

STAFF REPORT

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06/28/19

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**CONSIDER ACCEPTANCE OF AN OFFER OF DEDICATION
OF LATERAL ACCESS EASEMENT**

PARTY THAT RECORDED OFFER OF DEDICATION:

Malibu Property Holdings LLC, a California limited liability company

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 dripline adjacent to 18954 Pacific Coast Highway, Assessor Parcel Number 4449-002-043 (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 1960s, 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. They 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-1 and recommends approval.

STAFF ANALYSIS AND RECOMMENDATION:

Statutory Authority:

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

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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 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 dripline. The Coastal Development Permit (No. 14-020) that required the OTD at 18954 Pacific Coast Highway as a condition was approved on June 6, 2016, by the City of Malibu (Resolution No. 16-52).

The Irrevocable Offer to Dedicate Public Lateral Access Easement and Declaration of Restrictions was recorded by Malibu Property Holdings LLC, a California limited liability company, on July 13, 2017, as Document No. 20170785430, Official Records of Los Angeles County. The OTD expires on May 30, 2038.

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 52 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 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 and is in the State's best interests.

OTHER PERTINENT INFORMATION:

1. Acceptance of the OTD is a discretionary action by the Commission. Each time the Commission accepts an OTD, it exercises legislatively delegated authority and responsibility as trustee of the State's Public Trust lands as authorized by law.
2. Acceptance of the OTD 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.
3. Staff has verified that the Assessor Parcel Number (APN) for the property located at 18954 Pacific Coast Highway has changed from APN 4449-002-005 as indicated on the recorded OTD to APN 4449-002-043.

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4. The acceptance of an offer of dedication is not a project as defined by the California Environmental Quality Act because it is an administrative action that will not result in direct or indirect physical changes in the environment.

Authority: Public Resources Code section 21065 and California Code of Regulations, title 14, section 15378, subdivision (b)(5).

EXHIBITS:

- A. Location and Site Map
- B-1. Land Description
- B-2. Sketch to Accompany Land Description

RECOMMENDED ACTION:

It is recommended that the Commission:

PUBLIC TRUST FINDING:

Find that the acceptance of this OTD is consistent with and promotes Public Trust needs and values at this location and is in the State's best interests.

AUTHORIZATION:

1. Approve the acceptance of the Irrevocable Offer to Dedicate Public Lateral Access Easement recorded on July 13, 2017, as Document No. 20170785430, 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 05/15/19

W 24665
 18954 PACIFIC COAST HIGHWAY,
 MALIBU, LOS ANGELES COUNTY

CALIFORNIA STATE
 LANDS COMMISSION



**EXHIBIT C-1
LATERAL ACCESS EASEMENT**

BEING A PORTION OF THE BELOW DESCRIBED PARCEL OF LAND:

THAT PORTION OF PARCEL 64, IN THE CITY OF MALIBU, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS SHOWN ON LICENSED SURVEYOR'S MAP FILED IN BOOK 26, PAGES 43 AND 44 OF RECORD OF SURVEYS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, LYING EASTERLY OF A LINE NORMAL (RADIAL) TO THE NORTHERLY LINE OF SAID PARCEL WHICH PASSES THROUGH A POINT IN SAID NORTHERLY LINE THAT IS DISTANT WESTERLY 54.40 FEET, MEASURED ALONG THE NORTH LINE, FROM THE NORTHEASTERLY CORNER OF SAID PARCEL 64.

ALSO THOSE PORTIONS OF SECTION 31 AND 32, TOWNSHIP 1 SOUTH, RANGE 16 WEST, SAN BERNARDINO BASE AND MERIDIAN, NORTHERLY BY THE CENTER LINE OF PRESENT HIGHWAY IMPROVEMENTS, AS THE SAME IS SHOWN ON MAP ATTACHED TO FIRST AMENDED AND SUPPLEMENTAL COMPLAINT FILED IN CASE NO. 352603, SUPERIOR COURT OF SAID COUNTY, BOUNDED SOUTHERLY BY THE NORTHERLY LINE OF PARCEL 64, AND BOUNDED WESTERLY AND EASTERLY BY THE NORTHERLY PROLONGATION OF THE WESTERLY AND EASTERLY LINES OF THE ABOVE DESCRIBED PORTION OF SAID PARCEL 64.

EXCEPT THEREFROM THE EASTERLY 2 FEET OF SAID LAND.

SAID PORTION OF THE ABOVE DESCRIBED PARCEL INCLUDES THE ENTIRE AREA SOUTHERLY OF THE FOLLOWING DESCRIBED LINE:

BEGINNING AT THE NORTHWEST CORNER OF THE ABOVE DESCRIBED PARCEL; THENCE ALONG THE WESTERLY LINE THEREOF, SOUTH 00°28'50" EAST, 45.88 FEET TO THE **TRUE POINT OF BEGINNING**; THENCE LEAVING SAID WEST LINE, NORTH 89°54'59" EAST, 8.62 FEET; THENCE NORTH 86°44'42" EAST, 43.58 FEET TO A POINT ON THE EAST LINE OF ABOVE SAID PARCEL, SAID POINT BEING SOUTH 00°06'00" EAST, 43.47 FEET FROM THE NORTHEAST CORNER OF SAID PARCEL AND THE END OF THIS DESCRIBED LINE.



EXHIBIT "C-2" LATERAL ACCESS EASEMENT

EXISTING EDGE OF 80' ROADWAY
AS CALCULATED FROM RS 248/63
AND CAL TRANS MAP P-2361B-1

EDGE OF 80' ROADWAY
AS SHOWN ON LS 26/43-44

PACIFIC COAST HIGHWAY

EXISTING CENTERLINE
AS SHOWN ON RS 248/63
AND CAL TRANS MAP P-2361B-1

BC

EC

N89°54'58"E (CALC'D PER COORDS)

111.07'

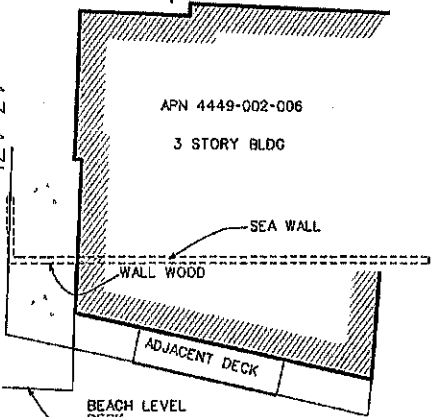
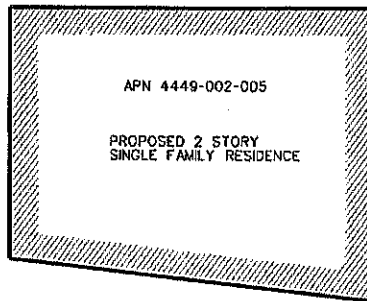
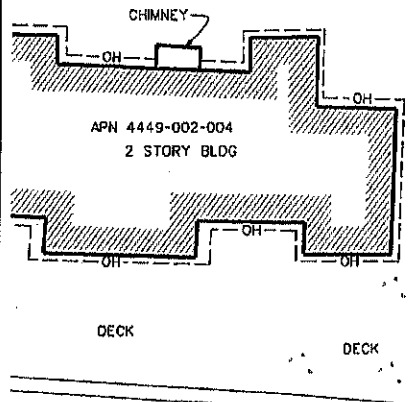
CENTERLINE 80' ROADWAY
AS SHOWN ON LS 26/43-44

220.55'

EXISTING EDGE OF 80' RIGHT OF WA
AS CALCULATED FROM RS 248/63
AND CAL TRANS MAP P-2361B-1

EDGE OF 80' ROADWAY
AS SHOWN ON LS 26/43-44

PP 1027884E
L • 0.83'
Δ • 0°02'47"
R • 1030.00'



45.88'

N89°54'58"E 52.44'

N89°54'59"E 8.62'

N86°44'42"E 43.58'

TRUE POINT
OF BEGINNING

LATERAL ACCESS
EASEMENT

MEAN HIGH TIDE LINE
(4.49' NAVD 1988
MEASURED 12-9-13)

N00°28'50"W

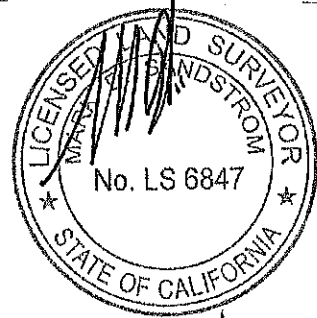
2.00'
N00°06'00"W

PACIFIC OCEAN

LATERAL ACCESS AREA:



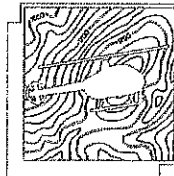
NOTE: THE SOUTHERLY BOUNDARY OF THE EASEMENT AREA IS
AMBULATORY AND IS DEPICTED FOR ILLUSTRATIVE PURPOSES ONLY



6/5/17

STAMP

LAND & AIR SURVEYING
BOUNDARY - TOPOGRAPHIC - ALTA. SURVEYS
SUBDIVISIONS - PARCEL MAPS
22741 PACIFIC COAST HIGHWAY
SUITE #400A
MALIBU, CA 90265
BUSINESS (310) 456-9381
FAX (310) 456-9821



Scale 1" = 20'