LCPA MAL-MAJ-1-08

EXHIBIT 11

Brownstein/Hyatt/Faber/Schrek letter re: MAJ-1-08 – December 23, 2008

Brownstein | Hyatt Farber Schreck
A Strategic California Merger with Hatch & Parent
Revised Findings

RECEIVED
DEC 23 2008
CALIFORNIA COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

December 23, 2008

Steven A. Amerikaner

805.882.1407 tel
805.965.4333 fax
SAmerikaner@bhfs.com

BY FEDERAL EXPRESS

Honorable Chair Bonnie Neely and Members of the Coastal Commission
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105-2219

RE: LCP Override Application by Santa Monica Mountains Conservancy and Mountains Recreation and Conservation Authority (LCP Amendment 1-08).

Dear Chair Neely and Members of the Commission:

Brownstein Hyatt Farber Schreck and Diane M. Matsinger, Esq. represent the Ramirez Canyon Preservation Fund ("RCPF"), residents of Ramirez Canyon who have been dealing with the unlawful use by the Santa Monica Mountains Conservancy of property in Ramirez Canyon since 1993.[1] Our clients are concerned about the Conservancy's request for a LCP "override" (Pub. Res. Code, § 30515),[2] scheduled for hearing in February of 2009.

The purpose of this letter is to provide information to assist staff and the Commissioners in determining whether the findings required for a LCP override can be made by the Commission. The findings and the evidence are discussed at length below, and in the report of Science Applications International Corporation ("SAIC Report") and other materials submitted herewith. We respectfully submit that the Conservancy's submission does not meet the threshold requirements of Section 30515 and Title 14, California Code of Regulations, Section 13666 or the fact-specific requirements of Section 13666.4. Before examining the substantive elements of the Conservancy's Plan, we respectfully request that staff and the Commission consider the fundamental legal defects in the Conservancy's submission. As we demonstrate below, the Conservancy's submission does not meet the statutory criteria for an "override."

---

1 The Mountains Recreation and Conservation Authority, a joint powers agency of which the Conservancy is a member, is named as co-applicant. For ease of reference, the agencies are collectively referred to in this letter as "the Conservancy."

2 All statutory references herein are to this Code unless otherwise indicated.

TABLE OF CONTENTS

Page

I A BRIEF EXPLANATION OF WHY THE COMMISSION HAS PENDING BEFORE IT TWO LCPAs FOR THE SAME "PLAN" AND A SUMMARY OF THE FUNDAMENTAL LEGAL PROBLEMS WITH THE CONSERVANCY'S ATTEMPT TO UTILIZE THE OVERRIDE PROCEDURES OF THE COASTAL ACT 2

II THE HISTORY OF THIS PLAN VIS-À-VIS THE CONSERVANCY'S UNLAWFUL USE OF THE RAMIREZ CANYON PROPERTY 4

A. The Conservancy's "History" is Woefully Incomplete 4

B. The Site Constraints 5

C. The Conservancy's Acquisition and the Conservancy's Promises. 6

D. The Conservancy's Promise to Construct Alternate Vehicular Access and the Conservancy's First, Aborted Application for a CDP 7

E. Efforts by RCPF to Procure Enforcement by the Commission 7

F. The Conservancy's Continuing Unlawful Use and RCPF's First Lawsuit 8

G. The Conservancy's Second Application for a CDP and the City's First Lawsuit 8

H. The Court of Appeal Holds that the Conservancy is Subject to Malibu's Land Use Regulations and the CDP is Set Aside 9

I. The Conservancy's First Attempt at Changing the Malibu LCP so as to Avoid Regulation by Malibu 9

J. The Conservancy's Continuing Efforts to Gain Immunity – the "Public Works Plan" and More Litigation 10

K. The Conservancy's Application to Malibu for a LCPA 10

L. The Conservancy's Application to the Commission for a LCPA "Override." 11

III RCPF SEEKS A RESULT CONSISTENT WITH THE COASTAL ACT AND FAIR TO THE CITY, THE CONSERVANCY, AND THE RESIDENTS OF RAMIREZ CANYON 11

IV EVEN IF THE COMMISSION CONSIDERS THE CONSERVANCY'S "ALTERNATE" LCPA, THE CITY'S LCPA SHOULD BE GIVEN GREAT DEFERENCE AND THE CITY'S CUSTOMARY LAND USE AUTHORITY AND DISCRETION SHOULD BE RESPECTED 12

A. It Is Poor Planning to Propose Campgrounds And Numerous Large Special Events In Dry Chaparral ESHA Located In Box Canyons Adjacent To And Surrounding Residential Neighborhoods, With Only One Means Of Ingress and Egress 12

B. The City's Decision to Restrict the Conservancy's Unfettered Expansion of Allowable Uses in ESHA is Based on the Prime Directive of the Coastal Act 15

C. There is No Explanation, and No Precedent, for the Conservancy's Deletion of All Requirements For City Discretionary Review and Permitting of the Conservancy's Future Development 16

D. The Malibu LCP Gives the City the Power to Require Alternate Access as a Condition of the Conservancy's Proposed Intensive Development of the Ramirez Property 18

E. The City Has the Power to Determine the "Plan" or "Overlay" Area and the Location of Trails 20

TABLE OF CONTENTS
(continued)

Page

1. The Plan or Overlay Area 20
2. The Trail System 21

F. The City's Policy Decisions Should be Given Great Weight During the Commission Evaluation of the Findings Required by Public Resource Code, Section 30515 and Title 14, California Code of Regulations, Section 13666.4 22

V IT IS NOT POSSIBLE TO DETERMINE WHETHER THE CONSERVANCY'S SUBMISSION COMPLIES WITH CEQA 22

VI STANDARD OF REVIEW AND PROCESS FOR A LCP OVERRIDE 23

VII THERE IS NO EVIDENCE UPON WHICH THE COMMISSION COULD MAKE THE FINDINGS REQUIRED BY PUBLIC RESOURCES CODE SECTION 30515 AND TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 13666.4 24

A. The Threshold Requirements of Section 30515 26

B. Regional Office Use and Leasing for Private Commercial Events Cannot be Included in an Override 26

C. Title 14, California Code of Regulations, Section 13666.4: The Specific Findings Required for an Override 27

D. The Conservancy Has Ignored the Prime Directive of the Coastal Act: "Resource Protection." 28

E. There Is No "Public Need" For The Conservancy's Proposed Development. (14 Cal. Code Regs., § 13666.4, subd. (a).) 30

1. There is No Public Need for Regional Administrative Offices for the Conservancy and MRCA at the Ramirez Property 30
2. There is No Public Need for an Event Center at the Ramirez Property 31
3. There is No Public Need for Overnight Camping in the Plan Area 31

F. HAZARDS: There is No Evidence to Support a Finding that the Conservancy's Proposal Conforms to and is Adequate to Carry Out the Policies Set Forth In Public Resources Code Section 30253 *et seq.* (14 Cal. Code Regs., § 13666.4, subd. (b)) 32

1. Introduction 32
2. A Gaping Hole in the Evidence – the Conservancy Has Not Submitted a "Fire Protection, Emergency Evacuation Plan." 33
3. Regional, Administrative Offices and Special Events at the Ramirez Property – the Condition of the Structures 33
4. There is No Manner by Which the Conservancy's Proposals for the Ramirez Property Can Conform to the Policy Set Forth in Section 30253 Without the Construction of an Alternate Access Road 34

a. Ramirez Canyon Road 35
b. The Requirements of State and Local Fire Codes 35
c. The Issue of Road Width Was Not Resolved During the 2000 Commission Proceedings 37
d. Feasibility of Alternate Access 37

TABLE OF CONTENTS
(continued)

Page

5. Pedestrian Use of Ramirez Canyon Road 38

6. Camping, Special Events, People and Fires 39

a. Natural Factors Influencing Fire Conditions 39

b. Fire History in the Plan Area 40

c. People Cause Fires 40

d. High Fire Threat Areas 40

e. Fuel Modification and Brush Clearance 41

f. There Should be No Camping in Any of the Three Canyons (Except for Closely-Supervised Accessible Camping at Ramirez) and No "Special Events" at Ramirez (SAIC Report, Section 2.8, Recommendation No. 1, pp. 29-30) 41

g. There Should be No "Trail Camping" Allowed in Any of the Three Canyons (SAIC Report, Section 2.8, Recommendation No. 2, p. 30) 42

h. If Camping is Allowed in Any of the Three Canyons, or if Special Events are Allowed at the Ramirez Property, Additional Precautions Must Be Taken (SAIC Report, Section 2.8, Recommendation No. 3, pp. 30-31) 42

(1) Additional Measures for Camping and Special Events: 42

(a) Fire Protection and Emergency Evacuation Plan 42

(b) Fuel Modification 43

(c) Regulations and Enforcement 43

(2) Additional Measures for Camping 43

(a) Park Closure 44

(b) No Campfires/Cold Camping Policy 44

(c) Reservations 44

(d) Fire Protection Staffing and Equipment. 44

(3) Limitation on Special Events 45

(a) Permit Requirements 45

(b) Standard Conditions 45

(c) Event Staffing & Fire Protection Equipment 46

G. ESHA: There is No Evidence to Support a Finding that the Conservancy's Proposal Conforms to or is Adequate to Carry Out the Policies Set Forth in Public Resources Code Section 30240 *et seq.* (14 Cal. Code Regs., § 13666.4, subd. (b)) 47

1. Grading and Brush Clearance 48

2. Increased Human Presence 49

3. Construction 49

TABLE OF CONTENTS
(continued)

Page

H. STREAM ESHA: There is No Evidence to Support a Finding that the Conservancy's Proposal Conforms to or is Adequate to Carry Out the Policies Set Forth in Public Resources Code Section 30236 *et seq.* (14 Cal. Code Regs., § 13666.4, subd. (b)) 49

1. Streambed Modifications 50

2. Permits from Other Agencies 51

3. The Permit for the Unlawful Streambed Modification at the Ramirez Property 51

I. WATER QUALITY: There is No Evidence to Support a Finding that the Conservancy's Proposal Conforms to or is Adequate to Carry Out the Policies Set Forth In Public Resources Code Section 30231 (14 Cal. Code Regs., § 13666.4, subd. (b)) 52

J. NEIGHBORHOOD COMPATIBILITY – RAMIREZ CANYON: There is No Evidence to Support a Finding that the Conservancy's Proposal Conforms to or is Adequate to Carry Out the Policies Set Forth In Public Resources Code Sections 30214 and 30253 (14 Cal. Code Regs., § 13666.4, subd. (b)) 54

1. Introduction 55

2. Rural, Residential Ramirez Canyon is Not a Suitable Location for the Extraordinary Amount of Activity Proposed by the Conservancy 55

3. Noise Resulting from Traffic, Events and Amplification 56

4. The Conservancy's Use of Ramirez Canyon Road – The Need for Alternate Access and the Myth of "80 Vehicle Trips Per Day." 57

K. ALTERNATIVES Significant Adverse Environmental Impacts Have Been Identified. There Are Feasible, Less Environmentally Damaging Alternative Ways To Meet Any Identified Needs And Reduce The Risk. (14 Cal. Code. Regs., § 13666.4, subd. (c)) 62

L. Disapproval Would Not Adversely Affect the Public Welfare as Identified in the Findings, Declarations, and General Provisions of the Coastal Act (Public Resources Code Section 30000, *et seq.*) and the California Coastal Management Program, If Applicable (14 Cal. Code Regs., § 13666.4, Subd. (d)) 64

VIII CONCLUSION 66

Attachments

I

A BRIEF EXPLANATION OF WHY THE COMMISSION HAS PENDING BEFORE IT TWO LCPAs FOR THE SAME "PLAN" AND A SUMMARY OF THE FUNDAMENTAL LEGAL PROBLEMS WITH THE CONSERVANCY'S ATTEMPT TO UTILIZE THE OVERRIDE PROCEDURES OF THE COASTAL ACT.

There are two Local Coastal Plan Amendments (LCPAs) before the Commission for essentially the same Plan. To understand how that highly unusual situation came about, it is necessary to go back a year or so.

In 2007, the Conservancy applied to the City of Malibu for a LCPA for a "Malibu Parks Public Access Enhancement Plan." In December of 2007, the City granted the Conservancy's application as modified, and forwarded the LCPA to the Commission for certification. (City of Malibu LCP Amendment No. 007-002; Commission No. MAL-MAJ-03-07.)

The Conservancy was unhappy with the City's modifications to the Plan, and submitted its own LCPA, attempting to utilize the "LCP override" procedures of the Coastal Act (MAL-MAJ-1-08). The Conservancy's LCPA override is essentially the Plan which the Conservancy initially submitted to the City (i.e., without the City's modifications). In certain areas, however, the Conservancy's LCP override proposes development more intense than that which the Conservancy requested from the City. [3]

On November 24, 2008, we submitted a legal analysis to Commission Chief Counsel Hope Schmeltzer, explaining why the Conservancy's application for a LCPA is not authorized by the Coastal Act. A copy of that letter is enclosed for your convenience (Attachment B). The legal arguments are briefly summarized as follows:

The Commission must certify any LCPA before it becomes effective. During the Commission's review of the City's pending LCPA, the Commission may make suggestions to the City, which the City may either accept or reject (§§ 30512, 30512.2, 30513). If the City rejects the suggestions,

[3] The Conservancy submitted a "comparison" of its Plan with its proposed Malibu LCP amendment. However, that comparison is materially misleading because it shows only the additions which the Conservancy made to the City's document – it does not show the deletions. To ensure that staff and the Commissioners have the full picture, we have prepared a comparison that includes all of the changes to the Malibu LCPA suggested by the Conservancy, including both additions and deletions (see Attachment D).

the Commission is not required to certify the LCP Amendment (§ 30513). However, as a practical matter, the City and the Commission engage in discussion and negotiation during this process.

The LCP override procedure which the Conservancy is attempting to utilize is very different (§ 30515). The override procedure is a **narrow exception** to the Legislature's requirement that local governments have the final say over land use decisions after the certification of a LCP. Under the narrow override procedure, the Commission can "override" the decision of the local government **only** if (a) an applicant proposes a specific public work which is not consistent with a LCP, (b) the local government will not amend the LCP to accommodate the applicant's proposal, and (c) the Commission can make the numerous findings discussed in this letter. However, in the absence of an application for a specific public work, it is not possible for the Commission to either (a) determine the precise scope and manner in which it might be necessary for the Commission to override the decision of a local government, or (b) permit the Commission to make the fact-specific findings necessary for the application of the override procedure.

The Conservancy has not submitted an application for a specific public work. Instead, the Conservancy has taken extensive provisions of the Malibu LCP and simply rewritten them to the Conservancy's liking. The Conservancy's proposed policies are **far less protective of natural resources** than the Malibu LCP and are apparently designed to **pave the way** for the Conservancy's future public works plan. There is no question that the Conservancy is asking the Commission to stretch the override procedure beyond all recognition.

Moreover, without providing any of the site-specific information required to analyze any specific development, the Conservancy has utilized <u>mandatory language</u> in its submission (i.e., the Conservancy "shall" develop camping on all three of its Malibu canyon properties and "shall" develop the intensive use of the Ramirez property for regional offices and events). We suspect that, if the Commission were to approve that language, the Conservancy would <u>claim an entitlement</u> for the development because the Conservancy has taken Malibu's LCPA and deleted all of the requirements for CUPs, CDPs, or review by various City Departments.

Finally, even if the Coastal Act allowed the Conservancy to submit what is essentially an "alternative" to Malibu's LCPA, we respectfully submit that the Commission should defer to Malibu's discretionary decisions on broad policy issues (see Section IV, below). That is the only manner by which (a) the fundamental policy of the Coastal Act can be preserved (i.e., that land use decisions are delegated to local governments after the certification of a LCP) and (b) the

override procedures can be kept within the narrow confines drawn by the Legislature (i.e., for use only in the context of specific development proposals).

The Conservancy's submission is extensive, and the administrative review and public hearing process will consume much time and energy. We respectfully submit that that time and energy should not be expended on an application which is not authorized by the Coastal Act.

II

THE HISTORY OF THIS PLAN VIS-À-VIS THE CONSERVANCY'S UNLAWFUL USE OF THE RAMIREZ CANYON PROPERTY.

The Conservancy's submission involves three properties in Malibu - in Ramirez, Escondido and Corral Canyons. A very significant part of the Conservancy's proposal has its roots in 1993, when the Conservancy received the 22-acre Ramirez property as a donation from Barbra Streisand. It is essential that staff and the Commissioners have a comprehensive understanding of what has happened in Ramirez Canyon since 1993. This background shows, among other things, that the Ramirez Canyon property was not acquired, was not intended, and is not allowed to be used as a "public park," and that the Conservancy is torturing the LCP override process to attempt to validate its unlawful and inappropriate use of the property. This background also shows why the Conservancy has included language in its override that reads like a coastal development permit for the Ramirez property, but without the site-specific detail required for such an entitlement.[4]

A. The Conservancy's "History" is Woefully Incomplete. In the Conservancy's "Description and History of Conservancy/MRCA Parklands," the Conservancy emphasizes the "developed nature" of the Ramirez property. There is no mention of the fact that there are no permits for most of that development, or of the fact that the Conservancy deleted all of the City's requirements that it procure those permits. Moreover, the Conservancy has ignored the fact that there is no public access to the property. There is only one way in and one way out – a narrow, winding, private road that does not comply with state or local fire codes.

---

4 The Conservancy is asking the Commission to approve a LCPA which provides that the Conservancy **"shall"** provide **camping, regional administrative offices** for an unlimited number of Conservancy and MRCA personnel, and "tours," "gatherings" and "events" which include leasing the property for revenue raising purposes. The Conservancy's Plan would generate at least **900 events with 44,240 participants annually and 76 events with 3,687 participants monthly** – 7 days a week, most days from dawn to dusk, and some weekends until 11 p.m. (SMMC/LUP/LIP/Text Amendments, Section 4.12; see Attachment D, pp. 46-54.)

To support its proposed intensive use of the property, the Conservancy places great reliance on a CDP which the Commission issued for the Ramirez property (CDP 4-98-334). However, in 2005, the Ventura Superior Court declared CDP 4-98-334 to be **void**. That means that, despite the fact that the Conservancy operated under CDP 4-98-334 for a few years, **the Conservancy acquired no rights** whatsoever under that permit. The 2007 proceedings on the Conservancy's request for a LCPA from Malibu was the first time the City ever considered the Conservancy's use of the Ramirez property. The pending Malibu LCPA and the Conservancy's proposed override will be the first time the Commission considers the Conservancy's use of the Ramirez property within the context of the Malibu LCP. Therefore, there are no inferences to be drawn from CDP 4-98-334 — the Conservancy's submission must be considered anew.

The bottom line is this: For **15 years** now, the Conservancy has developed and used the Ramirez property with no regard for Malibu's land use regulations or for the residents of Ramirez Canyon. Instead, the Conservancy has waged a legal battle with the City and with the RCPF to avoid any regulation by Malibu. In the process, the Conservancy has not only ignored public safety and the site constraints of the Ramirez property, the Conservancy has violated the fundamental policy issue of land use compatibility with its neighbors. It has harassed the Canyon residents with traffic and noise for a regional office and commercial event center at the end of a box canyon in a residential neighborhood – and it now seeks to intensify that use. There is no cause for a Commission "override" to allow the Conservancy's abuse to continue.

B. The Site Constraints. The Conservancy's Ramirez property is located at the top of a rural, residential box canyon on the north edge of the City of Malibu, at the very end of Ramirez Canyon Road – which provides the only means of access. All of the other properties that use Ramirez Canyon Road for access (i.e., to the south) are zoned Rural-Residential. On the north, east and west, the Ramirez property is generally surrounded by National Park Service property and other open space.

From Delaplane Road at the bottom of Ramirez Canyon, Ramirez Canyon "Road" is actually a private, winding, one-mile lane, less than the 20 feet minimum width required by state and local fire regulations in numerous places. (SAIC Report, pp. 31-32 and Appendix B, Photos 1-8.) The Road repeatedly crosses Ramirez Creek over and through Arizona crossings and over a narrow bridge. Two gates control access into the Canyon. For the most part, the homes are older; the front yard setbacks are narrow and some structures are located very near the road.

Ramirez Creek is a spring-fed, blue-line stream that runs down from National Park Service lands, through the Conservancy's Ramirez property, and then down the Canyon to the ocean at Paradise Cove. In times of significant rainfall, Ramirez Canyon Road is completely impassable. Residents are forced to leave their cars and access their homes on foot.

C. The Conservancy's Acquisition and the Conservancy's Promises. In December of 1993, Barbra Streisand donated the Ramirez property to the Conservancy. Before the donation, Ms. Streisand and the Conservancy executed a Memorandum of Understanding (MOU) which expressly provided that the property would be used "as a retreat and research center for advanced academic and applied studies directed toward solution of the most pressing conservation and natural ecosystem management problems." The MOU includes the following *covenant* by the Conservancy:

> "Donor's intent in making this gift is to provide a location and facilities for the establishment of the Streisand Center for Conservancy Studies ("Center"). *Donee* [the Conservancy] and its affiliated nonprofit, the Mountains Conservancy Foundation, will plan and operate the Center as a place for advanced academic and applied studies directed toward solution of the most pressing conservation and natural ecosystem management problems, and will carefully evaluate all relevant issues related to its use, including vehicular access and impact on the neighboring community." (MOU, Attachment C, pp. 2-3, emphasis added.)

Dedications from the public are broadly construed, but dedications by individuals are strictly construed. (*Slavich v. Hamilton* (1927) 201 Cal. 299, 303.) When an individual has donated land for a specific public purpose, it cannot be diverted to another purpose. (*Harter v. City of San Jose* (1904) 141 Cal. 659, 661; see, e.g., *Mulvey v. Wangenheim* (1904) 23 Cal.App. 268 (extension of a street for commercial purposes would violate the grant of the property for park purposes); *Spires v. City of Los Angeles* (1906) 150 Cal. 64, 70-71 (building on park property could be used for public library purposes, but not for municipal offices).) Therefore, the Conservancy did not acquire any right to expand the use of the Ramirez Canyon property beyond the purpose of Ms. Streisand's gift, and the Executive Director of the Conservancy acknowledged that fact when he discussed the acquisition with the Ramirez Canyon residents in 1993:

> "The Streisand Center property is a donation and therefore **it will never have to be and will never be dedicated to park purposes**. We are realists enough to realize **this is not a place that lends itself to public use or access**, and certainly we have a **long road of Ramirez that is narrow, and does not lend itself to safe access**, and in fact, with the stream coming through, it may be washed out a good portion of the year. The type of program we want to put on would not be conducive to having a bunch of people running through saying, 'Oh, look at Barbra Streisand's houses' etc., or even ardent hikers on a power hike up the canyon. This is not to

> be. Honest. That is not the feeling. It is not the play, it's not the event, it's not the way it's going to be used." (Emphasis added.)

The Conservancy did not follow the law, and it did not keep its promise. Despite the MOU, and despite the fact that the property was then zoned residential, the Conservancy moved its offices onto the premises, conducted tours, and offered the site for hire for weddings, fundraising events, and similar events which included large groups of participants.

D. The Conservancy's Promise to Construct Alternate Vehicular Access and the Conservancy's First, Aborted Application for a CDP. The Conservancy's excessive and unlawful use of the Ramirez property drew objection from the City of Malibu and from the residents of the Canyon, who ultimately joined together as the Ramirez Canyon Preservation Fund. In January of 1994, the City indicated that it would support a CDP application (a) if primary access were provided from Kanan Dume Road, rather than Ramirez Canyon Road (the alternate access which is at issue in the present proceedings), and (b) if the Conservancy agreed not to lease the property for private, commercial events (weddings, filming or other uses not consistent with Conservancy studies). In response, the Conservancy promised the Commission that it would acquire the property between Ramirez and Kanan Dume Road to facilitate access other than by Ramirez Canyon Road. The Conservancy ignored that promise as well.

In March 1995, faced with continuing objections from the City and RCPF, the Conservancy filed an application for a CDP with the Commission. Two months later, in May 1995, the Conservancy withdrew its application and issued a press release stating that it would resubmit the application after it prepared an environmental analysis, which would include an "analysis of the environmental impacts on the surrounding neighborhood."[5] The Conservancy did not do so. Instead, the Conservancy continued its excessive and unlawful use of the property without a permit.

E. Efforts by RCPF to Procure Enforcement by the Commission. Between 1995 and 1998, RCPF made repeated requests of the Commission for enforcement. In 1998, the Commission's Executive Director advised RCPF that, although the activities at the Streisand Center had been of concern to the Commission for some time, the Commission's enforcement efforts were directed elsewhere due to staffing limitations.

---

[5] Please note that the present submission by the Conservancy does not include this information either.

F. The Conservancy's Continuing Unlawful Use and RCPF's First Lawsuit. At that point, RCPF had no choice but to initiate litigation (RCPF v. Santa Monica Mountains Conservancy, L.A. Superior Court No. SC 054425). For procedural reasons, the trial court ruled that it could not give the Canyon residents the relief they sought. However, as a result of the lawsuit, the Conservancy agreed to re-submit its CDP application.

G. The Conservancy's Second Application for a CDP and the City's First Lawsuit. In December of 1998, the Conservancy submitted a second application for a CDP (4-98-334). That is the CDP to which the Conservancy refers in its Plan and which the Ventura Superior Court set aside in 2005. The application requested a permit for the intensive use which the Conservancy was then making of the property and the use which the Conservancy seeks to intensify by its proposed LCP override. The original Commission staff report acknowledged the problems that exist today as much, if not more, than when the report was issued:

> "The applicant proposes to attract dense populations of commercial visitors to a site located at the dead end of a relatively narrow, winding road that has been determined substandard for purposes of emergency vehicle access and for the evacuation of the canyon's occupants in the event of a flood or wildfire emergency . . . . The substandard road is the only way in and out of the canyon." (10/14/99, Coastal Commission Staff Report, pp. 3-4.)
>
> "In addition, several Arizona stream crossings and narrow wooden bridges – the narrowest (twelve feet in width) being immediately adjacent to the project site – present obstacles to emergency access vehicles and to occupants of the canyon seeking to evacuate during flooding or wildfires." (*Id.*, p. 11.)
>
> Siting of new development: **"Siting an intensive commercial land use at the end of a substandard road in an area otherwise designated for public parklands and open spaces and for residential uses raises a number of issues under the Coastal Act regarding the appropriate siting of such development."** (*Id.*, pp. 3-4, emphasis added.)

After the report was issued, the Conservancy hired a lobbyist and the hearing was postponed to January of 2000.

In the meantime, because the Conservancy had consistently denied Malibu's request that the Conservancy's development be evaluated for compliance with Malibu's zoning regulations, the City of Malibu sought a judicial determination that the Conservancy was subject to Malibu's regulations (City of Malibu v. Santa Monica Mountains Conservancy, et al., Ventura Superior Court Case No. 193900).

In December of 1999, the Conservancy amended its CDP application and extensively revised its project description to include "public access programs." That is the theme of the Conservancy's present submission as well. However, the "public access" component of the CDP was directly at odds with the Conservancy's agreement with Ms. Streisand and its promise to the Canyon residents. Thus, it came as no surprise when, in 2000, Ms. Streisand objected to the continued use of her name. In response, the Conservancy began to refer to the property as "Ramirez Canyon Park."

There was extensive opposition to the Conservancy's CDP application by the City Attorney for Malibu, members of the Malibu City Council, and many Ramirez Canyon residents. Nevertheless, it was apparently the "public access" component of the CDP which ultimately led the Commission to approve the project. The "hazards" discussion quoted above simply disappeared from the next Staff Report. The Commission approved the project, and CDP 4-98-334 was issued in February 2001.

H. The Court of Appeal Holds that the Conservancy is Subject to Malibu's Land Use Regulations and the CDP is Set Aside. On May 24, 2001, RCPF filed an action to set aside the CDP because it did not comply with Malibu's land use regulations. At the same time, the City of Malibu filed its second lawsuit, challenging the CDP on the same grounds.

On June 20, 2001, in Malibu's first lawsuit, the trial court found that the Conservancy was immune from Malibu's land use regulations. The City appealed, and the two lawsuits challenging the CDP were put on hold until that appeal was resolved. On May 14, 2002, the Court of Appeal issued its opinion, reversing the trial court and holding that the Conservancy is not immune. In other words, this issue is now settled: the Conservancy is subject to Malibu's land use regulations (*City of Malibu v. Santa Monica Mountains Conservancy, et al.* (2002) 98 Cal.App.4th 1379).

Ignoring the Court of Appeal's holding, and despite the Conservancy's ultimate admission that CDP 4-98-334 had been issued with no consideration of Malibu's land use regulations, the Conservancy forced the RCPF to prosecute the lawsuit about the validity of the CDP. In 2005, the Ventura Superior Court declared CDP 4-98-334 void. Twelve years had passed since the conflict began – and still the Conservancy had not ceased its unlawful use of the property.

I. The Conservancy's First Attempt at Changing the Malibu LCP so as to Avoid Regulation by Malibu. In early 2002, while the Coastal Commission was drafting Malibu's LCP, the Conservancy sought amendments to exclude "park management and operations" and

"park events" (e.g., festivals and weddings) from the requirement for a CDP. The Commission rejected the proposals. Later in 2002, the Commission certified the Malibu LCP. This should have put an end to the Conservancy's legal maneuverings — because every person in the State of California, including the State itself, is subject to the Coastal Act (§ 30111). Instead, the Conservancy continued the litigation over the CDP – to forestall the ultimate day of reckoning — and began to scour the Coastal Act to find other procedures by which it might gain the functional equivalent of immunity from Malibu's land use regulations.

J. The Conservancy's Continuing Efforts to Gain Immunity – the "Public Works Plan" and More Litigation. In 2006, the Conservancy tried an imaginative new strategy. It filed an application directly with the Commission for a "Public Works Plan" (PWP) which essentially proposed to make the Conservancy immune from Malibu's land use regulations not only on Conservancy properties, but over a vast "planning area," encompassing 15,800 acres of private and public land. Commission staff declined to accept the application and requested more information. The Conservancy modified the Plan and held public hearings. Protests from the City of Malibu and many City residents fell on deaf ears.

In November of 2006, the Conservancy approved the PWP and threatened to bring it back to the Commission. And, with an audacity that was nearly breathtaking, the Conservancy filed a lawsuit, once again claiming "immunity" from Malibu's land use regulations. The City counter-sued to enjoin the Conservancy's violation of the Malibu LCP on the Ramirez property. Ultimately, even though the Conservancy would not dismiss its claim of immunity, the City and the Conservancy agreed that the Conservancy would submit a LCPA to the City. The Conservancy agreed that the LCPA would generally describe its Plan and would require the Conservancy to obtain CDPs for each of its proposed developments.

K. The Conservancy's Application to Malibu for a LCPA. Once again, the Conservancy ignored its promises. The Conservancy did not draft its LCPA to require individual coastal development permits. Instead, the Conservancy drafted the LCPA so as to lock in, among other things, all of its existing operations at Ramirez, including those to which the City and RCPF had long objected.

After several well attended public hearings, the City Council approved <u>most</u> of the Conservancy's proposals. However, the City made two decisions about which the Conservancy was unhappy and which apparently prompted the Conservancy's unprecedented invocation of the override procedures of the Coastal Act. First, for public safety reasons, the City decided to prohibit any

further camping in the City except for disabled-accessible camping at Ramirez (to which there was no objection). Second, the City sanctioned the Conservancy's unlawful office use of the Ramirez property, but conditioned use of the property for events on the construction of alternate access from Kanan Dume Road. As further explained in Section IV, below, the Coastal Act plainly delegates these broad policy decisions to the City.

L. The Conservancy's Application to the Commission for a LCPA "Override." In December of 2007, the City sent the LCPA to the Commission for certification. In April 2008, the Conservancy submitted its own LCPA directly to the Commission. The Conservancy's proposed override includes the provisions for an office park, camping, large commercial events, and leasing the Ramirez property for private, commercial use – but deletes the City's requirement for alternative access. The City of Malibu declined to adopt the Conservancy's proposed override plan and, on July 29, 2008, the Commission staff deemed the Conservancy's application "properly submitted and complete."

III

RCPF SEEKS A RESULT CONSISTENT WITH THE COASTAL ACT AND FAIR TO THE CITY, THE CONSERVANCY, AND THE RESIDENTS OF RAMIREZ CANYON.

The City's LCP Amendment considers the totality of the circumstances and proposes a reasonable manner by which the Conservancy can increase public access and, at the same time, safely use its properties. By separate comment letter, we will submit proposed minor revisions to the Malibu LCPA, which we request that both the City and the Commission consider and adopt in order to make the Conservancy's development more compatible with the rural, residential nature of Ramirez Canyon. We respectfully submit that the Malibu LCPA, modified as RCPF requests, is the most equitable result for the City, for the residents of Ramirez Canyon, and for the Conservancy – for the following reasons:

The Conservancy acquired a property in Ramirez Canyon which was never intended – and which the Conservancy acknowledged is not suitable -- for use as a public park, regional office complex or commercial event center. Therefore, if the Conservancy wants to continue to use this ESHA/Open Space property for regional administrative offices (to which no agency would be entitled), and to expand from passive to active recreation, the Conservancy should construct alternate access to protect the safety of those who use the property as well as the Canyon residents, and to minimize traffic and noise throughout the Canyon. Moreover, the Conservancy

should seek site-specific approvals from the City with respect to each proposed development; there should be no language in the LCPA which suggests a guarantee of development. Finally, except for supervised disabled-accessible camping at Ramirez, no camping should be allowed in the Plan Area. Southern California is being ravaged by fire, resources for fire suppression are strained and/or non-existent, and the Conservancy properties are vegetated with dry ESHA containing chaparral and located immediately adjacent to residential neighborhoods.

IV

EVEN IF THE COMMISSION CONSIDERS THE CONSERVANCY'S "ALTERNATE" LCPA, THE CITY'S LCPA SHOULD BE GIVEN GREAT DEFERENCE AND THE CITY'S CUSTOMARY LAND USE AUTHORITY AND DISCRETION SHOULD BE RESPECTED.

This is an important issue because of the unprecedented manner in which the Conservancy is attempting to utilize the override provisions of the Coastal Act. It does not appear that the Conservancy is attempting to override the **existing** Malibu LCP – because the Conservancy's Plan is inconsistent with the existing LCP in significant respects and the Conservancy's "Policy Consistency Analysis" does not address any of those conflicts. Instead, it appears that the Conservancy is attempting to utilize the override procedures to offer **an alternative to the pending Malibu LCPA.**[6] As we explained in our November 24, 2008 letter to Commission Counsel, the override provisions were not designed for that purpose (Attachment B, Section I).

However, and in any event, if the Commission decides to consider the Conservancy's alternative proposals, we respectfully request that the Commission do so with deference to the City's decisions on broad policy issues and with respect for the City's customary land use authority and discretion. A comparison of the Malibu LCPA with the Conservancy's Plan demonstrates the following primary areas of conflict:

A. It Is Poor Planning to Propose Campgrounds And Numerous Large Special Events In Dry Chaparral ESHA Located In Box Canyons Adjacent To And Surrounding Residential Neighborhoods, With Only One Means Of Ingress and Egress. Given the

[6] In this respect, the Conservancy's statement of "Purpose and Intent" is very telling. According to the Conservancy, it seeks to increase public access, create an inter-linking network of trails, etc. However, the Malibu LCP, which the Commission drafted for Malibu, includes extensive provisions for that same purpose. There is no precedent which would allow the Conservancy to substitute its judgment for that of the City.

onslaught of fires in Southern California during the past several years, it is difficult to believe that the Conservancy is proposing to develop camping in the dry canyons of Malibu, adjacent to and surrounded by residences, and to lease the Ramirez property for numerous "special events" for 200 persons. These activities are not appropriate for this urban/wildland interface. They create unnecessary risks, particularly where there is only one means of ingress and egress, as in Ramirez and Escondido Canyons.

There are 272 federally-owned, 678 state-owned, and four City of Los Angeles-owned campsites in and around Malibu. (SAIC Report, pp. 1-4 and Table 1.) Most are along the beach, outside of the high fire hazard zone. All are close to Pacific Coast Highway or adjacent to a major cross-mountain highway for easy access (Leo Carrillo State Park, Pt. Mugu State Park (Big Sycamore Canyon and Thornhill Broome), Malibu Creek State Park). There are two backcountry sites with hike-in access and nine tent spaces. There are 35 privately-owned tent spaces on Pacific Coast Highway. (SAIC Report, Table 1.) There are also numerous sites which offer facilities for large events. (See Section VII, E, below.) Most of these are also outside the Very High Fire Hazard Severity Zone, and have safe and sufficient public access in the event of an emergency.

Throughout the proceedings on this "Plan" (i.e., the PWP, the Conservancy's application to Malibu for the LCPA, and the present application for LCP Override), **the Conservancy has never offered an analysis of alternatives**. Nonetheless, during several well-attended public hearings, the City carefully considered the Conservancy's proposals and ultimately determined that, except for supervised disabled-accessible camping at Ramirez property (to which no one objected), the risk posed by the existing camping and event facilities in the City should not be increased. In addition, the City agreed to legalize the Conservancy's regional administrative office use of the Ramirez property, despite the fact that the current LCP does not allow those uses in ESHA or Open Space. At the same time, the City determined that the Conservancy's proposal for extensive tours, gatherings, small groups and special events, warranted "additional development controls" (Malibu LIP, Hazards, § 9.2) in the form of alternate access (see Section VII, F, 4, below).

There is overwhelming evidence to support the City's decision. The City's first job is to keep its residents safe. Malibu's hillsides are covered with dry coastal sage scrub ESHA, and Malibu has suffered devastating wildfires. In 2007 alone – while the Conservancy's Plan was pending before the City – there were two catastrophic fires in Malibu. In the second, 63 homes were destroyed and 54 damaged, along with the Malibu Presbyterian Church, Our Lady of Malibu and Webster Elementary School. Six firefighters were injured, including one who suffered second-degree

burns to his face. And, Malibu is not alone. The entire State has been burning -- fifteen of the twenty largest wildfires in California history have occurred since 1985.[7] Nearly 1.2 million acres burned during the record-setting 2008 fire season (*id.*).

In addition, the number, intensity and scope of wildfires throughout the western states have grown dramatically in recent years. The number of wildfires between 1987 and 2003 was **four times** the number between 1970 and 1986.[8] The total area burned increased more than **six and a half times** in the Western States (*id*).

> "In recent years, both the number of acres burned by wildland fires and the costs to suppress fires has been increasing. From 1995 to 1999, wildland fires burned an average of 4.1 million acres each year. From 2000 to 2004, the fires burned an average of 6.1 acres per year, an increase of almost 50 percent. During the same periods, the costs incurred by federal firefighting entities to suppress wildland fires more than doubled, from an average of $500 million annually to about $1.3 billion annually. Although efforts to fight these larger, more severe fires have accounted for much of the increase in suppression costs, the continuing development of homes and communities in areas at risk from wildland fires and the efforts to protect these structures also contribute to the increasing costs. Forest Service and university researchers estimate that about 44 million homes in the lower 48 states are located in the wildland-urban interface."[9]

The increased risk of wildfires cannot be managed by fire suppression strategies alone.[10]

The California Department of Forestry and Fire Protection's fire protection expenditures grew from $475 million in 1996-97 to $869 million in 2006-07 – an **83% increase**.[11] The state's fiscal resources are not keeping pace with this demand. And, recent studies predict that, based upon weather conditions for future climate scenarios, the frequency of wildfires will increase in the

---

7 Associated Press, *Report: Climate Change to Fuel Wildfires in West*, August 15, 2008.

8 A.L. Westerling, *et al.*, "Warming and Earlier Spring Increase Western U.S. Forest Wildfire Activity," *Science* 313, 940 (2006), published online 6 July 2006 (10.1126/science.1128834).

9 U.S. Government Accountability Office, *Wildland Fire Suppression: Better Guidance Needed to Clarify Sharing of Costs between Federal and Nonfederal Entities* (hereafter "USGAO Report"), July 2006, pp. 3-4.

10 National Wildlife Federation, "Increased Risk of Catastrophic Wildfires: Global Warming's Wake-Up Call for the Western United States," August 14, 2008.

11 California Legislative Analyst's Office, "California Department of Forestry and Fire Protection: State's Wildland Firefighting Costs Continue to Escalate," presented to the Senate Budget Subcommittee No. 2 on Resources, Environmental Protection and Energy, March 26, 2007.

Western U.S. as warming intensifies, particularly in areas with the type of vegetation which surrounds the Conservancy properties. (SAIC Report, Section 2.0, pp. 7-29.) Therefore, the "most effective way to limit damage and loss due to wildfire is to prevent all but the most blatant ignitions due to arson or other unforeseeable circumstances."[12]

Additional material is presented in the discussion of Hazards (Section VII, F, below) and in the SAIC Report. We respectfully request that the Commission respect the City's policy decision to reduce the risk of fire by prohibiting additional campsites in the City.

B. The City's Decision to Restrict the Conservancy's Unfettered Expansion of Allowable Uses in ESHA is Based on the Prime Directive of the Coastal Act. It is also difficult to believe that the Conservancy – whose mission is to protect and preserve natural resources – is asking to grade away ESHA, insert chemical toilets for campsites, build vehicular crossings across streambeds, construct broadly defined "support facilities," and lease out ESHA for private, commercial, events for 200 people at a time.

Under the Malibu LCP, land use in ESHA is restricted to public accessways and trails, interpretative signage, restoration projects, and invasive plant eradication projects. (Malibu LIP, Section 4.5.3.) Yet, based on its stated desire to provide "public access," the Conservancy is seeking almost wholesale exemption from these restrictions. The Conservancy proposes to expand the use of ESHA as follows: "Trails, camp facilities, park uses as described in this Chapter [the regional office, tours, gatherings, events, and commercial leasing of the Ramirez property for private events], and necessary support facilities shall be considered <u>principal permitted uses</u> for those parkland areas subject to . . . ." the proposed override. (SMMC/LIP Text Amendments, Section 4.7.A.1; see Attachment D, p. 27; emphasis added.)

In addition, the Malibu LCP provides for limited support facilities in Open Space –*<u>not in ESHA</u>*– picnic areas, restrooms, trash receptacles, parking and construction of access improvements for trails (Malibu LUP, Chapter 2, A, 2 and Policies 2.4, 2.7 and 2.16).) The Conservancy's proposal allows support facilities as a principal permitted use in ESHA and defines them as "those facilities *<u>deemed necessary to support the primary permitted land use</u>*, 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

---

12 County of Los Angeles Fire Department, *Pre-Fire Management Plan,* June 2004, p. 9.

offered at each park areas . . .." (SMMC/LIP Text Amendments, Section 4.12; see Attachment D, pp. 46-47; emphasis added.)

As more fully explained in Section VII, D, below, the primary purpose of the Coastal Act is to protect and preserve coastal resources. **Where there is a conflict, resource protection overrides all other policies**. That is why, like the LCPs of surrounding jurisdictions,[13] Malibu's LCP requires that activities in ESHA be restricted to resource dependent uses. Therefore, we submit that the Commission should respect the City's policies with respect to activities in ESHA.

C. There is No Explanation, and No Precedent, for the Conservancy's Deletion of All Requirements For City Discretionary Review and Permitting of the Conservancy's Future Development. The City's LCPA provides for CDPs, CUPs and review by various City departments and City officials of the Conservancy's eventual site-specific development plans. These provisions are designed to ensure review of the site-specific impacts of every development proposal. For example, information concerning the precise location of development and the proposed intensity of use are essential for an analysis of the impact on ESHA and on the neighborhood, and construction detail is required to analyze hazards and public safety. In addition, if the Commission were to seriously consider the Conservancy's proposals for camping, site-specific review during the permitting process would be essential.

As discussed below, this is apparently the first time the Commission will consider a proposal for camping in ESHA in the dry, urban/wildland interface of Southern California. Our research indicates that camping is rarely permitted in this fire-prone area. Further, even in the Southern California jurisdictions that still allow camping, no jurisdiction allows camping as a principal permitted use – with no CDP, CUP or site-specific review.[14] Yet, the Conservancy's Plan deletes

---

[13] See, e.g., Monterey County LCP, secs. 20.144.040, 20.145.040, 20.146.040, 20.147.040, 20.147.090 – use of ESHA limited to resource dependent uses, recreational uses are limited to "passive and low intensity," where public access is permitted, a "condition of project approval shall be that the access be strictly managed, controlled and confined to designated trails and paths." See, also, Ventura LCP (p. 19) and Ventura Coastal Zoning Ordinance, sec. 8174-9; Santa Barbara LCP, p. 116; San Luis Obispo LCP (p. 91).)

[14] See, e.g., Los Angeles County CZO, secs. 22.28.290, 22.40.410, 22.40.420-430 (campgrounds permitted with CUP or CDP in OS or CR); Monterey County Coastal Implementation Plan, Chaps. 20.18, 20.22, 20.36, 20.38, pp. 78, 96, 138, 144-145 (campgrounds permitted in certain zones with CDP and CUP; for public access to open space, Monterey County also requires an Access Management Plan which must incorporate an analysis and discussion of "impacts regarding ESHA, adjacent land uses, neighborhood privacy, noise, fire hazard, public safety . . .." (Monterey LCP, § 20.144.150).) See, also, Ventura County CZO (campgrounds are permitted in Coastal Open Space and Coastal Rural Zones, "camps" are permitted only in CR and

every one of the requirements for permits and review which are set forth in the Malibu LCPA (see Attachment D).[15] The Conservancy's proposal is not only dangerous, it is unprecedented.

The Conservancy is also attempting to exempt itself from certain requirements of the Malibu Municipal Code (MMC). The MMC allows for "joint use" of off-site parking facilities only under certain conditions and only if the proposed joint use agreement includes the City as a party (MMC, § 17.48.040). Yet, Section 4.3, B, 1 of the Conservancy's proposed LIP text additions (see Attachment D, pp. 18-19), provides that "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."

Moreover, the Conservancy's submission attempts to change Malibu's regulations for the use of private property. SMMC/LIP Text Amendments, Section 4.11.B.1 (Attachment D, pp. 43-44) states:

> No person shall, *outside of any park facility* mentioned herein, *on any public or private property*, permit or allow, or cause to be permitted or allowed, any open flame, fire, or other incendiary source, of any nature whatsoever, within twenty (20) feet of any flammable vegetation. *This provision shall prohibit backyard fires,*

Coastal Rural Exclusive Zones (Article IV, pp. 30-37); LCP specifically defines campgrounds in terms of size, maximum density, etc. (LCP, § 8175-5.3).) And, see, Santa Barbara County LCP and CZO (camping permitted with CUP or CDP in AG II, CV (Resort/Visitor Serving Commercial); REC (Recreational); RES (Resource Management Zoning District) (Santa Barbara LCP, p. B-2, and CZO pp. 53, 113).

[15] See Attachment D, Comparison Chart. In every instance where the City of Malibu LCPA requires a CDP, CUP, or review by any City Department, the Conservancy has stricken those requirements. See the following pages in the right-hand column of the Chart: p. 4 (Policy 5.71 – deletes the requirement for CDPs); pp. 8-9 (§ C – deletes the provision for the imposition of conditions on development); p. 12 (§ 3 – deletes the requirement that the location and design of trails and their impact on ESHA be evaluated during the CDP process); pp. 17-18 (§ A – deletes the requirement that the Conservancy participate with the City to provide public transit improvements); pp. 20-21 (§ 4 – deletes the City's requirement that further intensified use of the Ramirez property be conditioned on the requirement of alternative vehicular access); pp. 23-24 (§ 5 – deletes the requirement for CDPs for support facilities); p. 24 (§ 3 – deletes review by the City biologist to determine the exact location of support facilities during the CDP process); p. 28 (§ 4 – deletes review by the City biologist to determine the location of park facilities during the CDP process); p. 30 (§ B, 1, removes streambed modifications from the CDP process and from "all other relevant permits from appropriate agencies"); pp. 32-33 (§ C, 2 – removes the requirement for review of all projects by the City Environmental Review Board); p. 36 (§ B, ii – deletes the requirement for review of construction and operation of self-contained restrooms by the City Environmental Health Division); pp. 41-42 (§ A, 2 – deletes the application of the City's Geotechnical Guidelines and Building Codes); pp. 46-47 (§ 12 – deletes the City's requirement that development "avoid intrusive traffic circulation in residential neighborhoods"). The Conservancy has provided no explanation for these deletions.

> *barbeques, or any other flame source whatsoever.* Propane BBQs when accompanied with approved fire extinguishers shall be exempt from this policy. (Emphasis added.)

There is no precedent, "override" or otherwise, by which the Conservancy can supplant Malibu's decisions with respect to the regulation of private property.

Therefore, even if the Commission determines that the Conservancy is entitled to utilize the override procedure, and even if the Commission makes the findings required for an override, we respectfully submit that (i) no LCPA should be certified unless the Commission ensures that Malibu's traditional permitting discretion and authority is preserved, and that City agencies have an opportunity to review specific uses on specific sites and to exercise their customary discretion to issue permits; (ii) no requirements of the MMC should be modified unless the City consents, and (iii) none of the Conservancy's suggestions for the regulation of private property should be adopted.

D. The Malibu LCP Gives the City the Power to Require Alternate Access as a Condition of the Conservancy's Proposed Intensive Development of the Ramirez Property. The question of intensified use of the Conservancy's Ramirez property for tours, gatherings, small groups and "special events" cannot be considered in a vacuum. This property is designated ESHA and Open Space. Government offices are not permitted in either zone (Malibu LIP, § 4.5.3 and Table B (Permitted Uses)). Despite that fact, since the Conservancy first acquired the property, the Conservancy has insisted on using the structures on the property for regional administrative offices for itself and MRCA.

The City's LCPA allows the Conservancy to continue the office and other limited uses of the property. However, Ramirez Canyon Road is too narrow to meet the requirements of either state or local fire codes, and the office use is one of the primary incompatibilities between the Conservancy's use and this rural, residential neighborhood. Therefore, to resolve the issues of hazards, public safety, traffic, noise and neighborhood compatibility, the City required alternate access for the Conservancy's proposed tours, gatherings and "special events." Because the property is in a Very High Fire Hazard Severity Zone, the condition is expressly authorized by the Malibu LCP as an "additional development control" (Malibu LIP, Hazards, § 9.2).[16] The evidence which supports the City's decision, and which compels the inclusion of this condition in any LCPA

[16] In addition, lawful access is an essential component of any development plan and, as discussed below, the Conservancy does not have the legal right to use Ramirez Canyon Road for public or commercial use.

which authorizes intensified use of the Ramirez property, is set forth in Section VII, F (Hazards), 4, below.

The City's requirement for alternate access is also consistent with zoning law. The properties over which Ramirez Canyon Road passes are zoned by the Malibu LCP as rural-residential (RR). The Conservancy's Ramirez property is zoned open space (OS). Active recreation, camping, office and commercial uses are not allowed in the RR zone (Malibu LIP, Table B (Permitted Uses)). "Parks" are allowed in RR zones only with a conditional use permit (*Id.*). The general rule is that the use of land in one zoning district (e.g., Ramirez Canyon Road, RR) for ingress and egress to land in another zoning district (e.g., the Conservancy's open space property, OS) must not exceed the use allowed in the first district.[17] That means that, even if Ramirez Canyon Road were not substandard under the fire code, the Conservancy would have no right to use the road for access for active recreation, camping, office or commercial use.

The Conservancy has submitted a list of "Park Agency Administrative Office Locations in the Coastal Zone" (see Conservancy "Policy Consistency Analysis," dated April 14, 2008, p. 55), in an apparent effort to justify the Conservancy's claim that office facilities like those at Ramirez are an appropriate use of Open Space. However, an examination of the actual use of the properties on the Conservancy's list, and the land use designation of each, proves the contrary. Attachment E demonstrates that many of the sites do not house offices at all. Other sites are used for **onsite administration** – which is generally permitted as an "ancillary" use to the management of the specific property. The sites that house regional offices either require a CUP or are located in zoning designations that allow the use (e.g., Institutional and Public Facilities). Because of the site constraints at the Ramirez property, the property would never qualify for the latter type of zoning designation.

The Conservancy's Ramirez property is zoned Open Space, and the Conservancy's "Policy Consistency Analysis" explains that the Conservancy uses the offices at Ramirez to **"conduct the administrative responsibilities associated with open space acquisitions, planning, research, the management of conservation and recreation activities <u>at Conservancy holdings</u>** . . .." (Conservancy "Policy Consistency Analysis," p. 52). There is no precedent for that use – it is plainly unlawful.

---

[17] Am. Jur., Zoning, sec. 167. California Courts follow the rule. Miller & Starr, California Real Estate, sec. 15:54. See, also, *Teachers Ins. & Annuity Assn. v. Furlotti* (1999) 70 Cal.App.4th 1487 and *City & Co. of S.F. v. Safeway Stores, Inc.* (1957) 150 Cal.App.2d 327.

In addition, there is no question that the City's requirement for alternate access is justified by the public safety concerns inherent in the Conservancy's proposal to bring large groups of visitors to a property at the top of a dry box canyon in a Very High Fire Hazard Severity Zone (see Section VII, F, (Hazards), below). Under the circumstances, the City's decision to add alternate access as a condition to any intensification of use is a sound policy decision:

> "Passive Protection. When the inevitable wildfire does occur, the primary protection of life, property and the environment will come from passive protection such as defensible space (fuel reduction/brush clearance), fire resistive landscaping, fire-resistive construction and good housekeeping. Sufficient firefighting water sources must be on site for use by the property owner and/or the fire department. Moreover, residents must have the means of self-evacuating and escaping danger through safe and sufficient egress routes while maintaining appropriate ingress routes for responding fire equipment. The sum effect of passive protection is a force multiplier for active firefighting resources."[18]

Finally, the City's requirement for alternate access was not a surprise. The Conservancy has been promising to build an alternate access since 1993. Late last year, during City proceedings on the LCPA, the Conservancy made a grant of $7 million to MRCA to fund the necessary acquisition. However, when the City added the condition, the Conservancy balked and has deleted the condition from its proposed LCP override. We respectfully request that the Commission defer to the City with respect to the question of alternate access and, as explained in the RCPF Comment Letter on the City's LCPA, require that the new road provide dedicated access and that Ramirez Canyon Road be used for emergency ingress and egress only.

E. The City Has the Power to Determine the "Plan" or "Overlay" Area and the Location of Trails. The Conservancy's attempt to supplant the City's discretionary decisions about the nature and extent of the Plan or Overlay area, and the precise location of the trail system should also be rejected.

1. The Plan or Overlay Area. The City's LCPA includes Charmlee Park, as well as the Conservancy's properties in Escondido, Corral and Ramirez Canyons. The Conservancy deleted Charmlee, apparently because the Conservancy does not own that property. However, if the Conservancy's motivation were truly to increase public access — rather than to create a shadow LCP for its own properties – the Conservancy would not have deleted Charmlee.

---

[18] County of Los Angeles Fire Department, *Pre-Fire Management Plan*, June 2004, p. 11 (emphasis added).

In addition, the Conservancy's "Description of the Plan Area" is both vague and inconsistent – and the text is not consistent with the maps. At one point, the Conservancy states that the "Overlay District" applies only to properties shown on the "Public Parkland Map" that are located within the City of Malibu. That Map illustrates four properties owned by the Conservancy, one property owned by the National Park Service, and one miscellaneous holding. No private property is shown on the map. However, in the following paragraph, the Conservancy states that there is "private property" that is "addressed" by the Plan, mostly OTD's or those identified on the Commission's Work Program. However, those properties are not shown on the Public Parkland Map. Apparently, some of the properties are not identified because they have not yet been acquired. We respectfully submit that a precisely defined "Plan" or "Overlay" area is an essential element to any submission – and the Conservancy's submission should be rejected on that ground alone. (SMMC/LIP Text Amendments, Section 2; see Attachment D, pp. 7-8.)

2. **The Trail System.** There are also conflicts between the trail plans submitted with the City's LCPA and the Conservancy's override. The City's LCPA describes ". . . .existing and proposed trail corridors as identified in the City's Trail Master Plan, Local Coastal Program, and Draft Interagency Regional Trail Management Plan, Exhibit B" (Malibu LCPA, Section 3.4.2.B; see Attachment D, pp. 7-8). The Conservancy's submission describes ". . . public recreation areas (parklands and trails) as illustrated on the Malibu Parks Public Access Enhancement Plan Overlay Public Parkland Map and Proposed Trail Resources Map. . . . ." Two maps showing the differences between the City's trails proposal and the Conservancy's trails proposal are attached (see Attachment F).

We respectfully submit that the Conservancy should not be permitted to supplant the City's decisions with respect to trail planning – a process which has been underway for years. The City has not only its LCP-mapped trails, but trails identified by the Malibu Trails Commission. Those maps combine to create a significant trail network across the City, with existing alternative alignments for various trails. For example, the City has already proposed an alternative to the historic Coastal Slope Trail - the "Pacific Trail." The Conservancy's proposed Amendment would add yet another alternative to the Coastal Slope Trail, and move it up-canyon to pass through the Ramirez property.

For these reasons, we respectfully request that the Commission not override Malibu's planned trail network with that of the Conservancy, but that the Conservancy be required instead to cooperate with the City of Malibu if it desires modifications to Malibu's trail plan.

F. The City's Policy Decisions Should be Given Great Weight During the Commission Evaluation of the Findings Required by Public Resource Code, Section 30515 and Title 14, California Code of Regulations, Section 13666.4. It would be one thing if the Conservancy had submitted a specific development proposal, as required by the override provisions of the Coastal Act. Then, the Commission could review the details of the proposal and determine whether the City's policy decisions should be supplanted. However, the Conservancy has not properly followed the override procedure. Instead, the Conservancy is attempting to substitute its judgment for that of the City – something which the Coastal Act does not allow under any procedure. Therefore, we respectfully request that the Commission give the City's policy decisions great weight when the Commission considers the specific override findings discussed below.

V

IT IS NOT POSSIBLE TO DETERMINE WHETHER THE CONSERVANCY'S SUBMISSION COMPLIES WITH CEQA.

Compliance with CEQA is an issue for two reasons. The first involves the manner in which the Conservancy is attempting to stretch the override procedures, and the second involves the language used by the Conservancy in its submission.

The Commission reviews LCPA overrides in the same manner in which it reviews LCPs and there is a certified regulatory program in place for LCP review and certification. (14 Cal. Code Regs., § 15251, subd. (f).) Therefore, formal CEQA requirements would not ordinarily apply, and the Commission could use less formal procedures (i.e., the "functional equivalent" of CEQA review). (Pub. Res. Code, § 21080.5.) However, as we demonstrated in our November 24 letter to Commission Counsel (Attachment B), and in Section I above, a properly submitted override requires a proposal for a specific public work or energy development. That proposal would include sufficient detail to allow the Commission to conduct the functional equivalent of environmental review under CEQA, and also to make the findings required by 14 California Code of Regulations, section 13666.4, subdivision (c): that there are feasible, less environmentally damaging alternative methods by which to fulfill the same goals. Therefore, absent a proposal for a specific public work, the Conservancy should not be entitled to bootstrap its application for override into the Commission's certified regulatory program for LCPAs.

Second, there is also a certified regulatory program in place for CDPs (14 Cal. Code Regs., § 15251, subd. (c)), and the Conservancy has drafted certain provisions of its override – particularly those that involve the intensified use of its Ramirez Canyon property – to read like a CDP. However, the Conservancy has deleted all of the provisions of the pending Malibu LCPA which require CDPs, CUPs, or review by any City official or City department (SMMC/LIP Text Amendments, see Attachment D). If, by those revisions, the Conservancy is attempting to obtain an "entitlement for use," the Conservancy has muddled the CEQA compliance issue even more. If the Conservancy is actually attempting to gain entitlements for camping and special events (i.e., the developments which appear to be *mandated* by the Conservancy's override), then the Conservancy must provide the site-specific detail of each development, so that the Commission can conduct the functional equivalent of CEQA review.

In sum, whether the Conservancy is required to conduct formal CEQA review or whether the Commission is required to conduct the functional equivalent of CEQA review, the Conservancy has offered no evidence by which the Commission could make any findings with respect to the environmental impact of the proposed development. In fact, the evidence submitted in and with this letter proves without a doubt that the development proposed by the Conservancy will have a substantial adverse impact on the environment. Therefore, the Commission cannot make the findings required by CEQA.

VI

STANDARD OF REVIEW AND PROCESS FOR A LCP OVERRIDE

Once again, we respectfully refer staff and the Commissioners to our letter to Commission Counsel, dated November 24, 2008 (Attachment B), which explains the many legal reasons why the Conservancy is not entitled to invoke the override procedures of the Coastal Act for its present submission. However, even if the Commission considers the Conservancy's submission on the merits, the Conservancy's statement of "Standard of Review and Process" is not accurate.

According to the Conservancy, its present submission is neither a "public works plan" nor a "public works project." Therefore, the statutes cited by the Conservancy with respect to specific public works plans and projects do not apply (see, Conservancy "Standard of Review and Process," dated April 14, 2008).[19] The question of whether a submission qualifies for a LCP

[19] This document also states that the "plan" encompasses land area and recreational improvements within "three jurisdictions – the City of Malibu, unincorporated Los Angeles County,

override is governed by Section 30515 and Title 14, California Code of Regulations, section 13666, et seq. – statutes and regulations which the Conservancy has cited only in passing. There are substantial, fact-specific findings required by Section 30515 and Title 14, California Code of Regulations, section 13666.4 – very few of which the Conservancy has addressed. Therefore, we respectfully submit the following analysis and evidence under the override statute and regulations. The analysis and evidence conclusively demonstrate that there is no evidence upon which the Commission could make the findings required for a LCP override.

VII

THERE IS NO EVIDENCE UPON WHICH THE COMMISSION COULD MAKE THE FINDINGS REQUIRED BY PUBLIC RESOURCES CODE SECTION 30515 AND TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 13666.4.

As explained in our November 24 letter to Commission Counsel (Attachment B), the Coastal Act does not allow a state agency to run roughshod over a local government by using the "override" provisions of the Coastal Act. The architecture of the Coastal Act is meant to preserve the balance between local government's traditional control over land use and the goals and objectives of various state agencies or regional utilities. This architecture is reflected in the specific procedures and findings which govern an "override" proposal by a state agency or regional utility. Those findings and procedures make it clear that the "override" provisions are to be invoked sparingly and carefully. For example, it is not difficult to imagine some projects proposed for the Coastal Zone – e.g., a regional electrical generation facility – that might encounter local opposition and yet should be considered because of compelling regional or statewide needs. However, even projects for which there is a compelling regional public need can be approved under the override procedures only if there is evidence to support a rigorous set of factual findings.

In this section, we demonstrate that none of the required findings can be made for approval of the Conservancy's proposal. Specifically:

---

and the National Park Service" (Conservancy Standard of Review and Process, p. 1). That was the case with the Conservancy's previously submitted "public works plan," which Commission staff declined to receive for processing. However, by definition, the Conservancy's present submission can involve only property within the City of Malibu.

A. The override procedures are not available to the Conservancy because the development proposed by the Conservancy was anticipated at the time the Malibu LCP was before the Commission for certification.

B. An Override Plan cannot include regional offices or leasing of public property for private commercial events, because neither use is a "public work."

C. The Conservancy's submission does not include the level of project-specific detail required for an Override Plan.

D. The Conservancy's submission violates the Coastal Act's prime directive to protect coastal resources.

E. The available evidence demonstrates that there is no "public need" for the facilities proposed by the Conservancy.

F. The Conservancy's proposal cannot be approved because it fails to minimize risks to the public due to fire hazards.

G. The Conservancy's proposal cannot be approved because it does not comply with the Coastal Act policies that give the highest priority to protection of ESHA.

H. The Conservancy's proposal cannot be approved because it does not comply with the Coastal Act policies that give the highest priority to protection of stream ESHA.

I. The Conservancy's proposal cannot be approved because it does not comply with the Coastal Act policies that give a high priority to promotion of water quality.

J. The Conservancy's proposal cannot be approved because it is inconsistent with the Coastal Act Policy that requires neighborhood compatibility.

K. The Conservancy's proposal cannot be approved because significant adverse environmental impacts have been identified and there are feasible, less environmentally damaging alternative ways to meet any identified needs and reduce the risk.

L. Disapproval of the Conservancy's proposal would not adversely affect public welfare as identified in the Coastal Act.

We believe a close examination of the facts proves beyond doubt that the Conservancy is not entitled to use the Coastal Act's override procedures, and that there is no evidence upon which the Commission could make the findings required by Section 30515 and Title 14, California Code of Regulations, section 13666.4.

A. The Threshold Requirements of Section 30515. The override procedures may not be invoked for a LCP Amendment which is proposed to meet needs which were "anticipated" at the time the LCP was before the Commission for certification (§ 30515.) Numerous public documents, including the Conservancy's comments on the Malibu LCP during the Commission's certification process, establish that the Conservancy has anticipated the development proposed by its present submission for many years. (See Attachment B, Section V.) Therefore, the Conservancy's submission does not meet the threshold requirement of Section 30515, and the proposed override should be rejected on that basis alone.

B. Regional Office Use and Leasing for Private Commercial Events Cannot be Included in an Override. The override procedure is available for "public works" (§ 30515) and the Conservancy's submission expressly states that it proposes to implement its plan through the development of "public works projects." (SMMC/LUP Text Amendments, Policy 5.66; see Attachment D, p. 2.) The definition of public works upon which the Conservancy relies is set forth in Section 30114, which includes "publicly financed recreational facilities." However, two of the uses proposed by the Conservancy for the Ramirez property are not "recreational facilities" — regional administrative office use and leasing the property for private, commercial events.[20] Therefore, those two elements cannot be approved using the override procedure. (See Attachment B, Section IV.)

---

[20] The Coastal Act does not define the terms "recreation" or "recreation facility." However, those terms are defined in analogous provisions of the California Recreation and Park District Act, at Public Resources Code section 5780.1, subdivisions (G) and (H). Under Section 5780.1, neither regional, administrative offices nor leasing of property for private events qualifies as "recreation" or as a "recreational facility." In addition, Section 33211.5, subdivision (d)(1) of the Conservancy's enabling act provides, in part, that the "types of uses and the management policies affecting those uses shall be consistent with the policies for permitted uses of lands within the state park system." Section 5019.53 defines the permissible uses of state park lands. Section 5019.53 does not include regional, administrative offices, or leasing for commercial events. (See, also, § 5080.03, subd. (b), which provides: "[c]oncessions shall not be entered into solely for their revenue producing potential.") The Conservancy's submission states that the purpose of leasing the property for private, commercial events is to raise revenue. (SMMC/LIP Text Amendments, Sections 4.2.A.3 and 4.12.B.9; see Attachment D, pp. 14 and 53, respectively.)

C. Title 14, California Code of Regulations, Section 13666.4: The Specific Findings Required for an Override. As explained in Section I, above, the override is an exception to the Legislature's requirement that local governments control land use decisions once their LCP's are certified. That is why the procedure is narrowly drawn, to require not only a proposal for a specific public work, but to describe the Commission's findings in terms which require an analysis of that specific public work (see Attachment B).

Title 14, California Code of Regulations, Section 13666.4 provides that the Commission may, after public hearing, approve and certify the proposed amendment if, after a careful balancing of social, economic, and environmental effects, the Commission makes the following specific findings:

(a) a public need of an area greater than that included within the certified local coastal program would be met,

(b) *development* conforms with and is adequate to carry out the policies of Public Resources Code section 30200, *et seq.*,

(c) 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 alternative way to meet such need, and

(d) disapproval would adversely affect the public welfare as identified in the findings, declarations, and general provisions of the Coastal Act (Public Resources Code Section 30000, *et seq.*) and the California Coastal Management Program, if applicable.

(14 Cal. Code Regs., § 13666.4, emphasis added.)

The language of Section 13666.4 demonstrates that the required findings cannot be made in a vacuum. They require that the Commission examine a specific development to determine, for example, whether that development conforms to the policies of Section 30000 (14 Cal. Code Regs., § 13666.4, subd. (b)), and, if there are adverse environmental impacts, whether reasonable alternatives have been examined and adequate mitigation measures adopted (*id.*, § 13666.4, subd. (c)). The Conservancy's proposals for sweeping revisions to the policies set forth in the Malibu LCP do not allow the Commission to make those specific factual findings. For example, there is no description of the minimum and maximum intensity of the proposed uses

(e.g., number of park and trail users, numbers of campers, etc.). There are no detailed site and facility plans, for either existing or proposed development, and there is no site-specific detail of the existing unauthorized development at Ramirez. There are no plans for grading or drainage systems. There are no biological resources maps, depicting the location of existing and proposed development in relation to those resources. We respectfully submit that, absent the site-specific detail for a specific public work, the findings required by Section 13666.4 cannot be made, and the Commission should reject the Conservancy's submission on that basis alone.

D. The Conservancy Has Ignored the Prime Directive of the Coastal Act: "Resource Protection." Each of the properties which the Conservancy has included in its submission is designated ESHA. The Coastal Act and the Malibu LCP restrict the use of ESHA to resource-dependent uses. Yet, under the guise of "public access," the Conservancy would eliminate all of those restrictions for its own properties.

The Conservancy proposes, as "principal permitted uses," in ESHA: "trails, camp facilities, park uses as described in this Chapter [the use of Ramirez for regional offices, tours, gatherings, leasing for private commercial events], and necessary support facilities." (SMMC/LIP Text Amendments, Section 4.7.A.1; see Attachment D, p. 27.) In addition, the Conservancy broadly defines "support facilities" 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 areas . . . ." (SMMC/LIP Text Amendments, Section 4.12; see Attachment D, p. 47; emphasis added.)

The combination of the two provisions would virtually obliterate the protection of ESHA on Conservancy properties. Even though the detail is lacking, it is plain that the Conservancy would sacrifice ESHA to grading and brush clearance, portable toilets, increased equestrian use, vehicular crossings of streambeds, 200 person "special events," etc. The Conservancy attempts to justify this extreme departure from the mandate of the Coastal Act by first addressing "Coastal Access and Recreation" and only then discussing "Resource Protection" (Conservancy "Policy Consistency Analysis," dated April 14, 2008). However, that is not how the Legislature designed the Coastal Act. The Legislature placed "Resource Protection" first and expressly provided that, in the event of a policy conflict, "Resource Protection" governs. [21]

---

[21] As we explained in our November 24, 2008 letter to Commission Counsel, the "Public Access" provisions of the Coastal Act do not apply to the properties at issue because they are

The legislative mandate is set forth in Section 30200, which is one of the required findings for an override (see 14 Cal. Code Regs., § 13666.4, subd. (b): the "development conforms with and is adequate to carry out the policies of Public Resources Code section 30200, *et seq.*"). Section 30200 provides:

> **"Policies as standards; resolution of policy conflicts.** (a) Consistent with the coastal zone values cited in Section 30001 and the basic goals set forth in Section 30001.5, and except as may be otherwise specifically provided in this division, the policies of this chapter shall constitute the standards by which the adequacy of local coastal programs, as provided in Chapter 6 (commencing with Section 30500), and the permissibility of proposed developments subject to the provisions of this division are determined. All public agencies carrying out or supporting activities outside the coastal zone that could have a direct impact on resources within the coastal zone shall consider the effect of such actions on coastal zone resources in order to assure that these policies are achieved.
>
> (b) Where the commission or any local government in implementing the provisions of this division identifies a **conflict between the policies of this chapter**, **Section 30007.5 shall be utilized to resolve the conflict** and the resolution of such conflicts shall be supported by appropriate findings setting forth the basis for the resolution of identified policy conflicts." (Emphasis added.)

The Conservancy's "Policy Consistency Analysis" does not mention Section 30007.5 – perhaps because the statute would defeat the Conservancy's submission:

> "Section 30007.5. Legislative findings and declarations; resolution of policy conflicts. The Legislature further finds and recognizes that conflicts may occur between one or more policies of the division. **The Legislature therefore declares that in carrying out the provisions of this division such conflicts be resolved in a manner which on balance is the most protective of significant coastal resources**. In this context, the Legislature declares that broader policies which, for example, serve to concentrate development in close proximity to urban and employment centers may be more protective, overall, than specific wildlife habitat and other similar resource policies." (Emphasis added.)

---

upland/inland properties (see Attachment B, Section VI). Staff and the Commissioners may recall Sand City LCP Amendment No. 1-93, which the Conservancy has cited as precedent for its submission. The case is very different. In Sand City, the City designated a parcel of land between the beach and Highway 1 for "private development," with "public park" as the "final option." Sand City has only 1.5 miles of beachfront - none of the area was developed for public access or park use at the time and half the land designated by the City for public parks was under water. The Commission approved an override, and modified the land use designation to provide for parks and open space *as a conditional use to preserve the City's discretion*. Interestingly, one of the conditions required by the Commission for park and open space use in Sand City was public access from a public right of way. As noted above, two of the properties included in the Conservancy's submission have no public access. The Conservancy's Ramirez Canyon and Escondido properties are located in box canyons at the end of private roads.

There is no question that the Conservancy's proposals would cause adverse impacts to ESHA (see Sections F, G and H, below). That would not only violate the express provisions of the Coastal Act, it would require the Commission to override one of the fundamental policies of the Malibu LCP, i.e., that public access shall not be required where it is inconsistent with the "protection of fragile coastal resources" (Malibu LIP, § 12.6). For all these reasons, the Conservancy is not entitled to a wholesale exemption from restrictions on the use of property that is designated ESHA.

E. There Is No "Public Need" For The Conservancy's Proposed Development. (14 Cal. Code Regs., § 13666.4, subd. (a).) The first finding required for an override is that "a public need of an area greater than that included within the certified local coastal program would be met" (14 Cal. Code Regs., § 13666.4, subd. (a)). RCPF agrees that there is a public need for additional programs for seniors, children and the disabled, and does not object to the Conservancy's proposals for those activities, as long as they are subject to permit requirements and properly conditioned so as to be compatible with the neighborhood (see RCPF Comment Letter re Malibu LCPA). However, the arguments which follow, and the evidence submitted in and with the SAIC Report, demonstrate that there is no public need for regional administrative offices or special events at the Ramirez Property, and no public need for camping in the Conservancy's Plan Area.

1. There is No Public Need for Regional Administrative Offices for the Conservancy and MRCA at the Ramirez Property. There is no public need to locate regional administrative offices for two public agencies in a Very High Fire Hazard Severity Zone, in ESHA and Open Space, at the end of a box canyon, accessed by a single private road that is too narrow to meet state and local fire codes. Moreover, these offices are "private" – they are not open to the public – and the Conservancy has acknowledged that the majority of the vehicle trips up Ramirez Canyon Road are used to accommodate this office use. The number of vehicle trips is one of the primary incompatibilities between the rural, residential neighborhood and the Conservancy's proposed use. (See Section J, Neighborhood Compatibility below.) The Alternatives Analysis included in the SAIC Report (Section 8.0) demonstrates that the Conservancy and MRCA own numerous properties and office facilities throughout Los Angeles County. Therefore, there is no cause for an "override" for regional administrative offices. The Conservancy should locate its offices in a traditional office building, just like every other public agency.

2. There is No Public Need for an Event Center at the Ramirez Property. The most serious issues with respect to the Conservancy's proposal for a private, commercial, event center at the Ramirez property involve Hazards (see Section F, below). As explained in the SAIC Report, there is no public need for an event center at this remote Canyon property. There are already 23 event, catering, and conference facilities in the Malibu area that accommodate various kinds of special events. Capacity varies from less than 100 persons to more than 500 persons. The facilities include restaurants, conference centers, museums, ranches, parks, hotels, retreat centers, etc.. The estimated total capacity of these facilities is approximately 6,045 persons. There are numerous other ranches and a nature preserve in the vicinity, each capable of holding more than 2,000 persons, which are not included in this total count. (SAIC Report, p. 4 and Appendix A).

3. There is No Public Need for Overnight Camping in the Plan Area. The SAIC Report demonstrates that the City of Malibu offers a broad variety of recreational activities, and many thousands of people come to Malibu each year to participate in those activities. There are 23 different campgrounds within the vicinity of the plan area, managed by federal, state, local, and private agencies and operators. These campgrounds offer both group and family campsites. There are approximately 27 group camp sites, which can accommodate 9 to 100 persons per site, typically 25 to 50 persons, and approximately 962 family camp sites which typically accommodate up to 8 persons per site (SAIC Report, pp. 1-4, and Table 1).

SAIC prepared a comparison of camping opportunities available near Malibu to opportunities near other coastal cities (Santa Monica, Redondo Beach, Manhattan Beach) and found:

> Compared to other similar beach cities in Los Angeles County, Malibu has more campgrounds nearby than any of the other cities, three within 20 miles or less, compared to one or none for the other cities. When Malibu's small population is considered, camping and other outdoor recreation opportunities available within close proximity are even more striking. (SAIC Report, p. 6.)

SAIC found "close to 1000 group and family campsites within approximately one hour of the Malibu area." (SAIC Report, Table 1.)

The fact that there is no public campground "within the City limits" (Conservancy "Current Demand and Proposed Overlay Goals," dated April 14, 2008, pp. 1-2) does not translate into a "public need" for one. To the contrary, the only evidence offered by the Conservancy to support its claim of need is a statement that, in three peak summer months at four Malibu campgrounds,

the demand was 107.4% (*Id.*). That evidence does not demonstrate public need for the camping proposed by the Conservancy's Plan.

Finally, if there is any public need for more camping in Malibu, it must be offered in an alternate location (i.e., non-ESHA open spaces with public vehicular access).[22] The hazards of upland/inland camping cannot be justified because of the risk (see Section F (Hazards), below).

For all these reasons, there is no evidence to support a finding by the Commission that there is a public need for regional offices at Ramirez, special events at Ramirez, or camping at Ramirez, Escondido or Corral Canyon, and the finding required by Title 14, California Code of Regulations, Section 13666.4, subdivision (a), cannot be made.

F. HAZARDS: There is No Evidence to Support a Finding that the Conservancy's Proposal Conforms to and is Adequate to Carry Out the Policies Set Forth In Public Resources Code Section 30253 *et seq.* (14 Cal. Code Regs., § 13666.4, subd. (b)).

1. Introduction. Public Resources Code Section 30253 provides:

> "New development shall do all of the following: (a) Minimize risks to life and property in areas of high... flood, and fire hazard..."

The Malibu LCP specifically provides that public access shall not be required where "inconsistent with the public safety . . ." (Malibu LIP, § 12.6).

The Conservancy proposes to bring an unspecified number of overnight campers into the Plan area. In addition, despite the fact that the only means of access to the Ramirez property is a narrow, winding canyon road, substandard under state and local fire codes, the Conservancy seeks a mandate to conduct at least **900 events with 44,240 participants annually and 76 events with 3,687 participants monthly** at that property – with no alternate means of access. We respectfully submit that there is no manner by which to make those proposals consistent with Section 30253.

---

22 Section 30213 provides that "[l]ower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred." However, Section 30108 defines "feasible" as "capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors. As this section demonstrates, camping in the areas proposed by the Conservancy is not feasible.

2. A Gaping Hole in the Evidence – the Conservancy Has Not Submitted a "Fire Protection, Emergency Evacuation Plan." The risk of fire as a result of the activities proposed by the Conservancy is extreme (see discussion below, and SAIC Report). Yes, with no analysis of the risk, the Conservancy has proposed camping at three properties and large commercial events at the Ramirez property. The Conservancy apparently has plans to prepare a "Fire Protection, Emergency Evacuation Plan" (FPEEP) which will deal with procedures for evacuation and camping regulations designed to minimize the risk of fire (SMMC/LIP Text Amendments, Section 4.11.B; see Attachment D, pp. 42-46).[23] We respectfully submit that, without that FPEEP, it is not possible to determine whether any of the Conservancy's proposals can be accommodated in a manner which does not present a significant risk to Conservancy visitors and to the residents of Malibu. Therefore, it is not possible for the Commission to make a finding that the Conservancy's proposed development conforms to the policies of Section 30253.

3. Regional, Administrative Offices and Special Events at the Ramirez Property – the Condition of the Structures. The Ramirez property was donated to the Conservancy by Barbra Streisand in *1993 – 15 years ago*. We recently submitted a Public Records Act (PRA) request to the Conservancy, which asked for all records concerning development on the property by the Conservancy. The Conservancy provided only records concerning the bridge and wastewater system authorized by the now-defunct 2000 CDP. That limited response establishes that **all of the structures on the property – which date back to the 1950's, 1960's and 1970's - have never been improved to meet state fire safety standards**. Yet, the Conservancy's submission provides that the Conservancy "shall" use the structures for offices and for certain special events.

As a state agency (§ 33200), the Conservancy must comply with fire safety standards adopted by the State Fire Marshal with regard to state-owned or state-occupied buildings. (Health & Saf. Code § 13108(a); 19 Cal. Code Regs., § 1.03(b)). There are special restrictions which apply to buildings in Very High Fire Hazard Severity Zones and in urban/wildland interface communities

---

[23] The Fire Protection and Emergency Evacuation Plan which the Conservancy submitted to the Commission in 2006 with the PWP (App. II) and to the City in 2007 with its Application for a LCPA was woefully inadequate. It was obviously not prepared by a fire expert and did not meet the minimum requirements for such a plan. There was no mention of the fact that there is only one means of ingress and egress to the Ramirez property, i.e., a narrow canyon road which is too narrow to qualify as legal access under state and local fire codes. There was no specific consideration of the numbers of Canyon residents and persons utilizing the Conservancy property who might require evacuation, or of the manner in which they might be evacuated safely.

(Health and Saf. Code, § 13108.5). The regulations are extensive and detailed. (See, e.g., 19 Cal. Code Regs., § 2.01, *et seq.*)

Prior to the Conservancy's acquisition, Ms. Streisand used the property as a single-family residence with multiple structures. In 1993, the Conservancy moved its regional administrative staff onto the premises and began to use some of the buildings for revenue-raising purposes, bringing in large groups for weddings, parties and the like. That change in use amounted to a "change in occupancy" under the Uniform Fire Code (24 Cal. Code Regs., § 202) and required that the structures be brought up to Code:[24]

> Change of use or occupancy. No change shall be made in the use or occupancy of any structure that would place the structure in a different division of the same group or occupancy or in a different group of occupancies, unless such structure is made to comply with the requirements of this code and the California Building Code. Subject to the approval of the fire code official, the use or occupancy of an existing structure shall be allowed to be changed and the structure is allowed to be occupied for purposes in other groups without conforming to all the requirements of this code and the California Building Code for those groups, provided the new or proposed use is less hazardous, based on life and fire risk, than the existing use. (24 Cal. Code Regs., § 102.3, emphasis added.)

We have been unable to find any authorization from state fire officials for the Conservancy's change of use, and the 2000 CDP issued by the Commission did not include either that authorization or permits to improve the structures. For all these reasons, there is no evidence upon which the Commission could find that the Conservancy's proposed use of these structures for offices and events "minimize[s] risks to life and property in areas of high . . . fire hazard" (§ 30253; 14 Cal. Code Regs., § 13666.4, subd. (b)).

4. There is No Manner by Which the Conservancy's Proposals for the Ramirez Property Can Conform to the Policy Set Forth in Section 30253 Without the Construction of an Alternate Access Road. As explained in Section II, above, the Conservancy promised in 1993 to build an alternate access road into the Ramirez Canyon property. During the proceedings on the Malibu LCP, the Conservancy raised that issue again – and made a $7 million grant to MRCA to fund the necessary acquisition (the "Lauber Property"). Yet, when the City required the alternate access as a condition of intensified development, the

[24] 24 Cal. Code Regs., section 202 provides: "A change in the purpose or level of activity within a building that involves a change in application of this code." The same language appeared in the 1992 Uniform Fire Code, at section 2.206, which applied at the time the Conservancy acquired the property.

Conservancy balked. We respectfully request that the Commission defer to the City's judgment on this important policy issue for the following reasons:

a. **Ramirez Canyon Road**. There is only one way in and one way out of Ramirez Canyon - Ramirez Canyon Road, a narrow, winding **private** roadway. The Conservancy's property sits in the most inland portion of the Canyon – almost a mile up that road. To appreciate the constraints on access, it is important to view the photographs submitted with the SAIC Report. Access to Ramirez Canyon Road from Pacific Coast Highway (PCH) southbound is via a locked gate and 10-foot wide concrete box tunnel under PCH (SAIC Report, Appendix B, Photo 1). Access from southbound and northbound PCH is also via Winding Way and Delaplane. Winding Way and the first segment (about 525) feet of Delaplane are 20-24 feet wide (*id.*, Photo 2). However, Delaplane rapidly narrows to about 14 feet and passes through a gate that is 16 feet wide (*id.*, Photo 3). The gate is locked on weekends. Two speed bumps are present on Delaplane between the gate and Ramirez Canyon Road. Delaplane slopes steeply and ends at Ramirez Canyon Road – there is a closed canopy of trees over the road (*id.*, Photo 4).

From that point up the Canyon, according to the SAIC Report (p. 32):

> "Ramirez Canyon Road is a private, rural, narrow roadway, with pavement that is generally 16 to 20 feet wide. The end of the road is a loop so cars can turn around. At this turnaround loop, the pavement narrows to 13 feet (Photo 5). The road is approximately one mile long, with nine speed bumps from Delaplane to the end of the road at [the Ramirez Canyon Property]. The road also has two Arizona-type crossings of Ramirez Creek between PCH and Delaplane and two more to the point at which it accesses the Conservancy's property (Photo 6). Just south of the turnaround loop at the Conservancy property, the road crosses Ramirez Creek via a narrow wooden bridge (11 feet 8 inches drivable width) (Photo 7). Parked cars as well as trash/recycle/green waste bins also restrict the usable roadway width at times (Photos 8)."

b. **The Requirements of State and Local Fire Codes.**[25] The State Fire Marshal's regulations require a "right-of-way not less than 20 feet in width" for access roads from public buildings to public streets.

> "Specifications. Fire apparatus access roads shall be installed in accordance with Sections 503.2.1 through 503.2.7." 24 Cal. Code Regs., § 503.2.

---

[25] We address both state and local codes because Ramirez Canyon Road is located on private property up to the point at the top of the Canyon at which it accesses the Conservancy's property.

> "Dimensions. Fire apparatus access roads **shall have an unobstructed width of not less than 20 feet** (6096 mm), except for approved security gates in accordance with Section 503.6, and an unobstructed vertical clearance of not less than 13 feet 6 inches (4115 mm)." *Id.*, § 503.2.1, emphasis added.[26]

There is no authority which allows any fire official to reduce the required 20-foot width. There is, however, a provision which allows the fire official to increase the width if the circumstances warrant:

> "Authority. The fire code official shall have the authority to require an **increase in the minimum access widths** where they are inadequate for fire or rescue operations." *Id.*, § 503.2.2, emphasis added.

The purpose of the regulation is to provide for safe evacuation and to ensure that fire equipment can reach all properties served by the road.

The same fire safety standard is promulgated and enforced by the Los Angeles County Fire Department.[27] Under the Los Angeles County Fire Code, each "fire apparatus access road" must have an unobstructed width of not less than 20 feet and an unobstructed vertical clearance to the sky (Los Angeles County Fire Code, § 503.2.1). The required width of a fire apparatus access road may not be obstructed in any manner, including parked vehicles, and minimum width and clearance requirements must be maintained at all times (*id.*, § 503.4). The definition of "fire apparatus access road" specifically includes a "private street" (*Id.* § 502.1, Definitions), and thus applies to Ramirez Canyon Road.

Finally, both state and Los Angeles County regulations give fire officials **authority to require secondary access** where necessary for fire safety purposes:

> "Additional access. The fire code official is authorized to require more than one fire apparatus access road based on the potential for impairment of a single road by vehicle congestion, condition of terrain, climatic conditions, or other factors that could limit access. Additional access must comply with Title 21 of the Los Angeles Fire Code.) LAFC § 503.1.2.

---

26 The 20 foot requirement is repeated in Title 19, Cal. Code Regs., section 3.05(a), which governs structures. "Required access roads from every building to a public street shall be all-weather hard-surfaced (suitable for use by fire apparatus) right-of-way not less than 20 feet in width. Such right-of-way shall be unobstructed and maintained only as access to the public street." Since the nearest "public road" to the Conservancy's Ramirez property is Pacific Coast Highway, the state standard requiring 20 feet in width is applicable.

27 Since incorporation of the City of Malibu, the LACFD has continued to provide fire services to properties within the City.

We respectfully submit that the policy set forth in Section 30253 — that "[n]ew development shall . . . [m]inimize risks to life and property in areas of high... fire hazard" — cannot be met unless the Conservancy constructs an alternate access. In addition, for the reasons set forth in Section J, below (Neighborhood Compatibility), and as further discussed in the RCPF Comments on the Malibu LCPA, the new road should provide **dedicated access** to the Conservancy property, and Ramirez Canyon Road should be used by the Conservancy for emergency access only.

c. **The Issue of Road Width Was Not Resolved During the 2000 Commission Proceedings.** As noted above, CDP 4-98-334 has been set aside, and it has no relevance to the present proceedings. At the same time, it is important that staff and the Commissioners be aware that the question of road width was not resolved during that proceeding.

Throughout the Commission's proceedings on the 2000 CDP, state and local fire officials confirmed that 20-foot road width was mandatory and that dip crossings were not allowed for commercial properties (see, e.g., 1999 Staff Report, CDP 4-98-334, Exh. 12). The 1999 Commission staff report acknowledged that the road was "substandard" (*id.*, pp. 3-4). During the Commission's review process, the Commission expressly required review by the State Fire Marshal and compliance with all applicable "regulations concerning fire, emergency accessibility of the site, and life safety." On November 22, 1999, Patricia Sanchez, Deputy State Fire Marshal III, Supervisor, Sierra South Region, wrote to the Conservancy's Executive Director, citing various regulations, including the 20 foot access requirement. The inspection form provided by Los Angeles County Fire Captain Jordan also required that the Conservancy "provide 20' wide minimum access."

For some inexplicable reason, after these reports were issued, the requirement for 20-foot road width was not enforced. There is some suggestion in the record that Captain Jordan "waived" the requirement. However, the statutes cited in the previous section establish that there is no authority for any such waiver.

d. **Feasibility of Alternate Access**. Alternate access to the Conservancy's property can be provided from Kanan Dume Road over three privately-owned parcels referred to as the "Lauber Property." That property is currently on the market and, as indicated above, the Conservancy granted MRCA $7 million to buy it. We have enclosed an aerial photograph showing the three Lauber parcels and the Conservancy's Ramirez Canyon property (Attachment G).

SAIC examined the Lauber Property, and found two cleared tracks which could provide alternative access to the Conservancy property from Kanan Dume Road. The first potential access is a 30-foot dirt road from the Conservancy's Ramirez Canyon property, westward across APN 4467-002-068. The dirt road ends near the northern boundary of the parcel just south of the National Park Service (NPS) property. A 13-foot cleared track extends westward from the 30-foot dirt roadalong the northern boundaries of APN's 4467-002-068, 4467-002-067, and 4467-002-066 to the western boundary of the latter parcel, which is adjacent to property currently being sold by Los Angeles County to MRCA. This property is contiguous to Kanan Dume Road. (SAIC Report, p. 32.)

A second potential access is a 20-foot wide cleared track which extends westward from the Conservancy's Ramirez Canyon property along the northern boundary of APN 4467-002-067 where it intersects with an approved cul-de-sac connecting to Kanan Dume Road.

The 30-foot dirt road has been cleared in the past, but native coastal sage scrub vegetation has grown over about 700 feet of the eastern portion (SAIC Report, Appendix B, Photo 9). Approximately 450 feet of the western portion has scattered native and non-native plants within the previously cleared area approximately 12 feet wide. (*Id.*, Photo 10.) The density of native plants is low compared to that of undisturbed adjacent habitat. Continuing westward from the end of the dirt road, the cleared track extends another 245 feet. (*Id.*, Photo 11.) The distance from the end of the cleared track to an existing short access track (*id.*, Photo 12) from Kanan Dume Road (going around the edge of parcel 4467-002-066), that is not currently cleared, is 385 feet. However, the western portion of this area is dominated by coyote brush, a native species that colonized disturbed areas (*id.*, Photos 13 and 14) and the eastern portion is coastal sage scrub (*id.*, Photo 15).

In addition, two tracks have been recently cleared down the ridgeline along and near the property line between parcels 4467-002-068 and 4467-002-067 to the end of Ramirez Canyon Road, in the area of the 13-foot road easement (*id.*, Photos 16 and 17). These tracks are approximately 6 to 10 feet wide and are dominated by non-native mustard (*id.*, Photo 18). The adjacent vegetation is coastal sage scrub that is dominated by purple sage, California sagebrush, and giant wild rye. Construction of a new access road from Kanan Dume Road to the Conservancy's property in either of these previously disturbed areas appears feasible and would disturb less coastal sage scrub than if the road were placed through undisturbed coastal sage scrub.

5. **Pedestrian Use of Ramirez Canyon Road.** The Conservancy's trail map includes a trail up Ramirez Canyon Road. That trail should not be approved for at least three reasons: First, the Conservancy does not have a pedestrian or equestrian easement over Ramirez Canyon Road. Second, because Ramirez Canyon Road is so narrow, it is not safe for pedestrian traffic. Third, the Malibu LIP defines "trail access" as providing "public access (hiking and equestrian) along a coastal or *mountain recreational path*, including to and along canyons, rivers, streams, wetlands, lagoons, freshwater marshes, significant habitat and open space areas or similar resource areas, and which also may link inland trails or recreational facilities to the shoreline" (Malibu LIP, § 12.2(D)). Trail access does not include public access up a road.

6. **Camping, Special Events, People and Fires.** Over the years, the Commission has reviewed developments which include camping on beach properties and east of Highway 1 in Northern California. However, this appears to be the first time the Commission will consider camping in dry box canyons of Southern California, in a Very High Fire Hazard Severity Zone (the most severe hazard category), in ESHA, vegetated with coastal sage scrub and chaparral, and in the urban/wildland interface. This also appears to be the first time the Commission has considered any camping proposal since the State of California began to suffer drought, devastating wildfires, and a substantial reduction in available funds for fire suppression (see Section IV, A, above). We respectfully submit that camping is not safe in any of the Conservancy's Canyon properties, particularly the box canyons of Ramirez and Escondido, and that Ramirez Canyon is not an appropriate site for large events. The risk to Conservancy guests and residents of the adjacent neighborhoods cannot be justified. In fact, there is no manner by which these activities can conform to the policies set forth in Section 30253 for the following reasons:

a. **Natural Factors Influencing Fire Conditions.** Southern California is one of the most hazardous fire-prone areas in the country, inclined to high intensity and frequent fires due to the combination of the vegetation, drought, rugged topography, autumnal high winds, and "Santa Ana" conditions. As the urban centers continue to encroach into these readily-combustible areas, fires have become more catastrophic.

Wildland fire conditions are affected by weather, topography and fuels. (SAIC Report, Section 2.0, p. 7.) Southern California's Mediterranean climate pattern is a key factor in the prevalence of wild fires in the region. (*Id.*, p. 7.) Vegetation grows well in the mild wet winters – and becomes fuel in the warm dry summers. Vegetation in the undeveloped areas of the Santa Monica Mountains in Malibu is predominantly chaparral and coastal sage scrub with narrow riparian

corridors along streams. (*Id.*, p. 9, Figure 1 and Table 2.) **This chaparral, which is most common in Ramirez Canyon, provides the most substantial wildland fire threat in Los Angeles County**.

Characteristics of topography also have a considerable effect on fire behavior. (*Id.*, p. 8.) Fires starting at the base of box canyons and narrow canyons create strong upslope drafts, causing them to spread rapidly upslope and create extreme fire behavior and dangerous conditions. Steep terrain also creates extremely hazardous conditions for fire-fighting personnel and limits the use of heavy equipment, such as bulldozers, to create fire lines. Ramirez and Escondido Canyons are prime examples of this dangerous scenario.

Recent studies predict that based upon weather conditions for future climate scenarios (including the intensification of warming), the frequency of wildfires will increase in the Western U.S. – perhaps as much as 35 percent by mid-century and 55 percent by the end of the century. (*Id.*, p. 8.)

b. Fire History in the Plan Area. Despite suppression efforts, frequency of wildfires in southern California has not changed significantly in the last 500 years. Although these large fires are a normal part of the ecology, they are catastrophic because of urban development in these areas. The SAIC Report describes the three fire seasons in the Santa Monica Mountains, and the fire history of the area. (*Id.*, p. 10, Figures 2 and 3, Table 3.) That history includes the devastating Corral Canyon fire in Malibu last year, which ignited as a result of an unlawful campfire on unsupervised State Park property.

c. People Cause Fires. The majority of fires within California, and specifically within Los Angeles County, are caused by humans. (*Id.*, pp. 15-16, Table 4 and Figure 4.) According to the National Interagency Fire Center statistics, southern California fires are on average ten times more likely to be caused by people rather than natural causes. During the last 20 years in California, 142 fires were started by campfires; they burned more than 360,000 acres and cost more than $140 million to suppress. (*Id.*, p. 15.)

d. High Fire Threat Areas. The SAIC report discusses the Fire Hazard Safety Zone model, which creates four threat classes, ranging from moderate to extreme. The higher the threat class, the more likely it is that vulnerable assets will be impacted. The majority of the Conservancy's properties in Corral Canyon and Escondido Canyon are within High Fire Threat Areas, and border Very High Threat areas to the north. The up-canyon portion of the

Conservancy's Ramirez property – where the Conservancy proposes trail camps - is designated a Very High Fire Threat area. (*Id.*, p. 17, Figure 8.)

e. Fuel Modification and Brush Clearance. The Conservancy properties have also been identified by the State as located in a Very High Fire Hazard Severity Zone. Therefore, they are subject to more stringent brush clearance standards than other properties. (*Id.*, pp. 17-18 and Figure 7.) In Ramirez Canyon, the steep hillsides surrounding the property are thick with brush. The National Park Service does little or nothing to prevent brush accumulation on its property. And, recent Congressional testimony indicates that the Conservancy does not have a good record for keeping up with the requirements for brush clearance.[28]

Last October, the Conservancy made a grant of $950,000 to MRCA for removal of hazardous fuel-loads, restoration of native plant communities, and other wildfire prevention efforts (Conservancy Agenda, October 20, 2008, Item No. 19). However, the grant application states that the MRCA owns "thousands of acres of open space," and the estimated completion date for the project is not until June of 2010.

f. There Should be No Camping in Any of the Three Canyons (Except for Closely-Supervised Accessible Camping at Ramirez) and No "Special Events" at Ramirez (SAIC Report, Section 2.8, Recommendation No. 1, pp. 29-30). In light of the fire threat and conditions in the Plan Area, camping and special events for large numbers of persons cannot be made safe because these activities increase the risk of destructive wildland fires in what is already a hazardous fire-prone urban/wildland interface. Camping within Ramirez and Escondido Canyons is of greatest concern since these are both box canyons, with steep terrain, upslope of more populated areas. The risks of camping and large events in Ramirez Canyon is aggravated by the fact that Ramirez Canyon Road does not meet the standards set by state or local fire codes. And, the proposed trail camps in Escondido Park are within 725 feet of the nearest house, and numerous houses are present within 0.5 mile upslope. As noted above, fire can move rapidly up steep slopes and would endanger those homes. Therefore, except for supervised disabled-accessible camping at the Ramirez property with a CUP, we respectfully request that the Commission reject the Conservancy's proposals to allow camping and special events in the Plan area.

---

28 Testimony of Carl Olson before the Subcommittee on National Parks, Forests and Public Lands of the House Natural Resources Committee, June 14, 2007.

g. There Should be No "Trail Camping" Allowed in Any of the Three Canyons (SAIC Report, Section 2.8, Recommendation No. 2, p. 30). By definition, "trail camps" are located in or adjacent to flammable brush and grasses. It would be difficult, if not impossible, to monitor these sites for compliance with "no fire" policies. (*Id.*, p. 30.) Therefore, even if the Commission allows limited overnight camping, we respectfully request that the Commission not allow trail camps in this Very High Fire Hazard Severity Zone. In the event that the Commission considers trail camping, we respectfully respect that the Commission retain the City's requirement for a CUP (Malibu LUP, Policy 2.48) and impose additional requirements as set forth below.

h. If Camping is Allowed In Any of the Three Canyons, or if Special Events are Allowed at the Ramirez Property, Additional Precautions Must Be Taken (SAIC Report, Section 2.8, Recommendation No. 3, pp. 30-31). While the Conservancy's proposal includes some standards relative to development and operation of camping and special events, the Conservancy has not adequately addressed the risks associated with this development. If camping is allowed in any of the three canyons, or if special events are allowed at the Ramirez property, we respectfully request the Commission take the most conservative approach and require the following additional precautions:

(1) Additional Measures for Camping and Special Events:

(a) Fire Protection and Emergency Evacuation Plan. Without a detailed plan describing how camping and/or special events will be developed and operated, the Commission cannot evaluate whether the proposal conforms to the policies of Section 30253. Therefore, if the Commission considers these proposals, the Conservancy must be required to submit a Fire Protection and Emergency Evacuation Plan (FPEEP) for all properties where camping is to be allowed and for special events at the Ramirez Canyon property. Among other things, the Plan should:

- Describe staffing and scheduling of Conservancy firefighters.
- Identify location(s) where personnel and equipment will be stationed.

- Identify location of helicopter landing zones on Conservancy property. It is recommended that helicopter landing zones be located at or near each of the recreational sites that allow camping.

- Demonstrate how supervision and fire suppression required under the FPEEP will be funded.

- Describe how uses will be curtailed or suspended if the mitigation measures are not implemented due to funding shortfalls or other reasons.

Because of the extreme hazards inherent in the Conservancy's proposals, the Commission should also require that the State Fire Marshal and Los Angeles County Fire Department approve the FPEEP before any LCPA is certified which allows those uses.

(b) Fuel Modification. The first priority of all public agencies should be public safety. Following this principle, public agencies that own undeveloped property should manage those properties with public safety in mind. Too few public agencies do so.[29] The Conservancy should be required to demonstrate that it has the resources and willingness to strictly comply with all applicable brush clearance requirements before being permitted to intensify the use of its properties. In addition, the Conservancy should annually submit a vegetation removal/fuel modification plan to both the State Fire Marshal and the Los Angeles County Fire Department for review and approval. All proposed recreation and special events should be delayed and/or suspended at any time the Conservancy is found to be out of compliance with brush clearance requirements.

(c) Regulations and Enforcement. Smoking and open flames should be prohibited on all Conservancy properties. Violators should be immediately removed from the property and subject to a $500 fine and/or six months in County jail.

(2) Additional Measures for Camping. If camping is allowed, we respectfully request that the Commission establish specific standards for campsite development and ongoing operations to ensure the safety of park visitors and local residents to the greatest extent feasible. Proof and guarantee of funding for additional rangers, monitors and firefighting personnel should be required prior to any approvals. In addition, all camping should

---

[29] Helfand, D., "L.A. Sees Fire Hazard By Freeways," Los Angeles Times, April 23, 2007.

require a conditional use permit to ensure that safety and proposed operation of each campsite will be evaluated on a case-by-case basis and to ensure there will be ongoing monitoring of fire safety measures. At a minimum, the following standards should apply:

(a) Park Closure. In addition to suspending camping during Red Flag Days, camping should also be suspended in the late summer and fall when Santa Ana winds are prevalent (August – November). The properties should be closed, and all campers and visitors removed, when any Red Flag condition arises.

(b) No Campfires/Cold Camping Policy. In addition to a no-campfire policy, all camping stoves and lanterns with open flames should be prohibited. The Conservancy's proposal to allow self-contained propane stoves and lanterns should be rejected.

(c) Reservations. Camping should be allowed only by advance reservation so that adequate staffing can be scheduled for patrols and monitoring, and so that campers can be held accountable in the event of a fire. All campers should be required to register when they arrive and leave. Campers should be notified in writing of the no campfire/cold camping policy when they make their reservations and again when they arrive at the property.

(d) *Fire Protection Staffing and Equipment.*

- A water storage tank and water delivery system should be installed at each campsite.
- A portable and air-powered quick attack firefighting system should be housed at each camp cluster or group of campsites for ready deployment by trained Camp Host, Ranger, or Conservancy personnel in the event of a fire.
- The Camp Host, staff maintenance person and Ranger should be wildland fire-trained.
- An on-site Ranger should be present at each site at all times whenever overnight camps are in use and should conduct frequent patrols day and night.

- All Rangers at all camping areas should patrol with a fire vehicle equipped with a 100-gallon water tank with a 50-gallon-per-minute pump or greater at all times.

- Firefighters should be on duty or at least on call when campers are present.

- The number of firefighters and equipment available should be scaled according to the current fire danger.

(3) Limitation on Special Events. For the reasons described in Section F, 4, above, special events at the Ramirez property must be conditioned on the construction of alternate access. In addition, all of the structures on the property must be brought into compliance with the Uniform Fire Code. Even then, however, the Conservancy's proposal for 32 special events per year is excessive and creates an unnecessary risk. Under the Malibu Municipal Code, every property owner is entitled to apply for four temporary events per year (Malibu LIP, p. 28 and § 13.4.9).[30] There is no reason to create a special rule for this **private, commercial use** by the Conservancy, particularly where – as here - allowing more than four events per year increases the fire danger in the Canyon to an intolerable degree, and poses an unnecessary risk to Canyon residents and Conservancy guests.

Moreover, if special events are allowed, additional precautions must be taken to minimize the risk of fire. These should include, but not be limited to:

(a) Permit Requirements. Temporary use permits, issued by the City of Malibu, should be required for each event to allow for specific analysis of the risks posed by the specific event and the addition of appropriate precautions. This could include restrictions on cooking methods or the location of cooking equipment and temporary structures.

(b) Standard Conditions. Some standard conditions should apply to all events, including but not limited to:

- No special events should be allowed from August to November, when Santa Ana winds are prevalent.

---

[30] The fact that Conservancy owns five contiguous parcels within the City (and one outside the City) does not entitle it to 20 events per year under Malibu's zoning ordinance, because Malibu's Temporary Use Permit provisions treat all parcels under contiguous ownership as one parcel (Malibu Mun. Code, Chap. 17.68).

- The FPEEP should identify the maximum number of guests, catering and service staff, who can be safely evacuated, along with the Canyon residents, in the event of a fire and event attendance should be restricted accordingly.

- The No Smoking policy must be strictly enforced. Anyone caught smoking should be immediately cited and removed from the premises.

- Candles, open barbeques, propane heaters and any other open flames should be prohibited.

- Fire extinguishers should be required for all cooking events.

- All temporary structures, including tents or other fabric enclosures used for special events, should comply with the applicable fire code.

(c) Event Staffing & Fire Protection Equipment.

The Conservancy must ensure that adequate supervision and equipment is present at all times during special events, and its operating protocols should be reviewed and approved by the State Fire Marshal. This should include, but not be limited to, the following:

- At least three staff members with wildland fire training should serve as event monitors for the entirety of each event.

- Rangers should be present at each event at a rate of one ranger for less than 100 people and two rangers for 100 or more people, with a higher number if either weather conditions or the nature of the activity warrants. The specific number of rangers should be determined as part of the City's permitting for each site, based on site-specific physical and operational factors.

- A fire vehicle equipped with a 100-gallon water tank with a 50-gallon per minute pump or greater should be present at all times during special events.

- The water storage tank and water delivery system serving special event area(s) should have the capacity to serve not only the existing permanent structures but any temporary structures that may be installed for special events.

For all the reasons discussed in this section, we respectfully submit that there is no manner by which the Conservancy can safely develop or operate camping facilities in any of these canyons or large special events in Ramirez Canyon. Therefore, as to these proposals, the Commission cannot make the findings required by Section 30253.

G. ESHA: There is No Evidence to Support a Finding that the Conservancy's Proposal Conforms to or is Adequate to Carry Out the Policies Set Forth in Public Resources Code Section 30240 *et seq.* (14 Cal. Code Regs., § 13666.4, subd. (b)). The primary purpose of the Coastal Act is to protect coastal resources (see Section IV, B, above). Public access and recreation may be provided only where it is consistent with the "need to . . . protect . . . natural resource areas from overuse" (§ 30210). To that end, the Act limits the use of ESHA to resource dependent uses:

> "(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.
>
> "(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas." (§ 30240, emphasis added.)

There is no evidence upon which the Commission could make the finding that the Conservancy's proposal conforms to the policy set forth in Section 30240 for the following reasons:

Under the Malibu LCP, land use in ESHA is restricted to resource dependent uses: public accessways and trails, interpretative signage, restoration projects, and invasive plant eradication projects. (Malibu LIP, Section 4.5.3.) The Conservancy is seeking a wholesale exemption from these restrictions. The Conservancy proposes to allow camping (with attendant grading, brush clearance, chemical toilets, water supply facilities, etc.) in the ESHA in Ramirez, Escondido and Corral Canyons. The Conservancy is also asking to define, as principal permitted uses in the Ramirez Canyon ESHA, regional offices for two agencies, event and commercial leasing of the Ramirez property which would generate 906 events per year (with 44,240 participants) (i.e., 76 events per month with 3,687 participants).[31] (SMMC/LIP Text Amendments, Section 4.7.A.1; see Attachment D, p. 27).

---

[31] Commercial development is not only prohibited **in** ESHA, it is prohibited **near** ESHA if it will have a significant adverse impact. "(a) New . . . commercial development . . . shall be located within, contiguous with, or in close proximity to, existing developed areas able to

In addition, the Malibu LCP provides for support facilities in Open Space — not in ESHA — and limits those facilities to picnic areas, restrooms, trash receptacles, parking and construction of access improvements for trails (Malibu LUP, Chapter 2, A, 2 and Policies 2.4, 2.7 and 2.16). The Conservancy's proposal broadly defines the support facilities allowed *in ESHA* 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 areas . . .." (SMMC/LIP Text Amendments, Section 4.12; see Attachment D, pp. 46-54; emphasis added.)

All of the Ramirez Property is designated ESHA (Malibu LCP, ESHA Map) and the Conservancy has acknowledged that the primary habitat consists of native vegetation, coastal sage scrub and chaparral, and tree-dominated habitats along the creek channel (Dudek 2007). Therefore, neither the development which the Conservancy proposes as "principal permitted uses," nor the broadly defined "support facilities" are allowed in ESHA.

Moreover, the Conservancy's proposal is not limited to expanding the permissible uses in ESHA. The Conservancy also proposes to reduce the protections required for the use of ESHA. The Conservancy's proposal would, among other things: (a) create a new exception for hike-in campsites and broadly defined "support facilities" from the requirement of a 100-foot setback from the top of the bank or outer edge of riparian vegetation (SMMC/LIP Text Amendments, Sections 4.2.A.5, 4.5.3, 4.7.A.3; see Attachment D, pp. 14, 24 and 27-28, respectively); (b) change the City's requirement for the smallest "feasible" development envelope to the smallest envelope determined to be "necessary" (SMMC/LIP Text Amendments, Section 4.7.A.6; see Attachment D, p. 28); and (c) allow motor vehicles in ESHA, not only to conduct maintenance and provide emergency services, but to provide broadly defined "park services" (SMMC/LIP Text Amendments, Section 4.7.A.5; see Attachment D, p. 28).

The SAIC report identifies numerous adverse impacts from the Conservancy's proposed development in the Ramirez ESHA. The primary impacts would be:

1. **Grading and Brush Clearance**. Even though the Conservancy has not provided any specific information (e.g., the quantity of grading or the extent of brush clearance for

---

accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. . . .." (§ 30250.)

each part of the development), it is plain that the Conservancy's plans cannot be accomplished without a significant amount of grading and brush clearance. Those activities not only destroy the graded ESHA, they open up the remainder of the ESHA to weed infestation and erosion. (SAIC Report, Section 3.2, p. 36.) Additional clearing of buffers around the camps to reduce such risks would result in a greater removal of ESHA vegetation than that needed for the camp spaces alone, thereby increasing the potential for invasion of weedy species and soil erosion. Furthermore, unless clearly marked and patrolled, the cleared buffer could be used by campers, negating the effectiveness of the buffer. (*Id.*, Section 2.8, p. 50.)

2. **Increased Human Presence**. The proposal to greatly increase the human presence on the Ramirez property for camping and events, increases the risk of fire, the presence of non-native animals, the introduction and/or spread non-native invasive species, and trash blowing from camping and day use areas into adjacent natural habitat. (*Id.*, Section 3.2, p. 36.)

3. **Construction.** Ramirez and Escondido are steep, box canyons. Therefore, the construction of trails could lead to erosion either along trails or leading downslope from them. Erosion could cause the loss of surface material (topsoil), and increase weed infestation and sedimentation of Ramirez Creek. (*Id.,* Section 3.2, p. 30.)

For all these reasons, there is no evidence upon which the Commission could find that the Conservancy's proposal is consistent with Section 30210, and the finding required by Title 14, California Code of Regulations, Section 13666.4, subdivision (b), cannot be made.

H. STREAM ESHA: There is No Evidence to Support a Finding that the Conservancy's Proposal Conforms to or is Adequate to Carry Out the Policies Set Forth in Public Resources Code Section 30236 *et seq.* (14 Cal. Code Regs., § 13666.4, subd. (b)). The Conservancy's proposals with respect to stream ESHA are unprecedented. The Coastal Act provides:

> " . . . substantial alterations of rivers and streams shall incorporate the best mitigation measures feasible, and be limited to (1) necessary water supply projects, (2) flood control projects where no other method for protecting existing structures in the flood plain is feasible and where such protection is necessary for public safety or to protect existing development, or (3) developments where the primary function is the improvement of fish and wildlife habitat." (§ 30236.)
>
> "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." (§ 30522.)

(See, also, Malibu LIP, Section 4.4.1, which mandates that applications for "development on sites containing or adjacent to a stream . . . shall include evidence of preliminary approval from the California Department of Fish & Game.")

Despite these regulatory mandates, and absent any proposal for specific stream modifications (i.e., so that the environmental impacts could be evaluated, the permits could be obtained, and the Commission could make the findings required by Section 13666.4), the Conservancy proposes the following extensive modifications to the provisions of the Malibu LCP which govern stream ESHA:

1. **Streambed Modifications**. There are streams on each of the properties at issue in the Conservancy's plan. Consistent with Section 30236, the Malibu LIP limits use in stream ESHA to necessary water supply projects, flood protection where no other measures are feasible, and restoration projects to improve fish and wildlife habitat (Malibu LIP, § 4.5.3). The Conservancy's proposal would allow streambed modifications for <u>vehicular</u> and pedestrian use. (SMMC/LIP Text Amendments, Section 4.7.B; see Attachment D, pp. 30-32.)

In addition, the Conservancy proposes that the Malibu LCP be revised to modify the required stream ESHA buffer for a very broad category of "support facilities" on Conservancy properties. (SMMC/LIP Text Amendments, Section 4.5.3; see Attachment D, p. 24.) The 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 LIP, Section 4.6.1(A).) The Conservancy's proposal would allow a reduction of the required setback to "25 feet from the top of the banks of all streams," *<u>not</u>* if the reduction is "feasible," but simply if the reduction is "necessary." (SMMC/LIP Text Amendments, Section 4.5.3; see Attachment D, p. 24.)

The SAIC Report identifies riparian habitats in the creek channels and floodplains. The Report explains that the Conservancy's proposed development would include degradation of streambeds for the construction of bridges or low water creek crossings and removal or pruning of native vegetation along the creek. Existing bridges and low water crossings, as applicable, may need to be improved, widened, and/or replaced for access and to provide adequate escape routes in the event of a fire or other emergency. Work in the creek bed could result in removal of riparian

vegetation, sedimentation of downstream aquatic habitats, and mortality or stress to aquatic wildlife. (SAIC Report, Section 4.0, p. 37.)

In addition, the proposals for camping and large events could interfere with the movement of wildlife that uses riparian corridors at night. And, as with the chaparral ESHA, human presence would likely attract non-native species and well as some native species that are adapted to human activities (e.g., English sparrow, American crow). (*Id.*, Section 4.0, p. 37.)

2. **Permits from Other Agencies**. Consistent with Section 30522, the Malibu LCP confirms the jurisdiction of other agencies over streambed modifications (Malibu LIP, Section 4.4.1). In contrast, the Conservancy's proposal removes the City's requirement that streambed modification proposals "are subject to a [CDP] and all other relevant permits from appropriate agencies." (See Attachment D, p. 30.)

The SAIC Report identifies at least three agencies which may have jurisdiction over streambed modifications in Ramirez Canyon: the United States Army Corps of Engineers, the Regional Water Quality Control Board, and the California Department of Fish and Game (SAIC Report, Section 4.0, p. 37). The Report also sets forth the extensive conditions generally imposed on streambed modifications (*id.*). The Conservancy is not immune from the jurisdiction of these agencies, nor is the Conservancy entitled to write its own, less protective, conditions for streambed modifications (SMMC/LIP Text Amendments, Section 4.7.B; see Attachment D, pp. 30-32).

3. **The Permit for the Unlawful Streambed Modification at the Ramirez Property.** The Conservancy's submission is also drafted to allow the Conservancy to continue to ignore the long-standing requirement by the Coastal Commission and by the Department of Fish and Game that the Conservancy apply for a CDP for the unlawful streambed modifications to Ramirez Creek which occurred prior to the Conservancy's acquisition of the property. (SMMC/LIP Text Amendments, Section 4.7.B; see Attachment D, pp. 30-32.) The Conservancy's proposal is improper.

Ramirez Creek is a blue-line stream that passes through the Ramirez ESHA. Prior owners altered the channel and made unpermitted improvements to the bed and banks. When the Conservancy acquired the property in 1993, Fish and Game and the Commission advised the Conservancy that a CDP for the streamed alteration was required because of the significant adverse impacts to the ESHA and the substantial amount of non-native vegetation. In 1995, the

Conservancy filed an application with the Commission, but quickly withdrew it, promising to file another after additional environmental analysis. That never happened. In 1998, when the question arose during the Commission proceedings on CDP 4-98-334, the Conservancy promised to submit a separate, application for the streambed alteration. That separate application was submitted, but was woefully incomplete, and the Conservancy failed to respond to the Commission's request for additional information. As a result, no CDP for the streambed alteration has ever been issued.

We respectfully submit that, under the circumstances, it would not be proper for the Commission to utilize the LCP override process to excuse the Conservancy from its failure to comply with the permit requirement.

For all these reasons, there is no evidence upon which the Commission could find that the Conservancy's proposal is consistent with Sections 30236 and 30522, and the finding required by Title 14, California Code of Regulations, Section 13666.4, subdivision (b), cannot be made.

I. WATER QUALITY: There is No Evidence to Support a Finding that the Conservancy's Proposal Conforms to or is Adequate to Carry Out the Policies Set Forth In Public Resources Code Section 30231 (14 Cal. Code Regs., § 13666.4, subd. (b)). The Conservancy's proposal would also impact coastal waters in violation of Section 30231, which provides:

> "The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface waterflow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams."

The SAIC Report explains that the near-shore waters of the Malibu shoreline area of Santa Monica Bay consistently contain bacterial levels that exceed AB 411 guidelines. Beaches near the mouths of Escondido and Ramirez Creeks have had elevated levels of indicator bacteria during three of the past four years. Studies are underway to identify and assess the possible source(s) of the bacteria, including a Bacterial TMDL Implementation Plan for the City of Malibu and the County of Los Angeles. In addition, the City recently authorized construction of a new storm water treatment facility at Paradise Cove, downstream from the Ramirez property. The City, the County, the EPA and the Regional Water Quality Control Board, believe that multiple sources,

including urban runoff, wildlife, equestrian and domestic animals, and humans, contribute to the bacterial contamination of local beaches. (SAIC Report, Section 5.0, pp. 43-44.)

The SAIC Report explains that the Conservancy's proposal could impact the quality of local surface waters and marine waters in the following respects:

- Increased turbidity levels and siltation in creeks, from erosion of soils from grading, vegetation removal, car traffic, hiking, and horseback riding;
- Increased bacterial and nutrient levels in creeks from runoff carrying horse manure, leaching or runoff from poorly-maintained restrooms;
- Modified flows in creeks, causing stream channel scour and erosion, due to increased flows related to impermeable surfaces;[32]
- Higher trash and debris loadings to the creeks and to coastal waters that receive the creek drainage, from higher park visitation;
- Petroleum spills from earthmoving equipment which, if not contained and cleaned up, could be carried by storm water runoff into creeks and the ocean;
- Higher bacterial levels in shoreline areas adjacent to the mouths of coastal creeks, from increased bacterial loadings in creeks;
- Loss of vegetative cover in the watershed from the increased risk of fires, which could result in greater potential for erosion of soils into the creek, siltation in the creeks, and temporary accumulation of creek sediments in the near-shore zones of local beaches. Subsequent runoff could also transport fire retardant chemicals into the creek and eventually to the ocean, which would have implications for the toxicity of the runoff to organisms in the receiving waters. (SAIC Report, Section 5.0, p. 43.)

---

[32] For some inexplicable reason, the Conservancy deleted the City's pending LCPA requirement that new parking facilities be paved with permeable materials (see Attachment D, p. 34).

The Conservancy proposed regulations for water quality are also far less protective than those of the Malibu LCP. The Malibu LCP includes an exhaustive Water Quality Protection Ordinance (Malibu LIP, Chapter 17), under which "recreational facilities" are treated as "commercial development" and are subject to extensive and strict regulation (Malibu LUP, Chapter 3). The Malibu LCP also includes an Onsite Wastewater Treatment System Standards Ordinance (Malibu LIP, Chapter 18). The Conservancy's submission essentially relies on the water quality/wastewater treatment plan that was submitted in 2000 with the now-defunct CDP. (SMMC/LIP Text Amendments, Section 4.8; see Attachment D, pp. 33-38.) As noted above, that CDP has been set aside and the Conservancy's submission does not include sufficient information to evaluate whether the proposals are consistent with the commercial development standards of the LCP. The need for consistency with Malibu's local regulations is particularly important in this area. Under CDP 4-98-334, the Conservancy was required to conduct quarterly monitoring to determine whether the septic system was impacting water quality in Ramirez Creek. The Conservancy later admitted that it never conducted that monitoring.

For all these reasons, there is no evidence upon which the Commission could find that the Conservancy's proposal is consistent with Section 30231, and the finding required by Title 14, California Code of Regulations, Section 13666.4, subdivision (b) cannot be made.

J. NEIGHBORHOOD COMPATIBILITY – RAMIREZ CANYON: There is No Evidence to Support a Finding that the Conservancy's Proposal Conforms to or is Adequate to Carry Out the Policies Set Forth In Public Resources Code Sections 30214 and 30253 (14 Cal. Code Regs., § 13666.4, subd. (b)). For the reasons explained in our November 24 letter to Commission Counsel, the public access provisions of the Coastal Act do not apply to the Conservancy's upland/inland properties (Attachment B, Section VI). Moreover, even if they did, the Conservancy's proposals for camping at all three properties, and offices and special events at the Ramirez property, would not conform to the following policies:

> Public Resources Code Section 30214: "Implementation of public access policies; legislative intent.
>
> (a) The public access policies of this article shall be implemented in a manner that takes into account the need to regulate the time, place, and manner of public access depending on the facts and circumstances in each case including, but not limited to, the following:
>
> (1) Topographic and geologic site characteristics.
>
> (2) The capacity of the site to sustain use and at what level of intensity.

(3) The appropriateness of limiting public access to the right to pass and repass depending on such factors as the fragility of the natural resources in the area and the proximity of the access area to adjacent residential uses.

(4) The need to provide for the management of access areas so as to protect the privacy of adjacent property owners and to protect the aesthetic values of the area by providing for the collection of litter."

(Emphasis added.)

Public Resources Code Section 30253: Public access must be provided "consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse." (Emphasis added.)

1. Introduction. In the Memorandum of Understanding by which Ms. Streisand donated the Ramirez property to the Conservancy, the Conservancy promised to use the property "as a retreat and research center for advanced academic and applied studies directed toward solution of the most pressing conservation and natural ecosystem management problems" and to "carefully evaluate all relevant issues related to its use, including vehicular access and impact on the neighboring community." (Attachment C, pp. 2-3.) The promise was broken as soon as it was made. The Conservancy's use of the property and its current proposals are incompatible with the neighborhood for the following reasons:

2. Rural, Residential Ramirez Canyon is Not a Suitable Location for the Extraordinary Amount of Activity Proposed by the Conservancy. As explained above (see, e.g., Hazards, Section F), the Conservancy's Ramirez property is ESHA, Open Space (which is limited to passive recreation), and located at the end of a box canyon in a rural, residential neighborhood with only one means of ingress and egress – a narrow road which is substandard under state and local fire codes. Yet, in addition to nightly camping and daily use of the Ramirez property as a regional office complex for two agencies, the Conservancy's override provides that the Conservancy "shall" bring substantial numbers of people to the property: outreach, tours and small events (all year long, even during fire season), seven days per week from 8 a.m. to dusk, and "special events" for 200 people, from March to October, one day each week from 8 a.m. to 11 p.m.. The total activity that would be generated by the Conservancy's proposals is staggering:

Activity	Participants/Event	**Events/Year**	**Participants**
Special Events	200	32	6,400
Tours/Small Events	60	144	8,640
"Public Outreach"	40	730[33]	29,200
Total (annual)		**906**	**44,240**

On a **monthly** basis, the proposal would generate **76 events per month with 3,687 participants.**

The sheer numbers are not the only thing that evidences the Conservancy's disregard for the neighborhood. In the Conservancy's "revisions" to the pending Malibu LCPA, the Conservancy deleted the City's requirement that the Conservancy avoid intrusive traffic circulation in residential neighborhoods (see Attachment D, p. 47).

Given the site constraints of the Ramirez property, there is no manner by which this level of activity could ever comply with Sections 30214 and 30253. Therefore, the Commission cannot make the findings required by 14 California Code of Regulations, section 13666.4, subdivision (b).

3. Noise Resulting from Traffic, Events and Amplification. Ramirez Canyon is a narrow box canyon, up and down which sound travels freely (SAIC Report, p. 47). Therefore, the Ramirez Canyon residents consider their neighbors and keep noise to a minimum. The peace and quiet of the Canyon has been much disturbed by the Conservancy's use since 1993 – that disturbance would be magnified by the Conservancy's proposals. The SAIC Report identifies three types of noise impacts.

First, noise will be generated by traffic to and from the Conservancy's property. SAIC has quantified that noise to the extent possible given the limited information provided by the Conservancy, which omitted plans and specifications for the "vans" and "shuttles" with which it proposes to transport the many people it proposes to bring into the Canyon. (SAIC Report, Section 7.1, p. 47.)

---

[33] This number may be low, because it assumes just two outreach events per day. In fact, the Conservancy proposes no limit on the number of "Public Outreach" events that may be held each day.

Second, activities and events at the Conservancy's property would generate noise levels that would substantially exceed existing ambient noise levels. (SAIC Report, Section 7.2, pp. 47-48.) And, the Conservancy proposes to conduct some of these events in "Barwood" and the "Art Deco House," which are closest to the surrounding residences. (*Id.*)

Third, the Conservancy proposes amplified music, apparently at any and all times, not to exceed a reading of 65 dBA at the southern boundary of the property (SMMC/LIP Text Amendments, Section 4.12.B.4; see Attachment D, p. 50). Amplified music is not consistent with ESHA, Open Space, or this rural, residential neighborhood and would have a significant impact on the Canyon.

The Conservancy's proposal for amplification also exceeds the decibel levels set forth in the Malibu General Plan and, by limiting the site of the measurement to the southern boundary of the property, does not account for the narrow, box nature of the Canyon. The City's LCPA limits the use of amplified music to six events per year, only in the meadow and garden area near the Barn – which is the most up-canyon structure (Malibu LCPA, Section 3.4.2, D, 12, b, iv; see Attachment D, p. 50). Under the City's LCPA, the amplification would be governed by the decibel limits set forth in the General Plan (SAIC Report, Section 7.0, pp. 47-48). We respectfully submit that, because of the site constraints, the City's proposal minimizes the conflict between the Conservancy's use and the residential nature of the Canyon.

4. The Conservancy's Use of Ramirez Canyon Road – The Need for Alternate Access and the Myth of "80 Vehicle Trips Per Day." Ramirez Canyon Road is constructed on a private road easement, which was created to provide residential access to the properties in Ramirez Canyon. Despite that fact, the Conservancy proposes 80 vehicle trips per day for public use.[34] That is why – in addition to the fire and safety concerns – it is imperative that the Conservancy construct alternate access.

At the same time, we respectfully submit that, if the Commission allows the Conservancy to use Ramirez Canyon Road for any public use, the *number of vehicle trips should be determined during the permit process*, i.e., when the decision-makers can examine the specific development or use, the need for a particular number of trips to support that development or use, the impact on

[34] The Conservancy does not have a right to use Ramirez Canyon Road for public access because the easement was created for residential use. A change in the character of the use of a private easement is not authorized because, as a matter of law, the change in use adds a "new and additional burden," not contemplated when the easement was created. See, e.g., *Wall v. Rudolph* (1961) 198 Cal.App.2d 684, 686; *Gaither v. Gaither* (1958) 165 Cal.App.2d 782; *Connolly v. McDermott* (1984) 162 Cal.App.3d 973, 976.

the neighborhood, and the alternatives. The permitting process will also allow for specific notice to and full participation by the owners of the private property over which this commonly-held easement passes.

For present purposes, it is also important that staff and the Commissioners understand RCPF's continuing objection to "80 vehicle trips per day" – a number which the Conservancy tirelessly asserts is necessary and appropriate for its proposed uses. The Conservancy claims a "right" to generate 80 trips a day using the following flawed logic: (i) the Ramirez property consists of six legal lots; (ii) the six lots could be separately sold and each developed with a single family home; (iii) a typical single family home produces 9.57 trips/weekday and 10.09 trips/weekend day (57 to 61 trips), and (iv) these houses will generate 20 more trips because of their lot size.[35] Since 1999, the Conservancy has insisted that 80 trips per day should be the "baseline" against which the traffic impacts of its proposed uses should be analyzed.

The SAIC Report points out the flaws in this analysis. First, the Ramirez property is not being used as a residence. Second, it has **never** been used by six separate owners occupying six separate houses on six parcels. Until the Conservancy acquired the property in 1993, it had always been a single residential estate, under one ownership, and used only on occasional weekends. Third, there is no evidence that the Coastal Commission has ever determined that there are six legal parcels which are capable of separate development and sale as single family lots. Fourth, even if there were six lots that could be separately developed and occupied by six owners, those six lots would only generate – at most — 58 trips per weekday (SAIC Report, Section 6.0, pp. 45-46). Ramirez Canyon is in a location where many people own second homes, which are used far less frequently than a "typical" single family home. Indeed, the Ramirez Canyon property was a second home for Barbra Streisand during the time she owned it. The Crain analysis fails to consider this salient factor, and thus its trip generation analysis is flawed. (*Id.*)

The errors in the Crain report are clearly demonstrated by examining actual traffic levels on Ramirez Canyon Road. Between September 29 and November 2, traffic was counted at the "bottom" of Ramirez Canyon (so that all trips up and down the Canyon would be recorded). The analysis shows that the houses on Ramirez Canyon Road generate an average of 8.4 trips per day over a seven-day week. (See Attachment H.) Therefore, even if there were six separate

---

35 This analysis was documented in a 1999 report prepared by Crain & Associates, titled "Trip Generation Estate Homes Study."

homes on six lots on the Conservancy property, those homes would generate at most an average of 50 trips per day over a seven-day week.

For these reasons, if "residential use" is to provide any baseline whatsoever, that baseline should be the single residential ownership use that existed prior to the Conservancy's acquisition and the typical traffic generated by such a use in Ramirez Canyon: 8.4 per day.

The next step in the analysis requires calculating the number of trips generated by the proposed uses, and the number of trips resulting from the feasible alternatives. The Conservancy has previously acknowledged that its office use **alone** will generate 68-72 trips per day (although our traffic counts indicate that the existing uses of the Ramirez property generate an average of 33 trips per day over a seven day week and 41 trips per day Monday through Friday). How many additional trips will be created by the special events, tours, camping and other activities? The 1999 Crain Report indicates that just one "Special Event" with 200 people brought to the property in 15-person vans will produce 28 van trips. If a "Small Group Gathering" with 40 people is held on the same day, and visitors arrive four people per car, that event generates another 20 vehicle trips. Those two events alone will produce 48 trips in a single day. When added to the number of trips the Conservancy claims are needed for office uses, the total is 116 trips.

Using the correct baseline (a single family use), it is clear that the Conservancy's proposals to intensify the use of Ramirez Canyon would generate a significant traffic impact. In this simple example, the traffic would increase from 8 trips per day (baseline) to 116 trips per day (Conservancy's uses).

The Conservancy's answer? It proposes a limit of 80 trips per day, a limit which apparently is based on the hypothetical six-house "baseline" described above. There are a number of fatal defects with this "solution."

First, the Conservancy's proposal is **bad practice**. In order to minimize the neighborhood or environmental impacts of a project, land use regulatory agencies typically place restrictions on **uses** by limiting the type of use, square footage, number of occupants or other features of the use. Permitting agencies do not typically attempt to regulate the secondary impacts (such as traffic generation) by limiting the number of trips because monitoring and enforcement can be so difficult to achieve.

Second, the Conservancy's proposal will greatly **exacerbate the danger** of a wildfire to the visiting public. To illustrate using the above example: If the Ramirez property is used for a

wedding with 200 guests, they must be brought to the property in 15-person vans from a remote parking facility. That will require 14 separate vans each making one trip to drop off and one trip to pick up (28 trips total). Is it realistic to expect that the wedding organizer will rent 14 vans? No. More likely, two vans will be rented, with each making 7 trips to drop off and 7 trips to pick up. If there are only two vans, how will the 200 people be quickly evacuated in the event of a wildfire? And, even if there are 14 vans in use, what will be the impact on the ability of the Canyon residents to evacuate and the fire trucks to access the Canyon for fire suppression and rescue purposes?[36]

Third, even if limiting traffic trips made sense from an enforcement perspective, the Conservancy's proposed trip limit of 80 trips per day is **far too high** given (i) the low-intensity historical use of the property, (ii) the location of the property in a rural, residential neighborhood; (iii) the fact that the property is in a Very High Fire Hazard Severity Zone with a **single means of ingress and egress**, and (iv) the fact that the access road does not comply with fire standards.

Fourth, there is no compelling need to create these fire safety risks and traffic impacts because there are feasible and environmentally superior alternative locations for the Conservancy's proposed uses of the Ramirez property. (See SAIC Report, Section 8.0, pp. 49-61.)

Three additional points regarding traffic must be made. First, the Ramirez property could be used as a passive recreation park, with no management-level offices, camping or special events. The Conservancy's traffic study prepared by Crain & Associates (2006) provided a method by which to calculate vehicle trips based on the number of acres of a proposed park site. When that methodology is applied to the Ramirez property, "park" use of Ramirez would result in only 9-14 trips on weekdays, 13-16 trip on Saturdays, and 24 trips on Sundays. That passive park use would be consistent with the "baseline" use of the property.[37]

---

36 "Most people who die in wildland fires do so while evacuating. Evacuation operations require large commitments of firefighters who could be better utilized on the fire, and impairs traffic, affecting the response of firefighters." Hunt, J., "Listen to Experts Concerning Fire Protection," Santa Barbara News Press, December 21, 2008. Mr. Hunt is a former county fire department captain and a wildland urban interface fire protection consultant for the past 29 years.

37 The Conservancy has also presented a second traffic study, by Associated Transportation Engineers, dated August 20, 2007. With no mention of the earlier calculations by Crain & Associates for proper park use, ATE switched to a different reference book -- the "San Diego Traffic Manual" -- for its calculations, and concluded that the daily trips for park use would be 126-186 (ATE, 8/20/07, p. 16). If that calculation is accurate, then a "passive park use" would

Second, even if the Conservancy's proposal for a daily trip limit made sense, there is no reason to accede to the Conservancy's suggestion that it be allowed to "bank" unused trips for later use (see SMMC/LIP Text Amendments, Sections 4.3.B.1 and 4.12.B.2; see Attachment D, pp. 18-19 and 49-50, respectively). "Banking" simply becomes a loophole through which the traffic impacts would be exacerbated and the fire risk worsened by "spending" trips from the bank during times of intense use of the property.

Third, there is no reason to accept the Conservancy's attempt to exempt an additional, undetermined number of vehicle trips by means of Proposed LIP Text Amendment, Section 4.12.B.10:

> "Nothing herein, including trip limitations, shall operate to limit or restrict access to Ramirez Canyon Park as sovereign property of the State of California at any time and by any means whatsoever, by any of the following: The governor or any civil executive officer as provided in Government Code § 1001; any member of the California National Guard or the State Militia; any firefighter of any public agency; any peace officer, any emergency medical technician or paramedic whether employed by a public agency or not, any member of the Legislature or staffs thereof, any member of the Bureau of State Audits, <u>the Secretary for Resources or any employee thereof</u>, any member of the California Coastal Commission or staff thereof, any person appointed pursuant to Public Resources Code Section 33200 or 33213, or person appointed pursuant to Section 5.0 of the Joint Powers Agreement between the Conejo Recreation and Parks District, the Rancho Simi Recreation and Parks District, and the Santa Monica Mountains Conservancy." (SMMC/LIP Text Amendments, § #.4.12.B.10; see Attachment D, p. 54; emphasis added.)

The potential impacts of this provision are significant. At a minimum, it appears to create a **major loophole** for all of the trips generated by the Conservancy's management employees who are currently housed at Ramirez, all of whom could claim to be "employees of the Secretary for Resources." (As noted above, the Conservancy has previously acknowledged that 68-72 trips per day are required for its office use.)

For all of these reasons, we urge the Commission to require the Conservancy to construct alternate access to its Ramirez Canyon property and – once that access is constructed – to use Ramirez Canyon Road only for emergency ingress and egress. (See RCPF Comment Letter re City LCPA.) In any event, we respectfully request that the Commission require the Conservancy to provide a proper environmental analysis of its proposed Ramirez Canyon uses, including an

---

cause traffic and fire safety impacts comparable to the Conservancy's proposed uses, and would be equally inappropriate for this property given the access constraints.

appropriate baseline and consideration of all feasible alternatives. Further, if the Commission considers any intensified development of the Ramirez property by the Conservancy without requiring alternate access, we ask that the maximum number of allowable trips be determined during the permit process and be set at the minimum necessary in order to ensure that the fire safety and traffic impacts are kept as low as possible.

K. ALTERNATIVES. Significant Adverse Environmental Impacts Have Been Identified. There Are Feasible, Less Environmentally Damaging Alternative Ways To Meet Any Identified Needs And Reduce The Risk. (14 Cal. Code. Regs., § 13666.4, subd. (c)). The third finding required for an override involves the identification of environmental impacts and the evaluation of less environmentally damaging alternative ways to reduce those impacts (14 Cal. Code Regs., § 13666.4, subd. (c)). The express terms of section 13666.4, subdivision (c), explain why the Legislature required a proposal for a specific public work. Without site-specific detail, it is impossible to fully evaluate the environmental impact, or to conduct a comprehensive alternatives analysis.

However, even with the generality of the Conservancy's proposal, it is plain that there are significant adverse environmental impacts associated with the development of offices, camping, intensive events, and broadly defined "support facilities" in ESHA (see Sections G, H and I (ESHA, Stream ESHA, and Water Quality), above). Yet, the Conservancy has offered no alternatives analysis whatsoever. On that basis alone, the Commission should deny the override.

To demonstrate why an alternatives analysis is so critical, we asked SAIC to conduct a high-level alternatives study. (SAIC Report, Section 8.0, pp. 49-61.) That study revealed that the Conservancy and/or MRCA own *554 parcels within 20 miles of Ramirez Canyon*. The most notable is King Gillette Ranch, which is 6.7 miles northeast of the Conservancy's Ramirez property, at the intersection of Mulholland Highway and Malibu Canyon Road. A long-range plan for this 588-acre property is currently being prepared (http://www.lamountains.com). The property was the former site of SOKA University, and there are buildings suitable for extensive office and indoor/outdoor event use (Los Angeles Outdoor Recreation Examiner, 16 November 2008).

While we do not believe that camping is an appropriate use of any property in the dry Santa Monica Mountains, camping would certainly be less risky at the King Gillette Property, which is located at the intersection of two major thoroughfares and which has an extensive internal road system as well. The King Gillette property is also more accessible to the people who the Conservancy proposes to bring to the Ramirez Canyon property from the inner-city area, which is

more in keeping with the policy set forth in Public Resources Code section 30253, subd. (4) (i.e., that new development "shall: minimize energy consumption and vehicle miles traveled").

SAIC found other properties more suitable for overnight camping than Ramirez Canyon, including a 128-acre parcel owned by the Conservancy at the end of Lindero Canyon Road and east of Las Virgenes Reservoir in Westlake Village. Three other suitable properties were also identified by SAIC (SAIC Report, Section 8.1.3, pp. 59-60 and Table 5). Similarly, SAIC found other locations more appropriate for trail camps (*id.*, Section 8.1.4, pp. 60-61 and Table 5).

King Gillette is also an environmentally superior location for environmental education programs, agency administrative offices, and special events such as large parties (*id.*, Section 8.1, pp. 49-58). The property has 21 structures with 109,000 square feet of space suitable for classrooms, administrative offices, and other functions.

The SAIC Report also points out that most public agencies – including those which own or control parkland -- have management-level offices in office buildings located in commercial areas, rather than in park properties zoned as Open Space. Examples of such agencies are: Los Angeles County Parks and Recreation Department, Baldwin Hills Conservancy, National Park Service/Santa Monica Mountains National Recreation Area, San Gabriel and Lower Los Angeles Rivers and Mountains Conservancy, and the Nature Conservancy.

Similarly, there are alternative locations for special events that are environmentally superior to the Ramirez Canyon property. As noted above, King Gillette Ranch is one such location. The SAIC Report also finds that another Conservancy property, at Franklin Canyon Park, has facilities that can readily accommodate special events, including an auditorium that opens to a courtyard, picnic area, open amphitheatres and large lawns with oak trees. The property also has a 3-acre lake. (*Id.*, Section 8.1.2, pp. 54-59.)

SAIC's high-level alternatives analysis concludes with the following:

> Based on the evaluation of existing facilities in the area and many parcels already owned by MRCA, SMMC and other entities, most if not all of the uses proposed for the SMMC Ramirez Canyon property could be better accommodated at other locations with fewer environmental impacts. In particular, King Gillette Ranch could provide facilities for offices and events as could existing facilities and buildings. As described above, numerous facilities are available in the area that could be used for events. Accessible overnight camping facilities could be built in the SMMC Ramirez Canyon property within previously disturbed areas (e.g., tennis courts), but other locations with existing facilities are available within 20 miles of the SMMC Ramirez Canyon property.

> Trail camps could be located at several properties with less environmental damage and fire risk to adjacent resident areas than at the SMMC Ramirez Canyon property. (*Id.*, Section 8.2, p. 61.)

Based on SAIC's alternatives study, we respectfully submit that there is no evidence upon which the Commission could make the finding required by 14 California Code of Regulations, section 13666.4, subdivision (c).

L. Disapproval Would Not Adversely Affect the Public Welfare as Identified in the Findings, Declarations, and General Provisions of the Coastal Act (Public Resources Code Section 30000, *et seq.*) and the California Coastal Management Program, If Applicable (14 Cal. Code Regs., Sec. 13666.4, Subd. (d)). This is the fourth and final finding the Commission must make in order to approve an override. Please note that the finding is *not* that "approval would enhance the public welfare." Instead, the required finding is that "disapproval would not adversely affect the public welfare." The double negative makes the language somewhat confusing. However, we respectfully submit that the most direct way to address the finding is to focus on the definition of "public welfare" in the Findings, Declarations, and General Provisions of the Coastal Act (i.e., Section 30000, *et seq.*). That is so because, in Section 30000, *et seq.*, the Legislature defined the "public welfare" as **coastal resource protection**.

The evidence shows that disapproval of the Conservancy's plan would not adversely affect coastal resource protection – because the Conservancy's plan has an adverse impact on coastal resources (see Sections G, H and I, above).

In Section 30000, *et seq.*, the Legislature set forth the primary purpose of the Coastal Act. The Legislature did not define that purpose in terms of "public access," or "recreation." Instead, the Legislature defined the "public welfare" as "resource protection."

Section 30001 is entitled "Legislative findings and declarations; ecological balance." The statute provides:

> The Legislature hereby finds and declares:
>
> (a) 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.
>
> (b) That the permanent protection of the state's natural and scenic resources is a paramount concern to present and future residents of the state and nation.

(c) That to promote the public safety, health, and welfare, and to protect public and private property, wildlife, marine fisheries, and other ocean resources, and the natural environment, it is necessary to protect the ecological balance of the coastal zone and prevent its deterioration and destruction.

(d) That existing developed uses, and future developments that are carefully planned and developed consistent with the policies of this division, are essential to the economic and social well-being of the people of this state and especially to working persons employed within the coastal zone.

(Emphasis added.)

Resource protection is so important that, in Section 30007.5, the Legislature expressly provided:

> The Legislature further finds and recognizes that conflicts may occur between one or more policies of the division. The Legislature therefore declares that in carrying out the provisions of this division such conflicts be resolved in a manner which on balance is the most protective of significant coastal resources. In this context, the Legislature declares that broader policies which, for example, serve to concentrate development in close proximity to urban and employment centers may be more protective, overall, than specific wildlife habitat and other similar resource policies. (Emphasis added.)

Accordingly, even though the Legislature included public access in its findings, it did not view public access as "public welfare." Instead, the Legislature plainly defined public access as subordinate to resource protection.[38]

§ 30001.5. Legislative findings and declarations; goals.

The Legislature further finds and declares that the basic goals of the state for the coastal zone are to:

(a) Protect, maintain, and, where feasible, enhance and restore the overall quality of the coastal zone environment and its natural and artificial resources.

(b) Assure orderly, balanced utilization and conservation of coastal zone resources taking into account the social and economic needs of the people of the state.

(c) Maximize public access to and along the coast and maximize public recreational opportunities in the coastal zone consistent with sound resources conservation principles and constitutionally protected rights of private property owners.

(d) Assure priority for coastal-dependent and coastal-related development over other development on the coast.

---

[38] The "Public Access" provisions of the Coastal Act do not include the concept of "public welfare." (See, e.g., § 30210, *et seq.*) The "Recreation" provisions of the Act (§ 30220, *et seq.*) are not defined in terms of "public welfare" either.

(e) Encourage state and local initiatives and cooperation in preparing procedures to implement coordinated planning and development for mutually beneficial uses, including educational uses, in the coastal zone.

The Legislature also stressed the importance of relying on local governments to make land use planning decisions, and to encourage maximum public participation.

§ 30004. Legislative findings and declarations; necessity of continued planning and management.

The Legislature further finds and declares that: (a) To achieve maximum responsiveness to local conditions, accountability, and public accessibility, it is necessary to rely heavily on local government and local land use planning procedures and enforcement. . . . (Emphasis added.)

§ 30006. Legislative findings and declarations; public participation. The Legislature further finds and declares that the public has a right to fully participate in decisions affecting coastal planning, conservation, and development; that achievement of sound coastal conservation and development is dependent upon public understanding and support; and that the continuing planning and implementation of programs for coastal conservation and development should include the widest opportunity for public participation. (Emphasis added.)

These Legislative findings would be difficult to comply with in any LCP override procedure. That is so because of the nature of the procedure itself, i.e., the decision of the local government – which provided the widest opportunity for public participation by the people affected – is set aside.

Because the Legislature defined public welfare in terms of resource protection, there is no question that disapproval of the Conservancy's plan would not adversely affect the public welfare. The plan as proposed (i.e., allowing offices, camping facilities, portable toilets, grading of streambeds for vehicular crossings, special events of up to 200 persons, etc. in ESHA) would have a significant impact on natural resources. Therefore, the Conservancy's LCP override does not qualify for the finding set forth in Section 13666.4, subdivision (d).

VIII

CONCLUSION.

We recognize that this letter is long, as are the extensive reports and analyses we have submitted to support our arguments. And, we appreciate the time and attention required to consider this information. At the same time, we are submitting this lengthy analysis and substantial evidence because we sincerely believe the Commission is facing a very important issue:

Should Malibu's carefully crafted LCP be swept aside because a state agency – the Santa Monica Mountains Conservancy – wants to do whatever it wants on its property?

We respectfully submit that the answer must be NO.

This letter demonstrates that the Conservancy's objectives can be accommodated without ignoring Malibu's Coastal policies or the City's authority and discretion to control local land use. It shows that offices can be established in office buildings, campgrounds can be established in places that do not create unreasonable fire risks to the public, and special events can be held in places that can safely hold large numbers of people and from which people can be safely evacuated in the event of an emergency.

Based on all of this information, the Ramirez Canyon Preservation Fund respectfully urges the Coastal Commission to reject the Conservancy's override application in its entirety, and to approve Malibu's Local Coastal Plan Amendment, with the modifications suggested in our separate Comment Letter on the Malibu LCPA.

Thank you for your kind attention.

Sincerely,

Steven A. Amerikaner

Diane M. Matsinger

Attachments:

A. Analysis of Issues Relating to Application by the Santa Monica Mountains Conservancy for a Local Coastal Program Amendment Override, prepared by Sciences Applications International Corporation, December 2008.
B. Letter to Ms. Hope Schmeltzer, Commission Counsel, November 24, 2008
C. Memorandum of Understanding Between Ms. Streisand and the Conservancy
D. Chart: Comparing Conservancy LCP Override with Malibu LCPA
E. Chart: Administrative Offices in Parks
F. Maps: Comparing Conservancy and Malibu's Trail Plans
G. Aerial Photo: Showing Lot Lines of Lauber Property
H. Ramirez Canyon Road Traffic Calculations

cc (w/attachments) (by Federal Express)

Jack Ainsworth, Deputy Director, South Central District Office, Coastal Commission
Pat Veesart, Coastal Commission Staff, South Central District Office (by hand delivery)
Ms. Hope Schmeltzer, Coastal Commission Chief Counsel
Stacey Rice, Malibu Planning Manager
Christi Hogin, Malibu City Attorney

SB 492080 v25:011142.0001

Analysis of Issues Relating to Application by the Santa Monica Mountains Conservancy for a Local Coastal Program Amendment Override

Proposed Development of the Conservancy's Ramirez Canyon Property and of Escondido and Corral Canyon Parks

Prepared for

Brownstein Hyatt Farber Schreck, LLP
21 East Carrillo Street
Santa Barbara, CA 93101

December 2008

Prepared by

Science Applications International Corporation
5464 Carpinteria Avenue, Suite K
Carpinteria, CA 93013

This page intentionally left blank.

Table of Contents

Foreword
1.0 Public Need for Recreation 1
1.1 Introduction 1
1.2 Camping 1
1.3 Event, Catering, and Conference Facilities 4
1.4 Accessibility and Children 4
1.5 Malibu Parks and Recreation Department 5
1.6 Coastal Community Recreation Visitors 6
1.7 Summary 6
2.0 Fire Hazards 7
2.1 Introduction 7
2.2 Natural Factors Influencing Fire Conditions 7
2.3 Fire History 10
2.4 Fire Causes 15
2.5 Housing Density 16
2.6 Fire Hazard and Fire Threat 17
2.7 Fuel Modifications 17
2.7.1 Brush Clearance 17
2.7.2 Non-compliance with Brush Clearance Policy 29
2.7.3 Prescribed Burns 29
2.8 Recommendations 29
Recommendation No. 1: No camping in any of the three canyons (except for accessible camping at Ramirez provided there is close supervision of such activities) and no special events in Ramirez. 29
Recommendation No. 2: No trail camping in Ramirez and Escondido canyons. 30
Recommendation No. 3: If camping is allowed in any of the three canyons, or special events and/or offices are allowed in Ramirez Canyon, additional precautions must be taken. 30
2.9 SMMC Fire Management and Prevention 31
2.10 Inadequate Fire Access 31
2.11 Alternative Access 32
2.12 Summary 33
3.0 Environmentally Sensitive Habitat Areas (ESHA) 35
3.1 Introduction 35
3.2 ESHA in the SMMC Ramirez Canyon Property 36
4.0 Stream ESHA 37
5.0 Water Quality 43
6.0 Traffic 45
6.1 Studies Reviewed 45
6.2 Initial Comments/Comparisons of Studies 45
6.2.1 Summary of Studies 45
6.2.2 Comparison of Studies 45
6.3 Additional Questions 46
6.4 Alternative Land Use 46
7.0 Noise 47
7.1 Effects of SMMC Ramirez Canyon Property Traffic Noise 47

7.2 Effects of SMMC Ramirez Canyon Property Use Noise 47
8.0 Alternatives 49
8.1 Alternative Locations 49
8.1.1 Offices 54
8.1.2 Special Events 54
8.1.3 Overnight Camping 59
8.1.4 Trail Camps 60
8.2 Summary 61
9.0 References 63

Appendices

A Malibu Event Facilities Capacity

B Photographs

C SAIC Statement of Qualifications

List of Tables

1 Campgrounds and Accessibility 2
2 Description of Fuels Present within Los Angeles County, California 10
3 Number of Fires and Acres Burned by Month from 1987 to 2007 in Los Angeles County 15
4 Number of Wildland Fires in Los Angeles County, California from 1987-2007 16
5 Alternatives Analysis Parcels 50

List of Figures

1 Fuels Present within the Malibu Parks Public Access Enhancement Plan Area 11
2 Time Since Last Recorded Fire within the Malibu Parks Public Access Enhancement Plan Area 13
3 Number of Acres Burned in Los Angeles County by Month from 1987- 2007 15
4 Number of Fires by Known Cause in Los Angeles County, California from 1987-2007. 19
5 Housing Density within the Malibu Parks Public Access Enhancement Plan Area. 21
6 Development Adjacent to the SMMC Ramirez Canyon Property 23
7 Fire Hazard Severity Zones within the Malibu Parks Public Access Enhancement Plan Area 25
8 Fire Threat within the Malibu Parks Public Access Enhancement Plan Area 27
9 Alternatives Analysis Parcels 55
10 Selected Parcels Mapped on Aerial Photographs for More Detailed Analysis 57

Foreword

Science Applications International Corporation (SAIC) was engaged to analyze certain issues relating to a submission from the Santa Monica Mountains Conservancy (SMMC) to the California Coastal Commission dated April 14, 2008 entitled "Proposed City of Malibu Local Coastal Program Amendment for Incorporation of the Malibu Parks Public Access Enhancement Plan Overlay District." This amendment was resubmitted on July 15, 2008.

In completing this analysis, SAIC reviewed the following documents submitted by the Santa Monica Mountains Conservancy on April 14 and July 15, 2008:

1. Cover letter to Peter Douglas, Executive Director, California Coastal Commission
2. Land Use Plan and Local Implementation Plan Text Amendments
3. Current Demand and Proposed Overlay Goals
4. Description of Plan Area
5. Description and History of SMMC/MRCA Parklands Included in the Overlay District
6. Purpose and Intent
7. Planning Considerations and Constraints
8. Standard of Review and Process
9. Policy Consistency Analysis
10. Public Participation, Agency Coordination, Alternatives and Public Comment Summary
11. Resolutions Authorizing Submittal of Proposed LCP Amendment
12. Supporting documents such as the Draft Biological Resources Letter Report, Riparian Habitat Evaluation for Ramirez Canyon, Alternatives Analysis for Ramirez Creek Habitat Enhancement, and three traffic studies.

The following analysis and report was prepared under the supervision of Rosemary Thompson, Ph.D., Senior Biologist. (805-566-6430).

This page intentionally left blank.

1.0 Public Need for Recreation

1.1 Introduction

Much of the report titled "Public Access and Recreation—Current Demand and Proposed Overlay Goals, Malibu Parks Public Access Enhancement Plan" dated April 14, 2008, addresses compliance with specific policies and guidelines. The following comments focus primarily on the demand aspects of the report rather than plan/policy compliance issues.

- Comparability with Coastal Camping Areas -- Because proposed plans for additional camping would not include direct beach or shore access, the list of campgrounds and beaches included in the Coastal Camping narrative, while relevant to a discussion of coastal parks and beaches, does not create a rationale to support the proposed improvements.
- Rationale for Demand -- While many popular campgrounds throughout California are likely at or near capacity during peak times, the rationale for proposing additional facilities in the Malibu area itself is not clear. Table 1 below identifies nearly 1,000 group and family camp sites within approximately one hour of the Malibu area. These camp sites are primarily located in campgrounds in the Santa Monica Mountains Sector of the State Park System and portions of the Los Padres National Forest.
- Demographics and Location of Demand -- The report does not address recreation user demographics or where users would originate. Will the improvements primarily serve a narrow population demographic, a broader range of users primarily within Metro and urban Los Angeles, or a state-wide user population?
- Accessibility Discussion -- Although we would not expect to see specific data on accessible features at this stage, some idea of the extent of camp sites, picnic areas, trails, and programs/exhibits (including those designed specifically for children), and other support facilities would establish a more clear intent about accessibility. For example, often times a small number of accessible camp sites is provided compared to the total. Will most facilities be accessible or will only a small percentage be provided to meet minimum requirements? Accessibility is discussed further in Section 1.4.

1.2 Camping

Within the project area, 23 different campgrounds are managed by federal, state, local, and private agencies and operators. These campgrounds contain both group and family campsites. There are approximately 27 group camp sites, which can accommodate 9-100 persons per site, but typically accommodate 25-50 persons. The approximately 962 family camp sites typically accommodate up to 8 persons per site (see Table 1).

The State of California Department of Parks and Recreation is the largest provider of individual camp sites in the project area, followed by the federal government. Within the Santa Monica Mountains Sector of the Angeles District, which includes the Malibu area and portions of Los Angeles and Ventura Counties, the California State Park System contains five State Parks, three State Beaches, and one State Recreation Area, each of which provide overnight camping. Table 1 lists these campgrounds. Some of the campgrounds operate seasonally or close portions of the park during certain seasons. The number of camp sites listed in Table 1 represents the fully open status. The National Park Service and the U.S. Forest Service operate 12 campgrounds within the Santa Monica Mountains National Recreation Area (1) and the Los Padres National Forest (11), respectively. Within the National Forest, developed campgrounds within approximately 40 miles of Malibu are located in the Los Padres National Forest in the Mt. Pinos, Ojai, and Santa Lucia Ranger Districts.

Table 1. Campgrounds and Accessibility

Name	*Owner/ Operator*	*Type of Camping*	*Group Camp Sites (#)*	*Family Camp Sites (#)*	*Capacity (per group site/ per family site)*	*Site Characteristics and Habitat*	*Accessibility*	*Location*
Santa Monica National Recreation Area—Circle X Ranch Campground	Federal	Group/ Family	1	0	10-75	Open grass	No; not paved, slightly sloped	Malibu
Los Padres National Forest—Campo Alto	Federal	Group/ Family	2	13	25/6	Vista, pine forest	No	Frazier Park
Los Padres National Forest—Chuchupate	Federal	Family	0	30	6	Pinyon pine forest	No	Frazier Park
Los Padres National Forest—Chula Vista	Federal	Family/ walk-in sites	0	12	6	Pine forest, lupine	No	Frazier Park
Los Padres National Forest—Halfmoon	Federal	Family	0	10	6	Pine forest, lupine	No	Frazier Park
Los Padres National Forest—McGill	Federal	Group/ Family	2	72	25/6	Mixed conifer forest	Yes (some)	Frazier Park
Los Padres National Forest—Mt. Pinos	Federal	Group/ Family	2	15	25/6	Jeffrey Pine, sloped sites	No	Frazier Park
Los Padres National Forest—Ozena	Federal	Family	0	10		Riparian, scattered cottonwood	No	Frazier Park
Los Padres National Forest—Pine Springs	Federal	Family	0	12	6	Pinyon pine	No	Frazier Park/South of Lockwood Valley
Los Padres National Forest—Wheeler Gorge	Federal	Family	1	70		Chaparral and riparian	Yes (5)	North of Ojai
Los Padres National Forest—Reyes Peak	Federal	Group/ Family	0	6		Top of ridge of Pine Mountain, conifers, with view to the ocean	No	Ojai
Los Padres National Forest—La Panza	Federal	Group/ Family	2	12		Oak Riparian	No	East of Santa Margarita; Pozo/La Panza Area
Lea Carrillo State Park	State	Group/ Family/ Hike and Bike (H+B)	1	138 /4 H+B	50/6/2	Canyon/Beach	Yes (7); picnic tables/fire grills	14 mi NW of Malibu off SR1, LA County/Ventura County
Malibu Creek State Park	State	Group/ Walk in/ Family	1	63	50/6	Oak grassland	Yes (some)	5 mi N of Malibu via CO Rd N1, LA County

Table 1. Campgrounds and Accessibility (continued)

Name	*Owner/ Operator*	*Type of Camping*	*Group Camp Sites (#)*	*Family Camp Sites (#)*	*Capacity (per group site/ per family site)*	*Site Characteristics and Habitat*	*Accessibility*	*Location*
Point Mugu State Park/Big Sycamore Canyon/ Thornhill Broom, other	State	Group/ Family/ H+B	3	138		Ocean	Yes (some)	19 mi NW of Malibu on SR1/15 mi SE of Oxnard off SR1,Ventura County
Emma Wood State Beach/ Ventura River	State	Group/ Family	4	90	30/6	Ocean/River	No	Ventura County
Topanga State Park	State	H+B	0	8	4	Chaparral	Camp sites not accessible/ picnic sites generally accessible	Santa Monica Mountains
Castaic Lake State Recreation Area	State	Group/ Family	2	60		Lake	No	Santa Clarita,Los Angeles County
Placerita Canyon State Park	State	Group	0	3	Organized youth camping only	No waterfront	No	Los Angeles County Newhall
McGrath State Beach	State	Group/ Family/ H+B	2	165/5	50/6/2	Ocean/inland lagoon	Yes (12)	Ventura County
Decker Canyon	City of Los Angeles	Group	4	0	150 total; 50 at largest site	Santa Monica Mountains	No; not paved; park car, then trails to camp sites	City of Los Angeles, Malibu
Malibu Beach RV Park	Private	Family	0	35	6	Ocean views	No; park car, walk/ haul-in not paved; terraced, sloped bluff; haul in up to 5 min	2 mi W of junction with Malibu Canyon Rd at 25801 PCH, Malibu
Total	**NA**	**NA**	**27**	**962 w/o H+B**	**NA**	**NA**	**NA**	**NA**

Source: BHFS and SAIC 2008, CSPPD 2007

The City of Los Angeles and a private operator in Malibu operate two additional campgrounds.

The City of Malibu Parks and Recreation Department operates several facilities and parks, including Malibu Bluffs Park, Charmlee Wilderness Park, Las Flores Creek Park, Trancas Canyon Park, Malibu Equestrian Park, and Papa Jack's Skate Park (City of Malibu 2008), but none of these areas provide overnight camping. Similarly, beaches in the area provide outdoor recreation opportunities and facilities, but do not provide overnight camping, including Surfriders Beach, Zuma Beach, Malibu Lagoon State Beach, and Point Dume State Beach.

1.3 Event, Catering, and Conference Facilities

Appendix A (BHSF 2008) contains a listing of 23 event, catering, and conference facilities in the Malibu area that accommodate various kinds of special events. Capacity varies from less than 100 persons to more than 500 persons. The list includes facilities such as restaurants, conference centers, museums, ranches, parks, hotels, and retreat centers. The estimated total capacity of these facilities is approximately 6,045 persons. Additional ranches and a nature preserve, each identifying a capacity of more than 2,000 persons, have also been identified as event facilities but are not included in the total count.

Event, Catering and Conference Facilities in the Malibu Area

	Maximum Capacity (persons)		
	<100	100-<300	300-500
# of facilities	3	13	7

1.4 Accessibility and Children

Several campgrounds in the project area provide at least some accessible overnight camp sites (see Table 1). The California Department of Parks and Recreation identifies four State Parks in the project area that contain "at least one camp site that should accommodate persons with disabilities" (CPRD 2008). Accessible features in State Park System campgrounds vary but may include, tent or camper space, cooking surfaces, one or more sites with parking, site surfaces and furnishings, water faucets, restroom facilities (all will have this), and showers. Leo Carrillo State Park and McGrath State Beach together provide 19 accessible camp sites. In the Los Padres National Forest, Wheeler Gorge campground has 5 accessible camp sites and McGill campground has "some" accessible camp sites. Many campgrounds also offer other accessible features such as picnic areas, trails, beach/shore access, and exhibits/programs.

Parks that do not contain campgrounds may contain one or more of the accessible features previously listed. Parks with accessible features may also be more easily used by children because the design provides for greater ease of use, maneuverability, and convenience for persons both with and without disabilities (e.g., paving, lack of slopes and barriers).

Although a full inventory of accessible parks and outdoor recreation facilities in the project area is beyond the scope of this study, accessible amenities in State Parks are listed below, including accessible picnic areas (7), accessible trails (3), accessible beach/shore access (1), and accessible exhibits/programs (5). The following accessible park features are located in Los Angeles County; some areas may be located outside the proximate coastal and mountain areas identified above for campgrounds:

- Accessible Picnic Areas: Hungry Valley, Leo Carrillo, Los Encinos, Malibu Creek, Pio Pico, Topanga, and Will Rogers State Parks;
- Accessible Trails: Malibu Creek, Malibu Canyon, and Antelope Valley California Poppy;

- Accessible Beach/Shore Access: Leo Carrillo; also Malibu Lagoon State Beach contains paths through the lagoon that are wheelchair accessible; and
- Accessible Exhibits/Programs: Antelope Valley California Poppy, Hungry Valley, Pio Pico, Topanga, and Will Rogers.

As described by the State Parks and Recreation Department for their facilities, accessible picnic sites generally include firm, level and stable surfaces with accessible tables, parking and paths of travel from parking to the picnic area, where parking is provided. If provided, water spigots and heating/cooking facilities may also be designed to be accessible. Weather conditions such as heavy rain or blown sand may influence accessibility.

Accessible hiking trails or segments of trails often lead to significant features and/or environmental experiences within an area. Such accessible trails or trail segments often have the following general characteristics: trail widths are 36" with occasional segments at 32", and surfaces are stable and firm. Tread obstacles, surface gaps, protruding objects, and other obstructing details are minimal. Weather conditions such as heavy rain or winds may affect accessibility. Accessible trails are also typically barrier free, and have slopes under 9 percent.

Beach and shore access include accessible routes to and across the surface of a beach or shore, but not necessarily to the edge of the water. Access to the water's edge is primarily by beach wheelchair. Occasionally, beach mats, boardwalks, or paved multi-use trails along the beach provide some access. However, weather conditions, such as blown sand or heavy rain, may sometimes impact accessibility. Supporting facilities such as parking, restrooms, and dressing rooms are often also accessible. Travel routes from parking areas to and along the beach access routes at the parks are typically designed to be level, firm, stable, and unobstructed.

Some State Parks offer interpretive programs and/or groups of exhibits to enhance visitors' experience. Such programs often include guided or self-guided tours or hikes to or through historic sites or natural features. They may also include formal educational exhibits and activities in visitor centers or museums. These programs and facilities may be very diverse. Routes of travel to and through the site or facility, as well as parking and restrooms, are accessible. Access to outdoor programs or remote facilities may be affected by rain, winds, or other weather conditions.

1.5 Malibu Parks and Recreation Department

Although much of the recreation activity within and near the City of Malibu takes place at non-City operated parks and facilities, the City of Malibu Parks and Recreation Department also operates a number of facilities and programs. A review of the City of Malibu Council Agenda Report regarding "First Quarter 2008-2009 Work Program Status Report – Parks and Recreation Department" dated October 3, 2008 found that the Parks and Recreation Department is responsible for 10 different program areas. The report identifies over 156,000 total units of service through program participation and facility use during the 2007-2008 fiscal year. Programs and facilities include park/facility use, youth sports, aquatics, outdoor recreation (Charmlee and Equestrian Park), community classes, special events, senior adult programs, a skate park, day camps, and teen programs. The largest attendance, over 86,000 units or 55 percent of total use, is associated with park/facility use (private rentals and community sports programs), followed by youth sports (City sponsored programs) with over 27,000 units or 17 percent of total use. Outdoor recreation at the two City parks comprises over 9,000 units or almost 6 percent of total use.

1.6 Coastal Community Recreation Visitors

Of the five coastal cities contacted through calls to city departments, local chambers of commerce, and visitor bureaus, annual visitor data were only available from the City of Santa Monica, which reported over 5.5 million visitors in Fiscal Year 2006-2007 (SMCVB 2008). These visitors are reported as either hotel/motel visitors, private residence visitors, or day visitors. LA Inc., which compiles aggregated tourism data for Los Angeles County, does not typically report city level data (LA Inc. 2007). Visitor data typically exclude overnight trips taken within Los Angeles County by residents of the County. Los Angeles County hosted a record 25.4 million visitors in 2006, of which 20.7 million were U.S. residents and 4.6 million international visitors. Four percent of domestic overnight visitors to Los Angeles County reported that the primary purpose of their trip was outdoor recreation.

Another basis of comparison for the beach cities is the number of campgrounds available per capita. Compared to other similar beach cities in Los Angeles County, Malibu has more campgrounds nearby, including three within 20 miles or less, compared to one or none for the other three cities (i.e., Santa Monica, Redondo Beach, and Manhattan Beach). When Malibu's small population is considered, the extensive availability of camping and other outdoor recreation opportunities within close proximity becomes clear. Malibu has less than 15 percent of the population of Santa Monica, 19 percent of the population of Redondo Beach, and 36 percent of the population of Manhattan Beach.

City	*Population as of July 1, 2007*	*Campgrounds within 20/40/60 miles)*
Malibu	13,041	3/6/20
Santa Monica	87,212	1/6/21
Redondo Beach	67,019	0/5/21
Manhattan Beach	36,536	0/6/22
Source: U.S. Census Bureau 2008, Reserve America 2008.		

1.7 Summary

A review of recreation data and reports on existing campgrounds, outdoor recreation, and accessible recreation features within approximately an hour of the plan area indicates that the demand basis for additional recreation improvements in the Malibu area has not been well established in existing documentation. The number of campgrounds, parks, and beaches available within and near Malibu, given the size of the community, is extensive compared to similar beach cities. In addition, the location and characteristics of recreation users have not been established with regard to the demand for the additional improvements, especially given the environmental sensitivity of the project area.

2.0 Fire Hazards

2.1 Introduction

Southern California is one of the most hazardous fire-prone areas in the country. Due to the combination of the vegetation, summer drought, rugged topography, and autumnal high winds, the area is inclined to frequent high intensity fires. As urban centers continue to encroach into these readily-combustible areas, fires have become more catastrophic. Property losses continue to climb every decade despite increased fire suppression efforts, with several fires causing losses exceeding $1 billion each (Keeley 2002, Insurance Information Institute 2007). SMMC is proposing to increase recreation and camping within several of their parks in the City of Malibu. This will in turn increase the potential for wildfires within these areas, and will bring larger numbers of visitors to these high fire areas, threatening public safety.

The following describes wildland fire conditions within and surrounding the proposed recreational areas.

2.2 Natural Factors Influencing Fire Conditions

Wildland fire conditions are affected by many natural factors that vary both geographically and throughout the seasons. These include weather, topography, and fuels.

Weather and Climate

Aspects of weather such as temperature, wind, relative humidity, and precipitation all have major influences on fire behavior and probability of ignition. Southern California has a Mediterranean climate, characterized by mild wet winters and warm dry summers. This defined wet/dry seasonal pattern is a key factor in the prevalence of wild fires in the region. Precipitation data collected at the Topanga Ranger Station from 1949 through 2007 show that on the average, 95 percent of the annual precipitation occurs from November through April (Western Regional Climate Center 2008). Precipitation averages from about 15 inches per year along the coastal portions of the project region to over 30 inches per year in the higher elevations of the Santa Monica Mountains. The annual average rainfall at the Topanga Ranger Station, about 750 feet in elevation, is 24.2 inches. Extreme annual totals recorded between 1961 and 1990 ranged from 7.4 to 57.4 inches.

Although most of the precipitation in the project region is produced by winter storm systems from the north Pacific, summer rainfall can occur on occasion. This precipitation occurs from the transport of tropical moisture into the region. However, thunderstorms and showers from these tropical air masses are infrequent and mainly affect the mountain and desert regions to the east.

Concurrent with the presence of the Eastern Pacific high pressure system west of California, a thermal low pressure system persists in the interior desert region due to intense solar heating. The resulting pressure gradient between these two systems produces an onshore air flow in the project region for most of the year. Sea breezes usually occur during the daytime and transport a relatively humid air mass into the onshore areas. During the evening hours and colder months of the year, land breezes often replace sea breezes and typically blow in the opposite direction toward the offshore waters. These land breezes continue until daytime heating reverses the flow back towards the onshore direction.

During the colder months of the year, the Eastern Pacific high often builds into the Great Basin and produces a "Santa Ana" condition in the region. Santa Ana conditions typically include low humidity, northeast winds, and warm to hot temperatures. These conditions occur as air warms adiabatically as it descends from the higher elevations of the Great Basin to the lowlands of southern California. Their

frequency of occurrence increases as Fall progresses. As a result, they often coincide with the period of driest fuel moisture at the end of the fire season. This is the reason why strong Santa Anas historically have produced the most violent and devastating fires in southern California. Fires driven by Santa Anas have been known to burn as much as 74,000 acres in a day (Sugihara et al. 2006). The winds themselves make air borne fire-fighting techniques difficult, causing problems in effectively and quickly containing the fire.

Drought can also cause a significant effect on wildland fire conditions by affecting vegetative conditions such as reducing live fuel moisture content and increasing dead fuel loadings.

Effects of Climate Change on the Occurrence of Wild Fires

Recent studies predict that based upon weather conditions for future climate scenarios, the frequency of wild fires will increase in the Western U.S. The first and most recent *Climate Action Team Report to Governor Schwarzenegger and the Legislature* (California Environmental Protection Agency 2006) concludes that wild fires will increase, especially as warming intensifies. Predictions from this report state that the risk of large wildfires in California may rise almost 35 percent by mid-century and 55 percent by the end of the century under a medium-high emissions scenario. These predictions mainly apply to grassland and shrubland fuel types (Freid et al. 2006), which are typical of the area surrounding the SMMC Ramirez Canyon property to the west, north, and east.

Topography

Characteristics of topography such as degree of slope, aspect, features such as canyons, and elevation also have a considerable effect on fire behavior. Topography dictates diurnal upslope-downslope winds, influences the type of fuels present, increases preheating of fuels, or facilitates rolling debris that can cause spot fires.

Slope is an indicator of fire potential: for every 20 percent increase in slope, the rate of spread of a fire doubles. Even very minor changes in slope have a strong effect on fire spread due to increased convection and radiation, which are the two elements of combustion (Char and Chatten 1977; Clayton et al. 1985). The aspect of a slope has several effects on fire behavior: north facing slopes typically have more biomass, and therefore a greater amount of fuel. South facing slopes receive greater incoming solar radiation, causing the fuels to be at a higher temperature and therefore ignite more easily.

Fires starting at the base of box canyons and narrow canyons create strong upslope drafts, causing fires to spread rapidly upslope, creating extreme fire behavior and dangerous conditions. Fires in narrow canyons can also spread to fuels at the opposite side through radiation and spotting (NWCG 1994). In addition, steep terrain and box canyons create extremely hazardous conditions for fire-fighting personnel, and limit the use of heavy equipment (such as bulldozers) in creating fire lines that inhibit the spread of fire. Bulldozers and fire engines cannot enter areas with rugged terrain, limiting the on-ground fire fighting personnel to hand crews.

Within the SMMC's proposed recreational areas, and specifically Ramirez and Escondido canyons, steep terrain and box canyons exist, increasing the potentially for extreme fire behavior and rapid spread, as well as dangerous fire-fighting situations.

Fuels

Aspects of fuels such as type, moisture content, size and shape, loading (amount), and arrangement (vertical and horizontal continuity) all have major influences on fire behavior and probability of ignition.

Vegetation in the undeveloped areas of the Santa Monica Mountains in the Malibu area is predominantly chaparral and coastal sage scrub with narrow riparian corridors along streams. The chaparral provides the most extensive wildland fire threat in Los Angeles County and is found on the slopes of the Santa Monica Mountains. The chaparral ecosystem has been defined by fire scientists as a crown fire regime, as opposed to a surface fire regime typically found in forests where dead brush and debris accumulate over time (Halsey 2004). Biologists estimate that a natural fire interval is anywhere between 30 and 150 years depending on the chaparral species, topography, presence of drought, and climatic conditions. In the past, scientists assumed that fire suppression within the chaparral communities led to an unnatural accumulation of brush, which in turn increased the likelihood of ignition and spread. However, more recently, studies have shown that fuel age does not significantly affect the probably of burning. Under Santa Ana winds, fire can spread rapidly through all ages of chaparral stands (Moritz et al. 2004, Zedler and Seiger 2000).

Coastal sage scrub is another common vegetative community in the area. It and the chaparral community have different potential accumulation of fuels (Cohen 1999). The coastal sage scrub ecosystem burns more frequently, carries less fuel load than chaparral, and re-vegetates at a faster rate.

The majority of the native grasslands and a good portion of native shrublands in the region have been converted to non-native annual grasses such as wild oats (*Avena fatua*), bromes (*Bromus* sp.), barleys (*Hordeum* sp.), and fescues (*Festuca* sp.) (Keeley 1993, Sugihara et al. 2006). These grasses generally germinate in the winter, curing by the summer. As a result, these mature dry grasses provide a continuous fuel that is easily ignited throughout the fire season, and often contribute to an increase in fire frequency (Bell et al. no date).

Vegetation information can in turn be translated into surface fuel models which can provide valuable data for predicting fire behavior. Using information on crown cover, tree sizes, fire history, and plant species information, the California Department of Forestry and Fire Protection (CDF) used computer modeling to convert these vegetation types into the 13 standard nationally recognized and 7 custom fire behavior models (See Table 2 and Figure 1). These fuel models are primarily separated by fuel loading (tons/acre) and fuel particle size classes. Grass fuel models, for instance, have fine continuous fuels and fires that generally ignited easier and spread faster, but have a lower intensity. Timber fuel models, on the other hand, may not ignite as easily, but the fires can be of much higher intensity under the right conditions.

Tall chaparral (Fuel Model 4) has the highest fuel loading and is one of the common fuel types between Ramirez Canyon and Charmlee Park. North of Ramirez Canyon and Escondido Canyon is primarily Intermediate Brush (Fuel Model 6) and pockets of Hardwood/Conifer Light (Fuel Model 8). The southern portion of Escondido Canyon and the majority of Corral Canyon are comprised of Light Brush (Fuel Model 5). The description of fire behavior within these fuel models is described in Table 2. It is notable that the tall chaparral common to Ramirez Canyon and Charmlee Park is extremely flammable with high fuel loadings.

Table 2. Description of Fuels Present within Los Angeles County, California

Fuels	*Fuel Model*	*Fuel Loading (Tons/acre)*	*Description*
Grass	1	0.74	Fire spreads through fine herbaceous surface fuels.
Pine/Grass	2	4.0	Fire spreads through fine herbaceous surface fuels.
Tall Chaparral	4	13.0	Fire spreads through overstory of mature shrubs 6 feet tall or greater. Foliage is flammable and there is a significant amount of dead woody material.
Light Brush	5	3.5	Fire spreads through surface fuels. Shrubs are young with little dead material and foliage contains little volatile material. Includes young stands of chaparral.
Intermediate Brush	6	6.0	Fire spreads through shrub layer. Foliage is more flammable than Fuel Model 5, but requires moderate winds for fire to carry.
Hardwood/Conifer Light	8	5.0	Fires are slow-burning ground fires with low flame lengths. Only under severe weather conditions do fuels pose a fire hazard.
Medium Conifer	9	3.5	Fire spreads through surface litter, with higher flame lengths and faster than Fuel Model 8. Only under severe weather conditions do fuels pose a fire hazard.
Heavy Conifer	10	12	Fire spreads through surface litter, with higher flame lengths and faster than Fuel Model 9. Dead-down fuels are a significant portion of the fuel loading and contribute heavily to the fire severity. Crown fires are more frequent and severe.
Source: CDF 2005a, Anderson 1982.			

2.3 Fire History

Studies show that despite suppression efforts, frequency of wildfires in southern California has not changed significantly in the last 500 years, and that large fires have always been a natural part of these ecosystems (Mensing et al. 1999). Although these large fires are a normal part of the ecology, they are catastrophic due to urban development in these areas. The Santa Monica Mountains tend to have three distinct fire seasons. The first is in early May when the grasses begin to cure. Fires during this time are usually restricted to grasslands or open shrublands with a grassy understory. The second period occurs during the summer as the weather becomes hotter and the live-fuel moisture content decreases. These fires involve chaparral and shrubland areas, but are usually small in size (less than 500 acres) (NPS 2007). The third phase in southern California is in the late summer and autumn, when large destructive fires most often occur due to Santa Ana winds. Santa Ana conditions bring low relative humidity, high temperatures, and strong northeasterly winds (Mensing et al. 1999, NPS 2007).

Figure 2 depicts the time since the last recorded burns within the Los Angeles County area. The majority of the area around Charmlee Park and to the northeast was last burned approximately 30-49 years ago. The area directly surrounding Ramirez Canyon was burned between 20-49 years ago, while the majority of the area around Escondido Canyon has not been burned for 50-74 years. Corral Canyon Park has areas that have been burned much more recently. To the west and north, some areas were burned in 2007.

While older shrublands accumulate more fuels, and burn more intensely, studies have shown that during Santa Ana conditions, fires will even burn through shrublands that burned as recently as a few years prior.

Figure 3 and Table 3 show the number of fires and number of acres burned by month in Los Angeles County within the past 20 years. The number of fires peaks in July and August; however, these fires are generally smaller and less destructive than those in the fall that are driven by the Santa Ana winds. The majority of the acres burned occur in October during the peak of the Santa Ana conditions.

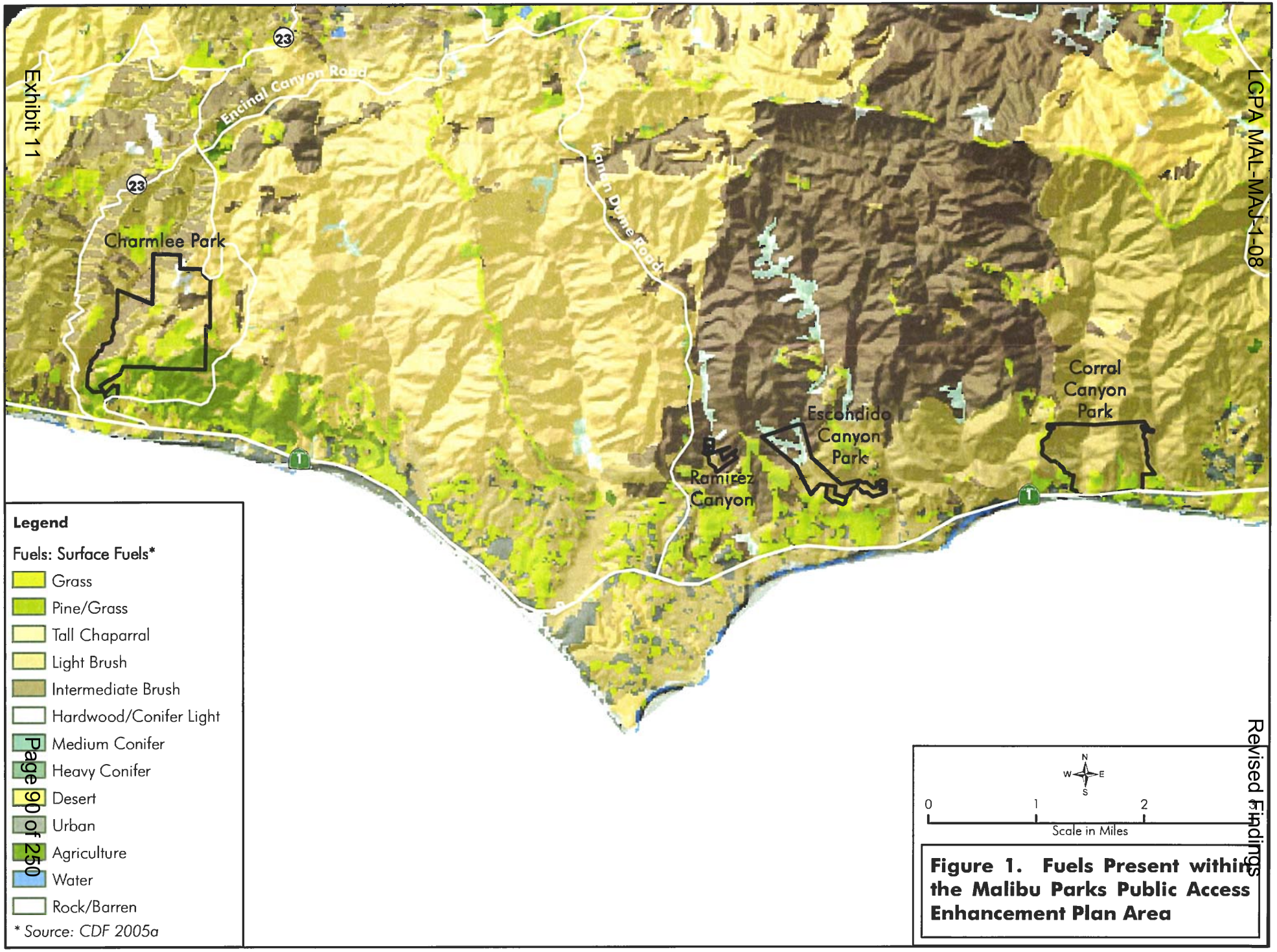


Figure 1. Fuels Present within the Malibu Parks Public Access Enhancement Plan Area

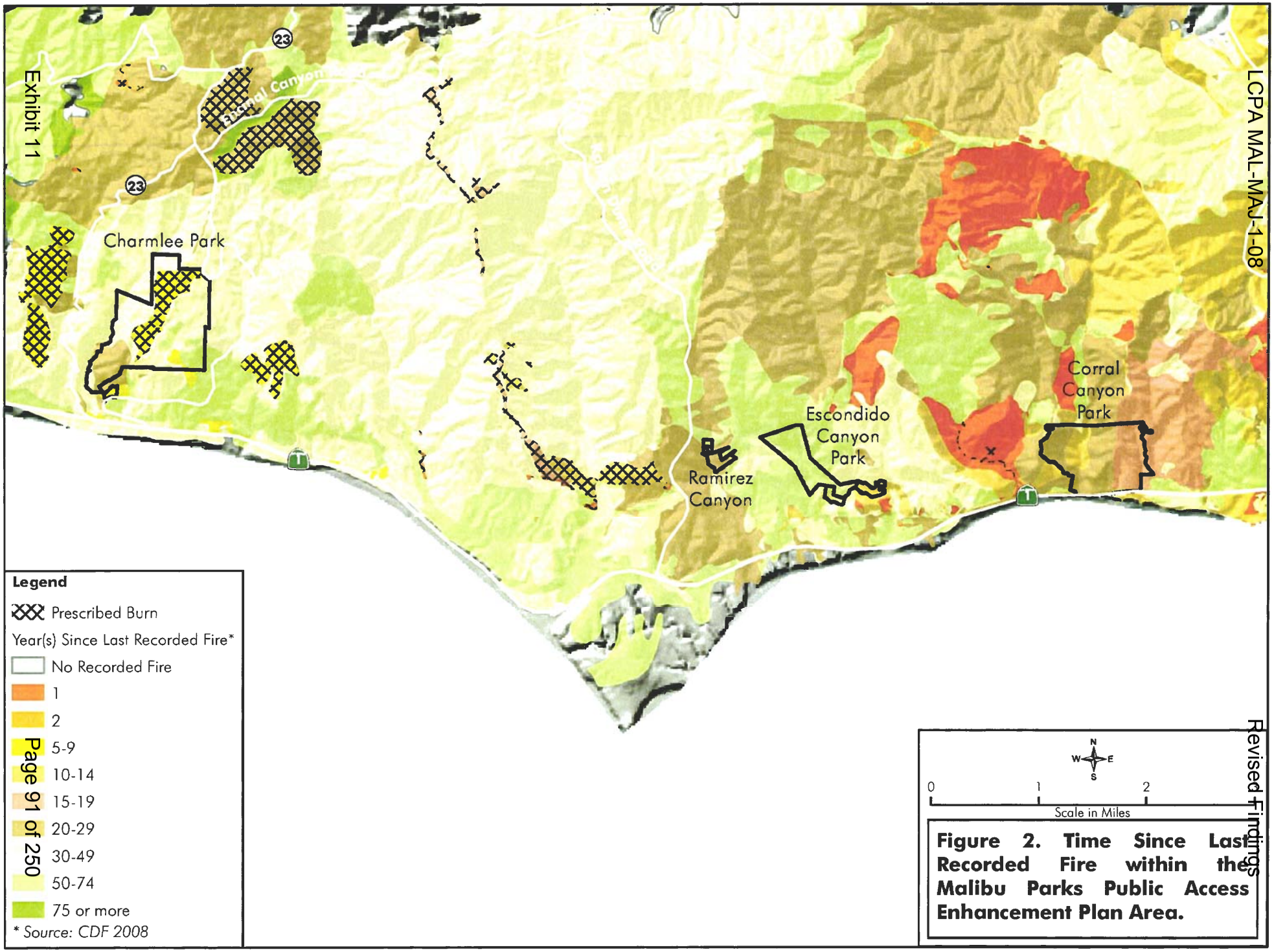


Figure 2. Time Since Last Recorded Fire within the Malibu Parks Public Access Enhancement Plan Area.

(Figure 5). However, this information is eight years old, and many residences have been constructed since that time. The City of Malibu Land Use Designations shows the potential housing density allowed by zoning for these areas (see Figure within the SMMC Plan). The majority of this area is designated as either 1 dwelling per 10 acres, 20 acres, or 40 acres. One exception is the SMC Ramirez Canyon property area which has land use designations of slightly higher density of 1 dwelling per 2, 5, and 10 acres to the west and north of the property. Aerial photographs show that the SMMC Corral Canyon property currently has the least amount of adjacent development; however, an RV park is located just to the east. For Ramirez Canyon, recent (2008) aerial photographs show housing development to the south and west of the property (Figure 6).

2.6 Fire Hazard and Fire Threat

In the 1980's, the CDF was directed by California Public Resources Code (PRC) 4201-4204 and Government Code 51175-89 to map significant fire hazard areas within California. These areas, called Fire Hazard Severity Zones (FHSZ), are based on fuels, terrain, weather, and other applicable factors. Mitigation measures such as defensible space and building standards are designated for each zone. In 2007, the CDF began updating these zones using updated data and recent technological advances in GIS. The data presented in this report is a result of these efforts (CDF 2007).

The FHSZ model evaluates hazard, not risk. Hazard is the likelihood of an area to burn in the future and is based on physical conditions that cause damage. Hazard does not take into account any modifications that a property owner may have done such as adding defensible space and sprinklers, while risk does. Figure 7 illustrates the fire hazard severity zones within Malibu. Charmlee Park, as well as SMMC's Corral Canyon Park, Escondido Canyon Park, and Ramirez Canyon property are located within Very High Fire Hazard Severity Zones.

The FHSZ model incorporates data from the Fire Threat model and the Communities at Risk listing developed by the CDF's Fire and Resource Assessment Program (FRAP). The Fire Threat Model creates four threat classes ranging from moderate to extreme, developed using fire frequency and the potential fire behavior. The higher the threat class, the more likely it is that vulnerable assets will be impacted. Fire Threat incorporates both fire frequency and the potential fire behavior. Potential fire behavior is estimated using current vegetative fuels, topography, and potential severe weather parameters (high winds, low relative humidity, high temperature, and low fuels moistures). The fuels, topography, and weather in this area, as previously described, all contribute to creating a Very High Threat.

Figure 8 depicts the Fire Threat within LA County and Malibu. The majority of the SMMC Corral Canyon Park and Escondido Canyon Park are within High Fire Threat Areas, and border Very High Threat areas to the north. The north part of Ramirez Canyon, in which SMMC has proposed "trail camps," is in Very High Fire Threat areas, while the lower portion is considered High. The northern part of Charmlee Park falls within both Extreme and Very High Fire Threat areas, while the northern portion falls primarily within High Fire Threat.

2.7 Fuel Modifications

2.7.1 Brush Clearance

The SMMC property has been identified by the State and by the County of Los Angeles Fire Department as a Very High Fire Hazard Severity Zone (VHFHSZ) in Government Code Sections 51175 through 51189 and *(Ord. 2007-0108 § 3 (part), 2007.)* This designation calls for more stringent brush clearance standards of up to a 200-foot fire break around structures. The brush clearance and fire break policy,

referred to as a property's *defensible space* for the County of Los Angeles in the California Public Resources Code 4291& 4292, are bulleted in Santa Monica Mountains Conservancy Research *Week 5: Brush Clearance Policy* document and is as follows.

> *All trees and shrubs should be limbed up one-third of their height, up to 20 feet. Highly flammable, small-leaved shrubs such as Buckwheat, Chamise, and Sage should be removed completely within 50 feet of any structure unless their removal creates an erosion hazard. Horizontal separation should be at least three times the crown diameter of the larger tree specimens from other native shrubs or 30 feet from the nearest structure. Remove or trim all vegetation a minimum of ten feet from chimneys or stovepipes. Maintain around and adjacent to such building or structure a firebreak made by removing and clearing away, for a distance of not less than 30 feet on each side thereof or to the property line, whichever is nearer, all flammable vegetation or combustible growth. Maintain around and adjacent to any such building or structure additional fire protection of firebreak made by removing all brush, flammable vegetation or combustible growth which is located 30-100 feet from such building or structure or to the property line whichever is nearer, as may be required by the State Forester when he finds that, because of extra hazardous conditions, a firebreak of only 30 feet is not sufficient to provide reasonable fire safety. Grass and other vegetation located more than 30 feet from such building or structure and less than 18 inches in height above the ground may be maintained where necessary to stabilize the soil and prevent erosion. Clear all hazardous flammable vegetation to mineral soil for a distance of 30 feet from any structure. Cut flammable vegetation to a height of 18 inches for another 70 feet. Maintain any tree adjacent to or overhanging any building, free of dead wood. Remove all flammable vegetation or other combustible growth. This does not apply to single specimen trees, ornamental shrubbery, or cultivated ground covers, provided they do not readily transmit fire. Additional clearance can be required if conditions warrant, up to 200 feet. Legal Brush Clearance Requirements Los Angeles County Fire Code 11.702b, 11.703 requires clearance of flammable vegetation for a minimum distance of 30 to 100 feet or a maximum distance of 50 to 200 feet around any structure located in a fire prone area. The clearance distance is subject to local enforcement, and in extremely hazardous areas, local fire authorities may require clearance beyond 100 feet. Remove and clear within 10 feet on each side of every roadway all flammable vegetation or other combustible growth.*[1]

The International Urban-Wildland Interface Code (IUWIC) has not been adopted into the County of Los Angeles Fire Department Fire Code. However, the IUWIC sets higher fire policy standards in regards to urban-wildland areas than the County of Los Angeles Fire Code. The IUWIC suggests the following policies regarding access roads and driveways.

> *Driveways shall be provided when any portion of an exterior wall of the first story of a building is located more than 150 feet from a fire apparatus access road. Driveways shall provide a minimum unobstructed width of 12 feet and a minimum unobstructed height of 13 feet 6 inches. Driveways in excess of 150 feet shall be provided with turnarounds. Driveways in excess of 200 feet in length and less than 20 feet in width shall be provided with turnouts in addition to turnarounds. A driveway shall not serve in excess of five dwelling units.*[2]

Field research and case studies show that all fuel sources removed in a 30-foot zone around homes greatly reduce the risk for structure loss (Cohen and Saveland 1977). Further studies confirm the importance of extending this distance another 70 feet in high hazard zones to a 100-foot clearance (although the accumulation of non-native ladder fuels and erosion increases drastically if clearance areas are allowed to

[1] State of California Public Resources Code 4291. Minimum Statewide Clearance of Brush; Los Angeles County Fire Code F.C. 1117.2.5, 1117.2.4, 1117.2.2, 1117.2.3, 1117.10; County of Los Angeles Fire Department "Fuel Modification Guidelines."
[2] International Urban-wildland Interface Code 403.2.

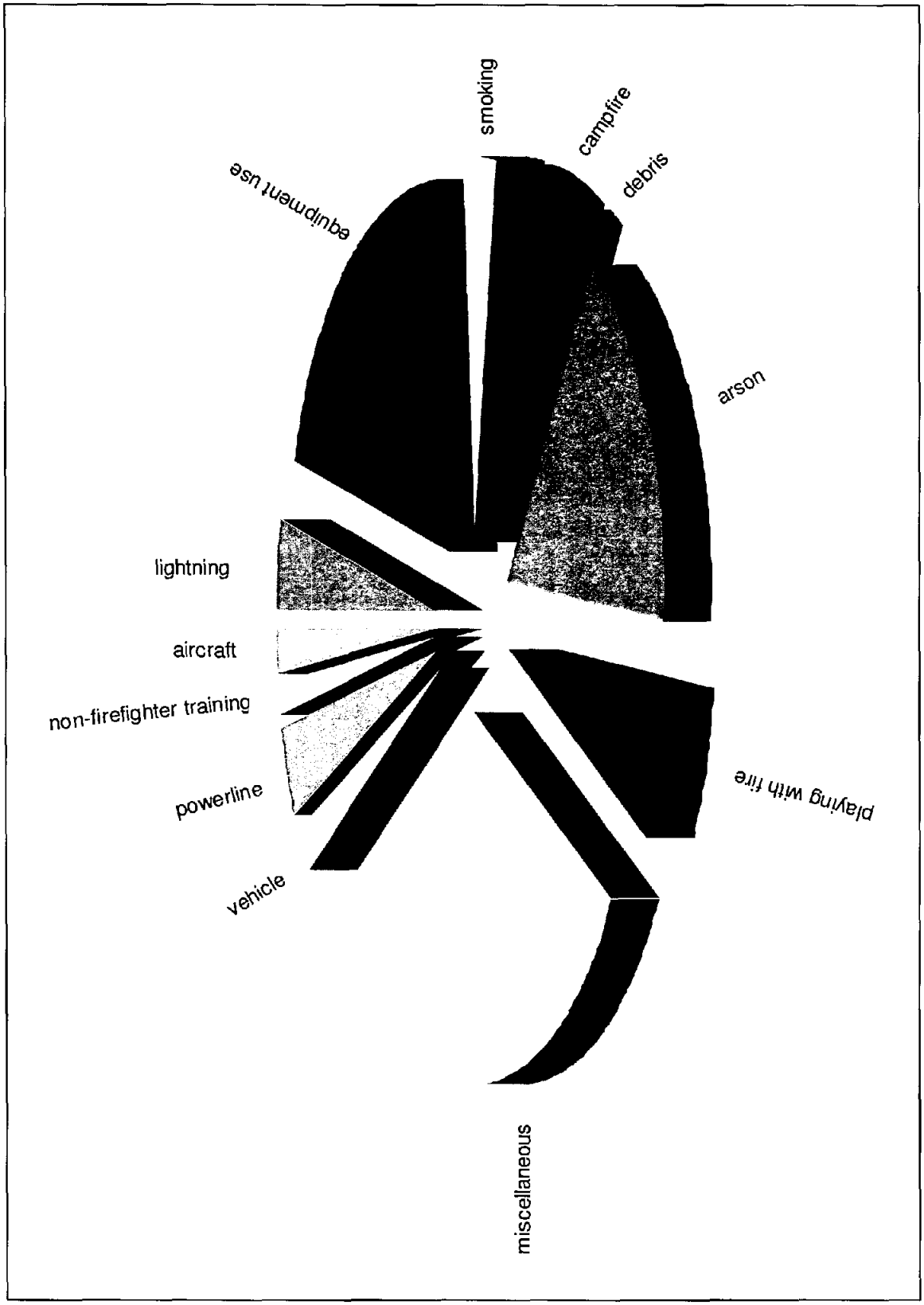


Figure 4. Number of fires by known cause in Los Angeles County, California from 1987-2007. (*Source: CDF 2008*)

This page intentionally left blank.

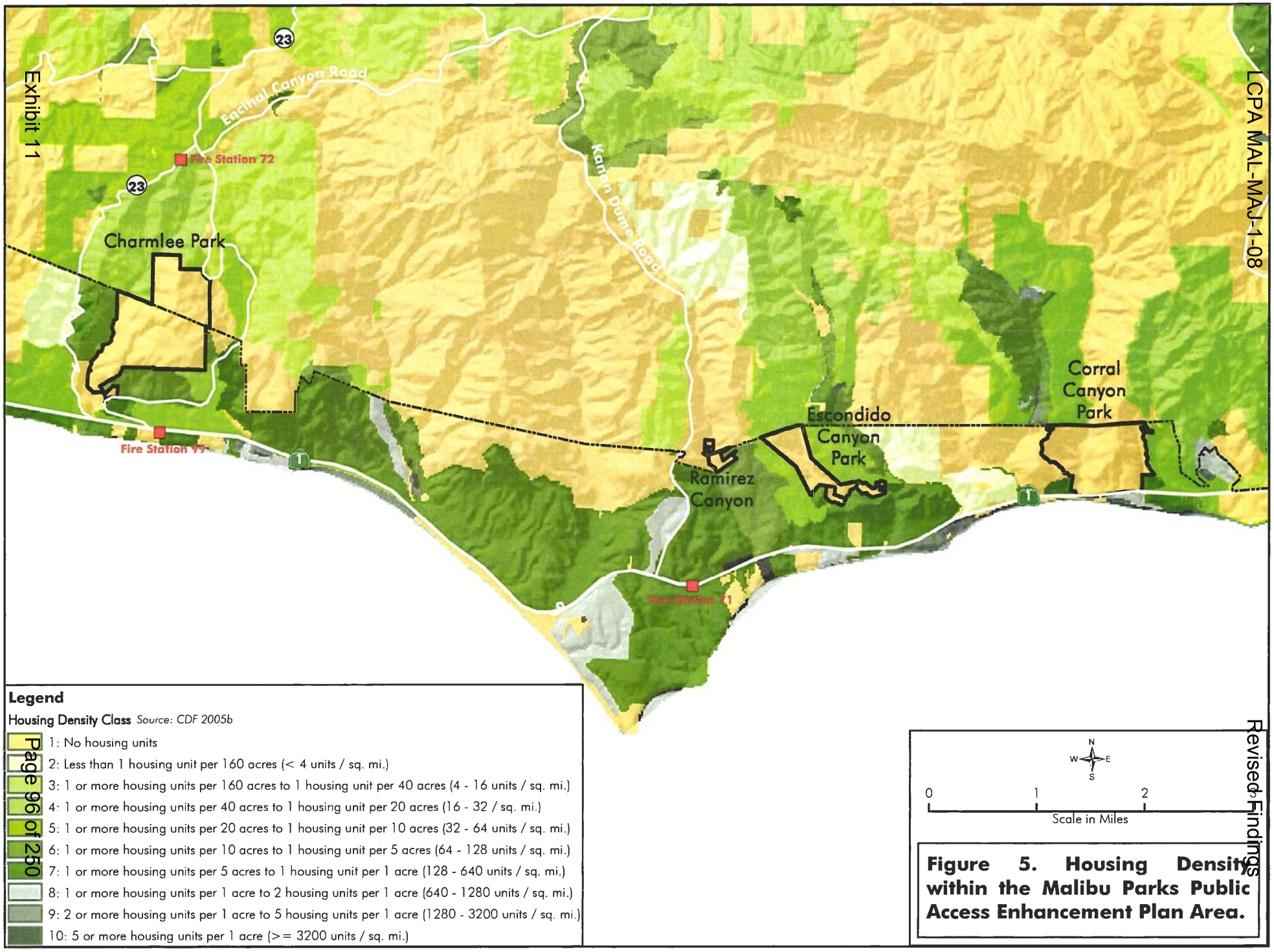


Figure 5. Housing Density within the Malibu Parks Public Access Enhancement Plan Area.

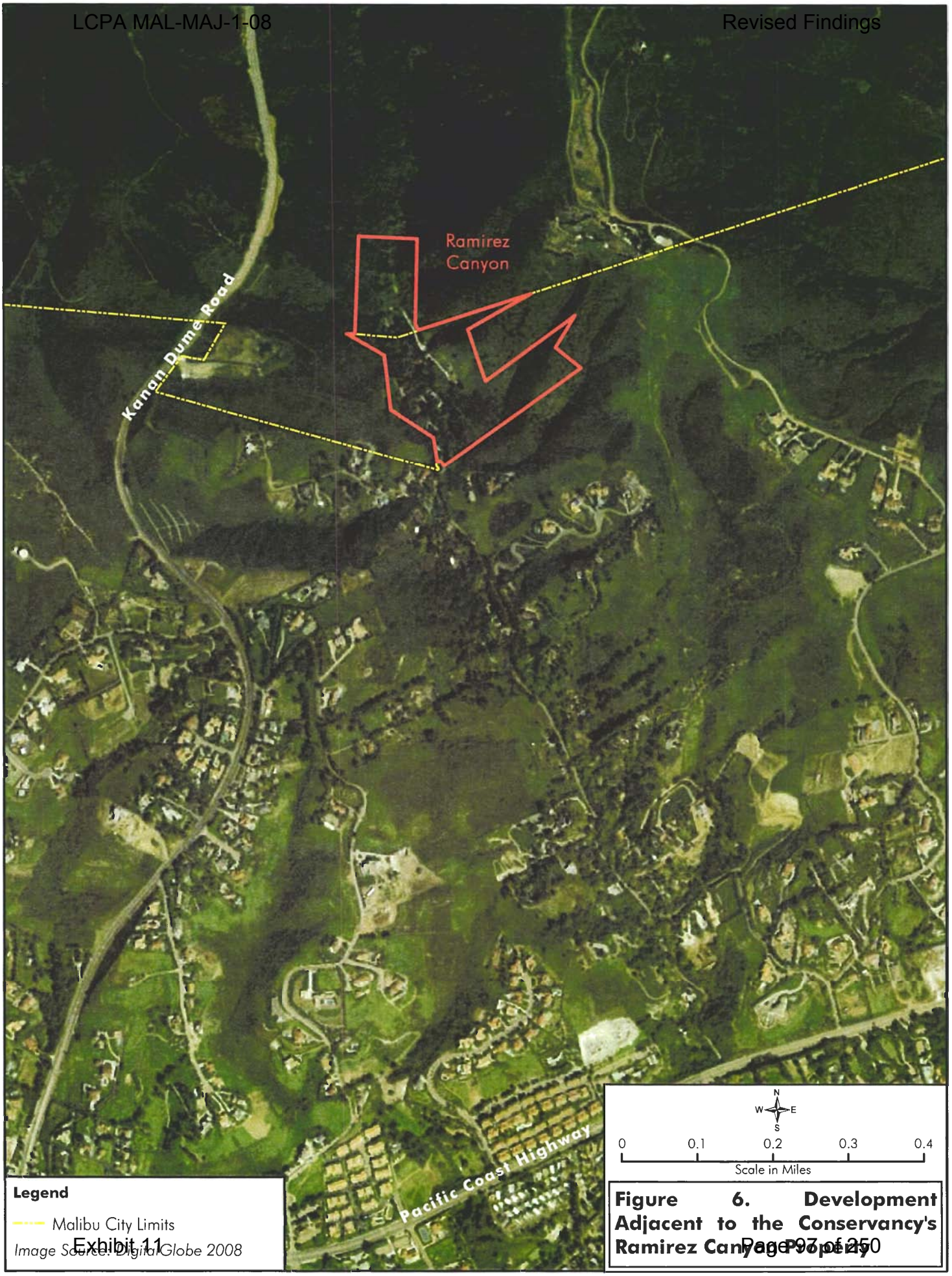


Figure 6. Development Adjacent to the Conservancy's Ramirez Canyon Property

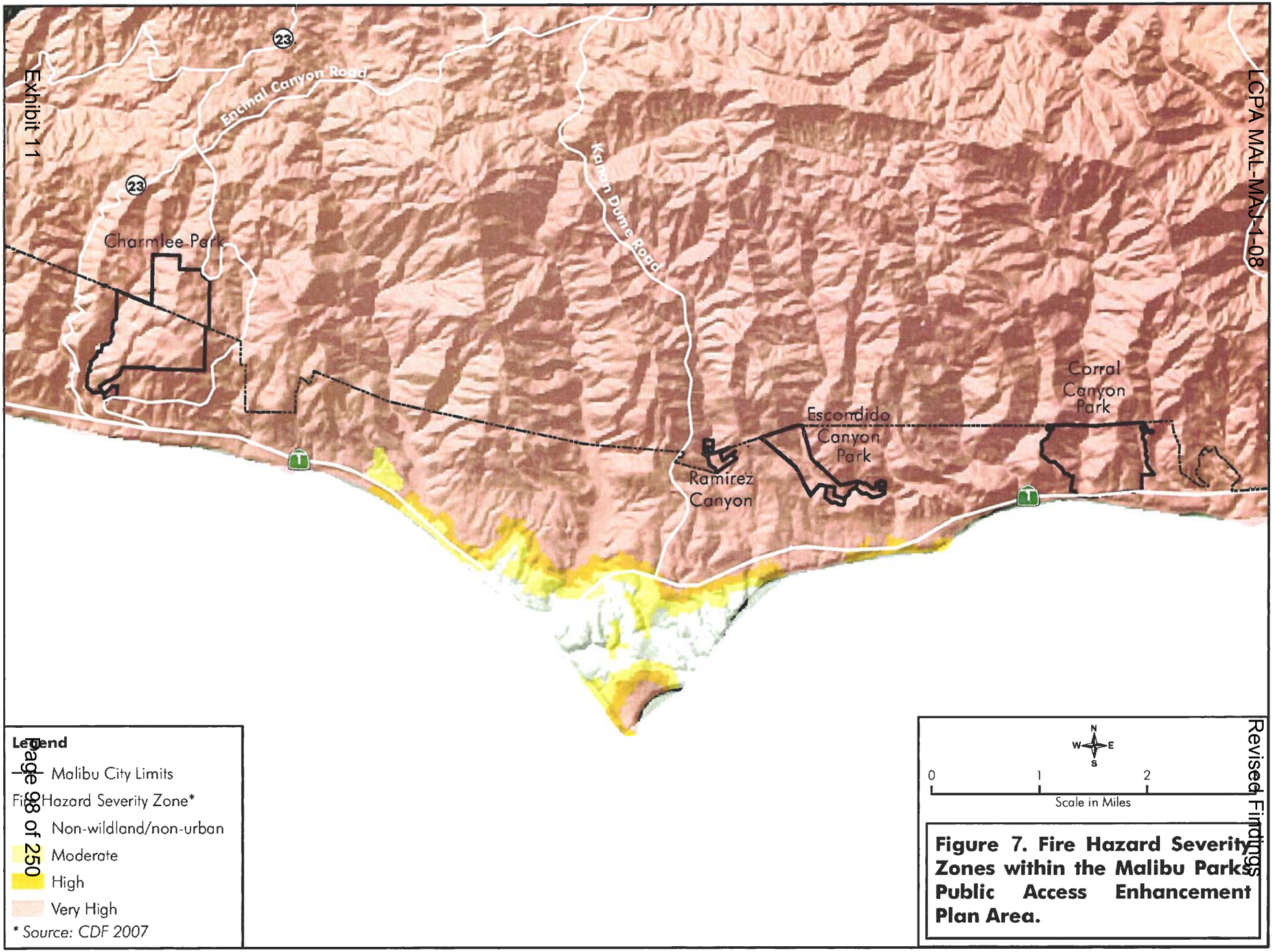


Figure 7. Fire Hazard Severity Zones within the Malibu Parks Public Access Enhancement Plan Area.

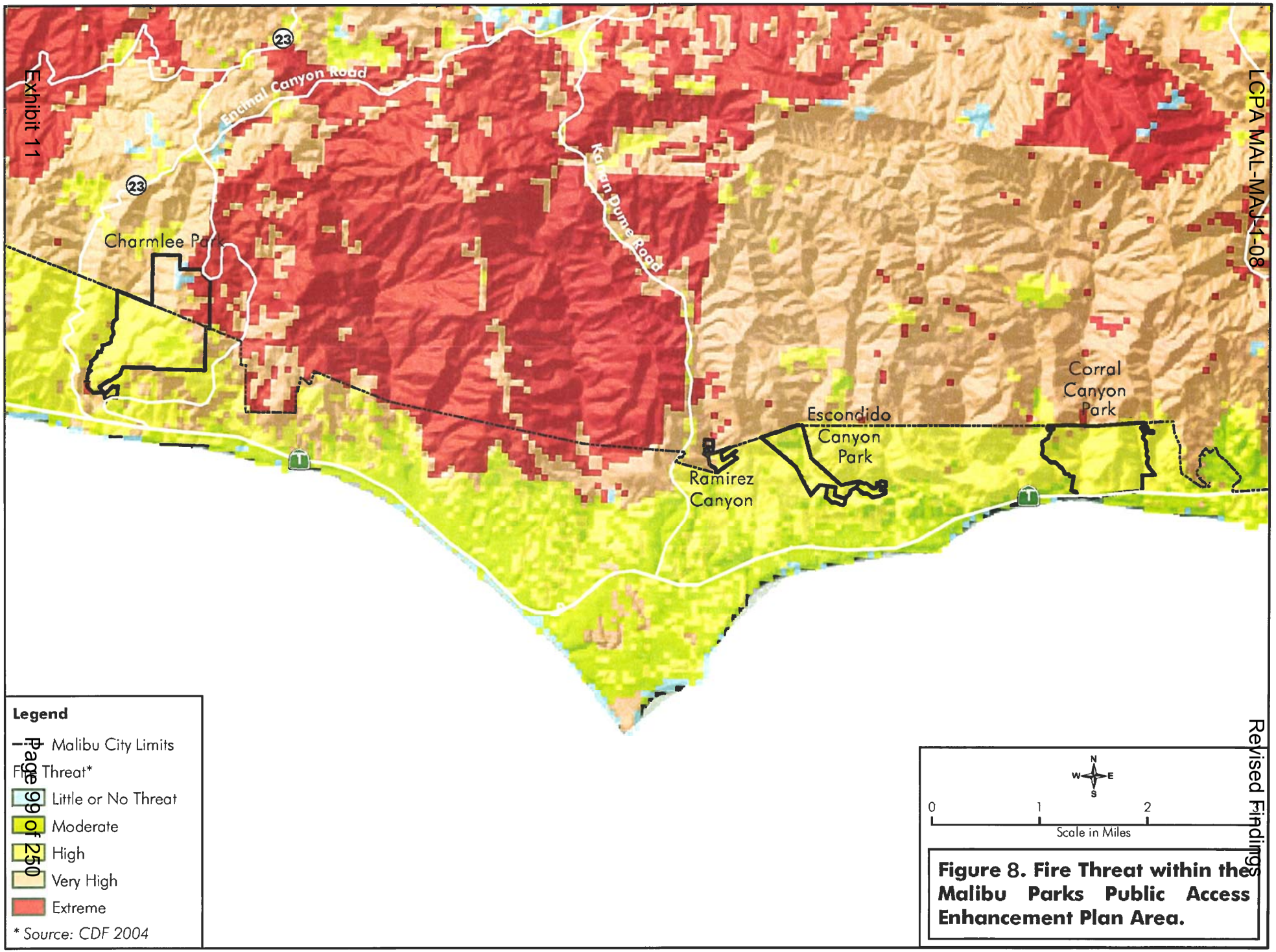


Figure 8. Fire Threat within the Malibu Parks Public Access Enhancement Plan Area.

This page intentionally left blank.

re-vegetate) (Halsey 2004). The additional 100 feet of brush clearance for a sum of 200 feet of fire break around structures, mandated by the County of Los Angeles Fire Department in the VHFHSZ, has not been proven to alone decrease the potential for structure loss. Although fuel reduction 200 feet from structures has shown promise in U.S. urban-wildland conifer forests, 200-foot brush clearance standards in the chaparral ecosystem have not demonstrated a means for stopping a fire (Ibid). While there is a lack of research documenting that a 200-foot clearance in chaparral ecosystems alone decreases the risk of structure loss, a correlation exists for reduction in fire intensity, and fire speed. Fire fighters generally will not enter a property that is not properly cleared due to the lack of defensible space, and therefore, evidence substantiates an increased risk for the loss of properties that do not abide by the brush clearance fire code (Keeley et al.1999). The Fair Plan group made up of California insurance agencies mandates a 200-400-foot clearance for insuring homeowners in VHFHSZ (Fair Plan 2008).

2.7.2 Non-compliance with Brush Clearance Policy

Studies repeatedly have concluded that fuels of native chaparral have not increased to unnaturally high levels in contrast to popular belief (Conard and Weise 1998; Keeley et al. 1999; Keeley and Fotheringham 2003; Moritz 2003). Of the total chaparral in the Santa Monica Mountains, only 1.6 percent has been present for more than 77 years (Halsey 2004). However, there has been an increased hazardous fuel risk and poor fuel management along with non-compliance with fire code in the Santa Monica Mountains for non-native vegetation. Necessary clearing of non-native fuels outlined in the Los Angeles pre-fire management plan, at even reasonable fire breaks of 30-100 feet around structures, is lacking on an estimated 30 percent of private properties (LA County 2004). Non-native brush has also congested state and city owned property in southern California that Caltrans manages (Helfand 2007). Another concern is that property owners with land designated by the Coastal Commission as ESHA may find that adhering to the California Coastal Act clearance limitations within ESHA is in conflict with the County Fire Code (San Francisco Chronicle January 10, 2007). Areas burned in January 2007 along Malibu bluffs were fueled by coastal sage scrub; however, review of the fire found that extreme wind conditions existed during the fire and according to previous case studies, increased fire breaks likely would not have stopped the fire (Moritz et al. 2004).

2.7.3 Prescribed Burns

A pre-fire management strategy, beyond brush clearance mandated by the federal government and imposed by CDF and the National Forest Service, is prescribed burns (United States Government Accountability Office 2006). Prescribed burns have focused on fuel manipulation as a means to prevent large fires. Although this strategy has been shown to be an appropriate fire management strategy for fires that ignite under calm wind conditions, large scale catastrophic fires fueled by high winds do not respond to fuel breaks or young fuels as a means for a barrier for the fire to spread (Witter and Taylor 2008; Keeley 2004). Although fire breaks may not prevent the fire from spreading, younger fuels and fuel breaks have been shown to decrease the fire intensity and may provide defensible space for fire suppression crews (Halsey 2004). Prescribed burns generally do not prevent structure loss because treatments are often remote and far from development due to the danger of a fire escape (Witter and Taylor 2008).

2.8 Recommendations

Recommendation No. 1: No camping in any of the three canyons (except for accessible camping at Ramirez provided there is close supervision of such activities) and no special events in Ramirez.

Given the very high wildland fire risk within the SMMC proposed recreational areas, we recommend that additional camping not be approved. Within the SMMC's proposed recreational areas, and specifically

Ramirez and Escondido canyons, steep terrain and box canyons exist, increasing the potential for extreme fire behavior and rapid spread, as well as dangerous fire-fighting situations. In addition, access for fire equipment and for evacuation of people in the SMMC Ramirez Canyon property is inadequate, thereby increasing the risk to people using the property. The only access road is narrow with pavement 13 to 20 feet wide with numerous speed bumps, two Arizona-type crossings of Ramirez Creek, and a narrow (less than 12 feet wide) wooden bridge over the creek. Increased human use, particularly the proposed camping and special events, increases the risk of destructive wildland fires in what is already a hazardous fire-prone urban interface and exposes a larger segment of the public to these fire risks.

Recommendation No. 2: No trail camping in Ramirez and Escondido canyons.

Trail camps are inherently unsafe in terms of fire ignition risk. These camps are located in or adjacent to flammable brush and grasses, and are difficult for rangers to monitor. The proposed trail camps in Ramirez Canyon are placed a significant distance from vehicular access. Additional clearing of a buffer around the camps to reduce such risks would result in a greater removal of vegetation (some of which would be ESHA) than that needed for the camp spaces alone, thereby increasing the potential for invasion of weedy species and soil erosion. Furthermore, unless clearly marked and patrolled, the cleared buffer could be used by campers, negating the effectiveness of the buffer.

In Escondido Canyon Park, the area proposed for trail camps is located within designated ESHA, and most of the camps are within 100 feet of the creek. The camp sites would need to be cleared of coastal sage scrub vegetation and graded to form level pads. The nearest house is about 725 feet to the northeast and numerous houses are present within 0.5 mile upslope from the proposed camp sites. As noted above, fire can move rapidly up steep slopes and would endanger those homes.

Recommendation No. 3: If camping is allowed in any of the three canyons, or special events and/or offices are allowed in Ramirez Canyon, additional precautions must be taken.

If any camping is permitted, the following measures should be required to reduce the risk of fires from camping activities:

- All camping facilities should require a conditional use permit to ensure that safety and proposed operation of each campsite will be evaluated on a case by case basis.
- In addition to suspending camping during red flag days, camping should also be suspended in the late summer and fall when Santa Ana winds are prevalent (August – November). Provisions need to be included to make sure that all campers leave the property on red flag days.
- In addition to a no campfire policy, all camping stoves and lanterns with open flames should be prohibited. Registration of all campers shall also be required as well as an on-site ranger (24/7) whenever campsites are in use.
- All Park Rangers at all camping areas will patrol with a fire vehicle at all times (vehicle equipped with a 100-gallon water tank with a 50-gallon-per-minute pump or greater).
- Firefighters should be on duty or at least on call when campers are present. The number of firefighters and equipment available should be scaled according to the current fire danger. The schedule for the SMMC firefighters and where they and their equipment will be stationed is not provided. This information should be included in the proposal.
- The locations of the helicopter landing zones on SMMC property are not provided. It is recommended that this be included in the proposal and that helicopter landing zones are located at or near each of the recreational sites that allow camping.

- Increase the number of firefighting personnel employed by the SMMC.
- Given SMMC's poor compliance history with regard to brush clearance policies, no camping should be allowed until SMMC comes into compliance, and all proposed recreational uses of a site should be suspended any time the agency is found non-compliant.
- If the Coastal Commission allows overnight camping in any of these canyons, SMMC should be required to submit to the Commission and the City annual performance reports indicating the level of staffing provided at each facility to ensure compliance with all terms and conditions of any permits.

2.9 SMMC Fire Management and Prevention

The following information comes from the SMMC website describing their Fire Prevention Program (SMMC 2008). SMMC/MRCA state that they:

- Have a policy stating that no smoking or open fire of any kind is allowed in SMMC or MRCA parkland. Smoking or open fire is punishable by a $541 fine. This policy and sanction is not mentioned within the Override Plan, and should be added.
- Spend over $1.2 million each year on brush clearance and fire prevention on their properties. However, SMMC owns many thousands of acres of open space, and the amount spent at the Ramirez Canyon, Escondido Canyon, and Corral Canyon properties is not specified.
- Maintain constant communication with the Los Angeles County Fire Department, the Los Angeles City Fire Department, the Ventura County Fire Department, California State Parks and the National Park Service to promote cooperative efforts to prevent--and if necessary defend against--wildfire.
- Employ 45 trained wildland fire fighting personnel certified to the same training standards as the U.S. Forest Service and provide continuous training in wildland fire behavior and urban interface fire fighting. However, as noted above, SMMC owns many thousands of acres of open space, and there is no evidence that 45 fire fighting personnel is adequate to reduce the risk.
- Deploy their own fire-fighting equipment including one four-wheel drive type 2 fire engine, one type 3 engine, one water tender, two mobile command units, 30+ chainsaws, and eight fire patrol vehicles equipped with a minimum of 200 gallons of water. In addition, many of the parks store water for fire-fighting purposes.
- Patrol their parklands and the Mulholland Scenic Corridor with fire-equipped vehicles.
- House a remote automated weather service (RAS) station for the Los Angeles County Fire Department at Ed Edelman Park in Topanga Canyon.
- Provide helicopter landing zones on their property for Ventura County Fire Department, Los Angeles County Fire Department, and Los Angeles City Fire Department helicopters.

2.10 Inadequate Fire Access

The only vehicular access to the SMMC Ramirez Canyon property is by Ramirez Canyon Road. Access to this road from Pacific Coast Highway (PCH) southbound is via a locked gate and concrete box tunnel (Photo 1) under PCH that is approximately 10 feet wide. Access from southbound and northbound PCH is also via Winding Way and Delaplane. Winding Way and the first about 525 feet of Delaplane (Photo 2) are 20-24 feet wide, but Delaplane rapidly narrows to about 14 feet and passes through a gate that is 16

feet wide (Photo 3). The gate is locked on weekends. Two speed bumps are present on Delaplane between the gate and Ramirez Canyon Road. Delaplane slopes steeply to Ramirez Canyon Road and has a closed canopy of trees over the road (Photo 4).

Ramirez Canyon Road is a private, rural, narrow roadway, with pavement that is generally 16 to 20 feet wide. The end of the road (i.e., at the SMMC property) is a loop so cars can turn around. At this turnaround loop, however, the pavement narrows to 13 feet (Photo 5). The road is approximately one mile long, with two speed bumps between PCH and the intersection with Delaplane and another nine speed bumps from Delaplane to the end of the road at the SMMC Ramirez Canyon property. The road also has two Arizona-type crossings of Ramirez Creek between PCH and Delaplane and two more from there to the end (Photo 6). Just south of the turnaround loop the road crosses Ramirez Creek via a narrow wooden bridge (11 feet 8 inches drivable width) (Photo 7). Parked cars as well as trash/recycle/green waste bins also restrict the usable the roadway width at times (Photo 8).

2.11 Alternative Access

Alternative access to the SMMC Ramirez Canyon property (via Kanan Dume Road) would provide dedicated access to the SMMC Ramirez Canyon property, and Ramirez Canyon Road should then become an alternative emergency access route. An existing 30-foot dirt road is present from the SMMC Ramirez Canyon property westward across parcel APN 4467-002-068 . That road ends near the northern boundary of the parcel just south of the National Park Service (NPS) property. A 13-foot dirt road extends westward from the 30-foot dirt road along the northern boundaries of APN's 4467-002-068, 4467-002-067, and 4467-002-066 to the western boundary of the latter parcel, which is adjacent to property currently being sold by Los Angeles County to MRCA. This property is contiguous to Kanan Dume Road. This dirt road has been cleared in the past, but native coastal sage scrub vegetation has completely grown over about 700 feet of the eastern portion (Photo 9). Approximately 450 feet of the dirt road to the west has scattered native plants such as giant wild rye and purple sage as well as non-native species such as mustards within the previously cleared area that is about 12 feet wide (Photo 10). The density of native plants is low compared to that of undisturbed adjacent habitat. Continuing westward, the cleared track extends another 245 feet (Photo 11). The distance from the end of the cleared track to an existing short access track (Photo 12) from Kanan Dume Road (going around the edge of parcel APN 4467-002-066), that is not currently cleared, is 385 feet. However, the western portion of this area is dominated by coyote brush, a native species that colonized disturbed areas (Photos 13 and 14) and the eastern part is coastal sage scrub (Photo 15).

In addition, two tracks have been recently cleared down the ridgeline along and near the property line between parcels 4467-002-068 and 4467-002-067 to the end of Ramirez Canyon Road, in the area of the 13-foot dirt road (Photos 16 and 17). These tracks are approximately 6 to 10 feet wide and are dominated by non-native mustard (Photo 18). The adjacent vegetation is coastal sage scrub that is dominated by purple sage, California sagebrush, and giant wild rye.

Construction of a new road from Kanan Dume Road to the SMMC Ramirez Canyon property would affect coastal sage scrub in an area that has been previously disturbed so that less of this plant community would be affected than if the road were placed through undisturbed coastal sage scrub. This plant community is designated ESHA within the coastal zone as described above.

Although such a road appears to be feasible, a number of issues would need to be resolved before it could be built. These include:

1. Property would need to be purchased or an easement obtained for the road.

2. A water line pump station proposed for bringing water from Ramirez Canyon Road to the building sites on the Lauber property may be located within the existing dirt road.
3. Engineering feasibility of the road, including potential geologic constraints.
4. Permitting for a road through ESHA.

2.12 Summary

Weather, climate, topography, and fuels all influence the frequency and severity of fires. The SMMC Ramirez Canyon property and Escondido Canyon, Corral Canyon, and Charmlee parks are all located in a Very High Fire Hazard Severity Zone. Overnight camping, and particularly trail camps, should not be allowed on any of the properties due to the fire risk. Only one substandard private road provides access to SMMC Ramirez Canyon property. If any intensified use of the Ramirez property is to occur, an alternative access road should be constructed westward from the property to Kanan Dume Road.

This page intentionally left blank.

3.0 Environmentally Sensitive Habitat Areas (ESHA)

3.1 Introduction

The habitat of Ramirez Canyon consists mostly of native vegetation on the slopes, primarily coastal sage scrub and chaparral, and tree-dominated habitats along the creek channel (Dudek 2007). Natural habitats in the Santa Monica Mountains, particularly coastal sage scrub, chaparral, and riparian areas is defined as ESHA by the California Coastal Commission (Dixon 2003).

The basic purpose of the Coastal Act is to protect natural resources, enhance, and restore natural resources where feasible, and provide for public access and public recreation. However, public access and recreation must be balanced with sound resource conservation (section 30001.5). The Coastal Act (section 30240) prohibits development in ESHA, except where the development is dependent on the resources that make up the ESHA. The Bolsa Chica decision (Bolsa Chica Land Trust v. Superior Court 71 Cal. Ap.4th 493, 507) confirmed that the Coastal Act requires that ESHA be avoided and buffered from development impacts and that providing mitigation is not sufficient justification for allowing development with avoidable impacts to ESHA.

The Coastal Act (section 30212.5) states that "public recreation facilities shall be distributed throughout an area so as to mitigate impacts, social and otherwise, of overcrowding or overuse of any single area." However, this is preceded by "wherever appropriate and feasible." The Coastal Act (section 30250) states that "new residential, commercial, or industrial development, ... shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources."

The City of Malibu Local Coastal Plan (LCP) states that natural vegetation buffers are required to protect the ESHA resources from being degraded, and this element specifically applies to fire clearance. Where new development will occur, the following additional requirements apply:

1. New development is to be sited and designed to minimize impacts to ESHA by minimizing grading, limiting the removal of natural vegetation.
2. Grading during the rainy season is prohibited.
3. Graded and other disturbed areas must be landscaped or revegetated with primarily native, drought resistant plants at the completion of grading.
4. Measures to restore disturbed or degraded habitat on the project site shall be included as mitigation, if feasible.
5. Fencing must be limited, and in or adjacent to ESHA, must be sited and designed to allow wildlife to pass through.
6. Exterior lighting must be limited in intensity and shielded to minimize impacts on wildlife.
7. New development must be sited and designed to minimize required fuel modification.

The City of Malibu LCP further states that while public recreation, including relatively low cost accommodations are encouraged, they must be sited to minimize impacts to ESHA and visual resources in addition to being designed to meet fire safety standards.

3.2 ESHA in the SMMC Ramirez Canyon Property

The SMMC properties subject to the Plan are within ESHA as designated in the Malibu LCP. Therefore, the above requirements would apply to further developments on these properties, including the areas proposed as part of the development planned for the SMMC Rameriz Canyon property for accessible overnight camping activities, tours, gatherings, trail camps, special events, and offices. None of these activities are allowed in ESHA. The proximity of some residential structures to flammable vegetation has resulted in extensive clearing to reduce fire risk, some of which removed coastal scrub ESHA. In addition, fire protection clearing results in degradation of the habitat by opening up areas to weed infestation and erosion.

The development planned for the SMMC Ramirez Canyon property would result in several potential impacts related to increased human presence for camping and special event activities that could further degrade the ESHA. Possible impacts include: degradation/removal of ESHA to construct camp grounds and fire clearance areas around them, increased fire risk, increased presence of non-native animals, the potential to introduce and/or spread infestations of non-native invasive species, increased night lighting, presence of pets that could injure wildlife, erosion along trails and in sloped areas, and trash blowing from camping and day use areas into adjacent natural habitat. These impacts are discussed in more detail below.

The increased human presence on site would increase the presence of propagules (e.g., seeds) of non-native invasive species. Propagules of non-native plants can be imported onto the site on spread within the site (along trails and roads) on a person's boots, clothing, backpack, pets (primarily dogs), car tires, or the undercarriage of a car. As non-native invasive species spread along trail corridors, they establish footholds that allow them to spread into the native scrub when openings appear, such as shortly after fire or erosion along trails. Hence, an active and adaptive weed management plan should be integrated into the project design. The weed management plan should address weedy species that are currently present on site (to prevent them from spreading), monitoring of the project site for new weed infestations, and an aggressive treatment and removal program for the life of the project.

The construction of proposed trails could lead to erosion either along trails or leading downslope from them particularly on steep slopes. Erosion could lead to losses of surface material (topsoil), increases in weed infestations, and sedimentation of the creek. These risks should be controlled by establishing a fully-funded trail inspection and maintenance program.

Litter and trash from camping and day use areas would be expected to periodically blow into adjacent habitats. This could result in visual impacts, nuisance, and mortality or stress to animals that ingest or become entangled the refuse. This risk should be minimized by having a trash removal program that would remove all wind blown trash from the camping and day use areas on a regular basis.

4.0 Stream ESHA

As noted in Section 3.0, natural habitats along streams (termed riparian areas) are considered ESHA. Riparian habitats consist of coast live oak-dominated areas and sycamore-willow woodlands, focused along the creek channel and floodplain (LSA Associates, Inc 2002). The natural plant communities in the developed portion of the canyon, concentrated along the floodplain area of the property, have been degraded. This area contains mostly non-native vegetation that has been planted or naturalized in the area. The condition of the riparian habitat, particularly on the east side of the creek in the lower reaches of the property, have been degraded by residential development and associated landscaping within the riparian zone starting in 1953 (LSA Associates, Inc 2002).

Proposed development and use of existing facilities in the SMMC Ramirez Canyon property include construction of bridges or low water creek crossings and removal or pruning of native vegetation along the creek. Existing bridges and low water crossings, as applicable, may need to be improved, widened, and/or replaced for access and to provide adequate escape routes in the event of a fire or other emergency. Work in the creek bed could result in degredation of waters of the U.S. and wetlands, removal of riparian and/or wetland vegetation, sedimentation of downstream aquatic habitats, and mortality or stress to aquatic wildlife.

The increased human presence resulting from the project could result in impacts to the riparian habitat. Nighttime lighting in the canyon, and particularly in or adjacent to the riparian corridor, would increase as campers light their surroundings. This could interfere with movement of wildlife that use riparian corridors at night. Noise associated with the campers could also interfere with wildlife movement at night as well as in the daytime, thereby reducing the quality of the habitat for these animals or the quantity of the habitat if the animals avoid use of the area once camping begins. Human presence would likely attract non-native species and well as some native species that are adapted to human activities (e.g., English sparrow, American crow). An increase in these species could displace native species present before the camps were developed.

Establishing new campgrounds would lead to an increase in the presence of pets on site. This could potentially impact wildlife by 1) direct mortality when pets capture or harass wildlife, or 2) by causing animals to leave the area due to harassment.

As described in Section 3.2, erosion from trails in upland areas could affect creek habitats, and trash from camping and day use areas could blow into the riparian corridor.

Under Section 404 of the Clean Water Act (CWA), the U.S. Army Corps of Engineers has jurisdiction over activities within the ordinary high water mark of streams; the Regional Water Quality Control Board has jurisdiction under Section 401 of the CWA. Under Section 1600 of the Fish and Game Code the California Department of Fish and Game has jurisdiction over developments that could affect the bed and banks of a stream and its associated riparian corridor. Developments (including repairs and habitat enhancement) within their jurisdiction require a Streambed Alteration Agreement. Typical conditions of such a permit are:

Native Vegetation Protection

- Restoration shall include the revegetation of stripped or exposed work and/or mitigation areas with vegetation **native** to the area.
- No **native** vegetation with a diameter at breast height (DBH) in excess of **3** inches shall be removed or damaged without prior consultation and approval of a Department representative.

- In **areas of temporary disturbance**, where vegetation must be removed, native trees and shrubs with DBHs of **3** inches or less shall be cut to ground level with hand operated power tools rather than by grading.
- Vegetation removed from the stream shall not be stockpiled in the stream bed or on its bank. The sites selected on which to push this material out of the stream should be selected in compliance with the other provisions of this Agreement. Where possible, brush piles shall be left outside the channel in upland areas to provide wildlife habitat.
- No living native vegetation shall be removed from the channel, bed, or banks of the stream, except as otherwise provided for in this agreement.
- No equipment shall be operated or parked within the dripline of oaks. Protective fencing shall be placed outside the dripline of oaks to prevent compaction of the root zone.
- Any oaks, California black walnuts, and sycamores that are damaged or removed during construction operations shall be replaced in kind at a 10:1 ratio. Valley oaks shall be replaced in kind at a 15:1 ratio. Elderberry, cottonwood, and willows shall be replaced at 5:1.

Removing Non-native Vegetation

- The Operator shall remove any non-native vegetation (tree tobacco, castor bean, giant cane, etc.) from the work area and shall dispose of it in a manner and a location that prevent its reestablishment. Removal shall be done at least twice annually during the spring/summer season, as needed, through the term of restoration.
- Giant Cane, if present, shall be cut to a height of 6 inches or less, and the stumps painted with an herbicide approved for aquatic use within 5 minutes of cutting. Herbicides shall be applied at least three times during the period from May 1 to October 1 to eradicate these plants. Where proposed methods for removing giant cane deviate from this procedure, the Operator shall present the alternate methods, in writing, to the Department for review and approval, prior to construction.
- Whenever possible, invasive species shall be removed by hand or by hand-operated power tools rather than by chemical means. Where control of non-native vegetation is required within the bed, bank, or channel of the stream, the use of herbicides is necessary, and there is a possibility that the herbicides could come into contact with water, the Operator shall employ only those herbicides, such as Rodeo/Aqua-Master (Glyphosate), that are approved for aquatic use. If surfactants are required, they shall be restricted to non-ionic chemicals, such as Agri-Dex, that are approved for aquatic use.
- The Operator shall apply any herbicides in accordance with state and federal law. No herbicides shall be used where Threatened or Endangered species occur. No herbicides shall be used when wind velocities are above 5 miles per hour.
- No herbicides shall be used on native vegetation unless specifically authorized, in writing, by the Department.
- Staging/storage areas for equipment and materials shall be located outside of the stream/lake.

Project Conditions

- The Operator shall only use unconcreted rock rip-rap.
- Bottoms of temporary culverts shall be placed at or below stream channel grade. Bottoms of permanent culverts shall be placed below stream channel grade deep enough so that sediments

accumulate at the bottom to mimic a natural bottom. **If any structure is cast in place, the area poured shall be completely bermed and isolated to contain all and any wet cement, even if water is not present. The pH of hot concrete may be as high as 13, a level that is toxic to wildlife.**

- Storm drain lines/culverts shall be adequately sized to carry peak storm flows for the drainage to a single outfall structure. The storm drain lines/culverts and the outfall structure shall be properly aligned within the stream and otherwise engineered, installed and maintained, to assure resistance to washout. They will also be resistant to erosion of the stream bed, stream banks and/or fill. To reduce erosion, water velocity shall be dissipated at the outfall.
- An oil/water/trash separation and removal system shall be installed at all storm drains and street runoff structures prior to the water flowing into the creek channel. This system shall function as designed and shall be maintained on a regular basis by the landowner(s).

Cleanup

- Structures and associated materials not designed to withstand high water flows shall be moved to areas above high water before such flows occur.
- Any materials placed in seasonally dry portions of a stream or lake that could be washed downstream or could be deleterious to aquatic life shall be removed from the project site prior to inundation by high flows.
- Areas of disturbed soils with slopes toward a stream or lake shall be stabilized to reduce erosion potential. Planting, seeding, and mulching is conditionally acceptable. Where suitable vegetation cannot reasonably be expected to become established, non-erodible materials, such as coconut fiber matting, shall be used for such stabilization. Any installation of non-erodible materials not described in the original project description shall be coordinated with the Department. Coordination may include the negotiation of additional Agreement provisions for this activity.
- If vacuum trucks or pumps are used to clean up any contamination, or for any other use, the vacuum hose shall be placed in a 3- to 4-square foot area and protected on all sides by exclusionary fencing to lower velocities and prevent the uptake of any aquatic life.

Pollution, Sedimentation, and Litter

- No debris, soil, silt, sand, bark, slash, sawdust, rubbish, construction waste, cement or concrete or washings thereof, oil or petroleum products or other organic or earthen material from any logging, construction, or associated activity of whatever nature shall be allowed to enter into or be placed where it may be washed by rainfall or runoff into, waters of the State. When operations are completed, any excess materials or debris shall be removed from the work area. No rubbish shall be deposited within 150 feet of the high water mark of any stream or lake. Fish and Game Code Sections 5650 and 5652 prohibit any waste from being deposited within 150 feet of any waters of the State, at any time, even after this Agreement has expired.
- No concrete or concrete type material shall be poured for any structure if rain is forecasted within 15 days.
- The Operator shall comply with all litter and pollution laws. All contractors, subcontractors, and employees shall obey these laws and it shall be the responsibility of the Operator to ensure compliance.
- The Operator shall mark, sign, or stencil all storm drains warning that dumping is illegal and that all storm drains drain to creeks, rivers or the ocean.

- Any equipment or vehicles driven and/or operated within or adjacent to the stream or lake shall be checked and maintained daily to prevent leaks of materials that, if introduced to water, could be deleterious to aquatic life.
- Stationary equipment such as motors, pumps, generators, and welders, located within or adjacent to the stream/lake shall be positioned over drip pans.
- No equipment maintenance shall be done within or near any stream channel or lake margin where petroleum products or other pollutants from the equipment may enter these areas under any flow.
- The clean-up of all spills shall begin immediately. The Department shall be notified immediately by the Operator of any spills and shall be consulted regarding cleanup procedures.
- Raw cement/concrete or washings thereof, asphalt, paint, construction waste, or other coating material, oil or other petroleum products, or any other substances which could be hazardous to aquatic life, resulting from project related activities, shall be prevented from contaminating the soil and/or entering the waters of the State. Any of these materials, placed within or where they may enter a stream or lake, by the Operator or any party working under contract, or with the permission of the Operator, shall be removed immediately.
- Equipment shall not be operated in wetted areas (including but not limited to ponded, flowing, or wetland areas) without the prior written approval of the Department.
- No equipment shall be operated within the stream.
- Precautions to minimize turbidity/siltation shall be taken into account during project planning and shall be installed **prior** to construction. This shall require that the worksite be isolated and that water be diverted around the work area by means of a barrier, temporary culvert, new channel, or other means approved by the Department. **A row of straw bales or silt fencing shall be placed across the channel, prior to, and immediately downstream of, any work done within the creek.** Precautions shall also include placement of silt fencing, straw bales, sand bags, and/or the construction of silt catchment basins, so that silt, or other deleterious materials are not allowed to pass to downstream reaches. The method used to prevent siltation shall be monitored and cleaned/repaired weekly. The placement of any structure or materials in the stream for this purpose, not included in the original project description, or Department approved water pollution/water diversion plan shall be coordinated with the Department. Coordination shall include the negotiation of additional Agreement provisions.
- Silty/turbid water from dewatering or other activities shall not be discharged into the stream. Such water shall be settled, filtered, or otherwise treated prior to discharge. The Operator's ability to minimize turbidity/siltation shall be the subject of pre-construction planning and feature implementation.
- Water containing mud, silt, or other pollutants from equipment washing or other activities, shall not be allowed to enter a lake or flowing stream or placed in locations that may be subjected to high storm flows.
- Rock, gravel, and/or other materials shall not be imported to, taken from, or moved within the bed or banks of the stream, except as otherwise addressed in this Agreement. Water shall not be pumped from the channel and used for dust control or any other use in the project.

Protection For Wildlife and Aquatic Species

- The Operator shall not remove or otherwise disturb vegetation or conduct any other project activities on the project site from **March 1 to September 15** to avoid impacts to breeding/nesting birds. OR, Prior to construction or site preparation activities, the Operator shall have a qualified

biologist survey all breeding/nesting habitat within the project site and adjacent to the project site for breeding/nesting birds. If listed species are present, surveys shall begin no later than June 1. Surveys shall be conducted every 7 days for 8 consecutive weeks until at least July 1. Documentation of findings, including a negative finding must be submitted to the Department for review and concurrence. If no breeding/nesting birds are observed and concurrence has been received from the Department, site preparation and construction activities may begin. If breeding activities and/or an active bird nest is located and concurrence has been received from the Department, the breeding habitat/nest site shall be fenced a minimum of 300 feet (500 feet for raptors) in all directions, and this area shall not be disturbed until the nest becomes inactive, the young have fledged, the young are no longer being fed by the parents, the young have left the area, and the young will no longer be impacted by the project.

- If threatened or endangered species are observed in the area, no work shall occur during the breeding season (March 1 through September 15) to avoid direct or indirect (noise) take of listed species and State and/or Federal threatened/endangered species permits may be required prior to commencing project activities. This Agreement does not authorize take of species listed as Threatened and/or Endangered.
- Be advised, migratory nongame native bird species are protected by international treaty under the Federal Migratory Bird Treaty Act (MBTA) of 1918 (50 C.F.R. Section 10.13). Sections 3503, 3503.5 and 3513 of the California Fish and Game Code prohibit take of all birds and their active nests including raptors and other migratory nongame birds (as listed under the Federal MBTA). This Agreement does not allow the Operator, any employees, or agents to destroy or disturb any active bird nest (Section 3503 Fish and Game Code) or any raptor nest (Section 3503.5) at any time of the year.
- The Operator's activities within the stream course shall be limited to the dry period of the year from May 1 to December 1 **and** when the stream is not actively flowing and no measurable rain is forecasted within 72 hours. If measurable rain is predicted within 72 hours during construction, all activities shall cease for the season, and protective measures to prevent siltation/erosion shall be implemented/maintained.
- If Least Bell's Vireo (LBV), willow flycatcher, red-legged frog, steelhead, tiger salamander, Lyon's pentachaeta, southwestern pond turtle, CA horned lizard, or any other T/E species or species of concern, are found within 500 feet of the work area, the Operator shall contact the Department immediately of the sighting and shall request an onsite inspection by Department representatives (to be done at the discretion of the Department) to determine if work shall begin/proceed. If work is in progress when sightings are made, the Operator shall cease all work within 500 feet of the area in which the sighting(s) occurred and shall contact the Department immediately, to determine if work shall recommence. Should these, or any other rare, threatened or endangered species, or species of concern, occur in the area, the Operator shall submit, for Department review and approval, a plan to ensure that no rare, threatened or endangered species are disturbed during project implementation. The plan shall be approved by the Department prior to initiation of any work.

Administrative

- The Operator shall provide a copy of these conditions, to all contractors, subcontractors, and the Operator's project supervisors. Copies of this Agreement and all required permits and supporting documents, shall be readily available at worksites at all times during periods of active work and must be presented to any Department personnel, or personnel from another agency upon demand. All contractors shall read and become familiar with the contents of this Agreement.

- A pre-construction meeting/briefing shall be held involving all the contractors and subcontractors, concerning the conditions in this Agreement.
- The Operator shall notify the Department, in writing, at least five (5) days prior to initiation of construction (project) activities and at least five (5) days prior to completion of construction (project) activities. Notification shall be sent to the Department at 4949 Viewridge Avenue, San Diego 92123, Attn: ES. FAX Number (858) 467-4299.
- The Operator herein grants to Department employees and/or their consultants (accompanied by a Department employee) the right to enter the project site at any time, to ensure compliance with the terms and conditions of this Agreement and/or to determine the impacts of the project on wildlife and aquatic resources and/or their habitats.

5.0 Water Quality

In addition to the requirements of PRC 30231, the Plan area includes an Area of Special Biological Significance (ASBS). The State has implemented policies and procedures to protect the water quality in ASBS. Also, the Malibu LCP mandates protection and enhancement of water quality. Thus, requirements and expectations that proposed projects would enhance rather than impact water quality already exists.

The description of the Access Enhancement Plan provided at the SMMC website (http://smmc.ca.gov/) acknowledges that the project would involve hydromodification. The SMMC's document "Planning Considerations and Constraints" (4/14/08, posted on their website http://mrca.ca.gov/pwp.html) claims the "overlay includes water quality policies that reflect water quality protection provisions of the LCP specifically applicable to the proposed trail and park improvements." Regardless, the Plan proposed by the SMMC and MRCA has the potential to impact the quality of local surface waters and marine waters due to the following:

- Increased turbidity levels and siltation in creeks from erosion of soils from grading, vegetation removal, car traffic, hiking, and horseback riding;
- Increased bacterial and nutrient levels in creeks from runoff carrying horse manure and leaching or runoff from poorly-maintained restrooms;
- Modified flows in creeks causing stream channel scour and erosion due to increased flows related to impermeable surfaces;
- Higher property visitation is likely to contribute to higher trash and debris loadings to the creeks, as well as coastal waters that receive the creek drainage;
- Earthmoving equipment is a potential source for petroleum spills which, if not contained and cleaned up, could be carried by stormwater runoff into creeks and the ocean;
- Increased bacterial loadings in creeks would contribute to higher bacterial levels in shoreline areas adjacent to the mouths of coastal creeks;
- It is not possible to classify the significance of potential water quality impacts associated with the Plan without more information on the project components and plans for incorporating mitigation measures and BMPs (http://mrca.ca.gov/pwp.html). Assuming that appropriate BMPs are incorporated and adequately maintained, it is unlikely that the proposed project would have significant direct impacts on surface or marine water quality;
- However, it could be argued that the project would lead to significant indirect and/or cumulative impacts. If, for example, the proposed project contributes to increased risk of fires, it is likely that the loss of vegetative cover in the watershed would result in greater potentials for erosion of soils into the creek, which would cause siltation in the creeks, as well as temporary accumulation of creek sediments in the nearshore zones of local beaches. Subsequent runoff also could transport fire retardant chemicals into the creek and eventually to the ocean, which would have implications for the toxicity of the runoff to organisms in the receiving waters.

The nearshore waters of the Malibu shoreline area of Santa Monica Bay consistently contain bacterial levels that exceed the AB411 guidelines (minimum microbiological contaminant standards for protection of public health). (AB411 requires testing of waters adjacent to public beaches and public notification of health hazards.) Beaches near the mouths of Escondido and Ramirez Creeks have had elevated levels of indicator bacteria during three of the past four years. Various studies to identify and assess the possible source(s) of the bacteria have been conducted or planned. For example, the County of Los Angeles

Department of Public Works (2007) authorized a study for evaluating bacterial sources in the Ramirez and Escondido Creeks watersheds. The study would be performed by the Southern California Coastal Water Research Project (SCCWRP). According to the SCCWRP website (www.sccwrp.org/view.php?id=406), the study is scheduled to be completed in 2009. The City of Malibu initiated a Clean Water Program in 2001 that has provided $35 million in funding for a variety of strategic action plans to improve water quality at city beaches. As part of this program, the City sponsored a study by URS Griener in 2000 to evaluate potential contributions from leaking septic systems (onsite wastewater treatment systems) to nearshore bacterial levels. The study concluded that local septic systems did not appear to be a primary source for bacteria (City of Malibu 2006).

The City of Malibu, along with EPA and the Regional Water Quality Control Board, believe that multiple sources, including urban runoff, wildlife, equestrian and domestic animals, and humans, contribute to the bacterial contamination of local beaches (City of Malibu 2006). The total maximum daily load (TMDL) for bacteria at Santa Monica Bay Beaches, adopted by EPA and the RWQCB, identified urban runoff as a primary source of bacterial contamination of beaches, whereas contributions from septic systems were not considered a significant source.

A Bacterial TMDL Implementation Plan was developed for the City of Malibu and County of Los Angeles. The Implementation Plan contains measures for reducing the sources of bacterial contamination to local beaches. The City of Malibu authorized construction of a stormwater treatment facility at Paradise Cove (Council Agenda Report, 4/26/07). The new treatment facility is intended to provide a permanent system that would replace the existing "experimental" facility that utilizes rented equipment and has limited capacity. The City believes that a properly designed and sized facility will improve the quality of dry weather and first flush flows from the Ramirez Watershed into the ocean. As part of the professional services agreement with the design contractor, the City is requiring the contractor to collect and analyze available data on Solstice Creek flows, tides, rainfall amounts, treated effluent quality, and Creek water quality. The contractor is also responsible for calculating average dry weather flows and estimate first flush flow rates. Also, as part of the Malibu Civic Center Integrated Water Quality Management Plan, the City has acquired land for stormwater detention and treatment wetlands to filter and disinfect flows from three storm drain systems that reach Malibu Creek and Lagoon.

So, it could be argued, the area of the proposed project has an existing condition of poor water quality, related primarily to elevated bacterial levels in coastal waters. The City of Malibu, along with the County of Los Angeles and other state and federal agencies, has recognized the problem, prepared a TMDL, and authorized funding for infrastructure improvements to address the issue. Thus, the project proposed by the SMMC and MRCA, if not carefully implemented, maintained, and monitored, could exacerbate existing conditions, undermine ongoing efforts to improve water quality conditions in the area, and be inconsistent with the LCP and with protection afforded to the ASBS.

6.0 Traffic

The following are comments/comparisons of SMMC related traffic studies.

6.1 Studies Reviewed

- Crain - Trip Generation Estate Homes Study (1999)
- Crain - Traffic Analysis for Streisand Center Conversion (1999)
- Crain - SMMC Traffic/Parking Analysis (2006)
- ATE - SMMC Traffic/Parking Analysis & Appendix (2008)

6.2 Initial Comments/Comparisons of Studies

6.2.1 Summary of Studies

Crain Trip Generation Estate Homes Study (1999). A "baseline" trip generation for the SMMC Ramirez property was established assuming six "estate homes" and using the estate home trip rate of 76 per weekday and 80 per weekend day.

Crain SMMC Traffic/Parking Analysis (2006). Project impacts were analyzed based on acreage for a Regional Park land use from the ITE 7th Edition and San Diego Traffic Generators manual. Average Daily Trip (ADT) volume data were collected for Winding Way east of Porterdale Drive and for Kanan Dume Road north of Cavalleris Road. An appendix summary of a trip management plan for SMMC activities was included.

ATE SMMC Traffic/Parking Analysis & Appendix (2008). Project impacts were analyzed based on available/provided parking spaces from the San Diego Traffic Generators manual. The baseline number of vehicle trips for the Ramirez property was based on the *Crain Trip Generation Estate Homes Study* (1999). ADT volume data were collected during a peak summer month (i.e., the time of highest beach traffic) at the two gates into Ramirez Canyon, one on Ramirez Canyon Road on the south side of Pacific Coast Highway (PCH) and the other on Delaplane Road north of PCH.

6.2.2 Comparison of Studies

In the SMMC traffic impact analyses, the proposed uses of the Ramirez property are consistently compared against a "baseline" land use of six "estate homes." However, according to information obtained from longtime residents of the area, the historical use of the property was as a single estate used for vacations and occasional weekends. There have never been six "estate homes" on the property. At most, the property has been operated as a multi-purpose facility, which would have a different trip generation. Furthermore, there is no evidence in the SMMC submittals that six legal parcels are present on the SMMC Ramirez Canyon property that can be separately developed with single family homes and sold as such. Therefore, using this theoretical but non-existent land use as a "baseline" for traffic generation purposes is not appropriate or consistent with standard traffic engineering practices. In addition, the Crain study uses an "inflator" for the traffic generation factor, without explaining the factual basis for doing so. In fact, the SMMC property was historically used less frequently than the typical single family house, and is in a neighborhood with other homes that serve as weekend or vacation homes. Thus, instead of using an "inflator," Crain should have used a "deflator" for trip generation purposes. Had Crain done so, the number of trips generated by 6 single family homes would have been less than 58.

The two most recent studies offered by the SMMC (Crain 2006, ATE 2008) project the number of traffic trips generated by the proposed uses of the Ramirez property based on the number of proposed parking spaces. The resultant trip generation is compared against the "baseline" number of trips (described above) to determine whether the proposed project exceeds that baseline and would therefore have impacts on the residents along Ramirez Canyon Road. This analysis is fundamentally flawed since 1) the baseline is inappropriate for the reasons explained above, and 2) each parking space may be used multiple times during a day and parking on the SMMC Ramirez property may occur in parking spaces or on other portions of the property. **These two studies also analyze the traffic impacts of the proposed use of the SMMC Ramirez property assuming the existence of a 2-lane undivided roadway.** However, neither study takes into account the effect/impact of the unique characteristics of Ramirez Canyon Road (i.e., the roadway narrows to one lane in a number of locations, lack of curbs/gutters, the one-lane tunnel which is the only way to leave the Canyon heading east on PCH, roadside parking, etc.), all of which affect the capacity of the roadway to handle the traffic load. Both of the most recent studies imply a 'zero' increase to traffic on Ramirez Canyon Road from the proposed project (no analysis section is provided in the 2006 Crain study, but a conclusory statement indicates the project will comply with the existing trip limitations). This conclusion appears unsupported by the data.

Based on the methodology used in the *ATE SMMC Traffic/Parking Analysis* (parking spaces), we conclude that the number of trips generated from the proposed uses of the Ramirez property would be **much higher** than the trips generated prior to the SMMC's use of the property, and higher than the "80 trip" baseline used in the analyses.

In addition, the 2006 Crain study set forth a calculation of vehicle trips based on the number of acres of a proposed park site. Applying that methodology to the SMMC Ramirez Canyon property, a "park" use generates 9-14 trips (weekdays), 13-16 trips (Saturdays), and 24 trips (Sundays).

6.3 Additional Questions

- Will alternate vehicular access routes be constructed?
- Why does the *ATE SMMC Traffic/Parking Analysis* conclude these roadways operate at LOS A:
  - Kanan Dume Road north of Cavalleri Road
  - Ramirez Canyon south of entrance gate
  - Delaplane Road south of entrance gate

  while the *Crain SMMC Traffic/Parking Analysis* (2006), concludes that Winding Way east of Porterdale Drive operates at LOS F?
- Why are the ADT volumes for Winding Way in the *Crain SMMC Traffic/Parking Analysis* (2006) the same as the ADT volumes shown in the *ATE SMMC Traffic/Parking Analysis* (2008) for Kanan Dume Road north of Cavalleri Road?

6.4 Alternative Land Use

If the six parcels within the SMMC Ramirez Canyon property were sold and developed as individual home sites, the traffic generated would be 58 per weekday and 61 per weekend day. This is less than the 76 per weekday and 80 per weekend day in the *Crain Trip Generation Estate Homes Study* (1999). Fewer trips were calculated for the residential use because the "adjustment" factors of 2.90 for weekday and 3.06 for weekend trips based on Federal Highway Administration criteria were not included. These factors were used in the 1999 Crain study and justified based on house size, price, and demographics.

7.0 Noise

7.1 Effects of SMMC Ramirez Canyon Property Traffic Noise

Noise resulting from vehicular traffic along access roads serving the SMMC Ramirez Canyon property could cause a substantial increase in noise at residences located along the access Ramirez Canyon Road resulting in a significant environmental impact upon area residents at the northern end of Ramirez Canyon Road. Given the topographical conditions and the relationships between the receiving properties and the roadways, there may not be any reasonable or feasible measures to mitigate such an impact.

The only access to the site is via Ramirez Canyon Road. Residences adjoin this rural, low volume roadway. The primary source of noise affecting this area is vehicular traffic on Pacific Coast Highway. Residences along Ramirez Canyon Road are located up to approximately 4,500 feet from PCH. The Noise Element of the Malibu General Plan provides information on noise level from the Pacific Coast Highway. Table 6-2 of that plan shows that the Community Noise Equivalent Level (CNEL) is about 55 dB at distances of 550-600 feet from the roadway. By extrapolating to a distance of 4,500 feet, using standard traffic noise modeling methods, the noise level from PCH traffic is calculated to be about 40 dB CNEL or less, which is a very quiet setting.

Vehicular traffic associated with the proposed uses of the SMMC Ramirez Canyon property would cause a significant noise impact 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. SMMC projects that daily traffic will be 80 trips per day. Hourly average noise levels throughout the day could reach about 40 dBA L_{eq} 50 feet from the roadway. Each individual car would probably be noticeable. SMMC states that special event patrons would use 15-passenger vans. Up to 200 people are expected at special events, necessitating about 15 one-way trips, assuming 90 percent occupancy in the vans. Peak hour average traffic noise resulting from the vans is calculated to be 54 dBA L_{eq} 50 feet from the roadway. This could be up to 10-15 dBA above existing levels causing a substantial increase in noise resulting in a significant noise impact in this quiet rural area. This is not consistent with Noise Policy 1.1.1 of the *Malibu General Plan* that states, "The City shall protect residences, parks, and recreational areas from excessive noise to permit the enjoyment of activities." Furthermore, Noise Implementation Measure 6 states the following, "Require an acoustical analysis as part of proposed development to ensure that noise mitigation is included in the project where activities associated with proposed uses are likely to produce noise levels exceeding the adopted city noise level standards [50 dBA CNEL], at existing or planned noise sensitive uses, including but not limited to, residences, schools, hospitals, long-term in-patient medical treatment and care facilities, churches, and libraries."

7.2 Effects of SMMC Ramirez Canyon Property Use Noise

Activities and events on the property would generate noise levels that would substantially exceed existing ambient noise levels and the "maximum exterior noise limits non-transportation sources" set forth in the Malibu General Plan.

The SMMC proposal provides insufficient information to conduct a thorough and quantitative analysis of community noise that could result from activities and events on the property. The numbers of people participating in such activities and events and the presence or absence of sound amplification equipment need to be clarified. Property infrastructure is clustered in the southern portion of the property in areas near the Art Deco House and the Barwood House near existing residents. The Art Deco House is located approximately 260 feet to the nearest residential property line and 450 feet to the nearest residence. The

Barwood House is located approximately 450 feet from the nearest residential property line and 530 feet to the nearest residence.

The level of amplified music varies depending upon the event. Concerts would be expected to generate the highest noise levels. Other events, such as weddings or receptions, would generate lower noise levels depending upon whether amplified or un-amplified music, live bands, or pre-recorded music was played. Sound levels from this wide range of events would be expected to range from 75 dBA to 95 dBA at a distance of 50 feet from the source of the music. At the nearest residences, noise levels would be reduced about 20 dBA from this range as a result of the intervening distance. The level of noise from music could, therefore, be expected to range from about 55 to 75 dBA at the nearest neighboring properties. Table 6-4 of the Noise Element of the General Plan sets maximum exterior levels for non-transportation sources. The noise limits are 55 dBA L_{eq} and 75 dBA L_{max} from 7:00 AM to 7:00 PM; 50 dBA L_{eq} and 60 dBA L_{max} from 7:00 PM to 10:00 PM; and 40 dBA L_{eq} and 55 dBA L_{max} from 10:00 PM to 7:00 AM. The noise level from music typically does not have a very large dynamic range with maximum levels only about 5 dBA above average levels. Average noise levels resulting from all sources of musical events could, therefore, exceed the day, evening, and night L_{eq} noise limits. The maximum intermittent noise level limits may also be exceeded by the louder musical events, such as concerts. Furthermore, as noted previously, existing ambient noise levels at residences in the area are expected to be quite low. Other possible noise sources resulting from activities on the property would include car stereos and boom boxes that are operated by campers, the sound of raised voices, and sounds from loud motorized vehicles such as motorcycles operating within the property. There is, therefore, the strong probability that the noise level from events on the property would substantially exceed local noise limits and existing ambient noise levels at the residences in the area, resulting in a significant noise impact upon area residents.

8.0 Alternatives

8.1 Alternative Locations

Alternative locations for events, accessible overnight camping, trail camps, and office space were evaluated. SMMC, MRCA, and Mountains Restoration Trust own 554 parcels within 20 miles of Ramirez Canyon, and SMMC and MRCA are part owners of the King Gillette Ranch, also within 20 miles of Ramirez Canyon. These parcels range in size from less than 0.1 acre to 634.3 acres. The 554 parcels were mapped (Figure 9), and a subset of 92 parcels located near roads (Figure 10) were mapped on aerial photographs. These parcels were assessed for vegetation (fire risk and ESHA issues), topography, public road access, presence of disturbed areas where parking, buildings, or camp sites could be constructed with minimal environmental damage, and proximity to urban or commercial areas for compatibility.

Direct access to a public road is available for 60 of the 92 parcels, although there may or may not be roads within the parcels themselves. Several have questionable road access that would need further investigation. Vegetation on the parcels is predominantly chaparral and/or coastal sage scrub (73 of 92 parcels). Oak woodland, grassland, riparian corridor, and disturbed (barren, landscaped, or agriculture) are also present on some parcels.

Table 5 summarized the information obtained from the aerial photographs as well as an assessment of suitability for office buildings, events, accessible overnight camps, and trail camps. Criteria used in this evaluation are:

1. Office Buildings. Existing buildings present on the parcel in or adjacent to a commercial area.
2. Special Events. Highly disturbed or other open areas with low fire risk and road access where events could be held in a park-like setting, but not in close proximity to residential areas.
3. Accessible Overnight Camps. Disturbed areas present with road access where such camp sites and parking could be built with minimal environmental damage and fire risk (i.e., open space with bare ground or grassland).
4. Trail Camps. Parcel is large enough for a trail and camps or contiguous with other open space for trails, and areas of grassland or oak savannah where camps could be placed without native brush clearing for fire safety.

King Gillette Ranch. The 588-acre King Gillette Ranch was purchased as parkland by a partnership of SMMC, MRCA, National Park Service, California State Parks, and several other state and local agencies (http://smmc.ca.gov/KGRP/guide.html, http://www.nps.gov/samo/planyourvisit/kinggilletteranch.htm). The most recent use of the property was as a private university. Suitability of the King Gillette Ranch for all four of the uses proposed at Ramirez Canyon was evaluated using information on these websites. Plans are being developed for use of the property, located 6.7 miles northeast of the SMMC Ramirez Canyon property, and a Draft Design Concept Plan has been written (October 2008 project description on the SMMC website). The primary management objectives include preservation, conservation, and restoration of habitats; protection of cultural resources; and provision of public access for nature education and recreation uses. Existing site improvements provide facilities for public access and recreation (e.g., parking, restrooms, picnic areas), public programs, and administration and management offices. A total of 21 structures with a combined 109,000 square feet of space are present and include dorm, classroom, administrative, maintenance, and parking facilities. All but two structures are proposed to be adaptively re-used.

Table 5. Alternatives Analysis Parcels

County	Parcel No.	Address	AIN	Owner	Size (acres)	Road Access?	Vegetation Type	Offices?	Special Events?	Overnight camps?	Trail Camps
Los Angeles	2052-009-900	Vacant Land or N/A	2052009900	MRCA	320.6	Y	CH/CSS/G/OW	N	N	?	?
Los Angeles	2052-013-902	Vacant Land or N/A	2052013902	MRCA	5.0	Y	CSS/G/RW	N?	N	?	N
Los Angeles	2057-015-902	Vacant Land or N/A	2057015902	MRCA	128.4	Y	CH/CSS/G/OW	N	N	?	?
Los Angeles	2058-010-906	Vacant Land or N/A	2058010906	Mountains Restoration Trust	11.3	Y	CH/RW	N	N	N	N
Los Angeles	2058-017-024	Vacant Land or N/A	2058017024	Mountains Restoration Trust	38.7	Y	CH/CSS	N	N	N	N
Los Angeles	2058-018-903	Vacant Land or N/A	2058018903	MRCA	10.1	Y(SR23)	CH/CSS/OW	N	N	N	N
Los Angeles	2059-025-907	Vacant Land or N/A	2059025907	MRCA	41.4	Y	CH/CSS/G	Y?	N	?	?
Los Angeles	2059-025-909	Vacant Land or N/A	2059025909	MRCA	17.8	Y(SR23)	CH/CSS	N	N	N	N
Los Angeles	2061-033-905	Vacant Land or N/A	2061033905	MRCA	116.5	Y	CH/CSS/G/RW	N	N	?	?
Los Angeles	2063-008-907	Vacant Land or N/A	2063008907	MRCA	106.7	Y	CH/CSS/G/OW	N?	N	?	?
Los Angeles	2064-006-900	Vacant Land or N/A	2064006900	SMMC	2.7	Y	CSS/G/RW	N	N	?	N
Los Angeles	2064-006-901	Vacant Land or N/A	2064006901	MRCA	0.2	?	RW/G	N	N	N	N
Los Angeles	2064-006-902	Vacant Land or N/A	2064006902	MRCA	0.2	?	D/G	N	N	N	N
Los Angeles	2064-006-903	Vacant Land or N/A	2064006903	MRCA	0.2	?	D/G	N	N	N	N
Los Angeles	2064-006-904	Vacant Land or N/A	2064006904	MRCA	0.2	Y	L/G	N	N	N	N
Los Angeles	2064-006-905	Vacant Land or N/A	2064006905	MRCA	0.2	Y	RW/G	N	N	N	N
Los Angeles	2064-006-906	Vacant Land or N/A	2064006906	MRCA	0.2	Y	RW/G	N	N	N	N
Los Angeles	2064-006-907	Vacant Land or N/A	2064006907	MRCA	0.9	Y	G	N?	N	N	N
Los Angeles	2069-010-900	Vacant Land or N/A	2069010900	Mountains Restoration Trust	14.4	Y?	G/CSS/OW	N	N	N	N
Los Angeles	2069-078-901	Vacant Land or N/A	2069078901	MRCA	214.4	Y?	G/CSS/OW/RW	N	N	N	?
Los Angeles	2069-078-902	Vacant Land or N/A	2069078902	MRCA	74.4	N	G/SS/OW	N	N	N	?
Los Angeles	2072-002-900	Vacant Land or N/A	2072002900	MRCA	0.9	Y	G/shrub or oak	N	N	N	N
Los Angeles	2072-018-900	Vacant Land or N/A	2072018900	SMMC	0.1	Y	CH	N	N	N	N
Los Angeles	2072-021-900	Vacant Land or N/A	2072021900	MRCA	1.1	Y	CH/D	N	N	N	N
Los Angeles	2072-021-901	Vacant Land or N/A	2072021901	MRCA	0.9	N	CH/D	N	N	N	N
Los Angeles	2072-022-900	Vacant Land or N/A	2072022900	MRCA	0.9	Y	CH/D	N	N	N	N
Los Angeles	2072-022-901	Vacant Land or N/A	2072022901	MRCA	1.1	N	CSS/CH	N	N	N	N
Los Angeles	2080-014-901	Vacant Land or N/A	2080014901	MRCA	56.3	Y	CSS/CH/OW	N	N	N	?
Los Angeles	2173-007-906	Vacant Land or N/A	2173007906	MRCA	62.6	Y?	CSS/OW/G/CH	N	N	N	?
Los Angeles	2177-031-901	Vacant Land or N/A	2177031901	MRCA	1.3	Y	CH	N	N	N	N
Los Angeles	2177-033-901	Vacant Land or N/A	2177033901	MRCA	299.4	Y	CH/G/CSS/OW/D	N	N	?	?

Table 5. Alternatives Analysis Parcels (continued)

County	Parcel No.	Address	AIN	Owner	Size (acres)	Road Access?	Vegetation Type	Offices?	Special Events?	Overnight camps?	Trail Camps?
Los Angeles	2177-033-906	Vacant Land or N/A	2177033906	MRCA	35.0	Y	CH/CSS/OWG/ RW	N	N	?	?
Los Angeles	2178-009-901	Vacant Land or N/A	2178009901	MRCA	1.3	N	CH	N	N	N	N
Los Angeles	2178-010-900	Vacant Land or N/A	2178010900	MRCA	4.3	N	G/OW/CSS	N	N	N	N
Los Angeles	2178-010-901	Vacant Land or N/A	2178010901	MRCA	3.8	N	OW/G/CSS	N	N	N	N
Los Angeles	2178-010-902	Vacant Land or N/A	2178010902	MRCA	4.1	Y	CSS/CH	N	N	N	N
Los Angeles	2180-025-903	Vacant Land or N/A	2180025903	MRCA	90.5	Y	CH/CSS/OW	N	N	N	N
Los Angeles	2723-003-900	Vacant Land or N/A	2723003900	MRCA	15.5	Y	CSS/OW/RW	N	N	?	?
Los Angeles	2723-004-905	Vacant Land or N/A	2723004905	MRCA	0.4	Y	G	N	N	N	N
Los Angeles	2723-004-907	Vacant Land or N/A	2723004907	MRCA	39.2	Y	CSS/OW/G	N	N	?	?
Los Angeles	2723-021-900	Vacant Land or N/A	2723021900	MRCA	14.5	Y	CSS/CH/OW	N	N	N	N
Los Angeles	2723-022-900	Vacant Land or N/A	2723022900	MRCA	12.8	Y	CSS/CH/OW	N	N	N	N
Los Angeles	2818-021-902	Vacant Land or N/A	2818021902	MRCA	14.4	Y	CSS/CH/G/RW?	N	N	?	N
Los Angeles	2821-012-905	Vacant Land or N/A	2821012905	MRCA	9.7	N	G/CSS	N	N	N	N
Los Angeles	4377-001-901	Vacant Land or N/A	4377001901	State of Calif Santa Monica	172.4	Y	CH/CSS	N	N	N	?
Los Angeles	4378-001-903	Vacant Land or N/A	4378001903	State of Calif Santa Monica	93.9	Y	CH/CSS/G/D/ OW	N	N	?	?
Los Angeles	4416-008-901	Vacant Land or N/A	4416008901	MRCA	0.1	Y	L	N	N	N	N
Los Angeles	4416-021-901	Vacant Land or N/A	4416021901	MRCA	0.1	?	CSS?	N	N	N	N
Los Angeles	4416-021-902	Vacant Land or N/A	4416021902	MRCA	0.1	?	CSS?	N	N	N	N
Los Angeles	4416-021-903	Vacant Land or N/A	4416021903	MRCA	0.1	?	CSS?	N	N	N	N
Los Angeles	4434-003-901	Vacant Land or N/A	4434003901	State of Calif Santa Monica	48.1	Y	CH/CSS/G	N	N	?	?
Los Angeles	4434-003-902	Vacant Land or N/A	4434003902	State of Calif Santa Monica	49.7	Y	CH/CSS/G	N	N	N	?
Los Angeles	4434-004-902	Vacant Land or N/A	4434004902	State of Calif Santa Monica	34.1	Y	OW/CSS/G/CH	N	N	N	
Los Angeles	4434-004-903	Vacant Land or N/A	4434004903	State of Calif Santa Monica	4.3	Y	OW/CSS	N	N	N	?
Los Angeles	4434-004-904	Vacant Land or N/A	4434004904	MRCA	17.9	Y	CSS/CH	N	N	N	
Los Angeles	4434-004-905	Vacant Land or N/A	4434004905	MRCA	57.4	Y	G/OW/CSS/CH	N	N	N	
Los Angeles	4434-004-906	Vacant Land or N/A	4434004906	MRCA	113.3	Y	CSS/CH/G/OW		N	N	
Los Angeles	4434-009-902	Vacant Land or N/A	4434009902	MRCA	137.6	?	CH/CSS/G/OW	N	N	N	
Los Angeles	4434-037-901	Vacant Land or N/A	4434037901	MRCA	6.3	?	CH	N	N	N	

Table 5. Alternatives Analysis Parcels (continued)

County	Parcel No.	Address	AIN	Owner	Size (acres)	Road Access?	Vegetation Type	Offices?	Special Events?	Overnight camps?	Trail Camps?
Los Angeles	4434-037-902	Vacant Land or N/A	4434037902	MRCA	0.3	N	CH	N	N	N	N
Los Angeles	4440-012-901	Vacant Land or N/A	4440012901	MRCA	0.2	N	CH	N	N	N	N
Los Angeles	4440-015-006	Vacant Land or N/A	4440015006	Mountains Restoration Trust	0.1	N	CH/OW	N	N	N	N
Los Angeles	4440-015-007	Vacant Land or N/A	4440015007	Mountains Restoration Trust	0.1	N	CH/OW	N	N	N	N
Los Angeles	4440-015-008	Vacant Land or N/A	4440015008	Mountains Restoration Trust	0.1	N	CH/OW	N	N	N	N
Los Angeles	4449-011-900	Vacant Land or N/A	4449011900	MRCA	142.8	Y	CH/CSS/OW	N	N	N	?
Los Angeles	4452-020-086	Vacant Land or N/A	4452020086	Mountains Restoration Trust	1.9	Y	TREES	N	N	N	N
Los Angeles	4452-020-098	Vacant Land or N/A	4452020098	Mountains Restoration Trust	2.4	Y	D/RW/CSS	N	N	?	N
Los Angeles	4452-020-099	Vacant Land or N/A	4452020099	Mountains Restoration Trust	0.6	Y	D/RW/G	N	N	?	N
Los Angeles	4455-015-900	Vacant Land or N/A	4455015900	MRCA	78.0	N	G/CSS/CH	N	N	N	?
Los Angeles	4455-016-902	Vacant Land or N/A	4455016902	MRCA	76.0	Y	D/CH/CSS/OW	N	N	N	?
Los Angeles	4455-028-905	Vacant Land or N/A	4455028905	MRCA	49.5	Y	G/CSS/CH/OW	N	N	N	N
Los Angeles	4455-033-909	Vacant Land or N/A	4455033909	MRCA (On King Gillette)	28.2	Y	AG/OW/CH	N	N	N	N
Los Angeles	4455-033-915	Vacant Land or N/A	4455033915	MRCA (On King Gillette)	3.1	Y	G/OW	N	N	N	N
Los Angeles	4455-040-902	Vacant Land or N/A	4455040902	MRCA (On King Gillette)	0.6	Y	CSS/OW	N	N	N	N
Los Augeles	4455-040-903	Vacant Land or N/A	4455040903	MRCA (On King Gillette)	0.3	Y	OW/L	N	N	N	N
Los Angeles	4455-040-904	Vacant Land or N/A	4455040904	MRCA (On King Gillette)	37.6	?	CH/CSS/G	N	N	N	?
Los Angeles	4455-040-905	Vacant Land or N/A	4455040905	MRCA	0.7	N	G/OW/L	N	N	N	N
Los Angeles	4462-030-903	Vacant Land or N/A	4462030903	State of Calif Santa Monica	7.1	Y	CSS/CH/OW	N	N	N	N
Los Angeles	4472-006-901	Vacant Land or N/A	4472006901	MRCA	37.2	Y	CSS/CH	N	N	N	N
Los Angeles	4472-008-904	Vacant Land or N/A	4472008904	MRCA	19.7						
Los Angeles	4472-008-905	Vacant Land or N/A	4472008905	MRCA	34.5	Y	CH	N	N	N	N
Ventura	615-0-280-150	Vacant Land or N/A	615028015	MRCA	8.3	N	G	N	N	N	N

Table 5. Alternatives Analysis Parcels (continued)

County	Parcel No.	Address	AIN	Owner	Size (acres)	Road Access?	Vegetation Type	Offices?	Special Events?	Overnight camps?	Trail Camps?
Ventura	615-0-300-150	Vacant Land or N/A	615030015	MRCA	506.5	Y (SR118)	CSS	N	N	N	?
Ventura	685-0-060-350	Vacant Land or N/A	685006035	MRCA	208.5	Y	CSS/CH/G/OW/ RW	N	N	N	?
Ventura	685-0-070-110	Vacant Land or N/A	685007011	MRCA	65.8	N	G/CSS/OW/RW	N	N	N	?
Ventura	685-0-070-130	Vacant Land or N/A	685007013	MRCA	36.7	?	G/CSS/OW/RW	N	N	N	?
Ventura	685-0-070-150	Vacant Land or N/A	685007015	MRCA	63.0	?	G/CSS/OW/RW	N	N	N	?
Ventura	685-0-080-020	Vacant Land or N/A	685008002	MRCA	624.8	N	CSS/CH/G/OW/ RW	N	N	N	?
Ventura	685-0-080-060	Vacant Land or N/A	685008006	MRCA	525.0	?	CSS/G/OW	N	N	N	?
Ventura	694-0-060-285	Vacant Land or N/A	694006028	MRCA	180.0	Y	D/G/CSS/CH/ OW/RW	2000X 350'	N	?	?
Ventura	694-0-060-305	Vacant Land or N/A	694006030	MRCA	143.3	Y	G/CSS/CH/OW	N	N	?	?
Ventura	519-0-082-165	Vacant Land or N/A	519008216	MRCA	24.1	N	CSS/OW?	N	N	N	N

Notes:

CH = chaparral; CSS = coastal sage scrub; G = grassland; OW = oak woodland; RW = riparian woodland; D = disturbed; AG = agriculture; L = landscaped; ? = uncertain type based on aerial photo

Road Access: Y = access at least to edge of parcel by apparently paved public road (based on aerial photos)

Office & Events: N = no existing buildings that could be used for office space; ? = potential to build such facilities on the parcel

Overnight Camping: N = no disturbed or open areas where such camping facilities could be built; ? = potential that facilities could be built on the parcel

Trail Camp: N = No existing trails and dense vegetation that would have to be cleared, also fire hazard; ? = potential to develop trail camps with more review

The ranch has been divided into three management areas (see map on SMMC website): existing disturbed areas for moderate intensity use, existing developed areas for high intensity uses, and existing/proposed low intensity use areas. Of these, the latter covers the largest area, with the high intensity use areas around the existing structures. Most of the property (322 acres) is open space where habitat conservation and restoration can occur as well as passive recreational activities such as hiking, nature study, and other compatible uses. MRCA offers half-day, full-day, and overnight (5 days/4 nights) outdoor education programs for students and their teachers.

Potential uses of the existing buildings include a visitor center, environmental education facilities, agency administration offices, and events such as weddings and parties (Los Angeles Outdoor Recreation Examiner 16 November 2008). The existing facilities can support indoor and outdoor events. According to the proposed Design Concept Plan, special events will be allowed all year and could include weddings, retreats, workshops, conferences, and company picnics. Five areas can accommodate events for 100 to 350 guests: four are outside areas (tennis courts, lawn, and two courtyards) and the other is the dormitory with a large meeting room (150 seats) and an auditorium (350 seats).

The King Gillette Ranch web site includes a more detailed description of the existing facilities and potential future uses as well as maps showing vegetation, management areas, and existing/planned uses.

8.1.1 Offices

Public agencies, including park and recreation districts, generally have their offices in buildings within a commercial area. For example, the following agency offices are located in city commercial areas and not in the lands that these agencies manage.

Agency	*Office Location*
Los Angeles County Parks and Recreation Department	433 South Vermont Avenue, Los Angeles, CA
Baldwin Hills Conservancy	3578-C Eastham Drive, Culver City, CA 90232
National Park Service, Santa Monica Mountains National Recreation Area	401 West Hillcrest Drive, Thousand Oaks, CA 91360
San Gabriel and Lower Los Angeles Rivers and Mountains Conservancy	900 S. Fremont Ave., Annex Building, Alhambra, CA 91802
The Nature Conservancy	523 W. 6th St #1216, Los Angeles, CA 90014

SMMC currently has regional administrative offices in their Ramirez Canyon property for SMMC and MRCA, and proposes to continue to do so. This is not typical for the location of administrative offices for park and conservation agencies as shown above. Alternative locations for these offices are available in existing commercial buildings or could be constructed on commercial properties. None of the 92 parcels evaluated have existing buildings that appear suitable for offices, and only one parcel has a large disturbed area (about 2,000 ft by 350 ft) adjacent to West Potrero Road where offices and parking could be constructed. The parcel is 6940-060-285, and the total area of the parcel is 180 acres. A small drainage along the south side of the disturbed area separates it from the rest of the parcel. The King Gillette Ranch has existing buildings that could be used for offices as described above. Thus, alternative locations for the offices currently in the SMMC Ramirez Canyon property are available.

8.1.2 Special Events

Special events, particularly those with amplified sound, have been held on the SMMC Ramirez Canyon property in the past and caused considerable disturbance for the nearby residents. Section 7.0, Noise, shows that noise from such events would likely exceed the maximum exterior noise level set forth in the

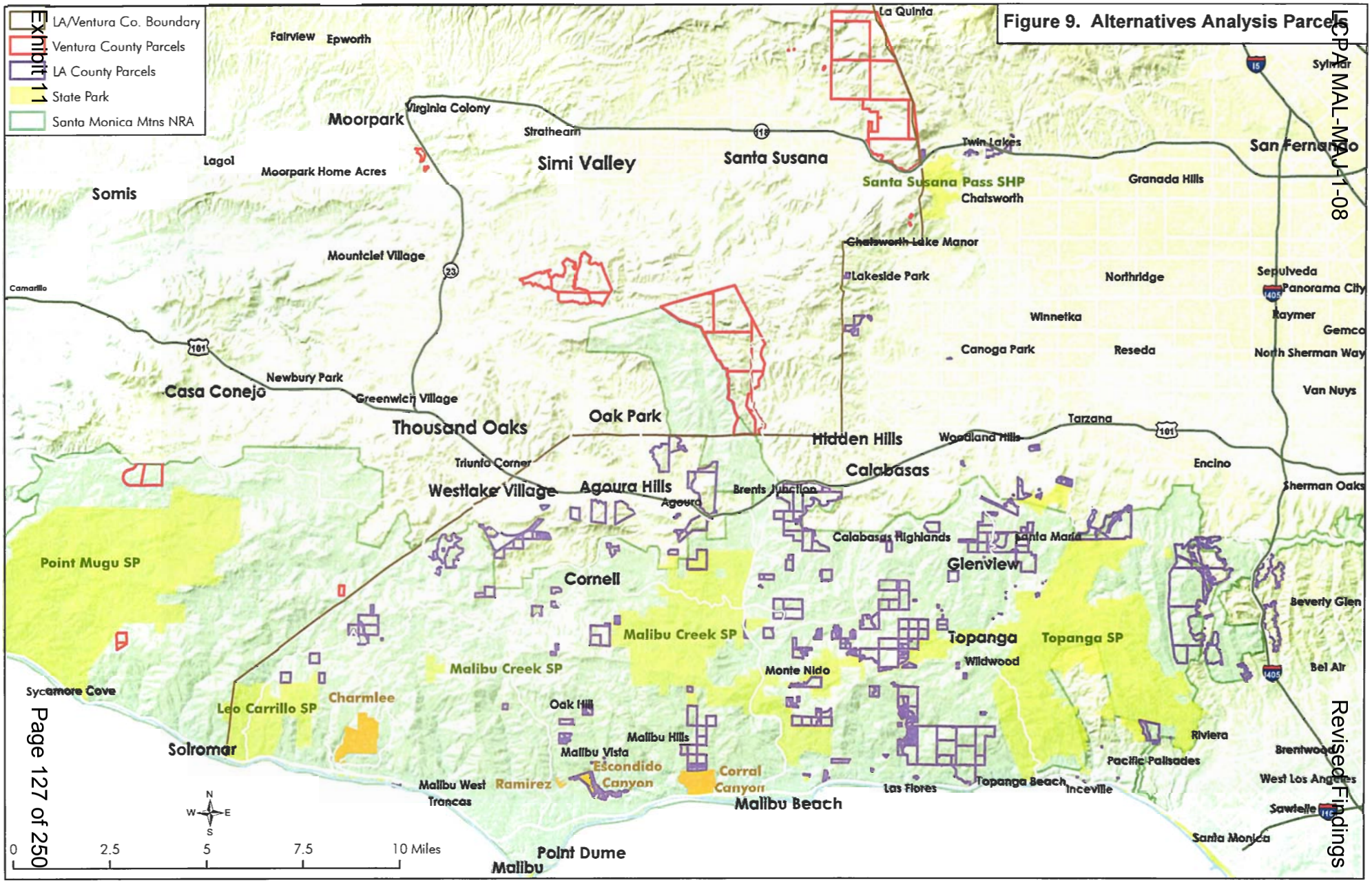


Figure 9. Alternatives Analysis Parcels

This page intentionally left blank.

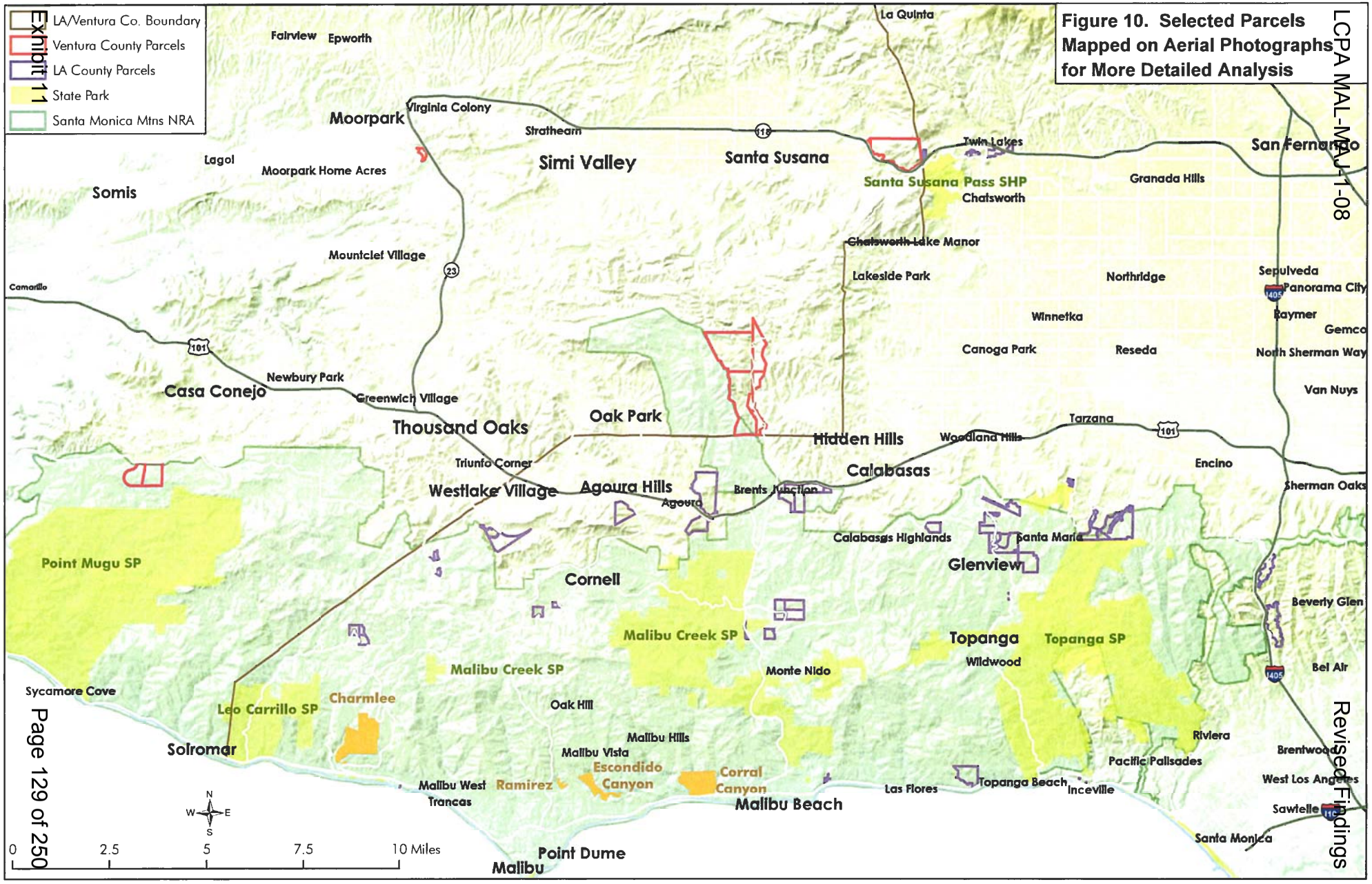


Figure 10. Selected Parcels Mapped on Aerial Photographs for More Detailed Analysis

could be built at several locations, particularly in the oak woodland in the northern part of the parcel. No water appears to be present on the parcel.

Parcel 2061-033-905, located in Los Angeles County, near the City of Agoura Hills. This parcel extends south of Agoura Road and west of Kanan Road. Access to this 116.5-acre parcel is via County Highway N9 on the eastern side of the parcel. Vegetation is grassland, coastal sage scrub, and chaparral. A riparian corridor crosses the eastern tip of the parcel. Dirt tracks are present on the northeast side of the parcel with some extending into the parcel. Trail camps could be developed in grassland areas near shrub areas. No water appears to be present on the parcel, except potentially in the short stream segment in the east.

8.2 Summary

Based on the evaluation of existing facilities in the area and many parcels already owned by MRCA, SMMC, and other entities, most if not all the uses proposed for the SMMC Ramirez Canyon property could be better accommodated at other locations with fewer impacts on the environment and with less risk to the public and to the surrounding neighborhoods. In particular, King Gillette Ranch could provide facilities for offices and events as could existing facilities and buildings. As described above, numerous facilities are available in the area that could be used for events. Accessible overnight camping facilities could be built in the SMMC Ramirez Canyon property within previously disturbed areas (e.g., tennis courts), but other locations with existing facilities are available within 20 miles of the SMMC Ramirez Canyon property. Trail camps could be located at several properties with less environmental damage and fire risk to adjacent residential areas than at the SMMC Ramirez Canyon property.

This page intentionally left blank.

9.0 References

Anderson, H. E. 1982. Aids to Determining Fuel Models for Estimating Fire Behavior. National Wildfire Coordinating Group. General Technical Report INT-122, April.

Bell, C. E., J. M. DiTomasco, and M. L. Brooks. No date. *Invasive Plants and Wildfires in Southern California*. University of California Cooperative Extension, San Diego.

Brownstein Hyatt Farber Schreck, LLP (BHFS) and SAIC. 2008. National Park, National Forest, State Park and Private and City Park Camping Information (data compiled from websites and calls): National Park Service http://www.nps.gov/state/ca/, Los Padres National Forest http://www.fs.fed.us/r5/lospadres/recreation/camping/, Decker Canyon http://www.laparks.org/dos/camps/decker.htm, Malibu RV Park http://www.maliburv.com/, State Parks http://www.parks.ca.gov/parkindex).

Brownstein Hyatt Farber Schreck, LLP (BHFS). 2008. Event facility information (data compiled from websites and telephone calls). September 2.

Butry, D. T. 2006. Spatio-temporal analysis of wildfire ignitions in the St Johns River. Water Management District, Florida. *International Journal of Wildland Fire*. 15: 87–97.

California Environmental Protection Agency. March 2006. *Climate Action Team Report to Governor Schwarzenegger and the Legislature*. Website http://www.climatechange.ca.gov/research/2008_assessment/index.html.

California Parks and Recreation Department (CPRD). 2008. Accessible Features in State Parks. http://www.access.parks.ca.gov/home.asp. Accessed November 18.

California State Parks, Planning Division (CSPPD). 2007. The California State Park System Statistical Report: 2006/07 Fiscal Year. December.

California State Parks. 2008. Park employees personal communications with BHFS staff on August 4.

CDF. 2008. "Fire Perimeters." Vector Digital Data. 6/2008. Downloaded on 10/16/08 at: http://frap.cdf.ca.gov/data/frapgisdata/select.asp?theme=5.

CDF. 2007. "DRAFT statewide GIS layer of Very High Fire Hazard Severity Zones in Local Responsibility Areas". Vector Digital Data. 9/2007. Downloaded on 10/16/08 at: http://frap.cdf.ca.gov/data/frapgisdata/select.asp?theme=5.

CDF. 2005a. "Fuels: Surface Fuels" Raster Digital Data. 2005. Downloaded on 10/16/08 at: http://frap.cdf.ca.gov/data/frapgisdata/select.asp?theme=5.

CDF. 2005b. "Development Footprint". Raster Digital Data. 12/2005. Downloaded on 11/7/08 at: http://frap.cdf.ca.gov/data/frapgisdata/select.asp?theme=3.

CDF. 2004. "Fire Threat." Raster Digital Data. 2004. Downloaded on 10/16/08 at: http://frap.cdf.ca.gov/data/frapgisdata/select.asp?theme=5.

Char, C. R., and L. R. Chatten. 1977. *Principals of Forest Fire Management*. Publisher unknown (manual).

City of Malibu Parks and Recreation Department. 2008. Facilities and Parks. http://www.ci.malibu.ca.us. Accessed October 16.

City of Malibu. 2006. *Clean Water Program, Frequently Asked Questions*. October 10.

Clayton, B., D. Day, and J. McFadden. 1985. *Wildland Fire Fighting*. Publisher unknown (manual).

Cohen, J.D. 1999. *Reducing the wildland fire threat to homes: where and how much?* USDA Forest Service General Report. 189-195.

Cohen, J. D., and J. Saveland. 1977. Structure ignition assessment can help reduce fire damages in the wildland-urban interface. Fire Management 57:19-23.

Conard, S. G., and D. R. Weise. 1998. Management of fire regime, fuels, and fire effects in southern California chaparral: lessons from the past and thoughts for the future. Tall Timbers Ecology Conference Proceedings 20:342-350.

County of Los Angeles, Department of Public Works. 2007. File WM-7. March 27.

Dixon, J. 2003. California Coastal Commission Memorandum to Ventura Staff RE: Designation of ESHA in the Santa Monica Mountains. March 25. 24 pp.

Dudek. 2007. Draft Biological Resources Letter Report and Impacts Analysis, Malibu Parks Public Access Enhancement Plan, Santa Monica Mountains Conservancy/Mountains Recreation & Conservation Authority, City of Malibu, California. To Paul Edelman, Santa Monica Mountains Conservancy, August 27.

Fair Plan. 2008. http://www.cfpnet.com/. Accessed August.

Fried, J. S., et al., California Climate Change Center. March 2006. *Predicting the Effect of Climate Change on Wildfire Severity and Outcomes in California: Preliminary Analysis*. Website http://www.energy.ca.gov/publications/searchReports.php?pier_sub=GCC%20-%20Impact%20and%20Adaptation%20Studies%20-%20Ag%20and%20Forest.

United States Government Accountability Office. 2006. Wildland Fire Suppression: Better Guidance Needed to Clarify Sharing of Costs between Federal and Nonfederal Entities. Testimony Before the Subcommittee on Public Lands and Forests, Committee on Energy and Natural Resources, U.S. Senate. June 21.

Halsey, R. W. 2004. In search of allelopathy: an eco-historical view of the investigation of chemical inhibition in California coastal sage scrub and chamise chaparral. Journal of the Torrey Botanical Society, Issue 4.

Helfand, D. 2007. L.A. Sees Fire Hazard by Freeways Despite Complaints, City Fire Inspectors Say Caltrans has Failed to Clear Overgrown Brush. In L.A. Times on April 23, 2007.

Insurance Information Institute. 2007. Disaster Insurance Information, Resources—California Wildfires. Available at http://www.iii.org/prepare/resources/additionalresources/californiawildfires/. Accessed on 8 December 2008.

Keeley, J. E. 2004. Impact of antecedent climate on fire regimes in coastal California. International Journal of Wildland Fire 13:173-182.

Keeley, J. E. 2002. Fire management of California shrubland landscapes. *Environmental Management* 29: 395-408.

Keeley, J. E., and C. J. Fotheringham. 2003. Impact of past, present, and future fire regimes on North American mediterranean shrublands. P. 218–262 in *Fire and climatic change in temperate ecosystems of the Western Americas,* Veblen, T.T., W.L. Baker, G. Montenegro, and T.W. Swetnam (eds.). New York: Springer.Keeley, J. E., C. J. Fotheringham, and M. Morais. 1999. Reexamining fire suppression impacts on brushland fire regimes. *Science* Vol. 284: 1829-1832.

Keeley, Jon, C. J. Fotheringham, and Marco Morais. "Reexamining Fire Suppression Impacts on Brushland Fire Regimes." *Science Magazine.* VOL 284. 11 JUNE 1999. www.sciencemag.org

Keeley. J. E. 1993. Native Grassland Restoration: The Initial Stage – Assessing Suitable Sites. In: *Interface Between Ecology and Land Development in California.* Southern California Academy of Sciences, Los Angeles, CA.

L.A. County. 2004. Pre-Fire Management Plan, County of Los Angeles Fire Department.

LA Inc. The Los Angeles Convention and Visitors Bureau. 2007. LA Travel Stats 2007. November.

LSA Associates, Inc. 2002. Riparian Habitat Evaluation: Ramirez Canyon Park, City of Malibu, California. Prepared for Santa Monica Mountains Conservancy. August 30.

Mensing, S. A., J. Michaelsen, and R. Byrne. 1999. A 560 year record of Santa Ana fires reconstructed from charcoal deposited in the Santa Barbara Basin, California. *Quaternary Research*. Vol. 51:295-305.

Mercer, E., and J. Prestemon. 2005. Comparing production function models for wildfire risk analysis in the wildland–urban interface. *Forest Policy and Economics.* Volume 7(5): 782-795 August.

Moritz, M. A., J. E. Keeley, E. A. Johnson, and A. A. Schaffner. 2004. Testing basic assumption of shrubland fire management: how important is fuel age? *Frontiers in Ecology and the Environment* 2:67-72

Moritz, Max A. "Spatiotemporal Analysis of Controls on Shrubland Fire Regimes: Age Dependency And Fire Hazard." *Ecology.* 84(2). 2003.

National Interagency Fire Center. 2008. http://www.nifc.gov/. Accessed August.

National Park Service (NPS). 2007. Santa Monica Mountains National Recreation Area Fire Management Plan.

National Wildfire Coordinating Group (NWCG). 1994. *Introduction to Wildland Fire Behavior S-190.* Student Workbook.

Natural Resources Defense Council. 2008. The National Forest "Roadless Area" Rule. http://www.nrdc.org/land/forests/qroadless.asp (July 2008).

Prestemon, J. P. and D. T. Butry. 2005. Time to Burn: Modeling Wildland Arson as an Autoregressive Crime Function. *American Journal of Agricultural Economics.* 87(3): 756 – 770.

Reserve America. 2008. http://www.reserveamerica.com/campgroundSearch.do. Accessed November 19.

Santa Monica Convention & Visitors Bureau (SMCVB). 2008. Economic Impacts of Tourism in Santa Monica (summary). March.

SMMC. 2008. SMMC Fire Prevention Accessed at: http://smmc.ca.gov/fire-prevention.html. Accessed November 11.

Sugihara, N. G., J. W. Van Wagtendonk, K. E. Shaffer, J. Fites-Kaufman, and A. E. Thode. 2006. *Fire in California's Ecosystems.* University of California Press.

U.S. Census Bureau, 2008. 2007 Population Estimates T1. Population Estimates. www.factfinder.census.gov. Accessed November 7.

Western Regional Climate Center. 2008. http://www.wrcc.dri.edu/cgi-bin/cliMAIN.pl?ca8967

Witter, M., and R. Taylor. 2008. Preserving the Future: A Case Study in Fire Management and Conservation from the Santa Monica Mountains. In Halsey, R. W. 2008. *Fire, Chaparral, and Survival in Southern California.* Sunbelt Publications, San Diego, CA. pp. 109-115.

Zedler, P. H., and L. A. Seiger. 2000. Age Mosaics and Fire Size in Chaparral: A Simulation Study. In 2nd *Interface between Ecology and Land Development in California.* USGS Open-File Report 00-02, pp. 9-18.

Appendix A

Malibu Event Facilities Capacity

This page intentionally left blank.

Table 1. Malibu Event Facilities Capacity

Name	Address	City	State	Zip	Email	URL	Phone	Fax	Event Spaces	Max. Capacity	Sq. Footage	Notes
Adamson House and Malibu Lagoon Museum	23200 Pacific Coast Highway P. O. Box 291	Malibu	CA	90265		www.adamsonhouse.org	310-456-8432	818-880-6165	2	200		
Allegria	22821 Pacific Coast Highway	Malibu	CA			www.allegriamalibu.com/	(310) 456-3132		1	82		
Beau Rivage Restaurant	26025 Pacific Coast Highway	Malibu	CA	90265	beaurivagemalibu@aol.com	www.beaurivagerestaurant.com/client/beaurivage/homepage.htm	310-456-5733	310-317-1589	10	200		
Bony Pony Ranch	12555 Yerba Buena Rd	Malibu	CA	90265	nileprods@yahoo.com	www.bonyponyranch.com	310-275-1075		1	100,000+	26 acre ranch	
Calamigos Ranch & Malibu Conference Center	327 South Latigo Canyon Rd	Malibu	CA	90265		www.calamigos.com/	800-821-2097		14?	500+		
Charmlee Wilderness Park	2577 Encinal Canyon Rd	Malibu	CA	90265		www.ci.malibu.ca.us/index.cfm?fuseaction=detailgroup&navid=174&cid=3801	310-457-7247	events 310-317-1364	1	Not Available		
Duke's Malibu Restaurant	21150 Pacific Coast Hwy	Malibu	CA	90265		www.dukesmalibu.com/	310-317-0777			250 banquet 176 dining room		
Four Seasons Hotel	2 Dole Drive	Westlake Village	CA	91362		http://www.fourseasons.com/westlakevillage/	818-575-3000	818-575-3100	3	Not Available		WestlakeFourSeasons.pdf
Geoffry's Malibu	27400 Pacific Coast Highway	Malibu	CA	90265	gmalibu@earthlink.net	www.geoffreysmalibu.com	310-457-1519	310-457-7885	8	300		
Inn of the Seventh Ray	128 Old Topanga Canyon Road	Topanga	CA	90290		www.innoftheseventhray.com/specialevents.htm	(310) 455-1311	events 310-408-8142		230		
Las Flores Creek Park	3805 Las Flores Canyon Rd	Malibu	CA			www.ci.malibu.ca.us/index.cfm?fuseaction=detailgroup&navid=174&cid=3881						
Lazy 'J' Ranch Camp	12220 Cotharin Rd	Malibu	CA	90265	crazzycraig@earthlink.net	www.lazyjranchcamp.com	310-457-5572	310-457-8882	1	125		Sleepover camp typically for kids
Leo Carrillo State Park	Pacific Coast Highway	Malibu	CA	90263	access@parks.ca.gov	www.parks.ca.gov/default.asp?page_id=616	818-880-0350		1	Not Available		
Malibu Beach Inn	22878 Pacific Hwy	Malibu	CA		reservations@malibubeachinn.com	www.malibubeachinn.com	310-456-6444		3?	16?		
Malibu Bluffs Park	24250 Pacific Coast Highway	Malibu	CA			www.ci.malibu.ca.us/index.cfm?fuseaction=detailgroup&navid=174&cid=3826	310-456-2489 ext 350			Not Available	6 acres	Sports field/park/community center
Malibu Colony Plaza	23841 Malibu Rd	Malibu	CA	90265		www.seeing-stars.com/Shop/MalibuPlaza.shtml	310-456-1269		1	Not Available		Shopping Center, no listed phone number, this number is to a dry cleaners
Malibu Community Pool	30215 Morning View Dr	Malibu	CA	90265		www.ci.malibu.ca.us/index.cfm?fuseaction=detailgroup&navid=174&cid=3754	310-589-1933	310-589-0683	1	Not Available		
Malibu Country Inn	6506 Westward Beach Rd	Malibu	CA	90265		www.malibucountryinn.com/	(310) 457-9622			100		
Malibu Equestrian Park	6225 Merritt Dr	Malibu	CA	90265	dayelech@ci.malibu.ca.us	www.ci.malibu.ca.us/index.cfm?fuseaction=detailgroup&navid=174&cid=3825	310-317-1364		1	Not Available		
Malibu Family Wines	32111 Mulholland Highway	Malibu	CA	90265	weddings@malibufamilywines.com	www.malibufamilywines.com/default.aspx	818-889-0120	818-889-5349	6	5000		
Malibu Lagoon State Beach	23200 Pacific Coast Hwy	Malibu	CA	90265	access@parks.ca.gov	www.parks.ca.gov/default.asp?page_id=835	310-457-8185		1	Not Available		
Malibu Library	23519 West Civic Center Way	Malibu	CA	90265	colapl@lhqsmtp.colapl.org	www.colapublib.org/libs/malibu/			1	125		
Malibu Nature Preserve	33905 Pacific Coast Hwy	Malibu	CA	90265	naturetrust@earthlink.net	www.naturetrust.net	310-457-9783	310-457-9744	2	2000		Weddings only, capacity depends on the season
Malibu Phoenix Retreat	26860 Mellus Dr	Malibu	CA	90265		www.malibuphoenix.com	310-457-5119		2	Not Available		
Malibu Presbyterian	3324 Malibu Canyon Rd	Malibu	CA	90265	mpc@malibupres.org	www.malibupres.org	310-456-1611	310-456-7018	4	N/A		Church burned down, no events

Exhibit 11

Page 138 of 250

LCPA MAL-MAJ-1-08

Revised Findings

Table 1. Malibu Event Facilities Capacity

Name	*Address*	*City*	*State*	*Zip*	*Email*	*URL*	*Phone*	*Fax*	*Event Spaces*	*Max. Capacity*	*Sq. Footage*	*Notes*
Malibu Weddings Events	29575 Pacific Coast Hwy, Suite E	Malibu	CA	90265		www.malibuweddingsevents.com/	(310) 457 3926			N/A		Wedding/event coordinators, no actual facility
Malibu West Beach Club	30756 West Pacific Coast Highway	Malibu	CA	90265	eventsmwsc@charter.net	www.malibuwestbeachclub.com	310-457-7725	310-457-0862	7	300		
Moonshadows Restaurant in Malibu	20356 Pacific Coast Hwy	Malibu	CA	90265		www.moonshadowsmalibu.com/restaurant/	(310) 456-3010			45 inside; 120 outside		
Nobu Malibu	3835 Cross Creek Road	Malibu	CA	90265	mikahoriike2003@yahoo.com	www.nobumatsuhisa.com/	310-317-9140	310-317-9136	1	96		
Papa Jack's Skate Park	23415 Civic Center Way	Malibu	CA	90265	padams@ci.malibu.ca.us	www.ci.malibu.ca.us/index.cfm?fuseaction=detailgroup&navid=174&cid=3827	**310-456-1441**	310-456-0539	1	200		
Paradise Cove	28128 West Pacific Coast Highway	Malibu	CA	90265		www.paradisecove.org/	(310) 869-0576			Not Available		
Point Mugu State Park	9000 Pacific Coast Hwy	Malibu	CA	90265	access@parks.ca.gov	www.parks.ca.gov/default.asp?page_id=630	818-880-0350	events 310-457-8185	1	Not Available		
Ramirez Canyon Park	5750 Ramirez Canyon Road	Malibu	CA	90265	info@smmc.ca.gov	www.lamountains.com/planning_Ramirez.html , www.seeing-stars.com/	310-589-2850	310-589-2561	6	200		
Rancho Chiquita						www.ranchochiquita.com/	(310) 456-7429		2	500		
Rancho del Cielo in Malibu						www.ranchodelcielomalibu.com/index.html				250 seated 500 standing		
Rancho Sol Del Pacifico						www.ranchosoldelpacifico.com/tour1.htm	310-457-9295					Private estate, owners on vacation, will call back
Robert H. Meyer Memorial State Beach	Highway 1	Malibu	CA	90263	access@parks.ca.gov	www.parks.ca.gov/default.asp?page_id=633	818-880-0350		1	Not Available		
Saddle Peak Lodge	419 Cold Canyon Road	Calabasas	CA	91302		www.saddlepeaklodge.com/	(818) 222-3888		7	12-200		Wedding site = up to 200, dining room = up to 75, patio = 100, etc
Saddlerock Ranch - Malibu Family Wines	32111 Mulholland Hwy	Malibu	CA	90265		www.malibufamilywines.com/	(818) 889-0008			5,000+		
Serra Retreat Center	23847 Stuart Ranch Road Malibu/3401 Serra Road???	Malibu	CA			www.thegodmother.com/weddings.htm	310-456-3254		2	400		
Sunset Restaurant	6800 Westward Beach Road	Malibu	CA	90265		www.thesunsetrestaurant.com/	(310) 589-2027			120		Can add tents if desired
Taverna Tony	23410 Civic Center Way	Malibu	CA	90265	info@tavernatony.com	www.tavernatony.com	310-317-9667	310-317-9991	1	150		Patio available upon request
The Beachcomber Cafe at Malibu Pier	23000 Pacific Coast Highway	Malibu	CA	90265		www.thebeachcombercafe.com/	310-456-9800			100+		
Topanga State Park	20825 Entrada Road	Malibu	CA	90263	msandoval@parks.ca.gov	www.parks.ca.gov/default.asp?page_id=629	310-454-8212	310-459-2031	1	Not Available		
Trancas Canyon Park	6050 Trancas Canyon Rd	Malibu	CA			www.ci.malibu.ca.us/index.cfm?fuseaction=detailgroup&navid=174&cid=10526				N/A		This park is not yet constructed
Villa Graziadio Executive Conference Center	24255 Pacific Coast Highway	Malibu	CA	90263					39?	260?		

Source: BHPS 2008

Appendix B

Photographs

This page intentionally left blank.

Appendix C

SAIC Statement of Qualifications

This page intentionally left blank.

SAIC Environmental Capabilities

SAIC provides our clients an in-house staff that encompasses the full range of disciplinary expertise to support an environmental project's needs. SAIC's Environmental Program in the western United States serves a broad spectrum of federal, state, and local government agencies, and residential, commercial, industrial, institutional, and telecommunications clients in the following areas of expertise: .

- Air Quality Studies and Management.
- Biological Resource Studies and Management.
- Cultural Resource Management.
- Environmental Land Use Planning.
- Environmental Justice.
- Information Management/Geographic Information Sciences (GIS).
- Remediation and Site Characterization Investigations.
- Transportation Analyses.
- Water Resource Planning and Management.
- Watershed Planning and Management

Founded in 1969 to provide scientific and engineering services to private industry and federal government, SAIC is now a Fortune 500 company with annual revenues of $7.8 billion and 43,000 employees worldwide. SAIC's environmental consulting practice ranks us as one of the nation's largest environmental consulting firms. SAIC's environmental staff are highly qualified professionals who are proficient at successfully guiding projects to completion in accordance with complex federal and state regulatory requirements, including the National Environmental Policy Act (NEPA), the California Environmental Quality Act (CEQA), and individual state environmental guidelines. Staff specialists in the environmental, biological, physical and social sciences are experienced in preparing technical environmental documents that meet federal, state and local regulatory requirements governing air and water quality, as well as cultural, biological, and other environmental resources. With offices throughout the western United States offering environmental and engineering support services, SAIC is able to provide comprehensive, multidisciplinary environmental and engineering planning capabilities for projects of any size.

BIOLOGICAL RESOURCE MANAGEMENT

SAIC's biological sciences team has extensive experience in environmental analysis and regulatory compliance at federal, state, and local levels. SAIC biological resource staff includes wildlife biologists, botanists, aquatic biologists, and wetland ecologists with expertise in freshwater, estuarine, and terrestrial environments. SAIC is proud of its effective working relationships with key agencies involved in environmental review, permitting, and resource management.

Habitat Evaluation and Vegetation Mapping. SAIC biologists perform habitat evaluations to identify potential for sensitive species presence or absence, plant community surveys, and detailed vegetation analyses throughout the western United States. In addition to providing supporting documentation for land acquisition, due diligence, and CEQA and NEPA compliance, SAIC has prepared independent environmental assessments, technical reports, and scientific publications on such topics as the distribution, abundance, and value of plant species and communities. Additionally, SAIC cartographers and GIS specialists prepare resource distribution maps that aid analysis and presentation.

Regulatory Compliance and Mitigation Effectiveness Monitoring. SAIC biologists have extensive experience performing monitoring of permit compliance and mitigation effectiveness on a large variety of construction and habitat restoration projects.

Revegetation and Habitat Restoration. SAIC biologists, working closely with physical scientists and have provided consultation to clients across the country in the fields of reclamation and revegetation. This work has included the production of long-range, comprehensive plans for revegetation and monitoring the recovery of vegetation following project disturbances in a variety of sensitive environments.

Threatened and Endangered Species Surveys. SAIC biologists perform focused surveys to determine presence and abundance of sensitive species integrated with data from resource databases and scientific publications. Key SAIC staff members have the requisite approvals from federal and state wildlife agencies to perform protocol surveys for a wide variety of species protected under state and federal endangered species acts.

Data Collection and Field Experience. SAIC biologists are experienced in the collection and integration of field data into environmental documents in support of CEQA and NEPA compliance.

Wetland Delineation and Restoration. SAIC employs the accepted federal methodology for identification and delineation of jurisdictional wetlands and is also experienced in delineations to meet state criteria. SAIC wetland ecologists perform wetlands mapping, functional assessment, delineation, permitting, and restoration/creation and assist with the establishment of wetland mitigation banks.

Permit Acquisition and Agency Consultation. We provide professional permit support services for Sections 404/401; Sections 600/2081; Section 7/10 consultation; and HCP preparation. Staff biologists routinely perform both formal and informal consultation with local, state, or federal officials regarding sensitive species and other resources.

CULTURAL RESOURCE MANAGEMENT

The SAIC team of historians, architectural historians, archaeologists, and anthropologists offers an interdisciplinary approach to cultural resource management. SAIC enjoys an excellent reputation for credibility with government agencies, and has successfully consulted with the Advisory Council on Historic Preservation, the State Historic Preservation Officers (SHPOs) of several states, and numerous local government entities.

Historic and Architectural Resources Surveys and Evaluations. SAIC staff have designed and implemented numerous historic resources surveys, ranging in scope from a single property to an entire city or military base and performed either as stand-alone studies or in support of NEPA or related state documentation.

Archaeological Surveys, Resource Evaluations, and Mitigation Excavations. SAIC's highly trained archaeologists are a quick response team, able to rapidly and accurately locate and assess the significance of prehistoric and historic archaeological resources affected by a project.

ENVIRONMENTAL AND LAND USE PLANNING

SAIC's environmental planning professionals and analysts provide you with the full spectrum of support for every phase of project development, from site selection to permit acquisition.

NEPA Compliance. SAIC has extensive experience preparing National Environmental Policy Act (NEPA) and related state-level documentation for both public and private sector projects. Clients include the military, other federal and state regulatory and resource agencies, and commercial entities. We are proud of our longstanding relationships with U.S. Department of Defense (all branches) and other federal agency clients (bureaus of Land Management and Reclamation, U.S. Forest Service).

Land Use Analyses. SAIC offers a range of services essential to planning of large-scale, complex projects. Capabilities include land use due diligence analyses, land use surveys, land use policy analyses, and opportunity and constraints analyses related to natural resources, community infrastructure, scenic resources, noise, and land use.

Community Services and Environmental Justice. SAIC has developed a series of computer-based socio-demographic impact models with the primary function of predicting changes in the local or regional demographic profiles potentially resulting from economic changes. The community services and infrastructure model (CSIM) is a set of formal mathematical models designed to provide quantitative projections of project-related impacts on communities and regions for housing, community land use and infrastructure, and community services and facilities.

Transportation Analyses. SAIC has extensive experience working closely with traffic and civil engineers to support preparation of comprehensive traffic studies and mitigation plans for project traffic and transportation impacts. SAIC's transportation planning services include policy analysis; traffic impact analysis; traffic forecasting; parking supply and demand studies; public transportation requirements and impacts; and pedestrian, bicycle, and equestrian circulation studies, as well as the determination of related air quality and environmental noise impacts.

Facility Siting. SAIC studies inform project site selection decisionmakers with credible, comprehensive environmental constraints analyses and feasibility studies. SAIC integrates socioeconomic research, political considerations, policy analysis, and physical resource analysis to facilitate project siting and land acquisition decisions.

Land Acquisition and Due Diligence Investigations. SAIC can determine entitlement status/potential and prepare customized highest and best use analyses, policy analyses, land use and other environmental due diligence investigations, opportunity and constraints analyses, market feasibility studies, and community outreach programs.

Entitlement Permitting. We can assist clients with all federal, state, and local permitting needs, including determination of entitlement potential and processing of tentative tract maps, General Plan amendments, zone changes, conditional use permits, building permits and other standard entitlements, as well as specialized permitting related to technical disciplines such as air quality, water quality, cultural resources, and biological resources.

Public Involvement. SAIC's environmental specialists and graphic designers are experts at public outreach and agency coordination, organizing local community meetings, workshops, and seminars, and giving hearing presentations.

WATER RESOURCE ENGINEERING AND PLANNING

SAIC's engineers and scientists are experienced in all aspects of water supply and water quality planning and management. Our services include surface and groundwater hydrologic assessments and investigations, engineering analyses, stream restoration planning and design, estimates of technical and economic feasibility of development projects, evaluation of water rights, litigation support, and expert testimony.

Water Resources Planning and Management. SAIC staff direct and participate in projects designed to increase the reliability and quality of available local and imported water supplies through a combination of structural and nonstructural (institutional) approaches.

Watershed Assessments. SAIC applies a multidisciplinary team approach to watershed management. We evaluate and inventory water availability (quantity), water quality, water use, water supply, and surface runoff contamination – including establishing estimates of Total Maximum Daily Loads (TMDLs). We

work with regulatory authorities to develop mitigation measures. SAIC engineers, hydrologists, and scientists have analyzed the impact on surface waters of manmade contaminants introduced through storm drain and sewer systems. Our stakeholder participation experts actively guide communities through the planning process. SAIC staff has developed successful monitoring programs, environmental documentation, and specific watershed plans.

Flood Studies. SAIC engineers and scientists evaluate flood control measures based on analyses of flood events using HEC-RAS and statistical approaches. SAIC has developed floodplain mapping and modeling of flood flows for various return periods, and applied our skills to floodplain management planning.

Water Resources Monitoring. SAIC engineers have experience designing hydrometric monitoring networks.

Stream Restoration Design. SAIC's staff is experienced in urban and rural stream restoration design. Our staff scientists and engineers have applied their expertise in fluvial geomorphology, fisheries, riparian ecology, hydrology, and hydraulics to provide our clients with stream restoration planning and design services that meet the unique needs of the regulatory and stakeholder community.

Expert Testimony. SAIC engineers and scientists have presented expert witness testimony before the California Energy Commission, the California State Water Resources Control Board, Regional Water Quality Control Boards, a Special Master appointed by the U.S. Supreme Court, and several Superior Courts.

TRANSPORTATION PLANNING AND ENVIRONMENTAL SERVICES

SAIC provides planning and environmental studies for a wide range of transportation projects throughout the West.

NEPA Processing Support, Compliance, and Documentation. SAIC has performed over 50 recent environmental reviews of Western United States (U.S.) transportation projects pursuant to the National Environmental Policy Act (NEPA), as well as state and local requirements.

State Transportation Department Environmental Scans. SAIC scientists conduct natural and cultural resource scans for highway corridors, city historic districts, and road improvements.

AIR QUALITY MANAGEMENT AND COMPLIANCE

SAIC has an air quality team of meteorology, air pollution and engineering specialists, as well as field and laboratory technicians. Our expertise extends from reducing fossil-fueled power plant emissions to minimizing toxic emissions from industrial operations, promoting clean transportation technologies, and supporting the development of workable clean air strategies.

Permitting Support. Our engineers and air quality specialists have supported DoD and major industries such as oil and gas exploration, petroleum refining, organic chemical manufacturing, landfills, mining, pulp and paper, textile manufacturing, marine terminal operations, shipbuilding and shipyard operations, electric utilities, food processing, aerospace, incineration, power generation, and other industries in assessing emissions, control technologies, and environmental impacts.

Air Quality Impact Assessments. SAIC has performed air quality impact assessments related to NEPA and state environmental review requirements, facility siting and compliance studies, monitoring and analysis of ambient pollutant levels, and air quality attainment plans.

Air Pollution Planning and Modeling Studies. We are experienced with dispersion models, modeling techniques, emission factors recommended by the U.S. Environmental Protection Agency (EPA), state air

agencies (e.g., California Air Resources Board [CARB]), and local air pollution control districts throughout the western U.S. for purposes of evaluating all types of emission sources.

Air Pollution Monitoring. Our air quality and meteorological monitoring programs include short-term single-pollutant studies, as well as multi-year baseline characterizations using data from aircraft and balloon soundings, visibility measurements, and continuous analyzers for all criteria air pollutants.

Health Risk Assessments. SAIC has prepared health risk assessments for routine releases of air toxic contaminants, such as diesel particulates, and risk assessments for accidental releases of acutely hazardous materials.

INFORMATION MANAGEMENT/GIS

SAIC maintains a state-of-the-art GIS laboratory, staffed by highly qualified specialists experienced in communicating with project engineers, architects, and other professionals. GIS supports a variety of planning processes, including environmental compliance, watershed management, facilities siting, and modeling, and allows for output to a variety of dynamic multimedia presentation packages. SAIC utilizes raster- and vector-based software packages, depending on a project's needs. These include ESRI's Arc Info, ArcView, Spatial Analyst, 3d Analyst, Tracking Analyst as well as GRASS, Map Info, AutoCAD, Leica GIS DataPRO, and Tralaine.

Custom Applications. Specialized procedures and interfaces can be customized for your project by using command scripts, FORTRAN programming, and macros under a GIS framework. For example, we have successfully integrated the output from a noise contouring program into a digital base map produced via GIS, allowing quantification of noise impacts on particular resources and land uses. We also offer our clients the ability to view and query their data using various web technologies.

Differential Global Positioning Systems (DGPS). With the addition of DGPS technology, GIS maps are no longer static but can be updated virtually in real time to represent the fluctuations in an ever changing environment. DGPS can provide submeter accuracy for mapping environmental resources, such as critical habitats, and the resulting information can be used to resolve land ownership or water rights issues. SAIC staff has extensive experience in the evaluation, utilization, training, and integration of DGPS technology into real-world field applications for both mapping and GIS coverage development.

Rosemary A. Thompson

Ph.D., Marine Biology, Scripps Institution of Oceanography, 1972
B.A., Zoology, University of Missouri, 1967

WORK SUMMARY

Dr. Thompson has over 30 years of experience in studying aquatic (both marine and freshwater) ecology, with extensive experience in aquatic habitats and endemic fishes of the arid west (California, Nevada, New Mexico, Arizona, Texas, Idaho, and Washington). She has completed training by the American Fisheries Society and the Wetland Training Institute in wetlands delineation as applicable to Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act. She has expertise in assessing barriers to fish passage in streams and also has a federal permit to sample for the tidewater goby, unarmored threespine stickleback, California red-legged frog, and California tiger salamander, and a state collecting permit for aquatic species.

She has conducted environmental studies for a wide variety of projects throughout the United States, including urban development, golf courses, wastewater treatment plants/pipelines and discharges, reservoir enlargement and dam repair (strengthening), cloud seeding, power plants, missile-system testing and deployment, artificial reef feasibility and design, harbor dredge and landfill, oil and gas developments (onshore and offshore), urban lake restoration and management, water and gas delivery pipelines, debris and water diversion basins, flood control maintenance in streams and sloughs, aquatic habitat restoration, bridge replacement or repair, stream bank repair or stabilization, harbor water quality, vineyard/winery development, and a management plan for petroleum development to minimize impacts on biological resources. These studies have included surveys for and analysis of impacts to species listed as threatened or endangered under the Endangered Species Act.

Dr. Thompson has prepared environmental reports for the above-mentioned projects complying with a wide range of regulatory requirements. These include numerous joint federal/state environmental impact statements/reports (EIS/EIRs) and other documentation under the National Environmental Policy Act (NEPA) and California Environmental Quality Act (CEQA) (e.g., environmental assessments and reports, negative declarations, and initial studies), Endangered Species Act Section 7 biological assessments and Section 10 permits (including Habitat Conservation Plans), listed species protection plans, and mitigation plans for biological resources. She has prepared environmental mitigation specifications and drawings for construction contract bid documents as well as revegetation plans and specifications. She has also provided information for waterfront development permits, including U.S. Army Corps of Engineers Sections 10 and 404, Coast Guard requirements, and the California Coastal Commission, and has obtained U.S. Army Corps of Engineers Nationwide Permits (with approved mitigation plans) and individual permits, California Department of Fish and Game Streambed Alteration Agreements, and Regional Water Quality Control Board Section 401 Certifications for a variety of projects in streams and rivers.

PROFESSIONAL EXPERIENCE

Science Applications International Corporation, Environmental Program Manager/Senior Biologist (1989 to Present)

NEPA/CEQA

Pacific Marine Terminal Crude Oil Terminal SEIS/SEIR for Port of Los Angeles. (2005-present). Prepared biological resources section of the SEIS/SEIR and managed preparation of the water quality

section. The biological section included a detailed analysis of impacts to the California least tern and other special status species and a biological assessment for Section 7 consultation under the Endangered Species Act.

Middle Harbor Redevelopment Project EIR for Port of Long Beach. (2006-present). Prepared the biological resources and water quality sections of the EIR.

Berths 136-147 Terminal EIS/EIR for Port of Los Angeles. (2003-2007). Prepared biological resources and water quality sections of the EIS/EIR that included analysis of impacts to Essential Fish Habitat, threatened and endangered species, and marine mammals. Dredge and fill impacts to water quality were also addressed, and a Section 404(1)(b) analysis was prepared for the Corps of Engineers.

South Coast Conduit Upper Reach Reliability Project EIS/EIR for the Cachuma Operation and Maintenance Board. (2006-present). Managing preparation of the EIS/EIR. This includes coordination with the client and design engineers, planning field surveys, and document QA/QC.

Santa Ana River Water Right Applications for Supplemental Water Supply EIR. San Bernardino Valley Municipal Water District and Western Water District through Downey-Brand. 2003-2007. Acted as principal investigator for aquatic biological resources, and particularly the Santa Ana sucker, in the Santa Ana River.

Port of Los Angeles Channel Deepening Project. For U.S. Army Corps of Engineers through Aspen Environmental Group. (2005-present). Acting as Principal investigator for biological resources for a second SEIS/SEIR on this project. Sensitive species and essential fish habitat are key components of the analysis.

Colorado River Shortage Guidelines EIS. For U.S. Bureau of Reclamation through Brown and Caldwell. (2006-2007). Acted as principal investigator for threatened and endangered fish. Wrote setting and impact analysis based on modeling of flow and temperature changes under different releases from Lake Powell.

Managed or participated in thirty three other CEQA and NEPA projects.

Habitat Assessments and General Surveys

Managed fish salinity tolerance data collection for the Salton Sea Ecosystem Restoration Project.

Managed a biological evaluation of Basin 1 in Carpinteria Salt Marsh that included wetland delineations (Corps of Engineers and Coastal Commission methods), bird surveys, small mammal trapping, a butterfly survey, and recommendations for habitat restoration in the basin.

Managed air quality, water quality, and biological resources special studies for the Marina One and Marina Four expansion project in Santa Barbara Harbor. Conducted a field survey in harbor waters and prepared the biological resources study.

Conducted field surveys and literature searches to document the environmental resources present and prepared an environmental assessment that addressed impacts of development in the Cuixmala Reserve (Jalisco, Mexico), including a discussion of alternatives and mitigation measures.

Other projects include water quality sampling in Santa Barbara Harbor, wetland delineations on the Naval Petroleum Reserve Number 2, rare plant and animal surveys at Lawrence Livermore National Laboratory

Site 300, Bird Aircraft Strike Hazard (BASH) plans for Fallon and Lemoore Naval Air Stations, biological surveys for sensitive resources and species along the Atascadero Creek sewer trunk line corridor and along a proposed Pershing Park bike path, monitoring emergency repairs of a wastewater discharge pipeline in Goleta Slough, biological survey for the Rivenrock Mutual Water Company diversion, and wetland delineations in Anisqu'oyo Park in Isla Vista.

Sensitive Species Surveys, Biological Assessments, and Habitat Conservation Plans

State Water Project Pipeline for the Central Coast Water Authority. (1990-present). Developed environmental mitigation specifications and drawings as part of the engineering plans for portions of the California Aqueduct and local pipelines, managed preconstruction field surveys, prepared a sensitive species protection plan, performed quality assurance field inspections for compliance with environmental specifications, assisted the client in all environmental issue areas including Section 7 consultation, and prepared a habitat management plan for off-site mitigation areas. Currently preparing a Habitat Conservation Plan for operation of 131 miles of pipeline.

Wastewater Treatment Plant Siting Constraints Analysis for the Goleta West Sanitary District. (2003-2004). Managed the environmental constraints analysis for siting a new wastewater treatment facility. This included coordination with design engineers as well as field surveys to assess habitats, evaluate the potential for presence of sensitive species, and identify wetlands.

Assisting in the preparation of a Low Effect Habitat Conservation Plan for vineyard development near known breeding ponds for the California tiger salamander and California red-legged frog.

Managed a monitoring program for the western snowy plover and California grunion during dredging activities and beach restoration at the Santa Barbara Harbor.

Prepared Biological Assessments for two listed species, California red-legged frog and steelhead, as part of the permitting of the Lopez Dam seismic remediation project. Assisted in construction monitoring and implementation of terms and conditions in the two project Biological Opinions. Construction monitoring included capture and relocation of steelhead.

Managed preparation of a species protection plan for the endangered tidewater goby, threatened California red-legged frog, and proposed endangered southern steelhead (listed during project) in support of permit applications for the Santa Barbara Club Resort and Spa. Also prepared a marine habitat public display.

Additional projects include preparing a Habitat Conservation Plan and Environmental Assessment for two federally listed species for the Dos Pueblos Golf Links project; preparing a management plan for California tiger salamanders on property being developed into a vineyard; developing a tidewater goby protection plan for bridge repair work in Sycamore Creek; performing field surveys and reporting on California red-legged frogs and tidewater gobies in Laguna Channel, Eagle Canyon Creek Lauro Debris Basin, and The Ranches at Figueroa Canyon project, tidewater gobies in Arroyo Burro Creek plus red-legged frogs, red-legged frogs in an irrigation drainage adjacent to the Santa Maria River, red-legged frogs in the Santa Ynez River and at a golf course in Goleta, red-legged frogs in San Bernardo Creek, California tiger salamanders and red-legged frogs for two vineyard developments and the Santa Maria Public Airport Master Plan update, and steelhead in Santa Monica and Franklin creeks. Directed field surveys related to the Bradbury Dam safety improvements project and Rancho Canada project in Carmel. Monitored for and relocated red-legged frogs and tidewater gobies at an emergency bridge repair site on Vandenberg Air Force Base. Also conducted monarch butterfly surveys on two parcels in Santa Barbara

and monitored a pipeline replacement project in Gaviota Creek for steelhead and tidewater gobies in compliance with biological opinions.

Restoration Planning Implementation and Monitoring

Managed the biological portions of a salt marsh enhancement plan that included restoration of tidal flows, identification of areas for enhancement, development of a planting plan and construction specifications for planting, and development of a monitoring plan to ensure that enhancement is successful. Managed environmental monitoring during implementation of the enhancement plan.

Managed and conducted surveys of Devereux Creek on Ocean Meadows Golf Course in Goleta, CA for sensitive species (red-legged frog) and wetlands to support a Santa Barbara County Flood Control habitat enhancement project. Wetlands (both Corps of Engineers and Coastal Commission jurisdiction) were mapped using DGPS and GIS. Habitat enhancement areas were identified in the field and mapped.

Developed restoration and habitat enhancement plans for the Garrett van Horne reservoir site and mitigation area. Also developed habitat enhancement plans for the area adjacent to a creek on Santa Barbara City College where maintenance will occur to prevent flooding. Monitoring is ongoing at both locations to determine when performance criteria are met.

Managed preparation of the revegetation plan for the Lopez Dam seismic remediation project and managed implementation of that plan.

Managed the 5-year revegetation monitoring program for the State Water Project pipeline and mitigation areas to offset Burton Mesa chaparral and sensitive species impacts that resulted from construction activities.

Monitored construction of the Atascadero Creek sewer project, developed a restoration plan, and planted willows after construction with monitoring of willow survival and growth to meet performance criteria.

Permit Support

The Ranches at Figueroa Canyon. (2007-present). Conducted field surveys, performed agency coordination, and prepared California Department of Fish and Game permit applications for eleven ranch road stream crossing upgrades.

San Jose Creek Flood Control Project. (2007-present). Managed preparation of permit applications for creek channel modifications from the U.S. Army Corps of Engineers, California Department of Fish and Game, and Regional Water Control Board.

Developed a creek maintenance plan for Santa Barbara City College to prevent flooding of adjacent property. Obtained permits/certifications for implementation of the plan from the California Department of Fish and Game, U.S. Army Corps of Engineers, Regional Water Quality Control Board, and California Coastal Commission. Monitored to ensure compliance with permit conditions.

Obtained permits/certifications for construction of the Lopez Dan seismic remediation project from the U.S. Army Corps of Engineers, Regional Water Quality Control Board, and California Department of Fish and Game. Coordinated with those agencies throughout construction in compliance with permit conditions.

Provided permit support on nine additional projects.

URS Consultants, Inc., Senior Biologist (1984 to 1989)

Managed or acted as principal investigator for numerous projects that included the preparation of two U.S. Air Force environmental assessments for Strategic Air Command low-altitude flight operations, the U.S. Air Force Relay Mirror Experiment Environmental Assessment, providing expert testimony for the U.S. Air Force in a court hearing for the Relay Mirror Experiment Project, preparation of a U.S. Air Force environmental assessment for the National Test Facility, marine mammal monitoring program for the installation of a Chevron pipeline, site surveys and impact analyses for federally listed or candidate species at several potential Ground Wave Emergency Network (GWEN), a tidewater goby sampling program, and the feasibility and design studies for as artificial reef.

SELECTED PUBLICATIONS AND TECHNICAL REPORTS

Pister, E.P., ed. 1981. General Characteristics of Springs in Nevada and Utah. *Proceedings of the Desert Fishes Council*, vol. XII:49-52.

Davies, R.M., and R.A. Thompson. 1977. Impacts of Sludge Disposal from Hyperion Treatment Plant into Santa Monica Bay. Abstract.

Klug, T., R. A. Thompson, and T.W. Mulroy. 2007. Facilitating recovery of a long-disturbed maritime chaparral site in Santa Barbara County. Presentation made at the 2007 National Meeting of the Ecological Society of America, San Jose, California (Abstract PS 68-202).

CONFERENCE PRESENTATIONS AND WORKSHOPS

Workshop on Implementation of 316(b) Legislation in California. Scripps Institution of Oceanography, University of California, San Diego, sponsored by the State Water Quality Control Board. March 1977.

Tidewater Goby Monitoring for the Point Arguello Project Onshore Pipeline. Poster presented at Riparian Systems Conference, Davis, California. 1988.

Facilitating Recovery of a Long-Disturbed Maritime Chaparral Site in Santa Barbara County. Presented at the Maritime Chaparral Workshop, Moss Landing, California. 2005.

Brownstein | Hyatt Farber | Schreck
A Strategic California Merger with Hatch & Parent

Revised Findings

November 24, 2008

Steven A. Amerikaner

805.882.1407 tel
805.965.4333 fax
SAmerikaner@bhfs.com

BY OVERNIGHT MAIL

Hope Schmeltzer, Chief Counsel
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105-2219

RE: LCP Override Application by Santa Monica Mountains Conservancy and Mountains Recreation and Conservation Authority (LCP Amendment 1-08)

Dear Ms. Schmeltzer:

Brownstein Hyatt Farber Schreck and Diane M. Matsinger, Esq. represent the Ramirez Canyon Preservation Fund, a group of citizens who have been dealing with the unlawful use by the Santa Monica Mountains Conservancy of property in Ramirez Canyon since 1993. Our clients are concerned about the Conservancy's pending application to the Commission, which we understand will be heard in January or February of 2009. In this letter, we discuss the following six legal defects in the Conservancy's request for a LCP "Override." (Pub. Res. Code, § 30515.)[1]

First, section 30515 is an exception to the rule that only local governments may submit LCP amendments to the Commission. The Conservancy has taken the position that it is authorized to submit broad amendments to the Malibu LCP (i.e., unaccompanied by an application for a specific public work) simply because the Conservancy is a "person authorized to undertake" public works.[2] There is no authority for that broad interpretation of Section 30515, which would place hundreds of agencies throughout the state on equal footing with local governments and authorize each of those agencies to submit wholesale LCP amendments to the Commission for certification.

Second, the Conservancy's enabling act and the legislative history of those statutes (§§ 33000, *et seq.*) conclusively demonstrate that the Conservancy is not a "person authorized to undertake" public works (§ 30515). The Mountains Recreation and Conservation Authority ("MRCA," the Conservancy's co-applicant) does not have that power either. MRCA is a joint powers authority created and staffed by the Conservancy - which is also a member. Joint powers authorities are authorized to exercise only those powers common to all the constituent members. (Gov't. Code § 6502.)

Third, the provisions of the Coastal Act which govern public works and overrides, and the regulations and legislative history of those provisions, conclusively establish that the override procedure is limited

---

1 All statutory references herein are to this Code unless otherwise indicated. This letter is limited to legal issues with respect to the use of the override process. Site specific legal and factual issues will be addressed to staff and the Commissioners in later submissions.

2 See the Conservancy's Letter to the Commission, dated July 14, 2008. For counsel's convenience, a copy is included on the CD submitted with this letter.

21 East Carrillo Street | Santa Barbara, CA 93101-2706 | 805.963.7000 tel
Brownstein Hyatt Farber Schreck, LLP | bhfs.com | 805.965.4333 fax

to those situations where an application for a *specific* public work requires an amendment to a LCP. These materials also demonstrate that, in the absence of such an application, it is not possible for the Commission to either (a) determine the precise scope and manner in which it might be necessary for the Commission to override the decision of a local government, or (b) permit the Commission to make the fact-specific findings necessary for the application of the override procedure.

Fourth, the Conservancy's proposed override is overbroad as a matter of law, because it would amend the Malibu LCP to allow the development of projects as "public works" which do not qualify as public works (e.g., regional administrative offices and commercial use of the Ramirez property).

Fifth, the override procedures may not be invoked for a LCP amendment which is proposed to meet needs which were "anticipated" at the time the LCP was before the Commission for certification. (§ 30515.) Numerous public documents, including the Conservancy's comments on the Malibu LCP during the Commission's certification process, establish that the Conservancy has anticipated the development proposed by its present submission for many years.

Sixth, notwithstanding the Conservancy's attempt to exploit the strong public access policies of the Coastal Act, the Conservancy's proposed LCP override does not involve the public right of access to the sea. The submission involves upland/inland properties, to which the "Public Access" provisions of the Coastal Act do not apply. Therefore, a narrow construction of the exception set forth in section 30515 requires that the override procedures not be utilized to supplant local regulatory authority over the use of upland/inland properties.

The manner in which the Conservancy has drafted its LCP "Override" strongly suggests that the Conservancy has invoked the procedure as part of its longtime – and as yet unsuccessful – campaign to avoid land use regulation by Malibu. It also appears that the Conservancy is attempting to gain "entitlements" without disclosing the site-specific detail required as part of any regulatory process. The authorities set forth in this letter establish that the Conservancy is not entitled to have the Commission <u>pave the way</u> for the Conservancy's future development proposals by amending the Malibu LCP in advance of those proposals.

Therefore, for all the reasons set forth in this letter, we respectfully request that Commission counsel advise policy staff and the Commissioners that the Conservancy's request for a LCP "override" should be rejected on legal grounds.

TABLE OF CONTENTS

Page

I THE CERTIFICATION AND AMENDMENT OF LOCAL COASTAL PLANS IS THE SOLE PROVINCE OF THE COMMISSION AND LOCAL GOVERNMENTS – WITH ONLY ONE VERY NARROW EXCEPTION 3

II THE CONSERVANCY IS NOT A "PERSON AUTHORIZED TO UNDERTAKE A PUBLIC WORKS PROJECT." 4

III THE LEGISLATIVE HISTORY OF THE COASTAL ACT'S PUBLIC WORKS AND OVERRIDE PROVISIONS DEMONSTRATES THAT THE 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. 7

A. The Context in Which the Narrow "Override" Procedure Exists and the General Requirement for Consistency Between Public Works and the Applicable LCP 8

B. Override Statutes and Regulations – the Narrow Exception for Specific Public Works That Are Not Consistent with the Applicable LCP 8

1. Title 14, California Code of Regulations, Section 13666, *et seq.* 9

2. The Legislative History of Title 14, California Code of Regulations, Section 13666, *et seq.* 10

C. The Conservancy's Submission 13

1. The Conservancy's Submission Seeks to Regulate the Use of Private Property 13

2. The Conservancy's Submission Seeks to Re-Write Extensive Portions of the Malibu LCP for Conservancy Properties 14

3. The Conservancy's Submission Includes Language that Reads Like Land Use Entitlements 17

4. The Conservancy's Submission Deletes All of the City's Requirements for CUPs, CDPs, and Review by Various City Departments 20

D. This is Not "Sand City." 21

IV THE CONSERVANCY'S SUBMISSION IS OVERBROAD 22

V THE CONSERVANCY IS NOT ENTITLED TO INVOKE THE OVERRIDE PROVISIONS BECAUSE THE CONSERVANCY ANTICIPATED THIS PLAN LONG BEFORE THE MALIBU LCP WAS BEFORE THE COMMISSION FOR CERTIFICATION 23

VI THE CONSTITUTIONAL RIGHT OF "PUBLIC ACCESS" TO THE SEA VS. RECREATION IN INLAND/UPLAND AREAS 25

VII CONCLUSION 27

I

The Certification and Amendment of Local Coastal Plans is the Sole Province of the Commission and Local Governments – With Only One Very Narrow Exception.

The Coastal Act provides for the submission of LCPs and LCP amendments by local governments to the Commission for review and certification. (§§ 30510, 30514.) "'Local government' means any chartered or general law city, chartered or general law county, or any city and county. (§ 30109.)

The statutory scheme ensures that local land use policy and regulation is the sole province of local governments after a LCP is certified. (§ 30519.) The Commission's review of LCPs and LCP amendments is limited to the criteria set forth in Section 30512.2. As long as those criteria are met, the Commission may make suggestions to local government. (§ 30513.) However, the Commission cannot supplant the decision of local government.[3]

Section 30515 is the only exception to this rule. The statute allows the Commission to override the decision of a local government with respect to a LCP amendment if certain threshold criteria are met and if the Commission can make a series of specific findings. As an exception, Section 30515 must be strictly construed. (*John Doe v. City of Los Angeles* (2006) 137 Cal.App.4th 438, 446, citing *Hayter Trucking, Inc. v. Shell Western E & P, Inc.* (1993) 18 Cal.App.4th 1, 20; *Major v. Silna* (2005) 134 Cal.App.4th 1485, 1494.)

As explained in section III, *infra*, the legislative history of the regulations which implement Section 30515 demonstrates that the override procedure may be utilized only where it is necessary for the Commission to supplant the decision of a local agency with respect to an application for a *specific public work or energy facility*. The Conservancy has acknowledged that its present submission is not an application for a public works plan or public works project (see fn. 2, *supra*). Yet, the Conservancy claims that it is entitled to submit a proposed LCP amendment which includes wholesale revisions to the Malibu LCP simply because it is a person "authorized to undertake" public works.

---

[3] Section 30512.2, which applies to LCPs and LCP amendments (§ 30514), provides: "The following provisions shall apply to the commission's decision to certify or refuse certification of a land use plan pursuant to Section 30512: (a) The commission's review of a land use plan shall be limited to its administrative determination that the land use plan submitted by the local government does, or does not, conform with the requirements of Chapter 3 (commencing with Section 30200). *In making this review, the commission is not authorized by any provision of this division to diminish or abridge the authority of a local government to adopt and establish, by ordinance, the precise content of its land use plan.* (b) The commission shall require conformance with the policies and requirements of Chapter 3 (commencing with Section 30200) only to the extent necessary to achieve the basic state goals specified in Section 30001.5." (Emphasis added.)

Under the Conservancy's broad interpretation of Section 30515, every state agency with the authority to undertake public works would stand on equal footing with every local government. Every agency would be entitled to ask the Commission – up to three times each year – to override the general planning authority of local governments under the Coastal Act. There is no authority for the Conservancy's position, and its broad interpretation of Section 30515 must be rejected.

II

The Conservancy is Not a "Person Authorized to Undertake a Public Works Project."

Even if the Conservancy's broad construction of Section 30515 were adopted, the Conservancy would still not be authorized to submit **this** LCP amendment because the Conservancy is not authorized to undertake public works - not even for public recreation facilities. (§ 30114.) Because the Conservancy has no such power, MRCA has no such power either. MRCA is a joint powers authority which has only the powers common to all its members. (Gov't. Code § 6502.)

The legislative history of the Conservancy's enabling act (§ 33000, *et seq.*) demonstrates that the Conservancy was created to implement the Legislature's statutory goals for the *protection and preservation* of the economic, environmental, agricultural, scientific, educational and recreational resources within the Santa Monica Mountains Zone for present and future generations. (*Id.*, § 33001.) The Conservancy was legislatively designed to work as a "complimentary" agency to the National Park Service and to local governments whose jurisdictions include portions of the Santa Monica Mountains Zone. (*Id.*, §§ 33004-33009 (emphasis added), 33200, 33204, subd. (f), 33213.)

The Legislature did not intend that the Conservancy to acquire, develop and operate recreational facilities for its own account:

> "AB 1512 creates the [the Conservancy]. Like the Coastal Conservancy, *this body is expected to carry out its assigned duties primarily by acquiring parcels of land and re-selling or otherwise conveying them to private individuals with appropriate restrictions on future use.*
>
> . . .
>
> Although the Conservancy is authorized to acquire sites 'necessary for parks, recreation or resource preservation,' it is 'prohibited from holding that land for more than 10 years.'"

(Stats 1979, Ch. 1087 (AB 1512), Assembly Committee on Resources, Land Use, and Energy, Bill Analysis (emphasis added).)

While the Conservancy's enabling act was pending, Joseph Edmiston (as then-head of the Santa Monica Mountains Comprehensive Planning Commission) presented the Legislature with "A Santa Monica Mountains Conservancy Program." He explained how the program would allow for "Pre-Acquisition of Critical Parcels," and confirmed that the Conservancy's power would be limited to the acquisition of sites for which "no other agency is available as the immediate and final depository." Mr. Edmiston did not mention the Conservancy's development of property – because "development" is not authorized by the Conservancy's enabling act.

Related statutory provisions confirm that the Conservancy is not empowered to "develop" or "operate" recreation facilities. When the Legislature intends that an agency have such powers, the Legislature includes an express grant of those powers in the agency's enabling act. (See, e.g., § 5786, subd. (c) (recreation and parks districts are empowered to "[a]cquire, construct, improve, maintain, and operate recreation facilities"); Gov't. Code, § 61100, subd. (e) (community services districts are empowered to "[a]cquire, construct, improve, maintain, and operate recreation facilities"); Wat. Code, § 55337 (county waterworks districts are empowered to "maintain, improve, and operate recreational facilities in connection with any dams, reservoirs, or other works owned or controlled by the district").)[4]

The Legislature did not include the power to develop and operate recreational facilities in the Conservancy's enabling act. (§ 33000, *et seq.*.) Therefore, <u>when the Conservancy wants to develop recreation facilities, the Conservancy must seek specific authorization from the Legislature</u>. One recent example is the Legislature's authorization for the Conservancy's "trail development plan and

[4] There are also financial reasons for the requirement that the Conservancy obtain legislative approval when the Conservancy seeks to operate outside its statutory powers. With respect to recreational facilities, the Legislature included only two spending provisions for the Conservancy, each of which constitutes a limitation on the use of funds. Section 33204, subdivision c, authorizes <u>*grants to other agencies*</u> "for the purpose of "<u>*acquiring sites identified as necessary for park, recreation, or conservation purposes and for development of essential related public facilities*</u>." (Emphasis added.) Section 33204, subdivision (d) authorizes advance acquisition of sites "identified as necessary for park, recreation, or conservation purposes, when a state or local agency is unable, due to limited financial resources or other circumstances of a temporary nature, to acquire the site." However, Section 33205 provides that "the conservancy shall not hold lands acquired in accordance with subdivision (d) of Section 33204 more than 10 years from the time of acquisition. A city, county, recreation and park district, the National Park Service, or a state agency may acquire the land any time during that period for park, recreation, or resource preservation purposes. . . . If, at the expiration of the 10-year period, no agency is willing or able to acquire the lands, the conservancy shall request the Real Estate Services Division of the Department of General Services to dispose of the lands at fair market value subject to restrictions that are consistent with this division."

recreational access program for the Rim of the Valley Trail Corridor." (§ 33204.3.) The text of section 33204.3 is set forth in the footnote.[5] Please note that the content of the Conservancy's present submission reads much like the legislative authorization for the Conservancy's development of the Rim of the Valley Trail Corridor – with two critical exceptions. First, the Conservancy did not seek Legislative authorization. Second, when the Legislature authorizes the Conservancy to act beyond its traditional statutory powers, the Legislature requires the Conservancy to obtain the "voluntary cooperation of governmental jurisdictions" within the affected area to prepare a "coordinated trail development plan and recreational access program." (§ 33204.3.) The Conservancy did not seek

---

[5] "**§ 33204.3. Coordinated trail development plan and recreational access program for Rim of the Valley Trail Corridor; boundary changes; public hearing; inclusion in local government plan.** (a) The Legislature finds and declares all of the following: (1) The existing parks and open space owned by federal, state, and local agencies within the Rim of the Valley Trail Corridor, as defined in Section 33105.5, are important recreational and environmental resources for the people of California, especially residents of the San Fernando, La Cresenta, and San Gabriel Valleys, and *it is in the public interest to facilitate the connection of existing parks and open-space resources and to provide for further improvement of underutilized public easements and other existing public open spaces*. (2) There is a *need for 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. (b) The conservancy, *using the voluntary cooperation of governmental jurisdictions within the corridor, shall prepare and adopt a coordinated trail development plan and recreational access program* for the Rim of the Valley Trail Corridor that includes, but is not necessarily limited to, all of the following: (1) *Identification of major hiking and equestrian trails and important secondary and feeder trails that cross jurisdictional lines*, and a priority program for improving those trails. (2) Identification of special purpose trails, where appropriate, for special population groups and special user groups, such as mountain bicycles where the special purpose trails will have no significant environmental impact. (3) Identification of, and a priority program for implementing, those additional recreation access needs, including *new or expanded trails* that should be added to the Rim of the Valley Trail Corridor, and *additional or upgraded facilities, parks, or open spaces that may be necessary*. (4) *Identification of underused existing public open spaces and recommendations for providing better public use and enjoyment of these areas*. (c) Notwithstanding Section 33105.5, the conservancy may make minor boundary changes to the Rim of the Valley Trail Corridor solely for the purpose of implementing the plan prepared pursuant to this section. Any boundary change shall be in the form of maps and descriptions which shall be included in the plan submitted pursuant to subdivision (d) and shall be filed with the Secretary of State not later than July 31, 1990. (d) The conservancy shall hold at least one public hearing in each city and the unincorporated area of each county within the Rim of the Valley Trail Corridor prior to the submission of the plan and program pursuant to this subdivision. The plan and program prepared under subdivision (b), and any changes to the corridor boundary, shall be coordinated with each affected jurisdiction prior to adoption by the conservancy. The plan and program shall be submitted to the Assembly Committee on Natural Resources and the Senate Committee on Natural Resources and Wildlife at least 30 days prior to the approval of any acquisition or improvement under the plan or program pursuant to this division, but not later than June 30, 1990. (e) Upon adoption by a local government of the plan and program prepared under this section, the plan and program shall be part of the plan that the local government implements for purposes of compliance with Section 33009." (Emphasis added.)

legislative approval for its present plan, likely because the Conservancy is attempting to avoid not only *coordination* with the City of Malibu, but *regulation* by the City of Malibu.

Accordingly, for all these reasons, even if Section 30515 could be construed in the broad manner which the Conservancy suggests, the Conservancy would not be entitled to invoke the statute.

III

The Legislative History of the Coastal Act's Public Works and Override Provisions Demonstrates that the 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.

The Conservancy has filed a multitude of documents with its submission to the Commission. For the purpose of this letter, the most pertinent is the Conservancy's "City of Malibu Local Coastal Program Amendment, Malibu Parks Public Access Enhancement Plan Overlay District, Land Use Plan & Local Implementation Plan Text Amendments, April 14, 2008." The text of this document is referenced below as either "SMMC/LUP" or "SMMC/LIP," followed by the section and page number.

The Conservancy states that it is preparing a Public Works Plan (PWP) which it is apparently intending to submit to the Commission.[6] However, in advance of that PWP application, the Conservancy is asking the Commission to override the Malibu LCP to pave the way, i.e., to amend the Malibu LCP to authorize the development of the anticipated PWP as "public works projects." (SMMC/LUP, § 5.66 (p. 1).) The Conservancy's attempt to use the override procedure to that end is not only outside the scope of the statutes and regulations, it is also premature. The provisions of the Coastal Act with respect to public works and overrides, and the legislative history of the implementing regulations for overrides, establish that the override procedure is only available *for an applicant who has proposed a specific public work that requires an LCP amendment*.

---

[6] Materials concerning the Conservancy's Plan are posted on MRCA's web page, with the following statement: "The Santa Monica Mountains Conservancy and Mountains Recreation and Conservation Authority have submitted to the California Coastal Commission a proposed amendment to the City of Malibu Local Coastal Program to incorporate a Malibu Parks Public Access Enhancement Plan Overlay. The Malibu Parks Public Access Enhancement Plan/*Public Works Plan* and *California Environmental Quality Act* document *are being prepared*." www.mrca.ca.gov/pwp.html. (Emphasis added).

A. The Context in Which the Narrow "Override" Procedure Exists and the General Requirement for Consistency Between Public Works and the Applicable LCP.

Any analysis of the purpose and intent of the Coastal Act's override procedures for "public works projects" (§ 30515) must begin with a review of the provisions of the Act which govern public works. The Commission's original jurisdiction over public works plans (§ 30321) is an exception to the general Coastal Act rule that delegates all land use regulatory power to local government once a LCP is certified (§ 30519). There are procedural and substantive aspects to PWPs – all designed by the Legislature to ensure consistency between public works and the applicable LCP and to respect and preserve local regulatory control.

From a procedural standpoint, a PWP functions as an "as an alternative to project-by-project review." (§ 30605.) Once a PWP is certified, the agency developing the PWP may pursue individual public works projects without obtaining coastal development permits. (§ 30605, see, also, 14 Cal. Code Regs., § 13353.) However, as to the substance of the plans and projects, there are two important limitations. A PWP must be consistent with the applicable LCP (§ 30605) and all projects developed under a PWP must be consistent with the PWP (§§ 30605 and 30606; see, also, 14 Cal. Code Regs., §§ 13358, 13359). That is how the Legislature mandated LCP consistency and thus preserved local land use regulatory authority.

The Commission does not have jurisdiction to process a PWP which is not consistent with the applicable LCP. (§ 30605.) Title 14, California Code of Regulations, section 13557, allows the Commission to process a PWP where it "*does not require an amendment to the local coastal program pursuant to [section] 30515*." That statement acknowledges the need for another procedure where a PWP is not consistent with the LCP. That procedure is the LCP "override." (§ 30515.)[7]

B. Override Statutes and Regulations – the Narrow Exception for Specific Public Works That Are Not Consistent with the Applicable LCP.

The title of Section 30515 reads: "Amendment for public works *project* or energy facility development." (Emphasis added.) However, the text of Section 30515 refers to the "*amendment*" and not the

[7] There is also an ambiguity in the statutory scheme concerning whether the override procedure can be used for an entire public works plan, or whether it is limited to a specific public works project. That distinction is not at issue at this stage of the proceedings. However, we reserve the right to raise the objection in future proceedings.

"project."[8] The shift in terminology creates an ambiguity as to the meaning of the provision. Therefore, it is both necessary and appropriate to utilize extrinsic aids to determine the Legislature's intent. (*Bodega Bay Concerned Citizens v. County of Sonoma* (2005) 125 Cal.App.4th 1061, 1069.)

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. However, the express terms of the regulations which implement Section 30515, and the legislative history of those regulations, conclusively demonstrate that the only proper subject for an override is an application for a specific *project, facility* or *development.*

1. **Title 14, California Code of Regulations, Section 13666, *et seq.*:** The express terms of the regulations which implement Section 30515 demonstrate that the regulations do not allow wholesale revisions to an LCP (i.e., in the absence of an application for a specific development proposal). For example, Section 13666 authorizes the use of the override procedures for LCP amendments "provided that *the development* meets the following two requirements . . . *All other developments* requiring an amendment to the certified LCP shall follow the LCP amendment procedures of the affected local government and the Commission." (Emphasis added.) Similarly, Section 13666.2, subdivision (a), describes the application for an override as an application for a specific development: "If the Executive Director has preliminarily determined that the *development* is subject to this subchapter . . .." (Emphasis added.)

Most importantly, section 13666.4 specifically refers to the "development" when it sets forth the findings the Commission must make in order to approve an override:

---

[8] Section 30515 provides: "Any person authorized to undertake a public works project or proposing an energy facility development may request any local government to amend its certified local coastal program, if the purpose of the proposed amendment is to meet public needs of an area greater than that included within such certified local coastal program that had not been anticipated by the person making the request at the time the local coastal program was before the commission for certification. If, after review, the local government determines that the amendment requested would be in conformity with the policies of this division, it may amend its certified local coastal program as provided in Section 30514.

"If the local government does not amend its local coastal program, such person may file with the commission a request for amendment which shall set forth the reasons why the proposed amendment is necessary and how such amendment is in conformity with the policies of this division. The local government shall be provided an opportunity to set forth the reasons for its action. The commission may, after public hearing, approve and certify the proposed amendment if it finds, after a careful balancing of social, economic, and environmental effects, that to do otherwise would adversely affect the public welfare, that a public need of an area greater than that included within the certified local coastal program would be met, that there is no feasible, less environmentally damaging alternative way to meet such need, and that the proposed amendment is in conformity with the policies of this division."

(a) If the recommendation is for Commission approval as proposed or modified (i.e., conditioned), the recommendation shall be accompanied by specific factual findings and reasoning which, after a careful balancing of social, economic, and environmental effects, supports the following conclusions:

(1) *development* meets a public need of a geographic area greater than that included within the certified LCP.

(2) *development* conforms with and is adequate to carry out the policies of Public Resources Code Section 30200 *et seq*.

(3) 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 the *development* will have no significant adverse environmental impact, findings shall be included which support that conclusion.

(4) disapproval would adversely affect the public welfare as identified in the findings, declarations, and general provisions of the Coastal Act (Public Resources Code Section 30000 *et seq*.) and the California Coastal Management Program, if applicable.

(b) If the recommendation is for Commission denial, the recommendation shall state specifically the grounds for denial, based upon the findings and relevant facts which after a careful balancing of social economic and environmental effects support the conclusions listed in Section 13666.4." (Emphasis added.)

2. **The Legislative History of Title 14, California Code of Regulations, Section 13666, *et seq.*** The legislative history of the regulations is included on the CD submitted with this letter. References herein to "LIS" or "RMF" are to specific portions of that document. The legislative history compels the conclusion that the override procedures apply only to applications for specific public work.

a. **The Context In Which the Regulations Were Adopted**. LIS 6 explains that Subchapter 10 of the Regulations was adopted in 1978 (14 Cal. Code Regs., § 13660, *et seq.*). That subchapter sets forth the Commission Procedures for Consistency Determinations for OCS Exploration, Development or Production Plans. The 1982 Regulations amended Subchapter 10 and added Subchapter 11 (14 Cal. Code Regs., § 13666, *et seq.*) to implement Section 30515. Section 13666, *et seq.* were adopted essentially as introduced.

b. **The Commission's Characterization of Regulations**: Throughout the legislative history, the override regulations are discussed in terms of applications for specific public works or energy facility developments. See, e.g., LIS 5: "Section 30515 allows *applicants of public works* or energy facility development to petition the Commission for [LCP] amendments, subject to certain threshold requirements. For *all other types of developments*, local governments must first approve such developments . . .." (Emphasis added.) See, also, Register 82, No. 51-Z, 12-22-82 ("applicants of public works . . .."). And, see, 4/14/82 Memorandum to Commissioners from Energy Counsel and Chief Counsel: "New regulations implement Section 30515 of the Coastal Act which allows *applicants of public works* and energy facility developments to petition the Commission for LCP amendments. . .." (Emphasis added.)

c. **Informative Summary and Statement of Reasons.** For ease of reference, copies of these specific portions of the legislative history are attached as Exhibits A and B, respectively. These documents confirm that the override procedures were intended for applications for specific public works or energy facilities:

> "Section 30515 allows *applicants of public works or energy facility developments* to petition the Commission for [LCP] amendments, subject to certain threshold requirements. For all other types of developments, local governments must first approve such developments . . .."
>
> (Informative Summary, p. 1 (Exh. A to this letter), emphasis added.)
>
> "Section 30515 provides special procedures allowing *applicants* to petition the Commission for Local Coastal Program amendments. *The section only applies to public works facilities and energy facilities. For all other types of facilities, local government submits [LCP] amendments to the Commission.* The section is also extremely

important as an implementation mechanism for the Commission's national interest responsibilities pursuant to the [CZMA], 16 USC Section 1451 *et seq.* and the approved California Coastal Management Program (CCMP).

. . .

"Section 13666.1 Information Requirements for Preliminary Determination. This section describes the type of information that may be submitted to the Executive Director to *determine if the proposed development is subject to this chapter*. . . .."

(Statement of Reasons (Exh. B to this Letter), emphasis added.)

d. **Hearing Transcripts.** If these regulations were intended to give the Commission the broad power which the Conservancy suggests, that subject surely would have arisen during the Commission hearings. However, the hearing transcripts (RMF 49-56) demonstrate that the discussion focused on applications for specific public works and energy developments. Nothing in these transcripts suggests that the Committee intended the override procedures to be utilized in the absence of a specific development proposal.

e. **Comments on Amendments.** For one technical amendment to the wording of 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." (RMF 115, emphasis added.) That "anticipation" recognizes the time at which, as a practical matter, the override procedure might be utilized. First, because the override is an exception to the rule that each local government determines the content of its LCP, the scope of any override must be limited to that which is absolutely necessary. Without an application for development, it is impossible to determine whether an override is required and, even if it is required, to determine the proper scope and extent of the override. Second, the Commission must make fact-specific findings in order to utilize the override procedure. For example, the Commission must find that the development meets a public need of a geographic area greater than that included within the area of the certified LCP, and that there is no feasible less environmentally damaging way to meet that need. (§ 13666.4, subd. (a).) It is not possible for the Commission to make these findings in a vacuum, i.e., without the specific information included in an application for a public work or energy facility.

The following analysis of the Conservancy's submission demonstrates why the Conservancy cannot invoke the override procedures without submitting an application for a specific public work.

C. The Conservancy's Submission

The Conservancy is **not** asking the Commission to override Malibu's decision on an application for a specific public work that might be inconsistent with certain provisions of the Malibu LCP. Instead, the Conservancy's broad and far-ranging submission appears designed to create a "shadow LCP" for the *Conservancy* – with policies that are less protective of coastal resources than the policies of the Malibu LCP.

The content of the Conservancy's submission also exceeds both the statutory and regulatory scheme for overrides. The Conservancy's submission (a) purports to regulate the use of private property, (b) re-writes general LCP policies to reduce the protection for ESHA and change the nature of the Open Space zone, (c) is drafted to read like the equivalent of permit entitlements for certain development and use, with none of the site-specific detail required to obtain entitlements, and (d) deletes all of the City's requirements for CUPs, CDPs, or review by various City Departments. Examples of these aspects of the Conservancy's submission include, but are not limited to, the following:

1. The Conservancy's Submission Seeks to Regulate the Use of Private Property. The Conservancy's submission includes at least four provisions which would regulate the use of private property within the City.

SMMC/LIP, § 4.11, B, 1 (p. 21) states:

> No person shall, *outside of any park facility* mentioned herein, *on any public or private property*, permit or allow, or cause to be permitted or allowed, any open flame, fire, or other incendiary source, of any nature whatsoever, within twenty (20) feet of any flammable vegetation. *This provision shall prohibit backyard fires, barbeques, or any other flame source whatsoever*. Propane BBQs when accompanied with approved fire extinguishers shall be exempt from this policy. (Emphasis added.)

SMMC/LIP §§ 4.3, B, 1 (p. 7) and 4.12, B, 1 and 2 (p. 24) purport to allow the public use of Ramirez Canyon Road – a private roadway – and § 4.12, B, 10 (p. 26) attempts to significantly expand that use.[9]

---

[9] The only access to the Conservancy's Ramirez Canyon property is Ramirez Canyon Road, a private roadway. Section 10 of the Conservancy's proposal states: "Nothing herein, including trip limitations, shall operate to limit or restrict access to Ramirez Canyon Park as sovereign property of the

SMMC/LIP § 4.3, B, 1 (p. 7), which addresses *off-site parking* for the proposed intensive use of the Ramirez Property, 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."

We respectfully submit that, with or without a procedure for a LCP "override," the Conservancy is not entitled to ask the Commission to override Malibu's land use regulatory authority over property which is neither owned by or under the control of the Conservancy.

2. **The Conservancy's Submission Seeks to Re-Write Extensive Portions of the Malibu LCP for Conservancy Properties.** As explained above, the override procedure does not allow an agency to re-write the general provisions of an LCP to its liking. The override procedure allows an agency to seek specific LCP amendments which are required to accommodate an application for a specific public work or energy facility, provided the threshold criteria are met and the requisite findings can be made by the Commission. The Conservancy's revision of the ESHA policies of the Malibu LCP provides the best example of why the Conservancy's submission does not qualify for the procedure.

a. **Expansion of Permitted Use in ESHA.** Each of the properties included in the Conservancy's submission are designated ESHA by the Malibu LCP. The Malibu LIP limits use in ESHA to public accessways and trails, interpretative signage, restoration projects, and invasive plant eradication projects. (Malibu LIP, § 4.5.3.) Those use restrictions are consistent with Section 30240 of the Coastal Act, which provides: "Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas."

The Conservancy's submission would essentially exempt the Conservancy from all of Malibu's use restrictions in ESHA - with the following language:

State of California at any time and by any means whatsoever, by any of the following: The governor or any civil executive officer as provided in Government Code § 1001; any member of the California National Guard or the State Militia; any firefighter of any public agency; any peace officer, any emergency medical technician or paramedic whether employed by a public agency or not, any member of the Legislature or staffs thereof, any member of the Bureau of State Audits, the Secretary for Resources or any employee thereof, any member of the California Coastal Commission or staff thereof, any person appointed pursuant to Public Resources Code Section 33200 or 33213, or person appointed pursuant to Section 5.0 of the Joint Powers Agreement between the Conejo Recreation and Parks District, the Rancho Simi Recreation and Parks District, and the Santa Monica Mountains Conservancy." (SMMC/LIP, § 4.12, B, 10.)

> "Trails, camp facilities, park uses as described in this Chapter [i.e., the regional office, event and commercial leasing of the Ramirez property], and necessary support facilities shall be considered principal permitted uses for those parkland areas subject to . . . ." the proposed override. (SMMC/LIP, § 4.7, A, 1 (p. 12).)[10]

The breadth of the Conservancy's proposal graphically demonstrates why it does not qualify for an override. The Conservancy would expand the use of ESHA to trails, camp facilities, regional office, event and commercial leasing of the Ramirez property, and broadly defined "support facilities." (See sec. c, *infra*). Yet, without the site specific proposals for those expanded uses, the Commission does not have the information required to make the findings required by 14 California Code of Regulations, § 13666.2, subd. (a)(2) (i.e., that the "development conforms with and is adequate to carry out the policies of . . . Section 30200, *et seq.*" or the findings required by Section 13666.2, subdivision (a)(4) (i.e., that "reasonable alternatives have been examined" and "there is no feasible less environmentally damaging way to meet the public need").

b. <u>ESHA/Streambed Modifications</u>. The Conservancy's submission also seeks to re-write the rules which would apply to future streambed modifications on the three Conservancy properties at issue. The Malibu LIP limits use in stream ESHA to necessary water supply projects, flood protection where no other measures is feasible, and restoration projects to improve fish and wildlife habitat. (Malibu LIP, § 4.5.3.) Yet, without proposing any specific stream crossing (i.e., so that the environmental impacts could be evaluated and the Commission could make the findings required by Section 13666.4), the Conservancy has included a broad proposal which allows stream crossings for <u>vehicular</u> and pedestrian use. (SMMC/LIP, § 4.7, B (pp. 14-15).)

In addition, the Conservancy's proposal removes the City's requirement that streambed modification proposals "are subject to a [CDP] and all other relevant permits from appropriate agencies." (See Chart on enclosed CD (p. 31), Pending Malibu LCP Amendment, sec. D, 6, b (i).) That proposal by the Conservancy would violate Section 30522: "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."

---

[10] Section 4.7, quoted in subsection (a) above, would also expand the permitted use of the Conservancy's Ramirez property, which is zoned Open Space. The more significant problem with the Conservancy's submission with respect to Ramirez, however, is the Conservancy's request that the Commission insert into the Malibu LCP language which is drafted to read like an "entitlement" for the Conservancy's specific development at Ramirez. That issue is discussed in section III, C, 4, *infra*.

Moreover, the Conservancy proposes that the Malibu LCP be revised to modify the required stream ESHA buffer required for a very broad category of "support facilities" on Conservancy properties. (SMMC/LIP, § 4.5, para. 3 (p. 10) (see sec. c, *infra*).) The 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 LIP, § 4.6.1(A).) The Conservancy's proposal would allow a reduction of the required setback to "25 feet from the top of the banks of all streams." (SMMC/LIP, § 4.5, para. 3.)

Finally, the Conservancy's submission is drafted to allow the Conservancy to continue to ignore the long-standing requirement by the Department of Fish & Game and by the Commission that the Conservancy apply for a CDP for the unlawful streambed modifications to Ramirez Creek which occurred prior to the Conservancy's acquisition of the property. (See § 4.7, B, 1 and 2.) [11]

c. "**Support Facilities**." The Conservancy would further exempt itself from the limitations on the use of ESHA set forth in the Coastal Act and the Malibu LCP, and from the limitations on the use of Open Space set forth in the Malibu LIP, by the following, extremely broad definition of the term "support facilities":

> "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 areas . . .." (SMMC/LIP, § 4.12 (p. 12), emphasis added.)

As noted above, the "primary permitted land uses" would be significantly expanded under the Conservancy's proposal. In addition, because the Conservancy has deleted all of the City's requirements for CUPs, CDPs, or review by various City Departments (see sec. III, C, 4, *infra*), the

[11] Ramirez Creek is a blue-line stream that passes through the large ESHA area on the Ramirez Property. Prior owners altered the channel and made unpermitted improvements to the bed and banks. When the Conservancy acquired the Property in 1993, Fish & Game and the Commission advised the Conservancy that a CDP for the streamed alteration was required because of the significant adverse impacts to the ESHA and the substantial amount of non-native vegetation. In 1995, the Conservancy filed an application with the Commission, but quickly withdrew it, promising to file another after additional environmental analysis. That never happened. In 1998, when the question arose during the Commission proceedings on the 2000 CDP, the Conservancy promised to submit a separate, application for the streambed alteration. That separate application was submitted, but was woefully incomplete, and the Conservancy failed to respond to the Commission's request for additional information. As a result, no CDP for the streambed alteration has ever been issued.

Conservancy may argue that it alone makes all decisions about what support facilities are "deemed necessary."

3. **The Conservancy's Submission Includes Language that Reads Like Land Use Entitlements. Yet, the Conservancy Has Not Provided the Site-Specific Detail Required to Analyze and Determine the Propriety of Any Entitlements**. According to the Conservancy, "although very detailed and site-specific," the Conservancy's LCP Amendment simply "lays the policy foundation" for future approvals for Conservancy properties. (See fn. 2, *supra*.) The Conservancy's characterization of the submission is not consistent with certain language of the proposed amendment which suggests that the Conservancy is actually seeking land use entitlements, without providing any of the *site-specific detail and analysis required in the permit/entitlement process*. Two specific examples of this language appear in the Conservancy's proposals for camping and for the intensive use of the Ramirez Property:

a. **Camping**. SMMC/LIP, § 4.2, A, 1 (p. 4), provides that the camp facilities which the Conservancy proposes for Ramirez, Escondido, and Corral Canyons "*shall be provided*." (See, also, SMMC/LIP, § 4.4, B, 1 (p. 9), which states that the Conservancy "*shall implement* park improvements to provide for" camping.) SMMC/LIP, section 4.2, A, 2 (p. 5), provides that those campsites "*shall consist* of designated" camp areas (which are generally described in the "Concept Site Plans" for each property).

In addition, the Conservancy's proposal ignores the Malibu LUP requirement that "[d]evelopment of public or private trail campsites along primary trail routes shall be a conditionally permitted use, where impacts to environmentally sensitive habitat areas and visual resources are minimized and where designed to meet fire safety standards." (Malibu LUP, § 2.48.) The City's requirement for a CUP guarantees that each site will be specifically analyzed to determine whether it complies with the policy. However, SMMC/LIP, section 4.2, A, 2 (p. 5) states that the campsites "are defined as principal permitted uses in the Open Space (OS) Zone and are therefore *not subject to conditional use permits*, or any other non-appealable special use permit that may otherwise limit development and maintenance of such campsites in the Malibu Coastal Zone." (Emphasis added.)

These provisions are not drafted, as the Conservancy claims, to simply "lay the policy foundation" for future approvals. In fact, if the Commission inserted the language proposed by the Conservancy into the Malibu LCP, the Conservancy would almost assuredly argue that it was not only *entitled* to develop the campsites, it was *obligated* to develop them.

Moreover, it would turn planning law on its head to insert the language proposed by the Conservancy into the Malibu LCP in advance of any specific development proposal. For example, there is no question that the addition of camping and support facilities to ESHA has the potential to cause adverse environmental impacts (e.g., attendant grading, portable toilets, construction of facilities to provide water and manage runoff, etc.). Yet, the Conservancy uses the word "shall" and deletes the requirement for CUPs without providing, *inter alia*, an analysis of alternatives, the precise location and site-specific environmental analysis for each of the proposed sites, some estimate of the numbers of persons who will use the sites, grading plans, etc.[12] In addition, without that site-specific analysis, the Conservancy could not make at least one of the findings required by Section 13666.4 (i.e., that reasonable alternatives have been examined and that there is no feasible less environmentally damaging way to meet the public need. (*Id.*, § 13666.4, subd. (a)(3).)

In addition, there is no question that camping would increase the risk of fire in these dry coastal sage scrub ESHAs, each of which is located in the Very High Fire Hazard Severity Zone and two of which have no public vehicular access. The Conservancy's submission calls for the preparation of a "Fire Protection, Emergency Evacuation Plan" (SMMC/LIP, FPEEP, § 4.11, B (pp. 20-22)) to deal with procedures for evacuation (p. 22) and camping regulations designed to minimize the risk of fire (p. 21). However, the FPEEP has not been submitted to the Commission. The Conservancy is not entitled to any language which reads like an entitlement for campsites without the determination by a regulatory agency that camping can be operated and managed safely. Moreover, without examining the FPEEP, it is not possible for the Commission to determine whether the proposed development conforms with the policies of Section 30200 (as required by 14 Cal. Code Regs., § 13666.4(a)(2)) because there is no information upon which the Commission could find that the development "minimize[s] risks to life and property in areas of high . . . flood, and fire hazard" (§ 30253).

b. <u>Ramirez Canyon</u>. It is extremely disingenuous for the Conservancy to claim that its proposals do nothing more than lay "the policy foundation" for future approvals for the Conservancy's Ramirez property. Pages 23 through 26 of the Conservancy's submission are attached to this letter as Exhibit C. The text reads like a coastal development permit, despite the fact that the Conservancy has not submitted any of the site specific information required to obtain a permit or entitlement. Just as with camping, the Conservancy's proposal is drafted with mandatory language.

---

[12] SMMC/LIP, § 4.2, A, 4 (p. 5) provides that campsites "shall be located in previously disturbed or non-sensitive areas to minimize impacts to sensitive habitat areas to the maximum extent feasible." SMMC/LIP, § 4.2, A, 6 (p. 5) provides that campsites shall be located in areas of level terrain to avoid the need for grading as much as feasible. However, there is no evidence that the locations of the camps on the Concept Site Plans meet those criteria.

See, p. 24: "[s]pecialized programs at Ramirez Canyon Park and associated support facilities ***shall consist** of the following uses and restrictions* . . . ."

The following examples of the Conservancy's proposed use of its Ramirez property graphically demonstrate why the submission cannot be approved as an override:

i. **The Property**. The Conservancy's Ramirez property is located at the end of a box canyon, vegetated with dry coastal sage scrub ESHA. There is only one means of ingress and egress - a private, winding rural canyon road, with bridges and Arizona stream crossings – and that access way is substandard under both state and local fire codes.

ii. **Regional, Administrative Offices.** The Malibu LCP does not permit government offices on property zoned "Open Space." Yet, the Conservancy seeks to override the Malibu LCP to allow the use of all of the structures on the Ramirez property for regional administrative offices for the Conservancy and MRCA – with no information about the condition of those structures and no limitation on the extent of the proposed use.

The Ramirez property was donated to the Conservancy by Barbra Streisand in *1993 – 15 years ago.* We recently asked the Conservancy, under the Public Records Act, to produce all records concerning development on the property since it acquired title. The Conservancy provided only records concerning the bridge and wastewater system authorized by the 2000 CDP (i.e., the permit that was set aside by the Ventura Superior Court). The Conservancy's response to the PRA establishes that all of the structures on the property – which date back to the 1950's, 1960's and 1970's - have never been improved to meet state fire safety standards. Yet, the Conservancy's submission provides that the Conservancy "shall" use the structures for offices, without any further information upon which the Commission could make the findings required under Section 13666.4.[13]

iii. **Use of the Peach House, Barn, and Art Deco Facilities**. These are three of the structures discussed in the preceding paragraph. The Conservancy's submission provides that the Conservancy "shall" use these three structures for "small group gatherings and tours of up to 60 participants each" (p. 25). Without information concerning the condition of the structures, the provision is improper for the reasons discussed above.

---

[13] The Commission did not review the condition of these buildings during the proceedings which led to the 2000 CDP. In 2006, when the Commission rejected the Conservancy's PWP, the Commission specifically requested that information. The information still has not been provided.

iv. **Public Outreach, Events, Gatherings, Tours and Workshops**. The Conservancy's submission also provides that the Conservancy "shall" use the Ramirez property for a specific number and type of events, with specific attendance allowances (from 60 to 200), and specific hours and conditions of operation (p. 25). On an *annual* basis, the cumulative impact would be at least *900 events per year with 44,240 participants*. On a *monthly* basis, the cumulative impact would be *76 events per month with 3,687 participants* – seven days per week,[14] with public outreach, small events, gatherings, tours and workshops during the fire season (§ B, 5, p. 24) . And, the Conservancy has included these provisions in the section entitled "Land Use and Neighborhood Compatibility" without providing any site-specific information (i.e., environmental analysis, land use compatibility with the surrounding rural residential neighborhood, fire safety and evacuation, etc.).

4. **The Conservancy's Submission Deletes All of the City's Requirements for CUPs, CDPs, and Review by Various City Departments.** The City of Malibu has submitted to the Commission an LCP amendment that deals with the same "Malibu Parks Public Access Enhancement Plan." It is plain that the Conservancy submitted its override in an attempt to avoid the City's *policy preferences*. However, the Conservancy's submission also appears designed to facilitate a future argument by the Conservancy that the City does not have any further *permitting authority* with respect to development on the three properties at issue and the proposed trail network.

The Conservancy submitted a "comparison" of its Plan with the pending Malibu LCP amendment. However, that comparison is materially misleading because it shows only the additions which the Conservancy made to the City's document – it does not show the deletions. To ensure that the Commission has the full picture, we have prepared a comparison that includes all of the changes to the Malibu LCPA suggested by the Conservancy, including both additions and deletions. The comparison is included on the CD submitted with this letter.

The most notable thing about the comparison is that, in every instance where the City of Malibu LCPA requires a CDP, CUP, or review by any City Department, the Conservancy has stricken those requirements. See the following pages on the Chart: p. 5 (§ 5.71 – deletes the requirement for CDPs); p. 9 (§ C – deletes the provision for the imposition of conditions on development); p. 13 (§ 3 – deletes the requirement that the location and design of trails and their impact on ESHA be evaluated during the CDP process); pp. 18-19 (§ A – deletes the requirement that the Conservancy participate with the City to provide public transit improvements); p. 21 (§ 4 – deletes the City's requirement that further intensified use of the Ramirez property be conditioned on the requirement of alternative vehicular

[14] This number may be low, because it assumes just two outreach events per day. In fact, the Conservancy proposes no limit on the number of "Public Outreach" events that may be held each day.

access); p. 24 (§ 5 – deletes the requirement for CDPs for support facilities); p. 24 (§ 3 – deletes review by the City biologist to determine the exact location of support facilities during the CDP process); p. 28 (§ 4 – deletes review by the City biologist to determine the location of park facilities during the CDP process); p. 31 (§ B, 1, removes streambed modifications from the CDP process and from "all other relevant permits from appropriate agencies"); p. 33-34 (§ C, 2 – removes the requirement for review of all projects by the City Environmental Review Board); p. 37 (§ B, ii – deletes the requirement for review of construction and operation of self-contained restrooms by the City Environmental Health Division); p. 42 (§ A, 2 – deletes the application of the City's Geotechnical Guidelines and Building Codes); p. 48 (§ 12 – deletes the City's requirement that development "avoid intrusive traffic circulation in residential neighborhoods"). The Conservancy has provided no explanation whatsoever for these deletions.

D. This is Not "Sand City."

In its July letter to the Commission (see fn. 2, *supra*), the Conservancy cited the "Sand City LCP Amendment" as precedent for its submission. A comparison of the Sand City amendment and the Conservancy's proposal demonstrates that Sand City does not provide any precedent for the Conservancy's overly broad submission.

In the early 1990's, Sand City designated a parcel of land between the beach and Highway 1 for "private development," with "public park" as the "final option." A regional park district sought to override that designation –to put park and open space on equal footing with every other use of property between Highway 1 and the shore. (Sand City LCP Amendment No. 1-93.) Sand City has only 1.5 miles of beachfront - none of that area was developed for public access or park use at the time and half the land designated by the City for public parks was under water.

In light of the legislative history set forth above, the invocation of the override procedures by the Sand City applicant without an application for a specific public work is questionable. However, and in any event, when the Commission approved the application, the Commission simply modified the land use designation to provide for parks and open space *as a conditional use to preserve the City's discretion*.[15] The Conservancy's submission bears no resemblance to the Sand City Amendment, in large part because *the Conservancy's proposals are drafted to require development – with no site-specific detail – and the Conservancy has deleted all of the provisions which guarantee that the City's discretion will be preserved.*

---

[15] Interestingly, one of the conditions required by the Commission for park and open space use in Sand City was public access from a public right of way. As noted above, two of the properties included in the Conservancy's submission have no public access. The Conservancy's Ramirez Canyon and Escondido properties are located in box canyons at the end of private roads.

IV

The Conservancy's Submission is Overbroad. The Override Provisions Cannot Be Utilized to Amend a LCP to Authorize the Implementation of Certain Facilities as "Public Works Projects" Where, as a Matter of Law, Those Facilities Do Not Qualify as Public Works.

Even if the Conservancy could overcome all of the legal obstacles set forth above, its submission would still be overbroad. Section 30114 includes "publicly financed recreational facilities" in the definition of "public works," and the Conservancy's submission states that its anticipated future development will be accomplished as "public works projects." (SMMC/LUP, § 5.66 (p. 1).) However, the Conservancy's submission includes **regional office use** of the Ramirez Property and **commercial leasing** of the Ramirez property for special events. As a matter of law, those proposed uses do not qualify as public works for "recreational facilities." Therefore, the override procedures cannot be used to amend the Malibu LCP to authorize that development as "public works projects."

The Coastal Act does not define the terms "recreation" or "recreation facility." However, those terms are defined in analogous provisions of the California Recreation and Park District Act, at section 5780.1, subdivisions (G) and (H). Under Section 5780.1, neither regional, administrative offices nor leasing of property for private events qualifies as "recreation" or as a "recreational facility."[16]

In addition, the scope of public works for recreational facilities should be limited to those components "directly and immediately" used for the public work. In *City of Lafayette v. East Bay Municipal Utility District* (1993) 16 Cal.App.4th 1005, the appellate court defined the proper scope of public works in the context of immunity from local land use regulations.[17] The Court held that a proposed public works

---

[16] Section 5780.1, subd. (G): "'Recreation' means any voluntary activity which contributes to the education, entertainment, or cultural, mental, moral, or physical development of the individual, group, or community that attends, observes, or participates. 'Recreation' includes, but is not limited to, any activity in the fields of art, athletics, drama, habitat conservation, handicrafts, literature, music, nature study, open-space conservation, science, sports, and any formal or informal play that includes these activities." *Id.*, subd. (H): 'Recreation facility' means 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. A recreation facility may be owned or operated jointly by a district and other public agencies."

[17] Local agencies are generally required to comply with the building and zoning ordinances of the county or city in which they are located. Some public works are exempt from these requirements – for example, facilities for the production, generation, storage, treatment or transmission of water or

water treatment project which included facilities not related to treatment of water was not exempt from local land use regulations (i.e., facilities for materials storage, warehousing, vehicle maintenance, "along with new space to house the district's administrative offices"). (*Id.*, at p. 1011.) The test for determining whether the exemption applies is whether each of the specific project components are "directly and immediately" used for the public works. In *City of Lafayette*, the public work was the production, generation, storage, and transmission of water. In this case, the public work is the development of recreational facilities. Regional, administrative office use and leasing for commercial use are not "directly and immediately" related to recreational purposes.

A limited definition of "public works" would also be consistent with analogous provisions which govern state parks. Section 33211.5, subdivision (d)(1) of the Conservancy's enabling act provides, in part, that the "types of uses and the management policies affecting those uses shall be consistent with the policies for permitted uses of lands within the state park system." Section 5019.53 defines the permissible uses of state park lands. Section 5019.53 does not include regional, administrative offices, or leasing for commercial events. (See, also, § 5080.03, subd. (b), which provides: "[c]oncessions shall not be entered into solely for their revenue producing potential.") The Conservancy's submission includes the acknowledgement that the provisions for leasing the property for special events are included for their revenue producing potential. (SMMC/LIP, § 2, A, 3 (p. 5) and § 12, B, 9 (p. 26).)

V

The Conservancy Is Not Entitled To Invoke The Override Provisions Because The Conservancy Anticipated This Plan Long Before The Malibu LCP Was Before The Commission For Certification.

Both Section 30515 and 14 California Code of Regulations, section 13666, expressly state that the override procedures are available only where, *inter alia*, the "purpose of the proposed amendment is to meet public needs of an area greater than that included within such certified local coastal program *that had not been anticipated by the person making the request at the time the local coastal program was before the commission for certification*." (See, also, Malibu LIP, p. 305, § 19.2.1, subd. (a)(4).) The purpose of the rule is to require agencies to put their plans on the table while the LCP is being drafted, so that land use designations and regulatory policies can be developed in a comprehensive manner.

---

electricity (Gov't. Code, §§ 53091 and 53096). The question of immunity does not arise in this case because every person, including the state itself, is subject to local regulation under the Coastal Act. (§ 30111.)

The City of Malibu, in its letter to the Commission dated June 23, 2008, presented extensive evidence that the Conservancy has anticipated the development described in the Conservancy's override for many years. That evidence consists of numerous planning documents, several of which were submitted to the Commission in various contexts. The evidence also includes comments by the Conservancy to the Commission during the Malibu LCP certification process. A copy of the City's letter is included on the CD submitted with this letter, and we incorporate the arguments herein by reference. We respectfully submit that the evidence conclusively demonstrates that the Conservancy is not entitled to utilize the override procedure because the Conservancy cannot meet the threshold requirements of Section 30515 and 14 California Code of Regulations, Section 13666.

The Conservancy filed a response to the City's letter on July 14, 2008 – a copy of that letter is also included on the enclosed CD. The Conservancy's attempts to avoid the extensive evidence of its prior plans for the area are not convincing for the following reasons:

First, the Conservancy argues that the proposed "site specific LCP amendment" is the "direct result of recent, post-LCP certification events." (SMMC Letter, pp. 4-5.) However, most of the cited post-LCP events consist of the Conservancy's efforts to implement the park and trail plan which it had long anticipated (e.g., the purchase of open space, the acceptance of OTDs, the negotiation with property owners for specific alignments).

Second, the Conservancy dismisses the City's evidence as a "couple of documents" and attempts to differentiate them from the content of the override. (SMMC Letter, p. 5.) However, the fact that the previous documents were "planning" documents does not differentiate them from the Conservancy's submission – because the Conservancy claims that its present submission is simply a planning document. In addition, the fact that the prior documents did not specifically locate the proposed trails does not mean that those trails were not anticipated. (See, e.g., 1997 SMAART report (pp. 28-33) which includes the Winding Way Connectors, Coastal Slope Trail, and Escondido Falls Trail – the same trails which the Conservancy has included in its present submission.)

Third, the fact that the Conservancy had a CDP in place for its Ramirez operations in 2002 (i.e., when the LCP was before the Commission for certification) does not excuse the Conservancy from requesting that the Malibu LCP be drafted to accommodate that development. In 2002, there were two lawsuits pending which challenged the CDP for failure to comply with Malibu's land use regulations - one filed by the Fund (which was successful) and one by the City of Malibu (which was settled). At that same time, the question of whether the Conservancy was immune from Malibu's land use regulations was pending before the Second District Court of Appeal. Moreover, the Commission was in the

process of certifying the Malibu LCP, which would be binding on the Conservancy as a matter of law. (§ 30111.)

Yet, the Conservancy made no effort to submit its plans for Ramirez (or for any of the other elements of its current plan) during the LCP certification process. Instead, in April of 2002, the Conservancy submitted proposed LCP revisions to the Commission which would have made the Conservancy exempt from the requirement for a CDP for park management and operations and for "park events" (festivals, weddings, etc.). In May of 2002, the Court of Appeal issued its opinion in *City of Malibu v. Santa Monica Mountains Conservancy, et al.*, (2002) 98 Cal.App.4th 1379, holding that the Conservancy was subject to Malibu's land use regulations. Still, the Conservancy did not amend its proposals for the LCP so that the Commission could consider (a) the question of whether the Ramirez property should be zoned for the office, commercial and event uses which the Conservancy now proposes and (b) whether the Conservancy should be essentially exempt from the restrictions on the use of ESHA. Instead, the Conservancy simply accepted the Commission's ESHA and "Open Space" designations for the Ramirez property and – even after the CDP was set aside - continued its unlawful use of the property.

Under the circumstances, it would be not only unlawful (§ 30515; 14 Cal. Code Regs., § 13666, et seq.), it would be extremely inequitable for the Commission to allow the Conservancy to invoke the override procedures.

VI

The Constitutional Right of "Public Access" to the Sea vs. Recreation in Inland/Upland Areas.

The provisions of the Coastal Act which regulate public access derive from the Constitutional guarantee of public access to navigable waters. Accordingly, with respect to "public access," the Act was designed to protect access to the coast.[18] There is no similar Constitutional guarantee of public access to inland/upland properties. Therefore, no agency should be entitled to invoke the narrow exception provided by Section 30515 to supplant the decisions of a local government for inland/upland areas.

[18] The legislative history of the Coastal Act confirms that these provisions set the "goal of maximum public *access to coast*." (SB 1277, Assembly Committee on Resources, Land Use, and Energy, Bill Analysis, as amended 8/5/76, p. 2, emphasis added.) See, also, Chap. 6, "Implementation," Art. 3, "*Coastal* Public Access Program," § 30530, *et seq.* (requiring the preparation and implementation of a "program to *maximize public access to and along the coastline.*") (Emphasis added.)

The connection between public access and the constitutional right of access to navigable waters is expressly set forth in the Act. The "Public Access" provisions are set forth in Chapter 3, "Coastal Resources Planning and Management Policies," Article 2. Section 30210 provides:

> "In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse." (Emphasis added.)

Section 4 of Article X of the Constitution provides:

> "No individual, partnership, or corporation, claiming or possessing the frontage or tidal lands of a harbor, bay, inlet, estuary, or other navigable water in this State, shall be permitted to exclude the right of way to such water whenever it is required for any public purpose, nor to destroy or obstruct the free navigation of such water; and the Legislature shall enact such laws as will give the most liberal construction to this provision, so that access to the navigable waters of this State shall be always attainable for the people thereof." (Emphasis added.)

Accordingly, section 30210 and all of the statutes which follow are designed to facilitate *access to the sea*. Section 30211 provides that development "shall not interfere with the public's right of access to the sea." Section 30212, subdivision (a), states that "public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects." Section 30213 provides for lower cost visitor and recreational facilities in these areas. Section 30214, which mandates consideration of time, place and manner restrictions, repeats the policy expressed in section 30210 – the constitutional right of access to navigable waters.

The Sand City case, discussed above, demonstrates the distinction. In Sand City, the Commission found it appropriate to override the City's land use designation because the City's decision had a significant adverse impact on public access to the beach. This case does not involve public access to the beach. The properties at issue in the Conservancy's submission are inland/upland properties, to which the constitutional directive for public access does not apply. Instead, the question here involves the provisions of the Act which apply to "Recreation." Those provisions are located in Chapter 3, Article 3, "Coastal Resources Planning and Management Policies."

The legislative history of the Coastal Act confirms that, even with respect to recreation, the purpose of the Act is to "protect *shorefront property* suitable for recreation; encourage [. . .] use of private lands for recreation and recreational boating facilities in certain areas." (SB 1277, Assembly Committee on Resources, Land Use, and Energy, Bill Analysis, as amended 8/5/76, p. 2.) That is why the recreation provisions of the Act are also oriented toward the use of the shoreline. Section 30220 provides that "[c]oastal areas suited for *water-oriented recreational activities* that cannot readily be provided at inland water areas shall be protected for such uses." Section 30221 states that "*[o]ceanfront land* suitable for recreational use shall be protected for recreational use and development . . .." Section 30222 gives priority to "visitor-serving commercial recreational facilities designed to enhance public opportunities *for coastal recreation*" over other types of uses. (See, also, § 30222.5, priority for "*ocean front* land that is suitable for coastal dependent aquaculture.")

Only one provision of the Act mentions recreational use of upland areas. Section 30223 provides that "[u]pland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible." The Commission has not promulgated any regulations under section 30223, and no court has construed the statute. However, on its face, Section 30223 directs local agencies *to reserve* upland areas to support coastal recreational uses. The Malibu LCP complies with the statute. The issue raised by the Conservancy's submission does not involve the reservation of these properties. The Conservancy's submission concerns the development and use of these properties. The Act plainly delegates regulatory authority over the development and use to the City of Malibu. (§ 30519.)

For these reasons, by requesting an override for a "Malibu Parks Public Access Enhancement Plan" which involves only inland/upland property, the Conservancy would have the Commission construe not only Section 30515, but also Section 30223, as broadly as possible. We respectfully request that the Commission reject that effort.

VII

Conclusion

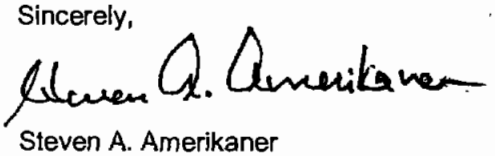
The analysis set forth in this letter demonstrates that the Conservancy's proposed LCP Amendment override cannot be approved because it violates numerous fundamental Coastal Act policies and legal standards. In addition, because of the manner in which the submission is drafted, it is plain that the Conservancy has still not abandoned its claim to immunity from the decision-making power of Malibu - despite the holding of two courts. (See, e.g., *City of Malibu v. Santa Monica Mountains Conservancy, et al.*, (2002) 98 Cal.App.4th 1379, which confirmed that the Conservancy is subject to Malibu's land use

regulations. See, also, Ventura Superior Court Case No. CIV199846, Order dated Feb. 4, 2005, setting aside CDP 4-98-334 because it did not take into account Malibu's land use regulations.) We respectfully submit that there is no cause for the Commission to stretch the "override" provisions beyond recognition simply to give the Conservancy more grist for its "immunity" mill.

Given the fundamental defects in the Conservancy's submission, we respectfully request that counsel advise the Commission's policy staff and the Commission itself that the Conservancy's submission may not lawfully be approved.

Thank you for considering these issues. Please contact us if we may provide any additional information.

Sincerely,



Steven A. Amerikaner

Diane M. Matsinger

Enclosures on CD:

Legislative History of Title 14, Cal. Code Regs., § 13666, *et seq.*
Comparison of Conservancy's Submission with Malibu's Pending LCP Amendment.
Letter from the Conservancy to the Commission, dated July 14, 2008
Letter from the City of Malibu to the Commission, dated June 23, 2008.

Attachments (printed)

Exhibit A: Legislative History of Title 14, Cal. Code Regs., § 13666, "Informative Summary"
Exhibit B: Legislative History of Title 14, Cal. Code Regs., § 13666, "Statement of Reasons"
Exhibit C: Pages 23-26 of the Conservancy's Proposed LIP Text Amendments (Override)

cc. Pat Veesart, California Coastal Commission, Ventura County Office (with enclosures)
Christi Hogin, Malibu City Attorney (without enclosures)
Richard Mullen, President, Ramirez Canyon Preservation Fund (without enclosures)

SB 488439 v13:011142.0001

MEMORANDUM OF UNDERSTANDING

CONCERNING DONATION OF STREISAND RANCH

WHEREAS, Barbra Streisand ("Donor") is the owner of approximately 20.53 acres of land in Malibu, California, upon which four homes have been built ("Streisand Ranch"); and

WHEREAS, Streisand Ranch is a coastal riparian property adjacent to existing wilderness parkland and contains significant natural resources, including a year-round stream near the headwaters of Malibu's scenic Ramirez Canyon; and

WHEREAS, Donor desires to make a charitable contribution of Streisand Ranch to an entity committed to protecting the environment and preserving the natural resources of the property, and desires to encourage its use as the Streisand Center for Conservancy Studies, for advanced academic and applied studies directed toward solution of the most pressing conservation and natural ecosystem management problems; and

WHEREAS, the Santa Monica Mountains Conservancy of the State of California ("Donee") is a state agency organized and operating under The Resources Agency of the State of California pursuant to California Public Resources Code Section 33000 et seq; and

WHEREAS, Donee has already acquired and operated thousands of acres of land in the Santa Monica Mountains and is well known as a preeminent expert in the management of open space and the maintenance and care of important and historic structures, and

has the ability to secure the resources necessary to further Donor's desires concerning the preservation and use of Streisand Ranch.

NOW THEREFORE, under the terms and conditions contained in this Memorandum Of Understanding, Donor hereby donates Streisand Ranch to Donee.

1. Gift of Streisand Ranch.

The Streisand Ranch property which is the subject of the gift, including all residences and structures constructed thereon, is described in Exhibit "A" to this Memorandum of Understanding and attached hereto. Conveyance of Streisand Ranch shall be made and completed by gift deed given to and accepted by the Santa Monica Mountains Conservancy by and on behalf of the State of California and shall transfer title free and clear of all financial liens and encumbrances, including but not limited to deeds of trust, bonds and/or mechanics or tax liens. Conveyance is made on an "as is" basis, and Donor makes no representations or warranties, express or implied, concerning the physical condition of the land or structures.

2. Purpose of the Gift.

Donor's intent in making this gift is to provide a location and facilities for the establishment of the Streisand Center for Conservancy Studies ("Center"). Donee and its affiliated nonprofit, the Mountains Conservancy Foundation, will plan and operate the Center as a place for advanced academic and applied studies directed toward solution of the most pressing

conservation and natural ecosystem management problems, and will carefully evaluate all relevant issues related to its use, including vehicular access and impact on the neighboring community.

Donee commits to Donor that revenues received in connection with any and all events, programs and public or private uses held at the Streisand Ranch by the Center or any other user shall be expended solely on the on-going costs of operating and maintaining the Ranch and covering the expenses of the Center.

3. Donee's Access to the Ranch.

Upon acceptance of the gift deed, or on November 29, 1993, whichever occurs later, Donee shall have immediate unrestricted ownership, use, possession and access to the entire grounds of Streisand Ranch and to all residences, including the residence known as "Barwood." With respect to the three residences known as the "Barn," the "Peach House" and the "Deco House," Donee hereby grants Donor access to such properties until February 1, 1994, to remove personal property. Donor shall retain the keys to those three residences and hereby designates Mario Yocupicio, the current caretaker of Streisand Ranch, to be her representative and to accompany Donee's representatives whenever they need access to those structures for purposes of planning for the Center.

4. Donor's Personal Possessions and Furnishings.

Donor has until February 1, 1994 to remove her personal

possessions, including furniture and furnishings, from Streisand Ranch. Until such time, the furniture and furnishings shall be considered on loan to Donee. Donor and Donee acknowledge that they will be holding future discussions concerning the possibility of an additional donation and/or purchase of some or all of the furniture and furnishings. Donor also has until February 1, 1994 to remove for transplantation all rose bushes and vegetables from the grounds of the Ranch. Until then, Donor may have a representative cultivate the roses and harvest the vegetables as often as is required.

5. Date of Gift.

The gift of Streisand Ranch shall be considered complete as of the date the gift deed is delivered and accepted. The gift deed shall be recorded with the County Recorder for the County of Los Angeles as soon thereafter as possible.

6. Property Taxes.

Donee assumes responsibility for notifying the Office of the County Tax Assessor that title to Streisand Ranch has been transferred, that Donee is exempt from property taxes, and that taxes should therefore cease accruing. Donee will cooperate with Donor in obtaining any refund of property taxes to which Donor may be entitled.

7. Insurance.

Donor shall continue to insure her personal possessions and furnishings until such time as they are removed from the Ranch or transferred to Donee. Donee will be responsible for all

other insurance as of the date the title to the Ranch is transferred.

8. Costs of Transfer.

Donee shall bear any and all costs pertaining to its acquisition of Streisand Ranch, including but not limited to title and recordation fees and costs of inspection. Each party shall bear any professional expenses, such as fees incurred by attorneys, accountants and/or business advisors that they generate in connection with this transaction.

9. Tax Reporting.

Donee represents and warrants that it is an entity described in I.R.C. Section 170(c)(1) and that it will hold Streisand Ranch for exclusively public purposes within the meaning of such Section. Donee acknowledges that Donor intends to claim Donor's gift hereunder as a charitable contribution deduction of capital gain property on Donor's 1993 state and federal income tax returns, at the full value set forth in the appraisal attached as Exhibit B hereto. Donee shall cooperate with Donor and Donor's attorneys, accountants or other financial advisors in claiming and sustaining such deduction. Donee shall also prepare and timely file all reports, tax returns or other documents or statements required to be filed in connection with Donee's receipt of such gift, shall provide Donor with copies thereof prior to filing for review by Donor's advisors, and shall make no reports, returns, filings or statements inconsistent with Donor's tax reporting position as set forth herein or

inconsistent with Donor's advisors' requests with respect thereto.

Executed this 30 day of November, 1993.

Barbra Streisand
"Donor"

Santa Monica Mountains Conservancy
by Joseph T. Edmiston, Executive Director,
its authorized officer

Streisa6.mou
November 23, 1993

EXHIBIT "A"

In the County of Los Angeles, Malibu, California:

Assessor's Parcel No. 4465-004-067
Assessor's Parcel No. 4467-002-045
Assessor's Parcel No. 4467-002-046
Assessor's Parcel No. 4467-002-048
Assessor's Parcel No. 4467-002-049

MALIBU LOCAL COASTAL PROGRAM AMENDMENT (LCPA No. 07-002)	SMMC OVERRIDE
1. Land Use Plan **1.1 Chapter 2 (Public Access and Recreation), Section C (Land Use Policies) is hereby amended to include Subsection 7, policy 2.90 (Malibu Parks Public Access Enhancement Overlay) as follows:** 7. Malibu Parks Public Access Enhancement Overlay 2.90 The City, Santa Monica Mountains Conservancy, and Mountains Recreation and Conservation Authority, shall coordinate and consult with the National Park Service and the County of Los Angeles, and other appropriate public and private entities and interested parties in designing, locating, funding, and acquiring, and implementing the public access and recreational facility improvements identified in the Malibu Parks Public Access Enhancement Overlay pursuant to and adopted an certified overlay district.	**7. Malibu Parks Public Access Enhancement Plan Overlay** 2.90 The City, Santa Monica Mountains Conservancy, and Mountains Recreation and Conservation Authority, shall coordinate and consult with the National Park Service and the County of Los Angeles, and other appropriate public and private entities and interested parties in designing, locating, funding, acquiring, and implementing the public access and recreational facility improvements identified in the Malibu Parks Public Access Enhancement Plan pursuant to an adopted and certified overlay district.
1.2 Chapter 5 (New Development), Section C (and Use Policies) Subsection 1 is hereby amended to read as follows: 1. Land Use Plan Map The Land Use Plan Map Shows the land use designation for each property. The land use designation denotes the type, density and intensity of development that may be permitted for each property, consistent with all applicable LCP policies. An overlay is applied to the Civic Center area that allows for a mix of land uses and specific development standards if a specific plan or other comprehensive plan is developed, adopted, and certified as an	

MALIBU LOCAL COASTAL PROGRAM AMENDMENT (LCPA No. 07-002)	SMMC OVERRIDE
LCP amendment for the area. An overlay is also applied to those parkland and recreation areas included in the Malibu Parks Public Access Enhancement Overlay, a comprehensive plan developed to provide the framework for implementation of specific trail development, recreation support facility, transportation, and public program improvements for individual parklands and trail corridors for the benefit of public access and recreation consistent with the goals of LCP and the Coastal Act. New development in the City shall be consistent with the Land Use Plan map, and all applicable LCP policies. Following is a description of the land use designations.	
1.3 Chapter 5 (New Development), Section C (Land Use Policies) is hereby amended to include Subsection 13, Policies 5.66 through 5.71 (Malibu Parks Public Access Enhancement Overlay) as follows: 13. Malibu Parks Public Access Enhancement Overlay Policies 5.66 The Malibu Parks Public Access Enhancement Overlay shall be implemented to 1) develop public access and recreational facility improvements, including support facilities, needed to meet growing visitation and demands for recreational opportunities in the Santa Monica Mountains and Malibu area, 2) address potential impacts to coastal resources associated with recreational facility development, 3) provide alternative transportation opportunities to facilitate public access, 4) implement and maintain specialized public program uses intended to enhance and diversify access and recreation opportunities, and 5) balance the needs and concerns of private residents adjacent to public recreational lands with the need to promote and enhance public access and recreation opportunities in the Coastal Zone for all visitors.	**13. Malibu Parks Public Access Enhancement Plan Overlay Policies** 5.66 The Malibu Parks Public Access Enhancement ~~Overlay~~ Plan shall be implemented as public works projects to 1) develop public access and recreational facility improvements, including support facilities, needed to meet growing visitation and demands for recreational opportunities in the Santa Monica Mountains and Malibu area, 2) address potential impacts to coastal resources associated with recreational facility development, 3) provide alternative transportation opportunities to facilitate public access, 4) implement and maintain specialized public program uses intended to enhance and diversify access and recreation opportunities, and 5) balance the needs and concerns of private residents adjacent to public recreational lands with the need to promote and enhance public access and recreation opportunities in the Coastal Zone for all visitors.

MALIBU LOCAL COASTAL PROGRAM AMENDMENT (LCPA No. 07-002)	SMMC OVERRIDE
5.67 The Malibu Parks Public Access Enhancement Overlay provides policies and implementing measures that expand on the public access and recreation policies of the Malibu LCP which shall be implemented to enhance public access and recreation opportunities to and within existing parklands and recreation areas subject to the Malibu Parks Public Access Enhancement Overlay Map public use by local and non-local visitors, and for visitors with diverse backgrounds, interests, ages, and abilities.	5.67 The Malibu Parks Public Access Enhancement ~~Overlay~~ Plan provides policies and implementing measures that expand on the public access and recreation policies of the Malibu LCP which shall be implemented to enhance public access and recreation opportunities to and within existing parklands and recreation areas subject to the ~~Malibu Parks Public Access Enhancement Overlay Map~~ overlay district (LIP Zoning Map X) for ~~public~~ use by local and non-local visitors, and for visitors with diverse backgrounds, interests, ages, and abilities.
5.68 Park uses shall be established and maintained consistent with the visitor serving capacity of specific park areas taking into consideration available support facilities, opportunities to develop new support facilities, accessibility, ability to protect natural resources, public safety issues, and neighborhood compatibility.	5.68 Park uses shall be established and maintained consistent with the visitor ~~serving~~ carrying capacity of specific park areas taking into consideration available support facilities, opportunities to develop new support facilities, accessibility, ~~ability to protect~~ protection of natural resources, public safety issues, and neighborhood compatibility.
5.69 **Except where specifically conditionally permitted in the Malibu Parks Public Access Enhancement Overlay, camping is prohibited in all public parks and recreation areas.** Limited overnight campsites should be developed exclusively in existing Ramirez Canyon Park boundaries to accommodate organized programs for disabled individuals.	5.69 ~~Except where specifically conditionally permitted in the Malibu Parks Public Access Enhancement Overlay, camping is prohibited in all public parks and recreation areas~~. Limited overnight campsites ~~should be developed exclusively in existing Ramirez Canyon Park boundaries to accommodate organized programs for disabled individuals.~~ are defined as principal permitted uses in parklands subject to the Malibu Parks Public Access Enhancement Plan Overlay and should be developed within park boundaries for public use to provide a wider range of recreational opportunities and low-cost visitor serving opportunities

MALIBU LOCAL COASTAL PROGRAM AMENDMENT (LCPA No. 07-002)	SMMC OVERRIDE
	for visitors of diverse abilities, where impacts to coastal resources are minimized and where such sites can be designed within site constraints and to adequately address public safety issues.
5.70 Where physical constraints of natural park areas limit access opportunities for people with disabilities, park support facilities and amenities shall be developed and maintained, where available and consistent with public safety needs and resource protection policies, to thematically link nature study, education and recreation via specialized public programs and events.	5.70 Where physical constraints of natural park areas limit access opportunities for people with disabilities, park support facilities and amenities shall be developed and maintained, where available and consistent with public safety needs and resource protection policies, to thematically link nature study, education and recreation via specialized public programs and events.
5.71 Trails to and within public parklands, public outreach and educational programs and/or related support facilities (e.g. parking, public restrooms, picnic amenities, ranger/maintenance supervisor housing, nature centers, limited personnel facilities related to the daily operation and maintenance of parklands and public access programs), and special programs and events conducted at Ramirez Canyon Park, defined in the Malibu Parks Public Access Enhancement Overlay shall be permitted to be constructed, opened and operated for intended public use or benefit only where it is determined feasible to locate, design, and maintain such facilities and uses so as to avoid, or minimize and fully mitigate, potential impacts to ESHA and, if required, a coastal development permit is obtained.	5.71 Trails to and within public parklands, camp facilities, public outreach and educational programs and/or related support facilities (e.g. parking, public restrooms, picnic amenities, ranger/maintenance supervisor housing, nature centers, ~~limited~~ administrative personnel facilities related to the daily operation and maintenance of parklands and ~~public access~~ park programs), and special programs and events conducted at Ramirez Canyon Park, are defined as principal permitted uses in the Malibu Parks Public Access Enhancement Plan Overlay and shall be permitted to be constructed, opened and operated for intended public use or benefit ~~only~~ where it is determined feasible to locate, design, and maintain such facilities and uses so as to avoid, or minimize and fully mitigate, potential impacts to ESHA ~~and, if required, a coastal development permit is obtained~~.
1.4 Land Use Plan Park Lands Map No. 2 is hereby amended to include the trail segments identified in the Malibu Parks	~~**1.4 Land Use Plan**~~ **LCP LUP PARK LANDS MAP NO. 2**

MALIBU LOCAL COASTAL PROGRAM AMENDMENT (LCPA No. 07-002)	SMMC OVERRIDE
Public Access Enhancement Overlay attached hereto as Exhibit A. **[NOTE: Comparison of Trail Maps attached.]**	**~~is hereby a~~Amended to include the trail segments ~~identified in the~~ as proposed by the Malibu Parks Public Access Enhancement ~~Overlay~~ Plan. ~~attached hereto as Exhibit A.~~**
1.5 The word "camping" and the word "campgrounds" are hereby deleted from Chapter 2 paragraph A under introduction; Policy 2.1 is amended to delete the word "camping"; Policy 2.35 is amended to delete the word "campground"; Policy 2.48 is deleted in its entirety; and the word "camping" is deleted from the definition of CR zone and "summer camps" is changed to "summer day camps."	**~~1.5 The word "camping" and the word "campgrounds" are hereby deleted from Chapter 2 paragraph A under introduction; Policy 2.1 is amended to delete the word "camping"; Policy 2.35 is amended to delete the word "campground"; Policy 2.48 is deleted in its entirety; and the word "camping" is deleted from the definition of CR zone and "summer camps" is changed to "summer day camps."~~**
2. Local Implementation Plan **2.1 To prohibit overnight camping:** a. LIP Section 3.3 F is hereby amended to replace "summer camps" with "summer day camps" b. Delete "campground" from LIP Section 12.11 A c. In TABLE B (Permitted Uses) replace "P" under CR and OS zones with "•" d. In TABLE B (Permitted Uses) add footnote to CUP for camping in MPPAE Overlay to read: maximum of three campsites ONLY for organized programs for overnight camping for disabled	**~~2. Local Implementation Plan~~** **~~2.1 To prohibit overnight camping:~~** ~~a. LIP Section 3.3 F is hereby amended to replace "summer camps" with "summer day camps"~~ ~~b. Delete "campground" from LIP Section 12.11 A~~ ~~c. In TABLE B (Permitted Uses) replace "P" under CR and OS zones with "•"~~ ~~d. In TABLE B (Permitted Uses) add footnote to CUP for camping in MPPAE Overlay to read: maximum of three campsites ONLY for organized programs for overnight camping for disabled~~

MALIBU LOCAL COASTAL PROGRAM AMENDMENT (LCPA No. 07-002)	SMMC OVERRIDE
individuals.	~~individuals.~~
2.2 Chapter 3 (Zoning Designations and Permitted Uses) is hereby amended to include Subsection 3.4.2 (Malibu Parks Public Access Enhancement Overlay Zone) as follows:	**CHAPTER 3—Zoning Designations and Permitted Uses**
3.4.2 Malibu Parks Public Access Enhancement Overlay	**3.4.2 Malibu Parks Public Access Enhancement Plan Overlay**
A. Purpose	**A. Purpose**
The purpose of the Malibu Parks Public Access Enhancement Overlay Zone is to maximize and prioritize public access and recreational opportunities in specific parkland and recreation areas as defined in Section 3.4.2.B. below (Overlay area). This chapter implements the land use policies of the Malibu Parks Public Access Enhancement Overlay, consistent with sound resource conservation principles and constitutionally protected rights of private property owners. This chapter shall further supplement and implements 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 purpose of the Malibu Parks Public Access Enhancement Overlay Zone is to maximize and prioritize public access and recreational opportunities in specific parkland and recreation areas as defined in Section 3.4.2.B. below (~~Overlay~~ Plan area). This ~~chapter~~ Overlay District implements the land use policies of the Malibu Parks Public Access Enhancement ~~Overlay~~ Plan, consistent with sound resource conservation principles and constitutionally protected rights of private property owners. This ~~chapter~~ Overlay District shall further supplement and implements 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, and Chapter 12 the Malibu Local Coastal Program Local Implementation Plan. This ordinance shall be given the most liberal construction possible to ensure that public access and public recreational opportunities are protected and provided consistent with the goals, objectives, and policies of the Malibu Parks Public Access Enhancement Plan, the California Coastal Act, City of Malibu Local Coastal Program, and Article X, Section 4, of the California Constitution.
To implement the goals, objectives, and policies of the Malibu Parks Public Access Enhancement Overlay and 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,	B. To implement the goals, objectives, and policies of the Malibu Parks Enhancement ~~Overlay~~ Plan and the public access and recreation policies of Chapter 3 of the Coastal Act, and Chapters of the Malibu Local Coastal Program Land Use Plan, this ~~chapter~~

MALIBU LOCAL COASTAL PROGRAM AMENDMENT (LCPA No. 07-002)	SMMC OVERRIDE
this chapter provides site specific development standards, and other implementation measures to 1) complete trail connections for the Coastal Slope 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 Charmlee Park, Ramirez Canyon Park, Escondido Canyon Park and Corral Canyon Park, subject to the Malibu Public Access Enhancement Overlay to provide critical support facilities, improved public transit, and improved trail and park accessibility to facilitate an increased level of accessibility for visitors with disabilities. The Malibu Parks Public Access Enhancement Overlay further specifies the uses and facilities to be accommodated by park-specific projects, and provisions to ensure project implementation is carried out consistent with all applicable resource protection, hazards and land use policies of the Coastal Act and Malibu LCP.	Overlay District 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 ~~Charmlee Park,~~ Ramirez Canyon Park, Escondido Canyon Park, and Corral Canyon Park subject to the Malibu Parks Public Access Enhancement Plan Overlay to provide camp areas, critical support facilities, improved public transit, and improved trail and park accessibility to facilitate an increased level of accessibility for visitors with disabilities. The Malibu Parks Public Access Enhancement Plan Overlay further specifies the uses and facilities to be accommodated by park-specific projects, and provisions to ensure project implementation is carried out consistent with all applicable resource protection, hazards and land use policies of the Coastal Act and certified Malibu ~~LCP~~ Local Coastal Program.
B. Description of Area Subject to LIP Section 3.4.2 The provisions of this chapter shall apply to those public parklands and recreation areas illustrated generally in Exhibit A (Overlay Map), including Charmlee Park, specific recreation areas that extend from the Zuma/Trancas Canyon Units of the Santa Monica Mountains National Recreation Area to Corral Canyon Park, south to Pacific Coast Highway and just north of the City of Malibu/Unincorporated Los Angles County Boundary. The term recreation areas as used in this section applies specifically to Charmlee Park, Ramirez Canyon Park, Escondido Canyon Park, and Corral Canyon Park existing and proposed trail corridors as identified in the City's Trail Master Plan, Local Coastal Program, and Draft Interagency Regional Trail Management Plan, Exhibit B. Public parklands that are owned and maintained by the National	**B. Description of Area Subject to Section 3.4.2** The provisions of this ~~chapter~~ Overlay District shall apply to those public parklands and recreation areas illustrated generally on ~~Exhibit A (Overlay Map), including Charmlee Park, specific recreation areas that extend from~~ the Malibu Parks Public Access Enhancement Plan Overlay Public Parkland Map and Proposed Trail Resources Map, extending from the Zuma/Trancas Canyon Units of the Santa Monica Mountains National Recreation Area to Corral Canyon Park, south to Pacific Coast Highway and ~~just~~ north of the City of Malibu/Unincorporated Los Angles County Boundary. The term recreation areas as used in this section applies specifically to ~~Charmlee Park,~~ Ramirez Canyon Park, Escondido Canyon Park, and Corral Canyon Park existing and proposed trail corridors as identified in the City's Trail Master Plan, Local Coastal

MALIBU LOCAL COASTAL PROGRAM AMENDMENT (LCPA No. 07-002)	SMMC OVERRIDE
Park Service; the Zuma/Trancas Canyon Units of the Santa Monica Mountains National Recreation Area and Solstice Canyon Park, are included in the Malibu Parks Public Access Enhancement Overlay to allow for comprehensive and strategic planning for developing priority trail and transit connections with the goal of establishing a network of parks, trails, and open space for public use; however, this chapter shall not apply to any future development plans of the National Park Service for these parklands.	Program, and Draft Santa Monica Mountains National Recreation Area Interagency Trail Management Plan, ~~Exhibit B.~~ Public parklands that are owned and maintained by the National Park Service; the Zuma/Trancas Canyon Units of the Santa Monica Mountains National Recreation Area and Solstice Canyon Park, are included in the Malibu Parks Public Access Enhancement Plan Overlay to allow for comprehensive and strategic planning for developing priority trail and transit connections with the goal of establishing a network of parks, trails, and open space for public use; however, this ~~chapter~~ Overlay District shall not apply to any future development plans of the National Park Service for these parklands.
Private property subject to this chapter consists only of those properties containing trail and open space Offers To Dedicate and subject to the Malibu Parks Public Access Enhancement Overlay and all applicable provisions of Chapter 12, Public Access, of the Malibu Local Coastal Program Local Implementation Plan, or those identified on the Conservancy's Work Program, as may be amended, which are purchased from willing sellers, dedicated to public use as part of the entitlement process, or donated by a private landowner.	Private property subject to this ~~chapter~~ Overlay District consists only of those properties containing trail and open space Offers To Dedicate and subject to the Malibu Parks Public Access Enhancement Plan Overlay and all applicable provisions of Chapter 12, Public Access, of the Malibu Local Coastal Program Local Implementation Plan, or those identified on the Conservancy's Work Program, as may be amended, which are purchased from willing sellers, dedicated to public use as part of the entitlement process, or donated by a private landowner.
C. Applicability The implementing measures of this chapter will serve to enhance public access and recreation opportunities to and within existing park facilities subject to this Malibu Parks Public Access	**C. Applicability** The implementing measures of this ~~chapter~~ Overlay District will serve to enhance public access and recreation opportunities to and within ~~existing~~ park facilities subject to this Malibu Parks

MALIBU LOCAL COASTAL PROGRAM AMENDMENT (LCPA No. 07-002)	SMMC OVERRIDE
Enhancement Overlay. These implementing measures establish the park-specific uses and facilities determined to be critical in ensuring maximum public access and recreational opportunities are achieved pursuant to the Malibu Parks Public Access Enhancement Overlay goals, consistent with all public access and recreation policies of the Malibu LCP and the Coastal Act. Development of public access and recreation improvements as defined in the Malibu Parks Public Access Enhancement Overlay shall be governed by the policies, standards and provisions of this chapter in addition to any other applicable policies or standards of the certified Local Coastal Program and the Coastal Act. Where applicable, Coastal Development Permits for development of public access and recreation improvements as defined in the Malibu Parks Public Access Enhancement Overlay shall be conditioned to ensure compliance with the policies, standards and provisions contained herein. Where any policy or standard provided in this chapter conflicts with any other policy or standard contained in the City's General Plan, Zoning Code or other City-adopted plan, resolution or ordinance not included in the LCP, and it is not possible for the development to comply with both the Malibu Parks Public Access Enhancement Overlay and other plan, resolution or ordinance, the policies, standards or provisions contained herein shall govern.	Public Access Enhancement Plan Overlay These implementing measures establish the park-specific uses and facilities determined to be critical in ensuring maximum public access and recreational opportunities are achieved pursuant to the Malibu Parks Public Access Enhancement Plan Overlay goals, consistent with all public access and recreation policies of the Malibu ~~LCP~~ Local Coastal Program and the Coastal Act. Development of public access and recreation improvements as defined in the Malibu Parks Public Access Enhancement Plan Overlay shall be governed by the policies, standards and provisions of this ~~chapter in addition to any other applicable policies or standards of the certified Local Coastal Program and the Coastal Act.~~ Overlay District. ~~Where applicable, Coastal Development Permits for development of public access and recreation improvements as defined in the Malibu Parks Public Access Enhancement Overlay shall be conditioned to ensure compliance with the policies, standards and provisions contained herein.~~ Where any policy or standard provided in this ~~chapter~~ Overlay District conflicts with any other policy or standard contained in the City's General Plan, Zoning Code, ~~LCP~~ certified Local Coastal Program, or other City-adopted plan, resolution or ordinance not included in the ~~LCP~~ certified Local Coastal Program, and it is not possible for the development to comply with both the Malibu Parks Public Access Enhancement Plan Overlay and other plan, resolution or ordinance, the specific policies, standards or provisions contained herein shall ~~govern~~ take precedence.
D. Development Standards 1. Trails Public access and recreation opportunities on lands subject to this	**D. Development Standards** **1. Trails** Public access and recreation opportunities on lands subject to this

MALIBU LOCAL COASTAL PROGRAM AMENDMENT (LCPA No. 07-002)	SMMC OVERRIDE
chapter shall be provided and enhanced by developing trail resources pursuant to implementation of a number of site-specific trail improvements as conceptually illustrated in Exhibit C, and which shall be subject to the following implementation measures.	~~chapter~~ Overly District shall be provided and enhanced by developing trail resources pursuant to implementation of a number of site-specific trail improvements as conceptually illustrated on the Malibu Parks Public Access Enhancement Plan Proposed Trail Resources Map ~~in Exhibit C~~, and which shall be subject to the following implementation measures.
a. Trail Easement and Open Space Deed Restriction Land Acceptance Program	~~a.~~ **A. Trail Easement & Open Space Deed Restriction Land Acceptance Program**
i. The Conservancy/MRCA shall work with the Public Access Division of the Coastal Commission and the City of Malibu Planning Division to accept all Offers to Dedicate (OTDs) identified in areas subject to Malibu Parks Public Access Enhancement Overlay.	~~i.~~ 1. The Conservancy/MRCA shall work with the Public Access Division of the Coastal Commission and the City of Malibu Planning Division to accept all ~~Offers to Dedicate (OTDs)~~ OTDs identified in areas subject to Malibu Parks Public Access Enhancement Plan Overlay beginning July 2006.
ii. As data becomes available, the Conservancy/MRCA shall work with the Coastal Commission and City of Malibu to identify and accept, as applicable, all trail and open space OTDs identified in areas subject to Malibu Parks Public Access Enhancement Overlay and evaluate/process the legal documentation necessary to ensure allowance of trail use on properties subject to OTDs, where appropriate, or to ensure such properties are protected as natural and scenic areas to enhance the recreational experience of trail corridors.	~~ii.~~ 2. As data becomes available, the Conservancy/MRCA shall work with the Coastal Commission and City of Malibu to identify and accept, as applicable, all trail and open space OTDs identified in areas subject to Malibu Parks Public Access Enhancement Plan Overlay and evaluate/process the legal documentation necessary to ensure allowance of trail use on properties subject to OTDs, where appropriate, or to ensure such properties are protected as natural and scenic areas to enhance the recreational experience of trail corridors.
iii. The Conservancy/MRCA should monitor the review and approval process for coastal development permits in the areas subject to Malibu Parks Public Access Enhancement Overlay, subject to City or Coastal Commission action, for potential future OTDs requirements and act to accept OTDs that may become	~~iii.~~ 3. The Conservancy/MRCA should monitor the review and approval process for coastal development permits in the areas subject to Malibu Parks Public Access Enhancement Plan Overlay, subject to City or Coastal Commission action, for potential future OTDs requirements and act to accept OTDs that

MALIBU LOCAL COASTAL PROGRAM AMENDMENT (LCPA No. 07-002)	SMMC OVERRIDE
available. The Conservancy/MRCA agencies are independent of the City's coastal development permit review process and approval of a coastal development permit is not linked to any offer to dedicate. iv. The Conservancy/MRCA should study opportunities and evaluate potential land acquisitions based on proximity to existing trail alignments and existing OTDs to facilitate development of the Coastal Slope Trail, and associated connector trails, where private property presents a significant obstacle to trail implementation.	may become available. ~~The Conservancy/MRCA agencies are independent of the City's coastal development permit review process and approval of a coastal development permit is not linked to any offer to dedicate.~~ ~~iv.~~ 4. The Conservancy/MRCA should study opportunities and evaluate potential land acquisitions based on proximity to existing trail alignments and existing OTDs to facilitate development of the Coastal Slope Trail, and associated connector trails, where private property presents a significant obstacle to trail implementation.
b. Park Agency Coordination i.i All plans for location, design and development of park improvements located on, or potentially affecting, adjacent federal parklands and/or County lands shall be submitted to the Outdoor Recreation Planner of the National Park Service and/or the Los Angeles County Department of Parks and Recreation to ensure continued interagency coordination and successful planning efforts for providing an accessible, safe and enjoyable trail system throughout the Malibu Parks Public Access Enhancement Overlay area.	**B. Park Agency Coordination** ~~i.i~~ 1. All plans for location, design and development of park improvements located on, or potentially affecting, adjacent Federal parklands and/or County lands shall be submitted to the Outdoor Recreation Planner of the National Park Service and/or the Los Angeles County Department of Parks and Recreation to ensure continued interagency coordination and successful planning efforts for providing an accessible, safe and enjoyable trail system throughout the Malibu Parks Public Access Enhancement Plan Overlay area.
c. Trail Location, Development and Design i. The Conservancy/MRCA should develop plans to construct,	**C. Trial Location, Development and Design** i. 1. The Conservancy/MRCA should develop plans to construct,

MALIBU LOCAL COASTAL PROGRAM AMENDMENT (LCPA No. 07-002)	SMMC OVERRIDE
improve and maintain trails for public use once accepted as an OTD, or once acquired through land purchase, consistent with the resource protection policies of this Chapter.	improve and maintain trails for public use once accepted as an OTD, or once acquired through land purchase, consistent with the resource protection policies of this ~~Chapter~~ Overlay District.
ii. To the maximum extent feasible, and where consistent with all public safety provisions and the resource protection policies of this Chapter, the Local Coastal Program and the Coastal Act, trails should be designed to accommodate 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. Where full compliance with these accessibility guidelines is determined to be infeasible, trails and trail facilities will incorporate those accessible features that can be reasonably accommodated.	ii. 2. To the maximum extent feasible, and where consistent with all public safety provisions and the resource protection policies of this ~~Chapter~~ Overlay District, the City of Malibu Local Coastal Program and the Coastal Act, trails should be designed to accommodate 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. Where full compliance with these accessibility guidelines is determined to be infeasible, trails and trail facilities will incorporate those accessible features that can be reasonably accommodated.
iii. Trails shall be located, designed, and maintained to avoid or minimize impacts to ESHA by utilizing established trail corridors, following natural contours, and avoiding naturally vegetated areas with significant native plant species to extent feasible. The location and design of trails and potential impacts to ESHA will be evaluated during the coastal development permit process.	iii. 3. Trails shall be located, designed, and maintained to avoid or minimize impacts to ESHA by utilizing established trail corridors, following natural contours, and avoiding naturally vegetated areas with significant native plant species to the extent feasible. ~~The location and design of trails and potential impacts to ESHA will be evaluated during the coastal development permit process.~~ Trail construction resulting in unavoidable impacts to ESHA may be permitted if found consistent with all applicable resource protection policies of this Overlay District, the City of Malibu Local Coastal Program and the Coastal Act.
iv. Trail development and maintenance shall be designed to accommodate multiple uses including hiking, mountain biking and equestrian uses wherever feasible. Where practical multi-use trails occur along existing roadways, wood bollards shall be	iv. 4. Trail development and maintenance shall be designed to accommodate multiple uses including hiking, mountain biking and equestrian uses wherever feasible. Where ~~practical~~ multi-use trails occur along existing roadways, wood bollards shall be

MALIBU LOCAL COASTAL PROGRAM AMENDMENT (LCPA No. 07-002)	SMMC OVERRIDE
installed between trails and roadways, and pedestrian crossing signage and/or signals shall be installed at all major road crossings, to clearly delineate trail alignments, and to provide separation and ensure safety for trails adjacent to roadways.	installed between trails and roadways, and pedestrian crossing ~~signage~~ signs and/or signals shall be installed at all major road crossings, to clearly delineate trail alignments, and to provide separation and ensure safety for trails adjacent to roadways.
	2. Limited Overnight Campsites Public access and recreation opportunities on lands subject to this Overlay shall be provided by developing low-cost visitor-serving camp facilities pursuant to implementation of a number of site-specific improvements proposed exclusively at Ramirez Canyon Park, Escondido Canyon Park and Corral Canyon Park, subject to the following implementation measures. **A. Overnight Camps Location, Development, Design and Operations.** 1. To maximize access to parklands, trails and recreational opportunities, new campsite facilities shall be provided within park boundaries at Ramirez Canyon Park, Escondido Canyon Park, and Corral Canyon Park. 2. Campsites proposed and developed pursuant to the Malibu Parks Public Access Enhancement Plan shall consist of designated and improved camps areas located within park boundaries. Consistent with Table B, Permitted Uses, of the City of Malibu Local Implementation Plan, these campsites are defined as principal permitted uses in the Open Space (OS) Zone and are therefore not subject to conditional use permit requirements, or any other non-appealable special use permit that may otherwise limit development and maintenance of such campsites in the Malibu coastal zone.

MALIBU LOCAL COASTAL PROGRAM AMENDMENT (LCPA No. 07-002)	SMMC OVERRIDE
	3. To the extent supported by funds available in the Malibu Parks Public Access Fund operated and maintained pursuant to Section D.12.B.6 of this Overlay District, programs that provide camping opportunities for disadvantaged youth will be provided at Ramirez Canyon Park, Escondido Canyon Park, and Corral Canyon Park at no cost to participants. The fund shall specifically serve to implement the Malibu Coastal Camping program, a program designed for disadvantaged youth and dedicated to teaching first-time campers proper use of camping equipment, environmental awareness and outdoor leadership skills. The camp program shall include all necessary transportation, food and equipment, with staffing provided by professional naturalist educators who are trained in first aid, youth leadership and outdoor education. 4. Campsites shall be located within existing public use areas and shall be located to take advantage of the unique and diverse resources of Ramirez Canyon Park, Escondido Canyon Park, and Corral Canyon Park, and to facilitate disabled access where possible. Campsites shall be located in previously disturbed or non-sensitive areas to minimize impacts to sensitive habitat areas to the maximum extent feasible. 5. Campsites shall be located a minimum of 100 feet from the top of bank of all streams or from the outer edge of riparian vegetation, whichever is the most protective, to the maximum extent feasible, unless a lesser setback is determined by a qualified biologist to be adequate to protect riparian habitat. If it can be found that potential impacts to riparian corridors will be avoided or appropriately mitigated and there is no alternative site design 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 campsites.

MALIBU LOCAL COASTAL PROGRAM AMENDMENT (LCPA No. 07-002)	SMMC OVERRIDE
	6. Campsites shall be located in areas of level terrain, as much as feasible, to avoid the need for grading and the need for excessive maintenance requirements that may be necessary for substantially altered sites. Exceptions to this shall be provided for campsites specifically designed to facilitate disabled access, in which case grading shall be minimized to the maximum extent feasible. 7. Campsites shall be located in proximity to maintenance and/or administrative access points to provide for easy access and to minimize potential impacts to sensitive habitat areas associated with maintenance requirements. 8. Campsites shall be located within existing public use areas to avoid the need for new construction in undisturbed and remote habitat areas and impacts associated with grading and vegetation removal; however, where feasible, campsites should be located in areas where vegetation provides a natural buffer between campsites and trail corridors. Where necessary, native vegetation shall be planted to provide a buffer between campers and trail users, and to screen camp facilities from adjacent trails, parking and day use facilities. 9. Campsites shall be provided with limited, necessary support facilities to support overnight use of the sites including, where appropriate, picnic tables, water, self-contained chemical/composting restrooms, and shade trees. However, the maximum area of ground disturbance required to accommodate facilities for any single campsite, excluding shared parking, fuel modification and restroom facilities, and campsites specifically designed to facilitate disabled access, shall be limited to the least environmental damaging alternative meeting project objectives. 10. Proposed campsite locations shall be evaluated by a qualified

MALIBU LOCAL COASTAL PROGRAM AMENDMENT (LCPA No. 07-002)	SMMC OVERRIDE
	biologist to ensure that, to the extent feasible, 1) campsites are appropriately located in previously disturbed areas, 2) campsites are appropriately setback from the top of bank of any adjacent stream, and 3) to assess potential impacts to adjacent habitat areas and provide recommendations for mitigation, as applicable. 11. No camper, hiker, casual or transient visitor, shall make or maintain, nor aid and abet others in making or maintaining, a campfire or any other open fire in any of the park facilities covered by this Plan. Development, use restrictions, and brush maintenance for all campsites shall be carried out in accordance with the Fire Protection and Emergency Evacuation Plan prepared pursuant to Section D.11.B.1 of this Overlay District. 12. Overnight camping at Ramirez Canyon Park shall be allowed by reservation only. Overnight camping at Escondido Canyon Park and Corral Canyon Park shall be allowed by reservation and/or by onsite registration (e.g., by an onsite drop-box or by onsite Park staff). A board or kiosk at the Corral Canyon Park parking area shall designate which campsites have been reserved. At Escondido Canyon Park, if permission is obtained at the lower parking lot, a board or kiosk shall designate which campsites have been reserved (to reduce potential trips t the upper proposed parking lot). Otherwise the board or kiosk at the upper parking lot shall designate which campsites have been reserved. The reservation and onsite registration systems shall require campers to acknowledge and agree to all park rules including, but not limited to the prohibition on campfires and the "cold camping" regulation. 13. To the maximum extent feasible, and where consistent with all public safety provisions and the resource protection policies of this Overlay District, the City of Malibu Local Coastal Program and the Coastal Act, campsites should be designated to accommodate the

MALIBU LOCAL COASTAL PROGRAM AMENDMENT (LCPA No. 07-002)	SMMC OVERRIDE
	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. Where full compliance with these accessibility guidelines is determined to be infeasible, campsites shall incorporate those accessible features that can be reasonably accommodated.
2. Public Transit Public access opportunities to parklands and recreation areas subject to this Overlay shall be maximized by encouraging and expanding transportation options supported by adequate support facilities pursuant to implementation of a number of site-specific transit and facility improvements as conceptually illustrated in Exhibit D and subject to the following implementation measures.	**3. Public Transit** Public access opportunities to parklands and recreation areas subject to this Overlay shall be maximized by encouraging and expanding transportation options supported by adequate support facilities pursuant to implementation of a number of site-specific transit and facility improvements, ~~as conceptually illustrated in Exhibit D and~~ subject to the following implementation measures.
a. Public Transit Improvements i. The Conservancy/MRCA shall coordinate with the National Park Service to extend the Park Link Shuttle Program service to 1) the Winding Way Trailhead parking lot, typically used to access Escondido Canyon Park, 2) the proposed public parking lot at Escondido Canyon Park, or other identified preferred alternative site for a new parking facility supporting access to Escondido Canyon Park, and 3) the proposed public parking lot adjacent to Kanan Dume Road. Once implemented, the expanded shuttle service information shall be made available to the public via public notices, trailhead signage and website posting.	**~~a.~~ A. Public Transit Improvements** 1. The Conservancy/MRCA shall coordinate with the ~~National Park Service to extend the Park Link Shuttle Program service to 1) the~~ Metropolitan Transportation Authority (MTA) to include a stop in the existing service route to the Winding Way Trailhead parking lot, typically used to access Escondido Canyon Park. ~~2) the proposed public parking lot at Escondido Canyon Park, or other identified preferred alternative site for a new parking facility supporting access to Escondido Canyon Park, and 3) the proposed public parking lot adjacent to Kanan Dume Road. Once implemented, the expanded shuttle service information shall be made available~~ The Conservancy/MRCA shall provide MTA service information to the public via public notices trailhead signage and website posting.

MALIBU LOCAL COASTAL PROGRAM AMENDMENT (LCPA No. 07-002)	SMMC OVERRIDE
ii. The Conservancy/MRCA shall coordinate with the Metropolitan Transit (MTA) to include a stop in the existing service route to 1) the Winding Way Trailhead parking lot, typically used to access Escondido Canyon Park, and 2) the proposed public parking lot adjacent to Kanan Dume Road. The Conservancy shall provide MTA service information to the public via public notices, trail head signage and website posting.	~~ii. The Conservancy/MRCA shall coordinate with the Metropolitan Transit (MTA) to include a stop in the existing service route to 1) the Winding Way Trailhead parking lot, typically used to access Escondido Canyon Park, and 2) the proposed public parking lot adjacent to Kanan Dume Road. The Conservancy shall provide MTA service information to the public via public notices, trail head signage and website posting.~~
iii. The Conservancy/MRCA shall coordinate with the City of Malibu to extend the Point Dume Nature Preserve Shuttle Program service to Charmlee Park, the Winding Way Trailhead parking lot, typically used to access Escondido Canyon Park, and to Corral Canyon Park. Once implemented, the expanded shuttle service information shall be made available to the public via public notices, trailhead signage and website posting.	~~iii. The Conservancy/MRCA shall coordinate with the City of Malibu to extend the Point Dume Nature Preserve Shuttle Program service to Charmlee Park, the Winding Way Trailhead parking lot, typically used to access Escondido Canyon Park, and to Corral Canyon Park. Once implemented, the expanded shuttle service information shall be made available to the public via public notices, trailhead signage and website posting.~~
iv. The Conservancy/MRCA shall coordinate with the City of Malibu to explore additional options and opportunities to provide shuttle service to Ramirez Canyon Park to further enhance public access to the Park via a shared shuttle program.	~~iv. The Conservancy/MRCA shall coordinate with the City of Malibu to explore additional options and opportunities to provide shuttle service to Ramirez Canyon Park to further enhance public access to the Park via a shared shuttle program.~~
b. Transportation and Parking Management i. The Conservancy shall implement a Transportation and Parking Management Plan for Ramirez Canyon Park including the following provisions: a) Agreements shall be secured and maintained for offsite parking resource provisions to accommodate the maximum parking demand for the authorized uses of the park for groups of 200 people without displacing current parking use of the designated	~~b.~~ **B. Transportation and Parking Management.** ~~i.~~ 1. The Conservancy shall implement a Transportation and Parking Management Plan for Ramirez Canyon Park including the following provisions: ~~a)~~ • Agreements shall be secured and maintained for offsite parking resource provisions to accommodate the maximum parking demand for the authorized uses of the park for groups of 200 people without displacing current parking use of the

MALIBU LOCAL COASTAL PROGRAM AMENDMENT (LCPA No. 07-002)	SMMC OVERRIDE
locations.	designated locations. 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.
b) No off-site public coastal access parking, including but not limited to, the Winding Way Trailhead parking lot located of Latigo Canyon Road, and proposed parking facilities supporting access to Escondido Canyon Park, shall be utilized to satisfy the off-site parking requirements associated with Ramirez Canyon Park use.	~~b)~~ • No off-site public coastal access parking, including ~~but not limited to,~~ the Winding Way Trailhead parking lot ~~located of Latigo Canyon Road,~~ and proposed parking facilities ~~supporting access to~~ at Escondido Canyon Park, shall be utilized to satisfy the off-site parking requirements associated with Ramirez Canyon Park use.
c) Daily vehicle trips associated with all authorized uses of Ramirez Canyon Park are restricted to a maximum of 80 trips per day (40 round trips).	~~c)~~ • Daily vehicle trips associated with all authorized uses of Ramirez Canyon Park are restricted to a maximum of 80 trips per day (40 round trips), except as provided for in Section D.12.B.2.
d) Signage shall be provided and maintained at the entrance gate to Ramirez Canyon Park forbidding horn honking except in case of emergency.	~~d)~~ • Sign~~age~~s shall be provided and maintained at the entrance gate to Ramirez Canyon Park forbidding horn honking except in case of emergency.
e) Vans and shuttles shall minimize traffic trips on Ramirez Canyon Road by traveling with maximum passenger capability and in convoys, whenever feasible.	~~e)~~ • Vans and shuttles shall minimize traffic trips on Ramirez Canyon Road by traveling with maximum passenger capability and in convoys, whenever feasible.
ii. Bicycle parking facilities shall be included on all plans to construct new parking or trailhead facilities.	~~ii.~~ 2. Bicycle parking facilities shall be included on all plans to construct new parking or trailhead facilities.
iii. Hike-in public access opportunities shall be developed for Ramirez Canyon Park due to existing limitations on vehicular transportation to the Park. Hike-in opportunities shall be developed from the proposed parking areas along Kanan Dume Road and from public easements along De Butts Terrace, Winding Way, Delaplane, and Ramirez Canyon Road, where feasible.	~~iii.~~ 3. Hike-in and walk-in public access opportunities shall be developed for Ramirez Canyon Park due to existing limitations on vehicular transportation to the Park. Hike-in opportunities shall be developed from the proposed parking areas along Kanan Dume Road and from and from dedicated, donated, and purchased ~~public~~ easements along De Butts Terrace, Winding Way, Delaplane, and Ramirez Canyon Road, and from Pacific Coast Highway, where feasible.

MALIBU LOCAL COASTAL PROGRAM AMENDMENT (LCPA No. 07-002)	SMMC OVERRIDE
iv. The SMMC/MRCA shall coordinate with the National Park Service and the City to compile and submit on an annual basis monitoring data for the extended ParkLink and Point Dume Nature Preserve Shuttle services. The annual monitoring reports shall assess the effectiveness of the shuttle services in providing public access to the parklands and to determine whether adjustments to scheduling, signs, or marketing would be appropriate to meet visitor demand.	~~iv. The SMMC/MRCA shall coordinate with the National Park Service and the City to compile and submit on an annual basis monitoring data for the extended ParkLink and Point Dume Nature Preserve Shuttle services. The annual monitoring reports shall assess the effectiveness of the shuttle services in providing public access to the parklands and to determine whether adjustments to scheduling, signs, or marketing would be appropriate to meet visitor demand.~~
3. Public Outreach and Education	**4. Public Outreach and Education**
Public access to parklands subject to this Overlay shall be maximized by improving accessibility of parklands for visitors of diverse backgrounds, interests and abilities.	Public access to parklands subject to this Overlay shall be maximized by improving accessibility of parklands for visitors of diverse backgrounds, interests and abilities.
This section specifically identifies Ramirez Canyon Park as an existing parkland with well established amenities available to support various public use programs including picnic areas, restrooms, educational displays , sitting benches, gardens, easily accessible terrain, and a riparian areas interpretive trail.	This section specifically identifies Ramirez Canyon Park as an existing parkland with well established amenities available to support various public use programs including picnic areas, restrooms, educational displays , sitting benches, gardens, easily accessible terrain, and a riparian areas interpretive trail.
This Section provides for a number of park-specific improvements and plan specifications (see Exhibit E) designed to accommodate visitors with special needs.	This Section provides for a number of park-specific improvements and plan specifications ~~(see Exhibit E)~~ designed to accommodate visitors with ~~special needs~~ various disabilities (e.g., mentally and physically challenged).
This Section further provides detailed program and operational requirements of public outreach and educational opportunities necessary to ensure that public programs are implemented to the maximum extent feasible within the site constraints of Ramirez	This Section further provides detailed program and operational requirements of public outreach and educational opportunities necessary to ensure that public programs are implemented to the maximum extent feasible within the site constraints of Ramirez

MALIBU LOCAL COASTAL PROGRAM AMENDMENT (LCPA No. 07-002)	SMMC OVERRIDE
Canyon Park.	Canyon Park.
The uses set forth in this Section are permitted only after vehicular access to the Park from Kanan Dume Road is constructed and available to Park users.	~~The uses set forth in this Section are permitted only after vehicular access to the Park from Kanan Dume Road is constructed and available to Park users.~~
a. Ramirez Canyon Park Public Outreach, Recreation and Education Programs	~~a.~~ **A. Ramirez Canyon Park Public Outreach, Recreation and Education Programs**
i. Outreach programs designed to provide access and recreation opportunities primarily for disadvantaged youths, physically challenged visitors, and seniors may be permitted year round at Ramirez Canyon Park, seven days per week from 8:00 a.m. to dusk. The programs shall be provided at no cost to the participants and free or low-cost transportation utilizing vans or small transit buses shall be provided.	~~i.~~ 1. Outreach programs designed to provide access and recreation opportunities primarily for disadvantaged youths, physically and mentally challenged visitors, clients from various shelters, Los Angeles Mission representatives, veterans, and seniors ~~may~~ shall be permitted year round at Ramirez Canyon Park, seven days per week from 8:00 a.m. to dusk. The programs shall be provided at no cost to the participants and free or low-cost transportation utilizing vans or small transit buses shall be provided.
ii. Public improvements for the riparian area interpretive trail and picnic facilities designed specifically to provide facilities and amenities required for the safe use of the trail by visitors with mobility disabilities in compliance with American with Disabilities Act (ADA), including trails, picnic facilities, drinking fountains, restrooms, and parking areas, shall be maintained for public use.	~~ii.~~ 2. Public improvements for the riparian area interpretive trail and picnic facilities designed specifically to provide facilities and amenities required for the safe use of the trail by visitors with mobility disabilities in compliance with American with Disabilities Act (ADA), including trails, picnic facilities, drinking fountains, restrooms, and parking areas, shall be maintained for public use.
iii. Three day-use picnic areas and up to three overnight campsites may be developed at Ramirez Canyon Park that shall be designed specifically for supervised programs accommodating disabled visitors and their families by reservation. No campfires shall be permitted at any time. The day use picnic areas shall be located in level, previously disturbed areas so as not to adversely impact sensitive habitat, but shall be located in proximity to natural areas to provide association with natural resources to the	~~iii.~~ 3. Three day-use picnic areas and ~~up to three~~ and two overnight camp~~sites~~ areas may be developed at Ramirez Canyon Park, which ~~that~~ shall be designed specifically to provide park amenities to ~~for supervised programs accommodating~~ disabled visitors and their families ~~by reservation~~. ~~No campfires shall be permitted at any time.~~ The accessible day use picnic areas shall be located in level, previously disturbed areas so as not to adversely impact sensitive habitat, but shall be located in proximity

MALIBU LOCAL COASTAL PROGRAM AMENDMENT (LCPA No. 07-002)	SMMC OVERRIDE
maximum extent feasible. iv. All public outreach, recreation and education programs operated at Ramirez Canyon Park shall comply with the requirements of Section 3.4.2.D.2.b of this Chapter, Transportation and Parking Management, which includes mandated use of shuttle service for public visitors and limitations on daily vehicle trips. The Conservancy/MRCA shall give priority to public outreach, recreation and education programs at Ramirez Canyon Park over private events and/or small group gathering uses, specifically as it relates to implementing Section 3.4.2.D.2.b of this Chapter, Transportation and Parking Management.	to natural areas to provide association with natural resources to the maximum extent feasible. ~~iv.~~ 4. All public outreach, recreation and education programs operated at Ramirez Canyon Park shall comply with the requirements of Section ~~3.4.2.D.2.b~~ D.3.B.1 of this ~~Chapter~~ Overlay District, Transportation and Parking Management, which includes ~~mandated~~ use of shuttles and van pools ~~service for~~ to support public ~~visitors~~ visitation, and limitations on daily vehicle trips. The Conservancy/MRCA shall give priority to public outreach, recreation and education programs at Ramirez Canyon Park over private events and/or small group gathering uses, specifically as it relates to implementing Section ~~3.4.2.D.2.b~~ D.3.B.1 of this ~~Chapter~~ Overlay District, Transportation and Parking Management.
b. Accessibility Design Guidelines i. Access and recreational opportunities for visitors with diverse abilities shall be accommodated, where feasible and consistent with public safety needs and resource protection policies, by trail design and improvements intended to meet current accessibility standards and technical requirements. Where such improvements would potentially result in adverse impacts to cultural, historic, religious, or significant natural features or characteristics; where such improvements would substantially alter the nature of the setting or the purpose of the trail or would require construction methods or materials that are prohibited by law; or where compliance would not be feasible due to terrain or prevailing construction practices, specialized programs shall be developed and implemented to provide feasible alternatives for compliance	~~b.~~ **B. Accessibility Design Guidelines** ~~i.~~ 2. Access and recreational opportunities for visitors with diverse abilities shall be accommodated, where feasible and consistent with public safety needs and resource protection policies, by trail design and improvements intended to meet current accessibility standards and technical requirements. Where such improvements would potentially result in adverse impacts to cultural, historic, religious, or significant natural features or characteristics; where such improvements would substantially alter the nature of the setting or the purpose of the trail or would require construction methods or materials that are prohibited by law; or where compliance would not be feasible due to terrain or prevailing construction practices, specialized programs shall be developed and implemented to provide feasible alternatives for compliance

MALIBU LOCAL COASTAL PROGRAM AMENDMENT (LCPA No. 07-002)	SMMC OVERRIDE
and/or universal design when appropriate.	and/or universal design when appropriate.
ii. To ensure that access and recreational opportunities for visitors with diverse abilities are maximized, the Conservancy/MRCA may continue all public outreach programs at Ramirez Canyon Park, provide additional day-use picnic facilities, and implement park improvements to provide for limited overnight camping opportunities at Ramirez Canyon Park in compliance with Americans with Disabilities Act (ADA).	1. To ensure that access and recreational opportunities for visitors with diverse abilities are maximized, the Conservancy/MRCA may continue all public outreach programs at Ramirez Canyon Park, shall provide additional day-use picnic facilities, and shall implement park improvements to provide for limited overnight camping opportunities at Ramirez Canyon Park, Escondido Canyon Park, and Corral Canyon Park in compliance with Americans with Disabilities Act (ADA).
iii. The Conservancy/MRCA will assess all contributing structures and landscape features for their role in developing programs that meet current accessibility guidelines and technical requirements at the parks areas owned and maintained by the Conservancy/MRCA. Where programmatic needs cannot be met within existing park facilities, the Conservancy/MRCA shall consider the following: 1) appropriate new construction; 2) modifying programs or providing new specialized programs able to be accommodated at existing facilities and landscapes; or 3) not implementing the program element.	~~iii.~~ 3. The Conservancy/MRCA will assess all contributing structures and landscape features for their role in developing programs that meet current accessibility guidelines and technical requirements at the parks areas owned and maintained by the Conservancy/MRCA. Where programmatic needs cannot be met within existing park facilities, the Conservancy/MRCA shall consider the following: 1) appropriate new construction; 2) modifying programs or providing new specialized programs able to be accommodated at existing facilities and landscapes; or 3) not implementing the program element.
4. Support Facilities Public access and recreation opportunities shall be maximized by development of critical public support facilities as generally	~~4.~~ **5. Support Facilities** Public access and recreation opportunities shall be maximized by development of critical public support facilities, ~~as generally~~

MALIBU LOCAL COASTAL PROGRAM AMENDMENT (LCPA No. 07-002)	SMMC OVERRIDE
illustrated in Exhibits F1 and F2 and subject to the required coastal development permits and the following implementation measures.	~~illustrated in Exhibits F1 and F2 and~~ subject to ~~the required coastal development permits and~~ the following implementation measures.
a. To maximize access to parklands and trails consistent with the other provisions of this Chapter, new, limited parking and trailhead facilities shall be provided at Ramirez Canyon Park and Escondido Canyon Park.	~~a.~~ 1. To maximize access to parklands and trails consistent with the other provisions of this ~~Chapter~~ Overlay District, new, limited parking and trailhead facilities shall be provided at Ramirez Canyon Park and Escondido Canyon Park, including the Latigo Canyon Road Trailhead to Escondido Canyon.
b. New support facilities shall be located at park entrances and along existing primary trail routes, within previously disturbed areas where feasible, to minimize impacts to sensitive habitat areas to the maximum extent feasible.	~~b.~~ 2. New support facilities shall be located at park entrances and along existing primary trail routes, within previously disturbed areas where feasible, to minimize impacts to sensitive habitat areas to the maximum extent feasible.
c. New support facilities shall be located a minimum of 100 feet from the top of bank of all streams or from the outer edge of riparian vegetation, whichever is most protective, to the maximum extent feasible. If it can be found that potential impacts to riparian corridors will be avoided or appropriately mitigated and there is no alternative site design 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 intended to enhance accessibility (accessible access routes, ADA day use areas) but in no case shall setback less than 25 feet from the top of bank of all streams. The exact location of any proposed support facilities will be reviewed by the City Biologist during the coastal development permit review process.	~~c.~~ 3. New support facilities shall be located a minimum of 100 feet from the top of bank of all streams or from the outer edge of riparian vegetation, whichever is most protective, to the maximum extent feasible. ~~If it can't be found that~~ If determined by a qualified biologist that potential impacts to riparian corridors will be avoided or appropriately mitigated and there is no alternative site design 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 ~~intended to enhance accessibility (accessible access routes, ADA day use areas)~~ but in no case shall setback less than 25 feet from the top of bank of all streams. ~~The exact location of any proposed support facilities will be reviewed by the City Biologist during the coastal development permit review process.~~
d. New support facilities shall be located in areas of level terrain to minimize the need for grading as much as feasible.	~~d.~~ 4. New support facilities shall be located in areas of level terrain to minimize the need for grading as much as feasible.
e. New support facilities shall be strategically located in disturbed	~~e.~~ 5. New support facilities shall be strategically located in

SB 487218 v3:011142. 0001

MALIBU LOCAL COASTAL PROGRAM AMENDMENT (LCPA No. 07-002)	SMMC OVERRIDE
areas, but shall also be located adjacent to vegetated areas whenever feasible where existing vegetation may provide a natural buffer between support facilities, trail corridors and/or public viewing areas. Where necessary, native vegetation shall be planted to provide a buffer and to screen support facilities. f. Proposed support facility locations shall be evaluated by a qualified biologist to ensure that, to the maximum extent feasible, 1) facilities are appropriately located in previously disturbed areas, 2) facilities are appropriately setback from the top of bank of any adjacent stream, and 3) to assess potential impacts to habitat areas that may result from development of new facilities and to provide recommendations for mitigation, as applicable.	disturbed areas, but shall also be located adjacent to vegetated areas whenever feasible where existing vegetation may provide a natural buffer between support facilities, trail corridors and/or public viewing areas. Where necessary, native vegetation shall be planted to provide a buffer and to screen support facilities. ~~f.~~ 6. Proposed support facility locations shall be evaluated by a qualified biologist to ensure that, to the maximum extent feasible, 1) facilities are appropriately located in previously disturbed areas, 2) facilities are appropriately setback from the top of bank of any adjacent stream, and 3) to assess potential impacts to habitat areas that may result from development of new facilities and to provide recommendations for mitigation, as applicable.
5. Signs A uniform and comprehensive park and trail sign program essential for identifying park areas, permitted uses, support facilities, sensitive habitats, and adjacent land uses shall be applied to all new trail and park area improvements as applicable, and shall be subject to the following implementation measures. a. Signs shall be provided at all park locations as determined necessary and appropriate, to provide information relative to trails, regulations, and services. i. Trail signs shall be provided for visitors beyond the trailhead and shall include distance to destination points and information about trail conditions and accessibility that will help visitors determine the level of trail difficulty. ii. Regulatory signs shall be provided at park entrance areas, staging areas or gathering points and may include, but not limited to, the following information: 1) permitted use of the area or facility	~~5.~~ **6. Signs** A uniform and comprehensive park and trail sign program essential for identifying park areas, permitted uses, support facilities, sensitive habitats, and adjacent land uses shall be applied to all new trail and park area improvements as applicable, and shall be subject to the following implementation measures. ~~a.~~ 1. Signs shall be provided at all park locations as determined necessary and appropriate, to provide information relative to trails, regulations, and services. ~~i.~~ • Trail signs shall be provided for visitors beyond the trailhead and shall include distance to destination points and information about trail conditions and accessibility that will help visitors determine the level of trail difficulty. ~~ii.~~ • Regulatory signs shall be provided at park entrance areas, staging areas or gathering points and may include, but not limited to, the following information: 1) permitted use of the area or facility

MALIBU LOCAL COASTAL PROGRAM AMENDMENT (LCPA No. 07-002)	SMMC OVERRIDE
being posted, 2) general regulations at trail heads, 3) general regulations at jurisdiction boundaries, 4) regulations required to promote safe use of an area and resource protection, and 5) identification of private property boundaries. iii. Services signs identifying services and/or support facilities for the park visitor shall be provided in locations as determined appropriate by the managing agency. b. Signs appearance shall be standardized for easy recognition by visitors including face, font, capitalization, colors, icons, materials, and dimensions, except where unique signs are used to identify architecturally significant structures in Ramirez Canyon Park. Signs shall be in English and in Spanish. c. Trail improvements should provide adequate sign at all access points, trailheads, parking lots, road crossings, and linkages or intersections with other trails or roads, and should provide adequate safety signs, including but not limited to, road crossing signs and yield/warning signs on multi-use trail segments. d. Final plans for location and content of proposed trail and park sign shall be submitted for review and comment to the Outdoor Recreation Planner of the National Park Service to ensure continuity of signs between the park properties in the Plan area.	being posted, 2) general regulations at trail heads, 3) general regulations at jurisdiction boundaries, 4) regulations required to promote safe use of an area and resource protection, and 5) identification of private property boundaries. ~~iii.~~ • Services signs identifying services and/or support facilities for the park visitor shall be provided in locations as determined appropriate by the managing agency. ~~b.~~ 2. Signs appearance shall be standardized for easy recognition by visitors including face, font, capitalization, colors, icons, materials, and dimensions, except where unique signs are used to identify architecturally significant structures in Ramirez Canyon Park. ~~Signs shall be in English and in Spanish.~~ ~~c.~~ 3. Trail improvements should provide adequate sign at all access points, trailheads, parking lots, road crossings, and linkages or intersections with other trails or roads, and should provide adequate safety signs, including but not limited to, road crossing signs and yield/warning signs on multi-use trail segments. ~~d.~~ 4. Final plans for location and content of proposed trail and park sign shall be submitted for review and comment to the Outdoor Recreation Planner of the National Park Service to ensure continuity of signs between the park properties in the Plan area. 5. The Conservancy/MRCA shall retain the services of a bilingual consultant who will assist in determining which of those regulatory, informational, and directional signs should be posted in both English and Spanish.
6. Environmentally Sensitive Habitat Areas (ESHA) Environmentally Sensitive Habitat Areas (ESHA) shall be protected against significant disruption of habitat values and all	~~6.~~ **7. Environmentally Sensitive Habitat Areas (ESHA)** Environmentally Sensitive Habitat Areas (ESHA) shall be protected against significant disruption of habitat values and all

MALIBU LOCAL COASTAL PROGRAM AMENDMENT (LCPA No. 07-002)	SMMC OVERRIDE
areas subject to proposed access and recreation improvements found to constitute ESHA pursuant to the provisions of Chapter 4 of the Malibu Local Implementation Plan shall be subject to the following implementation measures.	areas subject to proposed access and recreation improvements found to constitute ESHA pursuant to the provisions of Chapter 4 of the Malibu Local Implementation Plan shall be subject to the following implementation measures.
a. Permitted Parkland Uses, Development and Design	~~a.~~ **A. Permitted Parkland Uses, Development and Design**
i. Trail, park uses as described in this Chapter, and necessary support facilities shall be permitted uses for those parkland areas subject to the Malibu Parks Public Access Enhancement Overlay.	~~i.~~ 1. Trail, camp facilities, park uses as described in this ~~Chapter~~ Overlay District, and necessary support facilities shall be considered principal permitted uses for those parkland areas subject to the Malibu Parks Public Access Enhancement Plan Overlay and as identified on the Public Parkland Map and Proposed Trail Resources Map.
Trails, park uses, and necessary support facilities located within or adjacent to areas mapped as ESHA shall be sited and designed to minimize impacts to ESHA to the maximum extent feasible.	Trails, park uses, and necessary support facilities located within or adjacent to areas mapped as ESHA shall be sited and designed to minimize impacts to ESHA to the maximum extent feasible.
Mitigation measures, including but not limited to, selective siting for new permitted park improvements in previously disturbed areas, information signage, and limited fencing shall be implemented as necessary to protect ESHA.	Mitigation measures, including but not limited to, selective siting for new permitted park improvements in previously disturbed areas, information sign~~age~~s, and limited fencing shall be implemented as necessary to protect ESHA.
ii. New Park facilities shall be located along existing primary trail routes, in proximity to trail entrances and trailheads, and in previously disturbed areas, where feasible, to avoid and minimize impacts to sensitive habitat areas to the maximum extent feasible.	~~ii.~~ 2. New Park facilities shall be located along existing primary trail routes, in proximity to trail entrances and trailheads, and in previously disturbed areas, where feasible, to avoid and minimize impacts to sensitive habitat areas to the maximum extent feasible.
iii. New park facilities shall be located a minimum of 100 feet from the top of bank of all streams or from the outer edge of riparian vegetation, whichever is the most protective, unless a lesser setback distance is determined adequate by the City Biologist Riparian area buffers shall be planted with appropriate native	~~iii.~~ 3. New park facilities shall be located a minimum of 100 feet from the top of bank of all streams or from the outer edge of riparian vegetation, whichever is the most protective, ~~unless a lesser setback distance is determined adequate by the City Biologist~~ to the maximum extent feasible, excluding those special

MALIBU LOCAL COASTAL PROGRAM AMENDMENT (LCPA No. 07-002)	SMMC OVERRIDE
species to provide canopy and vegetative structure to improve habitat function and value of buffer areas.	provisions for low intensity hike-in campsites and support facilities as provided for per implementation measures D.2.A.5 and D.5.A.3 of this overlay District, respectively. Riparian area buffers shall be planted with appropriate native species to provide canopy and vegetative structure to improve habitat function and value of buffer areas.
iv. Proposed park facility locations shall be evaluated by a qualified biologist and reviewed by the City Biologist as part of the coastal development permit process to ensure that, to the maximum extent feasible, 1) facilities are appropriately located in previously disturbed areas; 2) facilities are appropriately setback from top of bank of any adjacent stream; and 3) to assess potential impacts to habitat areas and provide recommendations for mitigation, as applicable.	~~iv.~~ 4. Proposed park facility locations shall be evaluated by a qualified biologist ~~and reviewed by the City Biologist as part of the coastal development permit process~~ to ensure that, to the maximum extent feasible, 1) facilities are appropriately located in previously disturbed areas; 2) facilities are appropriately setback from top of bank of any adjacent stream; and 3) to assess potential impacts to habitat areas and provide recommendations for mitigation, as applicable.
v. Proposed park facility locations shall be located in proximity to maintenance and/or administrative access points (trailheads) to provide for easy maintenance access and to minimize potential impacts to sensitive habitat areas associated with existing maintenance operations requiring motorized access by park personnel. Motorized vehicle access by park personnel within parklands shall avoid sensitive habitat areas and shall be permitted only on existing maintenance routes, and for purposes of conducting maintenance or emergency services.	~~v.~~ 5. Proposed park facility locations shall be located in proximity to maintenance and/or administrative access points (trailheads) to provide for easy maintenance access and to minimize potential impacts to sensitive habitat areas associated with existing maintenance operations requiring motorized access by park personnel. Motorized vehicle access by park personnel within parklands shall avoid sensitive habitat areas and shall be ~~permitted only on~~ limited to existing maintenance routes to the maximum extent feasible, and shall be for the purpose~~s~~ of conducting maintenance, providing ~~or~~ emergency services, conducting patrols, implementing habitat restoration, assisting accessibility to camps with fully accessible campsites and facilities, and providing other park services.
vi. Proposed park facilities shall be developed with the smallest development envelope determined feasible to accommodate such facilities to minimize the area of disturbance and avoid potential impacts to ESHA.	~~vi.~~ 6. Proposed park facilities shall be developed with the smallest development envelope determined ~~feasible~~ necessary to accommodate such facilities to minimize the area of disturbance and avoid potential impacts to ESHA.

MALIBU LOCAL COASTAL PROGRAM AMENDMENT (LCPA No. 07-002)	SMMC OVERRIDE
vii. All new improved park facility projects, including trails, parking, etc., where determined appropriate and feasible, shall incorporate the best practices design provisions contained in the 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.	~~vii.~~ 7. All new improved park facility projects, including trails, campsites, parking, etc., where determined appropriate and feasible, shall incorporate the best practices design provisions contained in the 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.
viii. Prior to proposing any trail or park facility for public use in an area of naturally vegetated habitat, a site-specific biological assessment shall be prepared by a qualified biologist as part of the required coastal development review process which shall evaluate the vegetation and habitat of the project area to determine potential impacts to ESHA that may occur. Should the biological assessment determine that adverse impacts to ESHA will result from permitted development, the following minimum mitigation measures shall be implemented:	~~viii.~~ 8. Prior to ~~proposing~~ improving and opening any trail or park facility for public use in an area of naturally vegetated habitat, a site-specific biological assessment shall be prepared by a qualified biologist ~~as part of the required coastal development review process~~ which shall evaluate the vegetation and habitat of the project area to determine potential impacts to ESHA that may occur. Should the biological assessment determine that adverse impacts to ESHA will result from permitted development, the following minimum mitigation measures shall be implemented:
a) Mitigation measures for impacts to ESHA shall include habitat restoration and/or enhancement and shall be monitored for a period of no less than five years following completion. Mitigation ratios for specific types of habitat shall be as follows:	~~a)~~ • Mitigation measures for impacts to ESHA shall include habitat restoration and/or enhancement and shall be monitored for a period of no less than five years following completion. Mitigation ratios for specific types of habitat shall be as follows:
Coastal sage scrub 2 to 1 Seasonal wetlands 3 to 1 Freshwater marsh 3 to 1 Riparian areas 3 to 1 Vernal pools 4 to 1 Saltmarsh 4 to 1 Native trees 10 to 1 (oak, walnut, sycamore, alder, or toyon)	Coastal sage scrub 2 to 1 Seasonal wetlands 3 to 1 Freshwater marsh 3 to 1 Riparian areas 3 to 1 Vernal pools 4 to 1 Saltmarsh 4 to 1 Native trees 10 to 1 (oak, walnut, sycamore, alder, or toyon)
ix. Focused spring surveys for special status plant species shall occur within project footprint areas to assess potential direct and indirect impacts to special status species prior to implementation of new park facility improvement projects.	~~ix.~~ 9. Focused spring surveys for special status plant species shall occur within project footprint areas where potential habitat occurs to assess potential direct and indirect impacts to special status

MALIBU LOCAL COASTAL PROGRAM AMENDMENT (LCPA No. 07-002)	SMMC OVERRIDE
x. Should project construction occur during the migratory bird nesting season (typically February through August), a focused avian nesting survey shall be performed by a qualified wildlife biologist 72 hours prior to construction in accordance with the Migratory Bird Treaty Act (MBTA) (16 U.S.G. 703-712). If an active bird nest is found, the nest shall be flagged and mapped on the construction plans along with an appropriate buffer, which will be determined by the biologist based on the biology of the species. The nest area shall be avoided until the nest is vacated and the juveniles have fledged. The nest area shall be demarcated in the field with flagging and stakes or construction fencing.	species prior to implementation of new park facility improvement projects. ~~x.~~ 10. Should project construction occur during the migratory bird nesting season (typically February through August), a focused avian nesting survey shall be performed by a qualified wildlife biologist 72 hours prior to construction in accordance with the Migratory Bird Treaty Act (MBTA) (16 U.S.G. 703-712). If an active bird nest is found, the nest shall be flagged and mapped on the construction plans along with an appropriate buffer, which will be determined by the biologist based on the biology of the species. The nest area shall be avoided until the nest is vacated and the juveniles have fledged. The nest area shall be demarcated in the field with flagging and stakes or construction fencing.
b. Hydromodification i. 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. The Conservancy/MRCA shall initiate a site-specific, comprehensive analysis of the modified stream channel at Ramirez Canyon Park to assess opportunities for streambed and riparian restoration and potential onsite and offsite flooding or erosional hazards that might result from removing or other modification of the channelization structures. Any streambed modification proposal will be subject to a coastal development permit and all other relevant permits from appropriate agencies. ii. Bioengineering methods or "soft solutions" shall be developed as an alternative to constructing rock revetments, vertical retaining walls or other "hard structures" along Ramirez Canyon Creek. If bioengineering methods are demonstrated to be infeasible, then	~~b.~~ **B. Hydromodification** ~~i.~~ 1. 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. The Conservancy/MRCA shall initiate a site-specific, comprehensive analysis of the modified stream channel at Ramirez Canyon Park to assess opportunities for streambed and riparian restoration and potential onsite and offsite flooding or erosional hazards that might result from removing or other modification of the channelization structures. ~~Any streambed modification proposal will be subject to a coastal development permit and all other relevant permits from appropriate agencies.~~ ii. Bioengineering methods or "soft solutions" shall be developed as an alternative to constructing rock revetments, vertical retaining walls or other "hard structures" along Ramirez Canyon Creek. If bioengineering methods are demonstrated to be infeasible, then

MALIBU LOCAL COASTAL PROGRAM AMENDMENT (LCPA No. 07-002)	SMMC OVERRIDE
other alternatives may be considered. Any applications for protective measures along Ramirez Canyon Creek shall demonstrate that existing development and/or public use areas in Ramirez Canyon Park are in danger from flood hazards, that the proposed protective device is the least environmentally damaging alternative, that it is sited and designed to avoid and minimize impacts to the habitat values of the riparian corridor along the creek and the recreational and public access use of the Park property along the creek, and that any unavoidable impacts have been mitigated to the maximum extent feasible.	other alternatives may be considered. Any applications for protective measures along Ramirez Canyon Creek shall demonstrate that existing development and/or public use areas in Ramirez Canyon Park are in danger from flood hazards, that the proposed protective device is the least environmentally damaging alternative, that it is sited and designed to avoid and minimize impacts to the habitat values of the riparian corridor along the creek and the recreational and public access use of the Park property along the creek, and that any unavoidable impacts have been mitigated to the maximum extent feasible.
iii. Where minor alternation of natural streams for the purpose of stream crossings (vehicular or pedestrian) are necessary to provide access to and within public recreation areas, the following development standards shall be applied:	~~iii.~~ 3. Where minor alternation of natural streams for the purpose of stream crossings (vehicular or pedestrian) are necessary to provide access to and within public recreation areas, the following development standards shall be applied:
a) Use of Arizona crossings shall be limited to repair and maintenance of existing crossings consistent with the repair and maintenance provisions of Section 13.4.2 Repair and Maintenance Activities of the Malibu.	~~a)~~ • Use of Arizona crossings shall be limited to repair and maintenance of existing crossings consistent with the repair and maintenance provisions of Section 13.4.2 Repair and Maintenance Activities of the City of Malibu Local Coastal Program Implementation Plan.
b) All new stream crossings shall consist of a span bridge design which minimizes placement of any new structures within the stream bed or channel and avoids removal of natural riparian vegetation to the maximum extent feasible.	~~b)~~ • All new stream crossings shall consist of a span bridge design which minimizes placement of any new structures within the stream bed or channel and avoids removal of natural riparian vegetation to the maximum extent feasible.
c) Construction activities shall be scheduled to occur during the dry season.	~~c)~~ • Construction activities shall be scheduled to occur during the dry season.
d) Staging areas outside of the riparian canopy shall be identified and flagged for construction workers to store materials.	~~d)~~ • Staging areas outside of the riparian canopy shall be identified and flagged for construction workers to store materials.
e) Monitoring of stream crossing construction activities shall be	~~e)~~ • Monitoring of stream crossing construction activities shall be

MALIBU LOCAL COASTAL PROGRAM AMENDMENT (LCPA No. 07-002)	SMMC OVERRIDE
conducted by a qualified biologist. The biologist shall be responsible for briefing construction workers on potential resource damage avoidance prior to the commencement of any on site activities. f) These provisions shall not apply to existing or proposed pedestrian stream crossing along hiking trails where no alteration of the natural stream channel is required to accommodate access.	conducted by a qualified biologist. The biologist shall be responsible for briefing construction workers on potential resource damage avoidance prior to the commencement of any on site activities. ~~f)~~ • These provisions shall not apply to existing or proposed pedestrian stream crossing along hiking trails where no alteration of the natural stream channel is required to accommodate access.
c. Parkland Habitat Preservation and Monitoring i. Trail or park areas that have been severely degraded as the result of overuse or lack of maintenance shall be restored by such techniques as revegetation with native plants, trail consolidation and improvement, and through the provision of support facilities such as parking, defined trail systems, raised walkways, trash receptacles, restrooms, and picnic areas. Fencing and signs, designed and located consistent with other applicable provisions of this Chapter, shall be installed around restoration areas for purposes of identifying sensitive habitats and educating visitors of ESHA occurrence and/or restoration efforts. All park fencing shall be designed to allow for wildlife passage. In severely degraded areas, controlled and limited public access may be allowed during the recovery period and in consultation with appropriate public agencies and/or resource specialists. Any limitation of public use shall be evaluated periodically to determine the need for continued use restrictions and the limitation shall be removed at the termination of the recovery period. ii. The Conservancy/MRCA shall conduct periodic assessments of park visitation numbers and patterns of use and shall monitor the quality of visitor experience and make the appropriate management changes to prevent potential degradation of natural resources from overuse. Monitoring and visitor survey data shall be evaluated in conjunction with the City Parks and Recreation	~~c.~~ **C Parkland Habitat Preservation and Monitoring** i. Trail or park areas that have been severely degraded as the result of overuse or lack of maintenance shall be restored by such techniques as revegetation with native plants, trail consolidation and improvement, and through the provision of support facilities such as parking, defined trail systems, raised walkways, trash receptacles, restrooms, and picnic areas. Fencing and signs, designed and located consistent with other applicable provisions of this ~~Chapter~~ Overlay District, shall be installed around restoration areas for purposes of identifying sensitive habitats and educating visitors of ESHA occurrence and/or restoration efforts. All park fencing shall be designed to allow for wildlife passage. In severely degraded areas, controlled and limited public access may be allowed during the recovery period and in consultation with appropriate public agencies and/or resource specialists. Any limitation of public use shall be evaluated periodically to determine the need for continued use restrictions and the limitation shall be removed at the termination of the recovery period. ~~ii.~~ 2. The Conservancy/MRCA shall conduct periodic assessments of park visitation numbers and patterns of use and shall monitor the quality of visitor experience and make the appropriate management changes to prevent potential degradation of natural resources from overuse. Monitoring and visitor survey data shall be evaluated ~~in conjunction with the City Parks and Recreation~~

MALIBU LOCAL COASTAL PROGRAM AMENDMENT (LCPA No. 07-002)	SMMC OVERRIDE
Department to identify needs, problems, and issues that require management action. iii. All development requiring a coastal development permit proposed within the existing park boundaries of Charmlee Park, Ramirez Canyon Park, Escondido Canyon Park, and Corral Canyon Park, including new support facilities and trails, shall be reviewed by the City of Malibu Environmental Review Board.	~~Department~~ to identify needs, problems, and issues that require management action. ~~iii. All development requiring a coastal development permit proposed within the existing park boundaries of Charmlee Park, Ramirez Canyon Park, Escondido Canyon Park, and Corral Canyon Park, including new support facilities and trails, shall be reviewed by the City of Malibu Environmental Review Board.~~
d. Native Trees i. All development requiring a coastal development permit and involving access and recreation improvements within areas containing one or more native oak (Quercus species), California Walnut (Juglans californica), Western Sycamore (Plantanus racemosa), Alder (Alnus rhombifolia), or Toyon (Heteromeles arbutifolia) tree, that has a least one trunk measuring six inches or more in diameter, or a combination of any two trunks measuring a total of eight inches or more in diameter, measured at four and one-half fee above natural grade shall be subject to the provisions of Chapter 5 Native Tree Protection of the Malibu Local Coastal Program Local Implementation Plan.	**D. Native Trees** ~~i.~~ 1. All development ~~requiring a coastal development permit and~~ involving access and recreation improvements within areas containing one or more native oak (Quercus species), California Walnut (Juglans californica), Western Sycamore (Plantanus racemosa), Alder (Alnus rhombifolia), or Toyon (Heteromeles arbutifolia) tree, that has a least one trunk measuring six inches or more in diameter, or a combination of any two trunks measuring a total of eight inches or more in diameter, measured at four and one-half fee above natural grade shall be subject to the provisions of Chapter 5 Native Tree Protection of the Malibu Local Coastal Program Local Implementation Plan.
7. Water Quality All new public access and recreation improvements shall be evaluated for potential adverse impacts to water quality and shall consider Site Design Source Control and Treatment Control Best Management Practices (BMPs) to prevent polluted runoff and water quality impacts resulting from new development, and shall be designed to prevent the introduction of pollutants that may result in water quality impacts. Projects shall be designed to control post-development peak runoff rates and average volumes to maintain or reduce pre-development downstream erosion rates. Development of public access and recreation improvements shall	~~7.~~ **8. Water Quality** All new public access and recreation improvements shall be evaluated for potential adverse impacts to water quality and shall consider Site Design Source Control and Treatment Control Best Management Practices (BMPs) to prevent polluted runoff and water quality impacts resulting from new development, and shall be designed to prevent the introduction of pollutants that may result in water quality impacts. Projects shall be designed to control post-development peak runoff rates and average volumes to maintain or reduce pre-development downstream erosion rates. Development of public access and recreation improvements shall

MALIBU LOCAL COASTAL PROGRAM AMENDMENT (LCPA No. 07-002)	SMMC OVERRIDE
be subject to the following standards as well as any other applicable development standards of Chapter 17 of the Malibu Local Implementation Plan, or the Regional Water Quality Control Board, whichever is most protective.	be subject to the following standards as well as any other applicable development standards of Chapter 17 of the Malibu Local Implementation Plan, or the Regional Water Quality Control Board, whichever is most protective.
a. Parkland Facilities Development and Design	~~a.~~ **A. Parkland Facilities Development and Design**
i. New park facility development shall, as applicable, include post-development phase drainage and polluted runoff control plans. These plans shall specify site design, source control and treatment control Best Management Practices (BMPs), that will be implemented to minimize post-construction polluted runoff, and shall include monitoring and maintenance provisions for identified BMPs and shall specifically address: a) Designated areas within picnic facilities to provide fresh water for public use including drinking water and hand washing and areas where overspill will drain. All overspill shall be contained onsite and treated with appropriate post-development BMPs measures.	~~i.~~ 1. New park facility development shall, as applicable, include post-development phase drainage and polluted runoff control plans. These plans shall specify site design, source control and treatment control Best Management Practices (BMPs), that will be implemented to minimize post-construction polluted runoff, and shall include monitoring and maintenance provisions for identified BMPs and shall specifically address: ~~a)~~ • Designated areas within ~~picnic~~ camp facilities to provide fresh water for ~~public~~ camp uses including drinking water, ~~and~~ hand washing and dish washing, and areas where overspill will drain. All overspill shall be contained onsite and treated with appropriate post-development BMPs measures.
b) Methods to accommodate onsite percolation and to mitigate and treat any increase in runoff from impervious surfaces consistent with all applicable development standards of Section 17.5.1 BMP Requirements and Implementation of the Malibu Local Implementation Plan.	~~b)~~ • Methods to accommodate onsite percolation and to mitigate and treat any increase in runoff from impervious surfaces consistent with all applicable development standards of Section 17.5.1 BMP Requirements and Implementation of the Malibu Local Implementation Plan.
c) New parking facility development shall be constructed of permeable material to allow for percolation of runoff.	~~c) New parking facility development shall be constructed of permeable material to allow for percolation of runoff.~~
ii. An Interim Erosion Control Plan shall be developed and implemented for construction activities resulting in soil disturbance	~~ii.~~ 2. An Interim Erosion Control Plan shall be developed and implemented for construction activities resulting in soil disturbance

MALIBU LOCAL COASTAL PROGRAM AMENDMENT (LCPA No. 07-002)	SMMC OVERRIDE
and vegetation removal and the following development standards shall be applied as follows:	and vegetation removal and the following development standards shall be applied as follows:
a) The plan shall delineate the areas to be disturbed by grading or construction activities and shall include any temporary access roads, staging areas and stockpile areas. The natural areas on the site shall be clearly delineated on the project site with fencing or survey flags.	~~a)~~ • The plan shall delineate the areas to be disturbed by grading or construction activities and shall include any temporary access roads, staging areas and stockpile areas. The natural areas on the site shall be clearly delineated on the project site with fencing or survey flags. • Should grading take place during the rainy season (November 1 – March 31) temporary sediment basins (including debris basins, desilting basins or silt traps), temporary drains and swales, sand bag barriers, silt fencing, geofabric covers or other appropriate cover, geotextiles or mats shall be installed on all cut or fill slopes as soon as possible. These erosion measures shall be required on the project site prior to or concurrent with the initial grading operations and maintained throughout the development process to minimize erosion and sediment from runoff waters during construction.
iii. All new park facilities shall be located in areas of level terrain, to the maximum extent feasible, to avoid the need for grading and to minimize landform alteration and alteration of natural drainage patterns. Campsites in Ramirez Park specifically designed to facilitate disabled access, parking resources to support trail access, and development of important trail linkages, shall be sited and designed to ensure grading is minimized to the maximum extent feasible.	~~iii.~~ 3. All new park facilities shall be located in areas of level terrain, to the maximum extent feasible, to avoid the need for grading and to minimize landform alteration and alteration of natural drainage patterns. Campsites ~~in Ramirez Park~~ specifically designed to facilitate disabled access, parking resources to support trail access, and development of important trail linkages, shall be sited and designed to ensure grading is minimized to the maximum extent feasible.
iv. All graded and disturbed areas on the subject site shall be planted and maintained for erosion control purposes within sixty (60) days of completing construction activities resulting in soil disturbance or vegetation removal. To minimize the need for irrigation all landscaping shall consist primarily of native/drought resistant plants as listed by the California Native Plant Society,	~~iv.~~ 4. All graded and disturbed areas on the subject site shall be planted and maintained for erosion control purposes within sixty (60) days of completing construction activities resulting in soil disturbance or vegetation removal. To minimize the need for irrigation all landscaping shall consist primarily of native/drought resistant plants as listed by the California Native Plant Society,

MALIBU LOCAL COASTAL PROGRAM AMENDMENT (LCPA No. 07-002)	SMMC OVERRIDE
Santa Monica Mountains Chapter, in its document entitled Recommended List of Plants for Landscaping in the Santa Monica Mountains, dated February 5, 1996. Invasive, non-indigenous plant species which tend to supplant native species shall not be used.	Santa Monica Mountains Chapter, in its document entitled Recommended List of Plants for Landscaping in the Santa Monica Mountains, dated February 5, 1996. Invasive, non-indigenous plant species which tend to supplant native species shall not be used.
b. Onsite Wastewater Disposal	~~b.~~ **B. Onsite Wastewater Disposal**
i. All new public restroom facilities shall consist of self contained, chemical or composting restrooms which shall be sited and designed to ensure that impacts to ESHA and water quality are avoided. Self-contained restroom facilities shall be located a minimum of 200 feet from the top of bank of any adjacent stream, wherever feasible, and shall not be located less than 100 feet from the top of bank of any adjacent stream or the outer edge of riparian vegetation, whichever is the most protective. Minimal grading to create minor berms around the facilities shall be allowed to ensure run-off is contained in the vicinity and/or is conveyed and filtered through bioswales. Self-contained restroom facilities shall be maintained pursuant to manufacturer specifications at all times.	~~i.~~ 1. All new public restroom facilities shall consist of self contained, chemical or composting restrooms which shall be sited and designed to ensure that impacts to ESHA and water quality are avoided. Self-contained restroom facilities shall be located a minimum of 200 feet from the top of bank of any adjacent stream, wherever feasible, and shall not be located less than 100 feet from the top of bank of any adjacent stream or the outer edge of riparian vegetation, whichever is the most protective. Minimal grading to create minor berms around the facilities shall be allowed to ensure run-off is contained in the vicinity and/or is conveyed and filtered through bioswales. Self-contained restroom facilities shall be maintained pursuant to manufacturer specifications at all times.
ii. Details regarding construction and operation of new self-contained restroom facilities proposed for Charmlee Park, Escondido Canyon Park and Corral Canyon Park shall be provided for review and approval by the City Environmental Health Division prior to issuance of a coastal development permit required for any new development or increase in public use of the park properties to be served by the facilities.	~~ii. Details regarding construction and operation of new self-contained restroom facilities proposed for Charmlee Park, Escondido Canyon Park and Corral Canyon Park shall be provided for review and approval by the City Environmental Health Division prior to issuance of a coastal development permit required for any new development or increase in public use of the park properties to be served by the facilities.~~
iii. A Septic System Abandonment/Wastewater Treatment and Recycled Water System Installation Plan, developed and	~~iii.~~ 2. A Septic System Abandonment/Wastewater Treatment and Recycled Water System Installation Plan, developed and

MALIBU LOCAL COASTAL PROGRAM AMENDMENT (LCPA No. 07-002)	SMMC OVERRIDE
implemented for Ramirez Canyon Park shall be maintained onsite to provide for 1) the permanent abandonment of the idle septic system and leachfields located beneath the tennis court, the leachfield serving Barwood, and of the leachfields and/or pits and septic tanks serving the Barn and Peach House Structures; 2) installation of a new, on site wastewater treatment system and recycled water reuse program, including a landscape/orchard planting and management plan designed to maintain sufficient evapotranspiration capacity for the maximum effluent production of the site during all potential seasonal conditions; and 3) the installation and maintenance of on site emergency power generators and fuel supply necessary to maintain the wastewater treatment system for at least twelve (12) hours. These improvements shall be maintained and all new permanent restroom facilities shall be required to connect to the on-site wastewater treatment and recycled water reuse system.	implemented for Ramirez Canyon Park shall be maintained onsite to provide for 1) the permanent abandonment of the idle septic system and leachfields located beneath the tennis court, the leachfield serving Barwood, and of the leachfields and/or pits and septic tanks serving the Barn and Peach House Structures; 2) installation of a new, on site wastewater treatment system and recycled water reuse program, including a landscape/orchard planting and management plan designed to maintain sufficient evapotranspiration capacity for the maximum effluent production of the site during all potential seasonal conditions; and 3) the installation and maintenance of on site emergency power generators and fuel supply necessary to maintain the wastewater treatment system for at least twelve (12) hours. These improvements shall be maintained and all new permanent restroom facilities shall be required to connect to the on-site wastewater treatment and recycled water reuse system.
iv. The Wastewater Treatment and Recycled Water System Installation Plan developed and implemented for Ramirez Canyon Park shall require use of restrooms connected to the wastewater treatment system for all visitors, tours, gatherings and events at Ramirez Canyon Park accommodating up to 200 people. Should any use, or combination of uses, at Ramirez Canyon Park, result in a capacity of visitors exceeding 200 people at any one time, portable restrooms shall be provided to supplement the treatment capacity of the wastewater treatment system.	~~iv.~~ 3. The Wastewater Treatment and Recycled Water System Installation Plan developed and implemented for Ramirez Canyon Park shall require use of restrooms connected to the wastewater treatment system for all visitors, tours, gatherings and events at Ramirez Canyon Park accommodating up to 200 people. Should any use, or combination of uses, at Ramirez Canyon Park, result in a capacity of visitors exceeding 200 people at any one time, portable restrooms shall be provided to supplement the treatment capacity of the wastewater treatment system.
v. A Water Quality Monitoring Program shall be implemented at Ramirez Canyon Park upon certification of Plan that includes provisions for quarterly analysis of water samples up- and down-stream of the subject site for a minimum of four quarters of available streamflow (streamflow in Ramirez Canyon Creek is intermittent), commencing with implementation of this Chapter. The quarterly analysis of water samples shall determine fecal	~~v.~~ 4. A water Quality Monitoring Program shall be implemented at Ramirez Canyon Park ~~upon certification of Plan~~ that includes provisions for quarterly analysis of water samples up- and down-stream of the subject site for a minimum of four quarters of available streamflow (streamflow in Ramirez Canyon Creek is intermittent), commencing with implementation of this ~~Chapter~~ Overlay District. The quarterly analysis of water samples shall

MALIBU LOCAL COASTAL PROGRAM AMENDMENT (LCPA No. 07-002)	SMMC OVERRIDE
coliform concentration and, should the results of the one year analysis be adverse or inconclusive, additional water quality analysis shall be performed. If the results of the water quality monitoring fail to rule out existing septic systems as a potential source of elevated fecal coliform counts downstream of Ramirez Canyon Park, a coastal development permit application shall be made to the City for abandonment of the remaining septic systems and further upgrade the new wastewater treatment system to accept and treat the effluent from the ranger/maintenance supervisor residence and/or the Art Deco building. vi. The existing Onsite Wastewater Treatment System serving Charmlee Park shall be located and its construction, current condition, and capacity assessed for compliance with minimum requirements of the City Plumbing Code, and Malibu Local Implementation Plan prior to issuance of a coastal development permit required for any new development or increase in public use of the park property to be served by the system.	determine fecal coliform concentration and, should the results of the one year analysis be adverse or inconclusive, additional water quality analysis shall be performed. If the results of the water quality monitoring fail to rule out existing septic systems as a potential source of elevated fecal coliform counts downstream of Ramirez Canyon Park, ~~a coastal development~~ a complete permit application shall be made to the City of Malibu Health Department for abandonment of the remaining septic systems and further upgrade the new wastewater treatment system to accept and treat the effluent from the ranger/maintenance supervisor residence and/or the Art Deco building. ~~vi. The existing Onsite Wastewater Treatment System serving Charmlee Park shall be located and its construction, current condition, and capacity assessed for compliance with minimum requirements of the City Plumbing Code, and Malibu Local Implementation Plan prior to issuance of a coastal development permit required for any new development or increase in public use of the park property to be served by the system.~~
8. Visual Resources a. All new public access and recreation improvements shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. Development of public access and recreation improvements shall be subject to the following standards as well as any other applicable development standards of Chapter 6 of the Malibu Local Implementation Plan.	~~8.~~ **9. Visual Resources** ~~a.~~ All new public access and recreation improvements shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. Development of public access and recreation improvements shall be subject to the following standards as well as any other applicable development standards of Chapter 6 of the Malibu Local Implementation Plan. **A. Park Facilities Siting and Design**

MALIBU LOCAL COASTAL PROGRAM AMENDMENT (LCPA No. 07-002)	SMMC OVERRIDE
i. New restroom facilities shall be located and designed such that they are not substantially visible from trails, public roads or other scenic viewing areas. Measures to minimize visibility of restroom facilities include:	~~i.~~ 1. New restroom facilities shall be located and designed such that they are not substantially visible from trails, public roads or other scenic viewing areas. Measures to minimize visibility of restroom facilities include:
a) Locating the structures in level areas where vegetation exists or where topography naturally screens the areas from public views. Where necessary, native vegetation shall be planted to provide a buffer between restrooms and trail users and to screen restroom facilities.	~~a)~~ • Locating the structures in level areas where vegetation exists or where topography naturally screens the areas from public views. Where necessary, native vegetation shall be planted to provide a buffer between restrooms and trail users and campers, and to screen restroom facilities.
b) Where determined necessary and feasible for purposes of protecting visual resources, grading shall be allowed to "tuck" restroom facilities into hillside terrain and thereby blend with natural terrain. Restroom facilities shall be designed with colors that are compatible with the surrounding landscape and landscape screening shall be used to minimize visibility of the structures.	b) Where determined necessary and feasible for purposes of protecting visual resources, grading shall be allowed to "tuck" restroom facilities into hillside terrain and thereby blend with natural terrain. Restroom facilities shall be designed with colors that are compatible with the surrounding landscape and landscape screening shall be used to minimize visibility of the structures.
	2. Campsite locations shall be located and designed such that they are not substantially visible from trails, public roads or other scenic viewing areas. Measures to minimize visibility of campsites include locating sites in level areas where vegetation exists or where topography naturally screens the areas from public views. Where necessary, native vegetation shall be planted to provide a buffer between campers and trail users and to screen camp facilities from adjacent trails.
ii. Retaining walls shall be permitted only where required to support critical trail linkages on hillside terrain, or to support restroom construction in hillside terrain, where no other alternative location or method of support is available. The height of permitted	~~ii.~~ 3. Retaining walls shall be permitted only where required to support critical trail linkages on hillside terrain, or to support restroom construction in hillside terrain, where no other alternative location or method of support is available. The height of permitted

MALIBU LOCAL COASTAL PROGRAM AMENDMENT (LCPA No. 07-002)	SMMC OVERRIDE
retaining walls shall not exceed six feet. Stepped or terraced retaining walls up to twelve feet in height, with planting in between, may be permitted. Retaining walls shall be designed with natural materials that blend with the surrounding earth materials and landscape.	retaining walls shall not exceed six feet. Stepped or terraced retaining walls up to twelve feet in height, with planting in between, may be permitted. Retaining walls shall be designed with natural materials that blend with the surrounding earth materials and landscape.
iv. Drainage devices for parking facilities shall be placed in locations of minimal visibility and shall be colored to match natural soils and screened with landscaping to minimize visibility.	~~iv.~~ 4. Drainage devices for parking facilities shall be placed in locations of minimal visibility and shall be colored to match natural soils and screened with landscaping to minimize visibility.
9. Archaeological Resources a. All new public access and recreation improvements shall be located and/or designed to protect and preserve areas, sites and structures of historic, cultural, archaeological and paleontological significance. Development of public access and recreation improvements shall be subject to the following: i. A Phase I Inventory of cultural resources shall be conducted by a qualified archaeologist for all project areas that will involve ground disturbance. All other applicable development standards of Chapter 11 of the Malibu Local Implementation Plan apply.	~~9.~~ **10. Archaeological Resources** ~~a.~~ All new public access and recreation improvements shall be located and/or designed to protect and preserve areas, sites and structures of historic, cultural, archaeological and paleontological significance. Development of public access and recreation improvements shall be subject to the following: ~~i.~~ 1. A Phase I Inventory of cultural resources shall be conducted by a qualified archaeologist for all project areas that will involve ground disturbance. All other applicable development standards of Chapter 11 of the Malibu Local Implementation Plan apply. • A records search through the regional historical resources information center. • An archival search of historic records. • A field survey. • A written report which describes how the survey was conducted and the result of the survey.

MALIBU LOCAL COASTAL PROGRAM AMENDMENT (LCPA No. 07-002)	SMMC OVERRIDE
ii. Park signs, maps, public information notices, and website information shall include notice to inform visitors that disturbance to archaeological sites cannot be reversed, that such resources are of great religious importance to contemporary Native Americans and destruction of archaeological sites on public property is illegal and a punishable offense.	~~ii.~~ 2. Park signs, maps, public information notices, and website information shall include notice to inform visitors that disturbance to archaeological sites cannot be reversed, that such resources are of great religious importance to contemporary Native Americans and destruction of archaeological sites on public property is illegal and a punishable offense.
10. Hazards All new public access and recreation improvements shall minimize risks to life and property in areas of high geologic, flood, and fire hazard. Development of public access and recreation improvements shall be subject to the following development standards as well as any other applicable development standards of Chapter 9 of the Malibu Local Implementation Plan to minimize risks associated with high geologic, flood, and fire hazard. a. Geology and Flooding i. A geologic/soils/geotechnical study identifying any geologic hazards affecting areas identified for new park facility development shall be prepared for any coastal development permit application and shall contain recommendations for mitigation measures, where applicable, and a statement that the project areas are suitable for the proposed improvements and that the improvements will be safe from geologic hazard. ii. Engineered structures such as retaining walls, footings for small structures (i.e. restrooms with footings, water service lines, engineered retaining walls, parking areas, etc., as applicable), and significant cut and fill grading will require the preparation of a geotechnical report, prepared by a qualified engineering geologist and a registered geotechnical engineer, to provide	~~10.~~ **11. Hazards** All new public access and recreation improvements shall minimize risks to life and property in areas of high geologic, flood, and fire hazard. Development of public access and recreation improvements shall be subject to the following development standards as well as any other applicable development standards of Chapter 9 of the Malibu Local Implementation Plan to minimize risks associated with high geologic, flood, and fire hazard. ~~a.~~ **A. Geology and Flooding** ~~i.~~ 1. A geologic/soils/geotechnical study identifying any geologic hazards affecting areas identified for new, structural park facility development shall be prepared ~~for any coastal development permit application~~ and shall contain recommendations for mitigation measures, where applicable, and a statement that the project areas are suitable for the proposed improvements and that the improvements will be safe from geologic hazard. ~~ii.~~ 2. Engineered structures such as retaining walls, footings for small structures (i.e. restrooms with footings, water service lines, engineered retaining walls, parking areas, etc., as applicable), and significant cut and fill grading will require the preparation of a geotechnical report, prepared by a qualified engineering geologist ~~and~~ or a registered geotechnical engineer, to provide

MALIBU LOCAL COASTAL PROGRAM AMENDMENT (LCPA No. 07-002)	SMMC OVERRIDE
recommendations for the design of these structures and grading procedures in accordance with the City's Geotechnical Guidelines and Building Codes.	recommendations for the design of these structures and grading procedures ~~in accordance with the City's Geotechnical Guidelines and Building Codes.~~
iii. Where applicable, new park improvements shall include adequate drainage and erosion control facilities that convey site drainage in a non-erosive manner in order to minimize hazards resulting from increased runoff and erosion.	~~iii.~~ 3. Where applicable, new park improvements shall include adequate drainage and erosion control facilities that convey site drainage in a non-erosive manner in order to minimize hazards resulting from increased runoff and erosion.
b. Fire and Emergency Evacuation	~~b.~~ B. **Fire and Emergency Evacuation**
i. A Fire Protection and Emergency Evacuation Plan shall be developed and implemented for Charmlee Park, Ramirez Canyon Park, Escondido Canyon Park, and Corral Canyon Park and shall be approved by the State Fire Marshall and Los Angeles County Fire Department, Division of Fire and Life Safety. The Fire Management and Emergency Evacuation Plan shall include the following provisions:	~~i.~~ 1. A Fire Protection and Emergency Evacuation Plan shall be developed and implemented for ~~Charmlee Park,~~ Ramirez Canyon Park, Escondido Canyon Park, and Corral Canyon Park and shall be approved by the State Fire Marshall and Los Angeles County Fire Department, Division of Fire and Life Safety. The Fire Management and Emergency Evacuation Plan shall include the following provisions:
	• All standard Parkland rules and regulations shall be enforced per existing policies of the MRCA/SMMC:
	• Except in designated camp areas, park properties shall be closed sunset to sunrise.
	• No smoking or fires.
	• No alcoholic beverages.
	• No littering or dumping.
	• No unauthorized vehicle use.
	• No defacing or destroying property.

MALIBU LOCAL COASTAL PROGRAM AMENDMENT (LCPA No. 07-002)	SMMC OVERRIDE
	• Dogs must be on a leash and cleaned up after. • Possession of firearms, bow and arrow prohibited. • Violations subject to $500 fine and/or 6 months in County jail.
a. An annual fuel modification plan for site vegetation management and tree trimming/limbing at each park property shall be developed and implemented prior to the annual fire season.	~~a.~~ • An annual fuel modification plan for site vegetation management and tree trimming/limbing at each park property shall be developed and implemented prior to the annual fire season. • Campsite locations shall be located within existing public use areas to ensure easy access for purposes of maintenance and patrol, and in case of emergency
b. Campfires shall be prohibited at all times.	~~b. Campfires shall be prohibited at all times.~~ • No camper, hiker, pedestrian, casual or transient visitor to Malibu, nor any resident of the City of Malibu, shall make or maintain, nor aid and abet others in making or maintaining, a campfire or any other open fire in any of the park facilities covered by this Plan. The only cooking apparatus permitted shall consist of self-contained propane stoves when permitted consistent with the terms of the approved Fire Management and Emergency Evacuation Plan. No Kerosene or white gas lanterns shall be permitted. • No person shall, outside of any park facility mentioned herein, on any public or private property, permit or allow, or cause to be permitted or allowed, any open flame, fire, or other incendiary source, of any nature whatsoever, within twenty (20) feet of any flammable vegetation. This provision shall prohibit backyard fires,

MALIBU LOCAL COASTAL PROGRAM AMENDMENT (LCPA No. 07-002)	SMMC OVERRIDE
	barbeques, or any other flame source whatsoever. Propane BBQs when accompanied with approved fire extinguishers shall be exempt from this policy.
	• Campers shall be required to utilize designated cook surfaces provided at each approved campsite, which shall be designed of non-flammable materials. Cold-camping apparatus such as flame-less cook-stoves and lanterns are preferred. Prospective campers shall be informed of the No Campfire/Cold Camp Policy upon reserving and/or registering for use of camp facilities and shall be put on notice that unauthorized use of fire-related camping and cooking apparatus specifically prohibited by the No Campfire/Cold Camp Policy will be cause for confiscation of such devices and/or expulsion of visitors from camp facilities. Signs shall be posted and camp areas will be routinely patrolled to enforce the No Campfire/Cold Camp Policy.
	• Fire protection apparatus shall be provided and maintained at all camp facilities and shall include, at a minimum:
	• Water storage tank or water delivery system designed, located, and maintained to provide a dependable water supply for fire protection at each proposed camp area at all times to ensure adequate water supply for fire protection of new camp facilities.
	• A portable and air-powered quick attack firefighting system to be provided at each camp facility for ready deployment by trained Camp Host, Ranger, or park personnel in the event of a fire.

MALIBU LOCAL COASTAL PROGRAM AMENDMENT (LCPA No. 07-002)	SMMC OVERRIDE
	• Portable self-contained fire extinguisher units to be provided for each cluster or group of campsites.
c. Park properties will be closed when any Red Flag, Flash Flood/Flood Warnings or Urban/Small Stream Advisory is issued. Signs will be posted and areas will be routinely patrolled to notify park users and to enforce restrictions on park use during all Red Flag, Flash Flood/Flood Warnings and Urban/Small Stream Advisories as determined by the National Weather Service, a division of the National Oceanic Atmospheric Administration (NOAA).	~~c.~~ • Camping at all ~~P~~ park properties will be closed when any Red Flag, Flash Flood/Flood Warnings or Urban/Small Stream Advisory is issued. Signs will be posted and camp areas will be routinely patrolled to notify park users and to enforce restrictions on park use during all Red Flag, Flash Flood/Flood Warnings and Urban/Small Stream Advisories as determined by the National Weather Service, a division of the National Oceanic Atmospheric Administration (NOAA). • An onsite Camp Host, staff maintenance person, or Ranger, who is wildland fire-trained, shall be accommodated for at each park property during the times camping is permitted. This shall be accomplished by either providing for residency of a Camp Host, staff maintenance person or Ranger at existing park properties, or ensuring that support facilities and apparatus are provided to sustain continuous daily and nightly patrols to strictly enforce the No Campfire Policy and use restrictions relating to hazardous conditions. Park patrols shall be conducted daily at each park property when campers are present. Adjustments to patrol procedures will be made as necessary to ensure park rule enforcement and compliance. • An Evacuation Plan shall be prepared and shall include details relative to evacuation procedures and evacuation locations to be implemented for each park property during emergencies.

MALIBU LOCAL COASTAL PROGRAM AMENDMENT (LCPA No. 07-002)	SMMC OVERRIDE
d. Emergency power generators and fuel supply at Ramirez Canyon Park necessary to maintain emergency lighting for at least twelve (12) hours shall be installed and maintained on site.	~~d.~~ • Emergency power generators and fuel supply at Ramirez Canyon Park necessary to maintain emergency lighting for at least twelve (12) hours shall be installed and maintained on site.
e. Park events, tours, reservations for camping programs for disabled individuals or other special functions at Ramirez Canyon Park shall be cancelled when any red-flag warning for extreme weather, fire and/or flooding is issued. Written warnings of the cancellation policy shall be provided to potential and prospective event sponsors prior to contracting for park use.	~~e.~~ • Park events, tours, camping reservations ~~for camping programs for disabled individuals~~ or other special functions at Ramirez Canyon Park shall be cancelled when any red-flag warning for extreme weather, fire and/or flooding is issued. Written warnings of the cancellation policy shall be provided to potential campers and prospective event sponsors prior to contracting for park use.
ii. A Wooden Bridge Reinforcement Plan, developed and implemented to provide for reinforcement of the wood bridge over Ramirez Canyon creek next to Ramirez Canyon Park, shall be maintained to ensure that the bridge will safely support a 25-ton fire truck and thereby accommodate emergency access. The wood bridge shall be maintained in sound condition to ensure safe and adequate emergency access to the Park. Annual inspection records of the bridge shall be forwarded to the City Environmental and Building Safety Division.	~~ii.~~ 2. A Wooden Bridge Reinforcement Plan, developed and implemented to provide for reinforcement of the wood bridge over Ramirez Canyon creek next to Ramirez Canyon Park, shall be maintained to ensure that the bridge will safely support a 25-ton fire truck and thereby accommodate emergency access. The wood bridge shall be maintained in sound condition to ensure safe and adequate emergency access to the Park. ~~Annual inspection records of the bridge shall be forwarded to the City Environmental and Building Safety Division.~~
iii. An Emergency Access and On-Site Parking Plan for Ramirez Canyon Park, prepared by a licensed civil engineer and approved by the Los Angeles County Fire Department as compliant with applicable state and county fire and life safety regulations shall be maintained for Ramirez Canyon Park.	~~iii.~~ 3. An Emergency Access and On-Site Parking Plan for Ramirez Canyon Park, prepared by a licensed civil engineer and approved by the Los Angeles County Fire Department as compliant with applicable state and county fire and life safety regulations shall be maintained for Ramirez Canyon Park.
11. Land Use and Neighborhood Compatibility	~~11.~~ **12. Land Use and Neighborhood Compatibility**

MALIBU LOCAL COASTAL PROGRAM AMENDMENT (LCPA No. 07-002)	SMMC OVERRIDE
All new public access and recreation facilities shall be developed consistent with the established OS land use and zoning designation of the parklands subject to the Malibu Parks Public Access Enhancement Overlay. Permitted park uses consist of recreation, research and education, nature observation, and a range of critical support facilities, developed and operated pursuant to this Chapter of the Malibu Local Implementation Plan. 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. Ramirez Canyon Park, given its unique character, limited accessibility to the public, and specialized programs shall be permitted the administrative and support facilities necessary to maintain access programs, daily operations and maintenance of the various park and recreation programs addressed in this Chapter.	All new public access and recreation facilities shall be developed consistent with the established OS land use and zoning designation of the parklands subject to the Malibu Parks Public Access Enhancement Plan Overlay. Permitted park uses consist of recreation, research and education, nature observation, and a range of critical support facilities, developed and operated pursuant to this ~~Chapter~~ Overlay District of the Malibu Local Implementation Plan. 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. Ramirez Canyon Park, given its unique character, limited accessibility to the public, and specialized programs shall be permitted the administrative and support facilities necessary to maintain access programs, daily operations and maintenance of the various park and recreation programs addressed in this ~~Chapter~~ Overlay District.
Development of public access and recreation improvements, and specialized public parkland programs, shall be subject to the following development standards and all other applicable implementation measures identified in this Chapter. Public access and recreation improvements, and specialized public parkland programs, shall be developed and maintained to minimize potential land use conflicts with adjacent residential neighborhoods and to avoid intrusive traffic circulation in residential neighborhoods.	Development of public access and recreation improvements, and specialized public parkland programs, shall be subject to the following development standards and all other applicable implementation measures identified in this ~~Chapter~~ Overlay District. Public access and recreation improvements, and specialized public parkland programs, shall be developed and maintained to minimize potential land use conflicts with adjacent residential neighborhoods ~~and to avoid intrusive traffic circulation in residential neighborhoods~~.
a. Land Use Compatibility	~~a.~~ **A. Land Use Compatibility**
i. Trail and park improvements shall be located and designed to	~~i.~~ 1. Trail and park improvements shall be located and designed to

MALIBU LOCAL COASTAL PROGRAM AMENDMENT (LCPA No. 07-002)	SMMC OVERRIDE
provide separation between public trails and use areas and private property where feasible. Measures to provide such separation may include but not be limited to:	provide separation between public trails and use areas and private property where feasible. Measures to provide such separation may include but not be limited to:
a) Signs which informs hikers and park visitors of parkland and private property boundaries and includes provisions to restrict trespassing on private property, and to limit activities which may result in nuisance noise, odors, or other uses that may impact the quality of life in residential areas. Such signs shall be found consistent with all other implementation measures of this Chapter and the LIP.	~~a)~~ • Signs which informs hikers and park visitors of parkland and private property boundaries and includes provisions to restrict trespassing on private property, and to limit activities which may result in nuisance noise, odors, or other uses that may impact the quality of life in residential areas. Such signs shall be found consistent with all other implementation measures of this ~~Chapter and the LIP~~ Overlay District.
b) Fencing which delineates trail corridors, park boundaries, permitted parking areas, and private property, where located, designed and installed consistent with all other implementation measures of this Chapter and the LIP.	~~b)~~ • Fencing which delineates trail corridors, park boundaries, permitted parking areas, and private property, where located, designed and installed consistent with all other implementation measures of this ~~Chapter and the LIP~~ Overlay District.
ii. Trail and park improvements, uses, and programs shall be designed and implemented to avoid intrusive traffic circulation in residential neighborhoods. Implementation of park facility improvements shall be conducted in concert with the provisions of Section 3.4.2.D.2 Public Transit of this Chapter to encourage and expand alternative transportation opportunities to public parklands.	~~ii. Trail and park improvements, uses, and programs shall be designed and implemented to avoid intrusive traffic circulation in residential neighborhoods. Implementation of park facility improvements shall be conducted in concert with the provisions of Section 3.4.2.D.2 Public Transit of this Chapter to encourage and expand alternative transportation opportunities to public parklands.~~
iii. Options for a traffic monitoring system shall be evaluated and implemented for the Escondido Canyon Park trailhead parking facility that will provide counts of vehicles utilizing the parking area and transfer use data (parking lot capacity status) to a sign located at the entrance of Winding Way Road via Pacific Coast Highway to	~~iii. Options for a traffic monitoring system shall be evaluated and implemented for the Escondido Canyon Park trailhead parking facility that will provide counts of vehicles utilizing the parking area and transfer use data (parking lot capacity status) to a sign located at the entrance of Winding Way Road via Pacific Coast Highway to~~

MALIBU LOCAL COASTAL PROGRAM AMENDMENT (LCPA No. 07-002)	SMMC OVERRIDE
notify potential trail users of parking availability at the parking lot.	~~notify potential trail users of parking availability at the parking lot.~~
iv. The SMMC/MRCA shall provide primary trailhead and parking facility location for Escondido Canyon Park, on property located in proximity to Escondido Canyon and accessed via Latigo Canyon Road, to provide pedestrian access to Escondido Canyon Park and the surrounding trail system. In addition, two fully accessible and two trailer parking spaces shall be located conveniently in the area at a site consistent with the policies of the LCT and, to the maximum extent feasible, without disturbing the existing meadow at the top of Winding Way.	~~iv. The SMMC/MRCA shall provide primary trailhead and parking facility location for Escondido Canyon Park, on property located in proximity to Escondido Canyon and accessed via Latigo Canyon Road, to provide pedestrian access to Escondido Canyon Park and the surrounding trail system. In addition, two fully accessible and two trailer parking spaces shall be located conveniently in the area at a site consistent with the policies of the LCT and, to the maximum extent feasible, without disturbing the existing meadow at the top of Winding Way.~~
b. Specialized Programs – Ramirez Canyon Park	~~b.~~ **B. Specialized Programs – Ramirez Canyon Park**
i. All Ramirez Canyon Park uses, including administrative uses, public outreach, events, gatherings, tours and workshops, etc. shall be limited in size, duration and occurrence to comply with the proposed maximum of 40 trips/day on Ramirez Canyon Road.	~~i.~~ 1. All Ramirez Canyon Park uses, including administrative uses, public outreach, events, gatherings, tours and workshops, etc. shall be limited in size, duration and occurrence to comply with the proposed maximum of 40 trips/day on Ramirez Canyon Road, except as provided herein.
ii. Public outreach and education activities are priority uses and shall be accommodated first within the maximum allowed 40 round trips/day for Ramirez Canyon Park uses.	~~ii.~~ 2. Public outreach and education activities are priority uses and shall be accommodated first within the maximum allowed 40 round trips/day for Ramirez Canyon Park uses. Not more than twice per month a public outreach, education, or other event may exceed the daily round trip limitation, if in the preceding month the actual number of trips per day has been below the established trip threshold, by the amount of the proposed additional trips but not

MALIBU LOCAL COASTAL PROGRAM AMENDMENT (LCPA No. 07-002)	SMMC OVERRIDE
	more than 60 round trips/day.
iii. Events, tours, or other special functions permitted pursuant to this section shall be cancelled when any red-flag warning for extreme weather, fire and/or flooding warning is issued. Written warnings of such policy shall be provided to prospective sponsors prior to contracting for park use.	~~iii.~~ 3. Events, tours, or other special functions permitted pursuant to this section shall be cancelled when any red-flag warning for extreme weather, fire and/or flooding warning is issued. Written warnings of such policy shall be provided to prospective sponsors prior to contracting for park use.
iv. Amplified music may be permitted only in the meadow and garden areas located adjacent to and in front/behind the Barn facility, but not allowed in any location on the park property after 8:00 p.m. Sunday through Thursday evenings or after 10:00 p.m. on Friday or Saturday evenings. Use of amplified sound shall require monitoring of sound levels by park rangers and notices of restrictions on amplified music shall be provided to events sponsors contracting for park use. Amplified music/sound may only be used at six events per calendar year.	~~iv.~~ 4. Amplified music shall not cause a reading exceeding 65 dBA at the southern boundary of Ramirez Canyon Park as measured by an appropriately calibrated measuring device operated by a public officer. ~~may be permitted only in the meadow and garden areas located adjacent to and in front/behind the Barn facility, but not allowed in any location on the park property after 8:00 p.m. Sunday through Thursday evenings or after 10:00 p.m. on Friday or Saturday evenings. Use of amplified sound shall require monitoring of sound levels by park rangers and notices of restrictions on amplified music shall be provided to events sponsors contracting for park use. Amplified music/sound may only be used at six events per calendar year.~~
v. Special events held during fire season shall retain all guest vans, shuttles, and drivers continuously on site during the event.	~~v.~~ 5. Special events held during fire season shall retain all guest vans, shuttles, and drivers continuously on site during the event.
	6. Net proceeds generated by special events held at Ramirez Canyon Park shall be used to establish and maintain the Malibu Parks Public Access Fund (the Fund) for purposes of funding access and recreational improvements and opportunities for visitors with diverse abilities, disadvantaged youth, or other underserved groups. The fund shall specifically serve to implement the Malibu Coastal Camping Program, a program designed for disadvantaged youth and dedicated to teaching first time campers proper use of camping equipment, environmental

MALIBU LOCAL COASTAL PROGRAM AMENDMENT (LCPA No. 07-002)	SMMC OVERRIDE
	awareness and outdoor leadership skills. The camp program shall include all necessary transportation, food and equipment, with staffing provided by professional naturalist educators who are trained in first aid, youth leadership and outdoor education.
vi. Specialized programs permitted at Ramirez Canyon Park and associated support facilities shall consist of the following uses and restrictions:	~~vi.~~ 7. Specialized programs permitted at Ramirez Canyon Park and associated support facilities shall consist of the following uses and restrictions:
a) Park administrative offices for the Conservancy and Mountains Recreation and Conservation Authority for up to 15 employees.	~~a)~~ • ~~Park a~~ Administrative offices for the Conservancy and Mountains Recreation ~~and~~ & Conservation Authority (MRCA). ~~for up to 15 employees.~~
b) Ranger/maintenance supervisor residence utilized by MRCA staff charged with security, site management, and public safety duties.	~~b)~~ • Ranger/maintenance supervisor residence utilized by MRCA staff charged with security, site management, and public safety duties.
c) Public improvements for the riparian area interpretive trail and picnic facilities designed specifically to provide facilities and amenities required for the safe use of the trail by physically challenged visitors in compliance with Americans with Disabilities Act (ADA) requirements, including trails, picnic facilities, drinking fountains, restrooms, and parking areas.	~~c)~~ • Public improvements for the riparian area interpretive trail and picnic facilities designed specifically to provide facilities and amenities required for the safe use of the trail by physically challenged visitors in compliance with Americans with Disabilities Act (ADA) requirements, including trails, picnic facilities, drinking fountains, restrooms, and parking areas.
d) Use of the Peach House and Barn facility for small group gatherings and tours for up to 60 participants each, and to a limited extent the Art Deco facility permitted to be used to greet guests or as a component of site tours.	~~d)~~ • Use of the Peach House, ~~and~~ Barn, and Art Deco facility for small group gatherings and tours for up to 60 participants each, and to ~~a limited extent the Art Deco facility permitted to be used to~~ greet guests or as a component of site tours.
e) Public Outreach, Events, Gatherings, Tours, And Workshops.	~~e)~~ • Public Outreach, Events, Gatherings, Tours, And Workshops.
1. Public Outreach Programs (a) Year-Round, Permitted 7 Days/Week (b) Max 40 Participants	~~1.~~ ◦ Public Outreach Programs ~~(a)~~ ▫ Year-Round, Permitted 7 Days/Week ~~(b)~~ ▫ Max 40 Participants

MALIBU LOCAL COASTAL PROGRAM AMENDMENT (LCPA No. 07-002)	SMMC OVERRIDE
(c) 8:00 a.m. – Dusk	~~(c)~~ ▫ 8:00 a.m. – Dusk
2. Tours And/Or Small Gatherings (a) Year-Round, 12 Tours or Gatherings Permitted/Month (b) Max 60 Participants (c) 8:00 a.m. – Dusk	~~2.~~ ◦ Tours And/Or Small Gatherings ~~(a)~~ ▫ Year-Round, 12 Tours or Gatherings Permitted/Month ~~(b)~~ ▫ Max 60 Participants ~~(c)~~ ▫ 8:00 a.m. – Dusk
3. Special Events	~~3.~~ ◦ Special Events
(a) March – October, 16 Events Permitted/Year. (b) 1 Event Permitted/Week (c) Maximum 200 Participants (d) 8:00 a.m. – 9:00 p.m. Sunday – Thursday, and 8:00 a.m. to 10:00 p.m. Friday and Saturday, One Additional Hour is Allotted for Personnel Clean-Up and Securing the Facility. (e) At least one week prior to a special event involving 100 participants or more, the City Planning Manager must be notified in writing as to the type of event, event hours, number of anticipated guests and proposed transportation plan.	~~(a)~~ ▫ March – October, ~~16~~ 32 Events Permitted/Year, ~~(b)~~ 1 Event Permitted/Week ~~(c)~~ ▫ Maximum 200 Participants ~~(d)~~ ▫ 8:00 a.m. – 9:00 p.m. Sunday – Thursday, and 8:00 a.m. to 10:00 p.m. Friday and Saturday, One Additional Hour is Allotted for Personnel Clean-Up and Securing the Facility. ~~(e) At least one week prior to a special event involving 100 participants or more, the City Planning Manager must be notified in writing as to the type of event, event hours, number of anticipated guests and proposed transportation plan.~~
f) Three day-use picnic areas and up to three overnight campsites may be developed at Ramirez Canyon Park that shall be designed specifically for supervised programs accommodating disabled visitors and their families by reservation. No campfires shall be permitted at any time. The day-use picnic areas shall be located in level, previously disturbed areas so as not to adversely impact sensitive habitat, but shall be located in proximity to natural areas to provide association with natural resources to the maximum extent feasible.	~~f)~~ • ~~Three d~~ Day-use picnic areas ~~and up to three overnight campsites may be developed at Ramirez Canyon Park that shall be~~ designed specifically to provide park amenities to accommodate ~~for supervised programs accommodating~~ disabled visitors and their families by reservation. ~~No campfires shall be permitted at any time.~~ The accessible day-use picnic areas shall be located in level, previously disturbed areas so as not to adversely impact sensitive habitat, but shall be located in proximity to natural areas to provide association with natural resources to the maximum extent feasible. • ADA accessible camp facility designed specifically for use by

MALIBU LOCAL COASTAL PROGRAM AMENDMENT (LCPA No. 07-002)	SMMC OVERRIDE
	disabled visitors and theirs families, available by reservation. • Hike-in camp facility, available by reservation.
vii. A Transportation and Parking Management Plan shall be developed in conjunction with the City Planning Department and City Public Works Department and maintained to manage traffic trips on Ramirez Canyon Road pursuant to Section 3.4.2.D.2.b.i. of this Chapter.	~~vii.~~ 8. A Transportation and Parking Management Plan shall be developed ~~in conjunction with the City Planning Department and City Public Works Department~~ and maintained to manage traffic trips on Ramirez Canyon Road pursuant to Section ~~3.4.2.D.2.b.i.~~D.3.B.1 of this ~~Chapter~~ Overlay District.
viii. An Event Monitoring Program shall be implemented and shall include submittal of annual monitoring reports to the City. The annual monitoring reports shall include a summary of the number and kind of events, tours, small gatherings, and outreach programs conducted at Ramirez Canyon Park during the annual reporting period, distinguishing revenue-generating and non-revenue generating events, activities, tours, and outreach programs, and specifying the dates, vehicle trip counts, and event sponsor or beneficiary as applicable, for each.	~~viii.~~ 9. An Event Monitoring Program shall be implemented and shall include ~~submittal of~~ annual monitoring reports submitted to the ~~City~~ Executive Director of the Coastal Commission annually. The ~~annual~~ monitoring reports shall include a summary of the number and kind of events, tours, small gatherings, and outreach programs conducted at Ramirez Canyon Park during the annual reporting period, distinguishing revenue-generating and non-revenue generating events, activities, tours, and outreach programs, and specifying the dates, vehicle trip counts, and event sponsor or beneficiary as applicable, for each.
ix. An alternative access road into Ramirez Canyon shall be a precondition for uses of Ramirez Park except as follows: A. Administrative and government offices for up to 15 employees B. A residential caretaker and his family C. Two special programs a week for disabled persons and/or for seniors D. Occasional employee training programs	~~ix. An alternative access road into Ramirez Canyon shall be a precondition for uses of Ramirez Park except as follows:~~ ~~A. Administrative and government offices for up to 15 employees~~ ~~B. A residential caretaker and his family~~ ~~C. Two special programs a week for disabled persons and/or for seniors~~ ~~D. Occasional employee training programs~~

MALIBU LOCAL COASTAL PROGRAM AMENDMENT (LCPA No. 07-002)	SMMC OVERRIDE
E. On-going property maintenance	~~E. On-going property maintenance~~ 10. Nothing herein, including trip limitations, shall operate to limit or restrict access to Ramirez Canyon Park as sovereign property of the State of California at any time and by any means whatsoever, by any of the following: The governor or any civil executive officer as provided in Government Code Sec. 1001; any member of the California Nation Guard or the State Militia; any firefighter of any public agency; any peace officer, any emergency medical technician or paramedic whether employed by a public agency or not, any member of the Legislature or staffs thereof, any member of the California Coastal Commission or staff thereof, any person appointed pursuant to Public Resources Code Section 33200 or 33213, or person appointed pursuant to Section 5.0 of the Joint Powers Agreement between the Conejo Recreation and Parks District, the Rancho Simi Recreation and Parks District, and the Santa Monica Mountains Conservancy.
2.3 In TABLE B (Permitted Uses) under RECREATION AND LEISURE add "Park Administrative Offices" and place a "•" in all zones except in MPPAE Overlay insert "P" (Exhibit G).	

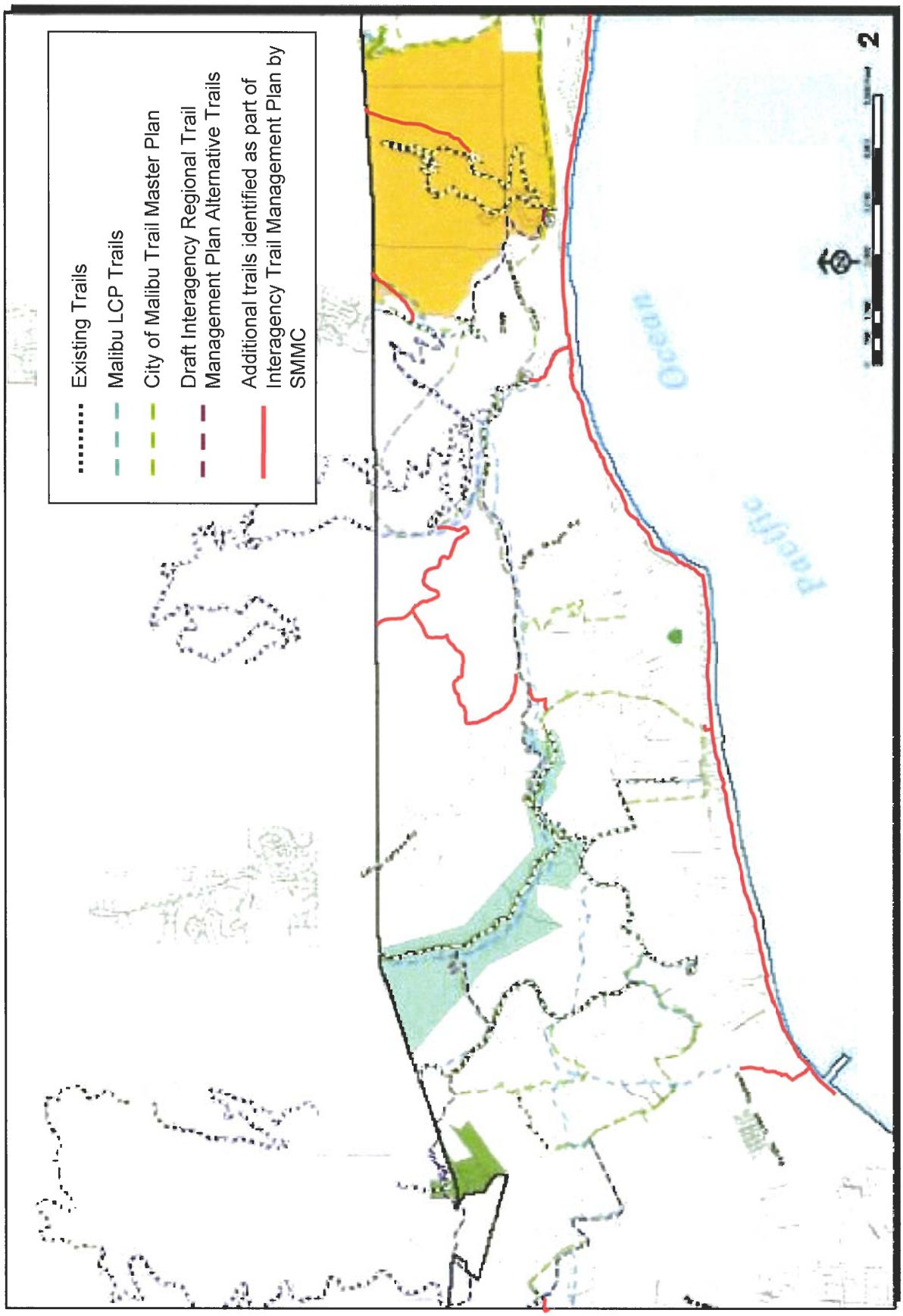
Park Agency Administrative Office Locations in the Coastal Zone*

Office	Address/Location	Nature of Work	No. of People in Office	Land Use/Zoning	Gov't/Admin Offices Allowed in Zone?
California Department of Parks and Recreation					
Malibu Creek State Park – Angeles Headquarters (and Channel Coast District)	1925 Las Virgenes Road Calabasas, CA 91302	Administration Headquarters including **Offsite** Operations	Approximately 40	Los Angeles County LU: Parks Z: Resort and Recreation (RR-10)	**CUP required**
Adamson House Museum – Office & Wedding Site	23200 Pacific Coast Highway Malibu, California	**Onsite** Operations Only	Maintenance Personnel	City of Malibu LU: Public Open Space (POS) Z: Public Open Space (POS)	No
Will Rogers State Beach Lifeguard Headquarters – Offices	17700 Pacific Coast Highway Pacific Palisades, CA	**Onsite** - Mostly Lifeguards, 1 administrative, 2 student workers	8-10, Varies Seasonally	City of Los Angeles LU: Open Space Z: Open Space (OS-1XL)	No
Will Rogers State Historic Park – District Superintendent II & Staff	1501 Will Rogers State Park Rd Pacific Palisades, CA 90272	**Onsite** Operations and Maintenance	20 Maximum	City of Los Angeles LU: Open Space Z: Open Space (OS-1XL)	No
Point Mugu State Park/Sycamore Canyon Beach – *Former* Angeles Center Dispatch Center	9000 W. Pacific Coast Hwy Malibu, CA 90265	No Office or Office Employees		Ventura County LU: Open Space Z: Coastal Open Space, Santa Monica Mountains Overlay (COS-10ac/sfd/M)	No
National Park Service					
Solstice Canyon Park – NPS facilities (SMMC headquarters 1987-95)	Corral Canyon Road, 1/4 mile north of Pacific Coast Highway	No Office or Office Employees; Overgrown and fenced off		City of Malibu LU: Public Open Space (POS) Z: Public Open Space (POS)	No

Santa Monica Mountains Conservancy					
Ramirez Canyon Park – SMMC Headquarters	5750 Ramirez Canyon Road Malibu, California	Regional, Administrative HQ for SMMC	Unknown	City of Malibu LU: Public Open Space (POS) Z: Public Open Space (POS)	**Government Offices Not Permitted**
Temescal Gateway Park – Interpretive Staff and Other Offices	15601 Sunset Blvd Pacific Palisades, CA 90272	**Onsite** Operations Only	12 staff, including naturalists	City of Los Angeles LU: Open Space Z: Open Space (OS-1XL)	No
King Gillette Ranch – Facilities and Maintenance Staff Offices, Chief Ranger Office	26800 West Mulholland Hwy Calabasas, CA 91302	**Onsite** Operations and Maintenance Currently hosting BIGGEST LOSER TV Show	Staff consists of Park Manager, 2 maintenance and 1 housekeeping staff members	Los Angeles County LU: Institutional & Public Facilities Z: Light Agriculture (A-1-20-DP)	Yes
Ramirez Canyon Park – MRCA Headquarters	5750 Ramirez Canyon Road Malibu, California	Regional, Administrative HQ for SMMC	Unknown	City of Malibu LU: Public Open Space (POS) Z: Public Open Space (POS)	**Government Offices Not Permitted**
Los Angeles County Department of Beaches and Harbors					
Marina del Rey – Administrative Headquarters	13837 Fiji Way Marina del Rey, CA 90292	Administration	Approximately 30	Los Angeles County LU: Public Facilities Z: Specific Plan	Yes

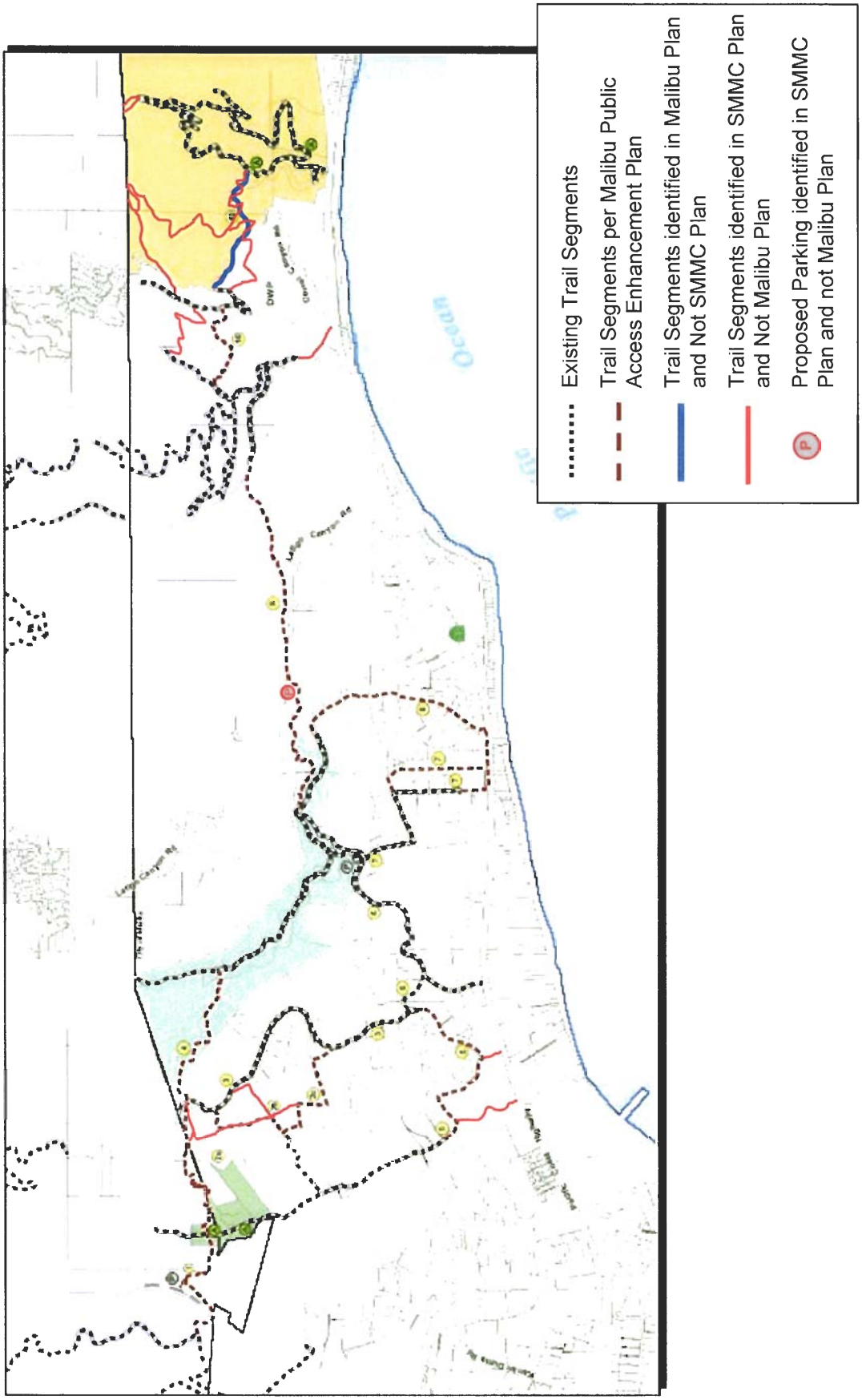
* List of Offices per SMMC LCP Override Application Policy Consistency Analysis (p. 55)

Comparison of Malibu Local Coastal Plan Amendment & SMMC Override Existing/Planned Trail Resources Maps



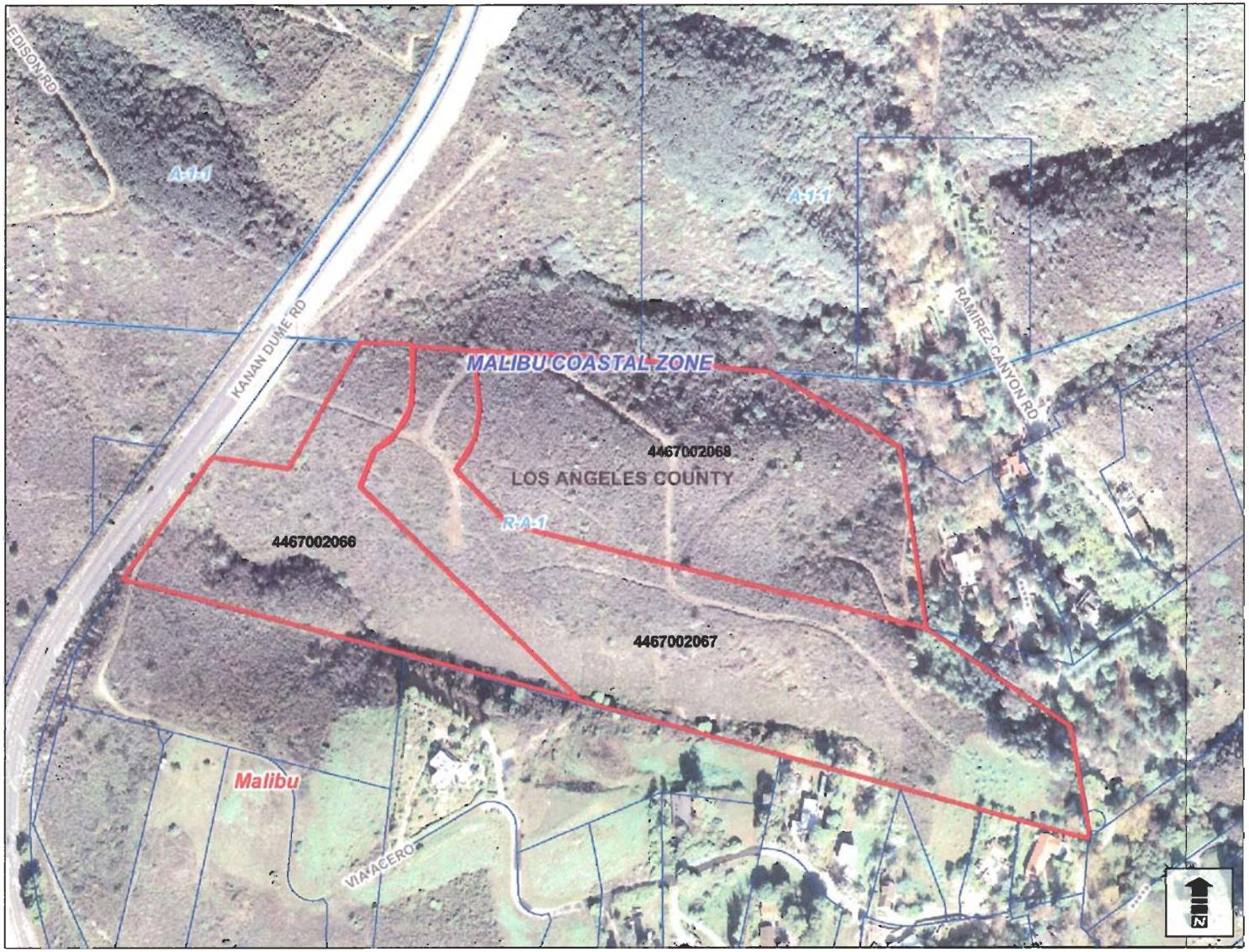
Sources: City of Malibu Local Coastal Program Amendment Existing/Planned Trail Resources, Ordinance No. 316 Exhibit B;
Santa Monica Mountains Conservancy Malibu Parks Public Access Enhancement Plan Existing/Planned Trail Resources Map, dated 4/14/08

Comparison of Malibu Local Coastal Plan Amendment & SMMC Override
Proposed Trail Segment Maps



Los Angeles County
Department *of* Regional Planning

Lauber Property



Legend

Base Layers
- LOS ANGELES COUNTY
- OTHER COUNTY
- PACIFIC OCEAN
- UNINCORPORATED AREAS
- INCORPORATED CITIES
- HYDRO - PERENNIAL
- HYDRO - INTERMITTENT
- HYDRO - DRY
- HYDRO - LINE
- FREEWAYS
- NATIONAL FOREST
- PARCEL BOUNDARY
- SUPERVISORIAL DISTRICT
- TRANSIT - RAILROAD
- TRANSIT - RAPID TRANSIT
- TRANSIT - UNDERGROUND
- SUBDIVISION ACTIVITY - APPROVED
- SUBDIVISION ACTIVITY - INACTIVE
- SUBDIVISION ACTIVITY - PENDING
- SUBDIVISION ACTIVITY - RECORDED
- AND (ASSESSOR MAP BOOK) GRID
- SEA (SIGNIFICANT ECOLOGICAL AREA)
- OSD (OOM STANDARDS DISTRICT)
- CSD - AREA SPECIFIC
- VERY HIGH FIRE HAZARD SEVERITY
- TOD (TRANSIT ORIENTED DISTRICT)
- EQD (EQUESTRIAN DISTRICT)
- THE THOMAS GUIDE - PAGE
- THE THOMAS GUIDE - PAGE GRID
- ZD (ZONED DISTRICT)
- ZONING INDEX MAP GRID
- ZONING MAP GRID
- TOWNSHIP & RANGE GRID
- USGS QUAD SHEET GRID

Zoning
- ZONE A-1
- ZONE A-2
- ZONE B-1
- ZONE B-2
- ZONE C-1
- ZONE C-2
- ZONE C-3
- ZONE C-M
- ZONE C-M
- ZONE CPD
- ZONE C-R
- ZONE D-2
- ZONE I1
- ZONE M-1
- ZONE M-1.5
- ZONE M-2
- ZONE M-3
- ZONE MPD
- ZONE MXD
- ZONE O-S
- ZONE P-R
- ZONE R-1
- ZONE R-2
- ZONE R-3-(1U
- ZONE R-4-(1U
- ZONE R-A
- ZONE RPD
- ZONE R-R
- ZONE SP
- ZONE SR-D
- ZONE W

LOS ANGELES REGIONAL LARIAC

Scale: 1:3,707
Printed On: Nov 26, 2008
GIS-NET | Public Web Mapping Application

Copyright 2007 - Los Angeles County Department of Regional Planning, created by the GIS Section
Printed with permission by the Los Angeles County Dept. of Regional Planning. All rights reserved.
Note: This map represents a quick representation of spatial imagery or vector layers using GIS-NET.
The map should be interpreted in accordance with the disclaimer statement of GIS-NET.

RAMIREZ CANYON ROAD TRAFFIC TRIP CALCULATIONS
(December 2008)

Monitoring Period (2008)	Per day average
September – October 5	499.9
October 6 – October 12	566.7
October 13 – October 19	517.6
October 20 – October 26	554.1
October 27 – November 2	566.1
Average over monitoring period	540.9 (see Note 1)
Less: Trips generated from SMMC property	36.7 (see Note 2)
Equals: Trips generated from canyon homes	504.2
Divided by number of homes (= 60)	**8.4 daily trips per home**

Notes:

1. Traffic counter placed on Ramirez Canyon Road just north of intersection with Delaplane.
2. SMMC traffic generation based on counts taken from November 10, 2008 to December 7, 2008 just outside the gate to the SMMC property.
3. Traffic count records available upon request.