

## CALIFORNIA COASTAL COMMISSION

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



# W13b

**DATE:** October 15, 2015

**TO:** Commissioners and Interested Parties

**FROM:** Charles Lester, Executive Director  
Steve Hudson, Deputy Director  
Deanna Christensen, Coastal Program Analyst

**SUBJECT:** **City of Malibu LCP Amendment No. LCP-4-MAL-14-0408-1 (Malibu Coast Estate/Crummer Trust Property Planned Development):** Executive Director's determination that action by the City of Malibu, acknowledging receipt, acceptance, and agreement with the Commission's certification with suggested modifications is legally adequate. This determination will be reported to the Commission at the November 4, 2015 meeting in Half Moon Bay.

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On August 12, 2015, the Commission approved Local Coastal Program Amendment No. LCP-4-MAL-14-0408-1 with suggested modifications. The subject amendment modified the requirements of the Planned Development (PD) land use designation and zone district to allow for a mix of residential and recreational uses with a specific set of development standards on a vacant 24-acre parcel adjacent to Malibu Bluffs Park, formerly known as the "Crummer Trust" parcel (APNs 4458-018-018, 019, 002), and now commonly called "Malibu Coast Estates."

On September 28, 2015 the City Council adopted Resolution No. 15-63 (attached as Exhibit 1) acknowledging receipt of the Commission's certification of the subject LCP Amendment and accepting and agreeing to all modifications suggested by the Commission. The document was transmitted to Commission staff on October 15, 2015. On October 14, 2015 the City Council adopted Ordinance No. 398 (attached as Exhibit 2) acknowledging receipt of the Commission's certification of the subject LCP Amendment and accepting and agreeing to all modifications suggested by the Commission. The document was transmitted to Commission staff on October 15, 2015.

Pursuant to Section 13544 of the California Code of Regulations, Title 14, Division 5.5, the Executive Director must determine that the action taken by the City of Malibu acknowledging receipt and acceptance of, and agreement with the Commission's certification of the above referenced LCP amendment with suggested modifications is legally adequate and report that determination to the Commission. The certification shall become effective unless a majority of the Commissioners present object to the Executive Director's determination.

I have reviewed the City's acknowledgement and acceptance of, and agreement with the terms and suggested modifications of LCP Amendment LCP-4-MAL-14-0408-1, as certified by the Commission on August 12, 2015, as contained in the adopted Resolution (No. 15-63 adopted September 28, 2015) and Ordinance (No. 398 adopted October 14, 2015), and find that the City's action and notification procedures for appealable development are legally adequate to satisfy the terms and requirements of the Commission's certification. I therefore recommend that the Commission concur in this determination.

RESOLUTION NO. 15-63

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MALIBU APPROVING LOCAL COASTAL PROGRAM AMENDMENT NO. 12-001, AMENDING THE LOCAL COASTAL PROGRAM, LAND USE PLAN TO DELETE LAND USE PLAN POLICY 2.78, AMEND LAND USE PLAN CHAPTER 5 (LAND USE DESIGNATIONS) FOR THE MALIBU COAST ESTATE SUBDIVISION, LOCATED AT 24120 PACIFIC COAST HIGHWAY (4458-018-019, 4458-018-018 AND 4458-018-002), ALSO KNOWN AS THE CRUMMER SITE SUBDIVISION PROJECT, IN THE PLANNED DEVELOPMENT LAND USE DESIGNATION (PCH PROJECT OWNER, LLC).

The City Council of the City of Malibu does hereby find, order, and resolve as follows:

SECTION 1. Recitals.

A. On December 6, 2007, Robert Gold, on behalf of PCH Project Owner LLC submitted Coastal Development Permit (CDP) No. 07-144, Vesting Tentative Tract Map (VTTM) No. 07-033, Local Coastal Program Amendment (LCPA) No. 12-001, Zoning Text Amendment (ZTA) No. 12-001 to the Planning Department for review. The applications were routed for review to the City Biologist, City Geologist, City Environmental Health Administrator, City Public Works Department and the Los Angeles County Fire Department (LACFD) for Local Coastal Program (LCP) and Malibu Municipal Code (MMC) conformance review.

B. On June 2, 2008, a Notice of Coastal Development Permit was posted on the subject property.

C. On July 28, 2008, the City Council approved a contract with The Planning Center to initiate work on the preparation of an Environmental Impact Report (EIR) for the proposed project.

D. On September 30, 2008, the City published a Notice of Preparation (NOP) and Initial Study for the project. The 30-day circulation period was extended for two weeks and ran from September 30, 2008 through November 7, 2008. The initial study determined that an EIR would be the appropriate of environmental document to address potential environmental impacts resulting from proposed project implementation.

E. On October 2, 2008, the City held a public scoping meeting regarding the preparation of the EIR.

F. From 2009 through 2010, the project was placed on hold at the applicant's request. In January 2012, the applicant informed staff that the project could resume.

G. On April 16, 2012, story poles were placed on the project site to demonstrate the location, height, mass and bulk of the five proposed single-family residences and accessory structures. The placement of the story poles was certified by a professional land surveyor.

H. On May 10, 2012, a Notice of Preparation and Initial Study (2012 Initial Study) for the project was published to reestablish baseline conditions due to the lapse in time. The 30-day circulation period ran from May 10, 2012, through June 11, 2012.

I. On June 7, 2012, due to the lapse in time, the City held a second public scoping meeting regarding the preparation of the EIR

J. On March 20, 2013, story poles were repaired and re-installed due to damage from the winds. The placement of the story poles was re-certified by a professional land surveyor on April 13, 2013.

K. On April 5, 2013, due to the lapse in time, a second Notice of Coastal Development Permit was posted on the subject property.

L. On April 13, 2013, the City and the Governor's Office of Planning and Research distributed the Draft EIR to interested parties and responsible agencies for a 45-day public review period, April 3, 2013 through May 20, 2013 (State Clearinghouse No. 2008091155). The City received written responses to the NOP from the following agencies: Department of Fish and Wildlife, the Native American Heritage Commission, the Metropolitan Transportation Authority County of Los Angeles Department of Public Works and the LACFD Land Development Unit.

M. On April 23, 2013, the Environmental Review Board /Subdivision Review Committee reviewed the proposed project and made recommendations. All feasible recommendations have been incorporated into the final project.

N. From June 2013 through November 2013, the EIR consultant worked on responding to comments received during the 45-day public review period and prepared a Final EIR. The Final EIR responds to the comments received on the Draft EIR and proposes text revisions to the Draft EIR.

O. On November 7, 2013, a Notice of Planning Commission Public Hearing was published in a newspaper of general circulation within the City of Malibu and mailed to owners and occupants within 1,000 feet radius of the project site and to interested parties, regional, state and federal agencies.

P. On December 13, 2013, the Final EIR was made available.

Q. On December 20, 2013, an errata to the Final EIR was made available. Response to Comments on the Draft EIR was circulated to all of those who submitted comments as well to interested parties.

R. On January 6, 2014, a second errata to the Final EIR was made available.

S. On January 6, 2014, the Planning Commission held a duly noticed public hearing on the LCPA No. 12-001 and ZTA No. 12-001, reviewed and considered the Final EIR, agenda report, reviewed and considered written reports, public testimony, and other information in the record. The Planning Commission adopted Planning Commission Resolution Nos. 14-01 and 14-02 but took no action on CDP Nos. 07-145 through 07-149 (Lots 1-5), requiring the applicant return to the Planning Commission once complete plans have been submitted for CDP Nos. 07-145 through 07-149 (Lots 1-5) and re-story pole the structures proposed in CDP Nos. 07-145 and 07-146 (Lots 1-2).

T. On January 30, 2014, a Notice of City Council Public Hearing was published in a newspaper of general circulation within the City of Malibu and was mailed to all property owners and occupants within a 500 foot radius of the subject property and to interested parties, regional, state and federal agencies.

U. On February 24, 2014, the City Council held a duly noticed public hearing on the subject application, reviewed and considered the staff report, reviewed and considered written reports, public testimony, and other information in the record.

V. On February 12, 2015, the California Coastal Commission held a public hearing to consider the proposed Local Coastal Program Amendment (LCPA).

W. On April 2, 2014, the City submitted its LCPA to the CCC. The CCC staff deemed the application complete on June 6, 2014.

X. On August 12, 2015, the California Coastal Commission held a public hearing to consider the proposed Local Coastal Program Amendment (LCPA). After hearing all of the testimony regarding the LCPA, the Commission adopted the City of Malibu LCP Amendment LCP-4-MAL-14-0408-1 subject to three suggested modifications consistent with the policies of Chapter 3 of the Coastal Act.

Y. On August 16, 2015, the City received the CCC Resolution of Certification, dated August 14, 2015.

Z. On September 3, 2015, a Notice of City Council Public Hearing to be held on September 28, 2015, was published in a newspaper of general circulation within the City and was mailed to all interested parties; regional, state and federal agencies affected by the amendments; local libraries and media; and the CCC.

AA. On September 28, 2015, 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 Amendment (LCPA). The application is for an amendment to the LCP, which must be certified by the California Coastal Commission before it takes effect. LIP Section 1.3.1 states that the provisions of the LCP take precedence over any conflict between the LCP and the Zoning Ordinance. In order to prevent an inconsistency between the LCP and the City's Zoning Ordinance, if the LCPA is approved, the City must also approve the corollary amendments to the Zoning Ordinance. Without waiving the CEQA exemption referenced above, the City prepared an Environmental Impact Report (EIR) for the Project that analyzed the LCPA and related Zoning Text Amendment together with the proposed subdivision and new development, including the construction of five new single-family residences and associated development. A Draft EIR was prepared for the Project and circulated for public review from April 3, 2013 through May 20, 2013. A Final EIR was prepared and made available to the public on December 13, 2013. The Final EIR was certified by the City Council on February 24, 2014, in accordance with the requirements of Section 15090 of the CEQA Guidelines.

Public Resources Code Section 21166 specifies when a subsequent or supplemental EIR is required and the CEQA Guidelines provide that the standards in Public Resources Code §21166 apply after an EIR has been certified for a project.

Coastal Commission Modification No. 1, which modified the definition of the PD designation, and Coastal Commission Modification No. 3, which added the "Malibu Coast Estate Planned Development Map 1" to the LIP, merely provide additional clarity to the LUP and LIP, and do not result in any new or changed environmental impacts.

Coastal Commission Modification No. 2 modifies development standards contained in the LIP to further limit the scope of the Project from that analyzed in the EIR. Specifically, these modifications (1) reduced the maximum height of the residences on Lots 1, 3, 4, and 5 to 18 feet (Lot 2 was previously limited to a maximum height of 18 feet); (2) reduced the maximum height of the easternmost approximately 2,500 square feet of the residence on Lot 2 by 3 feet (from 18 to 15 feet) and shifted the pool and patio approximately on Lot 2 twelve feet closer to the residence; (3) reduced the maximum height of the southwest corner of the residence on Lot 5 by 3 feet (from 18 to 15 feet) and shifted the pool, patio, and cabana approximately on Lot 5 ten feet to the east and six feet closer to the residence; (4) reduced the size of each residence from an allowable total development square footage (TDSF) of 11,172 square feet to between 9,434 square feet and 10,990 square feet, (5) shifted the guest house on Lot 1 closer to the residence, (6) incorporated a four foot high berm along the eastern edge of Lots 1 and 2, which will

give the appearance of a natural-looking extension of the bluff slopes and help further minimize views of the structures from public viewing areas to the east and southeast, particularly the Civic Center area, (7) relocated the entry gate and guardhouse further away from the public park and reduced the size and height of the guardhouse from 280 square feet and 16.5 feet to 180 square feet and 12 feet; (8) increased the size of the open space conservation easement area by approximately 1.4 acres; (9) modified the landscaping plan to reduce the maximum height of proposed site landscaping from thirty-five (35) feet to twenty-five (25) feet ; and (10) required that landscaping and trees be selected, sited and maintained to not exceed 25 feet. Coastal Commission Modification No. 2 also made other minor changes to further reduce visual impacts, ensure the provision of adequate parking, and to provide additional clarity to the development standards.

Based on the above information and the evidence in the record, the City Council finds that the Suggested Modifications to the LCPA will not create new or substantially increased environmental effects not identified in the previously certified Final EIR or result in a substantial increase in the severity of previously identified significant impacts; there have been no substantial changes with respect to the circumstances under which the Project will be undertaken; and there is no new information that shows that the Suggested Modifications to the LCPA will cause new significant environmental impacts that were not already analyzed in the previously certified Final EIR. All mitigation measures required for the approved Project will continue to be implemented for the modified Project, and no new or revised mitigation measures are required. All of the foregoing modifications to the Project have the effect of reducing further the already less than significant impacts on visual resources.

Therefore, the Suggested Modifications to the LCPA approved by the City Council will not require major revisions or changes to the Final EIR, and the analyses conducted and the conclusions reached in the previously certified Final EIR, certified on February 24, 2014, remain valid, and pursuant to CEQA Guidelines Sections 15162 and 15163, no supplemental environmental review is required or warranted for the Suggested Modifications to the LCPA.

On February 24, 2014, the City Council approved the LCPA for the Project. On August 12, 2015, the Coastal Commission approved the LCPA with the following modifications (together, the Suggested Modifications): (i) revisions to the definition of the Planned Development (PD) designation contained in the Land Use Plan (LUP) (Coastal Commission Modification No. 1); (ii) revisions to certain PD District development standards contained in the Local Implementation Plan (LIP) to further reduce visual impacts of the Project (Coastal Commission Modification No. 2); and (iii) adding the "Malibu Coast Estate Planned Development Map 1" to the LIP (Coastal Commission Modification No. 3).

The Coastal Commission Suggested Modifications to the LCPA are subject to review and approval by the City Council, which must find that the modifications are consistent with the Coastal Act and the Malibu Local Coastal Program (LCP).

Coastal Act Section 30251, which is incorporated into the LCP, requires that "permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas."

The LCP contains policies that require that new development be sited and designed to minimize adverse impacts on scenic resources from scenic roads or public viewing areas to the maximum extent feasible. The following LCP policies and requirements with respect to the protection of scenic resources are applicable to the Project:

*LUP Policy 6.1*

*The Santa Monica Mountains, including the City, contain scenic areas of regional and national importance. The scenic and visual qualities of these areas shall be protected and, where feasible, enhanced.*

*LUP Policy 6.2*

*Places on and along public roads, trails, parklands, and beaches that offer scenic vistas are considered public viewing areas. Existing public roads where there are views of the ocean and other scenic areas are considered Scenic Roads. Public parklands and riding and hiking trails which contain public viewing areas are shown on the LUP Park Map. The LUP Public Access Map shows public beach parks and other beach areas accessible to the public that serve as public viewing areas.*

*LUP Policy 6.4*

*Places on, along, within, or visible from scenic roads, trails, beaches, parklands and state waters that offer scenic vistas of the beach and ocean, coastline, mountains, canyons and other unique natural features are considered Scenic Areas. Scenic Areas do not include inland areas that are largely developed or built out such as residential subdivisions along the coastal terrace, residential development inland of Birdview Avenue and Cliffside Drive on Point Dume, or existing commercial development within the Civic Center and along Pacific Coast Highway east of Malibu Canyon Road.*

*LUP Policy 6.5 and LIP Section 6.5(A)(1)*

*New development shall be sited and designed to minimize adverse impacts' on scenic areas visible from scenic roads or public viewing areas to the maximum feasible extent. If there is no feasible building site location on the proposed project site where development would not be visible, then the development shall*

*be sited and designed to minimize impacts on scenic areas visible from scenic highways or public viewing areas, through measures including, but not limited to, siting development in the least visible portion of the site, breaking up the mass of new structures, designing structures to blend into the natural hillside setting, restricting the building maximum size, reducing maximum height standards, clustering development, minimizing grading, incorporating landscape elements, and where appropriate, berming.*

*LIP Section 6.5(A)(2-4)*

- 2. Where there is no feasible alternative that is not visible from scenic highways or public viewing areas, the development area shall be restricted to minimize adverse impacts on views from scenic highways or public viewing areas.*
- 3. Avoidance of impacts to visual resources through site selection and design alternatives is the preferred method over landscape screening. Landscape screening, as mitigation of visual impacts shall not substitute for project alternatives including resiting, or reducing the height or bulk of structures.*
- 4. New development, including a building pad, if provided, shall be sited on the flattest area of the project site, except where there is an alternative location that would be more protective of visual resources or ESHA.*

Coastal Commission Modification No. 1, which modified the definition of the Planned Development (PD) designation, and Coastal Commission Modification No. 3, which added the "Malibu Coast Estate Planned Development Map 1" to the LIP, provide additional clarity to the LUP and LIP, and do not impact or relate to any LUP policies or LIP requirements.

In response to comments made by Coastal Commissioners at the February 12, 2015, hearing and based on subsequent consultations with Coastal Commission staff, the applicant, PCH Project Owner, LLC, prepared a revised plan for the Project that: (1) reduced the height of the residences on Lots 1, 3, 4, and 5 to 18 feet (Lot 2 was previously limited to a maximum height of 18 feet); (2) reduced the height of the easternmost approximately 2,500 square feet of the residence by 3 feet on Lot 2 (from 18 to 15 feet) and shifted the pool and patio approximately 12 feet closer to the residence on Lot 2; (3) reduced the height of the southwest corner of the residence by 3 feet on Lot 5 (from 18 to 15 feet) and shifted the pool, patio, and cabana approximately ten feet to the east and six feet closer to the residence on Lot 5; (4) reduced the size of each residence from an allowable total development square footage (TDSF) of 11,172 square feet to between 9,434 square feet and 10,990 square feet, (5) shifted the guest house on Lot 1 closer to the residence, (6) incorporated a four foot high berm along the eastern edge of Lots 1 and 2, which will give the appearance of a natural-looking extension of the bluff slopes and help further minimize views of the structures from public viewing areas to the east and southeast, particularly the Civic Center area, (7) relocated the entry gate and guardhouse further away from the public park and reduced the size and height of the guardhouse from 280 square feet and 16.5 feet to 180 square feet and 12 feet; (8)



increased the size of the open space conservation easement area by approximately 1.4 acres; and (9) modified the landscaping plan to reduce the maximum height of proposed site landscaping. At its August 12, 2015, hearing, the Coastal Commission also approved an additional Suggested Modification to require that landscaping and trees be selected, sited and maintained to not exceed 25 feet.

All of the development standards described above are incorporated in the LCPA with the Suggested Modifications to further limit the scope of the Project and further minimize the impact of the Project on scenic resources from the development standards previously approved by the City Council on February 24, 2014.

The applicant submitted a report entitled "Malibu Coast Estate: Additional Visual Simulations" dated June 17, 2015, prepared by Scott Johnson, which includes visual simulations of the Project, modified in accordance with the Suggested Modifications described above. The report includes visual simulations of the Project as seen from scenic areas and public viewing areas in Bluffs Park, Malibu Canyon Road, Pacific Coast Highway, Legacy Park, Surfrider Beach, Malibu Colony Beach, Malibu Pier and the Civic Center. The applicant also submitted additional visual simulations from the same locations to the Coastal Commission on July 31, 2015, which depict the berm along Lots 1 and 2 and the reduction of the height of portions of the residences on Lots 2 and 5. The June 17, 2015, report and the additional visual simulations are included in the record before the City Council. The report and the visual simulations support the conclusion that the Project will not have a significant effect on scenic resources.

In approving the LCPA with the Suggested Modifications, the City Council finds that these changes to the Project will significantly reduce the overall profile of the Project and minimize views of the Project from public viewing locations, and that even with changes to the footprints of the residences on Lots 1, 3, 4, and 5 resulting from the reduction in allowable height, that the revised design on those Lots will not significantly increase the perceived mass or bulk of the Project as seen from the identified scenic areas and public viewing areas. Further, the City Council finds that, with the LCPA and the Suggested Modifications: (i) views of the beach, ocean or coastline from portions of Malibu Canyon Road will not be significantly impacted by the Project; (ii) the Project will not significantly impact views of any beach, ocean, coastline, significant mountain or other unique natural feature from scenic roads, including Pacific Coast Highway and Malibu Canyon Road; (iii) the Project will not interfere with views of any beach, ocean, coastline, significant mountain or other unique natural feature from the public viewing areas within Bluffs Park; (iv) the Project will not interfere with any significant public views of the beach, ocean coast or mountains from the vantage points within Bluffs Park; and (v) the changes to Lots 1 through 5 and the addition of the berm will serve to significantly minimize views of the Project from the downcoast public viewing locations.

Therefore, based on evidence in the record, the City Council hereby finds that the LCPA previously approved by the City Council on February 24, 2014, together with the Suggested Modifications, meet the requirements of, and are in conformance with the

policies and requirements of Chapter 3 of the California Coastal Act and the LCP, in that the Project has been designed to protect views to and along the ocean and scenic coastal areas and minimize adverse impacts on scenic areas visible from scenic roads and public viewing areas to the maximum feasible extent, through measures including, but not limited to, siting development in the least visible portion of the site, breaking up the mass of the new structures, restricting the maximum size of the structures, reducing the maximum allowable height, clustering the development, minimizing grading, incorporating landscape elements and a berm.

SECTION 3. Local Coastal Program Amendments.

LCPA No. 12-001 includes amendments to the Local Coastal Program Land Implementation Plan. Related amendments to Title 17 (Zoning) of the MMC and Local Coastal Plan Implementation Plan are included in Ordinance No. 398. The City Council hereby amends the Land Use Plan as follows.

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

2.78 RESERVE

B. Land Use Plan Chapter 5, Section C.2 (Land Use Designations) is hereby amended to read as follows:

PLANNED DEVELOPMENT (PD): The PD designation is a specially tailored land use designation with a corresponding zoning district that establishes zoning regulations and sets specific development standards for a specific planned development. The PD designation is intended as a unique zoning tool to encourage innovation in development concepts, land use mixes and site designs on the approximately 24-acre Crummer Trust property located east of Malibu Bluffs State Park and south of Pacific Coast Highway (APNs 4458-018-019, 4458-018-002, and 4458-018-018).

NOTE: The owner of the Crummer Trust Site as of the date of the Coastal Commission's action on LCP Amendment No. LCP-4-MAL-14-0408-1 ("Applicant") has entered into an agreement with the Coastal Commission and funded an associated escrow account, thereby committing to pay an in-lieu fee to the Mountains Recreation and Conservation Authority for use in developing lower cost visitor accommodations, to be released upon Applicant's securing of entitlements to subdivide and to develop the site consistent with this revised definition of the PD designation above.

SECTION 4. Local Coastal Program Amendment Findings

A. Based on evidence in the whole record, the City Council hereby finds that the proposed amendments meet the requirements of, and is in conformance with the policies and requirements of Chapter 3 of the California Coastal Act. Chapter 3 of the Coastal Act states that any new development must not impede or adversely impact public access to the beach, must protect marine resources and scenic views, and must not significantly disrupt environmentally sensitive habitat areas. The proposed amendments eliminate an outdated LUP Policy that reflects the Coastal Commission's knowledge of discussions between the City, Department of State Parks and the property owner regarding the transfer of two existing baseball fields from State-owned property to the subject property when the Malibu LCP was being drafted in 2002. In 2006, after the City assumed ownership of the property containing the two ball fields, LUP Policy 2.78 became obsolete because the ball fields were no longer on State property and an agreement was no longer necessary; as a result, LUP Policy 2.78 is now obsolete. There are no impacts on public access to the beach, marine resources, scenic views, or environmentally sensitive habitat areas as a result of these changes.

B. The proposed amendments do not involve a zone change; the existing PD zoning designation remains. The proposed text amendment overall is consistent with the LCP and Chapter 3 of the Coastal Act.

SECTION 5. Approval of Resolution No. 15-63 and Repeal of Resolution No. 14-13

Based on the evidence in the record, the City council hereby adopts LCPA No. 12-001 amending the LUP as modified by the CCC. Resolution No. 14-13 is hereby repealed and any amendments to the LUP authorized by Resolution No. 14-13 are superseded by the amendments set forth in Section 4 of this Resolution.

A. Pursuant to the CCC's Administrative Regulations Section 13544.5, the LCPA certification shall not be deemed final and effective until all of the following occur: 1) the City Council: a) acknowledges receipt of the CCC's Resolution of Certification, including any terms or modifications suggested for final certification; b) accepts and agrees to any such terms and modifications and takes whatever formal action is required to satisfy the terms and modifications; and c) agrees to issue coastal development permits for the total area included in the certified LCP; 2) the Executive Director of the CCC determines in writing that the City's action is legally adequate to satisfy any specific requirements set forth in the CCC's certification order and the Director reports the determination to the CCC at its next regularly scheduled meeting; 3) if the Director finds that the City's action does not conform to the CCC's order, the CCC shall review the City action as if it were a resubmittal; and 4) notice of the certification shall be filed with the Secretary of the Resources Agency for posting and inspection.

B. The City Council acknowledges receipt of the CCC's modifications to LCPA No. 12-001. The City Council further accepts and agrees to the modified language

suggested by the CCC pertaining to the LUP and approves revisions to LCPA No. 12-001 without further changes.

C. The City of Malibu agrees to issue coastal development permits for the total area included in the certified LCP. The proposed amendments to the LUP meet the requirements of, and are in conformance with the policies and requirements of Chapter 3 of the California Coastal Act to the extent necessary to achieve the basic State goals specified in Public Resources Code Section 30001.

SECTION 6. Submittal to California Coastal Commission.

The City Council hereby directs staff to submit LCPA 12-001 to the CCC for certification, in conformance with the submittal requirements specified in California Code of Regulation, Title 14, California Code of Regulations Section 13544.5(a).

SECTION 7. Severability.

If any section, subsection, sentence, clause, portion, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of any competent jurisdiction, such decision shall not affect the validity of the remaining sections, subsections, sentences, clauses, portions, or phrases of this Ordinance. The City Council hereby declares that it would have passed this Ordinance and each and every section, subsection, sentence, clause, portion, or phrase without regard to whether any other section, subsection, sentence, clause, portion, or phrase of this Ordinance would be subsequently declared invalid or unconstitutional.

SECTION 8. Effectiveness.

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


SECTION 9. Certification.

The City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.


PASSED, APPROVED AND ADOPTED this 28<sup>th</sup> day of September 2015.

  
\_\_\_\_\_  
JOHN SIBERT, Mayor

ATTEST:

  
\_\_\_\_\_  
LISA POPE, City Clerk  
(seal)

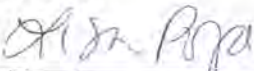
APPROVED AS TO FORM:

  
CHRISTI HOGIN, City Attorney

Any action challenging the final decision of the City made as a result of the public hearing on this application must be filed within the time limits set forth in Section 1.12.010 of the Malibu Municipal Code and Code of Civil Procedure.

I CERTIFY THAT THE FOREGOING RESOLUTION NO. 15-63 was passed and adopted by the City Council of the City of Malibu at the regular meeting thereof held on the 28th day of September 2015 by the following vote:

AYES:	4	Councilmembers:	House, La Monte, Peak, Rosenthal
NOES:	0		
ABSTAIN:	0		
ABSENT:	1	Councilmember:	Sibert

  
LISA POPE, City Clerk  
(seal)

ORDINANCE NO. 398

AN ORDINANCE OF THE CITY OF MALIBU DETERMINING THE PROJECT IS CATEGORICALLY EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, APPROVING LOCAL COASTAL PROGRAM AMENDMENT NO. 12-001 AND ZONING TEXT AMENDMENT NO. 12-001, AMENDING THE LOCAL COASTAL PROGRAM LOCAL IMPLEMENTATION PLAN TO INCORPORATE DEVELOPMENT STANDARDS FOR THE PLANNED DEVELOPMENT ZONING DISTRICT AND AMENDING THE MALIBU MUNICIPAL CODE TO ADD A COROLLARY ZONING TEXT AMENDMENT FOR THE MALIBU COAST ESTATE SUBDIVISION LOCATED AT 24120 PACIFIC COAST HIGHWAY (ASSESSOR PARCEL NUMBERS 4458-018-019, 4458-018-018, AND 4458-018-002), ALSO KNOWN AS THE CRUMMER SITE SUBDIVISION PROJECT, IN THE PLANNED DEVELOPMENT ZONING DESIGNATION (PCH PROJECT OWNER, LLC)

The City Council of the City of Malibu does hereby ordain as follows:

SECTION 1. Recitals.

A. On December 6, 2007, Robert Gold, on behalf of PCH Project Owner LLC submitted Coastal Development Permit (CDP) No. 07-144, Vesting Tentative Tract Map (VTTM) No. 07-033, Local Coastal Program Amendment (LCPA) No. 12-001, Zoning Text Amendment (ZTA) No. 12-001 to the Planning Department for review. The applications were routed for review to the City Biologist, City Geologist, City Environmental Health Administrator, City Public Works Department and the Los Angeles County Fire Department (LACFD) for Local Coastal Program (LCP) and Malibu Municipal Code (MMC) conformance review.

B. On June 2, 2008, a Notice of Coastal Development Permit was posted on the subject property.

C. On July 28, 2008, the City Council approved a contract with The Planning Center to initiate work on the preparation of an Environmental Impact Report (EIR) for the proposed project.

D. On September 30, 2008, the City published a Notice of Preparation (NOP) and Initial Study for the project. The 30-day circulation period was extended for two weeks and ran from September 30, 2008 through November 7, 2008. The initial study determined that an EIR would be the appropriate of environmental document to address potential environmental impacts resulting from proposed project implementation.

E. On October 2, 2008, the City held a public scoping meeting regarding the preparation of the EIR.

F. From 2009 through 2010, the project was placed on hold at the applicant's request. In January 2012, the applicant informed staff that the project could resume.

G. On April 16, 2012, story poles were placed on the project site to demonstrate the location, height, mass and bulk of the five proposed single-family residences and accessory structures. The placement of the story poles was certified by a professional land surveyor.

H. On May 10, 2012, a Notice of Preparation and Initial Study (2012 Initial Study) for the project was published to reestablish baseline conditions due to the lapse in time. The 30-day circulation period ran from May 10, 2012, through June 11, 2012.

I. On June 7, 2012, due to the lapse in time, the City held a second public scoping meeting regarding the preparation of the EIR

J. On March 20, 2013, story poles were repaired and re-installed due to damage from the winds. The placement of the story poles was re-certified by a professional land surveyor on April 13, 2013.

K. On April 5, 2013, due to the lapse in time, a second Notice of Coastal Development Permit was posted on the subject property.

L. On April 13, 2013, the City and the Governor's Office of Planning and Research distributed the Draft EIR to interested parties and responsible agencies for a 45-day public review period, April 3, 2013 through May 20, 2013 (State Clearinghouse No. 2008091155). The City received written responses to the NOP from the following agencies: Department of Fish and Wildlife, the Native American Heritage Commission, the Metropolitan Transportation Authority County of Los Angeles Department of Public Works and the LACFD Land Development Unit.

M. On April 23, 2013, the Environmental Review Board /Subdivision Review Committee reviewed the proposed project and made recommendations. All feasible recommendations have been incorporated into the final project.

N. From June 2013 through November 2013, the EIR consultant worked on responding to comments received during the 45-day public review period and prepared a Final EIR. The Final EIR responds to the comments received on the Draft EIR and proposes text revisions to the Draft EIR.

O. On November 7, 2013, a Notice of Planning Commission Public Hearing was published in a newspaper of general circulation within the City of Malibu and mailed to owners and occupants within 1,000 feet radius of the project site and to interested parties, regional, state and federal agencies.

P. On December 13, 2013, the Final EIR was made available.

Q. On December 20, 2013, an errata to the Final EIR was made available. Response to Comments on the Draft EIR was circulated to all who submitted comments as well as all interested parties.

R. On January 6, 2014, a second errata to the Final EIR was made available.

S. On January 6, 2014, the Planning Commission held a duly noticed public hearing on the LCPA No. 12-001 and ZTA No. 12-001, reviewed and considered the Final EIR, agenda report, other written reports, public testimony, and information in the record. The Planning Commission adopted Planning Commission Resolution Nos. 14-01 and 14-02 but took no action on CDP Nos. 07-145 through 07-149 (Lots 1-5), requiring the applicant return to the Planning Commission once complete plans had been submitted for CDP Nos. 07-145 through 07-149 (Lots 1-5) and the structures proposed in CDP Nos. 07-145 and 07-146 (Lots 1-2) had been story poled again.

T. On January 30, 2014, a Notice of City Council Public Hearing was published in a newspaper of general circulation within the City of Malibu and was mailed to all property owners and occupants within a 500 foot radius of the subject property as well as to interested parties and regional, state and federal agencies.

U. On February 24, 2014, the City Council held a duly noticed public hearing on the subject application, reviewed and considered the staff report, other written reports, public testimony, and information in the record.

V. On February 12, 2015, the California Coastal Commission (CCC) held a public hearing to consider the proposed Local Coastal Program Amendment (LCPA).

W. On April 2, 2014, the City submitted its LCPA to the CCC. The CCC staff deemed the application complete on June 6, 2014.

X. On August 12, 2015, the CCC held a public hearing to consider the proposed Local Coastal Program Amendment. After hearing all of the testimony regarding the LCPA, the Commission adopted the City of Malibu LCP Amendment LCP-4-MAL-14-0408-1 subject to three suggested modifications consistent with the policies of Chapter 3 of the Coastal Act.

Y. On August 16, 2015, the City received the CCC Resolution of Certification, dated August 14, 2015.

Z. On September 3, 2015, a Notice of City Council Public Hearing to be held on September 28, 2015, was published in a newspaper of general circulation within the City and was mailed to all interested parties; regional, state and federal agencies affected by the amendments; local libraries and media; and the CCC.



AA. On September 28, 2015, the City Council held a duly noticed public hearing on this matter.

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 Amendment (LCPA). The application is for an amendment to the LCP, which must be certified by the California Coastal Commission before it takes effect. LIP Section 1.3.1 states that the provisions of the LCP take precedence over any conflict between the LCP and the Zoning Ordinance. In order to prevent an inconsistency between the LCP and the City's Zoning Ordinance, if the LCPA is approved, the City must also approve the corollary amendments to the Zoning Ordinance. Without waiving the CEQA exemption referenced above, the City prepared an Environmental Impact Report (EIR) for the Project that analyzed the LCPA and related Zoning Text Amendment together with the proposed subdivision and new development, including the construction of five new single-family residences and associated development. A Draft EIR was prepared for the Project and circulated for public review from April 3, 2013 through May 20, 2013. A Final EIR was prepared and made available to the public on December 13, 2013. The Final EIR was certified by the City Council on February 24, 2014, in accordance with the requirements of Section 15090 of the CEQA Guidelines.

Public Resources Code Section 21166 specifies when a subsequent or supplemental EIR is required and the CEQA Guidelines provide that the standards in Public Resources Code §21166 apply after an EIR has been certified for a project.

Coastal Commission Modification No. 1, which modified the definition of the PD designation, and Coastal Commission Modification No. 3, which added the "Malibu Coast Estate Planned Development Map 1" to the LIP, merely provide additional clarity to the LUP and LIP, and do not result in any new or changed environmental impacts.

Coastal Commission Modification No. 2 modifies development standards contained in the LIP to further limit the scope of the Project from that analyzed in the EIR. Specifically, these modifications (1) reduced the maximum height of the residences on Lots 1, 3, 4, and 5 to 18 feet (Lot 2 was previously limited to a maximum height of 18 feet); (2) reduced the maximum height of the easternmost approximately 2,500 square feet of the residence on Lot 2 by 3 feet (from 18 to 15 feet) and shifted the pool and patio approximately on Lot 2 twelve feet closer to the residence; (3) reduced the maximum height of the southwest corner of the residence on Lot 5 by 3 feet (from 18 to 15 feet) and shifted the pool, patio, and cabana approximately on Lot 5 ten feet to the east and six feet closer to the residence; (4) reduced the size of each residence from an allowable total development square footage (TDSF) of 11,172 square feet to between 9,434 square feet and 10,990 square feet, (5) shifted the guest house on Lot 1 closer to the residence, (6) incorporated a four foot high berm along the eastern edge of Lots 1 and 2, which will give

the appearance of a natural-looking extension of the bluff slopes and help further minimize views of the structures from public viewing areas to the east and southeast, particularly the Civic Center area, (7) relocated the entry gate and guardhouse further away from the public park and reduced the size and height of the guardhouse from 280 square feet and 16.5 feet to 180 square feet and 12 feet; (8) increased the size of the open space conservation easement area by approximately 1.4 acres; (9) modified the landscaping plan to reduce the maximum height of proposed site landscaping from thirty-five (35) feet to twenty-five (25) feet ; and (10) required that landscaping and trees be selected, sited and maintained to not exceed 25 feet. Coastal Commission Modification No. 2 also made other minor changes to further reduce visual impacts, ensure the provision of adequate parking, and to provide additional clarity to the development standards.

Based on the above information and the evidence in the record, the City Council finds that the Suggested Modifications to the LCPA will not create new or substantially increased environmental effects not identified in the previously certified Final EIR or result in a substantial increase in the severity of previously identified significant impacts; there have been no substantial changes with respect to the circumstances under which the Project will be undertaken; and there is no new information that shows that the Suggested Modifications to the LCPA will cause new significant environmental impacts that were not already analyzed in the previously certified Final EIR. All mitigation measures required for the approved Project will continue to be implemented for the modified Project, and no new or revised mitigation measures are required. All of the foregoing modifications to the Project have the effect of reducing further the already less than significant impacts on visual resources.

Therefore, the Suggested Modifications to the LCPA approved by the City Council will not require major revisions or changes to the Final EIR, and the analyses conducted and the conclusions reached in the previously certified Final EIR, certified on February 24, 2014, remain valid, and pursuant to CEQA Guidelines Sections 15162 and 15163, no supplemental environmental review is required or warranted for the Suggested Modifications to the LCPA.

### SECTION 3. Local Coastal Program Amendment Findings.

A. Based on evidence in the whole record, the City Council hereby finds that the proposed amendments meet the requirements of, and are in conformance with the policies and requirements of Chapter 3 of the California Coastal Act. Chapter 3 of the Coastal Act states that any new development must not impede or adversely impact public access to the beach, must protect marine resources and scenic views, and must not significantly disrupt environmentally sensitive habitat areas. Malibu Local Coastal Program (LCP) Local Implementation Plan (LIP) Section 3.3(Q)(1) requires an amendment to the LCP for any planned development on a parcel zoned Planned Development (PD) in order to specify the type, density, and intensity of development to be allowed. The proposed LCPA includes amendments to LIP Section 3.3 to incorporate permitted uses, density and development standards for the PD Zoning District; therefore,

the amendments to the LCP meet the requirements of, and are in conformance with the goals, objectives and purposes of the LCP. There are no adverse impacts on public access to the beach, marine resources, scenic views, or environmentally sensitive habitat areas as a result of these changes.

B. The proposed LCPA does not involve a zone change; the existing PD zoning designation remains. The proposed amendment overall is consistent with the LCP and Chapter 3 of the Coastal Act.

C. The City Council hereby incorporates the administrative record of the CCC's proceedings in connection with LCP-4-MAL-14-0408-1 as further support for the findings and conclusions herein.

SECTION 4. Local Coastal Program Amendment No. 12-001, Amendments to the Local Implementation Plan, as Modified by the California Coastal Commission.

LCPA No. 12-001 includes amendments to LIP Chapter 3.3(Q) (Planned Development Zone), amends Appendix 2 of the LIP to include the "Malibu Coast Estate Planned Development Map 1" included as Exhibit A to this ordinance, and corollary amendments to Title 17 (Zoning) of the Malibu Municipal Code (MMC). Corollary MMC amendments are identified in Section 6 of this ordinance. Related amendments to the LCP Land Use Plan are included in Resolution No. 15-63. Consistent with the CCC's August 12, 2015, conditional certification of LCP-4-MAL-14-0408-1, the City Council hereby amends the LIP as follows:

A. LIP Section 3.3.Q Planned Development (PD) Zone is hereby amended to read, as follows:

Q. Planned Development (PD) Zone

1. Purpose

The PD District is intended to provide for a mix of residential and recreational development, consistent with the PD Land Use Designation in Chapter 5 (Section C.2) of the Land Use Plan consisting of five single-family residences and 1.74 acres of recreational area located east of Malibu Bluffs Park and south of Pacific Coast Highway. The PD District consists of the land designated as Assessor Parcels Numbers (APNs) 4458-018-019, 4458-018-002, and 4458-018-018, known as Malibu Coast Estate, and formerly known as the "Crummer Trust" parcel.

2. Permitted uses

The uses and structures permitted in Malibu Coast Estate are as follows. Lot numbers are as identified on the “Malibu Coast Estate Planned Development Map 1” of this LIP.

a. Lot Nos. 1-5

- i. One single-family residence per lot
- ii. Accessory uses (one second unit or guest house per lot, garages, swimming pools, spas, pool houses, cabanas, water features, gazebos, storage sheds, private non-illuminated sports courts, noncommercial greenhouses, gated driveways, workshops, gyms, home studios, home offices, and reasonably similar uses normally associated with a single-family residence, as determined by the Planning Director)
- iii. Domestic animals, kept as pets
- iv. Landscaping

b. Lot No. 6

- i. Uses and structures maintained by either the owners of Lots 1-5 or the homeowners’ association formed to serve the residential development within Malibu Coast Estate, including a guard house, private access road, gates (including entry gates), fencing, visitor parking, landscaping, guardhouse parking, community utilities, informational and directional signage, private open space, lighting and wastewater treatment facilities serving uses within Malibu Coast Estate.

c. Lot No. 7

- i. Parks and public open space, excluding community centers
- ii. Active and passive public recreational facilities, such as ball fields, skate parks, picnic areas, playgrounds, walkways, restrooms, scoreboard, sport court fencing, parking lots, and reasonably similar uses as determined by the Planning Director. Night lighting of recreational facilities shall be prohibited, except for the minimum lighting necessary for public safety.
- iii. Onsite wastewater treatment facilities

### 3. Lot Development Criteria

All new lots created in Malibu Coast Estate shall comply with the following criteria:

#### a. Lots No. 1-5

- i. Minimum lot area: 113,600 square feet (2.60 acres)
- ii. Minimum lot width: 115 feet
- iii. Minimum lot depth: 480 feet

#### b. Lot No. 6

- i. Minimum lot area: 125,700 square feet (2.88 acres)
- ii. Minimum lot width: 625 feet
- iii. Minimum lot depth: 100 feet

#### c. Lot No. 7

- i. Minimum lot area: 75,640 square feet (1.74 acres)
- ii. Minimum lot width: 460 feet
- iii. Minimum lot depth: 100 feet

### 4. Property Development and Design Standards

Development in Malibu Coast Estate shall be subject to all applicable standards of the Malibu LIP, unless otherwise indicated in this LIP Section 3.3(Q). The following development standards shall replace the corresponding development standards otherwise contained in each noted LIP Section for those lots in Malibu Coast Estate.

#### a. Lot Nos. 1-5

- i. Development Footprint and Structure Size (Replaces corresponding standards in LIP Section 3.6(K))

- a) The total development square footage (TDSF) on each of Lot Nos. 1-5 shall not exceed the following square footage per lot:

Lot 1 – 10,052 sq. ft.

Lot 2 – 9,642 sq. ft.

Lot 3 – 9,434 sq. ft.

Lot 4 – 9,513 sq. ft.

Lot 5 – 10,990 sq. ft.

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- b) Combinations of Basements, Cellars and/or Subterranean Garages. If any combination of basements, cellars, and/or subterranean garages is proposed, the initial one-thousand (1,000) square feet of the combined area shall not count toward TDSF. Any additional area in excess of one-thousand (1,000) square feet shall be included in the calculation of TDSF at ratio of one square foot for every two square feet proposed.
  - c) Covered areas, such as covered patios, eaves, and awnings that project up to six feet from the exterior wall of the structure shall not count toward TDSF; if the covered areas project more than six feet, the entire covered area (including the area within the six foot projection) shall be included in TDSF.
  - d) The development footprint on each lot (Lot Nos. 1-5) shall substantially conform to that indicated on "Malibu Coast Estate Planned Development Map 1" of this LIP. Structures on Lot 5 shall be setback a minimum of 190 feet from the edge of the bluff as identified on "Malibu Coast Estate Planned Development Map 1" in order to ensure that impacts to public views of the eastern Malibu coastline as seen from Malibu Bluffs Park are minimized. The structural setback on Lot 5 does not apply to at grade improvements or low profile above-grade improvements for accessory uses not to exceed 10 feet in height.
- ii. Setbacks (Replaces corresponding standards in LIP Section 3.6F.)
- a) Front yard setbacks shall be at least twenty (20) percent of the total depth of the lot measured from the property line abutting the street, or sixty-five (65) feet, whichever is less. However, the front yard setback for Lot 5 shall be at least forty-three (43) feet.
  - b) Side yard setbacks shall be cumulatively at least twenty-five (25) percent of the total width of the lot but, in no event, shall a single side yard setback be less than ten (10) percent of the width of the lot.
  - c) Rear yard setbacks shall be at least fifteen (15) percent of the lot depth.
  - d) Parkland setbacks in LIP Section 3.6(F)(6) shall not apply.
- iii. Structure Height (Replaces corresponding standards in LIP

## Section 3.6(E))

- a) Every residence and every other building or structure associated with a residential development (excluding chimneys), including satellite dish antenna, solar panels and rooftop equipment, shall not be higher than eighteen (18) feet, except the easternmost approximately 2,500 sq. ft. of the residence on Lot 2 and the southwestern corner of the residence on Lot 5 shall not be higher than 15 feet, as indicated on “Malibu Coast Estate Planned Development Map 1” of this LIP. Height is measured from natural or finished grade, whichever is lower.
  - b) Mechanical equipment, including screens may not exceed roof height. Roof-mounted mechanical equipment shall be integrated into the roof design and screened.
  - c) In no event shall the maximum number of stories above grade be greater than two. Basements and subterranean garages shall not be considered a story.
- iv. Grading (Replaces corresponding standards in LIP Section 8.3(B))
- a) Notwithstanding other provisions of this Code, all grading associated with the berm, ingress, egress, including safety access, shall be considered exempt grading.
  - b) Non-exempt grading shall be limited to 2,000 cubic yards per lot.
  - c) Net export shall be limited to 3,500 cubic yards per lot.
- v. Impermeable Coverage, Landscaping, and Berm
- a) The impermeable coverage requirement in LIP Section 3.6(I) shall apply.
  - b) In addition to the requirements of LIP Section 3.10, site landscaping shall be designed to minimize views of the approved structures as seen from public viewing areas, including the use of native trees to screen approved structures. Landscaping and trees shall be selected, sited, and maintained to not exceed 25 feet.
  - c) A natural-looking earthen berm that is 4 feet in height (except for the northernmost 30 foot long portion on Lot 1 that shall be no less than 2 feet in height) above finished grade shall be constructed along the east side of

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all approved structures on Lots 1 and 2 to minimize views of the development from downcoast public viewing locations. The location and height of the berm shall substantially conform to that indicated on "Malibu Coast Estate Planned Development Map 1" of this LIP. The berm shall be vegetated with lower-lying native species that blend with the natural bluff landscape.

vi. Parking (In addition to the parking standards of LIP Section 3.14)

- a) Two enclosed and two unenclosed parking spaces. The minimum size for a residential parking space shall be 18 feet long by 10 feet wide.
- b) One enclosed or unenclosed parking space for a guest unit or second unit.

vii. Colors and Lighting (In addition to the standards of LIP Section 6.5(B))

- a) Structures shall be limited to colors compatible with the surrounding environment and landscape (earth tones), including shades of green, brown, and gray with no white or light or bright tones. The color palette shall be specified on plans submitted in building plan check and must be approved by the Planning Director prior to issuance of a building permit. All windows shall be comprised of non-glare glass.
- b) Lighting must comply with LIP Section 6.5(G).

viii. Permit Required

To insure the protection of scenic and visual resources in accordance with the provisions of the LCP, any future improvements to structures or significant changes to landscaping beyond that authorized by the coastal development permit (CDP) for each residential lot (Lots 1-5), which would ordinarily be exempt from a CDP pursuant to LIP Section 13.4.1, shall be subject to a new CDP or permit amendment.

b. Lot No. 6

i. Structure Size



The total development square footage of all structures shall not exceed 180 square feet. The development footprint (gate and guardhouse) shall substantially conform to that indicated on “Malibu Coast Estate Planned Development Map 1” of this LIP.

ii. Setbacks

- a) Buildings, not including projections permitted in Section 3.5 of the Malibu LIP shall maintain a minimum setback of fifty (50) feet from all property lines.
- b) Parkland setbacks in LIP Section 3.6(F)(6) shall not apply.

iii. Structure Height

- a) Structure height shall not exceed 12 feet, as measured from natural or finished grade, whichever is lower.
- b) In no event shall the maximum number of stories above grade be greater than one.
- c) A basement, cellar or subterranean garage shall not be permitted.

iv. Grading (Replaces corresponding standards in LIP Section 8.3(B))

- a) Notwithstanding other provisions of this Code, all grading associated with ingress, egress, including safety access, shall be considered exempt grading.
- b) Non-exempt grading shall be limited to 1,000 cubic yards.
- c) Net export shall be limited to 2,500 cubic yards.

v. Impermeable Coverage (Replaces corresponding standard in LIP Section 3.6(I))

The impermeable coverage requirement in LIP Section 3.6(I) shall not apply. Up to 44,000 square feet of impermeable coverage shall be permitted.

vi. Parking (In addition to the parking standards of LIP Section 3.14)

The guardhouse shall not have more than two parking spaces to be used for on duty guards and one additional parking space for service parking. Parking within the property boundaries shall not be located on or obstruct fire department access.

## vii. Colors and Lighting

- a) Structures shall be limited to colors compatible with the surrounding environment and landscape (earth tones), including shades of green, brown, and gray with no white or light or bright tones. The color palette shall be specified on plans submitted in building plan check and must be approved by the Planning Director prior to issuance of a building permit.
- b) Lighting must comply with LIP Section 6.5(G).

## c. Lot No. 7

## i. Site Design

Grading, setbacks, and facility siting shall be designed to meet the operational programs of the park as defined in the City of Malibu Parks Master Plan. Notwithstanding any other provision of this chapter, grading in all new parks shall be limited to not more than one thousand (1,000) cubic yards per acre, except that grading required for sports fields and skate parks designed to accommodate commonly accepted facility dimensions shall be exempt from these limitations. The facility shall be designed to minimize noise, lighting impacts and disruption to nearby residents.

## ii. Parking (In addition to the parking standards of LIP Section 3.14)

Adequate parking shall be provided to serve the proposed recreational uses. Parking shall be determined by a parking study prepared by a registered traffic engineer and based upon the proposed recreational uses. The Planning Director shall have the authority to determine the appropriateness of studies or other information used in determining the parking to be required. Where appropriate, off-site parking may be provided and may be counted towards satisfying the on-site parking requirement as long as sufficient parking is provided to serve existing and proposed public access and recreation uses and any adverse impacts to public access and recreation are avoided.

## iii. Fencing

With the exception of skate park and sport court fencing and backstops, fences and walls shall not exceed eight feet in height.

The fencing and backstops design and materials shall take into consideration view and vista areas, site distance, and environmental constraints.

iv. Temporary Uses

Temporary uses shall be in accordance with LIP Section 13.4.9 and the temporary use permit process contained within Malibu Municipal Code Chapter 17.68.

SECTION 5. Zoning Text Amendment Findings.

Pursuant to MMC Section 17.74.040 and based on evidence in the whole record, the City Council hereby finds ZTA No. 12-001 is consistent with the General Plan. The proposed amendment does not involve a zone change; the existing General Plan zoning designation remains PD.

SECTION 6. Malibu Municipal Code Amendments.

ZTA No. 12-001 includes amendments to Title 17 (Zoning) of the Malibu Municipal Code as follows:

A. Section 17.20.010 is hereby amended to read as follows:

The PD District is intended to provide for a mix of residential and recreational development consisting of five single-family residences and 1.74 acres of recreational area located east of Malibu Bluffs Park and south of Pacific Coast Highway. The PD District consists of the land designated as Assessor Parcels Numbers (APNs) 4458-018-019, 4458-018-002, and 4458-018-018 known as Malibu Coast Estate.

B. Chapter 17.39 is hereby added to Title 17 to read as follows:

Chapter 17.39  
Malibu Coast Estate Planned Development (PD) District

17.39.010 Purpose.

The PD District is intended to provide for a mix of residential and recreational development consisting of five single-family residences and 1.74 acres of recreational area located east of Malibu Bluffs Park and south of Pacific Coast Highway. The PD District consists of the land designated as Assessor Parcels Numbers (APNs) 4458-018-019, 4458-018-002, and 4458-018-018 known as Malibu Coast Estate.

Lot numbers are as identified on Malibu Coast Estate Planned Development Map 1. The following uses and structures are permitted:

- A. Lot Nos. 1-5
  - 1. One single-family residence per lot
  - 2. Accessory uses (one second unit or guest house per lot, garages, swimming pools, spas, pool houses, cabanas, water features, gazebos, storage sheds, private non-illuminated sports courts, noncommercial greenhouses, gated driveways, workshops, gyms, home studios, home offices, and reasonably similar uses normally associated with a single-family residence, as determined by the Planning Director)
  - 3. Domestic animals, kept as pets
  - 4. Landscaping
  
- B. Lot No. 6
  - 1. Uses and structures maintained by either the owners of Lots 1-5 or the homeowners' association formed to serve the residential development within Malibu Coast Estate, including a guard house, private access road, gates (including entry gates), fencing, visitor parking, landscaping, guardhouse parking, community utilities, informational and directional signage, private open space, lighting and wastewater treatment facilities serving uses within Malibu Coast Estate.
  
- C. Lot No. 7
  - 1. Parks and public open space, excluding community centers
  - 2. Active and passive public recreational facilities, such as ball fields, skate parks, picnic areas, playgrounds, walkways, restrooms, scoreboard, sport court fencing, parking lots, and reasonably similar uses as determined by the Planning Director. Night lighting of recreational facilities shall be prohibited, except for the minimum lighting necessary for public safety.
  - 3. Onsite wastewater treatment facilities

#### 17.39.030 Lot Development Criteria

All new lots created in Malibu Coast Estate shall comply with the following criteria.

- A. Lots No. 1-5
  - 1. Minimum lot area: 113,600 square feet (2.60 acres)
  - 2. Minimum lot width: 115 feet
  - 3. Minimum lot depth: 480 feet

- B. Lot No. 6
  - 1. Minimum lot area: 125,700 square feet (2.88 acres)
  - 2. Minimum lot width: 625 feet
  - 3. Minimum lot depth: 100 feet
  
- C. Lot No. 7
  - 1. Minimum lot area: 75,640 square feet (1.74 acres)
  - 2. Minimum lot width: 460 feet
  - 3. Minimum lot depth: 100 feet

17.039.040 Property Development and Design Standards

The following development standards shall replace the corresponding development standards (Section 17.40.040 and Section 17.40.080) for Malibu Coast Estate. All requirements of the zoning ordinance, including but not limited to Section 17.40.030 that are consistent with the criteria listed below shall remain in effect for those parcels in Malibu Coast Estate.

- A. Lot Nos. 1-5
  - 1. Development Footprint and Structure Size (Replaces corresponding standards in LIP Section 3.6(K))
    - a. The total development square footage (TDSF) on each of Lot Nos. 1-5 shall not exceed the following square footage per lot:
      - Lot 1 – 10,052 sq. ft.
      - Lot 2 – 9,642 sq. ft.
      - Lot 3 – 9,434 sq. ft.
      - Lot 4 – 9,513 sq. ft.
      - Lot 5 – 10,990 sq. ft.
    - b. Combinations of Basements, Cellars and/or Subterranean Garages. If any combination of basements, cellars, and/or subterranean garages is proposed, the initial one-thousand (1,000) square feet of the combined area shall not count toward TDSF. Any additional area in excess of one-thousand (1,000) square feet shall be included in the calculation of TDSF at ratio of one square foot for every two square feet proposed.
    - c. Covered areas, such as covered patios, eaves, and awnings that project up to six feet from the exterior wall of the structure shall not count toward TDSF; if the covered areas project more than six feet, the entire covered area (including

the area within the six foot projection) shall be included in TDSF.

- d. The development footprint on each lot (Lot Nos. 1-5) shall substantially conform to that indicated on “Malibu Coast Estate Planned Development Map 1”. Structures on Lot 5 shall be setback a minimum of 190 feet from the edge of the bluff as identified on “Malibu Coast Estate Planned Development Map 1” in order to ensure that impacts to public views of the eastern Malibu coastline as seen from Malibu Bluffs Park are minimized. The structural setback on Lot 5 does not apply to at grade improvements or low profile above-grade improvements for accessory uses not to exceed 10 feet in height.
2. Setbacks (Replaces corresponding standards in MMC Section 17.40.040)
    - a. Front yard setbacks shall be at least twenty (20) percent of the total depth of the lot measured from the property line abutting the street, or sixty-five (65) feet, whichever is less. However, the front yard setback for Lot 5 shall be at least forty-three (43) feet.
    - b. Side yard setbacks shall be cumulatively at least twenty-five (25) percent of the total width of the lot but, in no event, shall a single side yard setback be less than ten (10) percent of the width of the lot.
    - c. Rear yard setbacks shall be at least fifteen (15) percent of the lot depth.
    - d. Parkland setbacks in LIP Section 3.6(F)(6) shall not apply.
  3. Structure Height (Replaces corresponding standards in MMC Section 17.40.040)
    - a. Every residence and every other building or structure associated with a residential development (excluding chimneys), including satellite dish antenna, solar panels and rooftop equipment, shall not be higher than eighteen (18) feet, except the easternmost approximately 2,500 sq. ft. of the residence on Lot 2 and the southwestern corner of the residence on Lot 5 shall not be higher than 15 feet, as indicated on “Malibu Coast Estate Planned Development Map 1” of the LIP. Height is measured from natural or finished grade, whichever is lower.
    - b. Mechanical equipment, including screens may not exceed roof height. Roof-mounted mechanical equipment shall be

- integrated into the roof design and screened.
- c. In no event shall the maximum number of stories above grade be greater than two. Basements and subterranean garages shall not be considered a story.
4. Grading (Replaces corresponding standards in MMC Section 17.40.040)
    - a. Notwithstanding other provisions of this Code, all grading associated with the berm, ingress, egress, including safety access, shall be considered exempt grading.
    - b. Non-exempt grading shall be limited to 2,000 cubic yards per lot.
    - c. Net export shall be limited to 3,500 cubic yards per lot.
  5. Impermeable Coverage, Landscaping, and Berm
    - a. The impermeable coverage requirement in MMC Section 17.40.040 shall apply.
    - b. In addition to the requirements of MMC Section 17.40.040, site landscaping shall be designed to minimize views of the approved structures as seen from public viewing areas, including the use of native trees to screen approved structures. Landscaping and trees shall be selected, sited, and maintained to not exceed 25 feet.
    - c. A natural-looking earthen berm that is 4 feet in height (except for the northernmost 30 foot long portion on Lot 1 that shall be no less than 2 feet in height) above finished grade shall be constructed along the east side of all approved structures on Lots 1 and 2 to minimize views of the development from downcoast public viewing locations. The location and height of the berm shall substantially conform to that indicated on "Malibu Coast Estate Planned Development Map 1" of the LIP. The berm shall be vegetated with lower-lying native species that blend with the natural bluff landscape.
  6. Parking (In addition to the parking standards of MMC Section 17.40.040)
    - a. Two enclosed and two unenclosed parking spaces. The minimum size for a residential parking space shall be 18 feet long by 10 feet wide.
    - b. One enclosed or unenclosed parking space for a guest unit or second unit.

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7. Colors and Lighting (In addition to the standards of LIP Section 6.5(B))
- a. Structures shall be limited to colors compatible with the surrounding environment and landscape (earth tones), including shades of green, brown, and gray with no white or light or bright tones. The color palette shall be specified on plans submitted in building plan check and must be approved by the Planning Director prior to issuance of a building permit. All windows shall be comprised of non-glare glass.
  - b. Lighting must comply with LIP Section 6.5(G).

8. Permit Required

To insure the protection of scenic and visual resources in accordance with the provisions of the LCP, any future improvements to structures or significant changes to landscaping beyond that authorized by the Coastal Development Permit (CDP) for each residential lot (Lots 1-5), which would ordinarily be exempt from a CDP pursuant to LIP Section 13.4.1, shall be subject to a new CDP or permit amendment.

B. Lot No. 6

1. Structure Size

The total development square footage of all structures shall not exceed 180 square feet. The development footprint (gate and guardhouse) shall substantially conform to that indicated on "Malibu Coast Estate Planned Development Map 1".

2. Setbacks

- a. Buildings, not including projections permitted in MMC Section 17.40.050 shall maintain a minimum setback of fifty (50) feet from all property lines.
- b. Parkland setbacks in LIP Section 3.6(F)(6) shall not apply.

3. Structure Height

- a. Structure height shall not exceed 12 feet, as measured from natural or finished grade, whichever is lower.
- b. In no event shall the maximum number of stories above grade be greater than one.
- c. A basement, cellar or subterranean garage shall not be



permitted.

4. Grading (Replaces corresponding standards in M.M.C Section 17.40.040)
  - a. Notwithstanding other provisions of this Code, all grading associated with ingress, egress, including safety access, shall be considered exempt grading.
  - b. Non-exempt grading shall be limited to 1,000 cubic yards.
  - c. Net export shall be limited to 2,500 cubic yards.

5. Impermeable Coverage (Replaces corresponding standard in MMC Section 17.40.040)

The impermeable coverage requirement in MMC Section 17.40.040 shall not apply. Up to 44,000 square feet of impermeable coverage shall be permitted.

6. Parking (In addition to the parking standards of MMC Section 17.40.040)

The guardhouse shall not have more than two parking spaces to be used for on duty guards and one additional parking space for service parking. Parking within the property boundaries shall not be located on or obstruct fire department access.

7. Colors and Lighting

- a. Structures shall be limited to colors compatible with the surrounding environment and landscape (earth tones), including shades of green, brown, and gray with no white or light or bright tones. The color palette shall be specified on plans submitted in building plan check and must be approved by the Planning Director prior to issuance of a building permit.
- b. Lighting must comply with LIP Section 6.5(G).

C. Lot No. 7

1. Site Design

Grading, setbacks, and facility siting shall be designed to meet the operational programs of the park as defined in the City of Malibu Parks Master Plan. Notwithstanding any other provision of this chapter, grading in all new parks shall be limited to not more than

one thousand (1,000) cubic yards per acre, except that grading required for sports fields and skate parks designed to accommodate commonly accepted facility dimensions shall be exempt from these limitations. The facility shall be designed to minimize noise, lighting impacts and disruption to nearby residents.

2. Parking (In addition to the parking standards of MMC Section 17.47.030)

Adequate parking shall be provided to serve the proposed recreational uses. Parking shall be determined by a parking study prepared by a registered traffic engineer and based upon the proposed recreational uses. The Planning Director shall have the authority to determine the appropriateness of studies or other information used in determining the parking to be required. Where appropriate, off-site parking may be provided and may be counted towards satisfying the on-site parking requirement as long as sufficient parking is provided to serve existing and proposed public access and recreation uses and any adverse impacts to public access and recreation are avoided.

3. Fencing

With the exception of skate park and sport court fencing and backstops, fences and walls shall not exceed eight feet in height. The fencing and backstops design and materials shall take into consideration view and vista areas, site distance, and environmental constraints.

4. Temporary Uses

Temporary uses shall be in accordance with LIP Section 13.4.9 and the temporary use permit process contained within Chapter 17.68.

SECTION 7. Approval of Ordinance No. 398 and Repealing Ordinance No. 379.

The City Council hereby adopts LCPA No. 12-001 and ZTA No. 12-001 amending the LCP and MMC as modified by the CCC. Ordinance No. 379 is hereby repealed and any amendments to the LIP and Title 17 of the MMC authorized by Ordinance No. 379 are superseded by the amendments set forth in Sections 4 and 6 of this ordinance. As stated in Resolution No. 15-68, the LCPA certification shall not be deemed final and effective until the City complies with all of the CCC's Administrative Regulations.

SECTION 8. Submittal to California Coastal Commission.

The City Council hereby directs staff to submit a copy of this ordinance to the CCC per Title 14, Division 5.5, Chapter 8, Subchapter 2, Article 8 and Chapter 6, Article 2 and California Code of Regulations Section 13551, et. seq.

SECTION 9. Severability.

If any section, subsection, sentence, clause, portion, or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of any competent jurisdiction, such decision shall not affect the validity of the remaining sections, subsections, sentences, clauses, portions, or phrases of this ordinance. The City Council hereby declares that it would have passed this ordinance and each and every section, subsection, sentence, clause, portion, or phrase without regard to whether any other section, subsection, sentence, clause, portion, or phrase of this ordinance would be subsequently declared invalid or unconstitutional.

SECTION 10. Effectiveness.

The amendments approved in this ordinance shall become effective only upon certification by the CCC of this amendment to the LCP.


SECTION 11. Certification.

The City Clerk shall certify to the passage and adoption of this ordinance and enter it into the book of original ordinances.

PASSED, APPROVED AND ADOPTED this 14<sup>th</sup> day of October 2015.

  
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JOHN SIBERT, Mayor

ATTEST:

  
\_\_\_\_\_  
LISA POPE, City Clerk  
(seal)

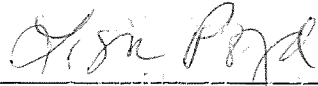
APPROVED AS TO FORM:

  
\_\_\_\_\_  
CHRISTI HUGIN, City Attorney

Any action challenging the final decision of the City made as a result of the public hearing on this application must be filed within the time limits set forth in Section 1.12.010 of the Malibu Municipal Code and Code of Civil Procedure.

I CERTIFY THAT THE FOREGOING ORDINANCE NO. 398 was passed and adopted at the Adjourned Regular City Council meeting of October 14, 2015, by the following vote:

AYES: 5 Councilmembers: House, La Monte, Peak, Rosenthal, Sibert  
NOES: 0  
ABSTAIN: 0  
ABSENT: 0



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LISA POPE, City Clerk

(seal)

