

ORDINANCE NO. 393

AN ORDINANCE OF THE CITY OF MALIBU DETERMINING THE LOCAL COASTAL PROGRAM AMENDMENT AND ZONING TEXT AMENDMENT TO BE EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT; ESTABLISHING A CIVIC CENTER WASTEWATER TREATMENT FACILITY INSTITUTIONAL OVERLAY DISTRICT AT 24000 CIVIC CENTER WAY (ASSESSOR PARCEL NUMBERS 4458-028-005 AND -020) AND ASSOCIATED DEVELOPMENT STANDARDS; MODIFYING PERMITTED AND CONDITIONALLY PERMITTED USES AND OTHER RELATED SECTIONS IN THE LOCAL COASTAL PROGRAM LOCAL IMPLEMENTATION PLAN, AND MAKING COROLLARY ZONING TEXT AND MAP AMENDMENTS TO TITLE 17 OF THE MALIBU MUNICIPAL CODE AND ZONING MAP; ACKNOWLEDGING RECEIPT OF THE CALIFORNIA COASTAL COMMISSION RESOLUTION OF CERTIFICATION FOR LOCAL COASTAL PROGRAM AMENDMENT NO. 13-002 WITH SUGGESTED MODIFICATIONS AND ADOPTING REVISIONS TO LOCAL COASTAL PROGRAM AMENDMENT NO. 13-002, ZONING TEXT AMENDMENT NO. 13-008 AND ZONING MAP AMENDMENT NO. 13-003 TO INCORPORATE THE COASTAL COMMISSION'S SUGGESTED MODIFICATIONS; AND REPEALING ORDINANCE NO. 386

THE CITY COUNCIL OF THE CITY OF MALIBU DOES HEREBY FIND, ORDER AND RESOLVE AS FOLLOWS:

Section 1. Recitals.

A. On November 5, 2009, the Los Angeles Regional Water Quality Control Board (LARWQCB) approved Resolution No. R4-2009-007 to ban the discharges from onsite wastewater disposal systems (OWDSs), locally known and referred to in this ordinance as onsite wastewater treatment systems (OWTSs), in the Malibu Civic Center area. On September 21, 2010, the State Water Resources Control Board approved that same resolution, thereby amending the State Basin Plan. The Basin Plan Amendment went into effect on December 23, 2010. The Basin Plan Amendment included a map and timeline calling for commercial properties to cease discharge by 2015 and residential properties to cease discharge by 2019, among other things.

B. In August 2011, the City and the Water Boards entered into a Memorandum of Understanding (MOU) that detailed the implementation of the City's wastewater treatment plan for the Civic Center area, as defined in the Basin Plan Amendment. The MOU established the timelines for the construction of a centralized wastewater treatment facility and connection to that facility of properties in the Prohibition Area.

C. Malibu Local Coastal Program (LCP) Land Use Plan (LUP) Policy 7.20 states,

“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.” LCP Local Implementation Plan (LIP) Section 18.10(D) mirrors LUP Policy 7.20.

D. On May 31, 2013, the City filed an application for an LCP Amendment (LCPA) for the Civic Center Wastewater Treatment Facility project.

E. On June 24, 2013, the City Council adopted City Council Resolution No. 13-21 initiating changes to the LCP to create policies and standards for a Civic Center wastewater treatment system, and to update the Land Use and Zoning Maps to change the designation of two parcels that were expected to be the site for the treatment plant for the future Civic Center Wastewater Treatment Facility project (Assessor Parcel Numbers 4458-028-005 and -020, now addressed as 24000 Civic Center Way). The City Council directed the Planning Commission to schedule a public hearing regarding the amendment package. Due to the timelines set forth in the MOU, the legislative and entitlement portions of the project needed to proceed concurrently with the facility design as much as possible.

F. On November 21, 2013, an application for CDP No. 13-057 and associated entitlements was submitted by the City of Malibu Public Works Department to the Planning Department. The application was for the development of Phase 1 of the Civic Center Wastewater Treatment Facility, which included a wastewater treatment facility, pump stations, collection and distribution system pipelines, percolation ponds and groundwater injection wells, as well as a conditional use permit. The application was routed to the City Geologist, City Environmental Health Administrator, City Public Works Department, City Biologist and Los Angeles County Fire Department (LACFD) for conformance review. At this time, it was anticipated that the LCPA and corollary amendments to Title 17 of the Malibu Municipal Code (M.M.C.) would be processed concurrently and the LCPA certified by the California Coastal Commission (CCC) in advance of consideration of the CDP and other project entitlements by City Council.

G. Also on November 21, 2013, a Notice of Preparation (NOP) for an Environmental Impact Report (EIR) and Public Scoping Meeting 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 the entire Prohibition Area established by LARWQCB Resolution No. R4-2009-007, plus a 1,000 foot radius. The 30-day public review period was set to begin November 21, 2013 and end December 23, 2013. The NOP was also sent to the State Clearinghouse (SCH# 2013111075), who distributed the document to State reviewing agencies for a 30-day public review period from November 25, 2013 to December 24, 2013.

H. On December 11, 2013, the City held a public scoping meeting regarding the preparation of the EIR.

I. On December 12, 2013, the City extended the 30-day scoping comment period to January 7, 2014.

J. On January 23, 2014, a Notice of Planning Commission Public Hearing and Notice of Availability for LCP Amendment Documents was published in a newspaper of general circulation within the City of Malibu and was mailed to all interested parties; regional, state and federal agencies affected by the amendment; local libraries and media; and the CCC. The mailed notice area included property owners and occupants within the Prohibition Area, plus a 1,000 foot radius.

K. On January 28, 2014, a draft amendment package for LCPA No. 13-002, Zoning Text Amendment (ZTA) No. 13-008, and Zoning Map Amendment (ZMA) No. 13-003 was presented to the Zoning Ordinance Revisions and Code Enforcement Subcommittee (ZORACES) for review and recommendation. The amendment package included a proposed Overlay District for the Winter Canyon Site (the proposed treatment plant site), as well as development standards and corollary amendments to the M.M.C. Title 17 (Zoning Ordinance) and Zoning Map and to ensure consistency with the LCP. Members of ZORACES and the public offered comments on the proposed amendments.

L. On February 7, 2014, the City issued a Notice of Cancellation of the February 18, 2014 Planning Commission meeting and all agenda items, including LCPA No. 13-002 and corollary M.M.C. amendments were continued to the Regular Planning Commission meeting on March 3, 2014.

M. On February 19, 2014, staff combined the proposed LCPA and M.M.C. amendments with the CDP and other entitlements as one application package for consideration by the Planning Commission and City Council. Consequently, on March 3, 2014, the Planning Commission continued the LCPA and corollary amendments to a date uncertain.

N. On May 29, 2014, a Notice of Availability for the Draft EIR 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 the entire Prohibition Area, plus a 1,000 foot radius.

O. On May 30, 2014, the City and the Governor's Office of Planning and Research distributed the Draft EIR to interested parties and responsible agencies (SCH #2013111075) for a 60-day public review period, May 30, 2014 through July 28, 2014.

P. In May 2014, story poles were installed on the proposed treatment plant site to depict the siting and bulk of covered and/or enclosed above-ground facilities associated with Phase 1. The story pole installation was certified by a licensed surveyor.

Q. On June 12, 2014, a Notice of Planning Commission Public Workshop and Notice of Availability of a Recirculated Draft EIR 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 the entire Prohibition Area, plus a 1,000 foot radius. The Recirculated Draft EIR was released for a 47-day public review period ending on July 28, 2014. The recirculated portions of the EIR corrected errors and/or omissions in the original Draft EIR pertaining to the number and location of pump stations expected to be needed at project buildout and facilities shown in project visual simulations, and to add information to the Geology and Soils and References sections of the document.

R. On June 18, 2014, a Notice of Coastal Development Permit application was posted at 24000 Civic Center Way (the proposed treatment plant site), the proposed Legacy Park pump station site and the proposed Bluffs Park pump station site.

S. On June 25, 2014, a Planning Commission Public Workshop on the Civic Center Wastewater Treatment Facility project was held. Following a presentation by the City's project design consultants, RMC Water and Environment, the Planning Commission and members of the public were given the opportunity to ask questions and receive answers about the project from the consultants and staff.

T. On June 26, 2014, a Notice of Planning Commission 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 the entire Prohibition Area, plus a 1,000 foot radius.

U. On July 21, 2014, the Planning Commission held a public hearing to receive public comments on the Draft EIR.

V. On July 23, 2014, the Environmental Review Board reviewed the Phase 1 CDP, Draft EIR and Recirculated Draft EIR and provided recommendations to the Planning Commission. All feasible recommendations have been incorporated into the final project.

W. From August 2014 through November 2014, the EIR consultant worked on responding to comments received during the 60-day public review period and prepared a Final EIR. The Final EIR responds to the comments received on the Draft EIR and proposes text revisions to the Draft EIR.

X. On November 20, 2014, the Final EIR was made available. Also on this date, a Notice of Planning Commission Public Hearing was published in a newspaper of general circulation within the City of Malibu and mailed to all interested parties, as well as property owners and occupants within the entire Prohibition Area, plus a 1,000 foot radius. Response to Comments on the Draft EIR was circulated to all of those who submitted comments as well as to interested parties.

Y. On December 4, 2014, the LARWQCB approved a revision to the MOU with the City (approved by City Council on November 24, 2014) that adjusted the timelines for various milestones based on the substantial progress made by the City to date and the complexity of the tasks involved with implementing the project. Under the modified MOU,

the Phase 1 connection date is June 30, 2017 and the Phase 2 connection date is November 5, 2022.

Z. Ordinarily, the Planning Commission is the decision-making body for CDP projects and certification of California Environmental Quality Act (CEQA) documents. However, for amendments to the LCP and M.M.C., the Planning Commission acts exclusively as an advisory body, and the City Council is the decision-maker. Since the entitlements for the Civic Center Wastewater Treatment Facility Project depend upon the LCP and M.M.C. amendments, the Planning Commission acted in an advisory capacity on the amendments, the EIR and the entitlements, and the City Council is the decision-maker for all.

AA. On December 15, 2014, the Planning Commission held a duly noticed public hearing on LCPA No. 13-002, ZTA No. 13-008 and ZMA No. 13-003 reviewed and considered the Final EIR, agenda report, reviewed and considered written reports, public testimony, and other information in the record. The Planning Commission adopted Planning Commission Resolution Nos. 14-112 and 14-113 recommending that the City Council adopt LCPA No. 13-002, ZTA No. 13-008 and ZMA No. 13-003, and that the City Council certify the Final EIR, adopt the Mitigation Monitoring and Reporting Program, and Statement of Overriding Considerations.

BB. On December 18, 2014, Errata No. 1 to the Final EIR was made available.

CC. On December 18, 2014, 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 1,000 foot radius of the subject property and to interested parties, regional, state and federal agencies

DD. On January 12, 2015, the City Council heard and considered the evidence and information provided in support of and in opposition to the Final EIR, CDP application and related entitlements, public testimony of all interested persons and the recommendations of the Planning Commission, and adopted Resolution No. 15-05, certifying the Final EIR, adopting a statement of overriding considerations and mitigation monitoring and reporting program, and approving the CDP and related entitlements, subject to certification of the LCPA by the Coastal Commission, and introduced on first reading Ordinance No. 386 adopting amendments to the LIP and M.M.C.

EE. On January 15, 2015, the City submitted the LCPA to the CCC and the CCC deemed it complete as LCP-4-MAL-15-0001-1 (Civic Center Wastewater Treatment Facility).

FF. On January 26, 2015, the City Council adopted Ordinance No. 386 adopting LCPA No. 13-002, ZTA No. 13-008 and ZMA No. 13-003.

GG. On May 13, 2015, the CCC conditionally certified LCP-4-MAL-15-0001-1

(LCPA No. 10-001) subject to six modifications as set forth in the CCC Resolution of Certification adopted on May 13, 2015. The six modifications are within the same scope as LCPA No. 13-002; however, they provide additional protection for visual and environmentally sensitive habitat area resources, and support for land use, new development, public works and hazards policies. The modifications would result in corollary amendments to ZTA No. 13-008 as approved by the City Council on January 26, 2015.

HH. On May 15, 2015, the City received said Resolution of Certification, dated May 15, 2015.

II. On May 28, 2015, a Notice of City Council Public Hearing to be held on June 8, 2015, was published in a newspaper of general circulation within the City and was mailed to all interested parties; regional, state and federal agencies affected by the amendments; local libraries and media; and the CCC.

JJ. On June 8, 2015, the City Council held a duly noticed public hearing.

Section 2. Environmental Review.

In accordance 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 an amendment to the LCP, which must be certified by the CCC before it takes effect. LIP Section 1.3.1 states that the provisions of the LCP take precedence over any conflict between the LCP and the Zoning Ordinance. In order to prevent an inconsistency between the LCP and the City's Zoning Ordinance (Title 17 of the M.M.C.), if the LCP amendment is approved, the City must also approve the corollary amendments to the Zoning Ordinance. This amendment is necessary for the preparation and adoption of the LCP amendment and because it is entirely dependent on, related to, and duplicative of the exempt activity, it is subject to the same CEQA exemption. Without waiving the CEQA exemption referenced above, the City prepared an EIR for the project which analyzed the LCPA and ZTA together with the proposed Civic Center Wastewater Treatment Facility project.

Section 3. Local Coastal Program Amendment Findings.

A. Based on evidence in the whole record, the City Council hereby finds that the proposed amendment meets the requirements of, and is in conformance with the policies and requirements of Chapter 3 of the California Coastal Act. Chapter 3 of the Coastal Act states that any new development must not impede or adversely impact public access to the beach, must protect marine resources and scenic views, and must not significantly disrupt environmentally sensitive habitat areas. Pursuant to LUP Policy 7.20 and LIP Section 18.10(D), any proposed sewer system shall be submitted to and approved by the CCC as an LCPA prior to issuance of local permits and construction. The proposed LCPA creates development standards for the Civic Center Wastewater Treatment Facility that satisfy this

requirement and ensures there will be no impacts on public access, marine resources, scenic views and environmentally sensitive habitat area as a result of these changes.

B. LUP Section 7.19 and LIP Section 18.10(C) state, “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 that 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.” The development standards included in the LCPA meet these requirements and ensure the effluent disposal method will be protective of marine resources, riparian habitat and water quality. Therefore, the LCPA meets the requirements of, and is in conformance with the goals, objectives and purposes of the LCP.

C. The proposed LCPA does not involve a change to the underlying zoning of the treatment plant site; the existing CV-2 zoning designation remains. The proposed Civic Center Wastewater Treatment Facility Institutional Overlay District applies only in the event the site is acquired by a public agency or special district and committed to that specific use. The proposed text amendment overall is consistent with the LCP and Chapter 3 of the Coastal Act.

Section 4. Local Coastal Program Amendment No. 13-002, Amendments to the Local Implementation Plan, as Modified by the California Coastal Commission.

LCPA No. 13-002 includes amendments to the LIP and Table B (Permitted Uses) – an exhibit of LIP Chapter 3 (Zoning Designations and Permitted Uses) and corollary amendments to Title 17 (Zoning) of the M.M.C. Corollary amendments to the M.M.C. are identified in Section 6 of this ordinance. Consistent with the CCC’s May 13, 2015, conditional certification of LCP-4-MAL-15-0001-1 (LCPA No. 13-002), the City Council hereby amends the LIP as follows:

A. Add the following definition to LIP Section 2.1 (Definitions) to read as follows:

“CIVIC CENTER WASTEWATER TREATMENT FACILITY” (CCWTF) means a public utility facility to be constructed in the Malibu Civic Center area in response to the prohibition on discharges from onsite wastewater treatment systems in order to provide centralized municipal wastewater treatment facilities to affected properties.

B. Add LIP Section 3.4.4 to read as follows:

3.4.4 Civic Center Wastewater Treatment Facility (CCWTF) Institutional Overlay District (24000 Civic Center Way / APNs 4458-028-060 and 4458-028-020).

A. The provisions of this section shall only apply in the event the CCWTF Overlay property is acquired by a public agency or special district and committed to use for the Civic Center Wastewater Treatment Facility.

B. The Institutional Development Standards contained in LIP Section 3.9, as well as all other applicable certified LCP policies and provisions, shall apply, unless specifically modified by this section.

C. Siting

1. Environmentally Sensitive Habitat Area. The CCWTF is a necessary water supply project with incidental public service components (per LIP Section 18.10(B)). The project shall comply with applicable provisions of LIP Chapter 4, such as but not limited to siting the project to avoid impacts to ESHA and to provide the minimum required ESHA buffers, except as otherwise provided below:

a. CCWTF treatment plant site. LIP Section 4.6.4(A) (Variances) shall not apply and a reduced ESHA buffer may be allowed if there is no feasible alternative for siting the development and all of the following requirements are met:

i. The treatment plant facilities are sited within the previously approved and disturbed development area to the maximum extent feasible.

ii. The required driveway is located along the existing unpaved driveway to the maximum extent feasible.

iii. Any required fuel modification that encroaches into ESHA buffer is limited to thinning only.

iv. Any onsite pipelines and equipment that must be located within 100 feet of ESHA shall be installed under pavement or within previously disturbed areas to the maximum extent feasible.

v. The square footage of reduced ESHA buffer area is offset with ESHA restoration of an area of degraded habitat equivalent to the affected area. Wetland impacts shall be mitigated with the appropriate mitigation ratio pursuant to LIP Section 4.8.2. The ESHA and/or wetland enhancement shall be incorporated into the site landscape plan reviewed and approved by the City Biologist.

2. Native Trees. The project shall be designed to avoid impacts to protected native trees as defined in LIP Chapter 5; however, where impacts to protected native trees cannot be feasibly be avoided, impacts shall be

minimized. Such impacts shall only be allowed if, as a condition of approval of a coastal development permit for the development, the applicant shall be required to: 1) implement a tree protection plan prepared in accordance with LIP Section 5.3 and approved by the City Biologist for trees that will not be removed; and 2) if no feasible alternative can prevent tree removal, the applicant shall submit a native tree replacement planting program required by LIP Section 5.5.1 or if onsite mitigation is not feasible, mitigation shall be provided by either offsite mitigation or payment of an in lieu fee as required by LIP Section 5.5.2 for trees that are removed.

D. Yards/Setbacks. LIP Section 3.9(A)(2) shall apply except that the front yard setback shall be 5 feet.

E. Height. LIP Section 3.9(A) shall apply except that structure height up to 28 feet shall be allowed without the requirement of a site plan review under LIP Section 13.27.1(A)(8).

F. Fencing and Walls. LIP Section 3.5.3(A) shall apply except that the portion of fence above 42 inches in height within any required yard need not be open/permeable where it serves as screening for structures or equipment. Vegetative screening within or outside of required yards shall not be limited in height except where such screening would significantly obstruct public views of scenic areas. Additionally, single retaining walls within required yards may extend to a height of up to 6 feet, so long as such walls incorporate veneers, texturing and/or colors that blend with the surrounding earth materials or landscape when they are visible from a scenic highway, public viewing areas, trails, and parks.

G. Parking and Loading. LIP Sections 3.14.5 and 3.14.6 shall not apply.

H. Grading. LIP Chapter 8 shall apply except that a single retaining wall up to a height of 12 feet shall only be allowed when stepped or terraced, and no more than 6 feet in height is visible from ground level, and all grading associated with access driveways shall be included in the exception from grading limitations of LIP Section 8.3(I).

I. Visual Impacts / Screening. Structures and equipment shall be designed to minimize visual impacts using methods including, but not limited to: locating development below ground level where possible; utilizing landscape screening to soften views of the development and allow it to blend with the surrounding environment; and incorporating design measures like walls, fencing, and building and lighting orientations that help screen site development from scenic highways, public viewing areas, trails, parks and avoid light spill into ESHA.

C. Amend LIP Sections 13.6.4(H) through (J) to read as follows:

H. For development relying on an Onsite Wastewater Treatment System, a Septic Plot Plan, prepared by an Environmental Health Specialist that shall include a percolation testing report and septic system design of adequate size, capacity and design to serve the proposed development for the life of the project.

I. For applications for land divisions:

1. Except for proposed parcels that will be connected to the Civic Center Wastewater Treatment Facility, a report prepared by a registered groundwater hydrologist and Environmental Health Specialist that addresses the ability of each proposed building site to accommodate a sewage disposal system, including an analysis of depth to groundwater that addresses seasonal and cyclical variations as well as the adequacy of percolation rates in post-grading conditions (cut or compacted fill); properties that will be connected to the Civic Center Wastewater Treatment Facility shall obtain approval from the City Public Works Department for the connection;

J. For applications for water wells, a groundwater hydrological study that analyzes the individual and cumulative impacts the well may have on groundwater supplies and the potential individual and cumulative impacts the well may have on adjacent or nearby streams, springs, or seeps and their associated riparian habitat.

D. Amend LIP Section 15.2(B)(8) to read as follows:

8. Does not create any parcels without the appropriate conditions for a properly functioning onsite wastewater treatment system or connection to the Civic Center Wastewater Treatment Facility (if applicable), or without an adequate water supply for domestic use. All required approvals certifying that these requirements are met must be obtained;

E. Amend the title of LIP Chapter 18 to read as follows:

**CHAPTER 18 – WASTEWATER TREATMENT SYSTEM STANDARDS
ORDINANCE**

F. Amend LIP Section 18.1 to read as follows:

The purpose and intent of this Chapter is to protect coastal waters within the City of Malibu from impacts resulting from the design, siting, installation, operation, and maintenance of Onsite Wastewater Treatment Systems (OWTSs) and Civic Center Wastewater Treatment Facility (CCWTF), in accordance with the policies of the City's Local Coastal Plan. To implement the certified Land Use Plan, permit

application requirements; siting, design and performance standards; maintenance, operation and monitoring requirements; and other measures are provided to ensure that permitted OWTSs and CCWTF shall be designed, sited, installed, operated and maintained to prevent the introduction of pollutants into coastal waters and protect the overall quality of coastal waters and resources.

G. Modify LIP Section 18.2 to read as follows:

All properties within the City of Malibu are located within the coastal zone as defined in the California Coastal Act and are subject to the policies, standards and provisions of this Chapter in addition to any other policies or standards contained elsewhere in the certified LCP that may apply. Where any policy or standard provided in this Chapter conflicts with any other policy or standard contained in the City's General Plan, Zoning Code or other City-adopted plan, resolution or ordinance not included in the certified LCP, and it is not possible for the development to comply with both the LCP and other plans, resolutions or ordinances, the policies, standards or provisions described herein shall take precedence.

OWTSs and CCWTF shall be designed, sited, installed, operated and maintained in compliance with the policies, standards and provisions contained herein in the LCP. At such time as the rules and regulations developed for OWTSs 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.

Development involving onsite wastewater discharges shall also be consistent with the rules and regulations of the California Regional Water Quality Control Board-Los Angeles Region, including Waste Discharge Requirements, revised waivers and other regulations that apply.

H. Add the following definition to LIP Section 18.3 to read as follows:

“MALIBU VALLEY GROUNDWATER BASIN” means a small alluvial basin located along the Los Angeles County coastline within the City of Malibu. The basin is bounded by the Pacific Ocean on the south and the non water-bearing Tertiary rocks on all remaining sides.

I. Amend title of LIP Section 18.4 to read as follows:

18.4. OWTS PERMIT APPLICATION AND OTHER GENERAL REQUIREMENTS

J. Move LIP Section 18.6 (Management Program) to Section 18.9, renumber subsequent sections, and update all existing references throughout the LIP for all affected sections.

K. Amend title of renumbered LIP Section 18.6 to read as follows:

18.6. OWTS SITING, DESIGN AND PERFORMANCE REQUIREMENTS

L. Amend title of renumbered LIP Section 18.8 to read as follows:

18.8. OWTS MAINTENANCE, OPERATION AND MONITORING

M. Amend title of LIP Section 18.9 to read as follows:

18.9. OWTS MANAGEMENT PROGRAM

N. Renumber LIP Section 18.10 (Water Systems/Wastewater Management) to LIP Section 18.11.

O. Add LIP Section 18.10 to read as follows:

CIVIC CENTER WASTEWATER TREATMENT FACILITY

A. CDP Required. A CDP shall be required for construction of each phase of the Civic Center Wastewater Treatment Facility (CCWTF), and associated infrastructure including but not limited to: pump stations, wastewater collection and recycled water distribution pipelines, groundwater injection wells, except for those activities that are exempted pursuant to LIP Section 13.4.

B. The CCWTF shall maximize the use of reclaimed water produced by the facility and, where feasible, to substitute the reclaimed water for potable water uses. As such, for purposes of LIP Chapter 4 (ESHA) and LIP Chapter 17 (Water Quality), the CCWTF shall be considered a necessary water supply project that includes incidental public service purposes, including but not limited to, burying cables and pipes or inspection and maintenance.

C. All new development, excluding minor remodels and additions to existing structures, approved within the Prohibition Area shall be conditioned to install all necessary plumbing and other improvements to allow the development to connect to reclaimed water lines when they are available and make the maximum feasible use of reclaimed water.

D. The City shall encourage the retrofit of existing development to connect to reclaimed water lines when available and the substitution of reclaimed water for as many existing potable water uses as feasible.

E. Offsite pipelines and ancillary infrastructure:

1. Pipelines and ancillary infrastructure associated with the project, such as but not limited to pump stations, generators, and wells not located on the treatment plant site, shall be located underground whenever feasible and/or in disturbed areas, especially under existing paving, as much as possible to avoid ESHA, native trees, trails, public recreational use areas (such as within parks), and visual impacts.
2. New offsite pipelines and ancillary infrastructure shall be sited and designed to avoid impacts to ESHA to the maximum extent feasible. Any temporary impacts to ESHA from excavation, trenching, or other construction disturbance shall be fully restored. Permanent impacts to or loss of ESHA shall be offset by either (1) habitat restoration; (2) habitat conservation; or (3) payment of an in lieu fee in accordance with LIP Section 4.8.1. The applicant shall provide a preliminary calculation of any impact areas for review and approval by the City Biologist as part of the CDP application and a final calculation prior to issuance of a grading permit for the development affecting the ESHA resources.

F. Supplementary Application Requirements. In addition to any other application materials required by this LCP, the application for a CDP for the CCWTF and associated infrastructure including but not limited to: pump stations, wastewater collection and recycled water distribution pipelines, groundwater injection wells and any future phase shall include the following:

1. An engineering report that includes a project description and the basis of design for collection system flows, anticipated treatment system performance requirements, construction requirements, effluent disposal methods, water reclamation capacity and a facility site plan.

G. Findings. A CDP for the CCWTF, (or modifications to the facility) and associated infrastructure including but not limited to: pump stations, wastewater collection and recycled water distribution pipelines, and groundwater injection wells shall only be approved if the City makes all applicable findings required in the LCP and the following:

1. The proposed project is designed to serve a capacity of development that does not exceed the amount allowed by the LCP.
2. The proposed project is consistent with regulatory requirements of the City of Malibu and applicable agencies, including but not limited to, the Regional Water Quality Control Board.

3. The project, including any proposed new or modified method of effluent disposal, is consistent with policies requiring protection of marine resources, riparian habitat and water quality.

H. System Design and Performance Requirements.

1. The build out design capacity of the CCWTF, including all phases, shall not exceed the amount of development allowed by the LCP.

2. The project shall comply with the requirements contained in this chapter, current Guidelines of the Regional Board or such other requirements of the City of Malibu, whichever are more stringent.

3. The CCWTF treatment plant and all associated infrastructure shall be sited and designed in conformance with LIP Section 3.4.4 and all applicable LCP policies and standards.

4. Pipeline crossings of streams and/or encroachment into riparian/wetland areas shall be avoided except where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effect. Such crossings or encroachments shall be sited in disturbed areas or underground to the maximum extent feasible, and shall be designed to be the least environmentally damaging alternative, given consideration of both construction and operation/maintenance.

5. Effluent disposal methods shall be the least environmentally damaging feasible alternatives, and shall maximize reuse of recycled wastewater as much as feasible in accordance with LCP policies.

6. The facility shall incorporate industry-standard fail safes, redundancies, and other such secondary protection measures as necessary to minimize the potential for environmental damage.

7. All segments of pipeline crossing over any portion of the Malibu Coast Fault shall be designed to resist earth movement to the maximum extent feasible through the use of flexible piping material.

8. The removal of ESHA for the purpose of installing landscaping for the purpose of disposing of reclaimed water shall be prohibited. Irrigation of ESHA with reclaimed water shall also be prohibited.

P. Add LIP Section 18.11(F) to read as follows:

F. Once the CCWTF begins operating, new or modified water wells within the Malibu Valley Groundwater Basin shall be allowed only in accordance with the groundwater protection zone requirements established by the California Department of Public Health.

Q. Amend LIP Table B (Permitted Uses) to make the following modifications within the “CV-2” and “OS” zone columns as indicated, together with modified and additional footnotes. All other portions of Table B shall remain unaffected.

USE	RR	SF	MF	MFBF	MHR	CR	BPO	CN	CC	CV-1	CV-2	CG	OS	I	PRF	RVP
PUBLIC, QUASI-PUBLIC, OR NON-PROFIT USES																
Public utility facilities	CUP	CUP	CUP	CUP	•	•	•	CUP	CUP	CUP ⁴	CUP ⁴	CUP	CUP ¹⁵ •	CUP	•	•

USE	RR	SF	MF	MFBF	MHR	CR	BPO	CN	CC	CV-1	CV-2	CG	OS	I	PRF	RVP
PUBLIC, QUASI-PUBLIC, OR NON-PROFIT USES																
Wastewater storage and hauling	•	•	•	•	•	•	•	•	•	•	CUP ¹⁶ •	CUP	•	•	•	•

Notes

1. Subject to Residential Development Standards (Section 3.6).
2. Subject to Home Occupations Standards [(Section 3.6(O)].
3. Use Prohibited in Environmentally Sensitive Habitat Areas.
4. This commercial use may be permitted only if at least 50% of the total floor area of the project is devoted to visitor serving commercial use. This floor area requirement shall not apply to the Civic Center Wastewater Treatment Facility.
5. CUP for veterinary hospitals.
6. Maximum interior occupancy of 125 persons.
7. If exceeding interior occupancy of 125 persons.
8. By hand only.
9. Use permitted only if available to general public.
10. Charitable, philanthropic, or educational non-profit activities shall be limited to permanent uses that occur within an enclosed building.
11. Sports field lighting shall be limited to the main sports field at Malibu High School and subject to the standards of LIP Section 4.6.2 and 6.5(G).
12. Limited to public agency use only (not for private use).
13. Accessory uses when part of an educational or non-profit (non-commercial) use. However, residential care facilities for the elderly are limited to operation by a non-profit only.

14. CUP for facilities within a side or rear yard when adjacent to a residentially-zoned parcel.

15. Conditionally permitted only when facilities are ancillary to the Civic Center Wastewater Treatment Facility, including but not limited to injection wells, generators, and pump stations.

16. This use is conditionally permitted in the Civic Center Wastewater Treatment Facility Institutional Overlay District and only when associated with an existing wastewater treatment facility or with the Civic Center Wastewater Treatment Facility.

R. Insert a new map titled “Civic Center Wastewater Treatment Facility Institutional Overlay District Map,” included as Exhibit A to this ordinance, into the LIP Zoning Map.

S. Insert a new map “Civic Center Prohibition Area Map,” included as Exhibit B to this ordinance, as a map in Appendix 2 of the LIP.

Section 5. Zoning Text Amendment Findings.

Pursuant to M.M.C. Section 17.74.040, the City Council finds, based on evidence in the whole record, that the subject Zoning Text and Map Amendments are consistent with the General Plan. The proposed amendment does not involve a zone change; the existing General Plan land use designation remains CV-2. The proposed Civic Center Wastewater Treatment Facility Institutional Overlay District applies only in the event the site is acquired by a public agency or special district and committed to that specific use. The proposed text amendment overall is consistent with the General Plan.

Section 6. Malibu Municipal Code Amendments.

ZTA No. 13-008 and ZMA No. 13-003 include amendments to Title 17 (Zoning) of the M.M.C. Pursuant to M.M.C. Section 17.74.040, the City Council hereby amends Title 17 (Zoning) of the M.M.C. as follows:

A. Add the following definition to M.M.C. Section 17.02.060 (Definitions) to read as follows:

“Civic Center Wastewater Treatment Facility” (CCWTF) means a public utility facility to be constructed in the Malibu Civic Center area in response to the prohibition on discharges from onsite wastewater treatment systems in order to provide centralized municipal wastewater treatment facilities to affected properties.

B. Add M.M.C. Section 17.28.030(C) to read as follows:

C. Wastewater storage and hauling only within the Civic Center Wastewater Treatment Facility Institutional Overlay District and only when associated with an

existing wastewater treatment facility or with the Civic Center Wastewater Treatment Facility.

C. Add M.M.C. Section 17.32.030(C) to read as follows:

C. Public utility facilities provided that facilities are ancillary to the Civic Center Wastewater Treatment Facility, including but not limited to injection wells, generators, and pump stations.

D. Amend M.M.C. Section 17.40.040(A)(14) to read as follows:

14. Wastewater Disposal. Except for development that will be connected to the Civic Center Wastewater Treatment Facility, all wastewater shall be disposed of on the site where it is created, unless a property is already developed with a habitable structure and a conditional use permit is obtained for off-site treatment or disposal. A conditional use permit, subject to the provisions of Chapter 17.66, may be granted to the site receiving the wastewater only after consideration of the following factors:

a. Geologic or soils conditions of the sending site which limit on-site wastewater treatment and disposal capacity;

b. Indications that there are no other technically feasible treatment options available to the sending site;

c. Compatibility of the proposed off-site treatment and disposal facility with the uses and character of adjacent properties and surrounding neighborhood;

d. The environmental and public health impacts to the receiving site with respect to site-specific and area-wide geology, site-specific and area-wide hydrology, biological resources/native plant communities, water quality/proximity to receiving waters, and cumulative impacts; and

e. The environmental benefits of off-site disposal are greater than those from on-site disposal.

Subject to applicable provisions of this code, water may be recycled through toilets and/or used for landscape irrigation.

E. Amend M.M.C. Section 17.40.080(A)(7) to read as follows:

7. Wastewater Disposal. Except for development that will be connected to the Civic Center Wastewater Treatment Facility, all wastewater shall be disposed of on the site where it is created, unless a property is already developed with a habitable structure and a conditional use permit is obtained for off-site treatment or disposal. A conditional

use permit, subject to the provisions of Chapter 17.66, may be granted to the site receiving the wastewater only after consideration of the following factors:

- a. Geologic or soils conditions of the sending site which limit on-site wastewater treatment and disposal capacity;
- b. Indications that there are no other technically feasible treatment options available to the sending site;
- c. Compatibility of the proposed off-site treatment and disposal facility with the uses and character of adjacent properties and surrounding neighborhood;
- d. The environmental and public health impacts to the receiving site with respect to site-specific and area-wide geology, site-specific and area-wide hydrology, biological resources/native plant communities, water quality/proximity to receiving waters, and cumulative impacts; and
- e. The environmental benefits of off-site disposal are greater than those from on-site disposal.

Subject to applicable provisions of this code, water may be recycled through toilets and/or used for landscape irrigation.

F. Add M.M.C. Section 17.42.020(K) to read as follows:

K. Civic Center Wastewater Treatment Facility (CCWTF) Institutional Overlay District (24000 Civic Center Way / APNs 4458-028-006 and 4458-028-020).

1. The provisions of this section shall only apply in the event the CCWTF Overlay property is acquired by a public agency or special district and committed to use for the Civic Center Wastewater Treatment Facility.
2. The Institutional Development Standards contained in Section 17.40.110, as well as all other applicable provisions of this title, shall apply, unless specifically modified by this section.
3. Siting
 - a. Environmentally Sensitive Habitat Area. The CCWTF is a necessary water supply project with incidental public service components (per LIP Section 18.10(B)). The project shall comply with applicable provisions of LIP Chapter 4, such as but not limited to siting the project to avoid impacts to ESHA and to provide the minimum required ESHA buffers, except as otherwise provided below:

6. Fencing and Walls. Section 17.40.030(A) shall apply except that the portion of fence above 42 inches within any required yard need not be open/permeable where it serves as screening for structures or equipment. Vegetative screening within or outside of required yards shall not be limited in height except where such screening would significantly obstruct public views of scenic areas. Additionally, single retaining walls within required yards may extend to a height of up to 6 feet, so long as such walls incorporate veneers, texturing and/or colors that blend with the surrounding earth materials or landscape when they are visible from a scenic highway, public viewing areas, trails, and parks.
 7. Parking and Loading. Sections 17.48.050 and 17.48.060 shall not apply.
 8. Grading. Section 17.40.110(A)(4) shall apply except that a single retaining wall up to a height of 12 feet shall only be allowed when stepped or terraced, and no more than 6 feet in height is visible from ground level, and all grading associated with access driveways shall be included in the exception from grading limitations of Section 17.40.110(A)(4)(f).
 9. Visual Impacts / Screening. Structures and equipment shall be sited and designed to minimize visual impacts using methods including, but not limited to: locating development below ground level where possible; utilizing landscape screening to soften views of the development and allow it to blend with the surrounding environment; and incorporating design measures like walls, fencing, and building and lighting orientations that help screen site development from scenic highways, public viewing areas, trails, parks, and avoid light spill into ESHA.
- G. Amend M.M.C. Section 17.06.020 Zoning Map to add new maps titled “Civic Center Wastewater Treatment Facility Institutional Overlay District Map” and “Civic Center Prohibition Area Map,” included as Exhibits A and B to this ordinance, respectively.

Section 7. Approval of Ordinance No. 393 and Repealing Ordinance No. 386.

The City Council hereby adopts LCPA No. 13-002, ZTA No. 13-008 and ZMA No. 13-003 amending the LCP and M.M.C as modified by the CCC. Ordinance No. 386 is hereby repealed and any amendments to the LIP and Title 17 of the M.M.C. authorized by Ordinance No. 386 are superseded by the amendments set forth in Sections 4 and 6 of this Ordinance.

A. Pursuant to the CCC's Administrative Regulations Section 13544.5, the LCPA certification shall not be deemed final and effective until all of the following occur: 1) the City Council: a) acknowledges receipt of the CCC's Resolution of Certification, including any terms or modifications suggested for final certification; b) accepts and agrees to any such terms and modifications and takes whatever formal action is required to satisfy the terms and modifications; and c) agrees to issue coastal development permits for the total area included in the certified LCP; 2) the Executive Director of the CCC determines in writing that the City's action is legally adequate to satisfy any specific requirements set forth in the CCC's certification order and the Director reports the determination to the CCC at its next regularly scheduled meeting; 3) if the Director finds that the City's action does not conform to the CCC's order, the CCC shall review the City action as if it were a resubmittal; and 4) notice of the certification shall be filed with the Secretary of the Resources Agency for posting and inspection.

B. The City Council acknowledges receipt of the CCC's modifications to LCPA No. 13-002. The City Council further accepts and agrees to the modified language suggested by the CCC pertaining to the LIP and approves revisions to LCPA No. 13-002 without further changes.

C. The City of Malibu agrees to issue coastal development permits for the total area included in the certified LCP.

The proposed amendments to the LIP meet the requirements of, and are in conformance with the policies and requirements of Chapter 3 of the California Coastal Act to the extent necessary to achieve the basic State goals specified in Public Resources Code Section 30001.

Section 8. Submittal to California Coastal Commission.

The City Council hereby directs staff to submit a copy of this ordinance to the CCC per Title 14, California Code of Regulations Section 13544.5(a).

Section 9. Severability.

If any section, subsection, sentence, clause, portion, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of any competent jurisdiction, such decision shall not affect the validity of the remaining sections, subsections, sentences, clauses, portions, or phrases of this Ordinance. The City Council hereby declares that it would have passed this Ordinance and each and every section, subsection, sentence, clause, portion, or phrase without regard to whether any other section, subsection, sentence, clause, portion, or phrase of this Ordinance would be subsequently declared invalid or unconstitutional.

Section 10. Effectiveness.

The amendments approved in this ordinance shall become effective only upon certification by the CCC of this amendment to the LCP.

Section 11. Certification.


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

PASSED, APPROVED AND ADOPTED this 22nd day of June 2015.



JOHN SIBERT, Mayor

ATTEST:



LISA POPE, City Clerk
(seal)

APPROVED AS TO FORM:




CHRISTI HOGIN, 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.

I CERTIFY THAT THE FOREGOING ORDINANCE NO. 393 was passed and adopted at the Regular City Council meeting of June 22, 2015, by the following vote:

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



LISA POPE, City Clerk
(seal)

Civic Center Wastewater Treatment Facility Institutional Overlay District

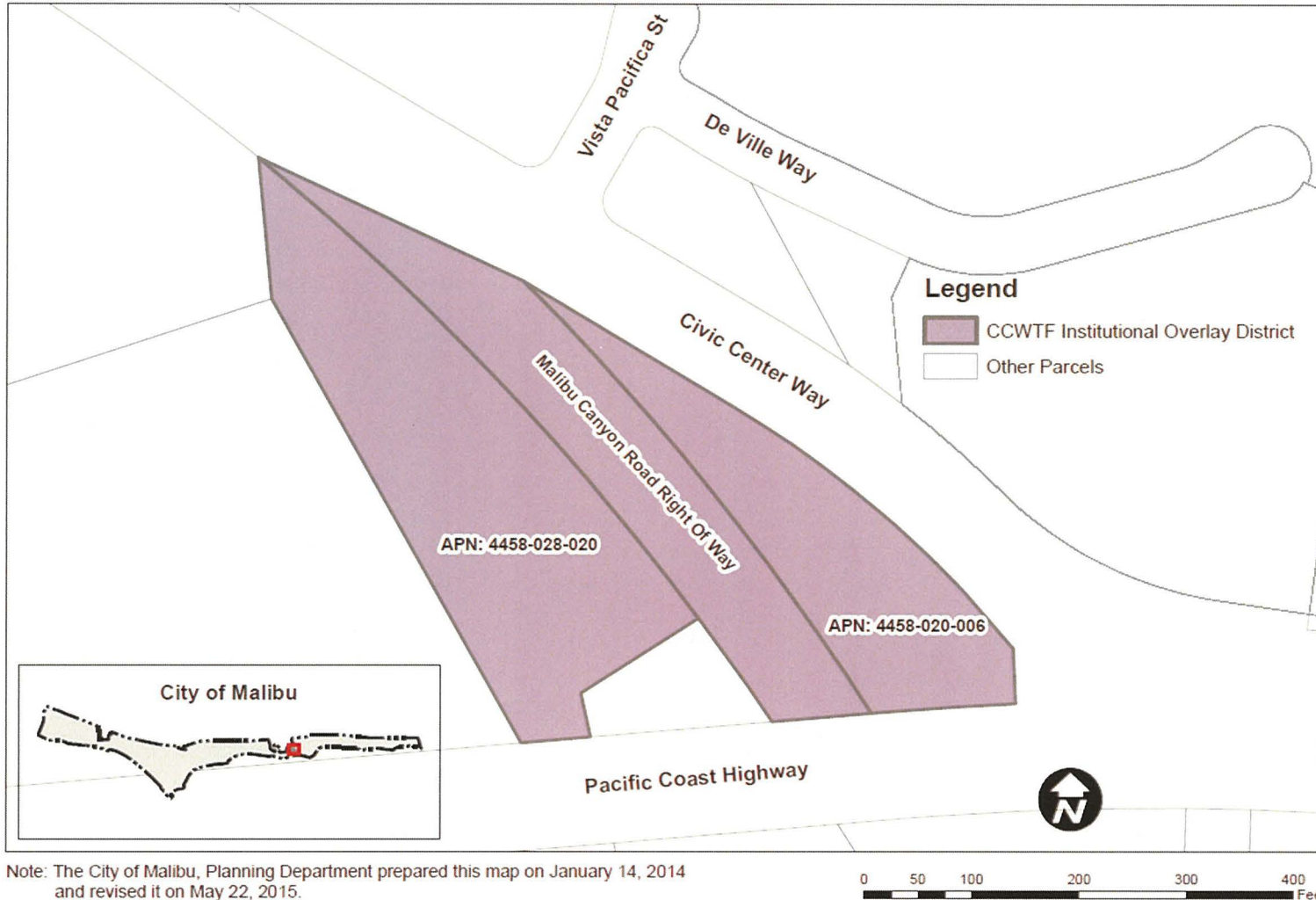
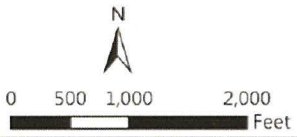


EXHIBIT A



- Prohibition Boundary
- Malibu City Boundary

**Civic Center
Prohibition Area Map**

EXHIBIT B