

CALIFORNIA COASTAL COMMISSION

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

Tu 9a

DATE: March 22, 2007

TO: Commissioners and Interested Parties

FROM: Peter Douglas, Executive Director
John Ainsworth, Deputy Director
Deanna Christensen, Coastal Program Analyst

SUBJECT: **City of Malibu LCP Amendment No. 1-06:** 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 April 10, 2007 meeting in Santa Barbara.

On October 12, 2006, the Commission approved Local Coastal Program Amendment No. 1-06 submitted by the City of Malibu with suggested modifications. The subject amendment consists of various changes to the policies and provisions of the Land Use Plan and Local Implementation Plan, including those regarding view corridors, basements, beach stringlines, wireless communication facilities, seasonal grading restrictions, bluff setbacks, shoreline protective structures, public access, and onsite wastewater treatment systems. Finally, the proposed amendment includes changes to the LUP Land Use Map and the LIP Zoning Map.

On January 22, 2007, the City Council adopted Resolution No. 07-04 (attached) acknowledging receipt of the Commission's certification of the LUP portion of LCP Amendment No. 1-06 and accepting and agreeing to all modifications suggested by the Commission. On February 12, 2007, the City Council adopted Ordinance No. 303 (attached) acknowledging receipt of the Commission's certification of the LIP portion of LCP Amendment No. 1-06 and accepting and agreeing to all modifications suggested by the Commission. The documents were transmitted to Commission staff on March 1, 2007.

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 1-06, as certified by the Commission on October 12, 2006, as contained in the adopted Resolution of January 22, 2007 and Ordinance of February 12, 2007 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.

Planning

ORDINANCE NO. 303

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MALIBU ADOPTING REVISED LOCAL COASTAL PROGRAM AMENDMENT NO. 05-001 PERTAINING TO THE LOCAL IMPLEMENTATION PLAN AND INCORPORATING THE CALIFORNIA COASTAL COMMISSION SUGGESTED MODIFICATIONS

RECEIVED
CITY OF MALIBU
PLANNING DEPARTMENT

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

Section 1. Recitals.

A. On February 27, 2006, the City Council held a duly noticed public hearing at which time it adopted Resolution No. 06-14, approving an amendment of the Malibu Local Coastal Program (LCP) Land Use Plan (LUP) and directing staff to submit Local Coastal Program Amendment (LCPA) No. 05-001 to the California Coastal Commission for certification and introduced Ordinance No. 288 approving an amendment to the LCP Local Implementation Plan (LIP), which was subsequently adopted on March 13, 2006.

B. On August 3, 2006, the City of Malibu requested that the California Coastal Commission postpone its hearing to consider LCPA No. 05-001 on August 9, 2006 in order for the City to respond to the California Coastal Commission's staff recommendations dated July 26, 2006.

C. On September 11, 2006, the City Council adopted Resolution No. 06-61, withdrawing portions of the LCPA No. 05-001 related to the definition of park and the addition of these uses to Table B (Permitted Uses) in the LIP.

D. On October 12, 2006, the California Coastal Commission certified LCPA No. 05-001 (also referred to by the California Coastal Commission as City of Malibu Amendment No. 1-06), approved the amendment contained in its staff report dated September 27, 2006, provided certain modified language be adopted by the City of Malibu, said language is contained in the Resolution of Certification dated October 24, 2006.

E. On October 26, 2006, the City received said Resolution of Certification and may now accept and agree to the terms and modifications suggested by the California Coastal Commission on the LCP amendment, and take formal action to satisfy the terms and modifications.

F. On December 28, 2006, a one-quarter page public hearing notice for a City Council meeting to be held on January 22, 2007 was published in a newspaper of general circulation within the City. In addition, the notice was mailed to interested parties and pertinent agencies.

G. On January 22, 2007, the City Council held a duly noticed public hearing.

Section 2. Environmental Review.

In accordance with the California Environmental Quality Act, Section 21080.9, approval by a local agency as necessary for the preparation and adoption of a LCP is statutorily exempt from the requirements of the California Environmental Quality Act.



Section 3. Approval of Local Coastal Program Amendment No. 05-001

A. Pursuant to the California Coastal Commission's Administrative Regulations Section 13544, the LCP amendment certification shall not be deemed final and effective until all of the following occur: 1) the City Council: a) acknowledges receipt of the Commission'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 Local Coastal Program; 2) subsequent to the City Council's action, the Executive Director of the Commission shall report the City Council's action to the Commission at its next regularly scheduled public meeting; and 3) the Commission shall review the City Council's action and make a determination whether or not to certify the LCP amendment.

B. The City Council acknowledges receipt of the California Coastal Commission's modifications to LCPA No. 05-001. The City Council further agrees to the modified language suggested by the California Coastal Commission pertaining to the Local Implementation Plan and approves revised LCP Amendment No. 05-001 without further changes.

C. The City of Malibu agrees to issue coastal development permits for the total area included in the certified LCP.

D. The proposed amendments to the Local Coastal Program Local Implementation Plan 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 4. Submittal to California Coastal Commission.

The City Council hereby directs staff to submit revised LCPA No. 05-001 incorporating the California Coastal Commission modifications to the Commission for certification, in conformance with the submittal requirements specified in California Code of Regulations, Title 14, Division 5.5, Chapter 8, Subchapter 2, Article 7 and Chapter 6, Article 2 and Code of Regulations Section 13551, et seq.

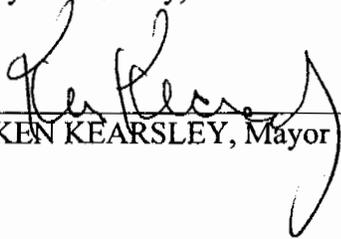
Section 5. Effectiveness.

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

Section 6. Certification.

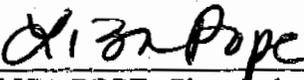
The City Clerk shall certify the adoption of this Ordinance.

PASSED, APPROVED AND ADOPTED this 12th day of February, 2007.



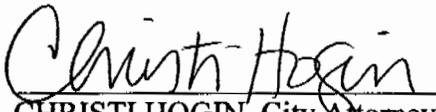
KEN KEARSLEY, Mayor

ATTEST:



LISA POPE, City clerk
(seal)

APPROVED AS TO FORM:



CHRISTI HOGIN, City Attorney

I CERTIFY THAT THE FOREGOING ORDINANCE NO. 304 was passed and adopted at the regular City Council meeting of February 12, 2007, by the following vote:

AYES: 5 Councilmembers: Barovsky, Conley Ulich, Stern, Jennings, Kearsley
NOES: 0
ABSTAIN: 0
ABSENT: 0



LISA POPE, City Clerk
(seal)

Planning

RESOLUTION NO. 07-04

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MALIBU ACKNOWLEDGING RECEIPT OF THE CALIFORNIA COASTAL COMMISSION RESOLUTION OF CERTIFICATION WITH SUGGESTED MODIFICATIONS TO LOCAL COASTAL PROGRAM AMENDMENT NO. 05-001 AND ADOPTING THE REVISED LOCAL COASTAL PROGRAM AMENDMENT NO. 05-001 PERTAINING TO THE LAND USE PLAN INCORPORATING THE CALIFORNIA COASTAL COMMISSION MODIFICATIONS

RECEIVED
MAR - 1 2007
CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

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

Section 1. Recitals.

A. On February 27, 2006, the City Council held a duly noticed public hearing at which time it adopted Resolution No. 06-14, approving an amendment of the Malibu Local Coastal Program (LCP) Land Use Plan (LUP) and directing staff to submit Local Coastal Program Amendment (LCPA) No. 05-001 to the California Coastal Commission for certification and introduced Ordinance No. 288 approving an amendment to the LCP Local Implementation Plan (LIP), which was subsequently adopted on March 13, 2006.

B. On August 3, 2006, the City of Malibu requested that the California Coastal Commission postpone its hearing to consider LCPA No. 05-001 on August 9, 2006 in order for the City to respond to the California Coastal Commission's staff recommendations dated July 26, 2006.

C. On September 11, 2006, the City Council adopted Resolution No. 06-61, withdrawing portions of the LCPA No. 05-001 related to the definition of park and the addition of these uses to Table B (Permitted Uses) in the LIP.

D. On October 12, 2006, the California Coastal Commission certified LCPA No. 05-001 (also referred to by the California Coastal Commission as City of Malibu Amendment No. 1-06), approved the amendment contained in its staff report dated September 27, 2006, provided certain modified language be adopted by the City of Malibu, said language is contained in the Resolution of Certification dated October 24, 2006.

E. On October 26, 2006, the City received said Resolution of Certification and may now accept and agree to the terms and modifications suggested by the California Coastal Commission on the LCP amendment, and take formal action to satisfy the terms and modifications.

F. On December 28, 2006, a one-quarter page public hearing notice for a City Council meeting to be held on January 22, 2007 was published in a newspaper of general circulation within the City. In addition, the notice was mailed to interested parties and pertinent agencies.



G. On January 22, 2007, the City Council held a duly noticed public hearing.

Section 2. Environmental Review.

In accordance with the California Environmental Quality Act, Section 21080.9, approval by a local agency as necessary for the preparation and adoption of a LCP is statutorily exempt from the requirements of the California Environmental Quality Act.

Section 3. Approval of Local Coastal Program Amendment No. 05-001

A. Pursuant to the California Coastal Commission's Administrative Regulations Section 13544.5, the LUP amendment certification shall not be deemed final and effective until all of the following occur: 1) the City Council: a) acknowledges receipt of the Commission'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 Local Coastal Program; 2) subsequent to the City Council's action, the Executive Director of the Commission shall report the City Council's action to the Commission at its next regularly scheduled public meeting; and 3) the Commission shall review the City Council's action and make a determination whether or not to certify the LCP amendment.

B. The City of Malibu acknowledges receipt of the Commission's modifications, and hereby agrees to the modified language suggested by the California Coastal Commission pertaining to the Land Use Plan and approves the revised amendments without further changes.

C. The City of Malibu agrees to issue coastal development permits for the total area included in the certified LCP.

D. The proposed amendments to the Local Coastal Program Land Use Plan 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 4. Submittal to California Coastal Commission.

The City Council hereby directs staff to submit revised LCPA No. 05-001 incorporating the California Coastal Commission modifications to the Commission for certification, in conformance with the submittal requirements specified in California Code of Regulations, Title 14, Division 5.5, Chapter 8, Subchapter 2, Article 7 and Chapter 6, Article 2 and Code of Regulations Section 13551, et seq.

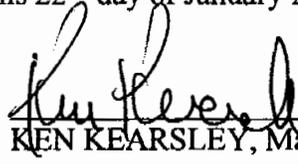
Section 5. Effectiveness.

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

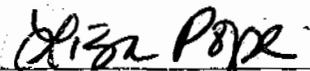
Section 6. Certification.

The City Clerk shall certify the adoption of this Resolution.

PASSED, APPROVED AND ADOPTED this 22nd day of January 2007.


KEN KEARSLEY, Mayor

ATTEST:

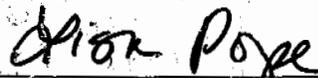

LISA POPE, City Clerk
(seal)

APPROVED AS TO FORM:


CHRISTI HOGIN, City Attorney

I CERTIFY THAT THE FOREGOING RESOLUTION NO. 07-04 was passed and adopted by the City Council of the City of Malibu at the regular meeting thereof held on the 22nd day of January, 2007, by the following vote:

AYES: 5 Councilmembers: Barovsky, Conley Ulich, Stern, Jennings, Kearsley
NOES: 0
ABSTAIN: 0
ABSENT: 0


LISA POPE, City Clerk
(seal)

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 Section 1094.6