

CALIFORNIA COASTAL COMMISSION

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

**F18a**

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 original staff report

ADDENDUM

DATE: April 11, 2016
TO: Commissioners and Interested Parties
FROM: South Central Coast District Staff
SUBJECT: Agenda Item F18a, Appeal No. A-4-MAL-13-030 (Santa Monica-Malibu Unified School District), Friday, April 15, 2016

The purpose of this addendum is to 1) correct an inadvertent error and insert clarifying language to the text of Special Condition Six (6) Parking Lot Lighting Restrictions and 2) correct an inadvertent error in Exhibit 3 (Site Photo).

Note: ~~Strikethrough~~ indicates text to be deleted from the March 30, 2016 staff report and underline indicates text to be added to the staff report.

1. Staff recommends that the following revisions be made to subpart A of Special Condition Six (no changes are recommended to be made to Subparts B through G) found on page 12 and 13 of the March 30, 2016 staff report:

6. Parking Lot Lighting Restrictions

In order to implement the applicant's proposed lighting plan, the applicant agrees to comply with the following requirements:

- A. Lighting proposed within the new 150-space parking lot and upper walkways shall be designed and operated in conformance with the details submitted in the lighting plans date-stamped February 8, 2016, the parking lot shall be separated into three lighting areas (as shown in Exhibit 8) and shall be controlled by automatic occupancy/motion sensors. Motion-activated lighting in Areas 1, 2, and 3 shall automatically turn off no later than 15 minutes after the last time the lighting is activated. Areas 1, 2, and 3 are subject to the following use restrictions:
 - i. Area 1 (south section with ADA spaces) may be lighted until 10 p.m. nightly. All lighting shall be deactivated and vehicular access to Area 1 shall be gated and locked by 10 p.m.; and
 - ii. Area 2 (middle section) may be lighted until 8 p.m. nightly. All lighting shall be deactivated and vehicular access to Area 2 shall be gated and locked by 8 p.m.;
 - iii. Area 3 (northern section) shall not be lighted except as provided in the following paragraph (iv.), and vehicular access to Area 3 shall be gated and locked by ~~sunset~~ 8:00 p.m. nightly; and
 - iv. Notwithstanding the foregoing, Areas 1, 2, and 3 may be lighted until 10:30 p.m. in combination with the evening use of the main sports field lighting authorized by City of Malibu Coastal Development Permit No. 12-024 (not to exceed 16 nights), CDP No. 4-99-

~~276-A4~~ plus an additional 15 nights per year for special events. All lighting shall be deactivated, vehicular access to Areas 1, 2, and 3 shall be prohibited, and all areas shall be gated and locked by 10:30 p.m. on these nights.

v. Controls for the lights shall be designed to prevent any operation regardless of motion after the times the lighting in Areas 1, 2, and 3 is deactivated, as set forth in paragraphs (i) through (iii.) above. A key-operated or passcode override switch shall be provided at one secure location to override these controls on the evenings described in paragraph (iv.) above.

...

2. Exhibit 3 of the March 30, 2016 staff report shall be replaced with the revised Exhibit 3 that is included as Attachment 1 of this addendum to correct the depicted location of the Lower Parking Lot (61-spaces).



**New Parking Lot
(150-spaces)**

**Lower Parking Lot
(61-spaces)**

**Parking Lot A
(119-spaces)**

**Attachment 1
Addendum A-4-MAL-13-030
Revised Exhibit 3**

**Exhibit 3
Site Photo
Appeal No. A-4-MAL-13-030**

CALIFORNIA COASTAL COMMISSION

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

F18a

Appeal Filed:	4/15/13
49th Day:	Waived
Staff:	D. Venegas
Staff Report:	3/30/16
Hearing Date:	4/15/16

STAFF REPORT: SUBSTANTIAL ISSUE & DE NOVO REVIEW

Appeal Number: A-4-MAL-13-030

Applicant: Santa Monica-Malibu Unified School District

Appellant: Malibu Community Alliance

Local Decision: Approval with Conditions by the City of Malibu Planning Commission on March 18, 2013 (Coastal Development Permit No. 10-004)

Project Location: Malibu Middle and High School (MMHS) at 30215 Morning View Drive, Malibu, Los Angeles County (APN's: 4469-017-900 and 4469-018-903)

Project Description: Redevelop portions of the Malibu Middle and High School campus with a new classroom / library / administrative building totaling 20,274 square feet of net new building area; approximately 12, 509 square feet of interior renovation and modernization of existing classrooms; a new 150-space lighted parking lot; a reconfigured 119-space lighted parking lot with an onsite roundabout; a reconfigured 61-space lighted parking lot; a new student drop-off and pick-up lane; a right-hand turn lane for approximately 700 feet along Morning View Drive; two new unlit tennis courts; new outdoor common areas; new fencing, landscaping, retaining walls and grading; relocated equestrian trail; upgrades to the onsite wastewater treatment system and drainage; and demolition of the existing administration and library buildings.

Staff Recommendation: Find the Appeal to Raise Substantial Issues; Approve Permit with Conditions

IMPORANT HEARING NOTE PROCEDURE

The Commission will not take testimony on this "substantial issue" recommendation unless at least three commissioners request it. The Commission may ask questions of the Applicant, any aggrieved person, the

Attorney General or the Executive Director prior to determining whether or not to take testimony regarding whether the appeal raises a substantial issue. If the Commission takes testimony regarding whether the appeal raises a substantial issue, testimony is generally, and at the discretion of the Chair, limited to 3 minutes total per side. Only the Applicant, persons who opposed the application before the local government (or their representatives), and the local government shall be qualified to testify during this phase of the hearing. Others may submit comments in writing. If the Commission finds that the appeal raises a substantial issue, the de novo phase of the hearing will follow, unless it has been postponed, during which the Commission will take public testimony.

SUMMARY OF STAFF RECOMMENDATION

Staff recommends that the Commission determine that a substantial issue exists with respect to the appellant's assertions that the project is not consistent with the certified City of Malibu Local Coastal Program (LCP) policies and provisions related to environmentally sensitive habitat areas, native trees, and scenic and visual resources; and the City failed to approve the least environmentally damaging alternative, and that the Commission take jurisdiction over the coastal development permit (CDP) application for the project as a de novo CDP application. Further, staff recommends that the Commission approve the de novo CDP application, pursuant to revisions to the project by the applicant and subject to nine special conditions.

The City of Malibu Planning Commission approved a CDP for the redevelopment of portions of the Malibu Middle and High School campus with a new classroom/library/administration building; interior renovation of existing classrooms; a new 150-space lighted parking lot; reconfiguration of a 119-space lighted parking lot with an onsite roundabout; a reconfigured 61-space lighted parking lot; a new student drop-off and pick-up lane; two new unlit tennis courts; new outdoor common areas; new fencing, landscaping, and grading; relocated equestrian trail; upgrades to the onsite wastewater treatment system and drainage and the renovation of existing facilities and infrastructure. The campus is located at 30215 Morning View Drive in the City of Malibu, on the coastal terrace between Zuma Beach and the southern flanks of the western portion of the Santa Monica Mountains. The Commission's appeal jurisdiction for this area extends 100 feet from an existing stream course that runs along the western edge of the developed campus. The subject CDP is appealable to the Commission because a portion of the approved development (limited to the reconfigured 119-space lighted parking lot with an onsite roundabout and chain link fence) is located within 100 feet of the stream.

The project was appealed by the Malibu Community Alliance. The appeal contends that the approved project is inconsistent with the City of Malibu policies regarding environmentally sensitive habitat areas (ESHA) because the approved parking lot lighting on campus fails to avoid impacts to an adjacent stream that meets the definition of an ESHA under the City's LCP. The appeal also contends that the project is inconsistent with the scenic and visual policies in the Malibu LUP because the approved parking lot lighting has not been sited and designed to minimize adverse impacts on scenic areas visible from public viewing areas to the maximum feasible extent and fails to ensure compatibility with surrounding areas and results in lighting that is directly visible from public viewing areas. Lastly, the appellant asserts the City failed to find that the project is the least environmentally damaging alternative.

After the appeal was filed by the appellant, Commission staff met with the applicant, the appellant, and the City staff several times to discuss the appeal and the ways by which the issues raised by the appeal could potentially be resolved. Since the issues raised by the appeal centered on the outdoor

parking lot lighting component of the approved project, the applicant proceeded to develop a more specific outdoor lighting plan for the project, for review by Commission staff, the City, and the appellants, that would serve to avoid or minimize adverse impacts to the scenic and dark sky qualities of the area and avoid significant disruption of habitat values within the adjacent stream ESHA, consistent with the City's LCP. In October 2014, the City provided Commission staff and the appellant with a revised lighting plan and the memo prepared by the City's lighting consultant. Negotiations between the appellant and applicant continued and the appellant provided comments on the revised lighting plan, and then on April 21, 2015, the applicant and appellant had indicated that they had reached a tentative agreement on the lighting plan. Negotiations on the specific agreement language between the applicant and appellant continued after that time. However, on January 13, 2016 the applicant notified Commission staff that they would no longer be willing to work with the appellant to resolve the appeal and requested that Commission staff proceed to schedule the subject appeal for hearing. Commission staff scheduled the appeal for the March 2016 Commission hearing and the applicant provided a revised project description on February 18, 2016 to be considered for the de novo coastal development permit should the commission find the pending appeal to raise a substantial issue. However, on February 23, 2016, the applicant notified Commission staff that they and the appellants had come to an agreement on the revised lighting plan and timing restrictions and requested that the appeal hearing be postponed in order to allow time for the matter to be resolved at the local level and for the appeal to be potentially withdrawn. However, on March 14, 2016, the applicant requested that Commission staff process the subject appeal at the next available Commission hearing to help expedite the matter due to funding constraints and the fact that other agency permit approval expiration deadlines were approaching quickly.

With respect to the Commission's review of the de novo CDP, the applicant has made modifications to the proposed application for the de novo coastal development permit to address the issues raised in the appeal. The project has been revised by the applicant to incorporate light fixtures that have been sited and designed to demonstrate compliance with the Model Lighting Ordinance (MLO) LZ1 standard, which is a very restrictive lighting zone and is recommended for rural and low density residential areas where lighting might adversely affect flora and fauna or disturb the character of the area. The applicant has also reduced the wattage and color temperature of proposed lighting to further minimize sky glow and light trespass. In addition, the applicant has divided the proposed new 150-space parking lot into three new light restriction areas, each area with an automatic barrier gate, to limit the extent and duration of night lighting to the minimum necessary for safe school use.

The revised lighting design and configuration proposed by the applicant will avoid increased illumination and significant disruption of habitat values within the adjacent stream ESHA and significant impact to migratory and resident bird species that may potentially occur in the area; and minimize adverse impacts on scenic resources consistent with the policies of the City's LCP. The appellant has also expressed agreement with the applicant's lighting plan. However, staff is recommending Special Condition 6 in order to reflect the applicant's revised lighting proposal and ensure its implementation. Furthermore, staff recommends Special Conditions 1-5, and 7-9 to ensure consistency with the hazard, water quality, ESHA, scenic resource, and native tree protection policies of the certified LCP. Thus, as conditioned, the project is consistent with the relevant policies of the certified City of Malibu LCP and staff recommends that the Commission approve the de novo CDP application, pursuant to revisions to the project by the applicant and subject to nine special conditions. The motions and resolution to act on this recommendation follow below on pages 4 and 5.

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APPENDICES

[Appendix 1 Substantive File Documents](#)

EXHIBITS

- Exhibit 1. [Vicinity Map](#)
 - Exhibit 2. [Aerial Photo](#)
 - Exhibit 3. [Site Photo](#)
 - Exhibit 4. [Final Local Action Notice & City of Malibu Resolution No. 13-15](#)
 - Exhibit 5. [Appeal by Malibu Community Alliance](#)
 - Exhibit 6. [Glenn Lukos Associates MMHS Mapped ESHA](#)
 - Exhibit 7. [Project Plans](#)
 - Exhibit 8. [Revised Project Lighting Plans – 150-space Parking Lot Gated Areas](#)
 - Exhibit 9. [Revised Project Lighting Plans – 150-space Parking Lot](#)
 - Exhibit 10. [Revised Project Lighting Plans – Parking Lot A & Lower Lot](#)
-

I. MOTIONS AND RESOLUTIONS

The staff recommends that the Commission adopt the following resolutions:

A. MOTION AND RESOLUTION FOR SUBSTANTIAL ISSUE DETERMINATION

Motion:

I move that the Commission determine that Appeal No. A-4-MAL-13-030 raises NO substantial issue with respect to the grounds on which the appeal has been filed under §30603 of the Coastal Act.

Staff recommends a **NO** vote. Following the staff recommendation on this motion will result in a de novo review of the application, and adoption of the following resolution and findings. Conversely, passage of this motion will result in a finding of No Substantial Issue, in which case the local action will become final and effective. The motion passes only by an affirmative vote by a majority of the Commissioners present.

Resolution:

The Commission hereby finds that Appeal No. A-MAL-13-030 presents a substantial issue with respect to the grounds on which the appeal has been filed under §30603 of the Coastal Act regarding consistency with the Certified Local Coastal Plan.

B. MOTION AND RESOLUTION FOR DE NOVO COASTAL DEVELOPMENT PERMIT

Motion:

I move that the Commission approve Coastal Development Permit No. A-4-MAL-13-030 pursuant to the staff recommendation.

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

Resolution:

The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of the certified Local Coastal Program for the City of Malibu. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

II. STANDARD CONDITIONS

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. **Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. **Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

III. SPECIAL CONDITIONS

1. **Plans Conforming to Geotechnical Engineer's Recommendations**

By acceptance of this permit, the applicant agrees to comply with the recommendations contained in all of the geology, geotechnical, and/or soils reports referenced as Substantive File Documents. These recommendations, including recommendations concerning foundations, sewage disposal, and drainage, shall be incorporated into all final design and construction plans,

which must be reviewed and approved by the consultant prior to commencement of development.

The final plans approved by the consultant shall be in substantial conformance with the plans approved by the Commission relative to construction, grading, and drainage. Any substantial changes in the proposed development approved by the Commission that may be required by the consultant shall require amendment(s) to the permit(s) or new Coastal Development Permit(s).

2. Assumption of Risk, Waiver of Liability and Indemnity

By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards from erosion and wildfire; (ii) to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit a written agreement, in a form and content acceptable to the Executive Director, incorporating all of the above terms of this condition.

3. Permanent Drainage and Polluted Runoff Control Plan

A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director, two (2) copies of a final Drainage and Runoff Control Plan for the post-construction project site, prepared by a qualified licensed professional. The Plan shall include detailed drainage and runoff control plans with supporting calculations. The plans shall incorporate long-term post-construction Best Management Practices (BMPs) that protect water quality and minimize increases in runoff volume and rate in the project design of developments in the following order of priority:

- a. Site Design BMPs: Project design features that reduce the creation or severity of potential pollutant sources, or reduce the alteration of the project site's natural stormwater flow regime. Examples are minimizing impervious surfaces, preserving native vegetation, and minimizing grading.
- b. Source Control BMPs: Methods that reduce potential pollutants at their sources and/or avoid entrainment of pollutants in runoff, including schedules of activities, prohibitions of practices, maintenance procedures, managerial practices, or operational practices. Examples are covering outdoor storage areas, use of efficient irrigation, and minimizing the use of landscaping chemicals.
- c. Treatment Control BMPs: Systems designed to remove pollutants from stormwater, by gravity settling of particulate pollutants, filtration, biological uptake, media adsorption, or any other physical, biological, or chemical process. Examples are vegetated swales, detention basins, and storm drain inlet filters. Where post-construction treatment of stormwater runoff is required, treatment control BMPs (or suites of BMPs) shall, at a

minimum, be sized and designed to treat, infiltrate, or filter stormwater runoff from each storm event, up to and including the 85th percentile, 24-hour storm event for volume-based BMPs, or the 85th percentile, 1-hour storm event (with an appropriate safety factor of 2 or greater) for flow-based BMPs.

The qualified licensed professional shall certify in writing that the final Drainage and Runoff Control Plan is in substantial conformance with the following minimum requirements:

- (1) Projects shall incorporate Low Impact Development (LID) techniques in order to minimize stormwater quality and quantity impacts from development, to the maximum extent feasible. LID strategies use small-scale integrated and distributed management practices, including minimizing impervious surfaces, infiltrating stormwater close to its source, and preservation of permeable soils and native vegetation.
- (2) Post-development runoff rates from the site shall be maintained at levels similar to pre-development conditions.
- (3) Selected BMPs shall consist, or primarily consist, of site design elements and/or landscape based systems or features that serve to maintain site permeability, avoid directly connected impervious area and/or retain, infiltrate, or filter runoff from rooftops, driveways and other hardscape areas, where feasible. Examples of such features include but are not limited to porous pavement, pavers, rain gardens, vegetated swales, infiltration trenches, cisterns.
- (4) Landscape plants shall have low water and chemical treatment demands and be consistent with Special Condition 5, Landscaping and Fuel Modification Plans. An efficient irrigation system designed based on hydrozones and utilizing drip emitters or micro-sprays or other efficient design shall be utilized for any landscaping requiring water application.
- (5) All slopes shall be stabilized in accordance with provisions contained in the Landscaping and/or Interim Erosion and Sediment Control Condition for this Coastal Development Permit and, if applicable, in accordance with engineered plans prepared by a qualified licensed professional.
- (6) Runoff shall be discharged from the developed site in a non-erosive manner. Energy dissipating measures shall be installed where needed to prevent erosion. Plan details and cross sections for any rock rip-rap and/or other energy dissipating devices or structures associated with the drainage system shall be prepared by a qualified licensed professional. The drainage plans shall specify, the location, dimensions, cubic yards of rock, etc. for the any velocity reducing structure with the supporting calculations showing the sizing requirements and how the device meets those sizing requirements. The qualified, licensed professional shall ensure that all energy dissipaters use the minimum amount of rock and/or other hardscape necessary to protect the site from erosion.
- (7) All BMPs shall be operated, monitored, and maintained in accordance with manufacturer's specifications where applicable, or in accordance with well recognized technical specifications appropriate to the BMP for the life of the project and at a minimum, all structural BMPs shall be inspected, cleaned-out, and where necessary, repaired prior to the onset of the storm season (October 15th each year) and at regular intervals as necessary between October 15th and April 15th of each year. Debris and other water pollutants removed from structural BMP(s) during clean-out shall be contained and disposed of in a proper manner.
- (9) For projects located on a hillside, slope, or which may otherwise be prone to geologic instability, site drainage and BMP selection shall be developed concurrent with the

preliminary development design and grading plan, and final drainage plans shall be approved by a licensed geotechnical engineer or engineering geologist.

- (10) Should any of the project's surface or subsurface drainage/filtration structures or other BMPs fail or result in increased erosion, the applicant/landowner or successor-in-interest shall be responsible for any necessary repairs to the drainage/filtration system or BMPs and restoration of the affected area. Should repairs or restoration become necessary, prior to the commencement of such repair or restoration work, the applicant shall submit a repair and restoration plan to the Executive Director to determine if an amendment or new coastal development permit is required to authorize such work.

B. The final Drainage and Runoff Control Plan shall be in conformance with the site/development plans approved by the Coastal Commission. Any necessary changes to the Coastal Commission approved site/development plans required by a qualified, licensed professional shall be reported to the Executive Director. No changes to the Coastal Commission approved final site/development plans shall occur without an amendment to the coastal development permit, unless the Executive Director determines that no amendment is required.

4. Interim Erosion Control Plans and Construction Responsibilities

- A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director an Interim Erosion Control and Construction Best Management Practices Plan, prepared by a qualified, licensed professional. The qualified, licensed professional shall certify in writing that the Interim Erosion Control and Construction Best Management Practices (BMPs) plan are in conformance with the following requirements:
1. Erosion Control Plan
 - (a) The plan shall delineate the areas to be disturbed by grading or construction activities and shall include any temporary access roads, staging areas and stockpile areas. The natural areas on the site shall be clearly delineated on the plan and on-site with fencing or survey flags.
 - (b) Include a narrative report describing all temporary run-off and erosion control measures to be used during construction.
 - (c) The plan shall identify and delineate on a site or grading plan the locations of all temporary erosion control measures.
 - (d) The plan shall specify that grading shall take place only during the dry season (April 1 – October 31). This period may be extended for a limited period of time if the situation warrants such a limited extension, if approved by the Executive Director. The applicant shall install or construct temporary sediment basins (including debris basins, desilting basins, or silt traps), temporary drains and swales, sand bag barriers, silt fencing, and shall stabilize any stockpiled fill with geofabric covers or other appropriate cover, install geotextiles or mats on all cut or fill slopes, and close and stabilize open trenches as soon as possible. Basins shall be sized to handle not less than a 10 year, 6 hour duration rainfall intensity event.
 - (e) The erosion control measures shall be required on the project site prior to or concurrent with the initial grading operations and maintained throughout the development process to minimize erosion and sediment from runoff waters during construction. All sediment should be retained on-site, unless removed to an appropriate, approved dumping location either outside of the coastal zone or within the coastal zone to a site permitted to receive fill.

- (f) The plan shall also include temporary erosion control measures should grading or site preparation cease for a period of more than 30 days, including but not limited to: stabilization of all stockpiled fill, access roads, disturbed soils and cut and fill slopes with geotextiles and/or mats, sand bag barriers, silt fencing; temporary drains and swales and sediment basins. The plans shall also specify that all disturbed areas shall be seeded with native grass species and include the technical specifications for seeding the disturbed areas. These temporary erosion control measures shall be monitored and maintained until grading or construction operations resume.
 - (g) All temporary, construction related erosion control materials shall be comprised of bio-degradable materials (natural fiber, not photo-degradable plastics) and must be removed when permanent erosion control measures are in place. Bio-degradable erosion control materials may be left in place if they have been incorporated into the permanent landscaping design.
2. Construction Best Management Practices
- (a) No demolition or construction materials, debris, or waste shall be placed or stored where it may enter sensitive habitat, receiving waters or a storm drain, or be subject to wave, wind, rain, or tidal erosion and dispersion.
 - (b) No demolition or construction equipment, materials, or activity shall be placed in or occur in any location that would result in impacts to environmentally sensitive habitat areas, streams, wetlands or their buffers.
 - (c) Any and all debris resulting from demolition or construction activities shall be removed from the project site within 24 hours of completion of the project.
 - (d) Demolition or construction debris and sediment shall be removed from work areas each day that demolition or construction occurs to prevent the accumulation of sediment and other debris that may be discharged into coastal waters.
 - (e) All trash and debris shall be disposed in the proper trash and recycling receptacles at the end of every construction day.
 - (f) The applicant shall provide adequate disposal facilities for solid waste, including excess concrete, produced during demolition or construction.
 - (g) Debris shall be disposed of at a permitted disposal site or recycled at a permitted recycling facility. If the disposal site is located in the coastal zone, a coastal development permit or an amendment to this permit shall be required before disposal can take place unless the Executive Director determines that no amendment or new permit is legally required.
 - (h) All stock piles and construction materials shall be covered, enclosed on all sides, shall be located as far away as possible from drain inlets and any waterway, and shall not be stored in contact with the soil.
 - (i) Machinery and equipment shall be maintained and washed in confined areas specifically designed to control runoff. Thinners or solvents shall not be discharged into sanitary or storm sewer systems.
 - (j) The discharge of any hazardous materials into any receiving waters shall be prohibited.
 - (k) Spill prevention and control measures shall be implemented to ensure the proper handling and storage of petroleum products and other construction materials. Measures shall include a designated fueling and vehicle maintenance area with appropriate berms and protection to prevent any spillage of gasoline or related petroleum products or contact with runoff. The area shall be located as far away from the receiving waters and storm drain inlets as possible.
 - (l) Best Management Practices (BMPs) and Good Housekeeping Practices (GHPs) designed to prevent spillage and/or runoff of demolition or construction-related materials, and to contain

sediment or contaminants associated with demolition or construction activity, shall be implemented prior to the on-set of such activity

(m) All BMPs shall be maintained in a functional condition throughout the duration of construction activity.

B. The final Interim Erosion Control and Construction Best Management Practices Plan shall be in conformance with the site/ development plans approved by the Coastal Commission. Any necessary changes to the Coastal Commission approved site/development plans required by a qualified, licensed professional shall be reported to the Executive Director. No changes to the Coastal Commission approved final site/development plans shall occur without an amendment to the coastal development permit, unless the Executive Director determines that no amendment is required.

5. Landscaping and Fuel Modification Plans

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit two sets of landscaping and fuel modification plans, prepared by a licensed landscape architect or a qualified resource specialist. The consulting landscape architect or qualified landscape professional shall certify in writing that the final Landscape and Fuel Modification plans are in conformance with the following requirements:

A) Landscaping Plan

- (1) All graded & disturbed areas on the subject site shall be planted and maintained for erosion control purposes within thirty (30) days of receipt of the certificate of occupancy for the residence. To minimize the need for irrigation all landscaping shall consist primarily of native/drought resistant plants. All native plant species shall be of local genetic stock. No plant species listed as problematic and/or invasive by the California Native Plant Society (<http://www.CNPS.org/>), the California Invasive Plant Council (formerly the California Exotic Pest Plant Council) (<http://www.cal-ipc.org/>), or as may be identified from time to time by the State of California shall be employed or allowed to naturalize or persist on the site. No plant species listed as a “noxious weed” by the State of California or the U.S. Federal Government shall be utilized within the property.
- (2) All cut and fill slopes shall be stabilized with planting at the completion of final grading. Planting should be of native plant species indigenous to the area using accepted planting procedures, consistent with fire safety requirements. All native plant species shall be of local genetic stock. Such planting shall be adequate to provide 90 percent coverage within two (2) years, and this requirement shall apply to all disturbed soils;
- (3) Plantings will be maintained in good growing condition throughout the life of the project and, whenever necessary, shall be replaced with new plant materials to ensure continued compliance with applicable landscape requirements;
- (4) Rodenticides containing any anticoagulant compounds (including, but not limited to, Warfarin, Brodifacoum, Bromadiolone or Diphacinone) shall not be used.

B) Fuel Modification Plans

Vegetation within 20 feet of the proposed house may be removed to mineral earth, vegetation within a 200-foot radius of the main structure may be selectively thinned in order to reduce fire hazard. However, such thinning shall only occur in accordance with an approved long-term fuel modification plan submitted pursuant to this special condition. The fuel modification plan shall include details regarding the types, sizes and location of plant materials to be removed, and how often thinning is to occur. In addition, the applicant shall submit evidence that the fuel modification plan has been reviewed and approved by the Los Angeles County Fire Department and City of Malibu. Irrigated lawn, turf and ground cover planted within the twenty foot radius of the proposed house shall be selected from the most drought tolerant species or subspecies, or varieties suited to the Mediterranean climate of the area.

C) Conformance with Commission Approved Site/Development Plans

The Permittee shall undertake development in accordance with the final Landscape and Fuel Modification Plans. The final Landscape and Fuel Modification Plans shall be in conformance with the site/development plans approved by the Coastal Commission. Any changes to the Coastal Commission approved site/development plans shall be reported to the Executive Director. No changes to the Coastal Commission approved final site/development plans shall occur without an amendment to the coastal development permit, unless the Executive Director determines that no amendment is legally required.

D) Monitoring

Three years from the date of the receipt of the Certificate of Occupancy for the residence the applicant shall submit to the Executive Director, a landscape monitoring report, prepared by a licensed Landscape Architect or qualified Resource Specialist, that certifies the on-site landscaping is in conformance with the landscape plan approved pursuant to this Special Condition. The monitoring report shall include photographic documentation of plant species and plant coverage.

If the landscape monitoring report indicates the landscaping is not in conformance with or has failed to meet the requirements specified in this condition, the applicant, or successors in interest, shall submit, within 30 days of the date of the monitoring report, a revised or supplemental landscape plan, certified by a licensed Landscape Architect or a qualified Resource Specialist, that specifies additional or supplemental landscaping measures to remediate those portions of the original plan that have failed or are not in conformance with the original approved plan. This remedial landscaping plan shall be implemented within 30 days of the date of the final supplemental landscaping plan and remedial measures shall be repeated as necessary to meet the requirements of this condition.

6. Parking Lot Lighting Restrictions

In order to implement the applicant's proposed lighting plan, the applicant agrees to comply with the following requirements:

- A. Lighting proposed within the new 150-space parking lot and upper walkways shall be designed and operated in conformance with the details submitted in the lighting plans date-stamped February 8, 2016, the parking lot shall be separated into three lighting areas

(as shown in Exhibit 8) and shall be controlled by automatic occupancy/motion sensors. Motion-activated lighting in Areas 1, 2, and 3 shall automatically turn off no later than 15 minutes after the last time the lighting is activated. Areas 1, 2, and 3 are subject to the following use restrictions:

- i. Area 1 (south section with ADA spaces) may be lighted until 10 p.m. nightly. All lighting shall be deactivated and vehicular access to Area 1 shall be gated and locked by 10 p.m.; and
 - ii. Area 2 (middle section) may be lighted until 8 p.m. nightly. All lighting shall be deactivated and vehicular access to Area 2 shall be gated and locked by 8 p.m.;
 - iii. Area 3 (northern section) shall not be lighted except as provided in the following paragraph (iv.), and vehicular access to Area 3 shall be gated and locked by sunset; and
 - iv. Notwithstanding the foregoing, Areas 1, 2, and 3 may be lighted until 10:30 p.m. in combination with the evening use of the main sports field lighting authorized by CDP No. 4-99-276-A4 plus an additional 15 nights per year for special events. All lighting shall be deactivated, vehicular access to Areas 1, 2, and 3 shall be prohibited, and all areas shall be gated and locked by 10:30 p.m. on these nights.
- B. The new 150-space lighted parking lot shall utilize (1) eighteen (18) 12-foot poles with ten (10) 3,000 Kelvin temperature, 52-watt full IDA-compliant LED fixtures and eight (8) 3,000 Kelvin temperature, 54-watt full IDA-compliant LED fixtures; and (2) twelve (12) 36-inch bollards with a 3,000 Kelvin temperature, 18-watt full IDA-compliant LED fixture each, all as depicted on Exhibit 9.
- C. Within one year following the initial use of the new 150-space parking lot by students, the applicant shall submit to the Executive Director for review and approval, a detailed report documenting the lighted use of the parking lot over the year and evaluating how the regulations established by Subsection A of this Condition 6, as noted above, have impacted residents in the surrounding area and the evening parking needs experienced by the District, students, and visitors.
- D. No lighting shall be installed along the new access road from Morning View Drive to the new 150-space parking lot.
- E. Lighting along the new pedestrian lower ramp, stairs, and walkway providing access from the main sports field to the courtyard level of campus shall utilize full IDA-compliant, 3,000 Kelvin temperature LED fixtures.
- F. The reconfigured 119-space lighted parking area (Parking Lot A) with new safety lighting and an onsite roundabout shall utilize full IDA-compliant, 3,000 K temperature LED fixtures; lighting shall consist of (1) eleven (11) 12-foot poles with two (2) 52-watt fixtures, and nine (9) 54-watt fixtures; and (2) three (3) 36-inch bollards with an 18-watt fixture each, all as depicted on Exhibit 10.
- G. The reconfigured 61-space lighted parking area (Lower Lot) with replacement security lighting shall utilize full IDA-compliant 3,000 Kelvin temperature LED fixtures; lighting shall consist of (1) seven (7) 12-foot poles with three (3) 52-watt fixtures, and four (4) 54-watt fixtures; and (2) three (3) 36-inch bollards with an 18-watt fixture each, all as depicted on Exhibit 10.

No changes to the Coastal Commission approved lighting plans shall occur without an amendment to the coastal development permit, unless the Executive Director determines that no amendment is legally required.

7. Native Tree Protection

To ensure that all native trees located on the subject property are protected, temporary protective barrier fencing shall be installed around the protected zones (5 feet beyond dripline or 15 feet from the trunk, whichever is greater) of all native trees within or adjacent to the construction area that may be disturbed during construction or grading activities, and such fencing shall be retained during all construction operations. If required construction operations cannot feasibly be carried out in any location with the protective barrier fencing in place, then flagging shall be installed on trees to be protected. The applicant shall retain the services of a qualified independent biological consultant or arborist to monitor the trees that are within or adjacent to the construction area. If any breach in the protective fencing occurs, all work shall be suspended until the fence is repaired or replaced. Should any native trees be lost or suffer worsened health or vigor as a result of project construction, the applicant shall plant replacement trees on the site at a rate of 10:1 and prepare a native tree replacement planting program consistent with the requirements of Special Condition 8 below and subject to review and approval of the Executive Director.

8. Native Tree Mitigation

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the review and approval of the Executive Director, a native tree replacement planting program, prepared by a qualified biologist, arborist, or other resource specialist, specifying replacement tree locations, tree or seedling size, planting specifications, and a monitoring program to ensure that the replacement planting program is successful, including performance standards for determining whether replacement trees are healthy and growing normally, and procedures for periodic monitoring and implementation of corrective measures in the event that the health of replacement trees declines. No less than 10 replacement trees shall be planted on site for every 1 native tree removed as a result of the project. The applicant shall plant seedlings, less than a year old, on an area of the project site where there is suitable habitat. In the case of oak trees, the seedlings shall be grown from acorns collected in the area.

The applicant shall commence implementation of the approved native tree replacement planting program concurrently with the commencement of construction on the project site. Each replacement tree shall be monitored annually for a period of not less than ten years. An annual monitoring report shall be submitted for the review and approval of the Executive Director for each of the 10 years. The monitoring report shall identify the size and health of each replacement tree. If monitoring indicates the replacement trees are not in conformance with or have failed to meet the performance standards specified in the monitoring program approved pursuant to this permit, the applicant, or successors in interest, shall submit a revised or supplemental planting plan for the review and approval of the Executive Director. The revised planting plan shall specify measures to remediate those portions of the original plan that have failed or are not in conformance with the original approved plan.

9. Construction Timing and Sensitive Bird Species Surveys

For any construction activities, including tree removal, between February 15th and September 1st, the applicant shall retain the services of a qualified biologist or environmental resource specialist (hereinafter, "environmental resources specialist") to conduct raptor and other sensitive bird

species surveys and monitor project operations. At least 30 calendar days prior to commencement of any project operations, the applicant shall submit the name and qualifications of the environmental resource specialist, for the review and approval of the Executive Director. The environmental resources specialist shall ensure that all project construction and operations shall be carried out consistent with the following:

- A. The applicant shall ensure that a qualified environmental resource specialist with experience in conducting bird surveys shall conduct bird surveys 30 calendar days prior to the construction activities, including any tree removal, to detect any active bird nests in all trees within 500 feet of the project (including, but not limited to, eucalyptus trees). A follow-up survey must be conducted 3 calendar days prior to the initiation of clearance/construction and nest surveys must continue on a monthly basis throughout the nesting season or until the project is completed, whichever comes first.
- B. If an active nest of any federally or state listed threatened or endangered species, species of special concern is found within 300 ft. of the project, or an active nest for any species of raptor is found within 500 ft. of the project, the applicant shall retain the services of a qualified biologist with experience conducting bird and noise surveys, to monitor bird behavior and construction noise levels. The nest shall not be removed or disturbed. The biological monitor shall be present at all relevant construction meetings and during all significant construction activities (those with potential noise impacts) to ensure that nesting birds are not disturbed by construction related noise. The biologist monitor shall monitor birds and noise every day at the beginning of the project and during all periods of significant construction activities. Construction activities may occur only if construction noise levels are at or below a peak of 65 dB at the nest(s) site. If construction noise exceeds a peak level of 65 dB at the nest(s) site, sound mitigation measures such as sound shields, blankets around smaller equipment, mixing concrete batches off-site, use of mufflers, and minimizing the use of back-up alarms shall be employed. If these sound mitigations measures do not reduce noise levels, construction shall cease and shall not recommence until either new sound mitigation can be employed or the birds have fledged.
- C. If an active nest of a federally or state-listed threatened or endangered species, bird species of special concern is found within 300 ft. of the project, or an active nest for any species or raptor is found within 500 ft. of the project, the applicant will notify the appropriate State and Federal Agencies within 24 hours, and appropriate action specific to each incident will be developed. The applicant will notify the California Coastal Commission by e-mail within 24 hours and consult with the Commission regarding determinations of State and Federal agencies.
- D. The environmental resource specialist shall be present during all tree removal activities and shall be present during all subsequent construction activities during the bird nesting/breeding season if an active nest is identified, until the birds have fledged.
- E. The environmental resource specialist shall require the applicant to cease work should any breach in compliance occur, or if any unforeseen sensitive habitat issues arise. The environmental resource specialist(s) shall immediately notify the Executive Director if

activities outside of the scope of the subject Coastal Development Permit occur. If significant impacts or damage occur to sensitive habitats or to wildlife species, the applicant shall be required to submit a revised or supplemental program to adequately mitigate such impacts. Any native vegetation which is inadvertently or otherwise destroyed or damaged during implementation of the project shall be replaced in kind at a 3:1 or greater ratio.

IV. FINDINGS AND DECLARATIONS

The Commission finds and declares:

A. PROJECT DESCRIPTION, ENVIRONMENTAL SETTING, AND PREVIOUS COMMISSION ACTION

On March 18, 2013, the City of Malibu Planning Commission approved the subject CDP to redevelop portions of the Malibu Middle and High School (MMHS) campus with a new classroom/library/administrative building totaling 20,274 square feet of net new building area; demolition of the existing administration and library buildings; approximately 12,509 square feet of interior renovation and modernization of existing classrooms; a new 150-space lighted parking lot; a reconfigured 119-space lighted parking lot with an onsite roundabout; a reconfigured 61-space lighted parking lot; a new student drop-off and pick-up lane; a right-hand turn lane for approximately 700 feet along Morning View Drive; two new unlit tennis courts; new outdoor common areas; new fencing, landscaping, retaining walls and grading; relocated equestrian trail; and upgrades to the onsite wastewater treatment system and drainage.

The Malibu Middle and High School (MMHS) campus is located on Morning View Drive approximately one-quarter mile northeast of both the Pacific Coast Highway (PCH) and Zuma Beach and generally between Merritt Drive to the west, Via Cabrillo Street to the east, and Harvester Road to the north (Exhibits 1-3). The Malibu Equestrian Center is located east of campus and has been operated by the City of Malibu (“City”) since 1993 pursuant to a Community Recreation Agreement between the school district (the “District”) and the City. The campus is set amongst rolling hills at the base of the Santa Monica Mountains and its buildings and athletic fields are terraced into a semi-rural hillside setting surrounded by residential properties. The campus consists of typical facilities associated with middle and high schools including classrooms and administrative buildings, a swimming pool and sports fields. The campus facilities are located on several near-level pad areas with generally ascending slopes to the north and descending slopes to PCH to the south. Existing light sources on campus consist of security, parking lot, and limited sports field lighting. Public viewing areas in the vicinity include Zuma Beach County Park approximately 1,400 feet to the south and National Park Service land approximately 4,000 feet inland to the north. The Zuma Ridge Trail that traverses in an east-west direction is situated near the National Park Service land to the north.

Zuma Creek, a blue-line stream that is designated Environmentally Sensitive Habitat Area (ESHA) in the Malibu Local Coastal Program (LCP), is situated approximately 2,500 feet to the east of the campus. An intermittent blue-line stream containing highly degraded riparian vegetation exists along the campus’ western property line. Although the stream contains degraded riparian vegetation, the site-specific biological assessment that was prepared for the project (“Biological Assessment – Malibu Middle and High School Campus Improvements”,

prepared by Glenn Lukos Associates (GLA) – December 2009), determined that the stream is ESHA and surveyed the limits of the stream ESHA in the field (Exhibit 6).

Prior Commission Action

The Commission has previously approved CDP Amendment No. 4-99-276-A4 and the related project-driven City of Malibu LCP Amendment No. 1-11-A to allow the conditional use of lighting of the main sports field of MMHS. To protect the scenic qualities of the area and night sky, lighting of the main sports field was permitted if restricted in duration - no more than three nights in any calendar week, until 7:30 p.m. during Pacific Standard Time, except that for 18 nights the lights may be on until 10:30 p.m. from September through May (limited to two non-consecutive days of the maximum three days per calendar week). To ensure the allowed 18 nights that could occur outside of Pacific Standard Time will avoid significant adverse impacts to migratory and resident bird species from field lights, the Commission required that an Avian Monitoring Plan be conducted for any field night lighting that is allowed during bird migration periods (September through first week of November and the last week of March through May). If the monitoring results indicate that the approved field lighting results in significant adverse impacts upon birds, the City is required to modify the approved lighting schedule in order to ensure avoidance of the identified impacts. However, it is Commission staff's understanding that avian monitoring to-date has not identified any adverse impacts from the field lighting to avian species.

B. LOCAL GOVERNMENT ACTION AND FILING OF APPEAL

The project that is the subject of this appeal was approved by the City of Malibu Planning Commission on March 18, 2013 (CDP No. 10-004). The City's Notice of Final Action for the project was received by Commission staff on March 29, 2013 (Exhibit 4). Commission staff provided notice of the ten working day appeal period, which began on April 2, 2013, and ended on April 15, 2013. Malibu Community Alliance filed the subject appeal on April 15, 2013, during the Commission's appeal period (Exhibit 5). Commission staff notified the City, the applicant, and all interested parties that were listed on the appeal and requested that the City provide its administrative record for the permit. The administrative record was received on April 19, 2013. Pursuant to Section 30621(a) of the Coastal Act, a hearing on an appeal must be set no later than 49 days after the date on which the appeal was filed with the Commission, which would be June 3, 2013, but according to Section 30625(a), the applicant can waive that time limit. On April 19, 2013, prior to the 49-day deadline for Commission action, the applicant waived their right to a hearing within 49 days.

C. APPEAL JURISDICTION AND PROCEDURES

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

1. **Appeal Areas**

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

In this case, the subject property is located at 30215 Morning View Drive in the City of Malibu, on the coastal terrace between Zuma Beach and the southern flanks of the western portion of the Santa Monica Mountains. The appeal jurisdiction for this area extends 100 feet from an existing stream course that runs along the western edge of the developed campus. While the City's certified Post LCP Certification Permit and Appeal Jurisdiction map indicates the appeals area following a former blue-line stream through a portion of campus to the east of the existing stream, the mapped stream is underground in a pipe beneath campus and is no longer a stream for purposes of the Commission's appeal jurisdiction. It is the conditions on the ground that control permit and appeal jurisdiction boundaries, not the mapped boundaries, since conditions on the ground can change. Therefore, in this case, the Commission's appeal jurisdiction extends 100 feet from the existing stream course that runs along the western edge of the developed campus, as shown on Exhibit 6. As such, the City of Malibu's coastal development permit for the subject project is appealable to the Commission because a portion of the area of development (limited to the reconfigured 119-space lighted parking lot with an onsite roundabout and chain link fence) is located within 100 feet of the stream.

2. **Grounds for Appeal**

The grounds for appeal of development approved by the local government and subject to appeal to the Commission are limited to an allegation that the "appealable development" (which is only the development located within the Commission's appeal jurisdiction) does not conform to the standards set forth in the certified Local Coastal Program or the public access policies set forth in the Coastal Act. (Coastal Act Section 30603(b)(1)).

3. **Substantial Issue Determination**

Section 30625(b) of the Coastal Act requires the Commission to hear an appeal unless the Commission determines that no substantial issue exists with respect to the grounds on which the appeal was filed. When Commission staff recommends that a substantial issue exists with respect to the grounds of the appeal, a substantial issue is deemed to exist unless three or more Commissioners wish to hear arguments and vote on substantial issue. If the Commission decides to hear arguments and vote on the substantial issue question, proponents and opponents will have three minutes per side to address whether the appeal raises a substantial issue. Pursuant to

Section 13117 of the Commission's regulations, the only persons qualified to testify before the Commission at the substantial issue stage of the appeal process are the applicant, persons who opposed the application before the local government (or their representatives), and the local government. Testimony from other persons must be submitted in writing. It takes a majority vote of the Commissioners present is required to determine that an appeal raises no substantial issues, and that the Commission will therefore not review the merits of the appeal *de novo*. If the Commission determines that no substantial issue exists, then the local government's coastal development permit action will be considered final.

4. **De Novo Permit Review**

If a substantial issue is found to exist, the Commission will consider the CDP application *de novo*. The Commission may conduct its *de novo* review of the permit application immediately following its substantial issue determination or at a later time. The applicable test for the Commission to consider in a *de novo* review of the project is whether the entire proposed development is in conformity with (1) the certified Local Coastal Program and (2) if the development is between the sea and the first public road paralleling the sea, the public access and recreation policies of the Coastal Act. (Coastal Act Section 30604(b) & (c)). Thus, the Commission's review at the *de novo* stage of the hearing is *not* limited to the appealable development as defined in Section I.C.1 above. If a *de novo* review is conducted, testimony may be taken from all interested persons.

In this case, if the Commission finds a substantial issue(s) to exist, the Commission may proceed to the *de novo* review of the merits of the project. The staff recommendation on *de novo* review of this project is on Page 6 of this report.

D. SUMMARY OF APPEAL CONTENTIONS

The City's action in approving CDP No. 10-004 was appealed to the Commission by the Malibu Community Alliance, which consists of several City of Malibu residents. The appeal, which was filed on April 15, 2013, is attached as Exhibit 5. The appellant contends that the approved project is not consistent with the provisions of the certified LCP that protect environmentally sensitive habitat areas, native trees, and scenic and visual resources. The appellant asserts that the City failed to approve the least environmentally damaging alternative and improperly balanced the District's project objectives and use of the campus with the environmental protection policies in the LCP. The appellant's specific allegations in support of its appeal are summarized below:

1. The project is inconsistent with environmentally sensitive habitat areas policies in the Malibu Land Use Plan (LUP), including Policies 3.1, 3.6, 3.8, 3.14, 3.23, 3.30, and 3.51, because the approved project fails to avoid impacts to ESHA related to the approved parking lot lighting.
2. The project is inconsistent with the scenic and visual policies in the Malibu LUP because the approved development has not been sited and designed to minimize adverse impacts on scenic areas visible from public viewing areas to the maximum feasible extent (in violation of LUP Policy 6.5) and fails to ensure compatibility with surrounding areas (in violation of LUP Policy 6.12a). Furthermore, the development alters views of natural

features from public viewing areas and results in lighting that is directly visible from public viewing areas in violation of LUP Policies 6.20 and 6.23.

3. The City failed to comply with LIP Section 13.9 (C) which requires all decisions on coastal development permits to be accompanied by written findings that the project is the least environmentally damaging alternative. The City's approval improperly applied a California Environmentally Quality Act (CEQA) standard to evaluate the least environmentally damaging alternative because alternatives were considered infeasible if they did not meet the District's project objectives, and the City improperly balanced the District's project objectives and use of the MMHS campus with the environmental protection policies in the LCP.

As discussed previously, the appeal jurisdiction for this area extends to 100 feet from the intermittent blue-line stream that is located along the west property line of the subject campus. The approved project includes a substantial amount of development throughout the campus in which only a small portion of the approved project, the reconfigured 119-space lighted parking lot with an onsite roundabout and chain link fence, is located within this appeal area. In this situation, the approval of the local CDP is appealable to the Commission, but the grounds of appeal are limited to allegations that the "appealable development" (which is only the development located within the Commission's appeal jurisdiction) is not consistent with the standards in the certified LCP. In this case, some of the appellant's appeal contentions relate to approved development located outside the Commission's appeal jurisdiction. Since the grounds of appeal in this case are limited to only the development that is located within the Commission's appeal jurisdiction - the 119-space lighted parking lot with onsite roundabout and chain link fence - the allegations regarding development outside the appeals area are not valid grounds for appeal and will not be analyzed in the substantial issue determination analysis below.

See Exhibit 5 for the full text of the appeal.

E. SUBSTANTIAL ISSUE DETERMINATION

Pursuant to Sections 30603 and 30625 of the Coastal Act, the appropriate standard of review for an appeal is whether a substantial issue exists with respect to the grounds raised by the appellant relative to the locally-approved project's conformity to the policies contained in the certified Local Coastal Program (LCP) or the public access policies of the Coastal Act. The appellant contends that the project, as approved by the City, is inconsistent with the scenic and visual policies, environmentally sensitive habitat area protection policies, and the coastal development permit process policies and provisions of the City's certified LCP, and did not cite the public access policies of the Coastal Act as a ground for appeal.

The term "substantial issue" is not defined in the Coastal Act or its implementing regulations. However, in the section of the Commission's regulations entitled "Substantial Issue Determination," the regulations indicate that the Commission will hear an appeal unless it "finds that the appeal raises no significant question" (Cal. Code Regs., Title 14, Section 13115(b)).

In evaluating the issue of whether the appeal raises a substantial issue, the Commission generally considers the following factors:

1. The degree of factual and legal support for the local government's decision that the development is consistent or inconsistent with the certified LCP;
2. The extent and scope of the development as approved or denied by the local government;
3. The significance of coastal resources affected by the decision;
4. The precedential value of the local government's decision for future interpretation of its LCP; and
5. Whether the appeal raises only local issues, or those of regional or statewide significance.

Even where the Commission chooses not to hear an appeal, appellants nevertheless may obtain judicial review of the local government's coastal permit decision by filing a petition for a writ of mandate pursuant to Code of Civil Procedure, Section 1094.5.

In this case, for the reasons discussed further below, the Commission determines that the appeal raises a substantial issue with regard to the grounds on which the appeal has been filed.

1. **Environmentally Sensitive Habitat Areas (ESHA)**

- 3.1: *Areas in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments are Environmentally Sensitive Habitat Areas (ESHAs) and are generally shown on the LUP ESHA Map. The ESHAs in the City of Malibu are riparian areas, streams, native woodlands, native grasslands/savannas, chaparral, coastal sage scrub, dunes, bluffs, and wetlands, unless there is site-specific evidence that establishes that a habitat area is not especially valuable because of its special nature or role in the ecosystem. Regardless of whether streams and wetlands are designated as ESHA, the policies and standards in the LCP applicable to streams and wetlands shall apply. Existing, legally established agricultural uses, confined animal facilities, and fuel modification areas required by the Los Angeles County Fire Department for existing, legal structures do not meet the definition of ESHA.*
- 3.6: *Any area mapped as ESHA shall not be deprived of protection as ESHA, as required by the policies and provisions of the LCP, on the basis that habitat has been illegally removed, degraded, or species that are rare or especially valuable because of their nature or role in an ecosystem have been eliminated.*
- 3.8: *Environmentally Sensitive Habitat Areas (ESHAs) shall be protected against significant disruption of habitat values, and only uses dependent on such resources shall be allowed within such areas.*
- 3.14: *New development shall be sited and designed to avoid impacts to ESHA. If there is no feasible alternative that can eliminate all impacts, then the alternative that would result in the fewest or least significant impact shall be selected. Impacts to ESHA that cannot be avoided through the implementation of siting and design alternatives shall be fully mitigated, with priority given to on-site mitigation. Off-site mitigation measures shall only be approved when it is not feasible to fully mitigate impacts on-site or where off-site*

mitigation is more protective in the context of a Natural Community Conservation Plan that is certified by the Commission as an amendment to the LCP. Mitigation shall not substitute for implementation of the project alternatives that would avoid impacts to ESHA

- 3.23: Development adjacent to ESHAs shall minimize impacts to habitat values or sensitive species to the maximum extent feasible. Native vegetation buffer areas shall be provided around ESHAs to serve as transitional habitat and provide distance and physical barriers to human intrusion. Buffers shall be of a sufficient size to ensure the biological integrity and preservation of the ESHA they are designed to protect. All buffers shall be a minimum of 100 feet in width, except for the case addressed in Policy 3.27.*
- 3.30: Protection of ESHA and public access shall take priority over other development standards and where there is any conflict between general development standards and ESHA and/or public access protection, the standards that are most protective of ESHA and public access shall have precedence.*
- 3.51: Disturbed areas ESHAs shall not be further degraded, and if feasible, restored. If new development removes or adversely impacts native vegetation, measures to restore any disturbed or degraded habitat on the property shall be included as mitigation.*

The appellant contends that the parking lot lighting component of the project, as approved by the City, does not conform to the policies of the LCP with regards to impacts to environmentally sensitive habitat areas (ESHA). Specifically, the appellant raises issue with respect to Land Use Plan policies (cited above) that require protection of ESHA against significant disruption of habitat values and require development adjacent to ESHA to minimize impacts to habitat values or sensitive species to the maximum extent feasible. The policies cited by the appellant also require that new development be sited and designed to avoid impacts to ESHA, and if there is no feasible alternative that can eliminate all impacts, then the alternative that would result in the fewest or least significant impact shall be selected.

The only portion of the approved project that is located in the Commission's appeal jurisdiction consists of about a third of an existing 119-space lighted parking lot (Parking Lot A) that is proposed to be re-striped and reconfigured with a new onsite roundabout and upgrading of the lighting fixtures; and replacing an existing fence with a new chain link fence for security. Parking Lot A is located on the western side of the MMHS campus and is adjacent to a designated ESHA stream course. The approved reconfiguration of Parking Lot A occurs entirely within the existing developed area, which is currently occupied by asphalt paving and storage structures, and will not be expanded or altered so as to encroach any farther toward the stream ESHA or ESHA buffer.

The appellant asserts that the parking lot lighting would illuminate the adjacent stream ESHA, inconsistent with the certified City of Malibu Land Use Plan (LUP) policies that require the protection of environmentally sensitive habitat areas (ESHA) and require that development within or adjacent to such areas be designed to prevent impacts that could degrade those resources. In its action on the subject CDP, the City found that the reconfigured Parking Lot A will not be located in ESHA or encroach any farther toward ESHA or ESHA buffer, and therefore, would not result in any impacts to ESHA. Furthermore, the City found that since the

project includes the replacement of the existing lighting fixtures within the parking lot with new advanced technology lighting fixtures, the project would reduce existing lighting adjacent to ESHA. The City approved the project with a condition of approval (Special Condition 14) that requires lighting proposed in Parking Lot A to utilize International Dark Skies Association (IDA)-compliant LED fixtures with full cut-off performance that comply with the Light Zone One (LZ1) standard under the IDA's Model Lighting Ordinance (MLO) to the maximum extent feasible. The IDA – Illuminating Engineering Society (IES) Joint Task Force developed the *Joint IDA-IES Model Lighting Ordinance* published in June 2011, which also adopted the 5-Zone Lighting System included in the most recent version of the IES Lighting Handbook. Under the 5-Zone construct, Zone LZ1 allows low ambient lighting and is the zone recommended for rural and low density residential areas where lighting might adversely affect flora and fauna or disturb the character of the area. Furthermore, the City's condition required that a lighting plan meeting this standard (to the maximum extent feasible) be submitted for review and approval of the City's Planning Director.

However, the City's record did not adequately demonstrate that the approved lighting design and configuration would avoid increased illumination and significant disruption of habitat values within the adjacent stream ESHA. Special Condition 14 of the City's CDP requires the submittal of a lighting plan that meets a specified standard intended to avoid and minimize adverse impacts to ESHA and scenic resources; however, the City's condition does not provide adequate assurance of impacts avoidance/minimization because the condition leaves too much discretion to the City's Planning Director to allow a lesser lighting standard be implemented if the LZ1 standard is economically infeasible for the applicant.

While the approved reconfiguration of Parking Lot A occurs entirely within the existing developed area and no physical development would encroach any farther toward the stream ESHA or ESHA buffer, given the lack of reliability in the lighting requirements, the City had no factual basis, at the time of approval, to know whether the approved project would protect ESHA from significant disruption of habitat values.

The appellant also contends the City's approval of the project is inconsistent with LIP Section 13.9 (C), which requires all decisions on coastal development permits to be accompanied by written findings that the project is the least environmentally damaging alternative. The City's Resolution (No. 13-15) approving the project did not include an affirmative determination that the project was the least environmentally damaging alternative.

As such, the Commission finds that there is not adequate factual and legal support for the City's position that the proposed project complies with ESHA protection policies of the LCP.

2. Scenic and Visual Resources

6.5: *New development shall be sited and designed to minimize adverse impacts on scenic areas visible from scenic roads or public viewing areas to the maximum feasible extent. If there is no feasible building site location on the proposed project site where development would not be visible from scenic highways or public viewing areas, through measures including, but not limited to, siting development in the least visible portion of the site, breaking up the mass of new structures, designing structures to blend into the natural hillside setting,*

restricting the building maximum size, reducing maximum height standards, clustering development, minimizing grading, incorporating landscape elements, and where appropriate, berming.

6.12: *All new structures shall be sited and designed to minimize impacts to visual resources by:*
a. *Ensuring visual compatibility with the character of surrounding areas.*
b. *Avoiding large cantilevers or understories.*
c. *Setting back higher elements of the structure toward the center or uphill portion of the building.*

6.20: *New development on properties visible from and inland of Pacific Coast Highway shall be sited and designed to protect public views of the ridgeline and natural features of the Santa Monica Mountains through measures including, but not limited to, restricting the building maximum size, reducing maximum height limits to, clustering development, and, where appropriate, berming.*

6.23: *Exterior lighting (except traffic lights, navigational lights, and other similar safety lighting) shall be minimized, restricted to low intensity fixtures, shielded, and concealed to the maximum feasible extent so that no light source is directly visible from public viewing areas. Night lighting for sport courts or other private recreational facilities in scenic areas designated for residential use shall be prohibited.*

The appellant contends that the parking lot lighting component of the project, as approved by the City, does not conform to the certified Malibu LCP Land Use Plan policies (cited above) that require protecting scenic public views and ensuring visual compatibility with the character of the surrounding areas and prohibit the alteration of views of natural features from public viewing areas and the installation of lighting visible from such areas. The appellant asserts that the approved project has not been sited in a manner that is most protective of views of natural features from public viewing areas and results in lighting that is directly visible from public viewing areas. In addition, the appellant contends the approved lighting will result in sky glow that will have an adverse impact on the surrounding community. In addition, the appellant states that the City did not consider the cumulative impacts to scenic resources of the existing athletic field lights (previously approved pursuant to CDP No. 4-99-276-A4) in conjunction with the approved parking lots lighting.

The project site is located on the MMHS campus that is situated within a semi-rural residential area between the coast and the Santa Monica Mountains. There are a variety of light sources on/near the campus consisting of building and parking lot security lighting, including on the Lower Lot; on campus signage and athletic facilities including the existing tennis courts and swimming pool, the main sports field, and the Boys and Girls Club outdoor area; and on pedestrian walkways/stairs; as well as residential lighting, and street lights along PCH. Public land/public viewing areas in the vicinity include Zuma Beach County Park approximately 1,400 feet to the south and National Park Service land approximately 4,000 feet inland to the north. The Zuma Ridge Trail that traverses in an east-west direction is situated near the National Park Service land to the north.

In its action on the subject CDP, the City found that since the project includes the replacement of existing lighting fixtures within the existing parking lot with new advance technology lighting fixtures, the project would reduce existing lighting. The City approved the project with a condition of approval (Special Condition 14) that requires lighting proposed in Parking Lot A to utilize International Dark Skies Association (IDA)-compliant LED fixtures with full cut-off performance that comply with the Light Zone One (LZ1) standard under the IDA's Model Lighting Ordinance (MLO) to the maximum extent feasible. The IDA – Illuminating Engineering Society (IES) Joint Task Force developed the *Joint IDA-IES Model Lighting Ordinance* published in June 2011, which also adopted the 5-Zone Lighting System included in the most recent version of the IES Lighting Handbook. Under the 5-Zone construct, Zone LZ1 allows low ambient lighting and is the zone recommended for rural and low density residential areas where lighting might adversely affect flora and fauna or disturb the character of the area. Furthermore, the City's condition required that a lighting plan meeting this standard (to the maximum extent feasible) be submitted for review and approval of the City's Planning Director.

However, the City's condition did not adequately demonstrate that the approved lighting design and configuration would protect scenic public views and ensure visual compatibility with the character of the surrounding area. Special Condition 14 of the City's CDP requires the submittal of a lighting plan that meets a specified standard intended to avoid and minimize adverse impacts to ESHA and scenic resources; however, the City's condition does not provide adequate assurance of impacts avoidance/minimization because the condition leaves too much discretion to the City's Planning Director to allow a lesser lighting standard be implemented if the LZ1 standard is economically infeasible for the applicant.

The appellant also contends the City's approval of the project is inconsistent with LIP Section 13.9 (C), which requires all decisions on coastal development permits to be accompanied by written findings that the project is the least environmentally damaging alternative. The City's Resolution (No. 13-15) approving the project did not include an affirmative determination that the project was the least environmentally damaging alternative.

As such, the Commission finds that there is not adequate factual and legal support for the City's position that the proposed project complies with scenic resource protection policies of the LCP and will not result in adverse impacts to visual resources from the cumulative impact of the proposed lighting fixtures and existing lighting fixtures on the campus.

3. Factors Considered in Substantial Issue Analysis

The standard of review for this first stage of the subject appeal is whether the appeal raises a substantial issue with respect to the grounds listed by the appellant relative to the appealable development's conformity to the policies or provisions contained in the certified LCP. The first factor in evaluating the issue of whether the appeal raises a substantial issue is the degree of factual and legal support for the local government's decision that the development is consistent with the subject provisions of the certified LCP. In this case, for the reasons stated in the prior subsections of this section IV.E., the Commission finds that there is not adequate factual and legal support for the City's position that the proposed project complies with ESHA and visual/scenic protection policies of the LCP. The second factor in evaluating the issue of whether the appeal raises a substantial issue is the extent and scope of the development as approved.

Given that the proposed development is located in a semi-rural hillside setting and includes changes to school campus night lighting that has the potential to illuminate areas beyond the boundaries of the campus, the extent and scope of the development is significant. The third factor in evaluating the issue of whether the appeal raises a substantial issue is the significance of coastal resources affected by the decision. In this case, ESHA and scenic resources are significant coastal resources that are affected by the decision. The fourth factor in evaluating the issue of whether the appeal raises a substantial issue is the precedential value of the local government's decision for the future interpretation of its LCP. In this case, the City's decision could have a precedential value for future LCP decisions because night lighting is commonly proposed with new development and it is important to fully analyze and identify the potential impacts of night lighting because it raises a number of coastal resource protection issues. The final factor in evaluating the issue of whether the appeal raises a substantial issue is whether the appeal raises only local issues, or those of regional or statewide significance. In this case, the appeal not only raises local issues, but also has implications for resources of regional or statewide significance. The subject development raises issues associated with night lighting on lands adjacent to ESHA and scenic public viewing areas. This is a common issue throughout the Coastal Zone and therefore this appeal does have regional and statewide significance. All five factors favor a finding of substantial issue.

Therefore, for all of these reasons, the Commission finds that a substantial issue is raised with respect to the appellant's contention that the project does not comply with the policies and provisions of the City of Malibu certified Local Coastal Program. As such, the Commission will evaluate the project de novo.

F. DE NOVO COASTAL DEVELOPMENT PERMIT ANALYSIS

The standard of review for the Commission's *de novo* review of this CDP application is contained in the policies and provisions of the City of Malibu certified LCP. All Substantial Issue Determination findings above are incorporated herein by reference.

1. Revised Project Description for De Novo Coastal Development Permit

In consultation with Commission staff, the applicant has made modifications to the proposed application for the de novo coastal development permit. The changes proposed by the applicant include a completely redesigned lighting proposal for all three campus parking lots (the new 150-space parking lot and the reconfiguration of the existing 119-space and 61-space parking lots) that is responsive to the appellant's concerns, and which reduce the color temperature of the LED lights from 4000 Kelvin to 3000 Kelvin, reduce the amount of wattage, comply with the Model Lighting Ordinance (MLO) LZ1 standard, and provide sufficient safety lighting levels. In addition, the applicant has divided the proposed new 150-space parking lot into three new light restriction areas, as shown on Exhibit 8. The applicant also proposes specific operation schedules for the new 150-space parking lot to limit the number of nights when the parking lot lighting may be used until 10:30 p.m.

As now proposed, the three proposed parking lots have been revised to incorporate outdoor light fixtures that are designed to further minimize sky glow and light trespass in adjacent areas in comparison to the light fixtures approved by the City.

2. Appeal Background and Coordination

After the subject appeal was filed by the Malibu Community Alliance, Commission staff met with the applicant, the appellant, and the City staff several times to discuss the appeal and the ways by which the issues raised by the appeal could potentially be resolved. The initial meeting occurred on June 6, 2013, between Commission staff and the appellants to discuss the project and the subject appeal contentions. A second meeting occurred on June 27, 2013, among the applicant, City of Malibu staff, and Commission staff. Since the appellant's concerns center on the outdoor parking lot lighting component of the approved project and its impact on the surrounding community, the applicant agreed to develop a more specific lighting plan for the project, for review by Commission staff, the City, and the appellants, that would adhere to the Light Zone One (LZ1) standard of the International Dark Skies Associations' "Model Lighting Ordinance" that was required by the City's conditions of the CDP. The goal was for all parties to reach an agreement regarding the lighting plan, and when an agreement was reached, the applicant would amend the City's CDP through the City's CDP amendment process to reflect the revisions and the appellants would then withdraw the subject appeal.

In September 2013, the applicant's submitted a revised parking lot lighting plan for review by Commission staff, City staff and the appellants. The appellants hired a lighting consultant to review the plan and provided comments to the applicant. The applicant revised the parking lot lighting plan and provided it to City staff on September 30, 2014. The City hired an outside lighting consultant to review the plan and confirm the design complied with the LZ1 standard. In October 2014, the City provided Commission staff with the revised lighting plan and the memo prepared by the City's lighting consultant. Commission staff then forwarded this information to the appellants for their review as well. On February 4, 2015 the appellants provided comments on the revised lighting plan. Then, on April 21, 2015, Commission staff met with the appellants, the applicant, and City staff to discuss the revised lighting plan. On April 21, 2015, the applicant and appellants reached a tentative agreement on the lighting plan. Negotiations on the specific agreement language between the applicant and appellant continued after that time.

However, on January 13, 2016 the applicant notified Commission staff that they would no longer be willing to work with the appellant to resolve the appeal and requested that Commission staff proceed to schedule the subject appeal for hearing. After discussions with the applicant and appellant about their positions on the subject appeal, Commission staff notified the applicant and the appellant that the appeal would be scheduled for the next local Commission hearing. The applicant provided a revised project description on February 18, 2016 to be considered for the de novo coastal development permit should the commission find the pending appeal to raise a substantial issue(s).

However, on February 23, 2016, the applicant notified Commission staff that they and the appellants had come to an agreement on the revised lighting plan and timing restrictions and requested that the appeal hearing be postponed in order to allow time for the matter to be resolved at the local level and for the appeal to be potentially withdrawn. However, on March 14, 2016, the applicant requested that Commission staff process the subject appeal at the next available Commission hearing to help expedite the processing of the subject coastal development permit due to funding constraints and the fact that other agency permit approval expiration deadlines were approaching quickly.

3. Environmentally Sensitive Habitat Area

Applicable City of Malibu LCP Policies

Section 30240 of the Coastal Act, which is incorporated as part of the Malibu LCP, states:

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

Land Use Plan Policy 3.1 states:

Areas in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments are Environmentally Sensitive Habitat Areas (ESHAs) and are generally shown on the LUP ESHA Map. The ESHAs in the City of Malibu are riparian areas, streams, native woodlands, native grasslands/savannas, chaparral, coastal sage scrub, dunes, bluffs, and wetlands, unless there is site-specific evidence that establishes that a habitat area is not especially valuable because of its special nature or role in the ecosystem. Regardless of whether streams and wetlands are designated as ESHA, the policies and standards in the LCP applicable to streams and wetlands shall apply. Existing, legally established agricultural uses, confined animal facilities, and fuel modification areas required by the Los Angeles County Fire Department for existing, legal structures do not meet the definition of ESHA.

Land Use Plan Policy 3.6 states:

Any area mapped as ESHA shall not be deprived of protection as ESHA, as required by the policies and provisions of the LCP, on the basis that habitat has been illegally removed, degraded, or species that are rare or especially valuable because of their nature or role in an ecosystem have been eliminated.

Land Use Plan Policy 3.8 states:

Environmentally Sensitive Habitat Areas (ESHAs) shall be protected against significant disruption of habitat values, and only uses dependent on such resources shall be allowed within such areas.

Land Use Plan Policy 3.14 states:

New development shall be sited and designed to avoid impacts to ESHA. If there is no feasible alternative that can eliminate all impacts, then the alternative that would result in

the fewest or least significant impact shall be selected. Impacts to ESHA that cannot be avoided through the implementation of siting and design alternatives shall be fully mitigated, with priority given to on-site mitigation. Off-site mitigation measures shall only be approved when it is not feasible to fully mitigate impacts on-site or where off-site mitigation is more protective in the context of a Natural Community Conservation Plan that is certified by the Commission as an amendment to the LCP. Mitigation shall not substitute for implementation of the project alternatives that would avoid impacts to ESHA.

Land Use Plan Policy 3.23 states:

Development adjacent to ESHAs shall minimize impacts to habitat values or sensitive species to the maximum extent feasible. Native vegetation buffer areas shall be provided around ESHAs to serve as transitional habitat and provide distance and physical barriers to human intrusion. Buffers shall be of a sufficient size to ensure the biological integrity and preservation of the ESHA they are designed to protect. All buffers shall be a minimum of 100 feet in width, except for the case addressed in Policy 3.27.

Land Use Plan Policy 3.56 states:

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

Land Use Plan Policy 3.63 states:

New development shall be sited and designed to preserve oak, walnut, sycamore, alder, toyon, or other native trees that are not otherwise protected as ESHA. Removal of native trees shall be prohibited except where no other feasible alternative exists. Structures, including roads or driveways, shall be sited to prevent any encroachment into the root zone and to provide an adequate buffer outside of the root zone of individual native trees in order to allow for future growth.

Land Use Plan Policy 3.65 states:

Where the removal of native trees cannot be avoided through the implementation of project alternatives or where development encroachments into the protected zone of native trees result in the loss or worsened health of the trees, mitigation measures shall include, at a minimum, the planting of replacement trees on-site, if suitable area exists on the project site, at a ratio of 10 replacement trees for every 1 tree removed. Where on-site mitigation is not feasible, off-site mitigation shall be provided through planting replacement trees or by providing an in-lieu fee, based on the type, size and age of the trees(s) removed.

Section 4.6.2 of the City's certified Implementation Plan states (in applicable part):

Exterior lighting (except traffic lights, navigational lights, and other similar safety lighting) shall be minimized, restricted to low intensity features, shielded, and directed away from ESHA to minimize impacts on wildlife. Night lighting for sports courts, sports fields, or other private recreational facilities in ESHA, ESHA buffer, or where night lighting would increase illumination in ESHA shall be prohibited. Permitted lighting shall conform to the following standards:

- 1. The minimum necessary to light walkways used for entry and exit to the structures, including parking areas, on the site. This lighting shall be limited to fixtures that do not exceed two feet in height, are directed downward, and use bulbs that do not exceed 60 watts, or the equivalent, unless a higher wattage is authorized by the Planning Manager.*
- 2. Security lighting attached to the residence that is controlled by motion detectors and is limited to 60 watts, or the equivalent.*
- 3. The minimum lighting necessary for safe vehicular use of the driveway. The lighting shall be limited to 60 watts, or the equivalent.*
- 4. A light, not to exceed 60 watts or the equivalent, at the entrance to the (identify non-residential accessory structures).*
- 5. No lighting around the perimeter of the site, no lighting for sports courts or other private recreational facilities, and no lighting for aesthetic purposes is allowed.*
- 6. Prior to issuance of Coastal Development Permit, the applicant shall be required to execute and record a deed restriction reflecting the above restrictions.*

Protection of ESHA from Significant Disruption of Habitat Values

As discussed in the Substantial Issue findings above, the certified City of Malibu Land Use Plan (LUP) requires the protection of environmentally sensitive habitat areas (ESHA) and requires that development within or adjacent to such areas must be designed to prevent impacts that could degrade those resources. LUP Policy 3.1 defines Environmentally Sensitive Habitat Areas to include, among other resources, streams and riparian areas. The Malibu LUP ESHA Map contains most known watercourses and ESHA locations throughout the Malibu Coastal Zone. LUP Policy 3.6 states that any area mapped as ESHA shall not be deprived of protection as ESHA on the basis that habitat has been illegally removed, degraded, or species that are rare or especially valuable because of their native or role in an ecosystem have been eliminated. LUP Policies 3.8, 3.14, and 3.23 require new development to avoid and/or minimize impacts to ESHA, provide adequate buffers from ESHA, mitigate impacts that cannot be avoided through the implementation of siting and design alternatives, and ensure that ESHA is protected against any significant disruption of habitat values. Additionally, LUP Policy 3.56 states that exterior night lighting shall be minimized and directed away from ESHA in order to minimize impacts on wildlife.

The project site has limited natural vegetation onsite consisting primarily of grasses, ivy, brush, shrubs, and scattered trees, with some patches of disturbed and isolated coastal scrub in and around the main sports field. None of the existing vegetation onsite constitutes ESHA. An intermittent blue-line stream containing highly degraded riparian vegetation exists along the campus' western property line, adjacent to Parking Lot A that is proposed to be reconfigured and upgraded as part of the proposed project. Although the stream contains degraded riparian vegetation, the site-specific biological assessment that was prepared for the project ("Biological

Assessment – Malibu Middle and High School Campus Improvements”, prepared by Glenn Lukos Associates (GLA) – December 2009), determined that the stream is ESHA and surveyed the limits of the stream ESHA in the field. The Commission concurs with that determination.

As described above, the proposed project includes the redevelopment of portions of the Malibu Middle and High School campus with a new classroom/library/administration building; interior renovation of existing classrooms; a new 150-space lighted parking lot; reconfiguration of a 119-space lighted parking lot with an onsite roundabout; a reconfigured 61-space lighted parking lot; a new student drop-off and pick-up lane; two new unlit tennis courts; new outdoor common areas; new fencing, landscaping, and grading; relocated equestrian trail; upgrades to the onsite wastewater treatment system and drainage and the renovation of existing facilities and infrastructure. None of the work would be within ESHA, and only the existing 119-space parking lot (Parking Lot A) that is proposed to be improved is located adjacent to ESHA, being adjacent to the stream ESHA. The approved reconfiguration of Parking Lot A occurs entirely within the existing developed area, which is currently occupied by asphalt paving and storage structures, and will not be expanded or moved any closer to the stream ESHA or ESHA buffer. No other development proposed as part of the project will occur in, or adjacent to, the stream ESHA. However, proposed outdoor lighting for the campus parking areas has the potential to result in illumination of the adjacent stream ESHA, inconsistent with the certified City of Malibu Land Use Plan (LUP) policies that require the protection of environmentally sensitive habitat areas (ESHA) and require that development within or adjacent to such areas be designed to prevent impacts which could degrade those resources, as well as the lighting-specific policies. And proposed landscaping could have impacts on surrounding native plant communities. These potential impacts are discussed below in turn.

The project has been revised by the applicant to incorporate light fixtures that have been sited and designed to demonstrate compliance with the Model Lighting Ordinance (MLO) LZ1 standard, which is a very restrictive lighting zone and is recommended for rural and low density residential areas where lighting might adversely affect flora and fauna or disturb the character of the area. The applicant has also reduced the wattage and color temperature of proposed lighting to further minimize sky glow and light trespass. In addition, the applicant has divided the proposed new 150-space parking lot into three new light restriction areas, each area with an automatic barrier gate, to limit the extent and duration of night lighting to the minimum necessary for safe school use. The proposed revised lighting design and configuration has been minimized, restricted to low intensity features, and shielded to avoid increased illumination and significant disruption of habitat values within the adjacent stream ESHA and any significant impact to migratory and resident bird species that may potentially occur in the area. **Special Condition Six (6)** is necessary to ensure that the revised lighting plan is implemented as proposed.

In addition, the Commission finds that the use of non-native and/or invasive plant species for landscaping associated with new development, such as the proposed project, results in both direct and indirect adverse effects to native plants species indigenous to the area. Direct adverse effects from such landscaping result from the direct occupation or displacement of native plant communities by new development and associated non-native landscaping. Indirect adverse effects include offsite migration and colonization of native plant habitat by non-native/invasive plant species (which tend to outcompete native species) adjacent to new development. Therefore,

in order to avoid significant disruption of habitat values within the adjacent stream ESHA, **Special Condition Five (5)** requires that all proposed landscaping consist primarily of native plant species and that invasive plant species shall not be used.

Native Trees

Furthermore, the LCP contains policies regarding the protection of native trees. Even when individual trees are not part of a larger woodland area, native trees are still an important coastal resource. Native trees prevent the erosion of hillsides and stream banks, moderate water temperature in streams through shading, and provide food and habitat, including nesting, roosting, and burrowing sites, to a wide variety of wildlife. Therefore the removal of a native tree results in the total loss of the habitat values of the tree. Encroachments into (in other words, portions of the proposed structures, or grading will be located within) the protected zone of a native tree can also result in significant adverse impacts.

Specifically, LUP Policies 3.63 and 3.65 require that new development be sited and designed to preserve native trees, prohibit the removal of native trees except where no other feasible alternative exists, and when removal cannot be avoided through alternatives, require mitigation measures to replace the removed trees at a mitigation of 10 in-kind replacement trees for every 1 tree removed. There are 50 native trees in the vicinity of the project site. The proposed project includes the unavoidable removal of seven (7) western sycamores and one (1) black walnut due to grading required for the new 150-space parking lot with access road and the proposed classroom/library/administration building. No other feasible alternative exists to avoid or further reduce native tree impacts in this case. The remaining 42 native trees in the vicinity of the project are proposed to be preserved and protected in place. Therefore, in order to mitigate for these unavoidable impacts to native trees on site, **Special Condition Eight (8)** requires that at least 10 in-kind replacement seedlings, less than one year old, shall be planted on the project site for each tree removed, as mitigation for development impacts. The applicant is required to commence implementation of the approved native tree replacement planting program concurrently with the commencement of construction on the project site. Annual monitoring is required for ten years and an annual monitoring report on the native tree replacement area shall be submitted for the review and approval of the Executive Director for each of the 10 years. Furthermore, to achieve the required protection of the remaining trees, the Commission finds it necessary to require **Special Condition Seven (7)**, which requires the applicant to install temporary protective barrier fencing around the protected zones (5 feet beyond the dripline or 15 feet from the trunk, whichever is greater) of all 42 native trees that are to be preserved, to prevent impacts and encroachments to the trees during construction activities.

In addition, due to the fact that the trees proposed for removal have the potential to provide habitat for sensitive bird species, it is necessary to ensure that potential impacts to nesting bird species are avoided during tree removal. Thus in order to avoid any potential adverse impacts to sensitive bird species, **Special Condition Nine (9)** requires that, should tree removal activities occur between February 15 and September 1 (bird breeding season), a qualified environmental resource specialist must conduct pre-construction bird surveys to determine whether nesting or breeding behavior is occurring within 500 feet of the project site. If a sensitive bird species is exhibiting nesting behavior, the applicant must contact all appropriate agencies to determine the proper course of action to protect the species. The nest may not be disturbed or removed and a biological monitor must be present during all construction activities to monitor the potential impacts to nesting birds, including any indirect

impacts from noise must be attenuated. Further, **Special Condition Nine (9)** requires that a qualified environmental resource specialist be present during all tree removal activities. Where the survey identifies birds in the survey area, the condition requires a construction monitor to be present during all further construction activities until the birds have fledged.

For the reasons set forth above, the Commission finds that the proposed project, as conditioned, is consistent with the environmentally sensitive habitat areas and native tree protection policies of the certified Local Coastal Plan and is the least environmentally damaging alternative.

4. Visual Resources

The Malibu LCP provides for the protection of scenic and visual resources, including views of the beach and ocean, views of mountains and canyons, and views of natural habitat areas. The LCP identifies Scenic Roads, which are those roads within the City that traverse or provide views of areas with outstanding scenic quality that contain striking views of natural vegetation, geology, and other unique natural features, including the beach and ocean. The Malibu LCP requires that new development be sited and designed to minimize adverse impacts on scenic areas visible from scenic roads and public viewing areas. Where this is not feasible, new development must minimize impacts through siting and design measures.

Section 30251 of the Coastal Act, which is incorporated as part of the Malibu LCP, requires that visual qualities of coastal areas shall be considered and protected, landform alteration shall be minimized, and where feasible, degraded areas shall be enhanced and restored. Section 30251 of the Coastal Act states that:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas, and where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinated to the character of its setting.

In addition, the following policies from the Land Use Plan (LUP) portion of the LCP are applicable in this case:

- 6.1 *The Santa Monica Mountains, including the City, contain scenic areas of regional and national importance. The scenic and visual qualities of these areas shall be protected and, where feasible, enhanced.*
- 6.2 *Places on and along public roads, trails, parklands, and beaches that offer scenic vistas are considered public viewing areas. Existing public roads where there are views of the ocean and other scenic areas are considered Scenic Roads. Public parklands and riding and hiking trails which contain public viewing areas are shown*

on the LUP Park Map. The LUP Public Access Map shows public beach parks and other beach areas accessible to the public that serve as public viewing areas.

- 6.4 *Places on, along, within, or visible from scenic roads, trails, beaches, parklands and state waters that offer scenic vistas of the beach and ocean, coastline, mountains, canyons and other unique natural features are considered Scenic Areas. Scenic Areas do not include inland areas that are largely developed or built out such as residential subdivisions along the coastal terrace, residential development inland of Birdview Avenue and Cliffside Drive on Point Dume, or existing commercial development within the Civic Center and along Pacific Coast Highway east of Malibu Canyon Road.*
- 6.5 *New development shall be sited and designed to minimize adverse impacts on scenic areas visible from scenic roads or public viewing areas to the maximum feasible extent. If there is no feasible building site location on the proposed project site where development would not be visible, then the development shall be sited and designed to minimize impacts on scenic areas visible from scenic highways or public viewing areas, through measures including, but not limited to, siting development in the least visible portion of the site, breaking up the mass of new structures, designing structures to blend into the natural hillside setting, restricting the building maximum size, reducing maximum height standards, clustering development, minimizing grading, incorporating landscape elements, and where appropriate, berming.*
- 6.12 *All new structures shall be sited and designed to minimize impacts to visual resources by:*
- a. Ensuring visual compatibility with the character of surrounding areas.*
 - b. Avoiding large cantilevers or understories.*
 - c. Setting back higher elements of the structure toward the center or uphill portion of the building.*
- 6.23: *Exterior lighting (except traffic lights, navigational lights, and other similar safety lighting) shall be minimized, restricted to low intensity fixtures, shielded, and concealed to the maximum feasible extent so that no light source is directly visible from public viewing areas. Night lighting for sport courts or other private recreational facilities in scenic areas designated for residential use shall be prohibited.*

In addition, Section 6.5(G) of the City's certified Implementation Plan states (in applicable part):

Exterior lighting (except traffic lights, navigational lights, and other similar safety lighting) shall be minimized, restricted to low intensity features, shielded, and concealed to the maximum feasible extent so that no light source is directly visible from public viewing areas. Night lighting for sports courts, sports fields, or other private recreational facilities in scenic areas designated for residential use shall be prohibited. Permitted lighting shall conform to the following standards:

1. *The minimum necessary to light walkways used for entry and exit to the structures, including parking areas, on the site. This lighting shall be limited to fixtures that do not exceed two feet in height, are directed downward, and use bulbs that do not exceed 60 watts, or the equivalent, unless a higher wattage is authorized by the Planning Manager.*
2. *Security lighting attached to the residence that is controlled by motion detectors and is limited to 60 watts, or the equivalent.*
3. *The minimum lighting necessary for safe vehicular use of the driveway. The lighting shall be limited to 60 watts, or the equivalent.*
4. *A light, not to exceed 60 watts or the equivalent, at the entrance to the (identify nonresidential accessory structures).*
5. *No lighting around the perimeter of the site, no lighting for sports courts or other private recreational facilities, and no lighting for aesthetic purposes is allowed.*

The area surrounding Malibu High School is characterized as a semi-rural residential neighborhood. However, Cabrillo Elementary School is located to the west of the high school site, and the approximately 46-acre Malibu Equestrian Park is located to the east of the high school site. The Malibu High School campus site is approximately 30 acres in size, situated within the City of Malibu on the coastal terrace between Zuma Beach and the southern flanks of the western portion of the Santa Monica Mountains. The area is characterized by rolling slopes that descend southwesterly towards Zuma Beach. Pacific Coast Highway, a designated Scenic Road, lies between the school site and Zuma Beach. The elevation of the campus site ranges from approximately 100 feet along Morning View Drive on the south side, up to approximately 208 feet on the north side of campus. The high school campus consists of developed land with typical facilities associated with a middle and high schools including classrooms and administrative buildings, a swimming pool, tennis courts, and sport fields. A large berm separates the high school's main sports field area from the equestrian park to the east. Existing light sources in this area of education facilities and residential development consist of security, parking lots, sports fields, and residential lighting. Public land/public viewing areas in the vicinity include Zuma Beach County Park approximately 1,400 feet to the south and National Park Service land approximately 4,000 feet inland to the north. The Zuma Ridge Trail that traverses in an east-west direction is situated near the National Parks Service Land to the north.

The proposed project includes the redevelopment of portions of the Malibu Middle and High School campus including a new 150-space lighted parking lot, and reconfiguration of the existing 119-space lighted parking lot (Parking Lot A) and the existing 61-space lighted parking lot (Lower Lot) with new a new layout and upgraded lighting. No changes are proposed to the existing athletic field lights on campus that were previously approved by the Commission with strict lighting requirements pursuant to CDP No. 4-99-276-A4.

Lighting of parking lots is a type of development that is normally associated with a middle and high school campus. In the context of the larger coastal zone region in this area, which includes the Santa Monica Mountains, the largely developed and built-out area along the coastal terrace where Malibu Middle and High School is situated is appropriate for siting a lighted parking lot, and generally, such a use would be visually compatible with the character of the area. However, the LCP identifies the nearby mountain, canyon, beach and ocean as important scenic elements.

Therefore, significant lighting within the coastal terrace area has the potential to result in individual and cumulative scenic and visual impacts to protected areas.

The project has been revised by the applicant to incorporate light fixtures that have been sited and designed to demonstrate compliance with the Model Lighting Ordinance (MLO) LZ1 standard, which is a very restrictive lighting zone and is recommended for rural and low density residential areas where lighting might adversely affect flora and fauna or disturb the character of the area. The applicant has also reduced the wattage and color temperature of proposed lighting to further minimize sky glow and light trespass. In addition, the applicant has divided the proposed new 150-space parking lot into three new light restriction areas to limit the extent and duration of night lighting to the minimum necessary for safe school use. The proposed revised lighting plan has been sited and designed to ensure that lighting is minimized, restricted to low intensity features, shielded, and concealed to the maximum feasible extent to protect the scenic qualities of the night sky in this semi-rural area. **Special Condition Six (6)** is necessary to require implementation of the applicant's revised lighting proposal. The Commission finds that only as proposed and conditioned will the approved lighting design and configuration minimize adverse impacts on scenic resources, consistent with the policies of the LCP.

The applicant also proposes demolition of existing administration and library buildings and construction of a new classroom / library / administrative building totaling 20,274 square feet of net new building area, and approximately 12,509 square feet of interior renovation and modernization of existing classrooms. The new classroom/library/administrative building is proposed to be 27.5 feet in height, which is inconsistent with the Malibu LIP requirement of a maximum building height of 18 feet for development within the Institutional land use designation. However, the LIP allows an increase over the base district maximum building height of 18 feet up to a maximum of 28 feet for a pitched or flat roof in the Institutional zone if approved pursuant to a "Site Plan Review". Specifically, LIP Section 13.27.5(A) states that a Site Plan Review may only be approved if the project is otherwise consistent with the policies of the LCP, does not adversely affect neighborhood character, provides maximum feasible protection to significant public views as required by Chapter 6 of the Malibu LIP, and complies with all applicable requirements of state and local law. The proposed classroom / library / administration building along Morning View Drive includes a varying flat roof between 24 feet to 27.5 feet in height. No other building or increases in height to existing buildings are proposed. As discussed in the preceding sections of this staff report, the proposed project, as conditioned, is consistent with all relevant policies of the LCP. The proposed location for the new classroom/library/administration building occupies a portion of the MMHS campus currently utilized for library and administrative uses. The proposed building is entirely within the Institutional land use designation, on property that is in operation as a public educational institution, and provides new facilities that would replace outdated and inadequate spaces on the MMHS campus. While residential and public land uses exist around the 40 acre MMHS campus area, the proposed use is considered compatible with the subject property and surrounding Malibu Park neighborhood. Furthermore, based on the proposed building's finished elevation, orientation to Morning View Drive, height and roof design, placement within the central MMHS campus (which include other buildings of similar height), and distance from nearby residences in the area, the new building provides maximum feasible protection to significant public views as required by LIP Chapter 6. Lastly, the project is consistent with the applicable requirements of

state and local law. Therefore, the Commission approves a Site Plan Review in this case because the applicable findings of LIP Section 13.27.5(A) can be made.

For the reasons set forth above, the Commission finds that the proposed project, as conditioned, is consistent with the scenic and visual resource policies of the certified Local Coastal Plan project is the least environmentally damaging alternative.

5. Water Quality

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

The Malibu LCP incorporates Section 30231 of the Coastal Act, which states:

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

Further, the following Land Use Plan water quality policies are applicable:

3.95: *New development shall be sited and designed to protect water quality and minimize impacts to coastal waters by incorporating measures designed to ensure the following:*

- 1) *Protecting areas that provide important water quality benefits, areas necessary to maintain riparian and aquatic biota and/or that are susceptible to erosion and sediment loss.*
- 2) *Limiting increases of impervious surfaces.*
- 3) *Limiting land disturbance activities such as clearing and grading, and cut-and-fill to reduce erosion and sediment loss.*
- 4) *Limiting disturbance of natural drainage features and vegetation.*

3.96: *New development shall not result in the degradation of the water quality of groundwater basins or coastal surface waters including the ocean, coastal streams, or wetlands. Urban runoff pollutants shall not be discharged or deposited such that they adversely impact groundwater, the ocean, coastal streams, or wetlands, consistent with the requirements of the Los Angeles Regional Quality Control Board's municipal stormwater permit and the California Ocean Plan.*

3.97: *Development must be designed to minimize, to the maximum extent feasible, the introduction of pollutants of concern that may result in significant impacts from site*

runoff from impervious areas. To meet the requirement to minimize “pollutants of concern,” new development shall incorporate a Best Management Practice (BMP) or a combination of BMPs best suited to reduce pollutant loading to the maximum extent feasible.

3.100: New development shall be sited and designed to minimize impacts to water quality from increased runoff volumes and nonpoint source pollution. All new development shall meet the requirements of the Los Angeles Regional Water Quality Control Board (RWQCB) in its Standard Urban Storm Water Mitigation Plan For Los Angeles County and Cities In Los Angeles County (March 2000)(LA SUSMP) or subsequent versions of this plan.

3.102: Post-construction structural BMPs (or suites of BMPs) should be designed to treat, infiltrate, or filter the amount of stormwater runoff produced by all storms up to and including the 85th percentile, 24-hour storm event for volume-based BMPs and/or the 85th percentile, 1-hour storm event (with an appropriate safety factor, i.e. 2 or greater) for flow-based BMPs. This standard shall be consistent with the most recent Los Angeles Regional Water Quality Control Board municipal stormwater permit for the Malibu region or the most recent California Coastal Commission Plan for Controlling Polluted Runoff, whichever is more stringent.

3.110: New development shall include construction phase erosion control and polluted runoff control plans. These plans shall specify BMPs that will be implemented to minimize erosion and sedimentation, provide adequate sanitary and waste disposal facilities and prevent contamination of runoff by construction chemicals and materials.

3.111: New development shall include post-development phase drainage and polluted runoff control plans. These plans shall specify site design, source control and treatment control BMPs that will be implemented to minimize post-construction polluted runoff, and shall include the monitoring and maintenance plans for these BMPs.

As described above, the proposed project includes the redevelopment of portions of the Malibu Middle and High School campus that will result in an increase in impervious surfaces, which leads to an increase in the volume and velocity of stormwater runoff that can be expected to leave the site and eventually be discharged to coastal waters, including streams, wetlands, and estuaries. The pollutants commonly found in runoff associated with residential, institutional and commercial uses can reduce the biological productivity and the quality of such waters and thereby reduce optimum populations of marine organisms and have adverse impacts on human health. The LCP water quality policies cited above are designed to protect water quality and prevent pollution of surface, ground, and ocean waters. The Malibu LCP requires the preparation of a Storm Water Management Plan (SWMP) for all projects that require a coastal development permit. A SWMP illustrates how the project will use appropriate site design and source control best management practices (BMPs) to minimize or prevent adverse effects of the project on water quality. Therefore, pursuant to the requirements of the Malibu LCP, and to ensure the proposed project will not adversely impact water or coastal resources, **Special Condition Three (3) and Four (4)** require the incorporation of Best Management Practices designed to control the volume, velocity and pollutant load of stormwater and dry weather flows leaving the developed site, including: 1) site design, source control and/or treatment control measures; 2) implementing

erosion sediment control measures during construction and post construction; and 3) revegetating all graded and disturbed areas with primarily native landscaping.

The Commission finds that the minimization of site erosion will minimize the project's potential individual and cumulative contribution to adversely affect water quality, including to the stream located along the western property boundary of the project area. Erosion can best be minimized by requiring the applicant to landscape all disturbed areas of the site with native plants, compatible with the surrounding environment. Therefore, in order to minimize erosion and resultant sedimentation of stream areas, **Special Condition Five (5)** also requires that all disturbed and graded areas shall be stabilized and vegetated with appropriate native plant species.

Additionally, the applicant's consultants have concluded that the site is suitable for the proposed alternative onsite wastewater treatment system improvements proposed to serve the onsite wastewater treatment needs of the school. The City of Malibu Environmental and Building Safety Division has given in-concept approval of the system improvements, finding that it meets the minimum requirements if Title 28 of the City of Malibu Plumbing Code. The detailed system approval indicates that the system will be consistent with the onsite wastewater system requirements of the LCP as well. The Commission has consistently found that the conformance of systems with plumbing and health codes is protective of water quality.

Furthermore, the applicant is proposing 106,340 cubic yards of grading to facilitate the new 150-space parking lot and access road to accommodate the LCP-required parking and access, improve traffic circulation around the MMHS campus, and provide accessible pedestrian access to the parking lot. This amount exceeds the base maximum of 1,000 cubic yards per acre as required pursuant to Malibu LIP Section 8.3(B) and therefore is inconsistent with the Malibu LCP. In order to make the proposed development consistent with the LCP, the applicant has requested a variance for grading in excess of 1,000 cubic yards. Section 13.26.5 of the Malibu LIP states that the Planning Commission may approve an application for a coastal development permit variance from the standards or requirements of the Malibu LIP for specific situations and must provide specific findings for approval or denial of variances. The Malibu LIP requires that ten findings (listed below) in the consideration and approval of a variance be made.

- A. There are special circumstances or exceptional characteristics applicable to the subject property, including size, shape, topography, location, or surroundings such that strict application of the zoning ordinance deprives such property of privileges enjoyed by other property in the vicinity and under the identical zoning classification.
- B. The granting of such variance will not be detrimental to the public interest, safety, health or welfare, and will not be detrimental or injurious to the property or improvements in the same vicinity and zone(s) in which the property is located.
- C. The granting of the variance will not constitute a special privilege to the applicant or property owner.
- D. The granting of such variance will not be contrary to or in conflict with the general purposed and intent of this Chapter, nor to the goals, objectives and polices of the LCP.
- E. For variances to environmentally sensitive habitat area buffer standards or other environmentally sensitive habitat area protection standards, that there is no other feasible

alternative for siting the structure and that the development does not exceed the limits on allowable development area set forth in Section 4.7 of the Malibu LIP.

- F. For variances to stringline standards, that the project provides maximum feasible protection to public access as required by Chapter 12 of the Malibu LIP.
- G. The variance request is consistent with the purpose and intent of the zone(s) in which the site is located. A variance shall not be granted for a use or activity which is not otherwise expressly authorized by the zone regulation governing the parcel of property.
- H. The subject site is physically suitable for the proposed variance.
- I. The variance complies with all requirements of state and local law.
- J. A variance shall not be granted that would allow reduction or elimination of public parking for access to the beach, public trails or parklands.

As previously discussed, several special and exceptional characteristics exist on the MMHS campus, which limits feasible locations for development of additional parking areas, access roads, and accessible routes for students, staff, and visitors. The project involves non-exempt grading in the amount of 106,340 cubic yards of facilitate construction of a new 150-space parking lot, access road, and associated drainage. The project includes 408 spaces divided between new and reconfigured parking lots throughout the MMHS campus. The new 150-space parking lot is proposed to accommodate LCP-required parking and access, improve traffic circulation in and around the MMHS campus, and provide accessible pedestrian access to the lot. The Institutional development standards for grading allow no more than 1,000 cubic yards of non-exempt grading per acre which would otherwise render the project infeasible and thus a variance is required to grant relief from this technical development standard.

The granting of such variance will not be detrimental to the public interest, safety, health or welfare, and will not be detrimental or injurious to the property or improvements in the same vicinity and zone(s) in which the property is located. The variance allows the improvements of an existing public educational institution in an area that has been facilitating such use since 1963. The variance allows the District to improve campus circulation and parking consistent with the LCP requirements for onsite parking and access. Furthermore, the granting of the variance does not constitute a special privilege to the applicant or property owner in that the project site is an Institutionally-zoned parcel that has been in operation as a public educational facility.

The variance is not contrary to or in conflict with the general purposes and intent of the zoning provisions or the goals, objectives and polices of the LCP. The variance allows the subject property to conform to LCP required parking and access and improve traffic circulation in and around the MMHS campus. The variance allows the subject property to continue to be used and developed in a similar manner as it has been since 1963. Given the characteristics of the site and need for additional parking and facilities, no alternatives or alternative locations on campus were identified that would adequately eliminate the need for the requested variance. The project, as proposed and conditioned, will be consistent with applicable goals, objectives and policies of the LCP.

The variance does not affect ESHA protection standards and is not associated with stringline development standards, and therefore findings E and F above are not applicable.

The MMHS campus covers approximately 40 acres in the Malibu Park neighborhood and is entirely within the Institutional zone. LUP Chapter 5 provides that the Institutional land use designation accommodates public and quasi-public facilities in the City. This designation includes educational, religious institutions, community centers, park, and recreational and governmental facilities. The variance does not authorize a use not otherwise permitted in the MMHS or increase student enrollment capacity. As previously noted, the variance allows the subject to conform to LCP-required parking and access and improve traffic circulation in and around the MMHS campus.

Pursuant to finding H above, the location of the new 150-space parking lot, access road, and associated drainage have been minimized to the maximum extent feasible to avoid retaining walls and limit landform alteration and disturbance to the site; however the parking lot and access road are proposed on an area of the MMHS campus that is currently undeveloped with varying topography. The construction of the proposed improvements have been reviewed by the appropriate City Geologist and found to comply with all building/safety code requirements. The subject site is physically suitable for the proposed use and the project has been determined to be in conformance with the applicable development standards for the parcel. No alternative sites were identified that would result in a more suitable location for development.

Lastly, the variance complies with all requirements of State and local law and does not involve the reduction or elimination of public parking designated for beach, trail, or parkland access and therefore is consistent with findings I and J above. Therefore, for the reasons stated above, the ten findings in the consideration and approval of a variance to allow for non-exempt grading in excess of 1,000 cubic yards per acre can be made.

Therefore, the Commission finds that the proposed project, as conditioned, is consistent with the certified Local Coastal Program, including Section 30231 of the Coastal Act as expressly incorporated in the LCP.

6. Hazards

Section 30253 of the Coastal Act, which is incorporated as part of the City of Malibu LCP, states, in part, that new development shall:

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

Further, the following Land Use Plan hazard policies are applicable:

- 4.1 The City of Malibu and the Santa Monica Mountains coastal zone contains areas subject to hazards that present substantial risks to life and property. These areas require*

additional development controls to minimize risks, and include, but shall not be limited, to the following:

- a. Low Slope Stability & Landslide/Rockfall potential: hillside areas that have the potential to slide, fail, or collapse.*
- b. Fault Rupture: the Malibu Coast-Santa Monica Fault Zone.*
- c. Seismic Ground Shaking: shaking induced by seismic waves traveling through an area as a result of an earthquake on a regional geologic fault,*
- d. Floodprone areas most likely to flood during major storms.*
- e. Liquefaction: areas where water-saturated materials (including soil, sediment, and certain types of volcanic deposits) can potentially lose strength and fail during strong ground shaking*
- f. Liquefaction/Floodprone areas where saturated sediments lie in flood plains.*
- g. Tsunami: shoreline areas subject to inundation by a sea wave generated by local or distant earthquake, submarine landslide, subsidence, or volcanic eruption.*
- h. Wave action shoreline areas subject to damage from wave activity during storms.*
- i. Fire Hazard: areas subject to major wildfires classified in Fire Zone 4 or in the Very High Fire Hazard Severity Zone.*

4.2 All new development shall be sized, designed and sited to minimize risks to life and property from geologic, flood, and fire hazard.

4.4 On ancient landslides, unstable slopes and other geologic hazard areas, new development shall only be permitted where an adequate factor of safety can be provided, consistent with the applicable provisions of Chapter 9 of the certified Local Implementation Plan.

4.5 Applications for new development, where applicable, shall include a geologic/soils/geotechnical study that identifies any geologic hazards affecting the proposed project site, any necessary mitigation measures, and contains a statement that the project site is suitable for the proposed development and that the development will be safe from geologic hazard. Such reports shall be signed by a licensed Certified Engineering Geologist (CEG) or Geotechnical Engineer (GE) and subject to review and approval by the City Geologist.

4.10 New development shall provide adequate drainage and erosion control facilities that convey site drainage in a non-erosion manner in order to minimize hazards resulting from increased runoff, erosion and other hydrologic impacts to streams.

4.14 New development shall be prohibited on property or in areas where such development would present an extra ordinary risk to life and property due to an existing or demonstrated potential public health and safety hazard.

The proposed development is located in an area that is generally considered to be subject to slope stability hazards due to the steep nature of the slopes. The subject property is situated on the southern flanks of the western portion of the Santa Monica Mountains. The campus consists of several near-level pad areas with generally ascending slopes to the north and descending slopes to PCH to the south. Maximum topographic relief onsite is approximately 90 feet, with

elevations ranging from 170 feet to 80 feet above mean sea level. A geotechnical report with addendums prepared for the project by Leighton Consulting Inc. found that the proposed project is feasible providing that the recommendations are followed, which the applicant has incorporated into the project, to ensure the project is suitable for the site. Furthermore, the project has been conceptually approved by the City of Malibu Geologist and City Public Works Department for conformance with the hazard provisions of the LCP, as well as the Los Angeles County Fire Department. To ensure that the recommendations contained in the applicant's geotechnical report are followed to assure stability and structural integrity, and neither create nor contribute significantly to erosion or geologic instability, **Special Condition One (1)** requires that the applicant comply with the recommendations contained in the foundation/grading report referenced as Substantive File Documents. The condition requires that these recommendations, including recommendations concerning foundations, sewage disposal, and drainage, be incorporated into all final design and construction plans, which must be reviewed and approved by the consultant prior to commencement of development.

In addition, the Commission finds that the minimization of site erosion will minimize the project's potential individual and cumulative contribution to impairing the site's water quality, including to the stream located along the western property boundary from the project area and ensure geologic site stability. Erosion can best be minimized by requiring the applicant to landscape all disturbed areas of the site with native plants, compatible with the surrounding environment. Therefore, in order to minimize erosion and resultant sedimentation of downslope stream areas, **Special Condition Five (5)** also requires that all disturbed and graded areas be stabilized and vegetated with appropriate native plant species.

Further, to ensure that drainage is conveyed off site in a non-erosive manner, the Commission finds that it is necessary to require the applicant, as required by **Special Condition Four (4)**, to submit drainage plans certified by the consulting geotechnical engineer as conforming to their recommendations. Special Condition Four (4) also requires that the applicant implement Best Management Practices designed to control the volume, velocity and pollutant load of stormwater and dry weather flows leaving the developed site during construction in order to minimize erosion and ensure geologic stability on site.

Lastly, to ensure the applicant is aware of the risks associated with constructing new development on the site, the Commission imposes **Special Condition Three (3)**. This condition requires the applicant to acknowledge and agree that the site may be subject to hazards, to assume the risks associated with the subject development, to waive any claim of damage or liability against the Commission and to indemnify and hold harmless the Commission for any injury from such hazards.

Therefore, for the reasons discussed above, the Commission finds that the proposed project, as conditioned, is consistent with the hazard related provisions of the certified Local Coastal Program and with Section 30253 of the Coastal Act, as expressly incorporated into the LCP.

7. **California Environmental Quality Act**

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

The Commission incorporates its findings on consistency with the City's certified LCP at this point as if set forth in full. These findings address and respond to all public comments regarding potential significant adverse environmental effects of the project that were received prior to the preparation of the staff report. As discussed above, the proposed development, as conditioned, is consistent with the policies of the certified LCP. Feasible mitigation measures, which will minimize all adverse environmental effects, have been required as special conditions. The following special conditions are required to assure the project's consistency with Section 13096 of the California Code of Regulations:

Special Conditions 1 through 9

As condition, there are no feasible alternatives or feasible mitigation measures available, beyond those required, which would substantially lessen any significant adverse impact that the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, is consistent with the requirements of the certified LCP and conforms to CEQA.

APPENDIX 1

Substantive File Documents

City of Malibu Local Coastal Program; Biological Assessment – Malibu Middle and High School Campus Improvements”, prepared by Glenn Lukos Associates (GLA), dated December 2009; Geotechnical Report, prepared by Leighton Consulting Inc.; Coastal Development Permit Amendment No. 4-99-276-A3; Coastal Development Permit Amendment No. 4-99-276-A4; and City of Malibu LCP Amendment No. 1-11-A.



**Proposed
Project Site**

**Exhibit 1
Vicinity Map
Appeal No. A-4-MAL-13-030**



**Proposed
Project Site**

PCH

**Morning
View Drive**

**Exhibit 2
Aerial Photo
Appeal No. A-4-MAL-13-030**

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**New Parking Lot
(150-spaces)**

**Lower Lot
Parking (61-
spaces)**

**Parking Lot
A
(119-spaces)**

**Exhibit 3
Site Photo
Appeal No. A-4-MAL-13-030**



4 MAL-13-034

NOTICE OF FINAL LOCAL ACTION ON COASTAL PERMIT

Received

MAR 29 2013

Date of Notice: March 29, 2013

Notice Sent to (US. Certified Priority Mail):

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

California Coastal Commission
South Central Coast District

Contact:

Joseph Smith *JS*
Senior Planner
City of Malibu
23825 Stuart Ranch Road
Malibu, CA 90265
(310) 456-2489, ext. 336

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

Project Information

Coastal Development Permit No. 10-004, Conditional Use Permit Nos. 10-008 and 10-009, Variance Nos. 10-016, 10-017 and 10-018, Site Plan Review No. 10-021, Minor Modification No. 10-003, and Demolition Permit No. 10-024 (Malibu Middle and High School Campus Improvement Project) – An application redeveloping portions of the MMHS campus with a new classroom / library / administrative building totaling 20,274 square feet of net new building area; approximately 12,509 square feet of interior renovation and modernization of existing classrooms; a new 150-space lighted parking lot; a reconfigured 119-space lighted parking lot with an onsite roundabout; a reconfigured 61-space lighted parking lot; a new student drop-off and pick-up lane; a right-hand turn lane for approximately 700 feet along Morning View Drive; two new unlit tennis courts; new outdoor common areas; new fencing, landscaping, retaining walls, and grading; relocated equestrian trail; upgrades to the onsite wastewater treatment system and drainage; and the renovation of existing facilities, outdoor lighting, and infrastructure; including conditional use permits for the operation of a public educational institution and the expansion of more than 500 square feet in the Institutional Zone; variances for grading in excess of 1,000 cubic yards, structures on slopes steeper than 2.5 to 1, and impermeable coverage over 25,000 square feet; a site plan review for height up to 28 feet for the new administration building; a minor modification for a 50 percent reduction in the required front yard setback; and a demolition permit for the demolition of the existing administration and library buildings at the Malibu Middle and High School

Application Filing Date: March 15, 2011
Applicant: Kate Diamond, HMC Architects
633 West Fifth Street, Third Floor, Los Angeles, CA 90071
Owner: Santa Monica-Malibu Unified School District
Location: 30215 Morning View Drive / APNs 4469-017-900 and 4469-018-903

Final Action Information

Final Local Action: Approved Approved with Conditions Denied
Final Action Body: Approved on March 18, 2013 by the Planning Commission

Required Materials Supporting the Final Action	Enclosed	Previously Sent (date)
Adopted Staff Report: March 18, 2013 Item 5.A. Planning Commission Agenda Report		March 7, 2013
Adopted Findings and Conditions: Planning Commission Resolution No. 13-15	X	
Site Plans and Elevations		March 7, 2013

Exhibit 4
Final Local Action Notice & City
of Malibu Resolution No. 13-15
Appeal No. A-4-MAL-13-030

California Coastal Commission Appeal Information

This Final Action is:

NOT appealable to the California Coastal Commission (CCC). The Final City of Malibu Action is now effective.

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

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

- Property Owner/Applicant

Prepared by: Ryan Scates, Office Assistant

Enclosures:

Resolution No. 13-15

CCC Appeal Delineation Jurisdiction

4-MAL-13-054

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST DISTRICT OFFICE
89 SOUTH CALIFORNIA STREET, SUITE 200
VENTURA, CA 93001-4508
VOICE (805) 565-1801 FAX (805) 641-1732

APR 15 2013



California
Coastal Commission

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

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

SECTION I. Appellant(s)

Name: Malibu Community Alliance

Mailing Address: PO Box 4252

City: Malibu

Zip Code: 90264

Phone: 310-709-6828

SECTION II. Decision Being Appealed

1. Name of local/port government:

City of Malibu

2. Brief description of development being appealed:

An application to redevelop portions of the MMHS campus with a new classroom/library/administrative building totaling 20,274 square feet of net new building area; approximately 12,509 square feet of interior renovation and modernization of existing classrooms; a new 150-space lighted parking lot; a reconfigured 119-space lighted parking lot with an onsite roundabout; a reconfigured 61-space lighted parking lot; a new student drop-off and pickup lane; a right-hand turn lane for approximately 700 feet along Morning View Drive; two new unlit tennis courts; new outdoor common areas; new fencing, landscaping, retaining walls, and grading; relocated equestrian trail; upgrades to the onsite wastewater treatment system and drainage; and the renovation of existing facilities, outdoor lighting and infrastructure; including conditional use permits for the operation of a public educational institution and the expansion of more than 500 square feet in the Institutional zone; variances for grading in excess of 1,000 cubic yards, structures on slopes steeper than 2.5 to 1, and impermeable coverage over 25,000 square feet; a site plan review for height up to 28 feet for the new administration building; a minor modification for a 50 percent reduction in the required front yard setback; and a demolition permit for the demolition of the existing administration and library buildings

3. Development's location (street address, assessor's parcel no., cross street, etc.):

Malibu Middle & High School, 30215 Morning View Drive, Malibu, CA 90265

Exhibit 5
Appeal by Malibu Community
Alliance
Appeal No. A-4-MAL-13-030

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)

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

- Approval; no special conditions
- Approval with special conditions:
- Denial

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

<u>TO BE COMPLETED BY COMMISSION:</u>	
APPEAL NO:	_____
DATE FILED:	_____
DISTRICT:	_____

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

- Planning Director/Zoning Administrator
- City Council/Board of Supervisors
- Planning Commission
- Other

6. Date of local government's decision: March 18, 2013

7. Local government's file number (if any): Coastal Development Permit No. 10-004

SECTION III. Identification of Other Interested Persons

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

a. Name and mailing address of permit applicant:

**Santa Monica-Malibu Unified School District
1651 Sixteenth Street
Santa Monica 90404**

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

City of Malibu	Stewart Ranch Road, Malibu 90265
Terry Lucoff	5901 Clover Heights Ave, Malibu, 90265
Maryellen Sherry	
Michael Baum	
Hans Laetz	
Cami Winikoff	29914 Cuthbert Road, Malibu, 90265
Steve Uhring	23722 Harbor Vista Drive, Malibu, 90265
Todd Kesselman	6022 Merritt Drive, Malibu, 90265
Cynthia Kesselman	6022 Merritt Drive, Malibu, 90265
Ed Halpurn	5939 Clover Heights Ave, Malibu, 90265
Scott Greco	29914 Cuthbert Road, Malibu, 90265
Julie Tobias	5944 Cavalleri Rd, Malibu, 90265
Lynn Norton	6005 Paseo Canyon Dr, Malibu, 90265
Karen Ferrier	
Paul Grisante	
Marianne Riggins	
Ralph Mercher	
Seth Jacobson	
Colleen Baum	
Elaine Rene Weisman	
Mike Sidley	
Amy Young	
Pat Healy	
Elizabeth Anthony	
Pete Anthony	
Holly Kinion	
Mindy Peterson	
Georgia Goldfarb	20650 Whitecap Way, Malibu, 90265

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)

SECTION IV. Reasons for Supporting This Appeal SEE ATTACHMENT

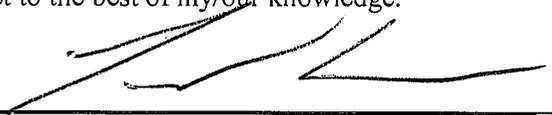
PLEASE NOTE:

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

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 4)

SECTION V. Certification

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



Signature of Appellant(s) or Authorized Agent *Director*

Date: 4/15/13

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

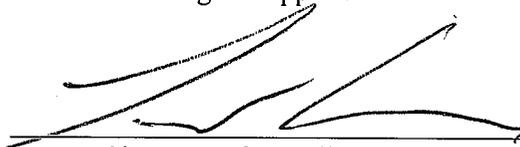
Section VI. Agent Authorization

I/We hereby

Authorize

Stanley W. Lamport

to act as my/our representative and to bind me/us in all matters concerning this appeal.



Signature of Appellant(s) *Director*

Date: 4/15/13

Received

APR 15 2013

SECTION IV. Reasons for Supporting This Appeal

This appeal concerns the City of Malibu ("City") Planning Commission approval of Coastal Development Permit No. 10-004 ("CDP") for the Malibu Middle and High School ("MMHS") Campus Improvement Project ("CIP"). The CDP findings are contained in Planning Commission Resolution 13-15 ("Findings"). The CDP approves an integrated development on the MMHS campus, including within the appeal zone. The Santa Monica-Malibu Unified School District ("District") is the project proponent.

This appeal is made on the grounds that the approved development does not conform to the standards set forth in the Malibu LCP for the following reasons:

1. The City failed to comply with the requirement to approve the least environmentally damaging alternative. The Findings in Section 3 and Section 4, Finding A3 of the City approval improperly apply a CEQA standard to evaluate the least environmentally damaging alternative. Alternatives were considered infeasible if they did not meet that District's project objectives. The City incorporated a statement of overriding considerations into the Findings and improperly balanced the District's project objectives and use of the MMHS campus with the environmental protection policies in the LCP. (Malibu LIP §13.9.)
2. The development does not conform with the ESHA policies in the Malibu LUP, including Policies 3.1, 3.6, 3.8, 3.14, 3.23, 3.30, and 3.51. The approved development fails to avoid impacts to ESHA related to the change of intensity of use resulting from the lighting and construction impacts of the development. Section 4, Finding A4 justifies the development's impact on ESHA based on the degraded state of the ESHA in violation of LUP Policies 3.6 and 3.51. Section 4, Finding A3 and the statement of overriding considerations in Section 3 allow institutional zone development standards and District project objectives to take precedence over protection of ESHA in violation of LUP Policy 3.30.
3. The development does not conform with the Scenic and Visual policies in the Malibu LUP. The development is not sited and designed to minimize adverse impacts on scenic areas visible from public viewing areas to the maximum feasible extent in violation of LUP Policy 6.5 and fails to ensure compatibility with surrounding areas in violation of LUP Policy 6.12.a. The development alters views of natural features from public viewing areas and results in lighting that is directly visible from public viewing areas in violation of LUP Policies 6.20 and 6.23.

Project Overview

The MMHS campus is located on a relatively rural part of the Malibu coast one-half mile from Zuma Beach. The LCP designates a blue-line stream along the campus' west property line as ESHA. The appeal zone extends 100 feet into the campus from the stream.

The campus is considered to be located in a scenic area because it is visible from numerous vantage points that offer views of the ocean and mountains. According to the District's EIR, the campus and the surrounding area currently have a less than average level of nighttime lighting.

The CIP affects 23.1 acres of the MMHS campus, including portions of the campus located within the appeal zone and involves multiple improvements to the site, including a new 35,315 square-foot, two-story classroom/library/administration building, a new high school quad area, a renovated middle school quad area, a new student drop-off and pick-up lane, repairs to perimeter fencing, grading, new lighted tennis courts, installation of synthetic turf on the main sports field and construction of new bleachers.

This appeal concerns the parking and lighting elements of the CIP approval. As approved, the CIP includes (i) a new lighted 150-space parking lot to the immediate south of the main sports field, (ii) a reconfigured 119-space lighted parking area in the appeal zone (Parking Lot A) with new safety lighting, and (iii) a reconfigured 61-space lighted parking lot (Lower Lot). Additionally, the CIP approval acknowledged indirect impacts to ESHA.

Coastal Resources Affected

The Findings state that “[a]lthough the proposed project has been designed to avoid direct impacts to [the] stream, construction related activities could have an indirect effect on the stream.” Construction activities associated with the proposed project would conflict with the LCP’s native tree protection regulations due to the disturbance or loss of protected native trees (seven western sycamores and one California black walnut) located on the proposed project site.”

The lighting impact is sky glow. Sky glow is the light that “spills” into the sky above the horizon and illuminates the moisture and other tiny particles in the atmosphere. The baseline studies in the District’s EIR found there was trace of sky glow observed during the evening when the campus was illuminated and no sky glow on evenings when the campus was not being occupied, and, therefore, not illuminated.

In this case, sky glow is produced by light bounce – the return and dispersal of light that has been directed to a surface area. The sky glow impact of the parking lot lights is not limited to the area where the lights are located. Sky glow illuminates the surrounding area and extends beyond the boundaries of the campus.

The full impact of the sky glow can now be seen as a result of the installation and operation of the athletic field lights. Although clearly part of the overall development on the campus, the District separated the athletic field lighting from the rest of the project and obtained approval from the City to install and operate the lights in July 2012. The District processed the approval of the athletic field lights with a mitigated negative declaration that addressed the impact of the athletic field lights without regard for the rest of the CIP lighting. The EIR for the CIP, in turn, did not consider the impact of the athletic field lights in conjunction with the CIP.

The athletic field lights have produced a substantial sky glow effect which illuminates an area that extends beyond the boundaries of the campus, including within the ESHA. For example, at one of the homes just beyond the boundaries of the campus and adjacent to the appeal zone, the glow is so bright that a person can see their shadow on the interior walls of the home. Additionally, when turned on, the athletic field lights are so bright, that they can be seen from Anacapa Island. (See attached photo.) The illumination effect and area of illumination is ever

greater on nights when there is fog and high moisture content. On those nights, the effect appears like a glowing orb.

It is also clear that the District's lighting simulations for the athletic field lights vastly understated the true effect of those lights. Attached to this appeal are a series of photographs comparing the District's simulations to the actual impacts. The District's EIR for the CIP uses similar types of photo simulations with respect to an impact the EIR concludes is greater than the impact the District's mitigated negative declaration found for the athletic field lights. The discrepancy indicates that the impact of the CIP parking lot lighting will be much greater than the District's EIR projects. The attached photos also show that the impacts of the lights extend beyond the western boundaries of the campus where the ESHA is located.

Parking Lot A

Parking Lot A is located adjacent to the mapped ESHA and within the appeal zone. The Parking Lot A lights create the same sky glow impacts described above in a location adjacent to ESHA. The mitigation measures proffered in the District's EIR do nothing to alleviate the impact. They call for directing the lighting onto the parking lot and shielding the lights from shining skyward. Neither measure addressed the light bounce impact that leads to sky glow. (District Mitigation Measures MM 4.1.1-4.1.2.)

Mitigation measure MM 4.1.3 requires "night lighting" to be turned off at 10:00 p.m., but allows "security lighting" to be left on indefinitely. The problem is that the measure states that the District decides which lighting is security lighting and which lighting is night lighting. Condition 12 in the Findings require the District to provide a "security lighting" plan for Planning Director approval in his or her sole discretion, which is unfettered and not reviewable. Furthermore, the new lighting for Parking Lot A is described in Section 2.k of the Findings as "safety lighting." This creates the potential that all of the new lighting could be designated as "security lighting" since safety and security lighting are closely related functions and are used interchangeably with respect to Parking Lot A in the Findings. The measure is classic deferred mitigation that provides no assurance that the measure will result in any meaningful light reduction.

Condition 14 in the Findings calls for lighting in both Parking Lot A and the Lower Lot to be designed to meet Model Lighting Ordinance light zone one standards to the maximum extent feasible, which is to be determined in the Planning Director's sole discretion, which, again, is unfettered and not reviewable. Nothing prevents the District from asserting and the Planning Director agreeing that the mitigation cannot be implemented to any significant degree due to "economic infeasibility." The District has laid the groundwork for that result. It has stated that it has already prepared lighting plans, that it does not want to incur the cost to redesign the lighting and, therefore, it would be "economically infeasible" to undertake the mitigation. The measure provides no assurance that the lighting standard will be achieved. It is another example of deferred mitigation.

As a result, the City failed to comply with the requirement to adopt the least environmentally damaging alternative. To make the finding, the City is required to determine that implementing the approved alternative would produce the least environmental damage relative to other

alternatives. Because there is no actual, specified mitigation plan in the CDP, the City had no way to know whether the approved alternative was in fact the least environmentally damaging alternative or whether another alternative should be adopted instead— such as an alternative that responded to the limitations that an actual mitigation plan would reveal.

New Lighted 150-Space Parking Lot

The District's EIR for the CIP concluded that the lighting impacts from the new 150-space parking lot lighting will be significant and unavoidable, even with the use of the most stringent lighting standards. The reason the impact persists is because the 150-space lot is proposed in a location that is inappropriate for a significant new lighting source in the area. The Findings state that the "location of the new 150-space lot is situated on a vacant, prominent topographic feature at the highest elevation of the MMHS campus." The Findings also recognize that even using the most stringent Model Lighting Ordinance standards for the lot does not eliminate the significant and unavoidable impact because of "the new parking lot's potential frequency of use throughout the active school year, the height and number of light standards proposed as part of the project, and elevated topography of the [parking lot site]." Neither the District's EIR nor the City considered an alternative on-campus location for the 150-space parking lot, even though an alternative location on a lower portion of the campus is available.

Under the Malibu LCP, the City is required to find that an approved project is the least environmentally damaging alternative. The Findings state that approving the CIP without lights on the new 150-space parking lot would avoid the impact entirely. Despite this finding, the City, based on a CEQA analysis, did not adopt this alternative. Using the CEQA analysis, the City adopted a "least environmentally damaging alternative" based on a trade off between the LCP's resource protective policies and the District's project objectives and use of the site. Using a CEQA analysis, the Findings in Section 4, Finding A3 rejected alternatives that were inconsistent with the District's project objectives. The Findings adopt a statement of overriding considerations in Section 3 and carry that analysis into the least environmentally damaging alternative finding in Section 4, Finding A3.

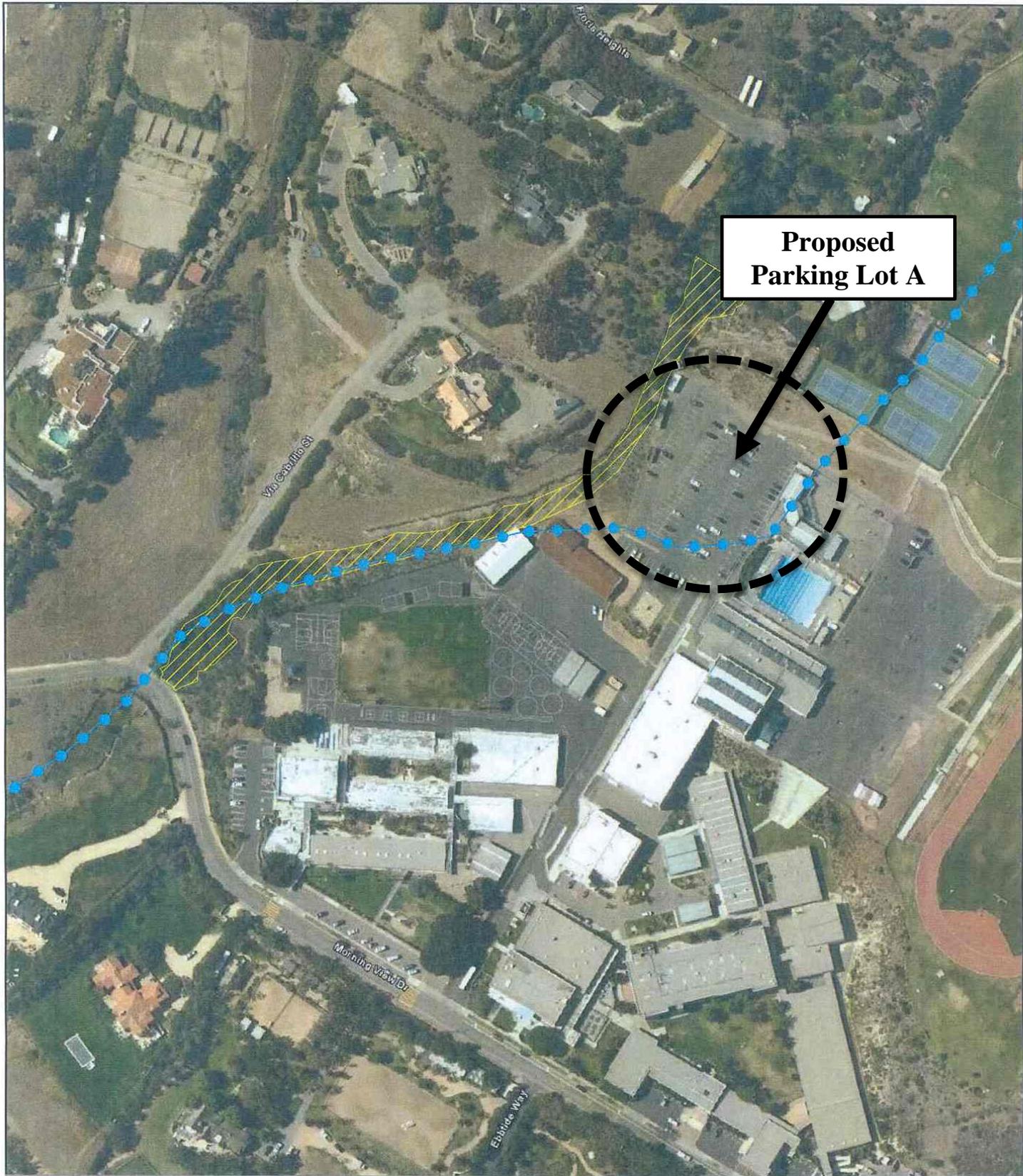
The District's EIR found that the sky glow resulting from the new 150-space parking lot lighting would create a new source of substantial light that would result in significant and unavoidable sky glow impacts. Even when the District proposed to use the most stringent Model Lighting Ordinances standard, the EIR prepared concluded that the impact, although reduced, would still be significant and unavoidable. In overriding the significant and unavoidable impact of the lights, the City concluded that off-site parking issues on surrounding public streets outweighed the LCP resource protection policies. There was, however, no dispute in front of the City that off-campus parking on the surrounding public streets occurred on only a handful of occasions (10 to 15 times) in the school year when a school event drew an attendance that exceeded the on-campus parking capacity.

As already noted, the sky glow impacts extend well beyond the footprint of the 150-space parking lot. Furthermore, the new lights are in close proximity to the athletic field lights. The cumulative effect of the athletic field lights, the significant and unavoidable lighting impacts related to the 150-space parking lot and the other parking lot lighting approved as part of the

CDP magnify the sky glow impacts both on and off the campus, including in the appeal zone and in the ESHA.

Development, as defined in the Coastal Act, includes not just the physical improvements that occur on a site, but also changes in the intensity of use. The California Supreme Court recently affirmed the Commission's contention in this regard in *Pacific Palisades Bowl Mobile Estates LLC v. City of Los Angeles*, (2012) 55 Cal.4th 783, as did the court in *Gualala Festivals Committee v. California Coastal Com.*, (2010) 183 Cal.App.4th 60. Both cases hold that the Coastal Act's definition of "development" goes beyond what is commonly regarded as a development of real property and is not restricted to activities that physically alter the land or water.

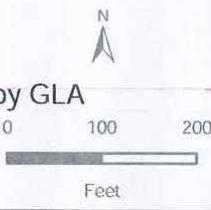
The illuminating effect of sky glow on the surrounding community and the ESHA along the western boundary changes the intensity of land use throughout the campus, including in the appeal zone and, as a result, is appealable development.



**Proposed
Parking Lot A**

Legend

-  Limits of Stream ESHA Delineated in the Field by GLA
-  LCP Mapped ESHA Stream



**MALIBU MIDDLE AND HIGH SCHOOL
CAMPUS IMPROVEMENT PROJECT**
City of Malibu LCP - Mapped ESHA

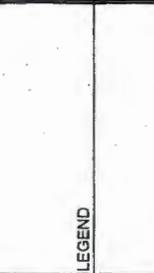
GLENN LUKOS ASSOCIATES

Exhibit 6
Glenn Lukos Associates MMHS
Mapped ESHA
Appeal No. A-4-MAL-13-030

X:10363-THE REST\0696-E

KEYNOTES

1. GENERAL NOTES TO BE OBSERVED BY ALL CONTRACTORS.
2. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE CALIFORNIA BUILDING CODE AND ALL APPLICABLE LOCAL ORDINANCES.
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PROJECT INFORMATION

PROJECT: MALIBU MIDDLE & HIGH SCHOOL CAMPUS IMPROVEMENTS PROJECT
 ADDRESS: 3018 MALIBU AVENUE, MALIBU, CA 90262
 CLIENT: MALIBU UNIFIED SCHOOL DISTRICT
 DATE: 10/15/13

DESIGNER INFORMATION

DESIGNER: HMC ARCHITECTS
 PROJECT NO: 13-030
 SHEET NO: A-101

DATE

DATE: 10/15/13

SCALE

SCALE: AS SHOWN

PROJECT NO

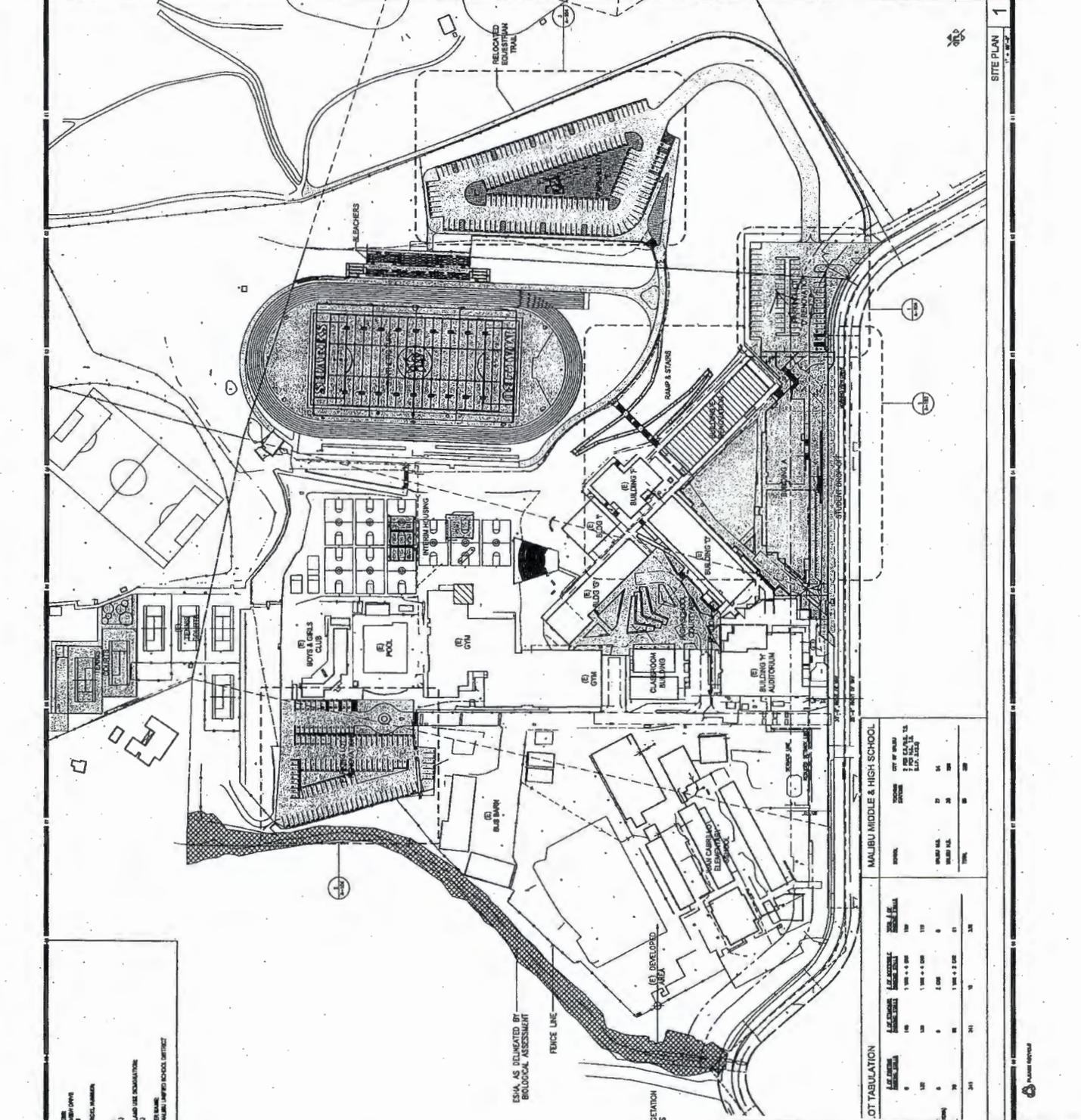
PROJECT NO: 13-030

SHEET NO

SHEET NO: A-101

DATE

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ESHA AS INDICATED BY BIOLOGICAL ASSESSMENT

FENCE LINE

NATURAL VEGETATION LIMITS

**Exhibit 7
 Project Plans
 Appeal No. A-4-MAL-13-030**

SCALE

SCALE: AS SHOWN

DATE

DATE: 10/15/13

PROJECT NO

PROJECT NO: 13-030

SHEET NO

SHEET NO: A-101

DATE

DATE: 10/15/13

KEYNOTES

- NOTE**
- 03.08 CONCRETE SIGAR WALL
 - 03.09 CONCRETE CURB, SEE I/A-107
 - 05.02 STRUCTURAL STEEL MEMBER
 - 06.05 METAL COVER
 - 06.05 INSULATED SKYLIGHT
 - 08.09 ALUM. WINDOW
 - 08.09 ALUM. WINDOW
 - 08.09 ALUM. WINDOW
 - 08.11 PORTLAND CEMENT PLASTER
 - 08.41 PAINTER CONTROL JOINT
 - 10.42 PV PANEL MODULE, SEE A/MA10-701
 - 10.43 GAMBRIAL, REFER TO PLAN
 - 10.82 CANE DETECTION

LEGEND

- REFER TO SHEET GARD FOR TYPICAL SYMBOLS AND ABBREVIATIONS
- PERMANENT CHIBIT PAPER
 - CONCRETE SHEAR WALL
 - ALUMINUM LOWER PANEL, TYPE, SEE SHEET A/MA-100
 - CERAMIC TILES
 - TRANS-LIGHT WINDOW PANEL
 - GREEN ROOF PLANT MATERIAL

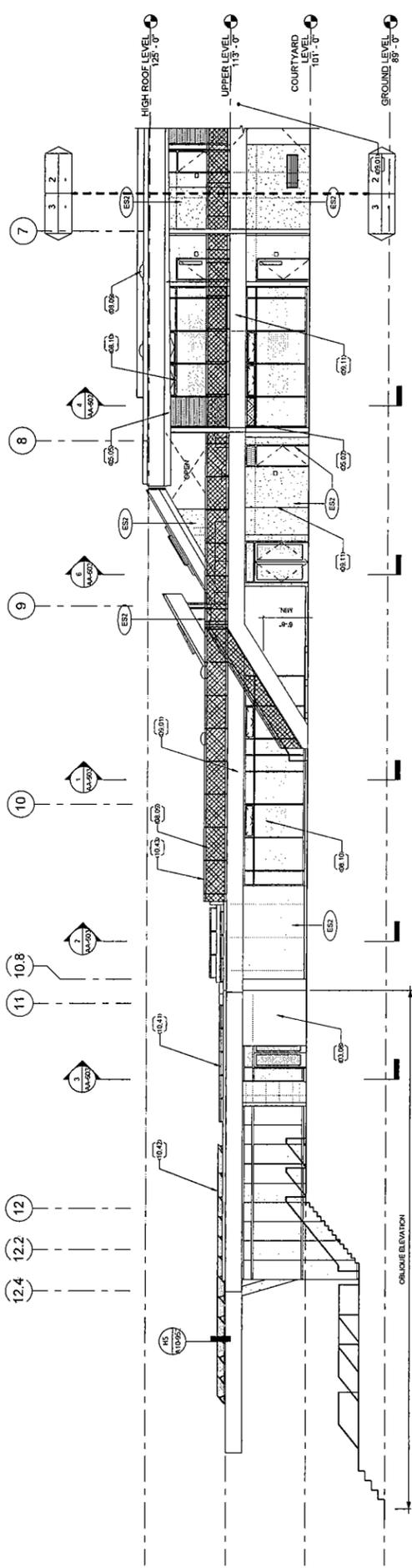
CONTRACTOR SEAL
 Agency: MALIBU, CA
 CONTRACTOR SEAL
 DIV. OF THE STATE ARCHITECT
 OFFICE OF REGULATORY SERVICES
 APR. 05-10-09
 AC _____ FLS _____ SS _____
 DATE _____

Project No: 3448007
 Project Name: MALIBU MIDDLE & HIGH SCHOOL
 CAMPUS IMPROVEMENTS PROJECT
 30215 MORNING VIEW DRIVE, MALIBU, CA 90265

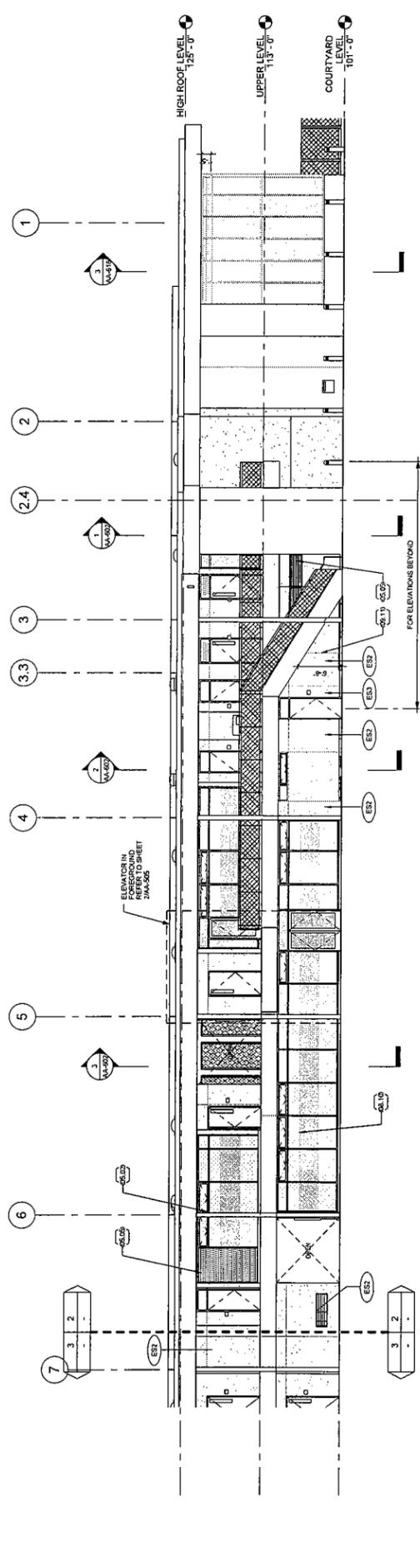
Author: NIZM
 Designer: AC
 Checker: AC
 Date: 2011.11.11

EXTERIOR ELEVATIONS

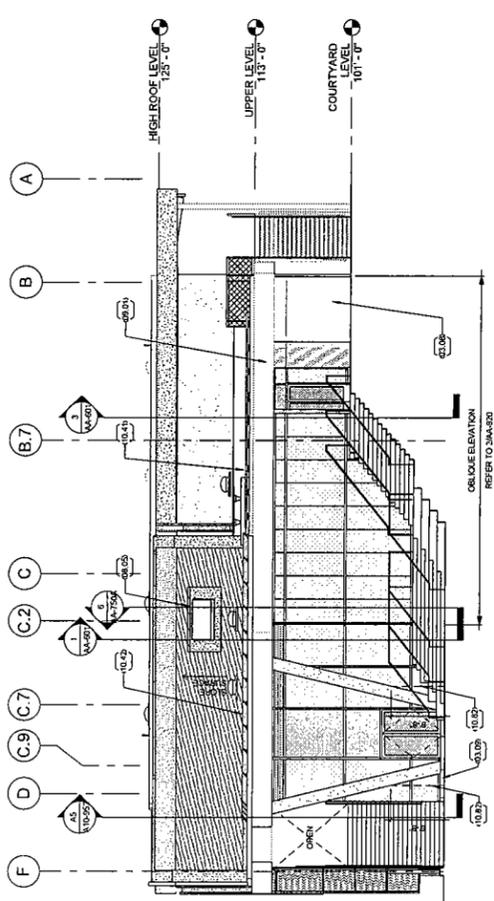
Professional Seal
 HMC ARCHITECTS
 Project No: 3448007
 Scale: As Indicated
 Drawing No.: AA-501
 Date: 2011.11.11



NORTH ELEVATION - SEGMENT B
 1/8" = 1'-0"



NORTH ELEVATION - SEGMENT A
 1/8" = 1'-0"



EAST ELEVATION
 1/8" = 1'-0"

KEYNOTES

- NOTE**
- NO. 03.05 CONCRETE
 - 03.06 CONCRETE SHEAR WALL
 - 03.09 CONCRETE CURB, SEE 04-107
 - 05.02 STRUCTURAL STEEL MEMBER
 - 05.05 METAL LOUVER
 - 05.07 METAL GUARDRAIL
 - 08.10 ALUM ANNING WINDOW
 - 08.01 PORTLAND CEMENT PLASTER
 - 08.10 STUCCO
 - 08.11 PLASTER CONTROL JOINT
 - 10.42 PV GLAZING - SEE 04A10-01
 - 10.82 CANE DETECTION

LEGEND

- REFER TO SHEET 0407 FOR TYPICAL SYMBOLS AND ABBREVIATIONS
- ISLAND CEMENT PLASTER (ESJ) UNO.
 - CONCRETE SHEAR WALL
 - ALUMINAL OVER PANEL, TYPE, SEE SHEET 04-109
 - CERAMIC TILE (TS)
 - TRANSLUCENT WINDOW PANEL
 - GREEN ROOF FLAM MATERIAL



Agency/Account FILE NO. _____
 CERTIFICATION STAMP
 STATE OF CALIFORNIA
 OFFICE OF REGULATION SERVICES
 APPL. 04-13945
 AC _____ F.S. _____ SS _____
 DATE _____

Project Name: SIMAOUS MALIBU MIDDLE & HIGH SCHOOL CAMPUS IMPROVEMENTS PROJECT
 30215 MORNING VIEW DRIVE, MALIBU, CA 90265

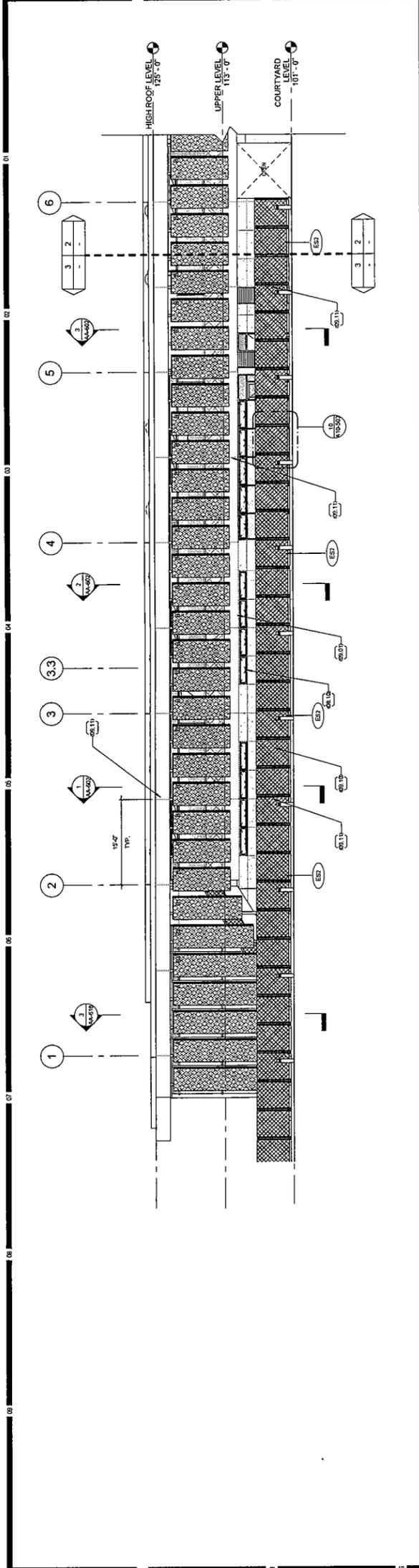
Project No. 3448007
 Scale: As indicated
 Designer: NIJAN
 Checker: AC
 Reviewer: AC
 Date: 2011.11.11

EXTERIOR ELEVATIONS

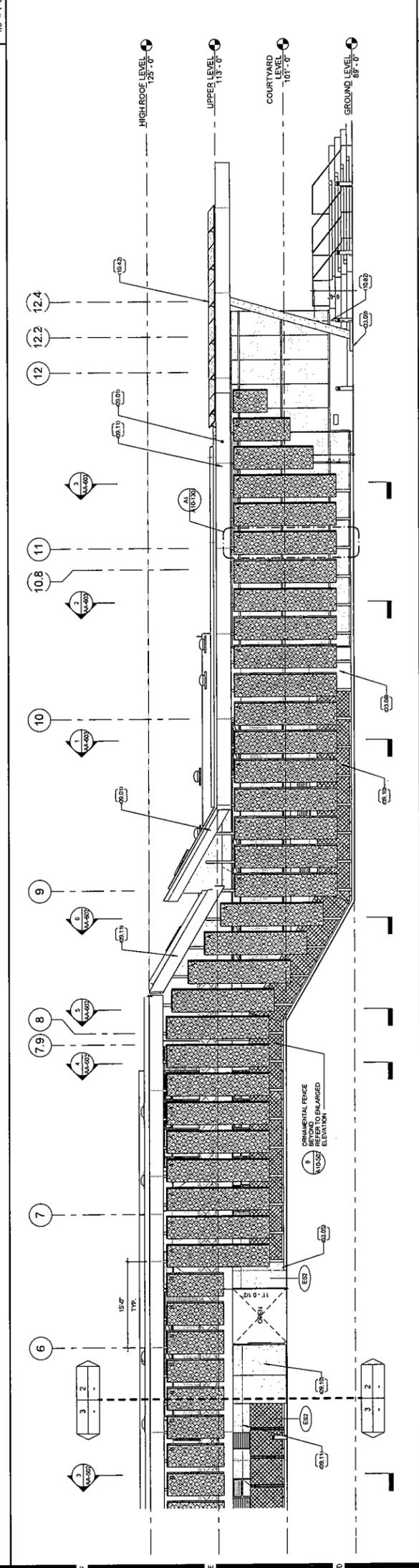
Architect Seal



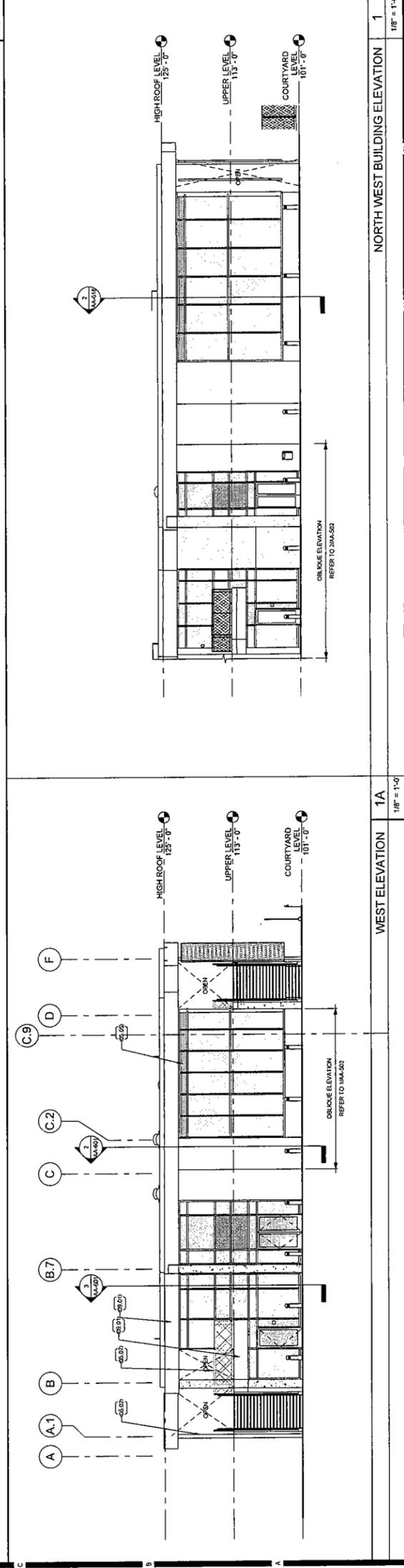
AA-502
 Sheet



SOUTH ELEVATION - SEGMENT A
 1/8" = 1'-0"



SOUTH ELEVATION - SEGMENT B
 1/8" = 1'-0"



WEST ELEVATION 1A
 1/8" = 1'-0"

KEYNOTES

- NOTE**
- 10.08 CONCRETE SHEAR WALL
 - 10.09 ALUMINUM WINDOW
 - 10.10 PORTLAND CEMENT PLASTER
 - 10.11 STUCCO
 - 10.11 PLASTER CONTROL JOINT
 - 10.41 PV PANEL MODULE SEE AIA10-701
 - 10.42 PV RACKING SEE AIA10-701

LEGEND

- NEW FINISH GIBBER PLASTER
- CONCRETE SHEAR WALL
- ALUMINUM WINDOW PANEL TYPE SEE SHEET AIA-106
- STUCCO (L.E.F.T.)
- TRANSLUCENT WINDOW PANEL
- GREEN ROOF PLANT MATING

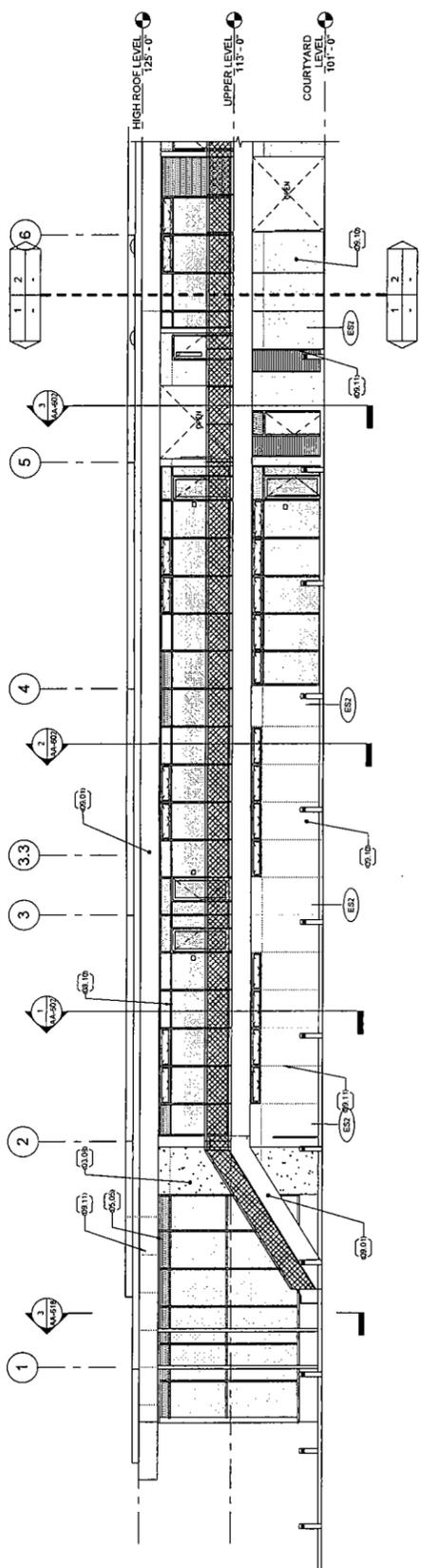
APPROVED FOR CONSTRUCTION
 EXHIBITION STAMP
 DIVISION OF PLANNING AND BUILDING
 OFFICE OF REGULATORY SERVICES
 APPL. 03-11-0455
 AC: _____ FLS: _____ SS: _____
 DATE: _____

Project No: 3448807
 Project Name: MALIBU MIDDLE & HIGH SCHOOL CAMPUS IMPROVEMENTS PROJECT
 30215 MORNING VIEW DRIVE, MALIBU, CA 90265

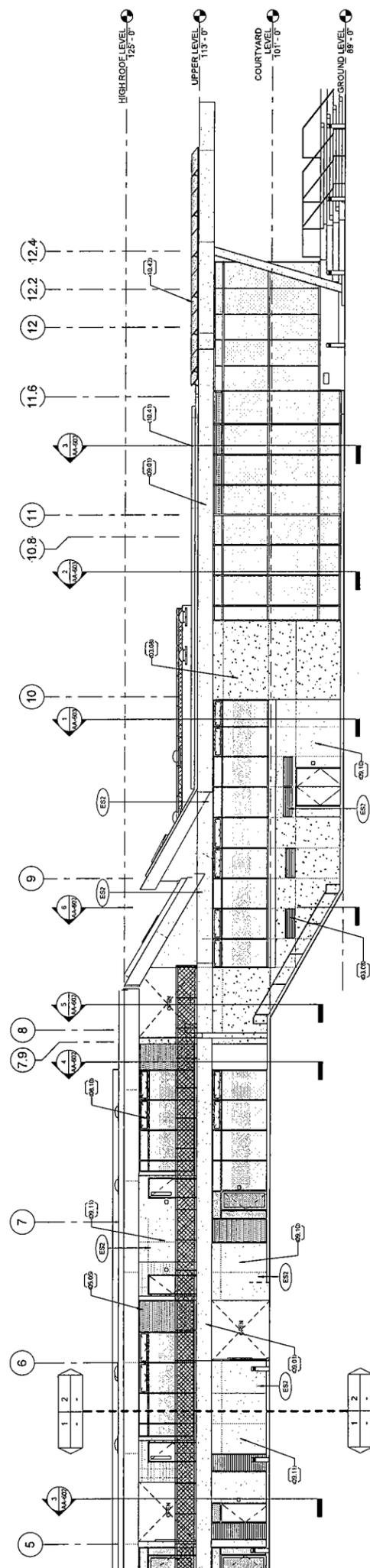
Drawn: NIJAY
 Checked: AC
 Reviewed: AC
 Date: 2011.11.11

EXTERIOR ELEVATIONS W/O SUNSCREENS

Architect's Seal
 No. C-28838
 State of California
 Seal of the State Architect
 State of California
 No. C-28838
 State of California
 Seal of the State Architect



SOUTH ELEVATION (W/O SUNSCREENS) - SEGMENT A
 1/8" = 1'-0"



SOUTH ELEVATION (W/O SUNSCREENS) - SEGMENT B
 1/8" = 1'-0"

LEGEND

- ASPHALT PAVING
- CONCRETE PAVING
- CHAIN LINK FENCE
- PLANTING AREA
- SITE LIGHTING
- TRAFFIC ARM GATE

DATE: 02/08/16
 PROJECT NO. 17-0000-0000
 DRAWING NO. 17-0000-0000-001

Project Name:
**MALIBU MIDDLE & HIGH SCHOOL
 CAMPUS IMPROVEMENTS PROJECT**
 30275 MORNING VIEW DRIVE, MALIBU, CA 90262

DATE: 02/08/16
 PROJECT NO. 17-0000-0000
 DRAWING NO. 17-0000-0000-001

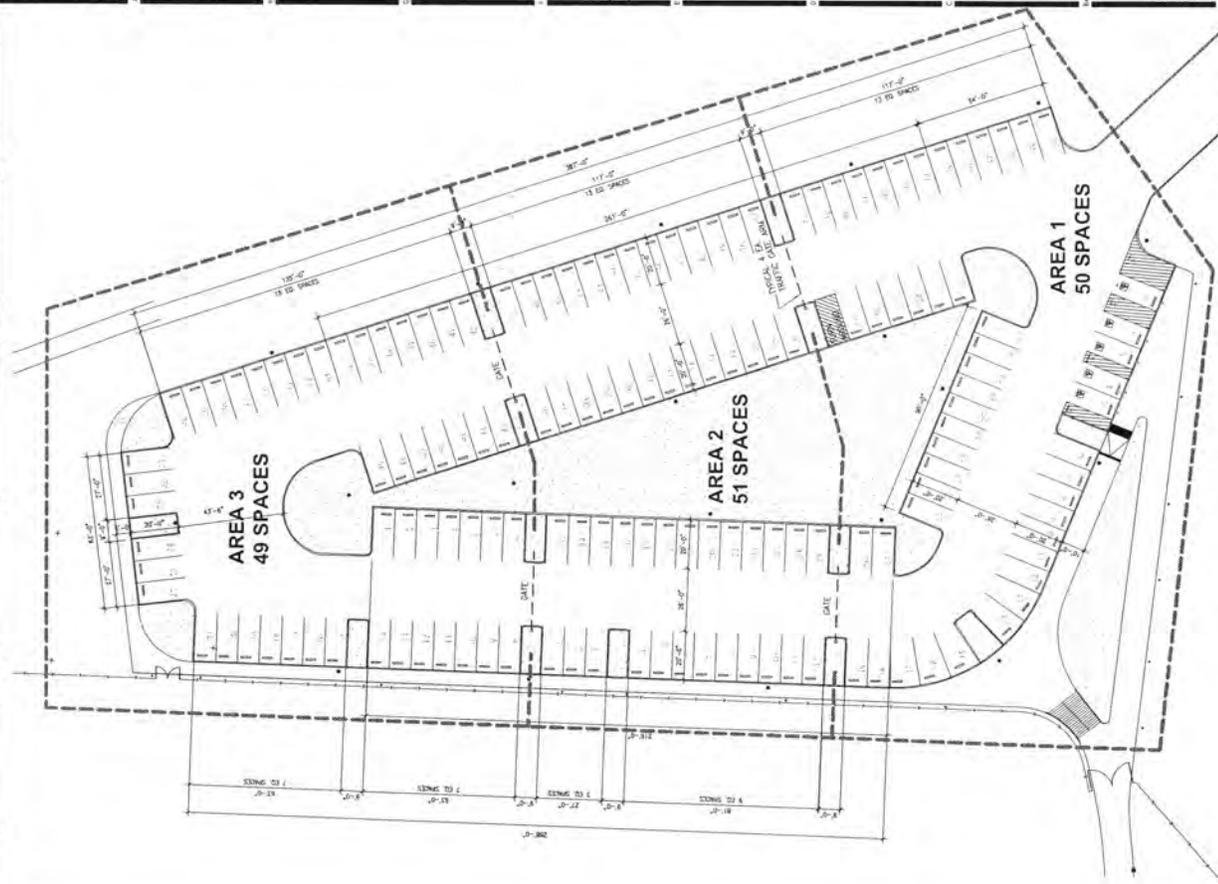
150 - SPACE LIGHTED PARKING LOT

Exhibit 6

1

PARKING LOT LIGHTING DIAGRAM

A-012



Received
 FEB 08 2016
 California Coastal Commission
 South Central Coast District

Exhibit 8
Revised Project Lighting Plans –
150-space Parking Lot Gated Areas
Appeal No. A-4-MAL-13-030

Received

FEB 08 2016

California Coastal Commission
South Central Coast District

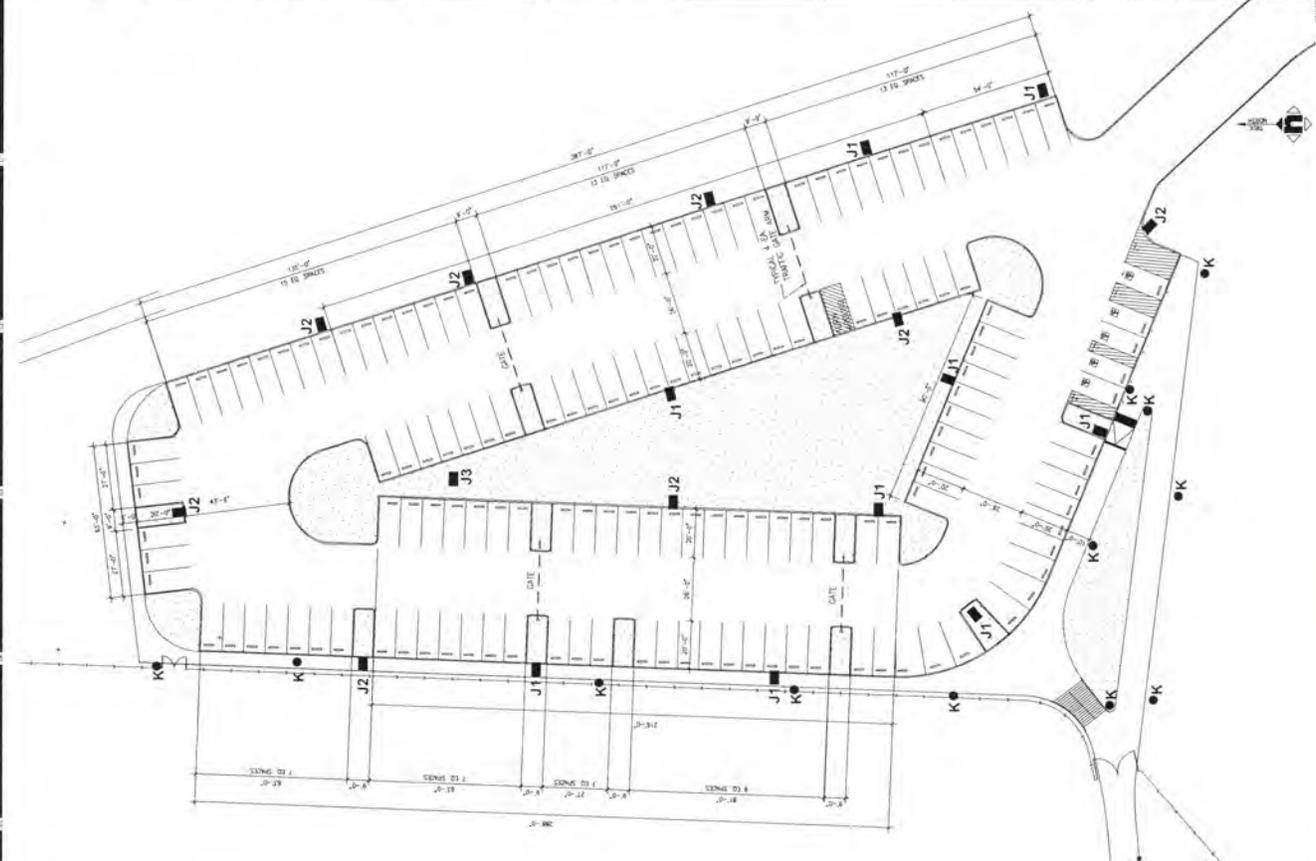
**Exhibit 9
Revised Project Lighting Plans –
150-space Parking Lot
Appeal No. A-4-MAL-13-030**

stadium lighting OFF
3000K 150-Space Lot

Calculation Summary					
Label	Avg	Max	Min	Avg/Min	
150 space horizontal	1.2	7.2	0	N.A.	
150 space perimeter vertical	0.21	5.6	0	N.A.	

Luminaire Schedule

Type (QTY)	Mounting	Lamp	Manufacturer	Model #
J1 (9)	12' pole	52W 3000K LED	LEOTEK	AR13-6M-MV-3-DB-700
J2 (8)	12' pole	54W 3000K LED	LEOTEK	AR13-6M-MV-4-DB-700
J3 (1)	12' pole	52W 3000K LED	LEOTEK	AR13-6M-MV-5-DB-700
K (12)	3' bollard	18W 3000K LED	GARDCO	BR640-CW1-180-18-BLP



HMC ARCHITECTS
3150 24th STREET
LOS ANGELES, CA 90071
ARCHITECTS OF RECORD

LEGEND

- ASPHALT PAVING
- CONCRETE PAVING
- CHAIN LINK FENCE
- PAVING AREA
- POLE LIGHTING TYPE - J
- BOLLARD LIGHTING TYPE - K
- FIXTURE TYPE J1, J2, J3, K
- TRAFFIC ARM GATE

PROJECT INFORMATION

Project Name: MALIBU MIDDLE & HIGH SCHOOL CAMPUS IMPROVEMENTS PROJECT
 10221 MORNING VIEW DRIVE, MALIBU, CA 90263

Scale: 1/8" = 1'-0"

150 SPACE PARKING LOT

DATE: 11.2.15

PROJECT NO. 344-0027

Exhibit 4

