

RESOLUTION NO. 14-12

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MALIBU APPROVING COASTAL DEVELOPMENT PERMIT NO. 07-144 AND VESTING TENTATIVE TRACT MAP NO. 07-033 FOR THE CRUMMER SITE SUBDIVISION PROJECT, CONSISTING OF A SUBDIVISION OF AN APPROXIMATELY 24 ACRE PARCEL INTO SEVEN INDIVIDUAL PARCELS; DEDICATION OF 1.74 ACRES TO THE CITY OF MALIBU FOR ACTIVE AND PASSIVE RECREATIONAL USES AND A VOLUNTARY DEDICATION OF A CONSERVATION EASEMENT TOTALING APPROXIMATELY 6.23 ACRES, LOCATED AT 24120 PACIFIC COAST HIGHWAY, IN THE PLANNED DEVELOPMENT ZONING DESIGNATION (PCH PROJECT OWNER LLC)

THE CITY COUNCIL OF THE CITY OF MALIBU DOES HEREBY FIND, ORDER AND RESOLVE AS FOLLOWS:

Section 1. Recitals.

A. On December 6, 2007, Robert Gold, on behalf of PCH Project Owner LLC, submitted Coastal Development Permit (CDP) No. 07-144, Vesting Tentative Tract Map (VTTM) No. 07-033, Local Coastal Program Amendment (LCPA) No. 12-001, Zoning Text Amendment (ZTA) 12-001 to the Planning Department for review. The applications were routed for review to the City Biologist, City Geologist, City Environmental Health Administrator, City Public Works Department and the Los Angeles County Fire Department (LACFD) for Local Coastal Program (LCP) and Malibu Municipal Code (M.M.C.) conformance review.

B. On June 2, 2008, a Notice of Coastal Development Permit was posted on the subject property.

C. On July 28, 2008, the City Council approved a contract with The Planning Center to initiate work on the preparation of an Environmental Impact Report (EIR) for the proposed project.

D. On September 30, 2008, the City published a Notice of Preparation (NOP) and Initial Study for the project. The 30-day circulation period was extended for two weeks and ran from September 30, 2008 through November 7, 2008. The initial study determined that an EIR would be the appropriate type of environmental document to address potential environmental impacts resulting from proposed project implementation.

E. On October 2, 2008, the City held a public scoping meeting regarding the preparation of the EIR.

F. From 2009 through 2010, the project was placed on hold at the applicant's request. In January 2012, the applicant informed staff that the project could resume.

G. On April 16, 2012, story poles were placed on the project site to demonstrate the location, height, mass and bulk of the five proposed single-family residences and accessory structures. The placement of the story poles was certified by a professional land surveyor.

H. On May 10, 2012, a Notice of Preparation and Initial Study (2012 Initial Study) for the project was published to reestablish baseline conditions due to the lapse in time. The 30-day circulation period ran from May 10, 2012 through June 11, 2012.

I. On June 7, 2012, due to the lapse in time, the City held a second public scoping meeting regarding the preparation of the EIR.

J. On March 20, 2013, story poles were repaired and re-installed due to damage from the winds. The placement of the story poles was re-certified by a professional land surveyor on April 3, 2013.

K. On April 3, 2013, the City and the Governor's Office of Planning and Research distributed the Draft EIR to interested parties and responsible agencies for a 45-day public review period, April 3, 2013 through May 20, 2013 (State Clearinghouse # 2008091155). The City received written responses to the NOP from the following agencies: Department of Fish and Wildlife, the Native American Heritage Commission, the Metropolitan Transportation Authority, County of Los Angeles Department of Public Works and the LACFD Land Development Unit.

L. On April 5, 2013, due to the lapse in time, a second Notice of Coastal Development Permit was posted on the subject property.

M. On April 23, 2013, the Environmental Review Board / Subdivision Review Committee reviewed the proposed project and made recommendations. All feasible recommendations have been incorporated into the final project.

N. From June 2013 through November 2013, the EIR consultant worked on responding to comments received during the 45-day public review period and prepared a Final EIR. The Final EIR responds to the comments received on the Draft EIR and proposes text revisions to the Draft EIR.

O. On November 7, 2013, a Notice of Planning Commission Public Hearing was published in a newspaper of general circulation within the City of Malibu and mailed to owners and occupants within 1,000 feet radius of the project site and to interested parties, regional, state and federal agencies.

P. On December 13, 2013, the Final EIR was made available on this date.

Q. On December 20, 2013, an errata to the Final EIR was made available. Response to Comments on the Draft EIR was circulated to all of those who submitted comments as well as to interested parties.

R. On January 6, 2014, a second errata to the Final EIR.

S. On January 6, 2014, the Planning Commission held a duly noticed public hearing on the LCPA No. 12-001 and ZTA No. 12-001, reviewed and considered the Final EIR, agenda report,

reviewed and considered written reports, public testimony, and other information in the record. The Planning Commission adopted Planning Commission Resolution Nos. 14-01 and 14-02 but took no action on CDP Nos. 07-145 through 07-149 (Lots 1-5), requiring the applicant return to the Planning Commission once complete plans have been submitted for CDP Nos. 07-145 through 07-149 (Lots 1-5) and re-story pole the structures proposed in CDP Nos. 07-145 and 07-146 (Lots 1-2).

T. On January 30, 2014, a Notice of City Council Public Hearing was published in a newspaper of general circulation within the City of Malibu and was mailed to all property owners and occupants within a 1,000 foot radius of the subject property and to interested parties, regional, state and federal agencies.

U. On February 24, 2014, the City Council held a duly noticed public hearing on the subject application, reviewed and considered the staff report, reviewed and considered written reports, public testimony, and other information in the record. Also on that date, the City Council reviewed, considered and certified the Final EIR regarding the Crummer Site Subdivision project and associated entitlements and adopted Resolution No. 14-11, certifying the Final EIR, adopting findings of fact required by CEQA and adopting a mitigation monitoring and report program.

Section 2. Approval of Coastal Development Permit for Vesting Tentative Tract Map Findings.

Based on substantial evidence contained within the record and pursuant to LCP Local Implementation Plan (LIP) Sections 13.7(B) and 13.9, the City Council hereby adopts the findings in the staff report, the findings of fact below, and approval of Coastal Development Permit No. 07-044 and Vesting Tentative Tract Map No. 07-033 (County Reference: VTTM No. 070038) for the subdivision of the subject property, consisting of the subdivision of a ~24 acre property into seven individual parcels, extension of ~3,200 linear feet water line, 16.5 foot tall, 280 square foot guard house, private access road, fencing, walls, hardscape, lighting, landscaping, onsite wastewater treatment plant, grading for the creation of building pads and common areas, seepage pits on Lot 7, dedication of Lot 7, a 1.74 acre parcel to the City of Malibu for public active and passive recreational uses; and dedication of ~6.23 acres conservation easement to the Mountains Recreation and Conservation Authority (MRCA) or the City of Malibu.

The proposed project has been reviewed by the City Public Works Department, City Geologist, City Environmental Health Administrator, City Biologist and the LACFD. The proposed project is consistent with the LCP's zoning, grading and water quality requirements. The project has been determined to be consistent with all applicable LCP codes, standards, goals and policies. Additionally, the VTTM has been reviewed for conformance with M.M.C. Title 16 (Subdivisions). The required findings are made as follows.

A. General Coastal Development Permit (LIP Chapter 13)

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

Finding A1. That the project as described in the application and accompanying materials, as modified by any conditions of approval, conforms with the certified City of Malibu Local Coastal Program.

The proposed project site is in the Planned Development (PD) zone. Currently, there are no minimum lot sizes and maximum density standards for the PD zone in the LCP or M.M.C. Local Coastal Program Amendment (LCPA) No. 12-001 and Zoning Text Amendment (ZTA) No. 12-001 establishes minimum lot sizes and density for the PD zone. The approval of the proposed VTTM is contingent on the approval of LCPA No. 12-001 / ZTA No. 12-001; therefore, as conditioned, the proposed VTTM conforms to the certified LCP in that it will meet the required lot size and density standards for new parcels. The zoning designation will not change as a result of the proposed VTTM; the zoning on all seven parcels will remain PD.

Finding A2. If the project is located between the first public road and the sea, that the project [conforms to] the public access and recreation policies of Chapter 3 of the Coastal Act of 1976 (commencing with Sections 30200 of the Public Resources Code).

Although, the project is not located between the first public road and the sea, the proposed VTTM includes a dedication of 1.74 acres (Lot 7) to the City of Malibu for active and passive public recreational uses, in addition to a voluntary additional public benefit of \$1 million to the City to develop the necessary recreational infrastructure once the City has finalized the design of the recreational area. Therefore, the project is in conformity with the public access and recreation policies of Chapter 3 of the Coastal Act of 1976 (commencing with Sections 30200 of the Public Resources Code).

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

According to the California Environmentally Quality Act (CEQA) Guidelines Section 15064(d), "In evaluating the significance of the environmental effect of a project, the Lead Agency shall consider direct physical changes in the environment which may be caused by the project and reasonably foreseeable indirect physical changes in the environment which may be caused by the project." If the proposed VTTM is approved, active recreation areas such as a ball field or a skate park, passive recreation areas, and an expanded parking lot are all foreseeable future uses on Lot 7. Although the proposed project entitlement does not include any development related to the recreational uses on Lot 7, recreational uses such as a ball field or skate park is a reasonably foreseeable use on Lot 7, and therefore, included in the Final EIR as the Final EIR must evaluate the cumulative impacts of the proposed project and development of Lot 7, to the extent feasible.

One of the purposes of the EIR is to identify reasonable alternatives to the project. Due to comments received during the 45-day public comment period, a Reduced Project Alternative was analyzed in the Final EIR. The Reduced Project Alternative consists of a reduction of the square footage of each

residence to comply with the maximum permitted under LIP Section 3.6(K), resulting in an overall 11 percent reduction in total development square footage (TDSF) and reduction of height on Lot 2 to 18 feet or lower. The Reduced Project Alternative also includes a revised landscaping plan that does not include planting certain new trees.

While CEQA requires that an EIR identify an environmentally superior alternative, it should be noted that the originally proposed project would not result in any significant environmental impacts after implementation of all applicable mitigation measures, standard conditions of approval, and best management practices. Per CEQA, decision-makers may select either the proposed project or any of the alternatives evaluated in the Final EIR. City Council has determined that the Reduced Project Alternative would result in less visual impacts to surrounding neighborhoods while meeting the project objectives; therefore, City Council has selected the Reduced Project Alternative and the originally proposed project has not been selected.

As described in more detail in Chapter 7 of the Final EIR, the following six alternatives, plus the originally proposed project, were considered:

a. Other Development Areas Alternative

The project site and the adjacent Towing Site immediately east of the project site are owned by the same entity. The AZ Winter Mesa Towing Site EIR was prepared and certified for the Towing Site and four single-family residences were approved by the City of Malibu Planning Commission on August 4, 2009. The Towing Site is therefore not available as a development area for the proposed project. The project applicant does not own any other sites within the City that are considered feasible alternatives to the proposed project. Since the project applicant cannot reasonably acquire, control, or otherwise access any other sites, and since the analysis of other sites would be speculative without site-specific data, no other sites were considered.

b. No Development / Existing Use Alternative

This alternative assumes that the existing 24-acre site would remain unchanged. The project site would not be subdivided, no new housing or recreational facilities would be constructed, and no improvements would be made. The site would remain vacant in its current form. The No Project, No Development Alternative would avoid or reduce impacts associated with air quality, biological resources, cultural resources, geology and soils, fire hazards, hydrology and water quality, and traffic and transportation. However, this alternative has been rejected because it would not attain any of the primary objectives of the proposed project. While it would preserve the rural character of site and bluewater views, it is not reasonable to assume that the project applicant would never develop this site, a valuable economic resource, and that it will remain in its current physical condition. Consequently, this alternative was rejected from further analysis.

c. Two-Story Homes with Skate Park Only Alternative

The Two-Story Homes with Skate Park Only Alternative assumes that the project would be developed with five two-story homes and that Lot 7 would be improved with a skate park and new 94-stall parking lot, not a baseball field. The Two-Story Homes with Skate Park Only Alternative assumes that the construction schedule, grading volumes, and development footprints are the same as the proposed project. This alternative would generate 78 average daily trip (ADT), 4 AM and 15 PM weekday peak hour trips and 110 ADT and 25 Saturday peak hour. Weekday and Saturday ADT would be reduced by 54 percent and 89 percent, respectively. Weekday PM peak hour trips would be reduced by 77 percent. Saturday midday peak hour trips would be reduced by 74 percent. The skate park would generate a parking demand of 10 vehicles, which is based on an assumption that up to 20 people would be using the skate park at any given time and that the average vehicle occupancy would be two-person per car.

The Two-Story Homes with Skate Park Only Alternative would reduce parking demand impacts and operational noise impacts. This alternative would be environmentally similar to the proposed project in the area of operational air quality, biological resources, cultural resources, greenhouse gas emissions, fire hazards, hydrology and water quality, land use, construction noise, and recreation.

d. One-Story Homes with Recreational Facilities Alternative

The One-Story Homes with Recreational Facilities Alternative assumes that the project site is developed with five single-family, single-story homes and a skate park or baseball field. This alternative would reduce the maximum building height of the residential structures from 28 feet to 18 feet. The building square footages would remain approximately the same for each unit, as would the lot sizes. The two-story structures represent a more compact building zone, which would result in less building mass and allow for more landscaping and open area on each of the five lots. As a result, there would be a reduction of space between the homes when compared to the proposed project. The single-story alternative would almost double the building footprints for each of the five homes. This alternative would require 24,511 cubic yards of soil export; 11,658 cubic yards of soil import. A conservative approach was taken and grading volume calculations were based upon 5 one-story homes because one-story homes would have larger building foot prints and require slightly more grading than two-story homes. Air Quality, Noise and construction traffic impacts were modeled upon the largest overall grading volumes.

Although not significant, this alternative would reduce aesthetic impacts and it would be environmentally similar to the proposed project in the area of operational air quality, biological resources, cultural resources, greenhouse gas emissions, fire hazards, hydrology and water quality, land use, operational noise, recreation, and traffic. This alternative would slightly increase impacts in a variety of environmental categories, including construction air quality, geotechnical properties, and construction noise. However, these impacts would remain less than significant. The increased fuel modification zones have the potential to cause a new significant impact.

e. No Project, Foreseeable Development Alternative

Pursuant to CEQA Guidelines Section 15126.6(e)(2), this alternative is required and should describe what would reasonably be expected to occur in the foreseeable future if the proposed project were not approved, based on current land use plans and consistent with available infrastructure and community services. This alternative assumes the project site will be developed pursuant to the Malibu General Plan and Malibu LCP, which designates the project site Planned Development (PD). The LCP PD zoning designation “is intended to provide for a mix of residential and recreational development of the Crummer Trust property [proposed project site] located east of Malibu Bluffs State Park and south of Pacific Coast Highway.... Any planned development in such commercial areas would require an amendment to the Malibu Local Coastal Program in order to specify the permitted type, density, and intensity of development.” (LIP, § 3.3(Q).)

This alternative assumes that the project site would be fully developed based on a site plan previously considered under a proposed development agreement by the City and by the California Coastal Commission at the time of the Malibu LCP was being drafted. Therefore, it is a reasonable foreseeable alternative that a subsequent developer may apply for similar development which includes eight homes and recreational facilities. This alternative would consist of eight single-family residences, each on a minimum two-acre lot. The western portion of the project site would be developed with a basketball court, a baseball field, and a 100-space parking lot for the recreational facilities. The site, under this alternative, would be graded to minimize impact to current landform on the relatively flat portions of the site; therefore, earthen material would be imported to fill the canyons. It is assumed that approximately 65,000 cubic yards of cut, 100,000 cubic yards of fill, and 35,000 cubic yards of import would be required.

This alternative would increase all impacts compared to the proposed project, with the exception of land use and recreational impacts, which remain equal. This alternative would not lessen any of the environmental effects of the proposed project, and it could potentially lead to new significant traffic impacts. During the operational phase, this alternative is forecast to generate 89 more daily trips than the proposed project on a weekday and 151 more daily trips on a weekend. As a result, air pollutant emissions and traffic generated by this alternative would be greater, compared to the proposed project. It would not reduce impacts to noise, and would in fact increase operational noise impacts associated with peak weekend noise levels. This alternative would not lessen any of the environmental effects of the proposed project.

f. Originally Proposed Project

The originally proposed project consists of five, two-story, single-family residences and the dedication of Lot 7 for either a skate park or baseball field. As discussed in Draft EIR Chapter 5.1, Aesthetics, the proposed project would not obstruct existing public scenic views or otherwise substantially impact scenic views or resources. However, although not considered a significant impact, the proposed residential buildings would appear very prominent when viewed from the low-lying portions of the City to the east. In addition, when viewed from higher-elevation residential areas of Malibu Country Estates to north of the site, the proposed project would alter the horizon of the bluff, and would create buildings visible from these vantage points where no buildings currently exist. The Final EIR provides

substantial evidence that the proposed project will result in no significant impact to Aesthetics, Greenhouse Gas Emissions, Land Use, Noise, Recreation, Agricultural Resources, Mineral Resources, Population and Housing, Public Services and Utilities and Service Systems. With regard to the remaining environmental subject areas (Air Quality, Biological Resources, Cultural Resources, Geology and Soils, Hazards and Hazardous Materials and Hydrology and Water Quality and Transportation and Traffic), any impacts posed by the proposed project are less than significant with the implementation of mitigation measures.

While CEQA requires that an EIR identify an environmentally superior alternative, it should be noted that the proposed project would not result in any significant environmental impacts after implementation of all applicable mitigation measures, standard conditions of approval, and best management practices. Per CEQA, decision-makers may select either the proposed project or any of the alternatives evaluated in the Final EIR. City Council has determined that the Reduced Project Alternative would result in less visual impacts to surrounding neighborhoods while meeting the project objectives; therefore, the proposed project has not been selected.

g. Reduced Project Alternative

This alternative was requested during the public review period for the Draft EIR. The Reduced Project Alternative assumes that the project site is developed with five single-family residences and a skate park or baseball field. This alternative would reduce overall floor area of the proposed homes by approximately 11 percent. This reduction would be accomplished by the following modifications to homes on Lots 1–5:

- Lot 1: Reduction of the square footage on the second floor from 3,344 square feet to 1,619 square feet and the total square footage of the residence from 11,081 square feet to 10,052 square feet
- Lot 2: Reduction of the height of the entire residence not to exceed 18 feet and the square footage of the home from 11,068 square feet to 9,642 square feet
- Lot 3: Reduction of the square footage of the residence from 11,009 square feet to 8,999 square feet
- Lot 4: Reduction of the square footage on the second floor from 3,409 square feet to 3,152 square feet and the total square footage of the residence from 11,157 square feet to 9,536 square feet
- Lot 5: Relocation of the pool cabana from the western side of the pool to the eastern side; movement of the residence further north and approximately 6½ feet to the east; and a 4 foot and 4 inch reduction of the height of approximately 26 linear feet of roof on the southwestern portion of the house by changing the roof from flat to pitched

This alternative also involves modifications to the proposed landscape plan intended to reduce impacts of the proposed project on visual resources. This alternative would require slightly less, but a similar amount of, soil export and import. Impacts to air quality, noise, and construction traffic impacts would remain less than significant under the Reduced Project Alternative. The Final EIR further concludes that the Reduced Project Alternative would slightly reduce impacts in a variety of environmental categories, including visual resources, construction air quality, biological resources, cultural resources, geotechnical properties, and construction noise. However, these impacts would be substantially similar to those under the proposed project and they would remain less than significant. This alternative would

also be environmentally similar to the proposed project in the area of operational air quality, cultural resources, greenhouse gas emissions, fire hazards, hydrology and water quality, land use, operational noise, recreation, and traffic.

The Reduced Project Alternative results in the reductions in height, floor area and massing of portions of the homes proposed in this alternative reduce the visual bulk of the overall project site when it is viewed from afar. As a result, the Reduced Project Alternative would preserve more bluewater views for the surrounding communities, including from the Malibu Knolls neighborhood and Malibu Country Estates, while still meeting the project objectives. Thus, the Reduced Project Alternative is the least environmentally damaging feasible alternative.

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

According to the LCP ESHA Overlay Map, the project site is not designated as ESHA; however ESHA is located immediately to the southwest of the subject property in State Park land. There are two drainage channels located on the subject property; however, there is no resource dependent riparian vegetation present. The Draft EIR was reviewed by the Environmental Review Board (ERB). The ERB had several recommendations for the proposed project and all feasible recommendations have been incorporated into to the project as conditions of approval in this Resolution. The project conforms to the recommendations of the ERB.

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

The project site is not designated as ESHA on the LCP ESHA Overlay Map. In addition, biological Resource Studies prepared by Impact Sciences, Inc. in 2009 and Updated Reports prepared by Glenn Lukos Associates in 2012 and 2013 did not identify any biological resources that meet the definition of ESHA pursuant to LIP Chapter 4. Furthermore, the Final EIR concludes the biological resources on the project site are not rare or especially valuable; do not contribute to the viability of plant and wildlife species designated as threatened or endangered under state or federal law; do not contribute to the viability of any fully protected species or species of special concern; do not contribute to the viability of other rare species such as those listed by the California Native Plant Society; nor are they easily damaged by human activities. The onsite channels are not designated Special Biological Significance or Marine Protected Area. Therefore, the onsite resources are determined to not qualify as ESHA. Therefore, according to LIP Section 4.7.6(C), the supplemental ESHA findings are not applicable.

C. Native Tree Protection Ordinance (LIP Chapter 5)

The provisions of the Native Tree Protection Ordinance only apply to those areas containing one or more native Oak, California Black Walnut, Western Sycamore, Alder or Toyon trees that have at least one trunk measuring six inches or more in diameter, or a combination of any two trunks measuring a total of eight inches or more in diameter, four and one-half feet from the ground. According to a

Protected Tree Report prepared by Impact Sciences, Inc. in January 2009, the project site contains six Southern California Black Walnut trees which meet the City's definition of a Protected Tree. The locations of these Southern California Walnut trees are all outside of the project's grading limit and will be avoided, therefore, the Chapter 5 findings are not applicable.

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

The Scenic, Visual and Hillside Resource Protection Ordinance governs those CDP applications concerning any parcel of land that is located along, within, provides views to or is visible from any scenic area, scenic road or public viewing area. This Resolution covers the proposed scope under CDP No. 07-144 and VTTM No. 07-033, which includes the subdivision of one legal parcel into seven individual parcels, grading associated with the proposed VTTM and development on Lot 6, dedication of a voluntary conservation easement to the MRCA or the City of Malibu and dedication of Lot 7 (1.74 acres) to the City of Malibu for public active and passive recreational uses. Lot 6 would be developed with a private gated street, a gatehouse, a package type plant alternative wastewater treatment system (AWTS), landscaping, and open space, a parking area for gatehouse employees.

The project site is visible from certain areas of the beach and two LUP designated scenic roads, Malibu Canyon Road and Pacific Coast Highway (PCH). The five findings set forth in LIP Section 6.4(A) are made below.

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

A visual analysis of the project's visual impact from public viewing areas was conducted through site reconnaissance, a review of the story poles, architectural plans, visual simulations and an investigation of the character of the surrounding properties. The project site is visible from certain areas of the beach and two LUP-designated scenic roads, Malibu Canyon Road and PCH. While on the beach, views of the ocean are oriented to the south, away from the proposed project and therefore, the project does not result in scenic resources on the beach.

On April 16, 2012, story poles were placed on the project site to demonstrate the location, height, mass and bulk of the guard house proposed under this subject application, CDP No. 07-144 and VTTM No. 07-033 and the five proposed single-family residences and accessory structures proposed under CDP Nos. 07-045 through 07-049. The placement of the story poles was certified by a professional land surveyor. On March 20, 2013, story poles were repaired and re-installed due to damage from the winds, and the placement of the story poles was re-certified by a professional land surveyor on April 3, 2013.

Due to comments received during the 45-days public comment period, a Reduced Project Alternative was analyzed in the Final EIR. The Reduced Project Alternative consists of a reduction of the square footage of each residence to comply with the maximum permitted under LIP Section 3.6(K), resulting in an overall 11 percent reduction in TDSF and reduction of height on Lot 2 to 18 feet or lower. The Reduced Project Alternative also includes a revised landscaping plan reflecting the removal and relocation of numerous trees. The Reduced Project Alternative does not require any changes to the

subject application, CDP No. 07-144 and VTTM No. 07-033. The applicant was not required to install story poles for the Reduced Project Alternative; however, extensive view simulations of the Reduced Project Alternative, with all proposed structures and mature landscaping as viewed from 26 different viewpoints, including Malibu Canyon Road looking south toward the project site, PCH and Cross Creek Road looking west toward the project site and on PCH, west of entrance to Bluffs Park were submitted. The visual simulations, included as Appendix A of the Final EIR, show that the Reduced Project Alternative and landscaping blend into the surrounding natural environment and do not obstruct visually impressive scenes of the Pacific Ocean or Santa Monica Mountains from a public scenic area. The Reduced Project Alternative will have no significant adverse scenic or visual impacts due to the project design and location on the site.

The subdivision proposed under CDP No. 07-144 and VTTM No. 07-033, as conditioned, will have no significant adverse scenic or visual impact.

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

As stated in Finding D1, CDP No. 07-144 and VTTM No. 07-033, as conditioned, will have no significant adverse scenic or visual impact. Additionally, the landscaping planned and conditions of approval regarding colors and materials for future development will also serve to improve the visual quality of the site.

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

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

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

The proposed project does not pose any significant adverse impacts on scenic and visual resources. As discussed in Finding A3, the project, as conditioned and with the incorporation of mitigation measures, will result in a less than significant impact on scenic and visual resources. Further, as discussed above, the No Development / Existing Use Alternative was rejected from further analysis because it is unreasonable to assume that the applicant will never develop this site and it will remain in its current condition. The No Project, Foreseeable Development Alternative would not lessen any of the environmental effects of the proposed project.

Finding D5. Development in a specific location on the site may have adverse scenic and visual impacts but will eliminate, minimize or otherwise contribute to conformance to sensitive resource protection policies contained in the certified LCP.

As discussed in Findings A3 and D1, the project, as conditioned, will have no significant adverse scenic and visual impacts. With the incorporation of mitigation measures outlined in the MMRP, potential impacts to sensitive resources (e.g., native tree protection) have been mitigated to a less than significant level.

E. Transfer of Development Credits (LIP Chapter 7)

LIP Chapter 7 applies to land division and/or multi-family residential development in the Multiple Family or Multi-Family Beachfront zoning districts. CDP No. 07-144 and VTTM No. 07-033 is a land division; therefore, the Transfer of Development Credit (TDC) requirement must be met.

The intent of this chapter is to ensure that density increased through new land divisions and new multi-family unit development in the City, excluding affordable housing units, will not be approved unless TDCs are purchased to retire development rights on existing donor lots in the Santa Monica Mountains area. A lot from which development rights have been transferred is “retired”, and loses its building potential through recordation of a permanent open space easement. TDC credits may be obtained through purchase of development rights on donor sites throughout the Santa Monica Mountains area coastal zone, as defined in the LIP, from private property owners. The responsibility for initiation of a transfer of a development credit is placed on the applicant and the project will be conditioned that the TDC take place prior to final map recordation.

The proposed project is subject to the requirements of LIP Chapter 7 and the three findings set forth in LIP Section 7.9 are hereby made as follows:

Finding E1. The requirements for Transfer of Development Credits is necessary to avoid cumulative impacts and find the project consistent with the policies of the certified Malibu LCP.

As stated above, the TDC requirement is necessary as the proposed subdivision creates seven new legal parcels and pursuant to LIP Section 7.8.1(a), the applicant shall be required to retire sufficient donor lots to provide one TDC credit for each newly created residential lot authorized. Although the subdivision consists of subdividing one legal parcel into seven parcels, only five of the seven parcels will be authorized for residential use; therefore, the proposed project includes the creation of four newly created residential lots. The TDC requirement for the proposed project is four TDC credits.

Finding E2. The new residential building sites and/or units made possible by the purchase of TDC can be developed consistent with the policies of the certified Malibu LCP without the need for a variance or other modifications to LCP standards.

The approval of the proposed VTTM No. 07-033 is contingent on the approval of LCPA 12-001 / ZTA 12-001; therefore, as conditioned, the proposed VTTM conforms to the certified LCP in that it will meet the required lot size and density standards for new parcels. The proposed residences made possible by the purchase of TDCs can be developed consistent with the policies of the LCP and no variances from the City of Malibu zoning and development standards will be required if LCPA No. 12-001 / ZTA No. 12-001 is approved.

Finding E3. Open Space easements executed will assure that lot(s) to be retired will remain in permanent open space and that no development will occur on these sites.

The TDC candidate sites selected to be retired shall be reviewed by City staff in conjunction with a Subdivision Review Committee (SRC) representative. This review shall ensure that the sites selected for retirement meet the criteria desired for permanent open space. In addition, the three parcels selected to be retired shall be subject to deed restrictions prohibiting development in perpetuity. The conditions of approval state that the TDC requirements must be met prior to final map recordation.

F. Hazards (LIP Chapter 9)

Pursuant to LIP Section 9.3, written findings of fact, analysis and conclusions addressing geologic, flood and fire hazards, structural integrity or other potential hazards must be included in support of all approvals, denials or conditional approvals of development located on a site or in an area where it is determined that the proposed project causes the potential to create adverse impacts upon site stability or structural integrity. The project was analyzed for the hazards listed in LIP Section 9.2(A). The required findings of LIP Chapter 9 are made as follows:

Finding F1. The project, as proposed, will neither be subject to nor increase instability of the site or structural integrity from geologic, flood, or fire hazards due to project design, location on the site or other reasons.

The project was analyzed for the hazards listed in LIP Section 9.2(A)(1-7). The applicant submitted the following documents/data, which may be found in the Appendix X to the Final EIR.

- Feasibility-Level Grading Plan Review - Leighton and Associates, Inc., December 5, 2007.
- Revised Addendum No. 1, Feasibility-Level Grading Plan Review - Leighton and Associates, Inc., October 29, 2008
- Responses to the City of Malibu Geotechnical Review Sheet Dated March 20, 2008 - Leighton and Associates, Inc., September 21, 2009a
- Geotechnical Evaluation of Proposed AWTS - Leighton and Associates, Inc., September 21, 2009b
- Phase I Environmental Site Assessment - Leighton and Associates, Inc., October 28, 2011
- Response to City of Malibu Comments on "Hydrogeological/Treated Water Mounding Report" - Earth Consultants International, Inc., March 7, 2012
- Responses to City of Malibu Geotechnical Review Dated January 12, 2010 - Leighton and Associates, Inc., March 7, 2012
- Response to City of Malibu Environmental Health Review Sheet Dated December 21, 2009 - Earth Consultants International, Inc., March 7, 2012
- Response to City Of Malibu Geotechnical Review Dated May 7, 2012 - Leighton and Associates Inc., May 16, 2012
- 5 Geotechnical Reports, one for each individual residential lot - Leighton and Associates, Inc., May 16, 2012

- Response to City of Malibu Environmental Health Review Sheet Dated April 16, 2012 - Earth Consultants International, Inc., May 22, 2012
- Geotechnical Responses to Comments on Draft EIR – Leighton and Associates, Inc., July 1, 2013
- City of Malibu Geology Review Sheets - City of Malibu 2008 through 2012

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

- The project site is not located within an Alquist-Priolo Earthquake Fault Zone. Therefore, it is unlikely that the project site will be impacted by active faulting or ground rupture.
- The Seismic Hazards Zones map identifies the slopes on the eastern and southern boundaries of the project site as an earthquake-induced landslide hazard zone.
- The site is not within a California Seismic Hazard Zone for potential liquefaction hazard.
- Preliminary slope stability analysis indicate that slopes in the eastern and southern portion of the site meet the minimum required factors of safety for pseudo-static stability; however, structural setbacks are required to establish buildings within areas of the site that meet the minimum required factor of safety in other areas.
- The project site is outside of the potential tsunami inundation zone.
- The property is not located within FEMA's 100 year flood zone.
- The project site is in the vicinity of extreme fire hazard areas.

The City Geologist, City Public Works Department and the LACFD have reviewed the project and found that there were no substantial risks to life and property related to any of the above hazards provided that their recommendations and those contained in the associated geotechnical reports are incorporated into the project design.

Landslides and Slope Instability Hazards

During field investigations and reconnaissance, no signs of deep-seated landslide features were observed onsite, only isolated erosion, rilling, and gullies were noted along the lower slopes. Immediately to the south of the site along Malibu Road is the historical Amarillo Beach landslide. This landslide is documented as a complex of rotational landslides affecting the south-facing coastal cliffs and the area underlying the Malibu Road and the adjacent beachfront properties. Movement within the Malibu Coast Fault Zone, weathering, erosion, undercutting by wave action, and the presence of groundwater have been described as contributing factors for slope instability for the area. Significant movement of the Amarillo Beach landslide complex would most likely adversely affect the offsite residential structures along Malibu Road. Significant movement of the feature could cause headward movement of the headscarp region of the Amarillo Beach landslide complex.

The State Seismic Hazards Zones map identifies the slopes on the eastern and southern boundaries of the project site as an earthquake-induced landslide hazard zone, where “previous occurrence of landslide movement, or local topographic, geological, geotechnical, and subsurface water condition indicate a potential for permanent ground displacements.” The western and southern portions of the project site contain steep downward slopes. The height and steepness of the slopes are such that they may be susceptible to seismically induced slope failure or landsliding.

The 2007 Leighton and Associates, Inc. reports established a geotechnical setback zones for structures on the project site in order to avoid slope instability hazards. Similar to the proposed project, the reduced project alternative includes structures located within the structural setback zones; however, the City Geologist has conditionally approved the location of the proposed project with specific stabilization recommendations. Structures that are planned southerly of the geotechnical setback line are required to use deepen foundations that derive support below the geotechnical setback line. Based on the findings summarized in all referenced Leighton and Associates, Inc. reports, the proposed development would be safe from hazards posed by landslides, settlement, or slippage provided that the recommendations in the reports are implemented. Moreover, Leighton and Associates, Inc. determined that the proposed development would not adversely impact the geotechnical stability of property outside of the project site. The project will incorporate all recommendations contained in the above cited geotechnical reports and all foundation plans will be reviewed by the geotechnical consultant prior to permit issuance.

Fire Hazard

The entire City of Malibu is designated as a Very High Fire Hazard Severity Zone (VHFHSZ), a zone defined by a more destructive behavior of fire and a greater probability of flames and embers threatening buildings. The site has been affected by wildfires in the past. Most recently, an October 2007 wildfire severely burned the northern, eastern, southern, and southwestern perimeters of the project site. A preliminary fuel modification plan has been prepared and approved for the proposed project. The preliminary fuel modification plan was prepared in accordance with the County of Los Angeles Fire Department Fuel Modification Plan Guidelines and identifies specific zones within a property that are subject to fuel modification. The long-term maintenance of the fuel modification zones will be addressed in the proposed project’s Covenants, Conditions, and Restrictions (CC&Rs) and will be maintained by the HOA. The LACFD has reviewed and approved the Preliminary Fuel Modification Plan, and the Final Fuel Modification Plan for the proposed project will need to be approved at the time of VTTM recordation.

Construction of the proposed structures would utilize appropriate building materials (i.e., ignition-resistant materials) and design features to complement the provided fuel modification. The design will also incorporate alternative fuel modification measures where fuel modification cannot be fully accommodated onsite, such as noncombustible firewalls and landscaping techniques that include irrigated, fire-resistant plant species.

In addition to the approved Preliminary Fuel Modification Plan, a supplementary Fire Protection Plan was prepared to evaluate the project’s vulnerability to fires with regard to emergency access to the site,

the adequacy of fire hydrants available to serve the site, and the design of the proposed structures. The Fire Protection Plan includes recommendations for the design of the road, gate, and driveways that would be created by the proposed project. These recommendations address the following planning and design elements:

- Fuel modification zones and permitted vegetation
- Roadway access, gates, and driveways
- Ignition-resistant structural requirements
- Interior and exterior fire protection systems

Nonetheless, a condition of approval has been included in this Resolution which requires that the property owner indemnify and hold harmless the City, its officers, agents, and employees against any and all claims, demands, damages, costs, and expenses of liability arising out of the acquisition, design, construction, operation, maintenance, existence, or failure of the permitted project in an area where an extraordinary potential for damage or destruction from wildfire exists as an inherent risk to life and property.

Finding F2. The project, as conditioned, will not have significant adverse impacts on site stability or structural integrity from geologic, flood or fire hazards due to required project modifications, landscaping or other conditions.

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

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

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

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

As stated in Finding F1, the proposed project as designed, conditioned, and approved by the City Geologist, City Public Works Department and the LACFD, will not have any significant adverse impacts on the site stability or structural integrity of the proposed project.

Finding F5. Development in a specific location on the site may have adverse impacts but will eliminate, minimize or otherwise contribute to conformance to sensitive resource protection policies contained in the certified Malibu LCP.

The sensitive resource protection policies contained in the LCP are not applicable to the proposed project because it does not impact ESHA or ESHA buffer. As stated in Finding F1, the proposed

project, as designed, conditioned, and approved by the City Geologist, City Biologist, City Public Works Department and the LACFD, will not have any significant adverse impacts on sensitive resources as enumerated by the LCP.

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

LIP Section 10.3 requires that shoreline and bluff development findings be made if the project is anticipated to result in potentially significant adverse impacts on coastal resources, including public access and shoreline sand supply. The project is not anticipated to result in such impacts. The project is sited and designed to minimize risks and assure stability and structural integrity while neither creating nor contributing significantly to erosion or adverse impacts on public access. The project site is seaward of Malibu Road. The required findings in LIP Section 10.3(A) are made as follows.

Finding G1. The project, as proposed, will have no significant adverse impacts on public access, shoreline sand supply or other resources due to project design, location on the site or other reasons.

Pursuant to LIP Section 10.4, “[a]ll new development located on a bluff top shall be set back from the bluff edge a sufficient distance to ensure that it will not be endangered by erosion or threatened by slope instability for a projected 100 year economic life of the structure.” The required setback is 100 feet from the bluff edge, however, this distance may be reduced to 50 feet if the City geotechnical staff determines that the proposed development will not be endangered by erosion or slope instability with a lesser setback. The project site contains descending slopes along the north, east, and south portion of the site. Slope stability analyses and erosion rate estimates were performed by a licensed Certified Engineering Geologist and/or Geotechnical Engineer.

The December 2007 Leighton and Associates, Inc., report established a geotechnical setback line away from the slope delineating areas with factor of safety of 1.5 or greater. Furthermore, the October 2008 Leighton and Associates, Inc. report determined that the average historic rate of bluff retreat is 0.12 feet per year. To account for future extreme conditions, such as future El Niño storm events, Leighton and Associates, Inc. assumed a more conservative long-term bluff retreat rate of 0.20 feet per year. Based on a 0.20 bluff retreat rate, the current top of bluff is estimated to erode 20 feet over the course of 100 years. The study also concluded that the bluff retreat line is less restrictive than the 1.5 geotechnical setback line. The proposed residence and all accessory structures are located landward of both the 100 year bluff retreat line and the 50 foot setback line. All structures are located a minimum of 55 feet from the top of the bluff.

Fencing, which does not require any structural foundations, extends into the 50 foot setback area but not closer than 15 feet from the bluff edge. Pursuant to LIP Section 10.4, “[a]ncillary structures such as decks, patios and walkways that do not require structural foundations may extend into the setback area but in no case shall be sited closer than 15 feet from the bluff edge.” The project is not anticipated to result in any new significant adverse impacts on public access, shoreline sand supply, or other resources.

Finding G2. The project, as conditioned, will not have significant adverse impacts on public access, shoreline sand supply or other resources due to required project modifications or other conditions.

As discussed in Finding G1, the project, as conditionally approved by the City Geologist will not have any significant adverse impacts on public access, shoreline sand supply or other resources.

Finding G3. The project, as proposed or as conditioned, is the least environmentally damaging alternative.

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

Finding G4. There are no alternatives to the proposed development that would avoid or substantially lessen impacts on public access, shoreline sand supply or other resources.

As discussed in Finding G1, the project, as conditionally approved by the City Geologist, will not have any significant adverse impacts on public access, shoreline sand supply or other resources.

Finding G5. In addition, if the development includes a shoreline protective device, that it is designed or conditioned to be sited as far landward as feasible, to eliminate or mitigate to the maximum feasible extent adverse impacts on local shoreline sand supply and public access, [that] there are no alternatives that would avoid or lessen impacts on shoreline sand supply, public access or coastal resources and [that it] is the least environmentally damaging alternative.

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

H. Archaeological / Cultural Resources (LIP Chapter 11)

To adequately assess the project site, the following tasks were completed:

Phase I Archaeological Study: A Phase I Archaeological Study was prepared for the project site in July 2007 and included an on-foot surface reconnaissance of the entire project area and a records search at the South Central Coastal Information Center (SCCIC) at California State University, Fullerton. The records search performed by a professional archaeologist on July 12, 2007, at SCCIC indicated that no previously recorded prehistoric or historic archaeological site lie within the project area.

Updated Phase 1 Archaeological Study: Due to the lapse of time since the previous 2007 archaeology study and comments received during the public comment period, the applicant submitted an Updated Phase 1 Archaeology Study prepared for the project site in June 2013. An updated records search was performed by a certified archaeologist on June 10, 2013, at SCCIC which indicated that no previously recorded prehistoric or historic archaeological sites lie within the project site.

Consultation with the Native American Heritage Commission (NAHC): On July 16, 2007, the City sent a letter to NAHC regarding any concerns over potential heritage resources noted in there sacred lands

files on the proposed project site. NAHC responded in a letter dated July 19, 2007, that no sacred lands concerns or other issues were expressed for the proposed project. The NAHC letter is included in Appendix B of the Final EIR.

Paleontology Collection Records Search: The Natural History Museum (NHM) of Los Angeles County was contacted regarding the potential presence of paleontological resources such as fossils on the project site. The NHM performed a search of its paleontology collection records, which catalogs finds throughout Southern California. The NHM also reviewed the geology of the project site to determine the project site's potential to contain paleontological resources. There are no vertebrate fossil localities that lie within the project boundaries. Additional details of the NHM determination and the results of its records search are discussed in Section 5.3.3 of the Final EIR.

A discussion of cultural resources is included in Section 5.4 of the Final EIR because project construction activities could disturb previously unidentified archaeological resources. Mitigation measures have been included for the project to require a qualified archaeologist and a Native American Monitor of Chumash heritage to monitor all ground-disturbing activities, including but not limited to all grading, excavation and site preparation.

Nonetheless, conditions of approval have been included in this Resolution pertaining to the protection of cultural resources. Should any potentially important cultural resources be found in the course of geologic testing or during construction, work shall immediately cease until a qualified archaeologist can provide an evaluation of the nature and significance of the resources and until the Planning Director can review this information.

I. Public Access Ordinance (LIP Chapter 12)

In accordance with LIP Section 12.5(B)(2), the project is exempt from providing public lateral, vertical, bluff top, trail or recreational access for the following reasons:

Lateral and Vertical Public Access - The project is not located on or adjacent to a shoreline; therefore, no condition for lateral or vertical access is required by the LCP.

Bluff top Public Access - The project is located on a bluff-top property; however, no potential project-related or cumulative impact on bluff top access is anticipated because the site does not have potential to offer bluff top access. The project site is accessible by way of private property and is not accessible to the public. Furthermore, due to the topography of the project site, public safety concerns may arise if bluff top access was provided.

Trail Public Access - The project site does not include any existing or planned trails as indicated on the City Trails Master Plan or the LCP Parklands Map; therefore, no condition for trail access is required by the LCP.

Recreational Public Access - The project site is located adjacent to Malibu Bluffs Park and Lot 7 which is proposed to be dedicated to the City for public recreational uses. The proposed private street

providing access to the single-family residences would include sufficient turnaround area in the event that vehicles intending to go to Malibu Bluffs Park inadvertently turn into the private residential road. No condition for recreational access is required by the LCP.

J. Land Division (LIP Chapter 15)

Pursuant to LIP Section 15.2(B), a land division may be approved or conditionally approved only if it affirmatively finds that the proposal meets all of the following:

Finding J1. Does not create any parcels that do not contain an identified building site that: a. Could be developed consistent with all policies and standards of the LCP; b. Is safe from flooding, erosion, geologic and extreme fire hazards; c. Is not located on slopes over 30% and will not result in grading on slopes over 30%. All required approvals certifying that these conditions are met shall be obtained.

a. Building sites developed consistent with the LCP

The proposed building pads for the five residences proposed under CDP No. 07-145 through 07-149 can be developed consistent with the policies and standards regarding residential development in the PD zone established by LCPA No. 12-001.

b. Building sites are safe from flooding, erosion, geologic and extreme fire hazards

As discussed in detail in the Final EIR and in Section F of this resolution, the proposed site of development is safe from flooding, erosion, geologic and extreme fire hazards. A number of mitigation measures and conditions of approval are included in the project to minimize the potential for impacts from these hazards. Additionally, the project has been reviewed and approved by the City Geologist, City Public Works Department and the LACFD.

c. Buildings sites are not located on slopes over 30 percent

The proposed building sites are located on the flattest areas of the property. Development of the proposed residences will not be located on slopes in excess of 30 percent and will not require grading on slopes in excess of 30 percent.

The City Geologist, after reviewing the geological reports submitted, did not identify any hazards or mitigation related to the subject land division. Therefore, the land division does not pose a threat of any adverse impacts to the proposed parcels.

Finding J2. Is designed to cluster development, including building pads, if any, to maximize open space and minimize site disturbance, erosion, sedimentation and required fuel modification.

The proposed land division clusters the five residences proposed under CDP No. 07-145 through 07-149, each within a two-acre convex. Parcel 6 will be maintained by the HOA and will include the majority of landscaping, the majority of the access road, gate house and AWTS. Additionally, the

building pads are located on the flattest portions of the property, thereby minimizing necessary site disturbance due to grading. The fuel modification plan does not disturb any sensitive resources and the zones for several residences overlap; thereby minimizing required vegetation clearance.

Finding J3. Does not create any parcels where a safe, all-weather access road and driveway cannot be constructed that complies with all applicable policies of the LCP and all applicable fire safety regulations; is not located on slopes over 30% and does not result in grading on slopes over 30%. All required approvals certifying that these conditions are met shall be obtained.

The proposed private street, which will provide access from Winter Canyon Road to the five residences proposed under CDP No. 07-145 through 07-149, has been reviewed and approved by the LACFD with several conditions of approval which have been incorporated in this Resolution pertaining to maintenance of an unobstructed circular driveway on several parcels. The minimum turning radius of the cul-de-sac is required to be not less than 32 feet. As conditioned, the project includes a safe, all-weather access road which complies with the LCP and LACFD requirements and is not located on slopes in excess of 30 percent.

Finding J4. Does not create any parcels without the legal rights that are necessary to use, improve, and/or construct an all-weather access road to the parcel from an existing, improved public road.

As previously stated in Finding J3, a private, gated street will be constructed to link the five residences proposed under CDP No. 07-145 through 07-149 to Winter Mesa Road, a public road.

Finding J5. Is designed to minimize impacts to visual resources by complying with the following: a. Clustering the building sites to minimize site disturbance and maximize open space; b. Prohibiting building sites on ridgelines; c. Minimizing the length of access roads and driveways; d. Using shared driveways to access development on adjacent lots; e. Reducing the maximum allowable density in steeply sloping and visually sensitive areas; f. Minimizing grading and alteration of natural landforms, consistent with Chapter 8 of the Malibu LIP; g. Landscaping or revegetating all cut and fill slopes and other disturbed areas at the completion of grading, consistent with Section 3.12 of the Malibu LIP; h. Incorporating interim seeding of graded building pad areas, if any, with native plants unless construction of approved structures commences within 30 days of the completion of grading.

a. Clustering building sites

The five building sites are clustered as close to the private street easement as possible while maintaining required setbacks proposed under LCPA No. 12-001 / ZTA No. 12-001.

b. Prohibiting construction on ridgelines

The project site does not include a ridgeline, as defined in LIP Section 2.1.

c. Minimizing access road and driveway length

The project includes the dedication of Lot 7 to the City for public active and passive recreational uses. The proposed location of Lot 7 is dependent on the existing location of Malibu Bluffs Park because it will expand the recreational uses of the park. Due to the irregular shape of the project site and the proposed location of Lot 7, the proposed private driveway is approximately 950 feet in length. The initial ~600 feet of the driveway would run adjacent to Lot 7 prior to providing access to the five single-family homes. The remainder of the driveway serves as one main access road to five proposed homes; the homes are proposed to be clustered to the main access driveway.

d. Using shared driveways on steep lots

The area proposed for residential development is fairly flat. The five residences proposed under CDP No. 07-145 through 07-149 will all share one access road off of Winter Canyon Road.

e. Reducing density in steeply sloping areas

The proposed development is located away from the sloping area on the property and all structures requiring structural foundation maintain 50 feet or more from the top of bluff.

f. Minimizing grading

The residences have been sited on the flattest areas of the property with the specific goal of minimizing required landform alteration.

g. Landscaping cut and fill slopes

The City Biologist has added a condition of approval which states that the project applicant shall comply with LIP Section 3.10, requiring that all cut and fill slopes be landscaped or revegetated at the completion of grading.

h. Interim seeding of graded building pads

A condition of approval has been included which requires that building pads be seeded unless construction of approved structures commences within 30 days of the completion of grading.

Finding J6. Avoids or minimizes impacts to visual resources, consistent with all scenic and visual resources policies of the LCP.

As discussed in Finding D1, the Reduced Project Alternative will not have significant scenic and visual impacts.

Finding J7. Does not create any additional parcels in an area where adequate public services are not available and will not have significant effects, either individually or cumulatively, on coastal resources.

The Draft EIR for the proposed project was distributed to all applicable public agencies, including, but not limited to: the LACFD, Los Angeles Regional Water Quality Control Board (RWQCB), Los Angeles County Water Works District No. 29, Southern California Edison and the Los Angeles County Sheriff's Department and no issue relative to public services was noted. As discussed throughout this resolution and in the EIR, as conditioned, the land division will not have significant effects on coastal resources.

Finding J8. Does not create any parcels without the appropriate conditions for a properly functioning onsite wastewater treatment system or without an adequate water supply for domestic use. All required approvals certifying that these requirements are met must be obtained.

An AWTS has been engineered to serve the proposed guard house in addition to the five residences proposed under CDP No. 07-145 through 07-149. The proposed land division application, along with the package plant, was reviewed and approved by the City's Environmental Health Administrator.

In addition, the application was reviewed by the Los Angeles County Water Works District No. 29 and the applicant received the required "will serve" letters which indicate the adequate water supply exists to serve the proposed development.

Finding J9. Is consistent with the maximum density designated for the property by the Land Use Plan map and the slope density criteria (pursuant to Section 15.6 of the Malibu LIP).

The proposed project is consistent with the maximum density designated for the project site if LCPA No. 12-001 / ZTA 12-001 is approved.

Finding J10. Does not create any parcels that are smaller than the average size of surrounding parcels.

The surrounding properties are all zoned single-family (SF), Commercial Visitor Serving – 2 (CV-2) and multi-family (MF) with varying lot sizes. The surrounding residential parcels along Malibu Road range in size from approximately 5,000 square feet to more than 20,000 square feet. These parcels represent the closest residential development and closest properties utilizing Malibu Road for vehicular access. The proposed subdivision does not create parcels smaller than the average size of surrounding parcels.

Finding J11. Does not subdivide a parcel that consists entirely of ESHA and/or ESHA buffer or create a new parcel that consists entirely of ESHA and/or ESHA buffer.

The subject parcel is not located in or adjacent to an ESHA, ESHA buffer zone or any streams as designated in the LCP. Therefore, this finding is not applicable.

Finding J12. Does not create any new parcels without an identified, feasible building site that is located outside of ESHA and the ESHA buffer required in the LCP and that would not require vegetation removal or thinning for fuel modification in ESHA and/or the ESHA buffer.

As discussed in Finding A4, the subject site is not located in an ESHA or ESHA buffer and the proposed building sites indicated on the VTTM do not require any vegetation removal or thinning for fuel modification requirements within ESHA or ESHA buffer.

Finding J13. Does not result in construction of roads and/or driveways in ESHA, ESHA buffer, on a coastal bluff or on a beach.

The subject site is not located in an ESHA or ESHA buffer, coastal bluff or on a beach. Therefore, this finding does not apply.

Finding J14. Does not create any parcel where a shoreline protection structure or bluff stabilization structure would be necessary to protect development on the parcel from wave action, erosion or other hazards at any time during the full 100 year life of such development.

The subject site is located inland and does not require a shoreline protection device. The project site is a bluff top property. As discussed in Finding F1, the proposed project will not be subject to nor increase instability of the site or structural integrity from geologic, flood, or fire hazards due to project design, location on the site or other reasons.

Finding J15. If located on a beachfront parcel, only creates parcels that contain sufficient area to site a dwelling or other principal structure, onsite wastewater treatment system, if necessary, and any other necessary facilities without development on sandy beaches or bluffs.

The subject site is located inland and is not in a beachfront location and the proposed development is not located on the parcel's bluff.

Finding J16. Includes the requirement to acquire transfer of development credits in compliance with the provisions of the LCP, when those credits are required by the Land Use Plan policies of the LCP.

As discussed in Section E above, the applicant shall comply with the requirements of LIP Chapter 7 which requires the retirement of one lot (in designated donor areas) per new lot created. The project includes the creation of four newly created residential parcels; therefore, the applicant must retire four lots prior to final map recordation.

K. Onsite Wastewater Treatment System Standards (LIP Chapter 18)

LIP Section 18.7 includes specific siting, design and performance requirements for AWTS. New discharges from onsite wastewater disposal systems are prohibited within the Malibu Civic Center area

under Los Angeles RWQCB Resolution R4-2009-007 issued in November 2009. The proposed project is one of a few projects excepted from the prohibition because the project had already progressed far enough through the entitlement process. Under the terms of the prohibition, the proposed project must be connected to a certified wastewater treatment facility by 2019. In addition, as a condition of approval, the applicant / property owner or successor is required to obtain a permit for the proposed AWTS from the RWQCB and legally establish a HOA governing document that obligates the collection of assessments, specifies how the AWTS will be operated and maintained.

The project includes an AWTS consisting of six septic tanks, a 2,000 gallon septic tank for each of the single-family residences on Lots 1 through 5 and a 1,500 gallon septic tank for the guard house on Lot 6, a treatment plant located on Lot 6 and seepage pits located on Lot 7, all of which has been reviewed by the City Environmental Health Administrator and found to meet the minimum requirements of the Malibu Plumbing Code, the M.M.C. and the LCP. All wastewater would be routed to a 35,000-gallon, four-compartment equalization/recirculation/polishing/dosing tank connected with treatment units. Treatment would be performed in two stages. Three Advantex AX100 treatment units would be used for Stage I treatment, and three additional Advantex AX100 treatment units would be used for nitrogen reduction (secondary nitrification). After treatment, disinfection of the effluent would occur by liquid chlorination and the effluent then would be dechlorinated prior to discharge to the seepage pits. The seepage pits would be six feet in diameter and range from 61 to 65 feet deep. Soil conditions at the proposed seepage pit locations allow for a separation between groundwater and the bottom of the seepage pits, ranging from 17 to 22 feet.

Conditions of approval have been included in this resolution, which require continued operation, maintenance and monitoring of onsite facilities.

L. Subdivision Findings (M.M.C. Chapter 16)

No tentative map application shall be approved unless it complies with the provisions of the Subdivision Map Act and M.M.C. Section 16.12.130. City Council shall deny an application map if it makes any of the following findings:

Finding L1. The proposed map is not consistent with the adopted general plan or specific plans of the city.

The proposed VTTM is consistent with the General Plan, which designates the site as PD. The sizes of the parcels are consistent with the minimum lot sizes proposed under LCPA No. 12-001 / ZTA No. 12-001.

Finding L2. The design or improvement of the proposed development is not consistent with the general or specific plan of the city.

As detailed in this resolution, the proposed is consistent with the General Plan.

Finding L3. The site is not physically suitable for the type of development proposed.

The approval of the VTTM will allow subdivision of the property into seven parcels, five of which will contain new single-family residences. As discussed in this resolution, based on review by City departments and applicable agencies, it has been determined that the subject site is physically suitable for the proposed development. Prior to the issuance of grading or building permits, the project construction plans will be reviewed and approved for structural integrity and stability. All final recommendations of the applicant's structural engineer as well as those recommendations of the Environmental Sustainability Department, the City Geotechnical staff and City Public Works Department will be incorporated into the project.

Finding L4. The site is not suitable for the proposed density of the development.

As described in this resolution, the subject site is zoned PD. Currently, Malibu LCP does not include maximum density permitted on the project site. With the inclusion of LCPA No. 12-001 / ZTA No. 12-001, the proposed project would be consistent with the maximum density for the project site.

Finding L5. The design of the development or the proposed improvements are likely to cause substantial environmental damage or to substantially injure fish or wildlife or their habitat.

The subject property does not contain ESHA or ESHA buffer and does not contain any areas which could accommodate fish. The proposed subdivision will not negatively affect nor injure fish or wildlife or their habitat.

Finding L6. The design of the development or the type of improvement is likely to cause serious public health hazards.

Leighton and Associates, Inc. prepared a Phase 1 Environmental Site Assessment dated October 28, 2011 for the project site. The ESA revealed no evidence of recognized environmental conditions in connection with the property. The proposed VTTM includes grading and infrastructure improvements required to service the five single-family residences are proposed under CDP No. 07-145 through 07-149; therefore, the design of the development and the type of improvement are not likely to cause serious public health hazards.

Finding L7. The design of the development or the type of improvement will conflict with easements, acquired by the public at large, for access through or use of property within the proposed development and no alternate easements, for access or for use, will be provided, which are substantially equivalent to the ones previously acquired by the public.

The project site is bordered by PCH to the north and Winter Canyon Drive to the west. The following easements currently exist on the property:

- a. Variable width Caltrans slope easement along the northern section of the property adjacent to PCH;
- b. 10 foot wide easement for utility purposes along the northern property line;

- c. 2 foot wide easement for electrical power purposes running north / south and east / west through the southern and southeastern area of the property;
- d. 5 foot wide easement for utility purposes along the southwestern property line;
- e. Waiver of damages in favor of the State of California resulting from location of the property adjoining PCH;
- f. Right to restrict access to PCH in favor of the County of Los Angeles; and
- g. Conditional Certificate of Compliance in favor of the County of Los Angeles near the bluff perimeter in the southern portion of the property.

The easements discussed under subsections b and c, d and g will be abandoned and/or relocated as part of the final VTTM. The easements indicated under subsections a, e and f will remain.

New proposed easements on the property include:

- a. Variable width street easement to the HOA for access and utilities on multiple lots.
- b. 10 foot wide storm drain easements on Lots 3 and 4.
- c. 6.23 acres to the MRCA or the City of Malibu for open space and landscaping.

With the recordation of the final map, the existing slope easement along PCH will not be affected. A private street easement is included in the proposed VTTM and will provide direct access from Winter Mesa Road to the five proposed new single-family residences.

Finding L8. Any proposed subdivision of property with coastal frontage that does not provide or have available reasonable public access by fee or easement from public highways to land below the ordinary high water mark on any ocean coastline, pursuant to Government Code Section 66478.11.

The subject property is not located along the shoreline; therefore, this finding does not apply.

Section 3. Conditions of Approval

Based on the foregoing findings and evidence contained within the record, City Council hereby approves Vesting Tentative Tract Map No. 07-033 and Coastal Development Permit No. 07-044, subject to the following conditions:

Standard Conditions

1. The applicants and property owners, and their successors in interest, shall indemnify, defend and hold harmless the City of Malibu and its elected and appointed officials, officers, employees and agents from and against any and all claims, actions, proceedings, liabilities and costs brought against the City and its elected and appointed officials, officers, employees and agents relating to the City's actions concerning this project, including but not limited to any proceeding under CEQA. This indemnification shall include (without limitation) damages, fees, and/or costs awarded against the City, cost of suit, attorney's fees, and any award of litigation expenses in favor of any person or entity who seeks to challenge the validity of any of the City's actions or decisions in connection with this project. The City shall have the sole right to choose its

counsel and the property owners shall reimburse the City's expenses incurred in its defense of any lawsuit challenging the City's actions concerning this project and the City's costs, fees, and damages that it incurs in enforcing the indemnification provisions set forth in this section.

2. The approved scope of work includes:
 - a. A vesting tentative tract map (County Reference: VTTM No. 070038) for the subdivision of an ~24 acre property into seven individual parcels;
 - b. Extension of ~3,200 linear feet water line;
 - c. Development on Lot 6:
 - i. 16.5 foot tall, 280 square foot guard house;
 - ii. Private access road; and
 - iii. Fencing, walls, hardscape, lighting;
 - iv. Landscaping;
 - v. Onsite wastewater treatment plant; and
 - vi. Grading
 - d. Development on Lot 7:
 - i. Seepage pits
 - e. Dedication of Lot 7, a 1.74 acre parcel, to the City of Malibu for public active and passive recreational uses; and
 - f. Dedication of 6.23 acres to the Mountains Recreation and Conservation Authority or the City of Malibu, whichever owns the Malibu Bluffs Park, for open space and landscaping.
3. Subsequent submittals for this project shall be in substantial compliance with the plans on file, dated **March 16, 2012**, with the Planning Department. The project shall comply with all conditions of approval stipulated in the referral sheets attached to the agenda report for this project. In the event the project plans conflict with any condition of approval, the condition shall take precedence.
4. Pursuant to Local Coastal Program (LCP) Local Implementation Plan (LIP) Section 13.18.2, this permit and rights conferred in this approval shall not be effective until the property owner signs and returns the Acceptance of Conditions Affidavit accepting the conditions set forth herein. The applicant shall file this form with the Planning Department within 10 days of the City Council's adoption of the resolution and prior to issuance of any development permits.
5. The property owner / applicant or their successor shall submit three (3) complete sets of plans to the Planning Department for consistency review and approval prior to the issuance of any building or development permits.
6. This resolution, signed Acceptance of Conditions Affidavit and all Department Review Sheets attached to the agenda report for this project shall be copied in their entirety and placed directly onto a separate plan sheet behind the cover sheet of the development plans submitted to the City Environmental Sustainability Department for plan check, and the City Public Works Department for an encroachment permit (as applicable).

7. Any questions of intent or interpretation of any condition of approval will be resolved by the Planning Director upon written request of such interpretation.
8. All structures shall conform to requirements of the City Environmental Sustainability Department, City Geologist, City Environmental Health Administrator, City Biologist, City Coastal Engineer, City Public Works Department, Los Angeles County Water District No. 29 and the Los Angeles County Fire Department (LACFD), as applicable. Notwithstanding this review, all required permits shall be secured.
9. Minor changes to the approved plans or the conditions of approval may be approved by the Planning Director, provided such changes achieve substantially the same results and the project is still in compliance with the Malibu Municipal Code (M.M.C.) and the LCP. Revised plans reflecting the minor changes and additional fees shall be required.
10. Pursuant to LIP Section 13.20, development pursuant to an approved CDP shall not commence until the CDP is effective. The CDP is not effective until all appeals, including those to the California Coastal Commission (CCC), have been exhausted. In the event that the CCC denies the permit or issues the permit on appeal, the coastal development permit approved by the City is void.
11. The property owner must submit payment for all outstanding fees payable to the City prior to issuance of any building permit, including grading or demolition.
12. Any building or demolition permits issued for work commenced or completed without the benefit of required permits are subject to appropriate "Investigation Fees" as required in the Building Code.
13. Prior to the issuance of the first Certificate of Occupancy, the property owner shall provide a copy of a valid Operating Permit pursuant to M.M.C. Section 15.14.030 or an Operating Permit application fee receipt unless the project does not include an AWTS and ties into the City wastewater treatment system.

Cultural Resources

14. In the event that potentially important cultural resources are found in the course of geologic testing or during construction, work shall immediately cease until a qualified archaeologist can provide an evaluation of the nature and significance of the resources and until the Planning Director can review this information. Thereafter, the procedures contained in LIP Chapter 11 and those in M.M.C. Section 17.54.040(D)(4)(b) shall be followed.
15. If human bone is discovered during geologic testing or during construction, work shall immediately cease and the procedures described in Section 7050.5 of the California Health and Safety Code shall be followed. Section 7050.5 requires notification of the coroner. If the coroner determines that the remains are those of a Native American, the applicant shall notify

the Native American Heritage Commission by phone within 24 hours. Following notification of the Native American Heritage Commission, the procedures described in Section 5097.94 and Section 5097.98 of the California Public Resources Code shall be followed.

16. A Native American Monitor of Chumash descent shall be retained to monitor all ground-disturbing activities, including but not limited to all grading, excavation, and site preparation. Any artifacts recovered shall be curated at the South Central Coastal Information Center at California State University, Fullerton, the designated repository for Los Angeles, Ventura, and Orange Counties. The extent and duration of the archaeological monitoring program shall be determined in accordance with the proposed grading or demolition plans. If human remains are uncovered, the Los Angeles Coroner, Native American Heritage Commission, local Native American representatives, and archaeological monitor shall determine the nature of further studies, as warranted and in accordance with Public Resources Code 5097.98 and the City's standard conditions of approval. This mitigation measure shall also apply to trenching for utilities, geological testing, and any other ground-disturbing activities associated with the proposed project.

Vesting Tentative Tract Map

17. The Tract shall be developed in full compliance with the State Map Act and the M.M.C. Chapter 16.20, except as authorized by the Planning Commission and/or City Council. In accordance with M.M.C. Section 16.20.070, approval of the VTTM is contingent upon the adoption and certification of LCPA No. 12-001, ZTA No. 12-001, and all other discretionary land use approvals required for the project.
18. Details shown on the vesting tentative map are not necessarily approved. Any details which are inconsistent with requirements of ordinances, general conditions of approval, or City Engineer's policies, must be specifically approved in the final map or improvement plan approvals.
19. A final map prepared by, or under the direction of a Registered Civil Engineer authorized to practice land surveying, or a Licensed Land Surveyor, must be processed through the City Public Work's office prior to being filed with the County Recorder.
20. A preliminary subdivision guarantee is required showing all fee interest holders and encumbrances. An updated title report shall be provided before the final map is released for filing with the County Recorder.
21. Monumentation of vesting tract map boundaries, street centerline and lot boundaries is required.
22. Lot 7 shall be dedicated to the City in connection with the recordation of the Final Map.
23. The final map shall be filed with the County Recorder and one (1) mylar copy of filed map shall be submitted to the City Engineer's office prior to issuance of building permits. The final map

and all off-site improvements required to be made or installed by the applicant / property owner shall meet the approval of the City Engineer.

24. Approval for filing of this land division is contingent upon approval of plans and conditions of approval in this resolution. If the improvements are not installed prior to the filing of this division, the property owner / applicant or their successor must enter into a Subdivision Improvement Agreement/Undertaking Agreement with the City and a Faithful Performance and Labor and Materials Bond in the amount estimated by the City Engineer guaranteeing the installation of the improvements.
25. Plans for private road improvements and street light layout for the proposed access road shall be submitted to the City Engineer and must be approved prior to filing the final map.
26. The City reserves the right to impose any new plan check and/or permit fees approved by City Council subsequent to tentative approval of this vesting tract map.
27. The applicant/property owner or its successor shall pay a voluntary additional public benefit of \$1 million (\$1,000,000.00) payable to the City of Malibu to be used to develop Lot 7 prior to the recordation of the final map.
28. Subject to the time limits established in Condition No. 30 of this Resolution, the approval or conditional approval of the proposed VTTM shall confer a vested right to proceed with development in substantial compliance with the ordinances, policies, and standards described in Government Code Section 66474.2. If Section 66474.2 of the Government Code is repealed, however, the approval or conditional approval of a vesting tentative map shall confer a vested right to proceed with development in substantial compliance with the ordinances, policies, and standards in effect at the time the vesting tentative map is approved or conditionally approved, subject to the time limits established by Condition No. 30 of this Resolution.
29. Notwithstanding Condition No. 28, a permit, approval, extension, or entitlement may be made conditional or denied, even though such action may be contrary to the ordinances, policies, and standards described in Condition No. 28, if any of the following are determined:
 - a. A failure to do so would place the residents of the subdivision, or the immediate community, or both, in a condition dangerous to their health or safety, or both;
 - b. The condition or denial is required in order to comply with state or federal law.
30. The rights referred to in Condition No. 28 shall expire if a final map is not approved prior to the expiration of the vesting tentative map. If the final map is timely approved, such rights shall exist for the following periods of time:
 - a. An initial time period of one year after the recording of the final map. Where several final maps are recorded on various phases of a project covered by a single vesting

tentative map, this initial time period shall begin for each phase when the final map for that phase is recorded.

- b. The initial time period set forth in Condition 30(a), shall be automatically extended by any time used for processing a complete application for a plot plan review, grading permit or other development application, if such processing exceeds thirty (30) days from the date a complete application is filed.
- c. The applicant may apply to the Planning Commission for a one-year extension at any time before the expiration of the initial time period set forth in subsection (C)(1) of this section. If the extension is denied, the applicant may appeal that denial to the City Council within fifteen (15) days thereafter.
- d. If the applicant submits a complete application for a building permit during the periods of time specified in subsection Condition 30(a) through Condition 30(c), the rights referred to herein shall continue to exist until the expiration of such permit, or any extension thereof.

Transfer of Development Credit

31. The property owner / applicant or their successor shall be required to retire sufficient donor lots to provide one (1) transfer of development credit (TDC) for each newly created residential lot authorized. Therefore, the TDC requirement for the proposed project is four (4) TDC credits.
32. TDC candidate sites selected to be retired shall be reviewed by the Planning Director. This review shall ensure that the site selected for retirement meets the criteria desired for permanent open space.
33. The four parcels selected to be retired shall be deed restricted to prohibit development into perpetuity.
34. The TDC requirements must be met prior to final map recordation.

Walls and Fencing

35. The property owner / applicant or their successor shall include an elevation of the proposed electronic driveway gate on the architectural plans that are submitted for building plan check. The gate and all fencing along the front property line shall comply with the regulations set forth in LIP Section 3.5.
36. The height of fences and walls shall comply with LIP Section 3.5.3(A). No retaining wall shall exceed 6 feet in height or 12 feet in height for a combination of two or more walls.

Colors and Materials

37. New development in scenic areas visible from scenic roads or public viewing areas shall incorporate colors and exterior materials that are compatible with the surrounding landscape.
 - a. Colors shall be compatible with the surrounding environment (earth tones) including shades of green, brown and gray, with no white or light shades and no bright tones.
 - b. The use of highly reflective materials shall be prohibited except for solar energy panels or cells, which shall be placed to minimize significant adverse impacts to public views to the maximum extent feasible.
 - c. All windows shall be comprised of non-glare glass.
38. All driveways shall be a neutral color that blends with the surrounding landforms and vegetation. The color shall be reviewed and approved by the Planning Director and clearly indicated on all grading, improvement and/or building plans.
39. Retaining walls shall incorporate veneers, texturing and/or colors that blend with the surrounding earth materials or landscape. The color and material of all retaining walls shall be reviewed and approved by the Planning Director and clearly indicated on all grading, improvement and/or building plans.

Lighting

40. Night lighting from exterior and interior sources shall be minimized. All exterior lighting shall be low intensity and shielded so it is directed downward and inward so that there is no offsite glare or lighting of natural habitat areas.
41. Exterior lighting shall be minimized and restricted to low intensity features, shielded, and concealed so that no light source is directly visible from public viewing areas. Permitted lighting shall conform to the following standards:
 - a. Lighting for walkways shall be limited to fixtures that do not exceed two feet in height that are directed downward, and use bulbs that do not exceed 60 watts or the equivalent;
 - b. Security lighting controlled by motion detectors may be attached to the residence provided it is directed downward and is limited to 60 watts or the equivalent;
 - c. Driveway lighting shall be limited to the minimum lighting necessary for safe vehicular use. The lighting shall be limited to 60 watts or the equivalent;
 - d. Lights at entrances in accordance with Building Codes shall be permitted provided that such lighting does not exceed 60 watts or the equivalent;
 - e. Site perimeter lighting shall be prohibited;
 - f. Outdoor decorative lighting for aesthetic purposes is prohibited; and
 - g. Night lighting for sports courts or other private recreational facilities in scenic areas designated for residential use shall be prohibited.

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

Swimming Pools / Spas / Water Features

43. Onsite noise, including that which emanates from swimming pool and air conditioning equipment, shall be limited as described in M.M.C. Chapter 8.24 (Noise).
44. All pool and air conditioning equipment that will be installed shall be screened from view by a solid wall or fence on all four sides. The fence or walls shall not be higher than 42 inches tall.
45. All swimming pools shall contain double walled construction with drains and leak detection systems capable of sensing a leak of the inner wall.
46. Pursuant to the Clean Water Act and the Malibu Water Quality Ordinance, discharge of water from a pool/spa is prohibited unless it is discharged to a sanitary sewer system. Provide information on the plans regarding the type of sanitation proposed for pools.
- a. Ozonization systems are an acceptable alternative to chlorine. The release of clear water from ozonization system is permitted to the street or sewer;
 - b. Salt water sanitation is an acceptable alternative, but the discharge of salt water is prohibited to the street and sewer.
47. Highly chlorinated water from pools or spa shall be discharged to a public sewer or may be trucked to a publicly owned treatment works (POTW) for discharge.
48. The discharge of chlorinated pool water shall be prohibited.
49. The discharge of non-chlorinated pool water into streets, storm drain, creek, canyon, drainage channel, or other location where it could enter receiving waters shall be prohibited.
50. Pursuant to M.M.C. Section 9.20.040(B), all ponds, decorative fountains and water features shall require a water re-circulating/recycling system.

Biology/Landscaping

51. The Maximum Applied Water Allowance (MAWA) for the common area (Lot 6) totals 746,153 gallons per year. The Estimated Applied Water Use (EAWU) totals 529,719 gallons per year, thus meeting the Landscape Water Conservation Ordinance Requirements.
52. Prior to Final Plan Check Approval, please provide landscape water use approval from the Los Angeles County Waterworks Department.

53. No new development, planting, or irrigation is permitted within public easements. Any new structure, plant or irrigation system occurring in the public easement shall be removed at the owner's expense. Re-stripping and traffic improvements on Winter Mesa Drive are permitted.
54. Invasive plant species, as determined by the City of Malibu, are prohibited.
55. Vegetation shall be situated on the property so as not to significantly obstruct the primary view from private property at any given time (given consideration of its future growth).
56. Vegetation forming a view impermeable condition (hedge), serving the same function as a fence or wall, occurring within the side or rear yard setback shall be maintained at or below six (6) feet in height. View impermeable hedges occurring within the front yard setback serving the same function as a fence or wall shall be maintained at or below 42 inches in height.
57. The use of building materials treated with toxic compounds, such as copper arsenate, shall be prohibited.
58. Prior to final Plan Check, a detailed irrigation plan shall be submitted to Building Safety Division for review and approval.
59. Prior to final landscape inspection, provide a signed copy of the Certificate of Completion, certifying the irrigation installation and operational efficiency is consistent with the approved plans.
60. Grading shall be scheduled only during the dry season from April 1-October 31st. If it becomes necessary to conduct grading activities from November 1-March 31, a comprehensive erosion control plan shall be submitted for approval prior to issuance of a grading permit and implemented prior to initiation of vegetation removal and/or grading activities.
61. Grading scheduled between February 1 and August 30 will require nesting bird surveys by a qualified biologist prior to initiation of grading activities. Should active nests be identified, a buffer area no less than 300 feet (500 feet for raptors) shall be fenced off until it is determined by a qualified biologist that the nest is no longer active. A report discussing the results of nesting bird surveys shall be submitted to the City Biologist prior to ANY vegetation removal on site.
62. Night lighting from exterior and interior sources shall be minimized. All exterior lighting shall be low intensity and shielded so it is directed downward and inward so that there is no offsite glare or lighting.

63. No lighting for aesthetic purposes, such as up-lighting of landscaping, is permitted.
64. Necessary boundary fencing of any single area exceeding one half (1/2) acre shall be of an open rail-type design with a wooden rail at the top (instead of wire), be less than 40 inches high, and have a space greater than 14 inches between the ground and the bottom post or wire. A split rail design that blends with the natural environment is preferred.

Environmental Review Board

65. The applicant/property owner or its successor shall prepare a drainage plan, demonstrating that drainage is collected in drainage facilities with non-erosive devices.
66. The drafting hydrant for swimming pools above 5,000 gallons shall be located in an area easily accessible to the LACFD. The locations of the drafting hydrant shall be approved by the LACFD.
67. Irrigation of steep slopes shall be avoided, if possible.

Geology

68. All recommendations of the consulting Certified Engineering Geologist or Geotechnical Engineer and/or the City Geologist shall be incorporated into all final design and construction. Final plans shall be reviewed and approved by the City Geologist prior to the issuance of a grading permit.
69. Final plans approved by the City Geologist shall be in substantial conformance with the approved CDP relative to construction, grading and drainage. Any substantial changes may require amendment of the CDP or a new coastal development permit.
70. Engineered structures, such as retaining walls, footings for small structures and significant cut and fill grading, will require the preparation of a geotechnical report that provides recommendations for the design of these structures and grading procedures in accordance with the City's Geotechnical Guidelines and Building Codes.
71. The project geotechnical consultants should review the referenced plans. The project engineering geologist and a registered geotechnical engineer or civil engineer practicing in geotechnical engineering in the state of California should be retained to perform geotechnical investigations for the proposed improvements discussed above and prepare a report(s) providing recommendations for the structural improvements and grading, as applicable. City geotechnical staff shall review the report(s) for conformance to the City's geotechnical guidelines and Building/Grading Codes during the building/grading plan check phase.

Public Works

72. Exported soil from a site shall be taken to the Los Angeles County Landfill or to a site with an active grading permit and the ability to accept the material in compliance with LIP Section 8.3.
73. Geology and geotechnical reports shall be submitted with all applications for plan review to the Public Works Department. Approval by Geology and Geotechnical Engineering shall be provided prior to the issuance of any permit for the project. The applicant's consulting engineer shall sign the final plans prior to the issuance of permits.
74. The Total Grading Yardage Verification Certificates shall be copied onto the coversheet of the Grading Plans submitted for the project. No alternative formats or substitute may be accepted.
75. Grading permits shall not be issued between November 1 and March 31 each year. Projects approved for a grading permit shall not receive grading permit unless the project can be rough-graded before November 1 or if it becomes necessary to conduct grading activities from November 1-March 31, a comprehensive erosion control plan shall be submitted for approval prior to issuance of a grading permit and implemented prior to initiation of vegetation removal and/or grading activities.
76. Grading during the rainy season may be permitted to remediate hazardous geologic conditions that endanger public health and safety.
77. All cut and fill slopes shall be stabilized with landscaping at the completion of final grading.
78. A State Construction Activity Permit is required for this project due to the disturbance of more than one acre of land for development. Provide a copy of the letter from the State Water Quality Control Board containing the WDID number prior to the issuance of grading or building permits.
79. Storm drainage improvements are required to mitigate increase runoff generated by property development. The applicant/property owner or its successor shall have the choice of one method specified within the City's LIP.
80. The property owner / applicant or their successor shall label all City/County storm drain inlets within 250 feet from each property line per the City of Malibu's standard label template.
81. Prior to final approval of the Public Works Department, the applicant shall submit a digital drawing of the project's storm drainage and post-construction BMPs.
82. A Grading and Drainage Plan is required, and shall be submitted to the City Public Works Department for review and approval, prior to the issuance of grading permits for the project. The following elements shall be included in this plan:
 - a. Public Works Department general notes;

- b. The existing and proposed square footage of impervious coverage on the property shall be shown on the grading plan (including separate areas for buildings, driveways, walkways, parking, tennis courts and pool decks);
 - c. The limits of land to be disturbed during project development shall be delineated and a total area shall be shown on this plan. Areas disturbed by grading equipment beyond the limits of grading, areas disturbed for the installation of the AWTS, and areas disturbed for the installation of the detention system shall be included within the area delineated; and
 - d. Private storm drain systems shall be shown on this plan. Systems greater than 12 inch in diameter shall also have a plan and profile for the system included with this plan.

83. A Wet Weather Erosion and Sediment Control Plan is required for this project (grading or construction activity is anticipated to occur during the rainy season). The following elements shall be included:
 - a. Locations where concentrated runoff will occur;
 - b. Plans for the stabilization of disturbed areas of the property, landscaping and hardscape, along with the proposed schedule for the installation of protective measures;
 - c. Location and sizing criteria for silt basins, sandbag barriers and silt fencing; and
 - d. Stabilized construction entrance and a monitoring program for the sweeping of material tracked off site.

84. A Storm Water Pollution Prevention Plan (SWPP) shall be provided prior to the issuance of grading permits. This plan shall include:
 - a. Dust Control for the management of fugitive dust during extended periods without rain;
 - b. Designated areas for the storage of construction materials that do not disrupt drainage patterns or subject the material to erosion by site runoff;
 - c. Designated area for the construction portable toilets that separates them from storm water runoff and limits the potential for upset; and
 - d. Designated areas for disposal and recycling facilities for solid waste separated from the site drainage system to prevent discharge of runoff through the waste.

85. A Water Quality Mitigation Plan (WQMP) is required for this project (also known as Standard Urban Stormwater Management Plan or SUSMP). The WQMP shall be supported by a hydrology and hydraulic study that identifies all areas contributory to the property and an analysis of the predevelopment and post development drainage of the site. The following elements shall be included within the WQMP:
 - a. Site Design Best Management Practices (BMPs);
 - b. Source Control BMPs;
 - c. Treatment Control BMPs;
 - d. Drainage improvements;
 - e. Methods for on-site percolation, site re-vegetation and analysis for off-site project impacts;
 - f. Measures to treat and infiltrate runoff from impervious areas;

- g. A plan for the maintenance and monitoring of the proposed treatment BMPs for the expected life of the structure;
 - h. A copy of the WQMP shall be filed against the property to provide constructive notice to future property owners of their obligation to maintain the water quality measures installed during construction prior to the issuance of grading or building permits; and
 - i. The WQMP shall be submitted to the Building and Safety Public Counter and the fee applicable at time of submittal for the review of the WQMP shall be paid prior to the start of the technical review. Once the plan is approved and stamped by the Public Works Department, the original signed and notarized document shall be recorded with the County Recorder. A certified copy of the WQMP shall be submitted to the Public Works Department's approval of the building plans for the project.
86. The property owner / applicant or their successor shall contract with a City approved hauler to facilitate the recycling of all recoverable/recyclable material. Recoverable material shall include but shall not be limited to: Asphalt, dirt and earthen material, lumber, concrete, glass, metals, and drywall. Prior to the issuance of a building/demolition permit, a Waste reduction and Recycling Plan (WRRP) shall be submitted to the Public Works Department for review and approval. The WRRP shall indicate means and measures for a minimum of 50 percent diversion Goal.
87. Prior to grading permit issuance, final grading and drainage plans incorporating construction-phase erosion control and storm water pollution prevention, as well as post-construction storm water management must be approved by the City Public Works Department.

Environmental Health

88. Prior to final City Environmental Health Administrator approval, a final AWTS plot plan shall be submitted showing an AWTS design meeting the minimum requirements of the Malibu Plumbing Code (MPC) and the LCP, including necessary construction details, the proposed drainage plan for the developed property and the proposed landscape plan for the developed property. The AWTS plot plan shall show essential features of the AWTS and must fit onto an 11 inch by 17 inch sheet leaving a five inch margin clear to provide space for a City applied legend. If the scale of the plans is such that more space is needed to clearly show construction details and/or all necessary setbacks, larger sheets may also be provided (up to a maximum size of 18 inches by 22 inches).
89. The applicant/property owner or its successor shall provide complete engineering design drawings, calculations, construction specification, and an operation and maintenance manual to the City Environmental Sustainability Department. Describe all AWTS components (i.e. alarm system, pumps, timers, flow equalization devices, backflow devices, etc.) proposed for use in the construction of systems for onsite wastewater treatment and disposal. Electronically monitored flow meters shall be flowing daily through the wastewater system. The final AWTS design shall provide sufficient capacity for onsite treatment and disposal of all project wastewater discharges in accordance with the requirements of the MPC, LCP/LIP and RWQCB. In addition, the wastewater treatment process shall be reviewed and approved by the

City's wastewater engineering consultant (currently Tetra Tech, Inc.) prior to Environmental Health final approval.

90. The applicant/property owner or its successor shall submit building plans, wastewater plans, and all necessary supporting forms, and reports, to the RWQCB, 320 W. 4th Street, Los Angeles, CA 90013, (213) 576-6600, to assure compliance with the California Water Quality Control Plan, Los Angeles Region (Basin Plan). Waste Discharge Requirements (WDRs) for this project have not yet been issued by the RWQCB. A copy of applicable WDRs issued by the RWQCB must be included with your Plan Check submittal. The City's Plan Check wastewater engineering review will be performed relative to the treatment objectives expressed in the WDRs. Please note that while the wastewater system renovation project has been approved in-concept for the Coastal Development Permit, the final design of the treatment train may need to be substantially modified from what has been shown in the Conformance Review wastewater engineering preliminary design documents.
91. Prior to receiving Environmental Health final approval, the applicant/property owner or its successor shall legally establish a homeowners' association governing document that obligates the collection of assessments, specifies how the AWTS shall be operated and maintained, creates the ongoing obligation of the homeowner's association to comply with all permitting requirements, references all applicable LCP/LIP requirements with respect to package wastewater treatment plants, and establishes a financial assurance mechanism acceptable to the City of Malibu. The Covenants, Conditions, and Restrictions (CC&Rs) shall be reviewed and approved by City Attorney's office and then submitted to the Environmental Health Administrator.
92. An operations and maintenance manual specified by the AWTS designer shall be submitted. This shall be the same operations and maintenance manual proposed for later submission to the owner and/or operator of the proposed alternative onsite wastewater disposal system.
93. A maintenance contract executed between the owner of subject property and an entity qualified in the opinion of the City of Malibu to maintain the proposed alternative onsite wastewater disposal system after construction shall be submitted.
94. City of Public Works Department final approval shall be submitted. The City of Malibu Public Works reviewer shall review the AWTS design to determine conformance with Public Works Department requirements.
95. City of Malibu Geologist, Geotechnical Engineer, and Hydrogeologist final approvals shall be submitted.
96. The applicant/property owner or its successor shall submit an application to the Environmental Sustainability Department for an AWTS operating permit. An operating permit fee in accordance with the fee schedule in effect at the time of submittal shall be submitted with the application.

97. Any above-ground equipment associated with the installation of the AWTS shall be screened from view by a solid wall or fence on all four sides. The fence or walls shall not be higher than 42-inches tall.

Fire Safety

98. The applicant/property owner or its successor shall provide water mains, fire hydrants and fire flows as required by the County of Los Angeles Fire Department, for all land shown on map which shall be recorded.
99. The required fire flow for public fire hydrants at this location is 1,375 gallons per minute at 20 pounds per square inch (psi) for a duration of 2 hours, over and above maximum daily domestic demand. 1 hydrant flowing simultaneously may be used to achieve the required fire flow.
100. Fire hydrant requirements are as follows: Install 3 private on-site fire hydrants.
101. All hydrants shall measure 6" x 4" x 2.5" brass or bronze, conforming to current American Water Works Association (AWWA) standard C503 or approved equal. All onsite hydrants shall be installed a minimum of 25' feet from a structure or protected by two-hour rated firewall, location as per map on file with the office.
102. All required fire hydrants shall be installed, tested and accepted, or bonded prior to Final Map approval.
103. Additional water system requirements will be required when this land is further subdivided and/or during the building permits.
104. Emergency access for on-foot firefighter use shall be extended to all exterior walls or all proposed structure within the subdivision. Additional walking access shall be reviewed and approved by the Fire Prevention Engineering prior to Building Permit issuance.
105. The applicant/property owner or its successor shall submit three copies of the final map to LACFD, Land Development for review and approval recordation.
106. The project may require interior fire sprinklers.
107. The project requires LACFD approval of a Final Fuel Modification Plan prior to the issuance of final building permits.
108. Access shall comply with Section 503 of the Fire Code, which requires all weather access. All weather access may require paving.
109. Fire Department Access shall be extended to within 150 feet distance of any exterior portion of all structures.

110. Where driveways shall be indicated on the final maps as "Private Driveway and Fire lane" 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.
111. 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.
112. The applicant/property owner or its successor shall provide Fire Department or City approved street signs and building access numbers prior to occupancy.

Trash Storage Areas

113. Trash container areas must have drainage from adjoining roofs and pavement diverted around the area.
114. Trash container areas must be screened or walled to prevent off-site transport of trash, other than by approved haulers.

Utilities

115. Power, telephone and cable television service shall be placed underground. The applicant/property owner or its successor shall coordinate with the proper utilities providers to properly relocate any existing facilities within the project site, if necessary.
116. Any utilities that are in conflict with the development shall be relocated at the developer's expense.

Water Service

117. The applicant/property owner or its successor shall be required to comply with the requirements of the Los Angeles County Waterworks District No. 29, as stated in the Will Serve Letters dated December 26, 2012.
118. All lots shall be served by adequately sized water system facilities, which shall include fire hydrants of the size, type and location as determined by the Fire Chief.
119. The water mains shall be of sufficient size to accommodate the total domestic and fire flow required for the land division. Domestic flows required are to be determined by the City Engineer. Fire flows required are to be determined by the Fire Chief.
120. Plans and specifications for the water system facilities shall be submitted for approval to the water company serving this land division. The applicant/property owner or its successor shall submit an agreement and other evidence, satisfactory to the City Engineer indicating that the

applicant/property owner or its successor has entered into a contract with the servicing water purveyor guaranteeing payment and installation of the water improvements.

121. Prior to the filing of the final vesting tract map, there shall also be filed with the City Engineer, a statement from the water purveyor indicating the applicant/property owner or its successor compliance with the Fire Chief's fire flow requirements.

Site Specific Conditions

122. The property owner/applicant or its successor shall implement all mitigation measures specified in Environmental Impact Report No. 09-001 pursuant to the final MMRP dated December 2013.
123. The property owners/applicants or its successor shall obtain an encroachment permit from the City Public Works Department prior to commencement of any work within the Winter Mesa Canyon right of way.
124. The property owners/applicants or its successor shall obtain an encroachment permit from Caltrans prior to commencement of any work within the Pacific Coast Highway public right-of-way.

Deed Restrictions

125. The property owners/applicants or its successor is required to acknowledge, by recordation of a deed restriction, that the property is subject to wave action, erosion, flooding, landslides, or other hazards associated with development on a beach or a bluff, and that the property owner assumes said risks and waives any future claims of damage or liability against the City of Malibu and agrees to indemnify the City of Malibu against any liability, claims, damages or expenses arising from any injury or damage due to such hazards. The property owner shall provide a copy of the recorded document to Planning Department staff prior to final planning approval.
126. The property owners/applicants or its successor is required to execute and record a deed restriction which shall indemnify and hold harmless the City, its officers, agents, and employees against any and all claims, demands, damages, costs, and expenses of liability arising out of the acquisition, design, construction, operation, maintenance, existence or failure of the permitted project in an area where an extraordinary potential for damage or destruction from wildfire exists as an inherent risk to life and property. The property owner shall provide a copy of the recorded document to Planning Department staff prior to final planning approval.
127. Prior to final planning approval, the property owners/applicants or its successor shall be required to execute and record a deed restriction reflecting lighting requirements set forth in Condition Nos. 40-42. The property owner shall provide a copy of the recorded document to Planning Department staff prior to final planning approval.

128. Prior to final planning approval, the property owners/applicants or its successor shall be required to execute and record a deed restriction for each of the five residential parcels reflecting that each property owner is responsible for maintaining the access road in a manner that guarantees adequate access for emergency vehicles and adequate ingress/egress for the properties served thereby.

Prior to the Issuance of Certificate of Occupancy

129. Prior to the issuance of the first Certificate of Occupancy, the property owners/applicants or its successor shall provide the Planning Department with a copy of the recorded Covenants, Conditions and Restrictions (CC&Rs) for the property. The CC&Rs shall be reviewed by the City Attorney prior to recordation and must include all applicable provisions required as mitigation measures in the MMRP.
130. Prior to the issuance of the Certificate of Occupancy, the property owners/applicants or its successor shall provide the City Public Works Department with a Final Waste Reduction and Recycling Report. This report shall designate all materials that were land filled and recycled, broken down into material types. The final report shall be approved by the City Public Works Department.
131. Prior to final sign off by the Planning Department, the City Biologist shall inspect the project site and determine that all planning conditions to protect natural resources are in compliance with the approved plans.

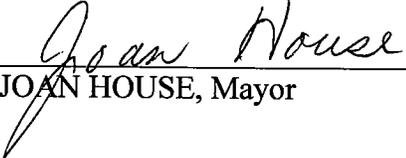
Section 4. Severability.

If any part, provision, or section of this resolution is determined by a court or other legal authority with jurisdiction over the subject matter of this resolution to be unenforceable or invalid, the remainder of the entirety of this resolution shall not be affected and shall continue in full force and effect. To this end, the provisions of this resolution are severable.

Section 5. Certification.

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

PASSED, APPROVED AND ADOPTED this 24th day of February 2014.



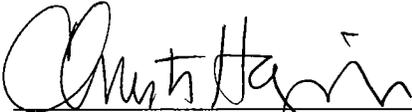
JOAN HOUSE, Mayor

ATTEST:



LISA POPE, City Clerk
(seal)

APPROVED AS TO FORM:



CHRISTI HOGIN, City Attorney

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

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

I CERTIFY THAT THE FOREGOING RESOLUTION NO. 14-12 was passed and adopted by the City Council of the City of Malibu at the regular meeting thereof held on the 24th day of February 2014 by the following vote:

AYES: 5 Councilmembers: La Monte, Rosenthal, Sibert, Peak, House
NOES: 0
ABSTAIN: 0
ABSENT: 0



LISA POPE, City Clerk
(seal)