

CALIFORNIA COASTAL COMMISSION

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

F 12a

DATE: March 31, 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: **Revised Findings** for City of Malibu Local Coastal Program Amendment No. MAL-MAJ-2-09-A ("Crummer Trust" Parcel) for Public Hearing and Commission Action at the April 16, 2010 Commission Meeting in Ventura.

COMMISSION ACTION: Denial of the City of Malibu LUP/LIP Amendment as Submitted, and Approval of the City of Malibu LUP/LIP Amendment If Modified As Suggested

DATE OF COMMISSION ACTION: February 11, 2010

COMMISSIONERS ON THE PREVAILING SIDE: Blank, Bloom, Parker, Secord, Kruer, Mirkarimi, Shallenberger, Stone, Wan, Achadjian, and Neely.

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.

PROCEDURAL NOTE

Adoption of the revised findings requires a majority vote of the members from the prevailing side present at the February 11, 2010 hearing, with at least three of the prevailing members voting. Only those Commissioners on the prevailing side of the Commission's action are eligible to vote on the revised findings. The associated **motion and resolution** are located on **Page 7** of this report.

SUMMARY OF STAFF RECOMMENDATION

Staff recommends that the Commission **adopt** the following revised findings in support of the Commission's decision on February 11, 2010, to certify LCP Amendment No. 2-09 Part A subject to two (2) suggested modifications. The standard of review for adoption of the revised findings for the proposed LCP amendment is consistency with the Commission's February 11, 2010 approval.

EXECUTIVE SUMMARY

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 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. At the February 11, 2010 Commission hearing, the property owner offered to increase their proposed in-lieu mitigation fee from \$750,000 to \$2,000,000. In addition, the property owner offered to dedicate a conservation easement area across a 7-acre area of the 24-acre parcel to the Mountains Recreation and Conservation Authority (MRCA) for the purpose of habitat protection and to provide funding to the MRCA for their maintenance of the easement area. The Commission approved the amendment request pursuant to the staff recommendation with several modifications to the suggested modifications. At the hearing, the Commission determined that the mitigation fee of \$2,000,000 was more appropriate and proportional in this case given the large size of the parcel and substantial loss of visitor-serving opportunity. To reflect the Commission's decision to increase the in-lieu mitigation fee, Suggested Modification No. 2 was revised. At the hearing, the property owner was in agreement with the increase in the offered in-lieu mitigation fee to assist in funding affordable overnight accommodations elsewhere on the coast. The Commission also determined that the fee should be used locally to provide funding to California Department of Parks and Recreation for lower cost overnight visitor accommodations at the former Topanga Ranch Motel site within Lower Topanga State Park. The Commission found that the fee should be expended within two (2) years, unless this time limit is extended for good cause by the Coastal Commission. The Commission also included flexibility to allow Commission re-allocation of the funds for another low cost overnight accommodation project if the funds are not expended within the two-year time period. Suggested Modification No. 2 was therefore revised to reflect these changes.

At the hearing, the Commission found that the proposed density of residential development on the property is consistent with both the character of the area and with the adjacent development and land uses. However, the Commission also determined that the proposed active recreational use contemplated for the site (baseball field or other active use) would primarily serve the local public rather than the members of the public from a regional or statewide area, and thus, would not maximize public access to the coast. Therefore, the Commission found that the approximately 1.75-acre recreational area of the site shall be limited to passive public recreational use in order to increase its public benefit. This requirement is reflected in Suggested Modification No. 2. Further, the Commission found a gated residential community in this location would be inconsistent with the character of the area and would create the perception of an exclusive community. Therefore, the Commission determined that entry gates shall not be allowed along the access road to the proposed residential properties of the site. This requirement is also reflected in Suggested Modification No. 2.

Lastly, the Commission added a provision to Suggested Modification No. 2 to effectuate the property owner's offer to dedicate a conservation easement area across a 7-acre area of the 24-acre parcel to the Mountains Recreation and Conservation Authority (MRCA) for the purpose of habitat protection. The 7-acre area consists of the bluff slopes and canyon/drainage areas of the site. To maximize habitat protection within the easement area, the Commission requires that the property owner shall work cooperatively with the MRCA to minimize fuel modification and identify habitat

restoration opportunities within the 7-acre easement areas, and that the property owner shall also provide adequate funding to the MRCA for purposes of maintaining the conservation easement.

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

SUBSTANTIVE FILE DOCUMENTS

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

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EXHIBITS

Exhibit 1.	Proposed LCP Amendment 2-09-A Text
Exhibit 2.	City Council Resolution No. 08-68
Exhibit 3.	City Council Ordinance No. 333
Exhibit 4.	City of Malibu LCP Land Use Map
Exhibit 5.	Location Map
Exhibit 6.	Parcel Map
Exhibit 7.	Aerial View of “Crummer Trust” Parcel
Exhibit 8.	Subdivision Site Plan Proposed to City
Exhibit 9.	Commissioner Ex Parte Communications
Exhibit 10.	“Study of Lower Cost Overnight Accommodations Serving the City of Malibu and its Vicinity,” by AZ Winter Mesa LLC, dated September 2008
Exhibit 11.	February 11, 2010 Hearing Transcript, Pages 49-112 (Commissioner deliberations)
Exhibit 12.	Open Space Conservation Easement Map

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 MOTION AND RESOLUTION

MOTION: *I move that the Commission adopt the revised findings in support of the Commission's action on February 11, 2010, certifying City of Malibu LCP Amendment No. 2-09-A, if modified as directed by the Commission.*

STAFF RECOMMENDATION OF APPROVAL:

Staff recommends a **YES** vote on the motion. Passage of this motion will result in the adoption of revised findings, as set forth in this staff report. The motion requires a majority vote of the members from the prevailing side present at the February 11, 2010 hearing, with at least three of the prevailing members voting. Only those Commissioners on the prevailing side of the Commission's action are eligible to vote on the revised findings.

RESOLUTION TO ADOPT REVISED FINDINGS:

The Commission hereby adopts the findings set forth below for certification of City of Malibu LCP Amendment No. 2-09-A if modified as directed by the Commission on the ground that the findings support the Commission's decision made on February 11, 2010 and accurately reflect the reasons for that decision.

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. The language proposed by the City of Malibu per the amendment request is shown in ~~line out~~ and underline. The language suggested by the Commission to be modified is shown in ~~double line out~~ and double underline. Deletions to the language as a result of the February 11, 2010 hearing are shown in ~~bold double line strikethrough~~ and additions to the language as a result of the February 11, 2010 hearing are shown in **bold double underline**. 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

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).~~

2.78 The Planned Development (PD) land use designation allows 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, conditioned upon payment of a fee by the property owner/project proponent, in conjunction with the securing of a permit for any such development of the subject property, to mitigate for the loss of visitor-serving land. The one-time mitigation fee is unique to the "Crummer Trust" site and 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. The language proposed by the City of Malibu per the amendment request is shown in ~~line out~~ and underline. The language suggested by the Commission to be modified is shown in ~~double line out~~ and double underline. Deletions to the language as a result of the February 11, 2010 hearing are shown in ~~bold double line strikethrough~~ and additions to the language as a result of the February 11, 2010 hearing are shown in **bold double underline**.

underline. 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 **passive** recreational uses. The allowable permitted and conditionally permitted recreational uses shall be limited to those **passive uses** 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) Basements shall be that portion of a building or an area enclosed by walls located below finished grade and beneath or partially beneath the first floor foot print above, where the vertical distance from finished grade to the bottom of the finished floor above is no more than three vertical feet at all points around the perimeter of all exterior walls, except that up to two openings into light wells or subterranean courtyards for ingress and egress purposes with a maximum continuous width of 25 feet per opening shall be permitted. A basement shall not constitute a story and covered light wells or courtyards shall not be included in TDSF.

- d) An Open Space Conservation Easement shall be dedicated to the Mountains Recreation and Conservation Authority (“MRCA”), on behalf of the people of the State of California, over an approximately seven (7) acre area including all the bluff slopes and approximately 2-acres of the canyon area of the site, for the purpose of habitat protection. In addition, the property owner(s) shall work cooperatively with the MRCA to minimize fuel modification and identify habitat restoration opportunities within the 7-acre easement areas. The property owner(s) shall also provide adequate funding to the MRCA for purposes of maintaining the conservation easement.
- e) No entry gates shall be allowed along the access road to the residential properties.
- f) 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~~ \$2,000,000 shall be deposited into an interest-bearing account, to be established and managed by the ~~State Coastal Conservancy~~ California Department of Parks and Recreation (State Parks) pursuant to a Memorandum of Understanding (MOU) entered into between ~~the Conservancy~~ State Parks 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. The purpose of this account shall be to provide funding to the California Department of Parks and Recreation for the provision of lower cost overnight visitor accommodations at the former Topanga Ranch Motel site within Lower Topanga State Park.~~ 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 (f)(i) together with any accrued interest shall be used for the purpose set forth in subparagraph (f)(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)~~ two (2) 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~~ by the Coastal Commission. 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. This Revised Findings Report revises the original Staff Recommendation and Findings by adding new language and ~~deleting existing language~~ as follows below. 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~~ \$2,000,000 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. **In addition, the property owner has offered to dedicate a conservation easement area across a 7-acre area of the 24-acre parcel to the Mountains Recreation and Conservation Authority (MRCA) for the purpose of habitat protection. The 7-acre area generally consists of the all of the bluff slopes and approximately two acres of the canyon/drainage areas of the site. The property owner has also offered to fund MRCA's monitoring and maintenance of the easement area in perpetuity.**

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 has offered to pay an in-lieu mitigation fee of ~~\$750,000~~ \$2,000,000 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 a~~ a mix of residential and public, passive 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 Polices 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 may be 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~~ **\$2,000,000** to assist in funding affordable overnight accommodations elsewhere in the coastal zone. This proposed fee, in part, 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, ~~the Commission staff has found finds~~ that a mitigation fee of ~~\$750,000~~ **\$2,000,000** ~~would be is proportional and~~ appropriate in this case. ~~However, the applicant apparently did not propose the mitigation fee as part of its LGPA application to the City and so this proposed fee is not reflected in the proposed LCP amendment request. The property owner has offered the in-lieu mitigation fee to assist in funding affordable overnight accommodations elsewhere in the coastal zone.~~ 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~~ **\$2,000,000** 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 particularly~~ 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~~ **\$2,000,000** shall be deposited into an interest-bearing account, to be established and managed by the ~~State Coastal Conservancy~~ **California Department of Parks and Recreation (State Parks)** pursuant to a memorandum of understanding entered into between ~~the Conservancy State Parks~~ 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.~~ **The purpose of this account shall be to provide funding to California Department of Parks and Recreation for the provision of lower cost overnight visitor accommodations at the former Topanga Ranch Motel site within Lower Topanga State Park. This fee shall be expended within two (2) years of the date the fee is deposited into the account, unless this time limit is extended for good cause by the Coastal Commission. If the funds are not expended within two years or such additional time as may be extended for good cause by the Coastal Commission, the Coastal Commission shall re-allocate the funds for lower cost overnight visitor accommodations elsewhere in the coastal zone.** 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 desired~~ identified desired 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. In addition, the property owner has offered to dedicate a conservation easement area across a 7-acre area of the 24-acre parcel to the Mountains Recreation and Conservation Authority (MRCA) for the purpose of habitat protection. The applicant initially offered to dedicate the approximately five-acre area comprising all of the bluff slopes on the site to open space, and as generally shown on the applicant's exhibit attached as Exhibit 12. At the hearing, the applicant verbally proposed to add another 2-acres of the site to the open space easement area. At the Commission's request, the 2-acre area will be generally located within the canyon that extends across the center of the site, although this area is not shown on the applicant's exhibit. The property owner has also offered to fund MRCA's monitoring and maintenance of the easement area in perpetuity. In order to ensure that the property owner's offer to dedicate a conservation easement area across a 7-acre area of the 24-acre parcel to the Mountains Recreation and Conservation Authority (MRCA) for the purpose of habitat protection is effectuated, Suggested Modification No. 2 includes a provision that requires that dedication. To maximize habitat protection within the easement area, Suggested Modification No. 2 also details that the property owner

shall work cooperatively with the MRCA to minimize fuel modification and identify habitat restoration opportunities within the 7-acre easement areas, and that the property owner shall also provide adequate funding to the MRCA for purposes of maintaining the conservation easement.

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. **However, the proposed active recreational use contemplated for the site (such as baseball field or other active use) would primarily serve the local public rather than the greater regional public, and thus, would not maximize public access to the coast. Therefore, the Commission finds that the approximately 1.75-acre recreational element of the site shall be limited to passive public recreational use in order to increase its public benefit. This requirement is reflected in Suggested Modification No. 2.**

Further, the gating of residential communities undermines the perception of open public access to public recreational areas, inconsistent with the goals of the Coastal Act and policies of the City of Malibu Land Use Plan. In addition, with City and State recreational areas in close proximity to the subject site, a gated community in this location would be inconsistent with the character of the area and would create the perception of an exclusive community. Therefore, the Commission finds that entry gates shall not be allowed along the access road to the proposed park and residential properties. This requirement is also reflected in Suggested Modification No. 2.

The proposed clustering of residential development and dedication of a portion of the parcel to the City for **passive** 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. Also included in Suggested Modification No. 2 is a custom development standard that would allow residential basements to have up to two openings into light wells or subterranean courtyards for ingress and egress purposes that shall not be included in TDSF and that basements shall not constitute a story. This custom standard for the subject site was requested by the City of Malibu to allow the residential lots greater design flexibility for reducing residential development envelopes. The development standard does not raise any adverse issues with regard to

coastal resources because all resource protection policies of the LCP would still be applicable in this case, including visual/scenic resource protection policies.

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 **for passive public recreational use**. The park dedication coupled with the recommended suggested modification to provide a mitigation fee of ~~\$750,000~~ **\$2,000,000** 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.

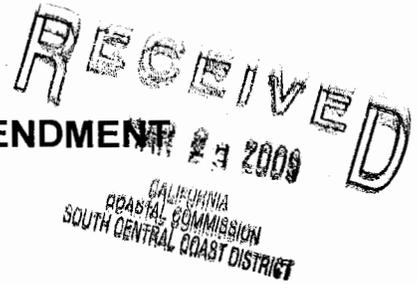
The Commission finds that for the reasons discussed in this report, if the LCP amendment is modified as suggested, there are no additional feasible alternatives or feasible mitigation measures available that could substantially reduce any adverse environmental impacts. The Commission further finds that 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 # 3 2009

January 12, 2009

LCPA No. 08-006



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

1. Land Use Plan

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

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

2.78 [RESERVED]

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

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

2. Local Implementation Plan

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

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

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

RECEIVED
MAR 23 2009
CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

RESOLUTION NO. 08-68

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

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

Section 1. Recitals.

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

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

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

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

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

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

Section 2. Environmental Review.

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

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

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

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

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

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

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

Section 4. Local Coastal Program Amendment Findings.

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

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

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

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

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

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

Section 6. Submittal to California Coastal Commission.

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

Section 7. Effectiveness.

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

Section 8. Certification.

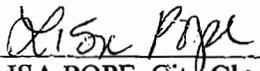
The City Clerk shall certify the adoption of this Resolution.

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



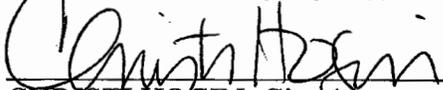
PAMELA CONLEY ULICH, Mayor

ATTEST:



LISA POPE, City Clerk
(seal)

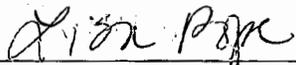
APPROVED AS TO FORM:



CHRISTI HOGIN, City Attorney

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

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



LISA POPE, City Clerk
(seal)

ORDINANCE NO. 333

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

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

Section 1. Recitals.

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

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

Section 2. Environmental Review.

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

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

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

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

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

1. Purpose

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

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

2. Permitted Uses

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

3. Development Criteria

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

Section 4. Local Coastal Program Amendment Findings.

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

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

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

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

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

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

Section 6. Submittal to California Coastal Commission.

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

Section 7. Effectiveness.

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

Section 8. Certification.

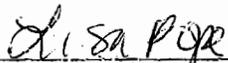
The City Clerk shall certify the adoption of this Ordinance.

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



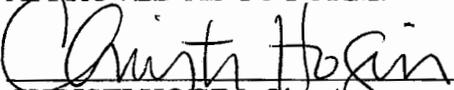
PAMELA CONLEY ULICH, Mayor

ATTEST:



LISA POPE, City Clerk
(seal)

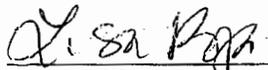
APPROVED AS TO FORM:



CHRISTI HOGIN, City Attorney

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

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



LISA POPE, City Clerk
(seal)

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

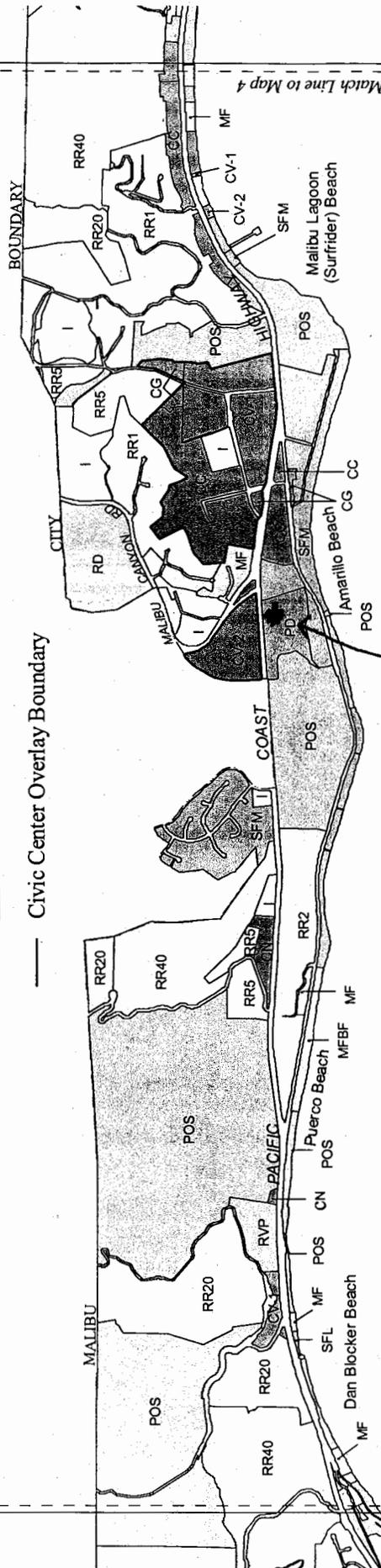
Land Use Designations

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

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

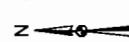
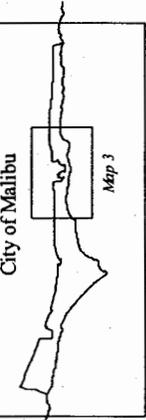
- Rural Residential - 1 du/2 acres
- Rural Residential - 1 du/5 acres
- Rural Residential - 1 du/20 acres
- Rural Residential - 1 du/40 acres
- Single Family Low - 2 du/acre
- Single Family Medium - 4 du/acre

— Civic Center Overlay Boundary



P a c i f i c

O c e a n



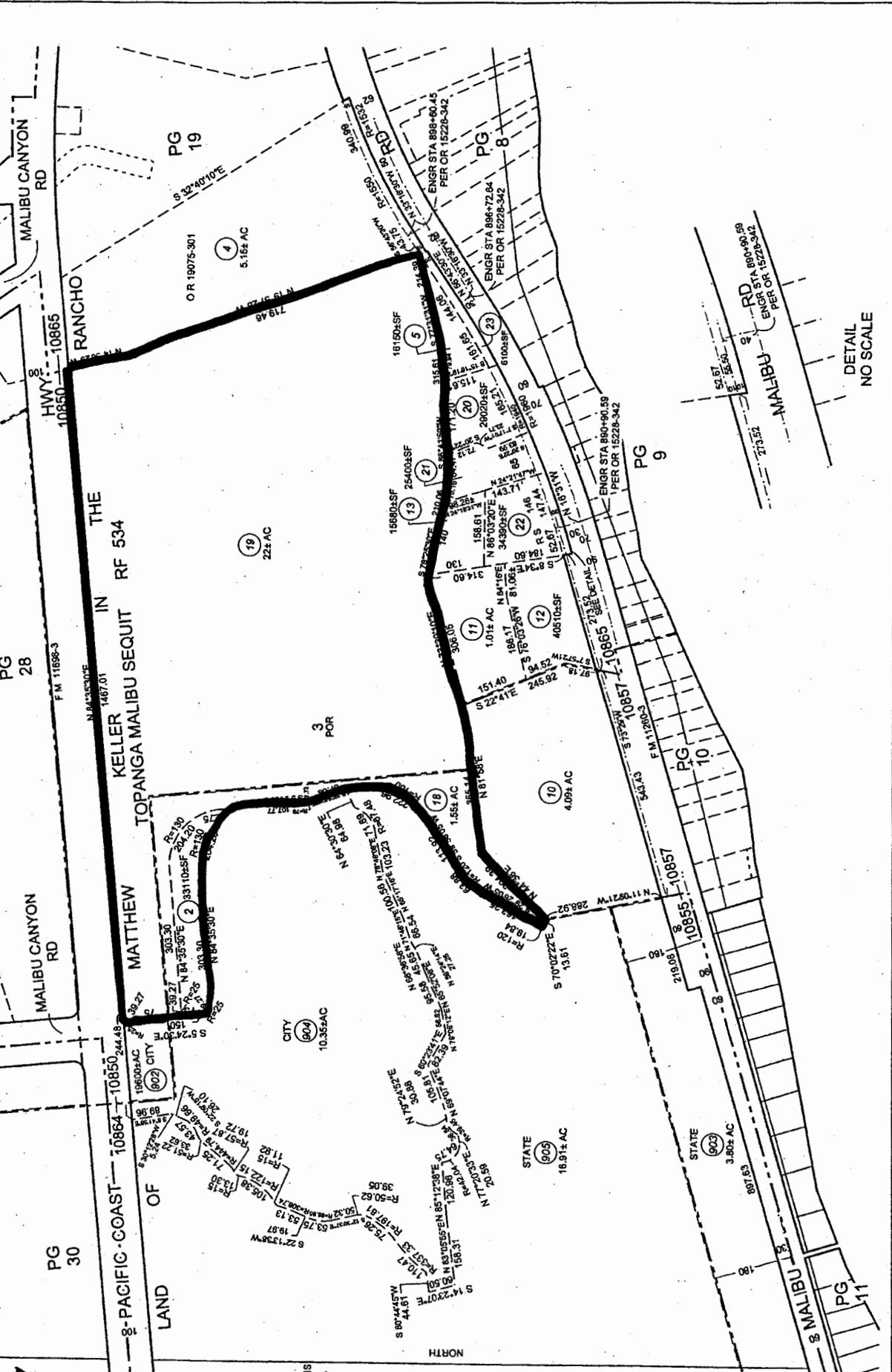
Sources: CCC Public Access Database, Malibu/Santa Monica Mountains Area Plan, LA County Parks and Recreation, 1983.
DSM, Revised 8/02

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





Exhibit 5
 Malibu LCPA 2-09-A
 Location Maps



MAPPING AND GIS
 SERVICES
 SCALE 1" = 200'

10864

Exhibit 6
Malibu LCPA 2-09-A
Parcel Map

DETAIL
 NO SCALE

Aerial Photograph



--- Site Boundary

Source: Google Maps 2008

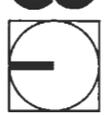
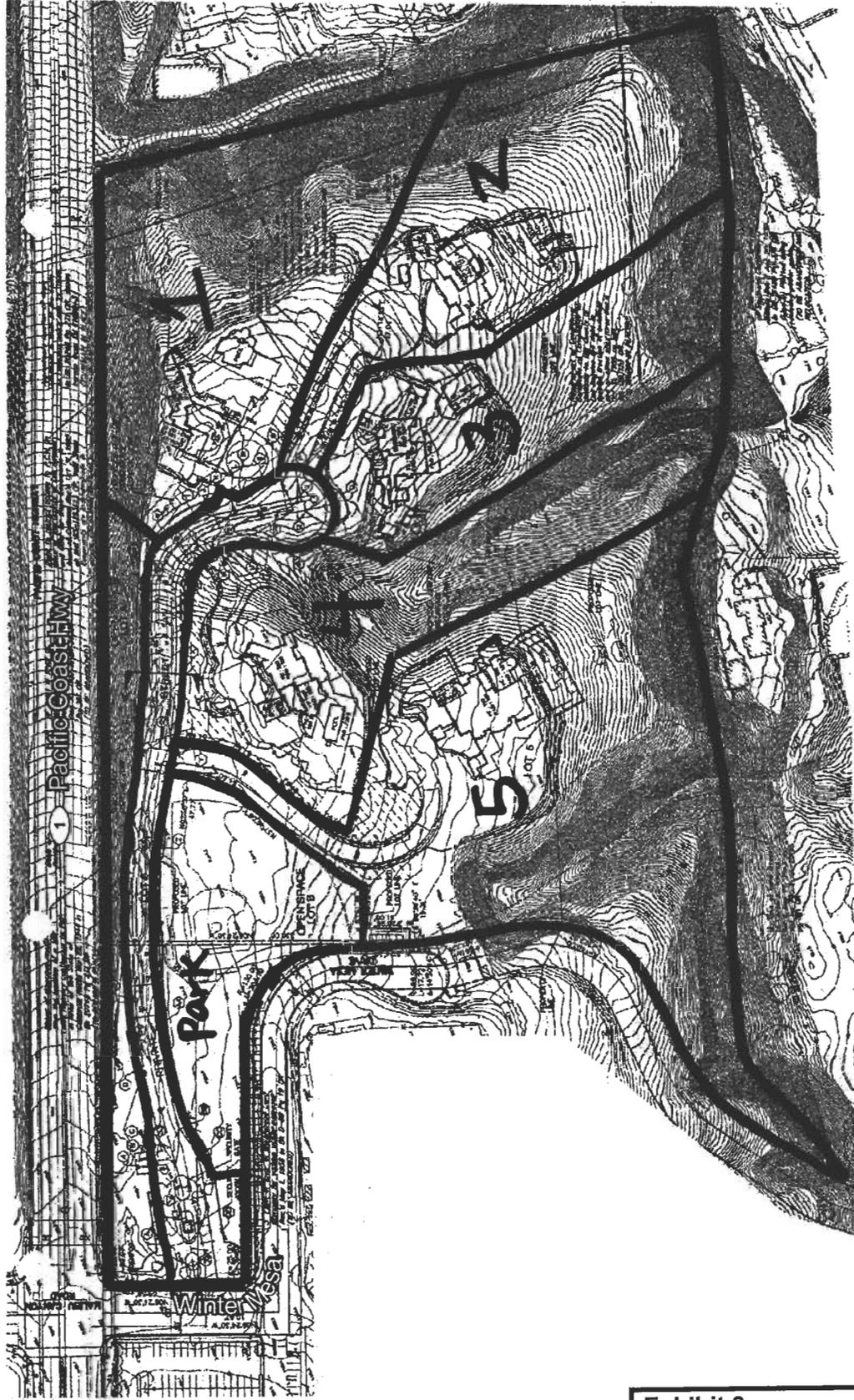
Crummer Site Subdivision Initial Study



The Planning Center

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

Site Plan



0 120
Scale (Feet)



Site Boundary

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

Source: Landry Design Group 2008

Crummer Site Subdivision Initial Study

**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

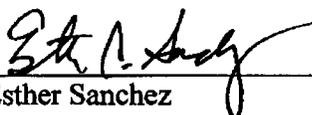
Oppose the staff recommendation to approve with conditions. The amendment should be denied.

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).

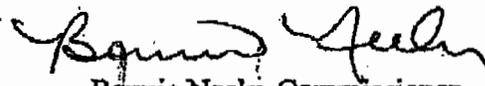
Detailed substantive description of content of communication:

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 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.

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:

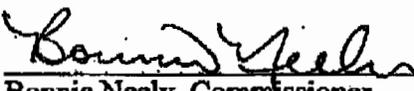
Jan Agenda Item Th13c. City of Malibu LCP Amendment No. MAJ-2-09-A. (Crummer Trust Parcel) Public hearing and action on request by City of Malibu to amend the Land Use Plan (LUP) and Local Implementation Plan (LIP) portions of its certified Local Coastal Program (LCP).

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 <michaeljferreira@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 claim 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 find 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**

R E C E I V E D

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 Krueer

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 Krueer

**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).

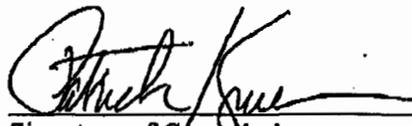
Detailed substantive description of content of communication:

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

EX-PARTE COMMUNICATIONS DISCLOSURE

RECEIVED
JAN 21 2010

Person(s) initiating communication: Penny Elia
Sierra Club

Person(s) receiving communication: Richard Bloom

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:

CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

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



RECEIVED
NOV 30 2009

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, and 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 Calabasas¹

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

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.

¹ 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
Conventional Lodging								
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 Seaview 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 - 5/27 3:56p	na
8 Santa Monica Motel	2102 Lincoln Blvd.	Santa Monica	310-392-6806	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	\$60	Website	na
11 Palm Motel	2020 14th Street	Santa Monica	310-452-3981	26	14.2	\$85	Phone - 5/30 4:13p	100% (peak season)
12 Sea Shore Motel	2637 Main Street	Santa Monica	310-392-2787	19	13.9	\$130	Website	
13 Comfort Inn - Santa Monica	2815 Santa Monica Blvd.	Santa Monica	310-828-5517	108	14.6	\$149	Phone - 5/27 3:59p	
14 Homewood Suites	28801 Camwood Street	Agoura Hills	818-865-1000	125	14.1	\$139	Website	
15 Malibu Motel	22541 Pacific Coast Highway	Malibu	310-456-6169	18	2.0	\$139	Website	
16 Hampton Inn Suites Agoura Hills	30255 Agoura Road	Agoura Hills	818-597-0333	94	15.0	\$100	Website	
Subtotal Conventional Lodging				1,449				
Alternative Lodging								
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 Virgenes 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	
Subtotal Alternative Lodging				500				
Total				1,949				

(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 Huntley 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 3:46p
11 Loews Santa Monica Beach Hotel	1700 Ocean Avenue	Santa Monica	310-394-6326	340	13.1	\$389	Website
12 Le Merigot	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	162	13.1	\$243	Website
14 Viceroy Hotel	1819 Ocean Avenue	Santa Monica	310-260-7500	132	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	\$269	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
Total				2,203			

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 include²:
 - 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.

² 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	949-493-5661	199	4.1	\$118.00	n/a
4	Best Value Laguna Inn	28742 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	1819 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	1.8	\$475.00
4	Marriott Laguna Cliffs	25135 Park Lantern	Dana Point	949-661-5000	376	2.2	\$299.00
6	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	949-248-1318	34	3.1	\$172.00
7	Holiday Inn San Clemente	111 S. Ave De La Estrella	San Clemente	949-381-3000	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	6.8	\$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 Carbillio	San Clemente	949-374-8185	3	7.5	\$219.00
12	Fairfield Inn Mission Viejo	28328 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
16	San Clemente Inn	2600 Avenida Del Presidente	San Clemente	949-492-6103	96	8.6	\$150.00
18	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.³
- 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.

³ Pers. comm.. Ruth Coleman, Director, December 2008

Sources used:

TripAdvisor.com:

www.tripadvisor.com

Malibu Chamber of Commerce:

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>

EXHIBIT 11
Revised Findings for City of Malibu LCPA No. 2-09-A

Excerpt from the official Transcript of Proceedings for Item 13.5.a on Thursday, February 11, 2010 (City of Malibu LCP Amendment No. 2-09-A), Pages 49-112 only – Commissioner Deliberations.

1 So, that concludes my comments, unless Peter has
2 any to add.

3 **CHAIR NEELY:** All right, that's it, thank you.
4 Bring it back to the Commission, and the first
5 Commissioner to speak is Commissioner Wan.

6 **COMMISSIONER WAN:** Before I get into my main
7 comments, I just have a question.

8 Mr. Ainsworth, is there a gate? are these homes
9 gated?

10 **DISTRICT DIRECTOR AINSWORTH:** I am not aware that
11 they are gated. You may want to ask the city --

12 **COMMISSIONER WAN:** Because --

13 **DISTRICT DIRECTOR AINSWORTH:** -- that would be a
14 part of a future CDP.

15 **COMMISSIONER WAN:** Okay, because, apparently,
16 there is a gate shown on the map.

17 Let me go into my concerns about this. A visitor-
18 serving commercial development is considered a priority use
19 under the *Coastal Act* and the Malibu LCP. I need to discuss
20 a little bit about the history of this, relative to the
21 zoning, and the ball fields. At the time -- you got part of
22 the story from staff -- at the time of the LCP was coming to
23 this Commission, the state parks and this Commission really
24 wanted those ball fields to be moved off of state park
25 property because, again, they are great, but that is a local

1 community recreation. It is not appropriate for a state
2 park, and the precedent that would be set -- and there was a
3 lot of rumblings about it in newspapers, actually, outside of
4 Malibu -- that would say that a local jurisdiction can simple
5 come in and usurp a state park property for their local
6 community use, was not appropriate.

7 So, the Commission wanted those ball fields moved
8 off of the state parks property. The Commission also wanted
9 to have the Crummer Trust property zoned commercial visitor-
10 serving because it recognized that there was, frankly, an
11 inadequate amount of coastal CV-2 in Malibu. If you look at
12 most jurisdictions, they have got a lot more. For a
13 community with this many acres -- and I am not -- it is
14 interesting, the city, on its web site, says there is 101
15 square miles. I sort of take exception to that. I suspect
16 it is not quite, it is not 101-square miles, but in any
17 event, it is a large area, and it runs 27 miles along the
18 ocean. There are a total of, what, 104 acres of commercial
19 visitor-serving, so the Commission wanted some additional
20 visitor-serving zoning.

21 The city wanted the ball fields to stay on the
22 state park property, and the city wanted the Crummer Trust
23 property to be zoned residential. So, the deal that was
24 struck was kind of a balance, of sort of an agreement, okay.
25 If you moved the parcel, the ball fields off of the state

1 park, then we will allow you, the city, to have the zoning
2 that you want, residential zoning. If you don't move the
3 ball fields off of the state park, then you are going to have
4 to keep the commercial visitor-serving uses.

5 Thus, whatever the manipulations that went on
6 relative to -- and I am not going to go into all of the
7 details about transferring it from state parks to the Santa
8 Monica Mountains Conservancy, so technically, state park
9 wasn't giving up their land. The end result was that the
10 ball fields stayed on what had been state park property, and
11 that is why you have come to this point today, where we are
12 talking about the fact that the existing zoning is commercial
13 visitor-serving. So, for this Commission, the question
14 becomes how do we deal with the conversion of commercial
15 visitor-serving property? and that is the issue, okay.

16 I don't think I need to go over the fact that the
17 loss of visitor-serving commercial recreational opportunities
18 is in contradiction to the public access and the recreational
19 policies of the Coastal Act -- and I took these words out of
20 the staff report, by the way -- and the loss of the area
21 designated for the commercial visitor-serving uses should be
22 offset by redesignating some other equivalent or superior
23 area within the city that is designated with a low priority
24 land use to a visitor-serving use. This is what the staff
25 said should happen here. The city did not identify any other

1 equivalent area, and so then the staff went down this path of
2 the in lieu fee to allow this to take place.

3 And, you know, some of the opponents have made
4 some very good points about the fact that commercial visitor-
5 serving zoning is a trust for the people of the State of
6 California, and you don't simply do an in lieu fee to sell
7 off the trust, and you don't deal with conversion that way.

8 Now, we see a lot of studies that were given to
9 us, where they showed you all of these uses -- I mean, most
10 of the Commissioners who had ex partes had this given to
11 them. I had it in the briefing book, you know, about all of
12 these uses that are being proposed in Malibu, but the vast
13 majority of them are really commercial, or for the community,
14 and they are not for visitors.

15 I agree to not necessarily going to get -- you are
16 not necessarily going to get a hotel here, given the current
17 situation, but when you convert land use land, and you change
18 the zoning, it is permanent. You can't come back when the
19 economy changes, and now change it back to commercial
20 visitor-serving.

21 So, we need to think of things in the long term,
22 and not just what the economics of today are, and that is
23 where you run into problems. When you look at this, the
24 study about the hotels -- I mean, I am not going to go into
25 it, the study about, you know, that there is nobody who wants

1 to stay in Malibu, and all of the hotel rooms elsewhere, that
2 study is so flawed I don't want to spend a lot of time on it.

3 But, I do want to look at the public benefits that
4 are being proposed in exchange for this conversion of lands.
5 And, particularly, how you arrive at what is now the \$1
6 million fee, which most of us, I believe, agree is
7 insufficient, okay?

8 Basically, this is being compared to the Crown
9 Point in Ventura, where -- and this is what it says in the
10 report, the conversion of 2.8 acres we received for
11 \$557,000.00 in lieu fee. That is \$557K for 2.9 acres in
12 Ventura, and \$1 million for 24 acres in Malibu. I don't see
13 how that is even roughly equivalent. A \$196,000.00 of that
14 in lieu fee is for the loss of hotel rooms. The remaining
15 \$550 is for the 24 acres of the conversion.

16 Frankly, if this is going to take place, this fee
17 must go to something that is much more reasonable, so that it
18 can be used to do something meaningful in the way of gaining
19 public access, public lower-cost visitor-serving uses, either
20 in or near Malibu.

21 And, I have to say that the use of this in lieu
22 fee has to be for this area. I don't buy the argument that,
23 well, if it is not shovel ready now, it can go elsewhere,
24 maybe up to northern California. That is just not accept-
25 able. We are losing the potential for the visitors to

1 Malibu, and that is the potential that we have to be dealing
2 with, not something else.

3 So, my preference here would be not to allow this
4 conversion, period. But, if we are going to, then there
5 needs to be a number of changes to this. First of all, that
6 \$750K -- well, I guess it is \$1 million now -- is designated
7 for the restoration of the Topanga Beach Motel units. I
8 really want to see that happen, those are right on the edge
9 of Malibu. That would be the closest area where you could
10 have actual visitor-serving hotel rooms, or motel rooms. It
11 is right on the edge of Malibu. I recognize that the state,
12 right now, is not in a position to do that. I don't know
13 what the state is going to do four or five years from now. I
14 hope we have come out from under the disaster we are in.

15 But, I would like to see us specify that, to say
16 that within five years, if this money can't be spent there,
17 that then it can be changed, but they will need to come back
18 to this Commission, for this Commission to decide how that
19 funding, and where that funding should go. I mean, it can go
20 to the Coastal Conservancy in the interim, and they can hold
21 it in an interest bearing account. And, if it is not used
22 for the Topanga Beach Motel units, for the state parks, at
23 Topanga Beach, then this Commission should look at where it
24 is appropriate, because I believe this Commission will insist
25 that it be spent somewhere locally.

1 I agree with the conservation easement of 7 acres
2 to the Santa Monica Mountains Conservancy. There needs to be
3 a provision in here that says that the easement will be
4 transferred directly to the Santa Monica Mountains
5 Conservancy, that they will work with the Santa Monica
6 Mountains Conservancy to reduce and minimize fire clearance
7 on the easement property.

8 And, then, comes the big one, and that is what do
9 you increase the in lieu fee to, to make this such that we
10 actually get a benefit to the public out of the change of the
11 zoning? And, I think that is the issue for this Commission
12 to look at. If you are going to allow this to be converted
13 from commercial visitor-serving, then you need to make sure
14 that the total package you get is of a benefit to the people
15 of this state, not to a narrow segment, but to the broader
16 general public, and that includes not only lower cost
17 visitor-serving facilities, but generally public access
18 issues.

19 And, I would like to see that whatever we get, and
20 whatever we are talking about over -- I had originally said
21 the \$750, but over the \$1 million, goes to the Santa Monica
22 Mountains Conservancy, which is local, which has many
23 projects that they are working on, on land within the City of
24 Malibu, or adjacent to the City of Malibu, and that
25 additional funds go to them.

1 I agree with Commissioner Kruer that this fee, by
2 the way, should go to \$2 million.

3 **CHAIR NEELY:** Thank you, Commissioner.
4 Commissioner Sanchez.

5 **COMMISSIONER SANCHEZ:** Thank you, Madam Chair.

6 When this item was first placed on the agenda, I
7 believe it was a couple of months ago, and on its face, when
8 I saw the description in the agenda, I have to say I couldn't
9 believe what I was reading, 24 acres, prime land in Malibu,
10 and the request was that 22 acres be, again, of
11 visitor-serving -- in my mind, visitor-serving land, be
12 converted to its lowest use recognized by the *Coastal Act*.
13 And, I just couldn't believe it. I read the staff report. I
14 also -- that was my first disbelief, on its face, it just
15 seemed to fly completely against what the *Coastal Act* is all
16 about, and access to coastal areas, including a place that,
17 as a child growing up here in southern California, Beach
18 Blanket Bingo, and some other of these surfer movies, got me
19 excited about these places, and to learn that there were
20 annually three million visitors to this area, and only 117
21 hotel rooms, that was an interesting, interesting, fact.

22 I do appreciate that I got a briefing about
23 project, this project specific plan, but I have to say that I
24 am at a lost to see this. As a city, and as someone who has
25 lived, born and raised here in Oceanside, we have had a hard

1 time building hotels, pretty much. Our biggest hurdle was
2 that we couldn't get a consensus on what that hotel should
3 look like, 12 stories, versus 3 or 4 stories.

4 It was when the community had the will that we
5 came together as a community and said, okay, we do want this
6 hotel, we need this hotel for TOT. We have a very nice
7 beach, certainly not as long as Malibu, and we did get, we
8 did get the permits to do it. We are looking forward to
9 building that hotel sometime soon.

10 You have to have a will, and I see that there are
11 only 117 rooms, in a city the size of Malibu, I have to say
12 there is something else going on here. I don't think there
13 is that will, and that concerns me, because when we talk
14 about the preservation of the coast, and access, public
15 access to the coast, it is not a picture that you take now,
16 it is not a picture that you take five years from now, ten
17 years from now. We are talking about a very permanent
18 situation.

19 So, I take this request very seriously, and
20 whatever we do here today, very seriously, because this is
21 prime land. This is a request to rezone it to its lowest
22 possible use in the eyes of the Coastal Act. Certainly, if
23 you are a developer, it is the highest use, residential, five
24 lots. I can't even begin to imagine what luxury homes would
25 be built here.

1 What I would want to see is a definite, okay, we
2 are going to do this, we are going to provide this overnight,
3 these overnight accommodations here. The fact that there has
4 been this ongoing discussion regarding a open space is -- and
5 I encourage that, and I think that that is a wonderful thing,
6 but that is not overnight accommodations.

7 And, as I expressed to the representatives of the
8 project -- hey, I am a city girl, and I like to have my
9 showers nearby, and I don't think that I speak for just, you
10 know, myself. I think I am speaking in terms of families
11 with young children who would not be able to have that kind
12 of -- would not be able to enjoy that experience until the
13 children were a little older, perhaps seniors, perhaps other
14 people like me. We are not able to, you know, stay in Malibu
15 because we will have to find somewhere else.

16 The study that was presented to me was a study
17 based on a 15-mile radius that included other communities,
18 and if you include other communities, it is over 1,000 rooms,
19 but I can't, you know, 15 miles is a long walk for me, and it
20 would be a long walk for a lot of people, a long ride for a
21 lot of people.

22 So, I really would like to see what the vision is.
23 I didn't see that vision presented to us. I see a lot of
24 arguments based on the current economy, and for me, that is
25 an argument that is -- it is not as relevant. It is, almost

1 akin to saying, well, this is the lowest possible use, it is
2 the lowest consideration. Yes, we need to consider the
3 economy, and the viability and feasibility, but I do think, I
4 do believe that there are people who would love to come to
5 Malibu and stay.

6 So, looking at this, and looking at a very high
7 value of this land as residential use, I don't buy the \$2
8 million. I would think it would be more like \$3 million, if
9 that would be, you know, but see, I see that as it will take
10 at least that much to help a project get built, but, then
11 that is skipping over the one big issue here, that I see as
12 the elephant in the room, and that is where is the will? 117
13 rooms, even we have a lot more than that.

14 I'm, again, I am really stuck here. On its face,
15 as I said, it did not make sense to me, and I am still
16 wondering about that. How are we going to get access to the
17 coast, when we have communities that don't want the public to
18 have access to their particular piece of the coast? And, I
19 don't know how we accomplish that.

20 Thank you.

21 **CHAIR NEELY:** All right, thank you, Commissioner.
22 Commissioner Kruer.

23 **COMMISSIONER KRUER:** Madam Chair, I think
24 Commissioner Wan outlined a lot of my comments, and I agree
25 with her, and I think the critical issue on this, for me, is

1 the amount of commercial visitor-serving land, and what would
2 be the proper mitigation for that, removing that from here,
3 so close to the coast, with these views, et cetera.

4 What I would like to do is to attempt to go back a
5 little bit, and then I will come back to this one. But,
6 let's look at the present application, and I think the staff
7 is correct in their analysis of the value of this site as a
8 hotel site, potentially, is not the best location. It has
9 one access in. It is a poor access. The elevation above
10 Pacific Highway, and limiting to 2 stories with signage
11 issues, et cetera, even in a good market, this would be a
12 very challenging commercial site for anyone.

13 So, we can sit there and say, okay. And, I agree
14 with the others, with Commissioner Sanchez, and others, when
15 they say, you know, we shouldn't just pick the economic
16 market today, and decide something and do it.

17 I think the problem and concern is that this 24
18 acres, this is a real issue because what would be the proper
19 nexus? what would be the proper way of the impact fee, even
20 if someone could pay for that? If they are developing -- if
21 the commercial size of this is a little over a million square
22 feet, let's say a 150 million, the land area, and you can
23 only develop it at 15 percent FAR, and let's say at \$120,000
24 -- and it might be higher, but let's say a project down the
25 road from now comes into existence, and I am prepared to take

1 that gamble, but it is going to be a great test.

2 In this area, I think that to make this conversion
3 of being able to develop into a five single family for this
4 commercial site, and built up on that big podium of land,
5 with the one access in and out, it is going to, eventually
6 when it comes forward, it is going to be a community
7 character issue, and all kinds of other issues, because it is
8 not going to look very good.

9 And, for one, I would rather go and see the lower
10 use there, that basically has, as Commissioner Sanchez said,
11 a higher value to it. That higher value allows this
12 applicant, I think, to be able to pay an appropriate fee, and
13 I don't think \$8.33 a square foot is on the developable part,
14 a million dollars, and in your own mind, you must realize
15 volunteering the \$1 million and working with staff, et
16 cetera, but looking at it, and someone coming in and saying,
17 look, we are going to develop this, we are going to do
18 something that is going to happen right away, and we are
19 going to provide, in today's dollars, \$2 million -- people
20 say 3, 4, whatever.

21 I don't think you can go back and see it is
22 proportional, and it is fair, once you get beyond the \$2
23 million. I hate to say it, because when you figure out the
24 cost of the value of the land, the residual land value
25 improved, the finished lots, and you take out the 10,000-

1 square foot houses, and you do that, and figure that out, and
2 back it all out, and see what the thing is, it is concerning
3 that, et cetera.

4 I, for one, just want something that sets a
5 benchmark, and I certainly don't have any problem of saying
6 that somebody can pay \$2 million on this, and they can pay a
7 little more, and that is fine, and that is up to my
8 colleagues and friends here on the Commission. But, I just
9 -- the reason I came up with the \$2 million idea was that I
10 think that it is proportional, and there is a direct nexus,
11 because the other solution would be to go out and find 24.5
12 acres of visitor-serving in the same proximity, et cetera,
13 and area.

14 Now, would I like to do that, if I was the
15 applicant? I don't think so. Even in this marketplace. And,
16 I think it is not a tremendous burden.

17 I would like to ask, if it is possible, Madam
18 Chair, if I could have the applicant come up for a minute.

19 **CHAIR NEELY:** Yes, certainly.

20 Mr. Gold.

21 **COMMISSIONER KRUER:** I want a clarification before
22 I go.

23 Would you have any issue -- and it is up to my
24 colleagues of what the amount is, that there is a real
25 problem with the commercial visitor-serving, removing it all,

1 that would you agree to a \$2 million fee to be paid? or do
2 you want to not agree with that? and agree not to challenge
3 it? The nexus is what I am talking about.

4 **MR. ACKERMAN:** I am not the property owner, he is
5 here.

6 **COMMISSIONER KRUER:** Well, let's get to the real
7 issue here, and that is what I want to get to, and find out,
8 to see where they are at, because otherwise, you know, I am
9 just trying to find out what -- before this becomes \$10
10 million, you know what I mean?

11 **MR. ACKERMAN:** My name is Richard Ackerman. I am
12 the actual property owner.

13 **COMMISSIONER KRUER:** Yes.

14 **MR. ACKERMAN:** So, it is not an institutionally
15 owned piece of property, as I said to one of the Commission-
16 ers, it is not Bank of America, and she said, they were
17 probably not good for it. So, you are not looking at an
18 individual small time developer. I mean, the problem that we
19 have is just to know what it is. If it is \$2 million --

20 **COMMISSIONER KRUER:** Oh, I am just asking you from
21 my perspective, myself. Would you agree -- see, the visitor
22 serving, as Commissioner Wan outlined it brilliantly, she is
23 correct, that is the real challenge that all of us are going
24 to have to decide on, and how we get past giving that up,
25 that visitor serving.

1 And, so I am just trying to understand -- and I
2 don't want to go through this exercise, as one Commissioner,
3 and then have you challenge it later and say, you know, et
4 cetera. I want to know, do we keep it the way it is today?
5 or we -- or do you have an understanding that you could
6 voluntarily, or whatever you want to call it.

7 **MR. ACKERMAN:** If the understanding is that this
8 is the end of the road, then, yes, I would agree to it.

9 **COMMISSIONER KRUER:** Okay.

10 **CHAIR NEELY:** Thank you.

11 **COMMISSIONER KRUER:** And you would not challenge
12 it later?

13 **MR. ACKERMAN:** And, I would not challenge it
14 later.

15 **COMMISSIONER KRUER:** Okay.

16 **CHAIR NEELY:** Thank you, sir.

17 **COMMISSIONER KRUER:** Thank you.

18 You know, I really think that both the applicant
19 and staff are correct on this site, and it is a real
20 challenge, in good times or in bad times, just like the hotel
21 site across the highway is a very poor commercial site, also.

22 But, again I just want to make sure that everybody
23 agrees there is a definite nexus, and it is very hard, if not
24 impossible to replace a visitor-serving project in this
25 location, with this kind of view, et cetera, in a city like

1 Malibu for anything less than \$2 million. So, I just want to
2 put that on the record.

3 And, with that, I will let some of my other
4 Commissioners talk to this, and I will just -- at this time.

5 **CHAIR NEELY:** Okay, we have 3, 4, 6 more speakers.
6 Commissioner Secord is next.

7 **COMMISSIONER SECORD:** Thank you, Madam Chair.

8 I regret the loss of visitor serving here, but I
9 do honestly believe that the property doesn't lend itself to
10 that, so I am okay with the residential development, because
11 I think it will be less intrusive, there will be less
12 traffic, et cetera.

13 I would not want to support this project, if I
14 thought that the money would go out of the vicinity, and I
15 would like a dispositive statement from staff about that, not
16 a -- Director Douglas spoke about it earlier, but I need just
17 a little more than that. I would like an ironclad guarantee
18 that the money will stay in the Malibu region, and I don't
19 know if everybody believes that, but I am one who does.

20 So, if the staff could help me with that, I would
21 really be pleased, thank you.

22 **EXECUTIVE DIRECTOR DOUGLAS:** Yes, Commissioner
23 Secord, and we don't have a problem with that, either. The
24 problem is that we have, in the past, have had situations
25 where funding was restricted to a certain geographic area,

1 and no projects ever came forward, and so the money was not
2 -- we couldn't use the money for the purpose for which the
3 mitigation was required.

4 **COMMISSIONER SECORD:** I hear you.

5 **EXECUTIVE DIRECTOR DOUGLAS:** So, the idea was --
6 and I think Commissioner Wan mentioned that -- that if there
7 is no use of the funds within a reasonable period of time --
8 and I think she mentioned something like 5 years -- that it
9 could be redirected, but it would come back to this
10 Commission for redirecting.

11 **COMMISSIONER SECORD:** So, the money is in an
12 interest-bearing account? and the account, the interest
13 accrues to the owner of the money, which is the Coastal
14 Conservancy, or whatever?

15 **EXECUTIVE DIRECTOR DOUGLAS:** I don't know whether
16 they have an interest-bearing account at the Conservancy, but
17 we have talked to them about setting up an account for these
18 funds.

19 **COMMISSIONER SECORD:** Well, if it goes to 5 to 10
20 years, it could be a substantial --

21 **EXECUTIVE DIRECTOR DOUGLAS:** I know.

22 **COMMISSIONER SECORD:** -- and eventually -- okay,
23 thank you.

24 **CHAIR NEELY:** Good point.

25 Commissioner Blank.

1 **COMMISSIONER BLANK:** Thank you, Madam Chairwoman.
2 Jack, a couple of questions, through the Chair,
3 for you. I understand this is an LCP, so to actually develop
4 the property will get a CDP back, is that correct?

5 **DISTRICT DIRECTOR AINSWORTH:** That's right.

6 **COMMISSIONER BLANK:** But, both, I think staff and
7 the applicant, put up a site plan, and kind of both
8 consistently used the number of 8.9 developable acres, and
9 which kind of assumed how the site would be layed out, but I
10 did not see that in the LCP, so can the applicant, then, come
11 back from a CDP with a completely different site layout? I
12 mean, I was kind of just assuming that that was what we have
13 all agreed on, but that is not really legally what's there.

14 **DISTRICT DIRECTOR AINSWORTH:** Through the Chair,
15 the 8.9 acres is assumed that sets up the area in compliance
16 with other policies of the LCP --

17 **COMMISSIONER BLANK:** Right.

18 **DISTRICT DIRECTOR AINSWORTH:** -- the bluff setback
19 policies, 100 feet, and the slope setback policies, so that
20 gets you to the 8.9 acres, so that is really not going to
21 change over time, that is the envelop either for a
22 residential project, or a commercial project.

23 **COMMISSIONER BLANK:** But, the applicant could come
24 back and say something else? They have not agree to that,
25 but just happens to be the constraints in the LCP? is that

1 correct?

2 **DISTRICT DIRECTOR AINSWORTH:** Come back with
3 another project, a different configuration of a project --

4 **COMMISSIONER BLANK:** But, that is --

5 **DISTRICT DIRECTOR AINSWORTH:** -- less units, but
6 they can't come back with more, because they have locked in
7 the maximum density there of 5 units.

8 **COMMISSIONER BLANK:** Okay, thank you, that was
9 helpful.

10 The other thing is Commission Sanchez -- just for
11 the record, I want to know, -- made an excellent point about
12 the number of calculations in its, you know, on page 54 of
13 the staff report, in the back, the applicant actually did an
14 analysis of low-cost visitor housing, and I would just remind
15 both Commissioners, and anybody watching this, how
16 embarrassing it is for the City of Malibu. They had to go 15
17 miles away to take a look at that, and when you look at
18 conventional housing, you get 13 rooms at the Malibu Riviera
19 Hotel, and you get 18 rooms at the Malibu Motel, for a total
20 of 31, period, 31 low cost visitor-serving hotel rooms in the
21 City of Malibu.

22 And, then, for what they considered alternative
23 lodging, you could either use the state parks, or the RV
24 parks, and they included as that as low cost visitor serving
25 housing.

1 And, then, if you looked at high ended accommod-
2 ations, you were nice enough if you wanted to pay an average
3 of \$675.00 a night to get the 47 rooms at the Malibu Beach
4 Inn, or the Casa Malibu Inn, but they were very, still less
5 than 75 rooms, even in high ended accommodations for the City
6 of Malibu.

7 So, I just want to second, third, and fourth the
8 comments of all of the other Commissioners about the
9 frustration I have about this being probably the worst
10 combination on the coast of California, between beautiful
11 beach and the lack of public access, and restricted access
12 for the rest of the population of California.

13 And, I am also very pained in thinking even about
14 voting for any type of compromise on this, but because we are
15 then putting a price on what it costs to screw the public out
16 of our responsibility to provide open access in the form of
17 visitor-serving locations.

18 So, I guess I am still undecided. I appreciate
19 Commissioner Kruer of putting a price on it, and you know,
20 that is starting to get my attention about maybe we could do
21 some other good, but I am, to be honest will be listening to
22 the other conversations of the other Commissioners and
23 comments, here.

24 **CHAIR NEELY:** Thank you, Commissioner.

25 Commissioner Stone.

1 **COMMISSIONER STONE:** Thank you, and apropos of
2 that, Commissioner Blank, what Commission Sanchez said, it
3 does seem, in this area, there is a lack -- to use her term
4 -- of will to solve the problem of accommodations in this
5 area. And, I am very concerned about quantifying for us, or
6 for future decisions, a way to get around the visitor-
7 serving conditions.

8 When I saw the plan layed out by the applicant, I
9 asked about that gate house, and said, this looks to me like
10 a gated community, and they confirmed that that is their
11 intent, and evidently, that is allowable under Malibu's LCP,
12 so we would be trading, if we do this rezoning, we would be
13 trading publicly available, or visitor-serving property for a
14 privately gated community, and I don't see how we do that,
15 really, at any price?

16 Now, if the city had come forward and said that
17 they wanted to swap this property, and rezone for another
18 similarly situated, or maybe even better situated property,
19 to rezone it to insure it is going to be visitor serving,
20 maybe allow for low cost, I could start to see that
21 conversation, but for us to take what is clearly was intended
22 in the local planning efforts to be visitor serving, even if
23 it is not the ideal property, to take it off of the roles,
24 make it residential again, and then even do we have a pot of
25 money set aside for some other unknown speculative project,

1 where there is no room for it, and no will within the
2 community to adopt that, we are undermining the intent of the
3 *Coastal Act*.

4 So, there is not really a viable alternative here,
5 that is before us, other than creating a pot of money that
6 may or may not ever get spent anywhere locally. If this
7 Commission does it, I would hope that we would insist -- and
8 I appreciate Commissioner Wan's perspective of the 5 years,
9 and if not that it certainly comes back to us, it should be
10 our intent spend that money locally.

11 But, I would predict, given the current circum-
12 stance that there is not going to be a project to spend that
13 money on, and there will be other competing interests at that
14 time, and often that money goes some place else, because
15 there will be pressure to spend that money.

16 So, I think we are heading down a path that is not
17 productive, and a path that is really poor overall planning,
18 and that poor planning may start, be that in Malibu without
19 really addressing the visitor-accommodation issue, but I
20 would hope that this Commission is not perpetuating that.

21 **CHAIR NEELY:** Thank you, Commissioner.

22 Commissioner Parker.

23 **COMMISSIONER PARKER:** As I have listened to most
24 of the conversation, all of the conversations of our fellow
25 Commissioners, there seems to be -- I seem to be somewhat

1 caught right in the middle of a situation that has a fair
2 amount of knowledge about how do you deal with situations
3 that are very expensive, in certain areas, and others that
4 are not.

5 Just recently, I was involved, and still is
6 involved, for the last 40 years, I have resided in the City
7 of Beverly Hills. The City of Beverly Hills has decided that
8 they will no longer allow the school district children that
9 basically have been attending there on permits, to come in
10 anymore on permits, and only those children that live within
11 the city limits of Beverly Hills can go to the Beverly Hills
12 school district.

13 Now, I have lived there for 40-plus years, both of
14 my children graduated from the city schools in Beverly Hills.
15 They could have gone to private schools, chose not to do so.
16 My son got a scholarship to the University of California at
17 Santa Barbara, to go to play baseball. This has nothing to
18 do with the coastal thing, but I think it has to do with the
19 principle. The principle here is, as I began to read the
20 staff's report, the staff states there are some
21 inconsistencies, itself, within the map that the City of
22 Malibu has.

23 We all -- and I have heard everyone of the
24 Commissioners state, we all recognize that Malibu is a very
25 expensive town in which to live in. There is a reason why,

1 probably, in the last 45 almost 50 years no hotels have ever
2 been built, because basically I guess is the costs of the
3 economics.

4 The question then comes to, is the reality and the
5 feasibility, itself, of the process. The feasibility of the
6 process is -- as I heard someone say just a moment ago --
7 is it really within the Coastal Act itself that it must be
8 reasonable and feasible, in order to be able to do this.

9 We have -- I read the staff's report, and I would
10 just like to read it into the record, again, it says:

11 "Any new land use policy that has been
12 implemented that requires a payment of
13 a fee to mitigate for the loss of visitor-
14 serving land."

15 Now, that is a policy, itself, that this
16 Commission, itself, has basically implemented. The intent of
17 which was always somewhere on this bluff to allow residential
18 use. Even Policy 2.78 stated that those ball fields would
19 remain there, they would go from state owned land, right
20 across the street to the Crummer property, always. Never
21 would those ball fields would ever go away from that general
22 area. Now, that is what the staff report states.

23 I, also, was somewhat concerned, itself, when I
24 had heard that the property, itself, would be transferred
25 over to the City of Malibu, but now I learn that the City of

1 Malibu did, in fact, pay \$2.5 million for, approximately, 10
2 acres of whatever number of acres of land that there were
3 that was transferred.

4 And, then, that money then was used to go out and
5 buy 388 additional acres. Malibu, obviously, has some very
6 unique circumstances, being very close to that of the Santa
7 Monica Mountains, that they are trying to buy a lot of that
8 property along there, in order to preserve it from the fires
9 that are coming down in some of the storms that are going on.

10 It seems to me, if I look at this very carefully,
11 it has always been, whether or not it is the PD, the planned
12 development that says that recreation and residential would
13 be there, or the policy 2.78 that says recreation and
14 residential will be there. I think that goes all the way
15 back for the last 25 or 30 years. On this property, this
16 Commission has basically stated residential will be on that
17 bluff, in some form, whether or not it transferred it or did
18 not transfer.

19 Now, the inconsistency, itself, came in relative
20 to when that did not go through, but yet and still the Malibu
21 maps, themselves, right now, say it's planned development.
22 It doesn't say CV. The policy itself says CV, it shall
23 remain CV. Those inconsistencies have somewhat been created
24 by probably the Act, itself -- the Commission, in reference
25 to doing things.

1 I think that my point is that we have gotten to
2 the point today that maybe the best alternative is to allow
3 this property to be developed, and to get dollars from those
4 owners in order to do as Commissioner Wan has stated, to
5 basically do some of those projects, itself, that really
6 would be on the peripheral, itself, of this particular area.

7 I, too, agree -- like I disagreed with Beverly
8 Hills about the kids -- I, too, agree that this is a valuable
9 piece of land that we are about losing from commercial
10 visitor uses, but under the circumstances -- 50 years ago I
11 worked with the Pepperdine University when they moved from
12 Vermont Avenue directly to Malibu, in order to, when that
13 property, itself, was bequest directly to them, and to
14 convert it. And, ever since then, 50 years, nothing has been
15 done to any of these properties along there.

16 To now have this to come about, and to have this
17 property being developed, and what it appears is that the
18 Commission and everyone else has always contemplated that
19 residential use would be at that particular property. I
20 think it is appropriate to do forward with this, and to -- as
21 Commissioner Kruer said -- try to get out the best deal that
22 we can from the developers, so that we can move forward.

23 Thank you.

24 **CHAIR NEELY:** Thank you, Commissioner.

25 Commissioner Shallenberger.

1 **COMMISSIONER SHALLENBERGER:** Yes, I share my
2 fellow Commissioners' kind of resistance to giving up
3 visitor-serving, in that, if I end up voting to do that, it
4 will be with a great kind of reticence, I think, as the only
5 way I can do that, is two things. One, is that I feel that
6 we -- that the end result of this will be that the public
7 actually will get more value from the change, than they would
8 from having the zoning stay the same.

9 And, I also agree with those who have talked about
10 the worry that Malibu lacked an interest, a lack of will, and
11 there is a long history of lack of will coming from Malibu,
12 in terms of implementing the *Coastal Act*, and respect for the
13 coastal policies.

14 So, having said that, can I ask to have the
15 overhead brought up of the general -- the proposal?

16 [Pause in proceedings.]

17 Down to 4, perfect, yes.

18 While he is bringing that up, yes, looking at
19 this, the two things, specifically, that I am still concerned
20 with, one is this, that where it says Lot 7 there, that is
21 going to go to the City of Malibu, and it seems to me that we
22 should -- it is fine to do that, but that that land should
23 actually go not for the benefit of just the community, but
24 for the public, in general, and ball parks, and soccer
25 fields, and tennis courts, and basketball courts really do

1 not generally end up being for the benefit of the general
2 public. They are terrific, but they are for the city, the
3 residents, pretty much of the City of Malibu.

4 And, I so I would like to hear from staff,
5 wouldn't we be, actually increasing the public benefit here,
6 in order to put some constraints on that, that it be passive
7 recreation uses, and posted as open to the public? It is
8 right next -- sorry to interrupt having asked a question, but
9 just another reason I am thinking that it is right next to a
10 public parking lot, so the public is going to be there.

11 **DISTRICT DIRECTOR AINSWORTH:** Yes, the way Malibu
12 Bluffs Park is set up, you have the core area there with the
13 ball fields, and then adjacent to that is the state park
14 land. Now, the parking for the park land is at the city
15 park, right there, and so what the idea here is that the
16 public, general public, a greater public with a regional need
17 there, would be served by additional parking --

18 **COMMISSIONER SHALLENBERGER:** Right.

19 **DISTRICT DIRECTOR AINSWORTH:** -- and also, I think
20 you are right. I think a passive park would probably be
21 better than ball fields, for example, so the general public
22 could come, picnic, or do whatever, and use it as a staging
23 area to take hikes into the state park.

24 **COMMISSIONER SHALLENBERGER:** Exactly.

25 **DISTRICT DIRECTOR AINSWORTH:** And, so I think it

1 was originally contemplated -- we didn't nail this down in
2 our suggested modifications, but I think that at one point --
3 and there was some talk about a baseball field being proposed
4 there -- so, certainly, we would not be opposed to saying
5 that that should be, you know, a more passive type park, that
6 would serve the needs of a more regional need.

7 **COMMISSIONER SHALLENBERGER:** And, would you be
8 willing to amend the staff recommendation to specify that it
9 would be passive and open to the general public?

10 **DISTRICT DIRECTOR AINSWORTH:** Yes.

11 **COMMISSIONER SHALLENBERGER:** Okay, do I need to --
12 my second issue is one that I raised at the very beginning
13 here, and that is the canyon that goes right up the middle
14 here, and -- yes, thank you.

15 And, these canyons are, generally, can be very
16 valuable habitat, and it is clearly that they are proposing
17 to keep this, as they are not going to develop it, and it
18 looks to me like it can't be developed, and so I guess I
19 think that if the Santa Monica Conservancy were willing to
20 accept it, that I would like to see that added on top of the
21 7 acres that they have negotiated. I know the last 2 acres,
22 they haven't drawn the line.

23 We heard from the project proponent that they are
24 going to restore this, that there are some invasive species,
25 non-natives, but having done that, I do think it should be

1 turned over to the Santa Monica Conservancy, assuming the
2 Conservancy is willing to accept it.

3 So, let me hear from staff first. Is there a
4 reason that I am not thinking clearly on this?

5 **DISTRICT DIRECTOR AINSWORTH:** No, I mean, it makes
6 perfect sense. I think maybe the concern there would be the
7 fuel modification extending into that area, and that is the
8 only thing I could think of.

9 But, I am not sure if a representative from the
10 Conservancy is here? they were supposed to show up. Anyway, I
11 guess not.

12 **COMMISSIONER SHALLENBERGER:** Actually, well, let
13 me ask the representative from the project proponent to come
14 forward, if they would, and, because what I am actually
15 proposing is that this be offered to the Conservancy as part
16 of the easement, then leave it up to the Conservancy if there
17 is a reason why they would not want it, but could I ask to
18 have somebody come forward.

19 **DISTRICT DIRECTOR AINSWORTH:** Probably, the
20 property -- I mean the City of Malibu should also, as this is
21 their LCP amendment, and they should also comment on the park
22 --

23 **COMMISSIONER SHALLENBERGER:** Okay.

24 **DISTRICT DIRECTOR AINSWORTH:** -- the passive park.

25 **MR. ACKERMAN:** I think what we have said is that

1 we are in the process --

2 **CHAIR NEELY:** We need your name, for the record.

3 **MR. ACKERMAN:** Richard Ackerman.

4 I think what we have said is that we are in the
5 process of doing an EIR on the project, which isn't finished
6 yet, and we will be looking -- as we have been looking -- to
7 be working with the Conservancy to figure out the best
8 possible way.

9 As it was drawn, it was originally because there
10 are some drainage fields in there that are not finalized.
11 So, we certainly would be open to granting it be excess land,
12 if that is possible. At this point in time, we just couldn't
13 make a commitment because we haven't finished the EIR.

14 Does that clarify it for you?

15 **COMMISSIONER SHALLENBERGER:** Yes, it does.

16 And, so let me just follow up, I am curious why
17 you can make the commitment to the rest of this 7 acres of
18 the easement, how is that different.

19 **MR. ACKERMAN:** Well, because there is no drainage
20 --

21 **COMMISSIONER SHALLENBERGER:** It is the drainage
22 field?

23 **MR. ACKERMAN:** -- and we haven't finished the EIR,
24 and the comments haven't come back from the geologist, yet,
25 as to whether those are proper places. So, I think we have

1 been working very closely with them, and we will continue to.

2 **COMMISSIONER SHALLENBERGER:** Okay.

3 **MR. ACKERMAN:** Okay.

4 **COMMISSIONER SHALLENBERGER:** Thank you.

5 And, I guess I need to have the city come forward
6 and ask them about the change to the use of that Lot 7.

7 **MS. EDMONDSON:** Yes, the park is currently not
8 restricted now. There is no --

9 **CHAIR NEELY:** Please put your name on the record.

10 **MS. EDMONDSON:** I'm sorry, Stephanie Edmondson,
11 representing the City of Malibu.

12 There is no restrictions on the park limiting it
13 to only city uses. It is a public park, and we currently
14 have riders come through from all over, and it is used by the
15 State of California.

16 **COMMISSIONER SHALLENBERGER:** What I am suggesting,
17 and what I have asked staff to do is to include it in their
18 staff amendments that it be limited to, so that you would be
19 precluded from putting non-passive recreation on it, to turn
20 that lot into ball parks and tennis courts and soccer fields,
21 actually is not a visitor-serving facility purpose, so that
22 is what the proposal is, and it sounds as if you wouldn't
23 have a problem with that, that is what you use it for anyway.

24 **MS. EDMONDSON:** That is correct.

25 **COMMISSIONER SHALLENBERGER:** Thank you.

1 MS. EDMONDSON: Thank you.

2 CHAIR NEELY: All right, thank you.

3 Commissioner Wan.

4 [MOTION]

5 COMMISSIONER WAN: Yes, let's get this moving.

6 I move that the Commissioner certify Amendment
7 MAL-MAJ-2-09-A to the City of Malibu Land Use Plan as
8 submitted by the City of Malibu, and recommend a "No" vote.

9 That is our first motion.

10 COMMISSIONER BLOOM: Second.

11 CHAIR NEELY: We have a motion by Commissioner
12 Wan, and a "second" by Commissioner Bloom?

13 COMMISSIONER BLOOM: Yes.

14 CHAIR NEELY: Okay, the maker and seconder are
15 recommending a "No" vote, and failure of this motion will
16 result in the denial of the Land Use Plan as submitted, and
17 adoption of the resolutions and findings in the staff report.

18 Would you like to speak to your motion?

19 COMMISSIONER WAN: No, I will speak to the second
20 motion.

21 CHAIR NEELY: All right.

22 Would you like to speak to it?

23 COMMISSIONER BLOOM: Likewise.

24 CHAIR NEELY: Okay, is there any objection to a
25 unanimous roll call vote on this item?

1 [No Response]

2 Seeing none, the Commission hereby denies
3 certification of the amendment to the City of Malibu's Land
4 Use Plan, and adopts the findings in the staff report.

5 Commissioner Wan.

6 [MOTION]

7 **COMMISSIONER WAN:** I move that the Commission
8 certify Amendment MAL-MAJ-2-09-A to the City of Malibu Land
9 Use Plan if modified as suggested in the staff report, and
10 recommend a "Yes" vote.

11 **COMMISSIONER BLOOM:** Second.

12 **CHAIR NEELY:** Okay, we have a motion by
13 Commissioner Wan, seconded by Commissioner Bloom, the maker
14 and seconder are recommending a "Yes" vote, passage of the
15 motion will result in certification of the Land Use Plan with
16 the suggested modifications and adoptions of the resolutions
17 and findings in the staff report.

18 Would you like to speak to this motion?

19 **COMMISSIONER WAN:** Yes, this motion I would like
20 to speak to. I don't know if we will need any amending
21 motions, so I am going to ask staff if they will incorporate
22 into their modifications the following:

23 One, that the initial \$1 million be specifically
24 designated for the restoration of the Topanga Beach Motel
25 units. If within 5 years, this does not take place, then

1 this returns to the Commission for our approval of the
2 change. So, this does not mean that you can't change it. It
3 just means that the Commission is going to need to oversee
4 this to make sure that this stays in the local area.

5 And, I think that takes care of Commissioner
6 Secord's issue, in consideration, the money should be
7 deposited with the State Coastal Conservancy, in an interest
8 bearing account, not that right now you get any interest,
9 anyway.

10 But, so, I am going to go through these one at a
11 time, and see if the staff agrees.

12 **CHAIR NEELY:** So, to staff.

13 **DISTRICT DIRECTOR AINSWORTH:** Yes, we would agree
14 to it.

15 **COMMISSIONER WAN:** To incorporate the applicant's
16 offer of increasing the conservation easement to the Santa
17 Monica Mountains Conservancy of 7 acres, that is his offer,
18 and I would like to see that incorporated.

19 To incorporate into the modifications some wording
20 to indicate that the applicant will work with the Santa
21 Monica Mountains Conservancy with regards to whatever the
22 design of the project is, to minimize the brush clearance of
23 the habitat on the easement area.

24 **DISTRICT DIRECTOR AINSWORTH:** Yes, we can agree to
25 that.

1 **COMMISSIONER WAN:** To deal with Commissioner
2 Shallenberger's concern relative to that drainage, or the
3 canyon area, to say that the applicant will work with the
4 Santa Monica Mountains Conservancy to deal with this issue,
5 and work to see what is the appropriate amount of this canyon
6 that can be restored, and given that this is included in the
7 easement.

8 So, I am not specifying what you have to do, but
9 just to specify that you need to be working with them
10 cooperatively.

11 And, that the applicant's offer to transfer the
12 easement directly to the Santa Monica Mountains Conservancy,
13 be part of this.

14 **DISTRICT DIRECTOR AINSWORTH:** Yes.

15 **COMMISSIONER WAN:** Okay.

16 And, that the increase in the in lieu fee be to \$2
17 million, and that the amount over \$1 million be specified to
18 go to the Santa Monica Mountains Conservancy for their use in
19 public access and visitor-serving uses in Malibu, and they do
20 have some projects that are current, and I think they can
21 definitely use this within Malibu.

22 **DISTRICT DIRECTOR AINSWORTH:** Is this -- would
23 this be for lower-cost overnight accommodations?

24 **COMMISSIONER WAN:** It includes -- I am making it
25 broader than that. It doesn't have to be the construction of

1 hotel units, but it includes various forms of public access
2 amenities and visitor-serving amenities.

3 **DISTRICT DIRECTOR AINSWORTH:** I just would like to
4 point out that the Topanga Beach Motel is a multi-million
5 dollar project, and they could use that full \$2 million to
6 fund that project.

7 The MRCA and the Conservancy have other funding
8 sources, and are much more well equipped to fund their
9 projects, like the camping --

10 **COMMISSIONER WAN:** And, I agree with you, but I
11 would like -- maybe not the full \$1 million. I would like to
12 at least have some of that to go to the Santa Monica
13 Mountains Conservancy, because I know that is going to be
14 used. I can assure you that it is going to be used, and in a
15 timely way. And, we are concerned about the timeliness of
16 it, so if you only want, like I say, \$500,000.00, you know,
17 to go to the Santa Monica Mountains Conservancy, and \$1.5
18 million to go to the Topanga Beach, that is fine. I don't
19 think the applicant cares how it is dedicated, you know.

20 **EXECUTIVE DIRECTOR DOUGLAS:** That is not really
21 our concern. The idea would be, though, that the funding
22 would be for lower-cost overnight accommodations, versus for
23 trail improvements, for stairways, things like that.

24 That is what we want to --

25 **COMMISSIONER WAN:** Well, do you include camping?

1 EXECUTIVE DIRECTOR DOUGLAS: Oh, yes.

2 COMMISSIONER WAN: Well, certainly, the Santa
3 Monica Mountains Conservancy can use funding for some
4 camping.

5 EXECUTIVE DIRECTOR DOUGLAS: Right, that is lower-
6 cost overnight accommodation.

7 COMMISSIONER WAN: Okay, so if you want to specify
8 that that the use, then that would be acceptable to me.

9 EXECUTIVE DIRECTOR DOUGLAS: Okay.

10 CHAIR NEELY: So, Counsel, did you have a comment,
11 or staff?

12 CHIEF COUNSEL SCHMELTZER: I was wondering if the
13 Commissioner would like to make an amending motion on that,
14 to incorporate some of this language.

15 EXECUTIVE DIRECTOR DOUGLAS: No, we are working --

16 COMMISSIONER WAN: They are agreeing to
17 incorporate it in, and if they don't then we will make an
18 amending motion.

19 EXECUTIVE DIRECTOR DOUGLAS: I don't understand.

20 COMMISSIONER WAN: Oh, okay, if the Commission
21 doesn't -- I see, that is what you are saying, all right.

22 CHIEF COUNSEL SCHMELTZER: That one, I'll cite.

23 COMMISSIONER WAN: So, I can take that one off,
24 and will make it a separate motion.

25 DISTRICT DIRECTOR AINSWORTH: Well, to that point,

1 we should be amending the LIP here, the development standards
2 of the LIP, so I just wanted to make that clear, and we are
3 talking about the Land Use Plan right now. So, these
4 development standards are more appropriate for the local
5 implementation, but --

6 **COMMISSIONER WAN:** Yes, that is true, but we can
7 talk about them now, and you can do what you want with it.

8 If you want me to, I will remove this one, and do
9 it as an amending motion, and you are saying in this amending
10 motion, the in lieu fee should go for the IP part of it? or
11 the?

12 **DISTRICT DIRECTOR AINSWORTH:** Yes, the IP.

13 **COMMISSIONER WAN:** Okay, so we will do that at the
14 time of the IP.

15 And, then, there was one other issue that
16 concerned me, and that was the gates. I don't believe that
17 gated communities are allowed on the ocean side of Pacific
18 Coast Highway in the LCP, is that correct?

19 **DISTRICT DIRECTOR AINSWORTH:** Only, where if it
20 affects public access in some way, they would not be allowed,
21 that is their strong policy in there. But, in this case,
22 there is no access to the beach, so under the current LCP it
23 is likely that a gate would be allowed, unless you modify it
24 here in these development standards, and you can do that.

25 **COMMISSIONER WAN:** All right, so we will wait for

1 the IP to deal with that issue, right?

2 EXECUTIVE DIRECTOR DOUGLAS: Right, and I would
3 strongly recommend that we not allow gated community here.
4 The Commission has a long history of not allowing gated
5 communities between the first major public highway and the
6 sea, and I think that we ought to continue that.

7 COMMISSIONER WAN: So, you will make that part of
8 your own recommendation? or do I need a motion for that?

9 EXECUTIVE DIRECTOR DOUGLAS: If we will
10 incorporate that --

11 COMMISSIONER WAN: Okay.

12 EXECUTIVE DIRECTOR DOUGLAS: -- in the appropriate
13 place.

14 DISTRICT DIRECTOR AINSWORTH: Yes, that will be in
15 the IP.

16 EXECUTIVE DIRECTOR DOUGLAS: Okay.

17 COMMISSIONER BLANK: Commissioner Wan, I have a
18 question for you, if you don't mind.

19 CHAIR NEELY: Well, let's get this list finished
20 here, and then we will --

21 COMMISSIONER WAN: That is the list, okay.

22 And, so everything other than the issue of the
23 allocation of the additional \$1 million has been incorporated
24 by staff.

25 Have you incorporated Commissioner Shallenberger's

1 recommendation, as well?

2 **EXECUTIVE DIRECTOR DOUGLAS:** Not yet, because the
3 city's representative would like to address the issue of the
4 passive recreational use on the park land, they are not in
5 agreement with that, apparently.

6 **COMMISSIONER WAN:** So, when is the appropriate
7 time to do that? right now?

8 **EXECUTIVE DIRECTOR DOUGLAS:** I think that would
9 be, yes.

10 **MS. PARKER-BOZYLINSKI:** Yes, thank you, Joyce
11 Parker-Bozylinski. representing the City of Malibu.

12 We apologize, Stephanie misunderstood what you
13 were asking when you were talking about access issues, and
14 stuff. We would not be willing to accept an amendment that
15 said that the city had only to allow passive recreational
16 uses on that. We, at this time, for one reason, we don't
17 have -- that is not a decision that we would make at a staff
18 level. That is a decision that would be made by our decision
19 makers, the city council, and I, even though I have only been
20 there a month, I am not comfortable in saying -- pretty sure
21 that they would probably not accept that as -- amend that, so
22 I certainly don't want to represent to you that they would.

23 **CHAIR NEELY:** Commissioner Shallenberger, did you
24 have a comment?

25 **COMMISSIONER SHALLENBERGER:** Only, that we will

1 do it by an amendment then --

2 EXECUTIVE DIRECTOR DOUGLAS: Right.

3 COMMISSIONER SHALLENBERGER: -- a motion.

4 CHAIR NEELY: Okay.

5 EXECUTIVE DIRECTOR DOUGLAS: You can do that, and
6 then the city can choose to accept it or not --

7 COMMISSIONER SHALLENBERGER: Exactly.

8 MS. PARKER-BOZYLINSKI: Okay.

9 EXECUTIVE DIRECTOR DOUGLAS: -- and then you have
10 to decide what to do after that.

11 CHAIR NEELY: Commissioner Achadjian.

12 COMMISSIONER ACHADJIAN: Thank you, Madam Chair.

13 My thought, Commissioner Shallenberger, as I have
14 seen these kinds of parks within cities in my district, and
15 even though it is owned by the city, but travelers can stop
16 by and use the tennis court, as long as it is available, or
17 if it needs to be, they can simply call the parks and
18 recreation and ask for a day use, to reserve for certain
19 times. It is never restricted to just those who live within
20 in the city. It is allowed for the entire public, but it is
21 just how busy the court becomes, becomes an issue, and that
22 is settled by the parks, and if that is the case with the
23 City of Malibu, then I would like to see what their response
24 would be to that kind of an arrangement, if that is the case
25 with you?

1 CHAIR NEELY: Are you asking the city, then sir?

2 COMMISSIONER ACHADJIAN: Yes.

3 CHAIR NEELY: Would the city's rep please answer
4 the Commissioner's questions, and your name, first, please.

5 MS. PARKER-BOZYLINSKI: Yes, Joyce Parker-
6 Bozylinski.

7 You asked me whether there is any restriction now
8 on the ball fields that are out there?

9 COMMISSIONER ACHADJIAN: I am assuming that there
10 is no restriction, is there?

11 MS. PARKER-BOZYLINSKI: No, anybody, yes, anybody
12 can come and use the ball fields, they do.

13 COMMISSIONER ACHADJIAN: So it would be taxpayers
14 coming through, or residing within the city, so long as it is
15 available, unless you have tournaments or lessons that are
16 prescheduled that that would be the case?

17 MS. PARKER-BOZYLINSKI: That is correct, yes. We
18 consider that park a public park opened to any --

19 COMMISSIONER ACHADJIAN: Everybody within the
20 state or the nation.

21 MS. PARKER BOZYLINSKI: -- one from the United
22 States. It is a visitor-serving park.

23 CHAIR NEELY: Okay.

24 EXECUTIVE DIRECTOR DOUGLAS: Madam Chair.

25 CHAIR NEELY: Yes.

1 **EXECUTIVE DIRECTOR DOUGLAS:** Relative to the
2 question of the park use, we can incorporate that into the
3 staff recommendation, and that would be part of the
4 implementation programs, so we will do that.

5 **CHAIR NEELY:** Okay, and we have a couple of
6 clarifications.

7 Commissioner Wan, and then Commissioner Blank.

8 Oh, you are okay, now?

9 Commissioner Wan.

10 **COMMISSIONER WAN:** Yes, just a clarification of
11 Commissioner Shallenberger.

12 I understand the desire to have the passive
13 recreation, but part of this was planned for parking, and I
14 think the parking is -- you are not eliminating the parking?

15 **COMMISSIONER SHALLENBERGER:** No, it is only --

16 **COMMISSIONER WAN:** Okay.

17 **COMMISSIONER SHALLENBERGER:** -- that portion that
18 is going to be a park, right next to
19 the park.

20 **COMMISSIONER WAN:** If the parking is necessary for
21 both the community --

22 **COMMISSIONER SHALLENBERGER:** No, no, no, I am not

23 --

24 **COMMISSIONER WAN:** -- but, also for the general
25 public.

1 **CHAIR NEELY:** Okay.

2 Commissioner Sanchez.

3 **COMMISSIONER SANCHEZ:** Yes, I did, actually,
4 during the meeting with the representatives of the project,
5 asked about the park, and asked Jack that, and why it wasn't
6 more of a passive park as Commissioner Shallenberger
7 indicated, more restricted use, which is the ball fields. I
8 asked, well, why there weren't any trees, so that people can
9 sit, because you can't just sit out there in the sun. There
10 are some people would not be able to do that, handle that, so
11 trees, when you look at the whole piece there, there isn't a
12 single tree there. There is no, like, benches, no place for
13 anyone to really sit and enjoy, as a member of the public,
14 unless you are part of this organized sports, and you know,
15 you bring your tents, and all of that.

16 But, I really saw a real lack of a commitment, in
17 terms of having a passive park, and what you could do to
18 encourage public use of a passive park.

19 **CHAIR NEELY:** Okay, all right, we have a motion
20 and a "second". Motion by Commissioner Wan, seconded by
21 Commissioner Bloom, the maker and seconder are recommending
22 that we certify this amendment with the suggested
23 modifications that have been incorporated into the staff
24 report.

25 Commissioner Bloom, did you any --

1 **COMMISSIONER BLOOM:** I'll just add a couple of
2 quick comments.

3 I think this is the right direction to go with
4 this property. I realize, and I agree that I am giving up
5 visitor-serving uses, extremely important, but when that is,
6 in a sense, illusory, then it makes sense to do the kind of
7 thing that we are doing here.

8 And, in this particular case, I am convinced that
9 the economics would never work out in our lifetime to make
10 this a visitor-serving use, and so this is the next best
11 thing.

12 And, I'll speak to the issue of the money when we
13 get to that.

14 **CHAIR NEELY:** Okay, so do we have need for a roll
15 call vote on this item, or do we have a unanimous -- we have
16 need for a roll call vote.

17 Clerk, would you please call the roll. The maker
18 and seconder are recommending a "Yes".

19 **SECRETARY MILLER:** Commissioner Achadjian?

20 **COMMISSIONER ACHADJIAN:** Yes.

21 **SECRETARY MILLER:** Achadjian, yes.

22 Commissioner Blank?

23 **COMMISSIONER BLANK:** Yes.

24 **SECRETARY MILLER:** Blank, yes.

25 Commissioner Bloom?

1 **COMMISSIONER BLOOM:** Yes.
2 **SECRETARY MILLER:** Bloom, yes.
3 Commissioner Parker?
4 **COMMISSIONER PARKER:** Yes.
5 **SECRETARY MILLER:** Parker, yes.
6 Commissioner Secord?
7 **COMMISSIONER SECORD:** Yes.
8 **SECRETARY MILLER:** Secord, yes.
9 Commissioner Kruer?
10 **COMMISSIONER KRUER:** Yes.
11 **SECRETARY MILLER:** Kruer, yes.
12 Commissioner Mirkarimi?
13 **COMMISSIONER MIRKARIMI:** Yes.
14 **SECRETARY MILLER:** Mirkarimi, yes.
15 Commissioner Sanchez?
16 **COMMISSIONER SANCHEZ:** No.
17 **SECRETARY MILLER:** Sanchez, no.
18 Commissioner Shallenberger?
19 **COMMISSIONER SHALLENBERGER:** Yes.
20 **SECRETARY MILLER:** Shallenberger, yes.
21 Commissioner Stone?
22 **COMMISSIONER STONE:** No.
23 **SECRETARY MILLER:** Stone, no.
24 Commissioner Wan?
25 **COMMISSIONER WAN:** Yes.

1 **SECRETARY MILLER:** Wan, yes.

2 Chair Neely?

3 **CHAIR NEELY:** Yes.

4 **SECRETARY MILLER:** Chair Neely, yes.

5 The vote is 10, 2.

6 **CHAIR NEELY:** The vote is 10 to 2, and the
7 Commission hereby certifies Amendment MAL-MAJ-2-09-A to the
8 City of Malibu Land Use Plan, as modified.

9 We have more motions, Commissioner Wan.

10 **COMMISSIONER WAN:** I move that the Commission
11 certify Amendment MAL-MAJ-2-09-A to the City of Malibu Land
12 Use Plan, if modified --

13 What?

14 **CHAIR NEELY:** We did that one. We have this one.

15 [MOTION]

16 **COMMISSIONER WAN:** Oh, that is 2, I am sorry. I
17 have got to go down. I was wondering why it didn't say
18 Implementation Plan.

19 I move that the Commission reject the City of
20 Malibu's Local Implementation Plan Amendment MAL-MAJ-2-09-A
21 as submitted, and recommend a "Yes" vote.

22 **COMMISSIONER BLOOM:** Second.

23 **CHAIR NEELY:** We have a motion by Commissioner
24 Wan, a "second" by Commissioner Bloom, the maker and seconder
25 are recommending a "Yes" vote, passage of the motion will

1 result in rejection of the Implementation Program Amendment,
2 and adoption of the resolutions and findings in the staff
3 report.

4 Would you like to speak to your motion?

5 COMMISSIONER WAN: [No response.]

6 CHAIR NEELY: Commissioner Bloom?

7 COMMISSIONER BLOOM: No.

8 CHAIR NEELY: Okay, is there any objection to -- I
9 guess we need a roll call vote on this item?

10 Is there any objection to a unanimous roll call
11 vote?

12 [No Response]

13 Seeing no objection, the Commission hereby denies
14 certification of the Malibu Local Implementation Plan
15 Amendment MAL-MAJ-2-09.

16 Next motion.

17 [MOTION]

18 COMMISSIONER WAN: I move that the Commission
19 certify the City of Malibu Local Implementation Plan
20 Amendment MAL-MAJ-2-09-A if it modified as suggested in the
21 staff report, and recommend a "Yes" vote.

22 COMMISSIONER BLOOM: Second.

23 CHAIR NEELY: Motion by Commissioner Wan, a
24 "second" by Commissioner Bloom, the maker and seconder are
25 recommending "Yes" vote, passage of the motion will result in

1 certification of the Implementation Plan with the suggested
2 modifications.

3 Would you like to speak to the motion?

4 **EXECUTIVE DIRECTOR DOUGLAS:** Madam Chair, just to
5 make sure, we have incorporated all of those items that we
6 indicated we would incorporate, and will put them either in
7 the Land Use Plan, or the Implementation component, wherever
8 it is most appropriate to put them.

9 **CHAIR NEELY:** Thank you, staff.

10 **COMMISSIONER WAN:** And, I understand that.

11 I just would like to bring us back to where and
12 how we allocate the additional \$1 million. I am going to ask
13 that I get some input here, before we make a motion, from my
14 fellow Commissioners, so I could hear what they would like to
15 do.

16 I would hope that we retain at least \$500,000.00
17 of that for the Santa Monica Mountains Conservancy, because,
18 as I say, they will use it for such things as camping, and
19 that is imminent.

20 **CHAIR NEELY:** Okay, Commissioners.

21 **EXECUTIVE DIRECTOR DOUGLAS:** We are aware of that.

22 **CHAIR NEELY:** Okay, Commissioner Shallenberger.

23 **COMMISSIONER SHALLENBERGER:** You may not, but I
24 actually do.

25 Having heard that the Topanga Canyon is a multi-

1 million dollar project, and that if things were to go well,
2 all of this money could be spent there. I would prefer to
3 leave that flexibility, and to have all of the money, for the
4 time being.

5 We have a five-year period on this, so that at the
6 end of five years, if it hasn't, but if you know, for
7 whatever reason, we can revisit it, but I think it is a
8 mistake to carve this money up into different places. We
9 lost visitor-serving in one 24-acre parcel in Malibu, and I
10 think it only makes sense to try and use all of this money to
11 -- as rapidly as possible in one project, get some visitor
12 serving.

13 And, for Commissioner Sanchez, visitor serving
14 that has a shower really close by where to where they are
15 sleeping, so I would not support, if you were to ask for an
16 amending motion.

17 **CHAIR NEELY:** Okay.

18 **COMMISSIONER SANCHEZ:** I concur with Commissioner
19 Shallenberger.

20 **COMMISSIONER KRUER:** I guess I could be okay with
21 that, it is my sense when you have a pot of money for
22 mitigation. You put people to the test more by having some
23 qualifications that you are not going to spend all of the
24 money on one project, because it becomes a deep attraction,
25 and a deep hole.

1 And, this is a limited resource, that precious
2 replacement, of being able to account for this visitor
3 serving. I don't want to make it that you can't do it, but I
4 would rather have the Executive Director, or something, say
5 that at least half would stay in this, and give them a chance
6 to bring it back and change that to do it, otherwise, what
7 happens is it is all going to end up in one project, and that
8 isn't leveraging your precious resources.

9 And, so, I understand, you know, it might go
10 there, anyway, but I would like to put a caveat before it
11 gets there, to address what Commissioner Stone and others
12 have talked about. The last thing we want is to give up this
13 visitor serving, and find out some day that this money was
14 all dumped in a site that had one site with tremendous
15 overruns, and problems, and issues, then Commissioner Stone's
16 point that he made out, would come true.

17 So, I think you got to be careful, and I would
18 rather have more restrictions on what can go to one
19 particular site, just my input, but I could go your way, too.

20 **CHAIR NEELY:** Commissioner Bloom.

21 **COMMISSIONER BLOOM:** I am in a little bit of a
22 loss, because I think the question here is -- for me, anyway
23 -- is how do we utilize this money most effectively.

24 And, I tend to think -- but, and it is just a
25 tendency to think -- that if you focus all of the money on

1 this Topanga project, it is going to make it more likely to
2 happen. It has been in the pipeline for a long time, and
3 maybe it is the extra amount of money that helps push the
4 project forward. But that's, you know, there is a fair amount
5 of speculation there, and I am seeing some nodding heads, and
6 I just -- is there a way that we can defer a decision on the
7 ultimate use of the money to find out, in fact, are my
8 speculations, or Commissioner Shallenberger's, or anyone else
9 has feelings about this are accurate? And, then divvy up the
10 pot, so to speak?

11 **EXECUTIVE DIRECTOR DOUGLAS:** Well, our suggestion
12 would be, that if you agree with Commissioner Shallenberger
13 that the \$2 million be directed to state parks, we have a
14 memorandum of understanding with state parks. We already
15 have worked that out. We spent a lot of time working this
16 through. So, I think you are right. I think with the \$2
17 million that will make it much more likely that they can
18 find other money for the project.

19 It certainly is a lot of money to not use, and we
20 would suggest that if it is not used within 5 years, that it
21 go back to the Conservancy, or go to the Conservancy for a
22 use that this Commission has identified as being appropriate.

23 **CHAIR NEELY:** Commissioner Bloom.

24 **COMMISSIONER BLOOM:** So, we also are operating,
25 and with all due respect, under the assumption that 5 years

1 is the appropriate amount of time to wait, and it may be that
2 putting the money on a shorter time frame might help build
3 momentum for that project. I don't know, but I think --
4 that I think we are possibly locking into a period of time,
5 does not work as well as something else locking in the no
6 period of time, could go well to something else.

7 **CHAIR NEELY:** Okay.

8 Commissioner Blank -- oh, I am sorry.

9 **EXECUTIVE DIRECTOR DOUGLAS:** Well, that is another
10 good point, and I think you are right, and I would suggest
11 that you might want to take 2 years, and then it could be
12 extended for good cause, but no more than 5 years.

13 **CHAIR NEELY:** Okay.

14 Commissioner Blank is next.

15 **COMMISSIONER BLANK:** I was just going to agree
16 with Commissioner Shallenberger, as well. You know, the good
17 news is, Commissioner Wan is a domain expert in this area,
18 and I trust her judgment. I, just typically, don't allocate
19 \$2 million without spending some time to understanding the
20 project, in the detail that she does. And, this is to
21 acknowledge that she does understand that, but, I as a public
22 official up here, I think I have a responsibility, rather
23 than just allocating it, into something that sounds
24 interesting, to actually (a) do that due diligence, and I
25 just don't think we have the time in this hearing to do that,

1 or accept Commissioner Shallenberger's option, and what
2 Director Douglas has proposed, or I could propose I have a
3 remodel that I would like us to spend the \$2 million on.

4 But, in lieu of that, I would suggest that
5 Commissioner Shallenberger, in fact -- could I ask if
6 Commissioner Wan would accept Commissioner Shallenberger's
7 option? maybe we could short circuit this.

8 **COMMISSIONER WAN:** Well, there were others who
9 were going to speak in front of me, and then I was going to

10 --

11 **COMMISSIONER BLANK:** Well, you don't need to.

12 **COMMISSIONER WAN:** Well, I am going to put on my
13 coat and my Santa Monica Mountains Conservancy hat --

14 **CHAIR NEELY:** If you could just answer his
15 question, because we really need to get --

16 **COMMISSIONER WAN:** Not completely.

17 **CHAIR NEELY:** All right, go to the other
18 Commissioners.

19 Commissioner Stone.

20 **COMMISSIONER STONE:** Just a question, Mr. Douglas,
21 you said the MOU or the agreement we have with state parks,
22 if we did put that money in there, would that be used for
23 visitor serving, or would it be specifically for that
24 project?

25 **DISTRICT DIRECTOR AINSWORTH:** Yes, that is right,

1 it would specifically be for that Topanga Beach Motel
2 project.

3 **COMMISSIONER STONE:** Okay, I just wanted that
4 clarification, thank you.

5 **EXECUTIVE DIRECTOR DOUGLAS:** Yes.

6 **CHAIR NEELY:** Okay.

7 Commissioner Achadjian.

8 **COMMISSIONER ACHADJIAN:** Thank you, Madam Chair.

9 I am in agreement with the folks, taking a chunk
10 of money out of this, a pretty big chunk, you are probably
11 helping others, but not helping a project to be completed,
12 and for the property here, that we are losing its services,
13 you are replacing it with a project to be completed, and
14 would serve the needs that otherwise don't exist. And, for
15 that reason I support both Commissioner Shallenberger's and
16 Commissioner Bloom's input on this.

17 From the projects I have been involved in, it's
18 never got any place, because everyone gives a little here and
19 there, but it seems like we never have a project that will
20 see its completion.

21 **CHAIR NEELY:** Okay.

22 Commissioner Parker.

23 **COMMISSIONER PARKER:** I agree with Commissioner
24 Shallenberger, that it is always best to have enough money to
25 do a project then to have just a little bit to get this one

1 started and a little bit to get that one started. So, if we
2 have an opportunity to really do some work that is going to
3 bring these visitor uses to the immediate area, or the
4 immediate adjacent area, I think we should give that a shot
5 first.

6 And, then, to really look at the additional
7 projects, but if we don't have that to be done in a time
8 certain, then I think that Commissioner Wan's comments of
9 going with somebody who already does have things would be
10 probably the next alternative.

11 **CHAIR NEELY:** Okay.

12 Commissioner Wan.

13 **COMMISSIONER WAN:** Just a final comment, and I am
14 going to agree with you with just one little exception, and I
15 will bring you back to what the applicant worked out with the
16 Santa Monica Mountains Conservancy, and that was to allocate
17 a very small amount of money, so that they could have the
18 funds to maintain easements that is being granted to them,
19 the purposes as part of this public benefit.

20 And, what they had agreed to was something like
21 \$23,000.00 and I would say you should probably make it more,
22 like about, you know, \$50,000.00 or something like that
23 because they do need some money to be able to maintain their
24 conservation easements, to work on it, and I would urge you
25 to, at least, allocate that amount of money for them, because

1 that is something that the applicant and the Conservancy had
2 worked out.

3 **CHAIR NEELY:** Okay.

4 Commissioner Achadjian had an additional --

5 **COMMISSIONER ACHADJIAN:** Madam Chair, what I would
6 suggest that, to serve that need as well, that whatever
7 interest is earned received on that \$2 million within the two
8 years be given to that cause, received on account, if we can
9 do that is legal?

10 **CHAIR NEELY:** I don't know, if we can that. We
11 will get staff to address that.

12 Commissioner Shallenberger.

13 **COMMISSIONER SHALLENBERGER:** I think we are
14 getting way far down into the details here. We have been
15 told, Mr. Edmondson isn't here, but I am going to take the
16 word of the project proponent that Mr. Edmondson said a
17 \$25,000.00 that they were -- that the project was going to
18 give them for maintenance was adequate, so I just think that
19 we should leave the details alone, and move forward. We have
20 got a fabulous job, and I think, as much as we can, trying to
21 salvage visitor serving for this area of the coast, and I
22 just think that level of \$2,000.00 or \$3,000.00 here and
23 there would be a mistake for us to do.

24 **COMMISSIONER WAN:** Right, the \$25,000.00 is not
25 incorporated, and there is no funding to go to --

1 **CHAIR NEELY:** We are just talking about what is --

2 **DISTRICT DIRECTOR AINSWORTH:** Madam Chair.

3 **CHAIR NEELY:** Staff.

4 **DISTRICT DIRECTOR AINSWORTH:** Madam Chair, if I
5 may suggest, because we have that provision in the IP that
6 requires the conservation easement, that language be added to
7 provide for adequate funding to maintain that easement, and I
8 don't know if you want to say not to exceed \$25,000.00 or
9 just leave it open.

10 **COMMISSIONER WAN:** Leave it open.

11 **CHAIR NEELY:** All right.

12 **DISTRICT DIRECTOR AINSWORTH:** Okay, we could leave
13 it open, and they will work it out.

14 **COMMISSIONER KRUER:** I think we are there, and I
15 think Commissioner Shallenberger, we'll keep that maximum
16 flexibility and just go forward from there.

17 **CHAIR NEELY:** All right, we have a motion and a
18 second, and the maker and seconder are recommending a "Yes"
19 vote, and passage of this motion will result in the
20 certification of the Implementation Plan.

21 **COMMISSIONER BLOOM:** And, I want to make sure that
22 I understand the motion that I seconded, will be that the \$2
23 million is going to be allocated to the Topanga Beach Motel
24 for a period of 2 years, and after that, that that period
25 could be extended. I assume that that means that we also

1 have the right to reallocate, or at that time, maybe divvy up
2 the pot, because things might seem differently, might was to
3 leave \$1 million in, and take a million out, you know, divide
4 it up in some way, is that the intent of the motion?

5 **EXECUTIVE DIRECTOR DOUGLAS:** The way that I
6 understood it, was for 2 years, it could be extended for a
7 good cause by the Executive Director, not to exceed 5 years.
8 If it isn't spent in 5 years, then it comes back to this
9 Commission to be reallocated.

10 **COMMISSIONER BLOOM:** And, my question is, by the
11 use of the term, "extending it", at the 2-year point, do you
12 have the discretion to come back to the Commission at that
13 time and say, "Well, we think because of things that have
14 happened, we only need \$1 million," or some other way around
15 that?

16 **EXECUTIVE DIRECTOR DOUGLAS:** Well, it could say it
17 could be extended for good cause, or by the Executive
18 Director, or brought back to the Commission for deliber-
19 ations. Why don't we do this, that it would come back, and
20 if there was any extension it has to be approved by the
21 Commission, so we will just bring it back after 2 years.

22 **CHAIR NEELY:** Okay.

23 **COMMISSIONER SECORD:** Question, Madam Chair.

24 **CHAIR NEELY:** Yes, Commissioner Secord.

25 **COMMISSIONER SECORD:** One more question, if I may.

1 I am unfamiliar totally with the Topanga Beach
2 Hotel, its project, its affordable housing, its low-cost
3 visitor serving, is staff representing that all of that is
4 amendable that the owners of the Topanga Beach Hotel will
5 provide low-cost? I don't know where the money goes, with
6 the low-cost visitor serving wise.

7 **DISTRICT DIRECTOR AINSWORTH:** Through the Chair,
8 the state parks owns the Topanga Beach Motel. They purchased
9 it as a dilapidated motel. It has historic relevance, and so
10 they needed money to rehab the facility.

11 **CHAIR NEELY:** Thank you, Commissioner.

12 All right, any objection to a roll call vote on
13 this amendment?

14 **COMMISSIONER SANCHEZ:** Yes.

15 **CHAIR NEELY:** Okay, we need to call the roll,
16 please.

17 **SECRETARY MILLER:** Commissioner Blank?

18 **COMMISSIONER BLANK:** Yes.

19 **SECRETARY MILLER:** Blank, yes.

20 Commissioner Bloom?

21 **COMMISSIONER BLOOM:** Glad you went first.

22 Yes.

23 **SECRETARY MILLER:** Bloom, yes.

24 Commissioner Parker?

25 **COMMISSIONER PARKER:** Yes.

1 **SECRETARY MILLER:** Parker, yes.
2 Commissioner Secord?
3 **COMMISSIONER SECORD:** It only works once in a
4 while.
5 Yes.
6 **SECRETARY MILLER:** Secord, yes.
7 Commissioner Kruer?
8 **COMMISSIONER KRUER:** Yes.
9 **SECRETARY MILLER:** Kruer, yes.
10 Commissioner Mirkarimi?
11 **COMMISSIONER MIRKARIMI:** Yes.
12 **SECRETARY MILLER:** Mirkarimi, yes.
13 Commissioner Sanchez?
14 **COMMISSIONER SANCHEZ:** No.
15 **SECRETARY MILLER:** Sanchez, no.
16 **SECRETARY MILLER:** Commissioner Shallenberger.
17 **COMMISSIONER SHALLENBERGER:** Yes.
18 **SECRETARY MILLER:** Shallenberger, yes.
19 Commissioner Stone?
20 **SECRETARY STONE:** Yes.
21 Commissioner Stone, yes.
22 **SECRETARY MILLER:** Commissioner Wan?
23 **COMMISSIONER WAN:** Yes.
24 **SECRETARY MILLER:** Wan, yes.
25 Commissioner Achadjian?

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COMMISSIONER ACHADJIAN: Aye.

SECRETARY MILLER: Achadjian, yes.

Chair Neely?

CHAIR NEELY: Yes.

SECRETARY MILLER: Chair Neely, yes.

The vote is 11, 1.

All right, good work, thanks everybody.

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[Whereupon the hearing concluded at 1:30 p.m.]

