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August 31, 2011

Via Overnight Express

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

Re: Opposition to Proposed Amendment to Malibu Local Coastal Program to Allow Malibu High School Athletic Field Lighting, Local Coastal Program Amendment No. 09-004

Dear Commissioners:

On behalf of the Malibu Dark Skies Committee, we urge you to reject the City of Malibu's proposed Local Coastal Program Amendment No. 09-004 (LCP Amendment or Project). The LCP Amendment would modify Table B of the Local Implementation Plan. Table B identifies land use designations within Malibu's coastal areas and whether specified uses are allowed, allowed pursuant to a conditional use permit, or prohibited in each designated land use area. Currently, lighted sport courts are prohibited in institutional and all residential land use areas. The LCP Amendment would allow night lighting for sport courts for institutional land uses if a conditional use permit is obtained. More specifically, the LCP Amendment would allow Malibu High School, currently the only designated institutional use in the area covered by Malibu's LCP, to install 80 foot tall permanent nighttime lights at its athletic field, which could be operated more than 100 nights per year.

The Malibu Dark Skies Committee ("Committee") consists of area residents and environmental activists concerned with the significant impacts intensive nighttime lighting will have on wildlife and the nighttime scenic views in this rural area of Malibu. Committee members also enjoy hiking on the many trails near the Malibu High School (MHS). Most importantly, the Committee believes that the drafters of the 1976 Coastal Act, Malibu's Local Coastal Program and Malibu's General Plan were correct when they declared that California's coastal zone is a distinct and valuable natural resource of vital and enduring interest to all the people that exists as a delicately balanced ecosystem. The permanent protection of the state's natural and scenic resources is a paramoun

MALIBU LCP AMENDMENT
1-11-A

Exhibit 8
GDP Amendment - 4-99-276-A4 -
Correspondence Letter by Malibu Dark Skies Committee dated 8/31/11

present and future residents of the state and nation and the Committee takes seriously our individual responsibility to do what we can to protect this resource for future generations. When the Santa Monica-Malibu Unified School District ("School District") first sought Coastal Commission approval of nighttime lighting for its athletic field in 2009, more than 200 community members signed a petition opposing the lighting, which was submitted to the Commission by the Committee.

The Coastal Commission should reject the proposed LCP Amendment for the same well-reasoned and thoroughly considered basis it rejected the School District's previous proposal to install the nighttime lighting of its athletic field based on an amendment to its coastal development permit. The LCP Amendment is inconsistent with the Malibu LCP's goals of protecting scenic resources, views, and biological resources. The nighttime lighting of the athletic field would have significant negative impacts to scenic and biological resources. Additionally, the LCP Amendment may result in significant noise, traffic, and cumulative impacts that have never been analyzed.

If the Commission grants the City's request to allow this intensive nighttime lighting then it may need to brace for similar requests from other coastal communities. By allowing nighttime lighting which would be visible from several public areas with scenic views and located near migratory bird and wildlife habitat, the Commission would be opening the door for any other coastal community wishing to install nighttime lighting. The indirect implications of approving this LCP Amendment could be an increase in nighttime lighting all along California's scenic and ecologically important coastline. The Commission would not be alone in rejecting nighttime lighting at an athletic field in a quiet, rural area; the Palos Verdes Peninsula School District recently rejected a proposal to install nighttime lighting at its athletic field due to the impacts on the similarly scenic and rural area surrounding the school.

The LCP Amendment should also be rejected on the basis of fairness. The School District illegally used nighttime lighting at the MHS athletic fields for seven years. The School District's years of bad faith actions should not be rewarded. Moreover, Malibu's LCP and the Commission's practice in the Santa Monica Mountains seek to prohibit nighttime lighting, except for the minimum required for security purposes. This includes a prohibition on nighttime lighting for tennis and sport courts for the residential uses surrounding MHS. MHS should not be exempted from a prohibition all others in the area must follow.

I. History of Malibu High School Nighttime Lighting Project.

The proposed LCP Amendment is driven by a specific project- MHS's desire to

operate 80 foot tall permanent nighttime lighting at its athletic field. The LCP Amendment is the latest maneuver by the School District to achieve that goal, despite the School District's previous commitment to the community that such night lighting would not be used. The Malibu Park area, surrounding MHS, is a quiet rural area. The neighborhood is essentially dark at night, with no existing street lights. The Malibu Park area also maintains its rural setting with few curbs and even fewer sidewalks. The community has long desired to remain rural and to protect its scenic environment and biological resources. Scenic publicly accessible areas are also located in close proximity to MHS. Zuma Beach County Park is located to the south of the MHS site, National Park Service parklands are located a short distance to the north, at a higher elevation in the Santa Monica Mountains, and a marine sanctuary is less than a mile to the south.

MHS knew of the Malibu Park community's desire to remain rural and protect its environment and agreed to honor this desire. In a 1994 letter to the Malibu Park community, the MHS principal stated: "There are no plans to have night games at any time... In the long term future of the sports activities here (at Malibu High) I do not see a need for night lights." (Attachment 1, June 10, 1994 letter from Mike Matthews, principal at Malibu High, to residents of Malibu Park.)

The Coastal Commission also agreed that the Malibu Park area qualified as a scenic area requiring protection from nighttime lighting intrusions. In 2000, the School District was granted a coastal development permit (CDP) that in part allowed construction of a permanent athletic field at MHS. This CDP includes Special Condition 6, a clear prohibition on any nighttime lighting of the athletic fields. Special Condition 6 was included in the CDP to "protect nearby scenic areas and native wildlife from avoidable disturbance that would otherwise be associated with nighttime use of the football stadium/track and field facility." (Attachment 2, Coastal Commission staff report for CDP.) Prior to issuance of the CDP, the School District submitted a written agreement acknowledging and agreeing to abide by this prohibition on nighttime lighting of the athletic field.

However, just two years after the approval of the CDP, the School District began operating temporary night lighting for the athletic field in direct violation of the Special Condition 6. This illegal operation of night lighting continued for seven years, despite the numerous complaints that were submitted to the School District regarding the lights. In 2009, the School District sought an amendment to its CDP to remove Special Condition 6 to legitimize its use of nighttime lighting. In its efforts to obtain the amendment to the CDP, the School District attempted to mislead the Commission with claims that the nighttime lights at the athletic field would be used only 16 nights per year, when in fact the School District had previously laid out its plan to allow joint community use of the

nighttime lighting, resulting in nighttime lighting for more than 200 nights per year. (Attachment 3, chart from January 14, 2009 School District meeting showing 203 nights of nighttime lighting use.) The Coastal Commission unanimously voted to reject the School District's requested removal of Special Condition 6, due to the negative aesthetic and biological impacts that would result from nighttime lighting in this rural area. The Commission also rejected the requested CDP amendment because the LCP specifically prohibits nighttime lighting of sports courts in institutional designated land uses.

Undeterred from its goal of installing intensive nighttime lighting for its athletic field, the School District next sought the help of the City of Malibu (City), urging the City to amend its LCP to remove the prohibition on nighttime lighting for sports courts. Instead of reprimanding the School District for its years of violating the LCP and its CDP by illegally operating nighttime lighting at its athletic field, the City has decided to reward that bad behavior by proposing to amend its LCP for the sole benefit of the School District. The City's Planning Commission attempted to place limitations on the nighttime lighting to reduce its significant impacts, including limiting nighttime lighting to only 16 nights per year, but the City Council rejected the inclusions of such limitations, claiming that they would require the City to prepare environmental review for the project. The City Council approved an amendment to its LCP, eliminating the prohibition on night lighting at MHS. The LCP Amendment would allow MHS to operate 80 foot tall intensive, permanent light stands at the athletic field for 4 months, Monday through Thursday, until 7:30 p.m., and for 18 days per year until 10:30 p.m., the only restriction being that the School District obtain a conditional use permit from the City first.

Additionally, the School District has signed a joint use agreement with the City to allow use of the athletic field for community recreational and athletic programs, with no restriction on nighttime use of the field. (Attachment 4, Joint Use Agreement.) Community use of the athletic field will substantially increase the number of nights the artificial lighting would be used. As disclosed at the School District's January 14, 2009 meeting, the joint use agreement could result in nighttime lighting for more than 200 nights per year.

While seeking to install night lighting at its athletic field, the School District is simultaneously seeking other improvements to MHS, including a new parking lot adjacent to the athletic field and other upgrades and expansions (MHS Expansion Project). The School District has prepared a draft environmental impact report (DEIR) for the MHS Expansion Project. While the notice of preparation of an EIR for the MHS Expansion Project included nighttime lighting of the athletic field as a component of the project, the DEIR excluded analysis of that nighttime lighting claiming "this component has been dropped from further consideration and is no longer part of the Proposed Project or any of

the Alternatives." (DEIR p. 3-13.)

II. The Proposed Amendment Is Inconsistent with the Policies of Malibu's Certified Land Use Plan.

The proposed LCP amendment is inconsistent with and inadequate to carry out several policies of the City's certified land use plan. Thus, it should not be approved.

A. The City's LCP Requires Protection of Scenic and Visual Quality.

One of the primary objectives of the Coastal Act is that "scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance." (Public Resources Code § 30251.) In furtherance of this objective, the City's LCP includes numerous policies prohibiting night lighting, requiring only compatible development, and limiting the height of structures:

> **LUP Policy 6.23 and LIP Policy 4.6.2**: Exterior lighting (except traffic lights, navigational lights, and other similar safety lighting) shall be minimized, restricted to low intensity fixtures, shielded, and concealed to the maximum feasible extent so that no light source is directly visible from public viewing areas. Night lighting for sports courts or other private recreational facilities in scenic areas designated for residential use shall be prohibited.
>
> **LUP Policy 6.1** The Santa Monica Mountains, including the City, contain scenic areas of regional and national importance. The scenic and visual qualities of these areas shall be protected and, where feasible, enhanced.
>
> **LUP Policy 6.12**: All new structures shall be sited and designed to minimize impacts to visual resources by:
> · Ensuring visual compatibility with the character of surrounding areas.
> · Avoiding large cantilevers or understories.
> · Setting back higher elements of the structure toward the center or uphill portion of the building.
>
> **LUP Policy 6.7:** The height of structures shall be limited to minimize impacts to visual resources. The maximum allowable height, except for beachfront lots, shall be 18 feet above existing or finished grade, whichever is lower. On beachfront lots, or where found appropriate through Site Plan Review, the maximum height shall be 24 feet (flat roofs) or 28 feet (pitched roofs) above existing or finished grade, whichever is lower. Chimneys and

rooftop antennas may be permitted to extend above the permitted height of the structure.

LIP 3.3 N Institutional Zone, subsection 3.b.ii: Maximum Height. Structures shall not exceed a maximum height of 18 feet above natural or finished grade. The maximum height may be increased up to 28 feet if approved through site plan review, pursuant to Section 13.27 of the Malibu LIP.

As set forth above, the area surrounding MHS is dark at night as there are no street lights in the Malibu Park neighborhood. The attached photograph shows how dark the Malibu Park neighborhood is at night, with no streets lights or other light sources beyond the occasional car headlight. (Attachment 5.) The DEIR for the MHS Expansion Project also provides photographs of the existing dark nighttime conditions in the Malibu Park neighborhood. (Figures 4.1-8a-c of the MHS Expansion Project DEIR, which is available at: http://www.smmusd.org/measureBB/Malibu/DEIR/VOLI-MMHS_DEIR071211.pdf and is hereby incorporated by reference.) During the seven years MHS was illegally operating night lights at the athletic field, area residents took photographs demonstrating just how intrusive this lighting is in their rural community. (Attachment 6.) These bright artificial lights become the undesirable visual focus of this scenic area and cause sky glow, which degrades sunset views and reduces the visibility of stars. The Malibu General Plan Land Use Element, Appendix A(9) describes Malibu Park as a rural area reflected in the virtual absence of sidewalks and curbs and by the minimum use of street and home security lighting. The lighting proposed by the LCP Amendment is not consistent with the local Malibu Park neighborhood and will clearly alter the character of this dark, rural neighborhood.

The nighttime lights are also visible from public viewing areas such as public roads, trails, parklands, and beaches. (LUP Policy 6.2.) Committee members have also taken photographs showing that the athletic field lights and the significant sky glow they produce are highly visible from area trails, such as Zuma Ridge Trail. (See Attachment 7, day time photograph of view of athletic field from Zuma Ridge Trail.) Many hikers use the trails just prior to sundown to observe the beautiful sunset views over the Pacific Ocean, particularly in fall (which is when the football season would take place). These valued views would be significantly degraded by the nighttime lighting allowed by the proposed LCP Amendment. Additionally, the temporary lights used illegally by the School District for years are almost 30 feet shorter than the permanent light standards it now proposes to install. Thus, the nighttime lighting that would be allowed under the LCP Amendment would be visible from even farther and would have more widespread negative visual impacts than shown in the attached photographs.

The 80 foot tall light standards would also be visible from Pacific Coast Highway, a designated scenic road, and from Zuma Beach. Like Zuma Trail, both of these are considered public viewing areas. Allowing nighttime lighting of the athletic field would be inconsistent the City's LCP as the plan specifically prohibits light sources that would be visible from public viewing areas.

The Project would also be inconsistent with the many height restrictions included in the LCP. Light standards of approximately 80 feet in height would be installed at the athletic field. The Coastal Commission staff previously recognized how visible MHS is from the surrounding area, noting that proposed 28 foot tall buildings and structures would be visible from existing homes, from the equestrian trail located in the foothills and from Morningview drive and the surrounding area. The staff report for the 2000 issuance of the CDP for Malibu High School also found that "new structures at the athletic field will be visible from many residences and the equestrian trail in the foothills above and to the north of the school." (Attachment 2.) If the 28 foot tall buildings and the field box at the athletic field would be visible from the surrounding area, then surely the 80 foot tall light standards at the athletic field and the high intensity light they produce will be visible and degrading. Moreover, the light standards would be far in excess of the 28 foot height limits established by the LCP. As can be seen in the daytime photograph taken from the surrounding neighborhood when the significantly shorter temporary light standards were illegally erected, the light standards would detract from ocean views even when not lit. (Attachment 7.)

Further, the DEIR for the MHS Expansion Project, acknowledges that the nighttime lighting from much shorter and less intensive lighting for a 150 space parking lot proposed for construction adjacent to the athletic field would result in significantly adverse nighttime lighting impacts. The DEIR found that "due to the rural nature of the surrounding area, and the absence of streetlights, lighting levels in the vicinity of [MHS] are well below average for residential areas." (DEIR p. 4.1-69.) The DEIR further admitted that the MHS site is "visible from a number of vantage points that offers views of the ocean and mountains, [thus it] is considered to be located with a scenic area." (DEIR 4.1-2.) A Luminescence Study prepared to analyze the impacts of the MHS Expansion Project parking lot lights found that existing lighting levels at MHS and in adjacent areas were less than one foot candle, whereas typical residential areas have lighting levels of seven to ten foot candles. (*Ibid.*) The DEIR for the MHS project found that even after setting screening, time limits and other migration measures for the parking lot lighting, this less intensive night lighting would result in a significant adverse aesthetic impact.

> Implementation of the Proposed Project would result in new sources of nighttime lighting that would create sky glow. Implementation of mitigation measures MM4.1-1 through MM4.1-3 would reduce this impact but not to a less-than significant level. This is considered a significant and unavoidable impact.

(DEIR p. 2-8, Table 2.2)

The Coastal Commission should reject the proposed LCP Amendment as it would be inconsistent with the many LCP policies adopted to protect the scenic and visual qualities of Malibu.

B. The City's LCP Requires Protection of ESHA and Biological Resources.

The Coastal Act also seeks to protect environmentally sensitive habitat areas (ESHA) and biological resources in coastal areas. "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." (Coastal Act § 30240(b).) The City's LCP includes several policies to enforce these Coastal Act protections in ESHAs. (LUP Policies 3.8, 3.14, 3.23, 3.30.) For purposes of the City's LCP, all areas that support rare or sensitive plant and animal species are considered to be ESHAs, even if they have not been formally designated as such. (See Policy 3.4) Riparian areas within the City are also considered to be ESHAs.

To protect biological resources, the City's LCP places significant limitations on night lighting in areas near ESHAs:

> **Policy 3.56**: Exterior night lighting shall be minimized, restricted to low intensity fixtures, shielded, and directed away from ESHA in order to minimize impacts on wildlife. High intensity perimeter lighting and lighting for sports courts or other private recreational facilities in ESHA, ESHA buffer, or where night lighting would increase illumination in ESHA is prohibited.

The athletic field is located on the edge of the District's property, adjacent to an equestrian park. A blue line stream is located approximately 600 feet from the athletic field, with .48 acres of ESHA designated Arroyo Willow Riparian Forest. There are also approximately 23 acres of wildlife foraging habitat east of the MHS athletic field. Numerous wildlife species have been found in the areas surrounding MHS:

- In a 2009 visit to the MHS site, then Commissioner Sara Wan found evidence of raptors, barn owls, great horned owls, and hawks which use the 23 acres of foraging habitat surrounding MHS, and provided testimony regarding those findings at the October 8, 2009 Commission hearing on the CDP amendment;
- On July 15, 2011 staff Biologist Joanna Engle and Diana Christensen located a large raptor nest on the MHS property within approximately 500 feet of the athletic field;
- The MHS Expansion Project DEIR found the MHS site is located along the Pacific Flyway for migratory birds;
- Area residents have frequently observed and heard wildlife species including: opossum, skunk, rabbits, coyotes, foxes, owls, hawk, the occasional deer or bobcat and numerous other small animals.

The night lighting produced by light standards at the athletic fields would be highly visible from the nearby ESHA and other foraging habitat. Despite this, when seeking the amendment to the CDP in 2009, the School District claimed that night lighting the athletic field would not disturb area wildlife. The School District based this claim on a flawed 2009 study by Glenn Lukos and Associates, which failed to identify the many wildlife species that have been found by nearby residents, former Commissioner Wan, Commission staff biologists, and the biologists preparing the DEIR for the MHS Expansion Project.

The artificial lighting that would be allowed by the LCP Amendment can have severely detrimental impacts on wildlife species, in particular migratory bird species. Artificial lighting physically attracts many species of birds, serving as a magnet that can cause night migrating birds to collide with brightly lit buildings. (Attachment 8, November 2008 National Geographic article *Our Vanishing Night* p. 108; and Audubon Magazine article *Dark Side of Flight*.) Studies included in Catherine Rich and Travis Longcore's book *Ecological Consequences of Artificial Night Lighting* detail the negative impacts of night lighting in coastal regions on migratory birds and seabirds. (Attachment 9, excerpts from *Ecological Consequences of Artificial Night Lighting*.)

In addition to the direct impacts of night lighting of the athletic field, birds and wildlife species would also be negatively impacted by the noise produced by nighttime games. This includes the sounds of games being played, crowds cheering, and possibly generators running to power the light standards. This also includes the traffic noise associated with the nighttime use of the athletic field.

The LCP Amendment should further be rejected due to its negative impacts on wildlife and migratory birds and its failure to protect ESHA from intrusive night lighting.

III. The Proposed Amendment Could Result in Significant Adverse Environmental Impacts.

Approval of the proposed LCP Amendment should also be rejected because it would result in significant adverse aesthetic and biological impacts, both cumulatively and on a project level. Significant noise and traffic impacts may be an additional result of the Project. Because the Project would result in significant adverse impacts, the Commission cannot approve the LCP Amendment if there are feasible alternatives or mitigation measures that would reduce the significant impacts. Requiring the MHS football team and other MHS sports teams to practice and play games during daytime hours is a feasible alternative that would eliminate the need for nighttime lighting of the athletic field and the associated impacts of the lighting. Thus, approval of the LCP Amendment as proposed would violate the California Environmental Quality Act.

A. Night Lighting of the Athletic Field Would Have Significant Adverse Aesthetic and Biological Impacts.

As discussed above, the night lighting allowed by the Project would be out of character with its rural surroundings, and would be visible from several public viewing areas, including Zuma Trail, the Pacific Coast Highway, and Zuma Beach. The LCP Amendment would result in sky glow and interference with ocean and scenic views. The night lighting would also disrupt migratory birds and other wildlife species. Thus, the LCP Amendment should not be approved as it would result in significant adverse aesthetic and biological impacts.

B. The LCP Amendment Would Result in Increased Noise Levels.

The nighttime lighting of the athletic field would result in increased noise levels in this quiet rural area. Noise levels are very low at night in the Malibu Park area due to the low density and rural character of the area. The noise levels produced by the participants and fans, and the traffic noise from those attending the games and practices would significantly increase the noise levels experienced by area residents and wildlife. Additionally, the use of generators to operate the lighting could produce significant noise levels. The mitigated negative declaration prepared to analyze the CDP amendment that was proposed in 2009 but then rejected found that such generators would result in noise levels of up to 80 decibels at a distance of 50 feet from the generators. The nearest resident is located only 550 feet from the football field and environmentally sensitive riparian habitat is located only 600 feet from the field. Noise levels generally dissipate at a rate of 6 decibels per doubling of distance. Thus, if the generators produce noise levels

of 80 decibels at 50 feet from the source, noise levels would be 74 decibels at 100 feet from the source, 68 decibels at 200 feet, 62 decibels at 400 feet. This would result in noise levels around 60 decibels around 550 to 600 feet from the source, which is a significant noise level in this quiet rural area.

C. Significant Traffic Could be Produced by Nighttime Use of the Athletic Fields.

The traffic associated with nighttime practices and sporting events could significantly increase nighttime traffic levels in the surrounding area.

D. Nighttime Lighting Would Unnecessarily Increase the School District's Energy Consumption.

Allowing night lighting at the athletic field for more than 100 nights per year would significantly and unnecessarily increase the School District energy usage, either from diesel generation for temporary lights or electricity for permanent lights. Both diesel generation and electricity result in the production of greenhouse gas emissions. The Commission should analyze the Project's increase in energy usage and the subsequent increase in greenhouse gas emissions.

E. The LCP Amendment Could Result in Cumulative Coastal Impacts.

To approve the requested amendment, the Commission would need to find that night lighting in a rural area, adjacent to an ESHA, and visible from public hiking trails, would not have a significant adverse aesthetic or biological impact. If the Commission were to make that finding for Malibu, that finding would be cited again and again for any coastal community wishing to install similarly incompatible night time lighting. Thus, approval of the LCP Amendment could result in a cumulatively considerable increase in nighttime lighting all along California's coast.

F. The City Failed to Include Additional Limitations in an Attempt to Avoid CEQA Review

After being instructed that they must recommend an ordinance that removes the prohibition on lighting for MHS, the City's Planning Commission attempted to lessen the impacts of the Project by incorporating development standards into the LCP Amendment. These standards included: limits on quantity and height of lights; required shielding of the lighting to limit overspill; requiring lighting for practice to end at 7:30 p.m.; a requirement the lights be taken down outside of the four months they are proposed for use; a required 1,000 foot public notification; and a narrow definition of a public high

school campus. The City Council improperly rejected these mitigation measures to avoid CEQA review, stating: "Since the impact of including these standards would need to be analyzed as part of CEQA, they could not be included as part of the current amendment." (Attachment 10, City Council Staff Report for LCP Amendment.) The requirement to prepare environmental review for the LCP Amendment does not make these mitigation measures infeasible.

G. The LCP Amendment Has Been Improperly Segmented from Environmental Review of the MHS Expansion Project.

The School District is attempting to improperly segment review of the MHS Expansion Project from the nighttime lighting of the athletic field. CEQA prohibits public agencies from subdividing a single project into smaller individual subprojects in order to avoid the responsibility of considering the environmental impact of the project as a whole. (CEQA Guidelines § 15378, see also *Orinda Assn v. Board of Supervisors* (1986) 182 Cal.App.3d 1145, 1171.) Although the nighttime lighting of the athletic field was described as part of the MHS Expansion Project in the notice of preparation for that project, the DEIR removed all analysis and consideration of the athletic field lighting. In addition to classroom upgrades and expansions, the MHS Expansion Project includes the construction of a 150 space parking lot directly adjacent to the athletic field, which would be used for sporting events and practices at the athletic field, thus the nighttime lighting of the athletic field should be considered part of the same MHS Expansion Project.

The DEIR claims that the School District is no longer planning nighttime lighting for the athletic field due to community opposition: "The provision of permanent field lighting was removed from the Proposed Project due to community concern that the permanent field lighting would not be consistent with the City of Malibu's LCP. As such, athletic field lighting are no longer included as part of the Proposed Project." (MHS Expansion Project DEIR p. 3-13) The School District's pursuit of the LCP Amendment while simultaneously moving forward with the MHS Expansion Project belies this claim. Moreover, the School District has already submitted an application to the Commission requesting a CDP amendment to remove Special Condition 6's prohibition on nighttime lighting of the athletic field if the LCP Amendment is approved. (Attachment 11, Letter from School District re CDP amendment.) The School District has improperly segmented the nighttime lighting of the athletic field from the remainder of the Expansion Project. The result of this improper segmentation is that an accurate assessment of the impact of the athletic field lights does not exist today, and there is no plan to correct this situation in the future. By removing the athletic field lighting from the project, the School District is attempting to avoid environmental review of the significant impacts associated with such intensive nighttime lighting.

Not only does the DEIR fail to consider the nighttime lighting of the athletic field as a component of the MHS Expansion Project, but it similarly fails to consider cumulative impacts of this lighting. The DEIR already acknowledges that the much less intensive nighttime lighting of the parking lot adjacent to the athletic field would have significant adverse aesthetic impacts. The cumulative impact of the nighttime lighting of the athletic field and the parking lot would substantially increase those impacts. Additionally, the nighttime lighting of the athletic field would increase the nighttime use of the adjacent parking lot, which would also substantially increase the project's negative impacts.

If the Commission does not reject the proposed LCP Amendment outright, the Commission should at a minimum postpone further consideration of the LCP Amendment until the nighttime lighting of the athletic field has been thoroughly analyzed in a revised and recirculated MHS Expansion Project DEIR that includes analysis of the potential impacts of such nighttime lighting in conjunction with the rest of the expansion project.

CONCLUSION

The Malibu Dark Skies Committee respectfully requests that you deny the requested LCP amendment 09-004. The nighttime lighting of the MHS athletic field that it would allow would conflict with Malibu's Land Use Plan and the tenets of the Coastal Act. The nighttime lighting would adversely impact nighttime views, cause unnecessary sky glow, detract from ocean views, harm migratory birds and other wildlife species, and increase nighttime noise and traffic levels. The Commission should not approve this LCP Amendment because there is a feasible alternative that would not result in significant adverse impacts— that is, maintaining the prohibition on nighttime lighting of all sports courts in this rural area, as the Malibu High School principal promised residents he would do in 1994.

Thank you for your time and consideration in this matter.

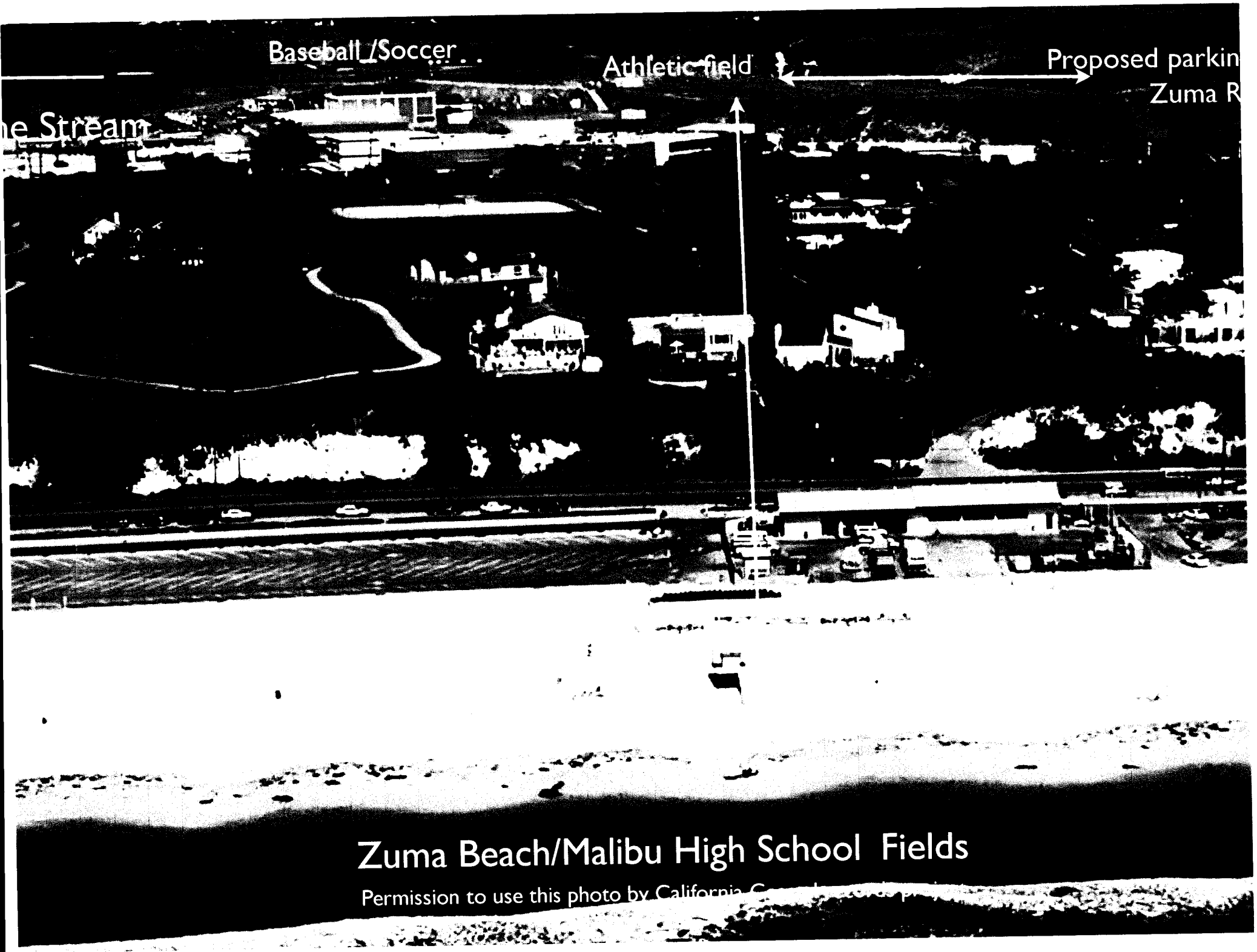
Sincerely,

Douglas Carstens
Amy Minteer

Attachments:

(1) June 10, 1994 letter from Mike Matthews, principal at Malibu High, to residents of Malibu Park;
(2) April 20, 2000 Coastal Commission staff report for MHS CDP;
(3) Chart from January 14, 2009 School District meeting showing 203 nights of nighttime lighting use;
(4) Joint Use Agreement between School District and Malibu;
(5) Photograph of unlit the Malibu Park neighborhood;
(6) Photographs of illegal use of nighttime lighting at MHS;
(7) Photograph of athletic field from Zuma Ridge Trail;
(8) November 2008 National Geographic article *Our Vanishing Night* and Audubon Magazine article *Dark Side of Flight*;
(9) Excerpts from *Ecological Consequences of Artificial Night Lighting*;
(10) March 4, 2010 City Council staff report for LCP Amendment;
(11) June 15, 2011 letter from School District to Coastal Commission requesting CDP amendment

cc: Malibu Dark Skies Committee



Zuma Beach/Malibu High School Fields

Permission to use this photo by California

ATTACHMENT 1

Michael D. Matthews
Principal
Esther J. Winkelman
Assistant Principal

MALIBU HIGH SCHOOL

30215 Morning View Drive
Malibu, CA 90265
Telephone (310) 457-6801
Facsimile (310) 457-4984

To: Mr. Gene Wood
Mrs. Judy Hutchinson
Malibu Park Committee Members

From: Michael D. Matthews MM

Date: June 10, 1994

Re: Response to May 23 letter from Malibu Park Committee

In response to your requests in your May 23 letter, the responses are listed below:

1. I encourage the neighbors to meet with the city to determine parking policies on Clover Heights. The only thing that I can do is to lock the gates to the facilities on nights and weekends to prevent anybody from using the facilities. As I have mentioned, I am looking for input from your committee to decide this.

2. The district is currently evaluating the purchase of a fence to go along the north end of the property, extending down Clover Heights and connecting with the existing fence. I will keep the neighbors apprised of this development.

3. The City of Malibu is currently investigating an airflush toilet composting system that does not require plumbing. Similar systems are used in national parks across the nation. Carolyn Van Horn has indicated to me that funds may be available for purchase and installation. Again, I will keep the neighbors informed on this development.

4. There are no plans to have any night games at any time. There is no electrical infrastructure to support a new lighting system. In the long-term future of the sports activities here I do not see a need for night games.

5. The district and the City of Malibu will be working together to properly maintain the fields and facilities. This is in the best interest of the community, the school and the district.

6. When the time comes for planting trees, I will consult with the neighbors on proper placement. We recently lost a grant through the City of Malibu that would have provided trees for us, but there may be another opportunity in the future.

7. Although I appreciate the concerns of the neighbors, we will be installing permanent scoreboards for both the baseball and softball fields. The baseball scoreboard has already arrived, and the softball scoreboard is being negotiated. Both of these items were donated to the district by community members.

8. The school and the district are very concerned with safety. A new alarm system is being installed in the school. In terms of the field, it will be gated off this summer once the construction has begun. We will continue to look for solutions to vandalism and will prosecute offenders to the full extent of the law.

9. I would like more information on your concern for student traffic. Are you concerned about Clover Heights traffic?

10. I like the idea of a pedestrians only gate. I believe it would further secure the field. The district is currently looking into this idea.

As principal of Malibu High School, I am committed to working with our neighbors. I would like to set up a monthly time when we can meet to discuss upcoming events and concerns. Although I cannot always provide the solutions you desire, I do want to effectively communicate so you can know why we are doing things and so you can feel informed of issues that may be affecting you.

Thank you for your concerns.

cc: Dr. Neil Schmidt, Superintendent
Art Cohen, Assistant Superintendent
Bill Bonozo, Director of Facilties and Improvement

Monday —

ATTACHMENT 2

CALIFORNIA COASTAL COMMISSION
SOUTH CENTRAL COAST AREA
89 SOUTH CALIFORNIA ST., SUITE 200
VENTURA, CA 93001
(805) 641 - 0142

Filed:	04/07/00
49th Day:	05/26/00
180th Day:	10/04/00
Staff:	BCM-V
Staff Report:	04/20/00
Hearing Date:	May 9-12,2000
Commission Action:	

STAFF REPORT: REGULAR CALENDAR

APPLICATION NO.: 4-99-276

APPLICANT: Santa Monica / Malibu Unified School District

PROJECT LOCATION: MALIBU HIGH SCHOOL -- 30215 Morning View Drive, City of Malibu (Los Angeles County)

PROJECT DESCRIPTION: New construction at Malibu High School including a spectator gymnasium, a two-story classroom building, significant upgrades to the track and field facility / football stadium, and relocation / expansion of the faculty parking lot. There will also be various minor exterior improvements and interior modernizations including conversion of the cafetorium to an auditorium. The project includes 32,151 cu. yds. of grading (17,601 cut, 14,550 fill).

Total Lot Area:	1,302,444	sq. ft.	(29.9 ac.)
Building coverage:	142,486	sq. ft.	(3.3 ac.)
Pavement coverage:	217,683	sq. ft.	(5.0 ac.)
Landscape coverage:	942,276	sq. ft.	(21.6 ac.)
Parking spaces:	305	(455 for events)	
Ht abv fin grade:	varies		

LOCAL APPROVALS RECEIVED: Approval in Concept -- Los Angeles County Fire Department

SUBSTANTIVE FILE DOCUMENTS: Coastal Development permit (CDP) No. 4-98-330 (Malibu Methodist); *Phase I Archaeological Study for Proposed Improvements to Malibu High School* by Historical Environmental Archaeological Research Team (HEART), dated July 1999; *Paleontological Resource Assessment -- Malibu High School -- City of Malibu*, by Petra Paleontology, dated August 4, 1999; *Geotechnical Exploration Report – Malibu High School Improvements -- 30237 Morning View Dr., Malibu, California*, by Associated Soils Engineering, Inc., dated October 14, 1999; *Traffic and Parking Study for the Malibu High School Recreation Facilities Project*, by Kaku Associates, dated October 1999; *Malibu High School Improvements: Proposed Mitigated Negative Declaration*, by EMC Planning Group, Inc., dated October 1999; *Sewer Disposal System Capacity Evaluation -- Malibu High School -- for Santa Monica / Malibu Unified School District*, by Sverdrup Facilities, dated March 2000.

SUMMARY OF STAFF RECOMMENDATION

Staff recommends **approval** of the proposed project with eight (8) special conditions regarding landscaping plans, drainage and polluted runoff control plans, plans conforming to geologic recommendations, removal of excavated material, wildfire waiver of liability, athletic fields lighting restriction, event parking management plan, and archaeological / paleontological resources.

I. STAFF RECOMMENDATION

1. **Motion:** *I move that the Commission approve Coastal Development Permit No. 4-99-276 pursuant to the staff recommendation.*

2. Staff Recommendation of Approval:

Staff recommends a **YES** vote. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

3. Resolution to Approve the Permit:

The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

II. STANDARD CONDITIONS

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.

2. Expiration. If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.

3. Compliance. All development must occur in strict compliance with the proposal as set forth below. Any deviation from the approved plans must be reviewed and approved by the Commission staff and may require Commission approval.

4. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.

5. Inspections. The Commission staff shall be allowed to inspect the site and the development during construction, subject to 24-hour advance notice.

6. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.

7. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

III. SPECIAL CONDITIONS

1. Landscaping and Erosion Control Plans

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit landscaping / erosion control plans, prepared by a licensed landscape architect or a qualified resource specialist, for review and approval by the Executive Director. The plans shall identify the species, location, and extent of all plant materials and shall incorporate the following criteria:

a) Landscaping

All graded and disturbed areas on the subject site shall be planted and maintained for erosion control purposes within sixty (60) days of completion of construction. To minimize the need for irrigation, all landscaping shall consist primarily of native / drought-resistant plants as listed by the California Native Plant Society, Santa Monica Mountains Chapter in their document entitled *Recommended List of Plants for Landscaping in the Santa Monica Mountains*, dated October 4, 1994. Invasive, non-indigenous plant species which tend to supplant native species shall not be used.

All cut and fill slopes shall be stabilized with planting at the completion of final grading. Planting should be of native plant species indigenous to the Santa Monica Mountains using accepted planting procedures, consistent with fire safety requirements. Such planting shall be adequate to provide ninety percent (90%) coverage within two (2) years, and this requirement shall apply to all disturbed soils. Plantings shall be maintained in good growing condition throughout the life of the project and, whenever necessary, shall be replaced with new plant materials to ensure continued compliance with the applicable landscape requirements.

Vegetation within fifty feet (50') of structures may be removed, and vegetation within a two-hundred foot (200') radius may be selectively thinned in order to reduce fire hazard. However, such removal and thinning shall only occur in accordance with an approved long-term fuel modification plan submitted pursuant to this special condition. The fuel modification plan shall include details regarding the types, sizes, and location of plant materials to be removed and how often thinning is to occur. In addition, the applicant shall submit evidence that the fuel modification plan has been reviewed and approved by the Fire Department of Los Angeles County. Irrigated lawn, turf, or groundcover planted within a fifty foot (50') radius (fuel modification zone) of structures shall be selected from the most drought tolerant species, subspecies, or varieties suited to the Mediterranean climate of the Santa Monica Mountains.

b) Erosion Control

The landscaping / erosion control plans shall delineate areas to be disturbed by grading or construction activities and shall include any temporary access roads, staging areas, and/or stockpile areas. Natural areas to be left undisturbed such as native trees and vegetation shall be clearly delineated on the project site with fencing or survey flags.

The plans shall specify that should grading take place during the rainy season (November 1 – March 31), the applicant shall construct or install temporary sediment basins (including debris basins, desilting basins, and/or silt traps), temporary swales, sandbag barriers, silt fencing, and geofabric or other appropriate cover (including stabilizing any stockpiled fill cover and installing geotextiles or mats on all cut or fill slopes) on the project site. The applicant shall also close and stabilize open trenches as soon as possible. These erosion control measures shall be required on the project site prior to or concurrent with the initial grading operations and shall be maintained throughout the development process to minimize erosion and sediment from runoff waters during construction. All sediment shall be retained on-site unless removed to an appropriate approved dumping location either outside the coastal zone or to a site within the coastal zone permitted to receive fill.

The plans shall also include temporary erosion control measures should grading or site preparation cease for a period of more than 30 days, including but not limited to stabilization of all stockpiled fill, access roads, disturbed soils, and cut and fill slopes with geotextiles and/or mats, sand bag barriers, silt fencing, temporary swales, and sediment basins. The plans shall also specify that all disturbed areas be seeded with native grass species and include the technical specifications for seeding the disturbed areas. These temporary erosion control measures shall be monitored and maintained until grading or construction operations resume.

c) Monitoring

Five (5) years from the date of completion of construction, the applicant shall submit, for the review and approval of the Executive Director, a landscape monitoring report, prepared by a licensed Landscape Architect or qualified Resource Specialist, that certifies the on-site landscaping is in conformance with the landscape plan approved pursuant to this Special Condition. The monitoring report shall include photographic documentation of plant species and plant coverage.

If the landscape monitoring report indicates the landscaping is not in conformance with or has failed to meet the performance standards specified in the landscaping plans approved pursuant to this permit, the applicant, or successors in interest, shall submit a revised or supplemental landscape plan for the review and approval of the Executive Director. The revised landscaping plans must be prepared by a licensed Landscape Architect or a qualified Resource Specialist and shall specify measures to remediate those portions of the original plans that have failed or are not in conformance with the original approved plans.

2. Drainage and Polluted Runoff Control Plan

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit for the review and approval of the Executive Director, a drainage and polluted runoff control plan designed by a licensed engineer to minimize the volume, velocity, and pollutant load of stormwater leaving the developed site. The plan shall be reviewed and approved by the consulting engineering geologist to ensure the plan is in conformance with the geologists' recommendations. The plan shall be subject to the following requirements and shall, at a minimum, include the following components:

(a) Structural and/or non-structural Best Management Practices (BMPs) designed to capture, infiltrate, or treat runoff from all roofs, parking areas, driveways, and other impervious surfaces shall be identified and incorporated into final plans.

(b) Selected BMPs shall, when implemented, ensure that post-development peak runoff rate and average volume from the site will be maintained at levels similar to pre-development conditions. The drainage system shall be designed to convey and discharge runoff from the building site in a non-erosive manner.

(c) The plan shall include provisions for BMP maintenance. All structural and non-structural BMPs shall be maintained in a functional condition throughout the life of the approved development. Such maintenance shall include the following: (1) all traps, separators, and/or filters shall be inspected, cleaned, and repaired prior to the onset of the storm season -- no later than September 30th each year, and (2) should any of the project's surface or subsurface drainage / filtration structures or other BMPs fail or result in increased erosion, the applicant / landowner or successor-in-interest shall be responsible for any necessary repairs to the drainage / filtration system and restoration of the eroded area. Should repairs or restoration become necessary, prior to the commencement of such repair or restoration work, the applicant shall submit a repair and restoration plan to the Executive Director to determine if an amendment or new coastal development permit is required to authorize such work.

3. Plans Conforming to Geologic Recommendations

All recommendations contained in the *Geotechnical Exploration Report – Malibu High School Improvements – 30237 Morning View Dr., Malibu, California*, by Associated Soils Engineering, Inc., dated October 14, 1999, shall be incorporated into final design and construction including foundations, grading, and drainage. All plans must be reviewed and approved by the geologic / geotechnical consultant.

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for review and approval by the Executive Director, evidence of the geologic / geotechnical consultant's review and approval of all project plans. The final plans approved by the consultant shall be in substantial conformance with the plans approved by the Commission relative to construction, grading, and drainage. Any substantial changes to the proposed development approved by the Commission which may be required by the consultants shall require an amendment to the permit or a new coastal permit.

4. Removal of Excavated Material

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall provide evidence to the Executive Director of the location of the disposal site for all excavated material from the site. Should the dump site be located in the Coastal Zone, a coastal development permit shall be required.

5. Wildfire Waiver of Liability

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit a signed document which shall indemnify and hold harmless the California Coastal Commission, its officers, agents, and employees against any and all claims, demands, damages, costs, expenses, and liability arising out of the design, construction, operations, maintenance, existence, or failure of the permitted project in an area where an extraordinary potential for damage or destruction from wildfire exists as an inherent risk to life and property.

6. Athletic Fields Lighting Restriction

All lighting for the football field and outdoor track and field facility (athletic fields), whether temporary or permanent, shall be prohibited.

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall execute and record a deed restriction in a form and content acceptable to the Executive Director incorporating all of the above terms of this condition. The deed restriction shall include a legal description of the applicant's entire parcel. The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit.

7. Event Parking Management Plan

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for review and approval by the Executive Director, an event parking management plan to include at least the following elements: (1) thresholds and priority order for parking lot usage based on event size and location on campus; (2) guidelines for usage of temporary signing, traffic controls, and traffic direction for larger events to guide motorists to open parking lots and to close parking lots as they become filled; (3) identification of location(s) for visiting team bus parking; and (4) staffing requirements and responsibilities to implement the plan.

8. Archaeological / Paleontological Resources

By acceptance of this permit the applicant agrees to have a qualified archaeologist, qualified paleontologist, and appropriate Native American consultant present on-site during all grading, excavation, and site preparation activities that involve earth moving operations. The number of monitors on-site shall be adequate to observe the earth

moving activities of each piece of active equipment. Specifically, the earth moving operations on the project site shall be controlled and monitored by the archaeologist(s) and paleontologist(s) with the purpose of locating, recording and collecting any archaeological and/or fossil materials. In the event that any significant archaeological or paleontological resources are discovered during earth moving operations, grading and/or excavation in this area shall be halted and an appropriate data recovery strategy shall be developed, subject to review and approval of the Executive Director, by the applicant's archaeologist, the applicant's paleontologist, the City of Malibu archaeologist, and the Native American consultant(s), consistent with the guidelines of the California Environmental Quality Act (CEQA).

IV. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares as follows:

A. Project Description and Background

This project is the result of the Proposition X state modernization and new construction program. In October 1998, voters approved a bond for new construction and modernization of several facilities throughout the Santa Monica / Malibu Unified School District. The District identified new construction needs in two areas at Malibu High School: physical education / athletic facilities and classrooms. This project proposal consequently includes the following improvements: construction of a spectator gymnasium, a two-story classroom building, significant upgrades to the track and field facility / football stadium, and relocation / expansion of the faculty parking lot. There will also be various minor exterior improvements and interior modernizations including conversion of the cafetorium to an auditorium. The project includes 32,151 cu. yds. of grading (17,601 cut, 14,550 fill). Overall budget for this project is $10.3 million.

The subject site (Malibu High School) is an approximately thirty acre (29.9 ac.) parcel located near the intersection of Morning View Drive and Via Cabrillo in the Zuma Beach area of the City of Malibu. The existing facility on-site was constructed as a middle school (6^{th} - 8^{th} grades) in the late 1960s and was converted to a combined middle / high school (6^{th} - 12^{th} grades) in 1992. The facility continues to serve grades 6 through 12. Current enrollment at the school is approximately 1,200 students, but the District's growth projections indicate that number could reach 1,500 within five years. Existing facilities at the school include 43 classrooms, an administrative building, a gymnasium and pool, a library, a football field surrounded by a running track, baseball / softball fields, basketball courts, tennis courts, an outdoor amphitheater, and approximately 245 parking spaces (faculty, student, and visitor parking combined). Three of the forty-three existing classrooms are portable / modular facilities. At this time, their continued use after implementation of the proposed project is undetermined, but it is assumed that the portables will continue to be used as classrooms even after the new construction.

The planned new, two-story classroom building, and the majority of the new gymnasium will be located on the west side of campus near Cabrillo Elementary School. The classroom building will be located north of the existing cafetorium on the site of the existing asphalt-paved faculty / staff parking lot. Gross floor area will be 13,820 sq. ft., and the building footprint will be approximately 6,910 sq. ft. The height of the new

building will be 27 feet with its top elevation at 135.8 feet above sea level. The existing cafetorium's top elevation is also at 135.8 feet above sea level. With the addition of the new classroom building, a new triangular-shaped, landscaped "quad" area will be created and landscaped, similar to the existing grassed quad area which is surrounded by school buildings.

The new 1,000-seat spectator gymnasium will be located south of and adjacent to the existing gymnasium (middle school sized gym) on the northwest side of the campus. This area is also currently a portion of the existing paved faculty parking lot. Gross floor area of the new gym, as well as the building footprint, will be 19,400 square feet. The height of the gymnasium will be 31.5 feet with its top elevation at 151.5 feet above sea level. The existing gymnasium, with a top elevation is at 162.5 feet above sea level, will remain and continue to be used for physical education purposes.

The faculty parking lot, currently located on the west side of campus, near Cabrillo Elementary, where the new classroom building and the new gymnasium are proposed, will be relocated to the southeast side of campus, south of the track and field facility, and extending from an existing visitor parking lot adjacent to Morning View Drive. This area is currently landscaped, so the parking lot will be terraced to step up the existing slope. Approximately 109 parking spaces and a 480 foot L-shaped retaining wall will be added; four pine trees and two ficus trees, non-native to the Malibu area, will be removed and replaced with new landscaping. A concrete pathway will connect this lot with the main part of the campus.

The existing track and field facility, presently composed of sand and small aggregate, is located on the northeast side of the school property some 14 to 16 feet above the asphalt paved basketball court area, and includes a scoreboard, goal posts, and temporary seating for approximately 400 spectators. The improvements to the track include an all-weather surface with nine lanes, expanded high jump approach and pits, a pole vault runway, long jump and triple jump runways, a concession facility with restrooms and storage, and fencing around the entire facility. The football field improvements include improved field drainage, a separate restroom facility, permanent concrete bleachers seating 1,000 with a press box on the east side, and metal aluminum bleachers seating 300 on the west side. Lighting, which would be necessary for night games, is not being proposed by the District.

Most of the existing structures on-site at the High School were constructed prior to implementation of the Coastal Act. A previous coastal development permit (CDP No. 4-93-081) was obtained for the existing 95 vehicle student parking lot. Another coastal development permit (CDP No. 4-94-030) was granted for construction of the 750 seat amphitheater and expansion of the swimming pool. Also included in this permit was re-grading and improvements to an existing ballfield and addition of two tennis courts, baseball and softball fields, and practice soccer fields. A subsequent permit amendment (CDP No. 4-94-030-A1) added the boys/girls restrooms to the track and field athletic area, two dugouts, scoreboards, bases, and fencing to the softball diamond and adjoining vacant land.

Malibu High School is located within the City of Malibu and is bordered on two sides by single family residences constructed on moderate to rolling slopes in the foothills of the Santa Monica Mountains. These residences exist to the north and south (across Morning View Drive). Cabrillo Elementary School is in operation to the immediate west; and School District open space land and the Malibu Equestrian Center are located just

east of the subject property, on the other side of a prominent berm. There is an existing connector trail from the Equestrian Center which traverses immediately north of the school property. Access to the High School is from Pacific Coast Highway directly to Morning View Drive from the east or via Guernsey Avenue from the west.

Topographically, the school is situated on the southern flanks of the western portion of the Santa Monica Mountains. The property consists of several near-level pad areas with generally ascending slopes to the north and descending slopes to Pacific Coast Highway to the south. Maximum topographic relief on-site is approximately ninety feet (90') with elevations on-site ranging between 80 to 170 feet above mean sea level. The natural terrain of the area consists of rolling hills, and there is limited natural vegetation on-site consisting of grasses, ivy, brush, small shrubs, and scattered trees. Drainage from the property flows overland and along parking lots / driveways in a southerly direction to Morning View Drive where it collects in storm drains. Some runoff may enter an unnamed United States Geological Survey (USGS) designated blue-line (intermittent) stream which passes to the north of the school property and continues west of Cabrillo Elementary School which borders the subject property on the west. A second, unnamed blue-line (intermittent) stream exists east of the project site at the Malibu Equestrian Center and may accept drainage from the berm adjoining the track and field facility. Stormwater flowing off-site eventually drains to the Pacific Ocean at Zuma Beach. Various beaches and offshore kelp beds to the east and west of Zuma are designated as Environmentally Sensitive Habitat Area (ESHA) in the Malibu / Santa Monica Mountains Land Use Plan (LUP). Zuma Beach itself is designated a Shore Fishing Area.

B. Visual Resources

Section 30251 of the Coastal Act states that:

> ***The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the 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. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.***

In addition, the certified Malibu / Santa Monica Mountains Land Use Plan (LUP) provides policies regarding protection of visual resources, which are used as guidance and are applicable to the proposed development. These policies have been applied by the Commission as guidance in the review of development proposals in the Santa Monica Mountains:

> ***P125 New development shall be sited and designed to protect public views from LCP-designated scenic highways, to and along the shoreline, and to scenic coastal areas, including public parklands; P129 Structures shall be designed and located so as to create an attractive appearance and harmonious relationship with the surrounding environment; P130 In highly scenic areas and along scenic highways, new development ... shall be sited and designed to protect views to and along the ocean and to and along other scenic features, ... minimize the alteration of natural land***

forms, ... conceal raw-cut slopes, be visually compatible with and subordinate to the character of its setting, [and not] intrude into the skyline as seen from public viewing places; P134 Structures shall be sited to conform to the natural topography, as feasible.

The subject property contains Malibu High School, an existing institutional use located within a substantially developed area bordered by residential parcels, an equestrian facility, and an elementary school. The school is minimally visible from an LUP-designated scenic highway (Pacific Coast Highway) and a portion of Zuma Beach to the south. To assess potential visual impacts of projects to the public, the Commission typically investigates publicly accessible locations from which the proposed development is visible, such as beaches, parks, trails, and scenic highways. The Commission also examines the building site and the size of the proposed structure(s). Staff visited the subject site and found the proposed building location(s) to be appropriate and feasible, given the terrain and the previously existing development on-site. Although the property where the development is proposed is terraced and gently sloping, the finished project will be visible to the noted surrounding area. However, due to the large-scale institutional development existing on-site, visual impacts, if any, of the proposed improvements will be minimal, when considered in the context of the overall school campus. Existing structures are of a similar massing, character, and location to be similarly visible, and the proposed building plans are substantially in character with the type and scale of development which already exists at the school.

The proposed buildings and structures will be visible, to varying degrees, from the existing homes and the equestrian trail located in the foothills above and to the north of the project site, as well as from locations along Morning View Drive. As noted previously, on the west side of campus, the new gymnasium and classroom building will be constructed no higher than the existing adjacent buildings. These new structures have been designed to step down the slope and to be similar in height with the existing buildings, thereby reducing potential visual impacts. The proposed structures have also been designed to blend into the existing campus architecture and massing so as to not degrade the visual character of the site and its surroundings.

There are currently no structures present at the football field / track facility which is physically located on a near-level elevated pad area in the northeastern corner of the campus, partially visible from the previously noted areas and relatively near the existing residences and equestrian trail. The permanent concrete bleachers will be built into an existing 28 foot high berm on the east side of the track. The highest point of the existing berm is at elevation 177 feet above sea level. The concrete bleachers have been designed to notch into the existing berm and their top, at 176.6 elevation above sea level, will be at roughly the same height as the top of the existing berm. The press box, however, will rise approximately eight feet (8') above the top of the bleacher system, and consequently, eight feet above the grade of the existing berm. The press box, therefore, will be visible from the noted surrounding area but, at 15 feet by 40 feet, will be a relatively small structure and, according to the applicant, will be finished with colors compatible with the adjacent surroundings. Other related structures, including the concession facility and the restrooms, have been designed so their height is below the existing grade of the berm, thereby reducing visual impacts. In addition, once construction of the concrete bleachers is complete, the berm will be revegetated with native plantings.

The new structures at the athletic field will be visible from many residences and the equestrian trail in the foothills above and to the north of the school. The private residences closest to the campus and the existing trail, at the lower elevations just north of the playing fields, will see the greatest effects from changes to the track and field facility. Ocean views will not be significantly impaired, however, because only the press box will rise above the grade of the berm. The concession facility, the restroom facility, and the metal visitor bleachers have been designed so that their height is significantly below the existing grade of the berm in order to prevent adverse visual impacts to the surrounding community. The concrete bleachers and press box will result in minimal visual impacts, but will not substantially degrade the existing character or quality of the site or its surroundings.

As described in the project description, the High School is minimally visible from a portion of Pacific Coast Highway and Zuma Beach and is bordered by existing residential development to the north and to the south. The Commission has found that night lighting of areas in the Malibu / Santa Monica Mountains area creates a visual impact to nearby scenic beaches, scenic roads, parks, and trails. In addition, night lighting may alter or disrupt feeding, nesting, and roosting activities of native wildlife species. Although the applicant has not proposed any lights at the stadium at this time, and football games are planned to occur during the day on Fridays and Saturdays, in order to mitigate any potential future visual and environmental impacts of the proposed improvements to the football stadium and the track and field facility, the Commission finds it necessary to require the applicant to submit a deed restriction prohibiting all outdoor lighting for the athletic fields, whether temporary or permanent, as specified in **Special Condition Six.** Although sporting activities associated with the indoor gymnasium may occur past 7pm, activities associated with the track and field facility should not occur in the evening hours. **Special Condition Six** will protect the nearby scenic areas and native wildlife from avoidable disturbance that would otherwise be associated with nighttime use of the football stadium / track and field facility.

Furthermore, visual impacts associated with proposed retaining walls, grading, and the various proposed structures can be mitigated by requiring the berm on the eastern side of the track and field facility along with other exposed manufactured slope areas on-site to be adequately and appropriately landscaped with vertical screening elements such as trees and shrubs. Appropriate landscaping on manufactured slope areas will screen and soften the appearance of the proposed development and minimize the visual impact as seen from Pacific Coast Highway and Zuma Beach. The landscaping should consist of native, drought resistant plants and be designed to minimize and control erosion as well as to partially screen and soften the visual impact of the structure(s). Therefore, the Commission finds that it is necessary to require the applicant to submit a landscape plan incorporating visual screening elements, as specified in **Special Condition One**.

The proposed project, as conditioned, will not result in a significant adverse impact to the scenic public views or character of the surrounding area in this portion of the Santa Monica Mountains. Thus, the Commission finds that the proposed project is consistent, as conditioned, with Section 30251 of the Coastal Act and the policy guidance contained in the certified Malibu / Santa Monica Mountains LUP.

C. Hazards

Section 30253 of the Coastal Act states (in part):

> ***New development shall:***
>
> ***(1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.***
>
> ***(2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms...***

Section 30250(a) of the Coastal Act states (in part):

> ***New ... development, ... shall be located within, ... existing developed areas able to accommodate it ... and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources.***

Malibu High School is located in the Santa Monica Mountains, an area which is generally considered to be subject to an unusually high amount of natural hazards. Geologic hazards common to the Santa Monica Mountains include landslides, erosion, flooding, and earth movement. In addition, fire is a persistent threat due to the indigenous chaparral community of the coastal mountains. Wildfires often denude hillsides in the Santa Monica Mountains of all existing vegetation, thereby contributing to an increased potential for erosion and landslides.

The prominent geomorphic features in the area are the ridgeline of the Santa Monica Mountains to the north, Zuma Beach to the south, Trancas Canyon to the west, and Zuma Canyon to the east. The Malibu High School property is sited within that narrow, terraced coastal strip separating the present-day beach from the higher and steeper slopes of the main mass of the Santa Monica Mountains. The natural terrain of the High School campus generally slopes to the southwest. Extensive previous grading has created stepped building pads and parking lots along the natural terrain in order to construct the existing development. The proposed improvements are to be located on these existing, nearly-level pads which are used for the existing campus. Even so, a significant amount of grading is proposed on-site primarily for the football field and for excavation to notch the expanded faculty parking lot into the adjacent slope.

Surface drainage from the property flows overland and along parking lots / driveways in a southerly direction to Morning View Drive where it collects in storm drains, eventually passing under Pacific Coast Highway and outletting at Zuma Beach. A small amount of runoff may enter an unnamed United States Geological Survey (USGS) designated blue-line (intermittent) stream which borders the subject property on the northwest or to a second, unnamed blue-line (intermittent) stream which exists east of the project site at the Malibu Equestrian Center. Various beaches and offshore kelp beds to the east and west of Zuma are designated as Environmentally Sensitive Habitat Area (ESHA) in the Malibu / Santa Monica Mountains Land Use Plan (LUP).

The proposed improvements will increase the amount of impervious coverage on-site which may increase both the quantity and velocity of stormwater runoff. If not controlled and conveyed off-site in a responsible manner, this runoff may result in increased erosion, affecting site stability, and potentially impacting downslope water quality. The

applicant's geologic / geotechnical consultant has consequently recommended that site drainage be collected and distributed in a non-erosive manner. As mentioned previously, the School site is gently sloping with several near-level pad areas for the structures, parking lots, and athletic fields. There are, however, moderate slopes between the pad areas and in certain areas immediately adjacent to the school property. Because of these slopes and the resultant potential for significant water velocities and soil erosion, it is important to adequately control site drainage through runoff detention, velocity reduction, and/or other best management practices (BMPs). To ensure that runoff is conveyed off-site in a non-erosive manner, the Commission finds it necessary to require the applicant, through **Special Conditions One, Two, and Three**, to submit landscaping / erosion control and drainage plans conforming to the recommendations of the consulting geotechnical engineer for review and approval by the Executive Director and to assume responsibility for the maintenance of all drainage devices on-site.

Despite the presence of the existing, near-level pad areas at the school, there are significant slopes on-site, and large quantities of grading are proposed for the improvements. At the future classroom site, mapped contours indicate an elevation differential of approximately 5 feet. A two to six feet differential exists across the proposed gymnasium site to the base of the existing slope. The upper, locker-room level of the new gymnasium will be constructed over an existing, approximately 2.5:1 (horizontal : vertical) slope, with an average height of twenty feet. The existing track and athletic field, will require large-scale subsurface grading to ensure proper field drainage. To the immediate east, a sloped berm rises approximately 26 feet to the top of a natural ridge, upon which the new bleachers are to be constructed. To the north, other ascending slopes ranging from 15 to 20 feet in height separate the athletic field from a baseball field and adjacent natural ground. The south end of the athletic facility's pad area is bound by a man-made slope which descends approximately 45 feet in elevation before encountering other school facilities and undeveloped property (proposed location of the new, expanded faculty parking lot).

Erosion and sedimentation can be minimized by requiring the applicant to remove all excess dirt from cut / fill / excavation activities. The applicant has estimated a total of 32,151 cu. yds. of grading including 17,601 cu. yds. cut and 14,550 cu. yds. fill. These figures include 514 cu. yds. (26 cut, 488 fill) for the 2-story classroom; 1,270 cu. yds. (1,040 cut, 230 fill) for the new gymnasium; 5,317 cu. yds. (5,235 cut, 82 fill) for the relocated, expanded faculty parking lot; 14,000 cu. yds. (7,600 cut, 6,400 fill) for the football / track stadium; and 11,050 cu. yds. (3,700 export, 500 sand import, 1,500 gravel import, 5,350 soil import) for the football field itself. Therefore the total soil balance equates to a net export of 3,051 cu. yds. of dirt. The Commission has found that minimization of grading and exposed earth on-site can reduce the potential impacts of sedimentation in nearby stormwater conveyances, creeks, streams, rivers, and the ocean. Therefore, **Special Condition Four** has been required to ensure that all excavated or cut material in excess of material proposed to be used for fill on the project site be removed and properly disposed of.

In addition to controlling erosion and exposed earth during grading operations, landscaping of the graded and disturbed areas of the project will enhance the long-term stability of the site. Interim erosion control measures implemented during construction will minimize short-term erosion and enhance site stability. Long-term erosion can be minimized by requiring the applicant to revegetate all disturbed areas of the site with native plants, compatible with the surrounding environment.

Invasive and non-native plant species are generally characterized as having a shallow root structure in comparison with their high surface / foliage weight. The Commission has found that non-native and invasive plant species do not serve to stabilize slopes and that such vegetation results in potentially adverse effects to the stability of a project site. Native species, alternatively, tend to have a deeper root structure and aid in preventing erosion. Also, the use of invasive, non-indigenous plant species tends to supplant species that are native to the Malibu / Santa Monica Mountains area. Increasing urbanization in this area has caused the loss or degradation of major portions of native habitat and native plant seed banks through grading and removal of topsoil. Moreover, invasive groundcovers and fast-growing trees originating from other continents which have been used for landscaping in this area have already seriously degraded native plant communities adjacent to development. Therefore, the Commission finds that in order to ensure site stability, all disturbed, graded, and sloped areas on-site shall be landscaped with appropriate native plant species, as specified in **Special Condition One**.

The applicant has submitted reports indicating that the geologic stability of the site is favorable for the project and that no potentially active faults, adversely oriented geologic structures, or other hazards were observed by the consultants on the subject property. Based on site observations, slope stability analysis, evaluation of previous research, analysis and mapping of geologic data, and limited subsurface exploration of the site, the engineering geologists have prepared a report addressing the specific geotechnical conditions related to the site.

The *Geotechnical Exploration Report – Malibu High School Improvements -- 30237 Morning View Dr., Malibu, California*, by Associated Soils Engineering, Inc., dated October 14, 1999, discusses faulting in the area, stating:

> ***The active Malibu Coast Fault is the closest mapped fault with known Quaternary slip. The surface trace is located approximately 1.8 kilometers north of the site at its closest approach. ... The Escondido thrust fault ... exhibits a sinuous surface trace between its eastern and western endpoints near Escondido Beach and Trancas Beach, respectively ... trending northwesterly through the campus, through the athletic field and north of the existing campus buildings. ... The Escondido thrust fault has not been established in the past as an active feature, and is not included within a State zone of required investigation for active faulting.***

Associated Soils Engineering further investigated the Escondido thrust fault, stating:

> ***The apparent lack of fault ruptures within the Corral terrace sediments places an absolute age constraint on the activity of the Escondido fault to no younger than about 130,000 years. It is highly likely, in our view, that the fault is entirely pre-Quaternary in age, [and] the potential for direct surface fault rupture occurring on the project site from the Escondido or other faults appears to be extremely low.***

The October 14, 1999 geologic report discusses the possibility of landslides on the school site, stating:

> ***Neither a landslide map by Campbell (1980) nor the aerial photographs used to evaluate fault rupture hazards at the site indicated the presence of any deep-seated landslides on or near the site. The probability of the site being affected by landsliding is thus judged to be very low.***

The 1999 Associated Soils Engineering geologic report concludes:

> ***Based on the results of our field exploration, laboratory testing, engineering and geologic analyses, and our experience and judgement, it is our opinion that the site may be developed as planned, provided the site grading and foundation criteria discussed herein are incorporated into the project plans and specifications and implemented during construction.***

The Commission notes that the geologic and engineering consultants have included a number of recommendations which will increase the stability and geotechnical safety of the site. To ensure that these recommendations are incorporated into the project plans, the Commission finds it necessary to require the applicant, through **Special Condition Three**, to submit project plans certified by the geologic / geotechnical engineering consultant as conforming to their recommendations.

The Commission requires that new development minimize the risk to life and property in areas of high fire hazard while recognizing that new development may involve the taking of some risk. Vegetation in the coastal areas of the Santa Monica Mountains consists mostly of coastal sage scrub and chaparral, communities which have evolved in concert with, and continue to produce the potential for frequent wildfires. The warm, dry summer conditions of the local Mediterranean climate combine with the natural characteristics of the native vegetation to pose a risk of wildfire damage to development that cannot be completely avoided or mitigated. When development is proposed in areas of identified hazards, the Commission considers the hazard associated with the project site and the potential cost to the public, existing use, as well as the continued right to use the property.

Due to the fact that the proposed project is located in an area subject to an extraordinary potential for damage or destruction from wildfire, the Commission can only approve the project if the applicant assumes the liability from these associated risks. Through the wildfire waiver of liability, as incorporated in **Special Condition Five**, the applicant acknowledges and appreciates the nature of the fire hazard which exists on the site and which may affect the safety of the proposed development. The Commission finds that the proposed project, as conditioned, is consistent with Sections 30250 and 30253 of the Coastal Act.

D. Archaeological Resources

Section 30244 of the Coastal Act states:

> ***Where development would adversely impact archaeological or paleontological resources as identified by the State Historic Preservation Officer, reasonable mitigation measures shall be required.***

Archaeological resources are significant to an understanding of cultural, environmental, biological, and geological history. Fossils, too, are considered to be scientifically significant non-renewable resources. The proposed development is located in the Santa Monica Mountains / Malibu area, a region which contains one of the most significant concentrations of archaeological sites in southern California. The school is also located atop the Monterey Formation, a geologic unit with a high paleontological

sensitivity rating. The Coastal Act requires the protection of such resources and the reduction of potential adverse impacts through the use of reasonable mitigation measures.

Degradation of archaeological resources can occur if a project is not properly monitored and managed during earth moving activities and construction. Site preparation can disturb and/or obliterate archaeological materials to such an extent that the information that could have been derived is permanently lost. In the past, numerous archaeological sites have been destroyed or damaged as a result of development. Consequently, the remaining sites, even though often less rich in materials, have become increasingly valuable as a resource. Further, because archaeological sites studied collectively provide information on subsistence and settlement patterns, the loss of individual sites can reduce the scientific value of sites which remain intact.

The applicant proposes to construct numerous improvements on the Malibu High School property, identified on the City of Malibu archaeological sensitivity map as having the potential for existence of archaeological resources. A document entitled *Phase I Archaeological Study for Proposed Improvements to Malibu High School* was prepared by the firm Historical Environmental Archaeological Research Team (HEART) in July 1999 for the proposed project. The study included a records search and surface reconnaissance. The records search concluded that no prehistoric or historic archeological sites have been recorded within or directly adjacent to the project area, although one prehistoric site was identified within 1/8th of a mile. The field investigation encountered no surface indications of prehistoric or historic archaeological resources within the project site. The HEART report states:

> ***The results of the Phase I archaeological study indicated that no prehistoric, and no historic archaeological resources were encountered within the project areas. ... [T]he author is confident that all areas likely to contain cultural resources were thoroughly inspected with negative results.***

However, the proposed project will require 32,151 cu. yds. of grading including 17,601 cu. yds. of cut and 14,550 cu. yds. of fill. Grading activities for new development raises concerns relating to the potential disturbance and loss of archaeological and paleontological resources which may be present at the project site, and the possibility always remains that significant cultural resources could be accidentally discovered during earth moving activities.

Petra Paleontology prepared a report entitled *A Paleontological Resource Assessment of Malibu High School* in August 1999 which evaluated the subject site. According to the report, there are three significant paleontological resources in the Malibu / Santa Monica Mountains area which should be preserved and professionally studied. Also, because the high school is located in an area with a high paleontological sensitivity rating (the Monterrey Formation geologic unit), excavation into undisturbed sediments has the potential to indirectly destroy undiscovered unique resources. The Paleontology report recommends full-time monitoring during earth-moving activities for the project. Therefore, because the high school is located in proximity to a recorded archaeological site, and the possibility exists of unidentified cultural and/or paleontological resources being found during construction, **Special Condition Eight** is required to implement mitigation measures which would be required to reduce potential impacts, as necessary.

In addition, to ensure that impacts to archaeological and paleontological resources are minimized, **Special Condition Eight** requires that the applicant have a qualified archaeologist, paleontologist, and appropriate Native American consultant present on-site during all grading, excavation, and site preparation activities in order to monitor all earth moving operations. If any significant archaeological or paleontological resources are discovered during construction, work shall be stopped, and an appropriate data recovery strategy shall be developed by the City of Malibu archaeologist, the qualified paleontologist, and the Native American consultant(s) consistent with California Environmental Quality Act (CEQA) guidelines. The Commission further finds that it is necessary to require the applicant to implement all other recommendations contained in the *Phase I Archaeological Study for Proposed Improvements to Malibu High School*, dated July 1999, prepared by HEART, and *A Paleontological Resource Assessment of Malibu High School*, prepared by Petra Paleontology, in August 1999. The Commission finds that the proposed development, as conditioned to mitigate any adverse impacts on archaeological resources, is consistent with Section 30244 of the Coastal Act.

E. Public Access -- Traffic and Parking

A basic mandate of the Coastal Act is to maximize public access and recreational opportunities along the coast. The Coastal Act has several policies, cited below, which address the issues of public access and recreation. In addition, Section 30250(a) of the Coastal Act requires that new development be permitted only where public services are adequate and where such development will not have any adverse impacts on coastal resources.

Section 30210 of the Coastal Act states:

> ***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.***

Section 30211 of the Coastal Act states:

> ***Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.***

Section 30223 of the Coastal Act states:

> ***Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.***

Section 30252 of the Coastal Act states that:

> ***The location and amount of new development should maintain and enhance public access to the coast by ... (3) providing adequate parking facilities or providing substitute means of serving the development with public transportation ...***

The proposed development is near an area where heavy peak season parking demand exists for visitors to Zuma Beach, a popular destination for beach users in the Los Angeles region. This demand results in the posting of nearby streets, businesses, and private residences as not being available for beach users. Parking is restricted for a distance of approximately one-half mile inland by signs designating no parking and/or limited parking hours along Morning View Drive to near Via Cabrillo. However, much of this area has no shoulder and blind curves, rendering parking unfeasible anyway.

Based on the need for beach-related circulation and parking generated on a regional basis, the Commission examines proposed developments to determine whether generation of additional parking demand may be accommodated on-site. In this project, it must be determined if demand extends from the school into the area available for limited parking along Morning View or to other streets near Zuma Beach. Past Commission findings, such as in permits for the construction of additions to the Malibu Jewish Center and Synagogue (CDP No. 4-96-077) and the Malibu United Methodist Church (CDP No. 4-98-330) nearby, indicate the Commission's concern that institutional uses not create parking demand that adversely impacts upland on-street parking which potentially serves local beach areas.

A Traffic and Parking Study was prepared for the proposed project by Kaku Associates in October 1999. The study specifically addresses impacts associated with the expansion / construction of the physical education / athletic facilities since no traffic or parking impacts are anticipated as a consequence of construction of the new classroom building or the other improvements on the west side of campus. The study analyzed expected Level of Service (LOS) at four intersections near Malibu High School for three different potential event time periods (Friday evening basketball game, Saturday early afternoon before football game, Saturday late afternoon after football game). The intersections' LOS were comparable with or without the project's anticipated additional traffic demand. The only scenario which presented a significant impact was a drop in LOS from D to E at the Kanan Dume Rd. / Pacific Coast Hwy. intersection. However, home football games would occur, at most, five or six times per year, and not all football games would be sold out. Therefore, this impact would be very infrequent, at most occurring only a few times each year.

In addition to the traffic study, a parking analysis was prepared by Kaku Associates in October 1999, comparing the potential parking demand associated with capacity events at the gymnasium and the stadium with proposed future parking supply. To evaluate the adequacy of available facilities, the Malibu / Santa Monica Mountains Land Use Plan (LUP) requires seven (7) parking spaces for each teaching station (classroom) for High Schools, including Auditoriums and Stadiums located on-site; two (2) parking spaces for each teaching station are required for junior high (middle school) students. There are currently 43 classrooms at the school; upon completion of the new two-story classroom building, there will be 55.

The school facility functions as a common middle school and high school, incorporating grades 6 through 12. Approximately forty-five percent (45%) of the students are in middle school grades, and fifty-five percent (55%) are in high school. Splitting the 55 future classrooms by this population ratio yields 25 middle school and 30 high school classrooms. Applying the parking guidelines from the LUP requires a total of 260 parking spaces to meet the demand generated by the school. Re-striping the existing student lot and moving / expanding the faculty lot, as proposed, will result in a total of 267 permanent parking spaces available on a day-to-day basis. For special events,

such as athletic activities, the existing outdoor basketball courts could be utilized to create additional parking spaces bringing the total number of available spaces to 417. Further, on weekends and evenings, the adjoining elementary school's 38 parking spaces could be used for a grand total of 455 spaces. The Kaku Associates study concluded that 309 spaces would be required for a capacity event in the new gymnasium, and that 414 spaces would be required for a capacity event in the expanded football stadium / track and field facility. Therefore, an adequate number of parking spaces, both on a daily basis, as well as for major sporting events, will be provided through the proposed improvements.

Three different parking areas -- student, faculty / visitor, and basketball courts (special events overflow) -- are proposed on campus and will be used at different capacities at different times for various events. Since each lot is located in a different part of campus, finding a parking space could be confusing and cumbersome during major events (e.g., football games) resulting in traffic problems at the school entrances, as well as encouraging on-street parking in the adjoining neighborhoods. In order to mitigate potential parking difficulties, the Commission, through **Special Condition Seven**, requires the applicant to create a parking management plan to facilitate efficient access to and utilization of the on-campus parking supply and to discourage off-campus parking and unnecessary circulation of vehicles looking for parking places during major sporting events.

In summary, the re-striping of the student parking lot to add an additional 23 spaces, along with the relocation and expansion of the 82-space faculty lot will be sufficient to meet the anticipated parking demand for the proposed Malibu High School improvements. Overall, the proposed provision of 267 daily spaces with the possibility to increase to 417 spaces for events is sufficient to accommodate the existing and proposed development; and the improvements will not significantly impact circulation on local roads and beach access in the surrounding area. The project, therefore, avoids adverse impact on coastal access and recreational opportunities and is consistent with Sections 30210, 30211, 30223, 30250(a), and 30252 of the Coastal Act.

F. Water Quality

The Commission recognizes that new development in the Santa Monica Mountains has the potential to adversely impact coastal water quality through the removal of native vegetation, construction of impervious surfaces, increase of runoff, erosion, and sedimentation, introduction of pollutants such as petroleum, cleaning products, pesticides, and other pollutant sources, as well as additional effluent from septic systems. Section 30231 of the Coastal Act states:

> ***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 water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.***

As described previously, the proposed project includes the construction of a spectator gymnasium with locker rooms, a two-story classroom building, significant upgrades to the track and field facility / football stadium including new restroom facilities, and relocation / expansion of the faculty parking lot. There will also be various minor exterior improvements and interior modernizations including conversion of the cafetorium to an auditorium. The project also includes 32,151 cu. yds. of grading (17,601 cut, 14,550 fill). The continued conversion of the project site from its natural state will increase the amount of impervious coverage and reduce the naturally vegetated area on-site which may increase both the quantity and velocity of stormwater runoff. If not controlled and conveyed off-site in a non-erosive manner, this runoff may result in increased erosion, affect site stability, and impact downslope water quality. Further, continued use of the site for institutional purposes may introduce potential sources of pollutants such as petroleum, cleaners, fertilizers, and pesticides, as well as other accumulated pollutants from rooftops and other impervious surfaces.

The natural terrain on-site is sloping and encompasses significant elevation change from the northern property boundary down towards Pacific Coast Highway in the south. The new faculty parking lot, which is an expansion of the existing visitor lot, and the replacement of the existing faculty lot with a classroom building and gymnasium, in particular, will result in an increase in impervious surfaces. In addition, the concrete bleachers, concession facilities, and restrooms at the track and field facility will increase impervious surfaces in that part of the campus. The high school site consists of several large near-level pad areas with numerous graded slope areas between them. Because of these slopes on-site, the increase in impervious coverage, and the resultant potential for significant water velocities, soil erosion, and pollutant transport, it is important to adequately control site drainage through runoff detention, velocity reduction, filtration, and/or other best management practices (BMPs).

Without appropriate erosion control measures in place prior to grading and construction of the track and field facility and the new staff parking lot, erosion and/or siltation could have a significant impact on off-site resources including existing drainage courses. Although the increase in pollutants is not expected to be substantial, downstream water courses are considered to be sensitive, and any increase in pollutants to water courses within the coastal zone should be considered significant. Interim erosion control measures implemented during construction will minimize short-term erosion and enhance site stability. However, long-term erosion and site stability must be addressed through adequate landscaping and through implementation of a drainage and runoff control plan.

The removal of natural vegetation and placement of impervious surfaces allows for less infiltration of rainwater into the soil, thereby increasing the rate and volume of runoff, causing increased erosion and sedimentation. Additionally, the infiltration of precipitation into the soil allows for the natural filtration of pollutants. When infiltration is prevented by impervious surfaces, pollutants in runoff are quickly conveyed to coastal streams and to the ocean. Thus, new development and expansion of existing development can cause cumulative impacts to the hydrologic cycle of an area by increasing and concentrating runoff leading to stream channel destabilization, increased flooding potential, increased concentration of pollutants, and reduced groundwater levels.

Such cumulative impacts can be minimized through the implementation of drainage and polluted runoff control measures. In addition to ensuring that runoff is conveyed from

the site in a non-erosive manner, such measures should also include opportunities for runoff to infiltrate into the ground. Methods such as vegetated filter strips, gravel filters, and other media filter devices allow for infiltration. Because much of the runoff from the site would be allowed to return to the soil, overall runoff volume is reduced and more water is available to replenish groundwater and maintain stream flow. The slow flow of runoff allows sediment and other pollutants to settle into the soil where they can be filtered. The reduced volume of runoff takes longer to reach streams and its pollutant load is greatly reduced. The applicant has proposed changing the runoff pattern of the existing football stadium / track facility by adding a better subsurface drainage system to assist in maintenance of the athletic field(s). Theoretically, this change in subsurface composition should decrease the amount of surface runoff from this portion of the campus. Relocation of the faculty parking lot and creation of a second, landscaped "quad" area should also reduce runoff from west campus impervious areas.

However, in order to make certain that risks from geologic hazard are minimized and that erosion and sedimentation is minimized campus-wide, the project is conditioned to implement and maintain a drainage plan designed to ensure that runoff is conveyed in a non-erosive manner. This drainage plan is required to minimize the volume, velocity, and pollutant load of stormwater leaving the developed site thereby ensuring that adverse impacts to coastal water quality do not result from the proposed project. The Commission thus finds it necessary to require the applicant, through **Special Condition Two**, to submit a drainage and polluted runoff control plan, designed by a licensed engineer, for review and approval by the Executive Director, which incorporates filter elements that intercept and infiltrate or treat the runoff from the site and to assume responsibility for the maintenance of all drainage devices on-site. Such a plan will allow for the infiltration and filtering of runoff from the developed areas of the High School, most importantly capturing the initial, "first flush" flows that occur as a result of the first storms of the season. These flows carry the highest concentration of pollutants that have been deposited on impervious surfaces during the dry season. Additionally, the applicant must monitor and maintain the drainage and polluted runoff control system to ensure that it continues to function as intended throughout the life of the development.

The applicant has submitted a *Sewer Disposal System Capacity Evaluation for Malibu High School*, prepared by Sverdrup Facilities, dated March 2000. This report analyzed conditions of the existing of the existing sanitary sewer disposal system on campus and provided recommendations as to the requirements for sanitary sewer disposal for the proposed new buildings: then new 12-classroom building, the new gymnasium, and the restroom facilities at the track and field stadium. The High School currently has five separate sanitary sewer disposal systems within school boundaries, each consisting of a combination of septic tanks and leaching pits. The Sverdrup report states:

> ***[T]he septic tanks and the seepage pits have adequate capacity to handle the additional sewage load generated by the existing gym expansion and new class rooms at Group System3, and the new sanitary facilities at the Track & Field area at Group System1. It is important to note that although the school generates sewage flow only 5 days per week and approximately nine months per year, the seepage puts of the sewage disposal system are working continuously 365 days per year. Therefore it is concluded that Group System 3 and Group System 1 have more than adequate capacity to properly handle the additional sewage flow generated...***

The Commission therefore finds that the proposed project, as conditioned, is consistent with Section 30231 of the Coastal Act.

G. Local Coastal Program

Section 30604(a) of the Coastal Act states (in part):

> ***a) Prior to certification of the local coastal program, a coastal development permit shall be issued if the issuing agency, or the commission on appeal, finds that the proposed development is in conformity with Chapter 3 (commencing with Section 30200) and that the permitted development will not prejudice the ability of the local government to prepare a local program that is in conformity with Chapter 3 (commencing with Section 30200). ...***

Section 30604(a) of the Coastal Act stipulates that the Commission shall issue a Coastal Permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program which conforms with Chapter 3 policies of the Coastal Act. The preceding sections provide findings that the proposed project will be in conformity with the provisions of Chapter 3 if certain conditions are incorporated into the project and accepted by the applicant. As conditioned, the proposed development will not create significant adverse impacts and is found to be consistent with the applicable policies contained in Chapter 3 of the Coastal Act. Therefore, the Commission finds that approval of the proposed development, as conditioned, will not prejudice the City's ability to prepare a Local Coastal Program for the City of Malibu or Los Angeles County which is also consistent with the policies of Chapter 3 of the Coastal Act, as required by Section 30604(a).

H. California Environmental Quality Act (CEQA)

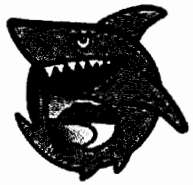
Section 13096(a) of the Coastal Commission's administrative regulations requires Commission approval of a Coastal Development Permit application to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

The Santa Monica / Malibu Unified School District completed an environmental review study of the proposed improvements and adopted a Mitigated Negative Declaration at its Board Meeting on December 12, 1999. This environmental document, *Malibu High School Improvements: Proposed Mitigated Negative Declaration*, by EMC Planning Group, Inc., dated October 1999, was reviewed by Commission staff, and many of the findings, conclusions, and recommendations are incorporated into this Staff report with proposed mitigation measures appearing as Special Conditions herein. The Commission therefore finds that the proposed project, as conditioned, has been adequately mitigated, is determined to be consistent with CEQA and the policies of the Coastal Act, and will not have significant adverse effects on the environment, within the meaning of the California Environmental Quality Act of 1970.

BCM/bcm

ATTACHMENT 3

Future Goals for Athletic Field
Proposed Schedule



Proposed Use of Lighted Athletic Field – Days and Hours

Month	Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Total Use
September-09		6:30p - 8:15p	6:30p - 8:15p	6:30p - 8:15p	6:30p - 8:15p	6:30p - 10:30p		20 days
Hours		1.75	1.75	1.75	1.75	4		44 hours
October-09		6:00p - 8:15p	6:00p - 8:15p	6:00p - 8:15p	6:00p - 8:15p	6:00p - 10:30p		25 days
Hours		2.25	2.25	2.25	2.25	4.5		58.5 hours
November-09		4:30p - 8:15p	4:30p - 8:15p	4:30p - 8:15p	4:30p - 8:15p	4:30p - 10:30p		18 days
Hours		3.75	3.75	3.75	3.75	6		71.5 hours
December-09		4:30p - 8:15p	4:30p - 8:45p	4:30p - 8:15p	4:30p - 8:45p	4:30p - 8:15p		20 days
Hours		3.75	3.75	3.75	3.75	3.75		75 hours
January-09		4:30p - 8:15p	4:30p - 8:45p	4:30p - 8:15p	4:30p - 8:45p	4:30p - 8:15p		25 days
Hours		3.75	4.25	3.75	4.25	3.75		98.75 hours
February-09		5:00p - 8:15p	5:00p - 8:45p	5:00p - 8:15p	5:00p - 8:45p	5:00p - 8:15p		20 days
Hours		3.25	3.75	3.25	3.75	3.25		72.75 hours
Early Mar-09		4:30p - 8:15p	4:30p - 8:15p	4:30p - 8:15p	4:30p - 8:15p	4:30p - 8:15p		
Hours		3.75	3.75	3.75	3.75	3.75		
Late Mar-09		7:00p - 8:15p	7:00p - 8:15p	7:00p - 8:15p	7:00p - 8:15p	7:00p - 8:15p		25 days
Hours		1.25	1.25	1.25	1.25	1.25		56.25 hours
April-09		7:00p - 8:15p	7:00p - 9:45p	7:00p - 8:15p	7:00p - 9:45p	7:00p - 8:15p		20 days
Hours		1.25	2.75	1.25	2.75	1.25		37 hours
May-09		7:30p - 8:15p	7:30p - 9:45p	7:30p - 8:15p	7:30p - 9:45p	7:30p - 8:15p		20 days
Hours		0.75	2.25	0.75	2.25	0.75		27 hours
June-09								
Hours								
July-09								
Hours								
August-09		7:30p - 8:15p	7:30p - 8:15p	7:30p - 8:15p	7:30p - 8:15p	7:30p - 8:15p		10 days
Hours		0.75	0.75	0.75	0.75	0.75		7.5 hours

The hours are adjusted include games and special events

ATTACHMENT 4

Council Agenda Report

City Council Meeting
03-08-10
Item
3.B.6

To: Mayor Barovsky and the Honorable Members of the City Council

Prepared by: Bob Stallings, Parks and Recreation Director

Approved by: Jim Thorsen, City Manager

Date prepared: February 10, 2010 Meeting date: March 8, 2010

Subject: Joint Use Agreement between the City of Malibu and the Santa Monica Malibu Unified School District (Continued from February 22, 2010)

RECOMMENDED ACTION: Authorize the City Manager to negotiate and execute the Joint Use Agreement (Agreement) between the City of Malibu and the Santa Monica Malibu Unified School District (District) to allow community use of District facilities during non-school hours.

FISCAL IMPACT: If approved, the City will be responsible for an annual payment not to exceed $140,000 for the joint use of District facilities during the four year term of the agreement. The annual cost is based on hours of use multiplied by "the basic operating cost" (as defined by the District for maintenance and operation). To offset a portion of the facility use cost, the City accrues credits by providing facility supervision or in-kind services in the form of facility improvements and maintenance. Each June during the term of the Agreement City and District staff will meet to reconcile the facility use cost and accrued credits to determine the balance of the annual payment.

Funding for the Agreement is included in the Adopted Budget for Fiscal Year 2009-2010 in Non-Departmental Services Account No. 100-7059-5921.

DISCUSSION: The purpose of this Agreement is to provide access to school facilities for recreational use during non-school hours. Approval of this Agreement is important to achieving one of the seven goals in the Parks and Recreation Master Plan, which is to address the City's lack of recreational facilities by developing joint use agreements with other agencies, and in particular, to support the "school/park" concept.

The Agreement and District policies (Exhibit A) establish general operating principles and specific rules and procedures for the City use of District owned property and

facilities. The Agreement also includes a facility use schedule (Exhibit B), which details the days, dates and times of use, and in-kind service credits. To account for changes in programming, the facility use schedule will be reviewed annually and revised or amended as needed without altering the Agreement. Additionally, a fee schedule is developed by the District and is used to designate fees associated with each facility. The current 2009-2010 fee schedule (Exhibit C) will be used to determine facility use fees until the District's newly adopted fee schedule (Exhibit D) takes effect on July 1, 2010.

Under the proposed Agreement the City would continue to coordinate the use of District facilities by local community organizations such as American Youth Soccer Organization and Malibu Little League. Any fees paid or contributions made by community organizations for use of District facilities would go to the City to offset the assessed fees as defined in the Agreement. The District is prohibited from charging additional fees to community organizations using facilities under the City's agreement.

ATTACHMENTS:
Proposed Joint Use Agreement
District Policies (Exhibit A)
Facility Use Schedule (Exhibit B)
2009-2010 Fee Schedule 1 (Exhibit C)
2010-2013 Fee Schedule 2 (Exhibit D)

MASTER AGREEMENT BETWEEN SANTA MONICA-MALIBU UNIFIED SCHOOL DISTRICT AND THE CITY OF MALIBU REGARDING JOINT USE OF SCHOOL DISTRICT FACILITIES

This Agreement is made and entered into as of this ____ day of_____, 2010, by and between the City of Malibu, a municipal corporation hereinafter referred to as the "City" and Santa Monica-Malibu Unified School District, a unified school district, hereafter known as the "District," each duly organized and existing under the constitution and laws of the State of California (collectively, the "Parties"); and

W I T N E S S E T H

WHEREAS, the District desires to promote the health and welfare of the students and staff of the District and the City desires to promote the health and welfare of the residents of the City and enhance recreational opportunities. The Parties also desire to cultivate and develop community education, health, fitness and good citizenship by providing for a program of City and District education, recreation, and athletics and to conduct such programs of community education, recreation and athletics as will contribute to the attainment of objectives of said District and City; and

WHEREAS, the District and City have previously maintained a cooperative working arrangement, which has shown that the joint use of the grounds and facilities can afford the community increased educational, recreational, and athletic opportunities at a cost that would otherwise be required of our comparable programs, and;

WHEREAS, the development of an educational, recreational and athletic programs to meet the needs of the District and City and community requires optimum use of all publicly owned facilities which are adaptable to use for educational, recreational, physical education and athletic purposes, and;

WHEREAS, this agreement is entered into under authority granted under the Government Code (Section 6500 et seq.) and by one or more of Education Code Sections 17051 (re joint use of parks and recreation), 17060 (re joint ventures) and 10900 et seq. (re joint use of property and facilities) of the State of California, which authorize and empower school districts and municipalities to enter into agreements with each other for the purpose of organizing, promoting and conducting joint use programs for the provision of school facilities and community recreational and educational opportunities for the citizens and residents of City and District; and

WHEREAS, City and District desire to enter into this Agreement pursuant to said statutory authorization, which Agreement may eventually cover multiple facilities and projects; and

WHEREAS, the Parties desire to establish general guidelines for joint use of existing facilities and development of future joint use projects, as well as site, facility and project specific requirements.

NOW, THEREFORE, City and District hereby mutually covenant and agree with each other as follows:

1.0 GENERAL PROVISIONS OF JOINT USE OF FACILITIES

That the District shall make available to the City the use of certain outdoor facilities, buildings or portions thereof as specifically requested and for the time requested, subject to the following conditions:

1.1 That the "Basic Costs" of District's operation of said facilities, buildings or portions thereof, as indicated on Exhibit C (Fee Schedule), shall be the basis upon which a annual contribution shall be made by the City to the District for use of said facilities, buildings or portions thereof for the 2009-10 fiscal year; and that "Basic – Rate D" indicated in Exhibit 7 (Facility Permit Fees) of Exhibit D shall be the basis for each year thereafter for the term of his agreement. Any extraordinary cost of operation shall be subject to negotiation by the two agencies pursuant to the provisions of sub-section 1.12 hereof.

1.2 The party having responsibility for supervision of a class, athletic program or recreational activity may charge a permit fee no greater than the "Basic Cost" as listed on the District fee schedule or an amount equal to 100% of the recovery of City's direct costs of supervision, instruction, or materials used (so called "program costs") whichever is greater. Such fees may be retained by the supervising authority as part of its budget for providing leadership and supervision of the education, recreation or athletic program. Such fee schedule must be reviewed by the appropriate District and City governing agency, board or commission, whichever is applicable. District has no obligation to employ, hire or assign any District employee, agent or other representative to (i) prepare or otherwise setup said facilities, buildings or portions thereof for City's use, (ii) serve as security at said facilities, buildings or portions thereof or the District property in general, or (iii) provide other services in connection with City's use of said facilities, buildings or portions thereof. No fee shall be charged in violation of Education Code Sections 10902 or 10912.

1.3 With prior approval of District, which will not be unreasonably withheld, and in accordance with District policy, City may enter into a lease, sub-lease, sub-let or rental agreement of any District facility covered under the terms of this agreement, to any public or private entity for the purposes of operating any event, program or contest where there is a fee charged for admission or where the purpose of the event, program or contest is to raise revenues for City or event operator. Said revenues shall be split 50% to the District and 50% to the City, after all reasonable direct costs incurred by the City are paid.

1.4 The City shall provide, pay for and supervise the City sponsored or permitted educational, recreational or athletic programs at District facilities where applicable. District and City will agree to a Facilities Use Schedule prior to the issuance of any permit to use certain facilities. Once the District has allocated certain dates and hours to City use of facilities City shall be responsible for programming or permitting of those facilities.

1.4.1 Any City or community person or group desiring use of District facilities on those dates and during those times allocated to the City under this Agreement, must make

application, subject to the policies and regulations set forth by the District and City, through the central Permit Office of the City. This Office will coordinate such use through the City Park and Recreation Department, the District Facilities Management Permit Office and the school site administrator.

1.4.2 City shall provide District permit office and school site administrators in advance with quarterly or seasonal calendars identifying all permits issued to use District facilities. District facilities must not be used until such time as notification of the granting of a permit is received and the District Facilities Management, Permit Office and school site administrator have been notified of said permit schedule.

1.4.3 The District will charge no additional fees; beyond those paid by the City, to groups permitted under this Agreement.

1.5 To the extent facilities that are not now under a working agreement are requested, the types and number of, and extraordinary cost(s) to be assessed for use of District facilities which are to be used for educational, recreational or athletic purposes and schedule of said facilities shall be established by a committee comprised of the District Superintendent or designee, City Manager or designee, and Site Principal or designee subject to the approval of the Board of Education and the City Council.

1.6 No use of the buildings, grounds, or equipment of the District for community educational, recreational or athletic purposes pursuant to this agreement shall interfere with the use of the buildings, grounds and equipment for its primary day to day educational mission, extracurricular programs primarily supported or sponsored by the District or special or emergency maintenance or custodial services, District sponsored activities, programs and events shall always have first priority. Therefore, if a need arises after the establishment of any schedule, the City shall relinquish its permit to use District facilities for such educational need. The District shall make every effort to provide two weeks written notice to the City should such cancellation become necessary.

1.7 The advance schedule may be altered at the request of the either of the parties with concurrence of the other party.

1.8 The Administrative authority for any City recreational or educational programming shall be vested in the City Manager and /or his/her assignee(s).

1.9 The District shall be consulted and advised concerning any educational, recreational or athletic activities planned for District facilities and that those activities are reasonably deemed appropriate by the District for the facilities or grounds requested.

1.10 The City educational, recreational or athletic program shall provide the materials, supplies and equipment necessary to conduct its educational, recreational or athletic programs. Use of that equipment shall not be denied to District if approved by the City for use for educational, athletic and recreational programs made available by the District.

1.11 The District's educational, recreational or athletic program shall provide the materials, supplies and equipment necessary to conduct its educational, recreational or athletic

programs. Use of that equipment shall not be denied to the City if approved by the District for use for educational, athletic and recreational programs made available by the City to the community.

1.12 The District shall maintain all facilities which are a part of this agreement in a safe and clean condition, normal wear and tear excepted, and furnish them to the City in such condition at the time it is permitted to use them. City shall return the building, facilities and grounds used in as good condition as they were received, normal wear and tear excepted, and shall repair and/or replace or pay for repair and/or replacement of buildings, facilities, equipment which are proven to be damaged by the City sponsored users within 10 working days of filing and receipt of a site damage report by the City Park and Recreation Supervisor.

1.13 The City shall provide certain funding for certain custodial, security, permit monitoring and /or maintenance/grounds services upon request of the District if any special educational, recreational or athletic event(s) should cause need for additional custodial, security, permit monitoring and /or maintenance/grounds services.

1.14 The City and District shall meet periodically, not less than annually, and exert efforts to effect the acquisition and development of additional facilities for joint use by the District and City for educational, recreational and athletic purposes.

1.15 The City agrees to make an annual total contribution to offset the District's costs for management, supervision, operation, and maintenance and renovation associated with specific community educational, recreational, sports programs operating in District facilities, as shown on the Facilities Use Agreement (Exhibit A). This contribution can be a combination of dollars, in-kind services and/or equipment provided by the City and which are acceptable to the District. Any acceptable in -kind services and/or equipment contribution provided by the City to the District shall be credited toward the total contribution made by the City, based on Section 1.1. This annual total contribution shall be at a minimum, equal to the annual Basic Cost of District operation of those facilities for use by the City. In addition there shall be an annual credits, until September 16, 2013, of $22,500, the amount equal to a 20 year amortization of the original $450,000 contribution made by the City in the development and construction of the Malibu High School pool on September 17, 1993. This was part of a joint use agreement implemented on that date. And a $4500 annual credit toward the maintenance and renovation of the softball and practice fields based on the $90,000 contribution made for these purposes and part of the September 17, 1993 joint use agreement shall be reflected as an annual credit until September 16, 2013.

1.16 This agreement shall become effective on July 1, 2009. This agreement shall be in full force and effect for four (4) years. This agreement shall expire on June 30, 2013 unless duly terminated in accordance with section 9.3 of this agreement

1.17 As-Is: City hereby represents, covenants and warrants that neither the District nor anyone acting on the District's behalf has made any representation, warranty or other guarantee regarding the fitness of the facilities, buildings, or portions thereof to be used under this Agreement for the particular use desired by City. Furthermore, City hereby represents,

covenants and warrants that, as a material inducement to the execution and delivery of this Agreement by the District, City acknowledges and agrees that it accepts such facilities, buildings, or portions thereof in their "AS-IS","WHERE-IS","WITH ALL FAULTS" physical condition and in an "AS-IS", WHERE-IS","WITH ALL FAULTS" state of repair, and District has no obligation to repair or improve such facilities, buildings or portions thereof in anticipation of or in connection with City's exercise of its rights under this Agreement, nor shall City of anyone claiming by, through or under City have any right or remedy against District as a result of any physical condition of such facilities, buildings, or portions thereof (including, without limitation, any defect in or to the facilities, buildings or portions thereof). CITY HEREBY GENERALLY, FULLY AND IRREVOCABLY RELEASES DISTRICT, ITS EMPLOYEES, AGENTS OR OTHER REPRESENTATIVE FROM ANY AND ALL CLAIMS THAT CITY MAY NOW HAVE OR HEREAFTER ACQUIRE AGAINST DISTRICT, ITS AGENTS, EMPLOYEES, INDEPENDENT CONTACTORS OR OTHER REPRESENTATIVES FOR AND FROM ANY COST, LOSS, LIABILITY, UNFORSEEN, KNOWN OR UNKNOWN, ARISING OUT OF OR RELATED TO THE FACILITIES, BUILDINGS, OR PORTIONS THEREOF TO BE USED UNDER THIS AGREEMENT (INCLUDING, WITHOUT LIMITATION, ANY PATENT, LATENT OR OTHER DEFECTS IN THE PROPERTY OR THE PHYSICAL OR ENVIRONMENTAL CONDITION OF THE PROPERTY.WITH RESPECT TO THE RELEASES AND WAIVERS SET FORTH IN THIS SECTION 1.17, CITY EXPRESSLY WAIVES THE BENEFITS OF SECTION 1542 OF THE CALIFORNIA CIVIL CODE, WHICH PROVIDES AS FOLLOWS:

"A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHISH IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR".

CITY HAS BEEN ADVISED BY ITS LEGAL COUNSEL AND UNDERSTANDS THE SIGNIFIGANCE OF THIS WAIVER OF SECTION 1542 RELATING TO UNKNOWN, UNSUSPECTED AND CONCEALED CLAIMS. BY ITS INITIALS BELOW, CITY ACKNOWLEDGES THAT IT FULLY UNDERSTANDS, APPRECIATES AND ACCEPTS ALL OF THE TERMS OF THIS SECTION 1.17.

THIS RELEASE SHALL NOT APPLY TO ANY CLAIMS THAT HAVE ACCRUED PRIOR TO THE EFFECTIVE DATE OF THIS AGREEMENT OR TO ANY CLAIMS OCCASIONED BY THE DISTRICT'S FAILURE TO MEET ITS OBLIGATIONS SET FORTH IN PARAGRAPH 1.12.

2.0 GENERAL OPERATING PRINCIPLES

2.1 Facilities to be jointly used under this Agreement shall be identified and defined in Exhibit A, attached and made part of this Agreement. Whenever a facility is proposed for joint use within a larger site or project, the joint-use and non-joint use facilities (if any) shall be clearly separated, identified and defined.

2.2 The term "facilities" may include school and recreation buildings (including restrooms, storage facilities and offices), multipurpose rooms, shade facilities (including both natural trees and artificial structures), drainage systems, auditoriums, gymnasiums, art rooms, kitchens, meeting rooms, computer rooms, athletic areas, playgrounds, parks, exercise paths, playfields, school grounds, parking and utility facilities incidental to the foregoing, and other recreational areas presently operated or that may hereafter be operated by either Party, and any ancillary facilities, at the sites identified in Exhibit A.

2.3 The Parties shall coordinate the acquisition, development and maintenance of joint use facilities to maximize and prioritize joint use for the benefits of the residents of City and District, with due regard for the fiscal limitations of each Party.

2.4 This Agreement shall be a Master Agreement that covers general requirements needed to effectively implement an overall cooperative program between City and District. In addition, the Parties may desire to expand such cooperative program to include one or more sites, facilities and/or projects under a separate agreement.

2.5 From time to time, the Parties to this Agreement ~~shall~~ may adopt and/or execute additional or supplemental agreements and/or policies governing the use of each joint use facility, and attach each such agreement or policy (each, an "Use, Operation, Maintenance, Repair and Renovation of Joint Use Facilities Policy", or as referred to in this Agreement, a "Policy") as part of Exhibit A, attached to this Agreement. Each such Use, Operation, Maintenance, Repair and Renovation of Joint Use Facilities Policy shall cover the matters set forth in Article 5 hereof, shall become a part of this Agreement and shall be consistent with the general requirements specified herein.

2.6 The administrators and delegated representatives of both City and District shall confer regularly respecting the acquisition, development, use and/or maintenance of joint-use facilities to maximize community use and cost efficiency.

2.7 Proposals for specific facilities to be covered by this Agreement shall be reviewed annually by appropriate District and City staff as outline in Section 2.8 below. The appropriate forums shall include a jointly convened meeting of appropriate District advisory committee, department, and school site management – site governance council and/or program representatives and a designated City agency or department.

2.8 A joint meeting of the District and City staffs shall be held as necessary (but no less than annually) during the term of this agreement to consider matters of mutual concern and to develop or amend a "Joint Use Schedule" identifying the type of uses and times available for a particular facility. Each such schedule shall become a part of this (as Exhibit A hereto) and shall be subject to the general requirements specified herein. The Joint Use Schedule shall identify the responsible party for maintenance and supervision, whether by incorporation of the applicable Policy or otherwise.

2.9 Per District Policy, the Board of Education shall review, update and establish a "Public Fee Schedule" that sets out the Basic, Direct and Fair Market costs, if any, of operating facilities covered under this Agreement and which will serve as the basis for calculating

facility rental charges for each Party and the general public. For the purpose of this agreement and any contribution calculated based upon the District Schedule of Fees, the Public Fee Schedule annual increases will not exceed the percent change in the local Consumer Price Index (CPI) through the term of this Agreement. Such direct costs include wear and tear attributable to additional use, custodial and clean-up costs, supervision and extraordinary costs of any kind, including all costs associated with the respective Party's use of the other Party's facility that are above those costs normal to the operation and maintenance of a specific building or facility in the absence of the specific use. Each such schedule shall become a part of this Agreement and shall be consistent with the general requirements specified herein. If a Public Fee Schedule is not established, any facility rent charged to a Party shall not exceed the direct cost as defined herein.

3.0 GOVERNANCE

3.1 The City and the District shall routinely advise and consult the other regarding significant changes in land use planning and facility development plans to assess impacts and opportunities for joint use. Each Party, however, shall maintain the primary planning and decision-making role on each facility or property that it owns.

3.2 Facilities on sites identified in Exhibit A hereto shall be designed to enhance the surrounding environment, with a strong awareness for efficiency of operation, maintenance and aesthetics.

4.0 PROCESS FOR PLANNING AND DEVELOPMENT OF NEW FACILTIES

4.1 City and District staff shall develop plans for the joint use and development of facilities, including appropriate Policies. Each joint use plan and Policy shall be submitted for public review pursuant to the process established in Section 1.14. Following this public review process, City and District staff designated by the City Manager and Superintendent of Schools shall finalize the joint use plan, the Policy and all other implementation documents.

4.2 Projects recommended for joint use or development which require funding shall be presented to the City Council and Board of Education for approval with sufficient time to be included in the budget development process for the ensuing fiscal year; provided that the non-funding aspects of the creation and implementation of a joint use facility and Policy shall not require further Board or Council action if the process in Section 3.1 has been followed.

4.3 Any joint use or development on District property constituting a project (as defined by applicable state law) shall be subject to compliance with the requirements, if any, of the California Environmental Quality Act ("CEQA"). The District shall act as lead agency, provided that the Parties shall equitably share the actual costs of CEQA consultants, documents and proceedings.

4.4 Any joint use or development on City property constituting a project (as defined by applicable state law) shall be subject to compliance with the requirements, if any, of the California Environmental Quality Act ("CEQA"). The City shall act as lead agency, provided that the Parties shall equitably share the actual costs of CEQA consultants, documents and proceedings.

4.5 Any joint use or development constituting a project (as defined by applicable state law), subject to federal environmental policy laws shall comply with the requirements of all-applicable local, State and Federal laws.

4.6 Any joint use or development constituting a project (as defined by applicable state law), subject to federal environmental laws shall comply with the requirements of Division of the State Architect.

5.0 JOINT USE: SCHEDULING AND OPERATION

5.1 A Facilities Use Schedule shall be prepared and publicly disseminated for each facility to be covered by this Agreement. The Parties shall, as resources become available implement a computerized uniform data-sharing system accessible by the appropriate staff of each Party to schedule activities and the use of the shared-use facilities. Specific attention shall be paid to identifying supervision, security and maintenance responsibilities for each and every facility use. Parties shall jointly set appropriate hours of operation for each such facility while maintaining a sense of flexibility and cooperation for each organization's changing or special program needs. It is necessary to prepare facilities to accommodate use by the City. Appropriate fees will be agreed upon prior to approval of use and shall reflect the "Basic Cost" of the accommodation and operation of the facility for the educational, recreational and athletic programming and permit use of the community and City.

5.2 Parties shall continuously review and examine their current practices and provision of services and shall work both independently and together to make all necessary changes in such practices in order to reduce costs, avoid duplication, achieve economy of scale, increase efficiency, and enhance provision of services.

5.3 Subject to specific agreement otherwise in a Facilities Use Schedule (Exhibit A), District shall have the right to the exclusive use of the shared-use facilities during all "school days" during "school hours" and "school use" as hereinafter defined. Use of the shared-use facilities by the City at times during the District's exclusive use period shall be permitted only by mutual agreement of the Parties or pursuant to the applicable Joint Use Schedule.

5.4 "School days" are defined collectively as (i) those days on which school is held in regular session as established in the school calendar from time to time and adopted by the Board of Education for each school year, and (ii) those other days on which District-sponsored programs are scheduled. The "school hours" and "school use" of such school days shall be collectively (i) those regular school hours as

established by the administration of each school in accordance with rules and regulations of the Board of Education, and (ii) those additional hours during which District-sponsored activities are scheduled to occur.

5.5 All joint use facilities and equipment shall be used for their intended purposes. The Facilities Use Schedule shall be subject to an annual review and modification by the Parties, in order to ensure that all normal facility and equipment uses are accommodated if reasonably possible and to avoid potential conflicts between facility uses and users. With respect to District-owned facilities, each Joint Use Schedule shall assign a priority of use for covered facilities and equipment during nonexclusive use hours in the following order:

5.5.1 Activities and programs of the District that are directly related to the District's school programs;

5.5.2 Events or activities that are designed to serve organizations directly sponsored by or associated with the District, such as Parent Teacher Associations, Education Foundation, etc;

5.5.3 Events or activities connected with the City's or District's general programs in the order of priority reasonably established between the Parties;

5.5.4 All other organizations and individuals.

5.6 Each Party shall be responsible for the proper conduct, supervision and security of any activity or use conducted or sponsored by or through such Party at any joint use facility.

6.0 OPERATION, MAINTENANCE, REPAIR, AND RENOVATION OF JOINT USE FACILITIES

6.1 The Parties shall work together to insure that all joint use facilities are adequately maintained to allow proper and safe use, appearance and longevity. Each Facilities Use Schedule shall be covered by District Policy, Rules and Regulations and the terms thereof shall be enforced in a fair and non-discriminatory manner.

6.2 The cost of operation, maintenance and repair of joint use facilities shall be identified in the Policy or Public Fee Schedule, as appropriate. Factors for allocation of such costs between District and City shall include proportionate use, type and intensity of use, value of joint use benefit received, and other pertinent factors. Payment from the City to the District for operations, maintenance, repairs and renovation are part and parcel to the fees paid in accordance with the fee schedule attached as Exhibits A and C respectively.

6.3 District Policy (Exhibit B) shall include rules and regulations governing operational issues (such as determination of costs, hours, scheduling, staffing, maintenance and repair), utilities, security supervision, materials, equipment, and supplies. Each Policy

shall be designed and implemented with due regard for benefits to the community, operational efficiencies, and cost effectiveness.

6.4 General Security issues regarding facilities shall be addressed in regular meetings with District staff. City staff will be provided with phones during City use or when City permits facilities for use, so that its staff can communicate immediately with City and/or District supervisory staff or, if necessary, the Los Angeles County Sheriff's Department. City staff will immediately report and/or document an event, incident or activity on District property that violates the District Community Facilities Use Rules (see Exhibit B), this agreement or is prohibited by local Board rules or State Education Code. City and District shall share the costs of manufacture and installation of a new signage displaying the District Community Facilities Use Rules at the entrance to each school site covered under this agreement.

7.0 JOINT DEVELOPMENT RESPONSIBILITIES

7.1 This Article 7 shall apply to facilities, if any, that are developed jointly by City and District. Notwithstanding Article 3, the joint development of a new facility involving significant construction shall include, without limitation, (i) contracts with design professionals for the design of new or the expansion of an existing joint use facilities, (ii) requests for proposal or bidding documents, procedures and specifications made pursuant to applicable requirements of the Government, Education and/or Public Contracts Codes for new or existing joint use facilities, (iii) contracts awarded pursuant to applicable law for the construction, improvement, and/or renovation of a new or existing joint use facility, (iv) funding (or applications for such funding) with respect to a new or the expansion of an existing facility, or such actions as are necessary to implement separate funding by the parties of a portion of a project which may include several facilities (one or more of which is a joint use facility) under this Agreement, and (vi) such other joint facility development activities as are deemed necessary by the Parties to implement this Agreement.

7.2 The development of each facility to be covered by this Article 7 shall be governed by the terms of this Agreement and a "Facility Contribution Agreement" specific to such facility (or if several facilities are to be developed as one project, then pursuant to the terms of a "Project Contribution Agreement") between City and District. Each such Facility or Project Contribution Agreement shall be attached as an exhibit hereto.

7.3 This Article 7 shall not apply to and a Facility Contribution Agreement or a Project Contribution Agreement shall not be necessary for a facility, unless substantial new construction or capital improvement is to be made to a joint use facility or one or more new joint use facilities are planned.

7.4 Responsibility for preparing design, specifications, and bid forms, for supervision of work, compliance with law, and operational considerations shall be defined and approved by the Parties during project development. The specific terms of a Facility Contribution Agreement or Project Contribution Agreement shall be subject to further

review and action by the City Council and District Board, and when approved shall govern over any conflicting terms in this Agreement.

8.0 ACQUISITION, EXCHANGE OF PROPERTY AND LEASE AGREEMENTS PERMITTED

8.1 City and District agree that District improvements may be built and owned by the District on City owned property under a lease with City, and City may build and own improvements on District owned property under a lease with the District. In addition, City and District may exchange reasonably equivalent real property with each other and jointly own real property as necessary to further the goals of this Agreement. To facilitate the development of joint use facilities and projects, the acquisition of property by City and/or District shall also be permitted hereunder.

9.0 MISCELLANEOUS PROVISIONS

9.1 Indemnification and Hold Harmless

9.1.1 District Hold Harmless: District shall indemnify, defend and hold harmless, to the maximum extent permitted by law, City and its officers, council members, agents, employees and representatives ("related parties"), from and against any and all liability, suits, actions, proceedings, judgments, claims, losses, costs (including attorneys fees), liens, damages, injuries (whether in contract or in tort, including personal injury, accidental death or property damage, and regardless of whether the allegations are false, fraudulent or groundless), relating to District's use of a facility, with the exception of those injuries, losses damages occasioned by the sole negligence of City or its related parties.

9.1.2 City Hold Harmless: The City shall indemnify, defend and hold harmless, to the maximum extent permitted by law, District and its officers, Board members, agents, employees and representatives ("related parties"), from and against any and all liability, suits, actions, proceedings, judgments, claims, losses, costs (including attorneys fees), liens, damages, injuries (whether in contract or in tort, including personal injury, accidental death or property damage, and regardless of whether the allegations are false, fraudulent or groundless), relating to City's or its representatives' or invitees' use of a facility (including without limitation, any personal injury or property damage resulting or occurring during the City's use of a facility and whether or not such an injury or damage resulted from any existing conditions at the facility) or breach of this Agreement, with the exception of those injuries, losses or damages occasioned by the ~~sole~~ negligence or willful misconduct of District or its related parties.

Notwithstanding the forgoing, it is the intent of City and District that City shall be liable to indemnify District under the Section 9.1.2. irrespective of the cause of the losses (i.e. regardless of whether or not caused by act, omission, willful misconduct or negligence, whether active or passive, of City, or otherwise),

except to the extent that the losses are caused by the ~~gross~~ negligence or willful misconduct of District.

9.2 Insurance. District and City are currently self-insured for property and liability insurance. Notwithstanding the foregoing, the Parties may elect to insure one or more facilities separately, or to require non-party users to obtain appropriate insurance for the use of a facility. Such special insurance requirements shall be specified where appropriate or applicable in a Policy or Public Fee Schedule. Insurance for facility or project development under Article 6 shall be specified in the Facility or Project Contribution Agreement.

9.3 Termination. The term of this agreement is (4) four years. Except as otherwise provided herein, or as required by law, either Party may terminate this Agreement in whole or in part (with respect to a specific joint use facility) upon sixty (60) days written notification. Termination of all or a portion of this Agreement shall effectively terminate each applicable implementing agreement attached in each Exhibit, subject to any specific requirements of cost allocations, reimbursements and/or supplemental termination procedures set forth therein. If this agreement is terminated, without an alternative or subsequent agreement made which is acceptable to the City, a prorated amount equal to 1/20 of the $450,000 construction contribution made by the City as part of an original joint use agreement in 1993, will be refunded to the City for each remaining year from the date of the termination, up to September 1, 2013.

9.4 Attorneys Fees and Costs. Each party shall bear its own attorneys fees and cost in connection with this agreement, except as provided herein or otherwise provided by law. If either party commences an action against the other party to enforce any of the terms of this Agreement or otherwise with respect to the facilities, the prevailing party, in addition to any other relief to which such party may be entitled, shall be entitled to recover from the other party its reasonable attorneys' fees, costs and expenses incurred in connection with the prosecution or defense of such action. The term "attorneys' fees" and "attorneys' fees, costs and expenses" shall mean the fees, costs and expenses of counsel to the parties hereto, which may include printing, photostatting, duplicating and other expenses, air freight charges, and fees billed for law clerks, paralegels and other persons not admitted to the bar but performing services under the supervision of an attorney, and the costs and fees incurred in connection with the enforcement or collection of any judgment obtained in any such proceeding, and shall include, specifically, all fees, costs and expenses of expert witnesses. For purposes of this Agreement, the term "prevailing party" shall include a "prevailing party" as defined in California Code of Civil Procedure Section 998.

9.5 Entire Agreement. This Agreement represents the entire and integrated Agreement between District and City. This Agreement supersedes all prior and contemporaneous communications, negotiations, understandings, promises and agreements, either oral or written including all prior joint use agreements between the City and District pertaining to the District swimming pool, tennis courts and ball fields located at Malibu High School. Any modifications to the terms and conditions of this Agreement shall be

effective only when agreed to in writing by both the District and City. Notwithstanding the foregoing, no existing specific facility sharing arrangements shall be superceded by this Agreement until an appropriate Policy, Joint Use Schedule and Public Fee Schedule are incorporated in this Agreement.

9.6 Relationship of the Parties. The Parties hereby agree that their relationship shall be that of joint users of the property identified for such use, and in no event shall this Agreement be construed as creating a legal partnership, employment or agency/principal relationship.

9.7 Notices. Notices hereunder shall be sufficient if delivered to:

If to City:
City of Malibu City Manager
23815 Stuart Ranch Road
Malibu, CA 90265

If to District
Santa Monica-Malibu Unified School District
Superintendent of Schools
1651 Sixteenth Street
Santa Monica, CA 90404-3891

9.8 Section Heading. All section headings in this Agreement are for convenience of reference only and are not construed as modifying or governing the language in the section referred to or to define or limit the scope of any provision of this Agreement.

9.9 Consent. Whenever in this Agreement any consent or approval is required, the same shall not be unreasonably withheld or delayed. Where circumstances or applicable law requires, consent may be subject to School Board and City Council approval.

9.10 Governing Law. This Agreement is made under the Constitution and laws of the State of California and is to be so construed.

9.11 Amendment. This Agreement may be amended at any time, or from time to time, by one or more supplemental written agreements executed by all of the Parties to this Agreement either as required in order to carry out any of the provisions of this Agreement or for any other purpose, including without limitation addition of new parties (including any legal entities or taxing entities heretofore or hereafter created) in pursuance of the purposes of this Agreement.

9.12 Disputes. In the event of disputes related to this agreement, resolution will be made by mutual agreement of the Superintendent and the City Manager.

9.13 Severability. Should any part, term or provision of this Agreement be decided by any court of competent jurisdiction to be illegal or in conflict with any law of the State, or otherwise be rendered unenforceable or ineffectual, the validity of the remaining portions or provisions shall not be affected thereby.

9.14 Successors and Assignment of Interests. This Agreement shall be binding upon and shall inure to the benefit of the successors of the respective Parties. Neither Party may assign any right or obligation hereunder without the written consent of the other Party, which may be denied in such Party's non-arbitrary but otherwise sole discretion.

Nothing under this Agreement shall be construed to give any rights or benefits to any party other than City and District. All duties and responsibilities under this Agreement shall be the sole and exclusive benefit and burden of City and District, and not for the benefit of any other party unless agreed to by both Parties in a Policy or other applicable written agreement entered into under the authority of this Agreement.

9.15 Execution in Counterparts. This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

9.16 Employees and Public Benefit. This Agreement is intended to promote a public benefit. Persons employed at a facility shall be public employees of either City or District as the case may be. This Agreement shall not be construed as a private contract for a public service. Notwithstanding the foregoing, this Agreement shall not limit either Party's legal right to contract for services, goods or construction of facilities pursuant to applicable law and regulation.

10.0 JOINT POWER AGREEMENT AND AUTHORITY

10.1 This Agreement, in whole or in part (with respect to one or more specific joint use facilities), may be converted by the Parties into a Joint Powers Agreement for the creation of a Joint Powers Authority pursuant to Government Code Sections 6500 et seq. Any such creation of a Joint Powers Authority, however, shall be made by amendment to this Agreement approved by each Parties' governing body and specifying implementation procedures and operations as required by Government Code Section 6500 et seq.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed and attested by their proper officers there unto duly authorized, on the day and year first set forth above.

CITY OF MALIBU

Approved as to form by legal counsel:

By: _____

Date: 2·10·2010

CITY OF MALIBU

Executed this day: _____

By: _____

City Manager

SANTA MONICA-MALIBU UNIFIED SCHOOL DISTRICT

Executed this day: _____

By: _____

Superintendent

NUMBER	ARTICLE	TITLE	
1330	Community Relations	Use of School Facilities	
SUBTOPIC	**POLICY**	**REGULATION**	**EXHIBIT**
Public Activities Involving Staff, Students or School Facilities			X

EXHIBIT 4
Regulations for Use of Athletic Facilities

A. Specialized District Physical Education and Athletic facilities include, but are not limited to, all pools, playfields, tracks, playgrounds, gymnasiums, fitness centers, multi-purpose rooms, wrestling rooms, dance rooms, weight training rooms, outdoor athletic courts, tennis courts, shower rooms, locker rooms, associated restrooms/dressing rooms and any other facilities designated as such.

B. Use of these facilities outside of the school day requires either an internal permit for school use and school approved use or a facility permit issued to external users by the Facility Permit Office or one of the authorized joint use partners.

C. An approved/authorized internal permit for School / District Sponsored or an external facility permit must be completed and on file prior to scheduling any event on or in any of the Athletic facilities.

D. Athletic Facilities are designated for organized athletic activity only, unless the permit specifies otherwise.

E. Permit holders must refrain from excessive noise or using whistles prior to 8am Monday - Saturday and 9am on Sundays, and avoid unnecessary noise during other times.
Permission must be received in writing from the permit supervisor to utilize amplified sound, drums or other instruments.

F. Use of facilities is limited to those identified on the permit during the dates and times indicated and for the stated purpose. Permits are not transferable.

G. Permitted time should include warm-up time if use of the field is desired for warming up players. Cleats of any type are not allowed on open green space.

H. For your safety and the enjoyment of all users, the following are prohibited on all playing fields:

- Metal cleats *(EXCEPTION: baseball)*
- Permanent marking materials
- Animals
- Bicycles, skateboards or unauthorized vehicles

I. In addition to the above, the following are prohibited on artificial turf fields:

- Food or beverage (except water)
- Sunflower seeds
- Chewing gum
- Tents or shade structures
- Staked equipment (flags, goals, etc.)

J. Any behavior or activity that is determined by the district staff to be unsafe, a violation of park rules or unsportsmanship like conduct is prohibited. Examples of unsportsmanship like conduct include: aggressive, intimidating, abusive or threatening actions, cursing or fighting. The Police may be called and violators may be required to vacate the premises or may be subject to arrest.

K. Permits may be revoked and/or denied in the future if there is any violation of these rules or any abuse of the privilege of using Athletic facilities or equipment.

L. Permit holders are to share these rules and regulations with visiting teams.

INCLEMENT WEATHER FIELD CLOSURE PROCEDURE

Weekday Process

1. If there has been inclement weather in the past 48 hours, Facility Management staff will inspect the athletic fields each morning by 11am and make a decision whether the field will be open for play.
2. Facility Management staff will contact the Facility Permit staff with decision. Staff will record the decision on the "Field Use Info Line"
(310-255-0445) by noon and include the date.
4. Occasionally, further updates may be recorded on the line in the afternoon if weather changes (either begins to rain or has become sunny, and warm causing field conditions to change).
5. Facility Management staff will put up "field closed" signs and take them down as field conditions change.

Weekend Process

1. If there is inclement weather within the past 48 hours, the Sports Facility Coordinator will inspect the field in the morning between 7am-9am and make a decision whether the fields are open for play (note: some fields may be open while others are closed based on weather and drainage conditions).
2. Staff will record the decision on the info line between 9 and 10 am
Steps 3-5 remain the same.

Artificial Turf Fields: Permittee has the option of using the field during inclement weather, providing there is no thunder or lightning. Rainouts will result in rescheduling of field use if possible or refund.

SWIMMING POOLS

The following conditions apply to use of district swimming pools located at Santa Monica High School, Malibu High School and Lincoln Middle School:

1. Outside groups requesting use of district swimming pools must secure a permit from the District Facility Permit Office or one the Joint Use Partners.
2. An appropriate number of lifeguards will be assigned to be on duty during the time period of the permit. Lifeguards will be assigned at a three-hour minimum. Permit Holders assume the costs for Lifeguards.

ADOPTED	**REVISED**	**CSBA DATE**
June 12, 2003	June 4 2009	

ATTACHMENT 5

Photo taken along Morningview Drive, Malibu Park on October 2, 2009

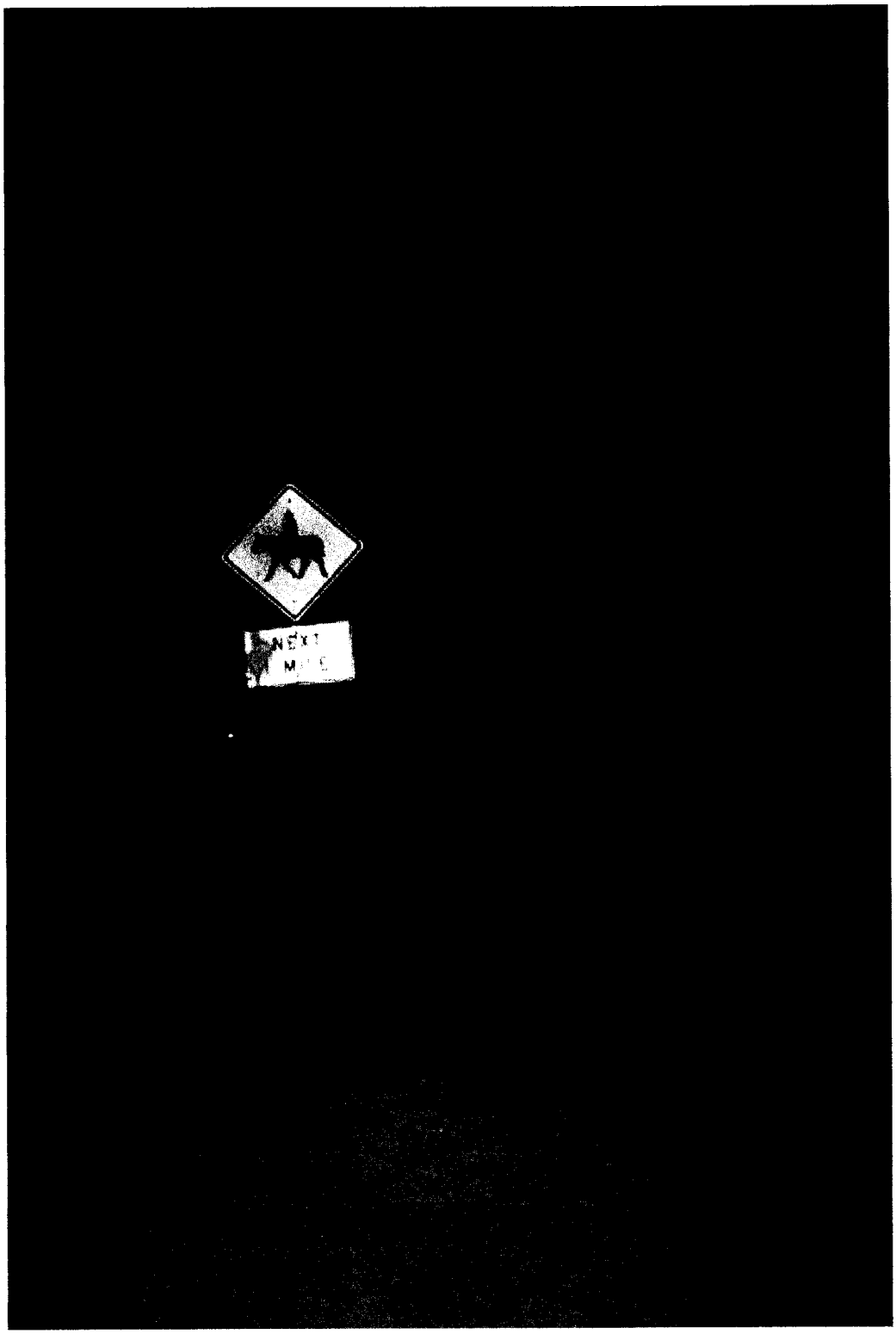


Photo taken on Busch Drive, in Malibu Park near the Malibu High School

Malibu Park at night - no street lights

ATTACHMENT 6

Photo of lights on MHS football field from October 2008

Photo of MHS football field lights from November 1, 2008

ATTACHMENT 7

ATTACHMENT 8

NATIONAL GEOGRAPHIC

Published: November 2008

Our Vanishing Night

Most city skies have become virtually empty of stars.

By Verlyn Klinkenborg

If humans were truly at home under the light of the moon and stars, we would go in darkness happily, the midnight world as visible to us as it is to the vast number of nocturnal species on this planet. Instead, we are diurnal creatures, with eyes adapted to living in the sun's light. This is a basic evolutionary fact, even though most of us don't think of ourselves as diurnal beings any more than we think of ourselves as primates or mammals or Earthlings. Yet it's the only way to explain what we've done to the night: We've engineered it to receive us by filling it with light.

This kind of engineering is no different than damming a river. Its benefits come with consequences—called light pollution—whose effects scientists are only now beginning to study. Light pollution is largely the result of bad lighting design, which allows artificial light to shine outward and upward into the sky, where it's not wanted, instead of focusing it downward, where it is. Ill-designed lighting washes out the darkness of night and radically alters the light levels—and light rhythms—to which many forms of life, including ourselves, have adapted. Wherever human light spills into the natural world, some aspect of life—migration, reproduction, feeding—is affected.

For most of human history, the phrase "light pollution" would have made no sense. Imagine walking toward London on a moonlit night around 1800, when it was Earth's most populous city. Nearly a million people lived there, making do, as they always had, with candles and rushlights and torches and lanterns. Only a few houses were lit by gas, and there would be no public gaslights in the streets or squares for another seven years. From a few miles away, you would have been as likely to *smell* London as to see its dim collective glow.

Now most of humanity lives under intersecting domes of reflected, refracted light, of scattering rays from overlit cities and suburbs, from light-flooded highways and factories. Nearly all of nighttime Europe is a nebula of light, as is most of the United States and all of Japan. In the south Atlantic the glow from a single fishing fleet—squid fishermen luring their prey with metal halide lamps—can be seen from space, burning brighter, in fact, than Buenos Aires or Rio de Janeiro.

In most cities the sky looks as though it has been emptied of stars, leaving behind a vacant haze that mirrors our fear of the dark and resembles the urban glow of dystopian science fiction. We've grown so used to this pervasive orange haze that the original glory of an unlit night—dark enough for the planet Venus to throw shadows on Earth—is wholly beyond our experience, beyond memory almost. And yet above the city's pale ceiling lies the rest of the universe, utterly undiminished by the light we waste—a bright shoal of stars and planets and galaxies, shining in seemingly infinite darkness.

We've lit up the night as if it were an unoccupied country, when nothing could be further from the truth. Among mammals alone, the number of nocturnal

species is astonishing. Light is a powerful biological force, and on many species it acts as a magnet, a process being studied by researchers such as Travis Longcore and Catherine Rich, co-founders of the Los Angeles-based Urban Wildlands Group. The effect is so powerful that scientists speak of songbirds and seabirds being "captured" by searchlights on land or by the light from gas flares on marine oil platforms, circling and circling in the thousands until they drop. Migrating at night, birds are apt to collide with brightly lit tall buildings; immature birds on their first journey suffer disproportionately.

Insects, of course, cluster around streetlights, and feeding at those insect clusters is now ingrained in the lives of many bat species. In some Swiss valleys the European lesser horseshoe bat began to vanish after streetlights were installed, perhaps because those valleys were suddenly filled with light-feeding pipistrelle bats. Other nocturnal mammals—including desert rodents, fruit bats, opossums, and badgers—forage more cautiously under the permanent full moon of light pollution because they've become easier targets for predators.

Some birds—blackbirds and nightingales, among others—sing at unnatural hours in the presence of artificial light. Scientists have determined that long artificial days—and artificially short nights—induce early breeding in a wide range of birds. And because a longer day allows for longer feeding, it can also affect migration schedules. One population of Bewick's swans wintering in England put on fat more rapidly than usual, priming them to begin their Siberian migration early. The problem, of course, is that migration, like most other aspects of bird behavior, is a precisely timed biological behavior. Leaving early may mean arriving too soon for nesting conditions to be right.

Nesting sea turtles, which show a natural predisposition for dark beaches, find fewer and fewer of them to nest on. Their hatchlings, which gravitate toward the brighter, more reflective sea horizon, find themselves confused by artificial lighting behind the beach. In Florida alone, hatchling losses number in the hundreds of thousands every year. Frogs and toads living near brightly lit highways suffer nocturnal light levels that are as much as a million times brighter than normal, throwing nearly every aspect of their behavior out of joint, including their nighttime breeding choruses.

Of all the pollutions we face, light pollution is perhaps the most easily remedied. Simple changes in lighting design and installation yield immediate changes in the amount of light spilled into the atmosphere and, often, immediate energy savings.

It was once thought that light pollution only affected astronomers, who need to see the night sky in all its glorious clarity. And, in fact, some of the earliest civic efforts to control light pollution—in Flagstaff, Arizona, half a century ago—were made to protect the view from Lowell Observatory, which sits high above that city. Flagstaff has tightened its regulations since then, and in 2001 it was declared the first International Dark Sky City. By now the effort to control light pollution has spread around the globe. More and more cities and even entire countries, such as the Czech Republic, have committed themselves to reducing unwanted glare.

Unlike astronomers, most of us may not need an undiminished view of the night sky for our work, but like most other creatures we do need darkness. Darkness is as essential to our biological welfare, to our internal clockwork, as light itself. The regular oscillation of waking and sleep in our lives—one of our circadian rhythms—is nothing less than a biological expression of the regular oscillation of light on Earth. So fundamental are these rhythms to our being that altering them is like altering gravity.

For the past century or so, we've been performing an open-ended experiment on ourselves, extending the day, shortening the night, and short-circuiting the human body's sensitive response to light. The consequences of our bright new world are more readily perceptible in less adaptable creatures living in the peripheral glow of our prosperity. But for humans, too, light pollution may take a biological toll. At least one new study has suggested a direct correlation between higher rates of breast cancer in women and the nighttime brightness of their neighborhoods.

In the end, humans are no less trapped by light pollution than the frogs in a pond near a brightly lit highway. Living in a glare of our own making, we have cut ourselves off from our evolutionary and cultural patrimony—the light of the stars and the rhythms of day and night. In a very real sense, light pollution causes us to lose sight of our true place in the universe, to forget the scale of our being, which is best measured against the dimensions of a deep night with the Milky Way—the edge of our galaxy—arching overhead.

The Dark Side of Light

by Joe Bower

Las Vegas it's not. But the small city I live in, Kalamazoo, Michigan, still puts on quite a light show. As night falls, thousands of lamps flicker, blink, pulsate, and shine. Incandescent, fluorescent, mercury-vapor, metal halide, and halogen. White, red, blue, yellow, orange. We've got them all here in Kalamazoo. You should see them from the hill near my house. It's a sight, especially during the holidays. But if you're ever admiring the spectacle, I hope you appreciate the costs involved in staging it. n Leaving the lights on is more expensive than you'd think. It not only costs a chunk of change, but it also takes a surprising toll on the environment. The proliferation of artificial lighting threatens wildlife, ruins habitat, fouls the air, squanders resources, and blocks our view of the heavens. No wonder the pervasive problem has come to be called light pollution.

Astronomers were the first to notice this problem. About 30 years ago they began to be frustrated as sky glow, the eerie radiance that emanates from settled areas and has spread with urban sprawl, began impairing their ability to see the stars.

Today as few as one in 10 Americans live in areas where they can see the 2,500 or so stars that should be visible under normal nighttime conditions. In most big cities, you're lucky to glimpse a few dozen–on a good night. But light pollution isn't just an
urban problem. In Springfield, Vermont, a controversy has erupted over the economically depressed town's decision to permit the construction of a prison; the lights from the site, it is feared, would mar the view from Breezy Hill, one of New England's best places for stargazing. Each year since 1926, thousands have flocked to Breezy Hill for a celebration of the stars called Stellafane. David Levy, an astronomer, has led the protest against the proposed prison. "Stellafane is a magical place, a sanctuary to the stars," he wrote in Sky & Telescope magazine.

Although light pollution's impact on stargazing is as clear as day, its effects on other environmental elements are just coming into focus. The evidence shows that artificial lighting has dire consequences for animal behavior, particularly on the ability to navigate at night.

Sidebar: Lights Out, Live Longer

As far as your health goes, turning out the lights may not rank with, say, exercising three times a week or eating five servings of fruits and vegetables a day. At least not yet.

But research increasingly indicates that our bodies do better when they're kept in the dark during sleeping hours. Exposure to light at the wrong time of day has been linked to many maladies. Last year, for example, researchers at the University of Pennsylvania and at the Children's Hospital of Philadelphia released a joint study that found that children younger than 2 who slept with a night-light on were more likely to develop nearsightedness during childhood

and teenage years. "There's no doubt, light is a powerful regulator of human physiology," says George C. Brainard, a professor of neurology and the director of the Light Research Program at Philadelphia's Jefferson Medical College.

Exposure to bright light at night can disrupt the internal clocks that make our various circadian cycles tick. Such cycles affect behavioral rhythms, daily changes in blood and urine chemistry, and the production of melatonin, a hormone involved in wake/sleep cycles and body-temperature fluctuations that is produced at night by the pineal gland. Connected by nerves to the eye, the pineal gland is very light-sensitive, and sudden or continuous exposure to a bright light can suppress the production of melatonin.

In the short term, the disruption of biological rhythms can produce grogginess, depression, and impaired thinking. In the long term, though, things aren't so clear. Some scientists, such as Robert Hahn of the Centers for Disease Control and Prevention in Atlanta and Richard Stevens of the Energy Department's Pacific Northwest National Laboratory, theorize that chronic disruptions in melatonin production–such as those caused by sleeping in a room that's bathed in a streetlight's glow–might contribute to the development of "hormone-related" cancers, including breast cancer. Recent studies of blind people in the U.S., Sweden, and Finland have all shown that among those with the most severe loss of vision there is also a lower incidence of breast cancer. "At this point, the epidemiological studies strongly suggest that light exposure may be a risk factor for breast cancer," says Brainard. "What is needed now is careful, controlled studies to test this idea."

Until a lot more light is shed on the subject, the medical establishment isn't likely to issue a prescription on how to treat nighttime illumination. Still, advises Brainard, "it's probably better for your health to sleep in a dark room." –J. B.

The hundreds of species of migrating birds that fly after the sun sets, including most songbirds and many shorebirds, are prime examples. Normally they rely on constellations to guide them during their twice-yearly migrations. But scientists speculate that when they fly near urban areas, the bright lights short-circuit their steering sense. Numerous reports have documented birds flying off course toward lights on buildings, towers, lighthouses, even boats. "Both birds and insects demonstrate positive phototaxis," says Sidney Gauthreaux, a Clemson University biologist. "To put it simply, birds are attracted to light much like moths are to a flame. But the reasons are unclear. They may use it as a reference and home in on it." When birds suddenly reach the light's source, they often seem to become confused or blinded by the glare, which can be disastrous.

Birds may slam into windows, walls, floodlights, or even the ground. On the night of October 7, 1954, for instance, 50,000 birds were killed when they followed the beam of a guide light at Warner Robins Air Force Base in Georgia–straight into the
ground. The problem is particularly acute when the weather is bad. On a rainy, foggy Labor Day weekend in 1981, more than 10,000 birds collided with the floodlit smokestacks at Ontario's Hydro Lennox Generating Station, near Kingston. And on January 22, 1998, between 5,000 and 10,000 Lapland longspurs crashed into radio transmission towers near Syracuse, Kansas.

Birds that are distracted by tower lights also may end up crashing into one another. "Around communication towers with constant lights, birds curve, circle, pause, and hover around the lights," Gauthreaux explains. They are apparently trying to orient their flight to the light, which they mistake for the moon or a star. "Over time there's a buildup of migrants [all trying to adjust their course], raising the possibility of hitting guylines or other birds."

Nobody is certain of the total number killed across North America. But Michael Mesure of the Fatal Light Awareness Program (FLAP), a Toronto organization working to publicize the problem, estimates that at least 100 million birds are killed annually by manmade structures. "More birds die each year through collisions than died in the Exxon Valdez spill," he says. A tall building in the path of a migration can claim hundreds of lives. One example: From 1982 to 1996, 1,500 migrating birds have smacked into Chicago's McCormick Place Exposition Center.

Although few nocturnal migrants seem immune to light's dark side–for example, dead or injured members of 141 different bird species have been found at McCormick Place–songbirds may be most at risk, Mesure says, because they fly at low altitudes dominated by artificial light.

Passerines are not the only order of birds waylaid by lights. The Newell's shearwater, an endangered Hawaiian seabird, is particularly vulnerable. After their parents abandon their cliffside nests in October and November, fledglings make their first flights by relying on their innate attraction to light to guide them. Normally, because of the light's reflection on water, they fly out to sea, toward the horizon. But when the moon is neither full nor visible, many of the shearwaters instead glide toward lights in seaside resorts and towns. Disoriented, hundreds crash into structures or drop from the sky. In 1998 volunteers gathered 819 shearwaters on the island of Kauai. Most were exhausted or injured, though fortunately, only 77 died.

Other animals are threatened by light pollution, too. Hatchlings of at least five sea-turtle species found in Florida rely on an instinctive attraction to light to guide them to water. But lights on or near the beach can confuse the turtles and cause them to head in the wrong direction. Scientists have seen hatchlings cross parking lots, streets, and yards–transfixed by shining streetlights or porch lights. "Their reliance on light is so strong that they'll continue heading to a light source, even if it's an abandoned fire that burns them alive," says Blair Witherington, a Florida Marine Research Institute scientist who studies sea turtles. Disoriented hatchlings usually die from exhaustion, dehydration, or predation. Many others are squashed by cars.

Insects cannot seem to resist this fatal attraction either. Most people know that moths find lights irresistible. But what they may not realize is that the energy moths expend in this way can cost females the chance to attract a mate. What's more, it can interfere with locating prime spots to lay their eggs, thus giving larvae inadequate conditions to develop, according to Michael Collins, a lepidopterist at the Carnegie Museum. Some entomologists speculate that the proliferation of outdoor lights has contributed to the decline of numerous saturniid moth species in the northeastern United States.

Visual orientation is just one sense disrupted by artificial light, though it probably isn't the only one, says Mere-dith West, an Indiana University

professor specializing in avian development. Studies of animals raised in controlled settings, like laboratories and poultry farms, indicate that lighting can affect certain "photo-periodic" behavior, including foraging and reproduction. "Animals are very sensitive to light," West says. "Lighting is a powerful stimulus on behavior. If there's enough of it, it can make them act in ways they wouldn't normally." If enough light is present–say, in a well-lit neighborhood–it's possible that animals living there would be stimulated to act as they do during longer days. Overexposure to light may explain reports from English researchers about robins singing at night if there are streetlights in their territories, or why some birds build nests during the fall,
instead of spring: Their internal clocks have gone haywire.

Adult female sea turtles will not emerge from the water to nest and lay eggs on beaches that are bathed in artificial light. Many behaviors influenced by changing light–from night to day and the seasonal increases of longer days–involve hormones.
"Anything that alters the hormonal system will bring enormous changes," West says. "Hormones regulate growth and immune functions. But they're not produced all the time. If they don't shut down, you overload the body. It can't get rid of them.
Hormones are toxic in the wrong amounts." Indeed, a 1998 study at the Mary Imogene Bassett Research Institute in Cooperstown, New York, found that cancerous liver cells in lab rats grew rapidly when they were constantly exposed to light.

Side Bar: Light Right

You can help turn down lighting's environmental impact

Lights Out Turn off lights whenever you leave a room. Close window blinds at night to prevent lights from shining outward. (During the day, open them for old-fashioned sunshine.) Turning off a few lights makes a big difference in conservation. For example, running five 100-watt lightbulbs for 10 hours a day uses 5 kilowatt-hours of electricity and costs, on average, about 40 cents. If you use these lights at this rate every day, that adds up to more than 1,800 kilowatt-hours and about $150 a year. To generate 1,800 kilowatt-hours, a typical coal-fired power plant has to burn one ton of coal. Environmental Defense (formerly EDF) has an online program that calculates the pollution generated by your use of electricity (www.edf.org/programs/energy/green_power/x_calculator.html).

Buy Design Use lights that have shields on their tops or sides so that they illuminate only where they're supposed to. Lights without shields, such as floodlights or globes, shine upward and sideways. Most exterior lights can be outfitted with shields. Fluorescent lighting is about four times as efficient as incandescent lighting. Though fluorescents are most popular indoors, their outdoor use is increasing.

Be Clean Better housecleaning lessens the inclination to overlight. Dirt that builds up on room walls can reduce their reflectability, and dust that collects on lamps and fixtures can dull the light shining through. Together dirt and dust can reduce total illumination as much as 50 percent.

The Outside Scoop If you use yard lights, consider ones that will minimize

your contribution to light pollution. The worst are mercury-vapor lamps, because they use excessive energy and they shine in all directions. The best are high-pressure sodium lamps and low-pressure sodium lights, which emit light with an orange hue. Metal halide lights, which emit a white light, aren't as efficient as sodium lamps but offer better visibility. Incandescent bulbs are cheap but not particularly energy-efficient. If you want to use them, try low-wattage bulbs and outfit them with motion sensors, so they shine only when something comes near. Finally, equip your outdoor lights with photo cells, so they shut off during daylight hours, or try solar-powered lights, which rely on nature's renewable energy.

Keep Current Lighting fixtures are constantly being improved. Call the EPA's Energy Star hotline (888-STAR-YES) for information on light fixtures that exceed federal energy-efficiency guidelines without sacrificing performance. In addition, be sure to visit the International Dark-Sky Association's web site www.darksky.org for other helpful light-reduction ideas.

–J. B.

Even if wildlife were able to ignore direct sources of light, lighting's impact on the environment would still be unavoidable. Burning coal and oil, according to the Environmental Protection Agency, generates most of the electricity for lights. The process is a dirty one that each year spews out billions of tons of carbon dioxide (CO2), a greenhouse gas; sulfur dioxide (SO2), an ingredient of acid rain; and nitrogen oxides (NOx), which cause smog. Sadly, much of this atmospheric pollution is produced for nothing. "One-third of our lighting is wasted because it shines upward or sideways, illuminating nothing but the bottoms of
birds and airplanes," says David L. Crawford of the International Dark-Sky Association (IDA), a 10-year-old anti-light-pollution group based in Tucson. Every year this waste squanders the equivalent of 8.2 million tons of coal or 30 million barrels of oil.

How did we reach this point? A big reason is a push toward overlighting. "People think brighter is better," says Crawford. To lure customers, retailers plug in bigger, brighter signs and entrance lights. In commercial buildings, more electricity is now used for lighting than anything else, even computers or air-conditioning. Urban sprawl has increased the number of lights on streets, billboards, and buildings. Meanwhile, homes are getting bigger and using more electricity. The average single-family home currently consumes 1,500 kilowatt-hours a year for lighting–40 percent more than it did in 1970. To produce that much electricity, power plants emit more than a ton of CO2, 13 pounds of SO2, and 8 pounds of NOx. "Most people are in the dark about lights," Crawford says. "There's a total lack of awareness" of the consequences of lighting.

Of course, using less energy would reduce emissions. In addition, research in Toronto and Washington, D.C. shows that when building lights are dimmed or turned off, the number of fatally attracted birds drops dramatically. "If you have a tower without lights, you'll cause bird collisions, but at least you won't be attracting more birds to it," Gauthreaux says.

The challenge for the government and environmental groups is to, no pun intended, enlighten people. The Environmental Protection Agency has created an energy-saving program, Energy Star, to help companies and residents reduce

lighting use. Several manufacturers have begun producing energy-efficient lights and appliances. FLAP launched a 12-step bird-friendly program that encourages buildings to turn down lights during migrations; it has been adopted at 100 buildings in downtown Toronto since 1997. FLAP organizers are leading similar efforts to raise awareness in Chicago and New York. And educational drives to publicize the impact of light on turtle hatchlings and seabird fledglings are now being sponsored by the National Park Service in Hawaii and by county governments in Florida. Some cities, including Tucson and Miami, are replacing inefficient streetlights with ones designed to focus the beam more sharply. In addition, last August two workshops at the American Ornithologists' Union conference explored light pollution's impact on birds.

Meanwhile, lawmakers in hundreds of communities have passed ordinances that restrict lighting types, power, and use. Last spring Texas and New Mexico became the fourth and fifth states (along with Arizona, Connecticut, and Maine) to implement a statewide light-restriction program. The ordinances vary in scope, from banning certain types of streetlights or limiting their wattage to shielding security lights. Similar actions are being considered in other states.

Any dark-sky proponent will admit that the national impact of these programs is minimal. But Crawford of the International Dark-Sky Association believes that they're a good start. "I liken lighting to smoking," he says. "All the evidence shows it's bad. But we have to educate people about the consequences. Smoking bans are coming quickly now. But the education that brought them about took a long time."

Joe Bower lives in Kalamazoo, Michigan, and is a regular Audubon contributor.

Sound off! Send a letter to the editor about this piece.

ATTACHMENT 9

Chapter 4

Effects of Artificial Night Lighting on Migrating Birds

Sidney A. Gauthreaux Jr. and Carroll G. Belser

Many hundreds of species of birds typically migrate at night, and it is well known that fires and artificial lights attract birds during migration, particularly when the sky is cloudy and the ceiling is low. Romanes (1883) was first to discuss the similarities of the attraction of insects to a flame at night, birds to lighthouses, and fish to lanterns. In some instances, humans have exploited the attraction of migrating and local birds to lighted buildings, floodlights, and spotlights. In one early example, hunters used a simple reflecting lamp to attract shorebirds at night. "[T]he birds came all around and about them—like chickens when called to feed," reported the St. Augustine *Press* (quoted in Hallock 1874:150). In Jatinga, a small village on a ridge in the North Cachar Hills district of Assam in northeastern India, from August to October on moonless, foggy nights with south winds and drizzle, villagers use searchlights and lanterns to attract, capture, and kill hundreds of local birds for food (Dubey 1990). Up to fifty species have been collected, with herons and egrets being some of the largest victims and pittas and kingfishers representing some of the smaller species. In Africa the attraction of nocturnal

migrants to artificial lights at lodges and to automobile headlights has been used to enhance ecotourism (Backhurst and Pearson 1977, Nikolaus 1980, Nikolaus and Pearson 1983).

As human populations expand geographically, artificial lighting also expands, and it is now almost impossible to find areas that are free from its influence. Verheijen (1981b) was first to apply the term *photopollution* to situations in which artificial light has adverse effects on wildlife. His 1985 review elaborates on the concept of photopollution and highlights incidents involving birds and sea turtles, natural and artificial light fields, orientation issues, and remedies (Verheijen 1985). All evidence indicates that the increasing use of artificial light at night is having an adverse effect on populations of birds, particularly those that typically migrate at night.

In this chapter we provide a review of the literature on the attraction of birds to light at night. We first examine how and why birds are attracted to light and the mechanisms of avian vision. We then review examples of this attraction, organized by the type of lighting: lighthouses and lightships, floodlights and ceilometers, city lights and horizon glows, fires and flares, and broadcast and communication towers. We then report our observations of the response of migratory birds to lights on communication towers. We conclude with some specific recommendations to minimize light attraction of migrating birds and reduce the associated mortality.

Mechanisms of Bird Attraction to Artificial Light

Little is known about how birds are attracted to light at night (Verheijen 1985). It has been suggested that when a bird flies into lights at night it loses its visual cues to the horizon, and the bird uses the lights as a visual reference, resulting in spatial disorientation (Herbert 1970). According to Herbert (1970), birds using a light on a tower as a horizon cue would circle the tower, which may be a factor in bird attraction to lights on tall communication towers. Exposure to a light field at night causes alteration of a straight flight path (e.g., hovering, slowing down, shifting direction, or circling), and the change in flight path would keep the bird near the light source longer than if the flight path remained straight (Gauthreaux and Belser 1999, unpublished data). Under such circumstances *attraction* may not be as appropriate a term for the behavioral response as *capture* (Verheijen 1958). It is also likely in some cases that the intensity of the light bleaches visual pigments so that the birds are in effect blinded and can no longer see visual details that they could detect when dark adapted (Verheijen 1985).

There is also evidence that horizon glows from cities may influence the orientation behavior of caged migratory birds. It is well established that caged migratory birds often orient toward horizon glows produced by the lights of cities (Kramer 1949, 1951). Immature migratory birds may be more susceptible to the disruptive influences of artificial night lighting than adults (Gauthreaux 1982). In two different experiments that examined the age-dependent orientation of caged migratory birds, it was found that birds of the year responded to the sky glow of a city, whereas adults did not (Gauthreaux 1982). In the first experiment performed by Williams (1978) during the spring of 1978, 8 immature and 14 adult white-crowned sparrows (*Zonotrichia leucophrys leucophrys*) were tested in six circular, automatic orientation cages once the birds exhibited migratory restlessness (*Zugunruhe*). All field tests were conducted under relatively clear, starry skies with no more than a thin crescent moon and essentially calm winds. Each bird was tested for a total of four nights, except for one immature that was tested for an additional night. Both age classes were tested each night, starting just before sunset and ending about 7 A.M. local time.

Figure 4.1 shows the distribution of the summed activity in minutes for each treadle in the orientation cage for adults and immatures and the distribution of horizon glow around the test cages. The orientation of the adult and immature groups is significantly different ($p = 0.05$) from a uniform distribution (Rayleigh test), and the mean direction of the adult group is significantly different ($p = 0.05$) from that of the immature group (F test of Watson and Williams). The circular distribution of horizon glow as measured with a sensitive photometer also is shown in Figure 4.1. The two longest radii at azimuths 90° and 105° have the maximum horizon glow intensity of 0.0096 lux. The vector resultant of the horizon glow is 80° ($r = 0.455$).

The mean direction of the activity of the adult sparrows was largely seasonally appropriate, but most of the activity of the immatures was oriented toward the direction of maximum horizon glow. The results show that age is a factor in the influence of horizon glows on the orientation of caged migratory birds, and although this is a study of caged birds it suggests that free-flying birds could respond similarly.

In a related study by Beacham (1982), 12 immature and 12 adult indigo buntings (*Passerina cyanea*) were tested in six circular, automatic orientation cages once the birds exhibited migratory restlessness in the spring of 1981 (Gauthreaux 1982). Each bird was tested for a minimum of four nights and a maximum of seven nights. Six birds from each age group (12 total) were tested in Emlen funnels (newsprint funnels with an

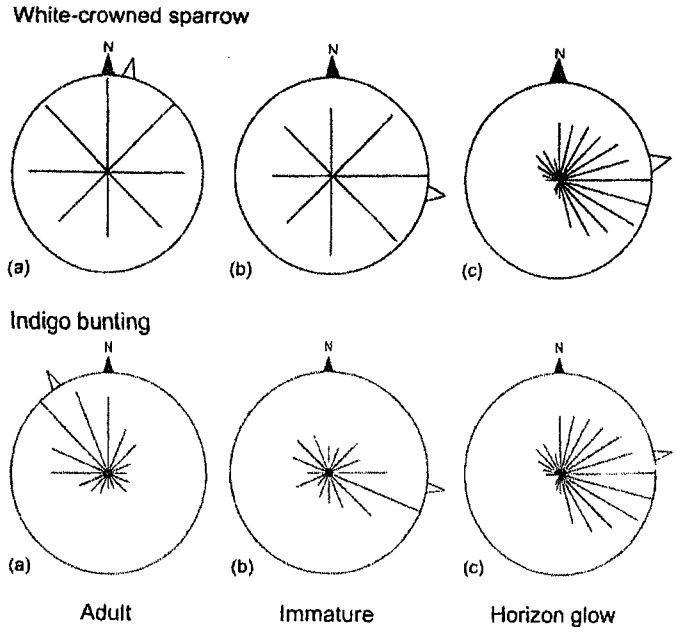


Figure 4.1. Distribution of migratory restlessness of *(a)* adult and *(b)* immature white-crowned sparrows and indigo buntings and *(c)* pattern of horizon glow around orientation cages. For white-crowned sparrows the longest radius is 17,015 minutes of activity toward 45° for adults and 8,265 minutes toward 90° for immatures. The resultant vector (mean direction) of all activity is 12° (r = 0.097) in *(a)* and 100° (r = 0.138) in *(b)*. For indigo buntings the longest radius is 5,221 hops toward 315° for adults and 4,402 hops toward 112.5° for immatures. The resultant vector (mean direction) of all hops is 327.6° (r = 0.392) in *(a)* and 98.5° (r = 0.181) in *(b)*.

ink-soaked sponge at the base). The funnel was divided into 16 sectors for analysis, and the number of hops in a sector was computed by comparing the density of hops with a scale of density patterns containing known numbers of hops. Figure 4.1 shows the distribution of the activity for adults and immatures as well as the pattern of horizon glow around the test funnels. The resultant vectors are significantly different (p = 0.05, Watson and Williams test) for the two age groups. As with the white-crowned sparrow, the greatest number of hops in the immature group is directed toward the greatest intensity of horizon glow, whereas the activity of the adults is oriented in a seasonally appropriate direction. Experimental studies of the migratory orientation of caged European robins

(*Erithacus rubecula*) also found that the birds oriented toward the vector resultant of the distribution of illumination in the night sky (Katz and Vilks 1981).

Birds have five different types of visual pigment and seven different types of photoreceptor: rods, double (uneven twin) cones, and four types of single cones (Hart 2001). Birds have a four-cone system and therefore broader spectral sensitivity than humans with a three-cone system (Wessels 1974, Graf and Norren 1974, Norren 1975). The extra cone type of birds is responsive to wavelengths in the ultraviolet range of the spectrum. In addition, bird eyes have oil droplets of different colors that narrow receptor sensitivities (Partridge 1989, Vorobyev et al. 1998). Because of these differences birds likely see their environment differently than do humans, which makes it difficult to speculate about the mechanism of how light pollution affects migrating birds at night. Another possible influence of artificial lighting on the behavior of night-migrating birds relates to the magnetic compass that several species use for direction finding during migration, as discussed in greater detail later in this chapter.

Sources of Light That Attract Birds

The tendency of birds to move toward lights at night when migrating and their reluctance to leave the sphere of light influence once encountered has been well documented. We review the various contexts in which birds have been attracted to lights and illustrate those that cause bird mortality. Although death or injury from collisions with structures is the most obvious adverse effect for migrating birds, attraction to lights may have other adverse consequences such as reducing energy stores necessary for migration because of delays and altered migration routes, mortality from collisions with glass during the daytime, and delayed arrival at breeding or wintering grounds.

Lighthouses and Lightships

Lighthouses and lightships (Figure 4.2) have attracted migrating birds since they were first operated (Dutcher 1884, Miller 1897, Hansen 1954), and this attraction was the basis of early, detailed studies of bird migration (e.g., Barrington 1900, Clarke 1912). In the 1800s lighthouse keepers noted that birds struck the lanterns most often on dark, cloudy nights with haze, fog, or rain, and that bird strikes on clear nights were extremely rare (Brewster 1886, Dixon 1897:268–274). Early studies supported the

Chapter 5

Influences of Artificial Light on Marine Birds

William A. Montevecchi

The nocturnal activities of many animals have been changed by artificial lighting. Ambient light influences the reproductive physiology, migration, foraging, and hence parental behavior of many species. Perhaps more than any other vertebrates, birds are intimately and inextricably linked with the light features of their environments (e.g., Farner 1964).

Nocturnal oceans are essentially flat, dark environments in which marine birds negotiate their lives. Some seabirds exploit coastal and nearshore habitats, and others are pelagic, ranging over vast ocean expanses. Many seabirds are nocturnally active, in part to avoid diurnal avian predators, primarily gulls. Many of these nocturnal birds also prey on vertically migrating and bioluminescent prey.

Somewhat paradoxically perhaps, many nocturnal seabird species are highly attracted to artificial light. The attraction to light by nocturnal-feeding petrels has been hypothesized to result from their adaptations and predisposition to exploit bioluminescent prey (Imber 1975) and from a predilection to orient to specific star patterns (Reed et al. 1985). In these instances, artificial light sources might be perceived as attractive "super-

normal" stimuli. Well before the age of electric lighting, humans used light from fires to attract nocturnal birds for exploitation (Maillard 1898, Murphy 1936, Murie 1959).

Migratory birds move seasonally over tens of degrees of latitude and longitude, often exhibiting movements of hemispheric proportions. These creatures are especially vulnerable to increasing sources and extents of artificial lighting. Light-associated mortality of nocturnal avian migrants involving collisions of hundreds or thousands or more birds with lights and lighted structures has been well documented for well more than a century (Allen 1880, Brewster 1886, Kumlien 1888, Johnston and Haines 1957, Evans 1968; see Chapter 4, this volume). Considering that mortality during migration is more than an order of magnitude higher than during energy-demanding breeding and winter seasons (Sillett and Holmes 2002), the population effects of additive mortality associated with artificial lighting could be profound.

Increasing risks associated with artificial lighting cumulate with other sources of environmental modification, degradation, and change, including deforestation, pollution, overfishing, and global climate change (e.g., Vitousek et al. 1997, Hughes 2000). For example, because global fish stocks are being overexploited, more fishery effort is directed at invertebrates on lower levels of marine food webs (Pauly et al. 1998). As a consequence, light-induced fisheries for squid are increasing in capacity and ocean coverage, with unknown influences on marine ecosystems (Rodhouse et al. 2001).

Given the dramatic influence of artificial lighting on marine organisms in the instances that have been documented, a general effect on marine birds, mammals, fishes, and invertebrates can be expected. Birds that spend most of their lives at sea are often highly influenced by artificial lighting in coastal areas and in dark, two-dimensional ocean environments. Except for coastal areas, oceanscapes tend to have less artificial lighting than terrestrial environments. Much artificial lighting on the ocean occurs at intense source points that can attract marine birds from very large catchment areas (Rodhouse et al. 2001, Wiese et al. 2001).

This chapter reviews the major sources of artificial illumination in the marine environment and their direct and indirect influences on seabirds. The cumulative effects of artificial lighting with other sources of environmental risk are considered. Different species and age classes of marine birds exhibit different degrees of attraction, and hence vulnerability, to artificial lighting. Mortality associated with artificial lighting threatens populations of endangered and rare species. Current levels of mitigative action

are nonexistent or inadequate to address problems posed by artificial lighting for marine organisms. Environmentally sound and ecologically precautionary broad-scale and long-term adaptive planning programs are needed to address current and future problems.

Sources of Artificial Light in the Marine Environment

The major sources of artificial light in marine environments include vessels, lighthouses, light-induced fisheries, and oil and gas platforms. Vessels have plied the seas for as long as humans have inhabited coastal environments, though most widely and prolifically during the last few centuries. Vessel numbers, sizes, and lights have increased exponentially throughout this period. Yet the more recent changes associated with lighthouses, marine gas and oil platforms, and light-induced fisheries are likely having the most significant influences on marine birds.

Lighthouses and Coastal Lighting

Lighthouse beacons have been an important aspect of coastal navigation for centuries, with their proliferation probably peaking in the late nineteenth century. Rotational beams identified landfall and specific sites for mariners. At times, lightships have been moored at sea and at coastal sites with treacherous navigation. Because of improved navigational aids such as sonar and global positioning systems aboard vessels, the number of active lighthouses decreased dramatically in the late twentieth century, a trend that will continue over the next decades.

As large segments of human populations moved to coastal areas for housing, recreation, and leisure, the extent of artificial lighting along coasts spread throughout the twentieth century. Moreover, artificial illumination increased in power and intensity, as well as proliferating during this period.

Oil and Gas Platforms at Sea

The intense flares at offshore hydrocarbon platforms, undoubtedly the most lethal light there is (Terres 1956, Bourne 1979, Sage 1979, Hope-Jones 1980, Wallis 1981), can be detected easily on satellite images (Muirhead and Cracknell 1984). These flares relieve pressures associated with natural gas from drilled wells and can reach up to 40 m (131 ft). Flares tend to burn most intensely during the initial operational phases of drilling and when hydrocarbon is not offloaded to vessels during extreme sea conditions (Burke et al. 2005). Hydrocarbon platforms are being constructed and deployed at remote ocean sites, where they impose novel artificial light sources, such as the shelf edge of the Grand Banks of eastern Canada. Both the intensity and oceanographic novelty of the light source could have a cumulative effect on the attraction and mortality of seabirds.

Light-Induced Fisheries

Many fisheries use intense artificial lighting to attract, concentrate, and facilitate prey capture (e.g., Vojkovich 1998, Arcos and Oro 2002; see Chapter 11, this volume). Rodhouse et al. (2001) estimated that 63–89% of the world catch of squid is caught using lights that can be mapped using satellite imagery. Small artisanal vessels fishing squid often use a single light, whereas large vessels may use 150 lamps, with about 300 kW of illumination power (Rodhouse et al. 2001), and several vessels often work in the same area. Squid species that have large, well-developed eyes are attracted to the intense lights. The highest concentrations of light-induced fisheries for squid (also octopus and cuttlefish) are pursued in the Kuroshio Current on the China Sea Shelf southwest of Japan and along the Sunda–Arafura Shelf primarily in the Gulf of Thailand. Other major light-induced fisheries for squid are carried out around New Zealand, in the southwest Atlantic, and in the California and Humboldt currents.

Influences of Ambient Light, Lunar Phase, and Season on Avian Attraction to Artificial Lighting

Attraction to and mortality at lighted structures is influenced by visibility, ambient light conditions, and lunar phase. Birds are more attracted to light during low cloud cover and overcast skies, especially foggy, drizzly conditions that are pervasive in many ocean regions (Brewster 1886, Kemper 1964, Aldrich et al. 1966, Weir 1976, Hope-Jones 1980, Wallis 1981, Telfer et al. 1987). Moisture droplets in the air refract light and greatly increase illuminated volumes (i.e., catchment basins), whereas concentrated beams of light act as bright corridors in the darkness into which birds fly (Weir 1976). Birds entrained in intense artificial light often circle the source for hours to days, especially during overcast conditions, when they are reluctant to fly outside of the sphere of illumination into darkness (Avery et al. 1976, Wallis 1981). Also, seabirds and marine waterfowl fly closer to land during foggy conditions (Chaffey

ATTACHMENT 10

City Council Meeting
03-22-10
Item
4.A.

Council Agenda Report

To: Mayor Barovsky and the Honorable Members of the City Council

Prepared by: Joseph Smith, Associate Planner

Reviewed by: Joyce Parker-Bozylinski, AICP, Planning Manager
Victor Peterson, Community Development Director

Approved by: Jim Thorsen, City Manager

Date prepared: March 4, 2010 Meeting date: March 22, 2010

Subject: Local Coastal Program Amendment No. 09-004 and Zoning Text Amendment No. 09-006 – An Amendment to the Local Coastal Program and Malibu Municipal Code Regarding Limited Lighting of the Main Sports Field at Public High Schools with Temporary Light Standards

Applicant: City of Malibu
Location: Citywide

RECOMMENDED ACTION: 1) After the City Attorney reads the title of the ordinance, introduce on first reading Ordinance No. 345 (Attachment 1) approving Local Coastal Program Amendment (LCPA) No. 09-004 and Zoning Text Amendment No. 09-006 to amend the Malibu Local Coastal Program (LCP) and Malibu Municipal Code (M.M.C.) regarding limited lighting of the main sports field at public high schools with temporary light standards; and 2) direct staff to schedule second reading and adoption of Ordinance No. 345 for the April 12, 2010 Regular City Council meeting.

FISCAL IMPACT: None anticipated at this time.

EXECUTIVE SUMMARY: The amendment would allow the conditional use of night lighting at public high schools, which would allow Malibu High School (MHS) to apply for a conditional use permit (CUP) for night lighting. The City Council, Zoning Ordinance Revisions and Code Enforcement Subcommittee (ZORACES), and the Planning Commission have provided input regarding the recommended amendment. The Planning Commission's recommended changes to the LCP and M.M.C. included adding new CUP development standards into the M.M.C. However, upon further review, staff is

recommending that the incorporation of new CUP development standards not be included in the amendment since it would constitute a *project* under the California Environmental Quality Act (CEQA) and would require additional CEQA review. Staff recommends the City Council consider the staff recommended amendment and the four alternatives provided, and adopt an ordinance authorizing the conditionally permitted use.

CHRONOLOGY: On October 12, 2009, the City Council directed staff to begin preparation of an amendment to the LCP and M.M.C. for permitted and conditionally permitted uses and accompanying development standards within the Institutional Zone.

On November 9, 2009, the City Council adopted City Council Resolution No. 09-59 to initiate LCPA No. 09-004 and ZTA No. 09-006 to consider changes to the LCP and M.M.C. regarding Institutional Zone development standards, permitted and conditionally permitted uses. The City Council directed the Planning Commission to schedule a public hearing regarding the amendment.

On November 10, 2009, the draft amendment was presented to ZORACES for review and recommendation.

On December 8, 2009, an amended version of the draft amendment was presented to ZORACES for final comments and recommendations.

On January 19, 2010, the Planning Commission held a duly noticed public hearing on the amendment, reviewed and considered the agenda report, reviewed and considered written reports, public testimony and other information in the record. The Planning Commission requested staff prepare a resolution recommending that the City Council approve the limited lighting of the main sports field at public high schools with temporary light standards.

On February 16, 2010, pursuant to LCP Local Implementation Plan (LIP) Chapter 19, the Planning Commission considered the amendment and adopted Planning Commission Resolution No. 10-08, recommending the City Council approve the amendment (Attachment 2).

BACKGROUND: Pursuant to LCP Table B (Permitted Uses), "sports courts (lighted)" are not a permitted or conditionally permitted use within the Institutional Zone, which includes any public high school site. Since MHS is the only public high school in the City, the operation of night lighting would be constrained to that location. Over the last six years, excluding 2009, night lighting of the main sports field has occurred at the MHS campus. This is further reviewed in Attachment 3 (MHS History and Lighting). To enable the future use of night lighting at MHS, the Santa Monica-Malibu Unified School District (SMMUSD) has proposed the use of temporary lighting standards for a limited

number of games and team practices each year. This would be possible via an amendment to the LCP and M.M.C. to allow such use by updating the list of conditionally permitted uses in LCP Table B and M.M.C. Chapter 17.34. Subsequent to the approval and certification of the amendment, the SMMUSD would have to apply for a CUP in order to use temporary light standards at the MHS campus. CUPs include public notification requirements, conditions of approval and a public hearing before the Planning Commission. Attachment 4 (MHS Setting – Land Use, Scenic and Environmental Resources) includes a review of MHS' history, the pattern of development within the Malibu Park neighborhood, and an analysis of night lighting on scenic, visual, and environmental resources within the vicinity of the MHS campus.

DISCUSSION: The proposed amendment seeks to amend LCP Table B (Permitted Uses) and Title 17 (Zoning) of the M.M.C. in order to allow for the use of limited lighting of the main sports field at public high schools with temporary light standards subject to a CUP. Amendment language and format have been considered by Planning Division staff, ZORACES, and the Planning Commission.

The proposed amendment includes changes to LCP Table B (Permitted Uses) and M.M.C. Section 17.34.030 (Institutional Zone, Conditionally Permitted Uses) as recommended by Planning Commission Resolution No. 10-08. However, for the following reasons, staff is not recommending the incorporation of the Planning Commission's recommendation for a new section to the M.M.C. under M.M.C. Section 17.66.130. The section would have added new CUP development standards into the M.M.C. for the use of lighting at public high schools. Since CUPs are processed according to the M.M.C., the same standards were not included in the LCP.

After further review subsequent to the Planning Commission's recommendation, it became apparent to staff that the Planning Commission's recommended amendment with the incorporation of M.M.C. Section 17.66.100 would require additional CEQA review. Since the CUP development standards proposed to the M.M.C. do not mirror the changes in the LCP, adding M.M.C. Section 17.66.130 constitutes a *project* pursuant to CEQA and would require full CEQA evaluation. While the California Public Resources Code Section 21080.9 specifies CEQA does not apply to activities and approvals by the City as necessary for the preparation and adoption of an amendment to the LCP, that same exemption is not available for amendments to the M.M.C. Therefore, the staff recommended amendment to the M.M.C. would solely be for the purpose of bringing the M.M.C. into compliance with the LCP, if the LCP is amended.

The current amendment includes "the use of limited lighting of the main sports field at public high schools with temporary light standards, limited to 16 days per year with no lighting after 10:30 p.m., and subject to the approval of a conditional use permit from the City pursuant to M.M.C. Chapter 17.66." The same language is proposed in the M.M.C. The CUP development standards that were not incorporated include the maximum

quantity and height of light standards, visors, 1,000 foot public notification, and the definition of a public high school campus. Since the impact of including these standards would need to be analyzed as part of CEQA, they could not be included as part of the current amendment. However, they could be added as conditions of approval during the CUP process.

Subsequent to the approval and certification of the amendment by the California Coastal Commission (CCC), the amendment would allow limited lighting via temporary light standards as a conditionally permitted use for public high schools in the Institutional Zone. This provision would be reflected in both the LCP and M.M.C. Therefore, any request for temporary lighting would require a CUP, which would require a public hearing before the Planning Commission. The CUP process allows the City to impose additional conditions tailored to the particular type of use for which a permit is requested. In addition to the items previously noted, these conditions may also include provisions for traffic and parking control, sanitation, security, and certification of lighting placement and intensity. Further, anytime an applicant is found to be in violation of a CUP, including the conditions contained therein, the City has the right to revoke the permit subject to the provisions in M.M.C. Section 17.66.100(C).

The intent of the proposed amendment strives to maintain a positive balance between the needs of the community and that of the nearby residents most impacted by the use of lights, promotes opportunities for middle and high school students at MHS to participate in regional level sports, and provides a mechanism for the City to locally control the regulation and enforcement of future temporary lighting uses as they occur on campus.

Planning Commission

The City Council directed the Planning Commission to schedule a public hearing regarding the amendment. The Planning Commission reviewed the amendment at its January 19, 2010 meeting and adopted Planning Commission Resolution No. 10-08 on February 16, 2010.

The following recommendations made by the Planning Commission are included in the staff recommended amendment.

- Limited lighting of the main sports field at public high schools with temporary light standards;
- Limited to 16 days of lighting until 10:30 p.m. per year;
- Use of lighting <u>not</u> limited to one sport (e.g., football); and

- The School District shall obtain a CUP from the City of Malibu pursuant to M.M.C. Chapter 17.66.

The following recommendations made by the Planning Commission are not included in the staff recommended amendment.

- Additional language added regarding light standards (e.g., shielding, lighting plan required, standards limited to six poles at 53 feet tall, etc.);
- Limited to middle and high school events;
- Temporary lights shall be removed within four months after installation;
- During the CUP process, the Planning Commission can designate the number of days used for games and practices; practices may not extend beyond 7:30 p.m. and games not beyond 10:30 p.m.; and
- CUP notification will be based on a 1,000 foot radius around the contiguous school boundary rather than the standard 500 feet.

The Planning Commission requested the City Council be made aware of the following concerns raised by some of the Commissioners at the January 19, 2010 and February 16, 2010 meetings.

- Since the amendment will limit the number of days that lights could be used at the MHS campus, the City Council should consider whether the approval of the amendment would result in any unintended consequences to the existing use of lighting at the pool facility and tennis courts.
- By limiting the number of days that lights could be used in the LCP, the City's hands would be tied in the event future changes were ever needed. The City Council should consider if 16 days of use per year is overly restrictive. Alternatively, the City Council could remove all reference to the maximum number of days proposed in the LCP, or increase the maximum days from 16 to 25 per year to provide more flexibility.
- By restricting the use of lighting to one sport, conflicts with Title IX of the Education Amendments of 1972 (20 U.S. Code §1681 et seq.) may result. The City Council should consider keeping the use of lighting available to all sports (e.g., football, men's and women's soccer, lacrosse and junior varsity sports) to avoid potential conflicts with Title IX.
- The requirement for approval from 80 percent of the neighbors within a 1,000 foot radius of the high school campus in the event the school district desires to expand the use of lighting by days or by hours was recommended by ZORACES. ZORACES noted the City's film ordinance requires neighborhood approval to extend the number of allowed days night lighting could be used.

AMENDMENTS: Pursuant to the City Council's direction on October 12, 2009 to amend the LCP and M.M.C. and update uses within the Institutional Zone, staff recommends the following amendments to LCP Table B and the M.M.C. Note that the LCP details conditionally permitted uses in a table format with footnotes and the M.M.C. details the scope of conditionally permitted uses in text. Therefore, changes to M.M.C. Chapter 17.34 (Institutional Zone) will reflect changes made to LCP Table B (Permitted Uses).

Local Coastal Program

Amend Table B (Permitted Uses), an exhibit of the LIP (Chapter 3 – Zoning Designations and Permitted Uses), under the Institutional Zone for "Sports Courts (Lighted)" to read:

USE	RR	SF	MF	MFBF	MHR	CR	BPO	CN	CC	CV-1	CV-2	CG	OS	I	PRF	RVP
Sports courts (lighted)	•	•	•	•	•	•	•	•	•	•	•	•	•	CUP[11]	•	•

Notes

1. Subject to Residential Development Standards (Section 3.6)

2. Subject to Home Occupations Standards [(Section 3.6(O)]

3. Use Prohibited in Environmentally Sensitive Habitat Areas

4. This commercial use may be permitted only if at least 50% of the total floor area of the project is devoted to visitor serving commercial use

5. CUP for veterinary hospitals

6. Maximum interior occupancy of 125 persons

7. If exceeding interior occupancy of 125 persons

8. By hand only

9. Use permitted only if available to general public

10. Charitable, philanthropic, or educational non-profit activities shall be limited to permanent uses that occur within an enclosed building.

11. Limited lighting of the main sports field at public high schools with temporary light standards, limited to 16 days per year with no lighting after 10:30 p.m. The School District shall obtain a conditional use permit from the City pursuant to Malibu Municipal Code Chapter 17.66.

Malibu Municipal Code

Amend M.M.C. Chapter 17.34 Institutional District, Section 17.34.030 Conditionally Permitted Uses to add the following conditionally permitted use:

N. Limited lighting of the main sports field at public high schools with temporary light standards, limited to 16 days per year with no lighting after 10:30 p.m. (pursuant to the provisions in M.M.C. Chapter 17.66).

ALTERNATIVES:

1. No change. No change to the LCP or M.M.C. could be pursued and "sports courts (lighted)" at public high schools would remain a prohibited use pursuant to the LCP and the M.M.C. Under this alternative, temporary light standards for nighttime middle and high school events would remain prohibited. However, this alternative does not meet the objectives for this amendment. Impacts associated with the limited use of temporary night lighting in this area are not anticipated to be significant.

2. Minimum Language Necessary to Permit Lights. At minimum, adding the language "Outdoor lighting, permanent or temporary" in the LCP and M.M.C. would allow the use of lighting in the Institutional Zone as a conditionally permitted use. Since any proposed use of lighting would be required to obtain a CUP pursuant to M.M.C. Chapter 17.66, this alternative provides the greatest amount of flexibility for future uses and regulations imposed as conditions of approval. This alternative does not restrict the use of lights to public high schools, does not designate the maximum number of days or hours lights can be used, or specify whether lights can be permanent or temporary, it only authorizes the use of lighting within the Institutional Zone subject to a CUP. However, this alternative does not meet the recommendations provided by ZORACES or the Planning Commission.

3. Additional CUP Provisions to the M.M.C. In addition to the staff recommended amendment, a new section could be added to M.M.C. Chapter 17.66 that requires specific CUP development standards for the use of lighting at public high schools. These items include a maximum quantity and height of light standards, visors, 1,000 foot public notification, and the definition of a public high school campus. However, by incorporating CUP development standards into the M.M.C., changes to the M.M.C. would not be entirely corollary to the changes proposed in the LCP. Therefore, the addition constitutes a *project* pursuant to CEQA and would require full CEQA evaluation. This would result in added delays to the amendment process. The staff recommended amendment does require the School District apply for a CUP prior to using temporary lights. CUPs include public notification requirements, conditions of approval and a public hearing before the Planning Commission. This will allow the City to impose additional conditions tailored to the particular type of use for which a permit is requested.

Therefore, adding a new section to M.M.C. Chapter 17.66 does not achieve the project objectives since it would delay the amendment process. This alternative was part of the recommendations provided by ZORACES and the Planning Commission; however, neither staff, ZORACES or the Planning Commission were aware of the CEQA issue at the time by adding a new section.

4. Addition of CUP Provisions to the LCP (and M.M.C.). In addition to the staff recommended amendment, additional language could be added to the LCP Table B footnote that requires specific CUP development standards for the use of lighting at public high schools. Similar language could also be added as a new section to M.M.C. Chapter 17.66 as previously described in Alternative No. 3. However, the City's guidelines for all CUPs are located in the M.M.C. This provides local control over conditional uses that have a special impact or uniqueness such that their effect on the surrounding environment cannot be determined in advance of the particular use being proposed for a particular location. The purpose of the CUP is to ensure adequate public review and input for all development projects which potentially impact the community, ensure that the proposed development does not impair the integrity of that zoning district, and to provide the opportunity to impose reasonable and necessary conditions to assure compatibility (M.M.C. Section 17.66.100). It is standard that all conditionally permitted uses in the LCP are required to obtain a CUP subject to the provisions specified in M.M.C. Chapter 17.66. With regard to the staff recommended amendment, temporary lighting would also have to comply with the CUP guidelines specified in M.M.C. Chapter 17.66.

Some concern has been raised with regard to the SMMUSD's accessibility to exempt themselves from the City's Municipal Code, which includes the CUP provisions under M.M.C. Chapter 17.66. While it is true that school districts have the ability to exercise California Government Code Section 53094 to be "relieved of the obligation of conformity with the local General Plan and zoning regulations," this provision does not authorize a school district to relieve itself of the obligation to comply with a certified LCP. A certified LCP is the local implementation of the California Coastal Act of 1976. Therefore, if LCP Table B (Permitted Uses) is changed to allow temporary lighting at the MHS campus subject to the approval of a CUP and the CUP provisions in the M.M.C., the SMMUSD will be required to obtain a CUP for the regulated use of temporary lights. In other words, the CUP will be a requirement of the LCP and, therefore, the SMMUSD may not exempt itself from the requirement of a CUP.

ENVIRONMENTAL REVIEW: In accordance with CEQA, Public Resources Code Section 21080.9, CEQA does not apply to activities and approvals by the City as necessary for the preparation and adoption of an LCP amendment. The staff recommended amendment is for an amendment to the LCP, which must be certified by the California Coastal Commission before it takes effect. LIP Section 1.3.1 states that the provisions of the LCP take precedence over any conflict between the LCP and

Zoning Ordinance (Title 17 of the M.M.C.). In order to prevent an inconsistency between the LCP and the City's Zoning Ordinance, if the LCP amendment is approved, the City must also approve the corollary ZTA to the Zoning Ordinance. This amendment is necessary for the preparation and adoption of the LCP amendment and because they are entirely dependent on, related to, and duplicative of the exempt activity, they are subject to the same CEQA exemption.

PUBLIC NOTICE: On February 25, 2010, staff published a Notice of Public Hearing in a newspaper of general circulation within the City of Malibu and mailed the notice to all interested parties; regional, state and federal agencies affected by the amendment; local libraries and media; the California Coastal Commission; and all property owners and occupants within a 500 foot radius of the contiguous MHS campus boundary.

CORRESPONDENCE: All correspondence received on this item is included as Attachment 6, including all correspondence submitted for the November 9, 2009 City Council meeting; November 10, 2009 and December 8, 2009 ZORACES meetings; and the January 19, 2010 Planning Commission meeting.

STAFF FOLLOW-UP: Staff recommends that the City Council adopt Ordinance No. 345 approving LCPA No. 09-004 and ZTA No. 09-006, and direct staff to submit the LCP amendment to the California Coastal Commission.

ATTACHMENTS:

1. City Council Ordinance No. 345
2. Planning Commission Resolution No. 10-08
3. Malibu High School History and Lighting
4. Malibu High School Setting – Land Use, Scenic and Environmental Resources
5. Notice of Public Hearing
6. Correspondence

ORDINANCE NO. 345

AN ORDINANCE OF THE CITY OF MALIBU APPROVING LOCAL COASTAL PROGRAM AMENDMENT NO. 09-004 AND ZONING TEXT AMENDMENT NO. 09-006 TO AMEND THE MALIBU LOCAL COASTAL PROGRAM AND MALIBU MUNICIPAL CODE REGARDING LIMITED LIGHTING OF THE MAIN SPORTS FIELD AT PUBLIC HIGH SCHOOLS WITH TEMPORARY LIGHT STANDARDS

THE CITY COUNCIL OF THE CITY OF MALIBU DOES ORDAIN AS FOLLOWS:

Section 1. Recitals.

A. On October 12, 2009, the City Council directed staff to begin preparation of an amendment to the Local Coastal Program (LCP) and Malibu Municipal Code (M.M.C.) for permitted and conditionally permitted uses and accompanying development standards within the Institutional Zone.

B. On November 9, 2009, the City Council adopted City Council Resolution No. 09-59 to initiate Lcoal Coastal Program Amendment (LCPA) No. 09-004 and Zoning Text Amendment (ZTA) No. 09-006 to consider changes to the LCP and M.M.C. regarding Institutional Zone development standards, permitted and conditionally permitted uses. The City Council directed the Planning Commission to schedule a public hearing regarding the amendment.

C. On November 10, 2009, the draft amendment was presented to the Zoning Ordinance Revisions and Code Enforcement Subcommittee (ZORACES) for review and recommendation.

D. On December 8, 2009, an amended version of the draft amendment was presented to ZORACES for final comments and recommendations.

E. On December 24, 2009, a Notice of Planning Commission Public Hearing and Notice of Availability for Local Coastal Program Documents was published in a newspaper of general circulation within the City of Malibu and was mailed to all interested parties; regional, state and federal agencies affected by the amendment; local libraries and media; and the California Coastal Commission indicating that the Planning Commission would hold a public hearing on January 19, 2010 to consider an amendment to the LCP. In addition, the notice was mailed to all property owners and occupants within a 500 foot radius of the Malibu High School (MHS) campus boundary.

F. On January 19, 2010, the Planning Commission held a duly noticed public hearing on the amendment, reviewed and considered the agenda report, reviewed and considered written reports, public testimony and other information in the record. The Planning Commission requested staff prepare a resolution recommending that the City Council approve the limited lighting of the main sports field at public high schools with temporary light standards.

G. On February 16, 2010, the Planning Commission considered the amendments and adopted Planning Commission Resolution No. 10-08, recommending the City Council approve the amendment.

H. On February 25, 2010, a Notice of City Council Public Hearing was published in a newspaper of general circulation within the City of Malibu and was mailed to all interested parties; regional, state and federal agencies affected by the amendment; local libraries and media; and the California Coastal Commission indicating that the City Council would hold a public hearing on March 22, 2010 to consider an amendment to the LCP. In addition, the notice was mailed to all property owners and occupants within 500 feet of the MHS campus boundary.

I. On March 22, 2010, the City Council heard and considered the evidence and information provided in support of and in opposition to the application, public testimony of all interested persons and the recommendations of the Planning Commission.

Section 2. Environmental Review.

In accordance with the California Environmental Quality Act (CEQA), Public Resources Code Section 21080.9, CEQA does not apply to activities and approvals by the City as necessary for the preparation and adoption of an LCP amendment. This application is for an amendment to the LCP, which must be certified by the California Coastal Commission before it takes effect. LCP Local Implementation Plan (LIP) Section 1.3.1 states that the provisions of the LCP take precedence over any conflict between the LCP and Zoning Ordinance. In order to prevent an inconsistency between the LCP and the City's Zoning Ordinance, if the LCP amendment is approved, the City must also approve the corollary ZTA to the Zoning Ordinance. This amendment is necessary for the preparation and adoption of the LCP amendment and because they are entirely dependent on, related to, and duplicative of the exempt activity, they are subject to the same CEQA exemption.

Section 3. Local Coastal Program Amendment No. 09-004.

LCPA No. 09-004 includes amendments to the certified LCP Table B (Permitted Uses) and corollary amendments to the M.M.C. Amendments to the LCP are identified in Section 4 of this ordinance. Corollary amendments to the M.M.C. are identified in Section 6 of this ordinance.

Section 4. Local Coastal Program Local Implementation Plan Amendments.

Table B (Permitted Uses), an exhibit of the LIP (Chapter 3 – Zoning Designations and Permitted Uses), under the Institutional Zone for "Sports Courts (Lighted)" is hereby amended as follows:

USE	RR	SF	MF	MFBF	MHR	CR	BPO	CN	CC	CV-1	CV-2	CG	OS	I	PRF	RVP
Sports courts (lighted)	•	•	•	•	•	•	•	•	•	•	•	•	•	CUP[11]	•	•

Notes

1. Subject to Residential Development Standards (Section 3.6)

2. Subject to Home Occupations Standards [(Section 3.6(O)]

3. Use Prohibited in Environmentally Sensitive Habitat Areas

4. This commercial use may be permitted only if at least 50% of the total floor area of the project is devoted to visitor serving commercial use

5. CUP for veterinary hospitals

6. Maximum interior occupancy of 125 persons

7. If exceeding interior occupancy of 125 persons

8. By hand only

9. Use permitted only if available to general public

10. Charitable, philanthropic, or educational non-profit activities shall be limited to permanent uses that occur within an enclosed building.

11. Limited lighting of the main sports field at public high schools with temporary light standards, limited to 16 days per year with no lighting after 10:30 p.m. The School District shall obtain a conditional use permit from the City pursuant to Malibu Municipal Code Chapter 17.66.

Section 5. Local Coastal Program Amendment Findings.

A. Based on substantial evidence in the whole record, the City Council hereby finds that the proposed amendments meet the requirements of, and are in conformance with, the policies and requirements of Chapter 3 of the California Coastal Act.

B. The amendments to the LCP meet the requirements of, and are in conformance with the goals, objectives and purposes of the LCP as identified in the LCP, including scenic, visual, and environmentally sensitive habitat area (ESHA) resource protection policies.

The proposed amendment is consistent with the scenic and visual resource protection policies of the LCP. MHS is the only public high school in the City and serves all of Malibu. Given the topography of the area and the distance from the main sports field to scenic and visual resources in the vicinity, it is anticipated that, when positioned, any temporary light standards would blend in with the existing, residentially-developed area and would not block or obscure public views of the ocean or mountains during daytime hours. However, when lights are in operation during nighttime hours, they would create illumination/sky glow that would be visible from public scenic and visual resources. The amount of sky glow would depend on weather conditions since sky glow is exacerbated during foggy conditions. However, the impact of any illumination in the area would not be significant as any light standards would be temporary, on intermittently and limited to a minimum number of hours on select evenings, for a designated number of days per

year. In addition, the main sports field is nestled in the middle of a full-service high school campus located in an existing developed area of the City. Any proposed lights would be required to be directed downward and use state-of-the-art measures that minimize light spill, sky glow and glare impacts. As such, the absence of permanently-mounted light standards which are not to be allowed and the limited operation of temporary light standards maintain compatibility with the Malibu Park community as described in the LCP. Furthermore, it is not anticipated to adversely impact public views because they would only be used at night when such views from public viewing areas are not available. Since adverse impacts to scenic and visual resources are not anticipated, the City Council finds that the proposed amendment is consistent with the scenic and visual resource protection policies of the LCP.

The proposed amendment is consistent with the ESHA resource protection policies of the LCP. The area of undisturbed coastal sage scrub is located approximately 190 feet from the main sports field. In addition, the area of undisturbed coastal sage scrub vegetation to the east of the main sports field does not rise to the level of ESHA because it is fragmented within a matrix of development and ruderal, ornamental, and disturbed habitat and because it does not support any special status species. As such, the MHS site and surrounding area do not constitute ESHA as noted in a Biological Inventory prepared by Glenn Lukos Associates in May 2009 and subsequent determination made by the CCC Staff Biologist and City Biologist. Any proposed field lights would not spill into any areas designated ESHA or ESHA buffer and the impact of the proposed illumination in the area is not anticipated to be significant as any light standards would be temporary, on intermittently and limited to a minimum number of hours on select evenings, for a designated number of days per year. The proposed lights would be required to be directed downward and use state-of-the-art measures that minimize adverse impacts to area wildlife. Since adverse impacts to sensitive habitat resources are not anticipated, the City Council finds that the proposed amendment is consistent with the ESHA resource protection policies of the LCP.

Section 6. Zoning Text Amendments.

M.M.C. Chapter 17.34 Institutional District, Section 17.34.030 Conditionally Permitted Uses is hereby amended to add the following conditionally permitted use:

N. Limited lighting of the main sports field at public high schools with temporary light standards, limited to 16 days per year with no lighting after 10:30 p.m. (pursuant to the provisions in M.M.C. Chapter 17.66).

Section 7. Zoning Text Amendment Findings.

The City Council hereby finds that the ZTA is necessary for the proposed LCP amendment and recommends that the City Council approve ZTA only if it approves the LCP amendment and on the condition that the ZTA only take effect if the LCP amendment is certified by the California Coastal Commission. Pursuant to M.M.C. Section 17.74.040, the City Council further finds that the subject ZTA is consistent with the objectives, policies, and general land uses in the General

Plan, as amended by the LCP amendment. MHS is the only public high school in the City and is within the Institutional Zone. The absence of permanently-mounted light standards and the minimum operation of use maintain compatibility with the Malibu Park community as described in the General Plan. The ZTA will allow the text of the M.M.C. to be amended consistent with the amended LCP and is only corollary of that action.

Section 8. Approval.

Subject to the contingency set forth in Section 10, the City Council hereby adopts LCPA No. 09-004 and ZTA No. 09-006 amending the LCP and M.M.C regarding limited lighting of the main sports field at public high schools with temporary light standards.

Section 9. Submittal to California Coastal Commission.

The City Council hereby directs staff to submit LCPA No. 09-004 to the California Coastal Commission for certification, in conformance with the submittal requirements specified in California Code of Regulation, Title 14, Division 5.5., Chapter 8, Subchapter 2, Article 7 and Chapter 6, Article 2 and Code of Regulations Section 13551, et. seq.

Section 10. Effectiveness.

The LCP amendment and ZTA approved in this ordinance shall become effective only upon certification by the California Coastal Commission of this amendment to the LCP.

Section 11. Certification.

The City Clerk shall certify the adoption of this Ordinance.

PASSED, APPROVED AND ADOPTED this 12th day of April 2010.

SHARON BAROVSKY, Mayor

ATTEST:

LISA POPE, City clerk
(seal)

APPROVED AS TO FORM:

CHRISTI HOGIN, City Attorney

ATTACHMENT 11

Santa Monica Malibu Schools

Extraordinary Public Education

June 15, 2011

California Coastal Commission
South Central Coast District Office
Attn: Jack Ainsworth, Deputy Director
89 South California Street, Suite 200
Ventura, CA 93001

Subject: Amendment to Coastal Development Permit 4-99-276 A2
Santa Monica-Malibu Unified School District

Dear Mr. Ainsworth,

On behalf of the Santa Monica-Malibu Unified School District ("District"), I am submitting the enclosed application for an amendment to Coastal Development Permit (CDP) 4-99-276 to remove or eliminate Special Condition 6, Athletic Field Lighting Restriction, on the basis that the City of Malibu now has an LCP. This LCP will provide adequate protection of coastal resources for sports night lighting at public high schools, upon certification of the City's LCP amendment currently before the Commission.

The City of Malibu has approved Ordinance No. 345 (attached) that clearly outlines the changes that will occur upon adoption of the LCP amendment. Section 4 of the Ordinance indentifies the changes to Table B (Permitted Uses). It also is specific as to the lighting at public high schools. An eleventh note to this section has been added that reads: "Limited lighting of the main sports field at public high schools during Pacific Standard Time until 7:30 p.m., except that for 18 days in any 12 month period up to 10:30 p.m. The School District shall obtain a conditional use permit from the City pursuant to Malibu Municipal Code Chapter 17.66." I have also included the proposed Malibu Local Coastal Program Amendment No. 09-004 that reflects the changes proposed in the Malibu LCP amendment

We further request that the California Coastal Commission (CCC) require the City's LCP amendment to be final before the school district's CDP amendment is made effective.

The school district appreciates the fact that when first conditioned by the CCC in the 1999 CDP 4-99-276, Malibu did not have an LCP in effect so the special conditions were the primary source of coastal resource protection. That has now changed, so removing the special condition without replacing it with other language is appropriate. With the proposed

amendment the City's LCP will have a permitted use table and key chapters on scenic resources and coastal protection. By requiring the school district to complete a Conditional Use Permit under the LCP the environmental protections first envisioned will continue. Otherwise it seems redundant to amend the school district's CDP with the same language that is amending the LCP.

We appreciate your speedy attention to this matter and would hope that it can be placed on the CCC agenda concurrently with the City of Malibu LCP amendment. Please find enclosed our CDP amendment application, a copy of the City of Malibu Ordinance 345, the proposed LCP Amendment No. 09-004, stamped, addressed envelopes for notification of all property owners and residents within 100 feet of Malibu High School, and our fee of $200. I am unaware of the original filing fee so could not calculate the greater number. Please let me know if this amount is insufficient and we will prepare an additional payment.

Please do not hesitate to contact me at (310) 450-8338 ext. 70-268

Sincerely,

Janece L. Maez

Janece L. Maez
Assistant Superintendent, Business and Fiscal Services
Chief Financial Officer

Enclosures: Application for Amendment to Coastal Development Permit
City of Malibu Ordinance No. 345
Proposed Local Coastal Program Amendment No. 019-004

STATE OF CALIFORNIA – THE RESOURCES AGENCY

EDMUND G. BROWN, JR., *Governor*

CALIFORNIA COASTAL COMMISSION

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

June 23, 2011

Janece L. Maez
Santa Monica-Malibu
Unified School District
1651 Sixteenth Street
Santa Monica, CA 90404-3891

Re: 4-99-276-A4

Ms Maez,

Enclosed you will find a check submitted for the above-mentioned amendment request received in our office on June 20, 2011.

Application fees are waived for state agencies and/or any local governments.

Your application has been assigned to Deanna Christensen. Any questions you may have can be directed to her.

In the future, when submitting mailing envelopes to our office, it would be helpful to send envelopes that do not have your return address. Because we will be sending out the hearing notices, we want any notices that are undeliverable to be returned to our office so we can put them in the project file. Thanks for your cooperation in this matter.

Sincerely,

Barbara Rodriguez

Barbara Rodriguez
Office Assistant

STATE OF CALIFORNIA – THE RESOURCES AGENCY EDMUND G. BROWN, JR., *Governor*

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

DATE : June 23, 2011

Santa Monica-Malibu
Unified School District
Attn: Jan Maez
1651 Sixteenth Street
Santa Monica, CA 90404-2891

RE: **Application No. 4-99-276-A4**

Dear Applicant,

Your Coastal Commission application has been scheduled for the August 2011, Commission hearing.

If you have any questions regarding your application, please contact **Deanna Christensen** at the address and phone number listed above.

Sincerely,

Barbara Rodriguez

Barbara Rodriguez
Office Assistant

NOTICE OF PENDING PERMIT

A PERMIT APPLICATION FOR DEVELOPMENT ON THIS SITE IS PENDING BEFORE THE CALIFORNIA COASTAL COMMISSION.

PROPOSED DEVELOPMENT:

To remove Special Condition 6 (Athletic Field Lighting Restriction) in CDP 4-99-276 in its entirety on the basis that the City of Malibu now has an LCP which will provide adequate protection of coastal resources for sports night lighting at public high schools, upon certification of the City's LCP amendment.

LOCATION:

30215 Morning View Drive, Malibu (Los Angeles County)

APPLICANT(S):

Santa Monica-Malibu Unified School District, Attn: Jan Maez

APPLICATION NUMBER: **4-99-276-A4**

DATE NOTICE POSTED: _____

For further information, please phone or write the office listed below between 8 AM and 5 PM, weekdays.

CALIFORNIA COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT
89 SOUTH CALIFORNIA STREET, SUITE 200
VENTURA, CA 93001
(805) 585-1800 FAX (805) 641-1732

STATE OF CALIFORNIA – THE RESOURCES AGENCY EDMUND G. BROWN, JR., *GOVERNOR*

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

Date: June 23, 2011

Santa Monica-Malibu
Unified School District
Attn: Jan Maez
1651 Sixteenth Street
Santa Monica, CA 90404-2891

DECLARATION OF POSTING

TO: South Central Coast District

Pursuant to the requirements of California Administrative Code 13054(d), this certifies that I/we have posted the "Public Notice" of application to obtain Coastal Commission Permit No. 4-99-276-A4.

For: To remove Special Condition 6 (Athletic Field Lighting Restriction) in CDP 4-99-276 in its entirety on the basis that the City of Malibu now has an LCP which will provide adequate protection of coastal resources for sports night lighting at public high schools, upon certification of the City's LCP amendment.

Location: 30215 Morning View Drive, Malibu, (Los Angeles County)

The public notice was posted at a conspicuous place, easily read by the public and as close as possible to the site of the proposed development.

_____
(Signature)

_____
(Date)

NOTE: YOUR APPLICATION CANNOT BE PROCESSED UNTIL THIS "DECLARATION OF POSTING" IS RETURNED TO THIS OFFICE. If the site is not posted at least eight days prior to the meeting at which the application is scheduled for hearing, or the Declaration of Posting is not received in our office prior to the hearing, your application will be removed from its scheduled agenda and will not be rescheduled for Commission action until the Declaration of Posting has been received by this office.

4-99-276-A4

STATE OF CALIFORNIA – THE RESOURCES AGENCY GRAY DAVIS, Governor

CALIFORNIA COASTAL COMMISSION
SOUTH CENTRAL COAST AREA
89 SOUTH CALIFORNIA ST., SUITE 200
V' TA, CA 93001
(8 .5-1800

APPLICATION FOR AMENDMENT TO COASTAL DEVELOPMENT PERMIT

Application for an amendment to a previously issued coastal development permit may be made by submitting this form, completed and signed, together with the materials described below and the application fee.

Pursuant to 14 Cal. Admin. Code Sections 13164 and 13168, materials to be submitted are:

1. Two sets of plans showing the proposed amendment; these must have been approved by the local planning agency and stamped with Approval in Concept. Please submit evidence of approval (Approval in Concept form).

2. Stamped, addressed envelopes for renotification of all property owners and residents within 100 feet of the development and list of same. The envelopes must be plain, business size (9 ½ X 4 1/8), with first class postage. **METERED STAMPED ENVELOPES CANNOT BE ACCEPTED.**

3. A minimum application fee of $200 or 50% of original filing fee, whichever is greater (based on updated fee schedule).

Upon receipt of the above information, the Executive Director will determine whether the amendment request should be rejected on the basis that the proposed amendment would lessen or avoid the intent of a previously approved permit condition. 14 Cal. Admin. Code Section 13168. If the amendment request is filed, the Executive Director will then determine whether the amendment request is immaterial or material. If the Executive Director finds that the proposed amendment is immaterial, notification is sent to surrounding property owners and the site must be posted with a form, which will be sent to you. If no objections are received, the amendment is approved, and you will be sent an amended permit. If objections are received, or if the amendment is determined by the Executive Director to be material, the request will be set for a public hearing. You have the right to request that the Commission make a determination of materiality independent of that previously made by the Executive Director. 14 Cal. Admin. Code Section 13166.

Please provide the information below and on the reverse. If you have any questions, contact this office.

APPLICANT	APPLICANT'S REPRESENTATIVE (If any)
NAME: Santa Monica-Malibu Unified School District - Attn: Jan Maez	
ADDRESS: 1651 Sixteenth Street Santa Monica, CA 90404	
PHONE: (310) 450-8338	

COASTAL PERMIT NUMBER: 4-99-276 DATE OF ISSUANCE: May 2000

PROJECT ADDRESS: 30215 Morning View Drive, Malibu, CA

Received
JUN 20 2011
California
Coastal Commission

FOR OFFICE USE ONLY:
Date Received: 6/20/11
Date Filed:
Application Fee Received:

(Over)

DESCRIPTON OF PROPOSED AMENDMENT: To remove Special Condition 6 (Athletic Field Lighting Restriction) in CDP 4-99-276 in its entirety on the basis that the City of Malibu now has an LCP which will provide adequate protection of coastal resources for sports night lighting at public high schools, upon certification of the City's LCP amendment.

CERTIFICATION

I hereby certify that I or my authorized representative will complete and post the "Notice of Proposed Permit Amendment" form furnished to me by the Commission in a conspicuous place on the development property upon receipt of said notice.

I hereby certify that to the best of my knowledge the information in this application and all attached exhibits is full, complete, and correct and I understand that any misstatement or omission of the requested information or any information subsequently requested may be grounds for denying the application, for suspending or revoking a permit issued on the basis of these or subsequent representations, or for the seeking of such other and further relief as may seem proper to the Commission.

Janice L. Maez

Signature of Applicant(s) or Agent

NOTE: If signed by agent, applicant must sign below.

I hereby authorize _____ to act as my representative and bind me in all matters concerning this application.

_____

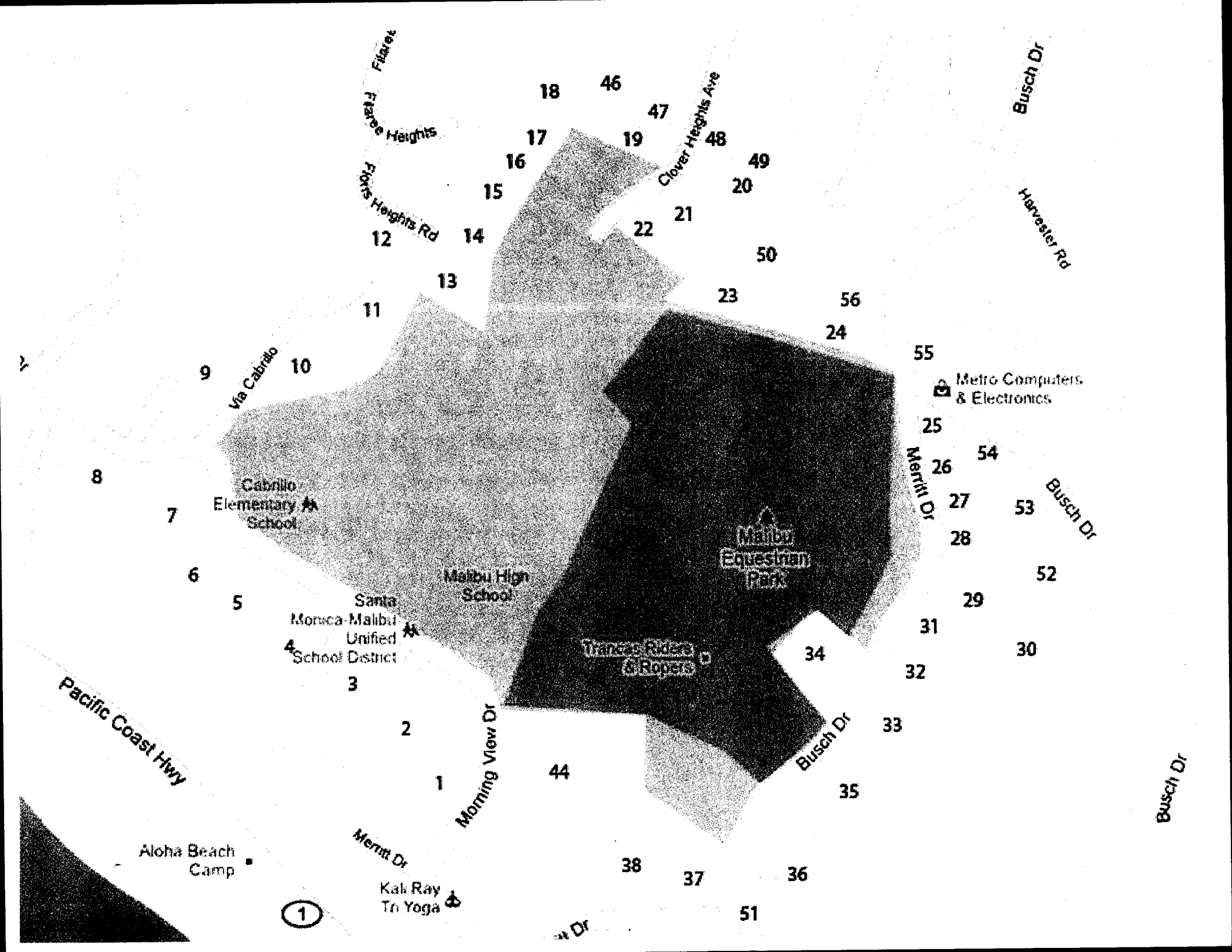
Signature of Applicant(s)

Malibu HS 100' Perimeter Mailing List

No.	AIN	Physical Address	Mailing Address	Property Type	Different Mailing Address?
1	4469-024-040	30128 MORNING VIEW DR MALIBU CA 90265	30128 MORNING VIEW DR MALIBU CA 90265	Not Available (Church)	NO
2	4469-024-002	30150 MORNING VIEW DR MALIBU CA 90265	30150 MORNING VIEW DR MALIBU CA 90265	Single Family Residence	NO
3	4469-024-049	30188 MORNING VIEW DR MALIBU CA 90265	30188 MORNING VIEW DR MALIBU CA 90265	Single Family Residence	NO
4	4469-024-017	30206 MORNING VIEW DR MALIBU CA 90265	09229 SUNSET BLVD RM 414 LOS ANGELES CA 90069	Vacant Land	YES
5	4469-024-010	30228 MORNING VIEW DR MALIBU CA 90265	09229 SUNSET BLVD RM 414 LOS ANGELES CA 90069	Single Family Residence	YES
6	4469-024-012	30254 MORNING VIEW DR MALIBU CA 90265	30254 MORNING VIEW DR MALIBU CA 90265	Single Family Residence	NO
7	4469-024-014	30276 MORNING VIEW DR MALIBU CA 90265	30276 MORNING VIEW DR MALIBU CA 90265	Single Family Residence	NO
8	4469-024-026	30324 MORNING VIEW DR MALIBU CA 90265	30324 MORNING VIEW DR MALIBU CA 90265	Single Family Residence	NO
9	4469-016-024	NO ADDRESS AVAILABLE	323 S LA PEER DR LOS ANGELES CA 90048	Vacant Land	YES
10	4469-016-028	6130 VIA CABRILLO ST MALIBU CA 90265	6130 VIA CABRILLO ST MALIBU CA 90265	Single Family Residence	NO
11	4469-016-027	6100 VIA CABRILLO ST MALIBU CA 90265	6100 VIA CABRILLO ST MALIBU CA 90265	Single Family Residence	NO
12	4469-013-015	5939 FLORES HEIGHT RD MALIBU CA 90265	01505 4TH ST # 219 SANTA MONICA CA 90401	Single Family Residence	YES
13	4469-013-014	5961 FLORIS HTS MALIBU CA 90265	5961 FLORIS HTS MALIBU CA 90265	Single Family Residence	NO
14	4469-013-013	5960 FLORIS HTS MALIBU CA 90265	5960 FLORIS HTS MALIBU CA 90265	Single Family Residence	NO
15	4469-013-012	5944 FILAREE HTS MALIBU CA 90265	5944 FILAREE HTS MALIBU CA 90265	Single Family Residence	NO
16	4469-013-027	5942 FILAREE HTS MALIBU CA 90265	5942 FILAREE HTS MALIBU CA 90265	Single Family Residence	NO
17	4469-013-026	5940 FILAREE HTS MALIBU CA 90265	5940 FILAREE HTS MALIBU CA 90265	Single Family Residence	NO

18	4469-013-025	5938 FILAREE HTS MALIBU CA 90265	5938 FILAREE HTS MALIBU CA 90265	Single Family Residence	NO
19	4469-013-011	5901 CLOVER HEIGHTS AVE MALIBU CA 90265	5938 FILAREE HTS MALIBU CA 90265	Single Family Residence	YES
20	4469-012-001	5906 CLOVER HEIGHTS AVE MALIBU CA 90265	5906 CLOVER HEIGHTS AVE MALIBU CA 90265	Single Family Residence	NO
21	4469-012-028	5920 CLOVER HEIGHTS AVE MALIBU CA 90265	03535 SWEETWATER MESA RD MALIBU CA 90265	Single Family Residence	YES
22	4469-012-034	5940 CLOVER HEIGHTS AVE MALIBU CA 90265	710 WILSHIRE BLVD SANTA MONICA CA 90401	Single Family Residence	YES
23	4469-012-035	NO ADDRESS AVAILABLE	710 WILSHIRE BLVD SANTA MONICA CA 90401	Vacant Land	YES
24	4469-012-006	5939 BUSCH DR MALIBU CA 90265	00717 CALIFORNIA AVE VENICE CA 90291	Single Family Residence	YES
25	4469-020-044	6022 MERRITT DR MALIBU CA 90265	6022 MERRITT DR MALIBU CA 90265	Single Family Residence	NO
26	4469-020-024	6040 MERRITT DR MALIBU CA 90265	6040 MERRITT DR MALIBU CA 90265	Single Family Residence	NO
27	4469-020-034	6052 MERRITT DR MALIBU CA 90265	6052 MERRITT DR MALIBU CA 90265	Single Family Residence	NO
28	4469-020-035	6070 MERRITT DR MALIBU CA 90265	6070 MERRITT DR MALIBU CA 90265	Single Family Residence	NO
29	4469-020-040	NO ADDRESS AVAILABLE	PO BOX 1968 ZEPHYR COVE NV 89448	Vacant Land	YES
30	4469-020-041	6110 MERRITT DR MALIBU CA 90265	6110 MERRITT DR MALIBU CA 90265	Single Family Residence	NO
31	4469-020-029	6116 MERRITT DR MALIBU CA 90265	PO BOX 1968 ZEPHYR COVE NV 89448	Single Family Residence	YES
32	4469-020-030	NO ADDRESS AVAILABLE	PO BOX 1968 ZEPHYR COVE NV 89448	Vacant Land	YES
33	4469-020-007	6160 MERRITT DRIVE MALIBU CA 90265	03201 LONGRIDGE AVE SHERMAN OAKS CA 91423	Vacant Land	YES
34	4469-019-005	6171 MERRITT DR MALIBU CA 90265	6171 MERRITT DR MALIBU CA 90265	Single Family Residence	NO
35	4469-021-011	5980 MERRITT DR MALIBU CA 90265	241 S WINDSOR BLVD LOS ANGELES CA 90004	Single Family Residence	YES

36	4469-021-020	NO ADDRESS AVAILABLE	241 S WINDSOR BLVD LOS ANGELES CA 90004	Vacant Land	YES
37	4469-018-011	6267 MERRITT DR MALIBU CA 90265	6267 MERRITT DR MALIBU CA 90265	Single Family Residence	NO
38	4469-018-012	6343 MERRITT DR MALIBU CA 90265	6343 MERRITT DR MALIBU CA 90265	Single Family Residence	NO
44	4469-018-007	NO ADDRESS AVAILABLE	05953 ATLANTIC BLVD MAYWOOD CA 90270	Vacant Land	YES
45	4469-013-007	29924 HARVESTER RD MALIBU CA 90265	29924 HARVESTER RD MALIBU CA 90265	Single Family Residence	NO
46	4469-013-035	29840 HARVESTER RD MALIBU CA 90265	29840 HARVESTER RD MALIBU CA 90265	Single Family Residence	NO
47	4469-013-010	5845 CLOVER HEIGHTS AVE MALIBU CA 90265	5845 CLOVER HEIGHTS AVE MALIBU CA 90265	Single Family Residence	NO
48	4469-012-018	5840 CLOVER HEIGHTS AVE MALIBU CA 90265	5840 CLOVER HEIGHTS AVE MALIBU CA 90265	Single Family Residence	NO
49	4469-012-019	5900 CLOVER HEIGHTS AVE MALIBU CA 90265	5900 CLOVER HEIGHTS AVE MALIBU CA 90265	Single Family Residence	NO
50	4469-012-029	NO ADDRESS AVAILABLE	09595 WILSHIRE BLVD 1020 BEVERLY HILLS CA 90212	Vacant Land	YES
51	4469-040-006	29857 BADEN PL MALIBU CA 90265	17721 ROGERS RANCH PKWY STE 225 SAN ANTONIO TX 78258	Single Family Residence	YES
46	Properties		Properties with different mailing addresses:	18	


Pacific Coast Hwy
Morning View Dr
Merritt Dr
Via Cabrillo
Flores Heights Rd
Clover Heights Ave
Busch Dr
Harvester Rd
Cabrillo Elementary School
Malibu High School
Santa Monica-Malibu Unified School District
Malibu Equestrian Park
Frances Riders & Ropers
Metro Computers & Electronics
Aloha Beach Camp
Kali Ray Tri Yoga
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