



# Malibu City Council Zoning Ordinance Revisions and Code Enforcement Subcommittee Special Meeting Agenda

**Thursday, June 2, 2011, 6:30 p.m.**

Malibu City Hall – Council Chambers  
23825 Stuart Ranch Road

**Mayor John Sibert**  
**Councilmember Jefferson Wagner**

## **Call to Order**

## **Approval of Agenda**

## **Public Comment**

This is the time for members of the public to comment on any items not appearing on this agenda. Each public speaker shall be allowed up to 3 minutes each for comments. The Subcommittee may not discuss or act on any matter not specifically identified on this agenda, pursuant to the Ralph M. Brown Act.

## **Discussion Items**

### **1. Growing and Sustaining Local Community-Serving Business**

Staff recommendation: 1) Conduct a town hall meeting to gather community input on growing and sustaining local community-serving business in Malibu; 2) narrow down the options presented by the community and provided within the report; and 3) schedule a follow up ZORACES meeting to craft recommendations to the City Council in preparation of the August 1, 2011 City Council meeting.

Staff contact: Associate Planner Smith, 310-456-2489, ext.336

## **Adjournment**

*I hereby certify under penalty of perjury, under the laws of the State of California that the foregoing agenda was posted in accordance with the applicable legal requirements. Dated this 26<sup>th</sup> day of May 2011.*

  
Mary Lyden, Executive Assistant



Zoning Ordinance Revisions  
& Code Enforcement  
Subcommittee  
Special Meeting  
06/02/11  
**Item 1**

## Zoning Ordinance Revisions and Code Enforcement Subcommittee Agenda Report

**To:** Zoning Ordinance Revision and Code Enforcement Subcommittee (ZORACES) Members Sibert and Wagner

**Prepared by:** Joseph Smith, AICP, Associate Planner *JS*

**Reviewed by:** Joyce Parker-Bozylinski, AICP, Planning Manager *JPB*

**Approved by:** Victor Peterson, Community Development Director

**Date prepared:** May 26, 2011                      **Meeting date:** June 2, 2011

**Subject:** Growing and Sustaining Local Community-Serving Business

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**RECOMMENDED ACTION:** 1) Conduct a town hall meeting to gather community input on growing and sustaining local community-serving business in Malibu; 2) narrow down the options presented by the community and provided within the report; and 3) schedule a follow up ZORACES meeting to craft recommendations to the City Council in preparation of the August 1, 2011 City Council meeting.

**DISCUSSION:** The purpose of the town hall meeting is to gather input from community residents and businesses in order to find a course of action for growing and sustaining local community-serving business in Malibu. The outcome will require involvement from all stakeholders in the community including residents, businesses, associations, and the City. In order to achieve a positive and feasible outcome, the following four approaches will be explored (see Attachment 1). While the approaches identify the lead entities involved, community involvement is essential to the success of any approach.

- I. City Actions/Policies:** City Council takes the lead using attainable actions and existing policies.
- II. Incentives:** City Council and the business community take the lead to craft incentive programs.
- III. Ordinances:** City Council takes the lead and creates new or modified legislation.

**IV. Community-Driven:** Residents and the business community take the lead to maintain local community-serving businesses.

In addition, the following themes should be considered as part of the desired outcome.

1. Focus on the City's guiding language:

The City's General Plan Vision Statement provides, "Malibu is a unique land and marine environment and residential community whose citizens have historically evidenced a commitment to sacrifice urban and suburban conveniences in order to protect that environment and lifestyle." In addition, "Malibu will plan to preserve its natural and cultural resources...as well as other resources that contribute to Malibu's special natural and rural setting." Policy 4.4.1 of the General Plan Land Use Element states, "The City shall encourage establishment and continued operation of small neighborhood and community serving businesses."

2. Define what the community wants. Which of the following are most important?

- a. Preserving an overall image in the City.
- b. Having access to local community-serving retail and services.
- c. Increasing the amount of locally-owned and managed independent businesses.
- d. Restricting the proliferation of formula retail.
- e. Ensuring a broad mix of retail alternatives that services the community's needs.

3. Define what makes up a local community-serving business. Is it one of the following?

- a. Private, worker, community, or cooperative ownership.
- b. A certain percentage of the business is locally-owned.
- c. The decision making authority is vested in the local owner and not subject to conditions dictated remotely.
- d. Businesses have a limited number of outlets and a limited geographical range.

4. Create a purpose. What are the primary reasons for taking action?

- a. Maintain Malibu's unique character.
- b. Keep dollars in Malibu's economy.

- c. Foster local job creation.
- d. Encourage local community-serving businesses to sustain the social and cultural aspects of this community.
- e. Nurture the community by empowering local businesses that are owned by people who live in the community and invested in Malibu's future.
- f. Create more choices for residents by enabling a diverse range of products and services. Local community-serving businesses can cater to local needs by utilizing a local business plan instead of a national sales plan.
- g. Benefit from local owner's expertise and better customer service.
- h. Preserve entrepreneurship for local business owners.
- i. Ensure that Malibu stands out from other communities by placing a high value on homegrown enterprises. This can attract local entrepreneurs and new investment.

#### BACKGROUND SUMMARY:

On October 14, 2008, ZORACES reviewed a draft formula retail ordinance. Planning staff requested input on ordinance language and guidelines. Following, staff would prepare a draft ordinance for the Planning Commission and City Council. Several public comments were received. ZORACES recommended the item be sent to City Council for consideration for placement on the April 2010 ballot.

On July 27, 2009, the City Council decided not to place the issue of creating a formula retail ordinance on the April 2010 ballot, tabled the item, and gave new direction to staff. The City Council requested ZORACES revisit the issue to assess its feasibility, consider restructuring the draft ordinance, and explain how it would protect local businesses in Malibu. When complete, the City Council indicated they wanted to see a new take on how to preserve Malibu and local business.

On October 13, 2009, ZORACES asked staff to consider new approaches for encouraging local businesses and diversification in existing and new commercial centers. ZORACES requested staff brainstorm with the Malibu Chamber and business community.

Between November 2009 and March 2010, staff worked with the Chamber of Commerce. Staff received several suggestions from the Chamber regarding ways the City could provide incentives for local business. These suggestions transformed into the idea of creating a "Local Business Incentives Program" in lieu of an outright ban on formula retail. Staff's research and the Chamber's suggestions were streamlined into a template to create a draft program. The foundation of the program was intended to be worked out in the Chamber's standing business development committee (the Economic Collaborative Taskforce,

aka, the Workforce Task Group) with staff's assistance as needed. Following, an ordinance would be prepared for the City Council's review (per the City Council's July 27, 2009 direction).

On October 27, 2010, a report was provided to the City Council on two items: 1) the status of the formula retail issue (as indicated in the above chronology); and 2) a recommendation to dissolve the City's Economic Advisory Committee (originally formed to implement measures of the 2007 Malibu Economic Services Study) since the Chamber's Economic Collaborative Taskforce took on this task at Council's recommendation in September 2008. The City Council: 1) received and filed the status report on the formula retail ordinance issue; and 2) directed staff to bring back an item to the City Council to re-establish the City's Economic Advisory Committee and re-determine the Committee's goals and workload (for reference, see Attachment 2 regarding the 2007 Malibu Economic Services Study).

On May 9, 2011, the City Council re-considered whether to direct staff to prepare a formula retail ordinance. At that meeting, the City Council directed ZORACES to hold community meetings in order to obtain community input as part a broad range plan for fostering local community-serving business in the City and report back to the City Council at the August 1, 2011 meeting.

**STAFF FOLLOW UP:** Staff requests the Subcommittee to narrow down the options presented by the community and provided within the report, and schedule a follow up ZORACES meeting to craft recommendations to the City Council in preparation of the August 1, 2011 City Council meeting.

**ATTACHMENTS:**

1. Four Approaches for Growing and Sustaining Local Community-Serving Business in Malibu – Part I: City Policies; Part II: Incentives; Part III: Ordinances; and Part IV: Community-Driven

**Not Attached – Available on the City's Website**

2. Malibu Economic Services Study (2007) available to review and download at: <http://www.malibucity.org/download/index.cfm/fuseaction/download/cid/195/>

## **PART I: COUNCIL ACTION AND EXISTING POLICIES**

*What actions might Council initiate to achieve the desired goals and what policies already exist to encourage diversity and local business in Malibu?*

### **1. Business Licensing Program**

The City creates a business licensing program to regulate local business practices including items such as food, liquor, beer, cigarette, and lottery sales in order to create safe serving standards and establish a basis on how these items can be sold. This program can provide additional protection to the individuals owning and operating local businesses, and residents and visitors from fraud and misrepresentation. The program ensures that sales tax revenues are adequately reported and it provides a database of the commercial activities within the community. Strong enforcement mechanisms need to be a key component within this program.

#### **General Plan Land Use Element:**

Policy 4.4.1: The City shall encourage establishment and continued operation of small neighborhood and community serving businesses.

Policy 4.4.2: The City shall limit commercial uses to neighborhood serving uses in the Las Flores, Point Dume and Trancas commercial areas.

Implementation Measure 84: Develop a business licensing program to assure compliance with zoning and safety codes and to raise revenue to promote the business community.

### **2. City-sponsored Business Incubator**

The City creates a small business incubator program and provides temporary office space in old City Hall, including potential resources to assist local start-ups. The program would be competitive and require an application process. Program terms would be set by Council. The local business community and Chamber of Commerce could assist in the start-up process, contribute to resources, and assist in office transition and leasing as a commercial tenant in the City.

### **3. Increase the City's participation in the Chamber of Commerce's Economic Collaborative Taskforce – or – Re-establish the City's Economic Advisory Committee**

The City increases its participation and commitment of resources to work with the Chamber of Commerce's Economic Collaborative Taskforce. Alternatively, the City could re-establish the City's Economic Advisory

Committee (originally formed to implement measures of the 2007 Economic Study; however, this task has since been taken on by the Chamber's Economic Collaborative Taskforce per the City Council's recommendation in September 2008). Re-establishing the committee would require members, staffing, and detailed assignments, goals, and objectives. Either method should implement the 2007 Malibu Economic Study and/or develop a new economic development plan in partnership with the Chamber of Commerce and other community civic organizations (for reference, see Attachment 2 regarding the 2007 Malibu Economic Services Study).

General Plan Land Use Element:

Policy 4.4.1: The City shall encourage establishment and continued operation of small neighborhood and community serving businesses.

Policy 4.4.2: The City shall limit commercial uses to neighborhood serving uses in the Las Flores, Point Dume and Trancas commercial areas.

Implementation Measure 83: Work with the Chamber of Commerce and other community civic organizations to develop and implement an economic development plan.

#### **4. Community Land Trusts**

The City creates a community land trust (CLT) which is a private, non-profit corporation that acquires and manages land and/or commercial centers with the intention of retaining long-term ownership. The CLT takes properties off the commercial market and leases commercial space at below-market rates to eligible local businesses who receive the benefits of low rent while agreeing to restrictions set by the CLT, including prohibitions on subletting. This option could be a viable strategy for protecting small businesses from rising rents and leasing to small business owners that can demonstrate a need for it.

## **PART II: INCENTIVES**

*What types of incentives could help with sustaining local, community-serving businesses in the City?*

### **1. Local Business Incentives Program**

The City and Chamber of Commerce create a local business incentives program that offers commercial property owners incentives for providing guaranteed tenant space, leasing priority, and/or lower rents to local community-serving businesses. The program would contribute toward the City's local economy, under-represented local businesses in the City, and businesses that directly support and enhance the community. Further, this program provides local entrepreneurs space to bring their businesses into the City. Benefits to commercial property owners could include permit fee reductions, increases on floor area ratio, rebates, etc. In addition, a collaborative fund could be established as part of the Chamber of Commerce to help create local start-ups within the City.

### **2. Expedited Permitting Process**

The City and Chamber of Commerce develop a program to encourage the opening of small businesses by finding ways to reduce the costs of permitting and/or expediting the review process.

### **3. Tax Incentives**

The City and Chamber of Commerce create a voluntary incentive program for commercial property owners who agree to a schedule of modest rent increases to local community-serving businesses in exchange for partial property tax abatement for the portion set aside to these units.

### **PART III: ORDINANCES**

*What types of ordinances could be enacted to create an environment fostering local community-serving business? Consider the intended and unintended consequences of these efforts. Ordinances take more time to implement and relate to the Malibu Municipal Code and/or Local Coastal Program. Any ordinance must be compliant with Federal and State laws, and include clear definitions, processing guidelines, and enforcement mechanisms.*

#### **1. Formula Retail Ordinance**

The City enacts a formula retail ordinance with the intent of protecting Malibu's economy, historical relevance and unique character from the negative impacts associated with the increase of formula businesses within the City. Generally, a formula retail establishment is commonly defined as having eleven or more other retail sales outlets nationwide, has a trademark or servicemark, and maintains two or more standardized features such as merchandise, façade, décor, worker uniforms, packaging, or signage.

Several components of a formula retail ordinance must be specified and defined in order to achieve the intended consequences in the short term and long term, as well as avoid unintended consequences experienced in other jurisdictions.

The following components should be considered as part of any formula retail ordinance:

*Purpose:* A formula retail ordinance must implement policies within the General Plan and should focus on maintaining the City's distinctive community character. If adequate policies do not exist in the General Plan, an amendment may be required prior to enactment of this ordinance. Note that this type of ordinance should be avoided if its underlying purpose is to serve local business interests by preventing competition from national chains (i.e., economic protectionism). Otherwise, the ordinance could violate the Commerce Clause of the Constitution (Article 1, Section 8, Clause 3).

*Extent:* What types of businesses would the ordinance apply to (chain stores, chain restaurants, chain hotels, chain banks, chain personal services, etc.)? Consider the potential that overly restrictive definitions could impose burdens on locally owned businesses.

*Process:* The ordinance could be 1) an outright ban; 2) require additional discretionary review if a business is considered formula retail via the conditional use permit (CUP) process; or 3) include a requirement for specific districts guaranteeing that a majority of the retail establishments are independent and locally owned. In addition, an ordinance should address permitting requirements for the expansion and/or replacement of an existing formula retail establishment

*Unintended Consequences:* The ordinance could have the potential to result in the proliferation of lower quality and/or undesired businesses, increased tourism, and higher commercial rents. Further, banning formula retail could have a negative effect on franchises that are locally owned by Malibu residents

## **2. Specific Plans**

The City creates a specific plan for one or more commercial areas in the city. A specific plan would provide specifications on all future physical development to be implemented within that area. The plan will show the types of land uses to be developed on each parcel; a plan for circulation in and adjacent to the plan area; and written standards, regulations, and policies for such items as architectural design, open spaces, preservation of existing structures, and other relevant factors.

For example, a Civic Center Specific Plan could be created with architectural requirements that regulate the appearance of all commercial businesses, including formula retail. Local Coastal Program (LCP) Land Use Plan (LUP) Policy 5.17 requires a Civic Center Specific Plan to include the following components:

- a. Land use designations and permitted uses.
- b. Provision for visitor serving commercial uses, including overnight accommodations, throughout the area.
- c. Maximum density and intensity standards, including floor area ratios for commercial use not to exceed the maximum floor area ratio currently allowed pursuant to the Land Use Plan where public benefits and amenities are provided as part of the project.
- d. Development standards, including heights, lot coverage, setbacks, and open space requirements.
- e. Measures to protect wetland habitat identified through a wetland delineation prepared for the Civic Center area pursuant to LUP Policy 3.81a.
- f. Provisions for shared or consolidated parking areas.
- g. Provisions for public open space areas, and restoration or enhancement of habitat.
- h. Design guidelines, including architectural design, lighting, signs, and landscaping.
- i. Provisions for mixed use development.

### **3. Design Review**

The City creates a design review process wherein a commercial developer's site plan is submitted to the city for an evaluation of its technical and visual elements as well as determination of how well the plan itself meets adopted criteria (enacted under an architectural standards ordinance). A Design Review Board is established by the city to review building plans to determine if such plans are consistent with the architectural controls and building material provisions. The Board could function in an advisory capacity to the Planning Commission and City Council, or have the capacity to make decisions on projects.

### **4. Additional Public Benefit Guideline to allow an Increase in Commercial Floor Area Ratio**

The City incorporates an additional model for us within LCP Local Implementation Plan (LIP) Section 3.8(A)(5)(f) to allow an increase in the maximum square footage for commercial development. This LCP section currently authorizes the City Council to approve additional square footage for commercial development, except within the Civic Center area, where an applicant has offered to the City public benefits and amenities in connection with a project subject to a Development Agreement. Three models can be used by the City Council to allow this increase: 1) Increase in Land Value Model; 2) Avoided Cost of Development Model; and 3) Increase in Total Project Value Model. This approach would add a fourth model along the lines of a Local and Independently-Owned Community-Serving Business Model. This item would need to be defined and outlined. Eligibility may require a specific amount of square footage designated for this use (either set square footage or percentage) or reduced rents.

### **5. Zoning Text Amendments and Rezoning**

The City can modify existing land use regulations and zoning that prevent or inhibit local community-serving commercial uses, or further restrict uses in existing zones. Alternatively, new zoning designations and/or use limits could be placed in specific neighborhood areas. Note that all rezoning must be consistent with provisions in the General Plan. For example, the General Plan should contain policies and defined implementation strategies to promote development of locally-owned businesses and/or provisions to support existing businesses and the establishment of locally-owned, managed, and/or controlled small businesses. An amendment to the General Plan may be required.

#### General Plan Land Use Element:

Policy 2.1.3: The City shall proportion commercially zoned properties based on community need.

Policy 4.4.1: The City shall encourage establishment and continued operation of small neighborhood and community serving businesses.

Policy 4.4.2: The City shall limit commercial uses to neighborhood serving uses in the Las Flores, Point Dume and Trancas commercial areas.

## **PART IV: COMMUNITY-DRIVEN**

### **1. Shop Local Campaign**

Shop Local Campaigns are a cause-oriented and community-based grassroots effort to achieve the following: 1) raising public awareness about the benefits of buying locally within the City; 2) inspiring people to take action by joining the movement via mediums such as a website or social media; and 3) spread the idea that the community, as a whole, can keep the local economy strong and local community-serving businesses in operation. The loss of “mom-and-pop shops” can result in the local community, private sector, and/or the City to create marketing campaigns for local products and local retailers. These campaigns share resources to promote the shop local message and are often a venue for merchants to meet and discuss best practices.

The campaign can be led by community residents, local businesses, commercial property owners, the Chamber of Commerce, or the City. Monthly competition incentives can be created for the top businesses that were supported by the community. The campaign can provide ‘give-aways’ to shoppers in the form of clothing, bags, discount cards, and gift certificates.

### **2. Independent Business Alliances (IBAs)**

IBAs are coalitions of locally owned businesses, citizens, and community organizations that work to support local businesses and entrepreneurs in order to enhance community character, build local economic strength, and prevent the displacement of local stores and service providers by chain retail. IBAs can: 1) inform citizens of the values provided by community-based businesses and their importance to the local economy and culture; 2) promote, advertise, and brand community-based businesses to bring market advantages that chains enjoy; and 3) create strong relationships with local government and the media to inform local decision-making and give a voice to the locally-owned independent business community and promote policy that supports community-rooted enterprise.

### **3. Community Benefit Agreements (CBA)**

CBAs are private agreements negotiated between community groups and a developer or commercial property owner. In exchange for community’s support of the development and/or commercial facility (especially when entitlements are

required from the City), the developer and/or commercial property owner agrees to provide the community with certain benefits including requirements for local hiring; living wages, set asides for local businesses, and grants to local organizations. The overall goals are to keep commercial properties accountable to the communities in which they are located and that a certain degree of revenues will be retained in local economies. CBA negotiations can be tailored to each community's needs and the needs of local businesses.