



Council Agenda Report

Adjourned Meeting
09-29-20

**Item
3.B.10.**

To: Mayor Pierson and Honorable Members of the City Council

Prepared by: Bonnie Blue, Planning Director

Approved by: Reva Feldman, City Manager

Date prepared: September 17, 2020 Meeting Date: September 29, 2020

Subject: Initiate Zoning Text Amendment to Extend Deadlines for Nonconforming In-kind Disaster Rebuild Projects

RECOMMENDED ACTION: 1) Adopt Resolution No. 20-52 initiating a zoning text amendment (ZTA) to Chapter 17.60 (Nonconforming Uses and Structures) of the Malibu Municipal Code (MMC) to add one year to the deadlines in subsection (C) to initiate the application process and obtain building permits to rebuild a legal nonconforming structure that was damaged or destroyed pursuant to a planning verification; and 2) Direct the Planning Commission to schedule a public hearing regarding the same.

FISCAL IMPACT: There is no fiscal impact associated with the recommended action.

WORK PLAN: This project was included as Item 2a in the Adopted Work Plan for Fiscal Year 2020-2021.

DISCUSSION: In order to consider a change in the text of the Zoning Ordinance (MMC Title 17) on its own initiative, the Council must adopt a resolution of intention (see MMC Section 17.74.020). The resolution gives notice that the Council will consider a particular change and directs the Planning Commission to hold a public hearing and to make a recommendation.

Following the Woolsey Fire of November 9, 2018, the City amended MMC Chapter 17.60 (Nonconforming Structures) to facilitate a streamlined permitting process for rebuilding for fire victims. The amendments updated the Planning Verification process to allow a period of two years for fire victims to apply and four years to obtain a building permit to replace nonconforming structures in-kind in the same location on the site and at the same height, without having to bring them into conformance with current codes.

On August 24, 2020, the Council discussed delays that Woolsey Fire victims are experiencing in rebuilding their homes, or even initiating the process, such as difficulties

resolving insurance claims and the impacts of the COVID-19 pandemic. Despite the streamlined process created by the code amendments, at this time, with the two-year anniversary of the fire less than two months away, only approximately 50 percent of destroyed homes have initiated the rebuilding application process. It is expected that many property owners will seek an extension from the Planning Commission.

On September 14, 2020, the Council considered whether to initiate an amendment to change the extension process. Instead, Council directed staff to initiate the subject amendment to add one year to the two- and four-year deadlines of Section 17.60.020(C). The revised text would read as follows, added text underlined and deleted text ~~stricken~~:

C. Any structure described in subsection A of this section, may be remodeled, or may be reconstructed in the general location and to the same height as it existed prior to damage or destruction, subject to obtaining planning verification and provided that the application for the reconstruction is initiated with the city within threetwo years of the date of damage or destruction, and a building permit is diligently pursued and obtained within fivefour years from the date of damage or destruction and has not expired. A request for an extension of time to the two year or four year periods may be granted by the planning commission where it finds, based on substantial evidence, that due to unusual circumstances, strict compliance with the two or four year limit creates an undue hardship. Extensions may not total more than sixfive years. Any reconstruction shall extend the termination date described in Section [17.60.040](#) for the use operating within such a structure.

It is important to note that this amendment does not affect the fee waiver deadlines adopted by the Council in Resolution No. 20-32.¹

STAFF FOLLOW-UP: If approved, staff will prepare an agenda report and proposed ordinance, including any environmental review required, submit to ZORACES (if directed), and notice the matter for a public hearing before the Planning Commission.

ATTACHMENT: Resolution No. 20-52

¹ Resolution No. 20-32 states that primary residents of properties destroyed in the Woolsey Fire must meet the following deadlines in order to qualify for a fee waiver: 1) application for fee waiver is received by December 30, 2020, 2) all required Planning applications are deemed complete by December 30, 2020, and 3) all required building permits are pulled by June 30, 2021. The resolution states that in no case shall any fees be waived after June 30, 2021.

RESOLUTION NO. 20-52

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MALIBU INITIATING A ZONING TEXT AMENDMENT TO CHAPTER 17.60 (NONCONFORMING USES AND STRUCTURES) OF THE MALIBU MUNICIPAL CODE TO ADD ONE YEAR TO THE DEADLINES IN SUBSECTION (C) TO INITIATE THE APPLICATION PROCESS AND OBTAIN BUILDING PERMITS TO REBUILD A LEGAL NONCONFORMING STRUCTURE THAT WAS DAMAGED OR DESTROYED PURSUANT TO A PLANNING VERIFICATION

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

SECTION 1. Initiation.

Pursuant to Malibu Municipal Code (MMC) Chapter 17.74, the City Council hereby initiates an amendment to MMC Chapter 17.60 (Nonconforming Uses and Structures) pertaining to administrative approval of extensions for in-kind disaster rebuild projects.

SECTION 2. Planning Commission Hearing.

The Planning Commission is hereby directed to conduct a duly noticed public hearing in accordance with the provisions of MMC Chapter 17.74. Following the public hearing, the Planning Commission shall recommend to the City Council whether it should approve, modify or deny the proposed amendment. The Planning Commission's recommendation shall be made by resolution carried by the affirmative vote of not less than the majority of the entire Planning Commission.

SECTION 3. The City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

PASSED, APPROVED and ADOPTED this 29th day of September 2020.

MIKKE PIERSON, Mayor

ATTEST:

HEATHER GLASER, City Clerk
(seal)

APPROVED AS TO FORM:

THIS DOCUMENT HAS BEEN REVIEWED
BY THE CITY ATTORNEY'S OFFICE

CHRISTI HOGIN, City Attorney