1. Meeting Agenda
   Documents:
   
   PC210520_AGENDA_SPECIAL.PDF

2. Item 1A - Amendments To The Local Coastal Program And Title 17 Of The Malibu Municipal
   Code - Regulations To Accessory Dwelling Units Citywide
   
   Documents:
   
   PC210520_ITEM 1A.PDF
This meeting will be held via teleconference only in order to reduce the risk of spreading COVID-19 and pursuant to the Governor’s Executive Orders N-25-20 and N-29-20 and the County of Los Angeles Public Health Officer’s Safer at Home Order (revised May 5, 2021). All votes taken during this teleconference meeting will be by roll call vote, and the vote will be publicly reported.

HOW TO VIEW THE MEETING: No physical location from which members of the public may observe the meeting and offer public comment will be provided. Please view the meeting, which will be live streamed at https://malibucity.org/video and https://malibucity.org/VirtualMeeting.

HOW TO PARTICIPATE BEFORE THE MEETING: Members of the public are encouraged to submit email correspondence to planningcommission@malibucity.org before the meeting begins.

HOW TO PARTICIPATE DURING THE MEETING: Members of the public may also speak during the meeting through the Zoom application. You must first sign up to speak before the item you would like to speak on has been called by the Chair and then you must be present in the Zoom conference to be recognized.

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Malibu Planning Commission
Special Meeting Agenda
(to be held during COVID-19 emergency)

Thursday, May 20, 2021

6:30 P.M. – SPECIAL PLANNING COMMISSION MEETING
Various Teleconference Locations
YOU MAY VIEW THIS MEETING LIVE OVER THE INTERNET AT MALIBUCITY.ORG/VIDEO

Call to Order - Chair

Roll Call - Recording Secretary

Approval of Agenda

Report on Posting of Agenda – May 12, 2021
1. New Public Hearings

A. Amendments to the Local Coastal Program and Title 17 of the Malibu Municipal Code to Modify Regulations Pertaining to Accessory Dwelling Units

Applicant: City of Malibu
Location: Citywide
Case Planner: Associate Planner Kendall, 456-2489, ext. 301

Adopt Planning Commission Resolution No. 21-45 determining the amendments are exempt from the California Environmental Quality Act and recommending that the City Council approve Local Coastal Program Amendment No. 18-002 and Zoning Text Amendment No. 18-004, amendments to the Local Coastal Program and to Malibu Municipal Code Title 17 (Zoning Ordinance) to modify regulations pertaining to Accessory Dwelling Units.

Adjournment

Future Meetings

Monday, May 17, 2021  6:30 p.m.  Regular Planning Commission Meeting  Location TBD
Monday, June 7, 2021   6:30 p.m.  Regular Planning Commission Meeting  Location TBD
Monday, June 21, 2021  6:30 p.m.  Regular Planning Commission Meeting  Location TBD
Tuesday, July 6, 2021  CANCELLED

Guide to the Planning Commission Proceedings

As a result of the Coronavirus (COVID-19) pandemic, the City is under a state of local emergency, as well as states of emergency that have been declared in the County of Los Angeles, state of California, and a federal emergency declared by the President of the United States. At the direction of the Governor, starting March 19, 2020, the entire state is subject to stay-at-home orders. These measures are imposed to reduce the risk of spreading COVID-19. To comply with these emergency measures, the Planning Commission meeting will be open and public but conducted via teleconference only. This way the public, the staff, and the Commission will not be physically in the same place.

Please visit https://malibucity.org/VirtualMeeting and follow the directions for signing up to speak and downloading the Zoom application.

For Public Hearings each speaker is limited to three (3) minutes and must participate through the Zoom application. You must first sign up to speak before the item you would like to speak on has been called by the Chair and then you must be present in the Zoom conference to be recognized. In order to speak, individuals must visit https://malibucity.org/VirtualMeeting and follow the directions for signing up to speak and downloading the Zoom application.

Planning Commission meetings are aired live and replayed on City of Malibu Government Access Channel 3 and are available on demand on the City’s website at https://www.malibucity.org/video. Copies of the staff reports or other written documentation relating to each item of business described above are available upon request by emailing planningcommission@malibucity.org.

The City Hall phone number is (310) 456-2489. To contact City Hall using a telecommunication device for the deaf (TDD), please call (800) 735-2929 and a California Relay Service operator will assist you. In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact Environmental Sustainability Director Yolanda Bundy, (310) 456-2489, ext. 229. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting. [28 CFR 35.102-35.104 ADD Title II.]
Requests to show an audio or video presentation during a Council meeting should be directed to Alex Montano at (310) 456-2489, ext. 227 or amontano@malibucity.org. Material must be submitted by 12:00 p.m. on the meeting day.

I hereby certify under penalty of perjury, under the laws of the State of California that the foregoing agenda was posted in accordance with the applicable legal requirements. Special meeting agendas may be amended up to 24 hours in advance of the meeting. Dated this 12th day of May 2021 at 4:00 p.m.

Kathleen Stecko, Administrative Assistant
To: Chair Jennings and Members of the Planning Commission

Prepared by: Joyce Parker-Bozylinski, Contract Planner
Justine Kendall, Associate Planner

Approved by: Richard Mollica, Planning Director

Date prepared: May 12, 2021               Meeting Date: May 20, 2021

Subject: Amendments to the Local Coastal Program and Title 17 of the Malibu Municipal Code to Modify Regulations Pertaining to Accessory Dwelling Units (Applicant: City of Malibu; Location: Citywide)

RECOMMENDED ACTION: Adopt Planning Commission Resolution No. 21-45 (Attachment 1) determining the amendments are exempt from the California Environmental Quality Act (CEQA) and recommending that the City Council approve Local Coastal Program Amendment (LCPA) No. 18-002 and Zoning Text Amendment (ZTA) No. 18-004, amendments to the Local Coastal Program (LCP) and to Malibu Municipal Code (MMC) Title 17 (Zoning Ordinance) to modify regulations pertaining to Accessory Dwelling Units (ADU).

DISCUSSION: In 2016, the State legislature passed new rules to encourage development of ADU as a measure to increase the supply of affordable housing in California. These laws went into effect in 2017.¹ Many communities had existing zoning rules that did not allow for these types of units, sometimes known as granny flats. Malibu’s zoning laws did already allow for these types of units, known in the LCP and MMC as “second units;” however, the City’s codes needed to be updated to comply with the new laws.

Staff began work on these updates in 2018. The Planning Commission held a public hearing on the draft amendments on September 4, 2018 and directed staff to makes changes to the draft amendments. In November 2019, the Woolsey Fire occurred and staff’s efforts to facilitate the community’s recovery and rebuilding efforts forced a delay of work on the amendments.

In October of 2019, the state legislature again updated laws related to ADUs, and set an effective date of January 1, 2020. Staff began work to integrate the previous Planning Commission recommendations with these new laws in late 2019. The matter was scheduled for a Planning Commission hearing and continued several times to allow staff more time to prepare the draft documents. On March 16, 2020, a Planning Commission hearing was scheduled on the revised amendments, but the hearing was cancelled due to COVID restrictions and all items on the agenda were continued to April 6, 2020. On April 6, the item was continued to a date uncertain.

¹ Senate Bill (SB) 1069, Assembly Bill (AB) 2299 and AB 2406
Tonight’s hearing is the first hearing on the updated ADU amendments since the last Planning Commission public hearing on September 4, 2018.

The LCP amendment will require certification by the California Coastal Commission (CCC) before going into effect. The proposed amendments would bring the LCP and MMC into conformance with new state regulations regarding a streamlined permit process, unit size, parking requirements, development standards, and other key standards, in addition to reconciling terminology between State law and local ordinances.

Background

Like other coastal cities with a certified LCP, Malibu faces the challenge of balancing the requirements of ADU law with requirements of the Coastal Act. In general, State legislation pertaining to ADUs supersedes a city’s existing land use and other regulations. However, the State legislation does not supersede the requirements of the California Coastal Act and by extension, the City’s LCP.

When the legislature amended the law relative to ADUs, it explicitly included in the statute language stating:

“Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act (Division 20 (commencing with Section 30000) of the Public Resources Code), except that the local government shall not be required to hold public hearings for coastal development permit applications for accessory dwelling units.” (Gov. Code 65852.2 subd. (j))

Since Malibu has a certified LCP, the LCP still applies.

Following the first round of ADU related laws passed in 2017, the California Department of Housing and Community Development (HCD) and the CCC each issued technical guidance, including the text of laws, for coastal jurisdictions about how to meet ADU and Coastal Act obligations. These documents can be found on the City’s website at malibucity.org/ADU.

Six new laws adopted in 2019 to further promote ADU development, including AB 881, AB 68, AB 670, AB 671, AB 587, and SB 13. With respect to the proposed ADU ordinance, the focus is on AB 881 and AB 68. The other bills also affect ADUs, but in ways that are not significantly related to the City’s zoning and LCP ordinance. For example, SB 13 adds a new Health and Safety Code provision affecting extensions of time to correct building code violations in an ADU, AB 670 affects ADUs under private Covenant, Conditions, and Restrictions (CC&Rs), AB 671 affects ADU treatment in Housing Elements, and AB 587 allows for separate conveyance of an ADU in very narrow circumstances if a City chose to allow it.

HCD issued a memorandum in January 2020 which provides the combined ADU statute updates from SB 13, AB 68 and AB 88. This memo, which can be found on the City’s website at malibucity.org/ADU includes text in underline/strikethrough format to highlight changes. CCC also issued additional technical guidance dated April 21, 2020 and this document can be found on the City’s website at malibucity.org/ADU.
On September 28, 2020, AB 3182 was signed into law which prohibits a Homeowners Association (HOA) from adopting or enforcing a provision that restricts the rental or lease of a house or condo, except that the HOA may restrict short-term rentals of 30 days or less. The bill also clarified that a permit application for the creation of an ADU, or JADU, would be deemed approved if the local agency has not acted upon the completed application within 60 days and that both an ADU and JDU could be constructed on the same lot. The HOA provisions apply only to HOAs, so no regulations need to be included in the ordinance and the draft amendments already included the other two requirements.

Some of the more significant changes in ADU law increase the locations where ADUs can be built, increase the allowed size of ADUs, reduce the amount of required parking, require certain qualifying types of ADUs to be processed with only a building permit (a ministerial action), and allow ADUs in multifamily buildings.

2018 Planning Commission Recommendations

The draft amendments before the Planning Commission at its September 4, 2018 meeting incorporated all the 2017 laws. The Planning Commission requested that staff include the following:

1) insert a citation of the appropriate federal and/or State law pertaining to mobile homes/tiny houses.
2) clarify that the definition of car share does not include ride sharing networks such as Uber and Lyft.
3) add a provision stating that short-term rental of ADUs is not allowed, together with justification based on the purpose of ADU law and the potential effect on the City’s regional housing needs assessment (RHNA).
4) clarify that the size of an ADU is limited to 900 square feet or no more than 50 percent of the living area of the primary residence.
5) provide additional analysis and options for a local appeals process and confirmation of Fire Department requirements for ADUs.

All recommendations are incorporated in to the draft amendments in the following ways:

1) In State law, the relevant law is titled the "Manufactured Housing Act of 1980" and can be found in Division 13, Part 2, of the California Health and Safety Code, commencing with Section 18000. Federal laws governing manufactured housing built on or after June 15, 1976, are found in Title 42, U.S. Code, Chapter 70, beginning with Section 5401. All projects will have to be consistent with all state and federal laws regardless of whether these laws are referenced in the ordinance; however, the state definition of manufactured housing is incorporated by reference in the Definitions sections of both the ZTA and LCPA.

2) This clarification is included in the definition of Car Share in both the ZTA and LCPA.

3) This prohibition has been included in the ZTA and LCPA, with the justification included in the recital section of Resolution No. 21-45.

4) The factors influencing the maximum size of an ADU are discussed in more detail, below. Staff recommendation differs from the Planning Commission request due to the constraints of State law and local code changes enacted following the 2018 Woolsey Fire.
5) The appeals process as prescribed by State law is included in the ZTA and LCPA, and described in more detail, below. According to the Los Angeles County Fire Department staff, there are no particular requirements for ADUs specifically. Staff has included analysis and options beyond what is required by State law to reduce fire hazard risk, also discussed in more detail below.

**Proposed Amendments**

The proposed language found in Exhibits A (LCP) and B (Zoning Code) to Planning Commission Resolution 21-45 (Attachment 1) will update the City’s regulations for second units consistent with all ADU laws. The changes requested by the Planning Commission are also included where those changes did not conflict with new State law. Exhibits A and B of the resolution are presented in underline/strikethrough format to highlight added and deleted language compared to existing codes.

In general, a city does not have the option of being more restrictive than state law; however, Malibu is required to implement the LCP as well as ADU law. With the proposed amendments, the MMC Zoning Code will meet all the requirements of ADU law and provide for ministerial processing; however, introductory language is included to make it clear that since ADU law does not supersede the Coastal Act, every new ADU will be subject to an analysis for compliance with the LCP before it is reviewed for compliance with the Zoning Code.

If that analysis demonstrates that a project is not exempt from a CDP, then the project would be processed with an Administrative Coastal Development Permit (ACDP) per the LIP. If a project is exempt from a CDP, then the project would be processed per the Zoning Code.

**ADU Processing**

The amendments are designed around the permitting paths set forth in State ADU law and harmonized with the coastal resource protection standards required by the LCP. Proposed ADUs must be consistent with both documents, as amended.

Government Code (Section 65852.3(a)(3)) now requires that the City consider an application for an ADU project through the statutorily mandated ministerial process within 60 days after receiving a complete application. This would apply to any project processed under the Zoning Code. The 2017 laws established a 120-day time frame, but that was reduced to 60 days with the 2019 enactments.

To ensure that ADUs are consistent with both State ADU law and State coastal law, staff is recommending the following procedures:

1. The project would first be reviewed for consistency with the LCP. A JADU that is created from space within an existing or proposed single-family dwelling would not be considered “development” under the Coastal Act so the LCP would not apply for those types of projects.

The following types of projects would be exempt from a CDP if they did not negatively impact coastal resources pursuant to Section 13.4(B), as amended:
a) an attached ADU
b) an ADU created by converting space within an existing primary dwelling so long as it
does not exceed the size limits of 900 square feet or 1,200 square feet and meets all
the other development standards in LIP Section 3.10
c) an ADU created by converting space within an existing accessory building so long as it
does not exceed the size limits of 900 square feet or 1,200 square feet and meets all
the other development standards in LIP Section 3.10.

2. If the initial LCP review determines that a proposed ADU is not exempt from a CDP, then
the ADU would be processed with an ACDP without a public hearing.

3. If the ADU has been cleared as exempt from a CDP, the project will be processed under
the Zoning Code. There are two options for ADU processing in the Zoning Code (refer to
the new Chapter 17.44 in Exhibit B of Attachment 1). First, if a project is one of four specific,
limited types, it would be processed with a building permit only. Second, if the ADU does
not meet one of those four types, then the ADU would be processed with an ADU
Administrative Plan Review (APR).

Some ADUs, even if they are exempt from an ACDP, may require upgrades to the OWTS, which
will require an ACDP. In these cases, the ADU will be processed separately from the OTWS
ACDP.

In addition, new fees will need to be established for an ADU ACDP. Staff anticipates the ADU
ACDP fee would be the same as the fee charged for an OWTS ACDP. The new fees will be
established by the City Council when they consider the ordinance.

An ADU ACDP would be appealable to the Coastal Commission if the project is in the appeal
zone or is within the Commission’s continuing jurisdiction, as defined in Chapter 2 of the Malibu
LIP (Definitions). However, there would be no local appeal since ADUs must be processed
without a public hearing.

Housekeeping amendments (Attachment 2)

In addition to the substantive amendments proposed, staff is proposing additional amendments
to the MMC and LCP to provide internal consistency, clarity, and consistency with ADU law. See
Attachment 2 – Housingkeeing Amendments. The amendments have been incorporated into
Exhibits A and B of the Resolution.

1. Terminology.

“Second unit” is the term used in the LCP and MMC for an accessory residence with kitchen
facilities and is the equivalent to an ADU. This term will be changed throughout to
“accessory dwelling unit” or ADU. “Accessory dwelling unit” and “junior accessory dwelling
unit” would be defined as follows:

ACCESSORY DWELLING UNIT - means an attached or a detached residential dwelling
unit that provides complete independent living facilities for one or more persons and is
located on a lot with a proposed or existing primary residence. An accessory dwelling unit
also includes the following:
a. an efficiency unit, as defined by Section 17958.1 of the California Health and Safety Code; and
b. a manufactured home, as defined by Section 18007 of the California Health and Safety Code.

JUNIOR ACCESSORY DWELLING UNIT - means a residential unit that
a. is no more than 500 square feet in size,
b. is contained entirely within an existing or proposed single-family structure,
c. has a separate exterior entrance
d. includes its own separate sanitation facilities or shares sanitation facilities with the existing or proposed single-family structure, and
e. includes an efficiency kitchen.

The term ADU would replace the existing term “second unit.” When the Planning Commission heard the item in September 2018, staff was not recommending the adoption of JADU regulations. However, due to the changes in ADU law, the proposed amendments allow JADUs.

2. Code Changes for Internal Consistency.

Most changes are related to:
- Changing “second unit” to “accessory dwelling unit”
- Changing “guest unit” to “guest house” In addition, guest houses are also allowed in the City, and staff is proposing to change any mention of “guest unit” to “guest house,” consistent with the existing definition. A guest house does not include cooking facilities nor can it be rented and used as a separate dwelling.

New ADU Regulations

The rest of the amendments have been prepared to address all the requirements of ADU law as outlined in the 2017 amendments and updated in the 2019 amendments and respecting the LCP.

In the LCP’s Local Implementation Plan (LIP), a new Section 3.10 (Accessory Dwelling Units) has been created (Exhibit A). In the MMC, a new chapter has been created, MMC Chapter 17.44 - Accessory Dwelling Units (Exhibit B). Other portions of both documents have also been amended to address processing and internal consistency.

State law requires that each local jurisdiction submit its ADU ordinance to HCD within 60 days after adoption so that HCD can verify compliance of the adopted ordinance with the State law. Failure to provide an ordinance that complies with State law would require HCD to notify the Attorney General that the local jurisdiction is in violation of State law. However, staff believes HCD would first work with the City to bring the ordinance into compliance if HCD determined changes were needed. Staff would submit the zoning ordinance to HCD for review concurrently with submitting the LCPA to the CCC for certification.

The following information summarizes some of the new regulations.
1) **ADU Unit Size:** A city is prohibited from creating an allowable square footage maximum for ADUs that are less than 850 square feet for a studio or one-bedroom unit or 1,000 square feet for a two-bedroom unit. The minimum size of an ADU is 220 square feet for the living area of an efficiency unit plus a closet and bathroom, pursuant to State Health and Safety Code 17958.1 which relies on the definition of an efficiency unit in the California Building Code. The City’s current maximum second unit size is 900 square-feet. Staff is recommending maximums of 900 square-feet (studio/one bedroom) and 1,200 square feet (2 bedroom). This would be consistent with existing second unit requirements and with the square footage allowed for temporary housing for fire rebuilds, some of which are expected to be converted into permanent units in the future. A City does have the option of being less restrictive than State law.

For ADUs processed inside a primary dwelling or existing accessory structure, State law does not limit the size of the ADU unless they are a proposed in a primary dwelling as a JADU with an efficiency kitchen. This would mean that - under just the ADU zoning ordinance that is required by state law - a property owner could apply for an ADU of any size if the ADU is proposed in a primary dwelling or existing accessory building. However, every ADU is reviewed first under the LCP before it is subject to the ADU zoning ordinance, and if the ADU not exempt from a CDP and is processed under the LIP, the LIP restricts the size of those units to the same size limits (900 to 1,200 square feet) of other ADUs.

2) **Very High Fire Severity Zone:** The entire City of Malibu is in a designated “Very High Fire Severity Zone (VHFSZ). There are no Los Angeles County Fire Department requirements for an accessory dwelling unit or junior accessory dwelling unit proposed on a property with only one means of access; however, State law allows jurisdictions to consider safety in identifying areas where ADUs are either not appropriate or require additional safety regulations. The proposed amendments address ADUs on lots that do not have at least two distinct means of vehicular access which places these lots at increased fire risk. Additional requirements for these lots include the installation of fire sprinklers, on-site replacement of parking removed for garage conversions, and increased side and rear yard setbacks. An exhibit that graphically illustrates the two means of access requirement is included as Attachment 3.

3) **Application of Development Standards:** Ordinarily, development standards could constrain the size of an ADU, but ADU laws prohibit the application of lot coverage, minimum lot size, floor area ratio, or open space requirements from reducing the size to less than 800 square feet. However, if during the initial LCP review a project is found to be not exempt, the ADU would be processed under the LIP. In this case the City must apply any applicable coastal resources protection standards to the project to ensure consistency with the LCP so if development on the property where the ADU is proposed already meets or exceeds the maximum Total Development Square Footage (TDSF) or amount of impermeable coverage, an ADU would only be allowed in an existing legal structure.

4) **Size of Attached ADU:** A city can limit the size of an ADU to 50% of the square footage of the existing or proposed single-family structure that is the primary use on the lot. This could result in an ADU that is smaller than 900 or 1,200 square feet.
5) **Setbacks:** A city can require only a 4-foot rear and side yard setback for ADUs unless the dwelling is in a VHFHZ with only one means of ingress/egress. This will be the requirement in the Zoning Code but if the ADU is not exempt from a CDP and is subject to the LCP, then standard setbacks apply.

6) **Height:** State law establishes a minimum height of 16 feet for ADUs. Staff is proposing to use 16 feet for all building permit only projects. Projects that are subject to either an ADU APR in the Zoning Code or an ADU ACDP in the LIP, would be allowed at 18 feet in height and up to 24 or 28 feet with a Site Plan Review.

7) **ADU and JADU:** In the Zoning Code both a JADU and detached ADU must be permitted within a single-family zone with an existing or proposed single-family dwelling if the ADU meets the following criteria: maximum 800 square feet, minimum 4-foot side and rear yard setback, and a maximum height of 16 feet.

8) **ADUs in Multifamily Zones:** A city must allow up to two detached ADUs on any property that has an existing multifamily structure if each detached ADU meets the following standards: 4-foot side and rear yard setbacks and maximum 16 feet in height as a building permit only project in the Zoning Code. If the project is exempt from a CDP, this standard will apply. If the project is not exempt, an ACDP would be required.

9) **Multiple ADUs within Multifamily Buildings:** A city must allow at least one ADU to be created from nonlivable space within an existing multifamily dwelling structure up to a quantity equal to 25 percent of the existing multifamily units as a building permit only project.

In Malibu, the LCP contains multiple standards that address potential coastal resource impacts, including those related to onsite wastewater treatment and adequate onsite parking to avoid impacts to public parking for coastal resources like trails and beach parks. Any proposed ADUs on a multifamily property would first need to be reviewed for compliance with these standards as part of the initial LCP review. If the project is found to be not exempt from a CDP, then an ACDP would be required.

While multiple ADUs could be allowed, the property’s onsite wastewater treatment system capacity may need to be upgraded which would require an ACDP. Also, if existing garages are converted, residents and their guests would likely seek parking on surrounding streets, which could impact coastal access. Because State law does not allow cities to require parking for ministerial (building permit only) ADUs a parking review and analysis would be part of the initial LCP review to determine whether the project would be exempt from a CDP. If the ADUs are being proposed in existing parking spaces, replacement parking would be required if the subject property is within 0.25 miles of a beach, trail head, or other coastal amenity. This is required to ensure parking for residents does not spill over to the adjacent public streets used by coastal visitors. If the project is exempt from a CDP, it could be processed under the Zoning Code as a building permit only project.

10) **Replacement Parking:** A city is not allowed to require replacement parking spaces when a parking structure (e.g., garage) is demolished or converted to construct an ADU. If replacement parking is voluntarily proposed, the parking must be located on hardscape and mechanical automobile parking lifts must be located within an enclosed structure to
ensure compliance with coastal resource protection for public views and water quality. The proposed ordinance does require replacement parking onsite for single family dwellings in a VHFHZ with only one means of ingress/egress.

11) **Parking Location**: A city is required to allow parking to be located within setback areas, including a tandem parking configuration, except where it is not feasible based on specific site topographic or fire and life safety conditions. In Malibu, this will be allowed under the zoning code, and it would be allowed under the LCP as well except where not feasible as described above, and where it would violate a coastal resource protection standard of the LCP, such as ESHA protection or view corridor requirement.

12) **Owner Occupancy**: A requirement for owner-occupancy on the lot with an ADU cannot be required until after January 1, 2025. Owner-occupancy for regular ADUs is not proposed. Owner-occupancy requirements are required for JADUs and the proposed amendments include this provision which states that the property owner must reside in either the primary dwelling or JADU. The proposed amendments require the owner-occupancy requirement be recorded as part of a deed restriction.

13) **Demolition and Replacement of Structures**: A city cannot require an additional setback when an existing living area or accessory structure is demolished and is replaced with a new structure for the purposes of creating an ADU, so long as the replacement structure is constructed within the same location and contains the same dimensions as the structure it is replacing. This would mean that an existing accessory building with nonconforming setbacks could demolish more than 50% of exterior walls if the building was being converted to an ADU. This provision is included in the Zoning Code. A deed restriction limiting the use of the structure to an ADU could be required.

If the ADU is found to be not exempt from a CDP, the ADU would be processed under the LIP with an ACDP. In that situation a replacement structure is required to comply with regular setback standards.

14) **Short Term Rentals (STR)**: State law prohibits STRs only in the ministerially approved building permit only projects but for all other ADUs, the term “may” prohibit is utilized. As directed by the Planning Commission at its last hearing the proposed amendments prohibit STRs in all ADUs and JADUs. Since that hearing, which was held in 2018, the City Council approved a hosted short term rental ordinance and staff is seeking feedback from the Commission on whether they still wish to recommend to the City Council that STRs should be prohibited in all JADUs and ADUs.

As noted by the Planning Commission at its last hearing, ADUs may provide units that can be utilized to meet the City’s Regional Housing Needs Allocation (RHNA) and the proposed amendments includes an income reporting requirement to further this goal and a recital in the Planning Commission resolution citing the reasons why the City chose to prohibit STRs in ADUs.

15) **Impact Fees**: No impact fees will be allowed for ADUs that are less than 750 square feet. However, the new laws will allow impact fees to be imposed for ADUs greater than 750 square feet. These fees must be determined by the ADU square footage.
16) **Separate Conveyances:** New State law creates a limited exception to the prohibition of allowing ADUs to be sold or otherwise conveyed separately from the primary dwelling if certain conditions met. These conditions include, among others, that the property was built by a qualified nonprofit, there is an enforceable restriction on the use of the land between the nonprofit and the qualified low-income buyer and the property is held in a tenancy-in-common agreement. This is an optional provision and staff has not included this provision in the proposed ordinance.

**ENVIRONMENTAL REVIEW:** Pursuant to Public Resources Code Section 21080.9, 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 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 City's Zoning Ordinance. In order to prevent inconsistency between the LCP and the City's Zoning Ordinance, if the LCP amendment is approved, the City must also approve the corollary amendment to the Zoning Ordinance. This amendment is necessary for the preparation and adoption of the LCPA and because they are entirely dependent on, related to, and duplicative of the exempt activity, they are subject to the same CEQA exemption.

In addition, the project is exempt from the requirements of CEQA pursuant to CEQA Guidelines Section 21080.17, which states that the CEQA does not apply to the adoption of local ordinances regulating construction of second units and by CEQA Section 15282(h) that exempts adoption of an ordinance regarding second units in single-family and multifamily residential zones.

Furthermore, the Planning Director has analyzed the proposed amendments. CEQA applies only to projects which have the potential for causing a significant effect on the environment. Pursuant to CEQA Guidelines Section 1 5061(b)(3), where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. The Planning Director determined that the proposed amendments are required by State law and will not result in changes from existing development standards, such as density limits and environmental resource protection standards; consequently, there is no possibility the amendment will have a significant effect on the environment and accordingly, and the exemption set forth in Section 15061(b)(3) applies.

**CORRESPONDENCE:** Correspondence received after the September 4, 2018 Planning Commission is attached.

**PUBLIC NOTICE:** On April 29, 2021, a Notice of Public Hearing was published in a newspaper of general circulation within the City of Malibu and mailed to all interested parties (Attachment 5).

**CONCLUSION:** Staff recommends that the Planning Commission adopt Resolution No. 21-45 (Attachment 1) recommending that the City Council approve ZTA No. 18-004 and LCPA No. 18-002, to update accessory dwelling unit regulations to be consistent with State law.
ATTACHMENTS:

1. Planning Commission Resolution No. 21-45 with Exhibits A (LCPA) and B (ZTA)
2. Housekeeping Amendments
3. VHFSZ -Two Means of Access Illustration
4. Correspondence
5. Notice of Public Hearing
A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MALIBU DETERMINING THE AMENDMENTS ARE EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT AND RECOMMENDING THAT THE CITY COUNCIL APPROVE AND LOCAL COASTAL PROGRAM AMENDMENT 18-002 AND ZONING TEXT AMENDMENT NO. 18-004, AMENDMENTS TO THE LOCAL COASTAL PROGRAM TITLE 17 (ZONING ORDINANCE) OF THE MALIBU MUNICIPAL CODE TO MODIFY REGULATIONS PERTAINING TO ACCESSORY DWELLING UNIT REGULATIONS

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

SECTION 1. Recitals.

A. On June 11, 2018, the City Council adopted Resolution No. 18-28 to: 1) initiate Zoning Text Amendment (ZTA) No. 18-004 and Local Coastal Program (LCP) No. 18-002, to update accessory dwelling unit regulations consistent with State law, and 2) direct 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 July 17, 2018, the Zoning Ordinance Revision and Code Enforcement Subcommittee (ZORACES) met to discuss the proposed amendments to the MMC and LCP and recommended that the City’s existing second unit regulations be updated consistent with Accessory Dwelling Unit State law.

C. On August 9, 2018, a Notice of Planning Commission Public Hearing was published in a newspaper of general circulation within the City of Malibu and mailed to interested parties.

D. On August 30, 2018, a Notice of Availability of LCP Documents was published in a newspaper of general circulation within the City of Malibu and mailed to interested parties.

E. On September 4, 2018, the Planning Commission held a duly noticed public hearing to discuss new accessory dwelling unit (ADU) laws. The Planning Commission provided direction to staff and requested additional information. The Planning Commission also found that ADUs may provide units that can be utilized to meet the City’s Regional Housing Needs Allocation (RHNA) and recommended that short term rentals be prohibited in accessory dwelling units.

F. Between October 2018 and February 2020, the proposed amendments were noticed to be considered by the Planning Commission, however, the hearings were rescheduled.

G. On March 16, 2020, due to the COVID-19 pandemic, all public hearings scheduled for the March 16, 2020 Regular Planning Commission were continued to the April 6, 2020.

H. On April 6, 2020, the public hearing on was continued to a date uncertain.

I. On April 29, 2021, a Notice of Public Hearing was published in a newspaper of general circulation within the City of Malibu and mailed to interested parties.
On May 20, 2021, the Planning Commission held a duly noticed public hearing on the proposed amendments, reviewed and considered the agenda report, reviewed and considered written reports, public testimony, and other information on the record.

SECTION 2. Environmental Review.

Pursuant to Public Resources Code Section 21080.9, 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 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 City’s Zoning Ordinance. In order to prevent inconsistency between the LCP and the City’s Zoning Ordinance, if the LCP amendment is approved, the City must also approve the corollary amendment to the Zoning Ordinance. This amendment is necessary for the preparation and adoption of the LCPA and because they are entirely dependent on, related to, and duplicative of the exempt activity, they are subject to the same CEQA exemption.

In addition, the project is exempt from the requirements of CEQA pursuant to CEQA Guidelines Section 21080.17, which states that the CEQA does not apply to the adoption of local ordinances regulating construction of second units and by CEQA Section 15282(h) that exempts adoption of an ordinance regarding second units in single-family and multifamily residential zones.

Furthermore, the Planning Director has analyzed the proposed amendments. CEQA applies only to projects which have the potential for causing a significant effect on the environment. Pursuant to CEQA Guidelines Section 1 5061(b)(3), where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. The Planning Director determined that the proposed amendments are required by State law and will not result in changes from existing development standards, such as density limits and environmental resource protection standards; consequently, there is no possibility the amendment will have a significant effect on the environment and accordingly, and the exemption set forth in Section 15061(b)(3) applies.

SECTION 3. Local Coastal Program Findings.

Based on evidence in the whole record, the Planning Commission hereby finds that the proposed amendment, contained in Exhibit “A,” meets the requirements of and is in conformance with the policies and requirements of Chapter 3 of the California Coastal Act.

A. The amendments to the LCP meet the requirements of, and are in conformance with the goals, objectives and purposes of the LCP. Updated development standards specific to accessory dwelling units ensures that development of affordable housing may occur in compliance with State housing element law, while maintaining standards to require that uses within the City’s jurisdiction of the Coastal Zone advance the overarching goals of protecting coastal resources.

B. As a part of the LIP, the updated accessory dwelling unit development standards ensure that future development projects and land uses within specific zoning districts conform to applicable LCP policies, goals, and provisions, while taking into consideration the protection and enhancement of visual resources, public access, and recreation opportunities. Incorporating specific requirements for accessory dwelling units achieves LIP Sections 1.2(D) and (G) (guides
future growth and development), LIP Section 1.2(F) (promotes public health, safety, and general welfare), and LIP Section 1.2(K) (assures adequate public uses, facilities, and improvements).

SECTION 4. Zoning Text Amendment Findings.

Pursuant to MMC section 17.74.040, the Planning Commission hereby makes the following findings and recommends to the City Council that the MMC be amended as contained in Exhibit B of this resolution.

A. The subject zoning text amendment is consistent with the objectives, policies, general land uses and programs specified in the General Plan. The proposed amendment serves to enhance the Malibu General Plan Mission Statement, protect public safety and preserve Malibu’s natural and cultural resources.

B. The Planning Commission 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 5. Approval.

Based on the above findings, the Planning Commission hereby recommends that the City Council approve the amendments to the Local Coastal Program and Title 17 of the Malibu Municipal Code included herein as Exhibits “A” and “B.”

SECTION 6. The Planning Commission shall certify the adoption of this Resolution.

PASSED, APPROVED AND ADOPTED this 20th day of May 2021.

JEFFERY JENNINGS, Planning Commission Chair

ATTEST:

KATLEEN STECKO, Recording Secretary

I CERTIFY THAT THE FOREGOING RESOLUTION NO. 21-45 was passed and adopted by the Planning Commission of the City of Malibu at the special meeting thereof held on the 20th day of May 2021, by the following vote:

AYES: 
NOES: 
ABSTAIN: 
ABSENT: 

KATHLEEN STECKO, Recording Secretary
CHAPTER 3—MARINE AND LAND RESOURCES

g. New Development

3.42 New development shall be sited and designed to minimize impacts to ESHA by:


b. Minimizing the removal of natural vegetation, both that required for the building pad and road, as well as the required fuel modification around structures.

c. Limiting the maximum number of structures to one main residence, one second residential structure, one accessory dwelling unit or one guest house, and accessory structures such as, stable, corral, pasture, workshop, gym, studio, pool cabana, office, or tennis court, provided that such accessory structures are located within the approved development area and structures are clustered to minimize required fuel modification.

d. Minimizing the length of the access road or driveway, except where a longer roadway can be demonstrated to avoid or be more protective of resources.

e. Grading for access roads and driveways should be minimized; the standard for new on-site access roads shall be a maximum of 300 feet or one-third the parcel depth, whichever is less. Longer roads may be allowed on approval of the City Planning Commission, upon recommendation of the Environmental Review Board and the determination that adverse environmental impacts will not be incurred. Such approval shall constitute a conditional use to be processed consistent with the LIP provisions.

f. Prohibiting earthmoving operations during the rainy season, consistent with Policy 3.47.

g. Minimizing impacts to water quality, consistent with Policies 3.94—3.155. (Resolution No. 07-04)
CHAPTER 5—NEW DEVELOPMENT

A.2. Land Use Plan Provisions

The LUP provides parameters for new development within the City. The Land Use Plan Map designates the allowable land use, including type, maximum density and intensity, for each parcel. Land use types include local commercial, visitor serving commercial, residential, institutional, recreational, and open space. The LUP describes the allowable uses in each category.

The commercial development policies provide for pedestrian and bicycle circulation to be provided within new commercial projects in order to minimize vehicular traffic. Visitor serving commercial uses shall be allowed in all commercial zones in the City and shall be given priority over other non-coastal dependent development. Parking facilities approved for office or other commercial developments shall be permitted to be used for public beach parking on weekends and other times when the parking is not needed for the approved uses.

The LUP encourages and provides for the preparation of a specific plan or other comprehensive plan for the Civic Center area. The Land Use Plan Map designates this area for Community Commercial, General Commercial, and Visitor-Serving Commercial uses. By preparing a Specific Plan a wider range and mix of uses, development standards, and design guidelines tailored to the unique characteristics of the Civic Center could be provided for this area as a future amendment to the LCP.

The LUP policies address new residential development. The maximum number of structures allowed in a residential development is one main residence one second residential structure accessory dwelling unit or one guest house and additional accessory structures provided that all such structures are located within the approved development area and clustered to minimize required fuel modification, landform alteration, and removal of native vegetation.

The LUP provides for a lot retirement program designed to minimize the individual and cumulative impacts of the potential buildout of existing parcels that are located in ESHA or other constrained areas and still allow for new development and creation of parcels in areas with fewer constraints. This includes the Transfer of Development Credit (TDC) Program, and an expedited reversion to acreage process. The TDC program will be implemented on a region-wide basis, including the City as well as the unincorporated area of the Santa Monica Mountains within the Coastal Zone. New development that results in the creation of new parcels, or multi-family development that includes more than one unit per existing parcel, except for affordable housing units, must retire an equivalent number of existing parcels that meet the qualification criteria of the program. Finally, an expedited procedure will be implemented to process reversion to acreage maps.

The LUP policies require that land divisions minimize impacts to coastal resources and public access. Land divisions include subdivisions through parcel or tract map, lot line adjustments, and certificates of compliance. Land divisions are only permitted if they are approved in a coastal development permit. A land division cannot be approved unless every new lot created would
contain an identified building site that could be developed consistent with all policies of the LCP. Land divisions must be designed to cluster development, to minimize landform alteration, to minimize site disturbance, and to maximize open space. Any land division resulting in the creation of additional lots must be conditioned upon the retirement of development credits (TDCs) at a ratio of one credit per new lot created. Certificates of compliance must meet all policies of the LCP.

The LUP policies provide for the protection of water resources. New development must provide evidence of an adequate potable water supply. The use of water wells to serve new development must minimize individual and cumulative impacts on groundwater supplies and on adjacent or nearby streams, springs or seeps and their associated riparian habitats. Water conservation shall be promoted. Reclaimed water may be used for approved landscaping, but landscaping or irrigation of natural vegetation for the sole purpose of disposing of reclaimed water is prohibited.

Communication facilities are provided for as a conditional use in all land use designations. All facilities and related support structures shall be sited and designed to protect coastal resources, including scenic and visual resources. Co-location of facilities is required where feasible to avoid the impacts of facility proliferation. New transmission lines and support structures will be placed underground where feasible. Existing facilities should be relocated underground when they are replaced.

Finally, the New Development policies provide for the protection and preservation of archaeological and paleontological resources. Measures to avoid and/or minimize impacts to identified archaeological and paleontological resources must be incorporated into the project and monitoring must be provided during construction to protect resources.

h. Design guidelines, including architectural design, lighting, signs, and landscaping.

i. Provisions for mixed use development. (Resolution No. 07-04)

6. Residential Development Policies

5.20 All residential development, including land divisions and lot line adjustments, shall conform to all applicable LCP policies, including density provisions. Allowable densities are stated as maximums. Compliance with the other policies of the LCP may further limit the maximum allowable density of development.

5.21 The maximum number of structures permitted in a residential development shall be limited to one main residence, one accessory dwelling unit or guest house, second residential structure, and accessory structures such as stable, workshop, gym, studio, pool cabana, office, or tennis court provided that all such structures are located within the approved development area and structures are clustered to minimize required fuel modification.

5.22. Second residential units, Accessory dwelling units, guesthouses, granny units, etc., shall be limited in size to a maximum of 900 square feet for a studio or one bedroom and 1,200 square feet for a two-bedroom unit. Guest houses shall be limited in size to a maximum 900 square feet. Junior
accessory dwelling units shall be limited in size to a maximum of 500 square feet. The maximum square footage shall include the total floor area of all enclosed space, including lofts, mezzanines, and storage areas. Detached garages, including garages provided as part of that are part of an accessory dwelling unit or guest house, shall not exceed 400 square feet (2-car) maximum. The area of a garage provided as part of an accessory dwelling unit or guest house shall not be included in the 900 or 1,200 square foot limit.

5.23 A minimum of one on-site parking space shall be required for the exclusive use of any accessory dwelling unit or guest house unless otherwise exempted under LIP Section 3.10(G)(5)(b). No parking shall be required for a junior accessory dwelling unit.

5.24 New development of an accessory dwelling unit or guest house or other accessory structure that includes plumbing facilities shall demonstrate that adequate private sewage disposal can be provided on the project site consistent with all of the policies of the LCP.

5.25 In order to protect the rural character, improvements, which create a suburban atmosphere such as sidewalks and streetlights, shall be avoided in any rural residential designation.
CHAPTER 2—DEFINITIONS

2.1. GENERAL DEFINITIONS

ACCESSORY DWELLING UNIT - an attached or a detached residential dwelling unit that provides complete independent living facilities for one or more persons and is located on a lot with a proposed or existing primary residence. An accessory dwelling unit also includes the following:

a. An efficiency unit, as defined by Section 17958.1 of the California Health and Safety Code and the California Building Code; and
b. A manufactured home, as defined by Section 18007 of the California Health and Safety Code.

ACCESSORY DWELLING UNIT, ATTACHED - an accessory dwelling unit that is structurally attached to the primary dwelling unit by a shared wall or as an additional story above the primary dwelling unit, but which has independent, direct access from the exterior.

ACCESSORY DWELLING UNIT, DETACHED - an accessory dwelling unit that is not structurally attached to the primary dwelling unit.

CAR SHARE VEHICLE - a motor vehicle that is operated as part of a regional fleet by a public or private car-sharing company or organization and provides hourly or daily service. A car share vehicle does not include vehicles used as part of ride-hailing companies such as Uber or Lyft.

COMPLETE INDEPENDENT LIVING FACILITIES - permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family or multifamily dwelling is or will be situated.

EFFICIENCY KITCHEN - a kitchen that includes each of the following:

1. A cooking facility with appliances.
2. A food preparation counter or counters that total at least 15 square feet in area.
3. Food storage cabinets that total at least 30 square feet of shelf space.

JUNIOR ACCESSORY DWELLING UNIT - a residential unit that

1. is no more than 500 square feet in size,
2. is contained entirely within an existing or proposed single-family structure,
3. has a separate exterior entrance.
4. includes its own separate sanitation facilities or shares sanitation facilities with the existing or proposed single-family structure, and

5. includes an efficiency kitchen.

MULTIFAMILY RESIDENCE - a building or portion thereof used for occupancy by two or more families living independently of each other and containing three or more dwelling units. For the purposes of the accessory dwelling unit regulations in LCP (Section 3.10), “multifamily residence” means a building or portion thereof used for occupancy by two or more families living independently of each other and containing two or more dwelling units.

PASSAGEWAY - a pathway that is unobstructed clear to the sky and extends from a street to one entrance of the accessory dwelling unit or junior accessory dwelling unit.

PUBLIC TRANSIT - a location, including, but not limited to, a bus stop, where the public may access buses and other forms of transportation that charges set fares, run on fixed routes, and available to the public.

“Second unit” means an attached or detached residential dwelling unit which provides complete independent living facilities for one or more persons. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family dwelling is situated.

TANDEM PARKING - two or more automobiles parked on a driveway or in any other location on a lot, lined up behind one another.

VERY HIGH FIRE HAZARD SEVERITY ZONE - a zone as defined by Government Code 51177 and designated by Ordinance 299.
CHAPTER 3—ZONING DESIGNATIONS AND PERMITTED USES

Q. Planned Development (PD) Zone

1. Purpose

The PD District is intended to provide for a mix of residential and recreational development, consistent with the PD Land Use Designation in Chapter 5 (Section C.2) of the Land Use Plan consisting of five single-family residences and 1.74 acres of recreational area located east of Malibu Bluffs Park and south of Pacific Coast Highway. The PD District consists of the land designated as Assessor Parcel Numbers (APNs) 4458-018-019, 4458-018-002, and 4458-018-018, known as Malibu Coast Estate, and formerly known as the “Crummer Trust” parcel.

2. Permitted Uses

The uses and structures permitted in Malibu Coast Estate are as follows. Lot numbers are as identified on the “Malibu Coast Estate Planned Development Map 1” of this LIP.

a. Lot Nos. 1—5

   i. One single-family residence per lot.
   ii. Accessory uses (one second unit or guest house per lot in accordance with Section 3.6(N)(1)), garages, swimming pools, spas, pool houses, cabanas, water features, gazebos, storage sheds, private non-illuminated sports courts, noncommercial greenhouses, gated driveways, workshops, gyms, home studios, home offices, and reasonably similar uses normally associated with a single-family residence, as determined by the Planning Director).
   iii. Accessory dwelling units in accordance with Section 3.10.
   iii. iv. Domestic animals, kept as pets.
   iv. v. Landscaping.

b. Lot No. 6

   i. Uses and structures maintained by either the owners of Lots 1—5 or the homeowners’ association formed to serve the residential development within Malibu Coast Estate, including a guard house, private access road, gates (including entry gates), fencing, visitor parking, landscaping, guardhouse parking, community utilities, informational and directional signage, private open space, lighting and wastewater treatment facilities serving uses within Malibu Coast Estate.

c. Lot No. 7

   i. Parks and public open space, excluding community centers.
Exhibit A – LCP Amendments

ii. Active and passive public recreational facilities, such as ball fields, skate parks, picnic areas, playgrounds, walkways, restrooms, scoreboard, sport court fencing, parking lots, and reasonably similar uses as determined by the Planning Director. Night lighting of recreational facilities shall be prohibited, except for the minimum lighting necessary for public safety.

iii. Onsite wastewater treatment facilities.

3. Lot Development Criteria

All new lots created in Malibu Coast Estate shall comply with the following criteria:

a. Lot Nos. 1—5
   i. Minimum lot area: 113,600 square feet (2.60 acres).
   ii. Minimum lot width: 115 feet.
   iii. Minimum lot depth: 480 feet.

b. Lot No. 6
   i. Minimum lot area: 125,700 square feet (2.88 acres).
   ii. Minimum lot width: 625 feet.
   iii. Minimum lot depth: 100 feet.

c. Lot No. 7
   i. Minimum lot area: 75,640 square feet (1.74 acres).
   ii. Minimum lot width: 460 feet.
   iii. Minimum lot depth: 100 feet.

4. Property Development and Design Standards

Development in Malibu Coast Estate shall be subject to all applicable standards of the Malibu LIP, unless otherwise indicated in this LIP Section 3.3(Q). The following development standards shall replace the corresponding development standards otherwise contained in each noted LIP Section for those lots in Malibu Coast Estate.

a. Lot Nos. 1—5
   i. Development Footprint and Structure Size (Replaces corresponding standards in LIP Section 3.6(K))

      a) The total development square footage (TDSF) on each of Lot Nos. 1—5 shall not exceed the following square footage per lot:
Lot 1 – 10,052 sq. ft.
Lot 2 – 9,642 sq. ft.
Lot 3 – 9,434 sq. ft.
Lot 4 – 9,513 sq. ft.
Lot 5 – 10,990 sq. ft.

b) Combinations of Basements, Cellars and/or Subterranean Garages. If any combination of basements, cellars, and/or subterranean garages is proposed, the initial one-thousand (1,000) square feet of the combined area shall not count toward TDSF. Any additional area in excess of one-thousand (1,000) square feet shall be included in the calculation of TDSF at ratio of one square foot for every two square feet proposed.

c) Covered areas, such as covered patios, eaves, and awnings that project up to six feet from the exterior wall of the structure shall not count toward TDSF; if the covered areas project more than six feet, the entire covered area (including the area within the six foot projection) shall be included in TDSF.

d) The development footprint on each lot (Lot Nos. 1—5) shall substantially conform to that indicated on “Malibu Coast Estate Planned Development Map 1” of this LIP. Structures on Lot 5 shall be setback a minimum of 190 feet from the edge of the bluff as identified on “Malibu Coast Estate Planned Development Map 1” in order to ensure that impacts to public views of the eastern Malibu coastline as seen from Malibu Bluffs Park are minimized. The structural setback on Lot 5 does not apply to at grade improvements or low profile above-grade improvements for accessory uses not to exceed 10 feet in height.

ii. Setbacks (Replaces corresponding standards in LIP Section 3.6F)

a) Front yard setbacks shall be at least twenty (20) percent of the total depth of the lot measured from the property line abutting the street, or sixty-five (65) feet, whichever is less. However, the front yard setback for Lot 5 shall be at least forty-three (43) feet.

b) Side yard setbacks shall be cumulatively at least twenty-five (25) percent of the total width of the lot but, in no event, shall a single side yard setback be less than ten (10) percent of the width of the lot.

c) Rear yard setbacks shall be at least fifteen (15) percent of the lot depth.

d) Parkland setbacks in LIP Section 3.6(F)(6) shall not apply.

iii. Structure Height (Replaces corresponding standards in LIP Section 3.6(E))

a) Every residence and every other building or structure associated with a residential development (excluding chimneys), including satellite dish antenna, solar panels and rooftop equipment, shall not be higher than eighteen (18) feet, except the easternmost approximately 2,500 sq. ft. of the...
residence on Lot 2 and the southwestern corner of the residence on Lot 5 shall not be higher than 15 feet, as indicated on “Malibu Coast Estate Planned Development Map 1” of this LIP. Height is measured from natural or finished grade, whichever is lower.

b) Mechanical equipment, including screens may not exceed roof height. Roof-mounted mechanical equipment shall be integrated into the roof design and screened.

c) In no event shall the maximum number of stories above grade be greater than two. Basements and subterranean garages shall not be considered a story.

iv. Grading (Replaces corresponding standards in LIP Section 8.3(B))

a) Notwithstanding other provisions of this Code, all grading associated with the berm, ingress, egress, including safety access, shall be considered exempt grading.

b) Non-exempt grading shall be limited to 2,000 cubic yards per lot.

c) Net export shall be limited to 3,500 cubic yards per lot.

v. Impermeable Coverage, Landscaping, and Berm

a) The impermeable coverage requirement in LIP Section 3.6(I) shall apply.

b) In addition to the requirements of LIP Section 3.10, site landscaping shall be designed to minimize views of the approved structures as seen from public viewing areas, including the use of native trees to screen approved structures. Landscaping and trees shall be selected, sited, and maintained to not exceed 25 feet.

c) A natural-looking earthen berm that is 4 feet in height (except for the northernmost 30 foot long portion on Lot 1 that shall be no less than 2 feet in height) above finished grade shall be constructed along the east side of all approved structures on Lots 1 and 2 to minimize views of the development from downcoast public viewing locations. The location and height of the berm shall substantially conform to that indicated on “Malibu Coast Estate Planned Development Map 1” of this LIP. The berm shall be vegetated with lower-lying native species that blend with the natural bluff landscape.

vi. Parking (In addition to the parking standards of LIP Section 3.14)

a) Two enclosed and two unenclosed parking spaces. The minimum size for a residential parking space shall be 18 feet long by 10 feet wide.

b) One enclosed or unenclosed parking space for a guest house or second unit see Section 3.6(N)(1)(d).

c) For an accessory dwelling unit see Section 3.10.
Exhibit A – LCP Amendments

vii. Colors and Lighting (In addition to the standards of LIP Section 6.5(B))

a) Structures shall be limited to colors compatible with the surrounding environment and landscape (earth tones), including shades of green, brown, and gray with no white or light or bright tones. The color palette shall be specified on plans submitted in building plan check and must be approved by the Planning Director prior to issuance of a building permit. All windows shall be comprised of non-glare glass.

b) Lighting must comply with LIP Section 6.5(G).

viii. Permit Required

To insure the protection of scenic and visual resources in accordance with the provisions of the LCP, any future improvements to structures or significant changes to landscaping beyond that authorized by the coastal development permit (CDP) for each residential lot (Lots 1-5), which would ordinarily be exempt from a CDP pursuant to LIP Section 13.4.1, shall be subject to a new CDP or permit amendment.
3.6. RESIDENTIAL DEVELOPMENT STANDARDS

All single-family and multiple-family residences shall be subject to the following development standards:

D. The minimum floor area of a residential unit shall be as follows:

1. For a single-family residence, not less than 800 square feet, exclusive of any appurtenant structures. This minimum does not apply to accessory dwelling units.

2. For each multi-family dwelling unit, not less than 750 square feet, exclusive of any appurtenant structures. This minimum does not apply to accessory dwelling units.

E. thru M. – no changes

N. Accessory Structures. Accessory structures identified as being permitted within any zone may be established only if they are clearly accessory to a primary permitted or conditionally permitted use established concurrent with or prior to establishment of accessory use.

1. Second Residential Units

a. Second residential unit includes a guest house or a second unit, as defined in Section 2.1 of the Malibu LIP.

b. A maximum of one second residential unit may be permitted as an accessory to a permitted or existing single-family dwelling. Development of a second residential unit shall require that a primary dwelling unit be developed on the lot prior to or concurrent with the second residential unit.

c. Development Standards

i. Siting

Any permitted second residential unit shall be located within the approved development area for the project site and shall be clustered with the primary dwelling unit and any other approved structures to minimize required fuel modification.

ii. Maximum Living Area

The maximum living area of a second residential unit shall not exceed 900 square feet, including the total floor area of all enclosed space, including any mezzanine or storage...
space. The maximum living area shall not include the area of a garage included as part of the second residential unit.

iii. Parking

a) A minimum of one on-site parking space shall be provided for the exclusive use of a second residential unit.

b) One garage not to exceed 400 square feet in size may be permitted as part of a second residential unit.

1. Guest houses

a. Development of a guest house, as defined in Section 2.1, shall require that a primary dwelling unit be developed on the lot prior to or concurrent with the guest house.

b. Only one guest house is allowed per lot. Guest houses are not allowed on properties with an attached or detached accessory dwelling unit.

c. Development Standards

   i) Siting. Any permitted guest house shall be located within the approved development area for the project site and shall be clustered with the primary dwelling unit and any other approved structures to minimize required fuel modification.

   ii) Maximum Living Area. The maximum living area of a guest house shall not exceed 900 square feet, including the total floor area of all enclosed space, including any mezzanine or storage space. The maximum living area shall not include the area of a garage included as part of the guest house.

d. Parking

   i) A minimum of one on-site parking space shall be provided for the exclusive use of a guest house.

   ii) One garage not to exceed 400 square feet in size may be permitted as part of a guest house.
3.10. ACCESSORY DWELLING UNITS

Accessory Dwelling Units - The following regulations shall apply to accessory dwelling units (ADUs) and junior accessory dwelling units (JADUs) approved under this section unless otherwise exempt under Section 13.4.

A. Purpose. The purpose of this section is to allow and regulate ADUs and JADUs in compliance with California Government Code Sections 65852.2 and 65852.22. Because the City of Malibu lies entirely within the Coastal Zone, every ADU application in the city will be subject to an analysis for compliance with the Local Coastal Program (LCP) and Coastal Act. State law is explicit about the Coastal Act not being preempted by the state’s ADU statute (Government Code Section 65852.2, subdivision (j)). The entire the City of Malibu is located in a designated “Very High Fire Hazard Severity Zone”, and this chapter ensures that accessory dwelling units and junior accessory dwelling units are developed and operated on adequate sites, at proper and desirable locations, and that the goals and objectives of the LCP are observed.

B. Effect of Conforming. An ADU or JADU that conforms to the standards in this section will not be:

1. Deemed to be inconsistent with the city’s general plan and zoning designation for the lot on which the ADU or JADU is located.

2. Deemed to exceed the allowable density for the lot on which the ADU or JADU is located.

3. Considered in the application of any local ordinance, policy, or program to limit residential growth.

4. Required to correct a nonconforming zoning condition, except as provided in LIP Section 3.10(G)(3). For purposes of this paragraph 3.10 B.4, “nonconforming zoning condition” means a physical improvement on a property that does not conform with current zoning standards. This does not prevent the City from enforcing compliance with applicable building standards in accordance with Health and Safety Code Section 17980.1

C. Definitions. Definition of terms used in this Section can be found at Section 2.1 – General Definitions.

D. Areas Permitted. ADUs and JADUs shall be allowed in areas zoned to allow single-family or multifamily dwelling residential use. These areas include Rural Residential (RR), Single Family (SF), Multiple Family (MF), Multifamily Beach Front (MFBF), and areas designated for single family residential use as part of a Planned Development (PD) zone.

E. Coastal Development Permit required.
1. Except as exempted under Section 13.4, no ADU may be created without an accessory dwelling unit coastal development permit (ADU CDP) issued in accordance with Section 13.31.

2. The City may charge a fee to reimburse it for costs incurred in processing ADU CDP permits, including the costs of adopting or amending the City’s ADU ordinance. The ADU CDP permit processing fee is determined by the City Council by resolution.

3. An ADU CDP permit is considered and approved ministerially, without a hearing, unless required for a variance request included with the ADU CDP.

4. Notwithstanding any provision of this section, the Director may process a Site Plan Review and Minor Modifications permit, pursuant to Section 13.27.

5. Applications which include a variance request, shall be processed with a CDP and a variance pursuant to Section 13.26.

F. General Requirements. The following general requirements apply to all ADUs and JADUs:

1. Zoning. A detached ADU shall be located within the approved development area for the project site and shall be clustered with the primary dwelling unit and any other approved structures to minimize required fuel modification.

2. Fire Sprinklers. Fire sprinklers are required in an ADU if sprinklers are required in the primary residence.

3. Rental Term. An ADU or JADU may not be rented for a term that is shorter than 30 days.

3. Income Reporting. To facilitate the city’s obligation to identify adequate sites for housing in accordance with Government Code Sections 65583.1 and 65852.2, within 90 days after each yearly anniversary of the issuance of the building permit, the owner must report the actual rent charged for the ADU or JADU during the prior year. If the city does not receive the report within the 90-day period, the city may send the owner a notice of violation and allow the owner another 30 days to submit the report. If the owner fails to submit the report within the 30-day period, the city may enforce this provision in accordance with applicable law.

4. No Separate Conveyance. An ADU or JADU may be rented, but no ADU or JADU may be sold or otherwise conveyed separately from the lot and the primary dwelling (in the case of a single-family lot) or from the lot and all of the dwellings (in the case of a multifamily lot).

5. Septic System. If the ADU or JADU will connect to an onsite wastewater treatment system, the owner must include a percolation test completed within the last five years with the ADU application or, if the percolation test has been recertified, within the last
10 years. The ADU shall comply with all applicable requirements for onsite wastewater treatment systems.

6. Owner Occupancy. All JADUs are subject to an owner-occupancy requirement. A natural person with legal or equitable title to the property must reside on the property, in either the primary dwelling or JADU, as the person’s legal domicile and permanent residence. However, the owner-occupancy requirement of this paragraph does not apply if the property is entirely owned by another governmental agency, land trust, or housing organization.

7. Deed Restriction. Prior to issuance of a building permit for an ADU or JADU, a deed restriction must be recorded against the title of the property in the County Recorder’s office and a copy filed with the Director. The deed restriction must run with the land and bind all future owners. The form of the deed restriction will be provided by the City and must provide that:

a. The ADU or JADU may not be sold separately from the primary dwelling.

b. An ADU or JADU created cannot be rented for less than 30 days.

c. ADU or JADU is restricted to the approved size unless City approval obtained to increase size.

d. The deed restriction runs with the land and may be enforced against future property owners.

e. The deed restriction may be removed if the owner eliminates the ADU or JADU, as evidenced by, for example, removal of the kitchen facilities. To remove the deed restriction, an owner may make a written request of the Director, providing evidence that the ADU or JADU has in fact been eliminated. The Director may then determine whether the evidence supports the claim that the ADU or JADU has been eliminated. Appeal may be taken from the Director’s determination consistent with other provisions of the LCP. If the ADU or JADU is not entirely physically removed, but is only eliminated by virtue of having a necessary component of an ADU or JADU removed, the remaining structure and improvements must otherwise comply with applicable provisions of this LCP.

f. The deed restriction is enforceable by the Director or his or her designee for the benefit of the City. Failure of the property owner to comply with the deed restriction may result in legal action against the property owner, and the City is authorized to obtain any remedy available to it at law or equity, including, but not limited to, obtaining an injunction enjoining the use of the ADU or JADU in violation of the recorded restrictions or abatement of the illegal unit.

G. ADU Development Standards. The following development standards apply to ADUs. All requirements of the Malibu LIP that are not inconsistent with the criteria listed below shall remain in effect. If there is a conflict between the standards of this Section 3.10(G) and
standards that protect coastal resources, the requirements which are most protective of coastal resources shall prevail.

1. Maximum Size.
   a. The maximum TDSF of an ADU is 900 square feet for a studio or one-bedroom unit and 1,200 square feet for a unit with two bedrooms. No more than two bedrooms are allowed.
   b. An ADU that is created on a lot with an existing primary dwelling is further limited to 50 percent of the TDSF of the existing primary dwelling.
   c. Application of TDSF or impermeable coverage development standards further limits the size of the ADU and may preclude construction of additional total development square footage or impermeable coverage for a new ADU.
   d. The maximum TDSF of a JADU is 500 square feet. Improvements of no more than 150 additional square feet to accommodate ingress and egress to the JADU may be approved.
   e. The maximum size of an ADU in a converted existing detached accessory structure or primary dwelling shall not exceed the size limits provided in the other paragraphs of this subsection G(1).

2. Height
   a. No ADU may exceed 18 feet in height above grade as measured from existing or finished grade, whichever results in the lower building height.
   b. When a legally existing accessory structure is demolished and replaced with a new structure for the purposes of creating an ADU, the replacement structure may not exceed 18 feet in height.

3. Setbacks. All ADUs remain subject to the setback standards in Section 3.6(F) and (G) except that no additional setback is required when a legally existing accessory structure is demolished and is replaced with a new structure for the purposes of creating an ADU so long as the replacement structure is constructed within the same location and with the same dimensions as the structure it is replacing and the ADU contained within that new structure does not exceed the maximum size limits in accordance with subsection G(1). However, in all cases scenic view corridor, shoreline and bluff setbacks, and ESHA setbacks still apply.

4. Passageway. No passageway, as defined by Section 2.1, is required for an ADU.

5. Parking.
   a. One off-street parking space is required for each ADU. The parking space may be provided in setback areas or as tandem parking, as defined by Section 2.1, except where
it is not feasible based on specific site topographic or fire and life safety conditions, and where it would violate an ESHA protection or scenic view corridor requirement.

b. Exceptions. No parking is required in the following situations, except as provided in 5(d):

1. The ADU is located within one-half mile walking distance of public transit, as defined in Section 2.1.

2. The ADU is located within an architecturally and historically significant historic district.

3. A JADU is part of the proposed or existing primary residence or an ADU is proposed in an existing accessory structure.

4. When on-street parking permits are required but not offered to the occupant of the ADU.

5. When there is an established car share vehicle stop located within one block of the ADU.

c. No Parking Replacement Required. When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an ADU or converted to an ADU at an existing single-family dwelling, those off-street parking spaces are not required to be replaced. If replacement parking is proposed, the parking must be located on hardscape and mechanical automobile parking lifts, if used, must be located within an enclosed structure to ensure compliance with coastal resource protection for public views and water quality.

d. Parking, including replacement parking on a one to one basis, is required for ADUs built within .25 miles of a beach, public accessway, park or trailhead or other public visitor-serving area with high on-street parking demand.

H. ADUs in Multifamily Buildings

1. Converted on Multifamily Lot: Multiple ADUs within portions of existing multifamily dwelling structures that are not used as livable space, including but not limited to storage rooms, boiler rooms, passageways, attics, basements, or garages, are allowed if each converted ADU complies with state building standards for dwellings. At least one converted ADU is allowed within an existing multifamily dwelling, and up to 25 percent of the existing multifamily dwelling units may each have a converted ADU under this paragraph.

2. Detached on Multifamily Lot: No more than two detached ADUs are allowed on a lot that has an existing multifamily dwelling if each detached ADU satisfies the standards in subsection G above.

I. Very High Fire Hazard Severity Zone.
1. Where a lot or any portion thereof is located within a Very High Fire Hazard Severity Zone and the lot does not have two distinct means of vehicular access (a street) such that the two distinct means of vehicular access, as measured from the lot to the point of intersection with a street, shall not overlap with each other, an accessory dwelling unit shall meet following requirements:

   a. Fire sprinklers shall be provided in the accessory dwelling unit.

   b. A 10-foot separation between the accessory dwelling unit and any other structure shall be maintained.

   c. Detached accessory dwelling units shall provide a minimum setback of 5 feet from the side and rear property lines.

   d. For a garage, carport, or covered parking structure that is converted to an accessory dwelling unit, onsite replacement parking spaces shall be required that comply with the minimum number of spaces and dimensions below:

      Single Family Dwelling – 10 feet wide and 18 feet long, two parking spaces

      Multi-family Dwelling - 10 feet wide and 18 feet long
         i. Efficiency – two spaces
         ii. One to two bedrooms – 3 spaces
         iv Four each additional bedroom beyond two – one space

However, the replacement parking spaces need not be enclosed.

2. Notwithstanding Subsection I.1 above, accessory dwelling units shall be permitted on lots with a single means of vehicular access if such lots front a street with at least four total lanes of traffic and vehicles back directly onto that street.
CHAPTER 13—COASTAL DEVELOPMENT PERMITS

No changes to 13.1 through 13.3

13.4. EXEMPTIONS FROM AND DE MINIMIS WAIVERS OF COASTAL DEVELOPMENT PERMIT

The projects described in Sections 13.4.1 through 13.4.9 are exempt from the requirement to obtain a Coastal Development Permit and subject to the requirements of Section 13.4.10. Section 13.4.11 describes general requirements for de minimis waivers and projects eligible for de minimis waivers.

13.4.1 Exemption for Improvements to Existing Single-Family Residences

A. Improvements to existing single-family residences except as noted below in (B). For purposes of this section, the terms “Improvements to existing single-family residences” includes all fixtures and structures directly attached to the residence and those structures normally associated with a single family residence, such as garages, swimming pools, fences, storage sheds and landscaping but specifically not including guest houses or accessory self-contained residential units located in an existing accessory structure or in a proposed or existing primary residence that meet the requirements of LIP Section 3.10(G) are exempt from obtaining a Coastal Development Permit. A junior accessory dwelling unit located entirely within an existing single-family residence which does not change the building envelope is not considered development and is not subject to the LCP.

B. The exemption in (A) above shall not apply to the following classes of development which require a coastal development permit because they involve a risk of adverse environmental impact:

1. Improvements to a single-family structure if the structure or improvement is located: on a beach, in a wetland, seaward of the mean high tide line, in an environmentally sensitive habitat area, or within 50 feet of the edge of a coastal bluff.

2. Any significant alteration of land forms including removal or placement of vegetation, on a beach, wetland, or sand dune, or within 50 feet of the edge of a coastal bluff, or in environmentally sensitive habitat areas.

3. The expansion or construction of water wells or septic systems.

4. On property not included in subsection (B)(1) above that is located between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tide of the sea where there is no beach, whichever is the greater distance, or in significant scenic resources areas as designated by the City or Coastal Commission, improvement that would result in an increase of 10 percent or more of internal floor area of an existing structure or an additional improvement of 10 percent or less where an
improvement to the structure had previously been undertaken pursuant to this section or Public Resources Code section 30610(a), increase in height by more than 10 percent of an existing structure and/or any significant non-attached structure such as garages, fences, shoreline protective works or docks.

5. In areas which the City or Coastal Commission has previously declared by resolution after public hearing to have a critically short water supply that must be maintained for the protection of coastal resources or public recreational use, the construction of any specified major water using development not essential to residential use including but not limited to swimming pools, or the construction or extension of any landscaping irrigation system.

6. Any improvement to a single-family residence where the development permit issued for the original structure by the Coastal Commission, regional Coastal Commission, or City indicated that any future improvements would require a development permit.
13.4.3 Exemption for Other Improvements

A. Improvements to any structure other than a single-family residence or a public works facility except as noted below in Section 13.4.3 (B) of the Malibu LIP. For purposes of this section, where there is an existing structure, other than a single-family residence or public works facility, the following shall be considered a part of that structure:

1. All fixtures and other structures directly attached to the structure.

2. Landscaping on the lot.

B. The exemption in 13.4.3 (A) above shall not apply to the following classes of development which require a coastal development permit because they involve a risk of adverse environmental effect, adversely affect public access, or involve a change in use contrary to the policies of the LCP.

1. Improvement to any structure if the structure or the improvement is located: on a beach; in a wetland, stream, or lake; seaward of the mean high tide line; or within 50 feet of the edge of a coastal bluff;

2. Any significant alteration of land forms including removal or placement of vegetation, on a beach or sand dune; in a wetland or stream; within 100 feet of the edge of a coastal bluff, or in an environmentally sensitive habitat area;

3. The expansion or construction of water wells or septic systems;

4. On property not included in subsection 13.4.3 (B)(1) of the Malibu LIP above that is located between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tide of the sea where there is no beach, whichever is the greater distance, or in significant scenic resource areas as designated by the LUP, an improvement that would result in an increase of 10 percent or more of internal floor area of the existing structure, or constitute an additional improvement of 10 percent or less where an improvement to the structure has previously been undertaken pursuant to section (A) above or Public Resources Code section 30610(b), and/or increase in height by more than 10 percent of an existing structure;

5. In areas which the City or the Coastal Commission has previously declared by resolution after public hearing to have a critically short water supply that must be maintained for protection of coastal recreation or public recreational use, the construction of any specified major water using development including but not limited to swimming pools or the construction or extension of any landscaping irrigation system;

6. Any improvement to a structure where the coastal development permit issued for the original structure by the City or the Coastal Commission indicated that any future improvements would require a development permit;
7. Any improvement to a structure which changes the intensity of use of the structure;

8. Any improvement made pursuant to a conversion of an existing structure from a multiple unit rental use or visitor-serving commercial use to a use involving a fee ownership or long-term leasehold including but not limited to a condominium conversion, stock cooperative conversion or motel/hotel timesharing conversion.

9. Any accessory dwelling unit on a lot with a multifamily dwelling structure.
13.11. PUBLIC HEARING REQUIRED AND PUBLIC COMMENT

A. At least one public hearing shall be required on all appealable development as defined in Chapter 2 of the Malibu LIP (Definitions), except for accessory dwelling units, in accordance with Section 3.10 unless the accessory dwelling unit is developed concurrent with a new single family dwelling or requires a variance.

1. Such hearing shall occur no earlier than seven (7) calendar days following the mailing of the notice required in Section 13.12 of the Malibu LIP. The public hearing may be conducted in accordance with existing City procedures or in any other manner reasonably calculated to give interested persons an opportunity to appear and present their viewpoints, either orally or in writing.

2. If a decision on a development permit is continued by the City to a time which is neither (a) previously stated in the notice provided pursuant to Section 13.12 of the Malibu LIP, nor (b) announced at the hearing as being continued to a time certain, the local government shall provide notice of the further hearings (or action on the proposed development) in the same manner, and within the same time limits as established in Section 13565 of the California Code of Regulations.

B. Any person may submit written comments to the Planning Director Manager on an application for a Coastal Development Permit, or on an appeal of a Coastal Development Permit, at any time prior to the close of the public hearing. If no public hearing is required, written comments may be submitted prior to the decision date specified in the public notice. Written comments shall be submitted to the Planning Director Manager who shall forward them to the appropriate person, commission, board or the Council and to the applicant. (Ord. 303 § 3, 2007)
13.13. ADMINISTRATIVE PERMITS

13.13.1 Applicability

A. The Planning Director Manager may process consistent with the procedures in this Chapter any coastal development permit application for the specific uses identified below, except a proposed coastal development permit that is appealable or is within the Commission’s continuing jurisdiction as defined in Chapter 2 of the Malibu LIP (Definitions).

1. Improvements to any existing structure;

2. Any single-family dwelling;

3. Lot mergers;

4. Any development of four dwelling units or less that does not require demolition, and any other developments not in excess of one hundred thousand dollars ($100,000) other than any division of land;

5. Water wells.

B. Notwithstanding any other provisions of the LCP, attached or detached accessory second dwelling units created in accordance with Section 3.10 shall be processed as administrative permits. The approval of such permits shall be appealable to the Coastal Commission if the project is located in the appealable zone. (Ord. 335 § 3, 2009; Ord. 303 § 3, 2007)
13.31 ACCESSORY DWELLING UNIT COASTAL DEVELOPMENT PERMITS

13.31.1 Applicability

These regulations shall apply to all applications for an Accessory Dwelling Unit (ADU) as defined in Chapter 2 of the Malibu LIP (Definitions) that are not exempt pursuant to LIP Section 13.4. An application for an Accessory Dwelling Unit Coastal Development Permit (ADU CDP) shall be made to the Planning Director.

A. Applications for ADU CDPs shall be made to the Planning Director on forms provided by the Planning Department.

B. Public notice for an ADU CDP shall be provided in accordance with LIP Section 13.12.2(B) and 13.13.3.

13.31.2 Findings and Permit Issuance

A. The Planning Director may approve an application for an ADU CDP if all of the following findings can be made:

1. The proposed ADU is consistent with the LCP and all applicable LCP provisions, local laws and regulations regarding ADUs.

2. The dwelling conforms to the development standards and requirements for ADUs established in LIP Section 3.10.

3. Public and utility services including emergency access are adequate to serve both dwellings.

4. The proposed ADU CDP has been conditioned in accordance with the LCP.

B. Upon approving an ADU CDP, the Planning Director shall issue a written document that at a minimum includes the following information:

1. Location of the project;
2. The date of issuance;
3. An expiration date;
4. The scope of work to be performed;
5. Terms and conditions of the permit; and
6. Findings.
13.31.3 Reporting of ADU CDPs

1. The Planning Director shall report in writing to the Planning Commission at each meeting ADU CDP permits within the appealable zone and those with site plan reviews and minor modifications approved under this section in the same manner as for an administrative permit, consistent with LIP Section 13.13.6. There is no reporting requirement for an ADU CDP outside the appeal zone except in cases where a discretionary request is associated with the application.

2. Appeals. Section 13.20.1 shall not apply to projects approved under this section unless the project is processed concurrently with a discretionary permit. If the project is located in the appealable zone, Coastal Commission appeals shall be processed consistent with LIP 13.20.2.
NOTE: Changes are proposed for the Residential land use category only as noted below. No changes are proposed for the other land use categories.

### Appendix 1 TABLE B PERMITTED USES

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<th>USE</th>
<th>RR</th>
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<th>MFB</th>
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<th>OS</th>
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#### RESIDENTIAL

| Single-family residential | P | P | P | P | - | - | - | - | - | - | - | A | - | - |
| Manufactured homes | P | P | P | P | - | - | - | - | - | - | - | - | - | - |
| Multiple-family residential (including duplexes, condominiums, stock cooperatives, apartments, and similar developments) | - | - | CUP | CUP | - | - | - | - | - | - | - | - | - | - |
| **Second Accessory dwelling units** | A | A | A | A | - | - | - | - | - | - | - | - | - | - |
| **Junior accessory dwelling units** | A | A | A | A | - | - | - | - | - | - | - | - | - | - |
| Mobile home parks | - | - | - | - | P | - | - | - | - | - | - | - | - | - |
| Mobile home park accessory uses (including recreation facilities, meeting rooms, management offices, storage/maintenance buildings, and other similar uses) | - | - | - | - | CUP | - | - | - | - | - | - | - | - | - |
| Mobile home as residence during construction | P | P | P | MCUP | - | - | - | - | - | - | - | - | - | - |
| Accessory uses (guest units, houses, garages, barns, pool houses, pools, spas, gazebos, storage sheds, greenhouses (non-commercial), sports courts (non-illuminated), corrals (non-commercial), and similar uses) | A | A | A | A | - | - | - | - | - | - | - | - | - | - |
| Residential care facilities (serving 6 or fewer persons) | P | P | P | - | - | - | - | - | - | - | - | - | - | - |
| Small family day care (serving 6 or fewer persons) | A | A | A | - | - | - | - | - | - | - | - | - | - | - |

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<tr>
<th>USE</th>
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#### RESIDENTIAL (continued)

| Large family day care (serving 7 to 12 persons) | LFDC | LFDC | LFDC | - | - | - | - | - | - | - | - | - | - | - |
| Home occupations | P | P | P | - | - | - | - | - | - | - | - | - | - | - |
| Barber shops, beauty salons | - | - | - | - | - | - | - | - | - | - | - | - | - | - |
| Laundry, dry cleaners | - | - | - | - | - | - | - | - | - | - | - | - | - | - |
| Miscellaneous services including travel agencies, photocopy services, photographic processing and supplies, mailing services, appliance repair, and similar uses | - | - | - | - | - | - | - | - | - | - | - | - | - | - |

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

(Ord. 393 § 4, 2015; Ord. 373 § 3, 2013; Ord. 366 §§ 3(A) and (B), 2012; Ord. 303 § 3, 2007)
Title 17

ZONING

Chapters:
17.02 Introductory Provisions and Definitions
17.06 Zoning Districts Established
17.08 RR Rural Residential District
17.10 SF Single Family Density Residential District
17.12 MF Multiple Family Residential District
17.14 MFBF Multifamily Beach Front District
17.39 Malibu Coast Estate Planned Development (PD) District
17.40 Property Development and Design Standards

17.44 Accessory Dwelling Units

17.45 Citywide View Preservation and Restoration
Chapter 17.02
INTRODUCTORY PROVISIONS AND DEFINITIONS

Sections:

17.02.060 Definitions.

As used in this title:

“Accessory Dwelling Unit” means an attached or a detached residential dwelling unit that provides complete independent living facilities for one or more persons and is located on a lot with a proposed or existing primary residence. An accessory dwelling unit also includes the following:

1. An efficiency unit, as defined by Section 17958.1 of the California Health and Safety Code and the California Building Code; and
2. A manufactured home, as defined by Section 18007 of the California Health and Safety Code.

“Accessory Dwelling Unit, attached” means an accessory dwelling unit that is structurally attached to the primary dwelling unit by a shared wall or as an additional story above the primary dwelling unit, but which has independent, direct access from the exterior.

“Accessory Dwelling Unit, detached” means an accessory dwelling unit that is not structurally attached to the primary dwelling unit.

“Car share vehicle” means a motor vehicle that is operated as part of a regional fleet by a public or private car-sharing company or organization and provides hourly or daily service. A car share vehicle does not include vehicles used as part of ride-hailing companies such as Uber or Lyft.

“Complete independent living facilities” means permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family or multifamily dwelling is or will be situated.

“Efficiency kitchen” means a kitchen that includes each of the following:

1. A cooking facility with appliances.
2. A food preparation counter or counters that total at least 15 square feet in area.
3. Food storage cabinets that total at least 30 square feet of shelf space.

“Junior Accessory Dwelling Unit” means a residential unit that

1. is no more than 500 square feet in size.
2. is contained entirely within an existing or proposed single-family structure.

3. has a separate exterior entrance.

4. includes its own separate sanitation facilities or shares sanitation facilities with the existing or proposed single-family structure, and

5. includes an efficiency kitchen.

“Multifamily residence” means a building or portion thereof used for occupancy by three two or more families living independently of each other and containing three or more dwelling units. **For the purposes of the accessory dwelling unit regulations in Chapter 17.44, “multifamily residence” means a building or portion thereof used for occupancy by two or more families living independently of each other and containing two or more dwelling units.**

“Passageway” means a pathway that is unobstructed clear to the sky and extends from a street to one entrance of the accessory dwelling unit or junior accessory dwelling unit.

“Public transit” means a location, including, but not limited to, a bus stop, where the public may access buses and other forms of transportation that charges set fares, run on fixed routes, and available to the public.

“Second unit” means an attached or detached residential dwelling unit which provides complete independent living facilities for one or more persons. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family dwelling is situated.

“Tandem parking” means that two or more automobiles are parked on a driveway or in any other location on a lot, lined up behind one another.

“Very High Fire Hazard Severity Zone” means zone as defined by Government Code 51177 and designated by Ordinance 299.
Chapter 17.08

RR RURAL RESIDENTIAL DISTRICT

Sections:

17.08.020 Permitted uses.

The following uses and structures are permitted in the RR district:

A. One single-family residence per lot;
B. Small family day care and residential care facilities serving six or fewer persons;
C. Accessory uses and structures as follows:
   1. Accessory buildings customarily ancillary to single-family residences including, but not limited to, guest units—houses seven hundred fifty (750) square feet maximum in accordance with Section 17.40.040(A)(21), detached garages, barns, pool houses, gazebos, storage sheds, and greenhouses (noncommercial),
   2. Recreational structures including, but not limited to, pools, spas, nonilluminated sports courts, and corrals,
   3. Domestic animals, kept as pets or for personal use,
   4. Raising of crops including, but not limited to, field, trees, bush, berry row and nursery stock, provided there is no retail sale from the premises,
   5. Raising of horses, sheep, goats, donkeys, mules and other equine cattle for personal use by residents on the premises, subject to the following conditions:
      a. The subject property is a minimum of fifteen thousand (15,000) square feet in size,
      b. The maximum number of animals listed above does not exceed one animal (over six months of age) for every five thousand (5,000) square feet of lot area,
      c. The animals shall be maintained in an area a minimum of fifty (50) feet from any building used for human habitation;
D. The following agricultural uses; provided, that all buildings or structures used in conjunction therewith shall be located not less than fifty (50) feet from any street or highway or any building used for human habitation:
   1. The raising of horses and other equine, cattle, sheep and goats, including the breeding and training of such animals, on a parcel having an area of not less than one acre and provided that not more than eight such animals per acre of the total ground area be kept or maintained in conjunction with such use,
   2. The grazing of cattle, horses, sheep or goats on a parcel with an area of not less than five acres, including the supplemental feeding of such animals, provided:
      a. That such grazing is not a part of nor conducted in conjunction with any dairy, livestock feed yard, livestock sales yard or commercial riding academy located on the same premises,
      b. That no buildings, structures, pens or corrals designed or intended to be used for the housing or concentrated feeding of such stock be used on the premises for such grazing other than racks for supplementary feeding, troughs for watering, or incidental fencing,
   3. Raising of poultry, fowl, birds, rabbits, fish, bees and other animals of comparable nature, provided the subject parcel is a minimum of one acre in size,
   4. The raising of hogs or pigs, provided:
Exhibit B – MMC Amendments

a. That the animals are located not less than one hundred fifty (150) feet from any highway and not less than fifty (50) feet from the side or rear lines of any parcel,

b. That the animals shall not be fed any market refuse or similar imported ingredient or anything other than table refuse from meals consumed on the same parcel of land, or grain,

c. That no more than two weaned hogs or pigs are kept,

d. That the subject parcel is a minimum of one acre in size;

E. Manufactured homes, pursuant to Government Code Section 65852.3;

F. Second units, pursuant to Government Code Section 65852.2; Accessory dwelling units in accordance with Chapter 17.44;

G. Large family day care facilities (serving seven to twelve (12) persons), subject to the provisions of Section 17.66.110;

H. Private equestrian and/or hiking trails;

I. Greenhouses on a lot or parcel of land having an area of at least one acre;

J. Temporary placement of mobile homes and trailers subject to the conditions of Section 17.40.040(A)(18). (Ord. 104 § 2, 1993; Ord. 93 §§ 8, 9, 1993; Ord. 86 § 3, 1993; prior code § 9211)
Chapter 17.10

SF SINGLE FAMILY DENSITY RESIDENTIAL DISTRICT

Sections:

17.10.020 Permitted uses.

The following uses and structures are permitted in the SF district:

A. One single-family residence per lot;
B. Small family day care and residential care facilities serving six or fewer persons;
C. Accessory uses and structures as follows:
   1. Accessory buildings customarily ancillary to single-family residences including, but not limited to, detached garages, barns, pool houses, gazebos, storage sheds, guest units houses (seven hundred fifty (750) square feet maximum) in accordance with Section 17.40.040(A)(21), and greenhouses (noncommercial),
   2. Recreational structures including, but not limited to, pools, spas, nonilluminated sports courts, and noncommercial corrals,
   3. Domestic animals,
   4. Raising of crops including, but not limited to, field, trees, bush, berry row and nursery stock, provided there is no retail sale from the premises,
   5. Raising of horses, sheep, goats, donkeys, mules and other equine cattle for personal use by residents on the premises, subject to the following conditions:
      a. The subject property is a minimum of fifteen thousand (15,000) square feet in size,
      b. The maximum number of animals listed above does not exceed one animal (over six months of age) for every five thousand (5,000) square feet of lot area,
      c. The animals shall be maintained in an area a minimum of fifty (50) feet from any building used for human habitation;
D. Manufactured homes, pursuant to Government Code Section 65852.3;
E. Second units, pursuant to Government Code Section 65852.2; Accessory dwelling units in accordance with Chapter 17.44;
F. Large family day care facilities (serving seven to twelve (12) persons), subject to Section 17.66.110;
G. Temporary placement of mobilehomes and trailers subject to the conditions of Section 17.40.040(A)(18). (Ord. 104 § 2, 1993; Ord. 86 § 3, 1993; prior code § 9221)
Chapter 17.12

MF MULTIPLE FAMILY RESIDENTIAL DISTRICT

Sections:

17.12.020 Permitted uses.

The following uses and structures are permitted in the MF district:

A. One single-family residence per lot;
B. Small family day care and residential care facilities involving six or fewer persons;
C. Accessory uses and structures as follows:
   1. Accessory buildings customarily ancillary to single-family residences including, but not limited to, detached garages, barns, pool houses, gazebos, storage sheds, guest units houses (seven hundred fifty (750) square feet maximum) in accordance with Section 17.40.040(A)(21), and greenhouses (noncommercial),
   2. Recreational structures including, but not limited to, pools, spas, nonilluminated sports courts, and corrals,
   3. Domestic animals;
D. Manufactured homes, pursuant to Government Code Section 65852.3;
E. Second units, pursuant to Government Code Section 65852.2; Accessory dwelling units in accordance with Chapter 17.44;
F. Large family day care facilities (serving seven to twelve (12) persons), subject to Section 17.66.110;
G. Temporary placement of mobilehomes and trailers subject to the conditions of Section 17.40.040(A)(18). (Ord. 104 § 2, 1993; Ord. 86 § 3, 1993; prior code § 9231)
Chapter 17.14

MFBF MULTIFAMILY BEACH FRONT DISTRICT

Sections:

The following uses and structures are permitted in the MFBF district:
   A. One single-family residence per lot;
   B. Expansion up to five hundred (500) square feet of existing multifamily buildings provided the expansion conforms to the provisions of Chapter 17.40;
   C. Accessory uses and structures as follows:
      1. Accessory buildings customarily ancillary to single-family and multifamily residences including, but not limited to, detached garages, pool houses, gazebos, storage sheds, guest units houses (seven hundred fifty (750) square feet maximum) in accordance with Section 17.40.040(A)(21),
      2. Recreational structures including, but not limited to, pools, spas, nonilluminated sports courts,
      3. Domestic animals;
   D. Manufactured homes, pursuant to Government Code Section 65852.3;
   E. Second units, pursuant to Government Code Section 65852.2. (Ord. 151 § 11, 1996; prior code § 92362) Accessory dwelling units in accordance with Chapter 17.44.
Chapter 17.39
MALIBU COAST ESTATE PLANNED DEVELOPMENT (PD) DISTRICT

Sections:

17.39.020 Permitted uses.

17.39.040 Property development and design standards.

17.39.020 Permitted uses.
Lot numbers are as identified on Malibu Coast Estate Planned Development Map 1. The following uses and structures are permitted:

A. Lot Nos. 1—5.
   1. One single-family residence per lot.
   2. Accessory uses (one second unit or guest house per lot in accordance with Section 17.40.040(A)(21), garages, swimming pools, spas, pool houses, cabanas, water features, gazebos, storage sheds, private non-illuminated sports courts, noncommercial greenhouses, gated driveways, workshops, gyms, home studios, home offices, and reasonably similar uses normally associated with a single-family residence, as determined by the planning director).
   3. Accessory dwelling units in accordance with Chapter 17.44.
   4. Domestic animals, kept as pets.
   5. Landscaping.

B. Lot No. 6. Uses and structures maintained by either the owners ofLots 1—5 or the homeowners’ association formed to serve the residential development within Malibu Coast Estate, including a guard house, private access road, gates (including entry gates), fencing, visitor parking, landscaping, guardhouse parking, community utilities, informational and directional signage, private open space, lighting and wastewater treatment facilities serving uses within Malibu Coast Estate.

C. Lot No. 7.
   1. Parks and public open space, excluding community centers.
   2. Active and passive public recreational facilities, such as ball fields, skate parks, picnic areas, playgrounds, walkways, restrooms, scoreboard, sport court fencing, parking lots, and reasonably similar uses as determined by the planning director. Night lighting of recreational facilities shall be prohibited, except for the minimum lighting necessary for public safety.
   3. Onsite wastewater treatment facilities. (Ord. 398 § 6, 2015)

17.39.040 Property development and design standards.
The following development standards shall replace the corresponding development standards (Sections 17.40.040 and 17.40.080) for Malibu Coast Estate. All requirements of the zoning ordinance, including, but not limited to, Section 17.40.030 that are consistent with the criteria listed below shall remain in effect for those parcels in Malibu Coast Estate.

A. Lot Nos. 1—5.
1. Development Footprint and Structure Size (Replaces corresponding standards in LIP Section 3.6(K)).
   a. The total development square footage (TDSF) on each of Lot Nos. 1—5 shall not exceed the following square footage per lot:
      Lot 1 —10,052 square feet.
      Lot 2 —9,642 square feet.
      Lot 3 —9,434 square feet.
      Lot 4 —9,513 square feet.
      Lot 5 —10,990 square feet.

   b. Combinations of Basements, Cellars and/or Subterranean Garages. If any combination of basements, cellars, and/or subterranean garages is proposed, the initial one thousand (1,000) square feet of the combined area shall not count toward TDSF. Any additional area in excess of one thousand (1,000) square feet shall be included in the calculation of TDSF at a ratio of one square foot for every two square feet proposed.

   c. Covered areas, such as covered patios, eaves, and awnings that project up to six feet from the exterior wall of the structure shall not count toward TDSF; if the covered areas project more than six feet, the entire covered area (including the area within the six-foot projection) shall be included in TDSF.

   d. The development footprint on each lot (Lot Nos. 1—5) shall substantially conform to that indicated on Malibu Coast Estate Planned Development Map 1. Structures on Lot 5 shall be set back a minimum of one hundred ninety (190) feet from the edge of the bluff as identified on Malibu Coast Estate Planned Development Map 1 in order to ensure that impacts to public views of the eastern Malibu coastline as seen from Malibu Bluffs Park are minimized. The structural setback on Lot 5 does not apply to at-grade improvements or low profile above-grade improvements for accessory uses not to exceed ten (10) feet in height.

2. Setbacks (Replaces corresponding standards in Section 17.40.040).
   a. Front yard setbacks shall be at least twenty (20) percent of the total depth of the lot measured from the property line abutting the street, or sixty-five (65) feet, whichever is less. However, the front yard setback for Lot 5 shall be at least forty-three (43) feet.

   b. Side yard setbacks shall be cumulatively at least twenty-five (25) percent of the total width of the lot but, in no event, shall a single side yard setback be less than ten (10) percent of the width of the lot.

   c. Rear yard setbacks shall be at least fifteen (15) percent of the lot depth.

3. Structure Height (Replaces corresponding standards in Section 17.40.040).
   a. Every residence and every other building or structure associated with a residential development (excluding chimneys), including satellite dish antenna, solar panels and rooftop equipment, shall not be higher than eighteen (18) feet, except the easternmost approximately two thousand five hundred (2,500) square feet of the residence on Lot 2 and the southwestern corner of the residence on Lot 5 shall not be higher than fifteen (15) feet, as indicated on Malibu Coast Estate Planned Development Map 1 of the LIP. Height is measured from natural or finished grade, whichever is lower.

   b. Mechanical equipment, including screens may not exceed roof height. Roof-mounted mechanical equipment shall be integrated into the roof design and screened.

   c. In no event shall the maximum number of stories above grade be greater than two. Basements and subterranean garages shall not be considered a story.
4. Grading (Replaces corresponding standards in Section 17.40.040).
   a. Notwithstanding other provisions of this code, all grading associated with the berm, ingress, egress, including safety access, shall be considered exempt grading.
   b. Non-exempt grading shall be limited to two thousand (2,000) cubic yards per lot.
   c. Net export shall be limited to three thousand five hundred (3,500) cubic yards per lot.

5. Impermeable Coverage, Landscaping, and Berm.
   a. The impermeable coverage requirement in Section 17.40.040 shall apply.
   b. In addition to the requirements of Section 17.40.040, site landscaping shall be designed to minimize views of the approved structures as seen from public viewing areas, including the use of native trees to screen approved structures. Landscaping and trees shall be selected, sited, and maintained to not exceed twenty-five (25) feet.
   c. A natural-looking earthen berm that is four feet in height (except for the northernmost thirty (30) foot long portion on Lot 1 that shall be no less than two feet in height) above finished grade shall be constructed along the east side of all approved structures on Lots 1 and 2 to minimize views of the development from downcoast public viewing locations. The location and height of the berm shall substantially conform to that indicated on the Malibu Coast Estate Planned Development Map 1 of the LIP. The berm shall be vegetated with lower-lying native species that blend with the natural bluff landscape.

6. Parking (In addition to the parking standards of Section 17.40.040).
   a. Two enclosed and two unenclosed parking spaces. The minimum size for a residential parking space shall be eighteen (18) feet long by ten (10) feet wide.
   b. For a guest house see Section 17.40.040(A)(21). One enclosed or unenclosed parking space for a guest unit or second unit.
   c. For an accessory dwelling unit see Chapter 17.44.

7. Colors and Lighting (In addition to the standards of LIP Section 6.5(B)).
   a. Structures shall be limited to colors compatible with the surrounding environment and landscape (earth tones), including shades of green, brown, and gray with no white or light or bright tones. The color palette shall be specified on plans submitted in building plan check and must be approved by the planning director prior to issuance of a building permit. All windows shall be comprised of non-glare glass.
   b. Lighting must comply with LIP Section 6.5(G).

8. Permit Required. To ensure the protection of scenic and visual resources in accordance with the provisions of the LCP, any future improvements to structures or significant changes to landscaping beyond that authorized by the coastal development permit (CDP) for each residential lot (Lots 1—5), which would ordinarily be exempt from a CDP pursuant to LIP Section 13.4.1, shall be subject to a new CDP or permit amendment.

B. Lot No. 6.

1. Structure Size. The total development square footage of all structures shall not exceed one hundred eighty (180) square feet. The development footprint (gate and guardhouse) shall substantially conform to that indicated on Malibu Coast Estate Planned Development Map 1.

2. Setbacks.
   a. Buildings, not including projections permitted in Section 17.40.050, shall maintain a minimum setback of fifty (50) feet from all property lines.
   b. Parkland setbacks in LIP Section 3.6(F)(6) shall not apply.

3. Structure Height.
a. Structure height shall not exceed twelve (12) feet, as measured from natural or finished grade, whichever is lower.

b. In no event shall the maximum number of stories above grade be greater than one.

c. A basement, cellar or subterranean garage shall not be permitted.

4. Grading (Replaces corresponding standards in Section 17.40.040).

a. Notwithstanding other provisions of this code, all grading associated with ingress, egress, including safety access, shall be considered exempt grading.

b. Non-exempt grading shall be limited to one thousand (1,000) cubic yards.

c. Net export shall be limited to two thousand five hundred (2,500) cubic yards.

5. Impermeable Coverage (Replaces corresponding standard in Section 17.40.040). The impermeable coverage requirement in Section 17.40.040 shall not apply. Up to forty-four thousand (44,000) square feet of impermeable coverage shall be permitted.

6. Parking (In addition to the parking standards of Section 17.40.040). The guardhouse shall not have more than two parking spaces to be used for on duty guards and one additional parking space for service parking. Parking within the property boundaries shall not be located on or obstruct fire department access.

7. Colors and Lighting.

a. Structures shall be limited to colors compatible with the surrounding environment and landscape (earth tones), including shades of green, brown, and gray with no white or light or bright tones. The color palette shall be specified on plans submitted in building plan check and must be approved by the planning director prior to issuance of a building permit.

b. Lighting must comply with LIP Section 6.5(G).

C. Lot No. 7.

1. Site Design. Grading, setbacks, and facility siting shall be designed to meet the operational programs of the park as defined in the City of Malibu Parks Master Plan. Notwithstanding any other provision of this chapter, grading in all new parks shall be limited to not more than one thousand (1,000) cubic yards per acre, except that grading required for sports fields and skate parks designed to accommodate commonly accepted facility dimensions shall be exempt from these limitations. The facility shall be designed to minimize noise, lighting impacts and disruption to nearby residents.

2. Parking (In addition to the parking standards of Section 17.47.030). Adequate parking shall be provided to serve the proposed recreational uses. Parking shall be determined by a parking study prepared by a registered traffic engineer and based upon the proposed recreational uses. The planning director shall have the authority to determine the appropriateness of studies or other information used in determining the parking to be required. Where appropriate, off-site parking may be provided and may be counted towards satisfying the on-site parking requirement as long as sufficient parking is provided to serve existing and proposed public access and recreation uses and any adverse impacts to public access and recreation are avoided.

3. Fencing. With the exception of skate park and sport court fencing and backstops, fences and walls shall not exceed eight feet in height. The fencing and backstops design and materials shall take into consideration view and vista areas, site distance, and environmental constraints.

4. Temporary Uses. Temporary uses shall be in accordance with LIP Section 13.4.9 and the temporary use permit process contained within Chapter 17.68. (Ord. 398 § 6, 2015)
Chapter 17.40

PROPERTY DEVELOPMENT AND DESIGN STANDARDS

Section 17.40.040(A)

21. Guest Houses

a. Development of a guest house shall require that a primary dwelling unit be developed on the lot prior to or concurrent with the guest house.

b. Only one guest house is allowed per lot. Guest houses are not allowed on properties with an attached or detached accessory dwelling unit.

c. Development Standards

1. Siting. Any permitted guest house shall be located within the approved development area for the project site and shall be clustered with the primary dwelling unit and any other approved structures to minimize required fuel modification.

2. Maximum Living Area. The maximum living area of a guest house shall not exceed 900 square feet, including the total floor area of all enclosed space, including any mezzanine or storage space. The maximum living area shall not include the area of a garage included as part of the guest house.

d. Parking

1. A minimum of one on-site parking space shall be provided for the exclusive use of a guest house.

2. One garage not to exceed 400 square feet in size may be permitted as part of a guest house.
Chapter 17.44

ACCESSORY DWELLING UNITS

17.44.010 Title.

This chapter shall be known as the “Malibu Accessory Dwelling Unit Ordinance.”

17.44.020 Purpose.

The purpose of this chapter is to allow and regulate accessory dwelling units (ADUs) and Junior accessory dwelling units (JADUs) in compliance with California Government Code Sections 65852.2 and 65852.22. The entire the City of Malibu is located in a designated “Very High Fire Hazard Severity Zone”, and this chapter ensures that accessory dwelling units and junior accessory dwelling units are developed and operated on adequate sites, at proper and desirable locations, and that the goals and objectives of the General Plan and LCP are observed.

17.44.030 Effect of Conforming.

An ADU or JADU that conforms to the standards in this chapter will not be:

A. Deemed to be inconsistent with the city’s general plan and zoning designation for the lot on which the ADU or JADU is located.

B. Deemed to exceed the allowable density for the lot on which the ADU or JADU is located.

C. Considered in the application of any local ordinance, policy, or program to limit residential growth.

D. Required to correct a nonconforming zoning condition. This does not prevent the City from enforcing compliance with applicable building standards in accordance with Health and Safety Code Section 17980.1. For purposes of this chapter, “nonconforming zoning condition” means a physical improvement on a property that does not conform with current zoning standards.

17.44.040 Definitions.

Definition of terms used in this Chapter can be found at Section 17.02.060 Definitions.

17.44.050 Areas Permitted.

ADUs and JADUs shall be allowed in areas zoned to allow single-family or multifamily dwelling residential use. These areas include Rural Residential (RR), Single Family (SF), Multiple Family (MF), Multifamily Beach Front (MFBF), and areas designated for single family residential use as part of a Planned Development (PD) zone.

17.44.060 Approvals.
The following approvals apply to ADUs and JADUs developed under this Chapter. Because the city of Malibu lies entirely within the Coastal Zone, every ADU application in the city will be subject to an analysis for compliance with the Local Coastal Program (LCP) and Coastal Act before it is reviewed for compliance with the city’s ADU ordinance. State law is explicit about the Coastal Act not being preempted by the state’s ADU statute (Government Code Section 65852.2, subdivision.(j)).

A. Building-permit Only. After LCP review, an ADU or JADU that complies with each of the general requirements in Section 17.44.090 is allowed with only a building permit in the following scenarios:

1. Converted on Single-family Lot: Only one ADU or JADU on a lot with a proposed or existing single-family dwelling on it, where the ADU or JADU:
   a. Is either: within the space of a proposed single-family dwelling; within the existing space of an existing single-family dwelling; or within the existing space of an existing accessory structure, plus up to 150 additional square feet if the expansion is limited to accommodating ingress and egress.
   b. Has exterior access that is independent of that for the single-family dwelling.
   c. Has side and rear setbacks sufficient for fire and safety, as dictated by applicable building and fire codes.

2. Limited Detached on Single-family Lot: One detached, new-construction ADU on a lot with a proposed or existing single-family dwelling (in addition to any JADU that might otherwise be established on the lot under subsection (A)(1) above, if the detached ADU satisfies the following limitations:
   a. The side- and rear-yard setbacks are at least four-feet.
   b. The total development square footage is 800 square feet or smaller.
   c. The peak height above grade is 16 feet or less, as measured from existing or finished grade whichever results in a lower building height.

3. Converted on Multifamily Lot: Multiple ADUs within portions of existing multifamily dwelling structures that are not used as livable space, including but not limited to storage rooms, boiler rooms, passageways, attics, basements, or garages, if each converted ADU complies with state building standards for dwellings. At least one converted ADU is allowed within an existing multifamily dwelling, and up to 25 percent of the existing multifamily dwelling units may each have a converted ADU under this paragraph.

4. Limited Detached on Multifamily Lot: No more than two detached ADUs on a lot that has an existing multifamily dwelling if each detached ADU satisfies the following limitations:
a. The side- and rear-yard setbacks are at least four feet.

b. The total development square footage is 800 square feet or smaller.

c. The peak height above grade is 16 feet or less, as measured from existing or finished grade whichever results in a lower building height.

B. ADU Administrative Plan Review Permit (ADU APR)

1. Except as allowed under subsection 17.44.060(B) above, no ADU may be created without a building permit and an ADU permit in compliance with the standards set forth in Sections 17.44.090 and 17.44.100.

2. The City may charge a fee to reimburse it for costs incurred in processing ADU permits, including the costs of adopting or amending the City’s ADU ordinance. The ADU APR permit processing fee is determined by the City Council by resolution.

C. Very High Fire Hazard Severity Zone.

1. Where a lot or any portion thereof is located within a Very High Fire Hazard Severity Zone and the lot does not have two distinct means of vehicular access (a street) such that the two distinct means of vehicular access, as measured from the lot to the point of intersection with a street, shall not overlap with each other, an accessory dwelling unit shall meet following requirements:

   a. Fire sprinklers shall be provided in the accessory dwelling unit.

   b. A 10-foot separation between the accessory dwelling unit and any other structure shall be maintained.

   c. Detached accessory dwelling units shall provide a minimum setback of 5 week from the side and rear lot lines

   d. For a garage, carport, or covered parking structure that is converted to an accessory dwelling unit, onsite replacement parking spaces shall be required that comply with the minimum number of spaces and dimensions stated in Chapter 17.48. However, the replacement parking spaces need not be enclosed.

2. Notwithstanding Subsection C.1 above, accessory dwelling units shall be permitted on lots with a single means of vehicular access if such lots front a street with at least four total lanes of traffic and vehicles back directly onto that street.

17.44.070 Process and Timing.

A. An ADU APR permit is considered and approved ministerially, without discretionary review or a hearing.
B. **The City must act on an application to create an ADU or JADU within 60 days from the date that the City receives a complete application, unless either:**

1. **The applicant requests a delay, in which case the 60-day time period is tolled for the period of the requested delay, or**

2. **In the case of a JADU where the application to create a JADU is submitted with a permit application to create a new single-family dwelling on the lot, the City may delay acting on the permit application for the JADU until the City acts on the permit application to create the new single-family dwelling, but the application to create the JADU will still be considered ministerially without discretionary review or a hearing.**

### 17.44.080 General ADU and JADU Requirements.

The following requirements apply to all ADUs and JADUs that are approved under subsection 17.44.060.

A. **Zoning.**

1. **An ADU or JADU subject only to a building permit under subsection 17.44.060(1) may be created on a lot in a residential zone.**

2. **An ADU or JADU subject to an ADU APR permit under subsection 17.44.060(2) may be created on a lot that is zoned to allow single-family dwelling residential use or multifamily dwelling residential use.**

3. **For the purposes of the ADU regulations in this Chapter “multifamily residence” means a building or portion thereof used for occupancy by two or more families living independently of each other and containing two or more dwelling units.**

B. **Fire Sprinklers.** Fire sprinklers are required in an ADU if sprinklers are required in the primary residence.

C. **Rental Term.** An ADU or JADU may not be rented for a term that is shorter than 30 days.

D. **Income Reporting.** In order to facilitate the city’s obligation to identify adequate sites for housing in accordance with Government Code Sections 65583.1 and 65852.2, within 90 days after each yearly anniversary of the issuance of the building permit, the owner must report the actual rent charged for the ADU or JADU during the prior year. If the city does not receive the report within the 90-day period, the city may send the owner a notice of violation and allow the owner another 30 days to submit the report. If the owner fails to submit the report within the 30-day period, the city may enforce this provision in accordance with applicable law.

E. **No Separate Conveyance.** An ADU or JADU may be rented, but no ADU or JADU may be sold or otherwise conveyed separately from the lot and the primary dwelling (in the case of a single-family lot) or from the lot and all of the dwellings (in the case of a multifamily lot).
F. Septic System. If the ADU or JADU will connect to an onsite water treatment system, the owner must include with the application a percolation test completed within the last five years or, if the percolation test has been recertified, within the last 10 years. The ADU shall comply with all applicable requirements for onsite wastewater treatment systems.

G. Owner Occupancy. All JADUs are subject to an owner-occupancy requirement. A natural person with legal or equitable title to the property must reside on the property, in either the primary dwelling or JADU, as the person’s legal domicile and permanent residence. However, the owner-occupancy requirement of this paragraph does not apply if the property is entirely owned by another governmental agency, land trust, or housing organization.

H. Deed Restriction. Prior to issuance of a building permit for an ADU or JADU, a deed restriction must be recorded against the title of the property in the County Recorder’s office and a copy filed with the Director. The deed restriction must run with the land and bind all future owners. The form of the deed restriction will be provided by the City and must provide that:

1. The ADU or JADU may not be sold separately from the primary dwelling.

2. An ADU or JADU created cannot be rented for less than 30 days.

3. The ADU or JADU is restricted to the approved size unless City approval obtained to increase size.

4. The deed restriction runs with the land and may be enforced against future property owners.

5. The deed restriction may be removed if the owner eliminates the ADU or JADU, as evidenced by, for example, removal of the kitchen facilities. To remove the deed restriction, an owner may make a written request of the Director, providing evidence that the ADU or JADU has in fact been eliminated. The Director may then determine whether the evidence supports the claim that the ADU or JADU has been eliminated. Appeal may be taken from the Director’s determination consistent with other provisions of this Code. If the ADU or JADU is not entirely physically removed but is only eliminated by virtue of having a necessary component of an ADU or JADU removed, the remaining structure and improvements must otherwise comply with applicable provisions of this Code.

6. The deed restriction is enforceable by the Director or his or her designee for the benefit of the City. Failure of the property owner to comply with the deed restriction may result in legal action against the property owner, and the City is authorized to obtain any remedy available to it at law or equity, including, but not limited to, obtaining an injunction enjoining the use of the ADU or JADU in violation of the recorded restrictions or abatement of the illegal unit.
17.44.090  **Specific ADU Requirements.**

The following requirements apply only to ADUs that require an ADU APR permit under subsection 17.44.060(B) above.

A. **Maximum Size.**

1. The maximum size of an ADU subject to this Section (17.44.090) is 900 square feet for a studio or one-bedroom unit and 1,200 square feet for a unit with two bedrooms. No more than two bedrooms are allowed.

2. An ADU that is created on a lot with an existing primary dwelling is further limited to 50 percent of the TDSF of the existing primary dwelling.

3. Application of TDSF or impermeable coverage development standards might further limit the size of the ADU, but no application of TDSF or impermeable coverage may require the ADU to be less than 800 square feet.

B. **Height.**

1. No ADU subject to this Section 17.44.090 may exceed 18 feet in height above grade, as measured from existing or finished grade, whichever results in the lower building height.

2. When an existing accessory structure is demolished and is replaced with a new structure for the purposes of creating an ADU, the replacement structure may not exceed 18 feet in height.

C. **Setbacks.**

a. Any ADU subject to this Section 17.44.090 shall have a front yard setback that is no less than that of the primary structure or 20 feet for a non-beachfront lot or the average of the two adjacent neighbors for a beachfront lot.

b. No part of any ADU subject to this Section 17.44.090 may be located within four feet of a side or rear property line.

c. No additional setback can be required when an existing accessory structure is demolished and is replaced with a new structure for the purposes of creating an ADU if the replacement structure is constructed within the same location and contains the same dimensions, size, bulk and height as the structure it is replacing.

D. **Passageway.** No passageway, as defined by Section 17.02.060, is required for an ADU.

E. **Parking.**

1. Generally. One off-street parking space is required for each ADU. The parking space may be provided in setback areas or as tandem parking, as defined by Section 17.02.060.
2. Exceptions. No parking under subsection (5)(a) above is required in the following situations:
   
a. The ADU is located within one-half mile walking distance of public transit, as defined in Section 17.02.060.
   
b. The ADU is located within an architecturally and historically significant historic district.
   
c. The ADU is part of the proposed or existing primary residence or an existing accessory structure, under Section 17.44.060(A)(1).
   
d. When on-street parking permits are required but not offered to the occupant of the ADU.
   
e. When there is an established car share vehicle stop located within one block of the ADU.

3. No Replacement of Parking Required. When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an ADU or converted to an ADU in an existing single-family dwelling, those off-street parking spaces are not required to be replaced. If replacement parking is proposed, the parking must be located on hardscape and mechanical automobile parking lifts must be located within an enclosed structure to ensure compliance with coastal resource protection for public views and water quality.

17.44.100 Fees.

A. Impact Fees.

1. No impact fee shall be charged for an ADU that is less than 750 square feet in size.

2. Any impact fee that is required for an ADU that is 750 square feet or larger in size must be charged proportionately in relation to the square footage of the primary dwelling unit. (E.g., the TDSF of the primary dwelling, divided by the TDSF of the ADU, times the typical fee amount charged for a new dwelling.) “Impact fee” here does not include any connection fee or capacity charge for water or sewer service.

B. Utility Fees.

1. ADUs constructed with a single-family dwelling shall be subject to standard utility-connection requirements and fees.

2. Converted ADUs and JADUs or ADUs in an existing accessory structure on a single-family lot, created under 17.44.060(A)(1) are not required to have a new or separate utility connection directly between the ADU or JADU and the utility. Nor is a connection fee or
capacity charge required unless the ADU or JADU is constructed with a new single-family home.

3. All ADUs and JADUs not covered by 17.44.100 (B)(1) above require a new, separate utility connection directly between the ADU or JADU and the utility. The connection is subject to a connection fee or capacity charge that is proportionate to the burden created by the ADU or JADU, based on either the TDSF or the number of drainage-fixture units (DFU) values, as defined by the Uniform Plumbing Code, upon the water or sewer system. The fee or charge may not exceed the reasonable cost of providing this service.

17.44.110 Alternative Discretionary Process for ADUs.

Any proposed ADU that does not conform to the height or front yard setback standards set forth in Section 17.44.090 may be allowed by the City with a site plan review permit, in accordance with other provisions of this title.
Chapter 17.45

CITYWIDE VIEW PRESERVATION AND RESTORATION*

Sections:

17.45.030 Definitions.
The following definitions shall apply for purposes of this chapter:
A. “Arbitration” means a voluntary legal procedure for settling disputes and leading to a determination of rights of parties, usually consisting of a hearing before an arbitrator where all relevant evidence may be freely admitted.
B. “Arbitrator” means a mutually agreed upon neutral third party professional intermediary who conducts a hearing process, and who hears testimony, considers evidence and makes decisions for the disputing parties.
C. “Certified arborist” means an individual certified as an arborist by the International Society of Arboriculture (ISA).
D. “Claimant” means a property owner who alleges that foliage is causing a significant obstruction of a primary view.
E. “Environmentally sensitive habitat areas or (ESHA)” as defined as set forth in the certified Malibu LCP Local Implementation Plan.
F. “Foliage” means a woody plant with the potential to obstruct primary views. “Foliage” includes without limitation trees, shrubs, hedges and bushes.
G. “Foliage owner” means a person owning property containing foliage that a claimant alleges is causing a significant obstruction of a protected view.
H. “Hedge” means any plant material, trees, stump growth, or shrubbery planted or grown in a dense continuous line, so as to form a thicket, barrier or the substantial equivalent of a living fence.
I. “Main viewing area” means the ground floor of a commercial, institutional or principal residential structure unless the ground floor of a commercial structure consists of garages, parking areas and storage and unless the primary living area of a principal residential structure is not located on the ground floor. If the ground floor of a commercial structure consists of garages, parking areas and storage, the “main viewing area” means the first habitable floor. If the primary living area of a principal residence is not located on the ground floor, the main viewing area means the primary living area of the principal residence. The “main viewing area” may be an abutting outdoor deck or patio area located at relatively the same elevation as the ground floor of a commercial or institutional structure or a primary living area of a residence, whichever has the superior view corridor. Bedrooms, master bedroom retreats, offices, hallways, closets, laundry rooms, mechanical rooms, bathrooms and garages shall not be considered main viewing areas. Application of a primary view corridor requires an established “main viewing area.”
J. “Mediation” means a process of using a neutral third person to facilitate a mutually satisfactory solution to a view dispute.
K. “Mediator” means a neutral third person that assists the claimant and foliage owner in finding a mutually satisfactory solution to a view dispute.
L. “Pre-existing view” means a primary view within the structure’s assessed primary view corridor that existed on the date of acquisition of the property or city incorporation, whichever
is more recent. If the property was acquired without a developed, legally-habitable structure, a pre-existing view shall mean a primary view that existed as of issuance of a certificate of occupancy or city incorporation, whichever is more recent. The pre-existing view cannot be a result of a natural disaster or a result of illegal activities.

M. “Primary living area” means the living room, family room, dining room, kitchen or a combination thereof.

N. “Primary view” means visually impressive scenes of the Pacific Ocean, offshore islands, the Santa Monica Mountains, canyons, valleys, or ravines, within a primary view corridor.

O. “Primary view corridor” means a one hundred eighty (180) degree view assessed by the planning director or designee from a single fixed location and direction within the main viewing area, at an elevation of five feet as measured from the room floor or on an abutting outdoor deck or patio at any one point within ten (10) feet of the nearest outside wall of the structure as selected by the affected property owner and the city.

P. “Primary view determination” means a process by which the planning director or designee documents the location of a claimant’s primary view corridor.

Q. “Principal residence” and “principal residential structure” mean the primary residential structure located on a lot. Guest houses, granny flats and second units accessory dwelling units and junior accessory dwelling units are not principal residences or principal residential structures.

R. “Protected tree” as defined in Section 5.2 of the Malibu Local Coastal Program Local Implementation Plan.

S. “Removal” means the destruction or displacement of foliage by cutting or other mechanical method that result in physical transportation of the foliage from its site and/or death of the foliage.

T. “Restorative action” means measures undertaken to eliminate a significant obstruction of a primary view.

U. “Stump growth” means new growth from the remaining portion of a tree trunk, the main portion of which has been cut off.

V. “View preservation permit” means a permit issued by the city, requiring restorative actions on foliage located on a foliage owner’s property in order to preserve a claimant’s primary view. (Ord. 378 § 3, 2014)
# ATTACHMENT 2 – HOUSEKEEPING AMENDMENTS

## TITLE 17 - ZONING

<table>
<thead>
<tr>
<th>Chapter/Section</th>
<th>Section Name</th>
<th>Required Change</th>
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<tbody>
<tr>
<td>Chapter 17.02</td>
<td>Introductory Provision and Definitions</td>
<td>Add definitions related to ADU and Junior ADU regulations and delete second unit definition</td>
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<tr>
<td>Chapter 17.08</td>
<td>Rural Residential Zone-Permitted Uses</td>
<td>Change second unit to ADU consistent with new ADU Chapter 17.44 and change guest units to guest houses consistent with new Section 17.40.040(A)(21)</td>
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<tr>
<td>Chapter 17.10</td>
<td>Single Family Zone-Permitted Uses</td>
<td>Change second unit to ADU consistent with new ADU Chapter 17.44 and change guest units to guest houses consistent with new Section 17.40.040(A)(21)</td>
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<tr>
<td>Chapter 17.12</td>
<td>Multifamily Zone-Permitted Uses</td>
<td>Change second unit to ADU consistent with new ADU Chapter 17.44 and change guest units to guest houses consistent with new Section 17.40.040(A)(21)</td>
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<td>Multifamily Beach Front Zone-Permitted Uses</td>
<td>Change second unit to ADU consistent with new ADU Chapter 17.44 and change guest units to guest houses consistent with new Section 17.40.040(A)(21)</td>
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<tr>
<td>Chapter 17.39</td>
<td>Malibu Coast Estates</td>
<td>Change second unit and guest house references to ADU or guest house</td>
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<tr>
<td>Chapter 17.40</td>
<td>Property Development and Design Standards</td>
<td>Add new Section 17.40.0040 (A)(21) to regulate guest houses</td>
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<tr>
<td>Chapter 17.45</td>
<td>Citywide View Preservation and Restoration</td>
<td>Change 2nd unit and granny flats to ADU in the definition section</td>
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</tbody>
</table>

## LOCAL COASTAL PROGRAM – LAND USE PLAN (LUP)

| Chapter 3       | Marine and Land Resources                        | Change second unit references to ADU                                                                                                         |
| Chapter 5       | New Development                                   | Change second unit references to ADU                                                                                                         |

## LOCAL COASTAL PROGRAM – LOCAL IMPLEMENTATION PLAN (LIP)

| Chapter 2       | Definitions                                       | Add definitions related to ADUs and Junior ADUs and delete second unit definition                                                              |
| Chapter 3 - Q.  | Planned Development Zone                          | Change reference to second unit to ADU and guest unit to guest house                                                                          |
| Chapter 3 – 3.6 | Residential Development Standards                 | Delete 2nd unit regulations and create new Chapter 3.10 for ADU regulations                                                                    |
| Chapter 13      | Coastal Development Permits                       | Add new section (13.30) for ADU Administrative CDP                                                                                           |
| Appendix I      | Table B – Permitted Uses                          | Delete second units and add ADUs and Junior ADUs as permitted uses in RR, SF, MF, and MFBF zones and change guest unit to guest house            |
Attachment 3 - Illustration of Two Means of Access

- Overlapping means of access
- Two distinct means of access
- Single means of access - lots fronts on highway and vehicles enter directly from highway
Dear Ms. Kendall,

I am a homeowner in the Malibu Country Estates (in the following: “MCE”) Overlay District and would like to draw the Commission’s attention to an inconsistency in the proposed changes to the Malibu Municipal Code (as published in the Commission Agenda Report of August 23, 2018 re Accessory Dwelling Units).

The Agenda Report contains a list of draft amendments to update the LCP and Malibu Municipal Code consistent with recent changes in State law regarding ADUs. As it relates to tiny houses, the Agenda Report notes (page 9): “… they could be utilized for an ADU; however, they would need to be on a permanent foundation pursuant to the proposed ordinance.”

The requirement of a permanent foundation is, however, inconsistent with the following provision, which explicitly prohibits the creation of a (second) foundation within any given property:

Chapter 17.42 (Custom Development Criteria), Section 20 (Overlay Districts) Subsection D (Malibu Country Estates Overlay District) Paragraph 6, in its current version, reads as follows:

6. Site of Construction. There shall be no site of construction requirement, except for the following requirements:
   a. All development, excluding walls and fences, shall be limited to the existing building pad.
   b. There shall be no more than one building pad per lot.

Nothing in the proposed ADU ordinance seems to prevent a homeowner in the MCE to create, if feasible, an ADU on the existing building pad. However, the restriction marked in red above disenfranchises homeowners who can not implement an ADU on the existing pad, but whose properties are large enough to accommodate an ADU outside the existing building pad. Such a homeowner would not be able to utilize, for example, a tiny home for an ADU because the aforementioned restriction does not allow the necessary foundation.

It is evident the noted restriction was originally put in place to prevent ADUs in the first place. There is no other reasonable explanation for this clause.

Hence, I would like to respectfully request the following amendments to Paragraph 6 to be included for the purpose of the ADU ordinance:

6. Site of Construction. There shall be no site of construction requirement, except for the following requirements:
   a. All development, excluding walls, and fences and accessory dwelling units, shall be limited to the existing building pad.
   b. There shall be no more than one building pad per lot, except for an accessory dwelling unit.

The interests of neighbors are sufficiently protected by all other existing restrictions like setbacks, height limits, etc., as well as the view preservation ordinance specifically tailored to MCE (Chapter 17.43).

It would strike as an inconsistent solution to only allow certain types of ADUs in MCE (restricted to existing pads), while the rest of the City does not have this restriction - unless there are valid reasons for a distinction. Such reasons don’t exist.

Thank you for your consideration.

Sincerely,
Helmut Meissner
Hi Richard,

Without knowing exactly what the schedule is regarding consideration of ADU’s, I’d like to share a thought in response to what I’ve heard from people in the community. It seems people want ADU’s to be (or not to be) many different things. Here’s a way to accommodate a variety of interests.

Last I heard, many months ago, the Planning department was heading towards a recommendation that ADU’s be no larger than 900 sq.ft., to harmonize with the City’s existing 2nd-unit regs. Many people hear that and think, “OMG, the lots in my neighborhood are so small, I couldn’t even fit half that size!” Others think, “Why so small, if the state allows 1,200 sq.ft.?”

So how about your devising a scale, either sliding or stepped, based on parcel size? For example, no ADU on a lot smaller than 1/4 acre; at 1/4 acre you could have an ADU of 400 sq.ft.; then slide or step the scale up, so that by the time you reach 2 acres, you get an ADU of 1,200 sq.ft., the maximum allowed under the state law.

To Coastal Commission you say, “Yes, we’re substantially limiting the allowable size of ADU’s on much smaller lots, but by going up to 1,200 sq.ft on larger lots, we’re making up some of the total ADU square footage, and we’re going beyond the 900 sq.ft. we would otherwise be implementing, as per our guest house precedent. And it’s more responsive to neighborhood character.” Etc. In other words, you might be keeping roughly the same total square footage of ADU you’d have in all of Malibu, yet distribute it in a more dynamic way, more sensitive to the scale and density of neighborhoods.

The scale from 400 to 1,200 sq.ft. could be sliding, based on formula (the way the TDSF curve is). Or you could specify it in discrete steps, e.g., 1/4 acre = 400, 3/8 acre =550, 1/2 acre = 600, 5/8 acre= 700, 3/4 acre = 800 1 acre = 900... up to >2 acres = 1,200. Or whatever – I don’t mean those to be an exact recommendation, just an illustration. If you did it in discrete steps, you’d want enough steps that the jump from one tier to the next doesn’t seem too extreme to the homeowner whose lot size is just under a threshold.

Anyway, it’s a generalizable idea. I’d be happy to either take a little credit or heat for it, as the case may be, or not. ;-

Best,
Kraig
Hi Justine,

Re ADU’s, I imagine you’ve referenced the new County ADU ordinance, but just in case, here it is, attached. I understand that it doesn’t apply wherever there’s an LCP, such as in Malibu, but presumably it might offer some insights.

Apropos to our discussion of lot sizes (and the possibility of creating a sliding scale for permissible ADU sq.ft, analogous to the TDSF curve), the County ordinance provides a precedent. It notes minimum lot sizes for agricultural, open space and recreational zoning on page 7-8, and for commercial zoning on page 10-11. (The minimum sizes range from 1 to 100 acres.) Yet the similar table for residential zones on page 9 doesn’t note any minimum sizes. (The minimum sizes are listed in numbered “notes” that don’t appear to have corresponding numbers in the text – it’s confusing.) Nor are there minimum sizes specified for rural and mixed use zones. The point is, there is some precedent for applying a sliding scale, even if it hasn’t been applied in every zoning designation.

I had mentioned arbitrarily that maybe the minimum size could be 400 sq. feet. But the County’s minimum is 150 sq.ft. so that should be the bottom end of any sliding scale.

Also, Malibu should probably have a minimum lot size – perhaps 1/2 acre. So a curve could go from 150 sq.ft on 1/2 acre, to 900 (or even 1200) sq.ft on 2 acres or more.

Based on a few more conversations with others, I would suggest that you be strict in interpreting and implementing provisions relating to fire safety in particular.

Regarding the requirement of two egresses in “Very High Fire Hazard Severity Zones,” the County distinguishes between circumstances where there is or isn’t also a “Hillside Management Area” (HMA). (P 15 et seq.) The practical difference is that where there is a HMA the egresses are required to be paved, but where there is no HMA they need not be paved. How might that translate to Malibu’s LCP, which doesn’t have that same HMA designation? We don’t want to encourage more paving, but the Fire Dept will need to sign off.

Heights should be strictly limited, with restrictions imposed evenly and fairly across the whole city. 18 feet should be considered an absolute *maximum*, with lower heights required where, for example, the height of the existing house is lower (ADU should be no taller than existing house), and where neighborhood associations have imposed lower limitations.

The County ordinance specifies side and rear setbacks at 4 ft. (P 26.) That makes little sense. The City’s
version should probably say that ADU’s must meet the same setbacks required of other structures in the LCP. If you feel somehow obligated to allow smaller setbacks, the Fire Dept requires 5-ft wide walkaround. Then if there are fences, as is often the case, you’d want at least 6 feet from the lot line, to accommodate the walkaround. You’d also want a clause that applies the minimum 10 ft between structures *as across lot lines* to address pre-code nonconforming noncompliant setbacks of less than 5 ft on adjacent lots.

The County doesn’t require parking of ADU’s under a number of circumstances (P 26-28). Most of them make no sense. Given that, by definition, someone will be sleeping in the ADU, it must there require at least one parking space. Recall that parking is a requirement that planning has underestimated in the past (e.g., for restaurants); let’s ensure that all ADU’s have sufficient dedicated off-street parking.

The County has a 200 ft. setback from public open space (good), but doesn’t specify a setback from ESHA (bad). Definitely include a substantial ESHA setback requirement – unless the standard requirement will pertain automatically.

If anyone at the City is expressing any intent re STU’s in ADU’s – just no! Note that the County ordinance doesn’t allow it, period. (P.21) Nor shall they accommodate “home-based occupations” (businesses)(op cit).

Best,
Kraig
ANALYSIS

This ordinance amends the Los Angeles County Code, Title 22 — Planning and Zoning, to establish new development standards and case processing procedures for accessory dwelling units and junior accessory dwelling units in the unincorporated areas of Los Angeles County.

Very truly yours,

MARY C. WICKHAM
County Counsel

By

STARR COLEMAN
Assistant County Counsel
Property Division

SC:ss

Requested: 04-15-2020
Revised: 09-16-2020
ORDINANCE NO. ____________________

An ordinance amending the Los Angeles County Code, Title 22 – Planning and Zoning, to establish new development standards and case processing procedures for accessory dwelling units and junior accessory dwelling units in the unincorporated areas of Los Angeles County.

The Board of Supervisors of the County of Los Angeles ordains as follows:

SECTION 1. Section 22.14.010 is hereby amended to read as follows:

22.14.010  A. Accessory building or structure. A detached building or structure that is subordinate and incidental in use to the principal building or use on the same lot, and located in the same or a less restrictive zone.

Accessory dwelling unit and junior accessory dwelling unit. The following terms are defined for the purposes of Section 22.140.160 (Accessory Dwelling Units and Junior Accessory Dwelling Units).

Accessory dwelling unit. A dwelling unit with independent exterior access that is either attached to, located within the existing living area, or detached from and located on the same lot as a single-family residence or multi-family residential building, including mixed use development. This term includes a senior citizen residence, a second unit, and an accessory dwelling unit approved prior to May 30, 2019. This term also includes a manufactured home, as defined in Section 18007 of the California Health and Safety Code. An accessory dwelling unit is accessory to a single-family residence; the principal residential use; and does not count toward the allowable density
General Plan consistency. An accessory dwelling unit includes permanent provisions for living, sleeping, eating, cooking, and sanitation.

Junior accessory dwelling unit. A dwelling unit, with independent exterior access, that is no more than 500 square feet in size and contained entirely within the footprint of a single-family residence, including an attached garage. A junior accessory dwelling unit may include separate sanitation facilities, or may share sanitation facilities with the single-family residence, as set forth in section 65852.22(h)(1) of the California Government Code, or a successor provision.

Public transit. As defined in section 65852.2(j)(10) of the California Government Code.

Affordable housing and senior citizen housing. The following terms are defined for the purposes of Chapter 22.120 (Density Bonus) and Chapter 22.166 (Housing Permits):

Affordable housing cost. As defined in Section 50052.5 of the California Health and Safety Code.

Affordable housing set-aside. Dwelling units reserved for extremely low, very low, lower, or moderate income households.

Affordable rent. As defined in Section 50053 of the California Health and Safety Code.
Baseline dwelling units. The maximum number of dwelling units permitted by the General Plan land use designation.

Child care facility. As defined in section 65915(h)(4) of the California Government Code.

Common interest development. As defined in section 4100 of the California Civil Code.

Density bonus. See "Density bonus."

Housing development. A development project for five or more dwelling units, including mixed use developments. It may also be a subdivision or a common interest development, as defined in section 4100 of the California Civil Code, approved by the County and consisting of dwelling units or unimproved residential lots. It may also be either a project to substantially rehabilitate and convert an existing commercial building to residential use, or the substantial rehabilitation of an existing multi-family dwelling, as defined in section 65863.4(d) of the California Government Code, where the result of rehabilitation would be a net increase in available dwelling units.

Incentive. As specified in section 65915(k) of the California Government Code, a reduction of a development standard or a modification of a zoning code requirement, or other regulatory incentive or concession, that results in identifiable and actual cost reductions to provide for affordable housing costs or rents.

... Major transit stop. As defined in section 21155(b) of the California Public Resources Code.
Senior citizen. A person who is 55 years of age or older, pursuant to Sections 51.3, 798.76 or 799.5 of the California Civil Code, as applicable.

Senior citizen housing.

Mobilehome park for senior citizens. A mobilehome park that limits residency based on age requirements, pursuant to Section 798.76 or 799.5 of the California Civil Code.

Senior citizen housing development. As defined in Section 51.3(b) of the California Civil Code.

Special needs housing. As defined in Section 51312 of the California Health and Safety Code.

Specific adverse impact. As defined in Section 65589.5(d)(2) of the California Government Code.

Waiver or reduction of development standards. As specified in Section 65915(e) of the California Government Code, a waiver or reduction of development standards that has the effect of physically precluding the construction of a project at the densities or with the incentives permitted by Chapter 22.120 (Density Bonus).

... Airport. This term shall have the same meaning as set forth in Section 21013 (State Aeronautics Act) of the California Public Utilities Code.

...
SECTION 2. Section 22.14.130 is hereby amended to read as follows:

22.14.130 M.

... Mills Act Program. The following terms are defined solely for Chapter 22.168 (Los Angeles County Mills Act Program):

Application. An application to enter into an historical property contract.

Historical property contract. A contract between the Director and the owners of a qualified historical property which meets all the requirements of Chapter 22.168 (Los Angeles County Mills Act Program) and Sections 50280 through 50290, inclusive, of the California Government Code.

... Qualified historical property. Property which meets the definition of a "qualified historical property," as set forth in Section 50280.1 of the California Government Code and is located within the unincorporated areas of the County. A property located within a federal, State, or County registered historic district is not a "qualified historical property" under Chapter 22.168 (Los Angeles County Mills Act), unless the property is certified by the County, State, or Secretary of Interior as being of historic significance to the relevant historic district.

... Mobilehome. As defined in Section 18008 of the California Health and Safety Code.
Mobilehome park. As defined in Section 18214 of the California Health and Safety Code.

Motel. A lodging establishment containing a group of attached or detached buildings containing guest rooms and offering temporary overnight visitor accommodations with a maximum rental period of 30 days. Access to some or all guest rooms is from a walkway open to the outside. This term includes "auto court," "motor lodge," and "tourist court."

Multi-family housing.

... Townhouse. A single-family dwelling unit sharing a common wall with other single-family dwelling units on one or two sides and capable of being placed on a separate lot. This term includes "row house."

Two-family residence. A building containing two dwelling units, other than a single-family residence with an attached accessory dwelling unit. This term includes "duplex."

SECTION 3. Section 22.14.200 is hereby amended to read as follows:

22.14.200 T.

... Tasting Rooms and Wineries. The following terms are defined solely for Section 22.140.590 (Tasting Rooms and Remote Tasting Rooms) and Section 22.140.610 (Wineries):
Winery facilities. All structures and accessory structures as used by a winery, as defined above, including the paved parking areas required by Section 22.140.610 for mobile bottling or crushing facilities, but excluding any tasting room area or structure.

... Two-family residence. A building containing two dwelling units, other than a single-family residence with an attached accessory dwelling unit. This term includes "duplex."

SECTION 4. Section 22.16.030 is hereby amended to read as follows:

22.16.030 Land Use Regulations for Zones A-1, A-2, O-S, R-R, and W.

... C. Use Regulations.

... 2. Accessory Uses. Table 22.16.030-C, below, identifies the permit or review required to establish each accessory use.

<table>
<thead>
<tr>
<th>Accessory dwelling units²</th>
<th>A-1</th>
<th>A-2</th>
<th>O-S</th>
<th>R-R</th>
<th>W</th>
<th>Additional Regulations</th>
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<td>Junior accessory dwelling units²</td>
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<td>SPR</td>
<td>SPR</td>
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<td>Section 22.140.640</td>
</tr>
</tbody>
</table>
2. Use may be subject to a Revised Exhibit “A” (Chapter 22.184) application instead, if the principal residential use is subject to a Conditional Use Permit (Chapter 22.158) application.

3. All buildings and structures on the property used in conjunction with the permitted use shall be located at least 50 feet from any street or highway or any habitable structure.

4. Use shall be located at least 300 feet from any public park or any area in a Residential Zone.

5. Minimum lot size is one acre.

6. Use shall meet all applicable health and safety standards and be reclaimed for open space use when declared safe for such use by the California Department of Health.

7. Minimum lot size is 10 acres.

8. Limited to hives only.

9. Minimum lot size is five acres.

10. Use shall be located within 600 feet of, or be in conjunction with, and intended to serve any use listed as permitted for the zone under the Recreational Uses category in Table 22.16.030-B, above.

11. Use shall be limited to a seating capacity not to exceed 500 seats.

12. Minimum lot size is one acre where sheltered employment or industrial-type training is conducted.

13. Use is permitted if publicly owned.

14. Minimum lot size is 100 acres.

15. Use is allowed in an open space easement if use is consistent with the intent and language of the applicable open space easement.

16. Use excludes airports and landing strips.

17. Use may also be subject to Chapter 22.120 (Density Bonus) and Chapter 22.166 (Housing Permits), if it includes affordable housing or senior citizen housing.

...
SECTION 6. Section 22.18.060 is hereby amended to read as follows:

22.18.060 Development Standards and Regulations for Zone RPD.

Premises in Zone RPD shall be subject to the following regulations:

A. Use Regulations.

2. Conditional Uses. A Conditional Use Permit (Chapter 22.158) application is required if the property in Zone RPD is to be used for a planned residential development, including a mobilehome park, subject to the approval by the Commission or Hearing Officer, which will afford the same or lesser density of population or intensity of use than is specified in the zone, subject to Subsections B through G, below.

3. Accessory Dwelling Units and Junior Accessory Dwelling Units.

Accessory dwelling units and junior accessory dwelling units are subject to a Ministerial Site Plan Review (Chapter 22.186) application, or a Revised Exhibit "A" (Chapter 22.184) application, if the principal residential use is subject to a Conditional Use Permit (Chapter 22.158) application, pursuant to Subsection A.2. above.
... SECTION 7. Section 22.20.030 is hereby amended to read as follows:

22.20.030 Land Use Regulations for Zones C-H, C-1, C-2, C-3, C-M, C-MJ, and C-R.

2. Accessory Uses. Table 22.20.030-C, below, identifies the permit or review required to establish each accessory use.

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<tr>
<th>TABLE 22.20.030-C: ACCESSORY USE REGULATIONS FOR COMMERCIAL ZONES</th>
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<tr>
<td>Accessory buildings and structures, unless more specifically regulated by this Title 22</td>
</tr>
<tr>
<td>Accessory dwelling units</td>
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<tr>
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<td></td>
</tr>
<tr>
<td>...</td>
</tr>
<tr>
<td>Junior accessory dwelling units</td>
</tr>
<tr>
<td></td>
</tr>
<tr>
<td>...</td>
</tr>
</tbody>
</table>

Notes:

2. Use may be subject to a Revised Exhibit "A" (Chapter 22.184) application instead, if the principal residential use is subject to a Conditional Use Permit (Chapter 22.158) application.

3. Minimum lot size is one acre.

4. Use shall maintain a commercial appearance by providing office or window display space across any side of the building with street or highway frontage. Office or window display space shall have a minimum depth of 10 feet.

5. The use shall comply with the standards in Section 22.20.080 (Development Standards for Zone C-R).

6. Minimum lot size is five acres.

7. Minimum lot size is one acre where sheltered employment or industrial-type training is conducted.

8. The use shall comply with the standards in Section 22.20.060 (Development Standards for Zone C-M), if assembly and manufacturing would be part of industrial-type training.

9. Use is permitted if publicly owned.

10. Individual crucibles that exceed a capacity of 16 square feet are prohibited.
Sales shall be limited to retail sales only and all goods sold shall be new.
Use does not permit a kiln or manufacture.
Use may permit manufacturing on the premises when accessory to retail sales, provided that total volume of kiln space does not exceed eight cubic feet.
Use may permit manufacturing on the premises when accessory to retail sales, provided that total volume of kiln space does not exceed 16 cubic feet.
Use includes related installation and repair if conducted within an enclosed building.
Use may include the sale of lumber and other building supplies, but shall exclude milling or woodworking other than accessory cutting of lumber to size, provided that all sale, display, storage and accessory cutting is within an enclosed building.
Use is permitted within an enclosed building only.
Parking provided is separate from required parking in Chapter 22.112 (Parking), however, use shall be developed in compliance with Chapter 22.112 (Parking).
When nonconforming in zones where the use is allowed with a Conditional Use Permit (Chapter 22.158).
Use is permitted only in conjunction with a health club or center.
Limited to helistops only.
Use does not permit storage.
Section 22.140.340 (Manufacturing as an Accessory Use in Commercial Zones) shall apply.
Use includes merry-go-rounds, ferris wheels, swings, toboggans, slides, rebound-tumbling, and similar equipment operated at one particular location.
Use includes zip-lines.
Use may also be subject to Chapter 22.120 (Density Bonus) and Chapter 22.166 (Housing Permits), if it includes affordable housing or senior citizen housing.
When the use is an affordable housing development (Section 22.120.050), subject to an Administrative Housing Permit (Section 22.166.040).

...  
SECTION 8. Section 22.24.030 is hereby amended to read as follows:

22.24.030 Land Use Regulations for Rural Zones.

...  
C. Use Regulations.

...  
2. Accessory Uses. Table 22.24.030-C, below, identifies the permit or review required to establish each accessory use.
## TABLE 22.24.030-C: ACCESSORY USE REGULATIONS FOR RURAL ZONES

<table>
<thead>
<tr>
<th>Accessory dwelling units</th>
<th>C-RU</th>
<th>MXD-RU</th>
<th>Additional Regulations</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>SPR</td>
<td>-SPR</td>
<td>Section 22.140.640</td>
</tr>
<tr>
<td>Home-based occupations</td>
<td>P</td>
<td>P</td>
<td>Section 22.140.290</td>
</tr>
</tbody>
</table>

## Notes:

4. Use may be subject to a Revised Exhibit "A" (Chapter 22.184) application instead, if the principal residential use is subject to a Conditional Use Permit (Chapter 22.158) application.

---

**SECTION 9.** Section 22.26.030 is hereby amended to read as follows:

**22.26.030 Mixed Use Development Zone.**

---

B. Land Use Regulations.

---

3. Use Regulations.

---

b. Accessory Uses. Table 22.26.030-D, below, identifies the permit or review required to establish each accessory use.

## TABLE 22.26.030-D: ACCESSORY USE REGULATIONS FOR ZONE MXD

<table>
<thead>
<tr>
<th>Accessory buildings and structures</th>
<th>As determined by the principal use</th>
<th>Sections 22.110.030, 22.110.040</th>
</tr>
</thead>
<tbody>
<tr>
<td>Access to property lawfully used for a purpose not permitted in Zone MXD</td>
<td>SPR</td>
<td></td>
</tr>
</tbody>
</table>
TABLE 22.26.030-D: ACCESSORY USE REGULATIONS FOR ZONE MXD

<table>
<thead>
<tr>
<th>Accessory dwelling units</th>
<th>SPR</th>
<th>Section 22.140.640</th>
</tr>
</thead>
<tbody>
<tr>
<td>Home-based occupations</td>
<td>P</td>
<td>Section 22.140.290</td>
</tr>
<tr>
<td>Junior accessory dwelling units</td>
<td>SPR</td>
<td>Section 22.140.640</td>
</tr>
</tbody>
</table>

...  

SECTION 10. Section 22.46.030 is hereby amended to read as follows:

22.46.030 Administration.

...

B. Exceptions.

...

3. Accessory Dwelling Units and Junior Accessory Dwelling Units.

Where the regulations in Section 22.140.640 (Accessory Dwelling Units and Junior Accessory Dwelling Units) are contrary to the provisions in a Specific Plan regulating the same matter, the provisions in the Specific Plan shall prevail, unless specified otherwise in Section 22.140.640 (Accessory Dwelling Units and Junior Accessory Dwelling Units).

SECTION 11. Section 22.112.070 is hereby amended to read as follows:

22.112.070 Required Parking Spaces.

A. Required Parking Spaces. Table 22.112.070-A, below, identifies the minimum number of parking spaces required to establish each use.
### TABLE 22.112.070-A: MINIMUM REQUIRED PARKING SPACES

<table>
<thead>
<tr>
<th>Use</th>
<th>Number of Spaces</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Residential uses</strong></td>
<td></td>
</tr>
<tr>
<td>Accessory dwelling units</td>
<td>1 uncovered standard space per unit.</td>
</tr>
<tr>
<td>Bachelor</td>
<td>1 covered standard space per dwelling unit.</td>
</tr>
<tr>
<td>Efficiency and one-bedroom</td>
<td>1.5 covered standard space per dwelling unit.</td>
</tr>
<tr>
<td>Junior accessory dwelling units</td>
<td>No spaces required.</td>
</tr>
<tr>
<td><strong>Two-family residences</strong></td>
<td>3 covered standard spaces and 1 covered or uncovered standard space per two-family residence.</td>
</tr>
<tr>
<td><strong>Single-family residences</strong></td>
<td>2 covered standard spaces per unit.</td>
</tr>
</tbody>
</table>

### Notes:

10. When a garage or carport is converted to an accessory dwelling unit, any parking spaces required for the primary residence may be provided as covered spaces, uncovered spaces, or tandem spaces in compliance with Section 22.04.030.B and Section 22.140.640.H.6b parking spaces for the primary residence shall not be required to be replaced. If parking is provided for the primary residence or residences, it may be provided as covered spaces, uncovered spaces, or tandem spaces, in compliance with Section 22.04.030.B (Use Restrictions) and Section 22.140.640 (Accessory Dwelling Units and Junior Accessory Dwelling Units).


### SECTION 12.

Section 22.140.640 is hereby amended to read as follows:

#### 22.140.640 Accessory Dwelling Units and Junior Accessory Dwelling Units

A. **Purpose.** This Section is to provide for the development of accessory dwelling units and junior accessory dwelling units with appropriate development
restrictions, pursuant to sections 65852.2 and 65852.22 of the California Government Code section 65852.2.

B. Applicability. This Section shall apply to accessory dwelling units and junior accessory dwelling units in all zones where permitted, except that in a Coastal Zone, accessory dwelling units and junior accessory dwelling units shall be subject to the regulations set forth in the applicable Local Coastal Program controls.

C. Permitted Prohibited Areas.—Except as specified in Subsection D., below, an accessory dwelling unit is permitted where single-family residences are permitted with a Ministerial Site Plan Review (Chapter 22.186):

1. Accessory dwelling units and junior accessory dwelling units shall be prohibited in the following areas:
   a. On lots that are located in the area between Old Topanga Canyon Road, the Coastal Zone boundary, the City of Calabasas, and the City of Los Angeles; and
   b. On lots that are located in the Santa Monica Mountains North Area and only have vehicular access from Lobo Canyon Road or Triunfo Canyon Road.

2. Very High Fire Hazard Severity Zone.
   a. Where a lot, or any portion thereof, is located within a Very High Fire Hazard Severity Zone, as depicted in the General Plan, and a Hillside Management Area, as depicted in the General Plan, other than those described in
Section 22.104.030.D, an accessory dwelling unit or a junior accessory dwelling unit shall be prohibited on the lot, unless it has two distinct means of vehicular access to a highway that meet the following requirements:

i. The two distinct means of vehicular access, as measured from the lot frontage to the point of intersection with a highway, shall not overlap with each other. For example, see Figure 22.140.640-A, below;

ii. Each distinct means of vehicular access shall contain pavement of at least 24 feet in width, exclusive of sidewalks; and

iii. Each distinct means of access shall be built to public street standards approved by Public Works.

b. Where a lot or any portion thereof is located within a Very High Fire Hazard Severity Zone and is not located within a Hillside Management Area, an accessory dwelling unit or a junior accessory dwelling unit shall be prohibited on the lot, unless it has two distinct means of vehicular access from the lot to a highway that meet the requirements in Subsection C.2.a, above, except that the means of vehicular access may include an unpaved road of at least 24 feet in width maintained by Public Works.

c. Notwithstanding Subsections C.2.a and C.2.b, above, accessory dwelling units and junior accessory dwelling units shall be permitted on lots with a single means of vehicular access, if such lots front a highway and vehicles enter directly from the highway. For example, see Figure 22.140.640-A, below.
D. — Prohibited Areas. An accessory dwelling unit is not permitted on a lot if any of the following apply:

1. — The lot is located in a Very High Fire Hazard Severity Zone and contains a Hillside Management Area other than those described in Section 22.104.030.D, and it does not have two means of access to a highway that meet the following requirements:
   a. — Both means of access contain at least 24 feet in unobstructed width, as measured from the lot until it reaches the nearest highway; and
b. Both means of access are built to public street standards approved by Public Works.

2. The lot is located in a Very High Fire Hazard Severity Zone, and does not contain a Hillside Management Area, and does not have two means of access to a highway that meet both the following requirements:

   a. The required unobstructed width specified in Subsection D.1.a, above; and

b. Both means of access meet the requirement specified in Subsection D.1.b, above, or are dirt roads maintained by Public Works.

3. The lot is located in the area between Old Topanga Canyon Road, the Coastal Zone boundary, the City of Calabasas, and the City of Los Angeles;

4. The lot is located in the Santa Monica Mountains North Area and can only take vehicular access from Lobo Canyon Road or Triunfo Canyon Road.

E. Application Requirements. An approved Ministerial Site Plan Review (Chapter 22.186) is required to establish an accessory dwelling unit that is located in a permitted area as provided in Subsection C, above.

F. Timeline for Review and Decision. Complete applications for an accessory dwelling unit shall be approved or denied by the Department within 120 days.

   1. General. A decision on an application for an accessory dwelling unit or a junior accessory dwelling unit shall be made within 60 days of application submittal.
2. If an application for an accessory dwelling unit or a junior accessory dwelling unit is submitted concurrently with a Ministerial Site Plan Review (Chapter 22.186), or a Revised Exhibit "A" (Chapter 22.184) application, for a new single-family residence on the lot, a decision on the application for the accessory dwelling unit or junior accessory dwelling unit may be delayed until a decision on the application for the new single-family residence is made.

3. If the applicant requests a delay in writing, the 60-day time period shall be tolled for the period of the delay.

E. Maximum Number of Accessory Dwelling Units and Junior Accessory Dwelling Units. Table 22.140.640-A, below, identifies the maximum number of accessory dwelling units and junior accessory dwelling units permitted on a lot:

<table>
<thead>
<tr>
<th>Principal Use on a Lot</th>
<th>Maximum Number</th>
<th>Accessory Dwelling Units</th>
<th>Junior Accessory Dwelling Units</th>
</tr>
</thead>
<tbody>
<tr>
<td>One proposed or existing, legally-built single-family residence in any zone that allows residential use</td>
<td>1</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>Any existing, legally-built housing type other than one single-family residence in any zone that allows residential use</td>
<td>1 or 25 percent of existing dwelling units, whichever is greater, converted from spaces within existing residential building(s); and 2 detached from existing residential building(s)</td>
<td>=</td>
<td></td>
</tr>
</tbody>
</table>

GF. Use Restrictions. An accessory dwelling unit or a junior accessory dwelling unit shall be subject to all of the following use restrictions:

1. An accessory-dwelling-unit may be developed if the lot:
a. Contains no habitable structures other than the legally-built single-family residence; or

b. Will only have one new detached primary single-family residence permitted concurrently with the accessory dwelling unit, and no other habitable structures.

2. No more than one accessory dwelling unit is permitted on any lot.

3. An accessory dwelling unit shall not be separately sold from the single-family residence on the same lot.

4. An accessory dwelling unit may only be used as a rental unit for a period of at least 30 consecutive days. The applicant shall record in the Registrar-Recorder/County Clerk, an agreement to this effect as a covenant running with the land for the benefit of the County of Los Angeles, and the covenant shall also declare that any violation thereof shall be subject to the enforcement procedures of Chapter 22.242 (Enforcement Procedures). Recodation of the covenant must occur prior to issuance of a certificate of occupancy by the County.

5. An accessory dwelling unit shall not be used for a home-based occupation if there is a home-based occupation in the single-family residence.

1. Ownership. An accessory dwelling unit or a junior accessory dwelling unit shall not be sold separately from the principal residential building(s) on the same lot.
2. **Duration of Tenancy.** An accessory dwelling unit or a junior accessory dwelling unit may only be used as a rental unit for a period of at least 30 consecutive days.

3. **Home-Based Occupation Prohibited.** No home-based occupation shall be conducted within an accessory dwelling unit or a junior accessory dwelling unit.

**H. Development Standards.**

1. **Single-Family-Residence-Standards**

   **Accessory Dwelling Units.** An accessory dwelling unit shall comply with Section 22.140.580 (Single-Family Residences), except Section 22.140.580.B (Minimum Building Width) and Section 22.140.580.C (Minimum Floor Area) shall be superseded by this Subsection H.

   2a. **Floor Area.**

      a. **Minimum.** An accessory dwelling unit shall have a minimum floor area of 150 square feet, with one habitable room with a minimum floor area of 70 square feet.

      b. **Maximum.**

         1.(1) **General.**

         (1a) The maximum floor area of an accessory dwelling unit shall be 1,200 square feet, if the accessory dwelling unit is any of the following:

         (aj) A new detached structure; or

         (bjj) Entirely within an existing, legally-built single-family residence; or The result of the conversion of an existing, legally-built
accessory structure with an addition to expand the floor area of said structure by more than 150 square feet.

(e) The result of the conversion of an existing, legally-built accessory structure with no expansion of the floor area of said structure.

(b) There is no maximum floor area for an accessory dwelling unit, if the accessory dwelling unit is any of the following:

(i) Entirely within an existing, legally-built single family or multi-family residential building; or

(ii) The result of the conversion of an existing, legally built accessory structure, with an expansion of not more than 150 square feet beyond the same physical dimensions of said structure, solely for the purpose of accommodating ingress and egress.

(2c) For an attached accessory dwelling unit not described in Subsections H.2.b.i.(4)(b)G.1.a.ii.(1)(a)(ii) or H.2.b.i.(4)(c)G.1.a.ii.(1)(b), above, the total floor area of the attached accessory dwelling unit shall not exceed 50 percent of the habitable area of said the single-family residence at the time of application submittal, or 1,200 square feet, whichever is less, provided at least an 800 square foot accessory dwelling unit is allowed.

Exceptions. Community Standards District and Specific Plans. For an accessory-dwelling unit not described in Subsections H.2.b.i.(4)(b) or H.2.b.i.(4)(c), above, accessory dwelling units shall not be subject to any
Community Standards District or Specific Plan provision pertaining to floor area, gross structural area, or lot coverage.

(1) Hillside Management Areas. The total floor area of the accessory dwelling unit in a Hillside Management Area shall not exceed 50 percent of the habitable area of the single-family residence at the time of application submittal, or 800 square feet, whichever is less.

(2) Community Standards Districts and Specific Plans. Notwithstanding Subsection H.2.b.ii.(1), above, the accessory dwelling unit shall be subject to all applicable Community Standards District or Specific Plan provisions pertaining to floor area and lot coverage, and in no case shall:

(a) The total floor area of a new detached accessory dwelling unit exceed the maximum floor area specified in Subsection H.2.b.i.(1), above; and

(b) The total floor area of an attached accessory dwelling unit exceed the maximum floor area specified in Subsection H.2.b.i.(2), above.

3b. Height.

ai. General. The maximum height of an accessory dwelling unit on a lot with an existing or proposed single-family residence shall be 25 feet.
bii. **Exceptions** The maximum height for detached accessory dwelling units on a lot containing an existing multi-family dwelling structure or structures shall be 16 feet.

iii. The height of an existing structure shall be deemed the **There is no maximum height** for an accessory dwelling unit, if the accessory dwelling unit is any of the following:

1. Entirely within an existing, legally-built single-family residence or multi-family residential building; or

2. The result of the conversion of an existing, legally built accessory structure with no expansion of the floor area of said structure and an expansion of not more than 150 square feet beyond the same physical dimensions of said structure, limited to accommodating ingress and egress.

Subsection H.3.b.i., above:

iv. **Community Standards Districts and Specific Plans.** Any new accessory dwelling unit, or expanded portion of an existing structure that is part of a proposed accessory dwelling unit, shall not exceed the maximum height specified in a Community Standards District or Specific Plan, or 25 feet, whichever is less, provided that the maximum height allows a minimum 16-foot-high accessory dwelling unit.

v. **Proximity to Scenic Resources.** Notwithstanding Subsection H.3.b.ii.(4)G.1b.iv, above, if any new accessory dwelling unit, or expanded
portion of an existing structure that is part of a proposed accessory dwelling unit, is located within 200 feet of an adopted route with scenic qualities, Scenic Route, Scenic Drive, or Scenic Highway, the new accessory dwelling unit or expanded portion shall not exceed the height of the single-family residence or multi-family residential building, or 18 feet, whichever is less, provided that the maximum height allows a minimum 16-foot-high accessory dwelling unit.

4. Distance from Single-Family Residence. The distance between a detached accessory dwelling unit and the single-family residence shall be as follows:

   a. A minimum of six feet; and,

   b. In Hillside Management Areas, a maximum of 25 feet, unless the accessory dwelling unit is the result of the conversion of an existing, legally-built accessory structure with no expansion of the floor area of the structure.

§5c. Required Yards.

ai. The depth of a yard between the existing structure and an existing lot line shall be deemed the required yard depth, if the accessory dwelling unit is any of the following:

   i. (1) Entirely within an existing, legally-built single-family residence; or

   ii. (2) The result of the conversion of an existing, legally-built accessory structure with no expansion of the floor area of said structure, or constructed in the same location and to the same dimensions as an existing structure.
bii. For an accessory dwelling unit not described in Subsection H.5.aG.1.d.i, above:

i. Any new accessory dwelling unit, or expanded portion of an existing structure that is part of a proposed accessory dwelling unit, shall be at least five feet from the rear, interior side, and corner side lot lines, notwithstanding any contrary provisions in this Title 22.

ii.(1) Any new accessory dwelling unit, or expanded portion of an existing structure that is part of a proposed accessory dwelling unit, shall be at least four feet from the rear, interior side, and corner side lot lines, notwithstanding any contrary provisions in this Title 22.

iii.(2) An accessory dwelling unit that is built above a garage shall be at least five feet from the reversed corner side lot line, notwithstanding any contrary provisions in this Title 22.

6d. Parking.

a. Parking for an accessory dwelling unit shall be provided in accordance with Chapter 22.112 (Parking), with the following exceptions:

i. No parking shall be required for an accessory dwelling unit that is located outside of a Very High Fire Hazard Severity Zone;

ii. In any of the following instances, pursuant to California Government Code section 65862.2(d): Parking for an accessory dwelling unit located within a Very High Fire Hazard Severity Zone shall be provided in accordance with Chapter 22.112 (Parking), unless any of the following exceptions are met, in which case no parking shall be required:
(1) The accessory dwelling unit has no bedroom;
(2) The accessory dwelling unit is detached, with a maximum floor area of 800 square feet and a maximum height of 16 feet, and is located on a lot with a proposed or existing single-family residence;
(3) The accessory dwelling unit is detached, with a maximum height of 16 feet and minimum rear and side yard depths of four feet, and is located on a lot with an existing multi-family residential building;
(4) The accessory dwelling unit is entirely within an existing, legally-built single-family or multi-family residential building;
(5) The accessory dwelling unit is the result of the conversion of an existing, legally built accessory structure with an expansion of not more than 150 square feet beyond the same physical dimensions of said structure, limited to accommodating ingress and egress;
(46) The accessory dwelling unit is located within one-half mile walking distance of public transit;
(27) The accessory dwelling unit is located within an architecturally and historically significant historic district;
(3) The accessory dwelling unit is part of the proposed or existing primary residence or an accessory structure;
(48) When on-street parking permits are required, but not offered to the occupant of the accessory dwelling unit; or
When there is a car share vehicle located within one block of the accessory dwelling unit.

iii. When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit or converted into an accessory dwelling unit, no replacement parking shall be required for the accessory dwelling unit or single-family or multi-family residential building.

biv. Required parking is required for the accessory dwelling unit or single-family residence or multi-family residential building, such parking may be located on a driveway, or in an area that is no longer previously used as a driveway to a garage or carport, due to the conversion of that garage or carport to that has since been demolished in conjunction with the construction of an accessory dwelling unit or converted into an accessory dwelling unit.

e. Distance from Publicly Dedicated Open Space. In any Fire Hazard Severity Zone, as defined in Title 32 (Fire Code) of the County Code, an accessory dwelling unit shall be located at least 200 feet from publicly dedicated open space, provided an accessory dwelling unit with side and rear yard setbacks of at least four feet is allowed.


2. Junior Accessory Dwelling Units.

a. Floor Area.
i. Maximum. A junior accessory dwelling unit shall not exceed 500 square feet in size and shall contain at least an efficiency kitchen, which includes cooking appliances and a food preparation counter and storage cabinets that are of reasonable size in relation to the junior accessory dwelling unit.

ii. Community Standards Districts and Specific Plans. The junior accessory dwelling unit shall not be subject to any Community Standards District or Specific Plan provision pertaining to floor area, gross structural area, or lot coverage.

b. Separate Entrance. A junior accessory dwelling unit shall have a separate entrance from the single-family residence.

c. Access to Bathroom. Access to a bathroom shall be required, which may be part of the square footage of the junior accessory dwelling unit or located within the existing single-family residence. If the unit’s bathroom is provided as part of the single-family residence, the junior accessory dwelling unit shall have interior access to the main living area of the single-family residence.

H. Covenant Requirement for Junior Accessory Dwelling Unit. The owner shall record a covenant in a form prescribed by the County, which shall run with the land for the benefit of the County and provide for the following:

1. A prohibition on the sale of the junior accessory dwelling unit separate from the sale of the single-family residence;

2. A restriction on the size and attributes of the junior accessory dwelling unit consistent with this Section; and
3. A requirement that either the primary residence or the junior accessory dwelling unit be the owner's bona fide principal residence, unless the owner is a governmental agency, land trust, or housing organization.

I. Owner Occupancy.

1. If a property contains a junior accessory dwelling unit, either the single-family residence or junior accessory dwelling unit shall be the principal residence of at least one legal owner of the lot, as evidenced at the time of approval of the junior accessory dwelling unit by appropriate documents of title and residency, unless the property is owned by a governmental agency, land trust, or housing organization.

2. Release of Owner-Occupancy Covenant. The County of Los Angeles releases its interest in any covenant for an accessory dwelling unit that required owner-occupancy in perpetuity of either the single-family residence or the accessory dwelling unit that is located on the same lot, recorded in the Registrar-Recorder/County Clerk, running with the land for the benefit of the County of Los Angeles.

J. Community Standards Districts and Specific Plans. Where the regulations in this Section are contrary to the provisions in a Community Standards District or Specific Plan regulating the same matter, the provisions of the Community Standards District or Specific Plan shall prevail, with the following exceptions:

1. Use. Neither Community Standards Districts nor Specific Plans shall prohibit or require a discretionary permit for an accessory dwelling unit or a junior accessory dwelling unit in areas where residential uses are permitted; and
2. Development Standards. As specified otherwise in this Section.

K. Notwithstanding any contrary provision in this Title 22, the approval of an accessory dwelling unit or a junior accessory dwelling unit shall not be subject to the correction of any nonconforming zoning condition, including buildings or structures nonconforming due to standards or use, as defined in Section 22.14.020 of Division 2 (Definition), provided that the lot is in a zone that allowed residential use.

L. To the extent that any provision of this Title 22 is in conflict with law sections 65852.2 or 65852.22 of the California Government Code, the applicable provision of State law shall control, but all other provisions of this Title 22 shall remain in full force and effect.

SECTION 13. Section 22.172.050 is hereby amended to read as follows:

22.172.050 Termination Conditions and Time Limits.

... 

C. Exception. The termination periods enumerated in this Section shall not apply to one-family and two-family dwellings, or-to-accessory dwelling units, or junior accessory dwelling units.

SECTION 14 Section 22.300.020 is hereby amended to read as follows:

22.300.020 Application of Community Standards Districts to Property.

...
2. Accessory Dwelling Units and Junior Accessory Dwelling Units.

CSD regulations shall apply to accessory dwelling units as follows: Where the regulations in Section 22.140.640 (Accessory Dwelling Units and Junior Accessory Dwelling Units) are contrary to the provisions in a CSD regulating the same matter, the provisions in the CSD shall prevail, unless specified otherwise in Section 22.140.640 (Accessory Dwelling Units and Junior Accessory Dwelling Units).

a. ——CSD regulations shall only apply to accessory dwelling units not described in Section 22.140.640.H.2.b.i.(1)(b) and 22.140.640.H.2.b.i.(1)(c); and

b. ——Where the regulations in Section 22.140.640 (Accessory Dwelling Units) are contrary to the provisions in a CSD regulating the same matter, the provisions in Section 22.140.640 shall prevail, except for Section 22.140.640.H.2 (Floor Area) and Section 22.140.640.H.3 (Height).
NOTICE OF PUBLIC HEARING
CITY OF MALIBU
PLANNING COMMISSION

The Malibu Planning Commission will hold a public hearing on THURSDAY, May 20, 2021, at 6:30 p.m. on the project identified below. This meeting will be held via teleconference only in order to reduce the risk of spreading COVID-19 and pursuant to the Governor’s Executive Orders N-25-20 and N-29-20 and the County of Los Angeles Public Health Officer’s Safer at Home Order. All votes taken during this teleconference meeting will be by roll call vote, and the vote will be publicly reported.

How to View the Meeting: No physical location from which members of the public may observe the meeting and offer public comment will be provided. Please view the meeting, which will be live streamed at https://malibucity.org/video and https://malibucity.org/VirtualMeeting.

How to Participate Before the Meeting: Members of the public are encouraged to submit email correspondence to planningcommission@malibucity.org before the meeting begins.

How To Participate During The Meeting: Members of the public may also speak during the meeting through the Zoom application. You must first sign up to speak before the item you would like to speak on has been called by the Chair and then you must be present in the Zoom conference to be recognized.

Please visit https://malibucity.org/VirtualMeeting and follow the directions for signing up to speak and downloading the Zoom application.

ACCESSORY DWELLING UNIT ORDINANCE

LOCAL COASTAL PROGRAM AMENDMENT NO. 18-002 and ZONING TEXT AMENDMENT NO. 18-004 – The Planning Commission will consider amendments to the Local Coastal Program (LCP) and Title 17 (Zoning) of the Malibu Municipal Code to modify regulations pertaining to accessory dwelling units also known as second dwelling units to bring existing regulations into compliance with State law

Location: Citywide
Applicant: City of Malibu
Case Planner: Justine Kendall, Associate Planner jkendall@malibucity.org

In accordance with the California Environmental Quality Act (CEQA), 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 (LCPA). This application is for an LCP amendment which must be certified by the California Coastal Commission 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 City’s Zoning Ordinance. In order to prevent an inconsistency between the LCP and the City’s Zoning Ordinance, if the LCPA is approved, the City must also approve the corollary amendment to the Zoning Ordinance. This amendment is necessary for the preparation and adoption of the LCPA and because they are entirely dependent on, related to, and duplicative of, the exempt activity, they are subject to the same CEQA exemption.

ATTACHMENT 5
The ZTA and LCPA are not a project within the meaning of CEQA Guidelines Section 15378, because they have no potential to result in physical change to the environment, directly or indirectly. The ZTA and LCPA do not authorize any specific development or installation on any specific piece of property within the City’s boundaries. Moreover, when and if an application for installation is submitted, the City will at that time conduct preliminary review of the application in accordance with CEQA. Alternatively, even if the ZTA and LCPA were a “project” within the meaning of State CEQA Guidelines Section 15378, they are exempt from CEQA. CEQA applies only to projects which have the potential for causing a significant effect on the environment. Pursuant to CEQA Guidelines Section 15061(b)(3), where it can be seen with certainty that there is no possibility is not subject to CEQA. Moreover, in the event that the ZTA and LCPA are interpreted so as to permit installation of wireless communications facilities on a particular site, the installation would be exempt from CEQA review in accordance with either State CEQA Guidelines Section 15302 (replacement or reconstruction), State CEQA Guidelines Section 15303 (new construction or conversion of small structures), and/or State CEQA Guidelines Section 15304 (minor alterations to land).

Copies of all related documents are available for review by contacting the Case Planner during regular business hours and on the City’s website at www.malibucity.org/ADU.

A written staff report will be available at or before the hearing. All persons wishing to address the Planning Commission will be afforded an opportunity in accordance with the Commission’s procedures. Oral and written comments may be presented to the Planning Commission on, or before, the date of the meeting.

If there are any questions regarding this notice, please contact Justine Kendall, at (310) 456-2489, extension 301.

Richard Mollica, Planning Director

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