

ORDINANCE NO. 425

AN ORDINANCE OF THE CITY OF MALIBU REPEALING  
ORDINANCE NO. 383 (FOLLOWING RELATED COURT DECISION)

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

SECTION 1. Recitals

1. Ordinance No. 383 was enacted as Measure R, adopted by initiative on November 4, 2014. The measure added Malibu Municipal Code Sections 17.02.045, 17.22.060, 17.24.050, 17.26.050, 17.28.050, 17.30.050, And 17.66.130 and amended General Plan sections 1.4.2 Land Use (LU) Element Goal 2 and 1.5.18 and Figures LU-2(A)-(E), Your Malibu, Your Decision Act of Chapters 17.02, 17.22, 17.24, 17.26, 17.28, 17.30, 17.66, relating to regulating formula retail establishments in the Civic Center Commercial District. On May 5, 2015, The Park at Cross Creek LLC and Malibu Bay Company, LLC filed a lawsuit against the City of Malibu challenging Ordinance No. 383 and Measure R. (Case No. BS155299).

2. On December 14, 2015, the trial court issued a ruling on the parties' cross motions for judgment on the pleadings stating that Measure R is invalid because it (1) subjects administrative acts to a public vote and therefore exceeds the scope of the voters' initiative authority; (2) violates substantive due process to the extent that it requires the submission of an administrative matter for voter approval; and (3) creates an illegal conditional use permit. On April 5, 2016, the trial court issued a declaratory judgment that Measure R is invalid and enjoined the City of Malibu from enforcing Measure R.

4. On June 21, 2017, the court of appeal affirmed the trial court's judgment. (Case Nos. B271620 and B275311.)

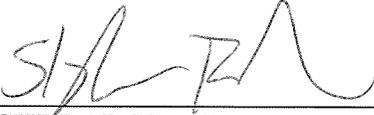
5. On August 9, 2017, the California Supreme Court denied the City's request for Immediate Stay Request and Petition for Review. (Case No. S243351.). The court of appeal's decision in *The Park at Cross Creek LLC et al. v. City of Malibu* is now final.

SECTION 2. Repeal

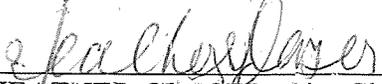
Ordinance No. 383 is hereby repealed in its entirety.

SECTION 3. The City Clerk shall certify the adoption of this ordinance.

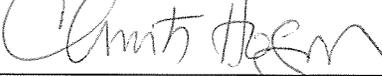
PASSED, APPROVED AND ADOPTED this 27<sup>th</sup> day of November 2017.

  
\_\_\_\_\_  
SKYLAR PEAK, Mayor

ATTEST:

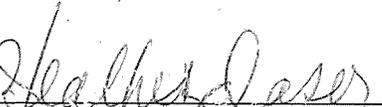
  
\_\_\_\_\_  
HEATHER GLASER, City Clerk  
(seal)

APPROVED AS TO FORM:

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

I CERTIFY THAT THE FOREGOING ORDINANCE NO. 425 was passed and adopted at the Regular City Council meeting of November 27, 2017, by the following vote:

AYES:	5	Councilmembers:	La Monte, Rosenthal, Wagner, Mullen, Peak
NOES:	0		
ABSTAIN:	0		
ABSENT:	0		

  
\_\_\_\_\_  
HEATHER GLASER, City Clerk  
(seal)