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16, 17, 18, 19, 20

# EXHIBIT

# 15

City of Malibu Resolution 08-44

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MALIBU DETERMINING THAT THE "MALIBU PARKS PUBLIC ACCESS ENHANCEMENT PLAN OVERLAY DISTRICT" IS NOT ELIGIBLE FOR AN LCP OVERRIDE UNDER PUBLIC RESOURCES CODE §30515, REAFFIRMING THE LCP AMENDMENT PENDING CERTIFICATION (MAJ-3-07) WHICH REPRESENTS THE CITY'S MODIFIED/CONDITIONAL APPROVAL OF THE LCP AMENDMENTS ASSOCIATED WITH IMPLEMENTATION OF THE "ENHANCEMENT PLAN," AND MAKING CERTAIN FINDINGS

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

Section 1. Recitals.

- A. On May 19, 2008, the City received a letter from the Coastal Commission staff indicting that the Santa Monica Mountains Conservancy (SMCC) and Mountains Recreation and Conservation Authority (MRCA) (together the Conservancy) submitted an application to override the City's Local Coastal Program (LCP) pursuant to Public Resources Code section 30515 and purporting to have determined that the Conservancy's comprehensive plan entitled "Malibu Parks Public Access Enhancement Plan Overlay District" (the Enhancement Plan) was eligible for an LCP override.
- B. Previously, on April 23, 2007, the Conservancy applied to the City for an LCP amendment proposing approval of the Enhancement Plan. The LCP amendment proposed to amend the LCP to incorporate a "Malibu Parks Public Access Enhancement Overlay" (the "Overlay"), which focuses on inland parks within the Malibu coastal area. The Overlay includes Charmlee Park, which is owned and maintained by the City of Malibu, and recreational land located between the Zuma and Trancas Canyon units of the Santa Monica Mountains National Recreation Area, owned and maintained by the National Park Service, extending to Corral Canyon Park, which is owned by the SMMC and maintained by the MRCA.
- C. The proposed Overlay provides policies and implementation actions to complete trail connections for the Coastal Slope Trail and other connector trails through the Overlay area, which include trail connections from Zuma/Trancas Canyons to Ramirez Canyon Park and Escondido Canyon Park, through Solstice Canyon Park, and finally to Corral Canyon Park. The Overlay provides methods for establishing trail connections and filling "missing links" of the Coastal Slope Trail and connector trails and to ensure adjacent lands are protected as natural and scenic areas to enhance the recreational experience of trail corridors.
- D. The Overlay identifies specific public access, recreational facility, and program improvements for parks in the Overlay district area. The proposed improvements generally include parking, and trail improvements to support existing recreational demand within the park properties and to facilitate an increased level of accessibility for visitors with disabilities, including fully accessible overnight camping in Ramirez Park. The Overlay also addresses opportunities for creek restoration, and park administrative and public program uses at Ramirez Canyon Park that were previously the subject of a coastal development permit.

- E. Following an extensive public review process which met and exceeded the requirements of chapter 19, the City approved a modified LCP amendment and on December 28, 2007, submitted a complete application to the Coastal Commission for certification. On March 5, 2008, the Coastal Commission extended for one year its time to act on the certification.
- F. On July 3, 2008, a Notice of Public Hearing was published in a newspaper of general circulation within the City of Malibu. In addition, on July 3, 2008, a Notice of Public Hearing was mailed to all interested parties; regional, state and federal agencies affected by the amendment; local libraries and media; and the California Coastal Commission.
- G. The Coastal Act provides that a city considers a request for LCP amendment in connection with a public works project qualifying under Public Resources Code section 30515 in the same manner as the certified LCP otherwise provides for such consideration. The Coastal Commission's May 15, 2008 letter and the Commission Regulations expand the authority and impose additional limitation, including a 90-day time limit to consider the proposal. However, the City is unable to undertake the complete public process provided in the LCP for the lengthy Enhancement Plan and its multitude of proposed revisions to the City's LUP and LIP.
- H. The Conservancy has not submitted a complete application for an LCP amendment for the Enhancement Plan, has not paid the application fees, and has failed to comply with CEQA and provide the City the information necessary to evaluate the potential significant individual and cumulative impacts of the proposed Enhancement Plan.
- I. On July 14, 2008, the City Council held a noticed public hearing, reviewed and considered written reports, public testimony, and related information, and deliberated with respect to the proposed application for an override of the City's LCP for the Conservancy's Enhancement Plan.

## Section 2. Factual Findings and Reasoning

- A. The Conservancy is not a person entitled to undertake public works projects or proposing an Energy facility within the meaning of Public Resources Code section 30515. The City Council hereby adopts the facts, reasoning and analysis of authorities with respect to the limitation of the Conservancy's authority set forth in the council agenda report prepared by staff for the hearing on the proposed LCP amendment override (Staff Report).
- B. The Enhancement Plan is a comprehensive long-range plan, proposing policies and development standards that are intended to apply to future projects. The LCP override provisions in Public Resources Code section 30515 and in the Commission's regulations at 14 California Code of Regulations section 13666, et seq., apply only to qualifying public works *projects*, not plans. The City Council hereby adopts the facts, reasoning and analysis of authorities with respect to the characterization of the Enhancement Plan as a plan and not a public works project as set forth in the City Attorney's letter to John Ainsworth dated June 23, 2008 and the Staff Report. The City Council finds that the Enhancement Plan does not constitute "development" within the meaning of Public Resources Code section 30515.
- C. The Conservancy's planning history demonstrates that it anticipated this plan at the time the

Malibu LCP was before the Commission for certification. In fact, the evidence shows that it has anticipated this development for many years. The City Council hereby adopts the facts, reasoning and analysis of authorities with respect to the Conservancy's prior planning activities and its anticipation of the plan at the time the local coastal program was before the Commission for certification as set forth in the City Attorney's letter to John Ainsworth dated June 23, 2008 and the Staff Report.

D. It is unfair to the public to truncate the public review process. The public review process required by the Coastal Act are intended to foster public participation and structure the deliberations of public officials on important matters. Twisting an LCP amendment application into a "public works project" (and after it underwent a false start in the guise of a public works plan) turns the public participation component of the Coastal Act into a game. Each iteration has been slightly different, in some respects significantly so, but always presented amidst hundreds of pages of rhetoric and drawings, frustrating even the most vigilant of public participants. As detailed in the City's pending certification request for its LCP amendment (MAJ-3-07) and in the City Attorney's June 23 letter, the City scrupulously followed the public hearing process for consideration and adoption of an LCP amendment pursuant to the application of the Conservancy and relating to the policies and implementation measures that will govern the Conservancy's long range plans for its holdings in Malibu. The next step in that process is for the Commission to hold a public hearing to consider the certification of the LCP amendment that resulted from that process. The public and the City have a right to expect that the certification process will follow the procedures established in the Coastal Act. The City Council hereby adopts the facts, reasoning and analysis of the procedural irregularities, due process and fair hearing concerns as set forth in the City Attorney's letter to John Ainsworth dated June 23, 2008 and the Staff Report.

E. As demonstrated by the comparison prepared by the Conservancy's consultant, the LCP amendment override request concerns many but not all of the amendments proposed in the amendment proposed for certification (MAJ-3-07). The Conservancy's override proposal is in some ways the opposite of the pending LCP amendment and in some ways opposite of the current LCP. As a result, the arbitrary 90-day limitation for processing the Enhancement Plan amendment effectively precludes careful consideration. The Commission itself afforded itself an additional year (for a total of 15 months) to consider the proposal of similar scope presented as an LCP amendment.

F. The City Council further finds and reasons that the Coastal Act does not provide for the override of uncertified amendments.

G. The record contains no evidence to suggest a public need within the meaning of Public Resources Code section 50515. The City Council agrees that trail improvements and park facility upgrades are desirable. In fact the City has worked closely with the Conservancy on the City's master trails plan and has approved an LCP amendment which includes such desirable policies and implementation measures. However, these desirable outcomes do not raise to the level of "public need" sufficient to usurp the City's authorities under the Coastal Act and recognized by the courts to determine the precise content of the City's local coastal program. The City Council hereby adopts the facts, reasoning and analysis of authorities relating to the Conservancy's failure to establish facts that constitute a public need addressed by the Enhancement Plan as set forth in the Staff Report. Accordingly, the City Council finds that the Enhancement Plan does not proposed development that "meets a public need."

H. The City Council hereby finds that the Conservancy has failed to provide sufficient information to determine whether the Enhancement Plan will have significant adverse environmental impacts, what reasonable alternatives have been examined and whether there are mitigation measures which would eliminate or reduce to a level of insignificance any such impacts. The Conservancy has not provided a factual basis and the record does not support a finding that the Enhancement Plan will have no significant impact. The Enhancement Plan is primarily proposing future projects and standards that deviate from the certified LCP adopted by the Commission with respect to the use and development in ESHA. The City adopts the facts, reasoning and analysis of authorities with respect to CEQA compliance set forth in the City Attorney's June 23, 2008, letter to John Ainsworth.

I. Because no particular public need has been identified that compels the approval of this particular Enhancement Plan and its policies and standards for future projects, there is not evidence, facts, reasoning or authority to support a conclusion that disapproval of the Enhancement Plan *would* adversely affect the public welfare. Certainly, aspects of the Enhancement Plan would benefit the public welfare, as would the certification and implementation of the pending LCP amendment relating to the policies and uses governing the Conservancy's Malibu holdings (MAJ-3-07). However, the City Council finds no basis to conclude the converse – that disapproval would cause harm.

J. The Enhancement Plan encompasses one vision of enumerable ways that public access to the Conservancy's Malibu holdings could be enhanced. The pending LCP amendment (MAJ-3-07) proposes another vision, in many ways similar and in some ways different. The Coastal Act and the courts, including the California Supreme Court, reserve for the City the determination of the precise content of its plan, through amendments post-certification, provided that the amendments are consistent with Chapter Three of the Coastal Act and certified as such by the Coastal Commission. There is no basis to make a finding that the Conservancy's particular desired uses are compelled by public necessity.

### Section 3. Local Coastal Program Amendment Designated MAJ-3-07.

On December 28, 2007, the City submitted to the Coastal Commission for certification Local Coastal Program Amendment MAJ-3-07, which includes amendments to the certified Local Coastal Program Land Use Plan (LUP), Land Use Map, Local Implementation Plan (LIP), described accurately by Commission staff to the Commission in a report dated February 14, 2008, as an amendment "to add land use policies and development standards for and related to a proposed Malibu Parks Public Access Enhancement Overlay District." The City hereby reaffirms its support of the amendment, which underwent the proper public review required by the Coastal Act and addresses a substantially similar subject matter as proposed in the Enhancement Plan, although making different policy choices in certain respects. MAJ-3-07 apparently proposes a modified version of the Enhancement Plan as requested.

### Section 4. LCP Override Determination.

For the reasons and based on the facts set forth herein and the record as a whole, the City Council determines that the Enhancement Plan is not eligible under the LCP override provisions of Public Resources Code section 30515.

Section 5. Submittal to California Coastal Commission.

The City Council hereby directs staff to submit a copy of this Resolution to the California Coastal Commission.

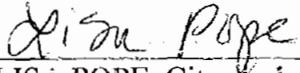
Section 6. Certification.

The City Clerk shall certify the adoption of this Resolution.

PASSED, APPROVED AND ADOPTED this 14<sup>th</sup> day of July, 2008.

  
PAMELA CONLEY ULICH, Mayor

ATTEST:

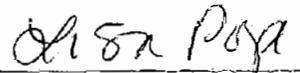
  
LISA POPE, City Clerk  
(seal)

APPROVED AS TO FORM:

  
CHRISTI HUGIN, City Attorney

I CERTIFY THAT THE FOREGOING RESOLUTION NO. 08-44 was passed and adopted by the City Council of the City of Malibu at the regular meeting thereof held on the 14<sup>th</sup> day of July, 2008, by the following vote:

AYES: 5 Councilmembers: Barovsky, Sibert, Wagner, Stern, Conley Ulich  
NOES: 0  
ABSTAIN: 0  
ABSENT: 0

  
LISA POPE, City Clerk  
(seal)

# EXHIBIT

# 16

SMMC letter re: LCP override – July 14, 2008

**SANTA MONICA MOUNTAINS CONSERVANCY**

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July 14, 2008

John Ainsworth  
Deputy Director  
South Central Coast District  
California Coastal Commission  
89 South California Street, Suite 200  
Ventura, California 93001

**Proposed Amendment to City of Malibu Local Coastal Program  
Incorporating Malibu Parks Public Access Enhancement Plan Overlay  
(LCP Amendment No. MAJ-3-07)**

Dear Mr. Ainsworth:

On May 15, 2008, pursuant to the preliminary determination made by Commission Staff, the request of the Santa Monica Mountains Conservancy (Conservancy) and Mountains Recreation and Conservation Authority (MRCA) to amend the City of Malibu Local Coastal Program (LCP) to incorporate the Malibu Parks Public Access Enhancement Plan Overlay (Plan) was submitted to the City. In a letter to you, dated June 23, 2008, Malibu, through its City Attorney, has questioned whether the LCP override procedure in Coastal Act section 30515 and section 13666 of the Commission's regulations applies to the submittal. The letter, unfortunately, spins a contorted, erroneous view of our proposed LCP Amendment, the override procedure, and the documents cited as to whether this detailed, site-specific LCP amendment was anticipated at the time the LCP was certified. We are providing you this letter to set the record straight.

**The Override Process**

The City argues that the LCP amendment override procedure applies only to "a public works project," and does not apply to a "plan," such as the Malibu Parks Public Access Enhancement Plan, which the City then labels as a "Public Works Plan." This confuses terminology and mischaracterizes the LCP amendment.

The LCP override provision, Public Resources Code section 30515, is contained in Chapter 6 of the Coastal Act (commencing with Section 30500), which deals with "Local Coastal Programs" and "Procedure for Preparation, Approval, and Certification of Local Coastal Programs." Section 13666 of the Commission's regulations, in turn, is included in a sub-

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chapter of the regulations entitled “Certified Local Coastal Program (LCP) Amendment of “Override” Procedures.” Try as Malibu might, it would be difficult to read these provisions as contemplating anything other than a local coastal plan amendment.

Section 30515 provides, “[a]ny person authorized to undertake a public work project . . . may request any local government to amend its certified local coastal program” under the circumstances set forth in the Section. (Emphasis added.) Section 13666 of the regulations contains similar language; its procedures “are applicable to persons authorized to undertake a public works project.” (Emphasis added.) Neither provision states, as the City Attorney suggests, that the override provision may be invoked only when the LCP Amendment equates with a specific public works project. The override procedure contemplates an LCP amendment with land use plan policies and implementation provisions to guide subsequent approval of a specific public works project. That, after all, is what an LCP, by definition, is. (Pub. Res. Code § 30108.6.) In fact, our requested LCP amendment, although very detailed and site-specific, involves policy changes (text revisions and additions) and a zone change (the Overlay District). Thus, the LCP amendment lays the policy foundation for future review and approval pursuant to individual coastal developments permits or implementation of proposed Plan improvements pursuant to the public works plan process.

None of this is a mystery to the City. Malibu is fully aware of the fact that our current application pursuant to the override procedure is for a site-specific LCP amendment, not a public works project or a public works plan. Indeed, our submittal requests approval of the proposed Overlay District that the City itself requested the Conservancy to prepare (in conjunction with setting aside the Public Works Plan) when we processed the original LCP amendment with the City last year.

Moreover, the current submittal explains that it is only for an LCP amendment, and that a separate public works plan would follow. Our April 14, 2008 letter to the Executive Director explained that: “The proposed Overlay District will serve to enhance public access and recreational opportunities of regional significance by establishing the framework to implement a variety of public access and education programs, comprehensive trail development, recreation support facility and transportation improvements, improved accessibility for visitors with diverse abilities (e.g., physically and mentally challenged), and a rare opportunity for low-cost and fully accessible overnight camping for specific parklands and trail corridors throughout the City of Malibu.” We further noted: “We have provide some information in this submittal regarding our anticipated public works projects. We

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anticipate later submitting to the Coastal Commission a Malibu Parks Public Access Enhancement Plan and Public Works Plan pursuant to PRC Section 30605, which will more precisely define these proposed public works projects.”<sup>1</sup> (Exh. 1; emphasis added.)

The current LCP amendment itself further explains the differences between the two processes.<sup>2</sup> (LCP Amendment, Standard of Review, p. 2.) The standard of review for the proposed changes to the land use plan of the certified LCP is the Chapter 3 policies of the Coastal Act. Implementation of the Plan improvements, *i.e.*, specific public works projects) will require review and approval pursuant to the coastal development permit (CDP) process. Alternatively, implementation of the proposed Plan improvements may be achieved pursuant to the public works plan process. A public works plan is desirable here because, as the LCP amendment explains, the proposed improvements are located in an area “within two jurisdictions (unincorporated Los Angeles County and the City of Malibu), as well as National Park Service property. The standard of review of a public works plan will be the LCP amendment, once certified, and, as an alternative, it permits processing through the public works plan process instead of processing an undetermined number of coastal development permits in separate jurisdictions to implement specific projects as funds and/or additional trail easements and land purchase opportunities become available.”<sup>3</sup>

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<sup>1</sup> In the course of its convoluted argument, the City suggests that the Conservancy has changed course on its assurance that it would prepare an EIR in connection with the future Public Works Plan. We have previously advised Commission Staff that we do not believe an EIR is legally required for a public works plan under Section 30605 of the Coastal Act. We have, however, committed to prepare that EIR.

<sup>2</sup> The City misrepresents the LCP amendment when it snips portions of the discussion concerning the future public work plan and then asserts that the submittal is actually a public works plan when it clearly is not.

<sup>3</sup> The City’ letter argues that the Public Works Plan previously submitted by the Conservancy is inconsistent with Malibu’s LCP. That PWP included an extensive 50+ page policy consistency analysis with substantive background documentation demonstrating the Plan’s consistency with the certified LCP and the Coastal Act. It bears emphasis that the Conservancy and MRCA never agreed with the City’s argument regarding Plan consistency. However, we did agree to work with the City to prepare and submit the original LCP amendment, but only after the parties negotiated an MOU to process an LCP amendment with the City to address the various trail, camping, public parking, and Ramirez Canyon Park program uses set forth in the original Public Works Plan. As part of the MOU, the City agreed to incorporate Charmlee Park as a limited overnight camp facility in exchange for removing a proposal for camping from Escondido Canyon Park. Contrary to the City’s letter, which indicated that the City “granted SMMC’s proposed LCP amendment in large part,” the Conservancy spent an entire year working in good faith with the City’s LCP amendment process only to have the majority of the proposed LCPA amendment denied in December 2007. The City not only denied the proposed policies and development standards to implement camping at specific park properties, but acted to prohibit all potential public camping opportunities throughout the entire City. The City also denied proposed policies and development standards intended to provide new public parking resources at Escondido Canyon Park and to clarify permitted public program uses at Ramirez Canyon Park.

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The LCP amendment proposed by the Conservancy and MRCA is perfectly appropriate for consideration under the LCP override procedures.

**The LCP Amendment was not anticipated at the time of LCP certification**

The City further argues that the LCP amendment was “anticipated” at the time of LCP certification, and therefore does not meet the requirements of Section 30515. There is no doubt that for years, consistent with their missions, the Conservancy and MRCA have had general ideas regarding proposed park uses and facilities and trail planning. These ideas have been refined and defined at various planning stages. More importantly, the Conservancy’s/MRCA’s LCP amendment takes a new and different approach, geographically and conceptually to all planning efforts prior to LCP certification. The site-specific LCP amendment proposed, in particular, is the direct result of recent, post-LCP certification events that have led to completion of specific trail connections and identification of site-specific public access, recreational facility, and program improvements for specific parks. These were not anticipated at the time the City’s LCP was before the Commission for certification.<sup>4</sup> They include the following:

- The judgment entered in *Ramirez Canyon Preservation Fund v. California Coastal Com.*, Ventura Superior Court Case No. CIV 199846, on September 25, 2005 (appeal abandoned on April 10, 2006), invalidating the coastal development permit for various uses at Ramirez Canyon Park;
- The passage of Proposition 50 and Proposition 84 mandated major new funding for projects located within the coastal watersheds of the Santa Monica Mountains and Santa Monica Bay;
- MRCA purchase and acceptance of open space dedications involving significant acreage in Corral Canyon, in coordination with other organizations;
- MRCA acceptance of numerous trail offers to dedicate (OTDs) within the plan area (approximately 20);
- MRCA acquisition of a parcel just west of Latigo Canyon Road (see Public Parkland Map in the LCP amendment);

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<sup>4</sup> Section 30515 similarly permits an LCP amendment for an energy facility development.” It is worth noting that a power company that proposes such an amendment may know it will need to provide additional power at some point to serve customers’ needs, and is likely to be involved in multiple planning processes to achieve that goal. However, it also may not have a specific development, or public work, project in mind beyond a conceptual project until further study is completed (e.g., regarding the number and location of specific power plants, power lines, and support facilities) and conditions have changed (e.g., easements and/or land have been acquired).

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- The County's offer to surplus land between Kanan Dume Road and Ramirez Canyon Park to the MRCA;
- The Conservancy/MRCA staffs' review and comment on CDP applications before the City and specific trail alignments that have been or currently are being offered as trail OTDs;
- The Conservancy/MRCA's negotiations with private property owners regarding specific alignments of trails on private property;
- The City's proposal to eliminate all camping in all public parks and recreation areas in the City of Malibu (except for limited campsites in Ramirez Canyon Park for disabled individuals); and
- The Conservancy/MRCA's coordination with City, the public and organizations to develop fire guidelines for their public parklands, including specific guidelines for camping in parklands (e.g., cold camping).<sup>5</sup>

The City nonetheless cites to a couple of documents, but none alter the fact that this LCP amendment is detailed and site-specific, and was not anticipated at the time the LCP was certified. The City cites an excerpt from the Santa Monica Mountains Comprehensive Plan (February 1979). The excerpt refers to properties that have no relation to the current LCP amendment, and, more importantly, the Comprehensive Plan did not make any recommendations for the area south of the Arroyo Sequit line (*i.e.*, the present boundary of the City of Malibu). The Comprehensive Plan explains (Exh. 2, at page 7):

The [Santa Monica Mountains Comprehensive Planning] Commission, however, has not made recommendations regarding land use for the immediate Coastal Corridor (generally south of the Rancho Topanga-Malibu Sequit boundary) since it is

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<sup>5</sup> During the hearings on the City's LCP amendment, the City recognized numerous times in public hearings and in its staff reports that camping in the OS Zone does not require a CUP per the certified LCP. The October 9, 2007 Planning Commission staff report, for example, explained at page 38: "All of the parks are zoned Open Space (OS) which permits camping . . . The conditional use permit process (CUP) is not specifically addressed in the LIP and relies on the MCC process for CUPs . . . Staff has suggested a changed from "permitted" to conditionally permitted for camping within ESHA." City staff got it right. The LCP states: "The OS designation provides for publicly owned land which is dedicated to recreation or preservation of the City's natural resources, including public beaches, park lands and preserves. Allowable uses include passive recreation, research and education, nature observation, and recreational and support facilities." In addition, Table 2 Permitted Uses, of the LIP expressly indicates that "camping" is a principal permitted uses in the OS Zone. The City's letter now suggests that despite the LCP, camping is subject to a CUP. The Conservancy and MRCA certainly could never have contemplated at the time the Commission certified the City's LCP that the City would subsequently act to prohibit all camping opportunities throughout the City in response to the Conservancy's request to develop limited camping resources at its public parklands zoned OS, consistent with the certified LCP.

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topographically different from the Mountains. The Commission felt that any detailed recommendations for this area would be redundant in view of the continuing coastal planning process. The Comprehensive Plan identifies the Coastal Corridor for statistical purposes only; it does not represent an attempt to redefine the Coastal Zone, nor does it purport to delineate the extent of coastal resources.

Still further, the Comprehensive Plan was a planning document, and did not propose the specific development projects outlined in the LCP amendment. Although some of the Solstice Creek watershed is proposed to be acquired per the Map 6 Trail System, the trail is a general north-south alignment. None of these elements are part of the LCP amendment.

The City next references the SSMART (Santa Monica Mountains Area Recreational Trail Coordination Project) report published by the National Park Service in 1997. While the Conservancy was involved in this effort to coordinate planning issues in the Santa Monica Mountains, the SSMART report was a conceptual document. The current LCP amendment, however, is the result of more recent developments in the period following LCP certification, notably the fact that the MRCA has accepted many trail OTDs and acquired new land in the Enhancement Plan area, specifically the parcel west of and adjacent to Latigo Canyon Road. For example, although Coastal Slope Trail alignments have been discussed for many years, only recent information and conditions have enabled the Conservancy and MRCA to propose a specific alignment that is feasible both physically and in terms of acquiring viable rights-of-way. Thus, the Conservancy and MRCA are now able to propose a comprehensive site-specific LCP amendment that encompasses specific trails, as well as other park facilities (e.g., specific campsites and parking areas) and activities (e.g., the Malibu Coastal Camping Program).

There are cases where a trail is mentioned in an older planning document that is also included in the Conservancy's/MRCA's LCP amendment. Some built and/or existing trail easements are shown on the Conservancy/MRCA LCP Amendment for continuity and planning purposes. However, the Conservancy/MRCA LCP amendment takes a substantially different approach, both geographically and conceptually, than all previous plans.

For example, the Coastal Slope Trail connection from Zuma/Trancas National Park Service land (just west of Kanan Dume Road) to Kanan Dume Road, to Ramirez Canyon Park, and eastward to Escondido Canyon Park was not contemplated in the County of Los Angeles' trail plan. In the Conservancy/MRCA LCP amendment, the Coastal Slope Trail is aligned further to the north to take advantage of superior terrain, superior scenery, and

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willing sellers. In addition, this new alignment includes properties located outside of the City boundary to achieve realistic trail implementation and a higher quality user experience.

For example, the alignment deviates from substandard trails along roadsides in favor of natural settings and maximizes routes through both existing and contemplated park properties.

The Conservancy/MRCA LCP amendment takes a new approach in that it includes both trailheads and parking areas where they had never been contemplated. Examples include acquisition of the property adjacent to, and west of, Latigo Canyon Road for a significantly-sized staging area. The amendment also includes parking along Kanan Dume Road.

This Conservancy/MRCA LCP amendment is also a conceptually different proposal in that it includes the accommodation of overnight users along the Coastal Slope Trail. The Conservancy/MRCA LCP amendment includes trails that are linked by campsites; these are not just day hikes. No prior plan contemplated campsites accessible via the Coastal Slope Trail.

The Conceptual Trail Policy Alternatives referenced in the City's letter incorporate recommendations from the SMMART report, but they are dated 2005, well after LCP certification (Exh. 3).

Finally, the City cites the Santa Monica Mountains National Recreation Area General Management Plan (GMP), finally issued in March 2003. The GMP explains that it is not an implementation plan; it discussed trails at a general and "conceptual level," with implementation to come at a later date. (Exh. 4, at pages 4 and 12.) While the specific components of the current LCP amendment may be consistent with some of the guidance of the GMP, none of the components (e.g., specific locations, numbers and types of campgrounds, and types and location of visitor services) were defined or anticipated during the GMP planning stage. Indeed, regarding trails, the GMP stated that a trail management plan will be prepared. Obviously, the trail alignments proposed in the LCP amendment were not anticipated at the time the GMP was developed.<sup>6</sup> Contrary to the City's assertion, the GMP does not show the areas identified in the current LCP amendment as "high intensity use" areas. Further, while Ramirez Canyon Park and the Ramirez Canyon Park Outreach

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<sup>6</sup> The reference in the City's letter to a park and ride shuttle is irrelevant because it is not currently being proposed in the LCP amendment.

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Program are generally mentioned in the GMP, the document does not encompass the public works project contemplated by the LCP amendment. Most importantly, as to Ramirez Canyon Park, at the time of LCP certification, the Conservancy had a coastal development permit which authorized the uses ongoing at the Park. The CDP was not judicially set aside until several years after certification of the City's LCP.

Regarding the reference to the Conservancy's and MRCA's previous comment letters on the Malibu LCP, the Jenkins & Hogin letter mischaracterizes the Conservancy's/MRCA's position on the proposed site-specific LCP Amendment. The Conservancy/MRCA LCP Amendment is intended to provide a framework in the form of site-specific policies and development standards to address site-specific projects at three specific parks, with a comprehensive trail plan. The previous comment letters referred to comprehensive, City-wide policies and implementation measures.

Regarding reference to the Coastal Habitat Impact Mitigation Fund in the Jenkins & Hogin letter, the Conservancy/MRCA did not contemplate the acquisition of any of the Coastal Slope Trail properties in the current Conservancy/MRCA site-specific LCP Amendment.

**The Element of Fairness: Ensuring that the LCP Amendment Certified Protects and Maximizes the Public's Access to Public Resources**

Finally, the City claims that it would be unfair for the Commission to require the City to process the LCP Amendment proposed by the Conservancy and MRCA while the City's LCP Amendment is pending before the Commission. It is strange that the City of Malibu would sound the trumpet of fairness. Of course, the City would like to have only its LCP amendment considered by the Commission. After all, it enticed the Conservancy and MRCA to request the LCP amendment, and then perpetrated the ultimate *bait and switch*, adopting an LCP Amendment that would eliminate public overnight camping opportunities anywhere in the City, including Charmlee Wilderness Park, Ramirez Canyon Park, and Corral Canyon Park, meaningful public access and parking at Escondido Canyon Park, and effective use of Ramirez Canyon Park for public programs and events. (Exh. 5, my letter, to City Council, dated December 17, 2007.) The Coastal Act, however, provides for two different methods for amending an LCP – the traditional LCP Amendment review process (Sections 30514) and the LCP Amendment override process (Section 30515), and both are being invoked here. A good example is Sand City Amendment No. 1-93, where the Park District submitted its version on an LCP Amendment to the Commission following the

John Ainsworth  
Malibu LCPA  
Malibu Parks Public Access Enhancement Plan Overlay  
July 14, 2008  
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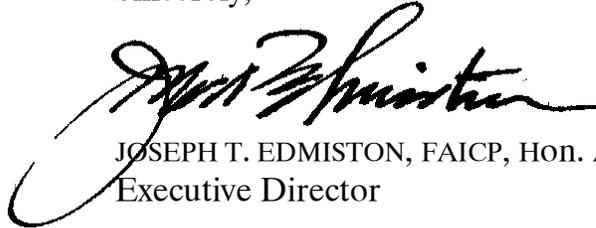
override procedures, and the City, in turn, submitted its own different version to the Commission.

The issue, of course, is not whether this process is fair to the City of Malibu or even to the Conservancy and MRCA. The question is simply one fundamental to the Coastal Act and which both LCP amendments will enable the Commission to decide – namely, whether Malibu’s LCP should diminish or enhance public access to public resources, whether the use of public property should be diminished to the advantage of a select few at the expense of the majority, and whether millions of dollars of state taxpayer’s investment in state park property should be reduced to a private trail system for Malibu residents.

We look forward to working with your Staff on this proposed LCP Amendment.

If you have any questions, please contact Laurie Collins, Senior Staff Counsel, at (323) 221-8900, ext. 133, or Judi Tamasi, Project Analyst, at (310) 589-3200, ext. 121.

Sincerely,



JOSEPH T. EDMISTON, FAICP, Hon. ASLA  
Executive Director

Enclosures

cc: Honorable Members, Malibu City Council  
Jim Thorsen, City Manager  
Christi Hogin, City Attorney, Malibu  
Interested parties

# EXHIBIT

# 17

SMMC letter in response to Brownstein/Hyatt/Faber/Schrek letter  
dated November 24, 2008 – May 14, 2009

LCPA MAL-MAJ-1-08  
**SANTA MONICA MOUNTAINS CONSERVANCY**

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Revised Findings



May 14, 2009

CALIFORNIA  
 COASTAL COMMISSION  
 SOUTH CENTRAL COAST DISTRICT

The Honorable Bonnie Neely, Chairperson  
 and Members

California Coastal Commission  
 45 Fremont Street, Suite 2000  
 San Francisco, CA 94105-2219

**LCP Amendment 1-08 (Santa Monica Mountains Conservancy  
 and Mountains Recreation and Conservation Authority)**

**RESPONSE TO RAMIREZ CANYON LETTER (11/24/08)**

Dear Chairperson Neely and Commissioners:

I write as Chief Staff Counsel for both the Santa Monica Mountains Conservancy ("Conservancy") and Mountains Recreation and Conservation Authority ("MRCA"). This letter responds to the legal issues letter, dated November 24, 2008, sent by counsel for the Ramirez Canyon Preservation Fund ("Ramirez Residents") to your Chief Counsel, Hope Schmeltzer.

The Ramirez Residents, unfortunately, have but one narrow, self-interested goal: to block public access to and public use of Ramirez Canyon Park, a coastal park owned by the State of California by and through the Conservancy and managed by the MRCA. They challenge the request of the Conservancy and MRCA for a LCP "override" pursuant to Coastal Act Section 30515. On April 15, 2008, the Conservancy submitted to Commission Staff its separate LCP Amendment to incorporate the Malibu Parks Public Access Enhancement Plan Overlay in the Commission-certified City of Malibu LCP. On May 15, 2008, your Staff wrote the City, advising that the LCP "override" procedure in Section 30515 and Section 13666 of the Commission's regulations does indeed apply to the submittal, and it directed the City to process the LCP amendment. The Ramirez Residents take issue with your Staff's determination, and, as explained more fully below, they provide a rather twisted and erroneous view of the proposed LCP Amendment and the override procedure. As the Commission itself explained in its decision on Sand City LCP Major Amendment No. 1-93:

[I]n Section 30515 the Legislature established a procedure for the Commission to intermeditate between local governments and a limited class of requestors in order to consider public needs of an area greater

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than that of the local government. In this limited circumstance, the Commission may adopt and certify an amendment to a LCP without the concurrence of the local government, but only after a careful balancing of the competing needs pursuant to the standards articulated in Section 30515.

The request of the Conservancy and MRCA for a LCP “override” for the Malibu Parks Public Access Enhancement Plan Overlay (“Overlay”) squarely meets the requirements of Section 30515 and Section 13666 of the regulations.

**I. AS YOUR STAFF DETERMINED, THE CONSERVANCY’S LCP AMENDMENT IS PROPERLY BEFORE THE COMMISSION.**

The Ramirez Residents first erroneously argue that in the absence of an application for a specific public work, the Conservancy is not authorized to submit broad amendments to the Malibu LCP simply because it is a “person authorized to undertake a public works project.” (Ramirez Canyon Preservation Fund [“RCPF”] Letter, pp. 3-4.) A simple and plain reading of the LCP “override” provision, Coastal Act Section 30515, demonstrates that a concurrently filed application for a specific public work is not required, and the Conservancy’s LCP Amendment is properly before the Commission.

The LCP “override” provision, Section 30515, is contained in Chapter 6 of the Coastal Act (commencing with Section 30500), which deals specifically with “Local Coastal Programs” and “Procedure for Preparation, Approval, and Certification of Local Coastal Programs.” Section 13666 of the Commission’s regulations, in turn, is included in a subchapter of the regulations entitled “Certified Local Coastal Program (LCP) Amendment of ‘Override’ Procedures.” Frankly, it would be difficult for anyone to read these provisions as contemplating anything other than a local coastal plan amendment, as its plain language states.

Section 30515 provides: “Any person authorized to undertake a public works project . . . may request any local government to amend its certified local coastal program” under the circumstances that give rise to a LCP override in the Section. (Emphasis added.) Section 13666 contains similar language; its procedures “are applicable to persons authorized to undertake a public works project.” (Emphasis added.) Neither provision states, as the Ramirez Residents suggest, that the override provision may be invoked only when a LCP amendment is accompanied by an application for a specific public works project. The override procedure contemplates a LCP amendment with land use policies and implementation provisions to guide subsequent approval of a specific public works project. That, after all, is what a LCP is by definition. (Pub. Res. Code Sec.

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30108.6.) In fact, our requested LCP Amendment, although very detailed and site-specific, involves policy changes (text revisions and additions) and a zone change (the Overlay). Thus, the LCP Amendment lays the policy foundation for future review and approval pursuant to either implementation of proposed public works improvements pursuant to the public works plan process (our preferred approach) or individual coastal development permits.

The Ramirez Residents would simply rewrite Section 30515 to require, in addition, that the override request must be accompanied by an application for a specific public works project. While the Legislature could have added that type of requirement, it did not. Section 30515 gives the local government the first opportunity to review a LCP amendment proposed by a person authorized to undertake a public works project; if the local government does not approve the LCP amendment, as here, then the LCP amendment is reviewed by the Commission, and the local government has the right and opportunity to comment. Section 30515 does not force an election as to the mechanism by which the subsequent specific public works project is pursued – as noted, either by a public works plan (which is submitted to the Commission) or a CDP (which is submitted to the local government).

Moreover, Section 30515 does not alter the traditional method of first planning by LCP amendment and, once approved, then proposing the specific project to be reviewed as against the LCPA. Indeed, the Commission typically does not process concurrently a LCP amendment and a specific project simply because the standard of review differs in each case – conformity with Chapter 3 policies in the case of a LCP amendment versus conformity with the certified LCP in the case of a public works plan or CDP application.

Following an orderly process, the Conservancy's submittal makes clear that it is only for a LCP Amendment and that a separate public works plan will follow. Our April 14, 2008 letter to Executive Director Douglas explained:

The proposed Overlay District will serve to enhance public access and recreational opportunities of regional significance by establishing the framework to implement a variety of public access and education programs, comprehensive trail development, recreation support facility and transportation improvements, improved accessibility for visitors with diverse abilities (e.g., physically and mentally challenged), and a rare opportunity for low-cost and fully accessible overnight camping for specific parklands and trail corridors throughout the City of Malibu.

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The submittal further noted: “We have provided some information in this submittal regarding our anticipated public works projects. We anticipate later submitting to the Coastal Commission a Malibu Parks Public Access Enhancement Plan and Public Works Plan pursuant to PRC Section 30605, which will more precisely define these proposed public works.” (SMMC/MRCA LCPA Submittal, Letter from Dudek to John Ainsworth, CCC, p. 2; emphasis added.)

A follow-on Public Works Plan is particularly appropriate here because, as the LCP Amendment explains, the improvements proposed are located in an area within three jurisdictions -- unincorporated Los Angeles County, the City of Malibu, as well as United States National Park Service property. The standard of review of the Public Works Plan will be the LCP Amendment, once certified, and it will allow processing through the public works plan process instead of processing an undetermined number of CDPs in separate jurisdictions to implement specific projects as the funds and/or additional trail easements and land purchase opportunities become available.

As perhaps this LCP Amendment best illustrates, the LCP “override” procedure in Section 30515 is a clear recognition by the Legislature that once a LCP is certified, a local government can stonewall projects that, as here, may have greater than local implications. This was in fact one of the primary considerations that led first to the enactment of Proposition 20 (the 1972 Coastal Act) and the continuation of coastal protection in the 1976 Coastal Act. See e.g. CEEED v. California Coastal Zone Conservation Com. (1974) 43 Cal.App.3d 306, 321 (addressing the statewide interest in the California coastline, “courts have recognized that the impact of an activity which in times past has been purely local, may under changed conditions transcend municipal boundaries” and “[o]nly an agency transcending local boundaries can devise, adopt and put into operation solutions for the problems besetting the region as a whole.”) It was also precisely the point that the Commission made in discussing the LCP “override” process in the Sand City LCPA Override case.

This law [Section 30515] allows such amendments because it is the Coastal Commission’s role to apply a regional or statewide perspective to land use debates where the use in question is of greater than local significance. Whereas local governments generally are constrained to plan the use of land only within their corporate boundaries, the Commission was created, in part, in order to take a broader view in making land use decisions for California’s coastline. (Sand City Major LCPA No. 1-93, p. 1.)

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The LCP Amendment proposed by the Conservancy is perfectly appropriate for consideration by this Commission under the LCP “override” procedures.

## II. THE CONSERVANCY IS CLEARLY AUTHORIZED TO UNDERTAKE A “PUBLIC WORKS PROJECT”.

The Ramirez Residents next argue that the Conservancy is not a “person authorized to undertake a public works project.” Further, they argue that because the Conservancy has no such power, the MRCA, a joint powers agency, has no such power either because a JPA has only the powers common to all its members. (RCPF Letter, pp. 4-7.)

Section 30114 of the Coastal Act defines “public works” as including: “(c) all publicly financed recreational facilities, all projects of the State Coastal Conservancy, and any development by a special district.” Section 13012(b) of your regulations further states that “major public works” means facilities that cost more than \$100,000 and also “publicly financed recreational facilities that serve, affect, or otherwise impact regional or statewide use of the coast by increasing or decreasing public recreational opportunities or facilities.” The Malibu Parks Public Access Enhancement Plan Overlay is a comprehensive public access plan that will cost far in excess of \$100,000 to implement, and it squarely fits within the meaning of “public works” and “major public works” in the Act and your regulations.

Contrary to the Ramirez Residents’ assertion, the Santa Monica Mountains Conservancy Act (“Conservancy Act”) plainly authorizes the Conservancy to *develop and operate* recreational facilities. The Ramirez Residents merely ignore the relevant provisions of the Conservancy Act. Section 33203.5 of the Conservancy Act states that the Conservancy is authorized to “acquire and improve real property.” Section 33211 authorizes the Conservancy to “[d]o any and all things necessary to carry out the provisions” of the Conservancy Act. Section 33211.5 sets forth the conditions of use that apply to property “owned or subject to the interim management of the conservancy,” and sets forth conditions of use that apply to property “owned or subject to the interim management of the conservancy.” Those conditions address, among other things, “trails, campsites, and other public use areas on property owned or subject to the interim management by the conservancy.” Finally, Section 33211.6 specifies as a misdemeanor injuring, defacing, or destroying any property owned or managed by the Conservancy.

As noted, the Ramirez Residents further claim that the MRCA cannot improve or operate recreational facilities because it would lack the common power required from

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the Conservancy to improve or operate. To the contrary, the Conservancy has the power to improve and operate recreational facilities, as shown in the preceding paragraph, as do the Conejo and Rancho Simi Recreation and Park Districts that, together with the Conservancy, form the MRCA. The JPA agreement creating and defining the powers of the MRCA provides: "The Authority [MRCA] shall have all powers common to the parties to this Agreement, and such other powers as may be provided by statute applicable to local park agencies which relate to park and open space real property, the management and operation of associated personal property, and the management, fiscal affairs, and operation of a local agency." (JPA Agreement, ¶ 4.0.)

Not only are the Ramirez Residents wrong about the Conservancy's clear statutory authority to develop and operate recreational facilities, but they also are wrong in asserting that when the Conservancy wants to develop such facilities, it must seek specific authorization from the Legislature. The support for this proposition is snippets of language from an irrelevant statute, Section 33204.3, dealing with the "Rim of the Valley Trail Corridor," which initially was not within boundaries of the "Santa Monica Mountains Zone." In 1983, the Legislature added Public Resources Code Section 33105.5, which included the "Rim of the Valley Trail Corridor" within the Santa Monica Mountains Zone. In 1989, the Legislature further added Public Resources Code Sections 33204.3 and 33204.4 which established "overall trail and recreational access planning and coordination between the *11 local agencies, two joint powers park agencies, two state agencies, and three federal agencies* with jurisdiction over lands in the Rim of the Valley Trail Corridor." (Pub. Res. Code Sec. 33204.3; italics added.) In that specific instance, the Legislature merely required that the plan and program prepared by the Conservancy be submitted to the Assembly Committee on Natural Resources and the Senate Committee on Natural Resources and Wildlife at least 30 days prior to approval of any acquisition or improvement under the plan or program. All of the areas covered by the LCPA Override are within, and have always been, within the original jurisdiction of the Santa Monica Mountains Conservancy as passed by the California Legislature in 1979. (Stats. 1979, Chap. 1087 that enacted Public Resources Code Section 33105 defining the Santa Monica Mountains Zone.) The reference to "Rim of the Valley Trail Corridor" is totally irrelevant to the present case and some 20 miles north of Malibu!

**III. NOTHING IN THE LEGISLATIVE HISTORY OF THE COASTAL ACT OR THE COMMISSION'S REGULATIONS REQUIRES THAT AN APPLICATION FOR A SPECIFIC PUBLIC WORKS PROJECT BE SUBMITTED IN CONJUNCTION WITH A REQUEST FOR A LCP OVERRIDE.**

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The Ramirez Residents next argue that the legislative history of the Coastal Act's public works and override provisions demonstrates that those provisions are limited to those situations where an application for a specific public work requires a specific amendment to a LCP and the local government does not agree to the amendment. (RCPF Letter, pp. 7-13.)

As demonstrated above, nothing in Coastal Act Section 30515 speaks to or requires that an application for a specific public work be made in conjunction with a LCP amendment sought by override. Nor would it make any sense to pursue a public work in that manner. First, it would negate the choice available to the person authorized to undertake the public works project – to proceed by way of a public works plan *or* a CDP. Second, the standard of review would be incompatible – conformity with the Chapter 3 policies of the Coastal Act in the case of a LCP amendment *versus* conformity with the certified LCP with respect to a public works plan or CDP. Despite the heading to the Ramirez Residents argument, even they concede that “Section 30515 was adopted as part of the Coastal Act in 1976. There is no discussion of the statute in the legislative history of the Act.” (RCPF Letter, p. 9; emphasis added.) This is accurate: There is no legislative history of the Coastal Act – whether pertaining to public works or the override provision – that supports the Ramirez Residents' argument.

Instead, the Ramirez Residents argue first that the heading to Section 30515 creates an ambiguity as to the meaning of the provision. (RCPF Letter, pp. 8-9.) There is, however, nothing remarkable about the heading to the Section. Section 30515 provides that a LCP override is available to “[a]ny person authorized to undertake a public works project or proposing an energy facility development . . . .” Thus, the Section heading from the version of the California Codes published by “West’s Annotated California Codes” states: “Amendment for public works project or energy facility development.” This particular heading does no more than generally cue the reader that the provision addresses a LCP amendment where a public works project or energy facility development is contemplated. Most importantly, though, the heading was not a creation of the Legislature at all; rather, it is a Section title provided by one publisher of the Public Resources Code. As one court explained: “. . . [T]his fact is not significant because the title was not part of the law when enacted and publisher’s titles are unofficial.” (Redevelopment Agency of City of San Diego v. San Diego Gas & Elec. Co. (2003) 111 Cal.App.4<sup>th</sup> 912, 917-918.) Thus, if there were some ambiguity (and there is not), the Section heading would provide no assistance in determining the intent of the Legislature. Indeed, the Legislature itself put this to rest in Public Resources Code Section 6: “. . . [S]ection headings contained herein shall not be deemed to

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govern, limit, modify or in any manner affect the scope, meaning, or intent of the provisions of . . . any Section hereof.” (Emphasis added.)

The Ramirez Residents further suggest that this Commission, in adopting the regulations in Section 13666 *et seq.* that govern a request for a LCP override, intended to limit the LCP override only to the situation where an application for a specific project, facility, or development has been made. (RCPF Letter, pp. 9-13.) Neither the regulations nor the so-called “legislative history” surrounding them, however, contained any requirement for a concurrently filed application for a public works plan, or notice of intent to undertake a public works project pursuant to a public works plans, or an application for a CDP. The Ramirez Residents’ argument hinges solely on the fact that the regulations (and, not surprisingly, the staff reports leading to adoption of the regulations) use the word “development.” For example, they point out that Section 13666 authorizes the override procedures “provided that the *development* meets” certain requirements, and Section 13666.2(A) states that “[i]f the Executive Director has preliminarily determined that the *development* is subject to this subchapter, the application shall first be submitted to the affected local government for a LCP amendment according to applicable requirements” (Tit. 14, Cal. Code Regs. § 13666.2). And, ultimately, to approve the override, the Commission must find, among other things, that “*development* meets a public need of a geographic area greater than that included within the certified LCP,” “*development* conforms with and is adequate to carry out the policies of Public Resources Code Section 30200 *et seq.*,” and “[i]f the *development* will have no significant adverse environmental impact, findings shall be included which support that conclusion.” (*Id.*, Sec. 13666.4; emphasis added.) And, as the Ramirez Residents point out, in connection with one amendment to Section 13666.4, the Commission noted: “The Commission anticipates that applicants will request plan and zoning changes in the same application. Applicants also will likely request permit approval.” (RCPF Letter, p. 12; emphasis added.)

There is no doubt that the override procedure in Section 30515 contemplates a LCP amendment for a specific public works project or energy facility development. Yet, nothing in Section 30515 or the regulations requires a concurrent application, either for a public works project following Commission approval of a public works plan or a CDP. The Legislature could have specified such a requirement, but did not. Likewise, the Commission in its regulations could have set forth such a requirement but did not. It is telling, moreover, that in its amendment to the regulations, the Commission noted that “[a]pplicants will likely request permit approval,” not that they “must concurrently do so,” as the Ramirez Residents argue.

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The instant submittal is not a traditional LCP. Rather, it is a detailed, site-specific LCP Amendment that lays the foundation for the Malibu Parks Public Access Enhancement Plan Overlay and a subsequent Public Works Plan. The LCP Amendment proposes to establish an overlay for the five existing park properties and recreation areas within the City, and defines comprehensive policies and development standards for implementation of public access and recreational improvements. It includes an extensive 55-page policy consistency analysis with substantive background documentation demonstrating that LCP Amendment is consistent with the Coastal Act. The Conservancy's submittal notes: "We have provided some information in this submittal regarding our anticipated public works projects. We anticipate later submitting to the Coastal Commission a Malibu Parks Public Access Enhancement Plan and Public Works Plan pursuant to PRC Section 30605, which will more precisely define these proposed public works projects." (SMMC/MRCA LCPA Submittal, Letter from Dudek to John Ainsworth, CCC, p. 2.) The information submitted includes the following special studies evaluating project feasibility and coastal resources potentially affected by the conceptual improvements:

- Malibu Parks Public Access Enhancement Plan Park and Trail Accessibility Design Guidelines. (Moore Iacofano Goltsman, Inc., June 2006.)
- Reconnaissance of Engineering Geologic Constraints to Development: Proposed Park and Trail Improvements in Ramirez Canyon, Escondido Canyon, Corral Canyon and Charmlee Park; City of Malibu. (Southwestern Engineering Geology, November 16, 2006, revised April 13, 2007.)
- Wooden Bridge Reinforcement Plan, Ramirez Canyon Park (Penfield & Smith).
- Emergency Access and On-Site Parking Plan, and Best Management Practices Plan, Ramirez Canyon Park (Penfield & Smith).
- Traffic and Park Study, prepared by ATE, August 21, 2007.
- Phase I Archaeology Resources Report, Santa Monica Mountains Conservancy/Mountains & Recreation Conservation Authority Public Access Enhancement Plan. (David Stone, M.A., Stone Archaeological Consulting, April 2007.)

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- Riparian Habitat Evaluation, Ramirez Canyon Park. (LSA Associates, Inc., August 30, 2002.)
- Alternatives Analysis for Ramirez Creek Habitat Enhancement Study at Ramirez Canyon Park. (Penfield & Smith, November 17, 2006.)
- Detailed Concept Plans for Ramirez Canyon, Escondido Canyon, Latigo Canyon, and Corral Canyon. (Penfield & Smith, April 14, 2008.)

These background documents provide more information than typically is required for a traditional LCP amendment and more than ample information for the LCP Amendment proposed.

**IV. THE CONSERVANCY'S LCPA IS CONSISTENT WITH THE STATUTORY AND REGULATORY SCHEME FOR LCP "OVERRIDES."**

The Ramirez Residents next argue that the Conservancy's LCP Amendment exceeds the statutory and regulatory scheme for overrides, but, in reality, the argument merely misconceives the nature of a LCP "override." Section 30515 of the Coastal Act contemplates that the Commission may approve a LCP amendment that is site-specific, where the use is of greater than local significance, and where the local government has refused the requested change.

**A. The Conservancy's Submittal Includes Provisions That Are Necessary and Indispensable to Implement the LCP Amendment.**

The Ramirez Residents first argue that the Conservancy's submittal seeks to regulate the use the private property. (RCPF Letter, pp. 13-14.) Each example offered, however, concerns a provision that is necessary and indispensable to implement this particular LCP Amendment.

**1. The Conservancy's LCP Amendment Includes Provisions to Ensure Fire Safety.**

To ensure fire safety, the Conservancy's LCP Amendment provides for a limited number of strictly controlled "cold camping" (i.e., no campfires) overnight campsites (29 of which 5 are designated for use by disabled campers). To be consistent, SMMC/LIP § 4.11, B, 1 (p. 21) would prohibit on public or private property, any open flame, fire, or other incendiary source, within 20 feet of any flammable vegetation, and any backyard fires, barbecues, or other flame source whatsoever, while permitting

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propane BBQs when accompanied with approved fire extinguishers. Without this provision, the Conservancy's efforts to ensure fire safety arguably would be nullified because the approximately 6188 housing units in the City of Malibu nonetheless would be permitted to have open fires, without similar controls.

2. **Conservancy's Use of Its Non-Exclusive Easement Over Ramirez Canyon Road is Consistent with CDP No. 4-98-334.**

The Ramirez Residents also assert that SMMC/LIP §§ 4.3, B, 1 (p. 7) and 4.12, B, 1 and 2 (p. 24) permits public use of Ramirez Canyon Road – a private roadway – and § 4.12, B, 10 (p. 26) attempts to significantly expand that use. We understand that it is beyond the scope of Commission review to determine the Conservancy's access rights over Ramirez Canyon Road. In any event, the Conservancy acquired the Ramirez Canyon Park property with a non-exclusive easement over Ramirez Canyon Road, and consistent with the 40 round-trips, shuttle van and other limitations that the Commission imposed in CDP No. 4-98-334, traffic from operation of the Park will produce no more traffic than the six estate-style homes otherwise allowed at the site. (Crain and Associates, December 17, 1999, Traffic Generation Assessment, Ramirez Canyon Park.)

3. **The Conservancy's Use of Off-Site Parking to Minimize Impacts to Ramirez Canyon Road is Consistent with CDP No. 4-98-334.**

The Ramirez Residents also take issue with SMMC/LIP § 4.3, B, 1 (p. 7), which provides: "Parking agreements and use of the parking resources secured by such agreements shall be considered permitted uses and shall not be denied or obstructed by the City." This provision would implement a requirement the Commission imposed in CDP No. 4-98-334 to respond to concerns by the Ramirez Residents themselves regarding traffic and to limit the number of vehicle trips on Ramirez Canyon Road. This provision, along with the LCP "precedence" provision in LIP Section 5.2 of the certified Malibu LCP, ensures that the Conservancy may enter into parking agreements for off-site parking to enable there to be public access to Ramirez Canyon Park, subject to the trip limitations. It is essential to effective implementation of the public access requirements and limitations addressed by the Conservancy's LCP Amendment.

B. **The Conservancy's LCP Amendment is Site-Specific and Tailored to the Public Works Projects Contemplated.**

Next, the Ramirez Residents contend that the Conservancy's LCP Amendment would rewrite the ESHA policies of the certified LCP to suit its properties. (RCPF Letter, pp.

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17.) The Conservancy submits that the public works projects and park uses contemplated by its LCP Amendment currently are consistent with the City's certified LCP. Nonetheless, the provisions of the Overlay are, by definition, drafted to authorize those projects on the Conservancy and MRCA properties. Again, that is, of course, the process inherent in Section 30515 – by definition, a LCP “override.”

1. **The Uses Proposed at Ramirez Canyon Park are Consistent With the Coastal Act ESHA Policy, the Current LCP Policies, and CDP No. 4-98-334.**

The Ramirez Residents contend that the LCP Amendment would expand the use of ESHA to trails, camp facilities, park administrative office, event and “commercial leasing” of the Ramirez property, and broadly defined “support facilities.” (RCPF Letter, pp. 14-15.) This is incorrect. Public accessways and trails are already a permitted use in ESHA in the certified LCP. (Malibu certified LCP, § 4.5.3.A.) Similarly, camp facilities and the support necessary for those facilities are, by nature, resource dependent uses that are permitted in ESHA. (Pub. Res. Code Sec. 30240(a).) The park administrative offices and special events proposed on the Ramirez property – all previously approved by the Commission in CDP 4-98-334 – are not located in ESHA. They have been sited within the limits of existing development envelopes and buildings. In fact, all existing buildings and other appurtenant structures located at Ramirez Canyon Park were indisputably constructed prior to the effective date of the Coastal Act, thus contributing to the already disturbed and manicured environment that exists within the Park. In addition, pursuant to the City's LCP's ESHA designation, “existing, legally established agricultural uses, confined animal facilities, and fuel modification areas required by the Los Angeles County Fire Department for existing, legal structures do not meet the definition of ESHA.” (Malibu certified LUP Policy 3.1.) Much of the property within and directly adjacent to the existing development envelopes associated with the previous use of Ramirez Canyon Park as an estate compound, as well as those adjacent areas subject to required fuel modification for existing structures, fall outside of the City LCP definition of ESHA.

2. **The Stream-Related and Buffer Policies are Consistent with the Coastal Act, the LCP and CDP No. 4-98-334.**

The Ramirez Residents further argue that the Conservancy's submission seeks to re-write the rules that would apply to future streambed modifications on the three Conservancy properties at issue. (RCPF Letter, pp. 15-16.) The argument is that the Conservancy has included a broad proposal in SMMC/LIP § 4.7, B, 3 (pp. 14-15) which would allow stream crossings for vehicular and pedestrian use, and that without the

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ability to review a specific stream crossing, the Commission cannot make the findings required by Section 13666.4. The proposed LIP provision, however, merely relates to “where minor alteration of natural streams for the purpose of stream crossings (vehicular or pedestrian) are necessary to provide access to and within public recreation areas.” It mandates development standards that restrict the use of Arizona crossings to repair and maintenance of “existing” crossings consistent with the provisions of the already certified LIP. It permits a new stream crossing only by a span bridge that minimizes placement of any new structures in the streambed and channel and avoids removal of natural riparian vegetation to the maximum extent feasible. It also limits construction to the dry season, and requires construction staging outside of the riparian canopy. (SMMC/LIP § 4.7, B, 3.) These are appropriate standards for a LCP, which would be implemented through the subsequent Public Works Plan, and then individual public works projects.

The Ramirez Residents also maintain that the Conservancy’s proposal to remove the City’s proposed requirement that streambed modification proposals “are subject to a [CDP] and all other relevant permits from appropriate agencies” would violate Section 30522 of the Coastal Act. (RCPF Letter, p. 16.) Section 30522, however, is inapplicable. It states: “Nothing in this chapter shall permit the commission to certify a local coastal program which provides for a lesser degree of environmental protection than that provided by the plans and policies of any state regulatory agency that are formally adopted by such agency, are used in the regulatory program of such agency, and are legally enforceable.” (Emphasis added.) The City is not a “state regulatory agency,” and its proposal is merely that – a proposal, not an existing plan or policy. Moreover, even assuming that the Ramirez Residents intended the reference to “state regulatory agency” to apply to the Commission, nothing in Section 30522 prevents the Commission itself from applying the LCP “override” provision in Section 30515 and amending an existing certified LCP.

Further, the Ramirez Residents state that the current Malibu LIP requires a 100 foot buffer from the top of banks of streams and/or the outer edge of riparian vegetation, whichever is the most protective of the resource (Malibu certified LIP § 4.6.1(A)), but then offer the misleading assertion that the Conservancy’s proposal would allow a reduction of the required setback to “25 feet from the top of the banks of all streams.” (RCPF Letter, p. 16; see SMMC/LIP § 4.5, A, 3 (p. 10).) First, nothing in the Coastal Act establishes a particular buffer distance from a stream. The Commission has discretion to determine a suitable buffer width, and LCPs throughout the coastal zone often vary in required buffer width. SMMC/LIP § 4.5, A, 3 would provide that “new support facilities shall be located a minimum of 100 feet from the top of bank of all

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streams or from the outer edge of riparian vegetation, whichever is the most protective, to the maximum extent feasible,” but “[i]f determined by a qualified biologist that potential impacts to riparian corridors will be avoided or appropriately mitigated and there is no alternative site designed to meet these setback requirements given other environmental constraints such as sensitive habitat, archaeological resources or topography, reduced stream corridor setbacks may be permitted for low-impact primary parkland support facilities, but in no case shall be setback less than 25 feet from the top of bank of all streams.” This is particularly applicable to the new park facilities proposed at Ramirez Canyon Park because the Park already is developed with existing structures that are approximately 25 feet from the top of stream bank.

Lastly, the Ramirez Residents erroneously assert that the Conservancy’s LCP Amendment is drafted to allow the Conservancy to ignore a requirement by CDFG and by the Commission that the Conservancy apply for a CDP to address the streambed modifications that occurred *prior to* Conservancy acquisition of the Ramirez Canyon Park property. (RCPF Letter, p. 16.) The argument is surprisingly hypocritical, and it is wrong. The fact is, the Ramirez Residents themselves have violated the Coastal Act and channelized Ramirez Creek. This is noted in SMMC/LIP § 4.7, B, 1 (p. 14): “Existing streambed modifications in Ramirez Canyon Park are part of a larger system of channelization in Ramirez Canyon where numerous neighboring properties contain similarly modified channels.” It bears emphasis that only the Conservancy has studied the appropriate engineering solution for Creek restoration in Ramirez Canyon Creek and is pro-actively proposing specific remediation that will result in removal and restoration of portions of the channel on its property. The Conservancy proposes to implement the LCP Amendment through a carefully considered Public Works Plan and NOID for a subsequent public works project. Under the Coastal Act, that is, of course, the lawful alternative to a CDP. The Public Works Plan and NOIDs simply will receive review by the Commission, not the City.

3. **The Conservancy’s LCP Amendment Appropriately Defines “Support Facilities” Associated With Camping and Non-Camping Purposes.**

The Ramirez Residents complain that the Conservancy would exempt itself from the ESHA limitations by expanding the definition of the term “support facilities,” and because the Conservancy has deleted all of the City’s requirements for CUPS, CDPs or review by various City Departments, the Conservancy may argue that it alone makes all decisions about what support facilities are “deemed necessary.” (RCPF Letter, pp. 16-17.) This likewise is wrong.

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In the context of “Land Use and Neighborhood Compatibility,” the Conservancy’s LCP Amendment provides that “permitted park uses consist of recreation, research and education, nature observation, and a range of critical support facilities, developed and operated pursuant to this Overlay District of the Malibu Local Implementation Plan.” (SMMC/LIP 4.12 (p. 23).) It goes on to state:

Existing and proposed support facilities are defined as those facilities deemed necessary to support the primary permitted land use, public access and recreation, research and education, and nature observation. The type of support facilities addressed at each park facility shall be based on the level and complexity of public uses and specialized programs offered at each park area . . . . (Id.; emphasis added.)

It necessarily follows that “support facilities” are those “deemed necessary” to support the primary permitted use under the Overlay. The Ramirez Residents’ argument, however, that this language would permit the Conservancy alone to make *all* decisions about what support facilities are “deemed necessary” is baseless. The Conservancy still must return with a Public Works Plan that details the uses proposed, and the ultimate determination regarding what uses are “deemed necessary” will be made by the Commission, as provided in Section 30605 of the Coastal Act. Further, while “support facilities” generally are defined in the LCP Amendment, the Conservancy does agree that the LCP Amendment should spell out the support facilities associated with camping – namely, picnic tables, potable water, self-contained chemical/composting restrooms, shade trees, water tanks, portable fire suppression apparatus, fire-proof cooking stations and designated ADA drop-off locations.

**C. The Conservancy has Submitted Ample Detail and Support for the Commission’s Finding that the LCP Amendment is Consistent With the Coastal Act.**

Next, the Ramirez Residents contend that the Conservancy’s submission includes language that reads like land use entitlements but does not provide detail sufficient to analyze the uses proposed. The Conservancy’s submission is a site-specific LCP Amendment, but contrary to the Ramirez Residents’ contention, and as noted above, ample detail and technical background information has been provided to enable Staff and the Commission to analyze the LCP Amendment for consistency with Section 30515 and the Chapter 3 policies of the Coastal Act.

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1. **Camping and Other Uses Described in the Overlay May be Developed Only as Carefully Permitted and Limited in the LCP Amendment.**

The Ramirez Residents first twist the language of the Conservancy's submission to suggest that it not only entitles the Conservancy to develop camping or the uses proposed at Ramirez Canyon Park, but also *obligates* the Conservancy to develop them. (RCPF Letter, pp. 17-18.) That is not correct, nor was that the Conservancy's intent in proposing the language. The proposed LCP Amendment provides that if the Conservancy undertakes development under the Overlay, then it is obligated to provide the camping and uses described, but only as carefully permitted and limited in the LCP Amendment.

The Ramirez Residents argue that the City's certified LCP provides that campsites are subject to a CUP requirement. (RCPF Letter, pp. 17-18.) However, Table 2 Permitted Uses, of the LCP Implementation Plan, specifically provides that camping is a permitted use in the OS Zone. Indeed, during the hearings on the City's separate LCP Amendment and its staff reports, the City itself recognized numerous times that camping in the OS Zone does not require a CUP per the certified LCP. The October 9, 2007 Planning Commission staff report, for example, explained (at page 38): "All of the parks are zoned Open Space (OS) which permits camping . . . The conditional use permit process (CUP) is not specifically addressed in the LIP and relies on the MCC process for CUPs . . . Staff has suggested a change from 'permitted' to conditionally permitted for camping within ESHA." City staff got it right. The certified LCP states: "The OS designation provides for publicly owned land which is dedicated to recreation or preservation of the City's natural resources, including public beaches, park lands and preserves. Allowable uses include passive recreation, research and education, nature observation, and recreational and support facilities." (Malibu certified LIP, p. 99.) This is confirmed in Table 2 Permitted Uses, of the LIP, which again expressly provides that "camping" is a principal permitted use in the OS Zone.

The Ramirez Residents further suggest that without a more detailed site-specific analysis, the Conservancy could not make one of the findings required by Section 13666.4(a)(3) of the Commission's regulations, *i.e.*, that reasonable alternatives have been examined and that there is no feasible less environmentally damaging way to meet the public need. (RCPF Letter, p. 18.) To the contrary, the policy language that the Conservancy has proposed, coupled with the concept plans and technical background documents, amply provide sufficient detail to enable both the Conservancy and Commission to determine whether the LCP Amendment is consistent with the Chapter

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3 policies of the Coastal Act and, additionally, whether there are reasonable alternatives to the camping and support facilities contemplated. Indeed, the level of information provided is far more than the Commission ordinarily would have before it to review and certify a LCP or LCP amendment. Moreover, the Ramirez Residents' own alternatives analysis, a separate "report" prepared by SAIC that the Conservancy has fully addressed in separate correspondence – sheds no light on the Ramirez Residents' complaint. Additional specifics concerning camping will necessarily be provided in the follow-on Public Works Plan, which the Commission will review, and subsequent NOIDs issued.

The Ramirez Residents also baldly assert that there is no question that the camping would increase the risk of fire in the area proposed, which is a Very High Fire Hazard Severity Zone. (RCPF Letter, p. 18.) Given the nature and extent of their holdings in the Santa Monica Mountains and elsewhere, the Commission can be well assured that the Conservancy and MRCA place the highest priority on fire safety. As a result, unlike other existing camping facilities outside of Malibu which permit open campfires (e.g., Leo Carrillo State Park and Malibu Creek State Park), and indeed unlike the absence of any restrictions on the 6188 dwelling units in the City, the Conservancy's LCP Amendment specifically proposes "cold camping" and certainly one of the most carefully regulated and policed camping proposals ever conceived.

Lastly, Ramirez Residents complain the Conservancy must prepare a "Fire Protection, Emergency Evacuation Plan" (or "FPEEP") now in connection with the LCP Amendment. (RCPF Letter, p. 18.) This is, with all due respect, an absurd argument, especially in the face of a FREEP requirement that details in comprehensive fashion all the specific requirements and performance standards that must be satisfied to ensure fire protection and effective emergency evacuation. (See SMMC/LIP, FPEEP, § 4, 11, B.) These include, among other things, enforcement of Parkland rules and regulations governing "no smoking or fires" punishable by criminal fine or 6 months in County jail; an annual fuel modification plan; the siting of campsites to ensure easy access for maintenance and patrol; a limitation on cooking apparatus to only self-contained propane stoves ("cold camping") which must utilize designated cook surfaces designed of non-flammable materials; a prohibition on kerosene and white gas lanterns; notices to prospective campers, signage and routine patrols prohibiting unauthorized use of fire-related camping and cooking apparatus; fire protection apparatus at all facilities, including a water storage tank or other dependable water supply; portable and air-powered quick attack firefighting system; portable self-contained fire extinguisher for each cluster or group of campsite; prohibition on camping during Red Flag Days, Flash Flood/Flood Warnings or Urban/Small Stream Advisories, with signage and routine patrol for enforcement; an onsite Camp Host, staff maintenance person, or Ranger,

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who is wildland fire-trained accommodated for (residency or support facilities provided) at each park property when camping is permitted and daily patrols when campers are present; an evacuation plan; emergency power generators and fuel supply at Ramirez Canyon Park necessary to maintain emergency lighting for at least 12 hours; a Wooden Bridge Reinforcement Plan over Ramirez Canyon Creek to ensure the bridge safely supports a 25-ton fire truck and can accommodate emergency access; and an emergency access and on-site parking plan for Ramirez Canyon Park. These measures even go beyond the extensive fire safety measures that the Commission required in previously approving the uses proposed at Ramirez Canyon Park in CDP No. 4-98-334, which the Commission found “minimize risks to life and property in areas of high . . . flood, and fire hazard.” (Pub. Res. Code Sec. 30253.)

2. **Uses at Ramirez Canyon Park Mirror the Commission’s CDP No. 4-98-334; the Ramirez Residents Simply Don’t Like the Commission’s Prior Decision.**

The Ramirez Residents also complain that the text of the Conservancy’s LCP Amendment for Ramirez Canyon Park uses reads like a CDP, but the Conservancy has not separately submitted (or resubmitted) any of the site-specific information required to obtain a permit. (RCPF Letter, pp. 18-20.) The LCP Amendment is intended to mirror the Commission approval, subject to conditions, in CDP No. 4-98-334. The Commission’s previously administrative record is replete with the background and condition compliance documents submitted in connection with that permit. As noted above, the Conservancy has submitted additional site-specific information relating to Ramirez Canyon Park in particular. In any event, this site-specific LCP Amendment is still a LCP amendment, not a permit. Again, it will be followed by a Public Works Plan, with additional site-specific and technical information, and thereafter by NOIDs for specific public works projects.

The Ramirez Residents offer reasons why they believe the submission cannot be approved as an override. None of the reasons, however, relate to the criteria in the LCP “override” provision, Section 30515 or the Chapter 3 policies of the Coastal Act. As with their original opposition to CDP 4-98-334, the Ramirez Residents simply do not like the uses proposed on the property. They note that the property is located at the end of a box canyon, and that, in their view, access to the property is substandard. (RCPF Letter, p. 19.) It is for this reason that the Commission carefully conditioned CDP 4-98-334; otherwise, the Ramirez Residents’ argument has no relevance to the override issue.

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The Ramirez Residents further argue that the Conservancy's LCP Amendment seeks to override the Malibu LCP to allow the use of all of the structures on the Ramirez property with no information about the conditions of those structures and no limitation on the extent of the proposed use. (RCPF Letter, p. 19.) The structures are not much different from those owned by the Ramirez Residents themselves -- structures built in the 1950's, 1960's and 1970's, and they are in excellent condition, just as when they were owned and occupied by the predecessor owner, Barbra Streisand. For purposes of the LCP Amendment, the specific condition of the structures (including the Peach House, Barn, and Art Deco facilities, which would be used for small group gatherings and tours) is irrelevant. The question of whether they meet any applicable state fire safety requirements is appropriately addressed when the Commission considers the subsequent Public Works Plan, which will contain more project specific details and analysis. Currently, there are 14 Conservancy and MRCA employees who may operate at some point during the day at the Park. These include the Executive Director/Officer and Chief Deputy Executive Director/Officer of the Conservancy and MRCA, both of whom are sworn park rangers/wildland fire-fighters who are assigned to provide protective services to the park, an administrative assistant who is designated as the Emergency Services/Evacuation Coordinator and the MRCA Board Secretary; the Natural Resources and Planning Group of both agencies; two persons who administer the programs and special events at the Park; maintenance personnel; fire command personnel; and a live-in Caretaker. Contrary to the Ramirez Residents' assertion, there is a limitation on the extent of the proposed uses of this Park -- a limitation to 40 vehicle round trips per day for any and all uses at the Park, comparable to the number of vehicle trips associated with the use of the six estate lots which comprise the property.

The Ramirez Residents also grossly inflate the number of public outreach, tours and/or small group gathering and special events contemplated by the Conservancy's LCP Amendment. (RCPF Letter, p. 20.) The maximum number of tours, including garden tours, and/or small group gatherings is 12 per month. The maximum number of special events is 32 events per year, limited to the period from March to October with no more than 1 event per week. Thus, the number of non-outreach events per year is not 900, as the Ramirez Residents assert, but a maximum of 176. Public outreach programs at this State-owned park technically are permitted 7 days a week, with a maximum of 40 participants. (SMMC/LIP § 4.12, B, 7 (p. 24).) Most importantly, regardless of the raw number of events permitted, the uses at Ramirez Canyon Park are intended to be strictly limited in size, duration and occurrence, consistent with the maximum 40 round trips/day limit -- the limit established by the Commission in CDP No. 4-98-334. (SMMC/LIP § 4.12, B, 1 (p. 24).)

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3. **The Uses Proposed by the Overlay are Properly Reviewed Under the LCP “Override” Process and in the Context of a Public Works Plan, as Provided in the Coastal Act.**

The Ramirez Residents accurately note that the Conservancy’s LCP Amendment deletes all the City’s requirements for CUPs, CDPs, and review by various City Department “in an attempt to avoid the City’s *policy preferences*.” (RCPF Letter, p. 20; italics in original.) That is why the Conservancy’s submission is referred to as a LCP “override,” and in this instance the Conservancy has proposed its LCP Amendment because of the City’s *policy preference* to prohibit all camping in the State-owned public parks in Malibu, and to otherwise reduce or eliminate public access and recreation, or access thereto, on State-owned park property or the inland trails which this Commission has for years required as a condition of CDPs issued for residential development. Indeed, it is this same insular *policy preference* that caused the Legislature to require the Commission to prepare and certify the Malibu LCP, instead of the City of Malibu. (Pub. Res. Code Sec. 30166.5.) The deletion of City’s requirements for a CDP, CUP, or review by City Departments does not mean that the public works projects contemplated by the Conservancy’s submission will go unreviewed. To the contrary, they will be fully reviewed instead by the Commission under the process that governs Public Works Plans and public works projects, a process that specifically provides for consultation with and input from the City. (Pub. Res. Code Secs. 30605-30606.)

4. **The Sand City LCP Override Decision Provides Guidance Here.**

We have cited the Commission’s decision in approving Sand City LCP Major Amendment No. 1-93 as clear precedent for the LCP “override” sought by the Conservancy’s LCP Amendment. (RCPF Letter, p. 21.) The Ramirez Residents seek to factually distinguish the Sand City LCP amendment, but it was not cited for so much for its facts as for its procedural posture and the Commission’s explanation of the “override” process in Section 30515. That discussion is quoted on the first page of this letter, and additionally was summarized by Commission Staff in the following “Staff Note” to the decision:

This request by the Monterey Peninsula Regional Parks District to amend the Sand City Local Coastal Program is different in one way than LCP amendment requests which typically reach the Commission. The requestor in this case is the Parks District, rather than the City itself. The Coastal Act allows for such amendment requests, that is, a request from an entity other than the local government itself, where such an entity is seeking to undertake a public works project or energy facility

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development. The law allows such amendments because it is the Coastal Commission's role to apply a regional or statewide perspective to land use debates where the use in question is of greater than local significance. Whereas local governments are generally constrained to plan the use of land only within their corporate boundaries, the Commission was created, in part, in order to take a broader view in making land use decisions for California's coastline.

"Sand City" is certainly analogous to the dispute presented here: Two public entities with differing views on how or whether to address public recreational use – in that case, along the shoreline. Sand City had one approach in its LCP, which the Commission approved with modifications that the City refused to accept. The park district, sued by the City, submitted its own LCP amendment to the Commission pursuant to the LCP "override" provision, Section 30515. As here, the park district did not submit a separate application for a public works project, directing its attention instead to establishing the LCP policies that subsequently would guide review of such a project.

The problem here is that the Ramirez Residents simply do not agree with the Commission's Sand City decision. As they put it: ". . . the invocation of the override procedures by the Sand City applicant without an application for a specific public work is questionable." (RCPF Letter, p. 21.) But it's not questionable. As discussed at length above, the Commission's application of the override procedures to the park district's proposed LCP amendment was entirely correct, and it serves as the Commission's contemporaneous and guiding administrative construction of the override process. The Commission's Sand City decision is the precedent for review of the Conservancy's LCP Amendment.

#### **V. THE CONSERVANCY'S SUBMISSION IS NOT OVERBROAD.**

The Ramirez Residents further contend that the Conservancy's LCP Amendment is overbroad because, in their view, the "override" provisions cannot be utilized to amend a LCP to authorize specific uses that would be included at Ramirez Canyon Park – park administrative offices and special events. They contend that those uses do not qualify as a "major public work" because the uses do not, in themselves, meet the definition in the Coastal Act of a "public work." (RCPF Letter, pp. 22-23.)

The Coastal Act defines "public works" as including "[a]ll publicly financed recreational facilities." (Pub. Res. Code Sec. 30114.) As noted, the Commission's regulations further state that a "major public work means facilities that cost more than one hundred thousand dollars," and that it "also means public financed recreational facilities that

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serve, affect, or otherwise impact regional or statewide use of the coast by increasing or decreasing public recreational opportunities or facilities.” The “major public work” here is Ramirez Canyon Park, and despite the Ramirez Residents’ attempt to parse the uses undertaken, the Park indisputably constitutes an important publicly financed recreational facility that serves, affects, and impacts regional and statewide use of the coast by increasing public recreational opportunities and facilities.

Since there is no definition of “recreational facility” in the Coastal Act, the Ramirez Residents cite to Public Resources Code Section 5780.1(h) of the Recreation and Park District Law. That Section, however, does not support the Ramirez Residents’ argument. It undermines it. Section 5780.1(h) defines “recreation facility” as meaning

an area, place, structure, or other facility under the jurisdiction of a public agency that is used either permanently or temporarily for community recreation, even though it may be used for other purposes. “Recreation facility” includes, but is not limited to, an arts and crafts room, auditorium, beach, camp, community center, golf course, gymnasium, lake, meeting place, open space, park, parkway, playground, playing court, playing field, recreational reservoir, river, and swimming pool. (Emphasis added.)

Looking only at Ramirez Canyon Park, the Overlay proposed includes detailed policies and implementation measures for program and operational elements that support special public outreach and educational opportunities, as well as the administrative infrastructure and offices necessary to operate specialized public outreach programs and to ensure that maximum public access and recreational opportunities are provided for visitors with varying degrees of special needs. In particular, the Conservancy and MRCA have emphasized the need at this Park to provide facilities and outreach programs intended to reach visitors of diverse abilities, disadvantaged youth, or other underserved groups. Accessibility implementation measures in the Overlay provide that the Conservancy/MRCA will continue all public outreach programs and provide for development of additional day-use picnic facilities and limited overnight camping opportunities at the Park. The Overlay additionally includes public improvements for the riparian area interpretive trail and picnic facilities designed specifically for safe use by physically challenged visitors, in compliance with Americans with Disability Act (ADA) requirements, including trails, picnic facilities, drinking fountains, restrooms, and parking areas.

Moreover, consistent with the Commission’s decision in CDP No. 4-98-334, the primary buildings at Ramirez Canyon Park have all been used as “recreational facilities” and as a location to conduct or manage recreation uses at the Park. The Barn serves as the main

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indoor venue for senior and disabled tours of the Park and its grounds. The Staff who operate and plan for outreach programs – including programs for senior citizens, disabled and disadvantaged persons, inner-city and at-risk youth, veterans, and battered women – operate out of the Barn, as do volunteer docents. By agreement with the City, pending resolution of the LCP Amendment, Garden Tours have been suspended. However, the LCP Amendment proposes to resume the Garden Tours by reservation to the general public, and the Barn is the central meeting location for tour participants. The Peach House has in the past and will again be part of the Garden Tour visits. The Barwood and Art Deco Houses similarly have been part of the Garden Tours. Additionally, all three buildings have been and will be used for park-related conferences, retreats, recreational events, and paid reserved events.

In short, viewed in context, Ramirez Canyon Park is a publicly financed recreational facility. It makes no difference whether the Park includes uses that are also necessary to create, operate and manage the recreational uses in the Park, in the Overlay to be implemented, or in this particular area of the Santa Monica Mountains, as noted in Public Resources Code Section 5780.1(h). Like the California Department of Parks and Recreation, the National Park Service, Los Angeles County Department of Beaches and Harbors, and the Conservancy and MRCA with respect to other facilities (see e.g., SMMC/MRCA Policy Consistency Analysis, p. 55, and the separate alternatives analysis submitted), limited park agency administrative offices are also located at the Park. Further, the Overlay incorporates the special events that the Commission previously approved, subject to conditions, at Ramirez Canyon Park in CDP No. 4-98-334. Despite the Ramirez Residents' attempt to inaccurately portray these events as "commercial leasing," they are merely temporary events and the Overlay provides that the "[n]et proceeds generated by special events held at Ramirez Canyon Park shall be used to establish and maintain" a fund "for purposes of funding access and recreational improvements and opportunities for visitors with diverse abilities, disadvantaged youth, or other underserved groups." (SMMC/MRCA LIP § 4.12, B, 6.)

The Ramirez Residents further erroneously point to provisions of the Public Resources Code relating to State Parks to suggest that park administrative offices and special events are not permissible at Ramirez Canyon Park. (RCPF Letter, p. 23.) First, they state that Public Resources Code Section 5019.53 defines permissible uses of State Park lands, and it does not include park administrative offices or special events. That Section deals with new improvements at State Parks, not existing ones, as here, and does not deal with uses undertaken at State Parks. As noted, State Parks adaptively uses the facilities that it owns for headquarters or park administrative offices, rather than paying rent or paying for construction of additional facilities to house its essential

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administrative function. For example, California State Parks Coastal Sector headquarters, that provides office space for the Coastal Sector Superintendent and his staff, including administrative staff, is located in an adaptively reused residence at 40000, 40006, and 40040 Pacific Coast Highway in the City of Malibu. Likewise, the Angeles District Superintendent, who is in charge of California State Parks from Antelope Valley to Downtown Los Angeles, including the Santa Monica Mountains, and his entire staff, including administrative, office, and accounting personnel, are located in the adaptively reused Hunter House at Malibu Creek State Park and a specially constructed office facility at Malibu Creek State Park—all within the Coastal Zone. Likewise, the Adamson House at Malibu Lagoon State Beach houses administrative offices. The National Park Service houses administrative offices at Diamond X Ranch (the former Rex Allen Ranch) within the Coastal Zone in the Santa Monica Mountains. It is the consistent practice of every park agency to house their offices with a park setting if that is possible. The same applies to the Conservancy and MRCA. Indeed, to not use these facilities and to spend much more elsewhere to support them (by acquisition, rent or construction) would necessarily mean less money is available in the budget to undertake acquisitions, programs and management of park properties – the antithesis of wise conservation of public resources, but apparently what the Ramirez Residents would prefer.

Second, the Ramirez Residents assert that the Conservancy's submission includes an acknowledgement that the special events are being included for their revenue producing potential, contrary to Public Resources Code Section 5080.03(b). (RCPF Letter, p. 23.) First of all, the cited Section is a provision applicable only to California State Park System and not to the Santa Monica Mountains Conservancy or the MRCA, entities that are governed by entirely different statutes, i.e., Santa Monica Mountains Conservancy Act, Public Resources Code Section 33000 *et seq.*, and the Joint Exercise of Powers Act, Government Code Section 6500 *et seq.*, and the Recreation and Park District Law, Public Resources Code Section 5780(a) *et seq.* Moreover, Section 5080.03(b) states that “[c]oncessions shall not be entered into solely for their revenue generating potential.” (Emphasis added.) As noted, the special events here are not proposed solely for their revenue generating potential, but rather to assist in “funding access and recreational improvements and opportunities for visitors with diverse abilities, advantaged youth, or other underserved groups.” (SMMC/MRCA LIP § 4.7, B, 6.) Specifically it should be noted that California State Parks encourages weddings as a park related use that is welcomed and encouraged. See “Getting married in a California State Park” ([http://www.parks.ca.gov/?page\\_id=23428](http://www.parks.ca.gov/?page_id=23428) accessed 5-13-09).

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Finally, the Ramirez Residents cite City of Lafayette v. East Bay Municipal Utility District (1993) 18 Cal.App.4<sup>th</sup> 1005, and argue that the scope of public works for recreational facilities should be limited to those components “directly and immediately” used for the public work. (RCPF Letter, pp. 22-23.) The City of Lafayette case is of no help here. There, the utility district proposed to construct administration headquarters and a corporate yard, and claimed an exemption from local land use regulations under a provision exempting “facilities for the production, generation, storage and transmission of water.” The court read the exemption narrowly to apply only to facilities *directly and immediately* used to produce, generate, store or transmit water, and held that the support facility proposed there did not fall within the exemption. While exemptions, as addressed in City of Lafayette, ordinarily are construed narrowly (City of Lafayette, supra, 18 Cal.App.4<sup>th</sup> at 1017), Section 30114, defining “public works,” is not an exemption and Coastal Act in Section 30009 provides that the Act’s provisions “shall be liberally construed to accomplish its purposes and objectives.” Here, as explained above, Ramirez Canyon Park, viewed in context and in terms of its facilities and the uses proposed by the Overlay, constitutes a “publicly financed recreational facility” and thus meets the definition of a “public work” within the meaning of the Coastal Act.

**VI. AS COMMISSION STAFF AGREED, THE CONSERVANCY’S LCP AMENDMENT COULD NOT HAVE BEEN ANTICIPATED AT THE TIME OF LCP CERTIFICATION.**

The Ramirez Residents also renew the argument that the Conservancy is not entitled to invoke the “override” provisions because they contend that the Conservancy anticipated this Overlay long before the Malibu LCP was before the Commission for certification in 2002. (RCPF Letter, pp. 23-25.) They rely first on a letter from the City of Malibu dated June 23, 2008. The Conservancy likewise sent a letter to Commission staff on July 14, 2008, demonstrating conclusively that this particular LCP Amendment was not anticipated at the time of LCP certification. A copy of that letter is attached.

The Ramirez Residents make three additional arguments. First, they challenge the Conservancy’s explanation in its July 14, 2008 letter to Deputy Director Ainsworth that its site-specific LCP amendment is the “direct result of recent, post-LCP certification events.” (SMMC Letter, pp. 4-5.) They argue in generalities that most of the post-LCP events cited consist of the Conservancy’s efforts to implement the park and trail plan which the agency had long anticipated – as the Ramirez Residents put it, “the purchase of open space, the acceptance of OTDs, the negotiation with property owners for specific alignments.” (RCPF Letter, p. 24.) There is no doubt that for years, consistent with their missions, the Conservancy and MRCA have had general ideas regarding

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proposed park uses and facilities and trail planning. At various planning stages, these ideas have been refined and defined. But, more importantly, the Conservancy's LCP Amendment here takes a new and different approach, geographically and conceptually to all planning efforts prior to LCP certification. The site-specific LCP Amendment proposed is the direct result of recent, post-certification events that have led to completion of specific trail connections and identification of site-specific public access, recreational facility, and program improvements for specific parks. These were not anticipated at the time the City's LCP was before the Commission for certification. The Conservancy's letter, which is attached, spelled out these events and meticulously went through each of the documents cited in the City's letter to demonstrate that none bear any relation to the current LCP Amendment, which is detailed and site-specific, and could not have been anticipated at the time the LCP was certified. (See SMMC Letter, pp. 4-8.)

Second, the Conservancy explained why certain older planning documents cited by the City have no relation to the current LCP Amendment, did not make any recommendations for the area that is presently the boundary of the City of Malibu, or did not propose the specific developments projects, comprehensive trail alignments, park facilities (specific campsites and parking areas) camping, activities and parking areas outlined in the LCP Amendment. The Ramirez Residents argue that the fact that the prior documents did not specifically locate the proposed trails does not mean that those trails were not contemplated, citing the SMMART (Santa Monica Mountains Area Recreational Trail Coordination Project) report published by the NPS in 1997. The current LCP Amendment, however, is the result of more recent, post-LCP developments, including the fact that the MRCA has accepted many trail OTDs and acquired new land in the Enhancement Plan area, specifically the parcel west of and adjacent to Latigo Canyon Road. And, only recent information and conditions have enabled the Conservancy and MRCA to propose a specific alignment that is feasible both physically and in terms of acquiring viable rights-of-way. The Conservancy's LCP Amendment was not possible prior to LCP certification. Only now are the Conservancy and MRCA able to propose a comprehensive, site-specific LCP Amendment that encompasses specific trails, as well as other park facilities, such as the campsites and parking areas, and activities, such as the Malibu Coastal Camping Program. As to the latter, although camping is a principal permitted use in the OS Zone of the certified LCP, no one could have anticipated that the City would seek to eliminate all camping in all public parks and recreation areas in the City, except for limited campsites at Ramirez Canyon Park for disabled individuals, only after private land is acquired and a new access road is - built through ESHA .

Hon. Bonnie Neely  
 May 14, 2009  
 Page 27

The Ramirez Residents also note that in May 2002, the Court of Appeal issued its opinion in City of Malibu v. Santa Monica Mountains Conservancy, et al. (2002) 98 Cal.App.4<sup>th</sup> 1379, which held that the Conservancy was subject to Malibu's land use regulations. (RCPF Letter, pp. 24-25.) The Ramirez Residents do not explain that the Legislature amended the Conservancy Act to overrule that decision shortly before the Commission certified the LCP 1 and the City of Malibu case did not concern the Commission's decision in CDP No. 4-98-334, which approved the uses proposed at Ramirez Canyon Park. The Ramirez Residents further assert that the CDP for Ramirez Canyon Park should have been incorporated in the LCP. However, at that time the Conservancy had a CDP, and there simply was no reason to specifically incorporate the uses already approved by that CDP in the LCP, much less any other CDP previously approved by the Commission prior to LCP certification. The purpose of the LCP was to guide future new developments within the City of Malibu, not to confirm developments already approved. (Pub. Res. Code § 30519; Malibu certified Land Use Plan, p. 8.)

**VII. THE CONSERVANCY'S LCP AMENDMENT IMPLEMENTS THE COMMISSION'S OTD AND INLAND TRAIL PROGRAM, CONSISTENT WITH SECTION 30223 OF THE COASTAL ACT.**

As a final argument, the Ramirez Residents contend that the LCP Amendment somehow exceeds the scope of the LCP override provision because it deals only with inland/upland property. (RCPF Letter, pp. 27-29.) There is, however, no such limitation in Section 30515, which permits a LCP amendment to deal with the entirety of the coastal zone. In this case, the Conservancy's LCP Amendment does nothing more than implement the OTDs already voluntarily recorded by applicants for permits and Conservancy acquisitions to string together the Commission-required trail easements to make a coherent trail system. The LCP Amendment fulfills exactly the objectives of the Commission in requiring the trail easements as a condition of project approval in the first instance.

The Ramirez Residents' argument is, moreover, misguided because it is devoted almost exclusively to a discussion of the public access provisions of the Coastal Act, rather than Section 30223 of the Act, which provides: "Upland areas necessary to support coastal

---

<sup>1</sup> The Legislature subsequently amended Public Resources Code Section 33208 to provide that nothing in the Conservancy Act limits a local government's exercise of the police power "over private property" and Section 33211.5(d)(1) and (2) to further provide that "the conditions of use and types of uses of property owned or subject to the management of the conservancy are considered to be of statewide significance," and that notwithstanding any other law or ordinance, "the conservancy may exercise its discretion in determining whether to authorize any . . . project, activity, or other entitlement to be undertaken by the conservancy or its agents, for the use of the conservancy owned or managed land."

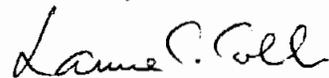
Hon. Bonnie Neely  
May 14, 2009  
Page 28

recreational uses shall be reserved for such uses, where feasible.” Section 30223 is the provision of the Coastal Act upon which the Commission based the OTDs it previously required and also its requirements for inland trails in the certified Malibu LCP. Yet, the Ramirez Residents bury a discussion of Section 30223 at the end of their argument, and then misstate and misconstrue it. First, they state it applies to local agencies. It does not. There is no reference to local agencies in the provision. Under Section 30515, Section 30223 is a Chapter 3 policy that the Commission must apply in determining whether to certify the LCP Amendment. They then state that it applies only to “reserve” upland areas to support coastal recreational uses, not to “development and use” them. That distinction is nonsensical. To “reserve” upland areas to support coastal recreational uses requires reserving the areas through OTDs, and then developing and using them. Regardless, this LCP Amendment is not about requiring trail easements in the first instance; it is about developing and using them, and the LCP Amendment is the proper vehicle for accomplishing that.

### CONCLUSION

Accordingly, for all the foregoing reasons, the arguments of the Ramirez Residents that challenge the use of the LCP “override” process here are meritless. The request of the Conservancy and MRCA for a LCP “override” for the Malibu Parks Public Access Enhancement Plan Overlay (“Overlay”) squarely meets the requirements of Section 30515 and Section 13666 of the regulations.

Sincerely,



LAURIE C. COLLINS  
Chief Staff Counsel

cc (w/attachments):

Peter Douglas, Executive Director, CCC  
Hope Schmeltzer, Chief Counsel, CCC  
John Ainsworth, Deputy Director, CCC  
Pat Veersart, CCC  
Christina Bull Arndt, Supervising Deputy Attorney General  
Jamee J. Patterson, Supervising Deputy Attorney General

Hon. Bonnie Neely  
May 14, 2009  
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Joseph T. Edmiston, Executive Director, SMMC  
SMMC Members  
MRCA Governing Board Members  
April A. Winecki, Dudek and Associates

# EXHIBIT

# 18

Ex Partes

LCPA MAL MAL 1 08  
**RECEIVED**  
MAY 21 2009

*recorded & faxed to Coastal*

**RECEIVED**  
MAY 20  
BOARD OF SUPERVISORS  
COUNTY OF SAN LUIS OBISPO

CALIFORNIA  
COASTAL COMMISSION  
SOUTH CENTRAL COAST DISTRICT  
May 19, 2009

Re: California Coastal Commission  
Hearing June 10-12, 2009

Khatchik Achadjian  
Board of Supervisors  
1055 Monterey Street, Room D-430  
San Luis Obispo, CA 93408

Dear Mr. Achadjian,

You will have heard of the danger of camping in the rear of Ramirez Canyon.

I have one request:

Please personally enter the Canyon and travel the one mile to the Santa Monica Mountains Conservancy's site in the end of the Canyon. You will see the fallacy of any safe travel in the event of an emergency.

I know it won't be easy for those on the Commission to get to Ramirez Canyon from Eureka, Santa Rosa, Sacramento, San Francisco, Monterey Bay, San Luis Obispo, La Jolla, San Diego, or Sebastopol.

But how can you make an informed decision without actually being on that narrow residential road?

Sincerely,



Joyce Ball  
266 Paradise Cove Road  
Malibu, CA 90265

**From:** Jennifer Minnehan [mailto:jminnehan@mccabeandcompany.net]  
**Sent:** Thursday, May 21, 2009 11:59 AM  
**To:** Pat Kruer  
**Subject:** Site visit request

Pat:

Good afternoon. Please see the request below. If you are unable to do a site visit then we would like to set a call.

We also need to set a call re: Goteta Beach.

Please advise if you are planning to attend everyday of the June 2009 California Coastal Commission meeting. If so, we would like to request and schedule an ex parte to discuss the Santa Monica Mountains Conservancy (Conservancy) and Mountains Recreation and Conservation Authority (MRCA) project and offer a site tour via road trip or helicopter.

The Conservancy and MRCA have submitted an amendment (MAL-MAJ-1-08) to the City of Malibu Local Coastal Program (LCPA) pursuant to the LCP "Override" procedures in Coastal Act Section 30515, following rejection of the LCPA by the City of Malibu.

As submitted by the Conservancy and MRCA, the LCPA:

- Enhances PUBLIC ACCESS to coastal parks in Malibu
- Connects 5 coastal parks through 6 miles of new Coastal Slope Trail
- Connects existing OTDs and the California Coastal Trail on the beach to Backbone Trail via 3.5 miles of new public trail
- Creates ADA-accessible Parking
- Creates ADA-accessible Restrooms
- Creates 29 "cold" campfire campsites including ADA-accessible

A briefing packet with additional information will be sent separately.

Please advise your availability and interest in the site tour.

- Jennifer

*Jennifer Minnehan  
McCabe & Company  
1121 L Street, Suite 100  
Sacramento, CA 95814  
(916) 553-4088  
(916) 397-8523 Cell  
(916) 553-4089 Fax  
[jminnehan@mccabeandcompany.net](mailto:jminnehan@mccabeandcompany.net)*

Commissioner Shallenberger,

Please advise if you are planning to attend everyday of the June 2009 California Coastal Commission meeting. If so, we would like to request and schedule an ex parte to discuss the Santa Monica Mountains Conservancy (Conservancy) and Mountains Recreation and Conservation Authority (MRCA) project and offer a site tour.

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- Creates 29 "cold" campfire campsites including ADA-accessible

A briefing packet with additional information will be sent separately.

Please advise your availability and interest in the site tour.

Feel free to call at 213-891-2965 or email if you have any questions.

Thanks,

Janet Burt for Donna Andrews

**SANTA MONICA MOUNTAINS CONSERVANCY**

LOS ANGELES RIVER CENTER AND GARDENS  
570 WEST AVENUE TWENTY-SIX, SUITE 100  
LOS ANGELES, CALIFORNIA 90065  
PHONE (323) 221-8900 FAX (323) 221-9001



May 22, 2009

The Honorable Bonnie Neely, Chairperson  
and Members

California Coastal Commission  
45 Fremont Street, Suite 2000  
San Francisco, California 94105

John Ainsworth  
South Central Coast Deputy Director  
California Coastal Commission  
89 South California Street, 2<sup>nd</sup> Floor  
Ventura, California 93001

**LCP Amendment 1-08 "Override" (Santa Monica Mountains Conservancy  
and Mountains Recreation and Conservation Authority)**

**Hearing Date: June 10, 2009, Item 16.b**

**Invitation for Site Inspection- Public Resources Code Section 30327.5 (e)(5)**

Dear Chairperson Neely and Mr. Ainsworth:

The Santa Monica Mountains Conservancy and Mountains Recreation and Conservation Authority will conduct site inspections of the area involved within the "Malibu Parks Public Access Enhancement Plan Overlay" for all interested commissioners and appropriate staff prior to the June 10, 2009 Coastal Commission hearing on the above LCP Amendment "Override." The site inspections will be conducted by jeep and/or by helicopter. Each site inspection will be limited to two commissioners. Would you please contact Melissa Cartelli at 310-589-3200 ext. 141 to schedule a site inspection.

Sincerely,

A handwritten signature in cursive script that reads "Laurie C. Collins".

Laurie C. Collins  
Chief Staff Counsel

cc: Hope Schmeltzer, Esq.

From: dandrews@leeandrewsgroup.com  
To: LWan22350@aol.com  
CC: jtford@leeandrewsgroup.com  
Sent: 5/15/2009 9:29:47 A.M. Pacific Daylight Time  
Subj: SMMC/Ex Parte Request

Commissioner Wan,

Please advise if you are planning to attend everyday of the June 2009 California Coastal Commission meeting. If so, we would like to request and schedule an ex parte to discuss the Santa Monica Mountains Conservancy (Conservancy) and Mountains Recreation and Conservation Authority (MRCA) project and offer a site tour.

The Conservancy and MRCA have submitted an amendment (MAL-MAJ-1-08) to the City of Malibu Local Coastal Program (LCPA) pursuant to the LCP "Override" procedures in Coastal Act Section 30515, following rejection of the LCPA by the City of Malibu.

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Please advise your availability and interest in the site tour.

Feel free to call at 213-891-2965 or email if you have any questions.

Thanks,

Janet Burt for Donna Andrews

# EXHIBIT

# 19

Comment Letters

RECEIVED  
MAY 27 2009

Revised Findings

CALIFORNIA  
COASTAL COMMISSION  
SOUTH CENTRAL COAST DISTRICT

Matthew Wilder  
Tamara Dunn  
6096 Ramirez Canyon Road  
Malibu, Ca. 90265

RECEIVED

MAY 21 2009

CALIFORNIA  
COASTAL COMMISSION

California Coastal Commission  
45 Fremont Street  
Suite 2000  
San Francisco, Ca. 94105-2219

**Re: Santa Monica Mountain's Conservancy Override Plan**

May 19, 2009

To Whom It May Concern:

I am a resident of Ramirez Canyon in Malibu. It is a small community of approximately 70 homes, a narrow box canyon with a history of fire. Many of the homes here are older, smaller houses with wooden siding and old heavy vegetation, mostly ESHA. All our residences share a narrow, winding private road (13 feet in places), a tunnel barely large enough to accommodate one car at a time at the southerly entrance and nine speed bumps. Homes are built right up to the edge of the pavement in places, there are creek crossings with narrow wooden one lane bridges and a number of "Arizona crossings" at the grade. In short, a very dangerous potential scenario for evacuation in case of fire and flood each year.

At the end of our canyon is the Santa Monica Conservancy. The Conservancy's original mission of acquiring and conserving open space lands for future generations and serving environmental values is a mission that I believe all the residents of Ramirez support. However, the Conservancy has been aggressively seeking permission to open new public facilities for camping at unsafe locations where the risk of fire is very high. The fire season in California is now ALL YEAR LONG. California's fire danger is growing due to drought and global warming. Fifteen of the twenty largest wildfires in California history have occurred since 1985. Very simply, **People Cause Fires**. Campfires and cooking is the #5 identified cause of fire in the Santa Monica Mountains National Recreation Area (per a recent EIR). Smoking is #12. There are dwindling fiscal resources to fight fires:

State agency budget for firefighting:  
1996-97 \$475 million  
2008-09 \$1.6 billion

**A 340% increase!**

In addition, the Conservancy's proposed development is too intensive for Ramirez, Escondido and Corral Canyons. Consider the following:

**Ramirez Canyon**

SMMC proposes up to 45,000 people per year for large groups and other events, 7 days a week, dawn to dusk. Some weekends until 11pm. **NO FIRE SAFE ACCESS:** Existing road is too narrow for fire equipment and safe evacuation.

**Escondido Canyon**

A dry isolated canyon in which the SMMC is proposing Hike-in camping. Virtually impossible to supervise.

**Corral Canyon**

Proposes camping near the PCH, which would be fine. However, camping at location one mile up the canyon without roads into campsites is dangerous at best.

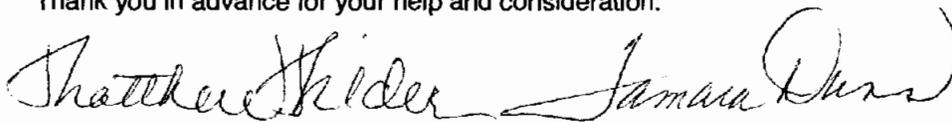
There are safer and more suitable alternatives. Perhaps camping on the beaches or along the Pacific Coast Highway should be considered. Special events may be held at the King Gillette Ranch. This location has 500 acres in the middle of the Santa Monica Mountains, good access to two major highways and ample parking. **The conservancy already has rights to use it!**

The Conservancy has launched an attack campaign against critics of their proposal and I think it's important to underscore that Malibu has a long history of welcoming visitors. We have more than 11,000,000 visitors each year; more visitors per capita than any other city in California. Malibu has a long history of hosting large groups. We have 23 event, catering and conference facilities that can each accommodate 100 to 500 people. Is there a demonstrated need for more?

We all support public access to public land. At the same time, we believe public access can and should be managed in a fire safe way. We support camping at safe locations that are safely managed and supervised. We support passive recreation (hiking, picnicking, etc.).

Our canyon fits none of this criteria. Please help us by supporting our opposition to the SMMC's proposal and steer the Conservancy's mission down the safer path to safer locations.

Thank you in advance for your help and consideration.

Handwritten signatures of Matthew Wilder and Tamara Dunn in cursive script.

Matthew Wilder and Tamara Dunn

Rick Mullen  
 President, Ramirez Canyon Preservation Fund  
 5969 Ramirez Canyon Rd.  
 Malibu, CA 90265  
 310-457-7502  
[rdmullen@verizon.net](mailto:rdmullen@verizon.net)  
 May 20, 2009

RECEIVED  
 MAY 27 2009

CALIFORNIA  
 COASTAL COMMISSION  
 SOUTH CENTRAL COAST DISTRICT

Dear California Coastal Commissioners:

I am writing to you about the upcoming Coastal Commission Hearing about the Santa Monica Mountains Conservancy's efforts to force camping in dangerous canyon locations on the City of Malibu against the wishes of most of the residents and for authorization to greatly intensify the use of its residential property in Ramirez Canyon with large events and up to 44,000 visitors a year.

This issue is not about public access. This is about public safety and the inappropriate use of a gated Hollywood star's former estate as office space for State of California employees.

The City of Malibu has 13,000 residents and 11 million visitors a year. We welcome more visitors per capita than any other town in California. To say that we are against public access is a lie. We have the best record in California on public access.

We support camping in safe locations. Safe locations for camping are at the beach or in a large facility like the Conservancy's 500 acre King Gillette Ranch with excellent ingress and egress for evacuation and access by Emergency personnel. The wind swept, fire prone canyons of Malibu are some of the most dangerous areas in the State which has designated them as Very High Fire Hazard Severity areas.

We also support the following activities in Ramirez Canyon:

- Safe and supervised camping for disabled people and other accessible activities
- Children's educational programs
- Picnic facilities and riparian interpretive hiking trails
- Senior and public outreach programs for small groups
- Canyon and garden tours for small groups

We oppose:

- Large group events and weddings that have nothing to do with the mission of the SMMC
- Executive offices for the SMMC's top brass in a residential neighborhood.

Thank you for the consideration of the views of our Canyon residents.



Rick Mullen  
 President, Ramirez Canyon Preservation Fund  
 (for more information go to: [www.safecanyons.com](http://www.safecanyons.com))

LCPA MAL-MAJ-1-08

Revised Findings

**Pat Veesar**

---

**From:** pal33217@aol.com  
**Sent:** Wednesday, May 27, 2009 8:35 PM  
**To:** Pat Veesar  
**Subject:** Opposition to plan to introduce overnight camping to Malibu  
**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

California Coastal Commission  
c/o Pat Veesar  
Southern California Coast Office  
89 S. California Street  
Ventura, California  
93002-2801

May 27, 2009

Dear Mr. Veesar:

I am writing to you to voice my opposition to the plan to introduce overnight camping in unsafe, unguarded locations in the hills above Malibu, where fire danger risk is very high.

California's recent prolonged drought has created a very high fuel load in the Santa Monica Mountains and the risk of fire is growing each year. Bringing the public into a zone where this high risk of fire danger exists is irresponsible and a terrible idea. People tragically learned this lesson when 50 homes, pets and livestock were lost in the Corral Canyon fire in November of 2007 when visitors started a campfire in the hills on a dry, windy night.

It is extremely difficult to evacuate on the narrow roads of Malibu and would make more sense to make decisions that would protect the public from risk rather than to create conditions that would endanger the public. Locating campgrounds on the beach would provide a safer alternative to having campfires in the hills.

I donate to the Conservancy and support their mission of acquiring and conserving open space lands for future generations but I do not agree with this plan to introduce overnight camping in the hills above Malibu. It seems like a dangerous plan and makes no sense to me. Before the state moves ahead with these plans to increase overnight camping in the fire-prone hills and box canyons above Malibu, I would hope they would spend so me resources in patrolling and maintaining the lands and trails they already own.

The state has spent millions of dollars fighting wildfires this year. Let's focus our tax dollars on better managing the public lands we already have rather than spending it on plans that will ultimately further endanger people and property.

LCPA MAL-MAJ-1-08

Revised Findings

Sincerely,

Carol Gable

Carol

---

Dinner Made Easy - Get meal ideas and money-saving coupons! [Get Recipe Ideas!](#)

# EXHIBIT

# 20

SMMC/MRCA (DUDEK) Malibu Parks Public Access  
Enhancement Plan Overlay Alternatives Analysis

**MALIBU PARKS PUBLIC ACCESS ENHANCEMENT PLAN OVERLAY  
ALTERNATIVES ANALYSIS**

For

**SANTA MONICA MOUNTAINS CONSERVANCY**

Los Angeles River Center & Gardens  
570 West Avenue Twenty-Six, Suite 100  
Los Angeles, CA 90065  
(323) 221-8900

And

**MOUNTAINS RECREATION & CONSERVATION AUTHORITY**

570 West Avenue 26, Suite 100  
Los Angeles, CA 90065  
(323) 221-9944

**Prepared By**

**Dudek**

621 Chapala Street  
Santa Barbara, CA 93101  
(805) 963-0651

May 2009

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- A ATE Traffic Memo, dated 5/26/09

Malibu Parks Public Access Enhancement Plan Overlay Alternatives Analysis**1. INTRODUCTION**

Section 13666.4 of the Coastal Commission's Regulations requires that the Commission make certain findings in approving the Conservancy/MRCA LCP amendment "override." Section 13666.4(a) requires a finding that "development meet a public need of a geographic area greater than that included within the certified LCP." Section 13666.4(a)(3) also requires that the Commission find that "if significant adverse environmental impacts have been identified, reasonable alternatives have been examined, and mitigation measures have been included that substantially lessen any significant adverse environmental impact so that there is no feasible less environmentally damaging way to meet the public need. If development will have no significant adverse environmental impact, findings shall be included which support that conclusion."

Consistent with Section 13666.4(a)(3) of the Commission's Regulations, the following is a discussion of the public need for the public access and recreational resources addressed by the subject LCP amendment request, coupled with an assessment of reasonable and other recommended "alternatives" to the proposed LCP amendment that supports the finding that there is no feasible less environmentally damaging alternative that meets the public need.

The alternatives analysis provides responses, where determined appropriate and applicable, to the statements offered by the Ramirez Canyon Preservation Fund (RCPF) in their letter to the Commission of December 23, 2008, and a report prepared by SAIC (Analysis of Issues Relating to Application by the Santa Monica Mountains Conservancy for a Local Coastal Program Amendment Override, December 2008) referenced in the RCPF letter to support their arguments opposing the Conservancy/MRCA LCP amendment. For purposes of assisting the Commission with considering findings for Section 13666.4, the alternatives analysis also assumes that significant adverse environmental impacts could occur from future implementation of the public programs and improvements contemplated in the requested LCP amendment, although there is no evidence that suggests this would be the case, and therefore represents a reasonable worst-case analysis of potential alternatives and mitigation measures that could lessen any perceived potential impacts.

As opposed to the deficient presentation of "alternatives" provided by the RCPF and SAIC report, which identify NO alternative locations for the proposed parkland improvements within the City of Malibu and only one that is located in the Coastal Zone at the inland/coastal zone boundary, the alternative analysis below includes a good faith effort to identify reasonable alternatives that would meet, at least in part, the public need and thus the purpose and intent of the LCP amendment.

It must be noted that there is no specific development proposal being considered at this time. The Conservancy/MRCA LCP amendment merely requests that the Malibu Parks Public Access Enhancement Plan Overlay (Overlay) be incorporated into the Malibu

Malibu Parks Public Access Enhancement Plan Overlay Alternatives Analysis

LCP to provide the policy framework to develop and implement future plans for public parkland improvements. As such, there is no need or requirement to provide for site-specific, quantitative analysis of potential impacts of any development proposal addressed in the Overlay. Rather, the analysis must consider if the proposed Overlay could result in new LCP policies or development standards that could create a previously unavailable opportunity and entitlement avenue for facilitating new development that could result in significant adverse environmental impacts. Should the Overlay be certified, future implementation of the parkland improvements included in the Overlay would require preparation of project-specific plans and design details, site-specific environmental data, and completion of environmental impact analysis as part of the applicable environmental review process.

It must be further noted that, although this alternatives analysis has been prepared to assist the LCP amendment process, there is absolutely no reasonable argument that the proposed Overlay, in and of itself, could result in significant adverse environmental impacts. This is true not only because there is no physical development that would cause a change in environmental conditions being requested or considered at this time, but also because the public improvements being considered in the Overlay are already allowed under the existing LCP. Trails, camping, public parking areas and other parkland support facilities (including park offices), and public gatherings/programs are primary permitted uses at the parklands included in the Overlay<sup>1</sup>. Permitted parkland uses under the current LCP are discussed in more detail in the following sections. While design details, specific improvement locations, mitigation measures, policy consistency analysis and conditions of approval would all be considered and evaluated for any future development proposal for the permitted parkland uses (as would be the case for future implementation of the Overlay improvements), the basic parkland use and facilities being considered here have the same potential to impact environmental resources as those uses and facilities presently allowed under the current LCP. The Overlay simply serves to supplement existing LCP policies and implementation measures to enhance and expedite potential future coastal public access and recreational facility improvements to and between specific Conservancy/MRCA-owned parklands in the City, and thus carry out the public access and recreation goals of the certified LCP and the Coastal Act.

In fact, the proposed Overlay would better ensure that parkland uses presently permitted by the Malibu LCP, if subject to the Overlay, would lessen the potential that significant adverse environmental impacts would result from future project implementation. This is because the Overlay contemplates parkland uses and facilities at specific parklands that have been extensively studied for purposes of preparing conceptual parkland improvement plans to gain a thorough understanding of the access and recreation demands, the resource and environmental issues possibly affecting public use of the parks. For this reason, the Overlay includes a set of site-specific

---

<sup>1</sup> The basis for the conclusion regarding currently allowed parkland uses and facilities under the current LCP is discussed and presented in more detail in documentation included in the Conservancy/MRCA LCP amendment submittal Policy Consistency Analysis.

### Malibu Parks Public Access Enhancement Plan Overlay Alternatives Analysis

policies for specific improvements that go way beyond the certified LCP in requiring and directing location and design detail, use limitations and outright restrictions to ensure that, even at the policy level, issues of potential environmental impacts are addressed and mitigated within the policy framework of the Overlay. As such, in the case of the proposed Overlay, disapproval of the Conservancy/MRCA proposed LCP amendment (the "No Action" Alternative), would potentially result in greater environmental impacts than would occur if the proposed Overlay is certified.

Nevertheless, the Conservancy/MRCA offer the following alternatives analysis in response to comments received on the proposed LCP amendment to provide additional information to support the Commission's findings required pursuant to Section 13666.4 of the Coastal Commission's Regulations, working under the assumption that it can be found that potentially significant adverse environmental impacts have been identified. The potential environmental impact issues considered herein would only be pertinent if and when the Conservancy/MRCA bring forward a specific development proposal, at which point potential adverse environmental impacts would be analyzed pursuant to the applicable environmental review process.

## **2. PUBLIC NEED FOR RECREATIONAL RESOURCES THAT EXTENDS TO AN AREA GREATER THAN THAT COVERED BY MALIBU'S LCP**

Many of the comments received in opposition to the Conservancy/MRCA proposed LCP amendment lack a general understanding of the collective mission of the Conservancy and MRCA, which strive to preserve, protect, restore, and enhance lands of Southern California, and to create an interconnected system of parks, open space, trails, and wildlife habitats that are easily accessible to the general public. The mission is applicable to all Conservancy/MRCA-owned parklands and, just as the Legislature recognizes that "the California coastal zone is a distinct and valuable natural resource of vital and enduring interest to all the people and exists as a delicately balanced ecosystem" (Coastal Act Section 30001), so do the Conservancy/MRCA recognize the need to preserve, protect, restore, and enhance their coastal parklands for the benefit of coastal resources and in the interest of all people.

Section 33001 of the Santa Monica Mountains Conservancy Act (Division 23, Public Resources Code) provides.

The Legislature hereby finds and declares that the Santa Monica Mountains Zone, as defined in Section 33105, is a unique and valuable economic, environmental, agricultural, scientific, educational, and recreational resource that should be held in trust for present and future generations; that, as the last large undeveloped area contiguous to the shoreline within the greater Los Angeles metropolitan region, comprised of Los Angeles and Ventura Counties, it provides essential relief from the urban environment; that it exists as a single ecosystem in which changes that affect one part may also affect all other parts; and that the

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preservation and protection of this resource is in the public interest. [Emphasis added.]

The proposed LCP amendment submittal is clear: the Conservancy/MRCA seek to provide public access and recreation opportunities at their coastal parklands for an area much broader than just the City of Malibu, including the entire Los Angeles region and those that may come to enjoy the California coast from far greater distances. The need and demand for public recreation at Conservancy/MRCA parklands can not be focused nor determined by the residents of Malibu alone, but the roughly 17 million people that live and work within the Los Angeles area and visitors seeking coastal recreation throughout California and the Nation. As such, the demand for public recreation at coastal parklands must take into account the lack of existing facilities within the Santa Monica Mountains and Malibu region, and the history of conflict surrounding attempts to improve park facilities within Malibu for visitors, when determining appropriate future uses within the Conservancy/MRCA parklands.

The proposed LCP amendment is intended to address issues associated with growing visitation and demands for outdoor recreational opportunities in the Coastal Zone of the Santa Monica Mountains and Malibu area. Unfortunately, the City of Malibu has a long history of conflict related to meeting the Coastal Act mandate of protecting and enhancing public access and recreational resources. In recognition of this ongoing conflict, the Commission certified the City's LCP which describes the various factors that have historically limited public access opportunities in the Malibu region:

*"Public access to and along the shoreline and trails, and the provision of public recreational opportunities and visitor-serving facilities such as campgrounds, hotels and motels has historically been a critical and controversial issue in Malibu. Continuing conflicts in providing maximum public access to and along the shoreline and trails, as mandated by the Coastal Act, is evidenced in the Coastal Commission's permit regulatory reviews and public hearings concerning proposed projects in Malibu since 1976." (Chapter 2 of the City of Malibu Local Coastal Program Land Use Plan). [Emphasis added]*

The demand for coastal public access and recreation opportunities, the mandates of the Malibu LCP and of the Coastal Act to meet this demand, and the continuing conflict with the City of Malibu remains today as evidenced by the history and circumstances resulting in the Conservancy/MRCA LCP amendment override application. The override procedure invoked for the proposed Overlay allows for such amendments because, as with the Conservancy and MRCA, it is the Coastal Commission's role to apply a regional or statewide perspective to land use debates where the use in question is of greater than local significance. Where local governments generally are constrained to plan the use of land only within their jurisdictional boundaries, the Commission was created, in part, in order to take a broader view in making land use decisions for California's coastal properties in the interest of all people.

Malibu Parks Public Access Enhancement Plan Overlay Alternatives Analysis**2.1. Need for Public Access and Recreation Trail Resources**

There is no doubt that population growth and decades of private development in the coastal area of Malibu have and will continue to result in substantial loss of public access and recreational opportunities. Previously open lands, beaches, and historic trails have become developed and, as population has continued to grow in the region, more people seek use of the dwindling supply of such resources. In addition, many necessary support facilities for recreation have been affected as available public transit, parking, restrooms, and other amenities become overburdened and/or are difficult to accommodate given the shrinking supply of land available to provide for such facilities.

It is important to note that the public shoreline access and recreation policies of the Coastal Act and Malibu LCP are not separate and distinct, but are interrelated and often necessarily dependent policies. These are implemented together to meet an ever-increasing demand for public access and recreation opportunities throughout upland and shoreline areas of the coastal zone. This is reflected in the certified Malibu LUP, which addresses coastal access in terms of physical supply including *“lateral access (access along a beach), vertical access (access from an upland street, parking area, bluff or public park to the beach), coastal blufftop trails, and upland trails that lead to the shore or traverse inland parklands within the coastal zone”*.

In response to widespread public demand and support for recreation opportunities, several agencies have spent decades planning for an expansive trail system for the Malibu coastal zone and larger Santa Monica Mountains National Recreation Area, major components of which cross and potentially connect the parklands addressed in the Overlay. This trail system includes the Backbone Trail, a primary trail corridor traversing a variety of public parklands along the coast north of the City from urban areas of Los Angeles County to the east, past Topanga State Park and on to Point Mugu State Park in Ventura County to the west. Various inland connector trails link urban areas (such as Santa Monica, the San Fernando Valley and Simi Valley) with the trail corridors and parklands of the Santa Monica Mountains National Recreation Area from which one could ultimately gain access to the shoreline. Implementation of the proposed Overlay trail system and support facility improvements is critical to completing and supporting access to the Coastal Slope Trail within the City of Malibu, and its ultimate connection to the Backbone Trail that will provide access to and between adjacent urban areas of Los Angeles County and Ventura County, the larger Santa Monica Mountains National Recreation Area, and the shoreline within the City of Malibu.

In an effort to keep up with existing and increasing demand for recreational resources in Malibu and the Santa Monica Mountains coastal area, and consistent with the access and recreation policies of the Coastal Act, the Coastal Commission has for decades implemented the Coastal Access Program Offer to Dedicate (OTD) program in the area. The Overlay's trail improvement program addresses existing and planned alignments of various trails through the Overlay area based on trail planning data gathered from the National Park Service (NPS), the City of Malibu LCP and the City's Trail Master Plan. Segments of these trails currently exist, but large portions are incomplete and a number

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of trail OTDs intended to accommodate the trails remain unimproved. There are a number of opportunities to improve the recorded trail OTDs and thereby fill a number of "missing links" in the trail system and thereby increase and expedite creation of the recreation resources intended.

#### **2.2. Need for Coastal Camping**

The SAIC report's initial assumptions and conclusions regarding the public need for the recreation improvements included in the Overlay are fundamentally flawed. SAIC states that because the Conservancy/MRCA's proposed conceptual plans for coastal camping do not include direct beach or shore access, the list of campgrounds and beaches included in the LCP amendment submittal's Public Access and Recreation – Current Demand and Proposed Overlay Goals document does not support a rationale for the additional coastal camping opportunities contemplated in the Overlay.

The RCPF and SAIC overlook important points conveyed very clearly in the LCP amendment submittal. First, Corral Canyon Park does indeed have direct access to the shoreline at Dan Blocker Beach. While it is true that Ramirez Canyon Park and Escondido Canyon Park do not presently have direct access to the shoreline, the Conservancy/MRCA programs and improvements included in the Overlay would facilitate implementation of the regionally important Coastal Slope Trail which, when completed, would link all of the proposed camping areas via access along a specific trail system, decades in the making, that would achieve access from the Conservancy/MRCA parklands to the shoreline via Corral Canyon Park. In addition to the heavily influenced coastal climate that would provide a unique visitor-serving experience in the Malibu, the proximity of the parkland camping areas to the shoreline, planned in conjunction with the comprehensive trail improvement program, would enhance public access opportunities to public parklands and the shoreline, a basic objective and key element of the proposed LCP amendment that simply cannot be achieved with improvements to "alternative" inland park areas suggested by the SAIC report as alternative locations. Beyond shoreline access, Section 30223 of the Coastal Act, which provides the Coastal Act policy support for the Commission's inland trail program that would be implemented by the proposed LCP amendment, further underscores that "Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible." (See also Letter from Laurie C. Collins, Conservancy Chief Staff Counsel to CCC, dated May 14, 2009, pp. 27-28.)

The SAIC report goes on to recognize that most popular campgrounds in California are at or near capacity during peak times, but argues that the LCP amendment submittal is unclear with respect to why new low-cost camping facilities are contemplated in the City of Malibu. To the contrary, as explained below, the unmet public demand for camping resources along the coast and high/exceeding use capacity statistics (particularly for coastal campgrounds) are well documented, and State Parks reports it is unable to keep up with the growing demand for camping. It is for those reasons, that the Conservancy/MRCA are proposing camping opportunities in Malibu.

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California State Parks data relative to existing demand for public camping facilities in areas in the same region of Malibu demonstrate a significant unmet demand for camping opportunities. In 2007, State Parks personnel reported that the months of June, July and August experienced a 107.4% capacity for camping at the Leo Carrillo, Malibu Creek, Point Mugu and Thornehill Broome campgrounds located in County jurisdictions (the extra 7.4% attributed to overflow camping and group camping; State Parks email, November 2, 2007).

In addition, a State Parks News Release (November 2007) confirmed an overwhelming, unmet demand for camping resources on a State-wide level, particularly along the California Coast, reporting that camping reservations on opening day for May increased 20% from 2006 with many coastal camping facilities, Bolsa Chica in Orange County, Carpinteria State Beach in Santa Barbara County, Doheny State Beach in Orange County, San Clemente State Beach in Orange County, San Elijo State Beach in San Diego County, and South Carlsbad State Beach in San Diego County, at 90% capacity by close of business on opening day. Personnel of the Long Range Planning Program for California State Parks further reports the following on public demand and support for developing new camp areas along the California Coast:

*The California State Parks system has not stayed abreast with the demand for peak-season camping as the population has grown. There is a high unmet demand for camping outdoor opportunities in California. Changes in California's demography, coupled with growing tourism, have created unprecedented demand for more camping opportunities. The demand for all campsites at State Parks grew by approximately 13% between the years 2000 and 2005.*

*California's state parks are the most heavily visited of any state park system in the nation. Some facilities are at capacity. Coastal beaches and campgrounds, for example are the most heavily used state parks. State Parks coastal campsites are at or near capacity during the spring, summer and fall months, with thousands of potential visitors turned away. Demand is so high that if the Department were to add 325 camp sites a year, it would not keep up with requests. (The State Park System Plan 2002, Part I: A System for the Future, [www.parks.ca.gov/?page\\_id=24512](http://www.parks.ca.gov/?page_id=24512)).*

With all this unmet demand for camping, particularly for coastal camping, there are presently no low-cost public camping opportunities in Malibu. One (1) private campground facility, the Malibu RV Park, exists in the City and is located east of the intersection of Corral Canyon Road and Pacific Coast Highway. The Malibu RV Park includes 35 tent spaces for which fees range between \$41-\$46 Sunday-Thursday and \$51-\$56 Friday-Saturday during the peak season (May 23-September 30), and between \$20-\$25 Sunday-Thursday and \$25-\$30 Friday-Saturday during the off season (October 1-May 22). A holiday surcharge of \$20/night per tent is imposed, except on the 4<sup>th</sup> of July when a surcharge of \$75/night per tent is required. The limited supply of overnight camping facilities in Malibu, and the apparent ability to charge considerable fees for use of the limited facilities that are available, indicate a significant demand for these limited resources.

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As it questions the rationale for seeking to provide additional camping resources, particularly in Malibu, the SAIC document states that there are nearly 1,000 group and family camp sites within approximately one hour of Malibu. The statement is misleading since many of the areas cited are not open year round, but are seasonal and are much more than an hour away from this part of the coast. In addition, the analysis does not discuss how the so called 1,000 campsites meet current demand for outdoor recreation camping, especially the demand for coastal camping, but only provides a list of campgrounds within 200 miles of the Malibu area.

The Conservancy and MRCA believe that providing new low-cost camping opportunities is a critical component to meeting an unmet demand for public access and recreation opportunities in the Coastal Zone as current trends in the market place and along the coast provide a clear challenge to developing and maintaining lower-cost overnight accommodations that are in high demand to serve various types of visitors. For this reason, one of the primary components of the Overlay is the specific provision of low-cost overnight camping in the Malibu coastal area.

Currently, there are very few, if any, camp facilities in the Santa Monica Mountains designed with the specific objective of accommodating individuals with disabilities. As such, the Overlay District provides for fully accessible camps facilities in each park area considered for campsite development. In addition, the Overlay District will establish the Malibu Parks Affordable Access Fund, supported by net proceeds of special event uses at Ramirez Canyon Park, to fund the Malibu Coastal Camping Program. It is anticipated that each special event at Ramirez Canyon Park would yield approximately \$1,000 of net proceeds, and could therefore fund approximately 20 participants in one overnight program event. The camping experience funded by the Malibu Parks Affordable Access Fund is designed to provide urban, disadvantaged youth with their first overnight camping experience.

Camping at Corral Canyon Park and Escondido Canyon Park would provide unique visitor-serving experiences in the Malibu area by providing smaller campsites close to both coastal canyon habitat and the beach, and with little development disturbance or activities. The only other existing camp areas in Malibu and other nearby areas of the Santa Monica Mountains are larger campgrounds that inherently generate more disturbance from foot traffic and vehicles (e.g., noise and light associated with vehicles coming and going, noise associated with car doors shutting, etc.). As opposed to "car camping" in larger campsites in the region, the campsites proposed at Corral Canyon Park and Escondido Canyon Park would be smaller and easily accessible by a short walk. The camp areas would be removed from the noise, foot traffic, and presence of cars and asphalt and thus the serenity and solitude of nature could be experienced, similar to a "backpacking" experience, but with only a short hike from primary park access points. The proposed Corral Canyon and Escondido Canyon campsites would provide an opportunity to experience wilderness and natural habitat more readily than backpacking, and at a smaller scale compared with all other area campgrounds. The lack of distractions would make for a unique natural experience, yet the minimal scale of

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the proposed camp areas would be less likely to disturb local wildlife. It is expected that proposed camp areas in Corral Canyon Park and Escondido Canyon Park would be relatively quiet in all respects and more likely to remain so during the course of the night. In addition, as campfires are prohibited, the associated distractions (e.g., smoke, burned out coals, etc.) would be avoided. Visitors travelling up and down the coast could experience an amazing opportunity to camp, hike, enjoy nature, and visit the beach. In addition, at Corral Canyon Park, visitors would have easy access to local eateries. By allowing campers at Corral Canyon Park and Escondido Canyon Park to reserve campsites onsite, there would be visitor-serving flexibility to take advantage of a high-quality, low-cost and unique camping experience.

Ramirez Canyon Park would also provide visitors a unique camping experience, unlike other camping opportunities in the area. Campsites at Ramirez Canyon Park would also be small and accessible by a short walk, with fewer disturbances that are found at larger, car camping sites. The Ramirez Canyon Park campsites would also be close to coastal canyon habitat and the beach. Campers at Ramirez Canyon Park could enjoy observing the beautiful landscaping/gardens and architecture of this developed compound, as well as the surrounding native vegetation, adjacent creek, and local wildlife. The existing amenities at the park (e.g., picnic areas, sitting benches, riparian area interpretative trail) would contribute to this unique camping experience.

#### **2.3. Need for Recreation Facilities for Visitors with Disabilities**

The RCPF and SAIC correspondence includes several comments regarding the accessible features of the proposed Overlay, but it appears the authors must not have had the benefit of the various submittal materials addressing these features. The proposed Overlay provides for expansion of recreational opportunities at existing park facilities to serve a variety of visitors, whenever feasible and consistent with safety needs and constraints of natural parklands. The Overlay provides that proposed park improvements enhance accessibility, wherever feasible and consistent with public safety and resource protection policies, thus park improvements have been conceptually designed for location, size and program implementation consistent with the recommended guidelines for the universal design of trails and trail facilities as described in a study prepared specifically for the parklands included in the Overlay (Moore, Iacofano, Goltsman, Inc. Study, 2006).

The parklands addressed in the proposed Overlay vary substantially with respect to existing access, recreation support facilities, and amenities and thus the access opportunities and type of public park use also vary greatly between individual park areas. The Overlay is intended to provide for expansion of recreational opportunities at park facilities to serve a variety of visitors, whenever feasible and consistent with the constraints of natural parklands. The Conservancy and MRCA recognize that, in some cases, natural constraints of parklands inherently limit access and recreation opportunities for visitors of varying abilities (e.g., physically and mentally challenged). As such, the Conservancy and MRCA have identified an underserved population seeking coastal access and recreation and have therefore emphasized the need to

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provide facilities and outreach programs intended to accommodate this population.

In making public parkland facilities maximally accessible, the Conservancy and MRCA have developed the Overlay with specific provisions for accessibility while remaining sensitive to circumstances in which conventional accessibility modifications may adversely affect the natural character of park areas. In these situations, the Overlay proposes to incorporate the recommended guidelines for the universal design of trails and trail facilities as described in the document prepared by Moore, Iacofano, Goltsman, Inc. (MIG), dated June 2006, into all plans for parkland facilities, where feasible. These guidelines provide design specifications and alternative regulations to facilitate access and use by persons with disabilities to structures and natural park properties.

Ramirez Canyon Park contains a number of established amenities to support public use programs designed to facilitate accessibility including picnic areas, restrooms, educational displays, sitting benches, gardens, easily accessible terrain, and a riparian area interpretive trail. As such, the Overlay does not contemplate extensive physical improvements for Ramirez Canyon Park to improve accessibility but includes detailed program and operational policies and implementation measures to ensure that public outreach programs are implemented to the maximum extent feasible.

#### **2.4. Need for Recreation Support Facilities**

The public access and recreation demand of the region can only be met where adequate facilities exist to support recreation. For the Conservancy/MRCA parklands in region, this is best accomplished by linking and integrating natural parks via trail linkages, public transportation, and/or thematically via public programs and events, and providing adequate support facilities to make certain residents, visitors and recreationists can reach and enjoy these public resources. Given the diversity of parklands included in the Overlay area, and the unique and varying degree of available amenities and opportunities to develop new amenities at the parklands, the Overlay similarly has the opportunity to provide for a varying degree of public access and recreation opportunities unique to each park property. These policies may be further implemented by developing necessary park support facilities within park boundaries to ensure access and recreation goals are achieved by providing facilities for parking, visitor restrooms, park staff housing, and facilities to support program operations and park maintenance, as appropriate.

The physical supply of public access and recreational resources (trails, parklands, camping facilities, etc.) is a primary factor in securing access and recreational opportunities. However, a number of other elements affecting access and recreational opportunities include 1) the availability of public transit, 2) parking availability, 3) provisions for support facilities such as restrooms and picnic areas, 4) addressing user demands and conflicts, and 5) the availability of personnel facilities necessary to support daily operations, maintenance needs for parklands, and public programs intended to provide a diversity of coastal access and recreation opportunities. The Malibu LCP provides numerous policies that apply specifically to trail development for

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public access and recreation purposes, which must be supported by provision of adequate support facilities such as parking, trash receptacles, restrooms, picnic areas, etc.

Existing and proposed support facilities provided for in the proposed Overlay are those facilities deemed necessary to support the primary permitted land use, in this case public access and recreation, research and education, and nature observation. The type of support facilities addressed at each park facility is based on the level and complexity of public uses and specialized programs offered at each park area. Ramirez Canyon Park, given its unique character, relatively built-out condition (used previously as an estate compound), limited accessibility to the public, and specialized programs requires more administrative and support facilities to maintain access programs, daily operations and maintenance than do Escondido and Corral Canyon Parks that provide primarily passive recreation. The Park contains a number of existing support facilities and amenities including picnic areas, restrooms, educational displays, sitting benches, gardens, easily accessible terrain, and a riparian area interpretive trail, all of which are readily available for specialized public use programs. Although public access into the park is currently limited per the request of local neighbors along Ramirez Canyon Road, the existing facilities at Ramirez Canyon Park provide a unique park environment with well established support facilities necessary to operate specialized public outreach programs for individuals with varying degrees of abilities (e.g., physically and mentally challenged). Additionally, the developed nature of Ramirez Canyon Park provides facilities from which the Conservancy and MRCA operate and monitor public outreach and educational programs for the park while conducting administrative, maintenance, and critical planning programs for park and recreational lands in the coastal area.

### **3. PURPOSE AND INTENT OF THE LCP AMENDMENT**

The purpose of the Malibu Parks Public Access Enhancement Plan Overlay is to maximize and prioritize public access and recreational opportunities in specific parkland and recreation areas in Malibu, consistent with sound resource conservation principles and constitutionally protected rights of private property owners. The Plan Overlay further intends to supplement and implement the public access and recreation policies of Chapter 3 of the Coastal Act, Chapter 2 of the Malibu Local Coastal Program Land Use Plan, and Chapter 12 the Malibu Local Coastal Program Local Implementation Plan. To implement the goals, objectives, and policies of the public access and recreation policies of Chapter 3 of the Coastal Act, and Chapter 2 of the Malibu Local Coastal Program Land Use Plan, the Overlay provides site specific development standards and other implementation measures to 1) complete trail connections for the Coastal Slope Trail, between the beach and the Backbone Trail, and other connector trails and to ensure adjacent lands are protected as natural and scenic areas to enhance the recreational experience of trail corridors, and 2) identify site specific public access, recreational facility, and program improvements for Ramirez Canyon Park, Escondido Canyon Park, and Corral Canyon Park to provide camp areas, critical support facilities,

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improved public transit, and improved trail and park accessibility to facilitate an increased level of accessibility for visitors with disabilities.

In addition, consistent with Coastal Act Section 30210, to provide recreational opportunities for all people, the Overlay includes detailed policies and implementation measures for Ramirez Canyon Park program and operational elements that support special public outreach and educational opportunities, as well as the administrative infrastructure necessary to operate specialized public outreach programs and to ensure that maximum public access and recreational opportunities are provided for visitors with varying degrees of special needs.

The Malibu Parks Public Access Enhancement Plan Overlay has been developed to meet the following public access and recreation objectives:

- Plan, design and develop trail connections throughout the Plan area and new overnight camping opportunities, and ensure that sufficient support facilities are provided, to readily serve the existing and growing demand for public access and recreation in the Santa Monica Mountains and Malibu coastal area, and to increase accessibility to parklands for all people.
- Secure trail easements and land purchases where necessary and feasible to connect Conservancy/MRCA-owned coastal parks and link with regionally significant Coastal Slope Trail in both the City of Malibu and unincorporated County of Los Angeles and across federal park property (Solstice Canyon, owned by the NPS).
- Implement years of Coastal Commission-required OTDs in the City of Malibu and unincorporated County of Los Angeles to achieve the Commission's long-standing goal to link inland trail dedications and make them accessible to the public, and to link inland trails with shoreline access opportunities.
- Provide for a continuous inland public access trail system that provides unique and spectacular views of the coast and ocean and, wherever feasible, linkages to access the shoreline.
- To provide for a "Beach to Backbone Trail," using the Coastal Slope Trail as a trail connector.
- To provide public access to and promote use of coastal parks and trails by visitors outside of the City of Malibu, consistent with Coastal Act section 30223: "Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible."
- Provide low-impact and low-cost camping and trail facilities for all persons in the coastal zone, and specifically the Malibu coastal zone.
- To provide for public access and recreation uses and support facilities approved by the Coastal Commission (No. 4-98-334) at Ramirez Canyon Park.
- To facilitate the California Coastal Trail vision to "*Create linkages to other trail systems and to units of the State Park system, and use the Coastal Trail system to increase accessibility to coastal resources from urban population centers.*" (Completing the California Coastal Trail, Coastal Conservancy 2003.)

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- To encourage non-vehicular circulation between park areas over vehicular use and emphasize pedestrian circulation between park areas and the shoreline as a primary form of circulation.

#### 4. LCP AMENDMENT ALTERNATIVES

##### 4.1. Alternative Site Locations for the Public Improvements Contemplated in the Conservancy/MRCA Proposed Overlay (*Offsite Project Alternative*)

A number of alternative site locations for the public improvements addressed in the Overlay have been suggested by the RCPF relying heavily on a report prepared by SAIC (December 2008), which includes a "high-level alternatives analysis". The SAIC report appears to have been prepared with a single intent: To find potential alternative locations for Conservancy/MRCA's proposed conceptual improvements anywhere, except within the City of Malibu, and especially not at Ramirez Canyon Park.

At the outset, it must be noted that none of the alternative site locations considered in the SAIC analysis are within the City of Malibu or even immediately adjacent to the City. None of the alternative site locations involve the coastal resources at issue in the Malibu coastal zone, and only one of the alternative sites considered, King Gillette Ranch, is partially located in the Coastal Zone. While located, at least in part, in the Coastal Zone, King Gillette Ranch is located beyond the first major ridgeline paralleling sea, at the inland edge of the Coastal Zone boundary, and involves a completely different microclimate and associated resources than do the parklands addressed in the Overlay, and, in any event, fails to fulfill most of the basic public need and objectives identified and addressed by the LCP amendment. By staying out of the City of Malibu, all of the RCPF/ SAIC "alternatives" deprive the coastal trail user and camper of "blue water" views that are so prized along the coastline, and indeed which constitute a major aesthetic purpose for the Conservancy/MRCA proposal.

None of the alternatives offered by the RCPF or SAIC report capture the purpose and objectives of this project, which is unique by virtue of the nature and status of the trail linkages and camping opportunities proposed. The Overlay would provide for implementation of the Coastal Commission's inland trail program and OTDs, and is consistent with 30223, regarding reservation of upland areas for recreational uses. The Overlay trail improvement program would string together five Conservancy/MRCA and National Park Service parks, and provide consistent trail and camping facilities for recreationist, including disable persons. Since alternatives must be able to implement at least most project objectives, the alternatives suggested by the RCPF and SAIC do not qualify in this regard, and therefore would not be appropriate or feasible. Most of the alternatives suggested are entirely outside of the coastal zone, and with the exception King Gillette Ranch, are not owned by the Conservancy/MRCA and therefore are likely infeasible; no information is provided regarding the costs or other constraints on acquisition of these alternative sites or the chance for timely and successful completion of the public improvements addressed in the Overlay.

Malibu Parks Public Access Enhancement Plan Overlay Alternatives Analysis**4.1.1. Camping**Alternative Camping Locations Identified by the RCPF/SAIC Analysis (December 2008)

The SAIC report discussion regarding camping is more appropriate for an existing setting discussion than an analysis of camping demand for people residing within the Los Angeles region and throughout the State. The document fails to demonstrate whether camping demand is being met by existing supply, and includes no discussion specifically about coastal camping resources, and only states that there are campgrounds in the area, many of which are a 1-2 hours drive from the Los Angeles Region and the coast. The proposed LCP amendment camping program anticipates development of camp areas that are accessible by transit to benefit recreationist in the Los Angeles region who don't have the means to drive 1-2 hours for camping opportunities. Furthermore, the document misrepresents the proximity of many of the highlighted campgrounds in the area, stating that they are within 40 miles of Malibu. This may be true as a crow flies, however, it is most likely that the campgrounds cited are accessed by vehicle making the campgrounds 60 or more miles away from the area. For example, the Frazier Park campgrounds are over 90 miles away, the La Panza camp area is over 200 miles away, the Wheeler Gorge camp area is over 60 miles away as is the Castaic Lake Recreation Area.

The SAIC document attempts to convince the reader that there are several campgrounds in the "project area" that provide at least some accessible camp sites. The document states that a full inventory of accessible parks and outdoor recreation facilities in the "project area" is beyond the scope of the analysis, but the document provides a list of State Parks that have an accessible picnic area, trail, beach/shore, or an exhibit/program, but not overnight camping. Many of the sites listed are over 80 miles away (e.g., Hungry Valley, Antelope Valley). This section is more revealing to the general lack of accessible parkland areas in the area and region, a public need the LCP amendment tends to address.

Of the 92 parcels evaluated for potential overnight camping opportunities, the SAIC report ultimately suggests only four parcels, in particular, that have potential for construction of overnight campgrounds, including accessible facilities, and the report recognizes that a more thorough evaluation is needed to determine actual suitability of the identified sites. All four alternatives, however, are located outside the Coastal Zone, and therefore would provide no public access or public recreation for coastal users, and would not meet the most basic project objectives or public need addressed by the LCP amendment. In particular, none of SAIC's proposed alternatives would provide access to any area or trail that provides for the unique and spectacular views of the ocean and California coastline, and obviously none could be connected to the shoreline with upland trails. The use of the four alternative sites suggested, including King Gillette Ranch, would essentially negate the Coastal Commission's efforts in requiring inland coastal trails that could support the Coastal Slope Trail for which OTDs have been secured over decades. The first three parcels would provide the sound of the freeway

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in the background, as opposed to the ocean. The fourth parcel is located on the San Fernando Valley side of Calabasas, north of Mulholland Highway far removed from the coast.

King Gillette Ranch, while it certainly provides much opportunity for passive recreation, also supports a very active program for recreational and educational uses given the developed ranch that exists there. The higher level of use at King Gillette Ranch could hardly provide unique visitor-serving experiences as envisioned by the Overlay where smaller campsites close to both coastal canyon habitat and the beach, and with limited relative ongoing disturbance would be accommodate in a more tranquil and natural setting. The camping opportunities at the parklands addressed in the Overlay are unique as potential camp areas have been identified in existing disturbed areas to avoid impacts to environmentally sensitive habitat area (ESHA), yet would be located in areas surrounded by significant habitat areas, and the camp areas would be connected by a trail system with magnificent ocean views and which provides direct access to the shoreline. Its possible that a tranquil camping experience could be provided at King Gillette Ranch but certainly not within or adjacent to the existing developed or disturbed areas that presently support active recreation and park program uses at the Ranch, thus otherwise necessitating development in ESHA to provide a similar camping experience as that proposed for the Overlay parklands, and there is no opportunity at the Ranch to provide an experience that would be comparable to the visual and coastal access experience as that provided by the Overlay.

After evaluating 92 parcels, SAIC cites only four parcels that have a potential for trail camps, and again admits that a more thorough evaluation is needed to determine actual suitability of the sites evaluated to accommodate trail camps. The first site suggested is in Simi Valley, miles from the coastal zone, and all suggested locations are well inland, miles from the coastline. Two of the sites potential sites identified for trails camps are also identified as potential overnight camping sites which, as discussed above, are much more intense than the low-impact camp program proposed for the Overlay. The brief descriptions of these alternative sites indicate that these sites also contain sensitive habitat areas and 3 out of 4 are without water for most, if not all, of the year. Comments applicable to overnight camping as discussed above are essentially applicable to the SAIC discussion of trail camps in that the suggested alternative sites have no opportunity to provide an experience that would be comparable to the visual and coastal access experience as that provided by the Overlay.

The camping program included in the Overlay is proposed to be low-impact, low-cost walk-in camping, and it is not designed for car camping which would detract from the tranquil, minimal disturbance visitor experience sought for the program. In addition, the Conservancy/MRCA camping program included in the Overlay is designed to be transit accessible, so that visitors can utilize the MTA bus service and backpack to the camp areas in Corral Canyon Park and beyond to Escondido Canyon Park and Ramirez Canyon Park via the Coastal Slope Trail. There is readily available bus service available for transit from inner city Los Angeles and other areas outside of Malibu to

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Corral Canyon Park, a transportation resource that is not found at a facility like King Gillette Ranch.

Alternative Camping Locations Potentially Meeting LCP Amendment Objectives

1. Charmlee Park is a City of Malibu-owned coastal parkland with many of the same qualities as the parklands included in the Overlay. However, Charmlee Park is obviously not a feasible alternative location because, although suggested by the City of Malibu and initially, with agreement of the Conservancy/MRCA, it was included in the LCP amendment request made to the City as an alternative to campsites at Escondido Canyon Park, the City ultimately withdrew it from consideration and refused to permit the uses proposed in the Park.

2. Malibu Bluffs Park – The Park has been the subject of discussions, and disagreement, relative to recreation land use in the past. In 1985, the Coastal Commission denied a permit amendment request (Coastal Development Permit 5-82-780A) to develop active and passive recreation uses of the property, finding that the proposed uses were insufficient to serve the growing demand of visitors from the region and elsewhere in California for recreation, namely, recreational uses such as camping, hiking, walking for pleasure and picnicking. In 2005, the California Department of Parks and Recreation conveyed approximately 84 acres of the unit to the Conservancy. The developed portion of the property (approximately 11 acres of municipal sports complex, including the Malibu Little League ball fields, and community center) was conveyed to the City of Malibu in 2006, while the Conservancy retained the 84 acres of native natural habitat overlooking the ocean which is managed by the MRCA. This property is suitable for low-impact, low-cost camping facilities, but its location immediately adjacent to the Little League ball fields and just above and north of a residential neighborhood below the bluffs would likely trigger the same public opposition to camping that has been seen with respect to even more remote sites. In addition, the location of Malibu Bluffs parallel to Pacific Coast Highway (PCH) is better suited to RV and car camping, which is also essential to provide within the Malibu Coastal Zone and the Conservancy/MRCA remain committed to exploring this option as well. However, the RV/car camping option does not meet the objectives of the tranquil, minimal disturbance visitor experience sought for the camping program in the LCP Amendment Override, and Malibu Bluffs could not be connected to the five coastal parks and the proposed trail system that would link the parks (Malibu Bluffs is located opposite PCH from the other parklands), and thus this alternative would not meet the project objectives and public needs addressed by the LCP Amendment.

3. Tuna Canyon Park - This is a 1256-acre park owned by the Conservancy located between Las Flores Canyon on the west and Tuna Canyon on the west. This park is not a feasible alternative because it is not accessible from PCH. Tuna Canyon Road at PCH is a windy, single-lane, one-way road that outlets at PCH. Access to Tuna Canyon Park is several miles inland at the juncture of Saddle Peak Road and Ferndale Pacific Road, a couple miles from Topanga Canyon Boulevard and

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therefore could not be connected to the five coastal parks included in the Overlay and the proposed trail system that would link the parks, has no potential for direct access to the shoreline, and thus would not meet the project objectives and public needs addressed by the LCP Amendment.

4. Solstice Canyon Park and the Zuma/Trancas Canyon Units of the Santa Monica Mountains National Recreation Area (SMMNRA) - These coastal parklands are owned by the National Park Service and have many of the same qualities as the parklands included in the Overlay, and portions of the planned trail system extend through the federal property at Solstice Canyon Park and to Zuma/Trancas Canyons at the westernmost end of the Overlay. The NPS SMMNRA General Management Plan does not specifically identify camping as proposed uses at Solstice Canyon Park and Zuma/Trancas Canyons. The feasibility of camping at these locations cannot be ascertained at this time. This would require extensive Federal review that would include adoption of a development concept plan and National Environmental Policy Act review, and may require an amendment to the General Management Plan. NPS is a different landowner than the Conservancy and MRCA and there is no level of certainty at this time that NPS would ever entertain the possibility of creating campsites at these locations.

#### **4.1.2. Recreation Support Facilities, Park Offices and Public Programs**

The SAIC analysis purports to look at alternative locations for public programs included in the Overlay including events, accessible overnight camping, trail camps, and office space. The alternative location discussion focuses only on the uses proposed at Ramirez Canyon Park and cites that of the 554 parcels owned by Conservancy/MRCA, 92 parcels are located near roads and subsequently are more suitable for the uses proposed at Ramirez Canyon. The discussion goes on to state that additional research is necessary to determine whether some of the parcels are actually suitable or not. SAIC lists the 92 parcels that, in their opinion, may be suitable for office buildings, special events, accessible overnight camping, and trail camps. However, of interest is the fact that of the parcels listed, and based directly on the footnotes for Table 5, Alternatives Analysis Parcels, used by SAIC in determining suitability, none are identified as providing a suitable alternative. Very few parcels are identified with the potential to build or develop facilities for the public programs included in the Overlay, while the vast majority of the parcels identified were determined to be unsuitable, as noted with an "N" in their Table 5, which refers to the following:

- Office and Events: N = no existing buildings that could be used for office space.
- Overnight Camping: N = no disturbed or open space areas where such camping facilities could be built.
- Trail Camp: N = no existing trails and dense vegetation that would have to be cleared, also fire hazard.

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SAIC begins with a flatly erroneous, apparently uninformed statement - "Public agencies, including park and recreation districts, generally have their offices in buildings within a commercial area." City and county agencies have their offices within the city or county in which they govern, while regional and state agencies will occupy buildings on their own property if feasible, since it provides a way to reduce costs rather than pay unnecessary office leases. In most cases where agencies occupy buildings in commercial areas, it is generally due to a lack of alternatives available on their own properties. The Conservancy/MRCA are fortunate to own property that provides the ability to operate from within their own parks, instead of having to lease expensive commercial office space often far removed from the resource they serve. In any event, there are many instances in which agency offices occupy parklands for the reasons discussed above:

1. California Department of Parks and Recreation (CDPR) - 100% of CDPR administrative offices are located on State Parks property. The headquarters of the Angeles District of State Parks is located at Malibu Creek State Park at the adaptively reused Hunter House and a specially constructed office facility at 1925 Las Virgenes Road, Calabasas. The headquarters of State Parks, Topanga Sector, is located at Will Rogers State Historic Park. The headquarters of State Parks, Coastal Sector, is an adaptively used residence at 40000, 40006, and 40040 Pacific Coast Highway, Malibu. State Parks' Los Angeles Sector headquarters at the Los Angeles State Historic Park are located right at the Park, 1245 N. Spring Street, Los Angeles, CA 90012.
2. Resource Conservation District of the Santa Monica Mountains - The headquarters are located at the park, Peter Strauss Ranch, 30000 Mulholland Highway, Agoura Hills, CA 91301.
3. The National Park Service (NPS), Santa Monica Mountains National Recreation Area - has its operational headquarters at Diamond X Ranch, next to King Gillette Ranch.

SAIC's table on page 54 is erroneous as well:

1. The San Gabriel and Lower Los Angeles Rivers and Mountains Conservancy (RMC) - the administrative offices of the RMC are no longer at the address listed; they moved from their urban office building space to a park site they own (El Encanto) so as to be near the resource they manage and so as to save money on rent being in their own facility. They are located on the San Gabriel River on one of the RMC's park properties, El Encanto (100 N. Old San Gabriel Canyon Road, Azusa), at one of the major gateways to the Angeles National Forest.

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2. The National Park Service (NPS), Santa Monica Mountains National Recreation Area - as noted, the operational headquarters are at Diamond X Ranch and, by agreement with the Conservancy and MRCA, it intends to co-locate its offices with the California Department of Parks and Recreation (CDPR) at King Gillette Ranch, if determined feasible and appropriate.
3. The Nature Conservancy - this is not a public agency, but rather a national non-profit. It has no park facility in this region on which they could locate their offices.
4. The Baldwin Hills Conservancy - The Conservancy does not own the land subject to its jurisdiction, and that land is an active oil field with no buildings. Its administrative offices are, however, close by in Culver City.
5. Los Angeles County Parks and Recreation Department - County Parks and Recreation operates conventional, municipal parks. It has an enormous administrative staff which is headquartered at the Vermont Avenue address indicated. It provides no parallel to the situation here.

SAIC states that King Gillette Ranch has existing buildings that could be used for offices as an alternative to the offices currently used at Ramirez Canyon Park. However, potential uses of King Gillette Ranch must be evaluated in light of the Cooperative Management Agreement and Task Agreement between the Conservancy, NPS, CDPR, and MRCA for the property. These agencies are partners in a Cooperative Management Agreement for the Santa Monica Mountains National Recreation Area and were partners in the purchase of King Gillette Ranch. The agencies are currently conducting a planning process for the King Gillette Ranch Design Concept Plan which emphasizes visitor-serving and environmental education uses, and is contemplating the collocation of park administrative offices for NPS and CDPR on the campus, demonstrating again that, whenever feasible, park agencies will occupy buildings on park property since it provides a way to reduce costs, thus preserving funds to carry-out their agency missions, and allows agency personnel to work within or in proximity to the jurisdiction and/or resources they serve. NPS contributed \$2.5 million to the purchase of King Gillette Ranch in anticipation of creating the headquarters and visitor serving hub for the Santa Monica Mountains National Recreation Area. NPS has maintained its administrative offices in Thousand Oaks only as a temporary lease extension with the City until the long-envisioned collocation of NPS and CDPR personnel can be accommodated at or near King Gillette Ranch. However, it has been determined to be potentially infeasible to locate the NPS and CDPR administrative offices on the campus of the Ranch without either displacing visitor-serving needs, or constructing an entirely new building or significant building addition due to the space needs of National Park Service and State Parks alone. Even with the significant building modifications at King Gillette Ranch potentially needed to accommodate the administrative offices for NPS and CDPR, there would be little to no additional space available for Conservancy/MRCA personnel. With the limited office space potentially available at King Gillette Ranch, it is most reasonable and prudent to accommodate NPS and CDPR administrative offices at the Ranch, which would compliment the NPS operational headquarters located directly

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adjacent to King Gillette Ranch at Diamond X Ranch, and the headquarters of the Angeles District of State Parks (CDPR) that is located at Malibu Creek State Park, also directly adjacent to the Ranch.

The Conservancy/MRCA does not seek to use Ramirez Canyon Park as a "regional office complex or commercial event center" as RCPF claims. The Conservancy/MRCA seek to use existing, legal facilities located in disturbed areas in an existing parkland designated and zoned for public park use from which to conduct the administrative responsibilities associated with operating specialized public outreach programs at the Park, conducting open space acquisitions, planning, research, and the management of conservation of parklands in the coastal zone.

The Conservancy proposes to continue the administrative office use it has had for 12 years at Solstice Canyon Park in Malibu at Ramirez Canyon Park. With the sale of Solstice Canyon to NPS, the same Conservancy employees moved their offices to Ramirez Canyon Park. The Conservancy/MRCA adaptively reuses the buildings on the properties it acquires. It does not have funds to expend for rental or acquisition of office space or for construction of other office facilities; if it spent money for that purpose, there would far less money available for the Conservancy/MRCA to utilize for land acquisitions, park maintenance and park programs. That is one reason that, like CDPR and NPS (above), it utilizes its own public park property for that purpose.

Ramirez Canyon Park is geographically centered for the administrative uses required to serve the Santa Monica Mountains and Malibu area. The nature of the 14-15 employees that work at this park are limited and strictly associated with the administration of the park properties in this region. They include offices for the Executive Director (Conservancy)/Executive Officer (MRCA), the Chief Deputy Executive Director/Chief Deputy Executive Officer, the administrative assistant, and the MRCA Board Secretary. They additionally include the Natural Resources Group (3 persons), which deals with the planning for this LCP Amendment, the follow-on Public Works Plan and specific public works projects that will tier off of it, studies on the watershed, habitat restoration, and trail planning. It further includes the two staff persons who run the public programs at the Park, a residence for an on-site ranger, and it also operates as the Conservancy/MRCA Western Sector Emergency Command Center for fire/disaster/public safety emergencies.

Because of the developed nature of the property and residences developed by Barbra Streisand, the property is unique and well-suited for the types of programs and special events conducted on-site. The primary buildings at Ramirez Canyon Park have all been used as "recreational facilities" and as a location to conduct or manage recreation uses at the Park. The Barn serves as the main indoor venue for senior and disabled tours of the Park and its grounds. The Staff who operate and plan for outreach programs – including programs for senior citizens, disabled and disadvantaged persons, inner-city and at-risk youth, veterans, and battered women – operate out of the Barn, as do volunteer docents. By agreement with the City, pending resolution of the LCP amendment, Garden Tours by reservation to the general public have been suspended.

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However, the LCP amendment proposes to resume the Garden Tours by reservation to the general public, and the Barn is the central meeting location for tour participants. The Peach House has in the past and will again be part of the Garden Tour visits. The Barwood and Art Deco Houses similarly have been part of the Garden Tours. Additionally, all three buildings have been and will be used for park-related conferences, retreats, recreational events, and paid reserved events. The site also includes a residence for an on-site ranger, and it also operates as the command center for Conservancy/MRCA fire safety for this and the Conservancy or MRCA-owned properties in this area. Other employees with no linkage to the day-to-day operations of the Park, such as the accountants and lawyers, are located at the River Center in downtown Los Angeles. Interestingly, no concerns or comments were expressed over the Conservancy's previous office uses at Solstice Canyon Park, a parkland located within the City and subject to the ESHA overlay designation. It is curious that it appears to be acceptable for the Conservancy administrative personnel to occupy parklands within the City, as long as it is not Ramirez Canyon Park.

#### **4.1.2.2. Special Events**

The SAIC analysis considered 92 parcels in its alternatives analysis for park events. The report states: "None of the 92 parcels evaluated have good road access, previously disturbed areas that could be used for parking, and open areas (lacking dense brush) that could provide space for outdoor events in a park-like setting at a distance from urban development that would preclude noises." (P. 59.) An interesting conclusion that highlights the very reason that Ramirez Canyon Park, the previously developed and meticulously landscaped grounds that provide space for events in a park-like setting, is a feasible and reasonable location, and a unique and rare opportunity, to support the public programs and limited events proposed. That said, SAIC identifies two possible alternative locations - King Gillette Ranch and the Conservancy's Franklin Canyon Park, above Beverly Hills. The latter has no connection to the coastal zone or any coastal resources and a different ambience, and neither park provides the unique setting provided by the Malibu Parks Public Access Enhancement Plan Overlay.

The proposed special event program, along with other proposed limitations on park uses at Ramirez Canyon Park (daily vehicle trip and other public program limitations), is responsive to identified site constraints and land use compatibility issues (park access, noise, etc). In this regard, the Overlay includes policies that require the special event program be limited to only 32 events/ year with additional limitations on an allowable event season (March-October), participants (200), event cancellation requirements during red-flag and flash flood warnings, and identification of specific noise thresholds.

The special event program at Ramirez Canyon Park, as contemplated in the Overlay, is wholly consistent with typical uses permitted at California State Parks. As indicated above, the Overlay District will establish a Malibu Parks Affordable Access Fund, supported by net proceeds of special event uses at Ramirez Canyon Park, to fund a Malibu Coastal Camping Program. It is anticipated that each special event at Ramirez

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Canyon Park would yield approximately \$1,000 of net proceeds, and could therefore fund approximately 20 participants in one overnight program event. The camping experience funded by the Malibu Parks Affordable Access Fund is designed to provide urban, disadvantaged youth with their first overnight camping experience. The MRCA will provide all necessary transportation, meals and equipment, and will deliver a program dedicated to teaching novice and first-time campers proper use of camping equipment, environmental awareness and outdoor leadership skills. Research shows that camping strengthens self-confidence, improves school performance, and builds inter and intra-personal skills, and interpretive programs introducing the resources of our local mountains and coast will promote stewardship of our local natural areas. As such, the special event program at Ramirez Canyon Park would support the primary purpose of the LCP amendment to maximize and prioritize recreational opportunities in specific parkland and recreation areas in Malibu by facilitating a new public camping program for all people, including those who might otherwise have limited opportunity to enjoy the resources of the Malibu coastal area.

#### **4.2. Denial of the LCP Amendment (No Action Alternative)**

Because the public improvements being considered in the Overlay are already allowed under the existing LCP, denial of the proposed LCP amendment would not change the fact that the basic parkland uses and facilities being considered have the potential to be developed at the subject parklands; however, denial of the Conservancy/MRCA LCP amendment would not expedite coastal public access and recreational facility improvements to and between specific Conservancy/MRCA-owned parklands in the City, and thus would hinder efforts to maximize public access and recreation opportunities as mandated by certified LCP and the Coastal Act.

The City of Malibu certified LCP designates the Conservancy/MRCA parklands as public open space consistent with other parks located within the City's jurisdiction. The City's LCP states:

*The OS designation provides for publicly owned land which is dedicated to recreation or preservation of the City's natural resources, including public beaches, park lands and preserves. Allowable uses include passive recreation, research and education, nature observation, and recreational and support facilities.*

In addition, Table 2 Permitted Uses, of the LCP Local Implementation Plan indicates that the following uses are permitted uses in the OS Zone:

- *equestrian and hiking trails*
- *wildlife preserves*
- *camping*
- *parks, beaches and playgrounds*
- *public beach accessways*
- *recreation facilities (including swimming pools, sandboxes, slides, swings lawn bowling, volley ball courts, tennis courts and similar uses)*

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- *educational (non-profit) activities are primary permitted uses in the OS Zone*

City-wide, the public open space land use and zoning designation clearly reflect a wide variety and range of public parkland uses and recreation facilities, collectively consisting of passive and active recreation, research and education, nature observation, a range of support facilities, including those at Bluffs Park, Zuma County Beach, Ramirez Canyon Park, Adamson House, and Malibu Lagoon State Park.

The Coastal Commission applied the open space land use designation and zoning to Ramirez Canyon Park upon LCP certification with full knowledge and authorization of the existing facilities and uses addressed pursuant to Coastal Development Permit 4-98-334, thereby rendering the Conservancy/MRCA park uses conforming with applicable land use and zoning policies of the certified LCP (prior to certification of the LCP the Ramirez Canyon Park property was designated rural residential). The RCPF implies, however, in their letter of December 23, 2008, that in certifying the City's LCP the Commission essentially intended to render the Conservancy/MRCA uses of Ramirez Canyon Park (authorized by the Commission pursuant to Coastal Development Permit 4-98-334) unlawful or perhaps legal, nonconforming with the certified LCP. If this were in fact the case and the RCPF interpretation of the City's LCP related to permitted uses and facilities for lands zoned open space were correct, then certification of the City's LCP also resulted in rendering unlawful or legal, nonconforming the existing uses and facilities at the City's Bluffs Park, Adamson House, Solstice Canyon Park, and Malibu Lagoon State Park, which we don't believe to be the case.

The fact of the matter is that the certified LCP is not explicit in listing every conceivable park and recreation use and support facility necessary to operate and maintain a variety of parklands. However, reason, precedent a sound parkland planning practices have resulted in local, state and federal park agencies often utilizing the land resources they have within the park areas they protect and serve to accommodate a variety of support facilities to provide and enhance opportunities for the public to access and enjoy the resource, including facilities for trailheads, public parking, restrooms, day-use areas, interpretative maintenance facilities, and park administrative uses. The Conservancy/MRCA does not seek to use Ramirez Canyon Park as a "regional office complex or commercial event center" as RCPF claims. The Conservancy/MRCA seek to use existing, legal facilities located in disturbed areas in an existing parkland designated and zoned for public park use from which to conduct the administrative responsibilities associated with operating specialized public outreach programs at the Park, conducting open space acquisitions, planning, research, and the management of conservation of parklands in the coastal zone.

As such, no change in already permitted land use is proposed by the Conservancy/MRCA LCP amendment. The Overlay simply serves to supplement existing LCP policies and implementation measures to enhance and expedite coastal public access and recreational facility improvements to and between specific Conservancy/MRCA-owned parklands in the City, and thus carry out the public access and recreation goals of the certified LCP and the Coastal Act.

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The "No Action" Alternative would reasonably result in the development of the park and recreational uses as contemplated in the Overlay. However, future improvements would not necessarily be guided by comprehensive and a long-term management program, subject to the site specific and detailed policies of the Overlay, to ensure potential impacts to coastal resources are minimized to the greatest extent feasible. It is likely that as visitation and use of the parklands addressed in the Overlay increase overtime, the lack of adequate parking and staging areas provided by the Overlay may impact adjacent residential neighborhoods from overflow parking associated by park and trail users. Without adequate park support facilities that concentrate public use in appropriate park areas, as provided by the Overlay, it is also more likely that public uses will spill over into sensitive habitat areas potentially impacting coastal and environmental resources. The Overlay considers the public need for public access and recreation, and issues and opportunities at each parkland to address that need, in a comprehensive manner such that policies can be developed and considered to ensure a balanced approach to meeting the public need while minimizing substantial impacts to resources and ensuring land use compatibility. As such, the Overlay includes limitations and restrictions on park uses, not currently required by the Malibu LCP, to address issues and opportunities in a balanced manner and in light of the opportunity to balance solutions among three Conservancy/MRCA-owned parklands. For these reasons, the "No Project" alternative has the potential to create more adverse environmental impacts than the proposed LCP amendment, while at the same time not accomplishing the objectives of the LCP amendment and thus perpetuating a condition in which the public need and demand for public access and recreation is not being met as required by the Coastal Act.

**4.3. LCP Amendment with Reduced Parkland Development/Use Alternative**City of Malibu Proposed LCP Amendment

The City of Malibu proposed LCP amendment purports to increase and enhance public access and recreation opportunities in Malibu. While the City's LCP amendment would implement much of the Conservancy/MRCA-proposed trail program, the City's LCP amendment would result in significant, adverse environmental impacts on recreation and sensitive habitat resources for which neither City nor RCPF have provided any reasonable justification, and no identified mitigation.

The City's trail program would certainly facilitate implementation of the trail system the Conservancy/MRCA have developed for the Overlay; however, the City's LCP amendment includes very little of the critical support facilities that are necessary to support visitor access to the trail system. In particular, the City's LCP amendment includes new policies that would obstruct any reasonable effort to develop trailhead facilities for Escondido Canyon Park. The public would instead be left with limited trailhead and parking resources located at the Winding Way parking area (approximately 1-mile away from the Park) and the proposed, 10-space parking area off of Latigo Canyon Road that would be approximately 1/3-mile from the Park. Neither of

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these locations could support ADA access to Escondido Canyon Park. In addition, by amending the City's LCP to prohibit all camping opportunities in Malibu, there is little to no opportunity to provide low-cost overnight accommodations from which visitors can experience and enjoy the extensive, regional trail system that would provide multiple days of recreation throughout the Santa Monica Mountains/Malibu coastal area. Absent any opportunity for low-cost overnight accommodation and with reduced or no parking opportunities at the Conservancy/MRCA parklands, the trails required by the Commission or acquired by the Conservancy with state funds provide only hiking opportunities for Malibu residents and Malibu equestrian users, thus resulting in a significant, adverse impact to recreation resources. The City's reduced scale LCP amendment provides no mitigation for this impact.

As justification for the City's action on the LCP amendment, the City and RCPF offer primarily the risk of fire hazard<sup>2</sup>. As opposed to the City's LCP amendment submittal, the SAIC report, commissioned by the RCPF, at least attempts to provide an analysis of the potential fire hazard issue. However, the SAIC report does not succeed in providing any supportable documentation, evidence or reasonable justification for prohibiting camping as proposed by the Overlay.

The SAIC report highlights the number of wildland fires in Los Angeles County from 1987-2007 and of the 439 fires identified, 8 are listed as being caused by campfires. By presenting this data, SAIC appears to assume that these 8 fires were caused by campfires in developed campgrounds, an assumption that is unsubstantiated from the reference given (CDF 2008, website). All of the referenced Los Angeles County "campfire-caused" fires were in the Angeles National Forest. A personal interview with Angeles National Forest staff revealed that there have been no known fires caused by campfires in developed campgrounds. As such, it is more likely that the campfires referenced in the SAIC report were started outside of official campgrounds, and therefore the data is not relevant to the camp areas planned for the Overlay parklands and the data does not support an argument that the Conservancy's and MRCA's LCP amendment will increase the fire risk in the Malibu. This conclusion is supported by testimony provided by Park personnel and professional fire-trained personnel during the City's deliberations on the Conservancy/MRCA proposed LCP amendment<sup>3</sup>.

The SAIC report actually acknowledges that fire department statistics demonstrate that campgrounds have very low risks for fire, with arson being the leading cause. However, the document goes on to state that by opening up previously unopened land to people

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<sup>2</sup> Additional arguments related to resource impacts have been presented by the RCPF and SAIC as justification to prohibit camping in Malibu. ESHA protection policies of the certified LCP and applicability to the proposed Overlay are discussed and presented in more detail in documentation included in the Conservancy/MRCA LCP amendment submittal Policy Consistency Analysis.

<sup>3</sup> See City of Malibu Environmental Review Board Recommendation, August 1, 2007, with comments provided by Environmental Review Board Suzanne Goode (California State Parks) at the July 25, 2007 meeting, and City Council Hearing, November 11, 2007, comments provided by Ron Schafer (California State Parks), Woody Smeck (National Park Service), and Frank Padilla (California State Parks Fire Chief).

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will increase the risk of wildfire. The issue of fire safety for the Overlay is better defined in terms of increasing access, recreation and educational opportunities at parklands already opened to the public in a carefully planned and controlled manner where the associated increased patrols and better education of visitors would result in the lowering the potential of fire risk, just as has been demonstrated at other camp areas throughout the state. To further address the fire hazard issue, the Conservancy and MRCA's LCP amendment proposes numerous fire protection regulations that are more restrictive than those already in place by State Parks in campgrounds in the Santa Monica Mountains. The Conservancy/MRCA LCP amendment proposes cold camping (i.e., outright prohibition on campfires at all facilities), vegetation modification to reduce potential fuels adjacent to camp areas, prohibition of camping on red flag days, provision of special fire-proof cook stations and fire protection apparatus, and mandated park patrols, to name a few.

Therefore, without reasonable and sound justification, the City's LCP amendment simply seeks to prohibit camping in Malibu, an action that is undeniably and grossly inconsistent with the City's certified LCP and Coastal Act. Camping is one of very few methods with which to provide low-cost overnight accommodations in the Coastal Zone as required by the City's LCP and the Coastal Act, and is a recreational resource that is clearly in high demand. To prohibit camping in Malibu would result in a significant and unmitigable adverse impact to recreation. The City makes no attempt to mitigate the impact to recreation that would occur as a result of the City's LCP amendment, nor could there be any feasible mitigation available since camping is a unique resource that allows visitors and recreationists to experience a parkland, natural and coastal resources like no other overnight accommodation could.

Furthermore, the City's LCP amendment essentially eliminates all reasonable public use of Ramirez Canyon Park, pending construction of an alternative vehicle access to the Park from Kanan Dume Road, which would require non resource-dependent development in a designated Environmentally Sensitive Habitat Area (ESHA), an action strictly prohibited by the Malibu LCP and the Coastal Act. The City's LCP amendment submittal and December 23, 2008 correspondence from the RCPF argue for the alternative access road that would involve, unequivocally, an unpermitted land use in ESHA, and would result in direct grading and vegetation impacts to ESHA. At the same time, the City and RCPF argue against trailhead improvements, camping resources and support facilities that are permitted land uses and are designed to avoid ESHAs at the parklands they are intended to serve. In addition, the City's LCP amendment submittal conveniently leaves out the fact that, at the time the City took action on the proposed LCP amendment before it, the City was well aware of the fact that the alternative access road concept from Kanan Dume Road was determined, in consultation with Coastal Commission Staff, to be infeasible due to the unpermitted impacts to ESHA that would result. Yet the City and RCPF continue to argue for this condition on allowing any reasonable public use of Ramirez Canyon Park (only uses associated with administrative offices for up to 15 employees, a residential caretaker, and only two special programs a week for disabled persons and/or for seniors would be allowed) pending development of the alternative access road. The City's LCP amendment offers

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no mitigation for the significant, adverse impact to recreation resources and public education programs that would be offered at Ramirez Canyon Park.

#### **4.4. Revised Overlay Concept Development Plans and Policies (*Redesign Alternative*)**

The various public hearings, comment letters, and efforts of agency coordination on the previous Public Works Plan planning effort and the subsequent LCP amendment process before the City have resulted in review, consideration, and incorporation of several alternatives and revisions for the proposed Overlay. Conceptual plans for the Overlay have been incorporated in many instances to remove, relocate, and scale back conceptual park and trail improvements to ensure that the contemplated uses and improvements are compatible with resource protection efforts and surrounding residential neighborhoods, while still meeting the needs and desires of the public seeking recreation in the Malibu area. These revisions have included locating conceptual camp areas closer to primary parkland access points and further clustering of campsites to reduce development footprint and to avoid ESHA impacts, and acquisition of the Latigo property to provide additional public parking resources to support access to Escondido Canyon Park and the surrounding trail system while minimizing vehicles trips along Winding Way. In addition, policies of the Overlay have undergone substantial revision throughout the process resulting in site-specific and detailed policies that address potential resource impacts, hazards and land use compatibility issues, which would be imposed on any future development implementation pursuant to the Overlay. Several revisions to the LCP amendment have already been completed at this policy and conceptual level in the planning process and more specific design alternatives would be completed when the Conservancy/MRCA move forward with implementation of the Overlay improvements pursuant to the applicable environmental review /entitlement process.

## **5. ENVIRONMENTAL ISSUES DISCUSSED IN THE SAIC REPORT**

### **5.1. Environmentally Sensitive Habitat Areas (ESHA)**

The RCPF letter of December 23, 2008 and attached SAIC report argue that none of the existing activities at Ramirez Canyon Park are allowed in ESHA designated areas. The argument lacks a basic understanding of the Malibu LCP and applicable policies relating to ESHA determinations, ESHA protection, and public access and recreation policies that specifically allow for recreational and park support facility improvements within natural parklands, all of which within the City are designated and zoned OS and subject to the ESHA Overlay designation (with few minor exceptions, such as the area of Escondido Canyon Park where public parking is proposed which is not subject to the ESHA Overlay).

Contrary to the arguments presented, lands subject to the public open space designation (POS) and the ESHA Overlay are not consequentially without the potential

Malibu Parks Public Access Enhancement Plan Overlay Alternatives Analysis

to develop the specific uses permitted pursuant to the POS land use and zoning designation. Such an interpretation would render the majority of the City's parklands unusable even as it relates to developing specific recreational uses permitted by the LCP. Alternatively, application of the ESHA Overlay recognizes the inherent tendency of publicly owned lands to contain sensitive resources thus making the ESHA protection policies of the Coastal Act and LCP applicable, as appropriate and when site-specific biological study has determined the presence or absence of ESHA. The LCP ESHA protection policies therefore provide that site specific information be evaluated and presented in a biological study conducted, as was done for the proposed LCP amendment application, to determine the presence of ESHA and therefore allowable uses. LUP Policy 3.7 of the City's certified LCP provides that an area not meeting the definition of ESHA is not subject to the ESHA protection policies of the ESHA Overlay and may be developed consistent with all other applicable LCP policies. This is the case for Ramirez Canyon Park, where all public program improvements and uses would be accommodated in areas that do not constitute ESHA, based on site-specific biological study.

As with the other conceptual improvement areas subject to the Overlay, Ramirez Canyon Park has been evaluated for site constraints related to ESHA and other coastal resources in developing the proposed policies and implementation measures for the location and level of park uses included in the Overlay. The conceptual park administrative support facilities located at Ramirez Canyon Park are appropriately sited within the limits of existing development envelopes and buildings. All existing buildings and other appurtenant structures located at Ramirez Canyon Park are documented to have been constructed per approved building permits and prior to the effective date of the Coastal Act, and thus have resulted in a significantly disturbed and manicured environment.

In addition, pursuant to the City's LCP ESHA designation, "Existing, legally established agricultural uses, confined animal facilities, and fuel modification areas required by the Los Angeles County Fire Department for existing, legal structures do not meet the definition of ESHA." (Emphasis added) As such, much of the property within and directly adjacent to the existing development envelopes associated with the previous use of Ramirez Canyon Park as an estate compound, as well as those adjacent areas subject to required fuel modification for existing structures, do not meet the City LCP definition of ESHA. These structures are existing and would not require fuel modification beyond existing conditions.

Although the site has been subject to past disturbance resulting in diminished habitat value, consistent with the ESHA definition of the LCP, Ramirez Canyon Creek is afforded special treatment as a habitat area of significance pursuant to the policies and standards in the LCP applicable to streams and, therefore, the proposed Overlay includes provisions for a substantial creek restoration plan for Ramirez Canyon Creek within the Park's boundaries.

Malibu Parks Public Access Enhancement Plan Overlay Alternatives Analysis**5.2. Stream ESHA and Water Quality**

The SAIC report cites a number of site improvements contemplated for the parklands subject to the Overlay (although many are inaccurately described and the scope exaggerated), and notes potential impacts to riparian corridor ESHA and water quality that could result from the improvements included in the Overlay. The Conservancy/MRCA concur that potential impacts to riparian ESHA and water quality could occur with any new development proposal for the parkland areas, and therefore have developed within the Overlay a range of policies and implementation measures that ensure maximum protection and, where feasible, enhancement of ESHA and water quality. All the conceptual parkland improvements would be analyzed for consistency with applicable ESHA and water quality protection policies of the certified LCP and therefore could not be approved and implemented unless found to avoid or minimize substantial impacts to the resources. Additional analysis of potential impacts to ESHA and water quality, and identification of appropriate mitigation measures, would follow with a subsequent project-specific proposal and the associated environmental review process to ensure the improvements would not result in significant impacts to ESHA and water quality.

**5.3. Traffic**

SAIC attempts to discount a number of site-specific, professional traffic analyses prepared for the proposed park uses at Ramirez Canyon Park by first questioning the methodology in which the self-imposed limitation on traffic trips (40 round trips/day) for park uses was determined, and then the legality of the developed lots that constitute the Park. SAIC relies on "information obtained from long time residents of the area" (unlike the reliable, unbiased, professional, and expert source which the Conservancy/MRCA used to establish a baseline for traffic engineering purposes [see below]) to conclude that "there have never been six 'estate homes' on the property", and then suggests that the LCP Amendment submittal includes no evidence that the 6 parcels (5 of which are already developed with estate homes) are legal and thus could not be sold separately as individual residential sites. SAIC therefore determines that expected traffic generation by residential use of the individual parcels is an inappropriate baseline for traffic engineering purposes and is inconsistent with standard traffic engineering practices.

The 6 individual lots that constitute Ramirez Canyon Park have been recognized by both local and State agencies as legal lots as evidenced by the numerous agency development permits issued for the existing onsite development and, in particular, those development permits issued for the residences onsite (see also Riparian Habitat Evaluation, prepared by LSA Associates, Inc, August 30, 2002, with detailed development history of the property, and Coastal Commission Staff Report Findings, July 22, 2000). Therefore, there is little question as to the legality of the Ramirez Canyon Park parcels and the legal right to otherwise sell the 6 parcels as individual estates (a residential scale typical of Malibu development) if not used for Park purposes.

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Associated Transportation Engineers (ATE) reviewed the SAIC analysis of traffic issues for Ramirez Canyon Park and confirmed the accuracy and validity of the trip estimates determined by Crain & Associates for a residential baseline of the 6 existing, legal lots that constitute the Park (see attached Memo prepared by ATE, dated May 26, 2009). The traffic analysis completed by Crain and Associates for Ramirez Canyon Park recognized the 6 legal residential estate lots constitute Ramirez Canyon Park and estimated weekday and weekend traffic generation for the lots using data contained in the Institute of Transportation Engineers (ITE) trip generation report (5th Edition). The ITE report contains base rates for single family homes on weekdays and of weekends, and also provides adjustment factors for the base trip rates to account for larger homes with higher vehicle ownership characteristics based on data published by the Federal Highway Administration. Based on these adjusted rates, the trip estimates for the 6 estate lots would be 75 average daily trips (ADT) on weekdays and 79 ADT on weekends. Because ADT are normally expressed as even numbers (one trip in and one trip out) the estimates were appropriately rounded to 76 ADT for weekdays and 80 trips for weekends.

ATE also researched trip generation data contained in the SANDAG Traffic generators report to verify the results of the Crain analysis. The SANDAG report provides a rate of 12 trips/unit on weekdays for residential estates. Assuming the weekday to weekend ratio presented in the ITE report, the weekend rate for the SANDAG data would be 12.8 trips per unit. Based on the SANDAG data, the trip generation estimates for the 6 estate lots would be as follows:

Weekdays 6 Estates x 12.0 = 72 ADT

Weekends 6 Estates X 12.8 = 77 ADT

These trip estimates are very close to the estimates developed by Crain and Associates and confirm the validity of the trip estimates for the 6 legal lots on site, which were in turn used to establish the self-imposed 40 round trips/day limitation for the proposed Ramirez Canyon Park uses.

SAIC is apparently misinformed of the circumstances under which the proposed 40 round trips/day traffic limitation has been established for Ramirez Canyon Park (utilizing an appropriate residential baseline to ensure park uses do not exceed traffic trips that would otherwise be generated by residential use of the property), and the numerous proposed LCP amendment policies that require enforcement of the proposed trip limitation and Emergency Access and On-Site Parking Plan. The proposed 40 round trips/day limitation for the Park would govern all uses of the property, irrespective of the fact that far greater trips than that proposed for the Park uses could be accommodated on Ramirez Canyon Road, presently operating with a Level of Services A (see ATE Traffic and Parking Study, August 21, 2007), without causing a significant traffic impact, and irrespective of the number of parking spaces onsite and potential visitor turn-over that, SAIC claims, would result in greater traffic trips (SAIC also misses the fact that the Emergency Access and On-Site Parking Plan requires all vehicles at the Park to use

### Malibu Parks Public Access Enhancement Plan Overlay Alternatives Analysis

designated parking areas, and therefore, parking would not be expanded outside of designated parking areas and thus result in even greater traffic generation, as suggested.)

The SAIC report further confuses the methodology the traffic consultants used to determine and substantiate trip generation rates for the parklands subject to the Overlay. The Crain & Associates and ATE traffic studies relied on standard ITE Manual and San Diego Traffic Generators Manual trip generation data for parkland uses for their respective analyses. This data was also supplemented with traffic data collected locally at nearby Santa Monica Mountains National Recreation Area (SMMNRA) parklands consisting primarily of open space and with limited support facilities to substantiate the ITE rates used for those Overlay parklands that also consist primarily of open space and with limited support facilities. This same methodology is obviously not applicable to, or appropriate for, a traffic generation assessment for Ramirez Canyon Park as suggested by SAIC. This comment fails to reflect that the Crain & Associates and ATE traffic studies intentionally did not conduct traffic generation studies for Ramirez Canyon Park uses due to the proposed limitation on traffic trips to 40 round trips per day for Ramirez Canyon Road, found to be operating at an excellent Level Of Service (LOS A) based on traffic counts conducted by Associated Transportation Engineers. The SAIC comments further fail to acknowledge that the greater level of existing amenities at Ramirez Canyon Park would, under normal circumstances and without the proposed trip limitation, generate a higher trip generation and parking demand more similar to a city park as opposed to parklands consisting primarily of open space and with limited support facilities. The proposed trip limitation of 40 round trips per day for park uses are a response to concerns expressed over the uses proposed for Ramirez Canyon Park and compatibility with surrounding land uses.

#### **5.4. Noise**

The SAIC report states that the LCP Amendment proposal provides insufficient information to conduct a thorough and quantitative analysis of community noise that could result from the activities and events that are planned for the property. This is true, in part, since this detailed and technical level of information is not typically analyzed at this conceptual, policy level. What is considered at this conceptual, policy level, however, is the potential land use and environmental impact issues associated with the proposed land use that might result in an inconsistency with the certified LCP or the Coastal Act. For this reason, the proposed Overlay includes policies and implementation measures to address potential land use impacts associated with park related noise issues to ensure consistency with the Malibu LCP and Coastal Act, including limitations on vehicle trips to and from the Park (allowing a maximum of 40 round trips per day), requiring that amplified music not cause a noise reading exceeding 65 dBA at the southern boundary of Ramirez Canyon Park where residential development exists, and limiting special events to a maximum of 32/year and 1/week with strict limitations on duration (8:00 a.m. - 9:00 p.m. Sunday-Thursday, and 8:00 a.m. to 10:00 p.m. Friday and Saturday). The specifics of level and type of park uses

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proposed and potential impacts associated with noise would be evaluated in detail with any subsequent project-specific proposal and the associated environmental review process to ensure that park uses would not result in significant noise impacts to the surrounding community or inconsistencies with any of the above-referenced noise-related policies.

The SAIC analysis itself lacks sufficient technical information and applies a flawed methodology for the conclusions it attempts to make regarding potential traffic generated noise impacts associated the Ramirez Canyon Park uses included in the Overlay.

First, the SAIC report identifies traffic on Pacific Coast Highway as the primary noise source affecting the Ramirez Canyon area. SAIC ignores all noise sources currently generated by existing traffic on Ramirez Canyon Road, yet attempts to assess a potential noise impact only for potential traffic trips generated on Ramirez Canyon Road that would be associated with the proposed Park uses.

Second, the relationship for noise attenuation over distance from a line source (such as a roadway) results in a reduction of 4.5 dB with each doubling of distance from the noise source (for soft site conditions). Consequently, the resulting Community Noise Equivalent Level (CNEL) value at 4,500 feet from Pacific Coast Highway (given a calculated value of 55 dB at 600 feet from this roadway) would be 41.5 dB, not the 40.0 dB referenced by SAIC comment.

Third, the author asserts that noise impacts would occur if the traffic "resulted in a substantial increase in noise at these residences, either on a 24-hour average basis (e.g., CNEL) or from intermittent noise." In fact, the 24-hour average is the only significance criteria used in the assessment of transportation noise; the assessment of intermittent noise, including control techniques and governing policies, is only applicable to non transportation sources. Noise policy from the federal to the local level is based upon a 24-hour, community based, noise average.

The 24-hour average noise value associated with transportation facilities is generally applied in two ways. First, noise sensitive land uses such as residences are typically subject to maximum noise exposure in outdoor living areas, expressed in dB CNEL. For the County of Los Angeles and City of Malibu, the exterior living area criterion is a maximum of 65 dB CNEL. So if a residence is proposed in an area with existing roadway noise above 65 dB CNEL, mitigation must be provided by the residence to reduce exposure. Conversely, for an existing home near a roadway with CNEL below 65 dB, a significant impact would occur with an increase in the roadway-associated CNEL above 65 dB. Second, if a project's traffic generation would result in a substantial increase in the CNEL values associated with local roadway operations (even if the resulting CNEL remains below 65 dB), this could constitute a significant traffic-related noise impact. A substantial increase is generally considered to be at least a 3 dB increase in the CNEL value (the threshold for notice ability of the change), although many jurisdictions use 5 dB.

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The author cites a "peak hour average traffic noise resulting from vans" of 54 dBA Leq at 50 feet from the roadway. Assuming this value is accurate for the peak hour, and even assuming that there are two different peak hour periods for the project traffic (one for incoming traffic and one for outgoing traffic), these two hours with Leq 50 and the remaining 22 hours of the day at Leq 40, and including applicable 5 and 10 dB penalties for evening and nighttime hours in the CNEL averaging process, would result in a change of one (1) dB to the CNEL value. Therefore, while individual vehicles might be "noticeable" in this setting, no significant noise impact would be anticipated to occur in relation to the change in CNEL value associated with project-induced traffic. Also, the resulting CNEL value would not begin to approach the 65 dB criterion for outdoor living spaces for residential land uses. These assumptions would, however, be validated via a technical noise assessment once applications are prepared for the proposed use.

The SAIC report also makes frivolous statements about the types of park uses that may generate significant noise impacts on the property. This demonstrates that the SAIC report author appears to have very little understanding of the programs planned for the parklands addressed in the Overlay. For instance, while "concerts" may have occurred on the Ramirez Canyon Park property under previous ownership (Barbra Streisand), these uses are not included in the Conservancy/MRCA park program. In addition, the report identifies "boom boxes" and "car stereos" operated by campers and "motorcycles" operating within the property as potential noise sources. These are erroneous statements and completely contrary to the proposed camping program and park experience that would be offered by the Conservancy/MRCA.

## 6. CONCLUSION

Based on the analysis and conclusions herein, it is clear that there is a demonstrated public need for the public access and recreational resources that are addressed by the Conservancy/MRCA LCP amendment request. There is no potential for the proposed Conservancy/MRCA LCP amendment to result in significant adverse environmental impacts, not only because there is no physical development that would cause a change in environmental conditions being requested or considered at this time, but also because the public improvements being considered in the Overlay are already allowed under the existing LCP. Rather, an analysis of the proposed LCP amendment override submittal and certified LCP concludes that denial of the LCP amendment override would reasonably result in the development of the park and recreational uses as contemplated in the Overlay, but such future improvements would not necessarily be guided by a comprehensive and long-term management program, subject to the site specific and detailed policies of the Overlay, to ensure potential impacts to environmental resources are minimized to the greatest extent feasible. Further, denial of the Conservancy/MRCA LCP amendment would not expedite coastal public access and recreational facility improvements to and between specific Conservancy/MRCA-owned parklands in the City, and thus would hinder efforts to maximize public access and recreation opportunities as mandated by the certified LCP and the Coastal Act.

Malibu Parks Public Access Enhancement Plan Overlay Alternatives Analysis

Although no potentially significant adverse environmental impacts would occur as a result of certification of the Conservancy/MRCA LCP amendment, an assessment of reasonable and other recommended "alternatives" to the proposed LCP amendment, including those alternatives identified by the RCPF and SAIC (none of which meet the basic objectives of the Conservancy/MRCA LCP amendment), supports the finding that there is no feasible less environmentally damaging alternative that meets the public need.

**APPENDIX A**  
*ATE Traffic Memo*



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### SANTA MONICA MOUNTAINS CONSERVANCY PARKS PROJECT - RAMIREZ CANYON PARK TRAFFIC ASSESSMENT

The original traffic analysis completed by Crain and Associates assumed that 6 residential estate lots could be developed at the Ramirez Canyon Park site. The Crain report estimated the weekday and weekend traffic generation for the residential lots using data contained in the Institute of Transportation Engineers (ITE) trip generation report (5th Edition). The ITE report contains base rates for single family homes of 9.55 trips/unit on weekdays and 10.19 trips/unit of weekends. The ITE report also provides adjustment factors for the base trip rates to account for larger homes with higher vehicle ownership characteristics based on data published by the Federal Highway Administration. The adjustment factor provided in the ITE report is 2.9 trips per unit. Applying this factor to the base rates yields adjusted rates of 12.45 trips/unit on weekdays and 13.09 trips/unit on weekends. Based on these adjusted rates, the trip estimates for the 6 estate lots would be as follows:

Weekdays 6 Estates x 12.45 = 75 ADT  
Weekends 6 Estates X 13.09 = 79 ADT

Because ADT are normally expressed as even numbers (one trip in and one trip out) the estimates were rounded to 76 ADT for weekdays and 80 trips for weekends.

April Winecki

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ATE also researched trip generation data contained in the SANDAG Traffic generators report to verify the results of the Crain analysis. The SANDAG report provides a rate of 12 trips/unit on weekdays for residential estates. Assuming the weekday to weekend ratio presented in the ITE report, the weekend rate for the SANDAG data would be 12.8 trips per unit. Based on the SANDAG data, the trip generation estimates for the 6 estate lots would be as follows:

Weekdays 6 Estates x 12.0 = 72 ADT

Weekends 6 Estates X 12.8 = 77 ADT

These trip estimates are very close to the estimates developed by Crain and Associates and confirm the validity of the original analysis.

Associated Transportation Engineers



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