

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST DISTRICT OFFICE
89 SOUTH CALIFORNIA STREET, SUITE 200
VENTURA, CA 93001-2801
VOICE (805) 585-1800
FAX (805) 641-1732



F9a

DATE: February 20, 2020

TO: Commissioners and Interested Parties

FROM: Steve Hudson, Deputy Director
Barbara Carey, District Manager
Deanna Christensen, District Supervisor
Denise Venegas, Coastal Program Analyst

SUBJECT: City of Malibu Minor LCP Amendment No. LCP-4-MAL-19-0162-2 for Commission Action at its March 13, 2020 hearing in Santa Cruz.

AMENDMENT DESCRIPTION

The City of Malibu is requesting that the Commission certify an amendment to the Land Use Plan (LUP) portion of its certified Local Coastal Program (LCP) to make a clarifying revision to public access LUP Policy 2.20. Specifically, LUP Policy 2.20 currently states that no development shall be permitted on sandy public beach areas, except for lifeguard stations, small visitor serving concessions, trash and recycling receptacles, and physically challenged access improvements when sited and designed to minimize adverse impacts to coastal resources. The LCP amendment would replace the words “physically challenged” with “public” to allow for a broader range of public access improvements to be permitted on sandy public beach areas beyond the limited activities currently allowed under the LUP Policy 2.20.

MINOR LCP AMENDMENT DETERMINATION

Pursuant to Section 30514(c) of the Coastal Act and Sections 13554(a) and (c) of Title 14 of the California Code of Regulations (CCR), the Executive Director has determined the proposed amendment is “minor” in nature. 14 CCR Section 13554(a) provides that a minor amendment includes, but is not limited to, changes which make the use as designated in implementing actions more specific, changes that do not affect the kind, intensity, or density of use, and changes that are consistent with the certified LUP. 14 CCR Section 13554(c) further provides that a minor amendment may include changes in the notification and hearing procedures that are consistent with the requirements of the Coastal Act.

The City’s proposed amendment includes a minor change to the existing language of Policy 2.20 contained in the City’s certified LUP. The subject amendment request, submitted via City Council Resolution No. 19-49 (attached), represents a change to LUP Policy 2.20 to allow for public access improvements. The replacement of the words “physically challenged” with “public” with regards to public access improvements will not prohibit physically challenged access improvements on sandy public beach areas; rather,

the more general term proposed will allow for a broader range of public access improvements, including physically challenged improvements, to be allowed on sandy public beach areas. The primary intent of the proposed amendment is to accommodate a planned public works project by the City to improve public pedestrian access along Westward Beach Road that is adjacent to Westward Beach near Point Dume. The proposed change furthers the goals and requirements of the Malibu LCP to protect, provide, enhance, and maximize public recreational access opportunities to and along the coast in a manner that is consistent with coastal resource protection policies. These modifications do not change the kind, location, intensity or density of uses allowed. Further, the changes proposed in the subject amendment are consistent with the requirements of Chapter Three of the Coastal Act. Therefore, the proposed amendment is considered "minor" as defined under 14 CCR Section 13554.

PROCEDURES

Pursuant to Section 13551(b) of Title 14 of the California Code of Regulations, a local government's resolution for submittal of a proposed LCP amendment must indicate whether the local coastal program amendment will require formal local government adoption after 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. In this case, the City has submitted the amendment as one that will take effect automatically upon approval by the Commission. If one third of the appointed members of the Commission requests, the determination of minor amendment shall not become effective and the amendment shall be processed in accordance with 14 CCR Section 13555(b).

PUBLIC NOTICE

Section 13555 of Title 14 of the California Code of Regulations requires the Executive Director to prepare a report describing the proposed amendment and providing notice of the Executive Director's determination the amendment is of a "minor" nature. Section 13555 also requires the Executive Director to report to the Commission at the next meeting his or her determination and objections to the determination, if any, that have been received within 10 working days. If one third of the appointed members of the Commission requests, the determination of minor amendment shall not become effective and the amendment shall be processed in accordance with 14 CCR Section 13555(b).

Notification of the proposed amendment will be mailed on February 21, 2020. The ten working-day objection period will therefore terminate on March 6, 2020. The Commission will be notified at the March 13, 2020 meeting of any objections.

Also, Section 30503 of the Coastal Act requires that maximum opportunities for public input be provided in preparation, approval, certification, and amendment of any LCP. The City held public hearings on the proposed ordinance changes. The hearings were noticed to the public consistent with Section 13515 of Title 14 of the California Code of Regulations

and the City provided evidence of the measures taken to provide notice of their hearings, consistent with Section 13552 of Title 14 of the California Code of Regulations. Notice of the subject amendment has been distributed to all known interested parties.

RESOLUTION NO. 19-49

A RESOLUTION OF THE CITY OF MALIBU AMENDING THE LOCAL COASTAL PROGRAM LAND USE PLAN TO MODIFY LAND USE PLAN POLICY 2.20 PERTAINING TO PUBLIC IMPROVEMENTS TO PUBLIC SANDY BEACH AREAS IN ORDER TO FACILITATE THE CITY'S WESTWARD BEACH ROAD IMPROVEMENTS PROJECT AND DETERMINING LOCAL COASTAL PROGRAM AMENDMENT NO. 19-001 IS EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

The City Council of the City of Malibu does ordain as follows:

SECTION 1. Recitals.

A. On September 23, 2019, in compliance with Local Coastal Program Local Implementation Plan Chapter 19, the City Council adopted Council Resolution No. 19-43 to initiate a Local Coastal Program Amendment (LCPA) to consider changes to the Malibu LCP pertaining to public improvements to public sandy beach areas to facilitate the City's Westward Beach Road Improvement Project.

B. In August 2019, the Planning Department reviewed draft amendment language with California Coastal Commission staff.

C. On September 26, 2019, a Notice of Public Hearing and Notice of Availability of LCP Documents was published in a newspaper of general circulation within the City of Malibu.

D. On October 21, 2019, the Planning Commission held a duly noticed public hearing, and adopted Planning Commission Resolution No. 19-66, recommending the City Council adopt the proposed amendment, with modifications.

E. On October 31, 2019, a Notice of City Council Public Hearing was published in a newspaper of general circulation within the City of Malibu indicating that the City Council would hold a public hearing on November 25, 2019, to consider the proposed amendments.

F. On November 25, 2019, the City Council held a duly noticed public hearing on LCPA No. 19-001, considered the recommendation by the Planning Commission, reviewed and considered written reports, public testimony, and related information.

SECTION 2. Environmental Review.

The City Council has analyzed the project proposal described herein and makes the following findings. Pursuant to Public Resources Code Section 21080.9, the California Environmental Quality Act (CEQA) does not apply to activities and approvals by the City as necessary for the preparation and adoption of an LCPA, and thus does not apply to this

application. This application is for an amendment to the LCP, which must be certified by the California Coastal Commission before it takes effect

SECTION 3. Local Coastal Program Amendment Findings.

Based on evidence in the whole record, the Planning Commission hereby finds that the proposed LCPA No. 19-001 meets the requirements of and is in conformance with the policies and requirements of Chapter 3 of the California Coastal Act.

A. The amendment maintains standards to require that development within the City's jurisdiction of the Coastal Zone advance the overarching goals of protecting coastal resources. In particular, the amendment will assure that maximum public access to the coast and public recreation areas is provided by allowing for a broader range of public access improvements, rather than only physically challenged access, provided that the access improvements are designed to minimize adverse impacts to public access, visual resources, and environmentally sensitive habitat areas and marine resources.

B. The amendment will be consistent with the following policies:

2.1 The shoreline, parklands, beaches and trails located within the City provide a wide range of recreational opportunities in natural settings which include hiking, equestrian activities, bicycling, camping, educational study, picnicking, and coastal access. These recreational opportunities shall be protected, and where feasible, expanded or enhanced as a resource of regional, state and national importance.

2.9 Public access and recreational planning efforts shall be coordinated, as feasible, with the National Park Service, the State Department of Parks and Recreation, the State Coastal Conservancy, Los Angeles County, Los Angeles County Department of Beaches and Harbors, the Santa Monica Mountains Conservancy, and the Santa Monica Mountains Trails Council.

2.11 Public land, including rights of way, easements, dedications, shall be utilized for public recreation or access purposes, where appropriate and consistent with public safety and the protection of environmentally sensitive habitat areas.

2.16 Entrance roads, parking facilities, and other necessary support facilities for parks, beaches and other shoreline recreation areas shall be sited and designed to minimize adverse impacts to environmentally sensitive habitat areas and other sensitive environmental and visual resources.

2.26 Adequate parking should be provided to serve coastal access and recreation uses to the extent feasible. Existing parking areas serving recreational uses shall not be displaced unless a comparable replacement area is provided.

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.

2.44 Proposals to install bike racks, lockers, or other devices for securing bicycles in convenient locations at beach and mountain parks, parking lots throughout the City, trailheads and other staging areas shall be permitted. Funding should be supported and provided where available.

2.63 Consistent with the policies below, maximum public access from the nearest public roadway to the shoreline and along the shoreline shall be provided in new development. Exceptions may occur only where (1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources; (2) adequate access exists nearby, or; (3) agriculture would be adversely affected. Such access can be lateral and/or vertical. Lateral access is defined as an accessway that provides for public access and use along the shoreline. Vertical access is defined as an accessway which extends to the shoreline, or perpendicular to the shoreline in order to provide access from the first public road to the shoreline.

SECTION 4. Local Coastal Program Amendment No. 19-001

The City Council hereby amends LUP Policy 2.20 to read as follows:

2.20 New public beach facilities shall be limited to only those structures which provide or enhance public recreation activities. No development shall be permitted on sandy public beach areas, except that lifeguard stations, small visitor serving concessions, trash and recycling receptacles, and public access improvements may be permitted when sited and designed to minimize adverse impacts to public access, visual resources and environmentally sensitive habitat areas and marine resources.

SECTION 5. Approval.

Subject to the contingency set forth in Section 7, the City Council hereby adopts LCPA No. 19-001 amending the LCP.

SECTION 6. Submittal to California Coastal Commission.

The City Council hereby directs staff to submit LCPA No. 19-001 to the California Coastal Commission for certification, in conformance with the submittal requirements specified in California Code of Regulations, Title 14, Division 5.5., Chapter 8, Subchapter 2, Article 7 and Chapter 6, Article 2 and Code of Regulations section 13551, et. seq.

SECTION 7. Effectiveness.

The LCPA 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.

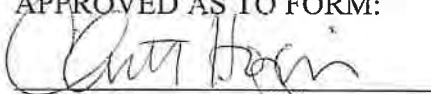
PASSED, APPROVED, and ADOPTED this 25th day of November 2019.


KAREN FARRER, Mayor

ATTEST:


HEATHER GLASER, City Clerk
(seal)

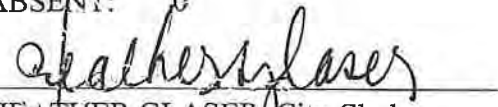
APPROVED AS TO FORM:


CHRISTI HOGIN, City Attorney

Any action challenging the final decision of the City made as a result of the public hearing on this application must be filed within the time limits set forth in Section 1.12.010 of the Malibu Municipal Code and Code of Civil Procedure.

I CERTIFY THAT THE FOREGOING RESOLUTION NO. 19-49 was passed and adopted by the City Council of the City of Malibu at the regular meeting thereof held on the 25th day of November 2019 by the following vote:

AYES: 5 Councilmembers: Mullen, Peak, Wagner, Pierson, Farrer
NOES: 0
ABSTAIN: 0
ABSENT: 0


HEATHER GLASER, City Clerk
(seal)