

## CALIFORNIA COASTAL COMMISSION

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



# Th 8a

**DATE:** May 20, 2010

**TO:** Commissioners and Interested Parties

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

**SUBJECT:** **City of Malibu LCP Amendment No. 3-08 (La Paz):** Executive Director's determination that action by the City of Malibu, acknowledging receipt, acceptance, and agreement with the Commission's certification with suggested modifications, is legally adequate. This determination will be reported to the Commission at the June 10, 2010 meeting in Marina Del Rey.

On March 10, 2010, the Commission approved Local Coastal Program Amendment No. 3-08 with suggested modifications. The subject amendment consists of creating a new overlay district (Town Center Overlay District) and applying the use restrictions and development standards of this overlay district to two existing parcels (APN 4458-022-023 and 4458-022-024) in the Civic Center area. LCPA 3-08 also includes the approval of a Development Agreement, between the City and property owner, to allow an increase in allowable floor area ratio (FAR) from 0.15 to 0.20, if certain public benefits are provided.

On April 12, 2010, the City Council adopted Resolution Nos. 10-14 (attached) acknowledging receipt of the Commission's certification of LCP Amendment No. 3-08 and accepting and agreeing to all modifications suggested by the Commission. On May 10, 2010, the City Council adopted Ordinance No. 346 (attached) acknowledging receipt of the Commission's certification of LCP Amendment No. 3-08 and accepting and agreeing to all modifications suggested by the Commission. The documents were transmitted to Commission staff on May 13, 2010.

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

I have reviewed the City's acknowledgement and acceptance of, and agreement with the terms and suggested modifications of LCP Amendment 3-08, as certified by the Commission on March 10, 2010, as contained in the adopted Resolution of April 12, 2010 and Ordinance of May 10, 2010 and find that the City's action and notification procedures for appealable development are legally adequate to satisfy the terms and requirements of the Commission's certification. I therefore recommend that the Commission concur in this determination.

RESOLUTION NO. 10-14

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MALIBU ACKNOWLEDGING RECEIPT OF THE CALIFORNIA COASTAL COMMISSION RESOLUTION OF CERTIFICATION WITH SUGGESTED MODIFICATIONS TO LOCAL COASTAL PROGRAM AMENDMENT NO. 06-003 AND ADOPTING REVISIONS TO LOCAL COASTAL PROGRAM AMENDMENT NO. 06-003 (MALIBU LA PAZ RANCH, LLC)

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

Section 1. Recitals.

A. On February 17, 2000, Schmitz and Associates, on behalf of La Paz Ranch, LLC, submitted applications for Plot Plan Commercial (PPC) No. 00-005 (Parcel A) and PPC No. 00-006 (Parcel B). Parcel A is identified as Assessor Parcel Number 4458-022-023 and Parcel B is identified as Assessor Parcel Number 4458-022-024. The application requested construction of 99,117 square feet of shopping center and office park development (.15 floor area ratio (FAR)). Subsequently, the property owner revised its proposal, applying for the construction of 112,058 square feet of shopping center and office park development and a 20,000 square foot City Hall complex (.20 FAR). However, if the .20 project was not approved, the property owner wanted to pursue the .15 project. To accommodate this alternative, the City bundled two sets of entitlement applications and studied the .15 project as an alternative, although the .20 project was the property owner's preferred alternative.

B. On June 21, 2005, the application was changed to a coastal development permit, conditional use permit, site plan review, minor modification and lot line adjustment application. The entitlements associated with the .15 FAR Project include: 1) a coastal development permit (CDP No. 05-106) for construction of 99,117 square feet of commercial development; 2) a lot line adjustment (LLA No. 05-003) to adjust property boundaries between the two parcels (A and B); 3) site plan reviews (SPR Nos. 07-126 and 127) for construction in excess of 18 feet in height for the development on both parcels; 4) site plan reviews (SPR Nos. 07-148 and 149) for remedial grading on both parcels; 5) minor modifications (MM Nos. 07-044 and 045) for front yard setbacks on both parcels; 6) a conditional use permit (CUP No. 05-003) for up to 10,000 square feet of restaurant use in Buildings 5, 6 and 7 on Parcel A; and 7) conditional use permits (CUP Nos. 07-018 and 019) for wastewater systems across property lines. The entitlements associated with the DA .20 FAR Project include: 1) Local Coastal Program (LCP) Local Implementation Plan (LIP) Text Amendment (LCPA No. 06-003) amending Section 3.4 (Zoning Designations and Permitted Uses – Overlay Zones) to include Subsection 3.4.3 (Town Center Overlay) and associated development standards in conjunction with the associated Development Agreement between the City and the project Applicant; 2) CDP No. 05-107 for construction of 112,058 square feet of commercial floor area, including retail, restaurant and office uses and a 20,000 square foot City Hall complex; 3) LLA No. 05-004 between two adjacent parcels and the subsequent conveyance of a portion of one parcel (2.3 acres) to the City; and 4) CUP No. 05-004 for up to 10,000 square feet of restaurant use in Buildings 5, 6 and 7 on Parcel A.

C. On October 18, 2007, a Notice of Public Hearing and Notice of Availability of Local Coastal Program Amendment (LCPA) documents was published in a newspaper of general circulation within the City of Malibu. In addition, on October 18, 2007, pursuant to LIP Section 19.3.2.A, a Notice of Public Hearing and Notice of Availability of LCP Amendment documents was mailed to all interested parties; regional, state and federal agencies affected by the amendment; local libraries and media; and the California Coastal Commission (CCC).

D. On November 10, 2008, the City Council the Council heard and considered 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 and the Environmental Review Board and 1) adopted Resolution No. 08-51 certifying the Environmental Impact Report and adopting a statement of overriding considerations; 2) introduced on first reading of Ordinance No. 330, the Development Agreement between the City of Malibu and Malibu La Paz Ranch, LLC and Ordinance No. 329, the Town Center Overlay District; 3) directed staff to schedule second reading and adoption of Ordinance Nos. 330 and 329 for the November 24, 2008 City Council meeting; and 4) adopted Resolution No. 08-52, as amended, conditionally approving the DA .20 Project and associated entitlements and discretionary requests subject to certification LCPA No. 06-003.

E. On November 24, 2008, the City Council adopted Ordinance No. 329, adopting an amendment of the Malibu LCP LIP and corollary zoning text and zoning map amendments and directing staff to submit LCPA No. 06-003 to the CCC for certification.

F. On December 31, 2008, the LCPA was submitted to the CCC. On January 12, 2009, the submittal, identified by the CCC as MAL-MAJ-3-08 (La Paz Ranch Project), was reviewed by Commission staff and determined to be complete.

G. At the April 9, 2009 CCC hearing, the Commission extended the deadline to act on MAL-MAJ-3-08 for a period of one year.

H. On March 10, 2010, the CCC conditionally certified MAL-MAJ-3-08 (LCPA No. 06-003) subject to modifications as set forth in the Resolution of Certification adopted by the CCC on March 10, 2010. The modifications are non-substantive in nature and within the scope of the previously approved amendment.

I. On March 29, 2010, the City received said Resolution of Certification.

J. On April 1, 2010, a one-quarter page public hearing notice for a City Council meeting to be held on April 12, 2010 was published in a newspaper of general circulation within the City. In addition, the notice was mailed to interested parties, pertinent agencies, and to all property owners and occupants within a 500 foot radius of the subject property.

K. On April 12, 2010, the City Council held a duly noticed public hearing.

Section 2. Environmental Review.

Pursuant to Public Resources Code Sections 21080.5 and 21080.9, the City is not required to undertake a complete California Environmental Quality Act (CEQA) analysis in connection with proposed amendments to a certified local coastal program, as those amendments are of no force or effect unless and until they are ultimately certified by the California Coastal Commission pursuant to its certified regulatory program. Nevertheless, and without waiving the applicable statutory exemption, staff prepared an Environmental Impact Report (EIR) in connection with the project which includes an analysis of Local Coastal Program Amendment (LCPA) No. 06-003. The EIR was certified on November 10, 2008.

Section 3. Approval of Local Coastal Program Amendment No. 06-003.

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

B. The City Council acknowledges receipt of the California Coastal Commission's modifications to LCPA No. 06-003. The City Council further accepts and agrees to the modified language suggested by the California Coastal Commission pertaining to the Local Implementation Plan and approves revisions to LCPA No. 06-003 without further changes. The City Council hereby incorporates the administrative record of the Coastal Commission's proceedings as support for accepting the suggested modifications.

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

D. The proposed amendments to the Local Coastal Program meet the requirements of, and are in conformance with the policies and requirements of Chapter 3 of the California Coastal Act to the extent necessary to achieve the basic State goals specified in Public Resources Code Section 30001.

Section 4. Submittal to California Coastal Commission.

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


Section 5. Certification.

The City Clerk shall certify the adoption of this Resolution.

PASSED, APPROVED AND ADOPTED this 12th day of April 2010.

  
SHARON BAROVSKY, Mayor

ATTEST:

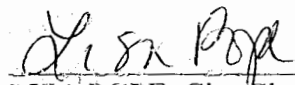
  
LISA POPE, City Clerk  
(seal)

APPROVED AS TO FORM:

  
CHRISTI HOGIN, City Attorney

I CERTIFY THAT THE FOREGOING RESOLUTION NO. 10-14 was passed and adopted by the City Council of the City of Malibu at the regular meeting thereof held on the 12<sup>th</sup> day of April, 2010, by the following vote:

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

  
LISA POPE, City Clerk  
(seal)

ORDINANCE NO. 346

AN ORDINANCE OF THE CITY OF MALIBU ADOPTING REVISIONS TO LOCAL COASTAL PROGRAM AMENDMENT NO. 06-003 TO INCLUDE LAND USE AND DEVELOPMENT STANDARDS AND INCORPORATING THE COASTAL COMMISSION SUGGESTED MODIFICATIONS FOR A TOWN CENTER OVERLAY DISTRICT (MALIBU LA PAZ RANCH, 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. 08-52 in which the City Council approved the Development Agreement and Coastal Development Permit and associated entitlements, subject to certification by the Coastal Commission (CCC).
- B. On November 24, 2008, the City Council adopted Ordinance No. 329, adopting an amendment of the Malibu LCP LIP and corollary zoning text and zoning map amendments and directing staff to submit Local Coastal Program Amendment (LCPA) No. 06-003 to the CCC for certification.
- C. On December 31, 2008, the LCPA was submitted to the CCC. On January 12, 2009, the submittal, identified by the CCC as MAL-MAJ-3-08 (La Paz Ranch Project), was reviewed by Commission staff and determined to be complete.
- D. At the April 9, 2009 CCC hearing, the Commission extended the deadline to act on MAL-MAJ-3-08 for a period of one year.
- E. On March 10, 2010, the CCC conditionally certified MAL-MAJ-3-08 (LCPA No. 06-003) subject to modifications as set forth in the Resolution of Certification adopted by the CCC on March 10, 2010. The modifications are non-substantive in nature and within the scope of the previously approved amendment. The modifications are incorporated into Section 3, Part C (Applicability) to add specific site regulations, and adding Part D (Development Agreement) to Local Implementation Plan (LIP) Section 3.4.3 (Town Center Overlay - Custom Development Criteria -Commercial) and adding a map showing the boundaries of the Town Center Overlay District (Exhibit A – Town Center Overlay District).
- F. On March 16, 2010, the City received said Resolution of Certification.
- G. On April 1, 2010, a one-quarter page public hearing notice for a City Council meeting to be held on April 12, 2010 was published in a newspaper of general circulation within the City. In addition, the notice was mailed to interested parties, pertinent agencies, and to all property owners and occupants within a 500 foot radius of the subject property.
- H. On April 12, 2010, the City Council held a duly noticed public hearing.

Section 2. Environmental Review.

Pursuant to Public Resources Code Sections 21080.5 and 21080.9, the City is not required to undertake a complete California Environmental Quality Act (CEQA) analysis in connection with proposed amendments to a certified local coastal program, as those amendments are of no force or effect unless and until they are certified by the California Coastal Commission pursuant to its certified regulatory program. Nevertheless, and without waiving the applicable statutory exemption, staff prepared an Environmental Impact Report (EIR) in connection with the project which includes an analysis of Local Coastal Program Amendment (LCPA) No. 06-003. The EIR was certified on November 10, 2008.

Section 3. Local Coastal Program Local Implementation Plan Amendments.

LCP Amendment No. 06-003 is hereby augmented to include the modifications noted below to Chapter 3 (Zoning Designations and Permitted Uses), Subsection 3.4.3 (Town Center Overlay District).

- a) Subsection C. Applicability is hereby amended to add the following language at the end of the last paragraph.

*The following special site-specific regulations shall also apply to the subject Overlay:*

1. *Los Angeles County Waterworks District No. 29*

*Development of any parcel within the Overlay area shall demonstrate that Los Angeles County Waterworks District 29 has reviewed and approved the potable water supply for the proposed development, including water requirements for fire suppression.*

2. *California Department of Transportation (CalTrans)*

*Development of any parcel within the Overlay area shall demonstrate that CalTrans has reviewed the proposed traffic and circulation plans and mitigation measures.*

- b) A new subsection entitled *D. Development Agreement* is hereby added to read as follows and the following subsection are renumbered.

*Pursuant to a Development Agreement between the property owner and the City of Malibu, the allowable Floor to Area Ratio (FAR) is increased from 0.15 to 0.20 for the following public benefits: 1) 2.3 acres to be conveyed to the City of Malibu for the purpose of a City Hall or municipal use; 2) \$500,000 contribution to the City Hall or municipal use Infrastructure Construction Fund associated with development of the 2.3-acre parcel; 3) a pedestrian and bike path from City Hall throughout the project*

*connecting to Civic Center Way; 4) Offer-to-Dedicate a public trail easement fronting along Civic Center Way (segment of the planned Malibu Pacific Trail/Coastal Slope Trail); and 5) conceptual architectural plans for the City Hall.*

- c) The Exhibits in the LIP are hereby amended to include a map of Town Center Overlay District. The map is attached as Exhibit A to this Ordinance.
- d) Any amendments to the Land Use Map authorized by Resolution No. 08-52 and Ordinance No. 329 are hereby rescinded.

Section 4. Local Coastal Program Amendment Findings.

In order to amend the LCP, the City Council must make the finding listed below.

*Finding A. The text amendment to the Land Use Plan and Land Use Implementation Plan is consistent with Chapter 3 of the Coastal Act.*

Chapter 3 of the Coastal Act states that any new development must not impede or adversely impact public access to the beach, must protect marine resources and scenic views, and must not significantly disrupt environmentally sensitive habitat areas.

The City Council hereby finds that the proposed LCP text (which includes a DA and associated development standards for the DA .20 Project described above as required by LIP Section 3.8.5), and the addition of a LIP Town Center Overlay District map does not impede public access to the beach or coastal resources in any way or disrupt environmentally sensitive habitat areas as the related proposed development is located inland in the commercially zoned Civic Center Area on a site that is not designated as Environmentally Sensitive Habitat Area. Therefore, the overall text amendment is consistent with Chapter 3 of the Coastal Act.

Section 5. Approval of Local Coastal Program Amendment No. 06-003.

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



B. The City Council acknowledges receipt of the California Coastal Commission's modifications to LCPA No. 06-003. The City Council further accepts and agrees to the modified language suggested by the California Coastal Commission pertaining to the Local Implementation Plan and approves revisions to LCP Amendment No. 06-003 without further changes.

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

D. The proposed amendments to the Local Coastal Program Local Implementation Plan meet the requirements of, and are in conformance with the policies and requirements of Chapter 3 of the California Coastal Act to the extent necessary to achieve the basic State goals specified in Public Resources Code Section 30001.

Section 6. Submittal to California Coastal Commission.

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

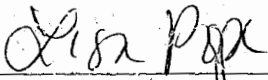
Section 7. Certification.

The City Clerk shall certify the adoption of this Ordinance.

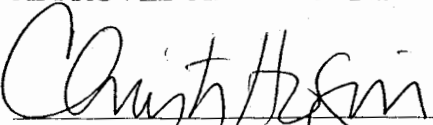
PASSED, APPROVED AND ADOPTED this 10<sup>th</sup> day of May 2010.

  
\_\_\_\_\_  
JEFFERSON WAGNER, Mayor

ATTEST:

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

APPROVED AS TO FORM:

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

I CERTIFY THAT THE FOREGOING ORDINANCE NO. 346 was passed and adopted at the regular City Council meeting of May 10, 2010, by the following vote:

AYES: 5 Councilmembers: Conley Ulich, La Monte, Rosenthal, Sibert, Wagner  
NOES: 0  
ABSTAIN: 0  
ABSENT: 0



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LISA POPE, City Clerk

(seal)

# Town Center Overlay District

Ordinance No. 346

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Harbor Vista Drive

Parcel B

Parcel C

Parcel A

Cross Creek Road

Civic Center Way

Cross Creek Road

City of Malibu

EXHIBIT A

