

**CALIFORNIA COASTAL COMMISSION**

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

# Th 13.5a



**DATE:** January 27, 2010

**TO:** Commissioners and Interested Persons

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

**SUBJECT:** City of Malibu Local Coastal Program Amendment No. MAL-MAJ-2-09-A ("Crummer Trust" Parcel) for Public Hearing and Commission Action at the February 11, 2010 Commission Meeting in Oceanside.

## **DESCRIPTION OF THE SUBMITTAL**

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

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

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

## **SUMMARY OF STAFF RECOMMENDATION**

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

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

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

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

## **SUBSTANTIVE FILE DOCUMENTS**

Resolution No. 08-68, adopted by the City Council of the City of Malibu December 8, 2008; Ordinance No. 333, adopted by the City Council of the City of Malibu January 12, 2009; “Initial Study” for the Crummer Site Subdivision, prepared by The Planning Center, dated October 2008; “Study of Lower Cost Overnight Accommodations Serving the City of Malibu and its Vicinity,” by AZ Winter Mesa LLC, dated September 2008; County of Ventura LCP Amendment No. 1-07 and Appeal No. A-4-VNT-07-009 (Crown Point Estates); City of Malibu Local Coastal Program, adopted September 2002; 1986 Malibu-Santa Monica Mountains Land Use Plan.

## **TABLE OF CONTENTS**

<b>EXHIBITS.....</b>	<b>3</b>
<b>I. PROCEDURAL ISSUES.....</b>	<b>4</b>
A. STANDARD OF REVIEW .....	4
B. PUBLIC PARTICIPATION .....	4
C. PROCEDURAL REQUIREMENTS.....	5
<b>II. STAFF MOTIONS, RESOLUTIONS, &amp; RECOMMENDATIONS .....</b>	<b>5</b>
A. DENIAL OF THE LAND USE PLAN AMENDMENT AS SUBMITTED .....	5
B. CERTIFICATION OF THE LAND USE PLAN AMENDMENT WITH SUGGESTED MODIFICATIONS .....	6
C. DENIAL OF THE LOCAL IMPLEMENTATION PLAN AMENDMENT AS SUBMITTED .....	6
D. CERTIFICATION OF THE LOCAL IMPLEMENTATION PLAN AMENDMENT WITH SUGGESTED MODIFICATIONS .....	7
<b>III. SUGGESTED MODIFICATIONS ON THE LAND USE PLAN AMENDMENT .....</b>	<b>8</b>
<b>IV. SUGGESTED MODIFICATIONS ON THE LOCAL IMPLEMENTATION PLAN AMENDMENT .....</b>	<b>8</b>
<b>V. FINDINGS FOR DENIAL OF THE CITY OF MALIBU LUP/LIP AMENDMENT, AS SUBMITTED, AND FINDINGS FOR APPROVAL OF THE CITY OF MALIBU LUP/IP AMENDMENT, IF MODIFIED AS SUGGESTED .....</b>	<b>10</b>
A. AMENDMENT DESCRIPTION .....	11
B. BACKGROUND .....	12
C. CONSISTENCY ANALYSIS.....	14
D. CONSISTENCY WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT	23

---

## **EXHIBITS**

<b>Exhibit 1.</b>	<b>Proposed LCP Amendment 2-09-A Text</b>
<b>Exhibit 2.</b>	<b>City Council Resolution No. 08-68</b>
<b>Exhibit 3.</b>	<b>City Council Ordinance No. 333</b>
<b>Exhibit 4.</b>	<b>City of Malibu LCP Land Use Map</b>
<b>Exhibit 5.</b>	<b>Location Map</b>
<b>Exhibit 6.</b>	<b>Parcel Map</b>
<b>Exhibit 7.</b>	<b>Aerial View of “Crummer Trust” Parcel</b>
<b>Exhibit 8.</b>	<b>Subdivision Site Plan Proposed to City</b>
<b>Exhibit 9.</b>	<b>Commissioner Ex Parte Communications</b>
<b>Exhibit 10.</b>	<b>“Study of Lower Cost Overnight Accommodations Serving the City of Malibu and its Vicinity,” by AZ Winter Mesa LLC, dated September 2008</b>

## I. PROCEDURAL ISSUES

### A. STANDARD OF REVIEW

The Coastal Act provides:

***The commission shall certify a land use plan, or any amendments thereto, if it finds that a land use plan meets the requirements of, and is in conformity with, the policies of Chapter 3 (commencing with Section 30200)... (Section 30512(c))***

The Coastal Act further provides:

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

***The Commission may only reject ordinances, zoning district maps, or other implementing action on the grounds that they do not conform with, or are inadequate to carry out, the provisions of the certified land use plan. If the Commission rejects the zoning ordinances, zoning district maps, or other implementing actions, it shall give written notice of the rejection, specifying the provisions of the land use plan with which the rejected zoning ordinances do not conform, or which it finds will not be adequately carried out, together with its reasons for the action taken. (Section 30513)***

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

### B. PUBLIC PARTICIPATION

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

## **C. PROCEDURAL REQUIREMENTS**

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

## **II. STAFF MOTIONS, RESOLUTIONS, & RECOMMENDATIONS**

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

### **A. DENIAL OF THE LAND USE PLAN AMENDMENT AS SUBMITTED**

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

#### **STAFF RECOMMENDATION OF REJECTION:**

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

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

The Commission hereby denies certification of Amendment MAL-MAJ-2-09-A to the City of Malibu Land Use Plan and adopts the findings set forth below on grounds that the land use plan as submitted does not meet the requirements of and is not in conformity with the policies of Chapter 3 of the Coastal Act. Certification of the land use plan would not meet the requirements of the California Environmental Quality Act, as there are feasible alternatives and mitigation measures that would substantially lessen the significant adverse impacts on the environment that will result from certification of the land use plan as submitted.

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

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

### **STAFF RECOMMENDATION TO CERTIFY IF MODIFIED:**

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

### **RESOLUTION TO CERTIFY THE LAND USE PLAN WITH SUGGESTED MODIFICATIONS:**

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

## **C. DENIAL OF THE LOCAL IMPLEMENTATION PLAN AMENDMENT AS SUBMITTED**

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

**STAFF RECOMMENDATION OF REJECTION:**

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

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

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

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

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

**STAFF RECOMMENDATION:**

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

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

The Commission hereby certifies the City of Malibu Local Implementation Plan Amendment MAL-MAJ-2-09-A if modified as suggested and adopts the findings set forth below on grounds that the Implementation Plan Amendment with the suggested modifications conforms with, and is adequate to carry out, the provisions of the certified Land Use Plan as amended. Certification of the Implementation Plan Amendment if modified as suggested complies with the California Environmental Quality Act, because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the Implementation Plan

Amendment on the environment, or 2) there are no further feasible alternatives and mitigation measures that would substantially lessen any significant adverse impacts on the environment.

### **III. SUGGESTED MODIFICATIONS ON THE LAND USE PLAN AMENDMENT**

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

#### ***SUGGESTED MODIFICATION NO. 1***

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

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

### **IV. SUGGESTED MODIFICATIONS ON THE LOCAL IMPLEMENTATION PLAN AMENDMENT**

The staff recommends the Commission certify the following, with the modifications as shown below. The existing language of the certified LCP is shown in straight type. Language recommended by Commission staff to be deleted is shown in ~~line out~~. Language proposed by Commission staff to be inserted is shown underlined. Other



suggested modifications that do not directly change LCP text (e.g., revisions to maps, figures, instructions) are shown in italics.

## ***SUGGESTED MODIFICATION NO. 2***

### **LIP Chapter 3**

#### **Q. Planned Development (PD) Zone**

##### **1. Purpose**

The PD District is intended to provide for a mix of residential and recreational development of the “Crummer Trust” property located east of Malibu Bluffs State Park and south of Pacific Coast Highway (APNs 4458-018-019, 4458-018-002, 4458-018-018), ~~and other commercial areas in order to encourage innovation in development concepts, land use mixes, and site design. Any planned developments in such commercial areas would require an amendment to the Malibu Local Coastal Program in order to specify the permitted type, density, and intensity of development.~~

##### **2. Permitted Uses and Development Criteria**

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

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

- a) Residential use shall be allowed on approximately 22 acres of the approximately 24-acre parcel at a density of no more than five (5) dwelling units. The allowable permitted and conditionally permitted residential uses shall be limited to those allowed in the Rural Residential Zone. The remaining approximately 1.75 acres of the parcel that is adjacent to City Bluffs Park shall be dedicated in perpetuity to the City of Malibu for recreational uses. The allowable permitted and conditionally permitted recreational uses shall be limited to those allowed in the Public Open Space Zone.
- b) Instead of the residential structure size requirements set forth in LIP Section 3.6 (K), the total development square footage (TDSF) associated with construction of single family residences on the residential parcels shall not exceed a cumulative total of 54,509 sq. ft. All other provisions of LIP Section 3.6 (K) (1-6) still apply.
- c) As a condition of approval of, and prior to the issuance of a coastal development permit for the subdivision and/or development of the subject “Crummer Trust” parcel, the property owner shall provide mitigation for the loss of visitor-serving uses by satisfying the following:

- i. A total in-lieu fee of \$750,000 shall be deposited into an interest-bearing account, to be established and managed by the State Coastal Conservancy pursuant to a memorandum of understanding entered into between the Conservancy and the Executive Director of the Coastal Commission. The purpose of this account shall be to provide funding grants to public agencies or non-profit organizations for the provision of lower cost overnight visitor accommodations within or in close proximity to the coastal zone, including but not limited to hostel accommodations, campground accommodations, cabins, or low cost hotel or motel accommodations. Until paid in accordance with the terms and conditions of the coastal development permit, the amount shall be increased every July 1st by an amount calculated on the basis of the percentage change from the year 2010 in the California Consumer Price Index for Urban Consumers as determined by the entity that grants the coastal development permit.
- ii. The entire fee deposited into the special account identified in subparagraph (c)(i) together with any accrued interest shall be used for the purpose set forth in subparagraph (c)(i), and the expenditure of any funds from this account shall be subject to review and approval by the Executive Director of the Coastal Commission. This fee shall be expended within five (5) years of the date the fee is deposited into the account, unless this time limit is extended for good cause for a period not to exceed an additional five (5) years. If the funds are not expended within this time period, the Coastal Commission and the State Conservancy shall agree on an alternative expenditure of the funds for public recreational benefits in the coastal zone.

### 3. Development Criteria

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

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

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

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

## **A. AMENDMENT DESCRIPTION**

The City of Malibu is requesting an amendment to the Land Use Plan (LUP) portion of its certified LCP to delete LUP Policy 2.78 and to modify the requirements of the Planned Development (PD) land use designation to allow for a mix of residential and recreational use instead of commercial visitor-serving use. The amendment further proposes to modify the Planned Development (PD) zone district of the Local Implementation Plan (LIP) portion of its LCP to similarly allow for a mix of residential and recreational use instead of commercial visitor-serving use. The Planned Development designation is currently applied to one vacant 24-acre parcel adjacent to Malibu Bluffs Park, formerly known as the "Crummer Trust" parcel (APNs 4458-018-018, 019, 002). The Planned Development designation specifies that the "Crummer Trust" parcel shall be for Commercial Visitor-Serving use unless an agreement was reached with State Parks to move the Bluffs Park athletic fields to the property, at which point the site would be re-designated for a mix of residential and recreational use, with up to eight residential units permitted.

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

### **Land Use Plan Policy No. 2.78**

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

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

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

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

Planned Development (PD) Zone

## 1. Purpose

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

## 2. Permitted Uses

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

## 3. Development Criteria

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

# **B. BACKGROUND**

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

Prior to incorporation of the City of Malibu in 1991, the subject property was primarily designated “Commercial/Office”, with a small portion of the site on the bluff designated Rural Land II (1du/5 acres), in the 1986 Los Angeles County Malibu-Santa Monica Mountains Land Use Plan (1986 LUP). The property was not specifically designated for visitor-serving use in the 1986 LUP.

This designation persisted until the City incorporated in 1991, and the portion of the certified Land Use Plan covering Malibu expired until such time as the City prepared and presented its own LCP for consideration. While the property was still in County of Los Angeles jurisdiction, there was only one proposal seriously advanced for the site – a “think tank” facility for General Motors. This proposal also was abandoned. The site

has never been proposed for a hotel or resort, either when under the jurisdiction of the County of Los Angeles or of the City. The site has no direct connection to the beach.

At the time the Commission was preparing the Malibu Local Coastal Program in 2002, the City of Malibu and the California Department of Parks and Recreation (State Parks) had been negotiating a proposal for State Parks to fund the transfer of the existing, temporary athletic fields in the adjacent Bluffs Park (State parkland) onto the subject "Crummer Trust" property. The goal of this negotiation was to preserve State parkland for regional park uses and to also preserve the athletic fields for local use. As such, the Commission had certified policies in the Malibu LCP that assigned the property a placeholder zone designation of "Planned Development" and specified that the property shall be for Commercial Visitor-Serving use (although this designation was not the site's original land use designation per the 1986 LUP, the site was determined appropriate for a higher priority use when the Malibu LCP was certified due to its size and proximity to the Civic Center area, Pepperdine University, and PCH) unless an agreement was reached with State Parks to move the Bluffs Park athletic fields to the property, at which point the site would be re-designated for a mix of residential and recreational use, with up to eight residential units permitted.

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

However, the certified Land Use and Zoning Maps designate the "Crummer" site Planned Development (PD), not Commercial Visitor-Serving (CV-2). Therefore, there is an internal inconsistency in the LCP that must be resolved.

The new owner of the subject "Crummer Trust" property has proposed to the City of Malibu to subdivide the parcel into seven new lots to be developed as follows: five lots containing five new single-family residences, one homeowners association lot which will contain a private road in the eastern portion of the site, and ancillary facilities to serve the new residences, and one lot consisting of approximately 1.75 acres to be dedicated to the City of Malibu to expand the adjacent City-owned park with an additional baseball field and 35 parking stalls. The City of Malibu has undertaken an Initial Study of the subdivision and development plan pursuant to CEQA and determined that an EIR is required.

The City and property owner believe that a Commercial Visitor-Serving use is not viable at this site and that a mix of residential and recreational uses would be appropriate and consistent with the intent of a previous agreement contemplated for the site. Recognizing that the resultant conversion of the property from Commercial Visitor-Serving to Residential/Recreational (Planned Development) would reduce the potential for visitor-serving and affordable overnight accommodation use in this area, the property

owner has offered to pay an in-lieu mitigation fee of \$750,000 to assist in funding affordable overnight accommodations elsewhere in the coastal zone. However, this proposed fee is not reflected in the proposed LCP amendment request. Moreover, project-specific development criteria and density standards are also not reflected in the proposed LCP amendment request to modify the Planned Development zone designation for the site. Rather, the City is proposing to delete an LCP provision that requires development criteria and density standards be specified in Planned Development zones through an LCP amendment process.

Staff has received written disclosures of ex-parte communication from Commissioners regarding the subject amendment request. These written disclosures are attached as **Exhibit 9** of the staff report.

## **C. CONSISTENCY ANALYSIS**

### Relevant Coastal Act Policies

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

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

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

Section 30222 of the Coastal Act states:

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

Section 30223 of the Coastal Act states:

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

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

***New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such***

*areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. In addition, land divisions, other than leases for agricultural uses, outside existing developed areas shall be permitted only where 50 percent of the usable parcels in the area have been developed and the created parcels would be no smaller than the average size of surrounding parcels.*

Section 30252 of the Coastal Act states:

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

Other Applicable City of Malibu Land Use Plan Policies

- 2.33** *Priority shall be given to the development of visitor-serving and commercial recreational facilities designed to enhance public opportunities for coastal recreation. On land designated for visitor-serving commercial and/or recreational facilities, priority shall be given to such use over private residential or general commercial development. New visitor-serving uses shall not displace existing low-cost visitor-serving uses unless an equivalent replacement is provided.*
- 2.34** *Existing, lower cost visitor-serving and recreation facilities, including overnight accommodations, shall be protected to the maximum feasible extent. New lower cost visitor and recreation facilities, including overnight accommodations, shall be encouraged and provided, where designated on the LUP Map. Priority shall be given to developments that include public recreational opportunities. New or expanded facilities shall be sited and designed to minimize impacts to environmentally sensitive habitat areas and visual resources.*
- 2.36** *Coastal recreational and visitor serving uses and opportunities, especially lower cost opportunities; shall be protected, encouraged, and where feasible, provided by both public and private means. Removal or conversion of existing lower cost opportunities shall be prohibited unless the use will be replaced with another offering comparable visitor serving or recreational opportunities.*
- 2.37** *Priority shall be given to the development of visitor-serving commercial and/or recreational uses that complement public recreation areas or supply recreational opportunities not currently available in public parks or beaches. Visitor-serving commercial and/or recreational uses may be located near public park and recreation areas only if the scale and intensity of the visitor-serving commercial*

*recreational uses is compatible with the character of the nearby parkland and all applicable provisions of the LCP.*

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

#### **Chapter 5, Section C.2**

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

#### Applicable City of Malibu Implementation Plan Provisions

#### **Chapter 3, Section Q**

#### **Planned Development (PD) Zone**

##### **1. Purpose**

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

##### **2. Permitted Uses**

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

##### **3. Development Criteria**

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

#### Discussion



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

Prior to incorporation of the City of Malibu in 1991, the subject property was primarily designated "Commercial/Office", with a small portion of the site on the bluff designated Rural Land II (1du/5 acres), in the 1986 Los Angeles County Malibu-Santa Monica Mountains Land Use Plan (1986 LUP). The property was not specifically designated for visitor-serving use in the 1986 LUP. At the time the Commission was preparing the Malibu Local Coastal Program in 2002, the City of Malibu and the California Department of Parks and Recreation (State Parks) had been negotiating a proposal for State Parks to fund the transfer of the existing athletic fields in the adjacent Bluffs Park (State parkland) onto the subject "Crummer Trust" property. The goal of this negotiation was to preserve State parkland for regional park uses and to also preserve the athletic fields for local use. As such, the Commission had certified policies in the Malibu LCP that assigned the property a place-holder zone designation of "Planned Development" and specified that the property shall be designated for Commercial Visitor-Serving use unless an agreement was reached with State Parks to move athletic fields to the property, at which point the site would be re-designated for a mix of residential and recreational use, with up to eight residential units permitted.

However, after the LCP was certified by the Commission, a different agreement was reached between State Parks and the City of Malibu. Pursuant to this agreement, State Parks transferred ownership of all 93 acres of Bluffs Park to the Santa Monica Mountains Conservancy (SMMC) and the City of Malibu then purchased approximately 10 acres of Bluffs Park that included the athletic fields, parking area and the visitor center facility from the SMMC. This agreement by State Parks and the SMMC allowed the visitors center and athletic fields, to remain where they were while preserving and protecting the remainder of Bluffs Park, particularly the natural areas of the bluff as native habitat with public access. The proceeds from this transaction allowed State Parks the opportunity to acquire a portion of the Soka University property, a valuable piece of parkland in the Coastal Zone adjacent to Malibu Creek State Park totaling approximately 388 acres that has been sought as a high priority by the park agencies since the 1970's.

The "Crummer Trust" property was not a part of the transaction. Therefore, pursuant to Policy 2.78 of the certified LUP, this property was to be for Commercial Visitor-Serving use. However, the Land Use and Zoning Maps designate the site Planned Development (PD), which allows for a residential and recreational mix of land uses with up to eight (8) residential units. Again, this created an internal inconsistency in the LCP between Policy 2.78 and the Land Use Map, Zoning Map & LIP. However, the intent of the Commission, as articulated in Policy 2.78, was clear that if the transaction regarding the athletic fields did not occur the site was to be designated as Commercial Visitor-Serving (CV-2). In any event, this inconsistency in the LCP must be resolved.

The proposed LCP amendment consists of a request to delete LUP Policy 2.78 and to modify the requirements of the Planned Development (PD) land use and zoning designation to allow for a mix of residential and recreational use instead of commercial visitor-serving use. The Planned Development designation is currently applied to just one parcel: the vacant 24-acre parcel adjacent to Malibu Bluffs Park that is formally known as the “Crummer Trust” parcel (APNs 4458-018-018, 019, 002). Although not a part of this LCP amendment, specifically, the property owner has brought forth a project to the City of Malibu to subdivide the parcel into seven new lots to be developed as follows: five lots containing five new single-family residences, one homeowners association lot which will contain a private road in the eastern portion of the site and ancillary facilities to serve the new residences, and one lot consisting of approximately 1.75 acres to be dedicated to the City of Malibu to expand the adjacent City-owned park with an additional baseball field and 35 parking stalls.

Although the agreement contemplated in LUP Policy 2.78 was never reached affecting the subject property, the policy was clear in specifying that the land use and zoning designation for the property was to be Commercial Visitor-Serving (CV-2).

Although the site is located in a visible, well-traveled location near State-owned park lands and could potentially support some form of commercial and/or recreational development there are a number of constraints that would limit the range and amount of visitor-serving uses that could be accommodated on the site.

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

The property owner has submitted a study to Commission staff that inventories and analyzes lower cost overnight accommodations serving the City of Malibu and its vicinity (**Exhibit 10**). The study asserts that commercial offerings in Malibu generally cater to more affluent visitors/consumers rather than visitors seeking low cost overnight accommodations, due in part to the high cost of land in Malibu, which is a major obstacle in constructing new low-cost overnight accommodations. The subject property, in particular, is considered prime real estate given its bluff-top location adjacent to Pacific Coast Highway and overlooking the ocean. Adjacent land to the west is a City park and State public parkland. Adjacent land to the east and south is residential, at a

maximum density of four dwelling units per acre. Adjacent land to the north and northeast is considered Malibu's Civic Center area and is zoned for Commercial and Commercial Visitor-Serving uses. Based on the foregoing considerations, the study concludes that the proposed conversion of the subject property is appropriate and would not represent a significant loss of visitor-serving opportunity because the site is not well-suited or economically viable for such a use.

The study also asserts that there is ample inventory of low-cost overnight accommodations in the greater Malibu vicinity, particularly in the nearby cities of Agoura Hills, Calabasas, Santa Monica, Venice, and Los Angeles. In addition, the study notes that State Parks and the Santa Monica Mountains Conservancy are developing plans to bring more low-cost overnight accommodation opportunities to the coastal areas of Malibu and the Santa Monica Mountains, including at the nearby Malibu Bluffs State Recreation Area. Under the City of Malibu's LCP, certified by the Commission in 2002, there are approximately twelve (12) parcels, totaling approximately 80 acres, zoned Commercial Visitor-Serving (excluding the subject property that is zoned "Planned Development"). Several of these parcels contain existing hotels, motels, or B & B's. There are currently six (6) existing overnight accommodation facilities in the City of Malibu, with a total of 117 rooms. And there is an existing 30-acre vacant site across the street from the subject property that had been previously considered, and continues to be considered, for a hotel use. Moreover, given the development configuration being considered by the property owner and the City of Malibu for the subject site (although not a part of the proposed amendment request), the contemplated mix of residential and recreational uses is consistent with the character of the area and is consistent with the adjacent land uses. As such, given that the site-specific study described above is based on substantial evidence and its conclusions are reasonable, the Commission finds that if properly mitigated, the proposed conversion can be found consistent with the Coastal Act. In addition, the conversion would not adversely impact coastal access along the coast or coastal resources, and would allow the clustering of development within or near an existing developed area able to accommodate it, consistent with Section 30250 of the Coastal Act.

Commercial visitor-serving uses allowed in the CV-2 zone include hotels/motels and a wide variety of retail uses, general services uses, office and health care related uses, dining drinking and entertainment uses and a variety of public, quasi-public or non-profit uses. Camping is specifically prohibited use on CV-2 zoned property.

Given the bluff top location of the "Crummer" site adjacent to Pacific Coast Highway, an LCP designated scenic highway, any development on the site would have to consist of very low-profile type structures, limited to one or possibly two stories. In addition, with required bluff top setbacks per the LCP, the area of the property available for development is significantly reduced (approximately 8.9 acres). The landowner has indicated that given the constraints of the property the only type of overnight accommodation that would be economically feasible would be a very high-end luxury boutique-type hotel of approximately 100 units.

In the event a property owner proposes to build new overnight luxury accommodations, LUP Policy 2.35 and LIP Section 12.10 allows for the payment of an in lieu fee of \$10,419 applied to 15% of the total new luxury accommodations built on a property as a mechanism to ensure compliance with the objectives of Sections 30213 and 30222 of the Coastal Act and Policies 2.33, 2.34, 2.36 and 2.37 of the Malibu LCP. This amount is to be adjusted for inflation beginning in the year 2000. Given the development constraints on the Crummer Trust property, the property owner anticipates a hotel of approximately 100 rooms at most could be established, with associated facilities. Assuming these would be luxury accommodations, 15% of the rooms would be assessed the fee which adjusted for inflation would be \$196,336.50, significantly less than the \$750,000 fee proposed by the applicant. Commission staff has identified potential public projects in the area that are in need of funding to implement affordable visitor-serving accommodations, such as the former Topanga Ranch Motel within Lower Topanga State Park, contemplated by State Parks for rehabilitation. The use of these funds in this manner is consistent with LUP Policies 2.33, 2.34, 2.36, and 2.37 to create or protect visitor serving and recreational uses.

Other visitor-serving commercial development such as visitor-serving retail uses would also be constrained on the “Crummer” site. Again, given the limited development area due to setback requirements, height requirements, and potential parking and traffic circulation conflicts with the adjacent athletic field uses, it is not likely a visitor-serving commercial retail use would be feasible in this location. The athletic fields generate a significant amount of traffic and parking demand during peak use periods which would present significant conflicts with any visitor-serving commercial retail use. It is not likely an economically feasible commercial visitor serving retail use, other than a luxury hotel, would be feasible in this location. Since the LCP was adopted in 1993 no retail visitor serving commercial development proposals have been proposed on the “Crummer” site.

It should also be noted that the nearby Civic Center area is clearly the more appropriate location for visitor serving commercial retail and restaurant type uses.

However, re-designation of the site for residential development would result in the potential loss of visitor serving commercial uses, even if that use maybe limited to a luxury hotel use. As such, the proposed amendment request will have an adverse affect on priority visitor-serving opportunities in the area. Residential development is a lower priority use within the Coastal Zone.

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

In order for the proposed land use conversion from Commercial Visitor-Serving to Residential/Recreational to be found consistent with the Coastal Act, it must be appropriately mitigated since the proposed land use change would allow for residential development on the subject property, which is not a priority use within the Coastal Zone.

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

Given that the subject "Crummer Trust" parcel is substantially larger than the Crown Pointe Estates parcel, and therefore represents a greater loss of visitor-serving opportunity, Commission staff has found that a mitigation fee of \$750,000 would be appropriate in this case. However, the applicant apparently did not propose the mitigation fee as part of its LCPA application to the City and so this proposed fee is not reflected in the proposed LCP amendment request. Therefore, in order to ensure that the proposed amendment will not result in the loss of visitor-serving and recreational opportunities in the Coastal Zone, the Commission is requiring a suggested modification to implement the property owner's mitigation fee offer. Thus, **Suggested Modification Nos. 1 and 2** would require the City to add a new Land Use Plan policy and associated Implementation Plan provisions that require payment of a \$750,000 fee to mitigate for the loss of visitor-serving land as a condition of approval and prior to the issuance of any coastal development permit for subdivision or development of the subject property. The purpose of the fee would be to fund new local public access and lower cost overnight visitor accommodations, such as the rehabilitation by State Parks of the former Topanga Ranch Motel within Lower Topanga State Park, unless such local project are not able to implemented in a timely manner or if a higher priority project is identified in other areas of the Coastal Zone. Specifically, the in-lieu fee of \$750,000 shall be deposited into an interest-bearing account, to be established and managed by the State Coastal Conservancy pursuant to a memorandum of understanding entered

into between the Conservancy and the Executive Director of the Coastal Commission. The account shall provide funding grants to public agencies or non-profit organizations for the provision of lower cost overnight visitor accommodations within or in close proximity to the coastal zone, including but not limited to hostel accommodations, campground accommodations, cabins, or low cost hotel or motel accommodations. Until paid in accordance with the terms and conditions of the coastal development permit, the amount shall be increased every July 1st by an amount calculated on the basis of the percentage change from the year 2010 in the California Consumer Price Index for Urban Consumers as determined by the entity that grants the coastal development permit. As such, implementation of the mitigation requirement would be carried out through the City's coastal development permit process. The policy includes provisions to adjust the mitigation fee to account for inflation.

The subject parcel is the only parcel in the City currently with the Planned Development (PD) land use and zoning designation. The PD Zone is intended to provide for a mix of residential and recreational development. The terms of the PD Zone are clear in providing that a "planned development" for a specific project would require the approval of an LCP amendment that would specify the permitted type, density, and intensity of development. However, the proposed LCP amendment proposes only to delete this requirement. No details regarding the permitted type, density, or intensity of development that would be permitted on the site have been proposed in its place. As such, no site-specific development criteria or density standards by which to judge future development proposals would apply within the proposed PD zone. The lack of specificity regarding the applicable density criteria and development standards for the Planned Development zone is inadequate for carrying out the provisions of the certified Land Use Plan. Therefore, **Suggested Modification No. 2** is required to add general density standards and development criteria that would be applicable to the subject PD-zoned parcel and consistent with the identified mix of residential and recreational uses proposed to the City by the current property owner. Although not a part of this LCP amendment, specifically, the property owner has brought forth a project to the City of Malibu to subdivide the parcel into seven new lots to be developed as follows: five lots containing five new single-family residences, one homeowners association lot which will contain a private road in the eastern portion of the site and ancillary facilities to serve the new residences, and one lot consisting of approximately 1.75 acres to be dedicated to the City of Malibu to expand the adjacent City-owned park with an additional baseball field and 35 parking stalls. As discussed previously, the Commission finds that the proposed density of residential development on the property, combined with dedication of a portion of the property for recreational use, is consistent with both the character of the area and with the adjacent development and land uses.

The proposed clustering of residential development and dedication of a portion of the parcel to the City for recreational use would result in the residential parcels being smaller in size than if the whole parcel acreage were devoted to residential use. Such smaller parcels would result in a reduced allowable total development square footage (TDSF) pursuant to Section 3.6 (K) of the LIP. As part of the project, the property owner has proposed a larger cumulative TDSF for the residential lots than would otherwise be

allowed by strict application of the standard on an individual lot basis. While a larger total TDSF would not meet the strict terms of Section 3.6(K), it would be consistent with the maximum TDSF that would otherwise be allowed for five residential parcels created from the existing 24-acre parcel. It is appropriate to allow for a slightly larger cumulative TDSF on the residential lots in recognition of the public recreational benefit of the project (1.75-acre park dedication). As such, development criteria of a 54,509 sq. ft. maximum cumulative TDSF for all residential lots has been included in **Suggested Modification No. 2.**

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

Furthermore, the Commission found through the certification of LUP Policy 2.78 that a residential use was appropriate for the “Crummer” site provided the athletic fields were transferred to the site from the adjacent State Park. The proposed amendment, as modified, would authorize up to a maximum of five 5 residential units and require the applicant to dedicate a 1.75-acre park to the City of Malibu. The park dedication coupled with the recommended suggested modification to provide a mitigation fee of \$750,000 for lower cost overnight accommodations would provide substantially more visitor serving opportunities than required under the existing LUP Policy 2.78 which authorized up to eight residential units on the property with the transfer of the athletic fields.

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

## **D. CONSISTENCY WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT**

California Public Resources Code (PRC) Section 21080.9 – within the California Environmental Quality Act (CEQA) – exempts local governments from the requirement of preparing an environmental impact report (EIR) in connection with their activities and approvals necessary for the preparation and adoption of a local coastal program. Instead, the CEQA responsibilities are assigned to the Coastal Commission. However, because the Natural Resources Agency found the Commission’s LCP review and approval program to be functionally equivalent to the EIR process, see 14 C.C.R. § 15251(f), PRC Section 21080.5 relieves the Commission of the responsibility to prepare an EIR for each LCP. Nevertheless, some elements of CEQA continue to apply to this review process.

Specifically, pursuant to CEQA and the Commission's regulations (see 14 C.C.R. §§ 13540(f), 13542(a), and 13555(b)), the Commission's certification of this LCP amendment must be based in part on a finding that it meets the CEQA requirements listed in PRC section 21080.5(d)(2)(A). That section requires that the Commission not approve or adopt an LCP:

...if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

The Land Use Plan amendment has been found not to be in conformance with the Chapter 3 policies of the Coastal Act regarding promoting visitor serving uses. The Implementation Plan amendment has been found not to be in conformance with, or adequate to carry out, the provisions of the Land Use Plan portion of the certified LCP. To resolve the concerns identified, suggested modifications have been made to the proposed amendment. Without incorporation of the suggested modifications, the Land Use Plan amendment as submitted, is not adequate to carry out and is not in conformity with the Chapter 3 policies of the Coastal Act. Without incorporation of the suggested modifications, the Implementation Plan amendment as submitted, is not adequate to carry out and is not in conformity with the Land Use Plan. The suggested modifications minimize or mitigate any potentially significant environmental impacts of the LCP amendment. As modified, the Commission finds that approval of the LCP amendment will not result in significant adverse environmental impacts within the meaning of the California Environmental Quality Act.

The Commission finds that for the reasons discussed in this report, if the LCP amendment is modified as suggested, there are no additional feasible alternatives or feasible mitigation measures available that could substantially reduce any adverse environmental impacts. The Commission further finds that the proposed LCP amendment, if modified as suggested, is consistent with Section 21080.5(d)(2)(A) of the Public Resources Code.

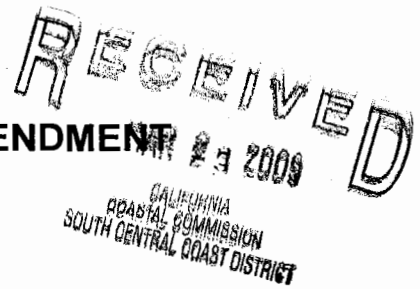


**PROPOSED**

**MALIBU LOCAL COASTAL PROGRAM AMENDMENT**

**January 12, 2009**

**LCPA No. 08-006**



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

**1. Land Use Plan**

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

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

**2.78 [RESERVED]**

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

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

**2. Local Implementation Plan**

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

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

<b>Exhibit 1</b>
<b>Malibu LCPA 2-09-A</b>
<b>City of Malibu LCP</b>
<b>Amendment Text</b>

RESOLUTION NO. 08-68

RECEIVED  
MAR 23 2009  
CALIFORNIA  
COASTAL COMMISSION  
SOUTH CENTRAL COAST DISTRICT

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

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

Section 1. Recitals.

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

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

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

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

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

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

Section 2. Environmental Review.

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

<b>Exhibit 2</b>
<b>Malibu LCPA 2-09-A</b>
<b>City Council</b>
<b>Resolution No. 08-68</b>
<b>approving LCPA 2-</b>
<b>09-A</b>

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

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

1. LUP Policy 2.78 shall be deleted and designated [RESERVED]
2. A corollary change in the LUP to correct inconsistencies between the LUP and LIP related to this policy is as follows.

a) The corollary change in the LUP 5.C.2 eliminates the reference to Policy 2.78 as follows:

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

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

### Section 4. Local Coastal Program Amendment Findings.

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

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

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

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

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

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

### Section 6. Submittal to California Coastal Commission.

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

Section 7. Effectiveness.

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

Section 8. Certification.

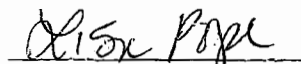
The City Clerk shall certify the adoption of this Resolution.

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

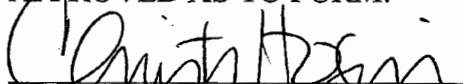


PAMELA CONLEY ULICH, Mayor

ATTEST:

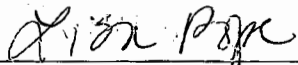
  
\_\_\_\_\_  
LISA POPE, City Clerk  
(seal)

APPROVED AS TO FORM:

  
\_\_\_\_\_  
CHRISTI HOGIN, City Attorney

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

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

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

ORDINANCE NO. 333

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

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

Section 1. Recitals.

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

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

Section 2. Environmental Review.

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

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

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

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

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

1. Purpose

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

<b>Exhibit 3</b>
<b>Malibu LCPA 2-09-A</b>
<b>City Council Ordinance No. 333 approving LCPA 2- 09-A</b>

2. Permitted Uses

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

3. Development Criteria

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

Section 4. Local Coastal Program Amendment Findings.

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

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

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

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

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

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

Section 6. Submittal to California Coastal Commission.

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

Section 7. Effectiveness.

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

Section 8. Certification.

The City Clerk shall certify the adoption of this Ordinance.

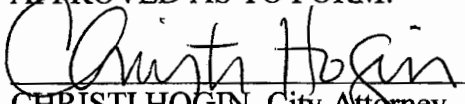
PASSED, APPROVED AND ADOPTED this 12<sup>th</sup> day of January, 2009.

  
PAMELA CONLEY ULICH, Mayor

ATTEST:

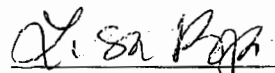
  
LISA POPE, City Clerk  
(seal)

APPROVED AS TO FORM:

  
CHRISTI HOGIN, City Attorney

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

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

  
LISA POPE, City Clerk  
(seal)



# Local Coastal Program - City of Malibu

## Land Use Map 3: Dan Blocker to Malibu Pier

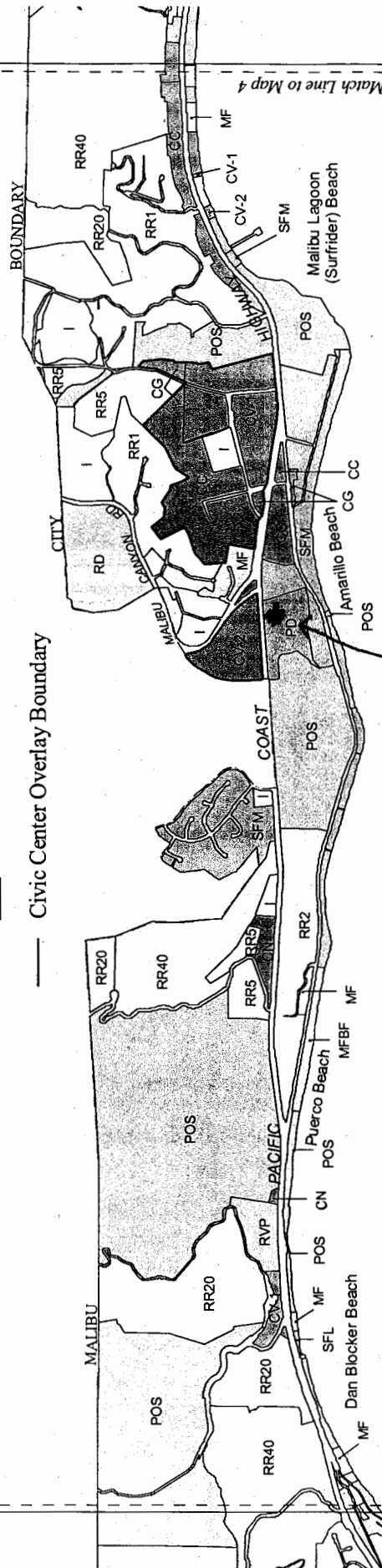
### Land Use Designations

CC	Community Commercial
CG	Commercial General
CV	Commercial Neighborhood
GV1	Commercial Visitor Serving 1
GV2	Commercial Visitor Serving 2
I	Institutional

PD	Planned Development
MF	Multi-Family Residential - 6 du/acre
MFBF	Multi-Family Beach Front
POS	Public Open Space
RD	Industrial/R&D
RVP	Recreational Vehical Park
RR1	Rural Residential - 1 du/acre

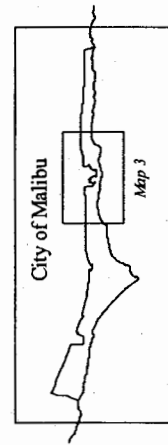
RR2	Rural Residential - 1 du/2 acres
RR5	Rural Residential - 1 du/5 acres
RR20	Rural Residential - 1 du/20 acres
RR40	Rural Residential - 1 du/40 acres
SFL	Single Family Low - 2 du/acre
SFM	Single Family Medium - 4 du/acre

— Civic Center Overlay Boundary



P a c i f i c

O c e a n



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

DSM, Revised 8/02



Exhibit 5  
Malibu LCPA 2-09-A  
Location Maps





Aerial Photograph



----- Site Boundary

Source: Google Maps 2008

Crummer Site Subdivision Initial Study

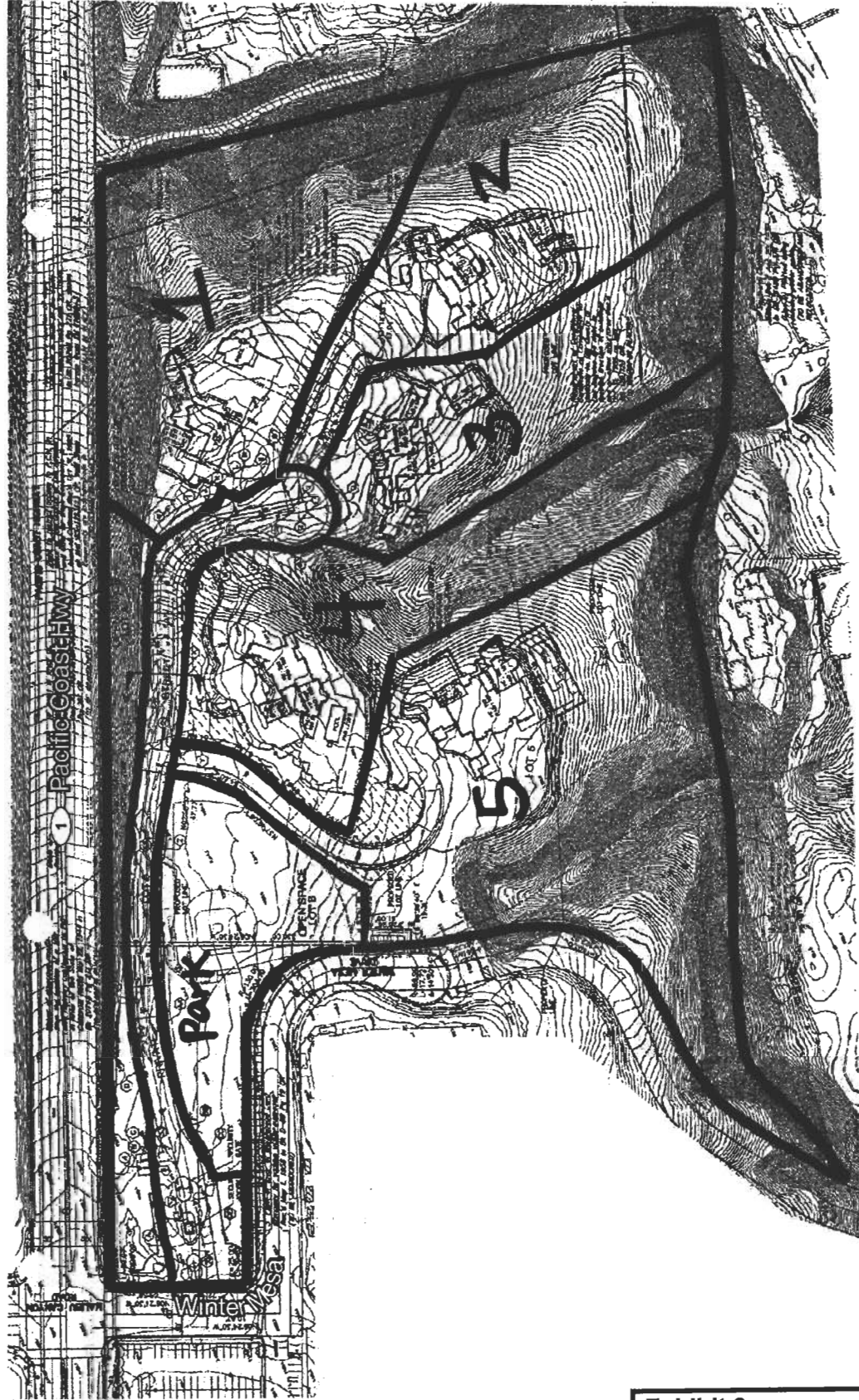
0 5  
Scale (Feet)

The Planning Center

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



## Site Plan



Site Boundary



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

Source: Landry Design Group 2008

*Crummer Site Subdivision Initial Study*

**FORM FOR DISCLOSURE OF  
EX-PARTE COMMUNICATIONS**

Name or description of the project: Agenda Item Th 13.c.

City of Malibu LCP Amendment No. MAJ-2-09-A ("Crummer Trust" Parcel). Public hearing and action on request by City of Malibu to amend the Land Use Plan (LUP) and Local Implementation Plan (LIP) portions of its certified Local Coastal Program (LCP) to delete LUP Policy 2.78 and to modify the requirements of the Planned Development (PD) land use designation for one vacant 24-acre parcel adjacent to Malibu Bluffs Park, formally known as the "Crummer Trust" parcel (APNs 4458-018-018, 019, 002) to allow for a mix of residential and recreational use instead of commercial visitor-serving use., City of Malibu, Los Angeles County. (DC-V)

Time/Date of communication: Friday, January 8th, 2010, 11:00 am

Location of communication: Oceanside

Person(s) initiating communication: Dave Grubb, for Coastwalk California and Sierra Club

Person(s) receiving communication: Esther Sanchez

Type of communication: Phone Call

Oppose the staff recommendation to approve with conditions. The amendment should be denied.

The vacant 24.5 acre parcel is on a stunning bluff top above the beach and Malibu Road, is the perfect location for much needed City of Malibu visitor-serving overnight accommodations that are low to moderately priced and is within one-block walking from the beach and visitor-serving facilities at Pacific Center. The parcel has long carried the CV-2 zoning to ensure more overnight accommodations for visitors to Malibu's Coastal Zone within the city of Malibu.

This particular parcel is blessed with no visual impact issues that makes it ideally suitable for a future hotel/motel project that could include ample coastal access to this part of Malibu's coast. Removing this parcel as the only CV-2 designation within Malibu's city limits to mixed residential/recreational use is giving away the public's interest in reasonably priced overnight accommodations within Malibu for perhaps decades to come. Changing the zoning designation on this parcel permanently removes potential to develop it in its current CV-2 status.

The suggested mitigation fee (\$750,000) is ludicrously insufficient given the commercial and utility values of this large vacant parcel to serve as a visitor-serving parcel for overnight visitors to Malibu. More than 3 million visitors come to Malibu every year and low or moderate cost facilities do not exist to allow visitors to remain overnight to fully enjoy coastal resources and attractions. This parcel should remain in CV-2 status to ensure commercial visitor-serving facility is built on this ideal parcel.

Date: January 8, 2010

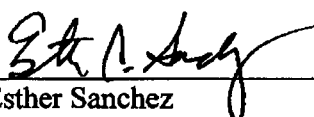
  
\_\_\_\_\_  
Esther Sanchez

Exhibit 9
Malibu LCPA 2-09-A
Commissioner Ex Parte Communications

**FORM FOR DISCLOSURE  
OF EX PARTE  
COMMUNICATION**

**Date and time of communication:** January 11, 2010 at 11:00 AM

**Location of communication:** 10877 Wilshire Blvd, Suite 603 LA, CA 90024

**Person(s) initiating communication:** Robert Gold and Donna Andrews.

**Person(s) receiving communication:** Commissioner Steve Kram.

**Name or description of project:** City of Malibu LCP Amendment No. MAJ-2-09-A  
("Crummer Trust" Parcel).

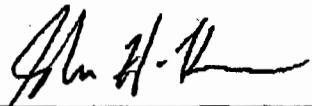
**Detailed substantive description of content of communication:**

The purpose of the meeting was to discuss the City of Malibu's LCP Amendment regarding the "Crummer Trust Property" ("Property") and provide clarification on any potential issues prior to the California Coastal Commission hearing. A briefing book was provided by the Property representatives and was used as a point of reference during the ex parte call. The representatives indicated that the project-driven amendment would remove outdated language from the LUP while permitting less intensive development on the Property then contemplated when the LCP was certified. They noted that the property owner is in agreement with the CCC staff report and Suggested Modifications with the exception of some minor language in the LIP which they were still working out with staff.

The representatives also highlighted that the amendment accomplishes the following:

- Provides clear development standards for the Property.
- Creates a conservation easement preserving biological connectivity in the area.
- Provides significant public benefit at Bluffs Park including increased public parking and the donation of two acres of land to the City for recreational uses.
- Provides the greatest opportunity for funding development/preservation of "shovel ready" projects for overnight lower cost accommodations in the coastal zone.

1/12/10  
Date

  
Signature of Commissioner

**FORM FOR DISCLOSURE  
OF EX PARTE  
COMMUNICATION**

**Date and time of communication:** January 8, 2010 at 10:00 AM

**Location of communication:** Conference Call

**Person(s) initiating communication:** Robert Gold, Donna Andrews, Andi Culbertson and Edgar Gutierrez.

**Person(s) receiving communication:** Chairwoman Bonnie Neely.

**Name or description of project:** City of Malibu LCP Amendment No. MAJ-2-09-A  
("Crummer Trust" Parcel).

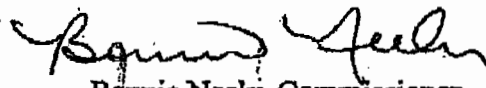
**Detailed substantive description of content of communication:**

The purpose of the meeting was to discuss the City of Malibu's LCP Amendment regarding the "Crummer Trust Property" ("Property") and provide clarification on any potential issues prior to the California Coastal Commission hearing. A briefing book was provided by the Property representatives and was used as a point of reference during the ex parte call. The representatives indicated that the project-driven amendment would remove outdated language from the LUP while permitting less intensive development on the Property then contemplated when the LCP was certified. They noted that the property owner is in agreement with the CCC staff report and Suggested Modifications with the exception of some minor language in the LIP which they were still working out with staff.

The representatives also highlighted that the amendment accomplishes the following:

- Provides clear development standards for the Property.
- Creates a conservation easement preserving biological connectivity in the area.
- Provides significant public benefit at Bluffs Park including increased public parking and the donation of two acres of land to the City for recreational uses.
- Provides the greatest opportunity for funding development/preservation of "shovel ready" projects for overnight lower cost accommodations in the coastal zone.

**Date:** January 8, 2010

  
Bonnie Neely, Commissioner



**FORM FOR DISCLOSURE  
OF EX PARTE  
COMMUNICATION**

**Date and time of communication:**  
(For messages sent to a Commissioner by mail or facsimile or received as a telephone or other message, date time of receipt should be indicated.)

January 6, 2010, 1:30 p.m.

**Location of communication:**  
(For communications sent by mail or facsimile, or received as a telephone or other message, indicate the means of transmission.)

Commissioner Neely's Eureka Office

**Person(s) initiating communication:**

Maggy Herbelin, Local ORCA Representative

**Person(s) receiving communication:**

Commissioner Bonnie Neely

**Name or description of project:**

Jan Agenda Item Th13c. City of Malibu LCP Amendment No. MAJ-2-09-A. (Crummer Trust Parcel) Public hearing and action on request by City of Malibu to amend the Land Use Plan (LUP) and Local Implementation Plan (LIP) portions of its certified Local Coastal Program (LCP).

**Detailed substantive description of content of communication:**

(If communication included written material, attach a copy of the complete text of the written material.)

Ms. Herbelin said that ORCA recommends the Commission deny the proposed City of Malibu LCP Amendment for the following reasons: This stunning bluff top beach view parcel has long carried the CV-2 zoning to ensure more overnight accommodations for visitors to Malibu's coastal Zone within the City of Malibu. It has no visual impact issues and is ideally suited for a future hotel/motel project. The suggested \$750,000 mitigation fee is insufficient given the commercial and utility values of this parcel to serve as a visitor-serving parcel for overnight visitors to Malibu. The study referenced in staff's report was initiated and sponsored by the owner and is patently self serving. If visitors make only day trips to Malibu it is because there are no low-cost visitor-serving accommodations in Malibu! This parcel should remain in CV-2 status to ensure commercial visitor-serving facility is built on this ideal parcel. The City has no demonstrated interest in changing the day-trip-only status for Malibu's many visitors and this LCP Amendment violates both the Coast Act and the certified Malibu LUP and IP.

**Date:** January 6, 2010

  
Bonnie Neely, Commissioner

If the communication was provided at the same time to staff as it was provided to a Commissioner, the communication is not ex parte and this form does not need to be filled out.

If communication occurred seven or more days in advance of the Commission hearing on the item that was the subject of the communication, complete this form and transmit it to the Executive Director within seven days of the communication. If it is reasonable to believe that the completed form will not arrive by U.S. mail at the Commission's main office prior to the commencement of the meeting, other means of delivery should be used, such as facsimile, overnight mail, or personal delivery by the Commissioner to the Executive Director at the meeting prior to the time that the hearing on the matter commences.

If communication occurred within seven days of the hearing, complete this form, provide the information orally on the record of the proceedings and provide the Executive Director with a copy of any written material that was part of the communication.

Coastal Commission Fax: 415 904-5400

From: Lennie Roberts <lennie@darwin.ptvy.ca.us>  
Date: January 12, 2010 12:12:15 AM PST  
To: Steve Blank <sblank@kandsranch.com>  
Cc: Mike Ferreira <michaelferreira@gmail.com>  
Subject: January CCC ex parte

Hi Steve, Apologies for sending this at a rather late date.. Below are recommendations from our coastal colleagues on two items on the January Agenda. If you have any questions, I would be glad to discuss them further.

Thanks,  
Lennie

Th.13.c. City of Malibu LCP Amendment No. MAJ-2-09-A ("Crummer Trust" Parcel). Public hearing and action on request by City of Malibu to amend the Land Use Plan (LUP) and Local Implementation Plan (LIP) portions of its certified Local Coastal Program (LCP) to delete LUP Policy 2.78 and to modify the requirements of the Planned Development (PD) land use designation for one vacant 24-acre parcel adjacent to Malibu Bluffs Park, formally known as the "Crummer Trust" parcel (APNs 4458-018-018, 019, 002) to allow for a mix of residential and recreational use instead of commercial visitor-serving use., City of Malibu, Los Angeles County. (DC-V)

Local and statewide activists are seriously concerned that approval of the requested LCP Amendment would eliminate the only opportunity for moderately priced visitor serving overnight accommodations in Malibu. CCC staff's recommended mitigation fee of \$750,000 is wholly inadequate recompense for loss of this prime site. The LCP Amendment, even with the mitigation, would not be in compliance with the public access provision of the Coastal Act and should be denied.

F.14.a. Appeal No. A-1-MEN-07-28-R (Jackson-Grube Family, Inc., Mendocino Co.)  
Reconsideration of Commission action to deny permit for Jackson-Grube Family, Inc. to redevelop existing complex of ranch buildings and develop five unit inn (that can be used as seven unit inn) by: (1) demolishing five existing ranch buildings; (2) renovating and expanding the approximately 2,049-sq.-ft. existing main building (former Orca Inn) into 9,809-sq.ft. inn building containing 2,989-sq.ft. main unit that can be used as three separate units, 1,112-sq.ft. upstairs unit, 823-sq.ft. downstairs unit, 1,547-sq.ft. "ell" unit, and 3,338 sq.ft of accessory common and service areas; (3) constructing 2,437-sq.ft. rental cottage and massage room; (4) constructing 1,737-sq.ft. ranch manager's unit; (5) constructing 1,145-sq.ft. ranch equipment barn; (6) installing 240-sq.ft. generator/.pump shed; (7) constructing 1,479-sq.ft. garage for inn guests; (8) installing new septic system; (9) improving and rerouting portion of existing 14,810-sq.ft. driveway; and (10) burying existing overhead utility lines. The proposed development is located at 31502 North Highway One, four miles south of Westport, Mendocino County. (RSM-E)

Our Mendocino County colleagues oppose granting reconsideration of the decision to deny this project. They believe there is NOT relevant new evidence which, in the exercise of reasonable diligence, could not have been presented at the hearing, and that an error of fact has NOT occurred which has the potential of altering the initial decision.

**FORM FOR DISCLOSURE OF  
EX-PARTE COMMUNICATIONS**

Name or description of the project::	Malibu LCP Amendment- MAJ-2-09-A (Crummer Trust)
Time/Date of communication:	11am, 1/11/10
Location of communication:	my car phone
Person(s) initiating communication:	Donna Andrews,
Person(s) receiving communication:	Sara Wan
Type of communication:	phone call

I called Donna to say that I had looked at the zoning in Malibu but I did not feel comfortable making any suggestions with regards to specific parcels. It is not may place to attempt to change the zoning on someone's property. That she knew my concerns and that they needed to work with the City (who would have gto make any zoning changes) and our staff to address my concerns relative to the lack of visitor serving commercial zoning in Malibu so that the zone change could be found consistent with the Coastal Act but I was not going to do that for them.

Date: 1/12/2010



---

Commissioner's Signature

**FORM FOR DISCLOSURE OF  
EX-PARTE COMMUNICATIONS**

Name or description of the project::	Malibu LCP Amendment- MAJ-2-09-A (Crummer Trust)
Time/Date of communication:	2:30pm, 1/8/10
Location of communication:	22350 Carbon Mesa Rd, Malibu
Person(s) initiating communication:	Donna Andrews, Andi Culbertson, Robert Gold, Edger Gutierrez
Person(s) receiving communication:	Sara Wan
Type of communication:	meeting

In agreement with staff. Current zoning VS commercial, discussed LCP policy 2.78- Planned Development in LIP says zone is recreational/residential.

Calls for zone to be residential if state retains the park, which it did not claims that this meets the intent of what the commission originally intended because the area remained as parkland (now owned by the City with ball fields on it)

said the in-lieu fee of \$750,000 to go towards Topanga Ranch Hotel- based on alternative using the CV2 zone- site would only hold a 100 room hotel- 15% of rooms would be assessed 10,400/room or \$196,000 in-lieu fee- so the 750,000 is more than what LCP calls for.

also will donate 1.3 acres for use as parking lot for the ball field and additional ball fields

We discussed my concern that commercial visitor serving is a high priority use under the Coastal Act, residential is not. That the City has only 80 acres and the loss of these 23.9 acres is about a 30% loss. There are only 117 hotel rooms in all of Malibu. I cannot see the justification for allowing the change. Need to fin an adequate amount of vs zoning in Malibu. They asked me if I would look at the zoning, which I had maps that showed me what properties were zoned vs and see if I could suggest changes to other properties to in essence swap so that there would be some additional vs zoned land. I said I would look at it over the weekend and get back with them.

Date: 1/12/2010



---

Commissioner's Signature

**FORM FOR DISCLOSURE OF  
EX-PARTE COMMUNICATIONS**

**RECEIVED**

JAN 11 2010

CALIFORNIA  
COASTAL COMMISSION

Name or description of the project: Agenda Item Th 13.c.

City of Malibu LCP Amendment No. MAJ-2-09-A ("Crummer Trust" Parcel). Public hearing and action on request by City of Malibu to amend the Land Use Plan (LUP) and Local Implementation Plan (LIP) portions of its certified Local Coastal Program (LCP) to delete LUP Policy 2.78 and to modify the requirements of the Planned Development (PD) land use designation for one vacant 24-acre parcel adjacent to Malibu Bluffs Park, formally known as the "Crummer Trust" parcel (APNs 4458-018-018, 019, 002) to allow for a mix of residential and recreational use instead of commercial visitor-serving use., City of Malibu, Los Angeles County. (DC-V)

Time/Date of communication: Friday, January 8th, 2010, 9:30 am

Location of communication: La Jolla

Person(s) initiating communication: Dave Grubb, Gabriel Solmer, for Coastwalk California and Sierra Club

Person(s) receiving communication: Patrick Kruer

Type of communication: Meeting

Oppose the staff recommendation to approve with conditions. The amendment should be denied.

The vacant 24.5 acre parcel is on a stunning bluff top above the beach and Malibu Road, is the perfect location for much needed City of Malibu visitor-serving overnight accommodations that are low to moderately priced and is within one-block walking from the beach and visitor-serving facilities at Pacific Center. The parcel has long carried the CV-2 zoning to ensure more overnight accommodations for visitors to Malibu's Coastal Zone within the city of Malibu.

This particular parcel is blessed with no visual impact issues that makes it ideally suitable for a future hotel/motel project that could include ample coastal access to this part of Malibu's coast. Removing this parcel as the only CV-2 designation within Malibu's city limits to mixed residential/recreational use is giving away the public's interest in reasonably priced overnight accommodations within Malibu for perhaps decades to come. Changing the zoning designation on this parcel permanently removes potential to develop it in its current CV-2 status.

The suggested mitigation fee (\$750,000) is ludicrously insufficient given the commercial and utility values of this large vacant parcel to serve as a visitor-serving parcel for overnight visitors to Malibu. More than 3 million visitors come to Malibu every year and low or moderate cost facilities do not exist to allow visitors to remain overnight to fully enjoy coastal resources and attractions. This parcel should remain in CV-2 status to ensure commercial visitor-serving facility is built on this ideal parcel.

Date: January 8, 2010



Patrick Kruer

**FORM FOR DISCLOSURE  
OF EX PARTE  
COMMUNICATION**

**RECEIVED**

**JAN 12 2010**

CALIFORNIA  
COASTAL COMMISSION

**Date and time of communication:** January 8, 2010 at 11:00 AM

**Location of communication:** Conference Call

**Person(s) initiating communication:** Robert Gold, Donna Andrews, Andi Culbertson and Edgar Gutierrez.

**Person(s) receiving communication:** Commissioner Patrick Kruer.

**Name or description of project:** City of Malibu LCP Amendment No. MAJ-2-09-A  
("Crummer Trust" Parcel).

**Detailed substantive description of content of communication:**

The purpose of the meeting was to discuss the City of Malibu's LCP Amendment regarding the "Crummer Trust Property" ("Property") and provide clarification on any potential issues prior to the California Coastal Commission hearing. A briefing book was provided by the Property representatives and was used as a point of reference during the ex parte call. The representatives indicated that the project-driven amendment would remove outdated language from the LUP while permitting less intensive development on the Property than contemplated when the LCP was certified. They noted that the property owner is in agreement with the CCC staff report and Suggested Modifications with the exception of some minor language in the LIP which they were still working out with staff.

The representatives also highlighted that the amendment accomplishes the following:

- Provides clear development standards for the Property.
- Creates a conservation easement preserving biological connectivity in the area.
- Provides significant public benefit at Bluffs Park including increased public parking and the donation of two acres of land to the City for recreational uses.
- Provides the greatest opportunity for funding development/preservation of "shovel ready" projects for overnight lower cost accommodations in the coastal zone.

1/11/10  
Date

  
Signature of Commissioner

**FORM FOR DISCLOSURE  
OF EX PARTE  
COMMUNICATIONS**

Name or description of project, LCP, etc.:	Item Th 13c. City of Malibu LCP Amendment No. MAJ-2-09-A ("Crummer Trust" Parcel)
Date and time of receipt of communication:	January 6, 2010, 1:00 pm
Location of communication:	Board of Supervisors Office, California
Type of communication:	In-person meeting
Person(s) initiating communication:	Sarah Damron Grant Weseman Margie Kay
Person(s) receiving communication:	Mark Stone

Detailed substantive description of content of communication:  
(Attach a copy of the complete text of any written material received.)

They feel that this is the only parcel available for low cost commercial, visitor serving facilities. To rezone would remove this possibility. They also question the calculation of the mitigation fee as it seems low given the property values in the area. The city says that it is not a feasible site for visitor serving purposes but does not state any reasons. There is no other affordable visitor serving facility in the area.

Date: 1/6/10 Signature of Commissioner: Mark Stone

If the communication was provided at the same time to staff as it was provided to a Commissioner, the communication is not ex parte and this form does not need to be filled out.

If communication occurred within seven or more days in advance of the Commission hearing on the item that was the subject of the communication, complete this form and transmit it to the Executive Director within seven days of the communication. If it is reasonable to believe that the completed form will not arrive by U.S. mail at the Commission's main office prior to the commencement of the meeting, other means of delivery should be used; such as facsimile, overnight mail, or personal delivery by the Commissioner to the Executive Director at the meeting prior to the time that the hearing on the matter commences.

If communication occurred within seven days of the hearing, complete this form, provide the information orally on the record of the proceeding and provide the Executive Director with a copy of any written material that was part of the communication.

EX-PARTE COMMUNICATIONS DISCLOSURE

RECEIVED  
JAN 21 2010

Person(s) initiating communication:

Penny Elia  
Sierra Club

Person(s) receiving communication:

Richard Bloom

CALIFORNIA  
COASTAL COMMISSION  
SOUTH CENTRAL COAST DISTRICT

Location of communication:

Teleconf

Time/Date of communication:

January 11, 2010, 1 pm

Type of communication:

Teleconf

Name or description of the project(s)/topics of discussion:

**Thursday, January 14**

13c. **City of Malibu LCP Amendment No. MAJ-2-09-A ("Crummer Trust" Parcel).** Public hearing and action on request by City of Malibu to amend the Land Use Plan (LUP) and Local Implementation Plan (LIP) portions of its certified Local Coastal Program (LCP) to delete LUP Policy 2.78 and to modify the requirements of the Planned Development (PD) land use designation for one vacant 24-acre parcel adjacent to Malibu Bluffs Park, formally known as the "Crummer Trust" parcel (APNs 4458-018-018, 019, 002) to allow for a mix of residential and recreational use instead of commercial visitor-serving use., City of Malibu, Los Angeles County. (DC-V) [POSTPONED]

Request for Commission to deny LCP Amendment and protect CV-2 land uses.

**Friday, January 15**

14a. **Appeal No. A-1-MEN-07-28-R (Jackson-Grube Family, Inc., Mendocino Co.)**

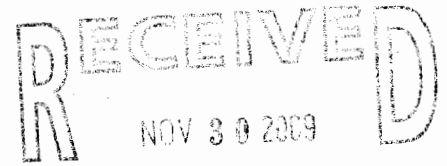
Reconsideration of Commission action to deny permit for Jackson-Grube Family, Inc. to redevelop existing complex of ranch buildings and develop five unit inn (that can be used as seven unit inn) by: (1) demolishing five existing ranch buildings; (2) renovating and expanding the approximately 2,049-sq.-ft. existing main building (former Orca Inn) into 9,809-sq.ft. inn building containing 2,989-sq.ft. main unit that can be used as three separate units, 1,112-sq.ft. upstairs unit, 823-sq.ft. downstairs unit, 1,547-sq.ft. "ell" unit, and 3,338 sq.ft of accessory common and service areas; (3) constructing 2,437-sq.ft. rental cottage and massage room; (4) constructing 1,737-sq.ft. ranch manager's unit; (5) constructing 1,145-sq.ft. ranch equipment barn; (6) installing 240-sq.ft. generator/pump shed; (7) constructing 1,479-sq.ft. garage for inn guests; (8) installing new septic system; (9) improving and rerouting portion of existing 14,810-sq.ft. driveway; and (10) burying existing overhead utility lines. The proposed development is located at 31502 North Highway One, four miles south of Westport, Mendocino County. (RSM-E)

Request Commission to deny reconsideration based on past public testimony and the decision made at the last hearing.

1/13/10







CALIFORNIA  
COASTAL COMMISSION  
SOUTH CENTRAL COAST DISTRICT

**STUDY OF LOWER COST OVERNIGHT  
ACCOMMODATIONS  
SERVING THE CITY OF MALIBU AND ITS VICINITY  
SEPTEMBER, 2008**

**AZ WINTER MESA LLC  
C/O BIG ROCK PARTNERS LLC  
315 S. BEVERLY DRIVE  
BEVERLY HILLS, CA 90212  
ATTN: ROBERT GOLD  
310-734-2353  
RGOLD@BIGROCKPARTNERS.COM**

Exhibit 10
Malibu LCPA 2-09-A
Study of Lower Cost Overnight Accommodations

## **LOWER COST OVERNIGHT ACCOMMODATIONS SERVING THE CITY OF MALIBU AND ITS VICINITY**

### **I. Objective.**

AZ Winter Mesa LLC ("AZWM") has conducted the following study which analyzes the inventory of low-cost overnight accommodations serving the Malibu area in 2008, prior to a downturn in the economy and the existing downward pressure on both occupancy rates and occupancy levels. This study was prepared in connection with AZWM's request for an LCP amendment which would remove any reference in the LCP to possible CV-2 uses on the Crummer Site (24200 Pacific Coast Highway, Malibu, CA). This study provides empirical evidence that the approval of the proposed LCPA would not interfere with the achievement of appropriate low cost accommodations in the Coastal Zone.

### **II. Introduction**

*The coastal area from Point Mugu to Santa Monica*

The City of Malibu is uniquely shaped as it stretches approximately 27 miles along the Pacific coast and up to 5 miles inland, bordered by the Santa Monica Mountains and the Pacific Ocean. The public perception of the "Malibu" coastal area extends considerably beyond the City's legal boundaries both east to Los Angeles and west through Ventura County. The main artery through the area is Pacific Coast Highway. The population of the City of Malibu as of the 2000 census is 12,575 people, with an average household income of \$159,922.

The entire coastal area from Point Mugu to Santa Monica, and the Santa Monica Mountains, attracts travelers visiting the City of Los Angeles, Beverly Hills, Santa Monica, and communities of Hollywood and surrounding areas.

### **III. Malibu - Tourist Destination**

The following is a list of some of the primary tourist destinations in the Malibu area:

- Beaches, including Surfrider and Zuma Beach
- Malibu Film Festival
- Malibu Pier
- Getty Villa
- Santa Monica Mountains
- Celebrity sightings
- Adamson House
- State Parks, such as the Santa Monica Mountains Recreation Area and State and County beaches
- Malibu Country Mart/Malibu Lumber

Malibu remains mostly a "day-trip" destination. The majority of Malibu's non-camping visitors, would be consider day-trippers, spending their day in Malibu visiting its beaches, the Getty Villa, shopping or hiking while lodging elsewhere in a more central location in the surrounding Malibu area. Camping visitors generally stay in the Santa Monica Mountains.

The Greater Los Angeles area, "LA" tourists will want to stay in a location that is central to the other attractions, such as Disneyland, Hollywood, Santa Monica, Venice Beach, Long Beach, etc. More urban

areas such as Santa Monica and Los Angeles proper provide significantly more amenities and access to multiple destinations (e.g. the City of Malibu).

Considerations in coastal accommodation planning:

- There is an ample inventory of low cost overnight accommodations to serve visitors to Malibu, given Malibu's neighboring cities: Agoura Hills, Calabasas, Santa Monica, Venice and Los Angeles proper.
- The ratio of high-end rooms to low-cost rooms in Malibu is far less than that of Dana Point, a comparable beach locale that is considered more of a "destination" city than is Malibu.
- The commercial offerings of the City of Malibu (i.e. restaurants, retail shops, entertainment) generally cater to more affluent consumers/visitors rather than visitors seeking low-cost overnight accommodations.
- The high cost of land in Malibu is an obstacle to the construction of new low cost overnight (excluding camping) accommodations.
- The considerable success of Crystal Cove Cottages in Crystal Cove State Park demonstrate that contributions to the establishment of low cost accommodation in State parks can be a highly successful means of promoting more low cost accommodations in the coastal zone,

#### IV. Methodology

To assess the availability supply of low cost accommodations a study of existing accommodations was performed. The study was not confined to the City of Malibu itself, but rather to an area the normal visitor would consider in terms of accommodations when visiting Malibu and the surrounding Santa Monica Mountains area.

In addition, the survey looked at accommodations up to \$150 average daily rate (ADR) which was considered the upper end of moderate ADR for that survey year.

##### Methodology

- All listed hotels in the City of Malibu were considered, with the exception of timeshares and private clubs. These hotels can be found online, through third-party websites such as [www.hotels.com](http://www.hotels.com), and [www.tripadvisor.com](http://www.tripadvisor.com).
- Phone survey of asking average summer rates using July 25, 2008 w as a representative sample day – a Friday in the peak of summer. For hotels that were not contacted by phone this study uses the hotels advertised "Summer Rates." Lower cost rooms were used for hotels that provide both lower priced and higher cost accommodations.
- Websites used included hotels.com, tripadvisor.com, googlemaps.com, among others. Reservation websites also used, including third-party sites, as long as there were no additional booking fees quoted in the reservation search that could impact the rate.
- Total inventory of rooms for each respective hotel/motel counted in the report, per their ADR.
- Statewide projected peak ADR in 2008 was \$132.90, per Smith Travel Research, for all types of hotels surveyed.
- The threshold used to characterize an accommodation as low or moderate cost was an ADR up to \$150 (2008).
- Survey of accommodations was initially limited to a 15-mile radius from Crummer Site. However, based on information received in a conversation with Steve Curtis, Director Real Estate and Development, Accor/Motel 6 (See Section VI herein) hotels/motels that were outside

of the 15-mile range, were also included when considered to be of the type that visitors would consider, were included, such as Santa Monica, Agoura Hills and Calabasas<sup>1</sup>

## V. Results

### A. Statewide

The following table outlines the statewide ADRs for 2003 through 2007, and projected 2008, by Smith Travel Research. 2008 values projected using exponential regression based on 2003 through 2007 values.

**Statewide Average Room Rates for 2003 to 2007 through projected 2008**

	2003	2004	2005	2006	2007	Projected 2008
January	\$95.39	\$92.07	\$96.64	\$104.32	\$112.12	<b>\$114.22</b>
February	\$95.16	\$97.35	\$100.62	\$108.30	\$118.07	<b>\$121.72</b>
March	\$93.70	\$96.42	\$100.33	\$109.68	\$116.64	<b>\$122.10</b>
April	\$93.18	\$95.03	\$102.25	\$110.49	\$117.31	<b>\$124.04</b>
May	\$93.88	\$96.65	\$102.39	\$112.08	\$119.02	<b>\$125.82</b>
June	\$92.46	\$95.86	\$102.82	\$111.96	\$119.01	<b>\$126.73</b>
July	\$95.09	\$98.70	\$106.31	\$116.39	\$124.45	<b>\$132.92</b>
August	\$96.28	\$100.18	\$107.37	\$116.81	\$124.82	<b>\$132.88</b>
September	\$92.56	\$95.48	\$105.66	\$112.45	\$119.84	<b>\$128.41</b>
October	\$94.65	\$98.32	\$104.60	\$115.48	\$123.43	<b>\$131.40</b>
November	\$91.10	\$93.86	\$101.67	\$110.55	\$118.38	<b>\$126.12</b>
December	\$86.19	\$90.51	\$96.12	\$103.92	\$110.06	<b>\$117.05</b>
<b>Annual Average</b>	<b>\$93.30</b>	<b>\$95.87</b>	<b>\$102.23</b>	<b>\$111.04</b>	<b>\$118.60</b>	<b>\$125.28</b>

Source: Smith Travel Research, California Tourism, June 2003 through June 2007.

As shown above, the projected 2008 peak average falls in the month of July, where the average ADR is \$132.92. For the purposes of this study, the threshold below which accommodations are deemed "low or moderate cost" will be \$150, taking into account the asking rates of hotels in connection to their quality. An ADR of up to \$150 was chosen a cut off because ADRs in coastal areas generally are significantly higher than other locations in the State.

#### Database

- Hotels, motels, & campgrounds that fit the above criteria
- Ratio of rooms above and below the average July ADR
- Nature of demographic for both visitors to campgrounds and hotels/motels
- Occupancy rates
  - Occupancy rates range from 60%-100%, with Santa Monica hotels/motels usually reaching capacity during the summer.
  - Agoura Hills and Calabasas hotels/motels provide more room capacity.

<sup>1</sup> Because there are many attractions in the Santa Monica Mountains and the Santa Monica area that would attract visitors, it was assumed that visitors would be flexible and price-driven in choosing where to stay overnight. Because multiple destinations would likely be visited, the normal visitor may choose to stay at a hotel or motel convenient to multiple destination or on the way to or from their primary destination, if any.

## **B. Malibu**

The above in the table below indicates that there are a significant amount of lower cost overnight accommodations-1, 449 in total-that are non-camping, non-RV accommodations within a reasonable distance of Malibu, including in the City Malibu itself. When taken together with other non-hotel accommodations, there are 1,949 rooms available in the greater Malibu area – including in Malibu – which could be characterized as low or moderate overnight accommodations. Therefore, nearly 50% of the total accommodations in Malibu and the greater Malibu area are low or moderate cost.

NOTE-When referring to rooms in campgrounds the table below is referring to number of campsite sites which are at least the functional equivalent of two hotel/motel rooms because of the number of people a campsite can accommodate.

SEE TABLE OF MALIBU ACCOMMODATIONS INVENTORY ON NEXT PAGE

Malibu Accommodations Inventory

Low-Cost Accommodations

Name	Address	City	Phone	Rooms	Distance from Project	Average Peak ADR	ADR Source	Occupancy
<b>Conventional Lodging</b>								
1 Malibu Riviera Motel	28920 Pacific Coast Hwy	Malibu	310-457-9503	13	6.5	\$123	Phone - 5/30 2:56p	80%
2 Good Nite Inn - Calabasas	26557 Agoura Road	Calabasas	818-880-6000	170	9.4	\$76	Website	70-80%
3 Hilton Garden Inn	24150 Park Sorrento	Calabasas	818-591-2300	142	12.5	\$114	Website	80-85%
4 Hostelling International	1436 2nd Street	Santa Monica	310-393-8913	254	12.8	\$32	Website	94-95%
5 Renaissance Agoura Hills	30100 Agoura Hills Road	Agoura Hills	818-707-1220	280	13.1	\$129	Phone - 6/2 9:44a	90-95%
6 Savview Motel	1760 Ocean Avenue	Santa Monica	310-393-8711	16	13.2	\$90	Phone - 5/27 3:54p	na
7 Country Inn & Suites by Carlson, Calabasas	23627 Calabasas Road	Calabasas	818-222-5300	123	13.5	\$114	Phone - 5/20 4:26p	60%
8 Santa Monica Motel	2102 Lincoln Blvd.	Santa Monica	310-392-8806	32	13.9	\$89	Phone - 5/30 4:19p	na
10 Ocean Park Inn	2452 Lincoln Blvd.	Santa Monica	310-392-3986	29	14.1	\$80	Website	90%
11 Palm Motel	2020 14th Street	Santa Monica	310-452-3981	26	14.2	\$85	Website	100% (peak season)
12 Sea Shore Motel	2637 Main Street	Santa Monica	310-392-2787	19	13.9	\$130	Phone - 5/30 4:13p	
13 Comfort Inn - Santa Monica	2815 Santa Monica Blvd.	Santa Monica	310-828-5517	108	14.6	\$149	Website	
14 Homewood Suites	28801 Camwood Street	Agoura Hills	818-865-1000	125	14.1	\$139	Phone - 5/27 3:59p	
15 Malibu Motel	22541 Pacific Coast Highway	Malibu	310-458-6169	18	2.0	\$139	Website	
16 Hampton Inn Suites Agoura Hills	30255 Agoura Road	Agoura Hills	818-597-0333	94	15.0	\$100	Website	
<b>Subtotal Conventional Lodging</b>				<b>1,449</b>				
<b>Alternative Lodging</b>								
1 Malibu Beach RV Park	25801 Pacific Coast Highway	Malibu	310-452-6052	177	1.9	\$105	Website	
2 Malibu Creek State Park	1925 Las Virgins Road	Calabasas	818-880-0387	62	4.6	\$25	Website	
3 Leo Carrillo State Park	35000 W. Pacific Coast Highway	Malibu	818-880-0383	135	13.9	\$25	Website	
4 Point Mugu State Park	9000 W. Pacific Coast Highway	Malibu	805-486-5223	126	19.2	\$15	Website	
<b>Subtotal Alternative Lodging</b>				<b>500</b>				
<b>Total</b>				<b>1,949</b>				

(1) Reflects May rate

\*Included in survey due to location in Malibu proper

High-End Accommodations

Name	Address	City	Phone	Rooms	Distance from Project	Average Peak ADR	ADR Source
1 Malibu Beach Inn	22878 Pacific Coast Highway	Malibu	310-456-6444	47	1.8	\$675	Website
2 Casa Malibu Inn	22752 Pacific Coast Highway	Malibu	310-456-2219	21	1.9	\$199	Phone - 5/23 2:43p
3 Casa Larronde	22000 Pacific Coast Highway	Malibu	310-456-8333	2	4.0	\$200	Website
4 Malibu Country Inn	6506 Westward Beach Road	Malibu	310-457-9822	16	6.9	\$210	Website
5 Hurlley Santa Monica Hotel	1111 2nd Street	Santa Monica	310-394-5454	209	12.4	\$439	Website
6 Hotel Oceana	849 Ocean Avenue	Santa Monica	310-393-0486	70	12.6	\$460	Website
7 Ocean View Hotel	1447 Ocean Avenue	Santa Monica	800-452-4888	70	12.7	\$289	Website
8 Georgian Hotel	1415 Ocean Avenue	Santa Monica	310-395-9945	84	12.7	\$315	Website
9 Santa Monica Beach Travelodge	1525 Ocean Avenue	Santa Monica	310-451-0761	30	12.8	\$219	Website
10 Ocean Lodge Hotel	1657 Ocean Avenue	Santa Monica	310-451-4146	20	13.1	\$160	Phone - 5/27 3:49p
11 Loews Santa Monica Beach Hotel	1700 Ocean Avenue	Santa Monica	310-394-6326	340	13.1	\$389	Website
12 Le Marigot	1740 Ocean Avenue	Santa Monica	310-395-9700	175	13.1	\$375	Website
13 Holiday Inn Santa Monica at the Pier	120 Colorado Avenue	Santa Monica	877-863-4780	132	13.1	\$243	Website
14 Vicaroy Hotel	1819 Ocean Avenue	Santa Monica	310-260-7500	162	13.2	\$449	Website
15 Hotel Casa Del Mar	1910 Ocean Front Walk	Santa Monica	310-581-5533	129	13.4	\$520	Website
16 Doubletree Santa Monica	1707 4th Street	Santa Monica	310-395-3332	253	13.5	\$289	Website
17 Sheraton Delina	530 Pico Boulevard	Santa Monica	310-399-9344	308	13.6	\$242	Website
18 Best Western Gateway	1920 Santa Monica Boulevard	Santa Monica	310-829-9100	123	14.0	\$199	Website
19 Su Casa at Venice Beach	431 Ocean Front Walk	Los Angeles	310-452-9700	12	14.5	\$455	Website
<b>Total</b>				<b>2,203</b>			

## **VI. Feasibility Analysis of Low or Moderate Cost accommodations at the Crummer Site**

If the Crummer Site were used for visitor-serving, such use could conceivably include a hotel or motel. In order to assess whether such a facility is in fact feasible at the Crummer site, an analysis of the siting opportunities and constraints of private operators was undertaken.

### **Barriers to Low-Cost Accommodations**

One of the best known brands of low cost accommodation sought by price-conscious visitors is Motel 6.

- Criteria for a Motel 6 include<sup>2</sup>:
  - Location proximate to a transient freeway which services commuters, visitors and truckers. Low-cost accommodation hotels, such as Motel 6 (Accor) attract highway travelers en-route to another destination, as well as visitors to the surrounding area.
  - Proximate to demand generators such as local restaurants, retail, tourist locales.
  - Land value extremely important in the selection of a location—Significant impact on the profitability of a low-cost accommodation hotel.
  - Motel 6 also is attracted to tourist locales.

The City of Malibu does not meet many of these requirements. For example, Highway 101 is the preferred “transient” freeway compared to PCH because of the width of lanes, velocity of traffic, and versatility. In addition, lower cost, fast food restaurants are severely lacking in Malibu. The visitor seeking the lower cost accommodations and lower cost dining options will find only a limited number of such dining options in Malibu. Visitors would have to travel to Santa Monica, where there are significantly more options.

### **Does Malibu qualify as a tourist destination that demands overnight stay?**

Most tourists visiting Malibu do not stay overnight, unless they want to:

- Camping: Most of the visitors to Malibu seeking lower cost overnight accommodations are campers. There are sufficient available overnight campgrounds to meet the demands of this group.
- Luxury/High-end vacations: There are a significant number of available overnight accommodations in facilities that cater this segment of the market providing full-service amenities.
- Amenities: Lower cost options are limited.

### **Comparison to Dana Point**

To place the Malibu area in an appropriate context, a southern California site was chosen for comparison that offers many of the attractions in the Malibu area. The City of Dana Point is in Orange County, California.

#### **Dana Point**

The City of Dana Point has a population of 35,100, per the 2000 census. Similar to Malibu, Dana Point is seen as a destination for its beaches and its high-end shopping. Neighboring cities, which include Laguna Beach and San Clemente, are larger and provide a more extensive inventory of accommodations.

---

<sup>2</sup> As per telephone conversation with Steve Curtis, Director of Real Estate and Development, Accor/Motel 6, May 30, 2008.

Orange County is a destination for visitors to Aliso/Wood Canyons Regional Park, Soka University, San Clemente, Disneyland, beaches (Huntington Beach/Newport Beach), the Block at Orange, South Coast Plaza, and sporting events.

- Database of accommodations in Dana Point

Dana Point has a higher ratio of high-end accommodations to low-end accommodations including camping accommodations compared to Malibu.

- Explanation of difference in geography, consumer profile

Similar to Malibu, land costs in Dana Point make it prohibitive for the low-cost hotels chains. Pacific Coast Highway is the main artery through the city, with commuters and transients using Interstate 5 as the long-distance artery.

- Ratio of Affordable Rooms

Of the hotels surveyed, by way of publicly available internet sites and search engines, Malibu has a total of 4,152 rooms available within a rough 15 mile radius, 47% of which are deemed "low-cost," i.e., below a \$150 ADR. Similarly, the City of Dana Point, has a total of 3,100 available rooms, 26% of which are considered low-cost. As can be seen, there is a lower ratio of low and moderate cost rooms available to visitors to the greater Malibu area when compared with Dana Point.

- Occupancy Rates

Occupancy rates range from 40-100%, with Country Plaza Inn, located approximately 7 miles from Dana Point..

SEE TABLE BELOW OF DANA POINT ACCOMMODATIONS INVENTORY



Dana Point

Low Cost Accommodations

	Name	Address	City	Phone	Rooms	Distance from City Center	Average Peak ADR	Occupancy
1	Dana Marina Inn	34111 Pacific Coast Highway	Dana Point	949-496-1300	20	1.6	\$90.00	n/a
2	Capistrano Seaside Inn	34862 Pacific Coast Highway	Dana Point	949-496-1399	28	3.2	\$129.00	40%
3	Best Western Capistrano Inn	27174 Ortega Highway	San Juan Capistrano	949-493-5651	199	4.1	\$118.00	n/a
4	Best Value Laguna Inn	26742 Camino Capistrano	San Juan Capistrano	949-347-8520	32	5.9	\$128.75	n/a
5	Country Plaza Inn	35 Via Pico Piz	San Clemente	949-498-8800	98	6.5	\$132.00	100%
6	The Little Inn by the Beach	1619 S. El Camino Real	San Clemente	949-492-1960	18	7.9	\$80.00	90%
7	Comfort Suites San Clemente	3701 S. El Camino Real	San Clemente	949-361-6600	60	9.3	\$129.99	90-95%
8	Holiday Inn Laguna Hills	25205 La Paz Rd.	Laguna Hills	949-686-5000	147	11.2	\$127.00	100%
9	Laguna Hills Lodge	23932 Paseo de Valencia	Laguna Hills	949-830-2550	122	13.7	\$129.00	100%
10	Comfort Inn Laguna Hills	23061 Avenida de la Carlota	Laguna Hills	949-859-0166	76	14.7	\$105.00	85-95%
Subtotal Conventional Lodging					800			
Alternative Lodging								
1	Crystal Cove State Park	8471 Pacific Coast Highway	Laguna Beach	949-494-3539	34	1.8	\$15.00	
2	Doherty State Beach	26300 Dana Point harbor Drive	Dana point	949-496-6172	228	1.9	\$35.00	
Subtotal Alternative Lodging					262			
Total					1062			

High-End Accommodations

	Name	Address	City	Phone	Rooms	Distance from City Center	Average Peak ADR
1	St. Regis Monarch Beach	1 Monarch Beach Resort	Dana Point	949-234-3200	400	1.0	\$595.00
2	Dana Point Harbor Inn	25325 Dana Point Harbor Drive	Dana Point	949-493-5001	43	1.7	\$149.00
3	Ritz-Carlton, Laguna Niguel	1 Ritz Carlton Dr.	Dana Point	949-240-2000	393	1.6	\$475.00
4	Marriott Laguna Cliffs	25135 Park Lantern	Dana Point	949-681-5000	376	2.2	\$299.00
5	Doubletree Doherty Beach	34402 Pacific Coast Highway	Dana Point	949-661-1100	198	2.4	\$269.00
6	Capistrano Beach Resort	34734 Pacific Coast Highway	Capistrano Beach	949-248-1316	34	3.1	\$172.00
7	Holiday Inn San Clemente	111 S. Ave De La Estrella	San Clemente	949-361-3000	72	6.1	\$169.00
8	Best Western Laguna Brisas	1600 S. Coast Highway	Laguna Beach	949-497-7272	66	6.6	\$279.20
9	Capri Laguna Beach	1441 S. Coast Highway	Laguna Beach	949-494-6533	50	6.6	\$245.00
10	Days Inn San Clemente	1301 North El Camino Real	San Clemente	949-361-0636	43	7.3	\$139.00
11	Always Inn San Clemente	177 Avenida Carillo	San Clemente	949-374-8185	3	7.5	\$219.00
12	Fairfield Inn Mission Viejo	26328 Oso Parkway	Mission Viejo	949-582-7100	147	7.8	\$149.00
13	By the Sea Inn	475 North Coast Highway	Laguna Beach	949-497-6645	36	8.2	\$359.00
14	San Clemente Cove	104 S. Alameda Lane	San Clemente	949-492-6666	33	8.2	\$329.00
15	San Clemente Inn	2600 Avenida Del Presidente	San Clemente	949-492-6103	96	8.6	\$150.00
16	Laguna Beach Motor Inn	985 N. Coast Highway	Laguna Beach	949-494-5294	22	8.8	\$159.00
17	Crescent Bay Inn	1435 N. Coast Highway	Laguna Beach	949-494-2508	15	9.0	\$155.00
18	Ayres Hotel Laguna Woods	24341 El Toro Road	Laguna Hills	949-588-0131	139	10.6	\$209.00
19	Courtyard by Marriott Laguna Hills	23175 Avenida de la Carlota	Laguna Hills	949-859-5500	136	14.8	\$149.00
Total					2,300		

(1) Peak ADR surveyed is an average of standard rooms offered

## **VII. Conclusion.**

- When reviewing the number of low-cost accommodations, Malibu compares favorably when compared with Dana Point on its own or when looking at their respective surrounding geographic areas.
- The majority of its visitors are tourists on day trips and the geographical makeup of the city does not suggest the need for additional low or moderate cost accommodations on the Crummer Site.
- High land costs and limited number of budget travelers who want to spend the night in Malibu (outside of camping) deters low-cost accommodating hotels from establishing a presence there.
- Hikers and "day-trippers" usually stay in neighboring Santa Monica, Agoura Hills, and Los Angeles. The typical visitor to Malibu is of a transient nature, whereas cities such as Dana Point are more destinations for luxury travelers.
- Malibu benefits from the accommodations offered by nearby cities, such as Calabasas and Santa Monica, which provide overnight stays for low-budget travelers who want to make a day-trip to Malibu.
- Overall, the availability of low-cost accommodations in a 15-mile radius from the Crummer Site seems to sufficient to meet demands and exceeds similarly situated coastal areas, in that the City of Malibu provides a higher ratio of low and moderate cost rooms than that of a similarly established beach destination in the City of Dana Point. In both cities, at least one hotel reported occupancy of 60% or lower in peak season, further evidencing sufficient inventory.
- The enormous success of the Crystal Cove Cottages suggest that contributions in funding to State park accommodation programs offer a feasible and appropriate response to the desire for the creation of additional low and moderate cost overnight accommodations.
- Such an opportunity is being undertaken by the State Department of Parks and Recreation (DPR) at the Topanga Ranch Motel, and other areas of the state park are being targeted for additional establishment or expansion of low and moderate overnight accommodations as funding permits.
- The key obstacle to the DPR program is funding.<sup>3</sup>
- The Malibu LUP Section 2.35 specifically provides for the creation of lower-cost overnight accommodations through payment of an in-lieu fee into a fund to subsidize the construction of lower-cost overnight facilities in the Malibu-Santa Monica Mountains Coastal Zone area of Los Angeles County.
- The decline in tourism construction is expected to be protracted, with few new hotel products of any kind being built and many struggling to fill rooms in light of the economic downturn.
- Contributions to the DPR program or other meritorious programs can produce a greater supply of low and moderate cost accommodations in the long term, as land prices, lending, construction costs, and obsolescence lead to retirement of older products without corresponding replacements.

---

<sup>3</sup> Pers. comm.. Ruth Coleman, Director, December 2008

Sources used:

TripAdvisor.com:  
[www.tripadvisor.com](http://www.tripadvisor.com)

Malibu Chamber of Commerce:  
[http://www.malibu.org/business\\_directory.php?catid=148](http://www.malibu.org/business_directory.php?catid=148)

Accor:  
<http://www.accor-na.com>  
Steve Curtis  
Director of Real Estate and Development  
(9720 360-2711

Google Maps:  
<http://maps.google.com>