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**Comments on Draft Environmental Impact Report for Malibu Valley Inn & Spa Project
(SCH No. 2003081148)**

The proposed project is located in a portion of the Santa Monica Mountains National Recreation Area with key recreation, viewshed, and ecological resources. This importance is amplified by the Mountains Recreation and Conservation Authority (MRCA), California Department of Parks and Recreation (State Parks), and National Park Service (NPS)'s imminent purchase of the 588-acre Soka University property. The project is also within the Malibu Creek watershed, which supports numerous sensitive aquatic species. The Santa Monica Mountains Conservancy (Conservancy) supports visitor serving uses in the Santa Monica Mountains. However, the proposed facility is not compatible with the landform, viewshed, and ecological constraints of the site. The Conservancy opposes the project unless a reduced density alternative is adopted (such as Alternative B in the Draft Environmental Impact Report [DEIR]), and all of the open space is dedicated in fee title to an appropriate public entity capable of managing open space for resource protection and recreational use. This would include the open space north of the proposed development area, the approximately 42 acres on the east side of Stokes Canyon Road (DEIR, p. v.E-40), and the "Voluntary Open Space Dedication Area" identified on Figure I-1. Furthermore, the visibility of the project and permanent constraints against further expansion must be addressed.

State Parks, NPS, and the MRCA will collectively own the Soka University property by April 15, 2005. The California Environmental Quality Act (CEQA) document must recognize and analyze that the Soka property is public parkland. To adequately analyze this new information, at a minimum an Environmental Impact Report (EIR) addendum must be prepared and circulated at least to the affected agencies.

Malibu Creek State Park borders the site to the west (west of Las Virgenes Road), and Las Virgenes View Park is located to the north. The DEIR (p. v.E-30) states that the geographic

position of the project study site is critically important in maintaining open wildlife corridors through the Santa Monica Mountains proper as well as outside of this mountain range. Malibu Creek State Park is likely the central core habitat area of the Santa Monica Mountains. Stokes Canyon Creek within the jurisdictional area of the California Coastal Commission has been designated an Environmentally Sensitive Habitat Area (ESHA) (DEIR, p. III-7). The southern part of the project is within the California Coastal Zone boundary.

Summary of proposed project and impacts

The proposed project consists of a full service equestrian oriented resort on the 141.76-acre site. Residential accommodations consist of 203 guest units, of varying sizes and designs. Five custom single-family homes are also proposed. The Malibu Valley Farms Equestrian Facility east of Stokes Canyon Road would cooperatively operate with the Malibu Valley Inn & Spa, but no improvements are proposed. In addition to the annexation of the 141.76-acre project site, the proposed action includes the annexation of five additional parcels totaling 10.49 acres, to prevent the creation of Los Angeles County "peninsulas" within the City of Calabasas. The project also includes other actions including a General Plan Amendment and Zone Change, Conditional Use Permit, Vesting Tentative Tract Map, Oak Tree Permit, Development Plan, and Development Agreement. The area proposed for the Malibu Valley Inn & Spa development is located within the western portion of the Tentative Tract Map No. 45465 by the County of Los Angeles for 81 single-family residences on 400 acres. The DEIR (p. I-4) indicates that the entitlement is valid until 2008.

Of the 81.65 acres west of Stokes Canyon Road, 60.36 acres would be impacted by grading, landscaping and fuel modification. This includes impacts to 10.16 acres of coastal sage scrub, 0.5 acre of chamise chaparral, 2.0 acres of oak woodland, 14.3 acres of non-native grassland/heavily grazed scrub, 21.25 acres of pasture, and 12.15 acres of developed areas (DEIR, pp. V.E-28 - V.E-29). Seventy live oak trees would be removed (of which 51 are heritage), and 32 (of which 23 are heritage) would be encroached upon (76 total live oaks would be saved) (DEIR, p. V.E-26). Two heritage valley oaks would be removed, and three heritage valley oaks would be encroached upon (5 total valley oaks would be saved)

Per the DEIR (p. V.E-42), the following biological impacts would remain significant and unavoidable after mitigation: long-term impacts to wildlife from loss of habitat, impacts to wildlife movement, and loss of mature trees and continuous habitat. The Conservancy concurs with these conclusions for the proposed project.

Mulholland Highway and Las Virgenes Road/Malibu Canyon Road are considered scenic routes or highways based on State of California Scenic Highway Program, Santa Monica

Mountains North Area Plan, and/or City of Calabasas General Plan. Massive land form alterations, and development would occur in plain view of these streets. The project would be visible from portions of hiking/equestrian trails both in Malibu Creek State Park and the surrounding area. The Conservancy concurs with the DEIR's conclusions that project impacts with respect to scenic vistas, scenic resources and existing visual character would remain significant and unavoidable following implementation of the recommended mitigation measures (DEIR, p. v.B-40).

Need for adequate alternatives analysis

As stated in the DEIR, the project would result in significant impacts to biological resources and visual resources, after implementation of mitigation. This leads to the conclusion that the CEQA document must include several meaningful alternatives that reduce the level of impact. Reducing biological impacts must consist of a reduction in the project footprint. The Reduced Intensity Alternative (Alternative B), which cuts off the northern portion of the project, is the only alternative that meaningfully takes this approach. This is identified as the Environmentally Superior Alternative, but it still would result in unmitigatable significant impacts to biological and aesthetic resources.

One skewed approach of the DEIR's alternatives analysis is that for two alternatives the project area appears to be larger than the proposed project (Alternative D: North Plan Consistency Alternative and Alternative E: Buildout Under Existing Entitlements). If one evaluates the possibility of developing this larger area, then it seems evident that the anticipated impacts could be larger. Project alternatives should consist of the same project area as the proposed project, to ensure a fair comparison. In any case, the DEIR should explicitly state what the status is of the 290-acre area to the east of the proposed project, and whether under the current project, the rest of Tract 45465 in the 290-acre area could be developed. There is a reference in the DEIR (Figure I-1) that this is a "Voluntary Open Space Dedication Area (Not part of Project)." This statement is unclear, but it appears that this is not proposed or required for open space as part of the current project.

An alternative should be analyzed in the CEQA document that is consistent with existing land use plans and zoning. This alternative should consist of the same project area as the proposed project. This alternative should not assume the worst case scenario, but rather should include efforts to cluster the development. Clustering is specifically identified in the North Area Plan (DEIR, p. v.1-60). The North Area Plan Alternative in the DEIR appears to evaluate a non-clustered development scenario.

Also, any inclusion or exclusion of any alternatives must be backed up by an independent economic analysis that includes all the required baseline economic data to make it meaningful.

All alternatives should include the provision for the fee simple dedication of open space to an appropriate public entity capable of managing open space for resource protection and recreational use, including management funding if possible. (See below.)

Need for clear identification of open space area, management, and funding

As described above, the project footprint must be reduced to lessen the impacts to biological resources, and a larger area must be preserved as open space. There must be no question in the CEQA document as to what areas would be preserved as open space. This is to prevent any future confusion regarding where certain activities may be allowed. The CEQA document is inadequate in that it does not provide a clear figure indicating the areas to be set aside as open space. The DEIR states (p. v.E-40) the following:

No additional mitigation is proposed to mitigate impacts to wildlife movement, other than the retention of 16 acres of open space located to the north of the proposed development area and approximately 42 acres on the east side of Stokes Canyon Road.

Without a figure in the CEQA document clearly identifying the boundaries of the open space, the reviewer can only guess the approximate boundaries that are proposed as open space.

The Conservancy concurs with the intent of mitigation measure E-18: “Open space designations shall be for perpetuity and used for passive recreation only (i.e. no permanent structures, trail would be allowed).” To ensure that these restrictions are legally enforceable, the CEQA document must require in a mitigation measure that any ungraded open space areas in the proposed project, and all alternatives, be dedicated in fee title to an appropriate public entity capable of managing open space for resource protection and recreational use. The MRCA, the Conservancy’s joint powers partner, would be an appropriate entity to accept this dedication. This approach is consistent with the City’s performance standard: “Require conservation or open space easements, grant deeds of development rights, or other similar mechanisms over sensitive habitat areas...” (DEIR, p. v.I-25). If fuel modification is required on any public open space, easements should be provided in favor of the development entity to allow for privately funded fuel modification

on public land. The Conservancy supports the limited construction of multi-use trails on the proposed dedication consistent with biological and slope stability constraints.

The DEIR should require a Communities Facility District or sufficient funds from the developer (e.g., in the form of a non-wasting endowment), in the mitigation measures to fund long-term management and maintenance of the open space. The proposed project and every CEQA alternative must require that the funding mechanism be established prior to grading or vegetation removal. This funding would be used to cover management of the open space and Malibu baccharis populations and to provide ranger patrol for any nuisance problems.

Impacts to land use

As stated earlier, NPS, State Parks, and MRCA will collectively own the Soka University property on April 15, 2005. The DEIR appears to assume that it will be developed based on a subdivision map (p. V.I-60). The CEQA document must recognize the anticipated future use as parkland. The CEQA document must provide a discussion of the consistency of the proposed project in light of the potential future uses at the Soka University property, including a primary entrance for the Santa Monica Mountains National Recreation Area. Specifically, one of the primary reasons that the park agencies have pursued the acquisition of this property is because of the high biological and aesthetic value of property given that the property is surrounded by large blocks of open space.

The DEIR states that upon annexation into the City of Calabasas, the Malibu Valley Inn & Spa project and the additional annexation areas will not be subject to the Santa Monica Mountains North Area Plan (DEIR, p. V.I-2). The DEIR (p. V.I-60) only provides a brief analysis of the consistency of the project with the North Area Plan, but does not address whether the project is consistent with allowable densities in the North Area Plan. The DEIR also states that the proposed project would not conflict with any applicable land use plan, policy, regulation, etc. and that no mitigation measures are recommended, other than the adoption of the proposed General Plan Amendment and Zone Change to rectify the inconsistency of the project with the now existing land use designations and zoning (DEIR, p. V.I-62). Clearly, if this approach is taken of changing plan designations and zonings project by project, one can conceivably just change the plan designation and zoning to fit any project and to state that the project is consistent with the new plan designation and zoning.

These general plan designations and zoning codes were developed to consider comprehensive planning forecasts on a large scale, rather than on a project-by-project basis.

A more appropriate approach for the CEQA analysis is to analyze what development would be allowed under existing plans and zoning. Evaluating a possible development allowed under existing conditions (i.e., existing plan designations and zoning) also should not necessarily consist of the worst case scenario, but rather should assume that the decision-makers and the implementation of CEQA would influence the process to result in a reasonably planned project. (For example, the North Area Plan recommends clustering.) This existing condition should be compared to the proposed land use designations and zoning under the proposed project. This CEQA analysis should recognize inconsistencies of the proposed project with these existing plans and zoning requirements under existing conditions.

Contrary to the conclusions in the DEIR, the proposed project would result in significant land use impacts. This includes inconsistencies with the Calabasas General Plan land use designations, Calabasas zoning, Santa Monica Mountains National Recreation Area General Management Plan, and Los Angeles County North Area Plan (DEIR, p. v.I-61).

On another matter, the project consists of annexation of four additional unrelated parcels (DEIR, p. v.I-13). These parcels would have a General Plan Amendment/Zone Change to change the land use designations/zoning from Los Angeles County N10 designation zoning to City of Calabasas General Plan designation RR (Rural Residential) and zoning district RR (Rural Residential) (DEIR, p. v.I-13). The DEIR repeatedly states that no development is proposed for the Additional Annexation Area, and therefore impacts would not be significant (e.g., DEIR, p. v.E-29). The CEQA document must clearly analyze the environmental impacts associated with increasing the density allowed on these parcels. These are reasonably foreseeable indirect physical changes in the environment. Changes to General Plans are routinely considered in jurisdictions' CEQA documents, and the environmental effects of building in accordance with those changed guidelines are analyzed.

Lighting and aesthetic impacts

The lighting mitigation measures are weak and unenforceable (e.g., E-25, p. v.E-42; B-8 and B-9, p. v.B-40). Notably, the project area will be converted from a relatively dark area to a developed lighted area. The CEQA document must include photometric mapping of all of the light spillage on the project site and adjacent land. The CEQA document must address the impacts to wildlife moving in Stokes Canyon Creek and wildlife moving on the Soka University property. Every attempt should be made to keep lighting impacts to a minimum. This effort can include (1) the installation of low pressure sodium lights, which produce light in a spectrum that attracts the fewest number of moths and insects, (2) no roof-mounted lighting structures, (3) no light source exceeding 250 watts, (4) all exterior

lighting directed downward, (5) the installation of lighting controlled by sensors, and (6) light sources not exceeding one footcandle of illumination shall be placed within 100 feet of the edge of development area next to any open space or undeveloped land.

The aesthetic resources section of the CEQA document must include a viewshed analysis showing before and after line-of-sight photos from the Grassland Trail, Las Virgenes View Trail, Backbone Trail, and Soka University. The CEQA document must incorporate mitigation measures for these trail viewsheds. Otherwise the DEIR remains deficient. The DEIR has conclusively failed to demonstrate adequate attempts to minimize the visibility of the project from public roads and trails. Specifically, multi-story buildings are not compatible within a majority of the site. Alternatively, two-story structures should have the first level built into the hillsides.

Mitigation measure B-2 indicates that a final master landscaping and tree planting plan will be submitted to the Department of Community Development for review and approval prior to issuance of grading or construction permits (DEIR, p. V.B-39). The plan will be designed to soften or conceal views of project structures from Mulholland Highway, and shall provide for planting native trees and shrubbery along the project site's Mulholland Highway frontage to fill in gaps between existing street trees. The landscape plan must be included in the CEQA document. Without the details such as plant species, locations for planting, and timeline for implementation in the CEQA document, there is no assurance that the landscaping will be enforceable and effective to screen views. Deferral of these details renders the CEQA document inadequate. Decision-makers cannot judge the effectiveness of a landscape plan they will never get to see.

Other comment

The DEIR (p. IV-13) states that no new construction within the equestrian center in conjunction with the proposed project is proposed. The DEIR also states that once the resort becomes well established there is the possibility of conditionally permitting for larger equestrian events. This is a growth-inducing impact that must be analyzed and potentially mitigated in the DEIR. For example, maximum limits of expansion must be proposed and specific required mitigation measures to offset any impacts must be included.

The Conservancy recommends a reduced project specifically to reduce the unavoidable significant biological and visual impacts that would result under the current project. The primary public policy objective to be pursued in this both ecologically and visually sensitive area should be to maximize the preservation of open space, key ecological resources, and primary viewsheds. A fee title dedication of clearly identified open space to an appropriate agency, accompanied by management funding, must be required in the CEQA document. Please direct any questions and all future correspondence to Judi Tamasi of our staff at the above address and by phone at (310) 589-3200, ext. 121.

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Sincerely,

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Chairperson