

RESOLUTION NO. 15-43

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MALIBU, APPROVING COASTAL DEVELOPMENT PERMIT NO. 10-022 AND LOT MERGER NO. 10-004 FOR THE CONSTRUCTION OF A 38,425 SQUARE FOOT COMMERCIAL SHOPPING CENTER, INCLUDING 24,549 SQUARE FEET FOR A WHOLE FOODS MARKET AND 13,876 SQUARE FEET FOR ADDITIONAL COMMERCIAL RETAIL SPACE; 4,800 SQUARE FEET OF OUTDOOR SEATING; 103,341 SQUARE FEET OF ONSITE LANDSCAPING AND 4,514 SQUARE FEET OF OFFSITE LANDSCAPING; 220 PARKING SPACES; AND OTHER INFRASTRUCTURE IMPROVEMENT IN THE COMMERCIAL VISITOR SERVING-1 ZONING DISTRICT; AND DENYING WITHOUT PREJUDICE CONDITIONAL USE PERMIT NO. 10-013; SITE PLAN REVIEW NOS. 10-042 AND 10-043; MINOR MODIFICATION NO. 10-009; VARIANCE NO. 10-029; AND MASTER SIGN PROGRAM NO. 10-020 (THE PARK AT CROSS CREEK, LLC)

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

SECTION 1. Recitals.

A. On May 5, 2010, Marny Randall on behalf of DB Malibu Holdco LLC (which was changed to The Park at Cross Creek, LLC) submitted an application for Coastal Development Permit (CDP) No. 10-022 and related entitlements for the Whole Foods and the Park shopping center project. The applications were routed for review to the City Biologist, City Geologist, City Public Works Department, the Los Angeles County Sheriff's Department, the Los Angeles County Fire Department (LACFD), and Los Angeles County Waterworks District No. 29 for Local Coastal Program (LCP) and Malibu Municipal Code (M.M.C.) conformance review.

B. On September 12, 2011, the City Council approved an agreement with Impact Sciences to initiate work on the preparation of an Environmental Impact Report (EIR) for the proposed project.

C. On April 16, 2012, a Notice of Application for Coastal Development Permit was posted on the subject property.

D. On April 24, 2012, story poles were placed on the project site to demonstrate the location, height, mass and bulk of the proposed commercial structures. The placement of the story poles were certified by a professional land surveyor.

E. On April 25, 2012, the Environmental Review Board (ERB) reviewed the proposed project and made recommendations. All feasible recommendations have been incorporated into the final project

F. On April 26, 2012, the City published a Notice of Preparation (NOP) and Scoping Meeting for the Draft EIR. The 30-day circulation period ran from April 26, 2012 through May 29, 2012. The NOP was also sent to the State Clearinghouse (SCH# 2012041087), which distributed the document to state reviewing agencies for a 30-day public review period from April 26, 2012 through May 29, 2012.

G. On May 22, 2012, the City held a public scoping meeting regarding the preparation of the EIR.

H. Between May 22, 2012 and January 2015, the applicant chose to delay processing of the development applications until the Civic Center Wastewater Treatment Facility application materials had been reviewed by City staff. In addition, the processing of the development applications was delayed in part because of Measure R requirements.

I. On January 5, 2015, the property owner's representative submitted a Draft Specific Plan for review by City staff in accordance with M.M.C. Section 17.02.045.

J. On January 29, 2015, story poles were re-installed on the proposed project site to depict the siting and bulk of the proposed commercial shopping center. The story pole installation was certified by a licensed surveyor.

K. On January 30, 2015, the Draft Specific Plan was updated and resubmitted by the applicant.

L. On February 5, 2015, a Notice of Availability for a Draft EIR and Planning Commission Hearing on the Whole Foods and the Park Project, was published in a newspaper of general circulation within the City of Malibu and was mailed to all interested parties, as well as property owners and occupants within a 500-foot radius.

M. On February 5, 2015, the City and the Governor's Office of Planning and Research distributed the Draft EIR, which identified and evaluated the potential environmental impacts of the proposed Specific Plan and associated entitlements to interested parties and responsible agencies (SCH #2012041087) for a 45-day public review period, February 5, 2015 through March 23, 2015.

N. On March 2, 2015, the Planning Commission held a public hearing to take comments on the Draft EIR.

O. From March 23, 2015 through May 14, 2015, the City worked with the EIR consultant to prepare the Final EIR. The Final EIR responds to the comments received on the Draft EIR and proposes minor text revisions to the Draft EIR.

P. On April 23, 2015, a Notice of Planning Commission Public Hearing was published in a newspaper of general circulation within the City of Malibu and was mailed to all interested parties, as well as property owners and occupants within a 500-foot radius.

Q. On May 7, 2015, a Revised Notice of Planning Commission Public Hearing was published in a newspaper of general circulation within the City of Malibu to change the public hearing date from May 18, 2015 to a Special Planning Commission meeting on June 11, 2015.

R. On May 14, 2015, the Final EIR was made available. The Response to Comments on the Draft EIR was circulated to all of those who submitted comments as well as to interested parties.

S. Ordinarily, the Planning Commission is the decision-making body for CDP projects and certification of California Environmental Quality Act (CEQA) documents. However, for General Plan Amendments, Zoning Map Amendments, Specific Plans, and other legislative approvals, the Planning

Commission acts exclusively as an advisory body, and the City Council is the decision-maker. Since the entitlements for the Whole Foods and the Park project depend upon the General Plan and Zoning Map amendments, adoption of the Specific Plan, and a public vote pursuant to Measure R on the Specific Plan, the Planning Commission acts in an advisory capacity on the amendments, the EIR and the entitlements, and the City Council will be the decision-maker for all. The project applicant has requested a special election and, in compliance with Measure R, the soonest available election is November 3, 2015.

T. On June 11, 2015, the Planning Commission held a duly noticed public hearing on EIR No. 11-001, General Plan Amendment No. 11-001, Zoning Map Amendment No. 11-001, CDP No. 10-022, Lot Merger No. 10-004, Civic Center Northeast Specific Plan and adopted Planning Commission Resolution No. 15-60, recommending that the City Council approve CDP No. 10-022 and Lot Merger No. 10-004 and deny without prejudice Conditional Use Permit No. 10-013, Site Plan Review Nos. 10-042 and 10-043, Minor Modification No. 10-009, Variance No. 10-029, and Master Sign Program No. 10-020.

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

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

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

X. On July 20, 2015, the City Council held a duly noticed public hearing on Final EIR No. 11-001, General Plan Amendment (GPA) No. 11-001, Zoning Map Amendment (ZMA) No. 11-001, CDP No. 10-022, Lot Merger No. 10-004, Civic Center Northeast Specific Plan and reviewed and considered the Final EIR, agenda report, reviewed and considered written reports, public testimony, and other information in the record. The City Council approval of Civic Center Northeast Specific Plan eliminated the need approve Conditional Use Permit No. 10-013, Site Plan Review Nos. 10-042 and 10-043, Minor Modification No. 10-009, and Variance No. 10-029, because these entitlements will be allowed as a matter of right under the Specific Plan.

SECTION 2. Environmental Review.

The Malibu City Council considered the Environmental Impact Report (EIR No. 11-001) for the proposed Specific Plan, GPA, ZMA, and the overall project and in doing so found that the project would not have significant adverse environmental impacts, except in one resource category (Construction Noise). In compliance with Public Resources Code Section 12081 and CEQA Guidelines Section 15093, and as detailed in the Final EIR, changes and alterations have been incorporated in the Project and related entitlements which avoid or substantially lessen the significant environmental effect because feasible mitigation measures included in the Mitigation Monitoring and Reporting Program (MMRP) will be incorporated into the Coastal Development Permit conditions of approval. Nevertheless, the significant environmental effects cannot be feasibly mitigated to a level of

insignificance. In accordance with Public Resources Code Section 21002 and 21002.2, the City Council has determined that there are specific overriding economic, legal, social, technological, or other benefits of the project which outweigh the significant effects on the environment and a statement of overriding considerations has been prepared. This resolution incorporates by reference the findings, analysis and recommendations set forth in City Council Resolution No. 15-41, which certifies the Final EIR, makes findings of fact, and adopts a statement of overriding consideration for the overall project.

SECTION 3. Approval of Entitlements.

Based on substantial evidence contained within the record and pursuant to Sections 13.7(B) and 13.9 of the Malibu Local Coastal Program (LCP) Local Implementation Plan (LIP), the City Council adopts the analysis in the agenda report, incorporated herein, the findings of fact below, and approval of Coastal Development Permit No. 14-022 and Lot Merger No. 10-004 for the construction of a 38,425 square foot commercial shopping center, including 24,549 square feet for a Whole Foods Market, 13,876 square feet of additional retail space, 4,800 square feet of outdoor seating, 103,341 square feet of on-site landscaping, 220 parking spaces, and other infrastructure improvements located at 23401 Civic Center Way.

The required findings can be made as follows:

A. General Coastal Development Permit (LIP Chapter 13)

Pursuant to LIP Section 13.9, the following four findings need to be made for all coastal development permits.

Finding A1. 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.

As shown in Table 3 in the agenda report, the project has been reviewed for conformance with the LCP. If Civic Center Northeast Specific Plan is approved, the project conforms to the certified LCP in that it meets all the required development standards. In addition, as discussed herein, all other required LCP findings can be made.

Finding A2. If the project is located between the first public road and the sea, that the project [conforms 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 site is not located between the first public road and the sea. No potential project-related or cumulative impact on public access is anticipated. The Project site is not located on the seaward side of Pacific Coast Highway (PCH) and will not interfere with the public's right to access the coast or coastal resources. With regard to recreation, a segment of the planned Malibu Pacific Trail (formerly the Coastal Slope Trail), a trail mapped on the Trails Master Plan adopted by the City as well as identified in the LCP, appears to run along the frontage of Civic Center Way just west of the project site. The project would maintain the existing sidewalk as a connection to this trail segment. Therefore, the project conforms to the public access and recreation policies of Chapter 3 of the Coastal Act of

1976 (commencing with Section 30200 of the Public Resources Code).

Finding A3. The project is the least environmentally damaging alternative.

According to the CEQA Guidelines Section 15064(d), “In evaluating the significance of the environmental effect of a project, the Lead Agency shall consider direct physical changes in the environment which may be caused by the project and reasonably foreseeable indirect physical changes in the environment which may be caused by the project.” As described in more detail in Chapter 4 of the Final EIR and in Resolution No. 15-41, two alternatives, plus the proposed project, were considered and the City Council finds that the proposed project is the least environmentally damaging alternative.

Finding A4. If the project is located in or adjacent to an environmentally sensitive habitat area (ESHA) pursuant to Chapter 4 of the Malibu LIP (ESHA Overlay), that the project conforms with the recommendations of the Environmental Review Board (ERB), or if it does not conform with the recommendations, findings explaining why it is not feasible to take the recommended action.

The subject parcel is not located in ESHA or ESHA buffer as depicted on the LCP ESHA and Marine Resources Overlay Map. However, the site does contain native trees and therefore the project was reviewed by the ERB. As detailed in the accompanying agenda report, all feasible recommendations have been incorporated into to the project and no additional conditions of approval were required. The project conforms to the recommendations of the ERB.

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

As noted in Finding A4, the project site is not located in ESHA or ESHA buffer. However, the Project site supports protected native trees. The Final EIR includes three reports that document the biological resource impacts associated with the project: Appendix 3.3(a) (Biological Resources Inventory); Appendix 3.3(b) (City Biologist Referral Report); Appendix 3(c and d) (Tree Reports), and Appendix 3(e) (Wetland Delineation). As discussed previously in the Final EIR and in the technical reports, the project site does not support wetland habitat, ESHA or special status plants or wildlife. However, the project site does contain eight protected native sycamore trees, which are proposed for removal. These trees provide roosting habitat for nesting birds. Therefore, Mitigation Measure 3.3-1 is required to reduce impacts to nesting birds during construction. If active nests are found during construction, appropriate buffer zones must be established until the young have fledged.

To mitigate the potentially significant impacts associated with the removal of eight sycamore trees, the project proposes to plant 80 replacement sycamore trees on-site. This would ensure compliance with LIP Section 5.5. Mitigation Measure 3.3-2 is required to ensure compliance with LIP Section 5.6.2, which requires annual monitoring of the replacement trees for a period of 10 years.

On April 17, 2012, the City Biologist determined that, subject to the conditions of approval, the Project is consistent with the LCP.

C. Native Tree Protection Ordinance (LIP Chapter 5)

The provisions of the Native Tree Protection Ordinance only apply to those areas containing one or

more native Oak, California Black Walnut, Western Sycamore, Alder or Toyon trees that have at least one trunk measuring six inches or more in diameter, or a combination of any two trunks measuring a total of eight inches or more in diameter, four and one-half feet from the ground. As discussed in the ESHA section above, the project site contains eight protected native western sycamore trees, all of which would be removed by the project. The findings required by LIP Chapter 5 are made below.

Finding C1. The proposed project is sited to minimize removal of or encroachment into the protected zone of native trees to the maximum extent feasible.

Eight sycamore trees are located in the northern portion of site. Given the site dimensions, LCP and other requirements, including setbacks, open space, landscaping, Fire Department requirements, and circulation it is not feasible to site the development of roads and structures to allow retention of the trees. Any development would be expected to utilize the area of the site supporting these trees given all the constraints of siting development. In addition, the required onsite grading and re-compaction of the site for FEMA and geological requirements make it infeasible to site development that avoids encroaching upon and requiring the removal of the sycamore trees. Mitigations for tree removal require the replacement of the sycamore trees at a ratio of 10 to 1 onsite. Pursuant to LIP Section 5.5.1, a tree replacement plan has been submitted and reviewed by the City Biologist and is incorporated into the landscape plans. The approved landscape plans illustrate 80 sycamores will be planted as part of the landscape plan, thus meeting the LCP mitigation requirement for removal of eight (8) native sycamore trees.

Finding C2. The adverse impact of tree removal and/or encroachment cannot be avoided because there is no other feasible alternative.

It is not feasible to avoid the adverse impacts of removing the eight trees due to the siting constraints listed in Finding C1.

Finding C3. All feasible mitigation measures that would substantially lessen any significant impact on native trees have been incorporated into the approved project through design or conditions of approval.

The following protective measures (Final EIR Mitigation Measures) shall be incorporated into the project to lessen the impact on native trees.

1. If construction would commence during the nesting/breeding season (February through August), a pre-construction survey of the project vicinity for nesting birds shall be conducted by a qualified biologist (i.e., experienced with the nesting behavior of bird species of the region) within two weeks of the commencement of construction activities. The intent of the survey would be to determine if active nests of special-status bird species or other species protected by the Migratory Bird Treaty Act and/or the California Fish and Game Code are present within the construction zone or within 500 feet of the construction zone. The survey area shall include all trees, shrubs, and buildings in the construction zone and a surrounding 500 foot area, including suitable habitat areas outside the project site.

If active nests are found in areas that could be directly affected by, or are within 500 feet of, construction and would be subject to prolonged construction-related noise, a no-disturbance buffer zone shall be created around active nests during the breeding season or until a qualified biologist determines that all young have fledged. The size of the buffer zones and types of construction activities restricted within them shall be determined by the qualified biologist taking into account factors such as the following:

- Noise and human disturbance levels at the construction site at the time of the survey and the noise and disturbance expected during the construction activity.
- Distance and amount of vegetation or other screening between the construction site and the nest.
- Sensitivity of individual nesting species and behaviors of the nesting birds.

Limits of construction to avoid an active nest shall be established in the field by a qualified biologist with flagging, fencing, or another appropriate barrier and construction personnel shall be instructed on the sensitivity of nest areas.

2. The project applicant shall ensure the requirements of LIP Section 5.6.2 are met through the preparation of a monitoring plan. The applicant (or designee) shall be responsible for preparation of annual monitoring reports on the replacement trees. The monitoring report shall include measurements of replacement trees (i.e., DBH, approximate height and canopy width) and the relative health, including noting any damage from fire, insects, and disease, or other vectors affecting health. If at any time, within the monitoring period the health of a replacement tree begins to decline beyond recovery, that tree shall be replaced in kind with a healthy tree.

Monitoring reports shall be provided to the City annually and at the conclusion of the ten-year monitoring period documenting the success or failure of the mitigation. If performance standards are not met by the end of ten years, at the discretion of the City Planning Department the monitoring period shall be extended until the standards are met.

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

The Scenic, Visual and Hillside Resource Protection Ordinance governs those CDP applications concerning any parcel of land that is located along, within, provides views to or is visible from any scenic area, scenic road or public viewing area. PCH and Malibu Canyon Road are designated as scenic roadways per the LCP. The project site is briefly visible from PCH, and is visible from a distance from a portion of Malibu Canyon Road. The site is also visible from existing single-family residences located north of Civic Center Way and west of Cross Creek Road. In addition, the site is visible from Legacy Park, which is a designated scenic area. The findings of LIP Section 6.4 are made below.

Finding D1. The project, as proposed, will have no significant adverse scenic or visual impacts due to project design, location on the site or other reasons.

Story poles were installed on the project site to depict the location, height and mass of the project. A visual analysis of the project's visual impact from public viewing areas was conducted through site reconnaissance, a review of the story poles, architectural plans, visual simulations and an investigation of the character of the surrounding properties. Visual simulations and architectural renderings of the project site were prepared that incorporate extensive landscape screening and illustrate how the site is expected to look with mature landscaping. Refer to Section 3.1 of the Final EIR for a complete visual analysis, including site photos, visual simulations, and architectural renderings.

The project has been designed not to have significant adverse scenic or visual impacts. The project would introduce development to a site that is currently vacant. Therefore, the project would be visible from portions of City streets (e.g. Civic Center Way, Cross Creek Road and Malibu Canyon Road) as well as from various residential and/or commercial land uses located along these streets. Visibility of the site from designated scenic routes, including PCH and Malibu Canyon Road is highly limited and obscured by topography, vegetation, and existing commercial development in the Civic Center Area. The site is visible from Legacy Park but development on the site would not result in the obstruction of any significant public scenic views (e.g. ocean, coastline, or Santa Monica Mountains).

LUP Policy 6.20 and LIP Section 6.5.E.5 states, "New commercial development within the Civic Center shall be sited and designed to minimize obstructions to the maximum feasible extent of public views of the ridgelines and natural features of the Santa Monica Mountains through measures such as clustering development, and restricting height and bulk of structures."

The proposed development meets the goals of this policy by locating the shopping center development along the western and southern portions of the project site. This would maintain views of the Santa Monica Mountains from Legacy Park and from the Civic Center Way public realm. The proposed development has extensive landscaping proposed, the height and bulk is consistent or lower than development in the surrounding area and does not obstruct public views of any significant ridgeline or the Santa Monica Mountains.

The project, as proposed, will have no significant adverse scenic or visual impacts due to the design or location of buildings and/or improvements on the site.

Finding D2. The project, as conditioned, will not have significant adverse scenic or visual impacts due to required project modifications, landscaping or other conditions.

As stated in Finding D1, the project will have no significant adverse scenic or visual impact. Conditions of approval require that colors and materials be used that blend with the natural environment, and site lighting is conditioned to be dark-sky compliant and minimized to the amount necessary for public safety.

Finding D3. The project, as proposed or as conditioned, is the least environmentally damaging alternative.

As discussed in Finding A3, the project as conditioned is the least environmentally damaging feasible alternative.

Finding D4. There are no feasible alternatives to development that would avoid or substantially lessen any significant adverse impacts on scenic and visual resources.

The proposed project does not pose any significant adverse impacts on scenic and visual resources. As discussed in Finding D1, the project will result in a less than significant impact on scenic and visual resources.

Finding D5. 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.

As discussed in Finding D1, the project as conditioned will have no significant adverse scenic and visual impacts. With the incorporation of mitigation measures outlined in the MMRP (Exhibit A), potential impacts to sensitive resources (e.g., native tree protection) have been mitigated to a less than significant level.

E. Transfer of Development Credits (LIP Chapter 7)

LIP Chapter 7 applies to land division and/or multi-family residential development in the Multiple Family or Multi-Family Beachfront zoning districts. The project does not propose a land division and therefore, the findings of LIP Chapter 7 do not apply. The project proposes a lot merger, which would not create new parcels but would simply consolidate two existing properties into one 5.88 acre parcel.

F. 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 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 project was analyzed for the hazards listed in LIP Section 9.2(A). The required findings of LIP Chapter 9 are made as follows:

Finding F1. 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 the following documents/data, which are on file at the City:

- Geologic and Soils Engineering Investigation Report by GeoConcepts, Inc. dated June 21, 1999

- Supplemental Report No. 1 dated April 22, 2010
- Supplemental Report No. 2 dated October 5, 2010
- Supplemental Report No. 3 dated November 5, 2010
- Supplemental Report No. 4 dated December 6, 2010
- Update Report dated June 8, 2011
- Addendum 1 Limited Geotechnical Response Report by EPD Consultants dated May 25, 2011

City Geotechnical staff and the Public Works Department reviewed the project plans and associated technical submittals. On June 22, 2011, the City Geologist issued an approval in concept for conformance with City geotechnical standards and LCP requirements. Standard conditions of approval will be included to require that all recommendations of the consulting Certified Engineering Geologist, Geotechnical Engineer and all the plan check stage comments of City Geotechnical staff shall be incorporated into all final design and construction plans, including foundations, grading, sewage disposal, and drainage. Final plans shall be reviewed and approved by City Geotechnical staff prior to the issuance of a grading permit.

In these reports, site-specific conditions were evaluated and recommendations were provided to address any pertinent issues. Based on extensive review of the above-referenced information, it has been determined that:

1. The buildout project service area is not located within an Alquist-Priolo Earthquake Fault Zone; therefore, it is unlikely that the project site will be impacted by active faulting or ground rupture; however, the Civic Center area is located in an area of high seismicity, generally.
2. Much of the project site is in a liquefaction zone.
3. The project site is outside of the tsunami inundation zone.
4. Portions of the property are located within the Federal Emergency Management Agency's (FEMA's) 100 year flood zone.
5. The project site is in the vicinity of extreme fire hazard areas.

Ground-shaking / Seismicity –The project area is in a seismically active area of Southern California and may experience sever shaking in the future from the Malibu Coast Fault and other nearby faults. While it is impossible to totally prevent structural damage to buildings and loss of life as a result of seismic events, adherence to all applicable building codes and regulations and site-specific engineering specifications can reduce such impacts to less than significant levels. If engineering studies using state-of-the-practice techniques are employed, the impacts from ground rupture can be accounted for with setbacks and foundation designs to accommodate several inches of movement. Surface rupture potential is considered low to moderate, and the impacts are considered less than significant.

Liquefaction - Geotechnical studies identified potentially liquefiable soils within the project site. Liquefaction on the project site can be mitigated by reinforcing the buildings' foundations and deriving support from the alluvial soils below the potentially liquefiable soils. Alternatively, removal or treatment of the liquefiable material could lead to denser sands which would reduce the project site's liquefaction potential. Liquefaction is addressed in Section 3.5 – Geology and Soils; see Threshold 3.5-1. After compliance with Mitigation Measure 3.5-1, impacts will be less than significant.

Tsunami Inundation Zone – The proposed project site is outside of the projected tsunami inundation area.

Slope Instability – The project site and surrounding areas are topographically flat. The project site is not located in an area subject to slope instability.

FEMA Flood Hazard Zone – The project site is located within the Federal Emergency Management Agency’s (FEMA) flood designation Zone AO (Depth 2 feet). The project must comply with the City’s Floodplain Management Ordinance, which requires that all structures in Zone AO be elevated above the highest adjacent grade to a height equal to or exceeding the depth number specified in feet on the FEMA Flood Insurance Rate Map (FIRM) by at least 1 foot, or elevated at least 3 feet above the highest adjacent grade if no depth number is specified. The proposed project includes the construction of a commercial structures with the proposed building pads raised to meet FEMA and M.M.C Floodplain Management Ordinance requirements Therefore, impacts would be less than significant.

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 project design includes a fuel modification plan and protective building construction measures including fire-retardant roofing; and the installation of fire sprinkler systems in all five buildings, and the provision of fire-safe landscaping, including the provision of a “living wall” along the northern property line. The LACFD will review and approve a final fuel modification plan prior to issuance of grading/building permits. LACFD has also reviewed the project and approved the project in concept for conformance with the Fire Code. The project complies with LIP Chapter 9 and the required findings can be made. Impacts associated with hazards will be less than significant and all of the required findings can be made as enumerated in this resolution.

Finding F2. 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 F1, the proposed project, as conditioned and approved by City Geotechnical staff, City Public Works Department and the LACFD, will not have any significant adverse impacts on the site stability or structural integrity from geologic, flood or fire hazards due to project modifications, landscaping or other conditions.

Finding F3. The project, as proposed or as conditioned, is the least environmentally damaging alternative.

As stated in Finding A3, the proposed project is the least environmentally damaging alternative.

Finding F4. There are no alternatives to development that would avoid or substantially lessen impacts on site stability or structural integrity.

As stated in Finding F1, the proposed project as designed, conditioned, and approved by the City Geotechnical staff, City Public Works Department and the LACFD, will not have any significant

adverse impacts on the site stability or structural integrity of the proposed project.

Finding F5. 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 stated in Finding F1, the proposed project, as designed, conditioned, and approved by the City Geotechnical staff, City Biologist, City Public Works Department and the LACFD, will not have any significant adverse impacts on sensitive resources as enumerated by the LCP.

G. Shoreline and Bluff Development Ordinance (LIP Chapter 10)

LIP Section 10.3 requires that shoreline and bluff development findings be made if the project is anticipated to result in potentially significant adverse impacts on coastal resources, including public access and shoreline sand supply. The project does not occur on a shoreline or bluff; therefore, the findings of LIP Chapter 10 do not apply.

H. Public Access Ordinance (LIP Chapter 12)

In accordance with LIP Section 12.6(B)(2), the project is exempt from providing public lateral, vertical, bluff top, trail or recreational access because the project will not impede existing public access ways. The project would maintain the existing 10 foot sidewalk along the north side of Civic Center Way as a continuation of the proposed Malibu Pacific Trail identified on the pending LCP Park Land and Trails System Map. In addition, the proposed project would establish a pedestrian connection to the adjacent La Paz project site. The Final EIR evaluated potential impacts to recreational resources in Section 3.12 and determined that no impacts would occur. The project complies with LIP Chapter 12 and the required findings can be made.

I. Land Division (LIP Chapter 15)

LIP Chapter 15 applies to land divisions. The project proposes a voluntary lot merger of contiguous parcels under a common ownership. Therefore, the project must be consistent with LIP Section 15.4. On April 13, 2012, the Public Works Division issued an approval in concept for conformance with LCP requirements pertaining to the lot merger.

J. Onsite Wastewater Treatment Systems (LIP Chapter 18)

LIP Section 18.10, Water Systems/Wastewater Management, contains guidelines about expansion of water and wastewater systems of the City. The section emphasizes that the expansion of existing community sewer facilities (package wastewater treatment plants, dedicated sewer service systems, existing trunk lines, etc.) in existing developed areas shall be limited in capacity to the maximum level of development allowed by the LCP. According to LIP Section 18.10, a public sewer system may be designed and proposed where it is found to be the least environmentally damaging wastewater treatment alternative, where it is designed to serve a capacity of development that does not exceed the amount allowed by the LCP, and where it is found to be consistent with all other policies of the LCP.

The design capacity of CCWTF is based on buildout conditions calculated based on the City's General Plan and LCP, existing discharge records for other permitted treatment systems in the Civic Center area, and applications on file with the City. Therefore, the CCWTF is designed to serve a capacity of development that does not exceed that allowed by the LCP. The CCWTF was approved by the City and was found to be the least environmentally damaging wastewater treatment alternative and consistent with all other policies of the LCP.

The proposed project is located within Phase 1 of the State Water Board's septic prohibition zone. Therefore, the project has been conditioned to connect to the CCWTF. Final occupancy for this project shall not be issued until the CCWTF is completed and operational and all on-site sewer connections to the new sewer laterals are completed. The project complies with LIP Chapter 18 and the required findings can be made.

SECTION 4. City Council Denial

Due to the adoption of Civic Center Northeast Specific Plan and evidence contained within the record, the City Council hereby denies without prejudice Conditional Use Permit No. 10-013, Site Plan Review Nos. 10-042 and 10-043, Minor Modification No. 10-009, Variance No. 10-029, and Master Sign Program No. 10-020.

SECTION 5. Conditions of Approval

Based on the foregoing findings and evidence contained within the record, the City Council hereby approves Coastal Development Permit No. 10-022 and Lot Merger No. 10-004 subject to the following conditions:

Standard Conditions

1. The property owner / applicant or their successor shall indemnify, defend and hold harmless the City of Malibu and its elected and appointed officials, officers, employees and agents from and against any and all claims, actions, proceedings, liabilities and costs brought against the City and its elected and appointed officials, officers, employees and agents relating to the City's actions concerning this project, including but not limited to any proceeding under CEQA. This indemnification shall include (without limitation) damages, fees, and/or costs awarded against the City, cost of suit, attorney's fees, and 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 the property owners shall reimburse the City's expenses incurred in its defense of any lawsuit challenging the City's actions concerning this project and the City's costs, fees, and damages that it incurs in enforcing the indemnification provisions set forth in this section.
2. The scope of work approved includes the construction of a 38,425 sf commercial shopping center, including a 24,549 sf Whole Foods Market and 13,876 sf of additional commercial retail space and other infrastructure improvements as follows:
 - a. Grading and site preparation including up to 3,875 cubic yards of cut, 13,643 cubic

- yards of fill, 9,767 cubic yards of imported soil and up to 5,391 cubic yards of remedial grading (70 cubic yards of cut and 5,321 cubic yards of fill).
- b. Construction of five commercial buildings of the following sizes:
 - i. Building 1: 3,015 sf up to 28 feet in height with a pitched roof
 - ii. Building 2: 3,086 sf up to 28 feet in height with a pitched roof
 - iii. Building 3: 3,592 sf up to 28 feet in height with a pitched roof
 - iv. Building 4: 4,183 sf up to 28 feet in height with a pitched roof
 - v. Building 5: 24,549 sf up to 28 feet in height with a pitched roof
 - c. Construction of landscaping improvements consisting of the following:
 - i. 32,849 sf of on-grade landscaping
 - ii. 48,492 sf of tree canopy throughout the site
 - iii. 20,000 sf of vertical green wall landscaping
 - iv. 4,514 sf of off-site landscaping along Civic Center Way
 - v. 6,200 sf of fully accessible park space
 - vi. 3,000 sf of sensory garden space
 - vii. 2,500 sf of learning garden space
 - viii. 4,800 sf of outdoor seating area
 - ix. Various building mounted and wall mounted signage
 - d. Construction of above at-grade and below-ground infrastructure facilities, including:
 - i. New 44 foot wide driveway and associated sidewalk improvements intersecting with Civic Center Way
 - ii. 26 foot wide private driveway, fire lane, and parking lot area
 - iii. 26 foot wide private driveway and fire lane intersecting with Cross Creek Road
 - iv. Various free standing and retaining walls not exceeding six feet in height, except for the wall along the northern property line not exceeding 12 feet in height
 - v. Various stormwater treatment and drainage improvements including catch basins, grassy swales, area drains, trench drains, and bioretention facilities
 - vi. Various wastewater, water, and drainage pipelines
3. Subsequent submittals for this project shall be in substantial compliance with the plans on file, dated **December 8, 2014** with the Planning Department. The project shall comply with all conditions of approval stipulated in the referral sheets attached to the agenda report for this project. In the event the project plans conflict with any condition of approval, the condition shall take precedence.
4. Pursuant to Local Coastal Program (LCP) Local Implementation Plan (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 Department within 10 days of the City Council's approval of the resolution and/or prior to issuance of any development permits.
5. The property owner / applicant or their successor shall submit three (3) complete sets of plans to the Planning Department for consistency review and approval prior to submittal into plan check and again prior to the issuance of any building or development permits.

6. This resolution, signed Acceptance of Conditions Affidavit and all Department Review Sheets attached to the agenda report for this project shall be copied in their entirety and placed directly onto a separate plan sheet behind the cover sheet of the development plans submitted to the City Environmental Sustainability Department for plan check, and the City Public Works Department for an encroachment permit (as applicable).
7. The CDP and Lot Merger shall expire if the project has not commenced within three (3) years after the date this resolution takes effect as specified in Section 6 below. Extension of the permit may be granted by the approving authority for due cause. Extensions shall be requested in writing by the applicant or authorized agent prior to expiration of the three-year period and shall set forth the reasons for the request.
8. Any questions of intent or interpretation of any condition of approval will be resolved by the Planning Director upon written request of such interpretation.
9. All structures shall conform to requirements of the City of Malibu Building and Safety Division, City Geologist, City Biologist, City Public Works Department, Los Angeles County Water District No. 29, the Los Angeles County Fire Department (LACFD), the Los Angeles County Sheriff's Department, and any other responsible or trustee agency as applicable. Notwithstanding this review, all required permits shall be secured.
10. Minor changes to the approved plans or the conditions of approval may be approved by the Planning Director, provided such changes achieve substantially the same results and the project is still in compliance with the Malibu Municipal Code (M.M.C) and the LCP. Revised plans reflecting the minor changes and additional fees shall be required.
11. The property owner / applicant or their successor must submit payment for all outstanding fees payable to the City prior to issuance of any building permit, including grading or demolition.
12. Any building or demolition permits issued for work commenced or completed without the benefit of required permits are subject to appropriate "Investigation Fees" as required in the Building Code.

Site-Specific Conditions

13. The hours of operation for all commercial shopping center tenants shall be between 7:00 AM and 11:00 PM.
14. No amplified music shall be allowed on the project site, unless authorized by a TUP.
15. Large truck (three-axle or larger) deliveries to the supermarket and any other on-site tenant shall only occur during non-peak hours (e.g. 9:00 AM and 4:00 PM).
16. All delivery trucks shall access the project site using only Webb Way and Civic Center Way, and the primary entrance driveway on Civic Center Way. Truck deliveries for the project site

shall be prohibited from using Cross Creek Road.

17. All construction vehicles shall access the project site using only Webb Way and Civic Center Way, and the primary entrance driveway on Civic Center Way. Construction traffic for the project shall at all times be prohibited from using Cross Creek Road.
18. The property owner / applicant or their successor shall prohibit all delivery trucks from loading and/or unloading any goods on any portion of Cross Creek Road or Civic Center Way at all times. The property owner or property owner's agent shall incorporate this restriction into all tenant lease agreements and shall provide the City Planning Department a copy of the relevant portions of the executed lease agreement containing this restriction prior to the final inspection and tenant occupancy.
19. Prior to final Planning inspection of the project, the applicant shall submit an as-built survey depicting the dimensions and square footages of all buildings with a break-down by tenant space and building.
20. A total of five electric vehicle charging stations shall be provided within the 220 onsite vehicle parking spaces.
21. The applicant shall protect people using the onsite commercial spaces, walkways, and outdoor gathering spaces from potential vehicle impact by installing bollards or an equivalent design feature between such areas and vehicle parking areas and driveways. The final design and location of the protective design features shall be reviewed and approved by the Planning Director prior to the issuance of building permits.
22. The sensory garden, fully accessible play area, and the learning garden uses as shown on the plans dated December 8, 2014 shall not be converted to any other uses without prior review and approval by the Planning Commission.
23. The project applicant shall contribute its pro-rata share of the costs associated with the intersection improvements at Civic Center Way and Webb Way, which may consist of a traffic signal, roundabout or other measure as determined by the City. The percentage fair-share contribution shall be calculated using the total trips generated by the proposed project divided by the total "new" traffic, which is the net increase in traffic volume from all proposed projects and growth. The cost of mitigation shall be calculated using verifiable cost estimates from reliable and recognized sources. The fair-share cost of mitigation shall be calculated using the following formula:

$P=T/(TB-TE)$ where,

P= Fair share of the project's impact

T= The vehicle trips generated by the project during the peak hour of the adjacent intersection/roadway facility in vehicles per hour

TB = The forecasted traffic volume on the impacted intersection/roadway facility for the analysis scenario (vph)

TE = The traffic volume existing on the impacted roadway facility (vph)

The City shall verify that all pro-rata funds have been received for the improvements prior to final inspection.

Cultural Resources

24. 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 Planning Director can review this information. Thereafter, the procedures contained in LIP Chapter 11 and those in M.M.C Section 17.54.040(D)(4)(b) shall be followed.
25. 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.

Construction and Demolition

26. The property owner / applicant or their successor shall contract with a City approved hauler to facilitate the recycling of all recoverable/recyclable material. Recoverable material shall include but shall not be limited to: Asphalt, dirt and earthen material, lumber, concrete, glass, metals, and drywall. Prior to the issuance of a building/demolition permit, a Waste reduction and Recycling Plan (WRRP) shall be submitted to the Environmental Sustainability Department for review and approval. The WRRP shall indicate means and measures for a minimum of 50 percent diversion goal.
27. 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.
28. Construction management techniques, including minimizing the amount of equipment used simultaneously and increasing the distance between emission sources, shall be employed as feasible and appropriate. All trucks leaving the construction site shall adhere to the California Vehicle Code. In addition, construction vehicles shall be covered when necessary; and their tires will be rinsed off prior to leaving the property.

Colors and Materials

29. The project shall incorporate colors and exterior materials that are compatible with the surrounding landscape.

- a. Colors shall be compatible with the surrounding environment (earth tones) including shades of green, brown and gray, with no white or light shades and no bright tones.
 - 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. The color shall be reviewed and approved by the Planning Director and clearly indicated on all grading, improvement and/or building plans.
31. Retaining walls shall incorporate veneers, texturing and/or colors that blend with the surrounding earth materials or landscape. The color and material of all retaining walls shall be reviewed and approved by the Planning Director and clearly indicated on all grading, improvement and/or building plans.

Lighting

32. Night lighting from exterior and interior sources shall be minimized to that necessary for public safety. All exterior lighting shall be dark sky compliant and shall avoid lighting of natural habitat areas.

Biology/Landscaping

33. The property owner / applicant or their successor, shall obtain any and all state and federal regulatory agency permits/agreements for any portion of the project (including infrastructure) should final project plans indicate that development may encroach into any of those agencies' jurisdiction.
34. Invasive plant species, as determined by the City of Malibu, are prohibited.
35. 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).
36. Vegetation forming a view impermeable condition (hedge), serving the same function as a fence or wall, occurring within the side or front yard setback shall be maintained at or below six (6) feet in height. The 12-foot vegetated sound wall located along a portion of the norther property line shall not be considered a hedge and thus shall not be subject to this limitation.
37. The use of building materials treated with toxic compounds such as copper arsenate shall be prohibited.
38. The use of anti-coagulant rodenticides for use in pest control shall be prohibited on the project site. The applicant shall submit an Integrated Pest Management Plan for review and approval by the City Biologist prior to completion of the final site inspection.

39. Grading, excavation or other site preparation activities associated with the project scheduled between February 1 and August 30 will require nesting bird surveys by a qualified biologist prior to initiation of those 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 nesting bird surveys shall be submitted to the City Biologist prior to any vegetation removal on site.
40. Construction fencing shall be placed outside of required native tree protection zones and indicated on the site plans approved for grading permit issuance. Construction fencing shall be installed prior to the beginning of any construction and shall be maintained throughout the construction period to protect the site's sensitive habitat areas.
41. The project will require the removal of eight protected western sycamore trees. Pursuant to LIP Chapter 5, projects that support one or more western sycamore trees (*Plantanus racemosa*) trees must include a native tree protection plan. A native tree protection plan shall be prepared and submitted for this project for review and approval which addresses impacts to protected native trees. Required mitigation shall include the planting of 80 western sycamore trees on-site as shown on the final approved landscaping plan. The size of the 80 western sycamore mitigation trees shall be a minimum size of 48-inch box and their locations shall be reviewed and approved by the City Biologist prior to approval of the final landscaping plan.
42. For a period of not less than 10 years, a qualified arborist, biologist, or resource specialist shall conduct annual monitoring of each of the 80 sycamore trees planted on site. The monitor shall evaluate the overall health of each tree annually and provide a detailed report no later than December 30 each year describing the current condition of each tree and any recommended actions to correct deficiencies in the successful establishment and growth of any mitigation trees. Should any of the mitigation trees die or show indications of failing health, those trees shall be replaced on a 1:1 basis. If at the end of 10 years one or more of the trees are unhealthy or have died, additional monitoring may be required to ensure successful growth.
43. Prior to final inspection and occupancy, the City Biologist shall inspect the project site and determine that all planning conditions and/or mitigation measures to protect natural resources are in compliance with the approved plans and/or operational procedures.

Geology

44. All recommendations of the consulting Certified Engineering Geologist or Geotechnical Engineer and the City Geotechnical staff (June 22, 2011 review sheet) shall be incorporated into all final design and construction. Final plans shall be reviewed and approved by the City Geologist prior to the issuance of a grading permit.
45. Final plans approved by the City Geologist shall be in substantial conformance with the approved CDP relative to construction, grading and drainage. Any substantial changes may require amendment of the CDP or a new coastal development permit.

Public Works

46. The project shall contribute its pro-rata share of funding towards traffic mitigation improvements planned at the intersections of Pacific Coast Highway/Cross Creek Road, Pacific Coast Highway/Malibu Canyon Road, and Pacific Coast Highway and Webb Way, as described in Final EIR Mitigation Measures 3.13-1 through 3.13-3. The City shall verify that all pro-rata funds have been received for the improvements prior to issuance of building permits. Additionally, the City shall verify that the improvements have been constructed prior to final Planning Department inspection.
47. This project proposes to construct improvements within the City's Civic Center Way right-of-way. The proposed improvement plans shall be reviewed and approved by the Public Works Department prior to the issuance of a building permit. All improvements shall be constructed in accordance with the City's standards and shall match the existing improvements. Prior to the commencement of any construction within the right-of-way, the applicant shall obtain encroachment permits from the Public Works Department.
48. The location of the Civic Center driveway entrance shall be approved by the Public Works Department.
49. The project proposes to modify the City's Civic Center Stormwater Treatment Facility (CCSTF) building. The modifications shall be limited to repainting the structure and replacing any fencing located on the east side of the building. The modifications shall be reviewed and approved by the Public Works Department prior to the issuance of building permits.
50. Existing control panels and other equipment located adjacent to the CCSTF within the City's property shall be relocated. The applicant shall relocate these facilities near the CCSTF to the satisfaction of the Public Works Department.
51. The property owner / applicant or their successor shall install new landscaping and irrigation within the City's property near the CCSTF as shown on the landscape plan. The new landscaping shall match the planting palette used for Legacy Park. It shall be the responsibility of the applicant to maintain the landscaping and irrigation systems in this area. A covenant, reviewed and approved by the Public Works Department, shall be recorded against the property for the maintenance of the landscaping in this area.
52. 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. A note shall be placed on the project plans to this effect.
53. The Total Grading Yardage Verification Certificate for the project site shall be provided with or on the cover sheet of the grading plans submitted for the project.
54. Grading permits shall not be issued between November 1 and March 31 each year. Projects approved for grading shall not receive grading permit unless the project can be rough-graded before November 1. A note shall be placed on the plans that addresses this condition.

55. A Grading and Drainage Plan is required, and shall be submitted to the City Public Works Department for review and approval, prior to the issuance of grading permits for the project. The following elements shall be included in this plan:
- 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);
 - 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 grading limits shall include the temporary cuts made for retaining walls, buttresses, and over excavations for fill slopes and shall be shown on the plan.
 - e. Private storm drain systems shall be shown on the plan. Systems greater than 12 inch diameter shall also have a plan and profile for the system included in the grading plan.
 - f. Private storm drain inlets shall have trash excluders or equivalent devices and shall be labeled with the City standard “no dumping” message.
 - g. Public storm drain modifications shown on the grading plan shall be approved by the Public Works Department prior to the issuance of a grading permit.
56. A digital drawing (AutoCAD) of the project’s private storm drain system and post-construction BMPs shall be submitted to the Public Works Department prior to final approval. 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 streets, and any drainage easements.
57. The property owner / applicant or their successor shall improve the existing storm drain catch basins located at the intersection of Cross Creek and Civic Center Way.
58. A Local Storm Water Pollution Prevention Plan shall be provided prior to the issuance of the Grading permits for the project. This plan shall include:
- a. Dust Control plan for the management of fugitive dust during extended periods without rain;
 - b. Designated areas for the storage of construction materials that do not disrupt drainage patterns or subject the material to erosion by site runoff;
 - c. Designated area for the construction of portable toilets that separates them from stormwater runoff and limits the potential for upset;
 - d. Designated areas for the disposal and recycling facilities for solid waste separated from the site drainage system to prevent discharge of runoff through the waste; and
 - e. The SWPPP shall meet the requirements of the City’s Stormwater and Urban Runoff Discharge Permit (MS4 Permit).
59. A State Construction Activity Permit is required for this project due to the disturbance of more than one acre of land for development. Provide a copy of the letter from the State Water Quality

Control Board containing the WDID number prior to the issuance of grading or building permits.

60. 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 Storm 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 onsite the stormwater quality design volume (SWQDv). Or where it is technically infeasible to retain onsite, the project must biofiltrate 1.5 times the SWQDv that is not retained onsite;
 - d. Drainage improvements;
 - e. A plan for the maintenance and monitoring of the proposed treatment BMPs for the expected life of the structure;
 - f. Prior to the issuance of grading or building permits, 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; and
 - g. The WQMP shall be submitted to the Building Safety Public Counter 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 approval the plan and will keep a copy until the completion of the project. Once the project is completed, the applicant shall verify the installation of the BMPS, make any revisions to the WQMP, and resubmit to the Public Works Department for approval. The original signed and notarized document shall be recorded with the County Recorder. A certified copy of the WQMP shall be submitted to the Public Works Department prior to issuance of the certificate of occupancy.
61. Proposed improvements are located within the Special Flood Hazard Area (SFHA). An Elevation Certificate based on construction drawings is required for any building located within the SFHA. A separate certificate is required for flood proofing, if applicable. A survey map shall be attached to this certificate showing the location of the proposed building in relation to the property lines and to the street center line. The survey map shall delineate the boundary of the SFHA zone(s) based on the FIRM flood maps in effect and provide the information for the benchmark utilized, the vertical datum, and any datum conversion. A post construction Elevation Certificate will be required to certify building elevations, when the construction is complete, and shall be provided to the Public Works Department prior to final approval of the construction.
62. Geology and Geotechnical reports shall be submitted with all applications for plan review to the Public Works Department. Approval by Geology and Geotechnical Engineering shall be provided prior to the issuance of any permit for the project. The Developer's Consulting

Engineer shall sign the final plans prior to the issuance of permits.

63. All commercial developments shall be designed to control the runoff of pollutants from structures, parking and loading docks. Proper design of loading and unloading docks shall provide the following:
 - a. Cover loading/unloading dock areas or design drainage to minimize run-on and runoff of storm water; and
 - b. Direct connections to storm drains from depressed loading/unloading docks are prohibited.
64. Parking lots (5,000 square feet of impervious surface or 25 parking spaces) shall be design to:
 - a. Minimize impervious surfacing for parking area;
 - b. Infiltrate runoff before it reaches a storm drain system;
 - c. Treat to remove oil and petroleum hydrocarbons at parking lots that are heavily used; and
 - d. Ensure adequate operation and maintenance of treatment systems particularly sludge and oil removal and system fouling and plugging prevention control.
65. Properly design restaurant equipment/accessory wash areas:
 - a. Install self-contained wash area, equipped with grease trap, and properly connected to Sanitary Sewer; and
 - b. If the sash area is located outdoors, it must be covered, paved, the area must have secondary containment and it shall be connected to the sanitary sewer.
66. Outdoor material storage:
 - a. Materials with the potential to contaminate storm water must be: (1) placed in an enclosure such as a cabinet, shed, or similar structure that prevents contact with runoff or spillage to the storm water conveyance system; or (2) protected by secondary containment structures such as berms, dikes or curbs;
 - b. The storage areas must be paved and sufficiently impervious to contain leaks and spills; and
 - c. The storage area must have a roof or awning to minimize collection of storm water within the secondary containment area.
67. Trash storage areas and trash receptacles:
 - a. Trash container areas must have drainage from adjoining roofs and pavement diverted around the area;
 - b. Trash container areas must be screened or walled to prevent off-site transport of trash; and
 - c. Trash receptacles or equivalent trash capturing devices shall be covered to prevent trash overflow.
68. The Certificate of Compliance for Lot Merger shall be recorded prior to the issuance of building and or grading permits for this project. The recorded instrument shall contain a legal description of the contiguous parcels prior to the merger, and the new parcel that results after the merger.

The instrument must be reviewed and approved by the City Planning Department and City Engineer prior to recordation. The applicant shall provide a certified copy of the recorded document to the City Public Works Department prior to the issuance of building and or grading permits.

69. This project is located within Phase 1 of the State Water Board's wastewater discharge prohibition zone. In 2017, the project will be required to connect into the City's sewer system. Final occupancy for this project will not be issued until the Civic Center Wastewater Treatment Facility is completed and operational and all on-site sewer connections to the new sewer laterals are completed.
70. All on-site sanitary sewer mains and appurtenances shall be a private sewer system, owned and maintained by the property owner. Connection to the City sewer system shall be made at existing sewer laterals. Point of connection to the City sewer system shall be made only to existing sewer laterals or sewer mains as approved by the Public Works Department. If a new sewer lateral is required, the applicant shall prepare improvement plans designed by a Registered Civil Engineer and pay the associated new sewer lateral connection fees. The new sewer lateral shall be constructed in accordance with APWA Standard Plan 222-1. When new sewer laterals are to be connected to an existing sewer main, the contractor shall call for such protections as is necessary to prevent construction debris from being washed into the active sewers.
71. Prior to the issuance of any permits, the property owner / applicant or their successor shall pay the applicable sewer connection fee to the Public Works Department.
72. There shall be no trees planted within 10 feet of any sewer lateral.
73. All new sewer infrastructures shall be isolated with a physical barrier until the Public Works Department approves the new system, the Civic Center Wastewater Treatment Facility is completed and operational, and the development is ready for actual occupancy.

Fire Safety

74. Access shall comply with Section 503 of the Fire Code, which requires all weather access. All weather access may require paving.
75. Private driveways shall be indicated on the final map as "Private Driveway and Firelane" with the widths clearly depicted and shall be maintained in accordance with the Fire Code. All required fire hydrants shall be installed, tested and accepted prior to construction.
76. Vehicular access must be provided and maintained serviceable throughout construction to all required fire hydrants. All required fire hydrants shall be installed, tested and accepted prior to construction.
77. The project requires LACFD approval of a Final Fuel Modification Plan prior to the issuance of grading or building permits.
78. The project requires LACFD plan review and approval of all proposed fire water service

improvements and prior to the issuance of building permits. The improvements shall be designed and constructed in accordance with the water service and fire access plan review requirements provided by the LACFD in their correspondence dated March 28, 2011.

79. Provide Fire Department or City approved street signs and building access numbers prior to occupancy.

Water Service

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

Prior to the Issuance of Certificate of Occupancy

81. Prior to the issuance of the Certificate of Occupancy, the property owner / applicant or their successor shall provide the Environmental Sustainability Department with a Final Waste Reduction and Recycling Report. This report shall designate all materials that were land filled and recycled, broken down into material types. The final report shall be approved by the Environmental Sustainability Department.
82. The applicant shall request a final Planning inspection prior to final inspection by the City of Malibu Environmental and Sustainability Department. A Certificate of Occupancy shall not be issued until the Planning Department has determined that the project complies with this CDP. A temporary Certificate of Occupancy may be granted at the discretion of the Planning 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.

Fixed Conditions

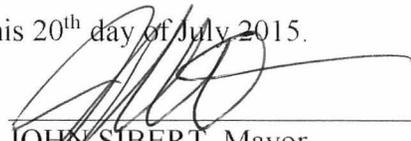
83. This coastal development permit shall run with the land and bind all future owners of the property.
84. Violation of any of the conditions of this approval may be cause for revocation of this permit and termination of all rights granted there under.

SECTION 6. Effective Date.

This resolution approving Coastal Development Permit No. 10-022 and Lot Merger No. 10-004 shall take effect when and if the Specific Plan is approved by the registered voters of the City of Malibu unless a final judgment of a court determines such approval of the Specific Plan is not required, in which case this resolution shall take effect on the date it is approved by City Council.

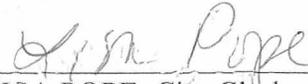
SECTION 7. The City Clerk shall certify the passage and adoption of this resolution and enter it into the book of original resolutions.

PASSED, APPROVED AND ADOPTED this 20th day of July 2015.



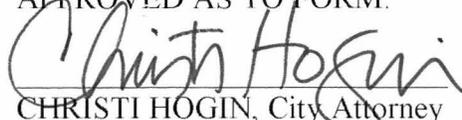
JOHN SIBERT, Mayor

ATTEST:



LISA POPE, City Clerk
(seal)

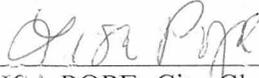
APPROVED AS TO FORM:



CHRISTI HOGIN, City Attorney

I CERTIFY THAT THE FOREGOING RESOLUTION NO. 15-43 was passed and adopted by the City Council of the City of Malibu at the special meeting thereof held on the 20th day of July 2015 by the following vote:

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



LISA POPE, City Clerk
(seal)