

## CALIFORNIA COASTAL COMMISSION

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

# Th15c



Click here to go to  
original staff report

## ADDENDUM

DATE: July 9, 2014

TO: Coastal Commissioners and Interested Persons

FROM: Commission Staff

RE: **Addendum to Item Th15c:** City of Malibu Land Use Plan Amendment (No. MAL-MAJ-1-12), scheduled for public hearing and Commission action on July 10, 2014.

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The purpose of this addendum is to make minor revisions and corrections to the suggested modifications, attach a memorandum from the Mountains Recreation and Conservation Authority in support of the amendment and requesting one correction regarding identification of a state-owned property on Carbon/La Costa Beach, and include two emails from two separate beachfront property owners on Latigo Shore Drive objecting to lateral accessways being shown on their respective properties.

### A. Revisions

The following revisions to the suggested modifications of the report are made as follows (language to be inserted is shown **underlined** and language to be deleted is shown in ~~line out~~. Other suggested modifications that do not directly change LCP text (e.g., revisions to maps, figures, instructions) are shown in italics):

1. The Mountains Recreation and Conservation Authority (MRCA) has submitted a memorandum (attached as **Exhibit 1** of this addendum) to Commission staff dated July 8, 2014, supporting adoption of the City's amendment to the certified Land Use Plan, with the suggested modifications outlined in the staff report. In addition, the memorandum requests one correction to the Public Access Map to show that the parcel of land designated as APN 4451-003-900 is state-owned public beach property. The proposed Public Access Map does correctly show that the neighboring upcoast parcel of land (APN 4451-004-900) as state-owned public beach property; however, the proposed map failed to include the second parcel referenced in the MRCA's memorandum. Therefore, in order to ensure this property is correctly shown as public land, the following text shall be added to Suggested Modification Four (4):  
  
(g) *The parcel of land at APN 4451-004-900 shall be shown on the map as Public Beach and shown as "State of California Owned".*

2. In addition, the City of Malibu has requested that in order to clarify the portions of Point Dume Beach Park that are owned/managed by both the California Department of Recreation and Los Angeles County, Suggested Modification Four (4) be revised. Therefore, in order to correctly show this information, Part (d) of Suggested Modification Four (4) is revised as follows:

*(d) Correct label of Point Dume State Beach to indicate that **the area located at the Point Dume headland and extending down coast** ~~is~~ is a State Beach rather than a County Beach and that the area between Zuma Beach and the Point Dume Headland is shown as **Point Dume County Beach**.*

3. The City of Malibu has also requested that the address of the existing vertical public accessway shown on the proposed Public Access Map at 24715 Malibu Road be shown on the map as “24714 Malibu Road” to more accurately depict its location. Commission staff notes that some existing vertical public accessways shown on the proposed map are located on property without an actual designated address (including several publicly owned properties and rights-of-way). However, the proposed map includes designation of an address at some of these locations which are intended for informational purposes only in order to assist members of the public in locating available beach access. In this case, the two closest residential addresses on either side the above referenced vertical access way (which is publicly owned and does not have an actual address) are 24712 and 24742 Malibu Road). Because odd addresses number are typically assigned to properties on the inland side of Malibu Road and even address numbers are located on the seaward side of the road, the City believes this change will more accurately describe the location of the accessway on site. Therefore, in order to implement the City’s requested change and also to clarify that addresses shown on the map for some existing vertical public accessways are provided for informational purposes only and are approximations based on the addresses of adjacent properties, the following text shall be added to Suggested Modification Four (4):

*(h) the address shown for the vertical public accessway at 24715 Malibu Road shall be changed to “24714 Malibu Road”*

*(i) The following text shall be added the Notation Language located in the bottom right hand corner of each of the three map sheets:*

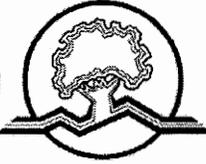
**Note: Some Vertical Public Accessways are located on property without a designated address. Thus, addresses shown for some existing Vertical Public Accessways are provided for informational purposes only and are approximations based on the addresses of adjacent properties.**

**B. Other Letters**

Three emails from two separate beachfront property owners on Latigo Shore Drive objecting to lateral accessways being shown on their respective properties(attached as **Exhibit 2** of this addendum). The first two emails received by staff were both from Dennis Seider dated July 8 and July 10, 2014. Both emails from Mr. Seider assert that the Public Access Map incorrectly shows a “lateral easement” on his property at 26642 Latigo Shore Drive. Mr. Seider further asserts that such an easement “may be incorrect” because the offer to dedicate such an easement “was not accepted within the required number of years”. In addition, in his July 10<sup>th</sup> email, Mr. Seider further asserts that the vertical public accessway shown at the Tivoli Cove Condominiums on Latigo Shore Drive is also in error because he disputes that the condominium complex developer did not have the right to grant such access along Latigo Shore Drive and because the Commission entered into a settlement agreement with the condominium developer which allegedly “dismissed” the easement. In addition, a third email was received from Mr. Seider’s neighbor, Merle Measer, dated July 8, 2014 (also attached as **Exhibit 2** of this addendum) also asserting the Public Access Map incorrectly shows a “lateral easement” on his property at 26646 Latigo Shore Drive because he never granted such an easement and because if such an easement had been granted by a previous property owner, then the offer to dedicate such an easement would have expired for the same reasons asserted in Mr. Seider’s email.

In response, staff notes that both of the above referenced properties at 26642 and 26646 Latigo Shore Drive were correctly shown as “Existing Lateral Accessway” on the certified Public Access Map. As proposed by the City, no changes would be made to the Public Access Map relative to either of the above properties. Moreover, staff also notes that both Mr. Seider and Mr. Measer are incorrect in their assertions that public access was required pursuant to an offer to dedicate lateral access and that such offers have expired. Public lateral access was required on Mr. Seider’s property at 26642 Latigo Shore Drive in 1976, pursuant to the recordation of a deed restriction required by the California Coastal Commission as a condition of approval of Coastal Development Permit P-10-1-76-9059 (Keith). The deed restriction granted public lateral access, inperpetuity, 25 ft. landward of the mean high tide line with a 5 ft. privacy buffer from the deck dripline. The Commission’s resolution of approval and a copy of the recorded deed restriction are included as **Exhibit 3** for reference. In regards to Mr. Measer’s assertion, public lateral access was required on Mr. Measer’s property at 26646 Latigo Shore Drive in 1973, as a condition of approval of Coastal Development Permit P-7-17-73-1494 (Dudek) which was implemented pursuant to a signed Verification of Permit. The terms of Coastal Development Permit P-7-17-73-1494 provided that the applicant may not “deny the public lateral access to the beach up to 10’ inland from the mean high tide line.” The signed Verification of Permit and the Resolution are also included as **Exhibit 3** for reference. The requirements for the provision of public lateral access on both Mr. Measer’s and Mr. Seider’s property are both in perpetuity and do not expire. Thus, both the previously certified and new proposed Public Access Maps correctly show public lateral access on these properties.

In response to Mr. Seider’s second assertion, regarding the recorded vertical access easement shown on the Tivoli Cove Condominium Property, staff notes that the settlement agreement between the Commission and the property owner referenced by Mr. Seider did not include any provision that the easement be eliminated. In this case, the offer to record a vertical access easement on that property was recorded in 1988 and was accepted by Access For All in 2004 and later transferred to MRCA in 2011. Thus, both the previously certified and new proposed Public Access Maps correctly show that a document has been recorded for public vertical access on this property.



MOUNTAINS RECREATION & CONSERVATION AUTHORITY  
Ramirez Canyon Park  
5810 Ramirez Canyon Road  
Malibu, California 90265  
Phone (310) 589-3230 Fax (310) 589-3237

## MEMORANDUM

**DATE:** July 8, 2014  
**TO:** Steve Hudson, Dante Doberneck of California Coastal Commission  
**FROM:** Paul Edelman  
**RE:** City of Malibu LCP Amendment No. MAL-MAJ-1-12 for Public Hearing and Commission Action at the July 10, 2014 Commission Meeting in Ventura

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Steve,

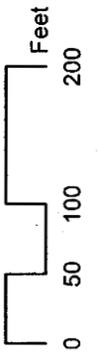
The Mountains Recreation and Conservation Authority supports the adoption of the proposed amended Public Access Map of the City of Malibu Local Coastal Program with the suggested modifications from the California Coastal Commission.

However, we noticed that the map failed to include a parcel that is part of the State-owned public beach property located at La Costa Beach. Please direct the City of Malibu to add **APN 4451-003-900** as part of the State-owned public beach property.

Thank you for your consideration of our comments.

Paul

<b>EXHIBIT 1</b>
MAL-MAJ-1-12 Addendum
<b>MRCA Memorandum</b>



21664 PCH (APNs 4451-003-900, 4451-004-900)

Public Land



**Hudson, Steve@Coastal**

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**To:** Rodriguez, Barbara@Coastal  
**Subject:** RE: purported easements at 26642 Latigo Shore Dr. and Tivoli Cove Condominiums located on Latigo Shjore Dr., Malibu CA 90265; ITEM 15C currently scheduled to be heard Thursday July 10, 2014

**From:** Dennis Seider [mailto:denniseider1@gmail.com]

**Sent:** Tuesday, July 08, 2014 1:57 PM

**To:** Rodriguez, Barbara@Coastal; Bert Kelley; Gerald Measer; BARRY HALDEMAN; alan armstrong; ROGER AND JANICE EHRLICH; Brant Didden; JILLIAN KIRK; SHELDON AND BARBRO KLAUSNER; Leah Ellenberg

**Subject:** purported easements at 26642 Latigo Shore Dr. and Tivoli Cove Condominiums located on Latigo Shjore Dr., Malibu CA 90265; ITEM 15C currently scheduled to be heard Thursday July 10, 2014

Dear Barbara:

Thank you for the time kindly taken in our conversation today and your invitation to write to you concerning the captioned errors in the proposed LCP inventory of coastal access. It is especially appreciated as I am in Colorado and do want my comments made part of the record.

I am the owner of the captioned property at 26642 Latigo Shore Dr., Malibu CA 90265 which is shown as having a lateral easement on the exhibit map appended to Item 15c on Thursday's July 10th calendar.

This designated easement resulting from an Offer to Dedicate may be incorrect because the offer to dedicate was not accepted within the required number of years of when it was given. I believe the OTD was given in the early 1970s. Can you please check and advise?

In any case whatever easement may have been granted, to which objection is taken, should be limited to the right to pass and re-pass and no closer than forty feet from the drip line of the existing structure which I was told by my predecessor in interest, Alexander Keith, in 1979, was what he was told he had agreed to.

In the event you think my property OTD was timely accepted can you please be sure the coastal access inventory is appropriately qualified in terms of use and scope as outlined above.

With regard to the purported vertical easement through Tivoli Cove Condominiums this is in error. This was to have been a grant of an easement from PCH down Latigo Shore Drive which was never given because the owner/developer of the conversion of the apartments to condominiums did not have title to the land over which he was attempting to grant the easement. When this was discovered the CCC instituted suit for breach of the agreement. The suit was settled by the CCC agreeing to accept a one time payment of I believe \$47,000.00 to be used to build a stairway down to the beach and the suit to enforce the OTD or grant of easement was dismissed with prejudice. Furthermore there is an existing vertical easement about 500' east and another one planned for Dan Blocker Beach nearby.

Please confirm receipt, that this has been made a part of the record and advise us regarding correction of these errors.

Thank you,  
Dennis  
member of the board of the Latigo HOA

Thank you,  
Dennis Seider

<b>EXHIBIT 2</b>
MAL-MAJ-1-12 Addendum
<b>Letters of Interest</b>

**Hudson, Steve@Coastal**

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**To:** CoastalSantaMonicamtns  
**Subject:** RE: Item 15c; LCP amendment; 26642 Latigo Shore Dr., Malibu CA 90265

**From:** Dennis Seider [dennisseider1@gmail.com]  
**Sent:** Tuesday, July 08, 2014 8:59 AM  
**To:** CoastalSantaMonicamtns  
**Cc:** [kstecko@malibucity.org](mailto:kstecko@malibucity.org); [lellenberg1@gmail.com](mailto:lellenberg1@gmail.com); [ebhmalibu@aol.com](mailto:ebhmalibu@aol.com)  
**Subject:** Item 15c; LCP amendment; 26642 Latigo Shore Dr., Malibu CA 90265

Gentlemen:

I am the owner of the captioned property which is shown as having a lateral easement on the exhibit map appended to Item 15c on Thursday's July 10th calendar.

This designated easement resulting from an Offer to Dedicate may be incorrect because the offer to dedicate was not accepted within the required number of years of when it was given. Can you please check and advise?

In any case whatever easement may have been granted, to which objection is taken, should be limited to the right to pass and repass and no closer than forty feet from the drip line of the existing structure which I was told by my predecessor in interest in 1979 was what he was told he had to offer to be allowed to build and that was his (Alexander Keith) understanding as well as my own when I purchased the property.

I am unable to come to the hearing as I am in Colorado but appreciate your including these objections in the record and advising me of your response to the requests to correct the listing of my property as encumbered in the coastal access inventory when either it should not be or if included should be appropriately qualified in terms of use and scope.

Thank you,

Dennis Seider

**Hudson, Steve@Coastal**

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**Subject:**

RE: Item 15c Coastal Meeting July 10, 2014 re purported easement at 26646 Latigo Shore Dr. Malibu CA 90265

-----Original Message-----

From: Merle Measer [<mailto:merlemeaser@gmail.com>]

Sent: Tuesday, July 08, 2014 6:49 PM

To: Rodriguez, Barbara@Coastal

Subject: Item 15c Coastal Meeting July 10, 2014 re purported easement at 26646 Latigo Shore Dr. Malibu CA 90265

Dear Ms. Rodriguez,

We understand that on Thursday, July 10th, 2014 there is a meeting in Ventura concerning an Inventory of Coastal Access. Neither my wife nor I is able to attend this meeting, but would like the following facts to be known:

We (Gerald and Merle Measer) own the property at 26646 Latigo Shore Drive, Malibu 90265. We never granted a lateral easement on our property. If there was an offer to dedicate in the 1970's, it was not accepted in the required time. If there was an easement granted, to which objection is now taken, it was limited to the right to pass and re-pass no closer than 46 feet from the the mean high tide line. Could you please verify the coastal access inventory is correctly applied, and pass this information to the appropriate channels?

We would appreciate knowing this error was made part of the record, and if you need any other information, we are happy to hear from you.

Many thanks,

Merle and Jerry Measer  
cell 310-874-0200  
home 310-4547-7949

<b>EXHIBIT 2</b>
MAL-MAJ-1-12 Addendum
<b>Letters of Interest</b>

CALIFORNIA COASTAL ZONE CONSERVATION COMMISSION  
SOUTH COAST REGIONAL COMMISSION  
1000 OCEAN BOULEVARD, SUITE 3107  
LOS ANGELES, CALIFORNIA 90001  
(714) 846-0548



RESOLUTION OF APPROVAL AND PERMIT

**FILE COPY**

MAJ-5071

Application Number: P-10-1-76-9059

Name of Applicant: Alexander Keith, 20475 Roca Chica Dr., Malibu,  
CA, 90265

Permit Type:  Standard  
 Emergency

Development Location: 26642 Latigo Shore  
Malibu, CA 90265

Development Description: 2-story SFD with 2-car garage

Commission Resolution:

- I. The South Coast Conservation Commission finds that the proposed development:
  - A. Will not have a substantial adverse environmental or ecological effect.
  - B. Is consistent with the findings and declarations set forth in Public Resources Code Sections 27001 and 27302.
  - C. Is subject to the following other resultant statutory provisions and policies:  
County of Los Angeles ordinances
  - D. Is consistent with the aforesaid other statutory provisions and policies in that:  
approval in concept has been issued.
  - E. The following language and/or drawings clarify and/or facilitate carrying out the intent of the South Coast Regional Zone Conservation Commission:  
application, site map, plot plan and approval in concept.

<b>EXHIBIT 3</b>
MAL-MAJ-1-12 Addendum
Public Access Documents

Whereas, at a public hearing held on August 9, 1976 at

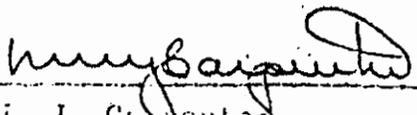
Torrance by a unanimous vote hereby approves  
(Location)

the application for Permit Number P-6-17-76-8152/9059 pursuant to the California Coastal Zone Conservation Act of 1972, subject to the following conditions imposed pursuant to the Public Resources Code Section 27103: Prior to issuance of permit, applicant shall submit:

1. evidence that a deed restriction has been recorded granting lateral public access up to 25 inland from the mean high tide line, however, in no case will said dedication be nearer than 5 feet to the proposed development; and
2. revised plans indicating that no part of the proposed structure shall be built out to a point seaward of an imaginary string line drawn between the corners of the adjoining structures, a similar string line shall be used to limit the build out of any decks.

Condition/s Met On \_\_\_\_\_ By GI

- III. Said terms and conditions shall be perpetual and bind all future owners and possessors of the property or any part thereof unless otherwise specified herein.
- IV. The grant of this permit is further made subject to the following:
  - A. That this permit shall not become effective until the attached verification of permit has been returned to the South Coast Regional Conservation Commission upon which copy all permittees have acknowledged that they have received a copy of the permit and understood its contents. Said acknowledgement should be returned within ten working days following issuance of this permit.
  - B. Work authorized by this permit must commence within 360 days of the date accompanying the Executive Director's signature on the permit, or within 480 days of the date of the Regional Commission vote approving the project, whichever occurs first. If work authorized by this permit does not commence within said time, this permit will automatically expire. Requests for permit extensions must be submitted 30 days prior to expiration, otherwise, a new application will be required.
- V. Therefore, said Permit (Standard, Emergency) No. P-10-1-76-9059 is hereby granted for the above described development only, subject to the above conditions and subject to all terms and provisions of the Resolution of Approval by the South Coast Regional Conservation Commission.
- VI. Issued at Long Beach, California on behalf of the South Coast Regional Conservation Commission on November 26, 1976.

  
\_\_\_\_\_  
M. J. Carpenter  
Executive Director

3947

#15506330

INSTRUMENT PREPARED BY AND MAIL TO:  
NAME CH2CC  
ADDRESS PO Box 11450  
CITY Long Beach CA 90801

CALIFORNIA COASTAL ZONE  
CONSERVATION COMMISSION  
SOUTH COAST REGION

DEED RESTRICTION

SEE 46-1

This instrument, made this 27 day of  
SEPT, 1976, by ALEXANDER C KEITH and  
BEATRICE E KEITH, of the City or Cities of  
(Spouse/Associate)  
LOS ANGELES, State of California, hereinafter collectively referred to as "the Permittee;"

WHEREAS, pursuant to the California Coastal Zone Conservation Act of 1972, sections 27000 through 27650 of the California Public Resources Code, the Permittee has made Application No. P-9059 to the California Coastal Zone Conservation Commission, South Coast Region, for the issuance of a permit for the construction of SINGLE  
(Describe Proposed Project)  
RESIDENT

on certain real property owned/leased/ OWNED  
(Other--state Permittee's interest in subject property)

by the Permittee and more particularly described below; and  
WHEREAS, said Commission has determined to grant said application and issue a permit for the construction of RESIDENT OCCUPATION ATTACHED HEREIN AND  
(Describe approved project)

MADE A PART HEREOF SINGLE FAMILY RESIDENT

RECEIVED  
OCT 1 1976  
OCT 27 1976  
NOV 1 1976  
RECEIVED  
South Coast Regional Commission

*[Handwritten notes and signatures on a separate piece of paper]*

M55064332

on said real property, subject to the following conditions, imposed for the benefit of the Public, and without agreement to which by Permittee, said Commission could not grant the permit:

FILL IN CONDITIONS) prior to the issuance of the permit, the applicant will submit evidence that a deed restriction has been recorded granting lateral public access up to 25 ft. inland from the mean high tide line, however, in no case will said dedication be nearer than 5 ft. to the proposed development.

NOW, THEREFORE, in consideration of the issuance of said development permit, and of the benefit conferred thereby on the subject property, Permittee agrees that there shall be, and hereby is, created the following restriction on the use and enjoyment of said property, to be attached to and become a part of the deed to the property:

that the public is granted lateral access along the shoreline up to 25 ft. inland from the mean high tide line, however, in no case will said access be granted nearer than 5 ft to the proposed development.

Passive  
ACK  
10-7-76

Permittee acknowledges that any violation of this deed restriction shall constitute a violation of the permit and shall subject Permittee or any other violator thereof to civil action for violation of the terms of said permit and of the Coastal Zone Conservation Act of 1972. Said deed restriction shall apply to the

21642 LATIGO MARINE MARINA Co 90221 (Project)

to be constructed/modified/ (other)

MS506-333

on that certain real property in the City of MALIBU,  
County of L.A., State of California, described as:

PXX LEGAL DESCRIPTION ATTACHED HEREIN AND  
MADE A PART HEREOF  
(Legal Description of the Property)

Unless specifically modified or terminated by affirmative vote of the issuing Commission or its successor agency, said deed restriction shall remain in full force and effect during the period that said permit, or any modification or amendment thereof, remains effective, and during the period that the development authorized by said permit, or any modification of said development, remains in existence in or upon any part of, and thereby confers benefit upon, the real property described herein, and to that extent, said deed restriction is hereby deemed and agreed by Permittee to be a covenant running with the land, and shall bind Permittee and all his successors and assigns.

Nothing shall become payable to Permittee, nor to the successors or assigns of Permittee, for the agreement herein set forth.

Executed the date above written.

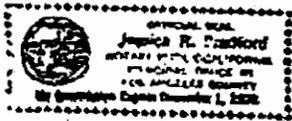
Alexander G. Smith  
Alexander G. Smith

STATE OF CALIFORNIA )  
COUNTY OF Los Angeles ) ss.

Beatrice E. Kuhl  
Permittee  
Beatrice E. Kuhl

On Sept 30, 1976, before me, the undersigned Notary Public, personally appeared Alexander G. Smith and Beatrice E. Kuhl, known to me to be the persons whose names are subscribed to the foregoing instrument and acknowledged to me that they executed the same.

Witness my hand and official seal of \_\_\_\_\_  
year in this certificate first above written.



*James R. Crawford*  
Notary Public, in and for the  
County of \_\_\_\_\_  
State of California.

#H55064334

This is to certify that the deed restriction set forth above, dated September 21, 1976, and signed by Alexander G. Keith, Trustee of F. Keith, Permittee, is hereby accepted by order of the California Coastal Zone Conservation Commission, South Coast Region, on Oct. 7, 1976 (Date) and said Commission consents to recordation thereof by its Executive Director, its duly authorized officer.

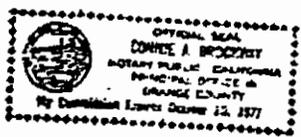
Date 10/14/76

By *Judy B. Pearson*  
Chairman, California Coastal Zone Conservation Commission, South Coast Region.

STATE OF CALIFORNIA }  
COUNTY OF Orange } ss.

On this 18<sup>th</sup> day of October, 1976, before me, the undersigned Notary Public, personally appeared Judy B. Pearson known to me to be the Chairman of the California Coastal Zone Conservation Commission, South Coast Region, and known to me to be the person who executed the foregoing instrument on behalf of said Commission, and acknowledged to me that such Commission executed the same.

Witness my hand and official seal the day and year in the certificate first above written.



*Connie A. Brockway*  
Notary Public in and for the  
County of Orange  
State of California



## CALIFORNIA COASTAL ZONE CONSERVATION COMMISSION

SOUTH COAST REGIONAL COMMISSION

36 E. OCEAN BOULEVARD, SUITE 3137

P. O. BOX 1450

LONG BEACH, CALIFORNIA 90801

(213) 436-4201 (714) 846-0648

RESOLUTION OF APPROVAL AND PERMITApplication Number: P-7-17-73-1494Name of Applicant: Richard C. Dudek10546 West Pico Blvd., Los Angeles 90064Permit Type:  Standard  
 Administrative  
 EmergencyDevelopment Location: 26646 Latigo Shore Drive, MalibuDevelopment Description: Construction of a single-family dwelling

## Commission Resolution:

I. The South Coast Conservation Commission finds that the proposed development:

A. ~~Will~~/will not have a substantial adverse environmental or ecological effect in that:the project will cause minimal environmental or  
ecological impact.

Is/~~is not~~ consistent with the findings and declarations set forth in Public Resources Code Sections 27001 and 27302 in that:

it will not hinder preservation of coastal zone resources for future maintenance planning.

C. Is subject to the following other resultant statutory provisions and policies:

County of Los Angeles ordinances.

D. Is/~~is not~~ consistent with the aforesaid other statutory provisions and policies in that:

approval in concept has been issued.

E. The following language and/or drawings clarify and/or facilitate carrying out the intent of the South Coast Regional Zone Conservation Commission:

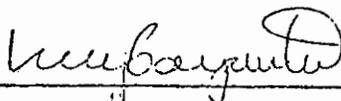
maps and other documents.

II. Whereas, at a public hearing held on September 4, 1973 (date) at Long Beach (location)

by an unanimous vote hereby approves/~~disapproves~~ the application for Permit Number P-7-17-73-1494 pursuant to the California Coastal Zone Conservation Act of 1972, subject to the following conditions imposed pursuant to the Public Resources Code Section 27403:

That the applicant agree not to deny the public lateral access to the beach up to 10' inland from the mean high tide line.

- III. Said terms and conditions shall be perpetual and bind all future owners and possessors of the property or any part thereof unless otherwise specified herein.
- IV. Section 560 of the Regulations of the California Coastal Zone Conservation Commission specifies that no structure or area of land or water shall be used or occupied in the manner authorized by the permit or in any other manner until the Executive Director has issued a Certificate of Compliance with the terms and conditions of the permit.
- V. The grant of this permit is further made subject to the following:
- A. That this permit shall not become effective until the verification has been returned to the South Coast Regional Conservation Commission upon which copy all permittees have acknowledged that they have received a copy of the permit and understood its contents. Said acknowledgement should be returned within ten working days following issuance of this permit.
  - B. That upon completion of the activity authorized by this permit the permittee(s) shall promptly complete the "Notice of Completion" and file it with the Executive Director of this Regional Commission.
  - C. That said development to be commenced on or before  
120 days from effective date of approval
- VI. Therefore, said Permit (Standard, ~~Administrative, or Agency~~) Number P-7-17-73-1494 is hereby granted/~~denied~~ for the above described development only, subject to the above conditions and subject to all terms and provisions of the Resolution of Approval by the South Coast Regional Conservation Commission.
- VII. Executed at Long Beach, California on behalf of the South Coast Regional Conservation Commission on September 19, 1973.

  
\_\_\_\_\_  
M.J. Carpenter  
Executive Director

wk

**CALIFORNIA COASTAL COMMISSION**

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



# Th 15c

**DATE:** June 26, 2014  
**TO:** Commissioners and Interested Persons  
**FROM:** Jack Ainsworth, Senior Deputy Director  
Steve Hudson, District Manager  
N.D. Doberneck, Coastal Program Analyst  
**SUBJECT:** City of Malibu, Local Coastal Program Amendment 1-12 for Public Hearing and Commission Action at the July 10, 2014 Commission Meeting in Ventura.

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## DESCRIPTION OF THE SUBMITTAL

The City of Malibu's proposed amendment to its certified Local Coastal Program (LCP) consists of an update to the Land Use Plan Public Access Map to reflect current information showing the location of existing public beaches, lateral public access ways along the shoreline, and vertical public access ways between the first public road and the shoreline. In addition to updating public access information, the City proposes to revise the graphic layout of the Public Access Map, whereby the map would consist of three sheets with three inset maps on each sheet. This graphic layout will allow for the access information to be shown at a larger scale than the certified map. Additionally, the City proposes to modify the map legend to re-name the categories of information shown and to utilize a different color scheme to depict the categories.

## SUMMARY OF STAFF RECOMMENDATION

Commission staff recommends that the Commission **deny** the proposed City of Malibu LCP Amendment MAL-MAJ-1-12 as submitted and **approve** only if modified pursuant to the suggested modifications. The suggested modifications are necessary to ensure that the City's Land Use Plan Public Access Map is consistent with and adequate to implement the Chapter 3 provisions of the Coastal Act. The motions and resolutions for Commission action can be found starting on **Page 5** of this report. The suggested modification language can be found starting on **page 6**. The standard of review for the proposed changes to the Land Use Plan is whether the amendment conforms with the Chapter 3 provisions of the Coastal Act.

The proposed amendment would add 120 recorded lateral public accessways to the Public Access Map to show a total of 529 recorded lateral public accessways within the City of Malibu. There are 36 recorded public accessways within the City of Malibu. The City has not obtained any new vertical public accessways since the LCP was adopted; however, the amendment

includes revisions intended to clarify the location and extent of existing vertical public access ways. In addition to updating public access information, the City proposes to revise the graphic layout of the Public Access Map and modify the map legend to re-name the categories of information shown and to utilize a different color scheme to depict the categories.

The periodic addition of updated information to the Public Access Map is necessary to ensure that the map accurately reflects all recorded and existing lateral and vertical public accessways. Staff has carefully reviewed the proposed maps to confirm the accuracy of the information shown. The accuracy of the map is important because it will be used to apply other policies and provisions of the LCP to development proposals. Staff has identified a number of necessary corrections to the map and updates to the status of multiple accessways identified on the proposed Public Access Map in order pursuant to Suggested Modifications 1 through 6 to ensure that the LUP Public Access Map, as proposed to be amended, will accurately depict public access within the City of Malibu.

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## EXHIBITS

- Exhibit 1: City of Malibu City Council Resolution
- Exhibit 2: Proposed City of Malibu Public Access Maps
- Exhibit 3: Current Certified City of Malibu Public Access Maps

## APPENDICES

- Appendix A Substantive File Documents

**Additional Information:** For further information, please contact N.D. Doberneck or Steve Hudson at the South Central Coast District Office of the Coastal Commission at (805) 585-1800. The proposed amendment to the City of Malibu Local Coastal Program (LCP) is available for review at the Ventura Office of the Coastal Commission or at the City of Malibu Planning Department.

## **I. PROCEDURAL ISSUES**

The Coastal Act provides:

*The commission shall certify a land use plan, or any amendments thereto, if it finds that a land use plan meets the requirements of, and is in conformity with, the policies of Chapter 3 (commencing with Section 30200)... (Section 30513(c))*

The standard of review that the Commission uses in reviewing the adequacy of the land use plan, as the City is proposing to amend it, is whether the land use plan is consistent with, and meets the requirements of, the policies of Chapter 3 of the Coastal Act.

### **A. PUBLIC PARTICIPATION**

Section 30503 of the Coastal Act requires public input in preparation, approval, certification and amendment of any Local Coastal Program (LCP). The City held public hearings on this amendment and received oral and written comments regarding the proposed changes from concerned parties and members of the public. The hearing was duly noticed consistent with the provisions of Section 13515 of Title 14 of the California Code of Regulations. Notice of the Coastal Commission hearing for LCP Amendment 2-12 has been distributed to all known interested parties.

On December 10, 2012, the Malibu City Council held a public hearing on LCP Amendment No. 12-004. The Council approved the subject LCP Amendment and adopted City Council Resolution No. 12-43. The City of Malibu submitted the subject LCP Amendment to the Commission on December 28, 2012. The amendment proposal was deemed incomplete on January 9, 2013. Additional information was provided by City of Malibu staff, and the proposed LCP Amendment was determined to be complete on May 2, 2012. At the July 10, 2013 hearing, the Commission granted a one-year time extension to act on this City of Malibu LCP Amendment (LCPA MAL-MAJ-1-12) pursuant to Coastal Act Section 30517 and California Code of Regulations, Title 14, Section 13535(c). The one-year extension requires that the Coastal Commission act on the proposed City of Malibu LCP Amendment (No. MAL-MAJ-1-12) by August 1, 2014. Notice of the Coastal Commission hearing for LCP Amendment MAL-MAJ-1-12 has been distributed to all known interested parties.

### **B. PROCEDURAL REQUIREMENTS**

Pursuant to Section 13551 (b) of Title 14 of the California Code of Regulations (“14 CCR”), the City, by resolution, may submit a Local Coastal Program Amendment that will either require formal local government adoption after the Commission approval, or is an amendment that will take effect automatically upon the Commission's approval pursuant to Public Resources Code Sections 30512, 30513, and 30519. In this case, because staff is recommending that this approval be subject to suggested modifications by the Commission, if the Commission approves this Amendment as recommended, the City must act to accept the certified suggested modifications within six months from the date of Commission action in order for the

Amendment to become effective (14 CCR §§13544, 13555(b), and Section 13542(b)). Pursuant to Section 13544, the Executive Director shall determine whether the City's action is adequate to satisfy all requirements of the Commission's certification order and report on such adequacy to the Commission. If the Commission denies the LCP Amendment, as submitted, no further action is required by either the Commission or the City.

## **II. STAFF RECOMMENDATION, MOTIONS, AND RESOLUTIONS**

Following a public hearing, staff recommends the Commission adopt the following resolutions and findings. The appropriate motion to introduce each resolution and a staff recommendation for how to vote on the motion is provided just prior to each resolution.

Following a public hearing, staff recommends the Commission adopt the following resolutions and findings. The appropriate motion to introduce each resolution and a staff recommendation for how to vote on the motion is provided just prior to each resolution.

### **A. DENIAL AS SUBMITTED**

**Motion I:** *I move that the Commission certify Land Use Plan Amendment MAL-MAJ-1-12 as submitted by the City of Malibu.*

#### **Staff Recommendation of Rejection:**

Staff recommends a NO vote. Failure of this motion will result in denial of the amendment as submitted and adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the appointed Commissioners.

#### **Resolution to deny as submitted:**

*The Commission hereby denies certification of the Land Use Plan Amendment MAL-MAJ-1-12 as submitted by the City of Malibu and adopts the findings set forth below on the grounds that the amendment does not conform with the policies of Chapter 3 of the Coastal Act. Certification of the Land Use Plan amendment would not comply with the California Environmental Quality Act because there are feasible alternatives or mitigation measures which could substantially lessen any significant adverse impact which the Land Use Plan Amendment may have on the environment.*

### **B. APPROVAL WITH SUGGESTED MODIFICATIONS**

**Motion II:** *I move that the Commission certify Land Use Plan Amendment MAL-MAJ-1-12 for the City of Malibu if it is modified as suggested in this staff report.*

**Staff Recommendation to Certify with Suggested Modifications:**

Staff recommends a YES vote. Passage of the motion will result in the certification of the land use plan amendment with suggested modifications and adoption of the following resolution and findings. The motion to certify with suggested modifications passes only upon an affirmative vote of the majority of the appointed Commissioners.

**Resolution to Certify with Suggested Modifications:**

The Commission hereby certifies the Land Use Plan Amendment MAL-MAJ-1-12 for the City of Malibu if modified as suggested and adopts the findings set forth below on the grounds that the Land Use Plan amendment with suggested modifications will meet the requirements of and be in conformity with the policies of Chapter 3 of the Coastal Act. Certification of the land use plan amendment if modified as suggested 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 plan on the environment, or 2) there are no further feasible alternatives or mitigation measures that would substantially lessen any significant adverse impacts which the Land Use Plan Amendment may have on the environment.

**III. SUGGESTED MODIFICATIONS**

The staff recommends the Commission certify LCP Amendment MAL-MAJ-1-12 if modified with the modifications as shown below. The City’s proposed amended language to the certified LCP Land Use Plan is shown in straight type. Language recommended by Commission staff to be deleted is shown in ~~line out~~. Language proposed by Commission staff to be inserted is shown underlined. Other suggested modifications that do not directly change LCP text (e.g., revisions to maps, figures, instructions) are shown in italics.

**1. Map Legend/Key Changes**

*The legend/key (including all symbols, symbol colors, and text labels) on each proposed map sheet shall be replaced in its entirety with the legend/key (symbols, symbol colors, and text labels) that was used for the certified Land Use Plan Public Access Map. In addition, all symbols and symbol colors shown on each proposed map sheet shall be revised consistent with the above referenced changes to the legend/key.*

*Specifically, each proposed Public Access Map Category Label in the Legend/Key shall be replaced with the corresponding Certified Access Map Category Label as follows:*

<b>Proposed Access Map Category Label</b>	<b>Certified Access Map Category Label</b>
Lateral/Offer Accepted (Easement Recorded)	Existing Lateral Accessway
Lateral/Offer NOT Accepted (OTD Available)	Lateral Access Document Recorded
Vertical/Easement Recorded (Accessway Open)	Existing Vertical Accessway
Vertical/Easement Recorded (Accessway NOT Open Yet)	Vertical Access Document Recorded

## **2. Public View Point Designations**

*Modify the Public Access Map to correctly show the availability of a public view point by adding the symbol for a “Viewpoint” and deleting the incorrect symbol showing the availability of public vertical access at the following two locations:*

- 6800 Westward Beach Road (APNs 4468-022-001 and 030)
- 19900 Pacific Coast Highway (APN 4450-001-900)

## **3. Correction of Mapping Errors**

*Modify the Public Access Map to delete the areas incorrectly depicted as gray polygons seaward of the mapped parcels and correctly show the area as ocean at the following locations:*

- a) *The area seaward of the Tivoli Cove Condominium Property and immediately downcoast of APN 4460-020-008 (Latigo Shores Drive)*
- b) *The area seaward of the eight parcels identified as APNs 4452-005-001, 002, 004, 018, 022, 024, & 025) (between Surfrider Beach and Malibu Pier)*
- c) *The area seaward of APN 4452-003-011(at Carbon Beach)*

## **4. Map Text, Feature Label, and Notation Corrections**

*The following Public Access Map text, feature labels, and notations shall be modified as follows:*

- a) *Add labels to these roads: Corral Canyon Rd, Puerco Canyon Rd, Malibu Canyon Rd, Carbon Canyon Rd, Las Flores Canyon Rd, and Tuna Canyon Rd.*
- b) *Malibu Bluffs Park shall be added to the map as a Public Beach Park.*
- c) *Correct misspelling of Rambla Vista and Rambla Pacifico Street.*
- d) *Correct label of Point Dume State Beach to indicate that it is a State Beach rather than a County Beach.*
- e) *The sixth text line in the reference note located at the bottom of each map sheet, shall be revised to state “Source: The lateral and vertical access information on this map was compiled, in part, from information ~~by a Master OTD List~~ provided by the California Coastal Commission ~~(2012 Database).~~”*
- f) *The ninth line of the reference note shall be revised to correct a misspelling of the word “resale”.*

**5. Lateral Public Accessways**

*Modify the Public Access Map to add 8 lateral public accessways (designated as “Existing Lateral Accessway”) at the following locations:*

<i>Address</i>	<i>Street</i>	<i>APN</i>	<i>Reference Beach</i>
31532	Victoria Point Road	4470-017-029	Lechuza Point
31532	Victoria Point Road	4470-017-030	Lechuza Point
31520	Victoria Point Road	4470-017-032	Lechuza Point
31516	Victoria Point Road	4470-017-033	Lechuza Point
31508	Victoria Point Road	4470-017-034	Lechuza Point
31506	Victoria Point Road	4470-017-035	Lechuza Point
31504	Victoria Point Road	4470-017-036	Lechuza Point
24038	Malibu Road	4458-009-900	Amarillo Beach

*Modify the Public Access Map to add 3 lateral public accessways (designated as “Lateral Access Document Recorded”) at the following locations:*

<i>Address</i>	<i>Street</i>	<i>APN</i>	<i>Beach</i>
28884	Cliffside Drive	4466009026	Dume Cove Beach
26122	Pacific Coast Highway	4459021015	Dan Blocker Beach
23808	Malibu Road	4458006022	Dan Blocker Beach

*Suggested Modification 5 continued on Next Page*

**5. Lateral Public Accessways (cont.)**

*Modify the Public Access Map to change the designation of the 28 existing lateral public accessways at the following locations from “Lateral/Offer NOT Accepted (OTD Available)” to “Existing Lateral Accessways ”to designate their correct status:*

<i>Address</i>	<i>Street</i>	<i>APN</i>	<i>Beach</i>
33246	Pacific Coast Highway	4473019022	El Sol Beach
33390	Pacific Coast Highway	4473019005	El Sol Beach
32506	Pacific Coast Highway	4473015004	La Piedra Beach
31636	Sea Level Drive	4470001006	Lechuza Beach
27726	Pacific Coast Highway	4460031013	Escondido Beach
26054	Pacific Coast Highway	4459021023	Dan Blocker Beach
26110	Pacific Coast Highway	4459021005	Dan Blocker Beach
25438	Malibu Road	4459017017	Puerco Beach
25250	Malibu Road	4459016006	Puerco Beach
25228	Malibu Road	4459016002	Puerco Beach
25160	Malibu Road	4459015011	Puerco Beach
24912	Malibu Road	4458013022	Puerco Beach
24848	Malibu Road	4458013016	Puerco Beach
24844	Malibu Road	4458013015	Puerco Beach
24832	Malibu Road	4458013013	Puerco Beach
24460	Malibu Road	4458012001	Puerco Beach
24330	Malibu Road	4458011032	Amarillo Beach
24456	Malibu Road	4458011031	Puerco Beach
24230	Malibu Road	4458011006	Amarillo Beach
24008	Malibu Road	4458009014	Amarillo Beach
23812	Malibu Road	4458007028	Amarillo Beach
23674	Malibu Colony Road	4458005024	Amarillo Beach
23354	Malibu Colony Drive	4452008022	Amarillo Beach
23316	Malibu Colony Drive	4452008016	Amarillo Beach
20726 & 20732	Pacific Coast Highway	4450007043	Las Flores Beach
20766	Pacific Coast Highway	4450007039	Las Flores Beach
20016	Pacific Coast Highway	4450002053	Las Flores Beach
19034	Pacific Coast Highway	4449003022	Las Tunas Beach

## 6. Vertical Public Accessways

*Modify the Public Access Map to add, delete, or change the designation of the vertical public access ways at the following locations to designate their correct status:*

- a) Lechuza Beach. Add new symbols showing “Existing Vertical Access” located between the intersection of Bunny Lane and Broad Beach Road (APN 4470-024-901) and the sandy beach. Carbon Beach.*
- b) Western Malibu. Delete symbols showing “Vertical/Easement Recorded (Accessway NOT Open Yet)” on the property at 32340 Pacific Coast Highway (APN 4473-014-009)” to correctly show the status of the property only as “Existing Lateral Access”.*
- c) Carbon Beach. Delete symbols showing “Vertical/Easement Recorded (Accessway NOT Open Yet)” on the property owned by the California Department of Parks and Recreation immediately downcoast of the Malibu Pier (APN 4452-005-902).*
- d) Carbon Beach. Change the designation of the vertical public accessway at 22466 Pacific Coast Highway (APN 4452-002-011) from “Vertical/Easement Recorded (Accessway NOT Open Yet)” to “Existing Vertical Accessway” to reflect correct status.*
- e) Carbon Beach. Change the designation of the vertical public accessway at 22030 Pacific Coast Highway (APN 4451-005-017) from “Vertical/Easement Recorded (Accessway Open)” to “Vertical Access Document Recorded” to reflect correct status and delete symbols showing a second duplicate easement shown as “Vertical/Easement Recorded (Accessway NOT Open Yet)” on adjacent property at 22020 Pacific Coast Highway (APN 4451-005-020).*
- f) Big Rock Beach. Delete symbols showing duplicate “Vertical/Easement Recorded (Accessway Open)” at 20330 Pacific Coast Highway (APN 4450-004-031). The County owned Existing Vertical Public Accessway immediately downcoast and adjacent to 20356 Pacific Coast Highway (APN 4450-004-030) shall remain.*

#### **IV. FINDINGS FOR DENIAL AS SUBMITTED AND APPROVAL OF THE LOCAL COASTAL PROGRAM AMENDMENTS IF MODIFIED AS SUGGESTED**

The following findings support the Commission's denial of the Local Coastal Program (LCP) amendment as submitted, and approval of the LCP amendment if modified as indicated in Section III (*Suggested Modifications*) above. The Commission hereby finds and declares as follows:

##### **A. AMENDMENT DESCRIPTION**

The proposed amendment would serve to update the Public Access Map of the City of Malibu's certified Land Use Plan and is intended to show any changes or additions to vertical/lateral public access easements to or along the beach and offers to dedicate such easements that have been recorded, accepted, and/or opened since the Malibu LCP was adopted in September 2002. The Public Access Map depicts the location of all existing and/or recorded lateral and vertical public accessways on beachfront lots in Malibu, including accessways that existed prior to the Coastal Act, and accessways that have been required as mitigation for new development approved by coastal development permits granted by both the Coastal Commission and the City of Malibu.

The proposed amendment would add 120 recorded lateral public accessways to the Public Access Map to show a total of 529 recorded lateral public accessways within the City of Malibu. Specifically, the amendment would add 23 new lateral public access easements and offers to dedicate (OTDs) public lateral access easements to the Public Access Map that have been required by the City or the California Coastal Commission pursuant to the terms and conditions of coastal development permits since the adoption of the City's LCP (Exhibit 2). In addition, the amendment would add 97 lateral public accessways that were previously required by the Commission as conditions of approval of coastal development permits, prior to the adoption of the City's LCP in 2002. These 97 additional lateral public accessways were not shown on the previously certified Public Access Map and primarily consist of accessways that had been required by the Commission as a condition of approval for a coastal development permit but which had not yet been recorded at the time that the LCP was adopted and accessways that had been required pursuant to a deed restriction requiring public access rather than an OTD for an easement and had not been accurately reflected on the map.

There are 36 recorded public accessways within the City of Malibu. The City has not obtained any new vertical public accessways since the LCP was adopted; however, two vertical public access easements that were previously required by the Commission as conditions of approval of coastal development permits, prior to the adoption of the City's LCP in 2002 are proposed to be shown on the updated Public Access Map at 26664 Seagull Way and at 22548 Pacific Coast Highway. These easements have been accepted by public agencies but have not yet been opened and were inadvertently not included in the in the originally certified Public Access Map.

The proposed amendment also includes minor revisions intended to clarify the location and extent of existing vertical public access ways including showing that public vertical access is available at both West and East Sea Level Drives at Lechuza Beach which was originally shown as a single public access point on the certified public access map. In addition, although an offer to dedicate a vertical public accessway was previously shown on the certified Public Access Map along Las Flores Creek (between Pacific Coast Highway and the beach), the updated Public Map will more accurately show that two recorded offers for vertical public access ways were recorded adjacent to each other at that same location.

The amendment description submitted by the City also describes 14 other vertical public accessways as having been required by the Commission prior to adoption of the LCP which the City believed had not been included on the previously certified Public Access Map. However, 7 of the 14 vertical public accessways that were cited by the City were accurately shown on both the certified and the new proposed Public Access Map and; thus, do not constitute changes to the map. In addition, the other 7 of the 14 vertical public accessways that were cited by the City actually constitute misinterpretations of map/table data and Commission Staff has confirmed that these were accurately reflected on the certified Public Access Map as “Viewpoints”, lateral accessways, or areas where no such easement had been required or recorded.

The amendment also includes the deletion of one previously recorded offer to dedicate a vertical public access easement from the map at 22814 Pacific Coast Highway that was required by the Commission pursuant to Coastal Development Permit P-3-20-78-2984 because the development authorized by that permit was never built and the OTD was properly vacated in 2003 pursuant to the Commission’s approval.

In addition to updating public access information, the proposed amendment also includes revisions to the graphic layout of the Public Access Map, whereby the map would consist of three sheets with three inset maps on each sheet (Exhibit 2). This graphic layout will allow for the access information to be shown at a larger scale than the certified map. Additionally, the City proposes to modify the map legend/key to re-name the categories or types of public access ways available. The following chart details the existing category description that is used in the certified Public Access Map and the corresponding category name that is proposed to show the same information in the amended Public Access Map.

<b>Certified Access Map Category</b>	<b>Proposed Access Map Category</b>
Existing Lateral Accessway	Lateral / Offer Accepted (Easement Recorded)
Lateral Access Document Recorded	Lateral / Offer NOT Accepted (OTD Available)
Existing Vertical Accessway	Vertical / Easement Recorded (Accessway Open)
Vertical Access Document Recorded	Vertical / Easement Recorded (Accessway NOT Open Yet)

**B. PUBLIC ACCESS AND RECREATION**

The beaches of Malibu are world-famous tourist destinations for millions of visitors annually from foreign countries, all 50 states of the U.S., as well as for residents of cities and towns located throughout California. In addition, the Santa Monica Mountains area within and adjacent to the City provides an extensive network of public trails that traverse and connect Federal, State, and County parklands, and a system of heavily used historic trails on private land. Overall, a wide variety of recreational opportunities exist in the area including hiking, biking, horseback riding, camping, fishing, picnicking, nature study, surfing, diving, and swimming. Public access to and along the shoreline and trails, and the provision of public recreational opportunities and visitor-serving facilities such as campgrounds, hotels and motels has historically been a critical and controversial issue in Malibu. Coastal access is generally viewed as an issue of physical supply, and includes lateral access (access along a beach), vertical access (access from an upland street, parking area, bluff or public park to the beach), coastal blufftop trails, and upland trails that lead to the shore or traverse inland parklands within the Coastal Zone.

A broad policy goal of California's Coastal Management Program is to maximize the provision of coastal access and recreation consistent with the protection of public rights, private property rights, and coastal resources as required by the California Constitution and provided in Section 30210 of the Coastal Act. Several additional policies contained in the Coastal Act, which are also incorporated into the Land Use Plan, work to meet this objective. The Coastal Act requires that development not interfere with the public right of access to the sea (Section 30211); provides for public access in new development projects with limited exceptions (Section 30212); addresses the need to regulate the time, place, and manner of public access (30214); and specifies the need to protect ocean front land suitable for recreational use (Section 30221).

Section **30210** of the Coastal Act states that:

*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.*

The Coastal Act also requires that development not interfere with the public right of access to the sea in Section **30211**:

*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 **30212** of the Coastal Act provides for public access in new development projects with limited exceptions:

*(a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where:*

*(1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources, (2) adequate access exists nearby, or, (3) agriculture would be adversely affected. Dedicated accessway shall not be required to be opened to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the accessway.*

*(b) For purposes of this section, "new development" does not include:*

*(1) Replacement of any structure pursuant to the provisions of subdivision (g) of Section 30610.*

*(2) The demolition and reconstruction of a single-family residence; provided, that the reconstructed residence shall not exceed either the floor area, height or bulk of the former structure by more than 10 percent, and that the reconstructed residence shall be sited in the same location on the affected property as the former structure.*

*(3) Improvements to any structure which do not change the intensity of its use, which do not increase either the floor area, height, or bulk of the structure by more than 10 percent, which do not block or impede public access, and which do not result in a seaward encroachment by the structure.*

*(4) The reconstruction or repair of any seawall; provided, however, that the reconstructed or repaired seawall is not seaward of the location of the former structure.*

*(5) Any repair or maintenance activity for which the commission has determined, pursuant to Section 30610, that a coastal development permit will be required unless the commission determines that the activity will have an adverse impact on lateral public access along the beach.*

*As used in this subdivision "bulk" means total interior cubic volume as measured from the exterior surface of the structure.*

*(c) Nothing in this division shall restrict public access nor shall it excuse the performance of duties and responsibilities of public agencies which are required by Sections 66478.1 to 66478.14, inclusive, of the Government Code and by Section 4 of Article X of the California Constitution.*

Section **30212.5** provides for the distribution of parking over a wide area

*Wherever appropriate and feasible, public facilities, including parking areas or facilities, shall be distributed throughout an area so as to mitigate against the impacts, social and otherwise, of overcrowding or overuse by the public of any single area.*

Section **30214** of the Coastal Act addresses the need to regulate the time, place, and manner of public access:

*(a) The public access policies of this article shall be implemented in a manner that takes into account the need to regulate the time, place, and manner of public access depending on the facts and circumstances in each case including, but not limited to, the following:*

*(1) Topographic and geologic site characteristics.*

*(2) The capacity of the site to sustain use and at what level of intensity.*

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

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

*(b) It is the intent of the Legislature that the public access policies of this article be carried out in a reasonable manner that considers the equities and that balances the rights of the individual property owner with the public's constitutional right of access pursuant to Section 4 of Article X of the California Constitution. Nothing in this section or any amendment thereto shall be construed as a limitation on the rights guaranteed to the public under Section 4 of Article X of the California Constitution.*

*(c) In carrying out the public access policies of this article, the commission and any other responsible public agency shall consider and encourage the utilization of innovative access management techniques, including, but not limited to, agreements with private organizations which would minimize management costs and encourage the use of volunteer programs.*

The Coastal Act specifies the need to protect ocean front land suitable for recreational use in Section **30220**:

*Coastal areas suited for water-oriented recreational activities that cannot readily be provided at inland water areas shall be protected for such uses.*

Section **30221** also requires the protection of oceanfront land for recreational use:

*Oceanfront land suitable for recreational use shall be protected for recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area.*

The public already possesses ownership interests in tidelands or those lands below the mean high tide line. These lands are held in the State's sovereign capacity and are subject to the common law public trust. The protection of these public areas and the assurance of access to them lies at the heart of Coastal Act policies requiring both the implementation of a public access program and the minimization of impacts to access and the provision of access, where applicable, through the regulation of development. To carry out the requirement of Section 4 of Article X of the California Constitution, PRC Section 30210 provides that maximum access and recreational opportunities be provided consistent with public safety, public rights, private property rights, and natural resource protection. PRC Section 30211 requires that development not interfere with the public's right of access to the sea with certain exceptions. Furthermore, PRC Section 30212 requires that public access from the nearest public roadway to the shoreline and along the coast be provided in new development projects with certain exceptions such as public safety, military security, resource protection, and where adequate access exists nearby. Certain minor types of development would also not require the provision of access. Finally, PRC Section 30214 provides that the implementation of the public access policies take into account the need to regulate the time, place, and manner of public access depending of such circumstances as topographic and geologic characteristics, the need to protect natural resources, proximity to adjacent residential uses etc.

As previously described, the proposed LCP Amendment would modify the Public Access map which is part of the Land Use Plan (LUP). As such, the Chapter 3 policies of the Coastal Act are the standard of review for this LCP Amendment. It is also necessary to consider the internal consistency of the proposed changes with applicable LUP policies.

### **LUP Access Policies**

The certified LUP contains several policies to ensure the protection and provision of public access in new development along with the consideration of public safety needs, private property rights, and the protection of natural resources, where applicable. Several policies provide specifically for the requirement of an offer to dedicate a lateral or vertical public access easement as a special condition in new development projects where a nexus is demonstrated between the proposed development and its impact on public access. The LUP also states that public accessways and trails to the shoreline and public parklands shall be a permitted use in all land use and zoning designations. Where there is an existing, but unaccepted and/or unopened public access Offer-to-Dedicate (OTD), easement, or deed restriction for lateral, vertical or trail access or related support facilities (e.g. parking, construction of necessary access improvements) shall be permitted to be constructed, opened and operated for its intended public use (LUP Policy 2.7). The LUP policies also provide the physical standards for locating such easements (LUP Policies 2.66 – 2.68). Other policies provide for the opening, construction and maintenance of new accessways or the ongoing operation of existing accessways as well as for the acceptance,

operation and maintenance of offers to dedicate beach or trail access easements (LUP Policies 2.40 – 2.41, 2.69 – 2.71, 2.83 – 2.85). Additional policies provide for the consideration of public safety, minimizing impacts on private property and adjacent private uses such as residential dwellings, and for the protection and enhancement of sensitive natural resources in providing and regulating public access (LUP Policies 2.73 – 2.75). To provide maximum access opportunities and to minimize overburdening any particular area, vertical access locations need to be distributed throughout the City's shoreline. The LUP contains specific accessway standards or objectives for specific beaches in the City. These standards are objectives for public acquisition or dedication requirements in new development requirements where a nexus is found between the proposed development and its impact on public access. Vertical access standards generally recommend at least one accessway to the shoreline for each 1000 linear feet (LUP Policies 2.84-2.86).

All projects requiring a coastal development permit must be reviewed for compliance with the policies and provisions of the City's certified LCP and the public access and recreation provisions of Chapter 3 of the Coastal Act. Based on the access, recreation, and development policies contained in Chapter 3 of the Coastal Act, the City and the Commission has required public access to and along the shoreline in new development projects and has required design changes in other projects along the coast in Malibu and elsewhere to reduce interference with or eliminate impacts on public access. Impacts to access can occur from physical blockage of existing access, direct occupation of sandy beach by structures as well as from impacts on shoreline sand supply and profile caused by seawalls and other shoreline protective structures.

Development on the beach, particularly the placement of shoreline protective devices, has been found to cause a number of effects on the dynamic shoreline and the availability of public land. As a result, development can often lead to significant impacts on public access. Development on a beach often leads to a change in the beach profile. A beach that rests either temporarily or permanently at a steeper angle than under natural conditions will have less horizontal distance between the mean low water and the mean high water lines. This reduces the actual area in which the public can pass on its own property. This steepening of a beach can also lead to a progressive loss of sand on the beach. This material is not then available to nourish the offshore bar which usually provides the sand to replenish beaches after winter storms. The lack of an effective bar can allow such high wave energy on the shoreline that material may be lost far offshore where it is no longer available to nourish the beach resulting in a smaller beach. In addition, shoreline protective devices cumulatively affect public access by causing accelerated and increased erosion on adjacent public beaches and by their direct occupation of sandy beach area.

To eliminate or reduce potential impacts from development on public access and recreation, the Commission, in numerous permit actions, has often required that new shoreline development be located as far landward as possible in order to reduce adverse impacts to the sand supply and public access resulting from the proposed development. In addition, the Commission has also required that public access to or along the shoreline be provided in new development projects as mitigation for adverse impacts to beach sand supply and/or public access. This form of required mitigation is usually accomplished through an offer-to-dedicate (OTD) an easement for public

use, although it has also been accomplished through direct dedications of easements and deed restrictions in some cases.

The certified Public Access Map is included in the LCP to graphically depict the location of lateral and vertical public accessways, including those that are subject to accepted access easements, other access restrictions, and access OTDs. This information is included primarily as a tool for planning, and the application of the policies and provisions of the LCP. It also provides information to potential accepting agencies for access easements, as well as the beach-going public. However, those are not the primary functions of the Public Access Map. Potential public access easement accepting agencies may need more specific information regarding the type, details, and terms of lateral or vertical access easements or other recorded documents in order to make decisions (such information is available from the City of Malibu and/or the Coastal Commission). Additionally, there are public beach access guides available to the general public that supply more information regarding the location of beach access opportunities and available facilities.

### **Consistency Analysis**

As previously described, the proposed amendment to the certified LUP Public Access Map includes updating the depiction of lateral and vertical access restrictions that have been required as mitigation for new development approved by CDP's granted by both the Coastal Commission and the City of Malibu. This mitigation has been primarily required through the recordation of offers to dedicate (OTDs) an access easement across a designated portion of project sites, but other kinds of access restrictions, such as deed restrictions, have also been required. Pursuant to this amendment, updated public access information maintained by Coastal Commission and City staff and proposed to be shown on the updated Public Access Map will include additional vertical and lateral public accessways that have been required, recorded, accepted, and/or opened since the LUP Public Access Map was certified as part of the LCP in 2002.

The periodic addition of updated information to the Public Access Map is necessary to ensure that the map accurately reflects all recorded and existing lateral and vertical public accessways. Moreover, such updates are necessary to carry out the intent and provisions of both the Coastal Act and the City's LUP which require the implementation of a public access program adequate to provide and maintain maximum access and recreational opportunities.

In this case, the proposed amendment would add 120 recorded lateral public accessways to the Public Access Map to show a total of 529 recorded lateral public accessways within the City of Malibu. Specifically, the amendment would add 23 new lateral public access easements and offers to dedicate (OTDs) public lateral access easements to the Public Access Map that have been required by the City or the California Coastal Commission pursuant to the terms and conditions of coastal development permits since the adoption of the City's LCP. (Exhibit 2) In addition, the amendment would add 97 lateral public accessways that were previously required by the Commission as conditions of approval of coastal development permits, prior to the adoption of the City's LCP in 2002. These 97 additional lateral public accessways were not shown on the previously certified Public Access Map and primarily consist of accessways that had been required by the Commission as a condition of approval for a coastal development permit but which had not yet been recorded or accepted at the time that the LCP was adopted and

accessways that had been required pursuant to a deed restriction requiring public access rather than an OTD for an easement and had not been accurately reflected on the map.

In addition, Commission and City staff have coordinated and identified 11 recorded lateral public accessways that were previously shown on the certified Public Access Map and which were inadvertently omitted from the proposed Public Access Map located at Lechuza Point , Amarillo Beach, Dume Cove Beach, and adjacent to Dan Blocker Beach. Therefore, **Suggested Modification Five (5)** identifies the location of each of these accessways and requires that the Public Access Map be modified to show each of these accessways at their respective locations. easements that two modifications are suggested to reflect corrected or updated information regarding public access easements.

Further, Commission and City staff have identified 28 lateral public accessways that were inadvertently not updated to reflect that the offers to dedicate lateral public access on site has been accepted by a public agency or that were accepted after by a public agency after the submittal of this amendment. Thus, **Suggested Modification Five (5)** identifies the location of each of these 28 lateral access easements and requires that their status be changed from “*Lateral/Offer NOT Accepted (OTD Available)*” to “*Existing Lateral Accessways*” on the Public Access Map to correctly reflect that lateral access easements have been accepted on these parcels since the adoption of the City’s LCP in 2002.

There are 36 recorded public accessways within the City of Malibu. The City has not obtained any new vertical public accessways since the LCP was adopted; however, two vertical public access easements that were previously required by the Commission as conditions of approval of coastal development permits, prior to the adoption of the City’s LCP in 2002 are proposed to be shown on the updated Public Access Map at 26664 Seagull Way and at 22548 Pacific Coast Highway. These easements have been accepted by public agencies but have not yet been opened and were inadvertently not included in the in the originally certified Public Access Map.

The proposed amendment also includes minor revisions intended to clarify the location and extent of existing vertical public access ways including showing that public vertical access is available at both West and East Sea Level Drives at Lechuza Beach which was originally shown as a single public access point on the certified public access map. In addition, although an offer to dedicate a vertical public accessway was previously shown on the certified Public Access Map along Las Flores Creek (between Pacific Coast Highway and the beach), the updated Public Map will more accurately show that two recorded offers for vertical public access ways were recorded adjacent to each other at that same location. However, a third existing vertical public accessway (which is managed by the Santa Monica Mountains Conservancy and open and available for public use) is also located at Lechuza Beach between the intersection of Bunny Lane and Broad Beach Road (APN 4470-024-901) and the sandy beach. Therefore, to ensure that this vertical accessway is correctly shown, Suggested Modification Six (6) requires that the Public Access Map be revised to show “Existing Vertical Access” at this location.

In addition, the submitted amendment description incorrectly describes 14 other vertical public accessways as having been required by the Commission prior to adoption of the LCP but not shown on the previously certified Public Access Map. However, Commission staff has

confirmed that 7 of the 14 vertical public accessways that were cited by the City were accurately shown on both the certified and the new proposed Public Access Map and; thus, do not constitute changes to the map. In addition, the other 7 of the 14 vertical public accessways that were cited by the City actually constitute incorrect interpretations of map/table data and should not have been shown on the proposed Public Access Map as vertical public accessways. Two of these mapping errors include the incorrect designation of two vertical public accessways at 6800 Westward Beach Road (APNs: 4468-022-001 & 030) where the certified Public Access Map correctly showed a single Public “Viewpoint” on the hillside landward of Zuma Beach County Park. In addition, a third mapping error includes the redesignation of the Public “Viewpoint” shown on the certified Public Access Map at 19900 PCH (APN 4450-001-900) as a vertical public accessway. However, no existing access to the ocean or easements for such access were recorded at these properties; therefore, Suggested Modifications Two (2) and Six (6) provide that the Public Access Map be revised to correctly show the availability of a public viewpoint at each of these three locations and delete incorrect reference to vertical public access.

In addition, a fourth incorrect accessway was shown on the proposed Public Access Map as “Vertical/Easement Recorded (Accessway NOT Open Yet) on a property owned by the California Department of Parks and Recreation at the Malibu Pier (APN 4452-005-902). However, no such easement exists and given that the lot is a publicly owned property which is developed with a public beach parking lot which provides direct beach access, the designation of the site as “NOT Open Yet” would result in potential confusion and impacts to the public access. Therefore, **Suggested Modification Six (6)** provides that the Public Access Map be revised to delete the incorrect symbols showing an unopened vertical accessway at this location. The property will still be correctly shown as “Public Beach” on the proposed Map.

Finally, three other vertical public accessways were also shown on the proposed map at three other locations where no such accessways or easements have been recorded at 32340 PCH (APN 4473-014-009) and 22020 PCH (APN 4451-005-020). A lateral access easement has been recorded at 32340 PCH and is correctly shown on both the certified map and the proposed map; however, no vertical access easement from the highway to the beach is located at this site. A vertical public access easement was originally required by the Commission at this location pursuant to CDP A-22-080 in 1980; however, the requirement was subsequently removed by the Commission in a subsequent amendment to that permit in the 1980’s; thus, no vertical accessway is recorded at this site. In addition, the incorrectly shown vertical accessway at 22020 PCH appears to be an inadvertent duplication of the vertical public accessway that is correctly shown on the proposed map adjacent property at 22030 PCH. Another inadvertent duplication of a vertical accessway is shown at 20330 Pacific Coast Highway (APN 4450-004-031) adjacent to the correctly shown County owned vertical accessway located immediately downcoast and adjacent to 20356 Pacific Coast Highway (APN 4450-004-030). Therefore, **Suggested Modification Six (6)** also provides that the Public Access Map be revised to delete the incorrect symbols showing vertical accessways at these three locations.

In addition to updating public access information, the City proposes to revise the graphic layout of the Public Access Map, whereby the map would consist of three sheets with three inset maps on each sheet. This graphic layout will allow for the access information to be shown at a larger scale than the certified map. Additionally, the City proposes to modify the map legend/key to re-

name the categories or types of public access ways available. The following chart details the existing category description that is used in the certified Public Access Map and the corresponding category name that is proposed to show the same information in the amended Public Access Map.

<b>Certified Access Map Category</b>	<b>Proposed Access Map Category</b>
Existing Lateral Accessway	Lateral / Offer Accepted (Easement Recorded)
Lateral Access Document Recorded	Lateral / Offer NOT Accepted (OTD Available)
Existing Vertical Accessway	Vertical / Easement Recorded (Accessway Open)
Vertical Access Document Recorded	Vertical / Easement Recorded (Accessway NOT Open Yet)

However, while the City’s proposed category titles in the proposed revisions to the legend/key appear to be intended to provide greater specificity than the titles of the vertical and lateral access categories on the existing Public Access Map, they are not as inclusive as necessary nor do they correctly describe the actual vertical and lateral access documents that have actually been recorded for public access on many properties. Although the majority of the recorded accessways shown on the map were recorded as an offer-to-dedicate (OTD) an access easement that must be accepted by a public agency or an access easement that has already been accepted many of the accessways shown on the map, a substantial number of accessways were secured pursuant to different methods besides the recordation of an OTD, including the acquisition of a right of way by a public agency, the acquisition of land in fee title by a public agency, or the recordation of deed restrictions requiring the provision of public access across private land. As a result, the text description/title of the types of public access available are not accurately reflected by the proposed language of the map legend/key. In addition, the use of the color red (this color is typically used for “stop”, “don’t enter” or other warning signs) for lateral access easements that are not yet accepted may have an unintended chilling effect on the public’s use of these area by giving the false impression that no public access is available on the parcels shown in red. This may be inaccurate based on the terms of the individual recorded document and in any case, access within State lands would be available. As such, **Suggested Modification No. 1** requires that the Public Access Map legend/key be modified to apply the existing vertical and lateral access category names and color scheme (based on the certified LUP Public Access Map) to the updated information in the new graphic layout.

In addition, the proposed Public Access Map legend/key also deletes the existing symbol for “viewpoint” and the updated map does not show any viewpoints on the map itself. It is important to show public viewpoints where they have been required or previously designated, both to ensure that such areas are maintained for the use of the public, and to ensure that they are considered in applying the visual resource policies and provisions of the LCP to new development. There are two viewpoints (one viewpoint located across two parcels in the Westward Beach area, and one on a parcel of land owned by Caltrans in the Big Rock Beach area) that are inaccurately shown on the updated map as vertical accessways. **Suggested Modification No. 2** requires the addition of a viewpoint symbol to the Public Access Map legend and the depiction of the three viewpoint on the map.

Several other minor modifications are suggested to improve the clarity and ease of use of the proposed Public Access Map. **Suggested Modification No. 4** includes a clarification to the notation on each Map page. **Suggested Modification No. 4** also contains several modifications,

including the addition of name labels to several canyon roads, corrections of misspellings of road labels, revision of label for Point Dume State Beach, the addition of Malibu Bluffs Park, and corrections to addresses shown for two vertical accessways shown on the map.

Further, the currently certified map uses the seaward edge of parcels as the edge of the shoreline, however in several areas shown on the new proposed map, there are areas shown as “gray polygons” which are located seaward of several beachfront parcels but which are not parcels themselves. These gray polygon areas appear to have been created as unintentional GIS mapping artifact error and do not reflect the boundary of any parcel line. However, because these gray polygons are located between the beachfront parcel and the ocean (shown as blue on the map) they create potential confusion regarding the availability of public access. Therefore, **Suggested Modification 3** requires the that the Public Access Map be modified to delete the areas depicted as gray polygons seaward of the mapped parcels and correctly shown as ocean at those locations.

The Commission finds that it is necessary to require Suggested Modifications 1 through 6 to ensure that the LUP Public Access Map, as proposed to be amended, will accurately depict public access within the City of Malibu. The Public Access Map must be accurate since it will be used as a planning document to inform the City’s interpretation of the public access policies and provisions of the certified LCP. Only as modified, will the Public Access Map conform with the public access and recreation policies of the Coastal Act. The Commission finds that, if modified as suggested, the proposed local coastal program amendment is consistent with Sections 30210, 30211, 30212, 30214, 30220, and 30221 of the Coastal Act.

### C. CALIFORNIA ENVIRONMENTAL QUALITY ACT

California Public Resources Code (PRC) Section 21080.9 – within the California Environmental Quality Act (CEQA) – exempts local governments from the requirement of preparing an environmental impact report (EIR) in connection with their activities and approvals necessary for the preparation and adoption of a local coastal program. Instead, the CEQA responsibilities are assigned to the Coastal Commission. However, because the Natural Resources Agency found the Commission’s LCP review and approval program to be functionally equivalent to the EIR process, *see* 14 C.C.R. § 15251(f), PRC Section 21080.5 relieves the Commission of the responsibility to prepare an EIR for its review of and action on LCP provisions. Nevertheless, some elements of CEQA continue to apply to this review process.

Specifically, pursuant to CEQA and the Commission’s regulations (*see* 14 C.C.R. §§ 13540(f), 13542(a), and 13555(b)), the Commission's certification of this LCP amendment must be based in part on a finding that it meets the CEQA requirements listed in PRC section 21080.5(d)(2)(A). That section requires that the Commission not approve or adopt an LCP:

...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 Land Use Plan amendment has been found not to be in conformance with Chapter 3 policies of the Coastal Act. To resolve the concerns identified, suggested modifications have been made

to the proposed amendment. With incorporation of the suggested modifications, the Land Use Plan is in conformity with the Coastal Act. The suggested modifications minimize or mitigate any potentially significant environmental impacts of the LCP amendment. If modified as suggested, the Commission finds that approval of the LCP amendment will not result in significant adverse environmental impacts within the meaning of the California Environmental Quality Act.

The Commission finds that for the reasons discussed in this report, if the LCP amendment is modified as suggested, there are no additional feasible alternatives or feasible mitigation measures available that could substantially reduce any adverse environmental impacts. The Commission further finds that the proposed LCP amendment, if modified as suggested, is consistent with Section 21080.5(d)(2)(A) of the Public Resources Code.

## **Appendix A: Substantive File Documents**

1. City of Malibu Local Coastal Program, as amended.
2. City of Malibu City Council Resolution No. 12-43, dated December 10, 2012, A Resolution Adopting an amendment to the Local Coastal Program Land Use Plan to update the Public Access Map.
3. City of Malibu, City Council Agenda Report Item # 4.A dated December November 29, 2012, “Local Coastal Program Amendment No. 12-004 - An amendment to the Local Coastal Program Land Use Plan to update the Public Access Map”

RESOLUTION NO. 12-43

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MALIBU APPROVING LOCAL COASTAL PROGRAM AMENDMENT NO. 12-004, AN AMENDMENT TO THE LOCAL COASTAL PROGRAM LAND USE PLAN TO UPDATE THE PUBLIC ACCESS MAP

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

Section 1. Recitals.

A. On September 24, 2012, in compliance with Local Coastal Program (LCP) Local Implementation Plan (LIP) Section 19.2.1(A), the City Council adopted Council Resolution No. 12-36 to initiate an LCP amendment (LCPA) to update the LCP Public Access Map. The City Council directed the Planning Commission to schedule a public hearing regarding the amendment.

B. On November 5, 2012, the Planning Commission held a duly noticed public hearing on LCPA No. 12-004, at which time the Planning Commission reviewed and considered the agenda report, reviewed and considered written reports, public testimony, and other information on the record. At that meeting, the Planning Commission adopted Resolution No. 12-100, recommending the City Council approve the amendment as modified with the following five map changes: 1) a map note that defines “lateral public access” and “vertical public access”; 2) a map note that reads “The full extent of the parkland in the City can be seen on the LCP Parkland and Trails System Map.”; 3) a new west segment of Las Tunas Beach (APNs 4449-007-013 through -017) shown as a beach park; 4) plan references to identify the general location of all major beaches in the City including Escondido, Puerco Canyon, Amarillo, Carbon, La Costa, Las Flores, Big Rock, Westward, and Topanga; and 5) two vertical accessways between Broad Beach Road and west Sea Level Drive (APN 4470-021-008) and east Sea Level Drive (APN 4470-021-009).

C. On November 29, 2012, pursuant to LIP Section 19.3, a Notice of City Council Public Hearing was published in a newspaper of general circulation within the City of Malibu indicating that the City Council would hold a public hearing on December 10, 2012 to consider an amendment of the LCP. Additionally, a Notice of City Council Public Hearing was mailed to all interested parties; homeowners’ associations on record with the City; regional, state, and federal agencies affected by the amendment; local libraries and media; and the California Coastal Commission (CCC).

D. On December 10, 2012, the City Council held a duly noticed public hearing on the subject amendment, reviewed and considered written reports, public testimony, and related information. At that meeting, the City Council adopted Resolution No. 12-43 as modified with the following six changes: 1) a lateral easement located at 22716 Pacific Coast Highway; 2) removal of a vertical easement shown at 22716 Pacific Coast Highway (shown in error); 3) a lateral easement across 30974 to 30980 Broad Beach Road; 4) change the vertical easement located at 22626 Pacific Coast Highway from “open” to “closed”; 5) change the correct street

<b>Exhibit 1</b>
<b>City of Malibu LCPA</b>
<b>MAL-1-12</b>
<b>City Council Resolution 12-43</b>

name from Cliffside Drive to Wildlife Road in the eastern portion of Point Dume; 6) revise the displayed address listings down the coast to reflect the location of open vertical easements.

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 CCC before it takes effect.

Section 3. Local Coastal Program Amendment Findings.

A. Based on evidence in the record, the City Council hereby finds that the proposed amendment meets the requirements of, and is 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 said document. The proposed LCP Public Access Map reflects the most current inventory of existing lateral (along the coastline) and vertical (from the first public street to the beach) public beach access and public beach parks in the City since December 2001. An updated Public Access Map ensures that development and uses within the City's jurisdiction of the Coastal Zone advances the overarching goals of protecting coastal resources and promoting public access and recreation for the general public. Specifically, LCP Land Use Plan (LUP) Chapter 2 (Public Access and Recreation) states that the overarching goal and intent of the policies within the Chapter is to ensure that the LUP provides for the protection, provision, and enhancement of public access and recreation opportunities in the City of Malibu consistent with goals, objectives, and policies of the California Coastal Act. Other applicable chapters include LUP Chapter 4 (Shoreline Development), LUP Chapter 6 (Scenic and Visual Resources), and LIP Chapter 1 (Purpose).

As a part of the LUP, the updated Public Access Map ensures that future development projects and land uses conform to applicable LCP policies, goals, and provisions, while taking into consideration the protection and enhancement of visual resources, public access, and recreation opportunities. Incorporating an updated Public Access Map into the LUP achieves LUP Policy 2.61(b) (mapping preparation for the California Coastal Trail), LUP Policy 2.82 (regional access guide), LUP Policy 2.83 (OTD acceptance prior to expiration), LUP Policy 4.17 (delineate all access on/near development), LUP Policy 6.2 (identification and protection from public viewing areas), LIP Sections 1.2(D) and (G) (guides future growth and development), LIP Section 1.2(F) (promotes public health, safety, and general welfare), and LIP Section 1.2(K) (assures adequate public uses, facilities, and improvements). The map was prepared with input and data from the CCC, SMMC, and the Mountains Recreation and Conservation Authority (MRCA).

Section 4. Local Coastal Program Amendment No. 12-004.

LCPA No. 12-004 includes the following amendment to the LUP portion of the LCP:

A. Replace the existing LCP Public Access Map in its entirety with Exhibit A, an updated Public Access Map, attached hereto.

Section 5. Approval.

The City Council hereby adopts LCPA No. 12-004, amending the City of Malibu LCP Public Access Map.

Section 6. Submittal to California Coastal Commission.

The City Council hereby directs staff to submit LCPA 12-004 to the CCC 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.

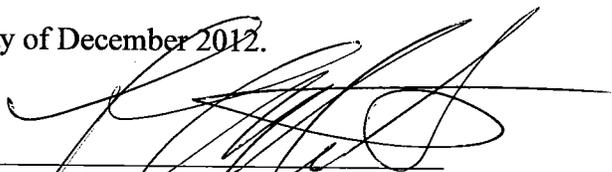
Section 7. Effectiveness.

The LCP amendment approved in this resolution shall become effective only upon certification by the CCC of this amendment to the LCP.

Section 8. Certification.

The City Clerk shall certify the adoption of this resolution.

PASSED, APPROVED AND ADOPTED this 10<sup>th</sup> day of December 2012.

  
\_\_\_\_\_  
LOULA MONTE, Mayor

ATTEST:

  
\_\_\_\_\_  
LISA POPE, City Clerk  
(seal)

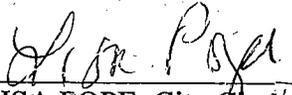
APPROVED AS TO FORM:

  
\_\_\_\_\_  
CHRISTI HOGIN, City Attorney

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

I CERTIFY THAT THE FOREGOING RESOLUTION NO. 12-43 was passed and adopted by the City Council of the City of Malibu at the regular meeting thereof held on the 10<sup>th</sup> day of December 2012, by the following vote:

AYES: 5 Councilmembers: Peak, Rosenthal, Sibert, House, La Monte  
NOES: 0  
ABSTAIN: 0  
ABSENT: 0

  
\_\_\_\_\_  
LISA POPE, City Clerk  
(seal)

**NOTE:**

Pages 5, 6, & 7 of the City of Malibu,  
City Council Resolution 12-43  
are the proposed 2012 Public Access Map  
which is included as Exhibit 2.



# Local Coastal Program Public Access

State of California  
Owned

Nicolas Canyon Beach  
Nicolas Canyon Beach

El Sol County Beach

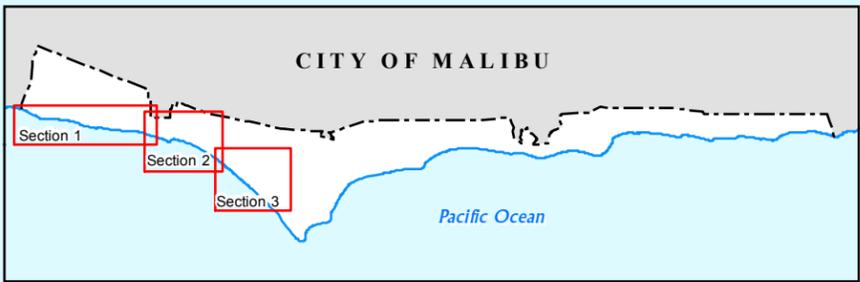
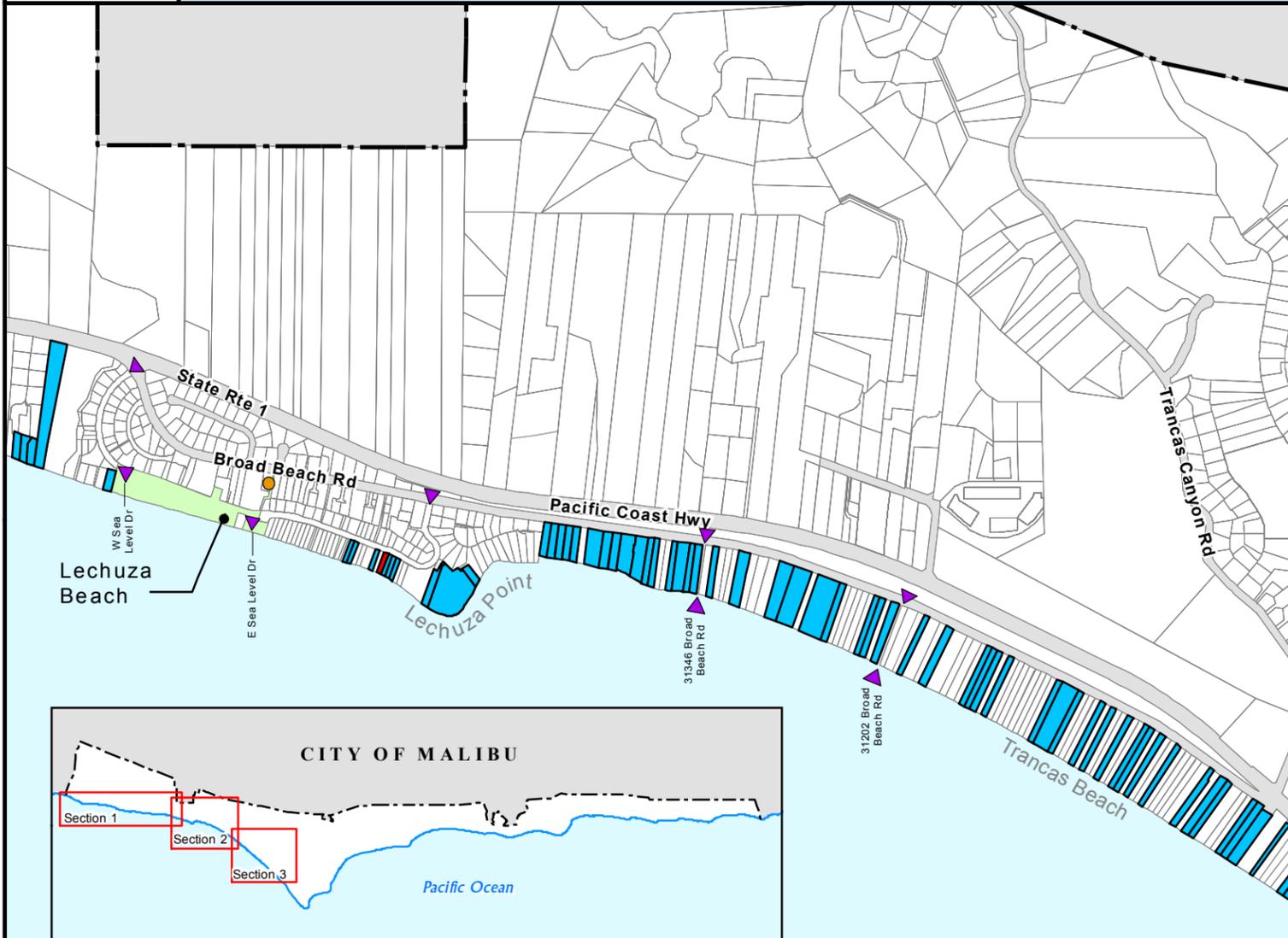
El Pescador  
State Beach

La Piedra  
State Beach

El Matador State Beach

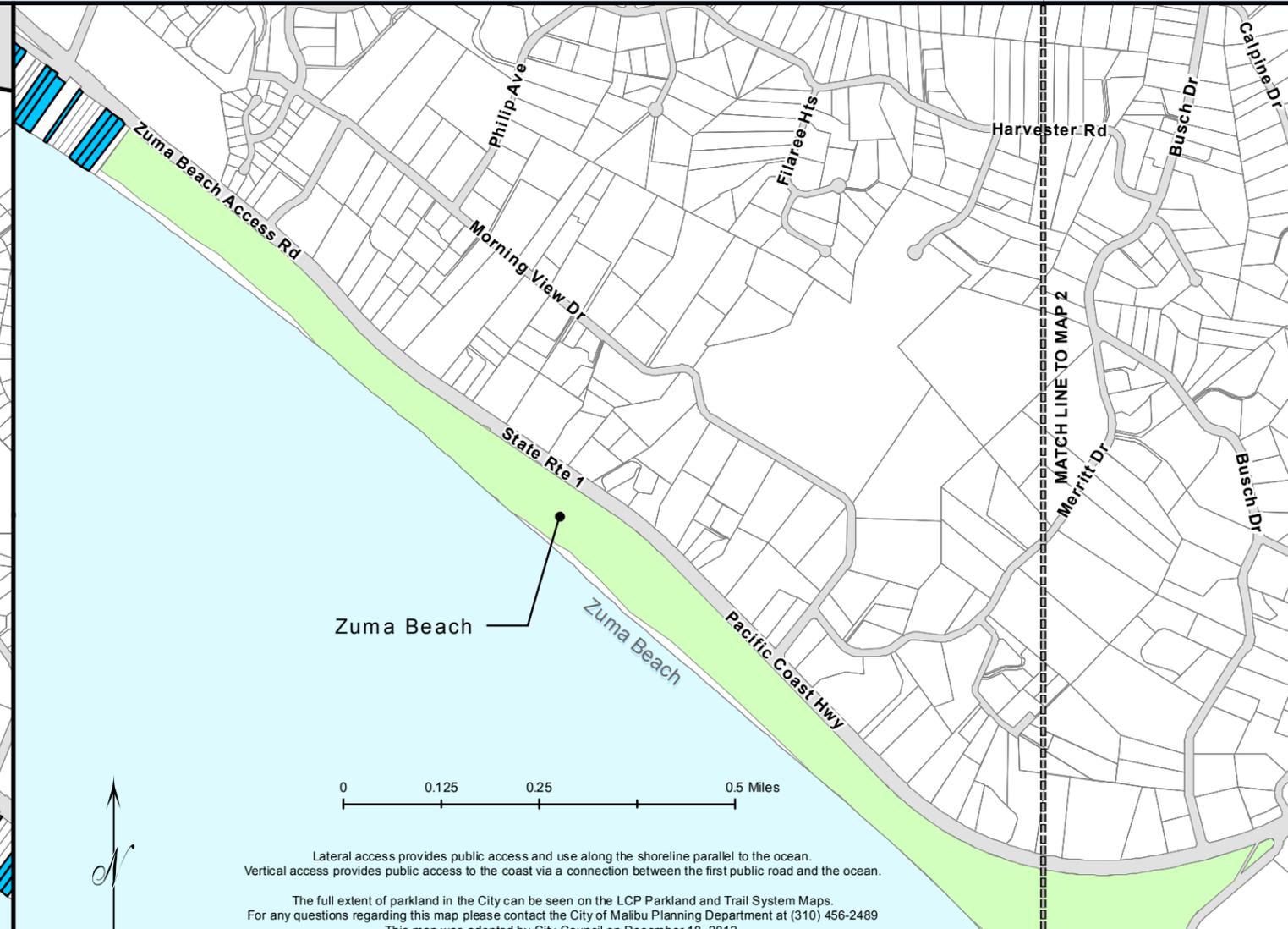
- Lateral / Offer Accepted (Easement Recorded)
- Lateral / Offer NOT Accepted (OTD Available)
- ▲ Vertical / Easement Recorded (Accessway Open)
- Vertical / Easement Recorded (Accessway NOT Open Yet)
- Public Beach

**SECTION 1**

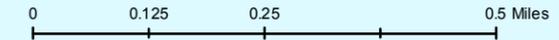


**SECTION 2**

**Exhibit 2**  
 City of Malibu LCPA MAL-1-12  
 Public Access Maps - proposed 2012



**SECTION 3**



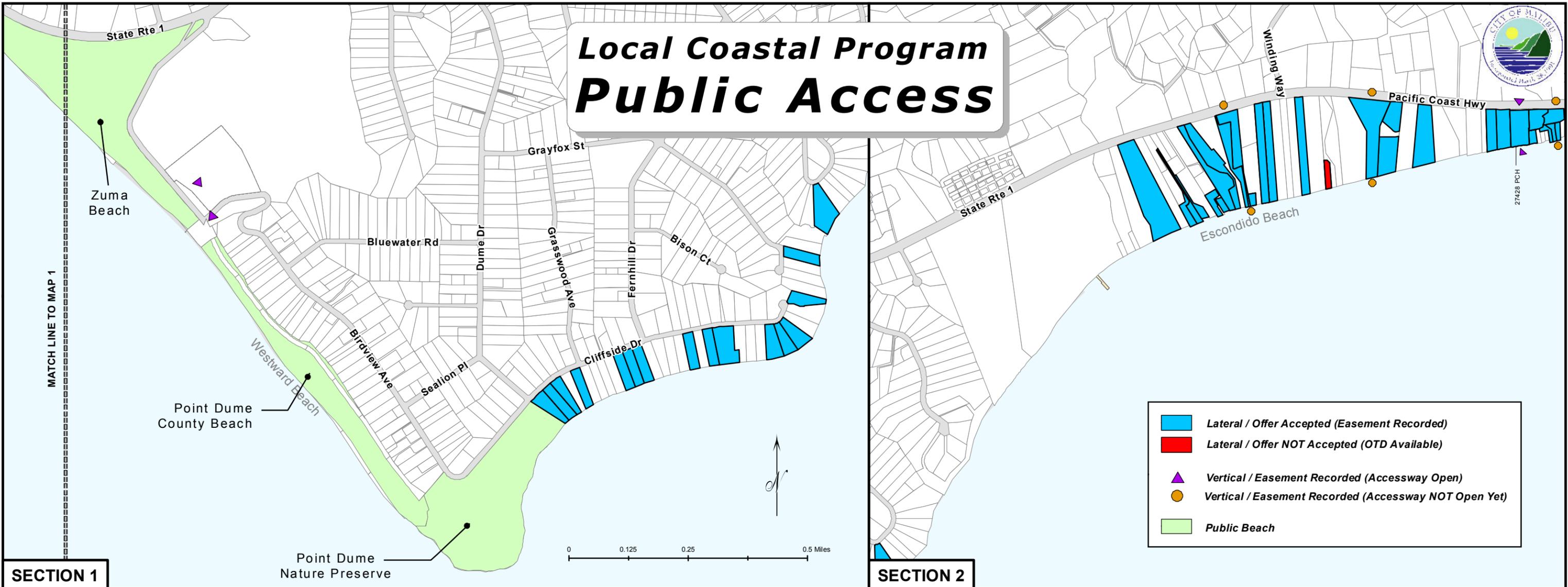
Lateral access provides public access and use along the shoreline parallel to the ocean.  
 Vertical access provides public access to the coast via a connection between the first public road and the ocean.

The full extent of parkland in the City can be seen on the LCP Parkland and Trail System Maps.  
 For any questions regarding this map please contact the City of Malibu Planning Department at (310) 456-2489  
 This map was adopted by City Council on December 10, 2012.  
 Source: The information in this map was compiled by a Master OTD List provided by the California Coastal Commission (2012 Database)  
 Coordinate System: NAD 1983 UTM Zone 11N  
 Geographic Coordinate System: GCS North American 1983  
 This map and associated data are provided without any warranty of any kind. Any resale of this information is prohibited.  
<http://www.malibucity.org/>

**Map 1 of 3**



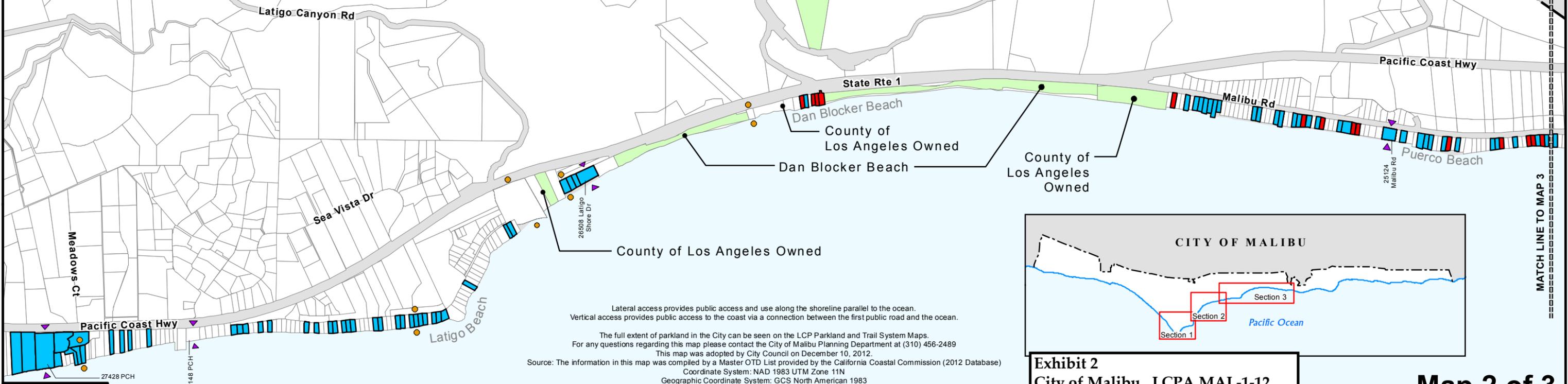
# Local Coastal Program Public Access



SECTION 1

SECTION 2

- Lateral / Offer Accepted (Easement Recorded)
- Lateral / Offer NOT Accepted (OTD Available)
- Vertical / Easement Recorded (Accessway Open)
- Vertical / Easement Recorded (Accessway NOT Open Yet)
- Public Beach



SECTION 3

MATCH LINE TO MAP 3

Lateral access provides public access and use along the shoreline parallel to the ocean.  
Vertical access provides public access to the coast via a connection between the first public road and the ocean.

The full extent of parkland in the City can be seen on the LCP Parkland and Trail System Maps.  
For any questions regarding this map please contact the City of Malibu Planning Department at (310) 456-2489.  
This map was adopted by City Council on December 10, 2012.

Source: The information in this map was compiled by a Master OTD List provided by the California Coastal Commission (2012 Database)  
Coordinate System: NAD 1983 UTM Zone 11N  
Geographic Coordinate System: GCS North American 1983  
This map and associated data are provided without any warranty of any kind. Any resale of this information is prohibited.  
<http://www.malibucity.org/>

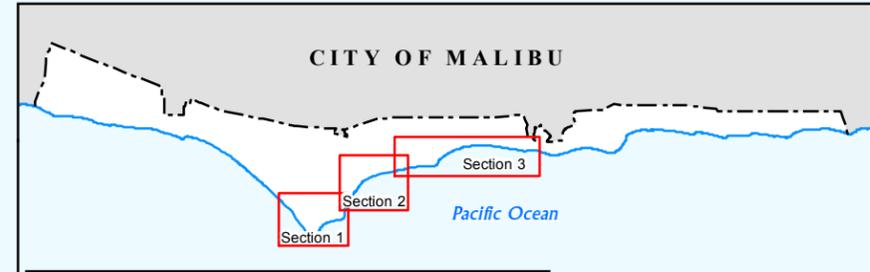
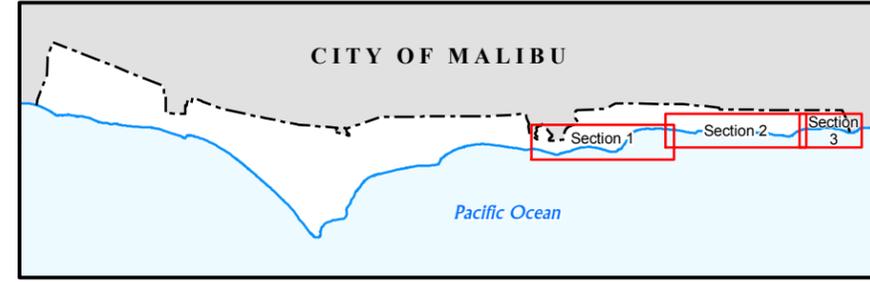
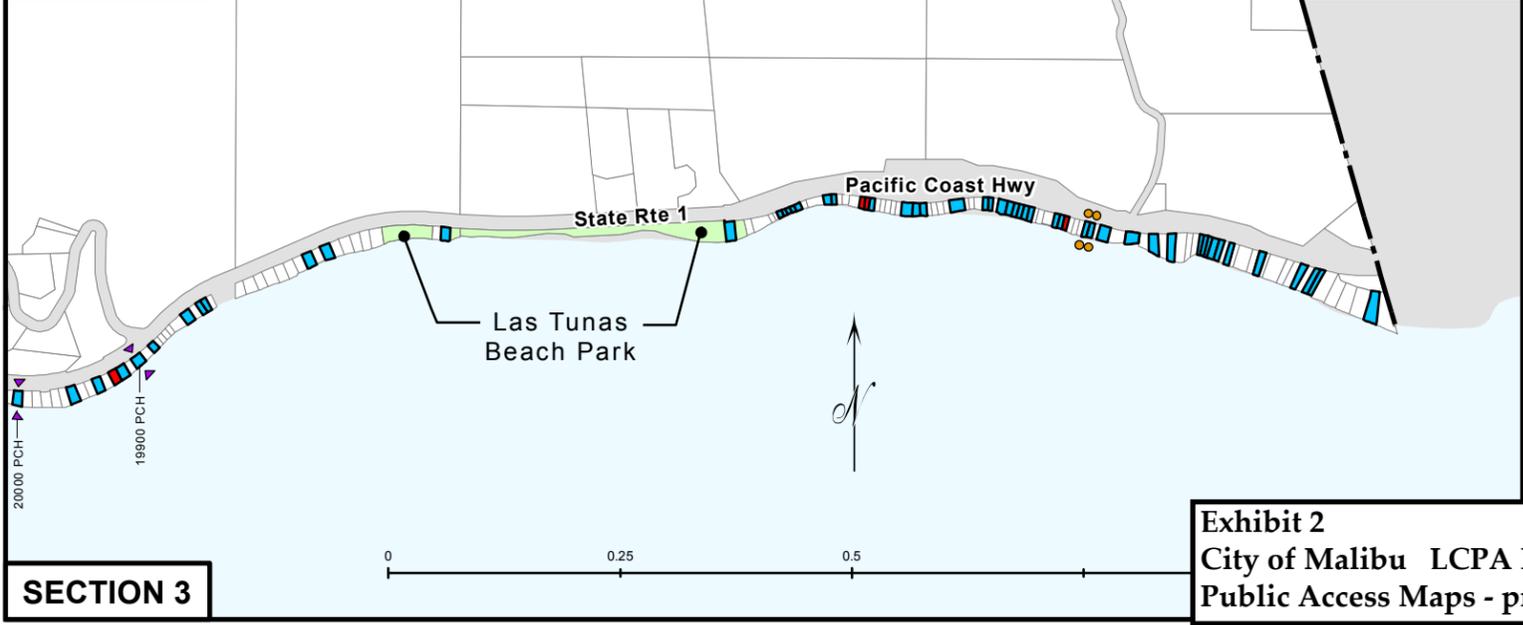
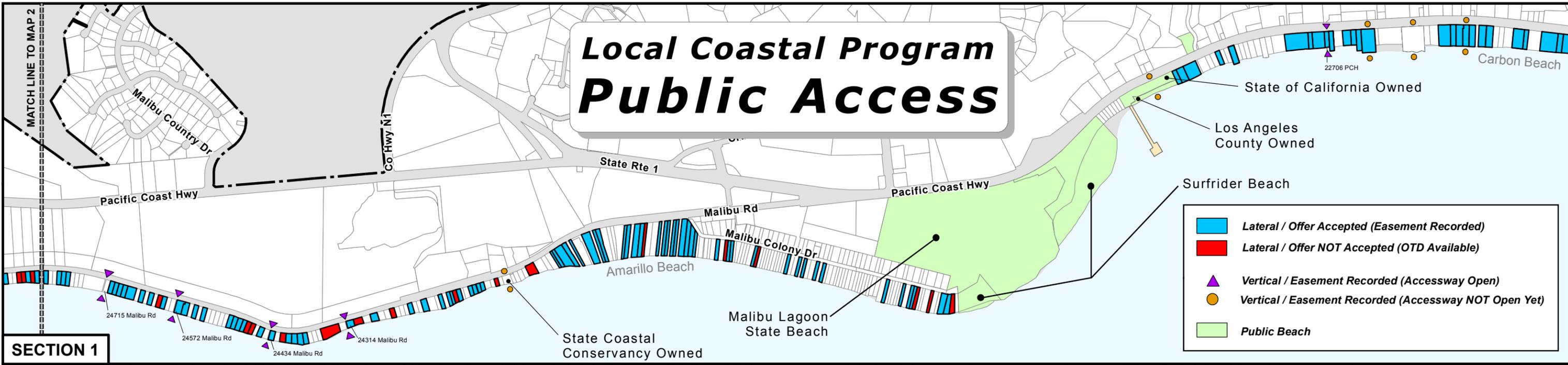


Exhibit 2  
City of Malibu LCPA MAL-1-12  
Public Access Maps - proposed 2012

# Local Coastal Program Public Access



**Exhibit 2**  
City of Malibu LCPA MAL-1-12  
Public Access Maps - proposed 2012

Lateral access provides public access and use along the shoreline parallel to the ocean.  
Vertical access provides public access to the coast via a connection between the first public road and the ocean.

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<http://www.malibucity.org/>



Local Coastal Program - City of Malibu  
**Public Access Map 1:**  
**Nicholas Canyon to Trancas Beach**

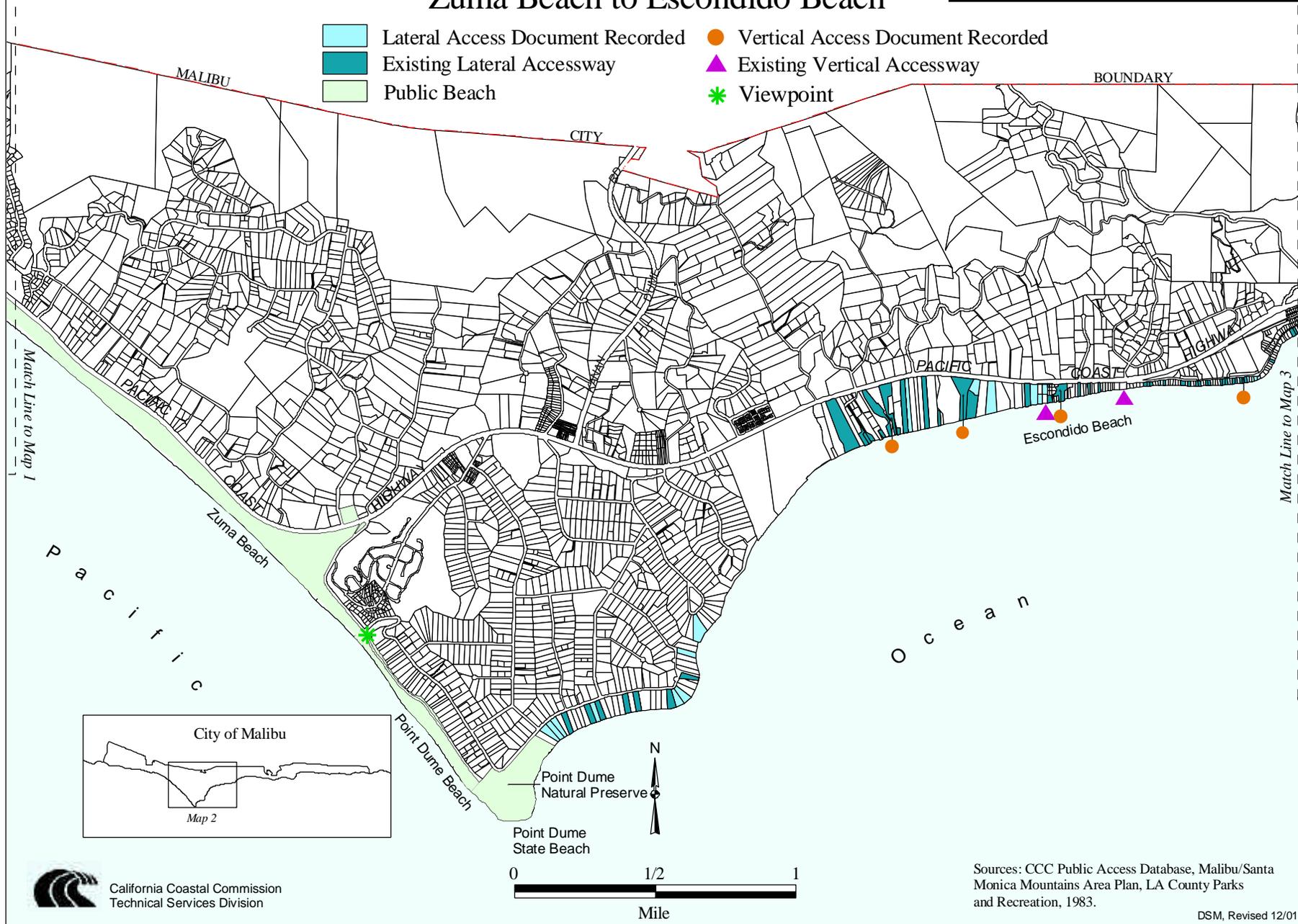
**Exhibit 3**  
**City of Malibu LCPA MAL-1-12**  
**Public Access Maps - certified 2002**



Local Coastal Program - City of Malibu  
**Public Access Map 2:**  
**Zuma Beach to Escondido Beach**

**Exhibit 3**  
**City of Malibu LCPA MAL-1-12**  
**Public Access Maps - certified 2002**

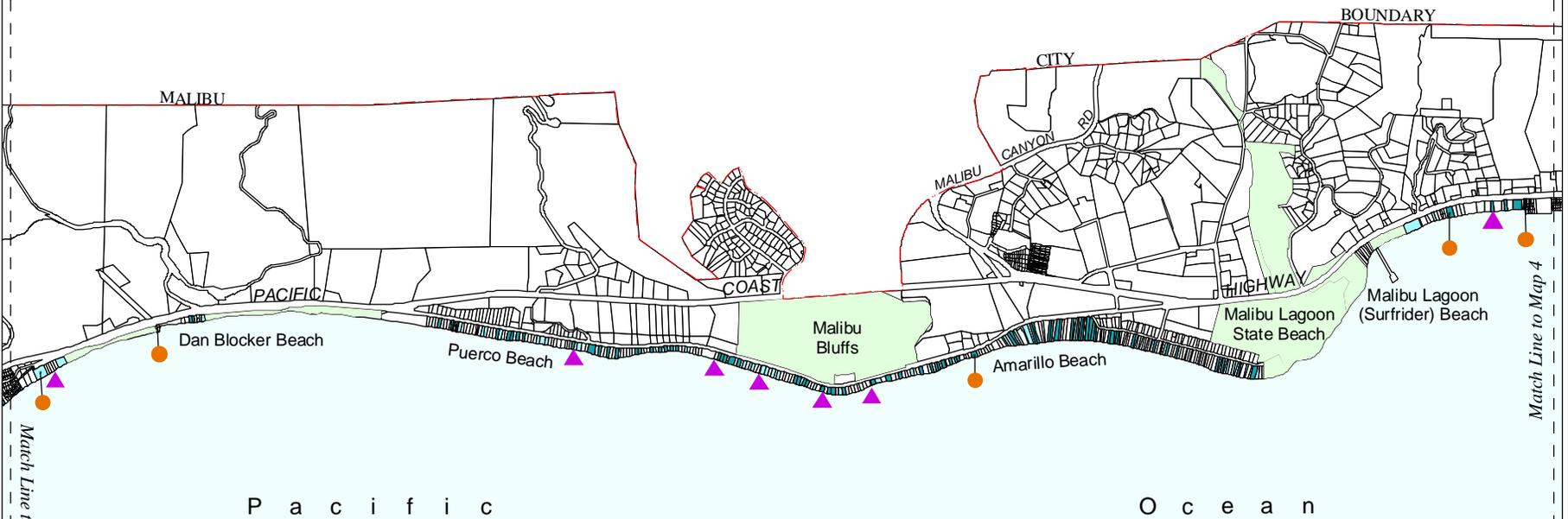
- Lateral Access Document Recorded
- Existing Lateral Accessway
- Public Beach
- Vertical Access Document Recorded
- Existing Vertical Accessway
- Viewpoint



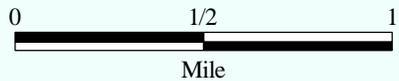
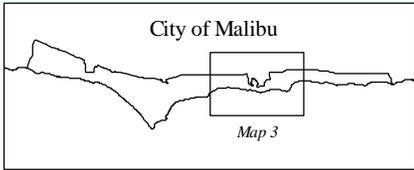
Local Coastal Program - City of Malibu  
**Public Access Map 3:**  
**Dan Blocker to Malibu Pier**

**Exhibit 3**  
**City of Malibu LCPA MAL-1-12**  
**Public Access Maps - certified 2002**

- Lateral Access Document Recorded
- Existing Lateral Accessway
- Public Beach
- Vertical Access Document Recorded
- Existing Vertical Accessway



P a c i f i c O c e a n



Local Coastal Program - City of Malibu  
**Public Access Map 4:**  
**Carbon Beach to Topanga Beach**

**Exhibit 3**  
**City of Malibu LCPA MAL-1-12**  
**Public Access Maps - certified 2002**

- Lateral Access Document Recorded
- Existing Lateral Accessway
- Public Beach
- Vertical Access Document Recorded
- Existing Vertical Accessway

