

## CALIFORNIA COASTAL COMMISSION

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

# W14a



**DATE:** October 24, 2019

**TO:** Commissioners and Interested Parties

**FROM:** John Ainsworth, Executive Director

**SUBJECT:** **City of Malibu LCP Amendment No. LCP-4-MAL-18-0083-2 (Public Access Map Update):** Executive Director's determination that action by the City of Malibu, acknowledging receipt, acceptance, and agreement with the Commission's certification with suggested modifications is legally adequate. This determination will be reported to the Commission at the November 13, 2019 meeting in Half Moon Bay.

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On May 9, 2019 the Commission approved Local Coastal Program Amendment No. LCP-4-MAL-18-0083-2 with suggested modifications. The subject amendment consists of an update to the Land Use Plan Public Access Map to reflect current information showing the location of existing public beaches, lateral public access ways along the shoreline, and vertical public access ways between the first public road and the shoreline.

On August 26, 2019 the City Council adopted Resolution No. 19-33 (attached) acknowledging receipt of the Commission's certification of LCP Amendment No. LCP-4-MAL-18-0083-2 and accepting and agreeing to all modifications suggested by the Commission. The document was transmitted to Commission staff on September 6, 2019.

Pursuant to Section 13544 of the California Code of Regulations, Title 14, Division 5.5, the Executive Director must determine that the action taken by the City of Malibu acknowledging receipt and acceptance of, and agreement with the Commission's certification of the above referenced LCP amendment with suggested modifications is legally adequate and report that determination to the Commission. The certification shall become effective unless a majority of the Commissioners present object to the Executive Director's determination.

I have reviewed the City's acknowledgement and acceptance of, and agreement with the terms and suggested modifications of LCP Amendment LCP-4-MAL-18-0083-2, as certified by the Commission on May 9, 2019, as contained in the adopted Resolution No. 19-33 of August 26, 2019, and find that the City's action and notification procedures for appealable development are legally adequate to satisfy the terms and requirements of the Commission's certification. I therefore recommend that the Commission concur in this determination.

## RESOLUTION NO. 19-33

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

The City Council of the City of Malibu does hereby find, order and resolve as follows:

#### SECTION 1. Recitals.

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

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

C. On December 10, 2012, the City Council held a duly noticed public hearing on the subject amendment, reviewed and considered written reports, public testimony, and related information. At that meeting, the City Council adopted Resolution No. 12-43 as modified with the following six changes: 1) a lateral easement located at 22716 Pacific Coast Highway; 2) removal of a vertical easement shown at 22716 Pacific Coast Highway (shown in error); 3) a lateral easement across 30974 to 30980 Broad Beach Road; 4) change the vertical easement located at 22626 Pacific Coast Highway from “open” to “closed”; 5) change the correct street name from Cliffside Drive to Wildlife Road in the eastern portion of Point Dume; and 6) revise the displayed address listings down the coast to reflect the location of open vertical easements.

D. On July 10, 2014, the California Coastal Commission (CCC) held a hearing and conditionally certified the map, subject to the City’s acceptance of the CCC’s suggested modifications.

E. On November 10, 2014, the City Council adopted Resolution No. 14-69 accepting the CCC’s suggested modifications, and included a clarifying footnote pertaining to a disputed accessway on the Tivoli Cove Condominium property. The resolution was submitted to the CCC on December 4, 2014.

F. On July 6, 2015, the CCC notified the City that it considered the footnote to be substantive change to the LCPA and that the submittal would be processed as if it were a new LCPA submittal pursuant to Section 13544.5 of the California Code of Regulations.

G. On March 9, 2017, the CCC considered the “new” LCPA with the footnote. The Planning Director appeared at the CCC hearing and requested that the CCC delay action and allow time for the City to work with CCC staff to come up with mutually satisfactory language, rather than requiring complete removal of the clarifying note. The CCC action included a suggested modification requiring complete removal of the footnote along with other suggested modifications to update the map and indicating that the conditional certification would expire within six months if the City Council did not accept the modifications within that timeframe.

H. On September 14, 2017, the CCC granted a six-month extension of time for the Council to act on the suggested modifications, expiring March 9, 2018. Due to staffing limitations, staff was unable to pursue the matter further and the CCC approval, including the requirement to remove the footnote, expired.

I. On March 12, 2018, the City Council discussed the status of the project and expressed a preference for having the Public Access Map certified. The Council directed staff to bring back an item to Council with the results of negotiation with CCC staff regarding a resubmittal of LCPA No. 12-004.

J. On March 22, 2018, staff met with CCC staff to discuss options relative to the language in the footnote. In a follow-up phone call, the City Attorney discussed the issue with the CCC attorney and consensus was reached on mutually acceptable language.

K. On October 22, 2018, the City Council held a duly noticed public hearing on the subject amendment, reviewed and considered written reports, public testimony, and related information. At that meeting, the City Council adopted Resolution No. 18-58 as modified with the following changes: 1) changed the two vertical access symbols at West Sea Level Drive from “Existing Vertical Accessway” to “Vertical Access Document Recorded”, and 2) shifted the location of the northern symbol to the middle of West Sea Level Drive so that it would not be near the intersection of Broad Beach Road.

L. On May 9, 2019, the CCC held a hearing and conditionally certified the map, subject to the City’s acceptance of suggested modifications. The CCC action included a suggested modification to change the two vertical access symbols at West Sea Level Drive back to “Existing Vertical Accessway” and to move the northern symbol back to the middle of West Sea Level Drive. Other suggested modifications included depicting property on Pacific Coast Highway between APNs 4449-008-011 and 4449-008-0012 as “Public Beach” and to label it as “State of California Owned”; adding a new LUP policy requiring the Public Access Map to be updated every five years; and adding a map note indicating the map may not indicate the full extent of public access or public ownership information.

M. On June 27, 2019, a Notice of City Council Public Hearing to be held on July 8, 2019 was published in a newspaper of general circulation within the City of Malibu and was mailed to all interested parties; regional, state, and federal agencies affected by the amendment; local libraries and media; and the CCC.

N. On July 8, 2019, prior to the opening of the public hearing, the City Council continued the hearing to the August 26, 2019 Regular City Council meeting.

SECTION 2. Environmental Review.

In accordance with the California Environmental Quality Act (CEQA), Public Resources Code Section 21080.9, CEQA does not apply to activities and approvals by the City as necessary for the preparation and adoption of an LCPA. This application is for an amendment to the LCP, which must be certified by the CCC before it takes effect.

SECTION 3. Local Coastal Program Amendment Findings.

A. Based on evidence in the record, the City Council hereby finds that the proposed amendment meets the requirements of, and is in conformance with the policies and requirements of Chapter 3 of the California Coastal Act.

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

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

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

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

- Replace the existing LCP Public Access Map in its entirety with Exhibit A, an updated Public Access Map, attached hereto; and
- Add the following policy to LUP Chapter 2 (Public Access and Recreation):

Policy 2.90 The LUP Public Access Map shall be updated every five years to reflect current information regarding the location and status of vertical and lateral public accessways, as well as public beaches. Revisions to the map shall be treated as LCP amendments and shall be subject to the approval of the Coastal Commission. Since the LUP Public Access Map will only be updated periodically, it may not indicate the full extent of public access or public ownership information.

SECTION 5. The City Council hereby adopts LCPA No. 12-004, amending the City of Malibu LCP Public Access Map.

SECTION 6. Submittal to California Coastal Commission.

The City Council hereby directs staff to submit LCPA 12-004 to the CCC for certification, in conformance with the submittal requirements specified in California Code of Regulation, Title 14, Division 5.5, Chapter 8, Subchapter 2, Article 7 and Chapter 6, Article 2 and Code of Regulations Section 13551, et. seq.

SECTION 7. Effectiveness.

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


SECTION 8. Certification.

The City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

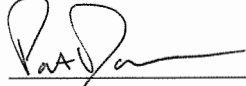
PASSED, APPROVED, and ADOPTED this 26<sup>th</sup> day of August 2019.

  
\_\_\_\_\_  
JEFFERSON WAGNER, Mayor

ATTEST:

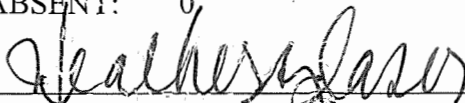
  
\_\_\_\_\_  
HEATHER GLASER, City Clerk  
(seal)

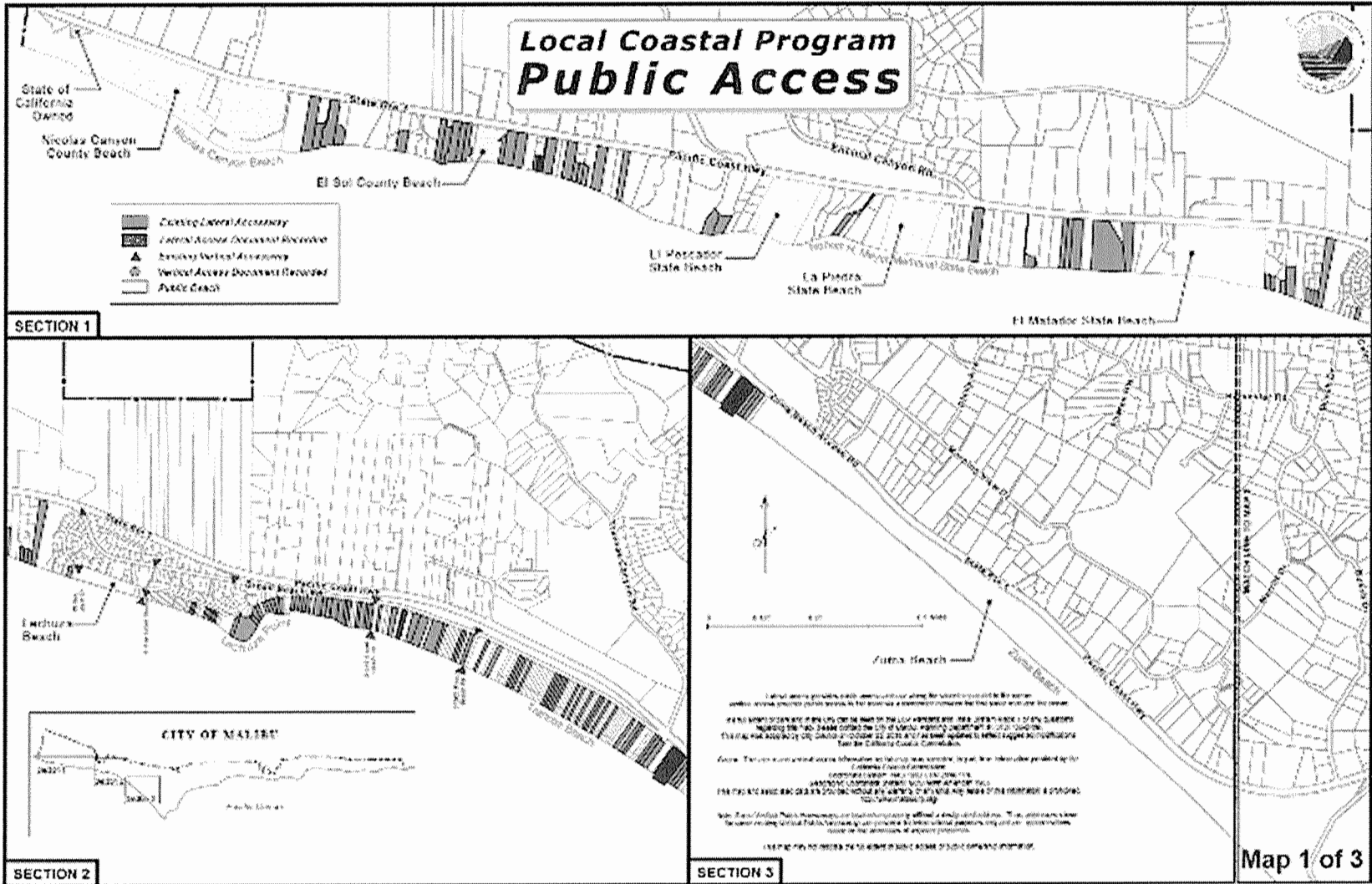
APPROVED AS TO FORM:

 on behalf of  
\_\_\_\_\_  
CHRISTI HOGIN, City Attorney

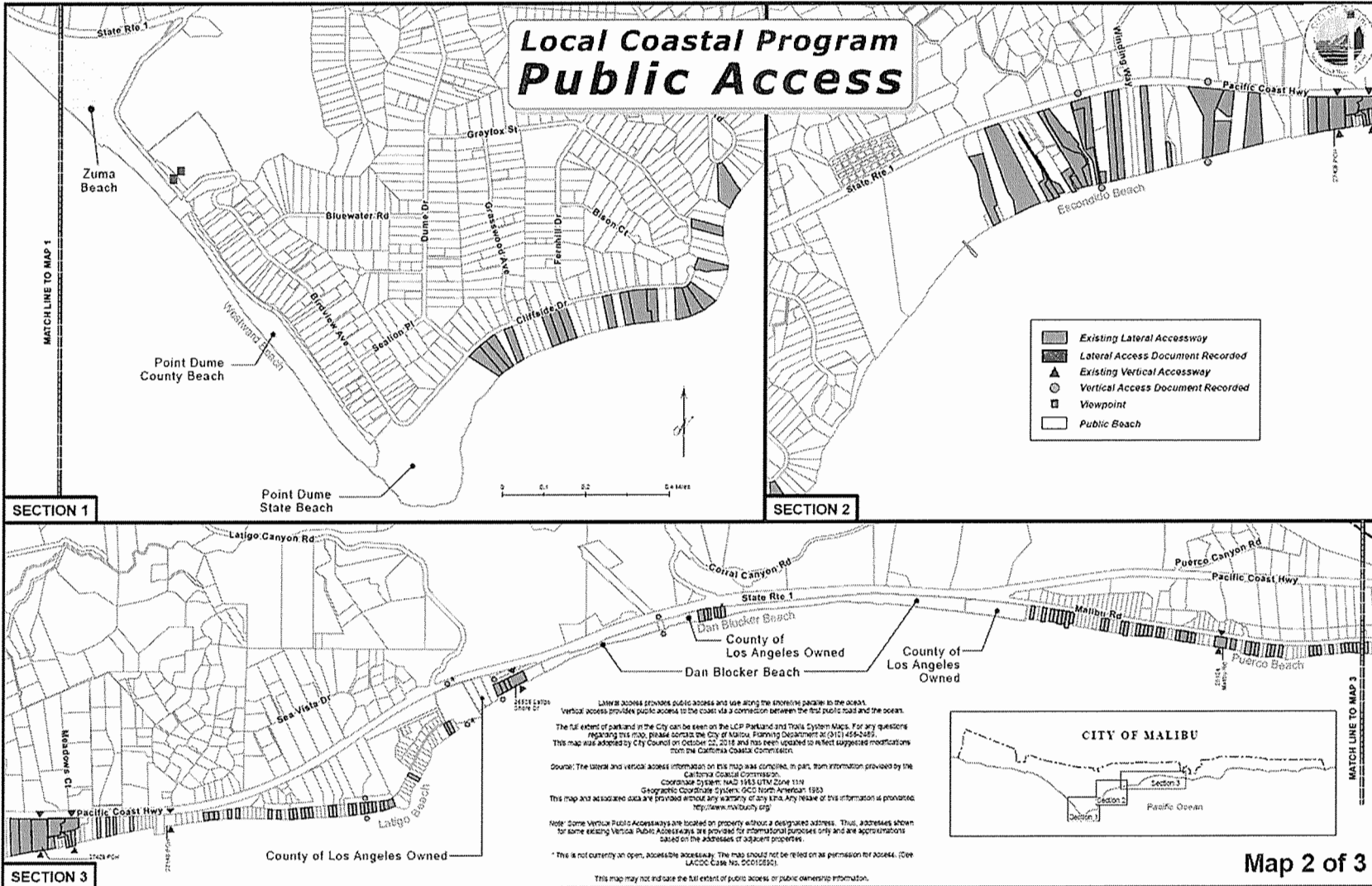
I CERTIFY THAT THE FOREGOING RESOLUTION NO. 19-33 was passed and adopted by the City Council of the City of Malibu at the regular meeting thereof held on the 26<sup>th</sup> day of August 2019 by the following vote:

AYES: 5 Councilmembers: Mullen, Peak, Pierson, Farrer, Wagner  
NOES: 0  
ABSTAIN: 0  
ABSENT: 0

  
\_\_\_\_\_  
HEATHER GLASER, City Clerk  
(seal)



# Local Coastal Program Public Access



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

The full extent of parkland in the City can be seen on the LCP Parkland and Trails System Maps. For any questions regarding this map, please contact the City of Malibu Planning Department at (310) 456-2429. This map was adopted by City Council on October 11, 2018 and has been updated to reflect suggested modifications from the California Coastal Commission.

Source: The lateral and vertical access information on this map was compiled, in part, from information provided by the California Coastal Commission.

Coordinate System: NAD 1983 UTM Zone 11N  
Geographic Coordinate System: GCS North America 1983

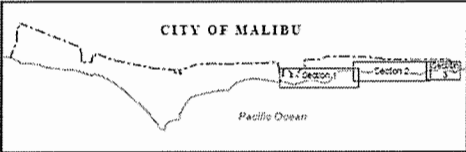
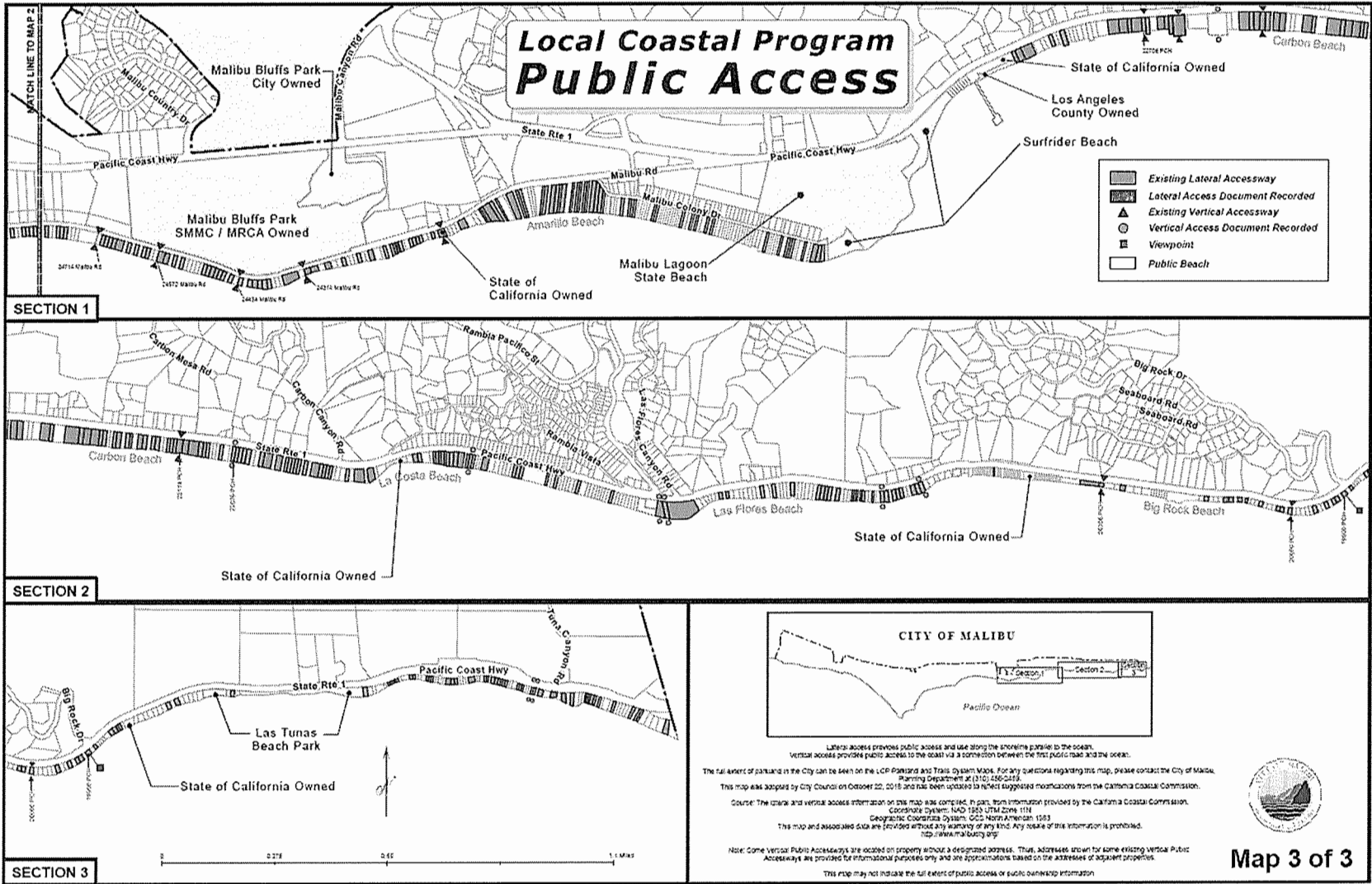
This map and associated data are provided without any warranty of any kind. Any release of this information is provided on the addresser's responsibility only.

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

\* This is not currently an open, accessible accessway. This map should not be relied on as permission for access. (See LACDC Case No. 00012892).

This map may not include the full extent of public access or public ownership information.





Lateral access provides public access and use along the shoreline parallel to the ocean.  
 Vertical access provides public access to the coast via a connection between the first public road and the ocean.  
 The full extent of parcels in the City can be seen on the LCP Parcels and Trails System Maps. For any questions regarding this map, please contact the City of Malibu, Planning Department at (310) 456-2434.  
 This map was adopted by City Council on October 20, 2018, and has been updated to reflect suggested modifications from the California Coastal Commission.  
 Source: The lateral and vertical access information on this map was compiled, in part, from information provided by the California Coastal Commission.  
 Coordinate System: NAD 1983 UTM Zone 11N  
 Geographic Coordinate System: GCS North American 1983  
 This map and associated data are provided without any warranty of any kind. Any use of this information is prohibited.  
<http://www.malibu.gov>

Note: Some Vertical Public Accessways are located on property without a designated address. Thus, addresses shown for some existing Vertical Public Accessways are provided for informational purposes only and are approximations based on the addresses of adjacent properties.  
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Map 3 of 3