606

BAREFOOT DESIGN
1187 Coast Village Road, #287
Santa Barbara, CA 93108
TEL 805.697.7466
WEB www.barefoot-design.net

SUBMITTALS

THE DRAWINGS AND SPECIFICATIONS ARE THE PROPERTY AND COPYRIGHT OF THE BAREFOOT DESIGN AND SHALL NOT BE USED ON ANY OTHER WORK EXCEPT BY WRITTEN AGREEMENT WITH THE BAREFOOT DESIGN. WRITTEN DIMENSIONS SHALL BE VERIFIED ON THE JOB SITE. DISCREPANCIES SHALL BE BROUGHT TO THE ATTENTION OF BAREFOOT DESIGN PRIOR TO THE COMMENCEMENT OF ANY WORK.

5/11/23

PROJECT:

BLUFFTOP 1
33008 Pacific Coast Highway, Malibu CA, 90265

SHEET CONTENTS

Cover Sheet

DATE 11/12/25

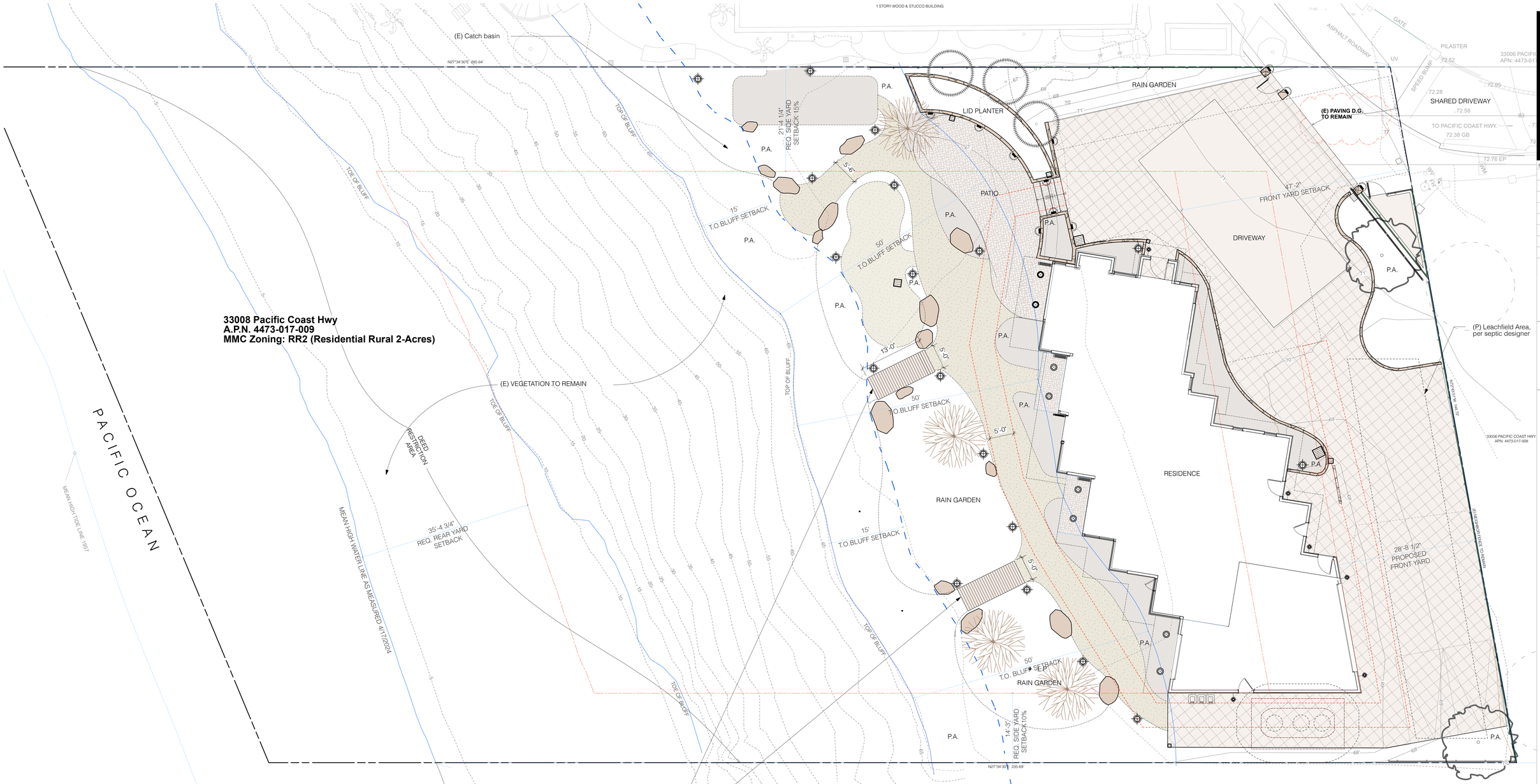
SCALE 1" = 40'-0"

DRAWN KR

JOB 23-06

SHEET **L0.00**

1 OF 9 SHEETS



33008 Pacific Coast Hwy
A.P.N. 4473-017-009
MMC Zoning: RR2 (Residential Rural 2-Acres)

6 L1.01 (P) Prefabricated Boardwalk, Set on Grade (NO FOOTINGS)
- MFR: Fifthroom, PRODUCT: No Rail Cedar Pedestrian Bridge
(or approved equal)

Lighting Legend

symbol	description	quantity	manufacturer	model	lumen	wattage	color temp (K)	notes
L	controller *(to be programmed to turn outdoor lighting off during daytime hours)*	1	FX Luminaire	LZD-300-SS	N/A	N/A	N/A	
	beam mounted light	2	WAC Lighting	FM-W47205-30-BK	900	11.9	3000	
	overhang recessed light	6	FX Luminaire	RC-3LED-SV	261	4.2	2700	
	pathlight	18	FX Luminaire	PFLEDTA - CU + P - 1LED - 18RA - CU	39	2	2700	18" height
	wall lights	11	FX Luminaire	MS - 1LED - BS	101	1.9	2700	
	sconce	6	Kuzco	EW48003-BK-UNV	1020	12	3000	

notes:
1. Wiring and transformer locations to be provided by Electrician.
2. Location of lights are diagrammatic. Final location to be set prior to installation by Landscape Architect.

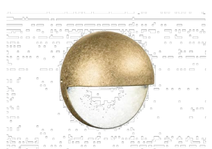

FX Luminaire - Overhang Recessed Light


WAC Lighting - Beam Mounted Light


Kuzco - Sconce


FX Luminaire - Luxor Controller


FX Luminaire - Path Light


FX Luminaire - Wall Light

Materials Legend:

symbol	description	area	detail
	Driveway Pavers	4,513 SF	8 L1.01
	Permeable Pavers	616 SF	7 L1.01
	Concrete	947 SF	3,4 L1.01
	Decomposed Granite	1,816 SF	1, 2 L1.01
	3/8" Gravel Mulch	1,251 SF	
	Shovel Cut Edge		2 L1.01
	Santa Barbara Sandstone Boulders, set in grade		5 L1.01
	Catch Basin - See Civil Drainage Plan		

3 BAREFOOT DESIGN
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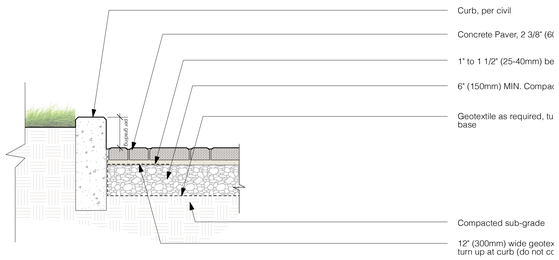
5/11/23

PROJECT:

BLUFFTOP 1
33008 Pacific Coast Highway, Malibu CA, 90265

SHEET CONTENTS: **Hardscape & Lighting Plan**

DATE 11/12/25
SCALE 1/8" = 1'-0"
DRAWN KR
JOB 23 - 06
SHEET **L1.00**
2 OF 9 SHEETS



NOTES:

1. Thickness of aggregate base will vary with subgrade conditions and climate. Colder clinmates may require a thicker base.

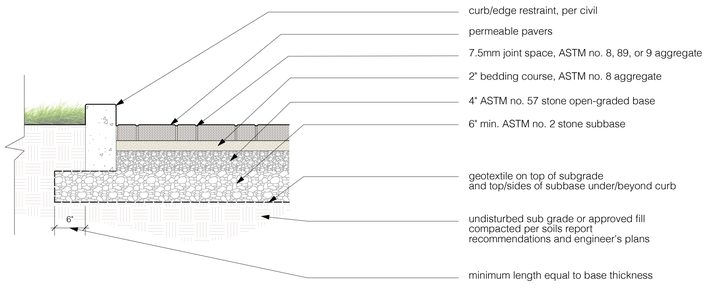
2. Concrete pavers should be placed on a cement treated base of soil is extremeley weak or constantly saturated, pavers can be overlaid or inlaid on existing asphalt or concrete driveways.

3. Consult ICPI tech spec 2 for guidelines on specifications of base materials, subgrade and soil compaction.

4. Plastic, aluminum or precast concrete edging may be used.

8 Interlocking Pavers

scale: 1" = 1'-0"



Notes:
1. Cross section as shown, is suitable for residential driveways, patios, and sidewalks.

2. Depth of aggregate base subject to site specific conditions (soil conditions, groundwater levels, climatic conditions). Contact sales represantitive.

3. Drain pipes may be required within aggregate base depending on the permeability of the subgrade soils. Verify drainage needs with the geotechnical engineer. Ensure drain pipes are able to daylight via gravity flow to surface, or connect to catch basin.

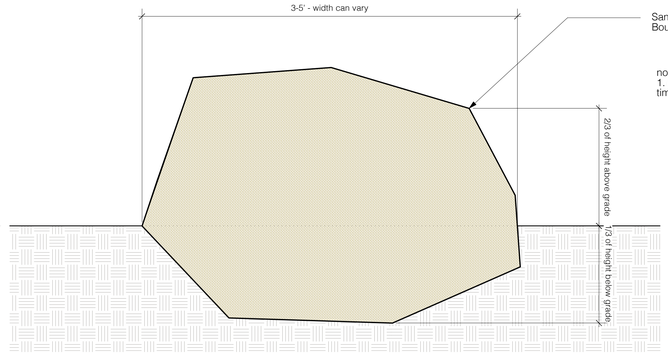
7 Permeable Interlocking Pavers

scale: 1" = 1'-0"



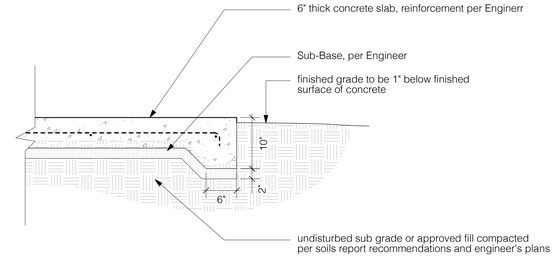
6 Prefabricated Boardwalk

scale: n/a



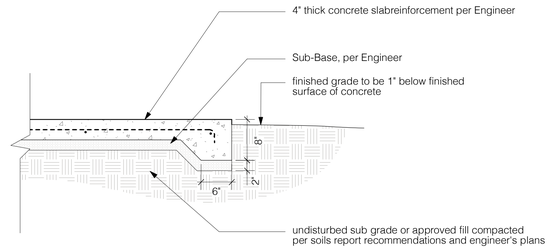
5 Boulder Set in Grade

scale: 1" = 1'-0".



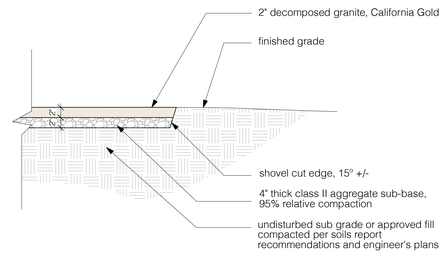
4 6" Integral Color Concrete Paving, TYP.

scale: 1" = 1'-0".



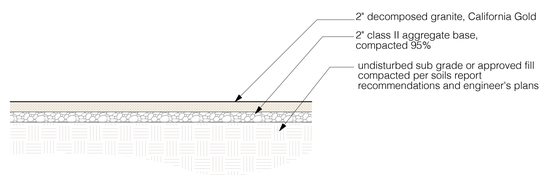
3 4" Integral Color Concrete Paving, TYP.

scale: 1" = 1'-0".



2 Shovel Cut Edge @ Decomposed Granite

scale: 1" = 1'-0".



1 Decomposed Granite Paving

scale: 1" = 1'-0".

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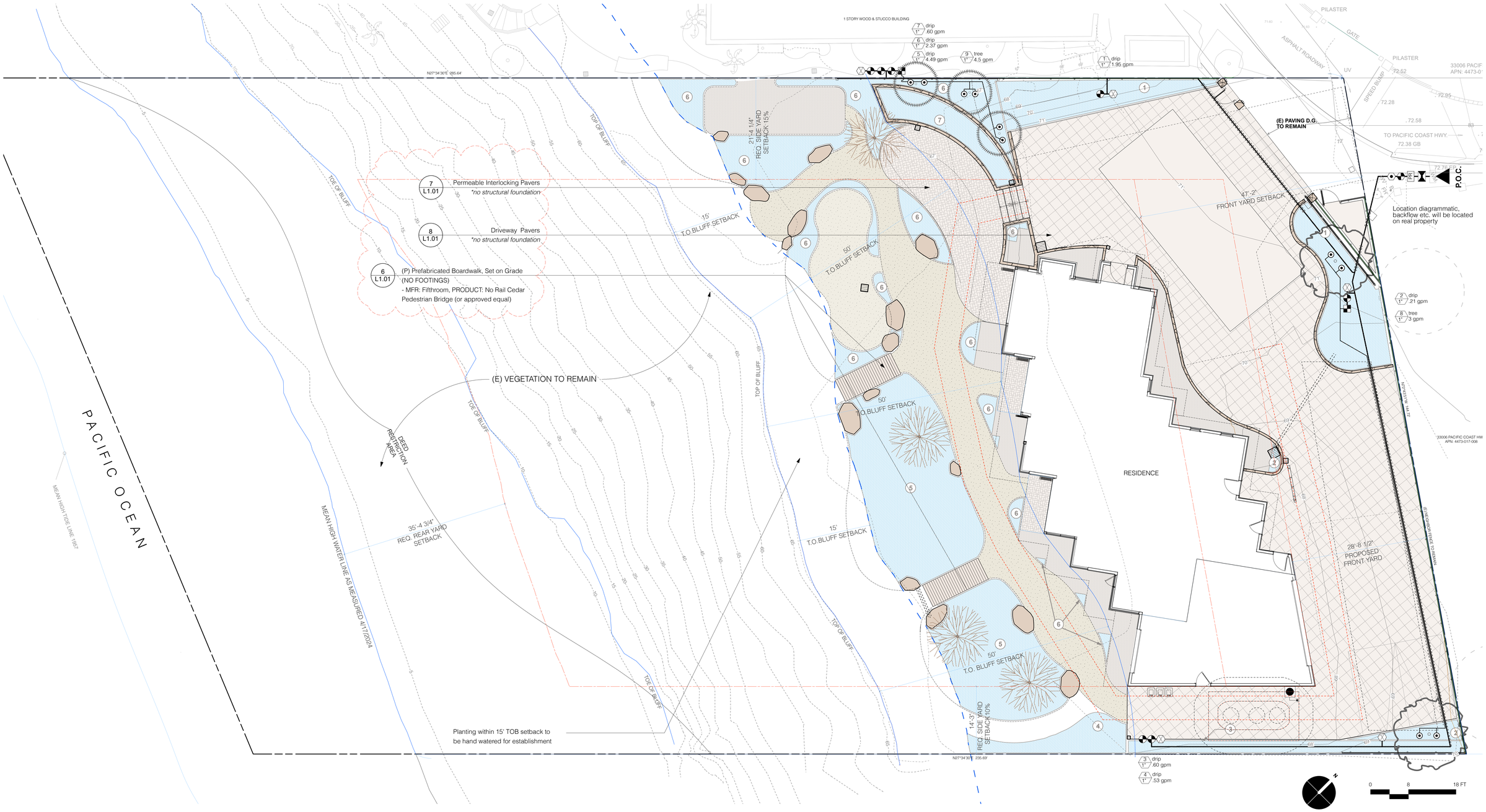
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5/11/23

PROJECT:
BLUFFTOP 1
33008 Pacific Coast Highway, Malibu CA, 90265

SHEET CONTENTS
Hardscape & Lighting Plan

DATE 11/12/25
SCALE as noted
DRAWN KR
JOB 23-06
SHEET **L1.01**
3 OF 9 SHEETS



Project Information

Total Landscaped Area (Proposed): 3,417 SF
Landscape Area with Low Water: 3,327 SF
Landscape Area with Med Water: 90 SF
Landscape Irrigated with High Water Use: 0 SF
Total New Irrigated Area: 3,417 SF
Project Type: residential
Water Supply Type: potable
Water Municipality: Los Angeles Waterworks District 29

Valve Identification

valve number — # type — valve type
valve size — 1" flow — valve flow rate

Lateral Line Sizing

0-6 gpm	1/2"	class 315
6-10 gpm	3/4"	class 200
10-16 gpm	1"	class 200
16-26 gpm	1 1/4"	class 200
26-35 gpm	1 1/2"	class 200
35-55 gpm	2"	class 200
55-80 gpm	2 1/2"	class 200
80-120 gpm	3"	class 200

Mainline Sizing

0-4 gpm	1/2"	schedule 40
4-8 gpm	3/4"	schedule 40
8-12 gpm	1"	schedule 40
12-22 gpm	1 1/4"	schedule 40
22-30 gpm	1 1/2"	schedule 40
30-50 gpm	2"	class 315
50-70 gpm	2 1/2"	class 315
70-120 gpm	3"	class 315

Irrigation Legend

symbol	description	manufacture / model
	domestic mainline	2" sch 40 PVC
	irrigation lateral	see Lateral Line Sizing
	irrigation sleeve	see Irrigation Notes
P.O.C.	point of connection	(N) 1" dedicated water meter, labeled "FOR IRRIGATION ONLY"
	irrigation controller	HUNTER I-Core IC-600-SS controller w/ (3) HUNTER ICM-600 Module & (1) HUNTER Wireless Rain-clik Rain Sensor WR-CLICK-TR. Rain Sensor to be programmed to automatically shutoff when onsite rainfall exceeds 1/4 inch.
	backflow preventer	1-1/2" FEBCO 825Y or approved equal
PR	pressure regulator	HONEYWELL D06-G with gauge (70 psi)
	master control valve	HUNTER IBV-151G-FS-R (65 psi)
	flow sensor	HUNTER HFS w/ FCT-100 (65 psi)

symbol	description	manufacture / model
	spray valve	WEATHERMATIC 11024FCR (65 psi)
	drip valve	WEATHERMATIC 11024FCR w/ pressure regulating Y-Filter (30 psi)
	hose bib	3/4" brass hose bibb
	manual shut-off valve	PVC ball valve, size to match mainline
	root watering system	HUNTER RZWS (65 psi), see Emitter Legend for size and model
#	drip irrigation zones	HUNTER 1/2" Supply Tubing w/ HUNTER Point Source Emitters, see Emitter Legend

Hydrozone Legend

valve/zone	description	area	plant type	exposure
1	Shrubs & Grasses - Driveway	582 SF	L	Full Sun
2	Shrubs & Grasses - Driveway	60 SF	L	Full Sun
3	Hedge	175 SF	L	Full Sun
4	Native Shrubs & Grasses - Bluff	155 SF	L	Full Sun
5	Rainwater Garden	1342 SF	L	Full Sun
6	Native Shrubs & Grasses - Bluff	707 SF	L	Full Sun
7	Native Shrubs & Grasses - Bluff	180 SF	L	Full Sun
8	Trees - Driveway	30 SF	L	Full Sun
9	Trees - Citrus	90 SF	M	Full Sun

Emitter Legend

plant material	equipment
flatted groundcover	Microspray Emitters
4" pot	2 - HE-20-B Emitters per plant
1 gallon	2 - HE-20-B Emitters per plant
5 gallon shrubs	3 - HE-20-B Emitters per plant
15 gallon shrubs	4 - HE-20-B Emitters per plant
15 gallon trees	2 - RZWS-18-50-CV per tree
24" box trees	2 - RZWS-18-50-CV per tree
36" box trees	3 - RZWS-36-50-CV per tree
48" box trees	4 - RZWS-36-50-CV per tree
60" box trees and above	(Consult with a Local Arborist)

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5/11/23

PROJECT:
BLUFFTOP 1
33008 Pacific Coast Highway, Malibu CA, 90265

SHEET CONTENTS
Irrigation Plan

DATE 11/12/25
SCALE 1/8" = 1'-0"
DRAWN KR
JOB 23-06
SHEET **L2.00**
4 OF 9 SHEETS

Maximum Applied Water Allowance Calculations:

ETo	40.6
LA	3417
SLA	0
ETAF	0.23
MAWA (Gallons)	**47,307**
MAWA (Inches per sq.ft.)	22.2
MAWA (Inches per DAY)	0.06

Maximum Applied Water Allowance Equation:
MAWA = (ETo) (0.62) [(.55 x LA) + (1-0.55 x SLA)]

Definitions:

Eto	Reference provided in Appendix A - CIMIS
ETAF	Evapotranspiration Adjustment Factor - 0.55 or less
HA	Hydro zone area = Irrigated area
IE	Irrigation efficiency. Must exceed 0.71.
LA	Landscaped area
PF	Plant water use factor- WUCLOS
SLA	Special landscaped area WITHIN the landscaped area

Estimated Total Water Use:

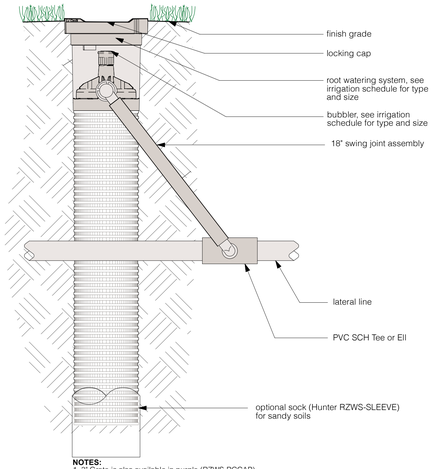
ETo	40.6
PFxHA (see chart)	710.4
HA (same as LA)	3417
IE (see chart)	0.41
SLA	0
ETWU (Gallons)	**22,077**
ETWU (Inches per sq.ft.)	10.4
ETWU (Inches per DAY)	0.03

Estimated Total Water Use Equation:
ETWU = ETo x 0.62 x [(PFxHA)/IE) +SLA]

Irrigation Efficiency:

H.Z.	Description	Type	PF	Irrigation Method	IE	ETAF (PF/IE)	HA	ETAF x Area	PF x HA
Regular Landscape Areas									
1	Shrubs & Grasses - Driveway	Low	0.2	drip	0.81	0.16	607	98.33	121.4
2	Shrubs & Grasses - Driveway	Low	0.2	drip	0.81	0.16	60	9.72	12
3	Hedge	Low	0.2	drip	0.81	0.16	175	28.35	35
4	Native Shrubs & Grasses - Bluff	Low	0.2	drip	0.81	0.16	155	25.11	31
5	Rainwater Garden	Low	0.2	drip	0.81	0.16	1342	217.40	268.4
6	Native Shrubs & Grasses - Bluff	Low	0.2	drip	0.81	0.16	778	126.04	155.6
7	Native Shrubs & Grasses - Bluff	Low	0.2	drip	0.81	0.16	180	29.16	36
8	Trees - Driveway	Low	0.2	tree	0.81	0.16	30	4.86	6
9	Trees - Citrus	Med	0.5	tree	0.81	0.41	90	36.45	45
				Subtotal:	**0.81**	**0.19**	**3417**	**575.42**	710.4
Special Landscape/Hardscape Areas									
N/A								0.00	0
				Subtotal:	**0.00**	**0.00**	**0**	**0.00**	**0**

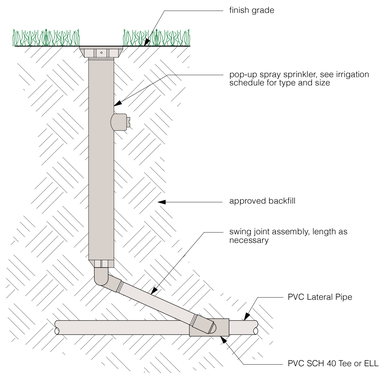
Average System IE (IE is a derivative of DU defined as
IE = DU x IME. Where IME= Irrigation Management Efficiency



NOTES:
1. 3" Grate is also available in purple (RZWS-RCCAP).
2. Install product so that the grate is even with finish grade or top of mulch.
3. Optional sand sock (RZWS-SLEEVE) to cover mesh basket area.
4. When installing in extremely hard or clay soils, add 3/4" gravel under and around the unit to allow faster water infiltration and root penetration.
5. Once RZWS has been installed fill the basket with pea gravel before locking lid.

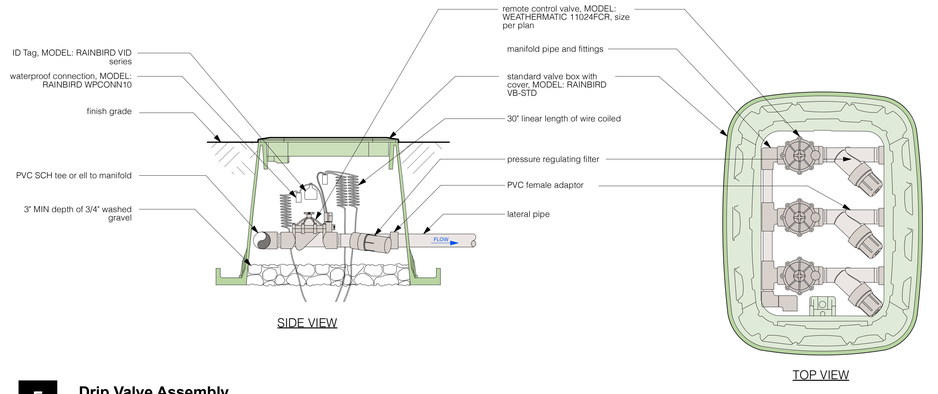
7 Root Watering System

scale: N.T.S.



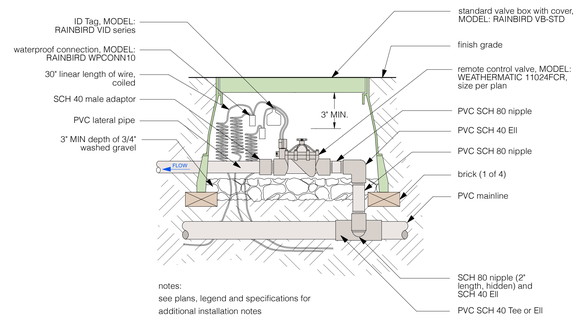
6 Spray Head

scale: N.T.S.



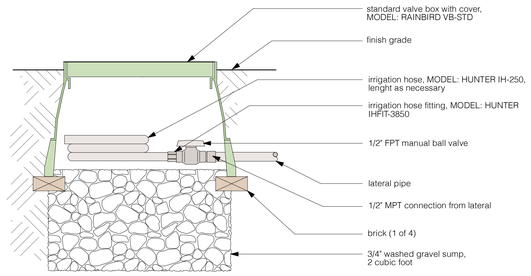
5 Drip Valve Assembly

scale: N.T.S.



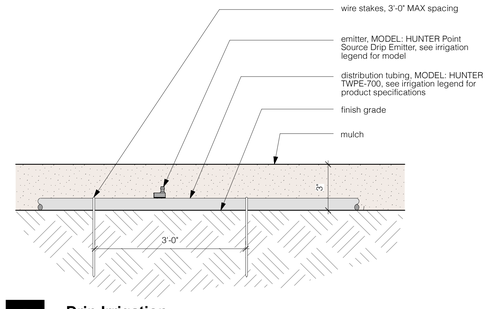
4 Valve Assembly

scale: N.T.S.



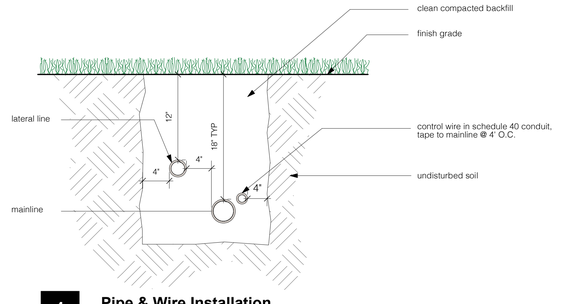
3 Manual Flush Valve

scale: N.T.S.



2 Drip Irrigation

scale: N.T.S.



1 Pipe & Wire Installation

scale: N.T.S.

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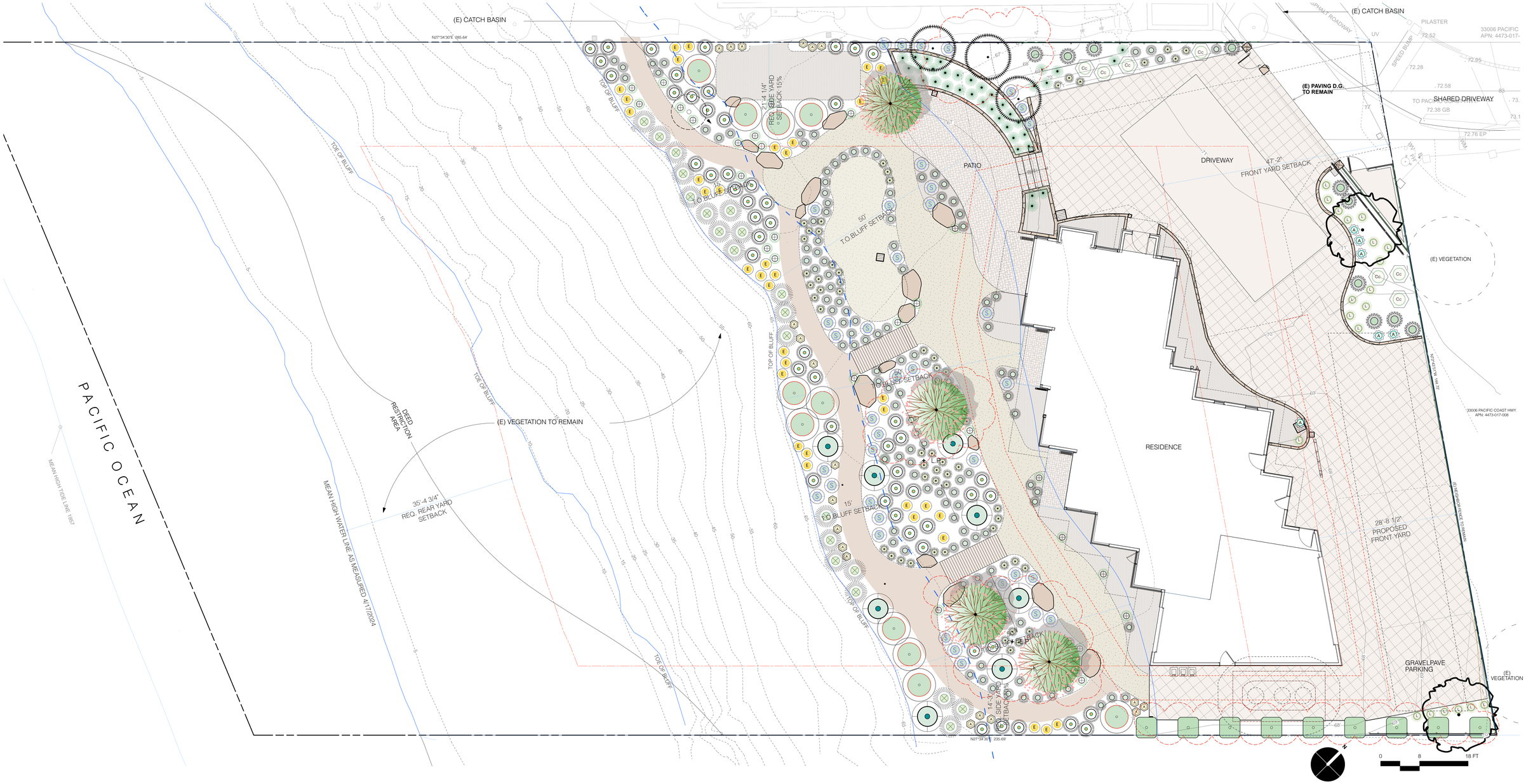
5/11/23

PROJECT:

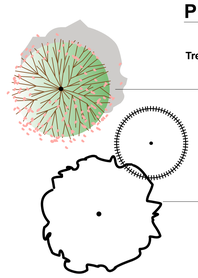
BLUFFTOP 1
33008 Pacific Coast Highway, Malibu CA, 90265

SHEET CONTENTS
Irrigation Details & Water Use

DATE 11/12/25
SCALE as noted
DRAWN KR
JOB 23-06
SHEET **L2.01**
5 OF 9 SHEETS



Plant Palette



Botanic Name	Common Name	Size	Quantity	WUCOLS	MAX Height
Trees & Large Shrubs					
Arctostaphylos glauca	Big Berry Manzanita	15g	4	Med	10'-0" - 20'-0"
Citrus spp.	Assorted Citrus Varieties	24" Box	3	Med	12'-0"
Quercus tomentella	Island Oak	48" Box	2	Low	35'-0"

Botanic Name	Common Name	Size	Quantity	WUCOLS	MAX Height
Shrubs & Perennials					
Achillea millefolium	Yarrow	1g	20	Low	< 1'-0"
Aeonium 'Mint Saucer'	Mint Saucer Aeonium	1g	6	Low	< 1'-0"
Baccharis pilularis	Prostrate Coyote Bush	1g	11	Low	2'-0"
Carex praegracilis	Clustered Field Sedge	1g	58	Low	1'-0"
Carpenteria californica	Bush Anemone	1g	7	Low	6'-0"
Chondropetalum tectorum	Cape Rush	5g	10	Low	3'-0"
Dudleya pulverulenta	Chalk Dudleya	1g	26	Low	< 1'-0"
Encelia californica	Bush Sunflower	1g	37	Low	4'-0"
Juncus patens	California Grey Rush	1g	127	Low	2'-0"
Leymus condensatus	Wild Rye	5g	54	Low	4'-0"
Lomandra 'Platinum Beauty'	Platinum Beauty Basket Rush	1g	20	Low	3'-0"
Lomandra 'Seascape'	Seascape Rush	1g	39	Low	3'-0"
Muhlenbergia rigens	Deer Grass	1g	21	Low	4'-0"
Prunus ilicifolia ssp. lyonii	Lyon's Catalina Cherry	15g	9	Low	15'-0"
Salvia apiana	White Sage	1g	8	Low	3'- 0"
Salvia leucophylla	Purple Sage	1g	39	Low	2'-0"
Groundcovers					
Walk-On Bark			882 SF	N/A	

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5/11/23

PROJECT:

BLUFFTOP 1
33008 Pacific Coast Highway, Malibu CA, 90265

SHEET CONTENTS: **Planting Plan**

DATE 11/12/25
SCALE 1/8" = 1'-0"
DRAWN KR
JOB 23-06
SHEET **L3.00**
6 OF 9 SHEETS

Plant Palette



Botanic Name	Common Name	Size	Quantity	WUCOLS	MAX Height
Trees & Large Shrubs					
Arctostaphylos glauca	Big Berry Manzanita	15g	4	Med	10'-0" - 20'-0"
Citrus spp.	Assorted Citrus Varieties	24" Box	3	Med	12'-0"
Quercus tomentella	Island Oak	48" Box	2	Low	35'-0"
Shrubs & Perennials					
Achillea millefolium	Yarrow	1g	20	Low	< 1'-0"
Aeonium 'Mint Saucer'	Mint Saucer Aeonium	1g	6	Low	< 1'-0"
Baccharis pilularis	Prostrate Coyote Bush	1g	11	Low	2'-0"
Carex praegracilis	Clustered Field Sedge	1g	58	Low	1'-0"
Carpenteria californica	Bush Anemone	1g	7	Low	6'-0"
Chondropetalum tectorum	Cape Rush	5g	10	Low	3'-0"
Dudleya pulverulenta	Chalk Dudleya	1g	26	Low	< 1'-0"
Encelia californica	Bush Sunflower	1g	37	Low	4'-0"
Juncus patens	California Grey Rush	1g	127	Low	2'-0"
Leymus condensatus	Wild Rye	5g	54	Low	4'-0"
Lomandra 'Platinum Beauty'	Platinum Beauty Basket Rush	1g	20	Low	3'-0"
Lomandra 'Seascape'	Seascape Rush	1g	39	Low	3'-0"
Muhlenbergia rigens	Deer Grass	1g	21	Low	4'-0"
Prunus ilicifolia ssp. lyonii	Lyon's Catalina Cherry	15g	9	Low	15'-0"
Salvia apiana	White Sage	1g	8	Low	3'- 0"
Salvia leucophylla	Purple Sage	1g	39	Low	2'-0"
Groundcovers					
Walk-On Bark			882 SF	N/A	

General Notes

1. Refer to Architectural and Civil Engineer for hardscape and walls.
2. Refer to Civil Engineer for all grading and drainage

Planting Notes

All plant materials shall be set out as shown on plan. Final locations shall be approved by the Landscape Designer prior to planting.

1. Landscape Contractor shall be responsible for becoming aware of all underground utilities, pipes and structures. The Contractor shall be held responsible for contacting all utility companies for field location of underground utility lines prior to any excavation.

2. Do not willfully proceed with construction as designed when it is obvious that unknown obstructions and/or grade differences exist that may not have been known during design. Such conditions shall be immediately brought to the attention of the landscape designer, Barefoot Design, 805.697.7466.

3. The Landscape Contractor shall assume full responsibility for all necessary revisions due to failure to give such notification.

4. Landscape Contractor shall be responsible for any coordination with subcontractors as required to accomplish planting operations.

5. The Landscape Contractor shall allow for the addition of specified quantities of soil amendments and conditioners in soil preparation and finish grading, per recommendation of soils report.

6. Recommendations in the Soils Management Report shall be incorporated into the landscape installation and a copy of the report is to be on-site at the time of inspection.

Unless soils have greater than 6% organic matter in the top 6" of soil, compost at a rate of a minimum of (4) cubic yards per 1,000 square feet of permeable area shall be incorporated to a depth of 6" into the soil.

7. It is the Landscape Contractor's responsibility to furnish plant material free of pests or plant diseases. Contract-grown or 'tagged' material must be inspected by the Landscape Contractor and certified disease free. It is the Landscape Contractor's obligation to warranty all plant materials.

8. The Landscape Contractor shall provide healthy, vigorous plant stock grown under climatic conditions similar to the conditions in the locality of the project.

9. Specimen trees will be selected and tagged by Landscape Designer prior to plant installation. Landscape Contractor is responsible to do their own quantity take-offs for all plant materials and sizes shown on plans. All substitutions shall be reviewed and approved by the Landscape Designer.

10. See details and specifications for staking method, plant pit dimensions and backfill requirements. If details have not been provided, contact Landscape Designer. Plant crown elevations relative to finish grade are shown on planting details and shall be strictly adhered to. Proper compaction of backfill to prevent settlement shall be required.

11. The Landscape Designer will approve finish grades at all landscape areas prior to planting.

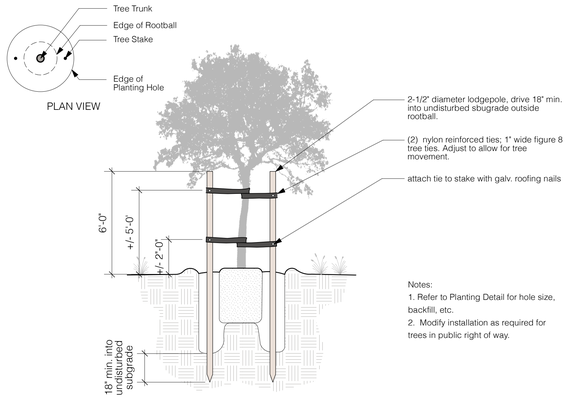
12. The Landscape Designer reserves the right to adjust the location of plant material during installation as appropriate to the project.

13. Landscape mulch shall be applied at 3 inches thick over all landscape surfaces except lawn areas and per City of Malibu guidelines. Mulch must be approved by Landscape Designer. 0-5 feet from structure, flammable mulch is prohibited. 5 feet to 30 feet, limited non-continuous use of organic mulch is permitted with a maximum application area of 20 feet x 20 feet, and a minimum 5 foot separation between application areas. 30 feet from the structure, organic mulch and wood chips are permitted.

14. All side and rear yard hedges shall be maintained at or below 6'-0" in height.

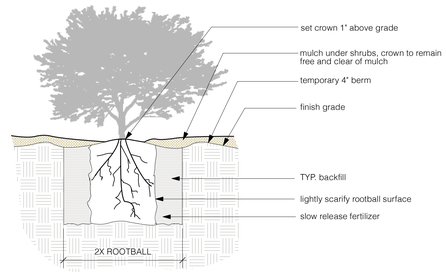
15. View impermeable hedges occurring within the front setback serving the same function as a fence or wall shall be maintained at or below 42" in height.

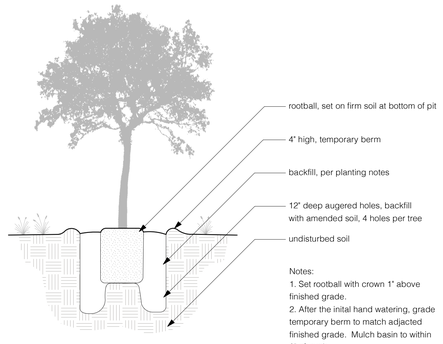
16. Vegetation shall be situated on the propoerty so as not to obstruct the primary view from private property at any given time. Giving consideration to the plant materials future growth.



6 Tree Staking

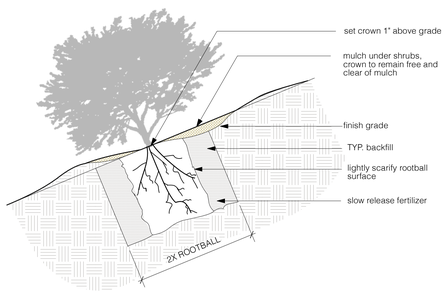
scale: N.T.S.





5 Tree Planting

scale: N.T.S.

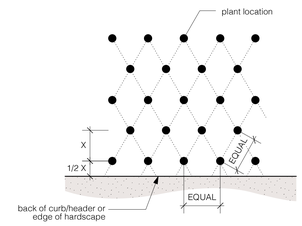


4 Shrub Planting on Slope

scale: N.T.S.

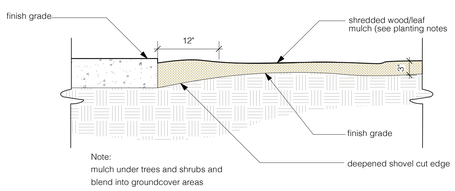
3 Shrub Planting

scale: N.T.S.



2 Groundcover Layout

scale: N.T.S.



1 Mulch Installation

scale: N.T.S.

BAREFOOT DESIGN
1187 Coast Village Road, #387
Santa Barbara, CA 93108
TEL 805.697.7466
WEB www.barefoot-design.net

SUBMITTALS

THE DRAWINGS AND SPECIFICATIONS ARE THE PROPERTY AND COPYRIGHT OF THE BAREFOOT DESIGN AND SHALL NOT BE USED ON ANY OTHER WORK EXCEPT BY WRITTEN AGREEMENT WITH THE BAREFOOT DESIGN. WRITTEN DIMENSIONS SHALL BE VERIFIED ON THE JOB SITE. DISCREPANCIES SHALL BE BROUGHT TO THE ATTENTION OF BAREFOOT DESIGN PRIOR TO THE COMMENCEMENT OF ANY WORK.

5/11/23

PROJECT:

BLUFFTOP 1
33008 Pacific Coast Highway, Malibu, CA, 90265

SHEET CONTENTS: **Planting Details**

DATE	11/12/25
SCALE	as noted
DRAWN	KR
JOB	23-06
SHEET	L3.01

7 OF 9 SHEETS

Site Photos

CDP No. 23-034
33008 Pacific Coast Highway



Southeastern View of Proposed Residence



Northern View of Proposed Residence

Access Easement that Connects PCH to the Project Site



View of Proposed Residence from 33006 PCH



City of Malibu

23825 Stuart Ranch Rd., Malibu, California CA 90265-4804
(310) 456-2489 FAX (310) 456-7650

BIOLOGY REVIEW REFERRAL SHEET

TO: City of Malibu Biologist

FROM: City of Malibu Planning Department **REVISED DATE** 05/30/2025

PROJECT NUMBER:	CDP 23-034
JOB ADDRESS:	33008 PACIFIC COAST HWY
APPLICANT / CONTACT:	Arfakhashad Munaim, Schmitz & Associates, Inc.
APPLICANT EMAIL:	amunaim@schmitzandassociates.net
PLANNER:	Raneika Brooks
PROJECT DESCRIPTION:	new 2-story single family residence with attached garage, and new driveway access and landscaping.
REVISION:	

TO: Malibu Planning Department and/or Applicant

FROM: City Biologist, Courtney McCammon

_____ **The project review package is INCOMPLETE and; CANNOT proceed through Final Planning Review until corrections and conditions from Biological Review are incorporated into the proposed project design** (See Attached).

X **The project is APPROVED, consistent with City Goals & Policies associated with the protection of biological resources and CAN proceed through the Planning process.**

Building Plan Check (BPC) Required ☐ Yes ☐ No BPC Fees Req'd $_____

_____ **The project may have the potential to significantly impact the following resources, either individually or cumulatively: Sensitive Species or Habitat, Watersheds, and/or Shoreline Resources and therefore Requires Review by the Environmental Review Board (ERB).**

Courtney McCammon — 6/6/25

Signature Date

Additional requirements/conditions may be imposed upon review of plan revision

Contact Information:

Courtney McCammon, City Biologist, biology@malibucity.org, (310) 456-2489, extension 277

City of Malibu

Biology • Planning Department
23825 Stuart Ranch Road · Malibu, California · 90265-4861
Phone (310) 456-2489 · Fax (310) 456-3356 · www.malibucity.org

BIOLOGY REVIEW SHEET

PROJECT INFORMATION

Applicant: (name and email)	Arfakhashad Munaim, Schmitz & Associates, Inc. amunaim@schmitzandassociates.net	
Project Address:	**33008 PACIFIC COAST HWY** Malibu, CA 90265	
Planning Case No.:	CDP 23-034	
Project Description:	new 2-story single family residence with attached garage, and new driveway access and landscaping.	
Date of Review:	June 6, 2025	
Reviewer:	Courtney McCammon	Signature: Courtney McCammon
Contact Information:	Phone: (310) 456-2489 ext 277	Email: biology@malibucity.org

SUBMITTAL INFORMATION

Site Plan:	5/30/25
Site Survey:	5/30/25
Landscape Plan:	5/30/25
Hydrozone Plan:	5/30/25
Irrigation Plan:	5/30/25
Fuel Modification Plan:	5/30/25
Grading Plan:	5/30/25
OWTS Plan:	5/30/25
Bio Assessment:	April and July 2023 (Elizabeth Moorman)
Bio Inventory:	
Native Tree Survey:	
Native Tree Protection Plan:	
Miscellaneous:	1/9/24 - memo
Previous Reviews:	5/31/23 (Incomplete), 11/3/23 (Incomplete), 1/14/24 (Incomplete), 8/22/24 (Incomplete), 12/12/24 (Incomplete)

REVIEW FINDINGS

Review Status:	☐	**INCOMPLETE**: Additional information and/or a response to the listed review comments is required.
	☒	**APPROVED**: The project has been approved with regards to biological impacts.
	☐	**CANNNOT APPROVE AS SUBMITTED**: The proposed project does not conform to the requirements of the MMC and/or LCP.
	☐	**ERB**: This project has the potential to impact ESHA and may require review by the Environmental Review Board pursuant to LIP Section 4.4.4

DISCUSSION:

1. The Maximum Applied Water Allowance (MAWA) for this project totals 47,307 gallons per year (gpy). The Estimated Applied Water Use (EAWU) totals 22,077 gpy. Therefore, the project meets the Landscape Water Conservation Ordinance Requirements.

2. The former Planning Director and Senior Planning Staff have determined that the project is in compliance with Malibu LIP Chapter 4 because the residence and any other development requiring fuel modification are located 100 feet from the stream. The Planning Department is allowing development not requiring fuel modification within the 100-foot buffer.

RECOMMENDATIONS:

1. The project is recommended for **APPROVAL** with the following conditions:

   A. Prior to installation of any landscaping, the applicant shall obtain plumbing permit for the proposed irrigation system from the Building Safety Division.

   B. Prior to or at the time of a Planning final inspection, the property owner/applicant shall submit to the case planner a copy of the plumbing permit for the irrigation system installation that has been signed off by the Building Safety Division.

   C. Prior to final Planning inspection or other final project sign off (as applicable), the applicant shall submit to the Planning Director for review and approval a certificate of completion in accordance with the Landscape Water Conservation Ordinance (MMC Chapter 9.22). The certificate shall include the property owner's signed acceptance of responsibility for maintaining the landscaping and irrigation in accordance with the approved plans and MMC Chapter 9.22. (form attached)

   D. Prior to Final Plan Check Approval, if your property is serviced by the Los Angeles County Waterworks District No. 29, please provide landscape water use approval from that department. For approval contact:

      LA County Waterworks District 29
      Address: 23533 Civic Center Way, Malibu, CA 90265
      Email: wwsmaeng@dpw.lacounty.gov
      Phone: (310) 317 – 0209

      Please note: submit plans through EPIC-LA using the "Waterworks Division Landscape Water Efficiency Approval" application. This action may require several weeks. As such, the applicant should submit their approved landscape plans as soon as feasible in order to avoid a delay at plan check.

   E. Vegetation forming a view impermeable condition (hedge), serving the same function as a fence or wall, occurring within the side or rear yard setback shall be maintained at or below six feet in

height. View impermeable hedges occurring within the front yard setback serving the same function as a fence or wall shall be maintained at or below 42 inches in height. Three sequential violations of this condition will result in a requirement to permanently remove the vegetation from the site.

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

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

H. No non-native plant species shall be approved greater than 50 feet from the residential structure.

I. The landscape plan shall prohibit the use of building materials treated with toxic compounds such as creosote and copper arsenate.

J. Grading/excavation/vegetation removal scheduled between February 1 - September 15 will require nesting bird surveys by a qualified biologist prior to initiation of such activities. Surveys shall be completed no more than five days from proposed initiation of site preparation activities. Should active nests be identified, a buffer area no less than 150 feet (300 feet for raptors) shall be fenced off until it is determined by a qualified biologist that the nest is no longer active. A report discussing the results of the surveys shall be turned in to the City within two business days of completion of surveys.

K. All new development including structures, septic systems, or landscaping, shall be set back no less than (*100*) feet from the (*stream*).

L. Night lighting from exterior and interior sources shall be minimized. All exterior lighting shall be low intensity and shielded so it is directed downward and inward so that there is no offsite glare or lighting of natural habitat areas. Up-lighting is prohibited.

M. Necessary boundary fencing of any single area exceeding ½ acre shall be of an open rail-type design with a wooden rail at the top (instead of wire), be less than 40 inches high, and have a space greater than 14 inches between the ground and the bottom post or wire. A split rail design that blends with the natural environment is preferred.

2. **PRIOR TO ISSUING A CERTIFICATE OF OCCUPANCY**, the City Biologist shall inspect the project site and determine that all planning conditions to protect natural resources are in compliance with the approved plans.

-o0o-

If you have any questions regarding the above requirements, please contact the City Biologist office at your earliest convenience.

cc: Planning Project file
Planning Department

City of Malibu

23825 Stuart Ranch Road · Malibu, California · 90265-4861
Phone (310) 456-2489 · Fax (310) 456-3356 · www.malibucity.org

COASTAL ENGINEERING REVIEW SHEET

Project Information

Date: January 6, 2025 **Review Log #:** C785
Site Address: 33008 Pacific Coast Highway **Lat:** **Lon:**
Lot/Tract/PM #: **Planning #:** CDP23-034 P5
Applicant: A.K. Munaim, amunaim@schmitzandassociates.net
Anna Mattioli, anna@buaia.com **BPC/GPC #:**
Phone #: (818) 338-3636 **Planner:** Raneika Brooks
Project Type: Proposed NSFR and OWTS

Submittal Information

Consultant(s): GeoSoils, Inc., (David W. Skelly, RCE 47857)
Report Date(s): 4/20/2023
Project Plan(s): Burdge Architects, architectural plan set **11-22-2024 response**, **revised plans 11-5-2024**, 5-1-2023**.**

5th Planning submittal
Tuchscher Engineering Group, civil, grading, drainage and foundation plan set 4-28-2023.
CalWest Geotechnical Consulting Engineers 6-30-2022, 5-12-2023
Land Phases, Inc. Report of Engineering Geologic Study 4-29-2023
Previous Reviews: 2-2-2024, 6-30-2023
FEMA SFHA: X, VE (FEMA, 4/21/2021)

Review Findings

Planning Stage

☒ This project is **ACCEPTABLE** in **PLANNING** stage from a coastal engineering perspective, with conditions listed. The listed Building Plan-Check Coastal Review Comments shall be addressed prior to Building Plan-Check approval.

☐ This project is **ACCEPTABLE** in **PLANNING** stage from a coastal engineering perspective. The listed Planning Stage Coastal Review Comments shall be addressed prior to Planning-stage approval.

Remarks:

The referenced plans and reports were reviewed by the City from a coastal engineering perspective relative to the requirements of the following City codes and guidelines:

- City of Malibu Local Coastal Program – Land Use Plan and Local Implementation Plan (LCP-LUP and LCP-LIP)

- Malibu Municipal Code – Title 15, Buildings and Construction
- City of Malibu Guidelines for the Preparation of Coastal Engineering Reports and Procedures for Report Submittal. (referred to herein as *Coastal Engineering Report Guidelines*), and
- California Coastal Commission Sea Level Rise Policy Guidance, Final Adopted Science Update, November 7, 2018

The proposed project will consist of the construction of a new 4,856 SF two-story single-family residence with attached garage, concrete pickleball court, decking, site retaining walls, landscaping, and hardscape. The proposed garage will have a concrete slab-on-grade floor; the habitable portion of the residence will have a raised floor construction to maximize pervious areas for subsurface site drainage. The crawl space beneath the main house will have a finished grade at elevation +64.83 ft NAVD88, and the main finished floor is at +68.00 ft NAVD88. The garage finished floor is at elevation +67.75 ft NAVD88. The proposed development is located at the top of a bluff behind a setback established by Project Geotechnical Engineer.

Based on an astronomical tide of +8.0 ft NAVD88 for Santa Monica Bay and a 100-year design window to year 2120, the Coastal Engineering Consultant has presented results of wave uprush analyses for two scenarios in the report for projected sea level rises (SLR) of 4 ft and 7.9 ft, respectively, for the Low Risk Aversion and High Aversion projection of the California Coastal Commission's (CCC) adopted Sea Level Rise Policy Guidance (November 2018). No allowance is given for potential storm surge.

For a Still Water level (SWL) of 12 ft with a projected SLR of 4 ft and for deep-water wave of H'o =11.7 ft and T=10 sec period, the Consultant has computed a maximum storm wave uprush to elevation +18 ft NAVD88 against the face of bluff. For a SWL of 15.9 ft with a projected SLR of 7.9 ft and for a deep-water wave of H'o = 3.8 ft and a T=18 sec period, the Consultant has computed a maximum storm wave uprush to elevations +25.6 ft NAVD88 against the face of bluff.

The Consultant has shown that maximum wave runups up to elevation +25.6 ft NAVD88 will not overtop erosion resistant bedrock underlying the site and cause wave-induced erosion of the terrace deposits overlying the bedrock. The Consultant concludes that the proposed development with the recommended slope setback by the Project Geotechnical Consultant should be safe from future wave runups and bluff retreat.

Geology received a bluff edge determination from Planning, and bluff retreat has been included in the consideration of bluff setback. Geology accepted the revised project as proposed on 12/13/2024.

Building Plan Check Stage Review Comments:

Upon submittal to Building Plan Check, please include the following standard items:

1. There appear typos on Page 4 of the report regarding the datum used in the report; please clarify and correct as appropriate.
2. The report indicates the beach below the bluff is mapped as FEMA VE Zone with a base flood (BFE) of +15 ft NAVD88. However, the FEMA map (06037C1492G, dated April 21, 2021) shows the VE Zone BFE as +14 ft NAVD88. Please clarify and correct.
3. Please reference the NAVD88 elevation data on all architectural plans.
4. The Project Coastal Engineer's recommendations, contained in the coastal engineering report and addendums, shall be incorporated into the plans as notes and details, and referenced on the project structural plans. One set of plans shall be submitted to the coastal engineering review staff for Building

Plan Check. Additional review comments may be raised at that time that may require a response. The Project Coastal Engineer shall review, sign and stamp the final building plans.

5. The final project plans shall show the land and beach contours, and that include: design beach profile, storm scour profile, design stillwater levels, wave uprush limits for the maximum breaking waves showing the landward extent of the uprush limit, the Mean High Tide line with month and year on plans based on available historical surveys, and the location and elevations of existing shore protection.
6. Supplemental recommendations provided by the Coastal Engineer shall be reviewed by the City Coastal Engineering Staff and by the project geotechnical consultant and NOWTS consultant.
7. The final approved NOWTS plan and above items should be submitted to the Coastal Engineering Reviewers in Building Plan Check, along with a Building Plan Check review fee of $870.

Limitations:

This coastal engineering peer review has been performed to provide technical assistance to the City of Malibu with its discretionary permit decisions and is limited to review of the documents identified herein in accordance with the guidelines of the City of Malibu and local standard of practice in respect to coastal developments. The opinions, conclusions and recommendations provided by the applicant's Coastal Engineering Consultant do not necessarily represent the opinions of the peer reviewer or the City of Malibu.

Reviewed by:

Lauren J. Doyel, G.E. #2981, Exp. 6-30-25
Geotechnical Engineering Reviewer (805-496-1222)
Email: ldoyel@malibucity.org

1-6-2025
Date

This review sheet was prepared by representatives of Cotton, Shires and Associates, Inc. and GeoDynamics, Inc., contracted through Cotton, Shires and Associates, Inc., as an agent of the City of Malibu.

COTTON, SHIRES AND ASSOCIATES, INC.
CONSULTING ENGINEERS AND GEOLOGISTS

GeoDynamics, Inc.
Applied Earth Sciences
Geotechnical Engineering & Engineering Geology Consultants

City of Malibu

23825 Stuart Ranch Rd., Malibu, California CA 90265-4861
(310) 456-2489 FAX (310) 456-3356 www.malibucity.org

ENVIRONMENTAL HEALTH REVIEW
REFERRAL SHEET

TO: City of Malibu Environmental Health Administrator

FROM: City of Malibu Planning Department **REVISED DATE** 11/22/2024

PROJECT NUMBER:	CDP 23-034
JOB ADDRESS:	33008 PACIFIC COAST HWY
APPLICANT / CONTACT:	Arfakhashad Munaim, Schmitz & Associates, Inc.
APPLICANT ADDRESS:	28230 Agoura Hills Agoura Hills, CA 91301
APPLICANT PHONE #:	(818) 338-3636
APPLICANT FAX #:	
APPLICANT EMAIL:	amunaim@schmitzandassociates.net
PROJECT DESCRIPTION:	new 2-story single family residence with attached garage, and new driveway access and landscaping.

TO: Malibu Planning Department and/or Applicant

FROM: City of Malibu Environmental Health Reviewer

✓ **Conformance Review Complete** for project submittals reviewed with respect to the City of Malibu Local Coastal Plan/Local Implementation Plan (LCP/LIP) and Malibu Municipal Code (MMC). The Conditions of Planning conformance review and plan check review comments listed on the attached review sheet(s) (or else handwritten below) shall be addressed prior to plan check approval.

____ **Conformance Review Incomplete** for the City of Malibu LCP/LIP and MMC. The Planning stage review comments listed on the City of Malibu Environmental Health review sheet(s) shall be addressed prior to conformance review completion.

OWTS Plot Plan: ☐ **NOT REQUIRED**

☑ **REQUIRED (attached hereto)** ☐ **REQUIRED (not attached)**

Signature 12/19/2024

Signature Date

Rev 141008

City of Malibu

23825 Stuart Ranch Rd., Malibu, California CA 90265-4861
(310) 456-2489 FAX (310) 456-3356 www.malibucity.org

ENVIRONMENTAL HEALTH REVIEW
REFERRAL SHEET

TO: **City of Malibu Environmental Health Administrator**

FROM: **City of Malibu Planning Department** **REVISED DATE** **11/22/2024**

The applicant must submit to the City of Malibu Environmental Health Specialist to determine whether or not an onsite wastewater treatment system (OWTS) Plot Plan approval is required.

The Environmental Health Specialist may be contacted Tuesday and Thursday from 8:00 am to 11:00 am, or by calling (310) 456-2489, extension 364.

City of Malibu

Environmental Health ● Environmental Sustainability Department
23825 Stuart Ranch Road · Malibu, California · 90265-4861
Phone (310) 456-2489 · Fax (310) 456-7650 · www.malibucity.org

ENVIRONMENTAL HEALTH REVIEW SHEET

PROJECT INFORMATION

Applicant: (name and email address)	Arfakhashad Munaim, Schmitz & Associates, Inc. amunaim@schmitzandassociates.net		
Project Address:	**33008 Pacific Coast Highway** Malibu, California 90265		
Planning Case No.:	CDP 23-034		
Project Description:	New 2-story single family residence with attached garage, basement, and new driveway access and landscaping.		
Date of Review:	December 19, 2024		
Reviewer:	Matt Janousek	Signature:	
Contact Information:	Phone: (310) 456-2489	Email:	mjanousek@malibucity.org

SUBMITTAL INFORMATION

Architectural Plans:	Burdge Architects: Plans dated 5-1-2023, 10-18-2023, 8-5-2024, 11-5-2024
Grading Plans:	TEG: Plans dated 4-28-2023, 8-10-2023, 11-13-2023, 2-27-2024, 10-24-2024
Landscape Plans:	Barefoot Design: Plans dated 5-1-2023; revised plans dated 10-16-2023, 11-27-2023, 10-30-2024
OWTS Plan:	Ensitu: OWTS plan dated 5-1-2023; revised plan dated 8-7-2023, 11-13-2023, 11-21-2024
OWTS Report:	Ensitu: OWTS plan dated 5-12-2023; update report dated 8-7-2023; Response to comments dated 8-6-2024, 11-21-2024
Percolation Report:	Donald B. Kowalewsky: Percolation Testing Reports dated 6-9-2023 and 7-25-2023
Geology Report:	CalWest: Geotechnical Engineering Investigation dated 6-30-2022; Addendum reports dated 8-18-2023, 7-26-2024, 11-15-2024 Land Phases: Engineering Geologic Study dated 4-29-2023; Add. #1 dated 8-3-2023; Add. #2 dated 8-4-2023; Add. #3 dated 7-15-2024, 11-12-2024
Coastal Report:	GeoSoils: Coastal Hazard and Wave Runup Study dated 4-20-2023; Response to City of Malibu Coastal Engineering Review Sheet dated 7-29-2024
Reduction in Setback:	CalWest: Letter dated 11-6-2023; TEG: Letter dated 5-5-2023
Previous Reviews:	6-1-2023, 11-3-2023, 2-1-2024

REVIEW FINDINGS

Planning Stage:	☒	**CONFORMANCE REVIEW COMPLETE** for the City of Malibu Local Coastal Program (LCP)/Local Implementation Plan (LIP) and Malibu Municipal Code (MMC). The listed conditions of Planning stage conformance review and plan check review comments shall be addressed prior to plan check approval.
	☐	**CONFORMANCE REVIEW INCOMPLETE** for the City of Malibu LCP/LIP and MMC. The listed Planning stage review comments shall be addressed prior to conformance review completion.
OWTS Plot Plan:	☐	**NOT REQUIRED**
	☒	**REQUIRED (attached hereto)** ☐ **REQUIRED (not attached)**

Based upon the project description and submittal information noted above, a **conformance review** was completed for a new advanced onsite wastewater treatment system (OWTS) proposed to serve the onsite wastewater treatment and disposal needs of the subject property. The proposed advanced OWTS meets the minimum requirements of the Malibu Municipal Code (MMC) and the City of Malibu Local Coastal Program (LCP)/Local Implementation Plan (LIP). Please distribute this review sheet to all of the project consultants and, prior to final approval, provide a coordinated submittal addressing all conditions for final approval and plan check items.

The conditional conformance findings hereby transmitted complete the Planning stage Environmental Health review of the subject development project. In order to obtain Environmental Health final approval of the project OWTS Plot Plan and associated construction drawings (during Building Safety plan check), all conditions and plan check items listed below must be addressed through submittals to the Environmental Health office.

Conditions of Planning Conformance Review for Building Plan Check Approval:

1) **OWTS on all final Project Plans:** The final architectural site plan, grading plans, and landscape plans must show the proposed onsite wastewater treatment system (OWTS), including the treatment tank, present/future dispersal area(s), and all lines of connection to the residence.

2) **Building Plans:** All project plans shall be submitted for Environmental Health review and approval. These plans must be approved by the Building Safety Division prior to receiving Environmental Health final approval.

   Architectural Plans:

   - The final architectural plans must show no more than a 2 bedroom and 41 drainage fixture units (DFU) single-family residence and a 1 bedroom and 10 DFU accessory dwelling unit, or as otherwise indicated by the OWTS Designer in the final design report. Currently, the plans show 3 bedrooms and 51 DFU with the utilization of low flow water closets (i.e., toilets) with a DFU value of three (3) each.

   - Show and label all drainage fixtures on the final architectural floor plans.

   - **Proof of 1.6 Gallon or Less Flushometer Water Closet:** The 2022 California Plumbing Code permits water closets to be computed as 3 DFU if the proposed water closet is categorized as a flushometer tank with a 1.6 gallon per flush or less and is ANSI approved. Specifications of the flushometer tank shall be submitted.

   - The OWTS Designer references water closets to be computed as 3 DFU. Please provide the make and model number of the water closet that is ANSI approved and incorporate the low flow specification sheet into the final architectural plan set.

   - **Certified Fixture Unit Worksheet:** To better assist the permit technicians in issuing the plumbing permits please provide the fixture unit worksheet showing all existing and proposed bedrooms and drainage fixture units must be completed and certified by an Architect, Civil Engineer, Environmental Health Specialist, City Registered practitioner, or an “A”, “C-42”, “C-36” Contractor License.

   - Please incorporate the fixture unit worksheet into the final plan set.

Grading Plans and OWTS: A note on the final grading plans per the OWTS Designer Ensitu Engineering shall state: "*Removal and recompaction shall not be allowed in the proposed OWTS present dispersal area.*"

3) **Final Onsite Wastewater Treatment System (OWTS) Plot Plan:** A final plot plan prepared by a City Registered OWTS Designer shall be submitted showing an OWTS design meeting the minimum requirements of the Malibu Municipal Code (MMC) and the Local Coastal Program (LCP)/Local Implementation Plan (LIP). The plans must include all necessary construction details, the proposed drainage plan for the developed property, and the proposed landscape plan for the developed property. The OWTS Plot Plan shall show essential features of the OWTS, existing improvements, and proposed/new improvements. The plot plan must fit on an 11" x 17" sheet leaving a 5" left margin clear to provide space for a City-applied legend.

4) **Final OWTS Design Report, Plans, and System Specifications:** A final OWTS design report and large set of construction drawings with system specifications (four sets) shall be submitted to describe the OWTS design basis and all components proposed for use in the construction of the OWTS. All plans and reports must be signed by a City Registered OWTS Designer, and the plans stamped by the project Geologist, Coastal Engineer, and Structural Engineer as applicable. The final OWTS design report and construction drawings shall be submitted with the designer's signature, professional registration number, and stamp (if applicable).

Notes on the final OWTS plan and plot plan: The following notes shall be added to the final OWTS plan and OWTS plot plan:

"*Removal and recompaction shall not be allowed in the proposed OWTS present dispersal area.*"

and

"*The future dispersal area material shall be removed to a depth below the removal and recompaction area and must be observed by a soils engineer and OWTS designer of record to ensure the dispersal area shall be located in uncompacted native soil prior to installation of the future expansion dispersal field.*"

The final OWTS design submittal shall contain the following information (in addition to the items listed above).

a. Required treatment capacity for wastewater treatment and disinfection systems. The treatment capacity shall be specified in terms of flow rate, gallons per day (gpd), and shall be supported by calculations relating the treatment capacity to the number of bedroom equivalents, plumbing drainage fixture units, and the subsurface effluent dispersal system acceptance rate. The drainage fixture unit count must be clearly identified in association with the design treatment capacity, even if the design is based on the number of bedrooms. Average and peak rates of hydraulic loading to the treatment system shall be specified in the final design.

b. Sewage and effluent pump design calculations (as applicable).

c. Description of proposed wastewater treatment and/or disinfection system equipment. State the proposed type of treatment system(s) (e.g., aerobic treatment, textile filter, ultraviolet disinfection, etc.); major components, manufacturers, and model numbers for "package" systems; and the design basis for engineered systems.

d. Specifications, supporting geology information, and percolation test results for the subsurface effluent dispersal portion of the onsite wastewater disposal system. This must include the proposed type of effluent dispersal system (drainfield, trench, seepage pit, subsurface drip, etc.) as well as the system's geometric dimensions and basic construction features. Supporting calculations shall be presented that relate the results of soils analysis or percolation/infiltration tests to the projected subsurface effluent acceptance rate, including any unit conversions or safety factors. Average and peak rates of hydraulic loading to the effluent dispersal system shall be specified in the final design. The projected subsurface effluent acceptance rate shall be reported in units of total gallons per day (gpd) and gallons per square foot per day (gpsf). Specifications for the subsurface effluent dispersal system shall be shown to accommodate the design hydraulic loading rate (i.e., average and peak OWTS effluent flow, reported in units of gpd). The subsurface effluent dispersal system design must take into account the number of bedrooms, fixture units, and building occupancy characteristics.

e. All OWTS design drawings shall be submitted with the wet signature and typed name of the OWTS designer. If the plan scale is such that more space than is available on the 11" x 17" plot plan is needed to clearly show construction details, larger sheets may also be provided (up to a maximum size of 18" x 22" for review by Environmental Health). [Note: For OWTS final designs, full-size plans for are also required for review by Building & Safety and Planning.]

5) **Traffic-Rated Slab Plan for the OWTS Dispersal Area:** All project traffic rated slab plans shall be prepared by a California licensed civil engineer and submitted for Environmental Health review and approval. These plans must be approved by the Building Safety Division prior to receiving Environmental Health final approval.

6) **Notice of Decision:** The final OWTS plans shall include the Conditions of Approval sections of the Notice of Decision (NOD) from the Planning Department. The Acceptance of Conditions Affidavit must be signed and notarized by the owner of the property and incorporated into the final OWTS plans.

7) **Architect / Engineer Certification for Reduction in Setbacks to Buildings or Structures:** All proposed reductions in setbacks from the OWTS to structures or other features less than those shown in Malibu Municipal Code (MMC) Section 15.42 must be supported by letters from the project consultants. The wastewater plans and the construction plans must be specifically referenced in all certification letters. The construction plans for all structures and/or buildings with reduced setback must be approved by City of Malibu Building Safety prior to Environmental Health final approval. The architectural and/or structural plans submitted for Building Safety plan check must detail methods of construction that will compensate for the reduction in setback (e.g., waterproofing, concrete additives). For complex waterproofing installations, submittal of a separate waterproofing plan may be required. All plans must show the location of OWTS components in relation to those structures from which the setback is reduced, and the plans must be signed and stamped by the architect, structural engineer, and geotechnical consultants (as applicable).

- Structures – All proposed reductions in setback from the OWTS to structures (i.e., setbacks less than those shown in MMC Section 15.42) must be supported by a letter from the project Structural Engineer and a letter from the project Soils Engineer (i.e., a Geotechnical Engineer or Civil Engineer practicing in the area of soils engineering). Both engineers must certify unequivocally that the proposed reduction in setbacks from the treatment tank and effluent dispersal area will not adversely affect the structural integrity of the OWTS, and will not adversely affect the structural integrity of the structures for which the setback is reduced.

- Buildings – All proposed reductions in setback from the OWTS to buildings (i.e., setbacks less than those shown in MMC Section 15.42) also must be supported by a letter from the project Architect, who must certify unequivocally that the proposed reduction in setbacks will not produce a moisture intrusion problem for the proposed building(s). If the building designer is not a California licensed architect, then the required Architect's certification may be supplied by an Engineer who is responsible for the building design with respect to mitigation of potential moisture intrusion from reduced setback to the OWTS; in this case the Engineer must include in the letter an explicit statement of responsibility for mitigation of potential moisture intrusion. If any specific construction features are proposed as part of a moisture intrusion mitigation system in connection with the reduced setback(s), then the Architect (or Engineer) must provide associated construction documents for review and approval during Building Plan Check.

8) **Proof of Ownership:** Proof of ownership of subject property shall be submitted.

9) **Operations & Maintenance Manual:** An operations and maintenance manual specified by the OWTS designer shall be submitted to the property owner and maintenance provider of the proposed advanced OWTS.

10) **Maintenance Contract:** A maintenance contract executed between the owner of subject property and an entity qualified in the opinion of the City of Malibu to maintain the proposed advanced onsite wastewater treatment system shall be submitted prior to Environmental Health approval. ***Please note only original "wet* signature" documents are acceptable**.

11) **Advanced Onsite Wastewater Treatment System (OWTS) Covenant:** A covenant running with the land shall be executed between the City of Malibu and the holder of the fee simple absolute as to subject real property and recorded with the City of Malibu Recorder's Office. Said covenant shall serve as constructive notice to any future purchaser for value that the OWTS serving subject property is an advanced method of sewage disposal pursuant to the City of Malibu Municipal Code. Said covenant shall be provided by the City of Malibu Environmental Health Administrator. ***Please submit a certified* copy issued by the City of Malibu Recorder**.

12) **Project Geologist/Geotechnical Consultant Approval:** Project Geologist/Geotechnical Consultant final approval of the OWTS plan shall be submitted to the Environmental Health Administrator.

13) **City of Malibu Geologist/Geotechnical Approval:** City of Malibu geotechnical staff final approval of the OWTS plan shall be submitted to the Environmental Health Administrator.

14) **City of Malibu Public Works Approval:** City of Malibu Public Works final approval of the OWTS plan shall be submitted to the Environmental Health Administrator.

15) **City of Malibu Planning Approval:** City of Malibu Planning Department final approval of the OWTS plan shall be obtained.

16) **Environmental Health Final Review and Reduction in Setback Fee:** A final fee in accordance with the adopted fee schedule at the time of final approval shall be paid to the City of Malibu for Environmental Health review of the OWTS design and system specifications.

17) **Operating Permit Application and Fee:** In accordance with Malibu Municipal Code, an application shall be made to the Environmental Health office for an Onsite Wastewater Treatment System operating permit. An operating permit fee in accordance with the adopted fee schedule at the time of final approval shall be submitted with the application.

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If you have any questions regarding the above requirements, please contact the Environmental Health office at your earliest convenience.

cc: Environmental Health file
Planning Department

33008 PACIFIC COAST HWY (CDP 23-034)
MALIBU, CA 90265

S.F.D.:	2 Bedroom/41 Fixture Units (N)
A.D.U.:	1 Bedroom/10 Fixture Units (N)
TREATMENT TANK:	3,634 Gallon MicroSepTec ES12 w/UV Disinfection Unit (N)
ACTIVE:	1 – 1,722 ft² Leach Field (N)
FUTURE:	1 – 2,226 ft² Leach Field (F)
PERC RATE:	T = 22.86 to 32 min/in
DESIGNER:	John Yaroslaski, RCE 60149
REFERENCE:	Ensitu: OWTS report and plan dated 5-12-2023; update report and plan dated 8-7-2023; 11-21-2024
	Donald B. Kowalewsky: Percolation Testing Reports dated 6-9-2023 and 7-25-2023
	CalWest: Geotechnical Engineering Investigation dated 6-30-2022; Addendum report dated 8-18-2023
	Land Phases: Engineering Geologic Study dated 4-29-2023; Add. #1 dated 8-3-2023; Add. #2 dated 8-4-2023

NOTES:

1. This conformance review is for a new single-family dwelling, accessory dwelling unit, and new advanced onsite wastewater treatment system (OWTS). The new OWTS conforms to the requirements of the Malibu Municipal Code (MMC) and the Local Coastal program (LCP).

2. This review relates only to the minimum requirements of the MMC, and the LCP, and does not include an evaluation of any geological or other potential problems, which may require an alternative method of wastewater treatment.

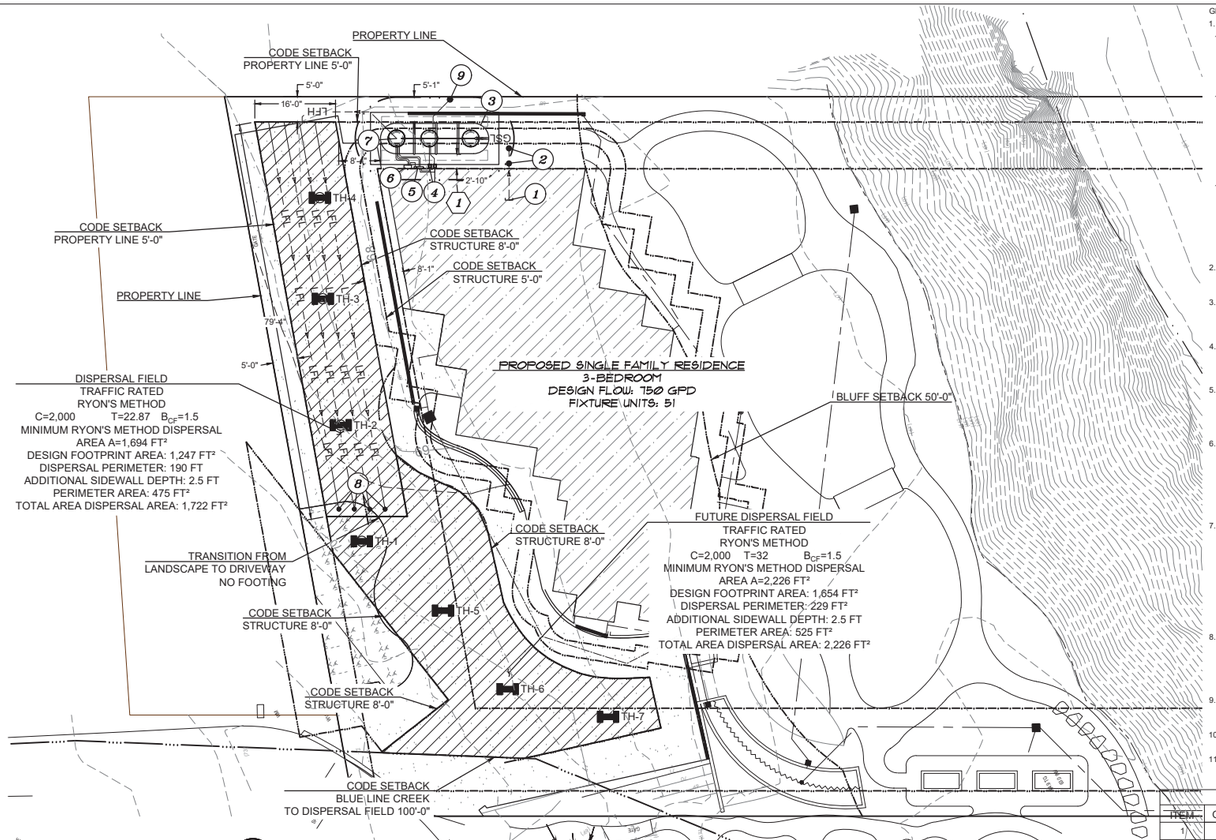
3. This review is valid for one year or until the MMC, and/or LCP, and/or Administrative Policy changes render it noncomplying.

CITY OF MALIBU
ENVIRONMENTAL SUSTAINABILITY DEPT.
ENVIRONMENTAL HEALTH

CONFORMANCE REVIEW

SIGNATURE: _____ DATE: 12/19/2024

THIS IS NOT AN APPROVAL. FINAL APPROVAL IS REQUIRED PRIOR TO THE ISSUANCE OF ANY CONSTRUCTION PERMITS



GENERAL NOTES:

1. EXISTING OWTS COMPONENTS LOCATION AND ABANDONMENT:
   - 1.1. CONTRACTOR IS RESPONSIBLE FOR LOCATING ALL EXISTING ONSITE WASTEWATER TREATMENT SYSTEM (OWTS) COMPONENTS. THE LOCATIONS ON THE ENGINEERING PLANS ARE INFORMATIONAL AND MAY NOT INCLUDE ALL COMPONENTS OF THE OWTS. MANY ITEMS, SUCH AS TANKS, PIPING, DISTRIBUTION DEVICES, SEEPAGE PITS, DISPERSAL FIELDS, AND OTHER APPURTENANCES ARE BURIED AND NOT LOCATABLE BY THE SURVEYOR OR UTILITIES LOCATOR .
   - 1.2. PRIOR TO COMMENCING WORK TO ABANDON, REMOVE, OR REPLACE EXISTING ONSITE WASTEWATER TREATMENT SYSTEM (OWTS) COMPONENTS AN "OWTS ABANDONMENT PERMIT" SHALL BE OBTAINED FROM THE CITY OF MALIBU. ALL WORK PERFORMED IN THE OWTS ABANDONMENT, REMOVAL, OR REPLACEMENT AREA SHALL BE PERFORMED IN STRICT ACCORDANCE WITH ALL APPLICABLE FEDERAL, STATE, AND LOCAL ENVIRONMENTAL AND OCCUPATIONAL SAFETY AND HEALTH REGULATORY REQUIREMENTS. THE OBTAINMENT OF ANY SUCH REQUIRED PERMITS OR APPROVALS FOR THIS SCOPE OF WORK SHALL BE THE RESPONSIBILITY OF THE APPLICANT AND THEIR AGENTS.
   - 1.3. THE EXISTING OWTS COMPONENTS INCLUDING; SEPTIC TANK(S), PIPING, CLEANOUT(S) SEEPAGE PIT(S), DISPERSAL FIELD(S), AND ALL OTHER APPURTENANCES SHALL BE PROPERLY ABANDONED PURSUANT TO CITY OF MALIBU ORDINANCE 435, SECTION 15.40.170 C, AND SECTION 15.40.170 D, TITLE 28 OF THE LOS ANGELES COUNTY CODE, INCORPORATING THE MOST CURRENT CALIFORNIA PLUMBING CODE, LOCAL PLUMBING CODE, AND POLICIES. METHOD OF ABANDONMENT SHALL BE DETERMINED BY THE ENGINEER AND/OR THE OWNER'S REPRESENTATIVE
2. SEWER PIPE SHALL BE BEDDED IN ACCORDANCE WITH SPECIFICATIONS AND TITLE 28 OF THE LOS ANGELES COUNTY CODE, INCORPORATING THE MOST CURRENT CALIFORNIA PLUMBING CODE, LOCAL PLUMBING CODE, AND ORDINANCES.
3. SYSTEM COMPONENTS AND APPURTENANCES (INCLUDING CLEAN-OUTS, VENTS, BACKWATER VALVES, ETC.) SHALL BE INSTALLED IN ACCORDANCE WITH TITLE 28 OF THE LOS ANGELES COUNTY CODE, INCORPORATING THE MOST CURRENT CALIFORNIA PLUMBING CODE, LOCAL PLUMBING CODE, AND POLICIES.
4. ELECTRICAL COMPONENTS AND APPURTENANCES SHALL BE INSTALLED IN ACCORDANCE WITH TITLE 27 OF THE LOS ANGELES COUNTY CODE, INCORPORATING THE MOST CURRENT CALIFORNIA ELECTRICAL CODE, LOCAL ELECTRICAL CODE, AND ORDINANCES.
5. A REGISTERED GEOTECHNICAL ENGINEER, UNDER THE DIRECTION OF THE OWNER, SHALL DETERMINE IF THE WASTEWATER LOADING RATE WILL CAUSE THE EXISTING SLOPE TO BECOME UNSTABLE. ENSITU ENGINEERING INC., IS NOT A GEOTECHNICAL ENGINEERING FIRM, THEREFORE, WE CAN NOT PREDICT AND/OR DETERMINE THE STABILITY OF THE EXISTING SLOPE.
6. THE PROJECT ENGINEERING GEOLOGIST SHALL OBSERVE THE INSTALLATION OF THE TANK AND DISPERSAL SYSTEM COMPONENTS OF THE AOWTS (INCLUDING BUT NOT LIMITED TO; (A) TANK EXCAVATION, BEDDING, AND BACKFILL (B) SEEPAGE PITS EXCAVATION, CONSTRUCTION, AND BACKFILL (C) SUBSURFACE DISPERSAL SYSTEM BEDDING, FILL MATERIAL, CONSTRUCTION, AND BACKFILL) AND PROVIDE THE CITY INSPECTOR WITH A FIELD MEMORANDUM(S) DOCUMENTING AND VERIFYING THAT THE TANK AND DISPERSAL SYSTEM COMPONENTS WERE INSTALLED PER APPROVED AOWTS PLANS.
7. LEACH FIELDS AND DISPERSAL SYSTEMS DESIGNATED AS SAND CATEGORY: ANY REMAINING FILL MATERIAL AND ANY BEACH SAND SEDIMENT THAT MIGHT HAVE REDUCED PERMEABILITY FROM EXISTING LEACH FIELD OPERATIONS ENCOUNTERED BELOW THE BOTTOM OF THE PROPOSED LEACH FIELD OR ANY MATERIAL ENCOUNTERED IN THE CONSTRUCTION OF THE LEACH FIELD THAT IS NOT CATEGORIZED AS BEACH SAND DEPOSITS SHALL BE EXCAVATED TO THE LEVEL OF THE NATIVE BEACH SAND DEPOSITS AND REPLACED WITH DOUBLE- WASHED SAND. THE PROJECT ENGINEERING GEOLOGIST SHALL OBSERVE THE EXCAVATION OF THE LEACH FIELD AND CONFIRM IN WRITING THAT ALL THE DELETERIOUS FILL AND NON-BEACH SAND MATERIALS BELOW THE LEACH FIELD HAVE BEEN REMOVED AND REPLACED WITH CLEAN SAND AND THE LEACH FIELD WAS CONSTRUCTED IN ACCORDANCE WITH THE APPROVED OWTS PLANS.
8. SUBSURFACE DRIP LINE SHALL BE PLACED IN UNCOMPACTED NATIVE SOILS RIPPED AND TILLED A MINIMUM OF 18 INCHES. SOIL SHALL BE AMENDED TO BE 30% SAND, 30% MULCH, 40% NATIVE OR LANDSCAPE DESIGNER SHALL BE CONTACTED TO ADVISE CONTRACTOR ON TYPE OF TOPSOIL TO IMPORT FOR MINIMUM BURIAL DEPTH. DISPERSAL FIELD SHALL BE PLANTED AND ESTABLISHED PRIOR TO OCCUPANCY (ENGINEER TO VERIFY)
9. ALL DIMENSIONS AND GRADES SHALL BE VERIFIED BY CONTRACTOR PRIOR TO SYSTEM INSTALLATION. BUILDING SEWER DEPTH OR CONNECTION POINT WAS NOT PROVIDED AND SHALL BE DETERMINED BY CONTRACTOR PRIOR TO CONSTRUCTION
10. CONTRACTOR TO VERIFY DEPTH AND LOCATION OF BUILDING SEWER CONNECTION, MINIMUM 2% SLOPE FROM STRUCTURE TO CONNECTION POINT.
11. ONSITE WASTEWATER TREATMENT SYSTEM SHALL BE VENTED IN ACCORDANCE WITH TITLE 28 OF THE LOS ANGELES COUNTY CODE, INCORPORATING THE MOST CURRENT CALIFORNIA PLUMBING CODE, LOCAL PLUMBING CODE, AND POLICIES.

EQUIPMENT SCHEDULE

ITEM	QTY	DESCRIPTION	MFG/PART NUMBER
1	1	CONNECTION TO BUILDING SEWER[1]	
2	1	GRAVITY CLEAN-OUT AND BACKWATER VALVE[1]	INDUSTRIAL BACKWATER VALVE (SPEARS MODEL S475P FOR 4") 8" I.D. VALVE BOX (CHRISTY MODEL F08)
3	1	TREATMENT TANK[1][2]	MICROSEPTEC ES12
4	2	AIR COMPRESSOR[1][2]	MICROSEPTEC
5	1	REMOTE TELEMETRY CONTROL UNIT DEDICATED COMMUNICATION AND POWER AS OUTLINED IN MANUFACTURER INSTALLATION GUIDELINES.[1][2]	MICROSEPTEC
6	1	CONTROL UNIT DEDICATED COMMUNICATION AND POWER AS OUTLINED IN MANUFACTURER INSTALLATION GUIDELINES.[1][2]	GEOFLOW
7	1	DUPLEX PUMP SYSTEM[1][2]	MICROSEPTEC
8	1	PRESSURE CLEANOUT (TRAFFIC)	8" I.D. VALVE BOX (CHRISTY MODEL F08)
9	1	VENT ASSEMBLY[1][2]	ORENCO
[1]		ALL PLUMBING APPURTENANCES AND WORK SHALL COMPLY WITH CURRENT LOCAL, COUNTY, AND STATE PLUMBING CODES. APPURTENANCES AND WORK INCLUDE, BUT ARE NOT LIMITED TO: CONNECTION TO BUILDING PLUMBING, VENTILATION, ISOLATION, BACKWATER VALVES, CLEANOUTS, AND FITTINGS.	
[2]		ALL ELECTRICAL APPURTENANCES INCLUDING BUT NOT LIMITED TO; CONDUIT, CONDUCTOR, CONTROL PANELS, CONTACTORS, FLOATS, PUMPS, DISCONNECTS, AND COMMUNICATION DEVICES SHALL COMPLY WITH CURRENT LOCAL, COUNTY, AND STATE ELECTRICAL CODE AND CURRENT NATIONAL ELECTRIC CODE. CONDUIT AND CONDUCTOR RUNS AND SIZING SHOWN ON PLAN ARE FOR ALIGNMENT AND COST ESTIMATION. ELECTRICAL CONTRACTOR SHALL SPECIFY ALL ELECTRICAL APPURTENANCES. CONTROL AND POWER CONDUCTORS SHALL BE PLACED IN SEPARATE CONDUIT	

PIPING SCHEDULE

TAG	DESCRIPTION	SPECIFICATION
GSL	PROPOSED GRAVITY SEWER LINE	4" SCH40 PVC
PVL	PROPOSED AIR VENT LINE	4" SCH40 PVC
RCRC	RECIRCULATION RETURN LINE	1½" SCH80 PVC
LFH	DISPERSAL FIELD HEADER	1½" SCH80 PVC
LFL	DISPERSAL FIELD LATERAL	1½" SCH80 PVC

LEGEND

ITP-XX	RYON'S METHOD PERCOLATION TEST LOCATION
	PROPOSED DISPERSAL FIELD
	BUILDINGS AND STRUCTURES
	SITE WALL
	DRIVEWAY
	LANDSCAPE AREA
	SAND REPLACEMENT AREA (TO BE VERIFIED BY CONTRACTOR AND INSPECTED BY GEOLOGIST) SAND REPLACEMENT SHALL BE A MINIMUM OF 2' BELOW LIMIT OF REMOVAL AND COMPACTION AND A MINIMUM OF 1' FROM THE PERIMETER OF THE DISPERSAL FIELD

SETBACK REDUCTIONS

	COMPONENT	SITE ELEMENT	CODE REQUIREMENT	ACTUAL
1	SEPTIC TANK	STRUCTURE	5'	2'-10"

OWTS Capacity (Design and Maximum)

Component	Description	Size/Capacity	Design Capacity	Max Capacity
Treatment Volume (Fixture Unit Capacity)	I-MicroSepTec ES12	3,634 gallons	51 fixture units	105 fixture units
Treatment (Organic Capacity)	I-MicroSepTec ES12	2.00 lb BOD5/day	750 gpd at 220 mg/L BOD5	1200 gpd at 220 mg/L BOD5
Disinfection	I-MicroSepTec ES12	1,200 gpd	750 gpd	1,200 gpd
Ryons Method Malibu County	Dispersal Field	1722 square feet primary dispersal. 2226.5 square feet future dispersal	1500 gallon tank. T=22.86 for present. T=32 for future. C=2250	2,000 gallon tank. Ryons Method T=22.86. A=1722

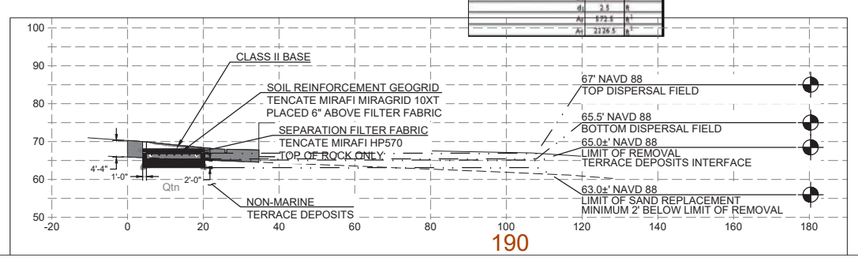
Fixture Units Summary		
Total Proposed Fixture Units	51	
Total Fixture Units	51	
Dwelling Units Summary		
Total Proposed Dwelling Units	2	
Proposed Bedroom Summary		
Total Proposed Bedrooms	3	bedrooms
Number of Proposed Master Bedrooms	2	bedrooms
Number of Proposed Standard Bedrooms	1	bedrooms
Flow Calculations (Q)		
Peak Flow per Master Bedroom	300	gpd
Peak Flow per Standard Bedroom	150	gpd
Average Flow per Master Bedroom	200	gpd
Average Flow per Standard Bedroom	100	gpd
Flow Calculations Proposed (Qx)		
Peak Flow, Qp	750	gpd
Average Flow, Qa	500	gpd
Design Flow, Qd	750	gpd

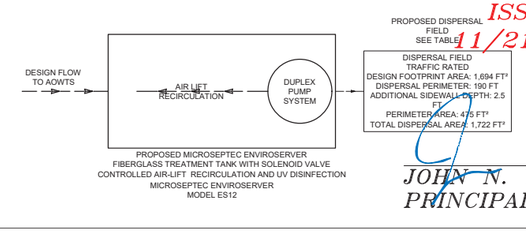
MicroSepTec Design		
Design Flow	750	gpd
Design Influent BOD	220	mg/L
Design Effluent BOD	20	mg/L
Design Organic Loading BOD	1.25	lb BOD_5
MicroSepTec Model Specified	ES12	
MicroSepTec Tank Volume	3634	gal
MicroSepTec ES12 Base Organic Removal (1)	2.00	lb BOD_5
Minimum Number of MicroSepTec ES12 Required	1	units
Design Organic Removal	2.00	lb BOD_5
Design Tank Volume	3634	gal
Maximum Effluent Flow Based on Organic loading	1200	gpd
Maximum Effluent Flow Based on Hydraulic Loading	1200	gpd
Maximum Fixtures Based on Design Tank Volume	105	

Septic Tank (ST) Calculations		
Total Existing Fixture Units		
Total Proposed Fixture Units	51	
Total Fixture Units	51	
Minimum Septic Tank Size based on Fixtures	2250	gal
Total Proposed Dwelling Units	2	
Total Proposed Bedrooms	3	bedrooms
Minimum Septic Tank Size based on Bedrooms, C	1500	gal
Design Septic Tank Size	3634	gal
Leaching Field (LF) Calculations		
Present Dispersal Area		
C	2250	gal
T	22.86	min
Leaching Bed	Yes	Yes or No
B_{DF}	1.5	
Area Required, A	1694	ft²
Actual Footprint Area, A_F	1247	ft²
Actual Dispersal Perimeter, P_F	190	ft
Sidewall Depth Below Dist Pipe, d	3.5	ft
d_1	1	ft
d_2	2.5	ft
A_P	475	ft²
A_T	1722	ft²
Future Dispersal Area		
C	2250	gal
T	32	min
Leaching Bed	Yes	Yes or No
B_{DF}	1.5	
Area Required, A	2226	ft²
Actual Footprint Area, A_F	1654	ft²
Actual Dispersal Perimeter, P_F	229	ft
Sidewall Depth Below Dist Pipe, d	3.5	ft
d_1	1	ft
d_2	2.5	ft
A_P	572.5	ft²
A_T	2226.5	ft²

Ryons T Calculations

Present Dispersal Area			Future Dispersal Area		
Test Pit Number	Depth ft	T minutes	Test Pit Number	Depth ft	T minutes
1	5	28.33	1	5	32
2	5	24.23	2	5	30
3	5	22.86	3	5	42
4	5	9.78			
T Average		18.55		T Average	24.67
T Maximum		22.86		T Maximum	32
T Present (Tx)		22.86		T Future (Tx)	32





PROPOSED MICROSEPTEC ENVIROSERVER
FIBERGLASS TREATMENT TANK WITH SOLENOID VALVE
CONTROLLED AIR-LIFT RECIRCULATION AND UV DISINFECTION
MICROSEPTEC ENVIROSERVER
MODEL ES12

FINAL FOR APPROVAL ISSUED 11/21/2024

JOHN N. YAROSLASKI
PRINCIPAL ENGINEER

ENSITU
7470 CARMELITA AVE.
ATASCADERO, CA 93422
Tel: 805.772.0150
Fax: 805.772.0813
ENSITU@sbcglobal.net
ENSITU ENGINEERING, INC.
"Dedicated to achieving higher standards in onsite and decentralized wastewater systems."

REVISIONS

NO.	DATE	BY

33008 PACIFIC COAST HIGHWAY CONFORMANCE REVIEW DESIGN PLANS
CR–SITE PLANS AND TABLES 11x17
MALIBU, CALIFORNIA

11x17

REGISTERED PROFESSIONAL ENGINEER
JOHN N. YAROSLASKI
60149
EXP 06/2026
CIVIL
STATE OF CALIFORNIA

DATE: 11/21/2024
DESIGNED BY: JNY
DRAWN BY: JNY
CHECKED BY: JNY

JOB NO.
144–119

SHEET
1 OF 1

Project Engineer: John N. Yaroslaski, P.E. # 60149
DRAWING NAME: C:\Users\Ensitu\Desktop\144-119 33008 Pacific Coast Highway PMCR-05.dwg
CREATION TIME: Thursday, November 21, 2024 7:25:51 PM
MOD. TIME: Thursday, November 21, 2024 7:25:51 PM
PLOT TIME: Thursday, November 21, 2024 7:28:03 PM
Pacific Coast Highway PMCR\144-119.010 33008 Pacific Coast Highway\Engineering\Cad Design\144-119.010 33008 Pacific Coast Highway

City of Malibu

23825 Stuart Ranch Road • Malibu, California 90265-4861
(310) 456-2489 • Fax (310) 456-3356 • www.malibucity.org

GEOTECHNICAL REVIEW SHEET

Project Information

Date: December 13, 2024 **Review Log #:** **5079**

Site Address: 33008 Pacific Coast Highway

Lot/Tract/PM #: **Planning #:** **CDP 23-034 P5**

Applicant/Contact: AK Munaim, amunaim@schmitzandassociates.net **BPC/GPC #:**

Contact Phone #: (818) 338-3636 **Fax #:** **Planner:** Raneika Brooks

Project Type: New 2-story single-family residence with partial basement, pickleball court, access driveway, retaining walls, grading, surface drainage improvements, and new Onsite Wastewater Treatment System (OWTS).

Submittal Information

Consultant(s) / Report Date(s): *(Current submittal(s) in **Bold**.)*	CalWest Geotechnical Consulting Engineers. (R. Haro, GE 2990, L. Liston, RCE 93123) **11-15-2024,** 7-23-2024, 11-6-2023**,** 6-30-2022, 5-12-2023 Land Phases, Inc. Report of Engineering Geologic Study (J. Holt CEG 2282**): 11-12-2024,** 7-15-2024**,** 8-4-2023**,** 4-29-2023. GeoSoils, Inc. Coastal Hazard and Wave Runup Study (D. Skelly RCE 47857): 7-29-2024, 4-2-2023 **Burdge Architects, Revised Project Site and Architectural Plans 11-5-2024**. Tuchscher Engineering Group, civil, grading, drainage and foundation plan set 4-28-2023 and **Total Grading Yardage Verification Certificate dated 10-24-2024.** Pearson Land Surveying, Site Survey date 4/17/2024 (topography), plotted 8/5/2024. **Barefoot Design Landscape Plans 7 sheets dated 9-6-2024**.
Previous Reviews:	11-11-2024, 1-31-2024, 6-27-2023

Review Findings

Planning Review

☒ The development project is **ACCEPTABLE** from a geotechnical perspective, with the following comments to be addressed prior to building plan check stage completion.

☐ The development project is **NOT ACCEPTABLE** from a geotechnical perspective. The listed 'Review Comments' shall be addressed prior to acceptance.

Building Plan-Check Stage Review

☒ Awaiting Building plan check submittal.

☐ The plans are **COMPLETE** from a geotechnical perspective. Please review the attached 'Geotechnical Notes for Building Plan Check' and incorporate into Building Plan-Check submittals.

☐ The plans are **NOT COMPLETE** from a geotechnical perspective. The listed 'Building Plan-Check Stage Review Comments' shall be addressed prior to Building Plan-Check Stage completion.

Project submittals were reviewed from a geotechnical perspective for conformance with applicable codes, guidelines, and standards of practice, including the following current City adopted standards:

- City of Malibu Local Coastal Program – Land Use Plan and Local Implementation Plan (LCP-LUP and LCP-LIP)
- Malibu Municipal Code – Title 15, Buildings and Construction
- City of Malibu Guidelines for the Preparation of Geotechnical Reports and Procedures for Report Submittal (November 2013) referred to herein as Geotechnical Report Guidelines

In the case of conflicting requirements between the Geotechnical Guidelines and any other referenced standards, the latest standard will apply. The Applicant is responsible for complying with the submittal requirements for all Planning variances, as appropriate; any questions regarding variances should be directed to the case Planner.

Remarks:

The referenced CalWest geotechnical report, supporting Land Phases geologic report, GeoSoils coastal hazard study, architectural plans, and civil plans were reviewed by the City's consultants from a geotechnical perspective. Based on the current submitted information, the project includes the construction of a new 4,189 SF two-story single-family residence with attached garage, concrete pickleball court, decking, site retaining walls, landscaping, and hardscape. The proposed garage will have a concrete slab-on-grade floor; the habitable portion of the residence will have a raised floor construction to maximize pervious areas for subsurface site drainage. Grading will consist of approximately 1,185 CY of R & R; 370 CY of cut under structure; 113 CY of cut (non-exempt) and 57 CY of fill (non-exempt); and 352 CY of net export. The improvements will be serviced by a new advanced onsite wastewater treatment system (OWTS). Surface and subsurface drainage improvements will be installed and conveyed offsite to a non-erosive outlet. Landscaping plans were presented and must conform to the recommendations of the project geotechnical consultants.

The site is located on a coastal bluff in western Malibu. The project geotechnical consultant has evaluated gross static and pseudo-static slope stability for the site based on requirements of LCP-LIP chapter 9.4 and the City of Malibu Geotechnical Guidelines (both 2002 and 2013) and evaluated bluff retreat rates in accordance with Chapter 10.4 of the LCP-LIP for the 100-year project life duration. The consultants conclude that a bluff retreat rate of 2 inches per year (.05 meters per year) on average is reasonable, after conducting a site specific study, evaluating regional studies (Our Coast Our Future and Scripps Cliff Erosion Study), and taking into account improvements in site grading and drainage.

Building Plan-Check Stage Review Comments:

1. The Project Geologic and Geotechnical Consultants must review the proposed landscape plans for conformance with their assumptions, analyses, conclusions and recommendations.
2. The Project Geologic and Geotechnical Consultants must provide updated 111 statements in accordance with City Geotechnical Guidelines to accompany 1) the project plans and any modifications, 2) Land Phases updated bluff analyses and conclusions and 3) Cal West's Section 3 Summary and Conclusions and Section 4 Assumptions and Limitations in which the consultant provides an opinion on feasibility and risks are discussed.
3. Include a note on the OWTS plans stating, "*The Project Engineering Geologist shall observe and approve the installation of the seepage pits and provide the City inspector with a field memorandum(s) documenting and verifying that the seepage pits were installed per the approved OWTS plans.*"
4. Please clearly show the limits and depths of the recommended R & R grading on the plans.
5. Indicate the bearing material and depth for all foundation types on the foundation plans in accordance with recommendations by the Project Geotechnical Consultant.
6. The Project Geotechnical Consultant states that the on-site soils are suitable for vertical excavations up to 5 feet. However, they recommend verification of this during construction. Please include the following note on the grading and foundation plans: "*The Project Geotechnical Consultant shall review the excavations for the R & R grading and provide revised recommendations, as appropriate, if variations in the soils/bedrock are encountered.*"
7. The following note needs to be included in the grading and building plans. *'Prior to the placement of concrete slabs, the slab subgrade soils shall be pre-moistened to at least 2% above the optimum moisture content to the depth specified by the geotechnical engineer. The pre-moistened soils should be tested and verified to be by the geotechnical engineer within one day prior to the placement of the moisture barrier and sand.'*
8. Include the following note on all the Foundation Plans: "*All foundation excavations must be observed and approved by the Project Geotechnical Consultant prior to placement of reinforcing steel.*"
9. Include the Project Geotechnical Consultant's recommendation for vapor retarder thickness below slabs-on-grade on the plans, as appropriate.
10. Include the Project Geotechnical Consultant's recommendation for moisture conditioning of subgrade soils below slabs-on-grade on the plans, as appropriate.
11. Please include details for the swimming pool subdrain and suitable outlet recommended by the Project Geotechnical Consultants on the swimming pool plans.
12. The following notes must be added to the grading plan:
    - The Project Geotechnical Consultant should determine the expansion potential of the finish grade materials at the completion of grading. Grading and Foundation design recommendations should be revised if the expansion potential of finish grade materials substantially differs from the assumed expansion range.
    - At the completion of grading, samples of the onsite soil should be collected and tested for corrosion potential. Final recommendations for mitigation measures including cement type should be based on the corrosion potential of the finish grade materials.
13. Include the following note on the foundation plans and details: *"An evaluation of soil Expansion Index shall be made in accordance with Section 6.2.1 of the City of Malibu's geotechnical guidelines at the completion of grading by the Project Geotechnical Consultant, who shall provide appropriate recommendations."*

14. Include the following note on the foundation plans and details: *"An evaluation of soil corrosivity shall be made in accordance with Section 6.2.1 of the City of Malibu's geotechnical guidelines at the completion of grading by the Project Geotechnical Consultant, who shall provide appropriate recommendations."*
15. Please include the following note on the retaining walls and foundation plans: "*The Project Geotechnical Consultant shall review the retaining wall design for the earth pressure and any surcharge required in the wall design."*
16. One set of final e-OWTS plans incorporating the Project Geotechnical and Environmental Health Specialists' recommendations and items in this review sheet must be **reviewed and e-stamped and e-signed by the Project Engineering Geologist**. City geotechnical staff will review the plans for conformance with the Project Geotechnical Consultants' recommendations and items in this review sheet over the counter at City Hall. **Appointments for final review and approval of the plans may be made by calling or emailing City Geotechnical staff.**

Please direct questions regarding this review sheet to the City's Geotechnical consultants listed below.

Engineering Geology Review by: _____ *12-13-2024*

Christopher Sexton C.E.G. 1441, Exp. 11-30-26 Date
Engineering Geology Reviewer (805-496-1222)
Email: chris@geodynamics-inc.com

Geotechnical Review by: _____ *12-13-2024*

Lauren J. Doyel, G.E. 2981, Exp. 6-30-25 Date
Geotechnical Engineering Reviewer (805-496-1222)
Email: ldoyel@malibucity.org

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This review sheet was prepared by representatives of Cotton, Shires and Associates, Inc. and GeoDynamics, Inc., contracted through Cotton, Shires and Associates, Inc., as an agent of the City of Malibu.

COTTON, SHIRES AND ASSOCIATES, INC.
CONSULTING ENGINEERS AND GEOLOGISTS

GeoDynamics, Inc.
Applied Earth Sciences
Geotechnical Engineering & Engineering Geology Consultants

– GEOTECHNICAL –

NOTES FOR BUILDING PLAN-CHECK

The following standard items should be incorporated into Building Plan-Check submittals, as appropriate:

1. Show the name, address, and phone number of the Project Geotechnical Consultant(s) on the cover sheet of the Building Plans.
2. Include the following note on Grading and Foundation Plans: "*Subgrade soils shall be tested for Expansion Index prior to pouring footings or slabs; Foundation Plans shall be reviewed and revised by the Project Geotechnical Consultant, as appropriate.*"
3. Include the following note on the foundation plans and details: "An evaluation of soil corrosivity shall be made in accordance with Section 6.2.1 of the City of Malibu's geotechnical guidelines at the completion of grading by the Project Geotechnical Consultant, who shall provide appropriate recommendations."
4. Include the following note on the Foundation Plans: "*All foundation excavations must be observed and approved by the Project Geotechnical Consultant prior to placement of reinforcing steel."*
5. The Foundation Plans for the proposed project shall clearly depict the embedment material and minimum depth of embedment for the foundations in accordance with the Project Geotechnical Consultant's recommendations.
6. Show the onsite wastewater treatment system on the Site Plan.
7. Please contact the Building and Safety Department regarding the submittal requirements for a grading and drainage plan review.
8. A comprehensive Site Drainage Plan, incorporating the Project Geotechnical Consultant's recommendations, shall be included in the Plans. Show all area drains, outlets, and non-erosive drainage devices on the Plans. Water shall not be allowed to flow uncontrolled over descending slopes.

Grading Plans (as Applicable)

1. Grading Plans shall clearly depict the limits and depths of overexcavation, as applicable.
2. Prior to final approval of the project, an as-built compaction report prepared by the Project Geotechnical Consultant must be submitted to the City for review. The report must include the results of all density tests as well as a map depicting the limits of fill, locations of all density tests, Expansion Index tests, locations and elevations of all removal bottoms, locations and elevations of all keyways and back drains, and locations and elevations of all retaining wall backdrains and outlets. Geologic conditions exposed during grading must be depicted on an as-built geologic map. This comment must be included as a note on the grading plans.

Retaining Walls (As Applicable)

1. Include the following note on the retaining walls and foundation plans: "*The Project Geotechnical Consultant shall review the retaining wall design for the earth pressure and any surcharge required in the wall design."*
2. Show retaining wall backdrain and backfill design, as recommended by the Geotechnical Consultant, on the Plans.
3. Retaining walls separate from a residence require separate permits. Contact the Building and Safety Department for permit information. One set of retaining wall plans shall be submitted to the City for review by City geotechnical staff. Additional concerns may be raised at that time which may require a response by the Project Geotechnical Consultant and applicant.

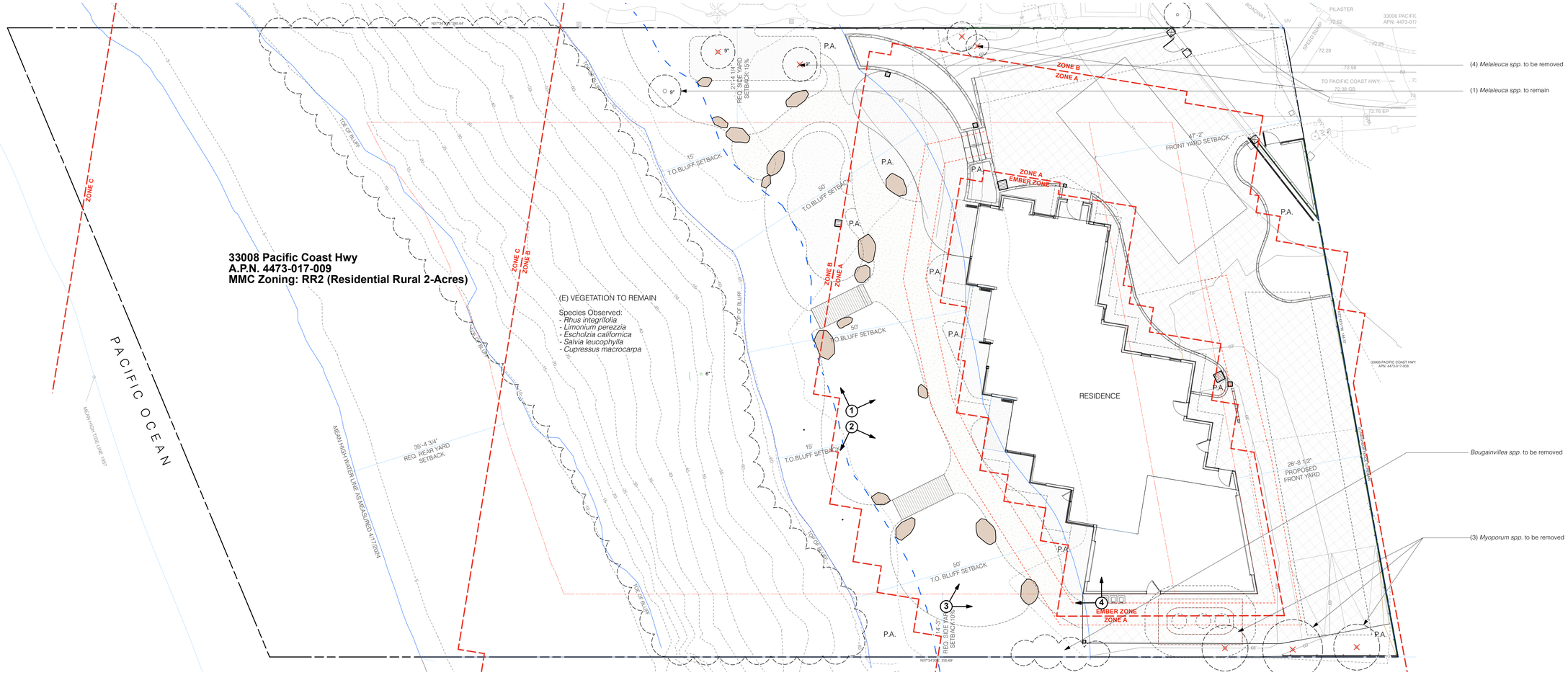




Photo 1



Photo 2



Photo 3



Photo 4

3 BAREFOOT DESIGN
1187 Coast Village Road, #387
Santa Barbara, CA 93108
TEL 805.687.7466
WEB www.barefoot-design.net

SUBMITTALS

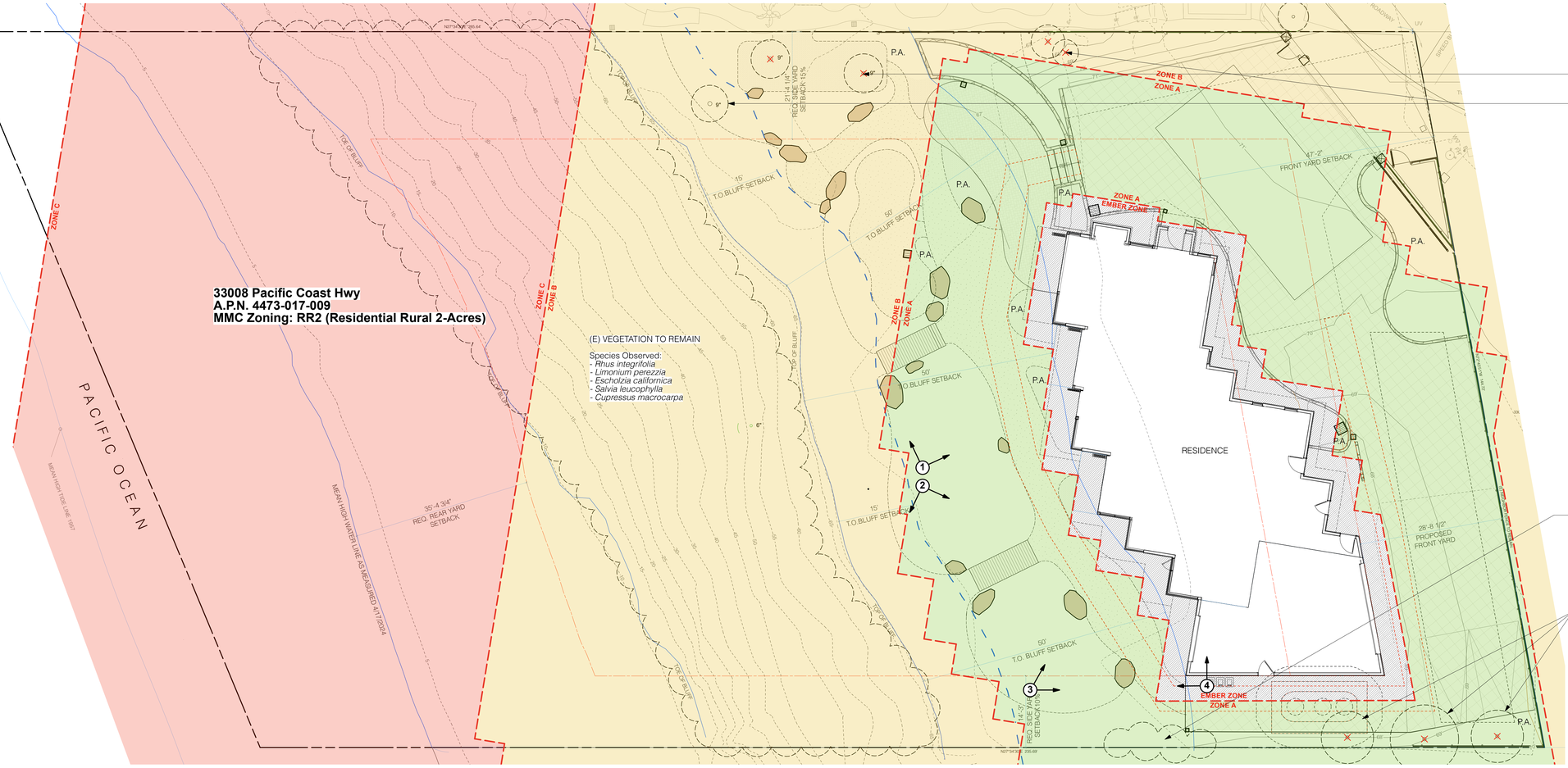
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5/11/23

PROJECT:
BLUFFTOP 1
33008 Pacific Coast Highway, Malibu CA, 90265

SHEET CONTENTS
Site Photos

DATE 5/13/25
SCALE 1" = 10'-0"
DRAWN KR
JOB 23 - 06
SHEET **FM1.00**
2 OF 9 SHEETS



COUNTY OF LOS ANGELES
FIRE DEPARTMENT

FUEL MODIFICATION UNIT
605 NORTH ANGELENO AVENUE
AZUSA, CA 91702
(626) 969-5205
Email: forestryfuelmodification@fire.lacounty.gov
Website: https://fire.lacounty.gov/forestry-fuel-modification/

"Proud Protectors of Life, Property, and the Environment"

BOARD OF SUPERVISORS
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FIRST DISTRICT
HOLLY J. MITCHELL
SECOND DISTRICT
LINDSEY P. HORVATH
THIRD DISTRICT
JANICE HAHN
FOURTH DISTRICT
KATHRYN BARGER
FIFTH DISTRICT

ANTHONY C. MARRONE
FIRE CHIEF FORESTER &
FIRE WARDEN

Fuel Modification Plan Notes

Ember Resistant Zone (Pending State Fire Marshal Approval)

- Extends 5 feet beyond the edge of any combustible structure, accessory structure, appendage, or projection. The areas beneath eaves, overhangs or parts of structures including attached decks and pergolas shall be included in the ember resistant zone.
- This area shall be free of materials or landscaping known to be receptive to flying embers.
- **Disclaimer:** Please be advised, plants approved within the first five feet of the structure today, may not be compliant when the occupancy inspection or future defensible space inspections take place. Once the State Fire Code PRC 4291 and/or the LA County Fire Code Section 325 are updated to reflect the requirements of AB3074, they will take precedent. Defensible space is a year-round requirement and structures in a fire hazard severity zone must comply with the most current defensible space fire codes.

Zone A

- Extends 30 feet beyond the edge of any combustible structure, accessory structure, appendage, or projection. Projections such as eaves, covered entryways, attached pergolas, decks etc. shall be the point at which this distance is measured.
- Irrigation shall be provided to maintain healthy vegetation and fire resistance.
- Vegetation in this zone shall consist primarily of mowed grasses, low growing ground covers and adequately spaced shrubs. The overall density and arrangement shall provide adequate defensible space and significantly reduce fire intensity.
- Plant species selected for Zone A shall possess characteristics which increase fire resistance. Such characteristics are high moisture content, plants producing little leaf litter, slow growing plants and plants that do not require pruning to reduce their size at maturity. Species selection should reference the Fuel Modification Plant List. The list is not a pre-approved plant list. Other species may be used subject to approval after review.
- Trees are generally not recommended except for dwarf varieties or mature trees less than 25' tall and wide at maturity. Trees shall be positioned so their canopies do not extend over the roof of any structure.
- Vines and climbing plants are not allowed on any combustible structure requiring review.

Zone B

- Extends from the outer edge of Zone A an additional 70 feet for a total of 100 feet from the structure.
- Irrigation shall be provided to maintain healthy vegetation and fire resistance.
- Vegetation in this zone shall be arranged in a manner that does not create vertical or horizontal fuel ladders. Vegetation in this zone can be planted at a slightly higher density than Zone A but the overall density and arrangement shall provide adequate defensible space and significantly reduce fire intensity.

SERVING THE UNINCORPORATED AREAS OF LOS ANGELES COUNTY AND THE CITIES OF:

AGOURA HILLS	CARSON	EL MONTE	INGLEWOOD	LAWNDALE	PICO RIVERA	SIGNAL HILL
ARTESIA	CERRITOS	GARDENA	IRWINDALE	LOMITA	POMONA	SOUTH EL MONTE
AZUSA	CLAREMONT	GLENDORA	LA CANADA-FLINTRIDGE	LYNWOOD	RANCHO PALOS VERDES	SOUTH GATE
BALDWIN PARK	COMMERCE	HAWAIIAN GARDENS	LA HABRA	MALIBU	ROLLING HILLS	TEMPLE CITY
BELL	COVINA	HAWTHORNE	LA MIRADA	MAYWOOD	ROLLING HILLS ESTATES	VERNON
BELL GARDENS	CUDAHY	HERMOSA BEACH	LA PUENTE	NORWALK	ROSEMEAD	WALNUT
BELLFLOWER	DIAMOND BAR	HIDDEN HILLS	LAKEWOOD	PALMDALE	SAN DIMAS	WEST HOLLYWOOD
BRADBURY	DUARTE	HUNTINGTON PARK	LANCASTER	PALOS VERDES ESTATES	SANTA CLARITA	WESTLAKE VILLAGE
CALABASAS		INDUSTRY		PARAMOUNT		WHITTIER

- Existing California native plants may be approved to remain if determined to be acceptable upon review and are properly spaced and maintained.
- Plant species selected for Zone B shall possess characteristics which increase fire resistance. Such characteristics are high moisture content, plants producing little leaf litter, slow growing plants and plants that do not require pruning to reduce their size at maturity. Species selection should reference the Fuel Modification Plant List. The list is not a pre-approved plant list. Other species may be used subject to approval after review.
- Trees in Zone B may be medium to large at maturity provided they are properly positioned and do not create any vertical or horizontal fuel ladders. Tree selections are subject to denial upon review.

Zone C

- Extends from the outer edge of Zone B an additional 100 feet for a total of 200 feet from the structure.
- Maintenance/modification of vegetation exceeding 100 feet but not to exceed 200 feet from structures may be determined necessary. Any required maintenance/modification is to be determined upon on-site inspection (Fire Code 325.2.2).

Fire Access Road Zone

- Extends a minimum of 10 feet from the edge of any public or private road, driveways and turnarounds used by firefighting resources.
- Clear and remove flammable vegetation on each side of access roads (Fire Code 325.10).
- Fire access roads shall have an unobstructed vertical clearance a minimum width of 20' and vertically clear to the sky (Fire Code 503.2.1).
- Additional clearance beyond 10 feet may be required upon an on-site inspection.
- All proposed plantings, unless otherwise approved, shall be positioned so they do not obstruct access at maturity. Pruning will not be considered as an alternative to plant selection.

Maintenance

Routine maintenance shall be regularly performed in all zones. Above all else, regular maintenance is paramount to the fire resistance of a well-planned fire-resistant landscape. Critical items are outlined below. Additional information may be found on our website listed in the header of this document.

- Start with the structure. Remove leaf litter and other combustible debris from roofs, eaves, rain gutters etc.
- Ensure the ember resistant zone is maintained free of any material known to be receptive to flying embers.
- Remove any plant or portion of a plant that is dead or dying throughout all zones.
- Remove downed, accumulated plant litter and dead wood throughout all zones.
- Prune to reduce the overall amount and continuity of fuels. Eliminate horizontal and vertical fuel ladders throughout all zones.
- All invasive species and their parts should be removed from the site.
- Ensure irrigation systems are functioning properly.
- Compliance with the fire code is a year-round responsibility. Enforcement will occur following inspection by the Fire Department. Annual inspections for brush clearance code requirements are conducted following the natural drying of fine fuels between the months of April and June depending on the geographic region each dwelling exists.
- Inspection for compliance with an approved fuel modification plan may occur at any time.
- All future planting shall be in accordance with the County of Los Angeles Fire Department Fuel Modification Guidelines and approved prior to installation.

Approval of this Fuel Modification Plan constitutes approval for only those Codes reviewed as part of the Fuel Modification process and does not replace the needed approval of any other office or agency with jurisdiction and review responsibility for those items which may or may not be illustrated on the plan.

Description of Fire Zones

EMBER ZONE: 0'-5' from Residence
- area shall be free of materials known to be receptive to flying embers

Fire Zone A: 5-30' from Residence
- Vegetation in this zone is composed of high moisture containing tree's, shrubs, groundcovers (especially succulent species) and lawn and lawn substitutes.
- All plants will be irrigated by automatic systems to maintain healthy vegetation with a high live fuel moisture and greater fire resistance.
- Landscaping and vegetation in this zone will consist of primarily green lawns, groundcovers, mulch, adequately spaced small shrubs and hardscape.
- Plants in Zone A shall be highly fire resistant and selected from the approved plant list.
- Existing Native vegetation shall be modified by thinning and removal of high risk species.
- Trees shall be limbed up to at least 6 feet above bare earth and a minimum of 3 times the height of underlying plants.

Fire Zone B: 30'-100' from Residence
- Landscaping and vegetation in this zone will consist of primarily green lawns, groundcovers, mulch, adequately spaced small shrubs and hardscape.
- All plants will be irrigated by automatic systems to maintain healthy vegetation with a high live fuel moisture and greater fire resistance.
- Plants in Zone B shall be fire resistant and selected from the approved plant list.
- Existing Native vegetation shall be modified by thinning and removal of high risk species.
- Trees shall be limbed up to at least 6 feet above bare earth and a minimum of 3 times the height of underlying plants.

Fire Zone C: 100'-200' from Residence
- Multicut and remove all dead wood in areas with existing native shrub cover.
- Remove up to 20% of native vegetation.
- Remove exotic species.

BAREFOOT DESIGN
1187 Coast Village Road, #387
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TEL 805/687-7466
WEB www.barefoot-design.net

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5/11/23

PROJECT:
BLUFFTOP 1
33008 Pacific Coast Highway, Malibu CA, 90265

SHEET CONTENTS
Fuel Modification Plan

DATE 3/13/25
SCALE 1" = 10'-0"
DRAWN KR
JOB 23 - 06
SHEET **FM1.01**
3 OF 9 SHEETS



Plant Palette

Botanic Name	Common Name	Size	Quantity	WUCOLS	MAX Height
Trees & Large Shrubs					
Arctostaphylos glauca	Big Berry Manzanita	15g	4	Med	10'-0" - 20'-0"
Citrus spp.	Assorted Citrus Varieties	24" Box	3	Med	12'-0"
Quercus tomentella	Island Oak	48" Box	2	Low	35'-0"

Botanic Name	Common Name	Size	Quantity	WUCOLS	MAX Height
Shrubs & Perennials					
Achillea millefolium	Yarrow	1g	20	Low	< 1'-0"
Aeonium 'Mint Saucer'	Mint Saucer Aeonium	1g	6	Low	< 1'-0"
Baccharis pilularis	Prostrate Coyote Bush	1g	11	Low	2'-0"
Carex praegracilis	Clustered Field Sedge	1g	58	Low	1'-0"
Carpenteria californica	Bush Anemone	1g	7	Low	6'-0"
Chondropetalum tectorum	Cape Rush	5g	10	Low	3'-0"
Dudleya pulverulenta	Chalk Dudleya	1g	26	Low	< 1'-0"
Encelia californica	Bush Sunflower	1g	37	Low	4'-0"
Juncus patens	California Grey Rush	1g	127	Low	2'-0"
Leymus condensatus	Wild Rye	5g	54	Low	4'-0"
Lomandra 'Platinum Beauty'	Platinum Beauty Basket Rush	1g	20	Low	3'-0"
Lomandra 'Seascape'	Seascape Rush	1g	39	Low	3'-0"
Muhlenbergia rigens	Deer Grass	1g	21	Low	4'-0"
Prunus ilicifolia ssp. lyonii	Lyon's Catalina Cherry	15g	9	Low	15'-0"
Salvia apiana	White Sage	1g	8	Low	3'- 0"
Salvia leucophylla	Purple Sage	1g	39	Low	2'-0"
Groundcovers					
Walk-On Bark			882 SF	N/A	

12066
COUNTY OF LOS ANGELES
FIRE DEPARTMENT
PREVENTION SERVICES BUREAU
FINAL
FUEL MODIFICATION PLAN
APPROVED

By_____Date_____
FUEL MODIFICATION UNIT
The stamping of this plan and specifications SHALL NOT be held to permit or to be an approval of the violation of any provisions of any County/City or State law

BAREFOOT DESIGN
1187 Coast Village Road, #387
Santa Barbara, CA 93108
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5/11/23

PROJECT:
BLUFFTOP 1
33008 Pacific Coast Highway, Malibu CA, 90265

SHEET CONTENTS
Planting Plan

DATE 5/14/25
SCALE 1/8" = 1'-0"
DRAWN KR
JOB 23-06
SHEET **L3.00**
6 OF 9 SHEETS

City of Malibu

23825 Stuart Ranch Rd., Malibu, California CA 90265-4804
(310) 456-2489 FAX (310) 456-7650

FIRE DEPARTMENT REVIEW
REFERRAL SHEET

TO: Los Angeles County Fire Department

FROM: City of Malibu Planning Department **DATE:** 05/17/2023

PROJECT NUMBER:	CDP 23-034
JOB ADDRESS:	33008 PACIFIC COAST HWY
APPLICANT / CONTACT:	Arfakhashad Munaim, Schmitz & Associates, Inc.
APPLICANT ADDRESS:	28230 Agoura Hills Agoura Hills, CA 91301
APPLICANT PHONE #:	(818) 338-3636
APPLICANT FAX #:	
PROJECT DESCRIPTION:	new 2-story single family residence with attached garage, basement, and new driveway access and landscaping.

WATER & ACCESS ONLY FEPC2023-1860

TO: Malibu Planning Department and/or Applicant
FROM: Fire Prevention Engineering Assistant

Compliance with the conditions checked below is required prior to Fire Department approval.

The project DOES require Fire Department Plan Review and Developer Fee payment	✓
The project DOES NOT require Fire Department Plan Review	—
The required fire flow for this project is 1,250 gallons per minute at 20 pounds per square inch for a 1 hour duration. (Provide flow information from the water dept.)	✓
The project is required to have an interior automatic fire sprinkler system.	✓
Final Fuel Modification Plan Approval is required prior to Fire Department Approval	✓

Conditions below marked "not approved" shall be corrected on the site plan and resubmitted for Fire Department approval.

	App'd	N/app'd
Required Fire Department vehicular access (including width and grade %) as shown from the public street to the proposed project.	✓	
Required and/or proposed Fire Department Vehicular Turnaround	✓	
Required 5 foot wide Fire Department Walking Access (including grade %)	✓	
Width of proposed driveway/access roadway gates	✓	

*County of Los Angeles Fire Department Approval Expires with City Planning permits expiration, revisions to the County of Los Angeles Fire Code or revisions to Fire Department regulations and standards.

**Minor changes may be approved by Fire Prevention Engineering, provided such changes achieve substantially the same results and the project maintains compliance with the County of Los Angeles Fire Code valid at the time revised plans are submitted. Applicable review fees shall be required.

R. Munaim — 04/24/2025

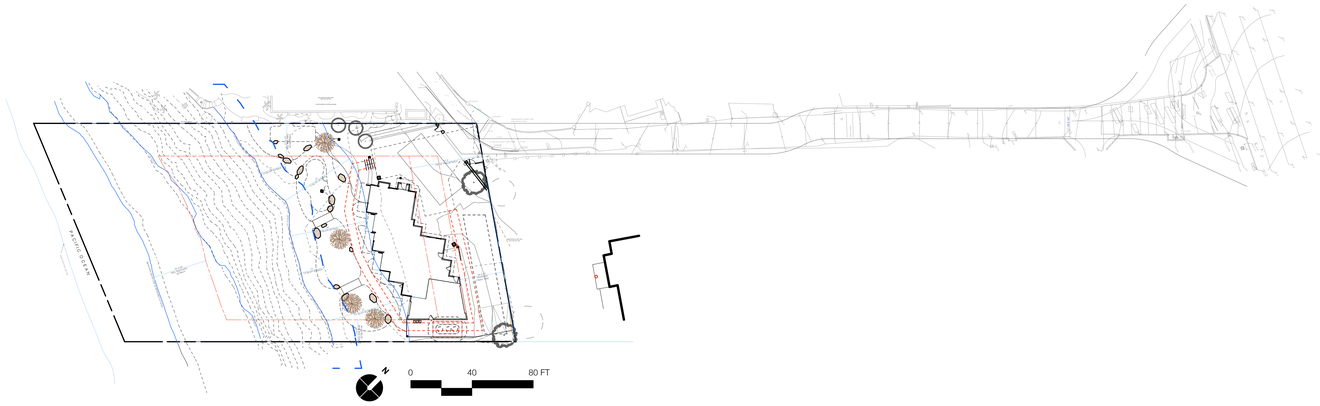
SIGNATURE **DATE**

Additional requirements/conditions may be imposed upon review of complete architectural plans.
The Fire Prevention Engineering may be contacted by phone at (818) 880-0341or at the Fire Department Counter:
26600 Agoura Road, Suite 110, Calabasas, CA 91302; Hours: Monday – Thursday between 7:00 AM and 11:00 AM

Rev 04/21/10 mr

33008 PACIFIC COAST HIGHWAY

MALIBU, CA 90265





vicinity map

Project Description

Exterior landscape, lighting and irrigation for new single family residence with attached garage.

Project Details

project address: 33008 Pacific Coast Highway
Malibu, CA 90265

owner: Ronald Jenny
33010 Pacific Coast Highway
Malibu, CA 90265

assessors number: 4473-017-009

zoning: RR2

total proposed landscape area: 3,417 SF
low water use - 3,327 SF
med water use - 90 SF
high water use - 0 SF

total irrigated landscape: 3,417 SF

water supply type: potable

water municipality: Los Angeles Water District 29

Consultants

architect: Burdge & Associates
24911 PCH
Malibu, CA 90265
p: 310.456.5905

landscape: Barefoot Design, Inc.
1187 Coast Village Road, #287
Santa Barbara, CA 93108
p: 805.697.7466

Sheet Index

sheet #	Title
L0.00	Cover Sheet
L1.00	Hardscape & Lighting Plan
L1.01	Hardscape Details
L2.00	Irrigation Plan
L2.01	Irrigation Details
L3.00	Planting Plan - Front
L3.01	Planting Details

Statement of Compliance

I have complied with the criteria of the Landscape Water Conservation Ordinance and applies them for the efficient use of water in the landscape design.

Preparer Name: Jessica Harlin

Preparer Signature:

Professional License / Designation: Landscape Architect, #6606

Barefoot Design, Inc.
1187 Coast Village Road, #287
Santa Barbara, CA 93108
TEL 805.697.7466
WEB www.barefoot-design.net

SUBMITTALS

- Revision TOP and House Footprint 7/25/24
- Revision 10/30/24
- Revision 12/16/24

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REGISTERED LANDSCAPE ARCHITECT
JESSICA LEE HARLIN
No. 6606
March 31, 2026
Renewal Date
Signature
5/11/23
Date
STATE OF CALIFORNIA

PROJECT:

BLUFFTOP 1

33008 Pacific Coast Highway, Malibu CA, 90265

SHEET CONTENTS

Cover Sheet

DATE 9/6/24

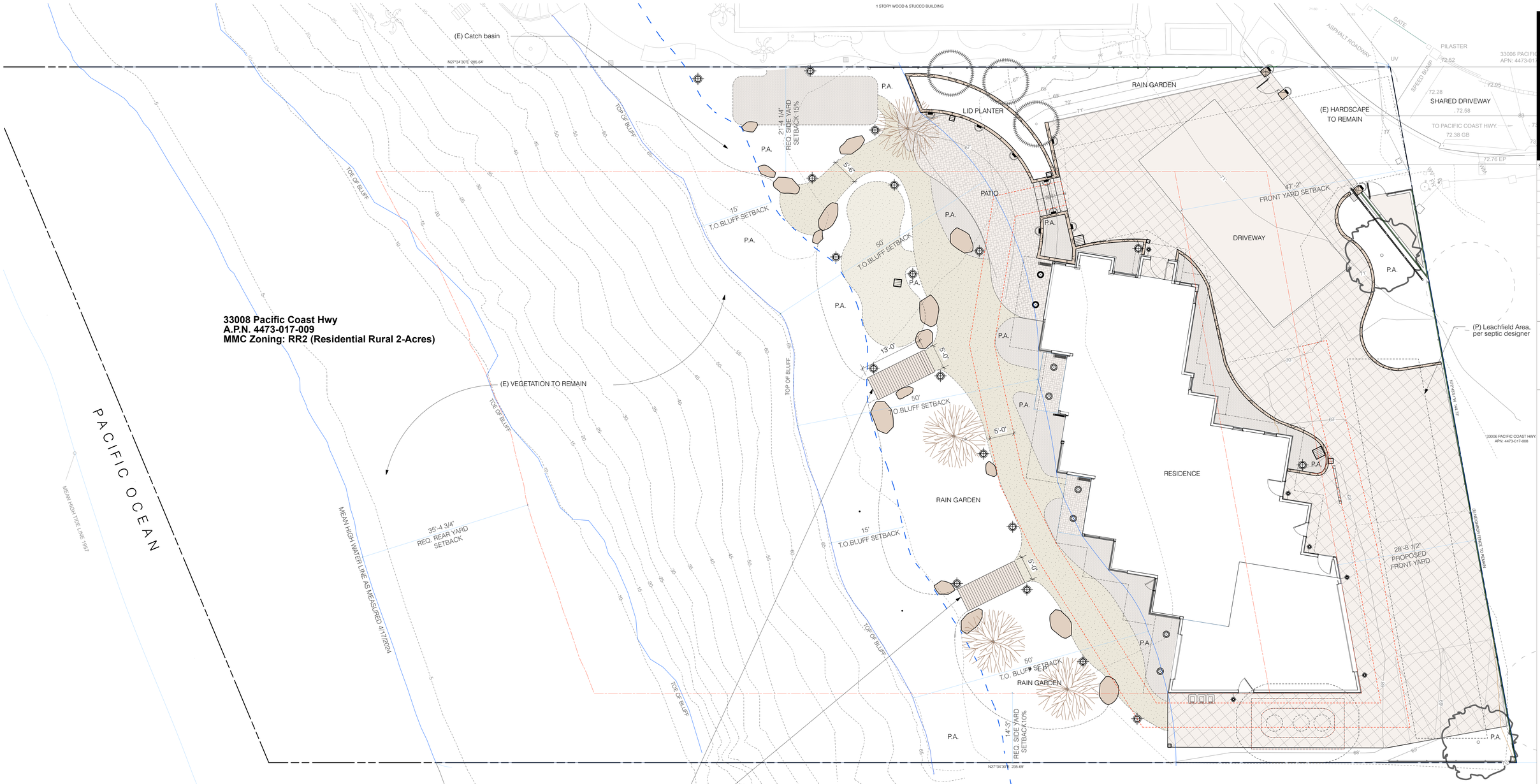
SCALE 1" = 40'-0"

DRAWN KR

JOB 23-06

SHEET **L0.00**

1 OF 7 SHEETS



6 L1.01 (P) Prefabricated Boardwalk, Set on Grade (NO FOOTINGS)
- MFR: Fifthroom, PRODUCT: No Rail Cedar Pedestrian Bridge
(or approved equal)

Lighting Legend

symbol	description	quantity	manufacturer	model	lumen	wattage	color temp (K)	notes
L	controller *(to be programmed to turn outdoor lighting off during daytime hours)*	1	FX Luminaire	LZD-300-SS	N/A	N/A	N/A	
	beam mounted light	2	WAC Lighting	FM-W47205-30-BK	900	11.9	3000	
	overhang recessed light	6	FX Luminaire	RC-3LED-SV	261	4.2	2700	
	pathlight	18	FX Luminaire	PFLEDTA - CU + P - 1LED - 18RA - CU	39	2	2700	18" height
	wall lights	11	FX Luminaire	MS - 1LED - BS	101	1.9	2700	
	sconce	6	Kuzco	EW48003-BK-UNV	1020	12	3000	

notes:
1. Wiring and transformer locations to be provided by Electrician.
2. Location of lights are diagrammatic. Final location to be set prior to installation by Landscape Architect.


FX Luminaire - Overhang Recessed Light


WAC Lighting - Beam Mounted Light


Kuzco - Sconce


FX Luminaire - Luxor Controller


FX Luminaire - Path Light


FX Luminaire - Wall Light

Materials Legend:

symbol	description	area	detail
	Driveway Pavers	4,513 SF	8 L1.01
	Permeable Pavers	616 SF	7 L1.01
	Concrete	947 SF	3,4 L1.01
	Decomposed Granite	1,816 SF	1, 2 L1.01
	3/8" Gravel Mulch	1,251 SF	
	Shovel Cut Edge		2 L1.01
	Santa Barbara Sandstone Boulders, set in grade		5 L1.01
	Catch Basin - See Civil Drainage Plan		

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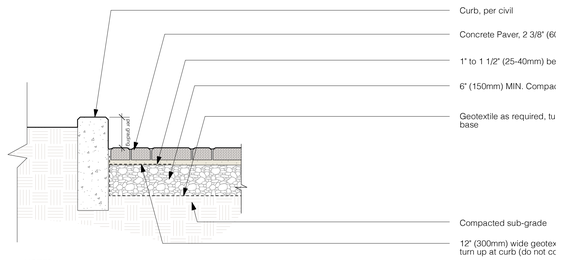
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SHEET CONTENTS: **Hardscape & Lighting Plan**

DATE 9/6/24
SCALE 1/8" = 1'-0"
DRAWN KR
JOB 23 - 06
SHEET **L1.00**
2 OF 7 SHEETS



NOTES:

1. Thickness of aggregate base will vary with subgrade conditions and climate. Colder clinmates may require a thicker base.

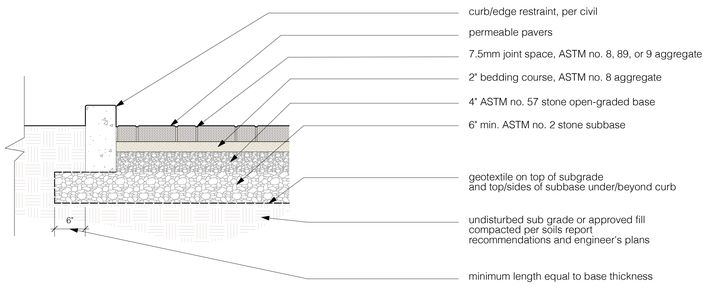
2. Concrete pavers should be placed on a cement treated base of soil is extremeley weak or constantly saturated, pavers can be overlaid or inlaid on existing asphalt or concrete driveways.

3. Consult ICPI tech spec 2 for guidelines on specifications of base materials, subgrade and soil compaction.

4. Plastic, aluminum or precast concrete edging may be used.

8 Interlocking Pavers

scale: 1" = 1'-0"



Notes:
1. Cross section as shown, is suitable for residential driveways, patios, and sidewalks.

2. Depth of aggregate base subject to site specific conditions (soil conditions, groundwater levels, climatic conditions). Contact sales represantitive.

3. Drain pipes may be required within aggregate base depending on the permeability of the subgrade soils. Verify drainage needs with the geotechnical engineer. Ensure drain pipes are able to daylight via gravity flow to surface, or connect to catch basin.

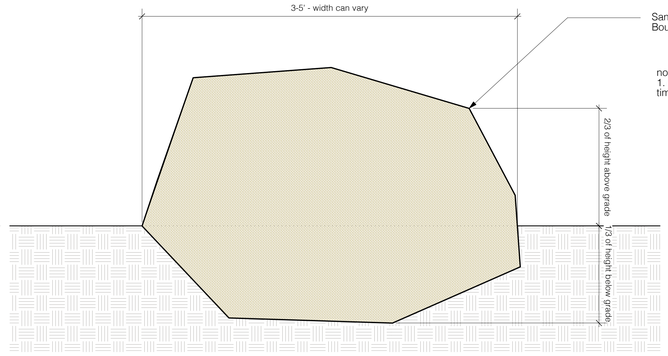
7 Permeable Interlocking Pavers

scale: 1" = 1'-0"



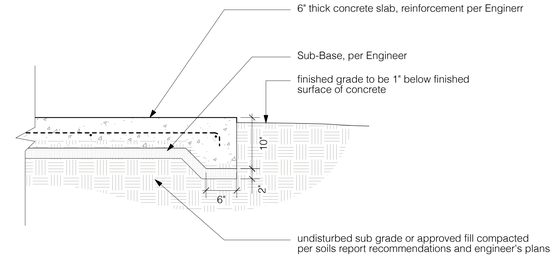
6 Prefabricated Boardwalk

scale: n/a



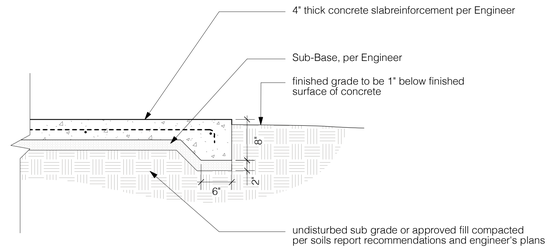
5 Boulder Set in Grade

scale: 1" = 1'-0".



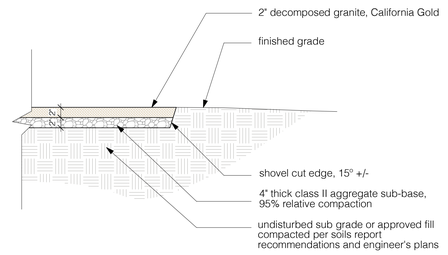
4 6" Integral Color Concrete Paving, TYP.

scale: 1" = 1'-0".



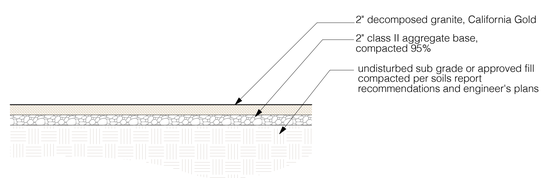
3 4" Integral Color Concrete Paving, TYP.

scale: 1" = 1'-0".



2 Shovel Cut Edge @ Decomposed Granite

scale: 1" = 1'-0".



1 Decomposed Granite Paving

scale: 1" = 1'-0".

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Santa Barbara, CA 93108
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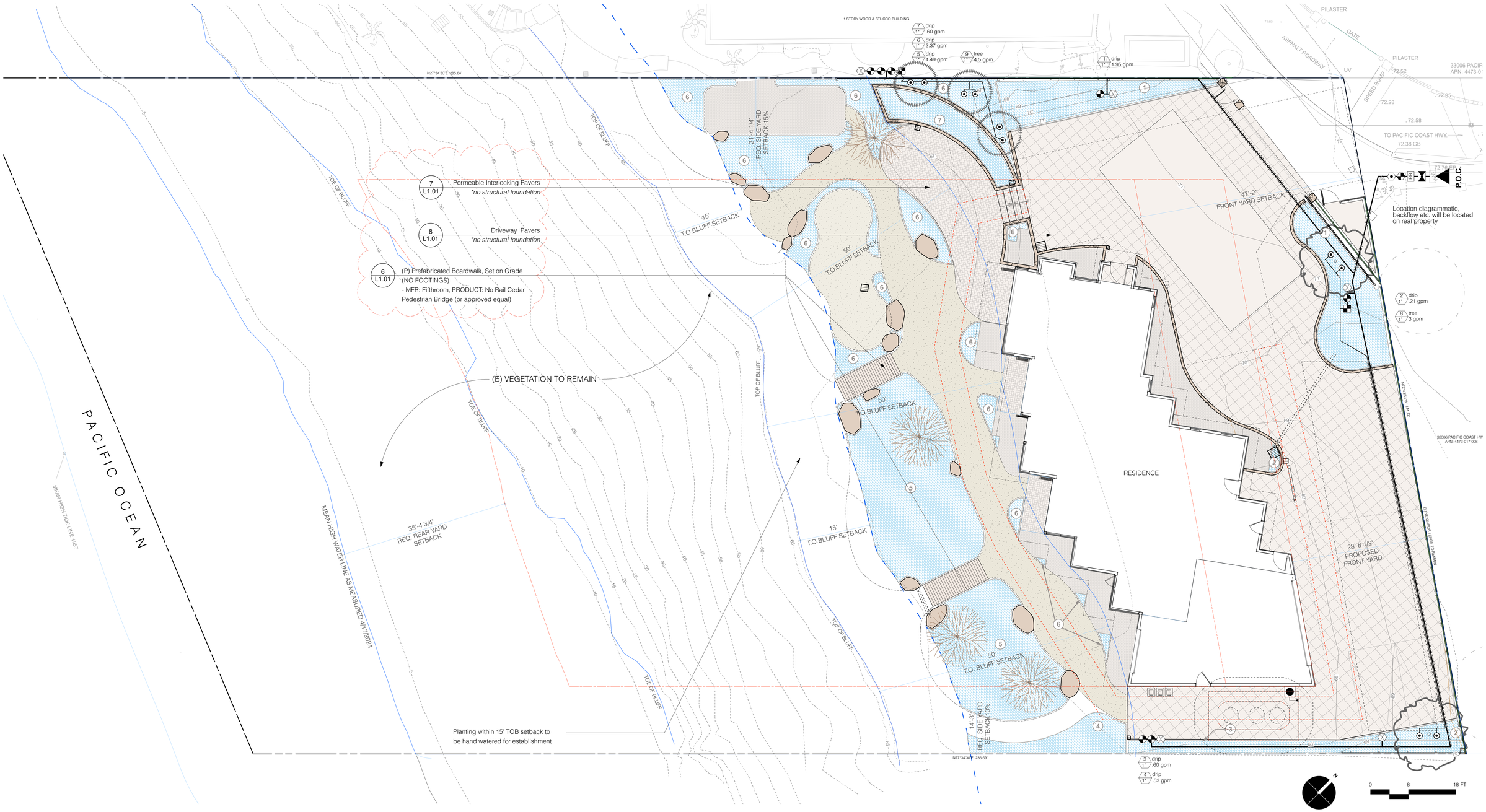
PROJECT:

BLUFFTOP 1

33008 Pacific Coast Highway, Malibu CA, 90265

SHEET CONTENTS: **Hardscape & Lighting Plan**

DATE	9/6/24
SCALE	as noted
DRAWN	KR
JOB	23-06
SHEET	L1.01
3 OF 7	SHEETS



Project Information

Total Landscaped Area (Proposed): 3,417 SF
Landscape Area with Low Water: 3,327 SF
Landscape Area with Med Water: 90 SF
Landscape Irrigated with High Water Use: 0 SF
Total New Irrigated Area: 3,417 SF
Project Type: residential
Water Supply Type: potable
Water Municipality: Los Angeles Waterworks District 29

Valve Identification

valve number — # type — valve type
valve size — 1" flow — valve flow rate

Lateral Line Sizing

0-6 gpm	1/2"	class 315
6-10 gpm	3/4"	class 200
10-16 gpm	1"	class 200
16-26 gpm	1 1/4"	class 200
26-35 gpm	1 1/2"	class 200
35-55 gpm	2"	class 200
55-80 gpm	2 1/2"	class 200
80-120 gpm	3"	class 200

Mainline Sizing

0-4 gpm	1/2"	schedule 40
4-8 gpm	3/4"	schedule 40
8-12 gpm	1"	schedule 40
12-22 gpm	1 1/4"	schedule 40
22-30 gpm	1 1/2"	schedule 40
30-50 gpm	2"	class 315
50-70 gpm	2 1/2"	class 315
70-120 gpm	3"	class 315

Irrigation Legend

symbol	description	manufacture / model
	domestic mainline	2" sch 40 PVC
	irrigation lateral	see Lateral Line Sizing
	irrigation sleeve	see Irrigation Notes
P.O.C.	point of connection	(N) 1" dedicated water meter, labeled "FOR IRRIGATION ONLY"
	irrigation controller	HUNTER I-Core IC-600-SS controller w/ (3) HUNTER ICM-600 Module & (1) HUNTER Wireless Rain-clik Rain Sensor WR-CLICK-TR. Rain Sensor to be programmed to automatically shutoff when onsite rainfall exceeds 1/4 inch.
	backflow preventer	1-1/2" FEBCO 825Y or approved equal
PR	pressure regulator	HONEYWELL D06-G with gauge (70 psi)
	master control valve	HUNTER IBV-151G-FS-R (65 psi)
	flow sensor	HUNTER HFS w/ FCT-100 (65 psi)

symbol	description	manufacture / model
	spray valve	WEATHERMATIC 11024FCR (65 psi)
	drip valve	WEATHERMATIC 11024FCR w/ pressure regulating Y-Filter (30 psi)
	hose bib	3/4" brass hose bibb
	manual shut-off valve	PVC ball valve, size to match mainline
	root watering system	HUNTER RZWS (65 psi), see Emitter Legend for size and model
#	drip irrigation zones	HUNTER 1/2" Supply Tubing w/ HUNTER Point Source Emitters, see Emitter Legend

Hydrozone Legend

valve/zone	description	area	plant type	exposure
1	Shrubs & Grasses - Driveway	582 SF	L	Full Sun
2	Shrubs & Grasses - Driveway	60 SF	L	Full Sun
3	Hedge	175 SF	L	Full Sun
4	Native Shrubs & Grasses - Bluff	155 SF	L	Full Sun
5	Rainwater Garden	1342 SF	L	Full Sun
6	Native Shrubs & Grasses - Bluff	707 SF	L	Full Sun
7	Native Shrubs & Grasses - Bluff	180 SF	L	Full Sun
8	Trees - Driveway	30 SF	L	Full Sun
9	Trees - Citrus	90 SF	M	Full Sun

Emitter Legend

plant material	equipment
flatted groundcover	Microspray Emitters
4" pot	2 - HE-20-B Emitters per plant
1 gallon	2 - HE-20-B Emitters per plant
5 gallon shrubs	3 - HE-20-B Emitters per plant
15 gallon shrubs	4 - HE-20-B Emitters per plant
15 gallon trees	2 - RZWS-18-50-CV per tree
24" box trees	2 - RZWS-18-50-CV per tree
36" box trees	3 - RZWS-36-50-CV per tree
48" box trees	4 - RZWS-36-50-CV per tree
60" box trees and above	(Consult with a Local Arborist)

BAREFOOT DESIGN
1187 Coast Village Road, #387
Santa Barbara, CA 93108
TEL 805/687-7466
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- Revision 12/16/24
- Revision 2/12/25

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REGISTERED LANDSCAPE ARCHITECT
JESSICA LEE HERMAN
No.6606
March 31, 2026
Renewal Date
Signature
5/11/23
Date
STATE OF CALIFORNIA

PROJECT:
BLUFFTOP 1
33008 Pacific Coast Highway, Malibu CA, 90265

SHEET CONTENTS
Irrigation Plan

DATE 9/6/24
SCALE 1/8" = 1'-0"
DRAWN KR
JOB 23-06
SHEET **L2.00**
4 OF 7 SHEETS

Maximum Applied Water Allowance Calculations:

ETo	40.6	
LA	3417	
SLA	0	
ETAF	0.23	
MAWA (Gallons)		**47,307**
MAWA (Inches per sq.ft.)		22.2
MAWA (Inches per DAY)		0.06

Maximum Applied Water Allowance Equation:
MAWA = (ETo) (0.62) [(.55 x LA) + (1-0.55 x SLA)]

Definitions:

ETo	Reference provided in Appendix A - CIMIS
ETAF	Evapotranspiration Adjustment Factor - 0.55 or less
HA	Hydro zone area = Irrigated area
IE	Irrigation efficiency. Must exceed 0.71.
LA	Landscaped area
PF	Plant water use factor- WUCLOS
SLA	Special landscaped area WITHIN the landscaped area

Estimated Total Water Use:

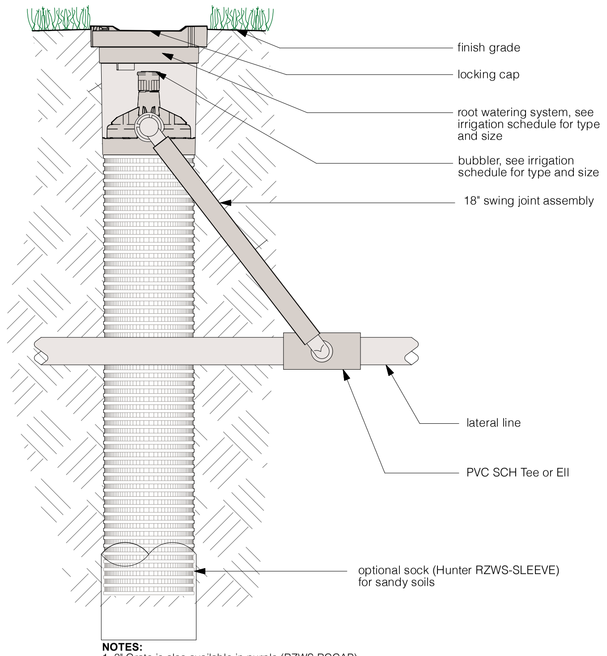
ETo	40.6	
PFxHA (see chart)	710.4	
HA (same as LA)	3417	
IE (see chart)	0.41	
SLA	0	
ETWU (Gallons)		**22,077**
ETWU (Inches per sq.ft.)		10.4
ETWU (Inches per DAY)		0.03

Estimated Total Water Use Equation:
ETWU = ETo x 0.62 x [(PFxHA)/IE) +SLA]

Irrigation Efficiency:

H.Z.	Description	Type	PF	Irrigation Method	IE	ETAF (PF/IE)	HA	ETAF x Area	PF x HA
Regular Landscape Areas									
1	Shrubs & Grasses - Driveway	Low	0.2	drip	0.81	0.16	607	98.33	121.4
2	Shrubs & Grasses - Driveway	Low	0.2	drip	0.81	0.16	60	9.72	12
3	Hedge	Low	0.2	drip	0.81	0.16	175	28.35	35
4	Native Shrubs & Grasses - Bluff	Low	0.2	drip	0.81	0.16	155	25.11	31
5	Rainwater Garden	Low	0.2	drip	0.81	0.16	1342	217.40	268.4
6	Native Shrubs & Grasses - Bluff	Low	0.2	drip	0.81	0.16	778	126.04	155.6
7	Native Shrubs & Grasses - Bluff	Low	0.2	drip	0.81	0.16	180	29.16	36
8	Trees - Driveway	Low	0.2	tree	0.81	0.16	30	4.86	6
9	Trees - Citrus	Med	0.5	tree	0.81	0.41	90	36.45	45
				Subtotal:	**0.81**	**0.19**	**3417**	**575.42**	710.4
Special Landscape/Hardscape Areas									
N/A								0.00	0
				Subtotal:	**0.00**	**0.00**	**0**	**0.00**	**0**

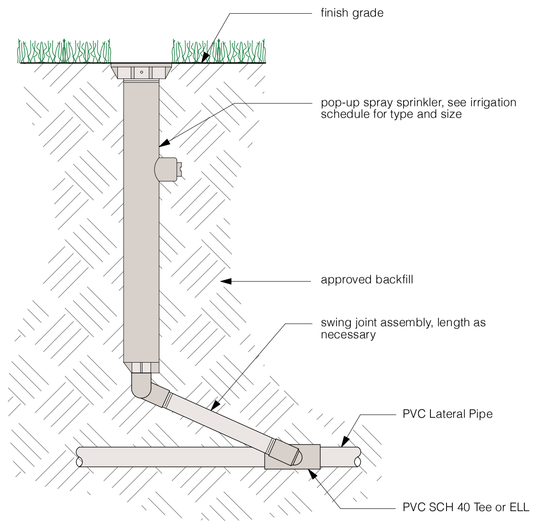
Average System IE (IE is a derivative of DU defined as
IE = DU x IME. Where IME= Irrigation Management Efficiency



NOTES:
1. 3" Grate is also available in purple (RZWS-RCCAP).
2. Install product so that the grate is even with finish grade or top of mulch.
3. Optional sand sock (RZWS-SLEEVE) to cover mesh basket area.
4. When installing in extremely hard or clay soils, add 3/4" gravel under and around the unit to allow faster water infiltration and root penetration.
5. Once RZWS has been installed fill the basket with pea gravel before locking lid.

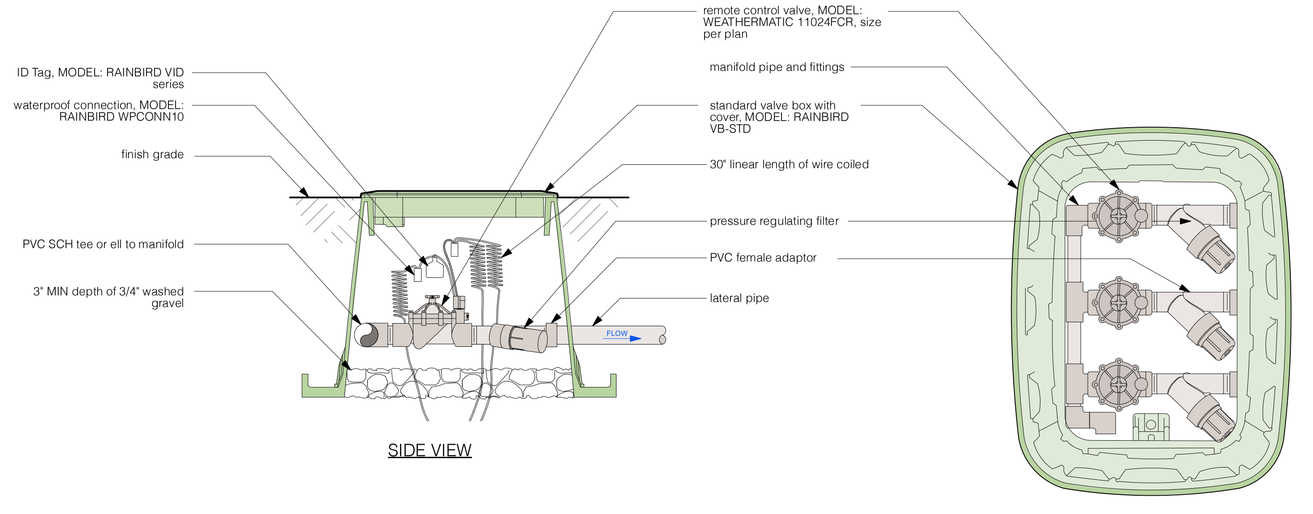
7 Root Watering System

scale: N.T.S.



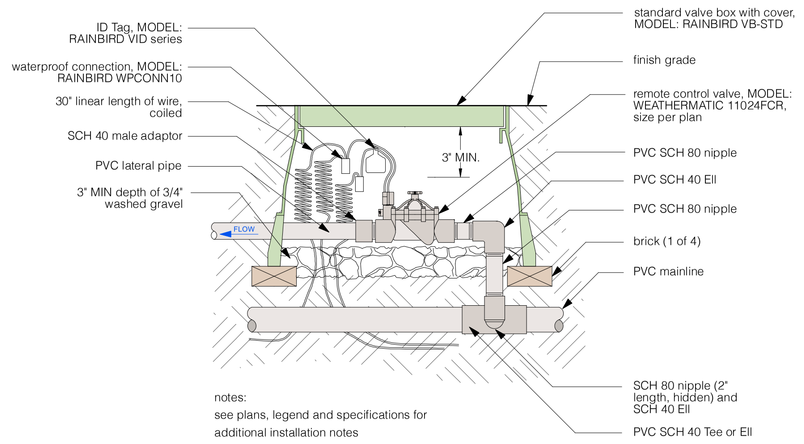
6 Spray Head

scale: N.T.S.



5 Drip Valve Assembly

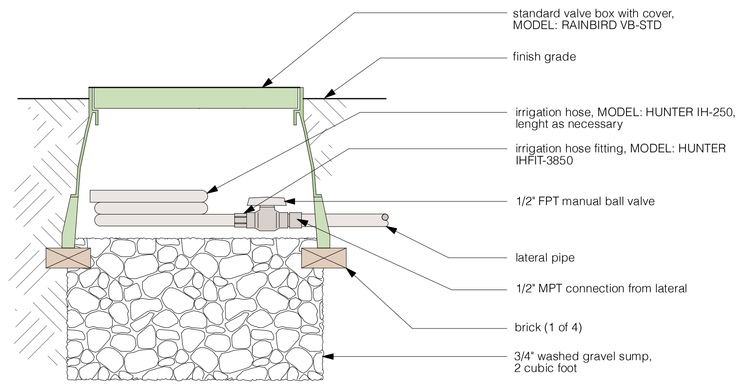
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notes:
see plans, legend and specifications for additional installation notes

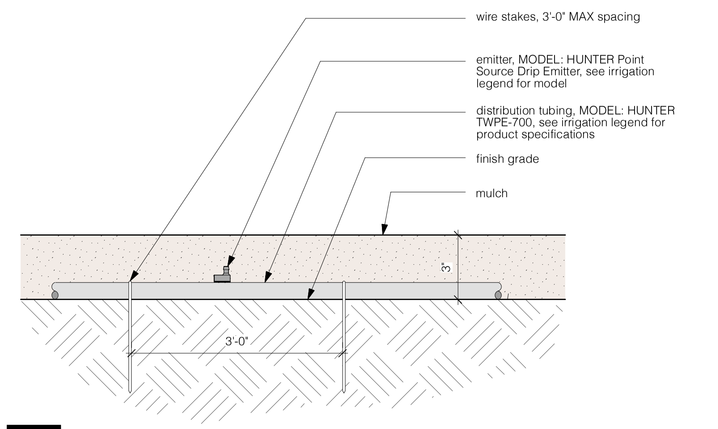
4 Valve Assembly

scale: N.T.S.



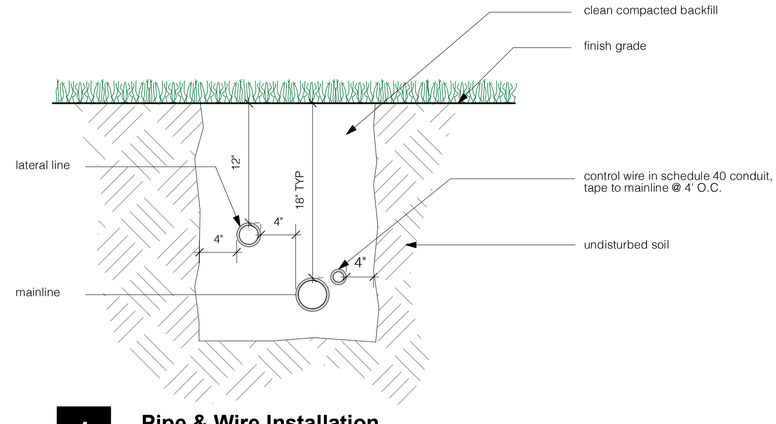
3 Manual Flush Valve

scale: N.T.S.



2 Drip Irrigation

scale: N.T.S.



1 Pipe & Wire Installation

scale: N.T.S.

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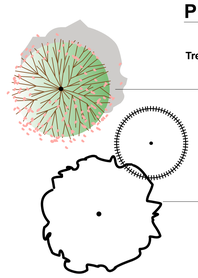
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Irrigation Details & Water Use

DATE 9/6/24
SCALE as noted
DRAWN KR
JOB 23-06
SHEET **L2.01**
5 OF 7 SHEETS



Plant Palette



Botanic Name	Common Name	Size	Quantity	WUCOLS	MAX Height
Trees & Large Shrubs					
Arctostaphylos glauca	Big Berry Manzanita	15g	4	Med	10'-0" - 20'-0"
Citrus spp.	Assorted Citrus Varieties	24" Box	3	Med	12'-0"
Quercus tomentella	Island Oak	48" Box	2	Low	35'-0"

Botanic Name	Common Name	Size	Quantity	WUCOLS	MAX Height
Shrubs & Perennials					
Achillea millefolium	Yarrow	1g	20	Low	< 1'-0"
Aeonium 'Mint Saucer'	Mint Saucer Aeonium	1g	6	Low	< 1'-0"
Baccharis pilularis	Prostrate Coyote Bush	1g	13	Low	2'-0"
Carex praegracilis	Clustered Field Sedge	1g	58	Low	1'-0"
Carpenteria californica	Bush Anemone	1g	7	Low	6'-0"
Chondropetalum tectorum	Cape Rush	5g	10	Low	3'-0"
Dudleya pulverulenta	Chalk Dudleya	1g	25	Low	< 1'-0"
Encelia californica	Bush Sunflower	1g	38	Low	4'-0"
Juncus patens	California Grey Rush	1g	127	Low	2'-0"
Leymus condensatus	Wild Rye	5g	57	Low	4'-0"
Lomandra 'Platinum Beauty'	Platinum Beauty Basket Rush	1g	20	Low	3'-0"
Lomandra 'Seascape'	Seascape Rush	1g	39	Low	3'-0"
Muhlenbergia rigens	Deer Grass	1g	21	Low	4'-0"
Prunus ilicifolia ssp lyonii	Catalina Cherry	15g	17	Low	15'-0"
Salvia apiana	White Sage	1g	8	Low	3'- 0"
Salvia leucophylla	Purple Sage	1g	45	Low	2'-0"
Groundcovers					
Walk-On Bark			882 SF	N/A	

CITY OF MALIBU
PLANNING DEPARTMENT
CITY BIOLOGIST APPROVAL
DATE 6/6/25
PLANNING REVIEW NO. CDP 23-034
SIGNATURE
PRINT NAME
Any changes to the approved plans shall be submitted to the City Biologist for review and approval prior to implementation. This action does not constitute final approval by the Environmental and Community Development Department.

1187 Coast Village Road, Suite 1 #287
Santa Barbara, CA 93108
TEL 805.687.7466
WEB www.barefoot-design.net

SUBMITTALS
- Revision TOP and House Footprint 7/25/24
- Revision 10/30/24
- Revision 12/16/24

THE DRAWINGS AND SPECIFICATIONS ARE THE PROPERTY AND COPYRIGHT OF THE BAREFOOT DESIGN AND SHALL NOT BE USED ON ANY OTHER WORK EXCEPT BY WRITTEN AGREEMENT WITH THE BAREFOOT DESIGN. WRITTEN DIMENSIONS SHALL BE VERIFIED ON THE JOB SITE. DISCREPANCIES SHALL BE BROUGHT TO THE ATTENTION OF BAREFOOT DESIGN PRIOR TO THE COMMENCEMENT OF ANY WORK.

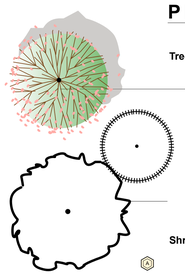
REGISTERED LANDSCAPE ARCHITECT
JESSICA LEE HARLAN
No. 6606
March 31, 2026
Renewal Date
Signature
5/11/23
Date
STATE OF CALIFORNIA

PROJECT:
BLUFFTOP 1
33008 Pacific Coast Highway, Malibu CA, 90265

SHEET CONTENTS
Planting Plan

DATE 9/6/2024
SCALE 1/8" = 1'-0"
DRAWN KR
JOB 23-06
SHEET **L3.00**
6 OF 7 SHEETS

Plant Palette



Botanic Name	Common Name	Size	Quantity	WUCOLS	MAX Height
Trees & Large Shrubs					
Arctostaphylos glauca	Big Berry Manzanita	15g	4	Med	10'-0" - 20'-0"
Citrus spp.	Assorted Citrus Varieties	24" Box	3	Med	12'-0"
Quercus tomentella	Island Oak	48" Box	2	Low	35'-0"
Shrubs & Perennials					
Achillea millefolium	Yarrow	1g	20	Low	< 1'-0"
Aeonium 'Mint Saucer'	Mint Saucer Aeonium	1g	6	Low	< 1'-0"
Baccharis pilularis	Prostrate Coyote Bush	1g	13	Low	2'-0"
Carex praegracilis	Clustered Field Sedge	1g	58	Low	1'-0"
Carpenteria californica	Bush Anemone	1g	7	Low	6'-0"
Chondropetalum tectorum	Cape Rush	5g	10	Low	3'-0"
Dudleya pulverulenta	Chalk Dudleya	1g	25	Low	< 1'-0"
Encelia californica	Bush Sunflower	1g	38	Low	4'-0"
Juncus patens	California Grey Rush	1g	127	Low	2'-0"
Leymus condensatus	Wild Rye	5g	57	Low	4'-0"
Lomandra 'Platinum Beauty'	Platinum Beauty Basket Rush	1g	20	Low	3'-0"
Lomandra 'Seascape'	Seascape Rush	1g	39	Low	3'-0"
Muhlenbergia rigens	Deer Grass	1g	21	Low	4'-0"
Prunus ilicifolia ssp lyonii	Catalina Cherry	15g	17	Low	15'-0"
Salvia apiana	White Sage	1g	8	Low	3'- 0"
Salvia leucophylla	Purple Sage	1g	45	Low	2'-0"
Groundcovers					
Walk-On Bark			882 SF	N/A	

General Notes

1. Refer to Architectural and Civil Engineer for hardscape and walls.
2. Refer to Civil Engineer for all grading and drainage

Planting Notes

All plant materials shall be set out as shown on plan. Final locations shall be approved by the Landscape Designer prior to planting.

1. Landscape Contractor shall be responsible for becoming aware of all underground utilities, pipes and structures. The Contractor shall be held responsible for contacting all utility companies for field location of underground utility lines prior to any excavation.

2. Do not willfully proceed with construction as designed when it is obvious that unknown obstructions and/or grade differences exist that may not have been known during design. Such conditions shall be immediately brought to the attention of the landscape designer, Barefoot Design, 805.697.7466.

3. The Landscape Contractor shall assume full responsibility for all necessary revisions due to failure to give such notification.

4. Landscape Contractor shall be responsible for any coordination with subcontractors as required to accomplish planting operations.

5. The Landscape Contractor shall allow for the addition of specified quantities of soil amendments and conditioners in soil preparation and finish grading, per recommendation of soils report.

6. Recommendations in the Soils Management Report shall be incorporated into the landscape installation and a copy of the report is to be on-site at the time of inspection.

Unless soils have greater than 6% organic matter in the top 6" of soil, compost at a rate of a minimum of (4) cubic yards per 1,000 square feet of permeable area shall be incorporated to a depth of 6" into the soil.

7. It is the Landscape Contractor's responsibility to furnish plant material free of pests or plant diseases. Contract-grown or 'tagged' material must be inspected by the Landscape Contractor and certified disease free. It is the Landscape Contractor's obligation to warranty all plant materials.

8. The Landscape Contractor shall provide healthy, vigorous plant stock grown under climatic conditions similar to the conditions in the locality of the project.

9. Specimen trees will be selected and tagged by Landscape Designer prior to plant installation. Landscape Contractor is responsible to do their own quantity take-offs for all plant materials and sizes shown on plans. All substitutions shall be reviewed and approved by the Landscape Designer.

10. See details and specifications for staking method, plant pit dimensions and backfill requirements. If details have not been provided, contact Landscape Designer. Plant crown elevations relative to finish grade are shown on planting details and shall be strictly adhered to. Proper compaction of backfill to prevent settlement shall be required.

11. The Landscape Designer will approve finish grades at all landscape areas prior to planting.

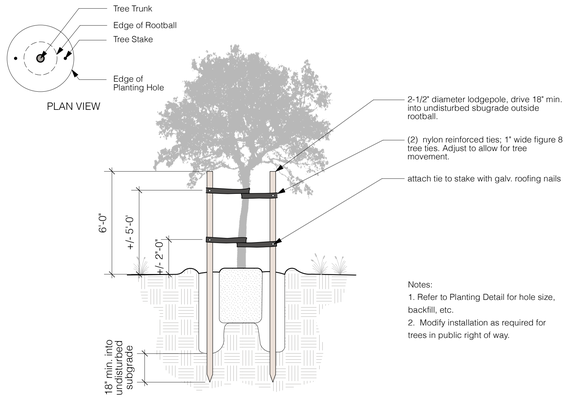
12. The Landscape Designer reserves the right to adjust the location of plant material during installation as appropriate to the project.

13. Landscape mulch shall be applied at 3 inches thick over all landscape surfaces except lawn areas and per City of Malibu guidelines. Mulch must be approved by Landscape Designer. 0-5 feet from structure, flammable mulch is prohibited. 5 feet to 30 feet, limited non-continuous use of organic mulch is permitted with a maximum application area of 20 feet x 20 feet, and a minimum 5 foot separation between application areas. 30 feet from the structure, organic mulch and wood chips are permitted.

14. All side and rear yard hedges shall be maintained at or below 6'-0" in height.

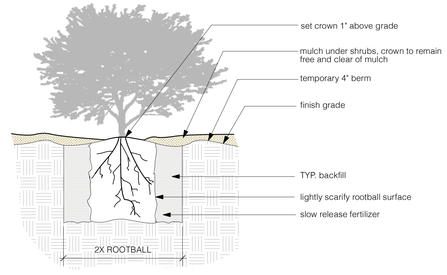
15. View impermeable hedges occurring within the front setback serving the same function as a fence or wall shall be maintained at or below 42" in height.

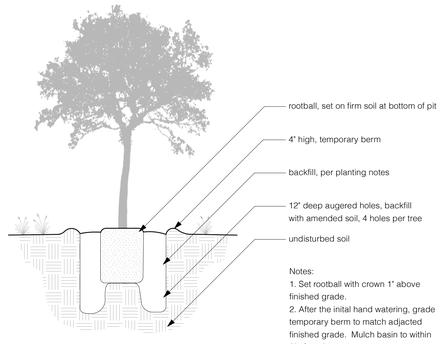
16. Vegetation shall be situated on the propoerty so as not to obstruct the primary view from private property at any given time. Giving consideration to the plant materials future growth.



6 Tree Staking

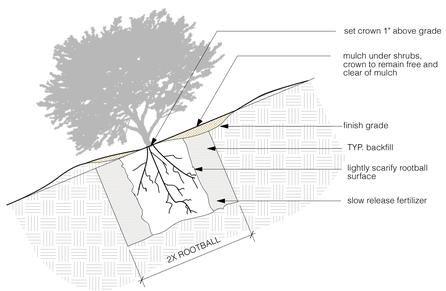
scale: N.T.S.





5 Tree Planting

scale: N.T.S.

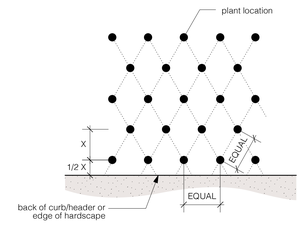


4 Shrub Planting on Slope

scale: N.T.S.

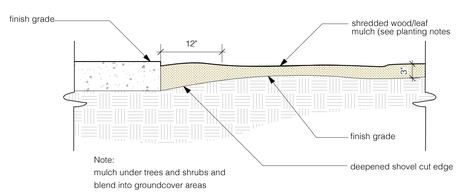
3 Shrub Planting

scale: N.T.S.



2 Groundcover Layout

scale: N.T.S.



1 Mulch Installation

scale: N.T.S.

BAREFOOT DESIGN
1187 Coast Village Road, #387
Santa Barbara, CA 93108
TEL 805.697.7466
WEB www.barefoot-design.net

SUBMITTALS
- Revision TOP and House Footprint 7/25/24
- Revision 10/30/24
- Revision 12/16/24

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REGISTERED LANDSCAPE ARCHITECT
JESSICA LEE HERMAN
No.6606
March 31, 2026
Renewal Date
Signature
5/11/23
Date
STATE OF CALIFORNIA

PROJECT:
BLUFFTOP 1
33008 Pacific Coast Highway, Malibu, CA, 90265

SHEET CONTENTS
Planting Details

DATE 9/6/24
SCALE as noted
DRAWN KR
JOB 23-06
SHEET **L3.01**
7 OF 7 SHEETS

City of Malibu

23825 Stuart Ranch Rd., Malibu, California CA 90265-4861
(310) 456-2489 FAX (310) 456-7650

PUBLIC WORKS REVIEW
REFERRAL SHEET

TO: Public Works Department

FROM: City of Malibu Planning Department **REVISED DATE** 01/19/2024

PROJECT NUMBER:	CDP 23-034
JOB ADDRESS:	33008 PACIFIC COAST HWY
APPLICANT / CONTACT:	Arfakhashad Munaim, Schmitz & Associates, Inc.
APPLICANT ADDRESS:	28230 Agoura Hills Agoura Hills, CA 91301
APPLICANT PHONE #:	(818) 338-3636
APPLICANT FAX #:	
APPLICANT EMAIL:	amunaim@schmitzandassociates.net
PROJECT DESCRIPTION:	new 2-story single family residence with attached garage, and new driveway access and landscaping.

TO: Malibu Planning Department and/or Applicant

FROM: Public Works Department

____ The following items described on the attached memorandum shall be addressed and resubmitted.

X The project was reviewed and found to be in conformance with the City's Public Works and LCP policies and CAN proceed through the Planning process.

SIGNATURE

1/30/2024
DATE

Rev 120910

City of Malibu
MEMORANDUM

To: Planning Department

From: Public Works Department
Nathaniel McLean, Assistant Civil Engineer

Date: January 30, 2024

Re: Proposed Conditions of Approval for 33008 Pacific Coast Hwy, CDP 23-034

The Public Works Department has reviewed the plans submitted for the above referenced project. Based on this review sufficient information has been submitted to confirm that conformance with the Malibu Local Coastal Plan (LCP) and the Malibu Municipal Code (MMC) can be attained. Prior to the issuance of building and grading permits, the applicant shall comply with the following conditions.

GRADING AND DRAINAGE

1. Clearing and grading during the rainy season (extending from November 1 to March 31) shall be prohibited for development LIP Section 17.3.1 that:
    - Is located within or adjacent to ESHA, or
    - Includes grading on slopes greater than 4:1
    - Approved grading for development that is located within or adjacent to ESHA or on slopes greater than 4:1 shall not be undertaken unless there is sufficient time to complete grading operations before the rainy season. If grading operations are not completed before the rainy season begins, grading shall be halted and temporary erosion control measures shall be put into place to minimize erosion until grading resumes after March 31, unless the City determines that completion of grading would be more protective of resources

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

3. A grading and drainage plan shall be approved containing the following information prior to the issuance of grading permits for the project.

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

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

STORMWATER

5. The ocean between Latigo Point and the West City limits has been established by the State Water Resources Control Board as an Area of Special Biological Significance (ASBS) as part of the California Ocean Plan. This designation allows discharge of storm water only where it is essential for flood control or slope stability, including roof, landscape, road and parking lot drainage, to prevent soil erosion, only occurs during wet weather, and is composed of only storm water runoff. The applicant shall provide a drainage system that accomplishes the following:

    - Installation of BMPs that are designed to treat the potential pollutants in the storm water runoff so that it does not alter the natural ocean water quality. These pollutants include trash, oil and grease, metals, bacteria, nutrients, pesticides, herbicides and sediment.

- Prohibits the discharge of trash.
- Only discharges from existing storm drain outfalls are allowed. No new outfalls will be allowed. Any proposed or new storm water discharged shall be routed to existing storm drain outfalls and shall not result in any new contribution of waste to the ASBS (i.e. no additional pollutant loading).
- Elimination of non-storm water discharges.

6. A Local Storm Water Pollution Prevention Plan shall be provided prior to the issuance of the Grading/Building permits for the project. This plan shall include an Erosion and Sediment Control Plan (ESCP) that includes, but not limited to:

Erosion Controls	Scheduling
	Preservation of Existing Vegetation
Sediment Controls	Silt Fence
	Sand Bag Barrier
	Stabilized Construction Entrance
Non-Storm Water Management	Water Conservation Practices
	Dewatering Operations
Waste Management	Material Delivery and Storage
	Stockpile Management
	Spill Prevention and Control
	Solid Waste Management
	Concrete Waste Management
	Sanitary/Septic Waste Management

All Best Management Practices (BMP) shall be in accordance to the latest version of the California Stormwater Quality Association (CASQA) BMP Handbook. Designated areas for the storage of construction materials, solid waste management, and portable toilets must not disrupt drainage patterns or subject the material to erosion by site runoff.

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

8. A Water Quality Mitigation Plan (WQMP) is required for this project. The WQMP shall be supported by a hydrology and hydraulic study that identifies all areas contributory to the property and an analysis of the predevelopment and post development drainage of the site. The WQMP shall meet all the requirements of the City's current Municipal Separate Stormwater Sewer System (MS4) permit. The following elements shall be included within the WQMP:
    - Site Design Best Management Practices (BMP's)
    - Source Control BMP's
    - Treatment Control BMP's that retains on-site the Stormwater Quality Design Volume (SWQDv). Or where it is technical infeasible to retain on-site, the project must biofiltrate 1.5 times the SWQDv that is not retained on-site.
    - Drainage Improvements
    - A plan for the maintenance and monitoring of the proposed treatment BMP's for the expected life of the structure.
    - A copy of the WQMP shall be filed against the property to provide constructive notice to future property owners of their obligation to maintain the water quality measures installed during construction prior to the issuance of grading or building permits.
    - The WQMP shall be submitted to Public Works Department and the fee applicable at time of submittal for the review of the WQMP shall be paid prior to the start of the technical review. The WQMP shall be approved prior to the Public Works Department's approval of the grading and drainage plan and or building plans. The Public Works Department will tentatively approve the plan and will keep a copy until the completion of the project. Once the project is completed, the applicant shall verify the installation of the BMP's, make any revisions to the WQMP, and resubmit to the Public Works Department for approval. The original signed and notarized document shall be recorded with the County Recorder. A copy of the WQMP shall be submitted to the Public Works Department prior to the certificate of occupancy.

MISCELLANOUS

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

COMMERCIAL DEVELOPMENT

10. Prior to the approval of any grading and drainage permit, the applicant shall submit a PDF of the final plans. If there are further modifications to the plans, the applicant shall provide the City with an updated PDF.

City of Malibu

23825 Stuart Ranch Rd., Malibu, California CA 90265-4804
(310) 456-2489 FAX (310) 456-3356 www.malibucity.org

LOS ANGELES COUNTY WATERWORKS DISTRICTS REVIEW
REFERRAL SHEET

FROM: City of Malibu Planning Department **DATE: 05/17/2023**

PROJECT NUMBER:	**CDP 23-034**
JOB ADDRESS:	**33008 PACIFIC COAST HWY**
APPLICANT / CONTACT:	**Arfakhashad Munaim, Schmitz & Associates, Inc.**
APPLICANT EMAIL:	**amunaim@schmitzandassociates.net**
APPLICANT PHONE #:	**(818) 338-3636**
PLANNER:	**Raneika Brooks**
PROJECT DESCRIPTION:	**new 2-story single family residence with attached garage, basement, and new driveway access and landscaping.**

TO: Malibu Planning Department and/or Applicant

FROM: LACWD No. 29, Malibu

Compliance with the conditions checked below is required prior to Waterworks District approval

The project **DOES NOT** require any system improvements for domestic and/or fire flow conditions	
The project **DOES NOT** require capital improvement fees and/or participation fees	
The project **DOES** require a Will Serve Letter ***(Final Waterworks Districts approval)***	X
The project **DOES** require capital improvement fees and/or participation fees	X
The project **DOES** require the owner to execute an agreement and participate financially in the design and construction of a future water system to increase local storage and conveyance capacity in the event of an interruption of the primary water supply	
The project **DOES** require private contract water system improvements for domestic and/or fire flow conditions	X

The required fire flow for this project set by the Fire Department is 1250 gallons per minute at 20 pounds per square inch for a 1 hour duration

Scope of water system improvements required:
To be determined by the Waterworks Plan Check Unit after applicant has submitted a complete Water System Improvement application.

Note: Los Angeles County Waterworks District No. 29, Malibu approval expires upon the earliest of the following: 1) Two years from the date of this form; 2) Expiration date of the City Planning permit(s), or 3) Date County adopts changes to the county of Los Ange/es Fire Code an makes revisions to appli le ire Department regulations and standards.

Willie for — 9-20-2023

SIGNATURE **DATE**

Additional requirements/conditions may be imposed upon review of complete architectural plans.
Los Angeles County Waterworks District No. 29, Malibu may be contacted by phone at (310) 317-1389 or at the Waterworks Public Counter:
23533 Civic Center Way, Malibu CA 90265; Hours: Monday-Thursday 8:00am – 12:00pm

Received
10/13/25
Planning Div.

Dear Members of the Planning Commission,
I am writing to support the Jennys' proposal to build a small, one-bedroom home with an auxiliary care quarters on their Malibu property. I have known the Jennys for many years—over half a century—and watched as they raised their children in our community. They purchased this property about four years ago and have shared with me that it is their final home, where they plan to spend their remaining years. Their proposed residence is modest, thoughtfully designed to meet all height and size restrictions, and will blend harmoniously with the neighborhood.
I firmly believe that the Jennys, as longstanding Malibu residents, have the right to develop their property in a manner that allows them to age comfortably and securely. I support this project wholeheartedly and believe it will remain in keeping with the community's character.
Thank you for your consideration.
Sincerely,

Susan Waters
[redacted] Heathercliff Road [redacted]
Malibu CA 90265

CC: Planning Commission, PD,

Recording Secretary, File

Date Received 10/13/25 Time 1:39 PM
Planning Commission meeting of 10/20/25
Agenda Item No. 5A
Total No. of Pages 1

ATTACHMENT 5

Received
10/14/25
Planning Div.

September 28, 2025

Dear Members of the Planning Commission,

I wish to express my strong support for Ron and Jane Jenny's proposal to construct a single-bedroom residence with a care quarters on their property in Malibu. I have known the Jennys for over forty years in Malibu, and have seen them consistently and selflessly contribute to our community throughout their long residence here. My husband and I have watched them raise their beautiful four children here, with deep connections and support of our community.

The Jennys purchased the land in question about four years ago, always with the expressed intention that this will be their final residence. Their plan is extremely modest, designed to meet all regulatory requirements, and is intended to blend well with the surrounding neighborhood.

As long-time fellow Malibu residents, my husband, Richard Ross and I, believe the Jenny's have created a perfect understated plan that supports their aging needs for this chapter of their lives. We strongly support their application and are completely confident that it will be a good fit and addition to the neighborhood.

Thank you for your consideration.

Kim and Richard Ross

[redacted] Fernhill Drive

Malibu, California

[redacted]

CC: Planning Commission, PD,

Recording Secretary, File

Date Received 10/14/25 Time 1:17 p.m.
Planning Commission meeting of 10/20/25
Agenda Item No. 5A
Total No. of Pages 1

Received
10/16/25
Planning Div.

September 22, 2025

To Whom It May Concern,

I am writing in support of the proposed new home project in our Malibu neighborhood. The plans reflect a minimal footprint, and the homeowners have demonstrated their commitment to complying with all local restrictions. I believe this development will enhance our community while preserving the existing tranquility and aesthetic.

Thank you for the opportunity to express my support.

Best regards,

Before These Crowded Streets, LLC
[redacted] Pacific Coast Highway
Malibu, CA 90265

Sincerely,

Keshara Parker
Representative for
Before These Crowded Streets, LLC

CC: Planning Commission, PD,

Recording Secretary, File

Date Received 10/16/25 Time 8:42 a.m.
Planning Commission meeting of 10/20/25
Agenda Item No. 5A
Total No. of Pages 1

Received
10/14/25
Planning Div.

ELKINS KALT

Jackson D. McNeill
D: (310) 746-4424
JMcneill@elkinskalt.com
Ref: 15289-0001

Elkins Kalt Weintraub Reuben Gartside LLP

October 14, 2025

VIA E-MAIL AND U.S. MAIL

Raneika Brooks, Principal Planner
City of Malibu
23825 Stuart Ranch Road
Malibu, CA 90265
Email: rbrooks@malibucity.org

Re: Legally Deficient Notice of Hearing for October 20, 2025, Planning Commission Agenda Concerning 33008 PCH
Item #: 5A

Dear Raneika:

Our firm represents DEVOLVING LLC and Mark and Tamara Mackey (collectively, our "Clients"), the owners of the real property and single-family residences located at [redacted] and [redacted] Pacific Coast Highway in Malibu, California, respectively. Bluff Top 1 LLC has submitted an application for a Coastal Development Permit (CDP No. 23-034) and Minor Modification (Minor Modification No. 25-009) (together, the "Application") to construct a new single-family residence and associated development at 33008 Pacific Coast Highway (the "Site"), immediately adjacent to our Clients' properties (the "Project").

On October 9, 2025, our firm received an email from the City of Malibu ("City") indicating that the Project had been scheduled for a public hearing before the Planning Commission on October 20, 2025. The email included an updated Notice of Public Hearing ("Notice"), which we attach as **Exhibit A**. Respectfully, **as discussed below, the Notice provided was legally deficient because it (1) fails to mention the code violation case that the hearing and Application purportedly resolves; and (2) because it fails to notice state, regional, and local agencies as required by the LIP. As such, the hearing must be continued to allow for the provision of adequate and lawful notice**.

CC: Planning Commission, PD,

Recording Secretary, File

5737953.1

Date Received 10/14/25 Time 3:14 p.m.
Planning Commission meeting of 10/20/25
Agenda Item No. 5A
Total No. of Pages 10

T: 310.746.4400 F: 310.746.4499
10345 W. Olympic Blvd, Los Angeles, CA 90064 | elkinskalt.com

I. The Notice Fails to Mention the Code Violation Purportedly Being Resolved.

The Notice is legally deficient because it fails to provide notice that the Project purportedly addresses (or that the Planning Commission will consider) the resolution of Code Violation No. 23-047 (the "Code Violation").[1]

Specifically, the Notice indicates that the hearing will consider Coastal Development Permit No. 23-034 and Minor Modification No. 25-009. It makes no mention of the Code Violation. The actual agenda item, meanwhile, indicates that the subject of the hearing also includes Code Violation No. 23-047, and the Staff Report indicates that "[a]fter the CDP is approved and upon final inspection of the project, the code violation case will be closed." (Staff Report, p. 3.) The draft Resolution also discusses the Code Violation as part of the Application. (See Draft Resolution 25-76, Section 1, Recital A ["On May 17, 2023, an application for Coastal Development Permit (CDP) No. 23-034 and Code Violation (CV) No. 23-047 was submitted to the Planning Division by applicant, Schmitz and Associates, Inc., on behalf of the owner, Bluff Top 1 LLC."].)

Under the Coastal Act regulations, The public hearing must be conducted "in any … manner reasonably calculated to give interested persons an opportunity to appear and present their viewpoints, either orally or in writing." (Cal. Code Regs., tit. 14, § 13566.) And Malibu's LIP requires all application numbers and all development being considered to be summarized in the notice. (See LIP § 13.12.1 [requiring the notice to include the application number(s) being heard and the development being considered].)

By failing to mention the Code Violation, the general public remains unaware that the hearing affects its resolution. In so doing, the City denies potentially interested persons the opportunity to be heard in violation of the LIP, the Coastal Act regulations, and due process. As such, the meeting must be continued and re-noticed.

II. The City Failed to Properly Notice State, Regional, and Local Agencies.

Among the parties required to be provided with notice, the Local Implementation Plan ("LIP") requires the City to provide notice to "[l]ocal, regional and state agencies known to be interested in the project including but not limited to: Los Angeles County, Ventura County, NPS, SMMC, CDPR, CDFG, NMFS, USFWS." (LIP § 13.12.1.A.4.) Further, "[t]he public hearing may

[1] Our Client's question the ability and propriety of resolving code violations by approving new development rather than through the City's designated administrative procedures for code violations, and our Clients reserve the right to challenge the propriety of this approach.

be conducted in accordance with existing local procedures or in any other manner reasonably calculated to give interested persons an opportunity to appear and present their viewpoints, either orally or in writing." (Cal. Code Regs., tit. 14, § 13566.)

Here, Ms. Brooks stated by email on October 10, 2025, that the City sent following agencies notice of the hearing:

- L.A. County
- Department of Regional Planning
- County of Ventura, Attn: Planning Dept.
- US Fish and Wildlife Service
- National Park Service
- Development, US Army Corps of Engineers, LA Dist., ATTN: Regulatory Div.
- CESPL-RG, Dept. of Transportation, Dist. 7, Regional Planning
- IRG/CEQA Branch, RWQCB, Region 4 c/o Jenny Newman, Santa Monica Mountains Conservancy
- Calif. Dept. of Parks & Recreation
- National Marine Fishery Service
- California Coastal Commission, So. Central Coast District
- California Dept. of Fish & Game, So. Coast Region-CEQA Program,
- California Department of Pesticide Regulation,
- Pepperdine University, Dir. Of Regulatory Affairs Rhiannon Pregitzer
- Malibu Times
- Santa Monica Baykeeper

Respectfully, while our Clients appreciate the effort to provide notice to a wide range of agencies, the City failed to provide notice to any agencies related to American Indians, despite the fact that shells and tools were discovered on the Site and despite the fact that the archaeological study for the Site "indicates that potential cultural resources are located on the project site." (See Archaeology Review (ARC) No. 23-014, attached as **Exhibit B**.) Indeed, the City originally notified the California Native American Heritage Commission ("NAHC") of these issues, but did not notify NAHC that this hearing was occurring. (Exh. A, p. 1, 3.)

Despite acknowledging that NAHC constituted an agency known to be interested in the project (LIP § 13.12.1.A.4), the City failed to provide the NAHC notice of the public hearing on the Project. Nor did the City notify any other state entities with relevant American Indian or cultural resource expertise, such as the Governor's Office of Tribal Affairs, the California Department of Justice Office of Native American Affairs ("ONAA"), or the California Natural Resources Agency's Tribal Affairs office—much less any tribes (e.g., Chumash) themselves. Without this, the notice from the City is not "reasonably calculated to give interested persons an opportunity to appear and present their viewpoints." (Cal. Code Regs., tit. 14, § 13566.)

This omission is not a mere technical defect. As will be explained in subsequent correspondence, the City also failed to conduct supplemental Phase I investigations or a Phase II investigation despite confirmed on-site cultural materials, and it further failed to prepare a mitigated negative declaration or environmental impact report to evaluate the project's potential effects on cultural resources as required by the LIP and in violation of the California Environmental Quality Act ("CEQA"). These are precisely the kinds of issues that agencies with American Indian expertise are best suited to speak to.

Accordingly, the hearing must be continued to allow proper notice to the appropriate agencies.

Very truly yours,



JACKSON D. McNEILL
Elkins Kalt Weintraub Reuben Gartside LLP

JDM:jdm

cc: PlanningCommission@malibucity.org
Rebecca Evans (revans@malibucity.org)

5737953.1

EXHIBIT A

City Of Malibu
23825 Stuart Ranch Road
Malibu, CA 90265
Phone (310) 456-2489
www.malibucity.org

COMMUNITY DEVELOPMENT DEPARTMENT

NOTICE OF PUBLIC HEARING

NOTICE OF PUBLIC HEARING

The Malibu Planning Commission will hold a public hearing on **Monday, October 20, 2025, at 6:30 p.m**. in the Council Chambers, Malibu City Hall, 23825 Stuart Ranch Road, Malibu, CA for the project identified below. Public comment can be submitted ahead of the public hearing to planningcommission@malibucity.org for inclusion in the public record. To participate during the public hearing, please review the meeting agenda posted at MalibuCity.org/AgendaCenter and follow the directions for public participation.

COASTAL DEVELOPMENT PERMIT NO. 23-034 AND MINOR MODIFICATION NO. 25-009 - An application to construct new two-story, 18-foot high, 4,856 square foot single-family residence, including a 791 square foot attached garage and a 824 square foot second-story second unit, landscaping, hardscape, grading, fire department turnaround area, vehicular access gate, and the installation of a new onsite wastewater treatment system; including a minor modification for up to a 50 percent reduction of the front yard setback

LOCATION / APN / ZONING:	**33008 Pacific Coast Hwy** / 4473-017-009 / Rural Residential-Two Acre (RR-2)
APPLICANT / OWNER:	Schmitz & Associates, Inc. / Bluff Top 1 LLC
APPEALABLE TO:	City Council and California Coastal Commission
ENVIRONMENTAL REVIEW:	Categorical Exemption CEQA Guidelines Sections 15303(a) and 15303(e)
APPLICATION FILED:	May 17, 2023
CASE PLANNER:	Raneika Brooks, Principal Planner, rbrooks@malibucity.org (310) 456-2489, ext. 276

A written staff report will be available at or before the hearing for the projects. All persons wishing to address the Commission regarding these matters will be afforded an opportunity in accordance with the Commission's procedures. Copies of all related documents can be reviewed by any interested person at City Hall during regular business hours. Oral and written comments may be presented to the Planning Commission on, or before, the date of the meeting.

LOCAL APPEAL - A decision of the Planning Commission may be appealed to the City Council by an aggrieved person by written statement setting forth the grounds for appeal. An appeal shall be filed with the City Clerk within ten days following the date of action which the appeal is made and shall be accompanied by an appeal form and filing fee, as specified by the City Council. Appeal forms may be found online at www.malibucity.org/planningforms or in person at City Hall, or by calling (310) 456-2489, extension 246.

COASTAL COMMISSION APPEAL - An aggrieved person may appeal the Planning Commission's approval directly to the Coastal Commission within 10 working days of the issuance of the City's Notice of Final Action. More information may be found online at www.coastal.ca.gov or by calling 805-585-1800.

IF YOU CHALLENGE THE CITY'S ACTION IN COURT, YOU MAY BE LIMITED TO RAISING ONLY THOSE ISSUES YOU OR SOMEONE ELSE RAISED AT THE PUBLIC HEARING DESCRIBED IN THIS NOTICE, OR IN WRITTEN CORRESPONDENCE DELIVERED TO THE CITY, AT OR PRIOR TO THE PUBLIC HEARING.

YOLANDA BUNDY, Community Development Director — Date: October 9, 2025

EXHIBIT B

City of Malibu

23825 Stuart Ranch Road · Malibu, California · 90265-4861
Phone (310) 456-2489 · Fax (310) 456-3356 · www.malibucity.org

June 26, 2023

Arfakhashad Munaim
EPD Consultants, Inc
Carson, CA 90745

Reference: **ARCHAEOLOGY REVIEW (ARC) NO. 23-014**
33008 Pacific Coast Highway
Archaeology Review Phase I

Dear Mr. Munaim:

On **May 2, 2023**, the application listed above was submitted to the City of Malibu Planning Department for processing. Planning Department staff has completed a review of the Phase I Archaeological Study, dated March 20, 2023, prepared by Matthew A. Boxt Ph.D., Consulting Archaeologist for Blufftop 1, LLC for the subject site at 33008 Pacific Coast Highway (APN 4473-017-009). The study indicates that potential cultural resources are located on the project site.

To mitigate potential impacts on unknown archaeological resources to a level of insignificance, Blufftop 1, LLC will implement the following mitigation measures:

1. **Prior to beginning any ground-disturbing activities, all involved construction personnel will be informed about the potential for discovery of archaeological resources and/or human remains, and the appropriate measures to be taken should such resources be uncovered.**
2. **A qualified archaeologist will be on-site during all ground disturbing construction activities with the authority to suspend work in the event that potentially important archaeological resources are discovered. If such an event occurs, all construction activities in the vicinity of the affected area will be suspended, and a qualified Chumash cultural resources monitor will be contracted by the applicant. An appropriate buffer area shall be established by the Project Archaeologist and Native American monitor around the find where construction activities shall not be allowed to continue. Work shall be allowed to continue outside of the buffer area. By following these recommendations, Blufftop 1, LLC will ensure the preservation of these fragile and non-renewable cultural resources.**

Based on the information submitted, the applicant **may proceed with obtaining an excavation permit through City Geotechnical Staff with the conditions listed above.** In addition, **no geologic trenching, soil borings, ground clearance, grading, equipment placement, or similar surface-disturbing impacts shall be allowed within 30 feet of the northern property boundary**. When completed, please submit a report describing the archaeologist's findings.

In the event that potentially important cultural resources are found in the course of geologic testing or any other activity, work shall immediately cease until a qualified archaeologist can provide an evaluation of the nature and significance of the resources and until the Planning Director can review this information. Where, as a result of

this evaluation, the Director determines that the project may have an adverse impact on cultural resources; a Phase II Evaluation of cultural resources shall be required pursuant to Malibu Municipal Code Section 17.54.040(D).

If a human bone or any other human remains are discovered, the procedures described in Health and Safety Code Section 7050.5 must be followed. The property owner or his/her representatives (i.e., architect, contractor, etc.) must notify the Los Angeles County coroner. If the coroner determines that the remains are those of a Native American, the applicant must notify the Native American Heritage Commission by phone within 24 hours. Following notification of that organization, the procedures described in Public Resources Code Sections 5097.94 - 5097.98 must be followed.

If you have any questions regarding this matter, please contact me at (310) 456-2489, extension 295.

Sincerely,

Coli Turner

Coli Turner
Planning Technician

cc: Native American Heritage Commission

City of Malibu
Planning Department
23825 Stuart Ranch Road
Malibu, CA 90265

June 26, 2023

Native American Heritage Commission
1550 Harbor Blvd. Suite 100
West Sacramento, CA 95691

Reference: **ARCHAEOLOGY REVIEW (ARC) NO. 23-014**
3308 Pacific Coast Highway, Malibu, CA 90265
Archaeology Review Phase I

To whom it may concern:

Please find the enclosed cultural resource clearance for your review and comment pursuant to City of Malibu Local Coastal Program Local Implementation Plan Section 11.3.

If you have any questions or comments regarding this matter, please contact our office at (310) 456-2489.

Sincerely,

Coli Turner

Coli Turner
Planning Technician

Received
10/15/2025
Planning Div.

ELKINS KALT

Jackson D. McNeill
D: (310) 746-4424
JMcneill@elkinskalt.com
Ref: 15289-0001

Elkins Kalt Weintraub Reuben Gartside LLP

October 15, 2025

VIA E-MAIL

Kellan Martz, Deputy City Attorney
c/o Best Best & Krieger LLP
300 South Grand Avenue, 25th Floor
Los Angeles, CA 90071
Email: kellan.martz@bbklaw.com

Raneika Brooks, Principal Planner
City of Malibu
23825 Stuart Ranch Road
Malibu, CA 90265
Email: rbrooks@malibucity.org

Re:	City Must Continue Hearing on CDP No. 23-034 and Minor Mod. No. 25-009 Due to Incomplete Application
Address:	33008 Pacific Coast Highway, Malibu, California
Meeting:	October 20, 2025
Item #:	5A

Dear Kellan and Raneika:

Our firm represents Unkowningly Devolving LLC and Mark and Tamara Mackey (collectively, our "Clients"), the owners of the real property and single-family residences located at [redacted] and [redacted] Pacific Coast Highway in Malibu, California, respectively. Bluff Top 1 LLC submitted an application for a Coastal Development Permit (CDP No. 23-034) and Minor Modification (Minor Modification No. 25-009) (together, the "Application") to construct a new single-family residence and associated development (the "Project") at 33008 Pacific Coast Highway (the "Property"). The Application is presently scheduled for a public hearing before the Planning Commission on October 20, 2025.

As discussed below, the hearing must be continued—or, alternatively, the Application denied—because the Application remains legally incomplete. Specifically, the Applicant failed to consult with the State Lands Commission as required by the City's Local Implementation Plan ("LIP"), and the LIP expressly states that this failure renders the Application incomplete. In addition, because our Clients and other property owners along the private easement road hold property interests in the portion of the easement affected by the proposed development, the LIP requires the Applicant to invite these owners to join as co-applicants. The Applicant has made no such effort.

CC: Planning Commission, PD,

Recording Secretary, File

T: 310.746.4400 F: 310.746.4499
10345 W. Olympic Blvd, Los Angeles, CA 90064 | elkinskalt.com

Date Received 10/15/2025 Time 4:37pm
Planning Commission meeting of 10/20/25
Agenda Item No. 5A
Total No. of Pages 28

I. The Application Remains Incomplete and the LIP Precludes a Hearing Because Applicant Failed to Consult with the State Lands Commission.

The Project qualifies as "shoreline development" under the Coastal Act and Malibu's Local Implementation Plan ("LIP"). The Site lies directly along the Pacific Ocean; state tidelands form its southern parcel boundary; and the proposed improvements sit atop a coastal bluff subject to coastal wave action. Indeed, staff's September 1, 2023, incomplete letter noted that "[d]ue to the fact the project abuts the ocean per LIP Section 10.5(C) a Determination from the California State Lands Commission is required." We attach an excerpt from this incomplete letter as **Exhibit A**.

As such, the LIP requires the Applicant to submit "written evidence of a review and determination from the State Lands Commission relative to the proposed project's location to or impact upon the boundary between public tidelands and private property." (LIP § 10.5(C).) Critically: "**Such determination [is] a filing requirement for a Coastal Development Permit**," and "**any application filed without such determination shall be determined to be incomplete**." (*Id.* [emphasis added]; see also LIP § 13.6.2 ["Applicants for development along the shoreline property or fronting a beach shall submit written evidence of a review and determination from the California State Lands Commission relative to the project's location to or impact upon the boundary between public tidelands and private property."].)

The Applicant has not provided this required written evidence, and neither the Staff Report nor any attachments reference or include such documentation. In fact, staff records personnel Jason Ernst indicated by email on October 14, 2025, that "[r]here was a note in the database stating that a state land's letter is not required for this project." We attach this email as **Exhibit B**. In conversations with staff, staff also indicated that the former planning director believed that such a consultation was not required because the Project did not impact state tidelands.

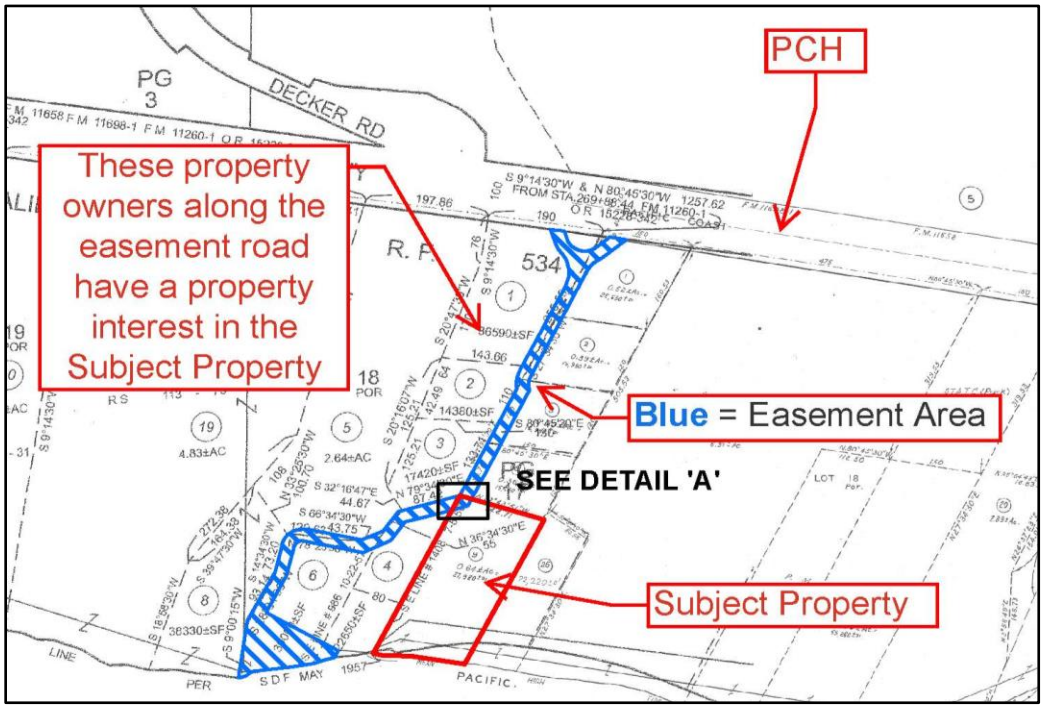
The LIP, however, does not give the planning director or any other City personnel discretion to avoid the consultation requirement, which states in black and white that applicants "**shall**" submit written evidence of a determination (LIP § 10.5(C), emphasis added) and that, without such determination, the Application "**shall** be determined to be incomplete." (LIP § 13.6.2, emphasis added) In other words, respectfully, City staff unlawfully substituted its own judgment for that of the State Lands Commission.

The omission renders the application incomplete as a matter of law. Accordingly, the Commission must either deny the application or continue the hearing until the required State Lands Commission determination has been provided.

II. The Applicant and City Failed to Invite Parties with Property Interests to Join as Co-Applicant in Violation of the LIP.

The Malibu LIP states that "[a]ll holders or owners of any other interest of record in the affected property shall be notified in writing of the permit application and invited to join as co-applicant." (LIP § 13.6.2.C.) This requirement is not new or unique: The Coastal Commission also requires developers to invite interests holders to join an application as co-applicants. (Cal. Code Regs., tit. 14, § 13053.5.) To provide just one example, in CDP 4-12-026, the applicant proposed grading and paving in an area containing an access easement. (See Staff Report, CDP 4-12-026, May 23, 2013, p. 19 ["A portion of the proposed driveway is located within an existing access easement on the adjoining parcel to the west."].) Citing the above regulations, the Commission made sure that the holder of the easement was invited to join as a co-applicant. (*Id.* ["A letter was sent by staff … inviting this property owner (Michael and Renee Taylor), 29204 Heathercliff Road, Malibu, CA 90265) to join this application as a co-applicant if they so choose (Exhibit 9)."].)

Here, the Property is subject to an easement road that connects several properties along the easement road to Pacific Coast Highway. This is shown on the Project plans. (See Plans, Sheet T-2.1 [Survey].) The following depiction, prepared by Client's title company, Chicago Title, and marked up by our firm, shows the area of the easement road:



Similarly, the grant deed for the Property, attached as **Exhibit C**, reflects this easement. The easement deed, attached as **Exhibit D**, also memorializes this easement.

Importantly, all properties on the easement road have a right to use the entire easement as the easement was granted to "each party" to the easement agreement "along and under said strip of land to the end," stating "that said easements shall be used and enjoyed by said owners and their successors and assigns." (Exh. D p. 4.) The easement deed reiterates this point, noting that the easement is "appurtenant to and for the common benefit of all of the said lands, or portions thereof, above referred to." (*Id.*.) The grant deed for the property, likewise, notes that there is "AN EASEMENT FOR ROAD AND UTILITY PURPOSES, TO BE USED IN COMMON WITH OTHERS…." (Exh. C, p. 6.) Because these owners hold an easement over the Property, they have a property interest in it. (See, e.g., *County Sanitation Dist. v. Watson Land Co.* (1993) 17 Cal.App.4th 1268, 1278 ["An easement is an incorporeal interest in the land of another…."].) Notably, the Project involves the creation of a fire turnaround in this area.

In light of this issue, staff acknowledged in its last incomplete letter, dated February 10, 2025 (an excerpt of which is attached as **Exhibit E**), that "Staff has been made aware that improvements are proposed within the access easement. Pursuant to LIP Section 13.6.2, all holders or owners of the easement shall be notified in writing of the subject permit application and invited to join as co-applicant."

Nevertheless, to our Client's knowledge, **no easement holders were ever invited to join the application as co-applicant**. Further, no such invitation is included in the materials before this commission. Because the City and Applicant failed to invite interest holders to join as co-applicants, the application was, at best, incomplete and cannot be acted upon now. Accordingly, the hearing must be continued or, alternatively, denied. (See, e.g., LIP §§ 13.10 [providing notice and hearing procedures for a "complete application"], 13.6.1(B) [Planning Department cannot take action on an application until it is determined to be complete].)

Please contact me with any questions.

Very truly yours,

JACKSON D. McNEILL
Elkins Kalt Weintraub Reuben Gartside LLP

5737953.1

cc: Trevor Rusin (trevor.rusin@bbklaw.com)

EXHIBIT A

City of Malibu

23825 Stuart Ranch Road · Malibu, California · 90265-4861
Phone (310) 456-2489 · Fax (310) 456-3356 · www.malibucity.org

September 1, 2023

Schmitz and Associates, Inc.
ATTN: Arfakhashad Munaim
28118 Agoura Road, Suite 200
Agoura Hills, CA 91301

Sent via email: amunaim@schmitzandassociates.net

Reference: **COASTAL DEVELOPMENT PERMIT (CDP) No. 23-034**
CODE VIOLATION NO. 23-047
33008 Pacific Coast Highway, Malibu, CA 90265
An application for a new two-story single-family residence, onsite wastewater treatment system, landscaping, grading, and associated development including the abatement of a code violation related to unpermitted fencing, landscaping, etc.

Dear Mr. Munaim:

On **May 17, 2023,** the application listed above was submitted to the City of Malibu's Planning Department for processing. The subject property is located at 33008 Pacific Coast Highway (APN 4473-017-009) and is zoned Rural Residential – Two Acres (RR-2). The subject property is within the Appeal Jurisdiction of the California Coastal Commission (CCC) as depicted on the Post – Local Coastal Program Certification Permit and Appeal Jurisdiction Map of the City of Malibu.

Our Planning Department Staff has completed an initial review of the application and determined on **September 1, 2023,** that the application submitted was **INCOMPLETE and will require further information.** To continue processing the application, please address the following items.

1. Staff must visit the property to photograph and document existing site conditions. Please contact me at (310) 456-2489, extension 276, or rbrooks@malibucity.org to schedule a site visit.

2. Due to the fact the project abuts the ocean per LIP Section 10.5(C) a Determination from the California State Lands Commission is required. Please contact Mr. Drew Simpkin at (916) 574-2275 or at drew.simpkin@slc.ca.gov for submittal requirements or review status. Please note that this process takes a substantial amount of time and should be started if it hasn't been already.

3. Please provide information related to the location of the nearest public beach access point (s), what type of access exists, and whether the access is open to the public.

4. Please confirm if improvements to the access easement are proposed.

Zoning Conformance

5. Based on the information provided, the project appears to exceed the following zoning requirements:

EXHIBIT B

Anna Feng

To: Jackson D. McNeill
Subject: RE: Re: 33008 PCH

From: Jason Ernst <jernst@malibucity.org>
Sent: Tuesday, October 14, 2025 11:40 AM
To: Jackson D. McNeill <JMcNeill@elkinskalt.com>
Cc: Kenneth A. Ehrlich <KEhrlich@elkinskalt.com>
Subject: RE: Re: 33008 PCH

---EXTERNAL EMAIL: Do not click links or attachments unless you recognize the sender and know the content is safe---

There was a note in the database stating that a state land's letter is not required for this project.

Sincerely,

Jason Ernst
Senior Office Assistant | Community Development Department
Office: (310) 456-2489 ext.284 | Mobile: (424) 422-2485
23825 Stuart Ranch Road | Malibu, CA 90265

EXHIBIT C

RECORDING REQUESTED BY:
Equity Title Company

AND WHEN RECORDED MAIL To

Bluff Top 1 LLC
33010 Pacific Coast Highway
Malibu, CA. 90265

THIS SPACE FOR RECORDER'S USE ONLY:

Title Order No.: 3910121-11401 **Escrow No.:** 020980
AP#: 4473-017-009

GRANT DEED

88

THE UNDERSIGNED GRANTOR(S) DECLARE(S)
DOCUMENTARY TRANSFER TAX is $8,470.00
[X] computed on full value of property conveyed, or
[ ] computed on full value less value of liens or encumbrances remaining at time of sale.
[ ] Unincorporated area [X] City of Malibu **AND**

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,

Richard L. Hudspeth, a Married Man as to an undivided 50% interest and Beverly Ann Hudspeth, a Married Woman,as to an undivided 50% interest as Tenants in Common

hereby GRANT(s) to:

Bluff Top 1 LLC, a California limited liability company

the real property in the City of Malibu, County of Los Angeles, State of California, described as:
LEGAL DESCRIPTION ATTACHED HERETO AS EXHIBIT "A" AND MADE A PART HEREOF
Also Known as: Vacant land - 33008 Pacific Coast Highway, Malibu, CA 90265

Dated November 19, 2021

Richard L. Hudspeth

THIS DOCUMENT IS BEING SIGNED IN COUNTERPART

Beverly Ann Hudspeth

1 of 2

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA
COUNTY OF San Diego
On Dec. 23, 2021 before me, Matilda Hernandez, A Notary Public personally appeared Richard L. Hudspeth who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/~~are~~ subscribed to the within instrument and acknowledged to me that he/~~she~~/~~they~~ executed the same in his/~~her~~/~~their~~ authorized capacity(~~ies~~), and that by his/~~her~~/~~their~~ signature(~~s~~) on the instrument the person(s), or the entity upon behalf of which the person(~~s~~) acted, executed the instrument.
I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.
WITNESS my hand and official seal.

Signature _____ (Seal)

MATILDA HERNANDEZ
Commission No. 2331047
NOTARY PUBLIC - CALIFORNIA
SAN DIEGO COUNTY
Commission Expires August 2, 2024

MAIL TAX STATEMENTS TO PARTY SHOWN BELOW; IF NO PARTY SHOWN, MAIL AS SHOWN ABOVE:

GOVERNMENT CODE 27361.7

I certify under penalty of perjury that the Notary Seal on the document to which this Statement is attached reads as follows:

NAME OF THE NOTARY: _____

DATE COMMISSION EXPIRES: _____

COUNTY WHERE BOND IS FILED: _____

COMMISSION NUMBER: _____ VENDOR#: _____

I certify under penalty of perjury and the laws of the State of California that the illegible portion of this document to which this statement is attached reads as follows:

SHOWN ABOVE: _____

_____

_____

PLACE OF EXECUTION: Glendale, CA DATE: 12/28/2021

Equity / Progressive Title , Recording Clerk , as agent

Adrineh Zargarian

Adrineh Zargarian

Signature

RECORDING REQUESTED BY:
Equity Title Company

AND WHEN RECORDED MAIL To

Bluff Top 1 LLC
33010 Pacific Coast Highway
Malibu, CA. 90265

THIS SPACE FOR RECORDER'S USE ONLY:

Title Order No.: 3910121-11401 **Escrow No.:** 020980
AP#: 4473-017-009

GRANT DEED

THE UNDERSIGNED GRANTOR(S) DECLARE(S)
DOCUMENTARY TRANSFER TAX is $
[X] computed on full value of property conveyed, or
[ ] computed on full value less value of liens or encumbrances remaining at time of sale.
[ ] Unincorporated area [X] City of Malibu **AND**

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,

Richard L. Hudspeth, a Married Man as to an undivided 50% interest and Beverly Ann Hudspeth, a Married Woman,as to an undivided 50% interest as Tenants in Common

hereby GRANT(s) to:

Bluff Top 1 LLC, a California limited liability company

the real property in the City of Malibu, County of Los Angeles, State of California, described as:
LEGAL DESCRIPTION ATTACHED HERETO AS EXHIBIT "A" AND MADE A PART HEREOF
Also Known as: Vacant land - 33008 Pacific Coast Highway, Malibu, CA 90265

Dated November 19, 2021

THIS DOCUMENT IS BEING SIGNED IN COUNTERPART 2 of 2

Richard L. Hudspeth

Beverly Ann Hudspeth

Beverly Ann Hudspeth

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA
COUNTY OF Amador
On December 23rd, 2021 before me, JONATHAN GOUNDAR, A Notary Public personally appeared Beverly Ann Hudspeth who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.
I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.
WITNESS my hand and official seal.

Signature _____ (Seal)

See Attached

JONATHAN GOUNDAR
Notary Public - California
Amador County
Commission # 2310454
My Comm. Expires Oct 25, 2023

MAIL TAX STATEMENTS TO PARTY SHOWN BELOW; IF NO PARTY SHOWN, MAIL AS SHOWN ABOVE:

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of AMADOR)

On DECEMBER 23RD, 2021 before me, JONATHAN GOUNDAR, NOTARY PUBLIC
(insert name and title of the officer)

personally appeared BEVERLY ANN HUDSPETH ----------,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

JONATHAN GOUNDAR
Notary Public - California
Amador County
Commission # 2310454
My Comm. Expires Oct 25, 2023

Signature _____ **(Seal)**

EXHIBIT "A"

PARCEL 1:

THAT PORTION OF THE RANCHO TOPANGA MALIBU SEQUIT, IN THE CITY OF MALIBU, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS CONFIRMED TO MATTHEW KELLER BY PATENT RECORDED IN BOOK 1, PAGE 407, ET SEQ, OF PATENTS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE SOUTHERLY LINE OF THE 80 FOOT STRIP OF LAND DESCRIBED IN THE DEED FROM T. R. CADWALADER, TRUSTEE, TO THE STATE OF CALIFORNIA, RECORDED IN BOOK 15228 PAGE 342, OF OFFICIAL RECORDS OF SAID COUNTY, DISTANT THEREON NORTH 80° 45' 30" WEST 1107.62 FEET FROM A POINT BEARING SOUTH 9° 14' 30" WEST 40 FEET FROM ENGINEER'S CENTER LINE STATION 269 PLUS 88.44 AT THE EASTERLY EXTREMITY OF THAT CERTAIN COURSE IN THE CENTER LINE OF SAID 80 FOOT STRIP OF LAND DESCRIBED IN SAID DEED AS SOUTH 80° 45' 30" EAST 7702.63 FEET; THENCE NORTH 80° 45' 30" WEST 150.00 FEET; THENCE SOUTH 27° 34' 30" WEST TO THE ORDINARY HIGH TIDE OF THE PACIFIC OCEAN; THENCE EASTERLY ALONG SAID TIDE LINE TO A LINE BEARING SOUTH 27° 34' 30" WEST FROM THE POINT OF BEGINNING; THENCE NORTH 27° 34' 30" EAST TO THE POINT OF BEGINNING.

EXCEPT THAT PORTION OF SAID LAND LYING NORTH OF A LINE BEARING NORTH 72° 43' 51" WEST 144.71 FEET FROM A POINT IN THE SOUTHEAST LINE OF SAID LAND DISTANT THEREON SOUTH 27° 34' 30" WEST 520.53 FEET FROM THE NORTHEAST CORNER OF SAID LAND TO A POINT IN THE NORTHWEST LINE OF SAID LAND DISTANT THEREON SOUTH 27° 34' 30" WEST 499.24 FEET FROM THE NORTHWEST CORNER OF SAID LAND.

EXCEPT THEREFROM ALL MINERALS, OIL, PETROLEUM, ASPHALTUM, GAS, COAL AND OTHER HYDROCARBON SUBSTANCES CONTAINED IN, ON, WITHIN AND UNDER SAID LAND, BUT WITHOUT THE RIGHT OF ENTRY, AS RESERVED IN THE DEED FROM MARBLEHEAD LAND COMPANY, A CORPORATION RECORDED ON NOVEMBER 13, 1942 IN BOOK 19637 PAGE 347, OF OFFICIAL RECORDS OF SAID COUNTY.

PARCEL 2:

AN EASEMENT FOR ROAD AND UTILITY PURPOSES, TO BE USED IN COMMON WITH OTHERS, OVER THAT PORTION OF RANCHO TOPANGA MALIBU SEQUIT, IN THE COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS CONFIRMED TO MATTHEW KELLER BY PATENT RECORDED IN BOOK 1 PAGE 407, ET SEQ, OF PATENTS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, INCLUDED IN THAT CERTAIN BASEMENT DEED, EXECUTED BY EDWARD C. CAZIER ET AL., RECORDED MARCH 18, 1957 AS INSTRUMENT NO. 4281, IN BOOK 53956 PAGE 173, OF OFFICIAL RECORDS.

END OF LEGAL DESCRIPTION

STATE OF CALIFORNIA }
COUNTY OF LOS ANGELES } ss.

On March--- 14th, 1957, before me, the undersigned, a Notary Public, in and for said County and State, personally appeared C. C. BAYLESS and ELMA E. BAYLESS, known to me to be the persons whose names are subscribed to the within instrument and acknowledged that they executed the same.

WITNESS my hand and official seal.

Notary Public in and for said County and State.

STATE OF CALIFORNIA }
COUNTY OF LOS ANGELES } ss.

On March--- 7, 1957, before me, the undersigned, a Notary Public, in and for said County and State, personally appeared MELODILE G. HATHAWAY, known to me to be the person whose name is subscribed to the within instrument and acknowledged that she executed the same.

WITNESS my hand and official seal.

4281

DOCUMENT No. ----------
RECORDED AT REQUEST OF

MAR 18 1957
56 MIN. PAST 2 P.M.

OFFICIAL RECORDS
RAY E. LEE, RECORDER
LOS ANGELES COUNTY, CALIF.

Notary Public in and for said County and State.

LOUIS T. BUSCH
My Commission Expires April 6, 1959

4281

EXHIBIT D

E A S E M E N T D E E D

The undersigned, EDWARD C. CAZIER and RUTH D. CAZIER, husband and wife, as joint tenants, owners of the parcels of real property in the County of Los Angeles, State of California, hereinafter referred to as "said lands", described in those certain grant deeds from C. C. Bayless and Elma E. Bayless, husband and wife, to Edward C. Cazier and Ruth D. Cazier, husband and wife, as joint tenants, recorded in Book 51643, Page 389 of Official Records of Los Angeles County, and from Melodile G. Hathaway to Edward C. Cazier and Ruth D. Cazier, husband and wife, as joint tenants, recorded in Book 53216, Page 13 of Official Records of said county; and

AMRE BUSCH, an unmarried woman, owner of the real property in the County of Los Angeles, State of California, hereinafter referred to as "said lands", described in that certain grant deed from C. C. Bayless and Elma E. Bayless to Amre Busch, an unmarried woman, recorded in Book 51643, Page 370 of Official Records of said county; and

ELVIN M. ANDERSON and JUNE B. ANDERSON, husband and wife, as joint tenants, owners of the parcels of real property in the County of Los Angeles, State of California, hereinafter referred to as "said lands", described in those certain grant deeds from C. C. Bayless and Elma E. Bayless to Elvin M. Anderson and June B. Anderson, husband and wife, as joint tenants, recorded in Book 51643, Page 392 of Official Records of said county, and

from Melodile G. Hathaway to Elvin M. Anderson and June B. Anderson, husband and wife, as joint tenants, recorded in Book 53216, Page 15 of Official Records of said county; and

LOUIS T. BUSCH and DORIS M. BUSCH, husband and wife, as joint tenants, owners of the parcel of real property in the County of Los Angeles, State of California, hereinafter referred to as "said lands", described in that certain grant deed from C. C. Bayless and Elma E. Bayless to Louis T. Busch and Doris M. Busch, husband and wife, as joint tenants, recorded in Book 51643, Page 378 of Official Records of said county; and

BEVERLY HILLS NATIONAL BANK AND TRUST COMPANY, a corporation, Trustee, and MELODILE G. HATHAWAY, a widow, beneficiary, under deeds of trust recorded December 27, 1956 as Document Nos. 1315, 1316 and 1317, recorded in Book 53216 Pages 194, 188, and 182, respectively, Official Records of Los Angeles County, covering the property described in a grant deed from said beneficiary to Elvin M. Anderson and June B. Anderson, recorded in Book 53216, Page 15 of Official Records of said county; and

BEVERLY HILLS NATIONAL BANK AND TRUST COMPANY, a corporation, Trustee, and MELODILE G. HATHAWAY, a widow, beneficiary, under deed of trust recorded December 27, 1956 as Document No. 1313 in Book 53216 Page 331, Official Records, covering the real property described in a grant deed from said beneficiary to Edward C. Cazier and Ruth D. Cazier, husband and wife, as joint tenants, recorded in Book 53216 Page 13, Official Records; and

BEVERLY HILLS NATIONAL BANK AND TRUST COMPANY, a corporation, Trustee, and C. C. BAYLESS and ELMA E. BAYLESS, husband and wife, as joint tenants, beneficiaries, under deed of trust recorded July 5, 1956 as Document No. 1403 in Book 51643 Page 376, Official Records, covering the real property described in a grant deed from said beneficiaries to Amre Busch, recorded in Book 51643 Page 370, Official Records; and

BEVERLY HILLS NATIONAL BANK AND TRUST COMPANY, a corporation, Trustee, and C. C. BAYLESS and ELMA E. BAYLESS, husband and wife, as joint tenants, under deed of trust recorded July 5, 1956 as Document No. 1407 in Book 51648 Page 74, Official Records, covering the real property described in a grant deed from said beneficiaries to Elvin M. Anderson and June B. Anderson, husband and wife, as joint tenants, recorded in Book 51643 Page 392, Official Records; and

BEVERLY HILLS NATIONAL BANK AND TRUST COMPANY, a corporation, Trustee, and C. C. BAYLESS and ELMA E. BAYLESS, husband and wife, as joint tenants, beneficiaries, under deed of trust recorded July 5, 1956 as Document No. 1409 in Book 51643 Page 424, Official Records, covering the property described in a grant deed from said beneficiaries to Edward C. Cazier and Ruth D. Cazier, husband and wife, as joint tenants, recorded in Book 51643 Page 389, Official Records; and

BEVERLY HILLS NATIONAL BANK AND TRUST COMPANY, a corporation, Trustee, and C. C. BAYLESS and ELMA E. BAYLESS, husband and wife, as joint tenants, beneficiaries, under deed of trust recorded July 5, 1956 as Document No. 1405 in Book 51643 Page 382, Official Records, covering the real property described in

a grant deed from said beneficiaries to Louis T. Busch and Doris M. Busch, husband and wife, as joint tenants, recorded in Book 51643 Page 378, Official Records;

For the purpose of creating and establishing easements for road and utility purposes, with right of ingress and egress over, along and under the strip of land hereinafter described, as appurtenant to and for the common benefit of all of the said lands, or portions thereof, above referred to,

DO HEREBY GRANT each party hereto, to each and every other party hereto and each of their successors in the ownership of said lands, or portions thereof, easements for the purposes aforesaid over, along and under said strip of land to the end that said easements shall be used and enjoyed in common by said owners and their successors and assigns.

The strip of land over which said easements are hereby granted is described as follows:

That portion of the Rancho Topanga Malibu Sequit, in the County of Los Angeles, State of California, confirmed to Matthew Keller by Patent recorded in Book 1, Pages 407 et seq., of Patents, in the office of the county recorder of said county, included within a strip of land 20 feet wide lying 10 feet on each side of the following described center line:

Beginning at a point in the southerly line of the 80 foot strip of land described in the deed to the State of California recorded in Book 15228 Page 342 of Official Records of said county distant thereon North 80° 45' 30" West 1,330.93 feet from a point bearing South 9° 14' 30" West 40 feet from engineer's center line Station 269 plus 88.44 at the easterly extremity of that certain course in the center line of said 80 foot strip of land described in said deed as South 80° 45' 30" East 7702.63 feet; thence South 9° 14' 30" West 10.00 feet to the true point of beginning; thence South 80° 45' 30" East 22.45 feet to the beginning of a tangent curve concave northeasterly having a radius of 40 feet; thence southerly along said curve 13.97 feet to the beginning of a reversing curve concave southwesterly

having a radius of 60 feet, a radial line of said curve bears South 49° 13' 55" West; thence southerly along said curve 71.57 feet; thence tangent to said curve South 27° 34' 30" West 159.32 feet to the beginning of a tangent curve concave easterly having a radius of 42.71 feet; thence southerly along said curve 28.87 feet to the beginning of a reversing curve concave westerly having a radius of 42.71 feet; thence southerly along said curve 28.87 feet; thence tangent to said curve South 27° 34' 30" West 193.90 feet; thence South 79° 34' 30" West 104.15 feet; thence South 36° 34' 30" West 40.34 feet; thence South 66° 34' 30" West 43.75 feet; thence North 78° 25' 30" West 94.28 feet to the beginning of a tangent curve concave southeasterly having a radius of 25.00 feet; thence southwesterly along said curve 40.58 feet; thence tangent to said curve South 14° 34' 30" West 46.85 feet; thence South 28° 34' 30" West 93.14 feet; thence South 9° 00' 15" West to the ordinary high tide line of the Pacific Ocean.

Also, a like easement over that portion of said Rancho included within a strip of land 20 feet wide lying 10 feet on each side of the following described center line:

Beginning at the northeasterly terminus of the course above described having a bearing and a length of South 27° 34' 30" West 159.32 feet; thence North 27° 34' 30" East 37.29 feet to the beginning of a tangent curve concave southeasterly having a radius of 60.00 feet; thence northeasterly along said curve 35.42 feet to the beginning of a tangent curve concave northwesterly having a radius of 40 feet, a radial line of said curve bears North 28° 36' 19" West; thence northeasterly along said curve 6.42 feet; thence North 52° 12' 07" East 36.48 feet.

ALSO a like easement over that portion of said Rancho, bounded as follows: On the southwest by the Northeast line of the first described 20 foot strip; on the southeast by the northwest line of the second described 20 foot strip and bounded on the north by a curve concave northerly having a radius of 30 feet, said curve being tangent to said northeast and northwest lines.

Said 20 foot strips of land to terminate in the southerly line of Pacific Coast Highway 100 feet wide.

ALSO a like easement over that portion of said Rancho, described as follows:

Beginning at a point that is distant South 61° 25' 30" East 10.00 feet from the southerly terminus of the course above described having a bearing and a length of South 28° 34' 30" West 93.14 feet; thence South 61° 25' 30" East 140.00 feet; thence South 28° 34' 30" West to the ordinary high tide line of the Pacific Ocean; thence westerly along said tide line to a line bearing South 9° 00' 15" West and which passes through the point of beginning of this description; thence North 9° 00' 15" East to said point of beginning.

RESERVING therefrom unto the parties hereto, their successors and assigns, the right to grant similar easements to others and such easements as may be necessary to construct and maintain embankment and excavation slopes on the said lands adjoining the above described easements for road and utility purposes, with the right of entry thereon.

DATED this 5th day of March, 1957.

Edward C. Cazier
Edward C. Cazier

Ruth D. Cazier
Ruth D. Cazier

Amre Busch
Amre Busch

Elvin M. Anderson
Elvin M. Anderson

June B. Anderson
June B. Anderson

Louis T. Busch
Louis T. Busch

Doris M. Busch
Doris M. Busch

BEVERLY HILLS NATIONAL BANK AND TRUST COMPANY,
Trustee

By _____
Vice President and Trust Officer

By _____
Assistant Trust Officer

_____
C. C. Bayless

_____
Elsie E. Bayless

_____
Melodile G. Hathaway

STATE OF CALIFORNIA }
COUNTY OF LOS ANGELES } ss.

On March 8, 1957, before me, the undersigned, a Notary Public, in and for said County and State, personally appeared EDWARD C. CAZIER, RUTH D. CAZIER, AMRE BUSCH, ELVIN M. ANDERSON, JUNE B. ANDERSON, LOUIS T. BUSCH and DORIS M. BUSCH, known to me to be the persons whose names are subscribed to the within instrument and acknowledged that they executed the same.

WITNESS my hand and official seal.

Notary Public in and for said
County and State.

STATE OF CALIFORNIA }
COUNTY OF LOS ANGELES } ss.

On March 14th, 1957, before me, a Notary Public in and for said County and State, personally appeared J. R. Pattillo and Donald B. Mullis, known to me to be the persons who executed the within instrument on behalf of the corporation therein named and acknowledged to me that such corporation executed the same.

WITNESS my hand and official seal.

Notary Public in and for said
County and State.
My Commission Expires Nov. 20, 1957

Esc. 24168-A
Esc. #470792

RECORDED AT REQUEST OF

WHEN RECORDED PLEASE MAIL TO
Beverly Hills National Bank and Trust Company
BOX 711, BEVERLY HILLS, CALIF.

LAW OFFICES OF
IRA L. SHERMAN
1028 ROWAN BUILDING
458 SOUTH SPRING STREET
LOS ANGELES 13
MADISON 9-2544

EXHIBIT E

City of Malibu

23825 Stuart Ranch Road · Malibu, California · 90265-4861
Phone (310) 456-2489 · Fax (310) 456-3356 · www.malibucity.org

February 10, 2025

Schmitz and Associates, Inc.
ATTN: Arfakhashad Munaim
28118 Agoura Road, Suite 200
Agoura Hills, CA 91301 Sent via email: amunaim@schmitzandassociates.net

Reference: **COASTAL DEVELOPMENT PERMIT (CDP) No. 23-034**
CODE VIOLATION NO. 23-047
33008 Pacific Coast Highway, Malibu, CA 90265
An application for a new two-story single-family residence, onsite wastewater treatment system, landscaping, grading, and associated development including the abatement of a code violation related to unpermitted fencing, landscaping, etc.

Dear Mr. Munaim:

On **May 17, 2023,** the application listed above was submitted to the City of Malibu's Planning Department for processing. The subject property is located at 33008 Pacific Coast Highway (APN 4473-017-009) and is zoned Rural Residential – Two Acres (RR-2). The subject property is within the Appeal Jurisdiction of the California Coastal Commission (CCC) as depicted on the Post – Local Coastal Program Certification Permit and Appeal Jurisdiction Map of the City of Malibu.

Our Planning Department Staff has completed a review of the supplemental materials submitted and determined February 10, 2024**,** that the application submitted remains **INCOMPLETE and will require further information.** To continue processing the application, please address the following items.

1. ~~Staff must visit the property to photograph and document existing site conditions. Please contact me at (310) 456-2489, extension 276, or rbrooks@malibucity.org to schedule a site visit.~~

2. ~~Due to the fact the project abuts the ocean per LIP Section 10.5(C) a Determination from the California State Lands Commission is required. Please contact Mr. Drew Simpkin at (916) 574-2275 or at drew.simpkin@slc.ca.gov for submittal requirements or review status. Please note that this process takes a substantial amount of time and should be started if it hasn't been already.~~

3. ~~Please provide information related to the location of the nearest public beach access point (s), what type of access exists, and whether the access is open to the public.~~

4. Please confirm if improvements to the access easement are proposed.

   Update: Staff has been made aware that improvements are proposed within the access easement. Pursuant to LIP Section 13.6.2, all holders or owners of the easement shall be notified in writing of the subject permit application and invited to join as co-applicant. Please provide mailing data for the property owners that hold easement rights.

Received
10/17/25
Planning Div.

From: Jackson D. McNeill
To: Planning Commission
Cc: Yolanda Bundy; Raneika Brooks; Trevor Rusin; Kellan Martz; Kenneth A. Ehrlich; Marco A. Ornelas Lopez
Subject: Re: October 20, 2025, Planning Commission Agenda Item #5A - 33008 PCH / CDP No. 23-034 and Minor Modification No. 25-009
Date: Friday, October 17, 2025 12:19:31 PM
Attachments: image001.png
2025-10-17 33008 PCH Opposition Letter.pdf

To Whom It May Concern:

Our firm represents Unknowingly Devolving LLC and Mark and Tamara Mackey (collectively, our "Clients"). Our Clients submit the attached letter objecting to the proposed project at 33008 Pacific Coast Highway (CDP No. 23-034 and Minor Modification No. 25-009), scheduled as Item #5A on the Planning Commission's October 20, 2025, agenda. **Due to the size of the exhibits, the letter *with exhibits* may be found at the following link:**

https://elkinskalt.sharefile.com/public/share/web-s16c82d33203549c9a5b1178bbd224e2e

Please distribute this letter and the above link to Commissioners as soon as possible. Please contact me directly with any questions. Thank you.

Best,

Jackson D. McNeill
JMcNeill@elkinskalt.com
Direct Dial: (310) 746-4424 | Fax: (310) 746-4499 | Download VCard
Elkins Kalt Weintraub Reuben Gartside LLP
10345 W. Olympic Boulevard, Los Angeles, CA 90064
www.elkinskalt.com

ELKINS KALT

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CC: Planning Commission, PD,

Recording Secretary, File

Date Received 10/17/25 Time 12:19pm
Planning Commission meeting of 10/20/25
Agenda Item No. 5A
Total No. of Pages 34

Jackson D. McNeill
Direct: (310) 746-4424
Cell: (530) 941-8334
JMcNeill@elkinskalt.com
Ref: 15289-0001

Elkins Kalt Weintraub Reuben Gartside LLP

October 17, 2025

VIA E-MAIL AND U.S. MAIL

City of Malibu Planning Commission
23825 Stuart Ranch Road
Malibu, CA 90265
Email: planningcommission@malibucity.org

Re:	Objections to CDP No. 23-034 and Minor Modification No. 25-009
Address:	33008 Pacific Coast Highway, Malibu, California
Meeting:	October 20, 2025
Item #:	5A

Dear Commissioners:

Our firm represents Unknowingly Devolving LLC and Mark and Tamara Mackey (collectively, our "Clients"), the owners of the real property and single-family residences located at [redacted] and [redacted] Pacific Coast Highway in Malibu, California, respectively. Bluff Top 1 LLC ("Applicant") requests a Coastal Development Permit (CDP No. 23-034) and Minor Modification (Minor Modification No. 25-009) (together, the "Application") to construct a new single-family residence and associated development (the "Project") on a coastal bluff property at 33008 Pacific Coast Highway (the "Property"). Among other things, the Project proposes the maximum-allowed reduction to the coastal bluff setback (from 100 feet to 50 feet), the maximum amount of 2nd story floor area, a near-maximum reduction to the front yard setback (37%), and development in an ESHA buffer area.

The Application cannot be approved as proposed. This opposition is not about minor or technical defects. The Application disregards important substantive and procedural requirements, including ESHA protections, safeguards for archaeological resources, and compliance with the California Environmental Quality Act ("CEQA"). Nor is this an innocent Applicant: The Property remains subject to an open code-enforcement case (Code Violation No. 23-047) involving multiple violations, and our Clients present evidence of additional, ongoing violations, including the unpermitted construction of a path on the coastal bluff. On this record, the City cannot reward such conduct with a CDP or minor modification.

T: 310.746.4400 F: 310.746.4499
10345 W. Olympic Blvd, Los Angeles, CA 90064 | elkinskalt.com

SUMMARY OF OBJECTIONS COMPELLING DENIAL

Myriad grounds compel denying the Application, each of which is explained in detail below. We summarize them here:

- Because the Property includes ESHA buffer, the Project is subject to the ESHA overlay's "development area" limitation. The Applicant fails to calculate development area correctly and, even under Applicant's own calculation, the Project violates the development area cap. (See LIP § 4.7.1.)

- The ESHA overlay prohibits virtually all development in ESHA buffer areas. (LIP § 4.5.4.) Ignoring these requirements, the Project proposes a new solid wall, gates, pilasters, fencing, trench drain, fire turnaround and driveway, planter boxes, landscaping, and other improvements in the ESHA buffer. (See Plans, Sheet A-0.3 [Site Plan].)

- As our Client's biologist opines, the Applicant's biological assessment remains inaccurate and inadequate. It does not constitute the "reasonable, credible, or solid evidence" the law requires to support approval. (See *Doe v. University of Southern Calif.* (2016) 246 CA4th 221, 248-253.) Nor does it suffice under the LIP.

- The Project violates a condition of approval that prohibits grading or ground disturbing activities within 30 feet of the northern property line in order to protect cultural resources. (See Archaeology Review Sheet, p. 1.) In fact, the Project impermissibly proposes hundreds (if not thousands) of cubic yards of grading in this area.

- The project violates the Local Implementation Plan's ("LIP") archaeology requirements because the City failed to require additional "Phase I" archaeology investigations or the preparation of a Phase II archaeology report, despite the discovery of cultural artifacts and a record of artifacts on adjacent properties. (LIP § 11.3.) Under these circumstances, the LIP expressly requires the preparation of an Mitigated Negative Declaration ("MND") or Environmental Impact Report ("EIR") and makes the City's reliance on a Class 3 exemption impermissible. (*Id.*)

- The City states that no significant impacts on cultural resources exist because such impacts will be mitigated to a level of insignificance. But CEQA prohibits relying on such mitigation measures to obtain a categorical exemption. As such, the City

cannot rely on a categorical exemption from CEQA and must prepare an MND or EIR. In addition, unusual circumstances and potential impacts on environmental resources preclude the use of the Class 3 exemption.

- Because the Property lies along the coast and on a coastal bluff, the LIP requires the Applicant to consult with and obtain a written determination from the State Lands Commission before this Application can be heard. No evidence of such consultation exists. (LIP §§ 10.5(C), 13.6.2.(B).)

- Neighboring owners have a property interest in the Property and Application because they have an easement that allows them to use a portion of the Property that the Project affects. However, the City and Applicant failed to invite these owners to join as co-applicants as the LIP requires. (LIP § 13.6.2(C).)

- The City improperly uses the Application and this hearing to resolve code enforcement issues that the Malibu Municipal Code ("MMC") requires the City to resolve through its administrative enforcement powers. (MMC Ch. 1.10.)

- The Notice of Hearing did not comply with LIP requirements or Coastal Act regulations because the City did not send it all agencies known to have an interest in the Project, including the California Native American Heritage Commission, and because it failed to indicate that the code violations might be resolved through this hearing. (See LIP § 13.12.1; Cal. Code Regs., tit. 14, § 13566.)

- The Project's landscaping violates our Client's Primary View Determination ("PVD") and impairs bluewater views in contravention of LIP Chater 6.

- In light of the foregoing, the findings for a CDP and Minor Modification cannot be made.

- In addition, the Property's certificate of compliance ("CoC") under the Subdivision Map Act precludes the development because the Applicant has not complied with the CoC's conditions of approval.

- Finally, the Planning Commission should not reward a Property or Applicant with longstanding code violations with a CDP and Minor Modification.

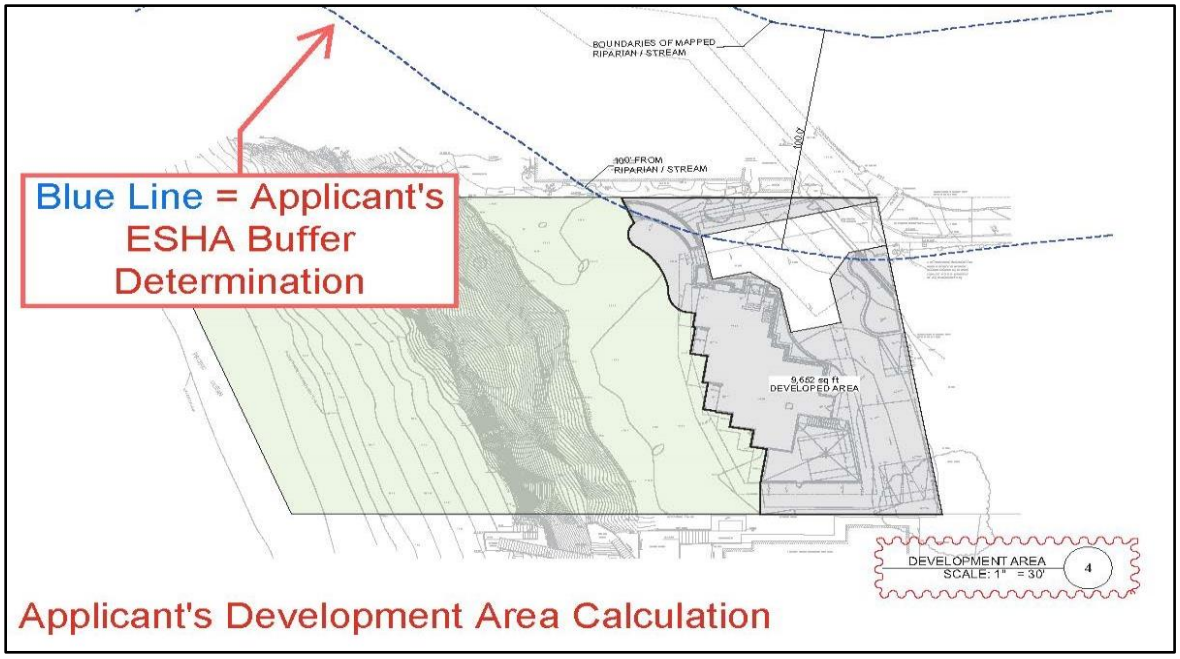
For all of these reasons, the Application should be denied.

ANALYSIS OF ISSUES COMPELLING DENIAL

I. ESHA & Biology Objections.

A. The Project Violates the ESHA Overlay Development Area Limitation.

As shown on the Project Plans, the Project lies partially within an ESHA buffer. (See, e.g., Plan Sheet A-0.2, showing new planters, gates, walls, pilasters, and fencing located behind a line labeled "approx. 100' from ESHA boundary.") Our Clients' biologist team, Amigo Environmental, LLC ("Amigo"), prepared a peer-review of the Applicant's biological assessment (the "Amigo Report"), attached as **Exhibit A**, which likewise states that "at least a portion of the subject property and proposed Project may be located within an ESHA buffer and/or within 100 feet of protected of riparian habitat." (*Id.* at 4.) Accordingly, the Project must comply with the development-area limitations that apply to such projects. Indeed, Applicant admits as much by purporting to demonstrate compliance with the development area limitation on Sheet A-0.3 of the Plans. (See Sheet A-0.3, below, marked-up.)



Importantly, pursuant to LIP section 4.7.1, the allowable "development area is limited to 10,000 square feet or 25 percent of the total lot area, whichever is less. (LIP § 4.7.1.) Based upon the gross lot area of 37,786 square feet, the Project's allowable development area would be limited

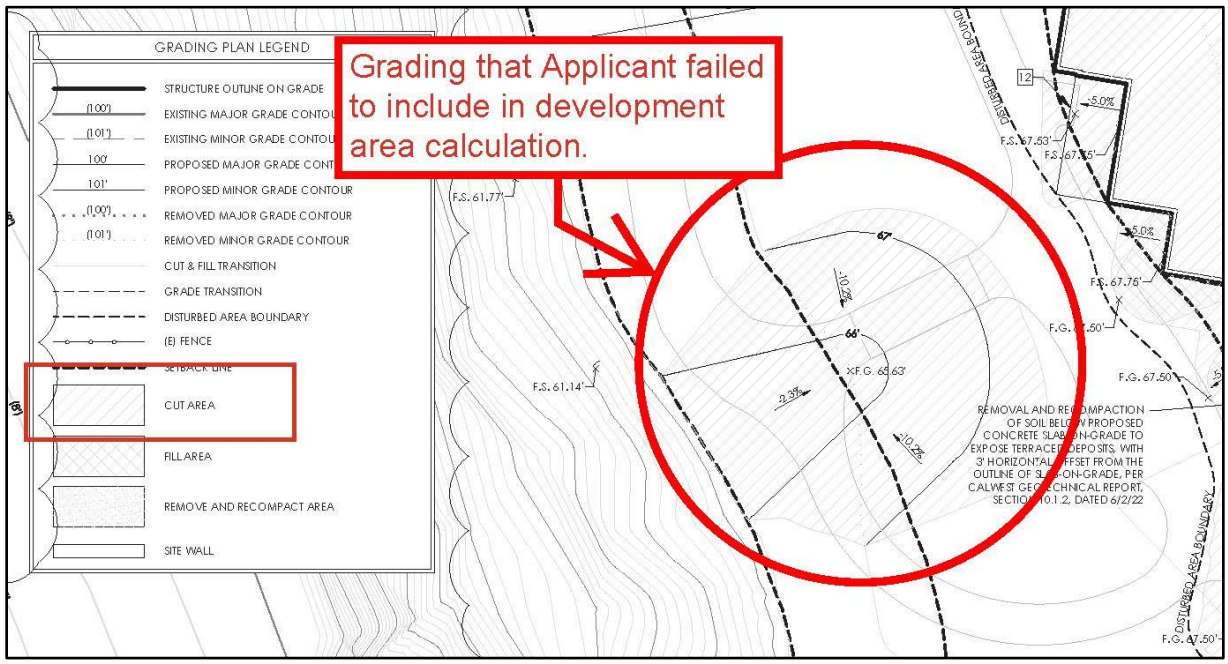
to approximately 9,446.5 square feet. Unlike total development square footage ("TDSF"), development area includes all structures (such as walls, fences, and gates), as well as all graded and parking areas. (See LIP § 2 [defining "development area" as "the approved portion of a project site that is developed, including … all graded slopes, all structures, and parking areas"].)

Here, the Applicant purportedly demonstrates compliance with the development area limitation on Sheet A-0.3, showing a total development area of 9,652 square feet. (See Plans, Sheet A-03.)

However, at least three critical flaws exist with Applicant's calculation:

1. Applicant provides no breakdown, legend, or methodology for its development area calculation other than an unlabeled, unhelpful graphical depiction, making it impossible for staff, the public, or this Commission to confirm that Applicant correctly calculated development area. The Commission should request that Applicant provide a tabular breakdown of the development area calculation.

2. Applicant incorrectly excluded significant portions of the Property from development. For example, a large, circular area of grading is proposed near the coastal bluff, apparently to provide a catch basin for drainage:



5740327.1

Applicant plainly failed to include this area in development area, even though the LIP defines development area to include "all graded and parking areas." (See LIP § 2.) Indeed, Sheet C-3.0 of the civil engineering plans identifies 12,603.6 square feet of "disturbed area," or grading over approximately 0.29 acres—plainly exceeding the 9,446.5 square-foot development-area limitation.[1]

3. Even assuming the Applicant correctly calculated development area, **the Applicant's purported 9,652 square feet of development area exceeds the 9,446.5 square-foot cap**. Thus, the Project still violates the code.

Accordingly, the Project violates the development area limitation and cannot be approved as proposed. At a minimum, the Applicant must provide detailed calculations demonstrating compliance with the LIP's development-area restriction.

B. The Project Must Be Revised to Comply With the ESHA Buffer Permitted Use Regulations.

The City's ESHA overlay ordinance prohibits virtually all development within ESHA and ESHA buffer areas. As to buffer areas, it states that "[d]evelopment in the following habitats is limited to the uses listed below":

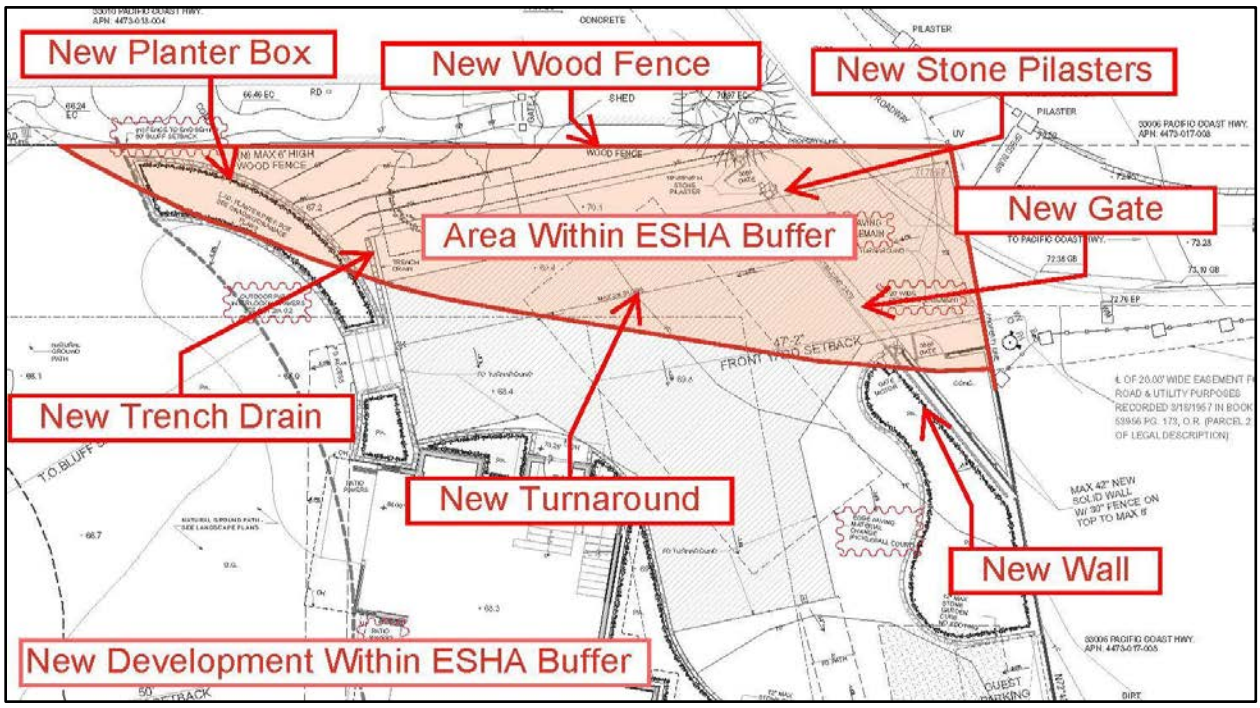
A. Public accessways and trails, including directional signs
B. Interpretive signage designed to provide information about the value and protection of the resources
C. Restoration projects where the primary purpose is restoration of the habitat.
D. Invasive plant eradication projects if they are designed to protect and enhance habitat values.

(LIP § 4.5.4.)

Here, the Applicant proposes various types of impermissible development within the Property's ESHA buffer, including a new wall, gates, pilasters, fence, trench drain, fire turnaround

[1] Even assuming that the fire turnaround—whose size is not calculated—can be excluded from development area, the Applicant has failed to properly calculate or comply with the development area limitation, much less allow this Commission to confirm compliance.

and driveway, planter boxes, and landscaping. A marked-up Sheet A-0.3 (Site Plan), below, shows this issue:



The latest Biology Review Sheet attempts to justify this by stating:

> The former Planning Director and Senior Planning Staff have determined that the project is in compliance with Malibu LIP Chapter 4 because the residence and any other development requiring fuel modification are located 100 feet from the stream. The Planning Department is allowing development not requiring fuel modification within the 100-foot buffer.

(Biology Review Sheet, June 6, 2025, p. 2.) We attach the Biology Review sheet as **Exhibit B**.

This misunderstands the law. The ESHA buffer standards do not merely prohibit "development requiring fuel modification" within the ESHA buffer. The ESHA buffer standards prohibit *all* development within the buffer area except for a narrow set of expressly listed uses—such as interpretive signage or public trails. Because the Project proposes multiple unpermitted

structures and uses within the buffer, it violates LIP section 4.5.4. Until the Applicant revised the Project to comply with these mandatory buffer restrictions, it must be denied.

C. The Applicant's Biology Assessment Remains Inaccurate, Incomplete, and Insufficient.

Our Client's retained Amigo Environmental, Inc. ("Amigo") to prepare a peer-review memorandum ("Amigo Report") of the Applicant's Biology Assessment and related memoranda. The Amigo's Report is attached as **Exhibit A**. We attach the Applicant's Biology Assessment and related memoranda as **Exhibit C**.

The Amigo Report demonstrates that the Applicant's biology documentation remains woefully inadequate. Among other issues:

- **Description of Existing Conditions.** The Existing Conditions section of Applicant's biological assessment lacks basic scientific rigor and required locational/context materials to support impact analysis or mitigation. It offers only vague qualitative statements without quantitative or spatial data. And it fails to adequately identify or classify on-site habitats and sensitive resources. (See Amigo Report, p. 3, excerpt below.)

> The *Existing Conditions* section lacks the level of detail, documentation, and basic scientific rigor necessary to characterize the baseline biological environment, and it therefore cannot support regulatory applicability, impact analysis, or commensurate compensatory mitigation.
>
> There is no mention of the parcel's Assessor's Parcel Number (APN), latitude/longitude coordinates, section Township and Range, or U.S. Geological Survey 7.5-minute quadrangle-basic locational data required for all environmental reports. The omission of topographic maps prevents reviewers from understanding the Project's context relative to known ESHAs or potential fuel modification zones.

- **Description of Common Plant Life.** The description of common plant life for the Project site in the biology assessment is incomplete. (*Id.* at 2, excerpt below.)

> The description of common plant life for the Project site is inconsistent and does not include the level of detail required for environmental analysis in Malibu LCP and coastal zone jurisdiction. This section provides only a cursory list of a few plant species, some of which are incorrectly classified or ecologically implausible for a Southern California coastal bluff site, and lacks any supporting methodology, mapping, or context.
>
> There are four fundamental errors which undermine the credibility of the assessment and indicate an absence of qualified botanical ability and oversight[2]:

- **ESHA**. This *Presence of ESHA* section in the Applicant's biology assessment misstates the site's ESHA relationship, omits critical spatial and ecological data, and fails to evaluate or acknowledge the regulatory implications of the Project's proximity to mapped riparian ESHA and fuel-modification overlap. (*Id.* at 9.) As Amigo notes: "The section contains no figure, map, or cross-reference to show the relationship between the proposed structure, the ESHA boundary, and required buffers or fuel-modification zones. There is no quantification of distances, buffer widths, or ESHA acreage." (*Id.*, excerpt below.)

> This *Presence of ESHA* section in the BA misstates the site's ESHA relationship, omits critical spatial and ecological data, and fails to evaluate or acknowledge the regulatory implications of the Project's proximity to mapped riparian ESHA and fuel-modification overlap. The section contains no figure, map, or cross-reference to show the relationship between the proposed structure, the ESHA boundary, and required buffers or fuel-modification zones. There is no quantification of distances, buffer widths, or ESHA acreage.
>
> The most consequential deficiency of this section is that the ESHA occurs on an adjacent parcel and was never surveyed, mapped, or biologically characterized in the BA. This omission may invalidate the document's conclusions regarding ESHA presence, buffer adequacy, and compliance with Malibu LIP Sections 4.6.1 and 4.7.1, because a proper biological assessment cannot determine ESHA status, buffer sufficiency, or potential impacts without direct field verification and scientific description of the protected habitat itself.

- **Potential Impacts.** The *Potential Impacts* section of the Applicant's biological assessment does not provide any analytical, quantitative, or spatial evaluation of potential effects on sensitive biological resources. (*Id.* at 10.)

> **10. Potential Impacts**
>
> The *Potential Impacts* section of the BA does not provide any analytical, quantitative, or spatial evaluation of potential effects on sensitive biological resources. The section misrepresents Malibu LCP buffer requirements, omits the ESHA and fuel modification conflict, and relies on geotechnical conclusions that are unrelated to biological impacts. Further, there is no quantification of vegetation removal, no analysis of habitat loss, no discussion of construction footprint or grading limits, and no evaluation of indirect impacts such as noise, lighting, or human intrusion.

- **Native Tree Protection.** The Applicant's biological assessment's discussion of the native tree protection ordinance is misplaced and fundamentally misunderstands the role of the biological assessment. (*Id.* at 5, excerpt below.)

> The inclusion of the *Native Tree Protection Ordinance* section under the *Biological Resources* section represents a fundamental misunderstanding of the purpose, structure, and scientific function of a biological assessment. The section as written is not biological analysis, rather it is a verbatim reproduction of a municipal regulation. While the ordinance itself is part of Malibu's regulatory framework, referencing it here does not provide biological context or resource data, and it does not constitute a field-based assessment of existing biological resources as required under CEQA and the Malibu LCP/LIP.

- **Soil.** The Soils section of the biological assessment lacks a scientifically supported description of the site's soil conditions. Instead of characterizing on-site soils through field observation or verified mapping, the report merely cites the USDA Web Soil Survey and identifies the site as within the "Santa Monica Mountains National Recreation Area (CA692)." However, this is not a soil map unit but a Survey Area ID. This fundamental error demonstrates a misinterpretation of basic soil data and their relevance to biological resources. (*Id.* at 6.)

> The failure to identify or describe the correct soil series undermines the biological baseline by omitting the soil's influence on native plant community composition, ESHA characterization, and potential wetland hydric indicators. The section provides no discussion of soil texture, permeability, drainage class, or erosion potential, all of which are essential for evaluating habitat quality, stormwater interactions, and bluff-top stability under the Malibu LCP (Malibu LIP Chapter 10, "Bluffs") and Malibu LIP Section 4.4.2 (ESHA Overlay).

- **Common Wildlife.** The Common Wildlife section lacks documentation of survey effort, fails to reference field data, and provides no ecological interpretation of wildlife use relative to onsite or adjacent habitats, including coastal bluff ESHA and wetland resources. (*Id.* at 6.)

> The section contains no discussion of survey methods, dates, duration, seasonal timing, weather conditions, or personnel qualifications. Without this information, it is impossible to determine whether wildlife observations were made during appropriate survey periods, or whether the site was surveyed multiple times to capture seasonal variability. Under CDFW (2018) survey protocols and CEQA Guidelines Section 15125(a), a valid biological assessment must describe the methods used to detect wildlife, including visual surveys, auditory observations, or indirect sign (e.g., scat, tracks, burrows).

- **Plant Species of Special Concern.** The Plant Species of Special Concern section fails to show that an adequate survey effort was conducted or that the potential presence of special-status plant species was adequately evaluated. (*Id.* at 7.)

> The *Plant Species of Special Concern* section does not demonstrate that an appropriate level of survey effort was conducted nor that the potential occurrence of special-status plant species was systematically assessed using current data sources and field methodology.

- **Mitigation Measures.** The biology assessment provides an inadequate mitigation and monitoring program and instead includes limited, generalized and generic measures without specific criteria. (*Id.* at 11.)

> **11. Mitigation Measures**
>
> The listed measures in the *Mitigation Measures* section do not provide quantifiable performance standards or monitoring protocols, and do not connect to the Project's identified biological impacts.

- **Wildlife Species of Special Concern.** The biology assessment fails to comply with technical standards for analysis of species of special concern. (*Id.* at 8.)

> This *Wildlife Species of Special Concern* section in the BA is internally inconsistent and noncompliant with the technical standards of CEQA, CDFW (2018) survey protocols, and the Malibu LCP/LIP. The listed species appear to have been selected without supporting habitat analysis, data citations, or field evidence. The discussion fails to distinguish between special-status taxa, common species, and incidental observations.

- **Fire Analysis.** The Applicant's biological assessment's analysis of wildfire impacts is generic and inadequate. (*Id.* at 8.)

> The *Wildfire Frequency* section included in the BA reads as a generic narrative rather than a technical assessment and provides no meaningful connection to the Project's biological context, fuel-modification constraints, or ESHA interface. This section does not evaluate how historic or future wildfire events have affected (or may affect) vegetation succession, habitat quality, or post-fire regeneration, nor does it analyze whether fuel modification requirements might encroach into ESHA or alter habitat function.

This Planning Commission's decision must be supported by the findings and the findings must be supported by substantial evidence. (Cal. Code of Civil Procedure § 1094.5(b).) "Such evidence must be reasonable, credible, and of solid value." (*California Youth Authority v. State Personnel Bd.* (2002) 104 Cal.App.4th 575, 585.) Respectfully, as demonstrated by Clients' biologist team, the Applicant's biological assessment does not provide reasonable, credible, or solid evidence sufficient to support an approval. As such, additional biological analysis must be done. Until then, the Project must be denied.

D. The LUP Does Not Change This Analysis.

The Applicant contends that the Property cannot be subject to the ESHA overlay or ESHA buffer restrictions because surrounding parcels are allegedly subject to fuel modification requirements. (See Exh. C, p. 2.) The Applicant relies on Land Use Plan ("LUP") Section 1(a), § 3.1, which states that "fuel modification areas required by the Los Angeles County Fire Department for existing, legal structures do not meet the definition of ESHA." (*Id*.) That argument fails for multiple reasons:

- Even if the Applicant's premise were correct (which it is not) the Coastal Act independently requires riparian protection. Coastal Act Section 30231 mandates that natural vegetation buffer areas that protect riparian habitats be maintained, and that the alteration of natural streams be minimized. (LUP § 1.) Thus, streams and their associated riparian habitats receive protection in addition to ESHA status.

- More importantly, the Applicant concedes that the stream itself still constitutes ESHA. (Exh. C, p. 2 ["Accordingly, with the exception of the stream channel itself, the entire area is not defined as ESHA."].) Once an ESHA area is identified, buffer requirements attach to protect it; the LUP provides no mechanism for developers to evade buffer obligations by invoking nearby fuel modification zones.

  This makes sense: There may be logic to avoid designating an area as ESHA that has already been disturbed or has been cleared of all natural vegetation due to fuel modification requirements. However, once it has been determined that a protectable environmental resource exists, it makes sense to then protect that resource by enforcing buffer requirements. Therefore, if the stream is still ESHA as the Applicant admits, the ESHA buffer requirements still apply.

- The Applicant further impliedly admits that the ESHA overlay requirements apply by providing a development area calculation as required by the overlay. (See Plans, Sheet A-0.3.)

- In any case, the Applicant's interpretation would produce absurd results. Under its theory, any development adjoining a parcel subject to fuel modification could claim exemption from ESHA or ESHA-buffer restrictions, creating a domino effect that would incrementally eliminate ESHA protections citywide. Such an outcome is plainly inconsistent with the Coastal Act and the LUP's conservation purposes.

- The Applicant's position also contradicts LUP policy. Section 3, Policy 5.6 provides that "[p]rotection of ESHA and public access shall take priority over other development standards and, where there is any conflict between general development standards and ESHA and/or public access protection, the standards that are most protective of ESHA and public access shall have precedence." The Applicant's argument does precisely the opposite.

- Finally, the Applicant offers no competent evidence of surrounding fuel-modification zones. Its crudely drawn map in an email memo lacks a legend, scale, or verifiable methodology and cannot serve as substantial evidence to rebut the biological and ESHA findings discussed above.

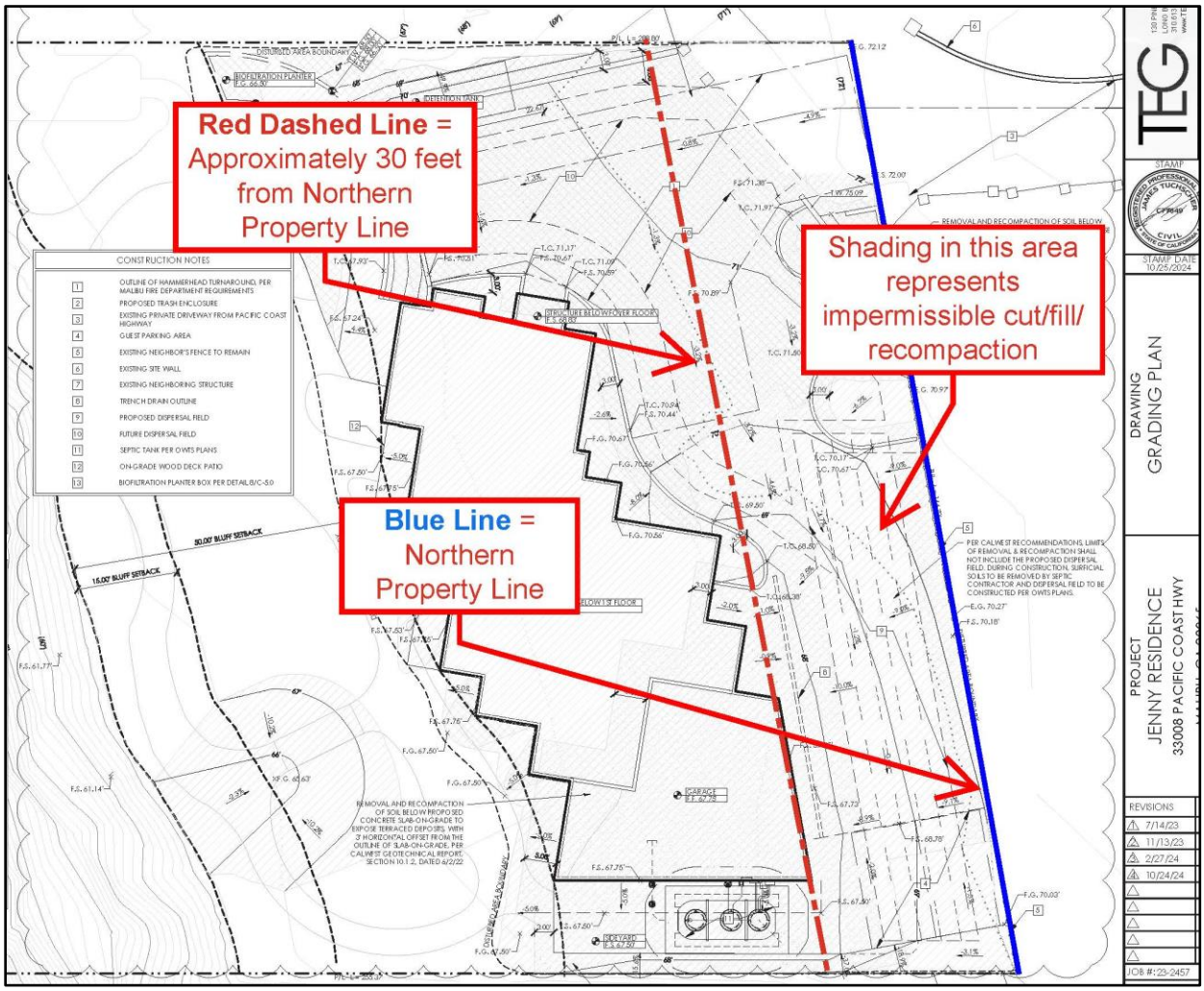
II. Archaeology Objections.

A. The Project Impermissibly Proposes Grading Within 30-Feet of the Northern Property Line.

The City's Archaeological Review Sheet includes certain conditions of approval. We attach the archaeology review sheet as **Exhibit D**. Among other things, it commands that "**no** geologic trenching, soil borings, ground clearance, **grading**, equipment placement, **or similar surface-disturbing impacts shall be allowed within 30 feet of the northern property boundary**." (Exh. D, p. 1, emphasis added.) See below:

> Based on the information submitted, the applicant **may proceed with obtaining an excavation permit through City Geotechnical Staff with the conditions listed above.** In addition, **no geologic trenching, soil borings, ground clearance, grading, equipment placement, or similar surface-disturbing impacts shall be allowed within 30 feet of the northern property boundary.** When completed, please submit a report describing the archaeologist's findings.

Here, the Project patently violates this requirement by proposing significant grading along the entire northern property boundary, as shown on Sheet C-3.0 of the civil engineering plans. (Note: north is on the right side of the sheet.)



Accordingly, the Project as presently proposed must be denied.

B. The Project Violates the LIP's Requirements to Fully Investigate Cultural Resource Impacts Prior to Planning, Grading, or Building Permit Approval.

Cultural resource protection remains particularly important here, where, as discussed later in this letter, the Applicant has a history of conducting unpermitted development activity on the Property. The City's general plan agrees, making it a policy to: "identify, designate, protect, and preserve areas, sites, or structures of historic, cultural, paleontological, and/or archeological significance" and to "avoid the destruction or alteration of cultural resources." (Conservation Element, Policies 2.1.1 and 2.1.2.) The City's LUP likewise makes it a policy that "[n]ew development shall protect and preserve archaeological, historical, and paleontological resources from destruction and shall avoid and minimize impacts on such resources." (LUP Policy 5.60.)

In accord, LIP section 11.2 requires certain archaeological and cultural resource investigations "**prior** to the issuance of a planning approval, development permit, … building permit, [or] grading permit…." (LIP § 11.2, emphasis added)

Specifically, LIP section 11.3(D) requires applicants to prepare a "Phase I inventory" of cultural resources whenever a project may cause a substantial adverse change to cultural resources. "If on the basis of the Phase I Inventory … one or more significant cultural resources is found, a Phase I Inventory may be required to" be supplemented with additional investigation, such as shovel test pits, recommendations for additional investigation (i.e., a "Phase II" investigation), and monitoring programs. (LIP § 11.3(F).) These additional investigations must "be conducted in consultation with a qualified Chumash Cultural Resources Monitor." (LIP § 11.3(D).) A "Phase II" or "Phase III" investigation may then be required if the Phase I investigation reveals potential adverse impacts to cultural resources. (LIP §§ 11.3(G), (H).)

Here, a the Applicant prepared a Phase I Archaeological Study (Boxt, Ph.D., March 2023), which found cultural resources, including shell and stone tools, albeit with uncertainty about whether the materials are in situ or displaced. (See Staff Report, p. 8.) This report has not been made available to the public or interested parties. Because the Phase I study found cultural resources, the LIP requires the Applicant to supplement its Phase I investigations and potentially conduct Phase II and Phase III investigations, but no such supplementation or investigations took place. This violates the LIP. Additional investigation must be done now, prior to planning, grading, and building permit approval, not after. (See LIP § 11.2.)

C. The LIP's Cultural Resources Chapter Requires a Negative Declaration, Mitigated Negative Declaration or Environmental Impact Report.

Where, as here, cultural resources are found, the Phase I investigation is required to be supplemented to include additional investigations, such as shovel testing, recommendations for additional (Phase II) investigation, and monitoring programs. (LIP § 11.3(F).)

In this scenario, the LIP requires, at minimum, the City to prepare a negative declaration or mitigated negative declaration ("MND") or environmental impact report ("EIR"). (LIP §§ 11.3(F)(1) ["An evaluation of limited shovel test pits to determine whether a subsurface deposit is present and a negative declaration shall be prepared"], (2) ["Evaluations and a negative declaration, mitigated negative declaration, focused environmental impact report or an environmental impact report shall be prepared"], (3) ["Monitoring programs pursuant to Section 11.3 (F)(4)(b) of the Malibu LIP and a mitigated negative declaration shall be prepared."].) Phase II and Phase III testing also require an MND or EIR. (See LIP § 11.3(G) [requiring a negative declaration, MND, or EIR for Phase II investigations], § 11.3(H) [requiring the same for Phase III investigations].) The City failed to do so in violation of the LIP.

In addition, staff conditions approval on archaeological monitoring during grading. It requires, vaguely, that "the appropriate measures to be taken should such resources be uncovered." (See Draft Resolution, No. 25-76. Conditions of Approval Nos. 12 to 16.)

This puts the cart before the horse. LIP section 11.2 requires cultural resource review ***before*** issuing planning approvals, grading permits, or any other permit or approval. Approving the CDP first and deciding what significant impacts exist later inverts the LIP's sequence and deprives decision-makers and the public of the required pre-approval analysis.

CEQA agrees. Case law generally prohibits deferring environmental analysis or creating post-hoc mitigation measures. "By deferring environmental assessment to a future date, the conditions [of approval] run counter to that policy of CEQA which requires environmental review at the earliest feasible stage in the planning process." (*Sundstrom v. County of Mendocino* (1988) 202 Cal.App.3d 296, 307.) As such, the Applicant should be required to conduct additional investigations now, not later. Until then, the Application should be denied.

III. CEQA Violations.

A. The City Improperly Relies Upon Mitigation Measures to Support a Categorical Exemption from CEQA.

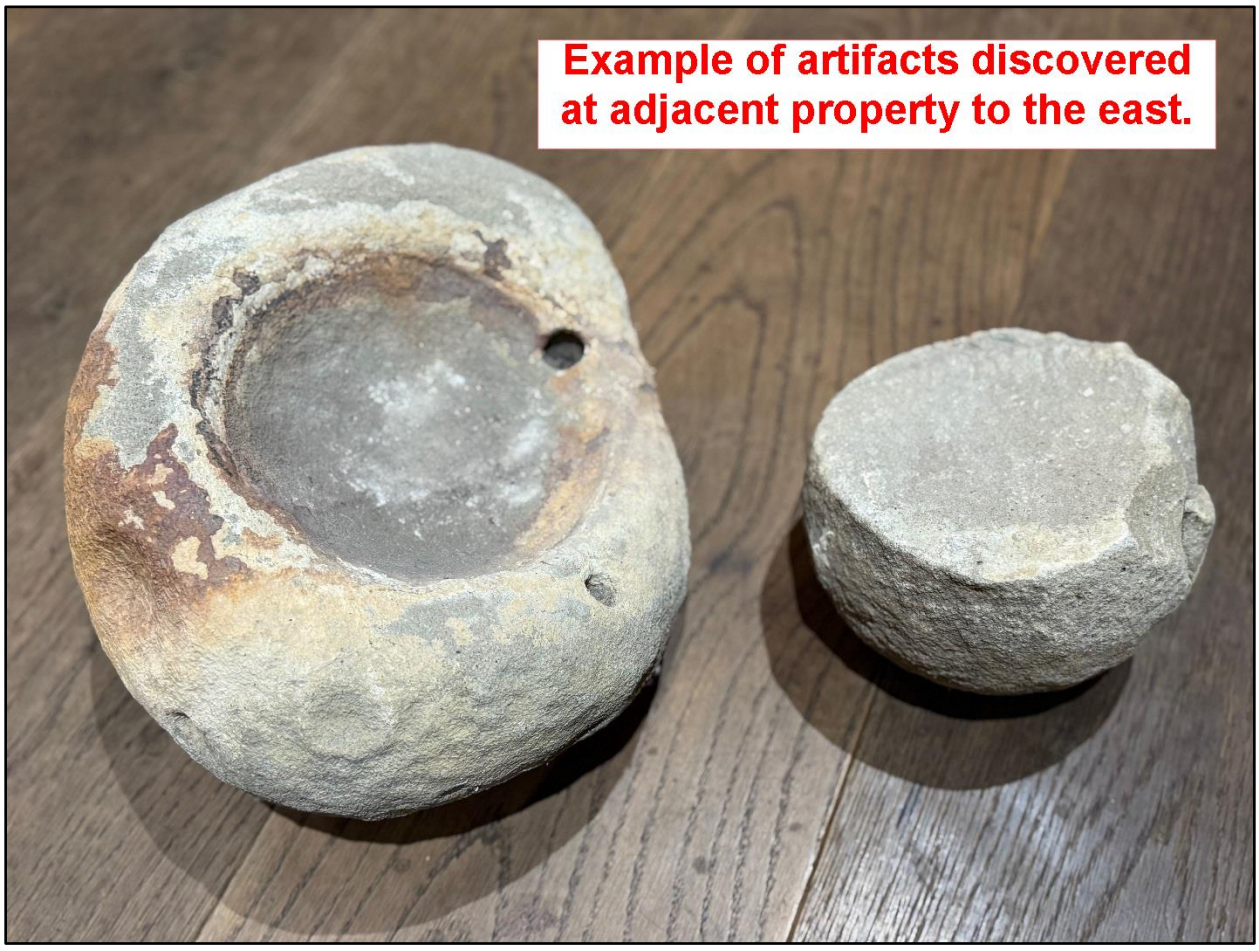
City staff asserts that the Project qualifies for a Class 3 categorical exemption from CEQA, which generally applies to minor new construction, including single family homes. (See Staff Report, p. 18 ["the proposed project is categorically exempt from the provisions of CEQA pursuant to Sections 15303(a) and (e)"]; Draft Resolution No. 25-76, p. 2 [stating a Class 3 exemption applies].)

The City's reliance on the Class 3 exemption is misplaced. Critically, the City cannot rely on a categorical exemption because substantial evidence demonstrates that there is "a reasonable possibility" of an adverse environmental impact. (*Mountain Lion Foundation v. Fish & Game Com.*(1997) 16 Cal.4th 105, 124 [stating "an activity that may have a significant effect on the environment cannot be categorically exempt"].) Moreover, **"[a]n agency may not evade CEQA by adopting mitigation measures simply to qualify a project for a categorical exemption**." (*Sunflower Alliance v. Department of Conservation* (2024) 105 Cal.App.5th 771, 789; see also *Azusa Land Reclamation Co. v. Main San Gabriel Basin Watermaster* (1997) 52 Cal.App.4th 1165, 1199–1200.)

That's exactly what the City unlawfully attempts to do here. The City's Archaeology Review Sheet, states "that potential cultural resources are located on the project site." (Exh. C at 1.) And the Staff Report acknowledges that the Applicant discovered American Indian tools and shells on the Property. (Staff Report, p. 8 ["The cultural resources found during the field survey included subsistence shell and stone tools…."].)

Further, an archaeology report for the upslope property at 33002 PCH also demonstrated the presence of cultural artifacts in the immediate area. (See Archaeology Determination Letter, PPR 99-120/SPR 99-045, July 27, 1999.) Our Client, Tamara Mackey, recalls human remains being discovered at this upslope property. Further, our other Client, Unknowingly Devolving, LLC, has recovered cultural artifacts on his own property at 32960 PCH—which lies immediately east of the subject Property—including mortar, pestles, and hand tools. We attach photos of these as **Exhibit E**.

For example, the following photograph shows examples of artifacts recovered on the adjacent property at 32960 PCH property:



Undoubtedly, given the documented cultural resources on the Property and adjacent properties, the Project—which involves 2,974.6 cubic yards of cut and fill grading over 12,603.6 square feet of area (see Civil Plans, sheet C-3.0)—presents a reasonable possibility of an adverse impact on cultural resources.

Unsurprisingly, the City all but admits the potential adverse impact of the Project on these resources, requiring the Applicant "[t]o mitigate potential impacts on unknown archaeological resources to a level of insignificance" through two proposed mitigation measures. (*Id.*) The Staff

Report, likewise, states that in light of the shells and tools, "a condition of approval has been added … that requires monitoring by a qualified archaeologist for all earthmoving activities…." (Staff Report, p. 8.) In other words, the City does exactly what it is not supposed to do: It attempts to evade CEQA by adopting mitigation measures in order to qualify the Project for a categorical exemption.

A court will agree the City has unlawfully used mitigation measures to evade CEQA:

- In *Salmon Protection & Watershed Network v. County of Marin* (2004) 125 Cal.App.4th 1098, a county acknowledged that a residential construction project may have potential adverse impacts on adjacent stream habitat. It then adopted conditions of approval (e.g., requiring a riparian protection plan) designed to mitigate the potential adverse impacts and thereby qualify the project for a Class 3 categorical exemption. (*Id*. at 1104.) The court of appeal stated that mitigation measures under CEQA are only proper at later stages of the process, and the County unlawfully evaded that process by adopting mitigation measures to rely upon a categorical exemption. (*Id.* at 1107-08.) Here, just like in *Salmon Protection*, a court would reject the City's attempt to rely upon archaeological mitigation measures to obtain a Class 3 exemption.

- Similarly, in *Azusa Land Reclamation Co. v. Main San Gabriel Basin Watermaster* (1997) 52 Cal.App.4th 1165, an agency authorized the continued disposal of municipal waste at a landfill and declared the project categorically exempt from CEQA as the operation or minor alteration of an existing facility. (*Id.* at 1193.) In granting the categorical exemption, the agency in *Azusa* had acknowledged that pollutants were leaking from the landfill but had relied upon evidence that mitigation measures could prevent further pollution. (*Id.* at 1198.) The appellate court concluded this violated CEQA, stating that "proposed mitigation measures cannot be used to support a categorical exemption; they must be considered under the standards that apply to a mitigated negative declaration." (*Id.* at 1199.) Here too, the City cannot rely upon mitigation measures to avoid potentially significant effects on cultural resources.

Given the potentially adverse impacts to cultural resources, the City must prepare a mitigated negative declaration or EIR instead. (*Salmon Protection & Watershed Network v. County of Marin* (2004) 125 Cal.App.4th 1098, 1108 ["Reliance upon mitigation measures (whether

included in the application or later adopted) … must be conducted under established CEQA standards and procedures for EIRs or negative declarations."].) Until then, the Application must be denied.

B. Unusual Circumstances Preclude the Use of the Class 3 Exemption.

Categorical Exemptions do not apply where "unusual circumstances … create a 'reasonable possibility' that the activity will have a significant effect on the environment." (*Save the Plastic Bag Coalition v. County of Marin* (1st Dist. 2013) 218 Cal. App. 4th 209, 220 (citing Cal. Code Regs., tit. 14, § 15300.2, subd. (c)).) This exception has two prongs: (1) whether the project presents unusual circumstances; and (2) whether there is a reasonable possibility of a significant effect on the environment due to those unusual circumstances. (*Berkeley Hillside Preservation v. City of Berkeley* (2015) 60 Cal. 4th 1086, 1114.)

Berkeley Hillside observed that a party can show an unusual circumstance by demonstrating that the project has some characteristic or feature that distinguishes it from others in the exempt class, such as its size or location. (*Berkeley Hillside, supra,* 60 Cal.4th at p. 1105; *Berkeley Hillside* also clarified that a party may establish an unusual circumstance with evidence that the project *will* have a significant environmental effect. (*Ibid*.)

Here, unusual circumstances obviously exist: The Property contains cultural resources, including tools and shells, which distinguishes the Project from other projects within the Class 3 exemption. And indeed, the City has all but admitted that the Project will have significant effect on those resources absent measures "[t]o mitigate potential impacts on unknown archaeological resources to a level of insignificance." (Exh. D, p. 1.) Because unusual circumstances exist, and because the Project will have a significant effect on cultural resources, the City cannot rely upon a Class 3 exemption and the City must prepare an MND or EIR.

C. The Development in the ESHA Buffer Precludes Applying a Class 3 Exemption.

A Class 3 exemption cannot be applied to a project that "may impact" an "environmental resource of hazardous or critical concern" designated and mapped by a federal, state, or local agency. (CEQA Guidelines § 15300.2, subdivision (a).) Here, the Project lies partially in a mapped and designated ESHA buffer.[2] Moreover, it impacts that buffer by proposing new development—

[2] The Applicant's plans admit the Project's location in ESHA buffer. Plan Sheet A-0.2, among other sheets, show new planters, gates, walls, pilasters, and fencing located behind a line labeled "approx. 100' from ESHA boundary."

such as a wall, a fence, pilasters, a gate, a turnaround, paving, planter boxes, and other improvements—in an area that the LIP normally requires to remain undeveloped in order to protect ESHA. Accordingly, a Class 3 exemption remains inappropriate. (See, e.g., *Gaviota Coast Conservancy v. Santa Barbara County*, (Cal. Ct. App., Dec. 21, 2009, No. B216420) 2009 WL 4894456, at *5 [where project was on a "scenic ridgeline" and was part of a "key observation point" that "provides long scenic vistas for recreational uses," substantial evidence supported the finding that the project is not subject to a Class 3 exemption under exception for environmental resources].) Before this Commission can approve the Project, the City must prepare an MND or EIR.[3]

IV. Procedural Violations of the LIP.

A. The Project Application Remains Incomplete Because the Applicant Failed to Consult with the State Lands Commission.

The Project qualifies as "shoreline development" under the Coastal Act and Malibu's Local Implementation Plan ("LIP"). The Property lies directly along the Pacific Ocean; state tidelands form its southern parcel boundary; and the proposed improvements sit atop a coastal bluff subject to coastal wave action. Indeed, staff's September 1, 2023, incomplete letter noted that "[d]ue to the fact the project abuts the ocean per LIP Section 10.5(C) a Determination from the California State Lands Commission is required." We attach this incomplete letter as **Exhibit F**.

As such, the LIP required the Applicant to submit "written evidence of a review and determination from the State Lands Commission relative to the proposed project's location to or impact upon the boundary between public tidelands and private property." (LIP § 10.5(C).) "Such determination [is] a filing requirement for a Coastal Development Permit," and "any application filed without such determination shall be determined to be incomplete." (*Id.*; see also LIP § 13.6.2 ["Applicants for development along the shoreline property or fronting a beach shall submit written evidence of a review and determination from the California State Lands Commission relative to the project's location to or impact upon the boundary between public tidelands and private property."].)

To our Client's knowledge, the Applicant has not provided this required written evidence, and neither the Staff Report nor any attachments reference or include such documentation. In fact,

[3] Separate and apart from the above arguments, our Clients assert that the the historical resource exception (Guidelines § 15300.2(f)) precludes the use of the Class 3 exemption because the artifacts can be considered historic resources and because the Project would have an adverse impact on them.

staff records personnel Jason Ernst indicated by email on October 14, 2025, that "[t]here was a note in the database stating that a state land's letter is not required for this project." We attach this email as **Exhibit G**.

The omission renders the application incomplete as a matter of law. Accordingly, the Commission must either deny the application or continue the hearing until the required State Lands Commission determination has been provided. (See LIP § 10.5(C).)

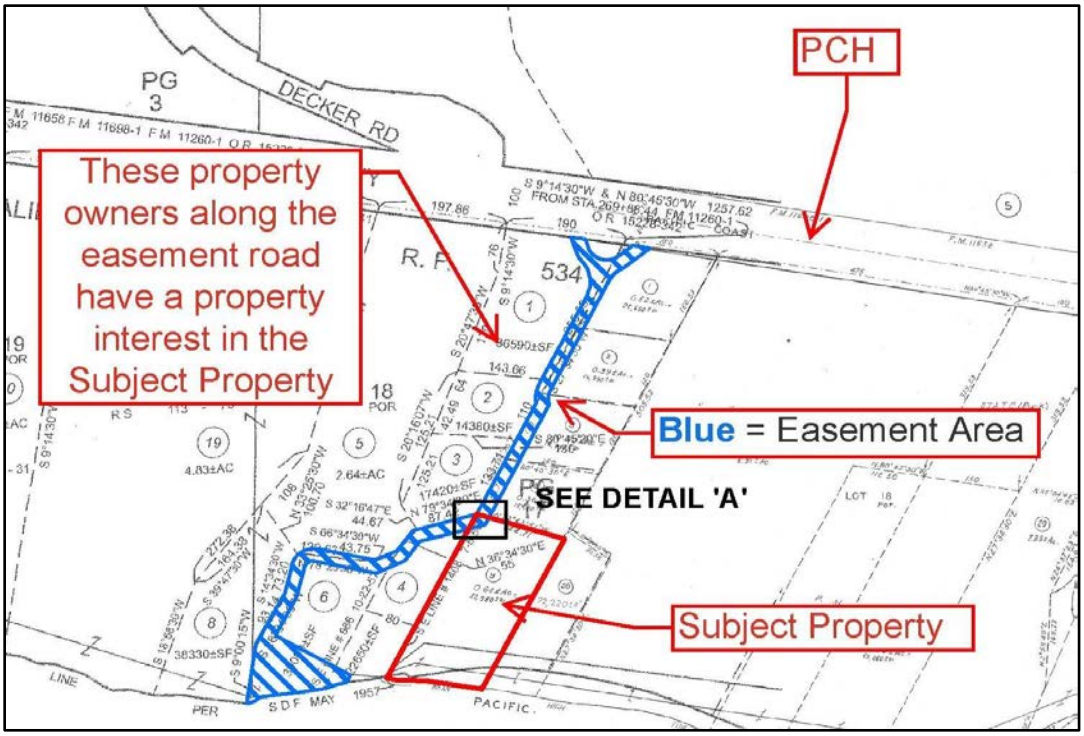
B. The Applicant and City Failed to Invite Parties with Property Interests to Join as Co-Applicant in Violation of the LIP.

The Malibu LIP states that "[a]ll holders or owners of any other interest of record in the affected property shall be notified in writing of the permit application and invited to join as co-applicant." (LIP § 13.6.2(C).) This requirement is not new or unique: The Commission also requires developers to invite interests holders to join an application as co-applicants. (Cal. Code Regs., tit. 14, § 13053.5.) Indeed, staff's last incomplete letter, dated February 10, 2025, and attached as **Exhibit H**, states that "Staff has been made aware that improvements are proposed within the access easement. Pursuant to LIP Section 13.6.2, all holders or owners of the easement shall be notified in writing of the subject permit application and invited to join as co-applicant."

Staff is correct: the Property is subject to an access easement and an easement road that connects several properties along the easement road to Pacific Coast Highway. (See Plans, Sheet T-2.1 [Survey].) We attach the easement deed as **Exhibit I**.

Importantly, **all properties on the easement road have a right to use the entire easement** as the easement was granted to "each party" to the easement agreement "along and under said strip of land to the end," stating "that said easements shall be used and enjoyed by said owners and their successors and assigns." (Exh. I, Easement Deed, p. 4.) The easement deed reiterates this point, noting that the easement is "appurtenant to and for the common benefit of all of the said lands, or portions thereof, above referred to." (*Id.*) Because these owners hold an easement over the Property, they have a property interest in it. (See, e.g., *County Sanitation Dist. v. Watson Land Co.* (1993) 17 Cal.App.4th 1268, 1278 ["An easement is an incorporeal interest in the land of another…"].)

The following depiction, prepared by Client's title company, Chicago Title, shows the area of the easement road:



To our Client's knowledge, **no easement holders were ever invited to join the application as co-applicant**. Further, no such invitation is included in the materials before this Planning Commission. Because the City and Applicant failed to invite interest holders to join as co-applicants, the application was, at best, incomplete and cannot be acted upon now. (LIP § 13.6.2.) See below depiction.

C. This Hearing Improperly Purports to Resolve a Code Enforcement Matter.

1. No Process Exists to Resolve Code Enforcement Matters Through the CDP Entitlement Process.

This hearing purports to resolve a code enforcement matter. According to Applicant's memorandum, attached as **Exhibit J**, the City opened a code enforcement case "for an unpermitted

fence and gate with electrical power, landscape and drainage, and [disturbing ground] on Chumash designated land." (Exh. J, p. 1.)

The City, meanwhile, has a process for resolving code violations and code enforcement cases. That includes, without limitation, the Administrative Citations and Penalties Chapter of the Municipal Code. (See MMC Ch. 1.10.) That chapter provides a process for issuing citations, appealing citations, conducting a hearing on citations, recording liens (as appropriate), and judicial review, among other procedures. (See, e.g., LIP §§ 1.10.040-10, 1.10.140.)

By contrast, nothing in the CDP chapter of the LIP (Chapter 13) or any chapter of the LIP or Municipal Code indicate that a Planning Commission hearing or the CDP entitlement process the appropriate process for resolving code violations. The Staff Report points to none. The City cannot invent that process now from whole cloth.

2. The City Violates Longstanding Policy on Processing Code Enforcement Cases.

Besides lacking any basis in the LIP or Municipal Code, the City has long maintained that outstanding code enforcement matters must be resolved ***before*** new entitlement applications can be processed—let alone brought to hearing. To take just one example: in 2024, the owner of 25040 Pacific Coast Highway filed an application for a CDP and two variances related to new walls on the property (CDP No. 25-008; Variance No. 24-007). The property included an outdoor fireplace and patio for which permits had expired and final inspections had never occurred. When this came to the attention of Code Enforcement, City planning stated unequivocally:

> It has come to my attention that there is an open code enforcement case for the [property]. You cannot apply for a new application until the code enforcement case is resolved.

We attach the City's April 3, 2024, email as **Exhibit K**. Only once the owner of 25040 PCH fully addressed the code enforcement issues did the City begin to process the CDP and variance application.

The City cannot take a contrary approach now. Consistency and fairness require that the same standard be applied here. The Applicant must first resolve the outstanding code enforcement violations before this Commission can lawfully consider the Project.

3. The City Failed to Provide Legally Adequate Notice That This Hearing Might Resolve Code Enforcement Issues.

The City failed to properly provide notice that this hearing might resolve the outstanding code violations. The City issued an updated Notice of Public Hearing ("Notice") for this hearing on October 9, 2025, which we attach as **Exhibit L.**

Specifically, the Notice indicates that the hearing will consider Coastal Development Permit No. 23-034 and Minor Modification No. 25-009. It makes no mention of the code violation. The actual agenda item, by contrast, indicates that the subject of the hearing also includes Code Violation No. 23-047, and the Staff Report indicates that "[a]fter the CDP is approved and upon final inspection of the project, the code violation case will be closed." (Staff Report, p. 3.)

Under the Coastal Act regulations, The public hearing must be conducted "in any … manner reasonably calculated to give interested persons an opportunity to appear and present their viewpoints, either orally or in writing." (Cal. Code Regs., tit. 14, § 13566.) And Malibu's LIP requires all application numbers and all development being considered to be summarized in the notice. (See LIP § 13.12.1 [requiring the notice to include the application number(s) being heard and the development being considered].)

By failing to even mention the code violation, the general public remains unaware that the hearing potentially affects its resolution. In so doing, the City denies potentially interested persons the opportunity to be heard in violation of the LIP, the Coastal Act regulations, and due process. As such, City must, at minimum, continue and re-notice the hearing.

V. This Commission Cannot Make the Findings to Grant a CDP or Minor Modification.

A. The CDP Findings.

Several findings must be made to approve a CDP. (LIP § 13.9.) Among other things, the Project must comply with the Local Coastal Program, including the LIP. (*Id.*) This Commission cannot make this finding. To reiterate briefly:

- The Project fails to calculate "development area" correctly and violates the development area maximum. (LIP § 4.7.1.)
- The Project proposes impermissible uses in an ESHA buffer. (LIP § 4.5.4.)
- The Applicant's biological assessment remains inaccurate and inadequate.

- The City and Applicant failed to consult with the State Lands Commission. (LIP §§ 10.5.C, 13.6.2.)

- The City failed to invite property owners with a property interest in the Property to join as co-applicants. (LIP § 13.6.2(C).)

- The City improperly uses the Application and this hearing to resolve code enforcement issues. (MMC Ch. 1.10.)

- The Public Notice of Hearing does not conform to the requirements of the LIP or related Coastal Act regulations. (See LIP § 13.12.1; Cal. Code Regs., tit. 14, § 13566.)

- The project violates a condition of approval prohibiting grading within 30 feet of the northern property line. (See Archaeology Review Sheet, p. 1.)

- The project violates CEQA by failing to prepare an MND or EIR despite the discovery of cultural artifacts. (LIP § 11.3)

- The project violates the LIP's requirements to prepare a supplemental Phase I or Phase II archaeology report. (LIP § 11.3.)

The Commission must also find that "[t]he project is the least environmentally damaging alternative." (LIP § 13.9(C).) Here, Staff purports to analyze alternatives, such as taller house, or alternative building pad locations. (See, e.g., Staff Report, pp. 10-11.) However, Staff failed to consider or analyze that the Project is located partially within an ESHA buffer. Moreover, while the turnaround in the ESHA might (at least arguably) be required, the other development in the ESHA buffer, such as planters, fences, gates, walls, etc., is not. Because the Project could viably exist without these improvements, it is not the "least environmentally damaging alternative."

Finally, if the "project is located in or adjacent to an environmentally sensitive habitat area pursuant to Chapter 4 of the Malibu LIP (ESHA Overlay)" the Commission must find "that the project conforms with the recommendations of the Environmental Review Board, or if it does not conform with the recommendations, findings explaining why it is not feasible to take the recommended action." (LIP § 13.9(D).)

Here, the Project lies partially within an ESHA buffer. Accordingly, it must be referred to the Environmental Review Board. Until it is, this Commission cannot approve it.

B. The Minor Modification Findings.

The Applicant seeks a large reduction to the front yard setback. To grant a Minor Modification, the Commission must make certain findings. (LIP § 13.27.5(B).) These include, among other things, that "the proposed project complies with all applicable requirements of state and local law." (*Id.*) For reasons stated in the previous section, this finding cannot be made because the Project violates various state and local laws. Accordingly, the Minor Modification must be denied.

VI. The Project Does Not Comply With the Certificate of Compliance and Non-Compliance Prohibits Approval.

A Conditional Certificate of Compliance No. 29220, was recorded against title to the Property on October 30, 1986 by the Los Angeles County Department of Regional Planning (the "CoC"). We attach the CoC as **Exhibit M**. In conformance with Government Code section 66499.35, subdivision (b), the CoC expressly provides that "the conditions listed below must be fulfilled before issuance of a building permit or other development approval." (*Id.*, p. 1.) Condition #2 of the CoC required the owner to:

> Dedicate to the County the right to restrict the erection of buildings and/or other structures because the property and/or its access is within a flood-prone area.

(Exh. M, p. 1.)

In purported satisfaction of this condition, the then-owner recorded a deed restriction prohibiting development within the flood-zone portion of the Property—approximately 7,335 square feet along the coastal bluff. We attach this deed restriction as **Exhibit N**.

The dedication fails to comply with the CoC. The CoC did not just require the owner to dedicate a deed restriction to the flood-mapped portions of the Property. It required the County to retain authority to restrict the erection of buildings throughout the Property. By limiting the dedication to one corner of the site, the owner did not satisfy the CoC's conditions of approval. Accordingly, because the CoC's conditions remain unfulfilled, no building permit or other development approval may lawfully issue for the Property. (*Id.*; Government Code section 66499.35 ["the fulfillment and implementation of [a CoC's] conditions shall be required prior to subsequent issuance of a permit or other grant of approval for development of the property"].)

Moreover, even if the owner had complied by granting the County authority to restrict development throughout the entire parcel, any local development approval would still conflict with that County-held authority, leaving it unclear how the City could lawfully approve a project that the County would retain the power to order removed.

VII. The Project Violates the Neighbor's Primary View Determination and Scenic, Visual, and Hillside Resources Protection Ordinance.

One of our Clients, the upslope neighbor at 33006 Pacific Coast Highway, has a Primary View Determination, PVD No. 17-0036 ("PVD"), which we attach as **Exhibit O**. The PVD captures the view looking south from 33006 PCH directly over the Property in question.

A. Bluewater Views.

In protecting primary views, the Municipal Code provides that "[n]o view obstruction within blue-water ocean, mountain or canyon-view elements per project shall be permitted." (MMC § 17.040.040(A0(17).) The LIP's Scenic, Visual, and Hillside Resources chapter, meanwhile, similarly requires this Commission to find "[t]he project, as proposed, will have no significant adverse scenic or visual impacts due to project design, location on the site or other reasons." (LIP § 6.4(A)(1); accord LIP § 6.4(E)(1) ["Where the topography of the project site descends from the roadway, new development shall be sited and designed to preserve bluewater ocean views" through certain measures].) The Project violates these requirements.

The Draft Resolution indicates that "[n]o existing Bluewater views are present from PCH and when viewing the proposed project against the backdrop of the existing landscaping and bluff development from nearby public viewing areas, views of the Pacific Ocean are minimal." (Draft Resolution No. 25-76, p. 3.) Staff also states that "[b]ased on the project plans and staff's site visit, it was determined that the proposed project would result in a residence that would be similar to other existing development in the area and would result in a less than significant visual impact to public views from PCH and nearby public beaches…." (Staff Report, p. 3.)

However, Staff's story pole analysis indicates that the Project, will, in fact have impacts on bluewater views, particularly from 33006 PCH, as demonstrated in the following marked up photograph:



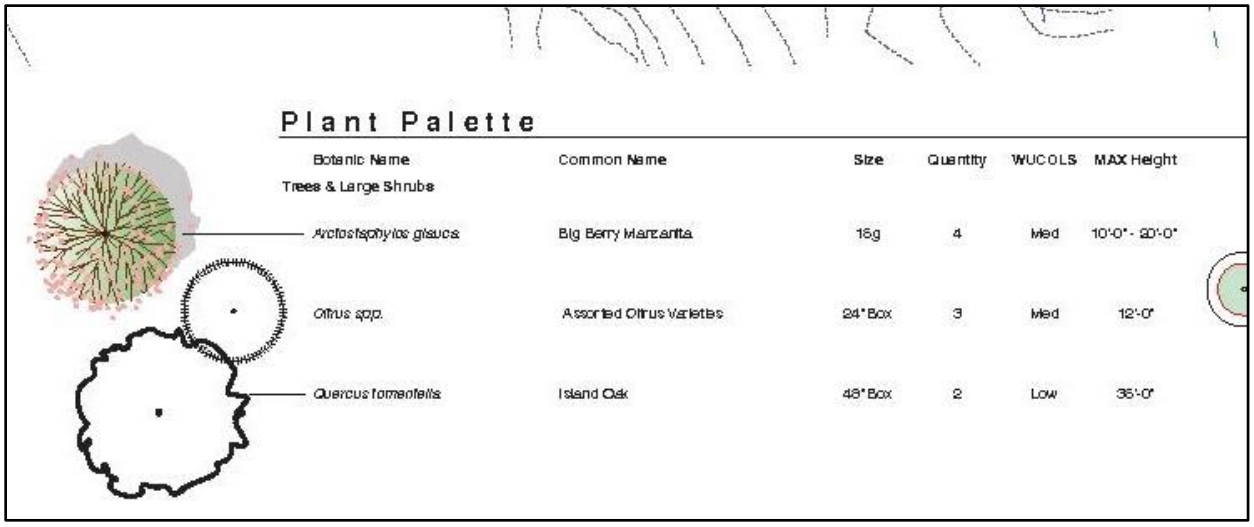
Accordingly, the Project should be modified to protect—not obstruct—these view.

B. Landscaping

The PVD protects our Client from landscape that would significantly obstruct our Client's view as documented in the PVD. (See MMC § 17.40.040(A)(17).) Our Clients also recognize that the Draft Resolution includes a condition of approval that ostensibly prohibits the Project's landscaping from obstructing primary views. (Draft Resolution No. 25-76, Condition #39 ["Vegetation shall be situated on the property so as not to significantly obstruct the primary view from private property at any given time (given consideration of its future growth)."]; see also Condition #44 [prohibiting vegetation above six feet from obstructing primary view].)

Nevertheless, the Project's landscape plans include trees that appear destined to violate the PVD and the Project's conditions of approval. Sheet L3.00 of the landscape plans, for example, notes four proposed Big Berry Manzanita trees with a maximum height of 10 to 20 feet, three proposed citrus trees with a maximum height of 12 feet, and two proposed Island Oak trees with a maximum height of 35 feet. The Applicant proposes to scatter these trees around the Property.

Sheet L3.00 provides the following Plant Palette:



Plant Palette

Botanic Name	Common Name	Size	Quantity	WUCOLS	MAX Height
Trees & Large Shrubs					
Arctostaphylos glauca	Big Berry Manzanita	15g	4	Med	10'-0" - 20'-0"
Citrus spp.	Assorted Citrus Varieties	24" Box	3	Med	12'-0"
Quercus tomentella	Island Oak	48" Box	2	Low	35'-0"

Although staff attempts to address this issue by referencing Condition of Approval No. 33, the current architecture and landscape plan inherently conflicts with that condition and the visual-resource findings required by LIP section 6.6.4. Approval of trees capable of growing five to six times the permitted view height invites a future code-enforcement action once the vegetation matures.

To ensure compliance with LIP section 6.6.4, the landscape plan must be redesigned to include plant species whose mature height will not obstruct protected primary views. Without such revisions, the City cannot make the required finding that the project "will have no significant adverse scenic or visual impacts," and approval would be inconsistent with the findings to grant a CDP. (See LIP § 6.6.4(A)(1).)

VIII. The Applicant Constitutes a Bad Actor: The Applicant Continues to Undertake Unpermitted Development and the City Should Not Reward Them with a CDP.

Finally, our Clients note that the Applicant constitutes a bad actor whom the City should not reward with entitlement approvals. As the Staff Report acknowledges, the Property remains subject to an open code-enforcement case (Code Violation No. 23-047) involving multiple violations. (Staff Report, p. 3.) The Applicant's memorandum indicates that this includes "[an] unpermitted fence and gate with electrical power, landscape and drainage, and [ground disturbance] on Chumash designated land." We attach the Applicant's May 12, 2023, memorandum as **Exhibit P**. Indeed, our Client's have observed some of this illegal activity. We attach photos from November 2022 as **Exhibit Q** showing dirt, trees, and tile or pavers being

delivered to the Property without permits. To use just one example, we provide the following picture of the Applicant's Property in 2022 with dirt, sod, mechanical equipment, and wood plans, delivered apparently in order to conduct unpermitted development:



Our Clients also present evidence of additional, ongoing violations, including the apparent unpermitted construction of a path on the coastal bluff. The following photo, for example, attached as **Exhibit R**, shows Applicant's gardening team walking on a trail on the coastal bluff that appears to include unpermitted wood railing.



This trail is not permitted, is not part of the adjacent properties or public access trail, and is not the subject of this Application. This Commission should not reward this Applicant with a CDP, much less a reduced a setback to the coastal bluff it refuses to project.

IX. Conclusion.

Our Clients do not oppose all development on the Property. But such development must be lawful, with due respect given to ESHA and cultural resources, in compliance with CEQA, and accord with the procedural and substantive safeguards under the LIP. As explained in detail above,

the Project fails to meet this standard. Accordingly, as presently proposed, the Application must be denied.

Very truly yours,



JACKSON D. McNEILL
Elkins Kalt Weintraub Reuben Gartside LLP

JDM:jdm

cc: Yolanda Bundy (YBundy@malibucity.org)
Raneika Brooks (Rbrooks@malibucity.org)
Trevor Rusin (Trevor.Rusin@bbklaw.com)
Kellan Martz (Kellan.Martz@bbklaw.com)
PlanningCommission@malibucity.org

5740327.1

Received
10/20/25
Planning Div.

From: Jerry Jacob [redacted]

Subject: Corrected letter, added our address

Date: October 17, 2025 at 1:41:24 PM PDT

To: Ron Jenny [redacted]

Dear Planning Commission,

We are neighbors of the Jenny's on Encinal Bluff. I'm writing this to express my support for their proposed construction of a small, two-bedroom house with an office. As a fellow resident of Malibu, I appreciate their long-standing commitment to our community. We have been residents of Malibu for many years, and I've known the Jennys for a significant portion of that time.

From what I have observed, their plans are carefully designed to adhere to all height and size regulations. I am confident that this development will blend seamlessly into our neighborhood, contributing positively without compromising the neighborhood's character or tranquility.

My wife and I fully support the Jenny's project and encourage the commission to approve it.

Thank you for your thoughtful review.

Sincerely,

Jerry and Lynn Jacob

[redacted] Pacific Coast Hwy

Malibu

CC: Planning Commission, PD,

Recording Secretary, File

Date Received 10/20/25 Time 7:41 a.m.
Planning Commission meeting of 10/20/25
Agenda Item No. 5A
Total No. of Pages 1

Received
10/14/25
Planning Div.

Dear Members of the Planning Commission,

We are pleased to endorse the Jennys' application to develop a single-bedroom residence with care quarters on their Malibu property. Having known them for many years, I can attest to their positive influence in our community. They have been lifelong residents, raising their children locally and contributing to the neighborhood's charm.

They purchased this land approximately four years ago, and I understand this project is their final residence. The plan is modest, complies with all regulations, and carefully aligns with the neighborhood's character.

Given their long-standing ties to Malibu and their commitment to responsible development, I support this proposal and believe it will benefit their family and the community.

Thank you for your consideration.

Warm regards,
Gary & Cathie Wonnacott

Cathie Wonnacott 10-7-25

[redacted] Ballard Rd. Malibu Ca. 90265

CC: Planning Commission, PD,

Recording Secretary, File

Date Received 10/14/25 Time 1:17 p.m.
Planning Commission meeting of 10/20/25
Agenda Item No. 5A
289 Total No. of Pages 1

To Members of the Planning Commission,

Received
10/13/25
Planning Div.

I am pleased to offer my support for the Jennys' proposal to construct a single-bedroom residence with a care-quarters on their property in Malibu. I have known the Jennys for many years, having seen them contribute positively to our community for over five decades. They raised their four children here and have deep ties to the area.

They purchased this land about four years ago and have shared that this will be their final residence. Their plan is modest, designed to meet all regulatory requirements, and intended to blend well with the surrounding neighborhood.

As longstanding Malibu residents, I believe they have earned the right to develop their property in a way that supports their comfort and aging needs. I support their application and am confident it will be a good addition to the neighborhood.

Thank you for your consideration.

Sincerely,

Doug Weitman

Doug Weitman
[redacted] Serra Road
Malibu, CA 90265

CC: Planning Commission, PD,

Recording Secretary, File

Date Received 10/13/25 Time 1:39 PM
Planning Commission meeting of 10/20/25
Agenda Item No. 5A
Total No. of Pages 1

Received
10/15/25
Planning Div.

From: Gregory Hyland [redacted]

Subject: Re: Letter and plans

Date: October 6, 2025 at 3:27:38 PM PDT

To: Ronald Jenny [redacted]

Dear Planning Department,

I support my neighbor's application to build a small, compliant residence in Malibu. The design respects all height and size regulations, and the homeowners have been respectful of the neighborhood's character. I am confident that this development will be a positive addition and will not cause any disruption. Thank you for considering my support.

Best regards, Denise Melle [redacted] Pacific Coast HWY. Malibu CA. 90265 [redacted]

CC: Planning Commission, PD,

Recording Secretary, File

Date Received 10/15/25 Time 11:10 a.m.
Planning Commission meeting of 10/20/25
Agenda Item No. 5A
Total No. of Pages 1

Received
10/16/25
Planning Div.

October 4, 2025

Dear Planning Commission,

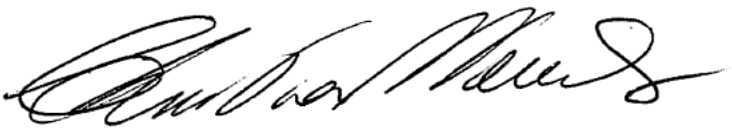
I am pleased to support my neighbor's plans to build
a modest, compliant home in our community here in Malibu.

As I understand, the plans respect all height and size guidelines
and is intended to contribute positively to our community.

I have known the owners for many years and trust their integrity
to follow all necessary guidelines. I trust the construction will be carried out responsibly,
maintaining the neighborhood's peace, harmony and environmental concerns and
responsibilities.

Please consider this letter as my encouragement for your approval.

Warm regards,



Christina Stevens

Christina L Stevens. [redacted] Pacific Coast Highway Malibu . California 90265 USA
[redacted]

CC: Planning Commission, PD,

Recording Secretary, File

Date Received 10/16/25 Time 8:42 a.m.
Planning Commission meeting of 10/20/25
Agenda Item No. 5A
Total No. of Pages 1

Received
10/20/25
Planning Div.

October 1, 2025

Malibu Planning Commission
City of Malibu
23825 Stuart Ranch Road
Malibu, CA 90265-4861
Attn: Rebecca Evans, Recording Secretary

Members of the Planning Commission:

To Whom It May Concern,

I am writing as a neighbor residing at [redacted] **Pacific Coast Highway** to express my support for the proposed 4189 square foot single-family residence at **33008 Pacific Coast Highway**, known as the **Jenny Residence**.

The owner, Mr. Jenny, has thoughtfully coordinated the siting of the home to preserve views of the ocean from the street and to ensure that second-floor views—while not protected—remain largely unobstructed. This consideration reflects a genuine effort to maintain the scenic character of our neighborhood and thoughtfully adheres to the height and size restrictions applicable to the parcel.

Additionally, Mr. Jenny has committed to minimizing construction-related disruptions to our lane. As a nearby resident, I appreciate this proactive approach and the respect shown toward the surrounding community.

I believe this project will be a positive addition to our neighborhood and encourage its approval.

Sincerely,

Ayahlushim Getachew

CC: Planning Commission, PD,

Recording Secretary, File

Date Received 10/20/25 Time 7:41 a.m.
Planning Commission meeting of 10/20/25
Agenda Item No. 5A
Total No. of Pages 1

Received
10/28/25
Planning Div.

Robert Marderosian
[redacted] Vantage Point Terrace
Malibu, CA 90265
10/27/2025

Attn: City of Malibu Planning Commission
Stuart Ranch Road Malibu, CA 90265
planningcommission@malibucity.org

Attn: Rebecca Evans
revans@malibucity.org

Subject: PC Meeting November 3, 2025, Item 4B: Coastal Development Permit No. 23-034 / 33008 Pacific Coast Highway.

I want to begin by thanking you for your service to our community. I know that the decisions you make are never easy, and I appreciate the time and care you dedicate to balancing the rights of property owners with the needs of our broader community. I am writing today about the proposed development at Pacific Coast Highway, and I ask that you consider some concerns that may not be immediately apparent from the application materials.

I understand the appeal of this project on its surface. A property owner wants to improve their land, and at first glance, that seems reasonable. But as I've learned more about this particular situation, I've come to believe that approving this project would create problems that extend far beyond this single property—problems that could affect how development happens throughout Malibu for years to come.

Let me share what troubles me most. This property is subject to a deed restriction from that was specifically designed to prevent building in flood-prone areas. That restriction was not arbitrary—it was put in place by Los Angeles County to protect both the property owner and the public. The current proposal appears to circumvent that restriction by limiting it to just one corner of the property, rather than honoring its original intent to protect the entire flood zone. If you allow this precedent, what message does that send about the permanence and enforceability of deed restrictions throughout our city? Property owners who have faithfully honored their restrictions for decades might reasonably ask why they should continue to do so.

I'm also concerned about the environmental implications. The project site includes portions of an Environmentally Sensitive Habitat Area—the very ecosystems that make Malibu special and that the California Coastal Act requires us to protect. I know the applicant has submitted a biological assessment, but my neighbors who have studied this issue closely have raised serious

CC: Planning Commission, PD,

Recording Secretary, File

Date Received 10/28/25 Time 7:30 a.m.
Planning Commission meeting of 11/03/25
Agenda Item No. 4B
Total No. of Pages 3

questions about its adequacy. Before you make an irreversible decision, shouldn't you be absolutely certain that you're not causing permanent damage to habitat that belongs to all of us?

What troubles me even more is the pattern of behavior you're being asked to reward. According to the City's own records, there is currently an open code enforcement case against this property for unpermitted work—including fencing, gates with electrical power, landscaping, drainage, and ground disturbance on Chumash-designated land. The applicant is essentially asking you to approve a project that would legitimize some of these violations after the fact. I understand that people make mistakes, but this appears to be a pattern rather than an isolated incident. Photographs from show materials being delivered to the property without permits. There's even evidence of what appears to be unpermitted construction of a path down the coastal bluff to the beach.

I want to be clear… I'm not opposed to all development. Malibu has always been a place where people can build homes and enjoy their property. But there has to be rules, and those rules have to mean something. When we reward those who ignore the rules while their neighbors follow them faithfully, we undermine the entire system that protects our community.

There is also the matter of due process. According to the legal analysis my neighbors have obtained, several parties who hold property interests in an easement road affecting this property were never invited to join the application as co-applicants, as required by the Local Coastal Program. Additionally, the public hearing notice did not mention that this hearing would resolve the outstanding code violations—so members of the public who might want to comment on that aspect have been denied the opportunity to participate. These are not just technicalities, they are fundamental fairness issues that go to the heart of how we govern ourselves.

Finally, I want to mention the impact on neighboring properties. One of the neighbors has a Primary View Determination that protects their ocean views. The proposed landscaping includes trees that will grow to feet tall, which appears to directly violate both the Municipal Code's view protection requirements and the conditions of approval that specifically prohibit vegetation from obstructing primary views. The photographic evidence is compelling—this project will block views that are legally protected.

I know you may be thinking that denying this application seems harsh. But I would ask you to consider what approval would mean. It would mean that deed restrictions can be reinterpreted decades later to suit current desires. It would mean that patterns of code violations can be resolved by simply applying for after-the-fact permits. It would mean that environmental protections and view protections are negotiable rather than enforceable. And it would mean

that the procedural safeguards that have been put in place to ensure fairness do not really matter.

The applicant will have other opportunities to develop this property in a way that respects the deed restrictions, protects the environment, honors the neighbors' legal rights, and complies with our codes. But this particular proposal asks you to compromise too many principles that are essential to Malibu's character and to fair governance.

I urge you to deny this application—not out of opposition to the property owner, but out of respect for the rules that protect all of us in Malibu. Our community depends on your willingness to make the difficult decision to uphold our standards, even when it would be easier to simply approve what is in front of you.

Thank you for taking the time to read this letter and for your continued service to our community. I trust that you will make the decision that best serves Malibu's long-term interests.

Respectfully,

Robert Marderosian

Malibu Resident since 2002

Received
11/2/25
Planning Div.

From: AK Munaim
To: Planning Commission
Cc: Scott Hoeft; Chris Deleau; Don Schmitz
Subject: Support Letters for Item 4B - Planning Commission Hearing - 11-3-25
Date: Sunday, November 2, 2025 1:05:50 PM
Attachments: Matza_Dear Planning Commission.pdf

Hi Gail,

Please find 2 additional support letters for the hearing tomorrow. Thank you.

Arfakhashad (AK) Munaim
Special Projects Manager, Schmitz and Associates

747.444.6144
schmitzandassociates.com
amunaim@schmitzandassociates.net
28230 Agoura Rd. Suite 200, Agoura Hills, CA 91301

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CC: Planning Commission, PD,

Recording Secretary, File

Date Received 11/2/25 Time 1:05pm
Planning Commission meeting of 11/3/25
Agenda Item No. 4B
297 Total No. of Pages 3

November 1, 2025

Dear Planning Commission,

I have been a resident of Malibu for 56 years. My wife, Mary, who sadly passed away, and Jane worked side by side 40 years ago in the PTA as our children were growing up. Ron Jenny was actively involved in the Kiwanis Club of Malibu for years, supporting our community while raising four children here in our beautiful town of Malibu.

Ron has shared with me that he and Jane wish to spend the rest of their lives in the house they have designed on their lot. He also expressed that it has been quite arduous to reach this point through the planning process over the past several years.

Furthermore, I am aware that their neighbors are doing everything they can to prevent them from building their home. Also, what I have been told is that there are four neighbors on the same block as Jenny's who wrote letters in favor of Jenny's being able to build their Home.

The Jennys should have the right to build a home on the property they purchased. Ron Jenny informed me that the lot is three-quarters of an acre and that they are building a 4,000-square-foot house. He also mentioned that they could have built a house a few thousand square feet larger, but chose not to maximize their building.

Please consider allowing the Jennys to proceed with building their home.

Thank you for your time and consideration.

Sincerely,
Joe Matza



Dear Malibu Planning Commission,

It has come to my attention that two neighbors of Ron and Jane Jenny have retained attorneys in an attempt to prevent them from building a modestly sized home on their property, which they purchased approximately four years ago. I have known the Jennys for many years, and they have been residents of Malibu for about 55 years. They raised their four children here and have always intended to spend the rest of their lives in Malibu, including on this piece of property.

That despite paying substantial property taxes, the Jennys are unable to enjoy their property without harassment. The attorneys have even orchestrated letters aimed at discrediting them. This feels like a targetted attack on their right to build a simple, two-bedroom home for their retirement within a city they cherish.

In my view, denying property rights is unconstitutional. If the Jennys are unable to use their property as intended, they should be compensated by the city, or the city should consider purchasing the property. Property taxes should be suspended in the interim.

Jonathan Banks

Jonathan Banks

[redacted]

Received
12/31/2025
Planning Div.

From: Malibu Township Council
To: Planning Commission; Drew Leonard; John Mazza; Marni Kamins; Elizabeth Riddick; Skylar Peak
Cc: Bill Sampson; Patt Healy; DavidPaulDominguez@gmail.com; Rebecca Evans; Gail Duncan
Subject: Fwd: Item 4B - CDP 23-034- 33008 PCH
Date: Friday, October 31, 2025 4:38:35 PM

Honorable Planning Commission,

Malibu Township Council has been advocating for responsible development since 1947.

A Phase I Archaeological Study was prepared by Matthew A. Boxt, Ph.D. for the subject property in March 2023. The cultural resources found during the field survey included subsistence shell and stone tools. This should immediately thus warrant a Phase 2 archaeological study.

From Malibu's Archaeological Evaluation and Inventory Information on the city's website link attached below:

"*All Phase I Inventories that involve any excavation or monitoring shall be conducted in consultation with a qualified Chumash Cultural Resources Monitor. A Phase I Inventory must include the following information: - A public records search through the regional historical resources information center; - An archival search of historic records; - A field survey; - A written report that describes how the survey was conducted and the result of the survey. If, on the basis of the Phase I Inventory described above, one or more significant cultural resources is found, a Phase I Inventory may be required to include: - An evaluation of limited shovel test pits to determine whether a subsurface deposit is present and a* ***negative declaration*** *shall be prepared. - Recommendations for a Phase II Evaluation and a negative declaration, mitigated negative declaration, focused environmental impact report or an environmental impact report shall be prepared. - Monitoring programs pursuant to Malibu Municipal Code (M.M.C.) Section 17.54.040(D)(4) and a mitigated negative declaration shall be prepared. Where, as a result of the Phase I Inventory, it is determined that the project may have an adverse impact on cultural resources, a Phase II Evaluation of cultural resources will be required and a negative declaration, mitigated negative declaration, focused environmental impact report, or an environmental impact report must be prepared."*

"All Phase II Evaluations must be conducted by a qualified archaeologist and, where the Phase I Inventory indicates the presence of prehistoric or ethnohistoric Chumash cultural resources. The evaluation shall also be conducted in consultation with a qualified Chumash Cultural Resources Monitor. A Phase II Evaluation is an investigation intended to: - Gather additional data in order to assess the importance of the cultural resources identified in Phase I inventories; - Define site boundaries of the cultural resources; - Assess the site's integrity; - Evaluate the project's potential adverse impacts on cultural resources; - Develop measures to mitigate potential adverse impacts."

"In the event that any potentially important cultural resources are found in the course of excavation or trenching, work shall immediately cease until the qualified archaeologist can provide an evaluation of the nature and significance of the resources and until the Planning Director can review this information. Where, as a result of this evaluation, it is determined that the project may have an adverse impact on cultural resources, a Phase II Evaluation of cultural resources shall be required pursuant to a ***Phase III Mitigation Program****. The limitations on mitigation as described in a Phase II Evaluation shall not be applicable to monitoring programs described in a Phase III Mitigation Program."*

https://malibucity.org/DocumentCenter/View/92/Archaeological-Evaluation-and-Inventory-Information?bidId=#:~:text=%E2%80%A2%20A%20Phase%20II%20Evaluation%20is%20an%20investigation%20intended%20to:%20%2D%20Gather%20additional&text=surface%20collection%20and%20archaeological%20excavation%20as%20provided%20for%20under%20this

David Paul Dominguez, a Qualified Chumash Cultural Resources Monitor, inspected the site and adjacent area just last week and researched historical cultural records and recommends at the very least a Phase II study to be completed and a mitigated negative declaration prepared before this application can be approved. There are apparently artifacts throughout the area.

There is also a blue line stream within 100 ft of the proposed new turnaround and multiple proposed walls and a shed. This is not addressed in the staff report at all and needs to be evaluated (see p 66) even though confirmed in the plans and by both the city and applicant's biologist. See p 103 of staff report: *"K. All new development including structures, septic systems, or landscaping, shall be set back no less than (100) feet from the (stream)"*

There are also multiple code violations including illegal stairs to the beach, planting of giant fire hazardous trees on the bluff, illegal gates and fences, etc. These need to be corrected before this application can proceed.

All the trees that are proposed to be planted within the PVD of the neighbor behind at 33006 PCH must be removed from the project. See also p 103 - "*F. Vegetation shall be situated on the property so as not to obstruct the primary view from private property at any given time (given consideration of its future growth)."*

Due to all these multiple reasons the project cannot yet move forward.

Plus it is Halloween - do you really want to be haunted by Chumash ghosts for not protecting or respecting their cutlural resources? ;)

Due diligence is more than necessary for a project of this size and scale.

Thank you for your consideration,

Jo Drummond
Malibu Township Council

CC: Planning Commission, PD,

Recording Secretary, File

Date Received 10/31/2025 Time 4:38pm
Planning Commission meeting of 11/3/2025
Agenda Item No. 4B
Total No. of Pages 1

From:	AK Munaim
To:	Planning Commission; Didier Murillo; Tyler Eaton
Cc:	Scott Hoeft; Chris Deleau
Subject:	Item 4A - Planning Commission 12/1 - Support Letter
Date:	Monday, November 24, 2025 8:58:00 AM
Attachments:	20251123_We find it troubling that dedicated individuals like th.pdf

Hi Gail,

Please find attached additional support letter. Thank you.

Arfakhashad (AK) Munaim
Special Projects Manager, Schmitz and Associates

747.444.6144
schmitzandassociates.com
amunaim@schmitzandassociates.net
28230 Agoura Rd. Suite 200, Agoura Hills, CA 91301

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November 23, 2025

Dear Malibu Planning Board,

We are writing to share our perspective on the ongoing situation involving our friends, Ron and Jane Jenny.

Recently, we learned that two neighbors have engaged attorneys to obstruct their efforts to build a modest home on the property they purchased a few years ago. We have known the Jennys for many years, and they have dedicated decades to Malibu—raising their children here and contributing positively to our community.

We believe everyone has the right to develop their property within established guidelines, and it is unfair that these efforts are being hindered through legal threats and character attacks.

We find it troubling that dedicated individuals like the Jennys, who have invested so much in Malibu, are being prevented from enjoying and utilizing their property as they have planned.

In our view, such interference infringes upon fundamental property rights. If the Jennys are unable to proceed with their project, they should be compensated or given the opportunity for the city to purchase the land. Ownership rights should be protected for all residents.

Thank you for your serious consideration of this matter.

Sincerely,

Frank Brooks Ursula Brooks

Frank and Ursula Brooks
[redacted] Malibu, CA 90265

Received
11/24/25
Planning Div.

From: Jackson D. McNeill
To: Planning Commission
Cc: Rebecca Evans; Marco A. Ornelas Lopez; Kenneth A. Ehrlich
Subject: December 1, 2025, PC Meeting - Item 4.A - Coastal Development Permit No. 23-034 / 33008 Pacific Coast Highway
Date: Sunday, November 23, 2025 4:06:49 PM
Attachments: image001.png
Archaeological Opinion Related to 33008 PCH.pdf
David Dominguez Ltr. re 33008PCH.pdf

To Whom It May Concern:

Please see the attached archaeological opinions concerning the proposed project at 33008 Pacific Coast Highway (Coastal Development Permit No. 23-034), agendized as Item 4.A on the Planning Commission's December 1, 2025, agenda. It you have any questions, please let me know.

Thank you.

Best,

Jackson D. McNeill
JMcNeill@elkinskalt.com
Direct Dial: (310) 746-4424 | Fax: (310) 746-4499 | Download VCard
Elkins Kalt Weintraub Reuben Gartside LLP
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ELKINS KALT

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CC: Planning Commission, PD,

Recording Secretary, File

Date Received 11/24/25 Time 7:30 a.m.
Planning Commission meeting of 12/01/25
Agenda Item No. 4A
Total No. of Pages 11

Archaeological Opinion Related to 33008 Pacific Coast Highway in Malibu, California

by Chester King, PhD
Topanga Anthropological Consultants

November 20, 2025

I. Executive Summary.

This summarizes my professional archaeological opinion concerning the potential cultural resources located at 33008 Pacific Coast Highway in Malibu, California, as further detailed below:

- 33008 PCH lies within the known archaeological site LAN-29 and likely contains intact subsurface cultural deposits and potentially contains a cemetery.
- The Phase I assessment prepared by the applicant's archaeologist, Dr. Boxt, remains both incomplete and contradicted by prior documented findings, including human remains at a parcel in the immediate vicinity.
- The applicant and City of Malibu's proposed monitoring and mitigation measures remain wholly insufficient.
- The City must require a publicly reviewed Phase 2 subsurface testing program, conducted with a qualified Chumash cultural monitor, before any project approval.
- Further, alternative project designs should be considered to avoid or minimize excavation.

II. Qualifications and Background.

I began studies of archaeological sites related to Chumash history in the Santa Monica Mountains in 1960. My first involvement was excavating at the Tank Site (LAN-1) in Topanga when I started studying anthropology at Santa Monica City College. Later that year I worked with Thomas Blackburn and Earnest Chandonet at UCLA sponsored excavations at the Century Ranch site LAN-227, now part of Malibu Creek State Park. I worked at other Century Ranch sites LAN-225 and LAN-229 in 1961, 1962 and 1963. I was the senior author of the report on excavations at the Century Ranch sites LAN-227, 229, and 225 in 1968. The Parker Mesa (now Sunset Mesa) site at the mouth of Topanga Creek (LAN-215) was excavated in 1961 The report on these excavations in 1962 was my first publication concerning an archaeological site. I participated in excavations at Paradise Cove (LAN-222) in 1962. I worked at UCLA sponsored excavations at the site of the historic period site (LAN-264) of Humaliwo (Malibu) at the mouth of Malibu Creek in 1964 and 1965 and participated in excavations at the historic period cemetery site in 1972. In 1966, I participated in the excavation of the Medea Creek cemetery (LAN-243) in Agoura Hills. I participated in excavations at Puerco Canyon (LAN-19) and San Nicolas Canyon in 1967 related

to a planned Highway 1 freeway. I directed excavations at *Talepop* (LAn-229) in 1980-1981, for California State Parks related to the widening of Las Virgenes Road.

I worked under two five year time and material contracts for the Santa Monica National Recreation area between 2000 and 2012. I conducted surveys of many reas and I directed NPS studies at King Gillette Ranch as parts of these contracts.

I served as Malibu City Archaeologist between 1993 and 2000. I conducted many surveys and reviews of studies. As City Archaeologist, I prepared a sensitivity map that included assessment of all parcels in the city. Preparation of the map involved consideration of the locations of all sites recorded at the time. Knowledge of the types of locations chosen for sites by the Chumash and surrounding groups was used to identify other parcels that included areas where sites were most likely to be found. I walked areas of the coast where houses were built over the beach on pilings and did not include soils and used knowledge of other parcels not known to contain sites and determined that many parcels would not require Phase 1 studies. I believe the sensitivity map continues to be used.

I have visited and participated in many other Malibu area excavations, and conducted many archaeological surveys in Malibu. In addition to my work in the Santa Monica Mountains I have also conducted many studies and participated in many excavations in Santa Barbara and Northwestern Ventura County.

While working for the Santa Monica National Recreation Area I prepared "Overview of the History of American Indians in the Santa Monica Mountains: Draft 10-2011" The overview synthesizes much of the information I have learned studying the archaeology and history of the Chumash. It is available on line at Academia.edu and has been viewed by many people.

My doctoral dissertation *Evolution of Chumash Society* involved studying museum collections from Santa Barbara County and the Santa Barbara Channel Islands stored at UC Berkeley and the Santa Barbara Museum of Natural History. The dissertation involved establishing a detailed temporal sequence of beads and other artifacts that were found with burials. The dissertation was published in The Evolution of North American Indians, a 31-Volume series of outstanding dissertations. My dissertation was the only one chosen from California.

In sum, I have more experience studying Chumash archaeological sites in the Malibu area than any other person.

III. Evidence of Archaeological Sites.

Evidence of archaeological sites usually found on surfaces that have not been buried varies depending on many variables. Two of the most important variables are the length of time sites were inhabited and their age. Sites inhabited for shorter periods of time contain fewer artifacts than those inhabited for longer periods of time. Sites that were occupied earlier in time have lost many of the shells and bones originally deposited due to dissolution by acidic soil conditions and gopher burrowing. The dissolution of shellfish near the surface of sites usually results in less shellfish remains on the surface of early sites than at depths and a higher ratio of thick shells such as clam shells on the surface. In addition to the dissolution of shells and bones, other organic material also

decrease over time and soils slowly revert to the characteristics that existed before human occupation. Decrease in the presence of forms of evidence of human activity in archaeological sites over time does not preclude the ability of archaeologists to study older sites.

Chumash area settlement sites contain the remains of house structures, cemeteries, earth ovens, and other features. These features can usually only be identified with certain through excavations.

In his report for 33008 PCH, Matthew Boxt notes:

> Visible in clearings adjacent to the modern road and chain link boundary fence, were found lithic artifacts and shell, primarily trampled and pulverized pieces of abalone (*Haliotis cracherodii*), Pismo clam (*Tivela stultorum*), scallop (*Pecten* sp.), and mussel (*Mytilus californianus*) (Figure 6 and Figure 7). The currently available evidence regarding these materials is somewhat ambiguous and is not complete enough to evaluate the true nature of the finds (Figure 8 to Figure 12). The crucial question, of course, is the likelihood that the artifacts and shell were originally deposited here, representing the activities of some ancient people, or were they moved here by disturbance processes, including road construction, residential development, dumping, burrowing animals, and/or erosion.

Matthew Boxt observed the presence of objects he considered probable artifacts and shellfish remains. At a nearby parcel at 33004 Pacific Coast Highway referenced by Boxt, I observed a few artifacts and shellfish remains similar to the observations made by Boxt (King 1999). I recommended Phase 2 testing. Gary Stickel conducted what he described as initial Phase 2 testing involving holes one foot in diameter excavated with a shovel (Stickel 2000). The testing program resulted in discoveries of human bones which were probably parts of burials. Stickel then recommended additional Phase 2 testing. From my experience the burial remains discovered by Stickel probably indicate the presence of a cemetery or cemeteries in the area he tested. Boxt interpreted his findings at 33008 PCH in the most negative way possible.

IV. Previous Disturbance of Site LAN-29.

In his report for 33008 PCH, Matthew Boxt concluded:

> The archaeological resources of the Blufftop 1, LLC parcel were assessed following a careful review of maps and archival information housed at the SCCIC. The fragments of shell and stone tools observed during the survey do not appear to represent an intact, continuous midden deposit of any density; no large pieces of shell or any other indication of decomposing organic materials from human habitation (e.g., dark greasy soils) were never observed. In my professional opinion, these cultural remains were brought to the surface of archaeological sites LAN-28 or LAN-29 by natural and cultural disturbance processes and distributed on the study parcel as secondary refuse. In general, this relatively isolated Malibu community has been developed and landscaped, and at times in the recent past, particularly during house construction, was subjected to grading, gravelling, and filling. Specifically, the degradation and likely destruction of archaeological sites LAN-28 and LAN-29 is attributed to these and other factors, such as building and maintaining critical infrastructure, disking to create fire breaks, heavy rain, erosion, construction and maintenance of the Theodore Roosevelt Highway and California State Route 1, and development of each property in this community. It should nevertheless be remembered that the survey was limited to surface contexts and that no examinations were made of the subsurface where it was not immediately visible. This point is noted because of the possibility that buried cultural deposits, though unlikely, might still be in existence on the parcel, and be obscured at present from ready visibility.

Archaeological studies at redevelopment sites in the centers of modern cities have resulted in significant discoveries. If Boxt's negative attitude were to be accepted there would be no reason to conduct archaeological studies in Malibu or other cities in California; studies at sites

LAN-264 (the site of the Malibu settlement) and most other sites I have studied in Malibu would not have produced significant information concerning Chumash history.

V. Evidence concerning site LAN-29.

The LAN-29 site covers an area on the east side of Lachusa Canyon and south of the Pacific Coast Highway. Studies concerning the parcel at 33004 north of the project site document the presence of archaeological deposits on the parcel. Limited Phase 2 excavations by Gary Stickel documented the presence of human bones. It is probable that a cemetery is present in the area because most human bones found in Malibu area settlement sites have been found in cemeteries.

Evidence of settlement site deposits have been recorded south of the Pacific Coast Highway adjacent to both Lachusa and Los Alisos Canyons. These deposits may represent the remains of one large settlement or settlements occupied at different times.

My present assessment of LAN-29 including the project area at 33008 PCH is that it is the remains of a settlement occupied during a relatively short time (compared with many settlement sites in Malibu) of only a few hundred years. Settlements used for short periods of time are of value to archaeologists because the organization of features used at roughly the same time is more easily recognized than at sites occupied over thousands of years which have features of different time periods mixed together.

The geology at the mouth of Lachusa Canyon contain deposits of the only chlorite schist (commonly known as steatite) known by geologists to be present in the Malibu area. At the site of Malibu (LAN-264), the lower levels of the deposit (dating around 1500-2200 years ago) contain chlorite schist disc beads and chlorite schist disc beads in stages of manufacture (King 2011:190-191). The beads from Malibu are visually distinctive from stone beads from other sources used in the same general time period as a result of mineral inclusions. These beads have been found in contexts dating around 1500-2200 years ago at Castaic Reservoir, Vasquez Rocks, Oro Grande on the Mojave River, and in sites near Cajon Pass. It appears that the distinctive beads from Malibu were important in the trade systems from the same time period. It is probable that the people who lived at Lachusa Canyon quarried the material used for these beads. The condition of the shellfish remains and the types of artifacts that have been observed at LAN-29 are consistent with the dating of these beads.

VI. Limitations of this Review Related to Denial of Independent Assessment of the Site in the Project Area.

On November 17 I requested access from the project developers to aid in assessment the conclusions of archaeologist Matthew Boxt hired by the developers I was denied access. Note the following emails:

> Dear Schmitz and Associates,
>
> I am reviewing the "Phase 1 Inventory and Archaeological Survey for the Blufftop 1, LLC Project, 33008 Pacific Coast Highway, City of Malibu, Los Angeles County, California" prepared by Matthew Boxt and submitted on March 22. 2023 for an upcoming meeting of the Malibu City Planning Commission. I would like to have permission to conduct a

> walkover survey of the parcel at 33008 PCH to make in independent evaluation of the potential project impacts. I would like to have David Paul Dominguez, Chumash cultural resource consultant accompany me. It would be helpful if someone planning the project would accompany me on my visit. I would appreciate a timely response to my request in order to plan my schedule.
>
> Sincerely,
> Chester King, Topanga Anthropological Consultants

They replied on November 17, 2025:

> Mr. King,
>
> Thank you for reaching out to us. Our client has already retained the services of a professional archeologist to conduct a Phase I study to look for the presence of any significant cultural resources onsite. This study was conducted by Dr. Matthew Boxt. Dr. Boxt's study found no evidence of en situ cultural resources on the applicant's property. Dr. Boxt and the City have found that no further study is required at this time as no impacts to cultural resources are anticipated. That said, the project will have standard monitoring conditions.
>
> With respect to your colleague, David Paul Dominguez, we have received correspondence from Joe Drummond (attached for reference), a project opponent, advising that Mr. Dominguez has already visited the property [and adjacent area] without our client's permission. This is unlawful and unprofessional. Please advise Mr. Dominguez that the owner has security cameras installed, and any further trespasses will be reported to the Lost Hills Sherriff's Department.
>
> Thank you for your interest. Let me know if you have any questions.
>
> Best Regards,
> **Chris Deleau, JD, AICP**
> **Special Projects Manager, Schmitz and Associates**

The exclusion of my ability to independently field check the observations of Matthew Boxt indicates that the project managers are not comfortable with the quality of the archaeological study they commissioned.

VII. Problems With Monitoring in Archaeological Sites During Development.

Matthew Boxt recommends monitoring of excavations during project development. When monitoring is adopted as a mitigation measure without knowledge of what is present under the surface, the public has little input because the period where review occurs that is enabled by the California Environmental Quality Act and the California Coastal Act has expired. During review it is possible to decide to preserve site areas through purchase or project redesign. After the public review period is over, it is impossible to propose adequate mitigation through data collection, avoidance of most impacts, or determine that the loss caused by project development can't be mitigated.

Monitoring can also result in unpredictable costs to the developer that include:

1. Down time once development has begun.
2. Costs of designing programs for avoidance of disturbance of sensitive archaeological deposits through project redesign once development has begun.

Reduction of disturbance of intact soil can involve placement of fill to cap deposits or use of caisson foundations to reduce the area of soil disturbance for foundations.

3. Expensive mitigation programs including possible removal of whole cemeteries such as occurred at the Playa Vista project in the vicinity of Westchester. It is possible that such mitigation could exceed the cost of project construction.

VIII. Damage to Archaeological Site LAN-29 by the Proposed Project.

Project plans indicate from sections of the house, that much of the area covered by the proposed house area will be excavated to two to three feet below the present ground surface before construction of the house. Utility trenches will also be excavated, and a septic tank will also be placed in a deep excavation. Observations of site deposits on mesa surfaces similar to those at the project site indicate that site deposits are usually less than two or three feet deep except in areas where house pits or other features such as earth ovens were excavated into subsoil. The construction of the house as planned is expected to cause substantial damage to suspected site deposits. It appears that the excavations are to reduce the height of the finished house to comply with restrictions on the height of the structure. Knowledge of the significance of suspected site deposits may result in redesign to reduce the extent of excavation. Alternatives such as waiving limitations on the height of the house might be considered to reduce the extent of earth disturbance.

IX. Recommendations.

A subsurface testing program (Phase 2 study) should be conducted subject to public review by the Malibu Planning Commission and the City Council before project approval. The Phase 2 program should include monitoring by a qualified Chumash cultural consultant.

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33008 PCH

Coastal Development Permit No. 23-034/33008 PCH

Haku, my name is David Paul Dominguez, I am a Chumash Elder from the Santa Ynez Chumash Reservation, as well as, Yokut and Tongva, and a former and part-time current resident of Malibu and I have been working in cultural resources for over 30 years and currently retired from my reservation as a monitor and cultural resource manager and a strong advocate for the protection of sacred sites while working along with qualified archeologists, and, very familiar with the prehistoric Chumash and Tonvga native Americans inhabiting the proposed development area.

I was asked on behalf of the neighbors along, 33008 PCH, to consult on this proposed development, and add my expert advice, as well as, view the current sight. I met with neighbors Mark and Tammy, whom also informed me that they viewed a reinterment done on an adjacent property at 33004. During my visit, I also noticed numerous suspected burial artifacts and obvious midden and dark organic soil consistent with Chumash habitation lasting for over 8,000 years documented in the local archeological and cultural resource records and also noticed, the obvious and preferred village living area adjacent to fresh water during the prehistoric times of my Chumash relatives and this proposed project will have extreme damage to unknown archeological and cultural resources and more than likely, will hit and discover unknown burials, that are consistent in the immediate bluff area.

On, Saturday November 1st 2025, I had personal communiqué with former City of Malibu, archaeologist, Chester King, and he informed me that he worked on an adjacent property and found and discovered that there is a certain kind of steatite/soapstone bead that is only found in that part of Malibu and adjacent creek area and it is well documented that Chumash burial sites include a vast array of bead offerings as well as personal possessions, such as killed pestles and mortars, including, mano and metates, as well as, flakes and arrowheads. And, it is a well known burial area that has been brought to the attention of the city of Malibu, and well known that the area will contain other burials and will be wide spread given the minimal 8,000 years of prehistoric habitation by Chumash

tribal families and that he prepared a document that should be in the records that reference the extent of the sacredness of the area as far as burials are concerned.

On the same day, I had personal communiqué with Julie Tumamait, former Chairperson of the Ventareño/Barbareño Chumash Tribe, and she further verified that there are multiple burials on the proposed project bluff area and re-burials in the immediate vicinity.

Recommendations

First, and more importantly, this project should not be approved on account of the sacred sensitivity to the Chumash people and undiscovered burials, that, are in no doubt, in the immediate project area.

Postpone this hearing until all previous reports of the lot and nearby lots in the vicinity are presented by the city of Malibu and all other pertinent information properly presented.

Do a phase 2 and 3 archeological report since it has been brought to my attention there was a minimal phase 1 survey done in the past and artifacts were discovered on the immediate top soil.

Also, CEQA requirements should NOT be exempt for this application and a proper EIS/EIR be completed with consideration to geological adjacent cliff area in which erosion should be taken into account, and also, it is a sensitive creek area leading in and out of the foothills and once was a prior steel head tributary. There is also a female California black bear in the area with 3 cubs whom, might be using the area due to its unique access to shoreline food and carcasses.

The city of Malibu needs to move and adapt into the current technology available and use GPR ground penetrating radar to find any anomalies below the surface, to prevent any destruction to known Chumash burials and/or house and ceremonial ground impressions, including hearths and yucca ovens.

Protect the project area and allow for open space usage for Native American ceremonies and park for the residents of the gated community, with owners approval, of course, and use pavers over the open space to allow large fire trucks to use as a turnaround during emergencies and/or fire, by the property owner as previously recommended by said, property owner…

Received
11/25/25
Planning Div.

From: Jackson D. McNeill <JMcNeill@elkinskalt.com>
Sent: Tuesday, November 25, 2025 1:47 PM
To: malibu planning <mplanning@malibucity.org>
Cc: Rebecca Evans <revans@malibucity.org>; Marco A. Ornelas Lopez <MOrnelaslopez@elkinskalt.com>; Kenneth A. Ehrlich <KEhrlich@elkinskalt.com>
Subject: Letter re December 1, 2025, PC Meeting - Item 4.A / 33008 PCH

To Whom It May Concern:

Please find the attached letter submitted in opposition to the proposed project at 33008 Pacific Coast Highway (CDP No. 23-034, Minor Mod. No. 25-009), agendized for the Planning Commission's December 1, 2025, meeting as Item 4A. Please contact me with any questions.

Best,

Jackson D. McNeill

JMcNeill@elkinskalt.com

Direct Dial: (310) 746-4424 | Fax: (310) 746-4499 | Download VCard

Elkins Kalt Weintraub Reuben Gartside LLP

10345 W. Olympic Boulevard, Los Angeles, CA 90064

www.elkinskalt.com



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CC: Planning Commission, PD,

Recording Secretary, File

Date Received 11/25/25 Time 1:47 p.m.
Planning Commission meeting of 12/1/25
Agenda Item No. 4A
Total No. of Pages 20

ELKINS KALT

Jackson D. McNeill
D: (310) 746-4424
JMcneill@elkinskalt.com
Ref: 15289-0001

Elkins Kalt Weintraub Reuben Gartside LLP

November 25, 2025

VIA E-MAIL AND U.S. MAIL

City of Malibu Planning Commission
23825 Stuart Ranch Road
Malibu, CA 90265
Email: planningcommission@malibucity.org

Re:	Reply to City Staff's Response to Objections to CDP No. 23-034 and Minor Modification No. 25-009
Address:	33008 Pacific Coast Highway, Malibu, California
Meeting:	December 1, 2025
Item #:	4A

Dear Commissioners:

Our firm represents Unknowingly Devolving LLC and Mark and Tamara Mackey (collectively, our "Clients"), the owners of the real property and single-family residences located at [redacted] and [redacted] Pacific Coast Highway in Malibu, California, respectively. Bluff Top 1 LLC ("Applicant") requests a Coastal Development Permit (CDP No. 23-034) and Minor Modification (Minor Modification No. 25-009) (together, the "Application") to construct a new single-family residence and associated development (the "Project") on a coastal bluff property at 33008 Pacific Coast Highway (the "Property").

In connection with the Commission's December 1, 2025, meeting, City staff have provided an updated staff report (the "Staff Report") and the Applicant has provided updated materials purportedly responding our Clients' previous opposition to the Project. Respectfully, as detailed below, City staff's response remains inadequate and the Project as proposed cannot be approved.

I. The Plain Language of the LIP Requiring a State Lands Commission Determination and Staff Cannot Substitute Its Own Judgment for SLC.

The Applicant failed to obtain a written determination from the State Lands Commission for the subject project as required by the LIP. (See LIP §§ 13.6.2(B), 10.5(C). Staff responds that "[t]he requirement to obtain written determination from the State Lands Commission is only applicable to beachfront properties. The subject property is facing the ocean; however, there is a steep bluff in front of the property separating the building pad from the ocean." (Staff Report, p.

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2.) Staff further responds that "there is no development proposed along the shoreline nor development on the beach." (Staff Report, p. 2.)

Respectfully, this response fails. By staff's own admission, this requirements applies to "beachfront properties." (Staff Report, p. 2.) Indisputably, this property fronts on the beach. The Property's coastal bluff remains subject to wave uprush, and the Property is bounded to the south by state tidelands.

Essentially, staff seeks to substitute its own judgment for the State Lands Commission. By concluding that the Project contains adequate blufftop setbacks and that no development will occur directly on the beach, staff makes the very determination that the LIP reserves for the State of California. This is not what the LIP requires. Until Applicant obtains a determination from the State Lands Commission, the Project remains incomplete and cannot be heard.

II. The Plain Language of the LIP Requires Requesting Our Clients Join As Co-Applicants, Regardless of Whether Development Occurs in the Easement Area.

Our Clients have correctly asserted that "[a]ll holders or owners of any … interest of record in the affected property shall be notified in writing of the permit application and invited to join as co-applicant." (LIP § 13.6.2(C).) Here, the Applicant previously proposed development within an easement area to which our clients have access rights. Neither staff nor the Applicant dispute that the easement over the Property exists or that our Clients constitute easement holders. Instead, to avoid this "co-applicant requirement," the Applicant now proposes to leave the easement area totally undeveloped—that is, to leave a dirt area between the paved easement road and Applicant's proposed, paved driveway.

At the outset, our Clients' question whether Applicant—who has a history of code violations—truly intends to leave the easement area undeveloped. Regardless, staff's response still fails. Critically, **no language in the LIP requires development within the easement area in order for the "co-applicant" requirement to be triggered, and staff cites none**. The plain language of the LIP simply states that "[a]ll holders or owners of any other interest of record in the affected property shall be notified in writing of the permit application and invited to join as co-applicant." (LIP § 13.6.2(C).) Where the language of the law is clear and unambiguous, staff cannot substitute the plain language of the law with its own judgment. Put simply, our Clients must be asked to join as co-applicants before the Project can proceed.

III. The Archaeology Buffer Applies to the Project.

The City's Archaeological Review letter includes certain conditions of approval. Among other things, it states that "no geologic trenching, soil borings, ground clearance, grading, equipment placement, or similar surface-disturbing impacts shall be allowed within 30 feet of the northern property boundary." Staff responds that these were not conditions of the Project, they were merely "a precaution implemented by City staff prior to obtaining an excavation permit through City Geotechnical Staff." (Staff Report, p. 3.)

The Archaeology Review letter, however, does not indicate it was prepared solely in connection with an excavation permit, or that its conditions are limited to geologic testing. Indeed, language in the Archaeology Review refers to "construction personnel" as well as "geologic testing or *any other activity*," demonstrating it was meant to apply more broadly. (Archaeology Review Letter, p. 1, emphasis added.) Staff cannot escape the archaeology buffer now by artificially limiting the Archaeology Review's conditions of approval to geologic testing.

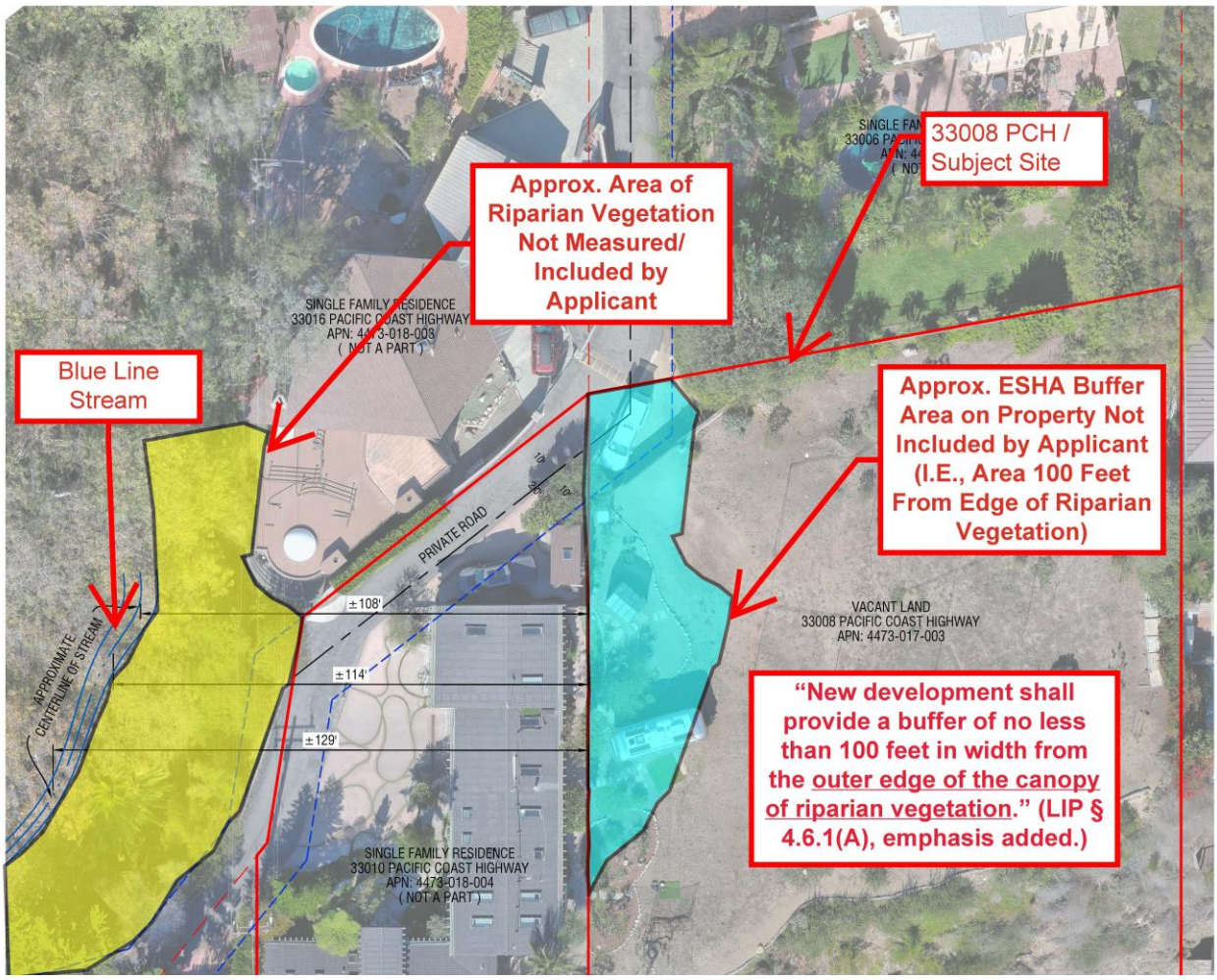
At the same time, a letter from a qualified archaeologist (Chester King, PhD) and a Chumash Elder (David Dominguez) indicate that the Applicant's Phase I archaeology report remains insufficient and that human remains and other cultural resources likely exist on site. Because the Project does not comply with the buffer condition designed to protect these important resources, the Project as proposed must be denied.

IV. The Applicant's ESHA Mapping Remains Fundamentally Flawed.

The original Project plans admitted that the Property and the proposed development lies within 100 feet of an EHSA-mapped blue-line stream, and thus within an ESHA buffer. (See, e.g., Original Plans, Plan Sheet A-0.2, showing new planters, gates, walls, pilasters, and fencing—located behind a line labeled "approx. 100' from ESHA boundary"). Conveniently, the Applicant and its biologist now opine that the Property lies at least 104' feet from the blue-line stream, and therefore lies outside the ESHA buffer. (See Forde Memo, November 12, 2025, p. 2.) On this basis, staff agrees that the ESHA standards do not apply. (See Staff Report, p. 4.)

This analysis is flawed. **Critically, the Applicant's biologist measured the distance between the Property and the top of the stream bank. But the LIP states that "[n]ew development shall provide a buffer of no less than 100 feet in width from the <u>outer edge of the canopy of riparian vegetation</u>."** (LIP § 4.6.1(A), emphasis added.)

A marked-up version of the Applicant's aerial drone exhibit demonstrates this point:



To reiterate: the Applicant, by its own admission, measured the distance between the Property and the "top of bank." It failed to measure the distance to the outer edge of the riparian vegetation, which extends laterally eastward. (Worse, the biologist's exhibit measures from the centerline of the stream, not the top of bank.) At the same time, even a casual review of the stream from google maps shows vegetation extends outward from the banks of the stream. In fact, Applicant's own biological assessment admits that riparian vegetation extends outward from the stream:

ESHA AREA IS A RIPARIAN WOODLAND COMMUNITY. THERE IS A STREAM THAT RUNS THROUGH THE ESHA AND DRAINS INTO THE OCEAN. ALONG THE PERIMETER OF THE STREAM VARIOUS TREES AND ASSOCIATED RIPARIAN AREAS ARE PRESENT. PLEASE NOTE THERE ARE ADDITIONAL DEVELOPED PROPERTIES WITHIN THE ESHA THAT ARE NOT ILLUSTRATED. ADDITIONALLY, THERE IS A PAVED ROAD AND RESIDENTIAL HOME CREATING PHYSICAL BARRIERS BETWEEN THE ESHA AND PROPERTY AREA.

(July 2023 Biology Assessment, p. 10.) The biological assessment also notes that "**the ESHA area is a riparian woodland community**." (*Id.*) Forde Memo does not contradict this conclusion.

Thus, the ESHA buffer area extends 100 feet east of the vegetation canopy, not the top of the stream bank. So measured—and as shown in the above illustration—the Property and a portion of the development lie within ESHA buffer areas. The ESHA buffer standards, meanwhile, prohibit virtually all development in ESHA buffer areas. (See LIP § 4.5.4.) And here, among other violations, the Applicant proposes fencing along the western portion of the Property, as well as fencing, stone pilasters, and a new gate in the ESHA buffer. Until this unlawful development in the ESHA buffer is addressed, the Project as proposed should be denied.

V. The Coastal Bluff Qualifies as ESHA.

City staff dismisses our Clients' suggestion that the Property's coastal bluff qualifies as ESHA. In a short set of nearly throwaway set of sentences, staff states that "the bluff is located within the fuel modification zones of adjacent single-family residences and non-native vegetation dominates. The bluff does not have any ESHA vegetation and is not considered ESHA." (Staff Report, p. 4.)

Respectfully, this analysis fails. First, far from concluding that the bluff vegetation is non-native, staff later admits that, at least as to trees on the coastal bluff, staff "cannot confirm the origins of these trees." (*Id.*) Applicant's contention, likewise, is apparently that "the trees existed prior to the [Woolsey] fire." (*Id.*)

More importantly, Clients' biologist submitted a thorough email memorandum explaining the species present on the bluff and why the floristic composition of the bluff qualifies as ESHA. We this memorandum as **Exhibit A.** He stated, among other things:

> *The bluff located at 33008 Pacific Coast Highway, Malibu, has been mapped as Malosma laurina -Artemisia californica Shrubland Alliance (Laurel sumac scrub). The bluff supports a diverse and largely native assemblage of Southern Coastal*

Bluff Scrub vegetation, as defined under the Manual of California Vegetation, Second Edition (MCV2) (Sawyer, Keeler-Wolf & Evens 2009). ***The site lies within the Malibu Local Coastal Program (LCP) area and retains the essential structure and species composition of a native coastal bluff scrub, qualifying as an Environmentally Sensitive Habitat Area (ESHA) pursuant to Malibu LUP Policy 3.23.***

The bluff community is characterized by a co-dominance of Artemisia californica (California sagebrush) and Malosma laurina (Laurel sumac), forming a mixed scrubland typical of maritime bluffs and terraces in the Santa Monica Mountains. The floristic assemblage reflects both coastal sage scrub and chaparral influences, with additional halophytic components along the bluff toe:

- *Upper and mid-slope vegetation: Artemisia californica, Malosma laurina, and Isocoma menziesii dominate the canopy, with Diplacus puniceus and Rhus ovata providing secondary structure.*

- *Lower bluff and seep zone: Batis maritima and Distichlis spicata occupy a moist, saline toe area, forming a halophytic fringe indicative of marine seepage and salt influence.*

- *Naturalized, non-native invasive and ornamental elements: Hesperocyparis macrocarpa (Monterey cypress), Washingtonia robusta (Mexican fan palm), Nicotiana glauca (tree tobacco), and Osteospermum sp. (African daisy) occur in disturbed or landscaped edges but do not dominate.*

Under Malibu LUP Policy 3.23, the bluff qualifies as an ESHA due to the following:

- *The presence of a regionally rare and valuable native plant community (Southern Coastal Bluff Scrub) adapted to maritime influence and saline conditions.*

- *A high proportion of native cover and species diversity, including multiple coastal sage scrub indicators.*

- *Ecological function as a bluff stabilizer, wildlife corridor, and pollinator habitat.*

- *Limited anthropogenic disturbance, with only minor ornamental encroachment.*

In light of the following, staff's conclusion does not comport with the facts. Indeed, when our Clients informed their biologist that the City and Applicant assert that no native vegetation exists on the coastal bluff, the biologist asserted, among other things, that this was "scientifically impossible" and controverted by his field observations and photographs. We attach his analysis as **Exhibit B**.

VI. The Bluff Development Remains Unpermitted.

Our Clients identified significant unpermitted development on the Property's coastal bluff, including unpermitted trees and erosion controls (such as straw wattle and fencing). City staff responded that the Applicant had previously asked the City if the Applicant could implement these measures and staff said "yes." (Staff Report, p. 4.)

This response fails. Even if the City told the Applicant he could place erosion control measures, that does not make those erosion control measures legal or permitted. Further, nothing indicates that Applicant's development on this sensitive coastal bluff could be completed without permits, and staff never states as much. Indeed, if this were the case, then any applicant could build unlimited fencing or place unlimited straw wattle, jute netting, sandbags, and other erosion control measures without any need for a permit. This is not the City's practice, nor is it the law. In any case, the trees themselves remain unpermitted. Consistent with City practice, the Project should not be able to move forward until these code enforcement issues have been addressed.

VII. Conclusion.

Our Clients appreciate staff's willingness to examine these important issues. However, to date, neither staff nor Applicant have adequately addressed our Clients' objections to the Project, including the ones identified above. Until those objections are adequately addressed, the Project should be denied.

Please note that this letter does not identify all issues with the Project. Please refer to our prior correspondence (and, as applicable, our testimony at the Planning Commission hearing) for additional objections to the Project.

Very truly yours,



JACKSON D. McNEILL
Elkins Kalt Weintraub Reuben Gartside LLP

JDM:jdm

8010499.3

EXHIBIT A

Anna Feng

From: Joshua Zinn [redacted]
Sent: Thursday, October 30, 2025 12:52 PM
To: CMccammon@malibucity.org
Subject: 33008 Pacific Coast Highway: Bluff Floristic Composition and Bio Review
Attachments: 33008 PCH Bluff-floristic composition photos_20251025.docx

Dear Courtney,

A couple of weeks ago we spoke together by phone concerning 33008 Pacific Coast Highway (project). I want to thank you for your responsiveness, approachability, and guidance concerning my questions about the biological resources/biological assessment of this proposed project.

On Monday October 20, 2025, I was scheduled to speak at the Malibu Planning Commission Hearing about my findings concerning my firm's review of the Biological Assessment (Elizabeth Moorman Biological Services July 2023 [2023 BA]). Unfortunately, I didn't get the opportunity to speak given that the first item on the agenda went beyond the anticipated time (which is understandable given the nature of public hearings). The planning commission rescheduled to hear the project for this Monday, November 3, 2025.

Even though I didn't get the opportunity to speak on my findings of the 2023 BA, our findings report was submitted to the commission as an exhibit. Additionally, while I was up in Malibu before the hearing, I took the opportunity to conduct a reconnaissance site visit to document the floristic composition of the bluff at 33008 Pacific Coast Highway.

In our 2023 BA review we did raise the issue of the bluff being characterized as 'coastal strand'. However, we did not have an opportunity to document the floristic composition until October 20, 2025. Below are my findings concerning the bluff (please see attached for photos taken during the recon survey of the bluff).

The bluff located at 33008 Pacific Coast Highway, Malibu, has been mapped as *Malosma laurina - Artemisia californica* Shrubland Alliance (Laurel sumac scrub). The bluff supports a diverse and largely native assemblage of Southern Coastal Bluff Scrub vegetation, as defined under the Manual of California Vegetation, Second Edition (MCV2) (Sawyer, Keeler-Wolf & Evens 2009). The site lies within the Malibu Local Coastal Program (LCP) area and retains the essential structure and species composition of a native coastal bluff scrub, qualifying as an Environmentally Sensitive Habitat Area (ESHA) pursuant to Malibu LUP Policy 3.23.

The bluff community is characterized by a co-dominance of *Artemisia californica* (California sagebrush) and *Malosma laurina* (Laurel sumac), forming a mixed scrubland typical of maritime bluffs and terraces in the Santa Monica Mountains. The floristic assemblage reflects both coastal sage scrub and chaparral influences, with additional halophytic components along the bluff toe:

- Upper and mid-slope vegetation: *Artemisia californica*, *Malosma laurina*, and *Isocoma menziesii* dominate the canopy, with *Diplacus puniceus* and *Rhus ovata* providing secondary structure.

- Lower bluff and seep zone: *Batis maritima* and *Distichlis spicata* occupy a moist, saline toe area, forming a halophytic fringe indicative of marine seepage and salt influence.
- Naturalized, non-native invasive and ornamental elements: *Hesperocyparis macrocarpa* (Monterey cypress), *Washingtonia robusta* (Mexican fan palm), Nicotiana glauca (tree tobacco), and *Osteospermum* sp. (African daisy) occur in disturbed or landscaped edges but do not dominate.

Under Malibu LUP Policy 3.23, the bluff qualifies as an ESHA due to the following:

- The presence of a regionally rare and valuable native plant community (Southern Coastal Bluff Scrub) adapted to maritime influence and saline conditions.
- A high proportion of native cover and species diversity, including multiple coastal sage scrub indicators.
- Ecological function as a bluff stabilizer, wildlife corridor, and pollinator habitat.
- Limited anthropogenic disturbance, with only minor ornamental encroachment.

These characteristics satisfy the ESHA criteria of rarity, ecological value, and susceptibility to disturbance. The bluff's native vegetation and halophytic fringe also enhance hydrologic stability and biological connectivity along the Malibu coastline.

In closing, the bluff at 33008 Pacific Coast Highway exhibits a structurally and floristically intact Southern Coastal Bluff Scrub community consistent with the *Malosma laurina – Artemisia californica Shrubland Alliance*. Native elements dominate, with only isolated ornamental intrusions. The site's composition, maritime setting, and habitat function warrant ESHA classification under the Malibu LCP. Restoration and management should prioritize native species preservation, halophytic seep protection, and removal of invasive ornamentals.

33008 Pacific Coast Highway Bluff Species List

Scientific Name	**Common Name**	**Native Status**	**Habitat Position**
Artemisia californica	California sagebrush	Native	Upper and mid-slope dominant
Malosma laurina	Laurel sumac	Native	Upper and mid-slope co-dominant
Rhus ovata	Sugar bush		Upper slope
Isocoma menziesii	Coastal goldenbush	Native	Mid to lower slope
Diplacus puniceus	Red bush monkeyflower	Native	Mid-slope; open scrub
Batis maritima	Saltwort	Native (halophyte)	Bluff toe; saline seep
Distichlis spicata	Saltgrass	Native (halophyte)	Bluff toe; saline seep
Hesperocyparis macrocarpa	Monterey cypress	Naturalized (regionally non-native)	Upper bluff margin

Washingtonia robusta	Mexican fan palm	Naturalized (regionally non-native)	Adjacent ornamental landscape
Nicotiana glauca	Tree tobacco	Non-native Invasive/Naturalized	Disturbed bluff edges
Osteospermum sp.	African daisy	Non-native/Naturalized	Disturbed edges

References:

- Sawyer, J.O., Keeler-Wolf, T., & Evens, J. (2009). *A Manual of California Vegetation, Second Edition*. California Native Plant Society, Sacramento, CA.
- CNPS Vegetation Database (2024). *Malosma laurina Shrubland Alliance (CaCode 45.455.00)*. https://vegetation.cnps.org/alliance/235.
- USGS National Vegetation Classification (NVCS). *Malosma laurina – Artemisia californica Shrubland (CEGL003697)*. https://www1.usgs.gov/csas/nvcs/unitDetails/790147.
- Malibu Local Coastal Program (LUP Policy 3.23). City of Malibu, CA.

Thanks so much Courtney. Please feel free to reach out with any questions or requests concerning this matter and/or our bio review of the project anytime!

Joshua Zinn, PWS | Regulatory Program Manager and Ecologist
Mobile: [redacted]
Email: [redacted]
Amigo Environmental, LLC | Certified DBE

33008 Pacific Coast Highway

Floristic Composition of Bluff

Photo Documentation

October 20, 2025



Photo 1: Looking northwest. *Artemisia californica* and *Malosma laurina* co-dominant on upper coastal bluff at 33008 PCH. Photo taken October 20, 2025.



Photo 2: Looking northwest at *Artemisia californica* and *Malosma laurina* mid-slope canopy detail of coastal bluff at 33008 PCH. Photo taken October 20, 2025.



Photo 3: Looking north. *Distichlis spicata* and *Batis maritima* forming halophytic seep at bluff toe at 33008 PCH; note *Isocoma menziesii* nearby (lower right of photo). Photo taken October 20, 2025.



Photo 4: Looking north. *Diplacus puniceus* and *Artemisia californica* near Mexican fan palm intrusion mid-slope of coastal bluff at 33008 PCH. Photo taken October 20, 2025.



Photo 5: Looking north. Halophytic seep along toe of bluff with *Distichlis spicata*, *Batis maritima*, and adjacent juvenile *Hesperocyparis macrocarpa* installed along upper portion of bluff at 33008 PCH. Photo taken October 20, 2025.



Photo 6: Close-up of *Batis maritima* dominance at lower bluff; saline soil crust visible under jute erosion geotextile mat. Photo taken October 20, 2025.

EXHIBIT B

Anna Feng

To: Joshua Zinn; Jackson D. McNeill; Justin Smith
Cc: Marco A. Ornelas Lopez
Subject: RE: 33008 PCH

From: Joshua Zinn [redacted]
Sent: Wednesday, November 19, 2025 11:36 AM
To: Jackson D. McNeill <JMcNeill@elkinskalt.com>; Justin Smith [redacted]
Cc: Marco A. Ornelas Lopez <MOrnelaslopez@elkinskalt.com>
Subject: RE: 33008 PCH

---EXTERNAL EMAIL: Do not click links or attachments unless you recognize the sender and know the content is safe---

Hi Jackson,

Thanks for the update. Pursuant to your recent conversation with the City and your question:

1. Going by the July 2023 Moorman BA no plants are ID'd or discussed concerning the bluff. Additionally, the bluff never characterized or discussed in basic biological terms or LCP/LIP regulatory framework. Indeed, the July 2023 BA states '*Vegetation communities can be catergorized* (sic) *as ruderal, coastal sage scrub, and coastal strand*. There's no mention of Coastal Bluff Scrub in the July 2023 BA.
2. In terms of the assertion made by both the City and applicant's biologist that no native flora exist on the coastal bluff, did they provide how they both came to this conclusion in light of the October 20, 2025 reconnaissance survey and photodocumentation conducted by Amigo and made available by you (in addition to independent outreach by me [by your request], please see attached)
3. Did the City countermand our data with their own?

One would think our submission(s) are accurate, defensible, and consistent with the vegetation data, Malibu LCP definitions, MCV2 classification rules, and the photographic evidence. The City/applicant's claim that "no native flora exist on the bluff" is not supported by:

- The field reconnaissance photos Amigo/Elkins Kalt provided the City;
- The species you documented;
- The alliance-level vegetation classification; or
- The Malibu LCP's definitions of ESHA and native coastal bluff scrub.

There is no biologically legitimate basis for concluding the bluff is non-native if the City and/or applicant's biologist made this assertion while:

- No field data were collected;
- No floristic composition was documented; and
- No vegetation alliance determination was performed.

Our photos and simple recon survey make the City/Applicant's biologist assertion scientifically impossible. For this assertion by the City and Applicant's biologist to be true:

- Artemisia californica would have to be non-native
- Malosma laurina would have to be non-native
- Isocoma menziesii would have to be non-native
- Batis maritima and Distichlis spicata halophytes would have to be non-native

Our photos also show non-native ornamental species but these are incidental to the larger established native community

This is scientifically impossible. Our data and the photographs show the opposite:

A high-quality native bluff scrub with halophytes. Unless the City or applicant conducted their own floristic survey (which they have not produced), their assertion is:

- Unsupported
- Contrary to the visual record
- Contrary to MCV2 classification rules
- Contrary to Malibu LCP definitions
- Contrary to actual vegetation onsite

Finally, under Malibu LUP Policy 3.23, his coastal bluff scrub community clearly qualifies as an ESHA

The Malibu LCP's ESHA criteria include:

- Rarity of the community
- Ecological value
- High native cover
- Sensitivity to disturbance
- Habitat connectivity
- Bluff stabilization function
- Intact hydrologic and geomorphic conditions

The bluff we documented (with relatively little effort) contains:

- A mostly intact native scrub community
- Halophytes at the toe (saltwort, saltgrass)
- Minimal anthropogenic disturbance
- High native species richness
- A clear maritime influence
- A documented shrubland alliance recognized by MCV2

These findings meet Malibu LCP/LIP ESHA criteria directly.

Hope this helps, thx

Joshua Zinn, PWS | Regulatory Program Manager and Ecologist
Mobile: [redacted]
Email: [redacted]
Amigo Environmental, LLC | Certified DBE

Marcy Paul
[redacted]
Malibu,CA 90265
01/16/2026

Malibu City Planning Commission

Dear Planning Commission,

My name is Marcy Paul, and I am a neighbor of Ronald and Jane Jenny. My house is located on the same easement, behind the Mackey's home. I have known the Jennys for many years, and I am writing to express my support for their planned construction project.

I have recently observed that the Jennys have erected story poles for a new home on the vacant lot next to their property. Since my house is directly above the Jennys' residence, I recognize that portions of their new structure will impact my view. Although this may slightly affect my perspective, I firmly believe that the Jennys have the right to build on the property they have purchased.

In my discussions with the Jennys, they informed me that their neighbors, the Andersons and the Mackeys, have hired an attorney in an attempt to block their building rights. To my understanding, they have raised various objections, including claims regarding potential Chumash burial grounds on the Jennys' property. However, extensive studies have revealed no evidence of any archaeological issues.

It is crucial to note that the concerns expressed by the Andersons and the Mackeys primarily center around their views rather than legitimate legal or environmental matters. The Jennys purchased their lot and should have the right to build on it, particularly since they have consistently adhered to the city's guidelines regarding height and size.

From my observations, the Mackeys' house is significantly taller than the planned construction for the Jennys' home. Furthermore, the Andersons have planted numerous large trees, including approximately 30 specimen olive trees that directly obstruct my view. The Mackeys also have large palm trees, a giant eucalyptus, and a substantial coral tree that they allow to grow unchecked. Despite my requests for them to trim or relocate these trees to help restore my view, they have shown no willingness to accommodate this.

Given these considerations, I urge you to uphold the Jennys' right to build their new home. They have meticulously designed the project and have been collaborating with the Malibu building department for nearly four years.

Thank you for your attention to this matter.

Sincerely,
Marcy Paul



Received
12/16/25
Planning Div.

To: Didier Murillo
Principal Planner
Community Development Department.
City of Malibu
23825 Stuart Ranch Road
Malibu, CA 90265

Dear Mr. Murillo, I am writing to you asking for your help in helping correct a misquote attributed to me, which was included in a letter that was recently sent to the City of Malibu Planning department by David Paul Dominguez, regarding an application for a building permit at 33008 Pacific Coast Highway.

The background is this: On December 8th 2025, I received a call from Mr. Dominguez. He wanted to know if I had any knowledge of coastal sites in the City of Malibu. I was under the impression that he asked because he was going to do some cultural monitoring there.

I told him that yes I do have knowledge of the Malibu area. I have worked in Malibu many times as a cultural resources consultant, the last time as part of the Woolsey Fire Cleanup project. I am the founder and former Chair of the Barbareno Ventureno Band of Mission Indians. I have 40 years of experience in all aspects of my Chumash cultural heritage including Cultural Resource Management. Even more to the point, it is well documented that my family has direct descendancy from the Chumash villages of Humaliwo and Zumo (Dume Pt.).

In response to David's question I provided him some general information about a site I'm familiar with based on my work in the Malibu region. My point by referencing it was simply to reinforce the notion that Malibu is a culturally sensitive area. The site that I was telling David about is 10 miles west from the 33008 property, not at all related to 33008. I had never been on the site at 33008 and never made any representation to David that I had been.

As we continued to talk, I realized that his focus was the property at 33008, and learned that it was being contested by many people and that David and Chester King, an archaeological consultant, were being paid to consult with property owners in this neighborhood and report to them and the City of Malibu.

Since then I have seen the letter that David sent the City of Malibu where he states:

> "On the same day I had personal communication Julie Tumamait, former chair of the Ventareno/Barbareno Chumash Tribe, and She further verified that there are multiple burials on the proposed project bluff area and reburials in the immediate vicinity."

This attribution is completely false. I never made any such statement about the 33008 property. He knows that I wasn't talking about that property, knows that I've never been there, never said anything about that property. Further, David totally misrepresents when our conversation took place. We spoke on December 8, not November 1.

I just want to be absolutely clear. Neither the city in its setting permitting conditions nor the property owners in their own stewardship should be relying on any statements attributed to me by Mr. Dominguez. I've asked David to correct this record, yet he has refused, so I am compelled to send this letter both to protect my own integrity and to be clear about the actual record of the 33008 property.

That all said, please also know that I am very passionately committed to protecting Chumash cultural resources. But our work must be based on honesty and reliability. Archaeology is a very specific and scientific process. There are many levels to follow, one process following the other to see the presence or absence of Cultural material. One cannot conclude that because there may be human remains on one property, that it means there are remains on other properties miles away.

Finally, on a related point, each parcel and project needs to be taken seriously and deliberately. Yet what's apparent in this situation is that both David and Chester are relying on made up claims and the disaffection of neighbors to claim evidence of Chumash cultural resources at 33008. There may be, but the City and property owner need to follow appropriate and reliable procedures to determine that.

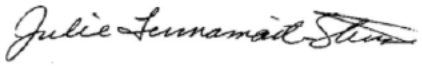
In closing I would like to add that I have been asked to be present as the Cultural Monitor for the extended Phase 1 archaeological testing. I'm honored to participate in the work to document what is actually at this property. The findings will determine what comes next. But I'd also like to note that as I write this there is road work being conducted right out on the highway. If there was real concern about the sacredness of our culture wouldn't the neighbors and others have been

equally concerned to have a Cultural Monitor there too? The neighbors are concerned about the 33008 property, but where's the concern for the roadwork?

Should you have any questions, I'm happy and eager to talk, to set the record right on my comments. Thank you.

Sincerely,

Julie Tumamait-Stenslie



Chumash Elder
Native Chumash Consulting
Services
[redacted]

Forde
BIOLOGICAL CONSULTANTS

10664 FRESILLA RD | SANTA ROSA VALLEY, CA 93012
PHONE: (805) 302-7165 | FAX: (805) 532-9196
WWW.FORDEBIO.COM | EMAIL: INFO@FORDEBIO.COM

Ronald Jenny
33010 Pacific Coast Highway
Malibu, CA 90264

November 12, 2025

RE – 33008 Pacific Coast Highway, Malibu

Ronald Jenny,

At the request of Schmitz & Associates, I visited the property commonly known as 33008 Pacific Coast Highway on November 7, 2025, to determine if a bluff meets the Environmentally Sensitive Habitat Area (ESHA) definition and to determine the distance of the property from a stream that cuts through 33014 Pacific Coast Highway.

The City of Malibu LCP defines ESHA as "any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem." ESHA includes native habitats, which contribute to the viability of species protected by the State and Federal endangered species acts or those that are "fully protected" or recognized as "species of special concern" by the State. Any habitats with plant species on list 1B or list 2 of the California Native Plant Society's Inventory of Rare and Endangered Plants or habitats that are rare or valuable from a local, regional, or statewide basis including wetlands and streams are ESHA.[1] With exception of streams and wetlands, areas within legally existing fuel modification zones, do not meet the ESHA definition.

1 City of Malibu Local Coastal Plan, Local Implementation Plan, Chapter 4.1; City of Malibu Local Coastal Plan, Land Use Plan, Chapter 3.1

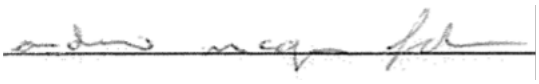
ATTACHMENT 6

Forde
BIOLOGICAL CONSULTANTS

10664 FRESILLA RD | SANTA ROSA VALLEY, CA 93012
PHONE: (805) 302-7165 | FAX: (805) 532-9196
WWW.FORDEBIO.COM | EMAIL: INFO@FORDEBIO.COM

The bluff is located within the fuel modification zones of adjacent single-family residencies and non-native vegetation dominates. The bluff does not meet the ESHA definition. I had no legal access to 33014 Pacific Coast Highway. Using a laser hypsometer, I determined that at its closet point to the property the stream is 8 feet wide from top of bank to top of bank and the distance from top of bank to the property line is 104 feet.

Sincerely,



Andrew McGinn Forde, Principal Biologist
Forde Biological Consultants



LEGEND:

- RIGHT OF WAY
- PROPERTY LINE
- LOT LINE
- CENTERLINE
- EASEMENT LINE
- CENTERLINE OF STREAM

30' 15' 0' 15' 30' 60'

GRAPHIC SCALE
SCALE: 1"=30'

NOTES:

1. EXISTING STREAM SHOWN HEREON IS BASED ON FIELD MEASUREMENTS LOCATED ON 10/30/2025.

PROFESSIONAL LAND SURVEYOR
CHRIS D. NELSON
No. 6385
STATE OF CALIFORNIA

10/29/2025

CA5 Surveying & Mapping
28328 Agoura Rd., Suite 203, Agoura Hills, CA. 91301
P: 818.463.3141 www.CA5Survey.com

AERIAL DRONE EXHIBIT

APN: 4473-017-009

33008 PACIFIC COAST HIGHWAY,
MALIBU, CA 90265

PREPARED FOR:
RON JENNY
C/O: SCHMITZ AND ASSOCIATES
33008 PACIFIC COAST HIGHWAY,
MALIBU, CA 90265

JOB NO. 25-046
SCALE: 1" = 30'
DATE: OCT, 2025
SHEET: 1 OF 1

S:\SHARED FOLDERS\CA5SURVEY_FILES\PROJECTS\2025\25-046 RON JENNY 33008 PCH MALIBU DRONE SURVEY\PRODUCTION\BOUNDARY & TOPO\25-046 FROM 23-6817 33021 BOUNDARY.DWG (11-01-25 2:29:56PM) Plotted by: Shane

ATTACHMENT 7

City Of Malibu
23825 Stuart Ranch Road
Malibu, CA 90265
Phone (310) 456-2489
www.malibucity.org

COMMUNITY DEVELOPMENT DEPARTMENT

NOTICE OF PUBLIC HEARING

NOTICE OF PUBLIC HEARING

The Malibu Planning Commission will hold a public hearing on **Tuesday, February 17, 2026, at 6:30 p.m**. in the Council Chambers, Malibu City Hall, 23825 Stuart Ranch Road, Malibu, CA for the project identified below. Public comment can be submitted ahead of the public hearing to planningcommission@malibucity.org for inclusion in the public record. To participate during the public hearing, please review the meeting agenda posted at MalibuCity.org/AgendaCenter and follow the directions for public participation.

COASTAL DEVELOPMENT PERMIT NO. 23-034, MINOR MODIFICATION NO. 25-009, AND CODE VIOLATION NO. 23-047 - An application to construct a new two-story, 18-foot high, 4,856 square foot single-family residence, including a 791 square foot attached garage and a 824 square foot second-story second unit, landscaping, hardscape, grading, fire department turnaround area, vehicular access gate, and the installation of a new onsite wastewater treatment system; including a minor modification for up to a 50 percent reduction of the front yard setback

LOCATION / APN / ZONING:	**33008 Pacific Coast Hwy** / 4473-017-009 / Rural Residential-Two Acre (RR-2)
APPLICANT / OWNER:	Schmitz & Associates, Inc. / Bluff Top 1 LLC
APPEALABLE TO:	City Council and California Coastal Commission
ENVIRONMENTAL REVIEW:	Categorical Exemption CEQA Guidelines Sections 15303(a) and 15303(e)
APPLICATION FILED:	May 17, 2023
CASE PLANNER:	Didier Murillo, Principal Planner, dmurillo@malibucity.org (310) 456-2489, ext. 342

A written staff report will be available at or before the hearing for the project. All persons wishing to address the Commission regarding this matter will be afforded an opportunity in accordance with the Commission's procedures. Copies of all related documents can be reviewed by any interested person at City Hall during regular business hours. Oral and written comments may be presented to the Planning Commission on, or before, the date of the meeting.

LOCAL APPEAL - A decision of the Planning Commission may be appealed to the City Council by an aggrieved person by written statement setting forth the grounds for appeal. An appeal shall be filed with the City Clerk within ten days following the date of action which the appeal is made and shall be accompanied by an appeal form and filing fee, as specified by the City Council. Appeal forms may be found online at www.malibucity.org/planningforms or in person at City Hall, or by calling (310) 456-2489, extension 246.

COASTAL COMMISSION APPEAL - An aggrieved person may appeal the Planning Commission's approval directly to the Coastal Commission within 10 working days of the issuance of the City's Notice of Final Action. More information may be found online at www.coastal.ca.gov or by calling 805-585-1800.

IF YOU CHALLENGE THE CITY'S ACTION IN COURT, YOU MAY BE LIMITED TO RAISING ONLY THOSE ISSUES YOU OR SOMEONE ELSE RAISED AT THE PUBLIC HEARING DESCRIBED IN THIS NOTICE, OR IN WRITTEN CORRESPONDENCE DELIVERED TO THE CITY, AT OR PRIOR TO THE PUBLIC HEARING.

YOLANDA BUNDY, Community Development Director Date: February 5, 2026

This page is part of your document - DO NOT DISCARD

20250603609

Recorded/Filed in Official Records
Recorder's Office, Los Angeles County, California

09/04/25 AT 02:05PM

Pages: 0006

FEES:	0.00
TAXES:	0.00
OTHER:	0.00
PAID:	0.00

LEADSHEET

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SEQ:
01

SECURE - Daily - Time Sensitive

THIS FORM IS NOT TO BE DUPLICATED

E55-20250904

E535543

FOR REFERENCE ONLY: 20250603609

RECORDING REQUESTED BY AND
WHEN RECORDED, RETURN TO:

City of Malibu
Attention: City Clerk
23825 Stuart Ranch Road
Malibu, California 90265

SPACE ABOVE THIS LINE RESERVED FOR RECORDER'S USE

EXEMPT FROM RECORDING FEE
PER GOVT. CODE § 27383

COVENANT AND AGREEMENT

The undersigned hereby certifies it is the owner of the real property located in the City of Malibu (the "City), County of Los Angeles, State of California, as described and set forth in Exhibit "A" hereto (the "Property")

Site address: **33008 Pacific Coast Highway, Malibu, California, 90265**
APN: **4473-017-009**

In consideration of the issuance of Conditional Certificate of Compliance No. 29220 by the Los Angeles County Department of Regional Planning, recorded on October 30, 1986, the undersigned hereby promises, covenants and agrees, for the benefit of the City of Malibu as successor to the County of Los Angeles, that no buildings, improvements, structures and/or obstructions of any kind shall be constructed on the Property due to the Property and, or its access being located within the flood-prone area, as show in Exhibit "B."

This covenant shall run with the Property and shall be binding upon the undersigned, its successors, heirs or assigns and shall continue in effect until the Planning Department of the City of Malibu approves its termination.

Dated this 26 day of Aug, 2025

Bluff Top 1, LLC

By _____
Authorizing signature of Bluff Top 1, LLC

Ronald Jeromy Manager
Print Name

Exempt from fees pursuant to Government Code Section 27383

RECORDING REQUESTED BY AND
WHEN RECORDED, RETURN TO:

City of Malibu
Attention: City Clerk
23825 Stuart Ranch Road
Malibu, California 90265

SPACE ABOVE THIS LINE RESERVED FOR RECORDER'S USE

EXEMPT FROM RECORDING FEE
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Dated this 26 day of Aug, 2025

Bluff Top 1, LLC

By _____
Authorizing signature of Bluff Top 1, LLC

Ronald Jenney Manager
Print Name

Exempt from fees pursuant to Government Code Section 27383

ALL-PURPOSE ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of Nevada

On August 26, 2025 before me C. Ridgel, Notary Public,

personally appeared Ronald Jenny who proved to me on the basis of satisfactory evidence to be the person(~~s~~) whose name(~~s~~) is/~~are~~ subscribed to the within instrument and acknowledged to me that he/~~she/they~~ executed the same in his/~~her/their~~ authorized capacity(~~ies~~), and that by his/~~her/their~~ signature(~~s~~) on the instrument the person(~~s~~), or the entity upon behalf of which the person(~~s~~) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

C. RIDGEL
Comm. # 2412331
Notary Public California
Nevada County
My Comm. Expires Aug 6, 2026

C. Ridgel

(Notary Public's signature in and for said County and State) **(Seal)**

CITY OF MALIBU

Exempt from fees pursuant to Government Code Section 27383

Yolanda Bundy 9/2/25

By: Yolanda Bundy, MS, PE, CBO, CFCO
Community Development Director

Date

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA
County of Los Angeles

On 9/2/25, before me, Jason Lawrence, Deputy City Clerk for the City of Malibu, personally appeared Yolanda Bundy, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that they executed the same in their authorized capacity, and that by their signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

By: Jason Lawrence
Deputy City Clerk

(SEAL)

CITY OF MALIBU, CALIFORNIA INCORPORATED MARCH 28, 1991

Exempt from fees pursuant to Government Code Section 27383

PEARSON
LAND SURVEYING, INC.

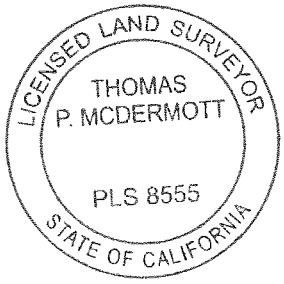
EXHIBIT "A"
LEGAL DESCRIPTION
DEED RESTRICTION AREA
APN: 4473-017-009 ADDRESS: 33008 PACIFIC COAST HIGHWAY, MALIBU

That portion of Parcel 1 as described in the Grant Deed recorded 12/29/2021 as Instrument No. 20211921968, in the City of Malibu, County of Los Angeles, State of California, Official Records of said County, lying southerly of the following described line:

Beginning at a point on the southeasterly line of said Parcel 1, distant thereon South 27°34'30" West 679.59 feet from the northeast corner of said Parcel; thence South 88°27'29" West 162.98 feet to a point on the northwesterly line of said Parcel, distant thereon South 27°34'30" West 711.71 feet from the northwest corner of said Parcel.

This Legal Description is described on the accompanying "Exhibit B", is made a part hereof for reference purposes, was prepared as a convenience, and is not intended for the use in the division and/or conveyance of land in violation of the Subdivision Map Act of the State of California.

Having an area of approximately 7,335 square feet.



Thomas McDermott, PLS 8555
Pearson Land Surveying, Inc.

Date: 8/5/24

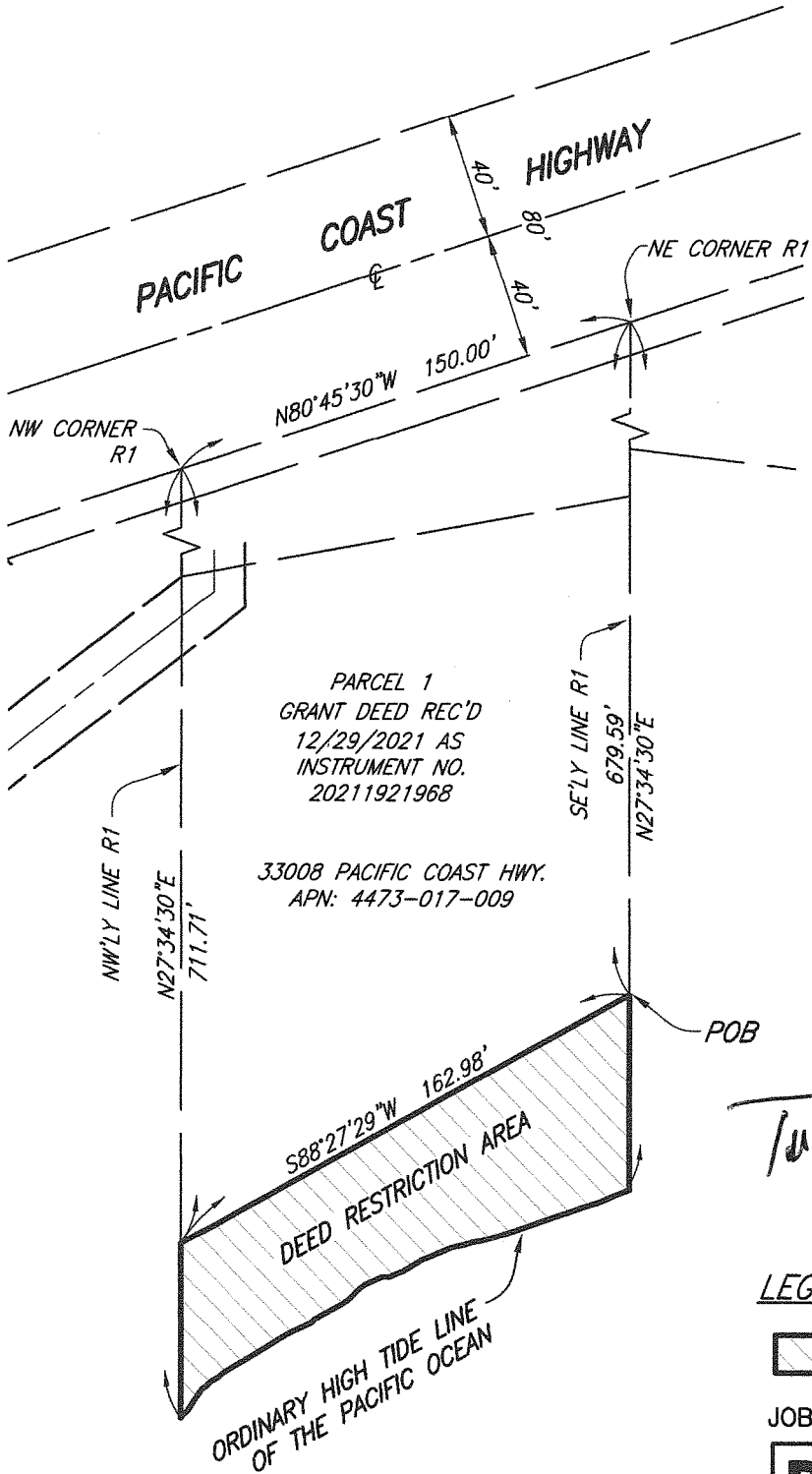
SCALE: 1" = 60'

SHEET 1 OF 1

EXHIBIT "B"

LEGAL DESCRIPTION EXHIBIT
DEED RESTRICTION

33008 PACIFIC COAST HIGHWAY, MALIBU
COUNTY OF LOS ANGELES, STATE OF CALIFORNIA
APN: 4473-017-009

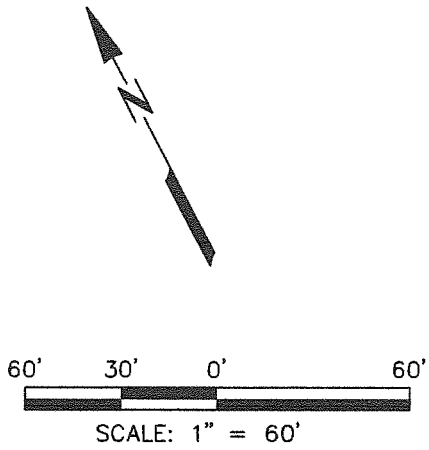


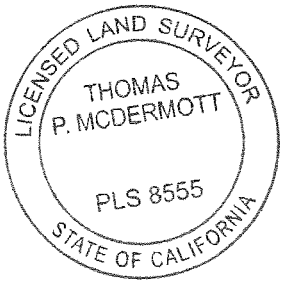
RECORD DATA SOURCES

R1 GRANT DEED RECORDED 12/29/2021 AS INSTRUMENT NO. 20211921968, O.R.

APPROXIMATE AREA

7,335 SQ. FT.





LEGEND

LEGAL DESCRIPTION BOUNDARY

JOB NO.: 24JEN0101 DATE: 8/5/2024

RON JENNY

PEARSON LAND SURVEYING, INC.
Thomas McDermott, PLS 8555
23371 Mulholland Dr. #330
Woodland Hills, CA 91364
Phone: (818) 468-9714
info@pearsonlandsurveying.com

Received
2/13/26
Planning Div.

From: Jackson D. McNeill
To: Planning Commission
Cc: Yolanda Bundy; Trevor Rusin; Kellan Martz; Marco A. Ornelas Lopez; Kenneth A. Ehrlich; Didier Murillo; Tyler Eaton
Subject: Correspondence re: Item 5A - 33008 PCH - Additional Opposition Letter
Date: Friday, February 13, 2026 9:58:38 AM
Attachments: image001.png
Item 5A - 33008 PCH - Key Objections.pdf

Commissioners and City Staff:

Attached, please find an additional letter submitted on behalf of our clients Unknowingly Devolving LLC and Mark and Tamara Mackey objecting to the project at 33008 PCH, agendized for the Planning Commission's February 17, 2026, meeting as Item 5A. This letter provides a high-level summary of our clients' key objections (which are discussed in greater detail in separate, prior correspondence). Please let me know if you have any questions. Thank you.

Best,

Jackson D. McNeill
JMcNeill@elkinskalt.com
Direct Dial: (310) 746-4424 | Fax: (310) 746-4499 | Download VCard
Elkins Kalt Weintraub Reuben Gartside LLP
10345 W. Olympic Boulevard, Los Angeles, CA 90064
www.elkinskalt.com

ELKINS KALT

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CC: Planning Commission, PD,

Recording Secretary, File

Date Received 2/13/26 Time 9:58am
Planning Commission meeting of 2/17/26
Agenda Item No. 5.A.
Total No. of Pages 4

EXHIBIT F

ELKINS KALT

Jackson D. McNeill
D: (310) 746-4424
JMcneill@elkinskalt.com
Ref: 15289-0001

Elkins Kalt Weintraub Reuben Gartside LLP

February 13, 2026

VIA E-MAIL ONLY
City of Malibu Planning Commission
23825 Stuart Ranch Road
Malibu, CA 90265
Email: planningcommission@malibucity.org

Re:	Key Objections to CDP No. 23-034 and Minor Mod. No. 25-009
Address:	33008 Pacific Coast Highway, Malibu, California
Meeting:	February 17, 2026
Item #:	5A

Dear Commissioners:

Our firm represents Unknowingly Devolving LLC and Mark and Tamara Mackey (collectively, our "Clients"), the owners of the real property and single-family residences located at [redacted] and [redacted] Pacific Coast Highway in Malibu, California, respectively. Bluff Top 1 LLC ("Applicant") requests a Coastal Development Permit (CDP No. 23-034) and Minor Modification (Minor Modification No. 25-009) (together, the "Application") to construct a new single-family residence and associated development (the "Project") on a coastal bluff property at 33008 Pacific Coast Highway (the "Property").

We have submitted myriad letters and emails objecting to the Project.[1] While staff and the applicant have partially addressed some such objections, many objections remain unresolved. We highlight a handful of our clients' key, unmet objections here:

- **The ESHA analysis relies on an incorrect measurement methodology that understates the required ESHA buffer.** The LCP requires a 100-foot ESHA buffer measured from the *outer edge of riparian vegetation*, not from the edge of the stream. (LIP § 4.6.1(A).) Instead, the Applicant's biologist "determined that at its closet point the distance *from top of bank* to the property line is 104 feet." (Forde Memorandum, November 12, 2025, p. 2, emphasis added.) At the same time, the applicant's own biological assessment opines that "[a]long the perimeter of the stream various trees and associated riparian areas are present" and that the "ESHA area is a riparian woodland community." (Moorman Biological Assessment, July 2023, p. 10.) Thus, by measuring from the stream edge rather than from the outer

[1] We incorporate and reallege the objections in those letters and in emails by reference.

T: 310.746.4400 F: 310.746.4499
10345 W. Olympic Blvd, Los Angeles, CA 90064 | elkinskalt.com

edge of riparian vegetation, the Applicant's analysis systematically undermeasures the ESHA buffer. When the buffer is correctly measured, it overlaps the Property and multiple Project components. The Project therefore cannot be approved as proposed and must be revised to account for the properly measured ESHA buffer.

- **The Project fails to account for Coastal ESHA.** Our client's biologist inspected the coastal bluff along the Property and concluded it qualifies as ESHA, providing a detailed, multi-page analysis. The applicant biologist's 1.5-page memorandum on November 12, 2025, and applicant's previous biological assessment predate that analysis and do not rebut it. The presence of coastal bluff ESHA means that the applicant must provide a 100-foot buffer from the top of the bluff, and its request for a 50-foot setback instead cannot be approved. (LIP § 4.6.1(D).)

- **The extended Phase I study does not resolve (much less eliminate) the reasonable possibility of impacts to tribal resources.** It remains undisputed that cultural resources have been found at the Property. (See November 3, 2025, Staff Report, p. 8 ["The cultural resources found during the field survey included subsistence shell and stone tools…."].) While the extended Phase I did not yet find additional cultural resources, that does not mean they do not exist. Mr. David Paul Dominguez, a Chumash elder, and Chester King, PhD, a professional archaeologist, both opined in letters to the Planning Commission that the Property likely contains additional cultural resources. Our own client has recovered cultural artifacts on his property immediately east of the subject Property, including mortar, pestles, and hand tools. And neighbors report the discovery of cultural resources (including burials) upslope in the late 1990s. The Project's 2,958 cubic yards of grading, meanwhile, are likely to disturb or destroy these resources. At minimum, the City should require a Phase II archaeological study before proceeding.

- **The City improperly relies on a categorical exemption from CEQA.** The City claims the Project qualifies for a Class 3 exemption from CEQA. While single family homes may sometimes qualify for this exemption, this exemption does not apply here for at least three reasons:

    - The City acknowledges potential impacts to tribal cultural resources and then attempts to rely on archaeological monitoring and other conditions of approval to "mitigate" those impacts into a categorical exemption—an approach CEQA flatly prohibits. (*Salmon Protection & Watershed Network v. County of Marin* (2004) 125 Cal.App.4th 1098, 1108.) A mitigated negative declaration ("MND") or EIR must be prepared.

- Substantial evidence from a qualified archaeologist and a Chumash elder demonstrates a reasonable possibility of significant impacts to tribal cultural resources exist due to unusual circumstances of the Project, which separately defeats any Class 3 categorical exemption. (Cal. Code Regs., tit. 14, § 15300.2.) Again, an MND or EIR must be prepared.

- Because a Phase I inventory identified significant cultural resources and required extended testing, including subsurface testing, the LCP requires preparation of at least a negative declaration, precluding reliance on any CEQA exemption. (LIP § 11.3(F)(1).)

Our Clients' do not oppose all development on the Property, however, they request that any approved development comply with the law. The Project, as proposed, does not. Until the biology, archaeology, CEQA, and various other unresolved flaws with the Project are addressed, the Project does not comply with the LIP or with CEQA, and the Commission should respectfully deny the Project. At minimum, a Phase II archaeological study should be required and a mitigated negative declaration or EIR must be prepared.

Very truly yours,



JACKSON D. McNEILL
Elkins Kalt Weintraub Reuben Gartside LLP

JDM:jdm

cc: Didier Murillo (Dmurillo@malibucity.org)
Tyler Eaton (Teaton@malibucity.org)
Trevor Rusin (Trevor.Rusin@bbklaw.com)
Kellan Martz (Kellan.Martz@bbklaw.com)

8058500.1

OPPOSITION TO CDP NO. 23-034 AND MM NO. 25-009

Jackson D. McNeill, attorney for Mark and Tamara Mackey, Unknowingly Devolving, LLC
Elkins Kalt Weintraub Reuben Gartside, LLP

INTRODUCTION

- **My clients do not oppose all development, even though the Project would impact their bluewater views.**



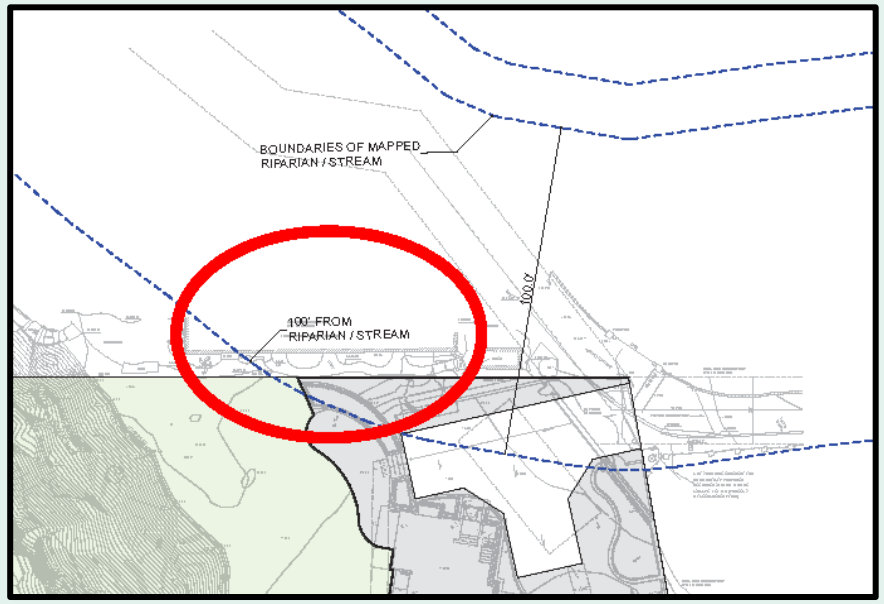
THE PROJECT

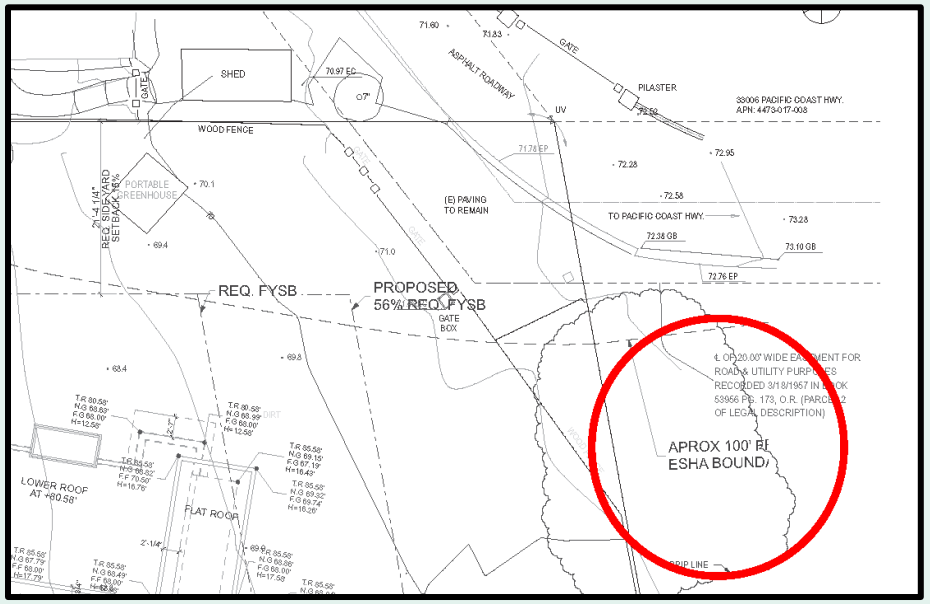
This Project:

- **Is located within 100 feet of riparian habitat.**
- **On a site with documented cultural artifacts.**
- **On a coastal bluff.**
- **Requests the maximum (50%) reduction to the coastal bluff setback.**
- **And requests a near maximum (37%) reduction to the front yard setback**

ESHA ISSUES

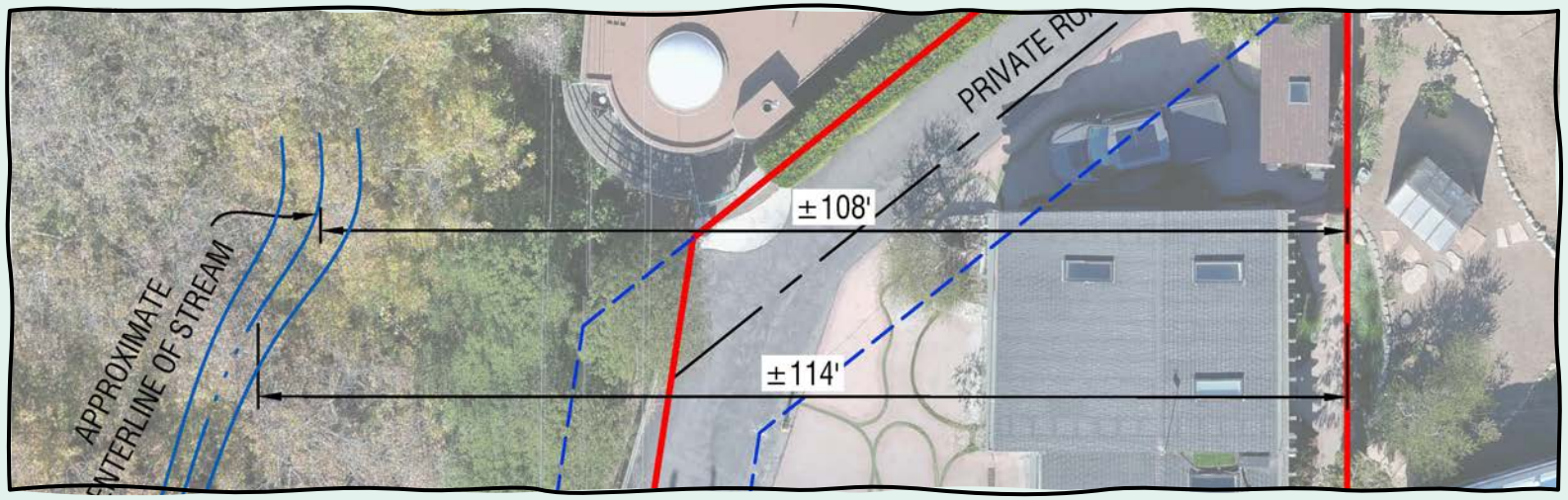
Applicant's original plans admitted that part of the Project lies within 100-feet of the steam.





ESHA ISSUES

In response to our objections, Applicant now claims the bank of the ESHA stream is at least 104' from the Property:



The bluff is located within the fuel modification zones of adjacent single-family residencies and non-native vegetation dominates. The bluff does not meet the ESHA definition. I had no legal access to 33014 Pacific Coast Highway. Using a laser hypsometer, I determined that at its closet point to the property the stream is 8 feet wide from top of bank to top of bank and the distance from top of bank to the property line is 104 feet.

ESHA ISSUES

But the LIP requires development to be at least 100 feet from the edge of the riparian vegetation, not the top of the stream bank. The LIP states:

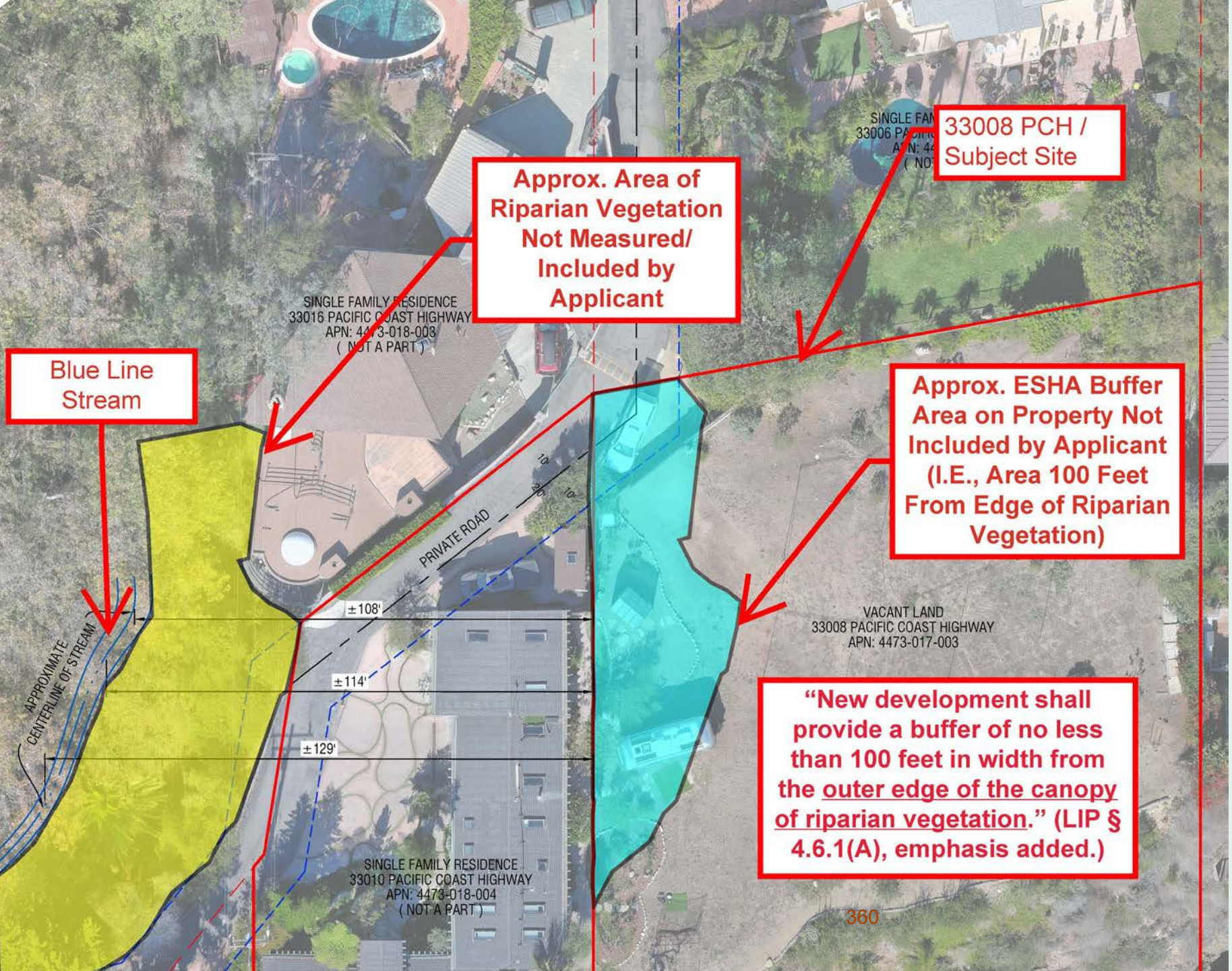
New development shall provide a buffer of no less than 100 feet in width from the outer edge of the canopy of riparian vegetation. Where riparian vegetation is not present, the buffer shall be measured from the outer edge of the bank of the subject stream.

(LIP section 4.6.1(A).)

ESHA ISSUES

Applicant's Biology Assessment (which our biologist opines is legally deficient) admits riparian vegetation exists.

ESHA AREA IS A RIPARIAN WOODLAND COMMUNITY. THERE IS A STREAM THAT RUNS THROUGH THE ESHA AND DRAINS INTO THE OCEAN. ALONG THE PERIMETER OF THE STREAM VARIOUS TREES AND ASSOCIATED RIPARIAN AREAS ARE PRESENT. PLEASE NOTE THERE ARE ADDITIONAL DEVELOPED PROPERTIES WITHIN THE ESHA THAT ARE NOT ILLUSTRATED. ADDITIONALLY, THERE IS A PAVED ROAD AND RESIDENTIAL HOME CREATING PHYSICAL BARRIERS BETWEEN THE ESHA AND PROPERTY AREA.

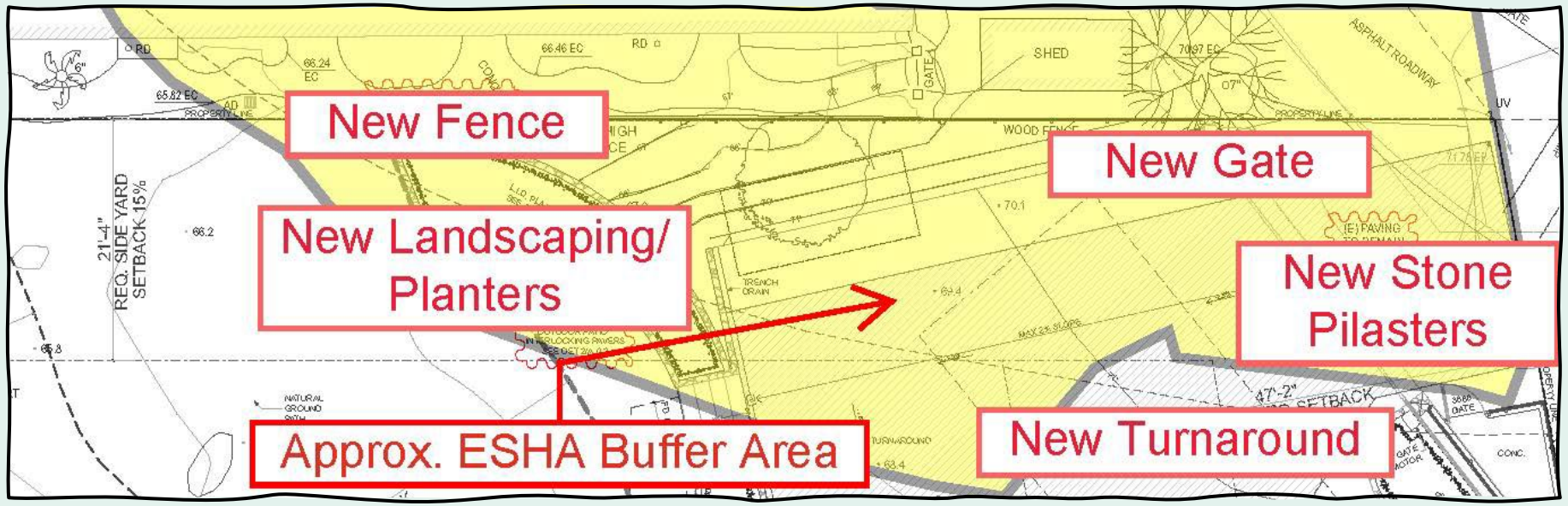


When measured from the edge of the riparian vegetation, a HUGE amount of ESHA buffer exists on the Property

BLUE = APPROX. ESHA BUFFER AREA

ESHA ISSUES

And yet, Applicant proposes various development in this ESHA buffer area:



FUEL MODIFICATION

- **Fuel modification requirements do NOT affect whether streams or wetlands are ESHA. (LUP section 3.1.)**
- **Once ESHA exists, you must provide the required buffer. Fuel modification requirements do NOT remove or change the buffer requirement.**
- **That buffer is measured from the edge of the riparian vegetation.**
- **Nothing in the LIP or LUP indicates that fuel modification changes the way the buffer is measured.**

ARCHAEOLOGY

- **Cultural artifacts were found on site.**
- **Cultural artifacts were found to the east.**
- **Human remains have been found upslope.**



APPLICANT'S PHASE I STUDY

- **The expanded Phase I study failed to find *new* resources (yet), but it does not mean those resources don't exist:**
  - **To repeat: It remains undisputed that the site contains shell and stone tools.**
  - **2,958 cubic yards of grading and 12,603.6 sq. ft. of disturbed area create a near-certainty of disturbing any subsurface resources that a Phase I surface scan would miss.**

ARCHAEOLOGY

Chumash Elder, former Chumash Cultural Resources Monitor, and 30-year cultural resources expert David Paul Dominguez opines:

and mortars, including, mano and metates, as well as, flakes and arrowheads. And, it is a well known burial area that has been brought to the attention of the city of Malibu, and well known that the area will contain other burials and will be

First, and more importantly, this project should not be approved on account of the sacred sensitivity to the Chumash people and undiscovered burials, that, are in no doubt, in the immediate project area.

ARCHAEOLOGY

Chester King, PhD, opines:

- 33008 PCH lies within the known archaeological site LAN-29 and likely contains intact subsurface cultural deposits and potentially contains a cemetery.
- The Phase I assessment prepared by the applicant's archaeologist, Dr. Boxt, remains both incomplete and contradicted by prior documented findings, including human remains at a parcel in the immediate vicinity.
- The applicant and City of Malibu's proposed monitoring and mitigation measures remain wholly insufficient.
- The City must require a publicly reviewed Phase 2 subsurface testing program, conducted with a qualified Chumash cultural monitor, before any project approval.

ARCHAEOLOGY

- **A Chumash Elder says this site is sacred and not enough has been done to protect the site.**
- **An archaeologist specializing in Chumash resources says a Phase 2 should be done and the current protections are not enough.**
- **Resources found in the immediate area, including human bones.**

CONCLUSION

- **The project violates ESHA buffer requirements.**
- **The project requires a Phase 2 archaeology study.**
- **The project comes from an applicant with a history of code violations.**
- **This community deserves better.**
- **This Commission knows better.**
- **We respectfully ask this Commission to deny the project.**

QUESTIONS?

Received
2/17/26
Planning Div.

From: Jan Ravlich
To: Planning Commission
Subject: 25200 Pacific Coast Highway
Date: Tuesday, February 17, 2026 10:49:04 AM

Honorable Chair and Members of the Planning Commission,

We respectfully oppose the proposed development at 25200 Pacific Coast Highway due to unresolved geologic risks and permanent scenic impacts.

The property lies within a mapped landslide hazard area and the Malibu Road Landslide Assessment District. The record reflects that stabilization elements relied upon have been altered, and the applicant's own calculations show the required 1.5 factor of safety is not met without extraordinary structural measures.

Under these conditions, a variance is required before any discretionary approval. It has not been applied for.

There is also documented evidence of water-related slope instability in this area. Water is a primary landslide trigger, and the proposed irrigation plan introduces additional unknown loading into an already unstable slope. Slope failure would affect not only this parcel, but downslope homes, Malibu Road, and Pacific Coast Highway.

In addition, Pacific Coast Highway is a designated scenic corridor. The scale of this project and proposed lot merger would permanently block iconic public views toward Paradise Cove, Point Dume, Catalina Island, Palos Verdes, and the open Pacific horizon. Once blocked, these views are lost forever.

Because the required findings cannot be made and a variance has not been secured, this project should not proceed.

Separately, Item 5A at 33008 PCH should not move forward until the potential burial site is properly evaluated and confirmed by the Chumash Tribe's designated cultural resource manager.

Malibu's safety, heritage, and coastline deserve careful protection.

Respectfully,
Jan Ravlich
Lived in Malibu 15 years

CC: Planning Commission, PD,

Recording Secretary, File

Date Received 2/17/26 Time 10:50 a.m.
Planning Commission meeting of 2/17/26
Agenda Item No. 5A
Total No. of Pages 1

Received
2/12/26
Planning Div.

From: Jackson D. McNeill
To: Planning Commission
Cc: Tyler Eaton; Didier Murillo; Yolanda Bundy; Trevor Rusin; Kellan Martz
Subject: Correspondence re: Item 5A - 33008 PCH - Opposition Letter re CEQA
Date: Thursday, February 12, 2026 3:29:59 PM
Attachments: image001.png
Item 5A - 33008 PCH - Opposition Letter re CEQA (2026.02.12).pdf

Commissioners and City Staff:

Attached, please find our letter submitted on behalf of our clients Unknowingly Devolving LLC and Mark and Tamara Mackey objecting to the project at 33008 PCH, agendized for the Planning Commission's February 17, 2026 meeting as Item 5A, on the basis that the Project fails to comply with CEQA. As discussed therein, the Project impermissibly relies on a categorical exemption from CEQA for three independent legal reasons. For these reasons, the City must prepare a mitigated negative declaration or environmental impact report before the Planning Commission may consider or approve the Project. Please let me know if you have any questions. Thank you.

Best,

Jackson D. McNeill
JMcNeill@elkinskalt.com
Direct Dial: (310) 746-4424 | Fax: (310) 746-4499 | Download VCard
Elkins Kalt Weintraub Reuben Gartside LLP
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ELKINS KALT

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CC: Planning Commission, PD,

Recording Secretary, File

Date Received 2/12/26 Time 3:30 p.m.
Planning Commission meeting of 2/17/26
Agenda Item No. 5A
Total No. of Pages 35

ELKINS KALT

Jackson D. McNeill
D: (310) 746-4424
JMcneill@elkinskalt.com
Ref: 15289-0001

Elkins Kalt Weintraub Reuben Gartside LLP

February 12, 2026

VIA E-MAIL ONLY
City of Malibu Planning Commission
23825 Stuart Ranch Road
Malibu, CA 90265
Email: planningcommission@malibucity.org

Re:	CEQA Objections to CDP No. 23-034 and Minor Modification No. 25-009
Address:	33008 Pacific Coast Highway, Malibu, California
Meeting:	February 17, 2026
Item #:	5A

Dear Commissioners:

Our firm represents Unknowingly Devolving LLC and Mark and Tamara Mackey (collectively, our "Clients"), the owners of the real property and single-family residences located at [redacted] and [redacted] Pacific Coast Highway in Malibu, California, respectively. Bluff Top 1 LLC ("Applicant") requests a Coastal Development Permit (CDP No. 23-034) and Minor Modification (Minor Modification No. 25-009) (together, the "Application") to construct a new single-family residence and associated development (the "Project") on a coastal bluff property at 33008 Pacific Coast Highway (the "Property").

Although the applicant has conducted an extended Phase I archaeological study, this, by itself, does not mean the Project complies the California Environmental Quality Act ("CEQA"): Among other issues:

- The City impermissibly relies upon mitigation measures in order to qualify the Project for a categorical exemption;
- The unusual circumstances exception applies, making the Project ineligible for a categorical exemption; and
- The LCP independently requires additional CEQA review.

Because the Project fails to qualify for a categorical exemption, the City must prepare a Mitigated Negative Declaration ("MND") or Environmental Impact Report ("EIR") before the Planning Commission (or any other discretionary decision making body) may consider the Project.

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Further, given the continued risk to cultural resources, the City should require the applicant to conduct a Phase II archaeological study before bringing the Project to a hearing.

I. The City Improperly Relies Upon Mitigation Measures to Support a Categorical Exemption from CEQA.

City staff asserts that the Project qualifies for a Class 3 categorical exemption from CEQA. The Class 3 exemption generally applies to minor new construction, including single family homes. (Cal. Code Regs. Tit. 14, § 15303; see also February 17, 2026 Staff Report, p. 23 ["the proposed project is categorically exempt from the provisions of CEQA pursuant to Sections 15303(a) and (e)"]; Draft Resolution No. 26-10, p. 2 [stating a Class 3 exemption applies].)

The Class 3 categorical exemption does not apply here. Importantly, "[a]n agency may not evade CEQA by adopting mitigation measures simply to qualify a project for a categorical exemption." (*Sunflower Alliance v. Department of Conservation* (2024) 105 Cal.App.5th 771, 789; see also *Azusa Land Reclamation Co. v. Main San Gabriel Basin Watermaster* (1997) 52 Cal.App.4th 1165, 1199–1200.) That is exactly what the City does in this case.

A. The Record Demonstrates that the Property Contains Tribal Cultural Resources.

The record incontrovertibly shows that tribal cultural resources exist at the Property. The November 3, 2025, Staff Report, for example, explicitly acknowledges that the Applicant discovered Chumash tools and shells on the Property. (November 3, 2025, Staff Report, p. 8 ["The cultural resources found during the field survey included subsistence shell and stone tools…."].) The City's original Archaeology Review Sheet, likewise, also states "that potential cultural resources are located on the project site." We attach the Archaeology Review letter as **Exhibit A.**

Further, Mr. David Paul Dominguez, a Chumash elder, and Chester King, PhD, a professional archaeologist, both opine that the Property likely contains human remains. They base this upon the original Phase I archaeology report prepared for the Property, the artifacts found in the immediate vicinity (including human remains), the discovery of certain beads that are consistent with Chumash burials and trading, among various other facts. We attach Dr. King's November 20, 2025, Archaeology Opinion as **Exhibit B**, and we attach Chumash elder David P. Dominguez' letter as **Exhibit C**.

The testimony of neighbors confirms this result and is legally relevant. (See *Pocket Protectors v. City of Sacramento* (2004) 124 Cal.App.4th 903, 932 [relevant personal observations by area residents are properly considered in order to determine whether a reasonable possibility exists that a project will have a significant adverse impact on the environment]; see also *Bowman*

v. City of Berkeley (2004) 122 Cal.App.4th 572, 583 ["[s]tatements of area residents who are not environmental experts may qualify as substantial evidence if they are based on relevant personal observations or involve 'nontechnical' issues"].)

Specifically, our client, Unknowingly Devolving, LLC, has recovered cultural artifacts on his own property at [redacted] PCH—which lies immediately east of the subject Property—including mortar, pestles, and hand tools. We attach photos of these artifacts as **Exhibit D.** Neighbors also report that human remains have been found upslope of the Project at 33004 PCH. (Indeed, given the cultural resources found in the late 1990s, 33004 PCH remains undeveloped to this day.) This further demonstrates that tribal cultural resources exist at the Property.

B. The Project Presents the Reasonable Possibility of an Adverse Impact on Cultural Resources; the Extended Phase I Does Not Change this Conclusion.

Given the documented cultural resources on the Property, the Project—which involves approximately 2,974.6 cubic yards of cut and fill grading over 12,603.6 square feet of area (see Civil Plans, sheet C-3.0)—presents a reasonable possibility of adverse environmental impacts and, specifically, adverse impact on tribal cultural resources. Put differently, the tribal artifacts exist at or near the surface of the Property, but the Project proposes to scrape about two feet of topsoil away for the majority of the buildable area.

Archaeologist Chester King, PhD, meanwhile—who previously served the City's archaeologist from 1993 to 2000, did his PhD dissertation on the Chumash tribe, and has conducted and inspected various excavations in Malibu and Southern California—opines that "[t]he construction of the house as planned is expected to cause substantial damage to suspected site deposits." He states:

> Project plans indicate from sections of the house, that much of the area covered by the proposed house area will be excavated to two to three feet below the present ground surface before construction of the house. Utility trenches will also be excavated, and a septic tank will also be placed in a deep excavation. Observations of site deposits on mesa surfaces similar to those at the project site indicate that site deposits are usually less than two or three feet deep except in areas where house pits or other features such as earth ovens were excavated into subsoil. **The construction of the house as planned is expected to cause substantial damage to suspected site deposits.**

(King, Archaeology Opinion, Exh. B, p. 6, emphasis added.)

Chumash Elder and former cultural resources monitor David P. Dominguez describes this as a "sacred area" and likewise opines that:

> [T]his proposed project will have extreme damage to unknown archeological and cultural resources and more than likely, will hit and discover unknown burials, that are consistent in the immediate bluff area.

(Dominguez, Exh. C, p. 1.)

Clearly, Dr. King and Mr. Dominguez' statements represent "expert opinion supported by facts" that each constitute substantial evidence of an adverse environmental impact under CEQA. (Cal. Code Regs. Tit. 14, § 15064, subd. (f)(5) [substantial evidence of adverse environmental impacts includes expert opinion supported by facts].)

Moreover, it does not matter that the Applicant has refused to let them access the Property directly: Expert opinion may qualify as substantial evidence under CEQA if supported by facts, even if not based on specific observations as to the site under review. (*Taxpayers for Accountable School Bond Spending v. San Diego Unified School Dist.* (2013) 215 Cal.App.4th 1013, 1036; *Pocket Protectors*, supra, 124 Cal.App.4th at 928 [expert opinion qualifies as substantial evidence "even if not based on specific observations as to the site under review"].)

We understand, of course, that the applicant prepared an extended Phase I archaeology report. According to the staff report, "[t]he extended study concluded that the subsurface soils within the project area are 'archaeologically sterile' meaning that the project site does not contain intact or significant cultural resources." (Staff Report, p. 5.)

This matters little. We expect Dr. King and/or Mr. Dominguez to testify at the hearing and disagree with the expended Phase I's conclusions. In any event, to the to the extent the applicant's Phase I archaeology report or extended Phase I contradicts Dr. King or Mr. Dominguez' conclusions, the City must err on the side of preparing an EIR. (Cal. Code Regs. Tit. 14, § 15064, subd. (g) ["in marginal cases where it is not clear whether there is substantial evidence that a project may have a significant effect on the environment, the lead agency shall be guided by the following principle: If there is disagreement among expert opinion supported by facts over the significance of an effect on the environment, the Lead Agency shall treat the effect as significant and shall prepare an EIR"]; see also *Quail Botanical Gardens Foundation, Inc. v. City of Encinitas* (1994) 29 Cal.App.4th 1597, 1607 [expert testimony indicated that there would be a significant impact upon views and even though this was contradicted expert testimony, city was required to prepare EIR]; *Pocket Protectors*, supra, 124 Cal.App.4th at 928 ["Where such expert opinions clash, an EIR should be done."].)

C. The City Unlawfully Attempts to Mitigate Impacts to Cultural Resources in Order to Utilize a Categorical Exemption from CEQA.

Unsurprisingly, the City all but admits the potential adverse impact of the Project on these tribal resources by requiring the Applicant "[t]o mitigate potential impacts on unknown archaeological resources to a level of insignificance" through two proposed mitigation measures. (See Archaeology Review Letter, Exh. A, p. 1.) The previous, December 1, 2025, Staff Report likewise stated that in light of the shells and tools, "a condition of approval has been added … that requires monitoring by a qualified archaeologist for all earthmoving activities…." (December 1, 2025, Staff Report, p. 8.) The December 1, 2025, Staff Report further acknowledges that "Staff has included the recommendations of the archeologist as conditions of approval (Condition Nos. 12-17) addressing cultural resources." (*Id.* at 3.) The updated, February 17, 2026, staff report makes similar changes to the conditions of approval in light of archaeological concerns. (See February 17, 2026, Staff Report, p. 12 ["archaeological monitoring was recommended for all earthmoving activities. Accordingly, a condition of approval has been added to Resolution No. 26-10 that requires monitoring by a qualified archaeologist for all earthmoving activities, which include gradings, trenching, potholing, shoveling, and soil core boring."].)

In other words, the City does exactly what it is not supposed to do: It acknowledges that the Project presents potential environmental impacts and then attempts to evade CEQA by adopting project-related measures to mitigate those impacts, both in the Archaeology Review letter[1] and through the conditions of approval.

A court will agree the City has unlawfully used mitigation measures to evade CEQA:

- In *Salmon Protection & Watershed Network v. County of Marin* (2004) 125 Cal.App.4th 1098, a county acknowledged that a residential construction project may have potential adverse impacts on adjacent stream habitat. It then adopted conditions of approval (e.g., requiring a riparian protection plan) designed to mitigate the potential adverse impacts and thereby qualify

[1] Our Clients assert that the Archaeology Review letter's requirement to avoid ground disturbing activities within a certain distance of the northern property boundary constitutes one such mitigation measures. City staff states that this measure only applies to the geologic excavation permit, not the Project itself. It matters little: There are a number of conditions of approval in the draft Planning Commission resolution as well as other mitigation measures in the Archaeology Review letter that indisputably apply to the project.

the project for a Class 3 categorical exemption. (*Id*. at 1104.) The court of appeal stated that mitigation measures under CEQA are only proper at later stages of the process, and the County unlawfully evaded that process by adopting mitigation measures to rely upon a categorical exemption. (*Id.* at 1107-08.) Here, just like in *Salmon Protection*, a court would reject the City's attempt to rely upon archaeological mitigation measures to obtain a Class 3 exemption.

- Similarly, in *Azusa Land Reclamation Co. v. Main San Gabriel Basin Watermaster* (1997) 52 Cal.App.4th 1165, an agency authorized the continued disposal of municipal waste at a landfill and declared the project categorically exempt from CEQA as the operation or minor alteration of an existing facility. (*Id.* at 1193.) In granting the categorical exemption, the agency in *Azusa* had acknowledged that pollutants were leaking from the landfill but had relied upon evidence that mitigation measures could prevent further pollution. (*Id.* at 1198.) The appellate court concluded this violated CEQA, stating that "proposed mitigation measures cannot be used to support a categorical exemption; they must be considered under the standards that apply to a mitigated negative declaration." (*Id.* at 1199.) Here too, the City cannot rely upon mitigation measures to avoid potentially significant effects on cultural resources.

- Additional support for this conclusion is found in *Architectural Heritage Ass'n v. County of Monterey* (2004) 122 Cal.App.4th 1095, where the court held that even after an initial study and a mitigated negative declaration were prepared for demolition of an historic jail, documentation-type mitigation (photographs, monograph, salvage, and retention of plans) could not reduce the loss of an historic resource to a less-than-significant impact, and an EIR was required under the fair-argument standard. (*Id*. at 1122.) There, the County had at least prepared an MND; here, the City has done even less by invoking a Class 3 categorical exemption and relying solely on monitoring and conditions of approval to address significant risks to tribal cultural resources. (*Id*. at 1107; Staff Report, p. 23; Draft Resolution No. 26-10, p. 2.) If a mitigated negative declaration with extensive historic-resource mitigation was inadequate in *Architectural Heritage*, a categorical exemption propped up by similar "after-the-fact" mitigation is equally inadequate in this case.

Given the potentially adverse impacts to cultural resources, the City must prepare a mitigated negative declaration or EIR instead. (*Salmon Protection & Watershed Network v. County of Marin* (2004) 125 Cal.App.4th 1098, 1108 ["Reliance upon mitigation measures (whether included in the application or later adopted) … must be conducted under established CEQA standards and procedures for EIRs or negative declarations."].) Until then, the Application must be denied.

II. The Unusual Circumstances Exception Independently Precludes the Utilization of the Class 3 Categorical Exemption.

Even assuming, *arguendo*, the Project would normally qualify for a Class 3 categorical exemption (which our Clients dispute), at least one exception to the categorical exemption applies. (Cal. Code Regs., tit. 14, § 15300.2 [listing exceptions].) The most commonly raised exception is the "unusual circumstances" exception. (*World Business Academy v. California State Lands Commission* (2018) 24 Cal.App.5th 476, 491.) That exception provides that a categorical exemption may not be used "where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances." (*Id.*; Cal. Code Regs., tit. 14, § 15300.2, subd. (c).)

The party advocating for the application of the unusual circumstances exception bears the burden of demonstrating that the project falls within the exception. (*World Business Academy*, supra, 24 Cal.App.5th at 491.) That typically requires a two-part showing: (1) that the project has some feature that distinguishes it from others in the exempt class—i.e., that there is something unusual about the project—such as its size or location and (2) that there is "a reasonable possibility of a significant effect on the environment due to that unusual circumstance." (*Berkeley Hillside Preservation v. City of Berkeley* (2015) 60 Cal.4th 1086, 1105; *Respect Life South San Francisco v. City of South San Francisco* (2017) 15 Cal.App.5th 449, 456.) Alternatively, the party advocating for application of the unusual circumstances exception may make a heightened, one-element showing: that the project will have a significant environmental effect. (*Berkeley Hillside*, supra, 60 Cal.4th at p. 1105.)

A. The Project Will Have a Significant Environmental Effect.

Substantial evidence in the record demonstrates that the Project *will* have a significant environmental effect. Notably, as previously discussed, Mr. Dominguez' expert opinion—based upon the Phase I archaeology study, prior excavations and resources found in the immediate vicinity, his knowledge as a Chumash elder, and various other facts—concludes that "**this proposed project <u>will have</u> extreme damage to unknown archeological and cultural resources** and more than likely, will hit and discover unknown burials, that are consistent in the immediate bluff area." (Dominguez, Exh. C, p. 1, emphasis added). Likewise, Dr. King's expert opinion,

based upon the plans, excavations in the immediate area, his academic specialty in Chumash culture and history, and his decades-long experience with tribal excavations in Southern California—similarly concludes that "[t]he construction of **the house as planned is expected to cause substantial damage to suspected site [tribal resource] deposits**." (King, Archaeology Opinion, Exh. B, p. 6, emphasis added.) This constitutes substantial evidence that the Project will have a significant effect on the environment. (See Cal. Code Regs. Tit. 14, § 15064, subd. (f)(5) [substantial evidence of adverse environmental impacts includes expert opinion supported by facts].)

Because substantial evidence exists that the Project *will* have a significant adverse environmental effect, the unusual circumstances exception applies without further analysis, and the City cannot rely upon the class 3 categorical exemption. (*Berkeley Hillside*, supra, 60 Cal.4th at p. 1105, 184 Cal.Rptr.3d 643; see also *Walters v. City of Redondo Beach* (2016) 1 Cal.App.5th 809, 820 ["In other words, a showing by substantial evidence that a project *will have* a significant effect on the environment satisfies both prongs of the unusual circumstances exception under the second method of establishing the exception."].)

B. Alternatively, Features of the Project Create Unusual Circumstances and the Project Presents the Reasonable Possibility of an Adverse Environmental Impact.

1. Unusual Circumstances Exist.

Even if the evidence in the record does not demonstrate that the Project *will* have a significant adverse environmental impact, the unusual circumstances exception still applies if the opponents "show evidence (1) the project is unusual because it 'has some feature that distinguishes it from others in the exempt class, such as its size or location'; and (2) there is 'a reasonable possibility of a significant effect due to that unusual circumstance.'" (*Protect Tustin Ranch v. City of Tustin* (2021) 70 Cal.App.5th 951, 961.)

As to the first prong, "[a]n unusual circumstance refers to some feature of the project that distinguishes it from others in the exempt class. In other words, 'whether a circumstance is '*unusual*' is judged relative to the *typical* circumstances related to an otherwise typically exempt project." (*Voices for Rural Living v. El Dorado Irrigation Dist.* (2012) 209 Cal.App.4th 1096, 1109, citations and punctuation omitted.)

Here, several features distinguish the Project from other projects in the exempt class. Among other things:

- First and foremost, unlike other projects in the exempt class, the Project contains identified tribal cultural resources and lies within a "sacred" Chumash area. (See Dominguez, Exh. C, p. 2.)

- Unlike other projects in the exempt class, the Project site is **not** consistent with the applicable land use regulations in that the Project indisputably requires a Minor Modification to the front yard setback in order to build the Project. (See October 9, 2025, Staff Report, p. 9 ["A minor modification is proposed for a 37 percent reduction in the required front yard setback to allow a 28.75-foot setback where a 47-foot setback is required."]; see also *Citizens for Environmental Responsibility v. State ex rel. 14th Dist. Ag. Assn.* (2015) 242 Cal.App.4th 555, 586 [in determining whether unusual circumstances exist, courts may look at whether project is consistent with zoning regulations].)

These conditions constitute "unusual circumstances."

2. The Project Presents the Reasonable Possibility of Significant Effect on the Environment Due to Unusual Circumstances.

These unusual circumstances create the reasonable possibility of a significant effect on the environment. Importantly, the fact that the site is "sacred" and contains existing cultural resources means that the Project—which involves 2,974.6 cubic yards of cut and fill grading over 12,603.6 square feet of area (see Civil Plans, sheet C-3.0)—will disturb and damage those resources. It does not matter if the extended Phase I did not yet uncover additional cultural resources. All that matters is that a *reasonable possibility* of a significant impact exists. Here, such a possibility certainly does.

The Minor Modification also results in the reasonable possibility of a significant effect on the environment. But for the Minor Modification, a significant portion of the front yard setback would remain undeveloped with structures; this is precisely the area in which the Archaeology Review letter prohibited excavation in order to protect cultural resources. Thus development in the front yard setback poses special risk to tribal resources.

Because the reasonable possibility of a significant effect on the environment due to unusual circumstances, the City cannot rely on the Class 3 categorical exemption. An MND or EIR must be prepared. (*Berkeley Hillside*, supra, 60 Cal.4th at p. 1105, 184 Cal.Rptr.3d 643.)

III. The LCP Independently Requires Additional CEQA Review.

The LCP also prohibits utilizing a CEQA exemption. LIP section 11.3(F)(1) states that, "[i]f on the basis of the Phase I Inventory described above, one or more significant cultural resources is found, a Phase I Inventory may be required to include: 1. An evaluation of limited shovel test pits to determine whether a subsurface deposit is present and **a negative declaration shall be prepared**." (LIP § 11.3(F)(1), emphasis added.)

Here, the applicant's archaeologist prepared a Phase I inventory that found one or significant cultural resources. This is beyond reasonable dispute. To reiterate: The November 3, 2025, Staff Report stated that "cultural resources found during the field survey included subsistence shell and stone tools…." The City's original Archaeology Review Sheet, likewise, also stated "that potential cultural resources are located on the project site." These resources were significant. Notably, the City's prior Archaeology Review Letter imposed conditions on earthmoving activities in order "[t]o mitigate potential impacts on unknown archaeological resources ***to a level of insignificance***. (Archaeology Review Letter, p. 1 [emphasis added].) Similarly, the applicant's own memorandum offered "mitigation measures" in order to "mitigate potential impacts on unknown archaeological resources to a level of insignificance." We attach this memorandum as **Exhibit E**. Why would the City and the applicant need to mitigate impacts to a "level of insignificance" if the potential impacts weren't significant to begin with?

Given the existence of significant resources, the City ordered an extended Phase I study. This included subsurface testing, such as shovel test pits. (See February 17, 2026, Staff Report, p. 5 ["This extended study incorporated subsurface testing, including auger borings, laboratory analysis, and Native American monitoring by Chumas representatives."].) **According to the plain language of the LIP, once an applicant must prepare an extended Phase I study and subsurface testing occurs, "a negative declaration shall be prepared."** (LIP § 11.3(F)(1).) It does not matter if the extended Phase I study ultimately does not determine any additional resources exist. The plain language requires a negative declaration, and City cannot ignore this provision and rely upon a CEQA exemption.

IV. Conclusion.

This is not a case of neighbors merely providing unsupported lay opinion in order to force an applicant or owner to prepare an MND or EIR. Here, a Chumash elder (with decades of experience as a former cultural resources monitor) and a professional archaeologist with unequaled experience in Malibu and Chumash cultural history have independently opined that the Project will damage important tribal resources. This is corroborated by the resources already found on site and in the immediate area.

Perhaps recognizing these issues, the City tries to avoid them by imposing project-related mitigation measures to eliminate potential archaeological impacts. While presumably well-meaning, CEQA does not allow the City to rely on mitigation measures to utilize a categorical exemption. Even if it did, the Project's unusual circumstances—and the reasonable possibility of adverse environmental impacts presented by those circumstances—independently preclude the application of the categorical exemption. Further, LCP independently requires additional CEQA review.

Put simply: an ND, MND or EIR must be prepared.[2] Until that occurs, the Planning Commission cannot consider the Project and should not approve it

Very truly yours,



JACKSON D. McNEILL
Elkins Kalt Weintraub Reuben Gartside LLP

JDM:jdm

cc: Yolanda Bundy (YBundy@malibucity.org)
Didier Murillo (Dmurillo@malibucity.org)
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[2] This letter does not provide a comprehensive list of our clients' CEQA objections to the Project. We reallege all previous objections and reincorporate them by reference here. Among other objections, our clients also assert that the Project creates significant impacts on biological resources due the Project's proximity to an ESHA stream and coastal bluff ESHA and that such impacts preclude the use of an exemption.

EXHIBIT A

City of Malibu

23825 Stuart Ranch Road · Malibu, California · 90265-4861
Phone (310) 456-2489 · Fax (310) 456-3356 · www.malibucity.org

June 26, 2023

Arfakhashad Munaim
EPD Consultants, Inc
Carson, CA 90745

Reference: **ARCHAEOLOGY REVIEW (ARC) NO. 23-014**
33008 Pacific Coast Highway
Archaeology Review Phase I

Dear Mr. Munaim:

On **May 2, 2023**, the application listed above was submitted to the City of Malibu Planning Department for processing. Planning Department staff has completed a review of the Phase I Archaeological Study, dated March 20, 2023, prepared by Matthew A. Boxt Ph.D., Consulting Archaeologist for Blufftop 1, LLC for the subject site at 33008 Pacific Coast Highway (APN 4473-017-009). The study indicates that potential cultural resources are located on the project site.

To mitigate potential impacts on unknown archaeological resources to a level of insignificance, Blufftop 1, LLC will implement the following mitigation measures:

1. **Prior to beginning any ground-disturbing activities, all involved construction personnel will be informed about the potential for discovery of archaeological resources and/or human remains, and the appropriate measures to be taken should such resources be uncovered.**
2. **A qualified archaeologist will be on-site during all ground disturbing construction activities with the authority to suspend work in the event that potentially important archaeological resources are discovered. If such an event occurs, all construction activities in the vicinity of the affected area will be suspended, and a qualified Chumash cultural resources monitor will be contracted by the applicant. An appropriate buffer area shall be established by the Project Archaeologist and Native American monitor around the find where construction activities shall not be allowed to continue. Work shall be allowed to continue outside of the buffer area. By following these recommendations, Blufftop 1, LLC will ensure the preservation of these fragile and non-renewable cultural resources.**

Based on the information submitted, the applicant **may proceed with obtaining an excavation permit through City Geotechnical Staff with the conditions listed above.** In addition, **no geologic trenching, soil borings, ground clearance, grading, equipment placement, or similar surface-disturbing impacts shall be allowed within 30 feet of the northern property boundary**. When completed, please submit a report describing the archaeologist's findings.

In the event that potentially important cultural resources are found in the course of geologic testing or any other activity, work shall immediately cease until a qualified archaeologist can provide an evaluation of the nature and significance of the resources and until the Planning Director can review this information. Where, as a result of

this evaluation, the Director determines that the project may have an adverse impact on cultural resources; a Phase II Evaluation of cultural resources shall be required pursuant to Malibu Municipal Code Section 17.54.040(D).

If a human bone or any other human remains are discovered, the procedures described in Health and Safety Code Section 7050.5 must be followed. The property owner or his/her representatives (i.e., architect, contractor, etc.) must notify the Los Angeles County coroner. If the coroner determines that the remains are those of a Native American, the applicant must notify the Native American Heritage Commission by phone within 24 hours. Following notification of that organization, the procedures described in Public Resources Code Sections 5097.94 - 5097.98 must be followed.

If you have any questions regarding this matter, please contact me at (310) 456-2489, extension 295.

Sincerely,

Coli Turner

Coli Turner
Planning Technician

cc: Native American Heritage Commission

City of Malibu
Planning Department
23825 Stuart Ranch Road
Malibu, CA 90265

June 26, 2023

Native American Heritage Commission
1550 Harbor Blvd. Suite 100
West Sacramento, CA 95691

Reference: **ARCHAEOLOGY REVIEW (ARC) NO. 23-014**
3308 Pacific Coast Highway, Malibu, CA 90265
Archaeology Review Phase I

To whom it may concern:

Please find the enclosed cultural resource clearance for your review and comment pursuant to City of Malibu Local Coastal Program Local Implementation Plan Section 11.3.

If you have any questions or comments regarding this matter, please contact our office at (310) 456-2489.

Sincerely,

Coli Turner

Coli Turner
Planning Technician

EXHIBIT B

Archaeological Opinion Related to 33008 Pacific Coast Highway in Malibu, California

by Chester King, PhD
Topanga Anthropological Consultants

November 20, 2025

I. Executive Summary.

This summarizes my professional archaeological opinion concerning the potential cultural resources located at 33008 Pacific Coast Highway in Malibu, California, as further detailed below:

- 33008 PCH lies within the known archaeological site LAN-29 and likely contains intact subsurface cultural deposits and potentially contains a cemetery.
- The Phase I assessment prepared by the applicant's archaeologist, Dr. Boxt, remains both incomplete and contradicted by prior documented findings, including human remains at a parcel in the immediate vicinity.
- The applicant and City of Malibu's proposed monitoring and mitigation measures remain wholly insufficient.
- The City must require a publicly reviewed Phase 2 subsurface testing program, conducted with a qualified Chumash cultural monitor, before any project approval.
- Further, alternative project designs should be considered to avoid or minimize excavation.

II. Qualifications and Background.

I began studies of archaeological sites related to Chumash history in the Santa Monica Mountains in 1960. My first involvement was excavating at the Tank Site (LAN-1) in Topanga when I started studying anthropology at Santa Monica City College. Later that year I worked with Thomas Blackburn and Earnest Chandonet at UCLA sponsored excavations at the Century Ranch site LAN-227, now part of Malibu Creek State Park. I worked at other Century Ranch sites LAN-225 and LAN-229 in 1961, 1962 and 1963. I was the senior author of the report on excavations at the Century Ranch sites LAN-227, 229, and 225 in 1968. The Parker Mesa (now Sunset Mesa) site at the mouth of Topanga Creek (LAN-215) was excavated in 1961 The report on these excavations in 1962 was my first publication concerning an archaeological site. I participated in excavations at Paradise Cove (LAN-222) in 1962. I worked at UCLA sponsored excavations at the site of the historic period site (LAN-264) of Humaliwo (Malibu) at the mouth of Malibu Creek in 1964 and 1965 and participated in excavations at the historic period cemetery site in 1972. In 1966, I participated in the excavation of the Medea Creek cemetery (LAN-243) in Agoura Hills. I participated in excavations at Puerco Canyon (LAN-19) and San Nicolas Canyon in 1967 related

to a planned Highway 1 freeway. I directed excavations at *Talepop* (LAn-229) in 1980-1981, for California State Parks related to the widening of Las Virgenes Road.

I worked under two five year time and material contracts for the Santa Monica National Recreation area between 2000 and 2012. I conducted surveys of many reas and I directed NPS studies at King Gillette Ranch as parts of these contracts.

I served as Malibu City Archaeologist between 1993 and 2000. I conducted many surveys and reviews of studies. As City Archaeologist, I prepared a sensitivity map that included assessment of all parcels in the city. Preparation of the map involved consideration of the locations of all sites recorded at the time. Knowledge of the types of locations chosen for sites by the Chumash and surrounding groups was used to identify other parcels that included areas where sites were most likely to be found. I walked areas of the coast where houses were built over the beach on pilings and did not include soils and used knowledge of other parcels not known to contain sites and determined that many parcels would not require Phase 1 studies. I believe the sensitivity map continues to be used.

I have visited and participated in many other Malibu area excavations, and conducted many archaeological surveys in Malibu. In addition to my work in the Santa Monica Mountains I have also conducted many studies and participated in many excavations in Santa Barbara and Northwestern Ventura County.

While working for the Santa Monica National Recreation Area I prepared "Overview of the History of American Indians in the Santa Monica Mountains: Draft 10-2011" The overview synthesizes much of the information I have learned studying the archaeology and history of the Chumash. It is available on line at Academia.edu and has been viewed by many people.

My doctoral dissertation *Evolution of Chumash Society* involved studying museum collections from Santa Barbara County and the Santa Barbara Channel Islands stored at UC Berkeley and the Santa Barbara Museum of Natural History. The dissertation involved establishing a detailed temporal sequence of beads and other artifacts that were found with burials. The dissertation was published in The Evolution of North American Indians, a 31-Volume series of outstanding dissertations. My dissertation was the only one chosen from California.

In sum, I have more experience studying Chumash archaeological sites in the Malibu area than any other person.

III. Evidence of Archaeological Sites.

Evidence of archaeological sites usually found on surfaces that have not been buried varies depending on many variables. Two of the most important variables are the length of time sites were inhabited and their age. Sites inhabited for shorter periods of time contain fewer artifacts than those inhabited for longer periods of time. Sites that were occupied earlier in time have lost many of the shells and bones originally deposited due to dissolution by acidic soil conditions and gopher burrowing. The dissolution of shellfish near the surface of sites usually results in less shellfish remains on the surface of early sites than at depths and a higher ratio of thick shells such as clam shells on the surface. In addition to the dissolution of shells and bones, other organic material also

decrease over time and soils slowly revert to the characteristics that existed before human occupation. Decrease in the presence of forms of evidence of human activity in archaeological sites over time does not preclude the ability of archaeologists to study older sites.

Chumash area settlement sites contain the remains of house structures, cemeteries, earth ovens, and other features. These features can usually only be identified with certain through excavations.

In his report for 33008 PCH, Matthew Boxt notes:

> Visible in clearings adjacent to the modern road and chain link boundary fence, were found lithic artifacts and shell, primarily trampled and pulverized pieces of abalone (*Haliotis cracherodii*), Pismo clam (*Tivela stultorum*), scallop (*Pecten* sp.), and mussel (*Mytilus californianus*) (Figure 6 and Figure 7). The currently available evidence regarding these materials is somewhat ambiguous and is not complete enough to evaluate the true nature of the finds (Figure 8 to Figure 12). The crucial question, of course, is the likelihood that the artifacts and shell were originally deposited here, representing the activities of some ancient people, or were they moved here by disturbance processes, including road construction, residential development, dumping, burrowing animals, and/or erosion.

Matthew Boxt observed the presence of objects he considered probable artifacts and shellfish remains. At a nearby parcel at 33004 Pacific Coast Highway referenced by Boxt, I observed a few artifacts and shellfish remains similar to the observations made by Boxt (King 1999). I recommended Phase 2 testing. Gary Stickel conducted what he described as initial Phase 2 testing involving holes one foot in diameter excavated with a shovel (Stickel 2000). The testing program resulted in discoveries of human bones which were probably parts of burials. Stickel then recommended additional Phase 2 testing. From my experience the burial remains discovered by Stickel probably indicate the presence of a cemetery or cemeteries in the area he tested. Boxt interpreted his findings at 33008 PCH in the most negative way possible.

IV. Previous Disturbance of Site LAN-29.

In his report for 33008 PCH, Matthew Boxt concluded:

> The archaeological resources of the Blufftop 1, LLC parcel were assessed following a careful review of maps and archival information housed at the SCCIC. The fragments of shell and stone tools observed during the survey do not appear to represent an intact, continuous midden deposit of any density; no large pieces of shell or any other indication of decomposing organic materials from human habitation (e.g., dark greasy soils) were never observed. In my professional opinion, these cultural remains were brought to the surface of archaeological sites LAN-28 or LAN-29 by natural and cultural disturbance processes and distributed on the study parcel as secondary refuse. In general, this relatively isolated Malibu community has been developed and landscaped, and at times in the recent past, particularly during house construction, was subjected to grading, gravelling, and filling. Specifically, the degradation and likely destruction of archaeological sites LAN-28 and LAN-29 is attributed to these and other factors, such as building and maintaining critical infrastructure, disking to create fire breaks, heavy rain, erosion, construction and maintenance of the Theodore Roosevelt Highway and California State Route 1, and development of each property in this community. It should nevertheless be remembered that the survey was limited to surface contexts and that no examinations were made of the subsurface where it was not immediately visible. This point is noted because of the possibility that buried cultural deposits, though unlikely, might still be in existence on the parcel, and be obscured at present from ready visibility.

Archaeological studies at redevelopment sites in the centers of modern cities have resulted in significant discoveries. If Boxt's negative attitude were to be accepted there would be no reason to conduct archaeological studies in Malibu or other cities in California; studies at sites

LAN-264 (the site of the Malibu settlement) and most other sites I have studied in Malibu would not have produced significant information concerning Chumash history.

V. Evidence concerning site LAN-29.

The LAN-29 site covers an area on the east side of Lachusa Canyon and south of the Pacific Coast Highway. Studies concerning the parcel at 33004 north of the project site document the presence of archaeological deposits on the parcel. Limited Phase 2 excavations by Gary Stickel documented the presence of human bones. It is probable that a cemetery is present in the area because most human bones found in Malibu area settlement sites have been found in cemeteries.

Evidence of settlement site deposits have been recorded south of the Pacific Coast Highway adjacent to both Lachusa and Los Alisos Canyons. These deposits may represent the remains of one large settlement or settlements occupied at different times.

My present assessment of LAN-29 including the project area at 33008 PCH is that it is the remains of a settlement occupied during a relatively short time (compared with many settlement sites in Malibu) of only a few hundred years. Settlements used for short periods of time are of value to archaeologists because the organization of features used at roughly the same time is more easily recognized than at sites occupied over thousands of years which have features of different time periods mixed together.

The geology at the mouth of Lachusa Canyon contain deposits of the only chlorite schist (commonly known as steatite) known by geologists to be present in the Malibu area. At the site of Malibu (LAN-264), the lower levels of the deposit (dating around 1500-2200 years ago) contain chlorite schist disc beads and chlorite schist disc beads in stages of manufacture (King 2011:190-191). The beads from Malibu are visually distinctive from stone beads from other sources used in the same general time period as a result of mineral inclusions. These beads have been found in contexts dating around 1500-2200 years ago at Castaic Reservoir, Vasquez Rocks, Oro Grande on the Mojave River, and in sites near Cajon Pass. It appears that the distinctive beads from Malibu were important in the trade systems from the same time period. It is probable that the people who lived at Lachusa Canyon quarried the material used for these beads. The condition of the shellfish remains and the types of artifacts that have been observed at LAN-29 are consistent with the dating of these beads.

VI. Limitations of this Review Related to Denial of Independent Assessment of the Site in the Project Area.

On November 17 I requested access from the project developers to aid in assessment the conclusions of archaeologist Matthew Boxt hired by the developers I was denied access. Note the following emails:

> Dear Schmitz and Associates,
>
> I am reviewing the "Phase 1 Inventory and Archaeological Survey for the Blufftop 1, LLC Project, 33008 Pacific Coast Highway, City of Malibu, Los Angeles County, California" prepared by Matthew Boxt and submitted on March 22. 2023 for an upcoming meeting of the Malibu City Planning Commission. I would like to have permission to conduct a

> walkover survey of the parcel at 33008 PCH to make in independent evaluation of the potential project impacts. I would like to have David Paul Dominguez, Chumash cultural resource consultant accompany me. It would be helpful if someone planning the project would accompany me on my visit. I would appreciate a timely response to my request in order to plan my schedule.
>
> Sincerely,
> Chester King, Topanga Anthropological Consultants

They replied on November 17, 2025:

> Mr. King,
>
> Thank you for reaching out to us. Our client has already retained the services of a professional archeologist to conduct a Phase I study to look for the presence of any significant cultural resources onsite. This study was conducted by Dr. Matthew Boxt. Dr. Boxt's study found no evidence of en situ cultural resources on the applicant's property. Dr. Boxt and the City have found that no further study is required at this time as no impacts to cultural resources are anticipated. That said, the project will have standard monitoring conditions.
>
> With respect to your colleague, David Paul Dominguez, we have received correspondence from Joe Drummond (attached for reference), a project opponent, advising that Mr. Dominguez has already visited the property [and adjacent area] without our client's permission. This is unlawful and unprofessional. Please advise Mr. Dominguez that the owner has security cameras installed, and any further trespasses will be reported to the Lost Hills Sherriff's Department.
>
> Thank you for your interest. Let me know if you have any questions.
>
> Best Regards,
> **Chris Deleau, JD, AICP**
> **Special Projects Manager, Schmitz and Associates**

The exclusion of my ability to independently field check the observations of Matthew Boxt indicates that the project managers are not comfortable with the quality of the archaeological study they commissioned.

VII. Problems With Monitoring in Archaeological Sites During Development.

Matthew Boxt recommends monitoring of excavations during project development. When monitoring is adopted as a mitigation measure without knowledge of what is present under the surface, the public has little input because the period where review occurs that is enabled by the California Environmental Quality Act and the California Coastal Act has expired. During review it is possible to decide to preserve site areas through purchase or project redesign. After the public review period is over, it is impossible to propose adequate mitigation through data collection, avoidance of most impacts, or determine that the loss caused by project development can't be mitigated.

Monitoring can also result in unpredictable costs to the developer that include:

1. Down time once development has begun.
2. Costs of designing programs for avoidance of disturbance of sensitive archaeological deposits through project redesign once development has begun.

Reduction of disturbance of intact soil can involve placement of fill to cap deposits or use of caisson foundations to reduce the area of soil disturbance for foundations.

3. Expensive mitigation programs including possible removal of whole cemeteries such as occurred at the Playa Vista project in the vicinity of Westchester. It is possible that such mitigation could exceed the cost of project construction.

VIII. Damage to Archaeological Site LAN-29 by the Proposed Project.

Project plans indicate from sections of the house, that much of the area covered by the proposed house area will be excavated to two to three feet below the present ground surface before construction of the house. Utility trenches will also be excavated, and a septic tank will also be placed in a deep excavation. Observations of site deposits on mesa surfaces similar to those at the project site indicate that site deposits are usually less than two or three feet deep except in areas where house pits or other features such as earth ovens were excavated into subsoil. The construction of the house as planned is expected to cause substantial damage to suspected site deposits. It appears that the excavations are to reduce the height of the finished house to comply with restrictions on the height of the structure. Knowledge of the significance of suspected site deposits may result in redesign to reduce the extent of excavation. Alternatives such as waiving limitations on the height of the house might be considered to reduce the extent of earth disturbance.

IX. Recommendations.

A subsurface testing program (Phase 2 study) should be conducted subject to public review by the Malibu Planning Commission and the City Council before project approval. The Phase 2 program should include monitoring by a qualified Chumash cultural consultant.

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2008, with Jeff Parsons, "Archeological Investigations at Solstice Canyon: Presentation and Synthesis of Archeological Information Obtained from Solstice Canyon" with sections by Tom Wake, Virginia Popper, Jacqueline Eng and Phillip Walker. Prepared for the National Park Service, Santa Monica Mountains National Recreation Area. Thousand Oaks, California under Contracts C8540000007 and C8540060020. October 1, 2008.

2011, "Overview of the History of American Indians in the Santa Monica Mountains: Draft 10-2011." Online pdf at Academia.edu

2012, with Jeff Parsons, Archeological Excavations at Talepop (LAN-229), in 2010 and 2011: A Chumash Village in the Santa Monica Mountains National Recreation Area, Los Angeles County, California (Draft). July 2012. Prepared by Topanga Anthropological Consultants for the National Park Service, U.S. Department of the Interior, Santa Monica Mountains National Recreation Area, California. Contract C8548060020, Purchase Order T2011101273.

Stickel, Gary, 2000, "Memorandum Regarding the Burial Site at 33004 Pacific Coast Highway, City of Malibu," October 2, 2000. Letter in file 99-120 at Planning Department, City of Malibu.

EXHIBIT C

33008 PCH

Coastal Development Permit No. 23-034/33008 PCH

Haku, my name is David Paul Dominguez, I am a Chumash Elder from the Santa Ynez Chumash Reservation, as well as, Yokut and Tongva, and a former and part-time current resident of Malibu and I have been working in cultural resources for over 30 years and currently retired from my reservation as a monitor and cultural resource manager and a strong advocate for the protection of sacred sites while working along with qualified archeologists, and, very familiar with the prehistoric Chumash and Tonvga native Americans inhabiting the proposed development area.

I was asked on behalf of the neighbors along, 33008 PCH, to consult on this proposed development, and add my expert advice, as well as, view the current sight. I met with neighbors Mark and Tammy, whom also informed me that they viewed a reinterment done on an adjacent property at 33004. During my visit, I also noticed numerous suspected burial artifacts and obvious midden and dark organic soil consistent with Chumash habitation lasting for over 8,000 years documented in the local archeological and cultural resource records and also noticed, the obvious and preferred village living area adjacent to fresh water during the prehistoric times of my Chumash relatives and this proposed project will have extreme damage to unknown archeological and cultural resources and more than likely, will hit and discover unknown burials, that are consistent in the immediate bluff area.

On, Saturday November 1st 2025, I had personal communiqué with former City of Malibu, archaeologist, Chester King, and he informed me that he worked on an adjacent property and found and discovered that there is a certain kind of steatite/soapstone bead that is only found in that part of Malibu and adjacent creek area and it is well documented that Chumash burial sites include a vast array of bead offerings as well as personal possessions, such as killed pestles and mortars, including, mano and metates, as well as, flakes and arrowheads. And, it is a well known burial area that has been brought to the attention of the city of Malibu, and well known that the area will contain other burials and will be wide spread given the minimal 8,000 years of prehistoric habitation by Chumash

tribal families and that he prepared a document that should be in the records that reference the extent of the sacredness of the area as far as burials are concerned.

On the same day, I had personal communiqué with Julie Tumamait, former Chairperson of the Ventareño/Barbareño Chumash Tribe, and she further verified that there are multiple burials on the proposed project bluff area and re-burials in the immediate vicinity.

Recommendations

First, and more importantly, this project should not be approved on account of the sacred sensitivity to the Chumash people and undiscovered burials, that, are in no doubt, in the immediate project area.

Postpone this hearing until all previous reports of the lot and nearby lots in the vicinity are presented by the city of Malibu and all other pertinent information properly presented.

Do a phase 2 and 3 archeological report since it has been brought to my attention there was a minimal phase 1 survey done in the past and artifacts were discovered on the immediate top soil.

Also, CEQA requirements should NOT be exempt for this application and a proper EIS/EIR be completed with consideration to geological adjacent cliff area in which erosion should be taken into account, and also, it is a sensitive creek area leading in and out of the foothills and once was a prior steel head tributary. There is also a female California black bear in the area with 3 cubs whom, might be using the area due to its unique access to shoreline food and carcasses.

The city of Malibu needs to move and adapt into the current technology available and use GPR ground penetrating radar to find any anomalies below the surface, to prevent any destruction to known Chumash burials and/or house and ceremonial ground impressions, including hearths and yucca ovens.

Protect the project area and allow for open space usage for Native American ceremonies and park for the residents of the gated community, with owners approval, of course, and use pavers over the open space to allow large fire trucks to use as a turnaround during emergencies and/or fire, by the property owner as previously recommended by said, property owner…

EXHIBIT D







EXHIBIT E

Schmitz & Associates, Inc.
28230 Agoura Road, Suite 200
Agoura Hills, CA 91301

May 12th, 2023

Via Hand Delivery

Attn: Richard Mollica
Planning Department
City of Malibu
23825 Stuart Ranch Road
Malibu, CA 90265-4804

RE: Coastal Development Permit application for proposed two-story, single-family residence with attached garage, basement, and new driveway, and new landscaping for the property located at 33008 Pacific Coast Highway, Malibu, CA 90265

Dear Mr. Mollica,

On behalf of the property owner, Blufftop1 LLC, Schmitz and Associates, Inc. submit to you the Coastal Development Permit (CDP) application for the property located at 33008 Pacific Coast Highway, Malibu, CA 90265.

The parcel is currently vacant. The CDP application seeks to propose a new two-story single-family residence that is 18-feet in height. The first floor is 2,457 square feet, the second floor is 814 square feet, and the garage is 918 square feet. The total TDSF is 4,207 square feet. The maximum allowed TDSF is 6,020 square feet. The total impermeable area is 3,866 square feet. There is one discretionary request for a Minor Modification for the front yard setback of 50%.

The subject property has received a Notice of Violation (NOV) on November 28th, 2022 for an unpermitted fence and gate with electrical power, landscape and drainage, and DG on Chumash designated land. The Coastal Development Permit application will work to resolve all three items as stated in the NOV.

Unpermitted fence and gate with electrical power

The architectural plans are designed to replace the existing, unpermitted fence and gate with a proposed new electrical gate with a new 24’ x 6’ rolling fence. Additionally, a new 36-inch solid wall with a 30” fence on top with a maximum height of 5’-5” on the northern property line, and a new 6’ wooden fence on the western property line is proposed that will comply with the regulations of the MMC and LCP.

Landscape and Drainage

The landscape (rocks and tree planters located in the plant box; not planted in the ground) and drainage will be resolved by proposing the landscape design as indicated in the landscape plan to be consistent with the provisions of the Malibu Ordinance 461.

DG on Chumash Designated Land

A Phase I Archaeological Report was conducted by archaeologist, Matthew Boxt. Dr. Matthew A. Boxt examined the subject property on February 28, 2023, at which time the fieldwork was completed. The objective of this procedure was to visually detect evidence of past human activities, including prehistoric and ethnohistoric Native American settlement, historic-era archaeological sites, historic buildings, and elements or areas of the natural landscape imbued with traditional cultural significance (State of California, Native American Heritage Commission 2023). The archaeological resources of the Blufftop 1, LLC parcel were assessed following a careful review of maps and archival information housed at the SCCIC. The fragments of shell and stone tools observed during the survey do not appear to represent an intact, continuous midden deposit of any density; no large pieces of shell or any other indication of decomposing organic materials from human habitation (e.g., dark greasy soils) were never observed. It should nevertheless be remembered that the survey was limited to surface contexts and that no examinations were made of the subsurface where it was not immediately visible.

In the report, Boxt noted that if any further development as a result of grading indicates any presence of known archaeological sites in the vicinity would employ two mitigation measures as outlined below for the identification and treatment of unanticipated discoveries during construction. To mitigate potential impacts on unknown archaeological resources to a level of insignificance, Blufftop 1, LLC will implement the following mitigation measures:

1. Prior to beginning any ground-disturbing activities, all involved construction personnel will be informed about the potential for discovery of archaeological resources and/or human remains, and the appropriate measures to be taken should such resources be uncovered.

2. A qualified archaeologist will be on-site during all ground disturbing construction activities with the authority to suspend work in the event that potentially important archaeological resources are discovered. If such an event occurs, all construction activities in the vicinity of the affected area will be suspended, and a qualified Chumash cultural resources monitor will be contracted by the applicant. An appropriate buffer area shall be established by the Project Archaeologist and Native American monitor around the find where construction activities shall not be allowed to continue. Work shall be allowed to continue outside of the buffer area.[8] By following these recommendations, Blufftop 1, LLC will ensure the preservation of these fragile and non-renewable cultural resources.

Please find the following items for the Coastal Development Permit application:

1. Submittal Checklist
2. Uniform Application
3. Proof of Ownership
4. Letter of Authorization
5. Declaration regarding previous issued CDPs and Deed Restrictions

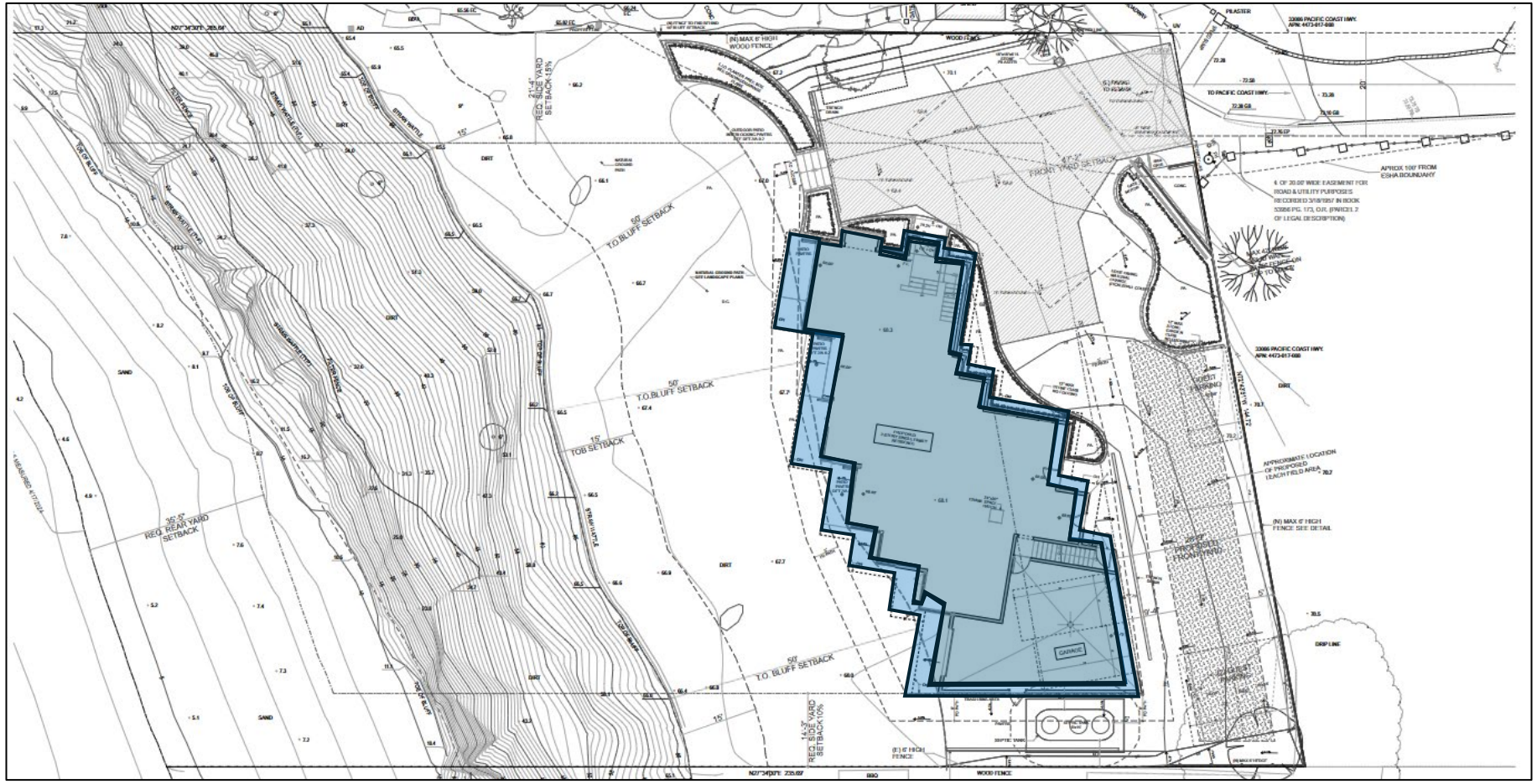
6. Architectural Plan Set (including Site Survey, Slope Analysis Map, Grading and Drainage Plan, and Landscape/Irrigation Plans)
7. OWTS Design Report, including OWTS Plot Plan and Fixture unit worksheet
8. OWTS Percolation Test Report
9. Soils and Geologic Report
10. Geotechnical report
11. Reduction in Setback Letter from Structural Engineer
12. Biological Assessment
13. Public Beach Access Locations/Information
14. Coastal Engineer Report
15. Notice of Violation (copy)

Thank you for your time and attention to our client's project. Should you have any questions, please do not hesitate to contact us.

Best Regards,
Arfakhashad Munaim
Schmitz and Associates, Inc.

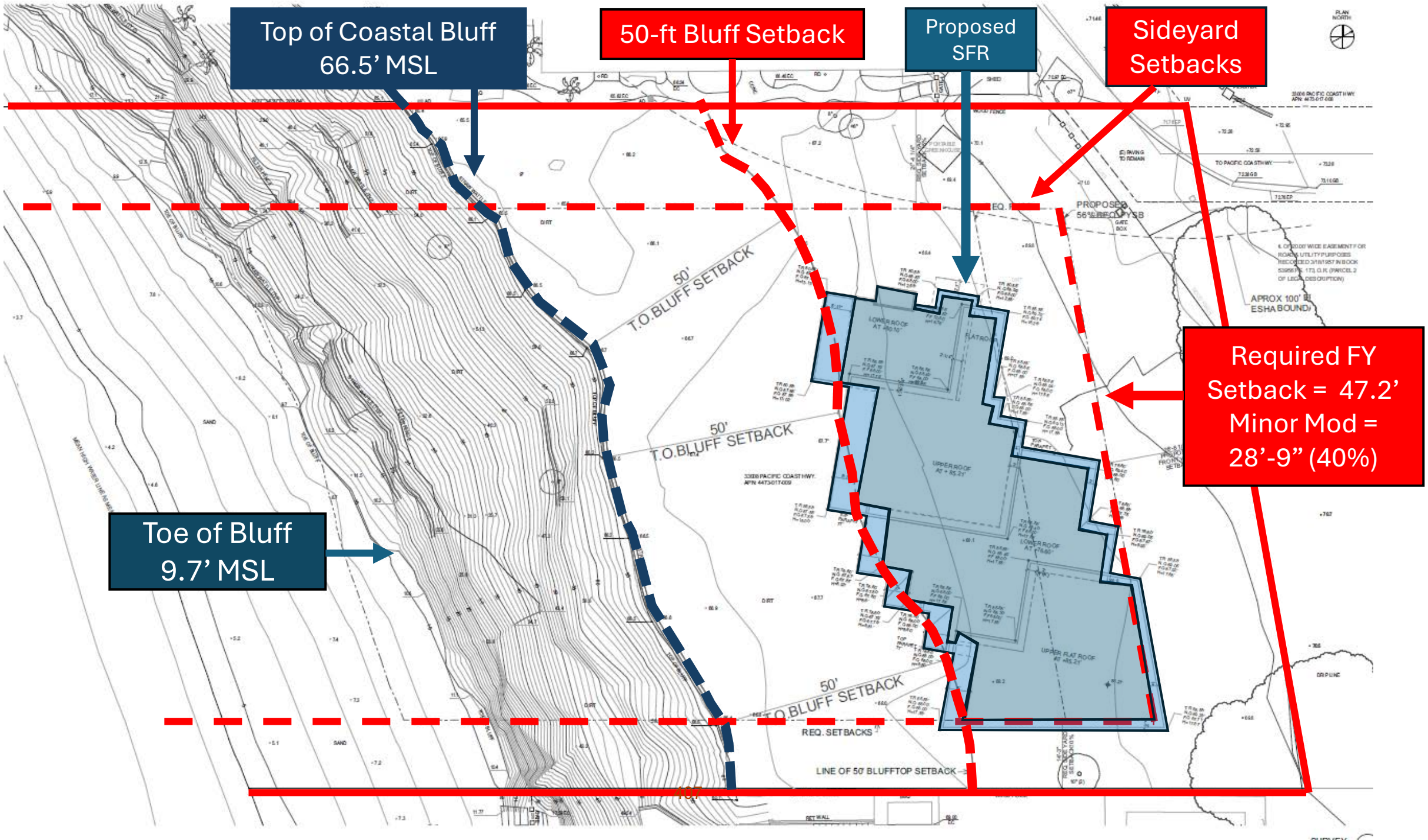
Planning Commission Hearing (Item #5A)

33008 Pacific Coast Highway, Malibu, CA 90265



February 17th, 2026

SCHMITZ & ASSOCIATES INC.


Top of Coastal Bluff
66.5’ MSL
50-ft Bluff Setback
Proposed
SFR
Sideyard
Setbacks
Required FY
Setback = 47.2’
Minor Mod =
28’-9” (40%)
Toe of Bluff
9.7’ MSL
50’
T.O.BLUFF SETBACK
50’
T.O.BLUFF SETBACK
50’
T.O.BLUFF SETBACK
REQ. SETBACKS
LINE OF 50’ BLUFFTOP SETBACK
PROPOSED
56% REDUCTION
APROX 100’
ESHA BOUNDARY
TO PACIFIC COAST HWY
(E) PAVING
TO REMAIN
UPPER ROOF
LOWER ROOF
FLAT ROOF
UPPER FLAT ROOF
SAND
DIRT
RET WALL
DRIPLINE

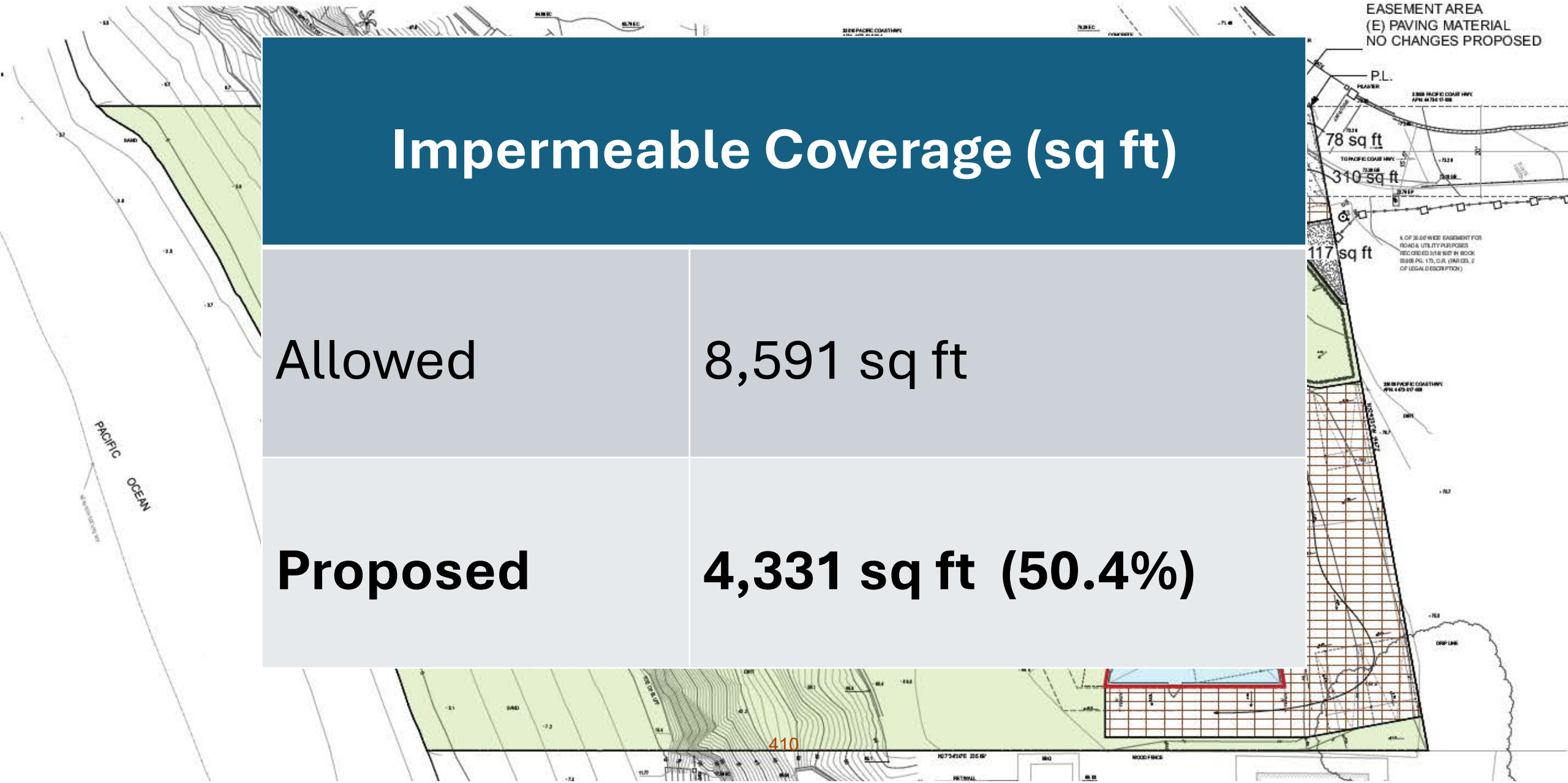
Total Development Square Footage (TDSF)

Proposed TDSF	4,856 sq ft *(685 sq ft less than maximum TDSF)*
Maximum TDSF	**5,541 sq ft**


Proposed development is located on an existing flat pad area

Impermeable Coverage (sq ft)

Allowed	8,591 sq ft
Proposed	**4,331 sq ft (50.4%)**

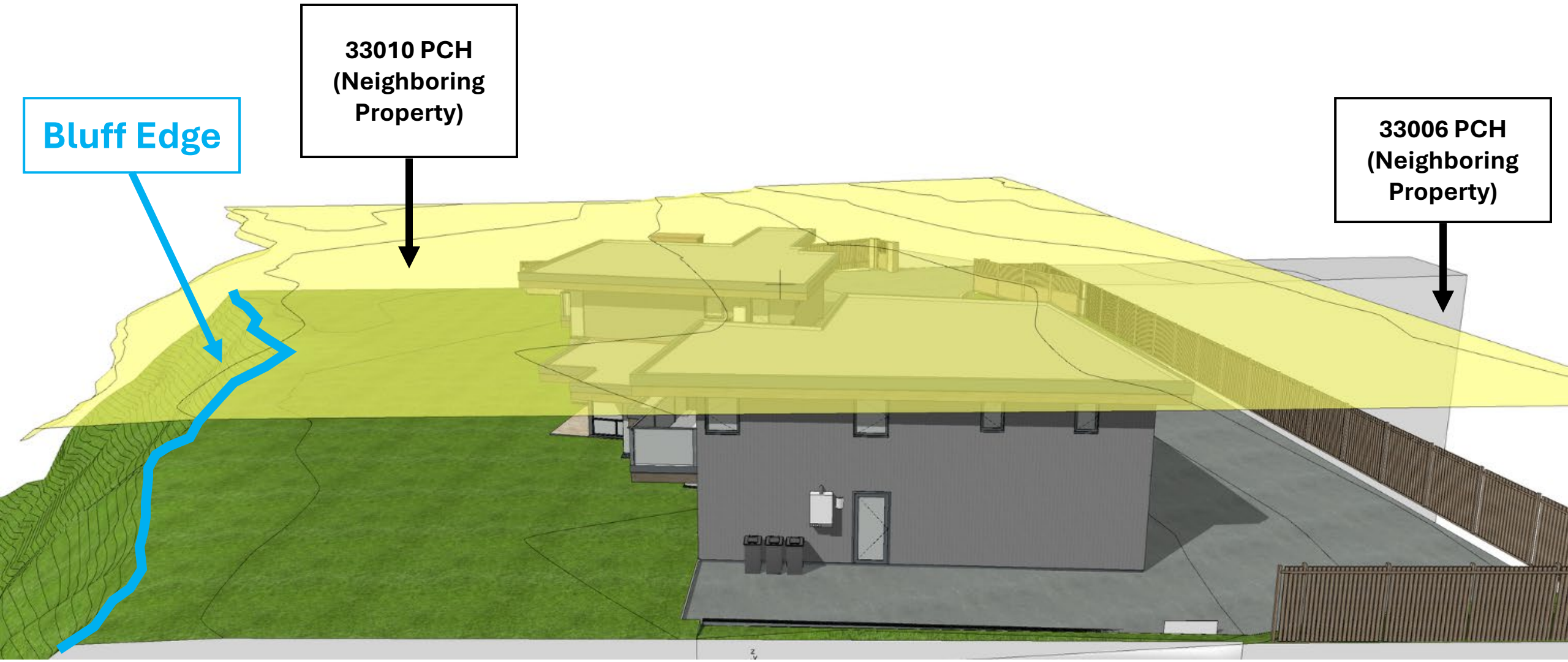


Landscape Plans (MAWA)

Maximum Applied Water Allowance	47,037 gallons
Estimated Total Water Use	**22,077 gallons (47%)**



North Elevation



South Elevation


The proposed development is in an area that was previously disturbed for over 50 years.
Subject Property
1972

ANTHONY C. MARRONE
FIRE CHIEF
FORESTER & FIRE WARDEN

"Proud Protectors of Life, the Environment, and Property"

COUNTY OF LOS ANGELES FIRE DEPARTMENT

FUEL MODIFICATION UNIT
605 NORTH ANGELENO AVENUE
AZUSA, CA 91702
(626) 969-5205
forestryfuelmodification@fire.lacounty.gov
www.fire.lacounty.gov/forestry-division/forestry-fuel-modification/

BOARD OF SUPERVISORS
JANICE HAHN, CHAIR
FOURTH DISTRICT

HILDA L. SOLIS
FIRST DISTRICT

HOLLY J. MITCHELL
SECOND DISTRICT

LINDSEY P. HORVATH
THIRD DISTRICT

KATHRYN BARGER
FIFTH DISTRICT

Wednesday, May 28, 2025

Dear Applicant:

FUEL MODIFICATION PLAN – 33008 PACIFIC COAST HIGHWAY, MALIBU
PARCEL# 4473-017-009 – FM PROJECT # 12066 – FFFM# 202500121

The Final Fuel Modification Plan has been reviewed and approved. Occupancy is subject to onsite inspection and approval of required fuel modification. Inspections are to be performed by Forestry Division personnel.

Questions regarding this response should be directed to the Fuel Modification Unit. Office hours are Monday through Thursday, from 8:00 a.m. to 4:00 p.m. Plan checkers are available 8:00 a.m. to 10:00 a.m. and by appointment. The Fuel Modification Unit may best be reached by email using our office email (forestryfuelmodification@fire.lacounty.gov).

Very truly yours,

Theron Cheatham

THERON CHEATHAM, ACTING ASSISTANT CHIEF, FORESTRY DIVISION
PREVENTION SERVICES BUREAU

TC:RD

Enclosures

SERVING THE UNINCORPORATED AREAS OF LOS ANGELES COUNTY AND THE CIT

AGOURA HILLS	CARSON	EL MONTE	INGLEWOOD	LAWNDALE	
ARTESIA	CERRITOS	GARDENA	IRWINDALE	LOMITA	
AZUSA	CLAREMONT	GLENDORA	LA CANADA-FLINTRIDGE	LYNWOOD	
BALDWIN PARK	COMMERCE	HAWAIIAN GARDENS	LA HABRA	MALIBU	
BELL	COVINA	HAWTHORNE	LA MIRADA	MAYWOOD	
BELL GARDENS	CUDAHY	HERMOSA BEACH	LA PUENTE	NORWALK	
BELLFLOWER	DIAMOND BAR	HIDDEN HILLS	LAKEWOOD	PALMDALE	
BRADBURY	DUARTE	HUNTINGTON PARK	LANCASTER	PALOS VERDES ESTATES	
CALABASAS		INDUSTRY		PARAMOUNT	

12066

COUNTY OF LOS ANGELES
FIRE DEPARTMENT
PREVENTION SERVICES BUREAU
PRELIMINARY
FUEL MODIFICATION PLAN
RESUBMIT

By _____ Date: Digitally signed by Ivan Castillo DN: C=US, E=Ivan.castillo@fire.lacounty.gov, O=LACoFD Forestry, OU=Fuel Modification, CN=Ivan Castillo 2025.05.13 14:44:52-07'00'

FUEL MODIFICATION UNIT

The stamping of this plan and specifications SHALL NOT be held to permit or to be an approval of the violation of any provisions of any County/City or State law



Description of Fire Zones

Approval of this Fuel Modification Plan constitutes approval for only those Codes reviewed as part of the Fuel Modification process and does not replace the needed approval of any other office or agency with jurisdiction and review responsibility for those items which may or may not be illustrated on the plan.

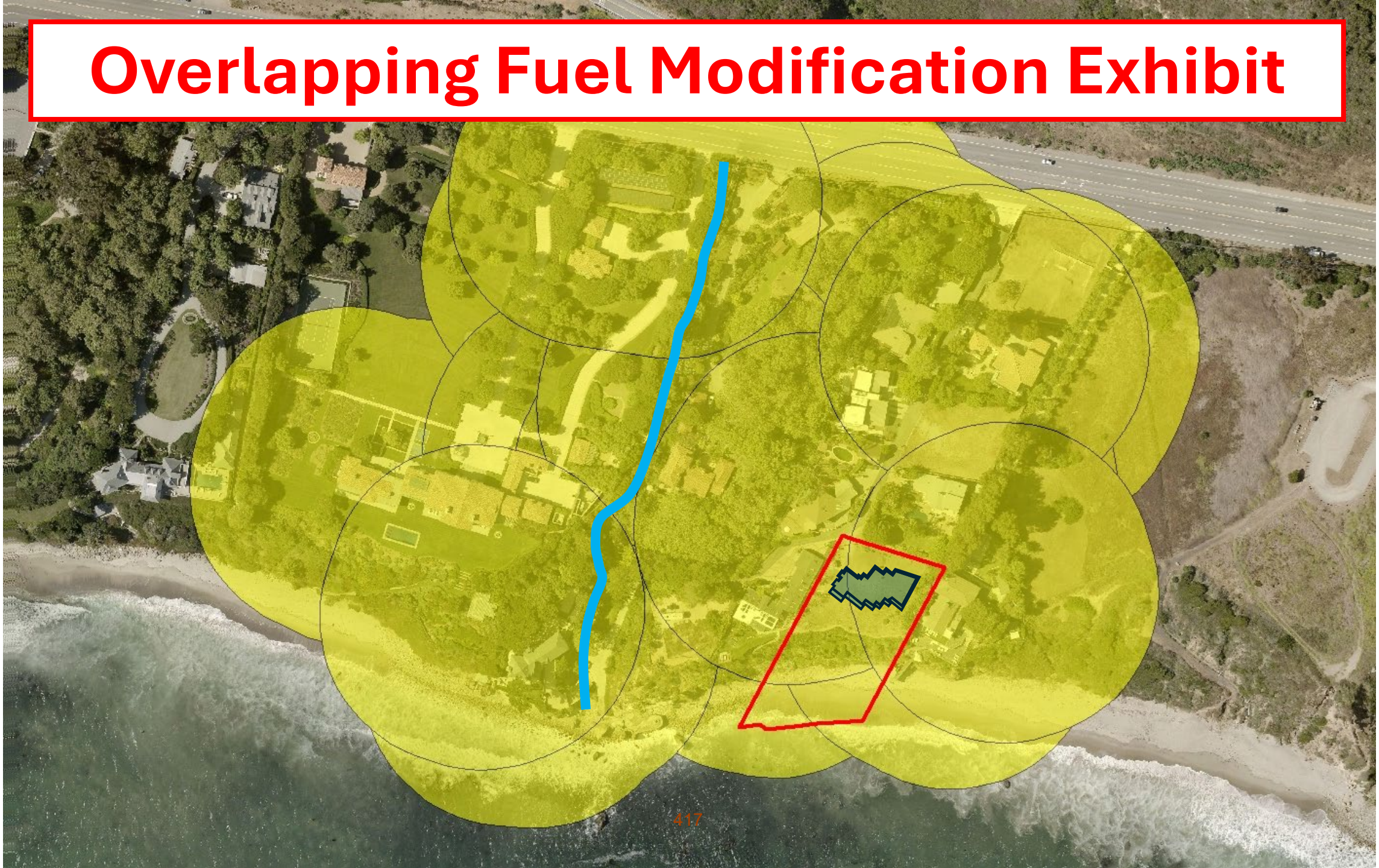
BAREFOOT 3 DESIGN

BLUFFTOP 1
33008 Pacific Coast Highway, Malibu CA, 90265

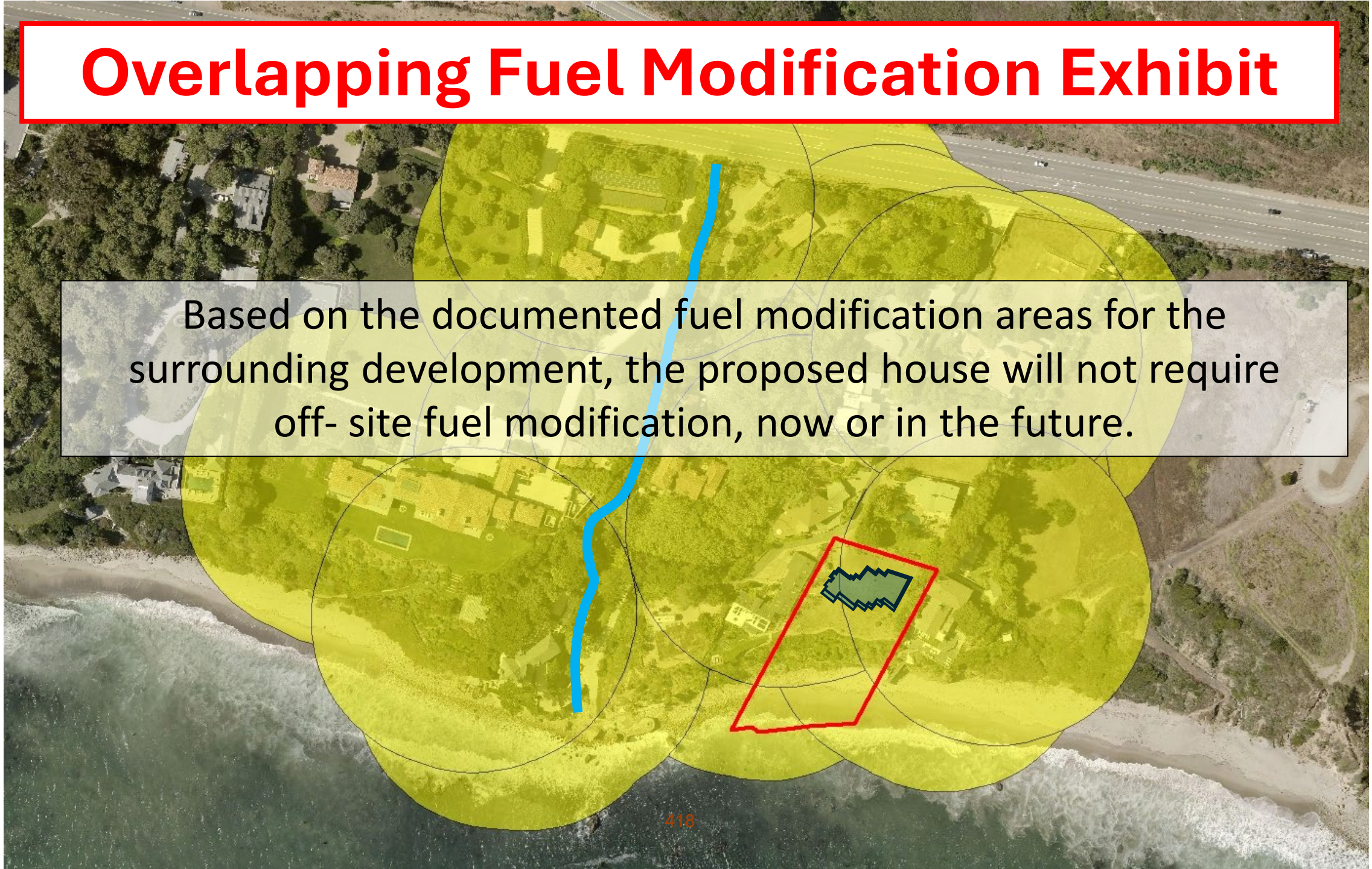
Fuel Modification Plan

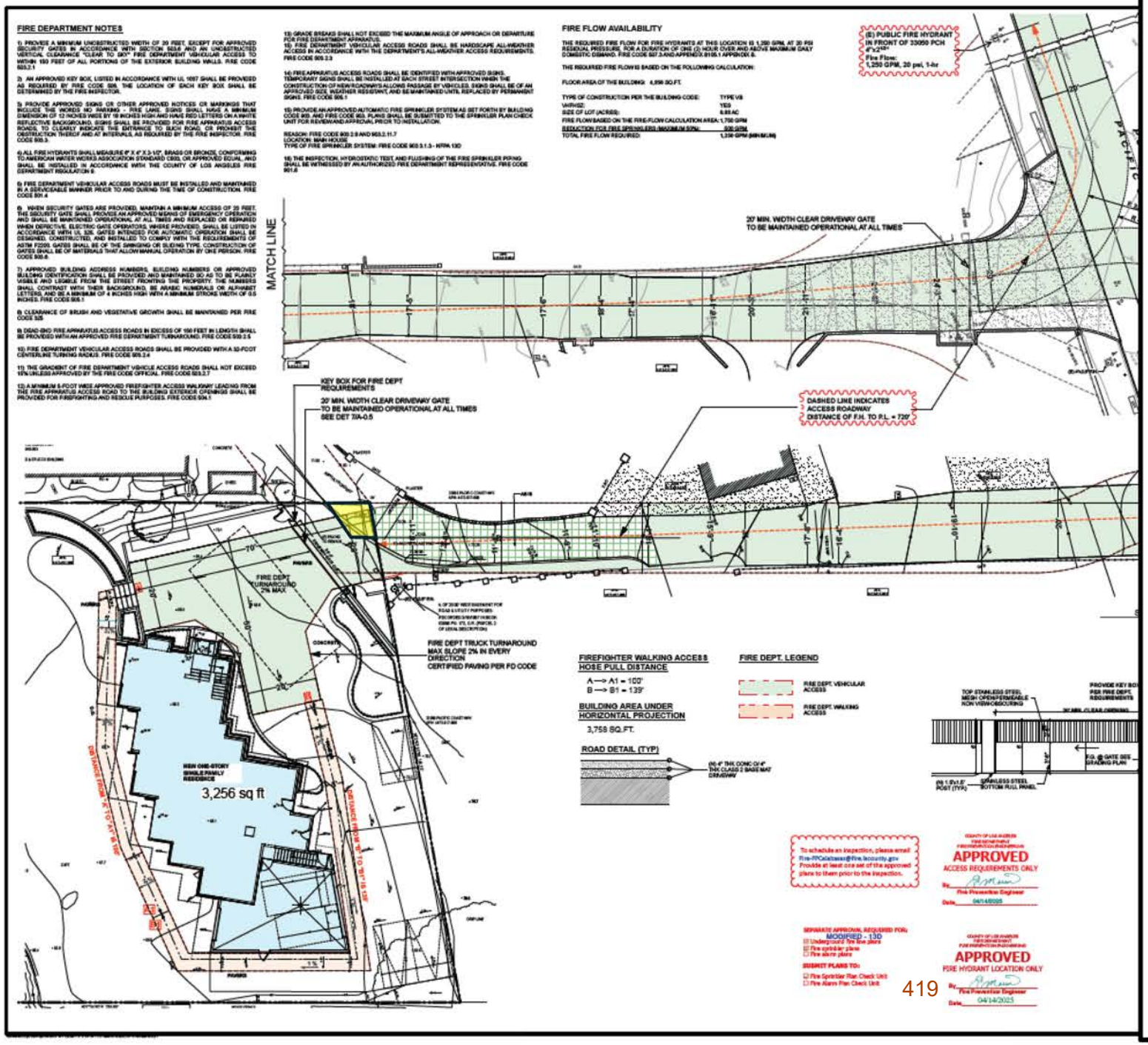
FM1.01

Overlapping Fuel Modification Exhibit



Overlapping Fuel Modification Exhibit





419

City of Malibu

23825 Stuart Ranch Rd., Malibu, California CA 90265-4804
(310) 456-2489 FAX (310) 456-7650

FIRE DEPARTMENT REVIEW
REFERRAL SHEET

TO: Los Angeles County Fire Department

FROM: City of Malibu Planning Department **DATE:** 05/17/2023

PROJECT NUMBER:	CDP 23-034
JOB ADDRESS:	33008 PACIFIC COAST HWY
APPLICANT / CONTACT:	Arfakhashad Munaim, Schmitz & Associates, Inc.
APPLICANT ADDRESS:	28230 Agoura Hills Agoura Hills, CA 91301
APPLICANT PHONE #:	(818) 338-3636
APPLICANT FAX #:	
PROJECT DESCRIPTION:	new 2-story single family residence with attached garage, basement, and new driveway access and landscaping. WATER & ACCESS ONLY FEPC2023-1860

TO: Malibu Planning Department and/or Applicant
FROM: Fire Prevention Engineering Assistant

Compliance with the conditions checked below is required prior to Fire Department approval.

The project DOES require Fire Department Plan Review and Developer Fee payment	✓
The project DOES NOT require Fire Department Plan Review	—
The required fire flow for this project is 1,250 gallons per minute at 20 pounds per square inch for a 1 hour duration. (Provide flow information from the water dept.)	✓
The project is required to have an interior automatic fire sprinkler system.	✓
Final Fuel Modification Plan Approval is required prior to Fire Department Approval	✓

Conditions below marked "not approved" shall be corrected on the site plan and resubmitted for Fire Department approval.

	App'd	N/app'd
Required Fire Department vehicular access (including width and grade %) as shown from the public street to the proposed project.	✓	
Required and/or proposed Fire Department Vehicular Turnaround	✓	
Required 5 foot wide Fire Department Walking Access (including grade %)	✓	
Width of proposed driveway/access roadway gates	✓	

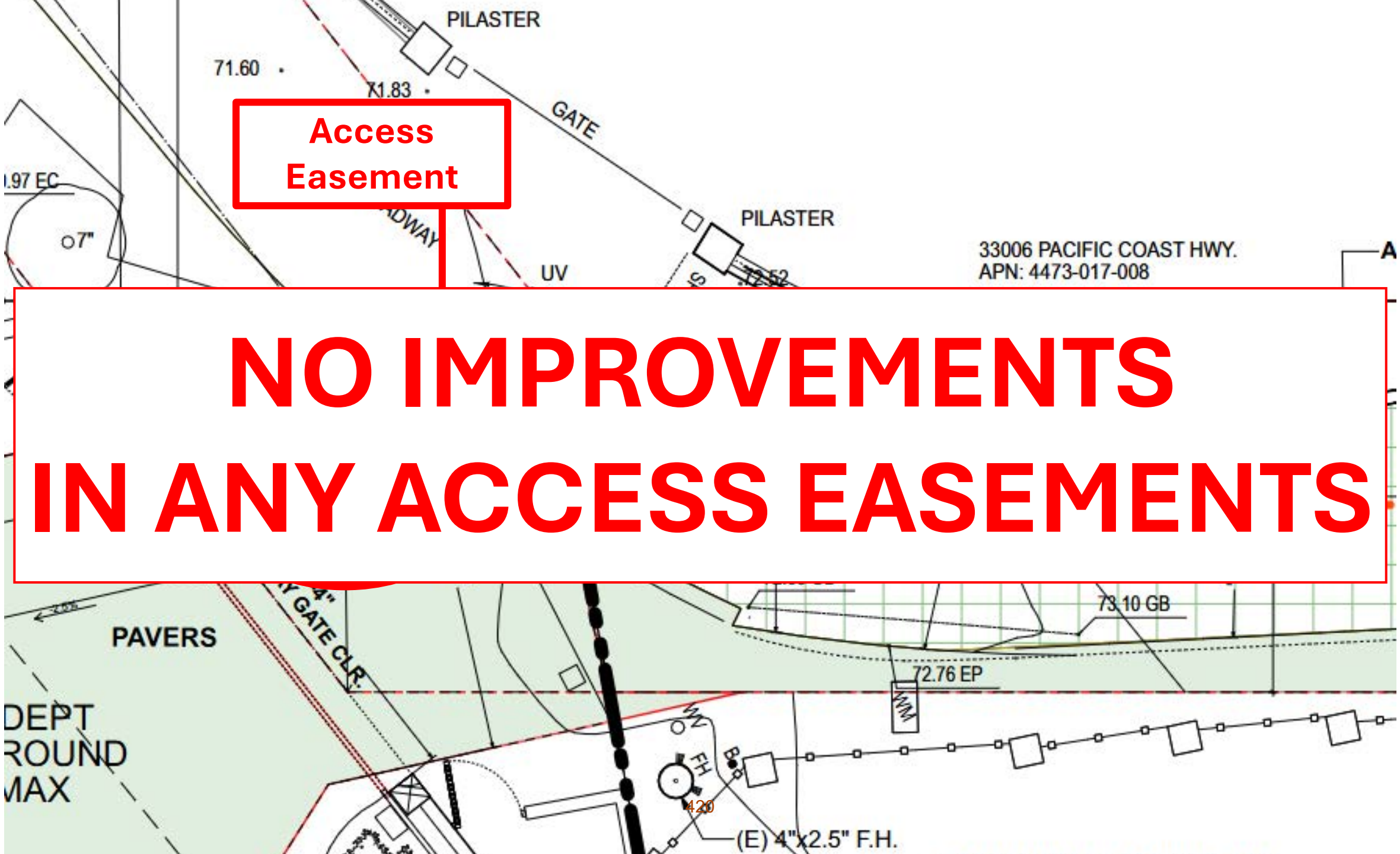
*County of Los Angeles Fire Department Approval Expires with City Planning permits expiration, revisions to the County of Los Angeles Fire Code or revisions to Fire Department regulations and standards.

**Minor changes may be approved by Fire Prevention Engineering, provided such changes achieve substantially the same results and the project maintains compliance with the County of Los Angeles Fire Code valid at the time revised plans are submitted. Applicable review fees shall be required.

SIGNATURE 04/24/2025 DATE

Additional requirements/conditions may be imposed upon review of complete architectural plans.
The Fire Prevention Engineering may be contacted by phone at (818) 880-0341or at the Fire Department Counter:
26600 Agoura Road, Suite 110, Calabasas, CA 91302; Hours: Monday – Thursday between 7:00 AM and 11:00 AM

Rev 04/21/10 mr


PILASTER
71.60
71.83
GATE
Access Easement
PILASTER
33006 PACIFIC COAST HWY.
APN: 4473-017-008
UV
NO IMPROVEMENTS
IN ANY ACCESS EASEMENTS
73.10 GB
PAVERS
72.76 EP
DEPT
ROUND
MAX
FH
(E) 4"x2.5" F.H.

Commission Agenda Report

Planning Commission Meeting
02-17-26
Item 5.A.

To: Chair Riddick and Members of the Planning Commission

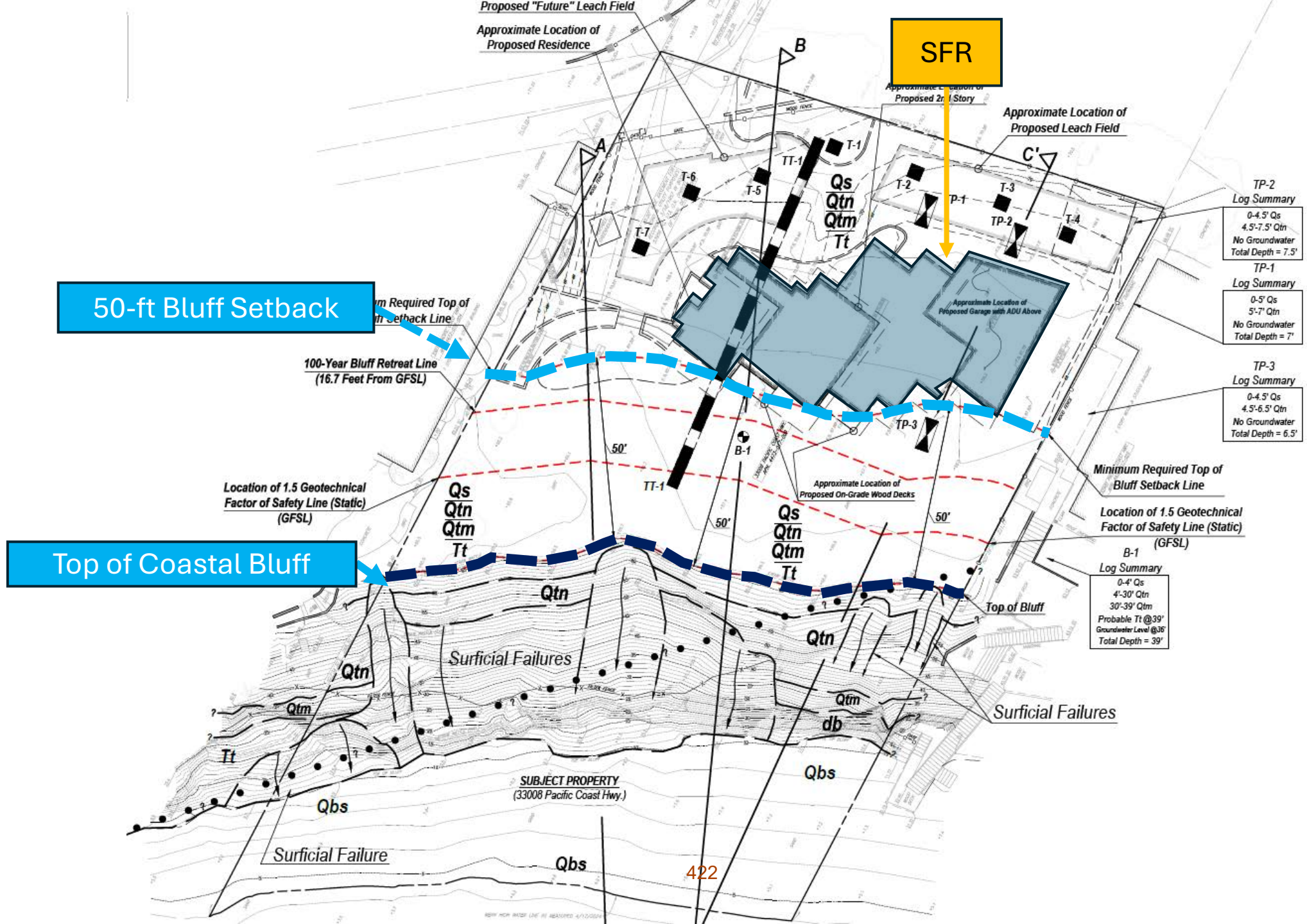
Comment 2 – Co-Applicant, LIP § 13.6.2(C): No such invitation has been extended to the adjacent neighbor who has a shared easement over the property, including over areas proposed for development.

Staff Response: The subject project does not propose any development within the shared private access easement with other properties. Revised plans have been submitted to further clarify that no development will be proposed within the portion of the shared easement. See partial screen shot below (Figure 1) of the area within the easement which will remain as is. The prior version of the plans erroneously stated that the area was existing pavement to remain but confirmed to be existing decomposed granite (DG) to remain.

and Malibu Municipal Code (MMC) provisions, and environmental review pursuant to CEQA. The analysis and findings contained herein demonstrate the proposed project is consistent with the LCP and MMC.

Page 1 of 24 Agenda Item 5.A.

City of Malibu, Planning Commission Staff Report, Item 5A, Pp 2-3.


SFR
50-ft Bluff Setback
Top of Coastal Bluff
Proposed "Future" Leach Field
Approximate Location of Proposed Residence
Approximate Location of Proposed Leach Field
Proposed 2nd Story
Approximate Location of Proposed Garage with ADU Above
Approximate Location of Proposed On-Grade Wood Decks
100-Year Bluff Retreat Line (16.7 Feet From GFSL)
Minimum Required Top of Bluff Setback Line
Location of 1.5 Geotechnical Factor of Safety Line (Static) (GFSL)
Top of Bluff
SUBJECT PROPERTY (33008 Pacific Coast Hwy.)
Surficial Failures
Surficial Failure
A
B
C'
T-1
T-2
T-3
T-4
T-5
T-6
T-7
TT-1
TP-1
TP-2
TP-3
B-1
50'
Qs
Qtn
Qtm
Tt
Qbs
db
TP-2 Log Summary
0-4.5' Qs
4.5'-7.5' Qtn
No Groundwater
Total Depth = 7.5'
TP-1 Log Summary
0-5' Qs
5'-7' Qtn
No Groundwater
Total Depth = 7'
TP-3 Log Summary
0-4.5' Qs
4.5'-6.5' Qtn
No Groundwater
Total Depth = 6.5'
B-1 Log Summary
0-4' Qs
4'-30' Qtn
30'-39' Qtm
Probable Tt @39'
Groundwater Level @35'
Total Depth = 39'


Looking West

City of Malibu

23825 Stuart Ranch Road • Malibu, California 90265-4861
(310) 456-2489 • Fax (310) 456-3356 • www.malibucity.org

GEOTECHNICAL REVIEW SHEET

Project Information

Date: December 13, 2024 **Review Log #:** 5079
Site Address: 33008 Pacific Coast Highway
Lot/Tract/PM #: **Planning #:** CDP 23-034 P5
Applicant/Conta
Contact Phone #
Project Type:

Consultant(s) / I
Date(s):
(Current submittal

Previous Review

Planning Revie

☒ The development project is **ACCEPTABLE** from a geotechnical perspective, with the following comments to be addressed prior to building plan check stage completion.

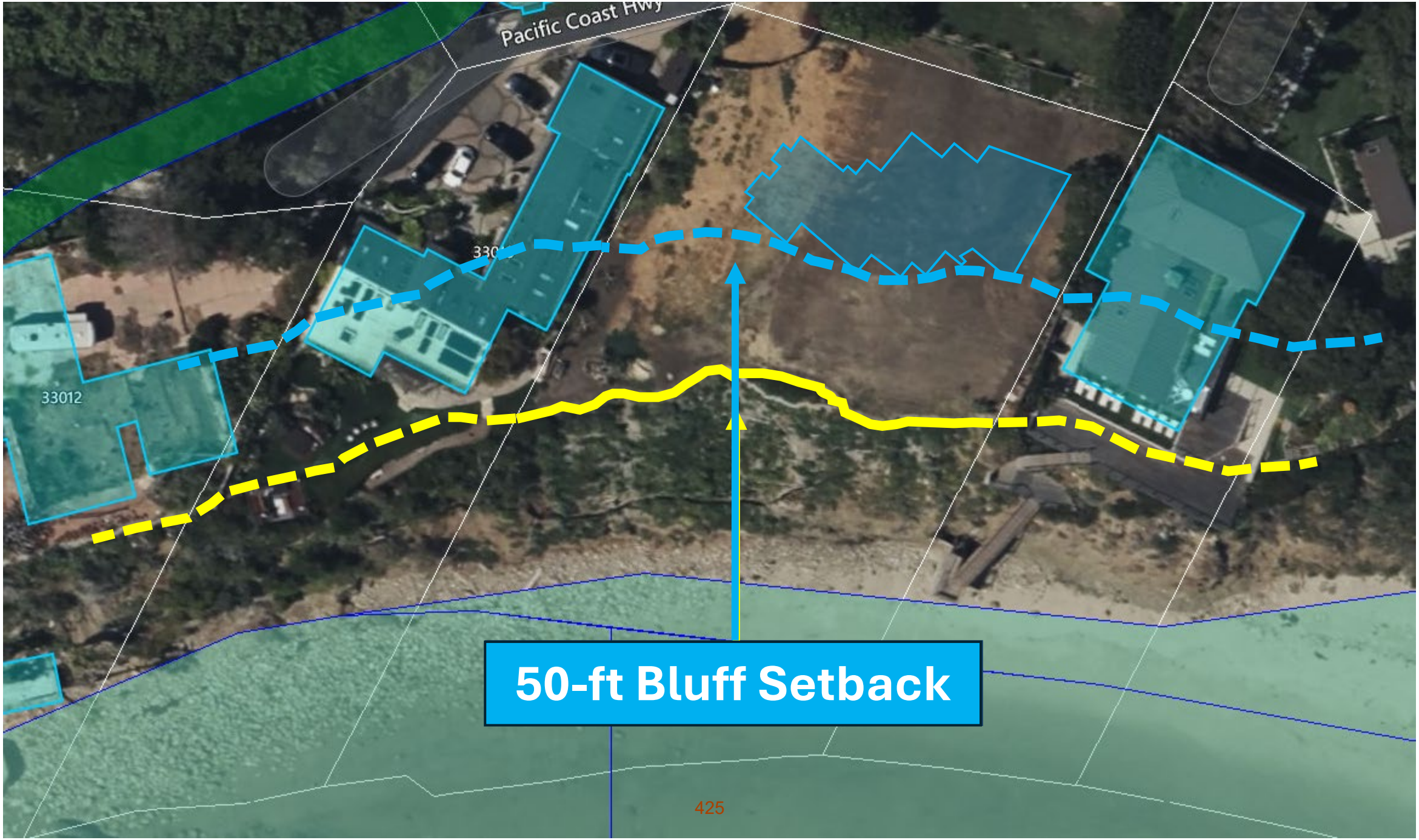
☐ The development project is **NOT ACCEPTABLE** from a geotechnical perspective. The listed 'Review Comments' shall be addressed prior to acceptance.

Building Plan-Check Stage Review

☒ Awaiting Building plan check submittal.

The location of the top of bluff within the subject property is well defined and its location is obvious and easily located in the field and on the attached *Geologic Map* (Plate 1) and *Geologic Sections* (Plate 2). Moreover, as part of the preparation of the recent topographic survey of the subject property, the top of bluff was surveyed by a licensed land surveyor (Peak Survey's, Inc.) and its location and spot elevations were presented on the topographic survey which is utilized as a base for the attached geologic map and geologic sections. The highlighted/annotated *Top of Bluff* line shown on the attached geologic map follows our field observation data and the surveyed location of the top of bluff. To clarify, there is no discrepancy between the location of the top of bluff shown on the attached geologic map, geologic sections, the topographic survey, and the field data.

Source: Geologic Report #2, LandPhases, Inc., August 4th, 2023.


Pacific Coast Hwy
33012
50-ft Bluff Setback

Biology

Coastal Engineering

Environmental Health

Public Works

Fire Department

Geotechnical

Waterworks District

ALL DEPARTMENTAL REVIEWS ARE APPROVED

City of Malibu
23825 Stuart Ranch Rd., Malibu, California CA 90265-4804
(310) 456-2489 FAX (310) 456-3356 www.malibucity.org

LOS ANGELES COUNTY WATERWORKS DISTRICTS REVIEW
REFERRAL SHEET

FROM: City of Malibu Planning Department DATE: 05/17/2023

PROJECT NUMBER: CDP 23-034
JOB ADDRESS: 33008 PACIFIC COAST HWY
APPLICANT / CONTACT: Arfakhashad Munaim, Schmitz & Associates, Inc.
APPLICANT EMAIL: amunaim@schmitzandassociates.net

The project **DOES** require private contract water system improvements for domestic and/or fire flow conditions X

The required fire flow for this project set by the Fire Department is 1250 gallons per minute at 20 pounds per square inch for a 1 hour duration

Scope of water system improvements required:
To be determined by the Waterworks Plan Check Unit after applicant has submitted a complete Water System Improvement application.

Note: Los Angeles County Waterworks District No. 29, Malibu approval expires upon the earliest of the following: 1) Two years from the date of this form; 2) Expiration date of the City Planning permit(s), or 3) Date County adopts changes to the county of Los Angeles Fire Code an makes revisions to appli le ire Department regulations and standards.

SIGNATURE 9-20-2023 DATE

Additional requirements/conditions may be imposed upon review of complete architectural plans.
Los Angeles County Waterworks District No. 29, Malibu may be contacted by phone at (310) 317-1389 or at the Waterworks Public Counter: 23533 Civic Center Way, Malibu CA 90265; Hours: Monday-Thursday 8:00am – 12:00pm

No Impact to Public Views



No Impact to Public Views



Looking Up from El Pescador Beach



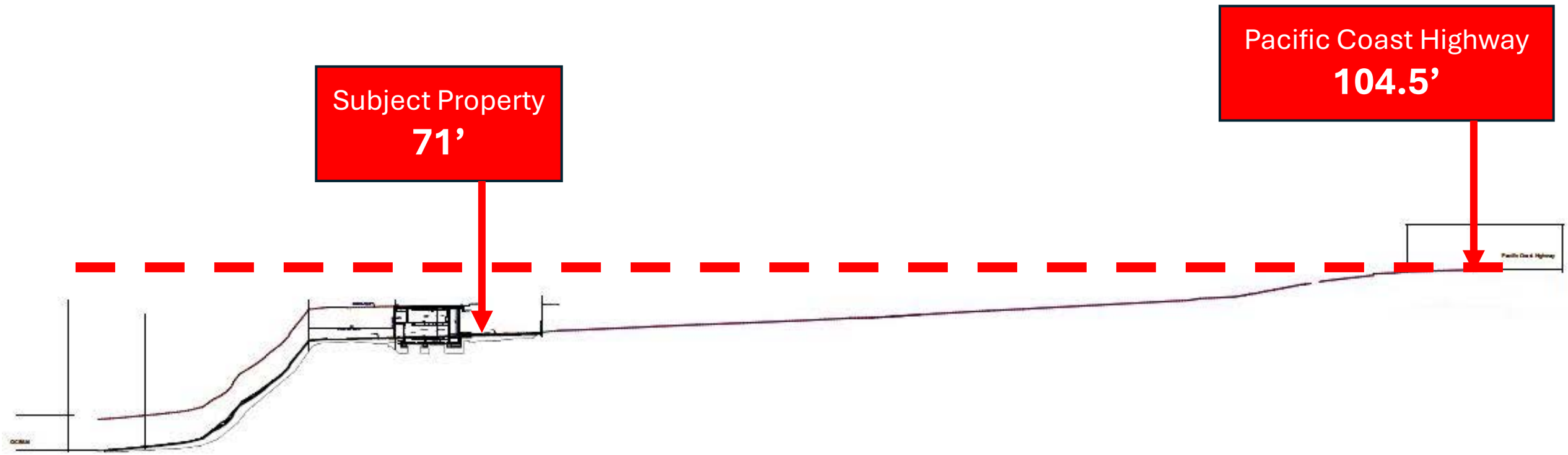
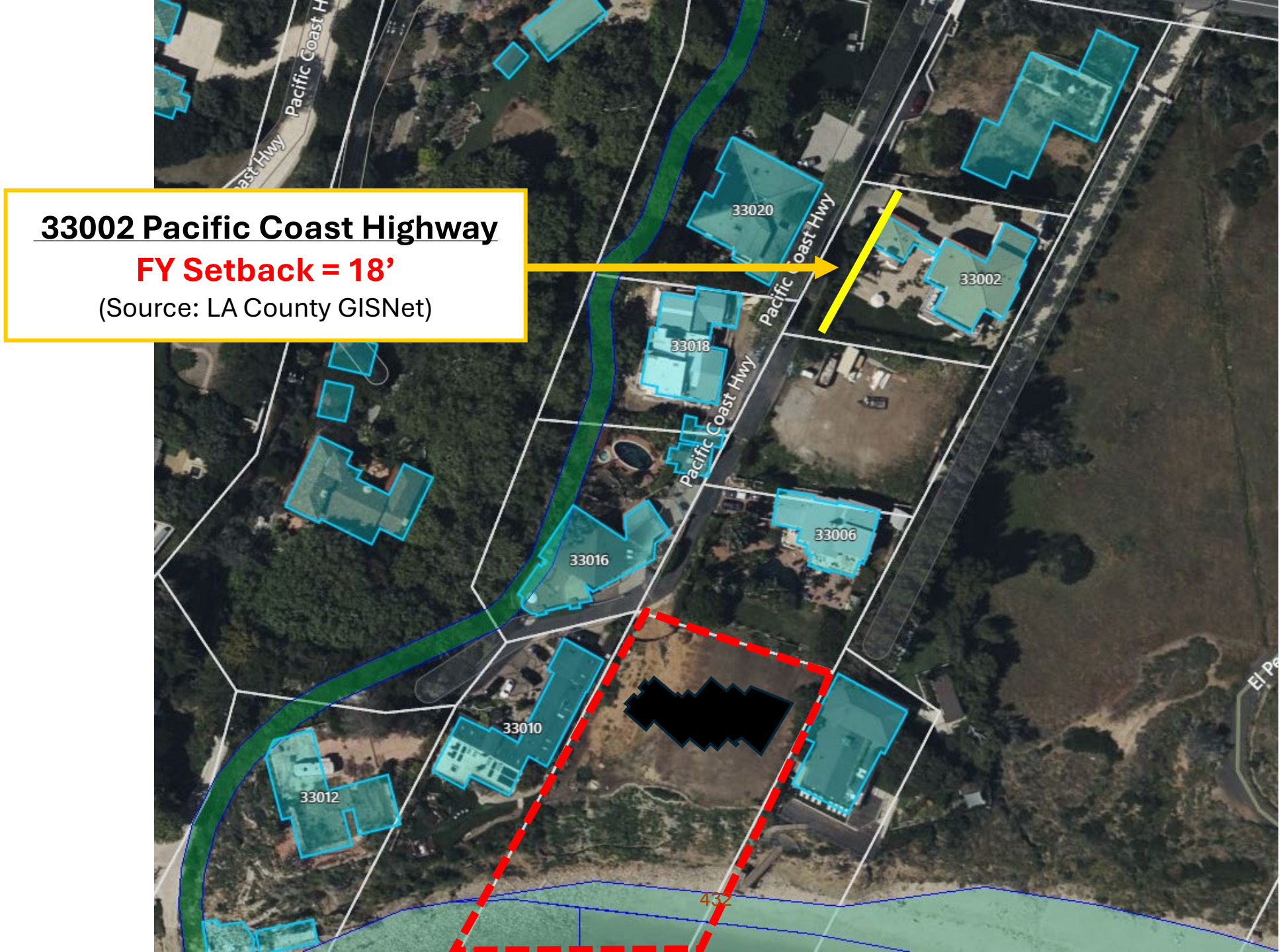

Subject Property
71’
Pacific Coast Highway
104.5’

Table 3 – Zoning Conformance			
Development Requirement	**Allowed/ Required**	**Proposed**	**Comments**
SETBACKS (ft.)			
Front Yard	*47 ft. (min.)*	*28 ft. 9 in.*	*MM No. 25-009*
Rear Yard	36 ft. 5 in. (min.)	92 ft, 6 in	Complies
Side Yard (Minimum 10%)	14 ft. 2 in. (min.)	14 ft. 3 in.	Complies
Side Yard	21 ft. 4 in. (min.)	21 ft. 4 in.	Complies
Total Side Yard (Cumulative 25%)	43 ft. 3 in.	43 ft, 6 in	Complies
Bluff Edge	100 ft. from bluff edge; or 50 ft. with City geotechnical consultant reviewer approval	50 ft. with City geotechnical consultant reviewer approval	Complies
PARKING SPACES			
Enclosed (10 ft. x 18 ft.)	2	2	Complies
Unenclosed (10 ft. x 18 ft.)	3	3	Complies
Total Development Square Footage (TDSF) (sq. ft.)			
TDSF	5,580 (max.)	4,856	Complies
Single-Family Residence		3,241	
Attached Garage	400	776	
Second Unit	900	824	Complies
HEIGHT (ft.)			
Single-Family Residence	18	18	Complies
IMPERMEABLE COVERAGE (sq.ft.)	8,707	4,331	Complies
NON-EXEMPT GRADING (cu.yd.)	1,000	691	Complies
CONSTRUCTION ON SLOPES	4 to 1 and flatter	4 to 1 and flatter	Complies
FENCES/WALLS/HEDGES			
Retaining Walls	6 ft. max. 12 ft. cumulative	6 ft. max. 12 ft. cumulative	Complies
Front Yard			
Impermeable	42 in.	42 in.	Complies
Permeable	6	6	Complies
Rear & Side Yard	6	6	Complies


33002 Pacific Coast Highway
FY Setback = 18’
(Source: LA County GISNet)
Pacific Coast Hwy
33020
33002
33018
33006
33016
33010
33012
432



33006 Pacific Coast Highway

FY Setback = 33’

(Source: LA County GISNet)

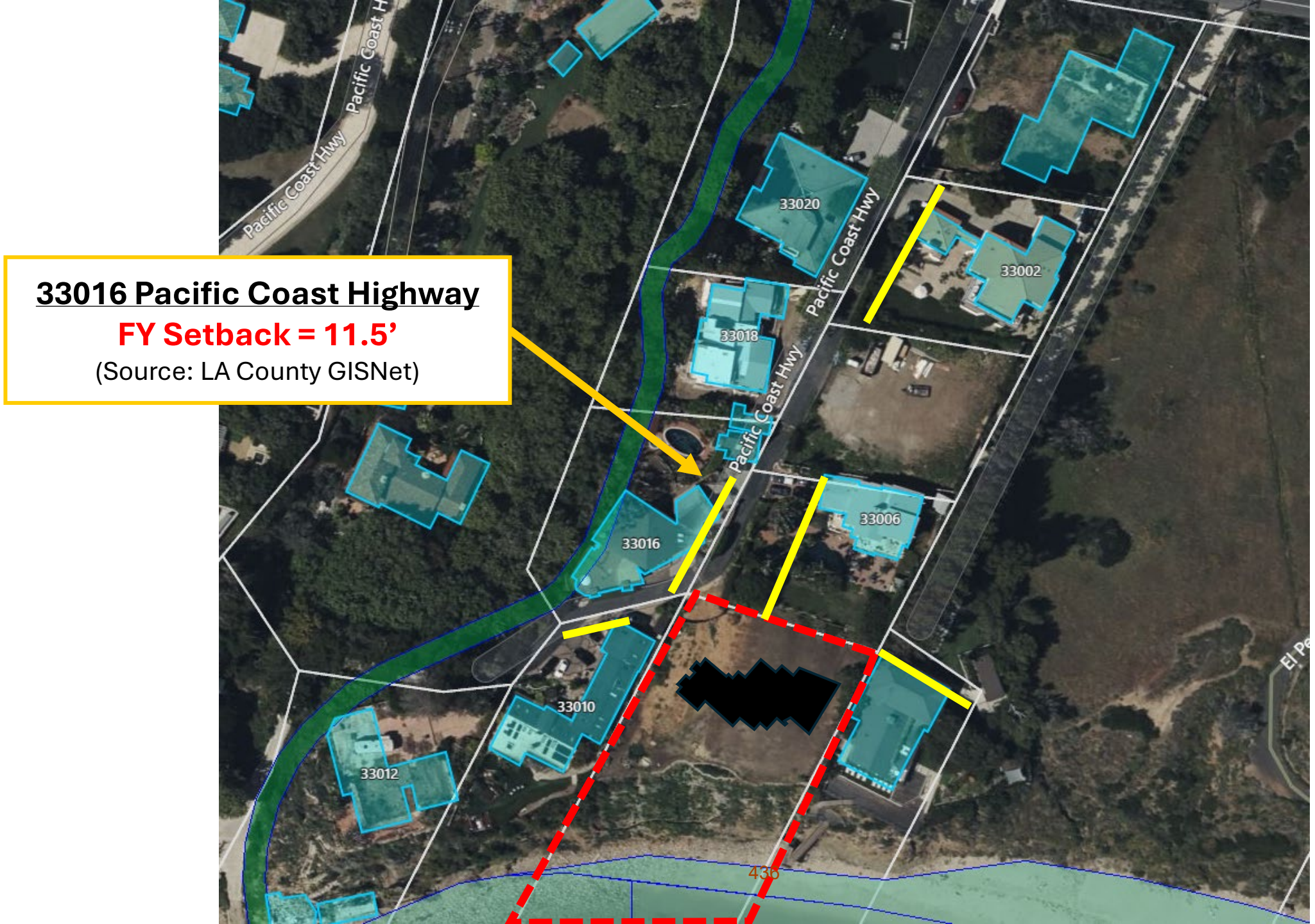


32960 Pacific Coast Highway

FY Setback = 14’-6”

(Source: LA County GISNet)


33010 Pacific Coast Highway
FY Setback = 6’
(Source: LA County GISNet)
Pacific Coast Hwy
Pacific Coast Hwy
Pacific Coast Hwy
Pacific Coast Hwy
33020
33002
33018
33006
33016
33010
33012
435

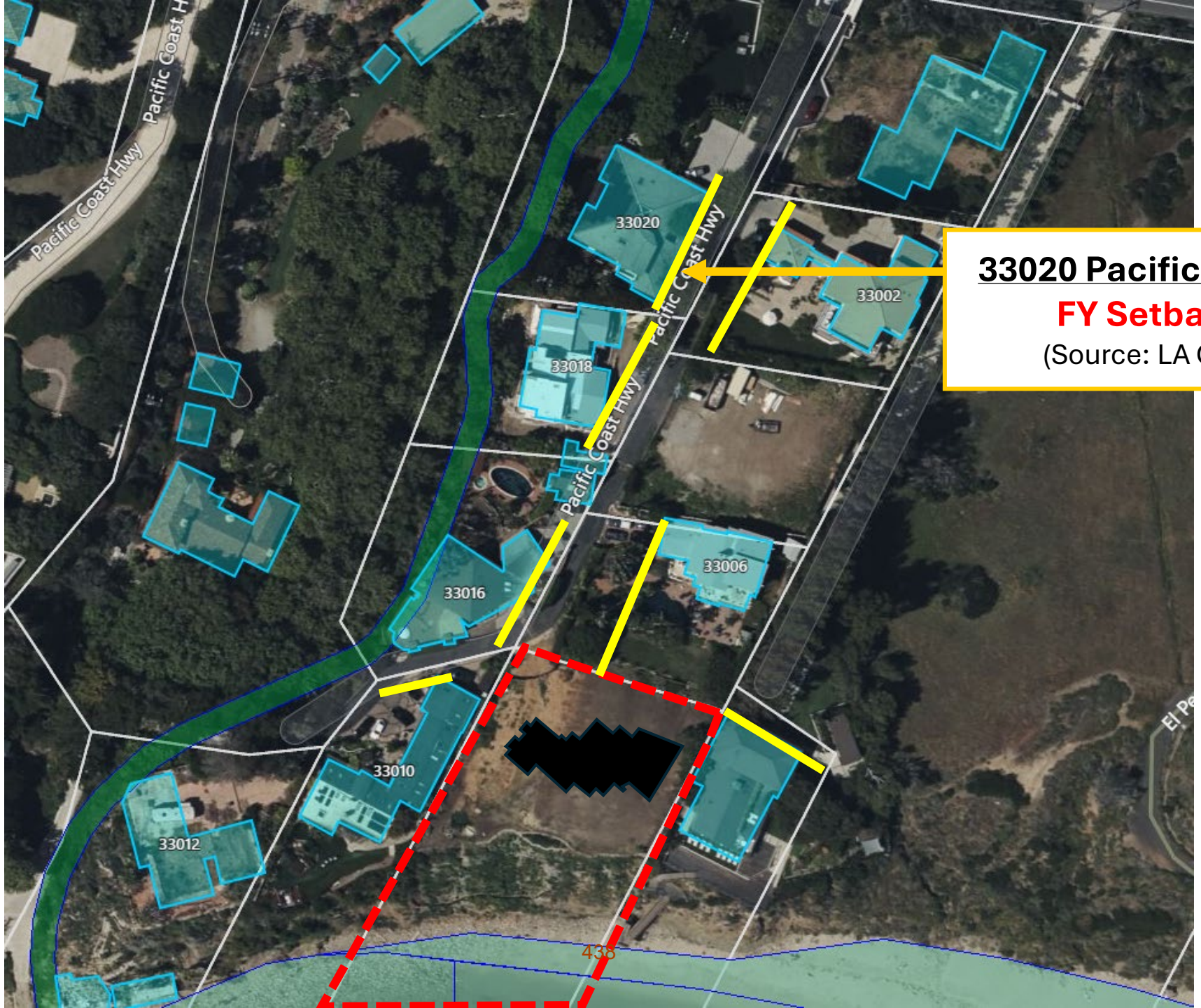

33016 Pacific Coast Highway
FY Setback = 11.5'
(Source: LA County GISNet)
Pacific Coast Hwy
Pacific Coast Hwy
Pacific Coast Hwy
Pacific Coast Hwy
33020
33002
33018
33006
33016
33010
33012
436



33018 Pacific Coast Highway

FY Setback = 19'

(Source: LA County GISNet)



33020 Pacific Coast Highway

FY Setback = 13'-6"

(Source: LA County GISNet)

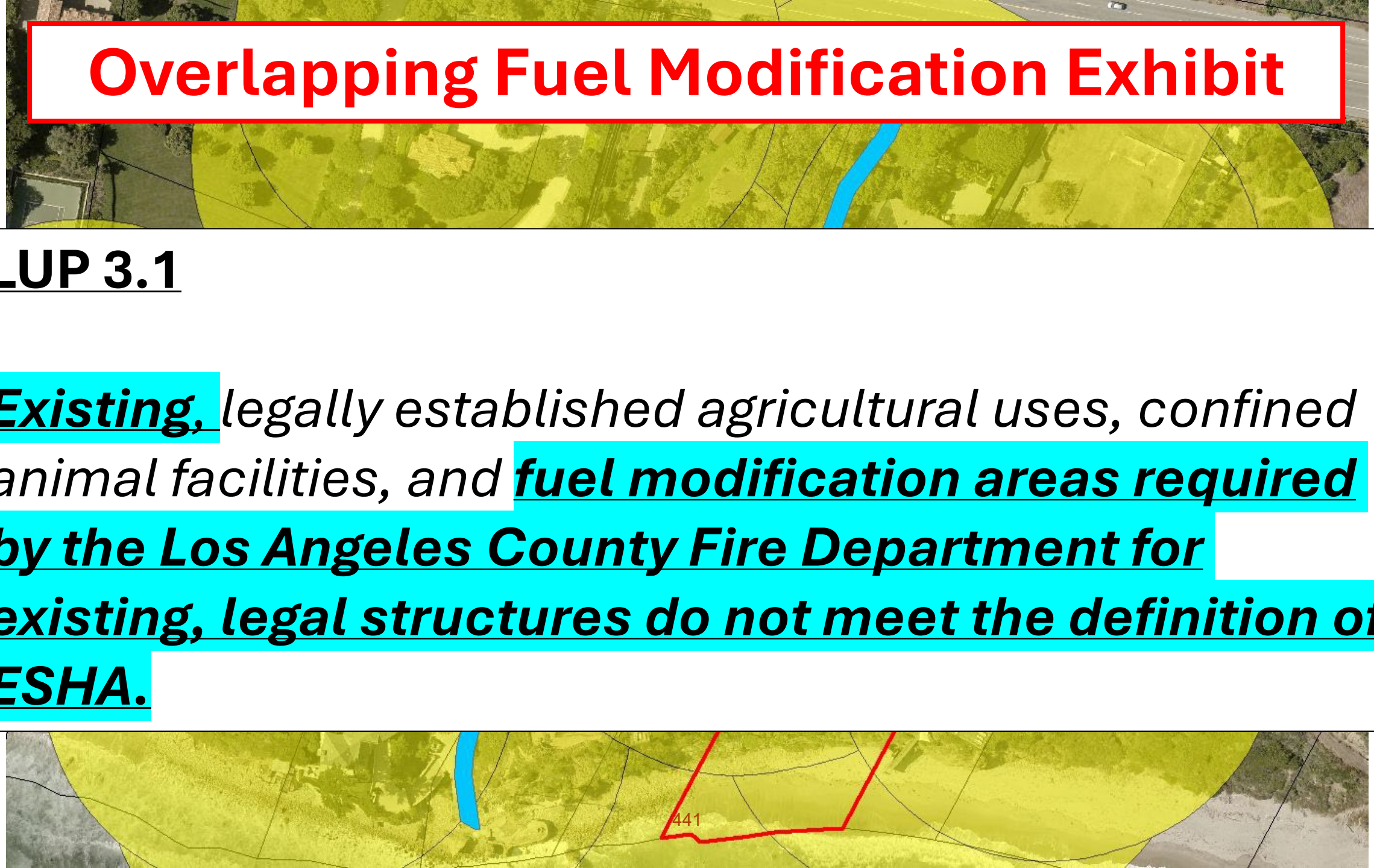


Neighborhood Front Yard Setbacks	
33002 PCH	18’
33006 PCH	33’
33010 PCH	6’
32960 PCH	14’-6”
33016 PCH	11’-6”
33018 PCH	19’
33020 PCH	13’-6”
Average	**16’-6”**
Proposed	**28’-9”**

THANK YOU



Overlapping Fuel Modification Exhibit

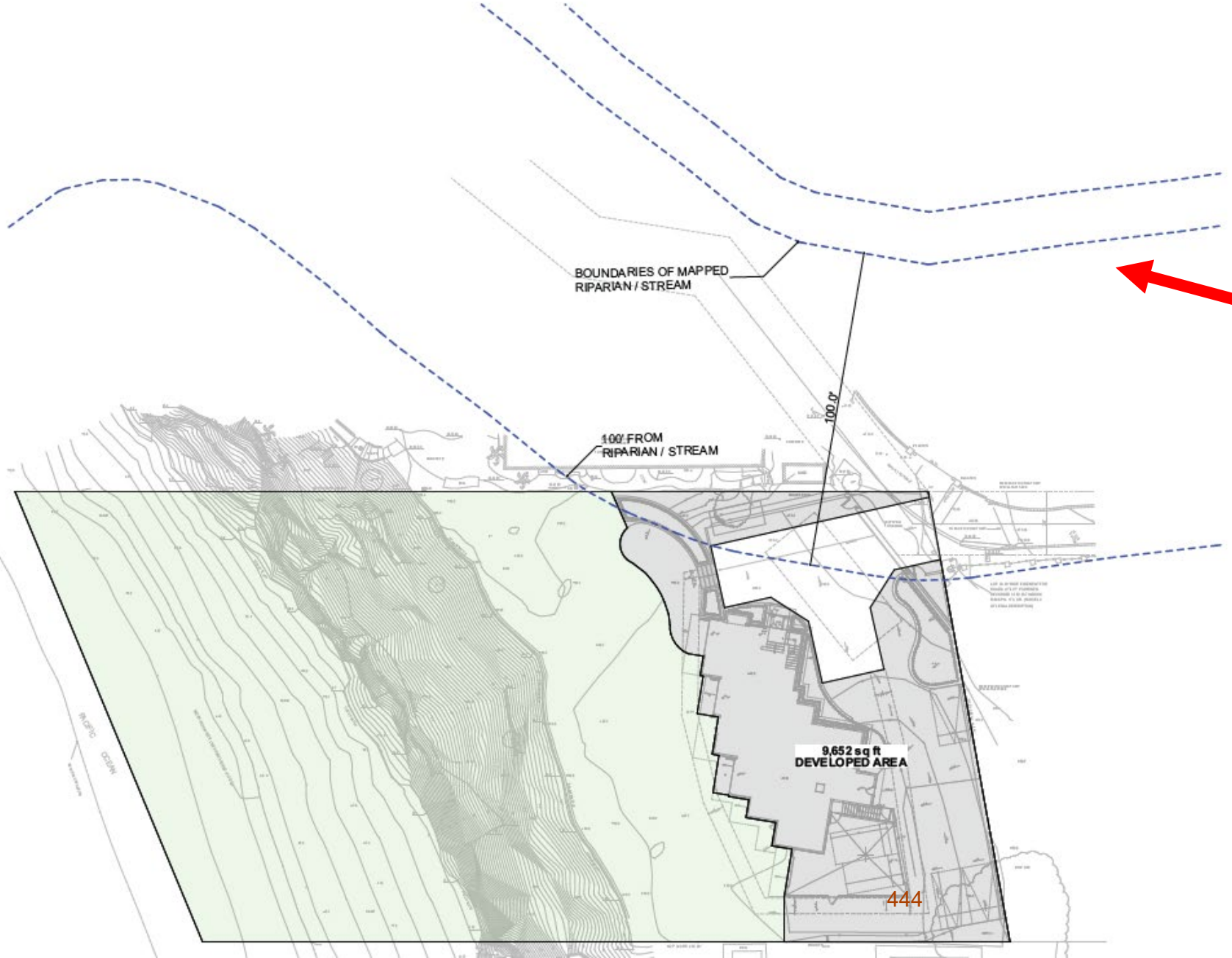


LUP 3.1

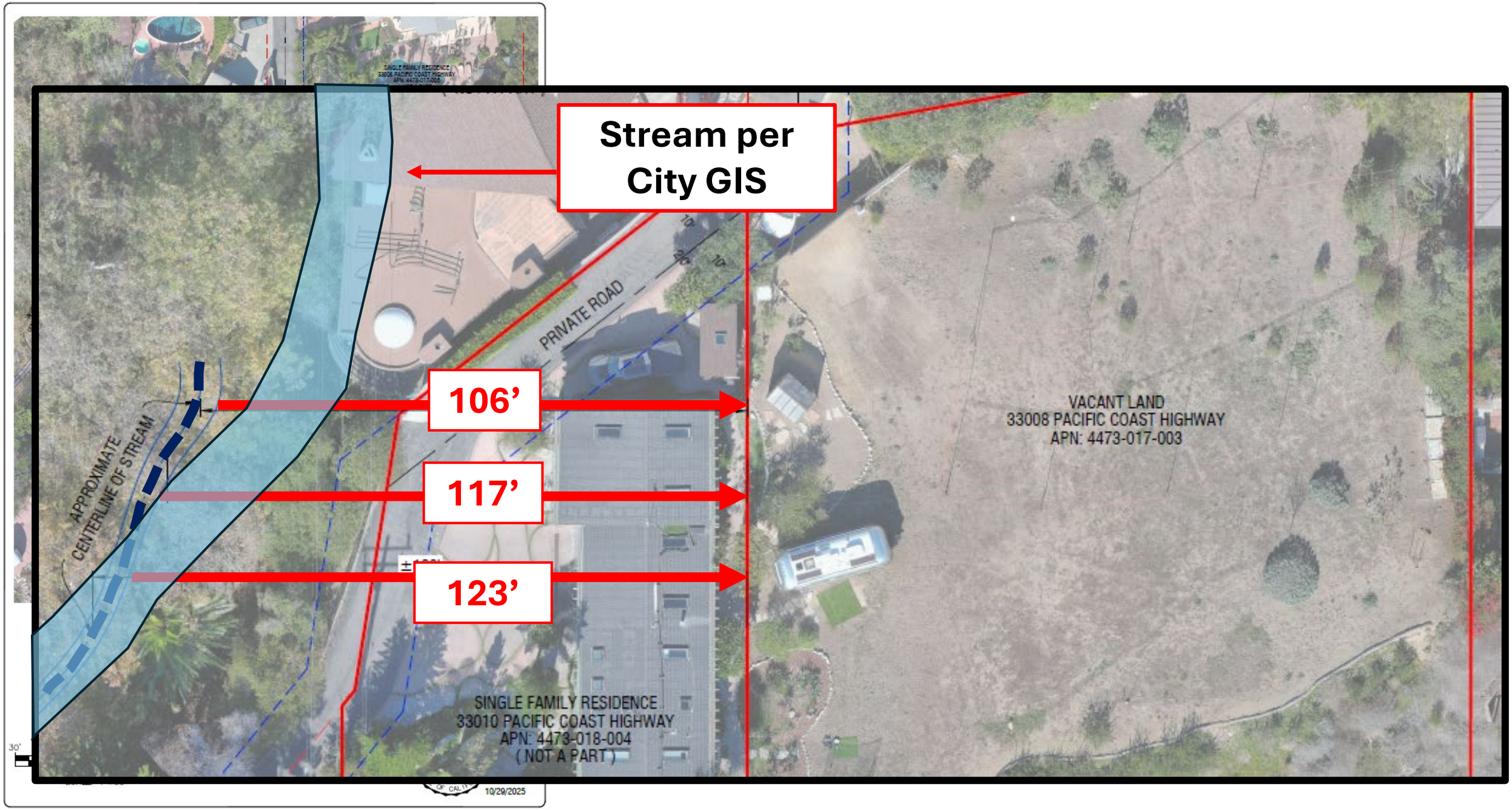
Existing, *legally established agricultural uses, confined animal facilities, and* ***fuel modification areas required by the Los Angeles County Fire Department for existing, legal structures do not meet the definition of ESHA.***


Source: City GIS, 2024
442


The stream runs through the house



Boundary of Stream Based on City GIS (2024)



Source: Stream Survey Delineation by Forde Biologists, Inc.

Forde

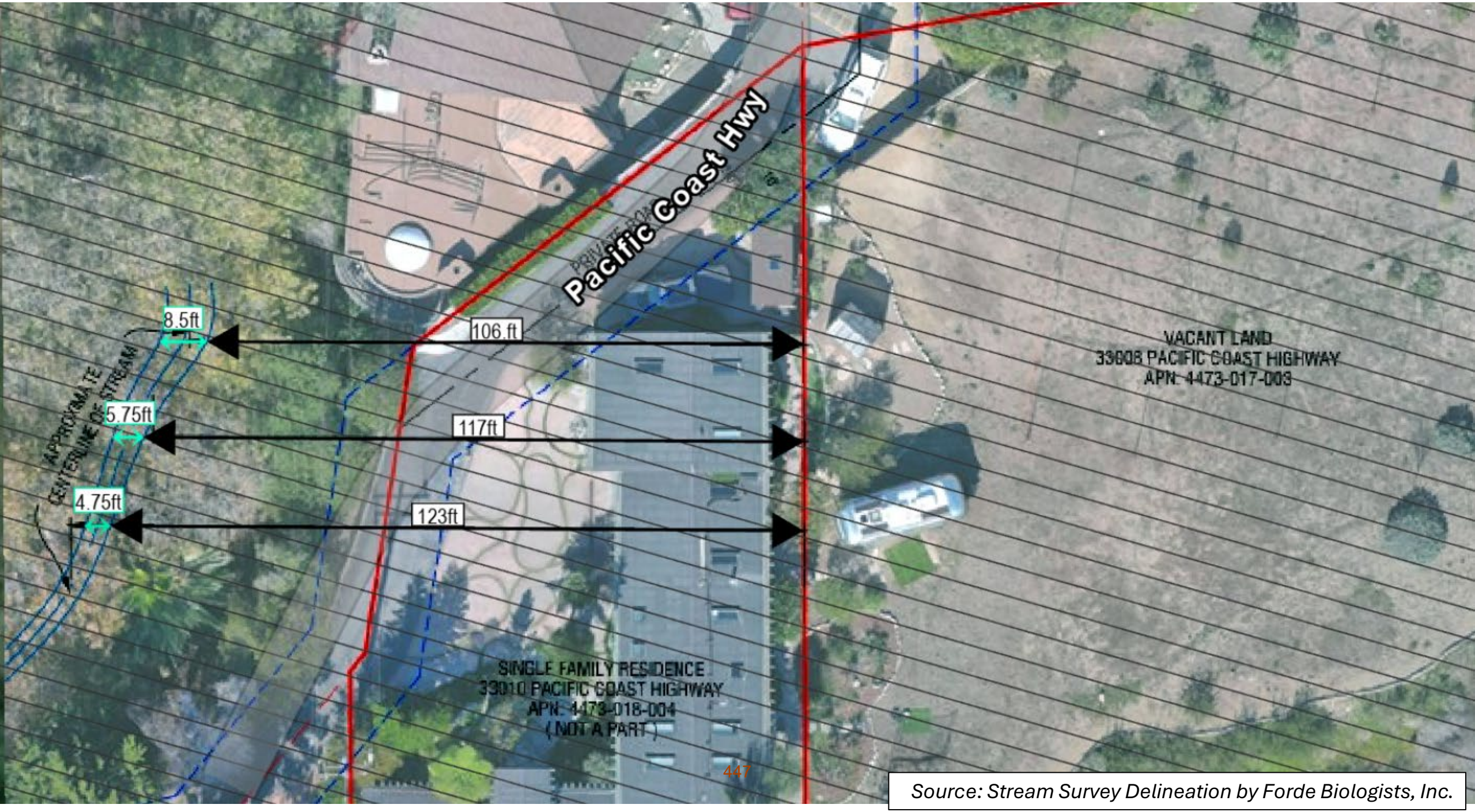
BIOLOGICAL CONSULTANTS

10664 PRESILLA RD | SANTA ROSA VALLEY, CA 93012
PHONE: (805) 302-7165 | FAX: (805) 552-9196
WWW.FORDEBIO.COM | EMAIL: INFO@FORDEBIO.COM

The bluff is located within the fuel modification zones of adjacent single-family residencies and non-native vegetation dominates. The bluff does not meet the ESHA definition. I had no legal access to the stream, which runs through private property. Coast Highway. Using a laser hypsometer, I determined that at its closet point to the property the stream is approximately 8.5 feet wide from top of bank to top of bank at the point closest to the subject property and the distance from top of bank to the closest point of the subject property is 106 feet, which is consistent with the surveyors findings. Please see attached exhibit.

1 City of Malibu Local Coastal Plan, Local Implementation Plan, Chapter 4.1; City of Malibu Local Coastal Plan, Land Use Plan, Chapter 3.1

Source: Stream Survey Delineation by Forde Biologists, Inc.



Source: Stream Survey Delineation by Forde Biologists, Inc.

Commission Agenda Report

Planning Commission Meeting
02-17-26
Item
5.A.

To:

Prepa

Revie

Appro

Date

Subje

Comment 3 – ESHA and Bluff EHSA: The project is proposing development within the required 100-foot buffer from a mapped blue line stream.

Staff Response: The project's distance from the stream is in conformance with LIP Chapter 4 as demonstrated by additional materials submitted by the applicant including a letter from Ford Biological Consulting (Attachment 6) and a drone exhibit (Attachment 7). These items were reviewed by the City's Biologist to confirm that the development is approximately 104 feet away from the mapped blue line stream to the west. Further, it was confirmed that the project area and bluff are located within the existing fuel modification zones of adjacent single-family residences. Bluff vegetation is dominated by non-native species and not found to include any species in support of Environmentally Sensitive Habitat Area (ESHA); therefore, the bluff is not considered ESHA.

RECO
(Attac
Enviro
No. 2
family
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acces
includ
yard s
Pacifi

DISCU
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analys

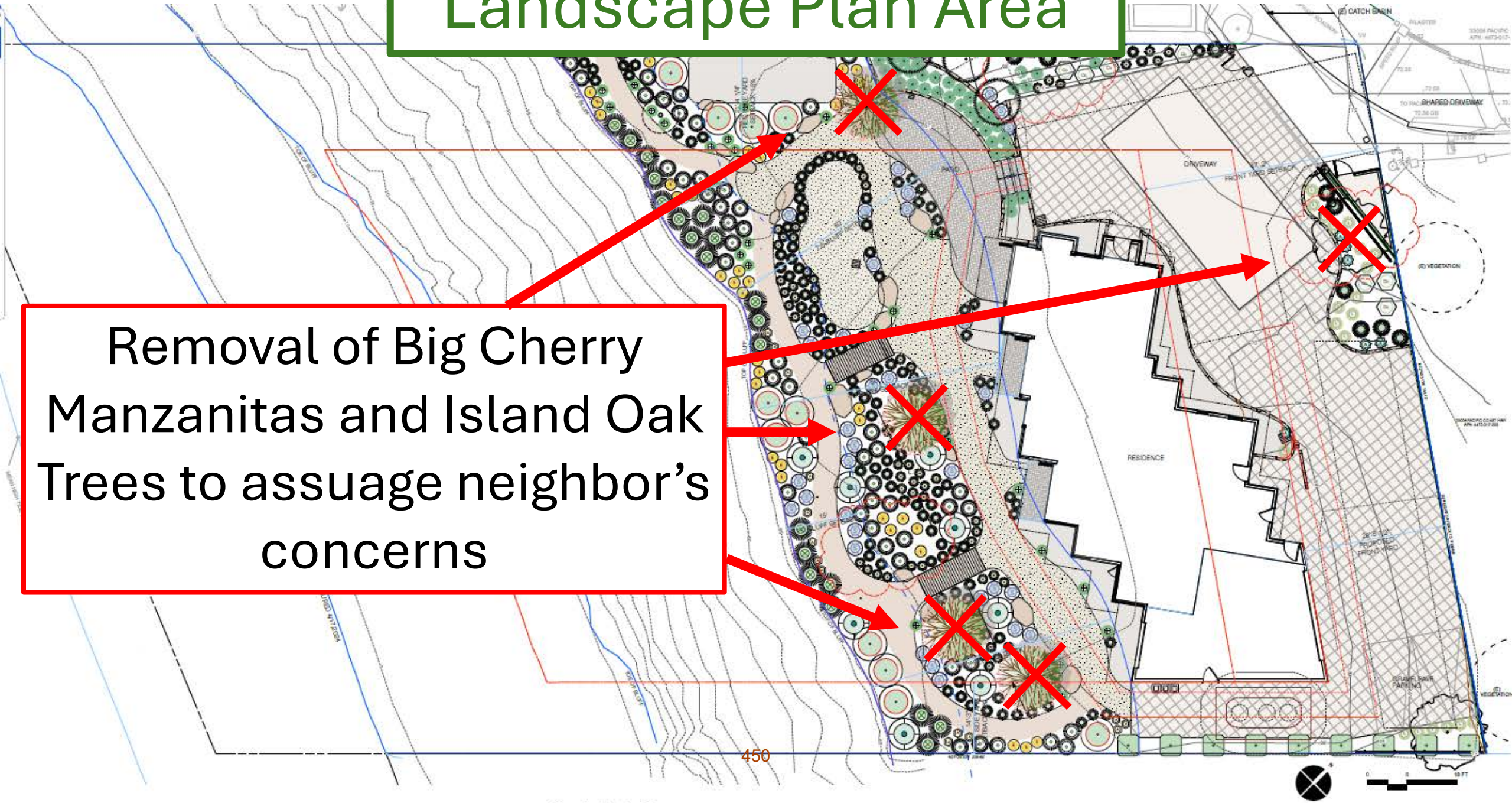
and Malibu Municipal Code (MMC) provisions, and environmental review pursuant to CEQA. The analysis and findings contained herein demonstrate the proposed project is consistent with the LCP and MMC.

 City of Malibu, Planning Commission Staff Report, Item 5A, Pp 3-4.

<u>Opponent Claim</u> – The Project proposes trees that can grow taller than 18-ft height and block the neighbor's view corridor.

<u>Applicant Response</u> – The Landscape Architect REMOVED trees (taller than 18 ft).

Landscape Plan Area



Commission Agenda Report

Planning Commission
12-01-25
Item
4.A.

To: Chair Riddick and Members of the Planning Commission

Prepared by: Didier Murillo, Senior Planner

Comment 1 – State Lands Commission, LIP §§ 13.6.2(B) & 10.5(C): The applicant failed to obtain a written determination from the State Lands Commission for the subject project.

Staff Response: The requirement to obtain written determination from the State Lands Commission is only applicable to beachfront properties. While the subject property is oriented toward the ocean, a steep bluff is located between the proposed building pad and the ocean. The proposed development further incorporates the blufftop setback requirements of LIP Section 10.4(D). Being setback far from the mean high tide line and the beach below the bluff, there is no indication that the proposed development would encroach into State Lands. Further, there is no development proposed along the shoreline or bluff, nor does the project propose a shoreline stabilization device or other development along the bluff such as drainage devices or beach access.

Regular meeting on October 20, 2025. At the October 20, 2025 Regular Planning Commission meeting the Commission was not able to open the public hearing for the item

City of Malibu, Planning Commission Staff Report, Item 5A, Pg 2.



Source: California Coastline Aerial Project, 2024

RECORDING REQUESTED BY AND
WHEN RECORDED, RETURN TO:

City of Malibu
Attention: City Clerk
23825 Stuart Ranch Road
Malibu, California 90265

EXEMPT FROM RECORDING F
PER GOVT. CODE § 27383

The undersigned herel
"City), County of Los Angele
"Property")

Site address:
APN:

In consideration of the
County Department of Regior
covenants and agrees, for the
buildings, improvements, struc
the Property and, or its access

This covenant shall ru
heirs or assigns and shall cor
termination.

Dated this 26 day of

Bluff Top 1, LLC

By
Authorizing signature of Blu

Ronald Jenn
Print Name

Exempt from fees pursuant to Government Code Section 27383

SCALE: 1" = 60'

EXHIBIT "B"

LEGAL DESCRIPTION EXHIBIT
DEED RESTRICTION

33008 PACIFIC COAST HIGHWAY, MALIBU
COUNTY OF LOS ANGELES, STATE OF CALIFORNIA
APN: 4473-017-009

SHEET 1 OF 1

TA SOURCES

) RECORDED
AS INSTRUMENT
921968, O.R.

TE AREA

0' 60'
1" = 60'

ND SURVEYOR
OMAS
DERMOTT
LS 8555
TE OF CALIFORNIA

DEED

ORDINARY HIGH TIDE LINE
OF THE PACIFIC OCEAN

LEGEND

LEGAL DESCRIPTION BOUNDARY

JOB NO.: 24JEN0101 DATE: 8/5/2024

RON JENNY

PEARSON
LAND SURVEYING, INC.

Thomas McDermott, PLS 8555
23371 Mulholland Dr. #330
Woodland Hills, CA 91364
Phone: (818) 468-9714
info@pearsonlandsurveying.com

NO DEVELOPMENT PROPOSED IN DEED RESTRICTED AREA/FLOOD ZONE

Phase I Archaeological Report
March 22, 2023

Consulting Archaeologist

For:

Blufftop 1, LLC
33008 Pacific Coast Highway
Malibu, CA 90265

March 22, 2023

RESULTS: ARCHAEOLOGICAL CONSTRUCTION MONITORING FOR THE PROPOSED THE BLUFFTOP 1, LLC PROJECT IS RECOMMENDED

City of Malibu

23825 Stuart Ranch Road · Malibu, California · 90265-4861
Phone (310) 456-2489 · Fax (310) 456-3356 · www.malibucity.org

June 26, 2023

Arfakhashad Munaim
EPD Consultants, Inc
Carson, CA 90745

Reference: **ARCHAEOLOGY REVIEW (ARC) NO. 23-014**
33008 Pacific Coast Highway
Archaeology Review Phase I

activities in the vicinity of the affected area will be suspended, and a qualified Chumash cultural resources monitor will be contracted by the applicant. An appropriate buffer area shall be established by the Project Archaeologist and Native American monitor around the find where construction activities shall not be allowed to continue. Work shall be allowed to continue outside of the buffer area. By following these recommendations, Blufftop 1, LLC will ensure the preservation of these fragile and non-renewable cultural resources.

Based on the information submitted, the applicant **may proceed with obtaining an excavation permit through City Geotechnical Staff with the conditions listed above.** In addition, **no geologic trenching, soil borings, ground clearance, grading, equipment placement, or similar surface-disturbing impacts shall be allowed within 30 feet of the northern property boundary**. When completed, please submit a report describing the archaeologist's findings.

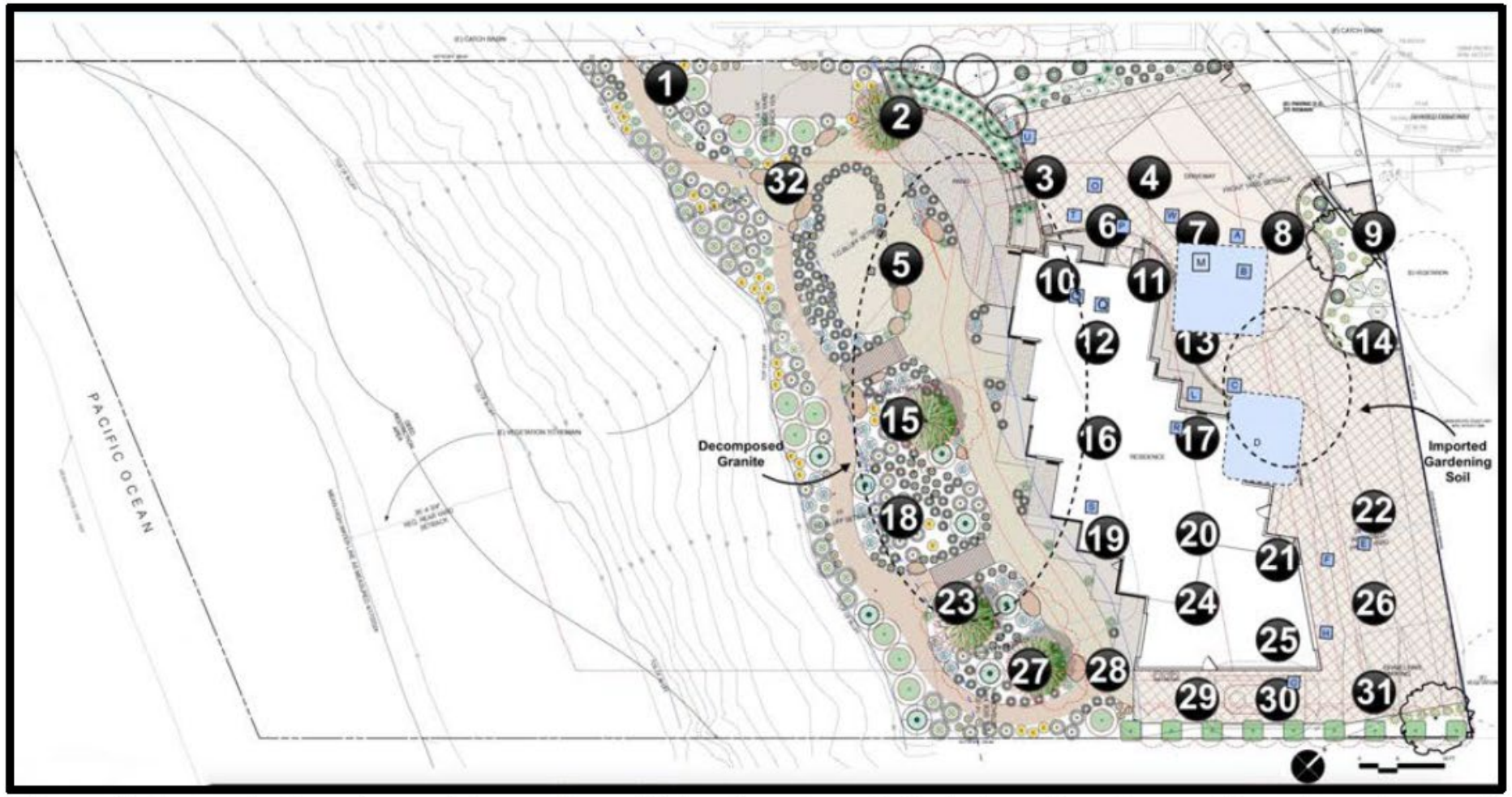
In the event that potentially important cultural resources are found in the course of geologic testing or any other activity, work shall immediately cease until a qualified archaeologist can provide an evaluation of the nature and significance of the resources and until the Planning Director can review this information. Where, as a result of

Based on the information submitted, the applicant **may proceed with obtaining an excavation permit through City Geotechnical Staff with the conditions listed above.** In addition, **no geologic trenching, soil borings, ground clearance, grading, equipment placement, or similar surface-disturbing impacts shall be allowed within 30 feet of the northern property boundary**. When completed, please submit a report describing the archaeologist's findings.



No cultural strata were identified in the sidewalls of excavations.

E



RESULT

32 auger borings were excavated to a depth of 3 feet below the ground surface across the property



Figure 8. The study site at 33008 Pacific Coast Highway. The view faces west, with S. Rivas, G. Alfaro, and Chumash elder J. Tumamait-Stenslie screening and recording data from Auger Bore 3.



Figure 9. The study site at 33008 Pacific Coast Highway. The view faces east, with C. Márquez, E. Gonzales, G. Alfaro, and S. Rivas drilling at Auger Bores 21 and 16, respectively.



Figure 10. The study site at 33008 Pacific Coast Highway. The view faces southeast, with E. Gonzales and C. Márquez screening excavated soil from Auger Bore 18.



Figure 5. Modern cow rib (A, C, D, F) and marrow bones (B, E) processed with a metal power saw; (G), midsection of a cow rib bone. Arrows highlight sharp, clean-cut edges produced by durable, high-speed metal power saws.

City of Malibu

23825 Stuart Ranch Road · Malibu, California · 90265-4861
Phone (310) 456-2489 · Fax (310) 456-3356 · www.malibucity.org

January 12, 2026

Schmitz & Associates, Inc
c/o Arfakhashad Munaim
28230 Agoura Road
Agoura Hills, CA 91301

Reference: **ARCHAEOLOGY REVIEW (ARC) NO. 26-001**
33008 Pacific Coast Highway, Malibu, CA 90265
Extended Phase I Archaeology Review

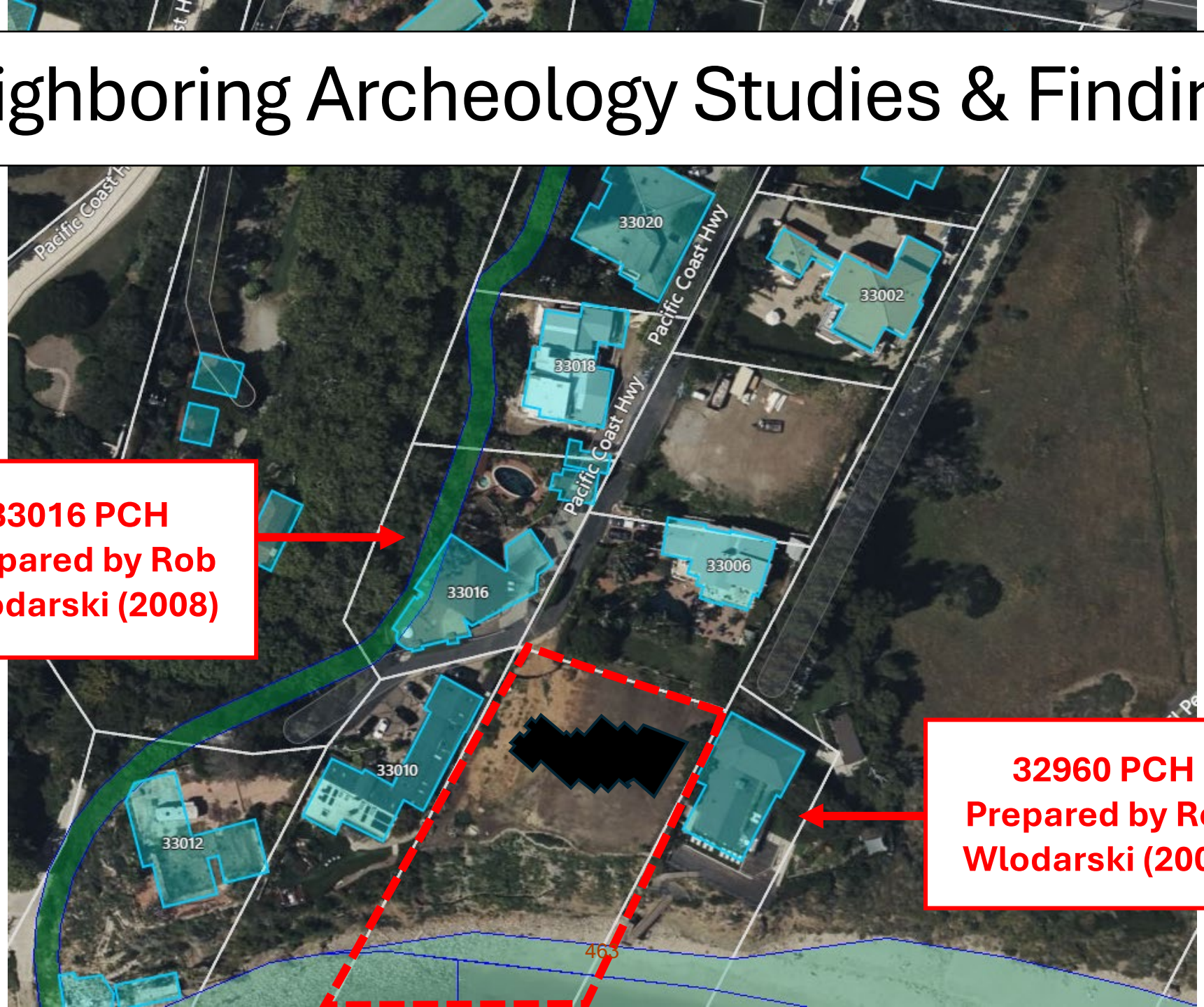
The second study, an **Extended Phase I Archaeological Study dated January 2, 2026**, included a more intensive evaluation of the same project area. This study incorporated subsurface testing, including auger borings, laboratory analysis, and Native American monitoring. The extended investigation concluded that the subsurface soils within the project area are archaeologically sterile and that the site does not contain intact or significant cultural resources. The report characterizes the site as a "pseudo-site" and confirms that the proposed development would not adversely affect cultural resources.

Based on review of both studies, Planning staff concurs with the conclusion that the project area does not contain significant archaeological resources, and that the proposed development would not result in adverse impacts to known cultural resources. Any modification to the area surveyed as part of these studies would not adversely affect cultural resources.

In the event that potentially important cultural resources are found in the course of geologic testing or any other activity, work shall immediately cease until a qualified archaeologist can provide an evaluation of the nature and significance of the resources and until the Community Development Director can review this information. Where, as a result of this evaluation, the Director determines that the project may have an adverse impact on cultural resources; a Phase II Evaluation of cultural resources shall be required pursuant to Malibu Municipal Code (M.M.C.) Section 17.54.040(D).

If a human bone or any other human remains are discovered, the procedures described in Health and Safety Code Section 7050.5 must be followed. The property owner or his/her representatives (i.e., architect, contractor, etc.) must notify the Los Angeles County coroner. If the coroner determines that the remains are those of a Native American, the applicant must notify the Native American Heritage Commission by phone

Neighboring Archeology Studies & Findings



33016 PCH
Prepared by Rob Wlodarski (2008)

32960 PCH
Prepared by Rob Wlodarski (2004)



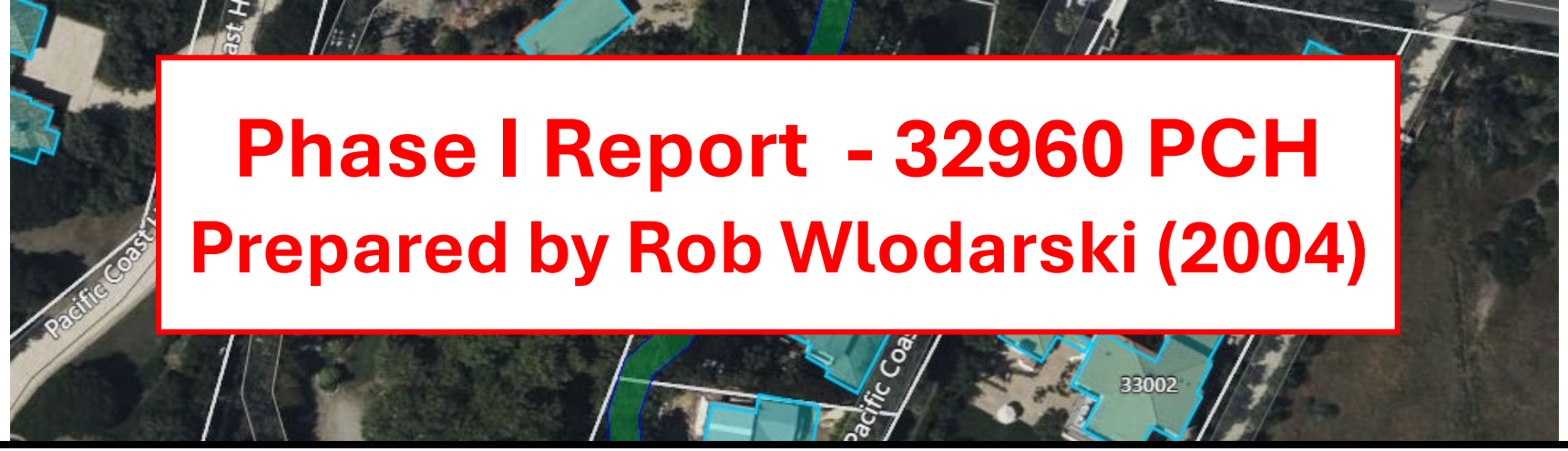
Phase I Report - 33016 PCH

Prepared by Rob Wlodarski (2008)

The survey yielded **NO EVIDENCE** of prehistoric or historic archaeological resources within the project boundaries. Any proposed improvements or modifications within the parcel will have no adverse impacts on known cultural resources.

(Source: Phase I Archaeological Study for 33016 Pacific Coast Highway, Page iii).





Phase I Report - 32960 PCH
Prepared by Rob Wlodarski (2004)

The results of the field survey yielded **NO EVIDENCE** of prehistoric or historic archaeological resources within the project area. Any proposed improvements or modifications within the parcel will have no adverse impacts on known cultural resources.

(Source: Phase I Archaeological Study for 32960 Pacific Coast Highway, Page iii).



Commission Agenda Report

Planning Commission Meeting 12-15- Item 5.A

CDP No. 08-053

To:

Prep

Rev

App

Dat

Sub

Finding A3. The project is the least environmentally damaging alternative.

Pursuant to the California Environmental Quality Act (CEQA), this project is listed among the classes of projects that have been determined not to have a significant adverse effect on the environment and is categorically exempt from CEQA, based on CEQA Guidelines Section 15301 – Existing Facilities. The proposed project will not result in significant adverse effects on the environment, within the meaning of CEQA, and there are no further feasible alternatives that would further reduce any impacts on the environment. The project will not result in significant adverse impacts on the environment.

not to exceed 28 feet for sections of pitched roof and 24 feet for sections of flat roof (Continued from December 1, 2009)

Application Filing Date:	June 24, 2008
Applicant:	Robbin Hayne AIA – Tidepool Architects
Owner:	Alexandra Falk
Location:	32960 Pacific Coast Highway, within the appealable coastal zone
APNs	4473-017-025
Zoning:	Rural Residential - Two Acres (RR-2)

RECOMMENDED ACTION: Adopt Planning Commission Resolution No. 09-73 (Attachment 1) approving Coastal Development Permit (CDP) No. 08-053, Site Plan

32960 PCH



Phase I Report - 32960 PCH
Prepared by Rob Wlodarski (2004)

Archaeological / Cultural Resources (LIP Chapter 11)

Planning Division staff completed a review of the Phase 1 Archaeological Report prepared on October 5, 2004 by Robert Wlodarski for the property which indicated that "the results of the field survey yielded no evidence of prehistoric or historic archeological resources within the project area. Any proposed improvements or modifications within the parcel will have no adverse impacts on known cultural resources."

However, in the event that potentially important cultural resources are found in the course of geologic testing or any other activity, work shall immediately cease until a qualified archaeologist can provide an evaluation of the nature and significance of the resources and until the Planning Manager can review this information.

Source: Planning Commission December 15th, 2009, Planning Staff Report, CDP 08-053, Page 8

Commission Agenda Report

Planning Commission

CDPA No. 10-001

The Planning Commission has found that the proposed amendment is listed among the classes of projects that have been determined not to have a significant adverse effect on the environment, and therefore, is exempt from the provisions of CEQA. Accordingly, a CATEGORICAL EXEMPTION will be prepared and issued for the amendment pursuant to CEQA Guidelines Section 15301(e) – Additions to Existing Structures. The Planning Commission has further determined that none of the six exceptions to the use of a categorical exemption applies to this project (CEQA Guidelines, Section 15300.2).

Application Filing Date:	February 2, 2009
Applicant:	Robbin Hayne AIA – Tidepool Architects
Owner:	Alexandra Falk
Location:	32960 Pacific Coast Highway, within the appealable coastal zone
APN:	4473-017-025
Zoning:	Rural Residential - Two Acres (RR-2)

RECOMMENDED ACTION: Adopt Planning Commission Resolution No. 10-22 (Attachment 1), approving Coastal Development Permit Amendment (CDPA) No. 10-001 to amend Planning Commission Resolution No. 09-73 (Coastal Development Permit (CDP) No. 08-053) for an 868 square foot expansion and interior reconfiguration of the previously approved basement of the existing single-family residence with an additional 250 cubic yards of understructure exempt grading located at 32960 Pacific Coast Highway (PCH).

DISCUSSION: The issue before the Planning Commission is whether to allow the applicant to amend the project plans associated with previously approved CDP No. 08-053 for an 868 square foot expansion and interior reconfiguration of the previously



32960 PCH

California Environmental Quality Act

Pursuant to the authority and criteria contained in the California Environmental Quality Act (CEQA), the Planning Director has analyzed the proposal as described above. The Planning Director has found that this project is listed among the classes of projects that have been determined not to have a significant adverse effect on the environment, and therefore, shall be exempt from the provisions of CEQA. Accordingly, a CATEGORICAL EXEMPTION has been prepared pursuant to CEQA Guidelines Section 15301(e)—Existing Facilities. The Planning Director has further determined that none of the six exceptions to the use of a categorical exemption applies to this projed (CEQA Guidelines Section 15300.2).

City's Property Development and Design Standards.

Proposed Project

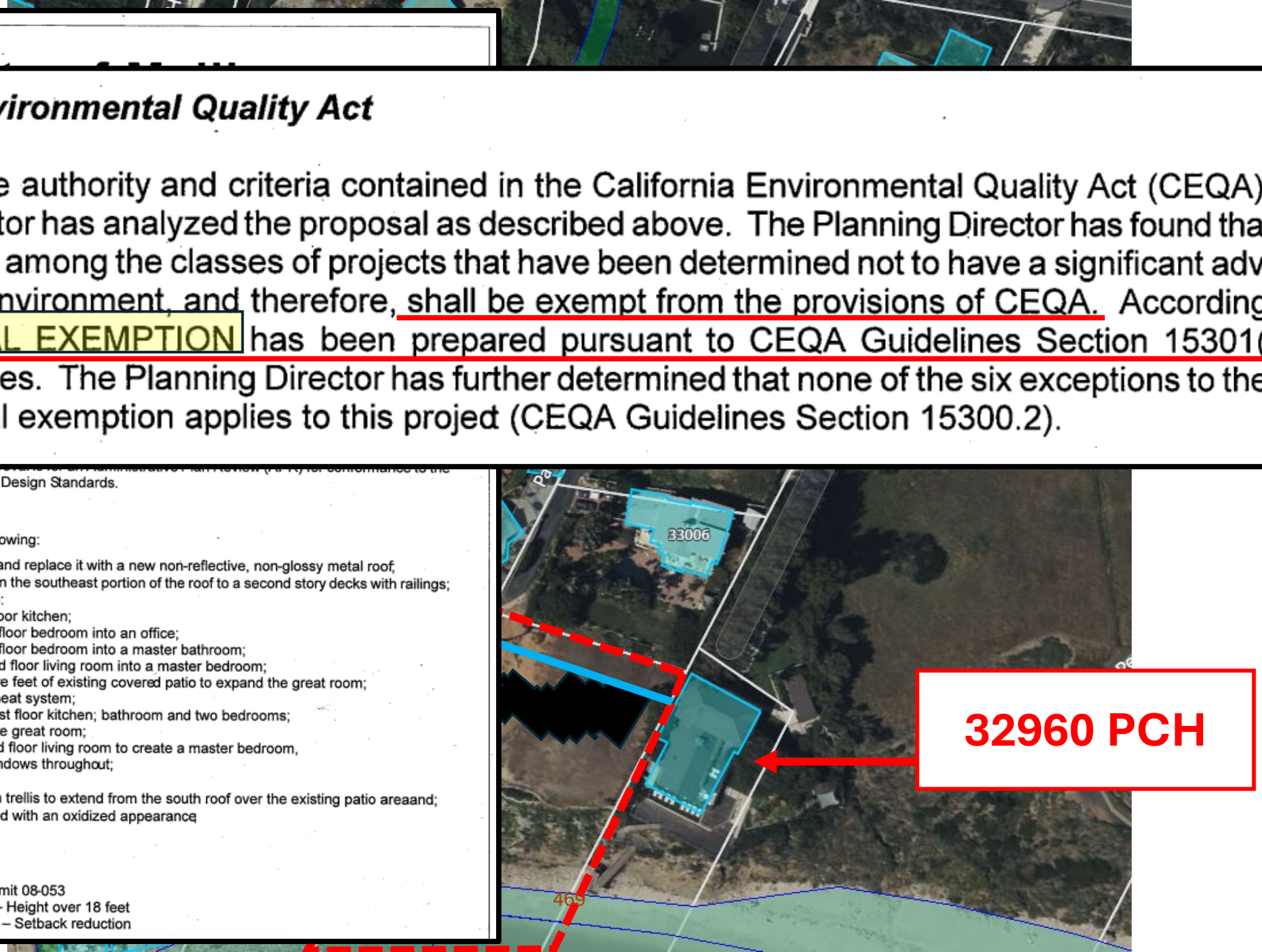
The subject APR includes the following:

- Remove the existing roof and replace it with a new non-reflective, non-glossy metal roof;
- Convert 600 square feet on the southeast portion of the roof to a second story decks with railings;
- Interior remodel to include:
  - Remove second floor kitchen;
  - Convert a second floor bedroom into an office;
  - Convert a second floor bedroom into a master bathroom;
  - Convert the second floor living room into a master bedroom;
  - Enclose 119 square feet of existing covered patio to expand the great room;
  - New radiant floor heat system;
  - Reconfigure the first floor kitchen; bathroom and two bedrooms;
  - New fireplace in the great room;
  - Expand the second floor living room to create a master bedroom,
  - New doors and windows throughout;
  - New sky light;
- New 344 square foot open trellis to extend from the south roof over the existing patio areaand;
- New copper gutters treated with an oxidized appearance

Project Background

Previous Approvals

- Coastal Development Permit 08-053
  Site Plan Review 08-029 – Height over 18 feet
  Minor Modification 08-016 – Setback reduction



32960 Pacific Coast Highway
APR 12-018
June 21, 2012

7. In the event that potentially important cultural resources are found in the course of geologic testing, work shall immediately cease until a qualified archaeologist can provide an evaluation of the nature and significance of the resources and until the Planning Director can review this information. Where, as a result of this evaluation, the Planning Director determines that the project may have an adverse impact on cultural resources, a Phase I Evaluation of cultural resources shall be required pursuant to M.M.C. Section 17.54.040(D)(4)(b).

8. If human bone is discovered, the procedures described in Section 7050.5 of the California Health and Safety Code shall be followed. These procedures require notification of the coroner. If the coroner determines that the remains are those of a Native American, the applicant shall notify the Native American Heritage Commission by phone within 24 hours. Following notification of the Native American Heritage Commission, the procedures described in Section 5097.94 and Section 5097.98 of the California Public Resources Code shall be followed.

- New 344 square foot open trellis to extend from the south roof over the existing patio areaand;
- New copper gutters treated with an oxidized appearance

Project Background

Previous Approvals

- Coastal Development Permit 08-053
  Site Plan Review 08-029 – Height over 18 feet
  Minor Modification 08-016 – Setback reduction

Extended Phase 1 Archaeological Survey Report of Findings for 33008 Pacific Coast Highway, Malibu, Los Angeles County, California

Archaeologist Recommendations & Standard Conditions of Approval

1. *Prior to beginning any ground-disturbing activities,* ***all involved construction personnel will be informed about the potential for discovery of archaeological resources*** *and/or human remains, and the appropriate measures to be taken should such resources be uncovered.*

2. ***A qualified archaeologist will be on-site*** *during all ground disturbing construction activities with the authority to suspend work in the event that potentially important archaeological resources are discovered.*

Opposition Letter from 32960 PCH Neighbor

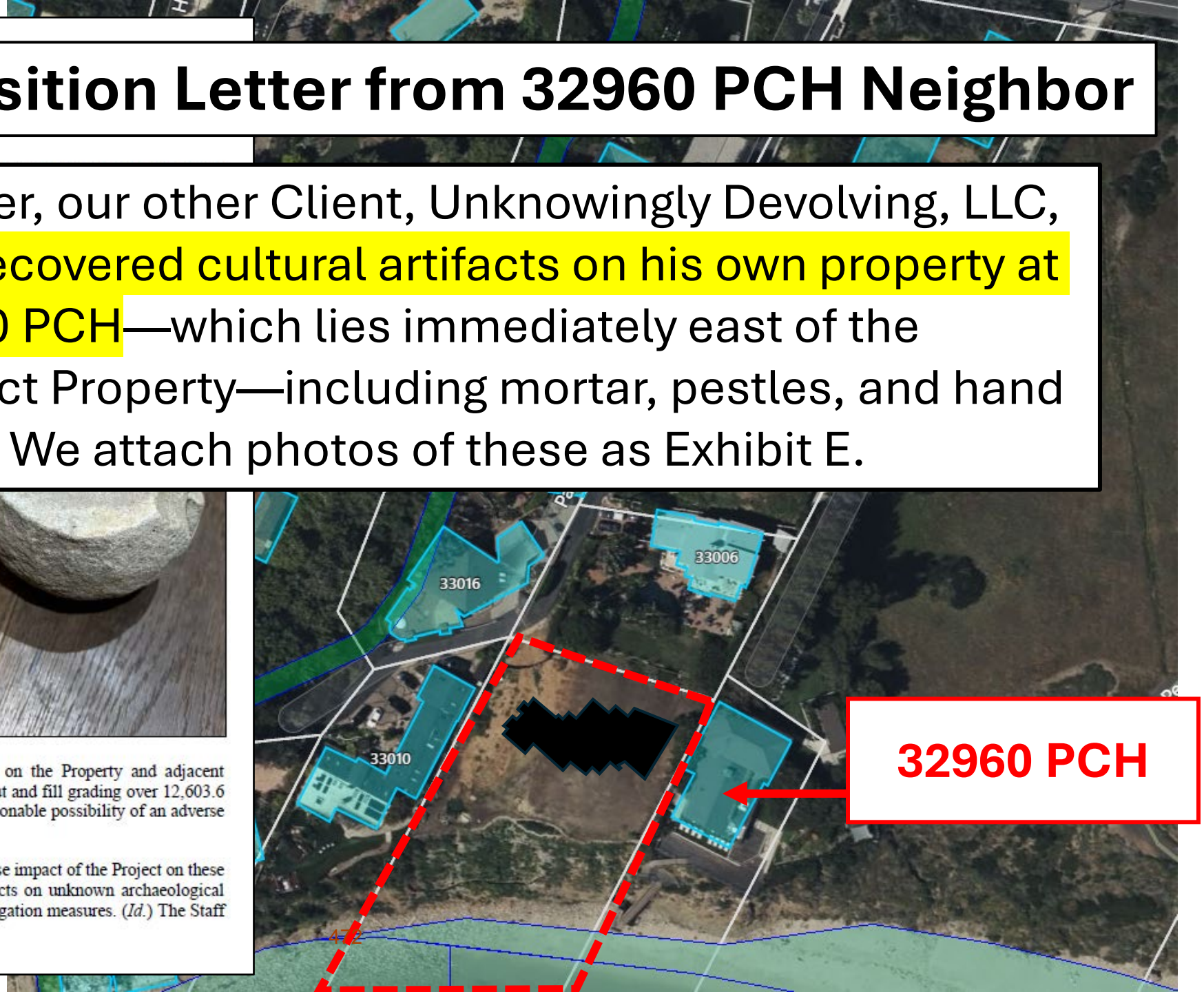
For example, the following photogra
adjacent property at 32960 PCH property:



Undoubtedly, given the documented cultural resources on the Property and adjacent properties, the Project—which involves 2,974.6 cubic yards of cut and fill grading over 12,603.6 square feet of area (see Civil Plans, sheet C-3.0)—presents a reasonable possibility of an adverse impact on cultural resources.

Unsurprisingly, the City all but admits the potential adverse impact of the Project on these resources, requiring the Applicant "[t]o mitigate potential impacts on unknown archaeological resources to a level of insignificance" through two proposed mitigation measures. (*Id.*) The Staff

Further, our other Client, Unknowingly Devolving, LLC, has recovered cultural artifacts on his own property at 32960 PCH—which lies immediately east of the subject Property—including mortar, pestles, and hand tools. We attach photos of these as Exhibit E.

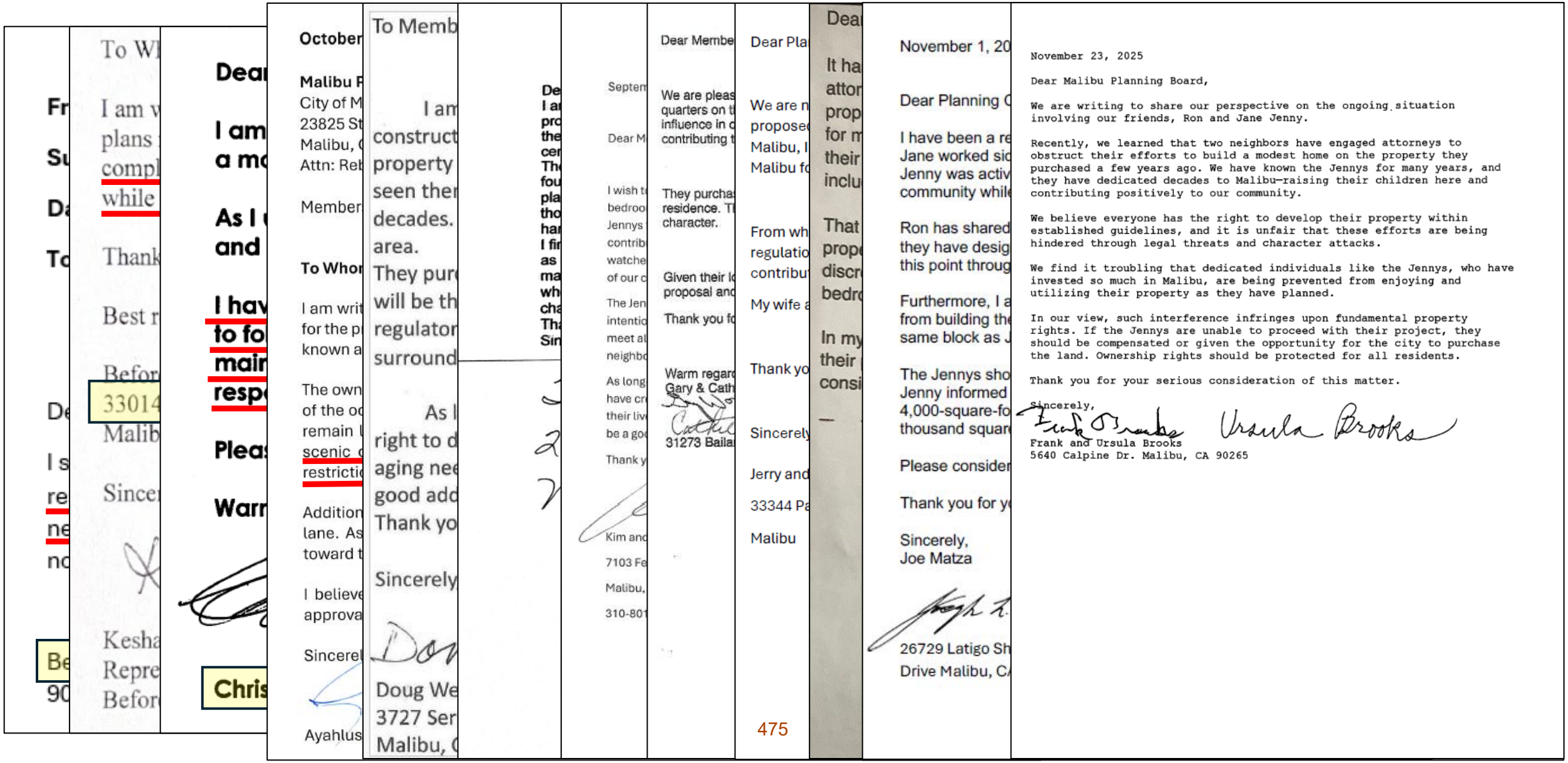


I visited the SCCIC on February 23, 2023, and November 12, 2025, to collect archaeological data about the property at 33008 PCH in Malibu, Los Angeles County, and its surrounding areas. My objective was to compile a list of Phase 1 Inventory reports within a quarter-mile radius of 33008 PCH and to identify archaeological sites listed in the California Archaeological Site Record Base. Both visits yielded similar findings: 27 Phase 1 surveys have taken place in this area, and eight archaeological sites have been recorded in the California Historical Resources Information System (CHRIS). The subject property, like much of its Malibu neighborhood, has not undergone an official survey, but two nearby parcels—32960 PCH and 33016 PCH—have been examined, both with negative results. No further archaeological fieldwork was needed, so a Phase II Evaluation for either parcel was unnecessary.

Source: Dr. Matthew Boxt Response Letter to Neighbor's Opposition (Elkins LLC) dated November 24th, 2025


33016
33006
33010
Unpermitted Guest House on State Park Property – Open Code Violation (Case No. 202002009)
Unpermitted Structure/Shed on State Park Property
Unpermitted Walkways, hardscaping, patios, and landscaping on State Park Property
474

Neighborhood Support



November 23, 2025

Dear Malibu Planning Board,

We are writing to share our perspective on the ongoing situation involving our friends, Ron and Jane Jenny.

Recently, we learned that two neighbors have engaged attorneys to obstruct their efforts to build a modest home on the property they purchased a few years ago. We have known the Jennys for many years, and they have dedicated decades to Malibu—raising their children here and contributing positively to our community.

We believe everyone has the right to develop their property within established guidelines, and it is unfair that these efforts are being hindered through legal threats and character attacks.

We find it troubling that dedicated individuals like the Jennys, who have invested so much in Malibu, are being prevented from enjoying and utilizing their property as they have planned.

In our view, such interference infringes upon fundamental property rights. If the Jennys are unable to proceed with their project, they should be compensated or given the opportunity for the city to purchase the land. Ownership rights should be protected for all residents.

Thank you for your serious consideration of this matter.

Sincerely,

Frank Brooks Ursula Brooks

Frank and Ursula Brooks
5640 Calpine Dr. Malibu, CA 90265

Neighborhood Support



CONCLUSION

- The project is a modest 18-ft high single-family residence and protects private views of neighbors to the maximum extent possible.
- There are no public view impacts from public viewing areas and Pacific Coast Highway.
- Extended Phase I Archaeology Report confirms no significant cultural resources onsite.
- The project complies with all departmental requirements and regulations per the LCP and MMC.

THANK YOU

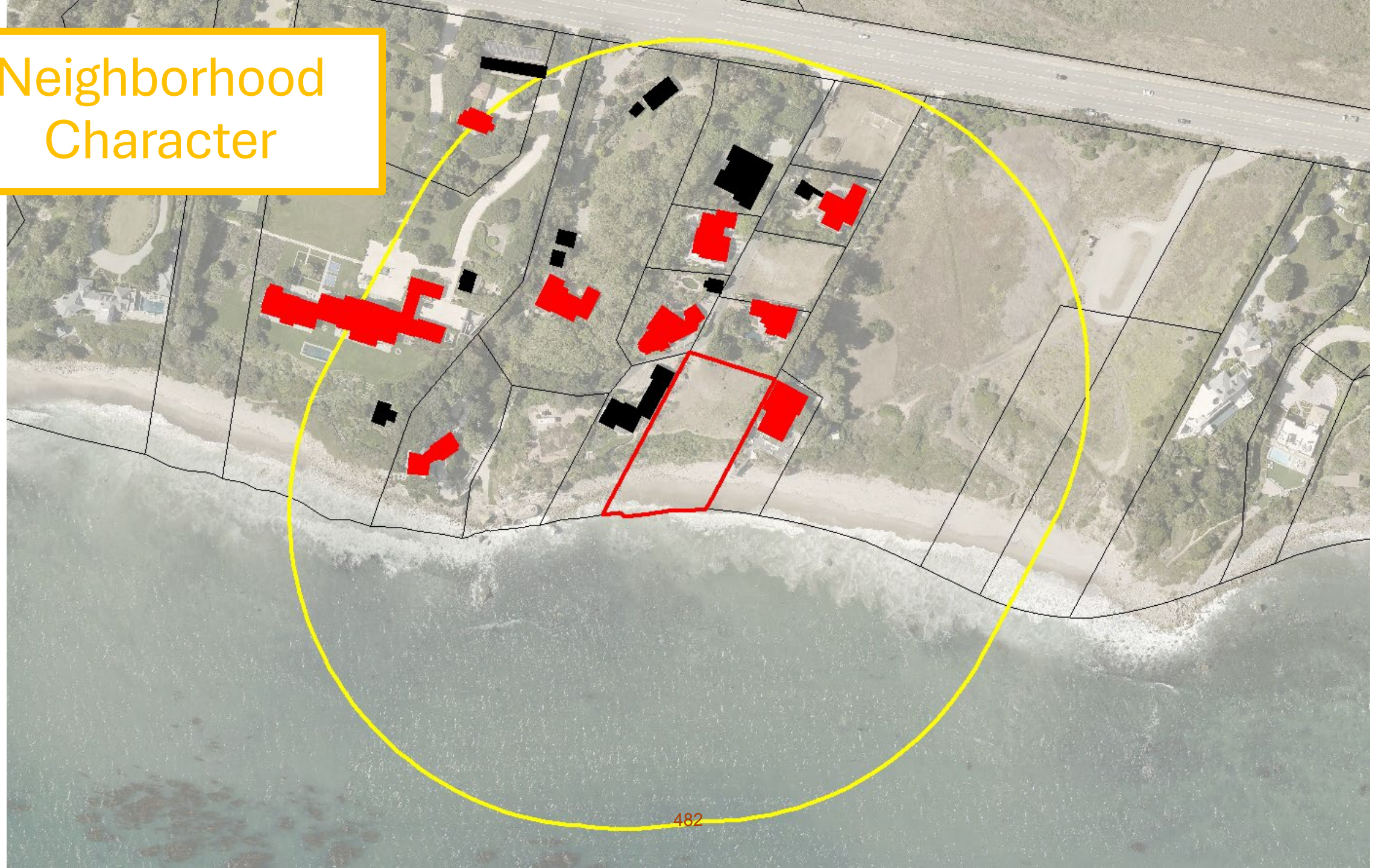








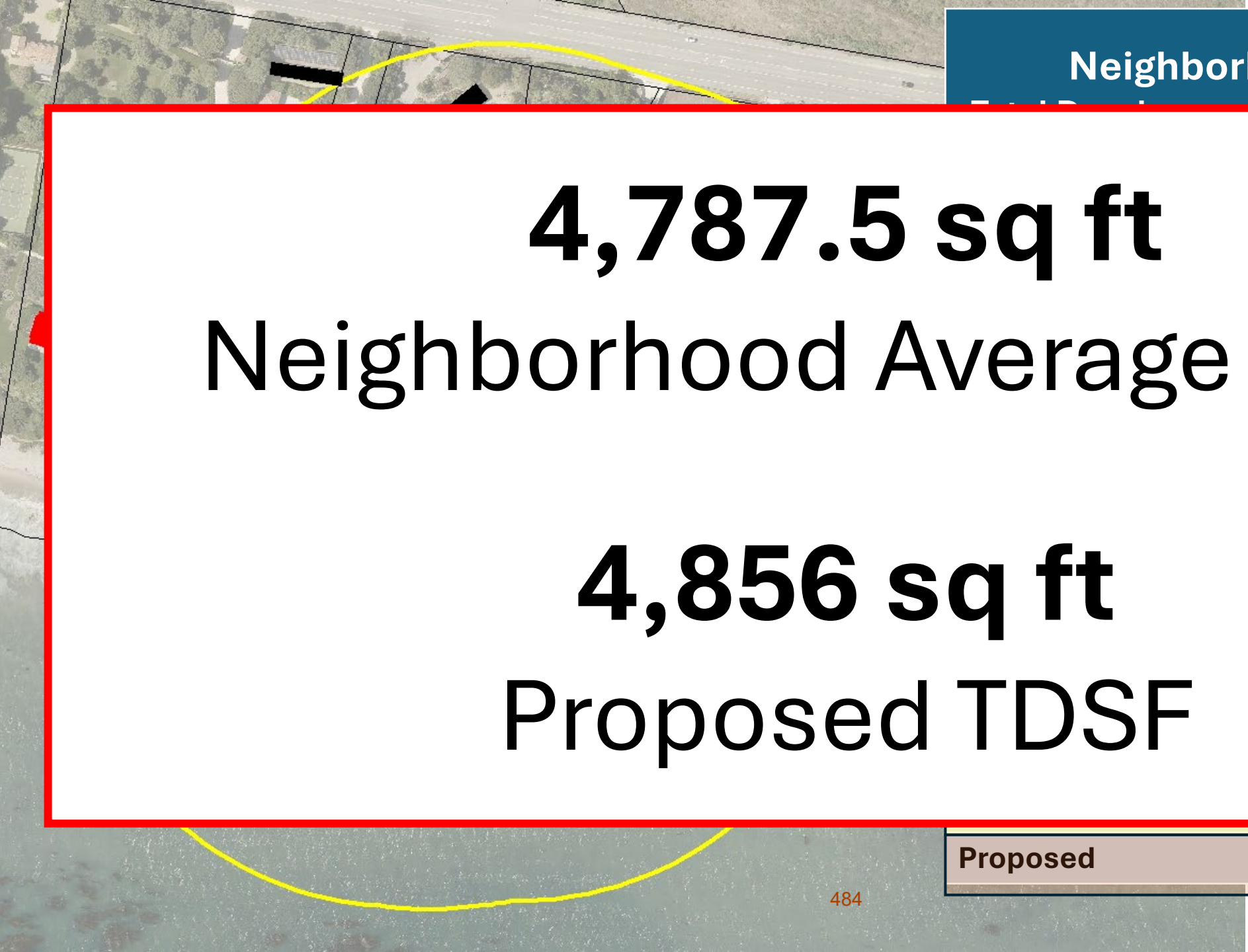
Neighborhood Character





33016 Pacific – 23 ft height

33018 Pacific Coast Highway – 24 ft height



Neighborhood Character

4,787.5 sq ft

Neighborhood Average TDSF

4,856 sq ft

Proposed TDSF

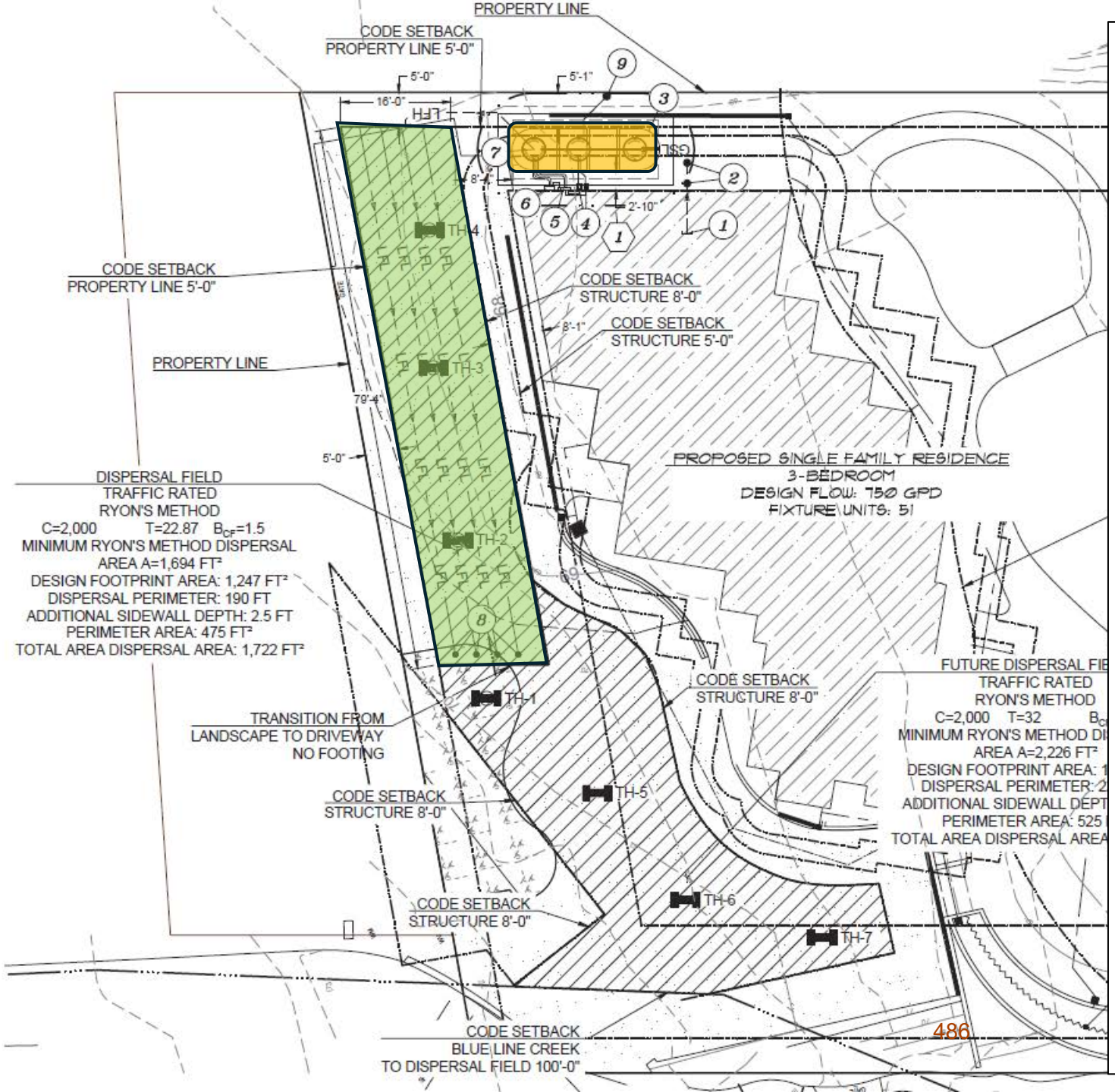
Proposed	**4,856 s qft**

Neighborhood Character



Finding 2. That the project does not adversely affect neighborhood character.

Story poles were placed on the site to demonstrate the project's potential for view impacts to the surrounding area. The project's height and bulk will not adversely affect neighborhood character. The neighborhood is developed with single-family residences of varying size and height and is characterized by a mix of one and two-story homes. The project complies with the required TDSF and impermeable coverage standards established in the LIP.



City of Malibu

23825 Stuart Ranch Rd., Malibu, California CA 90265-4861
(310) 456-2489 FAX (310) 456-3356 www.malibucity.org

ENVIRONMENTAL HEALTH REVIEW
REFERRAL SHEET

TO: City of Malibu Environmental Health Administrator

FROM: City of Malibu Planning Department **REVISED DATE** 11/22/2024

PROJECT NUMBER:	CDP 23-034
JOB ADDRESS:	33008 PACIFIC COAST HWY
APPLICANT / CONTACT:	Arfakhashad Munaim, Schmitz & Associates, Inc.
APPLICANT ADDRESS:	28230 Agoura Hills Agoura Hills, CA 91301
APPLICANT PHONE #:	(818) 338-3636
APPLICANT FAX #:	
APPLICANT EMAIL:	amunaim@schmitzandassociates.net
PROJECT DESCRIPTION:	new 2-story single family residence with attached garage, and new driveway access and landscaping.

TO: Malibu Planning Department and/or Applicant

FROM: City of Malibu Environmental Health Reviewer

✓ **Conformance Review Complete** for project submittals reviewed with respect to the City of Malibu Local Coastal Plan/Local Implementation Plan (LCP/LIP) and Malibu Municipal Code (MMC). The Conditions of Planning conformance review and plan check review comments listed on the attached review sheet(s) (or else handwritten below) shall be addressed prior to plan check approval.

— **Conformance Review Incomplete** for the City of Malibu LCP/LIP and MMC. The Planning stage review comments listed on the City of Malibu Environmental Health review sheet(s) shall be addressed prior to conformance review completion.

OWTS Plot Plan: ☐ NOT REQUIRED ☑ REQUIRED (attached hereto) ☐ REQUIRED (not attached)

Signature 12/19/2024 Date

Rev 141008

33008 PCH Archaeology Concerns

Map and Table of Auger Borings from Boxt report

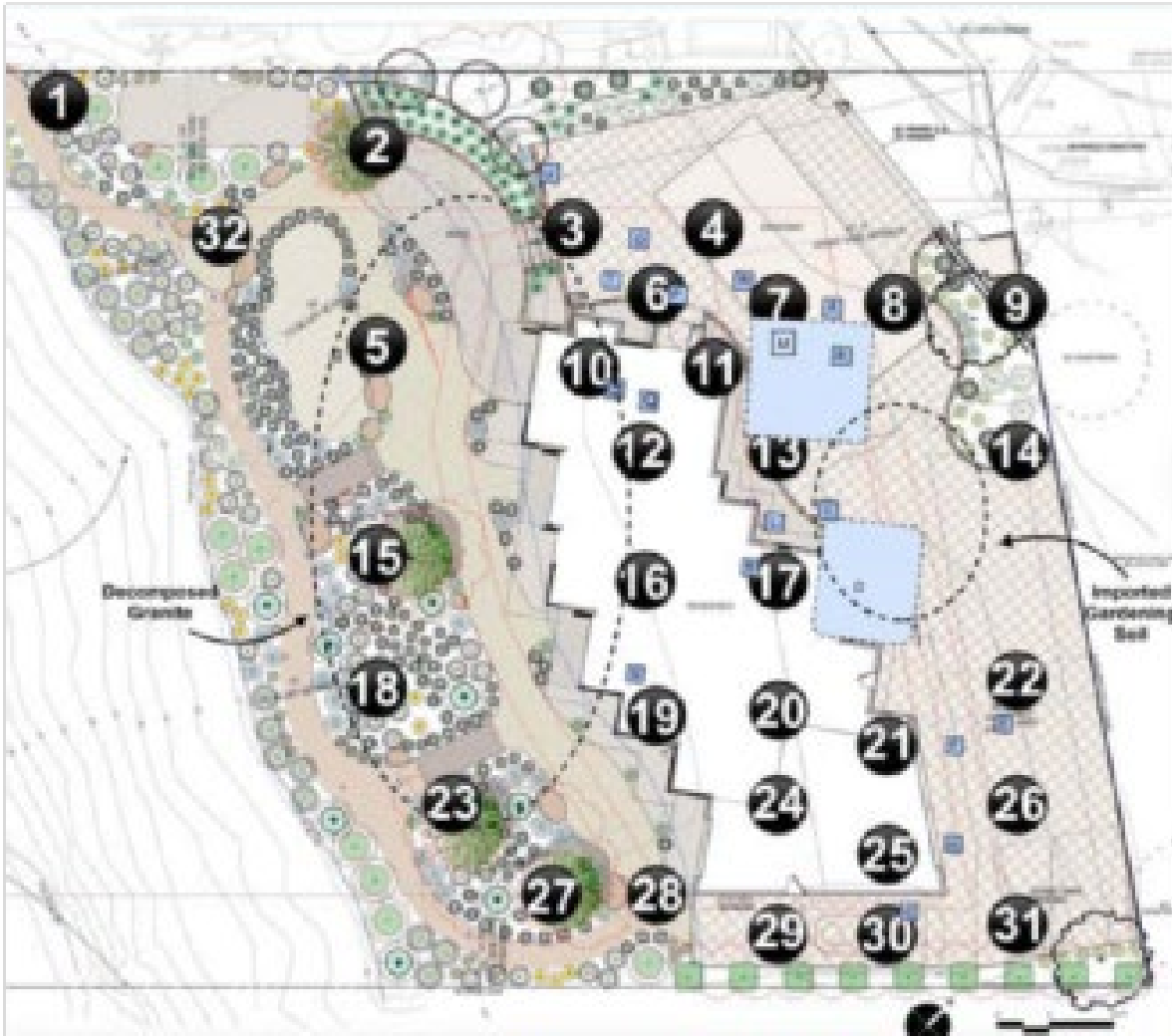
Table 2. Weight Distribution of Subsistence Shell by Auger Boring Depth (gm)

Auger No.	Level									
	1	2	3	4	5	6	7	8	9	10
1							0.5		3.9	
2	1.4	3.9	5	3.5	1.5	1.4	3	1.4	0.01	0.2
3	1.7			0.4		1.4	2	1.9		
4	1.4	1.9	3.8	9.6	3.2	1.4	2.7	4	3.9	
5				7						
6			1.1	6.5	2.3	4.3	0.9	0.1		
7	1.1	0.9		1.2	1.1	1.2		0.7		0.5
8	0.1		1.1	2.7	2.7	2.6	1.2	0.9		
9	1.2	1.9	1.4	1.1		0.1		0.7		
10	0.3	0.2		0.1	0.4	1.5			0.8	
11	0.1		1.3	2.2	4.7	2.5	2.2	0.9		
12	1.2		1.4	4.9	2.9	0.4	0.2			
13	1			2.3	0.5	0.7				
14			0.9	2.1						
15										
16		0.2	0.1	2	0.4	0.1				
17	1.3	0.5	1.3							
18				0.5		0.4				
19				0.8		0.5				
20	1.4	1.7	0.3	0.1	0.4	0.1				
21				0.2						
22	0.9									
23		0.4			0.3					
24	0.3	0.3	0.1	0.1						
25			0.3							
26	0.6	0.4	1							
27			0.6							
28										
29		0.7	0.5							
30										
31										
32										

Upper soil horizon

Total Amount of Shell Collected: 166.11 grams

488



33004 PCH Auger Sample

In 2000 Gary Stickel conducted a study at this parcel that involved excavation of 14 30 cm diameter test pits for a project at this parcel. Two fragments of a human skull were recovered in the 20-30 cm level of one of the excavations and a distal end of a human humerous was found was found in the 0-10 cm level of another excavation. The bones were interpreted as indicating the presence of burials

		Residue wt	Residue wt	Residue wt	Residue wt		
Auger 1	Sample w	2 mesh	4 mesh	8 mesh	16 mesh		
0-24	5	51.02	52.85	46.53	59.44		
24-40	3.3	121.19	35.78	25.81	41.56		
40-56	3.8	27.51	42.32	50.29	68.97		
56-66	3.2	65.59	45.78	44.22	69.71		
66-76	2.9	0	19.48	27.03	62.39		
76-88	4	10.17	20.56	37.16	81.77		
				%	%	%	%
				Residue wt	Residue wt	Residue wt	Residue wt
Auger 1	cm long	gms of soil	wt/length	2 mesh	4 mesh	8 mesh	16 mesh
0-24	24	2270	94.58	2.25	2.33	2.05	2.62
24-40	16	1498	93.64	8.09	2.39	1.72	2.77
40-56	16	1725	107.83	1.59	2.45	2.92	4.00
56-66	10	1453	145.28	4.51	3.15	3.04	4.80
66-76	10	1317	131.66	0.00	1.48	2.05	4.74
76-88	12	1816	151.33	0.56	1.13	2.05	4.50
8 mesh							
Auger 1	Mytilus	Septifer	Barnicle	Chiton	Bone	Tegula funebralis	
0-24	1.07		0.06	0.07	0.01	0.13	pc grn glass .12g
24-40	0.56						
40-56	0.18						
56-66	0.09						
66-76							
76-88			0.04				
16 mesh							
Auger 1	Mytilus	Septifer	Barnicle	Tivela?	Bone	Tegula funebralis	
0-24	2.1	0.02	0.01		0.13	0.07	*
24-40	0.67	0.01		0.01	0.05	0.01	1 chert flake .01g
40-56	0.07				0.04	0.01	
56-66	0.09						
66-76	0.05						
76-88	0.03						
	*= 1 chalcedony flake .01 g, 1 chalcedony flake .01 g, 1 piece glass .01 g						

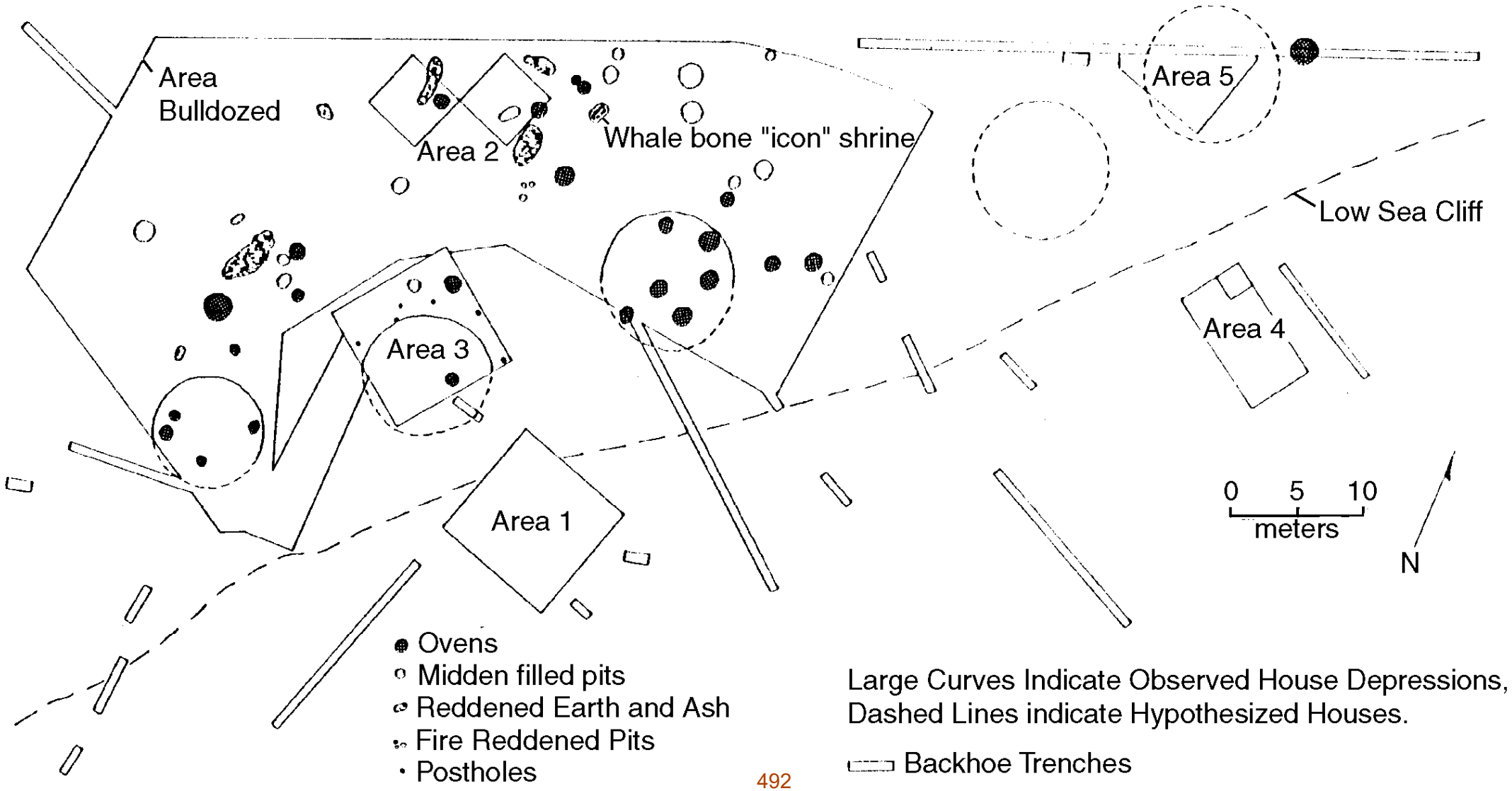
Boxt's Report Introduction

- Archaeological fieldwork at the parcel began in 2022, when Robert J. Wlodarski, M.A., reconnoitered 33008 PCH and observed an "archaeological site" with minimal subsurface disturbance. The cultural resources identified during his surface inspection included marine shell, lithic flakes, fire-affected rock, and stone tools such as hammerstones, manos, scrapers, and core fragments, which were widespread across the property. Beginning in March 2023, in response to a request from Mr. Ron Jenny to further assess Wlodarski's findings, I surveyed 33008 PCH for archaeological resources. I observed crushed shells and artifacts but determined that this "site" was not the same as those detailed by Wlodarski (2023), King (2025), or Dominguez (2025). At the time, I noted a curious phenomenon along the northeast portion of the property: an assortment of what I suspected were redeposited shell, stone tools, and natural stream cobbles, all intermixed with modern discards (e.g., cow bones) and intrusive surface deposits of imported garden soil containing shell and decomposed granite. Based on surface indications, none retained much, if any, scientific integrity.
- In my estimation, this did not represent an intact archaeological site or even a severely disturbed midden deposit. It appeared to be something else—a pseudo-site composed of displaced midden constituents brought to the surface from nearby buried deposits by natural processes (e.g., gravity, mudslides) or artificial agency (e.g., trucks or heavy earth-moving machinery) and inadvertently left here. I wondered whether 33008 PCH had, within the past 50 years, served as the staging area for a construction project at 33006 PCH (pool?), which abuts the parcel to the north, and whether that project unearthed and scattered the small collection of cultural resources I and others observed on the property. Subsurface testing, such as that described herein, could answer the question: Is 33008 PCH a bona fide archaeological site and an extension of CA-LAN-29, or merely a pseudo-site, a location claimed to have archaeological significance yet lacking the rigorous, evidence-based, peer-reviewed methods used to define archaeological sites in academic archaeology?

Statement in my review of Boxt's earlier report

- Evidence of archaeological sites usually found on surfaces that have not been buried varies depending on many variables. Two of the most important variables are the length of time sites were inhabited and their age. Sites inhabited for shorter periods of time contain fewer artifacts than those inhabited for longer periods of time. Sites that were occupied earlier in time have lost many of the shells and bones originally deposited due to dissolution by acidic soil conditions and gopher burrowing. The dissolution of shellfish near the surface of sites usually results in less shellfish remains on the surface of early sites than at depths and a higher ratio of thick shells such as clam shells on the surface. In addition to the dissolution of shells and bones, other organic material also decrease over time and soils slowly revert to the characteristics that existed before human occupation. Decrease in the presence of forms of evidence of human activity in archaeological sites over time does not preclude the ability of archaeologists to study older sites.

Excavations at Pitas Point



Area 1
west wall



Area 3 at 10 cm



Area 3 at 20cm



Area 3 at 80 cm



Area 2 west



Area 2 west oven feature



Coastal Development Permit No. 23 -034
Minor Modification No. 25 -009

33008 Pacific Coast Highway

Planning Commission
Item 5A
February 17, 2026

Vicinity Map



Source: City GIS 2025

Project Background

- Previous Regular Planning Commission hearings (continued)
    - October 6, 2025 (re-noticed)
    - October 20, 2025 (date certain)
    - November 3, 2025 (date certain)
    - December 1, 2025 (date uncertain)

Concerns Raised

- Comment 1 – State Lands Commission, LIP §§ 13.6.2(B) & 10.5(C): The applicant failed to obtain a written determination from the State Lands Commission for the subject project.

- Comment 2 – Co-Applicant, LIP § 13.6.2(C): No such invitation has been extended to the adjacent neighbor who has a shared easement over the property, including over areas proposed for development.

Concerns Raised

- Comment 3 – ESHA and Bluff EHSA: The project is proposing development within the required 100-foot buffer from a mapped blue line stream.

- Comment 4 – Unpermitted Coastal Bluff Development: The project includes unpermitted development on the coastal bluff which includes; unpermitted trees, erosion controls (fencing and straw wattle). These were not reflected on the project plans.

Concerns Raised

- Comment 5 – Archaeology Buffer: The Archaeology Review for this project expressly prohibits “geologic trenching, soil borings, ground clearance, grading, equipment placement, or similar surface-disturbing impacts” within 30 feet of the northern property boundary to protect potential Chumash artifacts.

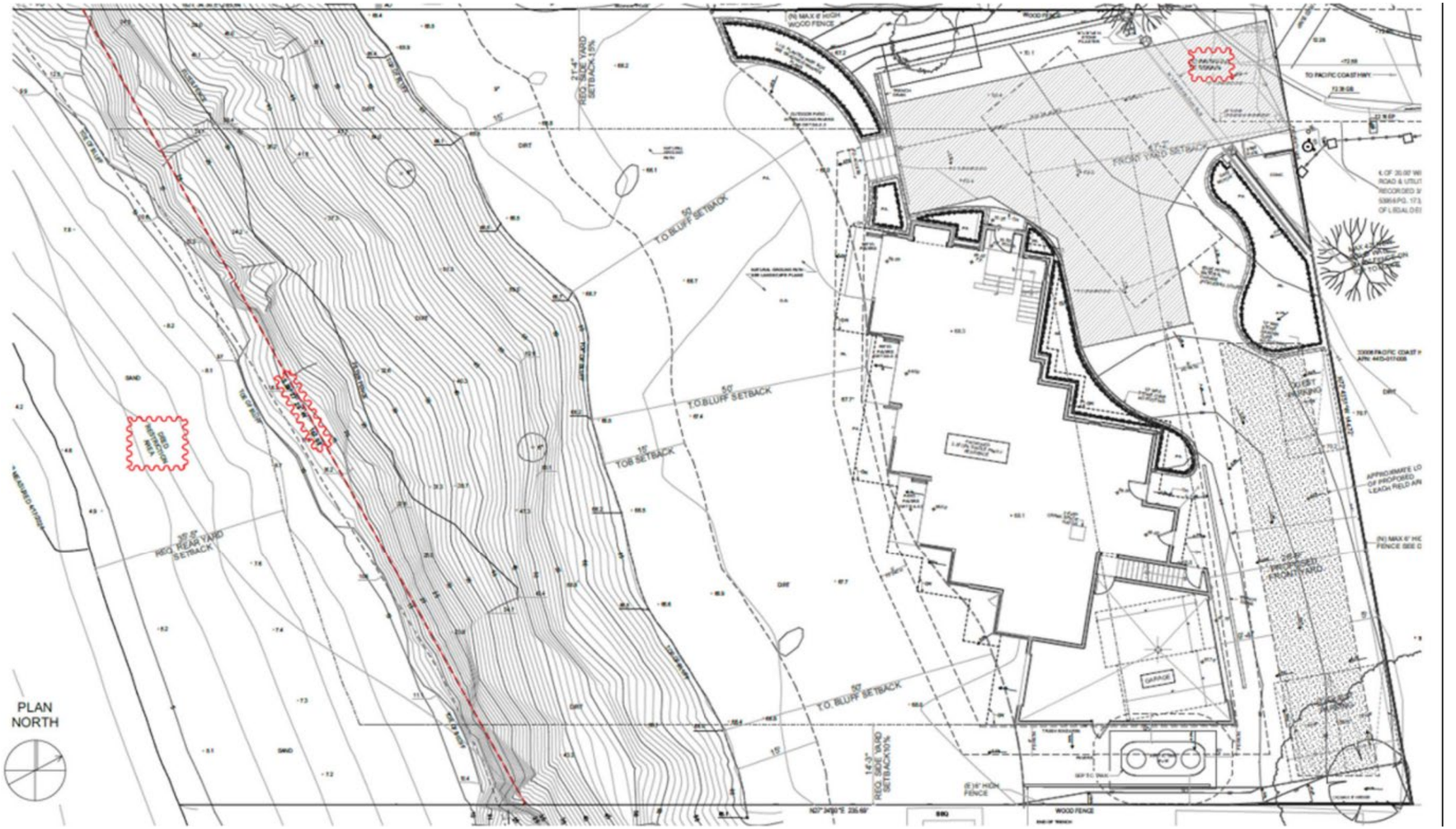
- Additional Correspondence – Cultural Resources: Improper mitigation measures, defeating the use of the Class 3 exemption.

Project Description

The proposed scope of work is as follows:

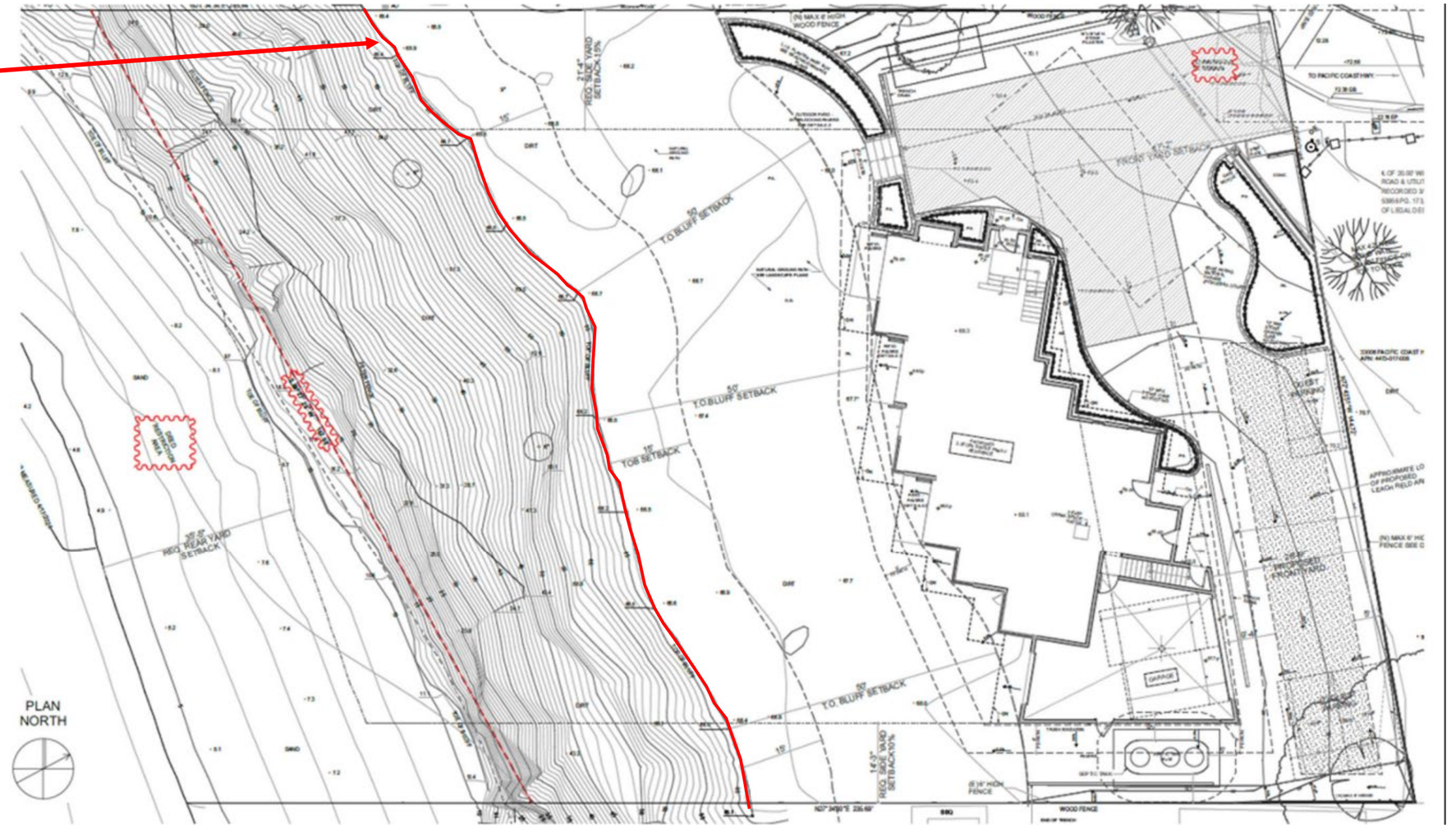
- Construction of a 4,856 square foot, two-story, single-family residence, 18 feet in height, including a 791 square foot attached two-car garage;
- 824 square foot, ADU above the garage;
- Construction of outdoor decks;
- Installation of new landscaping and hardscape;
- Grading;
- Construction of a new OWTS;
- Vehicular access gate; and
- Fire department turnaround area.
- Discretionary Request:
  - MM No. 25-009 for up to 50 percent reduction of the front yard setback (approximately 37 percent proposed)

Site Plan

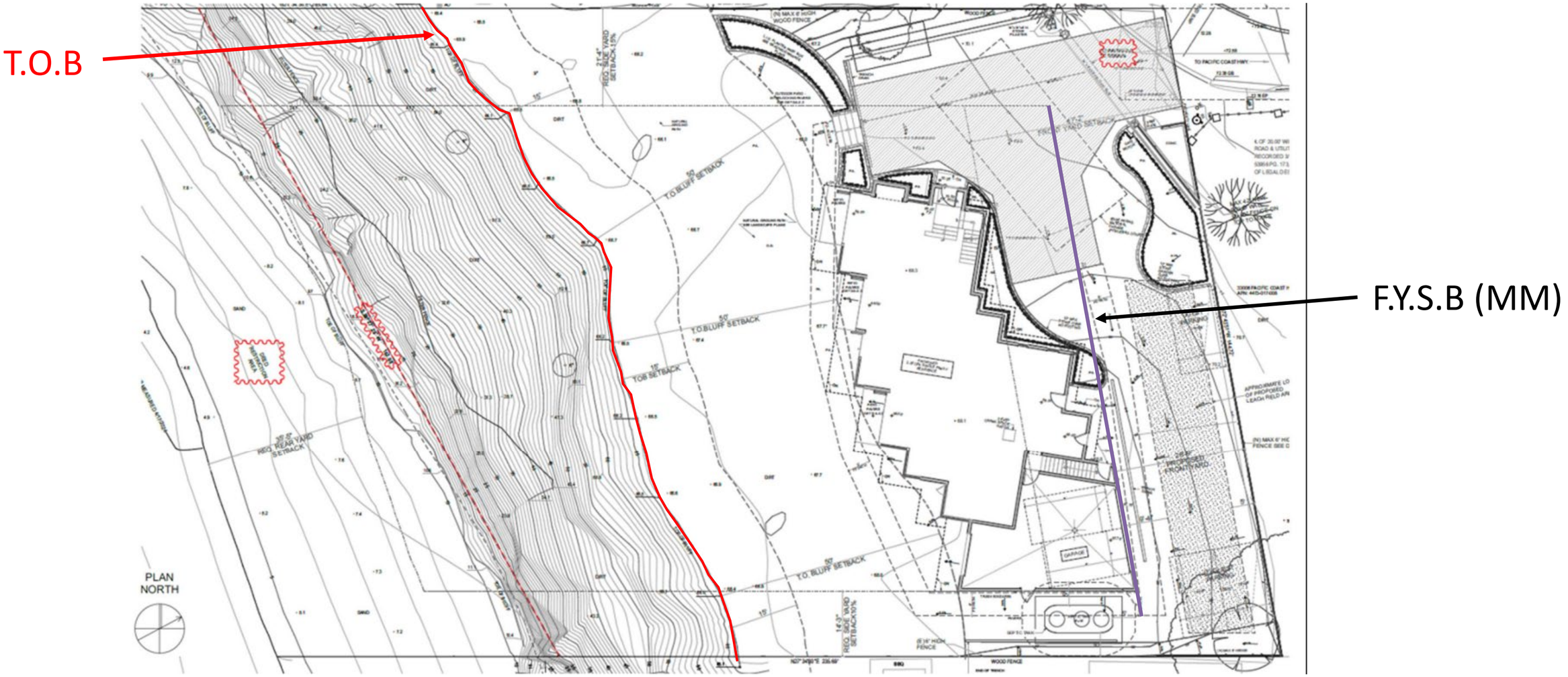

PLAN
NORTH
T.O.BLUFF SETBACK
T.O.BLUFF SETBACK
T.O.BLUFF SETBACK
T.O.B SETBACK
REQ. REAR YARD SETBACK
REQ. SIDE YARD SETBACK 15%
REQ. SIDE YARD SETBACK 10%
FRONT YARD SETBACK
(N) MAX 6' HIGH WOOD FENCE
(E) 6' HIGH FENCE
WOOD FENCE
GARAGE
TO PACIFIC COAST HWY

Site Plan

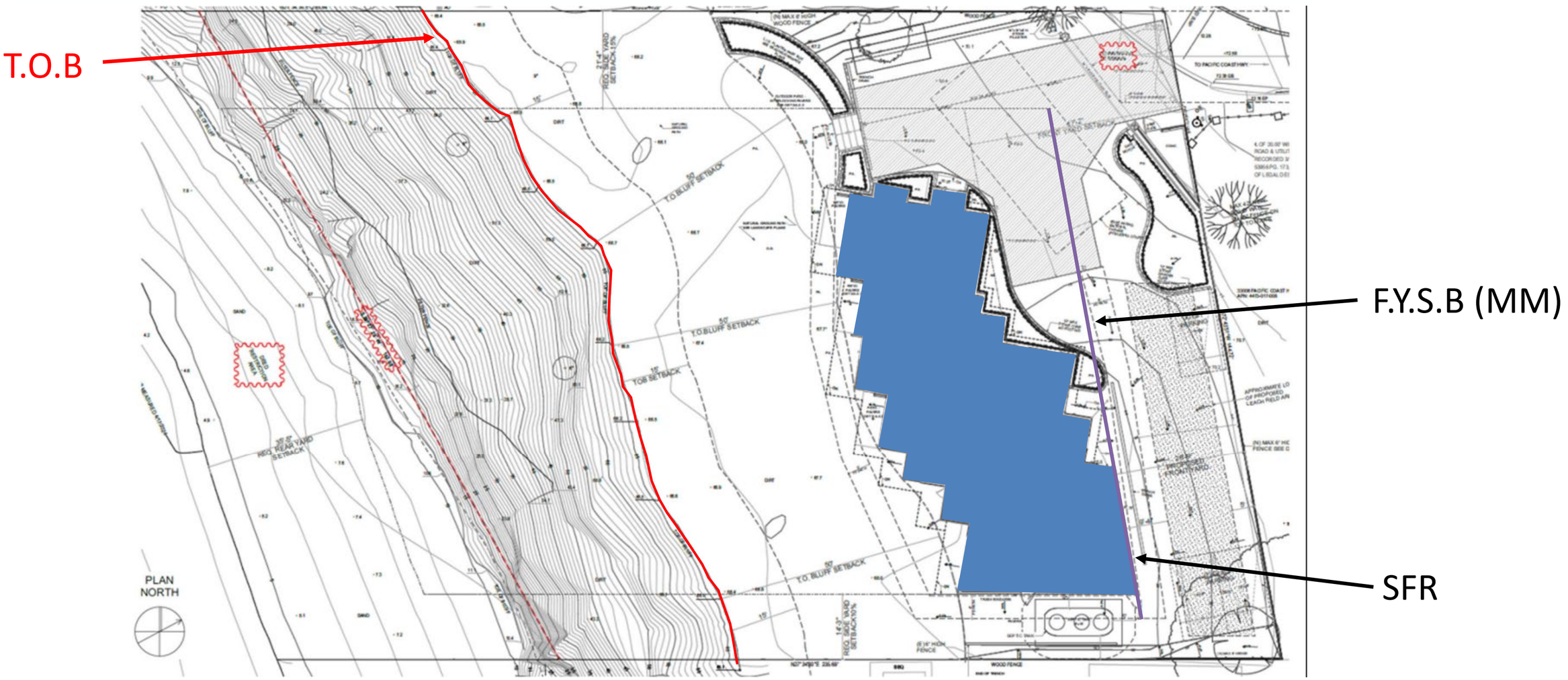
T.O.B



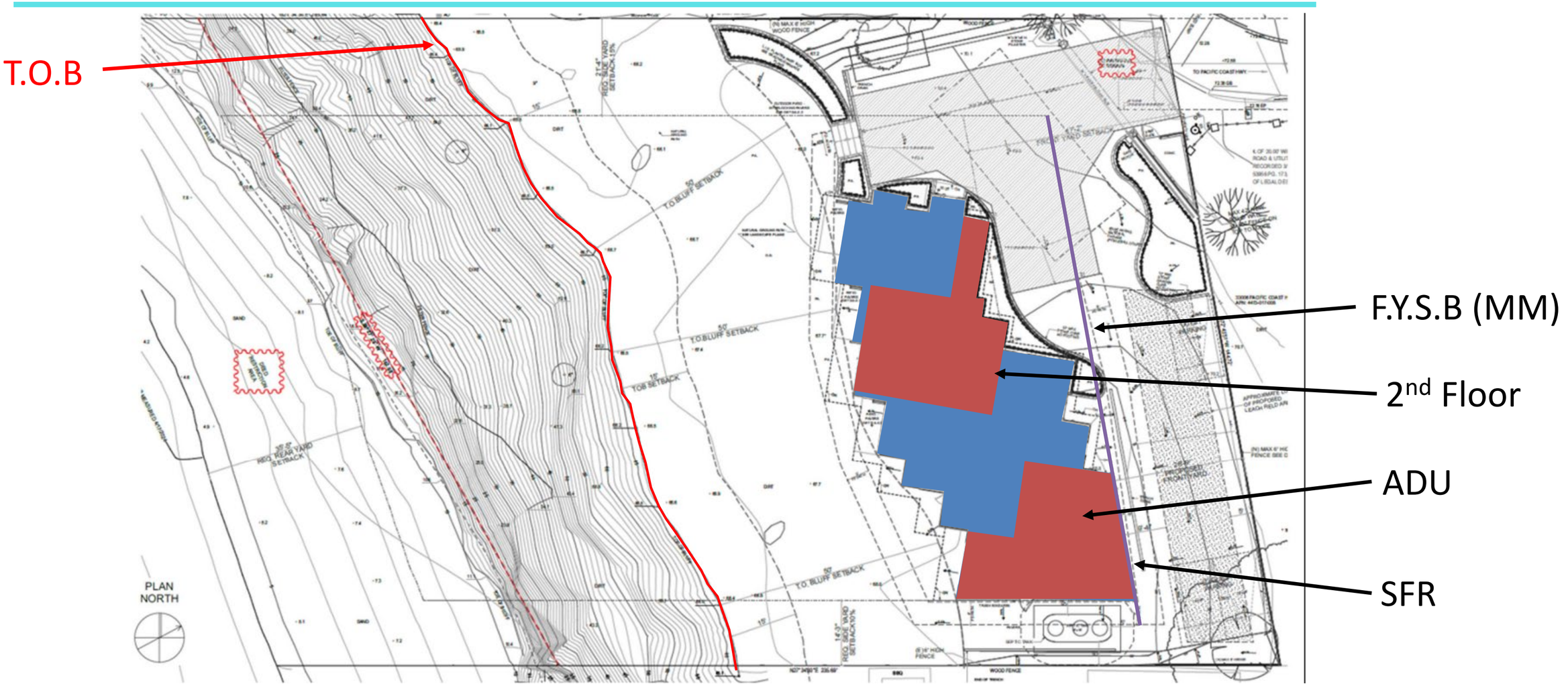
Site Plan


T.O.B
F.Y.S.B (MM)
PLAN NORTH
T.O.BLUFF SETBACK
T.O.B SETBACK
REQ. REAR YARD SETBACK
REQ. SIDE YARD SETBACK 15%
REQ. SIDE YARD SETBACK 10%
FRONT YARD SETBACK
(N) MAX 6' HIGH WOOD FENCE
WOOD FENCE
GARAGE
TO PACIFIC COAST HWY

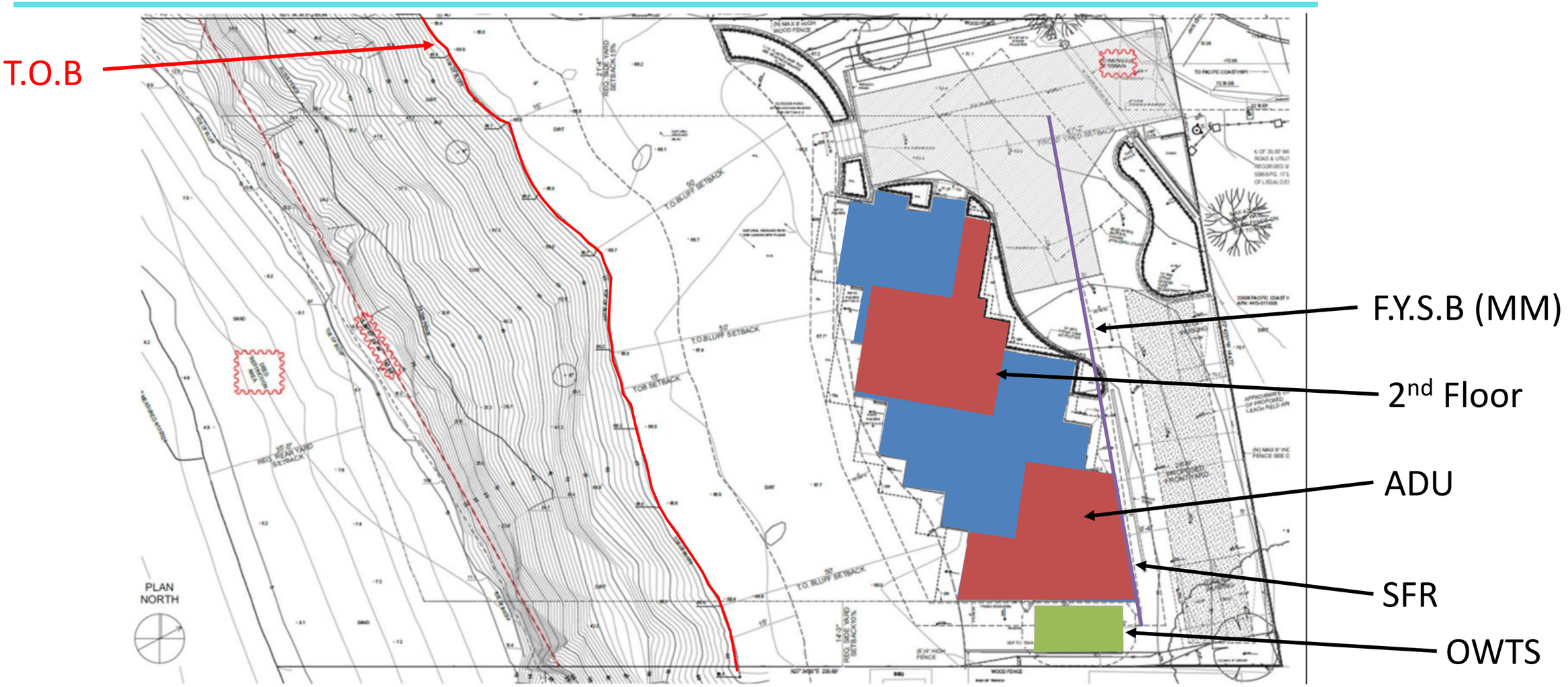
Site Plan


T.O.B
F.Y.S.B (MM)
SFR
PLAN NORTH
T.O.BLUFF SETBACK
T.O.B SETBACK
REQ. REAR YARD SETBACK
REQ. SIDE YARD SETBACK 15%
REQ. SIDE YARD SETBACK 10%
FRONT YARD SETBACK
(N) MAX 6' HIGH WOOD FENCE
WOOD FENCE
TO PACIFIC COAST HWY

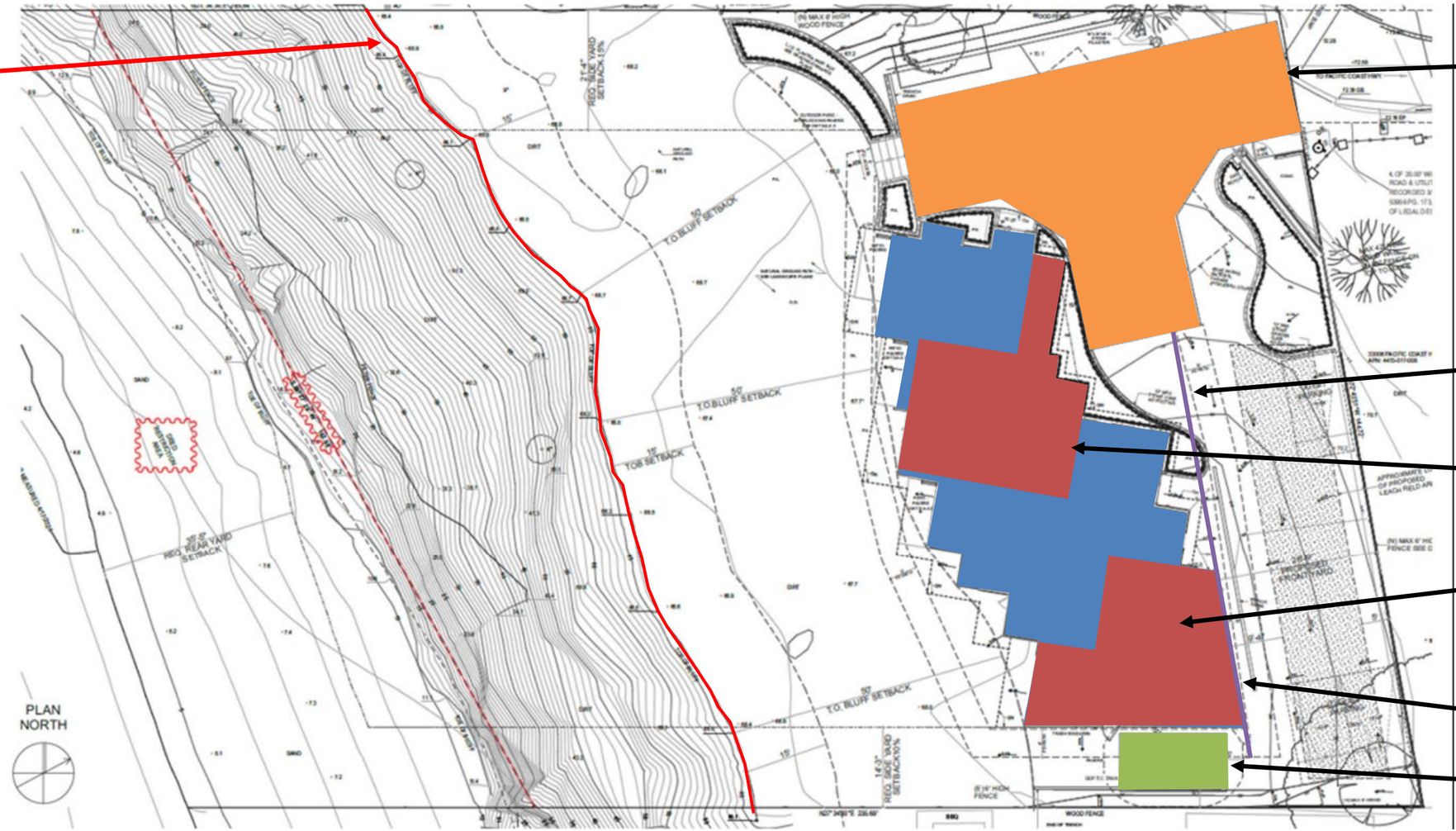
Site Plan


T.O.B
F.Y.S.B (MM)
2nd Floor
ADU
SFR
PLAN NORTH
50' T.O.BLUFF SETBACK
T.O.B SETBACK
REQ. REAR YARD SETBACK
REQ. SIDE YARD SETBACK 15%
REQ. SIDE YARD SETBACK 10%
FRONT YARD SETBACK
WOOD FENCE
TO PACIFIC COAST HWY

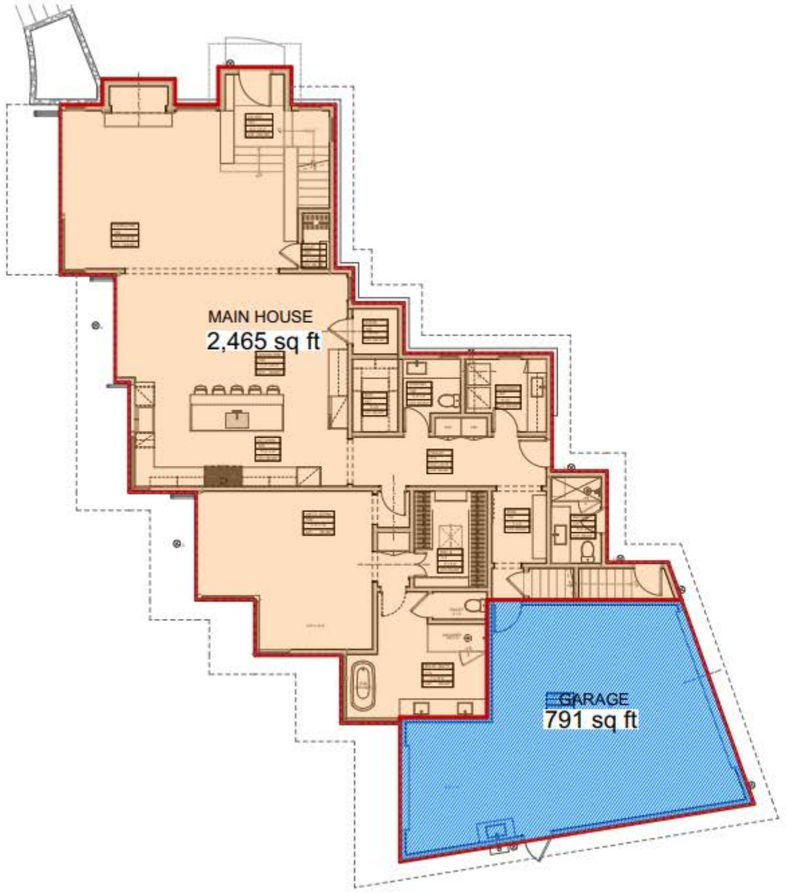
Site Plan



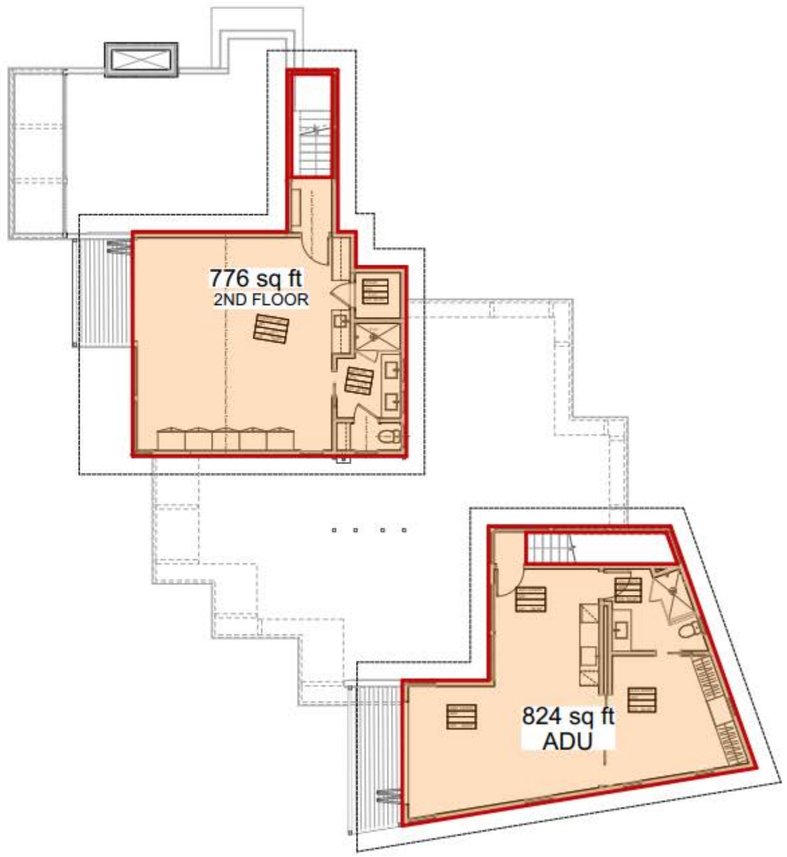
Site Plan


T.O.B
Fire Department Turnaround Area
F.Y.S.B (MM)
2nd Floor
ADU
SFR
OWTS
PLAN NORTH
T.O.B SETBACK
50' T.O.BLUFF SETBACK
REQ. REAR YARD SETBACK
REQ. SIDE YARD SETBACK 15%
REQ. SIDE YARD SETBACK 10%
(N) MAX 6' HIGH WOOD FENCE
(E) 36" HIGH FENCE
WOOD FENCE

Floor Plans

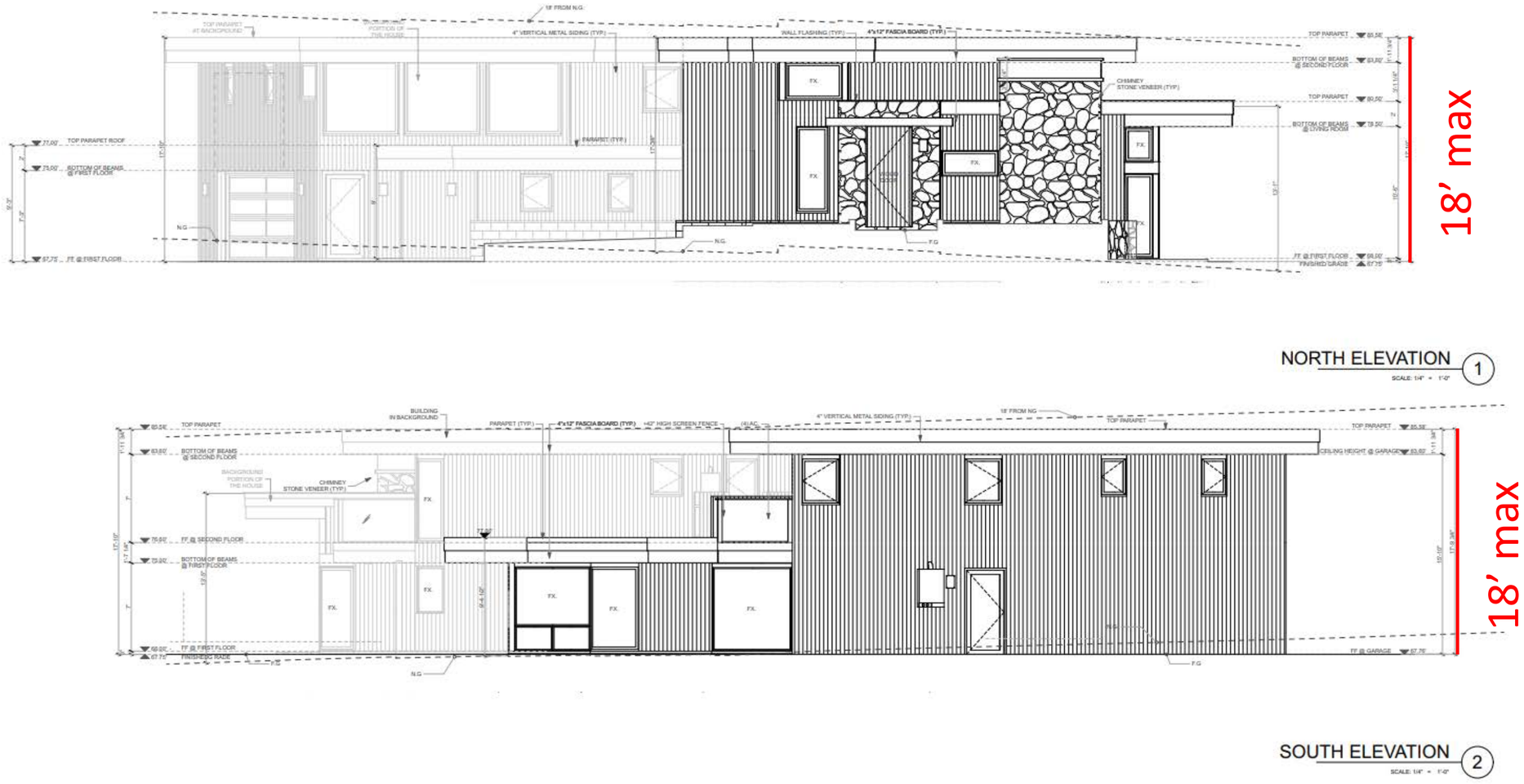


FIRST FLOOR

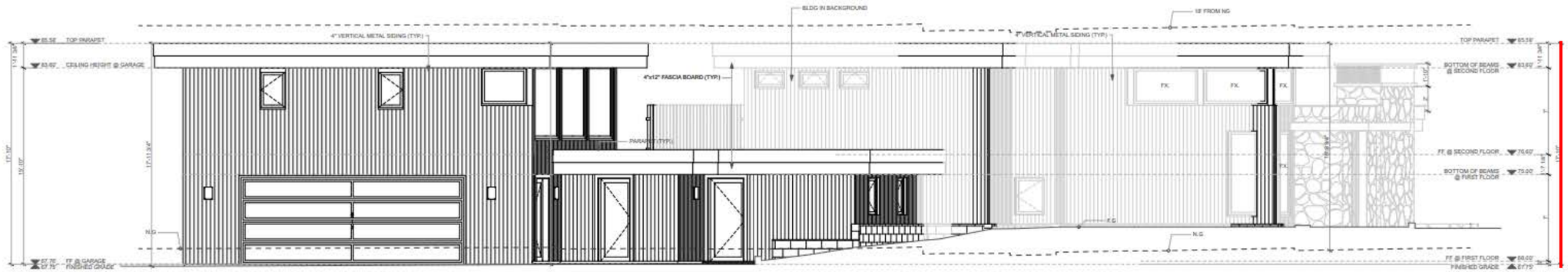


SECOND FLOOR

Elevations

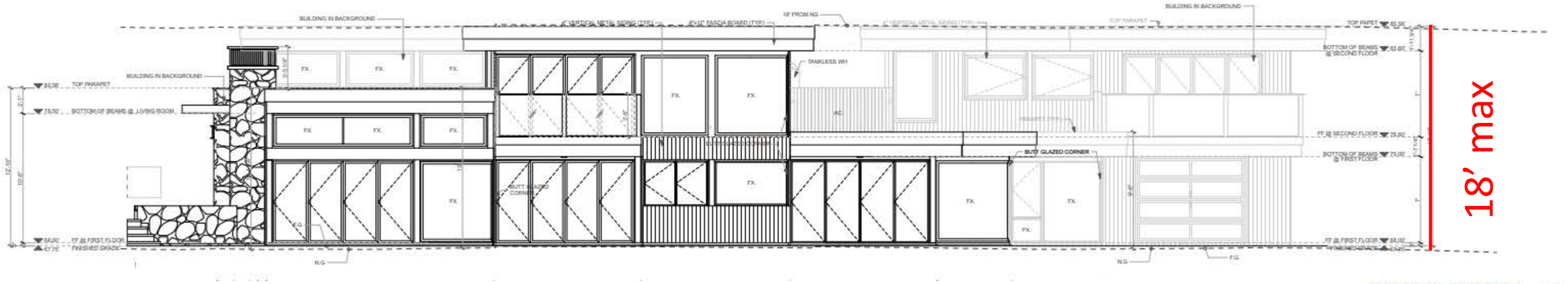

18' FROM N.G.
4" VERTICAL METAL SIDING (TYP.)
WALL FLASHING (TYP.)
4"x12" FASCIA BOARD (TYP.)
TOP PARAPET
BOTTOM OF BEAMS @ SECOND FLOOR
CHIMNEY STONE VENEER (TYP.)
TOP PARAPET
BOTTOM OF BEAMS @ LIVING ROOM
77.00' TOP PARAPET ROOF
73.00' BOTTOM OF BEAMS @ FIRST FLOOR
N.G.
PARAPET (TYP.)
F.G.
67.75' FF @ FIRST FLOOR
FF @ FIRST FLOOR FINISHED GRADE
18' max
NORTH ELEVATION
1
SCALE: 1/4" = 1'-0"
BUILDING IN BACKGROUND
PARAPET (TYP.)
4"x12" FASCIA BOARD (TYP.)
+42" HIGH SCREEN FENCE
(4) AC
4" VERTICAL METAL SIDING (TYP.)
18' FROM NG
TOP PARAPET
CEILING HEIGHT @ GARAGE
BOTTOM OF BEAMS @ SECOND FLOOR
CHIMNEY STONE VENEER (TYP.)
FF @ SECOND FLOOR
BOTTOM OF BEAMS @ FIRST FLOOR
FF @ FIRST FLOOR
FINISHED GRADE
FF @ GARAGE
N.G.
F.G.
18' max
SOUTH ELEVATION
2
SCALE: 1/4" = 1'-0"

Elevations



EAST ELEVATION 1

SCALE: 1/4" = 1'-0"



WEST ELEVATION 2

SCALE: 1/4" = 1'-0"

Recommendation

Planning Commission Adopt Resolution No. 26-10 determining the project is categorically exempt from CEQA, and approving CDP No. 23-034; including MM No. 25-009 for up to a 50 percent reduction of the front yard setback located in the RR-2 zoning district at 33008 Pacific Coast Highway

Coastal Development Permit No. 23 -034
Minor Modification No. 25 -009

33008 Pacific Coast Highway

Planning Commission
Item 5A
February 17, 2026

Received
2/6/26
Planning Div.

From: Tammy Mackey
To: Planning Commission
Subject: New Build at 33008
Date: Friday, February 6, 2026 10:34:10 AM

Hello,

My neighbor is trying to
build a second home next to his original home (different lot) at 33008 PCH.
I have many concerns about this build adding to the already difficult fire safety situation.
On paper it may look fine, but in reality there are many concerns.
There are still two homes down our street of 9 original homes that burned in the Woosly fire and have not even been rebuilt yet.
There is a planning commission meeting for this property on Feb 17th.

I am requesting that someone from planning come out before this meeting to meet with me and look at the situation in person.

Thank you,

Tammy Mackey

CC: Planning Commission, PD,

Recording Secretary, File

Date Received 2/6/26 Time 2:40 p.m.
Planning Commission meeting of 2/17/26
Agenda Item No. 5A
Total No. of Pages 1

Received
2/13/26
Planning Div.

From: Tammy Mackey
To: Planning Commission; Jackson D. McNeill; Brandt Andersen; Didier Murillo; Mark
Subject: Fwd: New Build at 33008
Date: Friday, February 13, 2026 12:07:38 PM

Dear Planning Commission,

Photos of the bluff after the Woosley Fire, 33008 and 33010 properties.
What is the stability of the bluff after a severe burn. 33010 is proposing to build very close to the bluffs edge.

Photo of the bluff in front of 33010, with 33012 burned out house in the background

Fire descending on our neighborhood with 33010 house in the foreground. Fire trucks sat on street and would not come down. Also did not come down in the fire around 2004

Fire Trucks refused to come down. Is adding another house the mix a good idea? In reality the "turn around on the 33008 lot is useless.

Thank you for your time and reading this.

Tammy and Mark Mackey
[redacted]

---------- Forwarded message ---------
From: **Tammy Mackey** <[redacted]
Date: Fri, Feb 6, 2026 at 10:33 AM
Subject: New Build at 33008
To: <planningcommission@malibucity.org>

Hello,

My neighbor is trying to
build a second home next to his original home (different lot) at 33008 PCH.
I have many concerns about this build adding to the already difficult fire safety situation.
On paper it may look fine, but in reality there are many concerns.
There are still two homes down our street of 9 original homes that burned in the Woosly fire and have not even been rebuilt yet.
There is a planning commission meeting for this property on Feb 17th.

I am requesting that someone from planning come out before this meeting to meet with me and look at the situation in person.

Thank you,

Tammy Mackey

CC: Planning Commission, PD,

Recording Secretary, File

Date Received 2/13/26 Time 12:07pm
Planning Commission meeting of 2/17/26
Agenda Item No. 5.A.
Total No. of Pages 6



From:	Chris Deleau
To:	Didier Murillo
Cc:	Tyler Eaton; Don Schmitz; Catherine A. Lambert; Planning Commission; AK Munaim; Scott Hoeft
Subject:	Item 5.A. - 2026.2.18 Planning Commission Hearing - 33008 Pacific Coast Hwy - Response to Neighbor Comment Letters
Date:	Thursday, February 12, 2026 5:06:54 PM
Attachments:	2026.2.11 Applicant Response to Neighbor Letter re Violations - Item 5.A. 33008 PCH.pdf 2026.2.12 Brandt Anderson Violations.pdf
Importance:	High

Didier, please find attached the applicant's response to recent comment letters received by the city from the neighbor's and their legal counsel.

Please let us know if you have any questions.

Best,

Chris Deleau, JD, AICP

Principal Planner, Schmitz and Associates

747.494.7293

schmitzandassociates.com

cdeleau@schmitzandassociates.net

28230 Agoura Rd. Suite 200, Agoura Hills, CA 91301

IMPORTANT: The contents of this email and any attachments are confidential. They are intended for the named recipient(s) only. If you have received this email by mistake, please notify the sender immediately and do not disclose the contents to anyone or make copies thereof.

Received
02/12/26
Planning Div.

February 11, 2026

City of Malibu
Attn: Chair Riddick & Vice Chair Mazza
& Planning Commissioners
23825 Stuart Ranch Rd.
Malibu, CA 90265

Re: 33008 PCH - Item 5.A. – February 17, 2026, Planning Commission Hearing (CDP No. 23-034). Blufftop 1, LLC (Applicant) – Applicant Response to Neighbor Comments Re Code Violations

Honorable Chair Riddick, Vice Chair Mazza, and Esteemed Planning Commissioners,

This correspondence addresses specific statements raised by the applicant's neighbors with respect to the applicant's code enforcement violation.

In the neighbor's attorney's letter dated October 17, 2025, the neighbors refer to the project applicant as a "Bad Actor." (Page 30) They further allege that the applicant is involved in "ongoing code violations." (Page 32) The statements made by the neighbor's legal counsel are extremely inaccurate, reckless, and intended only to attack the applicant's character. This correspondence is responsive to these claims.

I. Neighbor Statements Regarding Project & Code Violations

The applicant concedes that the following work was done without permits, for which after-the-fact approval is now being sought as part of this Coastal Development Permit Application: 1. Replacement of an existing vehicular access gate, 2. Replacement of an existing chain link fence with a new wood fence along the property line, 3. Importing dirt for landscaping.

Since receiving the notice of violation, *the city required* the applicant to permit the work after-the-fact as is required by the California Coastal Act and the city's Local Coastal Program (LCP), and the applicant has done so. Contrary to the neighbors' attorney's comments, the permit process is the appropriate and necessary path to remedy a code violation.

CC: Planning Commission, PD,

Recording Secretary, File

Date Received 02/12/26 Time 5:03 PM
Planning Commission meeting of 02/17/26
Agenda Item No. 5A
Total No. of Pages 38

The characterization of the applicant as a 'bad actor' is inaccurate, disparaging, and inappropriate. In the legal context, a bad actor is someone who 'knowingly' violates the law. The applicant did not know that replacing an existing fence and gate in like kind required a permit, nor did he know that doing minor landscaping required a permit; in most cities permits for these items are not required. These are minor code violations not warranting the title of a 'bad actor.'

The Neighbors have further alleged that Significant Native American Cultural Resources are located on the applicant's property and provide photos of a mortar and pestle they allege to have found on their own property ([redacted] Pacific Coast Highway Property Owned by Brandt Andersen). Where these items came from, whether they are indeed Chumash artifacts and whether the neighbor found them on his property remains completely speculative and unsubstantiated as these items were not found by or reported to an archeologist or a Chumash monitor at the time they were allegedly discovered.

The neighbors and their consultants also allege the presence of burials *on the applicant's property*, again without anything other than speculation to support these claims. Extraordinary claims require extraordinary evidence; however, none have been provided. The applicant, after receiving these allegations, conducted an Extended Phase I Archeology Study. The Study confirmed the project archeologist's prior findings that there are no burials on the property or significant cultural resources.

Serious allegations have been levied against the applicant and his project, and these allegations merit an inspection of the credibility of the neighbor making them. The applicant will demonstrate that the 'Bad actor' here is not the applicant but his neighbor, Brandt Andersen.

II. Code Violations on Adjacent Property Owned by Brandt Andersen at [redacted] PCH

Whenever assessing the validity of information, one should first consider its source. In the instant case, we evaluate the credibility of Brandt Andersen as it is Mr. Andersen and his legal counsel who have characterized the applicant as a bad actor, misrepresented violations on the applicant's property, and who have feigned concern over impacts to cultural resources.

Brandt Andersen is a serial code violator. This is undisputed and is a matter of public record. Mr. Andersen acquired his adjacent property in June of 2013 per Assessor Records. From that time on, Mr. Andersen has engaged in a series of significant code violations. The first of these recorded[1] violations occurred in March 2015. This violation was for the unpermitted construction of a new deck, grading, and retaining walls *on a coastal bluff*.

The second of these violations (Stop Work Orders) occurred on April 26, 2019, when Mr. Andersen, without permits, **reconstructed all the development from the first violation (subject to an ongoing stop work order)** when it was lost during the Woolsey Fire, again without permits. He also, without permits, constructed Beach access stairs, a surf shack/enclosure, and a concrete pad on the beach, thought to be within the intertidal zone. None of this development is consistent with the LCP and other state law and it cannot be approved after-the-fact as it is located on a Coastal Bluff and likely on public trust lands that the State of California asserts a Sovereign interest in; **All of it must be removed and restored to natural conditions.**



[1] There is significant unpermitted development on the Andersen property which have not yet been identified by code enforcement, which this letter will detail, explain, and support with evidence.

Photo of unpermitted large concrete pad, surf shed, and stairs leading up to unpermitted deck. (Source Malibu City Code Enforcement Files)



Photo of Crane on the Subject Property (33008 PCH) used by Mr. Andersen to Supply Materials to the Beach to construct new beach access stairway along the coastal bluff. Other

heavy equipment was also used (concrete truck). Damage was done to the subject property by Mr. Andersen's heavy equipment.



Photo of Deck before violation. Small Deck with No retaining walls. (Source Malibu City Code Enforcement Files)



New Deck Under Construction in 2015 with New Foundations, Grading and New Retaining Walls on the Coastal Bluff. (Source Malibu City Code Enforcement Files)





Photos of unpermitted Deck and Retaining walls on the Coastal Bluff. (Source Malibu City Code Enforcement Files)

The last of the *City's Acknowledged* Code Violation actions was the unpermitted construction of a new Guest House with retaining walls and landscaping on State Park Lands - El Pescador State Beach Park, and rows of new Olive Trees along the driveway, again on State Park Lands.

If it were not enough that Mr. Andersen had already been given one stop work order for extensive unpermitted development in 2015, *immediately* thereafter from 2015-6 he went ahead and constructed an entire guest house, retaining walls and landscaping without permits. Worse yet, he did it on State Park Property with imputed knowledge of that fact. Surveys of his property from 2006 and 2015, which presumably he had possession of and reviewed; both clearly show his property lines relative to State Park Property. He then received a second stop work order (April 2019) for the reconstruction of the same deck which was subject to the first stop work order in 2015. These are all knowing and intentional violations of the Coastal Act, LCP, and Municipal Code undertaken by Mr. Brandt.



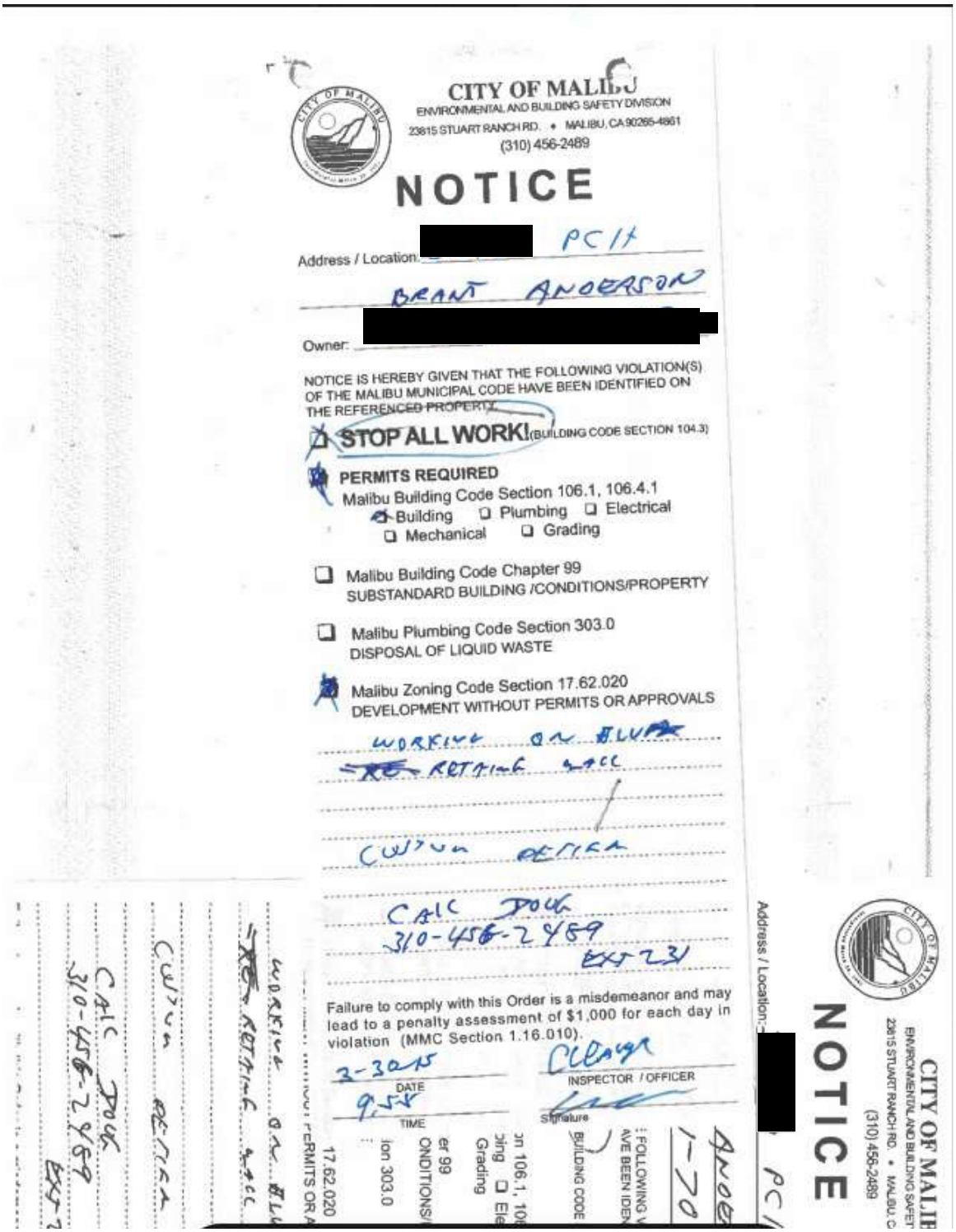
Photo of Unpermitted Guest House, Retaining walls and Landscaping on State Park Owned Land – Referenced in the 2019 stop work order and the 2025 Recorded Notice of Violation. (Source Malibu City Code Enforcement Files)

III. Additional Unpermitted Development not yet Subject to Code Enforcement Action

In addition to the unpermitted development that has already been identified through open code enforcement actions, It appears that Mr. Andersen undertook additional unpermitted development, all of which is illustrated in the exhibit below as follows: 1. An unpermitted accessory structure was constructed or placed on State Parkland to the east of his home on the Coastal Bluff, 2. There are several walkways, landscaping and what appear to be patios that have been constructed near the accessory structure to the east, some of which appear to have occurred after the stop work orders were issued, 3. A new Visually Impermeable approximately 7' tall Entry Gate and walls were Constructed without permits that do not meet City Codes.



Source: Landvision©/ Lightbox GIS Aerial Photo w/Georeferenced Property Lines



CITY OF MALIBU
ENVIRONMENTAL AND BUILDING SAFETY DIVISION
23815 STUART RANCH RD. • MALIBU, CA 90265-4861
(310) 456-2489

NOTICE

Address / Location: [redacted] PCH

BRANT ANDERSON

Owner: [redacted]

NOTICE IS HEREBY GIVEN THAT THE FOLLOWING VIOLATION(S) OF THE MALIBU MUNICIPAL CODE HAVE BEEN IDENTIFIED ON THE REFERENCED PROPERTY:

☐ STOP ALL WORK! (BUILDING CODE SECTION 104.3)

PERMITS REQUIRED
Malibu Building Code Section 106.1, 106.4.1
☑ Building ☐ Plumbing ☐ Electrical
☐ Mechanical ☐ Grading

☐ Malibu Building Code Chapter 99
SUBSTANDARD BUILDING /CONDITIONS/PROPERTY

☐ Malibu Plumbing Code Section 303.0
DISPOSAL OF LIQUID WASTE

☑ Malibu Zoning Code Section 17.62.020
DEVELOPMENT WITHOUT PERMITS OR APPROVALS

WORKING ON BLUFF
RETAINING WALL
CUTTING DECK
CALL DOUG
310-456-2489
EXT 234

Failure to comply with this Order is a misdemeanor and may lead to a penalty assessment of $1,000 for each day in violation (MMC Section 1.16.010).

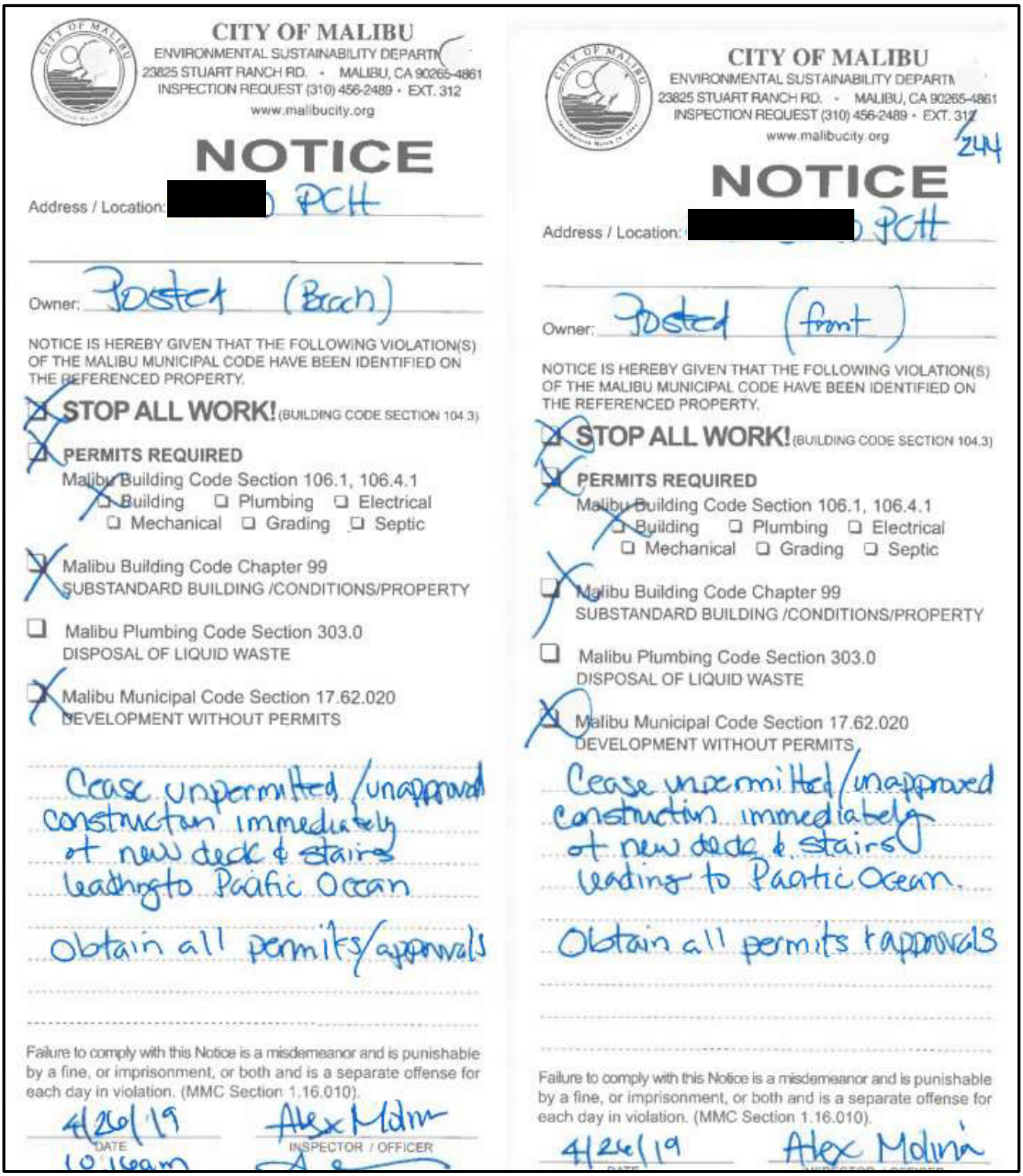
3-30-15
DATE
9:5?
TIME
CLARK
INSPECTOR / OFFICER
Signature

Address / Location: [redacted] PCH

NOTICE

CITY OF MALIBU
ENVIRONMENTAL AND BUILDING SAFET
23815 STUART RANCH RD. • MALIBU, C
(310) 456-2489

First Stop Work Order from March of 2015 for the Unpermitted Construction of a New Deck, grading and retaining walls on a Coastal Bluff. (Source Malibu City Code Enforcement Files)



CITY OF MALIBU
ENVIRONMENTAL SUSTAINABILITY DEPARTM
23825 STUART RANCH RD. • MALIBU, CA 90265-4861
INSPECTION REQUEST (310) 456-2489 • EXT. 312
www.malibucity.org

NOTICE

Address / Location: [redacted] PCH

Owner: Posted (Beach)

NOTICE IS HEREBY GIVEN THAT THE FOLLOWING VIOLATION(S) OF THE MALIBU MUNICIPAL CODE HAVE BEEN IDENTIFIED ON THE REFERENCED PROPERTY.

☒ STOP ALL WORK! (BUILDING CODE SECTION 104.3)

☒ PERMITS REQUIRED
Malibu Building Code Section 106.1, 106.4.1
☒ Building ☐ Plumbing ☐ Electrical
☐ Mechanical ☐ Grading ☐ Septic

☒ Malibu Building Code Chapter 99
SUBSTANDARD BUILDING /CONDITIONS/PROPERTY

☐ Malibu Plumbing Code Section 303.0
DISPOSAL OF LIQUID WASTE

☒ Malibu Municipal Code Section 17.62.020
DEVELOPMENT WITHOUT PERMITS

Cease unpermitted/unapproved construction immediately of new deck & stairs leading to Pacific Ocean

Obtain all permits/approvals

Failure to comply with this Notice is a misdemeanor and is punishable by a fine, or imprisonment, or both and is a separate offense for each day in violation. (MMC Section 1.16.010).

4/26/19 DATE 10:15am

Alex Molina INSPECTOR / OFFICER

CITY OF MALIBU
ENVIRONMENTAL SUSTAINABILITY DEPARTM
23825 STUART RANCH RD. • MALIBU, CA 90265-4861
INSPECTION REQUEST (310) 456-2489 • EXT. 312
www.malibucity.org

244

NOTICE

Address / Location: [redacted] PCH

Owner: Posted (front)

NOTICE IS HEREBY GIVEN THAT THE FOLLOWING VIOLATION(S) OF THE MALIBU MUNICIPAL CODE HAVE BEEN IDENTIFIED ON THE REFERENCED PROPERTY.

☒ STOP ALL WORK! (BUILDING CODE SECTION 104.3)

☒ PERMITS REQUIRED
Malibu Building Code Section 106.1, 106.4.1
☒ Building ☐ Plumbing ☐ Electrical
☐ Mechanical ☐ Grading ☐ Septic

☒ Malibu Building Code Chapter 99
SUBSTANDARD BUILDING /CONDITIONS/PROPERTY

☐ Malibu Plumbing Code Section 303.0
DISPOSAL OF LIQUID WASTE

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DEVELOPMENT WITHOUT PERMITS

Cease unpermitted/unapproved construction immediately of new deck & stairs leading to Pacific Ocean.

Obtain all permits/approvals

Failure to comply with this Notice is a misdemeanor and is punishable by a fine, or imprisonment, or both and is a separate offense for each day in violation. (MMC Section 1.16.010).

4/26/19 DATE

Alex Molina INSPECTOR / OFFICER

2nd Stop Work Order (2019): Mr. Andersen rebuilt the unpermitted deck that was already the subject of a code enforcement action and stop work order. (Source Malibu City Code Enforcement Files)



Photo of unpermitted front entry gate from PCH with concrete wall and intercom. Note unpermitted olive trees along the driveway in the background. (Source Malibu City Code Enforcement Files).

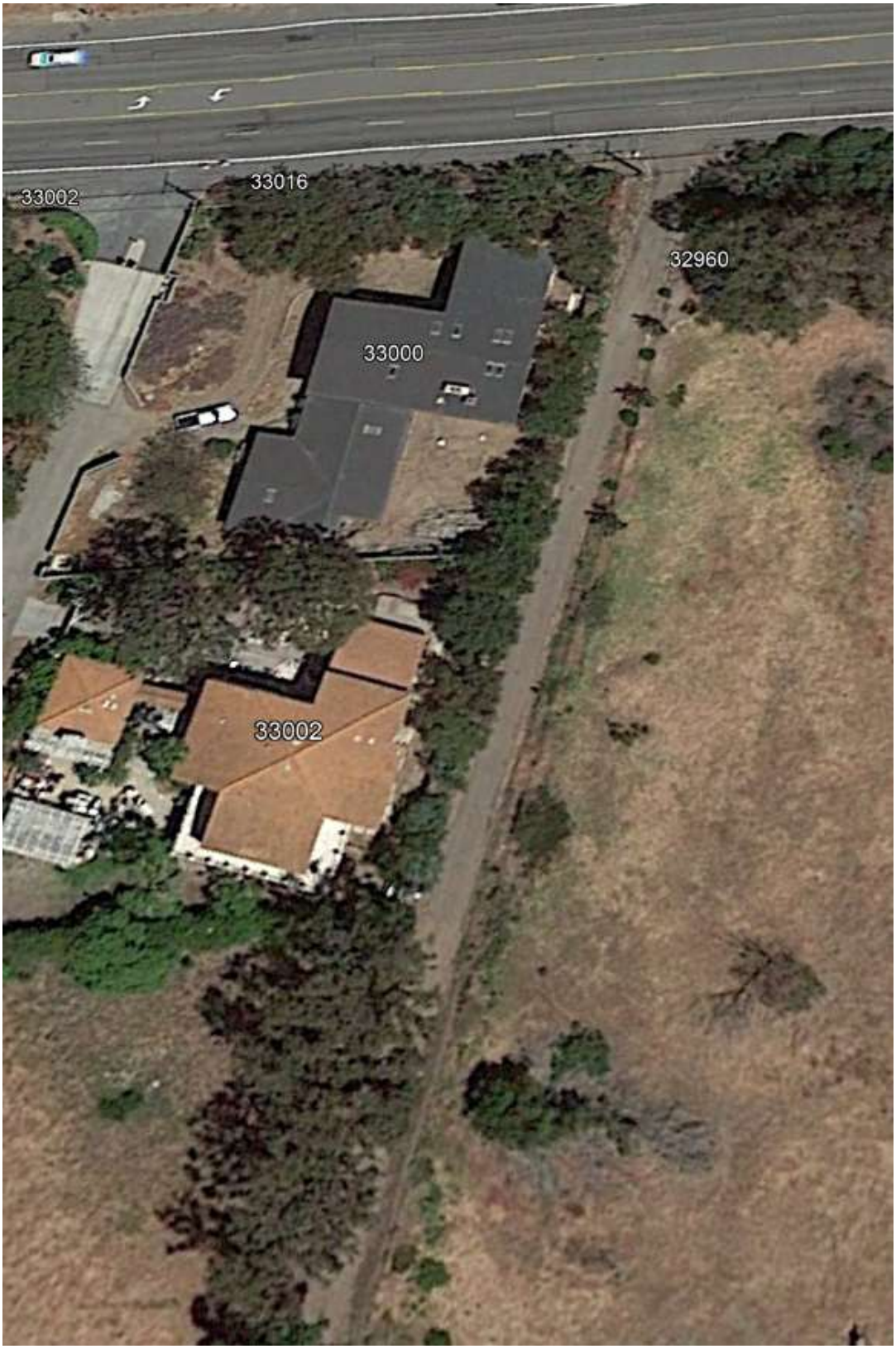


Photo of property driveway from 2016 courtesy of Google Earth. Note that the front driveway gate and olive trees were not present at this time.

Conclusion

To this day, according to available public records, Mr. Brandt has not abided by Code Enforcement's successive orders to process applications to remove or permit these developments after-the-fact. He has ignored these violations going back over 10 years. This ultimately led the city to record a Notice of Violation (NOV) against title to his property on April 6, 2025. For over 10 years Mr. Brandt has, in bad faith, continuously developed his property without obtaining permits, even after he received numerous visits and correspondence from code enforcement, as well as 2 Stop Work Orders and a recorded Notice of Violation. He also knowingly constructed a guest house, a separate accessory structure, and other development on State Parklands and possibly other state trust lands (Tidelands). He did not obtain review and approval from either the State Lands Commission or the Army Corps of Engineers for the improvements undertaken on the beach. It is noted that these improvements are not the same, nor are they located in the same place as they had previously existed and therefore Mr. Brandt does not have vested rights to reconstruct them and cannot permit these improvements after-the-fact but must remove them completely[2]. He has, to date, done nothing substantive to correct any of these violations despite involvement from the Coastal Commission, the City, and State Parks.

He has made it clear that he believes that the rules do not apply to him, only to his neighbor who intends to *legitimately* utilize the permit process and build a home on his private land. Unlike Mr. Andersen, the applicant has worked with code enforcement to remedy a minor violation. It is clear who the 'Bad actor' is in this equation. If Mr. Andersen were truly concerned about potential impacts on cultural or environmental resources, he would not have undertaken so much development on his property and state parklands, without permits.

City records and Cal State Fullerton records show no cultural resources having been found on Mr. Andersen's property, yet he produces photos of supposed artifacts on a table, claiming that he found them on his property. It may be that he removed these artifacts from his land while he was undertaking one of the many projects that he has completed without permits, or it may be that he has provided a stock photo from Google. The nature and origins of these supposed artifacts remain unverifiable. What is verifiable is that Mr. Andersen does not practice what he preaches. He has repeatedly promised code enforcement that he was resolving the violations on his property and has not done so; rather, he has continued to undertake development without permits, while stringing the city along. His actions have

[2] Referring to the Deck, Stairs to the Beach and the new Surf Shack

been unlawful, dishonest, and unethical. The credibility of his statements against the applicant, through his attorneys, must be viewed through the prism of his own actions.

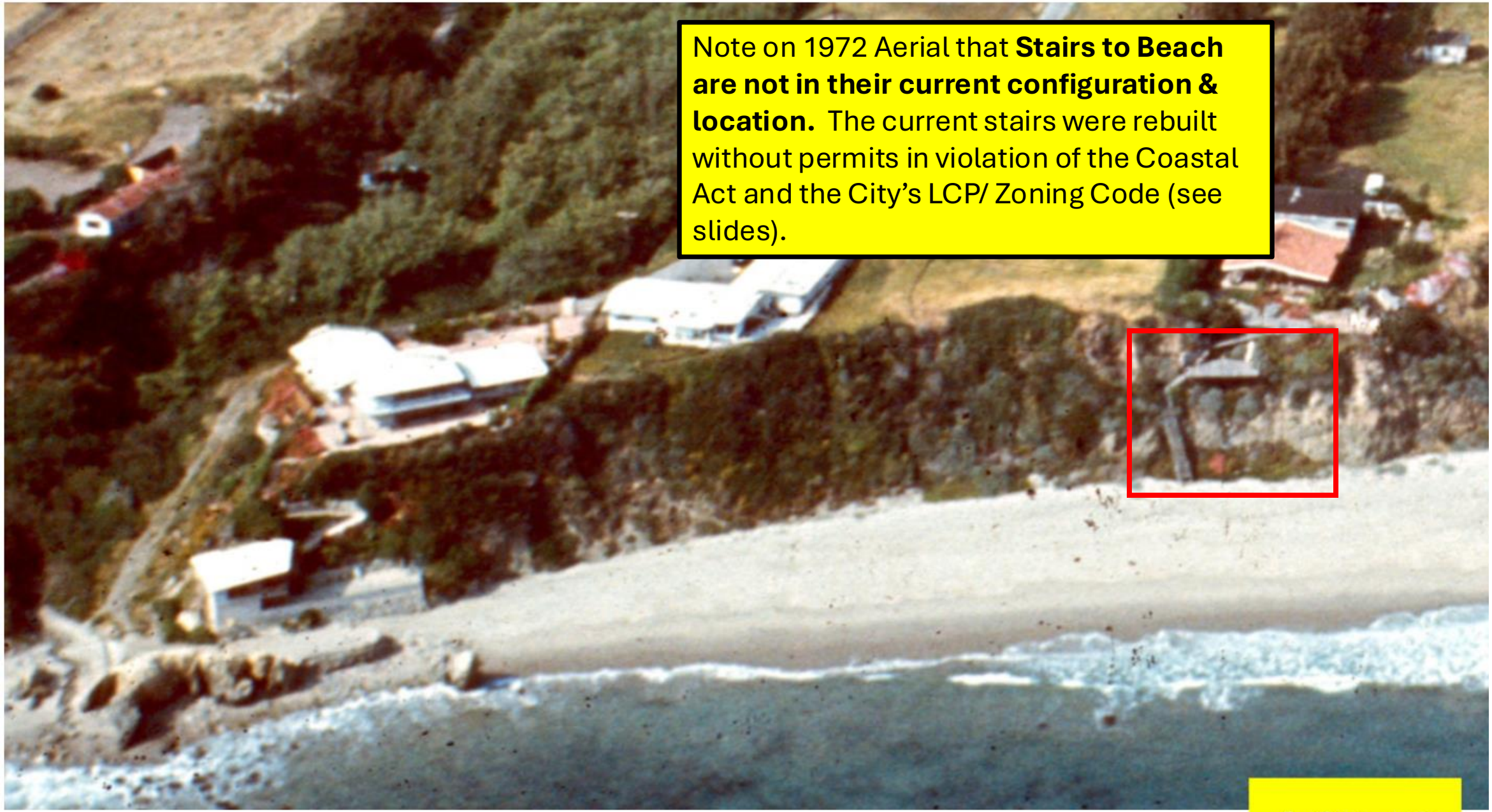
The numerous allegations made by Mr. Andersen regarding cultural resource impacts, violations by the applicant, lack both evidentiary support and any credibility. Mr. Andersen has hired and paid attorneys and other consultants to support his baseless allegations. These consultants have not provided any reports, written evidence, physical evidence, or other credible information in support of their exceptional claims. In fact, these claims have been conclusively disproven by the applicant's archeologist in an extended Phase I archeology report as well as by the applicant's biologist with respect to ESHA setback claims.

It is important to note that the applicant has the support of all his neighbors except for the two immediately adjacent neighbors who stand to have their views impaired (Mr. Andersen and the Mackeys).

The applicant asks that the Commission please consider the testimony of Mr. Andersen and his attorneys in the context of his own actions and complete lack of credibility.

Sincerely,
Schmitz & Associates, Inc.

Donald W. Schmitz, II, AICP
President


Note on 1972 Aerial that **Stairs to Beach are not in their current configuration & location.** The current stairs were rebuilt without permits in violation of the Coastal Act and the City's LCP/ Zoning Code (see slides).
1972



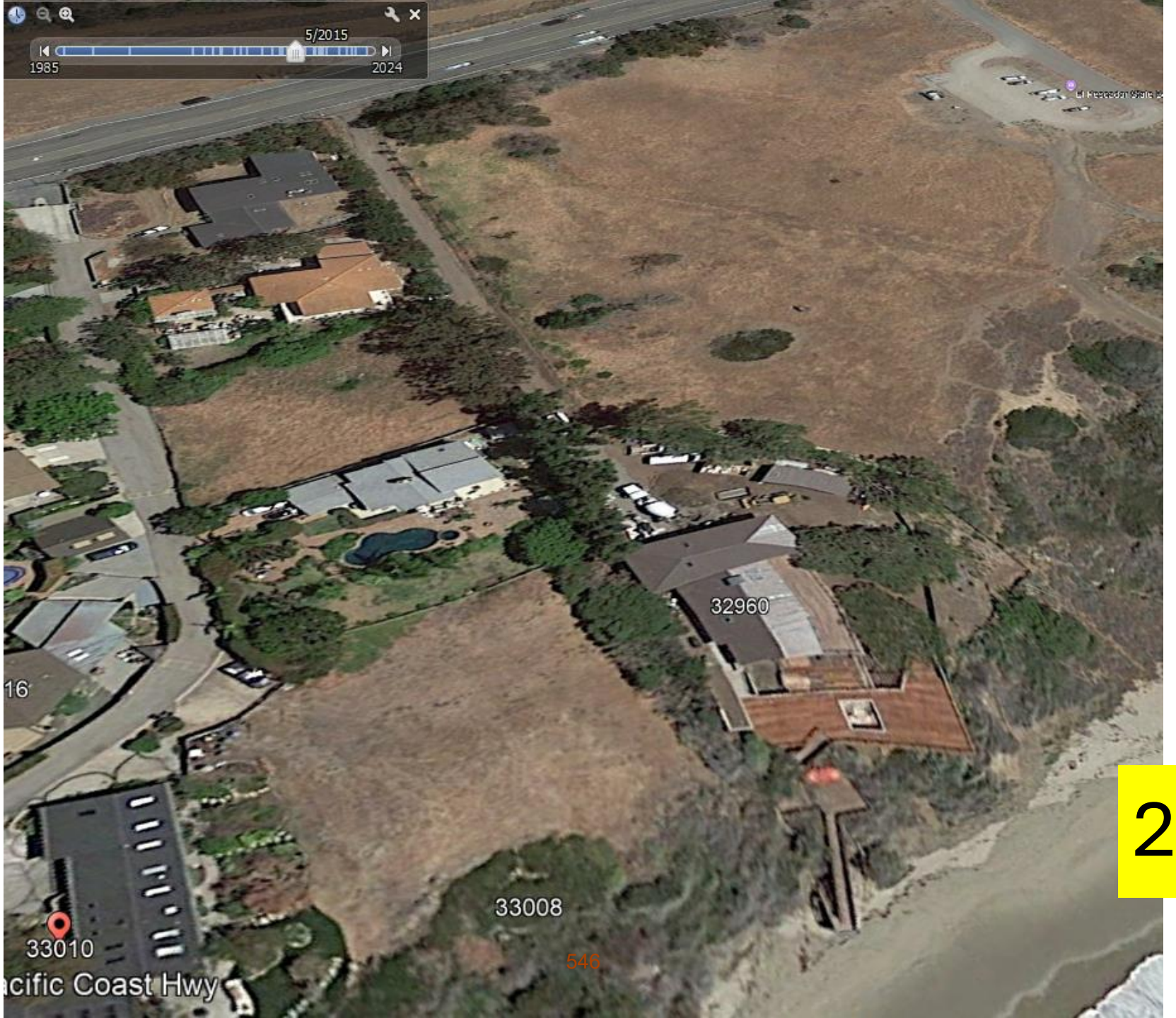
2002


7/2008
El Pescador State Beach
33016
33008
33010
33010 Pacific Coast Hwy
Image LAR-IAC
2008


4/2011
1985
2024
El Pescador State Beach
33016
33008
33010
33010 Pacific Coast Hwy
543
2011


12/2013
El Pescador State Beach
33016
33010
33008
33010 Pacific Coast Hwy
544
2013


8/2014
32960
33008
33010
545
2014



2015


2/2016
32960
33008
33010
547
2016



2018


11/2018
33020
33018
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32960
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33010 Pacific Coast Hwy
33008
549
2018


1/2019
32960
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33010
fic Coast Hwy
550
2019

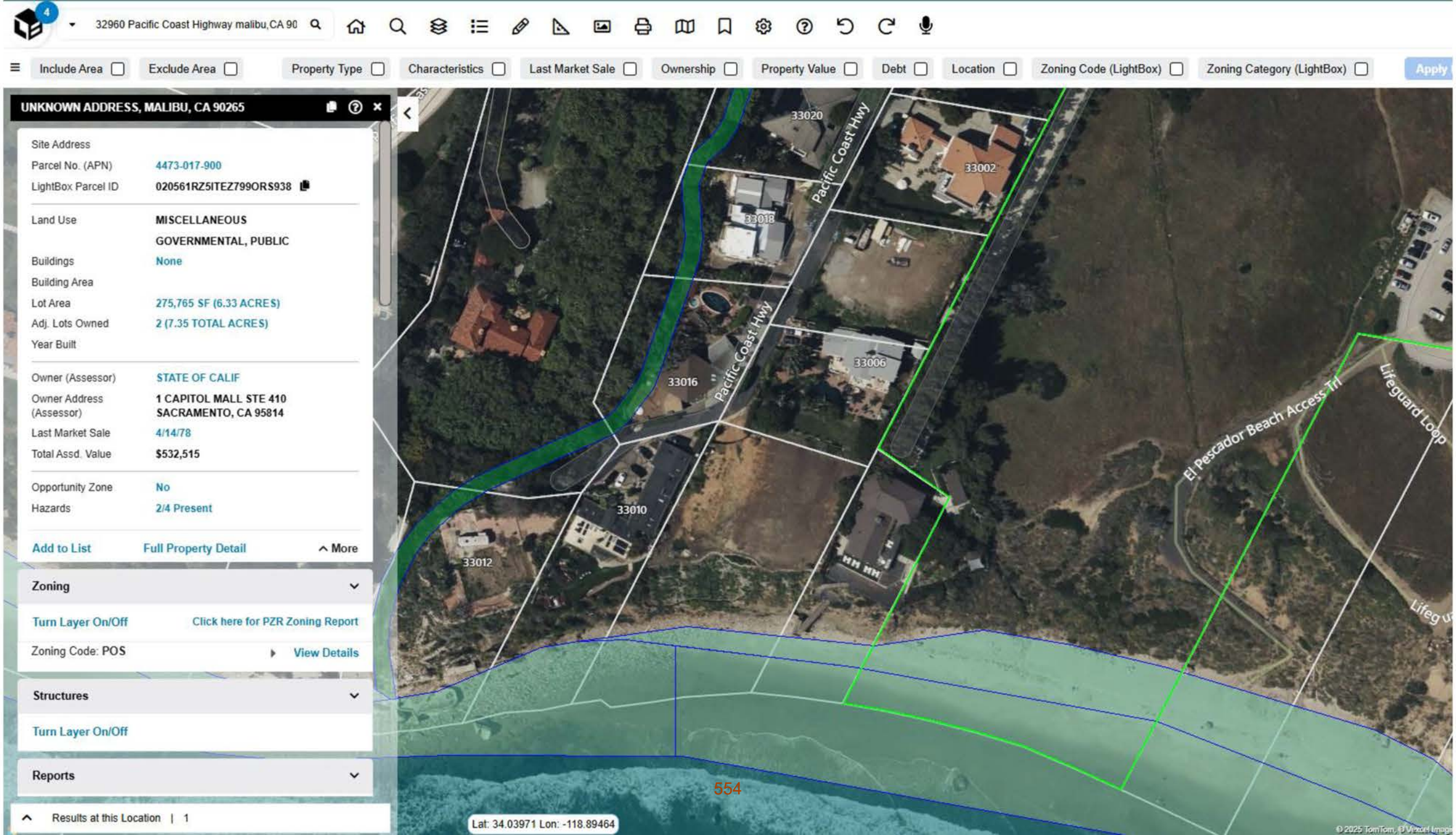


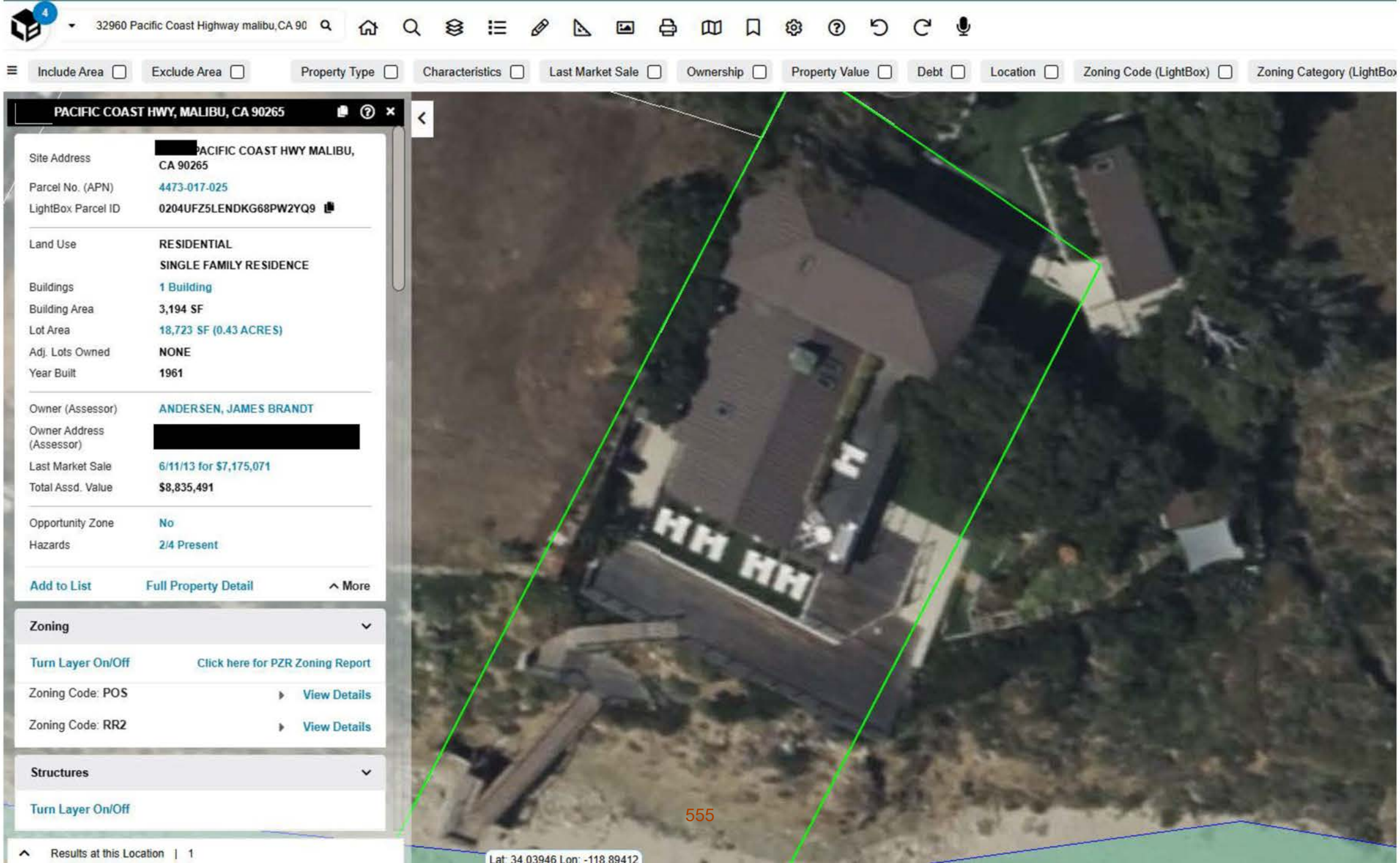
2019



2021


4/2023
32960
33008
3010
ic Coast Hwy
553
2023


32960 Pacific Coast Highway malibu,CA 90
Include Area
Exclude Area
Property Type
Characteristics
Last Market Sale
Ownership
Property Value
Debt
Location
Zoning Code (LightBox)
Zoning Category (LightBox)
Apply
UNKNOWN ADDRESS, MALIBU, CA 90265
Site Address
Parcel No. (APN) 4473-017-900
LightBox Parcel ID 020561RZ5ITEZ799ORS938
Land Use MISCELLANEOUS
GOVERNMENTAL, PUBLIC
Buildings None
Building Area
Lot Area 275,765 SF (6.33 ACRES)
Adj. Lots Owned 2 (7.35 TOTAL ACRES)
Year Built
Owner (Assessor) STATE OF CALIF
Owner Address (Assessor) 1 CAPITOL MALL STE 410
SACRAMENTO, CA 95814
Last Market Sale 4/14/78
Total Assd. Value $532,515
Opportunity Zone No
Hazards 2/4 Present
Add to List
Full Property Detail
More
Zoning
Turn Layer On/Off
Click here for PZR Zoning Report
Zoning Code: POS
View Details
Structures
Turn Layer On/Off
Reports
Results at this Location | 1
33020
Pacific Coast Hwy
33002
33018
33016
33006
33010
33012
El Pescador Beach Access Trl
Lifeguard Loop
554
Lat: 34.03971 Lon: -118.89464


32960 Pacific Coast Highway malibu,CA 90
Include Area
Exclude Area
Property Type
Characteristics
Last Market Sale
Ownership
Property Value
Debt
Location
Zoning Code (LightBox)
Zoning Category (LightBox
PACIFIC COAST HWY, MALIBU, CA 90265
Site Address
[redacted]PACIFIC COAST HWY MALIBU, CA 90265
Parcel No. (APN)
4473-017-025
LightBox Parcel ID
0204UFZ5LENDKG68PW2YQ9
Land Use
RESIDENTIAL
SINGLE FAMILY RESIDENCE
Buildings
1 Building
Building Area
3,194 SF
Lot Area
18,723 SF (0.43 ACRES)
Adj. Lots Owned
NONE
Year Built
1961
Owner (Assessor)
ANDERSEN, JAMES BRANDT
Owner Address (Assessor)
[redacted]
Last Market Sale
6/11/13 for $7,175,071
Total Assd. Value
$8,835,491
Opportunity Zone
No
Hazards
2/4 Present
Add to List
Full Property Detail
More
Zoning
Turn Layer On/Off
Click here for PZR Zoning Report
Zoning Code: POS
View Details
Zoning Code: RR2
View Details
Structures
Turn Layer On/Off
Results at this Location | 1
Lat: 34.03946 Lon: -118.89412



[redacted] **PCH** Property Line

Unpermitted Exterior Deck – **Open Code Violation**

Unpermitted Stairs to Beach with Concrete Pad and Enclosure, Likely Located <u>on State Owned Tidelands –</u> **<u>Open Code Violation</u>**

Unpermitted Olive Trees, Access Gate and other development both in and outside of access easement – **on State Park Property**

Unpermitted Guest House on **State Park Property – Open Code Violation**

Unpermitted Accessory Structure **(on Coastal Bluff & State Park Property)**

Possible Unpermitted Drainage Diversion from Driveway to Beach **(on Coastal Bluff & Across State Park Property)**

Unpermitted Walkways, hardscaping, patios, and Landscaping **(<u>on Coastal Bluff & State Park land</u>)**

City of Malibu

23825 Stuart Ranch Rd., Malibu, California 90265-4804
(310) 456-2489 fax (310) 456-7650

March 27, 2015

FIRST CLASS MAIL

St. Katherine Private Trust LLC
23838 Pacific Coast Hwy #2872
Malibu, CA 90265-1463

NOTICE OF VIOLATION

Re: [redacted] Pacifc Coast Hwy, Malibu (APN 4473-017-025) – Unapproved and Unpermitted Deck and retaining wall on the Bluff.

Dear Property Owner:

This letter serves to inform you that the City of Malibu has an open code enforcement case regarding unapproved construction for the property referenced above.

On March 30, 2015 City of Malibu staff conducted a inspection of the property and verified the un-permitted construction did in fact take place. A search of City records by staff indicates that no approvals and/or permits for this construction have been issued by the City of Malibu. A Stop Work Order was issued.

Please be advised that development and/or construction without approvals and/or permits is a violation of **Malibu Municipal Code Chapter 15.04 and Malibu Municipal Code Section 17.04.030, and as such may be prosecuted as a misdemeanor.** In an effort to correct the violation(s) you are directed to submit an application to the City's Planning and Building Safety Departments obtaining all necessary permits to bring the property into compliance with state and local laws. Failure to complete this directive and contact me within fourteen (10) days or by **Arpil 10, 2015**, may result in further enforcement action.

In addition, a Notice of Intent to Record a Notice of Violation is attached. This Notice of Intent gives you the required 45 days Notice that the City of Malibu will file a Notice of Violation against title to your property with respect to the Building and/or Municipal Code violations that exist on your property. **Please take notice that recordation of a Notice of Violation can affect title to your property and may prevent or interfere with your ability to sell or refinance this property.** Once the Notice of Violation has been recorded, it will be released upon correction of the violations, payment of administrative fees, and payment of a $16 filing fee.

Owner: [redacted]

NOTICE IS HEREBY GIVEN THAT THE FOLLOWING VIOLATION(OF THE MALIBU MUNICIPAL CODE HAVE BEEN IDENTIFIED ON THE REFERENCED PROPERTY.

☒ **STOP ALL WORK!** (BUILDING CODE SECTION 10

☒ **PERMITS REQUIRED**
Malibu Building Code Section 106.1, 106.4.1
☒ Building ☐ Plumbing ☐ Electrical
☐ Mechanical ☐ Grading

☐ Malibu Building Code Chapter 99
SUBSTANDARD BUILDING /CONDITIONS/PROPERT

☐ Malibu Plumbing Code Section 303.0
DISPOSAL OF LIQUID WASTE

☒ Malibu Zoning Code Section 17.62.020
DEVELOPMENT WITHOUT PERMITS OR APPROVAL

WORKING ON BLUFF
~~RE~~ RETAINING WALL

CODE OFFICER

CALL DOUG
310-456-2489




559
03/30/2015 15:21


03/30/2015 15:36


561
03/30/2015 15:36

Received
2/17/26
Planning Div.

From: ronald jenny
To: Didier Murillo; Tyler Eaton; malibu planning; Planning Commission
Cc: Don Schmitz; Chris Deleau; Jane Jenny; Scott Hoeft; Munaim AK
Subject: Re: In response to Tammy Mackey"s letter to the planning commission
Date: Friday, February 13, 2026 6:00:29 PM

Ron Jenny
[redacted]

Dear Planning Commission, I hope this finds you well. I realized I originally sent my letter to the wrong address. My apologies for the mix-up. I'm forwarding it here to ensure it reaches you properly. Thank you for your understanding

On Feb 14, 2026, at 1:52 PM, Ronald Jenny [redacted] wrote:

Dear Members of the Planning Commission,

My name is Ronald Jenny, and I am writing on behalf of my wife Jane and myself in response to Tammy Mackey's recent letter concerning fire access on our shared 10-property easement.

First and foremost, our intent is simple and heartfelt: to improve safety for everyone who uses this easement. To that end, we are voluntarily funding and installing a fire department turnaround on our property at our own expense. We believe this improvement will provide clearer, safer access for emergency vehicles and reduce the very real risk of blocked access or vehicles getting stuck.

During the 2018 Woolsey Fire, Mark Mackey observed that the fire department likely did not proceed down the driveway because there was no turnaround. Had such a turnaround existed then, it is likely the fire crews could have accessed the easement more easily and may have prevented the tragic loss of two homes on our road. For the safety of our community, we feel strongly that preventing a repeat of that outcome is paramount.

CC: Planning Commission, PD,

Recording Secretary, File

Date Received 2/17/26 Time 7:30 a.m.
Planning Commission meeting of 2/17/26
Agenda Item No. 5A
563 Total No. of Pages 2

We have sought and received support letters from the neighbors who currently live on the easement; regrettably, the Mackeys are the only household that has not joined in support. While Tammy Mackey indicated the proposed turnaround will not help our neighborhood, our neighbors and we believe this practical measure will improve emergency access and reduce risk for all.

Jane and I have lived in Malibu for more than 50 years. We love this community and wish to remain here peacefully and safely for the rest of our lives. Our decision to build a more accessible home is driven by that desire and by our commitment to contributing to the safety and well-being of our neighbors.

We respectfully ask the Commission to consider this safety improvement favorably. Thank you for your time and for your dedication to protecting our community.

Sincerely, Ronald and Jane Jenny

OPPOSITION TO CDP NO. 23-034 AND MM NO. 25-009

Marco Ornelas Lopez, attorney for Mark and Tamara Mackey, Unknowingly Devolving, LLC
Elkins Kalt Weintraub Reuben Gartside, LLP

THE PROJECT MUST UNDERGO ENVIRONMENTAL REVIEW

THE PROJECT CIRCUMVENTS ENVIRONMENTAL REVIEW

The City's reliance on environmental review exemption fails for **two independent reasons**:

1) The CEQA Class 3 Exemption does not apply.

2) The Local Coastal Program (LCP) independently requires CEQA review.

Resolution No. 26-10

SECTION 2. Environmental Review.

Pursuant to the authority and criteria contained in the California Environmental Quality Act (CEQA), the Planning Commission has analyzed the proposed project. The Planning Commission found that this project is listed among the classes of projects that have been determined not to have a significant adverse effect on the environment. Therefore, the project is categorically exempt from the provisions of CEQA pursuant to Sections 15303(a) and (e) – New Construction. The Planning Commission has further determined that none of the six exceptions to the use of a categorical exemption apply to this project (CEQA Guidelines Section 15300.2).

CULTURAL RESOURCES EXIST ON SITE

- **November 3, 2025, Staff Report:**
  - "Subsistence shell and stone tools" discovered.
- **City Archaeology Review Sheet:**
  - "Potential cultural resources are located on the project site."
- **City required:**
  - Archaeological monitoring.
  - Subsurface testing.
  - Expanded Phase I.

March 20, 2023, prepared by Matthew A. Boxt Ph.D., Consulting Archaeologist for Blufftop 1, LLC for the subject site at 33008 Pacific Coast Highway (APN 4473-017-009). The study indicates that potential cultural resources are located on the project site.

To mitigate potential impacts on unknown archaeological resources to a level of insignificance, Blufftop 1, LLC will implement the following mitigation measures:

1. **Prior to beginning any ground-disturbing activities, all involved construction personnel will be informed about the potential for discovery of archaeological resources and/or human remains, and the appropriate measures to be taken should such resources be uncovered.**

EXPERT EVIDENCE OF SIGNIFICANT IMPACT

Dr. Chester King (former City archaeologist):

Project expected to cause "substantial damage."

Chumash Elder David P. Dominguez:

Project will cause "extreme damage."

SIGNIFICANCE OF EXPERT OPINION

Finding that expert testimony indicated that there would be a significant impact upon views and even though this was contradicted expert testimony, city was required to prepare EIR.
Quail Botanical Gardens Foundation, Inc. v. City of Encinitas (1994) 29 Cal.App.4th 1597, 1607

"Where such expert opinions clash, an EIR should be done."
Pocket Protectors v. City of Sacramento (2004) 124 Cal.App.4th 903, 928

CEQA Guidelines § 15064(f)(5):

Expert opinion supported by facts = substantial evidence.

When experts disagree, CEQA requires an EIR.

HOTBED OF CULTURAL RESOURCES

- Neighbor to the east has found cultural resources near Project site
- Property upslope contains cultural resources, including human remains

"Statements of area residents who are not environmental experts may qualify as substantial evidence if they are based on relevant personal observations or involve 'nontechnical' issues." *Bowman v. City of Berkeley* (2004) 122 Cal.App.4th 572, 583

RESOLUTION NO. 26-10 INCLUDES MITIGATION MEASURES

CONDITIONS OF APPROVAL NO. 12-17 REQUIRE:

- Applicant to secure a contract with a qualified archaeologist and train all staff on discovery protocols before any earthmoving begins.
- An archaeologist must oversee all ground disturbances until cleared and submit a final compliance report upon completion.
- If artifacts or remains are found, stop work immediately for expert evaluation and mandatory notification of authorities.

CEQA

Why does that matter?

The project relies on a Class 3 "categorical exemption" from CEQA.

But you cannot use project-related mitigation measures to eliminate potential impacts and obtain a categorical exemption.

Yet that's what the City does here.

> **"An agency may not evade CEQA by adopting mitigation measures simply to qualify a project for a categorical exemption."** *Sunflower Alliance v. Department of Conservation* (2024) 105 Cal.App.5th 771, 789.

> **"Mitigation measures may support a negative declaration but not a categorical exemption."** *Salmon Protection & Watershed Network v. County of Marin* (2004) 125 Cal.App.4th 1098, 1102.

UNUSUAL CIRCUMSTANCES EXCEPTION

Under CEQA Guidelines § 15300.2(c):

- A categorical exemption cannot apply where:
  - There is a *reasonable possibility* of significant effect due to *unusual circumstances*.

THIS PROJECT IS UNUSUAL

Unlike typical Class 3 homes:

- Located in a sacred Chumash area.
- Tribal artifacts already identified.
- Requires 2,958 cubic yards of grading.
- Requires a 37% front yard setback reduction.

Total Grading Yardage Verification Certificate

	Exempt			Non-Exempt	Remedial	Total
	R&R	Understructure	Safety			
Cut	1184.2 CU. YD.	366.4 CU.YD.	0.3 CU.YD.	97.1 CU.YD.	0 CU.YD.	1648 CU.YD.
Fill	1184.2 CU. YD.	0.1 CU.YD.	70.1 CU.YD.	56.2 CU.YD.	0 CU.YD.	1310.6 CU.YD.
Total	2368.4 CU. YD.	366.5 CU.YD.	70.4 CU.YD.	153.3 CU.YD.	0 CU.YD.	2958.6 CU.YD.
Import			69.8 CU.YD.			
Export		366.3 CU.YD.		40.9 CU.YD.		337.4 CU.YD.

REASONABLE POSSIBILITY OF SIGNIFICANT IMPACT

- **Excavation removes 2–3 feet of soil.**
- **Utility trenches and septic excavation.**
- **Cultural resources lie at or near surface.**
- **Expert evidence confirms risk of burial disturbance.**

THE LCP INDEPENDENTLY REQUIRES ENVIRONMENTAL REVIEW

Local Coastal Program (LIP § 11.5(F)):

F. If on the basis of the Phase I Inventory described above, one or more significant cultural resources is found, a Phase I Inventory may be required to include:

1. An evaluation of limited shovel test pits to determine whether a subsurface deposit is present and a negative declaration shall be prepared;
2. Recommendations for Phase II. Evaluations and a negative declaration, mitigated negative declaration, focused environmental impact report or an environmental impact report shall be prepared; or
3. Monitoring programs pursuant to Section **11.3** (F)(4)(b) of the Malibu LIP and a mitigated negative declaration shall be prepared.

***Shall* is mandatory**

THE EXACT LCP TRIGGER OCCURRED

Here:

- Phase I identified cultural resources.
- City required extended Phase I.
- Subsurface testing performed.
- Monitoring imposed.
- Mitigation imposed.

The LCP directive was triggered.

CODE VIOLATIONS

The Applicant has performed unpermitted development. Applicant admits:

"The subject property has received a Notice of Violation (NOV) on November 28th, 2022 for an unpermitted fence and gate with electrical power, landscape and drainage, and DG on Chumash designated land."

(Letter to City, May 12, 2023.)

Code Violation No. 23-047



RECORD OF UNPERMITTED WORK

The Staff Report acknowledges unpermitted development of the bluff; the approval does nothing to directly resolve the violations.

Staff Response: Following the Woolsey Fire, much of the vegetation on the property burned. The loss of vegetation covering the property from the fire resulted in conditions making the bluff susceptible to erosion. The owner sought to protect their property and prevent erosion. Prior to installing erosion control measures, the owner inquired with the City to verify if permits were needed to implement the erosion control measures. In consultation with the Building Safety Division, the Public Works Department advised the owner that temporary erosion control measures could be placed on the property to prevent further erosion. Temporary measures installed included sandbags, jute netting, straw waddles and silt fencing oriented in a manner to protect the bluff. The owner has also confirmed that the trees in reference existed prior to the fire and were not replanted. Staff reviewed historical aerial photographs from several sources but was unable to confirm the origins of these trees.

(February 17, 2026 Staff Report: Page 4)

CONCLUSION

The project is not exempt from environmental review.

This project violates substantive safeguards in the LIP.

This is a property with a history of code violations, including new violations not considered by this application.

This Commission should not reward this applicant or this project with a CDP or minor modification.

QUESTIONS?

Received
2/17/26
Planning Div.

From: Leticia Aloi
To: Planning Commission
Cc: [redacted]
Subject: Item 4A and 5A Planning commission
Date: Tuesday, February 17, 2026 8:35:05 AM

- **25200 Pacific Coast Highway**

  Honorable Chair and Members of the Planning Commission,

  We respectfully oppose the proposed development at 25200 Pacific Coast Highway due to unresolved geologic risks and permanent scenic impacts.

  The property lies within a mapped landslide hazard area and the Malibu Road Landslide Assessment District. The record reflects that stabilization elements relied upon have been altered, and the applicant's own calculations show the required 1.5 factor of safety is not met without extraordinary structural measures.

  Under these conditions, a variance is required before any discretionary approval. It has not been applied for.

  There is also documented evidence of water-related slope instability in this area. Water is a primary landslide trigger, and the proposed irrigation plan introduces additional unknown loading into an already unstable slope. Slope failure would affect not only this parcel, but downslope homes, Malibu Road, and Pacific Coast Highway.

  In addition, Pacific Coast Highway is a designated scenic corridor. The scale of this project and proposed lot merger would permanently block iconic public views toward Paradise Cove, Point Dume, Catalina Island, Palos Verdes, and the open Pacific horizon. Once blocked, these views are lost forever.

  Because the required findings cannot be made and a variance has not been secured, this project should not proceed.

  Separately, Item 5A at 33008 PCH should not move forward until the potential burial site is properly evaluated and confirmed by the Chumash Tribe's designated cultural resource manager.

  Malibu's safety, heritage, and coastline deserve careful protection.

  Respectfully,
  Leticia Aloi
  Lived in Malibu 26__ years

CC: Planning Commission, PD,

Recording Secretary, File

Date Received 2/17/26 Time 8:35 a.m.
Planning Commission meeting of 2/17/26
Agenda Item No. 5A
Total No. of Pages 1

From: Tammy Mackey
To: Raneika Brooks
Subject: Property at 33008 PCH
Date: Thursday, August 28, 2025 10:32:17 AM
Attachments: IMG_0308.mp4
IMG_0307.mp4

Hello,

May name is Tammy Mackey, I
Live at [redacted] Pacific Coast Hwy, Malibu, CA 90265. Story pools went up in front of my house literally deviating our view. I am sending photos and video in two separate emails due to size.
Please advise what I can do about this. I thought I had upstairs view protection also.
I appreciate your input and help .

Thank you,
Tammy Mackey









CALIFORNIA COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT OFFICE
89 SOUTH CALIFORNIA STREET, SUITE 200
VENTURA, CA 93001-2801
VOICE (805) 585-1800

October 3, 2025

City of Malibu
Attn: Raneika Brooks, Principal Planner
Yolanda Bundy, Community Development Director
23825 Stuart Ranch Road
Malibu, CA 90265-4861

Dear Ms. Brooks and Ms. Bundy,

We have reviewed the staff reports for the coastal development permits that will be considered by the City of Malibu Planning Commission on October 6, 2025 and would like to offer the following comment regarding the following project:

Coastal Development Permit No. 23-034 (33008 Pacific Coast Highway, Bluff Top 1 LLC)

The subject permit application includes the construction of a new two-story, 18-foot high, 4,856 square foot single family residence, 791 square foot attached garage, 824 square foot second-story unit, landscaping, hardscape, grading, fire department turnaround, vehicular access gate, and onsite wastewater treatment system at 33008 Pacific Coast Highway.

Malibu Land Use Plan (LUP) Policy 4.27 and Local Implementation Plan (LIP) Section 10.4(D) require that new development on a blufftop be set back from the bluff edge at a sufficient distance to ensure that it will not be endangered or threatened by erosion or slope instability for a projected 100-year economic life of the structure, and in no case be less than 100 feet. A reduced setback of no less than 50 feet may be implemented only if one of the bluff stability criteria set forth in Section 10.4(D)(1) or (2) can be met with a setback that is less than 100 feet but no less than 50 feet.

In the case of the subject CDP, the City's staff report states that the proposed development will provide a 50 foot bluff setback. However, staff report findings do not include details or analysis to demonstrate that the site meets the requirements of LIP Section 10.4(D) for reducing the bluff edge setback from 100 feet to 50 feet based on site-specific evidence regarding the factor of safety and bluff retreat rate. Because the findings do not address the site-specific evidence, it is not clear if the project is consistent with the requirements of LUP Policy 4.27 and LIP Section 10.4. Further, it is unclear whether the effects of sea level rise were adequately considered in the bluff retreat analysis for the project based on the limited information in the City's staff report. With sea level rise, waves would be expected to strike the bluff toe more frequently and with greater force, driving increased rates of bluff erosion above those observed historically. In particular, if wave attack more frequently reaches the marine terrace deposits above the lower bedrock layer, bluff erosion and retreat could accelerate significantly.

To ensure consistency with the relevant policies and provisions of the LCP, we recommend that the City include a more detailed discussion of the site-specific analysis required by the LCP for a reduction in the 100-foot bluff setback standard in the subject staff report findings. Our comment letter of May 23, 2019, regarding site-specific analysis required by the LCP for any reductions in the 100 foot bluff setback standard in the staff report findings for blufftop projects is also attached.

Thank you for your consideration of our comments. Please feel free to contact me if you have questions.

Sincerely,



Gabriella Gough
Coastal Program Analyst

Received
10/20/25
Planning Div.

October 1, 2025

Malibu Planning Commission
City of Malibu
23825 Stuart Ranch Road
Malibu, CA 90265-4861
Attn: Rebecca Evans, Recording Secretary

Members of the Planning Commission:

To Whom It May Concern,

I am writing as a neighbor residing at [redacted] **Pacific Coast Highway** to express my support for the proposed 4189 square foot single-family residence at **33008 Pacific Coast Highway**, known as the **Jenny Residence**.

The owner, Mr. Jenny, has thoughtfully coordinated the siting of the home to preserve views of the ocean from the street and to ensure that second-floor views—while not protected—remain largely unobstructed. This consideration reflects a genuine effort to maintain the scenic character of our neighborhood and thoughtfully adheres to the height and size restrictions applicable to the parcel.

Additionally, Mr. Jenny has committed to minimizing construction-related disruptions to our lane. As a nearby resident, I appreciate this proactive approach and the respect shown toward the surrounding community.

I believe this project will be a positive addition to our neighborhood and encourage its approval.

Sincerely,

Ayahlushim Getachew

CC: Planning Commission, PD,

Recording Secretary, File

Date Received 10/20/25 Time 7:41 a.m.
Planning Commission meeting of 10/20/25
Agenda Item No. 5A
Total No. of Pages 1

Received
10/16/25
Planning Div.

October 4, 2025

Dear Planning Commission,

I am pleased to support my neighbor's plans to build
a modest, compliant home in our community here in Malibu.

As I understand, the plans respect all height and size guidelines
and is intended to contribute positively to our community.

I have known the owners for many years and trust their integrity
to follow all necessary guidelines. I trust the construction will be carried out responsibly,
maintaining the neighborhood's peace, harmony and environmental concerns and
responsibilities.

Please consider this letter as my encouragement for your approval.

Warm regards,



Christina Stevens

Christina L Stevens. [redacted] Pacific Coast Highway Malibu . California 90265 USA
[redacted]

CC: Planning Commission, PD,

Recording Secretary, File

Date Received 10/16/25 Time 8:42 a.m.
Planning Commission meeting of 10/20/25
Agenda Item No. 5A
Total No. of Pages 1

Received
10/15/25
Planning Div.

From: Gregory Hyland [redacted]

Subject: Re: Letter and plans

Date: October 6, 2025 at 3:27:38 PM PDT

To: Ronald Jenny [redacted]

Dear Planning Department,

I support my neighbor's application to build a small, compliant residence in Malibu. The design respects all height and size regulations, and the homeowners have been respectful of the neighborhood's character. I am confident that this development will be a positive addition and will not cause any disruption. Thank you for considering my support.

Best regards, Denise Melle [redacted] Pacific Coast HWY. Malibu CA. 90265 [redacted]

CC: Planning Commission, PD,

Recording Secretary, File

Date Received 10/15/25 Time 11:10 a.m.
Planning Commission meeting of 10/20/25
Agenda Item No. 5A
Total No. of Pages 1

To Members of the Planning Commission,

Received
10/13/25
Planning Div.

I am pleased to offer my support for the Jennys' proposal to construct a single-bedroom residence with a care-quarters on their property in Malibu. I have known the Jennys for many years, having seen them contribute positively to our community for over five decades. They raised their four children here and have deep ties to the area.

They purchased this land about four years ago and have shared that this will be their final residence. Their plan is modest, designed to meet all regulatory requirements, and intended to blend well with the surrounding neighborhood.

As longstanding Malibu residents, I believe they have earned the right to develop their property in a way that supports their comfort and aging needs. I support their application and am confident it will be a good addition to the neighborhood.

Thank you for your consideration.

Sincerely,

Doug Weitman

Doug Weitman
[redacted] Serra Road
Malibu, CA 90265

CC: Planning Commission, PD,

Recording Secretary, File

Date Received 10/13/25 Time 1:39 PM
Planning Commission meeting of 10/20/25
Agenda Item No. 5A
Total No. of Pages 1

Received
10/14/25
Planning Div.

Dear Members of the Planning Commission,

We are pleased to endorse the Jennys' application to develop a single-bedroom residence with care quarters on their Malibu property. Having known them for many years, I can attest to their positive influence in our community. They have been lifelong residents, raising their children locally and contributing to the neighborhood's charm.

They purchased this land approximately four years ago, and I understand this project is their final residence. The plan is modest, complies with all regulations, and carefully aligns with the neighborhood's character.

Given their long-standing ties to Malibu and their commitment to responsible development, I support this proposal and believe it will benefit their family and the community.

Thank you for your consideration.

Warm regards,
Gary & Cathie Wonnacott

Cathie Wonnacott 10-7-25

[redacted] Ballard Rd. Malibu Ca. 90265

CC: Planning Commission, PD,

Recording Secretary, File

Date Received 10/14/25 Time 1:17 p.m.
Planning Commission meeting of 10/20/25
Agenda Item No. 5A
595 Total No. of Pages 1

Received
10/20/25
Planning Div.

From: Jerry Jacob [redacted]

Subject: Corrected letter, added our address

Date: October 17, 2025 at 1:41:24 PM PDT

To: Ron Jenny [redacted]

Dear Planning Commission,

We are neighbors of the Jenny's on Encinal Bluff. I'm writing this to express my support for their proposed construction of a small, two-bedroom house with an office. As a fellow resident of Malibu, I appreciate their long-standing commitment to our community. We have been residents of Malibu for many years, and I've known the Jennys for a significant portion of that time.

From what I have observed, their plans are carefully designed to adhere to all height and size regulations. I am confident that this development will blend seamlessly into our neighborhood, contributing positively without compromising the neighborhood's character or tranquility.

My wife and I fully support the Jenny's project and encourage the commission to approve it.

Thank you for your thoughtful review.

Sincerely,

Jerry and Lynn Jacob

[redacted] Pacific Coast Hwy

Malibu

CC: Planning Commission, PD,

Recording Secretary, File

Date Received 10/20/25 Time 7:41 a.m.
Planning Commission meeting of 10/20/25
Agenda Item No. 5A
Total No. of Pages 1

Received
12/16/25
Planning Div.

To: Didier Murillo
Principal Planner
Community Development Department.
City of Malibu
23825 Stuart Ranch Road
Malibu, CA 90265

Dear Mr. Murillo, I am writing to you asking for your help in helping correct a misquote attributed to me, which was included in a letter that was recently sent to the City of Malibu Planning department by David Paul Dominguez, regarding an application for a building permit at 33008 Pacific Coast Highway.

The background is this: On December 8th 2025, I received a call from Mr. Dominguez. He wanted to know if I had any knowledge of coastal sites in the City of Malibu. I was under the impression that he asked because he was going to do some cultural monitoring there.

I told him that yes I do have knowledge of the Malibu area. I have worked in Malibu many times as a cultural resources consultant, the last time as part of the Woolsey Fire Cleanup project. I am the founder and former Chair of the Barbareno Ventureno Band of Mission Indians. I have 40 years of experience in all aspects of my Chumash cultural heritage including Cultural Resource Management. Even more to the point, it is well documented that my family has direct descendancy from the Chumash villages of Humaliwo and Zumo (Dume Pt.).

In response to David's question I provided him some general information about a site I'm familiar with based on my work in the Malibu region. My point by referencing it was simply to reinforce the notion that Malibu is a culturally sensitive area. The site that I was telling David about is 10 miles west from the 33008 property, not at all related to 33008. I had never been on the site at 33008 and never made any representation to David that I had been.

As we continued to talk, I realized that his focus was the property at 33008, and learned that it was being contested by many people and that David and Chester King, an archaeological consultant, were being paid to consult with property owners in this neighborhood and report to them and the City of Malibu.

Since then I have seen the letter that David sent the City of Malibu where he states:

> "On the same day I had personal communication Julie Tumamait, former chair of the Ventareno/Barbareno Chumash Tribe, and She further verified that there are multiple burials on the proposed project bluff area and reburials in the immediate vicinity."

This attribution is completely false. I never made any such statement about the 33008 property. He knows that I wasn't talking about that property, knows that I've never been there, never said anything about that property. Further, David totally misrepresents when our conversation took place. We spoke on December 8, not November 1.

I just want to be absolutely clear. Neither the city in its setting permitting conditions nor the property owners in their own stewardship should be relying on any statements attributed to me by Mr. Dominguez. I've asked David to correct this record, yet he has refused, so I am compelled to send this letter both to protect my own integrity and to be clear about the actual record of the 33008 property.

That all said, please also know that I am very passionately committed to protecting Chumash cultural resources. But our work must be based on honesty and reliability. Archaeology is a very specific and scientific process. There are many levels to follow, one process following the other to see the presence or absence of Cultural material. One cannot conclude that because there may be human remains on one property, that it means there are remains on other properties miles away.

Finally, on a related point, each parcel and project needs to be taken seriously and deliberately. Yet what's apparent in this situation is that both David and Chester are relying on made up claims and the disaffection of neighbors to claim evidence of Chumash cultural resources at 33008. There may be, but the City and property owner need to follow appropriate and reliable procedures to determine that.

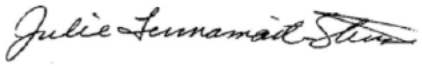
In closing I would like to add that I have been asked to be present as the Cultural Monitor for the extended Phase 1 archaeological testing. I'm honored to participate in the work to document what is actually at this property. The findings will determine what comes next. But I'd also like to note that as I write this there is road work being conducted right out on the highway. If there was real concern about the sacredness of our culture wouldn't the neighbors and others have been

equally concerned to have a Cultural Monitor there too? The neighbors are concerned about the 33008 property, but where's the concern for the roadwork?

Should you have any questions, I'm happy and eager to talk, to set the record right on my comments. Thank you.

Sincerely,

Julie Tumamait-Stenslie



Chumash Elder
Native Chumash Consulting
Services
[redacted]

33008 PCH Archaeology Concerns

Map and Table of Auger Borings from Boxt report

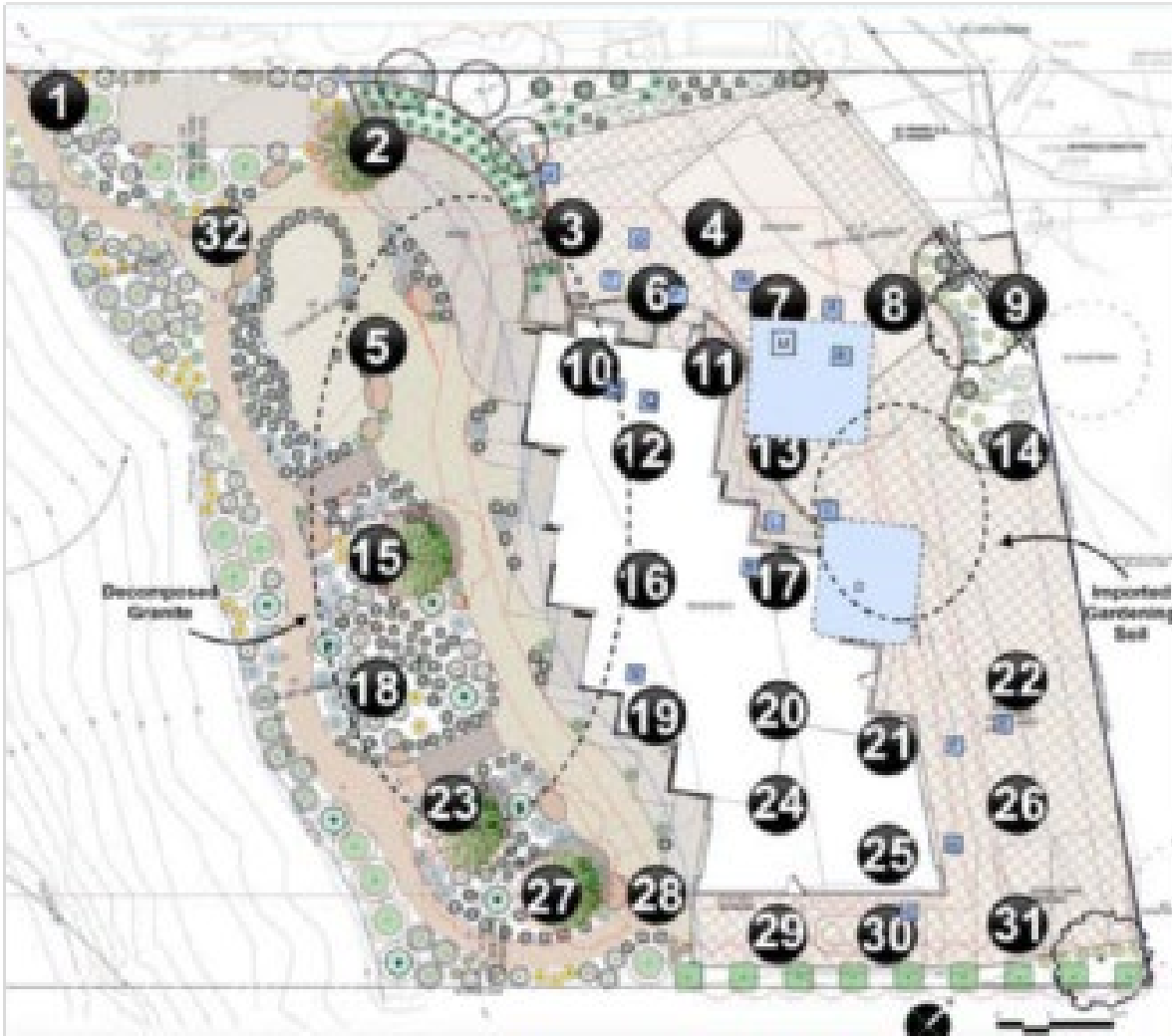
Table 2. Weight Distribution of Subsistence Shell by Auger Boring Depth (gm)

Auger No.	Level									
	1	2	3	4	5	6	7	8	9	10
1							0.5		3.9	
2	1.4	3.9	5	3.5	1.5	1.4	3	1.4	0.01	0.2
3	1.7			0.4		1.4	2	1.9		
4	1.4	1.9	3.8	9.6	3.2	1.4	2.7	4	3.9	
5				7						
6			1.1	6.5	2.3	4.3	0.9	0.1		
7	1.1	0.9		1.2	1.1	1.2		0.7		0.5
8	0.1		1.1	2.7	2.7	2.6	1.2	0.9		
9	1.2	1.9	1.4	1.1		0.1		0.7		
10	0.3	0.2		0.1	0.4	1.5			0.8	
11	0.1		1.3	2.2	4.7	2.5	2.2	0.9		
12	1.2		1.4	4.9	2.9	0.4	0.2			
13	1			2.3	0.5	0.7				
14			0.9	2.1						
15										
16		0.2	0.1	2	0.4	0.1				
17	1.3	0.5	1.3							
18				0.5		0.4				
19				0.8		0.5				
20	1.4	1.7	0.3	0.1	0.4	0.1				
21				0.2						
22	0.9									
23		0.4			0.3					
24	0.3	0.3	0.1	0.1						
25			0.3							
26	0.6	0.4	1							
27			0.6							
28										
29		0.7	0.5							
30										
31										
32										

Upper soil horizon

Total Amount of Shell Collected: 166.11 grams

601



33004 PCH Auger Sample

In 2000 Gary Stickel conducted a study at this parcel that involved excavation of 14 30 cm diameter test pits for a project at this parcel. Two fragments of a human skull were recovered in the 20-30 cm level of one of the excavations and a distal end of a human humerous was found was found in the 0-10 cm level of another excavation. The bones were interpreted as indicating the presence of burials

		Residue wt	Residue wt	Residue wt	Residue wt		
Auger 1	Sample w	2 mesh	4 mesh	8 mesh	16 mesh		
0-24	5	51.02	52.85	46.53	59.44		
24-40	3.3	121.19	35.78	25.81	41.56		
40-56	3.8	27.51	42.32	50.29	68.97		
56-66	3.2	65.59	45.78	44.22	69.71		
66-76	2.9	0	19.48	27.03	62.39		
76-88	4	10.17	20.56	37.16	81.77		
				%	%	%	%
				Residue wt	Residue wt	Residue wt	Residue wt
Auger 1	cm long	gms of soil	wt/length	2 mesh	4 mesh	8 mesh	16 mesh
0-24	24	2270	94.58	2.25	2.33	2.05	2.62
24-40	16	1498	93.64	8.09	2.39	1.72	2.77
40-56	16	1725	107.83	1.59	2.45	2.92	4.00
56-66	10	1453	145.28	4.51	3.15	3.04	4.80
66-76	10	1317	131.66	0.00	1.48	2.05	4.74
76-88	12	1816	151.33	0.56	1.13	2.05	4.50
8 mesh							
Auger 1	Mytilus	Septifer	Barnicle	Chiton	Bone	Tegula funebralis	
0-24	1.07		0.06	0.07	0.01	0.13	pc grn glass .12g
24-40	0.56						
40-56	0.18						
56-66	0.09						
66-76							
76-88			0.04				
16 mesh							
Auger 1	Mytilus	Septifer	Barnicle	Tivela?	Bone	Tegula funebralis	
0-24	2.1	0.02	0.01		0.13	0.07	*
24-40	0.67	0.01		0.01	0.05	0.01	1 chert flake .01g
40-56	0.07				0.04	0.01	
56-66	0.09						
66-76	0.05						
76-88	0.03						
	*= 1 chalcedony flake .01 g, 1 chalcedony flake .01 g, 1 piece glass .01 g						

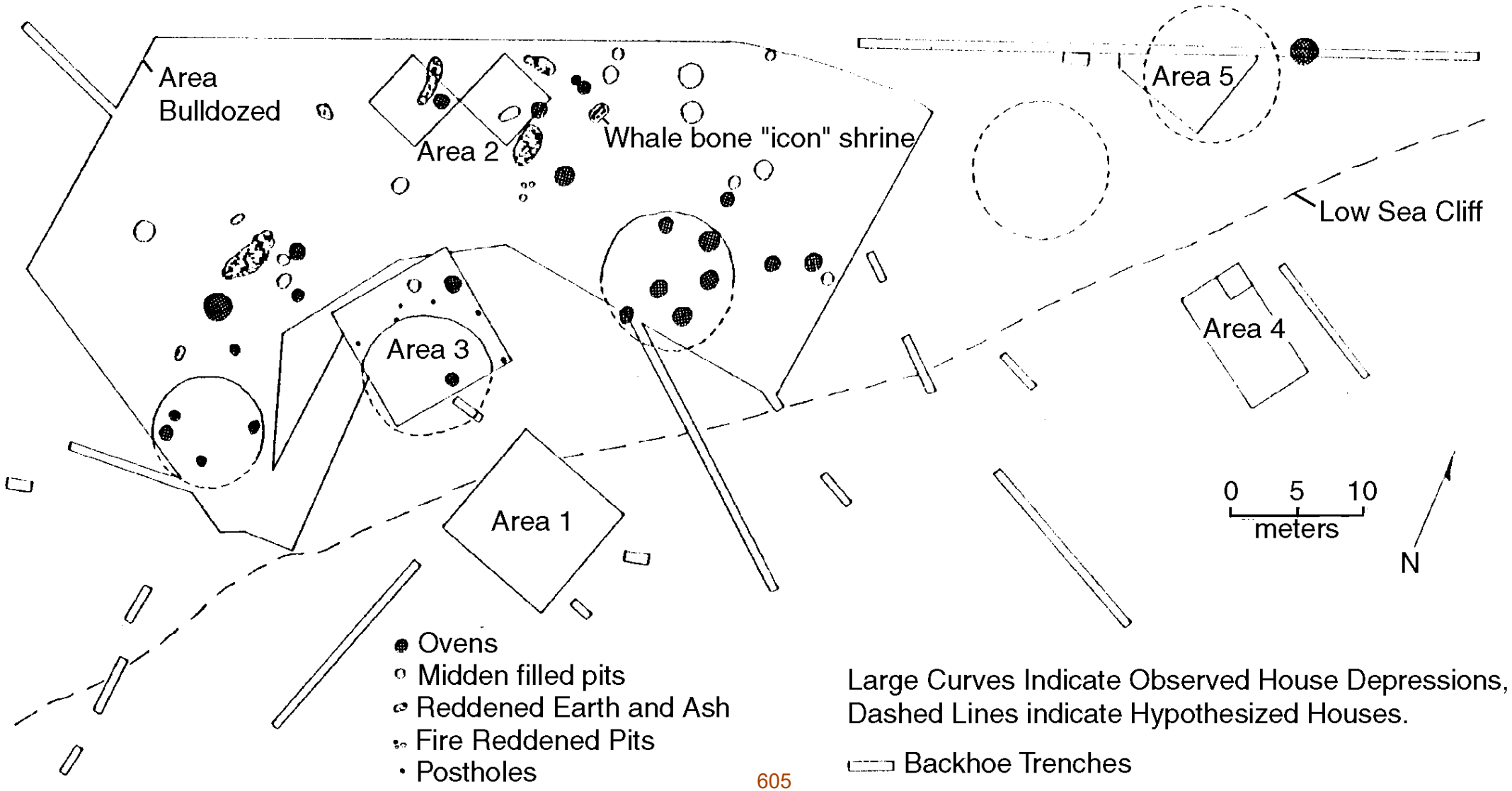
Boxt's Report Introduction

- Archaeological fieldwork at the parcel began in 2022, when Robert J. Wlodarski, M.A., reconnoitered 33008 PCH and observed an "archaeological site" with minimal subsurface disturbance. The cultural resources identified during his surface inspection included marine shell, lithic flakes, fire-affected rock, and stone tools such as hammerstones, manos, scrapers, and core fragments, which were widespread across the property. Beginning in March 2023, in response to a request from Mr. Ron Jenny to further assess Wlodarski's findings, I surveyed 33008 PCH for archaeological resources. I observed crushed shells and artifacts but determined that this "site" was not the same as those detailed by Wlodarski (2023), King (2025), or Dominguez (2025). At the time, I noted a curious phenomenon along the northeast portion of the property: an assortment of what I suspected were redeposited shell, stone tools, and natural stream cobbles, all intermixed with modern discards (e.g., cow bones) and intrusive surface deposits of imported garden soil containing shell and decomposed granite. Based on surface indications, none retained much, if any, scientific integrity.
- In my estimation, this did not represent an intact archaeological site or even a severely disturbed midden deposit. It appeared to be something else—a pseudo-site composed of displaced midden constituents brought to the surface from nearby buried deposits by natural processes (e.g., gravity, mudslides) or artificial agency (e.g., trucks or heavy earth-moving machinery) and inadvertently left here. I wondered whether 33008 PCH had, within the past 50 years, served as the staging area for a construction project at 33006 PCH (pool?), which abuts the parcel to the north, and whether that project unearthed and scattered the small collection of cultural resources I and others observed on the property. Subsurface testing, such as that described herein, could answer the question: Is 33008 PCH a bona fide archaeological site and an extension of CA-LAN-29, or merely a pseudo-site, a location claimed to have archaeological significance yet lacking the rigorous, evidence-based, peer-reviewed methods used to define archaeological sites in academic archaeology?

Statement in my review of Boxt's earlier report

- Evidence of archaeological sites usually found on surfaces that have not been buried varies depending on many variables. Two of the most important variables are the length of time sites were inhabited and their age. Sites inhabited for shorter periods of time contain fewer artifacts than those inhabited for longer periods of time. Sites that were occupied earlier in time have lost many of the shells and bones originally deposited due to dissolution by acidic soil conditions and gopher burrowing. The dissolution of shellfish near the surface of sites usually results in less shellfish remains on the surface of early sites than at depths and a higher ratio of thick shells such as clam shells on the surface. In addition to the dissolution of shells and bones, other organic material also decrease over time and soils slowly revert to the characteristics that existed before human occupation. Decrease in the presence of forms of evidence of human activity in archaeological sites over time does not preclude the ability of archaeologists to study older sites.

Excavations at Pitas Point



Area 1
west wall



Area 3 at 10 cm



Area 3 at 20cm



Area 3 at 80 cm



Area 2 west



Area 2 west oven feature



Received
11/24/25
Planning Div.

From: Jackson D. McNeill
To: Planning Commission
Cc: Rebecca Evans; Marco A. Ornelas Lopez; Kenneth A. Ehrlich
Subject: December 1, 2025, PC Meeting - Item 4.A - Coastal Development Permit No. 23-034 / 33008 Pacific Coast Highway
Date: Sunday, November 23, 2025 4:06:49 PM
Attachments: image001.png
Archaeological Opinion Related to 33008 PCH.pdf
David Dominguez Ltr. re 33008PCH.pdf

To Whom It May Concern:

Please see the attached archaeological opinions concerning the proposed project at 33008 Pacific Coast Highway (Coastal Development Permit No. 23-034), agendized as Item 4.A on the Planning Commission's December 1, 2025, agenda. It you have any questions, please let me know.

Thank you.

Best,

Jackson D. McNeill
JMcNeill@elkinskalt.com
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CC: Planning Commission, PD,

Recording Secretary, File

Date Received 11/24/25 Time 7:30 a.m.
Planning Commission meeting of 12/01/25
Agenda Item No. 4A
Total No. of Pages 11

Archaeological Opinion Related to 33008 Pacific Coast Highway in Malibu, California

by Chester King, PhD
Topanga Anthropological Consultants

November 20, 2025

I. Executive Summary.

This summarizes my professional archaeological opinion concerning the potential cultural resources located at 33008 Pacific Coast Highway in Malibu, California, as further detailed below:

- 33008 PCH lies within the known archaeological site LAN-29 and likely contains intact subsurface cultural deposits and potentially contains a cemetery.
- The Phase I assessment prepared by the applicant's archaeologist, Dr. Boxt, remains both incomplete and contradicted by prior documented findings, including human remains at a parcel in the immediate vicinity.
- The applicant and City of Malibu's proposed monitoring and mitigation measures remain wholly insufficient.
- The City must require a publicly reviewed Phase 2 subsurface testing program, conducted with a qualified Chumash cultural monitor, before any project approval.
- Further, alternative project designs should be considered to avoid or minimize excavation.

II. Qualifications and Background.

I began studies of archaeological sites related to Chumash history in the Santa Monica Mountains in 1960. My first involvement was excavating at the Tank Site (LAN-1) in Topanga when I started studying anthropology at Santa Monica City College. Later that year I worked with Thomas Blackburn and Earnest Chandonet at UCLA sponsored excavations at the Century Ranch site LAN-227, now part of Malibu Creek State Park. I worked at other Century Ranch sites LAN-225 and LAN-229 in 1961, 1962 and 1963. I was the senior author of the report on excavations at the Century Ranch sites LAN-227, 229, and 225 in 1968. The Parker Mesa (now Sunset Mesa) site at the mouth of Topanga Creek (LAN-215) was excavated in 1961 The report on these excavations in 1962 was my first publication concerning an archaeological site. I participated in excavations at Paradise Cove (LAN-222) in 1962. I worked at UCLA sponsored excavations at the site of the historic period site (LAN-264) of Humaliwo (Malibu) at the mouth of Malibu Creek in 1964 and 1965 and participated in excavations at the historic period cemetery site in 1972. In 1966, I participated in the excavation of the Medea Creek cemetery (LAN-243) in Agoura Hills. I participated in excavations at Puerco Canyon (LAN-19) and San Nicolas Canyon in 1967 related

to a planned Highway 1 freeway. I directed excavations at *Talepop* (LAn-229) in 1980-1981, for California State Parks related to the widening of Las Virgenes Road.

I worked under two five year time and material contracts for the Santa Monica National Recreation area between 2000 and 2012. I conducted surveys of many reas and I directed NPS studies at King Gillette Ranch as parts of these contracts.

I served as Malibu City Archaeologist between 1993 and 2000. I conducted many surveys and reviews of studies. As City Archaeologist, I prepared a sensitivity map that included assessment of all parcels in the city. Preparation of the map involved consideration of the locations of all sites recorded at the time. Knowledge of the types of locations chosen for sites by the Chumash and surrounding groups was used to identify other parcels that included areas where sites were most likely to be found. I walked areas of the coast where houses were built over the beach on pilings and did not include soils and used knowledge of other parcels not known to contain sites and determined that many parcels would not require Phase 1 studies. I believe the sensitivity map continues to be used.

I have visited and participated in many other Malibu area excavations, and conducted many archaeological surveys in Malibu. In addition to my work in the Santa Monica Mountains I have also conducted many studies and participated in many excavations in Santa Barbara and Northwestern Ventura County.

While working for the Santa Monica National Recreation Area I prepared "Overview of the History of American Indians in the Santa Monica Mountains: Draft 10-2011" The overview synthesizes much of the information I have learned studying the archaeology and history of the Chumash. It is available on line at Academia.edu and has been viewed by many people.

My doctoral dissertation *Evolution of Chumash Society* involved studying museum collections from Santa Barbara County and the Santa Barbara Channel Islands stored at UC Berkeley and the Santa Barbara Museum of Natural History. The dissertation involved establishing a detailed temporal sequence of beads and other artifacts that were found with burials. The dissertation was published in The Evolution of North American Indians, a 31-Volume series of outstanding dissertations. My dissertation was the only one chosen from California.

In sum, I have more experience studying Chumash archaeological sites in the Malibu area than any other person.

III. Evidence of Archaeological Sites.

Evidence of archaeological sites usually found on surfaces that have not been buried varies depending on many variables. Two of the most important variables are the length of time sites were inhabited and their age. Sites inhabited for shorter periods of time contain fewer artifacts than those inhabited for longer periods of time. Sites that were occupied earlier in time have lost many of the shells and bones originally deposited due to dissolution by acidic soil conditions and gopher burrowing. The dissolution of shellfish near the surface of sites usually results in less shellfish remains on the surface of early sites than at depths and a higher ratio of thick shells such as clam shells on the surface. In addition to the dissolution of shells and bones, other organic material also

decrease over time and soils slowly revert to the characteristics that existed before human occupation. Decrease in the presence of forms of evidence of human activity in archaeological sites over time does not preclude the ability of archaeologists to study older sites.

Chumash area settlement sites contain the remains of house structures, cemeteries, earth ovens, and other features. These features can usually only be identified with certain through excavations.

In his report for 33008 PCH, Matthew Boxt notes:

> Visible in clearings adjacent to the modern road and chain link boundary fence, were found lithic artifacts and shell, primarily trampled and pulverized pieces of abalone (*Haliotis cracherodii*), Pismo clam (*Tivela stultorum*), scallop (*Pecten* sp.), and mussel (*Mytilus californianus*) (Figure 6 and Figure 7). The currently available evidence regarding these materials is somewhat ambiguous and is not complete enough to evaluate the true nature of the finds (Figure 8 to Figure 12). The crucial question, of course, is the likelihood that the artifacts and shell were originally deposited here, representing the activities of some ancient people, or were they moved here by disturbance processes, including road construction, residential development, dumping, burrowing animals, and/or erosion.

Matthew Boxt observed the presence of objects he considered probable artifacts and shellfish remains. At a nearby parcel at 33004 Pacific Coast Highway referenced by Boxt, I observed a few artifacts and shellfish remains similar to the observations made by Boxt (King 1999). I recommended Phase 2 testing. Gary Stickel conducted what he described as initial Phase 2 testing involving holes one foot in diameter excavated with a shovel (Stickel 2000). The testing program resulted in discoveries of human bones which were probably parts of burials. Stickel then recommended additional Phase 2 testing. From my experience the burial remains discovered by Stickel probably indicate the presence of a cemetery or cemeteries in the area he tested. Boxt interpreted his findings at 33008 PCH in the most negative way possible.

IV. Previous Disturbance of Site LAN-29.

In his report for 33008 PCH, Matthew Boxt concluded:

> The archaeological resources of the Blufftop 1, LLC parcel were assessed following a careful review of maps and archival information housed at the SCCIC. The fragments of shell and stone tools observed during the survey do not appear to represent an intact, continuous midden deposit of any density; no large pieces of shell or any other indication of decomposing organic materials from human habitation (e.g., dark greasy soils) were never observed. In my professional opinion, these cultural remains were brought to the surface of archaeological sites LAN-28 or LAN-29 by natural and cultural disturbance processes and distributed on the study parcel as secondary refuse. In general, this relatively isolated Malibu community has been developed and landscaped, and at times in the recent past, particularly during house construction, was subjected to grading, gravelling, and filling. Specifically, the degradation and likely destruction of archaeological sites LAN-28 and LAN-29 is attributed to these and other factors, such as building and maintaining critical infrastructure, disking to create fire breaks, heavy rain, erosion, construction and maintenance of the Theodore Roosevelt Highway and California State Route 1, and development of each property in this community. It should nevertheless be remembered that the survey was limited to surface contexts and that no examinations were made of the subsurface where it was not immediately visible. This point is noted because of the possibility that buried cultural deposits, though unlikely, might still be in existence on the parcel, and be obscured at present from ready visibility.

Archaeological studies at redevelopment sites in the centers of modern cities have resulted in significant discoveries. If Boxt's negative attitude were to be accepted there would be no reason to conduct archaeological studies in Malibu or other cities in California; studies at sites

LAN-264 (the site of the Malibu settlement) and most other sites I have studied in Malibu would not have produced significant information concerning Chumash history.

V. Evidence concerning site LAN-29.

The LAN-29 site covers an area on the east side of Lachusa Canyon and south of the Pacific Coast Highway. Studies concerning the parcel at 33004 north of the project site document the presence of archaeological deposits on the parcel. Limited Phase 2 excavations by Gary Stickel documented the presence of human bones. It is probable that a cemetery is present in the area because most human bones found in Malibu area settlement sites have been found in cemeteries.

Evidence of settlement site deposits have been recorded south of the Pacific Coast Highway adjacent to both Lachusa and Los Alisos Canyons. These deposits may represent the remains of one large settlement or settlements occupied at different times.

My present assessment of LAN-29 including the project area at 33008 PCH is that it is the remains of a settlement occupied during a relatively short time (compared with many settlement sites in Malibu) of only a few hundred years. Settlements used for short periods of time are of value to archaeologists because the organization of features used at roughly the same time is more easily recognized than at sites occupied over thousands of years which have features of different time periods mixed together.

The geology at the mouth of Lachusa Canyon contain deposits of the only chlorite schist (commonly known as steatite) known by geologists to be present in the Malibu area. At the site of Malibu (LAN-264), the lower levels of the deposit (dating around 1500-2200 years ago) contain chlorite schist disc beads and chlorite schist disc beads in stages of manufacture (King 2011:190-191). The beads from Malibu are visually distinctive from stone beads from other sources used in the same general time period as a result of mineral inclusions. These beads have been found in contexts dating around 1500-2200 years ago at Castaic Reservoir, Vasquez Rocks, Oro Grande on the Mojave River, and in sites near Cajon Pass. It appears that the distinctive beads from Malibu were important in the trade systems from the same time period. It is probable that the people who lived at Lachusa Canyon quarried the material used for these beads. The condition of the shellfish remains and the types of artifacts that have been observed at LAN-29 are consistent with the dating of these beads.

VI. Limitations of this Review Related to Denial of Independent Assessment of the Site in the Project Area.

On November 17 I requested access from the project developers to aid in assessment the conclusions of archaeologist Matthew Boxt hired by the developers I was denied access. Note the following emails:

> Dear Schmitz and Associates,
>
> I am reviewing the "Phase 1 Inventory and Archaeological Survey for the Blufftop 1, LLC Project, 33008 Pacific Coast Highway, City of Malibu, Los Angeles County, California" prepared by Matthew Boxt and submitted on March 22. 2023 for an upcoming meeting of the Malibu City Planning Commission. I would like to have permission to conduct a

> walkover survey of the parcel at 33008 PCH to make in independent evaluation of the potential project impacts. I would like to have David Paul Dominguez, Chumash cultural resource consultant accompany me. It would be helpful if someone planning the project would accompany me on my visit. I would appreciate a timely response to my request in order to plan my schedule.
>
> Sincerely,
> Chester King, Topanga Anthropological Consultants

They replied on November 17, 2025:

> Mr. King,
>
> Thank you for reaching out to us. Our client has already retained the services of a professional archeologist to conduct a Phase I study to look for the presence of any significant cultural resources onsite. This study was conducted by Dr. Matthew Boxt. Dr. Boxt's study found no evidence of en situ cultural resources on the applicant's property. Dr. Boxt and the City have found that no further study is required at this time as no impacts to cultural resources are anticipated. That said, the project will have standard monitoring conditions.
>
> With respect to your colleague, David Paul Dominguez, we have received correspondence from Joe Drummond (attached for reference), a project opponent, advising that Mr. Dominguez has already visited the property [and adjacent area] without our client's permission. This is unlawful and unprofessional. Please advise Mr. Dominguez that the owner has security cameras installed, and any further trespasses will be reported to the Lost Hills Sherriff's Department.
>
> Thank you for your interest. Let me know if you have any questions.
>
> Best Regards,
> **Chris Deleau, JD, AICP**
> **Special Projects Manager, Schmitz and Associates**

The exclusion of my ability to independently field check the observations of Matthew Boxt indicates that the project managers are not comfortable with the quality of the archaeological study they commissioned.

VII. Problems With Monitoring in Archaeological Sites During Development.

Matthew Boxt recommends monitoring of excavations during project development. When monitoring is adopted as a mitigation measure without knowledge of what is present under the surface, the public has little input because the period where review occurs that is enabled by the California Environmental Quality Act and the California Coastal Act has expired. During review it is possible to decide to preserve site areas through purchase or project redesign. After the public review period is over, it is impossible to propose adequate mitigation through data collection, avoidance of most impacts, or determine that the loss caused by project development can't be mitigated.

Monitoring can also result in unpredictable costs to the developer that include:

1. Down time once development has begun.
2. Costs of designing programs for avoidance of disturbance of sensitive archaeological deposits through project redesign once development has begun.

Reduction of disturbance of intact soil can involve placement of fill to cap deposits or use of caisson foundations to reduce the area of soil disturbance for foundations.

3. Expensive mitigation programs including possible removal of whole cemeteries such as occurred at the Playa Vista project in the vicinity of Westchester. It is possible that such mitigation could exceed the cost of project construction.

VIII. Damage to Archaeological Site LAN-29 by the Proposed Project.

Project plans indicate from sections of the house, that much of the area covered by the proposed house area will be excavated to two to three feet below the present ground surface before construction of the house. Utility trenches will also be excavated, and a septic tank will also be placed in a deep excavation. Observations of site deposits on mesa surfaces similar to those at the project site indicate that site deposits are usually less than two or three feet deep except in areas where house pits or other features such as earth ovens were excavated into subsoil. The construction of the house as planned is expected to cause substantial damage to suspected site deposits. It appears that the excavations are to reduce the height of the finished house to comply with restrictions on the height of the structure. Knowledge of the significance of suspected site deposits may result in redesign to reduce the extent of excavation. Alternatives such as waiving limitations on the height of the house might be considered to reduce the extent of earth disturbance.

IX. Recommendations.

A subsurface testing program (Phase 2 study) should be conducted subject to public review by the Malibu Planning Commission and the City Council before project approval. The Phase 2 program should include monitoring by a qualified Chumash cultural consultant.

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33008 PCH

Coastal Development Permit No. 23-034/33008 PCH

Haku, my name is David Paul Dominguez, I am a Chumash Elder from the Santa Ynez Chumash Reservation, as well as, Yokut and Tongva, and a former and part-time current resident of Malibu and I have been working in cultural resources for over 30 years and currently retired from my reservation as a monitor and cultural resource manager and a strong advocate for the protection of sacred sites while working along with qualified archeologists, and, very familiar with the prehistoric Chumash and Tonvga native Americans inhabiting the proposed development area.

I was asked on behalf of the neighbors along, 33008 PCH, to consult on this proposed development, and add my expert advice, as well as, view the current sight. I met with neighbors Mark and Tammy, whom also informed me that they viewed a reinterment done on an adjacent property at 33004. During my visit, I also noticed numerous suspected burial artifacts and obvious midden and dark organic soil consistent with Chumash habitation lasting for over 8,000 years documented in the local archeological and cultural resource records and also noticed, the obvious and preferred village living area adjacent to fresh water during the prehistoric times of my Chumash relatives and this proposed project will have extreme damage to unknown archeological and cultural resources and more than likely, will hit and discover unknown burials, that are consistent in the immediate bluff area.

On, Saturday November 1st 2025, I had personal communiqué with former City of Malibu, archaeologist, Chester King, and he informed me that he worked on an adjacent property and found and discovered that there is a certain kind of steatite/soapstone bead that is only found in that part of Malibu and adjacent creek area and it is well documented that Chumash burial sites include a vast array of bead offerings as well as personal possessions, such as killed pestles and mortars, including, mano and metates, as well as, flakes and arrowheads. And, it is a well known burial area that has been brought to the attention of the city of Malibu, and well known that the area will contain other burials and will be wide spread given the minimal 8,000 years of prehistoric habitation by Chumash

tribal families and that he prepared a document that should be in the records that reference the extent of the sacredness of the area as far as burials are concerned.

On the same day, I had personal communiqué with Julie Tumamait, former Chairperson of the Ventareño/Barbareño Chumash Tribe, and she further verified that there are multiple burials on the proposed project bluff area and re-burials in the immediate vicinity.

Recommendations

First, and more importantly, this project should not be approved on account of the sacred sensitivity to the Chumash people and undiscovered burials, that, are in no doubt, in the immediate project area.

Postpone this hearing until all previous reports of the lot and nearby lots in the vicinity are presented by the city of Malibu and all other pertinent information properly presented.

Do a phase 2 and 3 archeological report since it has been brought to my attention there was a minimal phase 1 survey done in the past and artifacts were discovered on the immediate top soil.

Also, CEQA requirements should NOT be exempt for this application and a proper EIS/EIR be completed with consideration to geological adjacent cliff area in which erosion should be taken into account, and also, it is a sensitive creek area leading in and out of the foothills and once was a prior steel head tributary. There is also a female California black bear in the area with 3 cubs whom, might be using the area due to its unique access to shoreline food and carcasses.

The city of Malibu needs to move and adapt into the current technology available and use GPR ground penetrating radar to find any anomalies below the surface, to prevent any destruction to known Chumash burials and/or house and ceremonial ground impressions, including hearths and yucca ovens.

Protect the project area and allow for open space usage for Native American ceremonies and park for the residents of the gated community, with owners approval, of course, and use pavers over the open space to allow large fire trucks to use as a turnaround during emergencies and/or fire, by the property owner as previously recommended by said, property owner…

Received
11/25/25
Planning Div.

From: Jackson D. McNeill <JMcNeill@elkinskalt.com>
Sent: Tuesday, November 25, 2025 1:47 PM
To: malibu planning <mplanning@malibucity.org>
Cc: Rebecca Evans <revans@malibucity.org>; Marco A. Ornelas Lopez <MOrnelaslopez@elkinskalt.com>; Kenneth A. Ehrlich <KEhrlich@elkinskalt.com>
Subject: Letter re December 1, 2025, PC Meeting - Item 4.A / 33008 PCH

To Whom It May Concern:

Please find the attached letter submitted in opposition to the proposed project at 33008 Pacific Coast Highway (CDP No. 23-034, Minor Mod. No. 25-009), agendized for the Planning Commission's December 1, 2025, meeting as Item 4A. Please contact me with any questions.

Best,

Jackson D. McNeill

JMcNeill@elkinskalt.com

Direct Dial: (310) 746-4424 | Fax: (310) 746-4499 | Download VCard

Elkins Kalt Weintraub Reuben Gartside LLP

10345 W. Olympic Boulevard, Los Angeles, CA 90064

www.elkinskalt.com



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CC: Planning Commission, PD,

Recording Secretary, File

Date Received 11/25/25 Time 1:47 p.m.
Planning Commission meeting of 12/1/25
Agenda Item No. 4A
Total No. of Pages 20

ELKINS KALT

Jackson D. McNeill
D: (310) 746-4424
JMcneill@elkinskalt.com
Ref: 15289-0001

Elkins Kalt Weintraub Reuben Gartside LLP

November 25, 2025

VIA E-MAIL AND U.S. MAIL

City of Malibu Planning Commission
23825 Stuart Ranch Road
Malibu, CA 90265
Email: planningcommission@malibucity.org

Re:	Reply to City Staff's Response to Objections to CDP No. 23-034 and Minor Modification No. 25-009
Address:	33008 Pacific Coast Highway, Malibu, California
Meeting:	December 1, 2025
Item #:	4A

Dear Commissioners:

Our firm represents Unknowingly Devolving LLC and Mark and Tamara Mackey (collectively, our "Clients"), the owners of the real property and single-family residences located at [redacted] and [redacted] Pacific Coast Highway in Malibu, California, respectively. Bluff Top 1 LLC ("Applicant") requests a Coastal Development Permit (CDP No. 23-034) and Minor Modification (Minor Modification No. 25-009) (together, the "Application") to construct a new single-family residence and associated development (the "Project") on a coastal bluff property at 33008 Pacific Coast Highway (the "Property").

In connection with the Commission's December 1, 2025, meeting, City staff have provided an updated staff report (the "Staff Report") and the Applicant has provided updated materials purportedly responding our Clients' previous opposition to the Project. Respectfully, as detailed below, City staff's response remains inadequate and the Project as proposed cannot be approved.

I. The Plain Language of the LIP Requiring a State Lands Commission Determination and Staff Cannot Substitute Its Own Judgment for SLC.

The Applicant failed to obtain a written determination from the State Lands Commission for the subject project as required by the LIP. (See LIP §§ 13.6.2(B), 10.5(C). Staff responds that "[t]he requirement to obtain written determination from the State Lands Commission is only applicable to beachfront properties. The subject property is facing the ocean; however, there is a steep bluff in front of the property separating the building pad from the ocean." (Staff Report, p.

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2.) Staff further responds that "there is no development proposed along the shoreline nor development on the beach." (Staff Report, p. 2.)

Respectfully, this response fails. By staff's own admission, this requirements applies to "beachfront properties." (Staff Report, p. 2.) Indisputably, this property fronts on the beach. The Property's coastal bluff remains subject to wave uprush, and the Property is bounded to the south by state tidelands.

Essentially, staff seeks to substitute its own judgment for the State Lands Commission. By concluding that the Project contains adequate blufftop setbacks and that no development will occur directly on the beach, staff makes the very determination that the LIP reserves for the State of California. This is not what the LIP requires. Until Applicant obtains a determination from the State Lands Commission, the Project remains incomplete and cannot be heard.

II. The Plain Language of the LIP Requires Requesting Our Clients Join As Co-Applicants, Regardless of Whether Development Occurs in the Easement Area.

Our Clients have correctly asserted that "[a]ll holders or owners of any … interest of record in the affected property shall be notified in writing of the permit application and invited to join as co-applicant." (LIP § 13.6.2(C).) Here, the Applicant previously proposed development within an easement area to which our clients have access rights. Neither staff nor the Applicant dispute that the easement over the Property exists or that our Clients constitute easement holders. Instead, to avoid this "co-applicant requirement," the Applicant now proposes to leave the easement area totally undeveloped—that is, to leave a dirt area between the paved easement road and Applicant's proposed, paved driveway.

At the outset, our Clients' question whether Applicant—who has a history of code violations—truly intends to leave the easement area undeveloped. Regardless, staff's response still fails. Critically, **no language in the LIP requires development within the easement area in order for the "co-applicant" requirement to be triggered, and staff cites none**. The plain language of the LIP simply states that "[a]ll holders or owners of any other interest of record in the affected property shall be notified in writing of the permit application and invited to join as co-applicant." (LIP § 13.6.2(C).) Where the language of the law is clear and unambiguous, staff cannot substitute the plain language of the law with its own judgment. Put simply, our Clients must be asked to join as co-applicants before the Project can proceed.

III. The Archaeology Buffer Applies to the Project.

The City's Archaeological Review letter includes certain conditions of approval. Among other things, it states that "no geologic trenching, soil borings, ground clearance, grading, equipment placement, or similar surface-disturbing impacts shall be allowed within 30 feet of the northern property boundary." Staff responds that these were not conditions of the Project, they were merely "a precaution implemented by City staff prior to obtaining an excavation permit through City Geotechnical Staff." (Staff Report, p. 3.)

The Archaeology Review letter, however, does not indicate it was prepared solely in connection with an excavation permit, or that its conditions are limited to geologic testing. Indeed, language in the Archaeology Review refers to "construction personnel" as well as "geologic testing or *any other activity*," demonstrating it was meant to apply more broadly. (Archaeology Review Letter, p. 1, emphasis added.) Staff cannot escape the archaeology buffer now by artificially limiting the Archaeology Review's conditions of approval to geologic testing.

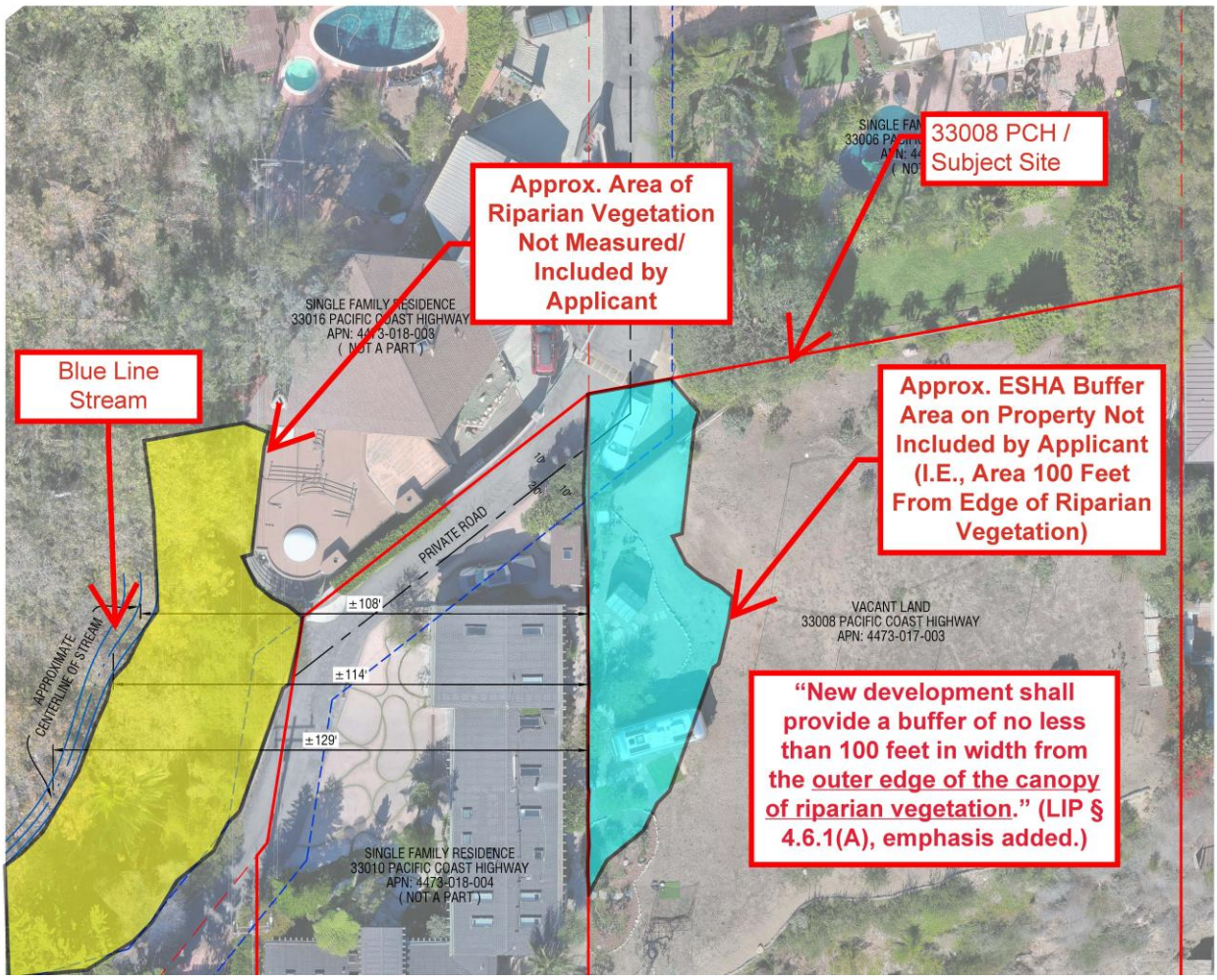
At the same time, a letter from a qualified archaeologist (Chester King, PhD) and a Chumash Elder (David Dominguez) indicate that the Applicant's Phase I archaeology report remains insufficient and that human remains and other cultural resources likely exist on site. Because the Project does not comply with the buffer condition designed to protect these important resources, the Project as proposed must be denied.

IV. The Applicant's ESHA Mapping Remains Fundamentally Flawed.

The original Project plans admitted that the Property and the proposed development lies within 100 feet of an EHSA-mapped blue-line stream, and thus within an ESHA buffer. (See, e.g., Original Plans, Plan Sheet A-0.2, showing new planters, gates, walls, pilasters, and fencing—located behind a line labeled "approx. 100' from ESHA boundary"). Conveniently, the Applicant and its biologist now opine that the Property lies at least 104' feet from the blue-line stream, and therefore lies outside the ESHA buffer. (See Forde Memo, November 12, 2025, p. 2.) On this basis, staff agrees that the ESHA standards do not apply. (See Staff Report, p. 4.)

This analysis is flawed. **Critically, the Applicant's biologist measured the distance between the Property and the top of the stream bank. But the LIP states that "[n]ew development shall provide a buffer of no less than 100 feet in width from the <u>outer edge of the canopy of riparian vegetation</u>."** (LIP § 4.6.1(A), emphasis added.)

A marked-up version of the Applicant's aerial drone exhibit demonstrates this point:



To reiterate: the Applicant, by its own admission, measured the distance between the Property and the "top of bank." It failed to measure the distance to the outer edge of the riparian vegetation, which extends laterally eastward. (Worse, the biologist's exhibit measures from the centerline of the stream, not the top of bank.) At the same time, even a casual review of the stream from google maps shows vegetation extends outward from the banks of the stream. In fact, Applicant's own biological assessment admits that riparian vegetation extends outward from the stream:

ESHA AREA IS A RIPARIAN WOODLAND COMMUNITY. THERE IS A STREAM THAT RUNS THROUGH THE ESHA AND DRAINS INTO THE OCEAN. ALONG THE PERIMETER OF THE STREAM VARIOUS TREES AND ASSOCIATED RIPARIAN AREAS ARE PRESENT. PLEASE NOTE THERE ARE ADDITIONAL DEVELOPED PROPERTIES WITHIN THE ESHA THAT ARE NOT ILLUSTRATED. ADDITIONALLY, THERE IS A PAVED ROAD AND RESIDENTIAL HOME CREATING PHYSICAL BARRIERS BETWEEN THE ESHA AND PROPERTY AREA.

(July 2023 Biology Assessment, p. 10.) The biological assessment also notes that "**the ESHA area is a riparian woodland community**." (*Id.*) Forde Memo does not contradict this conclusion.

Thus, the ESHA buffer area extends 100 feet east of the vegetation canopy, not the top of the stream bank. So measured—and as shown in the above illustration—the Property and a portion of the development lie within ESHA buffer areas. The ESHA buffer standards, meanwhile, prohibit virtually all development in ESHA buffer areas. (See LIP § 4.5.4.) And here, among other violations, the Applicant proposes fencing along the western portion of the Property, as well as fencing, stone pilasters, and a new gate in the ESHA buffer. Until this unlawful development in the ESHA buffer is addressed, the Project as proposed should be denied.

V. The Coastal Bluff Qualifies as ESHA.

City staff dismisses our Clients' suggestion that the Property's coastal bluff qualifies as ESHA. In a short set of nearly throwaway set of sentences, staff states that "the bluff is located within the fuel modification zones of adjacent single-family residences and non-native vegetation dominates. The bluff does not have any ESHA vegetation and is not considered ESHA." (Staff Report, p. 4.)

Respectfully, this analysis fails. First, far from concluding that the bluff vegetation is non-native, staff later admits that, at least as to trees on the coastal bluff, staff "cannot confirm the origins of these trees." (*Id.*) Applicant's contention, likewise, is apparently that "the trees existed prior to the [Woolsey] fire." (*Id.*)

More importantly, Clients' biologist submitted a thorough email memorandum explaining the species present on the bluff and why the floristic composition of the bluff qualifies as ESHA. We this memorandum as **Exhibit A.** He stated, among other things:

> *The bluff located at 33008 Pacific Coast Highway, Malibu, has been mapped as Malosma laurina -Artemisia californica Shrubland Alliance (Laurel sumac scrub). The bluff supports a diverse and largely native assemblage of Southern Coastal*

Bluff Scrub vegetation, as defined under the Manual of California Vegetation, Second Edition (MCV2) (Sawyer, Keeler-Wolf & Evens 2009). ***The site lies within the Malibu Local Coastal Program (LCP) area and retains the essential structure and species composition of a native coastal bluff scrub, qualifying as an Environmentally Sensitive Habitat Area (ESHA) pursuant to Malibu LUP Policy 3.23.***

The bluff community is characterized by a co-dominance of Artemisia californica (California sagebrush) and Malosma laurina (Laurel sumac), forming a mixed scrubland typical of maritime bluffs and terraces in the Santa Monica Mountains. The floristic assemblage reflects both coastal sage scrub and chaparral influences, with additional halophytic components along the bluff toe:

- *Upper and mid-slope vegetation: Artemisia californica, Malosma laurina, and Isocoma menziesii dominate the canopy, with Diplacus puniceus and Rhus ovata providing secondary structure.*

- *Lower bluff and seep zone: Batis maritima and Distichlis spicata occupy a moist, saline toe area, forming a halophytic fringe indicative of marine seepage and salt influence.*

- *Naturalized, non-native invasive and ornamental elements: Hesperocyparis macrocarpa (Monterey cypress), Washingtonia robusta (Mexican fan palm), Nicotiana glauca (tree tobacco), and Osteospermum sp. (African daisy) occur in disturbed or landscaped edges but do not dominate.*

Under Malibu LUP Policy 3.23, the bluff qualifies as an ESHA due to the following:

- *The presence of a regionally rare and valuable native plant community (Southern Coastal Bluff Scrub) adapted to maritime influence and saline conditions.*

- *A high proportion of native cover and species diversity, including multiple coastal sage scrub indicators.*

- *Ecological function as a bluff stabilizer, wildlife corridor, and pollinator habitat.*

- *Limited anthropogenic disturbance, with only minor ornamental encroachment.*

In light of the following, staff's conclusion does not comport with the facts. Indeed, when our Clients informed their biologist that the City and Applicant assert that no native vegetation exists on the coastal bluff, the biologist asserted, among other things, that this was "scientifically impossible" and controverted by his field observations and photographs. We attach his analysis as **Exhibit B**.

VI. The Bluff Development Remains Unpermitted.

Our Clients identified significant unpermitted development on the Property's coastal bluff, including unpermitted trees and erosion controls (such as straw wattle and fencing). City staff responded that the Applicant had previously asked the City if the Applicant could implement these measures and staff said "yes." (Staff Report, p. 4.)

This response fails. Even if the City told the Applicant he could place erosion control measures, that does not make those erosion control measures legal or permitted. Further, nothing indicates that Applicant's development on this sensitive coastal bluff could be completed without permits, and staff never states as much. Indeed, if this were the case, then any applicant could build unlimited fencing or place unlimited straw wattle, jute netting, sandbags, and other erosion control measures without any need for a permit. This is not the City's practice, nor is it the law. In any case, the trees themselves remain unpermitted. Consistent with City practice, the Project should not be able to move forward until these code enforcement issues have been addressed.

VII. Conclusion.

Our Clients appreciate staff's willingness to examine these important issues. However, to date, neither staff nor Applicant have adequately addressed our Clients' objections to the Project, including the ones identified above. Until those objections are adequately addressed, the Project should be denied.

Please note that this letter does not identify all issues with the Project. Please refer to our prior correspondence (and, as applicable, our testimony at the Planning Commission hearing) for additional objections to the Project.

Very truly yours,



JACKSON D. McNEILL
Elkins Kalt Weintraub Reuben Gartside LLP

JDM:jdm

8010499.3

EXHIBIT A

Anna Feng

From: Joshua Zinn [redacted]
Sent: Thursday, October 30, 2025 12:52 PM
To: CMccammon@malibucity.org
Subject: 33008 Pacific Coast Highway: Bluff Floristic Composition and Bio Review
Attachments: 33008 PCH Bluff-floristic composition photos_20251025.docx

Dear Courtney,

A couple of weeks ago we spoke together by phone concerning 33008 Pacific Coast Highway (project). I want to thank you for your responsiveness, approachability, and guidance concerning my questions about the biological resources/biological assessment of this proposed project.

On Monday October 20, 2025, I was scheduled to speak at the Malibu Planning Commission Hearing about my findings concerning my firm's review of the Biological Assessment (Elizabeth Moorman Biological Services July 2023 [2023 BA]). Unfortunately, I didn't get the opportunity to speak given that the first item on the agenda went beyond the anticipated time (which is understandable given the nature of public hearings). The planning commission rescheduled to hear the project for this Monday, November 3, 2025.

Even though I didn't get the opportunity to speak on my findings of the 2023 BA, our findings report was submitted to the commission as an exhibit. Additionally, while I was up in Malibu before the hearing, I took the opportunity to conduct a reconnaissance site visit to document the floristic composition of the bluff at 33008 Pacific Coast Highway.

In our 2023 BA review we did raise the issue of the bluff being characterized as 'coastal strand'. However, we did not have an opportunity to document the floristic composition until October 20, 2025. Below are my findings concerning the bluff (please see attached for photos taken during the recon survey of the bluff).

The bluff located at 33008 Pacific Coast Highway, Malibu, has been mapped as *Malosma laurina* - *Artemisia californica* Shrubland Alliance (Laurel sumac scrub). The bluff supports a diverse and largely native assemblage of Southern Coastal Bluff Scrub vegetation, as defined under the Manual of California Vegetation, Second Edition (MCV2) (Sawyer, Keeler-Wolf & Evens 2009). The site lies within the Malibu Local Coastal Program (LCP) area and retains the essential structure and species composition of a native coastal bluff scrub, qualifying as an Environmentally Sensitive Habitat Area (ESHA) pursuant to Malibu LUP Policy 3.23.

The bluff community is characterized by a co-dominance of *Artemisia californica* (California sagebrush) and *Malosma laurina* (Laurel sumac), forming a mixed scrubland typical of maritime bluffs and terraces in the Santa Monica Mountains. The floristic assemblage reflects both coastal sage scrub and chaparral influences, with additional halophytic components along the bluff toe:

- Upper and mid-slope vegetation: *Artemisia californica*, *Malosma laurina*, and *Isocoma menziesii* dominate the canopy, with *Diplacus puniceus* and *Rhus ovata* providing secondary structure.

- Lower bluff and seep zone: *Batis maritima* and *Distichlis spicata* occupy a moist, saline toe area, forming a halophytic fringe indicative of marine seepage and salt influence.
- Naturalized, non-native invasive and ornamental elements: *Hesperocyparis macrocarpa* (Monterey cypress), *Washingtonia robusta* (Mexican fan palm), Nicotiana glauca (tree tobacco), and *Osteospermum* sp. (African daisy) occur in disturbed or landscaped edges but do not dominate.

Under Malibu LUP Policy 3.23, the bluff qualifies as an ESHA due to the following:

- The presence of a regionally rare and valuable native plant community (Southern Coastal Bluff Scrub) adapted to maritime influence and saline conditions.
- A high proportion of native cover and species diversity, including multiple coastal sage scrub indicators.
- Ecological function as a bluff stabilizer, wildlife corridor, and pollinator habitat.
- Limited anthropogenic disturbance, with only minor ornamental encroachment.

These characteristics satisfy the ESHA criteria of rarity, ecological value, and susceptibility to disturbance. The bluff's native vegetation and halophytic fringe also enhance hydrologic stability and biological connectivity along the Malibu coastline.

In closing, the bluff at 33008 Pacific Coast Highway exhibits a structurally and floristically intact Southern Coastal Bluff Scrub community consistent with the *Malosma laurina – Artemisia californica Shrubland Alliance*. Native elements dominate, with only isolated ornamental intrusions. The site's composition, maritime setting, and habitat function warrant ESHA classification under the Malibu LCP. Restoration and management should prioritize native species preservation, halophytic seep protection, and removal of invasive ornamentals.

33008 Pacific Coast Highway Bluff Species List

Scientific Name	**Common Name**	**Native Status**	**Habitat Position**
Artemisia californica	California sagebrush	Native	Upper and mid-slope dominant
Malosma laurina	Laurel sumac	Native	Upper and mid-slope co-dominant
Rhus ovata	Sugar bush		Upper slope
Isocoma menziesii	Coastal goldenbush	Native	Mid to lower slope
Diplacus puniceus	Red bush monkeyflower	Native	Mid-slope; open scrub
Batis maritima	Saltwort	Native (halophyte)	Bluff toe; saline seep
Distichlis spicata	Saltgrass	Native (halophyte)	Bluff toe; saline seep
Hesperocyparis macrocarpa	Monterey cypress	Naturalized (regionally non-native)	Upper bluff margin

Washingtonia robusta	Mexican fan palm	Naturalized (regionally non-native)	Adjacent ornamental landscape
Nicotiana glauca	Tree tobacco	Non-native Invasive/Naturalized	Disturbed bluff edges
Osteospermum sp.	African daisy	Non-native/Naturalized	Disturbed edges

References:

- Sawyer, J.O., Keeler-Wolf, T., & Evens, J. (2009). *A Manual of California Vegetation, Second Edition*. California Native Plant Society, Sacramento, CA.
- CNPS Vegetation Database (2024). *Malosma laurina Shrubland Alliance (CaCode 45.455.00)*. https://vegetation.cnps.org/alliance/235.
- USGS National Vegetation Classification (NVCS). *Malosma laurina – Artemisia californica Shrubland (CEGL003697)*. https://www1.usgs.gov/csas/nvcs/unitDetails/790147.
- Malibu Local Coastal Program (LUP Policy 3.23). City of Malibu, CA.

Thanks so much Courtney. Please feel free to reach out with any questions or requests concerning this matter and/or our bio review of the project anytime!

Joshua Zinn, PWS | Regulatory Program Manager and Ecologist
Mobile: [redacted]
Email: [redacted]
Amigo Environmental, LLC | Certified DBE

33008 Pacific Coast Highway

Floristic Composition of Bluff

Photo Documentation

October 20, 2025



Photo 1: Looking northwest. *Artemisia californica* and *Malosma laurina* co-dominant on upper coastal bluff at 33008 PCH. Photo taken October 20, 2025.



Photo 2: Looking northwest at *Artemisia californica* and *Malosma laurina* mid-slope canopy detail of coastal bluff at 33008 PCH. Photo taken October 20, 2025.



Photo 3: Looking north. *Distichlis spicata* and *Batis maritima* forming halophytic seep at bluff toe at 33008 PCH; note *Isocoma menziesii* nearby (lower right of photo). Photo taken October 20, 2025.



Photo 4: Looking north. *Diplacus puniceus* and *Artemisia californica* near Mexican fan palm intrusion mid-slope of coastal bluff at 33008 PCH. Photo taken October 20, 2025.



Photo 5: Looking north. Halophytic seep along toe of bluff with *Distichlis spicata*, *Batis maritima*, and adjacent juvenile *Hesperocyparis macrocarpa* installed along upper portion of bluff at 33008 PCH. Photo taken October 20, 2025.



Photo 6: Close-up of *Batis maritima* dominance at lower bluff; saline soil crust visible under jute erosion geotextile mat. Photo taken October 20, 2025.

EXHIBIT B

Anna Feng

To: Joshua Zinn; Jackson D. McNeill; Justin Smith
Cc: Marco A. Ornelas Lopez
Subject: RE: 33008 PCH

From: Joshua Zinn [redacted]
Sent: Wednesday, November 19, 2025 11:36 AM
To: Jackson D. McNeill <JMcNeill@elkinskalt.com>; Justin Smith [redacted]
Cc: Marco A. Ornelas Lopez <MOrnelaslopez@elkinskalt.com>
Subject: RE: 33008 PCH

---EXTERNAL EMAIL: Do not click links or attachments unless you recognize the sender and know the content is safe---

Hi Jackson,

Thanks for the update. Pursuant to your recent conversation with the City and your question:

1. Going by the July 2023 Moorman BA no plants are ID'd or discussed concerning the bluff. Additionally, the bluff never characterized or discussed in basic biological terms or LCP/LIP regulatory framework. Indeed, the July 2023 BA states '*Vegetation communities can be catergorized* (sic) *as ruderal, coastal sage scrub, and coastal strand*. There's no mention of Coastal Bluff Scrub in the July 2023 BA.
2. In terms of the assertion made by both the City and applicant's biologist that no native flora exist on the coastal bluff, did they provide how they both came to this conclusion in light of the October 20, 2025 reconnaissance survey and photodocumentation conducted by Amigo and made available by you (in addition to independent outreach by me [by your request], please see attached)
3. Did the City countermand our data with their own?

One would think our submission(s) are accurate, defensible, and consistent with the vegetation data, Malibu LCP definitions, MCV2 classification rules, and the photographic evidence. The City/applicant's claim that "no native flora exist on the bluff" is not supported by:

- The field reconnaissance photos Amigo/Elkins Kalt provided the City;
- The species you documented;
- The alliance-level vegetation classification; or
- The Malibu LCP's definitions of ESHA and native coastal bluff scrub.

There is no biologically legitimate basis for concluding the bluff is non-native if the City and/or applicant's biologist made this assertion while:

- No field data were collected;
- No floristic composition was documented; and
- No vegetation alliance determination was performed.

Our photos and simple recon survey make the City/Applicant's biologist assertion scientifically impossible. For this assertion by the City and Applicant's biologist to be true:

- Artemisia californica would have to be non-native
- Malosma laurina would have to be non-native
- Isocoma menziesii would have to be non-native
- Batis maritima and Distichlis spicata halophytes would have to be non-native

Our photos also show non-native ornamental species but these are incidental to the larger established native community

This is scientifically impossible. Our data and the photographs show the opposite:

A high-quality native bluff scrub with halophytes. Unless the City or applicant conducted their own floristic survey (which they have not produced), their assertion is:

- Unsupported
- Contrary to the visual record
- Contrary to MCV2 classification rules
- Contrary to Malibu LCP definitions
- Contrary to actual vegetation onsite

Finally, under Malibu LUP Policy 3.23, his coastal bluff scrub community clearly qualifies as an ESHA

The Malibu LCP's ESHA criteria include:

- Rarity of the community
- Ecological value
- High native cover
- Sensitivity to disturbance
- Habitat connectivity
- Bluff stabilization function
- Intact hydrologic and geomorphic conditions

The bluff we documented (with relatively little effort) contains:

- A mostly intact native scrub community
- Halophytes at the toe (saltwort, saltgrass)
- Minimal anthropogenic disturbance
- High native species richness
- A clear maritime influence
- A documented shrubland alliance recognized by MCV2

These findings meet Malibu LCP/LIP ESHA criteria directly.

Hope this helps, thx

Joshua Zinn, PWS | Regulatory Program Manager and Ecologist
Mobile: [redacted]
Email: [redacted]
Amigo Environmental, LLC | Certified DBE

Received
10/15/2025
Planning Div.

ELKINS KALT

Jackson D. McNeill
D: (310) 746-4424
JMcneill@elkinskalt.com
Ref: 15289-0001

Elkins Kalt Weintraub Reuben Gartside LLP

October 15, 2025

VIA E-MAIL

Kellan Martz, Deputy City Attorney
c/o Best Best & Krieger LLP
300 South Grand Avenue, 25th Floor
Los Angeles, CA 90071
Email: kellan.martz@bbklaw.com

Raneika Brooks, Principal Planner
City of Malibu
23825 Stuart Ranch Road
Malibu, CA 90265
Email: rbrooks@malibucity.org

Re:	City Must Continue Hearing on CDP No. 23-034 and Minor Mod. No. 25-009 Due to Incomplete Application
Address:	33008 Pacific Coast Highway, Malibu, California
Meeting:	October 20, 2025
Item #:	5A

Dear Kellan and Raneika:

Our firm represents Unkowningly Devolving LLC and Mark and Tamara Mackey (collectively, our "Clients"), the owners of the real property and single-family residences located at [redacted] and [redacted] Pacific Coast Highway in Malibu, California, respectively. Bluff Top 1 LLC submitted an application for a Coastal Development Permit (CDP No. 23-034) and Minor Modification (Minor Modification No. 25-009) (together, the "Application") to construct a new single-family residence and associated development (the "Project") at 33008 Pacific Coast Highway (the "Property"). The Application is presently scheduled for a public hearing before the Planning Commission on October 20, 2025.

As discussed below, the hearing must be continued—or, alternatively, the Application denied—because the Application remains legally incomplete. Specifically, the Applicant failed to consult with the State Lands Commission as required by the City's Local Implementation Plan ("LIP"), and the LIP expressly states that this failure renders the Application incomplete. In addition, because our Clients and other property owners along the private easement road hold property interests in the portion of the easement affected by the proposed development, the LIP requires the Applicant to invite these owners to join as co-applicants. The Applicant has made no such effort.

CC: Planning Commission, PD,

Recording Secretary, File

T: 310.746.4400 F: 310.746.4499
10345 W. Olympic Blvd, Los Angeles, CA 90064 | elkinskalt.com

Date Received 10/15/2025 Time 4:37pm
Planning Commission meeting of 10/20/25
Agenda Item No. 5A
Total No. of Pages 28

I. The Application Remains Incomplete and the LIP Precludes a Hearing Because Applicant Failed to Consult with the State Lands Commission.

The Project qualifies as "shoreline development" under the Coastal Act and Malibu's Local Implementation Plan ("LIP"). The Site lies directly along the Pacific Ocean; state tidelands form its southern parcel boundary; and the proposed improvements sit atop a coastal bluff subject to coastal wave action. Indeed, staff's September 1, 2023, incomplete letter noted that "[d]ue to the fact the project abuts the ocean per LIP Section 10.5(C) a Determination from the California State Lands Commission is required." We attach an excerpt from this incomplete letter as **Exhibit A**.

As such, the LIP requires the Applicant to submit "written evidence of a review and determination from the State Lands Commission relative to the proposed project's location to or impact upon the boundary between public tidelands and private property." (LIP § 10.5(C).) Critically: "**Such determination [is] a filing requirement for a Coastal Development Permit**," and "**any application filed without such determination shall be determined to be incomplete**." (*Id.* [emphasis added]; see also LIP § 13.6.2 ["Applicants for development along the shoreline property or fronting a beach shall submit written evidence of a review and determination from the California State Lands Commission relative to the project's location to or impact upon the boundary between public tidelands and private property."].)

The Applicant has not provided this required written evidence, and neither the Staff Report nor any attachments reference or include such documentation. In fact, staff records personnel Jason Ernst indicated by email on October 14, 2025, that "[r]here was a note in the database stating that a state land's letter is not required for this project." We attach this email as **Exhibit B**. In conversations with staff, staff also indicated that the former planning director believed that such a consultation was not required because the Project did not impact state tidelands.

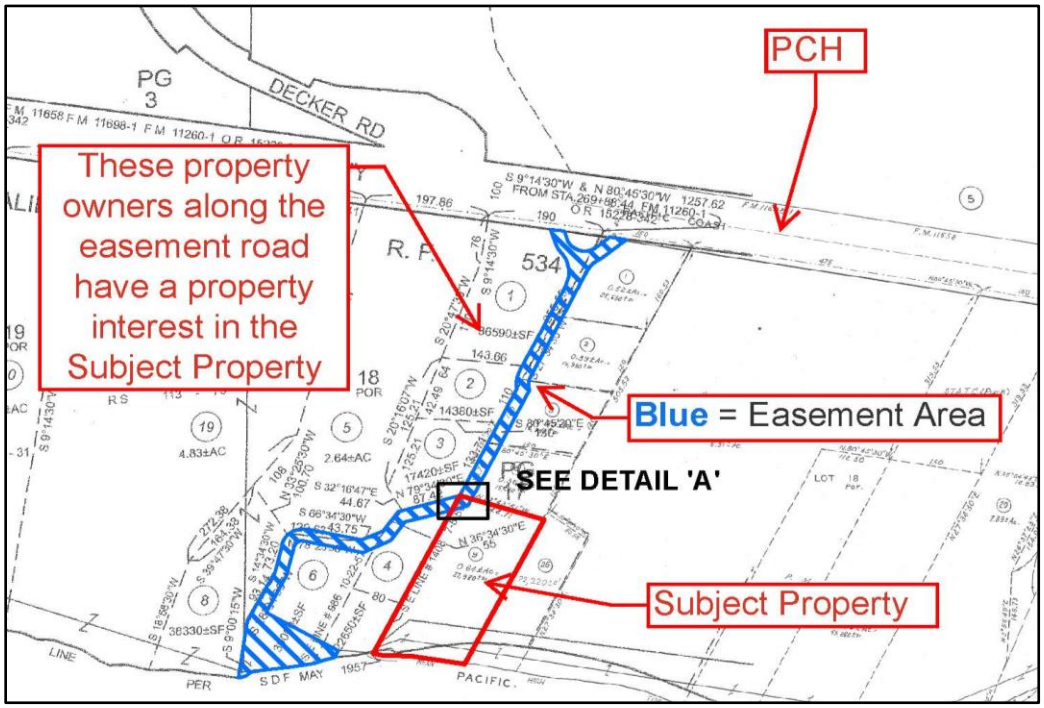
The LIP, however, does not give the planning director or any other City personnel discretion to avoid the consultation requirement, which states in black and white that applicants "**shall**" submit written evidence of a determination (LIP § 10.5(C), emphasis added) and that, without such determination, the Application "**shall** be determined to be incomplete." (LIP § 13.6.2, emphasis added) In other words, respectfully, City staff unlawfully substituted its own judgment for that of the State Lands Commission.

The omission renders the application incomplete as a matter of law. Accordingly, the Commission must either deny the application or continue the hearing until the required State Lands Commission determination has been provided.

II. The Applicant and City Failed to Invite Parties with Property Interests to Join as Co-Applicant in Violation of the LIP.

The Malibu LIP states that "[a]ll holders or owners of any other interest of record in the affected property shall be notified in writing of the permit application and invited to join as co-applicant." (LIP § 13.6.2.C.) This requirement is not new or unique: The Coastal Commission also requires developers to invite interests holders to join an application as co-applicants. (Cal. Code Regs., tit. 14, § 13053.5.) To provide just one example, in CDP 4-12-026, the applicant proposed grading and paving in an area containing an access easement. (See Staff Report, CDP 4-12-026, May 23, 2013, p. 19 ["A portion of the proposed driveway is located within an existing access easement on the adjoining parcel to the west."].) Citing the above regulations, the Commission made sure that the holder of the easement was invited to join as a co-applicant. (*Id.* ["A letter was sent by staff … inviting this property owner (Michael and Renee Taylor), 29204 Heathercliff Road, Malibu, CA 90265) to join this application as a co-applicant if they so choose (Exhibit 9)."].)

Here, the Property is subject to an easement road that connects several properties along the easement road to Pacific Coast Highway. This is shown on the Project plans. (See Plans, Sheet T-2.1 [Survey].) The following depiction, prepared by Client's title company, Chicago Title, and marked up by our firm, shows the area of the easement road:



Similarly, the grant deed for the Property, attached as **Exhibit C**, reflects this easement. The easement deed, attached as **Exhibit D**, also memorializes this easement.

Importantly, all properties on the easement road have a right to use the entire easement as the easement was granted to "each party" to the easement agreement "along and under said strip of land to the end," stating "that said easements shall be used and enjoyed by said owners and their successors and assigns." (Exh. D p. 4.) The easement deed reiterates this point, noting that the easement is "appurtenant to and for the common benefit of all of the said lands, or portions thereof, above referred to." (*Id.*.) The grant deed for the property, likewise, notes that there is "AN EASEMENT FOR ROAD AND UTILITY PURPOSES, TO BE USED IN COMMON WITH OTHERS…." (Exh. C, p. 6.) Because these owners hold an easement over the Property, they have a property interest in it. (See, e.g., *County Sanitation Dist. v. Watson Land Co.* (1993) 17 Cal.App.4th 1268, 1278 ["An easement is an incorporeal interest in the land of another…."].) Notably, the Project involves the creation of a fire turnaround in this area.

In light of this issue, staff acknowledged in its last incomplete letter, dated February 10, 2025 (an excerpt of which is attached as **Exhibit E**), that "Staff has been made aware that improvements are proposed within the access easement. Pursuant to LIP Section 13.6.2, all holders or owners of the easement shall be notified in writing of the subject permit application and invited to join as co-applicant."

Nevertheless, to our Client's knowledge, **no easement holders were ever invited to join the application as co-applicant**. Further, no such invitation is included in the materials before this commission. Because the City and Applicant failed to invite interest holders to join as co-applicants, the application was, at best, incomplete and cannot be acted upon now. Accordingly, the hearing must be continued or, alternatively, denied. (See, e.g., LIP §§ 13.10 [providing notice and hearing procedures for a "complete application"], 13.6.1(B) [Planning Department cannot take action on an application until it is determined to be complete].)

Please contact me with any questions.

Very truly yours,

JACKSON D. McNEILL
Elkins Kalt Weintraub Reuben Gartside LLP

5737953.1

cc: Trevor Rusin (trevor.rusin@bbklaw.com)

EXHIBIT A

City of Malibu

23825 Stuart Ranch Road · Malibu, California · 90265-4861
Phone (310) 456-2489 · Fax (310) 456-3356 · www.malibucity.org

September 1, 2023

Schmitz and Associates, Inc.
ATTN: Arfakhashad Munaim
28118 Agoura Road, Suite 200
Agoura Hills, CA 91301

Sent via email: amunaim@schmitzandassociates.net

Reference: **COASTAL DEVELOPMENT PERMIT (CDP) No. 23-034**
CODE VIOLATION NO. 23-047
33008 Pacific Coast Highway, Malibu, CA 90265
An application for a new two-story single-family residence, onsite wastewater treatment system, landscaping, grading, and associated development including the abatement of a code violation related to unpermitted fencing, landscaping, etc.

Dear Mr. Munaim:

On **May 17, 2023,** the application listed above was submitted to the City of Malibu's Planning Department for processing. The subject property is located at 33008 Pacific Coast Highway (APN 4473-017-009) and is zoned Rural Residential – Two Acres (RR-2). The subject property is within the Appeal Jurisdiction of the California Coastal Commission (CCC) as depicted on the Post – Local Coastal Program Certification Permit and Appeal Jurisdiction Map of the City of Malibu.

Our Planning Department Staff has completed an initial review of the application and determined on **September 1, 2023,** that the application submitted was **INCOMPLETE and will require further information.** To continue processing the application, please address the following items.

1. Staff must visit the property to photograph and document existing site conditions. Please contact me at (310) 456-2489, extension 276, or rbrooks@malibucity.org to schedule a site visit.

2. Due to the fact the project abuts the ocean per LIP Section 10.5(C) a Determination from the California State Lands Commission is required. Please contact Mr. Drew Simpkin at (916) 574-2275 or at drew.simpkin@slc.ca.gov for submittal requirements or review status. Please note that this process takes a substantial amount of time and should be started if it hasn't been already.

3. Please provide information related to the location of the nearest public beach access point (s), what type of access exists, and whether the access is open to the public.

4. Please confirm if improvements to the access easement are proposed.

Zoning Conformance

5. Based on the information provided, the project appears to exceed the following zoning requirements:

EXHIBIT B

Anna Feng

To: Jackson D. McNeill
Subject: RE: Re: 33008 PCH

From: Jason Ernst <jernst@malibucity.org>
Sent: Tuesday, October 14, 2025 11:40 AM
To: Jackson D. McNeill <JMcNeill@elkinskalt.com>
Cc: Kenneth A. Ehrlich <KEhrlich@elkinskalt.com>
Subject: RE: Re: 33008 PCH

---EXTERNAL EMAIL: Do not click links or attachments unless you recognize the sender and know the content is safe---

There was a note in the database stating that a state land's letter is not required for this project.

Sincerely,

Jason Ernst
Senior Office Assistant | Community Development Department
Office: (310) 456-2489 ext.284 | Mobile: (424) 422-2485
23825 Stuart Ranch Road | Malibu, CA 90265

EXHIBIT C

RECORDING REQUESTED BY:
Equity Title Company

AND WHEN RECORDED MAIL To

Bluff Top 1 LLC
33010 Pacific Coast Highway
Malibu, CA. 90265

THIS SPACE FOR RECORDER'S USE ONLY:

Title Order No.: 3910121-11401 **Escrow No.:** 020980
AP#: 4473-017-009

GRANT DEED

88

THE UNDERSIGNED GRANTOR(S) DECLARE(S)
DOCUMENTARY TRANSFER TAX is $8,470.00
[X] computed on full value of property conveyed, or
[ ] computed on full value less value of liens or encumbrances remaining at time of sale.
[ ] Unincorporated area [X] City of Malibu **AND**

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,

Richard L. Hudspeth, a Married Man as to an undivided 50% interest and Beverly Ann Hudspeth, a Married Woman,as to an undivided 50% interest as Tenants in Common

hereby GRANT(s) to:

Bluff Top 1 LLC, a California limited liability company

the real property in the City of Malibu, County of Los Angeles, State of California, described as:
LEGAL DESCRIPTION ATTACHED HERETO AS EXHIBIT "A" AND MADE A PART HEREOF
Also Known as: Vacant land - 33008 Pacific Coast Highway, Malibu, CA 90265

Dated November 19, 2021

Richard L. Hudspeth

THIS DOCUMENT IS BEING SIGNED IN COUNTERPART

Beverly Ann Hudspeth

1 of 2

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA
COUNTY OF San Diego
On Dec. 23, 2021 before me, Matilda Hernandez, A Notary Public personally appeared Richard L. Hudspeth who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/~~are~~ subscribed to the within instrument and acknowledged to me that he/~~she~~/~~they~~ executed the same in his/~~her~~/~~their~~ authorized capacity(~~ies~~), and that by his/~~her~~/~~their~~ signature(~~s~~) on the instrument the person(~~s~~), or the entity upon behalf of which the person(~~s~~) acted, executed the instrument.
I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.
WITNESS my hand and official seal.

Signature _____ (Seal)

MATILDA HERNANDEZ
Commission No. 2331047
NOTARY PUBLIC - CALIFORNIA
SAN DIEGO COUNTY
Commission Expires August 2, 2024

MAIL TAX STATEMENTS TO PARTY SHOWN BELOW; IF NO PARTY SHOWN, MAIL AS SHOWN ABOVE:

GOVERNMENT CODE 27361.7

I certify under penalty of perjury that the Notary Seal on the document to which this Statement is attached reads as follows:

NAME OF THE NOTARY: _____

DATE COMMISSION EXPIRES: _____

COUNTY WHERE BOND IS FILED: _____

COMMISSION NUMBER: _____ VENDOR#: _____

I certify under penalty of perjury and the laws of the State of California that the illegible portion of this document to which this statement is attached reads as follows:

SHOWN ABOVE: _____

_____

_____

PLACE OF EXECUTION: Glendale, CA DATE: 12/28/2021

Equity / Progressive Title , Recording Clerk , as agent

Adrineh Zargarian

Adrineh Zargarian

Signature

RECORDING REQUESTED BY:
Equity Title Company

AND WHEN RECORDED MAIL To

Bluff Top 1 LLC
33010 Pacific Coast Highway
Malibu, CA. 90265

THIS SPACE FOR RECORDER'S USE ONLY:

Title Order No.: 3910121-11401 **Escrow No.:** 020980
APN: 4473-017-009

GRANT DEED

THE UNDERSIGNED GRANTOR(S) DECLARE(S)
DOCUMENTARY TRANSFER TAX is $
[X] computed on full value of property conveyed, or
[ ] computed on full value less value of liens or encumbrances remaining at time of sale.
[ ] Unincorporated area [X] City of Malibu **AND**

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,

Richard L. Hudspeth, a Married Man as to an undivided 50% interest and Beverly Ann Hudspeth, a Married Woman,as to an undivided 50% interest as Tenants in Common

hereby GRANT(s) to:

Bluff Top 1 LLC, a California limited liability company

the real property in the City of Malibu, County of Los Angeles, State of California, described as:
LEGAL DESCRIPTION ATTACHED HERETO AS EXHIBIT "A" AND MADE A PART HEREOF
Also Known as: Vacant land - 33008 Pacific Coast Highway, Malibu, CA 90265

Dated November 19, 2021

THIS DOCUMENT IS BEING SIGNED IN COUNTERPART 2 of 2

Richard L. Hudspeth

Beverly Ann Hudspeth

Beverly Ann Hudspeth

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA
COUNTY OF Amador
On December 23rd, 2021 before me, JONATHAN GOUNDAR, A Notary Public personally appeared Beverly Ann Hudspeth who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.
I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.
WITNESS my hand and official seal.

Signature _____ (Seal)

See Attached

JONATHAN GOUNDAR
Notary Public - California
Amador County
Commission # 2310454
My Comm. Expires Oct 25, 2023

MAIL TAX STATEMENTS TO PARTY SHOWN BELOW; IF NO PARTY SHOWN, MAIL AS SHOWN ABOVE:

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of AMADOR)

On DECEMBER 23RD, 2021 before me, JONATHAN GOUNDAR, NOTARY PUBLIC
(insert name and title of the officer)

personally appeared BEVERLY ANN HUDSPETH ----------,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

JONATHAN GOUNDAR
Notary Public - California
Amador County
Commission # 2310454
My Comm. Expires Oct 25, 2023

Signature _____ **(Seal)**

EXHIBIT "A"

PARCEL 1:

THAT PORTION OF THE RANCHO TOPANGA MALIBU SEQUIT, IN THE CITY OF MALIBU, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS CONFIRMED TO MATTHEW KELLER BY PATENT RECORDED IN BOOK 1, PAGE 407, ET SEQ, OF PATENTS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE SOUTHERLY LINE OF THE 80 FOOT STRIP OF LAND DESCRIBED IN THE DEED FROM T. R. CADWALADER, TRUSTEE, TO THE STATE OF CALIFORNIA, RECORDED IN BOOK 15228 PAGE 342, OF OFFICIAL RECORDS OF SAID COUNTY, DISTANT THEREON NORTH 80° 45' 30" WEST 1107.62 FEET FROM A POINT BEARING SOUTH 9° 14' 30" WEST 40 FEET FROM ENGINEER'S CENTER LINE STATION 269 PLUS 88.44 AT THE EASTERLY EXTREMITY OF THAT CERTAIN COURSE IN THE CENTER LINE OF SAID 80 FOOT STRIP OF LAND DESCRIBED IN SAID DEED AS SOUTH 80° 45' 30" EAST 7702.63 FEET; THENCE NORTH 80° 45' 30" WEST 150.00 FEET; THENCE SOUTH 27° 34' 30" WEST TO THE ORDINARY HIGH TIDE OF THE PACIFIC OCEAN; THENCE EASTERLY ALONG SAID TIDE LINE TO A LINE BEARING SOUTH 27° 34' 30" WEST FROM THE POINT OF BEGINNING; THENCE NORTH 27° 34' 30" EAST TO THE POINT OF BEGINNING.

EXCEPT THAT PORTION OF SAID LAND LYING NORTH OF A LINE BEARING NORTH 72° 43' 51" WEST 144.71 FEET FROM A POINT IN THE SOUTHEAST LINE OF SAID LAND DISTANT THEREON SOUTH 27° 34' 30" WEST 520.53 FEET FROM THE NORTHEAST CORNER OF SAID LAND TO A POINT IN THE NORTHWEST LINE OF SAID LAND DISTANT THEREON SOUTH 27° 34' 30" WEST 499.24 FEET FROM THE NORTHWEST CORNER OF SAID LAND.

EXCEPT THEREFROM ALL MINERALS, OIL, PETROLEUM, ASPHALTUM, GAS, COAL AND OTHER HYDROCARBON SUBSTANCES CONTAINED IN, ON, WITHIN AND UNDER SAID LAND, BUT WITHOUT THE RIGHT OF ENTRY, AS RESERVED IN THE DEED FROM MARBLEHEAD LAND COMPANY, A CORPORATION RECORDED ON NOVEMBER 13, 1942 IN BOOK 19637 PAGE 347, OF OFFICIAL RECORDS OF SAID COUNTY.

PARCEL 2:

AN EASEMENT FOR ROAD AND UTILITY PURPOSES, TO BE USED IN COMMON WITH OTHERS, OVER THAT PORTION OF RANCHO TOPANGA MALIBU SEQUIT, IN THE COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS CONFIRMED TO MATTHEW KELLER BY PATENT RECORDED IN BOOK 1 PAGE 407, ET SEQ, OF PATENTS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, INCLUDED IN THAT CERTAIN BASEMENT DEED, EXECUTED BY EDWARD C. CAZIER ET AL., RECORDED MARCH 18, 1957 AS INSTRUMENT NO. 4281, IN BOOK 53956 PAGE 173, OF OFFICIAL RECORDS.

END OF LEGAL DESCRIPTION

STATE OF CALIFORNIA }
COUNTY OF LOS ANGELES } ss.

On March--- 14th, 1957, before me, the undersigned, a Notary Public, in and for said County and State, personally appeared C. C. BAYLESS and ELMA E. BAYLESS, known to me to be the persons whose names are subscribed to the within instrument and acknowledged that they executed the same.

WITNESS my hand and official seal.

M. Attwood
Notary Public in and for said County and State.

STATE OF CALIFORNIA }
COUNTY OF LOS ANGELES } ss.

On March--- 7, 1957, before me, the undersigned, a Notary Public, in and for said County and State, personally appeared MELODILE C. HATHAWAY, known to me to be the person whose name is subscribed to the within instrument and acknowledged that she executed the same.

WITNESS my hand and official seal.

4281

DOCUMENT No. ----------
RECORDED AT REQUEST OF

MAR 18 1957
56 MIN. PAST 2 P.M.

OFFICIAL RECORDS
RAY E. LEE, RECORDER
LOS ANGELES COUNTY, CALIF.

4281

Louis T. Busch
Notary Public in and for said County and State.
LOUIS T. BUSCH
My Commission Expires April 6, 1959

EXHIBIT D

EASEMENT DEED

The undersigned, EDWARD C. CAZIER and RUTH D. CAZIER, husband and wife, as joint tenants, owners of the parcels of real property in the County of Los Angeles, State of California, hereinafter referred to as "said lands", described in those certain grant deeds from C. C. Bayless and Elma E. Bayless, husband and wife, to Edward C. Cazier and Ruth D. Cazier, husband and wife, as joint tenants, recorded in Book 51643, Page 389 of Official Records of Los Angeles County, and from Melodile G. Hathaway to Edward C. Cazier and Ruth D. Cazier, husband and wife, as joint tenants, recorded in Book 53216, Page 13 of Official Records of said county; and

AMRE BUSCH, an unmarried woman, owner of the real property in the County of Los Angeles, State of California, hereinafter referred to as "said lands", described in that certain grant deed from C. C. Bayless and Elma E. Bayless to Amre Busch, an unmarried woman, recorded in Book 51643, Page 370 of Official Records of said county; and

ELVIN M. ANDERSON and JUNE B. ANDERSON, husband and wife, as joint tenants, owners of the parcels of real property in the County of Los Angeles, State of California, hereinafter referred to as "said lands", described in those certain grant deeds from C. C. Bayless and Elma E. Bayless to Elvin M. Anderson and June B. Anderson, husband and wife, as joint tenants, recorded in Book 51643, Page 392 of Official Records of said county, and

from Melodile G. Hathaway to Elvin M. Anderson and June B. Anderson, husband and wife, as joint tenants, recorded in Book 53216, Page 15 of Official Records of said county; and

LOUIS T. BUSCH and DORIS M. BUSCH, husband and wife, as joint tenants, owners of the parcel of real property in the County of Los Angeles, State of California, hereinafter referred to as "said lands", described in that certain grant deed from C. C. Bayless and Elma E. Bayless to Louis T. Busch and Doris M. Busch, husband and wife, as joint tenants, recorded in Book 51643, Page 378 of Official Records of said county; and

BEVERLY HILLS NATIONAL BANK AND TRUST COMPANY, a corporation, Trustee, and MELODILE G. HATHAWAY, a widow, beneficiary, under deeds of trust recorded December 27, 1956 as Document Nos. 1315, 1316 and 1317, recorded in Book 53216 Pages 194, 188, and 182, respectively, Official Records of Los Angeles County, covering the property described in a grant deed from said beneficiary to Elvin M. Anderson and June B. Anderson, recorded in Book 53216, Page 15 of Official Records of said county; and

BEVERLY HILLS NATIONAL BANK AND TRUST COMPANY, a corporation, Trustee, and MELODILE G. HATHAWAY, a widow, beneficiary, under deed of trust recorded December 27, 1956 as Document No. 1313 in Book 53216 Page 331, Official Records, covering the real property described in a grant deed from said beneficiary to Edward C. Cazier and Ruth D. Cazier, husband and wife, as joint tenants, recorded in Book 53216 Page 13, Official Records; and

BEVERLY HILLS NATIONAL BANK AND TRUST COMPANY, a corporation, Trustee, and C. C. BAYLESS and ELMA E. BAYLESS, husband and wife, as joint tenants, beneficiaries, under deed of trust recorded July 5, 1956 as Document No. 1403 in Book 51643 Page 376, Official Records, covering the real property described in a grant deed from said beneficiaries to Amre Busch, recorded in Book 51643 Page 370, Official Records; and

BEVERLY HILLS NATIONAL BANK AND TRUST COMPANY, a corporation, Trustee, and C. C. BAYLESS and ELMA E. BAYLESS, husband and wife, as joint tenants, under deed of trust recorded July 5, 1956 as Document No. 1407 in Book 51648 Page 74, Official Records, covering the real property described in a grant deed from said beneficiaries to Elvin M. Anderson and June B. Anderson, husband and wife, as joint tenants, recorded in Book 51643 Page 392, Official Records; and

BEVERLY HILLS NATIONAL BANK AND TRUST COMPANY, a corporation, Trustee, and C. C. BAYLESS and ELMA E. BAYLESS, husband and wife, as joint tenants, beneficiaries, under deed of trust recorded July 5, 1956 as Document No. 1409 in Book 51643 Page 424, Official Records, covering the property described in a grant deed from said beneficiaries to Edward C. Cazier and Ruth D. Cazier, husband and wife, as joint tenants, recorded in Book 51643 Page 389, Official Records; and

BEVERLY HILLS NATIONAL BANK AND TRUST COMPANY, a corporation, Trustee, and C. C. BAYLESS and ELMA E. BAYLESS, husband and wife, as joint tenants, beneficiaries, under deed of trust recorded July 5, 1956 as Document No. 1405 in Book 51643 Page 382, Official Records, covering the real property described in

a grant deed from said beneficiaries to Louis T. Busch and Doris M. Busch, husband and wife, as joint tenants, recorded in Book 51643 Page 378, Official Records;

For the purpose of creating and establishing easements for road and utility purposes, with right of ingress and egress over, along and under the strip of land hereinafter described, as appurtenant to and for the common benefit of all of the said lands, or portions thereof, above referred to,

DO HEREBY GRANT each party hereto, to each and every other party hereto and each of their successors in the ownership of said lands, or portions thereof, easements for the purposes aforesaid over, along and under said strip of land to the end that said easements shall be used and enjoyed in common by said owners and their successors and assigns.

The strip of land over which said easements are hereby granted is described as follows:

That portion of the Rancho Topanga Malibu Sequit, in the County of Los Angeles, State of California, confirmed to Matthew Keller by Patent recorded in Book 1, Pages 407 et seq., of Patents, in the office of the county recorder of said county, included within a strip of land 20 feet wide lying 10 feet on each side of the following described center line:

Beginning at a point in the southerly line of the 80 foot strip of land described in the deed to the State of California recorded in Book 15228 Page 342 of Official Records of said county distant thereon North 80° 45' 30" West 1,330.93 feet from a point bearing South 9° 14' 30" West 40 feet from engineer's center line Station 269 plus 88.44 at the easterly extremity of that certain course in the center line of said 80 foot strip of land described in said deed as South 80° 45' 30" East 7702.63 feet; thence South 9° 14' 30" West 10.00 feet to the true point of beginning; thence South 80° 45' 30" East 22.45 feet to the beginning of a tangent curve concave northeasterly having a radius of 40 feet; thence southerly along said curve 13.97 feet to the beginning of a reversing curve concave southwesterly

having a radius of 60 feet, a radial line of said curve bears South 49° 13' 55" West; thence southerly along said curve 71.57 feet; thence tangent to said curve South 27° 34' 30" West 159.32 feet to the beginning of a tangent curve concave easterly having a radius of 42.71 feet; thence southerly along said curve 28.87 feet to the beginning of a reversing curve concave westerly having a radius of 42.71 feet; thence southerly along said curve 28.87 feet; thence tangent to said curve South 27° 34' 30" West 193.90 feet; thence South 79° 34' 30" West 104.15 feet; thence South 36° 34' 30" West 40.34 feet; thence South 66° 34' 30" West 43.75 feet; thence North 78° 25' 30" West 94.28 feet to the beginning of a tangent curve concave southeasterly having a radius of 25.00 feet; thence southwesterly along said curve 40.58 feet; thence tangent to said curve South 14° 34' 30" West 46.85 feet; thence South 28° 34' 30" West 93.14 feet; thence South 9° 00' 15" West to the ordinary high tide line of the Pacific Ocean.

Also, a like easement over that portion of said Rancho included within a strip of land 20 feet wide lying 10 feet on each side of the following described center line:

Beginning at the northeasterly terminus of the course above described having a bearing and a length of South 27° 34' 30" West 159.32 feet; thence North 27° 34' 30" East 37.29 feet to the beginning of a tangent curve concave southeasterly having a radius of 60.00 feet; thence northeasterly along said curve 35.42 feet to the beginning of a tangent curve concave northwesterly having a radius of 40 feet, a radial line of said curve bears North 28° 36' 19" West; thence northeasterly along said curve 6.42 feet; thence North 52° 12' 07" East 36.48 feet.

ALSO a like easement over that portion of said Rancho, bounded as follows: On the southwest by the Northeast line of the first described 20 foot strip; on the southeast by the northwest line of the second described 20 foot strip and bounded on the north by a curve concave northerly having a radius of 30 feet, said curve being tangent to said northeast and northwest lines.

Said 20 foot strips of land to terminate in the southerly line of Pacific Coast Highway 100 feet wide.

ALSO a like easement over that portion of said Rancho, described as follows:

Beginning at a point that is distant South 61° 25' 30" East 10.00 feet from the southerly terminus of the course above described having a bearing and a length of South 28° 34' 30" West 93.14 feet; thence South 61° 25' 30" East 140.00 feet; thence South 28° 34' 30" West to the ordinary high tide line of the Pacific Ocean; thence westerly along said tide line to a line bearing South 9° 00' 15" West and which passes through the point of beginning of this description; thence North 9° 00' 15" East to said point of beginning.

RESERVING therefrom unto the parties hereto, their successors and assigns, the right to grant similar easements to others and such easements as may be necessary to construct and maintain embankment and excavation slopes on the said lands adjoining the above described easements for road and utility purposes, with the right of entry thereon.

DATED this 5th day of March, 1957.

Edward C. Cazier
Edward C. Cazier

Ruth D. Cazier
Ruth D. Cazier

Amre Busch
Amre Busch

Elvin M. Anderson
Elvin M. Anderson

June B. Anderson
June B. Anderson

Louis T. Busch
Louis T. Busch

Doris M. Busch
Doris M. Busch

BEVERLY HILLS NATIONAL BANK AND TRUST COMPANY,
Trustee

By _____
Vice President and Trust Officer

By _____
Assistant Trust Officer

_____
C. C. Bayless

_____
Elsie E. Bayless

_____
Melodile G. Hathaway

666

STATE OF CALIFORNIA }
COUNTY OF LOS ANGELES } ss.

On March 8, 1957, before me, the undersigned, a Notary Public, in and for said County and State, personally appeared EDWARD C. CAZIER, RUTH D. CAZIER, AMRE BUSCH, ELVIN M. ANDERSON, JUNE B. ANDERSON, LOUIS T. BUSCH and DORIS M. BUSCH, known to me to be the persons whose names are subscribed to the within instrument and acknowledged that they executed the same.

WITNESS my hand and official seal.

Notary Public in and for said
County and State.

STATE OF CALIFORNIA }
COUNTY OF LOS ANGELES } ss.

On March 14th, 1957, before me, a Notary Public in and for said County and State, personally appeared J. R. Pattillo and Donald B. Mullis, known to me to be the persons who executed the within instrument on behalf of the corporation therein named and acknowledged to me that such corporation executed the same.

WITNESS my hand and official seal.

Notary Public in and for said
County and State.
My Commission Expires Nov. 20, 1957

Esc. 24168-A
Ord. #470789

RECORDED AT REQUEST OF

WHEN RECORDED PLEASE MAIL TO
Beverly Hills National Bank and Trust Company
BOX 711, BEVERLY HILLS, CALIF.

LAW OFFICES OF
IRA L. SHERMAN
1028 ROWAN BUILDING
458 SOUTH SPRING STREET
LOS ANGELES 13
MADISON 9-2544

EXHIBIT E

City of Malibu

23825 Stuart Ranch Road · Malibu, California · 90265-4861
Phone (310) 456-2489 · Fax (310) 456-3356 · www.malibucity.org

February 10, 2025

Schmitz and Associates, Inc.
ATTN: Arfakhashad Munaim
28118 Agoura Road, Suite 200
Agoura Hills, CA 91301 Sent via email: amunaim@schmitzandassociates.net

Reference: **COASTAL DEVELOPMENT PERMIT (CDP) No. 23-034**
CODE VIOLATION NO. 23-047
33008 Pacific Coast Highway, Malibu, CA 90265
An application for a new two-story single-family residence, onsite wastewater treatment system, landscaping, grading, and associated development including the abatement of a code violation related to unpermitted fencing, landscaping, etc.

Dear Mr. Munaim:

On **May 17, 2023,** the application listed above was submitted to the City of Malibu's Planning Department for processing. The subject property is located at 33008 Pacific Coast Highway (APN 4473-017-009) and is zoned Rural Residential – Two Acres (RR-2). The subject property is within the Appeal Jurisdiction of the California Coastal Commission (CCC) as depicted on the Post – Local Coastal Program Certification Permit and Appeal Jurisdiction Map of the City of Malibu.

Our Planning Department Staff has completed a review of the supplemental materials submitted and determined February 10, 2024**,** that the application submitted remains **INCOMPLETE and will require further information.** To continue processing the application, please address the following items.

1. ~~Staff must visit the property to photograph and document existing site conditions. Please contact me at (310) 456-2489, extension 276, or rbrooks@malibucity.org to schedule a site visit.~~

2. ~~Due to the fact the project abuts the ocean per LIP Section 10.5(C) a Determination from the California State Lands Commission is required. Please contact Mr. Drew Simpkin at (916) 574-2275 or at drew.simpkin@slc.ca.gov for submittal requirements or review status. Please note that this process takes a substantial amount of time and should be started if it hasn't been already.~~

3. ~~Please provide information related to the location of the nearest public beach access point (s), what type of access exists, and whether the access is open to the public.~~

4. Please confirm if improvements to the access easement are proposed.

   Update: Staff has been made aware that improvements are proposed within the access easement. Pursuant to LIP Section 13.6.2, all holders or owners of the easement shall be notified in writing of the subject permit application and invited to join as co-applicant. Please provide mailing data for the property owners that hold easement rights.

From:	AK Munaim
To:	Planning Commission; Didier Murillo; Tyler Eaton
Cc:	Scott Hoeft; Chris Deleau
Subject:	Item 4A - Planning Commission 12/1 - Support Letter
Date:	Monday, November 24, 2025 8:58:00 AM
Attachments:	20251123_We find it troubling that dedicated individuals like th.pdf

Hi Gail,

Please find attached additional support letter. Thank you.

Arfakhashad (AK) Munaim
Special Projects Manager, Schmitz and Associates

747.444.6144
schmitzandassociates.com
amunaim@schmitzandassociates.net
28230 Agoura Rd. Suite 200, Agoura Hills, CA 91301

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November 23, 2025

Dear Malibu Planning Board,

We are writing to share our perspective on the ongoing situation involving our friends, Ron and Jane Jenny.

Recently, we learned that two neighbors have engaged attorneys to obstruct their efforts to build a modest home on the property they purchased a few years ago. We have known the Jennys for many years, and they have dedicated decades to Malibu—raising their children here and contributing positively to our community.

We believe everyone has the right to develop their property within established guidelines, and it is unfair that these efforts are being hindered through legal threats and character attacks.

We find it troubling that dedicated individuals like the Jennys, who have invested so much in Malibu, are being prevented from enjoying and utilizing their property as they have planned.

In our view, such interference infringes upon fundamental property rights. If the Jennys are unable to proceed with their project, they should be compensated or given the opportunity for the city to purchase the land. Ownership rights should be protected for all residents.

Thank you for your serious consideration of this matter.

Sincerely,

Frank and Ursula Brooks

[redacted] Malibu, CA 90265

Received
10/28/25
Planning Div.

Robert Marderosian
[redacted] Vantage Point Terrace
Malibu, CA 90265
10/27/2025

Attn: City of Malibu Planning Commission
Stuart Ranch Road Malibu, CA 90265
planningcommission@malibucity.org

Attn: Rebecca Evans
revans@malibucity.org

Subject: PC Meeting November 3, 2025, Item 4B: Coastal Development Permit No. 23-034 / 33008 Pacific Coast Highway.

I want to begin by thanking you for your service to our community. I know that the decisions you make are never easy, and I appreciate the time and care you dedicate to balancing the rights of property owners with the needs of our broader community. I am writing today about the proposed development at Pacific Coast Highway, and I ask that you consider some concerns that may not be immediately apparent from the application materials.

I understand the appeal of this project on its surface. A property owner wants to improve their land, and at first glance, that seems reasonable. But as I've learned more about this particular situation, I've come to believe that approving this project would create problems that extend far beyond this single property—problems that could affect how development happens throughout Malibu for years to come.

Let me share what troubles me most. This property is subject to a deed restriction from that was specifically designed to prevent building in flood-prone areas. That restriction was not arbitrary—it was put in place by Los Angeles County to protect both the property owner and the public. The current proposal appears to circumvent that restriction by limiting it to just one corner of the property, rather than honoring its original intent to protect the entire flood zone. If you allow this precedent, what message does that send about the permanence and enforceability of deed restrictions throughout our city? Property owners who have faithfully honored their restrictions for decades might reasonably ask why they should continue to do so.

I'm also concerned about the environmental implications. The project site includes portions of an Environmentally Sensitive Habitat Area—the very ecosystems that make Malibu special and that the California Coastal Act requires us to protect. I know the applicant has submitted a biological assessment, but my neighbors who have studied this issue closely have raised serious

CC: Planning Commission, PD,

Recording Secretary, File

Date Received 10/28/25 Time 7:30 a.m.
Planning Commission meeting of 11/03/25
Agenda Item No. 4B
Total No. of Pages 3

questions about its adequacy. Before you make an irreversible decision, shouldn't you be absolutely certain that you're not causing permanent damage to habitat that belongs to all of us?

What troubles me even more is the pattern of behavior you're being asked to reward. According to the City's own records, there is currently an open code enforcement case against this property for unpermitted work—including fencing, gates with electrical power, landscaping, drainage, and ground disturbance on Chumash-designated land. The applicant is essentially asking you to approve a project that would legitimize some of these violations after the fact. I understand that people make mistakes, but this appears to be a pattern rather than an isolated incident. Photographs from show materials being delivered to the property without permits. There's even evidence of what appears to be unpermitted construction of a path down the coastal bluff to the beach.

I want to be clear… I'm not opposed to all development. Malibu has always been a place where people can build homes and enjoy their property. But there has to be rules, and those rules have to mean something. When we reward those who ignore the rules while their neighbors follow them faithfully, we undermine the entire system that protects our community.

There is also the matter of due process. According to the legal analysis my neighbors have obtained, several parties who hold property interests in an easement road affecting this property were never invited to join the application as co-applicants, as required by the Local Coastal Program. Additionally, the public hearing notice did not mention that this hearing would resolve the outstanding code violations—so members of the public who might want to comment on that aspect have been denied the opportunity to participate. These are not just technicalities, they are fundamental fairness issues that go to the heart of how we govern ourselves.

Finally, I want to mention the impact on neighboring properties. One of the neighbors has a Primary View Determination that protects their ocean views. The proposed landscaping includes trees that will grow to feet tall, which appears to directly violate both the Municipal Code's view protection requirements and the conditions of approval that specifically prohibit vegetation from obstructing primary views. The photographic evidence is compelling—this project will block views that are legally protected.

I know you may be thinking that denying this application seems harsh. But I would ask you to consider what approval would mean. It would mean that deed restrictions can be reinterpreted decades later to suit current desires. It would mean that patterns of code violations can be resolved by simply applying for after-the-fact permits. It would mean that environmental protections and view protections are negotiable rather than enforceable. And it would mean

that the procedural safeguards that have been put in place to ensure fairness do not really matter.

The applicant will have other opportunities to develop this property in a way that respects the deed restrictions, protects the environment, honors the neighbors' legal rights, and complies with our codes. But this particular proposal asks you to compromise too many principles that are essential to Malibu's character and to fair governance.

I urge you to deny this application—not out of opposition to the property owner, but out of respect for the rules that protect all of us in Malibu. Our community depends on your willingness to make the difficult decision to uphold our standards, even when it would be easier to simply approve what is in front of you.

Thank you for taking the time to read this letter and for your continued service to our community. I trust that you will make the decision that best serves Malibu's long-term interests.

Respectfully,

Robert Marderosian

Malibu Resident since 2002

Received
12/31/2025
Planning Div.

From: Malibu Township Council
To: Planning Commission; Drew Leonard; John Mazza; Marni Kamins; Elizabeth Riddick; Skylar Peak
Cc: Bill Sampson; Patt Healy; DavidPaulDominguez@gmail.com; Rebecca Evans; Gail Duncan
Subject: Fwd: Item 4B - CDP 23-034- 33008 PCH
Date: Friday, October 31, 2025 4:38:35 PM

Honorable Planning Commission,

Malibu Township Council has been advocating for responsible development since 1947.

A Phase I Archaeological Study was prepared by Matthew A. Boxt, Ph.D. for the subject property in March 2023. The cultural resources found during the field survey included subsistence shell and stone tools. This should immediately thus warrant a Phase 2 archaeological study.

From Malibu's Archaeological Evaluation and Inventory Information on the city's website link attached below:

"*All Phase I Inventories that involve any excavation or monitoring shall be conducted in consultation with a qualified Chumash Cultural Resources Monitor. A Phase I Inventory must include the following information: - A public records search through the regional historical resources information center; - An archival search of historic records; - A field survey; - A written report that describes how the survey was conducted and the result of the survey. If, on the basis of the Phase I Inventory described above, one or more significant cultural resources is found, a Phase I Inventory may be required to include: - An evaluation of limited shovel test pits to determine whether a subsurface deposit is present and a* ***negative declaration*** *shall be prepared. - Recommendations for a Phase II Evaluation and a negative declaration, mitigated negative declaration, focused environmental impact report or an environmental impact report shall be prepared. - Monitoring programs pursuant to Malibu Municipal Code (M.M.C.) Section 17.54.040(D)(4) and a mitigated negative declaration shall be prepared. Where, as a result of the Phase I Inventory, it is determined that the project may have an adverse impact on cultural resources, a Phase II Evaluation of cultural resources will be required and a negative declaration, mitigated negative declaration, focused environmental impact report, or an environmental impact report must be prepared."*

"All Phase II Evaluations must be conducted by a qualified archaeologist and, where the Phase I Inventory indicates the presence of prehistoric or ethnohistoric Chumash cultural resources. The evaluation shall also be conducted in consultation with a qualified Chumash Cultural Resources Monitor. A Phase II Evaluation is an investigation intended to: - Gather additional data in order to assess the importance of the cultural resources identified in Phase I inventories; - Define site boundaries of the cultural resources; - Assess the site's integrity; - Evaluate the project's potential adverse impacts on cultural resources; - Develop measures to mitigate potential adverse impacts."

"In the event that any potentially important cultural resources are found in the course of excavation or trenching, work shall immediately cease until the qualified archaeologist can provide an evaluation of the nature and significance of the resources and until the Planning Director can review this information. Where, as a result of this evaluation, it is determined that the project may have an adverse impact on cultural resources, a Phase II Evaluation of cultural resources shall be required pursuant to a ***Phase III Mitigation Program****. The limitations on mitigation as described in a Phase II Evaluation shall not be applicable to monitoring programs described in a Phase III Mitigation Program."*

https://malibucity.org/DocumentCenter/View/92/Archaeological-Evaluation-and-Inventory-Information?bidId=#:~:text=%E2%80%A2%20A%20Phase%20II%20Evaluation%20is%20an%20investigation%20intended%20to:%20%2D%20Gather%20additional&text=surface%20collection%20and%20archaeological%20excavation%20as%20provided%20for%20under%20this

David Paul Dominguez, a Qualified Chumash Cultural Resources Monitor, inspected the site and adjacent area just last week and researched historical cultural records and recommends at the very least a Phase II study to be completed and a mitigated negative declaration prepared before this application can be approved. There are apparently artifacts throughout the area.

There is also a blue line stream within 100 ft of the proposed new turnaround and multiple proposed walls and a shed. This is not addressed in the staff report at all and needs to be evaluated (see p 66) even though confirmed in the plans and by both the city and applicant's biologist. See p 103 of staff report: *"K. All new development including structures, septic systems, or landscaping, shall be set back no less than (100) feet from the (stream)"*

There are also multiple code violations including illegal stairs to the beach, planting of giant fire hazardous trees on the bluff, illegal gates and fences, etc. These need to be corrected before this application can proceed.

All the trees that are proposed to be planted within the PVD of the neighbor behind at 33006 PCH must be removed from the project. See also p 103 - "*F. Vegetation shall be situated on the property so as not to obstruct the primary view from private property at any given time (given consideration of its future growth)."*

Due to all these multiple reasons the project cannot yet move forward.

Plus it is Halloween - do you really want to be haunted by Chumash ghosts for not protecting or respecting their cutlural resources? ;)

Due diligence is more than necessary for a project of this size and scale.

Thank you for your consideration,

Jo Drummond
Malibu Township Council

CC: Planning Commission, PD,

Recording Secretary, File

Date Received 10/31/2025 Time 4:38pm
Planning Commission meeting of 11/3/2025
Agenda Item No. 4B
Total No. of Pages 1

Received
11/2/25
Planning Div.

From: AK Munaim
To: Planning Commission
Cc: Scott Hoeft; Chris Deleau; Don Schmitz
Subject: Support Letters for Item 4B - Planning Commission Hearing - 11-3-25
Date: Sunday, November 2, 2025 1:05:50 PM
Attachments: Matza_Dear Planning Commission.pdf

Hi Gail,

Please find 2 additional support letters for the hearing tomorrow. Thank you.

Arfakhashad (AK) Munaim
Special Projects Manager, Schmitz and Associates

747.444.6144
schmitzandassociates.com
amunaim@schmitzandassociates.net
28230 Agoura Rd. Suite 200, Agoura Hills, CA 91301

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CC: Planning Commission, PD,

Recording Secretary, File

Date Received 11/2/25 Time 1:05pm
Planning Commission meeting of 11/3/25
Agenda Item No. 4B
677 Total No. of Pages 3

November 1, 2025

Dear Planning Commission,

I have been a resident of Malibu for 56 years. My wife, Mary, who sadly passed away, and Jane worked side by side 40 years ago in the PTA as our children were growing up. Ron Jenny was actively involved in the Kiwanis Club of Malibu for years, supporting our community while raising four children here in our beautiful town of Malibu.

Ron has shared with me that he and Jane wish to spend the rest of their lives in the house they have designed on their lot. He also expressed that it has been quite arduous to reach this point through the planning process over the past several years.

Furthermore, I am aware that their neighbors are doing everything they can to prevent them from building their home. Also, what I have been told is that there are four neighbors on the same block as Jenny's who wrote letters in favor of Jenny's being able to build their Home.

The Jennys should have the right to build a home on the property they purchased. Ron Jenny informed me that the lot is three-quarters of an acre and that they are building a 4,000-square-foot house. He also mentioned that they could have built a house a few thousand square feet larger, but chose not to maximize their building.

Please consider allowing the Jennys to proceed with building their home.

Thank you for your time and consideration.

Sincerely,
Joe Matza



Dear Malibu Planning Commission,

It has come to my attention that two neighbors of Ron and Jane Jenny have retained attorneys in an attempt to prevent them from building a modestly sized home on their property, which they purchased approximately four years ago. I have known the Jennys for many years, and they have been residents of Malibu for about 55 years. They raised their four children here and have always intended to spend the rest of their lives in Malibu, including on this piece of property.

That despite paying substantial property taxes, the Jennys are unable to enjoy their property without harassment. The attorneys have even orchestrated letters aimed at discrediting them. This feels like a targetted attack on their right to build a simple, two-bedroom home for their retirement within a city they cherish.

In my view, denying property rights is unconstitutional. If the Jennys are unable to use their property as intended, they should be compensated by the city, or the city should consider purchasing the property. Property taxes should be suspended in the interim.

Jonathan Banks

Jonathan Banks

[redacted]

Received
10/17/25
Planning Div.

From: Jackson D. McNeill
To: Planning Commission
Cc: Yolanda Bundy; Raneika Brooks; Trevor Rusin; Kellan Martz; Kenneth A. Ehrlich; Marco A. Ornelas Lopez
Subject: Re: October 20, 2025, Planning Commission Agenda Item #5A - 33008 PCH / CDP No. 23-034 and Minor Modification No. 25-009
Date: Friday, October 17, 2025 12:19:31 PM
Attachments: image001.png
2025-10-17 33008 PCH Opposition Letter.pdf

To Whom It May Concern:

Our firm represents Unknowingly Devolving LLC and Mark and Tamara Mackey (collectively, our "Clients"). Our Clients submit the attached letter objecting to the proposed project at 33008 Pacific Coast Highway (CDP No. 23-034 and Minor Modification No. 25-009), scheduled as Item #5A on the Planning Commission's October 20, 2025, agenda. **Due to the size of the exhibits, the letter *with exhibits* may be found at the following link:**

https://elkinskalt.sharefile.com/public/share/web-s16c82d33203549c9a5b1178bbd224e2e

Please distribute this letter and the above link to Commissioners as soon as possible. Please contact me directly with any questions. Thank you.

Best,

Jackson D. McNeill
JMcNeill@elkinskalt.com
Direct Dial: (310) 746-4424 | Fax: (310) 746-4499 | Download VCard
Elkins Kalt Weintraub Reuben Gartside LLP
10345 W. Olympic Boulevard, Los Angeles, CA 90064
www.elkinskalt.com



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CC: Planning Commission, PD,

Recording Secretary, File

Date Received 10/17/25 Time 12:19pm
Planning Commission meeting of 10/20/25
Agenda Item No. 5A
Total No. of Pages 34

Jackson D. McNeill
Direct: (310) 746-4424
Cell: (530) 941-8334
JMcNeill@elkinskalt.com
Ref: 15289-0001

Elkins Kalt Weintraub Reuben Gartside LLP

October 17, 2025

VIA E-MAIL AND U.S. MAIL

City of Malibu Planning Commission
23825 Stuart Ranch Road
Malibu, CA 90265
Email: planningcommission@malibucity.org

Re:	Objections to CDP No. 23-034 and Minor Modification No. 25-009
Address:	33008 Pacific Coast Highway, Malibu, California
Meeting:	October 20, 2025
Item #:	5A

Dear Commissioners:

Our firm represents Unknowingly Devolving LLC and Mark and Tamara Mackey (collectively, our "Clients"), the owners of the real property and single-family residences located at [redacted] and [redacted] Pacific Coast Highway in Malibu, California, respectively. Bluff Top 1 LLC ("Applicant") requests a Coastal Development Permit (CDP No. 23-034) and Minor Modification (Minor Modification No. 25-009) (together, the "Application") to construct a new single-family residence and associated development (the "Project") on a coastal bluff property at 33008 Pacific Coast Highway (the "Property"). Among other things, the Project proposes the maximum-allowed reduction to the coastal bluff setback (from 100 feet to 50 feet), the maximum amount of 2nd story floor area, a near-maximum reduction to the front yard setback (37%), and development in an ESHA buffer area.

The Application cannot be approved as proposed. This opposition is not about minor or technical defects. The Application disregards important substantive and procedural requirements, including ESHA protections, safeguards for archaeological resources, and compliance with the California Environmental Quality Act ("CEQA"). Nor is this an innocent Applicant: The Property remains subject to an open code-enforcement case (Code Violation No. 23-047) involving multiple violations, and our Clients present evidence of additional, ongoing violations, including the unpermitted construction of a path on the coastal bluff. On this record, the City cannot reward such conduct with a CDP or minor modification.

T: 310.746.4400 F: 310.746.4499
10345 W. Olympic Blvd, Los Angeles, CA 90064 | elkinskalt.com

SUMMARY OF OBJECTIONS COMPELLING DENIAL

Myriad grounds compel denying the Application, each of which is explained in detail below. We summarize them here:

- Because the Property includes ESHA buffer, the Project is subject to the ESHA overlay's "development area" limitation. The Applicant fails to calculate development area correctly and, even under Applicant's own calculation, the Project violates the development area cap. (See LIP § 4.7.1.)

- The ESHA overlay prohibits virtually all development in ESHA buffer areas. (LIP § 4.5.4.) Ignoring these requirements, the Project proposes a new solid wall, gates, pilasters, fencing, trench drain, fire turnaround and driveway, planter boxes, landscaping, and other improvements in the ESHA buffer. (See Plans, Sheet A-0.3 [Site Plan].)

- As our Client's biologist opines, the Applicant's biological assessment remains inaccurate and inadequate. It does not constitute the "reasonable, credible, or solid evidence" the law requires to support approval. (See *Doe v. University of Southern Calif.* (2016) 246 CA4th 221, 248-253.) Nor does it suffice under the LIP.

- The Project violates a condition of approval that prohibits grading or ground disturbing activities within 30 feet of the northern property line in order to protect cultural resources. (See Archaeology Review Sheet, p. 1.) In fact, the Project impermissibly proposes hundreds (if not thousands) of cubic yards of grading in this area.

- The project violates the Local Implementation Plan's ("LIP") archaeology requirements because the City failed to require additional "Phase I" archaeology investigations or the preparation of a Phase II archaeology report, despite the discovery of cultural artifacts and a record of artifacts on adjacent properties. (LIP § 11.3.) Under these circumstances, the LIP expressly requires the preparation of an Mitigated Negative Declaration ("MND") or Environmental Impact Report ("EIR") and makes the City's reliance on a Class 3 exemption impermissible. (*Id.*)

- The City states that no significant impacts on cultural resources exist because such impacts will be mitigated to a level of insignificance. But CEQA prohibits relying on such mitigation measures to obtain a categorical exemption. As such, the City

cannot rely on a categorical exemption from CEQA and must prepare an MND or EIR. In addition, unusual circumstances and potential impacts on environmental resources preclude the use of the Class 3 exemption.

- Because the Property lies along the coast and on a coastal bluff, the LIP requires the Applicant to consult with and obtain a written determination from the State Lands Commission before this Application can be heard. No evidence of such consultation exists. (LIP §§ 10.5(C), 13.6.2.(B).)

- Neighboring owners have a property interest in the Property and Application because they have an easement that allows them to use a portion of the Property that the Project affects. However, the City and Applicant failed to invite these owners to join as co-applicants as the LIP requires. (LIP § 13.6.2(C).)

- The City improperly uses the Application and this hearing to resolve code enforcement issues that the Malibu Municipal Code ("MMC") requires the City to resolve through its administrative enforcement powers. (MMC Ch. 1.10.)

- The Notice of Hearing did not comply with LIP requirements or Coastal Act regulations because the City did not send it all agencies known to have an interest in the Project, including the California Native American Heritage Commission, and because it failed to indicate that the code violations might be resolved through this hearing. (See LIP § 13.12.1; Cal. Code Regs., tit. 14, § 13566.)

- The Project's landscaping violates our Client's Primary View Determination ("PVD") and impairs bluewater views in contravention of LIP Chater 6.

- In light of the foregoing, the findings for a CDP and Minor Modification cannot be made.

- In addition, the Property's certificate of compliance ("CoC") under the Subdivision Map Act precludes the development because the Applicant has not complied with the CoC's conditions of approval.

- Finally, the Planning Commission should not reward a Property or Applicant with longstanding code violations with a CDP and Minor Modification.

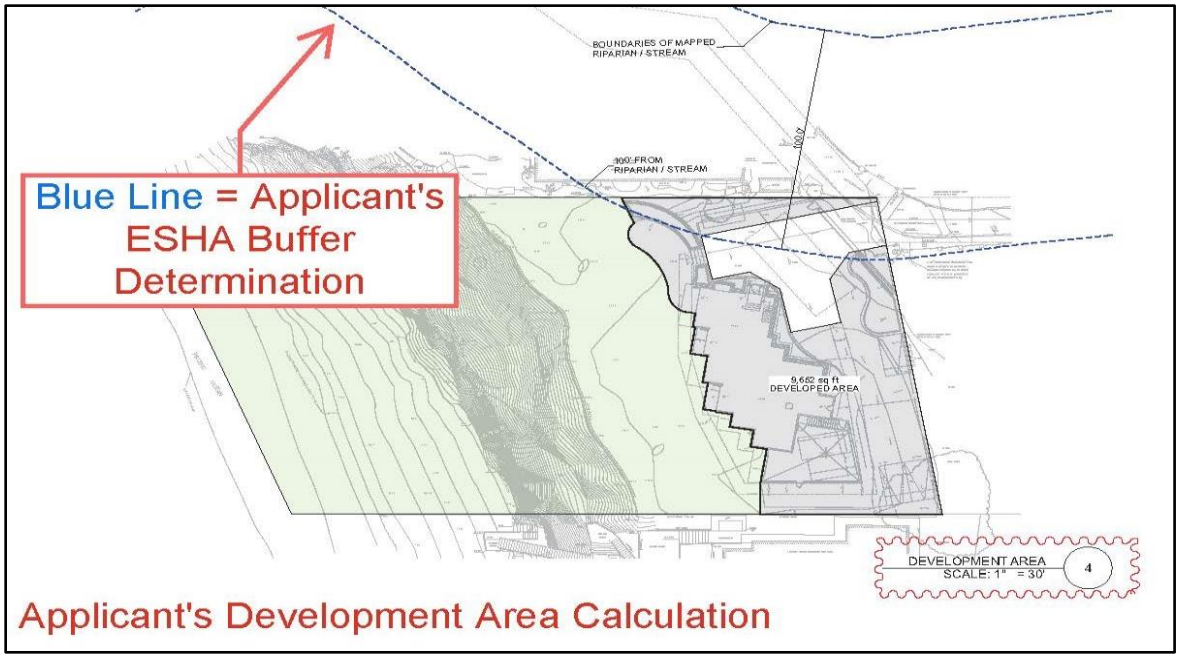
For all of these reasons, the Application should be denied.

ANALYSIS OF ISSUES COMPELLING DENIAL

I. ESHA & Biology Objections.

A. The Project Violates the ESHA Overlay Development Area Limitation.

As shown on the Project Plans, the Project lies partially within an ESHA buffer. (See, e.g., Plan Sheet A-0.2, showing new planters, gates, walls, pilasters, and fencing located behind a line labeled "approx. 100' from ESHA boundary.") Our Clients' biologist team, Amigo Environmental, LLC ("Amigo"), prepared a peer-review of the Applicant's biological assessment (the "Amigo Report"), attached as **Exhibit A**, which likewise states that "at least a portion of the subject property and proposed Project may be located within an ESHA buffer and/or within 100 feet of protected of riparian habitat." (*Id.* at 4.) Accordingly, the Project must comply with the development-area limitations that apply to such projects. Indeed, Applicant admits as much by purporting to demonstrate compliance with the development area limitation on Sheet A-0.3 of the Plans. (See Sheet A-0.3, below, marked-up.)



Importantly, pursuant to LIP section 4.7.1, the allowable "development area is limited to 10,000 square feet or 25 percent of the total lot area, whichever is less. (LIP § 4.7.1.) Based upon the gross lot area of 37,786 square feet, the Project's allowable development area would be limited

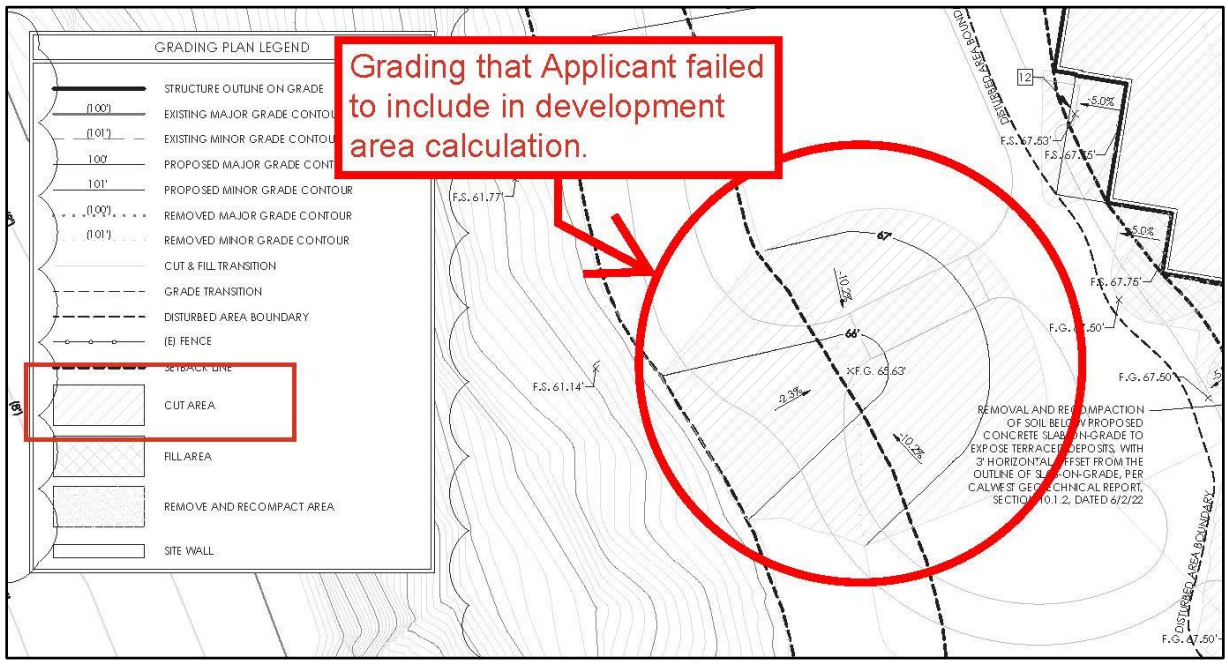
to approximately 9,446.5 square feet. Unlike total development square footage ("TDSF"), development area includes all structures (such as walls, fences, and gates), as well as all graded and parking areas. (See LIP § 2 [defining "development area" as "the approved portion of a project site that is developed, including … all graded slopes, all structures, and parking areas"].)

Here, the Applicant purportedly demonstrates compliance with the development area limitation on Sheet A-0.3, showing a total development area of 9,652 square feet. (See Plans, Sheet A-03.)

However, at least three critical flaws exist with Applicant's calculation:

1. Applicant provides no breakdown, legend, or methodology for its development area calculation other than an unlabeled, unhelpful graphical depiction, making it impossible for staff, the public, or this Commission to confirm that Applicant correctly calculated development area. The Commission should request that Applicant provide a tabular breakdown of the development area calculation.

2. Applicant incorrectly excluded significant portions of the Property from development. For example, a large, circular area of grading is proposed near the coastal bluff, apparently to provide a catch basin for drainage:



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Applicant plainly failed to include this area in development area, even though the LIP defines development area to include "all graded and parking areas." (See LIP § 2.) Indeed, Sheet C-3.0 of the civil engineering plans identifies 12,603.6 square feet of "disturbed area," or grading over approximately 0.29 acres—plainly exceeding the 9,446.5 square-foot development-area limitation.[1]

3. Even assuming the Applicant correctly calculated development area, **the Applicant's purported 9,652 square feet of development area exceeds the 9,446.5 square-foot cap**. Thus, the Project still violates the code.

Accordingly, the Project violates the development area limitation and cannot be approved as proposed. At a minimum, the Applicant must provide detailed calculations demonstrating compliance with the LIP's development-area restriction.

B. The Project Must Be Revised to Comply With the ESHA Buffer Permitted Use Regulations.

The City's ESHA overlay ordinance prohibits virtually all development within ESHA and ESHA buffer areas. As to buffer areas, it states that "[d]evelopment in the following habitats is limited to the uses listed below":

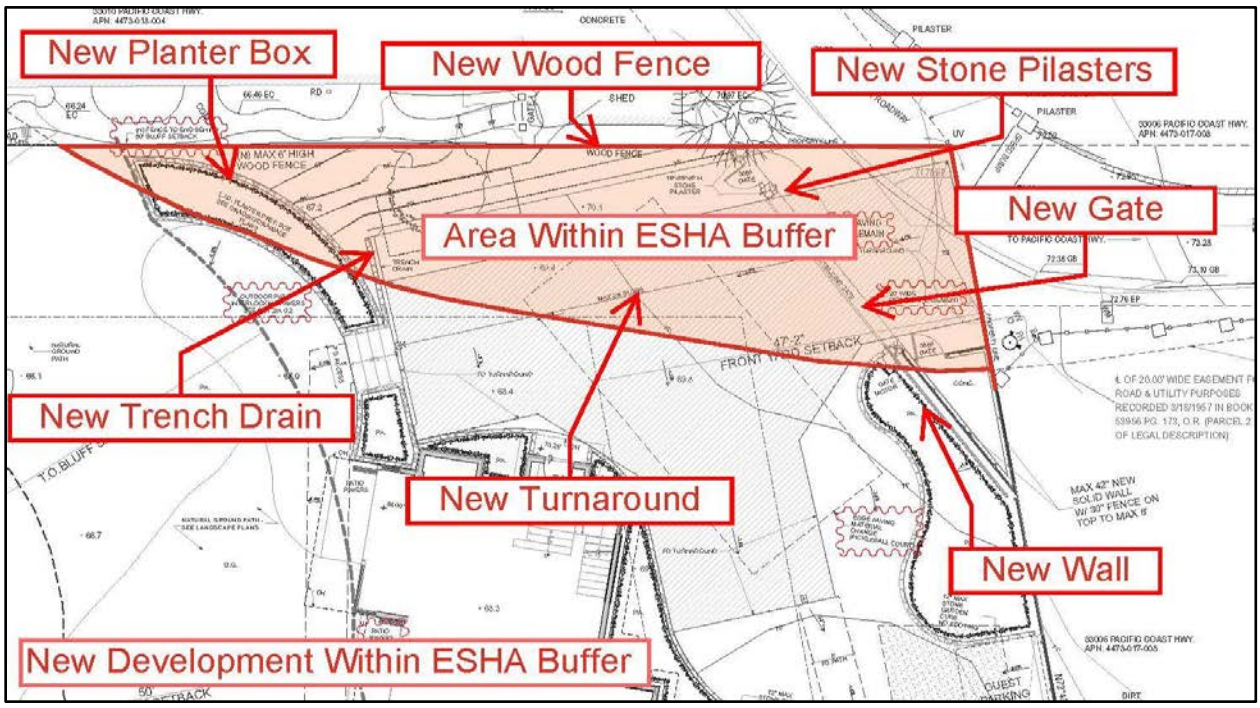
A. Public accessways and trails, including directional signs
B. Interpretive signage designed to provide information about the value and protection of the resources
C. Restoration projects where the primary purpose is restoration of the habitat.
D. Invasive plant eradication projects if they are designed to protect and enhance habitat values.

(LIP § 4.5.4.)

Here, the Applicant proposes various types of impermissible development within the Property's ESHA buffer, including a new wall, gates, pilasters, fence, trench drain, fire turnaround

[1] Even assuming that the fire turnaround—whose size is not calculated—can be excluded from development area, the Applicant has failed to properly calculate or comply with the development area limitation, much less allow this Commission to confirm compliance.

and driveway, planter boxes, and landscaping. A marked-up Sheet A-0.3 (Site Plan), below, shows this issue:



The latest Biology Review Sheet attempts to justify this by stating:

> The former Planning Director and Senior Planning Staff have determined that the project is in compliance with Malibu LIP Chapter 4 because the residence and any other development requiring fuel modification are located 100 feet from the stream. The Planning Department is allowing development not requiring fuel modification within the 100-foot buffer.

(Biology Review Sheet, June 6, 2025, p. 2.) We attach the Biology Review sheet as **Exhibit B**.

This misunderstands the law. The ESHA buffer standards do not merely prohibit "development requiring fuel modification" within the ESHA buffer. The ESHA buffer standards prohibit *all* development within the buffer area except for a narrow set of expressly listed uses—such as interpretive signage or public trails. Because the Project proposes multiple unpermitted

structures and uses within the buffer, it violates LIP section 4.5.4. Until the Applicant revised the Project to comply with these mandatory buffer restrictions, it must be denied.

C. The Applicant's Biology Assessment Remains Inaccurate, Incomplete, and Insufficient.

Our Client's retained Amigo Environmental, Inc. ("Amigo") to prepare a peer-review memorandum ("Amigo Report") of the Applicant's Biology Assessment and related memoranda. The Amigo's Report is attached as **Exhibit A**. We attach the Applicant's Biology Assessment and related memoranda as **Exhibit C**.

The Amigo Report demonstrates that the Applicant's biology documentation remains woefully inadequate. Among other issues:

- **Description of Existing Conditions.** The Existing Conditions section of Applicant's biological assessment lacks basic scientific rigor and required locational/context materials to support impact analysis or mitigation. It offers only vague qualitative statements without quantitative or spatial data. And it fails to adequately identify or classify on-site habitats and sensitive resources. (See Amigo Report, p. 3, excerpt below.)

> The *Existing Conditions* section lacks the level of detail, documentation, and basic scientific rigor necessary to characterize the baseline biological environment, and it therefore cannot support regulatory applicability, impact analysis, or commensurate compensatory mitigation.
>
> There is no mention of the parcel's Assessor's Parcel Number (APN), latitude/longitude coordinates, section Township and Range, or U.S. Geological Survey 7.5-minute quadrangle-basic locational data required for all environmental reports. The omission of topographic maps prevents reviewers from understanding the Project's context relative to known ESHAs or potential fuel modification zones.

- **Description of Common Plant Life.** The description of common plant life for the Project site in the biology assessment is incomplete. (*Id.* at 2, excerpt below.)

> The description of common plant life for the Project site is inconsistent and does not include the level of detail required for environmental analysis in Malibu LCP and coastal zone jurisdiction. This section provides only a cursory list of a few plant species, some of which are incorrectly classified or ecologically implausible for a Southern California coastal bluff site, and lacks any supporting methodology, mapping, or context.
>
> There are four fundamental errors which undermine the credibility of the assessment and indicate an absence of qualified botanical ability and oversight[2]:

- **ESHA**. This *Presence of ESHA* section in the Applicant's biology assessment misstates the site's ESHA relationship, omits critical spatial and ecological data, and fails to evaluate or acknowledge the regulatory implications of the Project's proximity to mapped riparian ESHA and fuel-modification overlap. (*Id.* at 9.) As Amigo notes: "The section contains no figure, map, or cross-reference to show the relationship between the proposed structure, the ESHA boundary, and required buffers or fuel-modification zones. There is no quantification of distances, buffer widths, or ESHA acreage." (*Id.*, excerpt below.)

> This *Presence of ESHA* section in the BA misstates the site's ESHA relationship, omits critical spatial and ecological data, and fails to evaluate or acknowledge the regulatory implications of the Project's proximity to mapped riparian ESHA and fuel-modification overlap. The section contains no figure, map, or cross-reference to show the relationship between the proposed structure, the ESHA boundary, and required buffers or fuel-modification zones. There is no quantification of distances, buffer widths, or ESHA acreage.
>
> The most consequential deficiency of this section is that the ESHA occurs on an adjacent parcel and was never surveyed, mapped, or biologically characterized in the BA. This omission may invalidate the document's conclusions regarding ESHA presence, buffer adequacy, and compliance with Malibu LIP Sections 4.6.1 and 4.7.1, because a proper biological assessment cannot determine ESHA status, buffer sufficiency, or potential impacts without direct field verification and scientific description of the protected habitat itself.

- **Potential Impacts.** The *Potential Impacts* section of the Applicant's biological assessment does not provide any analytical, quantitative, or spatial evaluation of potential effects on sensitive biological resources. (*Id.* at 10.)

> **10. Potential Impacts**
>
> The *Potential Impacts* section of the BA does not provide any analytical, quantitative, or spatial evaluation of potential effects on sensitive biological resources. The section misrepresents Malibu LCP buffer requirements, omits the ESHA and fuel modification conflict, and relies on geotechnical conclusions that are unrelated to biological impacts. Further, there is no quantification of vegetation removal, no analysis of habitat loss, no discussion of construction footprint or grading limits, and no evaluation of indirect impacts such as noise, lighting, or human intrusion.

- **Native Tree Protection.** The Applicant's biological assessment's discussion of the native tree protection ordinance is misplaced and fundamentally misunderstands the role of the biological assessment. (*Id.* at 5, excerpt below.)

> The inclusion of the *Native Tree Protection Ordinance* section under the *Biological Resources* section represents a fundamental misunderstanding of the purpose, structure, and scientific function of a biological assessment. The section as written is not biological analysis, rather it is a verbatim reproduction of a municipal regulation. While the ordinance itself is part of Malibu's regulatory framework, referencing it here does not provide biological context or resource data, and it does not constitute a field-based assessment of existing biological resources as required under CEQA and the Malibu LCP/LIP.

- **Soil.** The Soils section of the biological assessment lacks a scientifically supported description of the site's soil conditions. Instead of characterizing on-site soils through field observation or verified mapping, the report merely cites the USDA Web Soil Survey and identifies the site as within the "Santa Monica Mountains National Recreation Area (CA692)." However, this is not a soil map unit but a Survey Area ID. This fundamental error demonstrates a misinterpretation of basic soil data and their relevance to biological resources. (*Id.* at 6.)

> The failure to identify or describe the correct soil series undermines the biological baseline by omitting the soil's influence on native plant community composition, ESHA characterization, and potential wetland hydric indicators. The section provides no discussion of soil texture, permeability, drainage class, or erosion potential, all of which are essential for evaluating habitat quality, stormwater interactions, and bluff-top stability under the Malibu LCP (Malibu LIP Chapter 10, "Bluffs") and Malibu LIP Section 4.4.2 (ESHA Overlay).

- **Common Wildlife.** The Common Wildlife section lacks documentation of survey effort, fails to reference field data, and provides no ecological interpretation of wildlife use relative to onsite or adjacent habitats, including coastal bluff ESHA and wetland resources. (*Id.* at 6.)

> The section contains no discussion of survey methods, dates, duration, seasonal timing, weather conditions, or personnel qualifications. Without this information, it is impossible to determine whether wildlife observations were made during appropriate survey periods, or whether the site was surveyed multiple times to capture seasonal variability. Under CDFW (2018) survey protocols and CEQA Guidelines Section 15125(a), a valid biological assessment must describe the methods used to detect wildlife, including visual surveys, auditory observations, or indirect sign (e.g., scat, tracks, burrows).

- **Plant Species of Special Concern.** The Plant Species of Special Concern section fails to show that an adequate survey effort was conducted or that the potential presence of special-status plant species was adequately evaluated. (*Id.* at 7.)

> The *Plant Species of Special Concern* section does not demonstrate that an appropriate level of survey effort was conducted nor that the potential occurrence of special-status plant species was systematically assessed using current data sources and field methodology.

- **Mitigation Measures.** The biology assessment provides an inadequate mitigation and monitoring program and instead includes limited, generalized and generic measures without specific criteria. (*Id.* at 11.)

> **11. Mitigation Measures**
>
> The listed measures in the *Mitigation Measures* section do not provide quantifiable performance standards or monitoring protocols, and do not connect to the Project's identified biological impacts.

- **Wildlife Species of Special Concern.** The biology assessment fails to comply with technical standards for analysis of species of special concern. (*Id.* at 8.)

> This *Wildlife Species of Special Concern* section in the BA is internally inconsistent and noncompliant with the technical standards of CEQA, CDFW (2018) survey protocols, and the Malibu LCP/LIP. The listed species appear to have been selected without supporting habitat analysis, data citations, or field evidence. The discussion fails to distinguish between special-status taxa, common species, and incidental observations.

- **Fire Analysis.** The Applicant's biological assessment's analysis of wildfire impacts is generic and inadequate. (*Id.* at 8.)

> The *Wildfire Frequency* section included in the BA reads as a generic narrative rather than a technical assessment and provides no meaningful connection to the Project's biological context, fuel-modification constraints, or ESHA interface. This section does not evaluate how historic or future wildfire events have affected (or may affect) vegetation succession, habitat quality, or post-fire regeneration, nor does it analyze whether fuel modification requirements might encroach into ESHA or alter habitat function.

This Planning Commission's decision must be supported by the findings and the findings must be supported by substantial evidence. (Cal. Code of Civil Procedure § 1094.5(b).) "Such evidence must be reasonable, credible, and of solid value." (*California Youth Authority v. State Personnel Bd.* (2002) 104 Cal.App.4th 575, 585.) Respectfully, as demonstrated by Clients' biologist team, the Applicant's biological assessment does not provide reasonable, credible, or solid evidence sufficient to support an approval. As such, additional biological analysis must be done. Until then, the Project must be denied.

D. The LUP Does Not Change This Analysis.

The Applicant contends that the Property cannot be subject to the ESHA overlay or ESHA buffer restrictions because surrounding parcels are allegedly subject to fuel modification requirements. (See Exh. C, p. 2.) The Applicant relies on Land Use Plan ("LUP") Section 1(a), § 3.1, which states that "fuel modification areas required by the Los Angeles County Fire Department for existing, legal structures do not meet the definition of ESHA." (*Id*.) That argument fails for multiple reasons:

- Even if the Applicant's premise were correct (which it is not) the Coastal Act independently requires riparian protection. Coastal Act Section 30231 mandates that natural vegetation buffer areas that protect riparian habitats be maintained, and that the alteration of natural streams be minimized. (LUP § 1.) Thus, streams and their associated riparian habitats receive protection in addition to ESHA status.

- More importantly, the Applicant concedes that the stream itself still constitutes ESHA. (Exh. C, p. 2 ["Accordingly, with the exception of the stream channel itself, the entire area is not defined as ESHA."].) Once an ESHA area is identified, buffer requirements attach to protect it; the LUP provides no mechanism for developers to evade buffer obligations by invoking nearby fuel modification zones.

  This makes sense: There may be logic to avoid designating an area as ESHA that has already been disturbed or has been cleared of all natural vegetation due to fuel modification requirements. However, once it has been determined that a protectable environmental resource exists, it makes sense to then protect that resource by enforcing buffer requirements. Therefore, if the stream is still ESHA as the Applicant admits, the ESHA buffer requirements still apply.

- The Applicant further impliedly admits that the ESHA overlay requirements apply by providing a development area calculation as required by the overlay. (See Plans, Sheet A-0.3.)

- In any case, the Applicant's interpretation would produce absurd results. Under its theory, any development adjoining a parcel subject to fuel modification could claim exemption from ESHA or ESHA-buffer restrictions, creating a domino effect that would incrementally eliminate ESHA protections citywide. Such an outcome is plainly inconsistent with the Coastal Act and the LUP's conservation purposes.

- The Applicant's position also contradicts LUP policy. Section 3, Policy 5.6 provides that "[p]rotection of ESHA and public access shall take priority over other development standards and, where there is any conflict between general development standards and ESHA and/or public access protection, the standards that are most protective of ESHA and public access shall have precedence." The Applicant's argument does precisely the opposite.

- Finally, the Applicant offers no competent evidence of surrounding fuel-modification zones. Its crudely drawn map in an email memo lacks a legend, scale, or verifiable methodology and cannot serve as substantial evidence to rebut the biological and ESHA findings discussed above.

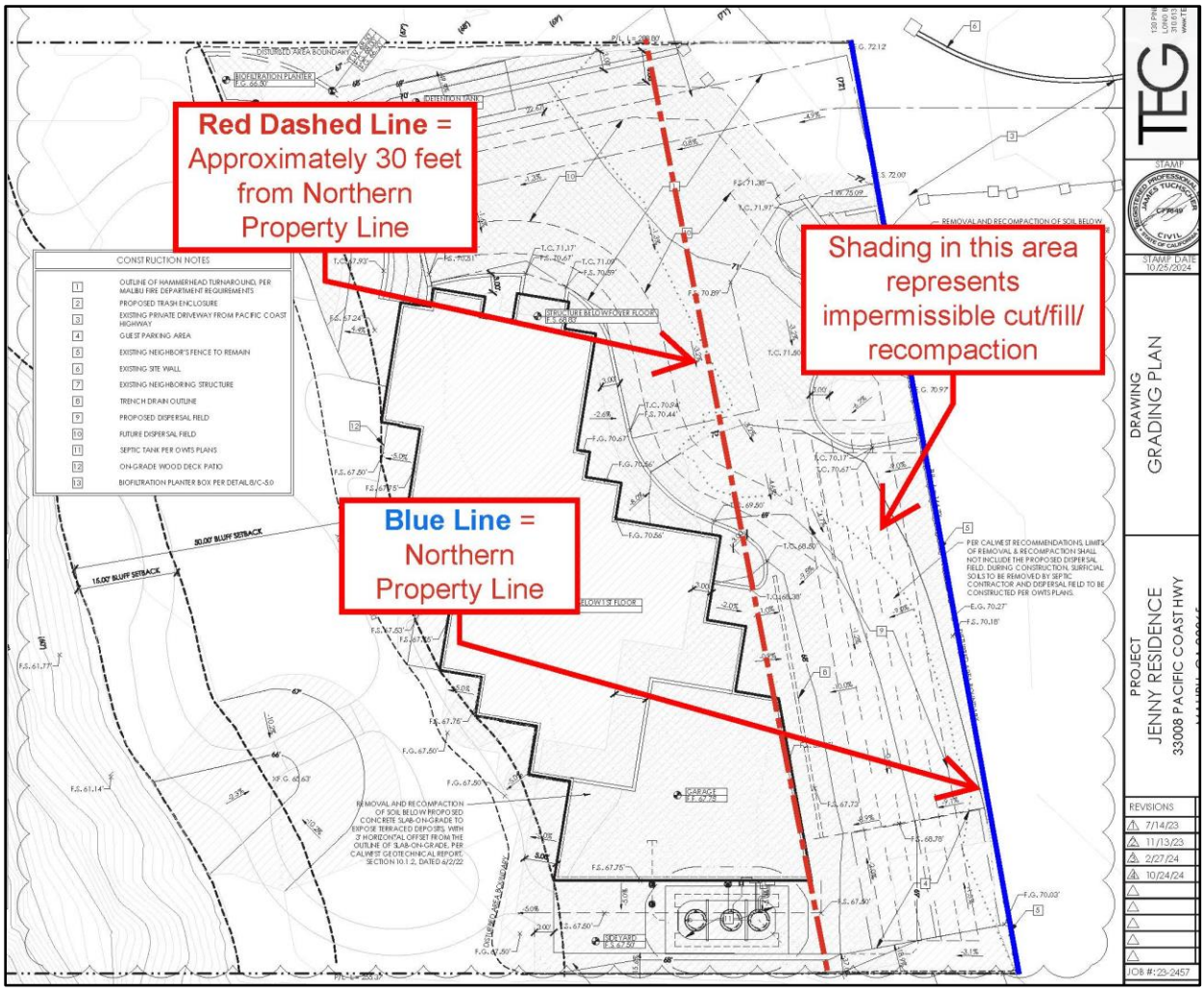
II. Archaeology Objections.

A. The Project Impermissibly Proposes Grading Within 30-Feet of the Northern Property Line.

The City's Archaeological Review Sheet includes certain conditions of approval. We attach the archaeology review sheet as **Exhibit D**. Among other things, it commands that "**no** geologic trenching, soil borings, ground clearance, **grading**, equipment placement, **or similar surface-disturbing impacts shall be allowed within 30 feet of the northern property boundary**." (Exh. D, p. 1, emphasis added.) See below:

> Based on the information submitted, the applicant **may proceed with obtaining an excavation permit through City Geotechnical Staff with the conditions listed above.** In addition, **no geologic trenching, soil borings, ground clearance, grading, equipment placement, or similar surface-disturbing impacts shall be allowed within 30 feet of the northern property boundary.** When completed, please submit a report describing the archaeologist's findings.

Here, the Project patently violates this requirement by proposing significant grading along the entire northern property boundary, as shown on Sheet C-3.0 of the civil engineering plans. (Note: north is on the right side of the sheet.)



Accordingly, the Project as presently proposed must be denied.

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B. The Project Violates the LIP's Requirements to Fully Investigate Cultural Resource Impacts Prior to Planning, Grading, or Building Permit Approval.

Cultural resource protection remains particularly important here, where, as discussed later in this letter, the Applicant has a history of conducting unpermitted development activity on the Property. The City's general plan agrees, making it a policy to: "identify, designate, protect, and preserve areas, sites, or structures of historic, cultural, paleontological, and/or archeological significance" and to "avoid the destruction or alteration of cultural resources." (Conservation Element, Policies 2.1.1 and 2.1.2.) The City's LUP likewise makes it a policy that "[n]ew development shall protect and preserve archaeological, historical, and paleontological resources from destruction and shall avoid and minimize impacts on such resources." (LUP Policy 5.60.)

In accord, LIP section 11.2 requires certain archaeological and cultural resource investigations "**prior** to the issuance of a planning approval, development permit, … building permit, [or] grading permit…." (LIP § 11.2, emphasis added)

Specifically, LIP section 11.3(D) requires applicants to prepare a "Phase I inventory" of cultural resources whenever a project may cause a substantial adverse change to cultural resources. "If on the basis of the Phase I Inventory … one or more significant cultural resources is found, a Phase I Inventory may be required to" be supplemented with additional investigation, such as shovel test pits, recommendations for additional investigation (i.e., a "Phase II" investigation), and monitoring programs. (LIP § 11.3(F).) These additional investigations must "be conducted in consultation with a qualified Chumash Cultural Resources Monitor." (LIP § 11.3(D).) A "Phase II" or "Phase III" investigation may then be required if the Phase I investigation reveals potential adverse impacts to cultural resources. (LIP §§ 11.3(G), (H).)

Here, a the Applicant prepared a Phase I Archaeological Study (Boxt, Ph.D., March 2023), which found cultural resources, including shell and stone tools, albeit with uncertainty about whether the materials are in situ or displaced. (See Staff Report, p. 8.) This report has not been made available to the public or interested parties. Because the Phase I study found cultural resources, the LIP requires the Applicant to supplement its Phase I investigations and potentially conduct Phase II and Phase III investigations, but no such supplementation or investigations took place. This violates the LIP. Additional investigation must be done now, prior to planning, grading, and building permit approval, not after. (See LIP § 11.2.)

C. The LIP's Cultural Resources Chapter Requires a Negative Declaration, Mitigated Negative Declaration or Environmental Impact Report.

Where, as here, cultural resources are found, the Phase I investigation is required to be supplemented to include additional investigations, such as shovel testing, recommendations for additional (Phase II) investigation, and monitoring programs. (LIP § 11.3(F).)

In this scenario, the LIP requires, at minimum, the City to prepare a negative declaration or mitigated negative declaration ("MND") or environmental impact report ("EIR"). (LIP §§ 11.3(F)(1) ["An evaluation of limited shovel test pits to determine whether a subsurface deposit is present and a negative declaration shall be prepared"], (2) ["Evaluations and a negative declaration, mitigated negative declaration, focused environmental impact report or an environmental impact report shall be prepared"], (3) ["Monitoring programs pursuant to Section 11.3 (F)(4)(b) of the Malibu LIP and a mitigated negative declaration shall be prepared."].) Phase II and Phase III testing also require an MND or EIR. (See LIP § 11.3(G) [requiring a negative declaration, MND, or EIR for Phase II investigations], § 11.3(H) [requiring the same for Phase III investigations].) The City failed to do so in violation of the LIP.

In addition, staff conditions approval on archaeological monitoring during grading. It requires, vaguely, that "the appropriate measures to be taken should such resources be uncovered." (See Draft Resolution, No. 25-76. Conditions of Approval Nos. 12 to 16.)

This puts the cart before the horse. LIP section 11.2 requires cultural resource review ***before*** issuing planning approvals, grading permits, or any other permit or approval. Approving the CDP first and deciding what significant impacts exist later inverts the LIP's sequence and deprives decision-makers and the public of the required pre-approval analysis.

CEQA agrees. Case law generally prohibits deferring environmental analysis or creating post-hoc mitigation measures. "By deferring environmental assessment to a future date, the conditions [of approval] run counter to that policy of CEQA which requires environmental review at the earliest feasible stage in the planning process." (*Sundstrom v. County of Mendocino* (1988) 202 Cal.App.3d 296, 307.) As such, the Applicant should be required to conduct additional investigations now, not later. Until then, the Application should be denied.

III. CEQA Violations.

A. The City Improperly Relies Upon Mitigation Measures to Support a Categorical Exemption from CEQA.

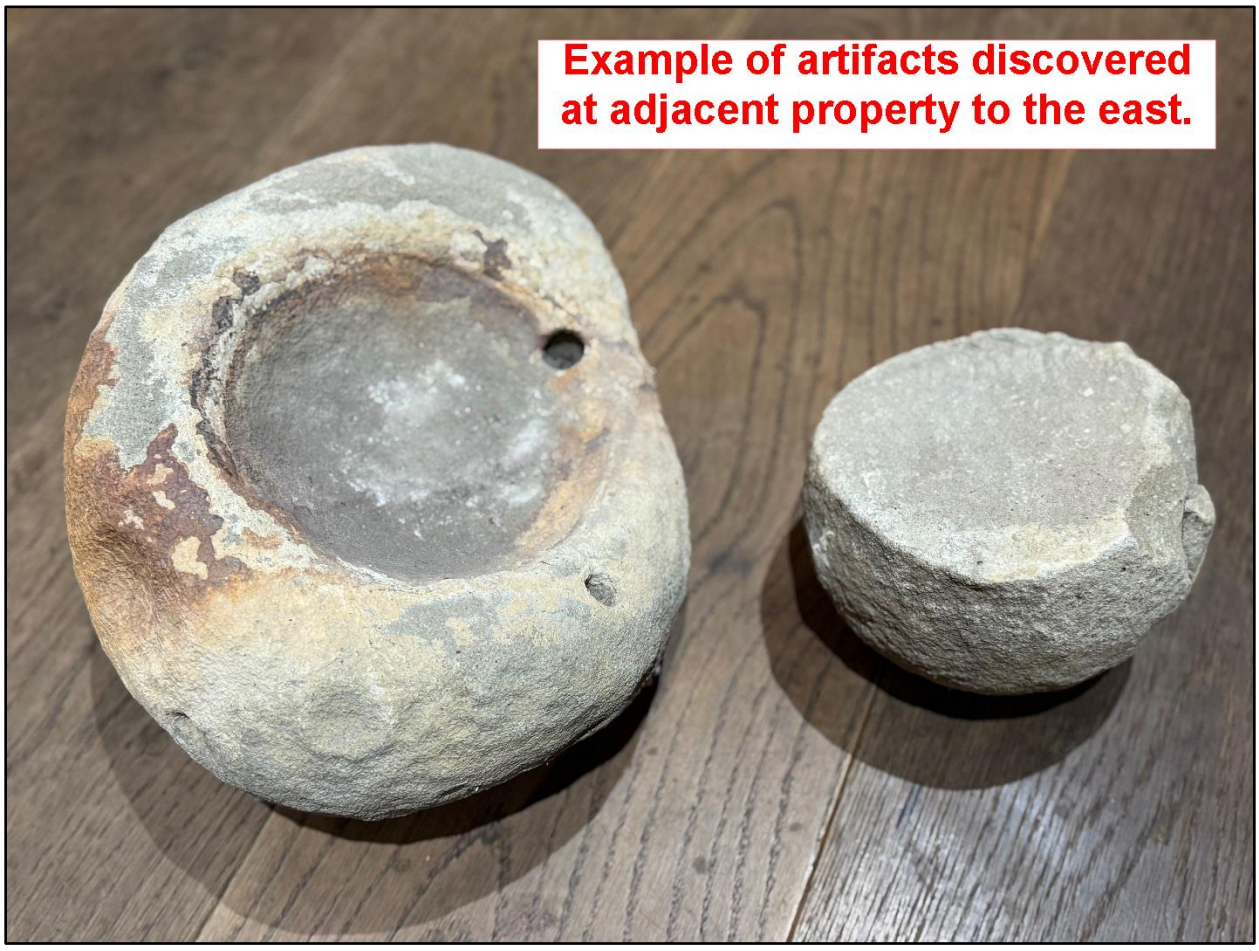
City staff asserts that the Project qualifies for a Class 3 categorical exemption from CEQA, which generally applies to minor new construction, including single family homes. (See Staff Report, p. 18 ["the proposed project is categorically exempt from the provisions of CEQA pursuant to Sections 15303(a) and (e)"]; Draft Resolution No. 25-76, p. 2 [stating a Class 3 exemption applies].)

The City's reliance on the Class 3 exemption is misplaced. Critically, the City cannot rely on a categorical exemption because substantial evidence demonstrates that there is "a reasonable possibility" of an adverse environmental impact. (*Mountain Lion Foundation v. Fish & Game Com.*(1997) 16 Cal.4th 105, 124 [stating "an activity that may have a significant effect on the environment cannot be categorically exempt"].) Moreover, **"[a]n agency may not evade CEQA by adopting mitigation measures simply to qualify a project for a categorical exemption**." (*Sunflower Alliance v. Department of Conservation* (2024) 105 Cal.App.5th 771, 789; see also *Azusa Land Reclamation Co. v. Main San Gabriel Basin Watermaster* (1997) 52 Cal.App.4th 1165, 1199–1200.)

That's exactly what the City unlawfully attempts to do here. The City's Archaeology Review Sheet, states "that potential cultural resources are located on the project site." (Exh. C at 1.) And the Staff Report acknowledges that the Applicant discovered American Indian tools and shells on the Property. (Staff Report, p. 8 ["The cultural resources found during the field survey included subsistence shell and stone tools…."].)

Further, an archaeology report for the upslope property at 33002 PCH also demonstrated the presence of cultural artifacts in the immediate area. (See Archaeology Determination Letter, PPR 99-120/SPR 99-045, July 27, 1999.) Our Client, Tamara Mackey, recalls human remains being discovered at this upslope property. Further, our other Client, Unknowingly Devolving, LLC, has recovered cultural artifacts on his own property at 32960 PCH—which lies immediately east of the subject Property—including mortar, pestles, and hand tools. We attach photos of these as **Exhibit E**.

For example, the following photograph shows examples of artifacts recovered on the adjacent property at 32960 PCH property:



Undoubtedly, given the documented cultural resources on the Property and adjacent properties, the Project—which involves 2,974.6 cubic yards of cut and fill grading over 12,603.6 square feet of area (see Civil Plans, sheet C-3.0)—presents a reasonable possibility of an adverse impact on cultural resources.

Unsurprisingly, the City all but admits the potential adverse impact of the Project on these resources, requiring the Applicant "[t]o mitigate potential impacts on unknown archaeological resources to a level of insignificance" through two proposed mitigation measures. (*Id.*) The Staff

Report, likewise, states that in light of the shells and tools, "a condition of approval has been added … that requires monitoring by a qualified archaeologist for all earthmoving activities…." (Staff Report, p. 8.) In other words, the City does exactly what it is not supposed to do: It attempts to evade CEQA by adopting mitigation measures in order to qualify the Project for a categorical exemption.

A court will agree the City has unlawfully used mitigation measures to evade CEQA:

- In *Salmon Protection & Watershed Network v. County of Marin* (2004) 125 Cal.App.4th 1098, a county acknowledged that a residential construction project may have potential adverse impacts on adjacent stream habitat. It then adopted conditions of approval (e.g., requiring a riparian protection plan) designed to mitigate the potential adverse impacts and thereby qualify the project for a Class 3 categorical exemption. (*Id*. at 1104.) The court of appeal stated that mitigation measures under CEQA are only proper at later stages of the process, and the County unlawfully evaded that process by adopting mitigation measures to rely upon a categorical exemption. (*Id.* at 1107-08.) Here, just like in *Salmon Protection*, a court would reject the City's attempt to rely upon archaeological mitigation measures to obtain a Class 3 exemption.

- Similarly, in *Azusa Land Reclamation Co. v. Main San Gabriel Basin Watermaster* (1997) 52 Cal.App.4th 1165, an agency authorized the continued disposal of municipal waste at a landfill and declared the project categorically exempt from CEQA as the operation or minor alteration of an existing facility. (*Id.* at 1193.) In granting the categorical exemption, the agency in *Azusa* had acknowledged that pollutants were leaking from the landfill but had relied upon evidence that mitigation measures could prevent further pollution. (*Id.* at 1198.) The appellate court concluded this violated CEQA, stating that "proposed mitigation measures cannot be used to support a categorical exemption; they must be considered under the standards that apply to a mitigated negative declaration." (*Id.* at 1199.) Here too, the City cannot rely upon mitigation measures to avoid potentially significant effects on cultural resources.

Given the potentially adverse impacts to cultural resources, the City must prepare a mitigated negative declaration or EIR instead. (*Salmon Protection & Watershed Network v. County of Marin* (2004) 125 Cal.App.4th 1098, 1108 ["Reliance upon mitigation measures (whether

included in the application or later adopted) … must be conducted under established CEQA standards and procedures for EIRs or negative declarations."].) Until then, the Application must be denied.

B. Unusual Circumstances Preclude the Use of the Class 3 Exemption.

Categorical Exemptions do not apply where "unusual circumstances … create a 'reasonable possibility' that the activity will have a significant effect on the environment." (*Save the Plastic Bag Coalition v. County of Marin* (1st Dist. 2013) 218 Cal. App. 4th 209, 220 (citing Cal. Code Regs., tit. 14, § 15300.2, subd. (c)).) This exception has two prongs: (1) whether the project presents unusual circumstances; and (2) whether there is a reasonable possibility of a significant effect on the environment due to those unusual circumstances. (*Berkeley Hillside Preservation v. City of Berkeley* (2015) 60 Cal. 4th 1086, 1114.)

Berkeley Hillside observed that a party can show an unusual circumstance by demonstrating that the project has some characteristic or feature that distinguishes it from others in the exempt class, such as its size or location. (*Berkeley Hillside, supra,* 60 Cal.4th at p. 1105; *Berkeley Hillside* also clarified that a party may establish an unusual circumstance with evidence that the project *will* have a significant environmental effect. (*Ibid*.)

Here, unusual circumstances obviously exist: The Property contains cultural resources, including tools and shells, which distinguishes the Project from other projects within the Class 3 exemption. And indeed, the City has all but admitted that the Project will have significant effect on those resources absent measures "[t]o mitigate potential impacts on unknown archaeological resources to a level of insignificance." (Exh. D, p. 1.) Because unusual circumstances exist, and because the Project will have a significant effect on cultural resources, the City cannot rely upon a Class 3 exemption and the City must prepare an MND or EIR.

C. The Development in the ESHA Buffer Precludes Applying a Class 3 Exemption.

A Class 3 exemption cannot be applied to a project that "may impact" an "environmental resource of hazardous or critical concern" designated and mapped by a federal, state, or local agency. (CEQA Guidelines § 15300.2, subdivision (a).) Here, the Project lies partially in a mapped and designated ESHA buffer.[2] Moreover, it impacts that buffer by proposing new development—

[2] The Applicant's plans admit the Project's location in ESHA buffer. Plan Sheet A-0.2, among other sheets, show new planters, gates, walls, pilasters, and fencing located behind a line labeled "approx. 100' from ESHA boundary."

such as a wall, a fence, pilasters, a gate, a turnaround, paving, planter boxes, and other improvements—in an area that the LIP normally requires to remain undeveloped in order to protect ESHA. Accordingly, a Class 3 exemption remains inappropriate. (See, e.g., *Gaviota Coast Conservancy v. Santa Barbara County*, (Cal. Ct. App., Dec. 21, 2009, No. B216420) 2009 WL 4894456, at *5 [where project was on a "scenic ridgeline" and was part of a "key observation point" that "provides long scenic vistas for recreational uses," substantial evidence supported the finding that the project is not subject to a Class 3 exemption under exception for environmental resources].) Before this Commission can approve the Project, the City must prepare an MND or EIR.[3]

IV. Procedural Violations of the LIP.

A. The Project Application Remains Incomplete Because the Applicant Failed to Consult with the State Lands Commission.

The Project qualifies as "shoreline development" under the Coastal Act and Malibu's Local Implementation Plan ("LIP"). The Property lies directly along the Pacific Ocean; state tidelands form its southern parcel boundary; and the proposed improvements sit atop a coastal bluff subject to coastal wave action. Indeed, staff's September 1, 2023, incomplete letter noted that "[d]ue to the fact the project abuts the ocean per LIP Section 10.5(C) a Determination from the California State Lands Commission is required." We attach this incomplete letter as **Exhibit F**.

As such, the LIP required the Applicant to submit "written evidence of a review and determination from the State Lands Commission relative to the proposed project's location to or impact upon the boundary between public tidelands and private property." (LIP § 10.5(C).) "Such determination [is] a filing requirement for a Coastal Development Permit," and "any application filed without such determination shall be determined to be incomplete." (*Id.*; see also LIP § 13.6.2 ["Applicants for development along the shoreline property or fronting a beach shall submit written evidence of a review and determination from the California State Lands Commission relative to the project's location to or impact upon the boundary between public tidelands and private property."].)

To our Client's knowledge, the Applicant has not provided this required written evidence, and neither the Staff Report nor any attachments reference or include such documentation. In fact,

[3] Separate and apart from the above arguments, our Clients assert that the the historical resource exception (Guidelines § 15300.2(f)) precludes the use of the Class 3 exemption because the artifacts can be considered historic resources and because the Project would have an adverse impact on them.

staff records personnel Jason Ernst indicated by email on October 14, 2025, that "[t]here was a note in the database stating that a state land's letter is not required for this project." We attach this email as **Exhibit G**.

The omission renders the application incomplete as a matter of law. Accordingly, the Commission must either deny the application or continue the hearing until the required State Lands Commission determination has been provided. (See LIP § 10.5(C).)

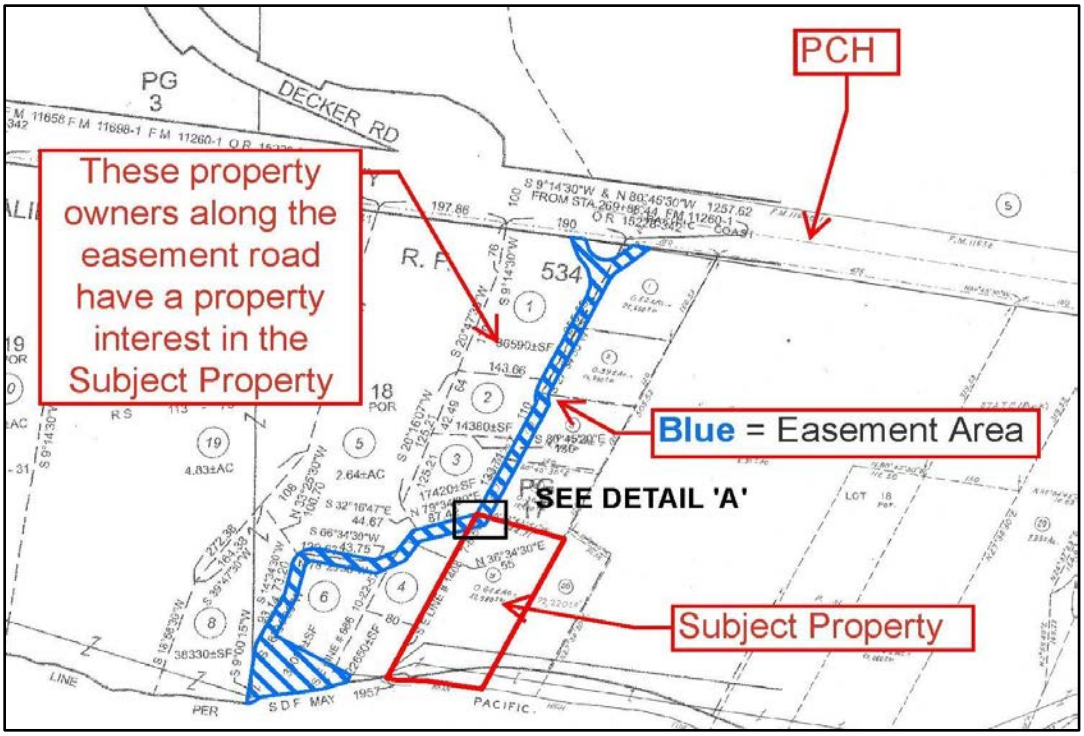
B. The Applicant and City Failed to Invite Parties with Property Interests to Join as Co-Applicant in Violation of the LIP.

The Malibu LIP states that "[a]ll holders or owners of any other interest of record in the affected property shall be notified in writing of the permit application and invited to join as co-applicant." (LIP § 13.6.2(C).) This requirement is not new or unique: The Commission also requires developers to invite interests holders to join an application as co-applicants. (Cal. Code Regs., tit. 14, § 13053.5.) Indeed, staff's last incomplete letter, dated February 10, 2025, and attached as **Exhibit H**, states that "Staff has been made aware that improvements are proposed within the access easement. Pursuant to LIP Section 13.6.2, all holders or owners of the easement shall be notified in writing of the subject permit application and invited to join as co-applicant."

Staff is correct: the Property is subject to an access easement and an easement road that connects several properties along the easement road to Pacific Coast Highway. (See Plans, Sheet T-2.1 [Survey].) We attach the easement deed as **Exhibit I**.

Importantly, **all properties on the easement road have a right to use the entire easement** as the easement was granted to "each party" to the easement agreement "along and under said strip of land to the end," stating "that said easements shall be used and enjoyed by said owners and their successors and assigns." (Exh. I, Easement Deed, p. 4.) The easement deed reiterates this point, noting that the easement is "appurtenant to and for the common benefit of all of the said lands, or portions thereof, above referred to." (*Id.*) Because these owners hold an easement over the Property, they have a property interest in it. (See, e.g., *County Sanitation Dist. v. Watson Land Co.* (1993) 17 Cal.App.4th 1268, 1278 ["An easement is an incorporeal interest in the land of another…"].)

The following depiction, prepared by Client's title company, Chicago Title, shows the area of the easement road:



To our Client's knowledge, **no easement holders were ever invited to join the application as co-applicant**. Further, no such invitation is included in the materials before this Planning Commission. Because the City and Applicant failed to invite interest holders to join as co-applicants, the application was, at best, incomplete and cannot be acted upon now. (LIP § 13.6.2.) See below depiction.

C. This Hearing Improperly Purports to Resolve a Code Enforcement Matter.

1. No Process Exists to Resolve Code Enforcement Matters Through the CDP Entitlement Process.

This hearing purports to resolve a code enforcement matter. According to Applicant's memorandum, attached as **Exhibit J**, the City opened a code enforcement case "for an unpermitted

fence and gate with electrical power, landscape and drainage, and [disturbing ground] on Chumash designated land." (Exh. J, p. 1.)

The City, meanwhile, has a process for resolving code violations and code enforcement cases. That includes, without limitation, the Administrative Citations and Penalties Chapter of the Municipal Code. (See MMC Ch. 1.10.) That chapter provides a process for issuing citations, appealing citations, conducting a hearing on citations, recording liens (as appropriate), and judicial review, among other procedures. (See, e.g., LIP §§ 1.10.040-10, 1.10.140.)

By contrast, nothing in the CDP chapter of the LIP (Chapter 13) or any chapter of the LIP or Municipal Code indicate that a Planning Commission hearing or the CDP entitlement process the appropriate process for resolving code violations. The Staff Report points to none. The City cannot invent that process now from whole cloth.

2. The City Violates Longstanding Policy on Processing Code Enforcement Cases.

Besides lacking any basis in the LIP or Municipal Code, the City has long maintained that outstanding code enforcement matters must be resolved ***before*** new entitlement applications can be processed—let alone brought to hearing. To take just one example: in 2024, the owner of 25040 Pacific Coast Highway filed an application for a CDP and two variances related to new walls on the property (CDP No. 25-008; Variance No. 24-007). The property included an outdoor fireplace and patio for which permits had expired and final inspections had never occurred. When this came to the attention of Code Enforcement, City planning stated unequivocally:

> It has come to my attention that there is an open code enforcement case for the [property]. You cannot apply for a new application until the code enforcement case is resolved.

We attach the City's April 3, 2024, email as **Exhibit K**. Only once the owner of 25040 PCH fully addressed the code enforcement issues did the City begin to process the CDP and variance application.

The City cannot take a contrary approach now. Consistency and fairness require that the same standard be applied here. The Applicant must first resolve the outstanding code enforcement violations before this Commission can lawfully consider the Project.

3. The City Failed to Provide Legally Adequate Notice That This Hearing Might Resolve Code Enforcement Issues.

The City failed to properly provide notice that this hearing might resolve the outstanding code violations. The City issued an updated Notice of Public Hearing ("Notice") for this hearing on October 9, 2025, which we attach as **Exhibit L.**

Specifically, the Notice indicates that the hearing will consider Coastal Development Permit No. 23-034 and Minor Modification No. 25-009. It makes no mention of the code violation. The actual agenda item, by contrast, indicates that the subject of the hearing also includes Code Violation No. 23-047, and the Staff Report indicates that "[a]fter the CDP is approved and upon final inspection of the project, the code violation case will be closed." (Staff Report, p. 3.)

Under the Coastal Act regulations, The public hearing must be conducted "in any … manner reasonably calculated to give interested persons an opportunity to appear and present their viewpoints, either orally or in writing." (Cal. Code Regs., tit. 14, § 13566.) And Malibu's LIP requires all application numbers and all development being considered to be summarized in the notice. (See LIP § 13.12.1 [requiring the notice to include the application number(s) being heard and the development being considered].)

By failing to even mention the code violation, the general public remains unaware that the hearing potentially affects its resolution. In so doing, the City denies potentially interested persons the opportunity to be heard in violation of the LIP, the Coastal Act regulations, and due process. As such, City must, at minimum, continue and re-notice the hearing.

V. This Commission Cannot Make the Findings to Grant a CDP or Minor Modification.

A. The CDP Findings.

Several findings must be made to approve a CDP. (LIP § 13.9.) Among other things, the Project must comply with the Local Coastal Program, including the LIP. (*Id.*) This Commission cannot make this finding. To reiterate briefly:

- The Project fails to calculate "development area" correctly and violates the development area maximum. (LIP § 4.7.1.)
- The Project proposes impermissible uses in an ESHA buffer. (LIP § 4.5.4.)
- The Applicant's biological assessment remains inaccurate and inadequate.

- The City and Applicant failed to consult with the State Lands Commission. (LIP §§ 10.5.C, 13.6.2.)

- The City failed to invite property owners with a property interest in the Property to join as co-applicants. (LIP § 13.6.2(C).)

- The City improperly uses the Application and this hearing to resolve code enforcement issues. (MMC Ch. 1.10.)

- The Public Notice of Hearing does not conform to the requirements of the LIP or related Coastal Act regulations. (See LIP § 13.12.1; Cal. Code Regs., tit. 14, § 13566.)

- The project violates a condition of approval prohibiting grading within 30 feet of the northern property line. (See Archaeology Review Sheet, p. 1.)

- The project violates CEQA by failing to prepare an MND or EIR despite the discovery of cultural artifacts. (LIP § 11.3)

- The project violates the LIP's requirements to prepare a supplemental Phase I or Phase II archaeology report. (LIP § 11.3.)

The Commission must also find that "[t]he project is the least environmentally damaging alternative." (LIP § 13.9(C).) Here, Staff purports to analyze alternatives, such as taller house, or alternative building pad locations. (See, e.g., Staff Report, pp. 10-11.) However, Staff failed to consider or analyze that the Project is located partially within an ESHA buffer. Moreover, while the turnaround in the ESHA might (at least arguably) be required, the other development in the ESHA buffer, such as planters, fences, gates, walls, etc., is not. Because the Project could viably exist without these improvements, it is not the "least environmentally damaging alternative."

Finally, if the "project is located in or adjacent to an environmentally sensitive habitat area pursuant to Chapter 4 of the Malibu LIP (ESHA Overlay)" the Commission must find "that the project conforms with the recommendations of the Environmental Review Board, or if it does not conform with the recommendations, findings explaining why it is not feasible to take the recommended action." (LIP § 13.9(D).)

Here, the Project lies partially within an ESHA buffer. Accordingly, it must be referred to the Environmental Review Board. Until it is, this Commission cannot approve it.

B. The Minor Modification Findings.

The Applicant seeks a large reduction to the front yard setback. To grant a Minor Modification, the Commission must make certain findings. (LIP § 13.27.5(B).) These include, among other things, that "the proposed project complies with all applicable requirements of state and local law." (*Id.*) For reasons stated in the previous section, this finding cannot be made because the Project violates various state and local laws. Accordingly, the Minor Modification must be denied.

VI. The Project Does Not Comply With the Certificate of Compliance and Non-Compliance Prohibits Approval.

A Conditional Certificate of Compliance No. 29220, was recorded against title to the Property on October 30, 1986 by the Los Angeles County Department of Regional Planning (the "CoC"). We attach the CoC as **Exhibit M**. In conformance with Government Code section 66499.35, subdivision (b), the CoC expressly provides that "the conditions listed below must be fulfilled before issuance of a building permit or other development approval." (*Id.*, p. 1.) Condition #2 of the CoC required the owner to:

> Dedicate to the County the right to restrict the erection of buildings and/or other structures because the property and/or its access is within a flood-prone area.

(Exh. M, p. 1.)

In purported satisfaction of this condition, the then-owner recorded a deed restriction prohibiting development within the flood-zone portion of the Property—approximately 7,335 square feet along the coastal bluff. We attach this deed restriction as **Exhibit N**.

The dedication fails to comply with the CoC. The CoC did not just require the owner to dedicate a deed restriction to the flood-mapped portions of the Property. It required the County to retain authority to restrict the erection of buildings throughout the Property. By limiting the dedication to one corner of the site, the owner did not satisfy the CoC's conditions of approval. Accordingly, because the CoC's conditions remain unfulfilled, no building permit or other development approval may lawfully issue for the Property. (*Id.*; Government Code section 66499.35 ["the fulfillment and implementation of [a CoC's] conditions shall be required prior to subsequent issuance of a permit or other grant of approval for development of the property"].)

Moreover, even if the owner had complied by granting the County authority to restrict development throughout the entire parcel, any local development approval would still conflict with that County-held authority, leaving it unclear how the City could lawfully approve a project that the County would retain the power to order removed.

VII. The Project Violates the Neighbor's Primary View Determination and Scenic, Visual, and Hillside Resources Protection Ordinance.

One of our Clients, the upslope neighbor at 33006 Pacific Coast Highway, has a Primary View Determination, PVD No. 17-0036 ("PVD"), which we attach as **Exhibit O**. The PVD captures the view looking south from 33006 PCH directly over the Property in question.

A. Bluewater Views.

In protecting primary views, the Municipal Code provides that "[n]o view obstruction within blue-water ocean, mountain or canyon-view elements per project shall be permitted." (MMC § 17.040.040(A0(17).) The LIP's Scenic, Visual, and Hillside Resources chapter, meanwhile, similarly requires this Commission to find "[t]he project, as proposed, will have no significant adverse scenic or visual impacts due to project design, location on the site or other reasons." (LIP § 6.4(A)(1); accord LIP § 6.4(E)(1) ["Where the topography of the project site descends from the roadway, new development shall be sited and designed to preserve bluewater ocean views" through certain measures].) The Project violates these requirements.

The Draft Resolution indicates that "[n]o existing Bluewater views are present from PCH and when viewing the proposed project against the backdrop of the existing landscaping and bluff development from nearby public viewing areas, views of the Pacific Ocean are minimal." (Draft Resolution No. 25-76, p. 3.) Staff also states that "[b]ased on the project plans and staff's site visit, it was determined that the proposed project would result in a residence that would be similar to other existing development in the area and would result in a less than significant visual impact to public views from PCH and nearby public beaches…." (Staff Report, p. 3.)

However, Staff's story pole analysis indicates that the Project, will, in fact have impacts on bluewater views, particularly from 33006 PCH, as demonstrated in the following marked up photograph:



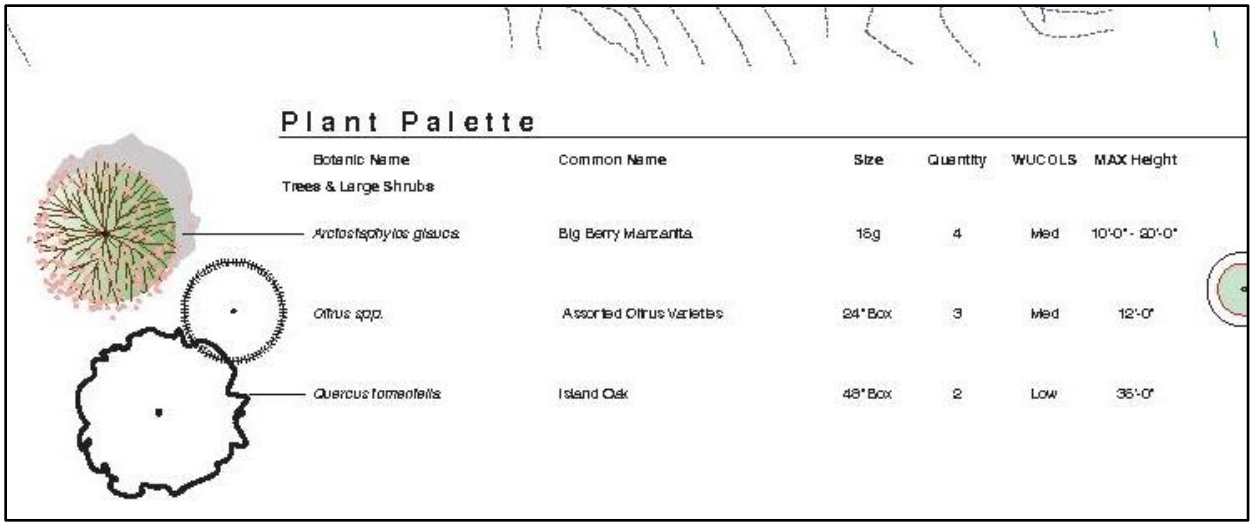
Accordingly, the Project should be modified to protect—not obstruct—these view.

B. Landscaping

The PVD protects our Client from landscape that would significantly obstruct our Client's view as documented in the PVD. (See MMC § 17.40.040(A)(17).) Our Clients also recognize that the Draft Resolution includes a condition of approval that ostensibly prohibits the Project's landscaping from obstructing primary views. (Draft Resolution No. 25-76, Condition #39 ["Vegetation shall be situated on the property so as not to significantly obstruct the primary view from private property at any given time (given consideration of its future growth)."]; see also Condition #44 [prohibiting vegetation above six feet from obstructing primary view].)

Nevertheless, the Project's landscape plans include trees that appear destined to violate the PVD and the Project's conditions of approval. Sheet L3.00 of the landscape plans, for example, notes four proposed Big Berry Manzanita trees with a maximum height of 10 to 20 feet, three proposed citrus trees with a maximum height of 12 feet, and two proposed Island Oak trees with a maximum height of 35 feet. The Applicant proposes to scatter these trees around the Property.

Sheet L3.00 provides the following Plant Palette:



Plant Palette

Botanic Name	Common Name	Size	Quantity	WUCOLS	MAX Height
Trees & Large Shrubs					
Arctostaphylos glauca	Big Berry Manzanita	15g	4	Med	10'-0" - 20'-0"
Citrus spp.	Assorted Citrus Varieties	24" Box	3	Med	12'-0"
Quercus tomentella	Island Oak	48" Box	2	Low	35'-0"

Although staff attempts to address this issue by referencing Condition of Approval No. 33, the current architecture and landscape plan inherently conflicts with that condition and the visual-resource findings required by LIP section 6.6.4. Approval of trees capable of growing five to six times the permitted view height invites a future code-enforcement action once the vegetation matures.

To ensure compliance with LIP section 6.6.4, the landscape plan must be redesigned to include plant species whose mature height will not obstruct protected primary views. Without such revisions, the City cannot make the required finding that the project "will have no significant adverse scenic or visual impacts," and approval would be inconsistent with the findings to grant a CDP. (See LIP § 6.6.4(A)(1).)

VIII. The Applicant Constitutes a Bad Actor: The Applicant Continues to Undertake Unpermitted Development and the City Should Not Reward Them with a CDP.

Finally, our Clients note that the Applicant constitutes a bad actor whom the City should not reward with entitlement approvals. As the Staff Report acknowledges, the Property remains subject to an open code-enforcement case (Code Violation No. 23-047) involving multiple violations. (Staff Report, p. 3.) The Applicant's memorandum indicates that this includes "[an] unpermitted fence and gate with electrical power, landscape and drainage, and [ground disturbance] on Chumash designated land." We attach the Applicant's May 12, 2023, memorandum as **Exhibit P**. Indeed, our Client's have observed some of this illegal activity. We attach photos from November 2022 as **Exhibit Q** showing dirt, trees, and tile or pavers being

delivered to the Property without permits. To use just one example, we provide the following picture of the Applicant's Property in 2022 with dirt, sod, mechanical equipment, and wood plans, delivered apparently in order to conduct unpermitted development:



Our Clients also present evidence of additional, ongoing violations, including the apparent unpermitted construction of a path on the coastal bluff. The following photo, for example, attached as **Exhibit R**, shows Applicant's gardening team walking on a trail on the coastal bluff that appears to include unpermitted wood railing.



This trail is not permitted, is not part of the adjacent properties or public access trail, and is not the subject of this Application. This Commission should not reward this Applicant with a CDP, much less a reduced a setback to the coastal bluff it refuses to project.

IX. Conclusion.

Our Clients do not oppose all development on the Property. But such development must be lawful, with due respect given to ESHA and cultural resources, in compliance with CEQA, and accord with the procedural and substantive safeguards under the LIP. As explained in detail above,

the Project fails to meet this standard. Accordingly, as presently proposed, the Application must be denied.

Very truly yours,



JACKSON D. McNEILL
Elkins Kalt Weintraub Reuben Gartside LLP

JDM:jdm

cc: Yolanda Bundy (YBundy@malibucity.org)
Raneika Brooks (Rbrooks@malibucity.org)
Trevor Rusin (Trevor.Rusin@bbklaw.com)
Kellan Martz (Kellan.Martz@bbklaw.com)
PlanningCommission@malibucity.org

5740327.1

Received
10/13/25
Planning Div.

Dear Members of the Planning Commission,
I am writing to support the Jennys' proposal to build a small, one-bedroom home with an auxiliary care quarters on their Malibu property. I have known the Jennys for many years—over half a century—and watched as they raised their children in our community. They purchased this property about four years ago and have shared with me that it is their final home, where they plan to spend their remaining years. Their proposed residence is modest, thoughtfully designed to meet all height and size restrictions, and will blend harmoniously with the neighborhood.
I firmly believe that the Jennys, as longstanding Malibu residents, have the right to develop their property in a manner that allows them to age comfortably and securely. I support this project wholeheartedly and believe it will remain in keeping with the community's character.
Thank you for your consideration.
Sincerely,

Susan Waters
[redacted] Heathercliff Road [redacted]
Malibu CA 90265

CC: Planning Commission, PD,

Recording Secretary, File

Date Received 10/13/25 Time 1:39 PM
Planning Commission meeting of 10/20/25
Agenda Item No. 5A
Total No. of Pages 1

Received
10/14/25
Planning Div.

September 28, 2025

Dear Members of the Planning Commission,

I wish to express my strong support for Ron and Jane Jenny's proposal to construct a single-bedroom residence with a care quarters on their property in Malibu. I have known the Jennys for over forty years in Malibu, and have seen them consistently and selflessly contribute to our community throughout their long residence here. My husband and I have watched them raise their beautiful four children here, with deep connections and support of our community.

The Jennys purchased the land in question about four years ago, always with the expressed intention that this will be their final residence. Their plan is extremely modest, designed to meet all regulatory requirements, and is intended to blend well with the surrounding neighborhood.

As long-time fellow Malibu residents, my husband, Richard Ross and I, believe the Jenny's have created a perfect understated plan that supports their aging needs for this chapter of their lives. We strongly support their application and are completely confident that it will be a good fit and addition to the neighborhood.

Thank you for your consideration.

Kim and Richard Ross

[redacted] Fernhill Drive

Malibu, California

[redacted]

CC: Planning Commission, PD,

Recording Secretary, File

Date Received 10/14/25 Time 1:17 p.m.
Planning Commission meeting of 10/20/25
Agenda Item No. 5A
715 Total No. of Pages 1

Received
10/16/25
Planning Div.

September 22, 2025

To Whom It May Concern,

I am writing in support of the proposed new home project in our Malibu neighborhood. The plans reflect a minimal footprint, and the homeowners have demonstrated their commitment to complying with all local restrictions. I believe this development will enhance our community while preserving the existing tranquility and aesthetic.

Thank you for the opportunity to express my support.

Best regards,

Before These Crowded Streets, LLC
[redacted] Pacific Coast Highway
Malibu, CA 90265

Sincerely,

Keshara Parker
Representative for
Before These Crowded Streets, LLC

CC: Planning Commission, PD,

Recording Secretary, File

Date Received 10/16/25 Time 8:42 a.m.
Planning Commission meeting of 10/20/25
Agenda Item No. 5A
Total No. of Pages 1

Received
10/14/25
Planning Div.

ELKINS KALT

Jackson D. McNeill
D: (310) 746-4424
JMcneill@elkinskalt.com
Ref: 15289-0001

Elkins Kalt Weintraub Reuben Gartside LLP

October 14, 2025

VIA E-MAIL AND U.S. MAIL

Raneika Brooks, Principal Planner
City of Malibu
23825 Stuart Ranch Road
Malibu, CA 90265
Email: rbrooks@malibucity.org

Re: Legally Deficient Notice of Hearing for October 20, 2025, Planning Commission Agenda Concerning 33008 PCH
Item #: 5A

Dear Raneika:

Our firm represents DEVOLVING LLC and Mark and Tamara Mackey (collectively, our "Clients"), the owners of the real property and single-family residences located at [redacted] and [redacted] Pacific Coast Highway in Malibu, California, respectively. Bluff Top 1 LLC has submitted an application for a Coastal Development Permit (CDP No. 23-034) and Minor Modification (Minor Modification No. 25-009) (together, the "Application") to construct a new single-family residence and associated development at 33008 Pacific Coast Highway (the "Site"), immediately adjacent to our Clients' properties (the "Project").

On October 9, 2025, our firm received an email from the City of Malibu ("City") indicating that the Project had been scheduled for a public hearing before the Planning Commission on October 20, 2025. The email included an updated Notice of Public Hearing ("Notice"), which we attach as **Exhibit A**. Respectfully, **as discussed below, the Notice provided was legally deficient because it (1) fails to mention the code violation case that the hearing and Application purportedly resolves; and (2) because it fails to notice state, regional, and local agencies as required by the LIP. As such, the hearing must be continued to allow for the provision of adequate and lawful notice**.

CC: Planning Commission, PD,

Recording Secretary, File

5737953.1

Date Received 10/14/25 Time 3:14 p.m.
Planning Commission meeting of 10/20/25
Agenda Item No. 5A
Total No. of Pages 10

I. The Notice Fails to Mention the Code Violation Purportedly Being Resolved.

The Notice is legally deficient because it fails to provide notice that the Project purportedly addresses (or that the Planning Commission will consider) the resolution of Code Violation No. 23-047 (the "Code Violation").[1]

Specifically, the Notice indicates that the hearing will consider Coastal Development Permit No. 23-034 and Minor Modification No. 25-009. It makes no mention of the Code Violation. The actual agenda item, meanwhile, indicates that the subject of the hearing also includes Code Violation No. 23-047, and the Staff Report indicates that "[a]fter the CDP is approved and upon final inspection of the project, the code violation case will be closed." (Staff Report, p. 3.) The draft Resolution also discusses the Code Violation as part of the Application. (See Draft Resolution 25-76, Section 1, Recital A ["On May 17, 2023, an application for Coastal Development Permit (CDP) No. 23-034 and Code Violation (CV) No. 23-047 was submitted to the Planning Division by applicant, Schmitz and Associates, Inc., on behalf of the owner, Bluff Top 1 LLC."].)

Under the Coastal Act regulations, The public hearing must be conducted "in any … manner reasonably calculated to give interested persons an opportunity to appear and present their viewpoints, either orally or in writing." (Cal. Code Regs., tit. 14, § 13566.) And Malibu's LIP requires all application numbers and all development being considered to be summarized in the notice. (See LIP § 13.12.1 [requiring the notice to include the application number(s) being heard and the development being considered].)

By failing to mention the Code Violation, the general public remains unaware that the hearing affects its resolution. In so doing, the City denies potentially interested persons the opportunity to be heard in violation of the LIP, the Coastal Act regulations, and due process. As such, the meeting must be continued and re-noticed.

II. The City Failed to Properly Notice State, Regional, and Local Agencies.

Among the parties required to be provided with notice, the Local Implementation Plan ("LIP") requires the City to provide notice to "[l]ocal, regional and state agencies known to be interested in the project including but not limited to: Los Angeles County, Ventura County, NPS, SMMC, CDPR, CDFG, NMFS, USFWS." (LIP § 13.12.1.A.4.) Further, "[t]he public hearing may

[1] Our Client's question the ability and propriety of resolving code violations by approving new development rather than through the City's designated administrative procedures for code violations, and our Clients reserve the right to challenge the propriety of this approach.

be conducted in accordance with existing local procedures or in any other manner reasonably calculated to give interested persons an opportunity to appear and present their viewpoints, either orally or in writing." (Cal. Code Regs., tit. 14, § 13566.)

Here, Ms. Brooks stated by email on October 10, 2025, that the City sent following agencies notice of the hearing:

- L.A. County
- Department of Regional Planning
- County of Ventura, Attn: Planning Dept.
- US Fish and Wildlife Service
- National Park Service
- Development, US Army Corps of Engineers, LA Dist., ATTN: Regulatory Div.
- CESPL-RG, Dept. of Transportation, Dist. 7, Regional Planning
- IRG/CEQA Branch, RWQCB, Region 4 c/o Jenny Newman, Santa Monica Mountains Conservancy
- Calif. Dept. of Parks & Recreation
- National Marine Fishery Service
- California Coastal Commission, So. Central Coast District
- California Dept. of Fish & Game, So. Coast Region-CEQA Program,
- California Department of Pesticide Regulation,
- Pepperdine University, Dir. Of Regulatory Affairs Rhiannon Pregitzer
- Malibu Times
- Santa Monica Baykeeper

Respectfully, while our Clients appreciate the effort to provide notice to a wide range of agencies, the City failed to provide notice to any agencies related to American Indians, despite the fact that shells and tools were discovered on the Site and despite the fact that the archaeological study for the Site "indicates that potential cultural resources are located on the project site." (See Archaeology Review (ARC) No. 23-014, attached as **Exhibit B**.) Indeed, the City originally notified the California Native American Heritage Commission ("NAHC") of these issues, but did not notify NAHC that this hearing was occurring. (Exh. A, p. 1, 3.)

Despite acknowledging that NAHC constituted an agency known to be interested in the project (LIP § 13.12.1.A.4), the City failed to provide the NAHC notice of the public hearing on the Project. Nor did the City notify any other state entities with relevant American Indian or cultural resource expertise, such as the Governor's Office of Tribal Affairs, the California Department of Justice Office of Native American Affairs ("ONAA"), or the California Natural Resources Agency's Tribal Affairs office—much less any tribes (e.g., Chumash) themselves. Without this, the notice from the City is not "reasonably calculated to give interested persons an opportunity to appear and present their viewpoints." (Cal. Code Regs., tit. 14, § 13566.)

This omission is not a mere technical defect. As will be explained in subsequent correspondence, the City also failed to conduct supplemental Phase I investigations or a Phase II investigation despite confirmed on-site cultural materials, and it further failed to prepare a mitigated negative declaration or environmental impact report to evaluate the project's potential effects on cultural resources as required by the LIP and in violation of the California Environmental Quality Act ("CEQA"). These are precisely the kinds of issues that agencies with American Indian expertise are best suited to speak to.

Accordingly, the hearing must be continued to allow proper notice to the appropriate agencies.

Very truly yours,



JACKSON D. McNEILL
Elkins Kalt Weintraub Reuben Gartside LLP

JDM:jdm

cc: PlanningCommission@malibucity.org
Rebecca Evans (revans@malibucity.org)

5737953.1

EXHIBIT A

City Of Malibu
23825 Stuart Ranch Road
Malibu, CA 90265
Phone (310) 456-2489
www.malibucity.org

COMMUNITY DEVELOPMENT DEPARTMENT

NOTICE OF PUBLIC HEARING

NOTICE OF PUBLIC HEARING

The Malibu Planning Commission will hold a public hearing on **Monday, October 20, 2025, at 6:30 p.m**. in the Council Chambers, Malibu City Hall, 23825 Stuart Ranch Road, Malibu, CA for the project identified below. Public comment can be submitted ahead of the public hearing to planningcommission@malibucity.org for inclusion in the public record. To participate during the public hearing, please review the meeting agenda posted at MalibuCity.org/AgendaCenter and follow the directions for public participation.

COASTAL DEVELOPMENT PERMIT NO. 23-034 AND MINOR MODIFICATION NO. 25-009 - An application to construct new two-story, 18-foot high, 4,856 square foot single-family residence, including a 791 square foot attached garage and a 824 square foot second-story second unit, landscaping, hardscape, grading, fire department turnaround area, vehicular access gate, and the installation of a new onsite wastewater treatment system; including a minor modification for up to a 50 percent reduction of the front yard setback

LOCATION / APN / ZONING:	**33008 Pacific Coast Hwy** / 4473-017-009 / Rural Residential-Two Acre (RR-2)
APPLICANT / OWNER:	Schmitz & Associates, Inc. / Bluff Top 1 LLC
APPEALABLE TO:	City Council and California Coastal Commission
ENVIRONMENTAL REVIEW:	Categorical Exemption CEQA Guidelines Sections 15303(a) and 15303(e)
APPLICATION FILED:	May 17, 2023
CASE PLANNER:	Raneika Brooks, Principal Planner, rbrooks@malibucity.org (310) 456-2489, ext. 276

A written staff report will be available at or before the hearing for the projects. All persons wishing to address the Commission regarding these matters will be afforded an opportunity in accordance with the Commission's procedures. Copies of all related documents can be reviewed by any interested person at City Hall during regular business hours. Oral and written comments may be presented to the Planning Commission on, or before, the date of the meeting.

LOCAL APPEAL - A decision of the Planning Commission may be appealed to the City Council by an aggrieved person by written statement setting forth the grounds for appeal. An appeal shall be filed with the City Clerk within ten days following the date of action which the appeal is made and shall be accompanied by an appeal form and filing fee, as specified by the City Council. Appeal forms may be found online at www.malibucity.org/planningforms or in person at City Hall, or by calling (310) 456-2489, extension 246.

COASTAL COMMISSION APPEAL - An aggrieved person may appeal the Planning Commission's approval directly to the Coastal Commission within 10 working days of the issuance of the City's Notice of Final Action. More information may be found online at www.coastal.ca.gov or by calling 805-585-1800.

IF YOU CHALLENGE THE CITY'S ACTION IN COURT, YOU MAY BE LIMITED TO RAISING ONLY THOSE ISSUES YOU OR SOMEONE ELSE RAISED AT THE PUBLIC HEARING DESCRIBED IN THIS NOTICE, OR IN WRITTEN CORRESPONDENCE DELIVERED TO THE CITY, AT OR PRIOR TO THE PUBLIC HEARING.

YOLANDA BUNDY, Community Development Director — Date: October 9, 2025

EXHIBIT B

City of Malibu

23825 Stuart Ranch Road · Malibu, California · 90265-4861
Phone (310) 456-2489 · Fax (310) 456-3356 · www.malibucity.org

June 26, 2023

Arfakhashad Munaim
EPD Consultants, Inc
Carson, CA 90745

Reference: **ARCHAEOLOGY REVIEW (ARC) NO. 23-014**
33008 Pacific Coast Highway
Archaeology Review Phase I

Dear Mr. Munaim:

On **May 2, 2023**, the application listed above was submitted to the City of Malibu Planning Department for processing. Planning Department staff has completed a review of the Phase I Archaeological Study, dated March 20, 2023, prepared by Matthew A. Boxt Ph.D., Consulting Archaeologist for Blufftop 1, LLC for the subject site at 33008 Pacific Coast Highway (APN 4473-017-009). The study indicates that potential cultural resources are located on the project site.

To mitigate potential impacts on unknown archaeological resources to a level of insignificance, Blufftop 1, LLC will implement the following mitigation measures:

1. **Prior to beginning any ground-disturbing activities, all involved construction personnel will be informed about the potential for discovery of archaeological resources and/or human remains, and the appropriate measures to be taken should such resources be uncovered.**
2. **A qualified archaeologist will be on-site during all ground disturbing construction activities with the authority to suspend work in the event that potentially important archaeological resources are discovered. If such an event occurs, all construction activities in the vicinity of the affected area will be suspended, and a qualified Chumash cultural resources monitor will be contracted by the applicant. An appropriate buffer area shall be established by the Project Archaeologist and Native American monitor around the find where construction activities shall not be allowed to continue. Work shall be allowed to continue outside of the buffer area. By following these recommendations, Blufftop 1, LLC will ensure the preservation of these fragile and non-renewable cultural resources.**

Based on the information submitted, the applicant **may proceed with obtaining an excavation permit through City Geotechnical Staff with the conditions listed above.** In addition, **no geologic trenching, soil borings, ground clearance, grading, equipment placement, or similar surface-disturbing impacts shall be allowed within 30 feet of the northern property boundary**. When completed, please submit a report describing the archaeologist's findings.

In the event that potentially important cultural resources are found in the course of geologic testing or any other activity, work shall immediately cease until a qualified archaeologist can provide an evaluation of the nature and significance of the resources and until the Planning Director can review this information. Where, as a result of

this evaluation, the Director determines that the project may have an adverse impact on cultural resources; a Phase II Evaluation of cultural resources shall be required pursuant to Malibu Municipal Code Section 17.54.040(D).

If a human bone or any other human remains are discovered, the procedures described in Health and Safety Code Section 7050.5 must be followed. The property owner or his/her representatives (i.e., architect, contractor, etc.) must notify the Los Angeles County coroner. If the coroner determines that the remains are those of a Native American, the applicant must notify the Native American Heritage Commission by phone within 24 hours. Following notification of that organization, the procedures described in Public Resources Code Sections 5097.94 - 5097.98 must be followed.

If you have any questions regarding this matter, please contact me at (310) 456-2489, extension 295.

Sincerely,

Coli Turner

Coli Turner
Planning Technician

cc: Native American Heritage Commission

City of Malibu
Planning Department
23825 Stuart Ranch Road
Malibu, CA 90265

June 26, 2023

Native American Heritage Commission
1550 Harbor Blvd. Suite 100
West Sacramento, CA 95691

Reference: **ARCHAEOLOGY REVIEW (ARC) NO. 23-014**
3308 Pacific Coast Highway, Malibu, CA 90265
Archaeology Review Phase I

To whom it may concern:

Please find the enclosed cultural resource clearance for your review and comment pursuant to City of Malibu Local Coastal Program Local Implementation Plan Section 11.3.

If you have any questions or comments regarding this matter, please contact our office at (310) 456-2489.

Sincerely,

Coli Turner

Coli Turner
Planning Technician

Received
4/5/26
Planning Div.

Larry and Nancy Stokesberry
[redacted]
03/16/26

City of Malibu
City Council / Planning Commission
23825 Stuart Ranch Road
Malibu, CA 90265

Re: Immediate denial of the appeal for 33008 Pacific Coast Highway (Jenny residence)

To the Mayor and Members of the City Council,

Nancy and I are neighbors living just above the Jenny property. Ron Jenny has told us they have worked with the City for many years on this project. In our opinion, there is no reason they should be prevented from building a home on their own property. After completing the City's lengthy and rigorous review process, property owners should be allowed to build within a reasonable time frame.

Is there a way to expedite matters? Ron and Jane are nearly 80, and they began planning their home with the city of Malibu planning department when they were in their mid-70s. They should not have to endure another year or more before the City Council considers this appeal.

The Jennys have lived in Malibu since the early 1970s, raised four children here, and wish to build a home where they can spend their remaining years.

We have reviewed the list of approvals issued by the Malibu Planning Department; all required items have been completed. We have also seen the Mackey attorney's appeal letter, which appears to be an attempt to re-litigate issues already addressed and approved by both the Planning Department and the Planning Commission. Given that these technical issues were resolved over many years, we believe the appeal lacks merit.

It is important that the Council not allow unfounded appeals to delay otherwise compliant projects for extended periods. We respectfully urge you to deny this appeal promptly and allow the Jennys to proceed.

Thank you for your consideration.

Sincerely,

Larry Stokesberry
Nancy Stokesberry

Larry and Nancy Stokesberry

EXHIBIT G

Received
3/17/26
Planning Div.

From: John Aylsworth [redacted]
Sent: Tuesday, March 17, 2026 3:25 PM
To: City Council <citycouncil@malibucity.org>
Cc: Paul Grisanti [redacted]
Subject: Ron Jenny appeal 33008 PCH

Dear Mayor and Members of the City Council,

We have known Ron and Jane Jenny for many years—Little League, weddings, gatherings, friendships ,and community events—and write to express our support for their approved project at 33008 Pacific Coast Highway.

The Jennys completed Malibu's lengthy planning process and received a recommendation from the Planning Department and approval from the Planning Commission. The issues raised in the appeal were reviewed and resolved during that process. From our review, the objections appear focused on preserving a view rather than any regulatory violation. The proposed residence complies with height, setback, and lot standards and is well under the allowable square footage. We understand there is precedent that prevents neighbors from using appeals to stop lawful development on property owned by others.

We respectfully request that the Council deny this appeal and uphold the approvals already granted so the Jennys can proceed.

Reconsidering how appeals are used in cases like this would help prevent undue delay of otherwise compliant projects. Also, this would save the city council hours of precious time.

We also note that the current appeal process can impose lengthy, unfair burdens on property owners; where appeals are without merit, appellants should bear responsibility for delays or damages caused by the process.

When we built our home, prolonged delays would have been an extreme hardship.

Thank you for your consideration.

Sincerely, John and Karen Aylsworth

Received
3/23/26
Planning Div.

From: Kim Ross [redacted]
Sent: Monday, March 23, 2026 7:42 AM
To: City Council <citycouncil@malibucity.org>
Subject: Deny Appeal /Approve CDP (Jenny Residence) 33008 Pacific Coast Highway

March 20, 2026

City of Malibu, Malibu City Council

23825 Stuart Ranch Road

Malibu, California 90265

Dear Malibu City Council,

My husband, Richard Ross, and I have lived in Malibu for many years and have known Ron and Jane Jenny for decades. They have been long standing active members and contributors to the Malibu community, and we believe their proposed home will fit appropriately within the character of the neighborhood.

I attended the Planning Commission hearings and reviewed the materials and discussions presented by everyone. The Planning Commission, at their February 17th 2006 meeting, approved this project based upon all of the Jenny's invested time and expense to meet every single requirement, with the assistance of several experienced professionals guiding them throughout the process.

The main complaint left against this code-compliant project appears to be preserving a private view rather than any violation of City requirements. The Jennys legally purchased this lot and are entitled to develop it, consistent with the City rules, which they have met. The complainant and their attorneys seem to repeat their challenges of this project purely on the basis of meritless aesthetic reasons, and that is unjust.

I am asking the Council to uphold the Planning Department and Planning Commission approvals, not just as the Jenny's neighbor and friend, but also as a member of this community who wants to see consistency and fairness in our approval processes. This appeal is unfounded and has created costs and hardships on the Jennys that should have been deemed unnecessary.

Thank you for allowing the Jennys to move forward without any further delay.

Kimberly Ross

[redacted]

Malibu CA 90265

--

Kimberly Collen-Ross

C: [redacted]

From: Linda Fleiderman [redacted]

Sent: Sunday, March 22, 2026 11:24 AM

To: City Council <citycouncil@malibucity.org>

Subject: 23825 Pacific Coast Highway (Jenny residence)

City of Malibu City Council

23825 Stuart Ranch Road

Malibu, ca. 90265

Re: Support for the approval of the planning department, and planning commissions findings.

33008 Pacific Coast Highway (Jenny residence)

Dear Mayor and members of the city Council

I have resided in Malibu for 52 years. I have known Ron and Jane Jenny for most of that time.

I am writing in support of the approved project located at 33008 Pacific Coast Highway.

The Jenny‘s spent four years working with the Malibu planning department to design a home consistent with city requirements. The planning department recommended approval of the planning commission.

I reviewed the presentation and submitted to the planning commission and understand the planning commission approved the coastal development permit (CDP).

Project materials indicate that relevant technical issues have been resolved, including fire, including fire access and turn around, archaeological, and biological reviews, wave,

uprush, analysis, geotechnical and civil, engineering, evaluation‘s, septic approval, required, setbacks, height and landscape limits, and lot coverage standards.

Accordingly, the project seems to comply with Malibu‘s regulatory and planning criteria.

A neighbor has filed an appeal. I have seen a copy of the appeal and the attorneys memorandum. My interest is that decision said here to the cities, technical findings and established rules.

The Jenny is all and pay taxes on the property, and they do not appear to have exploited the maximum permits square footage. For these reasons, I urge the Malibu city counsel to approve the CPD. In my opinion this should be expedited. The Jenny‘s are not young and they would like to build this house in a reasonable time as they want to make this home their last home in the city they love, Malibu.

Thank you for your attention and concern, Linda Fleiderman

[redacted]

Malibu

Sent from my iPad

Received
3/16/26
Planning Div.

From: Jerry Jacob [redacted]
Sent: Sunday, March 15, 2026 7:46 AM
To: City Council <citycouncil@malibucity.org>
Subject: Support of approval for 33008 Pacific Coast Hwy

Dear Mayor and Members of the City Council

As Malibu residents, we have known the Jennys for many years. We write in support of the approved project at 33008 Pacific Coast Highway.The Jennys collaborated with the Malibu Planning Department for four years to design a residence that complies with City regulations. The Malibu Planning Department recommended approval to the Planning Commission.I have reviewed the materials submitted to the Planning Commission and understand that the Planning Commission approved the Coastal Development Permit (CDP).

Project documents show that the pertinent technical matters have been addressed, including fire department access and turnaround, archaeological and biological assessments, wave uprush analysis, geotechnical and civil engineering reviews, septic approval, required setbacks, height and landscaping constraints, and lot coverage limits.

On that basis, the project appears to meet Malibu's regulations and planning standards.

One neighbor has filed an appeal; I have reviewed a copy of the appeal and the attorney's report. My concern is that decisions be guided by the City's technical reviews and established rules.

It is my understanding that the rest of the neighbors in the neighborhood have supported the Jenny's new home.

The Jennys own the property and pay taxes on it, and they do not appear to have maximized the allowable square footage. Therefore, I urge the Malibu City Council to uphold approval of the CDP so the Jennys may begin construction on their home soon.

Sincerely,

Jerry Jacob

[redacted]

Malibu, Ca. 90265

Received
3/16/26
Planning Div.

From: Ronald Jenny [redacted]

Sent: Monday, March 16, 2026 11:58 AM

To: City Council <citycouncil@malibucity.org>

Cc: Timmy Keenan [redacted]

Subject: Denial of appeal for 33008 Pacific Coast Highway

Dear Mayor and City Council,

I am forwarding this letter, provided to me by Tim Keenan, regarding the denial of the appeal to build our home at 33008 Pacific Coast Highway.

Thank you, Ronald Jenny

City of Malibu City Council

23825 Stuart Ranch Road

Malibu, CA 90265

Re: Support for the approval of the planning department and planning commission findings.

33008 Pacific Coast Highway (Jenny's residence)

Dear Members of the City Council,

As Malibu residents, we have known Ron and Jane Jenny for many years. We write in support of the approved project at 33008 Pacific Coast Highway.

The Jennys have worked with the Malibu Planning Department for four years to design a home in compliance with City rules. The Malibu planning department has recommended approval to the planning commission.

I have reviewed the presentation provided to the Planning Commission and understand that the Planning Commission has approved the CDP Coastal Development Permit.

Project materials indicate that the relevant technical issues have been addressed, including fire department access and turnaround, archaeological and biological reviews, wave uprush analysis, geotechnical and civil engineering reviews, septic approval, required setbacks, height, and landscape restrictions, and lot coverage standards.

Given these findings, it appears the project complies with Malibu’s regulations and planning requirements.

A neighbor has filed an appeal; I have seen a copy of the appeal and the attorney’s report. My interest is that decisions be based on the City’s technical reviews and established rules.

From what I understand, the appeal is motivated by concerns about view protection rather than noncompliance. The Jennys own the property and pay taxes on it, and they appear not to have maximized the allowable square footage. Therefore, I urge the city to approve the CDP so the Jenny’s can start construction on their home soon.

Thank you for your consideration.

Sincerely,

Tim Keenan

[redacted]

SPC 34

Malibu, CA

Received
3/19/26
Planning Div.

From: Jenny Guerrero [redacted]
Sent: Thursday, March 19, 2026 9:23 AM
To: City Council <citycouncil@malibucity.org>
Subject: Building Permit -Ronald Jenny' Property

Dear Mayor and Members of the City Council,

We are neighbors living on the beach to the east of the Jenny property. I spoke with Ron Jenny and understand they have been working with the City on this project for many years.

Having completed the City's lengthy and careful review process, the Jennys should be permitted to build on property they lawfully own within a reasonable timeframe.

Based on my review, the items raised in the appeal have already been addressed by the project consultants and approved by the Planning Department and the Planning Commission. Ron has been working to move these plans through the process for about four years. It appears this appeal is motivated by view concerns, while the neighbor appealing this has a hedge of large eucalyptus trees that block everybody else's view.

They did not have the right to prevent the Jennys from building in a reasonable period of time. Considering it is mainly because it would hurt their view. Especially because they don't consider the view of their other neighbors because of their trees.

The Council immediately deny appeal to stall otherwise compliant projects for extended periods. I respectfully urge you to deny this appeal promptly and allow the Jennys to proceed.

Thank you for your consideration.

Sincerely,

Domenick J. Sisto, MD

Attached signed letter

Los Angeles Orthopaedic Institute
A MEDICAL GROUP

March 18, 2026

Dear Mayor and Members of the City Council,

We are neighbors living on the beach to the east of the Jenny property. I spoke with Ron Jenny and understand they have been working with the City on this project for many years.

Having completed the City's lengthy and careful review process, the Jennys should be permitted to build on property they lawfully own within a reasonable timeframe.

Based on my review, the items raised in the appeal have already been addressed by the project consultants and approved by the Planning Department and the Planning Commission. Ron has been working to move these plans through the process for about four years. It appears this appeal is motivated by view concerns, while the neighbor appealing this has a hedge of large eucalyptus trees that block everybody else's view.

They did not have the right to prevent the Jennys from building in a reasonable period of time. Considering it is mainly because it would hurt their view. Especially because they don't consider the view of their other neighbors because of their trees.

The Council immediately deny appeal to stall otherwise compliant projects for extended periods. I respectfully urge you to deny this appeal promptly and allow the Jennys to proceed.

Thank you for your consideration.

Sincerely,

Domenick J. Sisto, MD

SHERMAN OAKS OFFICE: 4955 van nuys boulevard • suite 615 • sherman oaks, california 91403 • (818) 905-2222 • fax (818) 905-8702
PALMDALE OFFICE: 38660 medical center drive • suite A250 • palmdale, california 93551 • (661) 267-7777 • fax (661) 267-7101
WEBSITE: www.laortho.org

Received
3/16/26
Planning Div.

From: Gary Wonnacott [redacted]
Sent: Sunday, March 15, 2026 9:47 AM
To: City Council <citycouncil@malibucity.org>
Subject: Jenny residence 22008PCH

Dear Mayor and Members of the City Council,

As Malibu residents who have known Ron and Jane Jenny for many years — in fact, we were neighbors on Bonsall about 50 years ago — we write in support of the approved project at 33008 Pacific Coast Highway.

The Jennys have worked with the Malibu Planning Department for several years to design a home that complies with City rules. We have reviewed the presentation provided to the Planning Commission and understand that the Planning Department has recommended approval. It appears the Jenny team's consultants have addressed the City's requirements and technical concerns.

Given these findings, the project complies with Malibu's regulations and planning requirements. In our view, the Council should uphold that determination so the Jennys can build their home within a reasonable timeframe.

We have seen a copy of the appeal and the attorney's report. From what we understand, the appeal is motivated primarily by view concerns rather than by any demonstrated noncompliance. The Jennys own the property and have the right to proceed; their proposed home does not maximize allowable square footage.

Ron Jenny told us they spent four years working with city planning to reach this point; delays by the original planner contributed to the timeline. For these reasons, we respectfully urge the Council to deny the appeal, uphold the Planning Commission's approval, and allow the Jennys to proceed with construction.

Thank you for your consideration.

Sincerely,

3-14-26

Gary and Cathie Wonnacott

[redacted]

Malibu Ca. 90265

Received
3/23/26
Planning Div.

From: diane covington [redacted]
Sent: Sunday, March 22, 2026 3:39 PM
To: City Council <citycouncil@malibucity.org>
Subject:

City of Malibu City Council

23825 Stuart Ranch Road

Malibu, CA 90265

Re: Support for the approval of the planning department and planning commission findings.

33008 Pacific Coast Highway (Jenny's residence)

Dear Members of the City Council

As Malibu residents, we have known Ron and Jane Jenny for many years. We write in support of the approved project at 33008 Pacific Coast Highway.

The Jennys have worked with the Malibu Planning Department for four years to design a home in compliance with City rules. The Malibu planning department has recommended approval to the planning commission.

I have reviewed the presentation provided to the Planning Commission and understand that the Planning Commission has approved the CDP Coastal Development Permit.

Project materials indicate that the relevant technical issues have been addressed, including fire department access and turnaround, archaeological and biological reviews, wave uprush analysis, geotechnical and civil engineering reviews, septic approval, required setbacks, height, and landscape restrictions, and lot coverage standards.

Given these findings, it appears the project complies with Malibu's regulations and planning requirements.

A neighbor has filed an appeal; I have seen a copy of the appeal and the attorney's report. My interest is that decisions be based on the City's technical reviews and established rules.

From what I understand, the appeal is motivated by concerns about view protection rather than noncompliance. The Jennys own the property and pay taxes on it, and they appear not

to have maximized the allowable square footage. Therefore, I urge the city to approve the CDP so the Jenny's can start construction on their home soon.

Thank you for your consideration.

Sincerely,

Diane & Hil Covington

Your address

[redacted]

Malibu, Ca 90365

Received
9/10/26
Planning Div.

From: AK Munaim
To: Gail Duncan
Cc: rj; jsjenny97
Subject: 33008 PCH - City Council Appeal Hearing - Support Letters
Date: Thursday, September 10, 2026 10:52:43 AM
Attachments: jenny signed.pdf
Support Letter - Keshara Parker.pdf
Support Letter - Christina Stevens.pdf
Support Letter - Getachew.pdf
Gregory Hyland - Support Letter.pdf
Support Letter - Jerry and Lynn Jacob.pdf

Hi Gail,

We are scheduled for the City Council appeal hearing on 10/21. We would like to submit the support letters for public record for City Council. Would you kindly do so?

Thank you.

Arfakhashad (AK) Munaim
Special Projects Manager, Schmitz and Associates

747.444.6144
schmitzandassociates.com
amunaim@schmitzandassociates.net
28230 Agoura Rd. Suite 200, Agoura Hills, CA 91301

IMPORTANT: The contents of this email and any attachments are confidential. They are intended for the named recipient(s) only. If you have received this email by mistake, please notify the sender immediately and do not disclose the contents to anyone or make copies thereof.

From: Jerry Jacob [redacted]

Subject: Corrected letter, added our address

Date: October 17, 2025 at 1:41:24 PM PDT

To: Ron Jenny [redacted]

Dear Planning Commission,

We are neighbors of the Jenny's on Encinal Bluff. I'm writing this to express my support for their proposed construction of a small, two-bedroom house with an office. As a fellow resident of Malibu, I appreciate their long-standing commitment to our community. We have been residents of Malibu for many years, and I've known the Jennys for a significant portion of that time.

From what I have observed, their plans are carefully designed to adhere to all height and size regulations. I am confident that this development will blend seamlessly into our neighborhood, contributing positively without compromising the neighborhood’s character or tranquility.

My wife and I fully support the Jenny's project and encourage the commission to approve it.

Thank you for your thoughtful review.

Sincerely,

Jerry and Lynn Jacob

[redacted]

Malibu

From: Gregory Hyland [redacted]

Subject: Re: Letter and plans

Date: October 6, 2025 at 3:27:38 PM PDT

To: Ronald Jenny [redacted]

Dear Planning Department,

I support my neighbor's application to build a small, compliant residence in Malibu. The design respects all height and size regulations, and the homeowners have been respectful of the neighborhood's character. I am confident that this development will be a positive addition and will not cause any disruption. Thank you for considering my support.

Best regards, Denise Melle [redacted]. Malibu CA. 90265 [redacted]

October 1, 2025

Malibu Planning Commission
City of Malibu
23825 Stuart Ranch Road
Malibu, CA 90265-4861
Attn: Rebecca Evans, Recording Secretary

Members of the Planning Commission:

To Whom It May Concern,

I am writing as a neighbor residing at [redacted] to express my support for the proposed 4189 square foot single-family residence at **33008 Pacific Coast Highway**, known as the **Jenny Residence**.

The owner, Mr. Jenny, has thoughtfully coordinated the siting of the home to preserve views of the ocean from the street and to ensure that second-floor views—while not protected—remain largely unobstructed. This consideration reflects a genuine effort to maintain the scenic character of our neighborhood and thoughtfully adheres to the height and size restrictions applicable to the parcel.

Additionally, Mr. Jenny has committed to minimizing construction-related disruptions to our lane. As a nearby resident, I appreciate this proactive approach and the respect shown toward the surrounding community.

I believe this project will be a positive addition to our neighborhood and encourage its approval.

Sincerely,

Ayahlushim Getachew

October 4, 2025

Dear Planning Commission,

I am pleased to support my neighbor's plans to build
a modest, compliant home in our community here in Malibu.

As I understand, the plans respect all height and size guidelines
and is intended to contribute positively to our community.

I have known the owners for many years and trust their integrity
to follow all necessary guidelines. I trust the construction will be carried out responsibly, maintaining the neighborhood's peace, harmony and environmental concerns and responsibilities.

Please consider this letter as my encouragement for your approval.

Warm regards,



Christina Stevens

Christina L Stevens. [redacted] California 90265 USA

[redacted]

September 22, 2025

To Whom It May Concern,

I am writing in support of the proposed new home project in our Malibu neighborhood. The plans reflect a minimal footprint, and the homeowners have demonstrated their commitment to complying with all local restrictions. I believe this development will enhance our community while preserving the existing tranquility and aesthetic.

Thank you for the opportunity to express my support.

Best regards,

Before These Crowded Streets, LLC
[redacted]
Malibu, CA 90265

Sincerely,

Keshara Parker
Representative for
Before These Crowded Streets, LLC

September 28, 2025

Dear Members of the Planning Commission,

I wish to express my strong support for Ron and Jane Jenny's proposal to construct a single-bedroom residence with a care quarters on their property in Malibu. I have known the Jennys for over forty years in Malibu, and have seen them consistently and selfishly contribute to our community throughout their long residence here. My husband and I have watched them raise their beautiful four children here, with deep connections and support of our community.

The Jennys purchased the land in question about four years ago, always with the expressed intention that this will be their final residence. Their plan is extremely modest, designed to meet all regulatory requirements, and is intended to blend well with the surrounding neighborhood.

As long-time fellow Malibu residents, my husband, Richard Ross and I, believe the Jenny's have created a perfect understated plan that supports their aging needs for this chapter of their lives. We strongly support their application and are completely confident that it will be a good fit and addition to the neighborhood.

Thank you for your consideration.

Kim and Richard Ross

[redacted]

Malibu, California

[redacted]

NOTICE OF PUBLIC HEARING
CITY OF MALIBU
CITY COUNCIL

The Malibu City Council will hold a public hearing on **WEDNESDAY, October 21, 2026, at 2:00 PM in the Council Chambers, Malibu City Hall**, 23825 Stuart Ranch Road, Malibu, CA on the project identified below.

APPEAL NO. 26-006 – An appeal of Planning Commission Resolution No 26-10 determining the project is categorically exempt from the California Environmental Quality Act, and approving Coastal Development Permit No. 23-034 to construct a new new two-story, 18-foot high, 4,856 square foot single-family residence, including a 791 square foot attached garage and an 824 square foot second-story second unit, landscaping, hardscape, grading, fire department turnaround area, vehicular access gate, and the installation of a new onsite wastewater treatment system; including Minor Modification No. 25-009 for up to a 50 percent reduction of the front yard setback

Location:	33008 Pacific Coast Highway
APN:	4473-017-009
Zoning:	Rural Residential, Two-Acre (RR-2)
Environmental Review:	Categorical Exemption CEQA Guidelines Sections 15303(a) and 15303(e)
Appealable to:	California Coastal Commission
Applicant:	Schmitz and Associates, Inc.
Owner:	Bluff Top 1 LLC
Appellant:	Mark Mackey
Application Filed:	May 17, 2023
Appeal Filed:	February 26, 2026
Case Planner:	Didier Murillo, Principal Planner (310) 456-2489, extension 342 dmurillo@malibucity.org

For the project identified above with a categorical exemption for environmental review, pursuant to the authority and criteria contained in the California Environmental Quality Act (CEQA), the Community Development Director has analyzed this proposed project and found that it is listed among the classes of projects that have been determined not to have a significant adverse effect on the environment. Therefore, the project is categorically exempt from the provisions of CEQA. The Community Development Director has further determined that none of the six exceptions to the use of a categorical exemption apply to this project (CEQA Guidelines Section 15300.2).

PROCEDURE: A written staff report will be available 30 days prior to the hearing for the project. Any written comments or audiovisual materials from the applicants, appellants, and/or their representatives, including any that they intend to present at the hearing, must be submitted ten (10) business days in advance, by 5:00 PM on October 7, 2026. Any written comments or audiovisual materials from members of the public, including any that they intend to present at the hearing, must be submitted three (3) business days in advance, by 4:00 PM on October 16, 2026. No additional materials from any party or the public will be accepted after these deadlines. All materials should be emailed to citycouncil@malibucity.org

To view and participate during the public hearing, please review the meeting agenda posted at MalibuCity.org/AgendaCenter and follow the directions for public participation. All persons wishing to address the Council regarding this matter will be afforded an opportunity in

EXHIBIT H

accordance with the Council's procedures.

Copies of all related documents can be reviewed by any interested person at City Hall during regular business hours.

COASTAL COMMISSION APPEAL – For projects appealable to the Coastal Commission, an aggrieved person may appeal the City Council's approval to the Coastal Commission within 10 working days of the issuance of the City's Notice of Final Action. Appeal forms may be found online at www.coastal.ca.gov or in person at the Coastal Commission South Central Coast District office located at 89 South California Street in Ventura, or by calling 805-585-1800. Such an appeal must be filed with the Coastal Commission, not the City.

IF YOU CHALLENGE THE CITY COUNCIL'S ACTION IN COURT, YOU MAY BE LIMITED TO RAISING ONLY THOSE ISSUES RAISED AT THE PUBLIC HEARING DESCRIBED IN THIS NOTICE, OR OTHERWISE HELD BY THE CITY, OR IN WRITTEN CORRESPONDENCE DELIVERED TO THE CITY, EITHER AT OR PRIOR TO THE PUBLIC HEARING.

If there are any questions regarding this notice, please contact the assigned case planner.

Yolanda Bundy, Community Development Director

Publish Date: September 17, 2026