2. Item 1A - Local Coastal Program Amendment No. 19-003 And Zoning Text Amendment No. 19-005 / Short-Term Rental Regulations (Citywide)

Documents:

PC200729_ITEM 1A.PDF
To: Chair Jennings and Members of the Planning Commission

Prepared by: Elizabeth Shavelson, Assistant to the City Manager

Approved by: Bonnie Blue, Planning Director

Date prepared: July 15, 2020                 Meeting date: July 29, 2020

Subject: Local Coastal Program Amendment No. 19-003 and Zoning Text Amendment No. 19-005 - An Amendment to the Local Coastal Program and Malibu Municipal Code Regulating Short-Term Rentals of Residential Property, Including Requiring an Onsite Host

Applicant: City of Malibu

Location: Citywide

RECOMMENDED ACTION: Adopt Planning Commission Resolution No. 20-35 (Attachment 1) determining the amendments to be exempt from the California Environmental Quality Act (CEQA) and recommending that the City Council adopt Local Coastal Program Amendment (LCPA) No. 19-003 and Zoning Text Amendment (ZTA) No. 19-005 regulating the rental of residential units for 30 days or less (Short-term Rentals) including but not limited to requiring the presence of an onsite host during certain short-term rentals, and other restrictions, and clarifying permitted uses related to short-term rental (Citywide).

DISCUSSION: The City has been grappling with short-term rental regulation for several years. On December 3, 2019, City Council considered ZTA No. 17-002, an ordinance to regulate the short-term rental (30 days or less) of residential property, based on extensive Council direction provided at prior public hearings. These hearings occurred after the Planning Commission considered the ZTA at its meetings on November 20, 2017, and May 7, 2018. The Council did not move forward with ZTA No. 17-002 at that time but did initiate a new LCPA and ZTA to consider a regulatory system similar to that adopted by the City of Santa Monica. Santa Monica’s ordinance requires the presence of an onsite host within the rented dwelling unit, known as a “home-share” or a “hosted” rental. The City Council’s direction was to require an “host” to live onsite at the property during the rental, but not require the person to be within the dwelling unit. The Council also directed that the multifamily regulation system proposed in ZTA No. 17-002 should be included.
Planning staff had calendared and noticed a special meeting of the Planning Commission to be held on March 30, 2020 for consideration of the new LCPA and ZTA. However, due to the rapid spread of the COVID-19 pandemic, on March 12, 2020, the City of Malibu cancelled all commission meetings through April 30 including the March 30, 2020, Planning Commission special meeting.

Pursuant to the Governor’s Executive Orders N-25-20 and N-29-20 and the County of Los Angeles Public Health Officer’s Order, the City began conducting virtual Planning Commission meetings on April 6, 2020. For the first few months, the City postponed legislative matters in hopes that in-person meetings might continue soon. However, in light of the continuing pandemic and the interest of moving short-term rental legislation forward, on June 8, 2020, Council directed staff to schedule this matter for a Planning Commission virtual meeting for July 2020 without input from the Zoning Ordinance Revisions and Code Enforcement Subcommittee (ZORACES).

The full history of the City’s consideration of short-term rental regulation can be found on the City’s website at malibucity.org/STR.

It should be noted that concurrently with the subject amendments, on June 22, 2020, Council directed staff to return with an update of ZTA No. 17-002 which would put in place a short-term rental permitting system and new regulations to address nuisance issues and impacts on neighborhoods and also attach significant penalties to violations. ZTA No. 17-002, which was previously presented to the Planning Commission, is scheduled to be heard by the Council on August 10, 2020. The subject amendments presented here, if adopted by the Council and certified by the California Coastal Commission (CCC), would supersede ZTA No. 17-002 (if ZTA 17-002 is approved by the City Council).

**The Ordinance follows the lead of the City of Santa Monica Homes-share Ordinance**

On December 3, 2019, the City Council Adopted Resolution No. 19-53 initiating the subject LCPA and ZTA (Attachment 2), provided guidance to staff and directed that staff a) include a robust definition section, b) analyze and incorporate information from the September 10, 2019 City of Santa Monica home-sharing staff report as well as suggestions submitted by Michael Lustig as appropriate, c) look into platform liability and limitation issues and (d) limit the short-term rental of residential property to home-sharing, except for certain multifamily housing where up to two units could be rented on a short-term basis without home-sharing, so long as the other units in the building were rented on a long-term basis.

One of the key features the City Council wanted to borrow from the Santa Monica ordinance is the requirement of an onsite “host” during the rental, which is designed to monitor activity, prevent nuisance issues from arising, and facilitate prompt correction of any problems that develop. Second, the Council wanted to implement Santa Monica’s...
system for preventing online platforms from completing transactions for illegal rentals, which has been upheld by the courts.

Staff has conferred with both City of Santa Monica staff and Mr. Lustig about the best way to integrate these, and other, aspects of the Santa Monica ordinance while also addressing conditions that are unique to Malibu. Santa Monica is a charter city with a robust rent control system, different municipal code that uses different terms, larger population, significantly larger and more dense multifamily zones, a greater population of renters, and no LCP, thus significant differences exist between the cities.

The proposed ZTA and LCPA incorporate key features from Santa Monica’s ordinance to achieve the City Council’s goals but are adapted to fit appropriately into the City of Malibu context. Adaptations of the Santa Monica ordinance for Malibu include:

- **Hosted short-term rental vs. home-share** - Santa Monica uses the term home-share to refer to short-term rentals in which the host lives in the rented dwelling unit for the duration of the rental. The City Council explicitly stated it wanted an onsite presence during the rental but did not want to require the host to be within the rented unit itself. The proposed amendments use the term “hosted short-term rental” to indicate while the owner or designated operator must live onsite, that person need only live on the property, not in the same dwelling unit, during the rental.

- **Owner and designated operator vs. primary resident** – Santa Monica’s ordinance requires that the primary resident (which can be the owner OR a renter) of the property must live onsite for the duration of the short-term rental. The draft ZTA/LCPA tracks the Council’s goal of onsite monitoring but provides limited flexibility by allowing the property owner to assign a “designated operator” to live onsite instead of the owner, so long as the designated operator is authorized to: (1) resolve any nuisance or compliance issues, (2) produce records, and (3) allow code enforcement officers to enter the property.

- **Proof of Primary Residency** - Santa Monica requires primary residents to submit two forms of documentation to provide proof of primary residency. As part of the City of Malibu’s Woolsey Fire Rebuild Fee Waiver program, the City established that applicants can demonstrate primary residency with an active voter registration, a valid driver’s license or other government issued identification card. The proposed ordinance is consistent with the primary residence documentation requirements established as part of the City’s Fee Waiver Program for fire rebuilds.

- **Multifamily Rentals** - Council directed that, in contrast to Santa Monica’s ordinance, up to two multifamily dwelling units on a property may be rented unhosted so long as the other units on the property are rented on a long-term basis. This system prevents the conversion of multifamily units into unregistered hotels, protects some

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2 The city of Los Angeles uses the term “home-sharing” to refer to all short-term rental of residential property regardless of whether the host is present or not.
of the lowest cost housing in the City, and encourages units to be rented long-term at lower rent as short term rental is only allowed if all other units are at full occupancy.

- **Eligible Permit Applicants** - The City’s proposed ordinance only allows owners of residential or multifamily buildings to apply for short-term rental permits. The City of Santa Monica also allows renters who can provide proof that their primary residence was the unit in question for the prior 12 months to apply for a short-term rental permit.

- **Parking** - The proposed ordinance requires that all vehicles park onsite while a property is being rented on a short-term basis unless a Special Events Permit (SEP) is obtained, or in the rare instance that the property is determined to have no onsite parking (in such cases one vehicle may be parked on the street). Santa Monica has a more permissive parking policy where guests can park on the street one vehicle per bedroom rented or, if the short-term rental is located in a preferential parking zone, only two vehicles can use visitor parking permits.

- **Neighborhood Notification** - Once a short-term rental permit is issued, the City will provide all neighbors within 500 feet the contact information for the owner or designated operator of the short-term rental so that they can directly contact the onsite host with any concerns that may arise. This is not included in the Santa Monica ordinance.

### Proposed LCPA and ZTA

The full text of the proposed amendments can be found as Exhibits A and B to Planning Commission Resolution No. 20-35 (Attachment 1). The amendments address portions of the LCP and of Title 17 (Zoning Ordinance) of the Malibu Municipal Code (MMC).

In general, the amendments propose to create an annual short-term rental permit program to regulate short-term rentals in residential property, minimize impacts on neighborhood character and provide a mechanism to prohibit nuisance rentals. The amendments are designed to address nuisance issues that have developed under the recent expansion of short-term rental activity in the City and protect residential neighborhood character and housing stock availability and variety. Some of the concepts will sound familiar as they have been presented in earlier drafts of the ordinance.

### Summary of ZTA

**Short-term Rental Permits**

The proposed permit program has two distinct short-term rental permit types: one for owners of single-family residences and condominium units to offer hosted short-term rentals, and one for owners of multifamily buildings to offer up to two units as short-term rentals as long as all other units are rented long-term.
• Hosted Short-Term Rental Permit (HSTR permit) - To be eligible for a hosted short-term rental permit, the property must be the owner’s primary residence. In addition, the owner must live onsite, meaning maintain a physical presence on the property, including but not limited to, sleeping overnight, preparing and eating meals, each day during the short-term rental of the property. The owner must also be available at all times to resolve any issues with the rented dwelling unit and must appear at the property within one hour of a phone call requesting such appearance by the City, an agent authorized by the City to make such calls, or law enforcement personnel, and must be physically onsite from 8 p.m. until 6 a.m. The owner may authorize a designated operator to perform this function on his or her behalf. “Multifamily” building owners are not eligible for this type of permit.

• Multifamily Short-term Rental Permit (MSTR permit) - Owners of multifamily residential buildings may obtain a multifamily short-term rental permit. This permit would allow the owner to rent up to two units in a multifamily building if all the other units on the property are rented on a long-term basis. Short-term rentals in multifamily buildings do not require the owner or designated operator to live onsite during the rental.

Key requirements include:

• An individual may not possess more than one active short-term rental permit, regardless of type.
• A separate short-term rental permit is required for every legal lot or condominium unit (if a condominium unit is to be rented).
• Each permit may include up to two listing. This will allow a property that has two dwelling units (such as a main house and a second unit) to be able to rent either unit on a short-term basis. Either could be used as a hosted short-term rental, with the owner or designated operator living onsite either in the unrented unit or in a bedroom of one of the rented units.
• No person may serve as a designated operator for more than one short-term rental.
• Permits must be renewed annually.

Short-term Rental General Requirements

To conduct short-term rentals, owners must comply with all the terms and conditions of the short-term rental program including, but not limited to, the following:

1. Maintain an active permit at all times short-term rentals are conducted
2. Takes responsibility for and actively prevent any nuisance activities that may take place during short-term rentals

3 “Multifamily residence” means a building or portion thereof used for occupancy by three or more families living independently of each other and containing three or more dwelling units.
3. Be available, or designated operator be available, 24/7 via contact information provided to City and any guest renting the property

4. Collect and remit transient occupancy tax (TOT) as set forth in MMC Chapter 3.24

5. Provide basic health and safety features for guests

6. Limit occupancy based on the number of bedrooms on record in City or County documents as determined by the Planning Director to two people more than twice the number of bedrooms, but no more than 14 unless a special event permit (SEP) is obtained under MMC Chapter 5.34 (example – for a 3 bedroom property – ((3 bedrooms x 2 people) + 2 people) = 8 people max occupancy, including owner/designated operator)

7. Park all vehicles onsite\(^4\) unless an SEP is obtained to allow offsite or on-street parking

8. Maintain liability insurance with minimum limits no less than $500,000

9. Provide guests with the City of Malibu’s Short-Term Rental Code of Conduct

10. Provide access to the property and documents upon request by City during business hours or when property is rented

11. Comply with all applicable building, fire and other safety codes including noise limitations

12. Maintain a valid Onsite Wastewater Treatment System (OWTS) operating permit (a compliance agreement option is available for those in the process of upgrading)

13. Follow all rules for advertising short-term rentals
   - immediately remove any advertisement identified by the City as illegal;
   - include permit number in all advertisements;
   - clearly state in all advertisements related to a HSTR permit that the owner or designated operator will live onsite during the rental (except for MSTR permits)
   - Clearly state parking restrictions and occupancy limits

14. Keep permit application information on file with the City current at all time, especially 24/7 contact information for owner / designated operator

Grounds for Denial and Revocation of Permit

The amendments specify grounds for denial of a permit application or renewal request, and for revocation of a permit. These include:

- Failure to pay TOT
- Outstanding code violations on the property

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\(^4\)Properties that do not have onsite parking spaces as determined by the Planning Director may park one vehicle on the street.
• Failure to comply with applicable codes like fire, building safety, etc.
• False statements in relation to the STR permit application
• Application information has not been amended as required
• OWTS requirements have not been met
• Property has received more than two citations for noise ordinance violations in 12 consecutive months
• For HSTR permit holders – 3 citations for other violations of the Short-term Rental Ordinance in 12 consecutive months, for MSTR permit holders – 2 citations in 12 consecutive months

Effect of Permit Revocation or Denial

The amendments also prescribe specific effects on an owner’s ability to conduct short-term rentals if the owner’s permit is denied or revoked. If an application is denied or a permit is revoked for making false statements on the application, violating Section 17.55.030(A)(9), or violating the City’s noise ordinance more than twice within 12 months, a new application cannot be approved for that applicant and location for 12 months after the last violation or short-term rental.

If a property is found to be rented or advertised for short-term rental after permit denial or revocation, the property and applicant will be prohibited from short-term rentals for an additional six months on top of any time periods mentioned above.

An applicant may appeal a denial or revocation decision to the Planning Commission, but no short-term rentals may be conducted while the appeal is pending.

Enforcement

The amendments set forth special tools for enforcement, including a fine of $1,000 per day or violation, for every day the violation persists.

The amendments also clarify explicitly that offering or allowing short-term rental of any location not approved for use as a dwelling unit, including but not limited to any vehicle, trailer, tent, storage shed or garage, is prohibited.

Summary of Proposed LCPA

The LCP consists of a Land Use Plan (LUP) and a Local Implementation Plan (LIP). The LUP contains programs and policies implementing the Coastal Act in Malibu. The LIP contains provisions and standards to carry out the policies of the LUP. Any development proposed in the City must first obtain a coastal development permit unless the LCP provides for an exemption.
The LCPA memorializes that short-term rental use is allowed in residential zones, as it currently is, but only if it is hosted and conducted pursuant to a valid permit. It also memorializes that up to two units on multifamily parcels may be rented unhosted on a short term basis, but again only pursuant to a valid permit. The permitting requirements will allow the City to better control nuisance issues and avoid the proliferation of short-term rental businesses in which corporations and other entities buy up residences to use solely for vacation rentals. For the zoning district purpose policies, the LCPA specifies that hosted short-term rentals are allowed in single-family zones, and that only two dwelling units per multifamily parcel may be used for short-term rental in multifamily zones.

In the LIP, definitions have been added to LIP Section 2.1 to address short-term rental terms. Table B – Permitted Uses has been updated to add hosted and multifamily short-term rental uses, subject to a valid short-term rental permit. And finally, language specifying a coastal development permit exemption for short-term rental use subject to certain criteria has been added to LIP Section 13.4.

Because the detailed permitting regulations are contained in the ZTA and may need to be adjusted from time to time, they are not repeated in detail in the LCPA.

**Current Market Landscape**

The City currently contracts with Host Compliance (Host) to monitor STR listings online. According to Host, there were 446 properties in or near Malibu advertised for short-term rental as of July 2, 2020.

**Platform Liability and Limitation Issues**

To better enforce local regulations, San Francisco and Santa Monica adopted ordinances that imposed legal liability on platforms for publishing listings of potentially illegal rentals. These ordinances held platforms criminally and civilly liable for facilitating (including advertising) any unauthorized rental activity. The platforms sued under the federal Communications Decency Act (CDA). The CDA provides that an online service provider may not be treated as “the publisher” of information furnished by a third-party content provider and immunizes platforms from liability under any inconsistent state or local law.

In response, San Francisco and Santa Monica amended their ordinances. Santa Monica’s amended ordinance provides that platforms may not complete “booking transactions” for unlicensed STRs, but no longer imposes liability on platforms for publishing advertisements. The platforms again sued, and on March 13, 2019, the Ninth Circuit Court of Appeal upheld Santa Monica’s amended ordinance. In HomeAway.com, Inc. v. City of Santa Monica, the court found that Santa Monica’s STR regulations did not require companies to monitor or edit the content of any listings provided by hosts and thus did not regulate “publication” activities within the meaning of the CDA.
Ordinances that require platforms to disclose transaction information about rentals for code enforcement purposes have also faced legal challenge, particularly under the Stored Communications Act (SCA). The SCA limits the government’s ability to compel the disclosure of consumer information from internet service providers. Absent platforms’ consent, courts have held that cities may only require companies to disclose transaction records by means of a subpoena (or similar legal process) that is narrowly designed to identify illegal activity and affords platforms a meaningful opportunity to challenge the reasonableness of the requested information.

**Accessory Dwelling Units**

In general, an Accessory Dwelling Unit (ADU) is a smaller, independent residential dwelling unit that is ancillary to a residence that is the primary use on the property. The State has passed a series of laws to increase the amount and accelerate the production of affordable housing. In Malibu, ADUs, currently known in Malibu codes as “second units,” are a significant source of affordable housing. State law now includes limitations on use of ADUs for short-term rental. The City is in the process of updating the LCP and MMC to address recent changes in State law. Staff was scheduled to present updated recommendations to amend the LCP and MMC in March of 2020 but has been delayed due to the COVID-19 pandemic. Staff will bring updated draft ADU amendments for Commission consideration in the near future, at which time the short-term rental of ADUs will be addressed. For information on the City’s ADU amendments, visit malibucity.org/ADU.

**Limits on Large Gatherings**

The City of Malibu has a special event permit (SEP) system in place to regulate special events in residential neighborhoods. The system is designed to allow occasional large events while preserving the predominately residential character of the neighborhood. A SEP is always required when 15 or more people are anticipated to be in attendance during a short-term rental. This ties with the maximum occupancy limits set forth in the proposed ordinance.

**Short-Term Rental Permit Fees**

The short-term rental permit fee will be considered as part of the budget process prior to the final adoption of the LCPA.

**Next Steps**

After the Planning Commission public hearing on the draft amendments, the Commission’s recommendation and the draft LCPA and ZTA will be presented to City Council for consideration. If approved by the Council, the LCPA will then be submitted to CCC for certification.
Upon final certification of the amendment, and likely starting before, the City will conduct an extensive public outreach program to notify property owners of the policy changes, followed by coordination with Host Compliance or another vendor, Code Enforcement and the Sheriff's Department to implement and enforce the new ordinance.

**Administration and Code Enforcement**

Prior to the final LCPA adoption, the City will ensure that it has the appropriate consultant support and personnel necessary to administer and enforce the new requirements including the onsite host and multifamily provisions.

The City currently has a contract with Host Compliance to monitor short-term rentals in Malibu across over 50 rental booking internet platforms. Once the LCPA and ZTA are in effect, staff will work with Host Compliance or another contract provider to monitor online compliance with the adopted regulations, process permit applications through an online portal, operate a short-term rental hotline for residents to report violations and administer TOT collection. Planning and Administrative Services staff will implement and administer the STR permitting program. Code Enforcement staff in cooperation with the Sheriff will investigate complaints, and issue warnings and citations and work to resolve violations. Additional enforcement including short-term rental sting operations may be necessary to ensure compliance with all regulations.

**ENVIRONMENTAL REVIEW:** Pursuant to Public Resources Code Section 21080.9, CEQA does not apply to activities and approvals by the City as necessary for the preparation and adoption of an LCP amendment. This application is for an amendment to the LCP, which must be certified by the California Coastal Commission (CCC) before it takes effect. Furthermore, the Planning Department has analyzed the project proposal described herein. 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 that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. The Planning Department determined that there is no possibility the amendment will have a significant effect on the environment within the meaning of CEQA and accordingly, the exemption set forth in Section 15061(b)(3) applies.

**CORRESPONDENCE:** Public correspondence has been received and is included as Attachment 3.

**PUBLIC NOTICE:** On July 2, 2020 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 4). On July 16, 2020, a Notice of Availability of LCP Documents 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 provide comments on the proposed LCPA and ZTA and recommend approval of the proposed amendments to the City Council.

ATTACHMENTS:

1. Planning Commission Resolution No. 20-35 (including Exhibits A (LCPA) and B (ZTA))
2. City Council Resolution No. 19-53
3. Public Correspondence
4. Public Hearing Notice
5. Notice of Availability
CITY OF MALIBU PLANNING COMMISSION
RESOLUTION NO. 20-35

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MALIBU DETERMINING THE AMENDMENT TO BE EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT AND RECOMMENDING THAT THE CITY COUNCIL ADOPT LOCAL COASTAL PROGRAM AMENDMENT NO. 19-003 AND ZONING TEXT AMENDMENT NO. 19-005 REGULATING THE RENTAL OF RESIDENTIAL UNITS FOR 30 DAYS OR LESS (SHORT-TERM RENTALS) INCLUDING BUT NOT LIMITED TO REQUIRING THE PRESENCE OF AN ONSITE HOST DURING CERTAIN SHORT-TERM RENTALS, AND OTHER RESTRICTIONS, AND CLARIFYING PERMITTED USES RELATED TO SHORT-TERM RENTALS (CITYWIDE)

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

SECTION 1. Recitals.

A. The City of Malibu wishes to address the potential impacts of short-term rental of residential property and protect the neighborhood character in the City by adopting regulations for the short-term rental of property that prohibit use inconsistent with the General Plan and impose prohibitions and regulations consistent thereof.

B. On December 3, 2019, in compliance with Local Coastal Program Local Implementation Plan Chapter 19, the City Council adopted Resolution No. 19-53 to initiate a Local Coastal Program (LCP) Amendment to consider changes to the Malibu LCP and a Zoning Text Amendment (ZTA) to consider changes to Title 17 (Zoning) of the Malibu Municipal Code (MMC) and provided direction to staff on the definitions and regulations to include in the proposed amendments.

C. On March 5, 2020, a Notice of Public Hearing and Notice of Availability of LCP Documents was published in a newspaper of general circulation within the City of Malibu and sent to interested parties.

D. On March 12, 2020 the Special Planning Commission meeting of March 30, 2020 was adjourned to April 6, 2020 due to the COVID-19 pandemic.

E. On April 6, 2020, the Planning Commission continued the item to a date uncertain.

F. On July 2, 2020, a Notice of Public Hearing was published in a newspaper of general circulation within the City of Malibu and sent to interested parties.

G. On July 16, 2020, a Notice of Availability of LCP Documents was published in a newspaper of general circulation within the City of Malibu.
H. On July 29, 2020 the Planning Commission held a duly noticed public hearing on LCPA No. 19-003 and ZTA No. 19-005, 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, the California Environmental Quality Act (CEQA) does not apply to activities and approvals by the City as necessary for the preparation and adoption of an LCP amendment. This application is for an amendment to the LCP, which must be certified by the California Coastal Commission (CCC) before it takes effect. Local Implementation Plan (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 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.

The Planning Commission has analyzed the project proposal described herein. The California Environmental Quality Act (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 that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. The Planning Commission determined that there is no possibility the amendment will have a significant effect on the environment and accordingly, the exemption set forth in Section 15061(b)(3) applies.

SECTION 3. Local Coastal Program Amendment

The Planning Commission hereby recommends that the City Council amend the LCP as detailed in Exhibit A.

SECTION 4. Local Coastal Program Findings.

Based on evidence in the whole record, the Planning Commission hereby finds that the proposed LCPA (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 amendment maintains standards to require that development within the City’s jurisdiction of the Coastal Zone advance the overarching goals of protecting coastal resources. In particular, the amendment will assure that visitor-serving accommodations are available within the City through short-term rental of residential property in a manner that protects residential neighborhoods and preserves the amount and variety of the City’s existing housing stock.

B. The amendment will be consistent with the following policy:

2.25 New development shall provide off-street parking sufficient to serve the approved use in order to minimize impacts to public street parking available for coastal access and recreation.
2.26 Adequate parking should be provided to serve coastal access and recreation uses to the extent feasible. Existing parking areas serving recreational uses shall not be displaced unless a comparable replacement area is provided.

2.34 Existing, lower cost visitor-serving and recreation facilities, including overnight accommodations, shall be protected to the maximum feasible extent. New lower cost visitor and recreation facilities, including overnight accommodations, shall be encouraged and provided, where designated on the LUP Map. Priority shall be given to developments that include public recreational opportunities. New or expanded facilities shall be sited and designed to minimize impacts to environmentally sensitive habitat areas and visual resources.

2.36 Coastal recreational and visitor serving uses and opportunities, especially lower cost opportunities, shall be protected, encouraged, and where feasible, provided by both public and private means. Removal or conversion of existing lower cost opportunities shall be prohibited unless the use will be replaced with another offering comparable visitor serving or recreational opportunities.

SECTION 5. Zoning Text Amendment.

The Planning Commission hereby recommends that the City Council amend the MMC as detailed in Exhibit B.

SECTION 6. 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 stated 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 7. Based on the above findings, the Planning Commission hereby recommends that the City Council approve the LCPA and ZTA and detailed in Exhibits A and B.
SECTION 8. The Planning Commission shall certify the adoption of this Resolution.

PASSED, APPROVED AND ADOPTED this 29th day of July 2020.

_______________________________________
JEFFREY JENNINGS, Planning Commission Chair

ATTEST:

____________________________________
KATHLEEN STECKO, Recording Secretary

I CERTIFY THAT THE FOREGOING RESOLUTION NO. 20-35 was passed and adopted by the Planning Commission of the City of Malibu at the special meeting thereof held on the 29th day of July 2020, by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

_____________________________________
KATHLEEN STECKO, Recording Secretary

Exhibit A: Local Coastal Program Amendments
Exhibit B: Title 17 – Zoning Code Amendments
EXHIBIT A

LOCAL COASTAL PROGRAM AMENDMENT

A. Land Use Plan (LUP) Chapter 5 (New Development), Section C (Land Use Policies), Subsection 2 (Land Use Designations) is hereby amended to read as follows:

RURAL RESIDENTIAL (RR): The RR designation allows sensitively designed, large lot single family residential development, with a range of maximum densities from one dwelling per acre to one dwelling unit per 40 acres. Minimum lot sizes range from 1 to 40 acres, with agricultural uses and animal keeping as accessory uses to approved residential development. Public open space and recreation may be permitted. Hosted short-term rental use of single family residential property may be permitted pursuant to a valid short-term rental permit issued by the City. The following maximum residential density standards shall apply:

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<th>RR</th>
<th>Description</th>
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<tr>
<td>RR1</td>
<td>One dwelling unit per acre</td>
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<tr>
<td>RR40</td>
<td>One dwelling unit per 40 acres</td>
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</table>

SINGLE-FAMILY RESIDENTIAL (SF): This land use designation allows single family residential development at higher density than the rural residential category. It is intended to enhance the rural characteristics of the community by maintaining low-density single-family residential development on lots ranging from 1/4 to 1 acre in size. Single-Family Low (SFL) allows a maximum density of 2 dwelling units per acre, with a minimum lot size of 0.5 acre. Single-Family Medium (SFM) allows a maximum density of 4 dwelling units per acre, with a minimum lot size of 0.25 acre. Public open space and recreation may be permitted. Hosted short-term rental use of single family residential property may be permitted pursuant to a valid short-term rental permit issued by the City.

MOBILE HOME RESIDENTIAL (MHR): The MHR designation is intended to accommodate existing mobile home parks and associated facilities. Hosted short-term rental use of single family residential property may be permitted pursuant to a valid short-term rental permit issued by the City.

MULTI-FAMILY RESIDENTIAL (MF): The MF designation provides for multi-family residential developments, such as duplexes, condominiums, stock cooperatives, and apartments. The Multi-family Residential (MF) designation allows a maximum density of six units per acre on a minimum lot size of 20,000 square feet. Public open space and recreation may be permitted. Short-term rental use of multi-family residential property may be permitted pursuant to a valid short-term rental permit issued by the City, up to a maximum of two dwelling units per parcel.
B. LUP Policy 5.20 is amended to read as follows:

**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. **Short-term rental use of residential property may be permitted pursuant to a valid short-term rental permit issued by the City.**

C. LUP Policy 2.34 is amended to read as follows:

**2.34** Existing, lower cost visitor-serving and recreation facilities, including overnight accommodations, shall be protected to the maximum feasible extent. New lower cost visitor and recreation facilities, including overnight accommodations, shall be encouraged and provided, where designated on the LUP Map. Priority shall be given to developments that include public recreational opportunities. New or expanded facilities shall be sited and designed to minimize impacts to environmentally sensitive habitat areas and visual resources. **Short-term rental use of residential property may be permitted pursuant to a valid short-term rental permit issued by the City.**

D. Local Implementation Plan (LIP) Section 2.1 is amended by adding the following definitions, inserted in alphabetical order, or replacing where there is an existing definition:

**DESIGNATED OPERATOR** – pertaining to the short-term rental of residential property, any natural person who is authorized by the owner of a short-term rental unit to: (1) resolve any nuisance or compliance issues with the dwelling unit, (2) produce requested records, (3) allow others including, but not limited, to code enforcement officers and law enforcement personnel, to enter the dwelling unit, and (4) live onsite at any dwelling unit offered for use as a hosted short-term rental for the duration of the rental.

**DWELLING UNIT** - one or more rooms in a building or portion thereof designed, intended to be used or used for occupancy by one family for living and sleeping quarters and containing only one kitchen. ‘Dwelling unit’ also includes:

A. One or more habitable rooms within a mobile home which are designed to be occupied by one family with facilities for living, sleeping, cooking, eating and sanitation; and

B. Any room used for sleeping accommodations which contains a bar sink and/or gas, electrical or water outlets designed, used or intended to be used for cooking facilities except a guest room or guest suite in a hotel, **motel or bed and breakfast inn**; and

C. Each space or pad designed and allocated to accommodate a mobile home within a mobile home park.
GUEST – pertaining to the short-term rental of residential property, a natural person who rents a short-term rental or is an invitee of such person.

GUEST HOUSE - attached or detached living quarters on the same premises as a single family residence for the use of family members, guests or employees of the occupants of such residence, containing no kitchen facilities and not rented or otherwise used as a separate dwelling unless permitted pursuant to a valid short-term rental permit issued by the City. The maximum living area of a guest house shall not exceed nine hundred (900) square feet, including any mezzanine or storage space. A guest house may include a garage not to exceed four hundred (400) sq. ft. The square footage of the garage shall not be included in the maximum living area.

HOSTED SHORT-TERM RENTAL – a short-term rental for which the owner or designated operator lives onsite throughout the guests’ stay in accordance with the requirements of a hosted short-term rental permit issued by the City.

LIVES ONSITE – pertaining to short-term rental of residential property, means maintains a physical presence on the property, including, but not limited to, sleeping overnight, preparing and eating meals, and being present on the property each day of the short-term rental as required by the hosted short-term rental permit.

OWNER – pertaining to the short-term rental of residential property, a person who alone or with others, has legal or equitable title to a dwelling unit. A person whose interest in a dwelling unit is solely that of a tenant, subtenant, lessee, or sublessee under an oral or written rental housing agreement shall not be considered an owner.

SHORT-TERM RENTAL – of property means the renting, or offer to make available, (by way of a rental agreement, lease, license or any other means, whether oral or written) for compensation or consideration, of residential property, a dwelling unit, or a portion thereof, for a period of 30 consecutive days or less to a transient.

E. LIP Section 3.3(Q) Planned Development (PD) Zone is amended to read as follows:

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, 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. Domestic animals, kept as pets.
   iv. Landscaping.
   v. Hosted short-term rental use only if pursuant to a valid short-term rental permit issued by the City.

F. LIP Section 13.4.9.1 is added to Chapter 13 (Coastal Development Permits):

13.4.9.1 Exemption for Short-term Rental of Residential Property

Short-term rental use of residential property as defined in Section 2.1 of this LIP and which meet all of the following criteria.

A. The short-term rental use is conducted pursuant to a valid short-term rental permit issued by the City.
B. The short-term rental use is conducted in a dwelling unit that was lawfully established as described in LIP Section 13.3(F).
C. The short-term rental use will not result in reduction or elimination of public parking for access to the beach, public trails or parklands.

G. LIP Table B – Permitted Uses is amended by inserting the following new permit type and uses:

LIP Table B – Permitted Uses

<table>
<thead>
<tr>
<th>KEY TO TABLE (In addition to a coastal development permit, the following permits are required.)</th>
<th>P</th>
<th>Permitted use</th>
</tr>
</thead>
<tbody>
<tr>
<td>MCUP</td>
<td>Require the approval of a minor Conditional Use Permit by the Director</td>
<td></td>
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<tr>
<td>CUP</td>
<td>Requires the approval of a Conditional Use Permit</td>
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<tr>
<td>A</td>
<td>Permitted only as an accessory use to an otherwise permitted use</td>
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<tr>
<td>USE</td>
<td>RR</td>
<td>SF</td>
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</tr>
<tr>
<td><strong>RESIDENTIAL</strong></td>
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<tr>
<td>Single-family</td>
<td>P</td>
<td>P</td>
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<tr>
<td>residential</td>
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<td></td>
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<tr>
<td>Manufactured</td>
<td>P</td>
<td>P</td>
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<tr>
<td>homes</td>
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<tr>
<td>Multiple-family</td>
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<td>residential (including</td>
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<td>duplexes,</td>
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<td>condominiums,</td>
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<td>stock cooperatives,</td>
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<td>apartments, and</td>
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<td>developments)</td>
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<tr>
<td>Second units</td>
<td>A^1</td>
<td>A^1</td>
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<tr>
<td>Mobile home parks</td>
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<tr>
<td>Mobile home park</td>
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<td>accessory uses</td>
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<tr>
<td>recreation</td>
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<td>facilities,</td>
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<td>meeting rooms,</td>
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<td>offices,</td>
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<td>storage/maintenance</td>
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<td>buildings, and</td>
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<td>other similar</td>
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<td>uses)</td>
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<td>Mobile home as</td>
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<td>residence during</td>
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<td>construction</td>
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<tr>
<td>Accessory uses</td>
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<td>(guest units,</td>
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<td>garages, barns,</td>
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<td>pool houses,</td>
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<td>pools, spas,</td>
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<td>gazebos, storage</td>
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<td>sheds, greenhouses</td>
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<td>USE</td>
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<tr>
<td>Residential care facilities (serving 6 or fewer persons)</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>Small family day care (serving 6 or fewer persons)</td>
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</table>

**RESIDENTIAL (continued)**

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<tr>
<th>USE</th>
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<th>SF</th>
<th>MF</th>
<th>MFBF</th>
<th>MHR</th>
<th>CR</th>
<th>BPO</th>
<th>CN</th>
<th>CC</th>
<th>CV-1</th>
<th>CV-2</th>
<th>CG</th>
<th>OS</th>
<th>I</th>
<th>PRF</th>
<th>RVP</th>
</tr>
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<tbody>
<tr>
<td>Large family day care (serving 7 to 12 persons)</td>
<td>LFDC</td>
<td>LFDC</td>
<td>LFDC</td>
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<tr>
<td>Home occupations</td>
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<tr>
<td>Short-term rental</td>
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</tbody>
</table>

**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.
17. Transitional and supportive housing is permitted in the same manner as one single family residence and is subject to all the restrictions that apply to single family residential uses.
18. Transitional and supportive housing is permitted in the same manner as a multi-family residential use and is subject to all the restrictions that apply to multi-family residential uses.
19. Multi-family development associated with an affordable housing development project is permitted by right.
20. Multi-family development is only permitted in the CC zone if it is associated with an affordable housing development project within the Affordable Housing Overlay (APNs 4458-022-023 and 4458-022-024 only), in compliance with Section 3.4.5.
21. Hosted short-term rental only in RR, SF and MHR zones
22. Maximum of two dwelling units per parcel for MF and MFBF zones
EXHIBIT B
Malibu Municipal Code Title 17
Zoning Text Amendment

A. MMC Section 17.02.060 (Definitions) is hereby amended by adding the following definitions, inserted in alphabetical order, or replacing where there is an existing definition:

“Bedroom” means any habitable space in a dwelling unit other than a kitchen or living room that is intended for or capable of being used for sleeping, is at least 70 square feet in area, is separated from other rooms by a door, and is accessible to a bathroom without crossing another bedroom.

“Booking transaction” means any reservation or payment service provided by a natural person, joint venture, joint stock company, partnership, association, club, company corporation, business trust, or organization of any kind who facilitates a short-term rental transaction between a prospective guest and an owner.

“Designated operator” means any natural person who is authorized by the owner of a short-term rental unit to: (1) resolve any nuisance or compliance issues with the dwelling unit, (2) produce requested records, (3) allow others including, but not limited, to code enforcement officers and law enforcement personnel, to enter the dwelling unit, and (4) live onsite at any dwelling unit offered for use as a hosted short-term rental for the duration of the rental.

“Dwelling unit” means one or more rooms in a building or portion thereof designed, intended to be used or used for occupancy by one family for living and sleeping quarters and containing only one kitchen. “Dwelling unit” also includes:

1. One or more habitable rooms within a mobilehome which are designed to be occupied by one family with facilities for living, sleeping, cooking, eating and sanitation; and
2. Any room used for sleeping accommodations which contains a bar sink and/or gas, electrical or water outlets designed, used or intended to be used for cooking facilities except a guest room or guest suite in a motel, hotel or bed and breakfast inn.

“Guest” means a natural person who rents a short-term rental or is an invitee of such person. This definition is applicable to Chapter 17.55 only.

“Guest House” means detached living quarters on the same premises as a single family residence for the use of family members, guests or employees of the occupants of such residence, containing no kitchen facilities and not rented or otherwise used as a separate dwelling unless permitted pursuant to a valid short-term rental permit issued by the City.

“Hosted short-term rental” means a short-term rental for which the owner or designated operator lives onsite throughout the guests’ stay in accordance with Section 17.55.040.

“Hosting platform” means a natural person, joint venture, joint stock company, partnership, association, club, company corporation, business trust, or organization of any kind who
participates in the short-term rental business by collecting or receiving a fee, directly or indirectly through an agent or intermediary, for conducting a booking transaction using any medium of facilitation.

“Lives onsite” means maintains a physical presence on the property, including, but not limited to, sleeping overnight, preparing and eating meals, and being present on the property each day of the short-term rental as required by the hosted short-term rental permit. This definition is applicable to Chapter 17.55 only.

“Owner” means any person who, alone or with others, has legal or equitable title to a dwelling unit. A person whose interest in a dwelling unit is solely that of a tenant, subtenant, lessee, or sublessee under an oral or written rental housing agreement shall not be considered an owner. This definition is applicable to Chapter 17.55 only.

“Primary Residence” means the usual place of return for housing of an owner as documented to the satisfaction of the City Manager by an active voter registration, a valid driver’s license or other government issued identification card with the address of the property. A person can only have one primary residence. This definition is applicable to Chapter 17.55 only.

“Short-term rental” of property means the renting, or offer to make available, (by way of a rental agreement, lease, license or any other means, whether oral or written) for compensation or consideration, of residential property, a dwelling unit, or a portion thereof, for a period of 30 consecutive days or less to a transient.

B. MMC Chapter 17.55 (Short-term Rental of Property) is hereby added to read as follows:

Section 17.55.010 Short-Term Rental of Property

A. Hosted short-term rental of single-family residential property, and the short-term rental of up to two dwelling units on a multifamily housing parcel, is allowed as specified in Section 17.55.040 if conducted in compliance with this Chapter 17.55 and the owner complies with each of the following requirements:
   1. Obtains and maintains at all times a Short-Term Rental Permit issued pursuant to this Chapter.
   2. Operates the short-term rental activity in compliance with all permit conditions for short-term rental as set forth in Section 17.55.020 and any regulations promulgated pursuant to this Chapter.
   3. Collects and remits Transient Occupancy Tax (“TOT”), in coordination with any hosting platform if utilized, to the City and complies with all City TOT requirements as set forth in Chapter 3.24 of this Code.
   4. Takes responsibility for and actively prevents any nuisance activities that may take place as a result of short-term rental activities.
   5. Is available, or a designated operator is available, 24 hours a day, 7 days a week, at a phone number provided to both the City and any guest staying at the property to immediately answer a call from the City, an agent authorized by the
City to make such calls, or a guest when there is a guest renting the property. No person may serve as a designated operator for more than one hosted short-term rental.

6. Ensures that basic health and safety features are provided, including fire extinguishers, smoke detectors, and carbon monoxide detectors.

7. Limits the occupancy of the short-term rental (including the host, guests, and any other natural persons) to two people more than twice the number of bedrooms listed on City or County records as determined by the Planning Director up to a maximum of 14 people, unless a special event permit is obtained pursuant to Chapter 5.34 of this code.

8. Requires all persons present at the property during a period when there is a short-term rental of a property to park all vehicles onsite; offsite or on-street parking shall only be allowed pursuant to a special event permit issued pursuant to Chapter 5.34 of this code. Properties that do not have onsite parking spaces as determined by the Planning Director are exempt from this requirement, but no more than one (1) vehicle may be parked on the street by persons present at the property during the short-term rental of the property.

9. Maintains liability insurance to cover the short-term rental of property with minimum limits of not less than $500,000 or conducts each short-term rental transaction through a hosting platform that provides equal or greater coverage.

10. Complies with Section 17.55.080 governing advertisements of short-term rentals.

11. Provides all guests with the Short-term Rental Code of Conduct, which shall be developed by the City Manager, and posts the same on the inside of the main entrance door to the dwelling unit rented, or on the wall adjacent thereto.

12. Provides full access to the property, and documents related to compliance with this Chapter, during normal City Hall business hours or at any time the dwelling unit is rented immediately upon request by the City Manager or her/his designee for purposes of inspection or audit.

13. Complies with all applicable laws, including the noise limitations set forth in Chapter 8.24 of this Code, and all applicable codes regarding fire, building and safety, and other relevant laws and ordinances.

14. Maintains a valid Onsite Wastewater Treatment System (OWTS) operating permit pursuant to Chapter 15.44 or has entered a compliance agreement with the City excusing such compliance, and is in full compliance with the compliance agreement and not in default or breach.

Section 17.55.020 Short-Term Rental Permit Required

A. No person shall offer, facilitate an offer, or allow the short-term rental of property in any location not specifically identified and approved on a valid short-term rental permit or in a location not approved for use as a dwelling unit including, but not limited to, any vehicle, trailer, tent, storage shed or garage.

B. A separate short-term rental permit is required for every legal lot or condominium unit (if a condominium unit is to be rented). An individual may not possess more than one active short-term rental permit. Each permit may include up to two listings, one per dwelling unit.
C. **Application Required.** To obtain a short-term rental permit an owner shall submit an application on a form to be provided by the City and signed by the owner under penalty of perjury.

D. **Application Contents.** In addition to any other information prescribed by the City Manager, an application for a short-term rental permit shall include the following information:

1. Address of the proposed short-term rental
2. Type of dwelling unit
3. Contact information for the owner of the property
4. Contact information for the designated operator, if a designated operator will live onsite for the hosted short-term rental
5. A copy of a valid OWTS operating permit for the property, or a copy of a City approved compliance agreement pursuant to Section 17.55.010(A)(14) paired with an attestation that the owner is in full compliance with the compliance agreement and not in default or breach
6. Attestation and agreement to comply with the requirements of this Chapter
7. Proof that the owner is in compliance with Chapter 3.24 of this code
8. The Uniform Resource Locator (URL) (i.e., the website address) for any and all advertisements of the short-term rental of the property
9. Attestation that short-term rental of the property is not prohibited by Covenants, Conditions and Restrictions (CC&Rs), or rules or restrictions of a homeowners association or similar association, and that owner has notified such association that the property owner is applying for a short-term rental permit. Proof of notification must be retained for the duration that the owner maintains a short-term rental permit for the property.
10. Attestation of the number of bedrooms in the proposed short-term rental and proposed maximum occupancy
11. Attestation of compliance with the required insurance coverage
12. The location of all dwelling units, or portions thereof, that will be rented on a short-term basis
13. The type of short-term rental permit sought: hosted or multifamily
14. If seeking a hosted short-term rental permit, proof of primary residency and attestation that the location is the owner’s primary residence, meaning that the owner lives in a dwelling unit on the legal lot (or in the authorized condominium) as his or her primary residence for no less than 185 days of the previous calendar year; if the property was purchased less than 185 days from the end of the previous calendar year, an attestation that the unit is and will remain the owner’s primary residence for the duration of the permit shall suffice
15. If seeking a multifamily short-term rental permit, contact information, including phone number, for all tenants, proof of ownership of the entire building, and an attestation that all dwelling units (except for two) are rented on a long-term basis per Section 17.55.040(B). The permit holder shall maintain copies of the leases for all tenants documenting compliance at all times with Section 17.55.040(B) for a period of three years following the expiration of the short-term rental permit.

E. **Review and Approval.** Short-term rental permits shall be subject to the approval of the City Manager or her/his designee.

F. **Notice of Approval.** Upon approval, the Planning Director shall provide, at the owner’s
expense, the contact information for the owner or designated operator identified in 17.55.010(A)(5) to all dwelling units within 500 feet of the short-term rental unit’s parcel boundary.

G. Duration. Short-term rental permits shall be issued for one year and must be renewed annually.

H. Duty to Amend. If there are any material changes to the information submitted on a short-term rental permit application, the owner shall submit an amended application on a form to be provided by the City and signed by the owner under penalty of perjury within 30 days of any such changes. For the purposes of this Section, any change to the information required to be included in a short-term rental permit application by subsection (D) of this Section shall constitute a material change.

I. Fees. The amount of any fees to be collected pursuant to the provisions of this chapter shall be established by resolution of the City Council from time to time.

J. No Transfer or Assignment. A short-term rental permit may not be assigned or transferred to another person.

K. Nothing in this chapter shall limit the ability of a property owner, CC&Rs, or homeowners association or similar association from prohibiting or further limiting the short-term rental of property; such limitation shall be allowed.

L. Nothing in this chapter shall prohibit the operation of a hotel, motel or bed and breakfast inn where such use is permitted.

17.55.030 Grounds for Denial and Revocation of Short-term Rental Permit.

A. Grounds for Denial or Revocation. The City Manager or her/his designee shall not approve an application for a short-term rental permit (or renewal of such permit), or may revoke such permit, if any of the following findings are made:

1. The owner has not paid all TOT due or is not in compliance with Chapter 3.24 of this code.
2. The property has outstanding code enforcement violations.
3. The property does not comply with all applicable codes regarding fire, building and safety, and other relevant laws and ordinances.
4. The owner has knowingly made any false, misleading or fraudulent statement of material fact in the application, or in any report or statement required to be filed that is related to the application.
5. The owner has failed to amend an application as required by Section 17.55.020(H).
6. The property that is the subject of the application is not in a condition where it may be immediately rented on a short-term basis consistent with the requirements of this chapter.
7. The property has received more than two citations for violation of the City’s noise ordinance within a period of 12 consecutive months.
8. Failure to comply with Section 17.55.010(A)(14)
9. A holder of a Hosted Short-term Rental Permit receives a total of three citations for violation of any combination of the following requirements within a period of 12 consecutive months, or a holder of a Multifamily Short-term Rental Permit receives a total of two citations for violation of any combination of the following requirements within a period of 12 consecutive months:
i. The requirements of Sections 17.55.010(A)(4), (7), (8), (11), (12), 17.55.040(A), and Section 17.55.080.

17.55.040 Types of Short-term Rental Permits

Only a natural person may obtain a short-term rental permit, and that person may only possess one short-term rental permit. Possessing short-term rental permits for more than one legal lot or condominium, even if the permits are of a different type, is prohibited. The types of short-term rental permits available in the City shall be limited to the following:

A. Hosted Short-term Rental Permit. A primary resident owner may obtain this type of permit which allows hosted short-term rental of residential property, in compliance with this chapter, during the period that the permit is valid. The owner, or designated operator, must live onsite during any period of rental, and must appear at the property within one hour of a phone call requesting such appearance by the City, an agent authorized by the City to make such calls, or law enforcement personnel. In addition, the owner or designated operator must be located onsite, and present immediately upon request, during the hours of 8 p.m. to 6 a.m. during any period that the unit is rented. Multifamily residential buildings containing three or more dwelling units (including, but not limited to, triplexes, condominiums, stock cooperatives, apartments, and similar developments) are not eligible for this type of permit, with the exception that a primary resident owner of a condominium unit may obtain this type of permit for the unit where he or she has established his or her primary residence.

B. Multifamily Short-term Rental Permit. Owners of entire multifamily residential buildings containing three or more dwelling units (including, but not limited to, triplexes, condominiums, stock cooperatives, apartments, and similar developments) may obtain this type of permit which allows the short-term rental of up to two units in the building so long as all other units are rented for a period of one year or more. A unit that serves as the primary residence of the owner and a unit which is rented on a month-to-month basis to a tenant who has occupied the unit for more than one year shall qualify as a unit that is rented for a period of one year or more even though the lease specifies a shorter term.

17.55.050 Renewal of Short-term Rental Permit.

A. Renewal Application Deadlines. An application to renew a short-term rental permit must be received by the City Clerk not less than thirty days prior to the expiration of the short-term rental permit. Applications received after the deadline but before expiration of the permit may be accepted at the discretion of the City Manager or her/his designee.

B. Applications for renewal shall be in a form required by the City Manager and include updates of all information required or submitted for the permit.

C. No permit shall be renewed unless all city fees and taxes owed by the owner are paid in full, including the renewal fee.

17.55.060 Effect of Denial or Revocation of Short-term Rental Permit.

A. If an application for a short-term rental permit (or an application for renewal of such
permit) is denied, the City Manager or her/his designee shall not approve a new application for that owner and location for a 12 month period after the denial unless the City Manager or her/his designee determines that the reason for the denial has been cured and no longer exists. If the reason for denial is due to (1) the owner knowingly making any false, misleading or fraudulent statement of material fact in the application, or in any report or statement required to be filed that is related to the application, (2) violation of Section 17.55.030(A)(9)b, or (3) more than two citations for violation of the City’s noise ordinance in a period of 12 consecutive months, a new application shall not be approved for a period of at least 12 months from the date of the last violation or short-term rental of the property, whichever is later.

B. If a short-term rental permit is revoked the short-term rental of the property must cease immediately and shall not be permitted for a period of 12 months from the date of revocation.

C. The short-term rental of property (or advertisement, offer, or facilitation, of such rental) after denial or revocation of a short-term rental permit shall (in addition to any other penalty) result in the property and owner being ineligible to conduct the short-term rental of property (or apply for a short-term rental permit) for an additional six month period for each such rental; such period is in addition to the prohibitions listed in sections (A) and (B) above.

D. No fee refunds shall be issued to any permittee whose short-term rental permit is revoked.

17.55.070 Appeals.

A. The denial of an application for a short-term rental permit, the renewal of such permit, or the revocation of such permit may be appealed by submitting a written appeal form detailing the basis for the appeal and any additional documentation the appellant would like to be considered.

B. The completed appeal form must be delivered to the City Clerk within 30 calendar days from the date the letter denying the application (for short-term rental permit or renewal thereof) or revoking the short-term rental permit was sent.

C. Failure to deliver the completed appeal form as required by section (B) above will result in the denial or revocation being deemed final.

D. While the appeals process is pending, the appellant is prohibited from the short-term rental of property and the short-term rental permit at issue shall not be valid.

E. Once a timely and complete appeal form has been received by the City Clerk a hearing on the matter shall be scheduled before the Planning Commission in accordance with the procedure detailed in Section 17.04.220 of this code. The decision of the Planning Commission shall be appealable to the City Council in accordance with the procedure detailed in Section 17.04.220 of this code.

17.55.080 Advertisement and Facilitation of short-term rentals

A. The owner shall include and prominently post the following information in any advertisement for short-term rental:
   1. The short-term rental permit number issued by the City;
   2. That the owner lives onsite and the owner or designated operator will live onsite throughout the visitor’s stay unless the advertisement is for a permitted multifamily
short-term rental;
3. The permitted occupancy of the short-term rental as specified in the short-term rental permit application;
4. The permitted number of visitor vehicles, in accordance with Section 17.55.010(A)(8);
5. Any other information required by regulations promulgated pursuant to this Chapter.

B. No advertisements regarding the availability of a dwelling unit for short-term rental shall be posted in or on any exterior area of the dwelling unit, any exterior area of any other dwelling unit on the same lot, or the lot on which the dwelling unit is located.
C. The address of the property shall be prominently displayed.
D. No person or entity shall offer, advertise or facilitate the short-term rental of property in the city unless the owner possesses a valid short-term rental permit for its rental.
E. Any offer or advertisement for the short-term rental of property in the City that does not contain a valid short-term rental permit number, or which the City identifies as illegal to the person or entity advertising or offering the rental, shall be immediately removed from any location it is posted, whether online or otherwise.

17.55.090 Hosting platform responsibilities.

A. Hosting platforms shall be responsible for collecting all applicable TOT and remitting the same to the City. The hosting platform shall be considered an agent of the owner for purposes of TOT collections and remittance responsibilities as set forth in Chapter 3.24 of this Code. Should a hosting platform fail to fulfill its responsibilities under this Section the owner shall remain responsible for collection and remittance of the TOT the Hosting platform failed to collect and/or remit to the City.
B. Subject to applicable laws, hosting platforms shall disclose to the City on a regular basis each short-term rental listing located in the City, the names of the owner for each such listing, the address of each such listing, the length of stay for each such listing and the price paid for each stay.
C. Hosting platforms shall not complete any booking transaction for any residential property or unit unless it is listed on the City’s registry of properties with valid short-term rental permits at the time the hosting platform receives a fee for the booking transaction.
D. Hosting platforms shall not collect or receive a fee, directly or indirectly through an agent or intermediary, for facilitating or providing services ancillary to a short-term rental, including, but not limited to, insurance, concierge services, catering, restaurant bookings, tours, guide services, entertainment, cleaning, property management, or maintenance of the residential property or unit.
E. Safe Harbor. A hosting platform operating exclusively on the Internet, which operates in compliance with subsections (A), (B), (C), (D) and (E) above, shall be presumed to be in compliance with this Chapter and shall not be found in violation of Section 17.55.080.
F. The provisions of this Section 17.55.090 shall be interpreted in accordance with otherwise applicable State and Federal law(s) and will not apply if determined by the City to be in violation of, or preempted by, any such law(s).
17.55.100 Regulations.

The City Manager or designee may promulgate regulations to facilitate the purposes of this Chapter.

17.55.110 Enforcement, Violations and Penalties.

A. In addition to the other penalties and remedies available to the City, violations of this Chapter shall be subject to the administrative citation provisions of Chapter 1.10, except that any violation of Section 17.55.020(A) by an owner shall be subject to a fine of $1000 per day or violation, or twice the short-term rental’s advertised daily rental rate per day or violation, whichever is higher.

B. The short-term rental permit holder shall be held responsible for administrative citations for violations of the municipal code or local coastal program committed by guests at the property.

C. Any violation of this Chapter shall constitute a separate offense for each and every day the violation occurs or persists.

D. These penalties and remedies are cumulative and in addition to any other penalties and remedies available to the City.

C. MMC Title 17 – Appendix 1 (Permitted Uses Table) is hereby amended by inserting the following new permit type and uses:

Appendix 1 – Permitted Uses

In the event of a conflict between the table and the text of Title 17, the text shall control.

<p>| KEY TO TABLE (In addition to a coastal development permit where applicable, MCUP, CUP, LFDC, STR &amp; WTF permits are required pursuant to the Malibu Municipal Code where shown in this table.) |
|---|---|
| <strong>P</strong> | Permitted use |
| <strong>MCUP</strong> | Requires the approval of a minor Conditional Use Permit by the Director |
| <strong>CUP</strong> | Requires the approval of a Conditional Use Permit |
| <strong>A</strong> | Permitted only as an accessory use to an otherwise permitted use |
| <strong>LFDC</strong> | Requires the approval of a Large Family Day Care permit |
| <strong>WTF</strong> | Requires the approval of a Wireless Telecommunications Facility |
| <strong>STR</strong> | Use requires valid short-term rental permit approved by the City |
| • | Not permitted (Prohibited) |</p>
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<tr>
<th>USE</th>
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<td>Agricultural employee housing, as an accessory use, animal related</td>
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<td>One single-family residence per lot28</td>
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<td>Manufactured homes pursuant to Government Code § 65852.3</td>
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<td>cooperatives, apartments, and similar development29</td>
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<td>Second units pursuant to Government Code § 65852.2</td>
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<td>Mobile home park modifications to number, layout, or density and public or common areas, except for repair and maintenance</td>
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<td>Temporary mobile home as residence subject to § 17.40.040(A)(18)</td>
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<td>Accessory uses (guest units (750 sf max), garages, barns, pool houses, pools, spas, gazebos, storage sheds, greenhouses (non-commercial), sports courts (non-illuminated), corrals (non-commercial), and similar uses)</td>
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<td>Residential care facilities (serving 6 or fewer persons)</td>
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<td>Small residential care facilities (serving 6 or fewer persons)</td>
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<td>Small family day care (serving 6 or fewer persons)</td>
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## Use

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<tr>
<td>Large family day care (serving 7 to 12 persons)</td>
<td>LFDC</td>
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<td>Home occupations</td>
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<tr>
<td>Short-term rental</td>
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1. One single-family residence in conjunction with an institutional use and consistent with the provisions of Chapter 17.08.
2. Includes the expansion of over 500 sq. ft. of existing multiple family structures.
3. Barns and corrals not allowed.
4. Subject to Home Occupation Standards Section 17.40.040(A)(19).
6. Accessory uses when part of an educational or non-profit (non-commercial) use.
7. Subject to Section 17.08.020(D)(2) for RR zone and Section 17.18.030(B)(2) for CR zone.
8. Subject to Section 17.08.020(C)(5) for RR zone and Section 17.10.020(C)(5) for SF zone.
9. Subject to Section 17.08.020(D)(1) for RR zone and Section 17.18.030(B)(1) for CR zone.
10. Subject to Section 17.08.030(B), except that the minimum area required shall be 5 acres.
11. Subject to Section 17.08.020(D)(4) for RR zone and Section 17.18.030(B)(5) for CR zone.
12. Maximum interior occupancy of 125 persons.
13. If exceeding interior occupancy of 125 persons.
14. By hand only.
15. Subject to Section 17.08.040(F).
16. Subject to provisions of Section 17.34.030 when a facility is located within a side or rear yard adjacent to a residentially-zoned parcel.
17. 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).
18. Charitable, philanthropic, or educational non-profit activities shall be limited to permanent uses that occur within an enclosed building.
20. Subject to Section 17.08.040(C).
21. Limited to public agency use only (not for private use).
22. 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.
23. Residential care facilities for the elderly are limited to operation by a non-profit only.
24. 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.
25. CUP required unless located in public right-of-way.
26. Subject to Section 17.22.040(N).
27. Subject to Section 17.66.120.
28. Transitional and supportive housing is permitted in the same manner as one single-family residence and is subject to all the restrictions that apply to single family residential uses.
29. Transitional and supportive housing is permitted in the same manner as a multifamily residential use and is subject to all the restrictions that apply to multifamily residential uses.
30. Multifamily development associated with an affordable housing development project is permitted by right.
31. Multifamily development is only permitted in the CC zone if it is associated with an affordable housing development project within the Affordable Housing Overlay (APNs 4458-022-023 and 4458-022-024 only), in compliance with Section 3.4.5 of the LIP.
32. Hosted short-term rental only in RR, SF and MHR zones
33. Maximum of two dwelling units per parcel for MF and MFBF zones

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

SECTION 1. Recitals.
A. On November 16, 2001, the California Coastal Commission (CCC) approved Coastal Development Permit (CDP) No. 4-01-034 for the construction of a new single-family residence and associated development.

B. On September 5, 2003, the City of Malibu approved Plot Plan Review No. 00-084 for the construction of a new single-family residence and associated development.

C. In early 2005, unpermitted fill that was dumped into the ravine to the west of the property was reported to code enforcement during the construction of the new, single family residence at 32640 Pacific Coast Highway (PCH).

D. On February 21, 2006, City of Malibu issued Emergency Coastal Development Permit (ECDP) No. 05-047 which approved the removal of unauthorized fill, installation of erosion control measures, and the installation of a riprap structure to remediate conditions caused by the unauthorized fill. This work did not occur and the application has been closed due to inactivity.

E. On September 18, 2007, the Planning Commission adopted Resolution No. 07-77 approving CDP No. 07-048 to allow ravine restoration as a follow up to ECDP No. 05-047. This work did not occur and the application has been closed due to inactivity.

F. On February 11, 2008 City staff observed stairs, bluff and ravine top walls, a patio and an archway constructed on the bluff and in the ravine without the benefit of permit.
G. On July 31, 2008, City staff observed four steel poles constructed without the benefit of permit to support a shade over the patio observed in February 11, 2008.

H. On February 8, 2011, the City approved Over-the-Counter Permit (OC) No. 10-142 to allow the removal of the steel poles and archway and the relocation of the section of walls along the coastal bluff top. This work did not occur.

I. On September 10, 2010, the City approved Administrative Plan Review Permit (APR) No. 10-042 to allow the demolition of the stairs constructed in the ravine. This work did not occur and the application has been closed due to inactivity.

J. On September 11, 2011, the City and property owner (Jonathan D. Frank) reached a Settlement Agreement which was recorded by the County of Los Angeles related to the aforementioned code violations including the unpermitted fill, stairs, bluff top walls, steel poles, and archway.

K. On November 14, 2011, the property owner submitted an application for CDP No. 11-052 to address the stairs, archway, bluff top walls, shade structure, and patio constructed without the benefit of permits.

L. On December 4, 2013, the property owner submitted an application for CDP No. 13-064 for remedial grading to repair the slope failure and restore the ravine, and to revegetate the ravine. The scope of work for CDP No. 11-052 has been incorporated into this application.

M. On October 5, 2018, the City of Malibu issued ECDP No. 18-005 which approved emergency slope and drainage infrastructure system repairs to protect the home. This work has been completed.

N. On July 8, 2019, the application for CDP No. 13-064 was deemed complete.

O. On July 10, 2019, a Notice of Application for Coastal Development Permit No. 07-048 was posted on the subject property.

P. On July 11, 2019, a Notice of Planning Commission Public Hearing was published in a newspaper of general circulation within the City of Malibu and was mailed to all property owners and occupants within a 500-foot radius of the subject property developed with a private residence.

Q. On July 23, 2019, the Environmental Review Board (ERB) reviewed the project and provided a recommendation.

R. On August 8, 2019, a Notice of Planning Commission Public Hearing was again published in a newspaper of general circulation within the City of Malibu and was mailed to all property owners and occupants within a 500-foot radius of both the state park land and the subject property developed with a private residence.

S. On September 3, 2019, the Planning Commission held a duly noticed public hearing on the subject application, reviewed and considered the staff report, reviewed and considered written reports, public testimony, and other information in the record.
SECTION 2. Environmental Review.

Pursuant to the authority and criteria contained in the California Environmental Quality Act (CEQA), the Planning Department has analyzed the proposed project. The Planning Department found that this project is listed among the classes of projects that have been determined not to have a significant adverse effect on the environment. Therefore, the project is categorically exempt from the provisions of CEQA pursuant Section 15301(l)—Existing Facilities; Sections 15303(d) and (e)—New Construction; and Section 15333 Class 4—Minor Alterations to Land. The Planning Department has further determined that none of the six exceptions to the use of a categorical exemption apply to this project (CEQA Guidelines Section 15300.2).

SECTION 3. Coastal Development Permit Findings.

Based on substantial evidence contained within the record and pursuant to the LIP including Sections 13.7(B) and 13.9, the Planning Commission adopts the analysis in the agenda report, incorporated herein, the findings of fact below, approves CDP No. 13-064 to allow for the initial slope repair and expansion of the drainage system which took place under ECDP No. 18-005; completion of the slope repair; revegetation of slopes; demolition of the path and gate within the public right-of-way, archway in the front yard setback, portion of wall along the coastal bluff top, ravine stairs, and steel poles constructed without the benefit of permits; and after-the-fact construction of hardscaping, including Variance (VAR) No. 19-007 for remedial grading exceeding 15,000 cubic yards and Demolition Permit (DP) No. 19-016 for the removal of the development constructed without the benefit of permits, and denies VAR Nos. 19-020 to allow a nine-foot tall archway within the front yard setback and 19-021 to allow a wall within the bluff top setback at an existing single-family residence located in the Rural Residential—Two Acre (RR-2) zoning district at 32640 PCH.

The project, as proposed and conditioned, has been found to be consistent with all applicable LCP codes, standards, goals and policies, including approval of the requested variance to allow for remedial grading over 15,000 cubic yards and denial of the variances to allow for a nine-foot tall archway within the front yard setback and to allow for walls within the bluff top setback. The required findings are made herein.

A. General Coastal Development Permit (LIP Chapter 13)

1. The project is located in the RR-2 residential zoning district, an area designated for residential uses as well as the POS zoning district, an area designated for public open space and recreation. The project has been reviewed for conformance with the LCP by the Planning Department, City Biologist, City Environmental Health Administrator, City Public Works Department, and City geotechnical staff. Based on submitted reports, project plans, visual analysis and site investigation, the proposed project, as conditioned, conforms to the LCP in that it meets all applicable residential development standards, inclusive of VAR No. 19-007 and exclusive of VAR Nos. 19-020 and 19-021.

2. The location of the proposed project is not anticipated to interfere with the public’s right to access the coast. The project conforms to the public access and recreation policies of Chapter 3 of the Coastal Act of 1976 as there is existing vertical access at La Piedra State Beach.

3. Evidence in the record demonstrates that, as conditioned, the project will not result in adverse visual or biological impacts and is required to restore an area of significantly degraded habitat. As the proposed project is required to address code enforcement violations, offset ESHA impacts, and is consistent with ESHA protection standards, the proposed project, as designed, is the least environmentally damaging alternative based on the steep conditions of the ravine.
B. Variance for Wall Height Greater than Six Feet within the Front Yard Setback (LIP Section 13.26.5)

1. A variance is requested to allow the construction of the nine-foot tall archway within the required front yard setback. Approval of the nine-foot tall archway would introduce a non-conformity that has not been granted to other property owners in the vicinity since the incorporation of the City. The archway could be reduced to six feet in height or relocated outside of the required front yard setback. As such, there are no special circumstances or exception characteristics applicable to the subject property that strict application of the zoning ordinance deprives such property of privileges enjoyed by other property in the vicinity and under the identical zoning classification.

2. The archway was constructed for aesthetic purposes only, in whole or in part to lead to stairs constructed without the benefit of permit within the ravine and which are proposed to be demolished as part of this application. The archway introduces development closer to PCH in violation of setbacks established to maintain consistent characteristics along street frontage.

3. There is no known precedent within the City of Malibu for granting a variance for a wall or fence structure that is 3 feet higher than the maximum height allowed within the required front yard setback. Therefore, the granting of the variance constitutes a special privilege to the property owner.

4. The archway does not disrupt any public scenic views due to its location below PCH, or infringe on any public access. However, the archway exceeds the development standards in both the LIP and MMC with regards to height within a front yard setback. Therefore, the archway constructed without the benefit of permits is required to be brought into conformance with current standards.

5. The requested variance is for relief from a specific development standard and does not authorize a use not otherwise permitted within the RR-2 zoning designation.

6. The subject site is not physically suitable for the proposed nine-foot tall archway within the front yard setback, as the site is not unique in size, shape, topography, or location such that the archway could not be relocated outside of the front yard setback area or be reduced to six feet to comply with current standards.

7. The archway does not comply with all requirements of state and local law with respect to structure heights and LCP standards.

C. Variance for Development within the Bluff Setback (LIP Section 13.26.5)

1. A variance is requested for a setback reduction of a patio and approximately 115 foot section of the wall constructed without benefit of permits that runs three to 20 feet from the top of a coastal bluff. The setback from the bluff edge is required by LIP Section 10.4(D) to be a sufficient distance to ensure that the structure will not be endangered by erosion or threatened by slope instability for a projected 100 year economic life of the structure and shall not be less than 100 feet. Pursuant to LIP Section 13.26.5, following a public hearing, the Planning Commission may approve and/or modify an application for a variance in whole or in part, with or without conditions, provided that it makes all of the following findings of fact. Based on evidence in the record, staff has determined the required findings for VAR No. 19-021 cannot be made.

2. No special circumstances or exceptional characteristics exist on the subject
property such that strict application of the zoning ordinance would deprive the property of privileges granted to neighboring properties. However, the demolition of foundations along the bluff edge could contribute to an increased risk of bluff edge failure. As such, the patio and wall should be demolished above grade but the foundations should remain.

3. The demolition of foundations along the bluff edge could contribute to an increased risk of bluff edge failure. However, as the wall and patio does not comply with required geotechnical setback, the patio and wall should be demolished above grade but the foundations should remain.

4. The granting of the variance would constitute a special privilege to the property owner in that the wall does not meet the required geotechnical setback per LIP Section 10.4(D) however, as the demolition of foundations along the bluff edge could contribute to an increased risk of bluff edge failure, the patio and wall should be demolished above grade while the foundations should remain.

5. The wall and patio do not disrupt any scenic views or infringe on any public access. However, the patio and non-conforming portion of the bluff top wall exceeds the development standards in the LIP and MMC with regards to the required setback from the top of a coastal bluff.

6. A wall is a permitted use in the residential zone. Accordingly, the variance request is not for a use or activity that is not expressly authorized by zoning regulations for the project site.

7. The subject site is not physically suitable for the proposed wall within the required coastal bluff top setback. However, as the demolition of foundations along the bluff edge could destabilize the bluff edge above a public beach, the patio and wall should be demolished above grade while the foundations should remain.

8. The patio and bluff top wall, as stated above, does not comply with all requirements of State and local law with respect to setbacks and LCP standards.

D. Environmentally Sensitive Habitat Area Overlay (LIP Chapter 4)

1. The LCP ESHA and Marine Resources Map does not indicate the project site or surrounding area as ESHA however, the submitted Biological Assessment determined that, as the project site and area do provide suitable habitat for wildlife and contains vegetation communities considered sensitive by the California Department of Fish and Wildlife in the surrounding area, the drainage and surrounding sensitive vegetation communities do qualify as ESHA.

2. Although the remedial grading, drainage improvements, and ravine revegetation will occur within an area that qualifies as ESHA, an ESHA variance is not required, pursuant to LIP Section 4.5.3, because the purpose of the project, besides stabilizing the slope, is restoration of the ravine habitat. In addition, the subject property is already developed with an existing residence.

3. The proposed project does not change the existing compliant use of either the subject property, which is developed with an existing residential development and is zoned RR-2 or the State Parks land, which is zoned POS.
4. This project has been reviewed and approved by the City Biologist and, as conditioned to require a detailed restoration and monitoring plan and to remove the stairs which currently encroach into ESHA, conforms to the recommendations of the ERB and, therefore, complies with the criteria established in the LCP.

E. Scenic, Visual and Hillside Resource Protection (LIP Chapter 6)

1. The proposed slope repair and ravine revegetation, will restore the ravine to a similar or an improved condition, resulting in views similar to or improved from previously existing views that existed prior to the code enforcement violation. Some portions of the wall and patio constructed without benefit of permits are visible from State Park land however, the wall to remain is only two feet tall and would not significantly alter the view of the existing residential development. Therefore, the proposed project will have no significant adverse scenic or visual impacts due to project design, location on the site or other reasons.

2. The project, as conditioned, will not have adverse scenic or visual impacts.

3. The project, as conditioned, is the least environmentally feasible alternative.

4. There are no feasible alternatives to development that would avoid substantially lessen any significant adverse impacts on scenic or visual resources.

5. As conditioned, development on the site will not have significant adverse impacts on scenic and visual resources.

F. Hazards (LIP Chapter 9)

1. The proposed project does not alter or impact the stability of the residence other than addressing the present hazardous condition and retuning the west-facing ravine slope, adjacent to the residence, to an acceptable factor of safety. Although the project demonstrates code compliant factors of safety for the areas of the residence and related site improvements, portions of the east-facing canyon slopes, the State Park land may not comply with City required factors of safety. As such, a condition has been added to require that an “Assumption of Risk and Release” be signed and recorded with the County of Los Angeles Recorder prior to permit issuance for the proposed remedial slope stabilization and drainage improvement. In addition, since the entire city limits of Malibu are located within a high fire hazard area, a condition is included in Section 5 of this resolution that requires the property owner to indemnify the City from any hazards associated with wildfire. Based on review of the project plans and associated geotechnical reports by City geotechnical staff, LACFD, City Public Works Department, and the City Environmental Health Administrator, these specialists determined that adverse impacts to the project site related to the proposed development are not expected. The proposed project, including the remedial grading, will not serve to decrease the stability or integrity of the site due to geologic, flood, fire, project design or location. In summary, the slope repair and drainage system improvements are suitable for the intended objective to prevent further slope failure, provided that the certified engineering geologist and/or geotechnical engineer’s recommendations and governing agency’s building codes are followed.

2. The project as designed, conditioned, and approved by the City Geologist and the City Public Works Department, does not have any significant adverse impacts on the site stability or structural integrity from geologic, flood or fire hazards due to the project design.
3. The project, as conditioned, is the least environmentally damaging alternative.

4. There are no alternatives that would avoid or substantially lessen impacts on site stability or structural integrity.

5. No adverse impacts to sensitive resources are expected.

G. Shoreline and Bluff Development (LIP Chapter 10)

1. No public access exists on the subject property and the nature of the project is exempt from requiring access. Furthermore, the proposed wall is not located on the beach and the grading and drainage to restore the ravine are designed to mimic natural hydrologic process, so the shoreline sand supply will not be affected. Due to the location of the subject property and nature of the scope of work, the proposed project will have no significant adverse impacts on public access, shoreline sand supply or other resources.

2. The proposed project is not expected to have an impact on public access, shoreline and supply or other resources.

3. The proposed project, as conditioned, is the least environmentally damaging alternative.

4. The project is not expected to result in any significant adverse impact to public access, shoreline sand supply or other resources. Therefore, there are no feasible alternatives to development that would avoid or substantially lessen any significant adverse impacts to public access, shoreline sand supply or other resources.

5. The proposed project does not include a shoreline protective device; therefore, this finding does not apply.

H. Public Access (LIP Chapter 12)

1. The project is located between the first public roadway and the sea. No onsite vertical, lateral, bluff-top, recreational or trail access is currently provided on the subject parcel. No proposed or existing public trails or public beaches are shown on or adjacent to the subject property on the LCP Park Lands Map; therefore, trail and recreational accesses are not applicable. La Piedra State Beach, located adjacent to the subject property, provides public vertical, bluff-top and lateral access to the shore.

2. Vertical, bluff-top and lateral access would not impact fragile coastal resources, does not raise a significant public safety concern, or have any impact on a military facility.

3. The public, through another reasonable means, can reach the same area of public tidelands as would be made accessible by an access way on the subject property. The project as proposed does not block or impede access to the ocean. The project site does not provide vertical access to the coast as it is a steep, hazardous ravine. In addition, the public has the ability, through another reasonable means (via Broad Beach, La Piedra and El Matador state beaches), to reach nearby coastal resources. The wall and patio constructed without benefit of permits are located on the top of a coastal bluff and do not affect access to a public beach. Adjacent State Park land provides bluff top access. Lateral public access exists along the State of California’s “wet sand right-of-way” which allows public use of lands seaward of the mean high tide and provides public access along and parallel to the sea or shoreline. A comment letter from the Mountains Recreation
and Conservation Authority (MRCA) was received on July 29, 2019 stating that agency’s belief that a lateral access easement should be required; however, the applicant has declined to offer this easement. The project consists of ravine restoration and no development is proposed on or adjacent to a shoreline; therefore no condition for lateral access is required by the Local Coastal Program. An existing vertical, bluff-top and lateral accessway is located to the west at La Piedra State Beach. No legitimate governmental or public interest would be furthered by requiring vertical, bluff-top or lateral access at the project site because existing access to coastal resources is adequate; the proposed project will not impact the public’s ability to access the shoreline or other coastal resources; and the project site is not within the vicinity of a public beach.

I. Variance for Remedial Grading (MMC Section 17.72.060)

1. A variance is requested for 18,497 total cubic yards of remedial grading which exceeds the total amount of 15,000 cubic yards that may be permitted with a site plan review pursuant to MMC Section 17.62.040(A)(9). The proposed project is required to address a code enforcement case opened in 2005. The proposed project was specifically designed by the project’s consultant geotechnical engineer to remediate the failed slope so that it may be revegetated and provide a factor of safety acceptable for the protection of the subject property and PCH. The proposed remedial grading solution is the least environmentally damaging alternative due to the vertical condition of the slopes and depth of the ravine. As described above, the applicant looked at alternatives, such as a soldier pile wall and larger dissipater however, those alternatives were deemed infeasible due to slope instability. Strict application of the zoning ordinance would deprive the subject properties of privileges such as resolution to a code enforcement violation and a repair to a failed slope to an acceptable factor of safety enjoyed by other properties in the vicinity under the same zoning classification.

2. The granting of the proposed variance will substantially improve the safety and welfare of the subject property owner, and users of PCH and the State Park land, as the proposed remedial grading will stabilize the hillside and restore the ravine so that it may be revegetated. In addition, public views will be maintained as the project has been designed to reduce the visibility of drainage elements and no other hardscaping is proposed as part of the remedial grading scope of work. The proposed project has been reviewed and approved by the City Public Works Department, City Biologist and City geotechnical staff for conformance with the MMC and LCP.

3. The proposed project, including remedial grading, is necessary to repair the slope, restore the ravine, and provide a factor of safety acceptable for the protection of the properties surrounding the ravine. Approval of the variance will grant relief from a technical development standard limiting the quantity of remedial grading which, if strictly applied, would be detrimental to the safety of those on the subject property and surrounding property and public uses which may have also been affected by the ongoing erosion. As such, granting the variance will not constitute a special privilege to the applicant or property owners.

4. The analysis presented in the agenda report, and the record as a whole, demonstrates that the granting of this variance will not be contrary to or in conflict with the general purposes and intent of the zoning provisions, nor to the goals, objectives and policies of the MMC or General Plan.

5. The proposed project facilitates continued use of the properties consistent with the purpose and intent of the RR-2 and POS zoning classification of the subject properties.
6. The subject site is physically suitable for the proposed variance in that the proposed project was specifically designed to remediate erosion and slope failure in order to provide the proper safety measures to stabilize the landslide as recommended by the project's consultant geotechnical engineer and civil engineer. As described above, alternatives, such as a soldier pile wall and larger dissipater were explored but were rejected as they were not suitable for the subject site due to the characteristics of the slope. Remedial grading is the appropriate, feasible, solution for the property's steep ravine conditions.

7. The remedial grading, as conditioned, complies with all requirements of State and local law.

8. The proposed project has been found to not be detrimental to the health, safety or welfare of the city.

J. Demolition Permit Findings (MMC Chapter 17.70)

1. Conditions of approval, including the recycling of demolished materials, have been included to ensure that the proposed project will not create significant adverse environmental impacts.

2. This CDP application is being processed concurrently with DP No. 19-016, and approval of the demolition permit is subject to the approval of CDP No. 13-064.


Based on the foregoing findings and evidence contained within the record, the Planning Commission hereby approves CDP No. 13-064, VAR No. 19-007, and DP No. 19-016, and denies VAR Nos. 19-020 and 19-021 subject to the following conditions.

SECTION 5. Conditions of Approval.

Standard Conditions

1. The property owners, and their successors in interest, shall indemnify and defend the City of Malibu and its officers, employees and agents from and against all liability and costs relating to the City's actions concerning this project, including (without limitation) any award of litigation expenses in favor of any person or entity who seeks to challenge the validity of any of the City's actions or decisions in connection with this project. The City shall have the sole right to choose its counsel and property owners shall reimburse the City's expenses incurred in its defense of any lawsuit challenging the City's actions concerning this project.

2. Approval of this application is to allow for the following:
   a. Follow-up to ECDP No. 18-005 which allowed for:
      i. Approximately 7,500 cubic yards remedial grading, including the import and deposit of clean fill soil and rock within the limits of the landslide area to create a preliminary buttress;
      ii. Installation of temporary drainage system repairs on two Caltrans drains to redirect the bulk of the off-site storm water flows to a temporary rock rip-rap pad at the southern extent of the temporary fill;
      iii. Installation of Stormwater Best Management Practices (BMPs) including straw bales, waddles, check dams, and sand bags;
iv. Creation of a temporary 20 to 40-foot-wide, approximately 200 foot long access road within the Caltrans easement on State Parks land.

b. Permanent slope repair and restoration of the slope including:
   i. 10,437 more cubic yards being imported to create a buttress fill (for a project total of 18,497 cubic yards of remedial grading, including 17,937 cubic yards of imported fill);
   ii. Implementation of a Restoration, Maintenance, and Monitoring Plan approved by State Parks and the City Biologist.

c. Permanent drainage system repairs and expansion including:
   i. Construction of an approximately 330 foot long, six foot wide rock-lined channel down the repaired slope connecting to a 790 square foot buried energy dissipater and rock-lined basin;
   ii. Removal of the existing 10-inch corrugated metal pipe and installation of approximately 58 linear feet of 12-inch reinforced high-density polyethylene pipe (HDPE);
   iii. Removal of the existing 24-inch corrugated metal pipe and installation of approximately 465 linear feet of 30-inch reinforced HDPE pipe; and
   iv. Temporary placement of 200 linear feet of railroad tie beams which are not to be affixed to the ground, may only be placed on areas of the path where the slope exceeds 2:1, are only available for maintenance purposes, and would not provide public or private access to the beach.

d. After-the-fact construction of a 345 foot long, two foot tall rock wall along the top of the ravine in compliance with required setbacks.

e. Removal of the following development constructed without the benefit of permits:
   i. Nine-foot tall stone archway in the required front yard setback;
   ii. The 115 foot section of bluff-top wall within the required bluff-top setback (footings may remain);
   iii. 295 square foot impermeable stone bluff top patio;
   iv. Path and gate within the public right-of-way;
   v. Steel poles; and
   vi. Ravine stairway.

The proposed project also includes the following discretionary requests:
   a. VAR No. 19-007 to allow remedial grading in excess of 15,000 cubic yards (up to 18,497 cubic yards) and,
   b. DP No. 19-016 for demolition of the nine-foot tall stone archway, 115 foot section of bluff-top wall (footings may remain), stone bluff top patio, path and gate within the public right-of-way, steel poles, and ravine stairway constructed without benefit of permits.
3. Except as specifically changed by conditions of approval, the proposed development shall be constructed in substantial conformance with the approved scope of work, as described in Condition No. 2 and depicted on architectural, landscape, and civil plans on file with the Planning Department date stamped August 23, 2019. The proposed development shall further comply with all conditions of approval stipulated in this resolution and Department Review Sheets attached hereto. In the event project plans conflict with any condition of approval, the condition shall take precedence.

4. Pursuant to LIP Section 13.18.2, this permit and rights conferred in this approval shall not be effective until the property owner signs, notarizes, and returns the Acceptance of Conditions Affidavit accepting the conditions set forth herein. The applicant shall file this form with the Planning Department within 10 working days of this decision and/or prior to issuance of any development permit.

5. The applicant shall submit three (3) complete sets of plans, including the items required in Condition No. 6 to the Planning Department for consistency review and approval prior to plan check and again prior to the issuance of any building or development permits.

6. This resolution, signed and notarized Acceptance of Conditions Affidavit and all Department Review Sheets attached to the agenda report for this project shall be copied in their entirety and placed directly onto a separate plan sheet behind the cover sheet of the development plans submitted to the City of Malibu Environmental Sustainability Department for plan check, and the City of Malibu Public Works Department for an encroachment permit (as applicable).

7. The CDP shall expire if the project has not commenced to the satisfaction of City Code Enforcement staff within six (6) months after issuance of the permit, unless a time extension has been granted. Extension of the permit may be granted by the approving authority for due cause. Extensions shall be requested in writing by the applicant or authorized agent prior to expiration of the six-month period and shall set forth the reasons for the request. In the event of an appeal, the CDP shall expire if the project has not commenced within six months from the date the appeal is decided by the decision-making body or withdrawn by the appellant.

8. Any questions of intent or interpretation of any condition of approval will be resolved by the Planning Director upon written request of such interpretation.

9. All development shall conform to requirements of the City of Malibu Environmental Sustainability Department, City Biologist, City Environmental Health Administrator, City geotechnical staff, City Public Works Department, Los Angeles County Waterworks District No. 29, and LACFD, as applicable. Notwithstanding this review, all required permits shall be secured.

10. Minor changes to the approved plans or the conditions of approval may be approved by the Planning Director, provided such changes achieve substantially the same results and the project is still in compliance with the MMC and the LCP. An application with all required materials and fees may be required.
11. Pursuant to LIP Section 13.20, development pursuant to an approved CDP shall not commence until the CDP is effective. The CDP is not effective until all appeals have been exhausted.

12. The property owner must submit payment for all outstanding fees payable to the City prior to issuance of any building permit, including grading or demolition.

13. The property owner shall comply with all provisions of the MMC and LIP.

Site Specific Conditions

14. Prior to obtaining Grading or Building permit approval for the remedial grading, the property owner shall complete all demolition work that is related to the resolution of Code Violation No. 19-006 except for the ravine stairs, which will be removed in conjunction with the remedial grading to take place, and the bluff top wall and patio, for which a demolition plan shall be submitted prior to grading permit issuance, as described in Condition 27.

15. The property owner shall obtain all required building permits and inspections for the work that has already been completed prior to final inspection.

Cultural Resources

16. In the event that potentially important cultural resources are found in the course of geologic testing or during construction, work shall immediately cease until a qualified archaeologist can provide an evaluation of the nature and significance of the resources and until the Planning Director can review this information. Thereafter, the procedures contained in LIP Chapter 11 and those in MMC Section 17.54.040(D)(4)(b) shall be followed.

17. If human bone is discovered during geologic testing or during construction, work shall immediately cease and the procedures described in Section 7050.5 of the California Health and Safety Code shall be followed. Section 7050.5 requires notification of the coroner. If the coroner determines that the remains are those of a Native American, the applicant shall notify the Native American Heritage Commission by phone within 24 hours. Following notification of the Native American Heritage Commission, the procedures described in Section 5097.94 and Section 5097.98 of the California Public Resources Code shall be followed.

Biology

18. Any access to the drainage shall be limited to a pathway. No stairs, concrete, wooden structures, or any other feature that meets the definition of development in LIP Chapter 2 shall be permitted within the drainage limits. Flat stones or landscape timbers maybe utilized in the steepest portion of the path adjacent to PCH, but only to the northern base of the drainage. Any stone or landscape timber may not be grouted or otherwise affixed to the earth.

19. Any existing stairs, landings, or other access structures shall be removed from the site.

20. Prior to final plan check the applicant shall provide copies of permits/agreements from all applicable state and federal regulatory agencies.
21. Prior to final plan check the applicant shall provide a detailed restoration and 5-year monitoring plan (Plan) approvable by California Department of Fish and Wildlife, US Army Corps of Engineers, and the state Regional Water Quality Control Board.

22. At a minimum the Plan shall include a native planting palette, planting methods, a planting plan illustrating approximate locations of specific plants, a 5-year monitoring plan that clearly outlines necessary frequency of monitoring events, photo stations to be re-utilized each monitoring visit, success criteria, and contingency actions should any aspect of the plan not succeed.

23. Grading/excavation/vegetation removal scheduled between February 1 and September 15 will require nesting bird surveys by a qualified biologist prior to initiation of such activities. Surveys shall be completed no more than 5 days from proposed initiation of site preparation activities. Should active nests be identified, a buffer area no less than 150 feet (300 feet for raptors) shall be fenced off until it is determined by a qualified biologist that the nest is no longer active. A report discussing the results of the surveys shall be turned in to the City within 2 business days of completion of surveys.

24. Vegetation forming a view impermeable condition (hedge), serving the same function as a fence or wall, occurring within the side or rear yard setback shall be maintained at or below six (6) feet in height. View impermeable hedges occurring within the front yard setback serving the same function as a fence or wall shall be maintained at or below 42 inches in height.

25. Upon completion of grading and artificial structure installation and again when all restorative plantings are in place, the City Biologist shall inspect the project site and determine that all planning conditions to protect natural resources are in compliance with the approved plans.

26. Adherence to all original conditions of approval included in CDP No. 4-01-034 is required, including the following: “Vegetation on the subject site shall be limited to low-lying species that will not block or adversely impact public views of the ocean from the Pacific Coast Highway or La Piedra State Beach. Landscaping adjacent to Pacific Coast Highway shall be limited to no more than two (2) feet in height. Landscaping over the remainder of the site shall consist of plant species that upon maturity shall not block or significantly obscure the blue water views of the ocean as seen from Pacific Coast Highway or La Piedra State Beach. Landscaping shall be maintained so as not to block or significantly obscure blue water views of the ocean as seen from Pacific Coast Highway or La Piedra State Beach.”

Geology

27. Prior to final plan check for the remedial grading permit, a current site survey, demolition, and restoration plans for the portion of the bluff top wall and patio facing the coastal bluff, which include grading and drainage plans, shall be submitted to the City geotechnical staff. The plans must demonstrate that the demolition and restoration of the area will not adversely affect the static and surficial stability of the coastal bluff. The footings of the 115 foot long bluff top wall may remain.
28. All recommendations of the consulting certified engineering geologist or geotechnical engineer and/or the City geotechnical staff shall be incorporated into all final design and construction including foundations, grading, sewage disposal, and drainage. Final plans shall be reviewed and approved by the City geotechnical staff prior to the issuance of a grading permit.

29. Final plans approved by the City geotechnical staff shall be in substantial conformance with the approved CDP relative to construction, grading, sewage disposal and drainage. Any substantial changes may require a CDP amendment or a new CDP.

Public Works

30. This project proposes to construct improvements within the Caltrans’s right-of-way. Prior to the Public Works Department’s approval of the grading or building permit, the applicant shall obtain encroachment permits from Caltrans for the proposed work.

31. This project proposes to construct improvements within the State of California Parks property along Parcel No. 4473-016-902. Prior to the Public Works Department’s approval of the grading or building permit, the applicant shall obtain encroachment permits and/or necessary easements for the proposed work.

32. The developer’s consulting engineer shall sign the final plans prior to the issuance of permits.

Grading/Drainage/Hydrology

33. Clearing and grading during the rainy season (extending from November 1 to March 31) shall be prohibited for development that:
   a. Is located within or adjacent to ESHA, or
   b. Includes grading on slopes greater than 4 to 1.

Approved grading for development that is located within or adjacent to ESHA or on slopes greater than 4 to 1 shall not be undertaken unless there is sufficient time to complete grading operations before the rainy season. If grading operations are not completed before the rainy season begins, grading shall be halted and temporary erosion control measures shall be put into place to minimize erosion until grading resumes after March 31, unless the City determines that completion of grading would be more protective of resources.

34. Exported soil from a site shall be taken to the County Landfill or to a site with an active grading permit and the ability to accept the material in compliance with the City’s LIP, Section 8.3. The applicant shall place a note on the plans that addresses this condition.

35. A Grading and Drainage plan shall be approved containing the following information prior to the issuance of grading permits for the project:
   a. Public Works Department General Notes.
   b. The existing and proposed square footage of impervious coverage on the property shall be shown on the grading plan (including separate areas for buildings, driveways, walkways, parking, tennis courts and pool decks).
   c. The limits of land to be disturbed during project development shall be delineated on the Grading plan and a total area shall be shown on the plan. Areas disturbed by grading equipment beyond the limits of grading, areas disturbed for the installation
of the OWTS, and areas disturbed for the installation of the detention system shall be included within the area delineated.

d. The grading limits shall include the temporary cuts made for retaining walls, buttresses, and over excavations for fill slopes and shall be shown on the grading plan.

e. If the property contains trees that are to be protected they shall be highlighted on the grading plan.

f. If the property contains rare and endangered species as identified in the resources study the grading plan shall contain a prominent note identifying the areas to be protected (to be left undisturbed). Fencing of these areas shall be delineated on the grading plan if required by the City Biologist.

g. Private storm drain systems shall be shown on the Grading plan. Systems greater than 12-inch diameter shall also have a plan and profile for the system included with the grading plan.

h. Public Storm drain modifications shown on the Grading plan shall be approved by the Public Works Department prior to the issuance of the Grading permit.

36. A digital drawing (AutoCAD) of the project’s private storm drain system, public storm drain system within 250 feet of the property limits, and post-construction BMPs shall be submitted to the Public Works Department prior to the issuance of grading or building permits. The digital drawing shall adequately show all storm drain lines, inlets, outlets, post-construction BMPs and other applicable facilities. The digital drawing shall also show the subject property, public or private street, and any drainage easements.

37. The applicant shall label all City/County storm drain inlets within 250 feet from each property line per the City of Malibu’s standard label template. A note shall be placed on the project plans that addresses this condition.

Stormwater

38. The ocean between Latigo Point and the west City limits has been established by the State Water Resources Control Board as an Area of Special Biological Significance (ASBS) as part of the California Ocean Plan. This designation prohibits the discharge of any waste, including stormwater runoff, directly into the ASBS. The applicant shall provide a drainage system that accomplishes the following:

a. Installation of BMPs that are designed to treat the potential pollutants in the stormwater runoff so that it does not alter the natural ocean water quality. These pollutants include trash, oil and grease, metals, bacteria, nutrients, pesticides, herbicides and sediment.

b. Prohibits the discharge of trash.

c. Only discharges from existing storm drain outfalls are allowed. No new outfalls will be allowed. Any proposed or new storm water discharged shall be routed to existing storm drain outfalls and shall not result in any new contribution of waste to the ASBS (i.e., no additional pollutant loading).

d. Elimination of non-storm water discharges.
39. A Local Storm Water Pollution Prevention Plan shall be provided prior to the issuance of the grading/building permits for the project. This plan shall include an Erosion and Sediment Control Plan (ESCP) that includes, but not limited to:

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<th>Erosion Controls</th>
<th>Scheduling</th>
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<td>Preservation of Existing Vegetation</td>
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<td>Sediment Controls</td>
<td>Silt Fence</td>
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<td>Sand Bag Barrier</td>
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<td>Stabilized Construction Entrance</td>
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<td>Non-Storm Water Management</td>
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<td>Dewatering Operations</td>
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<td>Concrete Waste Management</td>
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<td>Sanitary/Septic Waste Management</td>
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All BMPs shall be in accordance to the latest version of the California Stormwater Quality Association (CASQA) BMP Handbook. Designated areas for the storage of construction materials, solid waste management, and portable toilets must not disrupt drainage patterns or subject the material to erosion by site runoff.

40. The applicant’s consulting engineer shall sign the final plans prior to the issuance of permits.

41. Prior to obtaining the Grading or Building permit approval from the Public Works Department, the applicant shall submit a proposed construction management plan.

Construction / Framing

42. Construction hours shall be limited to Monday through Friday from 7:00 a.m. to 7:00 p.m. and Saturdays from 8:00 a.m. to 5:00 p.m. No construction activities shall be permitted on Sundays or City-designated holidays.

43. Construction management techniques, including minimizing the amount of equipment used simultaneously and increasing the distance between emission sources, shall be employed as feasible and appropriate. All trucks leaving the construction site shall adhere to the California Vehicle Code. Construction vehicles shall be covered when necessary; and their tires will be rinsed off prior to leaving the property. In addition, construction shall comply with the construction management plan approved by Caltrans and reviewed by the City.

44. All new development, including construction, grading, and landscaping shall be designed to incorporate drainage and erosion control measures prepared by a licensed engineer that incorporate structural and non-structural BMPs to control the volume, velocity and pollutant load of storm water runoff in compliance with all requirements contained in LIP Chapter 17, including:
   a. Construction shall be phased to the extent feasible and practical to limit the amount of disturbed areas present at a given time.
b. Grading activities shall be planned during the southern California dry season (April through October).

c. During construction, contractors shall be required to utilize sandbags and berms to control runoff during on-site watering and periods of rain in order to minimize surface water contamination.

d. Filter fences designed to intercept and detain sediment while decreasing the velocity of runoff shall be employed within the project site.

Prior to Final Inspection

45. The applicant shall request a final Planning Department inspection prior to final inspection by the City of Malibu Environmental and Building Safety Division. A final approval shall not be issued until the Planning Department has determined that the project complies with this coastal development permit.

46. Any construction trailer, storage equipment or similar temporary equipment not permitted as part of the approved scope of work shall be removed prior to final inspection and approval.

Deed Restrictions

47. The property owner is required to execute and record a deed restriction which shall indemnify and hold harmless the City, its officers, agents, and employees against any and all claims, demands, damages, costs and expenses of liability arising out of the acquisition, design, construction, operation, maintenance, existence or failure of the permitted project in an area where an extraordinary potential for damage or destruction from wildfire exists as an inherent risk to life and property. The property owner shall provide a copy of the recorded document to Planning department staff prior to final planning approval.

Fixed Conditions

48. This CDP runs with the land and binds all future owners of the property.

49. Violation of any of the conditions of this approval may be cause for revocation of this permit and termination of all rights granted thereunder.

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

PASSED, APPROVED AND ADOPTED this 3rd day of September 2019.

STEVE UHRING, Planning Commission Chair

ATTEST:

KATHLEEN STECKO, Recording Secretary
LOCAL APPEAL - Pursuant to Local Coastal Program Local Implementation Plan (LIP) Section 13.20.1 (Local Appeals) a decision made by the Planning Commission may be appealed to the City Council by an aggrieved person by written statement setting forth the grounds for appeal. An appeal shall be filed with the City Clerk within 10 days and shall be accompanied by an appeal form and filing fee, as specified by the City Council. Appeal forms may be found online at www.malibucity.org, in person at City Hall, or by calling (310) 456-2489, ext. 245.

COASTAL COMMISSION APPEAL – An aggrieved person may appeal the Planning Commission’s approval to the Coastal Commission within 10 working days of the issuance of the City’s Notice of Final Action. Appeal forms may be found online at www.coastal.ca.gov or in person at the Coastal Commission South Central Coast District office located at 89 South California Street in Ventura, or by calling (805) 585-1800. Such an appeal must be filed with the Coastal Commission, not the City.

I CERTIFY THAT THE FOREGOING RESOLUTION NO. 19-53 was passed and adopted by the Planning Commission of the City of Malibu at the Regular meeting held on the 3rd day of September 2019 by the following vote:

AYES: 4 Commissioners: Hill, Mazza, Jennings, Uhring
NOES: 0
ABSTAIN: 0
ABSENT: 1 Commissioner: Marx

KATHLEEN STECKO, Recording Secretary
From: Dennis Seider  
Sent: Friday, July 3, 2020 10:23 AM  
To: Planning Commission  
Cc: Alan Armstrong  
Subject: STRO

Hi Please do not ban whole house rentals as appears to have been done in SM; families need a safe place all of the guests can stay together without the owner in the house. Less severe restrictions can better promote neighborhoods.
Thanks
Dennis

Sent from my iPhone
DENNIS J SEIDER

From: Alexis Byfuglin  
Sent: Sunday, July 12, 2020 1:34 PM  
To: Planning Commission  
Subject: From Alexis byfuglin 26725 Via Linda Street Mlibu

Please send me information re this ordinance. I am next door to a single owner home and he is renting air b & b, almost two to three persons or families a day. There is constant cars coming and going at all hours of the night. I did call and did report, no results. I wNT TO PARTICIPATE IN THE MEETING ON THE 29TH PLEASE MAKE SURE I GET ON YOUR LIST. Sincerely, Alexis

Sent: Monday, July 13, 2020 2:10 PM  
To: Justine Kendall  
Subject: public hearing regarding short term rentals

Hello Justine

I am a resident of Malibu now. I moved here a little over a year ago from Marina del Rey. In MDR we lived in a condo that allowed airbnb. The HOA was also discussing whether to continue to allow it as it brings up safety issues (non stop new people coming and going) and whether it affects property values.

We live in a home on PCH now and our neighbors, a couple doors down, are short term renting their home. We constantly have new people there, different cars, etc. and new people on the beach.

I think these short term rentals affect a neighborhood and not in a good way. And i think it takes away business from local hotels. (Unless the malibu hotels are always full!?)

If I wanted to live next to a hotel, I would move next to a holiday Inn and not pay a small fortune for my home.

I would prefer that malibu either have VERY strict restrictions or not allow it at all.

Thank you for listening.
Sincerely
Sookhee
NOTICE OF PUBLIC HEARING
CITY OF MALIBU
PLANNING COMMISSION

The Malibu Planning Commission will hold a public hearing on WEDNESDAY, July 29, 2020, 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 (revised April 10, 2020). 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 online 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.

LOCAL COASTAL PROGRAM AMENDMENT NO. 19-003 AND ZONING TEXT AMENDMENT NO. 19-005 (Hosted Short-term Rental Amendments) – An amendment to the Local Coastal Program and to Title 17 (Zoning) of the Malibu Municipal Code regulating the rental of residential units for 30 days or less (Short-Term Rentals) including but not limited to requiring the presence of an onsite host during short-term rental, and other restrictions, and clarifying permitted uses related to short-term rental

Applicant: City of Malibu
Location: Citywide
Case Planner: Justine Kendall, Associate Planner
(310) 456-2489, extension 301
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 Local Coastal Program (LCP) amendment. This application is for an LCP amendment which must be certified by the California Coastal Commission before it takes effect. Local Implementation Plan 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 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 LCPC 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 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 15061(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 has determined that there is no possibility the amendment will have a significant effect on the environment and accordingly, the exemption set forth in Section 15061(b)(3) applies.

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. Information about the draft ordinance and previous public meetings can be found on the City’s website at malibucity.org/STR.

Copies of all related documents can be reviewed by any interested person by contacting the Case Planner during regular business hours. Oral and written comments may be presented to the Planning Commission on, or before, the date of the meeting.

IF YOU CHALLENGE THE CITY’S ACTION IN COURT, YOU MAY BE LIMITED TO RAISING ONLY THOSE ISSUES YOU OR SOMEONE ELSE RAISED AT THE PUBLIC HEARING DESCRIBED IN THIS NOTICE, OR IN WRITTEN CORRESPONDENCE DELIVERED TO THE CITY, AT OR PRIOR TO THE PUBLIC HEARING.

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

BONNIE BLUE
Planning Director

Publish Date: July 2, 2020
NOTICE OF AVAILABILITY
OF LCP AMENDMENT MATERIALS

SHORT-TERM RENTAL REGULATIONS

LOCAL COASTAL PROGRAM AMENDMENT NO. 19-003 AND ZONING TEXT AMENDMENT NO. 19-005 – An amendment to the Local Coastal Program and to the Malibu Municipal Code regulating the rental of residential units for 30 days or less (Short-Term Rentals) including but not limited to requiring the presence of an on-site host during short-term rental, and other restrictions, and clarifying permitted uses related to short-term rental

Applicant: City of Malibu
Location: Citywide
Case Planner: Justine Kendall, Associate Planner
(310) 456-2489, extension 301
jkendall@malibucity.org

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LIP Section 19.3.1 requires review drafts be made readily available for public perusal in local libraries, in the City administrative offices, and at the Coastal Commission District office. Please note that facility closures due to protocols to prevent the spread of COVID-19 may preclude the LCP amendment documents being available for review in person, but documents will be available on the City’s website at malibucity.org/STR.

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

BONNIE BLUE
Planning Director

Publish Date: July 16, 2020