

COASTAL CONSERVANCY

Staff Recommendation  
June 4, 2009

**MALIBU ROAD ACCESSWAY**

Project No. 09-013-01  
Project Manager: Joan Cardellino

**RECOMMENDED ACTION:** Authorization to disburse up to \$25,000 (twenty-five thousand dollars) to the Mountains Recreation and Conservation Authority (MRCA) for pre-construction activities for the Malibu Road beach access stairway project in the City of Malibu; approval of the Implementation Plan for transfer of ownership of the property on which the project is located; and direction to the Executive Officer to initiate the process for transfer of ownership of the property pursuant to the Implementation Plan from the Conservancy to MRCA.

**LOCATION:** Malibu Road, City of Malibu, Los Angeles County

**PROGRAM CATEGORY:** Public Access

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**EXHIBITS**

- Exhibit 1: [August 8, 2002 staff recommendation](#)  
Exhibit 2: [Site Plan](#)  
Exhibit 3: [Implementation Plan](#)
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**RESOLUTION AND FINDINGS:**

Staff recommends that the State Coastal Conservancy adopt the following resolution pursuant to Sections 31107 and 31400 - 31410 of the Public Resources Code:

“The State Coastal Conservancy hereby:

1. Authorizes disbursement of up to \$25,000 (twenty-five thousand dollars) to the Mountains Recreation and Conservation Authority (MRCA) for pre-construction activities, including finalization of bid documents and preparation of any additional required environmental documentation for the Malibu Road beach access stairway construction project. This authorization is subject to the condition that prior to disbursement of any funds, MRCA shall submit for the review and approval of the Conservancy’s Executive Officer a work program, including schedule and budget, and the names of any contractors it intends to use to complete the project
2. Approves the Implementation Plan for the transfer to MRCA of the Malibu Road Beach Access stairway property (the real property), located at 24038 Malibu Road, City of Malibu

(County of Los Angeles Assessor's Parcel No. 4458-009-900), acquired by the Conservancy through acceptance of an Offer to Dedicate.

3. Directs the Executive Officer to request that the Director of General Services initiate transfer of ownership of the real property to MRCA pursuant to the Implementation Plan for permanent public access purposes and authorizes the Executive Officer to take all actions necessary to accomplish the transfer of the real property. The recordation of the instrument by which the real property is transferred to MRCA shall occur only after MRCA has agreed to undertake construction and maintenance of the public access stairway on the real property.

Staff further recommends that the Conservancy adopt the following findings:

“Based on the accompanying staff report and attached exhibits, the State Coastal Conservancy hereby finds that:

1. The proposed project is consistent with the current Project Selection Criteria and Guidelines.
2. The proposed authorization is consistent with the purposes and objectives of Chapter 9 of Division 21 of the Public Resources Code, regarding public access.”

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**PROJECT SUMMARY:**

Staff recommends that the Conservancy authorize a grant of up to \$25,000 to the Mountains Recreation and Conservation Authority (MRCA) for pre-construction activities related to the Malibu Road beach access stairway, and authorizes the Executive Officer to take necessary actions to transfer ownership of the property, currently held by the Conservancy, to MRCA.

The Conservancy holds fee title to the property on Malibu Road, as a result of the Conservancy's acceptance in 2002 of a Coastal Act Offer to Dedicate. (See Conservancy staff recommendation of August 8, 2002, Exhibit 1). In 2002, the Conservancy authorized the development of plans for the construction of a beach access stairway on the property. Pursuant to that authorization, Conservancy staff retained a landscape architect who prepared a nearly complete set of plans and specifications for the beach access stairway.

MRCA is a local entity that is well suited to owning and managing coastal access property and has agreed to build the stairway if adequate funding is provided. In pursuit of that goal, staff recommends that the Conservancy first authorize a grant to MRCA so that it can complete the pre-construction process for the construction, including the pre-bid process, obtain a reliable cost-estimate, and prepare any additional environmental documentation that may be required. Each of these activities will inform any future staff recommendation for Conservancy authorization to fund construction. The possible environmental documentation that may be required relates to the potential climate change effects of the construction project which, in 2002, when the initial Negative Declaration was prepared and approved by the Conservancy, was not required under the California Environmental Quality Act and was not considered. Recently, it has become clear that greenhouse gas emissions related to the project and other climate change effects, including the effects of sea-level rise, on the project itself need to be analyzed and

considered. Under the proposed grant, MRCA and its consultants will do so for this project and will prepare any additional environmental documentation that may be required.

In addition, staff recommends that the Conservancy approve the Implementation Plan (Exhibit 3) for transfer of the property to MRCA and authorize the initiation of the transfer process, which must occur through the State Department of General Services (DGS). Under the Conservancy's enabling legislation the DGS Director is obligated to carry out the transfer property held by the Conservancy pursuant to an "implementation plan approved by the Conservancy" when requested by the Conservancy to do so (Public Resources Code, Section 31107). The proposed Implementation Plan (Exhibit 3), which staff recommends that the Conservancy approve, concludes that the project property is suitable for transfer to a local public entity, such as MRCA, that has the resources and local presence to hold, manage and operate the property effectively and appropriately and, if authorized, to undertake the construction of the beach access stairway and to manage and maintain it.

As described below, the Malibu Road site will create a new public access way in Malibu that will allow the public to access Amarillo and Malibu Colony beaches. When completed, this project will be the only public access point between Malibu Lagoon State Park and Amarillo Beach. The property has an extremely steep slope and 30-foot bluff face that drops down to a narrow beach. Currently there is no developed access to the site and intrepid visitors scramble down the bluff, many carrying surfboards or kayaks. Other visitors simply sit at the top and enjoy the view, or check the surf conditions. MRCA is currently managing this interim use of the project site by picking up trash.

The proposed public access way, as designed, consists of a steel piling supported stairway with poured-in-place concrete walls, a viewing deck, a transparent fence, a timed-lock gate, three parking spaces, installation of signage and a trash receptacle. The design for the stairway has undergone extensive review both for its feasibility and cost. The Malibu Road Access way project has also undergone environmental review (Initial Study/Mitigated Negative Declaration adopted by the Conservancy on August 8, 2002 – see Exhibit 1) and has been approved by the Office of the State Architect for compliance with wheelchair accessibility. In March 2009, the City of Malibu issued a Coastal Development Permit for construction of the project.

The proposed grant to MRCA will cover the costs of pre-construction activities including bid preparation, the bid process, and the preparation of any additional environmental documentation. Staff will seek additional Conservancy authorization for MRCA to carry out the construction when the pre-construction activities are completed.

MRCA is a joint powers agency formed in 1985 to manage open space and parkland, watershed lands, trails and wildlife habitat in Los Angeles and Ventura counties. MRCA manages an access way on Escondido Beach for the Conservancy, and currently provides minimal site management at two Conservancy-owned coastal properties in Malibu. Rangers are available 24 hours a day with a local emergency number that can be posted at the project site.

**Site Description:** The project site is a vacant lot on the south side of Malibu Road in the City of Malibu. It is one of four vacant properties between single-family residences at 24056 and 24034

Malibu Road. The project site is within the Coastal Zone, and is bounded by Malibu Road on the north and Amarillo Beach on the south. Currently, the project site consists of a gravel and dirt parking area, and a 30-foot beach-facing slope partially covered in riprap used for slope stability. Malibu Bluffs Park is approximately .25 mile northwest of the project site. Even in its unimproved condition, the site is used by surfers and kayakers who can navigate down the steep slope to reach the surf, and by others who want to stroll along the beach. Less adventurous visitors simply enjoy the view from the top of the bluff.

**Project History:** Project history prior to 2002 is described in Exhibit 1.

In August of 2002, the Conservancy authorized the acceptance by the Conservancy of an offer to dedicate fee title to the Malibu Road property. The offer had been made in connection with and as a condition to a Coastal Commission coastal development permit. At the same time the Conservancy authorized staff to enter into an agreement with the Department of General Services (DGS) to construct a public access stairway on the property and authorized the expenditure of up to \$375,000 for this purpose. (See Exhibit 1).

Under these authorizations, the Conservancy accepted the offer to dedicate and now holds title to the Malibu Road property. In 2002, Conservancy staff anticipated that it would obtain the necessary permits and have DGS construct the project. Accordingly, staff applied for and received a Coastal Development Permit from the Coastal Commission in 2003. Shortly thereafter, the Development Permit was challenged through a lawsuit that was filed by the Colony Beach Preservation Association. Meanwhile, staff had entered into discussions with DGS regarding management of the construction phase. Ultimately, staff was not able to negotiate an acceptable budget for DGS to build the stairway, and with the pending lawsuit unresolved, the Conservancy agreed to settle the case by agreeing not to exercise the Coastal Development Permit.

After researching, and rejecting as unsuitable, alternative and less costly stairway designs, staff approached MRCA in the fall of 2007 regarding its interest in owning the property and building the stairway as originally designed. MRCA's chief landscape architect and engineers analyzed the proposed design and concluded that it was the best suited for the site and that it could be financially feasible to construct. (See Exhibit 2 for stairway design, proposed for construction by MRCA). In addition, MRCA agreed to accept title to the property, if the construction were funded by the Conservancy and if Conservancy staff undertook the permit process for the project.

### **PROJECT FINANCING**

<b>Pre-construction Expenditures: Conservancy 2002 authorization</b>	<b>\$ 26,848</b>
<b>Proposed additional Pre-construction Expenditures</b>	<b><u>\$ 25,000</u></b>
<b>Total Pre-construction expenditures</b>	<b>\$ 51,848</b>

The anticipated source of additional expenditures for proposed pre-construction activities is the Coastal Trust Fund, Coastal Program Account. Within that Account are two sub-accounts that have funds designated for use in Malibu. The larger of the two subaccounts, the Malibu Road Coastal Access Account, is funded through fees generated by the Coastal Commission and is specifically designated for the Malibu Road stairway. This subaccount was used to fund the initial preconstruction activities under the Conservancy 2002 authorization, involving primarily the applications for permits from the Coastal Commission and from the City. A smaller sub-account (totaling \$25,000) comes from a donation from a nonprofit organization called Save Open Space Santa Monica Mountains, and restricts the funds to the development of a public coastal access project within the City of Malibu. Funding for additional pre-construction activities by MRCA under the current staff proposal is expected to come from this \$25,000 subaccount, whose use for this Malibu access way project is entirely appropriate.

Upon completion of the pre-construction process, staff anticipates requesting authorization for construction of the project and for additional funding to undertake the construction, at which point the total construction costs will be better understood, any additional environmental documentation will be completed and, hopefully, the freeze on new bond funding has been lifted.

**CONSISTENCY WITH CONSERVANCY’S ENABLING LEGISLATION:**

For the reasons specified in the August 8, 2002 staff recommendation (Exhibit 1), the construction of a public access stairway and the transfer of the property on which it will be located to MRCA to hold and manage remain consistent with Chapter 9 of the Conservancy’s enabling legislation (Public Resources Code Sections 314000, et seq., regarding the provision of public access ways to and along the coast.

In addition, the approval of the Implementation Plan and the transfer of the property pursuant to that plan are necessary steps contemplated by Public Resources Code Section 31107. Further the proposed transfer is consistent with Section 31404 which directs the Conservancy to “make a determined effort to identify local public agencies and nonprofit organizations which will accept responsibility for maintenance and liability for public access ways which are located outside of the state park system”.

**CONSISTENCY WITH CONSERVANCY’S 2007 STRATEGIC PLAN GOAL(S) & OBJECTIVE(S):**

Consistent with **Goal 2, Objective 2c** of the Conservancy’s 2007 Strategic Plan, the proposed project will make an almost completely inaccessible beach accessible to the general public.

**CONSISTENCY WITH CONSERVANCY'S  
PROJECT SELECTION CRITERIA & GUIDELINES:**

For the same reasons specified in the August 8, 2002 staff recommendation, the proposed project, as modified, is consistent with the Conservancy's current Project Selection Criteria and Guidelines.

**CONSISTENCY WITH LOCAL COASTAL PROGRAM POLICIES:**

The City of Malibu Certified Local Coastal Program identifies this site as Public Open Space. The proposed project complies with Local Implementation Plan Section 3.5 concerning residential beachfront development standards; Section 8.3 regarding grading, and Section 11 regarding archaeological resources. The City of Malibu issued a Coastal Development Permit in March 2009.

**COMPLIANCE WITH CEQA:**

The proposed authorization, which is limited to pre-construction activities, the development of any additional required environmental documentation and the initiation of the process to transfer the property to MRCA is exempt from the California Environmental Quality Act.

The pre-construction activities are exempt under CEQA Guidelines Sections 15262 and 15306 (California Code of Regulations, Title 14, Sections 15262 and 15306) which, respectively, provide a statutory exemption for planning studies for possible future actions, provided the studies include consideration of environmental factors, and a categorical exemption for data collection, research, and resource evaluation activities which do not result in a serious or major disturbance to an environmental resource. Here, the pre-construction activities involve the gathering of information, including environmental information and development of bid documentation and cost, which relate to a future construction project by MRCA, which has not yet been authorized by the Conservancy.

The proposed transfer of the real property is categorically exempt under Section 15325 of Title 14 of the California Code of Regulations which exempts projects that, as here, involve a transfer of land to preserve open space or lands for park purposes.

Staff will file a Notice of Exemption upon Conservancy approval of the proposed authorization.