

CALIFORNIA COASTAL COMMISSION

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



W13a

4-21-0132-EDD (Sycamore Tennis Court Association)**April 14, 2021****Exhibits****Table of Contents**

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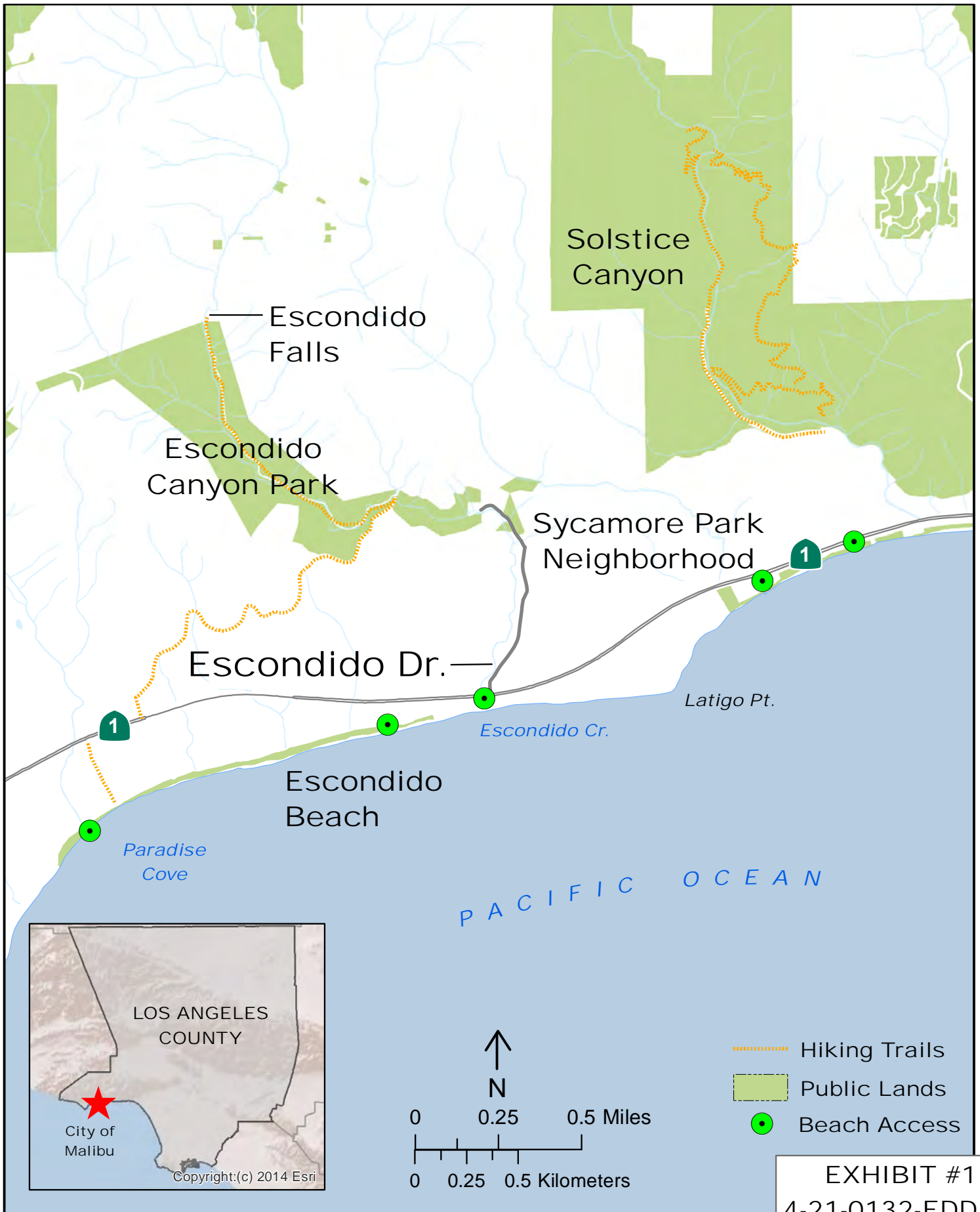
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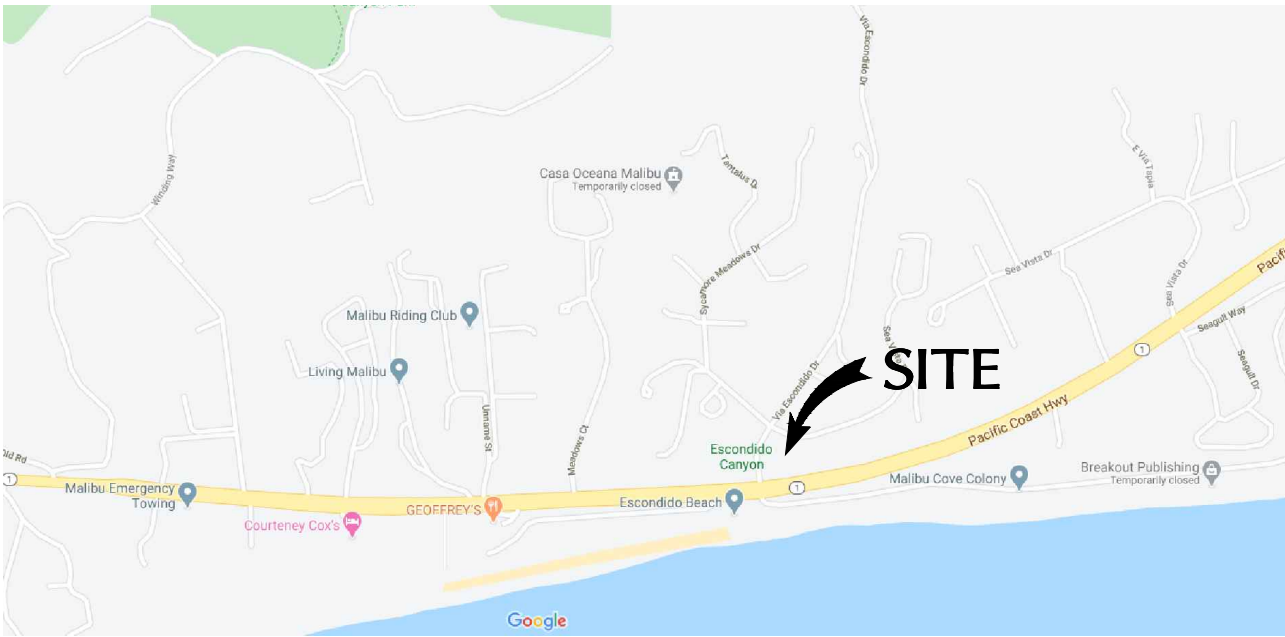
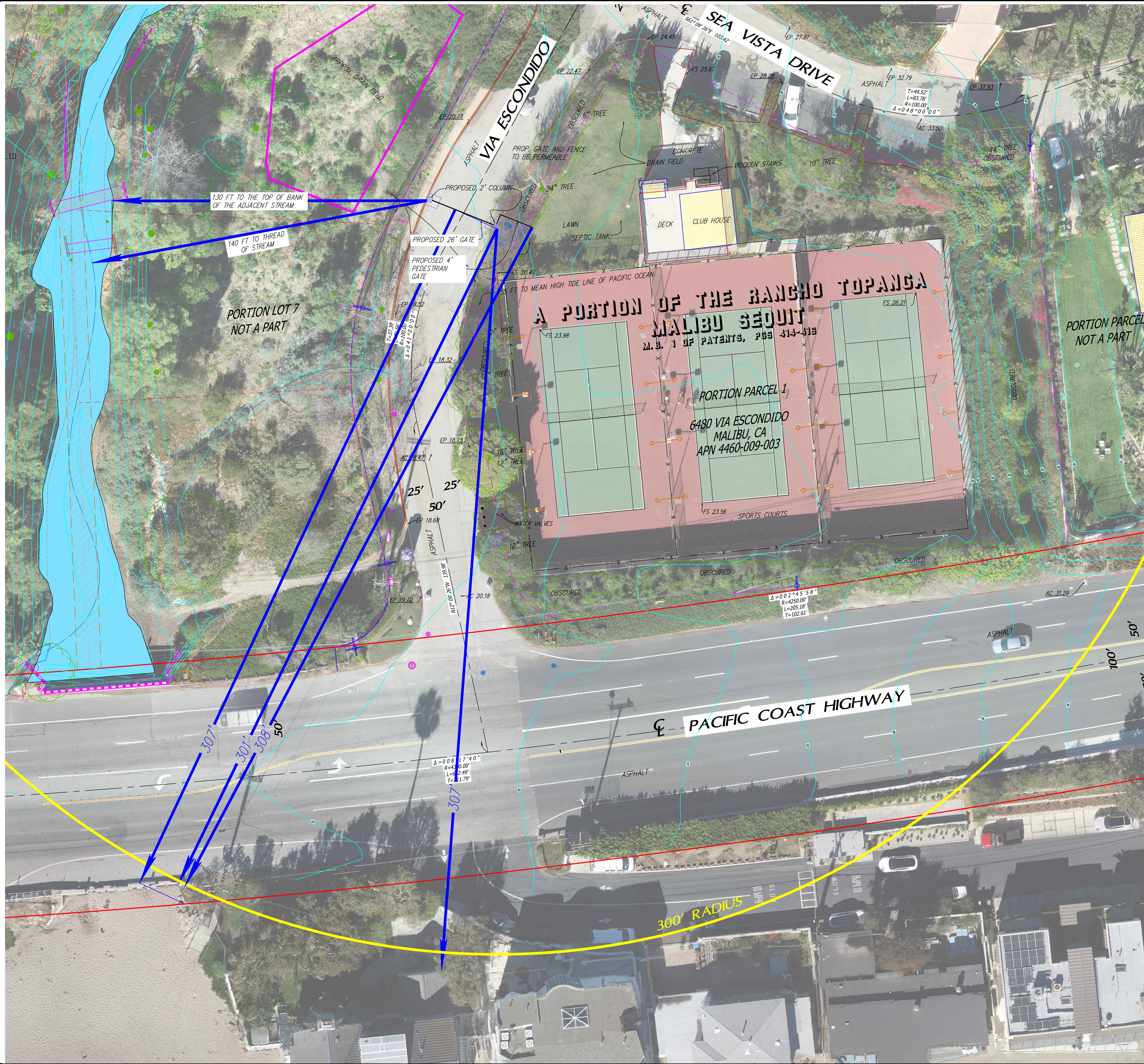
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Vicinity Map

Via Escondido Drive Gate Dispute Resolution



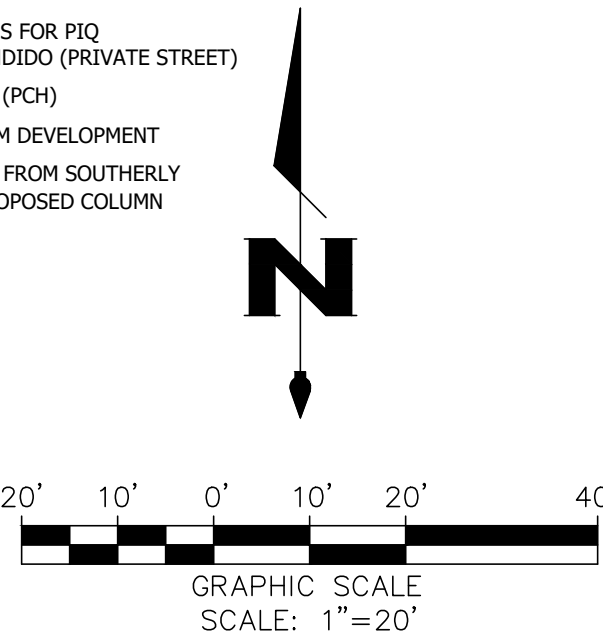


VICINITY MAP
NO SCALE

BASIS OF BEARINGS:
BASIS OF BEARINGS FOR THIS SURVEY IS THE CENTERLINE OF SYCAMORE MEADOWS DRIVE AS N 51°09'26" W. (ASSUMED)

- NOTE:**
- 1. BOUNDARY SHOWN HEREON IS BASED ON FOUND MONUMENTS AND PER RECORD OF SURVEY, BK. 73, PG. 40/41
 - 2. LANDSCAPING AND LANDSCAPE IRRIGATION DEVICES MAY EXIST WITHIN THE PROPERTY AND ARE NOT SHOWN.
 - 3. TREE LINE CANOPIES ARE PICTORIAL, AND MAY NOT REFLECT TRUE DRIP LINES.
 - 4. IF RETAINING WALLS OR SIMILAR STRUCTURES ARE TO BE DESIGNED FROM TOPOGRAPHY SHOWN HEREON, THE ELEVATIONS OF CRITICAL POINTS CONTROLLING THE DESIGN MUST BE VERIFIED PRIOR TO ADOPTION OF FINAL DESIGN.
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- LEGEND**
- | | |
|-------------------|---|
| CONTROL POINT | WALL |
| UTILITY POLE | PAVED AREA |
| BUSH | TREE LINE |
| TREE | FENCE LINE |
| BUILDING & AWNING | WROUGHT IRON FENCE |
| LIGHT POLE | CENTER LINE |
| SINGLE POLE SIGN | RECORD LOT LINE LINES |
| FIRE HYDRANT | PROPERTY LINES FOR PIQ AND VIA ESCONDIDO (PRIVATE STREET) |
| CONCRETE COLUMN | RIGHT OF WAY (PCH) |
| GUY ANCHOR | DISTANCE FROM DEVELOPMENT |
| GUARD POST | 300-FT RADIUS FROM SOUTHERLY CORNER OF PROPOSED COLUMN |



PROFESSIONAL LAND SURVEYOR
CHRIS D. NELSON
No. 6385
STATE OF CALIFORNIA
DATED: 2/1/2021

REVISION NOTES

Exhibit 2
Proposed Gate Site Survey dated
2/1/2021 by Chris Nelson
4-21-0132-EDD

PREPARED BY:
Chris Nelson
& Associates, inc.
PROFESSIONAL LAND SURVEYORS
31238 Via Colinas Suite H, Westlake Village, CA. 91362
Voice: 818.991.1040 Fax: 818.991.0614

PREPARED FOR:
SYCAMORE PARK TENNIS
COURTS ASSOCIATION
6480 Via Escondido Dr.,
MALIBU, CA 90265

PLANIMETRIC SITE SURVEY
POR. PARCEL 1,
IN THE RANCHO TOPANGA MALIBU SEQUIT.
6480 VIA ESCONDIDO DRIVE,,
CITY OF MALIBU, COUNTY OF LOS ANGELES

JOB NO. 20-5315
SCALE: 1" = 20'
DATE: APRIL, 2020
DRAFTED: SJW

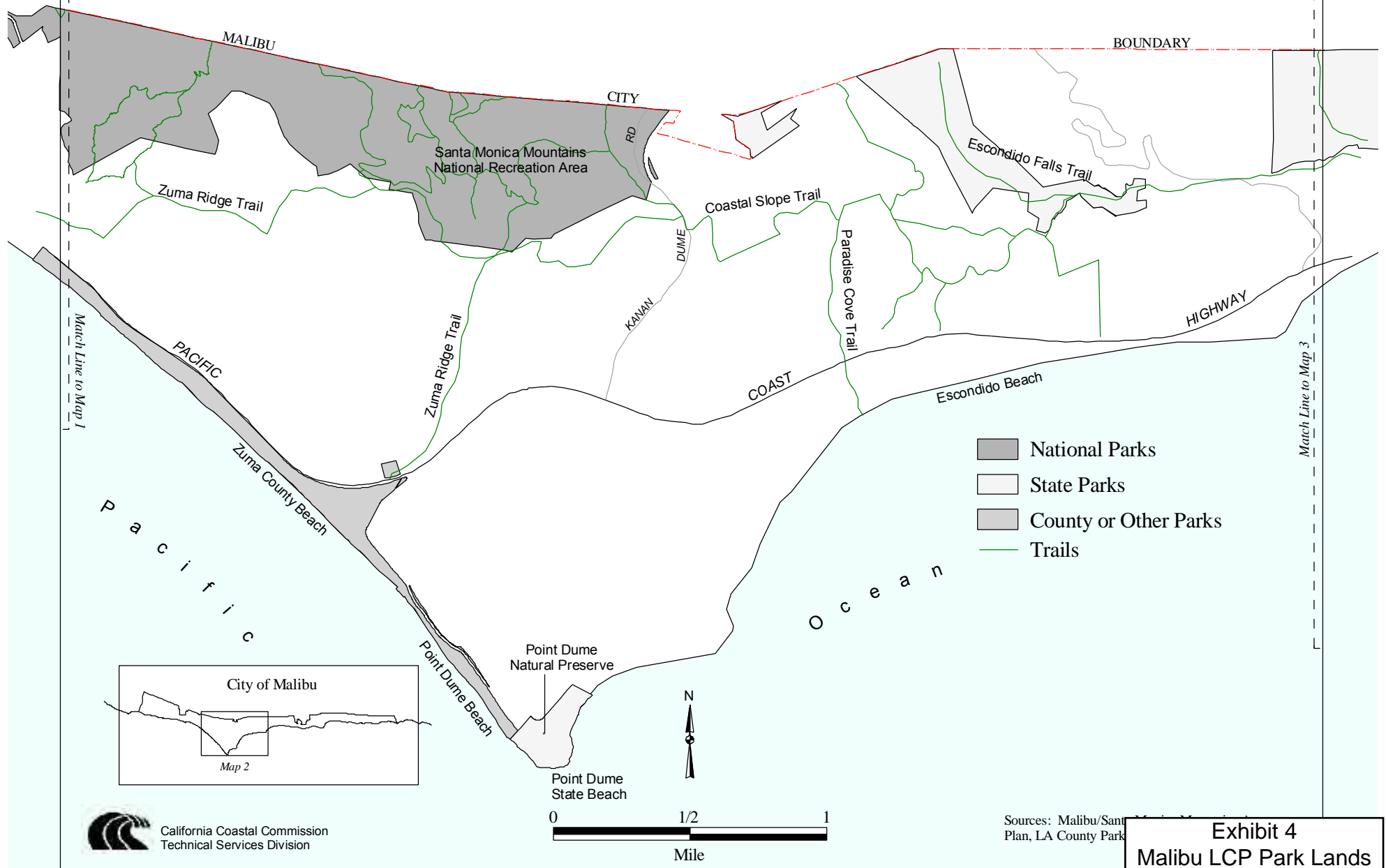
SHEET NO.

Area Within 100 Feet of Stream

Via Escondido Drive Gate Dispute Resolution



Local Coastal Program - City of Malibu
Park Lands Map 2:
Zuma Beach to Escondido Beach





City of Malibu

23825 Stuart Ranch Road · Malibu, California · 90265-4861
Phone (310) 456-2489 · Fax (310) 456-3356 · www.malibucity.org

October 12, 2020

VIA EMAIL shudson@coastal.ca.gov

California Coastal Commission
South Central Coast District Director
Steve Hudson
89 South California Street, Suite 200
Ventura CA 93001

Reference: 6480 Via Escondido Drive, Malibu - Coastal Development Permit (CDP) No. 20-018

Dear Mr. Hudson:

As you are aware, the City has determined that the above referenced project which would construct a gate across Via Escondido is not located in the appealable jurisdiction of the California Coastal Commission (CCC). This determination has been challenged by the Mountains Recreation and Conservation Authority based on the appealable zone boundaries shown on the Post Local Coastal Program (LCP) Certification Permit and Appeal Jurisdiction Map. Pursuant to LCP Local Implementation Plan (LIP) section 13.10.1(B) the City is hereby notifying you of this dispute and requesting the Executive Director's determination as to whether the project is categorically excluded, non-appealable, or appealable to the CCC.

While the LCP's Appeal Jurisdiction Map seems to show that the area of the road where the gate is proposed to be located is within 100 feet of the stream, the map appears to be inaccurate. The applicant prepared the attached survey which shows the gate is 124 feet from the edge of the stream and 385 feet from the mean high tide line. The City based its decision about appealability on LIP section 2.1 which reads as follows:

APPEALABLE COASTAL DEVELOPMENT PERMIT - After certification of the Local Coastal Program an action taken by the City on a Coastal Development Permit application may be appealed to the California Coastal Commission for only the following types of developments:

1. Developments approved by the City between the sea and the first public road paralleling the sea or within three hundred feet (300') of the inland extent of any beach or of the mean high tideline of the sea where there is no beach, whichever is the greater distance.
2. Developments approved by the City not included within paragraph 1 that are located on tidelands, submerged lands, public trust lands, within one hundred feet (100') of any wetland, estuary, or stream, or within three hundred feet (300') of the top of the seaward face of any coastal bluff.
3. Developments approved by the City not included within paragraph (1) or (2) that are located in a sensitive coastal resource area.
4. Any development which constitutes a major public works project or a major energy facility as defined in this Chapter. The phrase "major public works" or a "major energy facility" as used in Public Resources Code Sec. 30603(a)(5) and in these regulations shall mean: any proposed public works project

Exhibit 5a
October 12, 2020 Letter
City to CCC
4-21-0132-EDD

CDP No. 20-018
6480 Via Escondido Drive
October 12, 2020

or energy facility, as defined by Section 13012 of the Coastal Commission Regulations and the Coastal Act.

It is this language that controls the appealability of the project, not the map itself. As the survey demonstrates that the project does not qualify as one of the types of development listed in LIP section 2.1 the City has found the project not to be appealable to the CCC.

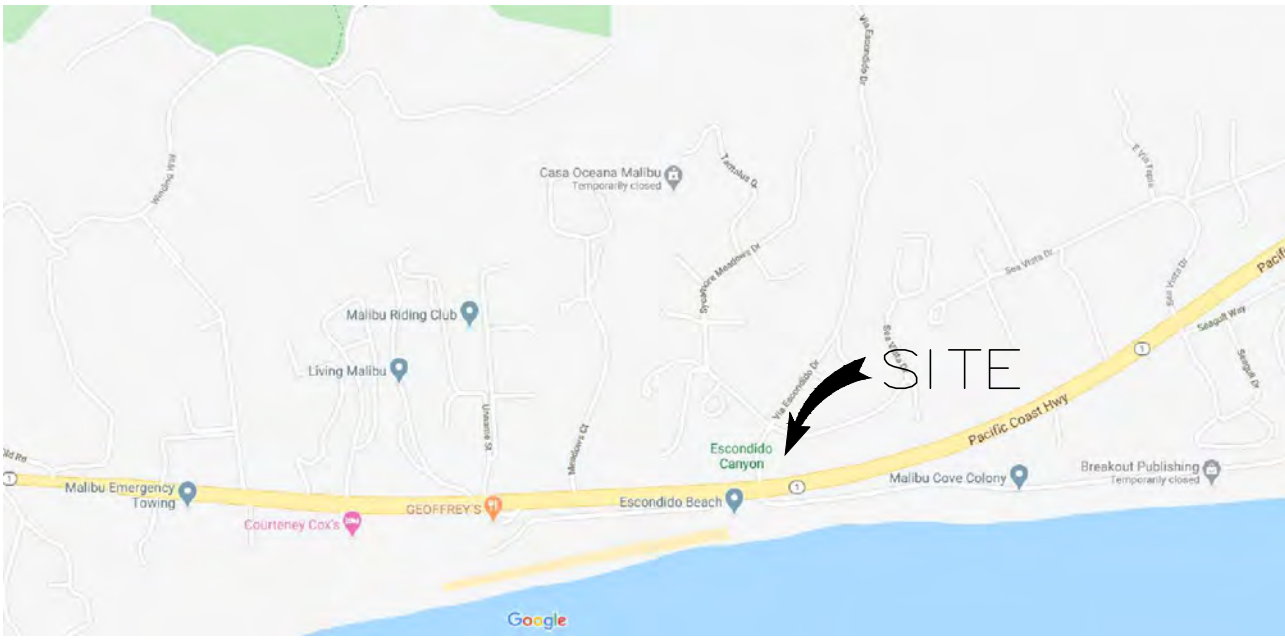
The project was originally scheduled to be heard by the City's Planning Commission on October 19, 2020, but staff has recommended that the item be continued to the meeting of November 2, 2020 after it received Denise Venegas's email indicating the appealability issue had been challenged. If the City can be of further assistance to your review please let me know.

Sincerely,

Richard Mollica
Assistant Planning Director

cc: Bonnie Blue, Planning Director
Reva Feldman, City Manager
Project File

Attachment: Survey

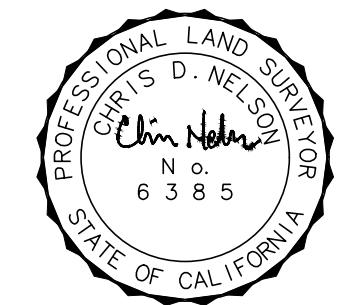


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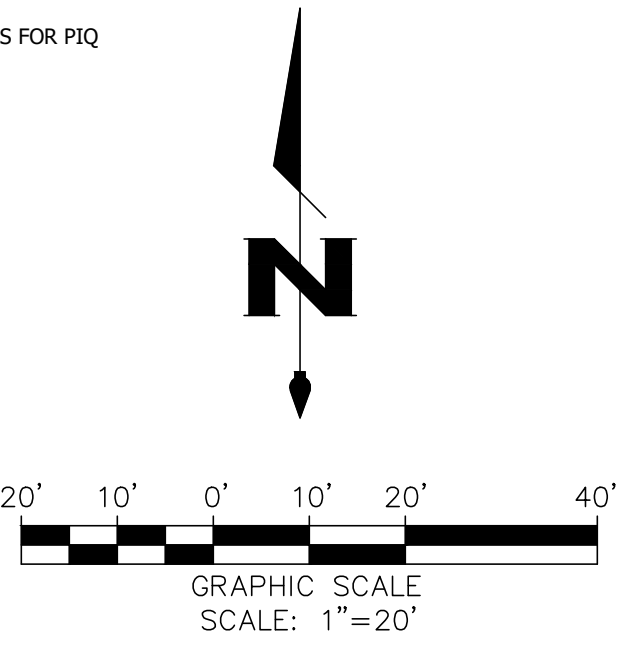
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LEGEND

	CONTROL POINT		WALL
	UTILITY POLE		PAVED AREA
	BUSH		TREE LINE
	TREE		FENCE LINE
	BUILDING & AWNING		WROUGHT IRON FENCE
	LIGHT POLE		CENTER LINE
	SINGLE POLE SIGN		RECORD LOT LINE LINES
	FIRE HYDRANT		PROPERTY LINES FOR PIQ
	CONCRETE COLUMN		RIGHT OF WAY
	GUY ANCHOR		
	GUARD POST		



DATED: 04/29/2020



REVISION NOTES		
DATE	DESCRIPTION	BY
10/05/2020	ADDED DISTANCES TO STREAM AND MEAN HIGH TIDE	SJW

PREPARED BY:

Chris Nelson
& Associates, inc.
PROFESSIONAL LAND SURVEYORS
31238 Via Colinas Suite H, Westlake Village, CA. 91362
Voice: 818.991.1040 Fax: 818.991.0614

PREPARED FOR:

SYCAMORE PARK TENNIS
COURTS ASSOCIATION
6480 Via Escondido Dr.,
MALIBU, CA 90265

PLANIMETRIC SITE SURVEY
POR. PARCEL 1,
IN THE RANCHO TOPANGA MALIBU SEQUIT.
6480 VIA ESCONDIDO DRIVE,,
CITY OF MALIBU, COUNTY OF LOS ANGELES

JOB NO. 20-5315
SCALE: 1" = 20'
DATE: APRIL, 2020
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SHEET NO.
1
OF 1 SHEET

CALIFORNIA COASTAL COMMISSION

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



October 14, 2020

Richard Mollica, Assistant Planning Director
City of Malibu
23825 Stuart Ranch Road
Malibu, CA 90265-4861

**Subject: Jurisdictional Determination Request for 6480 Via Escondido Drive
CDP No. 20-018**

Dear Mr. Mollica:

I am writing in response to your October 12, 2020 request for our office to make a jurisdictional determination regarding the proposed development of a gate at 6480 Via Escondido Drive. Although the City of Malibu Post-Certification Map shows areas subject to the appeals jurisdiction on the subject property, this map may not accurately show all lands that are subject to the appeals jurisdiction of the Coastal Commission, such as stream and wetland areas. As such, the final determination must be made based on resources on the ground. We appreciate the City providing us with a site survey that was prepared by the applicant and that the City relied upon in making its determination that the proposed development is not appealable to the Coastal Commission. However, the site survey does not address where the top of bank of the adjacent stream is located consistent with the appeals jurisdiction regulations and it is unclear what survey protocols were used to establish the appeals area boundary in this case. Therefore, we need additional information to verify the location of the proposed gate in relation to the Commission's geographic appeals jurisdiction area (100 feet from the stream top of bank).

In addition, we would also note that the placement of the proposed gate, would restrict access and constitute a change in intensity of use of land. Therefore, the "development" proposed in this case (as "development" is defined in the LCP) is not limited to the proposed gate itself, but the change in intensity of use of land. Since the proposed gate would restrict access to other areas that appear to be located within the Commission's appeals jurisdiction (100 feet from stream), such as portions of Via Escondido Road as well as public land and trails to the north of the proposed gate, we have determined that the proposed project is located within the appeals jurisdiction of the Coastal Commission based on available information. However, additional information is needed. Therefore, we recommend that the City staff investigate the facts in this case further so that we may provide a final jurisdictional determination regarding the subject CDP. We look forward to coordinating with the City staff further on this issue.

Very Truly Yours,

A handwritten signature in dark ink, appearing to read 'D. Christensen'.

Deanna Christensen
District Supervisor

Exhibit 5b
October 14, 2020 Letter
CCC to City
4-21-0132-EDD



City of Malibu

23825 Stuart Ranch Road · Malibu, California · 90265-4861
Phone (310) 456-2489 · Fax (310) 456-3356 · www.malibucity.org

December 23, 2020

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

RE: Jurisdictional Determination Request for 6480 Via Escondido Drive (CDP No. 20-018)

Dear Ms. Christensen:

This letter responds to the letter of October 12, 2020, requesting additional information regarding the location of the proposed development in relation to the stream top of bank and whether the proposed development lies in the CCC appeal jurisdiction.

The attached site survey identifies the top of bank of the adjacent stream and shows it is 124-feet from the proposed development. Per the survey prepared by Chris Nelson and Associates Inc. the site survey utilized the following protocols to establish the appeals area boundary: “the type of bank shown on the map that we prepared is on the edge of the FEMA floodplain as shown on governmental maps. It also fits the topography based upon field measurements. The FEMA floodplain is also delineated on the approved drawings for the property to the west.” The proposed development is thus located more than 100 feet from the stream top of bank.

The letter also raised the novel possibility that even though the proposed development itself is not located in the appeal jurisdiction, the project would still be appealable to the CCC under the theory that it would “restrict access” to unidentified “public lands and trails” that are located within the CCC appeal jurisdiction and thus constitute a change in the intensity of use of that unidentified land. The City is unaware of any authority that would support such an expansion of the appeal jurisdiction.

The City respectfully requests that the Executive Director consider the following, in addition to the City’s prior letter, in rendering his final jurisdictional determination regarding the subject CDP.

1. The rights to access the neighborhood located behind the proposed gate are being determined in a quiet title action currently pending between the MRCA and certain homeowners in the neighborhood. The proposed gate cannot operate in violation of the court’s determination. A security guard also has been historically stationed at the location of the proposed gate. As a result, the installation of the proposed gate will not “change the intensity of use of land.”
2. The appeal jurisdiction is limited to “developments approved by the City” that are located within specific distances (none greater than 300’) of certain environmentally sensitive areas. See LIP section 2.1 (Definition of Appealable Coastal Development Permit). No development

Exhibit 5c
December 23, 2020 Letter
City to CCC
4-21-0132-EDD

is proposed in such an area, and the areas specified do not include trails or public accessways. The proposed project would be located on developed private property and a private road.

3. In reviewing the CDP application, the City will take into account any change in intensity of use of land associated with the proposed development. At issue, however, is whether the location of the proposed project is within the Commission's appellate jurisdiction, which given its distance from the riparian habitat (as shown on the attached survey) it is not. Per LIP section 2.1, only the following types of development may be appealed to the CCC:
 - a. Developments approved by the City between the sea and the first public road paralleling the sea or within three hundred feet (300') of the inland extent of any beach or of the mean high tideline of the sea where there is no beach, whichever is the greater distance.
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Please let me know if I can be of further assistance as you make your final determination.

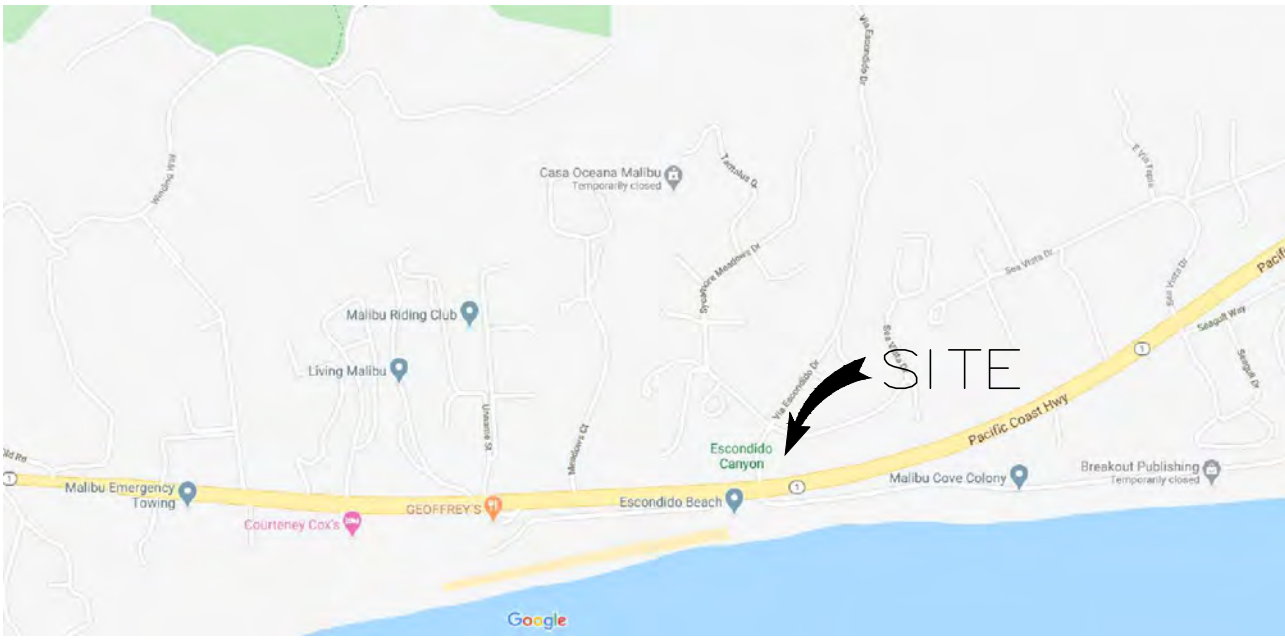
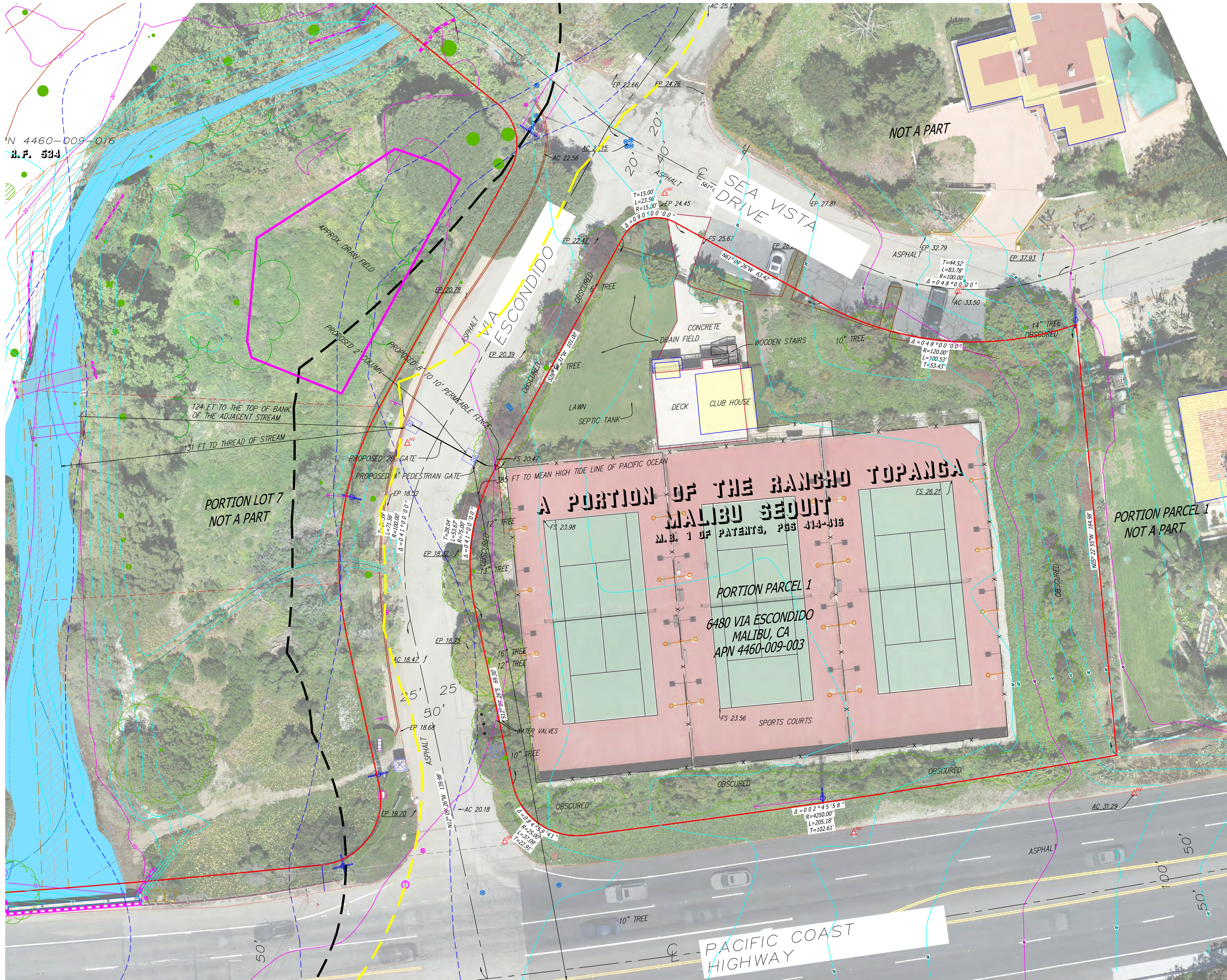
Sincerely,

Ricard Mollica
Acting Planning Director

cc: Denise Venegas, Coastal Program Analyst
Trevor Rusin, Assistant City Attorney
Jessica Thompson, Associate City Planner

Attachment: Site Survey dated 10/05/2020

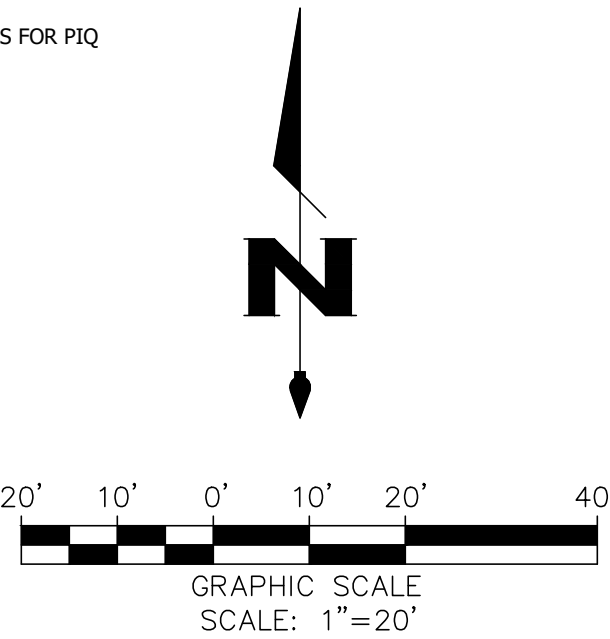
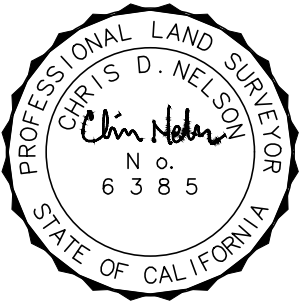




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 - PROPERTY LINES FOR PIQ
 - RIGHT OF WAY



DATED: 04/29/2020

REVISION NOTES		
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PLANIMETRIC SITE SURVEY
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PREPARED FOR:
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6480 Via Escondido Dr.,
MALIBU, CA 90265



MOUNTAINS RECREATION & CONSERVATION AUTHORITY
King Gillette Ranch
26800 Mulholland Highway
Calabasas, California 91302
Phone (818) 878-0866 Fax (818) 878-0508

SENT VIA EMAIL TO John.Ainsworth@coastal.ca.gov

December 28, 2020

John Ainsworth
Executive Director
455 Market Street, Suite 300
San Francisco, California 94105

Appealability of Coastal Development Permit No. 20-018

Dear Mr. Ainsworth,

Coastal Development Permit (CDP) No. 20-018 proposes the construction of a new vehicular and pedestrian access gate to the Sycamore Park neighborhood within the City of Malibu (City) (proposed Project). City staff has made the determination that the proposed Project is not within the appeal jurisdiction of the California Coastal Commission (Commission).

The Mountains Recreation and Conservation Authority (MRCA) disagrees with the City's determination because of the proposed Project's proximity to Escondido Beach and location within a sensitive coastal resource area and provides the following comments regarding the appealability of the proposed Project.

Proximity to Escondido Beach

Section 2.1 of the LIP defines an appealable CDP in part as:

Developments approved by the City between the sea and the first public road paralleling the sea or within three hundred feet (300') of the inland extent of any beach or of the mean high tideline of the sea where there is no beach, whichever is the greater distance. [emphasis added]

The City's determination appears to be based on the mean high tide line of the sea where there is no beach. However, this determination is flawed because a portion of Escondido Beach is located just south of the intersection of Via Escondido Drive and the Pacific Coast Highway, highlighted in red in the attached map.

An existing Los Angeles County-owned beach accessway located at this intersection provides public access to this beach, used by the public for decades. Observed but

unadjudicated historical-to-present-date public use also occurs on the adjacent western parcel, recently acquired by the MRCA on December 24, 2020.

The proposed location of the gate is well within 300 feet of the inland extent of Escondido Beach, as shown on the attached map. Thus, the proposed project is within the appealable zone consistent with the LIP's definition of an appealable CDP.

Sensitive Coastal Resource Area

An appealable CDP is also defined as developments that are located in a sensitive coastal resource area per LIP Section 2.1. Section 30116 of the Coastal Act defines sensitive coastal resource areas as:

"Sensitive coastal resource areas" means those identifiable and geographically bounded land and water areas within the coastal zone of vital interest and sensitivity. "Sensitive coastal resource areas" include the following:

- (a) Special marine and land habitat areas, wetlands, lagoons, and estuaries as mapped and designated in Part 4 of the coastal plan.*
- (b) Areas possessing significant recreational value.*
- (c) Highly scenic areas.*
- (d) Archaeological sites referenced in the California Coastline and Recreation Plan or as designated by the State Historic Preservation Officer.*
- (e) Special communities or neighborhoods which are significant visitor destination areas.*
- (f) Areas that provide existing coastal housing or recreational opportunities for low- and moderate-income persons.*
- (g) Areas where divisions of land could substantially impair or restrict coastal access.*

The proposed project is located within the Escondido Canyon watershed, a highly scenic coastal area with significant recreational value for people of all income levels. Escondido Canyon consists of Escondido Canyon Park, a very popular visitor destination in the City, surrounded by residential neighborhoods. Although Escondido Canyon Park is primarily accessed via Winding Way, there are additional trail easements, including some required as permit conditions in certain CDPs, and public parkland in close proximity to the Park potentially providing additional mountains-to-beach access connections.

One of the permit conditions is a potential nexus from Via Escondido Drive at its northern terminus to the eastern portion of the Park that dates back to 1980 but is a yet-to-be-recorded trail easement as required in CDP No. A-80-7287 and burdening the property known as 6100 Via Escondido Drive. The requirement to dedicate this trail easement

Mr. John Ainsworth
RE: Appealability of Coastal Development Permit No. 20-018
December 28, 2020

Page 3

acknowledges the area's significant recreational value that must be protected. However, the proposed Project would potentially limit this Park access from the Pacific Coast Highway.

In conclusion, because of the proposed Project's proximity to Escondido Beach and location within a sensitive coastal resource area, the proposed Project should be appealable to the Coastal Commission to afford maximum protection for coastal resources.

Please contact Jessica Nguyen of our staff if you have any further questions jessica.nguyen@mrca.ca.gov or (310) 589-3230, extension 125.

Sincerely,

A handwritten signature in black ink, appearing to read 'JTE', with a large, sweeping loop on the left side.

Joseph T. Edmiston, FAICP
Executive Officer

Cc via email: Steve Hudson, Deputy Executive Director, California Coastal Commission
Deanna Christensen, District Supervisor, California Coastal Commission



Gate location on Via Escondido

Coastal Access Point

300' buffer from most inland extent of beach

CALIFORNIA COASTAL COMMISSION

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



December 28, 2020

Richard Mollica, Acting Planning Director
City of Malibu
23825 Stuart Ranch Road
Malibu, CA 90265-4861

**Subject: Jurisdictional Determination Request for 6480 Via Escondido Drive
CDP No. 20-018**

Dear Mr. Mollica:

Thank you for the additional information provided in your December 23, 2020 letter regarding the request for our office to make a jurisdictional determination regarding the proposed development of a gate at 6480 Via Escondido Drive. We appreciate the clarity provided regarding the survey protocols used in the site survey prepared by Chris Nelson and Associates Inc. to establish the Commission's geographic appeals jurisdiction area (100 feet from the stream top of bank) in relation to the location of the proposed gate. However, as noted in our previous October 14, 2020 response letter, the "development" proposed in this case (as "development" is defined in the LCP) is not limited to the proposed gate itself, but the change in intensity of use of land. The proposed gate would restrict access to other areas that appear to be located within the Commission's geographic appeals jurisdiction (100 feet from stream), such as portions of Via Escondido Road as well as public land and public trails to the north of the proposed gate. Therefore, we continue to need additional information to verify the location of the Commission's geographic appeals jurisdiction area (100 feet from the stream top of bank) in relation to any portion of Via Escondido Road, public land (APNs 4460-014-900, 4460-014-901, 4460-014-902 and 4460-003-901), and trails (Coastal Slope Trail and Escondido Falls Trail) located north of the proposed gate. We have determined that the proposed project is located within the appeals jurisdiction of the Coastal Commission based on available information. However, we recommend that the City staff investigate the facts in this case further so that we may provide a final jurisdictional determination regarding the subject CDP.

Very Truly Yours,

A handwritten signature in black ink, appearing to read 'D. Christensen'.

Deanna Christensen
District Supervisor

cc: Jessica Thompson, Associate City Planner
Steve Hudson, CCC District Director
Barbara Carey, CCC District Manager
Denise Venegas, CCC Coastal Program Analyst

Exhibit 5e
12/28/2021 Letter
CCC to City & 1/15/2021
Email CCC to City
4-21-0132-EDD

From: [Christensen, Deanna@Coastal](mailto:Christensen,Deanna@Coastal)
To: [Richard Mollica](mailto:Richard.Mollica)
Cc: [Venegas, Denise@Coastal](mailto:Venegas,Denise@Coastal); [Hudson, Steve@Coastal](mailto:Hudson,Steve@Coastal); [Carey, Barbara@Coastal](mailto:Carey,Barbara@Coastal); [Jessica Thompson](mailto:Jessica.Thompson)
Subject: RE: Jurisdictional Determination Request for 6480 Via Escondido Drive CDP No. 20-018
Date: Friday, January 15, 2021 10:53:21 AM
Attachments: [MRCA Appealability Challenge final \(003\).pdf](#)
[CCC Letter II Via Escondido Juris Determination Request 2020-12-28.pdf](#)

Hi Richard – Hope all is well. In follow-up to our last correspondence to you on 12/28/20 regarding this issue, we wanted to let you know that it has been brought to our attention (see attached letter from the MRCA) that the proposed gate also appears to be located within 300 feet of the inland extent of a beach, an applicable geographic appeals area pursuant to the LCP and Section 13577 of our regulations. Our mapping unit has looked closely at this issue and concluded that 300 feet of the inland extent of the beach is also an applicable geographic appeals area in this case and the proposed gate appears to be within this distance from Escondido Beach, based on the gate location illustrated on the April 2020 site survey by Chris Nelson. However, we would need to be provided with the GIS shapefile with projection data of the proposed gate location so that our mapping unit can provide a final determination relative to the gate's distance from the inland extent of the beach. We ask that you please provide this information.

We would also note that regardless of this additional relevant geographic appeals area, and as we have previously stated in our 12/28/20 letter (attached), we have determined that the proposed project is located within the appeals jurisdiction of the Coastal Commission based on available information. The “development” proposed in this case (as “development” is defined in the LCP) is not limited to the proposed gate itself, but the change in intensity of use of land. The proposed gate would restrict access to areas that appear to be located within the Commission's geographic appeals area (100 feet from stream), such as portions of Via Escondido Road as well as public land and public trails to the north of the proposed gate. We continue to ask that the City provide additional survey information to verify the location of the Commission's geographic appeals jurisdiction area (100 feet from the stream top of bank) in relation to any portion of Via Escondido Road, public land (APNs 4460-014-900, 4460-014-901, 4460-014-902 and 4460-003-901), and trails (Coastal Slope Trail and Escondido Falls Trail) located north of the proposed gate so that we may provide you with a final jurisdictional determination regarding the subject CDP.

Thanks and please feel free to contact us if you have any questions or would like to discuss this matter further.

Deanna

From: Christensen, Deanna@Coastal
Sent: Monday, December 28, 2020 11:57 AM
To: Richard Mollica <rmollica@malibucity.org>
Cc: Venegas, Denise@Coastal <Denise.Venegas@coastal.ca.gov>; Hudson, Steve@Coastal <Steve.Hudson@coastal.ca.gov>; Carey, Barbara@Coastal <Barbara.Carey@coastal.ca.gov>; Jessica Thompson <jthompson@malibucity.org>
Subject: RE: Jurisdictional Determination Request for 6480 Via Escondido Drive CDP No. 20-018

Hi Richard – Thanks for the additional information provided in your December 23rd letter; however, please see the attached letter regarding the information we continue to need to finalize our jurisdictional determination regarding development proposed in CDP Application No. 20-018. We look forward to coordinating with you further on this issue.

Thanks,
Deanna

From: Richard Mollica <rmollica@malibucity.org>
Sent: Wednesday, December 23, 2020 1:04 PM
To: Christensen, Deanna@Coastal <Deanna.Christensen@coastal.ca.gov>
Cc: Venegas, Denise@Coastal <Denise.Venegas@coastal.ca.gov>; Hudson, Steve@Coastal <Steve.Hudson@coastal.ca.gov>; Carey, Barbara@Coastal <Barbara.Carey@coastal.ca.gov>; Jessica Thompson <jthompson@malibucity.org>
Subject: Jurisdictional Determination Request for 6480 Via Escondido Drive CDP No. 20-018

Good Afternoon Deanna,

As requested in your letter dated October 14, 2020 regarding CDP No. 20-018 we are providing you with additional information regarding the top of bank and the survey protocols used to determine the appeals boundary area. It is our hope that with this information the California Coastal Commission can complete its determination.

Thank you,
Richard

Richard Mollica, AICP
Acting Planning Director
City of Malibu
310-456-2489 Ext. 346



City of Malibu

23825 Stuart Ranch Road · Malibu, California · 90265-4861
Phone (310) 456-2489 · Fax (310) 456-3356 · www.malibucity.org

February 23, 2021

VIA EMAIL dchristensen@coastal.ca.gov

California Coastal Commission
South Central Coast District Director
Deanna Christensen
89 South California Street, Suite 200
Ventura CA 93001

Reference: 6480 Via Escondido Drive, Malibu - Coastal Development Permit (CDP) No. 20-018

Dear Ms. Christensen:

I write to update you on the above project and in response to your December 28, 2020, and January 15, 2020, correspondence. Pursuant to LCP Local Implementation Plan (LIP) section 13.10.1(B) the City of Malibu is requesting a final letter of determination from the Executive Director regarding our request as to whether the project is appealable to the California Coastal Commission.

City staff has evaluated the survey (Survey) prepared by the applicant dated February 8, 2021 (Attachment 1). Based on the evidence and Survey provided, the City has determined that the above referenced project which would construct a gate across Via Escondido is not located in the appealable jurisdiction of the California Coastal Commission. The location of the project has been adjusted approximately 20 feet further from Pacific Coast Highway by the applicant and is identified in the Survey. The survey shows this location is 130 feet from the edge of the nearest stream and 307 feet from the inland extent of the closest location that could be argued to be a beach.

This determination has been challenged by the Mountains Recreation and Conservation Authority in its letter of December 28, 2020. That letter provided an inexact estimate of the distance from the beach. The “map” used by MRCA contains no representation about what software was used, or the accuracy of that software or the locations depicted. No individual has attested to its accuracy, which stands in contrast to the Survey which is stamped by a licensed surveyor. In addition, the point measured from does not appear to be a beach at all, but rather a location in the right of way, and it does not measure the distance to the current location of the project. MRCA also incorrectly claims the project will be located in a sensitive coastal resource. The location of the gate is limited to developed private property and will primarily be located on a paved private road. Any photograph or examination of the area will reveal it is not highly scenic or a recreational area, nor is it an area that has been identified and geographically bounded as a “sensitive coastal resource area” that is of vital interest and sensitivity.

Much of MRCA’s argument is based on its assertion, currently being litigated between the MRCA and certain residents in the area, that public and/or trail access exists along Via Escondido. As the City noted in its letter to you of December 23, 2020, the courts will determine who has access to Via Escondido. A CDP for the proposed project will not adjudicate those rights, it will only allow a gate to be installed—and that gate cannot be operated

Exhibit 5f
February 23, 2021 Letter
City to CCC
4-21-0132-EDD

CDP No. 20-018
6480 Via Escondido Drive
February 23, 2021

in violation of the access rights determined by the courts. Thus the gate itself will not, and cannot, limit access that has been determined by the courts to exist.

The attached Survey was completed by a state licensed surveyor, and no survey providing contrary evidence has been presented. The survey demonstrates that the distance from the project to the edge of the Pacific Coast Highway (PCH) paved roadway is 301 feet, and the distance to the edge of the PCH right-of-way (shown by the red line) is 307 feet. In addition, as can be seen from the attached photographs of the location (Attachment 2), a paved public access, rock revetment and culvert define the area adjacent to PCH on the parcel where the public access is located—the closest point that any beach could be argued to exist lies well away from the edge of PCH. As a result, the distance from the proposed project to anything that could be characterized as “beach” is well over 300 feet.

The novel argument that even though the proposed project itself is not located in the appeal jurisdiction, the project could still be appealable to the California Coastal Commission, is not supported by the plain language of the City’s Local Implementation Plan nor the process detailed in LIP section 13.10.1 for resolving disputes over appealability which provides only two days for the Executive Director to make his determination. This reflects that appealability is based on the actual location of the project, not an evaluation of potential impacts of the project beyond its location. Neither the Coastal Commission nor MRCA has provided any case law or authority that would support such a significant departure from past practice and the plain language of LIP section 13.10.1 and the definition of Appealable Coastal Development Permit in LIP section 2.1. Should such authority exist, again we ask that you please share this authority with us. The City has also addressed this argument in more detail in its letter of December 28, 2020.

The project was originally scheduled to be heard by the City’s Planning Commission on October 19, 2020, but staff has recommended that the item be continued to address the appealability issue. While we have received correspondence from your office on this issue, we have yet to receive a determination from the Executive Director as is required by LIP section 13.10.1. The City is thus requesting a final determination on this issue by the Executive Director. If the Executive Director’s determination is not in accordance with my determination that the project does not lie within the appeal jurisdiction, the City respectfully requests that the matter be scheduled for a hearing to determine the correct designation at the next CCC meeting as required by LIP section 13.10.1(D). If the City can be of further assistance to your review please let me know.

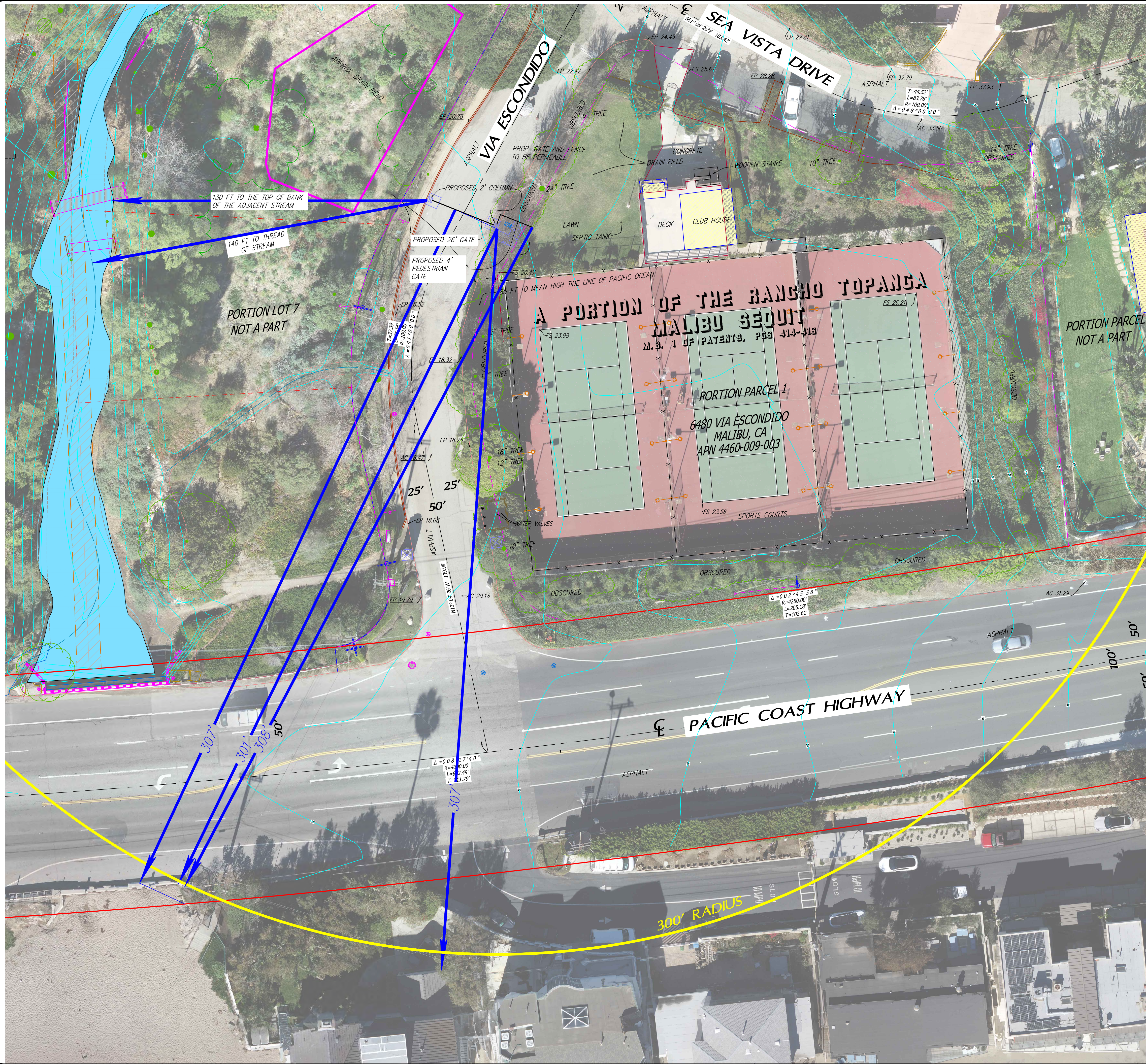
Sincerely,

Richard Mollica
Planning Director

cc: Reva Feldman, City Manager

Attachments:

1. Survey dated February 8, 2021
2. Photographs



VICINITY MAP
NO SCALE

BASIS OF BEARINGS:
BASIS OF BEARINGS FOR THIS SURVEY IS THE CENTERLINE OF SYCAMORE MEADOWS DRIVE AS N 51°09'26" W. (ASSUMED)

- NOTE:**
- BOUNDARY SHOWN HEREON IS BASED ON FOUND MONUMENTS AND PER RECORD OF SURVEY, BK. 73, PG. 40/41
 - LANDSCAPING AND LANDSCAPE IRRIGATION DEVICES MAY EXIST WITHIN THE PROPERTY AND ARE NOT SHOWN.
 - TREE LINE CANOPIES ARE PICTORIAL, AND MAY NOT REFLECT TRUE DRIP LINES.
 - IF RETAINING WALLS OR SIMILAR STRUCTURES ARE TO BE DESIGNED FROM TOPOGRAPHY SHOWN HEREON, THE ELEVATIONS OF CRITICAL POINTS CONTROLLING THE DESIGN MUST BE VERIFIED PRIOR TO ADOPTION OF FINAL DESIGN.
 - THIS MAP WAS PREPARED WITHOUT THE BENEFIT OF A TITLE REPORT. EXISTING EASEMENTS (IF ANY) ARE NOT SHOWN HEREON.
 - ATTENTION: IF THIS MAP IS PROVIDED IN AN ELECTRONIC FORMAT (IE: CAD) AS A COURTESY TO A CLIENT, THE DELIVERY OF THE ELECTRONIC FILE DOES NOT CONSTITUTE THE DELIVERY OF OUR PROFESSIONAL WORK PRODUCT. ONLY THE SURVEYOR'S SIGNED AND SEALED PAPER PRINT OR PDF FORMATTED DRAWING CONSTITUTES OUR PROFESSIONAL WORK PRODUCT. IN THE EVENT THAT THE ELECTRONIC FILE IS ALTERED, THE SURVEYOR'S SIGNED AND SEALED PRINT OR PDF FORMATTED DRAWING MUST BE REFERRED TO FOR THE ORIGINAL AND CORRECT SURVEY INFORMATION. CHRIS NELSON AND ASSOCIATES, INC., SHALL NOT BE RESPONSIBLE FOR ANY MODIFICATION MADE TO THE PROVIDED CAD FILE, OR FOR ANY PRODUCTS THAT HAVE BEEN DERIVED FROM THE CAD FILE, WHICH ARE NOT REVIEWED, SIGNED AND SEALED BY US.

LEGEND

	CONTROL POINT		WALL
	UTILITY POLE		PAVED AREA
	BUSH		TREE LINE
	TREE		FENCE LINE
	BUILDING & AWNING		WROUGHT IRON FENCE
	LIGHT POLE		CENTER LINE
	SINGLE POLE SIGN		RECORD LOT LINE LINES
	FIRE HYDRANT		PROPERTY LINES FOR PIQ AND VIA ESCONDIDO (PRIVATE STREET)
	CONCRETE COLUMN		RIGHT OF WAY (PCH)
	GUY ANCHOR		DISTANCE FROM DEVELOPMENT
	GUARD POST		300-FT RADIUS FROM SOUTHERLY CORNER OF PROPOSED COLUMN

N

20' 10' 0' 10' 20' 40'
GRAPHIC SCALE
SCALE: 1"=20'

PROFESSIONAL LAND SURVEYOR
Chris Nelson
No. 6385
STATE OF CALIFORNIA
DATED: 2/1/2021

REVISION NOTES		
DATE	DESCRIPTION	BY
10/05/2020	ADDED DISTANCES TO STREAM AND MEAN HIGH TIDE	SNW
01/28/2021	ADDED 300-FT RADIUS FROM GATE	CN

PREPARED BY:
Chris Nelson
& Associates, inc.
PROFESSIONAL LAND SURVEYORS
31238 Via Colinas Suite H, Westlake Village, CA. 91362
Voice: 818.991.1040 Fax: 818.991.0614

PREPARED FOR:
SYCAMORE PARK TENNIS
COURTS ASSOCIATION
6480 Via Escondido Dr.,
MALIBU, CA 90265

PLANIMETRIC SITE SURVEY
POR. PARCEL 1,
IN THE RANCHO TOPANGA MALIBU SEQUIT.
6480 VIA ESCONDIDO DRIVE,,
CITY OF MALIBU, COUNTY OF LOS ANGELES

JOB NO. 20-5315
SCALE: 1" = 20'
DATE: APRIL, 2020
DRAFTED: SJW

SHEET NO.
1
OF 1 SHEET

Photographs



CALIFORNIA COASTAL COMMISSION

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



February 25, 2021

Richard Mollica, Planning Director
City of Malibu
23825 Stuart Ranch Road
Malibu, CA 90265-4861

**Subject: Jurisdictional Determination Request for 6480 Via Escondido Drive
CDP No. 20-018**

Dear Mr. Mollica:

Thank you for the additional information provided in your February 23, 2021 letter regarding the request for our office to make a jurisdictional determination regarding the proposed development of a gate at 6480 Via Escondido Drive. The location of the proposed gate, as adjusted 20 feet further from Pacific Coast Highway and depicted on the site survey prepared by Chris Nelson and Associates Inc., dated February 1, 2021, appears to be located outside the Commission's geographic appeals jurisdiction area (100 feet from the stream top of bank or within 300 feet of the inland extent of a beach). However, as noted in our previous October 14, 2020 and December 28, 2020 response letters, the "development" proposed in this case (as "development" is defined in the LCP) is not limited to the proposed gate itself, but the change in intensity of use of land. The proposed gate would still restrict access to other areas that appear to be located within the Commission's geographic appeals jurisdiction (100 feet from stream), such as portions of Via Escondido Road as well as public land and public trails currently owned by the Mountains Recreation & Conservation Authority (MRCA) to the north of the proposed gate. This proposed development constitutes a change in the intensity of use of those areas by physically restricting the public's ability to access them. Therefore, the proposed project is located within the appeals jurisdiction of the Coastal Commission and the proposed project is appealable to the Coastal Commission.

In conclusion, the Executive Director does not agree with the City's Planning Director's determination that the proposed project is not appealable to the Coastal Commission. Therefore, Commission staff will schedule a hearing on the jurisdictional determination matter with the Commission at the next Commission meeting (April 2021) as required by Malibu LIP Section 13.10.1(D).

Very Truly Yours,

DocuSigned by:

Denise Venegas

EC0C1D43CA0C426
Denise Venegas

Coastal Program Analyst

cc: Jessica Thompson, Associate City Planner
Steve Hudson, CCC District Director
Barbara Carey, CCC District Manager
Deanna Christensen, CCC District Supervisor

Exhibit 5g
February 25, 2021 Letter
CCC to City
4-21-0132-EDD