

Council Agenda Report

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

Prepared by: Richard Mollica, Planning Director

Approved by: Steve McClary, City Manager

Date prepared: August 18, 2023 Meeting date: August 28, 2023

Subject: Update Regarding Zoning Map Amendment No. 17-002 and Zoning Text Amendment No. 20-001 (Sea View Hotel Project)

RECOMMENDED ACTION: 1) After the City Attorney reads the title of the ordinance, introduce on first reading Ordinance No. 509 (Attachment 1), an ordinance of the City of Malibu amending Zoning Map Amendment (ZMA) No. 17-002 and Zoning Text Amendment (ZTA) No. 20-001 to effectuate previous amendments made to Local Coastal Program Amendment (LCPA) No. 16-006 for the Sea View Hotel Project as adopted by Ordinance No. 491 on September 13, 2021 and amended by Ordinance No. 508 on July 10, 2023 pursuant to the conditional certification action taken by the California Coastal Commission (CCC) on February 8, 2023 to rezone and change the land use designation of the properties located at 22741 and 22729 Pacific Coast Highway from Community Commercial (CC) to Commercial Visitor Serving-2 (CV-2), a new Seaview Hotel Overlay District with associated development standards, including a proposed floor area ratio of 0.52 for the public benefits provided by the project (the amendments to the ZMA and ZTA are corollary to LCPA and will not be effective until the LCPA is certified by the CCC), and finding the action to require no further environmental review and/or to be exempt from such review under the California Environmental Quality Act (CEQA); and 2) Direct staff to schedule a second reading and adoption of Ordinance No. 509 for the September 11, 2023 Regular City Council meeting.

FISCAL IMPACT: As described in the Council's September 13, 2021, staff report, the applicant for ZMA No. 17-002, ZTA No. 20-001, LCPA No. 16-006 and associated Coastal Development Permit (CDP) No. 17-086 would contribute a fee of \$110,000, in-lieu of providing six lower cost overnight visitor accommodations. The City would be able to transfer these funds to a public agency, nonprofit organization, or private entity after entering a Memorandum of Understanding or other contractual agreement that requires use of the funds for construction of lower cost overnight visitor accommodations in the Malibu/Santa Monica Mountains coastal zone area of Los Angeles County or Ventura

County and which requires that the accommodations remain lower cost. However, the transfer of funds is not required, and the funds could be deposited into the General Fund Undesignated Reserve. In addition to the ZMA, ZTA, LCPA and CDP, associated Development Agreement (DA) No. 21-001 stipulated that the applicant would also contribute \$800,000 to the City for public benefits at the time the construction permits are issued for the associated project. Pursuant to General Plan Section 1.5.0, public benefits shall include physical improvements dedicated and reserved for public use, including, but not limited to, open space, wetlands, trails and walkways, parks, athletic fields, and civic or public buildings (such as senior centers, youth facilities, city hall, etc.). These funds would total \$910,000 and must be deposited into a General Fund Designated Reserve for a public benefit purpose. In 2021, the applicant forecasted that the project would generate over \$1.0 million in Transient Occupancy Tax (TOT) revenue annually; however, this projection was not confirmed by staff at the time as nightly room rates or the occupancy projections were unknown.

The CCC's actions on February 8, 2023, modified the LCPA and included additional financial contributions associated with the project. CCC Modification No. 3 to the LCPA included an \$800,000 fee to be paid by agreement between the CCC and the applicant to fund new lower cost overnight visitor accommodations elsewhere in the Malibu/Santa Monica Mountains coastal zone. The CCC described that the payment could be directed toward a public project to implement affordable visitor-serving accommodations in the area. In addition, the CCC described a commitment made by the applicant to provide \$250,000 to a nonprofit organization that provides free surf lessons and transportation to beaches in the Malibu area for children in underserved communities in the general Los Angeles area. These additional fees totaling \$1,050,000 would be submitted directly to the CCC and Los Courage Camps per the CCC's proposed modifications.

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

WORK PLAN: This item was not included in the Work Plan for Fiscal Year 2022-2023.

BACKGROUND: On June 12, 2023, the Council discussed the CCC's suggested modifications to LCPA No. 16-006 and directed staff to bring an amended LCPA back at the June 26, 2023 regular City Council meeting with an ordinance to allow the Council the ability to consider accepting the amended LCPA. On July 10, 2023, the City Council adopted Ordinance No. 508 to amend LCPA No. 16-006 pursuant to the conditional certification action taken by the CCC on February 8, 2023. Further discussion on LCPA processing and coordination with CCC staff is provided in the Council's June 26, 2023 staff report: <https://www.malibucity.org/AgendaCenter/ViewFile/Item/6163?fileID=50225>.

As the amendments to the ZMA and ZTA are corollary to the amended LCPA, Ordinance No. 509 would provide consistency between Malibu Municipal Code (MMC) Title 17 (Zoning) and the LCP Local Implementation Plan (LIP), recently amended by Ordinance

No. 508. For actions involving amendments to the LCP and MMC, typically this is accomplished by one ordinance. However, following Council's direction on June 12, 2023, to bring back the amended LPCA at its June 26, 2023, meeting, staff was unable to meet the MMC's 21-day noticing requirements. Therefore, staff is presenting to the City Council the ZMA and ZTA to request Council's adoption by ordinance. The subject ordinance completes the City's legislative changes associated with the Sea View Hotel Project. The ZMA and ZTA will not be effective until the LPCA is certified by the CCC.

Attachment 1 includes a draft ordinance amending the ZMA and ZTA corollary with the amended LPCA adopted by the Council via Ordinance No. 508. An analysis of the modifications adopted by the Council and CCC is contained in the April 24, 2023 staff report: <https://www.malibucity.org/AgendaCenter/ViewFile/Item/6053?fileID=45845>. Included for the Council's benefit is a redline version of the City's ZTA (Attachment 2).

ENVIRONMENTAL IMPACT: Pursuant to the authority and criteria contained in CEQA, the City has analyzed the amended ZMA and ZTA herein and makes the following findings. Pursuant to Public Resources Code Section 21080.9, CEQA does not apply to activities and approvals by the Council as necessary for the preparation and adoption of an LPCA. The proposed Council action is to adopt corollary amendments to MMC Title 17 (Zoning) to effectuate previous amendments made to LPCA No. 16-006 as adopted by Ordinance No. 491 on September 13, 2021, and amended by Ordinance No. 508 on July 10, 2023 pursuant to the conditional certification action taken by the CCC on February 8, 2023 (CCC LPCA No. LCP-4-MAL-21-0073-2).

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

PUBLIC NOTICE: Pursuant to MMC Section 17.74.040, the minimum length of time for public notice when amending the MMC is 21 days prior to the hearing. As such, the Council will hold two public hearings on the proposed code amendment to allow adequate time for public comment. On August 3, 2023, a Notice of Public Hearing was published in a newspaper of general circulation within the City of Malibu indicating that the Council would hold a public hearing on August 28, 2023, to consider the proposed amendment (Attachment 3).

CONCLUSION: Staff recommends that the City Council introduce on first reading Ordinance No. 509 (Attachment 1), adopting ZMA No. 17-002 and ZTA No. 20-001, as amended; and 2) Direct staff to schedule the second reading and adoption of Ordinance No. 509 for the September 11, 2023, Regular City Council meeting.

If ultimately adopted by the Council, typically the proposed amendments would go into effect 30 days after a second reading by the Council. However, because the proposed amendments are corollary to LCPA No. 16-006, which is pending final certification by the CCC, the proposed amendments to the MMC will not be effective until 30 days passes or the LCPA receives final certification, whichever occurs later.

ATTACHMENTS:

1. Ordinance No. 509
2. Modifications to City ZTA (redlined version)
3. Public Hearing Notice

ORDINANCE NO. 509

AN ORDINANCE OF THE CITY OF MALIBU AMENDING ZONING MAP AMENDMENT NO. 17-002 AND ZONING TEXT AMENDMENT NO. 20-001 TO TITLE 17 (ZONING) OF THE MALIBU MUNICIPAL CODE TO EFFECTUATE PREVIOUS AMENDMENTS MADE TO LOCAL COASTAL PROGRAM AMENDMENT NO. 16-006 FOR THE SEA VIEW HOTEL PROJECT AS ADOPTED BY ORDINANCE NO. 491 ON SEPTEMBER 13, 2021 AND AMENDED BY ORDINANCE NO. 508 ON JULY 10, 2023 PURSUANT TO THE CONDITIONAL CERTIFICATION ACTION TAKEN BY THE CALIFORNIA COASTAL COMMISSION ON FEBRUARY 8, 2023 IN ORDER TO OBTAIN FINAL CERTIFICATION OF THE SUBMITTED LOCAL COASTAL PROGRAM AMENDMENT APPLICATION TO REZONE AND CHANGE THE LAND USE DESIGNATION OF THE SUBJECT PROPERTIES FROM COMMUNITY COMMERCIAL TO COMMERCIAL VISITOR SERVING-2, A NEW SEAVIEW HOTEL OVERLAY DISTRICT WITH ASSOCIATED DEVELOPMENT STANDARDS, INCLUDING A PROPOSED FLOOR AREA RATIO OF 0.52 FOR THE PUBLIC BENEFITS PROVIDED BY THE PROJECT (GREY GRANITE, LLC; LAS TUNAS BEACH, LLC; AND SEA VIEW TERRACE, LLC); AND FINDING THE ACTION TO REQUIRE NO FURTHER ENVIRONMENTAL REVIEW AND/OR TO BE EXEMPT FROM SUCH REVIEW UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

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

SECTION 1. Findings.

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

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

C. On April 24, 2023, the City Council received a status update regarding the LCPA, reviewed the CCC's amendments for conditional certification and considered staff's requests to either prepare an ordinance to accept the modified LCPA or prepare a resolution to withdraw the City's submitted LCPA with the City Council's stated findings. The City Council took no action

and directed staff to work with the applicant for the Seaview Hotel LCPA and the CCC to see if action could be taken that would potentially make the LCPA acceptable to the City Council.

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

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

F. On July 10, 2023, the City Council adopted Ordinance No. 508 amending LCPA No. 16-006 as adopted by Ordinance No. 491 (Exhibits A, B and C to Ordinance No. 491) pursuant to the conditional certification action taken by the CCC on February 8, 2023 in order to obtain final certification of the submitted LCPA application to amend the LCP Land Use Map to revise the zoning designation from CC to CV-2, amend the LCP Local Implementation Plan (LIP) and to create a new Sea View Hotel Overlay District with associated development standards, including the proposed floor area ratio of 0.52 for the public benefits provided by the project for 22741 and 22729 PCH.

G. On August 3, 2023, a Notice of City Council Public Hearing was published in a newspaper of general circulation within the City of Malibu indicating that the City Council would hold public hearings on August 28, 2023 to consider the proposed Ordinance amending ZMA No. 17-002 (Exhibits B and C to Ordinance No. 491) and ZTA No. 20-001 and (Exhibit D to Ordinance No. 491) to effectuate previous amendments made to LCPA No. 16-006 for the Sea View Hotel Project as adopted by Ordinance No. 491 on September 13, 2021 and amended by Ordinance No. 508 on July 10, 2023 pursuant to the conditional certification action taken by the CCC on February 8, 2023 to rezone and change the land use designation of the properties located at 22741 and 22729 Pacific Coast Highway from CC to CV-2, a new Seaview Hotel Overlay District with associated development standards, including a proposed floor area ratio of 0.52 for the public benefits provided by the project.

H. On August 28, 2023, the City Council held a duly noticed public hearing on the proposed Ordinance amending ZMA No. 17-002 (Exhibits B and C to Ordinance No. 491) and ZTA No. 20-002 (Exhibit D to Ordinance No. 491) as adopted by Ordinance No. 491, reviewed and considered written reports, public testimony, and related information. In addition, the Council introduced on first reading and adopted the Ordinance.

I. On September 11, 2023, the City Council held a duly noticed public hearing on the proposed Ordinance amending ZMA No. 17-002 (Exhibits B and C to Ordinance No. 491) and ZTA No. 20-001 and (Exhibit D to Ordinance No. 491) as adopted by Ordinance No. 491, reviewed and considered written reports, public testimony, and related information and conducted a second reading of the Ordinance. If the City Council adopts the ZMA and ZTA as amended herein, the amendments will not be effective until LCPA No. 16-006 is certified by the CCC.

SECTION 2. Environmental Review.

Pursuant to the authority and criteria contained in California Environmental Quality Act (CEQA), the City Council has analyzed the amended ZMA and ZTA herein and makes the following findings. Pursuant to Public Resources Code Section 21080.9, CEQA does not apply to activities and approvals by the City Council as necessary for the preparation and adoption of an LCPA. The proposed Council action is to adopt corollary amendments to the Title 17 (Zoning) of the MMC to effectuate previous amendments made to LCPA No. 16-006 as adopted by Ordinance No. 491 on September 13, 2021 and amended by Ordinance No. 508 on July 10, 2023 pursuant to the conditional certification action taken by the CCC on February 8, 2023 (CCC LCPA No. LCP-4-MAL-21-0073-2).

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

SECTION 3. ZMA No. 17-002 Findings.

The amendments to the MMC will effectuate previous amendments made to LCPA No. 16-006 for the Sea View Hotel Project as adopted by Ordinance No. 491 on September 13, 2021 and amended by Ordinance No. 508 on July 10, 2023 pursuant to the conditional certification action taken by the CCC on February 8, 2023. The ZMA will allow the maps of the MMC to be amended consistent with amended LCPA No. 16-006 and is only corollary of that action. Based on evidence in the whole record, the City Council hereby finds that the proposed ZMA meets the requirements of and is in compliance with the General Plan as follows and hereby amends the Zoning Map as set forth in Exhibits A and B:

A. The ZMA is consistent with the objectives, policies and general land uses in the General Plan, as amended by the LCPA.

B. The ZMA will allow the MMC to be amended and be consistent with the amended LCP zoning map, and is only a corollary of that action.

C. The ZMA is necessary for the proposed LCPA and will only be approved if the LCPA is approved, and on the condition that the ZMA only take effect if the LCPA is certified by the CCC.

SECTION 4. Zoning Map Amendments.

A. That the Zoning Map (Exhibit A) be modified as follows, which amends the proposed regulations included in Ordinance No. 491 (Exhibit B to Ordinance No. 491), corollary to amendments made to LCPA No. 16-006 in Ordinance No. 508:

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

B. That the Sea View Hotel Overlay District Map (Exhibit B) be modified as follows, which amends the proposed regulations included in Ordinance No. 491 (Exhibit C to Ordinance No. 491), corollary to amendments made to LCPA No. 16-006 in Ordinance No. 508:

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

SECTION 5. ZTA 20-001 Findings.

Pursuant to MMC Section 17.74.040, the City Council hereby makes the following findings:

A. The subject ZTA is consistent with the objectives, policies, general land uses and programs specified in the General Plan. The proposed amendment serves to enhance the Malibu General Plan Mission Statement, protect public safety and preserve Malibu's natural and cultural resources. The amendments to the MMC will effectuate previous amendments made to LCPA No. 16-006 for the Sea View Hotel Project as adopted by Ordinance No. 491 on September 13, 2021 and amended by Ordinance No. 508 on July 10, 2023 pursuant to the conditional certification action taken by the CCC on February 8, 2023. The ZTA will allow the text of the MMC to be amended consistent with amended LCPA No. 16-006 and is only corollary of that action.

B. The City Council held a public hearing, reviewed the subject ZTA for compliance with the City General Plan and MMC and finds that the ZTA is consistent with the General Plan and MMC on the condition that the ZTA only take effect if LCPA No. 16-006 is certified by the CCC.

SECTION 6. Zoning Text Amendments.

A. That the title of MMC Section 17.42.020(M) (Sea View Hotel Overlay District) (Exhibit D to Ordinance No. 491) be modified as follows, which amends the proposed regulations included in Ordinance No. 491, corollary to amendments made to LCPA No. 16-006 in Ordinance No. 508:

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

B. That Subsection 1 of MMC Section 17.42.020(M) (Development Standards for Project Site) (Exhibit D to Ordinance No. 491) be modified as follows, which amends the proposed regulations included in Ordinance No. 491, corollary to amendments made to LCPA No. 16-006 in Ordinance No. 508:

1. Development Standards for Project Site

YARDS/SETBACKS	<i>No changes</i>
PROJECTIONS INTO YARDS	
	<p>The provisions of MMC Section 17.40.030(B) apply with the following additional provision:</p> <ul style="list-style-type: none"> • Access and exit stairs required by the Fire Department, and existing retaining walls may project without limit into required side yards.
SITE DEVELOPMENT CRITERIA	
Maximum Floor Area Ratio (F.A.R.)	<i>No changes</i>
Minimum Onsite Landscaping	<p>The provisions of MMC Section 17.40.080(A)(8)(b) shall not apply. The Sea View Hotel landscaping criteria are as follows:</p> <p>A minimum of 8,977 square feet of landscaping at ground level. Additionally, there shall be a minimum of 2,528.6 square feet of plants in planters on the southerly seaward areas of the various decks.</p>

Minimum Onsite Open Space	<p>The provisions of MMC Section 17.40.080(A)(8)(b) shall not apply. The Sea View Hotel open space criteria are as follows:</p> <p>A minimum of 1,313.8 square feet of private recreational area at ground level and first level reception area and 21,494 square feet at guest deck patios, not already included in landscape area, are required.</p>
HEIGHT	
Maximum Height Projections	<p>The provisions of MMC Section 17.40.080(A)(1)(a) shall not apply. The Sea View Hotel height requirements are as follow:</p> <ul style="list-style-type: none"> • New structures which have sloping roofs that slope less than 25% shall be no higher than 24 feet above the natural grade or finished grade, whichever results in a lower building height, excluding basements. • New structures which have sloping roofs that slope 25%, or more, shall be no higher than 28 feet above the natural grade or finished grade, whichever results in a lower building height, excluding basements. Areas such as elevator shafts in order to comply with ADA laws, the wooden deck above the existing tile rooftop deck, the fire exit stairs required by the Fire Department, the safety railing around the decks, and the sound wall as described in the Mitigated Negative Declaration are excluded from the referenced height restrictions. Seven-foot overhangs to eliminate sun from hitting south facing windows are excluded from the height standards.
SITE OF CONSTRUCTION	<i>No changes</i>

PARKING AND ACCESS	
Parking Requirements	<p>The provisions of MMC Sections 17.48.020 and 17.48.030 shall not apply. The Sea View Hotel parking requirements are as follows:</p> <ul style="list-style-type: none"> • 1.5 parking spaces per hotel room. • 1 space for each, per-shift employee • 1 space for each 100 square feet of gross floor area used for consumption of food or beverages. • 1 space for each 5 fixed seats, or for every 35 square feet of assembly area where there are no fixed seats in meeting rooms or other assembly areas.
Parking Location	<i>No changes</i>
Layout and Paving	<p>The provisions of MMC Section 17.48.050(C), (D) and (E) are modified or shall not apply as follows:</p> <ul style="list-style-type: none"> • The provision of MMC Section 17.48.050(D)(5) shall not apply. Tire stops are not required for valet parking spaces. • The provisions of MMC Sections 17.48.050(C) and (E) shall not apply.
MONUMENT SIGN AND GENERAL SIGN REQUIREMENTS	
	<i>No changes</i>

C. That Subsection 2 of MMC Section 17.42.020(M) (Permitted Uses) (Exhibit D to Ordinance No. 491) be modified as follows, which amends the proposed regulations included in Ordinance No. 491, corollary to amendments made to LCPA No. 16-006 in Ordinance No. 508:

2. PERMITTED USES

The following permitted, conditionally permitted, and prohibited uses shall apply to the Sea View Hotel Overlay District. Permitted and conditionally permitted uses that are a component of the hotel development are subject to the custom development standards of this Sea View Hotel Overlay District. Permitted or conditionally permitted uses that are not a component of the hotel development are subject to all applicable policies and provisions of the MMC, including the Commercial Development Standards in MMC Section 17.40.080.

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

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

ii. Restaurants that are open to the general public.

No changes to iii. through xiv.

No changes to Subsection b.

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

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

No changes to ii through x.

SECTION 7. Effective Date.

The Ordinance will take effect and be in force 30 days after adoption or on the date that the CCC takes action to unconditionally certify LCPA No. 16-006, whichever occurs later.

SECTION 8. Severability.

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

SECTION 9. Certification.

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

PASSED, APPROVED AND ADOPTED this ____ day of _____, 2023.

BRUCE SILVERSTIEN, Mayor

ATTEST:

KELSEY PETTIJOHN, City Clerk
(seal)

Date: _____

APPROVED AS TO FORM:

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

TREVOR RUSIN, Interim City Attorney

Exhibit A

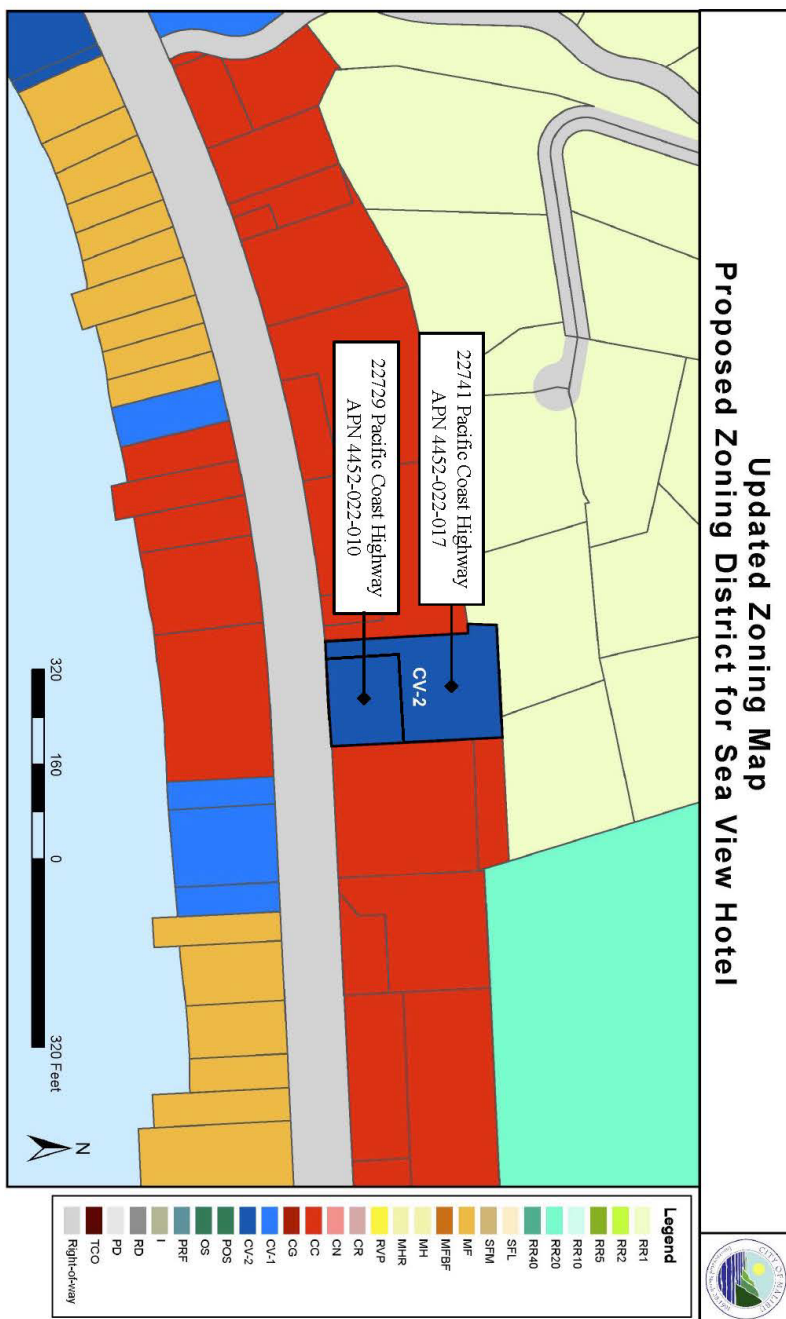


Exhibit B

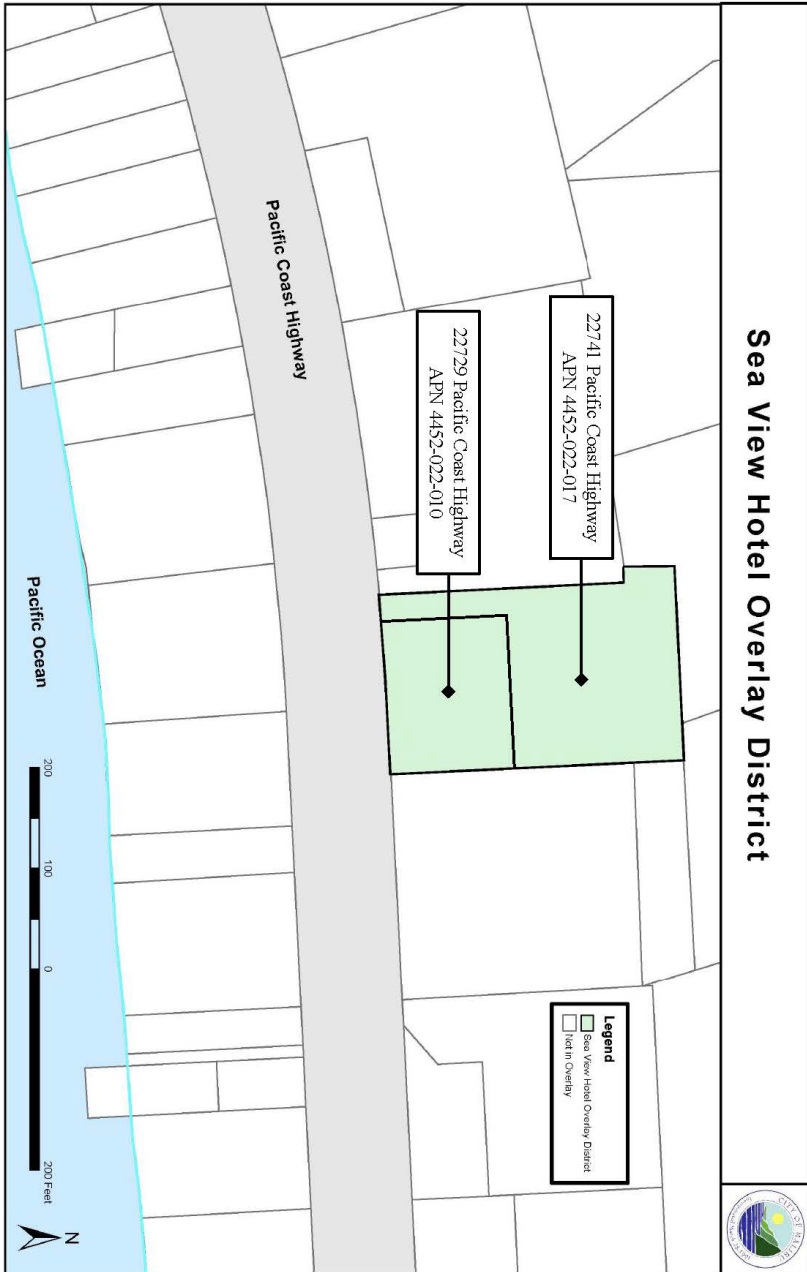


Exhibit D to Ordinance No. 491

Malibu Municipal Code Section 17.42 is hereby amended to add Section 17.42.020(M) as follows:

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

The following design standards and uses are applicable to the development of the Sea View Hotel project, as referred to in the Sea View Hotel Development Agreement, a commercial, visitor-serving, transient lodging accommodation development. These include maximum density standards, including floor area ratios for commercial use not to exceed the maximum floor area ratio allowed pursuant to the General Plan where public benefits and amenities are provided as part of the project, development standards, including heights, lot coverage, setbacks and open space requirements.

1. Development Standards for Project Site

YARDS/SETBACKS. The provisions of MMC Section 17.40.080(A)(2) shall not apply. The Sea View Hotel yards/setbacks requirements are as follow:	
Minimum Front Yard Setback	16% of lot depth
Minimum Rear Yard Setback	15% of lot depth
Minimum Side Yard Setback (West)	15% of lot width
Minimum Side Yard Setback (East)	12 feet
Minimum Side Yard Setback (Cumulative)	None
PROJECTIONS INTO YARDS	
	<p>The provisions of MMC Section 17.40.030(B) <u>apply with the are modified as follow</u> <u>ings additional provision:</u></p> <ul style="list-style-type: none"> Access and exit stairs required by the Fire Department, and existing retaining walls may project without limit into required side yards.
SITE DEVELOPMENT CRITERIA	
Maximum Floor Area Ratio (F.A.R.)	<p>The provisions of MMC Section 17.40.080(A)(8)(a) shall not apply. The Sea View Hotel site development criteria are as follow:</p> <ul style="list-style-type: none"> The gross square footage of all buildings shall be limited to a maximum FAR of 0.52 of the lot area (excluding any street rights of way). Floor area excludes access hallways and storage areas created by excavation into the hillside and not visible from Pacific Coast

	Highway or any other public area not to exceed 386 square feet.
Minimum Onsite Landscaping	<p>The provisions of MMC Section 17.40.080(A)(8)(b) shall not apply. The Sea View Hotel landscaping criteria are as follows:</p> <p>A minimum of 8,977 square feet of landscaping at ground level. Additionally, there shall be a minimum of 2,528.6 square feet of plants in planters on the southerly seaward areas of the various decks.</p>
Minimum Onsite Open Space	<p>The provisions of MMC Section 17.40.080(A)(8)(b) shall not apply. The Sea View Hotel landscaping criteria are as follows:</p> <p>A minimum of 1,313.8 square feet of private recreational area at ground level and first level reception area and 21,494 square feet at guest deck patios, not already included in landscape area, are required.</p>
HEIGHT	
Maximum Height Projections	<p>The provisions of MMC Section 17.40.080(A)(1)(a) shall not apply. The Sea View Hotel height requirements are as follow:</p> <ul style="list-style-type: none"> • New structures which have sloping roofs that slope less than 25% shall be no higher than 24 feet above the existing-natural grade or finished grade, whichever results in a lower building height, excluding basements. • New structures which have sloping roofs that slope 25%, or more, shall be no higher than 28 feet above the existing-natural grade or finished grade, whichever results in a lower building height, excluding basements. Areas such as elevator shafts in order to comply with ADA laws, the wooden deck above the existing tile rooftop deck, the fire exit stairs required by the Fire Department, the safety railing around the decks, and the sound wall as described in the Mitigated Negative Declaration are excluded from the referenced height restrictions. Seven-foot overhangs to eliminate sun from hitting south facing windows are excluded from the height standards.

SITE OF CONSTRUCTION	
MMC Section 17.40.080(A)(6) does not apply	
PARKING AND ACCESS	
Parking Requirements	<p>The provisions of MMC Sections 17.48.020 and 17.48.030 shall not apply. The Sea View Hotel parking requirements are as follows:</p> <ul style="list-style-type: none"> • 1.5 parking spaces per hotel room. • 1 space for each, per-shift employee (15 full time employees per shift = 15 spaces) • 1 space for each 100 square feet of gross floor area used for consumption of food or beverages, or public recreation areas (890/100 = 9 spaces). • <u>1 space for each 5 fixed seats, or for every 35 square feet of assembly area where there are no fixed seats in meeting rooms or other assembly areas.</u>
Parking Location	<p>The provision of MMC Section 17.48.050(A)(2) is modified as follows:</p> <ul style="list-style-type: none"> • Required parking may be located in the required front yard setback.
Layout and Paving	<p>The provisions of MMC Sections 17.48.050(C), (D) and (E) are modified or shall not apply as follows:</p> <ul style="list-style-type: none"> • The provision of MMC Section 17.48.050 (D)(5) shall not apply. Tire stops are not required for valet parking spaces. • The provisions of MMC Sections 17.48.050 (C) and (E) shall not apply. • The landscaped areas and the parking plan shown on the Sea View Hotel plans are an integral part of the proposed hotel and are acceptable within the overlay district.

MONUMENT SIGN AND GENERAL SIGN REQUIREMENTS	
	<p>The provisions of MMC Section 17.52.070 are modified or shall not apply as follows:</p> <ul style="list-style-type: none"> • The provisions of MMC Section 17.52.070(A)(c)(iii) shall not apply. • Two signs shall be permitted, each sign shall be a maximum of 48 square feet, and a maximum height of 6 feet, excluding the base area supporting the sign. One monument sign and one building sign shall be permitted. • One address monument sign shall be permitted up to a maximum of 16 square feet, excluding the base area supporting the sign. • There shall be no setbacks required from rights of way or property lines for monument signs.

2. PERMITTED USES

The following permitted, conditionally permitted, and prohibited uses ~~and design standards are as follows:~~ shall apply to the Sea View Hotel Overlay District. Permitted and conditionally permitted uses that are a component of the hotel development are subject to the custom development standards of this Sea View Hotel Overlay District. Permitted or conditionally permitted uses that are not a component of the hotel development are subject to all applicable policies and provisions of the MMC, including the Commercial Development Standards in MMC Section 17.40.080.

- a. Permitted Uses: The uses and structures permitted within Sea View Hotel Overlay District are as follows:
 - i. All uses permitted in the Commercial Visitor Serving-2, (CV-2), land use zoning district, as specified in the MMC.
 - ii. Restaurants that are open to the general public ~~will require one parking space for every 100 square feet of serving area.~~
 - iii. Retail store which sells beach towels, chairs, sunscreen, hats, bathing suits, food items, and other items that may be desired by hotel guests.
 - iv. Electric car charging stations.
 - v. Private lockers available to guests for storage of recreational equipment including, but not limited to surfboards, boogie boards, beach towels, umbrellas, and chairs.
 - vi. Residential accommodations for a full-time onsite property manager to ensure that all hotel rules are followed at all times.
 - vii. Medical offices.
 - viii. Special events for public congregations or entertainment, which are temporary in nature.
 - ix. Spas, including, but not limited to, steam rooms, lockers, bathrooms.
 - x. Salons.
 - xi. Gyms with physical fitness training equipment.

- xii. Guest rooms with private decks, rooftop deck; rooftop decks are restricted to hotel guests unless used for special events.
- xiii. General office use including, but not limited to the reception office.
- xiv. Other uses determined by the Planning Director to be of a similar nature to uses permitted in this district and the uses referenced above.

b. Prohibited Uses. The following uses are specifically prohibited:

- i. Fast food restaurants with drive-thru facilities.
- ii. Liquor stores (stand-alone).
- iii. Adult book stores.
- iv. Hazardous waste facilities.
- v. Gas stations.

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

- i. All conditionally permitted uses in the Commercial Visitor Serving-2, (CV-2), land use zoning district, as specified in the Malibu LCP.
- ii. Cocktail lounges, ancillary to restaurant use.
- iii. Nursery schools and daycare facilities.
- iv. Veterinary hospitals.
- v. Churches, temples, mosques and other places of worship.
- vi. Hand car washing and detailing, except when the vehicles are owned by a guest of the hotel.
- vii. Wireless telecommunications antennae and facilities.
- viii. Emergency communication and service facilities.
- ix. Cultural and artistic uses (museums, galleries, and performing arts studios).
- x. Sale or onsite consumption of alcoholic beverages

**NOTICE OF PUBLIC HEARING
CITY OF MALIBU
CITY COUNCIL**

The Malibu City Council will hold a public hearing on **MONDAY, August 28, 2023 at 6:30 p.m. on the item listed below in the Council Chambers at Malibu City Hall, located at 23825 Stuart Ranch Road, Malibu, CA and via teleconference.**

Public comment can be submitted ahead of the public hearing to citycouncil@malibucity.org for inclusion in the public record. To view and participate during the public hearing, please review the meeting agenda posted at MalibuCity.org/AgendaCenter and follow the directions for public participation.

Sea View Hotel Zoning Text Amendment

The City Council will consider an ordinance amending Zoning Text Amendment (ZTA) No. 20-001 Title 17 (Zoning) of the Malibu Municipal Code (MMC)) and Zoning Map Amendment No. 17-002 to effectuate previous amendments made to LCP Amendment (LCPA) No. 16-006 for the Sea View Hotel Project as adopted by Ordinance No. 491 on September 13, 2021 and amended by Ordinance No. 508 on July 10, 2023 pursuant to the conditional certification action taken by the California Coastal Commission (CCC) on February 8, 2023 to rezone and change the land use designation of the subject properties from Community Commercial (CC) to Commercial Visitor Serving-2 (CV-2), a new Seaview Hotel Overlay District with associated development standards, including a proposed floor area ratio of 0.52 for the public benefits provided by the project. The amendments to ZTA No. 21-002 are corollary to the amendments made to LCPA No. 16-006 and will not be effective until the LCPA is certified by the CCC.

Locations:	22729 and 22741 Pacific Coast Highway
APNs:	4452-022-010 and 4452-022-017
Zoning:	Community Commercial (CC)
Applicant:	Blue Onyx Design and Engineering, Inc.
Owners:	Grey Granite, LLC; Las Tunas Beach, LLC; and Sea View Terrace, LLC
Application Filed:	November 22, 2016
Case Planner:	Richard Mollica, Planning Director (310) 456-2489, extension 346 rmollica@malibucity.org

Pursuant to the authority and criteria contained in California Environmental Quality Act (CEQA), the City has analyzed the amended ZTA herein and makes the following findings. Pursuant to Public Resources Code Section 21080.9, CEQA does not apply to activities and approvals by the City as necessary for the preparation and adoption of an LCP Amendment. This application is for corollary amendments to the Title 17 (Zoning) of the MMC to effectuate previous amendments made to LCPA No. 16-006 as adopted by Ordinance No. 491 on September 13, 2021 and amended by Ordinance No. 508 on July 10, 2023 pursuant to the conditional certification action taken by the CCC on February 8, 2023 (CCC LCPA No. LCP-4-MAL-21-0073-2).

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

A written staff report will be available at or before the hearing for the projects. All persons wishing to address the Council regarding these matters will be afforded an opportunity in accordance with the Council’s procedures.

IF YOU CHALLENGE THE CITY’S ACTION IN COURT, YOU MAY BE LIMITED TO RAISING ONLY THOSE ISSUES YOU OR SOMEONE ELSE RAISED AT THE PUBLIC HEARING DESCRIBED IN THIS NOTICE, OR IN WRITTEN CORRESPONDENCE DELIVERED TO THE CITY, AT OR PRIOR TO THE PUBLIC HEARING.

Richard Mollica, Planning Director

Publish Date: August 3, 2023