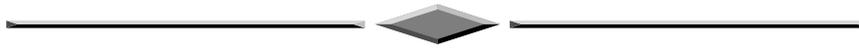
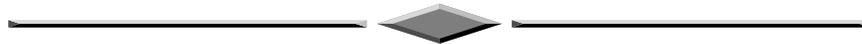




## **APPENDICES**

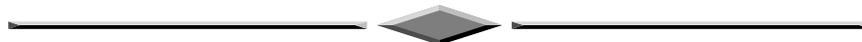






## **APPENDIX A**

### **NOTICE OF PREPARATION (NOP) AND COMMENTS ON NOP**





# CITY OF MALIBU NOTICE OF PREPARATION AND SCOPING MEETING FOR AN ENVIRONMENTAL IMPACT REPORT

Pursuant to the California Environmental Quality Act (CEQA), the City of Malibu (City) will be the Lead Agency and will prepare an environmental impact report (EIR) for the project identified below. In accordance with Section 15082 of the CEQA Guidelines, the City has prepared this Notice of Preparation (NOP) to provide Responsible Agencies and other interested parties with information describing the proposal and its potential environmental effects.

**Project Title:** **Rancho Malibu Hotel Project**  
Environmental Impact Report No. 12-001  
Coastal Development Permit (CDP) No. 11-028

**Public Scoping Meeting:** **May 16, 2012**  
**Time:** **6:30 p.m.**  
**Location:** **City Hall – Multi-Purpose Room**  
**23825 Stuart Ranch Road, Malibu, CA 90265**

**Review Period:** **Begins:** May 3, 2012      **Ends:** June 4, 2012

**Deadline to Submit Comments:** June 4, 2012, 5:30 p.m.

**Lead Agency:** City of Malibu

**Contact Person:** Stephanie Danner, Senior Planner  
(310) 456-2489, extension 276  
[sdanner@malibucity.org](mailto:sdanner@malibucity.org)

**Project Location:** 4000 Malibu Canyon Road, at the northeast corner of the intersection of Malibu Canyon Road and Pacific Coast Highway



**Applicant:** Fred Gaines  
Green Acres, LLC  
P.O. Box 6528  
Malibu, CA 90264

## **Public Scoping Meeting:**

The City will hold a Public Scoping Meeting for the EIR to describe the proposed project, the environmental process, and to receive input on the scope and content of the EIR in conformance with Section 21083.9 of the Public Resources Code. The Public Scoping Meeting is scheduled for Wednesday, May 16, 2012, at 6:30 p.m. in the Multi-Purpose Room, Malibu City Hall, 23825 Stuart Ranch Road, Malibu, CA. The City encourages all interested individuals, organizations, and agencies to attend the meeting.

**Purpose of Review:** The purpose of this NOP is to solicit input from those public agencies and interested members of the public as to the scope and content of the environmental information to be included in the EIR (Ref: California Code of Regulations, Title 14, (CEQA Guidelines) Sections 15082(a), 15103, 15375). As specified by the CEQA Guidelines, the NOP will be circulated for a 30-day public review period. The City welcomes input from agencies and the public during this period regarding the scope and content of environmental information included and analyzed in the EIR. Agencies should comment on the elements of the environmental information that are relevant to their statutory responsibility in connection with the project.

**Where to Send Comments:** Responses to the NOP must be submitted, in writing, no later than **June 4, 2012 at 5:30 p.m.** Comments should reference EIR No. 12-001 and should be addressed to Stephanie Danner, Senior Planner at the address below. Agency responses to this NOP should include the name, address, and telephone number of the person serving as the primary point of contact for this project within the commenting agency.

<b>Address Where Documents Are Available for Review:</b>	City of Malibu - Planning Department 23825 Stuart Ranch Road Malibu, CA 90265
<b>City's website:</b>	<a href="http://www.malibucity.org">www.malibucity.org</a>

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## **Project Description and Setting:**

The subject property is a combination of three vacant parcels totaling 27.8 acres located in a triangle-shaped area formed by the intersections of Malibu Canyon Road, Pacific Coast Highway (PCH) and Civic Center Way. The proposed development ("Rancho Malibu Hotel Project") is designed as a 146-room luxury hotel resort with a floor area ratio (FAR) of 14.45%. The FAR does not include the square footage of any below ground square footage (i.e. the basement) or of any parking areas. Approximately 274,936 square feet of development (gross square footage, including basement) is proposed both for the main hotel building and the 21 detached, two-story casitas which house the majority of hotel rooms. The hotel will include the following facilities, most of which will be open to hotel guests as well as the general public: retail shops, hotel restaurant, sundries store, lobby bar, library, ballrooms, meeting rooms, fitness center and spa, swimming pool, pool cabanas and function lawns. The hours of operation for each facility vary. The proposed hours for the retail shops are 9 a.m. to 9 p.m., hotel restaurant 6 a.m. to 1 a.m., lobby bar 10 a.m. to 2 a.m., ballrooms and meeting rooms 6 a.m. to 2 a.m. (if an event is hosted), fitness and spa 5 a.m. to 10 p.m., pool cabanas 7 a.m. to 12 midnight and function lawns 8 a.m. to 12 midnight.

The project proposes a tentative tract map to create an airspace subdivision to allow each hotel room, as well as two retail spaces, to be sold individually as commercial condominiums. The owner of each unit will be limited to staying in the unit no more than 180 days per calendar year, with consecutive stays limited to no more than 30 days. When the unit owner is not staying at the hotel, the unit will be placed into the normal pool of hotel rooms to be rented out to the public. Regardless of whether the owner or a hotel guest is staying in the room, applicable transient occupancy taxes (TOT) will be charged per night.

The project includes 543 parking spaces to be located primarily in a three-level, 166,827 square foot subterranean parking structure as well as in a surface employee lot and guest registration lot. The number of parking spaces is less than the minimum number required and therefore a variance will be required. Approximately 44% of the site would be dedicated for landscaping with 25% dedicated as open space; areas which would include pedestrian walkways, courtyards, water features and native plantings. Stormwater improvements including drains, detention basins and a large storage tank beneath the parking structure are planned. Due to the substantial size of the basement (76,196 square feet) and the subterranean parking garage proposed, approximately 189,760 cubic yards of earth material would be excavated and exported from the project site.

The Civic Center area of the City of Malibu is not served by a public sewer system so individual developments provide their own individual onsite wastewater treatment systems (OWTS) for disposal of wastewater. On November 5, 2009, the Los Angeles Regional Water Quality Control Board (RWQCB) adopted an amendment to its Basin Plan which prohibits onsite wastewater disposal systems in the Malibu Civic Center area, with the exception of those projects identified in the Table 4-zz list. The subject project site is located within the Malibu Civic Center area and was not included in the Table 4-zz list in this 2009 Basin Plan amendment.

The State Water Resources Control Board (SWRCB) adopted the RWQCB's Basin Plan amendment on September 21, 2010, and directed its staff to submit the amendment to the Office of Administrative Law for approval. The City is proposing an alternative approach to addressing water quality concerns in the Civic Center area, the first phase of which is expected to involve construction of a new state-of-the-art centralized wastewater treatment facility to handle existing and potential future wastewater treatment needs in the Civic Center area by 2015. The City's wastewater consultant is currently preparing an initial system design and detailed project description. The City expects to certify the final EIR for the centralized system no later than March 2013.

In February 2012, the California Regional Water Quality Control Board issued a letter in agreement with the applicant that the subject project site should have been included on the Table 4-zz list and that the project is entitled to the same status as the other projects that qualified for listing in the Table 4-zz list. In order to revise the Table 4-zz list, an amendment to the Basin Plan Amendment is required. The project includes the installation of an onsite wastewater treatment system (OWTS) facility to serve the proposed use. The proposed OWTS facility utilizes a membrane bioreactor system to provide an effluent quality to meet tertiary treatment standards for recycled water. Tertiary treated effluent from the proposed system would be suitable for recycled water uses such as irrigation for landscaping, commercial air-conditioning and cooling or recycled plumbing use. The proposed OWTS plant must meet both Regional Water Quality Control Board and City of Malibu standards and obtain a permit from both the Regional Board and the City.

As an alternative, in the event the SWRCB does not allow the proposed project to move forward with an individual advanced treatment facility, the Rancho Malibu Hotel Project will connect to the City's planned Civic Center centralized wastewater treatment facility once it becomes available. Although no project description has yet been formulated, it is anticipated that the City system would include a new sewer main along Civic Center Way, as well as a new reclaimed water distribution main. It is also anticipated that the Rancho Malibu Hotel Project would utilize an onsite sewer lateral to connect to the new sewer main that the City would construct. The Rancho Malibu Hotel Project proposes a separate onsite reclaimed water connection with a non-potable irrigation meter that will tie into the treated non-potable water main. This connection would meet up to 100 percent of the irrigation requirement as well as provide other potential options for reusing up to 50 percent of the treated effluent generated by the Rancho Malibu Hotel Project.

Electrical service is currently available to the project site from Southern California Edison. Overhead lines currently crossing the property would be placed underground, while two existing transformers would be relocated and two additional transformers would need to be sited within the project. Natural gas service is available for heating and food preparation from the Southern California Gas Company. Water service would be provided by Los Angeles County Waterworks District No. 29 (District 29). The project also anticipates making an intersection upgrades in the vicinity of the project to address traffic impacts, as recommended by the project's traffic engineer.

Currently the site is mostly undeveloped and covered with native vegetation and ornamental plants from a previous nursery operation. Prior to the Calabasas wildfire of October 1996, approximately eight acres of coastal sage scrub existed along the Civic Center Drive frontage of the property and the northern half of the Malibu Canyon Road frontage of the property. Additional damage to onsite vegetation occurred during the 2007 Malibu Canyon Fire. In time, the coastal sage scrub is likely to recover from the effects of the fires. In order to mitigate for any impacts to the coastal sage scrub, as part of the previously approved project, a 30 acre conservation easement on a parcel in the Santa Monica Mountains (referred to as the Francisco Property) was recorded. Portions of the remainder of the site have been graded in the past, and a dirt service road remains on the site. Site access is currently located approximately 300 feet north of the intersection of PCH and Malibu Canyon Road.

Project landscaping would consist of a mix of developed functional planters, lawns and other landscapes within the formal hotel grounds with approximately 11 acres (40 percent of site) around the north, east and southern site perimeter retained in natural or native vegetation. An additional 45,000 square feet of roof top gardens would overlie portions of the spa, retail uses, ballroom and hotel. Approximately 28,000 square feet of lawn would be provided in two locations to support events and functions such as weddings and other celebrations. More than two acres of terrace, deck, and courtyard and portico space would be provided, concentrated around the pool, spa and hotel. Graded slopes are proposed for re-vegetation with a mix of native (*Quercus agrifolia*, California Live Oak) and drought-tolerant plants (e.g., Toyon).

Most of the project site gently slopes away from Malibu Canyon Road before reaching steep slopes above Civic Center Way and PCH. The southern edge of the site above PCH is a steep south-facing slope and there is also a steep northeast-facing slope along a portion of the eastern edge of the property, above Civic Center Way. The Malibu Coast Fault Line runs through the southern portion of the subject site parallel to PCH.

The project site is separated from surrounding uses by major roadways. The only property adjoining the project site is the Malibu Bay Company owned property (APN 4458-028-020) which is used as a leach field for treatment of wastewater originating from the Malibu Colony Plaza shopping center located south of PCH. To the northwest of the site on the hills above Malibu Canyon Road is the Pepperdine University campus (located just north of City limits). To the northeast lies HRL Laboratories and a single-family residential neighborhood, known as the Malibu Knolls. To the east, across Civic Center Way, are three condominium complexes, a church and an elementary school. Further east is the Civic Center area, including City Hall, Malibu Library, three commercial shopping centers and Legacy Park. To the west, across Malibu Canyon Road and at some distance from the site is a large single-family residential neighborhood, known as the Malibu Country Estates. To the south and southeast across PCH are the vacant Crummer property (APN 4458-018-019), Malibu Bluffs Park, the Michael Landon Community Center, the Malibu Colony Plaza shopping center, single- and multi-family residences along Malibu Road and the beach.

A small section of the California Coastal Commission's (CCC) appeal jurisdiction is located in the upper portion of the project site. The area marks a mapped blue line stream on the City's Local Coastal Program (LCP) Environmentally Sensitive Habitat Area (ESHA) Map. The City Biologist has determined that this stream is actually a buried drainage ditch that is within a

concrete culvert. No development associated with the proposed project will occur within 100 feet of the mapped blue line stream.

### Entitlements Requested

The following Planning entitlements are proposed for the Rancho Malibu Hotel Project:

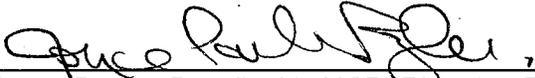
- a. Certification of the EIR; and
- b. Approval of a coastal development permit for construction of the hotel and associated discretionary applications, including:
- c. A conditional use permit for hotel use, construction of more than 500 square feet of commercial space, restaurant use, live entertainment, recreation facilities and onsite and offsite alcohol sales;
- d. A lot merger (or equivalent, to be determined);
- e. A tentative tract map for a commercial airspace subdivision (146 hotel rooms and 2 retail spaces);
- f. A variance for non-exempt grading totaling approximately 50,380 cubic yards (a maximum of 27,800 cubic yards is allowed at 1,000 cubic yards per acre);
- g. A variance for construction on slopes in excess of 2½ to 1;
- h. A variance for parking located within the required front yard;
- i. A variance for the reduction in the required number of parking spaces;
- j. A variance for the height of main building to exceed 28 feet, with a maximum height of 36 feet, 2 inches proposed;
- k. A site plan review for the height of the casitas to exceed 18 feet, with a maximum height of 28 feet proposed; and
- l. A minor modification to reduce the required front yard setback.

**EIR Analysis:** Environmental factors that would be potentially affected by the project include:

- a. **Visual Impacts / Aesthetics:** Potential visual impacts of the proposed project to be constructed on a vacant site.
- b. **Air Quality:** Potential impacts of the proposed project related to increased vehicular traffic, construction truck trips and construction dust emissions.
- c. **Biological Resources:** Potential impacts that the proposed project may have on biological resources.
- d. **Cultural Resources:** Potential impacts that the proposed project may have on cultural resources.
- e. **Geology, Soils, and Seismicity:** Potential impacts associated with site-based geological conditions and construction of the proposed project site.
- f. **Greenhouse Gas Emissions:** Potential impacts of the proposed project related to temporary construction emissions and permanent hotel operations and vehicular traffic emissions.
- g. **Hydrology & Water Quality:** Potential impacts of the proposed project on onsite hydrology and water quality resources.
- h. **Land Use / Planning:** Review for consistency with the General Plan, Malibu Municipal Code and LCP goals and polices as well as compatibility of the proposed project with surrounding uses.

- i. **Noise:** Potential increase in ambient noise levels due to the proposed project and associated traffic.
- j. **Public Services:** Adequacy of public facilities and services for the proposed project.
- k. **Transportation & Traffic:** Potential impact of the proposed project on roadway and intersection facilities, levels of service, and traffic safety concerns that are related to the project.
- l. **Utilities / Service Systems:** Adequacy of public services and utility systems for the proposed project.

If there are any questions regarding this notice, please contact Stephanie Danner, Senior Planner, at (310) 456-2489, extension 276.

  
\_\_\_\_\_  
Joyce Parker-Bozylinski, AICP, Planning Director

Date: May 3, 2012

## NOP COMMENTS INVENTORY

	Interested Party	Contact Information	Dated	Date Received - Hardcopy	Date Received - Email	Date Received - Fax	Comment Type
1	Briskin, Robert	Malibu Country Estates HOA rbriskin@rablegal.com	June 13, 2012		June 13, 2012		Email
2	Collings, Bruce	c/o Preserve Malibu preservemalibu@gmail.com	May 17, 2012		May 17, 2012		Email
3	County of Los Angeles Fire Dept.	Frank Vidales, Acting Chief, Forestry Division Prevention Services Bureau 1320 North Eastern Avenue Los Angeles, CA 90063 323-881-2401	June 4, 2012	June 11, 2012			Letter
4	Dept. of Fish and Game	Scott Harris, Env. Scientist 3883 Ruffin Road San Diego, CA 92123 858-467-4201	June 4, 2012	June 6, 2012	June 4, 2012	June 4, 2012	Letter
5	Dept. of the Interior National Park Service	Melanie Beck 401 West Hillcrest Drive Thousand Oaks, CA 91360	June 4, 2012	June 8, 2012	June 4, 2012		Letter
6	Dept. of Transportation	Mr. Nerses Armand Yerjanian 100 Main Street MS #16 Los Angeles, CA 90012 213-897-9140	June 1, 2012		June 4, 2012		Letter (supersedes letter received 5/7/12)
7	Dominguez, David Paul	33054 Decker School Road Malibu, CA 90265 805-340-3545 tokyadave@aol.com	May 16, 2012				Scoping Meeting Comment Card
8	Dominguez, David Paul	33054 Decker School Road Malibu, CA 90265 805-340-3545 tokyadave@aol.com	June 4, 2012		June 4, 2012		Email

	Interested Party	Contact Information	Dated	Date Received - Hardcopy	Date Received - Email	Date Received - Fax	Comment Type
9	Gonzalez, Edward	3601 Vista Pacifica, Unit 11 Malibu, CA 90265 310-456-9756 edgonzalezphd@gmail.com	May 10, 2012		May 10, 2012		Email
10	Healy, Patt	403 San Vicente Blvd Santa Monica, CA 90402 310-393-1818 healypatt@aol.com	May 30, 2012		May 30, 2012		Email
11	Laetz, Hans	6402 Surfside Way Malibu, CA 90265 424-442-9862 hanslaetz@gmail.com	May 16, 2012	May 17, 2012			Letter (supersedes letter received 5/16/12)
12	Native American Heritage Commission	Dave Singleton, Program Analyst 915 Capitol Mall, Room 364 Sacramento, CA 95814 916-653-6251 ds_nahc@pacbell.net	May 11, 2012	May 15, 2012			Letter
13	Ruggles, Jo	30612 Sicomoro Drive Malibu, CA 90265 310-457-6629	May 14, 2012	May 16, 2012			Letter
14	Santa Monica Mountains Conservancy	Paul Edelman 5750 Ramirez Canyon Road Malibu, CA 90265 310-589-3200 edelman@smmc.ca.gov	May 21, 2012	June 7, 2012	June 4, 2012		Letter
15	South Coast Air Quality Management District	Ian MacMillan, Program Supervisor 21865 Copley Drive Diamond Bar, CA 91765 909-396-2000	May 25, 2012	May 19, 2012			Letter

	Interested Party	Contact Information	Dated	Date Received - Hardcopy	Date Received - Email	Date Received - Fax	Comment Type
16	Thompson, Marshall	30765 Pacific Coast Hwy, #243 Malibu, CA 90265 310-403-2507 marshall@prvideo.tv	May 16, 2012	May 16, 2012			Scoping Meeting Comment Card
17	Uhring, Steve	23722 Harbor Vista Drive Malibu, CA 90265		May 31, 2012			Letter
18	Vandor, Cindy	6185 Paseo Canyon Drive Malibu, CA 90265 310-457-3650 cdvandor@yahoo.com	May 17, 2012		May 17, 2012		Email
19	Vandor, Cindy	6185 Paseo Canyon Drive Malibu, CA 90265 310-457-3650 cdvandor@yahoo.com	May 16, 2012	May 16, 2012			Scoping Meeting Comment Card
20	Vaill, Ted	20249 Inland Lane Malibu, CA 90265 310-456-3504 tedvaill@aol.com	May 16, 2012	May 16, 2012			Scoping Meeting Comment Card
21	Wishtoyo Foundation	Jason Weiner, Staff Attorney 3875-A Telegraph Road, #423 Ventura, CA 93003 805-658-1120	June 4, 2012		June 4, 2012		Letter

## Stephanie Danner

---

**From:** Joyce Parker-Bozylinski  
**Sent:** Wednesday, June 13, 2012 2:41 PM  
**To:** Stephanie Danner  
**Subject:** FW: proposed hotel project in Malibu

Joyce Parker-Bozylinski, AICP | [Planning Director](#) | [City of Malibu](#)

 23825 Stuart Ranch Road, Malibu, CA 90265

 (310) 456-2489 ext. 265

### Connect with the City of Malibu!



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**From:** Robert A. Briskin [<mailto:rbriskin@rablegal.com>]  
**Sent:** Wednesday, June 13, 2012 8:40 AM  
**To:** Joyce Parker-Bozylinski  
**Cc:** [dick@garygroup.com](mailto:dick@garygroup.com); Hiro Kotchounian; MCE/Ed Solomon; [res0657h@gte.net](mailto:res0657h@gte.net); Sheedy, Lisa MCE; Tom Botz  
**Subject:** proposed hotel project in Malibu

Joyce:

The proposed Malibu new hotel project (on Malibu Canyon Road and PCH) has recently put up “story poles” which Malibu Country Estates (“MCE”) Homeowners realize are shown as blocking the views of some MCE homes and public streets and sidewalks in the MCE subdivision. Also if trees and other foliage are planted in that hotel area with watering of such trees, further views of our MCE homeowners will be blocked.

We realize that the comment period may have passed for the hotel EIR scoping but the Story Poles were not up prior to such deadline, so we did not realize the impact that this hotel project would have on views at that time. Thus, please be sure the EIR for the hotel addresses and analyzes the issues below and the impacts discussed below. These MCE comments are similar to the comments that MCE had on the Crummer Site home Subdivision.

This proposed hotel construction project as currently shown with the high heights and high roof lines (and potential trees above those roof line) **blocks** views of the Pacific Ocean for Malibu Country Estates’ homeowners and the general public including the following: **(i) blocks in part views from Malibu Canyon road a designated scenic highway;** **(ii) blocks views of the homeowners in Malibu Country Estates subdivision and blocks views from their public streets;** and **(iii) blocks views from Pepperdine University’s Alumni Park, a park that is used by thousands of people who are both part of the University and used by the general public.**

The Pacific Ocean views should be enjoyed by everyone.

There are other views being blocked from other points in Malibu by this proposed private development.

**Thus, the following items need to be implemented:**

1. Alternative should be implemented of having all structures be only **one (1) story high**. One story restrictions on height are common in Malibu where homes are blocking other persons views, especially where these proposed homes will block the views of the general public and views from public streets and parks. This same one story and height restrictions should apply to a commercial hotel development.
2. Highest point of all structures should be **18 feet**. See current City of Malibu restrictions on height limitations. Why should these hotel structures be constructed higher than 18 feet which will cause view blockage? Have "Story Poles" redone with a one story 18 foot height so it can be observed if this blocks people's views.
3. Analyze the following alternative in the EIR: Structures (and their height limits) should be required to be constructed in height from a **lower excavated elevation** (from where the heights can be measured for the one story and the 18 feet). Thus 18 foot height level would commence being measured from a lower point than from current grade. If this alternative is implemented then the ocean views of the Pacific Ocean may be able to be preserved. Constructed part of hotel structure below ground is, thus, a helpful solution.
4. No trees or foliage should be allowed to grow above the **lowest point** of roof line in order to preserve ocean views of MCE and the general public. Again to help views the entire site should be excavated so that the trees and foliage are planted at a lower elevation. "Story Poles" should be redone and shown where trees are to be planted so that view blockage by these trees can be observed.
5. No trees should be allowed to be planted outside current "story poles" since it would be a misrepresentation otherwise in the views that will actually be blocked as the trees grow in height. Remember that effluent and water is being used to irrigate plants and trees which will cause larger and higher tree growth in the future. Please restrict tree growth to lowest point of roof line.
6. Require that the hotel structures be set farther back from Pacific Coast Highway. This farther setback would reduce ocean view blockage of Malibu Country Estates Homeowners.

Thank you for your consideration of the above.

**By: Malibu Country Estates Homeowners Association**

## Stephanie Danner

---

**From:** Joyce Parker-Bozylinski  
**Sent:** Friday, May 18, 2012 7:46 AM  
**To:** Stephanie Danner; Ha Ly  
**Subject:** FW: EIR SCOPING SUBMISSION LETTER

Please send to AMEC.

Joyce Parker-Bozylinski, AICP | Planning Director | City of Malibu  
23825 Stuart Ranch Road, Malibu, CA 90265  
(310) 456-2489 ext. 265

RECEIVED  
MAY 17 2012  
PLANNING DEPT.

Connect with the City of Malibu!



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**From:** Preserve Malibu [<mailto:preservemalibu@gmail.com>]  
**Sent:** Thursday, May 17, 2012 3:36 PM  
**To:** Joyce Parker-Bozylinski  
**Subject:** EIR SCOPING SUBMISSION LETTER

Dear Joyce Parker-Bozylinski,  
As requested, please submit this letter to the EIR SCOPING DRAFT, Dan Gira, a consultant from AMEC.

Dear City Of Malibu,

As I will be on an extended vacation at the time of this hearing, I will not be able to personally respond with our objections to this horrific idea of a resort like edifice at this specific location in Malibu! It was only 4-5 years ago that a raging brush fire driven by N/E howling winds in this very corridor took out much of Pepperdine Univ, outbuildings at the Hughes Research Lab, the Presbyterian church, and 5 to 7 homes along Malibu Rd. in the Colony. Isn't this enough evidence to suggest that NO structures of this expanse and loss of life potential should be constructed in this canyon corridor, even with an L.A.County Fire Station 88 just blocks away...who would most likely be elsewhere deployed in such a catastrophe anyway.

This is totally absurd to suggest the Malibu City council would be in favor of such a monstrosity being erected there... or anywhere else in the city, for that matter.

For whatever it means, count me and my family in absolute opposition to this plan!

Respectfully,

Bruce Collings

Los Angeles County Fire Captain, Retired 1998

\*\*\*\*\*

Thank you,

Preserve Malibu



# COUNTY OF LOS ANGELES

## FIRE DEPARTMENT

1320 NORTH EASTERN AVENUE  
LOS ANGELES, CALIFORNIA 90063-3294  
(323) 881-2401

DARYL L. OSBY  
FIRE CHIEF  
FORESTER & FIRE WARDEN

June 4, 2012

Stephanie Danner, Senior Planner  
City of Malibu  
Planning Department  
23825 Stuart Ranch Road  
Malibu, CA 90265

Dear Ms. Danner:

**NOTICE OF PREPARATION AND SCOPING MEETING FOR AN ENVIRONMENTAL IMPACT REPORT, RANCHO MALIBU HOTEL PROJECT, PROPOSED DEVELOPMENT IS DESIGNED AS A 146-ROOM LUXURY HOTEL RESORT, 4000 MALIBU CANYON ROAD MALIBU (FFER #201200064)**

The Notice of Preparation has been reviewed by the Planning Division, Land Development Unit, Forestry Division and Health Hazardous Materials Division of the County of Los Angeles Fire Department. The following are their comments:

**PLANNING DIVISION:**

1. We have no comments at this time.

**LAND DEVELOPMENT UNIT:**

1. The County of Los Angeles Fire Department, Land Development Unit appreciates the opportunity to comment on this project.
2. Should any questions arise regarding subdivision, water systems, or access, please contact the County of Los Angeles Fire Department, Land Development Unit Inspector, Nancy Rodeheffer, at (323) 890-4243 or [nrodeheffer@fire.lacounty.gov](mailto:nrodeheffer@fire.lacounty.gov).
3. The Fire Prevention Division Land Development Unit has no additional comments regarding this project. The conditions that were addressed in the review of the Tentative Tract Map 69653 dated April 24, 2012, have not changed at this time. Please see the attached.

SERVING THE UNINCORPORATED AREAS OF LOS ANGELES COUNTY AND THE CITIES OF:

AGOURA HILLS  
ARTESIA  
AZUSA  
BALDWIN PARK  
BELL  
BELL GARDENS  
BELLFLOWER  
BRADBURY

CALABASAS  
CARSON  
CERRITOS  
CLAREMONT  
COMMERCE  
COVINA  
CUDAHY

DIAMOND BAR  
DUARTE  
EL MONTE  
GARDENA  
GLENORA  
HAWAIIAN GARDENS  
HAWTHORNE

HIDDEN HILLS  
HUNTINGTON PARK  
INDUSTRY  
INGLEWOOD  
IRWINDALE  
LA CANADA FLINTRIDGE  
LA HABRA

LA MIRADA  
LA PUENTE  
LAKEWOOD  
LANCASTER  
LAWNDALE  
LOMITA  
LYNWOOD

MALIBU  
MAYWOOD  
NORWALK  
PALMDALE  
PALOS VERDES ESTATES  
PARAMOUNT  
PICO RIVERA

POMONA  
RANCHO PALOS VERDES  
ROLLING HILLS  
ROLLING HILLS ESTATES  
ROSEMEAD  
SAN DIMAS  
SANTA CLARITA

SIGNAL HILL  
SOUTH EL MONTE  
SOUTH GATE  
TEMPLE CITY  
WALNUT  
WEST HOLLYWOOD  
WESTLAKE VILLAGE  
WHITTIER

Stephanie Danner, Senior Planner  
June 4, 2012  
Page 2

**FORESTRY DIVISION – OTHER ENVIRONMENTAL CONCERNS:**

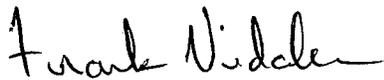
1. The statutory responsibilities of the County of Los Angeles Fire Department, Forestry Division include erosion control, watershed management, rare and endangered species, vegetation, fuel modification for Very High Fire Hazard Severity Zones or Fire Zone 4, archeological and cultural resources and the County Oak Tree Ordinance. Potential impacts in these areas should be addressed in the Draft Environmental Impact Report.

**HEALTH HAZARDOUS MATERIALS DIVISION:**

1. The Health Hazardous Materials Division has no objection to the proposed project.

If you have any additional questions, please contact this office at (323) 890-4330.

Very truly yours,



FRANK VIDALES, ACTING CHIEF, FORESTRY DIVISION  
PREVENTION SERVICES BUREAU

FV:ij

Enclosure



# COUNTY OF LOS ANGELES

## FIRE DEPARTMENT

5823 Rickenbacker Road  
Commerce, California 90040

### CONDITIONS OF APPROVAL FOR SUBDIVISIONS - INCORPORATED

Subdivision No: TR 69653, Map Date May 19, 2011 (Vesting Tentative Tract Map)  
Permit: SPR 11-011, MM 11-004, VAR 11-013

Project Delivery Analysts LLC  
Letter - April 13, 2012

City Malibu  
4000 Malibu Canyon Road

- FIRE DEPARTMENT HOLD on the tentative map shall remain until verification from the Los Angeles County Fire Dept. Planning Section is received, stating adequacy of service. Contact (323) 881-2404.
- Access shall comply with Section 902 of the Fire Code, which requires all weather access. All weather access may require paving.
- Fire Department Access shall be extended to within 150 feet distance of any exterior portion of all structures.
- Where driveways extend further than 150 feet and are of single access design, turnarounds suitable for fire protection equipment use shall be provided and shown on the final map. Turnarounds shall be designed, constructed and maintained to insure there integrity for Fire Department use. Where topography dictates, turnarounds shall be provided for driveways that extend over 150 feet in length.
- 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.
- 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.
- This property is located within the area described by the Fire Department as "Very High Fire Hazard Severity Zone" (formerly Fire Zone 4). A "Fuel Modification Plan" shall be submitted and approved prior to final map clearance. (Contact Fuel Modification Unit, Fire Station #32, 605 North Angeleno Avenue, Azusa, CA 91702-2904, Phone (626) 969-5205, for details).
- Provide Fire Department or City approved street signs and building access numbers prior to occupancy.
- Additional fire protection systems shall be installed in lieu of suitable access and/or fire protection water.
- The final concept map, which has been submitted to this department for review, has fulfilled the conditions of approval recommended by this department for access only.
- These conditions shall be secured by a C.U.P. and/or Covenant and Agreement approved by the County of Los Angeles Fire Department prior to final map clearance.
- The Fire Department has no additional requirements for this division of land.

Comments: This project is not cleared for public hearing.  
Verification of water rights through the land transfer required.  
\*Provide signage visible at the street, at the Fire Lanes north and south of the main entrance clearly marking Fire Department Access, include the address for the main building visible from the street.  
Access is adequate as shown on the Vesting Tentative Tract Map dated May 19, 2011.  
THREE COPIES OF THE FINAL MAP SHALL BE SUBMITTED TO LACoFD, FIRE PREVENTION, LAND DEVELOPMENT OFFICE FOR REVIEW/APPROVAL PRIOR TO RECORDATION.

INSPECTOR Nancy Rodeheffer

DATE April 24, 2012



COUNTY OF LOS ANGELES

FIRE DEPARTMENT

5823 Rickenbacker Road
Commerce, California 90040

WATER SYSTEM REQUIREMENTS – INCORPORATED

Subdivision No: TR 69653, Map Date 2011 (Vesting Tentative Tract Map)
Permit No.: CDP 11-028, SPR 11-011, VAR 11-03

Revised Project Delivery Analysts LLC City Malibu
Letter - April 13, 2012 4000 Malibu Canyon Road

- Provide water mains, fire hydrants and fire flows as required by the County of Los Angeles Fire Department...
The required fire flow for public fire hydrants at this location is 3500 gallons per minute...
The required fire flow for private on-site hydrants is \_\_\_ gallons per minute...
Fire hydrant requirements are as follows:
Install 16 public fire hydrant(s). Upgrade / Verify 2 existing Public fire hydrant(s).
Install \_\_\_ private on-site fire hydrant(s).
All hydrants shall measure 6"x 4"x 2-1/2" brass or bronze...
Location: As per map on file with the office.
Other location: Flow test two existing public fire hydrants on Pacific Coast Highway adjacent to the southerly property line...
All required fire hydrants shall be installed, tested and accepted or bonded for prior to Final Map approval...
The County of Los Angeles Fire Department is not setting requirements for water mains, fire hydrants and fire flows...
Additional water system requirements will be required when this land is further subdivided...
Hydrants and fire flows are adequate to meet current Fire Department requirements.
Upgrade not necessary, if existing hydrant(s) meet(s) fire flow requirements.

SUBMIT COMPLETED (ORIGINAL ONLY) FIRE FLOW AVAILABILITY FORM TO THIS OFFICE FOR REVIEW.

COMMENTS: Provide evidence on LACoFD fire flow form, Form #196, that the hydrant(s) and available flow rate(s) meet LACoFD requirements prior to clearance of the Tentative Map. Fire Sprinklers are required per City Ordinance.

All hydrants shall be installed in conformance with Title 20, County of Los Angeles Government Code and County of Los Angeles Fire Code, or appropriate City regulations. This shall include minimum six-inch diameter mains. Arrangements to meet these requirements must be made with the water purveyor serving the area.

By Inspector Nancy Rodeheffer Date April 24, 2012



## United States Department of the Interior

NATIONAL PARK SERVICE  
Santa Monica Mountains National Recreation Area  
401 West Hillcrest Drive  
Thousand Oaks, California 91360-4207

In reply refer to:  
L76/ SAMO 134-87B

June 4, 2012

RECEIVED  
JUN 04 2012  
PLANNING DEPT.

Ms. Stephanie Danner, Senior Planner  
City of Malibu Planning Division  
23825 Stuart Ranch Road  
Malibu, CA 90265

RE: Environmental Impact Report No. 12-001  
Coastal Development Permit (CDP) No. 11-028

Dear Ms. Danner:

The National Park Service (NPS) has reviewed the City of Malibu's Notice of Preparation (NOP) of an Environmental Impact Report (EIR) for the proposed Rancho Malibu Hotel project, along with other project documents provided on the City's website. The project encompasses construction of a 146-room luxury hotel resort with a main hotel structure and appurtenances, and 21 detached, two-story "casitas" that would house the majority of hotel rooms. A tentative tract map is proposed to allow each hotel room to be sold individually as a commercial condominium with time limits on how long the owner may stay per year. Owners may stay a total of 180 days per year, with no stays longer than 30 days. When not in use by the owner, the condominium would be placed into the pool of available hotel rooms. The project also includes 543 parking spaces, mostly in a subterranean garage. Six variances and a site plan for building height are requested. Approximately 189,760 cubic yards of earth material would be excavated and exported to create the subterranean garage. The proposed hotel has been permitted in the past for a 300-room project in 1985-1986 by Los Angeles County and the Coastal Commission, and then as a 146-room project in 1998 by the City. Owing to permit expiration timeframes and other constraints on development entitlements for the project, the applicant is now proceeding with the current proposed version of the hotel to obtain the necessary City-issued CDP.

The NPS appreciates the opportunity to participate in the public review process for the proposed project. We provide comments on the effects of private and public land development in the Santa Monica Mountains at the invitation of state and local units of government with authority to prevent or minimize adverse uses. We assume a neutral position and do not support or oppose land development. We offer the following comments on the NOP for the Rancho Malibu Hotel EIR.

### Project Setting

The project site lies within an area of several overlays of public parkland and recreational resource designations. City of Malibu lies fully within the California Coastal Zone and within the boundary of the Santa Monica Mountains National Recreation Area (SMMNRA), a unit of the National Park System. The proposed hotel site is located adjacent to two major roads designated in the NPS's General Management Plan for SMMNRA as scenic corridors: Malibu Canyon Road and Pacific Coast Highway (north-bound, beginning at Malibu Canyon Road). Views from the site inland are mostly protected public open space, featuring rugged, chaparral-blanketed mountainsides. Southerly views are of the coastline and ocean. The site is located at the Malibu Canyon Road/Pacific Coast Highway intersection, with the existing traffic light for controlled crossing over the highway to reach Malibu Bluffs Park. The NPS's 2003 General Management Plan (GMP) for SMMNRA envisions a visitor information center at Malibu Bluffs Park. Malibu Bluffs Park features trails that connect to public vertical access paths that allow the public to reach the coast. The Santa Monica Mountains Conservancy's Public Works Plan includes future camping facilities in the western area of Malibu Bluffs Park.

Also adjacent to the project location, SMMNRA supports a 500-mile public trail network, including the California Coastal Trail that runs along the beach and the City's planned Malibu Pacific Trail that is aligned directly adjacent to the project site. Six miles north on Malibu Canyon Road is the interagency Visitor Center for SMMNRA, and the main entrance to Malibu Creek State Park.

In light of this outstanding location for public recreation-oriented visitor-serving facilities, the project should be designed to harmonize with the scenic, natural setting and to fully support access by the general public to nearby recreational opportunities. Per the NPS's GMP visitor experience goals<sup>1</sup>, the NPS would welcome additional overnight accommodations within SMMNRA if compatible with the existing greater protected open space and trail setting. The City's publicly reviewed General Plan and Malibu Local Coastal program (LCP), if followed without variation, provide a good framework of policies to create a desirable visitor-serving facility that could be compatible with NPS management goals and objectives for SMMNRA.

### Project Design

The NPS recommends the condominium provision of the project should be eliminated in order to be consistent with development thresholds within the City's General Plan and Malibu Local Coastal Plan and to better meet visitor use goals of the NPS GMP. This change would allow general public access to all overnight accommodations year-round. The draft EIR should include a full range of feasible alternatives that meet all legal requirements under CEQA and are consistent with Malibu's general plan, LCP, and zoning code.

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<sup>1</sup> "Encourage private enterprise to provide many of the necessary services and recreational developments to support visitor enjoyment of the national recreation area. Encourage *compatible* (emphasis added) recreational, educational, research, and other facilities on appropriate private lands as a part of and adjacent to the national recreation area." *General Management Plan, Santa Monica Mountains National Recreation Area*, 2003, pg. 38.

### *Variance Requests*

The NPS suggests that, prior to investing significant time and financial resources in the draft EIR, the City and the applicant revisit the design of the project. The proposed project would require six variances that substantially exceed thresholds prescribed in the LCP. A site plan is also requested to allow a height increase from 18 feet to 28 feet on each of the 21 "casitas." The grading variance, for example, would allow almost 50% over the exempt level of grading: 50,380 cubic yards versus the maximum 27,800 cubic yards for the 27.8-acre property. There is an additional nearly 190,000 cubic yards of soil excavation export proposed for the subterranean parking garage.

NPS has voiced concerns to the city in other advisory letters about projects requiring several variances. The large number of variances, along with other above-and-beyond requests for project entitlements, tend to result in a development that varies considerably from the community's original vision as prescribed in the City's General Plan and LCP. The final project can be different enough to change the facility from one that is compatible with the national recreation area's urban/wildland interface and the recreational and natural resources of the region, to a visually overwhelming, environmentally destructive, and public access-limiting facility. When variances are granted for issues such as grading, structure height, and parking, there are resulting greater impacts—short-term and/or permanent—to native habitat, geology, air quality, views and aesthetics, vulnerability to natural disasters, and accessibility for the visiting public. Owing to these increased impacts that come with granting variances, we encourage the city to look at redesigning the project so that it will not require variances from the city's codes.

### *Airspace Subdivision Tentative Tract Map*

The proposed airspace subdivision to accommodate private, condominium-style ownership in cooperation with hotel management of a rotating pool of guest rooms would not maximize access to the facility by the general public. The NPS finds the proposed arrangement has the potential to improperly constrain general public access to the proposed hotel overnight accommodations.

### EIR Topics

#### *Recreation*

The NOP notification's list of topics to analyze in the EIR needs to add recreation. A discussion of the greater parkland and public recreation setting is absent in the Notice of Preparation. The EIR consultant's scope of work does not mention recreation, trails, or parks. The project site plan illustrates no trails or pathways on the project site that would contribute segments to the Malibu Pacific Trail, nor does it call for pathways along Malibu Canyon Road to reach the traffic light crossing over Pacific Coast Highway for recreational access of visitors staying at the facility. The NPS finds this absence of attention to the parkland and

trail setting remarkable, in light of the project location within SMMNRA and the extensive nearby parkland, coastal beaches, and existing and planned public recreational facilities.

The draft EIR should discuss the project's location within the greater public parkland setting and analyze how the project would accomplish the City's General Plan and LCP visitor-serving land use and zoning directives. The draft EIR should evaluate adequacy of trail connections to the beach, to areas and trails east and west and north of the site, including the project's opportunity to fulfill the City's envisioned Malibu Pacific Trail across the site.

### *Water Quality*

The draft EIR needs to fully evaluate the capability and potential water quality impacts of an on-site wastewater treatment system (OWTS) for the project. The draft EIR should also analyze the option to connect to a future centralized water treatment system in the Civic Center area. Past approvals of the 300-room project and the previous 146-room project have been premised on connection to either the Los Angeles sewer system or the City's proposed wastewater treatment system. The draft EIR should thoroughly analyze the project's cumulative addition of wastewater to a centralized system. It is unclear how the draft EIR could adequately analyze the cumulative impacts before the City completes the environmental review for the city's Civic Center wastewater treatment facility (City plans to certify the wastewater treatment facility EIR by March, 2013).

### *Other Topics*

The NOP appropriately proposes impact analyses for visual impacts/aesthetics; air quality; biological resources; cultural resources; geology, soils, and seismicity, greenhouse gas emissions; hydrology and water quality, land use/planning; noise; public services; transportation and traffic; and utilities/service systems.

The Santa Monica Mountains Conservancy (SMMC) submitted a comment letter dated May 21, 2012, on the proposed hotel project. The SMMC Board of Directors includes the SMMNRA Superintendent as a board member. The SMMC letter provides comments that would also be advised by NPS. The NPS concurs with the following recommendations.

- Analyze project consistency with Malibu Land Use Plan (LUP) policies for visitor-serving facilities and the provision for low-cost overnight accommodations as part of a luxury hotel.
- Provide adequate habitat connectivity between parkland to the north and Malibu Bluffs Park. Cutting off north-south access will ultimately diminish biodiversity within Malibu Bluffs Park. To provide quality connectivity, maximize preservation of on-site native coastal sage scrub habitat that is recovering well from the 1996 and 2007 fires. Also maximize the width of the native habitat buffer at the property's perimeter.
- Analyze nighttime lighting impacts, with project alternatives that fully implement LUP policies requiring no light source be directly visible from public viewing areas. A dark night sky is critical for visitors' enjoyment of the night sky from parkland in the heart of

SMMNRA. Dark night skies are also critical for the health of wildlife and vegetation, with behaviors and growth rhythms that can be impacted by lighter conditions at night.

- Prepare visual analyses of each alternative from public trail viewpoints and scenic overlooks north of the project site. The NPS recommends the visual analyses also evaluate how much the proposed project would dominate the viewshed to the north, east, and west as perceived by travelers on Pacific Coast Highway and Malibu Canyon Road.

The Congressional law establishing the SMMNRA states that “the State of California and its local units of government have authority to prevent or minimize adverse uses of the Santa Monica Mountains and adjacent coastline area and can, to a great extent, protect the health, safety, and general welfare by the use of such authority” (16 U.S.C. 460kk, Section 507(3)). The NPS thanks the City for cooperatively planning for this visitor-serving facility within the SMMNRA.

Thank you for the opportunity to comment. If you have questions, please call Melanie Beck, Outdoor Recreation Planner, at (805) 370-2346.

Sincerely,



Lorenza Fong  
Acting Superintendent

cc: Joe Edmiston, Executive Director, Santa Monica Mountains Conservancy  
Craig Sap, Acting Superintendent, Angeles District, State Department of Parks and Recreation  
Clark Stevens, Executive Officer, Resource Conservation District of the Santa Monica Mountains



June 4, 2012

Ms. Stephanie Danner  
City of Malibu  
23825 Stuart Ranch Road  
Malibu, CA 90265

RECEIVED  
JUN 04 2012  
PLANNING DEPT.

**Subject: Notice of Preparation for a Draft Environmental Impact Report for  
Rancho Malibu Hotel Project, Los Angeles County**

Dear Ms. Danner:

The Department of Fish and Game (Department) has reviewed the Initial Study and Notice of Preparation for a Draft Environmental Impact Report (DEIR) for the construction of an approximately 274,936 square foot luxury hotel resort on 27.8 acres of vacant land (project). The project is located at 4000 Malibu Canyon Road at the northeast corner of the intersection of Malibu Canyon Road and Pacific Coast Highway, City of Malibu.

The California Wildlife Action Plan, a recent Department guidance document, identified the following stressors affecting wildlife and habitats within the project area: 1) growth and development; 2) water management conflicts and degradation of aquatic ecosystems; 3) invasive species; 4) altered fire regimes; and 5) recreational pressures. With these stressors in mind, the Department has previously worked with LAX in recommending conservation and protective measures for biological and botanical resources and looks forward to continuing this effort. Please let Department staff know if you would like a copy of the California Wildlife Action Plan to review.

The Department is California's Trustee Agency for fish and wildlife resources, holding these resources in trust for the People of the State pursuant to various provisions of the California Fish and Game Code. (Fish & G. Code, §§ 711.7, subd. (a), 1802.) The Department submits these comments in that capacity under the California Environmental Quality Act (CEQA). (See generally Pub. Resources Code, §§ 21070; 21080.4.) Given its related permitting authority under the California Endangered Species Act (CESA) and Fish and Game Code section 1600 *et seq.*, the Department also submits these comments likely as a Responsible Agency for the project under CEQA. (*Id.*, § 21069.)

To enable Department staff to adequately review and comment on the proposed project we recommend the following information, where applicable, be included in the DEIR:

1. A complete, recent assessment of flora and fauna within and adjacent to the project area, with particular emphasis upon identifying endangered, threatened, and locally unique species and sensitive habitats including:
  - a. A thorough recent assessment of rare plants and rare natural communities, following the Department's Guidelines for Assessing Impacts to Rare Plants and Rare Natural Communities. (See Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities at: <http://www.dfg.ca.gov/habcon/plant/>).

- b. A complete, recent assessment of sensitive fish, wildlife, reptile, and amphibian species. Seasonal variations in use within the project area should also be addressed. Recent, focused, species-specific surveys, conducted at the appropriate time of year and time of day when the sensitive species are active or otherwise identifiable, are required.
  - c. Endangered, rare, and threatened species to address should include all those species which meet the related definition under the CEQA Guidelines. (See Cal. Code Regs., tit. 14, § 15380). Burrowing owl should be included in the assessment following the Department's Guidelines (see 2012 Staff Report on Burrowing Owl Mitigation at: [www.dfg.ca.gov/wildlife/nongame/docs/BUOWStaffReport.pdf](http://www.dfg.ca.gov/wildlife/nongame/docs/BUOWStaffReport.pdf)).
  - d. The Department's Biogeographic Data Branch in Sacramento should be contacted at (916) 322-2493 ([www.dfg.ca.gov/biogeodata](http://www.dfg.ca.gov/biogeodata)) to obtain current information on any previously reported sensitive species and habitats, including Significant Natural Areas identified under Chapter 12 of the Fish and Game Code. Also, any Significant Ecological Areas (SEAs) or Environmentally Sensitive Habitats (ESHs) or any areas that are considered sensitive by the local jurisdiction that are located in or adjacent to the project area must be addressed.
2. A thorough discussion of direct, indirect, and cumulative impacts expected to adversely affect biological resources, with specific measures to offset such impacts. This discussion should focus on maximizing avoidance, and minimizing impacts.
- a. CEQA Guidelines, Section 15125(a), direct that knowledge of the regional setting is critical to an assessment of environmental impacts and that special emphasis should be placed on resources that are rare or unique to the region.
  - b. Project impacts including deposition of debris should also be analyzed relative to their effects on off-site habitats and populations. Specifically, this should include nearby public lands, open space, natural habitats, and riparian ecosystems. Impacts to and maintenance of wildlife corridor/movement areas, including access to undisturbed habitat in adjacent areas are of concern to the Department and should be fully evaluated and provided. The analysis should also include a discussion of the potential for impacts resulting from such effects as increased vehicle traffic, outdoor artificial lighting, noise and vibration and pest management.
  - c. A cumulative effects analysis should be developed as described under CEQA Guidelines, Section 15130. General and specific plans, as well as past, present, and anticipated future projects, should be analyzed relative to their impacts on similar plant communities and wildlife habitats.
  - d. Impacts to migratory wildlife affected by the project should be fully evaluated including proposals to remove/disturb native and ornamental landscaping and other nesting habitat for native birds. Impact evaluation may also include such elements as migratory butterfly roost sites and neo-tropical bird and waterfowl stop-over and staging sites. All migratory nongame native bird species are protected by international treaty under the Federal Migratory Bird Treaty Act (MBTA) of 1918 (50 C.F.R. Section 10.13). Sections 3503, 3503.5 and 3513 of the California Fish and Game Code prohibit take of birds and their active nests, including raptors and other migratory nongame birds as listed under the MBTA.

- e. Impacts from project activities (including but not limited to, staging and disturbances to native and non native vegetation, structures, and substrates) should occur outside of the avian breeding season which generally runs from March 1-August 31 (as early as January 1 for some raptors) to avoid take of birds or their eggs. If project activities cannot avoid the avian breeding season, nest surveys should be conducted and active nests should be avoided and provided with a minimum buffer as determined by a biological monitor (the Department generally recommends a minimum 300 foot nest avoidance buffer or 500 feet for all active raptor nests).
  - f. Proposed impacts to all habitats from City or County required Fuel Modification Zones (FMZ). Areas slated as mitigation for loss of habitat shall not occur within the FMZ.
3. A range of alternatives should be analyzed to ensure that alternatives to the proposed project are fully considered and evaluated. A range of alternatives which avoid or otherwise minimize impacts to sensitive biological resources including wetlands/riparian habitats, alluvial scrub, coastal sage scrub, should be included. Specific alternative locations should also be evaluated in areas with lower resource sensitivity where appropriate.
- a. Mitigation measures for project impacts to sensitive plants, animals, and habitats should emphasize evaluation and selection of alternatives which avoid or otherwise minimize project impacts. Compensation for unavoidable impacts through acquisition and protection of high quality habitat elsewhere should be addressed with off-site mitigation locations clearly identified.
  - b. The Department considers Rare Natural Communities as threatened habitats having both regional and local significance. Thus, these communities should be fully avoided and otherwise protected from project-related impacts (Attachment).
  - c. The Department generally does not support the use of relocation, salvage, and/or transplantation as mitigation for impacts to rare, threatened, or endangered species. Department studies have shown that these efforts are experimental in nature and largely unsuccessful.
4. An Incidental Take Permit (ITP) from the Department may be required if the project, project construction, or any project-related activity during the life of the project will result in "take" as defined by the Fish and Game Code of any species protected by CESA. (Fish & G. Code, §§86, 2080, 2081, subd. (b), (c).) Early consultation with Department regarding potential permitting obligations under CESA with respect to the project is encouraged. (Cal. Code Regs., tit. 14, § 783.2, subd. (b).) It is imperative with these potential permitting obligations that the draft environmental document prepared by the Lead Agency includes a thorough and robust analysis of the potentially significant impacts to endangered, rare, and threatened species, and their habitat, that may occur as a result of the proposed project. For any such potentially significant impacts the Lead Agency should also analyze and describe specific, potentially feasible mitigation measures to avoid or substantially lessen any such impacts as required by CEQA and, if an ITP is necessary, as required by the relevant permitting criteria prescribed by Fish and Game Code section 2081, subdivisions (b) and (c). The failure to include this analysis in an environmental document could preclude the Department from relying on the Lead Agency's analysis to issue an ITP without the Department first conducting its own, separate Lead Agency subsequent or supplemental analysis for the project. (See, e.g., Cal. Code Regs., tit. 14, § 15096, subd. (f).) For these reasons, the following information is requested:

- a. Biological mitigation monitoring and reporting proposals should be of sufficient detail and resolution to satisfy the requirements for a CESA Permit.
  - b. A Department-approved Mitigation Agreement and Mitigation Plan are required for plants listed as rare under the Native Plant Protection Act.
5. The Department opposes the elimination of watercourses (including concrete channels, blue line streams and other watercourses not designated as blue line streams on USGS maps) and/or the channelization of natural and manmade drainages or conversion to subsurface drains. All wetlands and watercourses, whether intermittent, ephemeral, or perennial, must be retained and provided with substantial setbacks which preserve the riparian and aquatic habitat values and maintain their value to on-site and off-site wildlife populations. The Department recommends a minimum natural buffer of 100 feet from the outside edge of the riparian zone on each side of drainage.
- a. The Department also has regulatory authority with regard to activities occurring in streams and/or lakes that could adversely affect any fish or wildlife resource. For any activity that will divert or obstruct the natural flow, or change the bed, channel, or bank (which may include associated riparian resources) or a river or stream or use material from a streambed, the project applicant (or "entity") must provide written notification to the Department pursuant to Section 1602 of the Fish and Game Code. Based on this notification and other information, the Department then determines whether a Lake and Streambed Alteration (LSA) Agreement is required. The Department's issuance of an LSA Agreement is a project subject to CEQA. To facilitate issuance of a LSA Agreement, if necessary, the environmental document should fully identify the potential impacts to the lake, stream or riparian resources and provide adequate avoidance, mitigation, monitoring and reporting commitments for issuance of the LSA Agreement. Early consultation is recommended, since modification of the proposed project may be required to avoid or reduce impacts to fish and wildlife resources. Again, the failure to include this analysis in the project's environmental document could preclude the Department from relying on the Lead Agency's analysis to issue a LSA Agreement without the Department first conducting its own, separate Lead Agency subsequent or supplemental analysis for the project.

Thank you for this opportunity to provide comments. Please contact Mr. Scott Harris, Environmental Scientist at (626) 797-3170 if you should have any questions and for further coordination on the proposed project.

Sincerely,



Terri Dickerson  
Senior Environmental Scientist  
South Coast Region

**Attachment**

cc: Ms. Leslie MacNair, CDFG, Laguna Hills  
Ms. Kelly Schmoker, CDFG, Pasadena  
Mr. Scott Harris, CDFG, Pasadena  
State Clearinghouse, Sacramento

### Sensitivity of Top Priority Rare Natural Communities in Southern California

Sensitivity rankings are determined by the Department of Fish and Game, California Natural Diversity Data Base and based on either number of known occurrences (locations) and/or amount of habitat remaining (acreage). The three rankings used for these top priority rare natural communities are as follows:

- S1.# Fewer than 6 known locations and/or on fewer than 2,000 acres of habitat remaining.
- S2.# Occurs in 6-20 known locations and/or 2,000-10,000 acres of habitat remaining.
- S3.# Occurs in 21-100-known locations and/or 10,000-50,000 acres of habitat remaining.

The number to the right of the decimal point after the ranking refers to the degree of threat posed to that natural community regardless of the ranking. For example:

- S1.1 = very threatened
- S2.2 = threatened
- S3.3 = no current threats known

#### Sensitivity Rankings (February 1992)

<u>Rank</u>	<u>Community Name</u>
S1.1	Mojave Riparian Forest Sonoran Cottonwood Willow Riparian Mesquite Bosque Elephant Tree Woodland Crucifixion Thorn Woodland Allthorn Woodland Arizonan Woodland Southern California Walnut Forest Mainland Cherry Forest Southern Bishop Pine Forest Torrey Pine Forest Desert Mountain White Fir Forest Southern Dune Scrub Southern Coastal Bluff Scrub Maritime Succulent Scrub Riversidean Alluvial Fan Sage Scrub Southern Maritime Chaparral Valley Needlegrass Grassland Great Basin Grassland Mojave Desert Grassland Pebble Plains Southern Sedge Bog Cismontane Alkali Marsh

- S1.2 Southern Foredunes  
Mono Pumice Flat  
Southern Interior Basalt Flow Vernal Pool
- S2.1 Venturan Coastal Sage Scrub  
Diegan Coastal Sage Scrub  
Riversidean Upland Coastal Sage Scrub  
Riversidean Desert Sage Scrub  
Sagebrush Steppe  
Desert Sink Scrub  
Mafic Southern Mixed Chaparral  
San Diego Mesa Hardpan Vernal Pool  
San Diego Mesa Claypan Vernal Pool  
Alkali Meadow  
Southern Coastal Salt Marsh  
Coastal Brackish Marsh  
Transmontane Alkali Marsh  
Coastal and Valley Freshwater Marsh  
Southern Arroyo Willow Riparian Forest  
Southern Willow Scrub  
Modoc-Great Basin Cottonwood Willow Riparian  
Modoc-Great Basin Riparian Scrub  
Mojave Desert Wash Scrub  
Engelmann Oak Woodland  
Open Engelmann Oak Woodland  
Closed Engelmann Oak Woodland  
Island Oak Woodland  
California Walnut Woodland  
Island Ironwood Forest  
Island Cherry Forest  
Southern Interior Cypress Forest  
Bigcone Spruce-Canyon Oak Forest
- S2.2 Active Coastal Dunes  
Active Desert Dunes  
Stabilized and Partially Stabilized Desert Dunes  
Stabilized and Partially Stabilized Desert Sandfield  
Mojave Mixed Steppe  
Transmontane Freshwater Marsh  
Coulter Pine Forest  
Southern California Fellfield  
White Mountains Fellfield
- S2.3 Bristlecone Pine Forest  
Limber Pine Forest

**DEPARTMENT OF TRANSPORTATION**  
DISTRICT 7, OFFICE OF REGIONAL PLANNING  
IGR/CEQA BRANCH  
100 MAIN STREET, MS # 16  
LOS ANGELES, CA 90012-3606  
PHONE: (213) 897-9140  
FAX: (213) 897-1337



*Flex your power!  
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**RECEIVED**  
**JUN 04 2012**  
**PLANNING DEPT.**

June 1, 2012

Ms. Stephanie Danner  
City of Malibu – Planning Department  
23825 Stuart Ranch Road  
Malibu, CA 90265

Re: Rancho Malibu Hotel  
Notice of Preparation of Draft EIR  
IGR#120531/EA, SCH#2012051035  
Vic: LA-001/39.00-41.00

Dear Ms. Danner:

Thank you for including the California Department of Transportation (Caltrans) in the environmental review process for the proposed Rancho Malibu Hotel project. The proposed development involves construction of a 146-room luxury hotel resort with a restaurant, ballrooms, meeting rooms, and function lawns. The project site is located in the northeast corner of the intersection between Pacific Coast Highway (PCH) and Malibu Canyon Road.

To assist us in evaluating potential transportation impacts to State highway facilities, Pacific Coast Highway is State Route 1, we request that a traffic impact study be prepared. The following are elements of what is expected in a traffic impact study for consideration by District 7 of the California Department of Transportation:

1. Analysis should include a) traffic generated by the projects under consideration, b) cumulative traffic from all related approved developments in the area, c) cumulative traffic from likely not-yet-approved developments in the area, and d) traffic growth other than from the project and developments. That is, include: existing + specific plan project + other related projects + other growth scenarios involving different assumptions on development and growth.
2. Analysis of AM, and PM peak-hour volumes for both existing and future conditions in the affected area. This should include mainline highway sections, interchanges, and intersections. If the project site is part of a specific plan area, the future scenario should extend the projected build-out year of the specific plan.
3. Presentations of assumptions and methods used to develop trip generation, trip distribution, choice of travel mode, and assignments of trips to routes. Also, consistency of travel demand modeling with other regional and local modeling forecasts and with travel data. Differences or inconsistencies must be thoroughly explained.

Ms. Stephanie Danner  
June 1, 2012  
Page 2 of 2

4. Discussion of mitigation measures appropriate to alleviate anticipated traffic impacts. This discussion should include, but not be limited to, the following:
- description of transportation infrastructure improvements
  - financial costs, funding sources and financing
  - sequence and scheduling considerations
  - implementation responsibilities, controls and monitoring

Please refer to Caltrans' Guide for the Preparation of Traffic Impact Studies for additional information regarding preferred methods of highway analysis. The Guide can be downloaded from the Internet at: [www.dot.ca.gov/hq/tpp/offices/ocp/igr\\_ceqa\\_files/tisguide.pdf](http://www.dot.ca.gov/hq/tpp/offices/ocp/igr_ceqa_files/tisguide.pdf)

We look forward to reviewing the Draft EIR. We expect to receive a copy from the State Clearinghouse. However, to expedite the review process, you may send two copies of the traffic study in advance to the undersigned.

Since the project site borders State right of way, it is likely that construction work might encroach onto it. In all instances where the proposed work falls within or affects the State right-of-way such as construction, grading, changes to hydraulic run-off, etc., a Caltrans encroachment permit will be needed.

To minimize or avoid transportation impacts to Pacific Coast Highway during construction, we request the construction management plan include provisions that avoid disruption of traffic on PCH as much as possible. Please coordinate any traffic management plans with Caltrans.

If you have any questions and wish to schedule a consultation meeting, you may contact Elmer Alvarez, project coordinator at (213) 897-6696 and please refer to our record number 120531/EA.

Sincerely,



DIANNA WATSON  
IGR/CEQA Branch Chief

**DEPARTMENT OF TRANSPORTATION**

DISTRICT 7

100 S. MAIN STREET, SUITE 100

LOS ANGELES, CA 90012-3606

PHONE (213) 897-0362

FAX (213) 897-0360

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*Flex your power!  
Be energy efficient!*

May 7, 2012

Stephanie Danner, Senior Planner  
Planning Department  
City of Malibu  
23825 Stuart Ranch Road  
Malibu, CA. 90265

**RECEIVED**  
**MAY 09 2012**  
**PLANNING DEPT.**

IGR/CEQA# 120511/NY  
NOP/146 Luxury Hotel Resort  
274,936 SF of development  
Vic. LA/001/48.17

Dear Ms. Danner:

Thank you for including the California Department of Transportation (Caltrans) in the environmental review process for the 146 Luxury Hotel resort consisting of 274,936 SF of development.

Based on the information received and to assist in the evaluation of the impacts of this project on State transportation facilities, a traffic study in advance of the DEIR should be prepared. Please refer the project's traffic consultant to the Caltrans Traffic Study guide Website:  
[www.dot.ca.gov/hq/tpp/offices/ocp/igr\\_ceqa\\_files/tisguide.pdf](http://www.dot.ca.gov/hq/tpp/offices/ocp/igr_ceqa_files/tisguide.pdf)

Listed below are some elements of what is expected in the Traffic Study:

1. Presentations of assumptions and methods used to develop trip generation, trip distribution, choice of travel mode, and assignments of trips to State Route 001 (PCH) and its facilities.
2. Consistency of project travel modeling with other regional and local modeling forecasts and with travel data. The IGR/CEQA office may use indices to check results. Differences or inconsistencies must be thoroughly explained.
3. Analysis of ADT, AM, and PM peak-hour volumes for both existing and future conditions in the affected area. This should include freeways, interchanges, and intersections, and all HOV facilities. Interchange Level of Service should be specified (HCM2000 method requested). Utilization of transit lines and vehicles, and of all facilities, should be realistically estimated. Future conditions would include build-out of all projects (see next item) and any plan-horizon years.
4. Inclusion of all appropriate traffic volumes. Analysis should include traffic from the project, cumulative traffic generated from all specific approved developments in the area, and traffic growth other than from the project and developments. For example: existing + project + other projects + other growth.

5. Discussion of mitigation measures appropriate to alleviate anticipated traffic impacts. These mitigation discussions should include, but not be limited to, the following:
- ❑ description of transportation infrastructure improvements
  - ❑ financial costs, funding sources and financing
  - ❑ sequence and scheduling considerations
  - ❑ implementation responsibilities, controls and monitoring

Any mitigation involving transit, HOV, or TDM must be rigorously justified and its effects conservatively estimated. Improvements involving dedication of land or physical construction may be favorably considered.

6. Specification of developer's percent share of the cost, as well as a plan of realistic mitigation measures under the control of the developer. The following ratio should be estimated: Additional traffic volume due to project implementation is divided by the total increase in the traffic volume (see Appendix "B" of the Guidelines). That ratio would be the project equitable share responsibility.

For purposes of determining project share of costs, the number of trips from the project on each traveling segment or element is estimated in the context of forecasted traffic volumes which include build-out of all approved and not yet approved projects, and other sources of growth. Analytical methods such as select-zone travel forecast modeling might be used.

Please be reminded that as the responsible agency for the State Highway System under CEQA, Caltrans has authority to determine the required freeway analysis for this project and is responsible for obtaining measures that will off-set project vehicle trip generation that worsens State Highway facilities. CEQA allows Caltrans to develop criteria for evaluating impacts on the facilities that it manages. In addition, the County CMP standards states that *Caltrans should be consulted for the analysis of State facilities*. Caltrans' staff welcomes the opportunity to provide consultation on this project.

We look forward to reviewing the DEIR and although we expect to receive a copy from the State Clearinghouse, you may send two copies in advance to expedite the review process.

If you have any questions regarding this response, please call the Project Engineer/Coordinator Mr. Nerses Armand Yerjianian at (213) 897-6536 and refer to IGR/CEQA # 120511/NY.

Sincerely,



DIANNA WATSON  
IGR/CEQA Branch Chief  
Regional Transportation Planning



“WE APPRECIATE YOUR PARTICIPATION”

Rancho Malibu Hotel Project  
Environmental Impact Report Scoping Meeting Comment Form

The City of Malibu and AMEC Environment & Infrastructure, Inc. request your participation in the planning process for this project. Your comments will assist us in the preparation of the Environmental Impact Report (EIR).

You may submit your comments at the May 16, 2012 meeting or, if you prefer, you can mail, email or fax your comments to:

Stephanie Danner, Senior Planner  
City of Malibu  
23825 Stuart Ranch Road  
Malibu, CA 90265

[sdanner@malibucity.org](mailto:sdanner@malibucity.org)

FAX: (310) 456-7650

For your convenience, three specific questions are listed to help organize your comments. (Note that this is a two-sided form).

1. What specific environmental impact issues would you like to see addressed in the EIR?

1) CULTURAL RESOURCES PHASE I II & III.

SITE RECORD SEARCH THRU CHRIS. SYSTEM & N.A.H.C.

2) WATER TREATMENT & HOOK-UP IS NOT EVEN IN PLACE

3) CUMULATIVE IMPACTS ALONG WITH WHOLE FOODS, CIVIC CENTER SEWER PROJECT  
PEPPERDINE SPORTS COMPLEX, LOW HOUSING REQUIREMENTS

(See Over)

2. What specific suggestions do you have to avoid or reduce one or more environmental impacts of this project?

• SENATE BILL 18 CONSULTATION WITH NATIVE REPRESENTATIVES  
• WORKING WITH ACCEPTABLE ARCHAEOLOGICAL FIRM APPROVED  
BY CHUMASH COMMUNITY

3. What is your preferred method of learning about future meetings and obtaining additional information about this project?

Newspaper Notices

Direct Mail

Email

City of Malibu Website

Facebook / Twitter

Other (Please specify) \_\_\_\_\_

Your Name:

DAVID PAUL DOMINQUEZ

Mailing Address:

33054 DECKER SCHOOL RD.

Telephone Number:

(805) 340-3545

Email:

tokyadave@AOL.com

Group You Represent:

(SELF) CHUMASH

## Stephanie Danner

---

**From:** Edward Gonzalez [edgonzalezphd@gmail.com]  
**Sent:** Thursday, May 10, 2012 10:25 PM  
**To:** Stephanie Danner  
**Subject:** Notice of Preparation and Scoping Meeting for an Environmental Impact Report

To: Stephanie Danner, Senior Planner

There is an error in the section under Project Description on the next to last paragraph on p. 3, in the sentence beginning with "To the east..." It should read four (not three) condominium complexes. For your information, the four complexes consist of 1 condominium and 3 town home complexes and in total comprise 191 units.

Edward Gonzalez  
3601 Vista Pacifica, Unit 11  
Malibu, CA  
310 456-9756

## Stephanie Danner

---

**From:** Healy patt@aol.com  
**Sent:** Wednesday, May 30, 2012 2:31 PM  
**To:** Stephanie Danner  
**Cc:** Joyce Parker-Bozylinski  
**Subject:** hotel scoping session comments

To: Stephanie Danner  
Cc: Joyce Parker-Bozylinski  
From: Patt Healy for Malibu Coalition for Slow Growth  
Date May 30, 2012  
Re: Rancho Malibu Hotel EIR

### Story Poles

Story Poles are still not in place. The public should be given a reasonable time to comment after story poles are erected before the preparation of the EIR goes forward. .

### Health and Safety

The city has the right and duty under the Constitution to exercise its police powers to protect the health and safety of its citizens. The city has many natural constraints to development and this project has to be looked at in light of its constraints.

Now is the time, before it is too late, for the city to consider protecting the health and safety of its residents rather than the desires of Developers, therefore, the EIR needs to analyze the ability of residents and visitors in the area to safely evacuate in the event of an emergency. The immediate neighborhoods of concern in the vicinity of the hotel are Serra, Knolls, Malibu Road and the Colony as well as the 2 elementary schools, Winter Canyon condos, Pepperdine University and Santa Monica College.

Also, need to include in the analysis the evacuation ability of hotel guests and staff, visitors to bluffs Park and the beaches, shoppers in the Civic Center area and possibly the residents outside of the city limits in the vicinity of Malibu Canyon Road this side of Mulholland who would be coming down Malibu Canyon to Malibu in an attempt to outrun and escape a wildfire.

The hazard of extreme wildfires throughout the city should limit city development.

Because of the city's substandard and narrow road system in its residential areas, residential evacuation in a wildfire is at best a harrowing experience and could be an impossible situation. In addition PCH, a state highway, serves residents, coastal travelers, and non local commuters and visitors alike. On summer weekends residents can't leave their homes because of gridlock the entire length of the city. What happens to the ability to evacuate in an emergency on a summer weekend or a fall afternoon/evening during rush hour? Traffic and the ability to evacuate in an emergency must be analyzed.

Note the fire department has always said they had the ability to defend a particular project. However, it is important to note they are talking about in the event of a structure fire not a wildfire. They have never said they could defend in a wildfire situation.

Other non-governmental constraints to development that impact health and safety need to be studied, including but not limited to the substandard roads system and lack of emergency water supply.

To add to the severity of the situation Malibu's water supply in many areas is substandard. Malibu's water supply is delivered from an antiquated water main that runs along PCH and then the water is diverted to water storage tanks located at higher elevations, the water feeds through gravity from the tanks delivering

to residences. It is our understanding that all new projects in the Civic Center area are required to contribute to the cost of a water tank in the Serra neighborhood. What about the existing development? We are assuming that the water supply for the proposed condo hotel project and the Crummer projects will get its water directly from a lateral offshoot of the PCH main line. Whatever the source, water will be diverted to this project, it must be analyzed as to whether or not this diversion will diminish the supply that would go to existing residents especially west of the project in an wildfire situation.

The Metropolitan Water District in the early days of cityhood wrote a letter saying that the recommended emergency water supply is seven days. At the very minimum Malibu should have a three day supply. In many areas of the city the emergency water supply on properties is less than one day and the tanks drain quickly in a wildfire situation. The cumulative impact on existing water supply (residential, institutional and commercial) in a wildfire by diverting water to this project and other pipeline projects needs to be analyzed.

### **Cumulative Impacts**

Also the cumulative impact of existing development and all the currently proposed development has to be studied.

With so many projects going thru the pipeline in the Civic Center area it is clear that this project and the others at the maximum allowable FAR of .15 are far too many \because of the existing non governmental constraints. This project's cumulative impacts needs to be studied in relation to existing development, and the following currently proposed development. Pepperdine expansion, Bluff Park residences, Whole Foods, La Paz, IOKI, Santa Monica College and Affordable Housing.

All of these projects are going forward with individual EIR's that will be looking for individual approval at by the Planning Commission and/or City Council. Is there a way to have these projects go to the decision when all the EIR's are complete so the Planning Commission and Council consider these projects as a whole and if needed reduce the density of each as they see fit?

### **Analyze Additional items**

--Lighting plan: a very low key lighting plan should be required as a mitigation factor. Off site light intrusion needs to be mitigated.

--Landscape plan to insure a majority of drought tolerant fire resistant natives plants are being used.

--Visual Impacts as seen from PCH and Malibu Canyon Rd both scenic roads as well as from residential area in the city such as the Knolls and Malibu Country Estates. Mitigation measures could include a smaller project with no development on slopes (including fire road), greater setbacks off of and from slopes. Look at whether taking all development off slopes with set back would help mitigate visual impacts and whether this could eliminate the need for retaining walls.

Assess the fire departments and an ambulances ability to reach the different structures in the event of an emergency.

--A through and accurate traffic study of traffic conditions resulting from this project and the cumulative impact of this project and other pipeline projects on traffic from McClure tunnel to county line.

Also study traffic backup on streets entering and exiting PCH and all streets in the vicinity of the Civic center (both roads in commercial and residential area) in the Civic Center vicinity. Study should be done at peak hours (at rush hour and summer weekends and traffic situation in relation to the ability to evacuate in an emergency).

The difference in the amount of traffic generated by residential owners/guests and by a guest only hotel at 80% occupancy.

--Need and location and size of an onsite emergency water storage needs to be looked at.

--Amount of needed potable water usage for this project must be looked at..

--What effect does this project have on the size of the proposed centralized treatment plant ? Would the plant be smaller without this project's hookup? How much water will this project add to the deep well injection disposal and is it safe?

--Need to look at size of on site treatment plant and how this project will safely dispose of the water if there is an onsite treatment plant.

--Geologic ability to safely dispose of wastewater on site needs to be analyzed . The relationship of this projects faults to the faults existing on the Crummer Residential project and if groundwater disposal of wastewater could migrate and contribute to the movement / failure of the coastal bluff above Malibu Rd. and of the site itself. ?

How will the fault(s) effect the ability of this project to safely dispose of its wastewater and what is the potential to damage to sewer lines water lines, electric lines and other infrastructure ?

How does excavation of so much earth effect the fault(s) that run through this property ?

### **Hotel**

Although not usually an EIR topic, the EIR would be the best place to study the type of hotel proposed and whether it meets the intention of the zoning for the site. This site was zoned to be a visitor serving site. If it is to be a commercial condo project allowing stays of up to 6 months for the owners is it still a project at meets the intended purpose of that zone.

Since the city has no architectural design Board, the EIR should look at the design of the project to be sure it is designed in such a manner that it fits the rural character of Malibu and the construction is of a high quality. Design criteria should be incorporated into the conditions of approval.

Does the hotel meet the number of condo's allowed per acre as well as the .15 FAR?

An airtight mechanism needs to be put in place to ensure that the TOT is paid by Condo owners while they are in residence and the 30 day occupancy is strictly adhered to.

Malibu is a seasonal resort destination. How does the city ensure that the condo owners do not use the hotel in high season excluding regular hotel guests during that period.?

Assessment fees for hookup to centralized sewer need to be paid at same time as other commercial project owners whether or not hotel hooks up.

### **Project alternatives**

We respectfully recommend you delete the commercial shopping center as a legitimate alternative since it would never be chosen and is not a suitable location for this type of use since it is out of the main commercial area.

We ask that you examine this project without the requested variances.

Please add as an alternative the use of this property as an extension of Bluff's Park. The city could use it for the skate boarding, playing fields and a teen center and Chumash museum

### **Conclusion**

Traffic, pedestrian safety, cultural resources etc have been raised by others so there is no need to repeat them again.

Thank you for considering these comments.

**hans laetz, j.d.**

**zuma impact environmental analysis and reporting**

6402 surfside way / malibu ca 90265

office/cell/home (424) 442-ZUMA (9862) / fax (310) 589-4885

e-mail: hanslaetz@gmail.com

Stephanie Danner, senior planner  
City of Malibu  
23825 Stuart Ranch Road  
Malibu CA 90265

May 16, 2012

**RECEIVED**  
**MAY 17 2012**  
**PLANNING DEPT.**

**City Of Malibu – Rancho Malibu Hotel Project**  
**4000 Malibu Canyon Road, Malibu**  
**Environmental Impact Report No. 12-001, Coastal Development Permit No. 11-028**  
**Demand That Defective CEQA Proceeding Be Withdrawn, or in the alternative,**  
**Amended Scoping Comments from Malibu Resident Hans Laetz**

These comments are regarding the City of Malibu's Notice Of Preparation (NOP) for the proposed Rancho Malibu hotel (the Project). I, Hans Laetz, appreciate the opportunity to make these comments, and appreciate as always the Staff's kind assistance on this matter.

The City of Malibu is respectfully notified that its NOP does not explain certain facts about the proposal, as required by the CEQA Guidelines in the California Code of Regulations. It presupposes certain entitlements and legal claims – detailed below – that are in direct opposition to allowable uses in the city's General Plan, Malibu Municipal Codes, and certified Local Coastal Program. The Scoping Session and NOP circulation cannot be properly conducted as they cannot be held on a proposal that is *per se* violative of several important regulations in the certified Malibu Local Coastal Program (LCP).

For prime example, the Rancho Malibu Hotel would sit in a Zoning District of CV-2, which the certified LCP defines as “intended to provide for visitor serving uses, including hotels serving visitors and residents, that are **designed to be consistent with the rural character and natural environmental setting** (Malibu LCP § 3.2 K.1.).”

The NOP fails to adequately explain that the Project would be inconsistent with the rural character and natural environmental setting, as it would:

- excavate and build Malibu's first multistory underground parking garage,
- exceed LCP permissible grading limits by 55 percent,
- illegally introduce an “airspace subdivision” (in actuality, a condo conversion) into a CV-2 zoning district,
- place parking lots in the front yard, instead of the mandatory landscaping,
- violate Coastal Act requirements that hotels next to public parks and recreation areas not conflict with them in scale and intensity,
- significantly hinder existing public access to an adjacent parks and close-by beaches by eliminating dozens of public parking spaces on Malibu Canyon Road,
- allow construction on LCP protected slopes,

- depend on LCP and zoning code variances that cannot under California law be legally granted,
- fail to provide the required numbers of parking spaces, and
- exceed LCP height limitations by 56 percent.

The NOP does not disclose that the site's zoning classification requires "a rural character and natural environmental setting." It does not inform concerned agencies or the public, as required by CEQA guidelines, that numerous regulations in the Malibu Municipal Code, General Plan and certified LCP would be violated by the Project.

It is obvious on its face that the requested variances would promote a Project that does not respect the rural character and natural environmental setting of Malibu as enumerated by planks in the General Plan, Municipal Code and certified LCP. And as detailed below, such variances cannot be granted to this property under any circumstance.

It is self-evident that the requested gross violations of the LCP would allow a Project that in no way could be consistent with the rural character and natural environmental setting of Malibu, as set forth in the plain language of the certified LCP. This LCP is legally superior to all city codes and policies under the state Coastal Act. The City cannot act in contravention of its LCP. Therefore, the City cannot issue an NOP for a Project that, on its face, would violate several LCP provisions.

**The NOP is thus not lawful and must be withdrawn.**

In the alternative, should the City proceed with this faulty CEQA process, the following issues (and specific items to be included in the scope of the EIR preparation [marked in brackets] ) are raised with the Project itself.

**1. The Proposal far exceeds allowable land use set forth by the certified Local Coastal Program and the General Plan or Municipal Codes for the City of Malibu, and the NOP does not properly identify this violation.**

The Malibu certified LCP states as a precept that the purpose of a CV-2 zoning district is "to provide for visitor serving uses, including hotels serving visitors and residents, that are designed to be consistent with the rural character and natural environmental setting" of Malibu. (LCP § 3.3.K.1). The General Plan states that "the CV designation provides for visitor serving uses which serve visitors and residents such as hotels and restaurants which respect the rural character and natural environmental setting (Malibu General Plan § II.1.5.4., also Malibu Municipal Code 17.28.010)."

Significant negative effects on land use and beach and parks access will occur if the Project is built. The EIR must investigate these effects, and any possible mitigation [Scoping Comment 1.].

The NOP does not disclose these foreseeable negative environmental impacts. Affected persons and government agencies are not alerted as to the true scope of the violations of the certified LCP, Malibu Municipal Code and General Plan. The State of California's CEQA Guidelines require that an NOP must disclose "probable environmental effects of the project (Title 14, California Code of Regulations, Chapter 3, Article 7, § 15082 (a) (1) (C).)" As the NOP fails to identify the above negative environmental impact, it is fatally deficient and must be withdrawn.

In the alternative, and should an EIR be composed, it must analyze the legal precedent and environmental impact of allowing a hotel Project that is not rural in character and does not respect the natural environmental setting, and thus does not comply with the above LCP policies and General Plan requirements [Scoping Comment 2.].

The EIR must consider not only the effect of granting blanket exemptions to the LCP and General Plan on an ad hoc and spot basis at this location, but the precedent that this sets along the entire Malibu coast [Scoping Comment 3.].

**2. The Proposal fails to disclose that the applicant must ask for necessary zoning changes and LCP amendments necessary to accomplish its construction, and the NOP does not properly identify this violation.**

The Proposal includes creation of an “airspace subdivision,” which is a use that is not contemplated or addressed in a CV-2 zoning district as defined by the certified LCP (LCP § 5.C.2.) Creation of an airspace subdivision would require the city council to determine that such a change is required by public necessity, convenience and general welfare. To add airspace subdivisions to permissible uses in the LCP, the city would have to amend the Zoning Districts in the General Plan and amend the certified LCP -- an action that would have to be certified by the Coastal Commission (Malibu Municipal Code § 17.74.010, LCP LIP § 19.3, California Public Resources Code § 30514 (a)).

Allowing condo conversions to sneak into various zoning districts in Malibu will not only negatively affect the environment at the Project site, it will set a precedent for other such harmful environmental effects elsewhere in Malibu. The NOP does not disclose these foreseeable negative environmental impacts. Affected persons and government agencies are not alerted as to the true scope of the violations of the certified LCP, Malibu Municipal Code and General Plan. The State of California’s CEQA Guidelines require that an NOP must disclose “probable environmental effects of the project (Title 14, California Code of Regulations, Chapter 3, Article 7, § 15082 (a) (1) (C).)” As the NOP fails to identify the above negative environmental impact, it is fatally deficient and must be withdrawn.

In the alternative, and should an EIR be composed, it must analyze the legal issues and environmental impact of ignoring or amending the zoning code and LCP by allowing an “airspace subdivision” on an ad hoc and spot basis at this location or in other CV-2 zoning districts [Scoping Comment 4.].

The EIR must examine the precedent of allowing “airspace subdivisions” -- which are not anticipated in the General Plan, Malibu Municipal Code and certified LCP -- elsewhere in Malibu [Scoping Comment 5.].

**3. The Proposal will create an airspace subdivision with lots that will not meet the minimum lot size specified by the LCP for CV-2 zoning, and the NOP does not properly identify this violation.**

The Rancho Malibu Hotel would sit in a Zoning District of CV-2, where the certified LCP Local Implementation Plan's Lot Development Criteria specifies **that all new lots shall have a minimum lot area of 5 acres, minimum lot width of 500 feet and minimum lot depth of 500 feet** (LCP-LIP § 3.3.K.3.a.). The LCP's LIP does not contemplate or allow "airspace subdivisions" in CV-2 zoning districts, nor does it exempt any type of lot from the above minimum lot areas. (Malibu LCP-LIP § 3.3.2.K.4.) The NOP does not specify the size of the condominium lots to be created, but it can be presumed that the proposed condominium units will not meet minimum CV-2 lot standards.

Allowing illegal lot subdivisions will not only negatively affect the environment at the Project site, it will set a precedent for other such harmful environmental effects elsewhere in Malibu. The NOP does not disclose these foreseeable negative environmental impacts. Affected persons and government agencies are not alerted as to the true scope of the violations of the certified LCP, Malibu Municipal Code and General Plan. The State of California's CEQA Guidelines require that an NOP must disclose "probable environmental effects of the project (Title 14, California Code of Regulations, Chapter 3, Article 7, § 15082 (a) (1) (C).)" As the NOP fails to identify the above negative environmental impact, it is fatally deficient and must be withdrawn.

Should an EIR be composed, it must analyze the legal issues and environmental impact of allowing condominium units or other non-complying lot divisions that do not meet LCP or city code standards in CV-2 zoning districts [Scoping Comment 6].

The EIR must also analyze the impact of allowing noncomplying lot divisions in other zoning districts should the precedent be set here [Scoping Comment 7].

**4. The project calls for height limit variances that are excessive.**

The Proposal calls for a main building to exceed the General Plan/Municipal Code/LCP maximum of 28 feet, with a maximum height of 36 feet and 2 inches proposed – exceeding the legal limit by 29 percent. It will be surrounded by outbuildings that are called in official documents "casitas" -- in a marketing term that bears no relation to any legal concept or description. The City should as a professional practice avoid adopting marketing terms in planning documents, or at the very least identify them as such. These outbuildings are requested to have a maximum height of 28 feet, which exceeds the LCP maximum of 18 feet -- 56 percent.

The EIR must analyze project alternatives that do not exceed the carefully-crafted and reasonable height limits of the General Plan, Malibu Municipal Code and certified LCP. [Scoping Comment 8].

**5. The Proposal calls for luxury hotel suites and condominium units without providing a lower cost visitor component, and the NOP does not properly identify this violation.**

The Proposal calls for construction of 146 luxury rooms, luxury casitas and luxury condominiums. Under the LCP regulations regarding “Luxury Overnight Accommodations,” the City may approve luxury overnight visitor accommodations if the applicant either provides lower cost accommodations on site, or pays “in-lieu fees.” (Malibu LCP Local Implementation Plan § 12.10.) **The Proposal does not specify how or where it will provide lower cost accommodations.** Staff informs me the Applicant will pay a fee to the City of Malibu. The amount of the in lieu payment, and its ultimate use, if any, is not disclosed in the NOP. The City of Malibu does not own any overnight accommodations. Nor does the City of Malibu publicly contemplate funding, purchasing or constructing any such facilities. Thus, **the LCP mandate of providing lower cost overnight accommodations will not be met.**

Further, the sale of luxury hotel condominiums will remove a segment of high-cost accommodations from the Malibu market, and reserve these accommodations only to ultra-rich high rollers who can afford to buy a hotel room for half a year, instead of one night. This will further exacerbate the imbalance of overnight accommodations that is anticipated by the LCP. And, the current in lieu fee for luxury rooms may not be appropriate for luxury condominium purchasers, who could reasonably be viewed to displace both low-cost and high-cost visitors.

Reserving beach access to high roller condo purchasers will not only negatively affect the environment at the Project site, it will set a precedent for other such harmful environmental effects elsewhere in Malibu. The NOP does not disclose these foreseeable negative environmental impacts. Affected persons and government agencies are not alerted as to the true scope of the violations of the certified LCP, Malibu Municipal Code and General Plan. The State of California’s CEQA Guidelines require that an NOP must disclose “probable environmental effects of the project (Title 14, California Code of Regulations, Chapter 3, Article 7, § 15082 (a) (1) (C).)” As the NOP fails to identify the above negative environmental impact, it is fatally deficient and must be withdrawn.

In the alternative, should an EIR be composed, it must analyze how lower cost guests will be accommodated in or near the Rancho Malibu Hotel [Scoping Comment 9].

The EIR must analyze the legal issues and environmental impact of adding ultra-high-cost luxury condominium units in Malibu, displacing high-cost and other-cost-level accommodations [Scoping Comment 10].

The EIR must analyze the appropriate “in lieu fee” that should be charged per ultra-high-cost unit in the Proposal [Scoping Comment 11].

The EIR must analyze how the City of Malibu will utilize the in lieu funds for low cost accommodations, including specific locations for hostels or campgrounds or other such accommodations required to be built in Malibu, and analyze specific construction deadlines for such facilities, if any [Scoping Comment 12].

**6. The FAR calculation of 14.45 percent fails to include a 165,259-foot parking structure or the undisclosed floor area of the “basement,” and the NOP does not properly identify this violation.**

The “project proposal” circulated by the City of Malibu (but not the NOP) indicates a “165,259 square foot parking structure will provide a majority of the parking” for 274,936 square feet of development. (<http://www.malibucity.org/download/index.cfm/fuseaction/download/cid/18007/>) The NOP notes that the 14.45 percent FAR calculation “does not include the square footage of any below ground square footage (i.e. the basement) or of any parking areas.” **The NOP does not indicate what the FAR calculations would be if the basement and/or parking structure are calculated.**

The certified LCP calls for a maximum Floor Area Ratio in CV-2 zoning districts of 15 percent. Nowhere does the LCP indicate any exemptions in calculating FAR for parking structures. Nowhere does the LCP indicate any exemption in calculating FAR for subterranean commercial enterprises such as exercise gyms or day spas. Nowhere does the LCP indicate that its grading limitations will be violated through variances to provide a fig leaf for floor area calculations for bonus footage in an attempt to evade the FAR limits. Nor does it indicate that these exemptions will only be possible through significant variances to LCP and General Plan height and grading policies.

Exempting subterranean garages and “basement” commercial floor space from FAR calculations will not only negatively affect the environment at the Project site, it will set a precedent for other such harmful environmental effects elsewhere in Malibu. The NOP does not disclose these foreseeable negative environmental impacts. Affected persons and government agencies are not alerted as to the true scope of the violations of the certified LCP, Malibu Municipal Code and General Plan. The State of California’s CEQA Guidelines require that an NOP must disclose “probable environmental effects of the project (Title 14, California Code of Regulations, Chapter 3, Article 7, § 15082 (a) (1) (C).)” As the NOP fails to identify the above negative environmental impact, it is fatally deficient and must be withdrawn.

In the alternative, should an EIR be written, it must examine the environmental impact and legality of ignoring parking structures and “basements” that are created through the legal artifice of digging holes that are far bigger than allowed by the LCP, filling them with usable commercial footage, and calling that space exempt from FAR calculations [Scoping Comment 13.].

The EIR must analyze the actual impact of the actual amount of floor space as calculated including the parking areas and subterranean floor area on the surrounding environment and city [Scoping Comment 14.].

**7. The EIR must address how a three-story subterranean parking garage complies with the LCP requirement that “grading is kept to an absolute minimum.” It must examine how the precedent of granting a variance to allow a 55 percent violation of LCP grading restrictions will apply to this and future development requests in Malibu. And the NOP does not properly identify this violation.**

The certified LCP’s development standards say that, as a precept for CV-2 zones grading, “development shall be planned to fit the topography, soils, geology, hydrology, and other conditions existing on the site so that **grading is kept to an absolute minimum.**” (Malibu LCP § 8.3.)

The Applicant plans to build an undisclosed amount of basement and underground garage space – evading the FAR limits – by asking for a variance to grade 50,380 cubic yards, when a maximum of 27,800 cubic yards is allowed.

Allowing a 55 percent overshoot in permissible grading, to create a three-story underground parking garage that does not reflect the rural nature of Malibu and adjacent parks, will not only negatively affect the environment at the Project site, it will set a precedent for other such harmful environmental effects elsewhere in Malibu. The NOP does not disclose these foreseeable negative environmental impacts. Affected persons and government agencies are not alerted as to the true scope of the violations of the certified LCP, Malibu Municipal Code and General Plan. The State of California’s CEQA Guidelines require that an NOP must disclose “probable environmental effects of the project (Title 14, California Code of Regulations, Chapter 3, Article 7, § 15082 (a) (1) (C).)” As the NOP fails to identify the above negative environmental impact, it is fatally deficient and must be withdrawn.

In the alternative, in analyzing the Project as presented (the “grading variances granted alternative”), the EIR must examine what the legal and land use ramifications for all CV-2 zoning districts should the permitting agency grant a grading variance to allow 55 percent more dirt to be moved than allowed by the General Plan and certified LCP [Scoping Comment 15.].

The EIR must also examine the precedent that the “grading variances granted alternative” for the effect this precedent would have on all other zoning districts in Malibu [Scoping Comment 16.].

The EIR must consider an alternative project with grading kept to an absolute minimum, per the LCP (a “no grading alternative”) [Scoping Comment 17.].

The EIR must consider in all respects an alternative project with a maximum of 27,800 yards of grading (a “no grading variance alternative”) [Scoping Comment 18.].

**8. The EIR must examine how creation of an aerial subdivision will create parcels that are much smaller than the average size of surrounding parcels, which is contrary to LCP-LUP policy, and what the effect would be of allowing the precedent of such a deviation from the certified LCP's LUP, and the NOP does not properly identify this violation.**

The certified LCP Land Use Plan requires that “the minimum lot size in all land use designations shall not allow land divisions where the created parcels would be smaller than the average size of surrounding parcel (LCP LUP, § 5.35).”

The NOP does not specify what the lot size in the proposed aerial subdivision would be, but it can only be assumed that the lots in the proposed vertical subdivision would be much smaller than surrounding lots, both on the subject parcel and in neighboring areas.

Allowing substandard lot sizes will not only negatively affect the environment at the Project site, it will set a precedent for other such harmful environmental effects elsewhere in Malibu. Affected persons and government agencies are not alerted as to the true scope of the violations of the certified LCP, Malibu Municipal Code and General Plan. The State of California's CEQA Guidelines require that an NOP must disclose “probable environmental effects of the project (Title 14, California Code of Regulations, Chapter 3, Article 7, § 15082 (a) (1) (C).)” As the NOP fails to identify the above negative environmental impact, it is fatally deficient and must be withdrawn.

In the alternative, should an EIR be composed, it must analyze the legal issues and environmental impact of setting a precedent for land use in the CV-2 zoning district by allowing an applicant to ignore the minimum lot size regulation in the LCP-LUP [Scoping Comment 19].

The EIR must examine the legal issues and environmental impact of setting a precedent for land use in other Malibu zoning districts by allowing an applicant to ignore the minimum lot size regulation in the LCP-LUP [Scoping Comment 20].

**9. On-site parking deficiencies are alluded to but not disclosed, and the NOP does not properly identify this violation.**

The NOP notes that **the minimum parking requirements are not met**, but does not disclose how far below the standards this Proposal sinks. The NOP does not indicate what the deficiency would be if the 55 percent grading variance is denied, or if the three-level subterranean parking garage is denied for being inconsistent with the rural character and natural environmental setting” of the Malibu coast as required by the LCP-LIP. (LCP-LIP § 3.3.K.1).

Further, the Proposal includes certain land uses that are not anticipated in the parking ratio requirements, such as banquets, weddings, Bar or Bas Mitzvahs, day spas and gymnasiums that are open to non-registered guests and residential condominiums. The EIR must examine the parking needs of such additional uses of the facility.

Significant negative effects on park access will occur if the Project is built, which will not only negatively affect the environment at the Project site, will set a precedent for other such harmful environmental effects elsewhere in Malibu. The NOP does not disclose these foreseeable negative environmental impacts. Affected persons and government agencies are not alerted as to the true scope of the violations of

the certified LCP, Malibu Municipal Code and General Plan. The State of California's CEQA Guidelines require that an NOP must disclose "probable environmental effects of the project (Title 14, California Code of Regulations, Chapter 3, Article 7, § 15082 (a) (1) (C).)" As the NOP fails to identify the above negative environmental impact, it is fatally deficient and must be withdrawn.

In the alternative, should an EIR be composed, it must analyze the legal issues and environmental impact of setting a precedent for land use in the CV-2 zoning districts by allowing an applicant to ignore minimum parking ratios and requirements set by the LCP and General Plan [Scoping Comment 21.].

The EIR must examine the impact of the above precedent as it would affect other zoning districts in Malibu [Scoping Comment 22.].

The EIR must examine various alternatives, including but not limited to reducing the number of hotel rooms, eliminating condo use, eliminating day spa or gymnasium use, prohibiting large weddings, banquets or other parties, providing for offsite parking, providing for the use of shuttles from other locales, and other mitigations to provide sufficient parking [Scoping Comment 23.].

**10. Adjacent and important Bluffs Park, Pepperdine grassy area, beach access and bicycle-user parking will be lost if the Project is constructed.**

A paramount goal of the City of Malibu certified LCP is to "maximize public access to and along the coast and maximize public recreational opportunities in the coastal zone... (LCP (1) (D) (c).)" Construction and operation of **the Project would displace dozens of free, public parking spaces** on the east side of Malibu Canyon Road, and would possibly displace such parking on the Pepperdine side of Malibu Canyon Road as well.

Several dozen cars are parked every Saturday and Sunday during Little League or youth soccer seasons or other Bluffs Park or Michael Landon Recreation Center events, and would be displaced by hotel-caused elimination of Malibu Canyon Road parking spaces. Persons contemplating the 9/11 or Memorial Day flag displays or enjoying the open space at Pepperdine University use this as the only legal parking availabilities, as parking is not permitted on PCH. The Malibu Canyon Road spaces are used by dozens of bicyclists every day for parking as they drive out to bypass congested and unsafe areas of eastern Malibu to ride their bikes on safer sections of Highway 1 west of the Civic Center. And most importantly, these parking places are the only overflow spots for people walking to nearby beaches, via trails on MRCA land and lateral access points on Malibu Road.

Operation of the hotel as proposed will include acknowledged insufficient parking for mere hotel uses. To that deficit must be added the unknown but foreseeable parking needs of condominium use, additional day spa or gym facilities patrons not anticipated in CV-2 parking ratio formulas, and the use of hotel banquet facilities for weddings and receptions. **The Project proposal is silent on how these overload parked vehicles will be handled, and what the effect would be on park, bikeway or beach users who will face increased competition for the use of diminished parking spaces.**

The Proposal also does not indicate how the already-overburdened parking lot at the City of Malibu's Bluffs Park and Michael Landon Recreation Center itself would be affected.

The NOP does not disclose these foreseeable negative environmental impacts, which will not only negatively affect the environment at the Project site, but will also set a precedent for other such harmful environmental effects elsewhere in Malibu. The State of California's CEQA Guidelines require that an NOP must disclose "probable environmental effects of the project (Title 14, California Code of Regulations, Chapter 3, Article 7, § 15082 (a) (1) (C).)" As the NOP fails to identify the above negative environmental impact, it is fatally deficient and must be withdrawn.

In the alternative, should an EIR be drafted, it must address steps the Project would be required to take to keep its employees, patrons, customers or guests from displacing parks, bicycle or beach users from parking on Malibu Canyon Road [Scoping Comment 24.].

The EIR must examine how will hundreds of construction employees not displace recreationalists in the parking lot at Bluffs Park, or the parking spaces on Malibu Canyon Road [Scoping Comment 25.].

The EIR must disclose how many existing free parking places along both sides of Malibu Canyon Road would be displaced by turn lanes, driveways, entryways or other requirements for safe vehicular ingress and egress from the hotel. The EIR must examine how these impacts can be mitigated [Scoping Comment 26.].

**11. The Proposal does not complement the existing public recreation area adjacent to the site, as required by the LCP, and the NOP does not properly identify this violation.**

The LCP's Land Use Plan states that "priority shall be given to the development of visitor-serving commercial and/or recreational uses that complement public recreation areas or supply recreational opportunities not currently available in public parks or beaches. Visitor-serving commercial and/or recreational uses may be located near public park and recreation areas only if the scale and intensity of the visitor-serving commercial recreational uses is compatible with the character of the nearby parkland and all applicable provisions of the LCP (LCP Land Use Plan section 2.C. 2.37)." The Coastal Act states that "that *properly planned* development of visitor-serving commercial facilities will promote attainment of the basic goals of the state for the coastal zone and will stimulate economic development and promote employment in coastal and inland urban waterfront areas (California Public Resources Code § 32001, emphasis added)."

The Project site is adjacent to one public park, one quasi-public park and sits within several hundred feet of open space parkland owned by the Mountains Recreation and Conservation Authority. It is within one quarter mile's hiking distance (by trail) of publicly accessible beaches. The City of Malibu's only general-purpose city park, Bluffs Park, is across Pacific Coast Highway. A huge expanse of green lawn, maintained by Pepperdine University, is across Malibu Canyon Road.

And perhaps most importantly, the Proposal sits in the heart of the Santa Monica Mountains National Recreation Area. This unit of the National Park Service was created by an Act of Congress in 1978: "Congress finds that there are significant scenic, recreational, educational, scientific, natural, archaeological, and public health benefits provided by the Santa Monica Mountains and adjacent coastline area."

One would not know about these parks by reading the Application, the description of the Proposal, or the NOP. None of the current planning documents accurately describe the park setting of the Project site. It can be successfully argued that **this Project exists in spite of the adjoining parks and nearby beaches, instead of complementing them as required by state law.** There is no interface with the parks or beaches. Visitor serving uses are intended by the LCP

It does not further use or complement the National Recreation Area or nearby city or university parks. In fact, it does not acknowledge its park setting. Most importantly, **the scale and intensity of the Proposal (with its requested LCP height and grading violations) are wholly incompatible with the parks adjacent to it, and surrounding it.** Thus, the project is not properly planned.

Public access to Malibu State Beach, Surfrider Beach, Dan Blocker Beach, Latigo Beach and even Zuma Beach – 8 miles away and the county’s most-used beach – may all be seriously reduced by traffic generated by the hotel.

The NOP does not disclose these foreseeable negative impacts on beach access and parks use, which will not only negatively affect the environment at the Project site, but will also set a precedent for other such harmful environmental effects elsewhere in Malibu. The State of California’s CEQA Guidelines require that an NOP must disclose “probable environmental effects of the project (Title 14, California Code of Regulations, Chapter 3, Article 7, § 15082 (a) (1) (C).)” As the NOP fails to identify the above negative environmental impact, it is fatally deficient and must be withdrawn.

In the alternative, should the EIR be drafted, it must examine the negative impacts to adjacent parks likely from the Project, such as the aesthetic impact on the Pepperdine lawn and Bluffs Park of an intense urban development across the streets [Scoping Comment 27.].

The EIR must examine how construction of the Project would affect beach use at every public beach from Zuma east to Santa Monica [Scoping Comment 28.].

The EIR must examine how hotel-caused congestion will reduce the ability of visitors from the Los Angeles region to reach other sections of the Santa Monica Mountains National Recreation Area – such as Tapia Park, Escondido Canyon, Circle X Ranch or the state beaches in Ventura County – by causing bottlenecks in Malibu or on U.S. 101 [Scoping Comment 29.].

Alternative projects must be envisioned that would give priority to a commercial visitor service facility that would complement the parks, instead of ignoring them [Scoping Comment 30.].

Alternative projects with a reduced scale and intensity – including but not limited to proposals that do not require extensive variances from LCP limits -- must be evaluated for their impacts on parks and beaches [Scoping Comment 31.].

The Project’s impact on existing use patterns for adjacent parks and nearby beaches must be examined [Scoping Comment 32.].

And the reduction of access for visitors into Malibu to be caused by traffic congestion related to non-parks use of the hotel – must be addressed [Scoping Comment 33.].

**12. Traffic congestion at great distance from the hotel and other Malibu Civic Center projects will be created and must be examined.**

Because of the unusual topography of the Malibu coast, **traffic congestion at any one pinch point can cause severe disruption for Malibu residents and beach or parks visitors** and – worse – ripple effects many miles away. For example, sewer construction in 2003 on Pacific Coast Highway in Santa Monica restricted one of three northbound lanes on a 24/7 basis for several months. A 45-minute commute from West L.A. to Malibu transmogrified into a regular two-hour ordeal. As traffic backed up on northbound Highway 1, unusual heavy backups developed westbound, northbound and southbound at the Interstate 10/Interstate 405 interchange. That in turn caused motorists to divert to U.S. 101 or canyon roads to reach the San Fernando Valley. The 405 backed up into Long Beach and then Orange County. Local news media did stories about how the little lane closure towards Malibu ended up corking up the entire western end of Los Angeles County.

Further, the location of the Project is atop a steep hill that is ascended by westbound Pacific Coast Highway. Traffic is observed to frequently back up below slow vehicles on the steep grade. The effect of the hill on the level of service of PCH both at the hill and at the PCH/Malibu Canyon Road signal is affected by this bottleneck. Widening this section of highway would require additional excavation that could possibly require a right of way easement or dedication to Caltrans by the Applicant. The necessary excavation would reduce the amount of flat land available for the Project and would change setback requirements.

The EIR must evaluate true traffic delays on a Malibu-specific basis, not the traditional “level of service” (LOS) at nearby intersection measurements. Calculating LOS impacts at intersections only makes sense at a project that sits in a grid of nearby intersections, but ignores the reality of the linear nature of Malibu traffic circulation [Scoping Comment 34.].

Traffic impact delay data should be in the form of additional minutes of delay at peak times, and the cumulative effect thereof. Traffic measurements cannot be quantified by LOS interceptions to reach a valid understanding of current and projected traffic congestion. Given that many PCH intersections and roads already operate at poor or failed LOS, the EIR must quantify how badly the existing overwhelmed streets and intersections will deteriorate as a result of construction of the Project [Scoping Comment 35.].

Evacuation traffic concerns must be evaluated – should the Project be built, how will it displace or affect capacity of the two lanes east, two lanes west, and one lane north that are available to handle evacuation of the area when disaster inevitably returns. The EIR must examine how emergency evacuation congestion might be increased by the Project. It must examine how emergency service providers be affected by Project-related traffic at the next disaster, and how the current status would be affected if one, two or all three access roads to the Project locale are closed [Scoping Comment 36.].

The EIR must consider the cumulative traffic impact of multiple events that can foreseeably happen at the hotel and nearby beaches, other Malibu destinations and Pepperdine University. It must include special events such as graduations, weddings, Bar Mitzvahs, and other functions at the hotel in addition to full room occupancy. It must consider peak use traffic from adjacent events at the new Pepperdine University fieldhouse, which may seat up to 10,000 people for a concert [Scoping Comment 37.].

Traffic impacts on distant freeways and roads must be evaluated. The EIR must consider the traffic congestion that can be caused by events at the hotel at every intersection and stretch of Highway along PCH from McClure Tunnel to Trancas Canyon Road. Cumulative impacts of development in the Malibu Civic Center must be calculated, including on Civic Center Way, Webb Way and Cross Creek Road. It must consider hotel-caused aggravation to traffic congestion at US 101 at Kanan and Las Virgenes roads. It must consider increased traffic on Kanan Road, Kanan-Dume Road, Las Virgenes Road, Lost Hills Road, Malibu Canyon Road, Topanga Canyon Road, California Incline, Rice Road (Oxnard), protected scenic highway sections of Pacific Coast Highway, Interstate 10 and Interstate 405 [Scoping Comment 38.].

The EIR must examine Project alternatives predicated on a reduction of the size of the Project to accommodate widening Pacific Coast Highway. Existing poor LOS, and future congestion caused by the Project, on westbound on the hill between Webb Way and Malibu Canyon Road could be alleviated by a third westbound through lane up the hill and through the Malibu Canyon signal. This study must also examine the need to widen the existing substandard right turn lane from westbound PCH to northbound Malibu Canyon Road, and the need to provide a bicycle lane and pedestrian path for the California Coastal Trail (as further discussed below). [Scoping Comment 39.].

**13. The California Coastal Trail runs along PCH at the property and the Proposal does not include any provisions for correcting dangerous conditions at or near the Project site.**

The road cut in which Pacific Coast Highway ascends the hill to Malibu Canyon Road – at the Project site – was constructed as a four-lane rural limited access highway in 1947. A right turn lane was squeezed in by converting the shoulder to a turn lane in approximately 1968, when Pepperdine University was built and Malibu Canyon Road was realigned to its present layout. This right turn lane is of substandard width. There is no sidewalk or bike lane. **The Proposal fails to address necessary PCH improvements at and near its site.**

The certified LCP requires:

- the City of Malibu to work with Caltrans “on projects to improve traffic flow and safety on PCH such as establishing bike lanes (LCP-LUP Chapter 7.C.1 § 7.11)”
- “safe and accessible bikeways and support facilities shall be provided, where feasible (LCP-LUP Chapter 2.C § 2.42).”
- “existing bikeway corridors along roads and highways should be upgraded (LCP-LUP Chapter 2.C § 2.43.).”
- “The shoreline, parklands, beaches and trails located within the City provide a wide range of recreational opportunities in natural settings which include **hiking**, equestrian activities, **bicycling**, camping, educational study, picnicking, and coastal access. These recreational opportunities shall be protected, and where feasible, expanded or enhanced as a resource of regional, state and national importance (LCP-LUP Chapter 2.C §2.1.).”

State laws include:

- the California Constitution as amended by Proposition 20, which requires that “hiking, bicycle, and equestrian trails system shall be established along or near the coast” and that “ideally the trails system should be continuous and located near the shoreline.”

- SB 908, which requires a “braided” system of coastal trails for hikers, beachgoers and bicyclists “along” the California coast (not in the water, and including PCH);
- the California Public Resources Code, which requires that the California Coastal Trail be a “continuous public right-of-way along the California coastline; a trail designed to foster appreciation and stewardship of the scenic and natural resources of the coast through hiking and other complementary modes of nonmotorized transportation.”

The EIR must discuss the existing substandard condition for pedestrians and bicyclists along PCH at the Project site. Such discussion must examine alternatives that include reducing the size of the Project to accommodate a third westbound lane and necessary bike and pedestrian paths (as discussed above). [Scoping Comment 40.].

**14. Commercial projects are required to provide pedestrian and bicycle linkages to adjacent parks or businesses, which has not been done.**

The certified LCP requires that commercial developments provide pedestrian and bicycle circulation within the projects, and to adjacent attraction (LCP-LUP Chapter 5.A.2.). As proposed, **the Project does not provide any pedestrian or bicycle linkage to Bluffs Park, Malibu State Park, beaches or nearby attractions.**

The EIR must examine how bikeways and pedestrian pathways can be added, as a Project requirement, to PCH between Malibu Canyon Road and Malibu State Park (at Cross Creek Road) to accommodate hotel guests who wish to walk or bicycle to Legacy Park, the Malibu Pier, Malibu State Park, Adamson House, various shopping attractions and the restaurants, movie theaters and other attractions at the Malibu Civic Center area [Scoping Comment 41.].

The EIR should examine the Project being required to construct a pedestrian overpass between the Project and Bluffs Park, and a trail from this overpass down the hill to the Malibu Colony shopping center area, and from there east to Malibu Lagoon along PCH. This trail could be partial mitigation for other deleterious impacts on parklands, discussed above, caused by the Project. [Scoping Comment 42.].

**15. Pacific Coast Highway retaining wall issues at the property must be discussed.**

The Project in the past has required a permit for **a retaining wall to be built in the road cut along Pacific Coast Highway, parallel to and just south of an active splay of the Malibu Coastal Fault.** In December, 1999, the California Coastal Commission approved a permit amendment to allow the Applicant to construct a retaining wall along Pacific Coast Highway (Memo of Stephanie Danner, Jan. 19 2012, <http://www.malibucity.org/download/index.cfm/fuseaction/download/cid/18006> ). The retaining wall would be exactly parallel to the splay of the Malibu Coastal Fault that runs somewhere under the property. It is not clear if such a retaining wall would be necessary for this Project, or how such a structure could possibly be made safe as it might actually straddle the fault splay for several hundred feet.

Under the certified LCP's Land Use Plan, "Pacific Coast Highway shall be protected coastal scenic highway and significant viewshed (LCP-LUP chapter 6.3 § 6.33.)." Further widening may be needed for westbound PCH (northbound Highway 1) at the Project site, as discussed above.

The EIR must examine how a retaining wall to allow the widening of PCH and the construction of the Project as envisioned would conflict with the attributes of a protected scenic viewshed (Pacific Coast Highway) and the City's main park on the other side of PCH [Scoping Comment 43.].

The EIR must examine alternative projects with a reduced building footprint that would allow for a landscaped excavation to be made to allow necessary vehicle, bicycle and pedestrian improvements on both sides of PCH, which would protect the scenic viewshed per the Coastal Act [Scoping Comment 44.].

**16. The issue of a possible traffic signal on Malibu Canyon Road, midway between PCH and Civic Center Way, must be explored.**

There is no information as to **traffic counts from the Project entryway on Malibu Canyon Road**, or if the level of traffic there would **warrant installation of a traffic signal**. There are two traffic signals on Malibu Canyon Road adjacent to the Project, (at PCH and Civic Center Way) and it is not known if adding a third signal would violate applicable city or county traffic policies or Best Management Practices regarding short-spacing. It should be noted that the city limits of Malibu are on or near the Malibu Canyon Road centerline, so Los Angeles County Department of Public Works traffic engineers should be consulted on this matter.

The EIR must examine if a traffic signal would be necessary at the hotel driveway, and if such a signal is allowable under current Los Angeles County and City of Malibu traffic engineering practices [Scoping Comment 45.].

**17. The City states the Applicant contends Project is outside the coastal appeals zone, a contention from the Applicant that is not substantiated and plausibly incorrect. The City has not stated if this is true. The NOP is faulty for failing to disclose that.**

It is not clear in the NOP how the Applicant justifies his contention that the Project is not in the **Coastal Appeals Zone**. It appears that this declaration is arbitrary and, at best, reflective of an *ad hoc* city policy that conflicts with the Coastal Act and/or the Malibu certified LCP.

Should such an exemption stand, it could negatively affect the environment at the Project site, and would set a precedent for other such harmful environmental effects elsewhere in Malibu. The State of California's CEQA Guidelines require that an NOP must disclose "probable environmental effects of the project (Title 14, California Code of Regulations, Chapter 3, Article 7, § 15082 (a) (1) (C).)" As the NOP fails to identify the above negative environmental impact, it is fatally deficient and must be withdrawn.

In the alternative, should an EIR be drafted, it must examine the environmental impact and legal foundation for exempting the entire lot from the Coastal Appeals Zone because some of it sits on land outside the zone [Scoping Comment 46.].

**18. California law does not allow for variances to be issued in these circumstances, and the NOP is deficient for not making it clear that the Proposal cannot be built without illegal variances.**

The state Planning and Zoning Laws govern general law cities such as Malibu. It mandates that a **planning variance may be granted only** "when, because of special circumstances applicable to the property, including size, shape, topography, location or surroundings, the strict application of **the zoning ordinance deprives such property** of privileges enjoyed by other property in the vicinity and under **identical zoning classification** (California Government Code § 65906)."

No other property in the vicinity is under the identical zoning classification of CV-2. It is possible that 4000 Malibu Canyon Road is the only plot in the entire City of Malibu with a CV-2 zoning. Other motels in Malibu are much, much smaller than the proposed Project, and are likely nonconforming uses built before the Coastal Act was passed, and decades before the city was incorporated. Therefore, it is not legally possible that any other property is favored due to any supposed special circumstances at the Project site. Thus, under state law it is not possible for any variance whatsoever to possibly be granted at this site.

Only though unlawful variances – prohibited by the plain language of the state Planning and Zoning Law – can this Project be built. Such variances will, as shown elsewhere, negatively affect the environment at the Project site. It would also set a precedent for other such harmful environmental effects elsewhere in Malibu. As the NOP does not disclose these probable negative environmental impacts, affected persons and government agencies reading it are not alerted as to the true scope of the violations of the state Planning and Zoning Law. The State of California's CEQA Guidelines require that an NOP must disclose "probable environmental effects of the project (Title 14, California Code of Regulations, Chapter 3, Article 7, § 15082 (a) (1) (C).)" The NOP is thus fatally deficient and must be withdrawn.

In the alternative, should an EIR be drafted, it must address the negative environmental impacts of the Project that will only occur if planning variances are granted to enable the Project to be built in its current configuration [Scoping Comment 47].

The EIR must also address the negative environmental impact of a City of Malibu precedent being set of landowners not needing to follow state law that restricts variances to limited, special circumstances [Scoping Comment 48].

**19. The Malibu Coastal Fault is alluded to, but not described, and the EIR must evaluate alternatives with no structures located on fault lines or splays.**

The **Malibu Coastal Fault** is described as traversing the property. State laws restrict the construction of buildings on recognized fault lines.

The EIR must analyze the exact location of various splays of the Malibu Coastal Fault, and if such splays underlie any portions of the plot proposed for construction, the EIR must analyze smaller alternatives that do not include buildings or other structures that straddle the fault splays [Scoping Comment 49].

**20. The propensity of this land to catch fire must be identified.**

The mesa upon which this Project is proposed shows a propensity of igniting during major brushfires that is unusual even by Malibu standards. It has burned in 1994 and 2007.

The EIR must analyze the ability of government services (such as the fire department) to prevent conflagration of this specific plot, given the unusual topographical and meteorological conditions that exist at the mouth of Malibu Canyon [Scoping Comment 49].

**21. Affected agencies have not been adequately made aware of the foreseeable environmental impacts of the Project.**

The Mountains Resources Conservation Agency, Santa Monica Mountains Conservancy and California State Parks – among other agencies – are vitally concerned about City of Malibu actions that affect nearby parks. Just this week, the MRCA objected to the mere relocation of parking spaces at Bluffs Parks, because it might decrease access to MRCA trails to the beach just west of the Michael Landon Center. It is inconceivable that MRCA and other agencies would – if so informed -- not have opinions about elimination of park patron parking along Malibu Canyon Road, among other negative environmental impacts of the Project.

At the May 16 Scoping Session, City Staff explained that MRCA had not commented and was not in attendance. Their absence in the CEQA process to date cannot logically be blamed on any supposed disinterest on development matters at this location. It can only be logically blamed on the City's insufficient description of the foreseeable negative impacts in the NOP.

Again, we protest the lack of information about potential environment impacts in the NOP, which is a right afforded to the public under CEQA to understand the potential environmental impact of a proposal before the scoping process starts. **This is not merely a bureaucratic requirement, it is a fundamental tool given to the public to participate in the process.** The existing NOP is fatally flawed and must be withdrawn for recirculation after it is remedied. **Failure to redraft and recirculate is a fatal error that places the entire CEQA document in danger for successful court challenge once the EIR is complete.** Opponents to the Project will remind the City that the ability to seek a writ to correct the improper NOP notification will ripen only after the City issues the EIR, because the doctrine of the exhaustion of administrative procedures will not allow us to seek writ to force a redraft until the CEQA EIR document is completed.

The EIR must address our demand that the NOP must be withdrawn and recirculated with adequate descriptions of potential negative impacts, per the CEQA guidelines quoted above in this comment [Scoping Comment 50].

**22. Requests for basic information made by the public at the May 16 scoping session were not answered, depriving the public and affected agencies of the ability to comment.**

At the May 16 meeting, members of the public asked several questions that were not answered:

-- The number of parking spaces is less than the minimum number required. Members of the public asked what the actual deficit is. No answer was given.

-- It remains unclear if this parking deficit includes square footage-to-parking calculations that include 76,196 square feet of so-called "basement" space. This was asked but not answered.

-- A member of the public asked if the square footage of the "outdoor event centers" was calculated in FAR ratios, and was given the one word answer "yes." But that begs multiple questions as to how much footage this is, what type of usage this was assigned, and whether connecting pathways or outdoor areas were calculated as part of the event centers. For example, if meals are to be served outdoors, does this area count as restaurant space, and factored into the parking calculations? This data is critical to forming informed comments on the NOP.

-- The NOP reports an FAR of 14.45 percent exists with the exclusion of 76,196 square feet of so-called "basements." Several people asked what the NOP would be with the inclusion of the square footage from the basements. As noted above, there is no exemption for "basements" from FAR calculations spelled out in the LCP. No answer was provided. Thus, the City has yet to provide a true FAR for comment and analysis – making it impossible to accurately comment on the NOP.

It is unacceptable that the City of Malibu makes it impossible for residents to make informed comment on this NOP, as is their right under CEQA. Again, we protest the lack of information about potential environment impacts in the NOP, which is a right afforded to the public under CEQA to understand the potential environmental impact of a proposal before the scoping process. This is not merely a bureaucratic requirement, it is a fundamental tool given to the public to participate in the process. The existing NOP is fatally flawed and must be withdrawn for repair and recirculation.

In the alternative, should an EIR be drafted, it must accurately describe the parking deficit. A scaled-back Project with 100 percent parking compliance for a Project that requires no substantive variances or violations of the Malibu Municipal Codes, General Plan or certified LCP must be considered [Scoping Comment 51.].

In the EIR, an alternative must be considered for a scaled-back Project within a 15 percent FAR that is calculated including 76,196 square feet of commercial footage in the so-called basement [Scoping Comment 52.].

The EIR must study the "outdoor events" areas and calculate them for parking purposes at the highest-possible impact level. [Scoping Comment 53.].

The EIR must examine the square footage calculations for the "outdoor events" areas, and determine if the measurements submitted by the applicant accurately include adjacent walkways and support area space [Scoping Comment 54.].

**23. The description of the parking garage is inaccurate and incomplete in the NOP and project description, and thus proper scoping comments cannot be made.**

The project description distributed by the City of Malibu states that the Proposal includes "543 parking spaces to be located primarily in a three-level, 166,827 square-foot subterranean parking structure as well as in a surface employee lot ..." Nowhere does it disclose that the subterranean garage will be topped by a

parking lot, and will sit above a 500,000 gallon reservoir in the fourth basement down. Nor does it disclose that a major splay of the Malibu Coastal Fault was mapped to cross the precise location chosen for the garage. Nor does it disclose that the garage sits on the very piece of land that will likely be needed to widen Pacific Coast Highway and Malibu Canyon Road to widen the existing substandard right turn lane from PCH to Malibu Canyon, widen PCH, provide bike and pedestrian safety facilities, and otherwise mitigate traffic problems already existing or to be caused by the Project.

The garage is thus revealed as a five-level subterranean structure, with the bottom level consisting of a 500,000-gallon reservoir and the top level devoted to parking at approximate existing grade level. The public and affected agencies are thus deprived of the ability to accurately formulate comments for the scoping, a failure by the City of Malibu to follow CEQA law.

The NOP is defective and must be redrafted and recirculated. In the alternative, should an EIR be drafted, it must accurately describe the impacts of a five-level structure, and its location blocking improvements to PCH that are required to mitigate traffic problems caused by the hotel itself, as well as congestion that already exists at this overburdened intersection [Scoping Comment 55.].

The EIR must examine if a five-level structure, with four levels of parking and one level of reservoir, can be built straddling the Malibu Coastal Fault [Scoping Comment 56.].

**24. It is not clear if there is sufficient parking for condominium rooms.**

Parking requirements for hotel rooms may be different for clientele staying for longer terms in condos. It is possible that more vehicles will be used by patrons of home units than coastal tourists.

The EIR must examine whether the parking requirements for the proposed time share or condominium units is different from the parking requirements for hotel patrons [Scoping Comment 57.].

**25. The purchase price of condominium units, as opposed to the rental rates for hotel rooms, is of vital interest in determining whether a vertical subdivision can be allowed.**

The LCP is explicit in its description of hotels in the park and beach setting of the Malibu coastal area. It is explicit in the need for low and moderate cost visitor accommodations along the coast. The project owner, Mr. Weintraub, told us May 16 that he views the sale of condo units at his hotel as “a way for people who cannot afford to buy luxury housing in Malibu to enter at a price that is affordable to them.”

It is not clear if the Coastal Act ever was intended to make “luxury housing” relatively affordable to buyers along the coast. It is our understanding that the only provisions in the Coastal Act regarding affordability are for visitors. Nonetheless, Mr. Weintraub raises an interesting point. If the aim of the condo sales plan at the hotel is to increase access to Malibu to purchasers of luxury units who cannot afford Malibu luxury condos or homes, it will be necessary to examine the sales prices that Mr. Weintraub anticipates. Mr. Weintraub refused repeated requests to discuss the price levels of the condos.

Of course, we have already proved that such sales are not allowable under the Coastal Act, Malibu Municipal Code, General Plan or certified LCP.

Should the Project be allowed to sell condominiums through vertical subdivisions, the EIR should examine the prices to be charged for such units, and whether some of the units should be reserved at below-market prices for underserved and deserving luxury home purchasers. This would apparently require a development agreement to bind the developer to sell the condo interests at set maximum levels [Scoping Comment 58.].

**26. The issue of short-spaced traffic signals on Malibu Canyon Road must be discussed.**

The City of Malibu told the public May 16 that the City traffic engineers have vetoed the installation of a traffic signal on Malibu Canyon Road at the hotel entrance, due to the inadequate distance to the PCH/Malibu Canyon Road intersection. The City told the public May 16 that the hotel entrance would otherwise “warrant” a signal.

The EIR must thoroughly examine the safety and congestion issues that will result at the hotel entrance should the Project be built, with and without signals. The impact on pedestrians, bicyclists and MTA buses at this intersection must be examined [Scoping Comment 59.].

[see next page]

**27. Fire safety issues, including emergency access road dead-ends, and emergency vehicle congestion at a key roadway junction, make construction of the Proposal impossible.**

At the May 16 meeting, the public learned of major public safety dangers caused by the anticipated Proposal's layout:

An emergency vehicle access road will loop around nearly all of the Project, but a critical gap is planned at the eastern end of the complex. This will cause two dead-end fire roads, both hook-shaped, with no connection at the eastern end of the complex. There is no T-shaped driveway to allow for fire engines to reverse direction at the end of the dead ends. There would be no vehicular access between the northern and southern emergency access roads.

Both emergency access roads are accessed only by driveways immediately adjacent to the sole vehicular or pedestrian egress to the entire complex, on Malibu Canyon Road. No fire equipment access, or pedestrian evacuation routes, are possible or down the steep slopes or the retaining walls creating the castle walls to the north, east and south of the complex. The entire building complex is essentially has one entrance and exit point, which is within 150 feet of the busiest (by traffic count) intersection in the City of Malibu, at PCH.

This intersection is the junction of all three of the only practical emergency equipment access points into the City of Malibu, and the intersection sits between the hotel and all possible fire stations within 15



miles. During brushfires in Malibu, severe congestion of emergency vehicles has been observed on Malibu Canyon Road at PCH. Fire engines have used Malibu Canyon Road as staging areas for fires. And, the hotel site has burned twice in the past 20 years, and eight times since 1945 (according to USFS records). The photo below shows a car being used by a family of four who narrowly escaped death as fire raged onto PCH at the hotel site, in October 2007.



The EIR must investigate the public safety impacts of the inadequate emergency access lanes at and leading to the Project. [Scoping Comment 60.].

The EIR must determine if the foreseeable level of congestion will hinder emergency vehicles responding all over the Malibu region during natural disasters [Scoping Comment 61.].

The EIR must determine the danger of the effective single access points and lack of alternate access points for emergency vehicles to the Project, and suggest mitigation [Scoping Comment 62.].

The EIR must consider the impact of the inability for fire engines to turn around at each end of the dead-end fire access perimeter roads, and must consider, as an alternative, smaller building layouts that would allow for three-point turns to be made by emergency vehicles at each dead end [Scoping Comment 63.].

The EIR must consider building alternatives for a smaller construction project that would allow fire roads to ring the Project [Scoping Comment 64.].

Precise emergency traffic management plans for the simultaneous evacuation of the hotel, evacuation of greater Malibu, and arrival of hundreds of fire engines and other emergency vehicles must be formulated [Scoping Comment 65.].

The effect of the loss of the wide and flat section of Malibu Canyon Road at the hotel site from use as a fire equipment staging area for brushfires must be investigated, and mitigated [Scoping Comment 66.].

**28. A map displayed of the Proposal at the meeting indicates a “private dining facility” is planned for the second story, which is not disclosed in the NOP.**

A second-floor private dining facility is marked on the second floor. No description is made of this in the eNOP or the project description. Is it a nightclub? A private club? A conditional use permit might be required for this facility. Questions must be raised if a luxury private club is envisioned in the CV-2 zoning district as delineated by the General Plan, Malibu Municipal Code or the certified LCP.

The NOP is defective and must be redrafted and recirculated to properly describe the private dining facility.

Failing that, and in the alternative, the EIR must examine whether a private dining facility is permissible in a CV-2 zone district, if such a use complements neighboring park facilities, and whether such an exclusive facility is contemplated by the Coastal Act [Scoping Comment 67.].

The EIR must examine how the project has added such features as a private dining facility, and disclose if any other unseen facilities are in the plans. If so, such facilities must be disclosed and analyzed [Scoping Comment 68.].

**29. A traffic study has been conducted, and not disclosed as a part of the NOP, making it impossible for accurate scoping comments on traffic issues to be made.**

At the May 16 meeting, it was disclosed by city staff that a traffic study has already been conducted and “is out for peer review.” The undersigned finds it impossible to accurately offer comment on the scope of issues that must be studied during the EIR process without being furnished all of the information that has been gathered by the City and by the Applicant.

The City cannot expect its citizens and outside agencies to be informed enough to offer cogent comments on transportation issues without being privy to the traffic studies that are already completed at the time of the NOP and scoping session.

## Summary

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In summary, the NOP is unlawful and scoping cannot continue until the above deficiencies are corrected. And, should the deficiencies ever be corrected and an EIR ever be drafted on the Project, the above 49 comments are offered as to what the scope should include. Of course, we will welcome the opportunity to alter or extend our comments should a revised NOP be circulated.

Sincerely,

Hans Laetz

attached: Summary of Specific Objections  
Summary of Scoping Comments

# Summary of Objections

1. The Proposal far exceeds allowable land use set forth by the certified Local Coastal Program and the General Plan or Municipal Codes for the City of Malibu, and the NOP does not properly identify this violation.
2. The Proposal fails to disclose that the applicant must ask for necessary zoning changes and LCP amendments necessary to accomplish its construction, and the NOP does not properly identify this violation.
3. The Proposal will create a airspace subdivision with lots that will not meet the minimum lot size specified by the LCP for CV-2 zoning, and the NOP does not properly identify this violation.
4. The project calls for height limit variances that are excessive.
5. The Proposal calls for luxury hotel suites and condominium units without providing a lower cost visitor component, and the NOP does not properly identify this violation.
6. The FAR calculation of 14.45 percent fails to include a 165,259-foot parking structure or the undisclosed floor area of the “basement,” and the NOP does not properly identify this violation.
7. The EIR must address how a three-story subterranean parking garage complies with the LCP requirement that “grading is kept to an absolute minimum.” It must examine how the precedent of granting a variance to allow a 55 percent violation of LCP grading restrictions will apply to this and future development requests in Malibu. And the NOP does not properly identify this violation.
8. The EIR must examine how creation of an aerial subdivision will create parcels that are much smaller than the average size of surrounding parcels, which is contrary to LCP-LUP policy, and what the effect would be of allowing the precedent of such a deviation from the certified LCP’s LUP, and the NOP does not properly identify this violation.
9. On-site parking deficiencies are alluded to but not disclosed, and the NOP does not properly identify this violation.
10. Adjacent and important Bluffs Park, Pepperdine grassy area, beach access and bicycle-user parking will be lost if the Project is constructed.
11. The Proposal does not complement the existing public recreation area adjacent to the site, as required by the LCP, and the NOP does not properly identify this violation.
12. Traffic congestion at great distance from the hotel and other Malibu Civic Center projects will be created and must be examined.
13. The California Coastal Trail runs along PCH at the property and the Proposal does not include any provisions for correcting dangerous conditions at or near the Project site.

14. Commercial projects are required to provide pedestrian and bicycle linkages to adjacent parks or businesses, which has not been done.
15. Pacific Coast Highway retaining wall issues at the property must be discussed.
16. The issue of a possible traffic signal on Malibu Canyon Road, midway between PCH and Civic Center Way, must be explored.
17. The City states the Applicant contends Project is outside the coastal appeals zone, a contention from the Applicant that is not substantiated and plausibly incorrect. The City has not stated if this is true. The NOP is faulty for failing to disclose that.
18. California law does not allow for variances to be issued in these circumstances, and the NOP is deficient for not making it clear that the Proposal cannot be built without illegal variances.
19. The Malibu Coastal Fault is alluded to, but not described, and the EIR must evaluate alternatives
20. The propensity of this land to catch fire must be identified.
21. Affected agencies have not been adequately made aware of the foreseeable environmental impacts of the Project.
22. Requests for basic information made by the public at the May 16 scoping session were not answered, depriving the public and affected agencies of the ability to comment.
23. The description of the parking garage is inaccurate and incomplete in the NOP and project description, and thus proper scoping comments cannot be made.
24. It is not clear if there is sufficient parking for condominium rooms.
25. The purchase price of condominium units, as opposed to the rental rates for hotel rooms, is of vital interest in determining whether a vertical subdivision can be allowed.
26. The issue of short-spaced traffic signals on Malibu Canyon Road must be discussed.
27. Fire safety issues, including emergency access road dead-ends, and emergency vehicle congestion at a key roadway junction, make construction of the Proposal impossible.
28. A map displayed of the Proposal at the meeting indicates a "private dining facility" is planned for the second story, which is not disclosed in the NOP.
29. A traffic study has been conducted, and not disclosed as a part of the NOP, making it impossible for accurate scoping comments on traffic issues to be made.

# Summary of Scoping Comments

1. Significant negative effects on land use and beach and parks access will occur if the Project is built. The EIR must investigate these effects, and any possible mitigation.
2. The EIR must analyze the legal precedent and environmental impact of allowing a hotel Project that is not rural in character and does not respect the natural environmental setting, and thus does not comply with applicable LCP policies and General Plan requirements.
3. The EIR must consider not only the effect of granting blanket exemptions to the LCP and General Plan on an ad hoc and spot basis at this location, but the precedent that this sets along the entire Malibu
4. The EIR must analyze the legal issues and environmental impact of ignoring or amending the zoning code and LCP by allowing an "airspace subdivision" on an ad hoc and spot basis at this location or in other CV-2 zoning
5. The EIR must examine the precedent of allowing "airspace subdivisions" -- which are not anticipated in the General Plan, Malibu Municipal Code and certified LCP -- elsewhere in Malibu.
6. The EIR must analyze the legal issues and environmental impact of allowing condominium units or other non-complying lot divisions that do not meet LCP or city code standards in CV-2 zoning districts
7. The EIR must also analyze the impact of allowing noncomplying lot divisions in other zoning districts should the precedent be set here.
8. The EIR must analyze project alternatives that do not exceed the carefully-crafted and reasonable height limits of the General Plan, Malibu Municipal Code and certified LCP.
9. The EIR must analyze how lower cost guests will be accommodated in or near the Rancho Malibu Hotel.
10. The EIR must analyze the legal issues and environmental impact of adding ultra-high-cost luxury condominium units in Malibu, displacing high-cost and other-cost-level accommodations.
11. The EIR must analyze the appropriate "in lieu fee" that should be charged per ultra-high-cost unit in the Proposal.
12. The EIR must analyze how the City of Malibu will utilize the in lieu funds for low cost accommodations, including specific locations for hostels or campgrounds or other such accommodations required to be built in Malibu, and analyze specific construction deadlines for such facilities, if any.
13. The EIR must examine the environmental impact and legality of ignoring parking structures and "basements" that are created through the legal artifice of digging holes that are far bigger than allowed by the LCP, filling them with usable commercial footage, and calling that space exempt from FAR calculations.

14. The EIR must analyze the actual impact of the actual amount of floor space as calculated including the parking areas and subterranean floor area on the surrounding environment and city.
15. In analyzing the Project as presented (the “grading variances granted alternative”), the EIR must examine what the legal and land use ramifications for all CV-2 zoning districts should the permitting agency grant a grading variance to allow 55 percent more dirt to be moved than allowed by the General Plan and certified LCP.
16. The EIR must also examine the precedent that the “grading variances granted alternative” for the effect this precedent would have on all other zoning districts in Malibu.
17. The EIR must consider an alternative project with grading kept to an absolute minimum, per the LCP (a “no grading alternative”).
18. The EIR must consider in all respects an alternative project with a maximum of 27,800 yards of grading (a “no grading variance alternative”).
19. The EIR must analyze the legal issues and environmental impact of setting a precedent for land use in the CV-2 zoning district by allowing an applicant to ignore the minimum lot size regulation in the LCP-LUP [Scoping Comment 50.].
20. The EIR must examine the legal issues and environmental impact of setting a precedent for land use in other Malibu zoning districts by allowing an applicant to ignore the minimum lot size regulation in the LCP-LUP.
21. The EIR must analyze the legal issues and environmental impact of setting a precedent for land use in the CV-2 zoning districts by allowing an applicant to ignore minimum parking ratios and requirements set by the LCP and General Plan.
22. The EIR must examine the impact of the above precedent as it would affect other zoning districts in Malibu.
23. The EIR must examine various alternatives, including but not limited to reducing the number of hotel rooms, eliminating condo use, eliminating day spa or gymnasium use, prohibiting large weddings, banquets or other parties, providing for offsite parking, providing for the use of shuttles from other locales, and other mitigations to provide sufficient parking.
24. The EIR must address steps the Project would be required to take to keep its employees, patrons, customers or guests from displacing parks, bicycle or beach users from parking on Malibu Canyon Road.
25. The EIR must examine how will hundreds of construction employees not displace recreationalists in the parking lot at Bluffs Park, or the parking spaces on Malibu Canyon Road.
26. The EIR must disclose how many existing free parking places along both sides of Malibu Canyon Road would be displaced by turn lanes, driveways, entryways or other requirements for safe vehicular ingress and egress from the hotel. The EIR must examine how these impacts can be mitigated.

27. The EIR must examine the negative impacts to adjacent parks likely from the Project, such as the aesthetic impact on the Pepperdine lawn and Bluffs Park of an intense urban development across the streets.
28. The EIR must examine how construction of the Project would affect beach use at every public beach from Zuma east to Santa Monica [Scoping Comment 51.].
29. The EIR must examine how hotel-caused congestion will reduce the ability of visitors from the Los Angeles region to reach other sections of the Santa Monica Mountains National Recreation Area – such as Tapia Park, Escondido Canyon, Circle X Ranch or the state beaches in Ventura County – by causing bottlenecks in Malibu or on U.S. 101 [Scoping Comment 52.].
30. Alternative projects must be envisioned that would give priority to a commercial visitor service facility that would complement the parks, instead of ignoring them.
31. Alternative projects with a reduced scale and intensity – including but not limited to proposals that do not require extensive variances from LCP limits -- must be evaluated for their impacts on parks and beaches.
32. The Project’s impact on existing use patterns for adjacent parks and nearby beaches must be examined.
33. The EIR must examine the reduction of access for visitors into Malibu to be caused by traffic congestion related to non-parks use of the hotel.
34. The EIR must evaluate true traffic delays on a Malibu-specific basis, not the traditional “level of service” (LOS) at nearby intersection measurements. Calculating LOS impacts at intersections only makes sense at a project that sits in a grid of nearby intersections, but ignores the reality of the linear nature of Malibu traffic circulation
35. Traffic impact delay data should be in the form of additional minutes of delay at peak times, and the cumulative effect thereof. Traffic measurements cannot be quantified by LOS interceptions to reach a valid understanding of current and projected traffic congestion. Given that many PCH intersections and roads already operate at poor or failed LOS, the EIR must quantify how badly the existing overwhelmed streets and intersections will deteriorate as a result of construction of the Project.
36. Evacuation traffic concerns must be evaluated – should the Project be built, how will it displace or affect capacity of the two lanes east, two lanes west, and one lane north that are available to handle evacuation of the area when disaster inevitably returns. The EIR must examine how emergency evacuation congestion might be increased by the Project. It must examine how emergency service providers be affected by Project-related traffic at the next disaster, and how the current status would be affected if one, two or all three access roads to the Project locale are closed.
37. The EIR must consider the cumulative traffic impact of multiple events that can foreseeably happen at the hotel and nearby beaches, other Malibu destinations and Pepperdine University. It must include special events such as graduations, weddings, Bar Mitzvahs, and other functions at the hotel in addition to full room occupancy. It must consider peak use traffic from adjacent events at the new Pepperdine University fieldhouse, which may seat up to 10,000 people for a concert .

38. Traffic impacts on distant freeways and roads must be evaluated. The EIR must consider the traffic congestion that can be caused by events at the hotel at every intersection and stretch of Highway along PCH from McClure Tunnel to Trancas Canyon Road. Cumulative impacts of development in the Malibu Civic Center must be calculated, including on Civic Center Way, Webb Way and Cross Creek Road. It must consider hotel-caused aggravation to traffic congestion at US 101 at Kanan and Las Virgenes roads. It must consider increased traffic on Kanan Road, Kanan-Dume Road, Las Virgenes Road, Lost Hills Road, Malibu Canyon Road, Topanga Canyon Road, California Incline, Rice Road (Oxnard), protected scenic highway sections of Pacific Coast Highway, Interstate 10 and Interstate 405.
39. The EIR must examine Project alternatives predicated on a reduction of the size of the Project to accommodate widening Pacific Coast Highway. Existing poor LOS, and future congestion caused by the Project, on westbound on the hill between Webb Way and Malibu Canyon Road could be alleviated by a third westbound through lane up the hill and through the Malibu Canyon signal. This study must also examine the need to widen the existing substandard right turn lane from westbound PCH to northbound Malibu Canyon Road, and the need to provide a bicycle lane and pedestrian path for the California Coastal Trail (as further discussed below).
40. The EIR must discuss the existing substandard condition for pedestrians and bicyclists along PCH at the Project site. Such discussion must examine alternatives that include reducing the size of the Project to accommodate a third westbound lane and necessary bike and pedestrian paths (as discussed above).
41. The EIR must examine how bikeways and pedestrian pathways can be added, as a Project requirement, to PCH between Malibu Canyon Road and Malibu State Park (at Cross Creek Road) to accommodate hotel guests who wish to walk or bicycle to Legacy Park, the Malibu Pier, Malibu State Park, Adamson House, various shopping attractions and the restaurants, movie theaters and other attractions at the Malibu Civic Center area.
42. The EIR should examine the Project being required to construct a pedestrian overpass between the Project and Bluffs Park, and a trail from this overpass down the hill to the Malibu Colony shopping center area, and from there east to Malibu Lagoon along PCH. This trail could be partial mitigation for other deleterious impacts on parklands, discussed above, caused by the Project.
43. The EIR must examine how a retaining wall to allow the widening of PCH and the construction of the Project as envisioned would conflict with the attributes of a protected scenic viewshed (Pacific Coast Highway) and the City's main park on the other side of PCH.
44. The EIR must examine alternative projects with a reduced building footprint that would allow for a landscaped excavation to be made to allow necessary vehicle, bicycle and pedestrian improvements on both sides of PCH, which would protect the scenic viewshed per the Coastal Act.
45. The EIR must examine if a traffic signal would be necessary at the hotel driveway, and if such a signal is allowable under current Los Angeles County and City of Malibu traffic engineering practices.
46. The EIR must examine the environmental impact and legal foundation for exempting the entire lot from the Coastal Appeals Zone because some of it sits on land outside the zone.

47. The EIR must address the negative environmental impacts of the Project that will only occur if planning variances are granted to enable the Project to be built in its current configuration.
48. The EIR must address the negative environmental impact of a City of Malibu precedent being set of landowners not needing to follow state law that restricts variances to limited, special circumstances.
49. The EIR must analyze the exact location of various splays of the Malibu Coastal Fault, and if such splays underlie any portions of the plot proposed for construction, the EIR must analyze smaller alternatives that do not include buildings or other structures that straddle the fault splays.
50. The EIR must address our demand that the NOP must be withdrawn and recirculated with adequate descriptions of potential negative impacts, per the CEQA guidelines quoted above.
51. Should an EIR be drafted, it must accurately describe the parking deficit. A scaled-back Project with 100 percent parking compliance for a Project that requires no substantive variances or violations of the Malibu Municipal Codes, General Plan or certified LCP must be considered.
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63. The EIR must consider the impact of the inability for fire engines to turn around at each end of the dead-end fire access perimeter roads, and must consider, as an alternative, smaller building layouts that would allow for three-point turns to be made by emergency vehicles at each dead end.
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65. Precise emergency traffic management plans for the simultaneous evacuation of the hotel, evacuation of greater Malibu, and arrival of hundreds of fire engines and other emergency vehicles must be formulated.
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**hans laetz, j.d.**  
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**City Of Malibu – Rancho Malibu Hotel Project**  
**4000 Malibu Canyon Road, Malibu**  
**Environmental Impact Report No. 12-001, Coastal Development Permit No. 11-028**  
**Demand That Defective CEQA Proceeding Be Withdrawn, or in the alternative,**  
**Amended Scoping Comments from Malibu Resident Hans Laetz**

These comments are regarding the City of Malibu’s Notice Of Preparation (NOP) for the proposed Rancho Malibu hotel (the Project). I, Hans Laetz, appreciate the opportunity to make these comments, and appreciate as always the Staff’s kind assistance on this matter.

The City of Malibu is respectfully notified that its NOP does not explain certain facts about the proposal, as required by the CEQA Guidelines in the California Code of Regulations. It presupposes certain entitlements and legal claims – detailed below – that are in direct opposition to allowable uses in the city’s General Plan, Malibu Municipal Codes, and certified Local Coastal Program. The Scoping Session and NOP circulation cannot be properly conducted as they cannot be held on a proposal that is *per se* violative of several important regulations in the certified Malibu Local Coastal Program (LCP).

For prime example, the Rancho Malibu Hotel would sit in a Zoning District of CV-2, which the certified LCP defines as “intended to provide for visitor serving uses, including hotels serving visitors and residents, that are **designed to be consistent with the rural character and natural environmental setting** (Malibu LCP § 3.2 K.1).”

The NOP fails to adequately explain that the Project would be inconsistent with the rural character and natural environmental setting, as it would:

- excavate and build Malibu’s first multistory underground parking garage,
- exceed LCP permissible grading limits by 55 percent,
- illegally introduce an “airspace subdivision” (in actuality, a condo conversion) into a CV-2 zoning district,
- place parking lots in the front yard, instead of the mandatory landscaping,
- violate Coastal Act requirements that hotels next to public parks and recreation areas not conflict with them in scale and intensity,
- significantly hinder existing public access to an adjacent parks and close-by beaches by eliminating dozens of public parking spaces on Malibu Canyon Road,
- allow construction on LCP protected slopes,

- depend on LCP and zoning code variances that cannot under California law be legally granted,
- fail to provide the required numbers of parking spaces, and
- exceed LCP height limitations by 56 percent.

The NOP does not disclose that the site's zoning classification requires "a rural character and natural environmental setting." It does not inform concerned agencies or the public, as required by CEQA guidelines, that numerous regulations in the Malibu Municipal Code, General Plan and certified LCP would be violated by the Project.

It is obvious on its face that the requested variances would promote a Project that does not respect the rural character and natural environmental setting of Malibu as enumerated by planks in the General Plan, Municipal Code and certified LCP. And as detailed below, such variances cannot be granted to this property under any circumstance.

It is self-evident that the requested gross violations of the LCP would allow a Project that in no way could be consistent with the rural character and natural environmental setting of Malibu, as set forth in the plain language of the certified LCP. This LCP is legally superior to all city codes and policies under the state Coastal Act. The City cannot act in contravention of its LCP. Therefore, the City cannot issue an NOP for a Project that, on its face, would violate several LCP provisions.

**The NOP is thus not lawful and must be withdrawn.**

In the alternative, should the City proceed with this faulty CEQA process, the following issues (and specific items to be included in the scope of the EIR preparation [marked in brackets] ) are raised with the Project itself.

**1. The Proposal far exceeds allowable land use set forth by the certified Local Coastal Program and the General Plan or Municipal Codes for the City of Malibu, and the NOP does not properly identify this violation.**

The Malibu certified LCP states as a precept that the purpose of a CV-2 zoning district is "to provide for visitor serving uses, including hotels serving visitors and residents, that are designed to be consistent with the rural character and natural environmental setting" of Malibu. (LCP § 3.3.K.1). The General Plan states that "the CV designation provides for visitor serving uses which serve visitors and residents such as hotels and restaurants which respect the rural character and natural environmental setting (Malibu General Plan § II.1.5.4., also Malibu Municipal Code 17.28.010)."

Significant negative effects on land use and beach and parks access will occur if the Project is built. The EIR must investigate these effects, and any possible mitigation [Scoping Comment 1.].

The NOP does not disclose these foreseeable negative environmental impacts. Affected persons and government agencies are not alerted as to the true scope of the violations of the certified LCP, Malibu Municipal Code and General Plan. The State of California's CEQA Guidelines require that an NOP must disclose "probable environmental effects of the project (Title 14, California Code of Regulations, Chapter 3, Article 7, § 15082 (a) (1) (C).)" As the NOP fails to identify the above negative environmental impact, it is fatally deficient and must be withdrawn.

In the alternative, and should an EIR be composed, it must analyze the legal precedent and environmental impact of allowing a hotel Project that is not rural in character and does not respect the natural environmental setting, and thus does not comply with the above LCP policies and General Plan requirements [Scoping Comment 2.].

The EIR must consider not only the effect of granting blanket exemptions to the LCP and General Plan on an ad hoc and spot basis at this location, but the precedent that this sets along the entire Malibu coast [Scoping Comment 3.].

**2. The Proposal fails to disclose that the applicant must ask for necessary zoning changes and LCP amendments necessary to accomplish its construction, and the NOP does not properly identify this violation.**

The Proposal includes **creation of an “airspace subdivision,” which is a use that is not contemplated or addressed in a CV-2 zoning district as defined by the certified LCP (LCP § 5.C.2.)** Creation of an airspace subdivision would require the city council to determine that such a change is required by public necessity, convenience and general welfare. To add airspace subdivisions to permissible uses in the LCP, the city would have to amend the Zoning Districts in the General Plan and amend the certified LCP -- an action that would have to be certified by the Coastal Commission (Malibu Municipal Code § 17.74.010, LCP LIP § 19.3, California Public Resources Code § 30514 (a)).

Allowing condo conversions to sneak into various zoning districts in Malibu will not only negatively affect the environment at the Project site, it will set a precedent for other such harmful environmental effects elsewhere in Malibu. The NOP does not disclose these foreseeable negative environmental impacts. Affected persons and government agencies are not alerted as to the true scope of the violations of the certified LCP, Malibu Municipal Code and General Plan. The State of California’s CEQA Guidelines require that an NOP must disclose “probable environmental effects of the project (Title 14, California Code of Regulations, Chapter 3, Article 7, § 15082 (a) (1) (C).)” As the NOP fails to identify the above negative environmental impact, it is fatally deficient and must be withdrawn.

In the alternative, and should an EIR be composed, it must analyze the legal issues and environmental impact of ignoring or amending the zoning code and LCP by allowing an “airspace subdivision” on an ad hoc and spot basis at this location or in other CV-2 zoning districts [Scoping Comment 4.].

The EIR must examine the precedent of allowing “airspace subdivisions” -- which are not anticipated in the General Plan, Malibu Municipal Code and certified LCP -- elsewhere in Malibu [Scoping Comment 5.].

**3. The Proposal will create a airspace subdivision with lots that will not meet the minimum lot size specified by the LCP for CV-2 zoning, and the NOP does not properly identify this violation.**

The Rancho Malibu Hotel would sit in a Zoning District of CV-2, where the certified LCP Local Implementation Plan's Lot Development Criteria specifies **that all new lots shall have a minimum lot area of 5 acres, minimum lot width of 500 feet and minimum lot depth of 500 feet** (LCP-LIP § 3.3.K.3.a.). The LCP's LIP does not contemplate or allow "airspace subdivisions" in CV-2 zoning districts, nor does it exempt any type of lot from the above minimum lot areas. (Malibu LCP-LIP § 3.3.2.K.4.) The NOP does not specify the size of the condominium lots to be created, but it can be presumed that the proposed condominium units will not meet minimum CV-2 lot standards.

Allowing illegal lot subdivisions will not only negatively affect the environment at the Project site, it will set a precedent for other such harmful environmental effects elsewhere in Malibu. The NOP does not disclose these foreseeable negative environmental impacts. Affected persons and government agencies are not alerted as to the true scope of the violations of the certified LCP, Malibu Municipal Code and General Plan. The State of California's CEQA Guidelines require that an NOP must disclose "probable environmental effects of the project (Title 14, California Code of Regulations, Chapter 3, Article 7, § 15082 (a) (1) (C).)" As the NOP fails to identify the above negative environmental impact, it is fatally deficient and must be withdrawn.

Should an EIR be composed, it must analyze the legal issues and environmental impact of allowing condominium units or other non-complying lot divisions that do not meet LCP or city code standards in CV-2 zoning districts [Scoping Comment 6.].

The EIR must also analyze the impact of allowing noncomplying lot divisions in other zoning districts should the precedent be set here [Scoping Comment 7.].

**4. The project calls for height limit variances that are excessive.**

The Proposal calls for a main building to exceed the General Plan/Municipal Code/LCP maximum of 28 feet, with a maximum height of 36 feet and 2 inches proposed – exceeding the legal limit by 29 percent. It will be surrounded by outbuildings that are called in official documents "casitas" -- in a marketing term that bears no relation to any legal concept or description. The City should as a professional practice avoid adopting marketing terms in planning documents, or at the very least identify them as such. These outbuildings are requested to have a maximum height of 28 feet, which exceeds the LCP maximum of 18 feet -- 56 percent.

The EIR must analyze project alternatives that do not exceed the carefully-crafted and reasonable height limits of the General Plan, Malibu Municipal Code and certified LCP. [Scoping Comment 8.].

**5. The Proposal calls for luxury hotel suites and condominium units without providing a lower cost visitor component, and the NOP does not properly identify this violation.**

The Proposal calls for construction of 146 luxury rooms, luxury casitas and luxury condominiums. Under the LCP regulations regarding “Luxury Overnight Accommodations,” the City may approve luxury overnight visitor accommodations if the applicant either provides lower cost accommodations on site, or pays “in-lieu fees.” (Malibu LCP Local Implementation Plan § 12.10.) **The Proposal does not specify how or where it will provide lower cost accommodations.** Staff informs me the Applicant will pay a fee to the City of Malibu. The amount of the in lieu payment, and its ultimate use, if any, is not disclosed in the NOP. The City of Malibu does not own any overnight accommodations. Nor does the City of Malibu publicly contemplate funding, purchasing or constructing any such facilities. Thus, **the LCP mandate of providing lower cost overnight accommodations will not be met.**

Further, the sale of luxury hotel condominiums will remove a segment of high-cost accommodations from the Malibu market, and reserve these accommodations only to ultra-rich high rollers who can afford to buy a hotel room for half a year, instead of one night. This will further exacerbate the imbalance of overnight accommodations that is anticipated by the LCP. And, the current in lieu fee for luxury rooms may not be appropriate for luxury condominium purchasers, who could reasonably be viewed to displace both low-cost and high-cost visitors.

Reserving beach access to high roller condo purchasers will not only negatively affect the environment at the Project site, it will set a precedent for other such harmful environmental effects elsewhere in Malibu. The NOP does not disclose these foreseeable negative environmental impacts. Affected persons and government agencies are not alerted as to the true scope of the violations of the certified LCP, Malibu Municipal Code and General Plan. The State of California’s CEQA Guidelines require that an NOP must disclose “probable environmental effects of the project (Title 14, California Code of Regulations, Chapter 3, Article 7, § 15082 (a) (1) (C).)” As the NOP fails to identify the above negative environmental impact, it is fatally deficient and must be withdrawn.

In the alternative, should an EIR be composed, it must analyze how lower cost guests will be accommodated in or near the Rancho Malibu Hotel [Scoping Comment 9].

The EIR must analyze the legal issues and environmental impact of adding ultra-high-cost luxury condominium units in Malibu, displacing high-cost and other-cost-level accommodations [Scoping Comment 10].

The EIR must analyze the appropriate “in lieu fee” that should be charged per ultra-high-cost unit in the Proposal [Scoping Comment 11].

The EIR must analyze how the City of Malibu will utilize the in lieu funds for low cost accommodations, including specific locations for hostels or campgrounds or other such accommodations required to be built in Malibu, and analyze specific construction deadlines for such facilities, if any [Scoping Comment 12].

**6. The FAR calculation of 14.45 percent fails to include a 165,259-foot parking structure or the undisclosed floor area of the “basement,” and the NOP does not properly identify this violation.**

The “project proposal” circulated by the City of Malibu (but not the NOP) indicates a “165,259 square foot parking structure will provide a majority of the parking” for 274,936 square feet of development. ( <http://www.malibucity.org/download/index.cfm/fuseaction/download/cid/18007/> ) The NOP notes that the 14.45 percent FAR calculation “does not include the square footage of any below ground square footage (i.e. the basement) or of any parking areas.” **The NOP does not indicate what the FAR calculations would be if the basement and/or parking structure are calculated.**

The certified LCP calls for a maximum Floor Area Ratio in CV-2 zoning districts of 15 percent. Nowhere does the LCP indicate any exemptions in calculating FAR for parking structures. Nowhere does the LCP indicate any exemption in calculating FAR for subterranean commercial enterprises such as exercise gyms or day spas. Nowhere does the LCP indicate that its grading limitations will be violated through variances to provide a fig leaf for floor area calculations for bonus footage in an attempt to evade the FAR limits. Nor does it indicate that these exemptions will only be possible through significant variances to LCP and General Plan height and grading policies.

Exempting subterranean garages and “basement” commercial floor space from FAR calculations will not only negatively affect the environment at the Project site, it will set a precedent for other such harmful environmental effects elsewhere in Malibu. The NOP does not disclose these foreseeable negative environmental impacts. Affected persons and government agencies are not alerted as to the true scope of the violations of the certified LCP, Malibu Municipal Code and General Plan. The State of California’s CEQA Guidelines require that an NOP must disclose “probable environmental effects of the project (Title 14, California Code of Regulations, Chapter 3, Article 7, § 15082 (a) (1) (C).)” As the NOP fails to identify the above negative environmental impact, it is fatally deficient and must be withdrawn.

In the alternative, should an EIR be written, it must examine the environmental impact and legality of ignoring parking structures and “basements” that are created through the legal artifice of digging holes that are far bigger than allowed by the LCP, filling them with usable commercial footage, and calling that space exempt from FAR calculations [Scoping Comment 13.].

The EIR must analyze the actual impact of the actual amount of floor space as calculated including the parking areas and subterranean floor area on the surrounding environment and city [Scoping Comment 14.].

**7. The EIR must address how a three-story subterranean parking garage complies with the LCP requirement that “grading is kept to an absolute minimum.” It must examine how the precedent of granting a variance to allow a 55 percent violation of LCP grading restrictions will apply to this and future development requests in Malibu. And the NOP does not properly identify this violation.**

The certified LCP’s development standards say that, as a precept for CV-2 zones grading, “development shall be planned to fit the topography, soils, geology, hydrology, and other conditions existing on the site so that **grading is kept to an absolute minimum.**” (Malibu LCP § 8.3.)

The Applicant plans to build an undisclosed amount of basement and underground garage space – evading the FAR limits – by asking for a variance to grade 50,380 cubic yards, when a maximum of 27,800 cubic yards is allowed.

Allowing a 55 percent overshoot in permissible grading, to create a three-story underground parking garage that does not reflect the rural nature of Malibu and adjacent parks, will not only negatively affect the environment at the Project site, it will set a precedent for other such harmful environmental effects elsewhere in Malibu. The NOP does not disclose these foreseeable negative environmental impacts. Affected persons and government agencies are not alerted as to the true scope of the violations of the certified LCP, Malibu Municipal Code and General Plan. The State of California’s CEQA Guidelines require that an NOP must disclose “probable environmental effects of the project (Title 14, California Code of Regulations, Chapter 3, Article 7, § 15082 (a) (1) (C).)” As the NOP fails to identify the above negative environmental impact, it is fatally deficient and must be withdrawn.

In the alternative, in analyzing the Project as presented (the “grading variances granted alternative”), the EIR must examine what the legal and land use ramifications for all CV-2 zoning districts should the permitting agency grant a grading variance to allow 55 percent more dirt to be moved than allowed by the General Plan and certified LCP [Scoping Comment 15.].

The EIR must also examine the precedent that the “grading variances granted alternative” for the effect this precedent would have on all other zoning districts in Malibu [Scoping Comment 16.].

The EIR must consider an alternative project with grading kept to an absolute minimum, per the LCP (a “no grading alternative”) [Scoping Comment 17.].

The EIR must consider in all respects an alternative project with a maximum of 27,800 yards of grading (a “no grading variance alternative”) [Scoping Comment 18.].

**8. The EIR must examine how creation of an aerial subdivision will create parcels that are much smaller than the average size of surrounding parcels, which is contrary to LCP-LUP policy, and what the effect would be of allowing the precedent of such a deviation from the certified LCP's LUP, and the NOP does not properly identify this violation.**

The certified LCP Land Use Plan requires that “the **minimum lot size in all land use designations shall not allow land divisions where the created parcels would be smaller than the average size of surrounding parcel** (LCP LUP, § 5.35).”

The NOP does not specify what the lot size in the proposed aerial subdivision would be, but it can only be assumed that the lots in the proposed vertical subdivision would be much smaller than surrounding lots, both on the subject parcel and in neighboring areas.

Allowing substandard lot sizes will not only negatively affect the environment at the Project site, it will set a precedent for other such harmful environmental effects elsewhere in Malibu. Affected persons and government agencies are not alerted as to the true scope of the violations of the certified LCP, Malibu Municipal Code and General Plan. The State of California's CEQA Guidelines require that an NOP must disclose “probable environmental effects of the project (Title 14, California Code of Regulations, Chapter 3, Article 7, § 15082 (a) (1) (C).)” As the NOP fails to identify the above negative environmental impact, it is fatally deficient and must be withdrawn.

In the alternative, should an EIR be composed, it must analyze the legal issues and environmental impact of setting a precedent for land use in the CV-2 zoning district by allowing an applicant to ignore the minimum lot size regulation in the LCP-LUP [Scoping Comment 19.].

The EIR must examine the legal issues and environmental impact of setting a precedent for land use in other Malibu zoning districts by allowing an applicant to ignore the minimum lot size regulation in the LCP-LUP [Scoping Comment 20.].

**9. On-site parking deficiencies are alluded to but not disclosed, and the NOP does not properly identify this violation.**

The NOP notes that **the minimum parking requirements are not met**, but does not disclose how far below the standards this Proposal sinks. The NOP does not indicate what the deficiency would be if the 55 percent grading variance is denied, or if the three-level subterranean parking garage is denied for being inconsistent with the rural character and natural environmental setting” of the Malibu coast as required by the LCP-LIP. (LCP-LIP § 3.3.K.1).

Further, the Proposal includes certain land uses that are not anticipated in the parking ratio requirements, such as banquets, weddings, Bar or Bas Mitzvahs, day spas and gymnasiums that are open to non-registered guests and residential condominiums. The EIR must examine the parking needs of such additional uses of the facility.

Significant negative effects on park access will occur if the Project is built, which will not only negatively affect the environment at the Project site, will set a precedent for other such harmful environmental effects elsewhere in Malibu. The NOP does not disclose these foreseeable negative environmental impacts. Affected persons and government agencies are not alerted as to the true scope of the violations of

the certified LCP, Malibu Municipal Code and General Plan. The State of California's CEQA Guidelines require that an NOP must disclose "probable environmental effects of the project (Title 14, California Code of Regulations, Chapter 3, Article 7, § 15082 (a) (1) (C).)" As the NOP fails to identify the above negative environmental impact, it is fatally deficient and must be withdrawn.

In the alternative, should an EIR be composed, it must analyze the legal issues and environmental impact of setting a precedent for land use in the CV-2 zoning districts by allowing an applicant to ignore minimum parking ratios and requirements set by the LCP and General Plan [Scoping Comment 21.].

The EIR must examine the impact of the above precedent as it would affect other zoning districts in Malibu [Scoping Comment 22.].

The EIR must examine various alternatives, including but not limited to reducing the number of hotel rooms, eliminating condo use, eliminating day spa or gymnasium use, prohibiting large weddings, banquets or other parties, providing for offsite parking, providing for the use of shuttles from other locales, and other mitigations to provide sufficient parking [Scoping Comment 23.].

#### **10. Adjacent and important Bluffs Park, Pepperdine grassy area, beach access and bicycle-user parking will be lost if the Project is constructed.**

A paramount goal of the City of Malibu certified LCP is to "maximize public access to and along the coast and maximize public recreational opportunities in the coastal zone... (LCP (1) (D) (c).)" Construction and operation of **the Project would displace dozens of free, public parking spaces** on the east side of Malibu Canyon Road, and would possibly displace such parking on the Pepperdine side of Malibu Canyon Road as well.

Several dozen cars are parked every Saturday and Sunday during Little League or youth soccer seasons or other Bluffs Park or Michael Landon Recreation Center events, and would be displaced by hotel-caused elimination of Malibu Canyon Road parking spaces. Persons contemplating the 9/11 or Memorial Day flag displays or enjoying the open space at Pepperdine University use this as the only legal parking availabilities, as parking is not permitted on PCH. The Malibu Canyon Road spaces are used by dozens of bicyclists every day for parking as they drive out to bypass congested and unsafe areas of eastern Malibu to ride their bikes on safer sections of Highway 1 west of the Civic Center. And most importantly, these parking places are the only overflow spots for people walking to nearby beaches, via trails on MRCA land and lateral access points on Malibu Road.

Operation of the hotel as proposed will include acknowledged insufficient parking for mere hotel uses. To that deficit must be added the unknown but foreseeable parking needs of condominium use, additional day spa or gym facilities patrons not anticipated in CV-2 parking ratio formulas, and the use of hotel banquet facilities for weddings and receptions. **The Project proposal is silent on how these overload parked vehicles will be handled, and what the effect would be on park, bikeway or beach users** who will face increased competition for the use of diminished parking spaces.

The Proposal also does not indicate how the already-overburdened parking lot at the City of Malibu's Bluffs Park and Michael Landon Recreation Center itself would be affected.

The NOP does not disclose these foreseeable negative environmental impacts, which will not only negatively affect the environment at the Project site, but will also set a precedent for other such harmful environmental effects elsewhere in Malibu. The State of California's CEQA Guidelines require that an NOP must disclose "probable environmental effects of the project (Title 14, California Code of Regulations, Chapter 3, Article 7, § 15082 (a) (1) (C).)" As the NOP fails to identify the above negative environmental impact, it is fatally deficient and must be withdrawn.

In the alternative, should an EIR be drafted, it must address steps the Project would be required to take to keep its employees, patrons, customers or guests from displacing parks, bicycle or beach users from parking on Malibu Canyon Road [Scoping Comment 24.].

The EIR must examine how will hundreds of construction employees not displace recreationalists in the parking lot at Bluffs Park, or the parking spaces on Malibu Canyon Road [Scoping Comment 25.].

The EIR must disclose how many existing free parking places along both sides of Malibu Canyon Road would be displaced by turn lanes, driveways, entryways or other requirements for safe vehicular ingress and egress from the hotel. The EIR must examine how these impacts can be mitigated [Scoping Comment 26.].

**11. The Proposal does not complement the existing public recreation area adjacent to the site, as required by the LCP, and the NOP does not properly identify this violation.**

The LCP's Land Use Plan states that "priority shall be given to the development of visitor-serving commercial and/or recreational uses that complement public recreation areas or supply recreational opportunities not currently available in public parks or beaches. Visitor-serving commercial and/or recreational uses may be located near public park and recreation areas only if the scale and intensity of the visitor-serving commercial recreational uses is compatible with the character of the nearby parkland and all applicable provisions of the LCP (LCP Land Use Plan section 2.C. 2.37)." The Coastal Act states that "that *properly planned* development of visitor-serving commercial facilities will promote attainment of the basic goals of the state for the coastal zone and will stimulate economic development and promote employment in coastal and inland urban waterfront areas (California Public Resources Code § 32001, emphasis added)."

The Project site is adjacent to one public park, one quasi-public park and sits within several hundred feet of open space parkland owned by the Mountains Recreation and Conservation Authority. It is within one quarter mile's hiking distance (by trail) of publicly accessible beaches. The City of Malibu's only general-purpose city park, Bluffs Park, is across Pacific Coast Highway. A huge expanse of green lawn, maintained by Pepperdine University, is across Malibu Canyon Road.

And perhaps most importantly, the Proposal sits in the heart of the Santa Monica Mountains National Recreation Area. This unit of the National Park Service was created by an Act of Congress in 1978: "Congress finds that there are significant scenic, recreational, educational, scientific, natural, archaeological, and public health benefits provided by the Santa Monica Mountains and adjacent coastline area."

One would not know about these parks by reading the Application, the description of the Proposal, or the NOP. None of the current planning documents accurately describe the park setting of the Project site. It can be successfully argued that **this Project exists in spite of the adjoining parks and nearby beaches, instead of complementing them as required by state law.** There is no interface with the parks or beaches. Visitor serving uses are intended by the LCP

It does not further use or complement the National Recreation Area or nearby city or university parks. In fact, it does not acknowledge its park setting. Most importantly, **the scale and intensity of the Proposal (with its requested LCP height and grading violations) are wholly incompatible with the parks adjacent to it, and surrounding it.** Thus, the project is not properly planned.

Public access to Malibu State Beach, Surfrider Beach, Dan Blocker Beach, Latigo Beach and even Zuma Beach – 8 miles away and the county’s most-used beach – may all be seriously reduced by traffic generated by the hotel.

The NOP does not disclose these foreseeable negative impacts on beach access and parks use, which will not only negatively affect the environment at the Project site, but will also set a precedent for other such harmful environmental effects elsewhere in Malibu. The State of California’s CEQA Guidelines require that an NOP must disclose “probable environmental effects of the project (Title 14, California Code of Regulations, Chapter 3, Article 7, § 15082 (a) (1) (C).)” As the NOP fails to identify the above negative environmental impact, it is fatally deficient and must be withdrawn.

In the alternative, should the EIR be drafted, it must examine the negative impacts to adjacent parks likely from the Project, such as the aesthetic impact on the Pepperdine lawn and Bluffs Park of an intense urban development across the streets [Scoping Comment 27].

The EIR must examine how construction of the Project would affect beach use at every public beach from Zuma east to Santa Monica [Scoping Comment 28].

The EIR must examine how hotel-caused congestion will reduce the ability of visitors from the Los Angeles region to reach other sections of the Santa Monica Mountains National Recreation Area – such as Tapia Park, Escondido Canyon, Circle X Ranch or the state beaches in Ventura County – by causing bottlenecks in Malibu or on U.S. 101 [Scoping Comment 29].

Alternative projects must be envisioned that would give priority to a commercial visitor service facility that would complement the parks, instead of ignoring them [Scoping Comment 30].

Alternative projects with a reduced scale and intensity – including but not limited to proposals that do not require extensive variances from LCP limits -- must be evaluated for their impacts on parks and beaches [Scoping Comment 31].

The Project’s impact on existing use patterns for adjacent parks and nearby beaches must be examined [Scoping Comment 32].

And the reduction of access for visitors into Malibu to be caused by traffic congestion related to non-parks use of the hotel – must be addressed [Scoping Comment 33].

**12. Traffic congestion at great distance from the hotel and other Malibu Civic Center projects will be created and must be examined.**

Because of the unusual topography of the Malibu coast, **traffic congestion at any one pinch point can cause severe disruption for Malibu residents and beach or parks visitors** and – worse -- ripple effects many miles away. For example, sewer construction in 2003 on Pacific Coast Highway in Santa Monica restricted one of three northbound lanes on a 24/7 basis for several months. A 45-minute commute from West L.A. to Malibu transmogrified into a regular two-hour ordeal. As traffic backed up on northbound Highway 1, unusual heavy backups developed westbound, northbound and southbound at the Interstate 10/Interstate 405 interchange. That in turn caused motorists to divert to U.S. 101 or canyon roads to reach the San Fernando Valley. The 405 backed up into Long Beach and then Orange County. Local news media did stories about how the little lane closure towards Malibu ended up corking up the entire western end of Los Angeles County.

Further, the location of the Project is atop a steep hill that is ascended by westbound Pacific Coast Highway. Traffic is observed to frequently back up below slow vehicles on the steep grade. The effect of the hill on the level of service of PCH both at the hill and at the PCH/Malibu Canyon Road signal is affected by this bottleneck. Widening this section of highway would require additional excavation that could possibly require a right of way easement or dedication to Caltrans by the Applicant. The necessary excavation would reduce the amount of flat land available for the Project and would change setback requirements.

The EIR must evaluate true traffic delays on a Malibu-specific basis, not the traditional “level of service” (LOS) at nearby intersection measurements. Calculating LOS impacts at intersections only makes sense at a project that sits in a grid of nearby intersections, but ignores the reality of the linear nature of Malibu traffic circulation [Scoping Comment 34.].

Traffic impact delay data should be in the form of additional minutes of delay at peak times, and the cumulative effect thereof. Traffic measurements cannot be quantified by LOS interceptions to reach a valid understanding of current and projected traffic congestion. Given that many PCH intersections and roads already operate at poor or failed LOS, the EIR must quantify how badly the existing overwhelmed streets and intersections will deteriorate as a result of construction of the Project [Scoping Comment 35.].

Evacuation traffic concerns must be evaluated – should the Project be built, how will it displace or affect capacity of the two lanes east, two lanes west, and one lane north that are available to handle evacuation of the area when disaster inevitably returns. The EIR must examine how emergency evacuation congestion might be increased by the Project. It must examine how emergency service providers be affected by Project-related traffic at the next disaster, and how the current status would be affected if one, two or all three access roads to the Project locale are closed [Scoping Comment 36.].

The EIR must consider the cumulative traffic impact of multiple events that can foreseeably happen at the hotel and nearby beaches, other Malibu destinations and Pepperdine University. It must include special events such as graduations, weddings, Bar Mitzvahs, and other functions at the hotel in addition to full room occupancy. It must consider peak use traffic from adjacent events at the new Pepperdine University fieldhouse, which may seat up to 10,000 people for a concert [Scoping Comment 37.].

Traffic impacts on distant freeways and roads must be evaluated. The EIR must consider the traffic congestion that can be caused by events at the hotel at every intersection and stretch of Highway along PCH from McClure Tunnel to Trancas Canyon Road. Cumulative impacts of development in the Malibu Civic Center must be calculated, including on Civic Center Way, Webb Way and Cross Creek Road. It must consider hotel-caused aggravation to traffic congestion at US 101 at Kanan and Las Virgenes roads. It must consider increased traffic on Kanan Road, Kanan-Dume Road, Las Virgenes Road, Lost Hills Road, Malibu Canyon Road, Topanga Canyon Road, California Incline, Rice Road (Oxnard), protected scenic highway sections of Pacific Coast Highway, Interstate 10 and Interstate 405 [Scoping Comment 38.].

The EIR must examine Project alternatives predicated on a reduction of the size of the Project to accommodate widening Pacific Coast Highway. Existing poor LOS, and future congestion caused by the Project, on westbound on the hill between Webb Way and Malibu Canyon Road could be alleviated by a third westbound through lane up the hill and through the Malibu Canyon signal. This study must also examine the need to widen the existing substandard right turn lane from westbound PCH to northbound Malibu Canyon Road, and the need to provide a bicycle lane and pedestrian path for the California Coastal Trail (as further discussed below). [Scoping Comment 39.].

**13. The California Coastal Trail runs along PCH at the property and the Proposal does not include any provisions for correcting dangerous conditions at or near the Project site.**

The road cut in which Pacific Coast Highway ascends the hill to Malibu Canyon Road – at the Project site – was constructed as a four-lane rural limited access highway in 1947. A right turn lane was squeezed in by converting the shoulder to a turn lane in approximately 1968, when Pepperdine University was built and Malibu Canyon Road was realigned to its present layout. This right turn lane is of substandard width. There is no sidewalk or bike lane. **The Proposal fails to address necessary PCH improvements at and near its site.**

The certified LCP requires:

- the City of Malibu to work with Caltrans “on projects to improve traffic flow and safety on PCH such as establishing bike lanes (LCP-LUP Chapter 7.C.1 § 7.11)”
- “safe and accessible bikeways and support facilities shall be provided, where feasible (LCP-LUP Chapter 2.C § 2.42).”
- “existing bikeway corridors along roads and highways should be upgraded (LCP-LUP Chapter 2.C § 2.43).”
- “The shoreline, parklands, beaches and trails located within the City provide a wide range of recreational opportunities in natural settings which include **hiking**, equestrian activities, **bicycling**, camping, educational study, picnicking, and coastal access. These recreational opportunities shall be protected, and where feasible, expanded or enhanced as a resource of regional, state and national importance (LCP-LUP Chapter 2.C §2.1.).”

State laws include:

- the California Constitution as amended by Proposition 20, which requires that “hiking, bicycle, and equestrian trails system shall be established along or near the coast” and that “ideally the trails system should be continuous and located near the shoreline.”

-- SB 908, which requires a “braided” system of coastal trails for hikers, beachgoers and bicyclists “along” the California coast (not in the water, and including PCH);  
-- the California Public Resources Code, which requires that the California Coastal Trail be a “continuous public right-of-way along the California coastline; a trail designed to foster appreciation and stewardship of the scenic and natural resources of the coast through hiking and other complementary modes of nonmotorized transportation.”

The EIR must discuss the existing substandard condition for pedestrians and bicyclists along PCH at the Project site. Such discussion must examine alternatives that include reducing the size of the Project to accommodate a third westbound lane and necessary bike and pedestrian paths (as discussed above). [Scoping Comment 40].

#### **14. Commercial projects are required to provide pedestrian and bicycle linkages to adjacent parks or businesses, which has not been done.**

The certified LCP requires that commercial developments provide pedestrian and bicycle circulation within the projects, and to adjacent attraction (LCP-LUP Chapter 5.A.2.). As proposed, **the Project does not provide any pedestrian or bicycle linkage to Bluffs Park, Malibu State Park, beaches or nearby attractions.**

The EIR must examine how bikeways and pedestrian pathways can be added, as a Project requirement, to PCH between Malibu Canyon Road and Malibu State Park (at Cross Creek Road) to accommodate hotel guests who wish to walk or bicycle to Legacy Park, the Malibu Pier, Malibu State Park, Adamson House, various shopping attractions and the restaurants, movie theaters and other attractions at the Malibu Civic Center area [Scoping Comment 41].

The EIR should examine the Project being required to construct a pedestrian overpass between the Project and Bluffs Park, and a trail from this overpass down the hill to the Malibu Colony shopping center area, and from there east to Malibu Lagoon along PCH. This trail could be partial mitigation for other deleterious impacts on parklands, discussed above, caused by the Project. [Scoping Comment 42].

#### **15. Pacific Coast Highway retaining wall issues at the property must be discussed.**

The Project in the past has required a permit for **a retaining wall to be built in the road cut along Pacific Coast Highway, parallel to and just south of an active splay of the Malibu Coastal Fault.** In December, 1999, the California Coastal Commission approved a permit amendment to allow the Applicant to construct a retaining wall along Pacific Coast Highway (Memo of Stephanie Danner, Jan. 19 2012, <http://www.malibucity.org/download/index.cfm/fuseaction/download/cid/18006> ). The retaining wall would be exactly parallel to the splay of the Malibu Coastal Fault that runs somewhere under the property. It is not clear if such a retaining wall would be necessary for this Project, or how such a structure could possibly be made safe as it might actually straddle the fault splay for several hundred feet.

Under the certified LCP's Land Use Plan, "Pacific Coast Highway shall be protected coastal scenic highway and significant viewshed (LCP-LUP chapter 6.3 § 6.33.)." Further widening may be needed for westbound PCH (northbound Highway 1) at the Project site, as discussed above.

The EIR must examine how a retaining wall to allow the widening of PCH and the construction of the Project as envisioned would conflict with the attributes of a protected scenic viewshed (Pacific Coast Highway) and the City's main park on the other side of PCH [Scoping Comment 43.].

The EIR must examine alternative projects with a reduced building footprint that would allow for a landscaped excavation to be made to allow necessary vehicle, bicycle and pedestrian improvements on both sides of PCH, which would protect the scenic viewshed per the Coastal Act [Scoping Comment 44.].

**16. The issue of a possible traffic signal on Malibu Canyon Road, midway between PCH and Civic Center Way, must be explored.**

There is no information as to **traffic counts from the Project entryway on Malibu Canyon Road**, or if the level of traffic there would **warrant installation of a traffic signal**. There are two traffic signals on Malibu Canyon Road adjacent to the Project, (at PCH and Civic Center Way) and it is not known if adding a third signal would violate applicable city or county traffic policies or Best Management Practices regarding short-spacing. It should be noted that the city limits of Malibu are on or near the Malibu Canyon Road centerline, so Los Angeles County Department of Public Works traffic engineers should be consulted on this matter.

The EIR must examine if a traffic signal would be necessary at the hotel driveway, and if such a signal is allowable under current Los Angeles County and City of Malibu traffic engineering practices [Scoping Comment 45.].

**17. The City states the Applicant contends Project is outside the coastal appeals zone, a contention from the Applicant that is not substantiated and plausibly incorrect. The City has not stated if this is true. The NOP is faulty for failing to disclose that.**

It is not clear in the NOP how the Applicant justifies his contention that the Project is not in the **Coastal Appeals Zone**. It appears that this declaration is arbitrary and, at best, reflective of an *ad hoc* city policy that conflicts with the Coastal Act and/or the Malibu certified LCP.

Should such an exemption stand, it could negatively affect the environment at the Project site, and would set a precedent for other such harmful environmental effects elsewhere in Malibu. The State of California's CEQA Guidelines require that an NOP must disclose "probable environmental effects of the project (Title 14, California Code of Regulations, Chapter 3, Article 7, § 15082 (a) (1) (C).)" As the NOP fails to identify the above negative environmental impact, it is fatally deficient and must be withdrawn.

In the alternative, should an EIR be drafted, it must examine the environmental impact and legal foundation for exempting the entire lot from the Coastal Appeals Zone because some of it sits on land outside the zone [Scoping Comment 46.].

**18. California law does not allow for variances to be issued in these circumstances, and the NOP is deficient for not making it clear that the Proposal cannot be built without illegal variances.**

The state Planning and Zoning Laws govern general law cities such as Malibu. It mandates that a **planning variance may be granted only** "when, because of special circumstances applicable to the property, including size, shape, topography, location or surroundings, the strict application of **the zoning ordinance deprives such property** of privileges enjoyed by other property in the vicinity and under **identical zoning classification** (California Government Code § 65906)."

No other property in the vicinity is under the identical zoning classification of CV-2. It is possible that 4000 Malibu Canyon Road is the only plot in the entire City of Malibu with a CV-2 zoning. Other motels in Malibu are much, much smaller than the proposed Project, and are likely nonconforming uses built before the Coastal Act was passed, and decades before the city was incorporated. Therefore, it is not legally possible that any other property is favored due to any supposed special circumstances at the Project site. Thus, under state law it is not possible for any variance whatsoever to possibly be granted at this site.

Only though unlawful variances – prohibited by the plain language of the state Planning and Zoning Law – can this Project be built. Such variances will, as shown elsewhere, negatively affect the environment at the Project site. It would also set a precedent for other such harmful environmental effects elsewhere in Malibu. As the NOP does not disclose these probable negative environmental impacts, affected persons and government agencies reading it are not alerted as to the true scope of the violations of the state Planning and Zoning Law. The State of California's CEQA Guidelines require that an NOP must disclose "probable environmental effects of the project (Title 14, California Code of Regulations, Chapter 3, Article 7, § 15082 (a) (1) (C))." The NOP is thus fatally deficient and must be withdrawn.

In the alternative, should an EIR be drafted, it must address the negative environmental impacts of the Project that will only occur if planning variances are granted to enable the Project to be built in its current configuration [Scoping Comment 47.].

The EIR must also address the negative environmental impact of a City of Malibu precedent being set of landowners not needing to follow state law that restricts variances to limited, special circumstances [Scoping Comment 48.].

**19. The Malibu Coastal Fault is alluded to, but not described, and the EIR must evaluate alternatives with no structures located on fault lines or splays.**

The **Malibu Coastal Fault** is described as traversing the property. State laws restrict the construction of buildings on recognized fault lines.

The EIR must analyze the exact location of various splays of the Malibu Coastal Fault, and if such splays underlie any portions of the plot proposed for construction, the EIR must analyze smaller alternatives that do not include buildings or other structures that straddle the fault splays [Scoping Comment 49.].

**20. The propensity of this land to catch fire must be identified.**

The mesa upon which this Project is proposed shows a propensity of igniting during major brushfires that is unusual even by Malibu standards. It has burned in 1994 and 2007.

The EIR must analyze the ability of government services (such as the fire department) to prevent conflagration of this specific plot, given the unusual topographical and meteorological conditions that exist at the mouth of Malibu Canyon [Scoping Comment 49].

**21. Affected agencies have not been adequately made aware of the foreseeable environmental impacts of the Project.**

The Mountains Resources Conservation Agency, Santa Monica Mountains Conservancy and California State Parks – among other agencies – are vitally concerned about City of Malibu actions that affect nearby parks. Just this week, the MRCA objected to the mere relocation of parking spaces at Bluffs Parks, because it might decrease access to MRCA trails to the beach just west of the Michael Landon Center. It is inconceivable that MRCA and other agencies would – if so informed -- not have opinions about elimination of park patron parking along Malibu Canyon Road, among other negative environmental impacts of the Project.

At the May 16 Scoping Session, City Staff explained that MRCA had not commented and was not in attendance. Their absence in the CEQA process to date cannot logically be blamed on any supposed disinterest on development matters at this location. It can only be logically blamed on the City's insufficient description of the foreseeable negative impacts in the NOP.

Again, we protest the lack of information about potential environment impacts in the NOP, which is a right afforded to the public under CEQA to understand the potential environmental impact of a proposal before the scoping process starts. **This is not merely a bureaucratic requirement, it is a fundamental tool given to the public to participate in the process.** The existing NOP is fatally flawed and must be withdrawn for recirculation after it is remedied. **Failure to redraft and recirculate is a fatal error that places the entire CEQA document in danger for successful court challenge once the EIR is complete.** Opponents to the Project will remind the City that the ability to seek a writ to correct the improper NOP notification will ripen only after the City issues the EIR, because the doctrine of the exhaustion of administrative procedures will not allow us to seek writ to force a redraft until the CEQA EIR document is completed.

The EIR must address our demand that the NOP must be withdrawn and recirculated with adequate descriptions of potential negative impacts, per the CEQA guidelines quoted above in this comment [Scoping Comment 50.].

**22. Requests for basic information made by the public at the May 16 scoping session were not answered, depriving the public and affected agencies of the ability to comment.**

At the May 16 meeting, members of the public asked several questions that were not answered:

-- The number of parking spaces is less than the minimum number required. Members of the public asked what the actual deficit is. No answer was given.

-- It remains unclear if this parking deficit includes square footage-to-parking calculations that include 76,196 square feet of so-called “basement” space. This was asked but not answered.

-- A member of the public asked if the square footage of the “outdoor event centers” was calculated in FAR ratios, and was given the one word answer “yes.” But that begs multiple questions as to how much footage this is, what type of usage this was assigned, and whether connecting pathways or outdoor areas were calculated as part of the event centers. For example, if meals are to be served outdoors, does this area count as restaurant space, and factored into the parking calculations? This data is critical to forming informed comments on the NOP.

-- The NOP reports an FAR of 14.45 percent exists with the exclusion of 76,196 square feet of so-called “basements.” Several people asked what the NOP would be with the inclusion of the square footage from the basements. As noted above, there is no exemption for “basements” from FAR calculations spelled out in the LCP. No answer was provided. Thus, the City has yet to provide a true FAR for comment and analysis – making it impossible to accurately comment on the NOP.

It is unacceptable that the City of Malibu makes it impossible for residents to make informed comment on this NOP, as is their right under CEQA. Again, we protest the lack of information about potential environment impacts in the NOP, which is a right afforded to the public under CEQA to understand the potential environmental impact of a proposal before the scoping process. This is not merely a bureaucratic requirement, it is a fundamental tool given to the public to participate in the process. The existing NOP is fatally flawed and must be withdrawn for repair and recirculation.

In the alternative, should an EIR be drafted, it must accurately describe the parking deficit. A scaled-back Project with 100 percent parking compliance for a Project that requires no substantive variances or violations of the Malibu Municipal Codes, General Plan or certified LCP must be considered [Scoping Comment 51.].

In the EIR, an alternative must be considered for a scaled-back Project within a 15 percent FAR that is calculated including 76,196 square feet of commercial footage in the so-called basement [Scoping Comment 52.].

The EIR must study the “outdoor events” areas and calculate them for parking purposes at the highest-possible impact level. [Scoping Comment 53.].

The EIR must examine the square footage calculations for the “outdoor events” areas, and determine if the measurements submitted by the applicant accurately include adjacent walkways and support area space [Scoping Comment 54.].

**23. The description of the parking garage is inaccurate and incomplete in the NOP and project description, and thus proper scoping comments cannot be made.**

The project description distributed by the City of Malibu states that the Proposal includes “543 parking spaces to be located primarily in a three-level, 166,827 square-foot subterranean parking structure as well as in a surface employee lot ...” Nowhere does it disclose that the subterranean garage will be topped by a

parking lot, and will sit above a 500,000 gallon reservoir in the fourth basement down. Nor does it disclose that a major splay of the Malibu Coastal Fault was mapped to cross the precise location chosen for the garage. Nor does it disclose that the garage sits on the very piece of land that will likely be needed to widen Pacific Coast Highway and Malibu Canyon Road to widen the existing substandard right turn lane from PCH to Malibu Canyon, widen PCH, provide bike and pedestrian safety facilities, and otherwise mitigate traffic problems already existing or to be caused by the Project.

The garage is thus revealed as a five-level subterranean structure, with the bottom level consisting of a 500,000-gallon reservoir and the top level devoted to parking at approximate existing grade level. The public and affected agencies are thus deprived of the ability to accurately formulate comments for the scoping, a failure by the City of Malibu to follow CEQA law.

The NOP is defective and must be redrafted and recirculated. In the alternative, should an EIR be drafted, it must accurately describe the impacts of a five-level structure, and its location blocking improvements to PCH that are required to mitigate traffic problems caused by the hotel itself, as well as congestion that already exists at this overburdened intersection [Scoping Comment 55].

The EIR must examine if a five-level structure, with four levels of parking and one level of reservoir, can be built straddling the Malibu Coastal Fault [Scoping Comment 56].

**24. It is not clear if there is sufficient parking for condominium rooms.**

Parking requirements for hotel rooms may be different for clientele staying for longer terms in condos. It is possible that more vehicles will be used by patrons of home units than coastal tourists.

The EIR must examine whether the parking requirements for the proposed time share or condominium units is different from the parking requirements for hotel patrons [Scoping Comment 57].

**25. The purchase price of condominium units, as opposed to the rental rates for hotel rooms, is of vital interest in determining whether a vertical subdivision can be allowed.**

The LCP is explicit in its description of hotels in the park and beach setting of the Malibu coastal area. It is explicit in the need for low and moderate cost visitor accommodations along the coast. The project owner, Mr. Weintraub, told us May 16 that he views the sale of condo units at his hotel as “a way for people who cannot afford to buy luxury housing in Malibu to enter at a price that is affordable to them.”

It is not clear if the Coastal Act ever was intended to make “luxury housing” relatively affordable to buyers along the coast. It is our understanding that the only provisions in the Coastal Act regarding affordability are for visitors. Nonetheless, Mr. Weintraub raises an interesting point. If the aim of the condo sales plan at the hotel is to increase access to Malibu to purchasers of luxury units who cannot afford Malibu luxury condos or homes, it will be necessary to examine the sales prices that Mr. Weintraub anticipates. Mr. Weintraub refused repeated requests to discuss the price levels of the condos.

Of course, we have already proved that such sales are not allowable under the Coastal Act, Malibu Municipal Code, General Plan or certified LCP.

Should the Project be allowed to sell condominiums through vertical subdivisions, the EIR should examine the prices to be charged for such units, and whether some of the units should be reserved at below-market prices for underserved and deserving luxury home purchasers. This would apparently require a development agreement to bind the developer to sell the condo interests at set maximum levels [Scoping Comment 58.].

**26. The issue of short-spaced traffic signals on Malibu Canyon Road must be discussed.**

The City of Malibu told the public May 16 that the City traffic engineers have vetoed the installation of a traffic signal on Malibu Canyon Road at the hotel entrance, due to the inadequate distance to the PCH/Malibu Canyon Road intersection. The City told the public May 16 that the hotel entrance would otherwise “warrant” a signal.

The EIR must thoroughly examine the safety and congestion issues that will result at the hotel entrance should the Project be built, with and without signals. The impact on pedestrians, bicyclists and MTA buses at this intersection must be examined [Scoping Comment 59.].

[see next page]

**27. Fire safety issues, including emergency access road dead-ends, and emergency vehicle congestion at a key roadway junction, make construction of the Proposal impossible.**

At the May 16 meeting, the public learned of major public safety dangers caused by the anticipated Proposal's layout:

An emergency vehicle access road will loop around nearly all of the Project, but a critical gap is planned at the eastern end of the complex. This will cause two dead-end fire roads, both hook-shaped, with no connection at the eastern end of the complex. There is no T-shaped driveway to allow for fire engines to reverse direction at the end of the dead ends. There would be no vehicular access between the northern and southern emergency access roads.

Both emergency access roads are accessed only by driveways immediately adjacent to the sole vehicular or pedestrian egress to the entire complex, on Malibu Canyon Road. No fire equipment access, or pedestrian evacuation routes, are possible or down the steep slopes or the retaining walls creating the castle walls to the north, east and south of the complex. The entire building complex is essentially has one entrance and exit point, which is within 150 feet of the busiest (by traffic count) intersection in the City of Malibu, at PCH.

This intersection is the junction of all three of the only practical emergency equipment access points into the City of Malibu, and the intersection sits between the hotel and all possible fire stations within 15



miles. During brushfires in Malibu, severe congestion of emergency vehicles has been observed on Malibu Canyon Road at PCH. Fire engines have used Malibu Canyon Road as staging areas for fires. And, the hotel site has burned twice in the past 20 years, and eight times since 1945 (according to USFS records). The photo below shows a car being used by a family of four who narrowly escaped death as fire raged onto PCH at the hotel site, in October 2007.



The EIR must investigate the public safety impacts of the inadequate emergency access lanes at and leading to the Project. [Scoping Comment 60.].

The EIR must determine if the foreseeable level of congestion will hinder emergency vehicles responding all over the Malibu region during natural disasters [Scoping Comment 61.].

The EIR must determine the danger of the effective single access points and lack or alternate access points for emergency vehicles to the Project, and suggest mitigation [Scoping Comment 62.].

The EIR must consider the impact of the inability for fire engines to turn around at each end of the dead-end fire access perimeter roads, and must consider, as an alternative, smaller building layouts that would allow for three-point turns to be made by emergency vehicles at each dead end [Scoping Comment 63.].

The EIR must consider building alternatives for a smaller construction project that would allow fire roads to ring the Project [Scoping Comment 64.].

Precise emergency traffic management plans for the simultaneous evacuation of the hotel, evacuation of greater Malibu, and arrival of hundreds of fire engines and other emergency vehicles must be formulated [Scoping Comment 65.].

The effect of the loss of the wide and flat section of Malibu Canyon Road at the hotel site from use as a fire equipment staging area for brushfires must be investigated, and mitigated [Scoping Comment 66.].

**28. A map displayed of the Proposal at the meeting indicates a “private dining facility” is planned for the second story, which is not disclosed in the NOP.**

A second-floor private dining facility is marked on the second floor. No description is made of this in the eNOP or the project description. Is it a nightclub? A private club? A conditional use permit might be required for this facility. Questions must be raised if a luxury private club is envisioned in the CV-2 zoning district as delineated by the General Plan, Malibu Municipal Code or the certified LCP.

The NOP is defective and must be redrafted and recirculated to properly describe the private dining facility.

Failing that, and in the alternative, the EIR must examine whether a private dining facility is permissible in a CV-2 zone district, if such a use complements neighboring park facilities, and whether such an exclusive facility is contemplated by the Coastal Act [Scoping Comment 67.].

The EIR must examine how the project has added such features as a private dining facility, and disclose if any other unseen facilities are in the plans. If so, such facilities must be disclosed and analyzed [Scoping Comment 68.].

**29. A traffic study has been conducted, and not disclosed as a part of the NOP, making it impossible for accurate scoping comments on traffic issues to be made.**

At the May 16 meeting, it was disclosed by city staff that a traffic study has already been conducted and “is out for peer review.” The undersigned finds it impossible to accurately offer comment on the scope of issues that must be studied during the EIR process without being furnished all of the information that has been gathered by the City and by the Applicant.

The City cannot expect its citizens and outside agencies to be informed enough to offer cogent comments on transportation issues without being privy to the traffic studies that are already completed at the time of the NOP and scoping session.

**Summary**

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In summary, the NOP is unlawful and scoping cannot continue until the above deficiencies are corrected. And, should the deficiencies ever be corrected and an EIR ever be drafted on the Project, the above 49 comments are offered as to what the scope should include. Of course, we will welcome the opportunity to alter or extend our comments should a revised NOP be circulated.

Sincerely,

Hans Laetz

attached: Summary of Specific Objections  
Summary of Scoping Comments

# Summary of Objections

1. The Proposal far exceeds allowable land use set forth by the certified Local Coastal Program and the General Plan or Municipal Codes for the City of Malibu, and the NOP does not properly identify this violation.
2. The Proposal fails to disclose that the applicant must ask for necessary zoning changes and LCP amendments necessary to accomplish its construction, and the NOP does not properly identify this violation.
3. The Proposal will create a airspace subdivision with lots that will not meet the minimum lot size specified by the LCP for CV-2 zoning, and the NOP does not properly identify this violation.
4. The project calls for height limit variances that are excessive.
5. The Proposal calls for luxury hotel suites and condominium units without providing a lower cost visitor component, and the NOP does not properly identify this violation.
6. The FAR calculation of 14.45 percent fails to include a 165,259-foot parking structure or the undisclosed floor area of the “basement,” and the NOP does not properly identify this violation.
7. The EIR must address how a three-story subterranean parking garage complies with the LCP requirement that “grading is kept to an absolute minimum.” It must examine how the precedent of granting a variance to allow a 55 percent violation of LCP grading restrictions will apply to this and future development requests in Malibu. And the NOP does not properly identify this violation.
8. The EIR must examine how creation of an aerial subdivision will create parcels that are much smaller than the average size of surrounding parcels, which is contrary to LCP-LUP policy, and what the effect would be of allowing the precedent of such a deviation from the certified LCP’s LUP, and the NOP does not properly identify this violation.
9. On-site parking deficiencies are alluded to but not disclosed, and the NOP does not properly identify this violation.
10. Adjacent and important Bluffs Park, Pepperdine grassy area, beach access and bicycle-user parking will be lost if the Project is constructed.
11. The Proposal does not complement the existing public recreation area adjacent to the site, as required by the LCP, and the NOP does not properly identify this violation.
12. Traffic congestion at great distance from the hotel and other Malibu Civic Center projects will be created and must be examined.
13. The California Coastal Trail runs along PCH at the property and the Proposal does not include any provisions for correcting dangerous conditions at or near the Project site.

14. Commercial projects are required to provide pedestrian and bicycle linkages to adjacent parks or businesses, which has not been done.
15. Pacific Coast Highway retaining wall issues at the property must be discussed.
16. The issue of a possible traffic signal on Malibu Canyon Road, midway between PCH and Civic Center Way, must be explored.
17. The City states the Applicant contends Project is outside the coastal appeals zone, a contention from the Applicant that is not substantiated and plausibly incorrect. The City has not stated if this is true. The NOP is faulty for failing to disclose that.
18. California law does not allow for variances to be issued in these circumstances, and the NOP is deficient for not making it clear that the Proposal cannot be built without illegal variances.
19. The Malibu Coastal Fault is alluded to, but not described, and the EIR must evaluate alternatives
20. The propensity of this land to catch fire must be identified.
21. Affected agencies have not been adequately made aware of the foreseeable environmental impacts of the Project.
22. Requests for basic information made by the public at the May 16 scoping session were not answered, depriving the public and affected agencies of the ability to comment.
23. The description of the parking garage is inaccurate and incomplete in the NOP and project description, and thus proper scoping comments cannot be made.
24. It is not clear if there is sufficient parking for condominium rooms.
25. The purchase price of condominium units, as opposed to the rental rates for hotel rooms, is of vital interest in determining whether a vertical subdivision can be allowed.
26. The issue of short-spaced traffic signals on Malibu Canyon Road must be discussed.
27. Fire safety issues, including emergency access road dead-ends, and emergency vehicle congestion at a key roadway junction, make construction of the Proposal impossible.
28. A map displayed of the Proposal at the meeting indicates a “private dining facility” is planned for the second story, which is not disclosed in the NOP.
29. A traffic study has been conducted, and not disclosed as a part of the NOP, making it impossible for accurate scoping comments on traffic issues to be made.

# Summary of Scoping Comments

1. Significant negative effects on land use and beach and parks access will occur if the Project is built. The EIR must investigate these effects, and any possible mitigation.
2. The EIR must analyze the legal precedent and environmental impact of allowing a hotel Project that is not rural in character and does not respect the natural environmental setting, and thus does not comply with applicable LCP policies and General Plan requirements.
3. The EIR must consider not only the effect of granting blanket exemptions to the LCP and General Plan on an ad hoc and spot basis at this location, but the precedent that this sets along the entire Malibu
4. The EIR must analyze the legal issues and environmental impact of ignoring or amending the zoning code and LCP by allowing an “airspace subdivision” on an ad hoc and spot basis at this location or in other CV-2 zoning
5. The EIR must examine the precedent of allowing “airspace subdivisions” -- which are not anticipated in the General Plan, Malibu Municipal Code and certified LCP -- elsewhere in Malibu.
6. The EIR must analyze the legal issues and environmental impact of allowing condominium units or other non-complying lot divisions that do not meet LCP or city code standards in CV-2 zoning districts
7. The EIR must also analyze the impact of allowing noncomplying lot divisions in other zoning districts should the precedent be set here.
8. The EIR must analyze project alternatives that do not exceed the carefully-crafted and reasonable height limits of the General Plan, Malibu Municipal Code and certified LCP.
9. The EIR must analyze how lower cost guests will be accommodated in or near the Rancho Malibu Hotel.
10. The EIR must analyze the legal issues and environmental impact of adding ultra-high-cost luxury condominium units in Malibu, displacing high-cost and other-cost-level accommodations.
11. The EIR must analyze the appropriate “in lieu fee” that should be charged per ultra-high-cost unit in the Proposal.
12. The EIR must analyze how the City of Malibu will utilize the in lieu funds for low cost accommodations, including specific locations for hostels or campgrounds or other such accommodations required to be built in Malibu, and analyze specific construction deadlines for such facilities, if any.
13. The EIR must examine the environmental impact and legality of ignoring parking structures and “basements” that are created through the legal artifice of digging holes that are far bigger than allowed by the LCP, filling them with usable commercial footage, and calling that space exempt from FAR calculations.

14. The EIR must analyze the actual impact of the actual amount of floor space as calculated including the parking areas and subterranean floor area on the surrounding environment and city.
15. In analyzing the Project as presented (the “grading variances granted alternative”), the EIR must examine what the legal and land use ramifications for all CV-2 zoning districts should the permitting agency grant a grading variance to allow 55 percent more dirt to be moved than allowed by the General Plan and certified LCP.
16. The EIR must also examine the precedent that the “grading variances granted alternative” for the effect this precedent would have on all other zoning districts in Malibu.
17. The EIR must consider an alternative project with grading kept to an absolute minimum, per the LCP (a “no grading alternative”).
18. The EIR must consider in all respects an alternative project with a maximum of 27,800 yards of grading (a “no grading variance alternative”).
19. The EIR must analyze the legal issues and environmental impact of setting a precedent for land use in the CV-2 zoning district by allowing an applicant to ignore the minimum lot size regulation in the LCP-LUP [Scoping Comment 50.].
20. The EIR must examine the legal issues and environmental impact of setting a precedent for land use in other Malibu zoning districts by allowing an applicant to ignore the minimum lot size regulation in the LCP-LUP.
21. The EIR must analyze the legal issues and environmental impact of setting a precedent for land use in the CV-2 zoning districts by allowing an applicant to ignore minimum parking ratios and requirements set by the LCP and General Plan.
22. The EIR must examine the impact of the above precedent as it would affect other zoning districts in Malibu.
23. The EIR must examine various alternatives, including but not limited to reducing the number of hotel rooms, eliminating condo use, eliminating day spa or gymnasium use, prohibiting large weddings, banquets or other parties, providing for offsite parking, providing for the use of shuttles from other locales, and other mitigations to provide sufficient parking.
24. The EIR must address steps the Project would be required to take to keep its employees, patrons, customers or guests from displacing parks, bicycle or beach users from parking on Malibu Canyon Road.
25. The EIR must examine how will hundreds of construction employees not displace recreationalists in the parking lot at Bluffs Park, or the parking spaces on Malibu Canyon Road.
26. The EIR must disclose how many existing free parking places along both sides of Malibu Canyon Road would be displaced by turn lanes, driveways, entryways or other requirements for safe vehicular ingress and egress from the hotel. The EIR must examine how these impacts can be mitigated.

27. The EIR must examine the negative impacts to adjacent parks likely from the Project, such as the aesthetic impact on the Pepperdine lawn and Bluffs Park of an intense urban development across the streets.
28. The EIR must examine how construction of the Project would affect beach use at every public beach from Zuma east to Santa Monica [Scoping Comment 51.].
29. The EIR must examine how hotel-caused congestion will reduce the ability of visitors from the Los Angeles region to reach other sections of the Santa Monica Mountains National Recreation Area – such as Tapia Park, Escondido Canyon, Circle X Ranch or the state beaches in Ventura County – by causing bottlenecks in Malibu or on U.S. 101 [Scoping Comment 52.].
30. Alternative projects must be envisioned that would give priority to a commercial visitor service facility that would complement the parks, instead of ignoring them.
31. Alternative projects with a reduced scale and intensity – including but not limited to proposals that do not require extensive variances from LCP limits -- must be evaluated for their impacts on parks and beaches.
32. The Project’s impact on existing use patterns for adjacent parks and nearby beaches must be examined.
33. The EIR must examine the reduction of access for visitors into Malibu to be caused by traffic congestion related to non-parks use of the hotel.
34. The EIR must evaluate true traffic delays on a Malibu-specific basis, not the traditional “level of service” (LOS) at nearby intersection measurements. Calculating LOS impacts at intersections only makes sense at a project that sits in a grid of nearby intersections, but ignores the reality of the linear nature of Malibu traffic circulation
35. Traffic impact delay data should be in the form of additional minutes of delay at peak times, and the cumulative effect thereof. Traffic measurements cannot be quantified by LOS interceptions to reach a valid understanding of current and projected traffic congestion. Given that many PCH intersections and roads already operate at poor or failed LOS, the EIR must quantify how badly the existing overwhelmed streets and intersections will deteriorate as a result of construction of the Project.
36. Evacuation traffic concerns must be evaluated – should the Project be built, how will it displace or affect capacity of the two lanes east, two lanes west, and one lane north that are available to handle evacuation of the area when disaster inevitably returns. The EIR must examine how emergency evacuation congestion might be increased by the Project. It must examine how emergency service providers be affected by Project-related traffic at the next disaster, and how the current status would be affected if one, two or all three access roads to the Project locale are closed.
37. The EIR must consider the cumulative traffic impact of multiple events that can foreseeably happen at the hotel and nearby beaches, other Malibu destinations and Pepperdine University. It must include special events such as graduations, weddings, Bar Mitzvahs, and other functions at the hotel in addition to full room occupancy. It must consider peak use traffic from adjacent events at the new Pepperdine University fieldhouse, which may seat up to 10,000 people for a concert .

38. Traffic impacts on distant freeways and roads must be evaluated. The EIR must consider the traffic congestion that can be caused by events at the hotel at every intersection and stretch of Highway along PCH from McClure Tunnel to Trancas Canyon Road. Cumulative impacts of development in the Malibu Civic Center must be calculated, including on Civic Center Way, Webb Way and Cross Creek Road. It must consider hotel-caused aggravation to traffic congestion at US 101 at Kanan and Las Virgenes roads. It must consider increased traffic on Kanan Road, Kanan-Dume Road, Las Virgenes Road, Lost Hills Road, Malibu Canyon Road, Topanga Canyon Road, California Incline, Rice Road (Oxnard), protected scenic highway sections of Pacific Coast Highway, Interstate 10 and Interstate 405.

39. The EIR must examine Project alternatives predicated on a reduction of the size of the Project to accommodate widening Pacific Coast Highway. Existing poor LOS, and future congestion caused by the Project, on westbound on the hill between Webb Way and Malibu Canyon Road could be alleviated by a third westbound through lane up the hill and through the Malibu Canyon signal. This study must also examine the need to widen the existing substandard right turn lane from westbound PCH to northbound Malibu Canyon Road, and the need to provide a bicycle lane and pedestrian path for the California Coastal Trail (as further discussed below).

40. The EIR must discuss the existing substandard condition for pedestrians and bicyclists along PCH at the Project site. Such discussion must examine alternatives that include reducing the size of the Project to accommodate a third westbound lane and necessary bike and pedestrian paths (as discussed above).

41. The EIR must examine how bikeways and pedestrian pathways can be added, as a Project requirement, to PCH between Malibu Canyon Road and Malibu State Park (at Cross Creek Road) to accommodate hotel guests who wish to walk or bicycle to Legacy Park, the Malibu Pier, Malibu State Park, Adamson House, various shopping attractions and the restaurants, movie theaters and other attractions at the Malibu Civic Center area.

42. The EIR should examine the Project being required to construct a pedestrian overpass between the Project and Bluffs Park, and a trail from this overpass down the hill to the Malibu Colony shopping center area, and from there east to Malibu Lagoon along PCH. This trail could be partial mitigation for other deleterious impacts on parklands, discussed above, caused by the Project.

43. The EIR must examine how a retaining wall to allow the widening of PCH and the construction of the Project as envisioned would conflict with the attributes of a protected scenic viewshed (Pacific Coast Highway) and the City's main park on the other side of PCH.

44. The EIR must examine alternative projects with a reduced building footprint that would allow for a landscaped excavation to be made to allow necessary vehicle, bicycle and pedestrian improvements on both sides of PCH, which would protect the scenic viewshed per the Coastal Act.

45. The EIR must examine if a traffic signal would be necessary at the hotel driveway, and if such a signal is allowable under current Los Angeles County and City of Malibu traffic engineering practices .

46. The EIR must examine the environmental impact and legal foundation for exempting the entire lot from the Coastal Appeals Zone because some of it sits on land outside the zone.

47. The EIR must address the negative environmental impacts of the Project that will only occur if planning variances are granted to enable the Project to be built in its current configuration.
48. The EIR must address the negative environmental impact of a City of Malibu precedent being set of landowners not needing to follow state law that restricts variances to limited, special circumstances.
49. The EIR must analyze the exact location of various splays of the Malibu Coastal Fault, and if such splays underlie any portions of the plot proposed for construction, the EIR must analyze smaller alternatives that do not include buildings or other structures that straddle the fault splays.
50. The EIR must address our demand that the NOP must be withdrawn and recirculated with adequate descriptions of potential negative impacts, per the CEQA guidelines quoted above.
51. Should an EIR be drafted, it must accurately describe the parking deficit. A scaled-back Project with 100 percent parking compliance for a Project that requires no substantive variances or violations of the Malibu Municipal Codes, General Plan or certified LCP must be considered.
52. In the EIR, an alternative must be considered for a scaled-back Project within a 15 percent FAR that is calculated including 76,196 square feet of commercial footage in the so-called basement.
53. The EIR must study the “outdoor events” areas and calculate them for parking purposes at the highest-possible impact level.
54. The EIR must examine the square footage calculations for the “outdoor events” areas, and determine if the measurements submitted by the applicant accurately include adjacent walkways and support area space.
55. The NOP is defective and must be redrafted and recirculated. In the alternative, should an EIR be drafted, it must accurately describe the impacts of a five-level structure, and its location blocking improvements to PCH that are required to mitigate traffic problems caused by the hotel itself, as well as congestion that already exists at this overburdened intersection.
56. The EIR must examine if a five-level structure, with four levels of parking and one level of reservoir, can be built straddling the Malibu Coastal Fault.
57. The EIR must examine whether the parking requirements for the proposed time share or condominium units is different from the parking requirements for hotel patrons.
58. Should the Project be allowed to sell condominiums through vertical subdivisions, the EIR should examine the prices to be charged for such units, and whether some of the units should be reserved at below-market prices for underserved and deserving luxury home purchasers. This would apparently require a development agreement to bind the developer to sell the condo interests at set maximum levels.
59. The EIR must thoroughly examine the safety and congestion issues that will result at the hotel entrance should the Project be built, with and without signals. The impact on pedestrians, bicyclists and MTA buses at this intersection must be examined.

60. The EIR must investigate the public safety impacts of the inadequate emergency access lanes at and leading to the Project.
61. The EIR must determine if the foreseeable level of congestion will hinder emergency vehicles responding all over the Malibu region during natural disasters.
62. The EIR must determine the danger of the effective single access points and lack or alternate access points for emergency vehicles to the Project, and suggest mitigation.
63. The EIR must consider the impact of the inability for fire engines to turn around at each end of the dead-end fire access perimeter roads, and must consider, as an alternative, smaller building layouts that would allow for three-point turns to be made by emergency vehicles at each dead end.
64. The EIR must consider building alternatives for a smaller construction project that would allow fire roads to ring the Project.
65. Precise emergency traffic management plans for the simultaneous evacuation of the hotel, evacuation of greater Malibu, and arrival of hundreds of fire engines and other emergency vehicles must be formulated.
66. The effect of the loss of the wide and flat section of Malibu Canyon Road at the hotel site from use as a fire equipment staging area for brushfires must be investigated, and mitigated.
67. The EIR must examine whether a private dining facility is permissible in a CV-2 zone district, if such a use complements neighboring park facilities, and whether such an exclusive facility is contemplated by the Coastal Act.
68. The EIR must examine how the project has added such features as a private dining facility, and disclose if any other unseen facilities are in the plans. If so, such facilities must be disclosed and analyzed.

**NATIVE AMERICAN HERITAGE COMMISSION**

915 CAPITOL MALL, ROOM 364  
SACRAMENTO, CA 95814  
(916) 653-6251  
Fax (916) 657-5390  
Web Site [www.nahc.ca.gov](http://www.nahc.ca.gov)  
ds\_nahc@pacbell.net



May 11, 2012

RECEIVED

MAY 15 2012

PLANNING DEPT.

Ms. Stephanie Danner, Planner

**City of Malibu**

23825 Stuart Ranch Road  
Malibu, CA 90265

Re: SCH#2008091155; CEQA Notice of Preparation (NOP); draft Environmental Impact Report (DEIR) for the "Rancho Malibu Hotel Project;" located in the City of Malibu; Los Angeles, California.

Dear Ms. Danner:

The Native American Heritage Commission (NAHC), the State of California 'Trustee Agency' for the protection and preservation of Native American cultural resources pursuant to California Public Resources Code §21070 and affirmed by the Third Appellate Court in the case of EPIC v. Johnson (1985: 170 Cal App. 3<sup>rd</sup> 604).

This letter includes state and federal statutes relating to Native American historic properties of religious and cultural significance to American Indian tribes and interested Native American individuals as 'consulting parties' under both state and federal law. State law also addresses the freedom of Native American Religious Expression in Public Resources Code §5097.9.

The California Environmental Quality Act (CEQA – CA Public Resources Code 21000-21177, amendments effective 3/18/2010) requires that any project that causes a substantial adverse change in the significance of an historical resource, that includes archaeological resources, is a 'significant effect' requiring the preparation of an Environmental Impact Report (EIR) per the CEQA Guidelines defines a significant impact on the environment as 'a substantial, or potentially substantial, adverse change in any of physical conditions within an area affected by the proposed project, including ... objects of historic or aesthetic significance.' In order to comply with this provision, the lead agency is required to assess whether the project will have an adverse impact on these resources within the 'area of potential effect (APE), and if so, to mitigate that effect. The NAHC did conduct a Sacred Lands File (SLF) search within the 'area of potential effect (APE) with the following results: Native American cultural resources were not found within the APE. However, the absence of archaeological resources does not preclude their existence at the subsurface level and may be exposed during construction activity.

The NAHC "Sacred Sites," as defined by the Native American Heritage Commission and the California Legislature in California Public Resources Code §§5097.94(a) and 5097.96. Items in the NAHC Sacred Lands Inventory are confidential and exempt from the Public Records Act pursuant to California Government Code §6254 (r).

Early consultation with Native American tribes in your area is the best way to avoid unanticipated discoveries of cultural resources or burial sites once a project is underway. Culturally affiliated tribes and individuals may have knowledge of the religious and cultural

significance of the historic properties in the project area (e.g. APE). We strongly urge that you make contact with the list of Native American Contacts on the attached list of Native American contacts, to see if your proposed project might impact Native American cultural resources and to obtain their recommendations concerning the proposed project. Pursuant to CA Public Resources Code § 5097.95, the NAHC requests cooperation from other public agencies in order that the Native American consulting parties be provided pertinent project information. Consultation with Native American communities is also a matter of environmental justice as defined by California Government Code §65040.12(e). Pursuant to CA Public Resources Code §5097.95, the NAHC requests that pertinent project information be provided consulting tribal parties. The NAHC recommends *avoidance* as defined by CEQA Guidelines §15370(a) to pursuing a project that would damage or destroy Native American cultural resources and Section 2183.2 that requires documentation, data recovery of cultural resources.

Furthermore, the NAHC if the proposed project is under the jurisdiction of the statutes and regulations of the National Environmental Policy Act (e.g. NEPA; 42 U.S.C. 4321-43351). Consultation with tribes and interested Native American consulting parties, on the NAHC list, should be conducted in compliance with the requirements of federal NEPA and Section 106 and 4(f) of federal NHPA (16 U.S.C. 470 *et seq*), 36 CFR Part 800.3 (f) (2) & .5, the President's Council on Environmental Quality (CSQ, 42 U.S.C 4371 *et seq.* and NAGPRA (25 U.S.C. 3001-3013) as appropriate. The 1992 *Secretary of the Interiors Standards for the Treatment of Historic Properties* were revised so that they could be applied to all historic resource types included in the National Register of Historic Places and including cultural landscapes. Also, federal Executive Orders Nos. 11593 (preservation of cultural environment), 13175 (coordination & consultation) and 13007 (Sacred Sites) are helpful, supportive guides for Section 106 consultation. The aforementioned Secretary of the Interior's *Standards* include recommendations for all 'lead agencies' to consider the historic context of proposed projects and to "research" the cultural landscape that might include the 'area of potential effect.'

Confidentiality of "historic properties of religious and cultural significance" should also be considered as protected by California Government Code §6254( r) and may also be protected under Section 304 of he NHPA or at the Secretary of the Interior discretion if not eligible for listing on the National Register of Historic Places. The Secretary may also be advised by the federal Indian Religious Freedom Act (cf. 42 U.S.C., 1996) in issuing a decision on whether or not to disclose items of religious and/or cultural significance identified in or near the APEs and possibility threatened by proposed project activity.

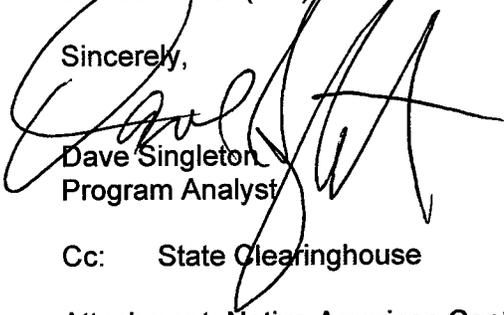
Furthermore, Public Resources Code Section 5097.98, California Government Code §27491 and Health & Safety Code Section 7050.5 provide for provisions for inadvertent discovery of human remains mandate the processes to be followed in the event of a discovery of human remains in a project location other than a 'dedicated cemetery'.

To be effective, consultation on specific projects must be the result of an ongoing relationship between Native American tribes and lead agencies, project proponents and their contractors, in the opinion of the NAHC. Regarding tribal consultation, a relationship built around regular meetings and informal involvement with local tribes will lead to more qualitative consultation tribal input on specific projects.

Finally, when Native American cultural sites and/or Native American burial sites are prevalent within the project site, the NAHC recommends 'avoidance' of the site as referenced by CEQA Guidelines Section 15370(a).

If you have any questions about this response to your request, please do not hesitate to contact me at (916) 653-6251.

Sincerely,

A handwritten signature in black ink, appearing to read "Dave Singleton", is written over the typed name and extends upwards into the "Sincerely," line.

Dave Singleton  
Program Analyst

Cc: State Clearinghouse

Attachment: Native American Contact List

## Native American Contacts

Los Angeles County

May 11, 2012

Beverly Salazar Folkes  
1931 Shadybrook Drive  
Thousand Oaks, CA 91362  
folkes@msn.com  
805 492-7255  
(805) 558-1154 - cell

Chumash  
Tataviam  
Ferrnandeño

LA City/County Native American Indian Comm  
Ron Andrade, Director  
3175 West 6th St, Rm. 403  
Los Angeles , CA 90020  
randrade@css.lacounty.gov  
(213) 351-5324  
(213) 386-3995 FAX

Barbareno/Ventureno Band of Mission Indians  
Julie Lynn Tumamait-Stennsle, Chairwoman  
365 North Poli Ave  
Ojai , CA 93023  
jtumamait@sbcglobal.net  
(805) 646-6214

Chumash

Owl Clan  
Qun-tan Shup  
48825 Sapaque Road  
Bradley , CA 93426  
mupaka@gmail.com  
(805) 472-9536 phone/fax  
(805) 835-2382 - CELL

Chumash

Patrick Tumamait  
992 El Camino Corto  
Ojai , CA 93023  
(805) 640-0481  
(805) 216-1253 Cell

Chumash

Randy Guzman - Folkes  
6471 Cornell Circle  
Moorpark , CA 93021  
ndnRandy@yahoo.com  
(805) 905-1675 - cell

Chumash  
Fernandeño  
Tataviam  
Shoshone Paiute  
Yaqui

San Luis Obispo County Chumash Council  
Chief Mark Steven Vigil  
1030 Ritchie Road  
Grover Beach CA 93433  
(805) 481-2461  
(805) 474-4729 - Fax

Chumash

Coastal Band of the Chumash Nation  
Toni Cordero, Chairwoman  
P.O. Box 4464  
Santa Barbara CA 93140  
cordero44@charter.net  
805-964-3447

Chumash

This list is current only as of the date of this document.

Distribution of this list does not relieve any person of the statutory responsibility as defined in Section 7050.5 of the Health and Safety Code, Section 5097.94 of the Public Resources Code and Section 5097.98 of the Public Resources Code.

This list is applicable for contacting local Native Americans with regard to cultural resources for the proposed SCH#2012051035; CEQA Notice of Preparation (NOP); draft Environmental Impact Report (DEIR) for the Rancho Malibu Hotel Project; located in the City of Malibu; Los Angeles County, California.

## **Native American Contacts**

Los Angeles County

May 11, 2012

Carol A. Pulido  
165 Mountainview Street Chumash  
Oak View , CA 93022  
805-649-2743 (Home)

Aylisha Diane Marie Garcia Napoleone  
33054 Decker School Road Chumash  
Malibu , CA 90265

Melissa M. Parra-Hernandez  
119 North Balsam Street Chumash  
Oxnard , CA 93030  
envyy36@yahoo.com  
805-983-7964  
(805) 248-8463 cell

Barbareno/Ventureno Band of Mission Indians  
Kathleen Pappo  
2762 Vista Mesa Drive Chumash  
Rancho Pales Verdes CA 90275  
310-831-5295

Frank Arredondo  
PO Box 161 Chumash  
Santa Barbara Ca 93102  
ksen\_sku\_mu@yahoo.com  
805-617-6884  
ksen\_sku\_mu@yahoo.com

Barbareno/Ventureno Band of Mission Indians  
Raudel Joe Banuelos, Jr.  
331 Mira Flores Court Chumash  
Camarillo , CA 93012  
805-987-5314

Santa Ynez Tribal Elders Council  
Freddie Romero, Cultural Preservation Conslt  
P.O. Box 365 Chumash  
Santa Ynez , CA 93460  
freddyromero1959@yahoo.  
805-688-7997, Ext 37

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This list is applicable for contacting local Native Americans with regard to cultural resources for the proposed SCH#2012051035; CEQA Notice of Preparation (NOP); draft Environmental Impact Report (DEIR) for the Rancho Malibu Hotel Project; located in the City of Malibu; Los Angeles County, California.

## Stephanie Danner

---

**From:** Joyce Parker-Bozylinski  
**Sent:** Friday, May 18, 2012 7:46 AM  
**To:** Stephanie Danner; Ha Ly  
**Subject:** FW: EIR SCOPING SUBMISSION LETTER

Please send to AMEC.

Joyce Parker-Bozylinski, AICP | Planning Director | City of Malibu  
23825 Stuart Ranch Road, Malibu, CA 90265  
(310) 456-2489 ext. 265

RECEIVED  
MAY 17 2012  
PLANNING DEPT.

### Connect with the City of Malibu!



---

**From:** Preserve Malibu [<mailto:preservemalibu@gmail.com>]  
**Sent:** Thursday, May 17, 2012 3:36 PM  
**To:** Joyce Parker-Bozylinski  
**Subject:** EIR SCOPING SUBMISSION LETTER

Dear Joyce Parker-Bozylinski,  
As requested, please submit this letter to the EIR SCOPING DRAFT, Dan Gira, a consultant from AMEC.

Dear City Of Malibu,

As I will be on an extended vacation at the time of this hearing, I will not be able to personally respond with our objections to this horrific idea of a resort like edifice at this specific location in Malibu! It was only 4-5 years ago that a raging brush fire driven by N/E howling winds in this very corridor took out much of Pepperdine Univ, outbuildings at the Hughes Research Lab, the Presbyterian church, and 5 to 7 homes along Malibu Rd. in the Colony. Isn't this enough evidence to suggest that NO structures of this expanse and loss of life potential should be constructed in this canyon corridor, even with an L.A.County Fire Station 88 just blocks away...who would most likely be elsewhere deployed in such a catastrophe anyway.

This is totally absurd to suggest the Malibu City council would be in favor of such a monstrosity being erected there... or anywhere else in the city, for that matter.

For whatever it means, count me and my family in absolute opposition to this plan!

Respectfully,

Bruce Collings

Los Angeles County Fire Captain, Retired 1998

\*\*\*\*\*

Thank you,

Preserve Malibu



Jo Ruggles  
30612 Sicomara Drive  
Malibu, California 90265  
(310) 457-6629, Fax: (310) 457-6920

May 14, 2012

To: City of Malibu, Planning Department  
Stephanie Danner, Sr. Planner

Re: Rancho Malibu Hotel Project  
EIR No. 12-001, CDP No. 11-028  
Project and Scoping Comments

After further review of the proposed project, I find it difficult to make appropriate comments or ask intelligent questions, when the project, as proposed, violates the General Plan, the certified Local Coastal Program and the Municipal Code, in that it proposes a “use” (residential) that is not allowed in the Land Use Zone of Commercial Visitor Serving (CV) uses, not residential, which was determined to be a too intense and inappropriate use in the civic center area when it was proposed by the Malibu Bay Company during preparation and certification of the General Plan over a three-year study period and almost 200 public hearings. The CV-2 zone was specifically intended for “visitor serving uses” that included “...hotels, which serve visitors and residents which respect the rural character and natural environmental setting.”

- \* Therefore, the EIR must analyze and evaluate all of the environmental and social impacts associated with the creation of a new land use category, a General Plan and Local Coastal Plan Amendment allowing residential use in the Commercial Visitor Serving districts of CV-1 and CV-2, which was already rejected by the residents and City Council in 1995 when the General Plan was adopted and in 2000, when the Local Coastal Plan was certified by the Coastal Commission.
- \* The EIR must analyze and evaluate the creation of “new” lots for the multi-family residential units being proposed by the project, and how to square the lot development criteria with that mandated by the code of 6 units per acre and a minimum lot size of 20,000 square feet with a width of 100 feet and a depth of 150 feet.
- \* The EIR must analyze and evaluate the environmental, social and cumulative impacts upon the residents and the environment of creating “air-space” condominiums, which would double the “intensity” of intended use of the project with increased continuous traffic, wastewater disposal, and parking of vehicles by residents and visitors to the condominiums.
- \* The EIR must analyze and evaluate the social, environmental and legal

aspects of allowing “spot zoning” to accommodate the construction of a project that does not respect the rural character or sensitive environmental setting of its location nor its potential negative impacts on adjacent parklands and the potential traffic circulation problems encountered by their visitors, and violates many Goals, Objective and Policies of both the General Plan, Local Coastal Plan and the Municipal Code.

The proposed project asks for a “variance” for 50% more square feet of grading than is allowed under the law, which cannot legally be granted under current state law. A “variance” can only be granted “...when by special circumstances applicable to the property, including size, shape, topography, location or surroundings, the strict application of the zoning ordinance deprives such property of privileges enjoyed by other property in the vicinity and under identical zoning classification (CA Gov’t Code Sect. 65906).” Grading is also mandated to be kept to an absolute minimum.

- \* Therefore, the EIR must analyze and discuss the cumulative impacts of allowing an illegal exemption to the grading requirements, as there are no other properties of identical zoning classification located in the vicinity of the proposed project, nor in any other area of Malibu.

The proposed project asks for a “variance” to the height limits of 28-feet to 36 feet, which is not allowed in the General Plan, Local Coastal Program or Municipal Code, and which cannot legally be granted under current state law (see above variance rules).

- \* The EIR needs to discuss alternative plans that comply with the General Plan, Local Coastal Plan and Municipal Code and smaller in scale and fit into the surrounding environment.

I cannot fathom how the FAR has been calculated because the parking square footage of 165,259 sq. feet that is legally required to be included in the calculation is missing, and the NOP only states that the FAR calculation for parking is not included. WHY is it not included when it is required? There are no exemptions for calculating FAR for parking facilities. Even if the parking is proposed to be subterranean, its square footage must be calculated in the FAR. No service facility or structure required and associated with the development of the project is allowed to be exempted from the FAR calculation.

A cumulative impact analysis of all traffic and circulation in the entire civic center area must be evaluated and analyzed, including the “new” proposed projects currently in the pipeline, in addition to the impacts to local traffic circulation incurred by the additional traffic created by the construction of the proposed project. Civic Center Way and Cross Creek Road have both been diminished in capacity by actions taken by the City Council to “calm” prior traffic congestion problems. A “statement of overriding consideration” is not acceptable as a conclusion to come to for a problem that has no mitigation or solution. Traffic congestion is already a problem in the civic center area.

A splay of the Malibu Coast Fault runs through the center of the property, and another fault splay has been identified that penetrates the site, running from the old Crummer property across Pacific Coast Highway, as described in the previous EIR for the Rancho Malibu Hotel.

- \* The EIR must identify and analyze the exact location of the various splays of the Malibu Coast Fault and attendant fault lines, which will require additional exploration to determine their proximity to proposed structures.
- \* The previous project did not allow structures within 50 feet of any identified fault lines, so the new EIR must analyze the potential for a smaller project based on the location of any faults now identified or newly located.

The project site is a previously identified major archaeological site, but further investigation needs to be done by ground-penetrating sonar/radar to prevent the accidental uncovering or disruption of any grave sites, which need to remain undisturbed or reburied according to Native American custom or wishes.

- \* A Cultural Resource Management Plan needs to be prepared and approved prior to the finished site plan and prior to the commencement of any grading activities and must be incorporated into the EIR as a condition of approval.
- \* The Mitigation Measures regarding Cultural Resources included in the previous EIR must be included in this new EIR.

The design of the current project closely resembles the original 250-room project that resembled Hughes Research Laboratory proposed by the Adamson Company, which was harshly criticized and soundly rejected by Malibu residents as not reflecting Malibu's history as a Spanish Land Grant, a working cattle ranch for 100 years, nor the residents' desire to maintain the architectural theme of the historic Adamson House and Serra Retreat structure of the early California/Spanish architecture they wished for the Rancho Malibu Hotel to project as an "anchor" building in the civic center area.

This led the Adamson Company to completely redesign the project (review the renderings of the previous Rancho Malibu Hotel project) to reflect the residents' wishes. The result was a smaller, "Bel Air" style hotel in the early California/Spanish architecture mode. The project design, architecture and materials to be used were included in the previous EIR Mitigation Measures as a condition of approval to prevent a new owner changing it to a Motel 6 type of building.

- \* The EIR needs to discuss and explain the applicant's change of architecture of the current project and how it would fit into the early California/Spanish theme demanded en masse by residents, and how it would somehow complement the civic center as a highly visible anchor building project that is now modern in scope and appearance instead of early California/Spanish.
- \* The EIR needs to discuss explain or justify the change in the architectural design, as the design of the current project is unacceptable.

There is no discussion about the necessity of additional potable water storage of up to one million gallons, which was included in the previous Rancho Malibu Hotel project with a 500,000 gallon tank and a joint agreement with Pepperdine University for use of their 500,000 gallon water tank, if necessary.

- \* The EIR needs to address increased potable water storage of up to one million gallons and an agreement with Pepperdine University for shared use of their water.
- \* The EIR needs to address the potential of not being able to share potable water from Pepperdine University in light of their current expansion plans.

The EIR must include complete wastewater capability of on-site retention and disposal, in the event the civic center sewer system is not constructed or is unable to accommodate the volume of wastewater associated with the operation and maintenance of a large hotel.

- \* The EIR must review previous studies done for the previous project EIR and its Mitigation Measures, and incorporate the Mitigation Measures and update the studies already performed.

The EIR must include review and analysis of all studies incorporated in the previous Rancho Malibu Hotel EIR and its Appendices.

Respectfully submitted,



Jo Ruggles,  
Previous Chair, Malibu Planning Commission



# South Coast Air Quality Management District

21865 Copley Drive, Diamond Bar, CA 91765-4182  
(909) 396-2000 • www.aqmd.gov

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PLANNING DEPT.

May 25, 2012

Stephanie Danner, Senior Planner  
City of Malibu  
23825 Stuart Ranch Road  
Malibu, CA90265

## **Notice of Preparation of a CEQA Document for the Rancho Malibu Hotel Project**

The South Coast Air Quality Management District (SCAQMD) appreciates the opportunity to comment on the above-mentioned document. The SCAQMD's comments are recommendations regarding the analysis of potential air quality impacts from the proposed project that should be included in the draft CEQA document. Please send the SCAQMD a copy of the Draft EIR upon its completion. Note that copies of the Draft EIR that are submitted to the State Clearinghouse are not forwarded to the SCAQMD. Please forward a copy of the Draft EIR directly to SCAQMD at the address in our letterhead. **In addition, please send with the draft EIR all appendices or technical documents related to the air quality and greenhouse gas analyses and electronic versions of all air quality modeling and health risk assessment files. These include original emission calculation spreadsheets and modeling files (not Adobe PDF files). Without all files and supporting air quality documentation, the SCAQMD will be unable to complete its review of the air quality analysis in a timely manner. Any delays in providing all supporting air quality documentation will require additional time for review beyond the end of the comment period.**

### **Air Quality Analysis**

The SCAQMD adopted its California Environmental Quality Act (CEQA) Air Quality Handbook in 1993 to assist other public agencies with the preparation of air quality analyses. The SCAQMD recommends that the Lead Agency use this Handbook as guidance when preparing its air quality analysis. Copies of the Handbook are available from the SCAQMD's Subscription Services Department by calling (909) 396-3720. The lead agency may wish to consider using land use emissions estimating software such as the recently released CalEEMod. This model is available on the SCAQMD Website at: <http://www.aqmd.gov/ceqa/models.html>.

The Lead Agency should identify any potential adverse air quality impacts that could occur from all phases of the project and all air pollutant sources related to the project. Air quality impacts from both construction (including demolition, if any) and operations should be calculated. Construction-related air quality impacts typically include, but are not limited to, emissions from the use of heavy-duty equipment from grading, earth-loading/unloading, paving, architectural coatings, off-road mobile sources (e.g., heavy-duty construction equipment) and on-road mobile sources (e.g., construction worker vehicle trips, material transport trips). Operation-related air quality impacts may include, but are not limited to, emissions from stationary sources (e.g., boilers), area sources (e.g., solvents and coatings), and vehicular trips (e.g., on- and off-road tailpipe emissions and entrained dust). Air quality impacts from indirect sources, that is, sources that generate or attract vehicular trips should be included in the analysis.

The SCAQMD has developed a methodology for calculating PM<sub>2.5</sub> emissions from construction and operational activities and processes. In connection with developing PM<sub>2.5</sub> calculation methodologies, the SCAQMD has also developed both regional and localized significance thresholds. The SCAQMD requests that the lead agency quantify PM<sub>2.5</sub> emissions and compare the results to the recommended PM<sub>2.5</sub> significance thresholds. Guidance for calculating PM<sub>2.5</sub> emissions and PM<sub>2.5</sub> significance thresholds can be found at the following internet address: [http://www.aqmd.gov/ceqa/handbook/PM2\\_5/PM2\\_5.html](http://www.aqmd.gov/ceqa/handbook/PM2_5/PM2_5.html).

In addition to analyzing regional air quality impacts the SCAQMD recommends calculating localized air quality impacts and comparing the results to localized significance thresholds (LSTs). LST's can be used in addition to the recommended regional significance thresholds as a second indication of air quality impacts when preparing a CEQA document. Therefore, when preparing the air quality analysis for the proposed project, it is recommended that the lead agency perform a localized significance analysis by either using the LSTs developed by the SCAQMD or performing dispersion modeling as necessary. Guidance for performing a localized air quality analysis can be found at <http://www.aqmd.gov/ceqa/handbook/LST/LST.html>.

In the event that the proposed project generates or attracts vehicular trips, especially heavy-duty diesel-fueled vehicles, it is recommended that the lead agency perform a mobile source health risk assessment. Guidance for performing a mobile source health risk assessment ("Health Risk Assessment Guidance for Analyzing Cancer Risk from Mobile Source Diesel Idling Emissions for CEQA Air Quality Analysis") can be found on the SCAQMD's CEQA web pages at the following internet address: [http://www.aqmd.gov/ceqa/handbook/mobile\\_toxic/mobile\\_toxic.html](http://www.aqmd.gov/ceqa/handbook/mobile_toxic/mobile_toxic.html). An analysis of all toxic air contaminant impacts due to the decommissioning or use of equipment potentially generating such air pollutants should also be included.

### **Mitigation Measures**

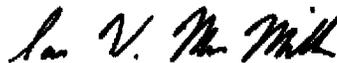
In the event that the project generates significant adverse air quality impacts, CEQA requires that all feasible mitigation measures that go beyond what is required by law be utilized during project construction and operation to minimize or eliminate significant adverse air quality impacts. To assist the Lead Agency with identifying possible mitigation measures for the project, please refer to Chapter 11 of the SCAQMD CEQA Air Quality Handbook for sample air quality mitigation measures. Additional mitigation measures can be found on the SCAQMD's CEQA web pages at the following internet address: [www.aqmd.gov/ceqa/handbook/mitigation/MM\\_intro.html](http://www.aqmd.gov/ceqa/handbook/mitigation/MM_intro.html) Additionally, SCAQMD's Rule 403 – Fugitive Dust, and the Implementation Handbook contain numerous measures for controlling construction-related emissions that should be considered for use as CEQA mitigation if not otherwise required. Other measures to reduce air quality impacts from land use projects can be found in the SCAQMD's Guidance Document for Addressing Air Quality Issues in General Plans and Local Planning. This document can be found at the following internet address: <http://www.aqmd.gov/prdas/aqguide/aqguide.html>. In addition, guidance on siting incompatible land uses can be found in the California Air Resources Board's Air Quality and Land Use Handbook: A Community Perspective, which can be found at the following internet address: <http://www.arb.ca.gov/ch/handbook.pdf>. CARB's Land Use Handbook is a general reference guide for evaluating and reducing air pollution impacts associated with new projects that go through the land use decision-making process. Pursuant to state CEQA Guidelines §15126.4 (a)(1)(D), any impacts resulting from mitigation measures must also be discussed.

### **Data Sources**

SCAQMD rules and relevant air quality reports and data are available by calling the SCAQMD's Public Information Center at (909) 396-2039. Much of the information available through the Public Information Center is also available via the SCAQMD's World Wide Web Homepage (<http://www.aqmd.gov>).

The SCAQMD staff is available to work with the Lead Agency to ensure that project-related emissions are accurately identified, categorized, and evaluated. If you have any questions regarding this letter, please call Ian MacMillan, Program Supervisor, CEQA Section, at (909) 396-3244.

Sincerely,



Ian MacMillan

Program Supervisor, CEQA Inter-Governmental Review  
Planning, Rule Development & Area Sources

**SANTA MONICA MOUNTAINS CONSERVANCY**

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May 21, 2012

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Malibu, California 90265

**Rancho Malibu Hotel Project and Notice of Preparation for Environmental Impact  
Report No. 12-001, Coastal Development Permit No. 11-028,  
Winter Canyon Watershed**

Dear Ms. Danner:

The Santa Monica Mountains Conservancy (Conservancy) appreciates the opportunity to comment on the Rancho Malibu Hotel Project and Notice of Preparation (NOP) for Environmental Impact Report No. 12-001, Coastal Development Permit (CDP) No. 11-028, Winter Canyon watershed. The Conservancy commented on previous versions of the hotel project in letters dated June 19, 1995; August 19, 1996; and October 6, 1997. The Conservancy has since acquired the approximately 84-acre Conservancy-owned Malibu Bluffs Property located south and west of the City's Malibu Bluffs Park.

The California Coastal Commission approved the Malibu Parks Public Access Enhancement Plan-Public Works Plan (PWP), which includes 35 campsites in four camp areas, two new parking areas adjacent to Pacific Coast Highway, new trails, and other support facilities at the Conservancy-owned Malibu Bluffs Property, southwest of the hotel project site. The PWP includes new campsites, trails, parking areas, other support facilities and programs, and habitat restoration at five of the Conservancy's and Mountains Recreation and Conservation Authority's (MRCA's) parks in the City of Malibu and unincorporated Los Angeles County. This is a multi-year, extensive planning effort, and the PWP is currently in litigation. The Conservancy and MRCA are invested in providing a high quality visitor experience at Malibu Bluffs. In particular, the Conservancy is concerned with potentially significant impacts (e.g., from lighting) to the proposed new campsites at the Conservancy-owned Malibu Bluffs Property. As stated in the Conservancy's previous letters, the Conservancy is concerned with maintaining the habitat connections from Malibu

Bluffs, through the hotel property, to the greater Santa Monica Mountains; and maintaining scenic views from public viewing areas in the Santa Monica Mountains.

As described in more detail later in this letter, we urge the project applicant to modify the project so that a habitat linkage of adequate width to support the ecological function would be maintained between the edge of the development and the property boundary along the eastern property boundary. This could entail moving some units from this eastern edge into the center of the project site resulting in greater height of select, least-visible buildings. It is likely, and the Draft Environmental Impact Report (DEIR) should demonstrate, that this change would not result in additional significant impacts to public viewsheds. The proposed hotel project will not cater to low-income visitors; as such, the project should provide significant low-cost user fees as mitigation. If the total number of units can be maintained while incorporating these changes, the minimum amount of low cost visitor fees generated by the project would not be affected. Because of the numerous variances in the proposed project, the low cost visitor-serving fees should be double the normal amount.

### **Summary of Project**

According to the NOP, the proposed Rancho Malibu Hotel Project includes a 146-room luxury hotel resort with a floor area ratio (FAR) of 14.45 percent on three vacant parcels totaling 27.8 acres. According to the summary provided on the City's website, there is a long history to this site, with various versions of development proposed and permitted over the years. The City has determined that the conditional use permit (CUP) for the hotel is still valid but the site plan review has expired. Since the project was never evaluated against the Local Coastal Program (LCP; certified in 2002), a new CDP from the City would be required.

According to the NOP, approximately 274,936 square feet of development is proposed both for the main hotel building and the 21 detached, two-story casitas which house the majority of the hotel rooms. The project includes a tentative tract map to create an airspace subdivision to allow each hotel room, as well as two retail space, to be sold individually as commercial condominiums. The project includes a CDP, a CUP, a lot merger, a tentative tract map, a variance for non-exempt grading, a variance for construction on slopes, a variance for parking within the required front yard, a variance for the reduction in the required number of parking spaces, a variance for height of the main building, a site plan review for the height of the casitas, and a minor modification to reduce the required front yard setback.

According to the DEIR<sup>1</sup> for a previous hotel project at the site (which had a similar project footprint), that project would have affected nine acres of undisturbed, relatively high quality coastal sage scrub and another 18 acres of disturbed coastal sage scrub interspersed with annual grasslands and ornamental trees. The NOP for the current project states that prior to the Calabasas wildfire of October 1996, approximately eight acres of coastal sage scrub existed along the Civic Center Drive frontage of the property and the northern half of the Malibu Canyon Road frontage. Additional damage to onsite vegetation occurred during the 2007 Malibu Canyon fire. Per the NOP, as part of the previously approved project, a 30-acre conservation easement on a parcel in the Santa Monica Mountains (referred to as the Francisco Property) was recorded.

### **Land Use and Policy Issues**

The DEIR must provide sufficient specificity showing how the project will comply with Land Use Plan (LUP) Policy 2.35.

LUP Policy 2.35: New development of luxury overnight visitor-serving accommodations shall be designed to provide for a component of lower cost overnight visitor accommodations (e.g. campground, RV park, hostel, or lower cost hotel/motel). The lower-cost visitor accommodations may be provided on-site, off-site, or through payment of an in-lieu fee into a fund to subsidize the construction of lower-cost overnight facilities in the Malibu-Santa Monica Mountains Coastal Zone area of Los Angeles County or Ventura County. The applicant shall be required to provide lower-cost overnight accommodations consisting of 15 percent of the number of luxury overnight accommodations that are approved.

If low-cost accommodations are not provided onsite, or off-site, then the DEIR must include a mitigation measure with sufficient specificity to address this policy. This would include, but not be limited to, how much funding will be provided by the applicant, what low cost accommodation project the funding will be used for, and when it will be implemented. It is imperative to avoid the situation where a token amount of money is put into a bank account and not used for years, or never used, for the intended mitigation.

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<sup>1</sup>Tierra Madre Consultants, Inc. 1995. Proposed Rancho Malibu Mesa Hotel: Biological Assessment. Prepared for: Cotton/Beland/Associates. Review Agency: City of Malibu, Planning Department. June 13. Included in: City of Malibu. 1996. Draft Environmental Impact Report Rancho Malibu Hotel (Conditional Use Permit Application). SCH No. 95051063. July.

The Conservancy is concerned that the proposed project may not be consistent with certain provisions of the City's LCP. Given the scale of the project, the need for multiple variances, and the site's location in relation to the Conservancy's Malibu Bluffs Property, the DEIR must thoroughly discuss the project's consistency or inconsistencies with these LCP provisions, and make project changes to achieve consistency with them (*italics added*).

LUP Policy 2.37: Priority shall be given to the development of visitor-serving commercial and/or recreational uses that *complement public recreation areas* or supply recreational opportunities not currently available in public parks or beaches. *Visitor-serving commercial and/or recreational uses may be located near public park and recreation areas only if the scale and intensity of the visitor-serving commercial recreational uses is compatible with the character of the nearby parkland and all applicable provisions of the LCP.*

LUP Chapter 5 New Development. c.2. Land Use Designations: COMMERCIAL VISITOR SERVING (CV): The CV designation provides for visitor serving uses such as hotels and restaurants *that are designed to be consistent with the rural character and natural environmental setting, as well as public open space and recreation uses.*

The DEIR should also include a discussion of the following policy:

LUP Policy 5.39: Any Coastal Development Permit for a land division resulting in the creation of additional lots shall be conditioned upon the retirement of development credits (TDCs) at a ratio of one credit per new lot created.

### **Habitat Linkage to Malibu Bluffs and the Greater National Recreation Area**

With respect to ecological resources, the Conservancy is interested in ensuring an adequate habitat linkage through the property and maximizing both the retention and unit integrity of the contiguous block of high quality coastal sage scrub habitat onsite. In previous letters on the Rancho Malibu Hotel Project and on the Crummer Site Subdivision Project (just south of the hotel site), the Conservancy addressed the habitat linkage from the Malibu Bluffs northward to the greater Santa Monica Mountains within the Santa Monica Mountains National Recreation Area (SMMNRA). The Conservancy's Malibu Bluffs Property immediately southwest of the project site, on the opposite side of Pacific Coast Highway (PCH) represents a regionally significant block of highly accessible, intact, coastal

habitat. The Malibu Bluffs contain a unique assemblage of coastal sage scrub, chaparral, and coastal bluff vegetation elements that is rare in the Santa Monica Mountains. The hotel site is part of this assemblage. Conservancy staff notes that the recovery of the coastal sage scrub onsite (e.g., purple sage, California sage) on the hotel site since the 2007 fire has been phenomenal. The vegetated area on the bluffs is highly accessible for public enjoyment (e.g. via trails) and it is integral to the ecological viability of a unique component of the park system in the Malibu area of the Santa Monica Mountains. Without question, virtually all mammal, and selected bird populations, will experience an ongoing decline in vigor if this habitat block becomes isolated from the main body of the Santa Monica Mountains.

Early morning (1:30 a.m. to 4:30 a.m.) traffic volumes on PCH and Malibu Canyon Road likely permit successful wildlife crossing of these roadways by mammals, bird species sensitive to human presence, and possibly even reptiles. If future road construction, including road improvements for the subject hotel project, occurs on either section of these two roadways, small pipe culverts (24-36 inch) should be installed for reptiles and small mammals.

The subject site for the proposed hotel represents one of the two remaining habitat linkages between the main body of the Santa Monica Mountains and Malibu Bluffs. The other connection is via Puerco Canyon to the west. The hotel property contains a critical portion of the habitat linkage with the greatest long-term viability between the Conservancy's Malibu Bluffs Property and the nearest large block of habitat located just northeast of the Malibu Canyon Road entrance of Pepperdine University. The DEIR should explore and compare the characteristics of both existing habitat linkages. The site also provides bird habitat for species observed or expected at the site (e.g., white-tailed kite, sharp-shinned hawk, golden eagle, Cooper's hawk, California quail) <sup>1</sup>.

The project proposes to transform a primarily undeveloped open space site to a highly intensive urban use. Given the project location, the biological resources onsite, and the scale of the proposed development, the currently proposed project does not adequately protect, or mitigate for the loss of, this environmentally sensitive habitat area and habitat linkage on the project site. Later in this letter, the Conservancy explains in more detail recommended project changes that would help maintain the value of the habitat and the functioning of the habitat linkage through the hotel site. These recommended changes include reducing the project footprint along the eastern property boundary while moving units to the center of the site, with possible height increases, and recording a conservation easement on the entire wildlife corridor.

### **Aesthetics and Viewshed Issues**

The Conservancy is concerned with potentially significant impacts to biological resources (e.g., wildlife at Malibu Bluffs and other native habitat areas throughout the SMMNRA) and recreational resources (e.g., campers at the Conservancy's Malibu Bluffs Property) resulting from increased night-time lighting at the hotel site, given the existing relatively dark onsite conditions. Potentially significant impacts can result from direct views of night-time lights at the hotel site as seen by campers at the Conservancy's Malibu Bluffs Property, and a general increase in night-time glow. The City of Malibu LCPLUP Policy 6.23 states in part:

Exterior lighting (except traffic lights, navigational lights, and other similar safety lighting) shall be minimized, restricted to low intensity fixtures, shielded, and concealed to the maximum feasible extent so that no light source is directly visible from public viewing areas...

The Conservancy requests that the DEIR provide a thorough analysis of the night lighting that will result from the project, and its impacts on the biological resources. Impacts to the proposed campsites at the Conservancy's Malibu Bluffs Property must be addressed. Please clarify what lighting from the parking garage, and rest of the project, would be visible from the Conservancy's Malibu Bluffs Property. Appropriate measures must be included in the DEIR to avoid and minimize night lighting impacts on the Conservancy's Malibu Bluffs Property and throughout the SMMNRA. These can include, but not be limited to shielding night lighting, limiting hours of lighting, limiting the number of lights, limiting strength of lights, limiting the height of lights, and screening with native vegetation. The results of this analysis should be included in the aesthetics and biological resources sections of the DEIR. The DEIR must also address how lighting would be minimized and directed away from this remaining habitat onsite, and how this would be enforced.

Pepperdine University has proposed key lighting mitigation measures as part of their Campus Life Project (e.g., shielding, downward angled orientation, switching out existing clear globe lights on campus with cut-off light fixtures, which are shielded and directed in such a way as to minimize light spillover). It is critical that the DEIR for the proposed hotel project include a comprehensive lighting program to minimize lighting so as not to negate all of Pepperdine University's efforts. The hotel project should be held to the same or stricter standards for lighting analysis and mitigation compared with those required of Pepperdine for the Campus Life Project.

The Conservancy is also concerned with the aesthetic impacts associated with the daytime views of the site with the project, given the project's location at the intersection of two scenic roads (Malibu Canyon Road and PCH) at a key entrance to the Santa Monica Mountains that leads to anchor parklands in the SMMNRA (e.g., Malibu Creek State Park and King Gillette Ranch), and the project site's rural iconic setting. The Conservancy is concerned with view impacts of the proposed project (daytime as well as night-time) to trail users and future campers at the Conservancy's Malibu Bluffs Property.

It appears from the NOP that the parking garage at the southwest corner of the site would be subterranean. The DEIR should clarify how high the top of the parking garage would be above the existing grade of Malibu Canyon Road in this area. Furthermore, the DEIR should address how much grading is necessary for the parking garage, and to what extent the parking garage contributes to the need for a variance for non-exempt grading. The DEIR must include a detailed landscape plan identifying which species would be planted around the southwest portion of the site and a time estimate of when the screening would be fully functioning (i.e., when the vegetation would be fully grown). The landscaped vegetation surrounding the west (along Malibu Canyon Road) and south sides (along PCH) of the project site must be limited to native species, in keeping with the setting's character and location, so that it remains indicative of the character of this key entrance to the SMMNRA.

The DEIR should include a visual analysis of the proposed project, and each of its DEIR alternatives, from at least two points from the Conservancy's Malibu Bluffs Property (one of which should be a night-time view), at least one point from the most visible viewpoint from the proposed trails on (or near) the Pepperdine Property (proposed as part of the Campus Life Project; near 34°03'00"N; 118°43'02"W; 1,150 feet elevation approximately), from the proposed Coastal Slope Trail within Malibu Creek State Park along the stretch from Malibu Creek to the MRCA's 24-acre property near Sweetwater Mesa Road (Assessor's Parcel Number [APN 4452-025-900]), from the Piuma Road overlook (on Piuma Road adjacent to APN 4456-037-906), and from the MRCA's 186-acre property off of Piuma Road (views from APNs 4453-001-900, 901). It may be appropriate to shift units from the eastern property boundary towards the center of the site (resulting in taller central buildings) in order to maintain an adequate width for the remaining habitat linkage. It is probable that the impacts to public viewing areas associated with taller buildings under this scenario would not be significant due to the long distance from the public viewing areas to the site, and due to the fact that most of the public viewing areas would be looking down onto the project site at a considerable angle.

### **Need for Project Changes and Project Alternatives**

Because of the scale of the project; the need for multiple variances; the quality of the environmentally sensitive habitat onsite; the function of the existing habitat linkage onsite; the key location at an entrance to the SMMNRA; and the potentially significant impacts to biological, visual, recreational, and other environmental resources, the Conservancy recommends several specific project changes and project alternatives. The proposed project, and at least one alternative, should provide an adequate amount of permanently preserved intact open space onsite, specifically along the eastern property boundary. This would involve shifting some units from this eastern edge to the center of the site (while maintaining the total number of units and low-cost visitor mitigation fees). Not only will this approach have the greatest chance of maintaining the functional habitat linkage onsite, it will provide a valuable amenity for hotel visitors and other visitors to the SMMNRA passing through the area.

The preserved open space along the eastern border of the site should be expanded to allow for a 25 to 30-foot-wide (width can vary) swath of habitat, which would not be impacted by fuel modification. To achieve this undisturbed swath of habitat, the project footprint should be reduced (and units shifted to the center of the site) such that 25 to 30 feet of undisturbed habitat can be located outside the fuel modification zone alone. This could be done by preserving at least a 225-foot-wide-swath of habitat (200 feet of fuel modification plus 25 feet of undisturbed habitat) along the eastern boundary. This could involve deleting or modifying buildings (e.g., buildings 2, 3, 4, 8, 11), shifting those units to the center of the site (resulting in taller buildings), and rerouting the road to hug the remaining development.

A similar approach would be to develop a fuel modification plan, approved by the Fire Department, which does not require any thinning or irrigation in a 25-foot-wide swath farthest from the buildings (i.e., 175 feet of fuel modification). There may some building design/construction techniques, selected use of wet zones, or strategic location of project elements next to the open space, which possibly could achieve a less than 200-foot-wide fuel modification zone. The hotel site should have enough land to accommodate this preserved open space because of the slopes onsite.

Even though the remaining habitat onsite may be considered by some a habitat island, it is a stepping stone to maintain the habitat linkage from Malibu Bluffs to the greater habitat areas northward throughout the rest of the SMMNRA. Also, preserving native habitat close to where people live/stay is valuable for people's well-being. Interspersing native habitat with the built environment enhances the human quality of life in that portion of SMMNRA.

Specifically, the DEIR should include a mitigation measure that requires the applicant to restore to native woodland the disturbed area at the northern-most part of the project site (just south of the intersection of Malibu Canyon Road and Civic Center Way) within a specified time period. The vertical structure of a native woodland in this area would maximize habitat cover, be relatively fire retardant (i.e., compared with native shrubs), and help maintain the beautiful viewshed along this scenic road (Malibu Canyon Road).

Within the remainder of the preserved open space area that is subject to fuel modification areas, the Conservancy recommends that the DEIR specify that the applicant plant native trees (including sycamores, bays, coast live oaks, and Fremont's cottonwood) with accompanying irrigation. The intent is that this would continue to contribute to the maintenance of a high quality native habitat linkage.

The Conservancy emphasizes that the alternatives section of the DEIR should not be limited to a discussion of changes in FAR, without a meaningful consideration of reducing the project footprint. The DEIR must include a modified proposed project, and at least one project alternative, with a reduced project footprint, so as to increase the amount of open space to be preserved permanently onsite. Shifting the number of units from the eastern edge of the site to the center and/or shifting the road towards the center, to reduce the project footprint along the eastern edge, would also help bring the scale of the project more into line with the constraints of the site. For example, according to the NOP, the project currently requires a variance for the reduction of parking spaces and a variance for non-exempt grading (of which the grading for the subterranean garage surely contributes). Although these project changes would result in taller buildings in the center of the project site, the DEIR should demonstrate that this change would not result in additional significant impacts to public viewsheds (e.g., due to distance, and angle of the views). If the total number of units can be maintained while incorporating these changes, the amount of low cost user fees generated by the project would not be affected.

#### **Need for an Onsite Conservation Easement**

Because of the scale of the project and the potentially significant impacts to the high quality habitat and the habitat linkage through the site, the DEIR (and all project alternatives) must include in the project description and mitigation measures that the applicant has voluntarily offered a conservation easement over the undeveloped portions of the property. This conservation easement would include the northeastern stretch of the property, portions of eastern end of the southern border of the property fronting PCH (which would remain

undeveloped), and the northerly approximately 650-foot-long stretch fronting Malibu Canyon Road. This conservation easement offer should be made in favor of both a public park agency and the City of Malibu. To provide adequate permanent mitigation, this conservation easement must be recorded with a certificate of acceptance signed by the accepting agency (or agencies) prior to the issuance of any and all permits, vegetation removal, grading, or construction.

The conservation easement should prohibit all development and other uses, including fencing, grading, lighting, accessory structures, stables, equestrian facilities, grazing, and vineyards. The DEIR should clarify whether the existing Malibu Canyon Road easement (shown on the grading plan on the City's website as running through the southeastern portion of the property) would be abandoned. The proposed storm drain in the southeastern portion of the site would be allowed in the conservation easement, provided that slight design changes are made if necessary, to allow wildlife to cross over it. The easement would also allow Fire Department-required fuel modification (with native plants only), irrigation, trails (constructed and managed by the accepting agency), and habitat restoration. Only native plants would be allowed to be planted in the conservation easement area. The accepting agency would also have the right to remove non-native plants, with seven days written notice to the hotel.

This conservation easement is needed to ensure that the open space is actually protected in perpetuity. If the DEIR claims this portion as "open space," it is critical to actually protect it – to say so, then do otherwise would be misleading. This conservation easement would serve to maintain the habitat linkage from the natural habitat to the north by Pepperdine, through the Crummer site, to the habitat on Malibu Bluffs to the south. It would also function as part of a native habitat block. The existing conservation easement on the Francisco property is not enough mitigation to offset the impact of the proposed project on this onsite high quality habitat and habitat linkage, given its location relative to a key entrance to the SMMNRA, scenic roads, and parkland.

### **Trail Issues**

The City's draft Local Coastal Program Parkland and Trails System Map (adopted by the City Council on April 25, 2011) depicts the Malibu Pacific Trail along the northeastern border of the site and the Malibu Creek Trail along the western border of the site. The DEIR should address how the project will incorporate these trails into the design. We recommend that a trail easement (or offer to dedicate trail easement) be included in the project description for a trail along the Malibu Pacific Trail alignment. We also

Stephanie Danner, City of Malibu  
Rancho Malibu Hotel Project NOP  
May 21, 2012

Page 11

recommend that the DEIR describe how the project elements along the western boundary will not degrade and interfere with the proposed Malibu Creek Trail along Malibu Canyon Road.

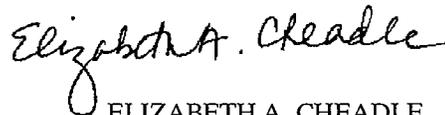
### **Archaeological Issues**

The Conservancy is concerned regarding the potential impacts to the documented archaeological sites. Based on archaeological mapping, it appears that in order to implement the project, it would be difficult to avoid the sensitive sites. If the proposed project will result in direct impacts to, and mitigation for impacts to, the archaeological sites onsite, we recommend that the DEIR include an additional mitigation measure specifying a minimum amount of funding that would be provided by the applicant and transferred to a public agency or university. The money would be used to study, document, and prepare mapping of archaeological sites (on other properties in the Coastal Zone), in consultation with a tribal representative.

In summary, we recommend that the project be modified to allow a wider habitat linkage along the eastern property boundary, including some areas not subject to fuel modification, protected by a conservation easement in favor of a government agency. This would be accomplished by shifting units from this eastern portion to the center and/or shifting the road towards the center, resulting in taller buildings in the center of the project site. It is possible there would be no additional significant adverse impacts to public viewsheds. These project changes would maintain the total number of units, and thus maintain the amount of low-cost visitor mitigation fees compared with the currently proposed project.

Thank you for your consideration. Should you have any questions, please contact Paul Edelman, Deputy Director for Natural Resources and Planning, by phone at (310) 589-3200, ext. 128 or by email at [edelman@smmc.ca.gov](mailto:edelman@smmc.ca.gov).

Sincerely,



ELIZABETH A. CHEADLE  
Chairperson



EDMUND G. BROWN JR.  
GOVERNOR

STATE OF CALIFORNIA  
GOVERNOR'S OFFICE of PLANNING AND RESEARCH  
STATE CLEARINGHOUSE AND PLANNING UNIT



KEN-ALEX  
DIRECTOR

Notice of Preparation

May 10, 2012

RECEIVED  
MAY 15 2012  
PLANNING DEPT.

To: Reviewing Agencies  
Re: Rancho Malibu Hotel Project  
SCH# 2012051035

Attached for your review and comment is the Notice of Preparation (NOP) for the Rancho Malibu Hotel Project draft Environmental Impact Report (EIR).

Responsible agencies must transmit their comments on the scope and content of the NOP, focusing on specific information related to their own statutory responsibility, within 30 days of receipt of the NOP from the Lead Agency. This is a courtesy notice provided by the State Clearinghouse with a reminder for you to comment in a timely manner. We encourage other agencies to also respond to this notice and express their concerns early in the environmental review process.

Please direct your comments to:

**Stephanie Danner**  
City of Malibu  
23825 Stuart Ranch Road  
Malibu, CA 90265

with a copy to the State Clearinghouse in the Office of Planning and Research. Please refer to the SCH number noted above in all correspondence concerning this project.

If you have any questions about the environmental document review process, please call the State Clearinghouse at (916) 445-0613.

Sincerely,

Scott Morgan  
Director, State Clearinghouse

Attachments  
cc: Lead Agency

**Document Details Report  
State Clearinghouse Data Base**

**SCH#** 2012051035  
**Project Title** Rancho Malibu Hotel Project  
**Lead Agency** Malibu, City of

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**Type** NOP Notice of Preparation  
**Description** Note: Reference SCH# 1995051063

The proposed development is designed as a 146-room luxury resort with a floor area ratio (FAR) of 14.45%. Approximately 274,936 s.f. of development is proposed both for the main hotel building and the 21 detached, two-story casitas which house the majority of hotel rooms. The hotel will include the following facilities, most of which will be open to hotel guests as well as the general public: retail shops, hotel restaurant, sundries store, lobby bar, library, ballrooms, meeting rooms, fitness center and spa, swimming pool, pool cabanas and function lawns.

---

**Lead Agency Contact**

**Name** Stephanie Danner  
**Agency** City of Malibu  
**Phone** (310) 456-2489 x276 **Fax**  
**email**  
**Address** 23825 Stuart Ranch Road  
**City** Malibu **State** CA **Zip** 90265

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**Project Location**

**County** Los Angeles  
**City** Malibu  
**Region**  
**Cross Streets** Malibu Canyon Road, Civic Center Way  
**Lat / Long**  
**Parcel No.** 4458028019, 4458028015, 4458030007  
**Township** **Range** **Section** **Base**

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**Proximity to:**

**Highways** Hwy 1  
**Airports**  
**Railways**  
**Waterways** Pacific Ocean  
**Schools** Webster ES, Lady of Malibu  
**Land Use** Commercial Visitor-Serving 2 (CV-2)

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**Project Issues** Aesthetic/Visual; Air Quality; Archaeologic-Historic; Biological Resources; Geologic/Seismic; Noise; Public Services; Traffic/Circulation; Water Quality; Landuse

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**Reviewing Agencies** Resources Agency; California Coastal Commission; Office of Historic Preservation; Department of Parks and Recreation; Department of Water Resources; Department of Fish and Game, Region 5; Native American Heritage Commission; California Highway Patrol; Caltrans, District 7; Department of Toxic Substances Control; Regional Water Quality Control Board, Region 4

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**Date Received** 05/10/2012 **Start of Review** 05/10/2012 **End of Review** 06/08/2012

WWW.SCH# 145051065  
Regional Water Quality Control Board (RWQCB)

- Resources Agency
- Resources Agency  
Nadell Gayou
- Dept. of Boating & Waterways  
Nicole Wong
- California Coastal Commission  
Elizabeth A. Fuchs
- Colorado River Board  
Gerald R. Zimmerman
- Dept. of Conservation  
Elizabeth Carpenter
- California Energy Commission  
Eric Knight
- Cal Fire  
Allen Robertson
- Central Valley Flood Protection Board  
James Herota
- Office of Historic Preservation  
Ron Parsons
- Dept of Parks & Recreation  
Environmental Stewardship Section
- California Department of Resources, Recycling & Recovery  
Sue O'Leary
- S.F. Bay Conservation & Dev't. Comm.  
Steve McAdam
- Dept. of Water Resources Agency  
Nadell Gayou
- Fish and Game
- Dept. of Fish & Game  
Scott Flint
- Environmental Services Division
- Fish & Game Region 1  
Donald Koch
- Fish & Game Region 1E  
Laurie Harnsberger
- Fish & Game Region 2  
Jeff Drongesen
- Fish & Game Region 3  
Charles Armor
- Fish & Game Region 4  
Julie Vance
- Fish & Game Region 5  
Leslie Newton-Reed
- Fish & Game Region 6  
Gabrina Gatchel
- Fish & Game Region 6 I/M  
Brad Henderson
- Dept. of Fish & Game M  
George Isaac
- Dept. of Fish & Game M  
Marine Region

Other Departments

- Food & Agriculture  
Sandra Schubert
- Dept. of Food and Agriculture
- Dept. of General Services  
Public School Construction
- Dept. of General Services  
Anna Garbeff
- Environmental Services Section
- Dept. of Public Health  
Bridgette Binning
- Dept. of Health/Drinking Water
- Delta Stewardship Council  
Kevan Samsam
- Independent Commissions/Boards
- Delta Protection Commission  
Michael Machado
- Cal EMA (Emergency Management Agency)  
Dennis Castrillo

- Native American Heritage Comm.  
Debbie Treadway
- Public Utilities Commission  
Leo Wong
- Santa Monica Bay Restoration  
Guangyu Wang
- State Lands Commission  
Jennifer Deleong
- Tahoe Regional Planning Agency (TRPA)  
Cherry Jacques
- Business, Trans & Housing
- Caltrans - Division of Aeronautics  
Philip Crimmins
- Caltrans - Planning  
Terri Pencovic
- California Highway Patrol  
Suzann Ikeuchi
- Office of Special Projects
- Housing & Community Development  
CEQA Coordinator
- Housing Policy Division
- Dept. of Transportation
- Caltrans, District 1  
Rex Jackman
- Caltrans, District 2  
Marcelino Gonzalez
- Caltrans, District 3  
Bruce de Terra
- Caltrans, District 4  
Lisa Carboni
- Caltrans, District 5  
David Murray
- Caltrans, District 6  
Michael Navarro
- Caltrans, District 7  
Dianna Watson
- Caltrans, District 8  
Dan Kopulsky
- Caltrans, District 9  
Gayle Rosander
- Caltrans, District 10  
Tom Dumas
- Caltrans, District 11  
Jacob Armstrong
- Caltrans, District 12  
Marlon Regisford
- Cal EPA
- Air Resources Board
- Airport/Energy Projects  
Jim Lerner
- Transportation Projects  
Douglas Ito
- Industrial Projects  
Mike Tollstrup
- State Water Resources Control Board
- Regional Programs Unit  
Division of Financial Assistance
- State Water Resources Control Board
- Student Intern, 401 Water Quality Certification Unit  
Division of Water Quality
- State Water Resources Control Board
- Phil Crader
- Division of Water Rights
- Dept. of Toxic Substances Control
- CEQA Tracking Center
- Department of Pesticide Regulation  
CEQA Coordinator

- RWQCB 1  
Cathleen Hudson
- North Coast Region (1)
- RWQCB 2  
Environmental Document Coordinator
- San Francisco Bay Region (2)
- RWQCB 3  
Central Coast Region (3)
- RWQCB 4  
Teresa Rodgers
- Los Angeles Region (4)
- RWQCB 5S  
Central Valley Region (5)
- RWQCB 5F  
Central Valley Region (5)  
Fresno Branch Office
- RWQCB 5R  
Central Valley Region (5)  
Redding Branch Office
- RWQCB 6  
Lahontan Region (6)
- RWQCB 6V  
Lahontan Region (6)  
Victorville Branch Office
- RWQCB 7  
Colorado River Basin Region (7)
- RWQCB 8  
Santa Ana Region (8)
- RWQCB 9  
San Diego Region (9)
- Other
- Conservancy



“WE APPRECIATE YOUR PARTICIPATION”

Rancho Malibu Hotel Project  
Environmental Impact Report Scoping Meeting Comment Form

The City of Malibu and AMEC Environment & Infrastructure, Inc. request your participation in the planning process for this project. Your comments will assist us in the preparation of the Environmental Impact Report (EIR).

You may submit your comments at the May 16, 2012 meeting or, if you prefer, you can mail, email or fax your comments to:

Stephanie Danner, Senior Planner  
City of Malibu  
23825 Stuart Ranch Road  
Malibu, CA 90265

[sdanner@malibucity.org](mailto:sdanner@malibucity.org)

FAX: (310) 456-7650

For your convenience, three specific questions are listed to help organize your comments. (Note that this is a two-sided form).

1. What specific environmental impact issues would you like to see addressed in the EIR?

1. TRAFFIC GROWTH. IMPROVED INTERSECTION  
CONTROL + SAFETY  
2. Public Safety Relating to AVIATION SALES  
3. Cultural Archaeological Resources  
4. FIRE FIGHTING WATER STORAGE

(See Over)

2. What specific suggestions do you have to avoid or reduce one or more environmental impacts of this project?

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3. What is your preferred method of learning about future meetings and obtaining additional information about this project?

Newspaper Notices

Direct Mail

Email

City of Malibu Website

Facebook / Twitter

Other (Please specify) \_\_\_\_\_

Your Name:

MARSHALL THOMPSON

Mailing Address:

30765 POH # 243 MALIBU, CA 90265

Telephone Number:

310-403-2507

Email:

MARSHALL@PRVIDEO.TV

Group You Represent:

Self

Steve Uhring  
23722 Harbor Vista Drive  
Malibu, Ca. 90265

The Following comments are submitted in response to the EIR review for the proposed Malibu Hotel project.

Traffic:

The impact of increased traffic from the proposed developments in the Civic Center needs to be carefully analyzed as part of this EIR

- Traffic studies should be based on current traffic counts, not a traffic study done in 2007 or 2008.
- A traffic study needs to consider the traffic patterns during the summer, during the workweek when Z traffic is at its peak and when Pepperdine is in session.
- A traffic study should use current technology (e.g. electronic traffic strips) to generate accurate traffic counts and not solely on individuals sitting in the hot sun counting cars.
- A traffic study needs to consider the major events at Pepperdine ( graduation, nighttime TV broadcasts of athletic events) and the impact these crowds will have on Malibu Traffic.
- The traffic study needs to consider the fact that in the Final EIR for the Pepperdine expansion project they stated that they could not provide a definitive plan on how they would handle all the traffic for a major event.
- A traffic study needs to project the cumulative traffic impacts in the Civic Center and how that cumulative traffic will impact the emergency evacuation plans for the three schools in the Civic Center.
- An emergency evacuation study scenario for all the people working and shopping in the Civic Center should be reviewed to make sure it is adequate.
- The traffic study needs to show the impact the cumulative traffic will have on the three Malibu Knolls roads that rely on Malibu Canyon for egress. These roads are Malibu Knolls, Harbor Vista and Malibu Crest.
- The traffic studies should also evaluate the impact of the Sewer project going on in the Civic Center. How much will this project disrupt and congest the traffic patterns in the Civic Center?

Lighting:

- The Malibu Lagoon sits along the Pacific Flyway and is a stopoff and nesting location for migrating birds. The overall lighting for the commercial development in the Civic Center needs to be limited to insure that we do not impact the animals using the Pacific Flyway for migration.



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Stephanie Danner, Senior Planner  
City of Malibu  
23825 Stuart Ranch Road  
Malibu, CA 90265

[sdanner@malibucity.org](mailto:sdanner@malibucity.org)

FAX: (310) 456-7650

For your convenience, three specific questions are listed to help organize your comments. (Note that this is a two-sided form).

1. What specific environmental impact issues would you like to see addressed in the EIR?

• Traffic impact - PCH & Malibu Canyon

• Size of project

• Who owns it?

• Where does the sewage go?

• Environmental impact

• Grading plan

• View impact

• Archeological

(See Over)

2. What specific suggestions do you have to avoid or reduce one or more environmental impacts of this project? ↗

The prior 106-room project, which was approved after a long fight, was generally acceptable, and the more this new project could conform to that one would lessen the impact.

I am a former Malibu Planning Commissioner and a current elected delegate to the State Dem. Party.

3. What is your preferred method of learning about future meetings and obtaining additional information about this project?

Newspaper Notices

Direct Mail

Email

City of Malibu Website

Facebook / Twitter

Other (Please specify) \_\_\_\_\_

Your Name:

Ted Vaill

Mailing Address:

20749 Inland Lane, Malibu, CA 90265

Telephone Number:

(310) 456-3504

Email:

Tedvaill@aol.com

Group You Represent:

Progressive Democrats of Santa Monica Mtns.

## Stephanie Danner

---

**From:** Joyce Parker-Bozylinski  
**Sent:** Thursday, May 17, 2012 2:52 PM  
**To:** Stephanie Danner; Ha Ly  
**Subject:** FW: Questions for Weintraub EIR

Please distribute to AMEC and the applicant.

Joyce Parker-Bozylinski, AICP | Planning Director | City of Malibu  
23825 Stuart Ranch Road, Malibu, CA 90265  
(310) 456-2489 ext. 265

RECEIVED  
MAY 17 2012  
PLANNING DEPT.

### Connect with the City of Malibu!



---

**From:** Cindy Vandor [<mailto:cdvandor@yahoo.com>]  
**Sent:** Thursday, May 17, 2012 2:19 PM  
**To:** Joyce Parker-Bozylinski  
**Subject:** Questions for Weintraub EIR

Dear Joyce,  
Please be sure the EIR for Weintraub answers these questions and includes these comments. Thank you.  
Sincerely,  
Cindy Vandor

I was at the meeting at city hall where Richard Weintraub said he welcomes questions from the Malibu community about the huge hotel, stores, and condo complex he wants to build on land he owns on PCH at Malibu Canyon. Mr. Weintraub said he's our neighbor, that he knows Malibu, and, in his word, he wants to be "transparent." Thank you, Mr. Weintraub, because I have many questions and I value honesty.

In a fire, earthquake, or other disaster, how can your site evacuate and your family and neighbors, too?

Please demonstrate that the evacuation plans for the schools -- Webster Elementary, Our Lady of Malibu, Presbyterian Pre-School, Malibu Jewish Center Pre-School, Chabad Pre-School, and Pepperdine University -- will not be jeopardized by the additional traffic you want to bring to Malibu Canyon and PCH?

In a fire, how will your family and your neighbors have water flowing from their fire hydrants when your huge hotel and condo complex will use up a huge amount of water and water pressure for fire protection?

Speaking of water, there are people in Malibu who can't do much with their homes for lack of water and all of us and you, too, have been told by Water District 29 that the water system cannot supply Malibu's needs as it is, so how much water are you going to use for your condo complex, your stores, and huge hotel and can you prove there is that much water for you?

Why can you have water and the rest of us can't?

How will you make PCH and Malibu Canyon safer for your family and neighbors if you add more vehicles to the horrifically dangerous roads we have now?

Your family's lives and your neighbors' lives are often made miserable by traffic as it is now, you want to add more traffic so you want your family and your neighbors in more miserable traffic jams?

I have questions about wastewater disposal, such as why does Malibu need more of it?

I have questions about pedestrian safety, about parking, lighting, noise, the fact that this site is on an earthquake fault, the enormous archaeological significance of this site, questions about trails and landscaping,

and why you think this plan even fits in with maintaining Malibu's rural character, Malibu's General Plan and Municipal Code, and the common sense of everyone who knows Malibu?

Richard Weintraub knows Malibu well enough to know his plan is no good. It's dangerous. He's got to know that or he's really dim. He's got to know the dangers can never be mitigated. So why try? A man who truly cared about the lives of his family and his friends and his community would not build on this site.

It boils down to an essential question for Richard Weintraub:

Which means more to you, making money or the lives of your family and friends?

What a fascinating EIR this will be!



"WE APPRECIATE YOUR PARTICIPATION"

Rancho Malibu Hotel Project  
Environmental Impact Report Scoping Meeting Comment Form

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You may submit your comments at the May 16, 2012 meeting or, if you prefer, you can mail, email or fax your comments to:

Stephanie Danner, Senior Planner  
City of Malibu  
23825 Stuart Ranch Road  
Malibu, CA 90265

[sdanner@malibucity.org](mailto:sdanner@malibucity.org)

FAX: (310) 456-7650

For your convenience, three specific questions are listed to help organize your comments. (Note that this is a two-sided form).

1. What specific environmental impact issues would you like to see addressed in the EIR?

HOW DO YOU DEAL WITH EARTHQUAKE FAULT? DANGEROUS!

THIS DOES NOT FIT MALIBU GENERAL PLAN - HOW DOES IT FIT?

TRAFFIC, TRAFFIC, TRAFFIC -

BE HONEST & ACCURATE IN COUNTING TRAFFIC

& COUNT TRAFFIC AT HEIGHT OF SUMMER

WATER USE - NOT ENOUGH TO SAY DIST. 29 "WILL SERVE"

I WANT PROOF THERE IS WATER & YOU WILL BE LYING IF YOU SAY THERE IS WATER

WASTEWATER DISPOSAL - NO SEWER EVER -

HOW WILL WASTEWATER BE DISPOSED - (See Over)

BE HONEST

FIRE SAFETY TO EVACUATE - HOW? FIRE FLOW? WATER? WHERE WILL YOU GET WATER?

# INDEPENDENT, HONEST TRAFFIC STUDY

2. What specific suggestions do you have to avoid or reduce one or more environmental impacts of this project? DO A CUMULATIVE EIR @ ALL PROJECTS IN CIVIC CENTER  
DO A PEDESTRIAN TRAFFIC STUDY

DO NOT DO PROJECT - NO VARIANCES

TRAFFIC, WASTEWATER, & WATER CANNOT BE MITIGATED - PROVE DEFINITELY THERE WILL BE A TRAFFIC PLAN THAT IS SAFE CAN YOU? NO! CAN YOU PROVE THERE WILL BE FIRE FLOW? NO! CAN YOU PROVE THERE WILL BE SAFE EVACUATION IN EVENT OF DISASTER? NO!

3. What is your preferred method of learning about future meetings and obtaining additional information about this project?

Newspaper Notices

Direct Mail

Email

City of Malibu Website

Facebook / Twitter

Other (Please specify)

BIG ADS IN ALL NEWSPAPERS MAILINGS TO ALL MALIBU HOUSEHOLDS

Your Name:

CINDY VANDOR

Mailing Address:

6185 PASEO CYN DR, MALIBU

Telephone Number:

(310) 457-3650

Email:

CVANDOR@YAHOO.COM

Group You Represent:

I am a member of:

Malibu Township Council  
A Safer PCU  
Preserve Malibu

SMUSD PTSA  
OF MRS



RECEIVED  
JUN 04 2012  
PLANNING DEPT.

June 4, 2012

VIA E-MAIL

City of Malibu  
Attn: Stephanie Danner, Senior Planner  
23825 Stuart Ranch Road  
Malibu, CA 90265-4861  
sdanner@malibucity.org

**Re: Wishtoyo Foundation CEQA Public Scoping Comments for the City of Malibu's Proposed Rancho Malibu Hotel Project**

Dear Mrs. Danner and to whom it may concern with the City of Malibu:

On behalf of the Wishtoyo Foundation ("Wishtoyo"), we submit the following CEQA scoping comments for the City of Malibu's Proposed Rancho Malibu Hotel Project ("Project") and the Project's Environmental Impact Report ("EIR").

Wishtoyo is a 501(c)(3) non-profit organization with over 700 members composed primarily of Chumash Native Americans, Los Angeles County residents, and Ventura County residents. Wishtoyo's mission is to preserve, protect, and restore Chumash culture, the culture of all diverse communities, and the environment. Wishtoyo also shares traditional Chumash beliefs, cultural practices, songs, dances, stories, and value with the public to instill environmental awareness and responsibility for sustaining the health of our land, air, and water for the benefit of future generations.

Wishtoyo opposes the Rancho Malibu Hotel Project due to its foreseeable impacts on Chumash Native American cultural resources, the cultural resources of Malibu residents, and the water quality and ecological conditions of Malibu's coastal waters. The Chumash cultural resources foreseeably impacted by the project include: Chumash village sites; Chumash burial sites; Chumash archeological remains; the Chumash natural cultural landscape consisting of undeveloped landscape that maintains its aesthetic, cultural, and historical integrity; and Chumash natural cultural resources such as native plants, native wildlife, and marine life that have important religious and cultural significance to the Chumash Peoples.

1

Wishtoyo Foundation  
3875-A Telegraph Road, #423 • Ventura, CA 93003  
Phone 805.658.1120 • Fax 805.258.5135 • [www.wishtoyo.org](http://www.wishtoyo.org)

Wishtoyo thus requests that the Project is not undertaken by the City. However, if the Project does proceed, Wishtoyo insists that all cultural and environmental impacts are mitigated to a less than significant impact. To best ensure Chumash Native American cultural resources impacted by the Project are identified, and that the Project's impacts to Chumash cultural resources are satisfactorily mitigated to a less than significant effect as determined and informed by Chumash Peoples, if the project does proceed, Wishtoyo requests that extensive review of the Project's impacts to Chumash Peoples is conducted. This review of the Project's impacts to Chumash Peoples must include consultation with the Chumash and Wishtoyo throughout every stage of the EIR process as required by CEQA, including during the archeological and cultural impact studies and surveys, and during the selection of mitigation measures.

Thank you for your time and consideration in reviewing our concerns and requests. Please feel free to contact us with any questions.

Sincerely,



Mati Waiya  
Chumash Ceremonial Elder  
Executive Director, Wishtoyo Foundation



Luhui Isha  
Cultural Resources & Education Director  
Wishtoyo Foundation



Jason Weiner  
Staff Attorney  
Wishtoyo Foundation

cc: Lisa Pope, City Clerk, [lpope@malibucity.org](mailto:lpope@malibucity.org)  
Desiree Jimenez, Deputy City Clerk, [djimenez@malibucity.org](mailto:djimenez@malibucity.org)