

CALIFORNIA COASTAL COMMISSION

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Questions and Answers Regarding the Draft Land Use Plan Submitted to the City of Malibu by the Coastal Commission

by Chuck Damm, Senior Deputy Director, California Coastal Commission
March 5, 2002

The Coastal Commission was required by law to prepare a Local Coastal Program (LCP) for Malibu pursuant to the provisions of AB 988 (Hertzberg). The Commission forwarded a draft Land Use Plan (LUP) to the City on January 14th. A final LCP (which includes both the LUP and the implementing ordinances) must be adopted by the Commission no later than September 15, 2002.

The LCP must conform with state coastal protection laws and with provisions of the California and United States Constitutions that protect private property rights. This plan is intended to fulfill the usual requirements of a local land use plan, such as the requirement that new development comply with height and setback policies.

Enhancing public recreational use of coastal land, including hiking, bicycling and equestrian trails, and improving public access to the beach, are explicit policy goals of the state coastal act—something that all coastal cities and counties must comply with.

To help explain some of the provisions of the Malibu LUP, below are answers to questions that members of the public have raised.

Please note that the LUP is in draft form and available for public review on the Commission's web site (www.coastal.ca.gov) and at the Malibu City Planning Department and your local public library. You can review it yourself and decide how you think its policies may affect your property. Please send your written comments to the Commission in its Ventura office (89 S. California St. suite 200, Ventura, CA 93001-2801). If you have questions you can call 805 585-1800.

Final adoption will occur at the September Commission meeting after an additional public hearing in July. The Coastal Commission urges all interested parties to send in comments and to be involved in these public hearings.

1. What is a Local Coastal Program (LCP)?

The Local Coastal Program (LCP) is like a general plan for the Coastal Zone -- the blueprint for how and where the community will grow in the future. It indicates where development is appropriate, and what kind of development is allowed. The Land Use Plan (LUP) contains the general policies regarding development in the community; they must be combined with so-called implementing ordinances -- that is, the local ordinances that spell out how these general policies are applied in the specific case of Malibu. The legal standard of review and approval of the LUP by the Commission are the coastal conservation policies set forth in Chapter 3 of the Coastal Act. The legal standard of review for the implementing ordinances is that they must be adequate to carry out the approved LUP. Both of these elements -- the LUP and the ordinances -- together constitute the LCP.

Once adopted and certified by the Coastal Commission, the LCP becomes the legal standard of review for coastal development permit applications for new development in Malibu, except when public access is an issue in which case the Coastal Act access policies constitute the standard of review. After final adoption and certification of the Malibu LCP by the Commission, it will be up to the City to review and act on coastal development permit applications on a case-by-case basis by using the LCP as its legal standard.

2. What will happen to the ball fields at Bluffs Park?

Malibu Bluffs Park is a state park purchased in 1979 with state taxpayer dollars (\$6.8 million) for use by all the residents of California and by visitors from throughout the world. The Coastal Commission approved a temporary (5 year) coastal permit for construction of the community ball fields in 1982 to facilitate restoration of habitat at Malibu Lagoon where the fields were located. At that time it was clearly understood this type of use of the State Park would be interim one until an alternative site could be found by the community. A permit amendment in 1986 also made clear the ball fields were only an interim use. An earlier lawsuit between the Little League and the California Department of Parks and Recreation did not obligate the state to make the ball fields a permanent use on the site. The draft LUP calls for future conversion of the bluffs site to state park uses consistent with the current coastal permit and allows relocation of the ball fields to adjacent private lands. If the adjacent site cannot accommodate all the ball fields, the Commission has directed staff to work with the community to find a suitable alternative solution.

3. Why has the Commission designated coastal sage scrub and chaparral in the Santa Monica Mountains as environmentally sensitive habitat area (ESHA)?

The Coastal Act requires strong protection of environmentally sensitive habitat areas (ESHA) because of their unique and critical importance to the long-term health and vitality of the ecosystem to which they belong. Scientific studies and independent biologists agree that the Santa Monica Mountains contain unique and fragile habitat types that have declined drastically during the past 25 years and are severely threatened by encroaching development. Increasingly rare, coastal sage scrub and chaparral have been found to be far more important to the protection of biodiversity in the region than once believed. To protect the uniquely important values of this fragile, dwindling habitat and the wildlife that depends on it, the designation of this habitat as ESHA in the draft LUP is appropriate.

Based on field maps, site visits and aerial photographs, the LUP designates and maps coastal sage scrub and chaparral in the city as ESHA, but specifically excludes large areas of existing development. Moreover, these maps are not locked in stone and can be changed when more site-specific information confirms the absence of ESHA.

4. Will ESHA designation affect existing structures and uses?

No. ESHA protection policies in the LUP only apply to new development, demolition/re-construction, and expansion of existing development into ESHA areas. Most of these same ESHA protection policies have been applied by the Coastal Commission since 1986 wherever ESHA has been identified.

5. What happens if I want to build in an area designated as 'ESHA'?

New development that is permitted in or adjacent to ESHAs must be carefully sited and designed to avoid or minimize adverse impacts to plants, birds and wildlife species that share this habitat with humans and depend on it for survival. For new development in a mapped ESHA area, a biological assessment will determine whether ESHA actually exists on the ground where the development is being proposed. If no ESHA is identified on site, the ESHA protection policies of the LUP will not apply. If ESHA is present, new development should be sited and designed to avoid adverse impacts wherever possible. Even if an entire parcel is ESHA, some development can be allowed.

6. What does the "10,000 sq ft limit on the size of the development pad for projects in ESHA" mean?

New development located in ESHA, where there is no alternative location, may utilize or create a development envelope up to 10,000 sq ft. in size. This is not the size limit on the home, but on the pad and graded slopes. Since homes may be 2 stories, this could mean a home exceeding 10,000 sq ft, plus a 750 sq ft guest house plus any combination of tennis court, pool, other structures, so long as the total land covered and graded does not exceed 10,000 sq ft. The Commission has restricted maximum development in designated watersheds to 10,000 sq. ft. since 1986. After certification of the LCP, the City of Malibu will determine the extent of development actually allowed within the 10,000 sq ft pad limit, not the Coastal Commission

7. Will I need a coastal permit to plant a rose bush?

Absolutely not. Policies similar to those in the draft LUP relating to landscaping have, for many years, been routinely applied to new development in the Santa Monica Mountains and elsewhere in the coastal zone of the state. They include important protections to avoid adverse impacts from invasive, non-native plants such as pampas grass and Eucalyptus trees which can overrun fragile, native ecosystems with devastating effects on wildlife habitat. Once released into the wild, invasive plants can destroy native plant communities, eliminating important sources of food and shelter and even creating substantial fire hazards. Draft LUP policies allow the use of non-invasive, non-native species, such as lawns, rose bushes, fruit trees and hedges for landscaping adjacent to a home.

8. Will I be allowed to rebuild after a disaster?

Yes. The draft LUP allows reconstruction after a disaster, including fire, earthquake, landslide or flood, without a coastal development permit as long as the new structure is within the original footprint and does not exceed the size of the original structure by more than 10%. This exemption applies to any loss resulting from an event beyond the owner's control and does not require a disaster declaration by the State or Federal government.

9. How will the proposed zoning changes on the eastern shoreline edge of Malibu affect me and why are the changes proposed?

The proposed zoning change from multi-family to single family in the beach areas of Las Flores, Big Rock and Las Tunas will have no effect on any developed property until or unless re-development is proposed. Existing structures may be repaired, maintained and remodeled. Insurance rates should not be affected. The change is proposed because these are very small parcels on a narrow beach and in a geologically unstable area. The homes are on septic systems with little or no clearance from the water level. Lowering the density will reduce loading of septic systems, improve their effectiveness and increase protection of ocean water quality. Because the beach in this area is narrow and most homes have seawalls or bulkheads, lowering the density will allow re-developed single family homes to be placed on pilings and moved landward to minimize adverse impacts on beach sand supply.

10. The draft plan calls for the development of more trails in Malibu. How will this affect me?

Except for trails leading to the beach, the only new trail identified in the draft LUP is the California Coastal Trail. Recent legislation specifically calls for development of the Coastal Trail. The policies in the draft LUP mirror past Commission requirements on coastal permits. Until now the Coastal Commission has been a major authority over the creation of trails in the Coastal Zone. After certification of the LCP the City Council will have the discretionary decision making authority over new trails. Development and management of trails is the responsibility of the Coastal Conservancy, the Santa Monica Mountains Conservancy, State Parks, the National Park Service, the County and the City of Malibu.

11. Will the LCP dictate what color I may paint my home?

The draft LCP does call for the use of earth tone colors for new development in specific areas that are considered to be highly scenic and where the use of certain colors, such as white or pink, will cause the home to stand out from the hillside. This is only one tool used to soften the visual impacts of new development. This same requirement has been applied for many years by the Commission on new development in scenic areas. It will not affect existing homes unless a coastal development permit authorizing construction required earth tone colors.