

## RESOLUTION NO. 24-49

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MALIBU DETERMINING THE PROPOSED AMENDMENT IS EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, ADOPTING AN AMENDMENT TO THE LOCAL COASTAL PROGRAM (LCP) LAND USE PLAN (LUP) POLICY 6.7 (LOCAL COASTAL PROGRAM AMENDMENT NO. 24-001) AS REQUIRED TO IMPLEMENT THE GOALS, POLICIES, PROGRAMS AND OBJECTIVES OF THE 2021-2029 GENERAL PLAN HOUSING ELEMENT

The City Council of the City of Malibu does hereby find, order and resolve as follows:

### SECTION 1. Recitals.

- A. The State of California requires every municipality to periodically update the Housing Element of its General Plan to review the housing needs of the community and revise its policies, programs and objectives to address those needs. Jurisdictions such as the City of Malibu that are within the Southern California Association of Governments region are required to update their Housing Elements for the 6th planning cycle, which covers the 2021-2029 planning period.
- B. The 2021-2029 Housing Element establishes goals, policies, programs, and objectives that address the provision of adequate, safe, and decent housing for all economic segments of the community.
- C. On June 23, 2021, the City of Malibu conducted a public workshop to review Housing Element requirements and issues.
- D. On July 22, 2021, the Malibu Planning Commission conducted a study session to review the draft 2021-2029 Housing Element. Public notice of the workshop was provided to interested parties; regional, state and federal agencies; and local libraries and media.
- E. On August 23, 2021, the Malibu City Council conducted a public workshop to review the draft 2021-2029 Housing Element. Public notice of the workshop was provided to interested parties; regional, state and federal agencies; and local libraries and media.
- F. On August 24, 2021, the Draft 2021-2029 Housing Element was transmitted to the California Department of Housing and Community Development (HCD) for review as required by state law.
- G. On October 22, 2021, HCD issued a letter finding that the Draft 2021-2029 Housing Element meets many statutory requirements of State Housing Element Law, however, revisions are necessary to comply with State Housing Element Law.
- H. On November 15, 2021, the Planning Commission held a duly noticed public hearing on the revised draft 2021-2029 Housing Element and adopted Resolution No. 21-77 recommending adoption to the City Council. Public notice of the hearing was provided to interested parties; regional, state and federal agencies; and local libraries and media.

I. On January 10, 2022, the City Council held a duly noticed public hearing on the General Plan Amendment and adopted Resolution No. 22-67 adopting the Revised Draft 2021-2029 Housing Element Update. Public notice of the workshop was provided to interested parties; regional, state and federal agencies; and local libraries and media.

J. On January 21, 2022, the Draft 2021-2029 Housing Element amendment was transmitted to the HCD for review as required by state law.

K. On March 22, 2022, HCD issued a letter finding that the Draft 2021-2029 Housing Element meets many statutory requirements of State Housing Element Law, however, revisions are necessary to comply with State Housing Element Law.

L. On May 19, 2023, the City of Malibu received a "Failure to Adopt Compliant 6<sup>th</sup> Cycle Housing Element - Letter of Inquiry" from HCD.

M. On June 7, 2023, the City of Malibu issued a letter to HCD in response to the May 19, 2023 letter which provided a timeline for the City's adoption of an updated 2021-2029 Housing Element.

N. On July 20, 2023, the City of Malibu received a second "Failure to Adopt Compliant 6<sup>th</sup> Cycle Housing Element - Letter of Inquiry."

O. On September 23, 2023, the City entered into an agreement with Rincon Consultants, Inc. to assist the City in addressing HCD's comments to the 6th Cycle Housing Element Update when the previous consultant due to workload and planned retirement terminated his agreement with the City.

P. On January 17, 2024, the City Council held a study session to review the Housing Element requirements including needed code amendments.

Q. On February 7, 2024, the Draft 2021-2029 Housing Element amendment was transmitted to HCD for review as required by state law.

R. On March 22, 2024, HCD issued a letter finding that the Draft 2021-2029 Housing Element meets many statutory requirements of State Housing Element Law, however, revisions are necessary to comply with State Housing Element Law.

S. On April 22, 2024, the City entered into a stipulated judgment with HCD with deadlines to approve the 2021-2029 Housing Element and hold first readings on the MMC and LCP amendments; by September 23, 2024.

T. The stipulated judgment further provided that prior to second reading of the MMC and LCP amendments, the adopted Housing Element and code amendments must be submitted to HCD by October 4, 2024; on October 14, 2024, the City Council must conduct the second reading of, and adopt,

the MMC and LCP amendments; and by October 18, 2024 the City must submit the code amendments to HCD along with evidence that any required LCP amendments were transmitted to the California Coastal Commission for its review and certification.

U. On April 29, 2024, the City posted the revised Draft 2021-2029 Housing Element on the City website for a 7-day public review.

V. On May 7, 2024, the Draft 2021-2029 Housing Element amendment was transmitted to HCD for review as required by state law.

W. On June 21, 2024, HCD issued a letter finding that the Draft 2021-2029 Housing Element meets many statutory requirements of State Housing Element Law, however, revisions are necessary to comply with State Housing Element Law.

X. On July 19, 2024, the City posted the revised Draft 2021-2029 Housing Element for a 7-day public review.

Y. On July 25, 2024, a Notice of Public Hearing and Notice of Availability of Local Coastal Program (LCP) Documents was published in a newspaper of general circulation within the City of Malibu and mailed to all interested parties, regional, state and federal agencies; and local libraries and media.

Z. On July 29, 2024, the Draft 2021-2029 Housing Element amendment was transmitted to HCD for review as required by state law.

AA. On July 31, 2024, the City received a letter from HCD finding the revised draft housing element meets the statutory requirements of State Housing Element Law (Gov. Code, § 65580 et seq.). The housing element will comply with State Housing Element Law when any necessary rezoning is complete and the element is re-adopted, submitted to, and approved by HCD, in accordance with Government Code section 65585. No rezoning is required as part of the revised Housing Element.

BB. On August 19, 2024, the Planning Commission held a duly noticed public hearing on the General Plan amendment and reviewed and considered the comments of the HCD, the draft Housing Element as revised to address HCD comments, and corollary code amendments to the City of Malibu Local Coastal Program (LCP) Land Use Plan (LUP) and Malibu Municipal Code (MMC) as required to implement the goals, objectives, policies and implementation programs as set forth in the Housing Element. The Planning Commission reviewed and considered the staff report, public testimony, and other information in the record, and adopted Resolution No. 24-59 recommending that the City Council adopt General Plan Amendment No. 20-001 adopting the 2021-2029 Housing Element; adopting Local Coastal Program Amendment (LCPA) No. 24-001 to amend the LCP LUP; and adopting Zoning Text Amendment (ZTA) No. 24-002 to amend Title 17 of the Malibu Municipal Code.

CC. On August 29, 2024, a Notice of Public Hearing of the City Council was published in a newspaper of general circulation within the City of Malibu and mailed to all interested parties; regional, state and federal agencies; and local libraries and media.

DD. On September 23, 2024, the City Council held a duly noticed public hearing on the General Plan amendment, and reviewed and considered the comments of the HCD, the draft Housing Element as revised to address HCD comments, and corollary amendments to the LCP LUP and MMC as required to implement the goals, objectives, policies and implementation programs as set forth in the Housing Element. The City Council reviewed and considered the staff report, public testimony, and other information in the record.

## SECTION 2. Environmental Review.

The City Council hereby finds as follows:

A. The City of Malibu Local Coastal Program (LCP) Land Use Plan (LUP) amendment implements the goals, policies, programs, and objectives of the 2021-2029 Housing Element update, and is exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) of the CEQA Guidelines, which states the commonsense rule that CEQA applies only to projects that have the potential for causing a significant effect on the environment. The LUP amendment to implement the 2021-2029 Housing Element would not approve any development project and does not propose any standards, regulations, procedures, or application requirements that would substantially change any land use or portend new development that was not already anticipated in the City's previous Housing Element. It can therefore be seen with certainty that there is no possibility that the adoption of the LUP amendment would have a significant effect on the environment.

B. In addition, pursuant to 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 an LCP amendment. This application is for an amendment to the LCP LUP, which must be certified by the California Coastal Commission (CCC) before it takes effect. The LCP Section 1.3.1 states that the provisions of the LCP take precedence over any conflict between the LCP and the City's Zoning Ordinance. In order to prevent inconsistency between the LCP and the City's Zoning Ordinance, if the LCP LUP amendment is approved, the City must also approve the corollary amendments to the Zoning Ordinance. This amendment is necessary for the preparation and adoption of the LCPA and because it is entirely dependent on, related to, and duplicative of the exempt activity, it is subject to the same CEQA exemption.

C. The project will not individually or cumulatively have an adverse effect on wildlife resources, as defined in Section 711.2 of the State of California Fish and Game Code.

D. The proposed amendment is consistent with the provisions of the Malibu General Plan, MMC, LCP, and all other applicable programs.

## SECTION 3. Local Coastal Program Land Use Plan Amendment Findings.

Pursuant to LIP Section 19.6 Required Findings, before approval of any LCP amendment, the City Council must make the finding that such amendment meets the requirements of and is in conformity with the LCP and the policies of Chapter 3 of the California Coastal Act. The City Council, based on evidence in the whole record, finds that the LUP amendment is in conformity with the LCP and the policies of Chapter 3 of the California Coastal Act as follows and hereby amends the LUP as set forth in SECTION 4:

A. The requirements and standards in the amendment for various housing types ensure that development of affordable housing may occur in compliance with State housing element law, consistent with LCP and Coastal Act policies to accommodate housing for all economic segments of the community (California Public Resources Code (Coastal Act) Section 30604(f); and LIP Sections 3.7 AFFORDABLE HOUSING and 3.4.5 Affordable Housing Overlay District), while supporting overarching policies in the LCP and Chapter 3 of the California Coastal Act for protection of coastal resources, public access, public recreation, and public viewsheds (Coastal Act Policies 30231, 30211, 30252). The amendment does not require re-zoning and only identify regulations and standards for housing on properties for which development is currently allowed.

SECTION 4. Local Coastal Program Land Use Plan Amendment.

Policy 6.7 of the LCP LUP shall be replaced in its entirety as follows:

- 6.7 The height of structures shall be limited to minimize impacts to visual resources. The maximum allowable height, except for beachfront lots, shall be 18 feet above existing or finished grade, whichever is lower. On beachfront lots, or where found appropriate through Site Plan Review, the maximum height shall be 24 feet (flat roofs) or 28 feet (pitched roofs) above existing or finished grade, whichever is lower. Notwithstanding the foregoing, to accommodate an affordable housing project, the maximum allowable height in the Affordable Housing Overlay Zone is 30 feet. Chimneys and rooftop antennas may be permitted to extend above the permitted height of the structure.

SECTION 5. Submittal to the California Coastal Commission.

The City Council hereby directs the City Manager or his designee to submit an application and all necessary materials to the California Coastal Commission to certify an amendment to the City of Malibu LCP LUP related to the implementation of the 2021-2029 Housing Element.

SECTION 6.

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

PASSED, APPROVED, and ADOPTED this 23<sup>rd</sup> day of September 2024.

  
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DOUG STEWART, Mayor

ATTEST:

  
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KELSEY PETTIGREW, City Clerk  
(seal)

APPROVED AS TO FORM:

  
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TREVOR RUSIN, Interim City Attorney

I CERTIFY THAT THE FOREGOING RESOLUTION NO. 24-49 was passed and adopted by the City Council of the City of Malibu at the Regular meeting thereof held on the 23<sup>rd</sup> day of September 2024 by the following vote:

AYES: 4 Councilmembers: Grisanti, Uhring, Riggins, Stewart  
NOES: 0  
ABSTAIN: 1 Councilmembers: Silverstein  
ABSENT: 0

  
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KELSEY PETTIJOHN, City Clerk  
(seal)