

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA
89 SOUTH CALIFORNIA ST., SUITE 200
VENTURA, CA 93001
(805) 585-1800

Th 13c



DATE: December 23, 2009

TO: Commissioners and Interested Persons

FROM: Jack Ainsworth, Deputy Director
Steve Hudson, District Manager
Barbara Carey, Supervisor, Planning and Regulation
Deanna Christensen, Coastal Program Analyst

SUBJECT: City of Malibu Local Coastal Program Amendment No. MAL-MAJ-2-09-A ("Crummer Trust" Parcel) for Public Hearing and Commission Action at the January 14, 2010 Commission Meeting in Huntington Beach.

DESCRIPTION OF THE SUBMITTAL

The City of Malibu is requesting an amendment to the Land Use Plan (LUP) portion of its certified Local Coastal Program (LCP) to delete LUP Policy 2.78 and to modify the requirements of the Planned Development (PD) land use designation to allow for a mix of residential and recreational use instead of commercial visitor-serving use. The amendment further proposes to modify the Planned Development (PD) zone district of the Local Implementation Plan (LIP) portion of the City's LCP to similarly allow for a mix of residential and recreational use instead of commercial visitor-serving use. The Planned Development designation is currently applied to one vacant 24-acre parcel adjacent to Malibu Bluffs Park, formally known as the "Crummer Trust" parcel (APNs 4458-018-018, 019, 002).

The City of Malibu submitted Local Coastal Program Amendment 2-09 on March 23, 2009. The amendment consists of three separate changes to the City's certified LCP: (A) to modify the requirements of the Planned Development (PD) land use and zoning designation to allow for a mix of residential and recreational use instead of commercial visitor-serving use at the "Crummer Trust" property; (B) re-zone property known as 21200 Pacific Coast Highway from Commercial Visitor-Serving to Multi-Family Beachfront; and (C) add water wells to the list of development that may be processed as an administrative coastal development permit. ***This staff report and recommendation only deals with Part A of the amendment.*** In order to facilitate processing of Part A of the amendment request in an expedited manner, the City of Malibu has requested that the amendment request be split, with Part A processed on its own first and Parts B and C be processed together next, at a later date.

The amendment submittal for all parts was deemed complete and filed on April 7, 2009. At its June 2009 Commission meeting, the Commission extended the 90-day time limit to act on Local Coastal Program Amendment 2-09 for a period not to exceed one year.

SUMMARY OF STAFF RECOMMENDATION

Commission staff recommends that the Commission **deny** the proposed City of Malibu LCP Amendment MAL-MAJ-1-09 Part A as submitted and **approve** the amendment subject to suggested modifications. The motions to accomplish this are found on Pages 5-8 of this staff report.

The City of Malibu is requesting an amendment to the Land Use Plan (LUP) portion of its certified LCP to delete LUP Policy 2.78 and to modify the requirements of the Planned Development (PD) land use designation to allow for a mix of residential and recreational use instead of commercial visitor-serving use. The amendment further proposes to modify the Planned Development (PD) zone district of the Local Implementation Plan (LIP) portion of its LCP to similarly allow for a mix of residential and recreational use instead of commercial visitor-serving use. The amendment request is project-driven since the Planned Development designation is currently applied to only one parcel: a 24-acre vacant parcel adjacent to Malibu Bluffs Park, formally known as the “Crummer Trust” parcel (APNs 4458-018-018, 019, 002). The standard of review for the changes to the Land Use Plan is whether the amendment meets the requirements of and is consistent with the policies of Chapter 3 of the Coastal Act. The standard of review for the proposed changes to the Local Implementation Plan is whether the amendment conforms with and is adequate to carry out the provisions of the Land Use Plan (LUP) portion of the certified City of Malibu Local Coastal Program.

The major issues raised by this amendment request are adequate provision of visitor-serving commercial development and public recreational opportunities. The proposed land use and zoning designation change would have an adverse affect on priority visitor-serving opportunities in the area. Residential development is a low priority use within the Coastal Zone. However, with the adoption of the suggested modifications, which includes a provision for dedication of a portion of the subject parcel to recreational use and a new Land Use Plan policy that requires a payment of a fee to mitigate for the loss of visitor-serving land, the proposed land use and zoning designation change would not have an adverse affect on priority visitor-serving opportunities in the area. The mitigation fee shall be for the protection, enhancement and provision of lower-cost visitor-serving uses elsewhere along the coast in the amount of \$750,000 to off-set the loss of the priority land use in the City.

<p>Additional Information: For further information, please contact Deanna Christensen at the South Central Coast District Office of the Coastal Commission at (805) 585-1800. The proposed amendment to the City of Malibu Local Coastal Program (LCP) is available for review at the Ventura Office of the Coastal Commission or at the City of Malibu Planning Department.</p>

SUBSTANTIVE FILE DOCUMENTS

Resolution No. 08-68, adopted by the City Council of the City of Malibu December 8, 2008; Ordinance No. 333, adopted by the City Council of the City of Malibu January 12, 2009; “Initial Study” for the Crummer Site Subdivision, prepared by The Planning Center, dated October 2008; “Study of Lower Cost Overnight Accommodations Serving the City of Malibu and its Vicinity,” by AZ Winter Mesa LLC, dated September 2008; County of Ventura LCP Amendment No. 1-07 and Appeal No. A-4-VNT-07-009 (Crown Point Estates).

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EXHIBITS

- Exhibit 1. Proposed LCP Amendment 2-09-A Text**
- Exhibit 2. City Council Resolution No. 08-68**
- Exhibit 3. City Council Ordinance No. 333**
- Exhibit 4. City of Malibu LCP Land Use Map**
- Exhibit 5. Location Map**
- Exhibit 6. Parcel Map**
- Exhibit 7. Aerial View of “Crummer Trust” Parcel**
- Exhibit 8. Subdivision Site Plan Proposed to City**

I. PROCEDURAL ISSUES

A. STANDARD OF REVIEW

The Coastal Act provides:

The commission shall certify a land use plan, or any amendments thereto, if it finds that a land use plan meets the requirements of, and is in conformity with, the policies of Chapter 3 (commencing with Section 30200)... (Section 30513(c))

The Coastal Act further provides:

The local government shall submit to the Commission the zoning ordinances, zoning district maps, and, where necessary, other implementing actions that are required pursuant to this chapter...

The Commission may only reject ordinances, zoning district maps, or other implementing action on the grounds that they do not conform with, or are inadequate to carry out, the provisions of the certified land use plan. If the Commission rejects the zoning ordinances, zoning district maps, or other implementing actions, it shall give written notice of the rejection, specifying the provisions of the land use plan with which the rejected zoning ordinances do not conform, or which it finds will not be adequately carried out, together with its reasons for the action taken. (Section 30514)

The amendment proposed affects the LUP and LIP components of the certified City of Malibu LCP. The standard of review that the Commission uses in reviewing the adequacy of the land use plan is whether the land use plan is consistent with the policies of Chapter 3 of the Coastal Act. The standard of review for the proposed amendment to the Implementation Plan of the certified Local Coastal Program, pursuant to Section 30513 and 30514 of the Coastal Act, is whether the proposed amendment is in conformance with, and adequate to carry out, the provisions of the Land Use Plan (LUP) portion of the certified City of Malibu Local Coastal Program. In addition, all Chapter 3 policies of the Coastal Act have been incorporated in their entirety in the certified LUP.

B. PUBLIC PARTICIPATION

Section 30503 of the Coastal Act requires public input in preparation, approval, certification and amendment of any LCP. The City held public hearings on November 6, 2008 and December 8, 2008. The hearings were noticed to the public consistent with Sections 13551 and 13552 of the California Code of Regulations. The City received no written or oral comments regarding the proposed amendment from interested parties or members of the public. Notice of the subject amendment has been distributed to all known interested parties.

C. PROCEDURAL REQUIREMENTS

Pursuant to Section 13551 (b) of Title 14 of the California Code of Regulations, the City resolution for submittal may specify that a Local Coastal Program Amendment will either require formal local government adoption after the Commission approval, or is an amendment that will take effect automatically upon the Commission's approval pursuant to Public Resources Code Sections 30512, 30513, and 30519. The City Council Resolution for this amendment states that the amendment will take effect after Commission certification. However, in this case, because this approval is subject to suggested modifications by the Commission, if the Commission approves this Amendment, the City must act to accept the certified suggested modifications within six months from the date of Commission action in order for the Amendment to become effective (California Code of Regulations, Title 14, Section 13544; Section 13537 by reference). Pursuant to Section 13544, the Executive Director shall determine whether the City's action is adequate to satisfy all requirements of the Commission's certification order and report on such adequacy to the Commission. Should the Commission deny the LCP Amendment, as submitted, without suggested modifications, no further action is required by either the Commission or the City.

II. STAFF MOTIONS, RESOLUTIONS, & RECOMMENDATIONS

Following public hearing, staff recommends the Commission adopt the following resolutions and findings. The appropriate motion to introduce the resolution and a staff recommendation is provided just prior to each resolution.

A. DENIAL OF THE LAND USE PLAN AMENDMENT AS SUBMITTED

MOTION I: *I move that the Commission CERTIFY Amendment MAL-MAJ-2-09-A to the City of Malibu Land Use Plan, as submitted by the City of Malibu.*

STAFF RECOMMENDATION OF REJECTION:

Staff recommends a **NO** vote. Failure of this motion will result in denial of the land use plan as submitted and adoption of the following resolution. The motion to certify as submitted passes only upon an affirmative vote of a majority of the appointed Commissioners.

RESOLUTION TO DENY CERTIFICATION OF THE LAND USE PLAN AMENDMENT AS SUBMITTED:

The Commission hereby denies certification of Amendment MAL-MAJ-2-09-A to the City of Malibu Land Use Plan and adopts the findings set forth below on grounds that the land use plan as submitted does not meet the requirements of and is not in conformity

with the policies of Chapter 3 of the Coastal Act. Certification of the land use plan would not meet the requirements of the California Environmental Quality Act, as there are feasible alternatives and mitigation measures that would substantially lessen the significant adverse impacts on the environment that will result from certification of the land use plan as submitted.

B. CERTIFICATION OF THE LAND USE PLAN AMENDMENT WITH SUGGESTED MODIFICATIONS

MOTION II: *I move that the Commission CERTIFY Amendment MAL-MAJ-2-09-A to the City of Malibu Land Use Plan, if modified as suggested in this staff report.*

STAFF RECOMMENDATION TO CERTIFY IF MODIFIED:

Staff recommends a **YES** vote. Passage of this motion will result in certification of the land use plan with suggested modifications and adoption of the following resolution and findings. The motion to certify with suggested modifications passes only upon an affirmative vote of a majority of the appointed Commissioners.

RESOLUTION TO CERTIFY THE LAND USE PLAN WITH SUGGESTED MODIFICATIONS:

The Commission hereby certifies Amendment MAL-MAJ-2-09-A to the City of Malibu Land Use Plan if modified as suggested and adopts the findings set forth below on grounds that the land use plan with the suggested modifications will meet the requirements of and be in conformity with the policies of Chapter 3 of the Coastal Act. Certification of the land use plan if modified as suggested complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the plan on the environment, or 2) there are no further feasible alternatives and mitigation measures that would substantially lessen any significant adverse impacts on the environment that will result from certification of the land use plan if modified.

C. DENIAL OF THE LOCAL IMPLEMENTATION PLAN AMENDMENT AS SUBMITTED

MOTION I: *I move that the Commission reject the City of Malibu Local Implementation Plan Amendment MAL-MAJ-2-09-A as submitted.*

STAFF RECOMMENDATION OF REJECTION:

Staff recommends a **YES** vote. Passage of this motion will result in rejection of Implementation Program Amendment and the adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the Commissioners present.

RESOLUTION TO DENY CERTIFICATION OF THE LOCAL IMPLEMENTATION PLAN AMENDMENT AS SUBMITTED:

The Commission hereby denies certification of the City of Malibu Local Implementation Plan Amendment MAL-MAJ-2-09-A and adopts the findings set forth below on grounds that the Implementation Plan Amendment as submitted does not conform with, and is inadequate to carry out, the provisions of the certified Land Use Plan as amended. Certification of the Implementation Plan Amendment would not meet the requirements of the California Environmental Quality Act as there are feasible alternatives and mitigation measures that would substantially lessen the significant adverse impacts on the environment that will result from certification of the Implementation Program Amendment as submitted.

D. CERTIFICATION OF THE LOCAL IMPLEMENTATION PLAN AMENDMENT WITH SUGGESTED MODIFICATIONS

MOTION II: *I move that the Commission certify City of Malibu Local Implementation Plan Amendment MAL-MAJ-2-09-A if it is modified as suggested in this staff report.*

STAFF RECOMMENDATION:

Staff recommends a **YES** vote. Passage of this motion will result in certification of the Implementation Plan Amendment with suggested modifications and the adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the Commissioners present.

RESOLUTION TO CERTIFY THE LOCAL IMPLEMENTATION PLAN AMENDMENT WITH SUGGESTED MODIFICATIONS:

The Commission hereby certifies the City of Malibu Local Implementation Plan Amendment MAL-MAJ-2-09-A if modified as suggested and adopts the findings set forth below on grounds that the Implementation Plan Amendment with the suggested modifications conforms with, and is adequate to carry out, the provisions of the certified Land Use Plan as amended. Certification of the Implementation Plan Amendment if modified as suggested complies with the California Environmental Quality Act, because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the Implementation Plan Amendment on the environment, or 2) there are no further feasible alternatives and

mitigation measures that would substantially lessen any significant adverse impacts on the environment.

III. SUGGESTED MODIFICATIONS ON THE LAND USE PLAN AMENDMENT

The staff recommends the Commission certify the following, with the modifications as shown below. The existing language of the certified LCP is shown in straight type. Language recommended by Commission staff to be deleted is shown in ~~line-out~~. Language proposed by Commission staff to be inserted is shown underlined. Other suggested modifications that do not directly change LCP text (e.g., revisions to maps, figures, instructions) are shown in italics.

SUGGESTED MODIFICATION NO. 1

2.78 Modification of the Planned Development (PD) land use designation allowing for a mix of residential and recreational use instead of commercial visitor-serving use on the 24-acre “Crummer Trust” parcel (APNs 4458-018-019, 4458-018-002, 4458-018-018), pursuant to LCP Amendment MAL-MAJ-2-09-A, shall require payment of a fee by the property owner/project proponent, in conjunction with development of the subject property, to mitigate for the loss of visitor-serving land. The mitigation fee shall be used for the protection, enhancement and provision of lower-cost visitor-serving uses.

IV. SUGGESTED MODIFICATIONS ON THE LOCAL IMPLEMENTATION PLAN AMENDMENT

The staff recommends the Commission certify the following, with the modifications as shown below. The existing language of the certified LCP is shown in straight type. Language recommended by Commission staff to be deleted is shown in ~~line-out~~. Language proposed by Commission staff to be inserted is shown underlined. Other suggested modifications that do not directly change LCP text (e.g., revisions to maps, figures, instructions) are shown in italics.

SUGGESTED MODIFICATION NO. 2

LIP Chapter 3

Q. Planned Development (PD) Zone

1. Purpose

The PD District is intended to provide for a mix of residential and recreational development of the “Crummer Trust” property located east of Malibu Bluffs State Park

and south of Pacific Coast Highway (APNs 4458-018-019, 4458-018-002, 4458-018-018).

2. Permitted Uses and Development Criteria

~~The uses and structures permitted and conditionally permitted in the PD District shall be as indicated in the associated approved Planned Development.~~

In addition to the regulations contained in this Chapter, all uses in the PD District shall be subject to the applicable standards located in the Malibu LIP, unless otherwise indicated below.

- a) Residential use shall be allowed on the easternmost approximately 22 acres of the 24-acre parcel at a density of no more than five (5) dwelling units. The allowable permitted and conditionally permitted residential uses shall be limited to those allowed in the Rural Residential Zone. The remaining approximately 2 acres of the parcel that is adjacent to City Bluffs Park shall be dedicated in perpetuity to the City of Malibu for recreational uses. The allowable permitted and conditionally permitted recreational uses shall be limited to those allowed in the Public Open Space Zone.
- b) Instead of the residential structure size requirements set forth in LIP Section 3.6 (K), the total development square footage (TDSF) associated with construction of single family residences on the residential parcels shall not exceed a cumulative total of 54,509 sq. ft. All other provisions of LIP Section 3.6 (K) (1-6) still apply.
- c) As a condition of approval of, and prior to the issuance of a coastal development permit for the subdivision and/or development of the subject "Crummer Trust" parcel, the property owner shall provide mitigation for the loss of visitor-serving uses by satisfying the following:
 - i. A total in-lieu fee of \$750,000 shall be deposited into an interest-bearing account, to be established and managed by the State Coastal Conservancy pursuant to a memorandum of understanding entered into between the Conservancy and the Executive Director of the Coastal Commission. The purpose of this account shall be to provide funding grants to public agencies or non-profit organizations for the provision of lower cost overnight visitor accommodations within or in close proximity to the coastal zone, including but not limited to hostel accommodations, campground accommodations, cabins, or low cost hotel or motel accommodations. Until paid in accordance with the terms and conditions of the coastal development permit, the amount shall be increased every July 1st by an amount calculated on the basis of the percentage change from the year 2009 in the California Consumer Price Index for Urban Consumers as determined by the entity that grants the coastal development permit.

- ii. The entire fee deposited into the special account identified in subparagraph (a) together with any accrued interest shall be used for the purpose set forth in subparagraph (a), and the expenditure of any funds from this account shall be subject to review and approval by the Executive Director of the Coastal Commission. This fee shall be expended within five (5) years of the date the fee is deposited into the account, unless this time limit is extended for good cause for a period not to exceed an additional five (5) years. If the funds are not expended within this time period, the Coastal Commission and the State Conservancy shall agree on an alternative expenditure of the funds for public recreational benefits in the coastal zone.

~~3. Development Criteria~~

~~In addition to the regulations contained in this Chapter, all uses in the PD District shall be subject to the applicable standards located in the Malibu LIP, unless indicated otherwise in the approved Planned Development.~~

V. FINDINGS FOR DENIAL OF THE CITY OF MALIBU LUP/LIP AMENDMENT, AS SUBMITTED, AND FINDINGS FOR APPROVAL OF THE CITY OF MALIBU LUP/IP AMENDMENT, IF MODIFIED AS SUGGESTED

The proposed amendment affects the Land Use Plan (LUP) and Local Implementation Plan (LIP) components of the certified Malibu LCP. The standard of review that the Commission uses in reviewing the adequacy of the LUP amendment is whether the LUP amendment meets the requirements of and is consistent with the policies of Chapter 3 of the Coastal Act. The standard of review for the proposed amendment to the IP of the certified LCP, pursuant to Sections 30513 and 30514 of the Coastal Act, is whether the proposed amendment is in conformance with, and adequate to carry out, the provisions of the LUP portion of the certified City of Malibu LCP.

The following findings support the Commission's approval of the LCP amendment if modified as suggested. The Commission hereby finds and declares as follows:

A. AMENDMENT DESCRIPTION

The City of Malibu is requesting an amendment to the Land Use Plan (LUP) portion of its certified LCP to delete LUP Policy 2.78 and to modify the requirements of the Planned Development (PD) land use designation to allow for a mix of residential and recreational use instead of commercial visitor-serving use. The amendment further proposes to modify the Planned Development (PD) zone district of the Local Implementation Plan (LIP) portion of its LCP to similarly allow for a mix of residential and recreational use instead of commercial visitor-serving use. The Planned Development designation is currently applied to one vacant 24-acre parcel adjacent to Malibu Bluffs Park, formally known as the "Crummer Trust" parcel (APNs 4458-018-018,

019, 002). The Planned Development designation specifies that the “Crummer Trust” parcel shall remain for Commercial Visitor-Serving use unless an agreement was reached with State Parks to move the Bluffs Park athletic fields to the property, at which point the site would be re-designated for a mix of residential and recreational use.

The City’s proposed changes to the LCP are as follows (proposed deletions shown in strikethrough):

Land Use Plan Policy No. 2.78

~~2.78 If an agreement is reached by the State Department of Parks and Recreation to relocate the existing athletic fields at Malibu Bluffs State Park out of the prime view shed of the park onto the 24.9 acre Crummer Family Trust parcel which is adjacent to the State Park on the east and south of Pacific Coast Highway up to 8 residential units shall be permitted on the remainder of the (Crummer Trust) site. Said agreement shall cause the redesignation of the subject site to Residential in the LCP. Said agreement shall not exempt the residential development from compliance with all other provisions of the LCP. If no agreement is reached to relocate the existing athletic fields the permitted use on the Crummer Trust parcel shall remain CV-2 (Commercial Visitor Serving).~~

Land Use Plan Chapter 5, Section C.2 (Land Use Designations)

PLANNED DEVELOPMENT (PD): The PD designation provides for a mix of residential and recreational development on the Crummer Trust property located east of Malibu Bluffs State Park and south of Pacific Coast Highway ~~in the event of permanent relocation of existing athletic fields at Malibu Bluffs State Park out of the prime viewshed of the park in accordance with Policy 2.78 of the Land Use Plan.~~

Local Implementation Plan Chapter 3, Section Q.1 (Zoning Designations)

Planned Development (PD) Zone

1. Purpose

The PD District is intended to provide for a mix of residential and recreational development of the Crummer Trust property located east of Malibu Bluffs State Park and south of Pacific Coast Highway, ~~and other commercial areas in order to encourage innovation in development concepts, land use mixes, and site design. Any planned developments in such commercial areas would require an amendment to the Malibu Local Coastal Program in order to specify the permitted type, density, and intensity of development.~~

2. Permitted Uses

The uses and structures permitted and conditionally permitted in the PD District shall be as indicated in the associated approved Planned Development.

3. Development Criteria

In addition to the regulations contained in this Chapter, all uses in the PD District shall be subject to the applicable standards located in the Malibu LIP, unless indicated otherwise in the approved Planned Development.

B. BACKGROUND

The subject “Crummer Trust” property is an approximately 24-acre vacant parcel situated on a bluff between Pacific Coast Highway (PCH) to the north and Malibu Road and the Pacific Ocean to the south. Single-family residences are situated on both the landward and seaward side of Malibu Road to the south of the subject property. The Pacific Ocean is approximately 300 feet away to the south of the subject site. Immediately north of the subject parcel is Pacific Coast Highway (PCH) and north of PCH are vacant parcels. West of the subject parcel is the City-owned Malibu Bluffs Park, which includes two baseball fields, a soccer field, a playground, parking, and a visitor center. To the west of the City park is the Malibu Bluffs State Recreation Area, public parkland that is owned by the Santa Monica Mountains Conservancy. On the 5.5-acre parcel to the east of the subject property, the City of Malibu has approved a coastal development permit to demolish existing non-residential structures and re-develop the site with four new single-family residences.

Prior to incorporation of the City of Malibu in 1991, the subject property was designated “Commercial/Office” in the Los Angeles County Malibu-Santa Monica Mountains Land Use Plan. At the time the Commission was preparing the Malibu Local Coastal Program in 2002, the City of Malibu and the California Department of Parks and Recreation (State Parks) had been negotiating a proposal for State Parks to fund the transfer of the existing, temporary athletic fields in the adjacent Bluffs Park (State parkland) onto the subject “Crummer Trust” property. The goal of this negotiation was to preserve State parkland for regional park uses and to also preserve the athletic fields for local use. As such, the Commission had certified policies in the Malibu LCP that assigned the property a place-holder zone designation of “Planned Development” and specified that the property shall remain for Commercial Visitor-Serving use (a use given higher priority by the Chapter 3 policies of the Coastal Act) unless an agreement was reached with State Parks to move the Bluffs Park athletic fields to the property, at which point the site would be re-designated for a mix of residential and recreational use.

However, after the LCP was certified by the Commission, a different agreement was reached between State Parks and the City of Malibu. State Parks transferred ownership of Bluffs Park to the Santa Monica Mountains Conservancy and the City of Malibu purchased a portion of Bluffs Park that included the athletic fields and the visitor center facility from the Conservancy. The “Crummer Trust” property was not a part of the transaction. Therefore, pursuant to Policy 2.78 of the certified LUP, this property was to remain for Commercial Visitor-Serving use.

The new owner of the subject “Crummer Trust” property has proposed to the City of Malibu to subdivide the parcel into eight new lots and develop the site with five new single-family residences with a private road in the eastern portion of the site, and

dedication of the westernmost 2-acres of the site to the City of Malibu to expand the adjacent City-owned park with an additional baseball field and 35 parking stalls. The City of Malibu has undertaken an Initial Study of the subdivision and development plan pursuant to CEQA and determined that an EIR is required.

The City and property owner believe that a Commercial Visitor-Serving use is not viable at this site and that a mix of residential and recreational uses would be appropriate and consistent with the intent of a previous agreement contemplated for the site. Recognizing that the resultant conversion of the property from Commercial Visitor-Serving to Residential/Recreational (Planned Development) would reduce the potential for visitor-serving and affordable overnight accommodation use in this area, the property owner has offered to pay an in-lieu mitigation fee of \$750,000 to assist in funding affordable overnight accommodations elsewhere in the coastal zone. However, this proposed fee is not reflected in the proposed LCP amendment request. Moreover, project-specific development criteria and density standards are also not reflected in the proposed LCP amendment request to modify the Planned Development zone designation for the site. Rather, the City is proposing to delete an LCP provision that requires development criteria and density standards be specified in Planned Development zones through an LCP amendment process.

C. CONSISTENCY ANALYSIS

Relevant Coastal Act Policies

The Coastal Act encourages the provision of lower cost visitor and recreational facilities and prioritizes visitor-serving commercial development over residential development. The proposed LUP amendment is not in conformity with the public access and recreation policies of the Coastal Act relating to the provision of visitor serving development. The following Coastal Act policies have been incorporated in their entirety into the certified City of Malibu Land Use Plan as policies.

Section 30213 of the Coastal Act states, in pertinent part:

Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred.

Section 30222 of the Coastal Act states:

The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry.

Section 30223 of the Coastal Act states:

Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.

Section 30250(a) of the Coastal Act states that:

New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. In addition, land divisions, other than leases for agricultural uses, outside existing developed areas shall be permitted only where 50 percent of the usable parcels in the area have been developed and the created parcels would be no smaller than the average size of surrounding parcels.

Section 30252 of the Coastal Act states:

The location and amount of new development should maintain and enhance public access to the coast by (1) facilitating the provision or extension of transit service, (2) providing commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads, (3) providing non-automobile circulation within the development, (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation, (5) assuring the potential for public transit for high intensity uses such as high-rise office buildings, and by (6) assuring that the recreational needs of new residents will not overload nearby coastal recreation areas by correlating the amount of development with local park acquisition and development plans with the provision of onsite recreational facilities to serve the new development.

Other Applicable City of Malibu Land Use Plan Policies

- 2.33** ***Priority shall be given to the development of visitor-serving and commercial recreational facilities designed to enhance public opportunities for coastal recreation. On land designated for visitor-serving commercial and/or recreational facilities, priority shall be given to such use over private residential or general commercial development. New visitor-serving uses shall not displace existing low-cost visitor-serving uses unless an equivalent replacement is provided.***

- 2.34** ***Existing, lower cost visitor-serving and recreation facilities, including overnight accommodations, shall be protected to the maximum feasible extent. New lower cost visitor and recreation facilities, including overnight accommodations, shall be encouraged and provided, where designated on the LUP Map. Priority shall be given to developments that include public recreational opportunities. New or expanded facilities shall be sited and designed to minimize impacts to environmentally sensitive habitat areas and visual resources.***

- 2.36** ***Coastal recreational and visitor serving uses and opportunities, especially lower cost opportunities; shall be protected, encouraged, and where feasible, provided by both public and private means. Removal or conversion of existing lower cost***

opportunities shall be prohibited unless the use will be replaced with another offering comparable visitor serving or recreational opportunities.

- 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.*
- 2.78** *If an agreement is reached by the State Department of Parks and Recreation to relocate the existing athletic fields at Malibu Bluffs State Park out of the prime view shed of the park onto the 24.9 acre Crummer Family Trust parcel which is adjacent to the State Park on the east and south of Pacific Coast Highway up to 8 residential units shall be permitted on the remainder of the (Crummer Trust) site. Said agreement shall cause the redesignation of the subject site to Residential in the LCP. Said agreement shall not exempt the residential development from compliance with all other provisions of the LCP. If no agreement is reached to relocate the existing athletic fields the permitted use on the Crummer Trust parcel shall remain CV-2 (Commercial Visitor Serving).*

Chapter 5, Section C.2

PLANNED DEVELOPMENT (PD): *The PD designation provides for a mix of residential and recreational development on the Crummer Trust property located east of Malibu Bluffs State Park and south of Pacific Coast Highway in the event of permanent relocation of existing athletic fields at Malibu Bluffs State Park out of the prime viewshed of the park in accordance with Policy 2.78 of the Land Use Plan.*

Applicable City of Malibu Implementation Plan Provisions

Chapter 3, Section Q

Planned Development (PD) Zone

1. Purpose

The PD District is intended to provide for a mix of residential and recreational development of the Crummer Trust property located east of Malibu Bluffs State Park and south of Pacific Coast Highway, and other commercial areas in order to encourage innovation in development concepts, land use mixes, and site design. Any planned developments in such commercial areas would require an amendment to the Malibu Local Coastal Program in order to specify the permitted type, density, and intensity of development.

2. Permitted Uses

The uses and structures permitted and conditionally permitted in the PD District shall be as indicated in the associated approved Planned Development.

3. Development Criteria

In addition to the regulations contained in this Chapter, all uses in the PD District shall be subject to the applicable standards located in the Malibu LIP, unless indicated otherwise in the approved Planned Development.

Discussion

Visitor-serving commercial development is considered a priority use under the Coastal Act and the Malibu LCP. The public access policies of the Coastal Act and Malibu LCP require that a range of affordable facilities, including overnight accommodations, be provided in new development along the coast.

Prior to incorporation of the City of Malibu in 1991, the subject property was designated “Commercial/Office” in the Los Angeles County Malibu-Santa Monica Mountains Land Use Plan. At the time the Commission was preparing the Malibu Local Coastal Program in 2002, the City of Malibu and the California Department of Parks and Recreation (State Parks) had been negotiating a proposal for State Parks to fund the transfer of the existing athletic fields in the adjacent Bluffs Park (State parkland) onto the subject “Crummer Trust” property. The goal of this negotiation was to preserve State parkland for regional park uses and to also preserve the athletic fields for local use. As such, the Commission had certified policies in the Malibu LCP that assigned the property a placeholder zone designation of “Planned Development” and specified that the property shall remain designated for Commercial Visitor-Serving use unless an agreement was reached with State Parks to move athletic fields to the property, at which point the site would be re-designated for a mix of residential and recreational use.

However, after the LCP was certified by the Commission, a different agreement was reached between State Parks and the City of Malibu. State Parks transferred ownership of Bluffs Park to the Santa Monica Mountains Conservancy and the City of Malibu purchased a portion of Bluffs Park that included the athletic fields and the visitor center facility from the Conservancy. The “Crummer Trust” property was not a part of the transaction. Therefore, pursuant to Policy 2.78 of the certified LUP, this property was to remain for Commercial Visitor-Serving use.

The proposed LCP amendment consists of a request to delete LUP Policy 2.78 and to modify the requirements of the Planned Development (PD) land use and zoning designation to allow for a mix of residential and recreational use instead of commercial visitor-serving use. The Planned Development designation is currently applied to just one parcel: the vacant 24-acre parcel adjacent to Malibu Bluffs Park that is formally known as the “Crummer Trust” parcel (APNs 4458-018-018, 019, 002). Although not a part of this LCP amendment, specifically, the property owner has brought forth a project to the City of Malibu to subdivide the parcel into eight new lots and develop the site with five new single-family residences with a private road in the eastern portion of the site, and dedication of the westernmost 2-acres of the site to the City of Malibu to expand the adjacent City-owned park with an additional baseball field and 35 parking stalls.

Although the agreement contemplated in LUP Policy 2.78 was never reached affecting the subject property, the policy was clear in specifying that the land use and zoning designation for the property was to be Commercial Visitor-Serving (CV). The site is located in a visible, well-traveled location near State-owned park lands and could potentially support some form of commercial and/or recreational development. Re-designation of the site for residential development would result in lost future opportunity for expanded, enhanced or even lower cost visitor-serving uses at the site. As such, the proposed amendment request will have an adverse affect on priority visitor-serving opportunities in the area. Residential development is a lower priority use within the Coastal Zone.

The City and property owner believe that a Commercial Visitor-Serving use is not viable at this site and that a mix of residential and recreational uses would be appropriate and consistent with the intent of a previous agreement contemplated for the site pursuant to LUP Policy 2.78. Recognizing that the resultant conversion of the land at this property from commercial visitor-serving to residential/recreational would reduce visitor-serving commercial opportunities, the property owner, in consultation with Commission staff, has offered to pay an in-lieu mitigation fee of \$750,000 to assist in funding affordable overnight accommodations elsewhere in the coastal zone. Commission staff has identified potential public projects in the area that are in need of funding to implement affordable visitor-serving accommodations, such as the former Topanga Ranch Motel within Lower Topanga State Park, contemplated by State Parks for rehabilitation.

The property owner has submitted a study to Commission staff that inventories and analyzes lower cost overnight accommodations serving the City of Malibu and its vicinity. The study asserts that commercial offerings in Malibu generally cater to more affluent visitors/consumers rather than visitors seeking low cost overnight accommodations, due in part to the high cost of land in Malibu, which is a major obstacle in constructing new low-cost overnight accommodations. The subject property, in particular, is considered prime real estate given its bluff-top location between Pacific Coast Highway and the ocean. Yet the site is not situated in an area that is physically associated with other recreational uses ordinarily attractive to the visiting public for overnight accommodations. Adjacent land to the west is a City park and State public parkland. Adjacent land to the east and south is residential, at a maximum density of four dwelling units per acre. Adjacent land to the north and northeast is considered Malibu's Civic Center area and is zoned for Commercial and Commercial Visitor-Serving uses. Based on the foregoing considerations, the study concludes that the proposed conversion of the subject property is appropriate and would not represent a significant loss of visitor-serving opportunity because the site is not well-suited for such a use.

The study also asserts that there is ample inventory of low-cost overnight accommodations in the greater Malibu vicinity, particularly in the nearby cities of Agoura Hills, Calabasas, Santa Monica, Venice, and Los Angeles. In addition, the study notes that State Parks and the Santa Monica Mountains Conservancy are developing plans to bring more low-cost overnight accommodation opportunities to the coastal areas of

Malibu and the Santa Monica Mountains, including at the nearby Malibu Bluffs State Recreation Area. Moreover, given the development configuration being considered by the property owner and the City of Malibu for the site (although not a part of the proposed amendment request), the contemplated mix of residential and recreational uses is consistent with the character of the area and is consistent with the adjacent land uses. As such, given that the site-specific study described above is based on substantial evidence and its conclusions are reasonable, the Commission finds that if properly mitigated, the proposed conversion can be found consistent with the Coastal Act. In addition, the conversion would not adversely impact coastal access along the coast or coastal resources, and would allow the clustering of development within or near an existing developed area able to accommodate it, consistent with Section 30250 of the Coastal Act.

Regardless, the proposed amendment would result in the loss of land currently designated for visitor-serving commercial recreational opportunities in contradiction to the public access and recreation policies of the Coastal Act. Specifically, the request is inconsistent with LUP Policies 2.34, 2.36, and 2.37, and Coastal Act Section 30213 that is incorporated as a policy into the Malibu LCP, which require lower cost visitor-serving and recreational facilities be protected, encouraged, and, where feasible, provided. The proposed amendment will also have an adverse effect on the provision of priority visitor-serving commercial recreational facilities pursuant to LUP Policy 2.33 and Section 30222 of the Coastal Act, as incorporated as a policy into the Malibu LCP. Therefore, the amendment must be denied, as submitted.

In order for the proposed land use conversion from Commercial Visitor-Serving to Residential/Recreational to be found consistent with the Coastal Act, it must be appropriately mitigated since the proposed land use change would allow for residential development on the subject property, which is not a priority use within the Coastal Zone. Ideally, the loss of area designated for commercial visitor-serving uses should be offset by re-designating some other equivalent or superior area within the City that is designated with a low priority land use, to a visitor-serving use. The City did not identify any other equivalent area that would be designated for visitor serving use. As an alternative, the property owner has offered to pay an in-lieu mitigation fee of \$750,000 to assist in funding affordable overnight accommodations elsewhere in the coastal zone. This proposed fee was calculated based upon the Crown Pointe Estates Project and LCP Amendment in Ventura County that the Commission had considered and approved at the April 2008 Commission hearing. In Ventura County LCP Amendment No. MAJ-1-07 (Crown Pointe Estates) and related Coastal Development Permit Appeal No. A-4-VNT-07-009, the Commission approved the conversion of 2.9 acres of vacant land designated for commercial use to residential use (four new residential lots). However, as a condition of approval of the amendment and permit to ensure consistency with the Coastal Act's visitor serving commercial requirements, the Commission required payment of a mitigation fee by the project proponent, in the amount of \$557,084, for the construction of eleven new cabins at Leo Carrillo State Beach Park in order to provide low-cost, visitor-serving, overnight accommodations. In consultation with State Parks,

the Commission found that this mitigation fee would be adequate to fund the construction of eleven new overnight cabins at the State park.

Given that the subject "Crummer Trust" parcel is substantially larger than the Crown Pointe Estates parcel, and therefore represents a greater loss of visitor-serving opportunity, Commission staff has found that a mitigation fee of \$750,000 would be appropriate in this case. However, the applicant apparently did not propose the mitigation fee as part of its LCPA application to the City and so this proposed fee is not reflected in the proposed LCP amendment request. Therefore, in order to ensure that the proposed amendment will not result in the loss of visitor-serving and recreational opportunities in the Coastal Zone, the Commission is requiring a suggested modification to implement the property owner's mitigation fee offer. Thus, **Suggested Modification Nos. 1 and 2** would require the City to add a new Land Use Plan policy and associated Implementation Plan provisions that require payment of a \$750,000 fee to mitigate for the loss of visitor-serving land as a condition of approval and prior to the issuance of any coastal development permit for subdivision or development of the subject property. The purpose of the fee would be to fund new local public access and lower cost overnight visitor accommodations, such as the rehabilitation by State Parks of the former Topanga Ranch Motel within Lower Topanga State Park, unless such local project are not able to implemented in a timely manner or if a higher priority project is identified in other areas of the Coastal Zone. Specifically, the in-lieu fee of \$750,000 shall be deposited into an interest-bearing account, to be established and managed by the State Coastal Conservancy pursuant to a memorandum of understanding entered into between the Conservancy and the Executive Director of the Coastal Commission. The account shall provide funding grants to public agencies or non-profit organizations for the provision of lower cost overnight visitor accommodations within or in close proximity to the coastal zone, including but not limited to hostel accommodations, campground accommodations, cabins, or low cost hotel or motel accommodations. Until paid in accordance with the terms and conditions of the coastal development permit, the amount shall be increased every July 1st by an amount calculated on the basis of the percentage change from the year 2009 in the California Consumer Price Index for Urban Consumers as determined by the entity that grants the coastal development permit. As such, implementation of the mitigation requirement would be carried out through the City's coastal development permit process. The policy includes provisions to adjust the mitigation fee to account for inflation.

The subject parcel is the only parcel in the City currently with the Planned Development (PD) land use and zoning designation. The PD Zone is intended to provide for a mix of residential and recreational development. The terms of the PD Zone are clear in providing that a "planned development" for a specific project would require the approval of an LCP amendment that would specify the permitted type, density, and intensity of development. However, the proposed LCP amendment proposes only to delete this requirement. No details regarding the permitted type, density, or intensity of development that would be permitted on the site have been proposed in its place. As such, no site-specific development criteria or density standards by which to judge future development proposals would apply within the proposed PD zone. The lack of specificity

regarding the applicable density criteria and development standards for the Planned Development zone is inadequate for carrying out the provisions of the certified Land Use Plan. Therefore, **Suggested Modification No. 2** is required to add general density standards and development criteria that would be applicable to the subject PD-zoned parcel and consistent with the identified mix of residential and recreational uses proposed to the City by the current property owner. Although not a part of this LCP amendment, specifically, the property owner has proposed to the City of Malibu to subdivide the parcel into eight new lots and develop the site with five new single-family residences with a private road in the eastern portion of the site, and dedication of the westernmost 2-acres of the site to the City of Malibu to expand the adjacent City-owned park with an additional baseball field and 35 parking stalls. As discussed previously, the Commission finds that the proposed density of residential development on the property, combined with dedication of a portion of the property for recreational use, is consistent with both the character of the area and with the adjacent development and land uses.

The proposed clustering of residential development and dedication of a portion of the parcel to the City for recreational use would result in the residential parcels being smaller in size than if the whole parcel acreage were devoted to residential use. Such smaller parcels would result in a reduced allowable total development square footage (TDSF) pursuant to Section 3.6 (K) of the LIP. As part of the project, the property owner has proposed a larger cumulative TDSF for the residential lots than would otherwise be allowed by strict application of the standard on an individual lot basis. While a larger total TDSF would not meet the strict terms of Section 3.6(K), it would be consistent with the maximum TDSF that would otherwise be allowed for five residential parcels created from the existing 24-acre parcel. It is appropriate to allow for a slightly larger cumulative TDSF on the residential lots in recognition of the public recreational benefit of the project (2-acre park dedication). As such, development criteria of a 54,509 sq. ft. maximum cumulative TDSF for all residential lots has been included in **Suggested Modification No. 2**.

Single-family residential development on the subject parcel would allow the clustering of development within or near an existing development area able to accommodate it, consistent with Section 30250 of the Coastal Act, which is incorporated as a policy into the Malibu LCP. Incorporation of a public recreational use element at the site would enhance public access to the coast, consistent with Sections 30223 and 30252 of the Coastal Act, which are incorporated policies in the Malibu LCP.

The Commission therefore finds that, if modified by the City as suggested, the proposed LUP portion of the LCP amendment is consistent with Sections 30213 and 30222 of the Coastal Act. The Commission further finds that only if modified as suggested, will the LIP amendment conform with and be adequate to carry out Policies 2.33, 2.34, 2.36, and 2.37 of the adopted Land Use Plan.

D. CONSISTENCY WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

Section 21080.5 of the California Environmental Quality Act (CEQA) exempts local governments from the requirement of preparing an environmental impact report (EIR) in connection with a local coastal program (LCP). The Commission's Local Coastal Program review and approval procedures have been found by the Resources Agency to be functionally equivalent to the environmental review process. Thus, under Section 21080.5 of CEQA, the Commission is relieved of the responsibility to prepare an environmental impact report for each local coastal program submitted for Commission review and approval. Nevertheless, the Commission is required when approving a local coastal program to find that the local coastal program does conform with the provisions of CEQA.

The proposed LCP amendment has been found not to be in conformance with several Coastal Act and LCP policies regarding promoting visitor serving uses. Thus, the LUP amendment, as submitted, is not consistent with the policies of Chapter 3 of the Coastal Act. In addition, the LIP amendment, as submitted, is not in conformance with, or adequate to carry out, the provisions of the LUP portion of the LCP. Furthermore, the proposed LCP amendment, as submitted, would result in significant adverse environmental impacts within the meaning of the California Environmental Quality Act. To resolve the concerns identified, suggested modifications have been made to the City's LUP and LIP. Without the incorporation of these suggested modifications; the LCP amendment, as submitted, is not consistent with the policies of Chapter 3 of the Coastal Act, nor is the LIP as submitted in conformance or adequate to carry out the certified LUP. The suggested modifications minimize or mitigate any potentially significant environmental impacts of the LCP amendment. As modified, the Commission finds that approval of the LCP amendment will not result in significant adverse environmental impacts within the meaning of the California Environmental Quality Act.

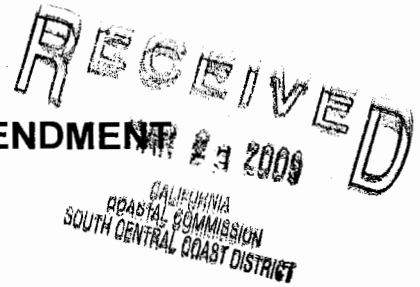
Given the proposed suggested modifications, the Commission finds that the City of Malibu LCP Amendment MAL-MAJ-2-09-A, as modified, will not result in significant unmitigated adverse environmental impacts under the meaning of the CEQA. Furthermore, future individual projects will require coastal development permits issued by the City of Malibu. Throughout the coastal zone, specific impacts associated with individual development projects are assessed through the coastal development permit review process; thus, an individual project's compliance with CEQA would be assured. Therefore, the Commission finds that there are no feasible alternatives within the meaning of CEQA that would reduce the potential for significant adverse environmental impacts.

PROPOSED

MALIBU LOCAL COASTAL PROGRAM AMENDMENT # 3 2009

January 12, 2009

LCPA No. 08-006



The existing language in the certified LCP is shown in straight type. The language proposed by the City of Malibu in this amendment to be deleted is shown in ~~strikethrough~~. The language proposed by the City of Malibu in this amendment to be inserted is shown underlined.

1. Land Use Plan

Chapter 2 (Public Access and Recreation), Section C (Land Use Plan Policies) is hereby amended as follows:

~~2.78 If an agreement is reached by the State Department of Parks and Recreation to relocate the existing athletic fields at Malibu Bluffs State Park out of the prime view shed of the park onto the 24.9 acre Crummer Family Trust parcel which is adjacent to the State Park on the east and south of Pacific Coast Highway up to 8 residential units shall be permitted on the remainder of the (Crummer Trust) site. Said agreement shall cause the redesignation of the subject site to Residential in the LCP. Said agreement shall not exempt the residential development from compliance with all other provisions of the LCP. If no agreement is reached to relocate the existing athletic fields the permitted use on the Crummer Trust parcel shall remain CV-2 (Commercial Visitor Serving).~~

2.78 [RESERVED]

Chapter 5 (New Development) Section C (Land Use Plan Policies) No. 2 (Land Use Designations) is hereby amended as follows:

~~PLANNED DEVELOPMENT (PD): The PD designation provides for a mix of residential and recreational development on the Crummer Trust property located east of Malibu Bluffs State Park and south of Pacific Coast Highway. in the event of permanent relocation of existing athletic fields at Malibu Bluffs State Park out of the prime viewshed of the park in accordance with Policy 2.78 of the Land Use Plan.~~

2. Local Implementation Plan

Chapter 3 (Zoning Designations) Section Q (Permitted Uses) No. 1 (Purpose) is hereby amended as follows:

~~The PD District is intended to provide for a mix of residential and recreational development of the Crummer Trust property located east of Malibu Bluffs State Park and south of Pacific Coast Highway. and other commercial areas in order to encourage innovation in development concepts, land use mixes, and site design. Any planned developments in such commercial areas would require an amendment to the Malibu Local Coastal Program in order to specify the permitted type, density, and intensity of development."~~

Exhibit 1
Malibu LCPA 2-09-A
City of Malibu LCP Amendment Text

RECEIVED
MAR 23 2009
CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

RESOLUTION NO. 08-68

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MALIBU APPROVING AN AMENDMENT TO THE LOCAL COASTAL PROGRAM LAND USE PLAN AND LOCAL IMPLEMENTATION PLAN TO ELIMINATE LAND USE PLAN (LUP) POLICY 2.78 AND MAKE COROLLARY CHANGES IN THE LOCAL IMPLEMENTATION PLAN (LIP) TO CORRECT A DISCREPANCY BETWEEN THE LUP AND LIP (AZ WINTER MESA, LLC)

THE CITY COUNCIL OF THE CITY OF MALIBU DOES HEREBY FIND, ORDER AND RESOLVE AS FOLLOWS:

Section 1. Recitals.

A. On June 30, 2008, Robert Gold on behalf of AZ Winter Mesa, LLC, submitted an application to the Planning Division for Local Coastal Program Amendment (LCPA) No. 08-006.

B. On October 23, 2008, pursuant to Local Coastal Program Local Implementation Plan (LIP) Section 19.3.1, a Notice of Availability for Local Coastal Program Amendment Documents was published in a newspaper of general circulation within the City of Malibu and was mailed to all interested parties, regional, state and federal agencies affected by the proposed amendment, local libraries and media, and the California Coastal Commission.

C. On November 6, 2008, pursuant to LIP Section 19.3.2(A), a Notice of Planning Commission Public Hearing was published in a newspaper of general circulation within the City of Malibu and was mailed to all interested parties; regional, state and federal agencies affected by the amendment; local libraries and media; the California Coastal Commission, and to all property owners and occupants within a 500 foot radius of the subject property.

D. On November 18, 2008, the Planning Commission held a duly noticed public hearing on LCPA No. 08-006, reviewed and considered the agenda report, reviewed and considered written reports, and related information in the record and adopted Planning Commission Resolution No. 08-75 recommending the City Council approve the amendment.

E. On November 27, 2008, pursuant to LIP Sections 19.3 and 19.4, a quarter page Notice of City Council Public Hearing was published in a newspaper of general circulation within the City of Malibu and was mailed to all interested parties; regional, state and federal agencies affected by the amendment; local libraries and media; the California Coastal Commission, and to all property owners and occupants within a 500 foot radius of the subject property.

F. On December 8, 2008, the City Council held a duly noticed public hearing.

Section 2. Environmental Review.

In accordance with the California Environmental Quality Act (CEQA), Public Resources Code Section 21080.9, CEQA does not apply to activities and approvals by the City as necessary for the preparation and adoption of a Local Coastal Program (LCP) amendment. This application is for the amendment of the LCP, which must be certified by the California Coastal Commission before it takes effect.

Exhibit 2
Malibu LCPA 2-09-A
City Council
Resolution No. 08-68
approving LCPA 2-
09-A

Section 3. Local Coastal Program Amendment No. 08-006.

A. Local Coastal Program Amendment No. 08-006 includes amendments to the certified LCP LUP and LIP. Section 4 of this Resolution sets forth the City Council's conclusions with respect to the required findings set forth in LIP Section 19.6 pertaining to amendments to the LCP. This amendment to the LCP removes LUP Policy 2.78, which is outdated and make two corollary changes in the LCP to correct inconsistencies between the LUP and LIP related to this policy. Amendments to the LIP are identified in City Council Ordinance No. 333. Amendments to the LUP are as follows:

1. LUP Policy 2.78 shall be deleted and designated [RESERVED]
2. A corollary change in the LUP to correct inconsistencies between the LUP and LIP related to this policy is as follows.
 - a) The corollary change in the LUP 5.C.2 eliminates the reference to Policy 2.78 as follows:

LUP 5.C.2 – New Development, Land Use Policies, Land Use Designations

PLANNED DEVELOPMENT (PD): The PD designation provides for a mix of residential and recreational development on the Crummer Trust property located east of Malibu Bluffs State Park and south of Pacific Coast Highway.

Section 4. Local Coastal Program Amendment Findings.

Pursuant to LIP Section 19.6, the City Council hereby finds as follows:

A. The proposed LCP text amendment eliminates an outdated policy and makes corollary changes related to this policy. There is no impact on public access to the beach, marine resources, scenic views, or environmentally sensitive habitat areas as a result of these changes. The existing LUP PD zoning designation remains; the permitted uses and development criteria do not change. The proposed text amendment overall is consistent with the LCP and Chapter 3 of the Coastal Act.

B. Based on the evidence in the whole record, the City Council hereby finds that the proposed amendment meets the requirements of, and is in conformance with the policies and requirements of Chapter 3 of the California Coastal Act.

C. The amendment to the Local Coastal Program meets the requirements of, and is in conformance with the goals, objectives and purposes of the LCP as identified in said document.

Section 5. Approval of Amendment to the Certified Local Coastal Program Land Use Plan.

Subject to the contingency set forth in Section 7, the City Council hereby adopts that portion of Local Coastal Program Amendment No. 08-006 amending the LCP Land Use Plan.

Section 6. Submittal to California Coastal Commission.

The City Council hereby directs staff to submit LCPA No. 08-006 to the California Coastal Commission for certification, in conformance with the submittal requirements specified in California Code of Regulation, Title 14, Division 5.5., Chapter 8, Subchapter 2, Article 7 and Chapter 6, Article 2 and Code of Regulations Section 13551, et. seq.

Section 7. Effectiveness.

The LCP amendment approved in this resolution shall become effective only upon certification by the California Coastal Commission of this amendment to the LCP.

Section 8. Certification.

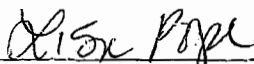
The City Clerk shall certify the adoption of this Resolution.

PASSED, APPROVED AND ADOPTED this 8th day of December 2008.



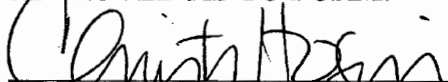
PAMELA CONLEY ULICH, Mayor

ATTEST:



LISA POPE, City Clerk
(seal)

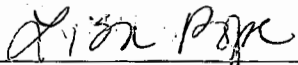
APPROVED AS TO FORM:



CHRISTI HOGIN, City Attorney

I CERTIFY THAT THE FOREGOING RESOLUTION NO. 08-68 was passed and adopted by the City Council of the City of Malibu at the regular meeting thereof held on the 8th day of December, 2008, by the following vote:

AYES:	4	Councilmembers:	Sibert, Wagner, Stern, Conley Ulich
NOES:	0		
ABSTAIN:	0		
ABSENT:	1	Councilmember	Barovsky



LISA POPE, City Clerk
(seal)

ORDINANCE NO. 333

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MALIBU ADOPTING AN AMENDMENT TO THE LOCAL COASTAL PROGRAM LOCAL IMPLEMENTATION PLAN TO ELIMINATE REFERENCE TO LAND USE PLAN POLICY 2.78 TO CORRECT A DISCREPANCY BETWEEN THE LUP AND LIP (AZ WINTER MESA, LLC)

THE CITY COUNCIL OF THE CITY OF MALIBU DOES ORDAIN AS FOLLOWS:

Section 1. Recitals.

A. The history of this Local Coastal Program (LCP) amendment is set forth in the recitals of Resolution No. 08-68, in which the City Council approved an amendment to the Land Use Plan, eliminating Land Use Plan (LUP) Policy 2.78, subject to certification by the California Coastal Commission.

B. On December 8, 2008, the City Council held a duly noticed public hearing to consider the application, the evidence and information provided in support of and in opposition to the application, public testimony of all interested persons and the recommendations of the Planning Commission.

Section 2. Environmental Review.

In accordance with the California Environmental Quality Act (CEQA), Public Resources Code Section 21080.9, CEQA does not apply to activities and approvals by the City as necessary for the preparation and adoption of a Local Coastal Program (LCP) amendment. This application is for the amendment of the LCP, which must be certified by the California Coastal Commission before it takes effect.

Section 3. Local Coastal Program Amendment No. 08-006.

A. Local Coastal Program Amendment No. 08-006 includes amendments to the certified LCP LUP and LIP. Section 4 of this Ordinance sets forth the City Council's conclusions with respect to the required findings set forth in LIP Section 19.6 pertaining to amendments to the LCP. This amendment to the LCP removes LUP Policy 2.78, which is outdated and make two corollary changes in the LCP to correct inconsistencies between the LUP and LIP related to this policy. Amendments to the LUP are identified in City Council Resolution No. 08-68. Amendments to the LIP are as follows:

The corollary change in LIP 3.3(Q)(1) eliminates the erroneous reference (from LUP Policy 2.78) to the site being a commercial use or commercial area. No changes to the permitted uses or development criteria are proposed.

LIP 3.3(Q)(1) - Zoning Designations and Permitted Uses, Planned Development (PD)

1. Purpose

The PD District is intended to provide for a mix of residential and recreational development of the Crummer Trust property located east of Malibu Bluffs State Park and Coast Highway.

Exhibit 3
Malibu LCPA 2-09-A
City Council Ordinance No. 333 approving LCPA 2- 09-A

2. Permitted Uses

The uses and structures permitted and conditionally permitted in the PD District shall be as indicated in the associated approved Planned Development.

3. Development Criteria

In addition to the regulations contained in this Chapter, all uses in the PD District shall be subject to the applicable standards located in the Malibu LIP, unless indicated otherwise in the approved Planned Development.

Section 4. Local Coastal Program Amendment Findings.

Pursuant to LIP Section 19.6, the City Council hereby finds as follows:

A. The proposed LCP text amendment eliminates an outdated policy and makes corollary changes related to this policy. There is no impact on public access to the beach, marine resources, scenic views, or environmentally sensitive habitat areas as a result of these changes. The existing LUP PD zoning designation remains; the permitted uses and development criteria do not change. The proposed text amendment overall is consistent with the LCP and Chapter 3 of the Coastal Act.

B. Based on the evidence in the whole record, the City Council hereby finds that the proposed amendment meets the requirements of, and is in conformance with the policies and requirements of Chapter 3 of the California Coastal Act.

C. The amendment to the Local Coastal Program meets the requirements of, and is in conformance with the goals, objectives and purposes of the LCP as identified in said document.

Section 5. Approval of Amendment to the Certified Local Coastal Program Local Implementation Plan.

Subject to the contingency set forth in Section 7, the City Council hereby adopts that portion of Local Coastal Program Amendment No. 08-006 amending the LCP Local Implementation Plan.

Section 6. Submittal to California Coastal Commission.

The City Council hereby directs staff to submit LCPA No. 08-006 to the California Coastal Commission for certification, in conformance with the submittal requirements specified in California Code of Regulation, Title 14, Division 5.5., Chapter 8, Subchapter 2, Article 7 and Chapter 6, Article 2 and Code of Regulations Section 13551, et. seq.

Section 7. Effectiveness.

The LCP amendment approved in this ordinance shall become effective only upon certification by the California Coastal Commission of this amendment to the LCP.

Section 8. Certification.

The City Clerk shall certify the adoption of this Ordinance.

PASSED, APPROVED AND ADOPTED this 12th day of January, 2009.



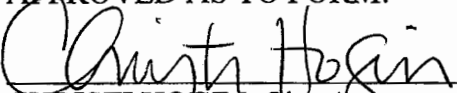
PAMELA CONLEY ULICH, Mayor

ATTEST:



LISA POPE, City Clerk
(seal)

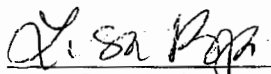
APPROVED AS TO FORM:



CHRISTI HOGIN, City Attorney

I CERTIFY THAT THE FOREGOING ORDINANCE NO. 333 was passed and adopted at the regular City Council meeting of January 12, 2009, by the following vote:

AYES:	5	Councilmembers:	Sibert, Wagner, Barovsky, Stern, Conley Ulich
NOES:	0		
ABSTAIN:	0		
ABSENT:	0		



LISA POPE, City Clerk
(seal)

Local Coastal Program - City of Malibu Land Use Map 3: Dan Blocker to Malibu Pier

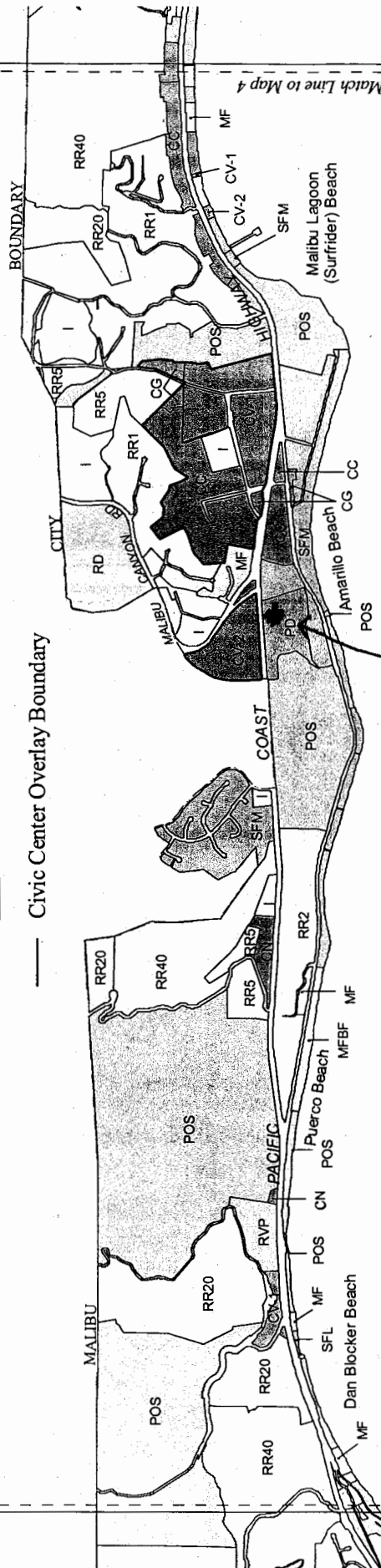
Land Use Designations

- Community Commercial
- Commercial General
- Commercial Neighborhood
- Commercial Visitor Serving 1
- Commercial Visitor Serving 2
- Institutional

- Planned Development
- Multi-Family Residential - 6 du/acre
- Multi-Family Beach Front
- Public Open Space
- Industrial/R&D
- Recreational Vehicular Park
- Rural Residential - 1 du/acre

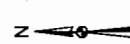
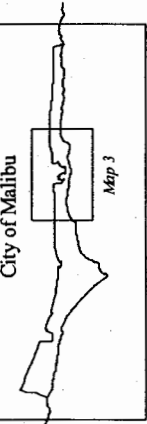
- Rural Residential - 1 du/2 acres
- Rural Residential - 1 du/5 acres
- Rural Residential - 1 du/20 acres
- Rural Residential - 1 du/40 acres
- Single Family Low - 2 du/acre
- Single Family Medium - 4 du/acre

— Civic Center Overlay Boundary



P a c i f i c

O c e a n



Sources: CCC Public Access Database, Malibu/Santa Monica Mountains Area Plan, LA County Parks and Recreation, 1983.
DSM, Revised 8/02

Exhibit 4
Malibu LCPA 2-09-A
Land Use Map

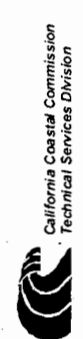
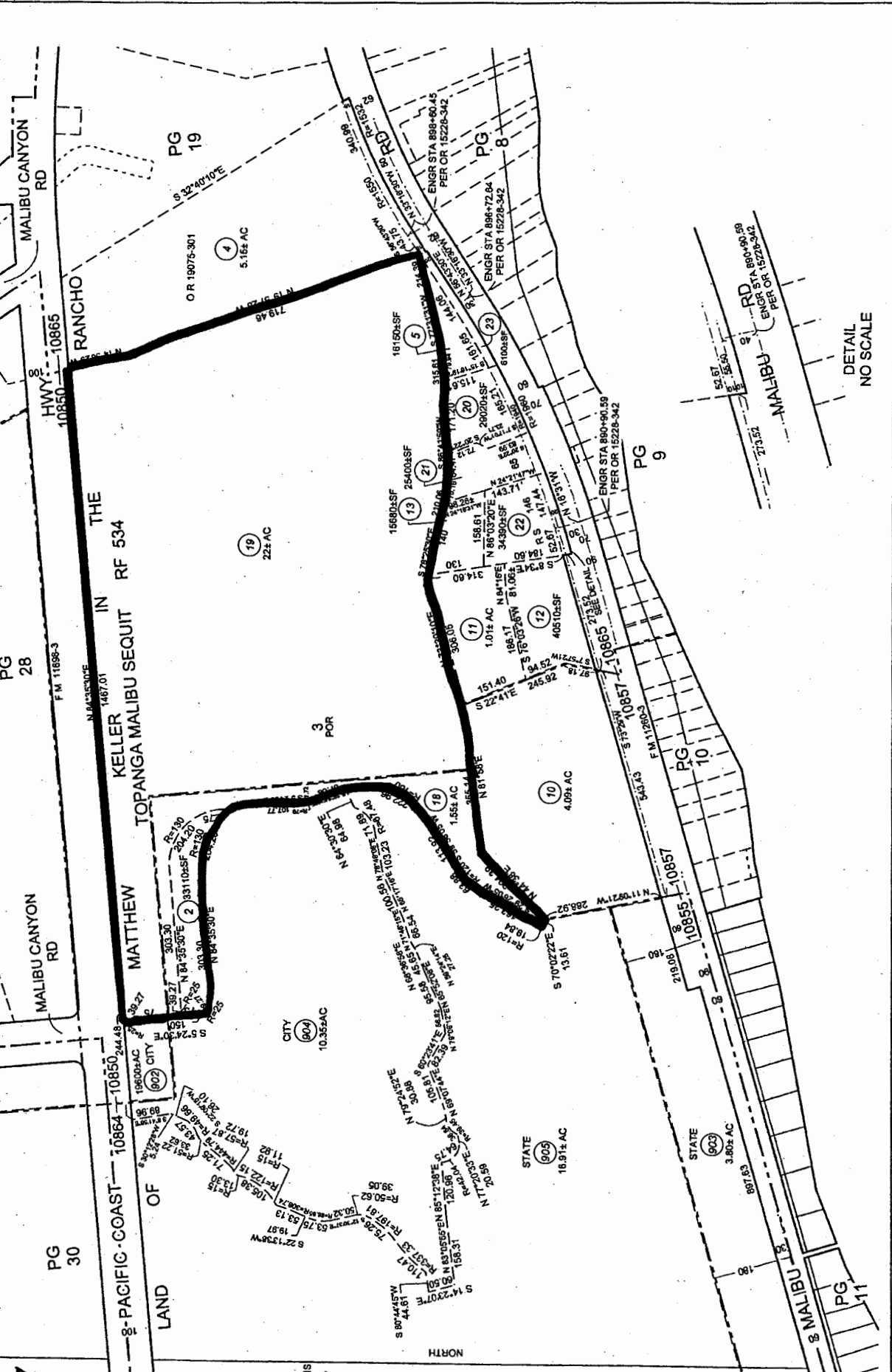




Exhibit 5
 Malibu LCPA 2-09-A
 Location Maps



2007



MAPPING AND GIS
 SERVICES
 SCALE 1" = 200'

PG 16

10864

Exhibit 6
Malibu LCPA 2-09-A
Parcel Map

DETAIL
 NO SCALE

1. Introduction

Aerial Photograph



--- Site Boundary

Source: Google Maps 2008

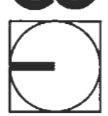
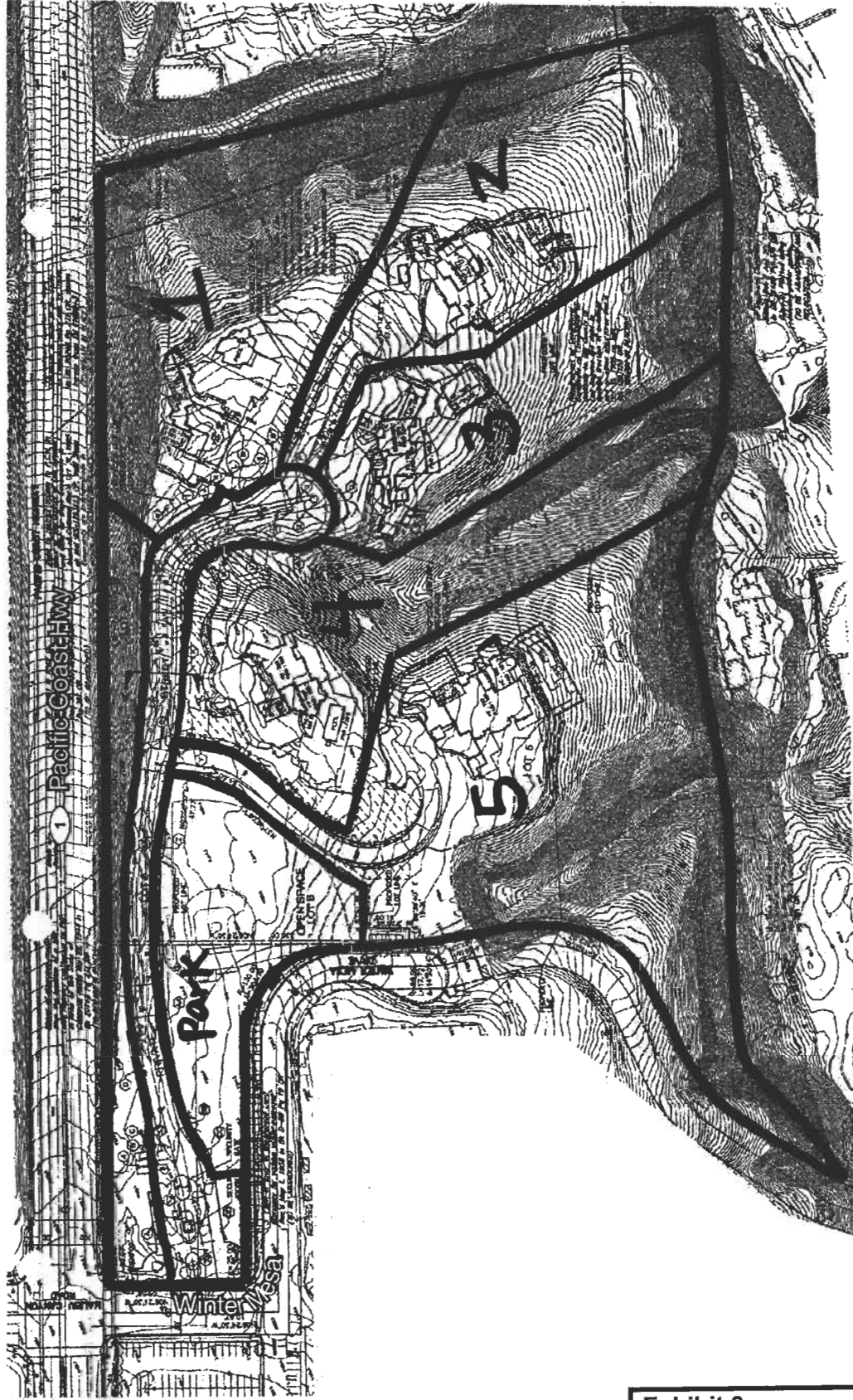
Crummer Site Subdivision Initial Study

0 5
Scale (Feet)

The Planning Center

Exhibit 7
Malibu LCPA 2-09-A
Aerial View of Crummer
Trust Parcel

Site Plan



0 120
Scale (Feet)



Site Boundary

Exhibit 8
Malibu LCPA 2-09-A
Crummer Trust
Parcel Subdivision
Site Plan

Source: Landry Design Group 2008

Crummer Site Subdivision Initial Study