

COASTAL CONSERVANCY

Staff Recommendation

October 21, 2010

**MALIBU ROAD ACCESSWAY –
TRANSFER AND STAIRWAY CONSTRUCTION**

Project No.09-013-02

Project Manager: Joan Cardellino

RECOMMENDED ACTION: Authorization to transfer jurisdiction of the property located at 24038 Malibu Road to the Santa Monica Mountains Conservancy; approval of a revised Implementation Plan for the transfer of the property; and authorization to disburse up to \$994,000 to the Mountains Recreation and Conservation Authority for the purpose of constructing a public beach access stairway on the subject property in Malibu.

LOCATION: 24038 Malibu Road, City of Malibu, Los Angeles County

PROGRAM CATEGORY: Public Access

EXHIBITS

- Exhibit 1: [Project Location](#)
 - Exhibit 2: [Implementation Plan \(Revised October 2010\)](#)
 - Exhibit 3: [Stairway Design](#)
 - Exhibit 4: [August 2002 Staff Recommendation](#)
 - Exhibit 5: [June 2009 Staff Recommendation](#)
 - Exhibit 6: [Mitigated Negative Declaration](#)
 - Exhibit 7: [Addendum, Mountains Recreation and Conservation Authority, Malibu Road Beach Accessway, September 2010](#)
 - Exhibit 8: [Project Letters](#)
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RESOLUTION AND FINDINGS:

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

“The State Coastal Conservancy hereby:

1. Modifies its prior authorization of June 4, 2009 by:
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- a. Approving the Implementation Plan, as revised October 2010 (attached as Exhibit 2 to the accompanying staff recommendation), for the Malibu Road Beach Accessway Property (the real property), located at 24038 Malibu Road, Malibu (Los Angeles County Assessor's Parcel Number 4458-009-900), acquired by the Conservancy through acceptance of an offer to dedicate.
 - b. Directing the Executive Officer to take all steps necessary to transfer jurisdiction of the real property to the Santa Monica Mountains Conservancy (SMMC), another state agency, under the terms and requirements of the Implementation Plan, as revised October 2010, for the real property.
2. Authorizes disbursement of up to \$994,000 (nine hundred ninety-four thousand dollars) to the Mountains Recreation and Conservation Authority (MRCA) to construct a public access beach stairway (depicted in Exhibit 3 to the accompanying staff recommendation) on the real property, subject to the following conditions:
- a. Prior to disbursement of any funds, MRCA shall submit for the review and approval of the Executive Officer:
 - i. An agreement between MRCA and SMMC authorizing MRCA to construct the stairway and manage the real property on behalf of SMMC.
 - ii. A work program for the construction of the public access beach stairway, including schedule and budget.
 - iii. The names of any contractors MRCA intends to use to complete the project.
 - b. In carrying out the construction, MRCA shall comply with all applicable mitigation and monitoring measures that are identified in the 'Initial Study/Mitigated Negative Declaration' adopted by the Conservancy on August 8, 2002."

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 remains consistent with the current Project Selection Criteria and Guidelines.
2. The proposed authorization remains consistent with the purposes and objectives of Chapter 9 of Division 21 of the Public Resources Code, regarding public access.
3. The Conservancy has independently reviewed and considered the *Addendum, Mountains Recreation and Conservation Authority, Malibu Road Beach Accessway, September 2010* ("Addendum"), attached to the accompanying staff recommendation as Exhibit 7, and finds that the new information regarding greenhouse gas emissions associated with the proposed project may be appropriately addressed in an addendum under the California Environmental Quality Act (CEQA), because there is no substantial evidence that the project's greenhouse gas emissions will give rise to new or significant environmental effects not previously considered in the 'Initial Study/Mitigated Negative Declaration' (the "Mitigated Negative Declaration"), previously adopted by the Conservancy on August 8, 2002; or a substantial increase in the severity of the significant effects previously identified in the Mitigated

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Negative Declaration. As detailed in the Addendum, neither the project construction activities nor the increased traffic associated with the use of the accessway, once constructed, are expected to create greenhouse gas emissions that are significant.”

PROJECT SUMMARY:

Staff recommends authorization to transfer jurisdiction of the property located at 24038 Malibu Road to the Santa Monica Mountains Conservancy (SMMC), another state agency, and authorization to disburse up to nine hundred ninety-four thousand dollars (\$994,000) to the Mountains Recreation and Conservation Authority (MRCA) for the purpose of constructing a public beach access stairway on the subject property in Malibu.

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 4). 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.

As described below, the Malibu Road project will create a new accessway 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 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 accessway, 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 Accessway project has also undergone environmental review (Initial Study/Mitigated Negative Declaration adopted by the Conservancy on August 8, 2002 – see Exhibit 6) 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 will pay for the cost of construction and associated project management.

As noted above, the Conservancy currently holds title to the property on which the accessway will be built. In June 2009, the Conservancy approved an Implementation Plan for the property that recommended that fee title to the property be transferred to MRCA in order to allow MRCA to construct and subsequently manage the property for public access, tasks to which it is particularly well-suited (see June 2009 staff Recommendation, Exhibit 5). In the interim, Conservancy staff, in consultation with SMMC, has concluded that it would make sense for a state agency, with a presence in the area in which the property is located, to continue to hold title

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to the property. SMMC is a state agency based in Los Angeles, the property is within its jurisdiction and SMMC is willing to take over jurisdiction and control of the property. MRCA will continue to undertake construction and future operation and management of the property under an agreement with SMMC. 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 has constructed numerous park and access facilities and provides ranger services for almost 60,000 acres of public lands, including managing the Conservancy's access way on Escondido Beach and providing minimal site management at two other Conservancy-owned coastal properties in Malibu.

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 2009 can be found in the June 2009 staff recommendation attached as Exhibit 5.

Pursuant to the grant provided by the Conservancy in June 2009, MRCA contracted for additional environmental analysis to account for greenhouse gas emissions during construction and the potential effects of sea level rise on the project. That analysis was completed in the summer of 2010, and forms the basis of the CEQA Addendum discussed in the Compliance with CEQA section, below. Additionally, MRCA obtained an updated cost estimate for the project.

PROJECT FINANCING

Coastal Conservancy	\$994,000.00
Total Project Costs	\$994,000.00

Funds for this project are expected to come from a variety of sources. The largest amount (approximately \$575,000) will come from an appropriation to the Conservancy in fiscal year 2008-09 from the Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006 (Proposition 84). Proposition 84 authorizes the use of bond funds for projects that promote access to and enjoyment of coastal resources and that are consistent with the Conservancy's enabling legislation (Public Resources Code Section 75060). The proposed accessway will provide access directly to the coast and the ocean for the enjoyment of visitors to Malibu in area underserved by coastal access. Further, the project is consistent with the Conservancy enabling legislation as detailed below.

The second funding source is expected to be the Coastal Trust Fund, Coastal Program Account. Within that Account are two sub-accounts that have funds designated for use in Malibu. The

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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 this 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. Approximately \$415,000 remains in that subaccount and will be used for construction. A smaller sub-account (totaling \$25,000) comes from a donation of litigation settlement proceeds received 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.

CONSISTENCY WITH CONSERVANCY'S ENABLING LEGISLATION:

For the reasons specified in the August 8, 2002 staff recommendation (Exhibit 4), the transfer of the property to SMMC and the construction of a public access stairway on the property 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.

**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:**

The project is consistent with the Conservancy's Project Selection Criteria and Guidelines adopted in June 2009, in the following respects

Required Criteria

1. **Promotion of the Conservancy's Statutory Programs and Purposes:** As discussed above, this proposed project is consistent with the purposes of Division 21 of the Public Resources Code by developing the necessary improvements to make the site useable by the public.
2. **Consistency with Purposes of the Funding Source:** As discussed above, the source of funds for this project is expected to be a combination of Proposition 84 funds and Coastal Trust funds specifically designated for construction of access ways in Malibu.
3. **Support from the Public:** Letters of support are included in Exhibit 8.
4. **Location:** The Malibu Road project is located within the coastal zone.
5. **Need:** Malibu is arguably the most famous section of the California coast, and one of the most popular, yet it has long stretches of coastline with little or no public access. The Conservancy has the opportunity to develop this site now, and open over one mile of beach to the public.

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6. **Greater-than-local interest:** The Malibu coast attracts visitors from all parts of the region, state and nation. Additional coastal access along this popular stretch of coastline will, thus, serve a broad constituency.
7. **Vulnerability from climate change impacts other than sea level rise:** The project has been designed with the understanding that sea levels will rise during the course of its useful life, and it should be able to provide a useful recreational facility even with considerably higher tides.

Additional Criteria

13. **Readiness:** If approved, this project is ready to be constructed. It has a Coastal Development Permit and all of the design work is complete.
14. **Realization of prior Conservancy goals:** As shown in Exhibits 4 and 5, the Conservancy has been working on this project since 2002. Increasing access in Malibu has been a priority of the Coastal Conservancy and the Coastal Commission for decades.
17. **Minimization of greenhouse gas emissions:** The project design and construction methods include best management practices to avoid or minimize greenhouse gas emissions to the extent feasible and consistent with the project objectives. See Exhibit 7.

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 for this project in March 2009.

COMPLIANCE WITH CEQA:

Project Construction: The Conservancy previously authorized the disbursement of funding for the Malibu Road Accessway project at its meeting of August 8, 2002 (see Exhibit 4) and, at that time adopted an “Initial Study/Mitigated Negative Declaration (the “Mitigated Negative Declaration”, Exhibit 6). The details of the project have not changed in any substantive way. The design and specifications for the proposed accessway remain the same. Since the project, including potential environmental effects and mitigation measures, remains materially unchanged, the proposed authorization remains consistent with the CEQA findings adopted by the Conservancy in connection with its prior authorizations.

However, since 2002, through legislation, Attorney General’s opinion, litigation and revised CEQA guidelines, it is clear that CEQA analysis must now consider or analyze the climate change-related impacts of a project. The Mitigated Negative Declaration did not consider or analyze the climate change impacts of the project, including greenhouse gas emissions generated by future use of the accessway. The following provides this analysis and conclusions.

The CEQA Guidelines (found at 14 Cal. Code Regs., Sections 15000 et seq.) specify the process for determining whether new information (here, the effects of greenhouse gas emissions from the

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project) requires additional environmental documentation (see Guidelines Sections 15164(a) and 15162). Section 15164(a) of the Guidelines specify that the an “addendum” to a previously adopted Negative Declaration, may satisfy CEQA, without the need for further environmental review, so long as none of the conditions described in Guidelines Section 15162 calling for preparation of a subsequent environmental document have occurred. According to Section 15162, subsequent documentation shall not be prepared for the project unless the Conservancy determines, based on substantial evidence in light of the whole record, that the new information demonstrates new significant effects not previously considered in the Mitigated Negative Declaration or will result in a substantial increase in the environmental effects previously considered.

In order to answer the question of whether the accessway project’s greenhouse gas emissions would trigger new or increased environmental effects, MRCA commissioned a detailed evaluation of potential greenhouse gas emissions, undertaken by ICF International. The results of that evaluation are detailed in the *Addendum, Mountains Recreation and Conservation Authority, Malibu Road Beach Accessway, September 2010* (the “Addendum”), attached as Exhibit 7, which includes Appendix A, *Malibu Road Beach Accessway: Traffic Impact Assessment* and Appendix B, *Malibu Road Beach Accessway: Greenhouse Gas Technical Memorandum*.

The Addendum assessed both the construction-related greenhouse gas emissions and the emissions attributable to post-construction use of the accessway (such as vehicles carrying visitors to and from the accessway). Based on the traffic study (Addendum, Appendix B), the Addendum concluded that proposed project would not result in operational emissions of greenhouse gases because it would not generate any more than negligible additional traffic or require additional energy to operate. Under the analysis in Appendix B, the Addendum concludes that construction emissions, amortized over the conservative estimate of the useful life of the accessway (30 years) would be approximately 3.85 metric tons CO₂ equivalent per year. When this annual emission figure is compared to thresholds being considered for projects within the South Coast Air Quality Management District (SCAQMD), the air district in which the project is located, it is apparent that the proposed project’s emissions are well below those considered “significant” under CEQA, either individually or cumulatively.

Based on these conclusions, Conservancy staff determined that an Addendum to the Mitigated Negative Declaration, rather than a subsequent environmental document, was the appropriate vehicle under CEQA to document and analyze the greenhouse gas emissions attributable to the project.

Accordingly, Conservancy staff recommends that the Conservancy find, for all of the reasons set forth in the Addendum, that the projects greenhouse gas emissions will not give rise to new significant environmental effects not considered in the Mitigated Negative Declaration, nor to a substantial increase in the severity of the significant effects previously identified in the Mitigated Negative Declaration.

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Transfer of jurisdiction of the property.

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.