

SANTA MONICA MOUNTAINS CONSERVANCY

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November 20, 2006

City of Malibu
Attn: Stefanie Edmondson
City of Malibu
23815 Stuart Ranch Road
Malibu, California 90265

**Comments on La Paz Development Agreement Project
Draft Environmental Impact Report**

Dear Ms. Edmondson:

The Santa Monica Mountains Conservancy (Conservancy) offers the following comments on the La Paz Development Agreement Project Draft Environmental Impact Report (DEIR). In a letter dated February 24, 2003, the Conservancy commented on the Notice of Preparation (NOP) for this project. We incorporate those comments into this letter by reference.

The Conservancy agrees that the cumulative impacts to biological resources associated with the project remain potentially significant (DEIR, p. v.C-27). For example, the Malibu Bay Company DEIR (2002) identified numerous sensitive wildlife species (notably birds, including raptors) potentially using the Civic Center sites. The La Paz project site is probably utilized by many of these same species. The DEIR (p. v.C-25) states that the cumulative degradation to regional biological resources in the Malibu area from development of existing residential lots, intensification and improvement of existing land use, and development of existing commercial lots such as that proposed, may be regionally significant. The DEIR (p. v.C-27) states that the loss of open space can only be mitigated for by creating new open space where none exists now, and that this is not a practical or viable measure. Although creation of new open space may not be viable, protection of existing open space is viable. Project applicants in various jurisdictions routinely set aside open space for protection in perpetuity to help offset significant adverse project-related or cumulative impacts to biological resources. Given that the cumulative impacts to biological resources will remain significant, an open space dedication is warranted in this case as a feasible means for the lead agency to substantially reduce impacts.

Any avoidance on the project site will preserve at least some of the habitat for the wildlife species potentially using the site, including raptors and mammals. The California Environmental Quality Act (CEQA) dictates and the Conservancy recommends that some

open space be left undisturbed onsite. This should include approximately 250 feet measured from the northern tip of the property southward, encompassing the coastal sage scrub onsite. In addition, the coastal sage scrub located at the northwest portion of the site should be avoided. These areas should not be disturbed by fuel modification or any development, and fencing should not be allowed. A conservation easement should be recorded prior to, or concurrent with, the issuance of the first grading permit, in favor of an appropriate public park agency such as the Mountains Recreation and Conservation Authority.

Inadequate range of alternatives

Clearly the environmentally superior alternative, which saves an undisclosed amount of coastal sage scrub, does not represent an adequate range of development-oriented alternatives. For the environmental document to have an adequate range of alternatives, the Final Environmental Impact Report must include a project disturbance footprint and related protected open space area more or less equivalent to those recommended by the Conservancy in this letter.

Other comments regarding biological resources

Mitigation Measure 6 (DEIR, p. v.C-27) should be modified to require a 2:1 impact to creation mitigation ratio for impacts to coastal sage scrub. Coastal sage scrub is a very threatened plant community as identified by the California Department of Fish and Game, and it has been reduced by about 80-90 percent of its former range. Creation results in a temporal loss of habitat values (i.e., it may take a decade for the created coastal sage scrub to function similarly to mature stands that have been impacted). Also, there is a level of uncertainty that the created coastal sage scrub will be successful. In addition, the habitat quality may not match the naturally occurring coastal sage scrub proposed to be destroyed. For these reasons, a ratio higher than 1:1 is warranted.

The buffers proposed for construction around nests are not appropriate (DEIR, p. v.C-26). Buffer requirements are variable for non-raptor nests, but may be on the order of 300 feet. The California Department of Fish and Game letter on the NOP (February 26, 2003) recommends a minimum 500 foot buffer for all raptor nests.

It is critical that the lighting plan be carefully designed and implemented so as to achieve the goals stated in Mitigation Measure 5 (p. v.C-27), which states that it will be designed to protect nocturnal biological resources. We urge that the lighting plan be available for the City's and public review, prior to final action on this project.

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Thank you for your consideration. Please direct any questions to Judi Tamasi of our staff at the above address and by phone at (310) 589-3200, ext. 121.

Sincerely,

ELIZABETH CHEADLE
Chairperson