

CALIFORNIA COASTAL COMMISSION

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

W 14a



DATE: December 18, 2008

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. 1-07:** 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 January 7, 2009 meeting in Oceanside.

On June 11, 2008, the Commission approved Local Coastal Program Amendment No. 1-07 with suggested modifications. The subject amendment consists of amending the lot development criteria for the Single Family-Medium (SF-M) Zoning District to include a 45-foot minimum lot width standard for beachfront lots in order to facilitate a proposed beachfront subdivision at 30732 Pacific Coast Highway. In addition, the proposed amendment includes changing the land use and zoning designation of a property known as 5920 Paseo Canyon Road from Public Open Space (OS) to Single Family Residential-Low Density (SF-L).

On October 27, 2008, the City Council adopted Resolution Nos. 08-58 and 08-59 (attached) acknowledging receipt of the Commission's certification of LCP Amendment No. 1-07 and accepting and agreeing to all modifications suggested by the Commission. On November 10, 2008, the City Council adopted Ordinance No. 331 (attached) acknowledging receipt of the Commission's certification of LCP Amendment No. 1-07 and accepting and agreeing to all modifications suggested by the Commission. The documents were transmitted to Commission staff on December 1, 2008.

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 1-07, as certified by the Commission on June 11, 2008, as contained in the adopted Resolutions of October 27, 2008 and Ordinance of November 10, 2008 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.



City of Malibu

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Phone (310) 456-2489 · Fax (310) 456-7650 · www.ci.malibu.ca.us

November 26, 2008

RECEIVED
DEC 01 2008

California Coastal Commission
South Central Coast District Office
Deanna Christensen
89 South California Street, Suite 200
Ventura, CA 93001-2801

CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

Subject: Resolutions and Ordinance Acknowledging receipt of the California Coastal Commission's Modifications to Local Coastal Program Amendment Nos. 05-002 and 06-001 (also known as LCP Amendment 1-07)

Dear Ms. Christensen:

On June 11, 2008, the California Coastal Commission approved LCP Amendment 1-07 with suggested modifications. On October 27, 2008, the City of Malibu City Council adopted Resolution Nos. 08-58 and 08-59, acknowledging receipt and agreeing to the Coastal Commission's modified language. Subsequently, on November 10, 2008, the City Council adopted Ordinance No. 331 agreeing to the Coastal Commission's modified language to the Local Implementation Plan related to LCPA No. 05-002. A copy of the resolutions and ordinance are enclosed.

If you have any questions, you may contact me at (310) 456-2489, extension 245.

Sincerely,

Patricia Salazar
Senior Administrative Analyst

RESOLUTION NO. 08-58

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MALIBU ACKNOWLEDGING RECEIPT OF THE CALIFORNIA COASTAL COMMISSION RESOLUTION OF CERTIFICATION FOR LOCAL COASTAL PROGRAM AMENDMENT NO. 06-001 AMENDING THE LOCAL COASTAL PROGRAM LAND USE AND ZONING DESIGNATION FROM PUBLIC OPEN SPACE TO SINGLE FAMILY LOW DENSITY RESIDENTIAL (SF-L) FOR THE PARCEL LOCATED AT 5920 PASEO CANYON DRIVE

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

Section 1. Recitals.

A. On February 28, 1993, the City Council adopted the Interim Zoning Map and designated the parcel at 5920 Paseo Canyon Drive as Open Space. This designation was based on the tax assessor's records which identified the parcel as publicly owned.

B. On February 3, 1995, the City of Malibu initiated Zoning Map Amendment No. 95-001 to establish the appropriate zoning designation for the subject parcel recognizing it as a privately held parcel distinct from the adjacent, publicly held parkland area.

C. On March 13, 1995, the City Council conducted a duly noticed public hearing regarding Zoning Map Amendment No. 95-001. The zoning map amendment requested a change in the current Interim Zoning Map designation of Open Space (OS) to Single-Family Low Density (SF-L). Accordingly, the City Council adopted Resolution No. 95-379, adopting Negative Declaration No. 95-01.

D. On March 27, 1995, Ordinance No. 123 was adopted by the City Council changing the zoning from OS to SF-L for the parcel at 5920 Paseo Canyon Drive.

E. On September 12, 2002, the California Coastal Commission certified the City of Malibu Local Coastal Program (LCP). The General Plan and Zoning Maps utilized by the Commission during its preparation of the LCP were not the most up to date version at the time (2000) and did not reflect certain zone changes that had already been approved prior to the adoption of the LCP.

F. On July 24, 2006, the City Council adopted Resolution No. 06-49 initiating a Local Coastal Program Amendment to correct a land use zoning discrepancy by changing the LCP zoning for the parcel located at 5920 Paseo Canyon Drive from Public Open Space (POS) to Single-Family Low Density (SFL). The Council directed staff to proceed with the amendment.

G. On August 10, 2006, pursuant to LCP Section 19.3.1, a quarter page Notice of Availability was published in a newspaper of general circulation within the City of Malibu indicating the availability of the proposed amendment to the certified Local Coastal Program.

The document was made available at Malibu City Hall, the Malibu Public Library, the California Coastal Commission South Central Coast Office and on the City of Malibu website.

H. On August 10, 2006, a Notice of Availability was mailed to various governmental agencies and private parties.

I. On October 5, 2006, a Notice of Planning Commission Public Hearing was published in a newspaper of general circulation within the City of Malibu. In addition, on October 5, 2006, a Notice of Planning Commission Public Hearing was mailed to all property owners and occupants within a 500-foot radius of the subject property

J. On October 17, 2006, the Planning Commission held a duly noticed public hearing on Local Coastal Program Amendment No. 06-001, reviewed and considered written reports, public testimony, and related information, and adopted Planning Commission Resolution No. 06-82 recommending the City Council proceed with the Local Coastal Program Amendment.

K. On November 2, 2006, pursuant to LCP Section 19.3.2, a 10-day, quarter page Notice of Public Hearing was published in a newspaper of general circulation within the City of Malibu indicating that the City Council would hold a public hearing on November 13, 2006 to consider an amendment of the certified Local Coastal Program. In addition, on November 2, 2006, a Notice of Public Hearing was mailed to all property owners and occupants within a 500-foot radius of the subject property.

L. On November 13, 2006, the City Council continued the hearing to the meeting of December 11, 2006 so that a General Plan Amendment could be included in the project.

M. On November 16, 2006, pursuant to Malibu Municipal Code Section 17.74.030 (B) and LCP Section 19.3.2, a 21-day, quarter page Notice of Public Hearing was published in a newspaper of general circulation within the City of Malibu indicating that the City Council would hold a public hearing on December 11, 2006 to consider an amendment of the certified Local Coastal Program and General Plan. In addition, on November 16, 2006, a Notice of Public Hearing was mailed to all property owners and occupants within a 500-foot radius of the subject property, and to interested parties.

N. On December 11, 2006, the City Council held a duly noticed public hearing at which time it adopted Resolution No. 06-71, 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. 06-001 to the California Coastal Commission (CCC) for certification and introduced Ordinance No. 302 approving an amendment to the LIP, which was subsequently adopted on January 17, 2007.

O. On March 6, 2007, the LCPA was submitted to the CCC. On March 20, 2007, the submittal, identified by the CCC as LCPA 1-07, was reviewed by Commission staff and determined to be complete.

P. At the June 14, 2007 CCC hearing, the Commission extended the deadline to act on LCPA 1-07 for a period of one year.

Q. On June 11, 2008, the CCC approved LCPA No. 006-001 with no suggested modifications and approved LCPA 06-001 (30732 Pacific Coast Highway) with suggested modifications as contained in the Resolution of Certification adopted by the CCC on June 11, 2008.

R. On August 19, 2008, 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, if necessary, and take formal action to satisfy the terms and modifications.

S. On October 16, 2008, a one-quarter page public hearing notice for a City Council meeting to be held on October 27, 2008 was published in a newspaper of general circulation within the City. In addition, the notice was mailed to interested parties, pertinent agencies, and to all property owners and occupants within a 500 foot radius of the subject property.

T. On October 27, 2008, 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 Local Coastal Program is statutorily exempt from the requirements of the California Environmental Quality Act.

Section 3. Approval of Local Coastal Program Amendment No. 06-001

A. Pursuant to the California Coastal Commission's Administrative Regulations Section 13544.5, 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) the Executive Director determines in writing that the City's action is legally adequate to satisfy any specific requirements set forth in the Commission's certification order and the Director reports the determination to the Commission at its next regularly scheduled meeting; 3) if the Director finds that the City's action does not conform to the Commission's order, the Commission 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 California Coastal Commission's Resolution of Certification for LCPA No. 06-001.

C. The City of Malibu accepts and agrees to the terms and modifications suggested in the Commission's June 11, 2008 Resolution of Certification. The City Council hereby incorporates the administrative record of the Coastal Commission's proceedings as support for accepting the suggested modifications.

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

E. The proposed amendments to the Local Coastal Program 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 a copy of this Resolution to the Commission per Title 14, California Code of Regulations Section 13544.5(a).

Section 5. Certification.

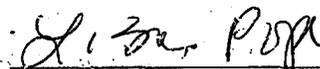
The City Clerk shall certify the adoption of this Resolution.

PASSED, APPROVED AND ADOPTED this 27th day of October 2008.



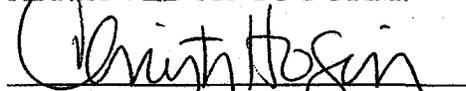
PAMELA CONLEY ULICH, Mayor

ATTEST:



LISA POPE, City Clerk
(seal)

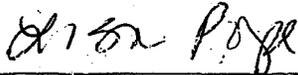
APPROVED AS TO FORM:



CHRISTI HUGIN, City Attorney

I CERTIFY THAT THE FOREGOING RESOLUTION NO. 08-58 was passed and adopted by the City Council of the City of Malibu at the regular meeting thereof held on the 27th day of October, 2008, by the following vote:

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



LISA POPE, City Clerk
(seal)

RESOLUTION NO. 08-59

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. 05-002 AND ADOPTING THE REVISED LOCAL COASTAL PROGRAM AMENDMENT NO. 05-002 AMENDING THE SINGLE-FAMILY MEDIUM ZONING DISTRICT TO INCLUDE A 45 FOOT MINIMUM LOT STANDARD FOR BEACHFRONT LOTS AND INCORPORATING THE COASTAL COMMISSION SUGGESTED MODIFICATIONS FOR A MALIBU BAY COMPANY OVERLAY DISTRICT (30732 PACIFIC COAST HIGHWAY)

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

Section 1. Recitals.

A. On July 29, 2005, the Malibu Bay Company applied for a Coastal Development Permit (CDP No. 05-136) with a Local Coastal Program Amendment request (LCPA No. 05-002) to subdivide into four lots a 2.08 acre parcel located at 30732 Pacific Coast Highway.

B. On January 22, 2007, 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) Local Implementation Plan (LIP) and directing staff to submit Local Coastal Program Amendment (LCPA) No. 05-002 to the California Coastal Commission (CCC) for certification and introduced Ordinance No. 304 approving an amendment to the LIP, which was subsequently adopted on February 12, 2007.

C. On March 6, 2007, the LCPA was submitted to the CCC. On March 20, 2007, the submittal, identified by the CCC as LCPA 1-07, was reviewed by Commission staff and determined to be complete.

D. At the June 14, 2007 CCC hearing, the Commission extended the deadline to act on LCPA 1-07 for a period of one year.

E. On June 11, 2008, the CCC conditionally certified LCPA No. 05-002 subject to certain terms and modifications as set forth in the Resolution of Certification adopted by the CCC on June 11, 2008.

F. On August 19, 2008, the City received said Resolution of Certification.

G. On October 2, 2008, a one-quarter page public hearing notice for a City Council meeting to be held on October 27, 2008 was published in a newspaper of general circulation within the City. In addition, the notice was mailed to interested parties, pertinent agencies, and to all property owners and occupants within a 500 foot radius of the subject property.

H. On October 27, 2008, 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 Local Coastal Program is statutorily exempt from the requirements of the California Environmental Quality Act. Nevertheless, in the interest of fostering the most informed decision-making process practicable, and without waiving the applicable statutory exemption, staff prepared a Revised Mitigated Negative Declaration in connection with the project which includes an analysis of LCPA 05-002. The Revised Mitigated Negative Declaration was certified by Council on January 22, 2007 upon adoption of Resolution No. 07-07. The Revised Mitigated Negative Declaration satisfies any obligation the City may have pursuant to CEQA Guideline section 15252.

Section 3. Approval of Local Coastal Program Amendment No. 05-002.

A. Pursuant to the California Coastal Commission's Administrative Regulations Section 13544.5, 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) the Executive Director determines in writing that the City's action is legally adequate to satisfy any specific requirements set forth in the Commission's certification order and the Director reports the determination to the Commission at its next regularly scheduled meeting; 3) if the Director finds that the City's action does not conform to the Commission's order, the Commission 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 California Coastal Commission's modifications to LCPA No. 05-002. The City Council further accepts and agrees to the modified language suggested by the California Coastal Commission pertaining to the Local Implementation Plan and approves revised LCPA No. 05-002 without further changes. The City Council hereby incorporates the administrative record of the Coastal Commission's proceedings as support for accepting the suggested modifications.

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 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.

E. Pursuant to the request made by the Coastal Commission at the June 11, 2008 hearing; a condition of approval for the associated Coastal Development Permit No. 05-136 shall be added which states: "The Malibu Bay Company agrees to reimburse the Coastal Commission in full for all Coastal Commission costs and attorneys fees - including those charged by the Office of the Attorney General, and any court costs and attorneys fees that the Coastal Commission may be required by a court to pay - that the Coastal Commission incurs in connection with the defense of any action brought by a party other than the property owner of 30732 Pacific Coast Highway/APN 4469-026-005 against the Coastal Commission, its officers, employees, agents, successors and assigns challenging the approval of associated LCP Amendment No. 1-07."

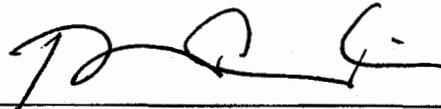
Section 4. Submittal to California Coastal Commission.

The City Council hereby directs staff to submit a copy of this Resolution to the Commission per Title 14, California Code of Regulations Section 134544.5(a).

Section 5. Certification.

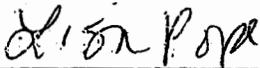
The City Clerk shall certify the adoption of this Resolution.

PASSED, APPROVED AND ADOPTED this 27th day of October 2008.



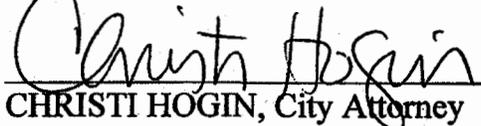
PAMELA CONLEY ULICH, Mayor

ATTEST:



LISA POPE, City Clerk
(seal)

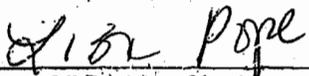
APPROVED AS TO FORM:



CHRISTI HUGIN, City Attorney

I CERTIFY THAT THE FOREGOING RESOLUTION NO. 08-59 was passed and adopted by the City Council of the City of Malibu at the regular meeting thereof held on the 27th day of October, 2008, by the following vote:

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



LISA POPE, City Clerk
(seal)

ORDINANCE NO. 331

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MALIBU ADOPTING REVISED LOCAL COASTAL PROGRAM AMENDMENT NO. 05-002, AMENDING THE SINGLE-FAMILY MEDIUM ZONING DISTRICT TO INCLUDE A 45 FOOT MINIMUM LOT STANDARD FOR BEACHFRONT LOTS AND INCORPORATING THE COASTAL COMMISSION SUGGESTED MODIFICATIONS FOR A MALIBU BAY COMPANY OVERLAY DISTRICT (30732 PACIFIC COAST HIGHWAY)

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

Section 1. Recitals.

- A. On July 29, 2005, the Malibu Bay Company applied for a Coastal Development Permit (CDP No. 05-136) with a Local Coastal Program Amendment request (LCPA No. 05-002) to subdivide into four lots a 2.08 acre parcel located at 30732 Pacific Coast Highway.
- B. On January 22, 2007, 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) Local Implementation Plan (LIP) and directing staff to submit Local Coastal Program Amendment (LCPA) No. 05-002 to the California Coastal Commission (CCC) for certification and introduced Ordinance No. 304 approving an amendment to the LIP, which was subsequently adopted on February 12, 2007.
- C. On March 6, 2007, the LCPA was submitted to the CCC. On March 20, 2007, the submittal, identified by the CCC as LCPA 1-07, was reviewed by Commission staff and determined to be complete.
- D. At the June 14, 2007 CCC hearing, the Commission extended the deadline to act on LCPA 1-07 for a period of one year.
- E. On June 11, 2008, the CCC conditionally certified LCPA No. 05-002 subject to certain terms and modifications as set forth in the Resolution of Certification adopted by the CCC on June 11, 2008.
- F. On August 19, 2008, the City received said Resolution of Certification.
- G. On October 2, 2008, a one-quarter page public hearing notice for a City Council meeting to be held on October 27, 2008 was published in a newspaper of general circulation within the City. In addition, the notice was mailed to interested parties, pertinent agencies, and to all property owners and occupants within a 500 foot radius of the subject property.
- H. On October 27, 2008, the City Council held a duly noticed public hearing.

Section 2. Environmental Review and Mitigated Negative Declaration.

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 Local Coastal Program is statutorily exempt from the requirements of the California Environmental Quality Act. Nevertheless, in the interest of

fostering the most informed decision-making process practicable, and without waiving the applicable statutory exemption, staff prepared a Revised Mitigated Negative Declaration in connection with the project which includes an analysis of LCPA 05-002. The Revised Mitigated Negative Declaration was certified by this Council on January 22, 2007 upon adoption of Resolution No. 07-07. The Revised Mitigated Negative Declaration satisfies any obligation the City may have pursuant to CEQA Guideline section 15252.

Section 3. Local Coastal Program Amendment No. 05-002 Findings.

The City of Malibu Local Coastal Program Amendment No. 05-002 involves changes to the Local Implementation Plan (LIP) of the certified Local Coastal Program. Amendments to the LIP are identified in Section 4 of this ordinance. Pursuant to LIP Section 19.6, the City Council hereby finds as follows.

A. The proposed amendments to the LIP meet the requirements of, and are in conformance with the policies and requirements of Chapter 3 of the California Coastal Act. The proposed amendment does not change any land uses in the residentially zoned area; it primarily changes the lot width requirement so that the lot sizes are consistent with similarly zoned parcels.

B. The amendments to the LIP meet the requirements of, and are in conformance with the goals, objectives and purposes of the LCP.

C. The adoption of the LIP amendments would not impede the implementation of goals or policies of the City of Malibu's General Plan as the amendment conforms the subject parcel to the same standards to which neighboring parcels are already developed.

Section 4. Local Coastal Program Local Implementation Plan Amendment No. 05-002.

A. Section 3.3.B(3) (Single Family Zone Lot Development Criteria) of the LIP is hereby amended to read as follows:

3. Lot Development Criteria

All new lots created within the SF District shall comply with the following criteria:

a. Minimum Lot Area. All new parcels created within the SF District shall comply with the minimum corresponding SF designation indicated on the Zoning Map as follows:

- i. SF-L: 0.5 unit per acre
- ii. SF-M: 1 unit per 0.25 acre
 - 1. Beachfront: 1 unit per 0.25 acre

b. Minimum Lot Width: 80 feet

- 1. Beachfront Minimum Lot Width: 45 feet

c. Minimum Lot Depth: 120 feet

1. Beachfront Minimum Lot Depth: 120 feet

- B. Section 3.4.2 (Overlay Districts Specific to Future Developments) is hereby added to read as follows:

H. Malibu Bay Company Overlay District (30732 Pacific Coast Highway/APN 4469-026-005)

The Residential Property Development and Design Standards contained in Section 3.6 of the Malibu LIP, as well as all other applicable LCP provisions, shall apply, unless specifically modified by standards detailed in this Section (3.4.2.A). In addition, the following special site-specific regulations shall apply to the subject property.

1. Public View Corridors

As a condition of approval of, and prior to issuance of a coastal development permit for, subdivision of the subject property, the following restrictions shall be imposed, and the applicant shall be required to demonstrate that the land owner has executed and recorded a deed restriction that reflects the following restrictions:

- (a) No less than 20% of the lineal frontage of each created parcel of the subdivision shall be maintained as one contiguous public view corridor in the location shown on Exhibit A. The view corridor may not be split or reconfigured.
- (b) No portion of any structure shall extend into the view corridor above the elevation of Pacific Coast Highway.
- (c) Any fencing across the view corridor shall be visually permeable, and any landscaping within the view corridor shall include only low-growing species that will not block or obscure bluewater views.
- (d) Vegetation between Pacific Coast Highway and the on-site access road that is within the public view corridors shall include only low-growing species that will not block or obscure bluewater views.

2. View Corridor

As a condition of approval of, and prior to issuance of a coastal development permit for, subdivision of the subject property, the applicant shall be required to remove all existing obstructions between Pacific Coast Highway and the on-site access road that are within the required public view corridors, including vegetation that is over two feet in height above the elevation of Pacific Coast Highway and any fencing or gates that are not visually permeable.

3. Revised Dune Habitat Restoration Plan

As a condition of approval of, and prior to issuance of a coastal development permit for, subdivision of the subject property, the applicant shall be required to submit, for review and approval by the City Biologist, a revised "Restoration Plan for Coastal Foredunes, 30732 Pacific Coast Highway" (Read, 2005), that incorporates the following changes and additions:

- a. All restoration plants and seeds shall consist of local genotypes. Propagules shall be collected on the project site or from elsewhere along the coast of northern Los Angeles County or southern Ventura County, as close as feasible to the project site.
- b. The use of a temporary irrigation line system shall be omitted. Rather, restoration seeds/plants shall be planted during the rainy season. If rainfall is not sufficient and additional irrigation is determined necessary for successful plant establishment, only hand watering may be conducted.
- c. The planting plan shall be revised to include all disturbed dune habitat areas as identified in the dune habitat delineation contained in the "Biological Resources Assessment," by Hamilton et al., dated March 6, 2008.
- d. A maximum of two (2), three-foot wide pathways through the dunes may be established within the dune restoration area, and may only be sited in the area of the existing paths per Figure 2 of the Restoration Plan.
- e. Symbolic fencing (post and rope) along the two allowed pathways within the restoration area shall be installed to clearly delineate pathways from restoration areas.
- f. The root barrier element of the Restoration Plan shall be omitted.
- g. Rear yard fencing shall be installed to delineate developed/setback areas from ESHA/restoration areas.

4. Dune Habitat Restoration Plan Implementation

As a condition of approval of the subdivision of the subject property, the applicant shall be required to implement the Revised Dune Habitat Restoration Plan required pursuant to Part 3 above. Restoration shall commence immediately after issuance of the coastal development permit. If permit issuance does not correspond with the rainy season, restoration shall commence during the next rainy season following coastal development permit issuance.

5. Rear Setback

The following standard shall replace the rear setback standards for beachfront parcels in Malibu LIP Sections 3.6 (G3) and 3.6 (G4):

Rear Setback

New development, including dwellings, decks, patios, etc. shall provide a rear setback that is the most landward of either: 1) the appropriate structure or deck stringline; or 2) no less than 5 feet landward of the landwardmost limit of dune ESHA, which is shown on Exhibit B.

Separate stringline standards apply to dwellings and decks, as follows:

a. Dwellings. For a dwelling, new construction shall not extend seaward of a stringline drawn from a point on the closest upcoast and downcoast dwelling. The stringline point shall be located on the nearest adjacent corner of the upcoast and downcoast dwelling.

b. Decks and patios. For a deck or patio, new construction shall not extend seaward of a stringline drawn from a point on the closest upcoast and downcoast deck or patio. The stringline point shall be located on the nearest adjacent corner of the upcoast and downcoast deck or patio.

The variance provisions of Malibu LIP Section 13.26 shall not apply to the rear setback requirements of the Malibu Bay Company (30732 Pacific Coast Highway) Overlay.

6. Open Space Conservation Easement

No development, as defined in Section 2.1 of the Malibu LIP, shall occur within the area of the subject property located between the landwardmost limit of ESHA and the ambulatory seawardmost limit of dune vegetation, which is generally shown on Exhibit B, except for dune habitat restoration, the use and maintenance of a maximum of two 3-foot wide pathways, and symbolic fencing to delineate the two pathways.

As a condition of approval of, and prior to issuance of a coastal development permit for, subdivision of the subject property, the applicant shall be required to demonstrate that the land owner has executed and recorded a document in a form and content acceptable to the Coastal Commission, irrevocably offering to dedicate (or grant an easement) to a public agency or private association approved by the Coastal Commission, an open space conservation easement over the area described in the prior paragraph ("open space conservation easement area"), for the purpose of habitat protection. The recorded easement document shall include a formal legal description of the entire property; and a metes and bounds legal description and graphic depiction, prepared by a licensed surveyor, of the open space conservation easement area, as generally shown on Exhibit B. The recorded document shall reflect that no development shall occur within the open space easement area except as otherwise set forth in this permit condition. The offer shall be recorded free of prior liens and encumbrances which the Coastal Commission determines may affect the interest being conveyed.

C. Section 6.5(E) (Ocean Views) of the LIP is hereby amended to read as follows:

6. New subdivisions of beachfront residential parcels, where structures cannot be sited or designed below road grade, shall ensure that no less than 20% of the lineal frontage of each newly created parcel shall be maintained as one contiguous public view corridor

(even if the resultant lots are 50 feet or less in width). The view corridors of the newly created parcels shall be contiguous to the maximum extent feasible in order to minimize impacts to public views of the ocean. This requirement shall be a condition of permit approval for subdivision of a beachfront property.

- D. The Exhibits in the LIP are hereby amended to include a map of Malibu Bay Company Overlay District (30732 Pacific Coast Highway/APN 4469-026-005). The map is attached as Exhibit B.

Section 5. Approval of Local Coastal Program Amendment No. 05-002

A. Pursuant to the California Coastal Commission's Administrative Regulations Section 13544.5, 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) the Executive Director determines in writing that the City's action is legally adequate to satisfy any specific requirements set forth in the Commission's certification order and the Director reports the determination to the Commission at its next regularly scheduled meeting; 3) if the Director finds that the City's action does not conform to the Commission's order, the Commission 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 California Coastal Commission's modifications to LCPA No. 05-002. The City Council further accepts and agrees to the modified language suggested by the California Coastal Commission pertaining to the Local Implementation Plan and approves revised LCP Amendment No. 05-002 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.

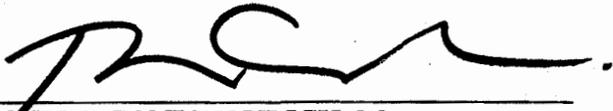
Section 6. Submittal to California Coastal Commission.

The City Council hereby directs staff to submit a copy of this Resolution to the Commission per Title 14, California Code of Regulations Section 13544.5(a).

Section 7. Certification.

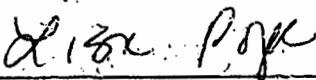
The City Clerk shall certify the adoption of this Ordinance.

PASSED, APPROVED AND ADOPTED this 10th day of November, 2008.



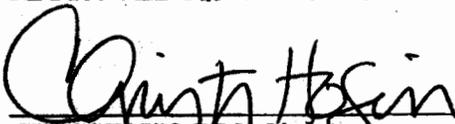
PAMELA CONLEY ULICH, Mayor

ATTEST:



LISA POPE, City clerk
(seal)

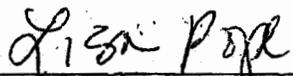
APPROVED AS TO FORM:



CHRISTI HOGAN, City Attorney

I CERTIFY THAT THE FOREGOING ORDINANCE NO. 331 was passed and adopted at the Regular City Council meeting of November 10, 2008, by the following vote:

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



LISA POPE, City Clerk
(seal)

BROAD BEACH - View Corridors 4

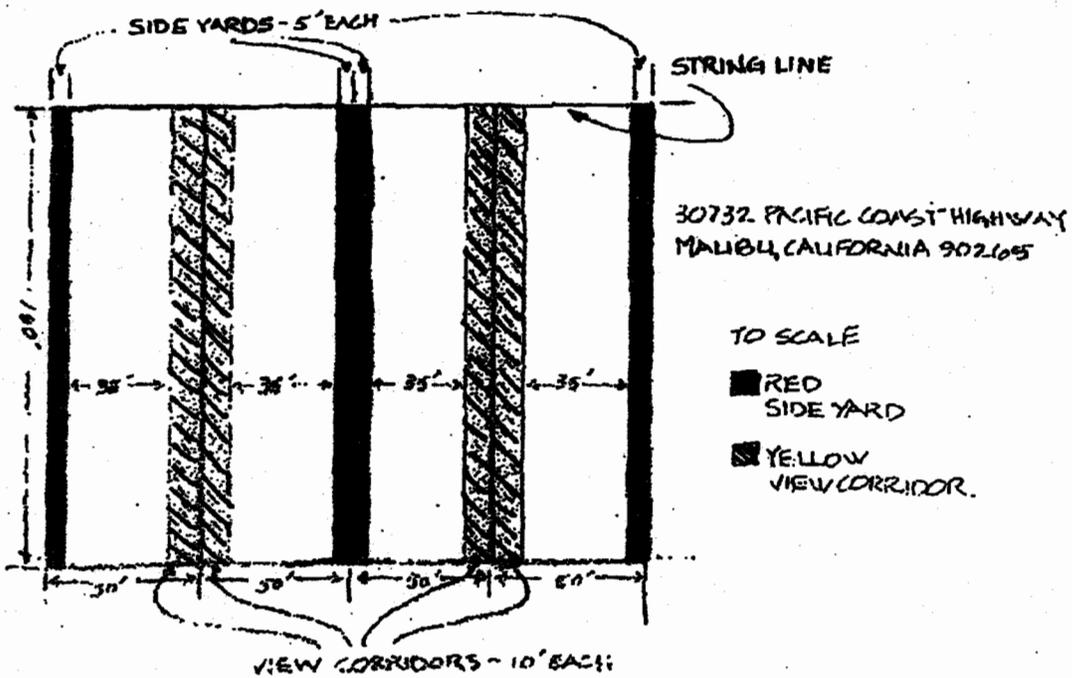


Exhibit A
Malibu LCPA 1-07
Public View Corridor
Plan for 30732 PCH



**Approximate Open Space
Conservation Easement
Area**

Exhibit B.
Malibu LGPA 1-07
Open Space Conserv. Easement Area for 30732 PCH