

**STAFF REPORT
C56**

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02/04/19
W 24665
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**CONSIDER ACCEPTANCE OF AN OFFER OF DEDICATION
OF LATERAL ACCESS EASEMENT**

PARTY THAT RECORDED OFFER OF DEDICATION:

Marc Maniscalco

PARTY TO ACCEPT EASEMENT:

California State Lands Commission

INTERESTED PARTY:

California Coastal Commission

LOCATION:

The easement is located between the ambulatory mean high tide line of the Pacific Ocean and the deck stringline adjacent to 25350 Malibu Road, APN 4459-017-004 (Subject Property), Malibu, Los Angeles County

BACKGROUND:

Since the adoption of the Constitution of California of 1879, access to California's Public Trust waterways has been a mandated responsibility of State government. The vast majority of the hundreds of title settlement agreements the Commission has entered into since its inception in 1938 have included the provision of public access to the waterways involved.

In the 1960's, an organization with the acronym COAAST (Citizens Organized to Acquire Access to State Tidelands) began a *Save the Coast* campaign that eventually resulted in the adoption of Proposition 20 by the State's voters in 1972. Since the Legislature's passage of the Coastal Act in 1976, more than 1,500 offers to dedicate (OTDs) public access easements, both vertical and lateral (i.e., to and along the coast), have been made involving California's 1,100-mile coastline.

These OTDs were formally made and recorded by property owners as a condition of approval of permits to develop within the Coastal Zone. These OTDs have a 21-year life from the date of recording and will expire if not formally accepted by a public agency within that time period.

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The OTDs were required to ensure protection of existing public rights of use and to mitigate and compensate for the impacts to public access caused by development. In many cases, the location of the boundary between the privately-owned uplands and the publicly owned tidelands is unsettled. Furthermore, the public may have acquired rights of use through the doctrine of implied dedication and have rights of recreational use in any area subject to the public easement in navigable waters. Therefore, these OTDs may describe and include areas already having public rights of use or public ownership. Acceptance by the Commission of the OTDs does not change the nature of the existing rights, but removes any question of the public's right of use of the area described.

The California Coastal Commission has requested that the State Lands Commission review and, where appropriate, accept OTDs of lateral access easements involving sandy beach areas lying adjacent to tidelands managed by the Commission. Commission staff is involved in an ongoing process with the Coastal Commission to analyze the OTDs and determine which offers the Commission should accept.

The Commission has already authorized the acceptance of more than 280 OTDs along the coast of California since April 2, 1991, the majority of which are located in the Malibu area of Los Angeles County.

The Commission's liability for holding these lateral parcels is limited by section 831.2 of the Government Code, which provides that a public entity is not liable for injury caused by a natural condition of any unimproved public property. There should be no maintenance and little management required for these easements because of the lack of improvements on the parcels and because the easements simply provide the public with the right to access and use the beach.

OTDs generally involve sandy beach areas lying between the private structure built on the upper beach and the tidelands which are already State-owned and under the Commission's jurisdiction. Therefore, these areas are not only appurtenant to the Commission's existing area of ownership and jurisdiction, but are, for all practical public use purposes, integral to it. Staff reviewed the offer of the property interest shown on the attached Exhibit B and recommends approval.

STAFF ANALYSIS AND RECOMMENDATION:

Statutory Authority:

Public Resources Code sections 6005, 6106, 6216, 6219, and 6301.

Public Trust and State's Best Interests Analysis:

The proposed action involves acceptance of an OTD to secure a public lateral access easement across a privately held parcel. Public access

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easements are vital tools for ensuring California's coastline remains open and accessible to the public. The proposed OTD will run the entire width of the Subject Property from the Mean High Tide Line to the deck stringline. The City of Malibu (City) required the OTD as a condition of approval for Coastal Development Permit No. 14-083, approved by the City on May 2, 2016 as Resolution No. 16-34.

Marc Maniscalco recorded the Irrevocable Offer to Dedicate Public Access Easement and Declaration of Restrictions on May 2, 2018, as Document No. 20180430861, Official Records of Los Angeles County. The OTD expires on May 1, 2039.

Commission staff has reviewed the recorded OTD and believes it is appropriate for Commission acceptance. Upon approval by the Commission, the Commission's Executive Officer will execute and record a Certificate of Acceptance, accepting the easement on the Subject Property. Once accepted, the easement will create an additional 50 linear feet of public access along the beach adjacent to the Subject Property.

The addition of this easement will address a gap in the existing legal lateral access along this portion of the beach, creating greater certainty for the public that the beach is open to the public. As such, staff believes that the proposed action is consistent with and promotes Public Trust needs and values at this location, at this time, and is in the State's best interests.

OTHER PERTINENT INFORMATION:

1. Staff recommends acceptance of the OTD as it promotes Strategy 1.3 of the Commission's Strategic Plan to promote, expand, and enhance appropriate public use and access to and along the State's inland and coastal waterways.
2. Staff recommends that the Commission find that the subject acceptance of an offer of dedication does not have a potential for resulting in either a direct or a reasonably foreseeable indirect physical change in the environment, and is, therefore, not a project in accordance with the California Environmental Quality Act (CEQA).

Authority: Public Resources Code section 21065 and California Code of Regulations, title 14, sections 15060, subdivision (c)(3), and 15378.

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EXHIBITS:

- A. Location Map
- B-1. Land Description
- B-2. Site Map

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Find that the subject acceptance of an offer of dedication is not subject to the requirements of CEQA pursuant to California Code of Regulations, title 14, section 15060, subdivision (c)(3), because the subject activity is not a project as defined by Public Resources Code section 21065 and California Code of Regulations, title 14, section 15378.

PUBLIC TRUST FINDING:

Find that the acceptance of this Offer to Dedicate is consistent with the Public Trust Doctrine and is in the State's best interests.

AUTHORIZATION:

1. Approve the acceptance of the Irrevocable Offer to Dedicate Public Access Easement recorded on May 2, 2018, as Document No. 20180430861, Official Records of Los Angeles County.
2. Authorize the Executive Officer or designee to execute and record a Certificate of Acceptance on behalf of the California State Lands Commission.



EXHIBIT A

TS 12/13/18

W 24665
 25350 MALIBU ROAD, MALIBU
 LOS ANGELES COUNTY

CALIFORNIA STATE
 LANDS COMMISSION



LATERAL ACCESS EASEMENT

BEING A PORTION OF PARCEL 1 OF THE BELOW DESCRIBED PARCELS OF LAND:

PARCEL 1:

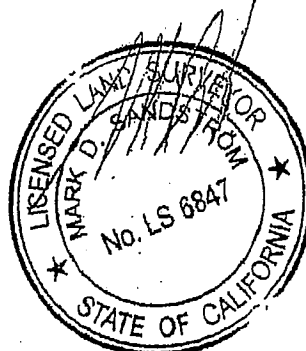
LOT 40 OF TRACT NO. 12939, IN THE CITY OF MALIBU, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 263, PAGES 39 AND 40 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

PARCEL 2:

THAT PORTION OF THE RANCHO TOPANGA MALIBU SEQUIT, IN THE COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS CONFIRMED TO MATTHEW KELLER BY PATENT RECORDED IN BOOK 1, PAGE 407 ET SEQ. OF PATENTS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, BOUNDED ON THE NORTH BY THE 60 FOOT STRIP OF LAND RELINQUISHED TO THE COUNTY OF LOS ANGELES BY RESOLUTION OF THE CALIFORNIA STATE HIGHWAY COMMISSION, RECORDED MARCH 16, 1949 IN BOOK 29600, PAGE 281, OFFICIAL RECORDS OF SAID COUNTY, BOUNDED ON THE SOUTH BY THE NORTHERLY LINE OF LOT 40 OF TRACT NO. 12939, AS PER MAP RECORDED IN BOOK 263, PAGES 39 AND 40 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY; BOUNDED ON THE EAST BY THE NORTHERLY PROLONGATION OF THE EASTERLY LINE OF SAID LOT 40 AND BOUNDED ON THE WEST BY THE NORTHERLY PROLONGATION OF THE WEST LINE OF SAID LOT 40.

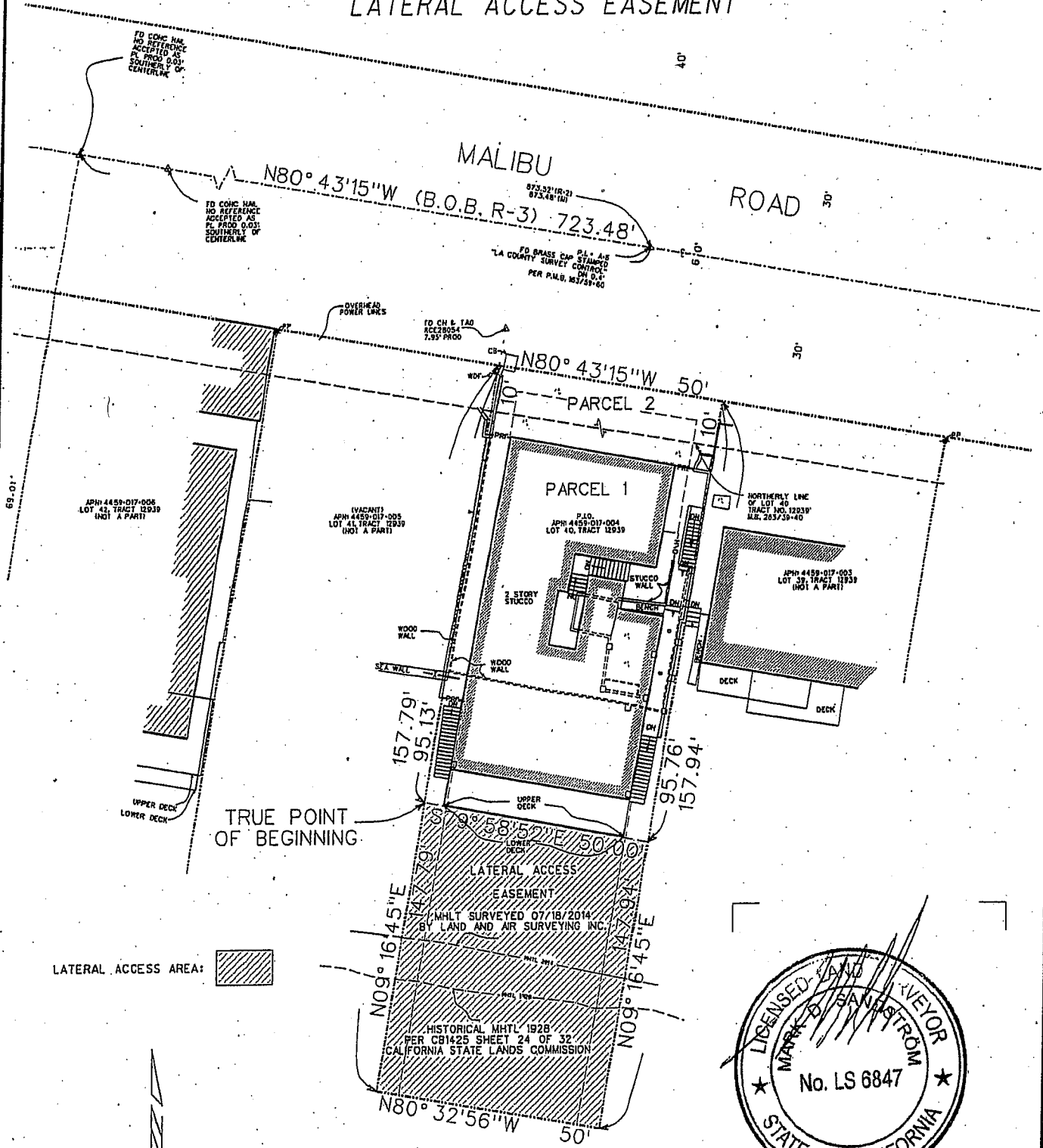
SAID PORTION OF THE ABOVE DESCRIBED PARCELS 1 AND 2 LIES SOUTHERLY OF THE FOLLOWING DESCRIBED LINE:

BEGINNING AT THE NORTHWEST CORNER OF ABOVE DESCRIBED PARCEL 2; THENCE ALONG THE WESTERLY LINE OF PARCELS 1 AND 2, SOUTH 9° 16' 45" WEST, 95.13 FEET TO THE TRUE POINT OF BEGINNING; THENCE LEAVING SAID WEST LINE SOUTH 79° 58' 52" EAST, 50.00 FEET TO A POINT ON THE EAST LINE OF SAID PARCEL 1, SAID POINT BEING SOUTH 9° 16' 45" WEST, 95.76 FEET FROM THE NORTHEAST CORNER OF SAID PARCEL 2 AND THE END OF THIS DESCRIBED LINE.



25350 Malibu Road, Malibu, Los Angeles County

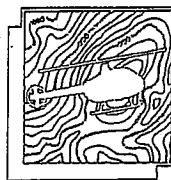
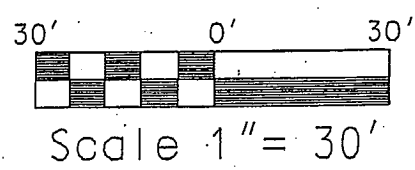
LATERAL ACCESS EASEMENT



LATERAL ACCESS AREA:



NOTE: THE SOUTHERLY BOUNDARY OF THE EASEMENT AREA IS AMBULATORY AND IS DEPICTED FOR ILLUSTRATIVE PURPOSES ONLY



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