



Commission Agenda Report

Planning Commission
Meeting
03-21-22

**Item
3.B.2.**

To: Chair Hill and Members of the Planning Commission

Prepared by: Rebecca Evans, Administrative Assistant

Approved by: Richard Mollica, Planning Director

Date prepared: March 10, 2022 Meeting date: March 21, 2022

Subject: Approval of Minutes

RECOMMENDED ACTION: Approve the minutes of the March 7, 2022 Regular Planning Commission meeting.

DISCUSSION: Staff has prepared draft minutes for the above-referenced Planning Commission meeting and hereby submits the minutes for the Commission's consideration.

ATTACHMENTS: March 7, 2022 Regular Planning Commission Meeting Minutes

MINUTES
MALIBU PLANNING COMMISSION
REGULAR MEETING
MARCH 07, 2022
TELECONFERENCED – VARIOUS LOCATIONS
6:30 P.M.

CALL TO ORDER

Chair Hill called the meeting to order at 6:31 p.m.

ROLL CALL

The following persons were recorded in attendance by the Recording Secretary:

PRESENT: Chair Kraig Hill, Vice Chair Dennis Robert Smith, and Commissioners Jeffrey Jennings, John Mazza, and Mark Wetton

ALSO PRESENT: Trevor Rusin, Assistant City Attorney; Richard Mollica, Planning Director; Adrian Fernandez, Assistant Planning Director; Tyler Eaton, Associate Planner; Joyce Parker-Bozylinski, Contract Planner; Patricia Salazar, Senior Administrative Analyst; and Rebecca Evans, Recording Secretary

APPROVAL OF AGENDA

MOTION Commissioner Mazza moved and Commissioner Jennings seconded a motion to approve the agenda with Item Nos. 3B1 and 5B continued to a date uncertain and Item Nos. 3B2 and 5A continued to March 21, 2022.

The question was called and the motion carried unanimously.

REPORT ON POSTING OF AGENDA

Recording Secretary Evans reported that the agenda for the meeting was properly posted on February 25, 2022.

ITEM 1 CEREMONIAL/PRESENTATIONS

None.

ITEM 2.A. PUBLIC COMMENTS

Bill Sampson stated that Commissioner Jennings should recuse himself from hearings if the project owner is related to the City Councilmember who appointed him.

Jo Drummond expressed concern regarding the 6244 Busch Drive Woolsey Fire rebuild project because the applicant is not the original owner, the project seems to have been fast-tracked and it abuts an Environmentally Sensitive Habitat Area.

ITEM 2.B. COMMISSION / STAFF COMMENTS

Commissioner Mazza stated Malibu still has a car show problem on Pacific Coast Highway (PCH) and in the shopping centers. He stated seven tickets were given by the California Highway Patrol within a two-mile section today. He commented that non-permitted events are becoming the standard, perhaps because the fines attached to violations are too low.

Commissioner Hill stated that he would like greater context on future consent items. He noted that there is a new, 45-foot-tall palm tree on PCH at Sea Gull Way between Latigo and Escondido next to, or possibly in, the right of way of the highway and he asked if it was approved before the Fire-Resistant Landscaping Ordinance. He stated that one resident was having difficulties with a Woolsey Fire rebuild plus 10% because they are changing their building pad. He asked Planning Director Mollica to clarify if the footing had to be specifically matched. He stated that he had not yet heard back from the California Coastal Commission (CCC) regarding a presentation on sea level rise, commented on the CCC's recent discussion on flooding and provided a list of future considerations for a sea level rise policy.

Commissioner Mazza agreed that sea level rise is a concern. He stated that in Hawaii if a wave goes over your property the state immediately takes ownership.

Commissioner Wetton stated that concern about noise on PCH from motorcycles and hot rods, especially on weekends. He recommended that when DUI checks are conducted, law enforcement check for violations that require a fix-it ticket, like exhaust modifications. He stated that this practice would send a strong message. He reiterated that street racing with excessive noise will not be tolerated in Malibu. He inquired about the legal basis for Accessory Dwelling Unit (ADU) ordinances and added that the State Attorney General has a task force currently looking into whether these adopted ADU ordinances are legal.

Assistant City Attorney Rusin noted that the City-adopted ADU ordinance is required to be submitted to the California Department of Housing and Community Development to be deemed compliant with State law and further discussion will occur on this matter when the agenda item is called.

Commissioner Hill agreed that noise on PCH is a major irritant to residents.

Commissioner Mazza noted that the City of Laguna Beach adopted an effective sound ordinance and declared themselves to be a quiet zone.

Vice Chair Smith concurred with comments made about car shows and noise concerns in the City. He also commented that the live camera feed of the Big Bear bald eagle nest offers a bright spot. There is a thriving eaglet and one egg in the nest.

The Commissioners congratulated Planning Director Mollica on the birth of his daughter.

Commissioner Mazza asked for clarification on view blockages because he recently heard that there are story poles up on some Woolsey Fire rebuilds.

In response to Chair Hill, Planning Director Mollica stated that he will follow up with code enforcement staff on the palm tree issue. He apologized for the numerous continuances due to the Malibu Times failure to publish public hearing notices which are the reasons for the continuance for Item Nos. 3.B.2. and Item 5.A. Item No. 3.B.1 will be pulled due to the project's proximity to Environmental Sensitive Habitat Area (ESHA), which requires a variance and public hearing. He added that the development associated with the planning verification and administrative plan review were approved and given the scope of the project, it met the exemption criteria in the Local Coastal Program.

In response to the Commissioners' comments regarding the unpermitted car shows occurring on the weekend, Planning Director Mollica stated that staff was in the field over the weekend with a drone to capture traffic and congestion created by car shows. He stated the level of issues experienced two weeks ago did not exist last weekend and staff is following up with the shopping center owners this week.

In response to Chair Hill, Planning Director Mollica stated that based on the Woolsey Fire rebuild guidance from the CCC, a rebuild within the same general flat area, that does not require grading, and is in conformance with the applicable City's Zoning Ordinances, can be approved by the Planning Director. Additionally, with regards to height, the Planning Director has the authority to approve construction up to 18 feet in height from natural or finished grade, whichever is lower if it meets all requirements for an exemption to the Local Coastal Program without the need of a public notice.

In response to Commissioner Mazza, he clarified that the City Council adopted an ordinance to place a hold on obtaining a new primary view determination if the property has views through fire affected parcels. He stated when new construction

is proposed over 18 feet Planning Department staff has been informing neighbors through the public notice process and further explained the site plan review process.

Commissioner Mazza stated that some shopping centers have had multiple unpermitted car shows and questioned if these counted against the six temporary use permits allowed per parcel.

Planning Director Mollica confirmed that last summer the City counted unpermitted events towards the limit of temporary use permits allowed and the City attempted to work with shopping center owners on traffic flows. He stated that this year, shopping center owners have said that these events are not sponsored by the centers and the centers claim that they do not have control or the ability to mitigate the traffic nuisance. However, as mentioned, staff is following up with the two shopping center owners.

ITEM 3 CONSENT CALENDAR

The Consent Calendar consisted of the following items:

A. Previously Discussed Items

1. Resolutions Approving Time Extension Requests to Submit a Planning Verification for Nonconforming Structures and Uses Damaged or Destroyed in the Woolsey Fire Previously Considered by the Planning Commission

Staff Contact: Senior Administrative Analyst Salazar, 456-2489, ext. 245
Recommended Action: 1) Adopt Resolution No. 22-21 granting a two-year extension to submit a planning verification for nonconforming structures and uses damaged or destroyed in the Woolsey Fire for the property located at 5418 Horizon Drive (Poole); 2) Adopt Resolution No. 22-22 granting a two-year extension to submit a planning verification for nonconforming structures and uses damaged or destroyed in the Woolsey Fire for the property located at 29350 Heathercliff Road (Good); 3) Adopt Resolution No. 22-23 granting a two-year extension to submit a planning verification for nonconforming structures and uses damaged or destroyed in the Woolsey Fire for the property located at 6800.5 Westward Beach Road (County of Los Angeles, Department of Beach and Harbors); 4) Adopt Resolution No. 22-24 granting a two-year extension to submit a planning verification for nonconforming structures and uses damaged or destroyed in the Woolsey Fire for the property located at 5878 Deerhead Road (Helaina Properties, LLC); 5) Adopt Resolution No. 22-25 granting a one-year extension to submit a planning verification for nonconforming structures and uses damaged or destroyed in the Woolsey Fire for the property located

at 29636 Cuthbert Road (Genevieve Labean Intervivos Trust); 6) Adopt Resolution No. 22-26 granting a one-year extension to submit a planning verification for nonconforming structures and uses damaged or destroyed in the Woolsey Fire for the property located at 29715 Cuthbert Road (Surf Dog, LLC); 7) Adopt Resolution No. 22-27 granting a two-year extension to submit a planning verification for nonconforming structures and uses damaged or destroyed in the Woolsey Fire for the property located at 5246 Horizon Drive (Yavrouian); 8) Adopt Resolution No. 22-28 granting a one-year extension to submit a planning verification for nonconforming structures and uses damaged or destroyed in the Woolsey Fire for the property located at 4615 Via Vienta Street (Kostman); 9) Adopt Resolution No. 22-29 granting a two-year extension to submit a planning verification for nonconforming structures and uses damaged or destroyed in the Woolsey Fire for the property located at 6760 Dume Drive (Wolfsdorf); and 10) Adopt Resolution No. 22-30 granting a one-year extension to submit a planning verification for nonconforming structures and uses damaged or destroyed in the Woolsey Fire for the property located at 6351 Kanan Dume Drive (Patricia Pascucci Brown Trust).

MOTION Commissioner Mazza moved and Vice Chair Smith seconded a motion to adopt staff's recommendation.

The question was called and the motion carried unanimously.

B. New Items

1. De Minimis Waiver No. 21-016 — An application for a new onsite wastewater treatment system for a Woolsey Fire affected parcel
Location: 6244 Busch Drive, partially within the appealable coastal zone
APN: 4467-029-021
Owners: Tyler and Bridgette Muir
Case Planner: Contract Planner Shah, 456-2489, ext. 385
Recommended Action: Receive and file the Planning Director's report on De Minimis Waiver No. 21-016 for a new onsite wastewater treatment system for a Woolsey Fire affected parcel.

This item was continued to a date uncertain upon approval of the agenda.

2. Extension of Coastal Development Permit No. 15-057 – A request to extend the Planning Commission's approval of an application for the construction of an underground soldier pile wall
Location: 25000 Pacific Coast Highway / APN 4458-015-009

25040 Pacific Coast Highway / APN 4458-015-007
Owners: Malibu 2018 PCH LP and 25000 PCH LLC
Case Planner: Associate Planner Eaton, 456-2489, ext. 273
Recommended Action: Continue the item to the March 21, 2022 Regular Planning Commission meeting.

This item was continued to the March 21, 2022 Regular Planning Commission meeting upon approval of the agenda.

ITEM 4 CONTINUED PUBLIC HEARINGS

- A. Local Coastal Program Amendment No. 18-002 and Zoning Text Amendment No. 18-004 - An amendment to the Local Coastal Program and Title 17 (Zoning) of the Malibu Municipal Code to Update Regulations Related to Accessory Dwelling Units (Continued from January 18, 2022)

Applicant: City of Malibu

Location: Citywide

Case Planner: Associate Planner Eaton, 456-2489, ext. 273

Recommended Action: Adopt Planning Commission Resolution No. 22-08 determining the amendments are exempt from the California Environmental Quality Act, and recommending that the City Council approve Local Coastal Program Amendment No. 18-002 and Zoning Text Amendment No. 18-004 for an amendment to the Local Coastal Program and to the Malibu Municipal Code Title 17 (Zoning) to update regulations related to Accessory Dwelling Units.

MOTION

Commissioner Mazza moved and Chair Hill seconded a motion to continue the the public hearing to a date uncertain and refer the item back to staff to provide further discussion on the following items prior to the opening of a public hearing on the Accessory Dwelling Unit (ADU) ordinance: 1) Explanation of the legal mandate for an ADU Ordinance; 2) Recommend that the City Council refer the item to the Public Safety Commission for consideration of updates to the evacuation plan; 3) Legal explanation of why the proposed ordinance is exempt from the California Environmental Quality Act; 4) Legal discussion on consistency with the General Plan, slow growth density, rural character and other issues contained in the General Plan and Malibu Municipal Code (MMC); 5) Conduct a traffic study on the impact of additional traffic on Pacific Coast Highway; 6) Explanation of the contention that the MMC allows ADUs including the fact that guest houses currently cannot be rented, do not allow kitchens and second units require a Coastal Development Permit unless they are not ADUs; 7) Explanation of why Malibu must come into compliance with parking and other key standards since Malibu is not covered by State ADU laws due to the fact that the entire City is in the high fire hazard severity zone; 8) Comparison of north Los Angeles County Coastal Plan amendment adopted by

the Coastal Commission including a discussion of exclusion zones which has not been discussed; 9) Explanation of why staff states that Senate Bill (SB) 9 and State ADU laws have any relevance to requirements of the City’s Land Use Plan and the necessity to follow either law, Malibu being exempt; 10) Explanation of why ADU and Junior ADU laws will continue to apply to eligible properties; 11) Explanation of why the MMC must be amended to comply with State standards and ministerial processes consistent with the ADU law; 12) Explanation of why the Coastal Commission guidance memo is purported to require ADUs given the fact that only Malibu can amend its Local Coastal Program; 13) Explanation of why habitable floor area is considered rather than total development square footage (TDSF); 14) An analysis by the Los Angeles County Waterworks District 29 on the availability of water that can be allocated to new ADUs; 15) An account of all of the lots that could be used for ADUs and the services required by the City to service these ADUs, given the fact that the staff report states that no parcel in Malibu meets the baseline standard for an ADU; 16) An analysis on the effect on school population and the use of City sports facilities; 17) An estimate of the policing costs involved with additional ADUs; 18) An analysis of the low-income housing requirements and the projected rental rates in relationship to the intent of the ADU law; 19) An estimate of future compliance costs incurred by the City; 20) An explanation of why ADU decisions cannot be appealed to the City Council; 21) An analysis of the factors considered in recommending a sixteen-foot height for potential two stories; 22) Potential area analysis for where ADUs are not appropriate as the County has done and adopted; 23) An explanation of why fire exit regulations have been recommended to change County requirements from a highway to a road and why lack of two accesses is not prohibited on ADUs; 24) A determination of how many Woolsey Fire projects have placed 1,200 square-foot mobile units with the intent of converting them to ADUs and why 1,200 bedroom units are required to be allowed; and 25) Provide comments on the ADA requirements for parking spaces and the half mile exemption from public transit.

The question was called and the motion carried 3-2, Commissioner Jennings and Vice Chair Smith dissenting.

ITEM 5 NEW PUBLIC HEARINGS

A. Coastal Development Permit No. 20-052 – An application for the construction of a new swimming pool, spa, onsite wastewater treatment system and other site improvements

Location: 6800 Wildlife Road, within the appealable coastal zone
APN: 4466-005-004
Owner: 6800 Wildlife LLC

Case Planner: Contract Planner Shah, 456-2489, ext. 385
Recommended Action: Continue the item to the March 21, 2022 Regular Planning Commission meeting.

This item was continued to the March 21, 2022 Regular Planning Commission meeting upon approval of the agenda.

B. Coastal Development Permit-Woolsey Fire No. 18-022, Variance No. 22-003, and Lot Merger No. 18-004 – An application for a 1,166 square foot addition to a previously approved fire rebuild residence, 792 square foot detached garage/workshop, swimming pool, spa, an onsite wastewater treatment system, lot merger to combine two lots, and exterior site improvements

Location: 29846 Harvester Road, not within the appealable coastal zone

APNs: 4469-013-033 and 4469-013-034

Owner: Jean-Fabrice Brunel

Case Planner: Senior Planner Thompson, 456-2489, ext. 280

Recommended Action: Adopt Planning Commission Resolution No. 22-10 determining that the project is categorically exempt from the California Environmental Quality Act and approving Coastal Development Permit–Woolsey Fire No. 18-022 to allow for the construction of a 1,166 square foot addition to a destroyed single-family residence approved under Planning Verification-Woolsey Fire No. 19-274; 792 square foot detached garage/workshop, swimming pool, spa, pool equipment, retaining walls, grading, onsite wastewater treatment system, driveway reconfiguration and other associated development; including Variance No. 22-003 for construction on slopes steeper than 2.5 to 1 and Lot Merger No. 18-004 to combine the two adjacent vacant lots (APNs 4469-013-033 and 4469-013-034) located in the Rural Residential, Two-Acre zoning district at 29846 Harvester Road (Brunel).

This item was continued to a date uncertain upon approval of the agenda.

ITEM 6 OLD BUSINESS

None.

ITEM 7 NEW BUSINESS

None.

ITEM 8 PLANNING COMMISSION ITEMS

None.

ADJOURNMENT

MOTION At 7:30 p.m., Commissioner Mazza moved and Commissioner Wetton seconded a motion to adjourn the meeting. The question was called, and the motion carried unanimously.

Approved and adopted by the Planning Commission
of the City of Malibu on March 21, 2022.

KRAIG HILL, Chair

ATTEST:

REBECCA EVANS, Recording Secretary