
Findings of Fact

2008-2014 Housing Element Update

(SCH #2011051027)

Findings by:

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INTRODUCTION

1.1 Findings of Fact

The California Environmental Quality Act (CEQA) requires that the environmental impacts of a project be examined and disclosed prior to approval of a project. CEQA Guidelines Section 15091 provides the following guidance regarding findings:

- “(a) No public agency shall approve or carry out a project for which an EIR has been certified which identifies one or more significant environmental effects of the project unless the public agency makes one or more written findings for each of those significant effects, accompanied by a brief explanation of the rationale for each finding. The possible findings are:
- (1) Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.
 - (2) Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency.
 - (3) Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the final EIR.”

Having received, reviewed and considered the Final Environmental Impact Report for the 2008-2014 Housing Element Update, SCH #2011051027; as well as all other information in the record of proceedings on this matter, the following Findings Regarding the CEQA Documents for the 2008-2014 Housing Element Update project (Project) are hereby adopted by the City of Malibu.

1.2 Document Format

These Findings have been categorized into the following sections:

- 1) Section 1.0 provides an introduction to these Findings.
- 2) Section 2.0 provides a summary of the Project and overview of other discretionary actions required for the Project, and a statement of Project objectives.
- 3) Section 3.0 provides a summary of those activities that have preceded the consideration of the Findings for the Project as part of the environmental review process, and a summary of public participation in the environmental review for the Project.
- 4) Section 4.0 sets forth findings regarding those potentially significant environmental impacts identified in the CEQA Documents which the City has determined to be less than significant with the implementation of Project design features.
- 5) Section 5.0 sets forth findings regarding those significant or potentially significant environmental impacts identified in the CEQA Documents which the City has



determined can feasibly be mitigated to a less than significant level through the imposition of mitigation measures included in the MMRP for the Project.

- 6) Section 6.0 sets forth findings regarding growth inducing impacts.
- 7) Section 7.0 sets forth findings regarding alternatives to the Project.
- 8) Section 8.0 contains findings regarding the MMRP for the Project.
- 9) Section 9.0 contains other relevant findings adopted by the City with respect to the Project.

The Findings set forth in each section herein are supported by findings and facts identified in the administrative record of the Project.

1.3 Custodian and Location of Records

The documents and other materials that constitute the administrative record for the City's actions regarding the Project are located at the City of Lompoc Planning Department, 23825 Stuart Ranch Road, Malibu, California, 90265. The City is the custodian of the administrative record for the Project.

1.0 PROJECT SUMMARY

2.1 Project Description/Location

The Housing Element Update would establish new housing goals, policies, and programs for the entire City of Malibu. The following three parcels, identified throughout the EIR as "candidate sites", are proposed for zoning modification to allow multi-family residential development at a density of 20 units/acre:

Candidate Site #1: 28517 Pacific Coast Highway [Assessor's Parcel Numbers (APN) 4467-013-022 and -023]

Candidate Site #2: 28401 Pacific Coast Highway (APN 4467-012-005)

Candidate Site #7: 23465 Civic Center Way (a 2.3 acre portion of APN 4458-022-024)

2.2 Discretionary Actions

The Housing Element Update would need to be adopted by the Malibu City Council. In conjunction with this approval, the Planning Commission would first provide a recommendation on the proposed amendments to the General Plan, M.M.C. and LCP and then the City Council would need to approve amendments, as described above. The proposed amendments to the City's LCP would also require certification by the California Coastal Commission.

2.3 Statement of Objectives

The objectives of the project are to:

- Update the City of Malibu Housing Element to comply with State Housing Law;
- Provide for a mix of housing types for all income levels;



- Amend the development regulations for a sufficient number of parcels within the City to accommodate the RHNA allocation requirements for low and very-low income households;
- Adopt regulations to encourage construction of additional second units and the conversion of existing secondary units within the City; and
- Remove regulatory barriers to the development of multi-family residential projects and housing for persons with special needs in conformance with state law.

2.0 ENVIRONMENTAL REVIEW AND PUBLIC PARTICIPATION

On May 11, 2011, a Notice of Preparation (NOP) was distributed by the City of Malibu for the Project. The State of California Clearinghouse issued a project number for the project, SCH # 2011051027.

In accordance with CEQA Guidelines Section 15082, the NOP was circulated to interested agencies, groups, and individuals for a period of 30 days, during which comments were solicited and received, pertaining to environmental issues/topics that the Draft EIR should evaluate. These NOP responses were considered in the preparation of the Draft EIR, which upon release, was made available to all Responsible/Trustee Agencies and interested groups and individuals, as required under CEQA Guidelines Sections 15105 and 15087.

The State-mandated public review of the Draft EIR began on May 15, 2013 and concluded June 28, 2013 (45 days). The Final EIR includes a Response to Comments package, which presents all written comments received during the public review period of the Draft EIR, and includes responses to these comments and associated changes made to the EIR.

The EIR includes any exhibits or appendices thereto, the list of persons, organizations and public agencies which commented on the EIR, the comments which were received by the City regarding the EIR, and the City's written responses to significant environmental comments raised in the public review and comment process, all of which are incorporated herein and made a part hereof by reference. Pursuant to State CEQA Guidelines Section 15084, the EIR has been reviewed and analyzed by the City of Malibu as the lead agency with respect to the Housing Element Update and the EIR. The following findings for the Housing Element Update and each fact in support of a finding are thus based upon substantial evidence in the record.

3.0 FINDINGS REGARDING ENVIRONMENTAL IMPACTS DETERMINED TO BE LESS THAN SIGNIFICANT

The City finds, based upon the analysis presented in Section 4.0 of the DEIR, dated May 2012, as amended by the Final EIR, dated July 2013, that the following environmental effects of the project are less than significant, and, therefore, no mitigation measures are required. The City hereby finds that existing regulatory requirements, policies, and/or project conditions have been identified and incorporated into the project which avoid or substantially lessen the potentially significant effect on the environment to a less than significant level.



4.1 Aesthetics

4.1.1 Less Than Significant Impact AES-1. Neither development facilitated by the implementation of an Affordable Housing Overlay District on Candidate Sites #1, #2 and #7, nor any proposed programs or policies of the Housing Element Update, would have an adverse effect on public and private scenic vista. Impacts would be less than significant.

Finding - The City hereby finds that the Housing Element Update would not significantly affect scenic vistas. Potential aesthetic impacts to scenic views are considered less than significant. Consequently, no mitigation measures are required for this less than significant impact.

Mitigation Measures - No mitigation is required.

Supportive Evidence - Please refer to Final EIR pages 4.1-12 through 4.1-13.

4.1.2 Less Than Significant Impact AES-2. Neither development facilitated by the implementation of an Affordable Housing Overlay District on Candidate Sites #1, #2, and #7, or any proposed programs or policies of the Housing Element Update, would have an adverse effect on designated scenic resources including but not limited to, trees, rock outcroppings, and historic buildings. Impacts would be less than significant.

Finding - The City hereby finds that the Housing Element Update would not significantly affect scenic resources. Potential aesthetic impacts to scenic resources are considered less than significant. Consequently, no mitigation measures are required for this less than significant impact.

Mitigation Measures - No mitigation is required.

Supportive Evidence - Please refer to Final EIR pages 4.1-13 through 4.1-14.

4.1.3 Less Than Significant Impact AES-3. Development facilitated by the implementation of an Affordable Housing Overlay District on Candidate Sites #1, #2, and #7 and programs or policies of the Housing Element Update would have the potential to alter the visual character of the candidate sites and other sites in the City. However, existing City regulations would minimize aesthetic impacts. Impacts would be less than significant.

Finding - Existing City policies would minimize aesthetic impacts. The City hereby finds that the Housing Element Update would not affect the visual character of the Candidate Sites and other sites in the City. Potential visual character impacts are considered less than significant. Consequently, no mitigation measures are required for this less than significant impact.

Mitigation Measures - No mitigation is required.

Supportive Evidence - Please refer to Final EIR pages 4.1-14 through 4.1-16.



4.1.4 Less Than Significant Impact AES-4. Development facilitated by the Housing Element Update has the potential to create additional sources of light and glare. However, existing City regulations would minimize light and glare. Impacts would be less than significant.

Finding - The City hereby finds that the existing City regulations would reduce light and glare impacts. Potential light and glare impacts are considered less than significant. Consequently, no mitigation measures are required for this less than significant impact.

Mitigation Measures - No mitigation is required.

Supportive Evidence - Please refer to Final EIR pages 4.1-16 through 4.1-18.

4.2 Air Quality

4.2.1 Less Than Significant Impact AQ-2. Operation of future residential development facilitated by the Housing Element Update would generate criteria air pollutant emissions. However, emissions would not exceed SCAQMD operational significance thresholds. Therefore, operational impacts to regional air quality would be less than significant.

Finding - The City hereby finds that emissions resulting from the Housing Element Update would not exceed SCAQMD thresholds and impacts to regional air quality would be less than significant. No mitigation measures are required for this less than significant impact.

Mitigation Measures - No mitigation is required.

Supportive Evidence - Please refer to Final EIR pages 4.2-13 through 4.2-14.

4.2.2 Less than Significant Impact AQ-3. Development facilitated by the Housing Element Update would not result in objectionable odors that would affect a substantial number of people. Impacts would be less than significant.

Finding - The City hereby finds that the Housing Element Update would not create objectionable odors and impacts would be less than significant. No mitigation measures are required for this less than significant impact.

Mitigation Measures - No mitigation is required.

Supportive Evidence - Please refer to Final EIR pages 4.2-14 through 4.2-15.

4.2.3 Less than Significant Impact AQ-4. Development facilitated by the Housing Element Update would be consistent with the Air Quality Management Plan (AQMP). Impacts would be less than significant.



Finding - The City hereby finds that Housing Element Update is consistent with the AQMP and impacts would be less than significant. No mitigation measures are required for this less than significant impact.

Mitigation Measures - No mitigation is required.

Supportive Evidence - Please refer to Final EIR pages 4.2-15 through 4.2-16.

4.2.4 Less than Significant Impact AQ-5. Vehicle traffic associated with development facilitated by the Housing Element Update could incrementally increase localized carbon monoxide (CO) levels. However, CO levels would not exceed federal or state ambient air quality standards. Impacts would be less than significant.

Finding - The City hereby finds that Housing Element Update carbon monoxide impacts would be less than significant. No mitigation measures are required for this less than significant impact.

Mitigation Measures - No mitigation is required.

Supportive Evidence - Please refer to Final EIR pages 4.2-16 through 4.2-18.

4.3 Biological Resources

4.3.1 Less than Significant Impact BIO-1. Development facilitated by the Housing Element Update, notably on Candidate Site #1, may have an adverse effect on sensitive habitat including mixed woodland, mixed scrub, mixed ruderal, ornamental, riparian habitat, and disturbed/developed plant communities, as well as an adverse effect on wetlands. However, after implementation of LCP development requirements, this is a less than significant impact.

Finding - The City hereby finds that compliance with existing LCP requirements would reduce impacts to sensitive habitat and impacts would be less than significant. No mitigation measures are required for this less than significant impact.

Mitigation Measures - No mitigation is required.

Supportive Evidence - Please refer to Final EIR pages 4.3-19 through 4.2-21.

4.3.2 Less than Significant Impact BIO-3. Development facilitated by the Housing Element Update, including development on Candidate Sites #1, #2, and #7 would not conflict with the City of Malibu Native Tree Protection Ordinance. This is a less than significant, impact.

Finding - The City hereby finds that Housing Element Update would not conflict with the City of Malibu Tree Protection Ordinance and impacts would be less than significant. No mitigation measures are required for this less than significant impact.



Mitigation Measures - No mitigation is required.

Supportive Evidence - Please refer to Final EIR pages 4.3-23 through 4.2-24.

4.4 Cultural Resources

4.4.1 Less than Significant Impact CR-2. Development on Candidate Sites #1, #2, and #7, and other programs and policies under the Housing Element Update would not affect historic resources. Impacts to historic resources are less than significant.

Finding - The City hereby finds that Housing Element Update would not affect historic resources and impacts would be less than significant. No mitigation measures are required for this less than significant impact.

Mitigation Measures - No mitigation is required.

Supportive Evidence - Please refer to Final EIR pages 4.4-9 through 4.4-10.

4.5 Geology and Soils

4.5.1 Less Than Significant Impact GEO-2. Seismically induced ground shaking could potentially destroy or damage structures developed pursuant to the Housing Element Update, resulting in loss of property or risk to human health. However, provided that the design and construction of any proposed structures complies with all applicable provisions of the California Building Code, impacts would be less than significant.

Finding - The City hereby finds that with implementation of existing California Building Code requirements, impacts would be less than significant. No mitigation measures are required for this less than significant impact.

Mitigation Measures - No mitigation is required.

Supportive Evidence - Please refer to Final EIR pages 4.5-15 through 4.5-16.

4.6 Greenhouse Gas Emissions

4.6.1 Less Than Significant Impact GHG-1. Development facilitated by the Housing Element Update would generate GHG emissions from both mobile and operational sources, as well as temporary GHG emissions from construction. However, emissions would not exceed the 3,500 metric tons/year threshold and the Housing Element Update would not conflict with any applicable plan, policy or regulation of an agency adopted for the purpose of reducing the emissions of GHGs. Therefore, impacts would be less than significant.

Finding - The City hereby finds that the Housing Element Update would have less than significant greenhouse gas impacts. No mitigation measures are required for this less than significant impact.



Mitigation Measures - No mitigation is required.

Supportive Evidence - Please refer to Final EIR pages 4.6-11 through 4.6-20

4.8 Hydrology and Water Quality

4.8.1 Less Than Significant Impact HWQ-1. Construction activities associated with future development facilitated by the Housing Element Update would potentially expose soils to erosion. As a result, the downstream watershed could be subject to temporary sedimentation and discharge of various pollutants. However, future development would be subject to state and local regulations, which would ensure that significant impacts do not occur. This would be a less than significant, impact.

Finding - The City hereby finds that existing regulatory requirements that avoid or substantially lessen the water quality effect to below a level of significance will be incorporated into the Housing Element Update. No mitigation measures are required for this less than significant impact.

Mitigation Measures - No mitigation is required.

Supportive Evidence - Please refer to Final EIR pages 4.8-7 through 4.8-9.

4.8.2 Less Than Significant Impact HWQ-2. Future development facilitated by the Housing Element Update would increase the amount of impermeable surfaces onsite, thereby increasing storm water runoff flows. An increase in storm water runoff flows could increase flows into nearby creeks and drainages, exceed drainage infrastructure capacity, or alter wetlands. However, existing City of Malibu policies and regulations would ensure that significant impacts do not occur. Impacts would be less than significant.

Finding - The City hereby finds that existing regulatory requirements that avoid or substantially lessen the hydrology effect to below a level of significance will be incorporated into the Housing Element Update. No mitigation measures are required for this less than significant impact.

Mitigation Measures - No mitigation is required.

Supportive Evidence - Please refer to Final EIR pages 4.8-9 through 4.8-12.

4.8.3 Less Than Significant Impact HWQ-3. Future development facilitated by the Housing Element Update could adversely affect surface water quality due to increased storm water runoff, which can include pollutants such as oil, pesticides, herbicides, and effluent. However, existing City of Malibu regulations would ensure that significant impacts do not occur. Impacts would be less than significant.

Finding - The City hereby finds that existing regulatory requirements that avoid or substantially lessen the environmental effect to below a level of significance will be



incorporated into the Housing Element Update. No mitigation measures are required for this less than significant impact.

Mitigation Measures - No mitigation is required.

Supportive Evidence - Please refer to Final EIR pages 4.8-12 through 4.8-15.

4.8.4 Less Than Significant Impact HWQ-4. Future development facilitated by the Housing Element Update could adversely affect surface water quality due to the use of onsite wastewater treatment systems. However, existing City of Malibu regulations would ensure that significant impacts do not occur. Impacts would be less than significant.

Finding - The City hereby finds that existing regulatory requirements that avoid or substantially lessen the surface water quality effect to below a level of significance will be incorporated into the Housing Element Update. No mitigation measures are required for this less than significant impact.

Mitigation Measures - No mitigation is required.

Supportive Evidence - Please refer to Final EIR pages 4.8-15 through 4.8-16.

4.8.5 Less Than Significant Impact HWQ-5. Future development facilitated by the Housing Element Update, specifically on Candidate Site #7, would place housing and structures within a FEMA-designated flood zone and could impede or redirect flood flows. However, compliance with existing City of Malibu regulations regarding construction in flood zones would reduce impacts to a less than significant, level.

Finding - The City hereby finds that existing regulatory requirements that avoid or substantially lessen the flooding effect to below a level of significance will be incorporated into the Housing Element Update. No mitigation measures are required for this less than significant impact.

Mitigation Measures - No mitigation is required.

Supportive Evidence - Please refer to Final EIR pages 4.8-17.

4.8.6 Less Than Significant Impact HWQ-6. The candidate sites are located at elevations above the run-up heights for tsunamis or seiches and proposed programs and policies of the Housing Element Update would not increase exposure to such hazards. Potential impacts due to inundation from a tsunami or seiche event would be less than significant.

Finding - The City hereby finds that the Housing Element Update would not create exposure to tsunami or seiche hazards and impacts would be less than significant. No mitigation measures are required for this less than significant impact.

Mitigation Measures - No mitigation is required.

Supportive Evidence - Please refer to Final EIR pages 4.8-16 through 4.8-17.



4.9 Land Use and Planning

4.9.1 Less Than Significant Impact LU-1. Development facilitated by the Housing Element Update would be consistent with General Plan land use policies. This would be a less than significant, impact.

Finding - The City hereby finds that the project is consistent with General Plan policies and impacts would be less than significant. No mitigation measures are required for this less than significant impact.

Mitigation Measures - No mitigation is required.

Supportive Evidence - Please refer to Final EIR pages 4.9-6 through 4.9-16.

4.9.2 Less than Significant Impact LU-2. Development facilitated by the Housing Element Update would be compatible with existing adjacent land uses. This is considered a less than significant, impact.

Finding - The City hereby finds that the Housing Element Update would be compatible with surrounding uses and impacts would be less than significant. No mitigation measures are required for this less than significant impact.

Mitigation Measures - No mitigation is required.

Supportive Evidence - Please refer to Final EIR pages 4.9-16 through 4.9-17

4.10 Noise

4.10.1 Less Than Significant Impact N-2. Development facilitated by the Housing Element Update including the candidate sites has the potential to increase operational traffic-related noise on study area roadway segments under existing plus project conditions. However, the change in noise levels would not exceed thresholds. Impacts would be less than significant.

Finding - The City hereby finds that the Housing Element Update would not generate traffic noise above thresholds and impacts would be less than significant. No mitigation measures are required for this less than significant impact.

Mitigation Measures - No mitigation is required.

Supportive Evidence - Please refer to Final EIR pages 4.10-11 through 4.10-12.

4.8.2 Less Than Significant Impact N-3. Development facilitated by the Housing Element Update has the potential to increase traffic-related noise under opening year (2014) plus project conditions. However, the change in noise levels would not exceed thresholds. Impacts would be less than significant.



Finding - The City hereby finds that the Housing Element Update would not generate traffic noise above significance thresholds and impacts would be less than significant. No mitigation measures are required for this less than significant impact.

Mitigation Measures - No mitigation is required.

Supportive Evidence - Please refer to Final EIR pages 4.10-12 through 4.10-13.

4.8.3 Less Than Significant Impact N-4. Development facilitated by the Housing Element Update has the potential to increase traffic-related noise under cumulative plus project conditions. However, the change in noise levels would not exceed thresholds. Impacts would be less than significant.

Finding - The City hereby finds that the Housing Element Update would not generate traffic noise above significance thresholds and impacts would be less than significant. No mitigation measures are required for this less than significant impact.

Mitigation Measures - No mitigation is required.

Supportive Evidence - Please refer to Final EIR pages 4.10-13 through 4.10-15.

4.11 Population and Housing

4.11.1 Less Than Significant Impact PH-1. Implementation of the Housing Element Update would not result in the displacement of substantial numbers of people or housing. Impacts would be less than significant.

Finding - The City hereby finds that the Housing Element Update would not displace substantial numbers of people or housing and impacts would be less than significant. No mitigation measures are required or necessary for this less than significant impact.

Mitigation Measures - No mitigation is required.

Supportive Evidence - Please refer to Final EIR page 4.11-4.

4.11.2 Less Than Significant Impact PH-2. Growth facilitated by the Housing Element Update would be within SCAG regional growth forecasts for Malibu. As a result, the Housing Element Update would not induce substantial population growth beyond that currently anticipated within the City and impacts would be less than significant.

Finding - The City hereby finds that the Housing Element Update would not induce substantial population growth and impacts would be less than significant. No mitigation measures are required or necessary for this less than significant impact.

Mitigation Measures - No mitigation is required.



Supportive Evidence – Please refer to Final EIR page 4.11-4 through page 4.11-5.

4.12 Public Services

4.12.1 Less Than Significant Impact PS-1. Development facilitated by the Housing Element Update would place additional demand on fire protection services, but would not create the need for new or expanded fire protection facilities. Impacts would therefore be less than significant.

Finding - The City hereby finds that no new or expanded fire protection facilities would be needed. No mitigation measures are required or necessary for this less than significant impact.

Mitigation Measures – No mitigation is required.

Supportive Evidence – Please refer to Final EIR pages 4.12-6 through 4.12-6.

4.12.2 Less Than Significant Impact PS-2. Development facilitated by the Housing Element Update would increase the City’s population, which would incrementally increase demand for police protection service. However, the increase would not substantially affect the personnel, equipment, or organization of the LACSD or require the expansion of existing facilities or construction of new facilities. Therefore, impacts to police service are considered less than significant.

Finding - The City hereby finds that no new or expanded police protection facilities would be needed. No mitigation measures are required or necessary for this less than significant impact.

Mitigation Measures – No mitigation is required.

Supportive Evidence – Please refer to Final EIR page 4.12-6 through 4.12-7.

4.12.3 Less than Significant Impact PS-3. Residential development facilitated by the Housing Element Update would generate new students and increase the demand for school facilities. However, adequate capacity exists at public schools that would serve Candidate Sites #1, #2, and #7. Therefore, impacts are considered less than significant.

Finding - The City hereby finds that no new or expanded school facilities would be needed. No mitigation measures are required or necessary for this less than significant impact.

Mitigation Measures – No mitigation is required.

Supportive Evidence – Please refer to Final EIR pages 4.12-7 through 4.12-9.



4.13 Transportation and Traffic

4.13.1 Less Than Significant Impact T-4. The project would not result in impacts at any of the analyzed Congestion Management Plan facilities, including regional transit facilities, under existing, opening year, or future conditions. This is a less than significant, impact.

Finding - The City hereby finds that the Housing Element Update would have less than significant impacts at Congestion Management Plan facilities. No mitigation measures are required or necessary for this less than significant impact.

Mitigation Measures - No mitigation is required.

Supportive Evidence - Please refer to Final EIR pages 4.13-22 and 4.11-26.

4.13.2 Less Than Significant Impact T-5. The proposed project would add new traffic to study area roadway segments under existing plus project, opening year plus project and cumulative plus project conditions. However, based on City of Malibu thresholds, impacts would be less than significant.

Finding - The City hereby finds that emergency access impacts would be less than significant. No mitigation measures are required or necessary for this less than significant impact.

Mitigation Measures - No mitigation is required.

Supportive Evidence - Please refer to Final EIR page 4.13-26 through 4.13-30.

4.13.3 Less Than Significant Impact T-6. The proposed project would not disrupt existing or planned transit facilities or conflict with applicable transit plans or policies. Further, the project would not create demand for transit services above capacity. Impacts to transit systems are less than significant.

Finding - The City hereby finds that impacts to alternative transportation would be less than significant. No mitigation measures are required or necessary for this less than significant impact.

Mitigation Measures - No mitigation is required.

Supportive Evidence - Please refer to Final EIR pages 4.11-30.

4.13.3 Less Than Significant Impact T-7. The proposed project would not disrupt existing or planned bicycle or pedestrian facilities or conflict with applicable bicycle or pedestrian plans or policies. This is a less than significant, impact.

Finding - The City hereby finds that impacts to bicycle and pedestrian facilities would be less than significant. No mitigation measures are required or necessary for this less than significant impact.



Mitigation Measures - No mitigation is required.

Supportive Evidence - Please refer to Final EIR pages 4.13-30 through 4.13-35.

4.13.4 Less Than Significant Impact T-8. The proposed development on Candidate Sites #1, 2, and 7 would not create hazards related to on-site circulation and would not impede emergency access. This is a less than significant impact.

Finding - The City hereby finds that emergency access impacts would be less than significant. No mitigation measures are required or necessary for this less than significant impact.

Mitigation Measures - No mitigation is required.

Supportive Evidence - Please refer to Final EIR pages 4.13-35 through 4.13-36.

4.14 Utilities and Service Systems

4.14.1 Less Than Significant Impact U-1. Development facilitated by the Housing Element Update would generate demand for an estimated 188 acre-feet per year of water. The existing agreement with WBMWD would ensure that adequate water supplies are available to serve future development under the Housing Element Update and no new entitlements are required. No addition or expansion of off-site infrastructure would be required. Impacts associated with increased water demand would be less than significant.

Finding - The City hereby finds that impacts associated with water demand would be less than significant. No mitigation measures are required or necessary for this less than significant impact.

Mitigation Measures - No mitigation is required.

Supportive Evidence - Please refer to Final EIR pages 4.14-10 and 4.14-12.

4.14.2 Less Than Significant Impact U-2. Development facilitated by the Housing Element Update would generate an estimated 33,072 gallons of wastewater per day. Each candidate site would be required to install a new onsite wastewater treatment system (OWTS) with capacity specific to the development size based on existing City requirements set forth in LIP Chapter 18 and Appendix K of the Plumbing Code. Each OWTS would be required to obtain an operating permit from the City of Malibu, which would ensure the proper design, operation, and maintenance of each system. Thus, impacts would be less than significant.

Finding - The City hereby finds that existing regulatory requirements would avoid or substantially lessen the effect on the environment to below a level of significance. No mitigation measures are required or necessary for this less than significant impact.

Mitigation Measures - No mitigation is required.



Supportive Evidence – Please refer to Final EIR pages 4.14-12 and 4.14-14.

4.14.3 Less Than Significant Impact U-3. Development facilitated by the Housing Element Update would generate approximately 1.35 tons of solid waste per day. Area landfills have sufficient permitted capacity to process an additional 6,500 tons of solid waste per day. Therefore, area landfills have sufficient capacity to serve potential development on the proposed candidate sites. Solid waste service and capacity impacts would be less than significant.

Finding - The City hereby finds that impacts associated with an increase in solid waste would be less than significant. No mitigation measures are required or necessary for this less than significant impact.

Mitigation Measures – No mitigation is required.

Supportive Evidence – Please refer to Final EIR pages 4.14-14 and 4.14-15.

4.14.4 Less Than Significant Impact U-4. Area landfills serving future development of the candidate sites are subject to oversight and inspection by local enforcement agencies that ensure compliance with existing federal, state, and local regulations regarding solid waste. Local solid waste haulers are required to obtain operating permits from the City of Malibu, which ensures compliance with existing federal, state, and local regulations regarding solid waste. Therefore, all area landfills and haulers would be in compliance with federal, state, and local laws regarding solid waste disposal. Impacts would be less than significant.

Finding - The City hereby finds that landfills and haulers would be in compliance with applicable laws. No additional mitigation measures are required or necessary for this less than significant impact.

Mitigation Measures – No mitigation is required.

Supportive Evidence – Please refer to Final EIR pages 4.14-15 and 4.14-16.

4.14.5 Less Than Significant Impact U-5. Development facilitated by the Housing Element Update would be subject to the LCP and M.M.C. storm water management requirements, which stipulate that post-development runoff flows do not exceed pre-development runoff flows. Therefore, storm water flows would be managed on each candidate site such that peak flows to off-site storm water drainage facilities would not change. Impacts to storm water drainage facilities would be less than significant.

Finding - The City hereby finds that existing regulatory requirements would avoid or substantially lessen the effect on the environment to below a level of significance. No additional mitigation measures are required or necessary for this less than significant impact.

Mitigation Measures – No mitigation is required.



Supportive Evidence - Please refer to - Final EIR pages 4.14-17 and 4.14-18.

4.0 FINDINGS REGARDING POTENTIALLY SIGNIFICANT ENVIRONMENTAL IMPACTS WHICH CAN BE MITIGATED TO A LEVEL OF LESS THAN SIGNIFICANT

The City finds, based upon the threshold criteria for significance presented in the Final EIR, that the following potentially significant environmental effects of the project can be avoided or reduced to insignificance with feasible mitigation measures identified in the Final EIR and adopted by the City as conditions of project approval. No substantial evidence has been submitted to or identified by the City that indicates that the following impacts would, in fact, occur at levels that would necessitate a determination of significance.

CEQA Guidelines, Section 15126(b), requires a description of any significant environmental effects that cannot be avoided if the proposed project is implemented. According to the environmental impacts analysis presented in Section 4.0 of the Final EIR, no unavoidable significant adverse impacts would occur due to implementation of the proposed project.

5.1 Air Quality

5.1.1 Potentially Significant Impact AQ-1. Future construction activities facilitated by the Housing Element Update would generate temporary increases in emissions of ozone precursors ROG and NO_x, as well as fugitive dust (PM). However, with mitigation, construction emissions would not exceed SCAQMD construction thresholds. Impacts would be significant, but mitigable.

Finding - Pursuant to Public Resources Code Section 20181(a) and State CEQA Guidelines Section 15091(a), the City hereby finds that changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen the significant effect on the environment to below a level of significance.

Mitigation Measures - Based upon the analysis presented in Section 4.1 of the Final EIR, which is incorporated herein by reference, the following Mitigation Measures are feasible and are made binding through the MMRP. Imposition of these mitigation measures will reduce potentially significant impacts to less than significant.

AQ-1(a) Dust Control Measures. The following shall be implemented during grading and construction to control dust.

1. *All exposed, disturbed, and graded areas onsite shall be watered three (3x) daily until completion of the project construction to minimize the entrainment of exposed soil.*
2. *The area disturbed by clearing, grading, earth moving, or excavation operations shall be minimized to prevent excessive amounts of dust.*
3. *Pre-grading/excavation activities shall include watering the area to be graded or excavated before commencement of grading or excavating*



activities. Application of water (preferably reclaimed, if available) should penetrate sufficiently to minimize fugitive dust during grading activities.

4. *Fugitive dust produced during grading, excavation, and construction activities shall be controlled by the following activities:
 - a. *All trucks shall be required to cover their loads as required by California Vehicle Code Section 23114.*
 - b. *All graded and excavated material, exposed soil areas, and active portions of the construction site, including unpaved onsite roadways, shall be treated to prevent fugitive dust. Treatment shall include, but not necessarily be limited to, periodic watering, application of environmentally-safe soil stabilization materials, and/or roll-compaction as appropriate. Watering shall be done as often as necessary and reclaimed water shall be used whenever possible.**
5. *Graded and/or excavated inactive areas of the construction site shall be monitored at least weekly for dust stabilization. Soil stabilization methods shall be periodically applied to portions of the construction site that are inactive for over four days. If no further grading or excavation operations are planned for the area, it shall be seeded and watered until vegetation growth is evident, or periodically treated with environmentally safe dust suppressants, to prevent excessive fugitive dust.*
6. *Signs shall be posted onsite limiting construction traffic to 15 miles per hour or less.*
7. *During periods of high winds (i.e., wind speed sufficient to cause fugitive dust to affect adjacent properties), all clearing, grading, earth moving, and excavation operations shall be curtailed to the degree necessary to prevent fugitive dust from being an annoyance or hazard, either off-site or onsite.*
8. *Adjacent streets and roads shall be swept at least once per day, preferably at the end of the day, if visible soil material is carried over to adjacent streets and roads.*
9. *Personnel involved in grading operations, including contractors and subcontractors, shall wear respiratory protection in accordance with California Division of Occupational Safety and Health regulations.*
10. *Shaker plates shall be installed at all truck exits from the site.*
11. *Dust control requirements shall be shown on all grading plans.*

AQ-1(b) Construction Equipment Controls. The following shall be implemented during construction to minimize emissions of PM_{2.5} associated with diesel construction equipment.

1. *All diesel construction equipment shall meet Tier 4 EPA emission standards.*
2. *Construction contractors shall minimize equipment idling time throughout construction. Engines shall be turned off if idling would be for more than five minutes.*



3. *Equipment engines shall be maintained in good condition and in proper tune as per manufacturers' specifications.*
4. *The number of pieces of equipment operating simultaneously shall be minimized.*
5. *Construction contractors shall use alternatively fueled construction equipment (such as compressed natural gas, liquefied natural gas, or electric) when feasible.*
6. *The engine size of construction equipment shall be the minimum practical size.*
7. *Heavy-duty diesel-powered construction equipment manufactured after 1996 (with federally mandated clean diesel engines) shall be utilized wherever feasible.*
8. *During the smog season (May through October), the construction period should be lengthened so as to minimize the number of vehicles and equipment operating at the same time.*

Supportive Evidence - Please refer to Final EIR pages 4.2-8 through 4.2-12.

5.2 Biological Resources

5.2.1 Potentially Significant Impact BIO-2. Development facilitated by the Housing Element Update, particularly on Candidate Sites #1 and #7, may adversely affect special-status plant species. This is a significant, but mitigable impact.

Finding - Pursuant to Public Resources Code Section 20181(a) and State CEQA Guidelines Section 15091(a), the City hereby finds that changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen the significant effect on the environment to below a level of significance.

Mitigation Measures - Based upon the analysis presented in Section 4.3 of the Final EIR, which is incorporated herein by reference, the following Mitigation Measures are feasible and are made binding through the MMRP. Imposition of these mitigation measures will reduce potentially significant impacts to less than significant.

BIO-2 Special-Status Plant Surveys. Prior to any vegetation removal, grubbing, or other construction onsite, seasonally-timed special-status plant surveys shall be conducted by a City-approved biologist no more than two years before initial ground disturbance. The consulting biologist may coordinate with CDFW staff and surveys may be provided to CDFW for review. The purpose of these surveys is to document the location(s) and number(s) of special-status plant species within construction and mitigation areas so that mitigation can be accomplished. The surveys shall coincide with the bloom periods for each species listed above and all special-status plant species identified onsite shall be mapped onto a site-specific aerial photograph and topographic map. Surveys shall be conducted in accordance with CDFW and USFWS protocols (California



Department of Fish and Game 2009, United States Fish and Wildlife Service 2000). Areas containing special-status plant species shall be considered ESHA per the LCP.

If special-status plant species are determined to be present onsite, the habitat within which said species are found shall be delineated as ESHA and all applicable LCP development standards shall be adhered to. The policies include assessment of the biological resources onsite prior to project approval, development standards that avoid or minimize impacts to sensitive resources such as establishment of buffers between development and specific types of habitats and resources, and mitigation requirements, including mitigation plan requirements, for unavoidable impacts.

Supportive Evidence – Please refer to Final EIR pages 4.3-21 through 4.3-23.

5.2.2 Potentially Significant Impact BIO-4. Development facilitated by the Housing Element Update, including development on Candidate Sites #1, #2, and #7, may adversely affect special-status animals species, including nesting birds. This is a significant, but mitigable impact.

Finding – Pursuant to Public Resources Code Section 20181(a) and State CEQA Guidelines Section 15091(a), the City hereby finds that changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen the significant effect on the environment to below a level of significance.

Mitigation Measures - Based upon the analysis presented in Section 4.3 of the Final EIR, which is incorporated herein by reference, the following Mitigation Measures are feasible and are made binding through the MMRP.

BIO-4(a) Coastal whiptail, San Bernardino Ringneck Snake, and Coast Horned Lizard Surveys, Capture, and Relocation. Prior to issuance of a building permit on Candidate Sites #1 and #7 and other MF sites that could be subject to the AHO, capture and relocation efforts shall be conducted where suitable habitat is present for the coastal whiptail, San Bernardino ringneck snake, and coast horned lizard. Surveys shall be conducted by a qualified biologist, approved by the City of Malibu, and shall include raking of leaf litter and sand under shrubs within suitable habitat in the area to be disturbed to a minimum depth of two inches. In addition to raking, coverboards shall be placed flat on the ground and checked regularly in the survey areas. Coverboards can consist of untreated lumber, sheet metal, corrugated steel, or other flat material used to survey for reptiles. Coverboards shall be placed in the survey area two weeks before surveys begin and shall be checked at least twice per week during raking surveys. Captured animals shall be placed immediately into containers containing sand or moist paper towels and released in



designated release areas either onsite or at a City-approved off-site location no more than three hours after capture.

During all grading activities, a qualified biologist shall be onsite to recover any coastal whiptails, San Bernardino ringneck snakes, or coast horned lizards that may be excavated/unearthed. If the animals are in good health, they shall be immediately relocated to the designated release area. If they are injured, the animals shall be released to a City-approved specialist until they are in a condition to be released into the designated release area.

BIO-4(b) Monarch Butterfly Surveys and Avoidance. A qualified biologist with expertise in Monarch ecology, approved by the City of Malibu, shall survey the eucalyptus trees on Candidate Site #1 and other MF sites that would be subject to the AHO to determine if monarch butterflies are roosting onsite prior to issuance of building permits. The survey shall occur during the peak of the winter roosting period (December to February). If the biologist determines that the habitat onsite serves as a winter roost, no development shall occur within 100 feet and the roost site shall be mapped as ESHA. If avoidance is not feasible, the development design of that site will be re-evaluated and consultation with CDFW shall occur to determine if development may proceed with additional specific mitigation.

BIO-4(c) Special-Status Bat Surveys and Impact Avoidance. A qualified biologist, approved by the City of Malibu, shall conduct presence/absence surveys for special-status bats where suitable roosting habitat is present on Candidate Site #1 and #2 and other MF sites that would be subject to the AHO prior to issuance of a building permit. Bat surveys shall be conducted in accordance with methods set forth by the CDFW Survey methods shall include the use of both acoustic detectors and by physically searching tree cavities, crevices, and other areas where bats may roost. Surveys shall be conducted no more than 30 days prior to initiation of construction activities.

Areas where bats are located shall be avoided where feasible. If impacts to bats cannot be avoided, with concurrence from CDFW, exclusionary devices, such as netting, shall be installed by a City-approved biologist around the roost(s) after the bats have left the roost in the evening and shall be monitored for a minimum of three days to ensure that no bats return to the roost. Once it has been determined that the roost is clear of bats, the roost shall be removed immediately. Exclusion of bats must commence prior to establishment of maternity colonies, which varies by species. If a maternity colony is determined to be present, all construction activities shall be postponed within a 500-foot buffer around the maternity colony until it is determined by a qualified biologist that the young have dispersed. Bat roosts shall be removed after the



breeding season has ended but before the onset of winter when temperatures are too cold for bat movement.

If a roost is determined by a qualified biologist to be used by a large number of bats (large hibernaculum), installation of bat boxes near the impacted roost would be necessary to reduce the impact to the bat species present. Bat boxes shall be species-specific in design. Bat boxes shall be installed at a height that is appropriate for the bat species and anti-predator measures, such as small metal spikes on the top, shall be included to protect bats.

BIO-4(d) Migratory Bird Treaty Act. To avoid the accidental take of any migratory bird species or raptors, construction activities at any of the three candidate sites and other MF sites that would be subject to the AHO shall be conducted between September 1 and March 1, outside of the typical breeding season. If avoidance of the nesting season is not feasible, a qualified biologist, approved by the City of Malibu, shall conduct focused nesting surveys weekly for 30 days, with the final survey occurring not more than three days prior to initiation of ground and vegetation disturbance activities. The results of the nest survey shall be submitted upon completion of the surveys to the City for review via a letter report prior to initiation of grading or other construction activity. In the event that a nesting migratory bird species or raptor is observed within 300 feet of the construction work areas (500 feet for raptors), the project biologist shall demarcate the buffer area. No construction or other project-related disturbance shall occur in these areas until the active nest(s) is vacated for the season and there is no evidence of further nesting attempts, as determined by the project biologist. Construction personnel shall be instructed on the ecological sensitivity of the area.

BIO-4(e) Worker Education. Prior to initiation of any construction activities, a qualified biologist, approved by the City of Malibu, shall conduct a training session for all construction personnel on all candidate sites and other MF sites that would be subject to the AHO. At a minimum, the training shall include a description of all sensitive resource issues onsite as well as the general measures that are being implemented to protect these resources. A fact sheet shall be provided to all contractors, their employees, and any other personnel involved with the construction of the project, and shall include a description of the sensitive resources onsite, information on their occurrence onsite, a list of construction Best Management Practices (BMPs) outlined in **Mitigation Measure BIO-4(f)** and other applicable mitigation measures, instructions to follow when encountering sensitive resources, and all applicable City-required conditions of approval.

BIO-4(f) Construction Best Management Practices. The following construction BMPs shall be incorporated into all grading and



construction plans for any future development on the three candidate sites:

- *Designation of a 15 mph speed limit in all construction areas.*
- *All vehicles and equipment shall be parked on pavement, existing roads, and previously disturbed areas, and clearing of vegetation for vehicle access shall be avoided to the greatest extent feasible. Development of new access and right-of-way (ROW) roads shall be minimized.*
- *Designation of equipment washout and fueling areas to be located within the limits of grading at a minimum of 100 feet from waters, wetlands, or other sensitive resources as identified by a qualified biologist. Washout areas shall be designed to fully contain polluted water and materials for subsequent removal from the site.*
- *Daily construction work schedules shall be limited to the hours between 7 AM and 7 PM and shall comply with Section 8.24.050(G) of the M.M.C.*
- *Mufflers shall be used on all construction equipment and light trucks shall be in good operating condition.*
- *Drip pans shall be placed under all stationary vehicles and mechanical equipment.*
- *All trash shall be placed in sealed containers and shall be removed from the candidate sites a minimum of once per week.*
- *No pets are permitted on candidate sites during construction.*

Supportive Evidence – Please refer to Final EIR pages 4.3-24 through 4.3-29.

5.3 Cultural Resources

5.3.1 Potentially Significant Direct Impact CR-1. Development pursuant to the Housing Element Update would not affect any known archaeological resources. Impacts to known archaeological resources are less than significant. However, both future development on the candidate sites, and programs and policies under the proposed Housing Element Update have the potential to impact unknown archaeological resources. This is a significant, but mitigable impact.

Finding - Pursuant to Public Resources Code Section 20181(a) and State CEQA Guidelines Section 15091(a), the City hereby finds that changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen the significant effect on the environment to below a level of significance.

Mitigation Measures - Based upon the analysis presented in Section 4.4 of the Final EIR, which is incorporated herein by reference, the following mitigation measures are feasible and are made binding through the MMRP. With imposition of the following mitigation measures, impacts are less than significant.

CR-1(a) Procedures for Discovery of Intact Cultural Resources. In the event that archaeological resources are unearthed during project



construction, all earth disturbing work within the vicinity of the find shall be temporarily suspended or redirected until the Planning Director has been notified and an archaeologist has evaluated the nature and significance of the find, pursuant to Malibu Local Coastal Program (LCP) Local Implementation Plan (LIP) cultural resources regulations (LIP Section 11.5) and M.M.C. Section 17.54.060. After the find has been appropriately mitigated, work in the area may resume. A Chumash representative shall monitor any mitigation work associated with Native American cultural material.

CR-1(b) Procedures for Discovery of Human Remains. If human remains are unearthed, State Health and Safety Code Section 7050.5 requires that no further disturbance shall occur until the County Coroner has made the necessary findings as to origin and disposition pursuant to Public Resources Code Section 5097.98. If the remains are determined to be of Native American descent, the coroner has 24 hours to notify the Native American Heritage Commission (NAHC).

Supportive Evidence - Please refer to Final EIR pages 4.4-7 through 4.4-9.

5.4 Geology and Soils

5.4.1 Potentially Significant Impact GEO-1. Development facilitated by the Housing Element Update, notably on Candidate Site #7, may expose residents and property to seismically induced ground surface rupture. This would be a significant, but mitigable impact.

Finding - Pursuant to Public Resources Code Section 20181(a) and State CEQA Guidelines Section 15091(a), the City hereby finds that changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen the significant effect on the environment to below a level of significance.

Mitigation Measures - Based upon the analysis presented in Section 4.5 of the Final EIR, which is incorporated herein by reference, the following mitigation measures are feasible and are made binding through the MMRP. With imposition of the following mitigation measures, impacts are less than significant.

GEO-1 Fault Study and Mitigation. Because portions of the Malibu Coast Fault meet the definition of an active fault per the Alquist-Priolo legislation (passed in 1972), any future application for development within 500 feet of the Malibu Coast Fault shall require a fault study prepared by a certified engineering geologist for the project site, consistent with the requirements of the Alquist-Priolo legislation and City of Malibu Geotechnical Guidelines prior to issuance of a building permit. The study shall identify the precise location of the fault relative to proposed structures to ensure that the structure is located at least 50 feet from the fault to avoid damage and risk from fault rupture. The applicant shall also conform to any other



recommendations of the study relative to building positioning, structural design, foundation materials or other necessary earth work to minimize hazards associated with the Malibu Coast Fault. The fault study shall be submitted to the City of Malibu for review and approval prior to Planning Department approval.

Supportive Evidence - Please refer to Final EIR pages 4.5-13 through 4.5-15.

5.4.2 Potentially Significant Impact GEO-3. Portions of each candidate site are underlain by artificial fill and alluvial materials that may be subject to seismic settlement, expansion, or liquefaction. Other properties on which the Housing Element Update may facilitate development may also be subject to such hazards. This is a significant, but mitigable impact.

Finding - Pursuant to Public Resources Code Section 20181(a) and State CEQA Guidelines Section 15091(a), the City hereby finds that changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen the significant effect on the environment to below a level of significance.

Mitigation Measures - Based upon the analysis presented in Section 4.5 of the Final EIR, which is incorporated herein by reference, the following mitigation measures are feasible and are made binding through the MMRP. With imposition of the following mitigation measures, impacts are less than significant.

GEO-3 Geotechnical Study and Mitigation. Prior to Planning Department approval, a geotechnical study shall be prepared by a registered civil or geotechnical engineer and certified engineering geologist for any future project developed pursuant to the Housing Element Update. This study shall include an analysis of the settlement, expansion, and liquefaction potential of the underlying materials. If a particular development site is confirmed to be in an area prone to seismic settlement or expansion, appropriate techniques to comply with the requirements of the California Building Code shall be prescribed and implemented.

Suitable measures to reduce impacts may include: removal of any undocumented fill or topsoil; specialized design of foundations by a structural engineer; removal or treatment of liquefiable soils to reduce the potential for liquefaction; drainage to lower the groundwater table to below the level of liquefiable soils, in-situ compaction of soils; or other alterations to the ground characteristics. In areas prone to settlement or liquefaction, current structural engineering methods for foundation design may not be sufficient to prevent a building's foundation from failing in a larger earthquake which would result in stronger and longer ground shaking.



Supportive Evidence - Please refer to Final EIR pages 4.5-16 through 4.5-17.

5.4.3 Potentially Significant Impact GEO-4. Portions of Candidate Sites #1, #2, and #7 are located in areas of potential landslide hazard and contain slopes in excess of 30%, which could expose future residential development and people to landslide and erosion risks. Other properties on which the Housing Element Update may facilitate development may also be subject to landslide hazards. This is a significant, but mitigable impact.

Finding - Pursuant to Public Resources Code Section 20181(a) and State CEQA Guidelines Section 15091(a), the City hereby finds that changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen the significant effect on the environment to below a level of significance.

Mitigation Measures - Based upon the analysis presented in Section 4.5 of the Final EIR, which is incorporated herein by reference, the following mitigation measures are feasible and are made binding through the MMRP. With imposition of the following mitigation measures, impacts are less than significant.

GEO-4 Landslide Study and Mitigation. The future applicant for development of residential structures pursuant to the Housing Element Update on sites with slopes above 30% shall have a geotechnical study prepared by a certified engineering geologist and geotechnical engineer for the project site prior to Planning Department approval. This study shall include an analysis of the erosion and landslide potential of portions of the sites with steep slopes. If a particular development site is confirmed to be in an area prone to erosion or landsliding, appropriate techniques to comply with the requirements of the California Building Code shall be prescribed and implemented.

Suitable measures to reduce impacts may include the stabilization of the building site utilizing grading or structural solutions, deepened foundations, thickened slabs, or a combination of all of the above. Proper maintenance of the site (utilities, landscaping, irrigation, onsite wastewater treatment systems, etc.) after construction will be required. The landslide study and recommendations shall be submitted to the City of Malibu for review and approval prior to Planning Department approval.

Supportive Evidence - Please refer to Final EIR pages 4.5-17 through 4.5-19.

5.5 Hazards and Hazardous Materials

5.5.1 Potentially Significant Impact HAZ-2. Surficial soil on Candidate Sites #1 and #2 adjacent to PCH could contain aeriially-deposited lead (ADL). Exposure to ADL could result in human health hazards for construction workers or future residents of these candidate sites. This would be a significant, but mitigable impact.



Finding - Pursuant to Public Resources Code Section 20181(a) and State CEQA Guidelines Section 15091(a), the City hereby finds that changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen the significant effect on the environment to below a level of significance.

Mitigation Measures - Based upon the analysis presented in Section 4.7 of the Final EIR, which is incorporated herein by reference, the following mitigation measures are feasible and are made binding through the MMRP. With imposition of the following mitigation measures, impacts would be less than significant.

HAZ-2 Aerially-Deposited Lead (ADL) Study. Prior to issuance of grading permits on Candidate Sites #1 and #2 and other MF sites that apply the AHO adjacent to PCH, an ADL study must be performed by a qualified consultant. The ADL study shall include soil sampling to determine the presence of onsite lead concentrations, as well as a remediation plan if lead levels are detected above the hazardous material thresholds. If soil removal is required, the soil shall be hauled and disposed of by a transportation company licensed to transport hazardous material. In addition, the hazardous material shall be taken to a landfill or receiving facility licensed to accept hazardous waste. Documentation of the appropriate sampling, transportation and disposal must be prepared and include the volume of soil removed, where the material was moved to, and include soil profiling, and transportation and disposal manifests. The soil removal documentation shall be prepared for the property owner or other responsible party, with a copy submitted to the City of Malibu.

Supportive Evidence - Please refer to Final EIR pages 4.7-15 through 4.7-16.

5.6 Noise

5.6.1 Potentially Significant Impact N-1. Future development facilitated by the Housing Element Update would intermittently generate high noise levels during construction in excess of City noise standards. This would affect nearby sensitive receptors. This is a significant, but mitigable impact.

Finding - Pursuant to Public Resources Code Section 20181(a) and State CEQA Guidelines Section 15091(a), the City hereby finds that changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen the significant effect on the environment to below a level of significance.

Mitigation Measure - Based upon the analysis presented in Section 4.10 of the Final EIR, which is incorporated herein by reference, the following mitigation measures are feasible and made binding through the MMRP. With imposition of the following mitigation measures, impacts are less than significant.

N-1(a) Diesel Equipment Mufflers. All future project sponsors on Candidate



Sites #1, #2, and #7 and all other MF sites that apply the AHO shall ensure that all diesel equipment shall be operated with closed engine doors and shall be equipped with factory recommended mufflers during construction.

N-1(b) Electrically-Powered Tools. All future project sponsors on Candidate Sites #1, #2, and #7 and all other MF sites that are subject to the AHO shall ensure that electrical power are used to run air compressors and similar power tools during construction

Supportive Evidence - Please refer to Final EIR pages 4.10-8 through 4.10-10.

5.6.2 Potentially Significant Impact N-5. Operational noise generated by existing traffic, commercial, and institutional uses near the candidate sites could expose future residential units facilitated by the Housing Element Update to noise levels that exceed City standards. Potential impacts would be significant, but mitigable.

Finding - Pursuant to Public Resources Code Section 20181(a) and State CEQA Guidelines Section 15091(a), the City hereby finds that changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen the significant effect on the environment to below a level of significance.

Mitigation Measure - Based upon the analysis presented in Section 4.10 of the Final EIR, which is incorporated herein by reference, the following mitigation measures are feasible and made binding through the MMRP. With imposition of the following mitigation measures, impacts are less than significant.

N-5 Interior Noise. All residential structures within the 65 dB(A) noise contour shall include the following or equivalent to achieve an acceptable interior noise level of 45 CNEL:

- Windows shall be dual pane, laminated, or similar with a Sound Transmission Class rating of at least 30 for all residential units with direct exposure to PCH;
- Exterior doors facing PCH shall have a sound insulating design with an STC rating of at least 35;
- Solid core exterior doors with perimeter weather stripping and threshold seals shall be used;
- Roof and attic vents shall face away from PCH.

Supportive Evidence - Please refer to Final EIR pages 4.10-15 through 4.10-16.

5.7 Transportation and Circulation

5.7.1 Potentially Significant Impact T-1. The project would add new traffic to study area intersections under existing plus project conditions. Project-generated trips would result in significant impacts at one of nine study intersections based on City of Malibu thresholds. Impacts would be significant, but mitigable.



Finding - Pursuant to Public Resources Code Section 20181(a) and State CEQA Guidelines Section 15091(a), the City hereby finds that changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen the significant effect on the environment to below a level of significance.

Mitigation Measure - Based upon the analysis presented in Section 4.13 of the Final EIR, which is incorporated herein by reference, the following mitigation measures are feasible and made binding through the MMRP. With imposition of the following mitigation measures, impacts are less than significant.

T-1 Cross Creek Road & PCH. Future applicants of Candidate Sites #1, #2, and #7 shall contribute their fair share of payment to for construction of a westbound right-turn lane on PCH at Cross Creek Road. Sufficient right-of-way exists to accommodate this right-turn lane; however, the existing roadway is not centered within the existing right-of-way. In order to implement a new westbound right-turn lane at this location, the roadway centerline must be shifted to the south as PCH passes through the Cross Creek Road intersection. This improvement would result in the loss of approximately 12 on-street parking spaces on the shoulder of the south side of PCH west of Cross Creek Road. It would also result in a substandard 11-foot left-turn lane on PCH east of Cross Creek Road, which would require Caltrans approval. If Caltrans does not approve of non-standard narrower lane widths, then roadway widening on the south side of PCH on the approach and departure legs would allow the standard width lanes for this improvement.

Supportive Evidence - Please refer to Final EIR pages 4.13-13 through 4.13-16.

5.7.2 Potentially Significant Impact T-2. The project would add new traffic to study area intersections under opening year plus project conditions. Project-generated trips would result in significant impacts at two of nine study area intersections based on City of Malibu thresholds. Impacts would be significant, but mitigable.

Finding - Pursuant to Public Resources Code Section 20181(a) and State CEQA Guidelines Section 15091(a), the City hereby finds that changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen the significant effect on the environment to below a level of significance.

Mitigation Measure - Based upon the analysis presented in Section 4.13 of the Final EIR, which is incorporated herein by reference, the following mitigation measures are feasible and made binding through the MMRP. With imposition of the following mitigation measures, impacts are less than significant.

T-2 Malibu Canyon Road & PCH. Future applicants of Candidate Sites #1, #2 and #7 shall contribute their fair share of payment to ensure that a southbound left-turn/through lane is modified to a left-



turn/through/right-turn lane. Sufficient right-of-way exists on PCH to allow for a second receiving lane on this roadway.

The impact of project traffic on the intersection of Cross Creek Road & PCH under opening year conditions would be reduced to a less than significant level by Mitigation Measure T-1. The impact of project traffic on the intersection of Malibu Canyon Road & PCH under opening year conditions would be reduced to a less than significant level by Mitigation Measure T-2.

Supportive Evidence - Please refer to Final EIR pages 4.13-16 through 4.13-19.

5.7.3 Potentially Significant Impact T-3. The project would add new traffic to study area intersections under cumulative plus project conditions. Project-generated trips would result in significant impacts at two of nine study intersections based on City of Malibu thresholds. Cumulative impacts would thus be significant, but mitigable.

Finding - Pursuant to Public Resources Code Section 20181(a) and State CEQA Guidelines Section 15091(a), the City hereby finds that changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen the significant effect on the environment to below a level of significance.

Mitigation Measure - Based upon the analysis presented in Section 4.13 of the Final EIR, which is incorporated herein by reference, the following mitigation measures are feasible and made binding through the MMRP. With imposition of the following mitigation measures, impacts would be less than significant.

Mitigation Measure T-1, discussed above under Impact T-1, would reduce impacts at Cross Creek Road and PCH to a less than significant level. Mitigation Measure T-2 under Impact T-2 would reduce impacts at Malibu Canyon Road and PCH to a less than significant level.

Supportive Evidence - Please refer to Final EIR pages 4.13-16 through 4.13-19.

6.0 FINDINGS REGARDING GROWTH INDUCING IMPACTS

CEQA Guidelines Section 15126.2(d) requires that an EIR:

“Discuss the ways in which the Housing Element Update could foster economic or population growth, or the construction of additional housing, either directly or indirectly, in the surrounding environment.”

Finding - The City hereby finds that the Housing Element Update does not result in any significant growth inducing impacts.

Supportive Evidence - Please refer to Final EIR pages 5-1 through 5-2.



7.0 FINDINGS REGARDING PROJECT ALTERNATIVES

The following alternatives were addressed in the Final EIR:

- 1) Alternative 1: No Project
- 2) Alternative 2: Candidate Site #3
- 3) Alternative 3: Candidate Site #4
- 4) Alternative 4: Candidate Site #5 and #6

Alternative 1: No Project

Description: This alternative assumes that the 2008-2014 Housing Element Update project is not implemented and that no change from current conditions occurs.

Finding: The City finds that specific economic, legal, social, technological, or other considerations make this alternative infeasible. [Public Resources Code Section 21081(a)(3), CEQA Guidelines Section 15091(a)(3)]. This alternative would not meet the basic project objectives to: (1) update the City of Malibu Housing Element to comply with State Housing Law; (2) provide for a mix of housing types for all income levels; and (3) Amend the development regulations for a sufficient number of parcels within the City to accommodate the RHNA allocation requirements for low and very-low income households;

Supporting Evidence: Please see Final EIR Section 6.1.

Alternative 2: Candidate Site #3

Description: Alternative 2 assumes adoption of the Housing Element programs and objectives as the proposed project (refer to Section 2.0, Project Description), but would limit potential development to Candidate Site #3. Candidate Site #3 would include a density of 27 units/acre under an Affordable Housing Overlay (AHO) designation (as opposed to 20 units/acre proposed by the project). At a density of 27 units/acre, the development potential of Candidate Site #3 would be 188 units. Therefore, this Alternative would meet the very low- and low-income housing need identified by the RHNA, as this Alternative would provide adequate sites to accommodate the adjusted RHNA allocation. The proposed Housing Element Update would develop a total of 8.55 acres within the City, whereas Alternative 2 would only develop approximately 6.99 acres; thereby reducing the total area of disturbance by 1.56 acres. The potential development of 188 units is lower than what would be facilitated under the proposed project, which would facilitate up to 212 units.

Finding: The City finds that specific economic, legal, social, technological, or other considerations make this alternative infeasible. [Public Resources Code Section 21081(a)(3), CEQA Guidelines Section 15091(a)(3)]. This alternative is physically feasible and would meet the basic project objectives, but would provide less capacity to meet the City's very low- and low-income housing needs without avoiding any significant impact associated with the proposed project.



Supporting Evidence: Please see Final EIR Section 6.2.

Alternative 3: Candidate Site #4

Description: Similar to the Housing Element Update, Alternative 3 would establish programs, policies and actions to generally further the goal of meeting the existing and projected housing needs of all family income levels of the community, and specifically to provide evidence of the City's ability to accommodate the Regional Housing Needs Assessment (RHNA) allocation through the year 2014, as established by the Southern California Association of Governments (SCAG). This alternative would modify Candidate Site #4 as opposed to Candidate Sites #1, #2, and #7. Candidate Site #4 is comprised of two parcels (once a single parcel) that have a gross size of 10.22-acres, and which are currently zoned Community Commercial. This alternative would modify Candidate Site #4 to a density of 20 units/acre under AHO, the minimum density required by State housing law to meet the definition of "affordable". Therefore, Candidate Site #4 would have the potential for approximately 204 units, which is 8 units less than would be facilitated by the proposed project. This Alternative would meet the very-low and low income housing need identified by the RHNA, as this alternative would provide adequate sites to accommodate the adjusted RHNA allocation (see Section 2.0, Project Description). Alternative 3 would be consistent with the objectives of the Housing Element Update. The potential development of 204 units is less than the proposed project, which would facilitate up to 212 units.

Finding: The City finds that specific economic, legal, social, technological, or other considerations make this alternative environmentally inferior to the proposed Project. [Public Resources Code Section 21081(a)(3), CEQA Guidelines Section 15091(a)(3)]. This alternative is physically feasible and would meet the basic project objectives, but would provide less capacity to meet the City's very low- and low-income housing needs without avoiding any significant impact associated with the proposed project.

Supporting Evidence: Please see Final EIR Section 6.3.

Alternative 4: Candidate Sites #5 and #6

Description: Similar to the proposed project, Alternative 4 would establish programs, policies and actions to generally further the goal of meeting the existing and projected housing needs of all family income levels of the community, and specifically to provide evidence of the City's ability to accommodate the RHNA allocation through the year 2014, as established by SCAG. This alternative would modify Candidate Sites #5 and #6 as opposed to Candidate Sites #1, #2, and #7. Candidate Site #5 is a 6.45-acre parcel that is currently zoned Community Commercial. Candidate Site #6 is an 8.48-acre parcel that is also currently zoned Community Commercial. This alternative would modify Candidate Sites #5 and #6 to a density of 20 units/acre under the AHO. Therefore, this alternative would have the potential to facilitate up to 299 units, which is 87 units more than the proposed



project. This alternative would meet the very low- and low-income housing need identified by the RHNA, as this alternative would provide adequate sites to accommodate the adjusted RHNA allocation (see Section 2.0, Project Description). Alternative 4 would be consistent with the objectives of the proposed project.

Finding: The City finds that specific economic, legal, social, technological, or other considerations make this alternative infeasible. [Public Resources Code Section 21081(a)(3), CEQA Guidelines Section 15091(a)(3)]. This alternative is physically feasible, would meet the basic project objectives, and would provide greater capacity to meet the City's very low- and low-income housing needs. Although this alternative would not create any significant environmental impact beyond those identified in the Final EIR, the increased number of units accommodated by this alternative would incrementally increase impacts in several issue areas as compared to what was identified for the proposed project.

Supporting Evidence: Please see Final EIR Section 6.4.

8.0 FINDINGS REGARDING THE MITIGATION MONITORING AND REPORTING PROGRAM

Section 21081.6 of the Public Resources Code requires that when making findings required by Section 21081(a) of the Public Resources Code, the Lead Agency approving a project shall adopt a reporting or monitoring program for the changes to the project which it has adopted or made a condition of project approval, in order to ensure compliance with project implementation and to mitigate or avoid significant effects on the environment. The City hereby finds that:

- 1) A Mitigation Monitoring and Reporting Program (MMRP) has been prepared for the Housing Element Update, and the mitigation measures therein are made a condition of project approval. The MMRP is incorporated herein by reference and is considered part of the record of proceedings for the Housing Element Update.
- 2) The MMRP designates responsibility and anticipated timing for the implementation of mitigation. The City's Planning Director will serve as the overall MMRP coordinator, and will be primarily responsible for ensuring that all mitigation measures are complied with.
- 3) The MMRP prepared for the Housing Element Update has been adopted concurrently with these Findings. The MMRP meets the requirements of Section 21021.6 of the Public Resources Code. The City will use the MMRP to track compliance with mitigation measures. The MMRP will remain available for public review during the compliance period.

9.0 OTHER FINDINGS

The City hereby finds as follows:

- 1) The foregoing statements are true and correct;



- 2) The City is the “Lead Agency” for the Project evaluated in the CEQA Documents and independently reviewed and analyzed in the Draft EIR and Final EIR for the Project;
- 3) The Notice of Preparation of the Draft EIR was circulated for public review. It requested that responsible agencies respond as to the scope and content of the environmental information germane to that agency’s specific responsibilities;
- 4) The public review period for the Draft EIR was for 45 days between May 15, 2013 and June 28, 2013. The Draft EIR and appendices were available for public review during that time. A Notice of Completion and copies of the Draft EIR were sent to the State Clearinghouse, and notices of availability of the Draft EIR were published by the City. The Draft EIR was available for review on the City’s website, at Malibu City Hall, and at the Malibu Public Library.
- 5) The CEQA Documents were completed in compliance with CEQA;
- 6) The CEQA Documents reflect the City’s independent judgment;
- 7) The City evaluated comments on environmental issues received from persons who reviewed the Draft EIR. In accordance with CEQA, the City prepared written responses describing the disposition of significant environmental issues raised. The Final EIR provided adequate, good faith and reasoned responses to the comments. The City reviewed the comments received and responses thereto and has determined that neither the comments received nor the responses to such comments add significant new information to the Draft EIR regarding adverse environmental impacts. The City has based its actions on full appraisal of all viewpoints, including all comments received up to the date of adoption of these Findings, concerning the environmental impacts identified and analyzed in the Final EIR.
- 8) The City finds that the CEQA Documents, as amended, provide objective information to assist the decision-makers and the public at large in their consideration of the environmental consequences of the Housing Element Update. The public review period provided all interested jurisdictions, agencies, private organizations, and individuals the opportunity to submit all comments made during the public review period;
- 9) The CEQA Documents evaluated the following impacts: (1) aesthetics; (2) air quality; (3) biological resources; (4) cultural resources; (5) geology and soils; (6) greenhouse gas emissions; (7) hazards and hazardous materials; (8) hydrology and water quality; (9) land use and planning; (10) noise; (11) population and housing; (12) public services; (13) transportation and circulation; and (14) utilities and service systems. Additionally, the CEQA Documents considered, in separate sections, significant irreversible environmental changes and growth inducing impacts of the Housing Element Update, as well as a reasonable range of project alternatives. All of the significant environmental impacts of the Housing Element Update were identified in the CEQA Documents;
- 10) The MMRP includes all of the mitigation measures identified in the CEQA Documents and has been designed to ensure compliance during implementation of the Housing Element Update. The MMRP provides the steps necessary to ensure that the mitigation measures are fully enforceable;
- 11) The MMRP designates responsibility and anticipated timing for the implementation of mitigation; the City’s Planning Director will serve as the MMRP Coordinator;



- 12) In determining whether the Housing Element Update. may have a significant impact on the environment, and in adopting these Findings pursuant to Section 21081 of CEQA, the City has complied with CEQA Sections 21081.5 and 21082.2;
- 13) The impacts of the Housing Element Update have been analyzed to the extent feasible at the time of certification of the CEQA Documents;
- 14) The City made no decisions related to approval of the Housing Element Update prior to the initial recommendation of certification of the CEQA Documents. The City also did not commit to a definite course of action with respect to the Housing Element Update prior to the initial consideration of the CEQA Documents.
- 15) Copies of all the documents incorporated by reference in the CEQA Documents are and have been available upon request at all times at the offices of the City of Malibu, the custodian of record for such documents or other materials;
- 16) The responses to the comments on the Draft EIR, which are contained in the Final EIR, clarify and amplify the analysis in the Draft EIR;
- 17) Having reviewed the information contained in the CEQA Documents and in the administrative record, the City finds that there is no new significant information regarding adverse environmental impacts of the Housing Element Update in the Final EIR; and
- 18) Having received, reviewed and considered all information and documents in the CEQA Documents, as well as all other information in the record of proceedings on this matter, these Findings are hereby adopted by the City in its capacity as the CEQA Lead Agency.

