

RESOLUTION NO. 15-42

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MALIBU APPROVING GENERAL PLAN AMENDMENT NO. 11-001 TO AMEND THE CITY OF MALIBU GENERAL PLAN LAND USE MAP TO REVISE THE LAND USE DESIGNATION OF ASSESSOR PARCEL NUMBER 4458-022-022 LOCATED AT 23401 CIVIC CENTER WAY FROM COMMERCIAL GENERAL TO COMMERCIAL VISITOR SERVING-1 FOR CONSISTENCY WITH THE MALIBU LOCAL COASTAL PROGRAM (THE PARK AT CROSS CREEK, LLC)

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

SECTION 1. Recitals.

A. On July 13, 2009, the City Council adopted Resolution No. 09-43 and Ordinance No. 338 to amend the land use designation of the General Plan and the zoning designation of the Malibu Municipal Code (M.M.C.) Title 17 Zoning Map for property located at 23401 Civic Center Way. The property land use and zoning designation was changed from Commercial General (CG) to Commercial Visitor Serving-1 (CV-1) for consistency with the Malibu Local Coastal Program (LCP). However, the property consisted of two parcels, which were not recognized at the time, and only one of the two parcels (Assessor Parcel Number (APN) 4458-022-001) was amended. The other parcel, APN 4458-022-022, remained designated CV-1 under the LCP and CG under the General Plan and M.M.C. Zoning Map.

B. On May 5, 2010, Marny Randall on behalf of DB Malibu Holdco LLC (which was subsequently changed to The Park at Cross Creek, LLC) submitted an application for Coastal Development Permit (CDP) No. 10-022 and related entitlements for the Whole Foods and the Park shopping center project. During conformance review, planning staff identified the discrepancy between the LCP land use and zoning designations and the General Plan land use and M.M.C. zoning designations for APN 4458-022-022 and assigned General Plan Amendment (GPA) No. 11-001 and Zoning Map Amendment (ZMA) No. 11-001 to the proposed project entitlements to correct the conflict.

C. On February 5, 2015, a Notice of Availability for a Draft Environmental Impact Report (EIR) and Planning Commission Hearing on the Whole Foods and the Park Project, including the map amendments, was published in a newspaper of general circulation within the City of Malibu and was mailed to all interested parties, as well as property owners and occupants within a 500-foot radius.

D. On February 5, 2015, the City and the Governor's Office of Planning and Research distributed the Draft EIR, which identified and evaluated the potential environmental impacts of the proposed Specific Plan and associated entitlements to interested parties and responsible agencies (SCH #2012041087) for a 45-day public review period, February 5, 2015 through March 23, 2015.

E. On March 2, 2015, a Planning Commission public hearing was held to take comments on the Draft EIR.

F. On April 23, 2015, a Notice of Public Hearing was published in a newspaper of general circulation within the City of Malibu and was mailed to all interested parties, as well as property owners and occupants within a 500-foot radius.

G. On May 14, 2015, the Final EIR was made available. The Response to Comments on the Draft EIR was circulated to all who submitted comments as well as to interested parties.

H. On June 11, 2015, the Planning Commission held a duly noticed public hearing on the Final EIR, GPA No. 11-001, ZMA No. 11-001, CDP No. 10-22, and related entitlements and considered the agenda report, reviewed and considered written reports, public testimony, and other information in the record. The Planning Commission adopted Planning Commission Resolution No. 15-58 recommending that the City Council adopt GPA No. 11-001 and ZMA No. 11-001, and that the City Council certify the Final EIR, adopt the Mitigation Monitoring Program, and Statement of Overriding Considerations.

I. On June 18, 2015, a Notice of City Council public hearing was published in a newspaper of general circulation within the City of Malibu and was mailed to all property owners and occupants within a 500-foot radius of the subject property and to interested parties.

J. On July 13, 2015, the City Council continued the public hearing on the subject application to a Special City Council public hearing on July 20, 2015.

K. On July 20, 2015, the City Council held a duly noticed public hearing on the subject application, reviewed and considered the staff report, reviewed and considered written reports, public testimony, and other information in the record.

## SECTION 2. Environmental Review.

In accordance with Public Resources Code Section 21080.9, the California Environmental Quality Act (CEQA) does not apply to activities and approvals by the City as necessary for the preparation and adoption of an LCP. The proposed GPA is necessary in order to correct an inconsistency between the LCP and the City's Zoning Ordinance (Title 17 of the M.M.C) and the General Plan. Because these amendments are entirely dependent on, related to, and duplicative of the exempt activity, they are subject to the same CEQA exemption. Without intending to waive the CEQA exemption referenced above, the City prepared an EIR for the Whole Foods and the Park project which analyzed the Specific Plan, GPA and ZMA together with the proposed Whole Foods and the Park project.

## SECTION 3. General Plan Amendment.

The City Council hereby amends the General Plan Land Use Policy Map Section 2 (Figure LU-2(C) for 23401 Civic Center Way (APN 4458-022-022) to change the land use designation from Commercial General (CG) to Commercial Visitor Serving-1 (CV-1).

SECTION 4. Findings.

A. The General Plan map amendment will make the land use designation for the subject property consistent with the LCP and the zoning designation for the property.

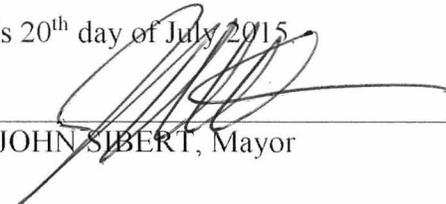
B. The General Plan map amendment is consistent with the objectives, policies, general land uses and program specified in the General Plan.

SECTION 5. Approval.

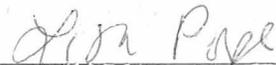
The City Council hereby adopts General Plan Amendment No. 11-001, amendment the City of Malibu General Plan.

SECTION 6. The City Clerk shall certify the passage and adoption of this resolution and enter it into the book of original resolutions.

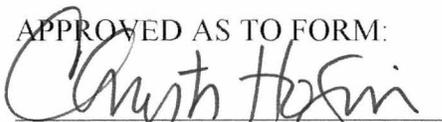
PASSED, APPROVED AND ADOPTED this 20<sup>th</sup> day of July 2015

  
\_\_\_\_\_  
JOHN SIBERT, Mayor

ATTEST:

  
\_\_\_\_\_  
LISA POPE, City Clerk  
(seal)

APPROVED AS TO FORM:

  
\_\_\_\_\_  
CHRISTI HOGIN, City Attorney

I CERTIFY THAT THE FOREGOING RESOLUTION NO. 15-42 was passed and adopted by the City Council of the City of Malibu at the special meeting thereof held on the 20<sup>th</sup> day of July 2015 by the following vote:

AYES: 4 Councilmembers: House, La Monte, Rosenthal, Sibert  
NOES: 1 Councilmember: Peak  
ABSTAIN: 0  
ABSENT: 0

  
\_\_\_\_\_  
LISA POPE, City Clerk  
(seal)

EXHIBIT A

