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**Rancho Malibu Hotel Project and Notice of Preparation for Environmental Impact
Report No. 12-001, Coastal Development Permit No. 11-028,
Winter Canyon Watershed**

Dear Ms. Danner:

The Santa Monica Mountains Conservancy (Conservancy) appreciates the opportunity to comment on the Rancho Malibu Hotel Project and Notice of Preparation (NOP) for Environmental Impact Report No. 12-001, Coastal Development Permit (CDP) No. 11-028, Winter Canyon watershed. The Conservancy commented on previous versions of the hotel project in letters dated June 19, 1995; August 19, 1996; and October 6, 1997. The Conservancy has since acquired the approximately 84-acre Conservancy-owned Malibu Bluffs Property located south and west of the City's Malibu Bluffs Park.

The California Coastal Commission approved the Malibu Parks Public Access Enhancement Plan-Public Works Plan (PWP), which includes 35 campsites in four camp areas, two new parking areas adjacent to Pacific Coast Highway, new trails, and other support facilities at the Conservancy-owned Malibu Bluffs Property, southwest of the hotel project site. The PWP includes new campsites, trails, parking areas, other support facilities and programs, and habitat restoration at five of the Conservancy's and Mountains Recreation and Conservation Authority's (MRCA's) parks in the City of Malibu and unincorporated Los Angeles County. This is a multi-year, extensive planning effort, and the PWP is currently in litigation. The Conservancy and MRCA are invested in providing a high quality visitor experience at Malibu Bluffs. In particular, the Conservancy is concerned with potentially significant impacts (e.g., from lighting) to the proposed new campsites at the Conservancy-owned Malibu Bluffs Property. As stated in the Conservancy's previous letters, the Conservancy is concerned with maintaining the habitat connections from Malibu

Bluffs, through the hotel property, to the greater Santa Monica Mountains; and maintaining scenic views from public viewing areas in the Santa Monica Mountains.

Summary of Project

According to the NOP, the proposed Rancho Malibu Hotel Project includes a 146-room luxury hotel resort with a floor area ratio (FAR) of 14.45 percent on three vacant parcels totaling 27.8 acres. According to the summary provided on the City's website, there is a long history to this site, with various versions of development proposed and permitted over the years. The City has determined that the conditional use permit (CUP) for the hotel is still valid but the site plan review has expired. Since the project was never evaluated against the Local Coastal Program (LCP; certified in 2002), a new CDP from the City would be required.

According to the NOP, approximately 274,936 square feet of development is proposed both for the main hotel building and the 21 detached, two-story casitas which house the majority of the hotel rooms. The project includes a tentative tract map to create an airspace subdivision to allow each hotel room, as well as two retail space, to be sold individually as commercial condominiums. The project includes a CDP, a CUP, a lot merger, a tentative tract map, a variance for non-exempt grading, a variance for construction on slopes, a variance for parking within the required front yard, a variance for the reduction in the required number of parking spaces, a variance for height of the main building, a site plan review for the height of the casitas, and a minor modification to reduce the required front yard setback.

According to the Draft Environmental Impact Report (DEIR)¹ for a previous hotel project at the site (which had a similar project footprint), that project would have affected nine acres of undisturbed, relatively high quality coastal sage scrub and another 18 acres of disturbed coastal sage scrub interspersed with annual grasslands and ornamental trees. The NOP for the current project states that prior to the Calabasas wildfire of October 1996, approximately eight acres of coastal sage scrub existed along the Civic Center Drive frontage of the property and the northern half of the Malibu Canyon Road frontage. Additional damage to onsite vegetation occurred during the 2007 Malibu Canyon fire. Per

¹Tierra Madre Consultants, Inc. 1995. Proposed Rancho Malibu Mesa Hotel: Biological Assessment. Prepared for: Cotton/Beland/Associates. Review Agency: City of Malibu, Planning Department. June 13. Included in: City of Malibu. 1996. Draft Environmental Impact Report Rancho Malibu Hotel (Conditional Use Permit Application). SCH No. 95051063. July.

the NOP, as part of the previously approved project, a 30-acre conservation easement on a parcel in the Santa Monica Mountains (referred to as the Francisco Property) was recorded.

Land Use and Policy Issues

The Conservancy is concerned that the proposed project may not be consistent with certain provisions of the City's LCP. Given the scale of the project, the need for multiple variances, and the site's location in relation to the Conservancy's Malibu Bluffs Property, the DEIR must thoroughly discuss the project's consistency or inconsistencies with these LCP provisions, and make project changes to achieve consistency with them (*italics added*).

Land Use Plan (LUP) Policy 2.37: Priority shall be given to the development of visitor-serving commercial and/or recreational uses that *complement public recreation areas* or supply recreational opportunities not currently available in public parks or beaches. *Visitor-serving commercial and/or recreational uses may be located near public park and recreation areas only if the scale and intensity of the visitor-serving commercial recreational uses is compatible with the character of the nearby parkland and all applicable provisions of the LCP.*

LUP Chapter 5 New Development. C.2. Land Use Designations: COMMERCIAL VISITOR SERVING (CV): The CV designation provides for visitor serving uses such as hotels and restaurants *that are designed to be consistent with the rural character and natural environmental setting, as well as public open space and recreation uses.*

Furthermore, regarding the land use designation/zoning, because the project is for casitas that can be used as condominiums for 180 days of the year (maximum 30-day stay at a time), it appears that the project may not really meet the intent of the land use designation as a "visitor serving use" in the Coastal Zone. This raises the question of what is the threshold of visitor serving use – in other words, how many days would a facility need to be available for visitors to constitute a visitor serving use? We suggest that if the facility is a hotel every day of the year, that would clearly constitute visitor serving. Additionally, the DEIR must clarify whether an airspace subdivision is even a permitted use within a CV-2 land use designation/zone.

On a similar note, the DEIR must provide sufficient specificity showing how the project will comply with LUP Policy 2.35.

LUP Policy 2.35: New development of luxury overnight visitor-serving accommodations shall be designed to provide for a component of lower cost overnight visitor accommodations (e.g. campground, RV park, hostel, or lower cost hotel/motel). The lower-cost visitor accommodations may be provided on-site, off-site, or through payment of an in-lieu fee into a fund to subsidize the construction of lower- cost overnight facilities in the Malibu-Santa Monica Mountains Coastal Zone area of Los Angeles County or Ventura County. The applicant shall be required to provide lower-cost overnight accommodations consisting of 15 percent of the number of luxury overnight accommodations that are approved.

If low-cost accommodations are not provided onsite, or off-site, then the DEIR must include a mitigation measure with sufficient specificity to address this policy. This would include, but not be limited to, how much funding will be provided by the applicant, what low cost accommodation project the funding will be used for, and when it will be implemented. It is imperative to avoid the situation where a token amount of money is put into a bank account and not used for years, or never used, for the intended mitigation.

The DEIR should also include a discussion of the following policy:

LUP Policy 5.39: Any Coastal Development Permit for a land division resulting in the creation of additional lots shall be conditioned upon the retirement of development credits (TDCs) at a ratio of one credit per new lot created.

Habitat Linkage to Malibu Bluffs and the Greater National Recreation Area

With respect to ecological resources, the Conservancy is interested in ensuring an adequate habitat linkage through the property and maximizing both the retention and unit integrity of the contiguous block of high quality coastal sage scrub habitat onsite. In previous letters on the Rancho Malibu Hotel Project and on the Crummer Site Subdivision Project (just south of the hotel site), the Conservancy addressed the habitat linkage from the Malibu Bluffs northward to the greater Santa Monica Mountains within the Santa Monica Mountains National Recreation Area (SMMNRA). The Conservancy's Malibu Bluffs Property immediately southwest of the project site, on the opposite side of Pacific Coast Highway (PCH) represents a regionally significant block of highly accessible, intact, coastal habitat. The Malibu Bluffs contain a unique assemblage of coastal sage scrub, chaparral, and coastal bluff vegetation elements that is rare in the Santa Monica Mountains. The hotel site is part of this assemblage. Conservancy staff notes that the recovery of the coastal

sage scrub onsite (e.g., purple sage, California sage) on the hotel site since the 2007 fire has been phenomenal. The vegetated area on the bluffs is highly accessible for public enjoyment (e.g. via trails) and it is integral to the ecological viability of a unique component of the park system in the Malibu area of the Santa Monica Mountains. Without question, virtually all mammal, and selected bird populations, will experience an ongoing decline in vigor if this habitat block becomes isolated from the main body of the Santa Monica Mountains.

Early morning (1:30 a.m. to 4:30 a.m.) traffic volumes on PCH and Malibu Canyon Road likely permit successful wildlife crossing of these roadways by mammals, bird species sensitive to human presence, and possibly even reptiles. If future road construction, including road improvements for the subject hotel project, occurs on either section of these two roadways, small pipe culverts (24-36 inch) should be installed for reptiles and small mammals.

The subject site for the proposed hotel represents one of the two remaining habitat linkages between the main body of the Santa Monica Mountains and Malibu Bluffs. The other connection is via Puerco Canyon to the west. The hotel property contains a critical portion of the habitat linkage with the greatest long-term viability between the Conservancy's Malibu Bluffs Property and the nearest large block of habitat located just northeast of the Malibu Canyon Road entrance of Pepperdine University. The DEIR should explore and compare the characteristics of both existing habitat linkages. The site also provides bird habitat for species observed or expected at the site (e.g., white-tailed kite, sharp-shinned hawk, golden eagle, Cooper's hawk, California quail) ¹.

The project proposes to transform a primarily undeveloped open space site to a highly intensive urban use. Given the project location, the biological resources onsite, and the scale of the proposed development, the currently proposed project does not adequately protect, or mitigate for the loss of, this environmentally sensitive habitat area and habitat linkage on the project site. Later in this letter, the Conservancy explains in more detail recommended project changes (e.g., reducing the project footprint along the eastern property boundary and recording a conservation easement) that would help maintain the value of the habitat and the functioning of the habitat linkage through the hotel site.

Aesthetics and Viewshed Issues

The Conservancy is concerned with potentially significant impacts to biological resources (e.g., wildlife at Malibu Bluffs and other native habitat areas throughout the SMMNRA) and recreational resources (e.g., campers at the Conservancy's Malibu Bluffs Property) resulting from increased night-time lighting at the hotel site, given the existing relatively dark onsite conditions. Potentially significant impacts can result from direct views of night-time lights at the hotel site as seen by campers at the Conservancy's Malibu Bluffs Property, and a general increase in night-time glow. The City of Malibu LCP LUP Policy 6.23 states in part:

Exterior lighting (except traffic lights, navigational lights, and other similar safety lighting) shall be minimized, restricted to low intensity fixtures, shielded, and concealed to the maximum feasible extent so that no light source is directly visible from public viewing areas...

The Conservancy requests that the DEIR provide a thorough analysis of the night lighting that will result from the project, and its impacts on the biological resources. Impacts to the proposed campsites at the Conservancy's Malibu Bluffs Property must be addressed. Please clarify what lighting from the parking garage, and rest of the project, would be visible from the Conservancy's Malibu Bluffs Property. Appropriate measures must be included in the DEIR to avoid and minimize night lighting impacts on the Conservancy's Malibu Bluffs Property and throughout the SMMNRA. These can include, but not be limited to shielding night lighting, limiting hours of lighting, limiting the number of lights, limiting strength of lights, limiting the height of lights, and screening with native vegetation. The results of this analysis should be included in the aesthetics and biological resources sections of the DEIR. The DEIR must also address how lighting would be minimized and directed away from this remaining habitat onsite, and how this would be enforced.

Pepperdine University has proposed key lighting mitigation measures as part of their Campus Life Project (e.g., shielding, downward angled orientation, switching out existing clear globe lights on campus with cut-off light fixtures, which are shielded and directed in such a way as to minimize light spillover). It is critical that the DEIR for the proposed hotel project include a comprehensive lighting program to minimize lighting so as not to negate all of Pepperdine University's efforts. The hotel project should be held to the same or stricter standards for lighting analysis and mitigation compared with those required of Pepperdine for the Campus Life Project.

The Conservancy is also concerned with the aesthetic impacts associated with the daytime views of the site with the project, given the project's location at the intersection of two

scenic roads (Malibu Canyon Road and PCH) at a key entrance to the Santa Monica Mountains that leads to anchor parklands in the SMMNRA (e.g., Malibu Creek State Park and King Gillette Ranch), and the project site's rural iconic setting. The Conservancy is concerned with view impacts of the proposed project (daytime as well as night-time) to trail users and future campers at the Conservancy's Malibu Bluffs Property.

It appears from the NOP that the parking garage at the southwest corner of the site would be subterranean. The DEIR should clarify how high the top of the parking garage would be above the existing grade of Malibu Canyon Road in this area. Furthermore, the DEIR should address how much grading is necessary for the parking garage, and to what extent does the parking garage contribute to the need for a variance for non-exempt grading. The DEIR must include a detailed landscape plan identifying which species would be planted around the southwest portion of the site and a time estimate of when the screening would be fully functioning (i.e., when the vegetation would be fully grown). The landscaped vegetation surrounding the west (along Malibu Canyon Road) and south sides (along PCH) of the project site must be limited to native species, in keeping with the setting's character and location, so that it remains indicative of the character of this key entrance to the SMMNRA.

The DEIR should include a visual analysis of the proposed project, and each of its DEIR alternatives, from at least two points from the Conservancy's Malibu Bluffs Property (one of which should be a night-time view), at least one point from the most visible viewpoint from the proposed trails on the Pepperdine Property (proposed as part of the Campus Life Project), at least two points in Malibu Creek State Park, from the Piuma Road overlook, and from at least two points on the Conservancy's 186-acre Dempster/Bovenzi property off of Piuma Road. At least one visual analysis should show the difference between the proposed project and a project alternative with no variances and site plan reviews for height, from a public viewing area where the project would be highly visible.

Need for Project Changes and Project Alternatives

Because of the scale of the project; the need for multiple variances; the quality of the environmentally sensitive habitat onsite; the function of the existing habitat linkage onsite; the key location at an entrance to the SMMNRA; and the potentially significant impacts to biological, visual, recreational, and other environmental resources, the Conservancy recommends several specific project changes and project alternatives. The proposed project, and at least one alternative, should provide an adequate amount of permanently preserved intact open space onsite, specifically along the eastern property boundary. Not

only will this approach have the greatest chance of maintaining the functional habitat linkage onsite, it will provide a valuable amenity for hotel visitors and other visitors to the SMMNRA passing through the area.

The preserved open space along the eastern border of the site should be expanded to allow for a 25 to 30-foot-wide (width can vary) swath of habitat, *which would not be impacted by fuel modification*. To achieve this undisturbed swath of habitat, the project footprint should be reduced such that 25 to 30 feet of undisturbed habitat can be located outside the fuel modification zone alone. This could be done by preserving at least a 225-foot-wide-swath of habitat (200 feet of fuel modification plus 25 feet of undisturbed habitat) along the eastern boundary. This could involve deleting or modifying buildings (e.g., buildings 2, 3, and 4), and rerouting the road to hug the remaining development. Any statement in the DEIR stating that reduction in units to achieve this undisturbed swath of habitat would be economically infeasible must be supported by an economic analysis.

A similar approach would be to develop a fuel modification plan, approved by the Fire Department, which does not require any thinning or irrigation in a 25-foot-wide swath farthest from the buildings (i.e., 175 feet of fuel modification). There may some building design/construction techniques, selected use of wet zones, or strategic location of project elements next to the open space, which possibly could achieve a less than 200-foot-wide fuel modification zone. The hotel site should have enough land to accommodate this preserved open space because of the slopes onsite.

Even though the remaining habitat onsite may be considered by some a habitat island, it is a stepping stone to maintain the habitat linkage from Malibu Bluffs to the greater habitat areas northward throughout the rest of the SMMNRA. Also, preserving native habitat close to where people live/stay is valuable for people's well-being. Interspersing native habitat with the built environment enhances the human quality of life in that portion of SMMNRA.

Specifically, the DEIR should include a mitigation measure that requires the applicant to restore to native woodland the disturbed area at the northern-most part of the project site (just south of the intersection of Malibu Canyon Road and Civic Center Way) within a specified time period. The vertical structure of a native woodland in this area would maximize habitat cover, be relatively fire retardant (i.e., compared with native shrubs), and help maintain the beautiful viewshed along this scenic road (Malibu Canyon Road).

Within the remainder of the preserved open space area that is subject to fuel modification areas, the Conservancy recommends that the DEIR specify that the applicant plant native

trees (including sycamores, bays, coast live oaks, and Fremont's cottonwood) with accompanying irrigation. The intent is that this would continue to contribute to the maintenance of a high quality native habitat linkage.

The Conservancy emphasizes that the alternatives section of the DEIR should not be limited to a discussion of changes in FAR and changes in number of hotel units, without a meaningful consideration of reducing the project footprint. The DEIR must include a modified proposed project, and at least one project alternative, with a reduced project footprint, so as to increase the amount of open space to be preserved permanently onsite. Reducing the number of units while reducing the project footprint would also help bring the scale of the project more into line with the constraints of the site. For example, according to the NOP, the project currently requires a variance for the reduction of parking spaces and a variance for non-exempt grading (of which the grading for the subterranean garage surely contributes).

The DEIR must also include a project alternative that includes heights of the structures that are variance-free. This would limit the height of the main building to 28 feet (to avoid the variance to achieve a 36-foot, 2-inch height), and would limit the height of the casitas to 18 feet (avoiding the need for a variance to achieve 28 feet).

Need for an Onsite Conservation Easement

Because of the scale of the project and the potentially significant impacts to the high quality habitat and the habitat linkage through the site, the DEIR (and all project alternatives) must include in the project description and mitigation measures that the applicant has voluntarily offered a conservation easement over the undeveloped portions of the property. This conservation easement would include the northeastern stretch of the property, portions of eastern end of the southern border of the property fronting PCH (which would remain undeveloped), and the northerly approximately 650-foot-long stretch fronting Malibu Canyon Road. This conservation easement offer should be made in favor of both a public park agency and the City of Malibu. To provide adequate permanent mitigation, this conservation easement must be recorded with a certificate of acceptance signed by the accepting agency (or agencies) prior to the issuance of any and all permits, vegetation removal, grading, or construction.

The conservation easement should prohibit all development and other uses, including fencing, grading, lighting, accessory structures, stables, equestrian facilities, grazing, and vineyards. The DEIR should clarify whether the existing Malibu Canyon Road easement

(shown on the grading plan on the City's website as running through the southeastern portion of the property) would be abandoned. The proposed storm drain in the southeastern portion of the site would be allowed in the conservation easement, provided that slight design changes are made if necessary, to allow wildlife to cross over it. The easement would also allow Fire Department-required fuel modification (with native plants only), irrigation, trails (constructed and managed by the accepting agency), and habitat restoration. Only native plants would be allowed to be planted in the conservation easement area. The accepting agency would also have the right to remove non-native plants, with seven days written notice to the hotel.

This conservation easement is needed to ensure that the open space is actually protected in perpetuity. If the DEIR claims this portion as "open space," it is critical to actually protect it – to say so, then do otherwise would be misleading. This conservation easement would serve to maintain the habitat linkage from the natural habitat to the north by Pepperdine, through the Crummer site, to the habitat on Malibu Bluffs to the south. It would also function as part of a native habitat block. The existing conservation easement on the Francisco property is not enough mitigation to offset the impact of the proposed project on this onsite high quality habitat and habitat linkage, given its location relative to a key entrance to the SMMNRA, scenic roads, and parkland.

Trail Issues

The City's draft Local Coastal Program Parkland and Trails System Map (adopted by the City Council on April 25, 2011) depicts the Malibu Pacific Trail along the northeastern border of the site and the Malibu Creek Trail along the western border of the site. The DEIR should address how the project will incorporate these trails into the design. We recommend that a trail easement (or offer to dedicate trail easement) be included in the project description for a trail along the Malibu Pacific Trail alignment. We also recommend that the DEIR describe how the project elements along the western boundary will not degrade and interfere with the proposed Malibu Creek Trail along Malibu Canyon Road.

Archaeological Issues

The Conservancy is concerned regarding the potential impacts to the documented archaeological sites. Based on archaeological mapping, it appears that in order to implement the project, it would be difficult to avoid the sensitive sites. If the proposed project will result in direct impacts to, and mitigation for impacts to, the archaeological sites

Stephanie Danner, City of Malibu
Rancho Malibu Hotel Project NOP
May 21, 2012

Page 11

onsite, we recommend that the DEIR include a mitigation measure specifying a minimum amount of funding (we suggest no less than \$45,000) that would be provided by the applicant and transferred to a public agency or university. The money would be used to study, document, and prepare mapping of archaeological sites (on other properties in the Coastal Zone), in consultation with a tribal representative.

Thank you for your consideration. Should you have any questions, please contact Paul Edelman, Deputy Director for Natural Resources and Planning, by phone at (310) 589-3200, ext. 128 or by email at edelman@smmc.ca.gov.

Sincerely,

ELIZABETH CHEADLE
Chairperson