

# **CITY OF MALIBU LOCAL COASTAL PROGRAM**

## **Land Use Plan**

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## **Preface**

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## **CHAPTER 1—INTRODUCTION**

### **A. Description of the City of Malibu**

The City of Malibu, which incorporated on March 28, 1991, lies entirely within the State designated Coastal Zone and extends approximately 25 miles from the Ventura County Line on the west to Topanga Canyon Boulevard on the east. Inland, the City's Coastal Zone boundary extends approximately 2 miles and includes portions of the coastal terrace and slopes of the Santa Monica Mountains.

The shoreline along the City of Malibu Coastal Zone contains sandy beaches, bluff backed crescent coves, and rocky headlands. The inland portion generally contains the major canyons and watersheds of the mountain range. The canyons constitute the natural drainages that run down toward the Pacific from the mountain peaks, located both within and outside of the unincorporated Los Angeles County Santa Monica Mountains Coastal Zone and the interior valleys.

The marine, canyon, and watershed environment westward of Malibu Canyon Road to the Ventura County line is in a relatively undisturbed state. The slopes and hillsides are dominated by coastal sage scrub and chaparral vegetation and large areas of riparian habitat in the canyons. Along the coast, kelp beds are found, providing habitat for many species of sea life. The natural environment from the Civic Center eastward has suffered some biological degradation. Grading and development have eliminated native hillside vegetation in some areas, portions of creeks have been channelized, and kelp beds have largely diminished or disappeared but reef and rock zones still provide habitat for many species of fish.

Broad sandy beaches at Leo Carrillo, Nicholas Canyon, Zuma, Westward, Point Dume, Surfrider and other beaches provide sunbathing, swimming, surfing, board sailing and other recreational opportunities to the public. Small, public pocket beaches backed by high bluffs provide more secluded and natural beach environments in the City's western portion. The more urbanized eastern portion of Malibu contains several vertical access points to beaches located behind residential communities. Access to many beaches throughout the City, however, is restricted due to blockage by development including gated communities or private compounds, unopened accessways, and lack of parking. Access to all beaches along the Malibu coast is provided by Pacific Coast Highway and a limited number of cross-mountain roads. The capacity of Pacific Coast Highway is exceeded regularly on summer weekends as coastal visitors and residents attempt to reach the beach or enjoy a drive along the coast.

Land use patterns vary considerably throughout the City. Commercial and residential development flanks the Pacific Coast Highway from Topanga to Point Dume. The Malibu Civic Center, located at the base of Malibu Canyon, and Point Dume Plaza contain the major commercial areas. The balance of the City generally consists of residentially zoned lots in small clusters of approximately 10,000 square feet to an acre in size, mid-sized parcels of 2, 5, and 10 acres and large parcels exceeding 20 acres on the coastal slopes throughout the City up to 300 acres in the extreme western portion of the City.

### **B. Local Coastal Planning History**

Efforts to complete a Local Coastal Plan in conformance with the California Coastal Act for the Malibu and Santa Monica Mountains area have been ongoing since shortly after the Coastal Act became effective on January 1, 1977. Prior to the City's incorporation, the initial planning, public hearings, and submittals were the responsi-

bility of Los Angeles County. Initial studies and planning documents addressed the larger coastal zone for Malibu and the Santa Monica Mountains, which extends approximately 5 miles inland.

The first phase of the Local Coastal Plan prepared and submitted by the County consisted of the “Issue Identification/Work Program for the Malibu Area.” The work program, which was approved by the Coastal Commission in December 1978, identified the specific issues to be addressed in the LCP Land Use Plan (LUP). The second phase consisted of preparation and submittal of the Land Use Plan. In December 1982, the Los Angeles County Board of Supervisors approved a Land Use Plan and subsequently submitted it to the Coastal Commission. After numerous public hearings and revisions the LUP was certified by the Coastal Commission on December 11, 1986. Since certification in 1986 the certified Land Use Plan has been consulted for guidance by the Coastal Commission in its permit decisions.

After incorporation, the City subsequently adopted a General Plan in November 1995 and an interim Zoning Ordinance. The City also appointed a Local Coastal Plan Committee in 1994, which held over 100 meetings on a regular basis for over 5 years.

On August 31, 2000, the State legislature passed Assembly Bill 988 which added Section 30166.5 to the Coastal Act. Subsection (a) requires the Coastal Commission to prepare an initial draft of the Land Use Plan for the City of Malibu and submit it to the City on or before January 15, 2002. Subsection (b) requires the Commission, after public hearing and consultation with the City of Malibu, to certify a Local Coastal Program for the City by September 15, 2002. Section 30166.5 also requires the City to immediately assume coastal development permitting authority subsequent to adoption of the LCP by the Commission and provides that, notwithstanding specified requirements for the review and approval of development projects, no application for a coastal development permit shall be deemed approved if the City fails to take timely action to approve or deny the application.

### **C. The Coastal Act**

In October 1972, the United States Congress passed Title 16 U.S.C. 1451-1464, which established a federal coastal zone management policy and created a federal coastal zone. By that legislation, the Congress declared a national interest in the effective management, beneficial use, protection and development of the coastal zone in order to balance the nation’s natural, environmental and aesthetic resource needs with commercial-economic growth. The Congress found and declared that it was a national policy “to encourage and assist the states to exercise effectively their responsibilities in the coastal zone through the development and implementation of management programs to achieve wise use of the land and water resources of the coastal zone giving full consideration to ecological, cultural, historic, and aesthetic values as well as to the need for economic development (16 U.S.C. 1452b). As a result of that federal enactment, coastal states were provided a policy and source of funding for the implementation of federal goals.

The California Coastal Zone Conservation Act of 1972 (Proposition 20) was a temporary measure passed by the voters of the state as a ballot initiative. It set up temporary regional Coastal Commissions with permit authority and a directive to prepare a comprehensive coastal plan. The coastal commissions under Proposition 20 lacked the authority to implement the Coastal Plan but were required to submit the Plan to the legislature for “adoption and implementation.”



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The California Coastal Act of 1976 is the permanent enacting law approved by the State legislature. The Coastal Act established a different set of policies, a different boundary line, and different permitting procedures than Proposition 20. Further, it provides for the transfer of permitting authority, with certain limitations reserved for the State, to local governments through adoption and certification of Local Coastal Programs (LCP) by the Coastal Commission.

An LCP is defined as “a local government’s land use plans, zoning ordinances, zoning district maps, and, within sensitive coastal resources areas, other implementing actions, which, when taken together, meet the requirements of, and implement the provisions and policies of [the Coastal Act] at the local level” (PRC Section 30108.6). The Land Use Plan is defined as “the relevant portion of a local government’s general plan, or local coastal element which are sufficiently detailed to indicate the kinds, location, and intensity of land uses, the applicable resource protection and development policies and, where necessary, a listing of implementing actions (PRC Section 30108.5).

The LCP zoning ordinance, district maps and other implementing actions must be found to conform with and be adequate to carry out the LCP Land Use Plan. After certification of the LCP (Land Use Plan and Implementation), the review authority for new development within the City of Malibu, including most state and federal government proposals, transfers from the Coastal Commission to the City, except for certain geographic areas such as submerged lands, tidelands, and public trust lands where the Commission retains original permit jurisdiction (PRC Section 30519). In authorizing Coastal Development Permits after LCP certification, the City must make the finding that the development conforms to the certified LCP. Any amendments to the certified LCP will require review and approval by the Coastal Commission prior to becoming effective.

In addition, certain types of development, and development within certain geographic areas approved by the City after certification of the LCP are appealable to the Coastal Commission (PRC Section 30603). These include:

- (1) Developments approved by the local government between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tideline of the sea where there is no beach, whichever is the greater distance.
- (2) Developments approved by the local government not included in paragraph (1) that are located on tidelands, submerged lands, and public trust lands, within 100 feet of any wetland, estuary, or stream, or within 300 feet of the top of the seaward face of any coastal bluff.
- (3) Developments approved by the local government not included with paragraph (1) or (2) that are located in a sensitive coastal resource area.
- (4) Any development approved by a coastal county that is not designated as the principal permitted use under the zoning ordinance or zoning district map approved pursuant to Chapter 6 (commencing with Section 30500).
- (5) Any development which constitutes a major public works project or a major energy facility.

The grounds for an appeal of an approval of a permit are limited to an allegation that the development does not conform to the standards set forth in the certified Local Coastal Program or the public access policies of the

Coastal Act. In addition, the grounds for an appeal of a denial of a permit for a major public works project or major energy facility referenced in number (5) above are limited to an allegation that the development conforms to the standards set forth in the certified Local Coastal Program and the public access policies of the Coastal Act.

**D. General Goals and Objectives**

In order to provide a Local Coastal Program which conforms to the intent of the Coastal Act of 1976 (PRC Section 30001.5), the overriding goals of the City of Malibu Local Coastal Program shall be to:

- (a) Protect, maintain, and where feasible, enhance and restore the overall quality of the coastal zone environment and its natural and artificial resources.
- (b) Assure orderly, balanced utilization and conservation of coastal zone resources taking into account the social and economic needs of the people of the state.
- (c) Maximize public access to and along the coast and maximize public recreational opportunities in the coastal zone consistent with sound resources conservation principles and constitutionally protected rights of private property owners.
- (d) Assure priority for coastal-dependent and coastal-related development over other development on the coast.
- (e) Encourage state and local initiatives and cooperation in preparing procedures to implement coordinated planning and development for mutually beneficial uses, including educational uses, in the coastal zone.

In addition, a goal of the LCP is to promote the fair treatment of people of all races, cultures, and incomes with respect to the development, adoption, implementation, and enforcement of environmental laws, regulations, and policies.

The following standards shall be applied by the City to achieve the goals and objectives of the Coastal Act in applying the policies of this Land Use Plan:

- (1) The policies of Chapter 3 of the Coastal Act (PRC Sections 30200—30263) shall be the guiding policies of the Land Use Plan.
- (2) Where conflicts occur between the policies contained in the Land Use Plan and those contained in any element of the City's General Plan, zoning or any other ordinance, the policies of the Land Use Plan shall take precedence.
- (3) Prior to approval of any Coastal Development Permit, the City shall make the finding that the development conforms to the policies and requirements contained in the Land Use Plan.

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### Severability Clause

If any policy, chapter, section, subsection, paragraph, sentence, clause, phrase or other portion of the Land Use Plan is for any reason held to be invalid or unenforceable by a court, such decision shall not affect the validity of the remaining portions of the Land Use Plan.



## **CHAPTER 2—PUBLIC ACCESS AND RECREATION**

### **A. Introduction**

The beaches of Malibu are world-famous tourist destinations for millions of visitors annually from foreign countries, all 50 states of the U.S., as well as to residents of cities and towns located throughout California. In addition, the Santa Monica Mountains area within and adjacent to the City provides an extensive network of public trails that traverse and connect Federal, State, and County parklands, and a system of heavily used historic trails on private land. Overall, a wide variety of recreational opportunities exist in the area including hiking, biking, horseback riding, camping, fishing, picnicking, nature study, surfing, diving, and swimming. Public access to and along the shoreline and trails, and the provision of public recreational opportunities and visitor-serving facilities such as campgrounds, hotels and motels has historically been a critical and controversial issue in Malibu. Continuing conflicts in providing maximum public access to and along the shoreline and trails, as mandated by the Coastal Act, is evidenced in the Coastal Commission's permit regulatory reviews and public hearings concerning proposed projects in Malibu since 1976.

The loss of coastal recreation opportunities resulting from development occurring over the past 25 years represents a significant adverse impact to the availability of public access and recreation in Malibu. Defined broadly, these opportunities include not only the physical availability of access and recreation areas, but also the ability of the public to reach and utilize these sites. Coastal access is generally viewed as an issue of physical supply, and includes lateral access (access along a beach), vertical access (access from an upland street, parking area, bluff or public park to the beach), coastal blufftop trails, and upland trails that lead to the shore or traverse inland parklands within the coastal zone. These inland parks provide significant access and recreation opportunities in the City and Santa Monica Mountains coastal zone, and are as important to coastal access as shoreline accessways.

While the physical supply of access is a primary factor in assuring access opportunities, the Local Coastal Program cannot view the issue of supply in isolation of a number of other factors. These variables include the availability of transit to beaches, parking availability, providing other support facilities such as restrooms and picnic areas, addressing user demands and conflicts, and maintenance of a diversity of coastal recreation experiences. Impacts to any one of these variables may ultimately affect the availability and use of the physical supply of access. For example, without adequate parking or alternate transportation, users will have difficulty reaching the shoreline or trailhead. Therefore, managing and increasing coastal access and ensuring that growth and development does not cumulatively impact the ability of the public to access the shoreline and trails, involves improving not only the physical supply of access, but all of the other variables that contribute to ensuring maximum coastal access.

To understand the importance of protecting and maximizing public access, it is critical to know that the public already possesses ownership interests in tidelands or those lands below the mean high tide line. Because the mean high tide line varies, the extent of lands in public ownership also varies with the location of the mean high tide line. By virtue of its admission into the Union, California became the owner of all tidelands, submerged lands and all lands lying beneath inland navigable waters. These lands are held in the State's sovereign capacity and are subject to the common law public trust. The use of these lands is limited to public trust uses, such as navigation, fisheries, commerce, public access, water-oriented recreation, open space, and environmental protection. The protection of these public areas and the assurance of access to them lies at the heart of Coastal Act

policies requiring both the implementation of a public access program and the minimization of impacts to access through the regulation of development.

## **1. Coastal Act Provisions**

A broad policy goal of California's Coastal Management Program is to maximize the provision of coastal access and recreation consistent with the protection of public rights, private property rights, and coastal resources as required by the California Constitution and provided in Section 30210 of the Coastal Act. Several additional policies contained in the Coastal Act, which are herein incorporated into the Land Use Plan, work to meet this objective. The Coastal Act requires that development not interfere with the public right of access to the sea (Section 30211); provides for public access in new development projects with limited exceptions (Section 30212); encourages the provision of lower cost visitor and recreational facilities (Section 30213); addresses the need to regulate the time, place, and manner of public access (30214); specifies the need to protect ocean front land suitable for recreational use (Section 30221); gives priority to the use of land suitable for visitor-serving recreational facilities over certain other uses (Section 30222); requires the protection of upland areas to support coastal recreation, where feasible (Section 30223); and encourages recreational boating use of coastal waters (Section 30224).

## **2. Land Use Plan Provisions**

The policies contained in the Local Coastal Program Land Use Plan are intended to carry out the goals and objectives reflected in the policies of the Coastal Act. These policies can be broadly summarized as follows:

- Improving existing public access opportunities by supporting proposals to open accessways including efforts by Los Angeles County to open and improve accessibility to El Sol and Dan Blocker Beaches;
- Improving public access to Point Dume State Preserve by improving the availability of parking at the blufftop and providing transit service from Point Dume State Beach below the headlands consistent with the terms of the settlement agreement between the City, the Department of Parks and Recreation and the Coastal Commission;
- Providing objectives, standards, and designated sites for locating visitor-serving recreational facilities and commercial uses such as hotels and motels;
- Coordinating with other public agencies to develop a comprehensive signage program to better identify public access and use opportunities and minimize conflicts between public and private use;
- Identifying and seeking removal of all unauthorized physical development, including signs and fences on the beach, which inhibit public use of public beach areas and state tidelands, as well as those that physically encroach into state tidelands;
- Protecting existing and improving future parking availability near shoreline and trail accessways throughout the City;
- Improving methods and programs to carry out public access impact mitigation measures by coordinating with other public agencies and private associations to ensure that vertical and lateral access and trail easements obtained pursuant to Offers to Dedicate (OTDs) are accepted, opened, maintained and operated;
- Requiring public access OTDs to mitigate demonstrated impacts to public access;
- Providing guidelines to locate, design, map and otherwise implement a California Coastal Trail (CCT) in the City;

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- Establishing standards for the siting and provision of public accessways and support facilities at specific beaches throughout the City;
- Supporting efforts to develop and publish a regional access guide for the Malibu area.

The overarching goal and intent of the policies provided below is to ensure that the LCP Land Use Plan provides for protection, provision, and enhancement of public access and recreation opportunities in the City of Malibu consistent with goals, objectives, and policies of the California Coastal Act.

### **B. Coastal Act Policies**

The Coastal Act Policies set forth below are incorporated herein as policies of the Land Use Plan:

#### **Section 30210**

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

#### **Section 30211**

Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

#### **Section 30212**

- (a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except 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. Dedicated accessway shall not be required to be opened to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the accessway.
- (b) For purposes of this section, "new development" does not include:
- (1) Replacement of any structure pursuant to the provisions of subdivision (g) of Section 30610.
  - (2) The demolition and reconstruction of a single-family residence; provided, that the reconstructed residence shall not exceed either the floor area, height or bulk of the former structure by more

than 10 percent, and that the reconstructed residence shall be sited in the same location on the affected property as the former structure.

- (3) Improvements to any structure which do not change the intensity of its use, which do not increase either the floor area, height, or bulk of the structure by more than 10 percent, which do not block or impede public access, and which do not result in a seaward encroachment by the structure.
- (4) The reconstruction or repair of any seawall; provided, however, that the reconstructed or repaired seawall is not a seaward of the location of the former structure.
- (5) Any repair or maintenance activity for which the commission has determined, pursuant to Section 30610, that a coastal development permit will be required unless the commission determines that the activity will have an adverse impact on lateral public access along the beach.

As used in this subdivision “bulk” means total interior cubic volume as measured from the exterior surface of the structure.

- (c) Nothing in this division shall restrict public access nor shall it excuse the performance of duties and responsibilities of public agencies which are required by Sections 66478.1 to 66478.14, inclusive, of the Government Code and by Section 4 of Article X of the California Constitution.

#### **Section 30212.5**

Wherever appropriate and feasible, public facilities, including parking areas or facilities, shall be distributed throughout an area so as to mitigate against the impacts, social and otherwise, of overcrowding or overuse by the public of any single area.

#### **Section 30213**

Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred.

The Commission shall not: (1) require that overnight room rentals be fixed at an amount certain for any privately owned and operated hotel, motel, or other similar visitor-serving facility located on either public or private lands; or (2) establish or approve any method for the identification of low or moderate income persons for the purpose of determining eligibility for overnight room rentals in any such facilities.

#### **Section 30214**

- (a) The public access policies of this article shall be implemented in a manner that takes into account the need to regulate the time, place, and manner of public access depending on the facts and circumstances in each case including, but not limited to, the following:
  - (1) Topographic and geologic site characteristics.



- (2) The capacity of the site to sustain use and at what level of intensity.
  - (3) The appropriateness of limiting public access to the right to pass and repass depending on such factors as the fragility of the natural resources in the area and the proximity of the access area to adjacent residential uses.
  - (4) The need to provide for the management of access areas so as to protect the privacy of adjacent property owners and to protect the aesthetic values of the area by providing for the collection of litter.
- (b) It is the intent of the Legislature that the public access policies of this article be carried out in a reasonable manner that considers the equities and that balances the rights of the individual property owner with the public's constitutional right of access pursuant to Section 4 of Article X of the California Constitution. Nothing in this section or any amendment thereto shall be construed as a limitation on the rights guaranteed to the public under Section 4 of Article X of the California Constitution.
- (c) In carrying out the public access policies of this article, the commission and any other responsible public agency shall consider and encourage the utilization of innovative access management techniques, including, but not limited to, agreements with private organizations which would minimize management costs and encourage the use of volunteer programs.

**Section 30220**

Coastal areas suited for water-oriented recreational activities that cannot readily be provided at inland water areas shall be protected for such uses.

**Section 30221**

Oceanfront land suitable for recreational use shall be protected for recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area.

**Section 30222**

The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry.

**Section 30223**

Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.

### **Section 30224**

Increased recreational boating use of coastal waters shall be encouraged, in accordance with this division, by developing dry storage areas, increasing public launching facilities, providing additional berthing space in existing harbors, limiting non-water-dependent land uses that congest access corridors and preclude boating support facilities, providing harbors of refuge, and by providing for new boating facilities in natural harbors, new protected water areas, and in areas dredged from dry land.

### **Section 30252**

The location and amount of new development should maintain and enhance public access to the coast by (1) facilitating the provision or extension of transit service, (2) providing commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads, (3) providing nonautomobile circulation within the development, (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation, (5) assuring the potential for public transit for high intensity uses such as high-rise office buildings, and by (6) assuring that the recreational needs of new residents will not overload nearby coastal recreation areas by correlating the amount of development with local park acquisition and development plans with the provision of onsite recreational facilities to serve the new development.

## **C. Land Use Plan 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.
- 2.2** New development shall minimize impacts to public access to and along the shoreline and inland trails. The City shall assure that the recreational needs resulting from proposed development will not overload nearby coastal recreation areas by correlating the amount of development with local park acquisition and/or development plans with the provision of onsite recreational facilities to serve new development.
- 2.3** Public prescriptive rights may exist in certain areas along the shoreline and trails within the City. Development shall not interfere with the public's right of access to the sea where acquired through historic use or legislative authorization. These rights shall be protected through public acquisition measures or through permit conditions for new development, which incorporate measures to provide or protect access when there is substantial evidence that prescriptive rights exist.
- 2.4** Public accessways and trails shall be an allowed use in Environmentally Sensitive Habitat Areas. Where determined to be desirable (by consideration of supporting evidence), limited or controlled methods of access and/or mitigation designed to eliminate or minimize impacts to ESHA may be utilized. Accessways to and along the shoreline shall be sited, designed, and managed to avoid and/or protect marine mammal hauling grounds, seabird nesting and roosting sites, sensitive rocky points and intertidal areas, and coastal dunes.

- 2.5** New development shall be sited and designed to minimize impacts to public access and recreation along the shoreline and trails. If there is no feasible alternative that can eliminate or avoid all access impacts, then the alternative that would result in the least significant adverse impact shall be required. Impacts may be mitigated through the dedication of an access or trail easement where the project site encompasses an LCP mapped access or trail alignment, where the City, County, State, or other public agency has identified a trail used by the public, or where there is substantial evidence that prescriptive rights exist. Mitigation measures required for impacts to public access and recreational opportunities shall be implemented prior to or concurrent with construction of the approved development.
- 2.6** Mitigation shall not substitute for implementation of a feasible project alternative that would avoid impacts to public access.
- 2.7** Public accessways and trails to the shoreline and public parklands shall be a permitted use in all land use and zoning designations. Where there is an existing, but unaccepted and/or unopened public access Offer-to-Dedicate (OTD), easement, or deed restriction for lateral, vertical or trail access or related support facilities e.g. parking, construction of necessary access improvements shall be permitted to be constructed, opened and operated for its intended public use.
- 2.8** Public recreational facilities throughout the City, including parking areas or facilities, shall be distributed, as feasible, to prevent overcrowding and to protect environmentally sensitive habitat areas.
- 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.
- 2.10** Volunteers and conservation or public work programs should be utilized where feasible to assist in the development, maintenance, and operation of public accessways and recreational facilities.
- 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.
- 2.12** For any new development adjacent to or within 100 feet of a public park, beach, trail, or recreation area, notice of proposed developments shall be provided, as applicable, to Los Angeles and Ventura Counties, the National Park Service, the California Department of Parks and Recreation and the Santa Monica Mountains Conservancy for their review with regard to potential impacts to public access, recreation, environmentally sensitive habitat and any other sensitive environmental resources.
- 2.13** Open space easements and dedications shall be utilized, where required, to facilitate the objectives of the City's recreational and/or public access program.
- 2.14** An incentives program that will encourage landowners to make lands available for public access and recreational uses should be developed.

- 2.15** The City should coordinate with County, federal and state park agencies and nonprofit land trusts or organizations to insure that private land donations and/or public access dedications are accepted and managed for their intended use.
- 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.
- 2.17** Recreation and access opportunities at existing public beaches and parks shall be protected, and where feasible, enhanced as an important coastal resource. Public beaches and parks shall maintain lower-cost user fees and parking fees, and maximize hours of use to the extent feasible, in order to maximize public access and recreation opportunities. Limitations on time of use or increases in use fees or parking fees, which effect the intensity of use, shall be subject to a coastal development permit.
- 2.18** The City should coordinate with the National Park Service, the California Department of Parks and Recreation, the State Coastal Conservancy, Caltrans, the County Department of Beaches and Harbors and the Santa Monica Mountains Conservancy to provide a comprehensive signage program to identify public parks, trails and accessways. Said signage program should be designed to minimize conflicts between public and private property uses.
- 2.19** Temporary events shall minimize impacts to public access, recreation and coastal resources. A coastal development permit shall be required for temporary events that meet all of the following criteria: 1) held between Memorial Day and Labor Day; 2) occupy any portion of a public sandy beach area; and 3) involve a charge for general public admission where no fee is currently charged for use of the same area. A coastal development permit shall also be required for temporary events that do not meet all of these criteria, but have the potential to result in significant adverse impacts to public access and/or coastal resources.
- 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. (Resolution No. 19-49)
- 2.21** The limited development of visitor-serving commercial recreational facilities designed to serve beach or park users may be permitted on non-sand areas of public beaches or beach parks. Developments designed or sized to serve a larger market than park users shall be prohibited in public beaches and parks.
- 2.22** Signs advertising off-site non-coastal related uses or services shall be prohibited in public beaches and beach parks. Replacement of signs on lifeguard towers authorized pursuant to a Coastal Commission CDP prior to adoption of the LCP shall be allowed.

- 2.23** No new structures or reconstruction shall be permitted on a bluff face, except for stairways or accessways to provide public access to the shoreline or beach or routine repair and maintenance or to replace a structure destroyed by natural disaster.



- 2.24** The extension of public transit facilities and services, including shuttle programs, to maximize public access and recreation opportunities shall be encouraged, where feasible.
- 2.25** New development shall provide off-street parking sufficient to serve the approved use in order to minimize impacts to public street parking available for coastal access and recreation.
- 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.
- 2.27** The implementation of restrictions on public parking, which would impede or restrict public access to beaches, trails or parklands, (including, but not limited to, the posting of “no parking” signs, red curbing, physical barriers, imposition of maximum parking time periods, and preferential parking programs) shall be prohibited except where such restrictions are needed to protect public safety and where no other feasible alternative exists to provide public safety. Where feasible, an equivalent number of public parking spaces shall be provided nearby as mitigation for impacts to coastal access and recreation.
- 2.28** Gates, guardhouses, barriers or other structures designed to regulate or restrict access shall not be permitted within private street easements where they have the potential to limit, deter, or prevent public access to the shoreline, inland trails, or parklands where there is substantial evidence that prescriptive rights exist.
- 2.29** Parking facilities for new development of general office or commercial use, which may cumulatively impact public access and recreation, shall be designed to serve not only the development during ordinary working hours, but also public beach parking during weekends and holidays, in conjunction with public transit or shuttle buses serving beach recreational areas.
- 2.30** A program to utilize existing parking facilities for office and commercial development located near beaches for public access parking during periods of normal beach use when such development is not open for business should be developed. As feasible, new non-visitor serving office or commercial development shall be required to provide public parking for beach access during weekends and holidays.
- 2.31** The City should complete an inventory of existing public parking along Pacific Coast Highway and public roads seaward of PCH to identify all unpermitted signage or physical barriers to public parking and to establish a database to aid in preventing future loss of legal public access and parking. All unpermitted signs and/or physical barriers which prevent public parking near the shoreline shall not be permitted.
- 2.32** Landscaping and any other barriers or obstructions placed by private landowners shall not be allowed within existing public road rights-of-way where such areas would otherwise be available for public parking.
- 2.33** Priority shall be given to the development of visitor-serving and commercial recreational facilities designed to enhance public opportunities for coastal recreation. On land designated for visitor-serving commercial and/or recreational facilities, priority shall be given to such use over private residential or

general commercial development. New visitor-serving uses shall not displace existing low-cost visitor-serving uses unless an equivalent replacement is provided.

- 2.34** Existing, lower cost visitor-serving and recreation facilities, including overnight accommodations, shall be protected to the maximum feasible extent. New lower cost visitor and recreation facilities, including overnight accommodations, shall be encouraged and provided, where designated on the LUP Map. Priority shall be given to developments that include public recreational opportunities. New or expanded facilities shall be sited and designed to minimize impacts to environmentally sensitive habitat areas and visual resources.
- 2.35** New development of luxury overnight visitor-serving accommodations shall be designed to provide for a component of lower cost overnight visitor accommodations (e.g. campground, RV park, hostel, or lower cost hotel/motel). The lower-cost visitor accommodations may be provided on-site, off-site, or through payment of an in-lieu fee into a fund to subsidize the construction of lower-cost overnight facilities in the Malibu-Santa Monica Mountains Coastal Zone area of Los Angeles County or Ventura County. The applicant shall be required to provide lower-cost overnight accommodations consisting of 15 percent of the number of luxury overnight accommodations that are approved.
- 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.
- 2.37** Priority shall be given to the development of visitor-serving commercial and/or recreational uses that complement public recreation areas or supply recreational opportunities not currently available in public parks or beaches. Visitor-serving commercial and/or recreational uses may be located near public park and recreation areas only if the scale and intensity of the visitor-serving commercial recreational uses is compatible with the character of the nearby parkland and all applicable provisions of the LCP.
- 2.38** To help finance the construction and maintenance of new accessways, the use of private or public grants or other local, State and Federal funding sources shall be utilized.
- 2.39** The City shall not close, abandon, or render unusable by the public any existing accessway which the City owns, operates, maintains, or is otherwise responsible for unless determined to be necessary for public safety without first obtaining a Coastal Development permit. Any accessway which the City or any other managing agency or organization determines cannot be maintained or operated in a condition suitable for public use shall be offered to another public agency or qualified private association that agrees to open and maintain the accessway for public use.
- 2.40** For any project where the LCP requires an offer to dedicate an easement for a trail or for public beach access, a grant of easement may be recorded instead of an offer to dedicate an easement, if a government agency or private association is willing to accept the grant of easement and is willing to operate and maintain the trail or public beach accessway.



- 2.41** For all offers to dedicate an easement that are required as conditions of Coastal Development Permits approved by the City, the City has the authority to approve a private association that seeks to accept the offer. Any government agency may accept an offer to dedicate an easement if the agency is willing to operate and maintain the easement. The City shall approve any private association that submits a management plan that indicates that the association will open, operate, and maintain the easement in accordance with terms of the recorded offer to dedicate the easement.

**1. Trails and Bikeways**

- 2.42** Safe and accessible bikeways and support facilities shall be provided, where feasible, through the development and adoption of a Bikeways Plan in the City's Coastal Zone.
- 2.43** Existing bikeway corridors along roads and highways should be upgraded, as feasible, to eliminate the present hazards between motor vehicles and bicycles, consistent with the sensitive environmental resource and visual resource protection policies. Improvements to any roadway containing a bikeway should not adversely affect the provision of bicycle use, to the extent feasible.
- 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.
- 2.45** An extensive public trail system has been developed across the Santa Monica Mountains that provides public coastal access and recreation opportunities. This system includes trails located within state and national parklands as well as those which cross private property in the City and County. The City's existing and proposed trails are shown on the LUP Park Lands Map. A safe trail system shall be provided throughout the mountains and along the shoreline that achieves the following:
- a. Connects parks and major recreational facilities;
  - b. Links with trail systems of adjacent jurisdictions;
  - c. Provides recreational corridors between the mountains and the coast;
  - d. Allows for flexible, site-specific design and routing to minimize impacts on adjacent development, and fragile habitats. In particular, ensure that trails located within or adjacent to Environmentally Sensitive Habitat Areas are designed to protect fish and wildlife resources;
  - e. Provides connections with populated areas;
  - f. Includes trails designed to accommodate multiple use (hiking, biking and equestrian) where multiple use can be provided safely for all users and where impacts to coastal resources are minimized;
  - g. Reserves certain trails for hiking only;

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- h. Facilitates linkages to community trail systems;
- i. Provides diverse recreational and aesthetic experiences;
- j. Prohibits public use of motorized vehicles on any trail;
- k. Provides public parking at trail head areas;
- l. Ensures that trails are used for their intended purpose and that trail use does not violate private property rights. (Resolution No. 07-04)

- 2.46** The appropriate agency or organization to accept and develop trail dedication offers resulting from City issued CDPs shall be determined through coordination, where applicable, with the National Park Service, the State Department of Parks and Recreation, the State Coastal Conservancy, Los Angeles County, the Santa Monica Mountains Coastal Conservancy, and the Santa Monica Mountains Trails Council, and nonprofit land trusts or associations.
- 2.47** A strategic plan for the acceptance, construction, and operation of existing recorded trail easement offers which have not been accepted by a public agency or private association should be developed to address said trail easement offers no later than two years from the date of LCP certification. The strategic plan shall be incorporated into the LCP as an amendment.
- 2.48** Development of public or private trail campsites along primary trail routes shall be a conditionally permitted use, where impacts to environmentally sensitive habitat areas and visual resources are minimized and where designed to meet fire safety standards.
- 2.49** A trail offer of dedication shall be required in new development where the property contains a LCP mapped trail alignment or where there is substantial evidence that prescriptive rights exist. An existing trail which has historically been used by the public may be relocated as long as the new trail alignment offers equivalent public use. Both new development and the trail alignment shall be sited and designed to provide maximum privacy for residents and maximum safety for trail users.
- 2.50** The opening of a trail easement that was dedicated for public use as a term or condition of a Coastal Development Permit shall occur only after a public agency or private association has accepted the offer of dedication and agreed to open, operate, and maintain the trail. New offers to dedicate public trail easements shall include an interim deed restriction that 1) states that the terms and conditions of the permit do not authorize any interference with prescriptive rights, in the area subject to the easement prior to acceptance of the offer and, 2) prohibits any development or obstruction in the easement area prior to acceptance of the offer.
- 2.51** A uniform signage program shall be developed and utilized to assist the public in locating and recognizing trail access points. In areas containing environmentally sensitive habitat or safety hazards, signs shall be posted in English and in Spanish with a description of the sensitive habitat or safety hazard once the trail is opened by a public agency or private association.

**2.52** Trail areas that have been degraded through overuse or lack of maintenance should be restored by such techniques as revegetation with native plants, and through the provision of support facilities such as parking, trash receptacles, restrooms, picnic areas etc. In environmentally sensitive habitat areas a limited recovery period during which public access should be controlled may be necessary. Any limitation on access shall be for the minimum period necessary, shall be evaluated periodically to determine the need for continued limited use and shall require a Coastal Development Permit.

**2.53** Efforts to obtain public and/or private funding for the purchase of parcels and/or easements to complete all gaps in the public trail system throughout the City and Santa Monica Mountains Coastal Zone should be encouraged.

## **2. California Coastal Trail**

**2.54** The City shall participate and consult with the National Park Service, the State Department of Parks & Recreation, the State Coastal Conservancy, the Santa Monica Mountains Conservancy, Los Angeles & Ventura Counties, and other appropriate public and private entities and interested parties in designing, locating, funding, acquiring, and implementing the Malibu/Santa Monica Mountains California Coastal Trail (CCT) segment.

**2.55** The California Coastal Trail shall be identified and defined as a continuous trail system traversing the length of the state's coastline and designed and sited as a continuous lateral trail traversing the length of the City's Coastal Zone and connecting with contiguous trail links in adjacent Coastal jurisdictions (Los Angeles and Ventura Counties).

**2.56** The CCT shall be designed and implemented to achieve the following objectives:

- a. Provide a continuous walking and hiking trail as close to the ocean as possible;
- b. Provide maximum access for a variety of non-motorized uses by utilizing alternative trail segments where feasible;
- c. Maximize connections to existing and proposed local trail systems;
- d. Ensure that all segments of the trail have vertical access connections at reasonable intervals;
- e. Maximize ocean views and scenic coastal vistas;
- f. Provide an educational experience where feasible through interpretive facilities. (Resolution No. 07-04)

**2.57** CCT Siting and Design Standards:

- a. The trail should be sited and designed to be located along or as close to the shoreline where physically and aesthetically feasible. Where it is not feasible to locate the trail along the shoreline due to natural landforms or legally authorized development that prevents passage at all

times, inland bypass trail segments located as close to the shoreline as possible should be utilized. Shoreline trail segments that may not be passable at all times should provide inland alternative routes.

- b. Where gaps are identified in the trail, interim segments should be identified to ensure a continuous coastal trail. Interim segments should be noted as such, with provisions that as opportunities arise, the trail shall be realigned for ideal siting. Interim trail segments should meet as many of the CCT objectives and standards as possible.
- c. The CCT should be designed and located to minimize impacts to environmentally sensitive habitat areas to the maximum extent feasible. Where appropriate, trail access should be limited to pass and repass. Where necessary to prevent disturbance of nesting birds, sections of the trail may be closed on a seasonal basis. Alternative trail segments shall be provided where feasible.
- d. The CCT should be located to incorporate existing oceanfront trails and paths and support facilities of public shoreline parks and beaches to the maximum extent feasible.
- e. To provide a continuously identifiable trail along the base and shoreline of the Santa Monica Mountains, the trail should be integrated with the CCT in Ventura and Los Angeles Counties which border the City.
- f. The CCT should be designed to avoid being located on roads with motorized vehicle traffic where feasible. In locations where it is not possible to avoid siting the trail along a roadway, the trail should be located off of the pavement and within the public right-of-way, and separated from traffic by a safe distance. In locations where the trail must cross a roadway, appropriate directional and traffic warning signing should be provided. (Resolution No. 07-04)

**2.58 CCT Acquisition and Management:**

- a. Trail easements should be obtained by encouraging private donation of land, by public purchase, or by dedication of trail easements. Trail easement dedications shall be required as a condition of approval of a Coastal Development Permit for development on property located on the CCT route, when the dedication will mitigate adverse impacts on public access and/or recreation by the project.
- b. The CCT plan should identify the appropriate management agency(s) to take responsibility for trail maintenance. (Resolution No. 07-04)

**2.59 CCT Signage Program Standards:**

- a. The trail should provide adequate signage at all access points, trailheads, parking lots, road crossings, and linkages or intersections with other trails or roads which incorporate the CCT logo (to be designed).

- b. The trail should provide adequate safety signage, including but not limited to, road crossing signs and yield/warning signs on multi-use trail segments. Where appropriate signs should be developed in coordination with Caltrans and/or City and County Public Works Departments and any other applicable public agencies.
- c. Signs shall be posted in Spanish and in English. (Resolution No. 07-04)

**2.60 CCT Support Facilities:**

To maximize access to the CCT, adequate parking and trailhead facilities should be provided. (Resolution No. 07-04)

**2.61 CCT Mapping:**

- a. The final CCT map shall identify all planned or secured segments, including existing segments, all access linkages and planned staging areas, public and private lands, existing easements, deed restricted sections and sections subject to an Offer-to-dedicate (OTD). The map shall be updated on a regular basis.
- b. The CCT shall be identified on all applicable City Trail Maps contained in the LCP Access Component. (Resolution No. 07-04)

**2.62 Inclusion of CCT in LCP:**

The LCP shall be amended to incorporate all plans and designs for locating and implementing the CCT within the City including the final mapped alignment. (Resolution No. 07-04)

**3. Shoreline Access**

**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.

**2.64** An Offer to Dedicate (OTD) an easement for lateral public access shall be required for all new ocean-fronting development causing or contributing to adverse public access impacts. Such easement shall extend from the mean high tide line landward to a point fixed at the most seaward extent of development i.e. intersection of sand with toe of revetment, vertical face of seawall, dripline of deck, or toe of bluff.

**2.65** On beachfront property containing dune ESHA the required easement for lateral public access shall be located along the entire width of the property from the ambulatory mean high tide line landward to the

ambulatory seawardmost limit of dune vegetation. If at some time in the future, there is no dune vegetation seaward of the approved deck/patio line, such easement shall be located from the ambulatory mean high tide line landward to the seaward extent of development.

- 2.66** An Offer to Dedicate (OTD) an easement for vertical access shall be required in all new development projects causing or contributing to adverse public access impacts when adequate access is not available within 500 feet of the development site. Vertical accessways shall be a minimum of 10 feet in width and should be sited along the border or side property line of the project site or away from existing or proposed development to the maximum feasible extent. Where there is substantial evidence that prescriptive rights of access to the beach exist on a parcel, development on that parcel must be designed, or conditions must be imposed, to avoid interference with the prescriptive rights that may exist.
- 2.67** Facilities to complement public access to and along the shoreline should be provided where feasible and appropriate. This may include parking areas, restroom facilities, picnic tables, or other such improvements. No facilities or amenities, including, but not limited to, those referenced above, shall be required as a prerequisite to the approval of any lateral or vertical accessways OTDs or as a precondition to the approval or construction of said accessways.
- 2.68** New development located on the seaward side of Pacific Coast Highway and east of Malibu Creek shall be required to construct a public sidewalk with a minimum width of five feet between the approved development and Pacific Coast Highway, where feasible.
- 2.69** Dedicated accessways shall not be required to be opened to public use until a public agency or private association agrees to accept the responsibility for maintenance and operation of the accessway. New offers to dedicate public access shall include an interim deed restriction that 1) states that the terms and conditions of the permit do not authorize any interference with prescriptive rights in the areas subject to the easement prior to acceptance of the offer and 2) prohibits any development or obstruction in the accessway prior to acceptance of the offer of dedication.
- 2.70** Offers to dedicate public access shall be accepted for the express purpose of opening, operating, and maintaining the accessway for public use. Unless there are unusual circumstances, the accessway shall be opened within 5 years of acceptance. If the accessway is not opened within this period, and if another public agency or qualified private association expressly requests ownership of the easement in order to open it to the public, the easement holder shall transfer the easement to that entity within 6 months of the written request. A Coastal Development Permit that includes an offer to dedicate public access as a term or condition shall require the recorded offer to dedicate to include the requirement that the easement holder shall transfer the easement to another public agency or private association that requests such transfer, if the easement holder has not opened the accessway to the public within 5 years of accepting the offer.
- 2.71** Public agencies and private associations which may be appropriate to accept offers of dedication include, but shall not be limited to, the State Coastal Conservancy, the Department of Parks and Recreation, the State Lands Commission, the County, the City, the Santa Monica Mountains Conservancy and non-governmental organizations.

- 2.72** A uniform signage program shall be developed and utilized to assist the public in locating and recognizing shoreline access points. In environmentally sensitive habitat areas signs may be posted with a description of the sensitive habitat. Signs shall be posted in English and Spanish.
- 2.73** Maximum public access shall be provided in a manner which minimizes conflicts with adjacent uses.
- 2.74** Where a proposed project would increase the burdens on access to or along the shoreline, additional access may be required to balance or mitigate the impact resulting from construction of the project.
- 2.75** Accessways or areas adjacent to accessways that have been severely degraded as the result of intense and/or unrestricted use should be restored by such techniques as revegetation with native plants, trail consolidation and improvement and through the provision of support facilities such as parking, defined trail and/or beach walk stairway systems, raised wooden boardwalks, trash receptacles, restrooms, picnic areas. In severely degraded areas controlled and limited public access may be allowed during the recovery period subject to a coastal development permit and consultation with appropriate public agencies and/or resource specialists. Any limitation of public use shall be evaluated periodically to determine the need for continued limited use and the limitation shall be removed at the termination of the recovery period.
- 2.76** Proposals to open and provide increased public access to El Sol and Dan Blocker Beaches, where feasible, shall be supported and coordinated with the Los Angeles County Department of Beaches and Harbors.
- 2.77** Acquisition of parcels owned by Caltrans, which may be appropriate for public recreational use, should be supported.
- 2.78** RESERVE. (Resolution No. 15-63)
- 2.79** The City should continue to support and coordinate with the California Department of Parks and Recreation in improving access to Point Dume State Preserve by ensuring that adequate public parking is provided consistent with the terms of the settlement agreement between the City, State Department of Parks and Recreation and the Coastal Commission. Where applicable, the City should support and coordinate with the Department of Parks and Recreation in designing and constructing trails consistent with ongoing efforts to restore, enhance and protect sensitive resources.
- 2.80** In consultation and coordination with the State Lands Commission, all unauthorized or illegal development, including signs, which encroach onto State tidelands should be identified and removed. In particular, and in coordination with the State Lands Commission, existing signs at Broad Beach which purport to identify the boundary between State tidelands and private property that are determined to be unpermitted development should be removed.
- 2.81** No signs shall be posted on a beachfront property or on public beach unless authorized by a coastal development permit. Signs which purport to identify the boundary between State tidelands and private property or which indicate that public access to State tidelands or public lateral access easement areas is restricted shall not be permitted.

**2.82** Efforts to develop and publish a regional access guide to Malibu area beaches and trails should be encouraged and supported.

**2.83** Efforts to ensure that all existing shoreline and inland trail OTD easements are accepted prior to their expiration date shall be coordinated with other public agencies as appropriate.

#### **4. Beach and Blufftop Accessway Standards**

**2.84** The frequency of public access locations shall vary according to localized beach settings and conditions as set forth below. Vertical access standards and related dedication requirements may range from none in areas of major public beach holdings to one accessway per 1,000 feet of shoreline unless otherwise specified in Policy 2.86. This requirement shall not preclude the provision or requirement of vertical accessways at less than 1,000 feet separation if a public agency or private landowner offers to dedicate such access or if a project related impact warrants such access (offer-to-dedicate) as a condition of approval.

**2.85** Improvements and/or opening of accessways already in public ownership or accepted pursuant to a Coastal Permit shall be permitted regardless of the distance from the nearest available vertical accessway.

#### **5. Specific Vertical Accessway Standards**

**2.86** The following standards shall apply in carrying out the access policies of the LCP relative to requiring and locating vertical accessways to the shoreline. These standards shall not be used as limitations on any access requirements pursuant to the above policies.

a. **Nicholas Canyon**

No new dedications required — public beach.

b. **Encinal**

A minimum of two vertical accessway (OTDs) between Nicholas Canyon and El Pescadero for a separation of approximately one accessway per 2500 feet. Development of an accessway at El Sol may satisfy one of the requirements. Additional offers of dedication should be located at least 600 feet west of El Sol.



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c. Lechuza

Public acquisition of or requirements for two vertical access (OTDs).

d. Trancas / Broad Beach

Public acquisition of and/or requirements for vertical access every 1,000 feet of shoreline.

e. Zuma

No new dedications required — public beach.

f. Point Dume State Beach / Westward Beach

No new dedications required — public beach.

g. Dume Cove / Point Dume State Reserve

1. Vertical access to the beach from the blufftop headlands parking lot.
2. Vertical access to and lateral access along the blufftop at the Point Dume headlands for coastal view purposes and passive recreation, with a minimum of two established viewpoints at least 500 feet apart.
3. The provision and protection of public parking pursuant to the terms of the settlement agreement between the City, the State Department of Parks and Recreation and the Coastal Commission shall be required.

h. Paradise Cove

Requirement for or public acquisition of vertical access every 1,000 feet of shoreline (with no fewer than two).

i. Escondido Beach — Malibu Cove Colony

1. Requirement for or public acquisition of vertical access every 1,000 feet of shoreline (with at least two additional accessways to those existing at Escondido Creek and Seacliff).
2. Maintain and operate 2 existing vertical accessways.
3. Improve and open 3 existing vertical access easements.

j. Latigo Beach

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1. Requirement for or public acquisition of vertical access dedication on property seaward of and fronting Latigo Shore Drive to meet standard of one accessway every 1,000 feet.
2. Requirement for or acquisition of public viewpoint on the blufftop at Pacific Coast Highway (PCH) or public street seaward of PCH.
3. Improve and open existing vertical accessway and OTD.

k. Dan Blocker Beach

Improvement of existing vertical accessway, public parking and restroom facilities on portion of shoreline owned by Los Angeles County.

l. Malibu Beach Road (Amarillo and Puerco Beach)

1. Requirement for or public acquisition of vertical access every 1,000 feet of shoreline.
2. Improve and open existing 100 foot wide vertical access OTD for public use in accordance with the site plan approved by the California Coastal Conservancy on August 8, 2002.
3. Maintain and operate existing accessway (5 are open).
4. Enhance trail connections to Malibu Bluffs State Park.

m. Malibu Beach

Public vertical access dedications or public acquisition to meet the minimum standard of one accessway per 1,000 feet of shoreline from properties located seaward of and fronting on Malibu Road.

n. Malibu Lagoon State Beach / Surfrider Beach

No dedications required — public beach.

o. Carbon Beach

1. Requirement for or public acquisition of vertical access every 1,000 feet of shoreline.
2. Improve and open 2 existing vertical access OTDs and 4 existing vertical access deed restrictions.
3. Maintain and operate existing “Zonker Harris” vertical accessway.

p. La Costa / Las Flores Beaches

1. Requirement for or public acquisition of vertical access every 1,000 feet of shoreline.

2. Improve and open vertical access easement at Las Flores Creek.
3. Improve and open parcel at 21704 PCH at western end.
- q. Big Rock Beach
  1. Dedication of one vertical accessway every 1,000 feet of shoreline.
  2. Maintain and operate 2 existing accessways.
- r. Las Tunas Beach
  1. Dedication of one vertical accessway every 1,000 feet of shoreline.
  2. Improve and open existing vertical access OTD and Deed Restriction. (Resolution No. 07-04)
- 6. Recreational Boating**
  - 2.87** Vessel operations near the shoreline, including launching and landing at beaches, shall be done in a safe and responsible manner.
  - 2.88** Boat storage facilities which do not restrict coastal access and which do not impair coastal resources may be permitted in the vicinity of existing launch facilities.
  - 2.89** Other than the State of California or its grantee acting pursuant to the public trust doctrine, no new development shall obstruct the public's right of use of tidelands pursuant to the public trust doctrine or a public easement in navigable waters.
  - 2.90** The LUP Public Access Map shall be updated every five years to reflect current information regarding the location and status of vertical and lateral public accessways, as well as public beaches. Revisions to the map shall be treated as LCP amendments and shall be subject to the approval of the Coastal Commission. Since the LUP Public Access Map will only be updated periodically, it may not indicate the full extent of public access or public ownership information. (Resolution No. 19-33)



## **CHAPTER 3—MARINE AND LAND RESOURCES**

### **A. Introduction**

The Santa Monica Mountains region, including the City of Malibu, is a unique habitat area. On a global scale, the area is part of the Mediterranean Scrub biome. This biome type is found in only five areas worldwide: around the Mediterranean Sea, Chile, South Africa, Australia, and Southern California. All of these areas occur on the west coast of the respective continents where there are cold ocean currents offshore. The Mediterranean climate includes wet winters and dry summers with precipitation ranging from 15 to 40 inches per year. Temperatures are moderated by the maritime influence and fog associated with the cold ocean currents. Worldwide, this biome occupies a small area and a very small percentage of the historical extent remains undisturbed.

The Santa Monica Mountains are part of the Transverse Ranges, the only mountain range in California that is oriented in an east to west direction. The Transverse Ranges extend from the Santa Barbara Coast to the Mojave Desert, creating a natural barrier between Central and Southern California. There are several habitat types and individual plant species within the City that are considered sensitive. The Department of Fish and Game has identified habitats that are considered sensitive because of their scarcity and because they support a number of endangered, threatened, and rare plants, as well as sensitive bird and animal species. These vegetation communities found within the City include coastal sage scrub, walnut woodland, southern willow scrub, southern cottonwood-willow riparian forest, sycamore-alder woodland, oak riparian forest, salt marsh, and freshwater marsh. Within these habitat areas are several plant species that are considered endangered, threatened, rare, or of special concern under state or federal law or due to other compelling evidence of rarity, for example, by designation of the California Native Plant Society. Such plants include Santa Susana tarplant, Coulter's saltbush, Blochman's dudleya, Santa Monica Mountains dudleya, and Plummer's mariposa lily.

Large areas of contiguous habitat are particularly rare. For instance, approximately 85 percent of the historical extent of coastal sage scrub habitat has been lost across the State and the remaining areas are therefore much more fragmented and sensitive. Coastal wetlands have become increasingly rare. Malibu Lagoon is a valuable resource, supporting two endangered fish species, the Tidewater Goby and the Southern California Steelhead Trout as well as many other sensitive plant and animal species. It is estimated that less than 10 percent of riparian woodland habitats still exist in California. Riparian areas are recognized as a very complex habitat type, containing a highly diverse community of plants and animals. There are many riparian areas in the City, including those that are part of relatively intact watershed systems, and those that are surrounded by existing development. Even in developed areas, the riparian/stream corridors have been retained. The Santa Monica Mountains, including the City, still include large areas of intact habitat, an extraordinary fact given the dense urban development that surrounds the area.

#### **1. Coastal Act Provisions**

One of the chief objectives of the Coastal Act is the preservation, protection, and enhancement of coastal resources, including land and marine habitats, and water quality. The rarest and most ecologically important habitats are protected from development. The Coastal Act provides a definition of "environmentally sensitive area" as: "Any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments" (Section 30107.5).

Section 30240 requires the protection of environmentally sensitive habitat areas (ESHA) against any significant disruption of habitat values. No development, with the exception of uses dependent on the resources, is allowed within any ESHA. (However, Section 30240 must be applied in concert with other Coastal Act requirements, particularly Section 30010, which prohibits taking private property.) This policy further requires that development adjacent to ESHA is sited and designed to prevent impacts that would significantly degrade ESHA and to be compatible with the continuance of the habitat areas. Finally, development adjacent to parks and recreation areas must be sited and designed to prevent impacts.

In addition to protection as ESHA, streams and associated riparian habitat are also protected in order to maintain the biological productivity and quality of coastal waters. Section 30231 requires that natural vegetation buffer areas that protect riparian habitats be maintained, and that the alteration of natural streams be minimized. Section 30236 limits channelizations, dams, or other substantial alterations of rivers and streams to only three purposes: necessary water supply; protection of existing structures where there is no feasible alternative; or improvement of fish and wildlife habitat.

Marine resources are protected to sustain the biological productivity of coastal waters and to maintain healthy populations of all species of marine organisms. Section 30230 requires that marine resources be maintained, enhanced, and where feasible restored. Uses of the marine environment must provide for the biological productivity of coastal waters and that will maintain healthy populations of marine organisms. Section 30233 provides that the diking, filling, or dredging of open coastal waters, wetlands, or estuaries may only be permitted where there is no less environmentally damaging alternative and restricted to a limited number of allowable uses.

Finally, the Coastal Act requires that the biological productivity and quality of coastal waters be protected. Section 30231 requires the use of means, including managing waste water discharges, controlling runoff, protecting groundwater and surface water, encouraging waste water reclamation, and protecting streams, in order to maintain and enhance water quality.

## **2. Land Use Plan Provisions**

The LUP contains policies that protect the environmentally sensitive habitat areas of the City. The LUP Environmentally Sensitive Habitat Areas (ESHA) Map shows the areas that are designated ESHA. In undeveloped areas, entire canyon habitats have been designated, including riparian corridors, coastal sage scrub, chaparral, and woodlands. Within developed areas, riparian corridors are designated as ESHA. These areas are recognized as rare and functioning for wildlife, notwithstanding the disturbances resulting from adjacent residential development. Coastal dunes and bluff face areas are designated as ESHA. There are also valuable marine resource areas including kelp forests, intertidal areas, and near shore shallow fish habitats. The ESHA Map will be reviewed and updated periodically to reflect up to date information and necessary revisions shall be made as an amendment to the LUP.

The LUP policies establish that the presence of ESHA not already designated on the ESHA map shall be determined on the basis of site-specific study prior to the approval of any development. Such determinations shall be reviewed by the City's Environmental Review Board. Habitat area found to meet the definition of ESHA shall be accorded all protection provided for ESHA by the LUP. ESHA shall be protected against significant disruption of habitat values and only resource dependent uses may be permitted within ESHA. If the application of the ESHA policies would result in taking private property for public use, without the payment of just compensation,

then a use that is not resource dependent will be permitted in accordance with Policies 3.10 through 3.13. The LUP sets forth the process and parameters for approval of such a use.

The LUP policies establish the protection of areas adjacent to ESHA and adjacent to parklands through the provision of buffers. Natural vegetation buffer areas must be provided around ESHA or parkland that are of sufficient size to prevent impacts that would significantly degrade these areas. Development, including fuel modification, shall not be permitted within required buffer areas.

The LUP policies require that new development be sited and designed to minimize impacts to ESHA by minimizing grading, limiting the removal of natural vegetation, and prohibiting grading during the rainy season. Graded and other disturbed areas must be landscaped or revegetated with primarily native, drought resistant plants at the completion of grading. If new development removes or adversely impacts native vegetation, measures to restore disturbed or degraded habitat on the project site shall be included as mitigation, if feasible. Fencing must be limited, and in or adjacent to ESHA, must be sited and designed to allow wildlife to pass through. The LUP requires exterior lighting to be limited in intensity and shielded to minimize impacts on wildlife.

The LUP policies require that new development minimize the removal of natural vegetation. The policies acknowledge that vegetation is often required by the Fire Department to be removed, thinned or otherwise modified in order to minimize the risk of fire hazard. Fuel modification on the project site and brush clearance, if required, on adjacent sites reduces the fire risk for new or existing structures. The LUP, both in this chapter and the Hazards Chapter allows for required fuel modification to minimize the risk of fire. However, fuel modification removes watershed cover, and may remove or have impacts on ESHA. The LUP policies require that new development is sited and designed to minimize required fuel modification. Additionally, the policies require mitigation for impacts resulting from the removal, conversion, or modification of natural vegetation that cannot be avoided through the implementation of project alternatives. The mitigation to be provided includes one of three measures: habitat restoration, habitat conservation, or in-lieu fee for habitat conservation.

The LUP requires the protection of native trees, including oak, walnut, alder, toyon, and sycamore trees. Development must be sited and designed to avoid removal of trees and encroachment into the root zone of each tree. Where the removal of trees cannot be avoided by any feasible project alternative, replacement trees must be provided. Additionally, the policies require that if on-site mitigation is not feasible, then off-site mitigation must be provided either through the planting of replacement trees on a suitable site that is public parkland or otherwise restricted from development, or by providing an in-lieu fee. Any fees required through permits will be used to restore or create native tree habitat as mitigation.

The LUP policies establish parameters for the development of agricultural uses or confined animal facilities. The policies allow for the development of accessory structures for confined animals or corrals in conjunction with an existing or new residential project within the approved development area. Additionally, confined animal or corral facilities may be included within the required fuel modification area if they are not located on a steep slope, are constructed from non-flammable materials, and do not require additional grading other than minor grading for foundations or fuel modification. Within or adjacent to ESHA, crop, orchard, or vineyard uses may be permitted only in conjunction with an existing or new residential use and within the required irrigated fuel modification area for any approved structures.

The LUP provides protection for marine resources such as kelp forests, intertidal areas, and near shore shallow fish habitats. Although development proposed in tidelands or submerged lands would remain under the permit jurisdiction of the Coastal Commission, the LUP provides guidance regarding the protection of marine areas. The LUP ESHA Map also shows marine resource areas.

The LUP policies provide for the protection of wetlands. The biological productivity and the quality of wetlands shall be protected and where feasible restored. The policies set forth the limited instances in which the diking, filling or dredging of wetlands or open coastal waters could be allowed, where there is no feasible less environmentally damaging alternative and where all feasible mitigation measures have been provided. Lagoon breaching or water level modification shall not be permitted until and unless a management plan for the lagoon is developed and approved, except in the case a health or safety emergency. The LUP provides for the development of a lagoon management plan for Malibu Lagoon, which is located within Malibu Lagoon State Beach.

The LUP also provides for the protection of water quality. The policies require that new development protects, and where feasible, enhances and restores wetlands, streams, and groundwater recharge areas. The policies promote the elimination of pollutant discharge, including nonpoint source pollution, into the City's waters through new construction and development regulation, including site planning, environmental review and mitigation, and project and permit conditions of approval. Additionally, the policies require the implementation of Best Management Practices to limit water quality impacts from existing development, including septic system maintenance and City services. Finally, the policies require that the water quality objectives established in the California Water Quality Control Plan, Los Angeles Region (Basin Plan), and the policies established by the Los Angeles Regional Water Quality Control Board (RWQCB) in the Los Angeles County municipal stormwater permit and the Standard Urban Storm Water Mitigation Plan for Los Angeles County and the Cities in Los Angeles County (SUSMP) be incorporated into planning and implementation of new development. (Resolution No. 07-04)

## **B. Coastal Act Policies**

The Coastal Act definition set forth below is incorporated herein as a definition of the Land Use Plan.

### **Section 30107.5.**

"Environmentally sensitive area" means any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments.

The Coastal Act Policies set forth below are incorporated herein as policies of the Land Use Plan:

### **Section 30230.**

Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.



**Section 30231.**

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

**Section 30233.**

- (a) The diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted in accordance with other applicable provisions of this division, where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects, and shall be limited to the following:
  - (1) New or expanded port, energy, and coastal-dependent industrial facilities, including commercial fishing facilities.
  - (2) Maintaining existing, or restoring previously dredged, depths in existing navigational channels, turning basins, vessel berthing and mooring areas, and boat launching ramps.
  - (3) In wetland areas only, entrance channels for new or expanded boating facilities; and in a degraded wetland, identified by the Department of Fish and Game pursuant to subdivision (b) of Section 30411, for boating facilities if, in conjunction with such boating facilities, a substantial portion of the degraded wetland is restored and maintained as a biologically productive wetland. The size of the wetland area used for boating facilities, including berthing space, turning basins, necessary navigation channels, and any necessary support service facilities, shall not exceed 25 percent of the degraded wetland.
  - (4) In open coastal waters, other than wetlands, including streams, estuaries, and lakes, new or expanded boating facilities and the placement of structural pilings for public recreational piers that provide public access and recreational opportunities.
  - (5) Incidental public service purposes, including but not limited to, burying cables and pipes or inspection of piers and maintenance of existing intake and outfall lines.
  - (6) Mineral extraction, including sand for restoring beaches, except in environmentally sensitive areas.
  - (7) Restoration purposes.
  - (8) Nature study, aquaculture, or similar resource dependent activities.

- (b) Dredging and spoils disposal shall be planned and carried out to avoid significant disruption to marine and wildlife habitats and water circulation. Dredge spoils suitable for beach replenishment should be transported for such purposes to appropriate beaches or into suitable long shore current systems.
- (c) In addition to the other provisions of this section, diking, filling, or dredging in existing estuaries and wetlands shall maintain or enhance the functional capacity of the wetland or estuary. Any alteration of coastal wetlands identified by the Department of Fish and Game, including, but not limited to, the 19 coastal wetlands identified in its report entitled, "Acquisition Priorities for the Coastal Wetlands of California", shall be limited to very minor incidental public facilities, restorative measures, nature study, commercial fishing facilities in Bodega Bay, and development in already developed parts of south San Diego Bay, if otherwise in accordance with this division.

For the purposes of this section, "commercial fishing facilities in Bodega Bay" means that not less than 80 percent of all boating facilities proposed to be developed or improved, where such improvement would create additional berths in Bodega Bay, shall be designed and used for commercial fishing activities.

- (d) Erosion control and flood control facilities constructed on water courses can impede the movement of sediment and nutrients which would otherwise be carried by storm runoff into coastal waters. To facilitate the continued delivery of these sediments to the littoral zone, whenever feasible, the material removed from these facilities may be placed at appropriate points on the shoreline in accordance with other applicable provisions of this division, where feasible mitigation measures have been provided to minimize adverse environmental effects. Aspects that shall be considered before issuing a coastal development permit for such purposes are the method of placement, time of year of placement, and sensitivity of the placement area.

#### **Section 30236.**

Channelizations, dams, or other substantial alterations of rivers and streams shall incorporate the best mitigation measures feasible, and be limited to (1) necessary water supply projects, (2) flood control projects where no other method for protecting existing structures in the floodplain is feasible and where such protection is necessary for public safety or to protect existing development, or (3) developments where the primary function is the improvement of fish and wildlife habitat.

#### **Section 30240.**

- (a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.
- (b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

**Section 30241.**

The maximum amount of prime agricultural land shall be maintained in agricultural production to assure the protection of the areas agricultural economy, and conflicts shall be minimized between agricultural and urban land uses through all of the following:

- (a) By establishing stable boundaries separating urban and rural areas, including, where necessary, clearly defined buffer areas to minimize conflicts between agricultural and urban land uses.
- (b) By limiting conversions of agricultural lands around the periphery of urban areas to the lands where the viability of existing agricultural use is already severely limited by conflicts with urban uses or where the conversion of the lands would complete a logical and viable neighborhood and contribute to the establishment of a stable limit to urban development.
- (c) By permitting the conversion of agricultural land surrounded by urban uses where the conversion of the land would be consistent with Section 30250.
- (d) By developing available lands not suited for agriculture prior to the conversion of agricultural lands.
- (e) By assuring that public service and facility expansions and nonagricultural development do not impair agricultural viability, either through increased assessment costs or degraded air and water quality.
- (f) By assuring that all divisions of prime agricultural lands, except those conversions approved pursuant to subdivision (b), and all development adjacent to prime agricultural lands shall not diminish the productivity of such prime agricultural lands.

**Section 30241.5**

- (a) If the viability of existing agricultural uses is an issue pursuant to subdivision (b) of Section 30241 as to any local coastal program or amendment to any certified local coastal program submitted for review and approval under this division, the determination of “viability” shall include, but not be limited to, consideration of an economic feasibility evaluation containing at least both of the following elements:
  - (1) An analysis of the gross revenue from the agricultural products grown in the area for the five years immediately preceding the date of the filing of a proposed local coastal program or an amendment to any local coastal program.
  - (2) An analysis of the operational expenses, excluding the cost of land, associated with the production of the agricultural products grown in the area for the five years immediately preceding the date of the filing of a proposed local coastal program or an amendment to any local coastal program.

For purposes of this subdivision, “area” means a geographic area of sufficient size to provide an accurate evaluation of the economic feasibility of agricultural uses for those lands included in the local coastal program or in the proposed amendment to a certified local coastal program.

- (b) The economic feasibility evaluation required by subdivision (a) shall be submitted to the commission, by the local government, as part of its submittal of a local coastal program or an amendment to any local coastal program. If the local government determines that it does not have the staff with the necessary expertise to conduct the economic feasibility evaluation, the evaluation may be conducted under agreement with the local government by a consultant selected jointly by local government and the executive director of the commission.

#### **Section 30242.**

All other lands suitable for agricultural use shall not be converted to nonagricultural uses unless (1) continued or renewed agricultural use is not feasible, or (2) such conversion would preserve prime agricultural land or concentrate development consistent with Section 30250. Any such permitted conversion shall be compatible with continued agricultural use on surrounding lands.

### **C. Land Use Plan Policies**

#### **1. Land Resources**

##### **a. ESHA Designation**

- 3.1** Areas in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments are Environmentally Sensitive Habitat Areas (ESHAs) and are generally shown on the LUP ESHA Map. The ESHAs in the City of Malibu are riparian areas, streams, native woodlands, native grasslands/savannas, chaparral, coastal sage scrub, dunes, bluffs, and wetlands, unless there is site-specific evidence that establishes that a habitat area is not especially valuable because of its special nature or role in the ecosystem. Regardless of whether streams and wetlands are designated as ESHA, the policies and standards in the LCP applicable to streams and wetlands shall apply. Existing, legally established agricultural uses, confined animal facilities, and fuel modification areas required by the Los Angeles County Fire Department for existing, legal structures do not meet the definition of ESHA.
- 3.2** If a Natural Community Conservation Plan (NCCP) is prepared in the future for the Santa Monica Mountains area that includes lands within the City of Malibu, it shall be submitted to the Coastal Commission for certification as an amendment to the LCP. Coastal Commission staff will actively participate in the development of any proposed NCCP to ensure that the plan can be recommended to the Commission for approval. If a comprehensive NCCP is certified by the Commission as consistent with the Coastal Act through amendment to the City of Malibu LCP, the amendment will include revised ESHA maps and criteria as appropriate, which designate areas of ESHA where development can be allowed and areas that will continue to be protected and will be managed in perpetuity for their ecological resource values. If the Coastal Commission certifies a NCCP as an amendment to the City of Malibu Lo-

cal Coastal Program, Malibu LCP ESHA maps and criteria will be consistent with the NCCP's reserve design.

- 3.3** All Areas of Special Biological Significance and Marine Protected Areas (as designated by the California Department of Fish and Game), shall be considered ESHA and shall be accorded all protection provided for ESHA in the LCP.
- 3.4** Any area not designated on the LUP ESHA Map that meets the ESHA criteria is ESHA and shall be accorded all the protection provided for ESHA in the LCP. The following areas shall be considered ESHA, unless there is compelling site-specific evidence to the contrary:
- a. Any habitat area that is rare or especially valuable from a local, regional, or statewide basis.
  - b. Areas that contribute to the viability of plant or animal species designated as rare, threatened, or endangered under State or Federal law.
  - c. Areas that contribute to the viability of species designated as Fully Protected or Species of Special Concern under State law or regulations.
  - d. Areas that contribute to the viability of plant species for which there is compelling evidence of rarity, for example, those designated 1b (Rare or endangered in California and elsewhere) or 2 (rare, threatened or endangered in California but more common elsewhere) by the California Native Plant Society. (Resolution No. 07-04)
- 3.5** The LUP ESHA Map shall be reviewed every five years in co-operation with the Environmental Review Board and the resources agencies within the Santa Monica Mountains and updated to reflect current information, including information on rare, threatened, or endangered species. Areas subject to habitat restoration projects shall also be considered for designation as ESHA. Revisions to the map depicting ESHA shall be treated as LCP amendments and shall be subject to the approval of the Coastal Commission.
- 3.6** Any area mapped as ESHA shall not be deprived of protection as ESHA, as required by the policies and provisions of the LCP, on the basis that habitat has been illegally removed, degraded, or species that are rare or especially valuable because of their nature or role in an ecosystem have been eliminated.
- 3.7** If a site-specific biological study, prepared pursuant to Policy 3.37 contains substantial evidence that an area previously mapped as ESHA does not contain habitat that meets the definition of ESHA for a reason other than those set forth in Policy 3.6, the City Biologist and the Environmental Review Board shall review all available site-specific information to determine if the area in question should no longer be considered ESHA and not subject to the ESHA protection policies of the LUP. If the area is determined to be adjacent to ESHA, Policies 3.23 to 3.31 shall apply. The ERB shall provide recommendations to the applicable decision-making body (Planning Manager, Planning Commission, or City Council) as to the ESHA status of the area in question. If the decision-making body finds that an area previously mapped as ESHA does not meet the definition of ESHA, a modification shall be made to the LUP ESHA Map, as part of a map update, consistent with Policy 3.5. If an area is not ESHA or

ESHA buffer, LCP policies and standards for protection of ESHA and ESHA buffer shall not apply and development may be allowed (consistent with other LCP requirements) even if the ESHA map has not been amended. (Resolution No. 07-04)

**b. ESHA Protection**

- 3.8** Environmentally Sensitive Habitat Areas (ESHAs) shall be protected against significant disruption of habitat values, and only uses dependent on such resources shall be allowed within such areas.
- 3.9** Public accessways and trails are considered resource dependent uses. Accessways and trails located within or adjacent to ESHA shall be sited to minimize impacts to ESHA to the maximum extent feasible. Measures, including but not limited to, signage, placement of boardwalks, and limited fencing shall be implemented as necessary to protect ESHA.
- 3.10** If the application of the policies and standards contained in this LCP regarding use of property designated as Environmentally Sensitive Habitat Area, including the restriction of ESHA to only resource-dependent use, would likely constitute a taking of private property, then a use that is not consistent with the Environmentally Sensitive Habitat Area provisions of the LCP shall be allowed on the property, provided such use is consistent with all other applicable policies and is the minimum amount of development necessary to avoid a taking.
- 3.11** Applications for development of a non-resource dependent use within ESHA or for development that is not consistent with all ESHA policies and standards of the LCP shall demonstrate the extent of ESHA on the property.
- 3.12** No development shall be allowed in wetlands unless it is authorized under Policy 3.89. For all ESHA other than wetlands, the allowable development area (including the building pad and all graded slopes, if any, as well any permitted structures) on parcels where all feasible building sites are ESHA or ESHA buffer shall be 10,000 square feet or 25 percent of the parcel size, whichever is less. If it is demonstrated that it is not feasible from an engineering standpoint to include all graded slopes within the approved development area, then graded slope areas may be excluded from the approved development area. For parcels over 40 acres in size, the maximum development area may be increased by 500 sq. ft. for each additional acre in parcel size to a maximum of 43,560-sq. ft. (1-acre) in size. The development must be sited to avoid destruction of riparian habitat to the maximum extent feasible. These development areas shall be reduced, or no development shall be allowed, if necessary to avoid a nuisance, as defined in California Civil Code Section 3479. Mitigation of adverse impacts to ESHA that cannot be avoided through the implementation of siting and design alternatives shall be required.
- 3.13** The allowable development area may be increased for projects that comprise two or more legal lots, if the existing lots are merged into one lot and one consolidated development area is provided with one access road or driveway. The allowable development area shall not exceed the total of the development areas allowed for each individual parcel in Policy 3.12.
- 3.14** New development shall be sited and designed to avoid impacts to ESHA. If there is no feasible alternative that can eliminate all impacts, then the alternative that would result in the fewest or least significant

impacts shall be selected. Impacts to ESHA that cannot be avoided through the implementation of siting and design alternatives shall be fully mitigated, with priority given to on-site mitigation. Off-site mitigation measures shall only be approved when it is not feasible to fully mitigate impacts on-site or where off-site mitigation is more protective in the context of a Natural Community Conservation Plan that is certified by the Commission as an amendment to the LCP. Mitigation shall not substitute for implementation of the project alternative that would avoid impacts to ESHA.

- 3.15** Mitigation measures for impacts to ESHA that cannot be avoided through the implementation of siting and design alternatives, including habitat restoration and/or enhancement shall be monitored for a period of no less than five years following completion. Specific mitigation objectives and performance standards shall be designed to measure the success of the restoration and/or enhancement. Mid-course corrections shall be implemented if necessary. Monitoring reports shall be provided to the City annually and at the conclusion of the five-year monitoring period that document the success or failure of the mitigation. If performance standards are not met by the end of five years, the monitoring period shall be extended until the standards are met. However, if after ten years, performance standards have still not been met, the applicant shall submit an amendment proposing alternative mitigation measures.
- 3.16** Dune ESHA shall be protected and, where feasible, enhanced. Vehicle traffic through dunes shall be prohibited. Where pedestrian access through dunes is permitted, well-defined footpaths or other means of directing use and minimizing adverse impacts shall be used. Nesting and roosting areas for sensitive birds such as Western snowy plovers and Least terns shall be protected by means, which may include, but are not limited to, fencing, signing, or seasonal access restrictions.
- 3.17** Access to beach areas by motorized vehicles, including off-road vehicles shall be prohibited, except for beach maintenance, emergency or lifeguard services. Emergency services shall not include routine patrolling by private security forces. Such vehicular uses shall avoid sensitive habitat areas to the maximum extent feasible.
- 3.18** The use of insecticides, herbicides, or any toxic chemical substance which has the potential to significantly degrade Environmentally Sensitive Habitat Areas, shall be prohibited within and adjacent to ESHAs, where application of such substances would impact the ESHA, except where necessary to protect or enhance the habitat itself, such as eradication of invasive plant species, or habitat restoration. Application of such chemical substances shall not take place during the winter season or when rain is predicted within a week of application.
- 3.19** The use of insecticides, herbicides, or other toxic substances by City employees and contractors in construction and maintenance of City facilities shall be minimized.
- 3.20** Mosquito abatement within or adjacent to ESHA shall be limited to the implementation of the minimum measures necessary to protect human health, and shall minimize adverse impacts to ESHA.
- 3.21** Wildfire burn areas shall be allowed to revegetate naturally, except where re-seeding is necessary to minimize risks to public health or safety. Where necessary, re-seeding shall utilize a mix of native plant seeds appropriate for the site and collected in a similar habitat within the same geographic region, where feasible. Wildfire burn area that were previously subject to fuel modification or brush clearance for ex-

isting structures, pursuant to the requirements of the Los Angeles County Fire Department, may be revegetated to pre-fire conditions.

- 3.22** Interpretive signage may be used in ESHA accessible to the public to provide information about the value and need to protect sensitive resources.

**c. Areas Adjacent to ESHA and Parks**

- 3.23** Development adjacent to ESHAs shall minimize impacts to habitat values or sensitive species to the maximum extent feasible. Native vegetation buffer areas shall be provided around ESHAs to serve as transitional habitat and provide distance and physical barriers to human intrusion. Buffers shall be of a sufficient size to ensure the biological integrity and preservation of the ESHA they are designed to protect. All buffers shall be a minimum of 100 feet in width, except for the case addressed in Policy 3.27.
- 3.24** New development adjacent to parklands, where the purpose of the park is to protect the natural environment and ESHA, shall be sited and designed to minimize impacts to habitat and recreational opportunities, to the maximum extent feasible. Natural vegetation buffer areas shall be provided around parklands. Buffers shall be of a sufficient size to prevent impacts to parkland resources, but in no case shall they be less than 100 feet in width.
- 3.25** New development, including, but not limited to, vegetation removal, vegetation thinning, or planting of non-native or invasive vegetation shall not be permitted in required ESHA or park buffer areas, except for that case addressed in Policy 3.27. Habitat restoration and invasive plant eradication may be permitted within required buffer areas if designed to protect and enhance habitat values.
- 3.26** Required buffer areas shall extend from the following points:
- a. The outer edge of the canopy of riparian vegetation for riparian ESHA.
  - b. The outer edge of the tree canopy for oak or other native woodland ESHA.
  - c. The top of bluff for coastal bluff ESHA. (Resolution No. 07-04)
- 3.27** Buffers shall be provided from coastal sage scrub and chaparral ESHA that are of sufficient width to ensure that no required fuel modification (Zones A, B, or C, if required) will extend into the ESHA and that no structures will be within 100 feet of the outer edge of the plants that comprise the habitat.
- 3.28** Variances or modifications to buffers or other ESHA protection standards shall not be granted, except where there is no other feasible alternative for siting the development and it does not exceed the limits on allowable development pursuant to Policies 3.10-3.13.
- 3.29** Modifications to required development standards that are not related to ESHA protection (street setbacks, height limits, etc.) shall be permitted where necessary to avoid or minimize impacts to ESHA.



- 3.30** Protection of ESHA and public access shall take priority over other development standards and where there is any conflict between general development standards and ESHA and/or public access protection, the standards that are most protective of ESHA and public access shall have precedence.
- 3.31** Permitted development located within or adjacent to ESHA and/or parklands that adversely impact those areas may include open space or conservation restrictions or easements over ESHA, ESHA buffer, or parkland buffer in order to protect resources.

**d. Stream Protection**

- 3.32** Channelizations or other substantial alterations of streams shall be prohibited except for: 1) necessary water supply projects where no feasible alternative exists; 2) flood protection for existing development where there is no other feasible alternative, or 3) the improvement of fish and wildlife habitat. Any channelization or stream alteration permitted for one of these three purposes shall minimize impacts to coastal resources, including the depletion of groundwater, and shall include maximum feasible mitigation measures to mitigate unavoidable impacts. Bioengineering alternatives shall be preferred for flood protection over “hard” solutions such as concrete or riprap channels.
- 3.33** Alteration of natural streams for the purpose of stream road crossings shall be prohibited, except where the alteration is not substantial, there is no other feasible alternative to provide access to public recreation areas or development on legal parcels, and the alteration does not restrict movement of fish or other aquatic wildlife. Any other stream crossings shall be accomplished by bridging. Bridge columns shall be located outside streambeds and banks. Wherever possible, shared bridges shall be used for providing access to multiple home sites. Culverts may be utilized for the crossing of minor drainages lacking beds and banks and riparian vegetation. If enlargement, replacement or improvements to the existing at grade crossing of Malibu Creek at Cross Creek Road are determined to be necessary, alternative designs, including, but not limited to, a caisson-supported bridge, that minimize impacts to ESHA shall be considered. In any case, any new improvement to this crossing shall minimize impacts to the movement of fish or other aquatic wildlife to the maximum extent feasible.
- 3.34** Bioengineering methods or “soft solutions” should be developed as an alternative to constructing rock revetments, vertical retaining walls or other “hard structures” along lower Malibu Creek. If bioengineering methods are demonstrated to be infeasible, then other alternatives may be considered. Any applications for protective measures along lower Malibu Creek shall demonstrate that existing development in the Civic Center is in danger from flood hazards, that the proposed protective device is the least environmentally damaging alternative, that it is sited and designed to avoid and minimize impacts to the habitat values of the riparian corridor along the creek and the recreational and public access use of State Park property along the creek, and that any unavoidable impacts have been mitigated to the maximum extent feasible.
- 3.35** Development in the Point Dume area shall be designed to avoid encroachment on slopes of 25 percent grade or steeper.

**e. Application Requirements**

- 3.36** New development shall include an inventory conducted by a qualified biologist of the plant and animal species present on the project site. If the initial inventory indicates the presence or potential for sensitive species or habitat on the project site, a detailed biological study shall be required.
- 3.37** New development within or adjacent to ESHA shall include a detailed biological study of the site.

**f. Environmental Review**

- 3.38** The Environmental Review Board (ERB) shall be comprised of qualified professionals with technical expertise in biological resources (marine/coastal, wetland/riparian protection and restoration, upland habitats and connectivity), geology (coastal protection devices, slope stability, onsite waste treatment), architecture or civil engineering (siting of structures in hillside areas), and landscape architecture (fuel modification, planting of wildland edges). In addition, ERB members shall be knowledgeable about the City of Malibu and the Santa Monica Mountains.
- 3.39** The ERB, in consultation with the City Biologist, shall review development within or adjacent to designated ESHA or other areas containing ESHA identified through a biological study as required pursuant to Policy 3.37. The ERB shall consider the individual and cumulative impacts of the development on ESHA, define the least environmentally damaging alternative, and recommend modifications or mitigation measures to avoid or minimize impacts. The City may impose a fee on applicants to recover the cost of review of a proposed project by the ERB when required by this policy.
- 3.40** The ERB shall make recommendations on all projects reviewed under Policy 3.38 to the applicable decision making body (Planning Manager, Planning Commission, or City Council). Any recommendation of approval shall include an identification of the preferred project alternative, required modifications, or mitigation measures necessary to ensure conformance with the LUP. The decision making body (Planning Manager, Planning Commission, or City Council) shall make findings relative to the project's conformance to the recommendations of the ERB. (Resolution No. 07-04)
- 3.41** The City shall coordinate with the California Department of Fish and Game, U. S. Fish and Wildlife Service, National Marine Fisheries Service, and other resource management agencies, as applicable, in the review of development applications in order to ensure that impacts to ESHA and marine resources, including rare, threatened, or endangered species, are avoided and minimized.

**g. New Development**

- 3.42** New development shall be sited and designed to minimize impacts to ESHA by:
- a. Minimizing grading and landform alteration, consistent with Policy 6.8.
  - b. Minimizing the removal of natural vegetation, both that required for the building pad and road, as well as the required fuel modification around structures.

- c. Limiting the maximum number of structures to one main residence, one second residential structure, and accessory structures such as, stable, corral, pasture, workshop, gym, studio, pool cabana, office, or tennis court, provided that such accessory structures are located within the approved development area and structures are clustered to minimize required fuel modification.
  - d. Minimizing the length of the access road or driveway, except where a longer roadway can be demonstrated to avoid or be more protective of resources.
  - e. Grading for access roads and driveways should be minimized; the standard for new on-site access roads shall be a maximum of 300 feet or one-third the parcel depth, whichever is less. Longer roads may be allowed on approval of the City Planning Commission, upon recommendation of the Environmental Review Board and the determination that adverse environmental impacts will not be incurred. Such approval shall constitute a conditional use to be processed consistent with the LIP provisions.
  - f. Prohibiting earthmoving operations during the rainy season, consistent with Policy 3.47.
  - g. Minimizing impacts to water quality, consistent with Policies 3.94—3.155. (Resolution No. 07-04)
- 3.43** New septic systems shall be sited and designed to ensure that impacts to ESHA are minimized, including those impacts from grading and site disturbance as well as the introduction of increased amounts of water. Adequate setbacks and/or buffers shall be required to protect ESHA and to prevent lateral seepage from the leachfield(s) or seepage pit(s) into stream waters or the ocean.
- 3.44** Land divisions, including certificates of compliance (except as provided under Policy 5.41), except for mergers and lot line adjustments for property which includes area within or adjacent to an ESHA or parklands shall only be permitted if each new parcel being created could be developed (including construction of any necessary access road), without building in ESHA or ESHA buffer, or removing ESHA for fuel modification.
- 3.45** All new development shall be sited and designed so as to minimize grading, alteration of physical features, and vegetation clearance in order to prevent soil erosion, stream siltation, reduced water percolation, increased runoff, and adverse impacts on plant and animal life and prevent net increases in baseline flows for any receiving waterbody.
- 3.46** Grading or earthmoving exceeding 50 cubic yards shall require a grading permit. Grading plans shall meet the requirements of the local implementation plan with respect to maximum quantities, maximum cuts and fills, remedial grading, grading for safety purposes, and maximum heights of cut or fill. Grading proposed in or adjacent to an ESHA shall be minimized to the maximum extent feasible.
- 3.47** Earthmoving during the rainy season (extending from November 1 to March 1) shall be prohibited for development that is 1) located within or adjacent to ESHA, or 2) that includes grading on slopes greater than 4:1. In such cases, approved grading shall not be undertaken unless there is sufficient time to complete grading operations before the rainy season. If grading operations are not completed before the

rainy season begins, grading shall be halted and temporary erosion control measures shall be put into place to minimize erosion until grading resumes after March 1, unless the City determines that completion of grading would be more protective of resources.

- 3.48** Where grading is permitted during the rainy season (extending from November 1 to March 1), erosion control measures such as sediment basins, silt fencing, sandbagging, installation of geofabrics, shall be implemented prior to and concurrent with grading operations. Such measures shall be maintained through final grading and until landscaping and permanent drainage is installed.
- 3.49** Grading during the rainy season may be permitted to remediate hazardous geologic conditions that endanger public health and safety.
- 3.50** Cut and fill slopes and other areas disturbed by construction activities (including areas disturbed by fuel modification or brush clearance) shall be landscaped or revegetated at the completion of grading. Landscape plans shall provide that:
- a. Plantings shall be native, drought-tolerant plant species, and blend with the existing natural vegetation and natural habitats on the site, except as noted below.
  - b. Invasive plant species that tend to supplant native species and natural habitats shall be prohibited.
  - c. Non-invasive ornamental plants and lawn may be permitted in combination with native, drought-tolerant species within the irrigated zone(s) required for fuel modification nearest approved residential structures.
  - d. Landscaping or revegetation shall provide 90 percent coverage within five years, or that percentage of ground cover demonstrated locally appropriate for a healthy stand of the particular native vegetation type chosen for restoration. Landscaping or revegetation that is located within any required fuel modification thinning zone (Zone C, if required by the Los Angeles County Fire Department) shall provide 60 percent coverage within five years.
  - e. Any landscaping, or revegetation shall be monitored for a period of at least five years following the completion of planting. Performance criteria shall be designed to measure the success of the plantings. Mid-course corrections shall be implemented if necessary. If performance standards are not met by the end of five years, the monitoring period shall be extended until the standards are met. (Resolution No. 07-04)
- 3.51** Disturbed areas ESHAs shall not be further degraded, and if feasible, restored. If new development removes or adversely impacts native vegetation, measures to restore any disturbed or degraded habitat on the property shall be included as mitigation.
- 3.52** Access for geologic testing (or percolation or well testing) shall use existing roads or track mounted drill rigs where feasible. Where there is no feasible access, a temporary access road may be permitted when it is designed to minimize length, width and total grading to that necessary to accommodate required

equipment. All such temporary roads shall be restored to the maximum extent feasible, through grading to original contours, revegetating with native plant species indigenous to the project site, and monitoring to ensure successful restoration.

- 3.53** Fencing or walls shall be prohibited within riparian, bluff, Point Dume canyon or dune ESHA, except where necessary for public safety or habitat protection or restoration. Fencing or walls that do not permit the free passage of wildlife shall be prohibited in any wildlife corridor.
- 3.54** Development permitted pursuant to Policy 3.10 within coastal sage scrub or chaparral ESHA may include fencing, if necessary for security, that is limited to the area around the clustered development area. Any such fencing shall be sited and designed to be wildlife permeable.
- 3.55** Fencing adjacent to ESHA shall be sited and designed to be wildlife permeable, enabling wildlife to pass through.
- 3.56** Exterior night lighting shall be minimized, restricted to low intensity fixtures, shielded, and directed away from ESHA in order to minimize impacts on wildlife. High intensity perimeter lighting and lighting for sports courts or other private recreational facilities in ESHA, ESHA buffer, or where night lighting would increase illumination in ESHA is prohibited.
- 3.57** New recreational facilities or structures on beaches shall be designed and located to minimize impacts to ESHA and marine resources.
- 3.58** To protect seabird-nesting areas, no pedestrian access shall be provided on bluff faces except along existing, formal trails or stairways. New structures shall be prohibited on bluff faces, except for stairs or accessways to provide public beach access.

#### **h. Fuel Modification**

- 3.59** All new development shall be sited and designed to minimize required fuel modification and brushing to the maximum extent feasible in order to minimize habitat disturbance or destruction, removal or modification of natural vegetation, and irrigation of natural areas, while providing for fire safety, as required by Policies 4.45 through 4.54. Development shall utilize fire resistant materials and incorporate alternative fuel modification measures, such as firewalls (except where this would have impacts on visual resources), and landscaping techniques, where feasible, to minimize the total area modified. All development shall be subject to applicable federal, state and county fire protection requirements.
- 3.60** As required by Policy 4.49, applications for new development shall include a fuel modification plan for the project site, approved by the County Fire Department. Additionally, applications shall include a site plan depicting the brush clearance, if any, that would be required on adjacent properties to provide fire safety for the proposed structures.
- 3.61** Applications for new development shall include a quantification of the acreage of natural vegetation that would be removed or made subject to thinning, irrigation, or other modification by the proposed project,

including building pad and road/driveway areas, as well as required fuel modification on the project site and brush clearance on adjacent properties.

- 3.62** All new development shall include mitigation for unavoidable impacts to ESHA from the removal, conversion, or modification of natural habitat for new development, including required fuel modification and brush clearance.

**i. Native Tree Protection**

- 3.63** New development shall be sited and designed to preserve oak, walnut, sycamore, alder, toyon, or other native trees that are not otherwise protected as ESHA. Removal of native trees shall be prohibited except where no other feasible alternative exists. Structures, including roads or driveways, shall be sited to prevent any encroachment into the root zone and to provide an adequate buffer outside of the root zone of individual native trees in order to allow for future growth.
- 3.64** New development on sites containing oak, walnut, sycamore, alder, toyon, or other native trees shall include a tree protection plan.
- 3.65** Where the removal of native trees cannot be avoided through the implementation of project alternatives or where development encroachments into the protected zone of native trees result in the loss or worsened health of the trees, mitigation measures shall include, at a minimum, the planting of replacement trees on-site, if suitable area exists on the project site, at a ratio of 10 replacement trees for every 1 tree removed. Where on-site mitigation is not feasible, off-site mitigation shall be provided through planting replacement trees or by providing an in-lieu fee, based on the type, size and age of the tree(s) removed.
- 3.66** A fund shall be established to receive the in-lieu fee payments required under Policy 3.65. This fund, administered by the Santa Monica Mountains Conservancy, shall be used for the restoration or creation of native tree woodland or savanna habitat areas within the Santa Monica Mountains Coastal Zone. Fees paid to mitigate impacts of development approved within the City may be used to restore habitat anywhere within this area. Priority shall be given to restoration or creation on properties containing areas designated ESHA, and to properties contiguous with existing parklands containing suitable native tree habitat.

**j. Agriculture and Confined Animal Facilities**

- 3.67** The conversion of vacant land in ESHA, ESHA buffer, or on slopes over 3:1 to new crop, orchard, vineyard, or other agricultural use shall not be permitted, except as provided in Policies 3.68 and 3.69. Existing, legally established agricultural uses shall be allowed to continue.
- 3.68** New agricultural uses shall be prohibited within or adjacent to ESHA, except that development permitted pursuant to Policy 3.10 within coastal sage scrub or chaparral ESHA may include limited crop, orchard or vineyard use within the irrigated fuel modification area (Zones A and/or B if required) for the approved structure(s) only if such use is not located on slopes greater than 3:1, does not result in any expansion to the required fuel modification area, and does not increase the possibility of in-stream siltation or pollution from herbicides or pesticides.

- 3.69** Crop, orchard, or vineyard uses may be permitted in areas that are not ESHA, ESHA buffer, or on slopes greater than 3:1.
- 3.70** New confined animal facilities for the keeping of horses or other ungulates for personal recreational use shall be prohibited within or adjacent to ESHA, except that development permitted pursuant to Policy 3.10 within coastal sage scrub or chaparral ESHA may include accessory confined animal structures such as stables, barns, or tack rooms, as well as corrals within the approved development area. Confined animal facilities or corrals may be included within the fuel modification area required by the Los Angeles County Fire Department (Zones A, B and/or C if required) for the structure(s) approved within the development area, only if such confined animal use is not located on slopes greater than 4:1, does not require additional grading other than minimal grading for foundations, is constructed of non-flammable materials, does not result in any expansion to the required fuel modification area, and does not increase the possibility of in-stream siltation or pollution from herbicides or pesticides.
- 3.71** Accessory structures used for confined animal facilities or corrals may be permitted in conjunction with an existing or new single family residence if such use is not located on a slope greater than 4:1, and does not result in any expansion to the required fuel modification area into ESHA or ESHA buffer.
- 3.72** The use of reclaimed water for any approved agricultural use is required where feasible.
- 3.73** Any approved agricultural or confined animal use shall include measures to minimize impacts to water quality, consistent with Policies 3.146 through 3.155.

## **2. Marine Resources**

### **a. Marine ESHA Protection**

- 3.74** As set forth in Policy 3.4, any marine area that meets the ESHA criteria, including Areas of Special Biological Significance and Marine Protected Areas (as designated by the California Department of Fish and Game) is ESHA, and shall be accorded all of the protections provided for ESHA in the LCP.

### **b. Marine Protection**

- 3.75** Marine ESHAs shall be protected against significant disruption of habitat values, and only uses dependent on such resources shall be allowed within such areas. Residential, commercial, or institutional uses shall not be considered resource dependent uses.
- 3.76** Permitted land uses or developments shall have no significant adverse impacts on marine and beach ESHA.
- 3.77** Development on beach or ocean bluff areas adjacent to marine and beach habitats shall be sited and designed to prevent impacts that could significantly degrade the Environmentally Sensitive Habitats Areas. All uses shall be compatible with the maintenance of the biological productivity of such areas.

- 3.78** New development shall prevent or reduce non-point source pollution in the near shore environment through implementation of the non-point source pollution and private sewage disposal system policies.
- 3.79** Grading and landform alteration shall be limited to minimize impacts from erosion and sedimentation on marine resources.
- 3.80** Marine mammal habitats, including haul-out areas shall not be altered or disturbed by development of recreational facilities or any other new land uses.
- 3.81** Efforts by the California Department of Fish and Game and Regional Water Quality Control Board to increase monitoring to assess the conditions of near shore species, water quality and kelp beds, and to rehabilitate or enhance areas that have been degraded by human activities shall be encouraged and allowed.
- 3.82** Near shore shallow fish habitats and shore fishing areas shall be preserved, and where appropriate and feasible, enhanced.

### **3. Wetlands**

#### **a. Wetland Designation**

- 3.83** Lands within the coastal zone which may be covered periodically or permanently with shallow water and include saltwater marshes, freshwater marshes, open or closed brackish water marshes, swamps, mudflats, and fens shall be designated as wetland. Identified wetlands include Malibu and Zuma Lagoons. Any unmapped areas that meet these criteria are wetlands and shall be accorded all of the protections provided for wetlands in the LCP.
- 3.84** Any wetland area mapped as ESHA or otherwise determined to have previously been wetlands shall not be deprived of protection, as required by the policies and provisions of the LCP, on the basis that habitat has been illegally removed, filled, degraded, or that species of concern have been illegally eliminated.
- 3.85** Where the required initial site inventory indicates the presence or potential for wetland species or indicators, the City shall require the submittal of a detailed biological study of the site, with the addition of a delineation of all wetland areas on the project site. Wetland delineations shall be based on the definitions contained in Section 13577(b) of Title 14 of the California Code of Regulations.
- 3.86** Wetland delineations will be conducted according to the definitions of wetland boundaries contained in section 13577(b) of the California Code of Regulation. A preponderance of hydric soils or a preponderance of wetland indicator species will be considered presumptive evidence of wetland conditions. The delineation report will include at a minimum a (1) a map at a scale of 1":200' or larger with polygons delineating all wetland areas, polygons delineating all areas of vegetation with a preponderance of wetland indicator species, and the location of sampling points, and (2) a description of the surface indicators used for delineating the wetland polygons. Paired sample points will be placed inside and outside of vegetation polygons and wetland polygons identified by the consultant doing the delineation.



- 3.87** The biological productivity and the quality of wetlands shall be protected and, where feasible, restored.
- 3.88** Buffer areas shall be provided around wetlands to serve as transitional habitat and provide distance and physical barriers to human intrusion. Buffers shall be of a sufficient size to ensure the biological integrity and preservation of the wetland they are designed to protect, but in no case shall they be less than 100 feet in width.

**b. New Development**

- 3.89** The diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes may be permitted in accordance with all policies of the LCP, where there is no feasible less environmentally damaging alternative and where feasible mitigation measures have been provided to minimize adverse environmental effects, and shall be limited to the following:
- a. Incidental public service purposes, including but not limited to, burying cables and pipes or inspection of piers and maintenance of existing intake and outfall lines.
  - b. Restoration purposes.
  - c. Nature study, aquaculture, or similar resource dependent activities.

Other uses specified in Section 30233 of the Coastal Act may only be allowed pursuant to an LCP amendment. (Resolution No. 07-04)

- 3.90** Where any dike or fill development is permitted in wetlands in accordance with the Coastal Act and any applicable LCP policies, mitigation measures shall include, at a minimum, creation or substantial restoration of wetlands of a similar type. Adverse impacts will be mitigated at a ratio of 3:1 for seasonal wetlands, freshwater marsh and riparian areas, and at a ratio of 4:1 for vernal pools and saltmarsh, unless the applicant provides evidence establishing, and the City finds, that creation or restoration of a lesser area of wetlands will fully mitigate the adverse impacts of the dike or fill project. However, in no event will the mitigation ratio be less than 2:1 unless, prior to the development impacts, the mitigation is completed and is empirically demonstrated to meet performance criteria that establish that the created or restored wetlands are functionally equivalent or superior to the impacted wetlands.
- 3.91** Applications for new development within or adjacent to wetlands shall include evidence of the preliminary approval of the California Department of Fish and Game, U.S. Army Corps of Engineers, U. S. Fish and Wildlife Service, and other resource management agencies, as applicable.

**c. Lagoon Protection**

- 3.92** Lagoon breaching or water level modification shall not be permitted until and unless a management plan for the lagoon in question is approved by the City and certified by the Coastal Commission as an amendment to the LCP, unless it can be demonstrated that there is a health or safety emergency, there is no feasible less environmentally damaging alternative, and all feasible mitigation measures will be implemented to minimize adverse environmental effects.

**3.93** A lagoon management plan should be developed for Malibu Lagoon, in consultation with all applicable resource management agencies. The plan shall address the following at a minimum:

- a. Biological study of the lagoon habitat, including identification of all rare, threatened, and endangered species.
- b. Lagoon hydrology.
- c. Water quality sampling study.
- d. Identification of the water levels appropriate and necessary for protection of the various species.
- e. Measures to protect endangered species.
- f. Water quality protection and enhancement measures.
- g. Identification of potential impacts from breaching or water level management, including reduction of certain kinds or areas of habitat.
- h. Identification of project alternatives to the proposed breaching or water level management designed to avoid and minimize impacts to sensitive resources.
- i. Mitigation measures necessary to offset unavoidable impacts from the proposed breaching or water level management.
- j. Monitoring plan to monitor the management area to evaluate the health of the wetland, assess adverse impacts resulting from breaching or water level management, and to identify project corrections. (Resolution No. 07-04)

#### **4. Water Quality**

##### **a. Watershed Planning**

**3.94** The City will support and participate in watershed based planning efforts with the County of Los Angeles and the Regional Water Quality Control Board. Watershed planning efforts shall be facilitated by helping to:

- a. Pursue funding to support the development of watershed plans;
- b. Identify priority watersheds where there are known water quality problems or where development pressures are greatest;
- c. Assess land uses in the priority areas that degrade coastal water quality;
- d. Ensure full public participation in the plan's development. (Resolution No. 07-04)

**b. Development**

- 3.95** New development shall be sited and designed to protect water quality and minimize impacts to coastal waters by incorporating measures designed to ensure the following:
- a. Protecting areas that provide important water quality benefits, areas necessary to maintain riparian and aquatic biota and/or that are susceptible to erosion and sediment loss.
  - b. Limiting increases of impervious surfaces.
  - c. Limiting land disturbance activities such as clearing and grading, and cut-and-fill to reduce erosion and sediment loss.
  - d. Limiting disturbance of natural drainage features and vegetation. (Resolution No. 07-04)
- 3.96** New development shall not result in the degradation of the water quality of groundwater basins or coastal surface waters including the ocean, coastal streams, or wetlands. Urban runoff pollutants shall not be discharged or deposited such that they adversely impact groundwater, the ocean, coastal streams, or wetlands, consistent with the requirements of the Los Angeles Regional Quality Control Board's municipal stormwater permit and the California Ocean Plan.
- 3.97** Development must be designed to minimize, to the maximum extent feasible, the introduction of pollutants of concern<sup>1</sup> that may result in significant impacts from site runoff from impervious areas. To meet the requirement to minimize "pollutants of concern," new development shall incorporate a Best Management Practice (BMP) or a combination of BMPs best suited to reduce pollutant loading to the maximum extent feasible.
- 3.98** A water quality checklist shall be developed and used in the permit review process to assess potential water quality impacts.
- 3.99** Post-development peak stormwater runoff discharge rates shall not exceed the estimated pre-development rate. Dry weather runoff from new development must not exceed the pre-development baseline flow rate to receiving waterbodies.
- 3.100** New development shall be sited and designed to minimize impacts to water quality from increased runoff volumes and nonpoint source pollution. All new development shall meet the requirements of the Los Angeles Regional Water Quality Control Board (RWQCB) in its the Standard Urban Storm Water Mitigation Plan For Los Angeles County And Cities In Los Angeles County (March 2000) (LA SUSMP) or subsequent versions of this plan.

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<sup>1</sup> Pollutants of concern are defined in the Standard Urban Storm Water Mitigation Plan For Los Angeles County And Cities In Los Angeles County as consisting "of any pollutants that exhibit one or more of the following characteristics: current loadings or historic deposits of the pollutant are impacting the beneficial uses of a receiving water, elevated levels of the pollutant are found in sediments of a receiving water and/or have the potential to bioaccumulate in organisms therein, or the detectable inputs of the pollutant are at a concentrations or loads considered potentially toxic to humans and/or flora or fauna."

- 3.101** If the State Water Resources Control Board (State Board) or the California Regional Water Control Board, Los Angeles Region (Regional Board) revise the California Water Quality Control Plan, Los Angeles Region (Basin Plan), the Water Quality Control Plan for Ocean Waters of California (California Ocean Plan), or other applicable regulatory requirements, the City of Malibu should consult with the State Board, Regional Board and the Coastal Commission to determine if an LCP amendment is appropriate.
- 3.102** Post-construction structural BMPs (or suites of BMPs) should be designed to treat, infiltrate, or filter the amount of stormwater runoff produced by all storms up to and including the 85th percentile, 24-hour storm event for volume-based BMPs and/or the 85th percentile, 1-hour storm event (with an appropriate safety factor, i.e. 2 or greater) for flow-based BMPs. This standard shall be consistent with the most recent Los Angeles Regional Water Quality Control Board municipal stormwater permit for the Malibu region or the most recent California Coastal Commission Plan for Controlling Polluted Runoff, whichever is more stringent.
- 3.103** Land divisions that would result in building pads, access roads, or driveways located on slopes over 30%, or result in grading on slopes over 30% shall be prohibited. All land divisions shall be designed such that the location of building pads and access roads minimizes erosion and sedimentation.
- 3.104** New roads, bridges, culverts, and outfalls shall not cause or contribute to streambank or hillside erosion or creek or wetland siltation and shall include BMPs to minimize impacts to water quality including construction phase erosion control and polluted runoff control plans, and soil stabilization practices. Where space is available, dispersal of sheet flow from roads into vegetated areas or other on-site infiltration practices shall be incorporated into road and bridge design.
- 3.105** Beachfront development shall incorporate BMPs designed to minimize or prevent polluted runoff to the beach and ocean waters.
- 3.106** Commercial development shall use BMPs to control the runoff of pollutants from structures, parking and loading areas.
- 3.107** Restaurants shall incorporate BMPs designed to minimize runoff of oil and grease, solvents, phosphates, and suspended solids to the storm drain system.
- 3.108** Gasoline stations, car washes and automotive repair facilities shall incorporate BMPs designed to minimize runoff of oil and grease, solvents, car battery acid, coolant and gasoline to stormwater system.
- 3.109** The City should develop and implement a program to detect and remove illicit connections and to stop illicit discharges.
- 3.110** New development shall include construction phase erosion control and polluted runoff control plans. These plans shall specify BMPs that will be implemented to minimize erosion and sedimentation, provide adequate sanitary and waste disposal facilities and prevent contamination of runoff by construction chemicals and materials.

- 3.111** New development shall include post-development phase drainage and polluted runoff control plans. These plans shall specify site design, source control and treatment control BMPs that will be implemented to minimize post-construction polluted runoff, and shall include the monitoring and maintenance plans for these BMPs.
- 3.112** Storm drain stenciling and signage shall be provided for new stormdrain construction in order to discourage dumping into drains. Signs shall be provided at creek public access points to similarly discourage creek dumping.
- 3.113** Outdoor material storage areas shall be designed using BMPs to prevent stormwater contamination from stored materials.
- 3.114** Trash storage areas shall be designed using BMPs to prevent stormwater contamination by loose trash and debris.
- 3.115** Permits for new development shall be conditioned to require ongoing maintenance where maintenance is necessary for effective operation of required BMPs. Verification of maintenance shall include the permittee's signed statement accepting responsibility for all structural and treatment control BMP maintenance until such time as the property is transferred and another party takes responsibility.
- 3.116** The City, property owners, or homeowners associations, as applicable, shall be required to maintain any drainage device to insure it functions as designed and intended. All structural BMPs shall be inspected, cleaned, and repaired when necessary prior to September 30th of each year. Owners of these devices will be responsible for insuring that they continue to function properly and additional inspections should occur after storms as needed throughout the rainy season. Repairs, modifications, or installation of additional BMPs, as needed, should be carried out prior to the next rainy season.
- 3.117** Public streets and parking lots shall be swept frequently to remove debris and contaminant residue. For private streets and parking lots, the property owner shall be responsible for frequent sweeping to remove debris and contaminant residue.
- 3.118** Some BMPs for reducing the impacts of non-point source pollution may not be appropriate for development on steep slopes, on sites with low permeability soil conditions, or areas where saturated soils can lead to geologic instability. New development in these areas should incorporate BMPs that do not increase the degree of geologic instability.
- 3.119** New development that requires a grading permit or Local SWPPP shall include landscaping and revegetation of graded or disturbed areas, consistent with Policy 3.50. Any landscaping that is required to control erosion shall use native or drought-tolerant non-invasive plants to minimize the need for fertilizer, pesticides, herbicides, and excessive irrigation. Where irrigation is necessary, efficient irrigation practices shall be required.
- 3.120** New development shall protect the absorption, purifying, and retentive functions of natural systems that exist on the site. Where feasible, drainage plans shall be designed to complement and utilize existing drainage patterns and systems, conveying drainage from the developed area of the site in a non-erosive

manner. Disturbed or degraded natural drainage systems shall be restored, where feasible, except where there are geologic or public safety concerns.

**c. Hydromodification**

- 3.121** Alterations or disturbance of streams or natural drainage courses or human-made or altered drainage courses that have replaced natural streams or drainages and serve the same function, shall be prohibited, except where consistent with Policy 3.32. Any permitted stream alterations shall include BMPs for hydromodification activities.
- 3.122** Natural vegetation buffer areas that protect riparian habitats shall be maintained. Buffers shall function as transitional habitat and provide a separation from developed areas to minimize adverse impacts. Buffers shall be of a sufficient size to ensure the biological integrity and preservation of the riparian habitat, but in no case shall the buffer be less than 100 feet, except for development permitted pursuant to Policy 3.10.
- 3.123** Any channelization or dam proposals shall be evaluated as part of a watershed planning process, evaluating potential benefits and/or adverse impacts. Potential adverse impacts of such projects include effects on wildlife migration, downstream erosion, dam maintenance (to remove silt and trash) and interruption of sand supplies to beaches.

**d. Wastewater and On-site Treatment Systems**

- 3.124** A Wastewater Management Plan should be developed within a timeframe to be determined by the City in consultation with the Environmental Review Board, Wastewater Advisory Committee, and other pertinent City committees, to address future wastewater issues.
- 3.125** Development involving onsite wastewater discharges shall be consistent with the rules and regulations of the L.A. Regional Water Quality Control Board, including Waste Discharge Requirements, revised waivers and other regulations that apply.
- 3.126** Wastewater discharges shall minimize adverse impacts to the biological productivity and quality of coastal streams, wetlands, estuaries, and the ocean. On-site treatment systems (OSTSs) shall be sited, designed, installed, operated, and maintained to avoid contributing nutrients and pathogens to groundwater and/or surface waters.
- 3.127** OSTs shall be sited away from areas that have poorly or excessively drained soils, shallow water tables or high seasonal water tables that are within floodplains or where effluent cannot be adequately treated before it reaches streams or the ocean.
- 3.128** New development shall be sited and designed to provide an area for a backup soil absorption field in the event of failure of the first field.
- 3.129** Soils should not be compacted in the soil absorption field areas during construction. No vehicles should be parked over the soil absorption field or driven over the inlet and outlet pipes to the septic tank.

- 3.130** Subsurface sewage effluent dispersal fields shall be designed, sited, installed, operated, and maintained in soils having acceptable absorption characteristics determined either by percolation testing, or by soils analysis, or by both. No subsurface sewage effluent disposal fields shall be allowed beneath nonporous paving or surface covering.
- 3.131** New development shall include the installation of low-flow plumbing fixtures, including but not limited to flow-restricted showers and ultra-low flush toilets, and should avoid the use of garbage disposals to minimize hydraulic and/or organic overloading of the OSTs.
- 3.132** New development may include a separate greywater dispersal system where approved by the Building Safety Department.
- 3.133** New development shall include protective setbacks from surface waters, wetlands and floodplains for conventional or alternative OSTs, as well as separation distances between OST system components, building components, property lines, and groundwater. Under no conditions shall the bottom of the effluent dispersal system be within five feet of groundwater.
- 3.134** The construction of private sewage treatment systems shall be permitted only in full compliance with the building and plumbing codes and the requirements of the LA RWQCB. A coastal development permit shall not be approved unless the private sewage treatment system for the project is sized and designed to serve the proposed development and will not result in adverse individual or cumulative impacts to water quality for the life of the project.
- 3.135** OSTs shall be designed, sited, installed, operated and maintained in compliance with the policies and provisions contained herein. At such time as the rules and regulations developed for OSTs by the State Water Resources Control Board pursuant to Assembly Bill 885 become effective, if they conflict with the requirements of the LCP, the City shall submit an LCP amendment seeking to modify the requirements of the LCP.
- 3.136** In areas with constraints on private sewage treatment and disposal, including, but not limited to, small lots, beachfront parcels, and geologic hazard areas, innovative and alternative methods of wastewater treatment and disposal are permitted. Such systems shall minimize impacts to water quality and coastal resources and be acceptable to the Environmental and Building Safety Department, and the Regional Water Quality Control Board.
- 3.137** The expansion of existing community sewer facilities (package wastewater treatment plants, dedicated sewer service systems, existing trunk lines, etc.) in existing developed areas shall be limited in capacity to the maximum level of development allowed by this LUP.
- 3.138** Applications for new development relying on an OST shall include a soils analysis and or percolation test report. Soils analysis shall be conducted by a California Registered Geotechnical Engineer or a California Registered Civil Engineer in the environmental/geotechnical field and the results expressed in United States Department of Agriculture classification terminology. Percolation tests shall be conducted by a California Registered Geologist, a California registered Geotechnical Engineer, a California Registered Civil Engineer, or a California Registered Environmental Health Specialist. The OST shall be de-

signed, sited, installed, operated, and maintained in full compliance with the building and plumbing codes and the requirements of the LA RWQCB.

- 3.139** Applications for land divisions relying on an OSTs shall include a soils analysis and/or percolation test report for each proposed lot, or for any lot(s) used for a community OSTs, where allowed. Soils analysis shall be conducted by a California Registered Geotechnical Engineer or a California Registered Civil Engineer in the environmental/geotechnical field and the results expressed in United States Department of Agriculture classification terminology. Percolation tests shall be conducted by a California Registered Geologist, a California Registered Civil Engineer, a California Registered Geotechnical Engineer or a California Registered Environmental Health Specialist. Applications for land divisions shall also include a report prepared by a California Registered Groundwater Hydrologist or a California Registered Civil Engineer in the environmental/geotechnical field that includes an analysis of depth to groundwater on each proposed lot or on any lot(s) used for a community OSTs, where allowed, that addresses seasonal and cyclical variations as well as the adequacy of percolation rates in post-grading conditions.
- 3.140** New septic systems shall be sited and designed to ensure that impacts to ESHA, including those impacts from grading and site disturbance and the introduction of increased amounts of groundwater, are minimized. Adequate setbacks and/or buffers shall be required to protect ESHA and other surface waters from lateral seepage from the sewage effluent dispersal systems.
- 3.141** Applications for a coastal development permit for OSTs installation and expansion, where groundwater, nearby surface drainages and slope stability are likely to be adversely impacted as a result of the projected effluent input to the subsurface, shall include a study prepared by a California Certified Engineering Geologist or Registered Geotechnical Engineer that analyzes the cumulative impact of the proposed OSTs on groundwater level, quality of nearby surface drainages, and slope stability. Where it is shown that the OSTs will negatively impact groundwater, nearby surface waters, or slope stability, the OSTs shall not be allowed.
- 3.142** The construction of new privately maintained package wastewater treatment plants shall not be allowed unless it can be demonstrated that a package treatment plant would have fewer adverse impacts to coastal resources, water quality or geologic stability than individual sewage disposal systems. No new discharges shall be permitted from privately-maintained package wastewater plants into streams, wetlands or areas of saturated groundwater.
- 3.143** The formation of On-site Wastewater Zones pursuant to Section 6950 et seq. of the California Health and Safety Code shall be considered in appropriate areas.
- 3.144** Cooperation and coordination with the Los Angeles Regional Water Quality Control Board to ensure septic system conformance with regional water quality standards shall be provided.
- 3.145** The City shall provide to the public information on the proper operation and maintenance of an OSTs. The City will establish an OSTs management program which includes, but is not limited to, OSTs inspections by a qualified professional.



**e. Agriculture and Confined Animal Facilities**

- 3.146** Agricultural and confined animal uses may be permitted only in conformance with Policies 3.67 through 3.73.
- 3.147** Agricultural development and confined animal facility development shall be consistent with the rules and regulations of the L.A. Regional Water Quality Control Board, including Waste Discharge Requirements, revised waivers and other regulations that apply.
- 3.148** When undertaking agricultural activities, BMPs to minimize erosion and prevent excessive sediment and pollutant impacts shall be implemented.
- 3.149** Animal waste, wastewater, and any other byproducts of agricultural activities shall be properly disposed of on land or through suitable sewage disposal systems, if available. The disposal of such wastes in or near streams or ESHA is prohibited.
- 3.150** Compost, fertilizer, and amended soil products shall be used in a way that minimizes impacts to water quality. The placement of such products in or near streams is prohibited.
- 3.151** The maximum number of animals permitted on a site shall be limited to that appropriate to the parcel size, slope, location of ESHA, and any other constraints.
- 3.152** Vegetated filter strips and other treatment measures shall be incorporated into animal facilities to intercept, infiltrate, and filter runoff.
- 3.153** Confined animal facilities shall be sited and designed to manage, contain, and dispose of animal waste using BMPs to insure that waste is not introduced to surface runoff or groundwater.
- 3.154** All stables and other animal keeping operations shall be managed to prevent discharge of sediment, nutrients, contaminants, and feces to surface and ground water. In no case shall an animal keeping operation be managed or maintained so as to produce sedimentation or polluted runoff on any public road, adjoining property, or in any drainage channel.
- 3.155** BMPs to protect sensitive areas (such as streams, wetlands, estuaries, ponds, lakes, shores, and riparian zones) shall be implemented to reduce physical disturbance and to reduce direct loading of animal waste and sediment caused by animals.



## **CHAPTER 4—HAZARDS & SHORELINE/BLUFF DEVELOPMENT**

### **A. Introduction**

The City of Malibu lies at the junction of the Santa Monica Mountains and the Pacific Ocean. Development within the City, including roads and other infrastructure is highly vulnerable to a variety of natural hazards including threats from landslides, wild fires, earthquakes, storm waves, and flooding. Bluffs, beaches, and steep hillsides are subject to natural erosional forces, often accelerated by the effects of fires, torrential rains, and winter storms. Fire is a serious potential threat several months of every year due to the typically long summer dry season characteristic of the Mediterranean climate and periodic “El Nino” winter storm seasons which cause considerable destruction or severe damage to beachfront homes, widespread erosion along the shoreline and bluffs, and landslides that destroy or damage homes, septic systems and roads, including Pacific Coast Highway. Occasionally, a severe fire season is followed by a winter of high rainfall, leading to extraordinary erosion and landslides on hillside property which had been denuded of vegetation by the fire. The dependence on septic systems for waste disposal throughout the City, with minor exceptions, creates additional hazards due to the effect of poorly maintained or located systems on steep slopes and beaches, the aforementioned erosional forces and a high water table in many areas.

The Malibu shoreline consists of a series of rocky headlands and narrow crescent shaped beaches, vulnerable to erosion and wave uprush. Unlike many other coastal communities in the State, a large portion of the beachfront property in Malibu was subdivided and developed prior to 1976, before the effective date of the Coastal Act. Most of this development occurred without the benefit of planning or mitigation to minimize impacts from wave hazards and to coastal resources. Largely as a result of the pre-existing pattern of development in Malibu, development along the shoreline continues to be permitted, placing more property at risk. To reduce the risk to private beachfront development, armoring of the shoreline has often occurred in the form of vertical seawall and rock revetments. Many of these structures have been placed on the beach as emergency actions during or immediately following winter storms, often without permits or adequate planning relative to placement, design, and impacts to adjacent properties and shoreline processes and public recreation. Loss of beach and, therefore, public access is too often the result of the construction of protective structures such as seawalls and revetments.

The cumulative loss of shoreline and public recreational resources from the encroachment of armoring on sandy beaches is an important coastal management issue. The City lies within the Santa Monica Littoral cell. The major sediment source has historically been the streams draining the Santa Monica Mountains. The sediment from much of the drainage area, however, has been trapped behind dams and catchment basins, never reaching the coast (USACOE). Another significant sediment source has been the incremental addition of eroded material from coastal bluffs. In addition to covering beach area that provides for recreation, however, shoreline armoring also can exacerbate erosion by fixing the back beach and eliminating the influx of sediment from coastal bluffs. The City has found that over 60 percent of the bluffs are blocked from the erosive forces of wave action by some form of development, including Pacific Coast Highway, vertical seawalls and revetments. Armoring also causes localized scour in front or at the end of the seawall or revetment. In addition, by allowing shoreline armoring in areas with existing development, the cycle of rebuilding storm damaged or destroyed development in the same hazardous areas is often perpetuated. From 1978 through 1996, the Coastal Commission and the County or City authorized protective devices along an estimated 2.8 miles of shoreline, covering an estimated 3.5 acres of sandy beach (ReCAP, 1999). The ReCAP report found that when added to the amount of shoreline armored prior to 1978, determined by Coastal Commission analysis of aerial photos, and the armoring which has taken place

without permits, a total of approximately 50 percent of the City's shoreline has been impacted by shoreline protective structures. The report concluded that unless future armoring is avoided, future buildout of shoreline lots could result in up to 5 miles of additional shoreline armoring with hard structures. Additional armoring is even more likely given the location of Pacific Coast Highway (PCH). PCH continues to be threatened by erosion, wave uprush and flooding wherever it is located adjacent to the ocean, and given its importance to regional access and transportation, it is possible it will be armored throughout most of its length in the City unless alternative means of protection are developed.

## **1. Coastal Act Provisions**

Under the Coastal Act, development is required to be sited and designed to minimize risks, assure stability and structural integrity, and neither create nor contribute significantly to erosion or require the construction of protective devices that would substantially alter the natural landforms along bluffs and cliffs (Section 30253). Section 30235 of the Coastal Act allows the construction of shoreline protective devices where existing development is threatened from erosion and when designed to eliminate or mitigate impacts on shoreline sand supply. The Coastal Act also provides that development damaged or destroyed by natural disasters can be rebuilt in the same location, exempt from a coastal development permit, under certain conditions. Certain emergency actions are also exempt from permit requirements.

## **2. Land Use Plan Provisions**

To ensure consistency with the Coastal Act, the policies contained below in the Land Use Plan are intended to facilitate development in a manner which minimizes impacts from hazards as well as impacts to coastal resources, including public access and recreation. These policies can be summarized as follows:

- Prohibiting new development that would require armoring, including new land divisions which create new lots within high wave hazard areas;
- Requiring that new development on a beach or oceanfront bluff be set back as far landward as possible and be sited outside areas subject to wave hazards or elevated above base flood elevation;
- Providing that applicants assume the risk of building in hazardous areas without assurance that future armoring will be allowed;
- Utilizing alternative waste treatment systems, where feasible, including relocation, to avoid the need for protective devices to protect them;
- Providing for the submittal of a comprehensive wave uprush study prepared by a qualified professional and documentation and maps of existing offers to dedicate (OTD) or existing dedicated easements in relation to all proposed development as an application filing requirement;
- Developing emergency permit procedures and follow-up actions and monitoring to ensure that the emergency response, whether temporary or permanent, is the least environmentally damaging alternative;
- Providing for the development of Shoreline Management Plans City wide or beach specific;
- Including measures to establish periodic nourishment of key beaches vulnerable to wave damage and erosion;
- Developing a strategy to address the issue of sea level rise, both in the short term via permitting actions and a long term response to address future development impacts along the shoreline;
- Siting and designing development to minimize risk from geologic and fire hazards;

- Developing a Hillside Management Program for siting and designing development and to minimize grading and vegetation clearance on steep slopes;
- Providing that development utilize adequate drainage and erosion control measures both during construction and as a long term feature;
- Requiring that new development be sited and designed to minimize the impacts of Fire Department required fuel modification and brush clearance on native habitat and neighboring property, particularly parkland.

## **B. Coastal Act Policies**

The Coastal Act Policies set forth below are incorporated herein as policies of the Land Use Plan:

### **Section 30235**

Revetments, breakwaters, groins, harbor channels, seawalls, cliff retaining walls, and other such construction that alters natural shoreline processes shall be permitted when required to serve coastal-dependent uses or to protect existing structures or public beaches in danger from erosion, and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply. Existing marine structures causing water stagnation contributing to pollution problems and fish kills should be phased out or upgraded where feasible.

### **Section 30253**

New development shall:

- (1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.
- (2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.
- (3) Be consistent with requirements imposed by an air pollution control district or the State Air Resources Control Board as to each particular development.
- (4) Minimize energy consumption and vehicle miles traveled.
- (5) Where appropriate, protect special communities and neighborhoods which, because of their unique characteristics, are popular visitor destination points for recreational uses.

## **C. Land Use Plan Policies**

- 4.1** The City of Malibu and the Santa Monica Mountains coastal zone contains areas subject to hazards that present substantial risks to life and property. These areas require additional development controls to minimize risks, and include, but shall not be limited to, the following:

## City of Malibu LCP Land Use Plan

- a. Low Slope Stability & Landslide/Rockfall Potential: hillside areas that have the potential to slide, fail, or collapse.
- b. Fault Rupture: the Malibu Coast-Santa Monica Fault Zone.
- c. Seismic Ground Shaking: shaking induced by seismic waves traveling through an area as a result of an earthquake on a regional geologic fault.
- d. Floodprone areas most likely to flood during major storms.
- e. Liquefaction: areas where water-saturated materials (including soil, sediment, and certain types of volcanic deposits) can potentially lose strength and fail during strong ground shaking.
- f. Liquefaction/Floodprone areas where saturated sediments lie in flood plains.
- g. Tsunami: shoreline areas subject to inundation by a sea wave generated by local or distant earthquake, submarine landslide, subsidence, or volcanic eruption.
- h. Wave Action: shoreline areas subject to damage from wave activity during storms.
- i. Fire Hazard: areas subject to major wildfires classified in Fire Zone 4 or in the Very High Fire Hazard Severity Zone. (Resolution No. 07-04)

### **1. General Development**

- 4.2** All new development shall be sized, designed and sited to minimize risks to life and property from geologic, flood, and fire hazard.
- 4.3** Information should be provided to the public concerning hazards and appropriate means of minimizing the harmful effects of natural disasters upon persons and property relative to siting, design and construction.
- 4.4** On ancient landslides, unstable slopes and other geologic hazard areas, new development shall only be permitted where an adequate factor of safety can be provided, consistent with the applicable provisions of Chapter 9 of the certified Local Implementation Plan.
- 4.5** Applications for new development, where applicable, shall include a geologic/soils/geotechnical study that identifies any geologic hazards affecting the proposed project site, any necessary mitigation measures, and contains a statement that the project site is suitable for the proposed development and that the development will be safe from geologic hazard. Such reports shall be signed by a licensed Certified Engineering Geologist (CEG) or Geotechnical Engineer (GE) and subject to review and approval by the City Geologist.
- 4.6** The remediation or stabilization of landslides that affect existing structures or that threaten public health or safety may be permitted. Alternative remediation or stabilization techniques shall be analyzed to de-

termine the least environmentally damaging alternative. Maximum feasible mitigation shall be incorporated into the project in order to minimize adverse impacts to resources.

- 4.7** Hillside Management Program requirements shall be applicable to proposed development on steep slopes.
- 4.8** Grading and/or development-related vegetation clearance shall be prohibited where the slope exceeds 40 percent (2.5:1), except that driveways and/or utilities may be located on such slopes, where there is no less environmentally damaging feasible alternative means of providing access to a building site, provided that the building site is determined to be the preferred alternative and consistent with all other policies of the LCP.
- 4.9** Buildings within floodprone areas subject to inundation or erosion shall be prohibited unless no alternative building site exists on the property and proper mitigation measures are provided to minimize or eliminate risks to life and property from flood hazard.
- 4.10** New development shall provide adequate drainage and erosion control facilities that convey site drainage in a non-erosive manner in order to minimize hazards resulting from increased runoff, erosion and other hydrologic impacts to streams.
- 4.11** New development involving a structure dependent on a wastewater disposal system shall utilize secondary treatment, at a minimum, and evapotranspiration waste disposal systems or other innovative measures, where feasible.
- 4.12** Land divisions, including lot line adjustments, shall be prohibited unless all proposed parcels can be demonstrated to be safe from flooding, erosion, and geologic hazards and will provide a safe, legal, all-weather access road(s), which can be constructed consistent with all policies of the LCP.
- 4.13** Land Divisions including lot line adjustments shall be prohibited unless all proposed parcels and access roads are found to comply with all applicable fire safety regulations and all required approvals are obtained.
- 4.14** New development shall be prohibited on property or in areas where such development would present an extraordinary risk to life and property due to an existing or demonstrated potential public health and safety hazard.
- 4.15** Existing, lawfully established structures, which do not conform to the provisions of the LCP, may be maintained and/or repaired provided that such repair and maintenance do not increase the extent of non-conformity of the structure. Except as provided below, additions and improvements to such structures may be permitted provided that such additions or improvements comply with the current standards and policies of the LCP and do not increase the extent of nonconformity of the structure. Substantial additions, demolition and reconstruction, that result in demolition and/or replacement of more than 50% of the exterior walls shall not be permitted unless such structures are brought into conformance with the policies and standards of the LCP.

## **2. Shoreline Development**

- 4.16** All applications for new development on a beach, beachfront or blufftop property shall include a wave uprush and impact report and analysis prepared by a licensed civil engineer with expertise in coastal engineering which addresses and demonstrates the effects of said development in relation to the following:
- a. The profile of the beach;
  - b. Surveyed locations of mean high tide lines acceptable to the State Lands Commission;
  - c. The availability of public access to the beach;
  - d. The area of the project site subject to design wave uprush;
  - e. Foundation design requirements;
  - f. The need for a shoreline protection structure over the life of the project;
  - g. Alternatives for protection of the septic system;
  - h. The long term effects of proposed development on sand supply;
  - i. Future projections in sea level rise; and
  - j. Project alternatives designed to avoid or minimize impacts to public access. (Resolution No. 07-04)
- 4.17** Applications for new beachfront or blufftop development, including but not limited to shoreline protective structures, shall include a site map that shows all easements, deed restrictions, or OTD's and/or other dedications for public access or open space and provides documentation for said easements or dedications. The approved development shall be located outside of and consistent with the provisions of such easement or offers.
- 4.18** City-wide or beach specific Shoreline Management Plans should be developed for shoreline areas subject to wave hazards and erosion which include:
- a. An examination of local and regional annual erosion rates in order to reflect current shoreline changes.
  - b. Standard engineering plans and analyses defining the specific types of armoring that would be acceptable or preferable for specific areas, and where appropriate, identification of the types of armoring that should not be considered for certain areas or beaches in order to minimize risks and impacts from armoring to public access and scenic resources along the shoreline and beach recreation areas.



- c. Standard alternatives feasibility analysis that would be a required element of all hazard response projects and that would require applicants to go through a series of steps to assure that hard protective devices were only used as a last resort. The analysis should require, but not be limited to, the use of technical evaluations of the site (geotechnical reports, engineering geology reports, wave uprush reports etc.), an examination of all other options (removal, relocation, sand replenishment, no action etc.), and a conclusion that a shoreline protective device would be the “best option” (most protective of the public trust, best long term solution etc.) for the subject site.
- d. Standard conditions and monitoring requirements that should include mechanisms to ensure shoreline protection effectiveness and public safety with provisions for the removal or ineffective or hazardous protective structures as well as programs to address beach replenishment and sand supply.
- e. Procedures to address emergency armoring, such as: coordination with property owners and for field inspections before and after storm seasons; guidance for types of temporary protective structures preferred and a provision for removal of temporary structures if no follow up permit is filed.
- f. Shoreline Management Plans developed pursuant to the above stated standards shall not be effective until they have been certified by the Coastal Commission as an amendment to the LCP. (Resolution No. 07-04)

### **3. Shoreline Erosion and Protective Structures**

- 4.19** A program should be developed in conjunction with state and federal agencies, to provide incentives to relocate development out of hazardous areas and to acquire oceanfront properties that have been damaged by storm activities, where relocation of development to a safer location on the site is not feasible and additional protection measures are not feasible.
- 4.20** Coordination should be pursued with the State Lands Commission, the State Department of Transportation (Caltrans), the Los Angeles County Beach Nourishment Task Force and the Los Angeles County Department of Beaches and Harbors to fund and establish a program for periodic sand nourishment of beaches which are vulnerable to wave damage and erosion. Beach nourishment programs should include measures to minimize adverse biological resource impacts from deposition of material, including measures such as timing or seasonal restrictions and identification of environmentally preferred locations for deposits. Any program for beach sand nourishment shall not be effective until certified as an amendment to the LCP by the Coastal Commission.
- 4.21** The placement of sediments removed from erosion control or flood control facilities at appropriate points along the shoreline may be permitted for the purpose of beach nourishment. Any beach nourishment program for sediment deposition shall be designed to minimize adverse impacts to beach, intertidal and offshore resources, shall incorporate appropriate mitigation measures, and shall consider the method, location and timing of placement. Sediment removed from catchment basins may be disposed of in the littoral system if it is tested and is found to be of suitable grain size and type. The program shall

identify and designate appropriate beaches or offshore feeder sites in the littoral system for placement of suitable materials from catchment basins.

- 4.22** Siting and design of new shoreline development and shoreline protective devices shall take into account anticipated future changes in sea level. In particular, an acceleration of the historic rate of sea level rise shall be considered. Development shall be set back a sufficient distance landward and elevated to a sufficient foundation height to eliminate or minimize to the maximum extent feasible hazards associated with anticipated sea level rise over the expected 100 year economic life of the structure.
- 4.23** New development on a beach or oceanfront bluff shall be sited outside areas subject to hazards (beach or bluff erosion, inundation, wave uprush) at any time during the full projected 100-year economic life of the development. If complete avoidance of hazard areas is not feasible, all new beach or oceanfront bluff development shall be elevated above the base Flood Elevation (as defined by FEMA) and setback as far landward as possible. All development shall be setback a minimum of 10 feet landward of the most landward surveyed mean high tide line. Whichever setback method is most restrictive shall apply. Development plans shall consider hazards currently affecting the property as well as hazards that can be anticipated over the life of the structure.
- 4.24** All proposed development on a beach or along the shoreline, including a shoreline protection structure, 1) must be reviewed and evaluated in writing by the State Lands Commission and 2) may not be permitted if the State Lands Commission determines that the proposed development is located on public tidelands or would adversely impact tidelands unless State Lands Commission approval is given in writing.
- 4.25** For beachfront development that will be subject to wave action periodically, unless the State Lands Commission determines that there is no evidence that the proposed development will encroach on tidelands or other public trust interests, the City shall reject the application on the ground that it is within the original permit jurisdiction of the Coastal Commission, and shall direct the applicant to file his or her application with the Coastal Commission.
- 4.26** Development on or near sandy beach or bluffs, including the construction of a shoreline protection device, shall include measures to insure that:
- a. No stockpiling of dirt or construction materials shall occur on the beach;
  - b. All grading shall be properly covered and sandbags and/or ditches shall be used to prevent runoff and siltation;
  - c. Measures to control erosion shall be implemented at the end of each day's work;
  - d. No machinery shall be allowed in the intertidal zone at any time to the extent feasible;
  - e. All construction debris shall be removed from the beach. (Resolution No. 07-04)
- 4.27** All new development located on a blufftop shall be setback from the bluff edge a sufficient distance to ensure that it will not be endangered by erosion for a projected 100 year economic life of the structure plus an added

geologic stability factor of 1.5. In no case shall the setback be less than 100 feet which may be reduced to 50 feet if recommended by the City geologist and the 100 year economic life with the geologic safety factor can be met. This requirement shall apply to the principle structure and accessory or ancillary structures such as guesthouses, pools, tennis courts, cabanas, and septic systems etc. Ancillary structures such as decks, patios and walkways that do not require structural foundations may extend into the setback area to a minimum distance of 15 feet from the bluff edge. Ancillary structures shall be removed or relocated landward when threatened by erosion. Slope stability analyses and erosion rate estimates shall be performed by a licensed Certified Engineering Geologist or Geotechnical Engineer.

- 4.28** In addition to the bluff edge setback requirements all swimming pools shall contain double wall construction with drains and leak detection systems.
- 4.29** No permanent structures shall be permitted on a bluff face, except for engineered stairways or accessways to provide public beach access. Such structures shall be constructed and designed to not contribute to further erosion of the bluff face and to be visually compatible with the surrounding area to the maximum extent feasible.
- 4.30** In existing developed areas where new beachfront development, excluding a shoreline protective device, is found to be infill (see definition) and is otherwise consistent with the policies of the LCP, a new residential structure shall not extend seaward of a stringline drawn between the nearest adjacent corners of the enclosed area of the nearest existing residential structures on either side of the subject lot. Similarly, a proposed new deck, patio, or other accessory structure shall not extend seaward of a stringline drawn between the nearest adjacent corners of the nearest deck, patio or accessory structure on either side. All infill development shall be setback a minimum of 10 feet landward from the most landward surveyed mean high tide line on the parcel. Whichever setback method is most restrictive shall apply. The stringline method shall apply only to infill development and where it will not result in development which would require a shoreline protection structure at any time during the life of the project.
- 4.31** “Infill Development” shall apply to a situation where construction of a single-family dwelling and/or a duplex in limited situations on a vacant lot or the demolition of an existing residential dwelling and construction of a new dwelling is proposed in an existing, geographically definable residential community which is largely developed or built out with similar structures. When applied to beach front development this situation consists of an existing linear community of beach fronting residences where the vast majority of lots are developed with residential dwellings and relatively few vacant lots exist. Infill development can occur only in instances where roads and other services are already existing and available within the developed community or stretch of beach. Infill development shall not apply to the construction of a shoreline protection device.
- 4.32** On any beach found to be appropriate, alternative “soft solutions” to the placement of shoreline protection structures shall be required for new development or to protect existing development such as dune restoration, sand nourishment, and design criteria emphasizing maximum landward setbacks and raised foundations.

- 4.33** All new beachfront and blufftop development shall be sized, sited and designed to minimize risk from wave run-up, flooding and beach and bluff erosion hazards without requiring a shoreline protection structure at any time during the life of the development.
- 4.34** Land divisions, including subdivisions, lot splits, lot line adjustments, and certificates of compliance which create new beachfront or blufftop lots, shall not be permitted unless the subdivision can be shown to create lots which can be developed without requiring a current or future bluff or shoreline protection structure. No new lots shall be created that could require shoreline protection or bluff stabilization structures at any time during the full 100 year life of the development.
- 4.35** All new beachfront development shall be required to utilize a foundation system adequate to protect the structure from wave and erosion hazard without necessitating the construction of a shoreline protection structure.
- 4.36** New development on or along the shoreline or a coastal bluff shall include, at a minimum, the use of secondary treatment waste disposal systems and shall site these new systems as far landward as possible in order to avoid the need for protective devices to the maximum extent feasible.
- 4.37** Shoreline and bluff protection structures shall not be permitted to protect new development, except when necessary to protect a new septic system and there is no feasible alternative that would allow residential development on the parcel. Septic systems shall be located as far landward as feasible. Shoreline and bluff protection structures may be permitted to protect existing structures that were legally constructed prior to the effective date of the Coastal Act, or that were permitted prior to certification of the LCP provided that the CDP did not contain a waiver of the right to a future shoreline or bluff protection structure and only when it can be demonstrated that said existing structures are at risk from identified hazards, that the proposed protective device is the least environmentally damaging alternative and is designed to eliminate or mitigate adverse impacts to local shoreline sand supply. Alternatives analysis shall include the relocation of existing development landward as well as the removal of portions of existing development. "Existing development" for purposes of this policy shall consist only of a principle structure, e.g. residential dwelling, required garage, or second residential unit, and shall not include accessory or ancillary structures such as decks, patios, pools, tennis courts, cabanas, stairs, landscaping etc.
- 4.38** No shoreline protection structure shall be permitted for the sole purpose of protecting an ancillary or accessory structure. Such accessory structures shall be removed if it is determined that the structure is in danger from erosion, flooding or wave uprush or if the bluff edge encroaches to within 10 feet of the structure as a result of erosion, landslide or other form of bluff collapse. Accessory structures including, but not limited to, cabanas, patios, pools, stairs, landscaping features, and similar design elements shall be constructed and designed to be removed or relocated in the event of threat from erosion, bluff failure or wave hazards.
- 4.39** All shoreline protection structures shall be sited as far landward as feasible regardless of the location of protective devices on adjacent lots. In no circumstance shall a shoreline protection structure be permitted to be located further seaward than a stringline drawn between the nearest adjacent corners of protection structures on adjacent lots. A stringline shall be utilized only when such development is found to be

infill and when it is demonstrated that locating the shoreline protection structure further landward is not feasible.

- 4.40** Where it is determined to be necessary to provide shoreline protection for an existing residential structure built at sand level a “vertical” seawall shall be the preferred means of protection. Rock revetments may be permitted to protect existing structures where they can be constructed entirely underneath raised foundations or where they are determined to be the preferred alternative.
- 4.41** Existing shoreline protection structures which do not conform to the provisions of the LCP may be repaired and maintained to the extent that such repairs and/or maintenance conform to the provisions of Chapter 13.4 and 13.5 of the Malibu Local Implementation Plan.
- 4.42** As a condition of approval of development on a beach or shoreline which is subject to wave action, erosion, flooding, landslides, or other hazards associated with development on a beach or bluff, the property owner shall be required to execute and record a deed restriction which acknowledges and assumes said risks and waives any future claims of damage or liability against the permitting agency and agrees to indemnify the permitting agency against any liability, claims, damages or expenses arising from any injury or damage due to such hazards.
- 4.43** As a condition of approval of a shoreline protection structure, or repairs or additions to a shoreline protection structure, the property owner shall be required to acknowledge, by the recordation of a deed restriction, that no future repair or maintenance, enhancement, reinforcement, or any other activity affecting the shoreline protection structure which extends the seaward footprint of the subject structure shall be undertaken and that he/she expressly waives any right to such activities that may exist under Coastal Act Section 30235. The restrictions shall also acknowledge that the intended purpose of the subject structure is solely to protect existing structures located on the site, in their present condition and location, including the septic disposal system and that any future development on the subject site landward of the subject shoreline protection structure including changes to the foundation, major remodels, relocation or upgrade of the septic disposal system, or demolition and construction of a new structure shall be subject to a requirement that a new coastal development permit be obtained for the shoreline protection structure unless the City determines that such activities are minor in nature or otherwise do not affect the need for a shoreline protection structure.
- 4.44** As a condition of approval of new development on a vacant beachfront or blufftop lot, or where demolition and rebuilding is proposed, where geologic or engineering evaluations conclude that the development can be sited and designed to not require a shoreline protection structure as part of the proposed development or at any time during the life of the development, the property owner shall be required to record a deed restriction against the property that ensures that no shoreline protection structure shall be proposed or constructed to protect the development approved and which expressly waives any future right to construct such devices that may exist pursuant to Public Resources Code Section 30235.

#### **4. Fire Hazards**

- 4.45** New development shall minimize risks to life and property from fire hazard through:

## City of Malibu LCP Land Use Plan

- a. Assessing site-specific characteristics such as topography, slope, vegetation type, wind patterns etc.;
- b. Siting and designing development to avoid hazardous locations;
- c. Incorporation of fuel modification and brush clearance techniques in accordance with applicable fire safety requirements and carried out in a manner which reduces impacts to environmentally sensitive habitat to the maximum feasible extent;
- d. Use of appropriate building materials and design features to insure the minimum amount of required fuel modification;
- e. Use of fire-retardant, native plant species in landscaping. (Resolution No. 07-04)

- 4.46** New development within Environmentally Sensitive Habitat Areas and habitat buffers shall be sized, sited and designed to minimize the impacts of fuel modification and brush clearance activities on habitat and neighboring property.
- 4.47** Development adjacent to parkland shall be sited and designed to allow all required fire-preventive brush clearance to be located outside park boundaries, unless no alternative feasible building site exists on the project site. A natural vegetation buffer of sufficient size should be maintained between the necessary fuel modification area and the public parkland, where feasible.
- 4.48** When brush clearance is required for fire safety, brushing techniques that minimize impacts to native vegetation, ESHA and that minimize erosion, runoff, and sedimentation shall be utilized.
- 4.49** Applications for new development, which require fuel modification, shall include a fuel modification plan for the project, prepared by a landscape architect or resource specialist that incorporates measures to minimize removal of native vegetation and to minimize impacts to ESHA, while providing for fire safety, consistent with the requirements of the applicable fire safety regulations. Such plans shall be reviewed and approved by the Forestry Division.
- 4.50** New development shall provide for emergency vehicle access and fire-flow water supply in accordance with applicable fire safety regulations.
- 4.51** All new development shall demonstrate the availability of an adequate water supply for fire protection, as required by applicable fire safety regulations.
- 4.52** Where applicable, property owners shall comply with applicable fire safety regulations for management of combustible vegetative materials (controlled burns) in fire hazardous areas.
- 4.53** The City shall coordinate with County, State and National Park agencies to develop a closure policy for public recreation areas during periods of extreme fire hazard.

- 4.54** Should the County of Los Angeles Fire Department policies regarding fuel management and fire protection conflict with the policies and provisions of the Malibu LCP, particularly those relating to the protection of ESHA, personnel from the Fire Department and the City of Malibu shall meet and agree on measures to balance the need for fire protection for structures with the need to protect environmental resources.

**5. Emergency Actions and Response**

- 4.55** Emergency actions to repair or replace or protect damaged or threatened development including public works facilities shall be the minimum needed to address the emergency and shall, to the maximum extent feasible, be the least environmentally damaging temporary alternative. A regular permit application shall be required as follow-up to all emergency protection devices or measures. All emergency protection devices shall be designed to facilitate removal and replacement with the alternative found to be consistent with all policies and standards of the LCP through the regular permit process.
- 4.56** All emergency permits shall be conditioned and tracked to insure that all authorized development is either removed or approved under a regular coastal development permit in a timely manner.
- 4.57** A permit tracking and monitoring system to identify and prevent the illegal and unpermitted construction of shoreline protection structures should be developed as a component of the code enforcement program.





## **CHAPTER 5—NEW DEVELOPMENT**

### **A. Introduction**

New development in the City of Malibu is constrained by topography, the lack of or difficulty of providing new infrastructure or expanding the capacity of existing facilities, the presence of environmentally sensitive habitat areas, visual resources, and hazards. The Land Use Plan, provides a framework within which new development may be accommodated, taking into consideration the protection of environmentally sensitive habitat areas, visual resources, and public access, as well as the avoidance or mitigation of hazards.

The majority of the existing development is located along the narrow coastal strip extending from the City of Los Angeles to Trancas Beach (near Decker Road). The highest densities of development occur in the strip between the eastern City boundary and Pepperdine University. East of the Malibu Civic Center area, the land use pattern is characterized by a single lot depth of single family and multi-family residential development and local and visitor serving commercial on the ocean side of Pacific Coast Highway, limited residential and commercial at the base of the bluffs on the inland side of the highway, and scattered concentrations of residences in canyons and on ridges abutting the highway (e.g. Las Flores Canyon and Big Rock Mesa).

The Malibu Civic Center area is, generally, a flat alluvial plain located at the mouth of Malibu Canyon. This area contains the largest aggregation of existing and planned commercial uses in the City as well as the regional administrative offices of the County of Los Angeles, courts, library, and the City of Malibu's offices. Uses included in the commercial area are food stores, restaurants, small general clothing and specialty shops, financial institutions, and entertainment establishments. On the slopes surrounding the plain are single family residences and town home clusters. Along the coastal edge is a private residential community, known as the "Malibu Colony".

Immediately west of the Civic Center area is the campus of Pepperdine University. Although the University is located just outside the City limits, this high density development is contiguous with other land within the City. The Hughes Research facilities, which is the largest industrial and commercial-office use in the City, are located just northeast of Pepperdine University. West of Malibu Canyon Road, the pattern of developed land uses becomes more rural in character. Residential units on one-acre lots or larger are typically found along the immediate coastal strip. Scattered throughout the area are individual clusters of higher density development.

In the greater Point Dume area, the width of the coastal strip on which development has occurred expands to encompass gently rolling ridges and valleys. The moderate topography has permitted the development of a broad band of residential uses, most of which are at densities of one unit per acre or less. Point Dume, south of Pacific Coast Highway, accommodates the greatest amount of development. A higher-density cluster of residential uses has evolved along the northwestern flank of this area and commercial uses are located along the highway. The town homes, restaurants, and commercial uses function as a second major center of the Coastal Zone. These serve both resident and beach visitors. West of Point Dume residential units are scattered across the slopes at the base of Trancas and Zuma Canyons. A commercial center is located at the intersection of Pacific Coast Highway and Trancas Canyon Road. This provides limited services to the residents of the area and beach visitors. Continuous strips of single family residential units are located west of Trancas Beach.

## **1. Coastal Act Provisions**

The Coastal Act requires the protection of coastal resources, including public access, land and marine habitat, and scenic and visual quality. Focusing new development to areas in close proximity to existing development with available public services serves to minimize the impacts of remote “leap-frog” development that would require the construction of roads, utilities, and other services. Section 30250 of the Coastal Act requires that new residential, commercial, or industrial development is located near existing developed areas, and where it will not have significant adverse impacts, either individually or cumulatively on coastal resources. Additionally, Section 30250 establishes that land divisions outside existing developed areas can only be permitted where fifty percent of existing parcels have already been developed and that the new parcels are no smaller than the average size of existing parcels. Section 30244 requires the protection of archaeological and paleontological resources and the implementation of mitigation measures to avoid or minimize any impacts.

## **2. Land Use Plan Provisions**

The LUP provides parameters for new development within the City. The Land Use Plan Map designates the allowable land use, including type, maximum density and intensity, for each parcel. Land use types include local commercial, visitor serving commercial, residential, institutional, recreational, and open space. The LUP describes the allowable uses in each category.

The commercial development policies provide for pedestrian and bicycle circulation to be provided within new commercial projects in order to minimize vehicular traffic. Visitor serving commercial uses shall be allowed in all commercial zones in the City and shall be given priority over other non-coastal dependent development. Parking facilities approved for office or other commercial developments shall be permitted to be used for public beach parking on weekends and other times when the parking is not needed for the approved uses.

The LUP encourages and provides for the preparation of a specific plan or other comprehensive plan for the Civic Center area. The Land Use Plan Map designates this area for Community Commercial, General Commercial, and Visitor- Serving Commercial uses. By preparing a Specific Plan a wider range and mix of uses, development standards, and design guidelines tailored to the unique characteristics of the Civic Center could be provided for this area as a future amendment to the LCP.

The LUP policies address new residential development. The maximum number of structures allowed in a residential development is one main residence, one second residential structure, and additional accessory structures provided that all such structures are located within the approved development area and clustered to minimize required fuel modification, landform alteration, and removal of native vegetation.

The LUP provides for a lot retirement program designed to minimize the individual and cumulative impacts of the potential buildout of existing parcels that are located in ESHA or other constrained areas and still allow for new development and creation of parcels in areas with fewer constraints. This includes the Transfer of Development Credit (TDC) Program, and an expedited reversion to acreage process. The TDC program will be implemented on a region-wide basis, including the City as well as the unincorporated area of the Santa Monica Mountains within the Coastal Zone. New development that results in the creation of new parcels, or multi-family development that includes more than one unit per existing parcel, except for affordable housing units, must retire

an equivalent number of existing parcels that meet the qualification criteria of the program. Finally, an expedited procedure will be implemented to process reversion to acreage maps.

The LUP policies require that land divisions minimize impacts to coastal resources and public access. Land divisions include subdivisions through parcel or tract map, lot line adjustments, and certificates of compliance. Land divisions are only permitted if they are approved in a coastal development permit. A land division cannot be approved unless every new lot created would contain an identified building site that could be developed consistent with all policies of the LCP. Land divisions must be designed to cluster development, to minimize landform alteration, to minimize site disturbance, and to maximize open space. Any land division resulting in the creation of additional lots must be conditioned upon the retirement of development credits (TDCs) at a ratio of one credit per new lot created. Certificates of compliance must meet all policies of the LCP.

The LUP policies provide for the protection of water resources. New development must provide evidence of an adequate potable water supply. The use of water wells to serve new development must minimize individual and cumulative impacts on groundwater supplies and on adjacent or nearby streams, springs or seeps and their associated riparian habitats. Water conservation shall be promoted. Reclaimed water may be used for approved landscaping, but landscaping or irrigation of natural vegetation for the sole purpose of disposing of reclaimed water is prohibited.

Communication facilities are provided for as a conditional use in all land use designations. All facilities and related support structures shall be sited and designed to protect coastal resources, including scenic and visual resources. Co-location of facilities is required where feasible to avoid the impacts of facility proliferation. New transmission lines and support structures will be placed underground where feasible. Existing facilities should be relocated underground when they are replaced.

Finally, the New Development policies provide for the protection and preservation of archaeological and paleontological resources. Measures to avoid and/or minimize impacts to identified archaeological and paleontological resources must be incorporated into the project and monitoring must be provided during construction to protect resources.

## **B. Coastal Act Policies**

The Coastal Act Policies set forth below are incorporated herein as policies of the Land Use Plan:

### **Section 30250**

New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. In addition, land divisions, other than leases for agricultural uses, outside existing developed areas shall be permitted only where 50 percent of the usable parcels in the area have been developed and the created parcels would be no smaller than the average size of surrounding parcels.

## **Section 30244**

Where development would adversely impact archaeological or paleontological resources as identified by the State Historic Preservation Officer, reasonable mitigation measures shall be required.

### **C. Land Use Plan Policies**

#### **1. Land Use Plan Map**

The Land Use Plan Map shows the land use designation for each property. The land use designation denotes the type, density and intensity of development that may be permitted for each property, consistent with all applicable LCP policies. An overlay is applied to the Civic Center area that allows for a mix of land uses and specific development standards if a specific plan or other comprehensive plan is developed, adopted, and certified as an LCP amendment for the area. New development in the City shall be consistent with the Land Use Plan map, and all applicable LCP policies. Following is a description of the land use designations. (Resolution Nos. 06-14, 06-61, 07-04, 06-71, 07-15, 10-49)

#### **2. Land Use Designations**

**COMMERCIAL NEIGHBORHOOD (CN):** The CN designation is intended to provide for low intensity commercial activity such as individual retail and service uses and cultural and artistic uses emphasizing convenient shopping/service to the residents in the surrounding neighborhoods. This designation ensures that the types of uses and intensity of use must be compatible with nearby and adjacent residential areas. Businesses are generally smaller in floor area than those in other commercial categories and are located on smaller sites. The maximum Floor to Area Ratios (FAR) within this category is 0.15. Uses that are permitted and/or conditionally permitted include the following: medical office, small retail stores, bakeries, beauty salons and bookstores, small restaurants, nursery schools/day care facilities, offices, and public open space and recreation.

**COMMUNITY COMMERCIAL (CC):** The CC designation is intended to provide for the resident serving needs of the community similar to the CN designation, but on parcels of land more suitable for concentrated commercial activity. The community commercial category plans for centers that offer a greater depth and range of merchandise in shopping and specialty goods than the neighborhood center although this category may include some of the uses also found in a neighborhood center. Often a supermarket or variety store functions as the anchor tenant. The maximum Floor to Area Ratio (FAR) is 0.15. The FAR may be increased to a maximum of 0.20 where public benefits and amenities are provided as part of the project. Uses that are permitted and/or conditionally permitted include the following: all permitted uses within the CN designation, financial institutions, medical clinics, restaurants, service stations, health care facilities, offices, and public open space and recreation.

**COMMERCIAL VISITOR SERVING (CV):** The CV designation provides for visitor serving uses such as hotels and restaurants that are designed to be consistent with the rural character and natural environmental setting, as well as public open space and recreation uses. Uses allowed in the other commercial categories (Commercial Neighborhood, Community Commercial, and Commercial General) may be permitted as part of projects approved on parcels designated Commercial Visitor Serving, so long as at least 50 percent of the overall floor area of any individual project is devoted to visitor serving uses. The maximum Floor to Area Ratio (FAR) is 0.15. The FAR may be increased to a maximum of 0.25 where public benefits and amenities are provided as part of

the project. CV designations are divided into two levels of density. Hotels are only permitted in CV-2 designations, the highest density designation. Motels and bed and breakfast inns are allowed in the CV-1 designation.

**COMMERCIAL GENERAL (CG):** The CG designation provides for more intense commercial uses, visitor serving uses and light industrial uses located on larger sites. The maximum Floor to Area Ratio (FAR) is 0.15. The FAR may be increased to a maximum of 0.25 where public benefits and amenities are provided as part of the project. Uses that are permitted and conditionally permitted include the following: all permitted uses within the CN and CC designations and mixed commercial and residential projects, masonry supplies, plant nurseries, and restaurants, movie theaters, performing arts facilities, offices, and public open space and recreation. Affordable housing for very low, low, and moderate-income families may also be permitted.

**COMMERCIAL RECREATION (CR):** The CR designation allows for facilities open to the public that are utilized for low intensity recreational use and athletic activities characterized by large open space areas with limited building coverage such as summer camps, hiking, equestrian, tennis, camping, public open space, and includes provision of food and beverage service for participants.

**INSTITUTIONAL (I):** The I designation accommodates public and quasi-public uses and facilities in the City. The maximum Floor to Area Ratio (FAR) is 0.15. The FAR may be increased to a maximum of 0.20 where additional significant public benefits and amenities are provided as part of the project. Uses that are permitted and/or conditionally permitted include but are not limited to the following: emergency communications and services, libraries, museums, maintenance yards, educational (private and public) and religious institutions, community centers, parks and recreational facilities, and governmental facilities including police and fire stations.

**RURAL RESIDENTIAL (RR):** The RR designation allows sensitively designed, large lot single family residential development, with a range of maximum densities from one dwelling per acre to one dwelling unit per 40 acres. Minimum lot sizes range from 1 to 40 acres, with agricultural uses and animal keeping as accessory uses to approved residential development. Public open space and recreation may be permitted. The following maximum residential density standards shall apply:

RR1	One dwelling unit per acre
RR2	One dwelling unit per 2 acres
RR5	One dwelling unit per 5 acres
RR10	One dwelling units per 10 acres
RR20	One dwelling unit per 20 acres
RR40	One dwelling unit per 40 acres

**SINGLE-FAMILY RESIDENTIAL (SF):** This land use designation allows single family residential development at higher density than the rural residential category. It is intended to enhance the rural characteristics of the community by maintaining low-density single-family residential development on lots ranging from 1/4 to 1 acre in size. Single-Family Low (SFL) allows a maximum density of 2 dwelling units per acre, with a minimum lot size of 0.5 acre. Single-Family Medium (SFM) allows a maximum density of 4 dwelling units per acre, with a minimum lot size of 0.25 acre. Public open space and recreation may be permitted.

**MOBILE HOME RESIDENTIAL (MHR):** The MHR designation is intended to accommodate existing mobile home parks and associated facilities.

**MULTI-FAMILY RESIDENTIAL (MF):** The MF designation provides for multi-family residential developments, such as duplexes, condominiums, stock cooperatives, and apartments. The Multi-family Residential (MF) designation allows a maximum density of six units per acre on a minimum lot size of 20,000 square feet. Public open space and recreation may be permitted.

**PRIVATE RECREATIONAL FACILITIES (PRF):** The PRF designation provides for existing private recreational facilities whose members have received exclusive use through deeded rights, property ownership or membership.

**PUBLIC OPEN SPACE (OS):** The OS designation provides for publicly owned land which is dedicated to recreation or preservation of the City's natural resources, including public beaches, park lands and preserves. Allowable uses include passive recreation, research and education, nature observation, and recreational and support facilities.

**RECREATIONAL VEHICLE PARK (RVP):** The RVP designation provides for recreational vehicle parks and requires 10 acre minimum lot size. This designation only applies to the existing RV Park located north of Pacific Coast Highway at Corral Canyon.

**PLANNED DEVELOPMENT (PD):** The PD designation is a specially tailored land use designation with a corresponding zoning district that establishes zoning regulations and sets specific development standards for a specific planned development. The PD designation is intended as a unique zoning tool to encourage innovation in development concepts, land use mixes and site designs on the approximately 24-acre Crummer Trust property located east of Malibu Bluffs State Park and south of Pacific Coast Highway (APNs 4458-018-019, 4458-018-002, and 4458-018-018).

**NOTE:** The owner of the Crummer Trust Site as of the date of the Coastal Commission's action on LCP Amendment No. LCP-4-MAL-14-0408-1 ("Applicant") has entered into an agreement with the Coastal Commission and funded an associated escrow account, thereby committing to pay an in-lieu fee to the Mountains Recreation and Conservation Authority for use in developing lower cost visitor accommodations, to be released upon Applicant's securing of entitlements to subdivide and to develop the site consistent with this revised definition of the PD designation above. (Resolution Nos. 15-63, 11-23)

### **3. General Policies**

- 5.1** All development that requires a coastal development permit is subject to written findings by the City's decision making body for coastal development permits (Planning Manager, Planning Commission, or City Council, as appropriate) that it is consistent with all Land Use Plan (LUP) policies and Local Implementation Plan (LIP) provisions of the City's certified Local Coastal Program. (Resolution No. 07-04)
- 5.2** If there is a conflict between a provision of this LCP and a provision of the General Plan, or any other City-adopted plan, resolution, or ordinance not included in the LCP, and it is not possible for the development to comply with both the LCP and such other plan, resolution or ordinance, the LCP shall take precedence and the development shall not be approved unless it complies with the LCP provision.

- 5.3** A coastal development permit may only be approved for new development on legally created lots. All applications for new development on a vacant parcel shall include evidence of the date and method by which the subject parcel was created.
- 5.4** Off-street parking shall be provided for all new development in accordance with the ordinances contained in the LCP to assure there is adequate public access to coastal resources. A modification in the required parking standards through the variance process shall not be approved unless the City makes findings that the provision of fewer parking spaces will not result in adverse impacts to public access.





- 5.5** The Environmental Review Board shall review and make written recommendations on development proposals within or adjacent to ESHA or other areas containing ESHA as identified through a biological study. The decision-making body (Planning Manager, Planning Commission, or City Council) shall make written findings relative to the project's conformance with the recommendations of the Environmental Review Board. (Resolution No. 07-04)
- 5.6** Protection of ESHA and public access shall take priority over other development standards and where there is any conflict between general development standards and ESHA and/or public access protection, the standards that are most protective of ESHA and public access shall have precedence.
- 5.7** New development shall conform to the hillside management provisions of the LIP, including measures to minimize impacts to scenic and visual resources and to minimize the risk from hazards. The measures include but are not limited to limiting grading and retaining walls, restricting development on steep slopes, protecting ridgelines, and applying siting and design restrictions (scenic and visual policies). The slope density criteria of the subdivision ordinance shall apply to sloping terrain and be applied in combination with the base land use designation in order to determine the maximum allowable density.

#### **4. Commercial Development Policies**

- 5.8** Pedestrian and bicycle circulation shall be required as part of all new commercial development.
- 5.9** New commercial development shall be designed to minimize conflicts with adjacent residential uses, including preserving the character and integrity of the adjacent residential areas. Commercial development shall be designed to avoid intrusive traffic circulation and light and glare.
- 5.10** The City shall work with Caltrans to provide safe pedestrian crossings on Pacific Coast Highway adjacent to existing and new visitor serving uses to allow the public safe access to the beach.
- 5.11** Recreational development and commercial visitor-serving facilities shall have priority over non-coastal dependent uses. All uses shall be consistent with protection of public access and ESHA.
- 5.12** Visitor serving retail uses shall be permitted in all commercial zones in the City. Visitor serving retail uses shall fit the character and scale of the surrounding community.
- 5.13** Public use of private parking facilities currently underutilized on weekends (i.e. serving office buildings) adjacent to the beach shall be a permitted use in all commercial zones.
- 5.14** All new commercial and higher density residential development must be located and designed to facilitate provision or extension of transit service to the development and must provide nonautomobile circulation within the development to the extent feasible.

#### **5. Civic Center Policies**

- 5.15** No development shall be approved on any parcel located within the Civic Center Overlay Area (LIP Zoning Map 5), other than improvements to existing uses, for a period of two (2) years commencing

September 15, 2002, or until a Specific Plan, or other comprehensive plan encompassing all parcels located within the Civic Center Overlay Area is adopted by the City and certified by the Coastal Commission as an LCP amendment.

- 5.16** The provisions of Policy 5.15 shall not apply to coastal development permits for uses that are visitor-serving or part of a development agreement approved under a LCP amendment certified by the Coastal Commission. Any coastal development permit approved shall include a wetland delineation for the project site(s).
- 5.17** The components of a specific plan or other comprehensive plan for the Civic Center area shall include, but not be limited to:
- 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. (Resolution No. 07-04)
- 5.18** Other than as provided in 5.15 through 5.17 above, subsequent to September 15, 2004, if no Specific Plan, Development Agreement or other comprehensive plan has been approved by the Coastal Commission as an LCP amendment, Visitor-Serving Commercial, General Commercial, and Community Commercial uses shall be allowed on individual parcels located in the Civic Center Overlay area, as designated by the Land Use Map, consistent with all policies of the LCP. A maximum FAR of 0.15 is permitted, except that the project FAR may be increased to no greater than a maximum of 0.20 FAR if public benefits and amenities, including public open space and habitat restoration or enhancement, are provided and the project site is included as part of a planned development or development agreement for multiple parcels, approved under a LCP amendment certified by the California Coastal Commission. Any LCP amendment to provide for a planned development or development agreement shall be subject

to a wetland delineation determination in accordance with the requirements of Policy 3.81(a) prior to approval.

- 5.19** Subsequent to September 15, 2004, if no Specific Plan or comprehensive plan is approved by the Coastal Commission as an LCP amendment, applications for new development, other than improvements to existing uses, on individual parcels located in the Civic Center Overlay area shall be subject to a wetland delineation determination in accordance with the requirements of Policy 3.81(a) prior to approval of any new development on the site.

## **6. Residential Development Policies**

- 5.20** All residential development, including land divisions and lot line adjustments, shall conform to all applicable LCP policies, including density provisions. Allowable densities are stated as maximums. Compliance with the other policies of the LCP may further limit the maximum allowable density of development.
- 5.21** The maximum number of structures permitted in a residential development shall be limited to one main residence, one second residential structure, and accessory structures such as stable, workshop, gym, studio, pool cabana, office, or tennis court provided that all such structures are located within the approved development area and structures are clustered to minimize required fuel modification.
- 5.22** Second residential units (guesthouses, granny units, etc.) shall be limited in size to a maximum of 900 square feet. The maximum square footage shall include the total floor area of all enclosed space, including lofts, mezzanines, and storage areas. Detached garages, including garages provided as part of a second residential unit, shall not exceed 400 square feet (2-car) maximum. The area of a garage provided as part of a second residential unit shall not be included in the 900 square foot limit.
- 5.23** A minimum of one on-site parking space shall be required for the exclusive use of any second residential unit.
- 5.24** New development of a second residential unit or other accessory structure that includes plumbing facilities shall demonstrate that adequate private sewage disposal can be provided on the project site consistent with all of the policies of the LCP.
- 5.25** In order to protect the rural character, improvements, which create a suburban atmosphere such as sidewalks and streetlights, shall be avoided in any rural residential designation.

## **7. Lot Retirement Program**

- 5.26** A Lot Retirement Program will be implemented in order to minimize the individual and cumulative impacts to coastal resources of the buildout of existing parcels in sensitive and constrained areas and to allow for new development in areas less constrained. The Lot Retirement Program shall comprise the following components:
- a. Transfer of Development Credit Program

b. Expedited Reversion to Acreage Process (Resolution No. 07-04)

- 5.27** The Transfer of Development Credit (TDC) Program shall be implemented in order to ensure that the individual and cumulative impacts of creating new lots or developing multi-family residential units are minimized and mitigated through the retirement of an equivalent number of development credits from existing lots that meet the qualification criteria of the program. Lots that contain ESHA, are located in small-lot subdivisions, or are located adjacent to parklands can be retired for transfer of development credits.
- 5.28** One TDC Program shall be implemented on a region-wide basis for the Santa Monica Mountains Coastal Zone, including the City of Malibu and the County of Los Angeles. Credits to mitigate development approved in the City may be generated from qualifying lots anywhere within this region.
- 5.29** Any coastal development permit for a parcel map, tract map, or certificate of compliance (pursuant to Policy 5.42 or 5.43) that would result in the creation of additional lots or for a multi-family use resulting in the development of more than one unit per existing lot in the project site, excluding affordable housing units, shall be conditioned upon the retirement of development rights on an undeveloped buildable parcel(s). That condition shall state that it must be satisfied prior to issuance of the permit. The development potential of the qualifying parcel(s) shall be retired through: (A) the recordation of a document dedicating an open space easement over the entire parcel to a public entity and the merging or recombination of the retired parcel(s) with a contiguous parcel where the development potential is not retired, or (B) the recordation of an open space deed restriction over the entirety of the parcel(s) to be retired and evidence that fee title to that retired lot(s) has been transferred to a public entity. (Resolution No. 11-05)
- 5.30** The City shall coordinate with the County of Los Angeles to ensure that lots retired through the TDC program are restricted and either merged with an adjacent developed or buildable parcel(s) or transferred in fee title to a public entity, and that such actions are accurately reflected in the records of the County Tax Assessor. (Resolution No. 11-05)
- 5.31** An ordinance to create an expedited procedure and reduced fee for processing voluntary mergers should be developed.
- 5.32** A record of the number and location of lots permanently retired through the lot retirement program should be maintained and made available to members of the public upon request.

**8. Land Divisions**

- 5.33** Land divisions include subdivisions (through parcel map, tract map, grant deed, or any other method), lot line adjustments, redivisions, mergers, and certificates of compliance (except as provided in Policy 5.41). Land divisions are only permitted if they are approved in a Coastal Development Permit.
- 5.34** Land divisions outside existing developed areas shall be permitted only in areas with adequate public services, where they will not have significant adverse effects, either individually or cumulatively, on coastal resources.

- 5.35** The minimum lot size in all land use designations shall not allow land divisions, except mergers and lot line adjustments, where the created parcels would be smaller than the average size of surrounding parcels.



- 5.36** Land divisions shall be designed to minimize impacts to coastal resources and public access. A land division shall not be approved if it creates a parcel that would not contain an identified building site that could be developed consistent with all of the policies of the LCP.
- 5.37** Land divisions shall be designed to cluster development, including building pads, if any, in order to minimize site disturbance, landform alteration, and removal of native vegetation, to minimize required fuel modification, and to maximize open space.
- 5.38** The City shall not approve a land division if any parcel being created would not be consistent with the maximum density designated by the Land Use Plan map, and the slope density criteria. Land divisions shall not be considered the principal permitted use in any land use category.
- 5.39** Any Coastal Development Permit for a land division resulting in the creation of additional lots shall be conditioned upon the retirement of development credits (TDCs) at a ratio of one credit per new lot created.
- 5.40** Subsequent development on a parcel created through a land division shall conform to all provisions of the approved land division permit, including, but not limited to, the building site location, access road/driveway design, and grading design and volumes.
- 5.41** For issuance of a certificate of compliance pursuant to Government Code Sec. 66499.35 for a land division that occurred prior to the effective date of the Coastal Act, where the parcel(s) was created in compliance with the law in effect at the time of its creation and the parcel(s) has not subsequently been merged or otherwise altered, the City shall not require a coastal development permit.
- 5.42** For issuance of a certificate of compliance pursuant to Government Code Sec. 66499.35 for a land division that occurred prior to the effective date of the Coastal Act, where the parcel(s) was not created in compliance with the law in effect at the time of its creation, or the parcel has subsequently been merged or otherwise altered, the certificate of compliance shall not be issued unless a CDP that authorizes the land division is approved. In such a situation, the City shall only approve a coastal development permit if the land division as proposed, or as conditioned, complies with all policies of the LCP.
- 5.43** For issuance of a certificate of compliance pursuant to Government Code Sec. 66499.35 for a land division that occurred after the effective date of the Coastal Act, the certificate of compliance shall not be issued unless a CDP that authorizes the land division is approved. In such a situation, the City shall only approve a coastal development permit if the land division, as proposed or as conditioned, complies with all policies of the LCP.
- 5.44** On beachfront parcels, land divisions may be permitted consistent with the density designated by the Land Use Plan Map only if all parcels to be created contain sufficient area to site a dwelling or other principal structure, on-site sewage treatment system, if necessary, and any other necessary facilities without development on sandy beaches or bluffs, consistent with all other policies in the LUP including those regarding geologic, wave uprush, and public access.

- 5.45** Land divisions, except for mergers and lot line adjustments, for property which includes area within or adjacent to an ESHA shall not be permitted unless consistent with Policy 3.44.

**9. Water Policies**

- 5.46** All new development shall demonstrate that an adequate potable water supply is available to each parcel. An on-site water well shall provide water of potable quality and be able to provide a quantity of water sufficient to meet domestic supply requirements for the life of the development.
- 5.47** New water wells shall minimize individual and cumulative impacts on groundwater, streams, springs, or seeps, and their associated riparian habitats.
- 5.48** A water conservation and wastewater recycling program should be developed in coordination with Los Angeles County and the applicable water purveyors for respective water service areas.
- 5.49** All new development shall comply with the City's water conservation and wastewater regulations.
- 5.50** The installation of reclaimed water lines to provide irrigation for approved landscaping or fuel modification areas (Zone A or B, if required) for approved development may be permitted, if consistent with all policies of the LUP.
- 5.51** The use of reclaimed water in lieu of fresh water supplies for the maintenance of public lands and other non-consumptive uses shall be encouraged and supported provided such use can be found to be consistent with all applicable policies of the LCP.
- 5.52** Landscaping and/or irrigation of ESHA for the purpose of disposing of reclaimed water shall be prohibited.
- 5.53** The construction of a new water well may only be permitted where it will not have significant adverse individual or cumulative impacts on groundwater, streams, or ESHA.

**10. Non-Conforming Uses and Structures**

- 5.54** Existing, lawfully established structures built prior to the effective date of the Coastal Act that do not conform to the provisions of the LCP may be maintained, and repaired. Except as provided below, additions and improvements to such structures may be permitted provided that such additions or improvements themselves comply with the current policies and standards of the LCP. Substantial additions to non-conforming structures on a blufftop or on the beach are not permitted unless the entire structure is brought into conformance with the policies and standards of the LCP. Demolition and reconstruction that results in the demolition of more than 50 percent of the exterior walls of a non-conforming structure is not permitted unless the entire structure is brought into conformance with the policies and standards of the LCP. Non-conforming uses may not be increased or expanded into additional locations or structures.



**5.55** Removal of vegetation from or other minor road improvements to a lawfully established road on private property, which has not been maintained for a period of 5 years, shall require a coastal development permit.

**5.56** The City shall not approve a Coastal Development Permit for new road improvements unless the road is needed to serve an approved or existing development and complies with all LCP policies. Road improvements necessary for geologic testing may be approved prior to approval of other development, if consistent with Policy 3.52.

## **11. Communications Facilities**

**5.57** Communication processing, storage and transmission facilities and lines shall be sited, designed, and operated to avoid or minimize impacts to ESHA and scenic resources, consistent with all provisions of the LCP. If there is no feasible alternative that can eliminate all impacts, then the alternative that would result in the fewest or least significant impacts shall be selected.

**5.58** All facilities and related support structures shall be sited, designed, and operated to avoid the visibility of the facility from public viewing areas, and to preserve the character of surrounding areas by protecting ridgelines by setting facilities below the ridge, and co-locating facilities, where feasible, to avoid proliferation of facilities.

**5.59** All facilities shall place support facilities underground, where feasible. New communication transmission lines shall be sited and designed to be located underground, except where it would present or contribute to geologic hazards. Existing communication transmission lines should be relocated underground when they are replaced or when funding for undergrounding is available.

## **12. Archaeology**

**5.60** New development shall protect and preserve archaeological, historical and paleontological resources from destruction, and shall avoid and minimize impacts to such resources.

**5.61** Where development would adversely impact archaeological or paleontological resources as identified by the State Historic Preservation Officer, reasonable mitigation measures shall be required.

**5.62** The City should coordinate with appropriate agencies, such as the UCLA Archaeological Center, to identify archaeologically sensitive areas. Such information should be kept confidential to protect archaeological resources.

**5.63** Coastal Development Permits for new development within archaeologically sensitive areas shall be conditioned upon the implementation of the appropriate mitigation measures.

**5.64** New development on sites identified as archaeologically sensitive shall include on-site monitoring of all grading, excavation and site preparation that involve earth moving operations by a qualified archaeologist(s) and appropriate Native American consultant(s).

- 5.65** The establishment of a museum/visitor center to display local archaeological and or paleontological artifacts and to provide public educational information on the cultural and historic value of these resources shall be encouraged.

## **CHAPTER 6—SCENIC AND VISUAL RESOURCES**

### **A. Introduction**

The Santa Monica Mountains region, including the City of Malibu, is an area of incredible scenic beauty. This is due in large part to the dramatic topography. Steep mountains rise virtually out of the ocean. There is a narrow coastal plain in most areas that parallels the coastline. The plain is much wider in the center of the City on the Point Dume headland and on the alluvial plain formed by Malibu Creek where the City's Civic Center is located. In other areas there are wave-cut terraces separated from the beach below by sheer coastal bluffs. Deep stream-cut canyons extend through the mountains.

In addition to the topography, the scenic beauty of the area is inextricably linked to the native vegetation communities that typify the California Mediterranean landscape. Different vegetation communities have different visual textures and colors. South facing drier slopes support low growing coastal sage scrub species, while north facing or wetter slopes support denser chaparral vegetation. The textures of these areas contrast with the taller trees and shrubs growing in the riparian corridors that form linear features along streams.

There are sweeping views of the ocean and beach. Coastal views are possible from Pacific Coast Highway where there are breaks in the existing pattern of development. There are excellent views from the cross mountain roads, each of which follows a canyon through the mountains. Descending these scenic roads, there are alternating views of natural canyon areas and the ocean. There are also views of the beach, ocean and scenic areas from public parks, and riding and hiking trails. Finally, while the beach and ocean are important scenic elements, there are also mountain and canyon views as seen looking inland from the beach and ocean.

#### **1. Coastal Act Provisions**

One of the primary objectives of the Coastal Act is the protection of scenic and visual resources, particularly as viewed from public places. Section 30251 requires that development be sited and designed to protect views to and along the ocean and other scenic coastal areas. New development must minimize the alteration of natural landforms. This policy also requires that development is sited and designed to be visually compatible with the character of surrounding areas. Where feasible, development shall include measures to restore and enhance visual quality in visually degraded areas.

#### **2. Land Use Plan Provisions**

The Land Use Plan provides for the protection of scenic and visual resources, including views of the beach and ocean, views of mountains and canyons, and views of natural habitat areas. The LUP identifies Scenic Roads, which are those roads within the City that traverse or provide views of areas with outstanding scenic quality, that contain striking views of natural vegetation, geology, and other unique natural features, including the beach and ocean. Additionally, there are intermittent beach or ocean views from all of the cross-mountain roads within the City (with the exception of certain portions of Decker Canyon Road where the topography prevents ocean views). Further, there are views of the ocean and other scenic areas from public parklands and from riding and hiking trails. Trails and parklands are shown on the LUP Park and Trail Map. Finally, the LUP Public Access Map shows public beach parks and accessways that provide views of the mountains and other scenic areas.

The LUP policies require that new development not be visible from scenic roads or public viewing areas. Where this is not feasible, new development must minimize impacts through siting and design measures. Protection is provided for prominent ridgelines by requiring structures to be set below the ridgeline and to avoid intrusions into the skyline.

The policies give parameters for the siting and design of all new development to ensure that the alteration of natural landforms is minimized. These measures include siting development on flatter areas of the site, conforming development to the natural topography, clustering development, and preventing flat building pads on slopes. Graded slopes must blend with the existing terrain of the site and the height and length of slopes must be minimized. Finally, the length of roads or driveways shall be minimized and slopes designed to follow the natural topography in order to minimize landform alteration.

The policies require that new structures are sited and designed to minimize impacts to visual resources, by incorporating design measures to limit the appearance of bulk, ensuring visual compatibility with the character of surrounding areas, and by using colors and materials that are similar and blend in with natural materials on the site. The height of retaining walls must be minimized and fences, walls and landscaping must not block views from public viewing areas. Development is required to preserve bluewater ocean views by limiting the overall height and siting of structures where feasible to maintain ocean views over the structures. Where it is not feasible to maintain views over the structure through siting and design alternatives, view corridors must be provided in order to maintain an ocean view through the project site.

The LUP policies set forth restrictions regarding the design of land divisions, including lot line adjustments, to ensure that building sites are clustered, that the length of roads and driveways are minimized, that shared driveways are provided, that grading is minimized, and that all graded slopes are revegetated. Land divisions that do not avoid or minimize impacts to visual resources will not be permitted.

Development is required to minimize the removal of natural vegetation both for the actual development area, as well as vegetation removed or thinned for fuel modification and brush clearance. Graded slopes and other areas disturbed by construction must be landscaped or revegetated with primarily native, drought tolerant plants to provide coverage of the disturbed areas and monitored to ensure success.

## **B. Coastal Act Policies**

Section 30251 of the Coastal Act set forth below, is incorporated herein as a policy of the Land Use Plan.

### **Section 30251.**

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

**C. Land Use Plan Policies**

**1. Scenic and Visual Resource Identification**

**6.1** The Santa Monica Mountains, including the City, contain scenic areas of regional and national importance. The scenic and visual qualities of these areas shall be protected and, where feasible, enhanced.

**6.2** Places on and along public roads, trails, parklands, and beaches that offer scenic vistas are considered public viewing areas. Existing public roads where there are views of the ocean and other scenic areas are considered Scenic Roads. Public parklands and riding and hiking trails which contain public viewing areas are shown on the LUP Park Map. The LUP Public Access Map shows public beach parks and other beach areas accessible to the public that serve as public viewing areas.

**6.3** Roadways traversing or providing views of areas of outstanding scenic quality, containing striking views of natural vegetation, geology, and other unique natural features, including the ocean shall be considered Scenic Roads. The following roads within the City are considered Scenic Roads:

- a. Pacific Coast Highway
- b. Decker Canyon Road
- c. Encinal Canyon Road
- d. Kanan Dume Road
- e. Latigo Canyon Road
- f. Corral Canyon Road
- g. Malibu Canyon Road
- h. Tuna Canyon Road (Resolution No. 07-04)

**6.4** Places on, along, within, or visible from scenic roads, trails, beaches, parklands and state waters that offer scenic vistas of the beach and ocean, coastline, mountains, canyons and other unique natural features are considered Scenic Areas. Scenic Areas do not include inland areas that are largely developed or built out such as residential subdivisions along the coastal terrace, residential development inland of Birdview Avenue and Cliffside Drive on Point Dume, or existing commercial development within the Civic Center and along Pacific Coast Highway east of Malibu Canyon Road.

**2. New Development**

**6.5** New development shall be sited and designed to minimize adverse impacts on scenic areas visible from scenic roads or public viewing areas to the maximum feasible extent. If there is no feasible building site location on the proposed project site where development would not be visible, then the development

shall be sited and designed to minimize impacts on scenic areas visible from scenic highways or public viewing areas, through measures including, but not limited to, siting development in the least visible portion of the site, breaking up the mass of new structures, designing structures to blend into the natural hillside setting, restricting the building maximum size, reducing maximum height standards, clustering development, minimizing grading, incorporating landscape elements, and where appropriate, berming.

- 6.6** Avoidance of impacts to visual resources through site selection and design alternatives is the preferred method over landscape screening. Landscape screening, as mitigation of visual impacts shall not substitute for project alternatives including resiting, or reducing the height or bulk of structures.
- 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. Chimneys and rooftop antennas may be permitted to extend above the permitted height of the structure.
- 6.8** Prominent ridgelines and other intervening ridgelines that are visible from a public road, a beach, public viewing areas, or public hiking trails, shall be protected by setting structures below the ridgeline to avoid intrusions into the skyline where feasible. Where there are no feasible alternative building sites below the ridgeline or where the only alternative building site would result in unavoidable adverse impacts to ESHA, structures shall be limited to one-story (18 feet maximum from existing or finished grade, whichever is lower) in height to minimize visual impacts.
- 6.9** All new development shall be sited and designed to minimize alteration of natural landforms by:

  - a. Conforming to the natural topography.
  - b. Preventing substantial grading or reconfiguration of the project site.
  - c. Eliminating flat building pads on slopes. Building pads on sloping sites shall utilize split level or stepped-pad designs.
  - d. Requiring that man-made contours mimic the natural contours.
  - e. Ensuring that graded slopes blend with the existing terrain of the site and surrounding area.
  - f. Minimizing grading permitted outside of the building footprint.
  - g. Clustering structures to minimize site disturbance and to minimize development area.
  - h. Minimizing height and length of cut and fill slopes.
  - i. Minimizing the height and length of retaining walls.

- j. Cut and fill operations may be balanced on-site, where the grading does not substantially alter the existing topography and blends with the surrounding area. Export of cut material may be required to preserve the natural topography. (Resolution No. 07-04)
- 6.10** New development, including a building pad, if provided, shall be sited on the flattest area of the project site, except where there is an alternative location that would be more protective of visual resources or ESHA.
- 6.11** The length of on-site roads or driveways shall be minimized, except where a longer road or driveway would allow for an alternative building site location that would be more protective of visual resources or ESHA. Driveway slopes shall be designed to follow the natural topography. Driveways that are visible from a scenic road, a beach, a public viewing area, or public hiking trail shall be a neutral color that blends with the surrounding landforms and vegetation.
- 6.12** All new structures shall be sited and designed to minimize impacts to visual resources by:
  - a. Ensuring visual compatibility with the character of surrounding areas.
  - b. Avoiding large cantilevers or understories.
  - c. Setting back higher elements of the structure toward the center or uphill portion of the building. (Resolution No. 07-04)
- 6.13** New development in areas visible from scenic roads or public viewing areas, shall incorporate colors and exterior materials that are compatible with the surrounding landscape. The use of highly reflective materials shall be prohibited.
- 6.14** The height of permitted retaining walls shall not exceed six feet. Stepped or terraced retaining walls up to twelve feet in height, with planting in between, may be permitted. Where feasible, long continuous walls shall be broken into sections or shall include undulations to provide visual relief. Where feasible, retaining walls supporting a structure should be incorporated into the foundation system in a stepped or split level design. Retaining walls visible from scenic highways, trails, parks, and beaches should incorporate veneers, texturing and/or colors that blend with the surrounding earth materials or landscape.
- 6.15** Fences, walls, and landscaping shall not block views of scenic areas from scenic roads, parks, beaches, and other public viewing areas.
- 6.16** Blufftop development shall incorporate a setback from the edge of the bluff that avoids and minimizes visual impacts from the beach and ocean below. The blufftop setback necessary to protect visual resources may be in excess of the setback necessary to ensure that risk from geologic hazards are minimized for the life of the structure, as detailed in Policy 4.27.
- 6.17** Where parcels on the ocean side of and fronting Pacific Coast Highway, Malibu Road, Broad Beach Road, Birdview Avenue, or Cliffside Drive descend from the roadway, new development shall be sited and designed to preserve bluewater ocean views by:

- a. Allowing structures to extend no higher than the road grade adjacent to the project site, where feasible.
- b. Limiting structures to one story in height, if necessary, to ensure bluewater views are maintained over the entire site.
- c. Setting fences away from the road edge and limiting the height of fences or walls to no higher than adjacent road grade, with the exception of fences that are composed of visually permeable design and materials.
- d. Using native vegetation types with a maximum growth height and located such that landscaping will not extend above road grade. (Resolution No. 07-04)

**6.18** For parcels on the ocean side of and fronting Pacific Coast Highway, Malibu Road, Broad Beach Road, Birdview Avenue, or Cliffside Drive where it is not feasible to design a structure located below road grade, new development shall provide a view corridor on the project site, that meets the following criteria:

- a. Buildings shall not occupy more than 80 percent maximum of the lineal frontage of the site.
- b. The remaining 20 percent of lineal frontage shall be maintained as one contiguous view corridor, except on beachfront lots with a width of 50 feet or less. Lots with a lineal frontage of 50 feet or less shall provide 20% of the lot width as view corridor; however, the view corridor may be split to provide a contiguous view corridor of not less than 10% of the lot width on each side. On irregularly shaped lots, the Planning Manager shall determine which side yards shall constitute the view corridor in order to maximize public views.
- c. No portion of any above ground structure shall extend into the view corridor.
- d. Any fencing across the view corridor shall be visually permeable and any landscaping in this area shall include only low-growing species that will not obscure or block bluewater views.
- e. In the case of development that is proposed to include two or more parcels, a structure may occupy up to 100 percent of the lineal frontage of any parcel(s) provided that the development does not occupy more than 80 percent maximum of the total lineal frontage of the overall project site and that the remaining 20 percent is maintained as one contiguous view corridor.
- f. The requirements of Section 6.18 may be satisfied by providing an offsite view corridor that preserves and enhances coastal views from Pacific Coast Highway, Malibu Road, Broad Beach Road, Birdview Avenue, or Cliffside Drive. The required offsite view corridor shall span the entire width of a beachfront parcel and be at least 25 percent wider than the view corridor or corridors that would otherwise be required on the project site. Potential offsite view parcels shall be located adjacent to at least one publicly owned beachfront parcel that affords ocean views, which parcel was publicly owned as of the effective date of the Land Use Plan amendment that added Section 6.18.f, and, to the extent feasible, be located in the same geographic



portion of the City as the project site. The offsite view corridor must provide public visual resource benefits that are greater than what would otherwise be provided through an onsite view corridor. Public beach access and accessways shall be permitted uses on the view corridor mitigation site. Any unimproved parcel to be used as an offsite view corridor must otherwise be suitable for the development of a habitable structure or other primary use consistent with the underlying zoning regulations. If the decision-making body finds that there are legitimate concerns over whether a proposed view corridor parcel could otherwise be suitable for the development of a habitable structure or other primary use due to the presence of geotechnical hazards or other constraints, the proposed view corridor parcel shall be rejected as inadequate and inconsistent with the intent of this provision.

If deemed necessary by the decision-making body to satisfy the findings of this subsection, the applicant may, in addition to providing an offsite view corridor consistent with the above requirements, undertake or fund all or a portion of an offsite measure, project, or program that provides additional public visual resource benefits. (Resolution No. 11-45; Resolution No. 07-04)

- 6.19** Except for replacement of structures destroyed by disaster, redevelopment of sites involving substantial remodels or demolition and reconstruction where existing landscaping or development blocks or obscures public views of the ocean or other scenic areas, the existing landscaping or development shall be removed and where appropriate replaced with landscaping and development that is sited and designed to provide maximum views, as required by Policies 6.17 or 6.18, as applicable.



- 6.20** New development on properties visible from and inland of Pacific Coast Highway shall be sited and designed to protect public views of the ridgelines and natural features of the Santa Monica Mountains through measures including, but not limited to, restricting the building maximum size, reducing maximum height limits, clustering development, incorporating landscape elements, and, where appropriate, berming.
- 6.21** New commercial development within the Civic Center shall be sited and designed to minimize obstruction to the maximum feasible extent of public views of the ridgelines and natural features of the Santa Monica Mountains through measures such as clustering development, and restricting height and bulk of structures.
- 6.22** Public works projects along scenic roads that include hardscape elements such as retaining walls, cut-off walls, abutments, bridges, and culverts shall incorporate veneers, texturing, and colors that blend with the surrounding earth materials or landscape. The design of new bridges on scenic roads shall be compatible with the rural character of the Santa Monica Mountains and designed to protect scenic views.
- 6.23** Exterior lighting (except traffic lights, navigational lights, and other similar safety lighting) shall be minimized, restricted to low intensity fixtures, shielded, and concealed to the maximum feasible extent so that no light source is directly visible from public viewing areas. Night lighting for sports courts or other private recreational facilities in scenic areas designated for residential use shall be prohibited.

### **3. Land Divisions**

- 6.24** Land divisions, including lot line adjustments, shall be designed to minimize impacts to visual resources by:
- a. Clustering the building sites to minimize site disturbance and maximize open space.
  - b. Prohibiting building sites on ridgelines.
  - c. Minimizing the length of access roads and driveways.
  - d. Using shared driveways to access development on adjacent lots, where feasible.
  - e. Reducing the maximum allowable density in steeply sloping and visually sensitive areas.
  - f. Minimizing grading and alteration of natural landforms, consistent with Policy 6.9.
  - g. Landscaping or revegetating all cut and fill slopes, and other disturbed areas at the completion of grading, consistent with Policy 6.29.
  - h. Incorporating interim seeding of graded building pad areas, if any, with native plants unless construction of approved structures commences within 30 days of the completion of grading. (Resolution No. 07-04)

**6.25** Land divisions, including lot line adjustments, that do not avoid or minimize impacts to visual resources, consistent with all scenic and visual resource policies of the LUP, shall be prohibited.

**6.26** Subsequent development on a parcel created through a land division shall conform to all provisions of the approved coastal development permit that authorized the land division, or any amendments thereto.

#### **4. Protection of Native Vegetation**

**6.27** New development shall minimize removal of natural vegetation. Existing native trees and plants shall be preserved on the site, consistent with Policy 3.60.

**6.28** All new development shall be sited and designed to minimize required fuel modification and brushing to the maximum extent feasible. Development shall incorporate alternative fuel modification measures, where feasible, in order to minimize the visual resource impacts of site disturbance, removal, and thinning of natural vegetation.

**6.29** Cut and fill slopes and other areas disturbed by construction activities shall be landscaped or revegetated at the completion of grading. Landscape plans shall provide that:

- a. Plantings shall be of native, drought-tolerant plant species, and blend with the existing natural vegetation and natural habitats on the site, except as noted below.
- b. Invasive plant species that tend to supplant native species and natural habitats shall be prohibited.
- c. Non-invasive ornamental plants and lawn may be permitted in combination with native, drought-tolerant species within the irrigated zone(s) required for fuel modification nearest approved residential structures.
- d. Lawn shall not be located on any geologically sensitive area such as coastal blufftop.
- e. Landscaping or revegetation shall provide 90 percent coverage within five years. Landscaping or revegetation that is located within any required fuel modification thinning zone (Zone C, if required by the Los Angeles County Fire Department) shall provide 60 percent coverage within five years. (Resolution No. 07-04)

#### **5. Signs**

**6.30** Signs shall be designed and located to minimize impacts to visual resources. Signs approved as part of commercial development shall be incorporated into the design of the project and shall be subject to height and width limitations that ensure that signs are visually compatible with surrounding areas and protect scenic views.

- 6.31** Placement of signs other than traffic or public safety signs, utilities, or other accessory equipment that obstruct views to the ocean, beaches, parks, or other scenic areas, from public viewing areas and scenic roads shall be prohibited.
- 6.32** Existing offsite outdoor advertising billboards shall be phased out and the construction of new billboards is prohibited.
- 6. Pacific Coast Highway**
- 6.33** The Pacific Coast Highway corridor shall be protected as a scenic highway and significant viewshed.
- 6.34** Landscape improvements, including median plantings, may be permitted along Pacific Coast Highway east of Malibu Canyon Road. Any proposed landscaping shall be comprised primarily of native and drought tolerant plant species. Landscaping shall be designed and maintained to be subordinate to the character of the area, and not block ocean or mountain views at maturity. No such improvements shall be provided west of Malibu Canyon Road in order to maintain the rural character of that area.
- 6.35** New commercial development that includes a parking lot visible from Pacific Coast Highway shall include landscaping and/or berming to screen the view, so long as such measures do not obscure or block views of the ocean.
- 6.36** Any telecommunications facilities approved along Pacific Coast Highway shall place support facilities underground, where feasible, except as permitted by the Local Implementation Plan. New transmission lines shall be sited and designed to be located underground, except where it would present or contribute to geologic hazards. Existing transmission lines should be relocated underground when they are replaced or when funding for undergrounding is available. (Resolution No. 07-04)



## **CHAPTER 7—PUBLIC WORKS**

### **A. Introduction**

Development and growth in the City of Malibu is limited by geologic and environmental constraints, steep slopes, and dependence on private septic systems for wastewater management as well as the general desire to limit growth throughout the City. Public works facilities that exist in the City include roads and highways, public water and telephone utilities and all publicly financed recreational facilities including parks, trails and public accessways financed by the State Coastal Conservancy, State Department of Parks and Recreation and Los Angeles County. There is no public sewage treatment plant in Malibu other than the small Malibu Mesa facility that serves Pepperdine University and the Malibu Mesa residential tract. While continued dependence on private septic systems for wastewater treatment has been a limiting factor for development, it has also been suspected of being a contributing factor to water pollution in Malibu Creek and Lagoon and other areas including the beaches. Prior to the City's incorporation in 1991, Los Angeles County proposed a large regional sewer system for much of Malibu. The County's application to construct the facility was withdrawn while it was pending before the Coastal Commission. The City proposes no facilities at present.

Major public works projects in Malibu consist of road repairs, maintenance and improvements. Responsibility for maintaining Pacific Coast Highway lies with the State Department of Transportation (Caltrans). Pacific Coast Highway is periodically damaged by landslides and mudflows on its inland side and by storm waves and erosion on its seaward side. In order to provide for adequate traffic circulation into and out of the City by residents and visitors accessing the public beaches and parks and to facilitate public safety it is important for the City to coordinate with Caltrans. The City is responsible for maintenance and improvements of other roads in the City. There has been considerable damage to roads within the City due to the impacts from several major winter storms since incorporation and considerable effort and expense has been required to keep roads open. It is also necessary to coordinate with Los Angeles County to insure a smooth flow of traffic along cross-mountain roads that provide access between the inland valleys and mountain areas to Pacific Coast Highway in the City. Most of the roads in the City traverse areas that are scenic and/or contain sensitive natural resources. Therefore, it is important that road improvements, repairs and maintenance utilize Best Management Practices including the least environmentally damaging feasible alternative.

#### **1. Coastal Act Provisions**

Coastal Act 30254 requires that new or expanded public works facilities be "designed and limited" to accommodate development that can be permitted consistent with the policies of the Coastal Act. This section also provides that, where public works facilities to serve new development are limited, priority shall be given to coastal dependent uses, essential services, public and commercial recreation and visitor-serving land uses. Pursuant to Section 30114 publicly financed recreational facilities, including all projects of the State Coastal Conservancy, are considered "Public Works." The Coastal Act also provides that no term or condition may be imposed on the development of any sewage treatment plant relative to future development that can be accommodated (consistent with the Coastal Act).

## **2. Land Use Plan Provisions**

To ensure consistency with the Coastal Act, the policies contained below in the Land Use Plan are intended to facilitate the provision and maintenance of public services, including roads, parking, water and electricity, and wastewater management to protect existing and future residents and visitors to the City and to accommodate the level and types of development that the LUP envisions. Policies also provide for developing measures to improve transit service to and within the City, provide and improve parking facilities, shuttles and van pools. The LUP recommends the creation of “wastewater management zones” for certain areas to facilitate the function and operation of on-site septic systems. As an alternative the plan allows for a public sewer system to be designed and proposed subject to approval as an amendment to the LCP by the Coastal Commission.

### **B. Coastal Act Policies**

The Coastal Act Policies set forth below are incorporated herein as policies of the Land Use Plan.

#### **Section 30254.**

New or expanded public works facilities shall be designed and limited to accommodate needs generated by development or uses permitted consistent with the provisions of this division; provided, however, that it is the intent of the Legislature that State Highway Route I in rural areas of the coastal zone remain a scenic two-lane road. Special districts shall not be formed or expanded except where assessment for, and provision of, the service would not induce new development inconsistent with this division. Where existing or planned public works facilities can accommodate only a limited amount of new development, services to coastal dependent land use, essential public services and basic industries vital to the economic health of the region, state, or nation, public recreation, commercial recreation, and visitor-serving land uses shall not be precluded by other development.

#### **Section 30254.5.**

Notwithstanding any other provision of law, the commission may not impose any term or condition on the development of any sewage treatment plant that is applicable to any future development that the commission finds can be accommodated by that plant consistent with this division. Nothing in this section modifies the provisions and requirements of Sections 30254 and 30412.

### **C. Land Use Plan Policies**

- 7.1** In applying the policies of this Chapter “Public Works” shall be defined by PRC Section 30114.
- 7.2** Publicly financed recreational facilities and access improvement projects, including all projects of the State Coastal Conservancy, shall be permitted consistent with the policies contained in the Access and Recreation Section of the LCP and the Access and Recreation policies of the Coastal Act when located between the sea and the first public road. All projects conducted or financed by the State Coastal Conservancy shall constitute “public works facilities” pursuant to the definition provided above in PRC Section 30114.



**1. Circulation and Traffic**

- 7.3** Improvements to existing public roads shall be permitted as necessary for public safety and to improve access to recreation areas where such improvements are consistent with all policies of the LCP.
- 7.4** Improvements to major road intersections for public safety or increased vehicle capacity shall be permitted, as necessary, in existing developed areas and where such improvements are sited and designed to be consistent with all policies of the LCP.
- 7.5** In scenic areas, roadway improvements, including culverts, bridges or overpasses, shall be designed and constructed to protect public views and avoid or minimize visual impacts and to blend in with the natural setting to the maximum extent feasible.
- 7.6** Measures to improve public access to beaches and recreation areas through the use of transit and alternative means of transportation should be developed in coordination with state and national park agencies, Los Angeles County, Caltrans, and any other appropriate transit providers. Measures may include, but not be limited to:
- a. Increased transit service;
  - b. Improved transfer opportunities between regional transit routes and routes serving the Coastal Zone;
  - c. Provision of parking facilities for bicycles, motorcycles and transit vehicles at recreation areas;
  - d. Development of park-and-ride or other staging facilities at points along the Ventura Freeway (Highway 101), Pacific Coast Highway, Kanan Dume Road and Malibu Canyon Road at minimum;
  - e. Implementation of beach and other recreation shuttles;
  - f. Construction of road improvements necessary to facilitate bus travel. (Resolution No. 07-04)
- 7.7** Use of public transit modes (bus or van pool service) by commuters to and from metropolitan Los Angeles to reduce congestion on Pacific Coast Highway and cross-mountain roads during peak use hours shall be supported and encouraged.
- 7.8** Efforts should be made to improve the availability of public transit to and from downtown Los Angeles and other urban areas to public beaches on weekends.
- 7.9** Road improvements to provide legal access to or facilitate development of a legal parcel may be permitted provided such improvements are consistent with all policies of the LCP. Existing legal roads shall be utilized for access where feasible.

- 7.10** Road construction and maintenance shall minimize landform alteration and impacts to visual resources and environmentally sensitive habitat areas. Roadway improvements shall be the least environmentally damaging feasible alternative available. Rural (limited secondary) roads shall be the minimum width necessary to accommodate traffic, including public safety vehicles, consistent with County Fire Department standards. Road construction, maintenance and improvements shall conform to Best Management Practices designed to achieve the standards set forth above.
- 7.11** Caltrans projects to improve traffic flow and safety on Pacific Coast Highway such as establishing bike lanes, use of “reversible lanes”, coordinating or retiming traffic signals, providing off-street parking and installing pedestrian overpasses where feasible shall be supported and permitted to the extent they are consistent with all other policies of the LCP.
- 7.12** Restrictions on or elimination of existing on-street public parking on Pacific Coast Highway and adjacent side-streets shall not be permitted unless a comparable number of replacement parking spaces are provided in the immediate vicinity and it is demonstrated that such restrictions or elimination will not adversely impact public access to the shoreline.
- 7.13** All cross-mountain roads shall remain two-lane roads except for passing lanes and safety turnouts.
- 7.14** Wherever feasible, private driveways shall access local roads and access to the major roadways that serve as primary access routes to recreation areas shall be limited to these local roads. Where private access directly onto a major roadway is the only feasible alternative consolidated driveways and turning lanes should be utilized.
- 7.15** Cooperation and coordination with LACMTA, Caltrans, and Southern California Rideshare to support and publicize van pooling, car pooling, telecommuting, and other transportation demand management programs from the Santa Monica Mountains to and from the urban centers of Los Angeles County shall be provided.

## **2. Water Systems/Wastewater Management**

- 7.16** Additional water storage facilities and/or new pipelines may be allowed in the City to replace deteriorated or undersized facilities and/or to ensure an adequate source of domestic and fire protection water supply during outages or pipeline interruptions provided such facilities are designed and limited to accommodate existing or planned development allowed by the Land Use Plan and can be found to be consistent with all applicable policies of the LCP.
- 7.17** On-site wastewater management zones that establish performance standards including water quality protection measures and periodic inspections should be created and enforced by the Department of Health Services and/or City engineer for the Civic Center area, Point Dume, the immediate coastal strip and any areas known to have poor percolation rates, a high water table or be prone to geologic hazards.
- 7.18** The construction of public package wastewater treatment facilities may be permitted where it is demonstrated to be the preferable long-term wastewater management solution, where it is designed to not ex-

ceed the capacity for growth allowed in the LCP, and where it can be constructed consistent with all policies of the LCP.

- 7.19** A City-wide public sewer system may be designed and proposed, in consultation with the Departments of Health Services and Public Works where it is found to be the least environmentally damaging wastewater treatment alternative, where it is designed to serve a capacity of development which does not exceed the amount allowed by the LCP, and where it is found to be consistent with all other policies of the LCP. In particular, the proposed method of effluent disposal shall be required to be consistent with policies requiring the protection of marine resources, riparian habitat and water quality.
- 7.20** Any proposed sewer system shall be submitted to and approved by the Coastal Commission as an LCP amendment prior to issuance of local permits and construction.
- 7.21** Any assessment district formed to finance construction of a public sewer system shall be considered a public works project pursuant to PRC Section 30114 and must be found consistent with all applicable policies of the LCP including the ultimate level of growth allowed by the LCP and shall not be effective until and unless the Coastal Commission has approved the proposed system as an LCP amendment.



## Appendix 1 LIST OF ACRONYMS

BMP	Best Management Practice
CALTRANS	California Department of Transportation
CCT	California Coastal Trail
CDP	Coastal Development Permit
CEG	Certified Engineering Geologist
ERB	Environmental Review Board
ESHA	Environmentally Sensitive Habitat Area
FAR	Floor to Area Ratio
FEMA	Federal Emergency Management Agency
GE	Geotechnical Engineer
GIS	Geographic Information System
GP	General Plan
LA	Los Angeles
LACMTA	Los Angeles County Metropolitan Transit Authority
LA CO	Los Angeles County
LCP	Local Coastal Plan
LIP	Local Implementation Plan
LUP	Land Use Plan
MHTL	Mean High Tide Line
NPS	National Park Service
OSDS	On Site Disposal System
OTD	Offer to Dedicate
PCH	Pacific Coast Highway
PRC	Public Resources Code
ReCAP	Regional Cumulative Assessment Project
RV	Recreational Vehicle
RWQCB	Regional Water Quality Control Board
SLC	State Lands Commission
SUSMP	Standard Urban Stormwater Mitigation Plan
TDC	Transfer of Development Credit
UCLA	University of California — Los Angeles
USACOE	United States Army Corps of Engineers



## **Appendix 2 MAPS**

Public Access

Parklands

Environmentally Sensitive Habitat Areas

Land Use

