



# Council Agenda Report

To: Mayor Silverstein and the Honorable Members of the City Council

Prepared by: Kelsey Pettijohn, City Clerk

Approved by: Steve McClary, City Manager

Date prepared: June 28, 2023 Meeting date: July 10, 2023

Subject: Second Reading and Adoption of Ordinance No. 508

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**RECOMMENDED ACTION:** Conduct second reading, unless waived, and adopt Ordinance No. 508, an ordinance of the City of Malibu amending Local Coastal Program Amendment (LCPA) No. 16-006 as adopted by Ordinance No. 491 pursuant to the conditional certification action taken by the California Coastal Commission (CCC) on February 8, 2023 in order to obtain final certification of the submitted LCPA application to amend the Local Coastal Program Land Use Map to revise the zoning designation from Commercial General to Commercial Visitor Serving-2, amend the Local Implementation Plan (LIP) and to create a new Sea View Hotel Overlay District with associated development standards, including the proposed floor area ratio of 0.52 for the public benefits provided by the project for 22741 and 22729 Pacific Coast Highway, and finding the action to require no further environmental review and/or to be exempt from such review under the California environmental quality act.

**FISCAL IMPACT:** As described in the Council's September 13, 2021, staff report, the applicant for LCPA No. 16-006 and associated Coastal Development Permit (CDP) No. 17-086 would contribute a fee of \$110,000, in-lieu of providing six lower cost accommodations. The City would be able to transfer these funds to a public agency, non-profit organization, or private entity after entering a Memorandum of Understanding or other contractual agreement that requires use of the funds for construction of lower cost overnight visitor accommodations in the Malibu/Santa Monica Mountains coastal zone area of Los Angeles County or Ventura County and which requires that the accommodations remain lower cost. However, the transfer of funds is not required, and the funds could be deposited into the General Fund Undesignated Reserve. In addition to the LCPA and CDP, associated Development Agreement No. 21-001 stipulated that the applicant would also contribute \$800,000 to the City for public benefits at the time the construction permits are issued for the associated project. Pursuant to General Plan

Section 1.5.0, public benefits shall include physical improvements dedicated and reserved for public use, including, but not limited to, open space, wetlands, trails and walkways, parks, athletic fields, and civic or public buildings (such as senior centers, youth facilities, city hall, etc.). These funds would total \$910,000 and must be deposited into a General Fund Designated Reserve for a public benefit purpose. In 2021, the applicant forecasted that the project would generate over \$1.0 million in Transient Occupancy Tax revenue annually; however, this projection was not confirmed by staff at the time as nightly room rates or the occupancy projections were unknown.

The CCC's actions on February 8, 2023, modified the LCPA and included additional financial contributions associated with the project. As further described in this report, CCC's Modification 3 to the LCPA included an \$800,000 fee to be paid by agreement between the CCC, and the applicant to fund new lower cost overnight visitor accommodations elsewhere in the Malibu/Santa Monica Mountains coastal zone. The CCC described that the payment could be directed toward a public project to implement affordable visitor-serving accommodations in the area. In addition, the CCC described a commitment made by the applicant to provide \$250,000 to a nonprofit organization that provides free surf lessons and transportation to beaches in the Malibu area for children in underserved communities in the general Los Angeles area. These additional fees totaling \$1,050,000, would be submitted directly to the CCC and Los Courage Camps per the CCC's proposed modifications.

In total, the applicant will be contributing \$1,960,000.

WORK PLAN: This item was not included in the Adopted Work Plan for FY 2022-2023. This project is part of normal staff operations. Staff continue to work on ongoing projects and normal business while the FY 2023-24 Work Plan is finalized.

DISCUSSION: On June 26, 2023, the Council introduced on first reading Ordinance No. 508.

ATTACHMENT: Ordinance No. 508

ORDINANCE NO. 508

AN ORDINANCE OF THE CITY OF MALIBU AMENDING LOCAL COASTAL PROGRAM AMENDMENT NO. 16-006 AS ADOPTED BY ORDINANCE NO. 491 PURSUANT TO THE CONDITIONAL CERTIFICATION ACTION TAKEN BY THE CALIFORNIA COASTAL COMMISSION ON FEBRUARY 8, 2023 IN ORDER TO OBTAIN FINAL CERTIFICATION OF THE SUBMITTED LOCAL COASTAL PROGRAM AMENDMENT APPLICATION TO AMEND THE LOCAL COASTAL PROGRAM LAND USE MAP TO REVISE THE ZONING DESIGNATION FROM COMMERCIAL GENERAL TO COMMERCIAL VISITOR SERVING-2, AMEND THE LOCAL IMPLEMENTATION PLAN AND TO CREATE A NEW SEAVIEW HOTEL OVERLAY DISTRICT WITH ASSOCIATED DEVELOPMENT STANDARDS, INCLUDING THE PROPOSED FLOOR AREA RATIO OF 0.52 FOR THE PUBLIC BENEFITS PROVIDED BY THE PROJECT FOR 22741 AND 22729 PACIFIC COAST HIGHWAY (GREY GRANITE, LLC; LAS TUNAS BEACH, LLC; AND SEA VIEW TERRACE, LLC); AND FINDING THE ACTION TO REQUIRE NO FURTHER ENVIRONMENTAL REVIEW AND/OR TO BE EXEMPT FROM SUCH REVIEW UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

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

SECTION 1. Findings.

A. On September 13, 2021, the City Council adopted Ordinance No. 491 approving Local Coastal Program (LCP) Amendment No. 16-006, Zoning Map Amendment No. 17-002, Zoning Text Amendment No. 20-001, and Development Agreement No. 21-001 to amend the LCP Land Use Map and Malibu Municipal Code (MMC) Zoning Map to revise the zoning designation from Commercial General to Commercial Visitor Serving-2, amend the LCP Local Implementation Plan (LIP) and MMC and to create a new Seaview Hotel Overlay District with associated development standards, including the proposed floor area ratio of 0.52 for the public benefits provided by the project for 22741 and 22729 Pacific Coast Highway (PCH).

B. On February 8, 2023, the California Coastal Commission (CCC) took action to conditionally certify the City's LCP Amendment for Ordinance No. 491, with amendments (CCC LCPA No. LCP-4-MAL-21-0073-2).

C. On April 24, 2023, the City Council received a status update regarding the LCPA, reviewed the CCC's amendments for conditional certification and considered staff's requests to either prepare an ordinance to accept the modified LCPA or prepare a resolution to withdraw the City's submitted LCPA with the City Council's stated findings. The City Council took no action and directed staff to work with the applicant for the Seaview Hotel LCP Amendment and the CCC to see if action could be taken that would potentially make the LCP Amendment acceptable to the City Council.

D. On May 22, 2023, the City Council made a motion to bring back the LCP Amendment to receive a report on the status and provide the City Council an opportunity to provide direction.

E. On June 12, 2023, the City Council received a status update regarding the LCP Amendment and directed staff to prepare an ordinance accepting the modified LCP Amendment.

F. On June 15, 2023, 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 June 26, 2023 to consider the proposed Ordinance amending LCP Amendment No. 16-006 (Exhibits A, B and C) as adopted by Ordinance No. 491 pursuant to the conditional certification action taken by the CCC on February 8, 2023 in order to obtain final certification of LCP Amendment No. 16-006.

G. On June 26, 2023, the City Council held a duly noticed public hearing on the proposed Ordinance amending LCP Amendment No. 16-006 (Exhibits A, B and C) as adopted by Ordinance No. 491, reviewed and considered written reports, public testimony, and related information. In addition, the Council introduced on first reading and adopted the Ordinance.

## SECTION 2. Environmental Review.

The City Council has analyzed the amended LCPA 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 LCP Amendment. This application is for an amendment to the LCP, which must be certified by the CCC before it takes effect. On February 8, 2023, the CCC took action to conditionally certify the City's LCP Amendment as previously adopted by Ordinance No. 491, with amendments (CCC LCPA No. LCP-4-MAL-21-0073-2). The City Council has analyzed the amendments and finds that the activities and approvals are necessary by the City for the adoption of the LCP Amendment in order to obtain final certification of the LCP Amendment by the CCC.

Further, the proposed City Council actions, including without limitation, direction to prepare an Ordinance was adequately covered in Initial Study (IS) No. 21-001 and Mitigated Negative Declaration (MND) No. 21-001 for the Sea View Hotel (SCH #2012041087), adopted by the City Council on September 13, 2021 (Resolution No. 21-45). The proposed City Council actions are not a separate "project" for CEQA purposes but rather a subsequent discretionary action related to a previously approved project (CEQA Guidelines § 15378(c)). Additionally, pursuant to CEQA Guidelines Section 15162, and based on the review of the entire record, including without limitation, the IS/MND, the City Council finds that the proposed actions do not require further environmental review as: 1) no substantial changes are proposed to the project and no substantial changes have occurred that require major revisions to the IS/MND due to the involvement of new significant environmental effects or an increase in severity of previously identified significant effects; and 2) no new information of substantial importance has come to light that shows the project will have one or more significant effects not discussed in the IS/MND. Pursuant to CEQA Guidelines §15162(b), the City Council finds and recommends that no further analysis or

environmental documentation is necessary. Accordingly, the proposed City Council actions are merely a step toward furtherance of the original project for which environmental review was performed, no supplemental or subsequent CEQA has been triggered, and no further environmental review is required.

SECTION 3. Acknowledgement of CCC's Resolution of Certification and Findings.

The City of Malibu hereby acknowledges receipt of the CCC's Resolution of Certification of City of Malibu LCP Amendment No. LCP-4-MAL-21-0073-2 (Sea View Hotel Project), including suggested modifications therein.

The City Council concurs with the CCC's finding that the LCP Amendment, as modified, will accommodate a hotel use in a manner that protects coastal resources, ensures internal consistency with the City's certified LCP and is consistent with, and will carry out, the policies of the City's certified LCP Land Use Plan (LUP).

SECTION 4. LCP Amendments.

A. That the title of LIP Section 3.4.6 (Sea View Hotel Overlay District) (Exhibit A) be modified as follows, which amends the proposed regulations included in Ordinance No. 491, as recommended by the CCC:

*3.4.6 Sea View Hotel Overlay District (22729 Pacific Coast Highway/APN 4452-022-010 and 22741 Pacific Coast Highway/APN 4452-022-017)*

B. That Subsections B and C of LIP Section 3.4.6 (Exhibit A) be modified as follows, which amends the proposed regulations included in Ordinance No. 491, as recommended by the CCC:

*No changes to Subsection A.*

*B. Description of Area Subject to LIP Section 3.4.6. The provisions of this section shall apply to the Project Site, a 51,776 square foot (1.19 acre) site, comprised of two parcels, currently identified as 22729 Pacific Coast Highway and 22741 Pacific Coast Highway (Los Angeles County Assessor Parcel Numbers 4452-022-010 and 4452-022-017) in the Sea View Hotel Overlay District map.*

*C. Applicability. The Commercial Development Standards contained in LIP Section 3.8, as well as other applicable certified LCP policies and provision shall apply, unless specifically modified by this section.*

C. That Subsection D of LIP Section 3.4.6 (Sea View Hotel Overlay District) (Exhibit A) be modified as follows, which amends the proposed regulations included in Ordinance No. 491, as recommended by the CCC:

*D. Development Agreement. 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 0.52 if the applicant contributes \$800,000 to the City for public benefits and amenities, to be expended as the City Council determines to be an appropriate use.*

D. That the following new subsection be added to LIP Section 3.4.6 (Sea View Hotel Overlay District) (Exhibit A), which amends the proposed regulations included in Ordinance No. 491, as recommended by the CCC:

*E. Overnight Visitor-Serving Accommodations*

*NOTE: In addition to the requirements of LIP Section 12.10 regarding providing a component of lower cost overnight visitor accommodations, the owner of the Sea View Hotel Site as of the date of the Coastal Commission's action on LCP Amendment No. LCP-4-MAL-21-0073-2 ("Applicant") has agreed to enter into an agreement with the Coastal Commission to fund an associated escrow account, thereby committing to pay an in-lieu fee to another entity acceptable to the Executive Director of the Coastal Commission for use in developing lower cost visitor accommodations, to be released upon Applicant's securing of entitlements to develop the site consistent with development standards of the Sea View Hotel Overlay District below.*

E. That Subsection E of LIP Section 3.4.6 (Sea View Hotel Overlay District) (Exhibit A) be modified as follows, which amends the proposed regulations included in Ordinance No. 491, as recommended by the CCC:

*F. Development Standards.*

<i>YARDS/SETBACKS</i>	<i>No changes</i>
<i>PROJECTIONS INTO YARDS</i>	
	<i>The provisions of LIP Section 3.5.3(B) apply with the following additional provision:</i> <ul style="list-style-type: none"> <li>• <i>Access and exit stairs required by the Fire Department, and existing retaining walls may project without limit into required side yards.</i></li> </ul>
<i>SITE DEVELOPMENT CRITERIA</i>	
<i>Maximum Floor Area Ratio (F.A.R.)</i>	<i>No changes</i>

<i>Minimum Onsite Landscaping</i>	<p><i>The provisions of LIP Section 3.8(A)(5)(b) shall not apply. The Sea View Hotel landscaping criteria are as follows:</i></p> <p><i>A minimum of 8,977 square feet of landscaping at ground level. Additionally, there shall be a minimum of 2,528.6 square feet of plants in planters on the southerly seaward areas of the various decks.</i></p>
<i>Minimum Onsite Open Space</i>	<p><i>The provisions of LIP Section 3.8(A)(5)(b) shall not apply. The Sea View Hotel open space criteria are as follows:</i></p> <p><i>A minimum of 1,313.8 square feet of private recreational area at ground level and first level reception area and 21,494 square feet at guest deck patios, not already included in landscape area, are required.</i></p>
<b>HEIGHT</b>	
<i>Maximum Height Projections</i>	<p><i>The provisions of LIP Section 3.8(A)(1) shall not apply. The Sea View Hotel height requirements are as follow:</i></p> <ul style="list-style-type: none"> <li><i>• New structures which have sloping roofs that slope less than 25% shall be no higher than 24 feet above the natural grade or finished grade, whichever results in a lower building height, excluding basements.</i></li> <li><i>• New structures which have sloping roofs that slope 25%, or more, shall be no higher than 28 feet above the natural grade or finished grade, whichever results in a lower building height, excluding basements. Areas such as elevator shafts in order to comply with ADA laws, the wooden deck above the existing tile rooftop deck, the fire exit stairs required by the Fire Department, the safety railing around the decks, and the sound wall as described in the Mitigated Negative Declaration are excluded from the referenced height restrictions. Seven-foot overhangs to eliminate sun from hitting south facing windows are excluded from the height standards.</i></li> </ul>

<i>PARKING AND ACCESS</i>	
<i>Parking Requirements</i>	<p><i>The provisions of LIP Sections 3.14.2 and 3.14.3 shall not apply. The Sea View Hotel parking requirements are as follows:</i></p> <ul style="list-style-type: none"> <li>• <i>1.5 parking spaces per hotel room.</i></li> <li>• <i>1 space for each, per-shift employee</i></li> <li>• <i>1 space for each 100 square feet of gross floor area used for consumption of food or beverages.</i></li> <li>• <i>1 space for each 5 fixed seats, or for every 35 square feet of assembly area where there are no fixed seats in meeting rooms or other assembly areas.</i></li> </ul>
<i>Parking Location</i>	<i>No changes</i>
<i>Layout and Paving</i>	<p><i>The provisions of LIP Section 3.14.5 are modified or shall not apply as follows:</i></p> <ul style="list-style-type: none"> <li>• <i>The provision of LIP Section 3.14.5(D)(5) shall not apply. Tire stops are not required for valet parking spaces.</i></li> <li>• <i>The provisions of LIP Sections 3.14.5(C) and (E) shall not apply.</i></li> </ul>
<i>MONUMENT SIGN AND GENERAL SIGN REQUIREMENTS</i>	
	<p><i>The provisions of LIP Section 3.15.6 are modified or shall not apply as follows:</i></p> <ul style="list-style-type: none"> <li>• <i>The provisions of LIP Section 3.15.6(A)(2)(d)(iii) shall not apply.</i></li> <li>• <i>Two signs shall be permitted, each sign shall be a maximum of 48 square feet, and a maximum height of 6 feet, excluding the base area supporting the sign. One monument sign and one building sign shall be permitted.</i></li> <li>• <i>One address monument sign shall be permitted up to a maximum of 16 square feet, excluding the base area supporting the sign. There shall be no setbacks required from rights of way or property lines for monument signs.</i></li> </ul>

F. That Subsection F of LIP Section 3.4.6 (Sea View Hotel Overlay District) (Exhibit A) be modified as follows, which amends the proposed regulations included in Ordinance No. 491, as recommended by the CCC:

*G. PERMITTED USES*

*The following permitted, conditionally permitted, and prohibited uses shall apply to the Sea View Hotel Overlay District. Permitted and conditionally permitted uses that are a component of the hotel development are subject to the custom development standards of this Sea View Hotel Overlay District. Permitted or conditionally permitted uses that are not a component of the hotel development are subject to all applicable policies and provisions of the certified LCP, including the Commercial Development Standards in LIP Section 3.8.*

*a. Permitted Uses: The uses and structures permitted within Sea View Hotel Overlay District are as follows:*

*i. All uses permitted in the Commercial Visitor Serving-2, (CV-2), land use zoning district, as specified in the LCP.*

*ii. Restaurants that are open to the general public.*

*No changes to iii. through xiv.*

*No changes to Subsection b.*

*c. Conditionally Permitted Uses. The following uses may be permitted subject to additionally obtaining a Conditional Use Permit in accordance with the requirements of the MMC:*

*i. All conditionally permitted uses in the Commercial Visitor Serving-2, (CV-2), land use zoning district, as specified in the LCP.*

*No changes to ii through x.*

G. That the LIP Zoning Map (Exhibit B) be modified as follows, which amends the proposed regulations included in Ordinance No. 491, as recommended by the CCC:

*Depict the Sea View Hotel Overlay District site as two parcels and add corresponding addresses and assessor parcel numbers (22729 Pacific Coast Highway/APN 4452-022-010 and 22741 Pacific Coast Highway/APN 4452-022-017).*

H. That the Sea View Hotel Overlay District Map (Exhibit B) be modified as follows, which amends the proposed regulations included in Ordinance No. 491, as recommended by the CCC:

*Depict the Sea View Hotel Overlay District site as two parcels and add corresponding addresses and assessor parcel numbers (22729 Pacific Coast Highway/APN 4452-022-010 and 22741 Pacific Coast Highway/APN 4452-022-017) to differentiate which parcels are subject to the Sea View Hotel Overlay District.*

SECTION 5. Submittal to California Coastal Commission.

The City Council hereby directs staff to submit the Ordinance modifying Ordinance No. 491 to the CCC in order to obtain final certification of the Sea View Hotel LCP Amendment.

SECTION 6. Effective Date.

Upon adoption, the Ordinance will be submitted to the CCC for certification as an LCP Amendment. The Ordinance will take effect and be in force on the date that the CCC takes action to unconditionally certify the LCP Amendment.

SECTION 6. Severability.

If any section, subsection, provision, sentence, clause, phrase or word of this Ordinance is for any reason held to be illegal or otherwise invalid by any court of competent jurisdiction, such invalidity shall be severable, and shall not affect or impair any remaining section, subsection, provision, sentence, clause, phrase or word included within this Ordinance, it being the intent of the City that the remainder of this Ordinance shall be and shall remain in full force and effect, valid, and enforceable.

SECTION 7. Certification.

The City Clerk shall certify the passage and adoption of this Ordinance and enter it into the book of original ordinances.

PASSED, APPROVED AND ADOPTED this \_\_\_ day of June, 2023.

\_\_\_\_\_  
BRUCE SILVERSTEIN, Mayor

ATTEST:

\_\_\_\_\_  
KELSEY PETTIJOHN, City Clerk  
(seal)

Date: \_\_\_\_\_

**APPROVED AS TO FORM:**

THIS DOCUMENT HAS BEEN REVIEWED  
BY THE CITY ATTORNEY'S OFFICE

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TREVOR RUSIN, Interim City Attorney