



Council Agenda Report

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

Prepared by: Kelsey Pettijohn, City Clerk

Approved by: Steve McClary, City Manager

Date prepared: August 10, 2022 Meeting date: August 22, 2022

Subject: Second Reading and Adoption of Ordinance No. 502

RECOMMENDED ACTION: Conduct second reading, unless waived, and adopt Ordinance No. 502, determining the amendment is exempt from the California Environmental Quality Act (CEQA), and approving Zoning Text Amendment (ZTA) No. 22-001 amending Malibu Municipal Code (MMC) Section 17.41.050(G) of Chapter 17.41 (Malibu Dark Sky) regarding allowable light trespass from service station properties onto the public right-of-way.

FISCAL IMPACT: Funding for this amendment is included in the Adopted Budget for Fiscal Year 2022-2023 in Account No. 101-2004-5100-00 Building Safety Division Professional Services).

WORK PLAN: This item was not included in the Adopted Work Plan for Fiscal year 2022-2023. This project is part of normal staff operations.

DISCUSSION: On August 8, 2022, the Council introduced on first reading Ordinance No. 502.

ATTACHMENT: Ordinance No. 502

ORDINANCE NO. 502

AN ORDINANCE OF THE CITY OF MALIBU DETERMINING THE AMENDMENTS ARE EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, AND APPROVING ZONING TEXT AMENDMENT NO. 22-001 AMENDING MALIBU MUNICIPAL CODE SECTION 17.41.050(G) OF CHAPTER 17.41 (MALIBU DARK SKY) REGARDING ALLOWABLE LIGHT TRESPASS FROM SERVICE STATION PROPERTIES ONTO THE PUBLIC RIGHT-OF-WAY

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

SECTION 1. Recitals.

A. On March 28, 2022, the City Council adopted Resolution No. 22-08: 1) initiating a Zoning Text Amendment (ZTA) to amend Malibu Municipal Code Section 17.41.050(G) of Chapter 17.41 (Malibu Dark Sky) regarding allowable light trespass from commercial properties onto the public right-of-way; and 2) directing the Planning Commission to schedule a public hearing regarding the ZTA and provide a recommendation to the Council whether to approve, modify, or reject the amendment.

B. On April 21, 2022, a Notice of Planning Commission Public Hearing was published in a newspaper of general circulation within the City of Malibu.

C. On May 16, 2022, the Planning Commission held a duly noticed public hearing on the subject ZTA, reviewed and considered the agenda report, reviewed and considered written reports, public testimony, and other information on the record and adopted Planning Commission Resolution No. 22-39 recommending the City Council adopt the proposed ZTA, as amended, and recommended the City Council consider the following recommendations: 1) that the light trespass only be allowed for gas station properties; 2) that the new trespass line be the edge of the paved road nearest the subject parcel; and 3) that the City Council and Planning Commission conduct a field trip with the City's Dark Sky consultant to discuss the trespass issues.

D. On July 14, 2022, 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 hearing to consider the proposed amendment.

SECTION 2. Environmental Review.

This Ordinance was assessed in accordance with the authority and criteria contained in the California Environmental Quality Act (CEQA), the State CEQA Guidelines (the Guidelines), and the environmental regulations of the City. The City Council hereby finds that this ordinance is not subject to CEQA because the adoption of this ordinance is consistent with to Section 15308 of Title 14 of the California Code of Regulations, this Ordinance is exempt from the requirements of CEQA because it is an action taken by a regulatory agency, as authorized by state or local ordinance, which assures the maintenance, restoration, enhancement, or protection of the environment.

SECTION 3. Findings for Malibu Municipal Code Amendment.

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

A. The subject zoning text amendment is consistent with the objectives, policies, general land uses and programs specified in the General Plan and is designed to facilitate compliance with Ordinance No. 434 which was adopted to protect and promote public health, safety, welfare, quality of life and the ability to view the night sky in alignment with the City's goals of preserving coastal resources and maintaining its unique rural character.

B. The City Council held a public hearing, reviewed the subject zoning text amendment application for compliance with the City of Malibu General Plan, Malibu Municipal Code and the Malibu Local Coastal Program, and finds that the zoning text amendment is consistent and recommends approval.

SECTION 4. Amendments.

A. MMC Section 17.41.050(G) Subsections 1 and 2 are amended to read as follows:

1. From any property onto a residential property, ESHA, ESHA buffer, Pacific Ocean, beaches, and public viewing areas, the maximum allowable light trespass shall be 0.1 foot-candles. (1.076 lux) measured facing the light source(s) in any plane and at any height or place on the affected property, ESHA, ESHA buffer, Pacific Ocean, beaches or public viewing area.
2. From any property onto a non-residential property other than the public right-of-way, ESHA, ESHA buffer, Pacific Ocean, beaches, and public viewing areas, the maximum allowable light trespass shall be 0.25 foot-candles. (2.69 lux) measured in any plane and at any height or place on the affected property facing the light source(s).

B. MMC Section 17.41.050(G) Subsection 3, 4 and 5 shall be added as follows:

3. From any service station onto a public right-of-way, the maximum allowable light trespass shall be 0.25 foot-candles (2.69 lux), measured in the horizontal plane at any point into the public right-of-way, 25 feet from the property line after the end of nautical twilight.
4. From all other properties other than the service stations onto the adjacent public right-of-way, the maximum allowable light trespass must not exceed 0.25 foot-candles (2.69 lux) measured in any plane and at any height at the property line.

5. Measurements

- a. Measurements shall be taken with an illuminance light meter accurate to 1/100th of a foot-candle and having been calibrated to National Institute of Standards and Technology (NIST) standard within two years. Horizontal plane measurements shall be made according to the meter manufacturer's instructions. Signs must be turned off for said measurements.
- b. Measurements shall be made wherein the lighting from the service station is turned on and off and the difference between street lighting and street lighting plus canopy lighting shall determine the trespass from canopy lighting.

SECTION 5. 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 _____ 2022.

PAUL GRISANTI, 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

Any action challenging the final decision of the City made as a result of the public hearing on this application must be filed within the time limits set forth in Section 1.12.010 of the Malibu Municipal Code and Code of Civil Procedure.