

## CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA  
89 SOUTH CALIFORNIA ST., SUITE 200  
VENTURA, CA 93001  
(805) 585-1800

# Th17a



[Click here to go to  
original staff report](#)

## ADDENDUM

June 6, 2016

TO: Coastal Commissioners and Interested Parties

FROM: South Central Coast District Staff

SUBJECT: **ADDENDUM TO ITEM Th17a, Appeal No. A-4-MAL-16-0049 (Santa Monica College, Malibu) FOR THE COMMISSION MEETING OF THURSDAY, JUNE 6, 2016.**

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### 1. ATTACHMENT OF CORRESPONDENCE

The purpose of this addendum is to include eight (8) letters received by Commission Staff. Two (2) of these letters was submitted by the appellants, one (1) from Malibu Coalition for Slow Growth, and one (1) from Malibu Township Council. Both are in opposition to the staff recommendation. All the issues discussed in both letters are the same issues raised in the appeal, which are fully addressed in the staff report. Additionally, Patt Healy sent photos of the commercial area within the Malibu Civic Center area (located approximately 700 ft. to the South-West of the project site) in support of arguments that the height of the subject project is out of character with other structures in the Civic Center.

The remaining six (6) of these letters are in support of the project and the staff recommendation. These are from: Sheila Kuehl, Ben Allen, Laura Rosenthal, Richard Bloom, Craig Foster, and Donald Girard (on behalf of Santa Monica College).

To: Honorable Members of the Coastal Commission  
From: Malibu Coalition for Slow Growth (MCSG)  
Re: Agenda Item Th 17a Substantial Issue  
Hearing Date: 6-9-16

Honorable Commissioners:

We are asking that you find Substantial Issue because there are significant questions that we have raised that show that the development does not adhere to the development standards of the City's LCP, and will set a precedent for the interpretation of the City's LCP.

Inconsistency with the LCP, scope of development approved by the city and the precedential nature of the city's decision are three of the necessary factors in determining Substantial Issue. These factors have been met with strong evidence and this is more than sufficient to find Substantial Issue.

The staff report admits this project is not in conformity with the height and landscaping requirements of the LCP but in addition and is out of scale with the surrounding development.

#### Landscaping

With respect to landscaping staff states on page 16 that *"There is not adequate factual evidence and legal support for the City's analysis and decision with regard to the landscaping requirement. As discussed above, the approved project is not consistent with LIP Section 3.9.A.3.b. There is not adequate factual evidence and legal support for the City's analysis and decision with regard to the landscaping requirement"* We agree with staff there is no factual or legal support for the city's decision and believe this alone is a basis for the finding of Substantial Issue.

Staff states on page 17: *" the City did not have adequate support for finding that the approved project conforms to the landscaping standards for new institutional development. Furthermore staff states on page 16 "While green roofs and other environmentally friendly design techniques may provide environmental benefits that are supported and encouraged by the Commission, they should not be used as substitutes for existing LCP requirements. LIP Section 3.9 is clear in requiring that 25% of the lot shall be devoted to landscaping. This requirement is not that landscaping comprising an area equivalent to 25% of the site area be provided. Rather, it is that 25 % of the lot itself must be devoted to landscaping, Including 2,141 sq. ft. of the green roof towards this requirement does not meet the stated intent of the 25% landscaping requirement"*

While staff admits that most of the requirements for the finding of Substantial Issue are met, staff still concludes that it will be limited to this project and not set an adverse precedent for the interpretation of the City's LCP. However, that is simply not correct. In fact staff states on page 17 *"There have been instances in the past where the City has made similar decisions with regard to the landscaping required as part of commercial developments. For one example, the City approved the inclusion of landscaping within a semi-subterranean parking area and trees planted in pots on a roof-top deck as meeting the required standard for an office/commercial*

*building. In another case, the City approved plantings on the exterior wall of a commercial development as meeting part of the landscaping requirement. In addition, the city has used parking lot tree canopies to justify compliance with the landscaping provision. And now staff is recommending the Commission allow yet another project to violate the LCP by saying it is not a substantial issue. Staff's finding of no substantial issue makes no sense at all, particularly since the staff admits that the City has misinterpreted the LCP landscaping requirements elsewhere.*

Staff goes on to state on page 17 *"if the City considers the LCP landscaping coverage standard to be too high such that projects cannot meet the standard, or if it wants to encourage the inclusion of green roofs or other environmentally friendly design techniques then it should consider modifying such standards through amendments to its municipal code and LCP".* This recommendation by staff of the need to seek an LCP amendment is precisely why a Substantial Issue should be found. There is an ongoing pattern of behavior within the city to ignore the importance of landscaping not only for water quality and shielding structures but also for the open space value it has in preserving the rural feeling of Malibu's developed commercial and institutional areas and in the intensity of development. Unless this Commission finds Substantial Issue this pattern will continue.

#### Building Height

Staff states on page 15 the same thing about the height standard, admitting that the approval violates the height standards: *"If the City considers that the LCP institutional height standard does not provide adequate flexibility for institutional uses such that projects cannot meet the standard, or if it wants to encourage the inclusion of passive cooling or other environmentally friendly design features then it should consider modifying such standards through amendments to its municipal code and LCP".* Until such an LCP amendment is in effect the current height limit is in effect and must be adhered to. Otherwise, the city is and will continue to ignore its LCP not just in the Civic Center but throughout the City.

Here are some of the basic areas where the project height is inconsistent with the LCP

Staff report states on page 3 : *"The administrative record for the City of Malibu's actions indicates that the two building height variance findings referenced in the appeals were not supported with adequate evidence"*

The allowable height under the LCP is 18 feet with an allowable height increase up to 28 feet with a site plan review. However the proposed project at 36 feet 10 inches and the variance is not, as staff confirms, supported by adequate evidence, nor is there any mechanism to allow the variance of the proposed height. It is completely out of character with the other structures in the Civic Center. Staff justifies this by saying that while it is out of character its location in the Civic Center area is the most appropriate location in the City. We are at a loss to understand this. If it violates the height limitations that is not a justification for putting it anywhere in the City, including the Civic Center, without reducing the height to what is allowable. According to the city staff report, the Civic Center Institutional zone where this project is to be located was constructed prior to the Coastal Act where the height ranges from 15 feet to 22 feet.

This project will have enormous visual impact *“the extent and scope of the project is relatively large for the City of Malibu.” (page 17)*. This is an understatement, at 36 feet 10 inches it will tower over the current Civic Center development and Legacy Park. *“As described above, the project includes demolition of an existing structure and construction of a new building, along with a significant amount of associated development. As such, the extent and scope of the project is relatively large for the City of Malibu. However, the project will be sited on an already developed site in the Civic Center area of town and clustered with other institutional uses. The Civic Center is the most appropriate location for a development of this intensity, as this is the commercial core of the City.”(page 17)*. While this may be the appropriate location for this use it does not mean that the requirements of the LCP can be ignored. The city staff report states the original building in this location was only 15' in height and the height range for the other buildings is between 15-22 feet. There is no other building of this proposed height in the entire city and would set a precedent for future development in the Civic Center area and elsewhere.

Staff also states there are no coastal resources of significance in the area and will have no impact on public views or other visual resources, but completely ignores the existence of Legacy Park immediately adjacent to the project. *Legacy Park, an open space park, can be described as a scenic park and therefore any project should minimize its impacts on the park.*

#### Conclusion

In conclusion, a finding of Substantial Issue must be made so that a comprehensive review of how the City is interpreting its LCP in relation to landscaping and height restrictions can be made by the Commission. It is totally inappropriate to allow this to continue, particularly since only a limited number of projects can be appealed to the Commission.

The Commission can't ignore that Staff agrees that the Height limitations and Landscaping provisions of the LCP have not been met and the basis for overlooking these violations and the violations connected with visual impacts and is not justifiable.

We respectfully request that the Commission find substantial issue in order to send a message to the city that they cannot continue to violate the provisions of Malibu LCP which they do on a regular basis. It is not often that the public gets to appeal a decision of the City to the Coastal Commission. Finding Substantial Issue is more than justified in this instance and will allow the Commission to review the issues raised and send a message to the City that the Commission cares about protecting Malibu's small town environment by upholding the required development standards of the Malibu LCP which were put in place to protect this area for the enjoyment of residents and the many millions of annual visitors alike. By allowing the oversized scale of this project it will without a doubt set a precedent for future Civic Center development ruining the human scale that attracts visitors to this area of Malibu.

Malibu Township Council  
P.O. Box 803 Malibu CA 90265

California Coastal Commission  
89 So. California Street  
Ventura, CA 93001

June 5, 2016

Re: Agenda Item Th 17a Substantial Issue

Chair Kinsey and Honorable Commissioners,

We are amazed that the staff report fails to find Substantial Issue and recommends that the Commission make such a finding. Both City and Coastal staff admit that required findings cannot be made to allow variances for at least the height, size, and landscape issues the proposed project requests. Only one factor is sufficient to find substantial issue. According to staff "The first factor in evaluating the issue of whether the appeal raises a substantial issue is the degree of factual and legal support for the local government's decision that the development is consistent with the subject provisions of the certified. LCP".

**It is a substantial issue that the City of Malibu totally ignores the provisions of the Local Coastal Plan** and increases building "mass and bulk" of large buildings in the commercial zone, ignores requirements for adequate landscaping and provides substandard parking which will impact public parking for park and beach use". The staff report identifies this lack of compliance but ignores its' cumulative effect. The City of Malibu takes the position that if a project is not in the appeal zone it can ignore the LCP regulations with impunity. When the staff suggests allowing violations in appealable projects it encourages such defiance of the Coastal Commission and if such a scoff law attitude by the city of Malibu is allowed it will provide a detrimental precedent for other coastal cities with great regional significance."

**Damaging Precedent:** Allowing this project to move forward in the face of admitted violation of LCP policies creates precedent for other projects to request similar variances citywide. The staff report concurs with our contention that City of Malibu's actions indicates that the building height variance findings referenced in the appeals were not supported with adequate evidence. They can't be made because the requested variance to have the building height 36 feet 10 inches has never been allowed. There is a minimum of 1 million sq. ft. of potential development of undeveloped and redevelopment projects that could use proposed variances for this project as precedent. There is NO existing development to provide that precedent now

**Statewide Precedent:** The city's and Commission's potential approval of unallowable variances is making a mockery of the LCP and its procedures. If the City of Malibu is allowed to ignore their own LCP policies how long will it be until other cities seek the same privilege. Why have an LCP if it is going to be violated with impunity.

**Building Height**

Allowable height under the LCP is 18 feet and the proposed project is at 36 feet 10 inches.

This building will be more than double the allowable height. It is completely out of character with the other structures in the Civic Center Institutional Zone where the height ranges from 15 feet to 22 feet.

**Legacy Park is an open space park** and a scenic resource and therefore any project should minimize its negative view impacts from the park. This project is directly across the street from Legacy Park and will adversely impact the use as open space and degrade the experience of visitors. Visual impacts will be severe as this mammoth structure is viewed from Legacy Park.

**Building Size:** The city approved a 25,310 square foot structure where the LCP code conforming structure according to the EIR would be would be 18,730 square feet. The city staff report states that a one story structure will result in a project that is 75% of the proposed structure size and will provide for the full time enrollment of 158 students instead of 210. This is what the college should be constructing. The current unobtrusive existing sheriff's station will be demolished and replaced with a structure that is not allowable and totally out of scale with the entire Civic Center. Increase in FAR must be justified by providing substantial additional public benefit. The benefits claimed by the College either already exist or are the function of the project. Therefore this is not adequate justification for allowing an increased FAR.

**Substandard Parking:** Current parking sizes were based on requirements of the existing development as designed decades ago. The proposed project constitutes new development and therefore cannot be grandfathered using outdated requirements.

### **Landscaping**

The approved project is not consistent with LIP Section 3.9.A.3.b. Again, there is not adequate factual evidence and legal support for the City's analysis and decision with regard to the landscaping requirement. LIP Section 3.9 is clear in requiring that 25% of the lot shall be devoted to landscaping. This requirement is not that landscaping comprising an area equivalent to 25% of the site area be provided. The City did not interpret the provisions of LIP Section 3.9.A.3.b appropriately. The sheer size of the footprint of this proposed structure will reduce the existing gross lot area currently devoted to landscaping, as well as meeting the current 25% landscape requirement. It is not only because of impacts to water quality that 25% landscaping of a lot area is required. It was also required to preserve the rural feeling of the Malibu's Civic Center for its many visitors.

The Commission can't ignore the fact that Staff agrees that the height limitations and Landscaping provisions of the LCP have not been met. Ignoring these violations is not tenable. If substantial issue is not found the city will continue its practice of not adhering to its LCP not only with this project's violations but citywide. The city must be put on notice that it is not acceptable to make decisions inconsistent with its LCP. Therefore we ask that the Commission find substantial issue. .

**Grace, Jordan@Coastal**

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**From:** Patt Healy

**Sent:** Sunday, June 05, 2016 1:30 PM

**To:** Steve Kinsey; Mary Luevano; Dayna Bochco; Martha McClure; Wendy Mitchell; Erik Howell; Greg Cox; Mark Vargas; Carol Groom; Effie Turnbull-Sanders; Mary Shallenberger; L. Crosse; Celina Luna; Roberto Uranga

**Cc:** Jordan Grace; Barbara Carey; Steve Hudson

**Subject:** th 17a 6-9-16 Photos SI

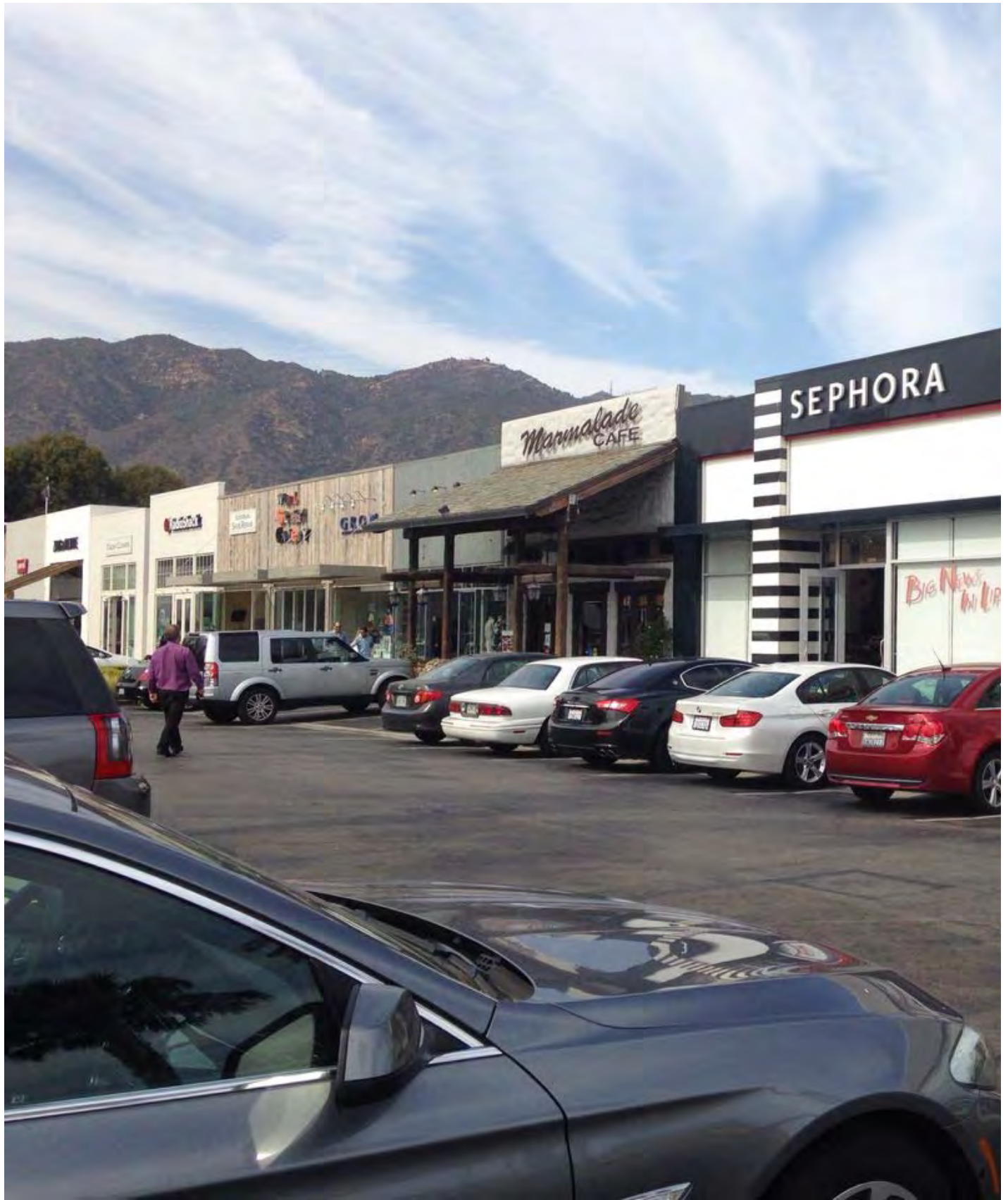
Dear Commissioners, here are some photos of the Malibu Civic Center to show you how out of place a 36' 10' high 25,000 square foot structure would be in this visitor serving area .





















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# BOARD OF SUPERVISORS COUNTY OF LOS ANGELES

821 KENNETH HAHN HALL OF ADMINISTRATION / LOS ANGELES, CALIFORNIA 90012  
Tel: 213-974-3333 Fax: 213-625-7360 Sheila@bos.lacounty.gov

**SHEILA KUEHL**  
SUPERVISOR, THIRD DISTRICT

June 3, 2016

California Coastal Commission  
South Central Coast District Office  
89 South California St., Suite 200  
Ventura, CA 93001

Chair Steve Kinsey and Member Commissioners:

Re: Appeal No. A-4-MAL-16-0049 - Agenda Item Th17a

I am writing as the County Supervisor representing this area. The Santa Monica College Malibu Campus and Los Angeles County Sheriff's Substation project will provide greatly needed community and educational services to the City of Malibu, as well as providing for increased security and community policing by re-establishing a Sheriff's substation, and a publicly-accessible interpretative center to support Legacy Park to highlight Malibu's unique coastal environment and cultural history.

Throughout the planning and design phases, the project has received multiple planning-related approvals and sign-offs from more than a dozen regulatory agencies and departments, including the City of Malibu, the County of Los Angeles, Santa Monica Community College District Board of Trustees, and the State Division of State Architect's Office. In designing and pursuing this Project, Santa Monica College, in a unique partnership with the County of Los Angeles, has worked tirelessly with the local planning agencies to arrive at consensus for approving the proposed project.

I was very pleased to learn that Coastal Commission staff recommends that no substantial issue exists with respect to coastal resource impacts and the grounds on which the appeal to the project was filed.

I strongly support the motion and resolution for a "no substantial issue" finding.

Thank you for your consideration.

Sincerely,

A handwritten signature in cursive script that reads "Sheila Kuehl".

SHEILA KUEHL  
Supervisor, Third District

MCC:ea

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STATE CAPITOL, ROOM 2054  
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# California State Senate

SENATOR  
**BEN ALLEN**

TWENTY-SIXTH SENATE DISTRICT



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BUDGET & FISCAL REVIEW  
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JOINT COMMITTEE  
JOINT COMMITTEE ON ARTS  
CHAIR

June 4, 2016

Re: Appeal No. A-4-MAL-16-0049 – Agenda Item Th17a

California Coastal Commission  
South Central Coast Area  
89 South California St., Suite 200  
Ventura, CA 93001

Chair Kinsey and Commissioners,

I am pleased to represent Santa Monica College in the state Senate. Prior to my current position, I served as a School Board Member representing the Malibu area. I am writing to support the Santa Monica College Malibu Campus and Los Angeles County Sheriff's Substation. The project will provide community and educational services to the City of Malibu, provide for increased security and community policing by re-establishing a County of Los Angeles Sheriff's substation, and provide a publicly-accessible interpretative center to highlight Malibu's unique coastal environment and cultural history.

Commission staff's review of the record indicates that the City of Malibu had substantial factual support for the Planning Commission's finding that the project will not have significant impacts on visual resources; that the project will be sited on an already developed site in the Civic Center area of town and be clustered with other institutional uses; and that the Civic Center is the most appropriate location for a development of this intensity, as this is the commercial core of the City.

Commission staff also notes that there would be no significant coastal resources affected by the project as approved by the City of Malibu. There are no environmentally sensitive habitat areas nearby, and public views or other visual resources will not be significantly impacted. The review finds that the appeal does not raise a substantial issue as to the City's application of the cited policies of the LCP, and in the unique factual circumstances of this project, the City's decision will not be an adverse precedent for future interpretation of its standards.

I am very pleased that Coastal Commission staff recommends that No Substantial Issue exists with respect to coastal resource impacts and the grounds on which the appeal to the project was filed.



Chair Steve Kinsey and Commissioners

June 4, 2016

Page two

I support the motion and resolution for a "No Substantial Issue" finding in this matter. Thank you for your consideration.

Sincerely,

A handwritten signature in black ink that reads "Ben Allen". The signature is written in a cursive style with a large, prominent "B" and "A".

BEN ALLEN

Senator, 26<sup>th</sup> District



# City of Malibu

Laura Rosenthal, Mayor

23825 Stuart Ranch Road · Malibu, California · 90265-4861  
Phone (310) 456-2489 · Fax (310) 456-3356 · [www.malibucity.org](http://www.malibucity.org)

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June 6, 2016

Sent via email to [Jordan.Grace@coastal.ca.gov](mailto:Jordan.Grace@coastal.ca.gov)

California Coastal Commission  
Attn: Chair Steve Kinsey and Members of the California Coastal Commission  
South Central Coast District Office  
89 South California Street, Suite 200  
Ventura, CA 93001

RE: Appeal No. A-4-MAL-16-0049 (June 9, 2016 Agenda Item Th17a)

Dear Chair Kinsey and Commissioners:

As Mayor of Malibu, I urge you to support staff's recommendation for a motion and resolution for a No Substantial Issue finding related to the appeal of the Santa Monica College Malibu Campus and Los Angeles County Sheriff's Substation project.

The Malibu City Council voted to approve this project in April 2016, following approval by the Malibu Planning Commission in February 2016. The project has been in the works since 2004, when the voters of Malibu approved a bond measure proposing a satellite campus to provide Malibu with access to community college classes and facilities. The City and the College formed a joint powers authority (Malibu Public Facilities Authority) in that year in order to construct the campus and the related infrastructure of stormwater and wastewater treatment facilities. I have been involved with the Authority's efforts for many years. The innovative, extensive planning and collaboration that has gone into this project should be a statewide model for inter-jurisdictional innovation. The proposed project will replace a former County of Los Angeles Sheriff's Department building, be adjacent to our community library, and take advantage of and improve existing parking, while enhancing interpretation and understanding of Malibu's Legacy Park and our coastal areas just a short distance away.

If you have any questions, please contact me at [LRosenthal@malibucity.org](mailto:LRosenthal@malibucity.org). Thank you.

Sincerely,

Laura Rosenthal  
Mayor

cc: Honorable Members of the Malibu City Council  
Reva Feldman, City Manager  
Don Girard, Santa Monica College  
Shari Davis, Santa Monica College

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# Assembly California Legislature



**RICHARD BLOOM**  
CHAIR, BUDGET SUBCOMMITTEE NO. 3 ON RESOURCES & TRANSPORTATION  
ASSEMBLYMEMBER, FIFTIETH DISTRICT

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assemblymember.bloom@assembly.ca.gov

June 4, 2016

California Coastal Commission  
South Central Coast Area  
89 South California St., Suite 200  
Ventura, CA 93001

**RE: Appeal No. A-4-MAL-16-0049 – Agenda Item Th17a**

Dear Chair Kinsey and Commission Members:

It is my honor to represent the City of Malibu and surrounding areas in the California State Assembly. Prior to my current position, I served as a member of the California Coastal Commission. I have followed the progress of the Santa Monica College Malibu Campus and Los Angeles County Sheriff's Substation project with great interest and admiration for its commitment to public process and environmental protection.

The project will provide much needed community and educational services to the City of Malibu, will provide for increased security and community policing by re-establishing a Sheriff's substation, and will provide a publicly-accessible interpretative center to highlight Malibu's unique coastal environment and cultural history.

I am very pleased that Coastal Commission staff recommends that no substantial issue exists with respect to coastal resource impacts and the grounds on which the appeal to the project was filed.

I support the motion and resolution for a "no substantial issue" finding.

Thank you for your consideration.

Sincerely,

A handwritten signature in blue ink, appearing to read "Richard Bloom".

**RICHARD BLOOM**  
*Assemblymember, District 50*



**From:** [Craig Foster](#)  
**To:** [Grace, Jordan@Coastal](mailto:Grace.Jordan@Coastal)  
**Subject:** Appeal No. A-4-MAL-16-0049  
**Date:** Monday, June 06, 2016 9:38:03 AM

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Appeal No. A-4-MAL-16-0049  
Agenda Item Th17a

Support

June 4, 2016

California Coastal Commission

South Central Coast Area

89 South California St., Suite 200

Ventura, CA 93001

Chair Steve Kinsey and Member Commissioners:

As an elected School Board Member, ardent education advocate, and resident of Malibu, I write to strongly support the Santa Monica College Malibu Campus Project. I believe this project, as it's been proposed and approved by the Malibu City Council and Malibu Planning Commission, is exactly what we need in the Malibu Civic Center. Its design is environmentally conscientious and progressive while also being beautiful and functional.

This site currently has a dilapidated, abandoned building on it. The proposed building will accommodate education, public safety, cultural space, and community gatherings, while providing adequate parking and environmental features. It will truly be a place to bring the community together. Malibu and all of the other California residents and visitors who enjoy our City will be fortunate to benefit from these facilities.

In addition to meeting the goals of the Coastal Commission, this project is critical for our local plan to enhance educational opportunities for our community. I see students who take classes at Webster Elementary School in 2016 and imagine how fantastic a Malibu campus will be for them when they are in high school or beyond.

Santa Monica College, Los Angeles County and the City of Malibu have worked since 2004 to shape this project. This building encompasses the aspirations and possibilities the public and the residents of Malibu envisioned when they voted to create this campus.

There is no better use for this site than education, public safety, and public access. It has a true Malibu sensibility. We need it. I strongly support it and urge the Coastal Commission to support the staff recommendation that finds "No Substantial Issue" with the project.

Thank you so much for this and all you do!

Craig

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Craig Foster

Member, Santa Monica-Malibu Unified School District School Board

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June 4, 2016

Re: Appeal No. A-4-MAL-16-0049 – Agenda Item Th17a

California Coastal Commission  
South Central Coast Area  
89 South California St., Suite 200  
Ventura, CA 93001

Chair Steve Kinsey and Member Commissioners:

The following is submitted in support of the Coastal Commission staff recommendation that no substantial issue exists with respect to coastal resource impacts and the grounds on which the appeal to the Santa Monica College Malibu Campus and Los Angeles County Sheriff Substation project was filed.

The Project as a whole is very much consistent with the purpose of the Coastal Act, as it would provide much needed community-serving educational, institutional, and cultural services in the City of Malibu, would provide for increased security and community policing by re-establishing a Sheriff's substation, and would provide a publicly-accessible interpretive center to support Legacy Park and other programs to highlight Malibu's unique coastal environment and cultural history.

Please see **Exhibit 1** (attached) for a rendering of the finished project.

Through the planning and design phases of the project, SMC has obtained multiple planning-related approvals and sign-offs from more than a dozen regulatory agencies and departments including the City of Malibu (Planning Commission, City Council, Planning Department, Environmental Health Department, Biological Review, Public Works, and Geology), the County of Los Angeles (Geology, Building and Safety, Grading and Drainage, Waterworks, Landscape, Fire Department (Engineering/Access and Forestry)), Santa Monica Community College District Board of Trustees, and the State Division of State Architect's Office (Access Compliance, Fire and Life Safety, Structural Safety, and California Geological Survey). In designing and pursuing this Project, SMC worked tirelessly with the local planning agencies to arrive at consensus for approving the proposed project with the three variances.

**FLOOR AREA RATIO** – Santa Monica College supports the staff recommendation for a Commission finding that the City Council's granting of the FAR (Floor Area Ratio) increase was consistent with the LIP, that the City had substantial factual basis for the decision, and does not raise substantial issue.

The staff report recommends that the Commission find that the Civic Center is the most appropriate location for a development of this intensity, as this is the commercial core of the City; that coastal resources will not be significantly affected by the FAR increase; that the City's decision will not be an adverse precedent for future interpretation of these standards; and that in the case of the subject property only relates to local issues, and does not have regional or statewide significance.



The project provides the following public benefits and mirror the visitor serving mission of the Coastal Act: (1) educational benefits of a satellite community college curriculum; (2) a reinstated Sheriff substation that has been absent since the 1990s; (3) an updated and more structurally-sound communication tower to replace the outdated existing tower; (4) an interpretive center to support Legacy Park and Malibu's coastal environment, and (5) an Emergency Operations Center for use by the County and other emergency responders during local emergencies.

The public benefits of the approved project far outweigh the 6,035 square feet increase in FAR. Moreover, these public benefits mirror the visitor-serving mission of the Coastal Act. In particular, the approved interpretive center is exactly the type of use encouraged by the Coastal Act. Furthermore, the College will offer programming not just for its students but also for visitors and community members.

**HEIGHT** – Santa Monica College supports the staff recommendation for a Commission finding that the assertion of the appeal that the project exceeds the height limit for the institutional zone, should be measured from natural grade (rather than current grade), and that the variance findings required by the LIP were not adequately supported does not raise substantial issue.

The staff report recommends that the Commission find that the increased project height will not have a significant impact on coastal resources and will not have a significant adverse scenic or visual impact and that the City had substantial factual support for these conclusions. Further, the project is relatively large in scale but is sited in the most appropriate location within the city. Additionally, there are no areas of ESHA nearby. The project approval has low potential to be a precedent for future development, and the height issue raised by the appeal only relates to a local issue.

Please see **Exhibit 2** (attached) in support of the recommended Commission finding of appropriate location. Please see **Exhibit 3** (attached) in support of the City's substantial factual support for concluding the increased project height will not have a significant impact on coastal resources.

The height variance was not appealed to the City Council and presents no special coastal protection issues. SMC's building will not be visible from the coastline, and the building's height is no greater than the existing trees on the site. Exhibit 3 provides site diagrams with story poles depicting the approximate location and height of the rooflines to document this.

The unique architectural features of the structure are expressed through a waveform roofline, which has the purpose of allowing for sustainability features of the building's passive air circulation system. In addition, the intentional breakup of the roof mass and its geometry is part of the strategy to enhance the appearance of the Project as viewed from above, making it aesthetically pleasing for the neighbors above.

**LANDSCAPING** – Santa Monica College supports the staff recommendation for a Commission finding that the non-conformance of the approved project's landscaping requirements does not raise substantial issue.

The staff report to the Commission notes that the project provides 23.3 percent of landscaping for the entire lot; and recommends that the Commission find that the project is located in an area previously developed with institutional uses; is not situated in any areas of ESHA; that the reduction in required landscaping is small and does not have the potential to result in significant adverse impacts to water quality; that the unique factual circumstances in this decision will not be an adverse precedent; and the appeal raises only local issues.

Santa Monica College notes that, over and above the surface landscaping, 4,370 square feet of additional project landscaping will be located on the rooftop of the building. The incorporation of landscaping on the roof level maximizes parking and retains existing conditions on the property, while also providing the site

with additional landscaping. Neither the LIP nor the Coastal Act bars taking this approach, and there are good reasons for doing so in these particular circumstances, given the constraints of the site and desire to maximize existing parking areas. Furthermore, a concern about rooftop landscaping does not conflict with any policies of the Coastal Act; rather, this policy results in the retention of adequate on-site parking. The landscaping argument does not raise a substantial LCP or Coastal Act issue.

One of the underlying intents of the Coastal Act policy is reflected in the LCP Land Use Plan as its goal and objective: “Whenever appropriate and feasible, public facilities, including parking areas or facilities, shall be distributed throughout an area so as to mitigate against the impacts, social and otherwise, of overcrowding or overuse by the public of any single area” (Coastal Act Policies Section 30212.5). The proposed green roof is consistent with this policy.

**PARKING** – Santa Monica College supports the staff recommendation for a Commission finding that the City’s granting of a variance for modified parking space dimensions does not raise substantial issue.

The staff recommendation to the Commission finds that aligning the parking stalls in the front of the building with the existing parking stalls in the shared lot is supported by the variance findings. The staff report also recommends that the Commission find, with regard to all of the parking stalls, that the number of parking spaces required by the LCP is met; that there is no substantial effect on public access provided by the variance; that the project is located in an area previously developed with institutional uses; that the project is not situated in any areas of ESHA; that the unique factual circumstances in this decision will not be an adverse precedent; and that the appeal raises only local issues.

Santa Monica College also emphasizes that the project meets the City’s requirements for on-site parking and its anticipated demand and would not rely on or utilize available surface parking along Civic Center Way fronting the Project Site or Legacy Park. As such, the Project would not compete with or deplete the available supply of on-street surface parking within the Civic Center.

### **Conclusion**

Santa Monica College is very pleased that Coastal Commission staff recommends that no substantial issue exists with respect to coastal resource impacts and the grounds on which the appeal to the project was filed. We strongly support the motion and resolution for a “no substantial issue” finding. Should you have any questions regarding any of the above or any other matters pertaining to the SMC Malibu Campus, please do not hesitate to contact me directly.

Sincerely,



Donald Girard  
Senior Director, Government Relations and Institutional Communications  
(310) 434-4287 office • (310) 261-2286 cell

# Exhibit 1

Illustration of SMC Malibu Campus  
and Sheriff Substation



Illustration of SMC Malibu Campus and Sheriff Substation.

## Exhibit 2

Siting of SMC Malibu Campus  
in Malibu Civic Center and within the  
County of Los Angeles Administrative Center

# Santa Monica College – Malibu Center



The 9-acre County of Los Angeles Administrative Center sits in the middle of the City of Malibu's Civic Center. The Santa Monica College Malibu Campus and LA County Sheriff Substation site is about 3 acres of the County property and replaces a long-vacated Sheriff's Station building.

## Exhibit 3

View of the Project Site with Story Poles from  
Legacy Park and Malibu Knolls



View of the Project Site with Story Poles from Legacy Park.  
There are no scenic or visual impacts due to the height of the building.



Zoomed-in View of the Project Site with Story Poles from Malibu Knolls.  
There are no scenic or visual impacts due to the height of the building.



## CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA  
89 SOUTH CALIFORNIA ST., SUITE 200  
VENTURA, CA 93001  
(805) 585-1800

# Th17a



Appeal Filed: 5/2/16  
49<sup>th</sup> Day: 6/20/16  
Staff: J. Grace - V  
Staff Report: 5/26/16  
Hearing Date: 6/09/16

## **STAFF REPORT: APPEAL - SUBSTANTIAL ISSUE**

**APPEAL NO.:** A-4-MAL-16-0049

**LOCAL GOVERNMENT:** City of Malibu

**LOCAL DECISION:** Approval with Conditions

**APPLICANT:** Santa Monica College

**APPELLANTS:** Malibu Coalition for Slow Growth; Malibu Township Council

**PROJECT LOCATION:** 23525 Civic Center Way, Malibu, Los Angeles County

**PROJECT DESCRIPTION:** Demolition of an existing 16,603 sq. ft. building , with a 7,279 sq. ft. basement, and a portion of the existing arcade, and construction of a new two-story, 35 ft., 10 in. high, 25,310 sq. ft. educational facility that includes a 5,640 sq. ft. sheriff substation, for a floor area ratio (FAR) of 0.20; reconstruction of the parking area; hardscape and landscaping; grading and retaining walls; lighting and utilities; and relocation and replacement of the existing 70 ft. high communication tower with a 75 ft. high communication tower, within the westerly 2.94 acre lease area within the 9.18 acre Los Angeles County Civic Center parcel; including conditional use permit for an educational facility use in the Institutional zoning district and variances for parking spaces size, an increase in the maximum height of 18 ft. to 35 ft., 10 in. for the building, and an increase to 75 ft. for the communication tower.

### **MOTION & RESOLUTION: Pages 6-7**

**NOTE:** This is a substantial issue only hearing. Testimony will be taken only on the question of whether the appeal raises a substantial issue. Generally, and at the discretion of the Chair, testimony is limited to 3 minutes total per side. Please plan your testimony accordingly. Only the applicant, persons who opposed the application before the local government (or their representatives), and the local government shall be qualified to testify. Others may submit

comments in writing. If the Commission determines that the appeal does raise a substantial issue, the *de novo* phase of the hearing will occur at a future Commission meeting during which it will take public testimony.

**SUMMARY OF STAFF RECOMMENDATION: NO SUBSTANTIAL ISSUE EXISTS**

Staff recommends that the Commission determine that **no substantial issue exists** with respect to coastal resource impacts and the grounds on which the appeal was filed. The **motion** and **resolution** for a “no substantial issue” finding (for which a “**yes**” vote is recommended) are found on **pages 6-7**.

The City of Malibu approved Coastal Development Permit (CDP) No. 13-056, Variance Nos. 13-045, 14-034, 14-035, Conditional Use Permit No. 13-011, and Demolition Permit No. 13-028. The approved project involves demolition of the existing institutional building (former site of an LA County Sheriff station), construction of a Santa Monica College satellite campus, and related development, along with an FAR increase (0.15 to 0.20), variances for height and parking requirement, and a green roof (counted towards landscaping requirements). The project site comprises the westerly 2.94 acre lease area (128,500 sq. ft.) within the 9.18 acre Los Angeles County Civic Center parcel which is developed with the Malibu Courthouse, Los Angeles County Public Works office and Public Library, parking lot, and accessory development. Properties surrounding the site are zoned Community Commercial and Commercial Visitor Serving.

The standard of review at this stage of an appeal requires the Commission to determine whether the appeal raises a substantial issue with respect to the grounds stated in the appeal relative to the conformity of the approved development with the standards in the certified Local Coastal Program (see **Pages 5** for appeal grounds).

The appellants contend that the approved project is not consistent with the policies and provisions of Malibu’s certified Local Coastal Program (LCP) with regard to height limits, variance findings, landscaping requirements, parking stall size standards, and increase in floor to area ratio (FAR). Related Local Implementation Plan provisions include: Sections 3.9.A.1, 3.9.A.3.a, 3.9.A.3.b, 13.14.5.D.7, and 13.26.5. Additionally, the Land Use Plan designation for “Institutional” (Chapter 5, Section C, Part 2) is related.

The term "substantial issue" is not defined in the Coastal Act or its implementing regulations. The Commission's regulations indicate simply that the Commission will hear an appeal unless it "finds that the appeal raises no significant question." In previous decisions on appeals, the Commission has been guided by five factors, which are: 1) the degree of factual and legal support for the local government's decision that the development is consistent or inconsistent with the certified LCP and with the public access policies of the Coastal Act; 2) the extent and scope of the development as approved or denied by the local government; 3) the significance of the coastal resources affected by the decision; 4) the precedential value of the local government's decision for future interpretations of its LCP; and 5) whether the appeal raises only local issues, or those of regional or statewide significance.

Applying these five substantial issue factors to the issues raised by the appeals and the administrative record for the City of Malibu's actions indicates that the two building height variance findings referenced in the appeals were not supported with adequate evidence, that the City did not have adequate support for finding that the approved project conforms to the landscaping standards for new institutional development, that the City had substantial factual basis to grant an increase to the floor to area ratio applied to the project site, and that the City's variance findings are adequate to justify changing parking space dimensions for a portion of the new lot but not for the whole parking lot. Further, the development is relatively large in scale but is located in the Civic Center area which is the most appropriate location within the City. The project is sited and designed to avoid significant adverse impacts on environmentally sensitive resources, visual resources, water quality, public access or other significant coastal resources. Finally, the project approval has low potential to be a precedent for future development, and the issues raised by the appeal are only related to local issues, not issues of regional or statewide significance. As such, staff recommends the Commission find that **no substantial issue** exists, with respect to the grounds raised by the Malibu Coalition for Slow Growth and Malibu Township Council appeals.

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## EXHIBITS

- Exhibit 1.** [Vicinity Map](#)
- Exhibit 2.** [Site Plan](#)
- Exhibit 3.** [Building Height Diagram](#)
- Exhibit 4.** [Roof Plan \(w/ height percentages\)](#)
- Exhibit 5.** [Malibu Coalition for Slow Growth Appeal](#)
- Exhibit 6.** [Malibu Township Council Appeal](#)
- Exhibit 7.** [City of Malibu’s Notice of Final Action](#)
- Exhibit 8.** [City of Malibu’s Commission Agenda Report](#)
- Exhibit 9.** [City of Malibu’s Council Agenda Report](#)

## **I. APPEAL JURISDICTION**

The project site is located at 23525 Civic Center Way in the Civic Center area of the City of Malibu (**Exhibit 1**). The project site is not located within any of the geographically defined appeals areas of the City, as generally shown on the certified LCP Post-Certification and Appeal Jurisdiction Map. However, LCP Section 2.1 indicates that a community college facility project meets the definition of Major Public Works, and that major public works project are appealable. As such, the City's approval of the Coastal Development Permit (CDP) is appealable to the Commission. The grounds of appeal are limited to allegations that the "appealable development" is not consistent with the standards in the certified LCP.

### **A. APPEAL PROCEDURES**

The Coastal Act provides that after certification of Local Coastal Programs (LCPs), a local government's actions on Coastal Development Permit applications for development in certain areas and for certain types of development may be appealed to the Coastal Commission. Local governments must provide notice to the Commission of their coastal development permit actions. During a period of ten working days following Commission receipt of a notice of local permit action for an appealable development, an appeal of the action may be filed with the Commission.

#### **1. Appeal Areas**

Approvals of CDPs by cities or counties may be appealed if the development authorized is to be located within the appealable areas, which include the areas between the sea and the first public road paralleling the sea, within 300 feet of the inland extent of any beach or of the mean high-tide line of the sea where there is no beach, whichever is greater, on state tidelands, or along or within 100 feet of natural watercourses and lands within 300 feet of the top of the seaward face of a coastal bluff. (Coastal Act Section 30603[a]). Any development approved by a County that is not designated as a principal permitted use within a zoning district may also be appealed to the Commission irrespective of its geographic location within the Coastal Zone. (Coastal Act Section 30603[a][4]). Finally, developments which constitute major public works or major energy facilities may be appealed to the Commission. (Coastal Act Section 30603[a][5]).

#### **2. Grounds for Appeal**

The grounds for appeal of a local government approval of development shall be limited to an allegation that the development does not conform to the standards set forth in the certified Local Coastal Program or the public access policies set forth in Division 20 of the Public Resources Code. (Coastal Act Section 30603[b][1])

#### **3. Substantial Issue Determination**

Section 30625(b) of the Coastal Act requires the Commission to hear an appeal unless the Commission determines that no substantial issue exists with respect to the grounds on which the appeal was filed. When Commission staff recommends that no substantial issue exists with respect to the grounds of the appeal, the Commission will hear arguments and vote on the

“substantial issue” question. A majority vote of the members of the Commission is required to determine that the Commission will not hear an appeal. If the Commission determines that no substantial issue exists, then the local government’s coastal development permit action will be considered final.

#### **4. De Novo Permit Hearing**

Should the Commission determine that a substantial issue does exist, the Commission will consider the CDP application de novo. The applicable test for the Commission to consider in a de novo review of the project is whether the entire proposed development is in conformity with the certified Local Coastal Program. If a de novo hearing is held, testimony may be taken from all interested persons.

## **B. LOCAL GOVERNMENT ACTION AND FILING OF APPEAL**

On February 29, 2016, the Malibu Planning Commission approved Coastal Development Permit No. 13-056, Variance Nos. 13-045, 14-034, 14-035, Conditional Use Permit No. 13-011, and Demolition Permit No. 13-028 contingent upon the Malibu City Council approving an increase to the maximum floor area ratio (FAR) allowed on the site (**Exhibit 8**). On April 11, 2016, the Malibu City Council approved the FAR increase of 0.15 to 0.20. The Notice of Final Action for the project was received by Commission staff on April 18, 2016 (**Exhibit 9**). Staff received the City’s Notice of Final Action (**Exhibit 7**) on April 18, 2016. Subsequently a notice was provided of the ten working day appeal period, which began April 19, 2016 and ended May 2, 2016.

The subject appeal was filed during the appeal period, on May 2, 2016. Commission staff notified the City, the applicant, and all interested parties that were listed on the appeal and requested that the City provide its administrative record for the permit. The administrative record was received on May 4, 2016.

## **II. STAFF RECOMMENDATION ON SUBSTANTIAL ISSUE**

**MOTION:**        *I move that the Commission determine that Appeal No. A-4-MAL-16-0049 raises NO substantial issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act.*

### **STAFF RECOMMENDATION:**

Staff recommends a **YES** vote. Passage of this motion will result in a finding of No Substantial Issue and adoption of the following resolution and findings. If the Commission finds **No Substantial Issue**, the Commission will not hear the application de novo and the local action will become final and effective. The motion passes only by an affirmative vote by a majority of the Commissioners present.

### **RESOLUTION TO FIND NO SUBSTANTIAL ISSUE:**

The Commission hereby finds that Appeal No. A-4-MAL-16-0049 does not present a substantial issue with respect to the grounds on which the appeal has been filed under Section 30603 of the Coastal Act regarding consistency with the Certified LCP and/or the public access and recreation policies of the Coastal Act.

### **III. FINDINGS AND DECLARATIONS FOR NO SUBSTANTIAL ISSUE**

The Commission hereby finds and declares:

#### **A. PROJECT DESCRIPTION AND BACKGROUND**

The project includes the demolition of an existing decommissioned Los Angeles County Sheriff's Station including a 16,603 sq. ft. building, with a 7,279 sq. ft. basement, and a portion of an existing arcade. The project also includes the construction of a new two-story, 35 ft., 10 in. high, 25,310 sq. ft. Santa Monica College satellite campus facility with a new 5,640 sq. ft. sheriff substation, reconstruction of the parking area; hardscape and landscaping; grading and retaining walls; lighting and utilities; and relocation and replacement of the existing 70 ft. high Sheriff's emergency communication tower with a 75 ft. high communication tower (**Exhibit 2**). The project site comprises the westerly 2.94 acre lease area (a 128,500 sq. ft.) within the 9.18 acre Los Angeles County Civic Center parcel which is developed with the Malibu Courthouse, Los Angeles County Public Works office and Public Library, parking lot, and accessory development. The educational facility is designed to accommodate a maximum of 210 full time equivalent students and 12 faculty and staff members at one time. The project will provide 189 parking spaces, including 164 standard stalls, 19 compact spaces, and 6 ADA accessible stalls. The parking lot within the applicant's lease area will be connected to the existing 200 space parking lot outside the lease area and there will be a reciprocal parking agreement allowing the combined parking lot to serve all uses on the Los Angeles County Civic Center parcel. The project includes 29,984 sq. ft. of landscaping, including a courtyard, terraced seating area, and parking lot plantings. Wastewater from the facility will be treated by the future Malibu Civic Center Wastewater Treatment Facility.

The project site is located in the Civic Center area of the City of Malibu (**Exhibit 1**). The surrounding properties are zoned Community Commercial and Commercial Visitor Serving. Many of the surrounding lots are undeveloped. Only one of the lots within the Civic Center Overlay area contains mapped ESHA (based on the LUP ESHA Map), and it is not adjacent to the project site. Currently, the leased land area where the project is proposed to be built contains the former Los Angeles County Sheriff's Station, an emergency communications tower, a portion of the building arcade, a parking area at the rear of the former Sheriff's Station, and a portion of the front parking lot.

#### Background

On February 29, 2016, the Malibu Planning Commission approved Coastal Development Permit No. 13-056, Variance Nos. 13-045, 14-034, 14-035, Conditional Use Permit No. 13-011, and

Demolition Permit No. 13-028, contingent upon the Malibu City Council approving an increased floor area ratio (FAR), for the demolition of a 16,603 sq. ft. building , 7,279 sq. ft. basement, a portion of the existing arcade; construction of a new two-story, 35 ft., 10 in. high, 25,310 sq. ft. educational facility (including a 5,640 sq. ft. sheriff substation), with a floor area ratio (FAR) of 0.20; reconstruction of the parking area; hardscape and landscaping; grading and retaining walls; lighting and utilities; relocation and replacement of the existing 70 ft. high communication tower with a 75 ft. high communication tower, within the project site; conditional use permit for an educational facility use in the Institutional zoning district; variance for parking spaces size; variance for an increase in the maximum height of 18 ft. to 35 ft., 10 in. for the building; and variance for an increase from 70ft. to 75 ft. for the communication tower. The Malibu Coalition for Slow Growth submitted comments that raised issues with the project. These were entered into the public record

On April 11, 2016, the Malibu City Council approved a 0.15 to 0.20 FAR increase, thereby effectuating the Malibu Planning Commission's conditional approval of Coastal Development Permit No. 13-056, Variance Nos. 13-045, 14-034, 14-035, Conditional Use Permit No. 13-011, and Demolition Permit No. 13-028. Both the Malibu Coalition for Slow Growth and the Malibu Township Council submitted comments that raised issues with the project. Pat Healey, on behalf of the Malibu Coalition for Slow Growth, also spoke at the meeting.

## **B. APPELLANTS' CONTENTIONS**

The City's action was appealed by both the Malibu Coalition for Slow Growth and the Malibu Township Council. The appeals are attached as **Exhibit 5** and **Exhibit 6**, respectively. The contentions of the Malibu Coalition for Slow Growth appeal relate to the building height and landscaping requirements. The contentions of the Malibu Township Council appeal also relate to building height and landscaping requirements, in addition to the FAR increase and parking requirements. Each issue area is discussed below. Where contentions of the two appeals raise overlapping issues, they are discussed together.

### Malibu Coalition for Slow Growth & Malibu Township Council:

#### **1. Building Height**

Both appellants raise related, but slightly different, issues related to the approved building height. They are as follows:

- Both appeals assert that the approved building exceeds the Institutional Zone height limit of 18 feet (LIP 3.9.A.1.a).
- The Malibu Coalition for Slow Growth appeal asserts that the height of the approved development should be measured from natural grade, not the current existing grade, on the site. The appeal states that the site was previously elevated 3 feet above natural grade to protect structures from flooding and so the applicable maximum height for the property should be 25 feet (3 feet lower than the maximum 28 ft. height limit with approval of a site plan review).



- Both appeals contend that the City cannot make the variance findings needed to justify the approved maximum building height of 35' 10" (LIP 13.26.5).
- The Malibu Coalition for Slow Growth appeal asserts that the building's ventilation system does not meet the code requirements for a height increase to 35 ft. with a site plan review (LIP 3.9.A.1.b)

## **2. Landscaping Requirements**

Both appellants raise issues related to the landscaping requirements of the development. The assertion is as follows:

- The project does not meet the requirement that 25% of the lot area be landscaped (LIP 3.9.A.3.b).

Malibu Coalition for Slow Growth:

## **3. FAR Increase**

The Malibu Township Council appeal raises issue with the City's approval of the 0.15 to 0.20 increase in FAR, stating that the public benefits and amenities provided as part of the project are not substantial enough to justify the increase. The assertions in response to the public benefits and amenities listed in the City's findings are as follows:

- The college is the project, education is its very business, and the benefit of the project itself should justify an increase in the FAR to 0.20. A college that conforms to the LCP can still be built which provides the same educational benefits
- The LCP conforming project described in the Planning Commission Resolution provides for the sheriff's station
- The applicant is not going to install or pay for any of the equipment on the tower. The current tower functions well.
- This amenity [an interpretive center] already exists at the Malibu Lagoon State Park, the Adamson House, and the National Recreation Area's visitor center. It is not an amenity justifying an increase in the FAR.
- The City has a well-functioning EOC [Emergency Operations Center] with a fully trained staff at city hall so this Center is not necessary.
- While it is convenient to have another community room, this is not a significant public benefit because there are already several community rooms in Malibu.

## **4. Parking Requirements**

The Malibu Township Council appeal raises issue with the modified parking standards. The assertion is as follows:

- The LCP parking space dimensions (LIP 3.14.5.D.7) are not being adhered to and that there is no reason the applicant cannot conform to the LCP parking standards (LIP 13.26.5).

## C. ANALYSIS OF SUBSTANTIAL ISSUE

Pursuant to Sections 30603 and 30625 of the Coastal Act, the appropriate standard of review for the subject appeal is whether a substantial issue exists with respect to the grounds raised by the appellants relative to the locally-approved project's conformity to the policies contained in the certified LCP or the public access policies of the Coastal Act. In this case, the appellant did not cite the public access policies of the Coastal Act as a ground for appeal or raise any public access-related issues. Thus, the only legitimate grounds for this appeal are allegations that the "appealable development" is not consistent with the standards in the certified LCP.

The term "substantial issue" is not defined in the Coastal Act or its implementing regulations. The Commission's regulations indicate simply that the Commission will hear an appeal unless it "finds that the appeal raises no significant question." (Cal. Code Regs., Title 14, Section 13115(b).) In previous decisions on appeals, the Commission has been guided by the following factors:

- The degree of factual and legal support for the local government's decision that the development is consistent or inconsistent with the certified LCP and with the public access policies of the Coastal Act;
- The extent and scope of the development as approved or denied by the local government;
- The significance of the coastal resources affected by the decision;
- The precedential value of the local government's decision for future interpretations of its LCP; and
- Whether the appeal raises only local issues, or those of regional or statewide significance.

In this case, for the reasons discussed further below, the Commission determines that the appeal raises no substantial issue with regard to the grounds on which the appeal has been filed, as discussed below.

### 1. Building Height

Both appeals raise issue with the height of the approved development with regard to the standards of the certified LIP. Chapter 3 of the Malibu LIP contains different development standards (e.g. height limits, setbacks from property lines, maximum structure size, permeable area, landscaping area) for residential, commercial, and institutional types of development. The institutional development standards (contained in LIP Section 3.9) were added to the LCP through LCP Amendment No. 2-11-A which was effectively certified in May 2013. Additionally, the provisions of LIP Chapter 6 require that new development be sited and designed to minimize adverse impacts on scenic areas visible from scenic roads or public viewing areas to the maximum feasible extent.

City of Malibu LIP Section 3.9.A.1 regarding institutional development height standards states that:

*a. Structures shall not exceed a maximum height of 18 feet above natural or finished grade, whichever results in a lower building height, except for chimneys, rooftop antenna, and light standards. The maximum height of the structure may be increased up to 28 feet for a flat or pitched roof if approved through a site plan review pursuant to Section 13.27 of the Malibu LIP.*

*b. Flagpoles, satellite dishes, safety railings, elevator shafts, stairwells, church spires, and belfries may be increased up to a maximum of 35 feet if approved through a site plan review pursuant to Section 13.27 of the Malibu LIP. Roof-mounted mechanical equipment shall be integrated into the roof design, screened, and may project no more than two feet higher than the structure roof height (screens included) if approved through a site plan review pursuant to Section 13.27 of the Malibu LIP.*

*c. In no event shall the maximum number of stories above grade be greater than two.*

...

City of Malibu LIP Section 13.26 states that:

*The purpose of this section is to provide a mechanism for applicants to make an application for a coastal development permit variance from standards or requirements of the Malibu LIP and to provide specific findings for approval or denial of variances. A variance shall not be granted which confers a special privilege inconsistent with the limitations upon other properties in the same vicinity and zone in which the subject property is situated or which authorizes a use or activity which is not otherwise expressly authorized by the zoning regulations governing that parcel of property.*

...

#### *13.26.5 Findings*

*Following a public hearing, the Planning Commission shall record the decision in writing. The Commission may approve and/or modify an application for a variance in whole or in part, with or without conditions, only if it makes all of the following findings of fact supported by substantial evidence that:*

*A. There are special circumstances or exceptional characteristics applicable to the subject property, including size, shape, topography, location, or surroundings such that strict application of the zoning ordinance deprives the property of privileges enjoyed by the other property in the vicinity and under the identical zoning classification.*

- B. The granting of such variance will not be detrimental to the public interest, safety, health or welfare, and will not be detrimental or injurious to the property or improvements in the same vicinity and zone(s) in which the property is located.*
- C. The granting of the variance will not constitute a special privilege to the applicant or property owner.*
- D. The granting of such variance will not be contrary or in conflict with the general purposes and intent of this Chapter, not to the goals, objectives and policies of the LCP*
- E. For variances to environmentally sensitive habitat area buffer standards or other environmentally sensitive habitat area protection standards, that there is no other feasible alternative for siting the structure and that the development does not exceed the limits on allowable development area set forth in Section 4.7 of the Malibu LIP*
- F. For variances to stringline standards, that the project provides maximum feasible protection to public access as required by Chapter 12 of the Malibu LIP*
- G. The variance request is consistent with the purpose and intent of the zone(s) in which the site is located. A variance shall not be granted for a use or activity which is not otherwise expressly authorized by the zone regulation government the parcel of property.*
- H. The subject site is physically suitable for the proposed variance.*
- I. The variance complies with all requirements of state and local law.*
- J. A variance shall not be granted that would allow reduction or elimination of public parking for access to the beach, public trails or parklands.*

The City of Malibu Local Coastal Program (LCP) contains development policies for areas with Institutional Zoning designations. More specifically, it contains specific language regarding height limits for development within this zone. The LCP also provides for a variance of development standards including an increase to the maximum height limit if all relevant required findings are made.

The approved project site is located inland of Pacific Coast Highway, an LCP designated scenic roadway. While the development will be visible from a small portion of PCH at its intersection with Webb Way, it is located over 700 feet from the highway, will not block scenic views, and will not result in significant adverse visual resource impacts. The project will also be visible from another scenic route, Malibu Canyon Road. This project will be at a much lower elevation than the road and over 1,000 feet away. Views of the approved development will be obscured by the intervening topography, existing development and vegetation.

Both appeals include an assertion that the project is not consistent with the LCP because the building height limit of 18 ft. is exceeded, which is true. However, the City approval

acknowledges that the project does not meet the height limit and includes the consideration and approval of a variance, with findings to allow for a maximum building height of 35 ft., 10 in.

The appeal from Malibu Coalition for Slow Growth asserts the height measurement of the building should be measured from natural grade, not the current existing grade. The appeal states that: “Since this structure is replacing an existing one and the site is in a floodplain, the site was previously elevated 3 feet above natural grade to protect structures from flooding”. No evidence was presented to support the claim that the subject project site has been filled and staff is not aware of any evidence. The LIP states that the maximum height limit shall be measured from existing or finished grade, whichever results in a lower height.

The Appeal from Malibu Coalition for Slow Growth asserts the building’s ventilation system does not qualify for the 35 ft. height limit. This assertion is referring to an argument included in the Planning Commission’s height variance findings that the building’s ventilation system could be considered a building feature that could be allowed to extend to a maximum height of 35 feet. This height allowance (LIP 3.9.A.1.b) provided by the Institutional Development Standards is meant to allow for increased height related to building appendages that would extend above the maximum height of a structure but not include the entire mass of the structure. The LIP is very clear in limiting which building features (flagpoles, satellite dishes, safety railings, elevator shafts, stairwells, church spires, and belfries) may extend to a maximum height of 35 feet (with site plan review), and “ventilation systems” are not listed. Additionally, the “ventilation system” in question is the roof of the building, as it has been designed with a slope to allow for passive cooling (**Exhibit 3**). As such, it is not the case that the ventilation system would occupy a small area of the mass of the building. While only small portions of the roof reach the maximum height of 35 feet, 10 inches, over 50 percent of the roof of the college portion of the structure is between 28 feet and 35 feet 10 inches in height (**Exhibit 4**). So, the Commission finds that the roof/ventilation system cannot appropriately be considered a building feature in the same way that flagpoles, satellite dishes, safety railings, elevator shafts, stairwells, church spires, and belfries are. In any case, the maximum building height is still over 35 feet, which can only be approved through a variance.

Both appeals assert the findings for the increased building height do not justify the issuance of a variance. The two variance findings in question are LIP sub-sections 13.26.5 A and C. The Malibu Coalition for Slow Growth appeal further states that it is impossible for the City to make either of these two required findings. Additionally, the Malibu Township Council appeal states that by making these findings, the City: “opens the door to allow this height for future projects making the LIP height requirements meaningless”.

In an earlier version of the staff report for the Planning Commission meeting on February 29, 2016, City staff recommended that the LIP sub-sections 13.26.5 A and C of the variance findings are “not supported” given the evidence of the case. Instead of issuing a variance, City staff recommended “the project height be reduced by 10 inches, to 35 feet, consistent with the absolute maximum height allowed in the Institutional Zone.” Nonetheless, the Planning Commission did approve the height variance to permit the educational facility portion of the building to extend to a maximum height of 35 feet, 10 inches and included the required findings.

LIP Sub-section 13.26.5 A requires evidence that “there are special circumstances or exceptional characteristics applicable to the subject property, including size, shape, topography, location, or surroundings such that strict application of the zoning ordinance deprives the property of privileges enjoyed by the other property in the vicinity and under the identical zoning classification”. The only evidence presented by the City that relates to the property (the ground on which the project will be built) is that it is an “irregularly shaped ground lease area out of a larger County owned parcel.” There is no analysis or evidence demonstrating how the shape of the project site limits the structure in any way that requires an increase in the maximum allowable height. Rather, the reasons given for a higher building relate only to the special requirements of an educational facility (need for higher ceilings to accommodate lecture halls and projection screens) and to the applicant’s desire to include a passive cooling system as part of the facility. While the inclusion of passive cooling would minimize energy usage which is an environmental benefit that the Commission supports, particularly as the project is located in a mild coastal climate area. However, this feature is not related to anything unique to the subject project site itself. This evidence does not adequately address the special circumstance or exceptional characteristic of the subject property’s size, shape, topography, location, and surroundings.

LIP Sub-section 13.26.5 C requires evidence that the granting of the variance will not constitute a special privilege. The finding made by the City states that the granting of the height variance will not constitute a special privilege to the applicant because it is necessary for this unique use and environmental upgrades required by Santa Monica College to reach the equivalent of the Silver LEED standard. The City also states that the property is unique in that it is zoned institutional, while the properties surrounding it are zoned commercial. Finally, the City Planning Commission found that allowing the height increase so the applicant can incorporate the passive cooling system is appropriate for an institution of higher learning to set an example by using advanced technology. These findings do not adequately address how granting the variance will not constitute a special privilege.

The first factor in evaluating the issue of whether the appeal raises a substantial issue is the degree of factual or legal support for the local government’s decision that the development is consistent with the subject provisions of the certified LCP. The issue of the height increase was addressed in the staff report, and both the Planning Commission and City Council resolutions of approval. While the two variance findings referenced in the appeals were not supported with adequate evidence, as required by the City’s LCP, the increased project height will not have a significant impact on coastal resources. This is addressed in the City’s staff report and findings. The City carried out a visual analysis of the proposed project, based on the plans and story poles placed on the site by the applicant to represent the location, height and bulk of the structure. Based on that analysis, the City Planning Commission found that visibility from designated scenic routes (Pacific Coast Highway and Malibu Canyon Road) is highly limited and obscured by topography, vegetation, and existing development in the Civic Center area. It further found that the project will have no significant adverse scenic or visual impacts. Commission staff’s review of the record indicates that the City had substantial factual support for the Planning Commission’s finding that the project will not have significant impacts on visual resources.

The second factor in evaluating the issue of whether the appeal raises a substantial issue is the extent and scope of the development approved. As described above, the project includes demolition of an existing structure and construction of a new building, along with a significant amount of associated development. As such, the extent and scope of the project is relatively large for the City of Malibu. However, the project will be sited on an already developed site in the Civic Center area of town and clustered with other institutional uses. The Civic Center is the most appropriate location for a development of this intensity, as this is the commercial core of the City.

The third factor in evaluating the issue of whether the appeal raises a substantial issue is the significance of coastal resources affected by the decision. In this case, there would be no significant coastal resources affected by the decision. There are no areas of ESHA nearby and public views or other visual resources will not be significantly impacted. The project, while higher than the maximum allowable height, is in a location that is not highly visible from public viewing areas. As described above, the project will be minimally visible from PCH and Malibu Canyon Road, the nearest LCP-designated scenic roadways. Further, the development is sited and designed to minimize adverse impacts on scenic areas visible from scenic roads or public viewing areas to the maximum feasible extent, as required by the LCP. As such, this project will not have significant adverse impacts on coastal resources.

The fourth factor in evaluating the issue of whether the appeal raises a substantial issue is the precedential value of the local government's decision for future interpretation of its LCP. While two of the building height variance findings made by the Planning Commission are not supported by the evidence, as previously discussed, the approved project avoids significant adverse impacts to coastal resources as required by the other policies/provisions of the LCP. There is some limited risk that the subject project will be a precedent for future similar developments. In this particular case, the variance does not result in any significant impact to environmentally sensitive habitat area (ESHA), visual resources, or other coastal resources. So, in this unique factual circumstance, the City's decision will not be an adverse precedent for future interpretation of these standards. If the City considers that the LCP institutional height standard does not provide adequate flexibility for institutional uses such that projects cannot meet the standard, or if it wants to encourage the inclusion of passive cooling or other environmentally friendly design features then it should consider modifying such standards through amendments to its municipal code and LCP.

The final factor in evaluating the issue of whether the appeal raises a substantial issue is whether the appeal raises only local issues, or those of regional or statewide significance. The appeal raises issues with regard to the approved building height that in the case of the subject project only relate to local issues, and does not have regional or statewide significance.

In conclusion, the Commission finds that while the two building height variance findings referenced in the appeals were not supported with adequate evidence, the increased project height will not have a significant impact on coastal resources and that the City had substantial factual support for that conclusion. Further, the project is relatively large in scale but is sited in the most appropriate location within the city. Additionally, there will be no significant adverse impact on coastal resources. The project approval has low potential to be a precedent for future

development, and the height issue raised by the appeal only relates to a local issue. Therefore, the Commission finds that the assertion of the appeal that the project exceeds the height limit for the institutional zone, should be measured from natural grade (rather than current grade), and that the variance findings required by the LIP were not adequately supported does not raise substantial issue.

## 2. Landscaping Requirements

City of Malibu LIP Section 3.9.A.3.b regarding landscaping for institutional development states that:

*25% of the lot (excluding slopes equal to or greater than 1:1 and street easements) shall be devoted to landscaping. The required 5 foot landscape buffer around the perimeter of parking areas pursuant to Section 3.14.5(E)(1) of the Malibu LIP shall count toward the 25% requirement. An additional 5% of the lot area (excluding slopes equal to or greater than 1:1 and street easements) shall be devoted to permeable surfaces.*

The City of Malibu Local Coastal Program (LCP) contains specific development policies for institutional development. More specifically, it contains specific language regarding the percentage of the lot area which must be landscaped. Lot coverage is controlled by the maximum floor to area ratio for structures (discussed in the next section below) and through this requirement that 25 percent of the lot must be landscaped, thus ensuring that landscaped areas are permeable and able to absorb runoff and filter it through the ground and through uptake by plants. Other requirements of the LCP require landscaping in order to screen development in scenic resource areas, or to screen more intense development like commercial or institutional uses from adjacent residential or open space uses.

Inadequate compliance with this requirement is cited as an issue in both appeals. In each appeal, the claim is made that the landscape requirement is not met because the City has allowed for a portion of the proposed structures green roof to count towards the 25% landscaping requirement. Both state that this should not be allowed “since the same lot area is being counted twice.”

The subject project site is approximately 128,500 sq. ft. in size. As such, 32,125 sq. ft. is the minimum lot area required to be landscaped. The City’s approved landscaping breakdown is as follows:

- “Ground Level Landscaping” – 29,984 sq. ft.
- “Green Roof Landscaping” – 4,370 sq. ft.
- “Total Landscaping” – 34,354 sq. ft.

As such, the project provides landscaping over approximately 23.3 percent of the total lot, which is close but does not meet the 25 % LIP standard. While green roofs and other environmentally friendly design techniques may provide environmental benefits that are supported and encouraged by the Commission, they should not be used as substitutes for existing LCP requirements. LIP Section 3.9 is clear in requiring that 25% of the lot shall be devoted to landscaping. This requirement is not that landscaping comprising an area equivalent to 25% of the site area be provided. Rather, it is that 25 % of the lot itself must be devoted to landscaping.



Including 2,141 sq. ft. of the green roof towards this requirement does not meet the stated intent of the 25% landscaping requirement.

The first factor in evaluating the issue of whether the appeal raises a substantial issue is the degree of factual and legal support for the local government's decision that the development is consistent with the subject provisions of the certified LCP. The issue of landscaping requirements was discussed in the City's staff report. As discussed above, the approved project is not consistent with LIP Section 3.9.A.3.b. There is not adequate factual evidence and legal support for the City's analysis and decision with regard to the landscaping requirement.

The second factor in evaluating the issue of whether the appeal raises a substantial issue is the extent and scope of the development approved. As described above, the project includes demolition of an existing structure and construction of a new building, along with a significant amount of associated development. As such, the extent and scope of the project is relatively large for the City of Malibu. However, the project will be sited on an already developed site in the Civic Center area of town and clustered with other institutional uses. The Civic Center is the most appropriate location for a development of this intensity, as this is the commercial core of the City.

The third factor in evaluating the issue of whether the appeal raises a substantial issue is the significance of coastal resources affected by the decisions. In this case, there would be no significant coastal resources affected by the decision. As previously discussed, the project is not consistent with the landscape requirements of the LIP, as asserted by both appeals. However, the project is located in an area previously developed with institutional uses and is not situated near any areas of ESHA mapped in the City's LCP. The reduction in the total portion of the lot devoted to landscaping is small and does not have the potential to result in significant adverse impacts to water quality.

The fourth factor in evaluating the issue of whether the appeal raises a substantial issue is the precedential value of the City's decision for future interpretation of its LCP. As discussed above, the City did not interpret the provisions of LIP Section 3.9.A.3.b appropriately. There have been instances in the past where the City has made similar decisions with regard to the landscaping required as part of commercial developments. For one example, the City approved the inclusion of landscaping within a semi-subterranean parking area and trees planted in pots on a roof-top deck as meeting the required standard for an office/commercial building. In another case, the City approved plantings on the exterior wall of a commercial development as meeting part of the landscaping requirement. So, there is some limited risk that the subject project will be a precedent for future similar developments. However, in this particular case, the inappropriate interpretation does not result in any significant impact to environmentally sensitive habitat area (ESHA), visual resources, or other coastal resources. So, in this unique factual circumstance, the City's decision will not be an adverse precedent for future interpretation of these standards. If the City considers the LCP landscaping coverage standard to be too high such that projects cannot meet the standard, or if it wants to encourage the inclusion of green roofs or other environmentally friendly design techniques then it should consider modifying such standards through amendments to its municipal code and LCP.

The final factor in evaluating the issue of whether the appeal raises a substantial issue is whether the appeal raises only local issues, or those of regional or statewide significance. The appeal raises issues with regard to landscaping standards that in the case of the subject property only relate to local issues, and does not have regional or statewide significance.

In conclusion, the Commission finds that the approved project does not conform to landscaping standards for new institutional development, and is relatively large in scale but is sited in the most appropriate location within the city. Additionally, there will be no significant impact on coastal resources. The project approval has low potential to be a precedent for future development, and the landscaping issue raised by the appeal only relates to a local issue. Therefore, the Commission finds that the non-conformance of the approved project's landscaping requirements, as detailed in LIP Section 3.9.A.3.b, does not raise substantial issue.

### 3. **FAR Increase**

City of Malibu LIP Section 3.9.A.3.a with regarding to increasing FAR ratios states:

*Structure Size. The gross floor area ratio of all buildings on a given parcel shall be limited to a maximum Floor Area Ratio (FAR) of 0.15, or 15% of the lot area (excluding slopes equal to or greater than 1:1 and street easements). Additional gross floor area may be approved by the City Council, up to the maximum allowed for the parcel under the Land Use Plan, where additional significant public benefits and amenities are provided as part of the project.*

The City of Malibu LUP provides the following description for the Institutional Land Use designation:

*INSTITUTIONAL (I): The I designation accommodates public and quasi-public uses and facilities in the City. The maximum Floor to Area Ratio (FAR) is 0.15. The FAR may be increased to a maximum of 0.20 where additional significant public benefits and amenities are provided as part of the project. Uses that are permitted and/or conditionally permitted include but are not limited to the following: emergency communications and services, libraries, museums, maintenance yards, educational (private and public) and religious institutions, community centers, parks and recreational facilities, and governmental facilities including police and fire stations.*

The Malibu LCP establishes the maximum density and intensity of new development. In the case of residential development, such standards as density, maximum development area, total development square footage, and maximum impermeable coverage establish the size and location of structures and maximum lot coverage. In the case of institutional development, the maximum intensity is established through the maximum floor area ratio (FAR) and the requirement for minimum landscaping area (landscaping area is discussed in the previous section above). The LIP defines FAR as: "the formula for determining permitted building area as a percentage of lot area; obtained by dividing the above-ground gross floor area of a building or buildings located on a lot or parcel of land by the total area of such lot or parcel of land". The City of Malibu's LIP limits institutional buildings to no more than 15% of the total area of the

parcel comprising the project site. LIP Section 3.9.A.3.a also allows for an increase to the 0.15 FAR up to the maximum allowed by the LUP for the project site, where “significant public benefits and amenities” are provided as part of the project. The City of Malibu’s LUP states that the maximum allowable Floor to Area Ratio (FAR) for property with the Institutional designation is 0.20. So, the LCP allows an increase in FAR from 0.15 to 0.20 for institutional development such as the subject project where the City Council finds that the project includes significant public benefits and amenities. ”

In this case, the City Council considered the applicant’s proposed increase from 0.15 to 0.20 FAR and found that the project included significant public benefits and amenities. The lease area that makes up the project site is 128,500 sq. ft. (2.94 acres) in size, so the 0.15 floor to area ratio would allow for a maximum building square footage of 19,275 sq. ft. The increased 0.20 FAR would allow for a maximum of 25,700 sq. ft. of building floor area. So, the increased FAR would allow for a maximum increase on building size of 6,425 sq. ft. The proposed project comprises 25,310 sq. ft., so the increase in FAR totals 6,035 sq. ft. The City Council cited the following aspects of the approved project as providing public benefits and amenities:

- A public community college facility that will provide educational services to the local community.
- A Los Angeles County Sheriff substation that will provide enhanced local services.
- An improved emergency communication tower.
- An interpretive center to support Legacy Park and/or other programs.
- A multi-purpose room available for public use for community meetings and an emergency operations center when necessary.

The City Council made findings about the benefits provided by these aspects of the project to the local community and found that the benefits justified the approval of the increase of the FAR. The 6,035 sq. ft. FAR increase is consistent with the maximum allowable increase as set forth by the LUP.

Malibu Township Council’s appeal asserts that this project does not provide the significant public benefits or amenities that are required as a condition of the FAR increase. The first two bullet points (listed above) claim that the LCP conforming version of the project still allow for the Sheriff sub-station and also provide the same education benefits. The third bullet point states that the applicant will not be paying for the communication tower, so that will not be a public benefit. Bullet points four and five state that an interpretive center already exists nearby and that the city already has a number of community rooms, essentially claiming that the amenities already exist so they do not warrant the FAR increase.

As the City’s LIP Policy 3.9.A.3.a states, an FAR increase may be granted to a project at the discretion of the City Council. This section does not provide specific criteria to be applied by the City Council in approving such a request. The Malibu Township Council submitted comment for the meeting during which this FAR increase was deliberated. During this meeting, the Council found that the public benefits and amenities provided by the project would be significant enough to grant the FAR increase. This was all done according to the provisions set forth by the LCP.

The first factor in evaluating the issue of whether the appeal raises a substantial issue is the degree of factual and legal support for the local government's decision that the development is consistent with the subject provisions of the certified LCP. As discussed above, the City Council considered the public benefits provided as part of the approved project and made a determination that an FAR increase was justified by the benefits and consistent with the policies and provisions of the LCP. Commission staff's review of the record indicates that the City Council had substantial factual support for this decision.

The second factor in evaluating the issue of whether the appeal raises a substantial issue is the extent and scope of the development approved. As described above, the project includes demolition of an existing structure and construction of a new building, along with a significant amount of associated development. As such, the extent and scope of the project is relatively large for the City of Malibu. However, the project will be sited on an already developed site in the Civic Center area of town and clustered with other institutional uses. The Civic Center is the most appropriate location for a development of this intensity, as this is the commercial core of the City.

The third factor in evaluating the issue of whether the appeal raises a substantial issue is the significance of coastal resources affected by the decisions. In this case, there would be no significant coastal resources affected by the decision. As previously discussed, the project is located in an area previously developed with institutional uses, is not situated near any areas of ESHA mapped in the City's LCP, and public views or other visual resources will not be significantly impacted. The project is in a location that is not highly visible from public viewing areas. Further, the development is sited and designed to minimize adverse impacts on scenic areas visible from scenic roads or public viewing areas to the maximum feasible extent, as required by the LCP. As such, the Commission finds that coastal resources will not be significantly affected by the FAR increase.

The fourth factor in evaluating the issue of whether the appeal raises a substantial issue is the precedential value of the City's decision for future interpretation of its LCP. As discussed above, the City Council considered the public benefits provided as part of the approved project and made a determination that an FAR increase was justified by the benefits and consistent with the policies and provisions of the LCP. . The FAR increase granted by the City does not result in any significant impact to environmentally sensitive habitat area (ESHA) or other coastal resources. As such, the City's decision will not be an adverse precedent for future interpretation of these standards.

The final factor in evaluating the issue of whether the appeal raises a substantial issue is whether the appeal raises only local issues, or those of regional or statewide significance. The appeal raises issues with regard to maximum institutional development intensity as limited by the maximum FAR that in the case of the subject property only relate to local issues, and does not have regional or statewide significance.

In conclusion, the Commission finds that the City Council's granting of the project's FAR increase was consistent with the LIP and that the City had substantial factual basis for the decision. The Commission also finds that the project is relatively large in scale for Malibu, but is

sited in the most appropriate location within the city. Additionally, there will be no significant impact on coastal resources. The project approval has low potential to be a precedent for future development, and the substantial public benefit issue raised by the appeal only relates to a local issue. Therefore, the Commission finds that the City's granting of an FAR increase, based on the City Council's determination that the project provided substantial public benefits/amenities, does not raise substantial issue.

#### 4. **Parking Requirements**

City of Malibu LIP Section 13.14.5.D.7 regarding parking space dimensions states:

*Parking stalls shall be at least nine feet by twenty feet minimum, and shall be marked with lines or indicated with special paving materials. The access lanes shall be clearly defined and shall include directional arrows to guide internal traffic movement. Compact parking spaces are permitted, but shall not exceed twenty percent of the total number of required spaces. Compact stalls shall be a minimum of eight feet by fifteen feet six inches and shall be marked for compact use only.*

City of Malibu LIP Policy 13.26 states that:

*The purpose of this section is to provide a mechanism for applicants to make an application for a coastal development permit variance from standards or requirements of the Malibu LIP and to provide specific findings for approval or denial of variances. A variance shall not be granted which confers a special privilege inconsistent with the limitations upon other properties in the same vicinity and zone in which the subject property is situated or which authorizes a use or activity which is not otherwise expressly authorized by the zoning regulations governing that parcel of property.*

...

##### *13.26.5 Findings*

*Following a public hearing, the Planning Commission shall record the decision in writing. The Commission may approve and/or modify an application for a variance in whole or in part, with or without conditions, only if it makes all of the following findings of fact supported by substantial evidence that:*

*A. There are special circumstances or exceptional characteristics applicable to the subject property, including size, shape, topography, location, or surroundings such that strict application of the zoning ordinance deprives the property of privileges enjoyed by the other property in the vicinity and under the identical zoning classification.*

*B. The granting of such variance will not be detrimental to the public interest, safety, health or welfare, and will not be detrimental or injurious to the property or improvements in the same vicinity and zone(s) in which the property is located.*

*C. The granting of the variance will not constitute a special privilege to the applicant or property owner.*

*D. The granting of such variance will not be contrary or in conflict with the general purposes and intent of this Chapter, not to the goals, objectives and policies of the LCP*

*E. For variances to environmentally sensitive habitat area buffer standards or other environmentally sensitive habitat area protection standards, that there is no other feasible alternative for siting the structure and that the development does not exceed the limits on allowable development area set forth in Section 4.7 of the Malibu LIP*

*F. For variances to stringline standards, that the project provides maximum feasible protection to public access as required by Chapter 12 of the Malibu LIP*

*G. The variance request is consistent with the purpose and intent of the zone(s) in which the site is located. A variance shall not be granted for a use or activity which is not otherwise expressly authorized by the zone regulation government the parcel of property.*

*H. The subject site is physically suitable for the proposed variance.*

*I. The variance complies with all requirements of state and local law.*

*J. A variance shall not be granted that would allow reduction or elimination of public parking for access to the beach, public trails or parklands.*

The City's LCP has a provision that specifies the required dimensions for both regular and compact parking stalls. A variance was approved as part of the project to allow for modified dimensions of the parking spaces. The dimensions proposed are the standard size required for parking standards by Los Angeles County ordinances that apply to unincorporated areas. The standard sized spaces dimensions were reduced from 9 ft. x 20 ft. (as required by the City's LCP) to 8.5 ft. x 18 ft. Compact space dimensions were reduced from 8 ft. x 15.5 ft. (as required by the City's LCP) to 8 ft. x 15 ft.

Malibu Township Council's appeal asserts that the project does not comply with the required parking standards and that there is no reason the applicant cannot conform to the LCP parking standards.

In the City's findings for the modified parking space size variance, the special circumstance cited is that the new building's parking lot will need to align with the existing, old parking lot, which has spaces designed (prior to the incorporation of the City of Malibu) to Los Angeles County's parking lot standards.

The area of the new parking lot that needs to align with the existing parking lot consists of less than half of the new building's parking spaces. However, the modified parking space dimensions were applied to the entire parking lot, most of which does not need to align with the existing lot.

The first factor in evaluating the issue of whether the appeal raises a substantial issue is the degree of factual and legal support for the local government's decision that the development is consistent with the subject provisions of the certified LCP. As previously discussed, there is substantial evidence to justify issuing the variance to modify a portion of the new lot. There is no discussion or evidence presented with regard to the universal application of the modified dimensions to the entire parking lot. The number of parking spaces required by the LCP is still met. As such, the project will have no substantial effect on public access, and Commission finds no substantial issue exists with regard to the parking space dimension change.

The second factor in evaluating the issue of whether the appeal raises a substantial issue is the extent and scope of the development approved. As described above, the project includes demolition of an existing structure and construction of a new building, along with a significant amount of associated development. As such, the extent and scope of the project is relatively large for the City of Malibu. However, the project will be sited on an already developed site in the Civic Center area of town and clustered with other institutional uses. The Civic Center is the most appropriate location for a development of this intensity, as this is the commercial core of the City.

The third factor in evaluating the issue of whether the appeal raises a substantial issue is the significance of coastal resources affected by the decisions. As previously discussed, the project is located in an area previously developed for Institutional uses and is not situated near any areas of ESHA mapped in the City's LCP. The number of required parking spaces is also satisfied. Coastal resources and public access will not be significantly affected by the parking space dimension modification. As such, the Commission finds that no substantial issue exists.

The fourth factor in evaluating the issue of whether the appeal raises a substantial issue is the precedential value of the City's decision for future interpretation of its LCP. As discussed above, the reason for modifying the parking space dimensions does apply for a portion of the parking lot, but the dimensions were applied to the entire lot. In this particular case, changing the dimensions of all the parking spaces will not have a significant impact on public access. In this unique factual circumstance, the City's decision will not be an adverse precedent for future interpretation of these standards.

The final factor in evaluating the issue of whether the appeal raises a substantial issue is whether the appeal raises only local issues, or those of regional or statewide significance. The appeal raises issues with regard to parking stall size standards that in the case of the subject property only relate to local issues, and does not have regional or statewide significance.

In conclusion, the Commission finds that the variance findings are adequate to justify changing parking space dimensions for the portion of the new lot which needs to align with the old lot, but there is insufficient evidence to justify applying Los Angeles County's parking dimension standards to the whole new lot. The Commission also finds that the project is relatively large in scale but is sited in the most appropriate location within the city. Additionally, there will be no significant impact on coastal resources. The project approval has low potential to set a precedent for future development, and the parking stall size issue raised by the appeal only relates to a local

issue. Therefore, the Commission finds that the City's granting of a variance for modified parking space dimensions does not raise substantial issue.

#### **D. CONCLUSION**

For the reasons discussed above, no substantial issue is raised with respect to the consistency of the approved development with the policies of the City's certified LCP regarding building height limitations, landscaping requirements, FAR increase provisions, and parking stall size standards required by the Local Implementation Plan. Applying the five factors identified above, the Commission finds that although there are no special circumstances affecting the project site, the City did have substantial evidence to conclude that the approved development complies with all other standards specified in the LIP, the development is relatively large in scale but is sited in the most appropriate location within the city, doesn't have a significant adverse effect on significant coastal resources or public access, has little precedential value, and doesn't raise issues of regional or statewide significance. Therefore, the Commission finds that the appeal does not raise a substantial issue as to the City's application of the cited policies of the LCP.



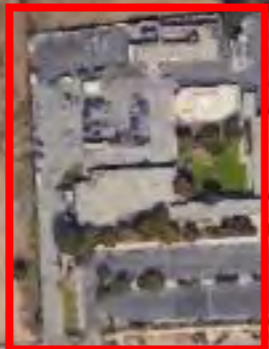
## **APPENDIX 1**

### **Substantive File Documents**

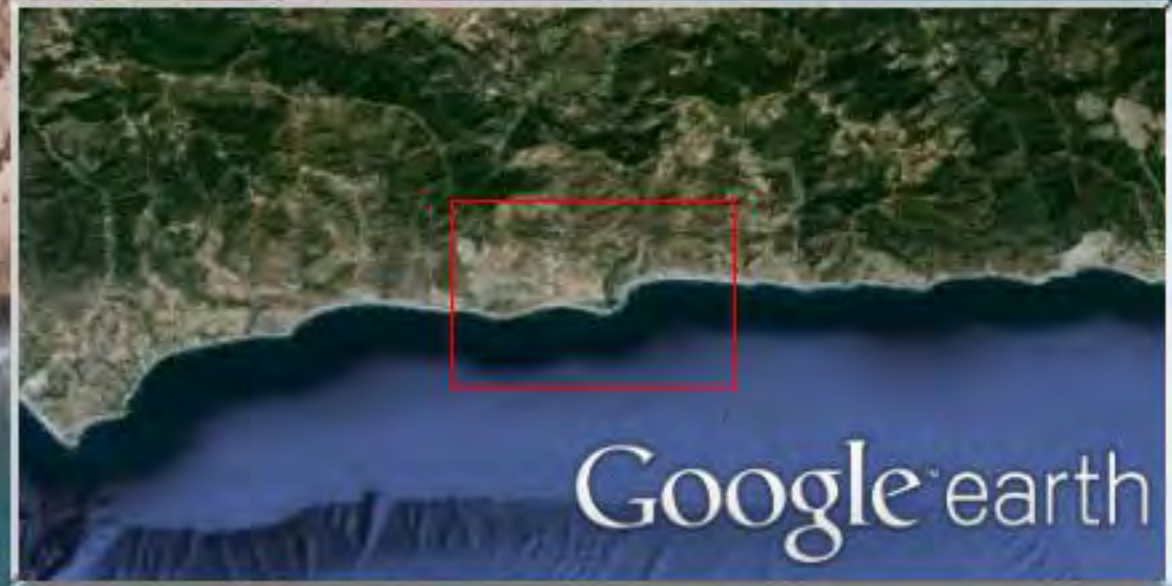
City of Malibu's Commission Agenda Report (prepared for their February 29, 2016 meeting)

City of Malibu's Council Agenda Report (prepared for their April 11, 2016 meeting)

**PROJECT  
SITE**



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Google earth

**EXHIBIT 2**  
**A-4-MAL-16-0049**  
**Site Plan**



Project Limits

**Site Plan**

**EXHIBIT 3**  
**A-4-MAL-16-0049**  
**Building Height Diagram**



Santa Monica College  
 1900 Pico Boulevard  
 Santa Monica, CA 90405  
 USA • (310) 434-4000

PROJECT NAME

**SMC**  
**MALIBU CAMPUS**

No

DESIGN TEAM



CONSULTANTS

ISSUE	
01	12-21-12 SCHEMATIC DESIGN
02	10-11-13 PLANNING SUBMITTAL
03	07-21-14 PLANNING RESUBMITTAL
04	12-09-15 FINAL PLANNING SUBMITTAL

DESIGNER PROJECT NO.  
 DRAWN BY  
 CHECKED BY  
 SCALE 1/8" = 1'-0"

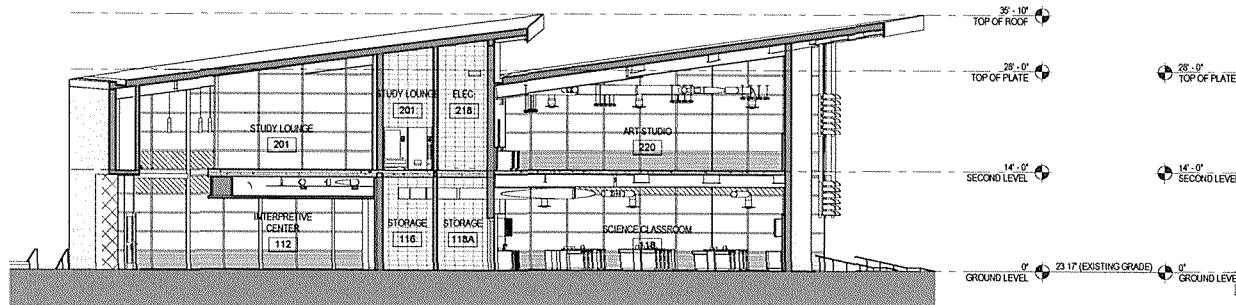
KEY PLAN

SHEET TITLE

**BUILDING SECTIONS**

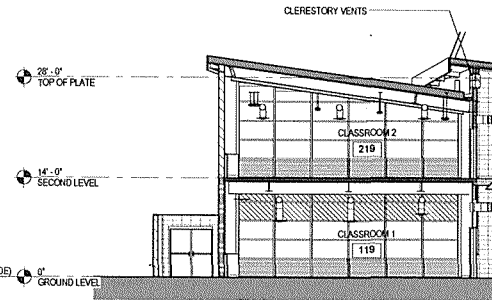
SHEET NUMBER

**A7**



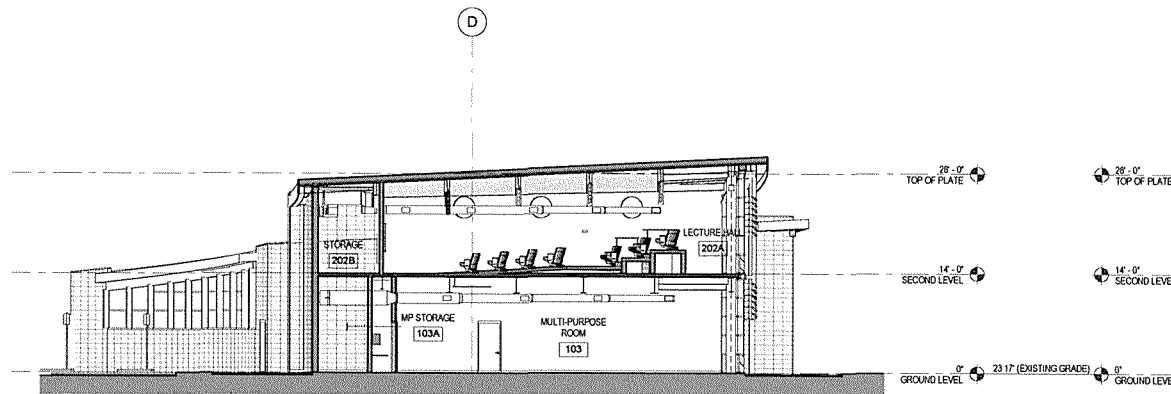
**4** SECTION @ STORAGE & CLASSROOMS

A7 REF 11/A2 SCALE 1/8" = 1'-0"



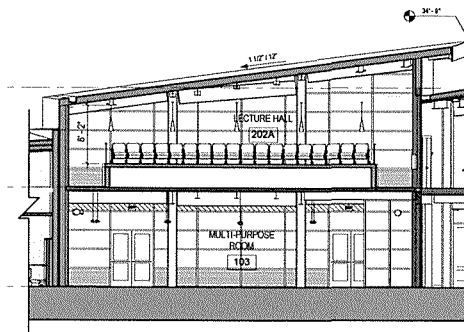
**2** SECTION @ CLASSROOMS

A7 REF 11/A2 SCALE 1/8" = 1'-0"



**3** SECTION @ MP & LECTURE HALL

A7 REF 11/A3 SCALE 1/8" = 1'-0"



**1** SECTION @ MP & LECTURE MUSIC HALL

A7 REF 11/A2 SCALE 1/8" = 1'-0"



**Santa Monica College**  
 1900 Pico Boulevard  
 Santa Monica, CA 90405  
 USA • (310) 434-4000

PROJECT NAME

**SMC**  
**MALIBU CAMPUS**

No.

DESIGN TEAM

**Quatro** design group  
 923 east third street suite 115  
 los angeles california 90013  
 telephone 213.625.1995  
 facsimile 213.625.1997

CONSULTANTS

ISSUE	
01	12-21-12 SCHEMATIC DESIGN
02	10-11-13 PLANNING SUBMITTAL
03	07-21-14 PLANNING RESUBMITTAL
04	12-09-15 FINAL PLANNING SUBMITTAL

DESIGNER PROJECT NO.

DRAWN BY:

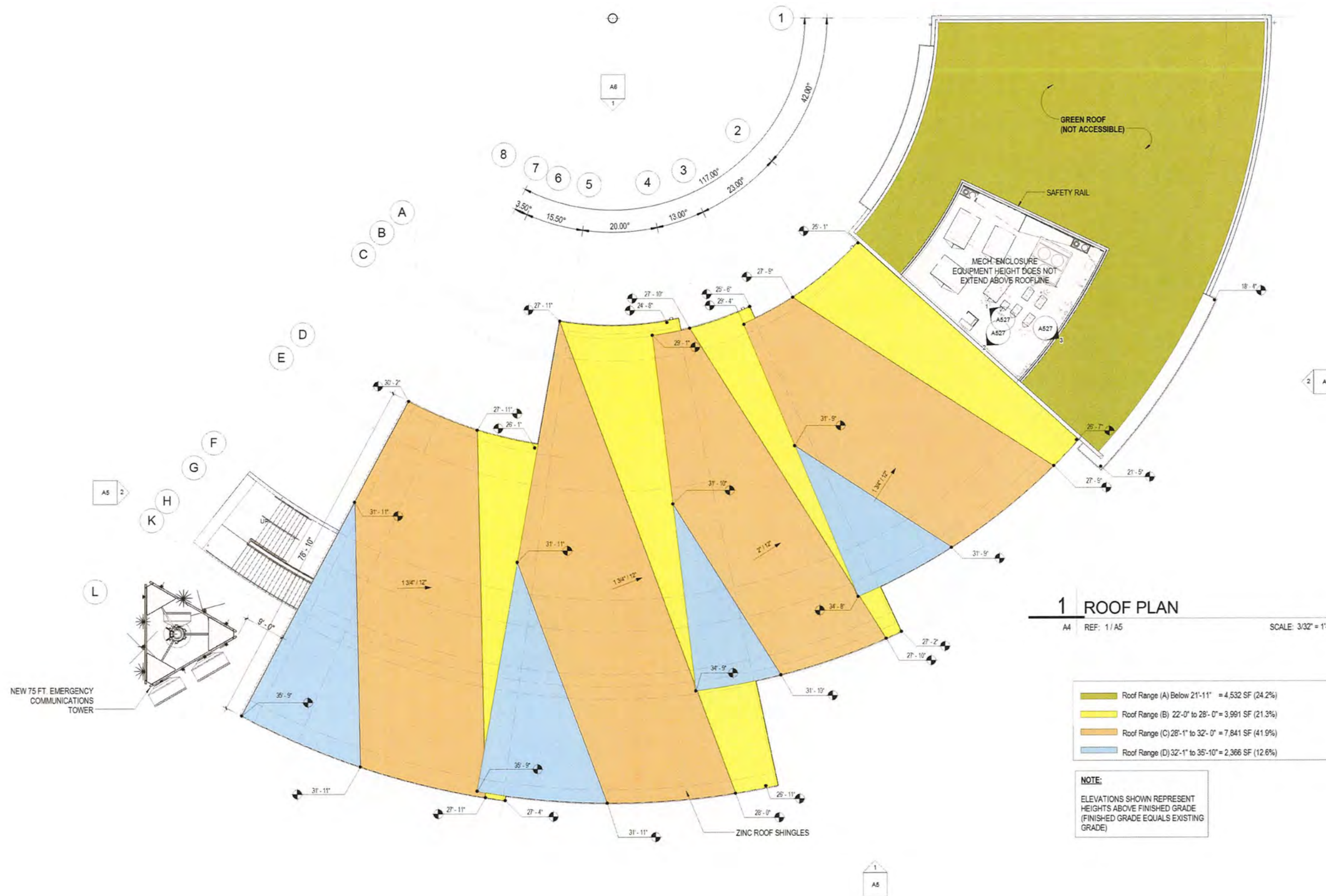
CHECKED BY:

SCALE: As indicated

KEY PLAN

SHEET TITLE

**ROOF PLAN**



**EXHIBIT 5**

**A-4-MAL-16-0049**

**Malibu Coalition for Slow Growth Appeal**

**Malibu Coalition for Slow Growth**  
6085 Paseo Canyon Drive Malibu CA 90265

Jordan Grace  
California Coastal Commission  
89 South California Street  
Ventura CA 93001

April 25, 2016

Dear Jordan:

Enclosed please find the Malibu Coalition For Slow Growth's appeal of a project located at 32525 Civic Center Way. Would you please email me at [Healypatt@aol.com](mailto:Healypatt@aol.com) and let me know you received it. Many Thanks.

Sincerely,

  
Patt Healy  
on behalf of  
Malibu Coalition for Slow Growth

**Received**

MAY 03 2016

California Coastal Commission  
South Central Coast District

Received

EDMUND G. BROWN

STATE OF CALIFORNIA - THE RESOURCES AGENCY

**CALIFORNIA COASTAL COMMISSION**

SOUTH CENTRAL COAST DISTRICT OFFICE  
89 SOUTH CALIFORNIA STREET, SUITE 200  
VENTURA, CA 93001-4508  
VOICE (805) 585-1801 FAX (805) 641-1732

MAY 03 2016

California Coastal Commission  
South Central Coast District

**APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT**

**Please Review Attached Appeal Information Sheet Prior To Completing This Form.**

**SECTION I. Appellant(s)**

Name: Malibu Coalition for Slow Growth

Mailing Address: 6085 Paseo Canyon Drive

City: Malibu

Zip Code: 90265

Phone: 424 235 2464

**SECTION II. Decision Being Appealed**

1. Name of local/port government: City of Malibu

2. Brief description of development being appealed: CDP for Santa Monica Community College, a public works project, located in the Institutional zone of the Malibu Civic Center.

3. Development's location (street address, assessor's parcel no., cross street, etc 23525 Civic Center Way, Parcel A Malibu Assessor Parcel Number 445 022 904

4. Description of decision being appealed (check one.):

Approval  no special conditions

✓ Approval  with special conditions:

Denial

**Note:** For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

**TO BE COMPLETED BY COMMISSION:**

APPEAL NO: \_\_\_\_\_

DATE FILED: \_\_\_\_\_

DISTRICT: \_\_\_\_\_

**APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT**

**(Page 2)**

5. Decision being appealed was made by (check one): Planning Director/Zoning Administrator

City Council/Board of Supervisors

Planning Commission

Other

6. Date of local government's decision: Planning Commission 2-29-16 which was final on 4-11-16 when project approved by City Council

Local government's file number (if any): CDP 13-056

**SECTION III. Identification of Other Interested Persons**

Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:

Masoud Mahmoud, m6 Consulting, Inc. ,4165 Thousand Oaks Blvd Ste. 355 , Westlake Village CA 91362

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

(1) see attached list of interested persons.

(2)



**APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT**

**(Page 3)**

(3)

(4)

**SECTION IV. Reasons Supporting This Appeal**

**PLEASE NOTE:**

- Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section.
- State briefly **your reasons for this appeal**. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)
- This need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

**The following Approvals do not conform to the Malibu LCP and are being appealed since they raise a Substantial Issue as it relates to the interpretation of the LCP.**

**I. Structure Height**

**1. Institutional Zone LIP Allowable Heights**

The variance for the approved building height is not allowed since structures in the Institutional Zone are limited to 18 feet in height measured from natural or finished grade whichever is lower. However, the height may be increased to 28 feet from natural or finished grade whichever is lower, with a Site Plan Review ( LIP 3.9.A.1.a ).

Flagpoles, satellite dishes, safety railings elevator shafts, stairwells, church spires, and belfries are also limited to the 18 foot height, but may be increased up to a maximum of 35 feet in height with a site plan review (LIP 3.9.A.1.b.). (Note: these are appendages to the structure, not the structure and do take up a very small portion of a structures roof.)

**2. Approved Structure Height**

Since this structure is replacing an existing one and the site is in a floodplain, the site was previously elevated 3 feet above natural grade to protect structures from flooding. After Site Plan Review the city staff determined a 35 foot height was allowable and the Planning Commission allowed a height variance

## APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

(Page 4)

of 35 feet 10 inches measured from finished grade. If the proposed structure were to meet the requirements of the LCP with Site Plan Review, its maximum allowable height would be 28 feet measured from natural grade (which in this instance is lower than finished grade) or 25 feet at finished grade.

### **3. Required Variance Findings Impossible**

The following required findings for a variance to allow a height of 38 feet, 10 inches measured from natural grade or 35 feet 10 inches measured from finished grade cannot be made for these reasons:

*Finding 1. 'There are special circumstances or exceptional characteristics applicable to the subject property, including size, shape, topography, location, or surroundings such that strict application of the zoning ordinance deprives such property of privileges enjoyed by other property in the vicinity and under the identical zoning classification.'*

It was impossible for the Planning Commission to make this finding. There are no buildings in the Institutional Zone and in the vicinity that are 38 feet 10 inches measured from natural grade or 35 feet 10 inches from finished grade. Therefore, the property is not being deprived of privileges enjoyed by other properties in the vicinity. According to the Planning Commission staff report, the existing building it is replacing is 15 feet high, other existing buildings in the Civic Center area range from approximately 15 to 26 feet tall.

Furthermore, if this structure height is permitted it will set the stage in the future for allowing all properties in the zone to receive a variance to be this height.

*Finding 2. 'The granting of the variance will not constitute a special privilege to the applicant or property owner.'*

This necessary finding also can't be made. Granting the variance will grant a special privilege to the Applicant.

### **4. Additional Height Allowed Only For Appendages On and Above the Roof.**

A structure's maximum height is limited to 28 feet. Under the LIP, the allowable increase for up to 35 feet are allowed for certain limited and explicit appendages like an elevator shaft, stairwell or a flagpole. These appendages are allowed to be placed on the structure roof and cover a minimal portion of the roof.

The proposed project's ventilation system doesn't meet this code requirement for the following reasons:

- 1.) Only the specifically LIP 3.9.A.1.b. listed appendages are subject to the height increase above 28 feet.
- 2) The city approved additional height above 28 feet is not located on top of the roof but under the roof and is part of the structure.
- 3.) Located between the top of the second story and below the roof, the ventilation system appears to be the length and width of the second story.

Therefore, the maximum allowable height for the college is 28 feet from natural grade or 25 ft. from finished grade.

If allowed as currently designed the proposed structure will tower over the Civic Center. Moreover, it will set a precedent for other future structures to be this high.

**APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT**

**(Page 5)**

**II. Landscaping**

25% of the lot area is required to be landscaped (LIP 3.9.A.3.b). This project does not meet this requirement, since a certain percentage of the required 25% landscaping has been placed on the top of the roof structure. This is not allowed since it is counting the same "lot area" twice. First for a portion of the building and secondly for a portion of the landscaping, which has to be outside the footprint of the building structure.

If landscaping is allowed to be measured this manner, it will be precedent setting and could result in a project that has no ground level landscaping.

**III. Allowable Solution**

A one story alternative will meet the requirements of the LCP.

The staff report states that classrooms should be 14 feet high. A one story structure up to 28 feet in height measured from natural grade or to 25 feet in height measured from finished grade, will provide this needed classroom height, the desired passive ventilation system and the currently designed roof line. The staff report states a one-story structure will result in a project that is 75% of the current structure size (from 25,310 square feet to 18,730 square feet) and will provide for the full time enrollment of 158 students instead of 210. There is no requirement in the LCP that the college should be allowed to have as many students as they wish, and must be allowed the proposed ventilation system. These desires do not justify the violation of the height requirements of the LCP. If the project is a one story structure, it will fit the character of the area and the LCP requirements which were enacted to protect Malibu's character.

**SECTION V. Certification**

The information and facts stated above are correct to the best of my/our knowledge.

Malibu Coalition For Slow Growth  
Kate Usaly Co-Founder  
Signature of Appellant(s) or Authorized Agent  
Date: 4.25.16

**Note:** If signed by agent, appellant(s) must also sign below.

**Section VI. Agent Authorization**

I/We hereby authorize \_\_\_\_\_ to act as my/our representative and to bind me/us in all matters concerning this appeal.

Signature of Appellant(s)

Date:

ContactType	Firstname	LastName	company	address1	address2	CityStateZip
Owner	Carol	Botdorf	Los Angeles County	222 South Hill		Los Angeles, CA 90012
Applicant	Masoud	Mahnoud	me Consulting, Inc.	4165 Thousand Oaks Blvd	Site 355	Westlake Village, CA 91362
Tenant			Santa Monica Community College	1900 Pico Blvd		Santa Monica, CA 90405-1628
Interested Party	Lester	Tobias	Tobias Architecture	22221 Pacific Coast Highway		Malibu, CA 90265
Interested Party	Steve	Uhring	CCW Partner LLC	P.O. Box 492387		Los Angeles, CA 90049
Interested Party	Chris & Sally	Benjamin	Malibu Knolls Property Owners Association	23772 Harbor Vista Drive		Malibu, CA 90265
Interested Party	Gayle	Macleod		3216 Colony View Circle		Malibu, CA 90265
Interested Party	Laurie	Principe		31834 Broad Beach Road		Malibu, CA 90265
Interested Party	Don	Schmitz	Schmitz and Associates	5234 Chesebro Road, Suite 200		Agoura Hills, CA 91301
Interested Party	Patt	Healy	Malibu Coalition for Slow Growth	403 San Vicente Blvd.		Santa Monica, CA 90402
Interested Party	Hans and Deborah	Dau		3213 Colony View Circle		Malibu, CA 90265
Interested Party	Beate	Nilsen	Santa Monica College	25136 Malibu Road		Malibu, CA 90265
Interested Party	Donald	Girard		1900 Pico Boulevard		Santa Monica, CA 90405
Interested Party	Suzanne	Guldimann		6768 Willdife Road		Santa Monica, CA 90405
Interested Party	Kathryn	Jeffery		1900 Pico Blvd.		Malibu, CA 90265
Interested Party	Amelia	Foster	SMC Board of Trustees	22250 Carbon Mesa Road		Malibu, CA 90265
Interested Party	Louise	Jaffe		1900 Pico Boulevard		Santa Monica, CA 90805
Interested Party	Craig	Foster		22250 Carbon Mesa Road		Malibu, CA 90265
Interested Party	Maria	Chong-Castillo	Supervisor Sheila Kuehl			
Interested Party	Ken	Kearsley				
Interested Party	Jim	Royal	L. A. County Sheriff			
Interested Party	Heather	Anderson		4238 Ocean View Drive		Malibu, CA 90265
Interested Party	Cami	Wrinkoff		29914 Cuthbert Road		Malibu, CA 90265
Interested Party	Kay	Gabbard	Malibu Community Labor Exchange	5466 Horizon Drive		Malibu, CA 90265
Interested Party	Laureen	Sills		7015 Grasswood Drive		Malibu, CA 90265
Interested Party	Karen	Farver				
Interested Party	Marianne	Riggins	Malibu High School Athletic Booster Club	29257 Cliffside Drive		Malibu, CA 90265
Interested Party	Anne	Payne		3507 Cross Creek Lane		Malibu, CA 90265
Interested Party	Jefferson	Wagner		22775 Pacific Coast Highway		Malibu, CA 90265
Interested Party	Norman	Haynie	Blue Onyx Design and Engineering, Inc.	22741 Pacific Coast Highway	#400	Malibu, CA 90265
Interested Party	Isabella	Antinoro	Cornucopia Foundation	30745 Pacific Coast Highway #158		Malibu, CA 90265
Interested Party	Ryan	Embree		P.O. Box 100		Malibu, CA 90265

Interested Party  
Interested Party  
Interested Party  
Interested Party  
Interested Party  
Interested Party

Kevin  
David  
Greg  
Shane  
Pat  
Karen  
Rouli

Tyrell  
Shender  
Brown  
Parker  
Davoren  
Farber  
Israel

QDG Architecture  
Parker Environmental Consultants  
L.A. Co. Sheriff  
Schmitz and Associates

3055 Wilshire Blvd.  
20931 Burbank Blvd, Suite C  
1900 Pico Blvd.  
25000 Avenue Stanford, Suite 209  
5234 Cheseboro

Los Angeles, CA 90010  
Woodland Hills, CA 91367  
Santa Monica, CA 90405  
Santa Clarita, CA 91355  
Agoura Hills, CA 91301

## Santa Monica College Interested Parties

Ann Doneen	4209 Ocean View Dr. Malibu 90265
Steve and Cece Woods	2029 Corral Canyon Rd. Malibu 90265
Denise Melle	33016 Pacific Coast Highway Malibu 90265
Dru Ann Jacobson	29500 Heathercliff #82 Malibu 90265
Lance Simmens	19130 Pacific Coast Highway #3 Malibu 90265
Carol Moss	#31 Malibu Colony Malibu 90265
Lloyd Ahern	19062 Pacific Coast Highway Malibu 90265
Terry Davis	20340 Big Rock Dr. Malibu 90265
Steve Uhring	Harbor Vista Dr. Malibu 90265
Eco Malibu	30612 Sicomoro Dr. Malibu 90265
Judi Pace	no address
Melanie Goudzwaard	no address

Rec

MAY

EXHIBIT 6  
A-4-MAL-16-0049  
Malibu Township Council Appeal

STATE OF CALIFORNIA -- THE RESOURCES AGENCY

**CALIFORNIA COASTAL COMMISSION**  
SOUTH CENTRAL COAST DISTRICT OFFICE  
89 SOUTH CALIFORNIA STREET, SUITE 200  
VENTURA, CA 93001-4508  
VOICE (805) 585-1801 FAX (805) 641-1732

California Coastal Commission  
South Central Coast District

**APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT**

**Please Review Attached Appeal Information Sheet Prior To Completing This Form.**

**SECTION I. Appellant(s)**

Name: Malibu Township Council

Mailing Address: P.O. Box 803

City: Malibu

Zip Code: 90265

Phone: 310-457-7086

**SECTION II. Decision Being Appealed**

1. Name of local/port government: Malibu
2. Brief description of development being appealed: CDP for Santa Monica Community College, located in the Institutional zone
3. Development's location (street address, assessor's parcel no., cross street, etc) 23525 Civic Center Way, Parcel A Malibu Assessor Parcel Number 445 022 904
4. Description of decision being appealed (check one.):

Approval  no special conditions

X Approval  with special conditions:

Denial

**Note:** For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

**TO BE COMPLETED BY COMMISSION:**

APPEAL NO: A-4-MAL-16-0049

DATE FILED: \_\_\_\_\_

**APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT**

**(Page 2)**

DISTRICT: \_\_\_\_\_

4. Decision being appealed was made by (check one):

Planning  Director/Zoning Administrator

City  Council/Board of Supervisors

Planning Commission and City Council

Other

5. Date of local government's decision:      Planning Commission 2-29-16      City Council 4-11-16

6. Local government's file number (if any):      CDP 13-056

**SECTION III. Identification of Other Interested Persons**

Give the names and addresses of the following parties. (Use additional paper as necessary.)

Name and mailing address of permit applicant:

a. Masoud Mahmoud, m6 Consulting, Inc. ,4165 Thousand Oaks Blvd Ste. 355 , Westlake Village CA 91362

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

(1) list attached



**College mtc ccc appeal points (1)**

(2)

(3)

(4)

**SECTION IV. Reasons Supporting This Appeal**

**PLEASE NOTE:**

- Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section.
- State briefly **your reasons for this appeal**. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)
- This need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

According to the planning Commission Resolution a college that conforms to the LCP can be constructed on this site.

*"This Alternative would consist of redesigning the proposed Project to fully conform to the Malibu Zoning Code and LCP for purposes of avoiding the variances that are currently being requested. The height of the structure would be reduced to 28 feet to conform to the height limit of the Institutional zone and the Project would be redesigned to accommodate the required parking spaces in conformance with the City's parking stall dimensions. Under this scenario, the new building would be a single-story community college facility with approximately 18,730 square feet of floor area including an approximate 4,230 square foot Sheriff's Substation." (page 13 Planning Commission Resolution)*

If the proposed project is allowed to go forward it will set a precedent for the Malibu Civic Center if not the entire city.

The following Variance /Approvals are the subject of the appeal:

### .20 FAR

An increase in the floor area from .15 to .20 is only allowed if the applicant provides substantial public benefits and amenities as a part of the project. The benefits provided are not substantial enough in nature to justify this FAR increase. They are:

- A public community college facility which will provide educational services of the local community.

The college is the project, education is its very business and the benefit of the project itself should justify an increase in the FAR to .20. A college that conforms to the LCP can still be built which provides the same educational benefits.

- A sheriff substation that will provide more timely and increased service capacity, and will provide local support staffing for police services.

The LCP conforming project described in the Planning Commission Resolution provides for the sheriff's station.

- An improved emergency communication tower. The project would only be increasing the tower height by 5 feet.

The Applicant is not going to install or pay for any of the equipment on the tower. The current tower functions well.

- An interpretive center to support Legacy Park and/or other programs to highlight Malibu's unique coastal environment and cultural history.

This amenity already exists at the Malibu Lagoon State Park, the Adamson House and the National Recreation Area's visitor center. It is not an amenity justifying an increase in the FAR.

- A multi-purpose room which will be available for community meetings; and if needed as an Emergency Operations Center.

The city has a well-functioning EOC with a fully trained staff at city hall so this Center is not necessary. While it is convenient to have another community room this is not a significant public benefit because there are already several community rooms in Malibu

### Height

LIP 3.9.A.1. Institutional Zone Structures are limited to 18 feet in height measured from natural or finished grade whichever is lower, but the height may be increased to 28 feet from natural or finished grade, whichever is lower, but only with a Site Plan Review .

The Planning Commission approved a variance for a height of 35-ft.10-in. measured from finished grade or 38-ft.10-in. measured from natural grade. There is no justification for this height beyond 28 feet from natural grade since the following finding can not be made:

*"There are special circumstances or exceptional characteristics applicable to the subject property, including size, shape, topography, location, or surroundings such that strict application of the zoning ordinance deprives such property of privileges enjoyed by other property in the vicinity and under the identical zoning classification." No structure in the Institutional Zone and in the vicinity are 38 feet 10 in height.*

Therefore, the property is not being deprived of privileges enjoyed by other properties in the zone and vicinity.

The city by allowing the above finding to be made for a height of 35-ft.10-in. from finished grade opens the door to allow this height for future projects making the LIP height requirements meaningless.

### **Landscaping**

Under LIP 3.9.A.3 Twenty-five percent (25%) of the "lot area" is required to be landscaped.

- In an attempt to meet this requirement, the city – by allowing rooftop landscaping – is counting this portion if the "lot area" twice.

### **Parking Requirements**

The LCP Parking requirements are not being adhered to.

LIP Section 3.14.5(D)(7) specifies that standard parking stall dimensions shall be a minimum of 9 feet wide by 20 feet deep and compact spaces shall be 8 feet wide by 15.5 feet deep.

- A variance is proposed to allow the project to comply with County specifications for standard size parking stalls (8.5 feet wide by 18 feet deep) and compact stalls (8 feet wide by 15 feet deep).

As stated in the Planning Commission resolution quoted above there is no reason the Applicant cannot conform to the LCP parking standards.

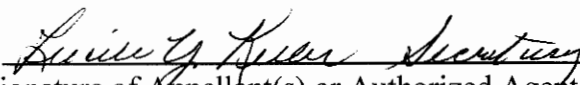
**APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT**

**(Page 6)**

**SECTION V. Certification**

The information and facts stated above are correct to the best of my/our knowledge.

Malibu Township Council

  
\_\_\_\_\_  
Signature of Appellant(s) or Authorized Agent

Date:

\_\_\_\_\_  
4/27/16

**APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT**

**(Page 7)**

**Note:** If signed by agent, appellant(s) must also sign below.

**Section VI. Agent Authorization**

I/We hereby authorize NA to act as my/our representative and to bind me/us in all matters concerning this appeal.

*[Handwritten Signature]*  
Signature of Appellant(s)

Date:

4/27/14

ContactType	Firstname	LastName	company	address1	address2	CityStateZip
Owner	Carol	Botdorf	Los Angeles County	222 South Hill		Los Angeles, CA 90012
Applicant	Masoud	Mahmoud	m6 Consulting, Inc.	4165 Thousand Oaks Blvd	Ste 355	Westlake Village, CA 91362
Tenant			Santa Monica Community College	1900 Pico Blvd		Santa Monica, CA 90405-1628
Interested Party	Lester	Tobias	Tobias Architecture	22221 Pacific Coast Higway		Malibu, CA 90265
Interested Party			CCW Partner LLC	P.O. Box 492387		Los Angeles, CA 90049
Interested Party	Steve	Uhring	Malibu Knolls Property Owners Association	23722 Harbor Vista Drive		Malibu, CA 90265
Interested Party	Chris & Sally	Benjamin		3216 Colony View Circle		Malibu, CA 90265
Interested Party	Gayle	MacLeod		31834 Broad Beach Road		Malibu, CA 90265
Interested Party	Laurie	Principe		5234 Chesebro Road, Suite 200		Agoura Hills, CA 91301
Interested Party	Don	Schmitz	Schmitz and Associates	403 San Vicente Blvd.		Santa Monica, CA 90402
Interested Party	Patt	Healy	Malibu Coalition for Slow Growth	3213 Colony View Circle		Malibu, CA 90265
Interested Party	Hans and Deborah	Dau		25136 Malibu Road		Malibu, CA 90265
Interested Party	Beate	Nilsen		1900 Pico Boulevard		Santa Monica, CA 90405
Interested Party	Donald	Girard	Santa Monica College	6768 Wildlife Road		Malibu, CA 90265
Interested Party	Suzanne	Guldimann		1900 Pico Blvd.		Malibu, CA 90265
Interested Party	Kathryn	Jeffery		22250 Carbon Mesa Road		Santa Monica, CA 90405
Interested Party	Armelia	Foster		1900 Pico Boulevard		Malibu, CA 90265
Interested Party	Louise	Jaffe	SMC Board of Trustees	22250 Carbon Mesa Road		Santa Monica, CA 90805
Interested Party	Craig	Foster		22250 Carbon Mesa Road		Malibu, CA 90265
Interested Party	Maria	Chong-Castillo	Supervisor Sheila Kuehl			
Interested Party	Ken	Kearsley				
Interested Party	Jim	Royal	L. A. County Sheriff	4238 Ocean View Drive		Malibu, CA 90265
Interested Party	Heather	Anderson		29914 Cuthbert Road		Malibu, CA 90265
Interested Party	Cami	Winikoff		5466 Horizon Drive		Malibu, CA 90265
Interested Party	Kay	Gabbard	Malibu Community Labor Exchange	7015 Grasswood Drive		Malibu, CA 90265
Interested Party	Laureen	Sills				
Interested Party	Karen	Farver		29257 Cliffside Drive		Malibu, CA 90265
Interested Party	Marianne	Riggins	Malibu High School Athletic Booster Club	3507 Cross Creek Lane		Malibu, CA 90265
Interested Party	Anne	Payne		22775 Pacific Coast Highway		Malibu, CA 90265
Interested Party	Jefferson	Wagner		22741 Pacific Coast Highway	#400	Malibu, CA 90265
Interested Party	Norman	Haynie	Blue Onyx Design and Engineering, Inc.	30745 Pacific Coast Highway #158		Malibu, CA 90265
Interested Party	Isabella	Antinoro	Cornucopia Foundation	P.O. Box 100		Malibu, CA 90265
Interested Party	Ryan	Embree				

Interested Party	Kevin	Tyrell	QDG Architecture	3055 Wilshire Blvd.	Los Angeles, CA 90010
Interested Party	David	Shender		20931 Burbankd Blvd. Suite C	Woodland Hills, CA 91367
Interested Party	Greg	Brown		1900 Pico Blvd.	Santa Monica, CA 90405
Interested Party	Shane	Parker	Parker Environmental Consultants	25000 Avenue Stanford, Suite 209	Santa Clarita, CA 91355
Interested Party	Pat	Davoren	L.A. Co. Sheriff		
Interested Party	Karen	Farber	Schmitz and Associates	5234 Cheseboro	Agoura Hills, CA 91301
Interested Party	Roui	Israel			

**Santa Monica College Interested Parties**

<b>Ann Doneen</b>	<b>4209 Ocean View Dr. Malibu 90265</b>
<b>Steve and Cece Woods</b>	<b>2029 Corral Canyon Rd. Malibu 90265</b>
<b>Denise Melle</b>	<b>33016 Pacific Coast Highway Malibu 90265</b>
<b>Dru Ann Jacobson</b>	<b>29500 Heathercliff #82 Malibu 90265</b>
<b>Lance Simmens</b>	<b>19130 Pacific Coast Highway #3 Malibu 90265</b>
<b>Carol Moss</b>	<b>#31 Malibu Colony Malibu 90265</b>
<b>Lloyd Ahern</b>	<b>19062 Pacific Coast Highway Malibu 90265</b>
<b>Terry Davis</b>	<b>20340 Big Rock Dr. Malibu 90265</b>
<b>Steve Uhring</b>	<b>Harbor Vista Dr. Malibu 90265</b>
<b>Eco Malibu</b>	<b>30612 Sicomoro Dr. Malibu 90265</b>
<b>Judi Pace</b>	<b>no address</b>
<b>Melanie Goudzwaard</b>	<b>no address</b>





4-MAL-16-0334

**NOTICE OF FINAL LOCAL ACTION ON COASTAL PERMIT**

**EXHIBIT 7**  
**A-4-MAL-16-0049**  
**Notice of Final Action**

**Date of Notice: April 12, 2016**

**Notice Sent to (US. Certified Priority Mail):**

California Coastal Commission  
South Central Coast District Office  
89 South California Street, Suite 200  
Ventura, CA 93001

**Contact:**

Stephanie Hawner, Associate Planner  
City of Malibu  
23825 Stuart Ranch Road  
Malibu, CA 90265  
(310) 456-2489

Please note the following **Final City of Malibu Action** on a coastal development permit application (all local appeals have been expired for this matter):

**Project Information**

**COASTAL DEVELOPMENT PERMIT NO. 13-056, VARIANCE NOS. 13-045, 14-034, AND 14-035, CONDITIONAL USE PERMIT NO. 13-011, DEMOLITION PERMIT NO. 13-028, AND ENVIRONMENTAL IMPACT REPORT NO. 16-001—SANTA MONICA COLLEGE** - An application for demolition of the existing 16,603 square foot building, with a 7,279 square foot basement, and a portion of the existing arcade, and construction of a new two-story, 35 foot, 10 inch high, 25,310 square foot educational facility that includes a 5,640 square foot sheriff substation, for a proposed floor area ratio (FAR) of 0.20; reconstruction of the parking area; hardscape and landscaping; grading and retaining walls; lighting and utilities; and relocation and replacement of the existing 70 foot high communication tower with a 75 foot high communication tower, within the westerly 2.94 acre lease area within the 9.18 acre Los Angeles County Civic Center parcel; including conditional use permit for an educational facility use in the Institutional zoning district and variances for parking space size, an increase in the maximum height of 18 feet to 35 feet, 10 inches for the building, and an increase to 75 feet for the communications tower

Application Date: November 14, 2013  
Issue Date: February 29, 2016  
Applicant: Masoud Mahmoud, m6 Consulting, Inc., 4165 Thousand Oaks Blvd, Ste. 355, Westlake Village, CA 91362  
Owner: Carol Botdorf, Los Angeles County  
Location: 23525 Civic Center Way, Parcel A  
APN: 4458-022-904

**Final Action Information**

Final Local Action:  Approved  Approved with Conditions  Denied  
Final Action Body: Approved by the Planning Commission on February 29, 2016; City Council on April 11, 2016

Required Materials Supporting the Final Action	Enclosed	Previously Sent (date)
Adopted Staff Report: February 29, 2016 Planning Commission Meeting; April 11, 2016 City Council Meeting		2/26/2016
Adopted Findings and Conditions: Planning Commission Resolution No. 16-30; City Council Resolution No. 16-13	X	
Site Plans and Elevations		2/26/2016

**California Coastal Commission Appeal Information**

This Final Action is:

- NOT appealable** to the California Coastal Commission (CCC). The Final City of Malibu Action is now effective.
- Appealable** to the California Coastal Commission. The Coastal Commission's 10-working day appeal period begins the first working day after the Coastal Commission receives adequate notice of this final action. The final action is not effective until after the Coastal Commission's appeal period has expired and no appeal has been filed. Any such appeal must be made directly to the California Coastal Commission South Central Coast District Office in Ventura, California; there is no fee for such an appeal. Should you have any questions regarding the California Coastal Commission appeal period or process, please contact the CCC South Central Coast District Office at 89 South California Street, Suite 200, Ventura, California, 93001 or by calling (805) 585-1800.

Copies of this notice have also been sent via first-class mail to:

- Property Owner/Applicant

Prepared by: Kathleen Stecko, Senior Office Assistant

**CITY OF MALIBU PLANNING COMMISSION  
RESOLUTION NO. 16-30**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MALIBU, ADOPTING SANTA MONICA COLLEGE MALIBU CAMPUS PROJECT FINAL ENVIRONMENTAL IMPACT REPORT (STATE CLEARINGHOUSE NO. 2012051052), THE MITIGATION MONITORING AND REPORTING PROGRAM, THE STATEMENT OF OVERRIDING CONSIDERATIONS AND FINDINGS OF FACT REQUIRED BY THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, AND APPROVING COASTAL DEVELOPMENT PERMIT NO. 13-056, VARIANCE NOS. 13-045, 14-034, AND 14-035, CONDITIONAL USE PERMIT NO. 13-011, AND DEMOLITION PERMIT NO. 13-028 FOR DEMOLITION OF THE EXISTING 16,603 SQUARE FOOT BUILDING, WITH A 7,279 SQUARE FOOT BASEMENT AND A PORTION OF THE EXISTING ARCADE, AND CONSTRUCTION OF A NEW TWO-STORY, 35 FOOT, 10 INCH HIGH, 25,310 SQUARE FOOT EDUCATIONAL FACILITY THAT INCLUDES A 5,640 SQUARE FOOT SHERIFF SUBSTATION, FOR A PROPOSED FLOOR AREA RATIO OF 0.20; RECONSTRUCTION OF THE PARKING AREA; HARDSCAPE AND LANDSCAPING; GRADING AND RETAINING WALLS; LIGHTING AND UTILITIES; AND RELOCATION AND REPLACEMENT OF THE EXISTING 70 FOOT HIGH COMMUNICATION TOWER WITH A 75 FOOT HIGH COMMUNICATION TOWER, WITHIN THE WESTERLY 2.94 ACRE LEASE AREA WITHIN THE 9.18 ACRE LOS ANGELES COUNTY CIVIC CENTER PARCEL; INCLUDING, CONDITIONAL USE PERMIT FOR AN EDUCATIONAL FACILITY USE IN THE INSTITUTIONAL ZONING DISTRICT AND VARIANCES FOR PARKING SPACE SIZE, AN INCREASE IN THE MAXIMUM HEIGHT OF 18 FEET TO 35 FEET, 10 INCHES FOR THE BUILDING, AND AN INCREASE TO 75 FEET FOR THE COMMUNICATIONS TOWER; AND RECOMMENDING THAT THE CITY COUNCIL APPROVE THE .20 FLOOR AREA RATIO FOR THE SIGNIFICANT PUBLIC BENEFITS PROVIDED BY THE PROJECT IN THE INSTITUTIONAL ZONE LOCATED AT 23525 CIVIC CENTER WAY (COUNTY OF LOS ANGELES)**

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

Section 1. Recitals.

A. On November 14, 2013, the Santa Monica Community College District submitted an application for Coastal Development Permit (CDP) No. 13-056 and related entitlements for the Santa Monica College Malibu Campus Project. The application was routed for review to the City Biologist, City Geotechnical staff, City Public Works Department, the Los Angeles County Fire Department (LACFD), and Waterworks District No. 29 for Local Coastal Program (LCP) and Malibu Municipal Code (MMC) conformance review.

B. On May 17, 2012, pursuant to the California Environmental Quality Act (CEQA), the Santa Monica College Board of Trustees (Board of Trustees), as the lead agency, published a Notice of Preparation (NOP) for the Draft Environmental Impact Report (EIR) for a 30-day period, beginning on May 17, 2012 and ending on June 17, 2012. Three public outreach meetings were held, including a public scoping meeting on May 31, 2012.

C. On October 3, 2014, a courtesy notice of the project was sent to all property owners and occupants within a 500-foot radius of the project site.

D. On December 3, 2014, a Notice of Application for Coastal Development Permit was posted on the subject property.

E. The Draft EIR was circulated for public review for a period of 60 days, beginning on July 10, 2015 and ending on September 7, 2015. A Notice of Availability of the Draft EIR was published July 11, 2015 in the Santa Monica Daily Press, on July 16, 2015 in the Malibu Times, and on July 16, 2015 in Malibu Surfside news. A courtesy postcard announcing the availability of the Draft EIR was mailed to all Malibu residents during the third week of July 2015.

F. On December 4, 2015, the Final EIR was published. The Final EIR responds to the nine comment letters received on the Draft EIR and proposes minor text revisions to the Draft EIR.

G. On January 13, 2016, the Board of Trustees certified the EIR, adopted a statement of overriding considerations, a mitigation monitoring and reporting plan (MMRP) and approved the Santa Monica College Malibu Campus Project.

H. On February 4, 2016, a Notice of Special Planning Commission Public Hearing was published in a newspaper of general circulation within the City of Malibu and was mailed to all property owners and occupants within a 500-foot radius of the subject property and to interested parties, regional, state and federal agencies.

I. On February 29, 2016, the Planning Commission held a duly noticed public hearing on the Final EIR, Coastal Development Permit No. 13-056, Variance Nos. 13-045, 14-034, and 14-035, Conditional Use Permit No. 13-011, and Demolition Permit No. 13-028 and reviewed and considered the agenda report, reviewed and considered written reports, public testimony, and other information in the record.

## Section 2. Environmental Review.

Acting as lead agency in accordance with CEQA and CEQA Guidelines Section 15051, on January 13, 2016, the Board of Trustees adopted a final EIR for the project (State Clearinghouse No. 2012051052). A draft EIR was prepared for the project to assess potential environmental impacts and was made available and circulated for public review and comment, pursuant to the provisions of CEQA. It also examined environmental impacts for alternatives to the project, as required by CEQA. The document was available for public comment for a 60-day public review period that began on July 10, 2015 and concluded on September 7, 2015. Three public information meetings were held. The final EIR responds to the comments and proposes text revisions to the draft EIR in response to input received on the draft EIR.

The final EIR identified potential significant environmental impacts that would result from the project; however, the Board of Trustees found that the inclusion of certain mitigation measures as part of the project approval would reduce most potentially-significant impacts to a less-than-significant level. Accordingly, an MMRP was adopted for the project and included in the final EIR. The MMRP is attached as Exhibit A to this resolution. The EIR identified significant and unavoidable impacts with respect to Construction Noise.

Pursuant to CEQA Section 21081(b) and CEQA Guidelines Section 15093, the Board of Trustees weighed the benefits of the project, including the specific economic, legal, social, and technological benefits, against the unavoidable aesthetics and air quality impacts and determined that the identified benefits outweigh the unavoidable impacts. Accordingly, the Board of Trustees adopted a Statement of Overriding Considerations as part of the final EIR. Pursuant to CEQA Guidelines Sections 15082 and 15096, the Board of Trustees acting as lead agency for the proposed project consulted with responsible agencies throughout the preparation of the EIR, including the City. As the decision-making body for the subject CDP, the Planning Commission considered the final EIR and certifies that the information contained in the EIR is adequate for such approval.

### Section 3. CEQA Findings for Significant Effects.

Pursuant to CEQA Guidelines Section 15096(g)(2), within its powers as the decision-making body for the subject CDP, the Planning Commission finds that there are feasible alternatives and feasible mitigation measures that would substantially reduce the project's impacts on resource areas identified in the EIR. Pursuant to CEQA Guidelines section 15096(h), the Planning Commission makes the following findings for each significant effect identified in the final EIR.

A. The Final EIR identifies project-level impacts determined to be significant and mitigable to a less than significant level. They include:

#### 1. AESTHETICS (VIEWS, LIGHT, AND GLARE)

Significant Impact: During the Project's construction period, the Project Site would undergo considerable changes with respect to the aesthetic character of the Project Site and surrounding area. Construction activities would require demolition/site clearing, grading, excavation, and building construction activities which have the potential to generate debris and soils stockpiles, staged building materials and supplies, and exposed construction equipment, all of which would be visible to passing motorists, pedestrians, and neighboring properties from the surrounding local streets. Thus, the existing visual character of the Project Site would temporarily change from an underutilized lot to an active construction site.

Ambient nighttime lighting on the Project Site and in the vicinity is generated by sources that include streetlights, automobile headlights, and indoor/outdoor building lighting. The Project would introduce additional lighting sources to the Project Area due primarily to building illumination emanating through the windows of the proposed building, security and pedestrian safety lighting fixtures, signage lighting, and headlights from vehicles entering and leaving the parking lots.

The Project Site currently produces minimal glare, primarily associated with vehicles parked on the onsite within the surface parking lot. The Project would introduce a two-story building on the Project Site with a steel frame and cement structure and a primarily glass and metal façade that will use spandrel glazing and storefront glazing. Spandrel and storefront glazing are commonly used on modern buildings that aim to have a seamless continuity. While the glass will be treated and designed to reduce glare to the greatest extent feasible, it is still likely that the façade materials would generate glare.

Finding: Pursuant to CEQA Section 15091(a)(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.

Facts in Support of Finding: Implementation of Final EIR Mitigation Measures AES-1 through AES-4 would ensure that the proposed Project does not result in any significant impacts to scenic resources, visual character, or light and glare.

## 2. AIR QUALITY

Significant Impact: Localized on-site peak daily construction emissions generated by the Project would exceed the established SCAQMD localized thresholds for PM<sub>2.5</sub> emissions. Therefore the localized air quality impacts resulting from construction emissions would be potentially significant.

Finding: Pursuant to CEQA Section 15091(a)(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.

Facts in Support of Finding: Implementation of Final EIR Mitigation Measures AQ-1 through AQ-3 would ensure that the proposed Project does not result in any significant impacts to air quality.

## 3. CULTURAL RESOURCES

Significant Impact: Records searches and field surveys concluded that there are no observable cultural resources, including artifacts or altered soil, indicating the presence of prehistoric archaeological remains on the Project site. Therefore, damage to, destruction, or disturbance of known important cultural, paleontological, or archaeological resources would not be expected to occur. During construction, all grading activities and surface modifications would be confined to only those areas of absolute necessity to reduce any form of impact on unrecorded (buried) cultural resources that may exist within the confines of the Project site. Nonetheless, ground-disturbing construction activities could potentially uncover previously unknown archaeological resources.

Finding: Pursuant to CEQA Section 15091(a)(1), mitigation measures have been required in, or incorporated into, the Project which avoid or substantially lessen the environmental effect as identified in the Final EIR.

Facts in Support of Finding: Implementation of the Final EIR Mitigation Measures CR-1 and CR-2 would ensure that the proposed Project does not result in any significant cultural resource impacts.

#### 4. GEOLOGY/SOILS

Significant Impact: The Project site might be underlain by the projection of the Malibu Coast Fault. The Malibu Coast Fault has the potential of producing relatively low magnitude earthquakes due to the low slip rate. Therefore, the probability of exposing people or structures to potential substantial adverse effects from earthquakes on the Malibu Coast Fault is considered low. The Project Site is within a Seismic Hazard Zone delineated as having potential for liquefaction as mapped by the California Geological Survey (formerly CDMG) for the Malibu Beach 7.5 Minute Quadrangle.

Finding: Pursuant to CEQA Section 15091(a)(1), mitigation measures have been required in, or incorporated into, the Project which avoid or substantially lessen the environmental effect as identified in the Final EIR.

Facts in Support of Finding: Implementation of the Final EIR Mitigation Measures GEO-1 would ensure that the proposed Project does not result in any significant cultural resource impacts.

#### 5. HAZARDS AND HAZARDOUS MATERIALS

Significant Impact: The Project would involve demolition and/or removal of the existing structures located on the Project Site. Because the structures on the Project Site were built prior to the federal banning of asbestos-containing materials (ACMs), structures have the potential to have been constructed with building materials containing lead-based paint and/or ACMs. However, none of the structures on the Project Site were sampled and/or tested for ACMs during the assessment by Ellis Environmental. Therefore, the potential release of ACMs is considered a significant impact.

Due to the building's age, it is presumed that lead-based paint is present on the Project Site. The structures on-site containing lead-based materials could release lead into the environment during demolition activities. Therefore, the potential release of lead is considered a significant impact.

During reconnaissance of the Project Site, an environmental assessor (Ellis Environmental) was escorted through the existing building on the Project Site. Ellis Environmental did not note the presence of fluorescent lights in the buildings, although it is presumed that fluorescent light ballasts manufactured prior to 1978 might be located on the Project Site. Fluorescent light ballasts manufactured prior to 1978 may contain small quantities of polychlorinated biphenyls (PCBs). It is possible that PCBs could be released into the environment during demolition activities. Therefore, the potential release of PCBs is considered a significant impact.

Finding: Pursuant to CEQA Section 15091(a)(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.

Facts in Support of Finding: Implementation of Final EIR Mitigation Measures HAZ-1 through HAZ-5 will reduce the impacts from hazards and hazardous materials to a level less than significant.

## 6. HYDROLOGY AND WATER QUALITY

Significant Impact: Post-development storm water runoff has the potential to contribute pollutants to the storm water conveyance system and ultimately to the ocean. The quality of storm water could be negatively affected by transported sediment, parking lot runoff.

Finding: Pursuant to CEQA Section 15091(a)(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.

Facts in Support of Finding: Implementation of Final EIR Mitigation Measures WQ-1 and WQ-2 will reduce the impact to a level less than significant.

## 7. PUBLIC SERVICES

Significant Impact: The Proposed Project does not exceed the capacity of existing LACFD services and would not require provision of new or physically altered facilities to maintain service ratios. A Fire Access Plan has been submitted to and approved by the Los Angeles County Fire Department. Based on the Fire Department's initial review, no adverse impacts associated with fire protection and life safety requirements have been identified. Specific fire and life safety requirements will be addressed and conditions set at the building and fire plan check phase. Once the official plans are submitted for review there may be additional requirements. Therefore, impacts related to increased demands for fire protection services would be potentially significant, unless mitigated.

Finding: Pursuant to CEQA Section 15091(a)(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.

Facts in Support of Finding: Implementation of Final EIR Mitigation Measures WQ-1 and WQ-2 will reduce the impact to a level less than significant.

## 8. UTILITIES

Significant Impact: The Project would increase the wastewater generated within the Project site. As shown in Table 4.12-4 the proposed net increase in water demand for the Proposed Project is estimated to be approximately 10,115 gallons per day (gpd).

Finding: Pursuant to CEQA Section 15091(a)(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.

Facts in Support of Finding: Implementation of Final EIR Mitigation Measures PU-1 through PU-6 will reduce the impacts to a level less than significant.

B. Project-Level Impacts Determined to be Significant, Unavoidable and Mitigated to the Maximum Feasible Extent

The Final EIR identifies project-level impacts in the resource area of Construction Noise that cannot be fully mitigated and are therefore considered unavoidable. To the extent the impacts remain significant and unavoidable, such an impact is acceptable when weighed against the overriding social, economic, legal, technical and other considerations, including beneficial effects of the Project, which are described in the Statement of Overriding Considerations in Section 4.

1. CONSTRUCTION NOISE

Significant Impact: Construction of the Proposed Project would require the use of heavy equipment for the demolition of the existing on-site structures, grading/site preparation, installation of new utilities, and building fabrication for the proposed development. Development activities would also involve the use of smaller power tools, generators, and other sources of noise. During each stage of development, a different mix of equipment would be operating and noise levels would vary based on the amount of equipment in operation and the location of the activity. Typical outdoor construction noise during the heavier initial periods of excavation and grading can reach up to 86 dBA Leq when measured at a reference distance of 50 feet from the center of construction activity. The sensitive noise receptors are identified as patrons of the Malibu Public Library, located east of the Project Site within the Civic Center, and the residential homes on Harbor Vista Drive and Colony View Circle, to the north of the Project Site. The Project's construction noise impacts would exceed the maximum allowable exterior noise levels for non-transportation sources at the County Public Works building, the Malibu Public Library, and Legacy Park. The proposed Project's construction noise impacts would be considered a significant impact on a short term and intermittent basis during the construction period.

Operational noise impacts resulting from vehicle traffic, special event noise, and use of rooftop mechanical equipment on the proposed structures would be potentially significant. However, implementation of Final EIR Mitigation Measures N-1 through N-7 would reduce impacts to a less than significant level.

Finding: Impacts from the Project's construction noise impacts are reduced by identified mitigation measures but cannot be mitigated to a less than significant level. The Project's single area of adverse environmental effect, which cannot be mitigated below a level of significance, is temporary in nature and will cease upon completion of construction. Furthermore, the uses temporarily impacted by the short-term construction noise include the exterior areas surrounding the County Public Works building, the



Malibu Public Library, and Legacy Park; construction noise levels would not exceed the thresholds applicable for the existing residential land uses to the north. The Planning Commission finds that, to the extent the impacts remain significant and unavoidable, such impacts are acceptable when weighed against the overriding social, economic and other considerations set forth in the Statement of Overriding Considerations in Section 4.

Facts in Support of Finding: Implementation of Final EIR Mitigation Measures N-1 through N-7 is required to address construction noise; however, this issue will remain significant and unavoidable during the construction phase of the Project. The aforementioned mitigation measures indicate that the identified significant effects of the Project have been reduced or avoided to the extent feasible.

C. Cumulative Impacts Associated with the Project which Remain Potentially Significant and Unavoidable.

The Final EIR concludes that all cumulative impacts associated with the Project would be less than significant without mitigation or less than significant after implementation of the required mitigation measures. Significant and unavoidable construction noise impacts would only occur during construction and were considered temporary. Given this temporary condition, cumulative construction noise impacts were considered less than significant.

Section 4. Statement of Overriding Considerations.

The Planning Commission has: (i) independently reviewed the information in the final EIR and the record of proceedings; (ii) made a reasonable and good faith effort to eliminate or substantially lessen the impacts resulting from the proposed project to the extent feasible by adopting Mitigation Measures N-1 through N-7 as identified in the EIR; and (iii) balanced the project's benefits against the project's significant unavoidable construction-related noise impacts. The Planning Commission finds that each of the following benefits is an overriding consideration independent of the other benefits, which warrants approval of the project notwithstanding the project's significant and unavoidable construction noise impacts. The Planning Commission finds that specific economic, social, or other considerations make infeasible additional mitigation and, pursuant to PRC §21081(a)(3), hereby adopts a Statement of Overriding Considerations for this impact which it determines as acceptable. Any one or a combination of these specific community benefits from construction of the Santa Monica College Malibu Campus Project would outweigh the unavoidable environmental impacts:

1. The Project will ensure that the Santa Monica Community College District can provide a satellite campus centrally located in the City of Malibu on a long-term basis to serve the local community's needs for the types of educational programming offered by the College and will restore the College's presence in Malibu by expending Measure S general obligation bond proceeds for the purposes of establishing a permanent satellite campus in the City of Malibu as approved by the voters of the cities of Malibu and Santa Monica.
2. The Project will allow the Santa Monica Community College District to meet the educational needs for emeritus and community college classes in the Malibu community

consistent with the Santa Monica College Facilities Master Plan for Education (2004 Update) goals and policies with respect to acquiring, planning, developing, and maintaining facilities and equipment to provide the best possible educational environment.

3. The Project will allow the Santa Monica Community College District to construct a new, modern, attractive, safe, energy efficient, low-scale, useful educational facility to be used by the Santa Monica College as a satellite campus, to house sufficient community college classrooms and educational support facilities to meet the existing and Projected needs of the Malibu community for the next 95 years.
4. The Project will incorporate and achieve the sustainable building standards of Santa Monica College within a new building that will be Leadership in Energy and Environmental Design (LEED) certified and will promote efficiencies in water and energy use, feature a green roof, reduce stormwater runoff, treat stormwater runoff from the reconstructed surface parking lot, control night-sky light pollution from the Project site, incorporate native plants into the campus landscaping, and maximize the building's operational efficiency by providing a passive air ventilation and circulation system.
5. The Project will provide opportunities for an interpretive center that would support Legacy Park and/or other programs to highlight Malibu's coastal environment and cultural history.
6. The Project will redevelop and reactivate an underutilized portion of the Civic Center owned by the County of Los Angeles, and establish (in place of a long-abandoned Sheriff's Station) an institutional land use that would complement and expand upon the existing public services that are currently provided within other portions of the Civic Center.

Having adopted all feasible mitigation measures and recognized the all unavoidable significant impacts, the Planning Commission hereby finds that each of the separate benefits of the proposed project, as stated herein, is determined to be unto itself an overriding consideration, independent of other benefits, that warrants approval of the project and outweighs and overrides its unavoidable significant effects, and thereby justifies the approval of the Santa Monica College Malibu Campus Project.

Section 5. General CEQA Findings.

Based on the foregoing findings and the information contained in the record, the Planning Commission finds that:

- A. In accordance with CEQA Guidelines Sections 15091 and 15093, the EIR includes a description of each potentially significant impact and rationale for finding that changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect as detailed in Section 3.

B. In accordance with Public Resources Code Section 21081 and CEQA Guidelines Section 15091, changes and alterations have been required and incorporated into the Santa Monica College Malibu Campus Project and related entitlements which avoid or substantially lessen the significant environmental effect because feasible mitigation measures included in the MMRP, Exhibit A to this resolution, are made conditions of approval for this Project.

C. The remaining significant effect on the environment found to be unavoidable is acceptable due to the factors described in the Statement of Overriding Considerations above.

D. The Final EIR for this Project is adequate for use by the Planning Commission and City in addressing this project.

E. The Planning Commission has reviewed and considered the Final EIR prepared by the Board of Trustees, the lead agency, in reaching its conclusion.

#### Section 4. Alternatives Analysis.

Based upon the testimony and other evidence received, and upon studies and investigation made by the Planning Commission and on its behalf, the Planning Commission further finds that the Final EIR analyzes a reasonable range of Project alternatives. The alternatives in the Final EIR are as follows:

- A. No Project – The No Project Alternative would be the result of not approving the Proposed Project. Under this scenario, the existing Sheriff Station building and communications tower would remain in place and no further development or improvements would occur on-site in the foreseeable future. The existing former Sheriff's Station would remain vacant. The No Project Alternative would completely avoid the anticipated construction impacts that would occur with implementation of the proposed Project. However, this alternative would fail to meet any of the Project Applicant's stated objectives.

*Objective 1: To secure an interest in real property in the City of Malibu to ensure the District can provide a satellite campus centrally-located in Malibu on a long-term basis to serve the local community's needs for the types of educational programming offered by the College.*

The No Project Alternative would not meet this objective. Under this alternative, no satellite community college campus development would take place on the Project site.

*Objective 2: To restore the College's presence in Malibu by faithfully expending Measure S general obligation bond proceeds for the purpose of establishing a permanent satellite campus in the City of Malibu as approved by the voters of the cities of Malibu and Santa Monica.*

The No Project Alternative would not meet this objective. Under this alternative, no satellite community college campus development or expenditure of Measure S general obligation bond proceeds would occur.

*Objective 3: To meet the educational needs for emeritus and community college classes in the Malibu community consistent with the Santa Monica College Facilities Master Plan for Education (2004 Update) goals and policies with respect to acquiring, planning, developing and maintaining facilities and equipment to provide the best possible educational environment and promote the use of sustainable resources.*

The No Project Alternative would not meet this objective. Under this alternative, an educational facility would not be constructed in accordance with the Santa Monica College Facilities Master Plan.

*Objective 4: To construct a new, modern, attractive, safe, energy efficient, low-scale, useful educational facility to be used by Santa Monica College as a satellite campus.*

The No Project Alternative would not meet this objective. No new modern, attractive, safe, energy efficient, low-scale, and educational facility would be constructed.

*Objective 5: To construct a building that will house sufficient community college classrooms and educational support facilities to meet the existing and Projected needs of the Malibu community for the next 95 years.*

The No Project Alternative would not meet this objective. This alternative would not provide sufficient community college classrooms and educational support facilities to meet the existing and projected needs of the Malibu community for the next 95 years.

*Objective 6: To incorporate and achieve the successful sustainable building standards of Santa Monica College within a new building that will be LEED ® certified and will, among other things, promote efficiencies in water and energy use, feature a green roof, reduce stormwater runoff, treat stormwater runoff from the reconstructed surface parking lot, control night-sky light pollution from the Project Site, incorporate native plants in Project landscaping, and maximize the building's operational efficiency by providing a passive air ventilation and circulation system.*

The No Project Alternative would not meet this objective. The existing facilities that would remain would not achieve the LEED sustainable building standards or promote efficiencies in water and energy use, feature a green roof, reduce stormwater runoff, treat stormwater runoff from the reconstructed surface parking lot, control night-sky light pollution from the Project Site, incorporate native plants in Project landscaping, and maximize the building's operational efficiency by providing a passive air ventilation and circulation system.

*Objective 7: To establish a satellite campus in Malibu that will accommodate all of its parking needs and the Sheriff's parking needs on-site.*

The No Project Alternative would not meet this objective. Under this alternative, sufficient parking for all existing on-site uses would not be provided.

*Objective 8: To benefit the Malibu community by facilitating the County's desire to better serve the residents of Malibu by: (a) updating the County's existing antiquated emergency*

*communications tower with a modern monopole support tower, (b) incorporating a police substation into the ground floor of the new educational building for use by the Los Angeles County Sheriff's Department, and (c) designing and constructing a classroom or multi-purpose room in a way that facilitates its occasional temporary conversion into an emergency operations center.*

The No Project Alternative would not meet this objective. Unlike with the proposed Project, no new communication facilities would be constructed, no new police facilities would be constructed, and no new temporary emergency operations center facilities would be constructed.

*Objective 9: To redevelop and reactivate an underutilized portion of the Civic Center owned by the County of Los Angeles, and establish (in place of a long-abandoned Sheriff's Station) an institutional land use that would complement and expand upon the existing public service that are currently provided within other portions of the Civic Center.*

The No Project Alternative would not meet this objective. Under this alternative the Sheriff's station would not be constructed and public services would therefore not be expanded.

*Objective 10: To provide opportunities for an interpretive center that would support Legacy Park and/or other programs to highlight Malibu's unique coastal environment and cultural history.*

The No Project Alternative would not meet this objective. Under this alternative, opportunities for a Legacy Park interpretive center would not be created.

*Objective 11: To augment funding for a new water quality treatment facility in the Malibu Civic Center for effluent and stormwater consistent with the requirements of the Regional Water Quality Control Board.*

The No Project Alternative would not meet this objective. This alternative would not provide new water quality treatment facilities on-site, consistent with the requirements of the Regional Water Quality Control Board.

The Planning Commission finds that the No Project Alternative is infeasible because it would not meet any of the Project objectives.

- B. Zoning Compliant Alternative – This Alternative would consist of redesigning the proposed Project to fully conform to the Malibu Zoning Code and LCP for purposes of avoiding the variances that are currently being requested. The height of the structure would be reduced to 28 feet to conform to the height limit of the Institutional zone and the Project would be redesigned to accommodate the required parking spaces in conformance with the City's parking stall dimensions. Under this scenario, the new building would be a single-story community college facility with approximately 18,730 square feet of floor area including an approximate 4,230 square foot Sheriff's Substation. Under this scenario the communications tower would remain in place and would not be upgraded.

This alternative was evaluated for the same impact categories as the proposed Project and was found to have incrementally reduced impacts when compared to the proposed Project. This Alternative would meet some of the Project's stated objectives; however it would meet the project objectives to a lesser extent than the proposed Project.

*Objective 1: To secure an interest in real property in the City of Malibu to ensure the District can provide a satellite campus centrally-located in Malibu on a long-term basis to serve the local community's needs for the types of educational programming offered by the College.*

The Zoning Compliant Alternative would provide approximately 75% of the educational facility floor area compared to the proposed Project and 158 FTE students compared to 210 FTE students proposed as part of the Project. Opportunities for the Legacy Park interpretive center would also not be created, which would reduce opportunities to celebrate Malibu's coastal environment and cultural heritage. As a result, this alternative would provide fewer educational programming opportunities in the area.

*Objective 2: To restore the College's presence in Malibu by faithfully expending Measure S general obligation bond proceeds for the purpose of establishing a permanent satellite campus in the City of Malibu as approved by the voters of the cities of Malibu and Santa Monica.*

The Zoning Compliant Alternative would construct approximately 25 percent less square footage dedicated to educational facilities (18,730 square feet). The Sheriff Substation would be reconstructed, although its size would also be reduced by 25 percent. The updated communication tower would not be constructed and the existing facility would remain in place. As a result, this Project alternative would be less desirable from an educational and emergency response point of view in that fewer classroom spaces and educational programs could be provided and the emergency response infrastructure would not be updated.

*Objective 3: To meet the educational needs for emeritus and community college classes in the Malibu community consistent with the Santa Monica College Facilities Master Plan for Education (2004 Update) goals and policies with respect to acquiring, planning, developing and maintaining facilities and equipment to provide the best possible educational environment and promote the use of sustainable resources.*

The Zoning Compliant Alternative would partially meet this objective, in that new educational facilities will be constructed. However, the reduced building size, alternative building design, and elimination of enhanced emergency response infrastructure would reduce the degree to which this alternative would comply with the Santa Monica College Facilities Master Plan goals and policies.

*Objective 4: To construct a new, modern, attractive, safe, energy efficient, low-scale, useful educational facility to be used by Santa Monica College as a satellite campus.*

The Zoning Compliant Alternative would partially meet this objective; however, the reduced size of the project would reduce the degree of energy efficiency and the usefulness of the educational facility for the next 95 years.

*Objective 5: To construct a building that will house sufficient community college classrooms and educational support facilities to meet the existing and Projected needs of the Malibu community for the next 95 years.*

The Zoning Compliant Alternative would partially meet this objective, in that new community college classrooms and educational support facilities would be constructed. However, the 25 percent reduction in educational floor area may not meet the needs of the Malibu community for the next 95 years.

*Objective 6: To incorporate and achieve the successful sustainable building standards of Santa Monica College within a new building that will be LEED ® certified and will, among other things, promote efficiencies in water and energy use, feature a green roof, reduce stormwater runoff, treat stormwater runoff from the reconstructed surface parking lot, control night-sky light pollution from the Project Site, incorporate native plants in Project landscaping, and maximize the building's operational efficiency by providing a passive air ventilation and circulation system.*

The Zoning Compliant Alternative would partially meet this Project objective in that it would provide a level of compliance with sustainable building standards and would likely achieve efficiencies in water and energy use. However, a 25 percent reduction in floor area would reduce the degree to which the facility could promote efficiencies in water and energy use and passive air ventilation and circulation systems.

*Objective 7: To establish a satellite campus in Malibu that will accommodate all of its parking needs and the Sheriff's parking needs on-site.*

Similar to the proposed Project, the Zoning Compliant Alternative would provide the requisite amount of on-site parking spaces. The parking requirement for this alternative would be 134 spaces for the college uses and 10 spaces for the Sheriff's department for a total of 144 parking spaces.

*Objective 8: To benefit the Malibu community by facilitating the County's desire to better serve the residents of Malibu by: (a) updating the County's existing antiquated emergency communications tower with a modern monopole support tower, (b) incorporating a police substation into the ground floor of the new educational building for use by the Los Angeles County Sheriff's Department, and (c) designing and constructing a classroom or multi-purpose room in a way that facilitates its occasional temporary conversion into an emergency operations center.*

The Zoning Compliant Alternative would partially meet this Project objective by incorporating the police substation into the ground floor of the education building and designing classrooms that could facilitate conversion into the emergency operations center. However, this Project alternative would not enhance emergency communications to the degree proposed by the proposed Project because the existing antiquated communication tower would remain in place.

*Objective 9: To redevelop and reactivate an underutilized portion of the Civic Center owned by the County of Los Angeles, and establish (in place of a long-abandoned Sheriff's Station) an institutional land use that would complement and expand upon the existing public service that are currently provided within other portions of the Civic Center.*

The Zoning Compliant Alternative would redevelop and reactivate the underutilized portions of the Civic Center area by developing an institutional land use along with the integration of a Sheriff's substation within the ground floor.

*Objective 10: To provide opportunities for an interpretive center that would support Legacy Park and/or other programs to highlight Malibu's unique coastal environment and cultural history.*

The Zoning Compliant Alternative would not provide the Legacy Park interpretive center. As a result, this alternative would provide fewer opportunities for students and community members to learn about Malibu's unique coastal environment and cultural history.

*Objective 11: To augment funding for a new water quality treatment facility in the Malibu Civic Center for effluent and stormwater consistent with the requirements of the Regional Water Quality Control Board.*

The Zoning Compliant Alternative would include the same general construction of a new educational facility in a similar size and placed a similar location. As such, the Project's water quality impacts would be the same as analyzed under the Project and will not substantially degrade local water quality, alter existing drainage patterns, or substantially or substantially deplete groundwater supply. Therefore, it was concluded that this Project alternative would be consistent with the requirements of the Regional Water Quality Control Board, similar to the proposed Project.

The Planning Commission finds that The Zoning Code Compliant Alternative will not meet the Project objectives to the same extent as the proposed Project, and that the proposed Project provides a more desirable configuration of institutional land uses and a more aesthetically pleasing environment.

- C. The Preferred Alternative - This alternative is described in detail throughout the associated staff report and Final EIR as the proposed Project. The proposed Project does reduce significant impacts through the implementation of mitigation measures and meets the Project objectives described above to the greatest extent. The Final EIR provides substantial evidence that the proposed Project will result in no significant impact to Agricultural Resources, Biological Resources, Mineral Resources, Population/Housing, Public Services (schools, parks, and other public facilities). With regard to the remaining environmental subject areas (Aesthetics, Air Quality, Cultural Resources, Geology and Soils, Greenhouse Gas Emissions, Hazardous Materials, Hydrology and Water Quality, Noise, Public Services (Police and Fire Protection), Transportation (Traffic), and Public Utilities), any impacts posed by the proposed Project are less than significant with the implementation of mitigation measures. Construction noise impacts were found to be significant and unavoidable; however, they will be temporary in nature, during the construction phase and minimized to



the extent feasible by Final EIR Mitigation Measures N-1 through N-7.

Based on substantial evidence in the record, the Planning Commission finds that the No Project Alternative and the Zoning Compliant Alternative are environmentally superior to the proposed Project. However, neither the Zoning Compliant Alternative nor the No Project Alternative is feasible because they do not satisfy the Project objectives to provide sufficient community college classrooms and educational support facilities to meet the existing and Projected needs of the Malibu community for the next 95 years, to update the County's existing emergency tower with a modern monopole support tower, and to sufficiently incorporate a police substation on the ground floor for use by the Los Angeles County Sheriff's Department.

Section 6. Approval of Entitlements.

Based on substantial evidence contained within the record and pursuant to Sections 13.7(B) and 13.9 of the Malibu LCP Local Implementation Plan (LIP), the Planning Commission adopts the analysis in the agenda report, incorporated herein, the findings of fact below, and approves CDP No. 13-056, , Variance (VAR) Nos. 13-045, 14-034, and 14-035, Conditional Use Permit (CUP) No. 13-011 and Demolition Permit (DP) No. 13-028 for the demolition of the existing 16,603 square foot building, with a 7,279 square foot basement and a portion of existing the arcade, and construction of a new two-story, 35 foot high, 25,310 square foot educational facility that includes a 5,640 square foot sheriff substation, for a proposed floor area ratio (FAR) of 0.20, reconstruction of the parking area, hardscape and landscaping, grading and retaining walls, lighting and utilities; and, relocation and replacement of the existing 70 foot high communication tower with a 75 foot high communication tower, within the westerly 2.94 acre lease area within the 9.18 acre Los Angeles County Civic Center parcel; including a conditional use permit for an educational facility use in the Institutional (I) zoning district and variances for landscaping, parking space size, and an increase in the maximum height of 18 feet to 35 feet, 10 inches for the building and 75 feet for the communications tower; and 2) recommending that the City Council approve the .20 FAR for the significant public benefits provided by the project, located in the I zoning district at 23525 Civic Center Way.

LIP Section 13.9 requires that the following four findings be made for all CDPs. The required findings are be made as follows.

**A. General Coastal Development Permit (LIP Chapter 13)**

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

*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 is located in an area designated by the General Plan Land Use Map and the Zoning Map as institutional. Governmental facilities, such as the new sheriff substation and EOC, are allowable uses, while emergency communications facilities and public educational institutions are allowed with a CUP.

The project has been reviewed for conformance with the LCP by the Planning Department, City Biologist, City Environmental Health Reviewer, City Public Works Department, City geotechnical

staff, WD29, and LACFD. As discussed herein, based on submitted reports, project plans, visual analysis and site investigation, the proposed project, as revised and conditioned, has been determined to be consistent with all applicable LCP codes, standards, goals and policies, and meets all applicable institutional development standards, with the inclusion of the requested VARs, and approval of the additional gross floor area (FAR) to .20 by the City Council.

Additionally, the conditional use permit has been reviewed for compliance with MMC Section 17.66.080 and the demolition permit has been reviewed for conformance with MMC Section 17.70.

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

The project site is not located between the first public road and the sea. Therefore, this finding is not applicable.

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

As described in Chapter 6 of the EIR, three project alternatives to the proposed project were considered: 1) no project, 2) zoning compliant alternative, and 3) environmentally superior alternative. According to the CEQA Guidelines Section 15064(d), "In evaluating the significance of the environmental effect of a project, the Lead Agency shall consider direct physical changes in the environment which may be caused by the project and reasonably foreseeable indirect physical changes in the environment which may be caused by the project."

Based on substantial evidence in the record, the Planning Commission finds that a reasonable range of feasible alternatives was evaluated in Chapter 6 of the Final EIR, and that the No Project Alternative and the Zoning Compliant Alternative are environmentally superior to the proposed Project. However, neither the Zoning Compliant Alternative nor the No Project Alternative is feasible because they do not satisfy the Project objectives to provide sufficient community college classrooms and educational support facilities to meet the existing and Projected needs of the Malibu community for the next 95 years, to update the County's existing emergency tower with a modern monopole support tower, and to sufficiently incorporate a police substation on the ground floor for use by the Los Angeles County Sheriff's Department.

No Project Alternative: The No Project Alternative would completely avoid the anticipated construction impacts that would occur with implementation of the proposed project. However, this alternative would fail to meet any of the project applicant's stated objectives.

Code Complying Alternative: The Code Complying Alternative would consist of redesigning the proposed project to fully conform to the Malibu Zoning Code and LCP for purposes of avoiding the variances, and the communications tower would remain in place and would not be upgraded. The project would still include the demolition and construction of the new building. The footprint of the overall project and the impacts would be substantially identical. However, this alternative would fail to meet the project applicant's stated objectives. The Zoning Compliant Alternative would construct approximately 25 percent less square footage dedicated to educational facilities. The Sheriff Substation would be reconstructed, although its size would also be reduced by 25 percent. The updated

communication tower would not be constructed and the existing facility would remain in place. As a result, this Project alternative would be less desirable from an educational and emergency response point of view in that fewer classroom spaces and educational programs could be provided and the emergency response infrastructure would not be updated.

Proposed Project: The proposed project has only incrementally greater impacts when compared to the zoning compliant alternative. The project as proposed provides superior benefits to the community in comparison to the zoning compliant alternative because it can serve 210, instead of 158 FTE students, house a larger Sheriff substation, incorporate natural ventilation systems based upon the proposed height of the structure, and it includes the installation of enhanced emergency response infrastructure. The proposed project meets the project's state objective and complies with the Santa Monica College Facilities Master Plan goals and policies.

Therefore, the proposed project is considered 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.*

The subject property is not in a designated ESHA or ESHA buffer as shown on the LCP ESHA and Marine Resources Map. Therefore, Environmental Review Board review was not required, and this finding does not apply.

#### **B. Variance for Building Height (LIP Section 13.26.5)**

Pursuant to LIP Section 13.26.5, the Planning Commission may approve and/or modify an application for a variance in whole or in part, with or without conditions, provided that it makes the following findings of fact. Pursuant to LIP 3.9(A)(1), structures in the Institutional zone are limited to 18 feet in height, but the height may be increased to 28 feet, for a flat or pitched roof, with a site plan review. Flagpoles, elevator shafts, stairwells, church spires, and belfries are also limited to 18 feet in height, but may be increased up to a maximum of 35 feet in height with a site plan review. The findings for VAR No. 13-045 to allow portions of the roof to reach a height of 35 feet, 10 inches are made as follows.

*Finding B1. There are special circumstances or exceptional characteristics applicable to the subject property, including size, shape, topography, location, or surroundings such that strict application of the zoning ordinance deprives such property of privileges enjoyed by other property in the vicinity and under the identical zoning classification.*

There are special circumstances and exceptional characteristics applicable to the subject property and use. The project site is unique in that it consists of an irregularly shaped ground lease area out of a larger County-owned parcel it and is constrained by the existing development remaining on site, outside of the lease area. The proposed use of a community college facility is also unique, and it will be constructed in the footprint of the demolished former Sheriff substation., and the proposed use itself as a college facility.

The construction of the classrooms and the lecture hall requires adequate ceiling height to function properly, and must comply with the design and specifications promulgated by the Division of State Architects (DSA). Additionally, the project incorporates a natural ventilation system to be environmentally sustainable and to provide a healthier learning environment. The natural ventilation system is a functional element of the construction. The vaulted and sloped roof is required for the shading, venting and air circulation necessary for this operation of this system. When the institutional standards for height were developed, they did not contemplate the unique requirements for an institution of higher learning (such as high ceilings to accommodate lecture halls and projection screens). Without the proposed variance, the college would be deprived of functional elements essential for the project to operate as intended. The building remains a two-story building and as demonstrated in the diagram in Attachment 7 to the agenda report, as well as the diagram provided by the applicant during the hearing that highlighted the areas above 35 feet in light blue, the roofline has a wave configuration, with only portions of it exceeding 28 feet, and only 0.3 percent of the roofline reaching the height limit of 35 feet, 10 inches allowed by the variance. Therefore, the variance is limited to the height needed to comply with classroom regulations and to allow the ventilation system to function.

Other buildings in the Civic Center complex range from approximately 15 to 26 feet tall. The existing buildings on the site, to remain, are 25.5 feet in height. The approved La Paz commercial shopping center project located on the parcel immediately to the east, permitted structures 32 feet in height pursuant to a development agreement. The proposed project will not significantly vary from other structures in the vicinity. The vast majority of the proposed roof will slope downward and below the 35 foot height limit enjoyed by other properties in the Institutional Zone for elevator shafts, church spires and other functional and decorative features delimited in LIP 3.9(A)(1)(b).

*Finding B2. The granting of such variance will not be detrimental to the public interest, safety, health or welfare, and will not be detrimental or injurious to the property or improvements in the same vicinity and zone(s) in which the property is located.*

The granting of the variance will not be detrimental to the public's interest, safety, health or welfare. The City Biologist, City Environmental Health Reviewer, City geotechnical staff, City Public Works Department and LACFD have reviewed the proposed project and determined it is consistent with all applicable safety, health and welfare regulations and policies, as conditioned.

Story poles were placed on the site in February 2016 to evaluate the proposed project. Based upon site inspection, review of permitting history for the surrounding development, review of the City GIS and property survey, the proposed project is compatible with the development in the vicinity. The story poles demonstrate that the requested height would not obstruct or interfere with any existing scenic views, or create shadows upon adjacent properties that would be detrimental or injurious to adjacent properties. Residential properties to the north are located at a significantly higher elevation (160 feet above mean sea level) than the project site (23 feet above msl); therefore, no primary view obstruction will occur.

The project provides a sufficient side yard setback from the western property line to ensure shadows would not adversely affect future development on that site. The proposed project will not be detrimental to other properties in the vicinity.

*Finding B3. The granting of the variance will not constitute a special privilege to the applicant or property owner.*

The granting of the height variance will not constitute a special privilege because it is necessary for this unique use and environmental upgrades required by Santa Monica College to reach the equivalent of the Silver Leadership in Energy and Environmental Design (LEED) standard. This property is also unique in that it is zoned institutional, while the surrounding properties are zoned commercial. As discussed in Finding B1, the increased height is not a special privilege but is rather needed because higher ceilings are required for classrooms and lecture halls, and the slope and height of the roof is essential for the function of the environmentally superior natural ventilation system incorporated into the design of the building. While not required by minimum City code, the Planning Commission finds such a design is appropriate for an institution of higher learning to set an example by using advanced technology. The height variance is only for limited portions of the roof and only extends 10 inches above the 35 foot limit imposed on other properties in the institutional zone for elevator shafts, belfries, safety railings, stairwells, church spires and other features specified in LIP 3.9(A)(1)(b).

*Finding B4. The granting of such variance will not be contrary to or in conflict with the general purposes and intent of this Chapter, nor to the goals, objectives and policies of the LCP.*

The granting of the variance will not be contrary to or in conflict with the general purposes and intent, nor the goals, objectives and policies of the LCP and General Plan. The proposed roofline/ventilation system will be visually similar to the other features allowed at the 35 foot height by the institutional standard detailed in LIP 3.9(A)(1). The project will not have a solid flat 35 foot high roofline; rather, only the peaks of the “waves” of the roofline will reach 35 feet, 10 inches, similar to the way only the top of an elevator shaft, belfry or church spire would reach that height. As conditioned, the proposed project is consistent with applicable LCP goals and policies.

*Finding B5. For variances to environmentally sensitive habitat area buffer standards or other environmentally sensitive habitat area protection standards, that there is no other feasible alternative for siting the structure and that the development does not exceed the limits on allowable development area set forth in Section 4.7 of the Malibu LIP.*

The requested variance is not associated with ESHA or ESHA buffer protection standards. Therefore, this finding is not applicable.

*Finding B6. For variances to stringline standards, that the project provides maximum feasible protection to public access as required by Chapter 2 of the Malibu LIP.*

The requested variance is not associated with stringline standards. Therefore, this finding is not applicable.

*Finding B7. The variance request is consistent with the purpose and intent of the zone(s) in which the site is located. A variance shall not be granted for a use or activity which is not otherwise expressly authorized by the zone regulation governing the parcel of property.*

The requested variance is for relief from a specific development standard and does not authorize a use not otherwise permitted within the institutional zoning designation. Public educational facilities are a

conditionally permitted use in this zone.

*Finding B8. The subject site is physically suitable for the proposed variance.*

The project site is physically suitable for the proposed variance in that the additional height proposed will not adversely impact adjacent properties or surrounding uses by virtue of view blockage or shadow. The project is compatible with the surrounding area in that buildings at the Civic Center complex have a comparable height to the proposed SMC building.

*Finding B9. The variance complies with all requirements of State and local law.*

The variance complies with all requirements of State and local law. Construction of the proposed improvements will comply with the Division of State Architect building code requirements for colleges and will incorporate all recommendations from applicable City and County agencies and project consultants.

*Finding B10. A variance shall not be granted that would allow reduction or elimination of public parking for access to the beach, public trails or parklands.*

The requested variance does not involve the reduction or elimination of public parking for access to the beach, public trails or parklands; therefore, this finding does not apply.

**C. Variance for Emergency Communication Tower Height over 28 feet (LIP Section 13.26.5)**

The proposed emergency communication tower will exceed the maximum allowable height of 28 feet, pursuant to LIP Section 3.16.5(E), for an overall height of 75 feet. The evidence in the record supports VAR No. 14-035 for an increase in height and findings of fact are made as follows.

*Finding C1. There are special circumstances or exceptional characteristics applicable to the subject property, including size, shape, topography, location, or surroundings such that strict application of the zoning ordinance deprives such property of privileges enjoyed by other property in the vicinity and under the identical zoning classification.*

The project site is zoned I and includes the redevelopment of a portion of the County Civic Center complex with the Santa Monica College, Los Angeles County Sheriff's sub-station and a replacement emergency communication tower. The communication tower is an important component to the Los Angeles Sheriff's sub-station as well as City of Malibu for providing a critical public safety communication radio coverage for the County's first responders. It is important that the County's first responders are equipped with a reliable communication system particularly during wildfires and other natural disaster. For these reasons, the proposed project includes a replacement tower.

The increased height of the proposed communication tower is necessary to support additional wireless transmission apparatuses and antennas on a single pole. Although the proposed communication tower is requesting a variance to have a height of 75 feet, 47 feet above the height allowed by the LIP. The existing tower does not appear to significantly hinder any views and is anticipated that the new tower will not either as it is a slimmer monopole design, and the increase in height will likely not be in the line-of-sight of impressive scenes. Given the unique circumstances of the need for an emergency

communication tower and the necessary height to provide a reliable connection to outside facilities, the strict application of the code would deprive the community of necessary safety protection.

*Finding C2. The granting of such variance will not be detrimental to the public interest, safety, health or welfare, and will not be detrimental or injurious to the property or improvements in the same vicinity and zone(s) in which the property is located.*

The purpose of the new monopole tower is to maintain and improve public safety, health, and welfare with emergency communications into the future. The granting of the requested height variance will not be detrimental to the public interest, safety, health or welfare, and will not be detrimental or injurious to the property or improvements in the same vicinity and zones in which the property is located. The requested height variance will not significantly obstruct or interfere with any existing scenic views and will replace an existing lattice communication tower that is less aesthetically pleasing. The proposed tower is an essential safety element for the Los Angeles County and City safety and emergency operations. The proposed monopole is located on the same property where the existing lattice tower exists, and has co-existed with the existing helipad on the Civic Center complex site for decades. Therefore, no adverse impacts to the surrounding properties are anticipated as a result of the proposed tower replacement.

*Finding C3. The granting of the variance will not constitute a special privilege to the applicant or property owner.*

The subject parcel is unique in that a communication tower currently exists and is in use onsite. As such, the replacement tower will not constitute a special privilege to the property owner. The proposed communication tower is improving the current, outdated tower and moving the tower approximately 10 to 20 feet to the east. The project is unique and different from other properties and land uses in the Civic Center area in that it will consist of City and County public safety facilities and a community college campus. The proposed communication tower height of 75 feet above grade (five feet above the current communication tower) will provide extra space for the addition of new safety and communication equipment throughout the monopole's lifetime, which prolongs the tower's operational timeframe and prevents overcrowding of equipment.

*Finding C4. The granting of such variance will not be contrary to or in conflict with the general purposes and intent of MMC Chapter 17.72, nor to the goals, objectives and policies of the General Plan.*

The proposed variance is consistent with the MMC Chapter 17.72 and, as later discussed in Finding C8, the proposed emergency communication tower furthers the goals of the General Plan.

*Finding C5. For variances to environmentally sensitive habitat area buffer standards or other environmentally sensitive habitat area protection standards, that there is no other feasible alternative for siting the structure and that the development does not exceed the limits on allowable development area set forth in Section 4.7 of the Malibu LIP.*

The requested variance is not associated with ESHA or ESHA buffer protection standards. Therefore, this finding is not applicable.

*Finding C6. For variances to stringline standards, that the project provides maximum feasible protection to public access as required by Chapter 2 of the Malibu LIP.*

The requested variance is not associated with stringline standards. This finding is not applicable.

*Finding C7. The variance request is consistent with the purpose and intent of the zone(s) in which the site is located. A variance shall not be granted for a use or activity which is not otherwise expressly authorized by the zone regulation governing the parcel of property.*

The proposed variance is for relief from a specific development standard and does not authorize a use that is not already established on the subject parcel. The proposed project involves the installation of a freestanding monopole that would replace a lattice tower. MMC Section 17.34.030(L) permits emergency communication and service facilities with a conditional use permit. A CUP has not previously been approved for the use, and as such it is legal non-conforming. The project is conditioned to obtain a CUP to legalize the use prior to construction of the replacement tower.

*Finding C8. The subject site is physically suitable for the proposed variance.*

The allowable height for wireless telecommunications antennas and facilities is 28 feet in height. LIP Section 3.14.6 requires that all monopoles be designed to the minimum functional height and width required to support the proposed antenna installation. The addition of five feet in height, compared to the current 70-foot lattice tower, provides flexibility to add new safety and communication equipment to the communication tower. The project site is suitable for the proposed variance in that it is a public institutional use, which will serve as part of the Santa Monica College and the County Sheriff Sub-Station. The Santa Monica College use is a conditionally permitted use in the Institutional zone, and the Los Angeles County Sheriff's sub-station is an established (though presently inactive) use on the property. The proposed monopole is replacing an existing communication tower, thus the site is physically suitable for the tower. Granting of the variance is not expected to have significant adverse visual or aesthetic impacts to adjacent properties.

*Finding C9. The variance complies with all requirements of State and local law.*

The variance complies with all applicable requirements of State and local law. The construction of pertinent improvements will comply with all relevant building code requirements, and will incorporate all recommendations from the City Public Works Department.

*Finding C10. A variance shall not be granted that would allow reduction or elimination of public parking for access to the beach, public trails or parklands.*

The requested variance does not involve the reduction or elimination of public parking for access to the beach, public trails or parklands.

#### **D. Variance for Parking Space Size (LIP Chapter 13.26.5)**

LIP Section 3.14.5(D)(7) specifies that standard parking stall dimensions shall be a minimum of 9 feet wide by 20 feet deep and compact spaces shall be 8 feet wide by 15.5 feet deep. VAR No. 14-034 is proposed to allow the project to comply with County specifications for standard size parking stalls (8.5



feet wide by 18 feet deep) and compact stalls (8 feet wide by 15 feet deep). The required findings are made as follows:

*Finding D1. There are special circumstances or exceptional characteristics applicable to the subject property, including size, shape, topography, location, or surroundings such that strict application of the zoning ordinance deprives such property of privileges enjoyed by other property in the vicinity and under the identical zoning classification.*

Unique characteristics affect the project site in that the boundary of the ground lease area bisects the existing parking lot serving the County Civic Center complex. Without a variance for parking stall size, an inconsistency of drive aisles and widths would occur that would affect the function and safety of the parking lot. Strict application of the LIP standard parking stall size requirement would deny the applicant of the privilege of a functional parking lot that is enjoyed by other properties in the vicinity.

*Finding D2. The granting of such variance will not be detrimental to the public interest, safety, health or welfare, and will not be detrimental or injurious to the property or improvements in the same vicinity and zone(s) in which the property is located.*

The granting of the variance will not be detrimental to the public health, safety or welfare, and will not be injurious to properties or improvements in the vicinity. The parking lot is currently striped with spaces meeting County requirements and the parking lot functions appropriately.

*Finding D3. The granting of the variance will not constitute a special privilege to the applicant or property owner.*

Granting the variance will not allow a special privilege to the applicant. The variance for parking space size will allow the parking stalls and resulting drive aisle widths within the lease area to be consistent with the rest of the County Civic Center parking lot.

*Finding D4. The granting of such variance will not be contrary to or in conflict with the general purposes and intent of this Chapter, nor to the goals, objectives and policies of the LCP.*

The granting of the variance will not be contrary to or in conflict with the general purposes and intent, nor the goals, objectives and policies of the LCP and General Plan. The project will provide the number of parking spaces required by the LIP. The parking lot has been striped according to County standards for many years and has functioned appropriately.

*Finding D5. For variances to environmentally sensitive habitat area buffer standards or other environmentally sensitive habitat area protection standards, that there is no other feasible alternative for siting the structure and that the development does not exceed the limits on allowable development area set forth in Section 4.7 of the Malibu LIP.*

The requested variance is not associated with ESHA or ESHA buffer protection standards. Therefore, this finding is not applicable.

*Finding D6. For variances to stringline standards, that the project provides maximum feasible protection to public access as required by Chapter 2 of the Malibu LIP.*

The requested variance is not associated with stringline standards. Therefore, this finding is not applicable.

*Finding D7. The variance request is consistent with the purpose and intent of the zone(s) in which the site is located. A variance shall not be granted for a use or activity which is not otherwise expressly authorized by the zone regulation governing the parcel of property.*

The requested variance is for relief from a specific development standard and does not authorize a use not otherwise permitted within the institutional zoning designation. Public educational facilities are a conditionally permitted use in this zone.

*Finding D8. The subject site is physically suitable for the proposed variance.*

Without a variance for parking stall size, an inconsistency of drive aisles and widths would occur that would affect the function and safety of the parking lot. The project site is physically suitable for the proposed variance.

*Finding D9. The variance complies with all requirements of State and local law.*

The variance complies with all requirements of State and local law. The City Biologist, City Environmental Health Reviewer, City geotechnical staff, City Public Works Department and LACFD have reviewed the proposed project and found it consistent with applicable LCP goals and policies. Construction of the proposed improvements will comply with the Division of State Architect building code requirements for colleges and will incorporate all recommendations from applicable City and County agencies and project consultants.

*Finding D10. A variance shall not be granted that would allow reduction or elimination of public parking for access to the beach, public trails or parklands.*

The requested variance does not involve the reduction or elimination of public parking for access to the beach, public trails or parklands. By providing all the required parking onsite, public onstreet parking is preserved.

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

The Scenic, Visual and Hillside Resource Protection Ordinance governs those CDP applications concerning any parcel of land that is located along, within, provides views to or is visible from any scenic area, scenic road or public viewing area. PCH and Malibu Canyon Road are LCP-designated scenic roadways and Legacy Park is a designated scenic area. The project site is at least partly visible from each locations, though the views from PCH and Malibu Canyon Road are partially obstructed. The site is also visible from upslope residential properties north of Civic Center Way. The findings of LIP Section 6.4 are made below.

*Finding E1. The project, as proposed, will have no significant adverse scenic or visual impacts due to project design, location on the site or other reasons.*

As discussed previously, story poles were installed on the project site to depict the location, height and mass of the project. A visual analysis of the project's visual impact from public viewing areas was conducted through site reconnaissance, a review of the story poles, architectural plans, visual simulations and an investigation of the character of the surrounding properties. Visual simulations and architectural renderings of the project site were prepared that incorporate proposed landscaping to illustrate how the site is expected to look at completion. Refer to Chapter 2 of the Draft EIR for a complete visual analysis, including site photos, visual simulations, and architectural renderings.

The project has been designed not to have significant adverse scenic or visual impacts. The project will redevelop a portion of the existing built-out Civic Center complex with a building that is in the same location as the former Sheriff Substation. Visibility of the site from designated scenic routes, including PCH and Malibu Canyon Road is highly limited and obscured by topography, vegetation, and existing development in the Civic Center Area. The site is visible from Legacy Park but development on the site would not result in the obstruction of any significant public scenic views (e.g. ocean, coastline, or Santa Monica Mountains). Native landscaping will be incorporated into the site to soften the appearance of structures.

LUP Policy 6.20 states "New development on properties visible from and inland of Pacific Coast Highway shall be sited and designed to protect public views of the ridgelines and natural features of the Santa Monica Mountains through measures including, but not limited to, restricting the building maximum size, reducing maximum height limits, clustering development, incorporating landscape elements..."

While not a commercial project, the proposed development meets the goals of this policy by incorporating a staggered roofline to reduce the bulk of the building and meets the height limit of the Institutional zone (with VAR No. 13-045). This would maintain views of the Santa Monica Mountains from Legacy Park and from public areas within the Civic Center. The proposed development has extensive native landscaping proposed, the height and bulk is similar to the rest of the Civic Center complex and does not obstruct public views of any significant ridgeline or the Santa Monica Mountains.

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

*Finding E2. 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 E1, the project will have no significant adverse scenic or visual impact. Mitigation Measure AES-4 calls for outdoor lighting to incorporate low-level fixtures and directional shields, consistent with the County's Rural Lighting District Ordinance. Standard conditions of approval require that colors and materials be used that blend with the natural environment and that lighting be minimized to the amount necessary for public safety in compliance with the LCP. As conditioned, the project complies with the LCP.

*Finding E3. 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 E4. 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 E1, the project will result in a less than significant impact on scenic and visual resources.

*Finding E5. Development in a specific location on the site may have adverse scenic and visual impacts but will eliminate, minimize or otherwise contribute to conformance to sensitive resource protection policies contained in the certified LCP.*

As discussed in Finding E1, the project as conditioned will have no significant adverse scenic and visual impacts.

#### **F. Hazards (LIP Chapter 9)**

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

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

The applicant submitted reports and addendums by GeoLabs Westlake Village. City Geotechnical staff and the Public Works Department reviewed the project plans and associated technical submittals and issued an approval for conformance with City geotechnical standards and LCP requirements. Standard conditions of approval will be included to require that all recommendations of the consulting Certified Engineering Geologist, Geotechnical Engineer and all the plan check stage comments of City Geotechnical staff shall be incorporated into all final design and construction plans, including foundations, grading, sewage disposal, and drainage.

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

1. The buildout project service area is not located within an Alquist-Priolo Earthquake Fault Zone; therefore, it is unlikely that the project site will be impacted by active faulting or ground rupture; however, the Civic Center area is located in an area of high seismicity, generally.
2. The project site is within a Seismic Hazard Zone delineated as having potential for liquefaction as mapped by the California Geological Survey.

3. The potential hazards associated with landslides are less than significant.
4. The potential for a tsunami to impact the project site is considered low
5. The Project Site lies on the floodplain of Malibu Creek. Portions of the property are located within the Federal Emergency Management Agency's (FEMA's) 100 year flood zone.
6. The project site is in the vicinity of extreme fire hazard areas.

Ground-shaking / Seismicity – The project site is within the onshore portion of the Malibu Coast Fault Zone, which involves a broad zone of faulting and shearing as much as one mile in width. The Malibu Coast Fault is the most predominant feature within this broad deformation zone. Malibu Coast Fault's surface trace runs approximately 20 feet south of the project site. The Malibu Coast Fault may underlie the project site, although active faulting has not been recognized within or east of the Malibu Creek drainage.

The project area is in a seismically active area of Southern California and may experience severe shaking in the future from the Malibu Coast Fault and other nearby faults. While it is impossible to totally prevent structural damage to buildings and loss of life as a result of seismic events, adherence to all applicable building codes and regulations and site-specific engineering specifications can reduce such impacts to less than significant levels. If engineering studies using state-of-the-practice techniques are employed, the impacts from ground rupture can be accounted for with setbacks and foundation designs to accommodate several inches of movement. Surface rupture potential is considered low to moderate, and the impacts are considered less than significant. With the proper building construction and site preparation, risks are reduced. For this reason, Mitigation Measure GEO-1 would ensure that the proposed project would be constructed in accordance with the final geotechnical recommendations and the City of Malibu's General Plan (Safety and Health Element), and Local Coastal Program Land Use Plan.

Liquefaction - The project site is within a Seismic Hazard Zone delineated as having potential for liquefaction as mapped by the California Geological Survey. Groundwater underneath the project site ranges from six to twenty-three feet in depth. Historic high groundwater in the vicinity of the project site is found to be five feet below the surface. The northeast corner of the site contains underground seepage pits. The soils below the site have a low to high risk of liquefaction based on their Liquefaction Potential Index, and the site has the potential for liquefaction. The potential effects of liquefaction could include lateral spreading and seismically-induced settlement. On-site manifestations due to surface rupture, landslides, subsidence, expansive soils and settlement are expected to be relatively low risk. The proposed project would be constructed in accordance with the City and State Building Codes and would adhere to all modern earthquake standards, including those relating to soil characteristics. Construction of the proposed project would also comply with the requirements of the Division of the State Architect, which would assure safe construction, including building foundation requirements appropriate to site conditions. Implementation of Mitigation Measure GEO-1 would also ensure the Proposed Project would be constructed in accordance with the final geotechnical recommendations, Malibu's General Plan (Safety and Health Element), and Local Coastal Program Land Use Plan. Liquefaction is addressed in Section 4.4 Geology and Soils.

Tsunami Inundation Zone – The low point of the project site is 16± feet above mean sea level, therefore the potential for a tsunami to impact the project site is considered low.

Slope Instability – The project site is not immediately adjacent to any mountains or steep slopes, and the topography of the project site is relatively flat. The project site is not located in the City of Malibu designated areas of high susceptibility for landslides. In addition, the project site is not located within a Seismic Hazard Zone for earthquake-induced landsliding. Therefore, potential hazards associated with landslides would be less than significant.

FEMA Flood Hazard Zone – The nearest body of water is the Malibu Creek located approximately 1,300 feet east of the Project Site. The project site occupies a 100-year floodplain area. The eastern half of the project site is located within the Federal Emergency Management Agency's (FEMA) Special Flood Hazard Area (SFHA) Zone of AO. The project must comply with M.M.C. Chapter 15.20, which requires that all structures in Zone AO be elevated above the highest adjacent grade to a height equal to or exceeding the depth number specified in feet on the FEMA Flood Insurance Rate Map (FIRM) by at least 1 foot, or elevated at least 3 feet above the highest adjacent grade if no depth number is specified. The proposed project includes the construction of a commercial structures with the proposed building pads raised three feet above the flood hazard elevation in order to meet FEMA and M.M.C. Floodplain Management requirements. Therefore, impacts would be less than significant.

Fire Hazard – The entire City of Malibu is designated as a Very High Fire Hazard Severity Zone, a zone defined by a more destructive behavior of fire and a greater probability of flames and embers threatening buildings. A Fire Access Plan has been submitted to and approved by the Los Angeles County Fire Department (See Appendix C of this Draft EIR). Based on the Fire Department's initial review, no adverse impacts associated with fire protection and life safety requirements have been identified. The project design includes a fuel modification plan and protective building construction measures including fire-retardant roofing; and the installation of fire sprinkler systems in all five buildings, and the provision of fire-safe landscaping, including the provision of a green roof over the sheriff substation portion of the project. Specific fire and life safety requirements will be addressed and conditions set at the building and fire plan check phase. The LACFD will review and approve a final fuel modification plan prior to issuance of grading/building permits.

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

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

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

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

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

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

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

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

**G. Conditional Use Permit for College Use (MMC Section 17.66.080)**

Pursuant to MMC Section 17.66.080, the Planning Commission may approve, deny and/or modify an application for a conditional use permit, with or without conditions, provided that it makes all of the specific findings of fact. A conditional use permit is included with the application to allow for the operation of a public educational facility. CUP No. 13-011 can be supported based on the following findings.

*Finding G1. The proposed use is one that is conditionally permitted within the subject zone and complies with the intent of all of the applicable provisions of Title 17 of the Malibu Municipal Code.*

A public education facility is a conditionally permitted use in the Institutional zone pursuant to MMC Section 17.34.030(A) and LIP Table B (Permitted Uses). The project has been designed and conditioned to apply with all applicable provisions of the MMC and LIP with the associated entitlements.

*Finding G2. The proposed use would not impair the integrity and character of the zoning district in which it is located.*

The Institutional land use designation accommodates public and quasi-public facilities in the City, which includes educational, cultural, and governmental facilities. The proposed use is consistent with the permissible uses in the Institutional zone. The project will coexist with and be complementary to the other public and quasi-public uses existing and proposed on the site, including the proposed Sheriff's substation, the newly renovated public library, and County government offices. The currently vacant and abandoned building that served as the former Sheriff Station will be demolished and the conditional use permit will allow the site to be replaced with a vibrant college that will bring integrity and character to the zoning district, consistent with the purpose of the I land use designation. The proposed project will redevelop and reactivate the underutilized portions of the Civic Center area by developing an Institutional land use along with the integration of a Sheriff's substation within the ground floor. The proposed college facility will revitalize, not impair, the integrity and character of the I zoning district.

*Finding G3. The subject site is physically suitable for the type of land use being proposed.*

The proposed project has been reviewed by the appropriate City and County agencies, including the Public Works Department, City geotechnical staff and LACFD. Construction of the proposed project will comply with all building/safety code requirements and will incorporate all recommendations from applicable City, County and state agencies, including the required mitigation measures identified in the project's Final EIR. The site is currently improved with the former Sheriff Station building and is served by existing utilities and transportation infrastructure. The proposed project is located within Phase 1 of the State Water Board's wastewater discharge prohibition zone. Therefore, the project has been conditioned to connect to the CCWTF. Final occupancy for this project shall not be issued until the CCWTF is completed and operational and all onsite sewer connections to the new sewer laterals are completed. Therefore, the site is physically suitable for the college.

*Finding G4. The proposed use is compatible with the land uses presently on the subject property and in the surrounding neighborhood.*

As previously discussed in Finding C2, the proposed location for the new college will occupy a location currently utilized by an abandoned former Sheriff Station, on a site currently utilized for a library and County government offices. The proposed building is entirely within the I land use designation, on a property that has housed public and quasi-public facilities since pre-Cityhood.

The proposed use will also be compatible with the surrounding commercial land uses and nearby residential areas shown on the City's adopted zoning map. The surrounding properties to the north, east and west are undeveloped and to the south is Legacy Park (a City-owned park). A commercial shopping center (La Paz) has been approved on the property to the east. The other surrounding undeveloped properties are zoned Community Commercial, and residential properties are located upslope, to the north. Mitigation Measure AES-4 calls for outdoor lighting to incorporate low-level fixtures and directional shields, consistent with the County's Rural Lighting District Ordinance. Standard conditions also require compliance with LCP standards limiting outdoor lighting to the minimum needed for public safety. All of these requirements serve to promote dark skies and prevent sky glow and glare impacts to upslope neighbors and the surrounding area. Furthermore, a TUP will be required for any outdoor amplified music events.

*Finding G5. The proposed use would be compatible with existing and future land uses within the zoning district and the general area in which the proposed use is to be located.*

As previously discussed in Findings C2 and C4, the proposed use is compatible with existing and future land uses in the I zoning district and the City as a whole.

*Finding G6. There would be adequate provisions for water, sanitation, and public utilities and services to ensure that the proposed use would not be detrimental to public health and safety and the project does not affect solar access or adversely impact existing public and private views, as defined by the staff.*

As discussed in Finding C3, adequate provisions for water, sanitation, and public utilities and services are provided in the project scope. The project has been reviewed and approved by the City Environmental Health Administrator, City Public Works Department, and the LACFD.

*Finding G7. There would be adequate provisions for public access to serve the subject proposal.*



The proposed project has adequate public access. The project site takes access from a public street, Civic Center Way. The project will connect to adjacent sidewalks to promote walkability and will be accessible from nearby public bus transit stops (serving Metro Line 534). In addition, adequate onsite parking and access are being provided for the new college facility consistent with the parking use requirements for public educational facilities in the Institutional zone. Because there will be no distinction between the lease area parking for the college and the rest of the Civic Center complex, the parking study prepared for the project evaluated parking on a parcel-wide as well as project site (lease area) basis, and demonstrates that parking spaces provided comply with City requirements.

*Finding G8. The proposed use is consistent with the goals, objectives, policies, and general land uses of the General Plan.*

The proposed use is consistent with the goals, objectives, policies, and general land uses of the General Plan. The proposed college is located in an area designated by the General Plan Land Use Map and the Zoning Map as institutional, which conditionally allows an educational use facility. As such, the proposed project is consistent with goals, objectives and policies of the General Plan.

*Finding G9. The proposed project complies with all applicable requirements of state and local law.*

As discussed in Finding C3, the project will comply with all applicable requirements of State and local law including, but not limited to, provisions of the California Building Code and Uniform Fire Code, and all applicable regulations and standards promulgated or imposed by any State or Federal agency.

*Finding G10. The proposed use would not be detrimental to the public interest, health, safety, convenience or welfare.*

As previously discussed in Finding A3, the proposed project is not anticipated to be detrimental to the public interest, health, safety, convenience, or welfare. Site lighting is required to meet the County's Rural Outdoor Lighting District Ordinance, which will protect against sky glow and offsite glare and promote dark skies.

*Finding G11. If the project is located in an area determined by the City to be at risk from earth movement, flooding or liquefaction, there is clear and compelling evidence that the proposed development is not at risk from these hazards.*

The proposed project is not anticipated to be at risk from earth movement, flooding, landslide, slippage, or settlement.

#### **H. Demolition Permit Findings (MMC Section 17.70)**

M.M.C. Section 17.70 requires that a demolition permit be issued for projects that result in the demolition of any structure. The project proposes the demolition of the existing sheriff substation and other existing improvements to make way for the new college/substation structure. Based on the evidence within the record, the Planning Commission approves DP No. 13-028.

*Finding H1. The demolition permit is conditioned to assure that it will be conducted in a manner that will not create significant adverse environmental impacts.*

Conditions of approval included in resolution that will ensure that the project will not create significant adverse environmental impacts.

*Finding H2. A development plan has been approved or the requirement waived by the City.*

The subject CDP is being processed concurrently with DP No. 13-028. Therefore, the demolition permit complies with MMC Section 17.70.

Section 8. Planning Commission Recommendation to City Council on .20 FAR

Pursuant to LIP Section 3.9(A)(3)(a), additional gross floor area may be approved by the City Council, up to the maximum allowed for the parcel under the LUP, where additional significant public benefits and amenities are provided as part of the project. Based on the following significant public benefits and amenities provided as part of the project, the Planning Commission recommends that the City Council approve the .20 FAR proposed for the project and allowed in the Institutional zone by the LUP:

- A public community college facility which will provide educational services of the local community;
- A sheriff substation that will provide more timely and increased service capacity, and will provide local support staffing for police services;
- An improved emergency communication tower;
- An interpretive center to support Legacy Park and/or other programs to highlight Malibu's unique coastal environment and cultural history;
- A multi-purpose room which will be available for community meetings; and
- An EOC center.

Section 9. Planning Commission Approval.

Based on the foregoing findings and evidence contained within the record, the Planning Commission hereby approves CDP No. 13-056, VAR Nos. 13-045, 14-034, and 14-035, CUP No. 13-011, and DP No. 13-028, subject to the following conditions of approval.

Section 10. Conditions of Approval.

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 the demolition of the existing building, and construction of a new two-story, educational facility, that includes a sheriff substation, for a proposed floor area ratio (FAR) of 0.20, and removal and replacement of the existing emergency communication tower, as follows:
  - a. Demolition:
    - i. 16,603 square foot single-story square foot building, and 7,279 square foot basement (former Los Angeles County Sheriff's Substation); and
    - ii. A portion of the existing arcade and ancillary development within the lease area.
  - b. Construction:
    - i. A new two-story, 35 foot, 25,310 square foot educational facility that includes a 5,640 square foot of sheriff substation, for a proposed floor area ratio (FAR) of .20;
    - ii. Hardscape with 6,430 square feet of permeable coverage;
    - iii. Landscaping;
    - iv. Grading and retaining walls;
    - v. Lighting and utilities;
    - vi. Repair, repave and restripe existing parking lot;
    - vii. Outdoor amphitheater/terraced seating area; and
    - viii. Monument sign
  - c. Relocation and replacement of the existing 70 foot high lattice-style communication tower with a 75 foot high monopole communication tower.
  - d. Connection to the City's future Wastewater Treatment Facility.
  
3. Except as specifically changed by conditions of approval, the proposed development shall be constructed in substantial conformance with the approved scope of work, as described in Condition No. 2 and depicted in plans on file with the Planning Department date-stamped **January 16, 2016**. The project shall comply with all conditions of approval stipulated in the department review 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 receipt of the approved Planning Commission resolution and prior to issuance of any development permits.
  
5. The CDP shall be expire if the project has not commenced by March 1, 2021 after issuance of the permit. Extension of the permit may be granted by the approving authority for due cause. Extensions shall be requested in writing by the applicant or authorized agent prior to expiration of the five-year period and shall set forth the reasons for the request.
  
6. Any questions of intent or interpretation of any condition of approval will be resolved by the Planning Director upon written request of such interpretation.

7. All structures shall conform to requirements of the Division of State Architect (DSA), City Geotechnical staff, City Biologist, City Public Works Department, Los Angeles County Water District No. 29, LACFD, and any other responsible or trustee agency as applicable. Notwithstanding this review, all required permits shall be secured.
8. 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 MMC and the LCP. Revised plans reflecting the minor changes and additional fees shall be required.
9. 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, 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.

*Special Conditions*

10. This permit shall not become effective until the City Council approves the additional gross floor area (FAR of .20) beyond the maximum FAR of 0.15 pursuant to LIP Section 3.9(A)(3)(a) for significant public benefits.
11. The regular hours of operation for the SMC campus shall be between 6:00 AM and 11:00 PM.
12. The Sheriff Substation is allowed to operate 24 hours, seven days a week.
13. Noise emanating from the premises shall not be audible at a distance of five feet of any residential unit between the hours of 10:00 p.m. and 7:00 a.m., as required by MMC Section 8.24.050(L).
14. No outdoor amplified music shall be allowed on the project site, unless authorized in advance by a TUP.
15. Prior to occupancy of the campus, the applicant shall submit a copy of the reciprocal parking agreement between SMC and the County for joint use of the parking lot. The agreement shall allow SMC to limit County access to the leased portion of the parking lot should the City determine that County use of the parking lot is negatively affecting SMC's ability to provide sufficient parking for its campus. SMC will impose such limitations as requested by the City upon such a determination.
16. A construction management plan shall be reviewed and approved by the Public Works Department and the Planning Department prior to construction to ensure coordination with the Civic Center Wastewater Treatment Facility project.
17. Prior to construction of the replacement communications tower, the property owner, Los Angeles County, shall obtain a conditional use permit for the emergency communications facility use.

### *Cultural Resources*

18. 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.
19. If human bone is discovered during geologic testing or during construction, work shall immediately cease and the procedures described in Section 7050.5 of the California Health and Safety Code shall be followed. Section 7050.5 requires notification of the coroner. If the coroner determines that the remains are those of a Native American, the applicant shall notify the Native American Heritage Commission by phone within 24 hours. Following notification of the Native American Heritage Commission, the procedures described in Section 5097.94 and Section 5097.98 of the California Public Resources Code shall be followed.

### *Construction and Demolition*

20. Construction hours shall be limited to Monday through Friday from 7:00 a.m. to 7:00 p.m. and Saturdays from 8:00 a.m. to 5:00 p.m. No construction activities shall be permitted on Sundays or City-designated holidays.
21. The City Manager may grant an exemption to extend construction hours pursuant to MMC Section 8.24.060(D) upon written request by the applicant. Such request shall include a notification package in a format specified by the City for notifying by mail all property owners and occupants within a 500-foot radius of the project site. The request shall be submitted three weeks in advance of the proposed activity to allow notice to be mailed to property owners at least two weeks in advance of the proposed activity.
22. Construction management techniques, including minimizing the amount of equipment used simultaneously and increasing the distance between emission sources, shall be employed as feasible and appropriate. All trucks leaving the construction site shall adhere to the California Vehicle Code. In addition, construction vehicles shall be covered when necessary; and their tires will be rinsed off prior to leaving the property.
23. When framing is complete, a site survey shall be prepared by a licensed civil engineer or architect that states the finished ground level elevation and the highest roof member elevation. Prior to the commencement of further construction activities, said document shall be submitted to the Planning Department for review and sign off on framing.

### *Colors and Materials*

24. The project shall incorporate colors and exterior materials that are compatible with the surrounding landscape.
  - a. Colors shall be compatible with the surrounding environment (earth tones) including shades of green, brown and gray, with no white or light shades and no bright tones.
  - b. The use of highly reflective materials shall be prohibited except for solar energy panels

or cells, which shall be placed to minimize significant adverse impacts to public views to the maximum extent feasible.

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

25. 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.
26. 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*

27. Outdoor lighting shall be turned off between the hours of 10:00 p.m. and sunrise every day, unless the use on the involved property operates past 10:00 p.m. If the use requires outdoor lighting between 10:00 p.m. and sunrise for safety or security reasons, lighting shall be allowed during these hours only if fully-shielded motion sensors are used and at least 50% of the total lumen levels are reduced.
28. No permanently installed lighting shall blink, flash, or be of unusually high intensity or brightness. Lighting levels on any nearby property from artificial light sources on the subject property shall not produce an illumination level greater than one foot candle.
29. Uplighting of landscaping is prohibited.
30. Night lighting from exterior and interior sources shall be minimized to that necessary for public safety.
31. Exterior lighting shall be minimized, shielded, or concealed and restricted to low intensity features, so that no light source is directly visible from public view. Permitted lighting shall conform to the LCP, the following standards, or to the County's Rural Outdoor Lighting District Ordinance, whichever is more restrictive:
  - a. Light pole height shall be limited to 12 feet in height;
  - b. Correlated color temperature shall be limited to 3,000 Kelvin;
  - c. Pole lights shall be limited to 54 watt LED fixtures;
  - d. Bollard lights shall be limited to 18 watt LED fixtures with full cut-off performance;
  - e. Lighting shall be fully shielded and emit no upward light; and
  - f. Outdoor lighting shall use adaptive controls, such as dimmers, timers and motions sensors to turn the outdoor lighting off so as to comply with the hours of operation. These devices or systems shall have backup capabilities so that, if power is interrupted, the schedule programmed into the device or system is maintained for at least seven days.
  - g. Site perimeter lighting shall be prohibited; and
  - h. Outdoor decorative lighting for aesthetic purposes is prohibited.

### *Biology/Landscaping*

32. The applicant/property owner shall provide evidence that the landscape water use is approved by WD 29.
33. Invasive plant species, as determined by the City of Malibu, are prohibited.
34. 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).
35. The use of building materials treated with toxic compounds such as copper arsenate shall be prohibited.
36. Tree removal scheduled between February 1 and August 30 will require nesting bird surveys by a qualified biologist prior to initiation of grading activities. Surveys shall be completed no more than five days from proposed initiation of site preparation activities. Should active nests be identified, a buffer area no less than 150 feet (300 feet for raptors) shall be fenced off until it is determined by a qualified biologist that the nest is no longer active. A report discussing the results of nesting bird surveys shall be submitted to the City Biologist prior to any vegetation removal on site.
37. The use of anti-coagulant rodenticides for use in pest control shall be prohibited on the project site. The applicant shall submit an Integrated Pest Management Plan for review and approval by the City Biologist prior to completion of the final site inspection.
38. Prior to final inspection and occupancy, the City Biologist shall inspect the project site and determine that all planning conditions and/or mitigation measures to protect natural resources are in compliance with the approved plans and/or operational procedures.

### *Geology*

39. All recommendations of the consulting Certified Engineering Geologist or Geotechnical Engineer and the City Geotechnical staff (August 20, 2014 review sheet) shall be incorporated into all final design and construction. Final plans shall be reviewed and approved by the City Geologist prior to the issuance of a grading permit.
40. Final plans approved by the City Geotechnical staff 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.

### *Wastewater*

41. Pursuant to LIP Section 18.10(C), all new development in the Prohibition Area of the CCWTF shall be conditioned to install all necessary plumbing and other improvements to allow the development to connect to reclaimed water lines when they are available and make the maximum feasible use of reclaimed water.

*Public Works*

42. All street improvements within the City's right-of-way shall be included in a separate plan, and created using the Public Works Department's standard drawing templates. This plan shall be approved by the Public Works Department prior to the issuance of the grading permit. All improvements must be completed prior to occupancy.
43. This project proposes to consolidate the two western driveways into one new driveway within the City's right-of-way. Prior to the Public Works Department's approval of the grading permit, the applicant shall obtain encroachment permits from the Public Works Department for the proposed driveway. The driveway shall be constructed of either 6-inches of concrete over 4-inch of aggregate base, or 4-inches of asphalt concrete over 6-inches of aggregate base. The driveway shall be flush with the existing grades with no curbs. The driveway shall match the existing improvements including the brick and sidewalk pavers. All concrete shall be colored concrete, Davis Color, Yosemite Brown, #641. These improvements must be completed prior to occupancy.
44. The applicant shall install new concrete sidewalk improvements on the west side of Webb Way from Pacific Coast Highway to Civic Center Way. These improvements consist of installing new curb and gutter, access ramps, and sidewalks. The new curb and gutter shall be per APWA Standard Plan No. 120-1 (CF=6", W=24"). The alignment of the new curb and gutter shall be approved by the Public Works Department. The applicant shall remove and replace the existing street structural section. The new street sections shall be a minimum of 6-inches of asphalt concrete, C2-PG-6410, and a minimum of 10" of processed miscellaneous base. The final street section shall be designed and submitted to the Public Works Department for review and approval. A traffic index of 9 shall be used for the final pavement design. The design and construction shall include a transition to join the existing street improvements. This work shall be constructed in accordance with the current edition of the Standard Specifications for Public Works Construction (SSPWC) "Green Book". All concrete shall be colored concrete, Davis Color, Yosemite Brown, #641.

If these improvements are completed by a separate development project, the applicant shall contribute its pro-rata share of the costs associated with the sidewalk improvements on Webb Way. The percentage fair-share contribution shall be calculated using the total trips generated by the proposed project divided by the total "new" traffic, which is the net increase in traffic volume from all proposed projects and growth. The cost of mitigation shall be calculated using verifiable cost estimates from reliable and recognized sources. The fair-share cost of mitigation shall be calculated using the following formula:

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

P= Fair share of the project's impact

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

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

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



45. Prior to the approval of the street improvement plans, the applicant shall post a security for guaranteeing public improvements.
46. Clearing and grading during the rainy season (extending from November 1 to March 31) shall be prohibited for development LIP Section 17.3.1 that:
- Is located within or adjacent to ESHA, or
  - Includes grading on slopes greater than 4:1
  - Approved grading for development that is located within or adjacent to ESHA or on slopes greater than 4:1 shall not be undertaken unless there is sufficient time to complete grading operations before the rainy season. If grading operations are not completed before the rainy season begins, grading shall be halted and temporary erosion control measures shall be put into place to minimize erosion until grading resumes after March 31, unless the City determines that completion of grading would be more protective of resources
47. This project proposes to export material from the project site. Prior to the approval of the grading permit, the applicant shall submit a Construction Management Plan (CMP) to the Public Works Department for review and approval. The CMP shall address mitigation measures that reduce the projects construction impacts and must be approved prior to the issuance of the grading permit.
48. Exported soil from a site shall be taken to the County Landfill or to a site with an active grading permit and the ability to accept the material in compliance with the City's LIP Section 8.3. A note shall be placed on the project that addresses this condition.
49. A grading and drainage plan shall be approved containing the following information prior to the issuance of grading permits for the project.
- a. Public Works Department General Notes
  - b. The existing and proposed square footage of impervious coverage on the property shall be shown on the grading plan (including separate areas for buildings, driveways, walkways, parking, tennis courts and pool decks).
  - c. The limits of land to be disturbed during project development shall be delineated on the grading plan and a total area shall be shown on the plan. Areas disturbed by grading equipment beyond the limits of grading, Areas disturb for the installation of the septic system, and areas disturbed for the installation of the detention system shall be included within the area delineated.
  - d. The grading limits shall include the temporary cuts made for retaining walls, buttresses, and over excavations for fill slopes and shall be shown on the grading plan.
  - e. If the property contains trees that are to be protected they shall be highlighted on the grading plan.
  - f. If the property contains rare and endangered species as identified in the resources study the grading plan shall contain a prominent note identifying the areas to be protected (to be left undisturbed). Fencing of these areas shall be delineated on the grading plan if required by the City Biologist.
  - g. Private storm drain systems shall be shown on the grading plan. Systems greater than 12-inch diameter shall also have a plan and profile for the system included with the grading plan.

h. Public storm drain modifications shown on the grading plan shall be approved by the Public Works Department prior to the issuance of the grading permit.

50. A digital drawing (AutoCAD) of the project’s private storm drain system, public storm drain system within 250 feet of the property limits, and post-construction BMP’s shall be submitted to the Public Works Department prior to the issuance of grading or building permits. The digital drawing shall adequately show all storm drain lines, inlets, outlet, post-construction BMP’s and other applicable facilities. The digital drawing shall also show the subject property, public or private street, and any drainage easements.
51. The applicant shall label all City/County storm drain inlets within 250 feet from each property line per the City of Malibu’s standard label template. A note shall be placed on the project plans that address this condition.
52. A Storm Water Pollution Prevention Plan shall be provided prior to the issuance of the Grading/Building permits for the project. This plan shall include an Erosion and Sediment Control Plan (ESCP) that includes, but not limited to:

Erosion Controls	Hydraulic Mulch
	Hydroseeding
	Soil Binders
	Straw Mulch
	Geotextiles and Mats
	Wood Mulching
Sediment Controls	Fiber Rolls
	Gravel Bag Berm
	Street Sweeping and/ or Vacuum
	Storm Drain Inlet Protection
	Scheduling
	Check Dam
Additional Controls	Wind Erosion Controls
	Stabilized Construction Entrance/ Exit
	Stabilized Construction Roadway
	Entrance/ Exit Tire Wash
Non-Stormwater Management	Vehicle and Equipment Washing
	Vehicle and Equipment Fueling
Waste Management	Vehicle and Equipment Maintenance
	Material Delivery and Storage
	Spill Prevention and Control

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

53. Prior to the approval of any permits and prior to the applicant submitting the required Construction General Permit documents to the State Water Quality Control Board, the applicant shall submit to the Public Works Department for review and approval an Erosion and Sediment Control Plan (ESCP). The ESCP shall contain appropriate site-specific construction site BMPs and developed and certified by a Qualified SWPPP Developer (QWD). All structural BMPs must be designed by a licensed California Engineer. The ESCP must address the following elements:
- a. Methods to minimize the footprint of the disturbed area and to prevent soil compaction outside the disturbed area.
  - b. Methods used to protect native vegetation and trees.
  - c. Sediment/Erosion Control.
  - d. Controls to prevent tracking on and off the site.
  - e. Non-storm water controls.
  - f. Material management (delivery and storage).
  - g. Spill Prevention and Control.
  - h. Waste Management
  - i. Identification of site Risk Level as identified per the requirements in Appendix 1 of the Construction General Permit.
  - j. Landowner must sign the following statement on the ESCP:

“I certify that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to ensure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering the information, to the best of my knowledge and belief, the information submitted is true, accurate and complete. I am aware that submitting false and/or inaccurate information, failing to update the ESCP to reflect current conditions, or failing to properly and/or adequately implement the ESCP may result in revocation of grand and/or other permits or other sanctions provided by law.”

54. 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 permits.
55. A Storm Water Management Plan (SWMP) is required for this project. Storm drainage improvements are required to mitigate increased runoff generated by property development. The applicant shall have the choice of one method specified within the City’s Local Implementation Plan Section 17.3.2.B.2. The SWMP shall be supported by a hydrology and hydraulic study that identifies all areas contributory to the property and an analysis of the predevelopment and post development drainage of the site. The SWMP shall identify the Site design and Source control Best Management Practices (BMP’s) that have been implemented in the design of the project (See LIP Chapter 17 Appendix A). The SWMP shall be reviewed and approved by the Public Works Department prior to the issuance of the grading permits for this project.

56. A Water Quality Mitigation Plan (WQMP) is required for this project. The WQMP shall be supported by a hydrology and hydraulic study that identifies all areas contributory to the property and an analysis of the predevelopment and post development drainage of the site. The WQMP shall meet all the requirements of the City's current Municipal Separate Stormwater Sewer System (MS4) permit. The following elements shall be included within the WQMP:
- a. Site Design Best Management Practices (BMP's)
  - b. Source Control BMP's
  - c. Treatment Control BMP's that retains on-site the Stormwater Quality Design Volume (SWQDv). Or where it is technical infeasible to retain on-site, the project must biofiltrate 1.5 times the SWQDv that is not retained on-site.
  - d. Drainage Improvements
  - e. A plan for the maintenance and monitoring of the proposed treatment BMP's for the expected life of the structure.
  - f. 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.
  - g. The WQMP shall be submitted to Public Works and the fee applicable at time of submittal for the review of the WQMP shall be paid prior to the start of the technical review. The WQMP shall be approved prior to the Public Works Department's approval of the grading and drainage plan. The Public Works Department will tentatively approve the plan and will keep a copy until the completion of the project. Once the project is completed, the applicant shall verify the installation of the BMP's, make any revisions to the WQMP, and resubmit to the Public Works Department for approval. The original signed and notarized document shall be recorded with the County Recorder. A certified copy of the WQMP shall be submitted to the Public Works Department prior to the certificate of occupancy.
57. This project is located within Phase 1 of the State Water Board's septic prohibition zone. The project will be required to connect into the City's sewer system. Final occupancy for this project will not be issued until the Civic Center Wastewater Treatment Facility and the sewer collection infrastructure is completed, operational, and all on-site sewer connections to the new sewer laterals are completed.
58. All on-site sanitary sewer mains and appurtenances shall be a private sewer system, owned and maintained by the property owner. Connection to the City sewer system shall be made at existing sewer laterals. Point of connection to the City sewer system shall be made only to existing sewer laterals or sewer mains as approved by the Public Works Department. If a new sewer lateral is required, the applicant shall prepare improvement plans designed by a Registered Civil Engineer and pay the associated new sewer lateral connection fees. The new sewer lateral shall be constructed in accordance with APWA Standard Plan 222-1. When new sewer laterals are to be connected to an existing sewer main, the contractor shall call for such protections as is necessary to prevent construction debris from being washed into the active sewers.
59. Prior to the issuance of any permits, the applicant shall pay a sewer connection fee to the Public Works Department. All sewer connection plans shall be made on the Public Works Department standard drawing template.

60. There shall be no trees planted within 10 feet of any sewer lateral.
61. All new sewer infrastructures shall be isolated with a physical barrier until the Public Works Department approves the new system, the Civic Center Wastewater Treatment Facility is completed and operational, and the development is ready for actual occupancy.
62. Proposed improvements are located within the Special Flood Hazard Area (SFHA). An Elevation Certificate based on construction drawings is required for any building located within the SFHA. A survey map shall be attached to this certificate showing the location of the proposed building in relation to the property lines and to the street center line. The survey map shall delineate the boundary of the SFHA zone(s) based on the FIRM flood maps in effect and provide the information for the benchmark utilized, the vertical datum, and any datum conversion. A post construction Elevation Certificate will be required to certify building elevations, when the construction is complete, and shall be provided to the Public Works Department prior to final approval of the construction.
63. The developer's consulting engineer shall sign the final plans prior to the issuance of permits.
64. For any decorative water feature, the discharge of swimming pool, spa and decorative fountain water and filter backwash, including water containing bacteria, detergents, wastes, alagecides or other chemicals is prohibited. Swimming pool, spa, and decorative fountain water may be used as landscape irrigation only if the following items are met:
  - a. The discharge water is dechlorinated, debrominated or if the water is disinfected using ozonation;
  - b. There are sufficient BMPs in place to prevent soil erosion; and
  - c. The discharge does not reach into the MS4 or to the ASBS (including tributaries)

Discharges not meeting the above-mentioned methods must be trucked to a Publicly Owned Wastewater Treatment Works.

65. The applicant shall also provide a construction note on the plans for the water feature that directs the contractor to install a new sign stating "**It is illegal to discharge pool, spa or water feature waters to a street, drainage course or storm drain per MMC 13.04.060(D)(5).**" The new sign shall be posted in the filtration and/or pumping equipment area for the property. Prior to the issuance of any permits, the applicant shall indicate the method of disinfection and the method of discharging.
66. Pursuant to MMC Section 9.20.040(B), all ponds, decorative fountains shall require a water recirculating/recycling system.
67. All commercial developments shall be designed to control the runoff of pollutants from structures, parking and loading docks. The following minimum measures shall be implemented to minimize the impacts of commercial developments on water quality and shall be shown on the grading plans:

- a. Proper design of Loading and unloading docks.
  - i. Cover loading/unloading dock areas or design drainage to minimize run-on and runoff of storm water
  - ii. Direct connections to storm drains from depressed loading/unloading docks are prohibited.
- b. Properly Design Vehicle/Equipment Wash Areas
  - i. Self-contained and/or covered wash areas shall be equipped with a clarifier or other pretreatment facility and properly connected to a sanitary sewer.
- c. Properly designed Parking lots (5,000 square feet of impervious surface or 25 parking spaces.)
  - i. Minimize impervious surfacing for parking area.
  - ii. Infiltrate runoff before it reaches a storm drain system.
  - iii. Treat to remove oil and petroleum hydrocarbons at parking lots that are heavily used.
  - iv. Ensure adequate operation and maintenance of treatment systems particularly sludge and oil removal and system fouling and plugging prevention control.
- d. RESTAURANTS – Properly design Equipment/accessory wash areas
  - i. Install self-contained wash area, equipped with grease trap, and properly connected to Sanitary Sewer.
  - ii. If the Wash area is located outdoors, it must be covered, paved, the area must have secondary containment and it shall be connected to the sanitary sewer.
- e. TRASH STORAGE AREAS
  - i. Trash container areas must have drainage from adjoining roofs and pavement diverted around the area.
  - ii. Trash container areas must be screened or walled to prevent off-site transport of trash.
- f. OUTDOOR MATERIAL STORAGE
  - i. Materials with the potential to contaminate storm water must be: (1) placed in an enclosure such as a cabinet, shed, or similar structure that prevents contact with runoff or spillage to the storm water conveyance system; or (2) protected by secondary containment structures such as berms, dikes or curbs.
  - ii. The storage areas must be paved and sufficiently impervious to contain leaks and spills.
  - iii. The storage area must have a roof or awning to minimize collection of storm water within the secondary containment area.

*Fencing and Walls*

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

*Fire Safety*

69. The project requires LACFD approval of a Final Fuel Modification Plan prior to the issuance of grading or building permits.
70. The project requires LACFD plan review and approval of all proposed fire water service improvements and prior to construction. The improvements shall be designed and constructed in accordance with the water service and fire access plan review requirements provided by the LACFD.

*Water Service*

71. As a condition of receiving water service from WD 29, the College shall install at its own expense any required water system facilities necessary to meet the requirements of the County/City Engineer and the County Fire Chief. The College will also be required to pay appropriate connection fees, including meter fees, capital and local improvement charges, and financially participate in the Civic Center Infrastructure Improvement Project prior to approval of water plans, start of construction and installation of any additional permanent water service.

*MMRP*

72. The MMRP of the Final EIR is hereby incorporated as Exhibit A to this resolution.

*Deed Restrictions*

73. The property owner is required to execute and record a deed restriction which shall indemnify and hold harmless the City, its officers, agents, and employees against any and all claims, demands, damages, costs and expenses of liability arising out of the acquisition, design, construction, operation, maintenance, existence or failure of the permitted project in an area where an extraordinary potential for damage or destruction from wildfire exists as an inherent risk to life and property. The property owner shall provide a copy of the recorded document to Planning department staff prior to beginning construction.
74. The applicant shall be required to execute and record a deed restriction reflecting the *Lighting* conditions set forth above. The property owner shall provide a copy of the recorded document to Planning department staff prior to beginning construction.
75. Pursuant to MMC Section 17.66.100(A), no conditional use permit (this resolution) shall be effective for any purpose until the applicant executes an affidavit provided by the city declaring that the applicant is aware of and accepts any conditions that have been imposed upon the permit, and records the affidavit with the county recorder.

*Prior to the Issuance of Certificate of Occupancy*

76. Prior to issuance of a certificate of occupancy, the City Biologist shall inspect the project to determine that all Planning conditions to protect natural resources are in compliance with the approved plans.

77. Prior to issuance of a certificate of occupancy, the applicant shall request a final Planning inspection for verification of compliance with all conditions of approval of this resolution.
78. Prior to the issuance of a certificate of occupancy, the applicant shall demonstrate to the satisfaction of the Planning Director the project meets the equivalency of Silver LEED certification.

*Emergency Communication and Service Facilities Conditions*

79. All antennas shall meet the minimum siting distances to habitable structures required for compliance with the FCC regulations and standards governing the environmental effects of radio frequency emissions.
80. All antennas shall be located so that any person walking adjacent to the transmitting surface of the antennas will be walking on a grade, which is a minimum of eight and one-half feet below the transmitting surface.
81. All antennas, equipment, and support structures shall be designed to prevent unauthorized climbing.
82. The emergency communication and service facility shall be erected, operated, and maintained in compliance with the general requirements set forth in MMC Section 17.46.060 and most restrictive design criteria set forth in MMC Section 17.46.070.
83. The antenna and electrical support equipment shall, at all times, be operated in a manner that conforms to the applicable federal health and safety standards.
84. The emergency communication and service facility, included associated equipment, shall not emit a noise greater than fifty (50) decibels (dB) as measured from the base of the facility and may not be plainly audible within 10 feet of any residence.
85. The co-location of wireless telecommunications facilities pursuant to MMC Section 17.46.090 shall be required whenever feasible.
86. An operation technician is required to conduct regular quarterly maintenance visits to verify that the emergency communication and service facility remains in compliance with the conditions of approval and safety requirements.
87. Colors and materials of the proposed tower, including equipment and antennas attached thereto, shall be non-reflective and chosen to minimize visual impact to the greatest extent feasible.
88. All improvements, including foundations, and appurtenant ground wires, shall be removed from the property and the site restored to its original pre-installation conditions within 90 days of cessation of operation or abandonment of the facility.
89. Within thirty (30) calendar days following the installation of emergency communication and service facility, the applicant/property owner shall provide to the Planning Department a field



report prepared by a qualified engineer verifying that the unit has been inspected, tested, and is operating in compliance with FCC standards. Such documentation shall include the make and model (or other identifying information) of the unit tested, the date and time of the inspection, and a certification that the unit is properly installed and working within applicable FCC standards.

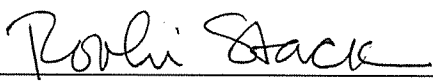
*Fixed Conditions*

90. This coastal development permit shall run with the land and bind all future owners of the property.
91. A conditional use permit that is valid and in effect, and was granted pursuant to the provisions of the MMC, shall run with the land and continue to be valid upon change of ownership of the land or lawfully existing structure.
92. The conditions under which this conditional use permit was approved may be modified by the City without the consent of the property owner, tenant or operator if the Planning Commission finds that the use is creating a nuisance.
93. If it has cause to believe that grounds for revocation or modification may exist, the Planning Commission shall hold a public hearing upon the question of modification or revocation of this conditional use permit pursuant to MMC Section 17.66.100(C). The conditional use permit may be revoked if the Planning Commission finds that one or more of the following conditions exists:
  - a. The conditional use permit was obtained in a fraudulent manner.
  - b. The use for which the conditional use permit was granted has ceased or was suspended for at least six successive calendar months from date operation of the use commenced.
  - c. One or more of the conditions found within this resolution have not been substantially met.
94. Violation of any of the conditions of this approval may be cause for revocation of this permit and termination of all rights granted there under.

Section 10. Certification.

The Planning Commission shall certify the adoption of this Resolution.

PASSED, APPROVED AND ADOPTED this 29<sup>th</sup> day of February 2016.

  
\_\_\_\_\_  
ROOHI STACK, Planning Commission Chair

ATTEST:

  
\_\_\_\_\_  
KATHLEEN STECKO, Recording Secretary

LOCAL APPEAL - A decision of the Planning Commission may be appealed to the City Council by an aggrieved person by written statement setting forth the grounds for appeal. An appeal shall be filed with the City Clerk within 10 days and shall be accompanied by an appeal form and proper appeal fee. The appellant shall pay fees as specified in the Council adopted fee resolution in effect at the time of the appeal. Appeal forms and fee schedule may be found online at [www.malibucity.org](http://www.malibucity.org), in person at City Hall, or by calling (310) 456-2489, extension 245.

COASTAL COMMISSION APPEAL - 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](http://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.

I CERTIFY THAT THE FOREGOING RESOLUTION NO. 16-30 was passed and adopted by the Planning Commission of the City of Malibu at the regular meeting thereof held on the 29<sup>th</sup> day of February 2016, by the following vote:

AYES:	3	Commissioners:	Brotman, Pierson, Stack
NOES:	2	Commissioners:	Jennings, Mazza
ABSTAIN:	0		
ABSENT:	0		

  
\_\_\_\_\_  
KATHLEEN STECKO, Recording Secretary

**RESOLUTION NO. 16-13**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MALIBU APPROVING AN INCREASE IN FLOOR AREA RATIO FROM 0.15 TO 0.20 FOR THE SIGNIFICANT PUBLIC BENEFITS PROVIDED BY THE PROJECT CONDITIONALLY APPROVED BY COASTAL DEVELOPMENT PERMIT NO. 13-056, VARIANCE NOS. 13-045, 14-034, AND 14-035, CONDITIONAL USE PERMIT NO. 13-011, AND DEMOLITION PERMIT NO. 13-028 FOR DEMOLITION OF THE EXISTING 16,603 SQUARE FOOT BUILDING, 7,279 SQUARE FOOT BASEMENT, AND A PORTION OF THE EXISTING ARCADE, AND CONSTRUCTION OF A NEW TWO-STORY, 35 FOOT, 10 INCH HIGH, 25,310 SQUARE FOOT EDUCATIONAL FACILITY THAT INCLUDES A 5,640 SQUARE FOOT SHERIFF SUBSTATION, FOR A PROPOSED FLOOR AREA RATIO OF 0.20, RECONSTRUCTION OF THE PARKING AREA, HARDSCAPE AND LANDSCAPING, GRADING AND RETAINING WALLS, LIGHTING AND UTILITIES, AND RELOCATION AND REPLACEMENT OF THE EXISTING 70 FOOT HIGH COMMUNICATION TOWER WITH A 75 FOOT HIGH COMMUNICATION TOWER, ON THE WESTERLY 2.94 ACRE LEASE AREA WITHIN THE 9.18 ACRE LOS ANGELES COUNTY CIVIC CENTER PARCEL; INCLUDING A CONDITIONAL USE PERMIT FOR AN EDUCATIONAL FACILITY USE IN THE INSTITUTIONAL ZONING DISTRICT LOCATED AT 23525 CIVIC CENTER WAY

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

SECTION 1. Recitals.

A. On May 17, 2012, pursuant to the California Environmental Quality Act (CEQA), the Santa Monica College (SMC) Board of Trustees (Board), as the lead agency, initiated the SMC Malibu Campus Project Environmental Impact Report (EIR). On January 13, 2016, the Board certified the EIR, adopted a Statement of Overriding and a Mitigation Monitoring and Reporting Program, and approved the Santa Monica College Malibu Campus Project.

B. On November 14, 2013, the Santa Monica Community College District submitted an application for Coastal Development Permit No. 13-056 and associated entitlements for the SMC Malibu Campus Project. The application was routed for review to the City Biologist, City Geotechnical staff, City Public Works Department, the Los Angeles County Fire Department, and Waterworks District No. 29 for Local Coastal Program (LCP) and Malibu Municipal Code (MMC) conformance review.

C. On February 4, 2016, a Notice of Special Planning Commission Public Hearing was published in a newspaper of general circulation within the City of Malibu and was mailed to all property owners and occupants within a 500-foot radius of the subject property and to interested parties, regional, state and federal agencies.

D. On February 29, 2016, the Planning Commission held a duly noticed public hearing, reviewed and considered the agenda report, reviewed and considered written reports, public testimony, and other information in the record, and adopted Planning Commission Resolution No. 16-30 adopting the SMC Malibu Campus Final EIR, Statement of Overriding Considerations, Mitigation Monitoring and Reporting Program, Findings of Fact, and approving the SMC Malibu Campus Project entitlements including Coastal Development Permit 13-056, Variance Nos. 13-045, 14-034, 14-035, Conditional Use Permit No. 13-011, and Demolition Permit No. 13-028 contingent upon the City Council approving an increased floor area ratio (FAR).

E. The subject property is located in the Institutional zoning district which accommodates public and quasi-public uses and facilities in the City.

F. The project provides public and quasi-public uses as follows:

1. A public community college facility which will provide educational services to the local community, consisting of:
  - i. A 19,670 square foot educational facility,
  - ii. 210 full time equivalent students and 12 faculty and staff members,
  - iii. 5 classrooms, lecture hall, student lounge and office, and
  - iv. Hours: 6 a.m. to 11 p.m. Monday through Friday.
2. A Los Angeles County Sheriff substation consisting of:
  - i. A 5,640 square foot sheriff substation, and
  - ii. Hours: 24-hours, 7 days a week.
3. An improved emergency communication tower;
4. An interpretive center to support Malibu's Legacy Park and/or other programs to highlight Malibu's unique coastal environment and cultural history; and
5. A multi-purpose room which will be available for public use for community meetings; and operational as necessary as an emergency operations center.

G. The gross floor area of all buildings on a given parcel shall be limited to a maximum FAR of 0.15, or 15 percent of the lot area (excluding slopes equal to or greater than 1:1 and street easements). Additional gross floor area may be approved by the City Council, up to the maximum allowed for the parcel under the Malibu LCP Land Use Plan, where additional significant public benefits and amenities are provided as part of the project.

H. The Land Use Plan provides that the FAR may be increased to a maximum of 0.20 where additional significant public benefits and amenities are provided as part of the project.

I. On March 17, 2016, a Notice of City Council Public Hearing to consider the floor area ratio for SMC Malibu Campus project was published in a newspaper of general circulation within the City and was mailed to all property owners and occupants within a 500-foot radius of the subject property.

SECTION 2. Environmental Review.

Acting as lead agency in accordance with CEQA and CEQA Guidelines Section 15051, on January 13, 2016, the Board, at a special meeting, certified the Final EIR and adopted a Statement of Overriding Considerations, and a Mitigation Monitoring and Reporting Program for the SMC Malibu Campus project (State Clearinghouse # 2012051052).

The Final EIR identified potential significant environmental impacts that would result from the project. The Board adopted mitigation measures to reduce the most potentially-significant impacts to a less-than-significant level as part of a Mitigation Monitoring and Reporting Program, with the project EIR certification. The EIR identified significant and unavoidable impacts with respect to Noise (Construction). Pursuant to CEQA Section 21081(b) and CEQA Guidelines Section 15093, the Board weighed the benefits of the proposed project, including the specific economic, legal, social, and technological benefits, against the unavoidable construction noise impacts and determined that the identified benefits outweigh the unavoidable impacts. Accordingly, a SOC was adopted by the Board as part of the Final EIR. Pursuant to CEQA Guidelines Sections 15082 and 15096, the Board acting as lead agency for the proposed project consulted with responsible agencies throughout the preparation of the EIR, including the City.

The City has permitting jurisdiction under the Coastal Act for this project and the Board applied for Coastal Development Permit No. 13-056, Conditional Use Permit No. 13-011, and associated entitlements in accordance with the required rules. Accordingly, the City is a responsible agency under CEQA. The Planning Commission reviewed and considered the Final EIR, a Statement of Overriding Considerations, a Mitigation Monitoring and Reporting Program, and Findings of Fact prior to acting upon and conditionally approving the project. The Planning Commission also reviewed each of the mitigation measures and alternatives identified in the EIR prepared by the Board. A responsible agency has limited role under CEQA. A responsible agency has responsibility for mitigating or avoiding only the direct or indirect environmental effects of those parts of the project which it decides to approve. The Planning Commission has exercised its independent judgment in evaluating the mitigation measures and imposed conditions that mitigate the effects of the project within the City's jurisdiction.

SECTION 3. City Council Findings.

Based upon substantial evidence in the record, including all written and oral testimony, the City Council approves an increase in FAR to 0.20 for the SMC Malibu Campus project approved by Coastal Development Permit No. 13-056, Variance Nos. 13-045, 14-034, and 14-035, Conditional Use Permit No. 13-011, and Demolition Permit No. 13-028 in the Institutional zoning district located at 23525 Civic Center Way based on the following findings that additional significant public benefits and amenities are provided as part of the project:

1. The public community college facility will meet the educational needs for emeritus and community college classes in the Malibu community consistent with the purposes of the land use designation and the Santa Monica College Facilities Master Plan for Education (2004 Update) goals and policies with respect to acquiring, planning, developing, and maintaining facilities and equipment to provide the best possible educational environment and promote the use of sustainable resources.
2. The proposed use is consistent with the goals, objectives, policies, and general land uses of the General Plan and the LCP. The proposed college is located in an area designated by the General Plan Land Use Map, the Zoning Map and Land Use Map as Institutional. As an educational facility and Sheriff Substation, the project will complement the other public and quasi-public uses existing on the site and in the vicinity, including the newly renovated public library, County government offices, Legacy Park and City Hall. The proposed college facility will revitalize the integrity and character of the Institutional zoning district by replacing a longstanding vacant and abandoned building with a vibrant college that will reactivate the underutilized portions of the Civic Center.
3. The SMC main campus is located in the City of Santa Monica, approximately 15 miles away from its proposed location in the Malibu Civic Center and can involve travel times of an hour in typical traffic conditions. Many residents that might benefit from classes offered at SMC are discouraged from taking advantage of the opportunity due to the distance and travel time. There are currently no such advanced education programs in Malibu. Pepperdine University is a private university that is adjacent to the City, but it does not offer the same types of affordable educational and continuing educational programs as SMC.
4. SMC offers many types of educational programs, including those that lead to associate degrees and certificates, and offers many community benefits, including affordability, convenience accessibility, and availability to all types of students. The community is also provided with a community college that is regarded as among the best community colleges in the state, with a very high transfer rate to four-year colleges. Communities are benefitted by the presence of such programs because of the open-door policy at community colleges, which gives students who may not qualify for, or commit to the schedule of full-time, four-year universities an opportunity to continue their education in a small and diverse learning environment. High school students can take college preparatory courses, and residents can find instruction in the arts or acquire more skills without the expense of obtaining another degree.
5. The Los Angeles County Sheriff Substation will provide enhanced local services, by providing local support staffing for police services 24-hours, 7 days a week, and improving efficiency of operation by locating facilities locally within Malibu, such as administrative staff, holding cells and public assistance, that otherwise are located in the Lost Hills station, approximately 17 miles away from its proposed location in the Malibu Civic Center.

6. An improved emergency communication tower is an important component to the Sheriff's Substation and critical to the City of Malibu for providing public safety communication radio coverage for the County's first responders. It has been designed to support the addition of new safety and communication equipment throughout the monopole's lifetime, which prolongs the tower's operational timeframe and prevents overcrowding of equipment on a single pole.

7. The project provides opportunities for an interpretive center to support Legacy Park and/or other programs to highlight Malibu's unique coastal environment and cultural history that do not currently exist in the Civic Center. Portions of the Civic Center proximate to the project contain important Chumash cultural sites, as well as other important community features, such as the Santa Monica Mountains, Malibu Creek State Park and Surfrider Beach.

8. The project's multi-purpose room will be available for public use for community meetings. The multi-purpose room will benefit the community during emergencies because it will convert to an emergency operations center that can be staffed by emergency service providers as a hub for coordination of emergency response.

SECTION 4. City Council Action.

Based on the record as a whole, the City Council does hereby approve the increase in FAR to 0.20, for the SMC Malibu Campus project adopted in Planning Commission Resolution No. 16-30 which approved Coastal Development Permit No. 13-056, Variance Nos. 13-045, 14-034, and 14-035, Conditional Use Permit No. 13-011, and Demolition Permit No. 13-028.

Resolution No. 16-13  
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**SECTION 5.** 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 11<sup>th</sup> day of April 2016.

LAURA ROSENTHAL, Mayor

**ATTEST:**

LISA POPE, City Clerk  
(seal)

APPROVED AS TO FORM:

  
CHRISTI HOGIN, City Attorney

Any action challenging the final decision of the City made as a result of the public hearing on this application must be filed within the time limits set forth in Section 1.12.010 of the 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.

ATTEST:

LISA POPE

APPROVED:

CHRISTI HOGIN

City Attorney

City of Malibu

City Clerk

APPROVED:

LAURA ROSENTHAL