Commission Agenda Report

Planning Commission
Special Meeting
03-14-23
Item 1.A.

To: Chair Smith and Members of the Planning Commission

Prepared by: Tyler Eaton, Senior Planner
Joyce Parker-Bozylinski, Contract Planner

Approved by: Richard Mollica, Planning Director

Date prepared: March 8, 2023 Meeting date: March 14, 2023

Subject: 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 March 6, 2023)

Applicant: City of Malibu
Location: Citywide

RECOMMENDED ACTION: Adopt Planning Commission Resolution No. 23-12 (Attachment A) recommending that the City Council approve Local Coastal Program Amendment (LCPA) No. 18-002 and Zoning Text Amendment (ZTA) No. 18-004 for an amendment to the Local Coastal Program and to the Malibu Municipal Code to update regulations related to Accessory Dwelling Units.

DISCUSSION: This item was publicly noticed for the March 6, 2023 Regular Planning Commission meeting. However, the meeting was adjourned at 10:30 p.m., and as such, the Commission continued the item to a special meeting. Planning Commission Resolution No. 23-12 has been updated to reflect the continuance to the March 14, 2023 Special Planning Commission meeting (Attachment A). Correspondence received for the March 6, 2023 Planning Commission meeting is provided in Attachment B. The March 6, 2023 Planning Commission Agenda Report (Attachment C) has not been changed.

ATTACHMENTS:

A. Planning Commission Resolution No. 23-12 with Exhibits 1 (LCPA) and 2 (ZTA)
B. Correspondence Received for the March 6, 2023 Planning Commission meeting
C. March 6, 2023 Planning Commission Agenda Report

CITY OF MALIBU PLANNING COMMISSION
RESOLUTION NO. 23-12

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MALIBU DETERMINING THE AMENDMENTS ARE EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, AND RECOMMENDING THAT THE CITY COUNCIL APPROVE 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

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

Section 1. Recitals.

A. On June 11, 2018, the City Council adopted Resolution No. 18-28 to: 1) initiate Local Coastal Program (LCP) Amendment No. 18-002 and Zoning Text Amendment (ZTA) No. 18-004, to update accessory dwelling unit regulations consistent with State law, and 2) direct the Planning Commission to schedule a public hearing regarding the ZTA and provide a recommendation to the Council whether to approve, modify, or reject the amendment.

B. On July 17, 2018, the Zoning Ordinance Revision and Code Enforcement Subcommittee (ZORACES) met to discuss the proposed amendments to the MMC and LCP and recommended that the City's existing second unit regulations be updated consistent with Accessory Dwelling Unit State law.

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

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

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

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

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

H. On April 6, 2020, the Planning Commission continued the public hearing to a date uncertain.

I. On May 20, 2021, the Planning Commission held a duly noticed public hearing on the proposed ADU amendments. The Planning Commission provided direction to staff and requested additional information.

J. On November 11, 2021, a Notice of Planning Commission Public Hearing and Notice of Availability of LCP Documents was published in a newspaper of general circulation within the City of Malibu and mailed to interested parties.

K. On December 6, 2021, the Planning Commission continued the public hearing to the January 18, 2022 Regular Planning Commission meeting.

L. On January 18, 2022, the Planning Commission continued the public hearing to the March 7, 2022 Regular Planning Commission meeting.

M. On March 7, 2022, the Planning Commission continued the public hearing to a date uncertain. The Planning Commission provided direction to staff and requested additional studies and referrals.

N. On August 22, 2022, the City Council discussed the additional studies and referrals requested by the Planning Commission and directed staff to 1) minimize changes to the Local Coastal Program by utilizing most of the existing second unit regulations, which currently protect coastal resources and public access, to revise the proposed ADU ordinance, and 2) refer the item back to the Planning Commission without the requested studies or referrals since they wouldn't be needed at this time if the City utilizes current second unit regulations in the ADU ordinance.

O. On February 9, 2023, a Notice of Planning Commission Public Hearing and Notice of Availability of LCP Documents was published in a newspaper of general circulation within the City of Malibu and mailed to interested parties.

P. On March 6, 2023, prior to the opening of a public hearing, the Planning Commission continued the public hearing to the March 14, 2023 Special Planning Commission meeting.

Q. On March 14, 2023, the Planning Commission held a duly noticed public hearing on the proposed ADU amendments on LCPA 18-002 and ZTA No.18-004, reviewed and considered the agenda report, reviewed and considered written reports, public testimony, and other information on the record.

Section 2. Environmental Review.

Pursuant to Public Resources Code Section 21080.9, California Environmental Quality Act (CEQA) does not apply to activities and approvals by the City as necessary for the preparation and

adoption of an LCP amendment. This application is for an amendment to the LCP, which must be certified by the California Coastal Commission (CCC) before it takes effect. LCP 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 inconsistency between the LCP and the City's Zoning Ordinance, if the LCP amendment is approved, the City must also approve the corollary amendment to the Zoning Ordinance. This amendment is necessary for the preparation and adoption of the LCPA and because they are entirely dependent on, related to, and duplicative of the exempt activity, they are subject to the same CEQA exemption.

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

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

Section 3. Local Coastal Program Findings.

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

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

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

Section 4. Zoning Text Amendment Findings.

Pursuant to Malibu Municipal Code 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 A of this resolution.

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

B. The Planning Commission held a public hearing, reviewed the subject zoning text amendment application for compliance with the City of Malibu General Plan, Malibu Municipal Code and the Malibu Local Coastal Program, and finds that the zoning text amendment is consistent and recommends approval.

Section 5. Planning Commission Action.

Based on the foregoing findings and evidence contained in the record, the Planning Commission hereby recommends that the City Council approve the Local Coastal Program and Zoning Text Amendments contained in "EXHIBIT A" and "EXHIBIT B".

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

PASSED, APPROVED AND ADOPTED this 14th day of March 2023.

_____
DENNIS R. SMITH, Planning Commission Chair

ATTEST:

_____
REBECCA EVANS, Recording Secretary

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

I CERTIFY THAT THE FOREGOING RESOLUTION NO. 23-12 was passed and adopted by the Planning Commission of the City of Malibu at the regular meeting thereof held on the 14th day of March 2023, by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

_____
REBECCA EVANS, Recording Secretary

LOCAL COASTAL PROGRAM LAND USE PLAN

CHAPTER 3—MARINE AND LAND RESOURCES

g. New Development

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

a. Minimizing grading and landform alteration, consistent with Policy 6.8.

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

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

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

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

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

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

CHAPTER 5—NEW DEVELOPMENT

2. Land Use Plan Provisions

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

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

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

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

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

The LUP policies require that land divisions minimize impacts to coastal resources and public access. Land divisions include subdivisions through parcel or tract map, lot line adjustments, and certificates of compliance. Land divisions are only permitted if they are approved in a coastal development permit. A land division cannot be approved unless every new lot created would contain an identified building site that could be developed consistent with all policies of the LCP. Land divisions must be designed to cluster development, to minimize landform alteration, to

minimize site disturbance, and to maximize open space. Any land division resulting in the creation of additional lots must be conditioned upon the retirement of development credits (TDCs) at a ratio of one credit per new lot created. Certificates of compliance must meet all policies of the LCP.

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

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

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

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

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

6. Residential Development Policies

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

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

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

square feet (two-car) maximum. The area of a garage provided as part of an ~~second residential unit~~ accessory dwelling unit or guest house shall not be included in the 900 or 1,200 square foot limit, respectively.

5.23 ~~A minimum of o~~ One onsite enclosed or unenclosed parking space shall be required for the exclusive use of an ~~any second residential unit~~ accessory dwelling unit or guest house.

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

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

LOCAL IMPLEMENTATION PLAN

CHAPTER 2—DEFINITIONS

2.1. GENERAL DEFINITIONS

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

1. An efficiency unit, as defined in Section 17958.1 of the California Health and Safety Code and the California Building Code; and

2. A manufactured home, as defined in Section 18007 of the California Health and Safety Code.

ACCESSORY DWELLING UNIT, ATTACHED - an accessory dwelling unit that is physically attached to the primary dwelling unit and share an interior wall or as an additional story above the primary dwelling unit, but which has independent, direct access from the exterior.

ACCESSORY DWELLING UNIT, DETACHED - an accessory dwelling unit that is not an attached accessory dwelling unit.

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

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

JUNIOR ACCESSORY DWELLING UNIT - a residential unit that

1. is no more than 500 square feet in size;

2. is contained entirely within an existing or proposed single-family structure;

3. has a separate exterior entrance;

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

5. includes an efficiency kitchen.

KITCHEN, INCLUDING AN EFFICIENCY KITCHEN - an area within a structure that is used or designed to be used for the preparation or cooking of food and that contains each of the following:

1. A cooking facility with appliances including, but not limited to: ovens, convection ovens, stoves, stove tops, built-in grills or similar appliances.

2. A food preparation counter or counters that total at least 15 square feet in area.

3. Food storage cabinets that total at least 30 square feet of shelf space.

~~KITCHEN - a room or space within a building intended to be used for the cooking and preparation of food.~~

LIVING AREA - the interior habitable area of a dwelling unit, including finished basements ~~and~~ or attics but does not include unfinished basements or attics, rooms with floor to ceiling heights less than 6 feet, ~~with a~~ garages or accessory structures.

MULTI-FAMILY RESIDENCE - a building or portion thereof used for occupancy by ~~three~~ two or more families living independently of each other and containing ~~three~~ two or more dwelling units. This does not apply to a primary residence and an ADU or guest house on the same parcel.

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

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

~~SECOND UNIT - an attached or detached residential dwelling unit which provides complete independent living facilities for one or more persons. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single family dwelling is situated. The maximum living area of a second unit shall not exceed nine hundred (900) square feet, including any mezzanine or storage space. A second unit 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~~

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

VERY HIGH FIRE HAZARD SEVERITY ZONE - a zone as defined in Government Code 51177 and designated by Ordinance 299.

WET BAR - a single sink and refrigerator no greater than 5 cubic feet in size with cabinets and/or counter top area not exceeding 6 lineal feet. A wet bar shall not include a refrigerator in excess of 5 cubic feet in size or a kitchen sink greater than 2 square feet in size, or a gas or electric range, stove top and/or oven (but may include a microwave oven).

CHAPTER 3—ZONING DESIGNATIONS AND PERMITTED USES

Q. Planned Development (PD) Zone

1. Purpose

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

2. Permitted Uses

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

a. Lot Nos. 1—5

i. One single-family residence per lot.

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

iii. Accessory dwelling units in accordance with Section 3.10.

~~iii.~~ iv. Domestic animals, kept as pets.

~~iv.~~ v. Landscaping.

b. Lot No. 6

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

c. Lot No. 7

i. Parks and public open space, excluding community centers.

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

iii. Onsite wastewater treatment facilities.

3. Lot Development Criteria

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

a. Lot Nos. 1—5

i. Minimum lot area: 113,600 square feet (2.60 acres).
ii. Minimum lot width: 115 feet.
iii. Minimum lot depth: 480 feet.

b. Lot No. 6

i. Minimum lot area: 125,700 square feet (2.88 acres).
ii. Minimum lot width: 625 feet.
iii. Minimum lot depth: 100 feet.

c. Lot No. 7

i. Minimum lot area: 75,640 square feet (1.74 acres).
ii. Minimum lot width: 460 feet.
iii. Minimum lot depth: 100 feet.

4. Property Development and Design Standards

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

a. Lot Nos. 1—5

i. Development Footprint and Structure Size (Replaces corresponding standards in LIP Section 3.6(K))

a) The total development square footage (TDSF) on each of Lot Nos. 1—5 shall not exceed the following square footage per lot:

Lot 1 – 10,052 sq. ft.
Lot 2 – 9,642 sq. ft.
Lot 3 – 9,434 sq. ft.
Lot 4 – 9,513 sq. ft.
Lot 5 – 10,990 sq. ft.

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

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

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

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

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

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

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

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

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

a) Every residence and every other building or structure associated with a residential development (excluding chimneys), including satellite dish antenna, solar panels and rooftop equipment, shall not be higher than eighteen (18) feet, except the easternmost approximately 2,500 sq. ft. of the residence

on Lot 2 and the southwestern corner of the residence on Lot 5 shall not be higher than 15 feet, as indicated on "Malibu Coast Estate Planned Development Map 1" of this LIP. Height is measured from natural or finished grade, whichever is lower.

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

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

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

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

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

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

v. Impermeable Coverage, Landscaping, and Berm

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

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

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

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

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

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

c) For an accessory dwelling unit see Section 3.10.

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

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

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

viii. Permit Required

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

3.6. RESIDENTIAL DEVELOPMENT STANDARDS

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

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

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

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

E. thru M. – no changes

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

~~1. Second Residential Units~~

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

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

~~c. Development Standards~~

~~i. Siting~~

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

~~ii. Maximum Living Area~~

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

~~iii. Parking~~

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

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

1. Guest houses

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

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

c. Development Standards

i) Siting. Any permitted guest house shall be located within the approved development area for the project site and shall be clustered with the primary dwelling unit and any other approved structures to minimize required fuel modification. All guest houses must comply with residential development standards in Section 3.6.

ii) Maximum Size. The maximum square footage of a guest house shall not exceed 900 square feet. The maximum square footage shall include interior and exterior walls, basements, mezzanines, storage space, and any space with a height clearance (floor to ceiling height dimension) above six feet. The area of a garage provided as part of the guest house, exterior decks, covered patios or overhangs that are attached to the structure shall not be included in the 900 square foot limit. The maximum square footage of a guest house, garage and other attached structures that are otherwise considered total development square footage shall be included in the overall total development square footage for the lot.

iii) A 10-foot separation between the guest house and any other structure shall be maintained if the parcel is within a Very High Fire Hazard Severity Zone.

d. Parking

i) A minimum of one off-street enclosed or unenclosed parking space shall be provided for the exclusive use of a guest house.

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

3.10. ACCESSORY DWELLING UNITS

Accessory Dwelling Units - The following regulations shall apply to accessory dwelling units (ADUs) approved under this section.

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

B. Effect of Conforming. An ADU that conforms to the standards in this section will be:

1. Deemed to be consistent with the City's General Plan and zoning designation for the lot on which the ADU is located.

2. Deemed not to exceed the allowable density for the lot on which the ADU is located.

3. Considered not to be subject to the application of any local ordinance, policy, or program to limit residential growth.

4. Permitted to maintain a nonconforming zoning condition. For purposes of this paragraph 3.10 B.4, "nonconforming zoning condition" means physical improvement on a property that does not conform with current zoning standards. This does not prevent the City from enforcing compliance with applicable building standards in accordance with Health and Safety Code Section 17980.1

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

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

E. Coastal Development Permit required.

1. An administrative coastal development permit (ACDP) issued in accordance with Section 13.31 shall be required for all detached and attached ADUs and ADUs located inside an existing accessory building including when a legally established accessory structure is demolished and is replaced with a new structure for the purposes of creating an ADU.

2. An ADU or JADU created from habitable space and located entirely within an existing single-family residence which does not change the building envelope is not considered development and does not require an ACDP. Unfinished basements or attics, rooms with floor to ceiling heights less than 6 feet and garages would not be considered habitable space. ADUs located in multifamily dwellings shall require an ACDP.

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

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

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

2. Fire Sprinklers. Fire sprinklers are required in an ADU.

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

4. Rental Rate Reporting. To facilitate the City's obligation to identify adequate sites for housing in accordance with Government Code Sections 65583.1 and 65852.2, and to allow ADUs to count towards the City's Regional Housing Needs Assessment (RHNA) requirements, within 90 days after each yearly anniversary of the issuance of the building permit, the owner will be asked to report the actual rent charged for the ADU during the prior year.

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

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

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

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

b. The ADU must remain an ADU unless City approval is obtained to convert the structure to a different accessory structure.

c. An ADU created cannot be rented for less than 30 days.

d. The ADU is restricted to the approved size.

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

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

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

G. ADU Development Standards. The following development standards apply to ADUs. All requirements of the Malibu LIP that are consistent with the criteria listed below shall remain in effect. If there is a conflict between the standards of this Section 3.10(G) and standards that protect coastal resources, the requirements which are most protective of coastal resources shall prevail.

1. Maximum Size.

a. The maximum square footage of an ADU shall be 1,200 square feet. The maximum square footage shall include interior and exterior walls, basements, mezzanines, storage space, and any space with a height clearance (floor to ceiling height dimension) above six feet. The area of a garage (400 square feet maximum) provided as part of accessory dwelling unit and exterior decks or overhangs that are attached to the structure shall not be included in the 900 or 1,200 square foot limit. The maximum square footage of the ADU, garage, and other attached structures that are otherwise considered total development square footage shall be included in the overall total development square footage for the lot.

b. An ADU that is attached to the primary dwelling is limited to 50 percent of the living area of the existing primary dwelling or 1,200 square feet, whichever is less.

c. Application of TDSF, impermeable coverage, and other development standards may further limit the size of the ADU.

d. The maximum size of an ADU in a converted existing detached accessory structure or primary dwelling shall not exceed the size limits provided in the other paragraphs of this subsection G(1).

2. Height

a. No ADU may exceed 18 feet in height above grade as measured from existing or finished grade, whichever results in the lower building height.

b. Pursuant to Section 13.27 of the Malibu LIP (Site Plan Review), the Director may allow heights up to 24 feet for flat roofs and 28 feet for pitched or sloped roofs. In no event shall the maximum number of stories above grade be greater than two.

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

3. Setbacks.

a. All ADUs remain subject to the setback standards in Section 3.6(F) and (G), as applicable including when a legally established accessory structure is demolished and is replaced with a new structure for the purposes of creating an ADU.

b. Pursuant to Section 13.27 of the Malibu LIP, the Director may grant minor modification permits to reduce setback requirements.

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

5. Parking.

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

b. An ADU may include a garage not to exceed four hundred (400) square feet.

c. For a garage, carport, or covered parking structure that is converted to an accessory dwelling unit, onsite replacement parking spaces shall be required that comply with the minimum number of spaces and dimensions stated in Chapter 17.48.

6. An attached ADU shall not be connected internally to the main residence. A detached ADU shall not be connected internally to any accessory structure except for a garage which serves the ADU.

CHAPTER 13—COASTAL DEVELOPMENT PERMITS

No changes to 13.1 through 13.3

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

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

13.4.1 Exemption for Improvements to Existing Single-Family Residences

A. Improvements to existing single-family residences except as noted below in (B). For purposes of this section, the terms "Improvements to existing single-family residences" includes all fixtures and structures directly attached to the residence and those structures normally associated with a single-family residence, such as garages, swimming pools, fences, storage sheds and landscaping but specifically not including guest houses or ~~accessory self-contained residential units~~ accessory dwelling units.

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

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

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

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

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

or Public Resources Code section 30610(a), increase in height by more than 10 percent of an existing structure and/or any significant non-attached structure such as garages, fences, shoreline protective works or docks.

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

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

13.4.3 Exemption for Other Improvements

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

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

2. Landscaping on the lot.

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

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

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

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

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

improvement to the structure has previously been undertaken pursuant to section (A) above or Public Resources Code section 30610(b), and/or increase in height by more than 10 percent of an existing structure;

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

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

7. Any improvement to a structure which changes the intensity of use of the structure;

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

13.11. PUBLIC HEARING REQUIRED AND PUBLIC COMMENT

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

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

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

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

13.13. ADMINISTRATIVE PERMITS

13.13.1 Applicability

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

1. Improvements to any existing structure;

2. Any single-family dwelling;

3. Lot mergers;

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

5. Water wells.

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

NOTE: Changes are proposed for the Residential land use category only as noted below. No changes are proposed for the other land use categories.

Appendix 1 TABLE B PERMITTED USES

KEY TO TABLE (In addition to a coastal development permit, MCUP, CUP, LFDC, & WTF permits are required pursuant to the Malibu Municipal Code where shown in this table.)	
	Permitted use
MCUP	**Requires the approval of a minor Conditional Use Permit by the Director**
CUP	**Requires the approval of a Conditional Use Permit**
A	**Permitted only as an accessory use to an otherwise permitted use**
LFDC	**Requires the approval of a Large Family Day Care permit**
WTF	**Requires the approval of a Wireless Telecommunications Facility**
STR	**Use requires valid short-term rental permit approved by the City**
	Not permitted (Prohibited)

USE	RR	SF	MF	MFBF	MHR	CR	BPO	CN	CC	CV-1	CV-2	CG	OS	I	PRF	RVP
RESIDENTIAL																
Single-family residential[1]	P	P	P	P	.	.	.	.	.	.	.	.	.	A	.	.
Manufactured homes	P	P	P	P	.	.	.	.	.	.	.	.	.	.	.	.
Multiple-family residential (including duplexes, condominiums, stock cooperatives, apartments, and similar developments)	.	.	CUP[19]	CUP[19]	.	.	.	.	.	.	.	.	.	.	.	.
~~Second~~ Accessory dwelling units	A[22]	A[22]	A[22]	A[22]	.	.	.	.	.	.	.	.	.	.	.	.
Mobile home parks	.	.	.	.	P	.	.	.	.	.	.	.	.	.	.	.
Mobile home park accessory uses (including recreation facilities, meeting rooms, management offices, storage/maintenance buildings, and other similar uses)	.	.	.	.	CUP	.	.	.	.	.	.	.	.	.	.	.
Mobile home as residence during construction	P	P	P	MCUP	.	.	.	.	.	.	.	.	.	.	.	.
Accessory uses (guest ~~units~~ house, garages, barns, pool houses, pools, spas, gazebos, storage sheds, greenhouses (non-commercial), sports courts (non-illuminated), corrals (non-commercial), and similar uses)	A[1]	A[1]	A[1]	A[1]	.	.	.	.	.	.	.	.	.	.	.	.
Residential care facilities (serving 6 or fewer persons)	P	P	P	.	.	.	.	.	.	.	.	.	.	.	.	.
Large residential care facilities (serving 7 or more person	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.
Small residential care facilities (serving 6 or fewer persons)	P	P	P	.	.	.	.	.	.	.	.	.	.	.	.	.
Single Room Occupancy Facility	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.
Small family day care (serving 6 or fewer persons)	A	A	A	.	.	.	.	.	.	.	.	.	.	.	.	.
Large family day care (serving 7 to 12 persons)	LFDC	LFDC	LFDC	.	.	.	.	.	.	.	.	.	.	.	.	.
Home occupations	P/ MCUP [2]	P/ MCUP[2]	P/ MCUP[2]	P/ MCUP[2]	.	.	.	.	.	.	.	.	.	.	.	.
Short-term rental	STR[21]	STR[21]	STR[21]	STR[21]	STR[21]											

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.
6. Maximum interior occupancy of 125 persons.
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. Single-family residence properties are limited to hosted short-term rental permits only; one dwelling unit in a duplex may be rented unhosted if the owner or designated operator lives onsite in the other dwelling unit during the rental period; and for multifamily properties, a maximum of two dwelling units per parcel, or 40%, whichever is less, may be devoted to short-term rental use.
22. Subject to Accessory Development Standards (Section 3.10).

`Title 17

ZONING

Chapters:

17.02 Introductory Provisions and Definitions

17.06 Zoning Districts Established

17.08 RR Rural Residential District

17.10 SF Single Family Density Residential District

17.12 MF Multiple Family Residential District

17.14 MFBF Multifamily Beach Front District

17.39 Malibu Coast Estate Planned Development (PD) District

17.40 Property Development and Design Standards

17.44 Accessory Dwelling Units

17.45 Citywide View Preservation and Restoration

Chapter 17.02

INTRODUCTORY PROVISIONS AND DEFINITIONS

Sections:

17.02.060 Definitions.

As used in this title:

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

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

2. A manufactured home, as defined by Section 18007 of the California Health and Safety Code.

"Accessory Dwelling Unit, attached" means an accessory dwelling unit that is physically connected to the primary dwelling unit and share an interior wall or as an additional story above the primary dwelling unit, but which has independent, direct access from the exterior.

"Accessory Dwelling Unit, detached" means an accessory dwelling unit that is not an attached accessory dwelling unit.

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

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

"Junior Accessory Dwelling Unit" means a residential unit that

1. is no more than 500 square feet in size;

2. is contained entirely within an existing or proposed single-family structure;

3. has a independent exterior entrance, apart from that of the primary dwelling;

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

5. includes an efficiency kitchen.

"Kitchen, including an efficiency kitchen" means an area within a structure that is used or designed to be used for the preparation or cooking of food and that contains each of the following:

1. A cooking facility with appliances including, but not limited to: ovens, convection ovens, stoves, stove tops, built-in grills or similar appliances.

2. A food preparation counter or counters that total at least 15 square feet in area.

3. Food storage cabinets that total at least 30 square feet of shelf space

~~"Kitchen" means a room or space within a building intended to be used for the cooking and preparation of food.~~

"Living area" means the interior habitable area of a dwelling unit, including finished basements ~~and~~ or attics but does not include unfinished basements or attics, rooms with floor to ceiling heights less than 6 feet, ~~with a~~ garages or accessory structures.

"Multi-family residence" means a building or portion thereof used for occupancy by ~~three~~ two or more families living independently of each other and containing two ~~three~~ or more dwelling units. This does not apply to a primary residence and an ADU or guest house on the same parcel.

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

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

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

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

"Very High Fire Hazard Severity Zone" means zone as defined by Government Code 51177 and designated by Ordinance 299.

"Wet Bar" means a single sink and refrigerator no greater than 5 cubic feet in size with cabinets and/or counter top area not exceeding 6 lineal feet. A wet bar shall not include a refrigerator in excess of 5 cubic feet in size or a kitchen sink greater than 2 square feet in size, or a gas or electric range, stove top and/or oven (but may include a microwave oven).

Chapter 17.08

RR RURAL RESIDENTIAL DISTRICT

Sections:

17.08.020 Permitted uses.

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

A. One single-family residence per lot;

B. Small family day care and residential care facilities serving six or fewer persons;

C. Accessory uses and structures as follows:

1. Accessory buildings customarily ancillary to single-family residences including, but not limited to, guest ~~units~~ houses ~~seven hundred fifty (750 square feet maximum~~ in accordance with Section 17.40.040(A)(21), detached garages, barns, pool houses, gazebos, storage sheds, and greenhouses (noncommercial),

2. Recreational structures including, but not limited to, pools, spas, nonilluminated sports courts, and corrals,

3. Domestic animals, kept as pets or for personal use,

4. Raising of crops including, but not limited to, field, trees, bush, berry row and nursery stock, provided there is no retail sale from the premises,

5. Raising of horses, sheep, goats, donkeys, mules and other equine cattle for personal use by residents on the premises, subject to the following conditions:

a. The subject property is a minimum of fifteen thousand (15,000) square feet in size,

b. The maximum number of animals listed above does not exceed one animal (over six months of age) for every five thousand (5,000) square feet of lot area,

c. The animals shall be maintained in an area a minimum of fifty (50) feet from any building used for human habitation;

D. The following agricultural uses; provided, that all buildings or structures used in conjunction therewith shall be located not less than fifty (50) feet from any street or highway or any building used for human habitation:

1. The raising of horses and other equine, cattle, sheep and goats, including the breeding and training of such animals, on a parcel having an area of not less than one acre and provided that not more than eight such animals per acre of the total ground area be kept or maintained in conjunction with such use,

2. The grazing of cattle, horses, sheep or goats on a parcel with an area of not less than five acres, including the supplemental feeding of such animals, provided:

a. That such grazing is not a part of nor conducted in conjunction with any dairy, livestock feed yard, livestock sales yard or commercial riding academy located on the same premises,

b. That no buildings, structures, pens or corrals designed or intended to be used for the housing or concentrated feeding of such stock be used on the premises for such grazing other than racks for supplementary feeding, troughs for watering, or incidental fencing,

3. Raising of poultry, fowl, birds, rabbits, fish, bees and other animals of comparable nature, provided the subject parcel is a minimum of one acre in size,

4. The raising of hogs or pigs, provided:

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

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

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

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

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

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

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

H. Private equestrian and/or hiking trails;

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

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

Chapter 17.10

SF SINGLE FAMILY DENSITY RESIDENTIAL DISTRICT

Sections:

17.10.020 Permitted uses.

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

A. One single-family residence per lot;

B. Small family day care and residential care facilities serving six or fewer persons;

C. Accessory uses and structures as follows:

1. Accessory buildings customarily ancillary to single-family residences including, but not limited to, detached garages, barns, pool houses, gazebos, storage sheds, guest ~~units~~ houses ~~(seven hundred fifty (750) square feet maximum~~) in accordance with Section 17.40.040(A)(21), and greenhouses (noncommercial),

2. Recreational structures including, but not limited to, pools, spas, nonilluminated sports courts, and noncommercial corrals,

3. Domestic animals,

4. Raising of crops including, but not limited to, field, trees, bush, berry row and nursery stock, provided there is no retail sale from the premises,

5. Raising of horses, sheep, goats, donkeys, mules and other equine cattle for personal use by residents on the premises, subject to the following conditions:

a. The subject property is a minimum of fifteen thousand (15,000) square feet in size,

b. The maximum number of animals listed above does not exceed one animal (over six months of age) for every five thousand (5,000) square feet of lot area,

c. The animals shall be maintained in an area a minimum of fifty (50) feet from any building used for human habitation;

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

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

F. Large family day care facilities (serving seven to twelve (12) persons), subject to Section 17.66.110;

G. Temporary placement of mobilehomes and trailers subject to the conditions of Section 17.40.040(A)(18). (Ord. 104 § 2, 1993; Ord. 86 § 3, 1993; prior code § 9221)

Chapter 17.12

MF MULTIPLE FAMILY RESIDENTIAL DISTRICT

Sections:

17.12.020 Permitted uses.

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

A One single-family residence per lot;

B. Small family day care and residential care facilities involving six or fewer persons;

C. Accessory uses and structures as follows:

1. Accessory buildings customarily ancillary to single-family residences including, but not limited to, detached garages, barns, pool houses, gazebos, storage sheds, guest ~~units~~ houses ~~(seven hundred fifty (750) square feet maximum)~~ in accordance with Section 17.40.040(A)(21), and greenhouses (noncommercial),

2. Recreational structures including, but not limited to, pools, spas, nonilluminated sports courts, and corrals,

3. Domestic animals;

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

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

F. Large family day care facilities (serving seven to twelve (12) persons), subject to Section 17.66.110;

G. Temporary placement of mobilehomes and trailers subject to the conditions of Section 17.40.040(A)(18). (Ord. 104 § 2, 1993; Ord. 86 § 3, 1993; prior code § 9231)

Chapter 17.14

MFBF MULTIFAMILY BEACH FRONT DISTRICT

Sections:

17.14.020 Permitted uses.

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

A One single-family residence per lot;

B. Expansion up to five hundred (500) square feet of existing multifamily buildings provided the expansion conforms to the provisions of Chapter 17.40;

C. Accessory uses and structures as follows:

1. Accessory buildings customarily ancillary to single-family and multifamily residences including, but not limited to, detached garages, pool houses, gazebos, storage sheds, guest ~~units~~ houses ~~(seven hundred fifty (750) square feet maximum)~~ in accordance with Section 17.40.040(A)(21),

2. Recreational structures including, but not limited to, pools, spas, nonilluminated sports courts,

3. Domestic animals;

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

E. ~~Second units, pursuant to Government Code Section 65852.2. (Ord. 151 § 11, 1996; prior code § 92362)~~ Accessory dwelling units in accordance with Chapter 17.44.

Chapter 17.39

MALIBU COAST ESTATE PLANNED DEVELOPMENT (PD) DISTRICT

Sections:

17.39.020 Permitted uses.

17.39.040 Property development and design standards.

17.39.020 Permitted uses.

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

A. Lot Nos. 1—5.

1. One single-family residence per lot.

2. Accessory uses (~~one second unit or~~ guest house ~~per lot~~ in accordance with Section 17.40.040(A)(21), garages, swimming pools, spas, pool houses, cabanas, water features, gazebos, storage sheds, private non-illuminated sports courts, noncommercial greenhouses, gated driveways, workshops, gyms, home studios, home offices, and reasonably similar uses normally associated with a single-family residence, as determined by the planning director).

3. Accessory dwelling units in accordance with Chapter 17.44.

4. Domestic animals, kept as pets.

5. Landscaping.

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

C. Lot No. 7.

1. Parks and public open space, excluding community centers.

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

3. Onsite wastewater treatment facilities. (Ord. 398 § 6, 2015)

17.39.040 Property development and design standards.

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

A. Lot Nos. 1—5.

1. Development Footprint and Structure Size (Replaces corresponding standards in LIP Section 3.6(K)).

a. The total development square footage (TDSF) on each of Lot Nos. 1—5 shall not exceed the following square footage per lot:

Lot 1 —10,052 square feet.
Lot 2 —9,642 square feet.
Lot 3 —9,434 square feet.
Lot 4 —9,513 square feet.
Lot 5 —10,990 square feet.

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

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

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

2. Setbacks (Replaces corresponding standards in Section 17.40.040).

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

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

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

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

3. Structure Height (Replaces corresponding standards in Section 17.40.040).

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

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

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

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

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

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

c. Net export shall be limited to three thousand five hundred (3,500) cubic yards per lot.

5. Impermeable Coverage, Landscaping, and Berm.

a. The impermeable coverage requirement in Section 17.40.040 shall apply.

b. In addition to the requirements of Section 17.40.040, site landscaping shall be designed to minimize views of the approved structures as seen from public viewing areas, including the use of native trees to screen approved structures. Landscaping and trees shall be selected, sited, and maintained to not exceed twenty-five (25) feet.

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

6. Parking (In addition to the parking standards of Section 17.40.040.

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

b. For a guest house see Section 17.40.040(A)(21). ~~One enclosed or unenclosed parking space for a guest unit or second unit.~~

c. For an accessory dwelling unit see Chapter 17.44.

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

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

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

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

B. Lot No. 6.

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

2. Setbacks.

a. Buildings, not including projections permitted in Section 17.40.050, shall maintain a minimum setback of fifty (50) feet from all property lines.

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

3. Structure Height.

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

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

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

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

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

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

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

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

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

7. Colors and Lighting.

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

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

C. Lot No. 7.

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

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

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

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

Chapter 17.40

PROPERTY DEVELOPMENT AND DESIGN STANDARDS

Section 17.40.040(A)

21. Guest Houses

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

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

c. Development Standards

1. Siting. Any permitted guest house shall be located within the approved development area for the project site and shall be clustered with the primary dwelling unit and any other approved structures to minimize required fuel modification. All guest houses must comply with residential development standards in Section 17.40.040.

2. Maximum Size. The maximum square footage of a guest house shall not exceed 900 square feet. The maximum square footage shall include interior and exterior walls, basements, mezzanines, storage space, and any space with a height clearance (floor to ceiling height dimension) above six feet. The area of a garage provided as part of the guest house, exterior decks, covered patios, or overhangs that are attached to the structure shall not be included in the 900 square foot limit. The maximum square footage of a guest house, garage, and any other attached structures that are otherwise considered total development square footage shall be included in the overall total development square footage for the lot.

3. A 10-foot separation between the guest house and any other structure shall be maintained if the parcel is within a Very High Fire Hazard Severity Zone.

d. Parking

1. A minimum of one onsite enclosed or unenclosed parking space shall be provided for the exclusive use of a guest house.

2. One garage, attached and solely used for the guest house not to exceed 400 square feet in size may be permitted as part of a guest house.

Chapter 17.44 - ACCESSORY DWELLING UNITS

17.44.010 Title.

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

17.44.020 Purpose.

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

17.44.030 Effect of Conforming.

An ADU or JADU that conforms to the standards in this chapter will be:

A. Deemed to be consistent with the City's General Plan and zoning designation for the lot on which the ADU or JADU is located.

B. Deemed not to exceed the allowable density for the lot on which the ADU or JADU is located.

C. Considered not to be subject to the application of any local ordinance, policy, or program to limit residential growth.

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

17.44.040 Definitions.

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

17.44.050 Permitted Zones.

ADUS and JADUs shall be allowed on lots zoned to allow single-family or multi-family dwelling residential use. These zones include Rural Residential (RR), Single Family (SF), Multi-Family (MF), Multi-Family Beach Front (MFBF), and Planned Development (PD).

17.44.060 Approvals.

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

A. Building-Permit Only. If an ADU or JADU complies with each of the general requirements in section 17.44.080 below, it is allowed with only a building permit in the following scenarios:

1. Converted on Single-family Lot: One ADU as described in this subsection (A)(1) and one JADU on a lot with a proposed or existing single-family dwelling on it, where the ADU or JADU:

   a. Is either: within the space of a proposed single-family dwelling; within the existing space of an existing single-family dwelling; or (in the case of an ADU only) within the existing space of an accessory structure, plus up to 150 additional square feet if the expansion is limited to accommodating ingress and egress; and

   b. Has exterior access that is independent of that for the single-family dwelling; and

   c. Has side and rear setbacks sufficient for fire and safety, as dictated by applicable building and fire codes.

   d. The JADU complies with the requirements of Government Code Section 65852.22.

2. Limited Detached on Single-family Lot: One detached, new-construction ADU on a lot with a proposed or existing single-family dwelling (in addition to any JADU that might otherwise be established on the lot under subsection (A)(1) above if the detached ADU satisfies each of the following limitations:

   a. The side- and rear-yard setbacks are at least four feet.

   b. The total floor area is 800 square feet or smaller.

   c. The peak height above grade does not exceed the applicable height limit in subsection 17.44.090 (B) below.

3. Converted on Multifamily Lot: One or more ADUs within portions of existing multifamily dwelling structures that are not used as livable space, including but not limited to storage rooms, boiler rooms, passageways, attics, basements, or garages, if each converted ADU complies with state building standards for dwellings. Under this subsection (A) (3) at least one converted ADU is allowed within an existing multifamily dwelling, up to a quantity equal to 25 percent of the existing multifamily dwelling units.

4. Limited Detached on Multifamily Lot: No more than two detached ADUs on a lot that has an existing or proposed multifamily dwelling if each detached ADU satisfies both of the following limitations:

   a. The side- and rear-yard setbacks are at least four feet. If the existing multifamily dwelling has a rear or side yard setback of less than four feet, the city will not require any modification to the multifamily dwelling as a condition of approving the ADU.

   b. The peak height above grade does not exceed the applicable height limit provided in subsection 17.44.090 (B) below.

B. Administrative Plan Review Permit (APR)

1. Except as allowed under subsection 17.44.060 (A), no ADU may be created without a building permit and an APR permit in compliance with the standards set forth in Sections 17.44.080 and 17.44.090.

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

C. Very High Fire Hazard Severity Zone.

1. Where a lot or any portion thereof is located within a Very High Fire Hazard Severity Zone and the lot does not have two distinct means of vehicular access (a street) such that the two distinct means of vehicular access, as measured from the lot to the point of intersection with a highway, shall not overlap with each other, and each means of vehicular access is a minimum 24 feet wide and improved with paving or other all-weather surfacing, an accessory dwelling unit shall meet following requirements:

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

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

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

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

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

D. ADUs - Multifamily Lots

ADUs are allowed on multifamily lots pursuant to 17.44.060 A. 3 and 4. New attached ADUs are not allowed.

17.44.070 Process and Timing.

A. An APR is considered and approved ministerially by the Planning Director without discretionary review or a hearing unless a variance request is included with the APR.

B. The City must approve or deny an application to create an ADU or JADU within 60 days from the date that the City receives a complete application, unless either:

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

2. When an application to create an ADU or JADU is submitted with a permit application to create a new single-family or multifamily dwelling on the lot, the city may delay acting on the permit application for the ADU or JADU until the city acts on the permit application to create the new single-family or multifamily dwelling, but the application to create the ADU or JADU will still be considered ministerially without discretionary review or a hearing.

C. If the city denies an application to create an ADU or JADU, the city must provide the applicant with comments that include, among other things, a list of all the defective or deficient items and a description of how the application may be remedied by the applicant. Notice of the denial and corresponding comments must be provided to the applicant within the 60-day time period established by subsection (B) above.

D. A demolition permit for a detached garage that is to be replaced with an ADU is reviewed with the application for the ADU and issued at the same time.

17.44.080 General ADU and JADU Requirements.

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

A. Rental Term. An ADU or JADU may not be rented for a term that is shorter than 30 days. This prohibition applies regardless of when the ADU or JADU was created.

B. Rental Rate Reporting. To facilitate the City's obligation to identify adequate sites in accordance with Government Code Sections 65583.1 and 65852.2, and to allow ADUs to count towards the City's Regional Housing Needs Assessment (RHNA) requirements, within 90 days after each yearly anniversary of the issuance of the building permit, the owner will be asked to report the actual rent charged for the ADU or JADU during the prior year.

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

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

E. Fire Sprinklers.

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

2. The construction of an ADU does not trigger a requirement for fire sprinklers to be installed in the existing primary dwelling.

F. Owner Occupancy.

1. An ADU that is permitted after January 1, 2020, but before January 1, 2025, is not subject to any owner-occupancy requirement.

2. Unless applicable law requires otherwise, all ADUs that are permitted on or after January 1, 2025 are subject to an owner-occupancy requirement. A natural person with legal or equitable title to the property must reside on the property as the person's legal domicile and permanent residence.

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

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

1. Except as otherwise provided in Government Code Section 65852,26, the ADU or JADU may not be sold separately from the primary dwelling.

2. The ADU or JADU must remain an ADU unless City approval is obtained to convert the structure to a different accessory structure.

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

~~4.~~ The ADU or JADU is restricted to the approved size.

5. The JADU must be reconverted to be part of the primary residence if the owner does not reside on the property.

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

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

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

H. Must comply with building code. Subject to subsection (I) below, all ADUs and JADUs must comply with all local building code requirements.

I. No change of occupancy**.** Construction of an ADU does not constitute a Group R occupancy change under the local building code, as described in Section 310 of the California Building Code, unless the building official or Code Enforcement Division officer makes a written finding based on substantial evidence in the record that the construction of the ADU could have a specific, adverse impact on public health and safety. Nothing in this subsection (I) prevents the city from changing the occupancy code of a space that was uninhabitable space or that was only permitted for nonresidential use and was subsequently converted for residential use in accordance with this section

17.44.090 Specific ADU Requirements.

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

A. Maximum Size

1.. The maximum square footage of an ADU shall be 850 square feet for a studio or one bedroom and 1,000 square feet for two or more bedrooms. The maximum square footage shall include interior and exterior walls, basements, mezzanines, storage space, and any

space with a height clearance (floor to ceiling height dimension) above six feet. The area of a garage (400 square feet maximum) provided as part of accessory dwelling unit and exterior decks or overhangs that are attached to the structure shall not be included in the 850 or 1,000 square foot limit.

2. An ADU that is attached to the primary dwelling is limited to 50 percent of the living area of the existing primary dwelling.

3. Application of other development standards in this Section 17.44.090 might further the limit the size of the ADU, but no application of a FAR, front setback, lot coverage or open space requirements may require the ADU to be less than 800 square feet.

4. The maximum living area, as defined in Section 17.02.060, of a JADU is 500 square feet.

B. Height.

1. No ADU subject to this Section 17.44.090 may exceed 16 feet in height above grade, as measured from existing or finished grade, whichever results in the lower building height except as provided in subsection B.2. though B.5

2. A detached ADU may be up to 18 feet in height if it is created on a lot with an existing or proposed single-family or multifamily dwelling unit that is located within one-half mile walking distance of a major transit stop as those terms are defined in Section 21155 of the Public Resources Code, and the ADU may be up to two additional feet in height (for a maximum of 20 feet) if necessary to accommodate a roof pitch on the ADU that is aligned with the roof pitch of the primary dwelling unit.

3. A detached ADU created on a lot with an existing or proposed multifamily dwelling that has more than one story above grade may not exceed 18 feet in height.

4. An ADU that is attached to the primary dwelling may not exceed 25 feet in height or the height limitation imposed by the underlying zone that applies to the primary dwelling, whichever is lower. Notwithstanding the foregoing, ADUs subject to this subsection (B)(4) may not exceed two stories.

5. When a legally established accessory structure is demolished and is replaced with a new structure for the purposes of creating an ADU, the replacement structure may not exceed the height of the existing structure.

C. Setbacks.

1. An ADU shall not be permitted within the front yard setback, however, when converting floor area within an existing single-residential dwelling or a legally established accessory structure located within the front yard setback, an ADU may expand the footprint of said structure up to 150 square feet to only accommodate ingress and egress as set forth in 17.44.060(A)(1)(a) above.

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

3. No additional setback is required when a legally established accessory structure is demolished and is replaced with a new structure for the purposes of creating an ADU so long as the replacement structure is constructed within the same location and with the same dimensions as the structure it is replacing. Additions to these structures are required to meet all current development standards. Legally established must be verified with building permits.

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

E. Parking.

1. Generally. One off-street enclosed or unenclosed parking space is required for each ADU. Unenclosed parking spaces may be provided in setback areas or as tandem parking, as defined by Section 17.02.060.

2. Exceptions. No parking under subsection (E)(1) above is required in the following situations:

   a. The ADU is located within one-half mile walking distance of public transit, as defined in Section 17.02.060.

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

   c. The ADU is entirely within the proposed or existing primary residence or an existing accessory structure, under Section 17.44.060(A)(1).

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

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

   f. When the permit application to create an ADU is submitted with an application to create a new single-family or new multifamily dwelling on the same lot, provided that the ADU or the lot satisfies any other criteria listed in subsections (A) thru (F).

3. No Replacement of Parking Required. Except as required in Section 17.44.060(C), when a garage, carport, or covered parking structure is demolished to allow the construction of an ADU or converted to an ADU in an existing single-family dwelling, those off-street parking spaces are not required to be replaced. If replacement parking is proposed, the parking must be located on hardscape and mechanical automobile parking lifts must be

located within an enclosed structure to ensure compliance with coastal resource protection for public views and water quality.

F. Internal connection. An attached ADU shall not be connected internally to the main residence. A detached ADU shall not be connected internally to any accessory structure except for a garage which serves the ADU.

17.44.100 Fees.

A. Impact Fees.

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

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

B. Utility Fees.

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

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

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

17.44.110 Nonconforming Zoning Code Conditions, Building Code Violations, and Unpermitted Structures.

A. Generally. The city will not deny an ADU or JADU application due to a nonconforming zoning condition, building code violation, or unpermitted structure on the lot that does not present a threat to the public health and safety and that is not affected by the construction of the ADU or JADU.

B. Unpermitted ADUs constructed before 2018.

1. Permit to Legalize. As required by state law, the city may not deny a permit to legalize an existing but unpermitted ADU that was constructed before January 1, 2018, if denial is based on either of the following grounds:

    a. The ADU violates applicable building standards, or

    b. The ADU does not comply with the state ADU law (Government Code section 65852.2) or this ADU ordinance Chapter 17.44.

2. Exceptions:

    a. Notwithstanding subsection (B)(1) above the city may deny a permit to legalize an existing but unpermitted ADU that was constructed before January 1, 2018, if the city makes a finding that correcting a violation is necessary to protect the health and safety of the public or of occupants of the structure.

    b. Subsection (B)(1) above does not apply to a building that is deemed to be substandard in accordance with California Health and Safety Code section 17920.3.

Chapter 17.45

CITYWIDE VIEW PRESERVATION AND RESTORATION*

Sections:

17.45.030 Definitions.

The following definitions shall apply for purposes of this chapter:

A. "Arbitration" means a voluntary legal procedure for settling disputes and leading to a determination of rights of parties, usually consisting of a hearing before an arbitrator where all relevant evidence may be freely admitted.

B. "Arbitrator" means a mutually agreed upon neutral third party professional intermediary who conducts a hearing process, and who hears testimony, considers evidence and makes decisions for the disputing parties.

C. "Certified arborist" means an individual certified as an arborist by the International Society of Arboriculture (ISA).

D. "Claimant" means a property owner who alleges that foliage is causing a significant obstruction of a primary view.

E. "Environmentally sensitive habitat areas or (ESHA)" as defined as set forth in the certified Malibu LCP Local Implementation Plan.

F. "Foliage" means a woody plant with the potential to obstruct primary views. "Foliage" includes without limitation trees, shrubs, hedges and bushes.

G. "Foliage owner" means a person owning property containing foliage that a claimant alleges is causing a significant obstruction of a protected view.

H. "Hedge" means any plant material, trees, stump growth, or shrubbery planted or grown in a dense continuous line, so as to form a thicket,
barrier or the substantial equivalent of a living fence.

I. "Main viewing area" means the ground floor of a commercial, institutional or principal residential structure unless the ground floor of a commercial structure consists of garages, parking areas and storage and unless the primary living area of a principal residential structure is not located on the ground floor. If the ground floor of a commercial structure consists of garages, parking areas and storage, the "main viewing area" means the first habitable floor. If the primary living area of a principal residence is not located on the ground floor, the main viewing area means the primary living area of the principal residence. The "main viewing area" may be an abutting outdoor deck or patio area located at relatively the same elevation as the ground floor of a commercial or institutional structure or a primary living area of a residence, whichever has the superior view corridor. Bedrooms, master bedroom retreats, offices, hallways, closets, laundry rooms, mechanical rooms, bathrooms and garages shall not be considered main viewing areas. Application of a primary view corridor requires an established "main viewing area."

J. "Mediation" means a process of using a neutral third person to facilitate a mutually satisfactory solution to a view dispute.

K. "Mediator" means a neutral third person that assists the claimant and foliage owner in finding a mutually satisfactory solution to a view dispute.

L. "Pre-existing view" means a primary view within the structure's assessed primary view corridor that existed on the date of acquisition of the property or city incorporation, whichever

is more recent. If the property was acquired without a developed, legally-habitable structure, a pre-existing view shall mean a primary view that existed as of issuance of a certificate of occupancy or city incorporation, whichever is more recent. The pre-existing view cannot be a result of a natural disaster or a result of illegal activities.

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

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

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

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

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

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

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

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

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

V. "View preservation permit" means a permit issued by the city, requiring restorative actions on foliage located on a foliage owner's property in order to preserve a claimant's primary view. (Ord. 378 § 3, 2014)

Appendix 1 PERMITTED USES TABLE*

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

KEY TO TABLE (In addition to a coastal development permit, MCUP, CUP, LFDC, & WTF permits are required pursuant to the Malibu Municipal Code where shown in this table.)	
P	Permitted use
MCUP	Requires the approval of a minor Conditional Use Permit by the Director
CUP	Requires the approval of a Conditional Use Permit
A	Permitted only as an accessory use to an otherwise permitted use
LFDC	Requires the approval of a Large Family Day Care permit
WTF	Requires the approval of a Wireless Telecommunications Facility
STR	Use requires valid short-term rental permit approved by the City
•	Not permitted (Prohibited)

USE	RR	SF	MF	MFBF	MH	CR	BPO	CN	CC	CV-1	CV-2	CG	OS	I	PRF	RVP
Agricultural employee housing, as an accessory use, animal related	A	•	•	•	•	CUP	•	•	•	•	•	•	•	•	•	•
Agricultural employee housing, as an accessory use, crop related	A	A	CUP	•	•	•	•	•	•	•	•	•	•	•	•	•
One single-family residence per lot[28]	P	P	P	P	•	•	•	•	•	•	•	•	•	•	•	•
Manufactured homes pursuant to Government Code § 65852.3	P	P	P	P	•	•	•	•	•	•	•	•	•	•	•	•
Multifamily residential (including duplexes, condominiums, stock cooperatives, apartments, and similar development[29]	•	•	CUP[30]	CUP[2,30]	•	•	•	•	P[31]	•	•	•	•	•	•	•
~~Second~~ Accessory dwelling units ~~pursuant to Government Code § 65852.2.~~	A[33]	A[33]	A[33]	A[33]	•	•	•	•	•	•	•	•	•	•	•	•

USE	RR	SF	MF	MFBF	MH	CR	BPO	CN	CC	CV-1	CV-2	CG	OS	I	PRF	RVP
Mobile home parks in existence as of March 28, 1991	•	•	•	•	P	•	•	•	•	•	•	•	•	•	•	•
Mobile home park accessory uses (including recreation facilities, meeting rooms, management offices, storage/maintenance buildings, and other similar uses)	•	•	•	•	CUP	•	•	•	•	•	•	•	•	•	•	•
Mobile home park modifications to number, layout, or density and public or common areas, except for repair and maintenance	•	•	•	•	CUP	•	•	•	•	•	•	•	•	•	•	•
Temporary mobile home as residence subject to§17.40.040(A)(18)	P	P	P	MCUP	•	•	•	•	•	•	•	•	•	•	•	•
Accessory uses (guest ~~unit~~ house (~~750~~ 900 sf max), garages, barns, pool houses, pools, spas, gazebos, storage sheds, greenhouses (non-commercial), sports courts (non-illuminated), corrals (non-commercial), and similar uses)	A	A	A	A[3]	•	•	•	•	•	•	•	•	•	•	•	•

(…)

Notes:

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).
5. Public and private hiking trails in CR and I zones and private hiking trails in RR, SF, and MF zones.
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.
19. Subject to Section 17.26.030(A)(1).
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. Single-family residence properties are limited to hosted short-term rental permits only; one dwelling unit in a duplex may be rented unhosted if the owner or designated operator lives onsite in the other dwelling unit during the rental period; and for multifamily properties, a maximum of two dwelling units per parcel, or 40%, whichever is less, may be devoted to short-term rental use.
33. Subject to Chapter 17.44.- Accessory Dwelling Units.

(Ord. 449 § 8, 2019; Ord. 431 § 4, 2018)

Received
03/06/23
Planning Dept.

Rebecca Evans

From: Patricia Salazar
Sent: Monday, March 6, 2023 8:19 AM
To: Rebecca Evans
Subject: FW: 5A ADU ordinance 3-6-23
Attachments: pc ADU'S 3-6-23 mcsg comments f (1).docx; ADU County ordinance high fire zones f.docx

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From: [redacted] <[redacted]>
Sent: Saturday, March 4, 2023 10:11 AM
To: Dennis Smith <WAS27MILES@GMAIL.COM>; Skylar Peak <skylar@peakpowerelectric.com>; John Mazza <Res02igz@gte.net>; Kraig Hill <kraig.malibu@gmail.com>; Jeffrey D Jennings <jdjenningslaw@gmail.com>
Cc: Patricia Salazar <psalazar@malibucity.org>
Subject: Fw: 5A ADU ordinance 3-6-23

Commissioners, attached are Slow Growth's comments on the proposed ADU ordinance. If you have questions, please let me know. Thanks, Patt

CC: Planning Commission, PD,

Recording Secretary, File

Date Received 03/06/23 Time 7:30 AM
Planning Commission meeting of 03/06/23
Agenda Item No. 5A
Total No. of Pages 5

ATTACHMENT B

L.A. County ADU Ordinance Very High Fire Hazard Severity Zone.

a. Where a lot. or any portion thereof, is located within a Very High Fire Hazard Severity Zone, as depicted in the General Plan, and a Hillside Management Area, as depicted in the General Plan, other than those described in HOA.102864797.1 ~ rJ Section 22.104.030.D, an accessory dwelling unit or a junior accessory dwelling unit shall be prohibited on the lot, unless it has two distinct means of vehicular access to a highway that meet the following requirements:
i. The two distinct means of vehicular access as measured from the lot frontage to the point of intersection with a highway, shall not overlap with each other. For example, see Figure 22.140.640-A, below;
ii. Each distinct means of vehicular access shall contain pavement of at least 24 feet in width, exclusive of sidewalks; and
iii. Each distinct means of access shall be built to public street standards approved by Public Works.

b. Where a lot or any portion thereof is located within a Very High Fire Hazard Severity Zone and is not located within a Hillside Management Area, an accessory dwelling unit or a junior accessory dwelling unit shall be prohibited on the lot, unless it has two distinct means of vehicular access from the lot to a highway that meet the requirements in Subsection C.2.a. above, except that the means of vehicular access may include an unpaved road of at least 24 feet in width maintained by Public Works.
c. Notwithstanding Subsections C.2.a and C.2.b, above, accessory dwelling units and junior accessory dwelling units shall be permitted on lots with a single means of vehicular access, if such lots front a highway and vehicles enter directly from the highway. For example, see Figure 22.140.640-A. below. HOA.102864797.1 ~ 6 FIGURE 22.140.640-A: VEHICULAR ACCESS REQUIREMENTS IN THE VERY HIGH FIRE HAZARD SEVERITY

To: Members of the Planning Commission
From: Malibu Coalition for Slow Growth by Patt Healy
Date 3-6-23
Agenda Item 5A

The Malibu Coalition for Slow Growth asks the Planning Commission consider the following .

ADU COUNTY ORDINANCE

Follow the lead of the County and adopt the portion of their ordinance which limits ADUs to area's where there are 2 exits to a highway in VHFHSZs. Malibu being in very high fire hazard severity fire zone, it only makes sense to follow the County's lead adopt the County restrictions on ADUs in VHFHSZ.

Please see attached County Ordinance pages 15, 16 and 17 on pages 111-113 of the 3-6-23 staff report . For example, this would allow ADUs in Country Estates, Malibu Park and on Point Dume but not allow them on properties in Big Rock, Trancas Highlands and along Trancas Canyon Rd.

More ADUs will result in a more difficult emergency evacuation. No one wants to relive the horror of the Woolsey fire evacuation.
The city recommended evacuation routes may not be safe routes for the fire most likely will be coming from the direction of the proposed routes and furthermore they may be gridlocked with Santa Monica Mountain residents attempting to evacuate. Obviously, the more cars evacuating, the greater the danger of loss of life.

We ask you to be cautious and recommend to the Council the portion of the County Ordinance that deal with ADU's in VHFHSZ to protect the health and safety of its residents.

SMALL LOTS

Our understanding of the ADU law is not all neighborhoods in the city must be allowed construction of a ADU on their property. Ideally, they should be allowed on lots consisting of one acre or more.

Small lot subdivisions are not suited for ADUs. They are most suited for JADUs and garage conversions and recommend limiting ADUs to this.

The reason to prohibit ADU's in small lot subdivision is neighbors live in very close proximity to each other and often back-to-back to each other. An ADU residence so close to the neighbor's property line will create for the neighbor a nuisance, the loss of the enjoyment of their property and the loss of privacy.

A 900 or greater square foot ADU is not appropriate on small lots or small lot subdivisions. 300 square feet for a one bedroom and 400 sq ft for a 2 bedroom is more reasonable.

HEIGHT

If a one story main residence the height should be no greater than 18 ft. but in no event higher than the main residence whichever is lower. Existing higher ADUs should be grandfathered in.

SIZE

The allowable size on larger lots of an acre or more should be 900 sq.ft. for a studio or 1 bedroom and 1000 sq.ft for a 2 bedroom. The 1200 square foot ADUs allowed a fire rebuild can be grandfathered in.

RENT CONTROL

Today there is and there will be no affordable ADU housing in Malibu. If it is the city's intention to have ADUs fulfill the affordable housing requirement they should consider some sort of rent control/ rent stabilization ordinance to actually make these units affordable at least for median income renters.

Family members such as elderly relatives and adult children as well as Owner's employees most likely would qualify as low income residents if no or little rent is charged.

CONCLUSION

Adopt the County language regarding ADU's in VHFHSZ's.

Limit small lot subdivisions to JADUs and Garage Conversions.

Consider some form of ADU rent control/rent stabilization ordinance for third party non family member renters in order for an ADU to qualify for medium income affordable housing.

Thank you for considering our comments.

Received
3/6/2023
Planning Dept.

From: Planning Commission
To: Jason Ernst
Subject: Fw: Tonight"s Planning Commission Meeting (3/6/2023) - Item 5A - Proposed ADU Ordinance – Required Yard Setbacks
Date: Tuesday, March 7, 2023 3:05:27 PM
Attachments: C.Martin - Schmitz - Item 5A Planning Commission - Proposed ADU Ordinance - Setbacks 3-6-2023.pdf

---

From: Rebecca Evans <revans@malibucity.org>
Sent: Monday, March 6, 2023 2:59 PM
To: Planning Commission <planningcommission@malibucity.org>
Subject: Fwd: Tonight's Planning Commission Meeting (3/6/2023) - Item 5A - Proposed ADU Ordinance – Required Yard Setbacks

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From: Kelsey Pettijohn <kpettijohn@malibucity.org>
Sent: Monday, March 6, 2023 12:41:25 PM
To: Rebecca Evans <revans@malibucity.org>
Subject: FW: Tonight's Planning Commission Meeting (3/6/2023) - Item 5A - Proposed ADU Ordinance – Required Yard Setbacks

Hi Rebecca,

Here is some correspondence for the PC meeting.

Best,

Kelsey Pettijohn
City Clerk
23825 Stuart Ranch Road
Malibu, CA 90265
(310) 456-2489 ext. 228
www.malibucity.org

From: Cindy Martin <cmartin@schmitzandassociates.net>
Sent: Monday, March 6, 2023 12:37 PM
To: Tyler Eaton <teaton@malibucity.org>; jparkerbozylinski@gmail.com; Richard Mollica <rmollica@malibucity.org>; khill@malibucity.org; Adrian Fernandez <afernandez@malibucity.org>; dsmith@malibucity.org; jmazza@malibucity.org; speak@malibucity.org; jjennings@malibucity.org; Kelsey Pettijohn <kpettijohn@malibucity.org>; Commission@malibucity.org
Cc: Cindy Martin <cmartin@schmitzandassociates.net>

CC: Planning Commission, PD,

Recording Secretary, File

Date Received 3/6/2023 Time 12:37pm
Planning Commission meeting of 3/6/23
Agenda Item No. 5A
Total No. of Pages 5

Subject: Tonight's Planning Commission Meeting (3/6/2023) - Item 5A - Proposed ADU Ordinance – Required Yard Setbacks
Importance: High

Dear Chair Smith and the Honorable Members of the Planning Commission,

Please find correspondence attached to this email pertaining to tonight's Planning Commission meeting, Item 5A - Proposed ADU Ordinance – Required Yard Setbacks.

Thank you for your time.

Sincerely,

Cynthia Martin, JD I Special Projects Manager I Schmitz & Associates, Inc.
28230 Agoura Rd. Suite 200 Agoura Hills, CA 91301
Direct Phone: (818) 338-3636
Cmartin@schmitzandassociates.net www.schmitzandassociates.com

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Via Email
teaton@malibucity.org; jparkerbozylinski@gmail.com; rmollica@malibucity.org; khill@malibucity.org; afernandez@malibucity.org; dsmith@malibucity.org; jmazza@malibucity.org; speak@malibucity.org; jjennings@malibucity.org; kpettijohn@malibucity.org; Commission@malibucity.org

March 6, 2022

Malibu City Council
23825 Stuart Ranch Rd.
Malibu, CA 90265
Attn: Chairperson Smith and Honorable Members of the Planning Commission

Re: Item 5A - Proposed ADU Ordinance – Required Yard Setbacks

Dear Chairperson Smith and Honorable Members of the Planning Commission,

IT IS A MISTAKE TO INTERPRET STATE ADU LAW AS NOT BEING ENFORCEABLE IN THE COASTAL ZONE. THIS MISINTERPRETATION WILL, AND HAS, LEAD TO LITIGATION.

The State ADU law is codified as Govt Code 65852.2. Section (l) of Gov't Code 65852.2, states:

> (l) Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code).

Subsection (l) refers to the California Coastal Act. The purpose of the California Coastal Act is to protect Coastal Resources. State ADU law MUST be followed except for those narrow instances when there is a *significant adverse impacts to a coastal resource* on the specific parcel proposing an ADU. This has been addressed and explained in every California Coastal Commission memo regarding State ADU law, including the most recent updated guidance memo of January 21, 2022 (CCC Memo), which specifically instructs coastal cities and counties to comply with State ADU law unless there are *significant adverse impacts to coastal resources*.[1] The CCC memo then provides examples of *significant adverse impacts to coastal resources*:

- ADUs which require a shoreline protective device.[2]
- Development in ESHA or wetlands.[3]
- Where structural integrity of an ADU is compromised by bluff erosion, flooding or wave uprush.[4]

Some City of Malibu decision makers have disregarded the CCC memos, and misinterpreted State ADU law to incorrectly assert that because Malibu is in the Coastal Zone, with a CCC approved LCP, that Malibu purportedly does not have to comply with State ADU law. However, the City's LCP was approved many years before the State implemented the ADU law. The LCP is outdated as to current State ADU law and must be updated to include a State compliant ADU ordinance.

The City of Malibu has already been sued by one homeowner over ADU law and lost the case. *See, Riddick v. City of Malibu (currently under appeal by City of Malibu).* The City of Malibu will continue to expose itself to potential liability by individual residents, as well as by the State Attorney General's office, if it does not apply State ADU law, except in those narrow instances when there is an adverse impact to a coastal resource.

STATE ADU LAW MANDATES NO MORE THAN FOUR-FOOT SIDE AND REAR YARD SETBACKS.

Government Code § 65852.2 (State ADU Ordinance), addresses maximum yard setbacks, stating:

> "No setback shall be required for an existing living area or accessory structure or a structure constructed in the same location and to the same dimensions as an existing structure that is converted to an accessory dwelling unit or to a portion of an accessory dwelling unit, and a setback of no more than four feet from the side and rear lot lines shall be required for an accessory dwelling unit that is

[1] CCC Memo, https://documents.coastal.ca.gov/assets/rflg/SB9-Memo.pdf
[2] CCC Memo at page 3
[3] Id. at page 3
[4] Id. at page 3.

not converted from an existing structure or a new structure constructed in the same location and to the same dimensions as an existing structure (emphasis added)." Gov't Code § 65852.2(a)(1)(D)(viii)

Locating an ADU within four feet of a side or rear property line does not, in and of itself, create a *significant adverse impact to a coastal resource*. Therefore, Malibu's proposed ADU ordinance should require no more than a four-foot side and rear yard setback, unless there is a *significant adverse impact to a coastal resource*.

ALTERNATIVELY, THE CITY'S LCP AMENDMENTS SHOULD REQUIRE NO MORE THAN A FIVE-FOOT SIDE AND REAR YARD SETBACKS, DUE TO THE CITY BEING ENTIRELY WITHIN A MAPPED VHFHSZ AREA.

It was previously pointed out by Kraig Hill, in his comment letter of March 14, 2022, that the CCC Memo does not address Very High Fire Hazard Severity Zones (VHFHSZ).[5] Kraig Hill then suggested, among other things, that side and rear yard setbacks should accommodate the five-foot walk around.[6] Because the City of Malibu is entirely within a mapped VHFHSZ area, an alternative to the four-foot side and rear setback, would be to implement no more than a five-foot side and rear setback unless there is a *significant adverse impact* to a coastal resource.

ALL COASTAL CITIES AND COUNITES WITH APPROVED ADU ORDINANCES HAVE IMPLEMENTED THE FOUR-FOOT SIDE AND REAR YARD SETBACK, OR ALTERNATIVELY FIVE-FOOT IN VHFHSZ, UNLESS THERE ARE "SIGNIFICANT ADVERSE IMPACTS TO COASTAL RESOURCES".

Without exception, all coastal jurisdictions with CCC approved[7] ADU Ordinances have implemented the maximum four-foot side and rear yard setback, or alternatively five-foot side in VHFHSZ, unless there are *significant adverse impacts to coastal resources*, including:

- City of Santa Cruz[8]
- City of Pacifica[9]
- County of San Mateo[10]
- City of San Mateo[11]
- City of Santa Barbara[12]
- City of Carlsbad[13]
- City of Half Moon Bay[14]
- City of San Luis Obispo[15]
- City of City of Redondo Beach[16]
- City of Laguna Beach[17]
- County of Humboldt, approved January 27, 2023

The City of Malibu should also propose an ADU Ordinance, and related LCP amendments, requiring no more than four-foot or five-foot side and rear yard setbacks, unless there is a *significant adverse impact to a coastal resource* on the particular parcel proposing an ADU.

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[5] See Kraig Hill Correspondence to Planning Commission and Staff, page dated March 14, 2022, included as Attachment 2 to Staff Report for subject hearing.

[6] See FN 14, at page 11, suggesting 6' side and rear yard setbacks to accommodate 5' walk around and 1' fence.

[7] Or approved with modifications or pending certification.

[8] See https://www.cityofsantacruz.com/home/showpublisheddocument/84532/637584175422900000
See https://www.cityofsantacruz.com/home/showpublisheddocument/84534/637584175449470000

[9] See https://library.municode.com/ca/pacifica/codes/code_of_ordinances?nodeId=TIT9PLZO_CH4ZO_ART4.5ACDWUN

[10] See Th15a-7-2021-exhibits.pdf (ca.gov)

[11] See F13c-8-2021-exhibits.pdf (ca.gov)

[12] See F14b-12-2021-exhibits.pdf (ca.gov)

[13] See https://documents.coastal.ca.gov/reports/2022/3/W14c/w14c-3-2022-report.pdf.

[14] https://www.half-moon-bay.ca.us/DocumentCenter/View/4898/LCP-2-HMB-21-0068-1_Accessory-Dwelling-Units-Ordinance_Clean-Copy?bidId=

[15] See https://documents.coastal.ca.gov/reports/2022/2/F16d/F16d-2-2022-report.pdf.

[16] See W15a-exhibits.pdg (ca.gov)

[17] See https://www.lagunabeachcity.net/home/showpublisheddocument/14091/638132622300130000.

EFFECTIVE JANUARY 1, 2023, FRONT YARD SETBACKS CANNOT BE ENFORCED IF IT PREVENTS AN ADU UNDER 800 SQ. FT. FROM BEING BUILT.

Pursuant to AB 2221, front setbacks can no longer be enforced if it prevents a less-than 800 sq. ft. ADU from being built. The bill took effect on Jan. 1, 2023. "Any local ordinance will be null and void if it does not conform to AB 2221." *See*, Best Best & Krieger, online "Legal Alert", dated October 13, 2022[18]

THE HCD IS AUTHORIZED TO REPORT NON-COMPLIANT LOCAL GOVERNMENTS TO THE ATTORNEY GENERAL'S OFFICE

As recognized in the CCC Memo, the California Department of Housing and Community Development ("HCD") has an oversight and approval role to ensure that local ADU Ordinances are consistent with State law, similarly to the Coastal Commissions review of LCP's.[19] If a local government adopts an ordinance that HCD deems to be noncompliant with State law, the HCD has the authority to notify the Office of the Attorney General.[20] Veering from State ADU law, by requiring regular yard setbacks when there are no *significant adverse impacts to a coastal resource*, could result in the HSD notifying the Attorney General's office.

THE STATE ATTORNEY GENERAL'S OFFICE'S "HOUSING STRIKE FORCE" IS COMMITTED TO TARGETING AND PROSECUTING LOCAL GOVERNMENTS NOT IN COMPLIANCE WITH STATE HOUSING LAWS

In its December 2022, newsletter, the Office of the Attorney General (AG)stated its newly created Housing Strike Force is "leveraging new and existing tools to ramp up [its] enforcement of state housing laws", including both in its "independent capacity" and on behalf of DOJ's client agencies including the California Department of Housing and Community Development.[21]

CONCLUSION

Based on the foregoing, the Planning Commission should provide direction to staff to require no more than four- foot, or alternatively five-foot, side and rear yard setbacks, consistent with the Coastal Act and State ADU law. Additionally, the Commission should direct staff to no longer enforce front yard setbacks if it prevents an less than 800 sq. ft. ADU from being built.

Respectfully submitted,

Cynthia Martin

Cynthia M. Martin, JD,
Special Projects Manager
cmartin@schmitzandassociates.net

[18] https://www.bbklaw.com/news-events/insights/2022/legal-alerts/10/two-new-bills-further-restrict-local-regulation
[19] Id. at page 3.
[20] Gov. Code § 65852.2(h)(3), CCC Memo at page 3.
[21] https://oag.ca.gov/housing

Received
3/6/2023
Planning Dept.

From: Planning Commission
To: Jason Ernst
Subject: Re: ADU's allowed in Malibu?
Date: Monday, March 6, 2023 2:46:56 PM
Attachments: image001.png
image003.png

From: Jo Drummond
Sent: Monday, March 6, 2023 1:15 PM
To: Richard Mollica <rmollica@malibucity.org>; Tyler Eaton <teaton@malibucity.org>
Cc: Patt Healy: < >; R. Y. A. N. <ryanmalibu >; Kraig Hill <kraig.malibu ; John Mazza <Res02igz@gte.net>; Jae Flo < >; Bill Sampson < ; Lsgla Saunders <lynnsaunders >; Paul Taublieb < >; Sam Hall Kaplan >; Frank Angel <fangel@angellaw.com>; Mark Olsen < ; Rosemarie Ihde ; Jennifer deNicola < ; Charlotte Frieze < >; Suzanne Guldimann < >; Georgia Goldfarb < ; Peggy Hall Kaplan < >; Jefferson Wagner < >; Mari Ellen >; Andrew Ferguson ; Lonnie Gordon < >; Scott Dittrich ; Dru Jacobson < >; Carla Mccloskey < >; joe@columbiashowcase.com <joe@columbiashowcase.com>; Trevor Neilson >; Planning Commission <planningcommission@malibucity.org>; Rebecca Evans <revans@malibucity.org>; Ann Doneen <
Subject: Re: ADU's allowed in Malibu?

Hello Richard...I will be listening to the ADU ordinance attempting to be approved tonight and wanted to make sure that Section 1 is still in the ordinance as below...but then does this mean that ADU's can potentially be built in areas where there are not two egresses in Malibu? As long as they have additional parking spaces available? Thanks and pls advise...as this would not limit them very much then in our very high fire hazard zone.

I do hope there will be a height limit also put in place of either as tall as the existing structure or less than 16 ft whatever is the lowest height. Thank you, Jo

I. Very High Fire Hazard Severity Zone.
1. Where a lot or any portion thereof is located within a Very High Fire Hazard Severity Zone and ***the lot does not have two distinct means of vehicular access (a street) such that the two distinct means of vehicular access, as measured from the lot to the point of intersection with a street, do not overlap with each other and each means of vehicular access is a minimum 24 feet wide and improved with paving or other all-weather surfacing****, an accessory dwelling unit shall meet following requirements:*
a. Fire sprinklers shall be provided in the accessory dwelling unit.
b. A 10-foot separation between the accessory dwelling unit and any other structure

CC: Planning Commission, PD,

Recording Secretary, File

Date Received 3/6/2023 Time 1:15pm
Planning Commission meeting of 3/6/23
Agenda Item No. 5A
Total No. of Pages 5

shall be maintained.
c. c. Detached accessory dwelling units shall provide a minimum setback of 5 feet from the side and rear lot lines. ***(MMC only because LCP requires regular setbacks. MMC allows minimum of 4 foot setback side and rear)***
d. For a garage, carport, or covered parking structure that is converted to an accessory dwelling unit, onsite replacement parking spaces shall be required to comply with the minimum number of spaces and dimensions below:

Single-Family Dwelling – 10 feet wide and 18 feet long, two parking spaces
Multi-Family Dwelling - 10 feet wide and 18 feet long i. Efficiency – two spaces ii. One to two bedrooms – 3 spaces iv Four each additional bedroom beyond two – one space
However, the replacement parking spaces need not be enclosed.

On Tuesday, January 11, 2022 at 05:55:14 PM PST, Richard Mollica <rmollica@malibucity.org> wrote:

Good Evening Jo,

You are of course welcome to share this with whomever, but I removed the Council to prevent any potential Brown Act Violations; however it will be shared with them.

At present we do not have an ADU ordinance. Our LCP and MMC only contains the terms Second Residential Unit and Guest House. However, we have been working on edits to the ADU ordinance that will be presented to the Planning Commission at their next meeting. This matter was last heard in June and we are returning with additional information that was requested by the Planning Commission.

Below and attached is the portion of the draft ordinance that addresses your question for ADU's in VHFHSZs and its purpose is to be consistent with the ADU State Law:

I. Very High Fire Hazard Severity Zone.

1. Where a lot or any portion thereof is located within a Very High Fire Hazard Severity Zone and the lot does not have two distinct means of vehicular access (a street) such that the two distinct means of vehicular access, as measured from the lot to the point of intersection with a street, do not overlap with each other and each means of vehicular access is a minimum 24 feet wide and improved with paving or other all-weather surfacing, an accessory dwelling unit shall meet following requirements:

a. Fire sprinklers shall be provided in the accessory dwelling unit.
b. A 10-foot separation between the accessory dwelling unit and any other structure shall be maintained.
c. c. Detached accessory dwelling units shall provide a minimum setback of 5 feet from the side and rear lot lines. ***(MMC only because LCP requires regular setbacks. MMC allows minimum of 4 foot setback side and rear)***
d. For a garage, carport, or covered parking structure that is converted to an accessory dwelling unit, onsite replacement parking spaces shall be required to comply with the minimum number of spaces and dimensions below:

Single-Family Dwelling – 10 feet wide and 18 feet long, two parking spaces
Multi-Family Dwelling - 10 feet wide and 18 feet long i. Efficiency – two spaces ii. One to two bedrooms – 3 spaces iv Four each additional bedroom beyond two – one space
However, the replacement parking spaces need not be enclosed.

2. Notwithstanding Subsection I.1 above, accessory dwelling units shall be permitted on lots with

a single means of vehicular access if such lots front a street with at least four total lanes of traffic and vehicles back directly onto that street.

TDC's (Transfer of Development Credit):

In terms of development credits that is something that we do have in our Local Coastal Program. At this time, no changes to Local Coastal Program Local Implementation Plan (LIP) Chapter 7 (Transfer of Development Credits) are proposed. The intent of LIP Chapter 7 is to ensure that density increased through new land divisions and new multi family unit development (guest houses and second residential units are not considered multi-family development; the LIP lists those uses as accessory development to residential development) in the City, excluding affordable housing units, will not be approved unless Transfer of Development Credits are purchased to retire development rights on existing donor lots in the Santa Monica Mountains Area (There are specific requirements for donor lots). A lot from which development rights have been transferred is "retired", and loses its building potential through recordation of a permanent open space easement (essentially the goal is not increase density in the Coastal Zone). The code section you mention below (Section 22.44.1230) is essentially the LA County version of our LCP LIP Chapter 7 requirements.

Sorry for the brief response, but wanted to get you and answer and get prepared for the our hearing tonight,

Richard

Richard Mollica / Planning Director / City of Malibu
23825 Stuart Ranch Road, Malibu CA, 90265
Phone: 310.456.2489 ext. 346
Fax: 310.456.7650

Connect with the City of Malibu!

From: Jo Drummond
Sent: Monday, January 10, 2022 11:01 PM
To: Richard Mollica <rmollica@malibucity.org>
Cc: City Council <citycouncil@malibucity.org>; Kelsey Pettijohn <kpettijohn@malibucity.org>
Subject: ADU's allowed in Malibu?

Hi Richard,

Is there a stipulation that ADU's need their own egress/driveway exit or possibly a lot split to be built in a very high fire hazardous zone? We almost purchased a home in unincorporated Malibu and there was an unpermitted guest house that burned down in the fire. The owner and myself checked in with the county's permit office and they said if we wanted to turn it into an ADU we'd have to follow this code:

All proposed accessory dwelling units and habitable accessory structures shall be required to retire one transfer of development credit pursuant to Section 22.44.1230.

What does this mean exactly?

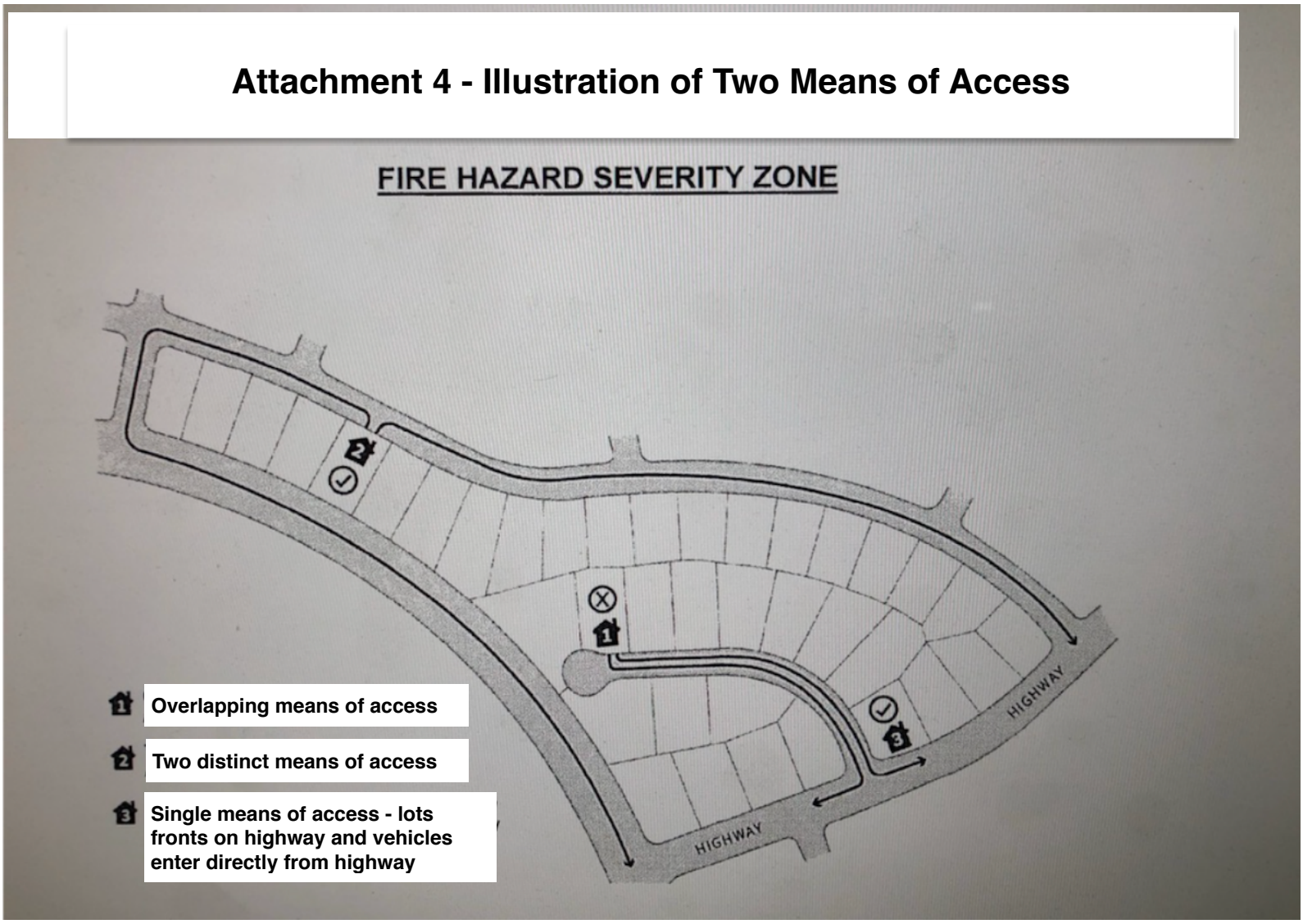
And also:

(4) No ADU is permitted on any lot that is located in both a Very High Fire Hazard Severity Zone designated by the City of Los Angeles Fire Department pursuant to Government Code Section 51178 and a Hillside Area as defined by the Hillside Area Map pursuant to Section 12.03 of this Code, unless it meets one of the following exceptions:
(i) The ADU is located within the boundaries of either the Northeast Los Angeles Community Plan Area or the Silver Lake - Echo Park - Elysian Valley Community Plan Area; or
The ADU complies with all of the following requirements:
a. Notwithstanding Subparagraph (c)(10) below, the ADU is protected throughout with an approved automatic fire sprinkler system, in compliance with the Los Angeles Plumbing Code;
b. Notwithstanding Subparagraph (c)(12) below, one off-street parking space is provided for the ADU; and
c. The ADU is located on a lot fronting on a street that is improved with a roadway width of 20 feet or more in unobstructed width, as measured along the entire frontage of the subject property, after any associated dedication and improvement. In the event the ADU is located on a Through Lot or a Corner Lot, the lot must front on at least one street that is improved with a roadway width of 20 feet or more in unobstructed width after any associated dedication and improvement.

Is this the same for Malibu? Thank you,

Jo Drummond

Attachment 4 - Illustration of Two Means of Access



Commission Agenda Report

Planning Commission Meeting
03-06-23
Item 5.A.

To: Chair Smith and Members of the Planning Commission

Prepared by: Tyler Eaton, Senior Planner
Joyce Parker-Bozylinski, Contract Planner

Approved by: Richard Mollica, Planning Director

Date prepared: February 23, 2023 Meeting date: March 6, 2023

Subject: 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

Applicant: City of Malibu
Location: Citywide

RECOMMENDED ACTION: Adopt Planning Commission Resolution No. 23-12 (Attachment 1) recommending that the City Council approve Local Coastal Program Amendment (LCPA) No. 18-002 and Zoning Text Amendment (ZTA) No. 18-004 for an amendment to the Local Coastal Program (LCP) and to the Malibu Municipal Code (MMC) to update regulations related to Accessory Dwelling Units (ADU).

DISCUSSION:

The proposed ADU amendments will update the City's LCP and MMC regulations for ADUs consistent with State law. Both the LCP and MMC refer to ADUs as second units, which are interchangeable terms. The term second unit (or any other term used to describe ADUs) will be changed to ADU throughout both the LCP and MMC as provided in the draft amendments. While the MMC amendments can go into effect 30 days after adoption, the LCP amendment will require certification by the California Coastal Commission (CCC) before going into effect.

The proposed language found in Exhibits A (LCP) and B (MMC) to Planning Commission Resolution No. 23-12 (Attachment 1) are presented in underline/strikethrough format to highlight added and ~~deleted~~ language compared to existing codes.

On September 4, 2018, the Planning Commission held its first public hearing on the proposed ADU amendments and directed staff to bring back additional information related

to the ordinance. In November 2018, the Woolsey Fire occurred, and staff efforts to facilitate the community's recovery and rebuilding efforts forced a delay in the work on ADU amendments. On May 20, 2021, staff brought back revised draft amendments to the Planning Commission that incorporated new 2019 State amendments and addressed Commissioner comments from the September 2018 public hearing. The May 20, 2021 public hearing was continued without the Planning Commission reaching a recommendation to City Council and staff was asked to address additional Commissioner comments before bringing the item back to the Commission. The March 7, 2022 Commission Agenda Report incorporated Commissioner comments to the revised draft amendments. The Planning Commission continued the item before opening the public hearing and directed staff to complete additional analysis. All items related to previous Planning Commission hearings, including staff reports, can be found on the Planning Department web page at https://www.malibucity.org/373/Current-Long-Range-Planning/Accessory-Dwelling-Units.

Some of the Commission requests, such as a traffic study, updating the evacuation plan, analyzing the availability of water, analyzing the effect on school population and use of City sports facilities, and an estimate of the policing costs, were related to whether the adoption of a new ADU ordinance would result in a significant increase in the number of ADUs in the City. The Commission felt additional studies and analysis should be undertaken to study the cumulative impact related to the potential increase of ADUs in the City. Since the Commission requests included additional studies and referrals that would require additional funding, the request was referred to the City Council.

On August 22, 2022, the City Council discussed the proposed ordinance and the need for additional studies and determined that since an attached or detached ADU would have the same permitting requirements as the City's current second unit codes and would, except for a few exceptions, have the same development standards as second units, additional studies and referrals would not be needed. The City Council directed staff to 1) minimize changes to the LCP by utilizing most of the existing second unit regulations, which currently protect coastal resources and public access, to revise the proposed ADU ordinance, and 2) refer the item back to the Planning Commission without the requested studies or referrals since they would not be needed if the City utilizes current second unit regulations in the ADU ordinance. State law allows both a Junior ADU (JADU) and an ADU on properties and while there could be an increase in cases where someone wants both a JADU and an ADU, staff has no way of determining which or how many properties might choose to build both.

Proposed LCPA ADU Amendments

Staff has updated the proposed LCPA ordinance[1] (Exhibit A in Attachment 1) to make the ordinance consistent with second unit regulations except for size, which is discussed

[1] The proposed ordinance was updated using the ordinance that was before the Planning Commission on March 7, 2022.

further below. Attachment 2 provides a summary comparison of second units and ADU permitting and development standards.

Second units are currently allowed with an Administrative Coastal Development Permit (ACDP). The proposed ordinance would require attached, detached, and converted ADUs (ADUs created from an existing accessory building) to obtain an ACDP and meet the standards set forth in the LCP. That process includes requirements for public noticing, and reporting Director approvals to the Planning Commission where, by majority vote, the Commission can require a full CDP. A member of the public will have the ability to appeal the decision of the Director to the Planning Commission, from the Planning Commission to the City Council and in the appeal zone to the CCC. The draft amendments that were part of the March 7, 2022 Commission packet created a new ADU CDP permit. However, since Section 13.13.1.B provides that all ADUs be processed as administrative permits creating a separate permit would not be necessary.

In addition to having the same permitting requirements, the proposed ADU development standards will utilize existing second unit development standards, except staff is recommending an increase in unit size. The maximum size of a second unit is 900 square feet. Staff had previously recommended establishing a maximum size of 900 square feet for a studio or one-bedroom unit and 1,200 square feet for a two or more-bedroom unit. Staff is now recommending a maximum size of 1,200 square feet regardless of the number of bedrooms. Establishing a maximum unit size without limits on the number of bedrooms would be easier to regulate and enforce. Establishing a maximum size of 1,200 square feet would be consistent with the square footage allowed for temporary housing for fire rebuilds. After the Woolsey Fire, the Council adopted Ordinance 445 which allowed fire rebuild applicants to place temporary housing on their properties not to exceed 1,200 square feet[2]. That decision was made to ensure a trailer or other temporary structure could be placed on the property to accommodate the residents comfortably until they were able to rebuild their homes. Some residents invested in pre-fabricated temporary homes that could potentially be permitted as ADUs after the rebuild of their homes. The Commission could recommend that the maximum size of an ADU remain the same as a second unit which is 900 square feet or the minimum established by State law of 850 square feet for a studio or one-bedroom unit and 1,000 square feet for a two or more bedroom unit but staff recommends a 1,200 square foot maximum without regard to the number of bedrooms as discussed above. Staff is recommending the State minimum unit sizes in the MMC. At previous meetings, the Commission discussed options for unit size but no consensus was reached.

Attached, detached, and converted accessory building ADUs processed with an ACDP will be required to meet all other development standards in LIP Section 3.10(G), which is consistent with existing second unit regulations. In addition, the proposed amendment includes a requirement that ADUs be deed restricted to include some of the regulations in the ordinance. Currently, staff has been adding one deed restriction when a project proposes a second unit, restricting a property to only one second unit meeting the

[2] The temporary housing regulations were placed in MMC Section 17.40,040.A.18.

definition of LIP Section 2.1. Staff proposes additional deed restrictions as part of the ADU Ordinance that will require the property to comply with restrictions such as disallowing an ADU to be sold separately from the primary dwelling, restrictions against renting ADUs for less than 30 days, and restrictions against increasing the approved size of an ADU without City approval among others.

Consistent with the City Council's direction and past Commission discussions about the importance of ensuring adequate setbacks and parking are provided since the entire City is in a Very High Fire Hazard Severity Zone (VHFHSZ), staff is recommending several changes to the LCPA language found in previous versions of the proposed amendment including the March 7, 2022 version. Some of the language proposed for deletion was originally included to make the LCP language consistent with the language in the MMC. However, the State ADU legislation does not supersede the requirements of the California Coastal Act and by extension the City's LCP. Consequently, the standards do not need to be identical. The proposed changes in the LCPA are now mostly to make the proposed ADU language consistent with the existing second unit language. The proposed MMC changes, as will be discussed later, were to make the MMC match the minimum standards required by State law.

While previous versions of the ordinance required ADUs to meet the same setbacks as a second unit, it provided an exception that no additional setback was required when a legally established accessory structure is demolished and replaced with a new structure for the purposes of creating an ADU so long as the replacement structure is constructed within the same location and with the same dimensions as the structure it is replacing. This language is consistent with State ADU law and will be kept in the proposed MMC to ensure consistency with State law but has been removed from the proposed LCPA. An ADU proposed in an existing accessory building to be demolished in order to accommodate an ADU would be processed under the LCP pursuant to LIP Section 3.10 (E)(1) and will have to meet current setbacks.

The draft LCPA ordinance has also been updated to require replacement parking for ADUs created from a converted garage. ADUs must provide off-street replacement parking for any displaced parking and must provide a minimum of one parking space per ADU which is consistent with the existing second unit regulations. The previous version of the ordinance did not require replacement parking for a converted garage and also included other exceptions to providing parking including when an ADU is located within 0.5-mile walking distance of public transit. These exceptions have been removed from the LCPA but some of these sections would remain in the MMC in order to be consistent with State law.

Since the proposed amendment would require all detached, attached, and converted ADUs to meet existing second unit standards, except for size, staff revised the LCPA ordinance to remove the VHFHSZ section. Since ADUs will need to meet second unit development standards, including setbacks and replacement parking for converted garages regardless of where they are located, and this section is no longer needed

because the entire City is in a VHFHSZ. The VHFHSZ provisions will remain in the MMC since State law does not require replacement parking for a converted garage. State law does allow jurisdictions to consider safety in requiring additional safety regulations. Ensuring adequate on-site parking exists would reduce the number of potential vehicles on the street which could interfere with emergency vehicles.

Proposed MMC Amendments

With the proposed amendments, the MMC Zoning Code will meet all the requirements of State ADU law; however, since ADUs in cities without an LCP are processed under the MMC, introductory language is included to make it clear to applicants that since State ADU law does not supersede the Coastal Act, every new ADU will be subject to analysis for compliance with the LCP before it is reviewed for compliance with the MMC. If that analysis demonstrates that a project is not exempt from a CDP, then the project would be processed with an ACDP. If a project does not require an ACDP, then the project would be processed with an Administrative Plan Review (APR) in compliance with the MMC or a building permit for interior space conversions.

Under the proposed ordinance and consistent with CCC guidance, ADUs created from a habitable space inside an existing single-family residence such as a bedroom (Junior ADU) or inside an existing single-family residence, otherwise known as Internal ADUs, are not considered new development for purposes of the LCP and as such, will be processed under the MMC with a building permit which is a ministerial project subject to a Planning Director approval. Under current regulations, any second unit requires a CDP, including conversions of existing interior space, additions, and new structures, the code does not differentiate between any of these options. The proposed amendment provides two options for proposed ADU processing subject to the MMC consistent with State law. First, if a project is one of four specific, limited types, it would be processed with a building permit only. This would include a 500 square foot JADU and an Internal ADU. It is important to note that State law does not place any restrictions on the size of Internal ADUs. Internal ADUs must be proposed inside of an existing single-family residence and utilize existing habitable interior space. Since the language in the MMC must be consistent with State law, the proposed MMC amendments include provisions for each type of ADU that would be allowed under State law. MMC regulations for attached, detached, and converted accessory structures would only be used in those rare instances where the City would be required to process an attached, detached, or converted (accessory building) ADU under the MMC. In those cases, the ADU would need to meet the standards in the MMC which utilize the State minimums for size, height, and setbacks.

In case an ADU is proposed inside an existing single-family residence, height and setbacks would remain the same and therefore, no discretionary requests would be required. However, the ADU may require upgrades to the Onsite Wastewater Treatment System (OWTS), which would require a CDP (LIP Section 13.29). In addition, ADUs created within an existing garage would be processed with an ACDP because a garage would not be considered a habitable space.

It is important that the City adopt an ADU ordinance consistent with State law. Government Code Section 65852.2 provides that without a local ordinance, State ADU regulations apply. Having an ADU ordinance will allow the City to retain at least some authority to regulate ADUs and JADUs in the MMC.

The State continues to adopt new bills related to ADUs including Assembly Bill (AB) 2221 and Senate Bill (SB) 897 which were adopted in 2022 and went into effect on January 1, 2023. The draft ordinance incorporates the changes from these bills. A summary of the changes in these bills is included in Attachment 3. The California Department of Housing and Community Development also updated its Accessory Dwelling Unit Handbook in July 2022. A current version can be found at https://www.hcd.ca.gov/sites/default/files/2022-07/ADUHandbookUpdate.pdf.

ENVIRONMENTAL REVIEW: Pursuant to Public Resources Code Section 21080.9, California Environmental Quality Act (CEQA) does not apply to activities and approvals by the City as necessary for the preparation and adoption of an LCP amendment. This application is for an amendment to the LCP, which must be certified by the CCC before it takes effect. LIP Section 1.3.1 states that the provisions of the LCP take precedence over any conflict between the LCP and the City's Zoning Ordinance. In order to prevent inconsistency between the LCP and the City's Zoning Ordinance, if the LCP amendment is approved, the City must also approve the corollary amendment to the Zoning Ordinance. This amendment is necessary for the preparation and adoption of the LCPA and because they are entirely dependent on, related to, and duplicative of the exempt activity, they are subject to the same CEQA exemption.

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

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

CORRESPONDENCE: No additional correspondence has been received by staff since the City Council meeting on August 22, 2022. Correspondence submitted between the March 7, 2022 Planning Commission meeting and the date of this publishing is included as Attachment 4.

PUBLIC NOTICE: On February 9, 2023, a Notice of Public Hearing was published in a newspaper of general circulation within the City of Malibu and mailed to all interested parties (Attachment 5).

CONCLUSION: Staff recommends that the Planning Commission adopt Resolution No. 23-12 (Attachment 1) recommending that the City Council approve LCPA No. 18-002 and ZTA No. 18-004 to update ADU regulations to be consistent with State law.

ATTACHMENTS:

1. Planning Commission Resolution No. 23-12 with Exhibits A (LCPA) and B (ZTA)
2. Comparison of Second Unit and ADU Regulations
3. Summary of SB 897 Changes
4. Correspondence
5. Public Hearing Notice

CITY OF MALIBU PLANNING COMMISSION
RESOLUTION NO. 23-12

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MALIBU DETERMINING THE AMENDMENTS ARE EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, AND RECOMMENDING THAT THE CITY COUNCIL APPROVE 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

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

Section 1. Recitals.

A. On June 11, 2018, the City Council adopted Resolution No. 18-28 to: 1) initiate Local Coastal Program (LCP) Amendment No. 18-002 and Zoning Text Amendment (ZTA) No. 18-004, to update accessory dwelling unit regulations consistent with State law, and 2) direct the Planning Commission to schedule a public hearing regarding the ZTA and provide a recommendation to the Council whether to approve, modify, or reject the amendment.

B. On July 17, 2018, the Zoning Ordinance Revision and Code Enforcement Subcommittee (ZORACES) met to discuss the proposed amendments to the MMC and LCP and recommended that the City's existing second unit regulations be updated consistent with Accessory Dwelling Unit State law.

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

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

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

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

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

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H. On April 6, 2020, the Planning Commission continued the public hearing to a date uncertain.

I. On May 20, 2021, the Planning Commission held a duly noticed public hearing on the proposed ADU amendments. The Planning Commission provided direction to staff and requested additional information.

J. On November 11, 2021, a Notice of Planning Commission Public Hearing and Notice of Availability of LCP Documents was published in a newspaper of general circulation within the City of Malibu and mailed to interested parties.

K. On December 6, 2021, the Planning Commission continued the public hearing to the January 18, 2022 Regular Planning Commission meeting.

L. On January 18, 2022, the Planning Commission continued the public hearing to the March 7, 2022 Regular Planning Commission meeting.

M. On March 7, 2022, the Planning Commission continued the public hearing to a date uncertain. The Planning Commission provided direction to staff and requested additional studies and referrals.

N. On August 22, 2022, the City Council discussed the additional studies and referrals requested by the Planning Commission and directed staff to 1) minimize changes to the Local Coastal Program by utilizing most of the existing second unit regulations, which currently protect coastal resources and public access, to revise the proposed ADU ordinance, and 2) refer the item back to the Planning Commission without the requested studies or referrals since they wouldn't be needed at this time if the City utilizes current second unit regulations in the ADU ordinance.

O. On February 9, 2023, a Notice of Planning Commission Public Hearing and Notice of Availability of LCP Documents was published in a newspaper of general circulation within the City of Malibu and mailed to interested parties.

P. On March 6, 2023, the Planning Commission held a duly noticed public hearing on the proposed ADU amendments on LCPA 18-002 and ZTA No.18-004, reviewed and considered the agenda report, reviewed and considered written reports, public testimony, and other information on the record.

Section 2. Environmental Review.

Pursuant to Public Resources Code Section 21080.9, California Environmental Quality Act (CEQA) does not apply to activities and approvals by the City as necessary for the preparation and adoption of an LCP amendment. This application is for an amendment to the LCP, which must be certified by the California Coastal Commission (CCC) before it takes effect. LCP 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

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inconsistency between the LCP and the City's Zoning Ordinance, if the LCP amendment is approved, the City must also approve the corollary amendment to the Zoning Ordinance. This amendment is necessary for the preparation and adoption of the LCPA and because they are entirely dependent on, related to, and duplicative of the exempt activity, they are subject to the same CEQA exemption.

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

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

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Section 3. Local Coastal Program Findings.

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

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

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

Section 4. Zoning Text Amendment Findings.

Pursuant to Malibu Municipal Code 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 A of this resolution.

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

B. The Planning Commission held a public hearing, reviewed the subject zoning text amendment application for compliance with the City of Malibu General Plan, Malibu Municipal Code and the Malibu Local Coastal Program, and finds that the zoning text amendment is consistent and recommends approval.

Section 5. Planning Commission Action.

Based on the foregoing findings and evidence contained in the record, the Planning Commission hereby recommends that the City Council approve the Local Coastal Program and Zoning Text Amendments contained in "EXHIBIT A" and "EXHIBIT B".

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

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PASSED, APPROVED AND ADOPTED this 6th day of March 2023.

_____
DENNIS R. SMITH, Planning Commission Chair

ATTEST:

_____
REBECCA EVANS, Recording Secretary

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

I CERTIFY THAT THE FOREGOING RESOLUTION NO. 23-12 was passed and adopted by the Planning Commission of the City of Malibu at the regular meeting thereof held on the 6th day of March 2023, by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

_____
REBECCA EVANS, Recording Secretary

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LOCAL COASTAL PROGRAM LAND USE PLAN

CHAPTER 3—MARINE AND LAND RESOURCES

g. New Development

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

a. Minimizing grading and landform alteration, consistent with Policy 6.8.

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

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

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

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

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

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

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EXHIBIT A

CHAPTER 5—NEW DEVELOPMENT

2. Land Use Plan Provisions

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

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

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

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

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

The LUP policies require that land divisions minimize impacts to coastal resources and public access. Land divisions include subdivisions through parcel or tract map, lot line adjustments, and certificates of compliance. Land divisions are only permitted if they are approved in a coastal development permit. A land division cannot be approved unless every new lot created would contain an identified building site that could be developed consistent with all policies of the LCP. Land divisions must be designed to cluster development, to minimize landform alteration, to

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minimize site disturbance, and to maximize open space. Any land division resulting in the creation of additional lots must be conditioned upon the retirement of development credits (TDCs) at a ratio of one credit per new lot created. Certificates of compliance must meet all policies of the LCP.

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

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

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

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

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

6. Residential Development Policies

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

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

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

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square feet (two-car) maximum. The area of a garage provided as part of an ~~second residential unit~~ accessory dwelling unit or guest house shall not be included in the 900 or 1,200 square foot limit, respectively.

5.23 ~~A minimum of o~~ One onsite enclosed or unenclosed parking space shall be required for the exclusive use of an ~~any second residential unit~~ accessory dwelling unit or guest house.

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

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

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LOCAL IMPLEMENTATION PLAN

CHAPTER 2—DEFINITIONS

2.1. GENERAL DEFINITIONS

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

1. An efficiency unit, as defined in Section 17958.1 of the California Health and Safety Code and the California Building Code; and

2. A manufactured home, as defined in Section 18007 of the California Health and Safety Code.

ACCESSORY DWELLING UNIT, ATTACHED - an accessory dwelling unit that is physically attached to the primary dwelling unit and share an interior wall or as an additional story above the primary dwelling unit, but which has independent, direct access from the exterior.

ACCESSORY DWELLING UNIT, DETACHED - an accessory dwelling unit that is not an attached accessory dwelling unit.

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

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

JUNIOR ACCESSORY DWELLING UNIT - a residential unit that

1. is no more than 500 square feet in size;

2. is contained entirely within an existing or proposed single-family structure;

3. has a separate exterior entrance;

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

5. includes an efficiency kitchen.

KITCHEN, INCLUDING AN EFFICIENCY KITCHEN - an area within a structure that is used or designed to be used for the preparation or cooking of food and that contains each of the following:

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1. A cooking facility with appliances including, but not limited to: ovens, convection ovens, stoves, stove tops, built-in grills or similar appliances.

2. A food preparation counter or counters that total at least 15 square feet in area.

3. Food storage cabinets that total at least 30 square feet of shelf space.

~~KITCHEN - a room or space within a building intended to be used for the cooking and preparation of food.~~

LIVING AREA - the interior habitable area of a dwelling unit, including finished basements ~~and~~ or attics but does not include unfinished basements or attics, rooms with floor to ceiling heights less than 6 feet, ~~with a~~ garages or accessory structures.

MULTI-FAMILY RESIDENCE - a building or portion thereof used for occupancy by ~~three~~ two or more families living independently of each other and containing ~~three~~ two or more dwelling units. This does not apply to a primary residence and an ADU or guest house on the same parcel.

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

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

~~SECOND UNIT - an attached or detached residential dwelling unit which provides complete independent living facilities for one or more persons. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single family dwelling is situated. The maximum living area of a second unit shall not exceed nine hundred (900) square feet, including any mezzanine or storage space. A second unit 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~~

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

VERY HIGH FIRE HAZARD SEVERITY ZONE - a zone as defined in Government Code 51177 and designated by Ordinance 299.

WET BAR - a single sink and refrigerator no greater than 5 cubic feet in size with cabinets and/or counter top area not exceeding 6 lineal feet. A wet bar shall not include a refrigerator in excess of 5 cubic feet in size or a kitchen sink greater than 2 square feet in size, or a gas or electric range, stove top and/or oven (but may include a microwave oven).

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CHAPTER 3—ZONING DESIGNATIONS AND PERMITTED USES

Q. Planned Development (PD) Zone

1. Purpose

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

2. Permitted Uses

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

a. Lot Nos. 1—5

i. One single-family residence per lot.

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

iii. Accessory dwelling units in accordance with Section 3.10.

~~iii.~~ iv. Domestic animals, kept as pets.

~~iv.~~ v. Landscaping.

b. Lot No. 6

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

c. Lot No. 7

i. Parks and public open space, excluding community centers.

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

iii. Onsite wastewater treatment facilities.

3. Lot Development Criteria

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

a. Lot Nos. 1—5

i. Minimum lot area: 113,600 square feet (2.60 acres).
ii. Minimum lot width: 115 feet.
iii. Minimum lot depth: 480 feet.

b. Lot No. 6

i. Minimum lot area: 125,700 square feet (2.88 acres).
ii. Minimum lot width: 625 feet.
iii. Minimum lot depth: 100 feet.

c. Lot No. 7

i. Minimum lot area: 75,640 square feet (1.74 acres).
ii. Minimum lot width: 460 feet.
iii. Minimum lot depth: 100 feet.

4. Property Development and Design Standards

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

a. Lot Nos. 1—5

i. Development Footprint and Structure Size (Replaces corresponding standards in LIP Section 3.6(K))

a) The total development square footage (TDSF) on each of Lot Nos. 1—5 shall not exceed the following square footage per lot:

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Lot 1 – 10,052 sq. ft.
Lot 2 – 9,642 sq. ft.
Lot 3 – 9,434 sq. ft.
Lot 4 – 9,513 sq. ft.
Lot 5 – 10,990 sq. ft.

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

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

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

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

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

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

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

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

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

a) Every residence and every other building or structure associated with a residential development (excluding chimneys), including satellite dish antenna, solar panels and rooftop equipment, shall not be higher than eighteen (18) feet, except the easternmost approximately 2,500 sq. ft. of the residence

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on Lot 2 and the southwestern corner of the residence on Lot 5 shall not be higher than 15 feet, as indicated on "Malibu Coast Estate Planned Development Map 1" of this LIP. Height is measured from natural or finished grade, whichever is lower.

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

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

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

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

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

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

v. Impermeable Coverage, Landscaping, and Berm

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

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

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

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

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

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

c) For an accessory dwelling unit see Section 3.10.

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

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

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

viii. Permit Required

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

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3.6. RESIDENTIAL DEVELOPMENT STANDARDS

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

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

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

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

E. thru M. – no changes

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

~~1. Second Residential Units~~

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

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

~~c. Development Standards~~

~~i. Siting~~

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

~~ii. Maximum Living Area~~

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

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~~iii. Parking~~

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

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

1. Guest houses

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

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

c. Development Standards

i) Siting. Any permitted guest house shall be located within the approved development area for the project site and shall be clustered with the primary dwelling unit and any other approved structures to minimize required fuel modification. All guest houses must comply with residential development standards in Section 3.6.

ii) Maximum Size. The maximum square footage of a guest house shall not exceed 900 square feet. The maximum square footage shall include interior and exterior walls, basements, mezzanines, storage space, and any space with a height clearance (floor to ceiling height dimension) above six feet. The area of a garage provided as part of the guest house, exterior decks, covered patios or overhangs that are attached to the structure shall not be included in the 900 square foot limit. The maximum square footage of a guest house, garage and other attached structures that are otherwise considered total development square footage shall be included in the overall total development square footage for the lot.

iii) A 10-foot separation between the guest house and any other structure shall be maintained if the parcel is within a Very High Fire Hazard Severity Zone.

d. Parking

i) A minimum of one off-street enclosed or unenclosed parking space shall be provided for the exclusive use of a guest house.

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

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3.10. ACCESSORY DWELLING UNITS

Accessory Dwelling Units - The following regulations shall apply to accessory dwelling units (ADUs) approved under this section.

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

B. Effect of Conforming. An ADU that conforms to the standards in this section will be:

1. Deemed to be consistent with the City's General Plan and zoning designation for the lot on which the ADU is located.

2. Deemed not to exceed the allowable density for the lot on which the ADU is located.

3. Considered not to be subject to the application of any local ordinance, policy, or program to limit residential growth.

4. Permitted to maintain a nonconforming zoning condition. For purposes of this paragraph 3.10 B.4, "nonconforming zoning condition" means physical improvement on a property that does not conform with current zoning standards. This does not prevent the City from enforcing compliance with applicable building standards in accordance with Health and Safety Code Section 17980.1

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

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

E. Coastal Development Permit required.

1. An administrative coastal development permit (ACDP) issued in accordance with Section 13.31 shall be required for all detached and attached ADUs and ADUs located inside an existing accessory building including when a legally established accessory structure is demolished and is replaced with a new structure for the purposes of creating an ADU.

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2. An ADU or JADU created from habitable space and located entirely within an existing single-family residence which does not change the building envelope is not considered development and does not require an ACDP. Unfinished basements or attics, rooms with floor to ceiling heights less than 6 feet and garages would not be considered habitable space. ADUs located in multifamily dwellings shall require an ACDP.

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

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

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

2. Fire Sprinklers. Fire sprinklers are required in an ADU.

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

4. Rental Rate Reporting. To facilitate the City's obligation to identify adequate sites for housing in accordance with Government Code Sections 65583.1 and 65852.2, and to allow ADUs to count towards the City's Regional Housing Needs Assessment (RHNA) requirements, within 90 days after each yearly anniversary of the issuance of the building permit, the owner will be asked to report the actual rent charged for the ADU during the prior year.

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

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

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

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

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b. The ADU must remain an ADU unless City approval is obtained to convert the structure to a different accessory structure.

c. An ADU created cannot be rented for less than 30 days.

d. The ADU is restricted to the approved size.

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

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

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

G. ADU Development Standards. The following development standards apply to ADUs. All requirements of the Malibu LIP that are consistent with the criteria listed below shall remain in effect. If there is a conflict between the standards of this Section 3.10(G) and standards that protect coastal resources, the requirements which are most protective of coastal resources shall prevail.

1. Maximum Size.

a. The maximum square footage of an ADU shall be 1,200 square feet. The maximum square footage shall include interior and exterior walls, basements, mezzanines, storage space, and any space with a height clearance (floor to ceiling height dimension) above six feet. The area of a garage (400 square feet maximum) provided as part of accessory dwelling unit and exterior decks or overhangs that are attached to the structure shall not be included in the 900 or 1,200 square foot limit. The maximum square footage of the ADU, garage, and other attached structures that are otherwise considered total development square footage shall be included in the overall total development square footage for the lot.

b. An ADU that is attached to the primary dwelling is limited to 50 percent of the living area of the existing primary dwelling or 1,200 square feet, whichever is less.

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c. Application of TDSF, impermeable coverage, and other development standards may further limit the size of the ADU.

d. The maximum size of an ADU in a converted existing detached accessory structure or primary dwelling shall not exceed the size limits provided in the other paragraphs of this subsection G(1).

2. Height

a. No ADU may exceed 18 feet in height above grade as measured from existing or finished grade, whichever results in the lower building height.

b. Pursuant to Section 13.27 of the Malibu LIP (Site Plan Review), the Director may allow heights up to 24 feet for flat roofs and 28 feet for pitched or sloped roofs. In no event shall the maximum number of stories above grade be greater than two.

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

3. Setbacks.

a. All ADUs remain subject to the setback standards in Section 3.6(F) and (G), as applicable including when a legally established accessory structure is demolished and is replaced with a new structure for the purposes of creating an ADU.

b. Pursuant to Section 13.27 of the Malibu LIP, the Director may grant minor modification permits to reduce setback requirements.

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

5. Parking.

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

b. An ADU may include a garage not to exceed four hundred (400) square feet.

c. For a garage, carport, or covered parking structure that is converted to an accessory dwelling unit, onsite replacement parking spaces shall be required that comply with the minimum number of spaces and dimensions stated in Chapter 17.48.

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6. An attached ADU shall not be connected internally to the main residence. A detached ADU shall not be connected internally to any accessory structure except for a garage which serves the ADU.

CHAPTER 13—COASTAL DEVELOPMENT PERMITS

No changes to 13.1 through 13.3

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

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

13.4.1 Exemption for Improvements to Existing Single-Family Residences

A. Improvements to existing single-family residences except as noted below in (B). For purposes of this section, the terms "Improvements to existing single-family residences" includes all fixtures and structures directly attached to the residence and those structures normally associated with a single-family residence, such as garages, swimming pools, fences, storage sheds and landscaping but specifically not including guest houses or ~~accessory self-contained residential units~~ accessory dwelling units.

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

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

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

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

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

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or Public Resources Code section 30610(a), increase in height by more than 10 percent of an existing structure and/or any significant non-attached structure such as garages, fences, shoreline protective works or docks.

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

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

13.4.3 Exemption for Other Improvements

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

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

2. Landscaping on the lot.

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

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

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

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

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

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improvement to the structure has previously been undertaken pursuant to section (A) above or Public Resources Code section 30610(b), and/or increase in height by more than 10 percent of an existing structure;

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

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

7. Any improvement to a structure which changes the intensity of use of the structure;

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

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13.11. PUBLIC HEARING REQUIRED AND PUBLIC COMMENT

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

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

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

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

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13.13. ADMINISTRATIVE PERMITS

13.13.1 Applicability

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

1. Improvements to any existing structure;

2. Any single-family dwelling;

3. Lot mergers;

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

5. Water wells.

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

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NOTE: Changes are proposed for the Residential land use category only as noted below. No changes are proposed for the other land use categories.

Appendix 1 TABLE B PERMITTED USES

KEY TO TABLE (In addition to a coastal development permit, MCUP, CUP, LFDC, & WTF permits are required pursuant to the Malibu Municipal Code where shown in this table.)	
	Permitted use
MCUP	**Requires the approval of a minor Conditional Use Permit by the Director**
CUP	**Requires the approval of a Conditional Use Permit**
A	**Permitted only as an accessory use to an otherwise permitted use**
LFDC	**Requires the approval of a Large Family Day Care permit**
WTF	**Requires the approval of a Wireless Telecommunications Facility**
STR	**Use requires valid short-term rental permit approved by the City**
	Not permitted (Prohibited)

USE	RR	SF	MF	MFBF	MHR	CR	BPO	CN	CC	CV-1	CV-2	CG	OS	I	PRF	RVP
RESIDENTIAL																
Single-family residential[1]	P	P	P	P	.	.	.	.	.	.	.	.	.	A	.	.
Manufactured homes	P	P	P	P	.	.	.	.	.	.	.	.	.	.	.	.
Multiple-family residential (including duplexes, condominiums, stock cooperatives, apartments, and similar developments)	.	.	CUP[19]	CUP[19]	.	.	.	.	.	.	.	.	.	.	.	.
~~Second~~ Accessory dwelling units	A[22]	A[22]	A[22]	A[22]	.	.	.	.	.	.	.	.	.	.	.	.
Mobile home parks	.	.	.	.	P	.	.	.	.	.	.	.	.	.	.	.
Mobile home park accessory uses (including recreation facilities, meeting rooms, management offices, storage/maintenance buildings, and other similar uses)	.	.	.	.	CUP	.	.	.	.	.	.	.	.	.	.	.
Mobile home as residence during construction	P	P	P	MCUP	.	.	.	.	.	.	.	.	.	.	.	.
Accessory uses (guest ~~units~~ house, garages, barns, pool houses, pools, spas, gazebos, storage sheds, greenhouses (non-commercial), sports courts (non-illuminated), corrals (non-commercial), and similar uses)	A[1]	A[1]	A[1]	A[1]	.	.	.	.	.	.	.	.	.	.	.	.
Residential care facilities (serving 6 or fewer persons)	P	P	P	.	.	.	.	.	.	.	.	.	.	.	.	.
Large residential care facilities (serving 7 or more person	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.
Small residential care facilities (serving 6 or fewer persons)	P	P	P	.	.	.	.	.	.	.	.	.	.	.	.	.
Single Room Occupancy Facility	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.
Small family day care (serving 6 or fewer persons)	A	A	A	.	.	.	.	.	.	.	.	.	.	.	.	.
Large family day care (serving 7 to 12 persons)	LFDC	LFDC	LFDC	.	.	.	.	.	.	.	.	.	.	.	.	.
Home occupations	P/ MCUP [2]	P/ MCUP[2]	P/ MCUP[2]	P/ MCUP[2]	.	.	.	.	.	.	.	.	.	.	.	.
Short-term rental	STR[21]	STR[21]	STR[21]	STR[21]	STR[21]											

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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.
6. Maximum interior occupancy of 125 persons.
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. Single-family residence properties are limited to hosted short-term rental permits only; one dwelling unit in a duplex may be rented unhosted if the owner or designated operator lives onsite in the other dwelling unit during the rental period; and for multifamily properties, a maximum of two dwelling units per parcel, or 40%, whichever is less, may be devoted to short-term rental use.
22. Subject to Accessory Development Standards (Section 3.10).

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`Title 17

ZONING

Chapters:

17.02 Introductory Provisions and Definitions

17.06 Zoning Districts Established

17.08 RR Rural Residential District

17.10 SF Single Family Density Residential District

17.12 MF Multiple Family Residential District

17.14 MFBF Multifamily Beach Front District

17.39 Malibu Coast Estate Planned Development (PD) District

17.40 Property Development and Design Standards

17.44 Accessory Dwelling Units

17.45 Citywide View Preservation and Restoration

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Chapter 17.02

INTRODUCTORY PROVISIONS AND DEFINITIONS

Sections:

17.02.060 Definitions.

As used in this title:

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

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

2. A manufactured home, as defined by Section 18007 of the California Health and Safety Code.

"Accessory Dwelling Unit, attached" means an accessory dwelling unit that is physically connected to the primary dwelling unit and share an interior wall or as an additional story above the primary dwelling unit, but which has independent, direct access from the exterior.

"Accessory Dwelling Unit, detached" means an accessory dwelling unit that is not an attached accessory dwelling unit.

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

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

"Junior Accessory Dwelling Unit" means a residential unit that

1. is no more than 500 square feet in size;

2. is contained entirely within an existing or proposed single-family structure;

3. has a independent exterior entrance, apart from that of the primary dwelling;

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

5. includes an efficiency kitchen.

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"Kitchen, including an efficiency kitchen" means an area within a structure that is used or designed to be used for the preparation or cooking of food and that contains each of the following:

1. A cooking facility with appliances including, but not limited to: ovens, convection ovens, stoves, stove tops, built-in grills or similar appliances.

2. A food preparation counter or counters that total at least 15 square feet in area.

3. Food storage cabinets that total at least 30 square feet of shelf space

~~"Kitchen" means a room or space within a building intended to be used for the cooking and preparation of food.~~

"Living area" means the interior habitable area of a dwelling unit, including finished basements ~~and~~ or attics but does not include unfinished basements or attics, rooms with floor to ceiling heights less than 6 feet, ~~with a~~ garages or accessory structures.

"Multi-family residence" means a building or portion thereof used for occupancy by ~~three~~ two or more families living independently of each other and containing two ~~three~~ or more dwelling units. This does not apply to a primary residence and an ADU or guest house on the same parcel.

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

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

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

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

"Very High Fire Hazard Severity Zone" means zone as defined by Government Code 51177 and designated by Ordinance 299.

"Wet Bar" means a single sink and refrigerator no greater than 5 cubic feet in size with cabinets and/or counter top area not exceeding 6 lineal feet. A wet bar shall not include a refrigerator in excess of 5 cubic feet in size or a kitchen sink greater than 2 square feet in size, or a gas or electric range, stove top and/or oven (but may include a microwave oven).

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Chapter 17.08

RR RURAL RESIDENTIAL DISTRICT

Sections:

17.08.020 Permitted uses.

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

A. One single-family residence per lot;

B. Small family day care and residential care facilities serving six or fewer persons;

C. Accessory uses and structures as follows:

1. Accessory buildings customarily ancillary to single-family residences including, but not limited to, guest ~~units~~ houses ~~seven hundred fifty (750 square feet maximum~~ in accordance with Section 17.40.040(A)(21), detached garages, barns, pool houses, gazebos, storage sheds, and greenhouses (noncommercial),

2. Recreational structures including, but not limited to, pools, spas, nonilluminated sports courts, and corrals,

3. Domestic animals, kept as pets or for personal use,

4. Raising of crops including, but not limited to, field, trees, bush, berry row and nursery stock, provided there is no retail sale from the premises,

5. Raising of horses, sheep, goats, donkeys, mules and other equine cattle for personal use by residents on the premises, subject to the following conditions:

a. The subject property is a minimum of fifteen thousand (15,000) square feet in size,

b. The maximum number of animals listed above does not exceed one animal (over six months of age) for every five thousand (5,000) square feet of lot area,

c. The animals shall be maintained in an area a minimum of fifty (50) feet from any building used for human habitation;

D. The following agricultural uses; provided, that all buildings or structures used in conjunction therewith shall be located not less than fifty (50) feet from any street or highway or any building used for human habitation:

1. The raising of horses and other equine, cattle, sheep and goats, including the breeding and training of such animals, on a parcel having an area of not less than one acre and provided that not more than eight such animals per acre of the total ground area be kept or maintained in conjunction with such use,

2. The grazing of cattle, horses, sheep or goats on a parcel with an area of not less than five acres, including the supplemental feeding of such animals, provided:

a. That such grazing is not a part of nor conducted in conjunction with any dairy, livestock feed yard, livestock sales yard or commercial riding academy located on the same premises,

b. That no buildings, structures, pens or corrals designed or intended to be used for the housing or concentrated feeding of such stock be used on the premises for such grazing other than racks for supplementary feeding, troughs for watering, or incidental fencing,

3. Raising of poultry, fowl, birds, rabbits, fish, bees and other animals of comparable nature, provided the subject parcel is a minimum of one acre in size,

4. The raising of hogs or pigs, provided:

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

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

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

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

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

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

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

H. Private equestrian and/or hiking trails;

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

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

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Chapter 17.10

SF SINGLE FAMILY DENSITY RESIDENTIAL DISTRICT

Sections:

17.10.020 Permitted uses.

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

A. One single-family residence per lot;

B. Small family day care and residential care facilities serving six or fewer persons;

C. Accessory uses and structures as follows:

1. Accessory buildings customarily ancillary to single-family residences including, but not limited to, detached garages, barns, pool houses, gazebos, storage sheds, guest ~~units~~ houses ~~(seven hundred fifty (750) square feet maximum~~) in accordance with Section 17.40.040(A)(21), and greenhouses (noncommercial),

2. Recreational structures including, but not limited to, pools, spas, nonilluminated sports courts, and noncommercial corrals,

3. Domestic animals,

4. Raising of crops including, but not limited to, field, trees, bush, berry row and nursery stock, provided there is no retail sale from the premises,

5. Raising of horses, sheep, goats, donkeys, mules and other equine cattle for personal use by residents on the premises, subject to the following conditions:

a. The subject property is a minimum of fifteen thousand (15,000) square feet in size,

b. The maximum number of animals listed above does not exceed one animal (over six months of age) for every five thousand (5,000) square feet of lot area,

c. The animals shall be maintained in an area a minimum of fifty (50) feet from any building used for human habitation;

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

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

F. Large family day care facilities (serving seven to twelve (12) persons), subject to Section 17.66.110;

G. Temporary placement of mobilehomes and trailers subject to the conditions of Section 17.40.040(A)(18). (Ord. 104 § 2, 1993; Ord. 86 § 3, 1993; prior code § 9221)

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Chapter 17.12

MF MULTIPLE FAMILY RESIDENTIAL DISTRICT

Sections:

17.12.020 Permitted uses.

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

A One single-family residence per lot;

B. Small family day care and residential care facilities involving six or fewer persons;

C. Accessory uses and structures as follows:

1. Accessory buildings customarily ancillary to single-family residences including, but not limited to, detached garages, barns, pool houses, gazebos, storage sheds, guest ~~units~~ houses ~~(seven hundred fifty (750) square feet maximum)~~ in accordance with Section 17.40.040(A)(21), and greenhouses (noncommercial),

2. Recreational structures including, but not limited to, pools, spas, nonilluminated sports courts, and corrals,

3. Domestic animals;

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

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

F. Large family day care facilities (serving seven to twelve (12) persons), subject to Section 17.66.110;

G. Temporary placement of mobilehomes and trailers subject to the conditions of Section 17.40.040(A)(18). (Ord. 104 § 2, 1993; Ord. 86 § 3, 1993; prior code § 9231)

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Chapter 17.14

MFBF MULTIFAMILY BEACH FRONT DISTRICT

Sections:

17.14.020 Permitted uses.

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

A One single-family residence per lot;

B. Expansion up to five hundred (500) square feet of existing multifamily buildings provided the expansion conforms to the provisions of Chapter 17.40;

C. Accessory uses and structures as follows:

1. Accessory buildings customarily ancillary to single-family and multifamily residences including, but not limited to, detached garages, pool houses, gazebos, storage sheds, guest ~~units~~ houses ~~(seven hundred fifty (750) square feet maximum)~~ in accordance with Section 17.40.040(A)(21),

2. Recreational structures including, but not limited to, pools, spas, nonilluminated sports courts,

3. Domestic animals;

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

E. ~~Second units, pursuant to Government Code Section 65852.2. (Ord. 151 § 11, 1996; prior code § 92362)~~ Accessory dwelling units in accordance with Chapter 17.44.

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Chapter 17.39

MALIBU COAST ESTATE PLANNED DEVELOPMENT (PD) DISTRICT

Sections:

17.39.020 Permitted uses.

17.39.040 Property development and design standards.

17.39.020 Permitted uses.

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

A. Lot Nos. 1—5.

1. One single-family residence per lot.

2. Accessory uses (~~one second unit or~~ guest house ~~per lot~~ in accordance with Section 17.40.040(A)(21), garages, swimming pools, spas, pool houses, cabanas, water features, gazebos, storage sheds, private non-illuminated sports courts, noncommercial greenhouses, gated driveways, workshops, gyms, home studios, home offices, and reasonably similar uses normally associated with a single-family residence, as determined by the planning director).

3. Accessory dwelling units in accordance with Chapter 17.44.

4. Domestic animals, kept as pets.

5. Landscaping.

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

C. Lot No. 7.

1. Parks and public open space, excluding community centers.

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

3. Onsite wastewater treatment facilities. (Ord. 398 § 6, 2015)

17.39.040 Property development and design standards.

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

A. Lot Nos. 1—5.

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1. Development Footprint and Structure Size (Replaces corresponding standards in LIP Section 3.6(K)).

a. The total development square footage (TDSF) on each of Lot Nos. 1—5 shall not exceed the following square footage per lot:

Lot 1 —10,052 square feet.
Lot 2 —9,642 square feet.
Lot 3 —9,434 square feet.
Lot 4 —9,513 square feet.
Lot 5 —10,990 square feet.

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

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

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

2. Setbacks (Replaces corresponding standards in Section 17.40.040).

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

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

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

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

3. Structure Height (Replaces corresponding standards in Section 17.40.040).

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

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

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

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

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

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

c. Net export shall be limited to three thousand five hundred (3,500) cubic yards per lot.

5. Impermeable Coverage, Landscaping, and Berm.

a. The impermeable coverage requirement in Section 17.40.040 shall apply.

b. In addition to the requirements of Section 17.40.040, site landscaping shall be designed to minimize views of the approved structures as seen from public viewing areas, including the use of native trees to screen approved structures. Landscaping and trees shall be selected, sited, and maintained to not exceed twenty-five (25) feet.

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

6. Parking (In addition to the parking standards of Section 17.40.040.

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

b. For a guest house see Section 17.40.040(A)(21). ~~One enclosed or unenclosed parking space for a guest unit or second unit.~~

c. For an accessory dwelling unit see Chapter 17.44.

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

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

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

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

B. Lot No. 6.

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

2. Setbacks.

a. Buildings, not including projections permitted in Section 17.40.050, shall maintain a minimum setback of fifty (50) feet from all property lines.

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

3. Structure Height.

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

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

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

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

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

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

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

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

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

7. Colors and Lighting.

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

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

C. Lot No. 7.

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

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

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

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

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Chapter 17.40

PROPERTY DEVELOPMENT AND DESIGN STANDARDS

Section 17.40.040(A)

21. Guest Houses

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

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

c. Development Standards

1. Siting. Any permitted guest house shall be located within the approved development area for the project site and shall be clustered with the primary dwelling unit and any other approved structures to minimize required fuel modification. All guest houses must comply with residential development standards in Section 17.40.040.

2. Maximum Size. The maximum square footage of a guest house shall not exceed 900 square feet. The maximum square footage shall include interior and exterior walls, basements, mezzanines, storage space, and any space with a height clearance (floor to ceiling height dimension) above six feet. The area of a garage provided as part of the guest house, exterior decks, covered patios, or overhangs that are attached to the structure shall not be included in the 900 square foot limit. The maximum square footage of a guest house, garage, and any other attached structures that are otherwise considered total development square footage shall be included in the overall total development square footage for the lot.

3. A 10-foot separation between the guest house and any other structure shall be maintained if the parcel is within a Very High Fire Hazard Severity Zone.

d. Parking

1. A minimum of one onsite enclosed or unenclosed parking space shall be provided for the exclusive use of a guest house.

2. One garage, attached and solely used for the guest house not to exceed 400 square feet in size may be permitted as part of a guest house.

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Chapter 17.44 - ACCESSORY DWELLING UNITS

17.44.010 Title.

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

17.44.020 Purpose.

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

17.44.030 Effect of Conforming.

An ADU or JADU that conforms to the standards in this chapter will be:

A. Deemed to be consistent with the City's General Plan and zoning designation for the lot on which the ADU or JADU is located.

B. Deemed not to exceed the allowable density for the lot on which the ADU or JADU is located.

C. Considered not to be subject to the application of any local ordinance, policy, or program to limit residential growth.

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

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17.44.040 Definitions.

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

17.44.050 Permitted Zones.

ADUS and JADUs shall be allowed on lots zoned to allow single-family or multi-family dwelling residential use. These zones include Rural Residential (RR), Single Family (SF), Multi-Family (MF), Multi-Family Beach Front (MFBF), and Planned Development (PD).

17.44.060 Approvals.

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

A. Building-Permit Only. If an ADU or JADU complies with each of the general requirements in section 17.44.080 below, it is allowed with only a building permit in the following scenarios:

1. Converted on Single-family Lot: One ADU as described in this subsection (A)(1) and one JADU on a lot with a proposed or existing single-family dwelling on it, where the ADU or JADU:

   a. Is either: within the space of a proposed single-family dwelling; within the existing space of an existing single-family dwelling; or (in the case of an ADU only) within the existing space of an accessory structure, plus up to 150 additional square feet if the expansion is limited to accommodating ingress and egress; and

   b. Has exterior access that is independent of that for the single-family dwelling; and

   c. Has side and rear setbacks sufficient for fire and safety, as dictated by applicable building and fire codes.

   d. The JADU complies with the requirements of Government Code Section 65852.22.

2. Limited Detached on Single-family Lot: One detached, new-construction ADU on a lot with a proposed or existing single-family dwelling (in addition to any JADU that might otherwise be established on the lot under subsection (A)(1) above if the detached ADU satisfies each of the following limitations:

   a. The side- and rear-yard setbacks are at least four feet.

   b. The total floor area is 800 square feet or smaller.

   c. The peak height above grade does not exceed the applicable height limit in subsection 17.44.090 (B) below.

3. Converted on Multifamily Lot: One or more ADUs within portions of existing multifamily dwelling structures that are not used as livable space, including but not limited to storage rooms, boiler rooms, passageways, attics, basements, or garages, if each converted ADU complies with state building standards for dwellings. Under this subsection (A) (3) at least one converted ADU is allowed within an existing multifamily dwelling, up to a quantity equal to 25 percent of the existing multifamily dwelling units.

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4. Limited Detached on Multifamily Lot: No more than two detached ADUs on a lot that has an existing or proposed multifamily dwelling if each detached ADU satisfies both of the following limitations:

   a. The side- and rear-yard setbacks are at least four feet. If the existing multifamily dwelling has a rear or side yard setback of less than four feet, the city will not require any modification to the multifamily dwelling as a condition of approving the ADU.

   b. The peak height above grade does not exceed the applicable height limit provided in subsection 17.44.090 (B) below.

B. Administrative Plan Review Permit (APR)

1. Except as allowed under subsection 17.44.060 (A), no ADU may be created without a building permit and an APR permit in compliance with the standards set forth in Sections 17.44.080 and 17.44.090.

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

C. Very High Fire Hazard Severity Zone.

1. Where a lot or any portion thereof is located within a Very High Fire Hazard Severity Zone and the lot does not have two distinct means of vehicular access (a street) such that the two distinct means of vehicular access, as measured from the lot to the point of intersection with a highway, shall not overlap with each other, and each means of vehicular access is a minimum 24 feet wide and improved with paving or other all-weather surfacing, an accessory dwelling unit shall meet following requirements:

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

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

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

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

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

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D. ADUs - Multifamily Lots

ADUs are allowed on multifamily lots pursuant to 17.44.060 A. 3 and 4. New attached ADUs are not allowed.

17.44.070 Process and Timing.

A. An APR is considered and approved ministerially by the Planning Director without discretionary review or a hearing unless a variance request is included with the APR.

B. The City must approve or deny an application to create an ADU or JADU within 60 days from the date that the City receives a complete application, unless either:

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

2. When an application to create an ADU or JADU is submitted with a permit application to create a new single-family or multifamily dwelling on the lot, the city may delay acting on the permit application for the ADU or JADU until the city acts on the permit application to create the new single-family or multifamily dwelling, but the application to create the ADU or JADU will still be considered ministerially without discretionary review or a hearing.

C. If the city denies an application to create an ADU or JADU, the city must provide the applicant with comments that include, among other things, a list of all the defective or deficient items and a description of how the application may be remedied by the applicant. Notice of the denial and corresponding comments must be provided to the applicant within the 60-day time period established by subsection (B) above.

D. A demolition permit for a detached garage that is to be replaced with an ADU is reviewed with the application for the ADU and issued at the same time.

17.44.080 General ADU and JADU Requirements.

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

A. Rental Term. An ADU or JADU may not be rented for a term that is shorter than 30 days. This prohibition applies regardless of when the ADU or JADU was created.

B. Rental Rate Reporting. To facilitate the City's obligation to identify adequate sites in accordance with Government Code Sections 65583.1 and 65852.2, and to allow ADUs to count towards the City's Regional Housing Needs Assessment (RHNA) requirements, within 90 days after each yearly anniversary of the issuance of the building permit, the owner will be asked to report the actual rent charged for the ADU or JADU during the prior year.

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

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

E. Fire Sprinklers.

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

2. The construction of an ADU does not trigger a requirement for fire sprinklers to be installed in the existing primary dwelling.

F. Owner Occupancy.

1. An ADU that is permitted after January 1, 2020, but before January 1, 2025, is not subject to any owner-occupancy requirement.

2. Unless applicable law requires otherwise, all ADUs that are permitted on or after January 1, 2025 are subject to an owner-occupancy requirement. A natural person with legal or equitable title to the property must reside on the property as the person's legal domicile and permanent residence.

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

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

1. Except as otherwise provided in Government Code Section 65852,26, the ADU or JADU may not be sold separately from the primary dwelling.

2. The ADU or JADU must remain an ADU unless City approval is obtained to convert the structure to a different accessory structure.

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

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4. The ADU or JADU is restricted to the approved size.

5. The JADU must be reconverted to be part of the primary residence if the owner does not reside on the property.

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

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

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

H. Must comply with building code. Subject to subsection (I) below, all ADUs and JADUs must comply with all local building code requirements.

I. No change of occupancy. Construction of an ADU does not constitute a Group R occupancy change under the local building code, as described in Section 310 of the California Building Code, unless the building official or Code Enforcement Division officer makes a written finding based on substantial evidence in the record that the construction of the ADU could have a specific, adverse impact on public health and safety. Nothing in this subsection (I) prevents the city from changing the occupancy code of a space that was uninhabitable space or that was only permitted for nonresidential use and was subsequently converted for residential use in accordance with this section

17.44.090 Specific ADU Requirements.

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

A. Maximum Size

1.. The maximum square footage of an ADU shall be 850 square feet for a studio or one bedroom and 1,000 square feet for two or more bedrooms. The maximum square footage shall include interior and exterior walls, basements, mezzanines, storage space, and any

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space with a height clearance (floor to ceiling height dimension) above six feet. The area of a garage (400 square feet maximum) provided as part of accessory dwelling unit and exterior decks or overhangs that are attached to the structure shall not be included in the 850 or 1,000 square foot limit.

2. An ADU that is attached to the primary dwelling is limited to 50 percent of the living area of the existing primary dwelling.

3. Application of other development standards in this Section 17.44.090 might further the limit the size of the ADU, but no application of a FAR, front setback, lot coverage or open space requirements may require the ADU to be less than 800 square feet.

4. The maximum living area, as defined in Section 17.02.060, of a JADU is 500 square feet.

B. Height.

1. No ADU subject to this Section 17.44.090 may exceed 16 feet in height above grade, as measured from existing or finished grade, whichever results in the lower building height except as provided in subsection B.2. though B.5

2. A detached ADU may be up to 18 feet in height if it is created on a lot with an existing or proposed single-family or multifamily dwelling unit that is located within one-half mile walking distance of a major transit stop as those terms are defined in Section 21155 of the Public Resources Code, and the ADU may be up to two additional feet in height (for a maximum of 20 feet) if necessary to accommodate a roof pitch on the ADU that is aligned with the roof pitch of the primary dwelling unit.

3. A detached ADU created on a lot with an existing or proposed multifamily dwelling that has more than one story above grade may not exceed 18 feet in height.

4. An ADU that is attached to the primary dwelling may not exceed 25 feet in height or the height limitation imposed by the underlying zone that applies to the primary dwelling, whichever is lower. Notwithstanding the foregoing, ADUs subject to this subsection (B)(4) may not exceed two stories.

5. When a legally established accessory structure is demolished and is replaced with a new structure for the purposes of creating an ADU, the replacement structure may not exceed the height of the existing structure.

C. Setbacks.

1. An ADU shall not be permitted within the front yard setback, however, when converting floor area within an existing single-residential dwelling or a legally established accessory structure located within the front yard setback, an ADU may expand the footprint of said structure up to 150 square feet to only accommodate ingress and egress as set forth in 17.44.060(A)(1)(a) above.

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

3. No additional setback is required when a legally established accessory structure is demolished and is replaced with a new structure for the purposes of creating an ADU so long as the replacement structure is constructed within the same location and with the same dimensions as the structure it is replacing. Additions to these structures are required to meet all current development standards. Legally established must be verified with building permits.

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

E. Parking.

1. Generally. One off-street enclosed or unenclosed parking space is required for each ADU. Unenclosed parking spaces may be provided in setback areas or as tandem parking, as defined by Section 17.02.060.

2. Exceptions. No parking under subsection (E)(1) above is required in the following situations:

   a. The ADU is located within one-half mile walking distance of public transit, as defined in Section 17.02.060.

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

   c. The ADU is entirely within the proposed or existing primary residence or an existing accessory structure, under Section 17.44.060(A)(1).

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

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

   f. When the permit application to create an ADU is submitted with an application to create a new single-family or new multifamily dwelling on the same lot, provided that the ADU or the lot satisfies any other criteria listed in subsections (A) thru (F).

3. No Replacement of Parking Required. Except as required in Section 17.44.060(C), when a garage, carport, or covered parking structure is demolished to allow the construction of an ADU or converted to an ADU in an existing single-family dwelling, those off-street parking spaces are not required to be replaced. If replacement parking is proposed, the parking must be located on hardscape and mechanical automobile parking lifts must be

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located within an enclosed structure to ensure compliance with coastal resource protection for public views and water quality.

F. Internal connection. An attached ADU shall not be connected internally to the main residence. A detached ADU shall not be connected internally to any accessory structure except for a garage which serves the ADU.

17.44.100 Fees.

A. Impact Fees.

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

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

B. Utility Fees.

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

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

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

17.44.110 Nonconforming Zoning Code Conditions, Building Code Violations, and Unpermitted Structures.

A. Generally. The city will not deny an ADU or JADU application due to a nonconforming zoning condition, building code violation, or unpermitted structure on the lot that does not present a threat to the public health and safety and that is not affected by the construction of the ADU or JADU.

B. Unpermitted ADUs constructed before 2018.

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1. Permit to Legalize. As required by state law, the city may not deny a permit to legalize an existing but unpermitted ADU that was constructed before January 1, 2018, if denial is based on either of the following grounds:

   a. The ADU violates applicable building standards, or

   b. The ADU does not comply with the state ADU law (Government Code section 65852.2) or this ADU ordinance Chapter 17.44.

2. Exceptions:

   a. Notwithstanding subsection (B)(1) above the city may deny a permit to legalize an existing but unpermitted ADU that was constructed before January 1, 2018, if the city makes a finding that correcting a violation is necessary to protect the health and safety of the public or of occupants of the structure.

   b. Subsection (B)(1) above does not apply to a building that is deemed to be substandard in accordance with California Health and Safety Code section 17920.3.

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Chapter 17.45

CITYWIDE VIEW PRESERVATION AND RESTORATION*

Sections:

17.45.030 Definitions.

The following definitions shall apply for purposes of this chapter:

A. "Arbitration" means a voluntary legal procedure for settling disputes and leading to a determination of rights of parties, usually consisting of a hearing before an arbitrator where all relevant evidence may be freely admitted.

B. "Arbitrator" means a mutually agreed upon neutral third party professional intermediary who conducts a hearing process, and who hears testimony, considers evidence and makes decisions for the disputing parties.

C. "Certified arborist" means an individual certified as an arborist by the International Society of Arboriculture (ISA).

D. "Claimant" means a property owner who alleges that foliage is causing a significant obstruction of a primary view.

E. "Environmentally sensitive habitat areas or (ESHA)" as defined as set forth in the certified Malibu LCP Local Implementation Plan.

F. "Foliage" means a woody plant with the potential to obstruct primary views. "Foliage" includes without limitation trees, shrubs, hedges and bushes.

G. "Foliage owner" means a person owning property containing foliage that a claimant alleges is causing a significant obstruction of a protected view.

H. "Hedge" means any plant material, trees, stump growth, or shrubbery planted or grown in a dense continuous line, so as to form a thicket,
barrier or the substantial equivalent of a living fence.

I. "Main viewing area" means the ground floor of a commercial, institutional or principal residential structure unless the ground floor of a commercial structure consists of garages, parking areas and storage and unless the primary living area of a principal residential structure is not located on the ground floor. If the ground floor of a commercial structure consists of garages, parking areas and storage, the "main viewing area" means the first habitable floor. If the primary living area of a principal residence is not located on the ground floor, the main viewing area means the primary living area of the principal residence. The "main viewing area" may be an abutting outdoor deck or patio area located at relatively the same elevation as the ground floor of a commercial or institutional structure or a primary living area of a residence, whichever has the superior view corridor. Bedrooms, master bedroom retreats, offices, hallways, closets, laundry rooms, mechanical rooms, bathrooms and garages shall not be considered main viewing areas. Application of a primary view corridor requires an established "main viewing area."

J. "Mediation" means a process of using a neutral third person to facilitate a mutually satisfactory solution to a view dispute.

K. "Mediator" means a neutral third person that assists the claimant and foliage owner in finding a mutually satisfactory solution to a view dispute.

L. "Pre-existing view" means a primary view within the structure's assessed primary view corridor that existed on the date of acquisition of the property or city incorporation, whichever

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is more recent. If the property was acquired without a developed, legally-habitable structure, a pre-existing view shall mean a primary view that existed as of issuance of a certificate of occupancy or city incorporation, whichever is more recent. The pre-existing view cannot be a result of a natural disaster or a result of illegal activities.

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

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

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

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

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

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

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

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

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

V. "View preservation permit" means a permit issued by the city, requiring restorative actions on foliage located on a foliage owner's property in order to preserve a claimant's primary view. (Ord. 378 § 3, 2014)

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Appendix 1 PERMITTED USES TABLE*

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

KEY TO TABLE (In addition to a coastal development permit, MCUP, CUP, LFDC, & WTF permits are required pursuant to the Malibu Municipal Code where shown in this table.)	
P	Permitted use
MCUP	Requires the approval of a minor Conditional Use Permit by the Director
CUP	Requires the approval of a Conditional Use Permit
A	Permitted only as an accessory use to an otherwise permitted use
LFDC	Requires the approval of a Large Family Day Care permit
WTF	Requires the approval of a Wireless Telecommunications Facility
STR	Use requires valid short-term rental permit approved by the City
•	Not permitted (Prohibited)

USE	RR	SF	MF	MFBF	MH	CR	BPO	CN	CC	CV-1	CV-2	CG	OS	I	PRF	RVP
Agricultural employee housing, as an accessory use, animal related	A	•	•	•	•	CUP	•	•	•	•	•	•	•	•	•	•
Agricultural employee housing, as an accessory use, crop related	A	A	CUP	•	•	•	•	•	•	•	•	•	•	•	•	•
One single-family residence per lot[28]	P	P	P	P	•	•	•	•	•	•	•	•	•	•	•	•
Manufactured homes pursuant to Government Code § 65852.3	P	P	P	P	•	•	•	•	•	•	•	•	•	•	•	•
Multifamily residential (including duplexes, condominiums, stock cooperatives, apartments, and similar development[29]	•	•	CUP[30]	CUP[2,30]	•	•	•	•	P[31]	•	•	•	•	•	•	•
~~Second~~ Accessory dwelling units ~~pursuant to Government Code § 65852.2.~~	A[33]	A[33]	A[33]	A[33]	•	•	•	•	•	•	•	•	•	•	•	•

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USE	RR	SF	MF	MFBF	MH	CR	BPO	CN	CC	CV-1	CV-2	CG	OS	I	PRF	RVP
Mobile home parks in existence as of March 28, 1991	•	•	•	•	P	•	•	•	•	•	•	•	•	•	•	•
Mobile home park accessory uses (including recreation facilities, meeting rooms, management offices, storage/maintenance buildings, and other similar uses)	•	•	•	•	CUP	•	•	•	•	•	•	•	•	•	•	•
Mobile home park modifications to number, layout, or density and public or common areas, except for repair and maintenance	•	•	•	•	CUP	•	•	•	•	•	•	•	•	•	•	•
Temporary mobile home as residence subject to§17.40.040(A)(18)	P	P	P	MCUP	•	•	•	•	•	•	•	•	•	•	•	•
Accessory uses (guest ~~unit~~ house (~~750~~ 900 sf max), garages, barns, pool houses, pools, spas, gazebos, storage sheds, greenhouses (non-commercial), sports courts (non-illuminated), corrals (non-commercial), and similar uses)	A	A	A	A[3]	•	•	•	•	•	•	•	•	•	•	•	•

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(…)

Notes:

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).
5. Public and private hiking trails in CR and I zones and private hiking trails in RR, SF, and MF zones.
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.
19. Subject to Section 17.26.030(A)(1).
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. Single-family residence properties are limited to hosted short-term rental permits only; one dwelling unit in a duplex may be rented unhosted if the owner or designated operator lives onsite in the other dwelling unit during the rental period; and for multifamily properties, a maximum of two dwelling units per parcel, or 40%, whichever is less, may be devoted to short-term rental use.
33. Subject to Chapter 17.44.- Accessory Dwelling Units.

(Ord. 449 § 8, 2019; Ord. 431 § 4, 2018)

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Attachment 2
Second Unit and ADU Permit Process & Development Standards Comparison

Permit Process			
Attached, Detached, and Converted Accessory Bldg.	**Second Unit**	**ADU - LCP**	**ADU - MMC**
	Administrative Coastal Development Permit	Administrative Coastal Development Permit	NA
Decision Authority	Planning Director	Planning Director	NA
Report to Commission	Yes	Yes	NA
Appealable	Yes	Yes	NA
	Second Unit	**Junior ADU/ADU Inside Existing Dwelling**	**Junior ADU/ADU Inside Existing Dwelling**
Junior ADU & ADU Inside an Existing Single-Family Dwelling	Administrative Coastal Development Permit	NA	Junior ADU - Building Permit ADU Inside existing SFD - Administrative Plan Review Permit (APR)
Decision Authority	Planning Director	NA	Planning Director
Report to Commission	Yes	NA	No
Appealable	Yes	NA	No
Development Standards			
Size - Detached ADU and Converted Accessory Bldg.	**Second Unit**	**ADU - LCP**	**ADU - MMC**
	900 sf	1,200 sf	850 sf. for studio or 1 bdrm. 1,000 sf 2 or more bdrms.
Size - Attached to Primary Dwelling	Limited by Total development Square Footage (TDSF)	50 percent of the living area of the existing primary dwelling or 1,200 sf whichever is less	Limited to 50 percent of the living area of the existing primary dwelling

Size - Junior ADU and ADUs Inside Existing Single Family Dwellings	900 sf	NA	500 sf – Junior ADU No limit for ADU inside existing SFD
Setbacks	Subject to the setback standards in Section 3.6(F) and (G),	Same as second unit	4 ft. rear and side yard
Setbacks – Demolished accessory building	Demolished & rebuilt accessory buildings must meet current setback standards	Same as second unit	Demolished & rebuilt accessory buildings can maintain current setbacks
Height	18 ft. 24 ft. for flat roofs and 28 ft. for pitched/sloped roof with SPR	Same as second unit	16 ft. w/exceptions up to 25 ft.
All other development standards		Same as a second unit	As allowed by State law

SUMMARY OF RECENT ADU STATE LEGISLATION CHANGES (2022)
SB 897

Objective Standards. An agency shall impose objective standards on properties listed on the State Register of Historical Resources. Objective standards may be imposed an ADUs in a multi-family dwelling.

Building Code. Construction of an accessory dwelling unit shall not constitute a Group R occupancy change under the local building code, as described in Section 310 of the California Building Code (Title 24 of the California Code of Regulations), unless the building official or enforcement agency of the local agency makes a written finding based on substantial evidence in the record that the construction of the accessory dwelling unit could have a specific, adverse impact on public health and safety. Nothing in this clause shall be interpreted to prevent a local agency from changing the occupancy code of a space that was unhabitable space or was only permitted for nonresidential use and was subsequently converted for residential use.

Demolition. An agency shall require that a demolition permit for a detached garage that is to be replaced with an accessory dwelling unit be reviewed with the application for the accessory dwelling unit and issued at the same time. The applicant shall not be required to provide written notice or post a placard for the demolition of a detached garage that is to be replaced with an accessory dwelling unit unless the property is located within an architecturally and historically significant historic district.

Rentals. An agency may require that a rental ADU be used for rentals of no less than 30 days.

Height. Increases the maximum height from 16 feet for a detached ADU on a lot with an existing or proposed single-family or multi-family dwelling unit, except that a minimum height of 18 feet must be allowed: (1) for a detached ADU that is within one-half mile of walking distance of a major transit stop or a high-quality transit corridor, per Public Resources Code Section 21155; and (2) for a detached ADU on a lot with an existing or proposed multi-family, multi-story dwelling. A local agency shall also allow an additional two feet in height to accommodate a roof pitch on the accessory dwelling unit that is aligned with the roof pitch of the primary dwelling unit. If an ADU is attached to a primary dwelling, it can be 25 feet high.

Fire Sprinklers. Construction of the ADU shall not require fire sprinklers in the primary residence (either single-family or multi-family).

Parking. Prohibits parking requirement on an ADU included in an application to create new single-family dwelling units or multi-family dwelling units on the same lot.

Enclosed Uses. Enclosed uses within a proposed or existing single-family residence, such as attached garages, are considered part of the proposed or existing single-family residence.

JADU. Requires a JADU that does not include a separate bathroom to include a separate entrance from the main entrance to the structure, with an interior entrance to the main living area.

Corrections of Non-Conforming Standards and Violations. Prohibits a local agency from denying an application for a JADU permit due to corrections of non-conforming zoning conditions, building code violations, or unpermitted structures that do not present a threat to the public health and safety and are not affected by construction of the JADU. Requires local agencies in enforcing building standards

ATTACHMENT 3

applicable to ADUs to delay enforcement for up to 5 years upon the owner submitting an application requesting delay on the basis that correcting the violation is not necessary to protect health and safety. Prohibits a local agency from denying a permit for an unpermitted ADU constructed before 1-1-18 because, among other things, the unit is in violation of building standards or state/local standards applicable to ADUs unless the agency makes findings that correcting the violation is necessary to protect the health and safety of the public or occupants of the structure. It does not apply to a building deemed substandard under law.

***

Received
03/07/22
Planning Dept.

Rebecca Evans

From: Patricia Salazar
Sent: Sunday, March 6, 2022 11:53 AM
To: Rebecca Evans
Subject: FW: : SB 9 PRESENTATION ATTACHED
Attachments: DC10UA51445_000.pdf

From: JOHN MAZZA <res02igz@gte.net>
Sent: Saturday, March 5, 2022 5:28 PM
To: Richard Mollica <rmollica@malibucity.org>; Adrian Fernandez <afernandez@malibucity.org>; Tyler Eaton <teaton@malibucity.org>; Patricia Salazar <psalazar@malibucity.org>; Rebecca Evans <revans@malibucity.org>
Cc: Jeff Jennings <jdjennings@verizon.net>; Steve Uhring <[redacted].com>
Subject: Fwd: : SB 9 PRESENTATION ATTACHED

I received this today. It outlines SB 9 as analyzed by LA. County Planning Dept please send to other commissioners with pdf printed out

Sent from my iPad

Begin forwarded message:

> **From:** Frank Angel <fangel@angellaw.com>
> **Date:** February 2, 2022 at 8:18:31 PM PST
> **To:** jdjenningslaw@gmail.com, John Mazza <res02igz@gte.net>, john.cotti@bbklaw.com, trevor.rusin@bbklaw.com, rmollica@malibucity.org, suhring@malibucity.org, bsilverstein@malibucity.org, pgrisanti@malibucity.org, kfarrer@malibucity.org, mpierson@malibucity.org, smcclary@malibucity.org, kraig.malibu@gmail.com, mwmalibupc@gmail.com, was27miles@gmail.com, [redacted].com, [redacted].net, info@actionsportsstockfootage.com
> **Subject: RE: : SB 9 PRESENTATION ATTACHED**
>
> Wkh#xuedq}hg#duhd#dqg#xuedq#fxvwhu#erxqgdu|#lqirup dwlrq#lv#srvwhg#e|#wkh#X1V1#
> Fhqvxv#Exuhdx1#Jrrg#xfn#z lwk#wkdw1#Vhh#dwwdfkhg#5343#Fhqvxv#p ds1#Dc#p dsv#fdq#
> eh#irxqg#dw#kwwsv=22z z z 1fhqvxv1jry2jhrjudsk1hv2uhihuhqfh0p_dsv25343 2jhr25343 0
> fhqvxv0xuedq0duhdv1kwp_d1#
> #
> Ehvw/
>
> **Frank P. Angel** | O (310) 314-6433 | C (310) 924-1416
> 2601 Ocean Park Blvd., Suite 205, Santa Monica, CA 90405
> Angel Law
> angellaw.com
>
> ***WORKING REMOTELY: A SMALL CONTRIBUTION TO HELP FRONTLINE HEALTHCARE PROFESSIONALS SAVE LIVES.***

CC: Planning Commission, PD,

Recording Secretary, File

Date Received 03/07/22 Time 7:30 am
Planning Commission meeting of 03/07/22
Agenda Item No. 4A
Total No. of Pages 3

ATTACHMENT 4

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#

From: jdjenningslaw@gmail.com <jdjenningslaw@gmail.com>
Sent: Wednesday, February 2, 2022 3:42 PM
To: 'John Mazza' <res02igz@gte.net>; john.cotti@bbklaw.com; trevor.rusin@bbklaw.com; rmollica@malibucity.org; suhring@malibucity.org; bsilverstein@malibucity.org; pgrisanti@malibucity.org; kfarrer@malibucity.org; mpierson@malibucity.org; smcclary@malibucity.org; kraig.malibu@gmail.com; mwmalibupc@gmail.com; was27miles@gmail.com; Frank Angel fangel@angellaw.com; [redacted].com; [redacted].net; info@actionsportsstockfootage.com
Subject: RE: : SB 9 PRESENTATION ATTACHED

John

I don't think SB9 is intended to apply to an area like Malibu. The first requirement for a project is:

GC 65852.21(a)(1): "The parcel subject to the proposed housing development is located within a city, the boundaries of which include some portion of either an urbanized area or urban cluster, as designated by the United States Census Bureau, or, for unincorporated areas, a legal parcel wholly within the boundaries of an urbanized area or urban cluster, as designated by the United States Census Bureau."

Not certain, but as far as I've been able to look, I have not found that we have a census bureau designated urbanized area or urban cluster

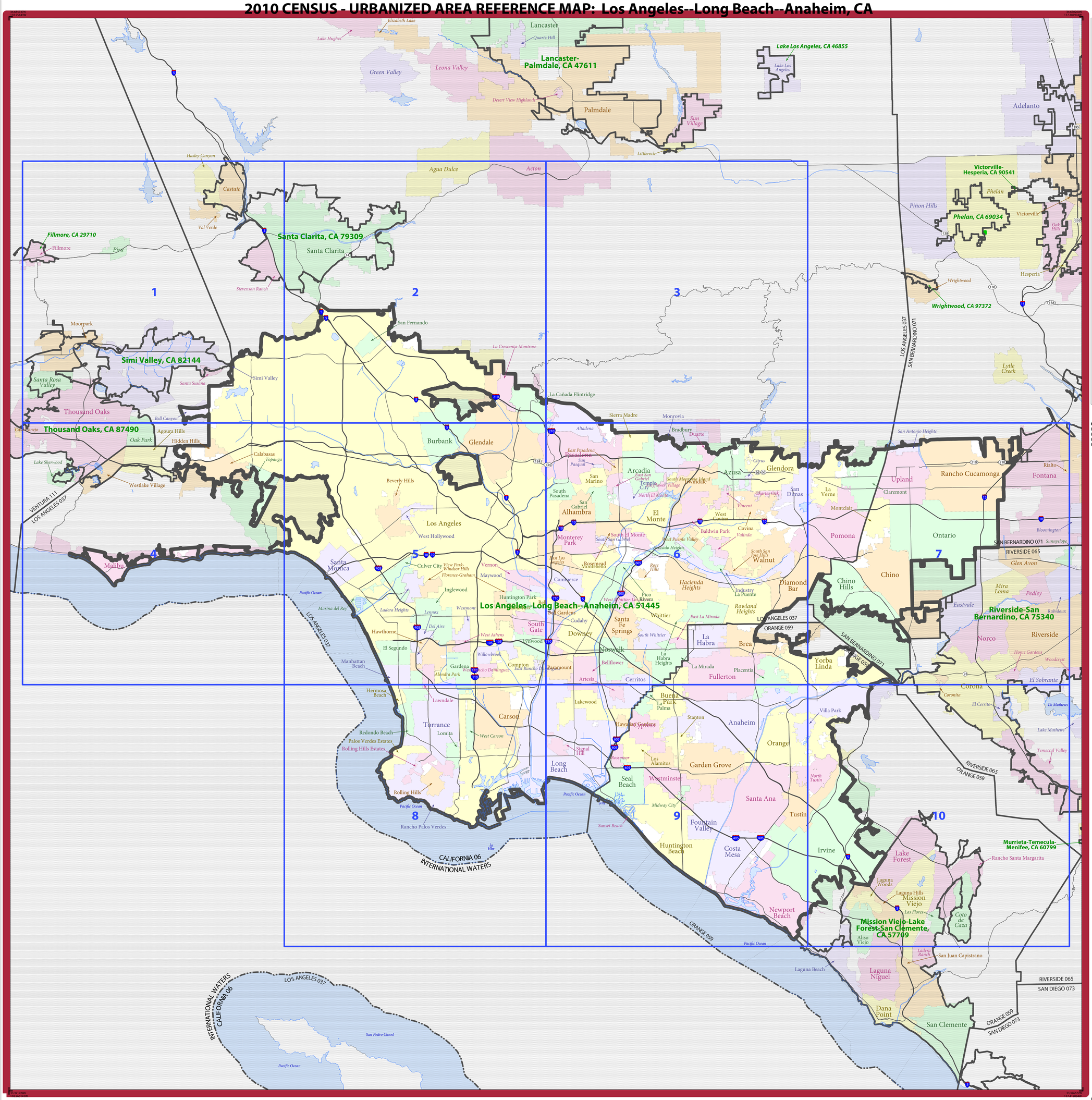
Jeff

From: John Mazza <res02igz@gte.net>
Sent: Wednesday, February 2, 2022 1:25 PM
To: john.cotti@bbklaw.com; trevor.rusin@bbklaw.com; rmollica@malibucity.org; suhring@malibucity.org; bsilverstein@malibucity.org; pgrisanti@malibucity.org; kfarrer@malibucity.org; mpierson@malibucity.org; smcclary@malibucity.org; kraig.malibu@gmail.com; jdjenningslaw@gmail.com; mwmalibupc@gmail.com; was27miles@gmail.com; John Mazza <res02igz@gte.net>; fangel@angellaw.com; [redacted].com; [redacted].net; info@actionsportsstockfootage.com
Subject: : SB 9 PRESENTATION ATTACHED

It is important for staff and interested parties to understand what AB9 covers.
Please take a look and incorporate it somewhere in the city records

John Mazza

2010 CENSUS - URBANIZED AREA REFERENCE MAP: Los Angeles--Long Beach--Anaheim, CA



LEGEND

SYMBOL DESCRIPTION	SYMBOL	LABEL STYLE
International		CANADA
Federal American Indian Reservation		L'ANSE RES 1880
Off-Reservation Trust Land		T1880
Urbanized Area		Dover, DE 24580
Urban Cluster		*Tooele, VT 88057*
State (or statistically equivalent entity)		NEW YORK 36
County (or statistically equivalent entity)		ERIE 029
Minor Civil Division (MCD)[1,2]		Bristol town 07485
Consolidated City		MILFORD 47500
Incorporated Place[1,3]		Davis 18100
Census Designated Place (CDP)[3]		*Incline Village 35100*

DESCRIPTION	SYMBOL	DESCRIPTION	SYMBOL
Interstate	15	Water Body	Pleasant Lake
U.S. Highway	2	Military	Fort Belvoir
State Highway	4	Outside Subject Area	
Other Road	Marsh Ln		
Railroad	Southern RR		
Perennial Stream	Tumbling Cr		
Intermittent Stream	Piney Cr		

Where international, state, county, and/or MCD boundaries coincide, the map shows the boundary symbol for only the highest-ranking of these boundaries.

1 A '*' following an MCD name denotes a false MCD. A '°' following a place name indicates that a false MCD exists with the same name and FIPS code as the place; the false MCD label is not shown.

2 MCD boundaries are shown in the following states in which some or all MCDs function as general-purpose governmental units: Connecticut, Illinois, Indiana, Kansas, Maine, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Dakota, Ohio, Pennsylvania, Rhode Island, South Dakota, Vermont, and Wisconsin. (Note that Illinois and Nebraska have some counties covered by nongovernmental precincts and Missouri has most counties covered by nongovernmental townships.)

3 Place label color corresponds to the place fill color.
Label colors: Davis Davis Davis Davis Davis

COUNTIES IN SUBJECT URBANIZED AREA

06037	Los Angeles
06059	Orange
06071	San Bernardino
06111	Ventura

All legal boundaries and names are as of January 1, 2010. Urban areas are based on results from the 2010 Decennial Census. The boundaries shown on this map are for Census Bureau statistical data collection and tabulation purposes only; their depiction and designation for statistical purposes does not constitute a determination of jurisdictional authority or rights of ownership or entitlement.

Geographic Vintage: 2010 Census (reference date: January 1, 2010)
Data Source: U.S. Census Bureau's MAF/TIGER database (TAB10)
Map Created by Geography Division: March 11, 2012

U.S. DEPARTMENT OF COMMERCE Economics and Statistics Administration U.S. Census Bureau

Projection: Albers Equal Area Conic
Datum: NAD 83
Spheroid: GRS 80
1st Standard Parallel: 34 06 27
2nd Standard Parallel: 40 25 20
Central Meridian: -119 18 20
Latitude of Projection's Origin: 32 31 43
False Easting: 0
False Northing: 0

0 5 10 15 20 25 Kilometers
0 3 6 9 12 15 Miles
The plotted map scale is 1:196512

INDEX SHEET

Total Sheets: 11
- Index Sheets: 1
- Parent Sheets: 10

UA NAME: Los Angeles--Long Beach--Anaheim, CA
UA CODE: 51445
ENTITY TYPE: Urbanized Area (UA)
ST: California (06)

2010 CENSUS UA REF MAP (INDEX)
231051445000

Received
03/07/22
Planning Dept.

Rebecca Evans

From: Tyler Eaton
Sent: Monday, March 7, 2022 2:51 PM
To: Rebecca Evans
Subject: FW: Malibu Action Committee Proposed ADU Ordinance and ADU Memo for tonight's planning commission meeting
Attachments: Memo.pdf; Ordinance.pdf

Hi Rebecca,

Additional correspondence for 4A tonight if you didn't get this. Thanks!

From: Mark D. Baute <Mbaute@bautelaw.com>
Sent: Monday, March 7, 2022 12:06 PM
To: Karen Farrer <kfarrer@malibucity.org>; Paul Grisanti <pgrisanti@malibucity.org>; Mikke Pierson <mpierson@malibucity.org>; dsmith@malibucity.org; khill@malibucity.org; jjennings@malibucity.org; mwetton@malibucity.org; jmazza@malibucity.org; Richard Mollica <rmollica@malibucity.org>; Tyler Eaton <teaton@malibucity.org>; Adrian Fernandez <afernandez@malibucity.org>
Subject: FW: Malibu Action Committee Proposed ADU Ordinance and ADU Memo for tonight's planning commission meeting

All:

A group of Malibu voters, architects, land use professionals and real estate lawyers have provided input in connection with the proposed ADU ordinance that is attached. We can tell from listening to the prior Planning Commission meetings that the current commission may not fully understand or appreciate that the head of the Coastal Commission, John Ainsworth, has directed all coastal cities to amend their LCP to ensure compliance with the State's ADU Law and with newly passed Senate Bill 9. The MAC Proposed ADU Ordinance is designed to support and streamline small scale one story ADUs, enable Malibu to meet some (or all) of its 79 RHNA units through ADUs (and in turn avoid having to approve an apartment building), and limit the continued mansionization that will happen if the BBK Proposed ADU Ordinance is adopted.

The proposed ADU ordinance prepared by BBK partner Todd Lichtman (the only version you have been provided with, and the only one sent out under the required notice and agenda) violates both the State ADU law, and also violates Senate Bill 9. Perhaps more problematic, the BBK proposed ADU ordinance will result in nothing but more mansions in Malibu owned by mostly absentee owners, and very few ADUs. In addition, the BBK Proposed ADU Ordinance does not differentiate in any way among and between Malibu's very different distinct neighborhoods, and does not make any effort at all to modify the LCP to focus on coastal resources, instead, it attempts to hide behind the existing LCP without making any of the required changes, which is a clear violation of the January 21, 2022 instructions Malibu was given by the Coastal Commission.

Several folks that contributed to the MAC Proposed ADU Ordinance may speak tonight, though your meetings and the zoom format are likely to continue to reduce participation.

Mark

CC: Planning Commission, PD,

Recording Secretary, File

Date Received 03/07/22 Time 12:06 pm
Planning Commission meeting of 03/07/22
Agenda Item No. 4A
Total No. of Pages 23

From: Julie Q. Diep <jdiep@bautelaw.com>
Sent: Monday, March 7, 2022 11:43 AM
To: Mark D. Baute <Mbaute@bautelaw.com>
Subject: Ordinance and Memo

Kind regards,

Julie Diep
BAUTE CROCHETIERE & HARTLEY LLP
777 S. Figueroa Street, Suite 3800
Los Angeles, California 90017
Telephone: (213) 630-5000 Facsimile: (213) 683-1225
Email: jdiep@bautelaw.com

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FROM: **MALIBU ACTION COMMITTEE**

TO: Malibu Planning Commissioners and City Council Members, Richard Mollica, Tyler Eaton, Adrian Fernandez and Joyce Parker-Bozylinski

DATE: March 4, 2022

RE: The Two Very Different Competing Proposed ADU Ordinances

The State ADU Statute was adopted four years ago. Malibu is among the last coastal cities to adopt an ADU Ordinance. The purpose of the State ADU Statute ("State ADU Law") is to streamline the construction of small scale ADU housing by avoiding public hearings and coastal development permits, through 60 day "ministerial approval" of ADUs by the Planning Department. Because coastal enclave cities throughout California have misused public hearings, coastal development permitting, TDSF constraints, impermeable square footage constraints, and restrictions embodied in their Local Coastal Programs ("LCP") to block, delay and derail small scale ADU housing, the State ADU Law specifically prohibits coastal cities like Malibu from attempting to block and delay ADU construction through the tactical misuse of the various restrictions contained within the LCP that are unrelated to the protection of Coastal Resources. The State ADU Law also requires the creation of an exemption or "waiver" process through which homeowners that own qualified lots or seek to construct an ADU that does not harm or implicate coastal resources can do so without the undue delays, expense and anti-development tactics that coastal enclave cities like Malibu have engaged in to block all residential development. The head of the Coastal Commission, John Ainsworth, recently instructed coastal cities to make sure to not misuse their existing LCP to block affordable ADU housing, and instead, to modify their LCP to support small scale ADUs while also protecting resources. The State ADU Law also allows Malibu to potentially satisfy its entire 79 affordable RHNA housing unit requirement through the construction of qualified ADUs.

An additional recent law, effective January 1, 2022, titled Senate Bill 9, prevents coastal enclave cities such as Malibu from imposing any sort of deed restriction which would limit lot splits, and further streamlines the ability of homeowners to split qualified lots for the purpose of constructing additional small scale housing and ADU units. Senate Bill 9 is recent enough that Malibu has not yet had an opportunity to take its effect into account in the context of the two very different Proposed ADU Ordinances.

For an ADU Ordinance to be adopted, it must be approved by the Planning Commission, City Council and California Coastal Commission, with a final approval role of sorts played by the California Department of Community Housing and Development ("CDHCD"), which refers cities that have adopted illegal or violative ADU proposals to the California Attorney General.

Two very different proposals have been drafted and submitted to Malibu's Planning Commission and City Council, summarized as follows:

MALIBU ACTION COMMITTEE PROPOSED ADU ORDINANCE	**BBK PROPOSED ADU ORDINANCE**
Malibu Action Committee ("MAC") Proposed ADU Ordinance: this proposed ordinance took input from Malibu residents, architects, land use consultants and real estate lawyers. It carefully limits the development of ADUs to ensure that Malibu's small lot/hillside/canyon and densely developed neighborhood areas are protected, and provides that such lots/locations are not exempt and must comply with the public hearing/coastal development permitting processes due to the impact on coastal resources. This MAC Proposed ADU ordinance also limits mansionization by incentivizing and streamlining smaller scale ADU housing so that owners who could build mansions instead voluntarily choose to build small scale ADU housing units, which, in turn, may enable Malibu to satisfy some of the 79 affordable "RHNA" housing units that Malibu is required to approve/build during the 2021-2029 RHNA cycle. Finally, the MAC Proposed Ordinance complies with both the State ADU Law and Senate Bill 9, by harmonizing the Malibu LCP as required by the California Coastal Commission.	The BBK Proposed ADU Ordinance: This proposed ordinance violates the State ADU Law and also violates Senate Bill 9. It fails to make any material changes in the LCP to harmonize the LCP with the State ADU Law and with Senate Bill 9, and does not appear to focus in any way on the protection of coastal resources or the Coastal Act. The BBK Proposed Ordinance also discriminates against older homeowners and owners of small homes and incentivizes further mansionization by limiting the size of proposed ADUs to 50% of the size of the main house, which will result in more demolition of smaller homes and the construction of more mansions by absentee owners. This proposed BBK ADU Ordinance also fails to differentiate among and between Malibu's seven distinct neighborhoods, which is a violation of Malibu's General Plan. Finally, it contains an illegal deed restriction which violates Senate Bill 9, and contains unenforceable rental reporting requirements for homeowners, while also requiring unnecessary underground demolition of streets by requiring separate SCE metering when most properties do not need or require separate metering. This BBK Proposed Ordinance appears to be intended to block, delay and disincentivize any and all small scale ADU construction, and will incentivize owners and developers to avoid ADUs and instead build more mansions (or mansions with ADUs), the very sort of overdevelopment which Malibu historically has sought to limit and avoid. Sadly, under this BBK Proposed Ordinance, if a small number of owners pursue permission to build

MALIBU ACTION COMMITTEE PROPOSED ADU ORDINANCE	**BBK PROPOSED ADU ORDINANCE**
	a few ADUs and are blocked, this BBK Proposed Ordinance is so clearly illegal in violating the State ADU Law that Malibu will likely be sued, and lose, for any owner who wishes to develop an otherwise compliant ADU that adheres to the State ADU Law.
POSITIVES	**NEGATIVES**
1. Limits ADU development in small dense hillside/canyon neighborhoods, by requiring public hearing/CDP and imposing the State ADU Law reduced maximum square footage of 1,000 SF. Malibu's General Plan requires that individual neighborhood designs/aesthetics be taken in to account when amending the LCP or Zoning Code. This MAC Proposed Ordinance protects Malibu West, Big Rock, Malibu Country Estates, and four other densely developed hillside/canyon neighborhoods.	1. Discourages ADUs by imposing a deed restriction. No sophisticated owner will want a deed restriction, thus, few or zero ADUs will be built. Also, the city will be unable to monitor or enforce the proposed deed restrictions in the context of short term rentals.
2. Complies with the State ADU Law. Does not seek to block or prevent ADUs based on existing TDSF or impermeable SF in the existing LCP, because the State ADU Law expressly prohibits Malibu from this sort of NIMBY anti-development abuse.	2. Violates Senate Bill 9 by blocking future lot splits if an ADU is permitted and approved.
3. Limits mansionization by encouraging streamlined approval of qualified ADUs on large lots that do not implicate or harm coastal resources.	3. Violates State ADU Statute by blocking ADUs on lots where the existing house maxes out allowed total square footage ("TDSF"). The State ADU Statute specifically prohibits this type of "nimby" anti-development tactic. No connection to protecting coastal resources.
4. Blocks short term rentals of ADUs, to protect housing opportunities for locals and permanent residents and long term	4. Violates the State ADU statute by blocking ADUs on lots where the maximum impermeable square footage has already been met by existing impermeable

MALIBU ACTION COMMITTEE PROPOSED ADU ORDINANCE	BBK PROPOSED ADU ORDINANCE
tenants who may be qualified as RHNA unit occupants.	surfaces. This is a clear violation of the State ADU Law and there is no linkage to the protection of coastal resources that would justify it.
5. Encourages the retention of small existing homes, which can be remodeled via "yellow card/non-CDP" process.	5. Improperly requires separate metering by Southern California Edison. No justification is provided.
6. Prohibits beachfront ADUs due to impact on coastal resources.	6. Violates State ADU Statute by imposing existing LCP setback requirements, without any linkage to protecting coastal resources.
7. Solves/terminates the Riddick lawsuit by expressly stating that violating TDSF constraints in existing LCP is not allowed where the ADU is "attached" to the main residence, by recognizing that is not a traditional ADU and is instead an attempt by a homeowner/developer to disguise a home expansion as an "ADU."	7. Penalizes older homeowners of smaller, older homes, by purporting to limit the size of an ADU to 50% of the size of the existing main house. This encourages continued mansionization and will result in demolition of all small homes and the construction of more mansions.
8. Creates a well thought out approach to which lots/locations are suitable for a waiver/exemption from the public hearing/CDP processes and which can be approved ministerially by the planning department.	8. Violates State ADU Law by prohibiting ADUs on old lots that already have a guest house. No effort to link this restriction to protecting coastal resources.
9. Prohibits underground basements by recognizing them as a tactic to increase square footage unrelated to affordable housing.	9. No legitimate or clear exemption on waiver process for ADUs. Requires a coastal development permit for all detached ADUs, a clear violation of the State ADU Law.
10. Limits bluff/ridge/hillside/canyon ADU development to protect scenic views, which are a recognized coastal resource.	10. Erroneously attempts to track "Rental Rates," which is not germane to the RHNA 79 affordable housing units. The 79 RHNA units relate to the income level of the long term tenants.
11. Continues city-wide protection of view covenants by preventing roof lines or intrusions that harm an adjacent neighbor's primary view, whether mountain or ocean view.	11. Because it violates the State ADU Law passing the BBK ADU Ordinance may strengthen the ____ lawsuit against the City of Malibu.

MALIBU ACTION COMMITTEE PROPOSED ADU ORDINANCE	BBK PROPOSED ADU ORDINANCE
12. Enables Malibu to satisfy some of its 79 RHNA units by designing an income level reporting process and a potential rebate of ADU fees paid to the city for qualified RHNA ADU units.	12. Violates the vagueness legal standard for due process protection by using language such as "other development standards may further limit the size of the ADU."
13. Gives the planning department time to approve "eligibility" for a lot in a 30 day time period, followed by a longer 90 day process for ministerial approval of the proposed ADU on a completed application.	13. Encourages mansionization by discouraging ADUs.
14. Prevents the demolition of small existing housing stock by NOT imposing a "50% of main house square footage" cap, instead, recognizing that ADU size should be correlated to lot size and location, and should not penalize older homeowners that still live in small older homes on large lots.	14. Likely to prevent Malibu from satisfying any of the 79 RHNA units with ADUs.
15. Creates a sliding scale for allowed square footage of ADU based on lot size, small lots under a half acre are capped at 1,000 SF, large lots of more than 66,000 SF (1.5 acres) are capped at 2,000 SF.	15. Fails to customize ADU size based on lot size and lot conditions. The Coastal Commission January 21, 2022 memorandum and State ADU Law encourage larger ADUs on larger lots which do not harm coastal resources.
16. Imposes tracking obligation on income level of the long term tenant for purposes of RHNA qualification on the owner, not the city, and enables a rebate of fees for qualified RHNA ADU units.	16. Fails to protect specific small lot/densely developed existing hillside/canyon neighborhoods. Violates Malibu General Plan by failing to develop custom standards that are specific to individual neighborhoods.
17. Complies with Senate Bill 9 by allowing owners to voluntarily agree to a lot split restriction in exchange for receiving expedited approval of an ADU.	17.
18. Avoids illegal deed restriction linked to routine ADU approval, avoids unnecessary and inconsistent "separate metering," which would tear up more	18.

MALIBU ACTION COMMITTEE PROPOSED ADU ORDINANCE	BBK PROPOSED ADU ORDINANCE
residential streets without any public policy reason for such a requirement.	
19. Modifies "clustering" and "neighborhood character" policies to comply with the State ADU Law and Senate Bill 9. The city's "clustering" policy actually increases the risk of fires spreading from structure to structure and vent to vent by forcing structures to be too close to one another. Separating an ADU from a main house with some distance can reduce the risk of fire, and increase the privacy of residents and long term residents, and has no impact on "neighborhood character" or on coastal resources.	19.
20. educes the likely "apartment building" density of the required 79 RHNA units, by incentivizing ADUs which can qualify, satisfy and eliminate "apartment building" units as affordable RHNA units.	20.
21. States a clear fee structure to enable the city to hire staff to support ADU approvals on a ministerial level. This is legal under the State ADU Law because it involves ADUs that are qualified as exempt, under a modification of the LCP, with slightly larger allowed square footage and ceiling height (18 feet above grade) than under State ADU Law.	21.
22. Slows down mansion approval by directing planning department resources to approving small ADUs that can help the city meet its 79 RHNA unit minimum.	22.
NEGATIVES	**POSITIVES**
1. The approach to requiring ADUs to not be visible from bluffs or ridgelines or major thoroughfare roads may be an	1. The 1,200 square foot maximum and 400 square foot garage is consistent with the State ADU law, but the failure to correlate

MALIBU ACTION COMMITTEE PROPOSED ADU ORDINANCE	BBK PROPOSED ADU ORDINANCE
over-protective anti-development approach to ADUs. Some level of visibility could be allowed.	ADU size this to lot size is likely a mistake.
2. The small size of ADUs allowed on large lots (2,000 SF allowed on 66,000 SF lots) could be criticized as being too restrictive/too small.	2. The 18 foot above grade roof height is consistent with State ADU law.
3. Far more progressive and customized neighborhood by neighborhood than Malibu government is used to; typically, Malibu adopts primitive "one size fits all" incoherent anti-development statutes designed to block all development and encourage people to sell and leave.	3.
4. Rebate structure for qualified RHNA units is a good economic deal for the city, but the city has limited resources, limited staff, and limited capacity to monitor or enforce anything, so the fees per ADU could be made non-refundable even if the ADU qualifies as a RHNA unit.	4.
5. Too progressive/too creative on the incentive for voluntary agreement to no lot split deed restriction under Senate Bill 9. Senate Bill 9 is so recent (January 2022 effective date) that nobody in Malibu or BBK has yet had time to study or analyze whether the incentivized deed restriction in Section 6 is beneficial to Malibu and would support lower density/smaller homes than without Section 6.	5.
6. Modification of "clustering" and "neighborhood character" policies in Section 7 may be more than current appointees and planning commission members can handle. Relatively few people understand or realize that the City's current LCP, LIP and Zoning	6.

MALIBU ACTION COMMITTEE PROPOSED ADU ORDINANCE	**BBK PROPOSED ADU ORDINANCE**
Code support and encourage that nothing but large mansions will be built mostly by absentee owners, and that the tactical abuse of "clustering" and "neighborhood character" policies by city officials has resulted in wealthy owners/buyers/developers advised by architects and land use professionals to "just go large" because building a mansion bypasses any "clustering" restriction and is now consistent with most "neighborhood character" because entire neighborhoods have succumbed to mansion development.	
CONCLUSION	**CONCLUSION**
The MAC Proposed ADU Ordinance is the better proposed ADU Ordinance. It will slow down the mansionization a bit, expedite a small number of safe and small scale and appropriate ADUs, and will limit the destruction of all small homes in Malibu. Further, if adopted, it has the legal effect of ending the Riddick lawsuit against the City, and protects older homeowners of small older homes from forced mansionization. It will also help the city reduce density and over-development, and a certain number of approved ADUs are likely to qualify as RHNA units, which should limit the size and height of any apartment building that would otherwise need to be built to satisfy the city's 79 RHNA unit requirement. Blocking short term rentals, limiting any deed restriction to a voluntary choice, and preventing underground basements while protecting primary views of	The BBK Proposed ADU Ordinance is poorly written, violates the State ADU Law in numerous respects, violates Senate Bill 9, and appears to brazenly intend to block and derail and disincentivize any homeowner from building an ADU, and invites litigation in those instances in which a handful of homeowners seek approval for an ADU and are either denied or delayed. Further, it encourages the demolition of small homes due to the "50% of existing square footage" cap, which results in an incentive for more mansions to be built by absentee owners. On balance, because the BBK proposed ordinance does not make any changes to the LCP to comply with the State ADU Law, and contains illegal deed restrictions and other unjustifiable development restrictions, it appears that the underlying intent is to block, delay, and derail all ADU construction, which will have the effect of resulting in more overdevelopment and

MALIBU ACTION COMMITTEE PROPOSED ADU ORDINANCE	**BBK PROPOSED ADU ORDINANCE**
adjacent neighbors should also reduce the amount of litigation. The effort to focus on defined coastal resources as part of modifying the LCP will ensure that the Coastal Commission supports the MAC Proposed ADU Ordinance, and will prevent Malibu from being sued by many homeowners and affordable home ownership non-profits.	large mansions being built by absentee owners.

Accessory Dwelling Unit ("ADU") Ordinance

CITY OF MALIBU PLANNING COMMISSION RESOLUTION NO. 22-01

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MALIBU DETERMINING THE AMENDMENTS ARE EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT AND RECOMMENDING THAT THE CITY COUNCIL APPROVE THE FOLLOWING MALIBU AFFORDABLE ONE STORY RURAL HOUSING STATUTE, AS AN AMENDMENT 18-002 TO THE LOCAL COASTAL PROGRAM TITLE 17 (ZONING ORDINANCE) OF THE MALIBU MUNICIPAL CODE, TO MODIFY REGULATIONS PERTAINING TO GUEST HOUSES AND ACCESSORY DWELLING UNITS AND TO INCENTIVIZE, SUPPORT AND ENCOURAGE THE CONSTRUCTION OF SMALL SCALE ENERGY EFFICIENT ONE STORY RURAL RESIDENTIAL HOUSING UNITS WITHIN THE CITY OF MALIBU

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

Section 1. Title, Legislative Intent And Recitals.

1.1 Title.

The title of this amendment to Malibu's Local Coastal Program ("LCP"), Local Implementation Plan ("LIP") and Zoning Code is the "Malibu Accessory Dwelling Unit Ordinance," or "Amendment."

1.2 General Legislative Intent.

A. Malibu's General Plan emphasizes the protection and maintenance of the natural environment, while appropriately limiting the size and scale of residential development in a manner consistent with both the (a) the rural residential nature of the individual neighborhoods within Malibu, and (b) the fragile land, ecosystems and natural environment within Malibu.

B. The State of California passed Government Code Section 65852.150 *et seq.* (the "Guest House Statute" or "ADU Statute") for the express purpose of expediting and incentivizing the private construction of small scale one story affordable housing units, without a public hearing and without significant involvement, delay or obstruction by any municipality within the State of California. The express intent of the ADU Statute is to create additional small scale one story housing to address California's housing shortage, and the ADU Statute itself expressly declares that any city zoning code or municipal regulation that would otherwise restrict or delay the construction of Guest Houses or ADUs that meet the minimum provisions of the ADU Statute are null and void and of no force or effect. On January 21, 2022, the California Coastal Commission expressly directs all coastal cities to modify and update their LCP to ensure that the approach of ADUs and JADUs that do not harm coastal resources are expedited and streamlined.

C. The State of California passed Senate Bill 9, sometimes referred to as the "Duplex Statute" or "Lot Split Statute," which became effective on January 1, 2022. Like the ADU Statute,

the express intent of the Duplex Statute is to create additional privately funded housing units and lot splits, without government financial assistance, to address California's housing shortage, and to limit the delay and obstruction tactics that have sometimes been utilized by municipalities to delay, block or derail lot splits and delay or prevent the construction of small additional housing units in their cities. As such, and within certain parameters, the Duplex Statute effectively outlaws R1 zoning statewide, and allows owners of lots to subdivide their lots and build additional housing units, as long as they meet the minimum requirements of the Duplex Statute. On January 21, 2022, the California Coastal Commission expressly directed all coastal cities to amend and update their LCP to ensure compliance with Senate Bill 9 to the greatest extent possible, while also protecting coastal resources.

D. Malibu's General Plan supports and encourages small scale one story residential construction that can be visually harmonized with the local environment, and expressly discourages the widespread construction of two story mansions which can overwhelm the natural environment, and which consume more energy and force more gray water into storm drains (and the ocean) than smaller scale one story rural residential housing.

E. The ADU Statute and the Duplex Statute both encourage cities to adopt their own local affordable housing statutes, designed to streamline, expedite and incentivize the private construction of affordable small scale one story energy efficient housing units.

1.3 Specific Legislative Intent.

A. The ADU Statute expressly allows cities like Malibu to have approved ADU/Guest House dwellings that are privately funded and constructed by local residents to count toward the mandatory minimum number of "RHNA" affordable housing units that Malibu is required to build during 2021 to 2029. It is Malibu's intent in passing this Affordable One Story Rural Housing Amendment to have as many of the require 79 affordable housing units under the 2021-2029 RHNA minimum be satisfied by ADUs/Guest Houses that are built within the city in compliance with the passage of this Malibu Affordable One Story Rural Housing Amendment.

B. Malibu intends to incentivize, encourage and support the construction of small scale energy efficient one story housing units by private owners, without government funding or involvement, for the specific purpose of avoiding or limiting the construction of two or three story apartment buildings, which Malibu could otherwise have to fund or approve and allow to meet the minimum number of 79 affordable housing units as part of the mandatory RHNA unit assessment.

C. Malibu intends to increase its General Fund Revenue by quickly approving, incentivizing and encouraging the private construction of small scale one story energy efficient ADU/JADU housing stock within the city's boundaries. This component of intent is designed to offset any future declines or reduction in General Fund Revenue that may arise due to Proposition 19, and the reassessments in valuation that will increase assessed property tax revenue after new small scale ADU/JADU housing units are approved, built and final inspections and certificates of occupancy are issued.

D. Malibu intends to keep the overall size of homes as small as possible under the circumstances, and to limit to the extent possible the further subdivisions and lot splits that would

otherwise increase residential density. Malibu acknowledges and recognizes that without supporting and incentivizing the construction of small scale one story energy efficient housing stock, the city itself will continue to be subjected to the construction of large mansions by absentee owners. Further, Malibu acknowledges and recognizes that without creating incentives to avoid lot splits, many existing owners, new owners and developers will pursue lot splits and increase the residential density and change what are currently "one house on one large lot" scenarios into R2, R3 and R4 development scenarios, as contemplated by the Duplex Statute.

E. Malibu continues to intend to limit the construction of short term vacation rental housing units, which do not provide affordable housing options for local residents. Thus, any one story housing unit constructed under the ADU Statute or Malibu's Affordable One Story Rural Housing Amendment may not be utilized by owners as a short term vacation rental, and must be made available for long term occupancy by either the owner, the owner's extended family members, or a monthly tenant that may or may not qualify under the income level constraints mandated by the 2021-2029 79 RHNA affordable housing units Malibu is required to build or approve. There is no rent control ordinance in Malibu, and Malibu does not intend to adopt a rent control ordinance.

F. Malibu does not intend to allow or construct high density, three story apartment rental housing of any kind on the three strategic parcels of raw land that Malibu owns in Trancas, Heathercliff or the Civic Center. It is the intent of the Malibu Affordable One Story Rural Housing Amendment to ensure that those three strategic parcels of raw land can be preserved for other uses suitable for local residents, whether as parkland, limited retail (to serve residents, not tourists) or one story housing for elderly long term residents in need of relocation from their primary home in Malibu.

Section 2. Statutory Provisions Governing The Incentivized Construction Of Small Scale One Story Affordable ADUs, Guest Houses And Small Homes.

2.1 No Short Term Rentals Allowed For All One Story Affordable Housing Units Approved Under This Amendment.

The City of Malibu faces intense demand for short term rental housing product, at high rental rates, but the loss of affordable housing units to short term vacation renters has played a causal role in creating the shortage of affordable housing units for Malibu's permanent and new long term residents. Any and all ADU/JADU housing units approved and built under this Amendment may not be utilized by an owner for short term rentals of less than 30 days. One purpose of this Amendment is to provide long term affordable one story housing for residents of Malibu, not to generate rental income for owners from tourists renting homes on a short term "vacation rental" basis.

2.2 Roof Height Cannot Exceed Eighteen Feet From Grade.

Any and all ADU/JADU housing units approved under this Amendment must be limited to a maximum height of any roof at eighteen (18) feet above grade. For purposes of insulation, storage, location of ducting or HVAC equipment, ventilation, heat retention, heat expulsion, a housing unit approved under this Amendment can utilize the space between a roof and a "drop

ceiling" to locate ducting, HVAC equipment, insulation and/or heat retention or heat expulsion skylights or similar energy conservation equipment. Use of dormer windows or other windows for small usable second story square footage is permissible, subject to (a) the 18 feet above grade height cap.

2.3 No Underground Basement.

No excavation or grading for purposes of constructing an underground basement space will be allowed in any ADU, JADU or Guest House unit approved under this Amendment.

2.4 No Expansion Of Primary Residence In Violation Of TDSF/LCP Allowed For ADUs.

A JADU differs from an ADU, in that a JADU incorporates livable square footage that is contained entirely within an existing floor plan or existing footprint of an existing residence, and a JADU does not contemplate an expansion of the footprint of the primary residence or dwelling. ADUs may not exceed the allowed total development square footage (TDSF) of the main residence under the existing LCP by being attached to the main residence while seeking an expansion of the main footprint and increase in existing square footage of an existing main residence. This restriction is because expanding a main residence is generally not the sort of separate one story small scale affordable housing contemplated by this Amendment, and the expansion of primary residences reduces the available buildable land on any given lot which could therefore constrain and limit otherwise viable ADUs and Guest Houses, which would actually undermine and negate the intent of this Amendment, the ADU Statute and the Duplex Statute, all of which seek to incentivize and expedite the construction of separate small scale affordable one story ADU and/or Guest House housing stock.

Section 3. The Waiver And Exemption Procedure For Ministerial Approval Of Certain Qualified ADUs And JADUs, The Modification Of The Malibu LCP To Harmonize The LCP With The ADU Statute And The Duplex Statute, While Also Protecting Coastal Resources.

The California Coastal Commission instructed coastal cities on January 21, 2022 to modify their LCPs in order to ensure that any LCP is harmonized with Senate Bill 9 and the ADU Statute, in order to ensure that affordable small scale ADUs, JADUs, Guest Houses, and Lot Splits are streamlined, incentivized and expedited, and to do so in ways that are fully protective of coastal resources, consistent with Coastal Act. Through this Amendment, Malibu intends to comply with the January 21, 2022 instructions of the Coastal Commission by fully protecting coastal resources, public beach access, and scenic visual resources, by carefully limiting the lot splits, ADUs, JADUs and Guest Houses that are suitable for a waiver and/or exemption from the normal public hearing coastal development permit process, as described below in this Section 3.

3.1 Lots, Parcels, Neighborhoods And Geographic Areas That Are Not Suitable For A Waiver Or Exemption, And For Which A Public Hearing And Coastal Development Permit Is Still Required, And For Which The Maximum Allowed Square Footage Under The ADU Statute Would Be Allowed In The Event A Coastal Development Permit Is Issued After A Public Hearing.

The lots and locations identified below in this Section 3.1 (a) through (d) are generally not exempt or eligible for a waiver of the standard public hearing coastal development permit process, unless the proposed ADU or Guest House sought by the applicant complies with the maximum square footage caps allowed by the ADU Statute (800 square feet for a one bedroom ADU; 1,000 square feet for a two bedroom ADU). Instead, the lots and locations identified below in this Section 3.1 (a) through (d) can pursue the development of an ADU, JADU or Guest House under the ADU statute in one of two discrete pathways, either through (i) compliance and adherence to the standard public hearing and coastal development permitting process pursuant to the existing LCP, or (ii) applications limited to the minimum size of ADU (800 square feet for a one bedroom ADU; 1,000 square feet for a two bedroom ADU) allowed under the ADU Statute can, at the option of the applicant, be sought via a ministerial approval pathway, without a public hearing or without a coastal development permit process, subject to the discretion of the planning department to transfer the application into the public hearing/coastal development process in the event that the planning department believes that a particular ADU or Guest House impacts coastal resources in a harmful way. The limited eligibility for an exemption or waiver for the lots and locations identified below is because the lots and locations identified in subsections (a) through (d) below have unique implications for coastal resources (steep hillsides; beach or ocean front; visible from major roads; densely developed fire prone areas or areas with unstable soil and steep slopes), and the Coastal Act and existing LCP generally provide an adequate way for the balancing inherent in harmonizing the need to protect coastal resources with the need to streamline and incentivize ADUs. Rather than prevent, prohibit or discourage all eligibility for an exemption or waiver from the public hearing/coastal development process, the City of Malibu has instead allowed small ADUs compliant with the maximum square footage of the ADU Statute to still seek an exemption or waiver, to streamline minimal impact small ADU structures even in these identified neighborhoods.

(a) Beach lots on the sand. The Coastal Act states expressly that further development of lots on the public beach, sand or near the high tide line, are to be discouraged due to sea level rise, existing density, protecting public beach access, and negative impacts on scenic visual resources. The existing LCP as approved by the Coastal Commission strongly discourages any development or construction on the sand, beach or near the high tide line. In general, ADUs, JADUs and Guest Houses and lot splits will not be allowed, or will be strongly discouraged, for lots on the sand, beach or near the high tide line. This does not prohibit or preclude the owner of a beachfront lot from attempting to obtain a Coastal Development Permit at a public hearing for approval of an ADU, JADU or Guest House on a beachfront lot.

(b) Ocean Front Bluffs/Cliffs/Hillsides Visible From The Ocean, A Public Beach, Or PCH.

ADUs, JADUs and Guest Houses are not exempt or eligible for a waiver if any portion of the structure is visible from the sand, beach or Pacific Coast Highway.

(c) Sloped Hillside Lots Where A Proposed ADU, JADU Or Guest House Would Be Visible From Pacific Coast Highway, Or Other Major Canyon Thoroughfare Roads.

Malibu contains thousands of acres of steep hillsides and canyons often with unstable soil, including cut and fill compacted grading work, along with public canyon thoroughfare roads that provide the public with scenic views, which are defined as a scenic coastal resource under the Coastal Act. ADUs, JADUs and Guest Houses are not exempt or eligible for a waiver if any portion of the structure is visible from Pacific Coast Highway, Deer Creek Road, Yerba Buena Road, Muholland Highway, Decker Road, Encinal Canyon Road, Kanan Dume Road, Latigo Canyon Road, Malibu Canyon Road, Corral Canyon Road, Road or Carbon Canyon Road.

(d) Small Lot Neighborhoods On Slopes/Hillsides With Dense Existing Development Or Adjacent To Fire Prone Canyons, Creeks Or Potential Subsidence Events Due To Steep Hillsides.

The following neighborhoods are already densely developed with single family homes on small lots in areas in which the topography is either steeply graded "cut and fill" slopes or hillsides, immediately "above" or adjacent to nearby neighbors, with relatively small building pads, next to property lines or existing structures, and/or in canyon or hillside areas in which fires can move rapidly, or with unstable soil, or near ESHA or creek/streamside areas, and these areas are not suitable for exemptions or waivers, and are better suited to undergo public hearings and standard coastal development permit processing: (a) Malibu West/Trancas, as shown on Exhibit A, the Trancas map, (b) Malibu Country Estates, as shown on Exhibit B, the Malibu Country Estates map, (c) Big Rock, as shown on Exhibit C, the Big Rock map, (d) The Valmere/Seabreeze/Sequit subdivision west of Corral Canyon Road, as shown on Exhibit D, the "Valmere/Corral Canyon" map, (e) Las Flores Canyon, as shown on Exhibit E, the Las Flores Canyon map, and (f) the steep hillside/canyon west of Cross Creek, visible from Pacific Coast Highway, including all homes/lots located on Malibu Crest Drive, Harbor Vista Drive, Colony View Circle, Malibu Knolls Road and Coast View Drive.

3.2 Lots And Neighborhoods With Characteristics Suitable For A Waiver Or Exemption Application Which, If Approved, Exempts The Lot, ADU, JADU Or Guest House From A Noticed Public Hearing And Exempt From The Coastal Development Permit Process, And Which, If Granted, Enables Ministerial Approval Of The ADU, JADU Or Guest House By The Planning Department, Without The Involvement Of The Planning Commission And Without The Involvement Of The City Council.

The Coastal Commission's January 21, 2022 guidance letter recommends that coastal cities like Malibu should identify neighborhoods and/or the types, locations or sizes of lots that are suitable for exemptions or waivers in connection with allowing ministerial approval of proposed ADUs, JADUs or Guest Houses. Any owner in Malibu can apply for an exemption or waiver from the Planning Department, and the Planning Department itself will have the discretion to decide whether to grant an exemption or waiver. The statutory guidelines that will determine whether an exemption or waiver will be granted for any such ADU, JADU or Guest House which meets all four criteria (a)-(d) below in this Section 3.2:

(a) ADUs, or JADUs or Guest Houses that are not visible from the ocean or from the specific major canyon thoroughfare roads identified in Section 3.1(c) of this Amendment, and which are not located in the specific densely developed neighborhoods identified in Section 3.1(d) of this Amendment.

(b) ADUs or JADUs or Guest Houses on flat lots more than a half-acre in size, in which the ADU, JADU or Guest House itself will be built on flat land or a minimal slope less than a 1:1 slope grade and within the normal development area for the lot at issue.

(c) Mostly flat discrete neighborhoods or large lot gradual sloped neighborhoods or areas such as Point Dume, Malibu Park and the Escondido Beach Bluffs (on the ocean side of Pacific Coast Highway), as well as other lots larger than one acre in which the ADU, JADU or Guest House is not visible from the major canyon thoroughfare roads identified in Section 3.1(c) of this Amendment.

(c) Lots of more than a half-acre (22,000 square feet) square feet in which the ADU, JADU or Guest House poses no substantial impact to the primary ocean view or primary mountain view of all immediately adjacent neighbors.

3.3 Continuing Protection Of Primary View Rights.

Though story poles will not be required for the small scale one story housing units which are approved as exempt or eligible for a waiver under this Amendment, the existing provisions in Malibu's land use codes concerning the protection of primary ocean or mountain views remain binding and are in full force and effect. Thus, no affordable one story housing unit will be administratively or "ministerially" approved if the Planning Department determines in its reasonable discretion that the proposed structure or its roof line violates a protected primary view right of any immediately adjacent neighbor and which exists in Malibu's various land use codes. Owners that wish to challenge the findings or decisions of the Planning Department in this regard must go through the longer and much more expensive processes and procedures inherent in public hearings in front of the Planning Commission, with appeal rights in front of the City Council, per the existing land use codes, as part of obtaining a Coastal Development Permit.

3.4 Soils, Percolation And Septic System Compliance.

A completed application to the Planning Department for expedited exempt administrative approval of a small scale one story housing unit approved under this Amendment must still provide a soils/percolation test from a soils engineer, or must otherwise provide proof of lawful septic treatment capacity through an existing septic system, or a new code-compliant separate septic system that complies with existing land use codes.

3.5 Reducing Burden On Planning Department: Separation Of The 30 Day Application/Approval Process For An Exemption/Waiver For A Specific Lot Or Parcel, As Distinct From The 90 Day Completed Application/Approval Process For An Exempt ADU, JADU, Guest House Or Small Home.

Streamlining the approval process for small one story ADUs, JADUs, Guest Houses or Single Family Homes can be done in a way that minimizes the burden on full time city Planning

Department staff, by separating the process through which (a) lots are approved as exempt or eligible for a waiver within 30 days, from (b) the longer 90 day ministerial approval process for an exempt ADU, JADU, Guest House or small home, which requires a completed application, percolation test, and architectural drawings. The purpose of the first 30 day application for an exemption or waiver for a given parcel or lot requires that the owner submit an application of no more than three pages in length, identifying the specific lot by street address and parcel number, with a vertical site plan and elevation drawings which clearly delineates and fully reveals the specific location and exterior perimeter walls and roof lines (including any roof overhangs) that differentiates the main house from any ADU, Guest House or small home, including the location of any enclosed JADU that is to be contained within an existing home. JADUs under the ADU Statute do not require any formal exemption or waiver, and will be ministerially approved so long as they comply with the ADU Statute and do not violate Section 2.4 of this Amendment.

Section 4. Square Footage Caps And Square Footage Maximums, Fee Structure, Limited Rebates For RHNA Qualified Units.

4.1 Preventing Mansionization And Preventing High Density, Encouraging Small Scale One Story Privately Funded Rural Housing Units.

California's existing Senate Bill 9 (the "Duplex Statute") and Government Code Section 65852.150, *et seq*. (the "ADU Statute") provide for a range of minimum allowed building constraints on setbacks, roof height and building size. However, Malibu still contains many large buildable lots, in excess of one acre, and lots up to 40 acres (or larger) in size. As such, any allowed square footage figure that would be based on a percentage size of a large lot, could be misused by a developer or owner to construct an overly large guest house, or a mansion-like second home. By way of example, a five acre lot contains over 220,000 square feet of raw land; thus, if a "guest home" were allowed to consume as little as 3% of the size of a five acre lot, a developer owner could erect a "guest house" that was itself 6,600 square feet, which is clearly **not** a small affordable one story rural home, and is instead a high priced "mansion." Thus, due to the large number of large acreage lots that still exist in Malibu, the maximum allowed square footage under this Amendment will not be expressed or identified as a percentage of the total square footage of any given lot, and will instead be capped by a specific number of allowed square feet. Secondarily, and because Malibu's General Plan seeks to ensure that residential construction does not overwhelm the natural environment or create a visual blight, and residential construction is supposed to blend in with natural environment, the allowed square footage maximums will correlate to lot size, so that smaller lots require smaller ADUs, smaller guest houses and smaller homes, and larger lots are still capped out at allowed maximums that (a) qualify as "small square footage," affordable dwelling units, and (b) would potentially rent on a monthly basis to lower and middle income tenants so as to enable the city to potentially meet a portion of its minimum affordable 2021-2029 79 RHNA housing units.

4.2 Maximum Square Footage For ADUs, Guest Houses, According To Lot Size.

For lots less than one half acre in size, the maximum allowed square footage for an ADU or Guest House will be the existing 1,000 maximum square feet in the California ADU Statute. In Malibu, lots that are one half acre or less are viewed as "small" or average, and that level of lot size should not allow for any increased square footage beyond the minimum allowed ADU size

provided for in the existing California ADU Statute. With respect to lots larger than one-half acre in size, and which are eligible under Section 3.2 above for exempt status, the following square footage maximums shall apply, based on the size of the lot at issue:

- Lots between one half acre and three fourths of an acre: instead of the California allowed maximum of 1,000 square feet, an ADU or guest house may be as large as 1,200 square feet.

- Lots between three quarters of an acre and one full acre: instead of the California allowed maximum of 1,000 square feet, an ADU or guest house may be as large as 1,500 square feet.

- Lots between a full acre and 1.5 acres in size: instead of the California allowed maximum of 1,000 square feet, an ADU or guest house may be as large as 1,800 square feet.

- Lots larger than 1.5 acres in size: instead of the California allowed maximum of 1,000 square feet, an ADU or guest house may be as large as 2,000 square feet. This 2,000 square feet maximum on large lots more than 1.5 acres in size is the maximum allowed size for an ADU or guest house that may be built under this Amendment.

The area of a garage (400 square feet maximum) provided as part of an accessory dwelling unit and exterior decks or overhangs that are attached to the structure shall not be included in the maximum allowed square footage limits set forth in this 4.2.

4.3 Fee And Rebate Structure.

4.3.1 Minimum Fees For Ministerially Approved One Story ADUs And Guest Houses; Rebate Allowance Scenarios For RHNA Qualified Units/Occupants.

The ADU Statute and Senate Bill 9 allow cities to charge fees for the expedited "ministerial" approval of small one story ADUs/JADUs or Guest Houses. The fee for approvals of exempt ADUs, JADUs or Guest Houses. by the Planning Department without a public hearing will be $2,000 per ADU/JADU or Guest Home. That $2,000 fee will be non-refundable to the applicant/owner. However, the applicant will be eligible to apply for and receive a rebate and will qualify for a rebate if (a) the owner/applicant has qualified the approved ADU/Guest House as an affordable RHNA unit due to long term occupancy by a lower or middle income tenant or resident, and (b) the City of Malibu is afforded credit for that ADU/JADU or Guest House as one of the 2021-2029 RHNA 79 affordable housing units.

4.3.2 Restricted Eligibility For Rebates Of The $2,000 Per Unit Fee.

The California Department of Housing and Community Development ("CDHCD") and the ADU Statute have created an environment in which receiving credit for satisfying the lower to middle income thresholds for the required 79 affordable housing units during the 2021 to 2029 time period is discretionary, and uncertain, and at the discretion of the CDHCD, and Malibu may not be able to change or alter decisions made by the CDHCD in this regard. Thus, Malibu does not guarantee or promise that any rebate or refund of the $2,000 per unit fee will happen, and the

owner/applicant accepts that any such refund may never happen, and Malibu is not responsible for tracking or monitoring or verifying the income levels of the occupants of the approved ADU/JADU or Guest House over time, that obligation is on the owner/applicant for purposes of any rebate or refund of a $2,000 fee.

Section 5. Time Limits Associated With Ministerial Approval By The Planning Department, And No Public Hearings, And No Coastal Development Permit.

5.1 Ninety (90) Day Time Period For Ministerial Approval Without A Public Hearing.

The Malibu Affordable One Story Affordable Rural Housing Amendment provides special incentives, a $2,000 per unit fee, for ADUs/JADUs and Guest Houses that are larger than the minimum 1,000 square foot size provided for by the ADU Statute. For lots eligible for exemption or waivers, the time period in which the Planning Department will approve or deny any such permit for an ADU/JADU or Guest House on a "ministerial" basis without a public hearing will be ninety (90) days from the owner/applicant's submission of a completed application. Because the construction of such ADUs, JADUs or Guest Houses are slightly larger than the 1,000 square foot maximum amount contemplated by the ADU Statute, the ADU or Guest House at issue and the completed application must provide a clear evidentiary showing that (a) all primary view rights of adjacent neighbors are protected, (b) adequate percolation of the soil and code compliant septic capacity, (c) drought resistant landscaping exists or will be planted, and (d) fire hardened surfaces and energy efficiency and adequate stormwater drainage systems exist. The purpose of this Malibu Affordable One Story Rural Housing Amendment is to expedite, simplify and cheapen the process through which small ADUs/JADUs and small Guest Houses, ancillary to the main residence, can be built, in order to privately create, fund and build more small scale housing units. As such, there is to be no public hearing, no Coastal Development Permit, and no involvement or discretion from the Malibu Planning Commission or Malibu City Council in connection with ADUs, JADUs and Guest Houses that comply with the ADU Statute or which are approved by the Planning Department ministerially under the Malibu Affordable One Story Rural Housing Amendment. If an owner/applicant does not receive an approval or denial from the Planning Department withing the ninety (90) day time period, the proposed ADU, JADUs or Guest House will be deemed approved. Any ministerial denial by the Planning Department can be appealed through the normal public hearing process in front of the Planning Commission with appeal rights to the City Council.

Section 6. Incentives To Avoid And Prevent Higher Density Lot Splits Under Senate Bill 9; Maximum Size Of 2,500 Square Feet For One Story Rural Homes Capped At 18 Feet Of Roof Height, For Lots Larger Than One Acre; Fee Structure; Appeal Rights If Denied.

Senate Bill 9 will, if not addressed by the City of Malibu, result in an unknown number of higher density lot splits on existing residential lots within the City of Malibu. The use of labels, such as "High Fire Severity Zone" may not be pre-empted by Senate Bill 9, and likely will not prevent lot splits under Senate Bill 9. While Malibu does not intend to violate or ignore Senate Bill 9, Malibu does have the legal right to incentivize existing and future owners of lots more than one acre in size to voluntarily reduce future density and to encourage (a) the construction of single story affordable homes (including ADUs, JADUs and Guest Homes) which are smaller than the allowed square footage maximum ("TDSF") contemplated by Malibu's existing Local Coastal

Plan and Local Implementation Plan, and (b) owners to retain a single lot and not subdivide their lots into one, two or three separate lots. Under Section 3.6K of Malibu's Local Implementation Plan, the allowed total development square footage for lots larger than one acre is calculated as a straight mathematical formula, in which the square footage of a residence or home is capped at a particular percentage of total developable square footage (sometimes referred to as the total "TDSF" percentage or ratio), or, for smaller lots of 5,000 square feet or less, at a maximum square footage of 1,885 square feet for the dwelling itself. This Section 6 of the Malibu Affordable One Story Rural Housing Amendment applies to and allows owners of residential lots larger than one acre to secure "ministerial" approval within ninety (90) days of a completed application to build a second home capped at no more than 2,500 square feet, if, and only if, the owner can show that (a) their lot is more than one acre in size and is not located in any Section 3.1(a)-(d) locations, (b) their lot is otherwise eligible for a lot split or subdivision under Senate Bill 9, and (c) the allowed home after a lot split under Senate Bill 9 could be two stories (and have a basement) which could in total exceed 2,500 square feet, and (c) the owner has agreed to a recorded deed restriction to not split the lot as a contractual concession for the city's willingness to grant an expedited permit to construct a one story home up to 2,500 square feet in size on a ministerial basis, without a public hearing, and without a required Coastal Development Permit, within ninety (90) days of the owner's completed application being submitted. Approval by the Planning Department can be provided by either the express granting of the building permit, or by silence after the passage of ninety (90) days of the owners' submission of a completed application. The fee charged to the owner for the processing of a completed application for a one story home up to 2,500 square feet in size on lots larger than one full acre will be $3,000 per home. Denial of such an application on an expedited ministerial basis does not preclude or prohibit an owner from undergoing the public hearing/CDP process in front of the Planning Commission, with full appellate rights in front of the City Council. Lots smaller than one acre within Malibu are generally not suitable for higher density development in a "duplex" or "triplex" scenario, and would likely have a direct or indirect impact on coastal resources. Thus, this expedited incentive for ministerial approval of small scale one story homes of 2,500 square feet or less exists only for lots larger than one full acre. Lots that are less than one full acre would not be eligible for expedited ministerial approval of a second home, but owners of all residential lots are allowed to pursue development in compliance with Senate Bill 9 and whichever Malibu building, zoning and local coastal codes then exist.

Section 7. Modification Of "Clustering" And "Neighborhood Character" Policies For Small Scale One Story Housing Units Approved Under This Amendment.

The Malibu Local Coastal Plan and Local Implementation Plan each have vaguely worded policies purportedly in support of the "clustering" of accessory structures and/or guest residences close to primary homes within acceptable building envelopes, with vague cross referencing to an unsupported notion that "clustering" will "reduce fuel modification," and an implied suggestion that "clustering" will help with fire prevention or fire truck access. These "clustering" policies may actually increase the destructive effect of spreading wildfires and burning multiple structures, because closely "clustered" structures are more likely to spread embers from structure to structure and roof to roof and vent to vent. The LCP and LIP also contain vague references to "neighborhood character," which are subjective and can be and have been easily manipulated by planning commissioners that are in favor of zero development and prone to deny even acceptable building permits. Small one story energy efficient ADUs/JADUs/Guest Homes and small homes that are approved under this Amendment are to be approved without regard to "neighborhood character,"

and it is acknowledged that rural one story small scale homes limited in height and size are a type of housing that is the sort of rural residential aesthetic that Malibu would like to preserve even if prior development has limited or altered any sort of uniform or singular aesthetic character within a neighborhood. The "clustering" of ADUs/JADUs or small homes within ten (10) feet of a primary home is not required or encouraged under this Amendment, and creating some distance among and between structures is favored and recognized by the Planning Department as a mechanism for reducing the risk that fires will spread from structure to structure, and enhancing privacy, provided that all ADU/JADUs must be located in lot areas appropriate for development and consistent with the protection of coastal resources.

Received
03/07/22
Planning Dept.

Rebecca Evans

From: Patricia Salazar
Sent: Sunday, March 6, 2022 11:52 AM
To: Rebecca Evans
Subject: FW: ADUs 2-7-22 item 4a
Attachments: County ADU ordinance high fire severty zone p15-17 9-20.pdf; pc ADU'S 3-7-22 Itwm 4A.docx

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From: healypatt@aol.com [redacted].com>
Sent: Saturday, March 5, 2022 5:17 PM
To: Kraig Hill <kraig.malibu@gmail.com>; Mark Wetton <mwmalibupc@gmail.com>; Dennis Smith <WAS27MILES@GMAIL.COM>; John Mazza <Res02igz@gte.net>; Jeffrey D Jennings <jdjenningslaw@gmail.com>
Cc: Patricia Salazar <psalazar@malibucity.org>
Subject: Fwd: ADUs 2-7-22 item 4a

Commissioners, attached are Slow Growths comments on item $A ADUs. Please let me know if you have questions. Thanks, Patt

CC: Planning Commission, PD,

Recording Secretary, File

Date Received 03/07/22 Time 7:30 am
Planning Commission meeting of 03/07/22
Agenda Item No. 4A
Total No. of Pages 37

ANALYSIS

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

Very truly yours,

MARY C. WICKHAM
County Counsel

By
STARR COLEMAN
Assistant County Counsel
Property Division

SC:ss

Requested: 04-15-2020

Revised: 09-16-2020

ORDINANCE NO. _____

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

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

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

22.14.010 A.

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

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

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

~~for the lot upon which it is located; is a residential use that is consistent with the existing general plan and zoning designation for the lot; and~~ for the purposes of zoning or General Plan consistency. An accessory dwelling unit includes permanent provisions for living, sleeping, eating, cooking, and sanitation.

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

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

...

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

Affordable housing cost. As defined in ~~S~~section 50052.5 of the California Health and Safety Code.

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

Affordable rent. As defined in ~~S~~section 50053 of the California Health and Safety Code.

Baseline dwelling units. The maximum number of dwelling units permitted by the General Plan land use designation.

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

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

Density bonus. See "Density bonus."

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

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

...

Major transit stop. As defined in ~~S~~section 21155(b) of the California Public Resources Code.

Senior citizen. A person who is 55 years of age or older, pursuant to ~~S~~sections 51.3, 798.76 or 799.5 of the California Civil Code, as applicable.

Senior citizen housing.

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

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

Special needs housing. As defined in ~~S~~section 51312 of the California Health and Safety Code.

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

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

...

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

...

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

22.14.130 M.

...

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

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

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

...

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

...

Mobilehome. As defined in ~~S~~section 18008 of the California Health and Safety Code.

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

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

Multi-family housing.

...

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

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

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

22.14.200 T.

...

Tasting Rooms and Wineries. The following terms are defined solely for Section 22.140.590 (Tasting Rooms and Remote Tasting Rooms) and Section 22.140.610 (Wineries):

...

Winery facilities. All structures and accessory structures as used by a winery, as defined above, including the paved parking areas required by Section 22.140.610 for mobile bottling or crushing facilities, but excluding any tasting room area or structure.

...

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

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

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

...

C. Use Regulations.

...

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

TABLE 22.16.030-C: ACCESSORY USE REGULATIONS FOR AGRICULTURAL, OPEN SPACE, RESORT AND RECREATION, AND WATERSHED ZONES						
	A-1	A-2	O-S	R-R	W	Additional Regulations
...						
Accessory dwelling units [2]	SPR	SPR	-SPR	-SPR	-SPR	Section 22.140.640
...						
Junior accessory dwelling units [2]	SPR	SPR	SPR	SPR	SPR	Section 22.140.640
...						

Notes: ... 2. Use may be subject to a Revised Exhibit "A" (Chapter 22.184) application instead, if the principal residential use is subject to a Conditional Use Permit (Chapter 22.158) application. 3. All buildings and structures on the property used in conjunction with the permitted use shall be located at least 50 feet from any street or highway or any habitable structure. ~~3~~4. Use shall be located at least 300 feet from any public park or any area in a Residential Zone. ~~4~~5. Minimum lot size is one acre. ~~5~~6. Use shall meet all applicable health and safety standards and be reclaimed for open space use when declared safe for such use by the California Department of Health. ~~6~~7. Minimum lot size is 10 acres. ~~7~~8. Limited to hives only. ~~8~~9. Minimum lot size is five acres. ~~9~~10. Use shall be located within 600 feet of, or be in conjunction with, and intended to serve any use listed as permitted for the zone under the Recreational Uses category in Table 22.16.030-B, above. ~~10~~11. Use shall be limited to a seating capacity not to exceed 500 seats. ~~11~~12. Minimum lot size is one acre where sheltered employment or industrial-type training is conducted. ~~12~~13. Use is permitted if publicly owned. ~~13~~14. Minimum lot size is 100 acres. ~~14~~15. Use is allowed in an open space easement if use is consistent with the intent and language of the applicable open space easement. ~~15~~16. Use excludes airports and landing strips. ~~16~~17. Use may also be subject to Chapter 22.120 (Density Bonus) and Chapter 22.166 (Housing Permits), if it includes affordable housing or senior citizen housing.

...

SECTION 5. Section 22.18.030 is hereby amended to read as follows:

22.18.030 Land Use Regulations for Zones R-A, R-1, R-2, R-3, R-4, and R-5.

...

C. Use Regulations.

...

2. Accessory Uses. Table 22.18.030-C, below, identifies the permit or review required to establish each accessory use.

TABLE 22.18.030-C: ACCESSORY USE REGULATIONS FOR RESIDENTIAL ZONES							
	R-A	R-1	R-2	R-3	R-4	R-5	Additional Regulations
...							
Accessory dwelling units	SPR	SPR	SPR	SPR	SPR	-SPR	Section 22.140.640
...							
Junior accessory dwelling units	SPR	SPR	SPR	SPR	SPR	SPR	Section 22.140.640
...							

...

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

22.18.060 Development Standards and Regulations for Zone RPD.

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

A. Use Regulations.

...

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

3. Accessory Dwelling Units and Junior Accessory Dwelling Units. Accessory dwelling units and junior accessory dwelling units are subject to a Ministerial Site Plan Review (Chapter 22.186) application, or a Revised Exhibit "A" (Chapter 22.184) application, if the principal residential use is subject to a Conditional Use Permit (Chapter 22.158) application, pursuant to Subsection A.2, above.

...

SECTION 7. Section 22.20.030 is hereby amended to read as follows:

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

...

C. Use Regulations.

...

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

TABLE 22.20.030-C: ACCESSORY USE REGULATIONS FOR COMMERCIAL ZONES

	C-H	C-1	C-2	C-3	C-M	C-MJ	C-R	Additional Regulations
Accessory buildings and structures, unless more specifically regulated by this Title 22	As determined by the principal use							Sections 22.110.030, 22.110.040
Accessory dwelling units [2]	SPR	SPR	SPR	SPR	SPR	SPR	SPR	Section 22.140.640
...	P	P	P	P	P	P	P	
Junior accessory dwelling units [2]	SPR	SPR	SPR	SPR	SPR	SPR	SPR	Section 22.140.640
...								

Notes:

...

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

3. Minimum lot size is one acre.

~~3~~4. Use shall maintain a commercial appearance by providing office or window display space across any side of the building with street or highway frontage. Office or window display space shall have a minimum depth of 10 feet.

~~4~~5. The use shall comply with the standards in Section 22.20.080 (Development Standards for Zone C-R).

~~5~~6. Minimum lot size is five acres.

~~6~~7. Minimum lot size is one acre where sheltered employment or industrial-type training is conducted.

~~7~~8. The use shall comply with the standards in Section 22.20.060 (Development Standards for Zone C-M), if assembly and manufacturing would be part of industrial-type training.

~~8~~9. Use is permitted if publicly owned.

~~9~~10. Individual crucibles that exceed a capacity of 16 square feet are prohibited.

~~10~~11. Sales shall be limited to retail sales only and all goods sold shall be new.
~~11~~12. Use does not permit a kiln or manufacture.
~~12~~13. Use may permit manufacturing on the premises when accessory to retail sales, provided that total volume of kiln space does not exceed eight cubic feet.
~~13~~14. Use may permit manufacturing on the premises when accessory to retail sales, provided that total volume of kiln space does not exceed 16 cubic feet.
~~14~~15. Use includes related installation and repair if conducted within an enclosed building.
~~15~~16. Use may include the sale of lumber and other building supplies, but shall exclude milling or woodworking other than accessory cutting of lumber to size, provided that all sale, display, storage and accessory cutting is within an enclosed building.
~~16~~17. Use is permitted within an enclosed building only.
~~17~~18. Parking provided is separate from required parking in Chapter 22.112 (Parking), however, use shall be developed in compliance with Chapter 22.112 (Parking).
~~18~~19. When nonconforming in zones where the use is allowed with a Conditional Use Permit (Chapter 22.158).
~~19~~20. Use is permitted only in conjunction with a health club or center.
~~20~~21. Limited to helistops only.
~~21~~22. Use does not permit storage.
~~22~~23. Section 22.140.340 (Manufacturing as an Accessory Use in Commercial Zones) shall apply.
~~23~~24. Use includes merry-go-rounds, ferris wheels, swings, toboggans, slides, rebound-tumbling, and similar equipment operated at one particular location.
~~24~~25. Use includes zip-lines.
~~25~~26. Use may also be subject to Chapter 22.120 (Density Bonus) and Chapter 22.166 (Housing Permits), if it includes affordable housing or senior citizen housing.
~~26~~27. When the use is an affordable housing development (Section 22.120.050), subject to an Administrative Housing Permit (Section 22.166.040).

...

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

22.24.030 Land Use Regulations for Rural Zones.

...

C. Use Regulations.

...

2. Accessory Uses. Table 22.24.030-C, below, identifies the permit or review required to establish each accessory use.

TABLE 22.24.030-C: ACCESSORY USE REGULATIONS FOR RURAL ZONES			
	C-RU	MXD-RU	Additional Regulations
...			
Accessory dwelling units [4]	SPR	-SPR	Section 22.140.640
Home-based occupations	P	P	Section 22.140.290
...			
Junior accessory dwelling units [4]	SPR	SPR	Section 22.140.640
...			
Notes:			
... 4. Use may be subject to a Revised Exhibit "A" (Chapter 22.184) application instead, if the principal residential use is subject to a Conditional Use Permit (Chapter 22.158) application.			

...

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

22.26.030 Mixed Use Development Zone.

...

B. Land Use Regulations.

...

3. Use Regulations.

...

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

TABLE 22.26.030-D: ACCESSORY USE REGULATIONS FOR ZONE MXD		
		Additional Regulations
Accessory buildings and structures	As determined by the principal use	Sections 22.110.030, 22.110.040
Access to property lawfully used for a purpose not permitted in Zone MXD	SPR	

TABLE 22.26.030-D: ACCESSORY USE REGULATIONS FOR ZONE MXD		
Accessory dwelling units	SPR	Section 22.140.640
...		
Home-based occupations	P	Section 22.140.290
Junior accessory dwelling units	SPR	Section 22.140.640
...		

...

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

22.46.030 Administration.

...

B. Exceptions.

...

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

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

22.112.070 Required Parking Spaces.

A. Required Parking Spaces. Table 22.112.070-A, below, identifies the minimum number of parking spaces required to establish each use.

TABLE 22.112.070-A: MINIMUM REQUIRED PARKING SPACES	
Use	**Number of Spaces**
...	
Residential uses [4]	
Accessory dwelling units [10, 11]	1 uncovered standard space per unit.
...	
Apartments [5, ~~10~~]	
Bachelor	1 covered standard space per dwelling unit.
Efficiency and one-bedroom	1.5 covered standard space per dwelling unit.
Junior accessory dwelling units	No spaces required.
...	
Two-family residences	3 covered standard spaces and 1 covered or uncovered standard space per two-family residence.
...	
Single-family residences [10]	2 covered standard spaces per unit.
~~Single-family residences~~	~~2 covered standard spaces per unit.~~
...	
Notes: ... 10. When a garage or carport is converted to an accessory dwelling unit, ~~any parking spaces required for the primary residence may be provided as covered spaces, uncovered spaces, or tandem spaces in compliance with Section 22.04.030.B and Section 22.140.640.H.6.b~~parking spaces for the primary residence shall not be required to be replaced. If parking is provided for the primary residence or residences, it may be provided as covered spaces, uncovered spaces, or tandem spaces, in compliance with Section 22.040.030.B (Use Restrictions) and Section 22.140.640 (Accessory Dwelling Units and Junior Accessory Dwelling Units). 11. See additional ADU parking provisions in Section 22.140.640.~~H.6~~G.1.d (Parking).	

...

SECTION 12. Section 22.140.640 is hereby amended to read as follows:

22.140.640 Accessory Dwelling Units and Junior Accessory Dwelling Units.

A. Purpose. This Section is to provide for the development of accessory dwelling units and junior accessory dwelling units with appropriate development

restrictions, pursuant to sections 65852.2 and 65852.22 of the California Government Code ~~section 65852.2~~.

B. Applicability. This Section ~~shall not apply to the~~applies to accessory dwelling units and junior accessory dwelling units in all zones where permitted, except that in a Coastal Zone, ~~where the~~as defined in Division 2 (Definitions of Title 22), accessory dwelling units and junior accessory dwelling units shall be subject to the regulations set forth in ~~the~~an applicable Local Coastal Program ~~shall control~~.

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

1. Accessory dwelling units and junior accessory dwelling units shall be prohibited in the following areas:

a. On lots that are located in the area between Old Topanga Canyon Road, the Coastal Zone boundary, the City of Calabasas, and the City of Los Angeles; and

b. On lots that are located in the Santa Monica Mountains North Area and only have vehicular access from Lobo Canyon Road or Triunfo Canyon Road.

2. Very High Fire Hazard Severity Zone.

a. Where a lot, or any portion thereof, is located within a Very High Fire Hazard Severity Zone, as depicted in the General Plan, and a Hillside Management Area, as depicted in the General Plan, other than those described in

Section 22.104.030.D, an accessory dwelling unit or a junior accessory dwelling unit shall be prohibited on the lot, unless it has two distinct means of vehicular access to a highway that meet the following requirements:

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

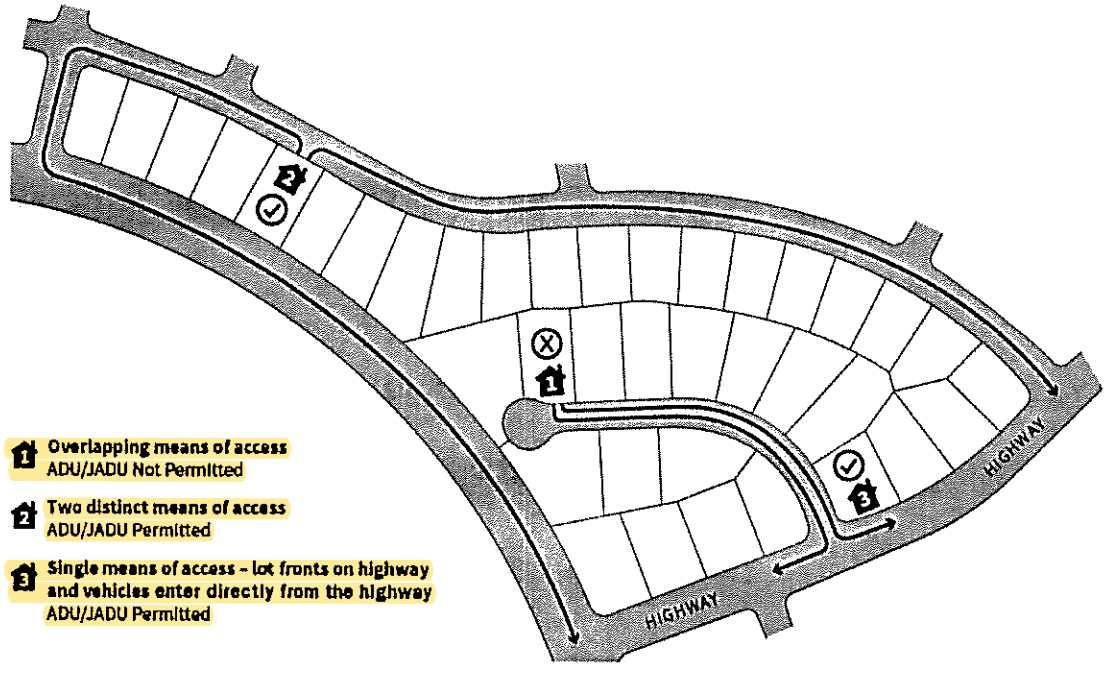
ii. Each distinct means of vehicular access shall contain pavement of at least 24 feet in width, exclusive of sidewalks; and

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

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

c. Notwithstanding Subsections C.2.a and C.2.b, above, accessory dwelling units and junior accessory dwelling units shall be permitted on lots with a single means of vehicular access, if such lots front a highway and vehicles enter directly from the highway. For example, see Figure 22.140.640-A, below.

FIGURE 22.140.640-A: VEHICULAR ACCESS REQUIREMENTS IN THE VERY HIGH FIRE HAZARD SEVERITY ZONE



~~D. Prohibited Areas. An accessory dwelling unit is not permitted on a lot, if any of the following apply:~~

~~1. The lot is located in a Very High Fire Hazard Severity Zone and contains a Hillside Management Area other than those described in Section 22.104.030.D, and it does not have two means of access to a highway that meet the following requirements:~~

~~a. Both means of access contain at least 24 feet in unobstructed width, as measured from the lot until it reaches the nearest highway; and~~

~~b. Both means of access are built to public street standards approved by Public Works.~~

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

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

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

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

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

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

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

1. General. A decision on an application for an accessory dwelling unit or a junior accessory dwelling unit shall be made within 60 days of application submittal.

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

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

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

Table 22.140.640-A: MAXIMUM NUMBER OF ACCESSORY DWELLING UNITS AND JUNIOR ACCESSORY DWELLING UNITS PERMITTED ON A LOT		
Principal Use on a Lot	*Maximum Number*	
	Accessory Dwelling Units	*Junior Accessory Dwelling Units*
One proposed or existing, legally-built single-family residence in any zone that allows residential use	1	1
Any existing, legally-built housing type other than one single-family residence in any zone that allows residential use	1 or 25 percent of existing dwelling units, whichever is greater, converted from spaces within existing residential building(s); and 2 detached from existing residential building(s)	-

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

~~1. An accessory dwelling unit may be developed if the lot:~~

~~a. Contains no habitable structures other than the legally built single-family residence; or~~

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

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

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

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

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

1. Ownership. An accessory dwelling unit or a junior accessory dwelling unit shall not be sold separately from the principal residential building(s) on the same lot.

2. Duration of Tenancy. An accessory dwelling unit or a junior accessory dwelling unit may only be used as a rental unit for a period of at least 30 consecutive days.

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

~~H~~G. Development Standards.

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

~~2~~a. Floor Area.

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

b~~ii~~. Maximum.

~~I.~~(1) General.

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

(a~~i~~) A new detached structure; or

(b~~ii~~) ~~Entirely within an existing, legally-built single-family residence; or~~The result of the conversion of an existing, legally-built

accessory structure with an addition to expand the floor area of said structure by more than 150 square feet.

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

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

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

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

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

~~i~~i(2). ~~Exceptions~~Community Standards District and Specific Plans. ~~For an accessory dwelling unit not described in Subsections H.2.b.i.(1)(b) or H.2.b.i.(1)(c), above~~Accessory dwelling units shall not be subject to any

Community Standards District or Specific Plan provision pertaining to floor area, gross structural area, or lot coverage.

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

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

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

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

~~3~~b. Height.

a~~i~~. ~~General.~~ The maximum height of an accessory dwelling unit on a lot with an existing or proposed single-family residence shall be 25 feet.

~~b~~ii. ~~Exceptions~~The maximum height for detached accessory dwelling units on a lot containing an existing multi-family dwelling structure or structures shall be 16 feet.

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

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

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

~~ii. For an accessory dwelling unit not described in Subsection H.3.b.i., above:~~

~~(1)~~iv. Community Standards Districts and Specific Plans. Any new accessory dwelling unit, or expanded portion of an existing structure that is part of a proposed accessory dwelling unit, shall not exceed the maximum height specified in a Community Standards District or Specific Plan, or 25 feet, whichever is less, provided that the maximum height allows a minimum 16-foot-high accessory dwelling unit.

~~(2)~~v. Proximity to Scenic Resources. Notwithstanding Subsection ~~H.3.b.ii.(1)~~G.1.b.iv, above, if any new accessory dwelling unit, or expanded

portion of an existing structure that is part of a proposed accessory dwelling unit, is located within 200 feet of an adopted route with scenic qualities, Scenic Route, Scenic Drive, or Scenic Highway, the new accessory dwelling unit or expanded portion shall not exceed the height of the single-family ~~residence~~or multi-family residential building, or 18 feet, whichever is less, provided that the maximum height allows a minimum 16-foot-high accessory dwelling unit.

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

~~a. A minimum of six feet; and,~~

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

~~5~~c. Required Yards.

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

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

~~ii.~~(2) The result of the conversion of an existing, legally-built accessory structure with no expansion of the floor area of said structure, or constructed in the same location and to the same dimensions as an existing structure.

~~b~~ii. For an accessory dwelling unit not described in Subsection ~~H.5.a~~G.1.d.i, above:

~~i. Any new accessory dwelling unit, or expanded portion of an existing structure that is part of a proposed accessory dwelling unit, shall be at least five feet from the rear, interior side, and corner side lot lines.~~

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

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

~~6~~d. Parking.

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

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

ii. ~~In any of the following instances, pursuant to California Government Code section 65852.2(d):~~Parking for an accessory dwelling unit located within a Very High Fire Hazard Severity Zone shall be provided in accordance with Chapter 22.112 (Parking), unless any of the following exceptions are met, in which case no parking shall be required:

(1) The accessory dwelling unit has no bedroom;

(2) The accessory dwelling unit is detached, with a maximum floor area of 800 square feet and a maximum height of 16 feet, and is located on a lot with a proposed or existing single-family residence;

(3) The accessory dwelling unit is detached, with a maximum height of 16 feet and minimum rear and side yard depths of four feet, and is located on a lot with an existing multi-family residential building;

(4) The accessory dwelling unit is entirely within an existing, legally-built single-family or multi-family residential building;

(5) The accessory dwelling unit is the result of the conversion of an existing, legally built accessory structure with an expansion of not more than 150 square feet beyond the same physical dimensions of said structure, limited to accommodating ingress and egress;

(~~1~~6) The accessory dwelling unit is located within one-half mile walking distance of public transit;

(~~2~~7) The accessory dwelling unit is located within an architecturally and historically significant historic district;

~~(3) The accessory dwelling unit is part of the proposed or existing primary residence or an accessory structure;~~

(~~4~~8) When on-street parking permits are required, but not offered to the occupant of the accessory dwelling unit; or

(~~5~~9) When there is a car share vehicle ~~located~~location within one block of the accessory dwelling unit.

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

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

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

f. Roof and Exterior Siding Materials. An accessory dwelling unit shall comply with Section 22.140.580.D (Roof and Exterior Siding Materials).

2. Junior Accessory Dwelling Units.

a. Floor Area.

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

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

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

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

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

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

2. A restriction on the size and attributes of the junior accessory dwelling unit consistent with this Section; and

3. A requirement that either the primary residence or the junior accessory dwelling unit be the owner's bona fide principal residence, unless the owner is a governmental agency, land trust, or housing organization.

I. Owner Occupancy.

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

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

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

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

2. Development Standards. As specified otherwise in this Section.

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

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

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

22.172.050 Termination Conditions and Time Limits.

...

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

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

22.300.020 Application of Community Standards Districts to Property.

...

B. Additional Regulations.

...

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

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

~~b. Where the regulations in Section 22.140.640 (Accessory Dwelling Units) are contrary to the provisions in a CSD regulating the same matter, the provisions in Section 22.140.640 shall prevail, except for Section 22.140.640.H.2 (Floor Area) and Section 22.140.640.H.3 (Height).~~

[2214010SCCC]

To: Members of the Planning Commission
From: Malibu Coalition for Slow Growth by Patt Healy
Date 3-7-22
Agenda Item 4A

The Malibu Coalition for Slow Growth asks you consider the following .

ADU COUNTY ORDINANCE

Follow the lead of the County and adopt the portion of their ordinance which limits ADUs to area's where there are 2 exits to a highway in VHFHSZs. Malibu being in very high fire hazard severity fire zone, it only makes sense to follow the County's lead adopt the County restrictions on ADUs.

Please see attached County Ordinance pages 15, 16 and 17 . For example, this would allow ADUs in Malibu Park and on Point Dume but mot allow them on properties in Malibu West, Trancas Highlands and along Trancas Canyon Rd.

More ADUs will result in a more difficult evacuation. No one wants to relive the horror of the Woolsey fire evacuation.
The city recommended evacuation routes may not be safe routes for the fire most likely will be coming from the direction of the proposed routes and furthermore they may be gridlocked with Santa Monica Mountain residents attempting to evacuate. Obviously, the more cars evacuating, the greater the danger of loss of life.

We ask you to be cautious and recommend to the Council the portion of the County Ordinance that deal with ADU's in VHFHSZ .

SMALL LOTS

Our understanding of the ADU law is not all neighborhoods in the city must be allowed construction of a ADU on their property. Ideally, they should be allowed on lots consisting of one acre or more.

Small lot subdivisions are not suited for ADUs. They are most suited for JADUs and garage conversions and recommend limiting ADUs to this.

The reason to prohibit ADU's in small lot subdivision is neighbors live in very close proximity to each other and often back to back to each other. An ADU

residence so close to the neighbor's property line will create for the neighbor a nuisance, the loss of enjoyment of their property and the loss of privacy.

An 900 or greater square foot ADU is not appropriate on small lots or small lot subdivisions . Staff suggestion of 500 sq ft is far too large for these small lot subdivisions and should be rejected.

HEIGHT

If one story main residence the height should be no greater than 16 ft. Those existing higher ADUs should be grandfathered in.

SIZE

The allowable size on larger lots of an acre or more should be 900 sq.ft. for a studio or 1 bedroom and 1000 sq.ft for a 2 bedroom. The 1200 square foot ADUs allowed a fire rebuild can be grandfathered in.

RENT CONTROL

Today there is and there will be no affordable ADU housing in Malibu. If it is the city's intention to have ADUs fulfill the affordable housing requirement they should consider some sort of rent control/ rent stabilization ordinance to actually make these units affordable at least for median income renters.

Family members such as elderly relatives and adult children as well as Owner's employees most likely would qualify as low income residents if no or little rent is charged.

CONCLUSION

Adopt the County language regarding ADU's in VHFHSZ's.

Limit small lot subdivisions to JADUs and Garage Conversions.

Consider some form of ADU rent control/rent stabilization ordinance for third party non family member renters in order for an ADU to qualify for medium income affordable housing.

Thank you for considering our comments.

Received
03/07/22
Planning Dept.

Rebecca Evans

From: Tyler Eaton
Sent: Monday, March 7, 2022 8:57 AM
To: Rebecca Evans
Subject: FW: Item 5A - 3-7-22 SB 9
Attachments: SB 9 Overview_01272022.pdf

Correspondence for 4A tonight

From: healy[redacted]com [redacted].com>
Sent: Saturday, March 5, 2022 2:10 PM
To: Kraig Hill <kraig.malibu@gmail.com>; Dennis Smith <WAS27MILES@GMAIL.COM>; John Mazza <Res02igz@gte.net>; Mark Wetton <mwmalibupc@gmail.com>; Jeffrey D Jennings <jdjenningslaw@gmail.com>; [redacted]com; Tyler Eaton <teaton@malibucity.org>; jparker-bozylinski@malibucity.org
Subject: Item 5A - 3-7-22 SB 9

Hi All, in reviewing the staff report for ADU's (item 4A) on 3-7-22 agenda ,staff mentions SB9 as if it is applicable in Malibu . The city attorney John Cotti confirmed in a meeting that SB9 doesn't apply to Malibu since it is in the Coastal Zone. Apparently this information didn't filter down to the Planning Dept. . Attached please see the county's in depth analysis of SB9.
The applicable provision of the attachment states.

The County in the attached states
Parcels prohibited from SB 9 based on location/environmental criteria, including:

- **Coastal Zone**
- **Historic district or property**
- **Prime farmland**
- **Wetlands**
- **High and very high fire hazard severity zones**
- **Conservation areas/SEAs**
- **Hazardous waste site, with exceptions**
- **FEMA flood zones, with exceptions**
- **Earthquake fault zones, with exceptions**

CC: Planning Commission, PD,

Recording Secretary, File

Date Received 03/07/22 Time 7:30 am
Planning Commission meeting of 03/07/22
Agenda Item No. 4A
Total No. of Pages 13

Senate Bill 9 Overview

Presented by:

LA County Department of Regional Planning

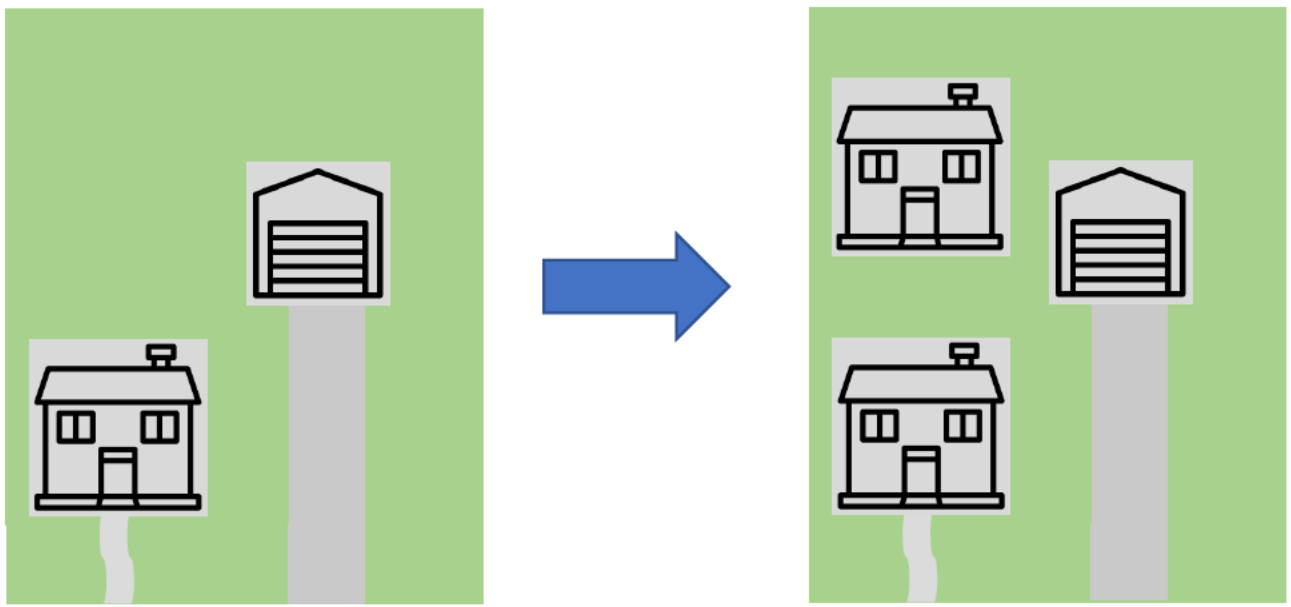
January 27, 2022

SB, 9 Atkins. Housing Development: Approvals

- An act to add Sections 65852.21 and 66411.7 to, the Government Code, relating to land use.
- Signed by Governor Newsom on September 16, 2021.
- Effective Jan 1, 2022.
- Applies to parcels in single-family residential zones (R-1 & R-A) in urbanized areas or urban clusters as defined by US Census Bureau.

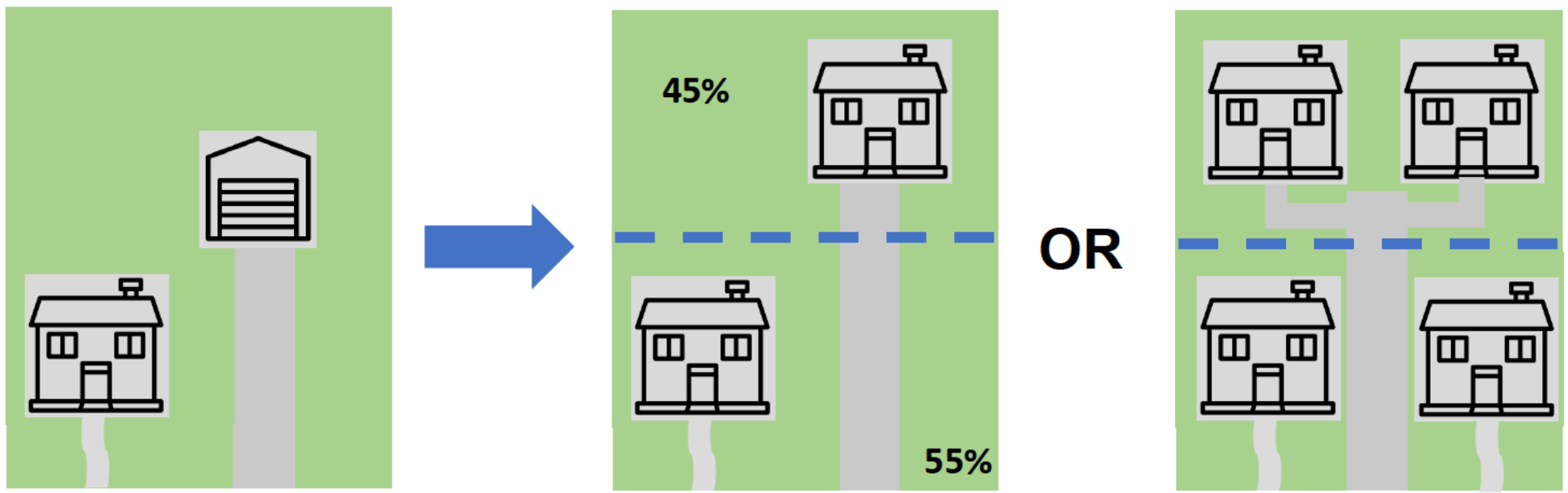
Two Principal Dwelling Units / Duplex

- Allows for ministerial approval of certain housing development projects containing up to two dwelling units on a single-family zoned parcel.
- ADUs/JADUs – may be permitted per existing ADU ordinance.



Urban Lot-Split

- Qualifying lot splits to be approved ministerially pursuant to a parcel map if specific criteria are met.
- Maximum 40%-60% split.
- Minimum 1,200 sq. ft. for each parcel.
- ADUs/JADUs may be permitted, but will count as one of the units.



ADUs

- 2 Dwelling Units – Non-Lot Split
  - 2 Principal Dwelling Units + ADUs/JADUs per ADU law

- Lot Split:
  - 2 Units max per parcel
  - Units are inclusive of ADUs and JADUs

Project Must Meet Certain Criteria

- Parcels prohibited from SB 9 based on location/environmental criteria, including:
  - Coastal Zone
  - Historic district or property
  - Prime farmland
  - Wetlands
  - High and very high fire hazard severity zones
  - Conservation areas/SEAs
  - Hazardous waste site, *with exceptions*.
  - FEMA flood zones, *with exceptions*.
  - Earthquake fault zones, *with exceptions*.

Pre-Existing Site Conditions

- Pre-existing Site Conditions, including:
  - No proposal to demolish or alter rent controlled units, units subject to a recorded covenant restricting rents to moderate, lower, or very low income, or units that were tenant occupied within last 3 years.

  - Cannot contain units removed from rental market within last 15 years.

Additional Requirements

- 2 Units without Lot Split
  - Parcels connected to private sewer system have to get clearance from Public Health

- Lot splits that have already utilized SB 9 for prior lot split, or where an adjacent parcel under same owner or someone in concert with owner has utilized SB 9 are ineligible.

Development Standards

- Objective development standards may be applied to projects as long as they do not preclude the following:
  - Up to 2 dwelling units per parcel.
  - Either unit from being a minimum 800 sq. ft.

- Parking
  - One covered space per principal unit unless:
    - Parcel is within ½ mile walking distance of a high-quality transit corridor or major transit stop, or
    - Parcel is within 1 block of a car share vehicle (such as Zipcar).

- Setbacks & Building Separation
  - Existing setbacks are deemed conforming.
  - Otherwise, 4 ft maximum can be required on sides and rear unless a narrower width is allowed per Title 22.

Additional Considerations

- No short-term rentals (30 days or less)
- Owner-occupancy for urban lot splits
- A lot split is restricted to residential uses (except home-based businesses and cottage food operations)
- No right-of-way dedications, offsite improvements or correction of nonconforming standards can be required with a lot split

Application & Procedure

- Existing application and procedures will apply.
  - Land use application (Site Plan Review, Ministerial) for 2 principal units on one lot.
  - All applicable subdivision applications for lot splits.
  - All existing fees will apply.

Thank you!

Tahirah Farris
Housing Policy Section
Email tfarris@planning.lacounty.gov

Nathan Merrick
Coastal Development Services Section
Email nmerrick@planning.lacounty.gov

Received
03/07/22
Planning Dept.

Rebecca Evans

From: Richard Lawrence <[redacted].com>
Sent: Monday, March 7, 2022 4:04 PM
To: Tyler Eaton; Rebecca Evans; Trevor Rusin
Subject: California Environmental Quality Act

The Malibu Township Council wishes to note that it objects to any amendment passed by the planning commission that exempt this ordinance from the California Environmental Quality Act.

Very truly
Richard Lawrence, President
Malibu Township Council

CC: Planning Commission, PD,

Recording Secretary, File

Date Received 03/07/22 Time 4:04 pm
Planning Commission meeting of 03/07/22
Agenda Item No. 4A
Total No. of Pages 1

Received
03/02/22
Planning Dept.

Rebecca Evans

From: Tyler Eaton
Sent: Wednesday, March 2, 2022 2:28 PM
To: Rebecca Evans
Cc: Joyce Parker-Bozylinski
Subject: FW: ADU

Hey Rebecca,

Additional correspondence below for the ADU item on Monday.

Thank you,
Tyler

From: Sean Quine [mailto [redacted].com]
Sent: Wednesday, March 2, 2022 2:15 PM
To: Tyler Eaton <teaton@malibucity.org>
Subject: ADU

As a long term resident of Malibu 34 years, I am in favor of allowing property owners to build ADU facilities on their property assuming they have the space to do so. I do understand the need to balance over development concerns with personal rights, however the difficult to build an accessory dwelling in Malibu has kept me from building a guest house for 25 years. The prohibitive costs make it economically not feasible. The cost to build a guest house currently within the city is comparable with new home construction, and thus has hindered my ability. The over development of Cross Creek should have been a much bigger concern that people providing housing for their elderly parents. I am hoping that they also relax the mandate to replace the existing septic tank with a treatment plan as long as the existing septic can accommodate the additional fixtures. The city has already reduced the number of fixtures allowed for existing septic systems and I feel if the ADU had only one bathroom and one kitchen sink, and the septic can accommodate this, it should be allowed. Also waive the requirement to redo geology, and archeology should not be required if it is on the same property and an existing structure.

Thank you

Sean Quine [redacted] pacific coast hwy

Sincerely,

Sean Quine
M2M Wireless
Connecting Machines around the world

Phone: [redacted]
Fax(NEW): [redacted]
sean@m2mwireless.com
www.m2mwireless.com

CC: Planning Commission, PD,

Recording Secretary, File

Date Received 03/02/22 Time 2:15 PM
Planning Commission meeting of 03/07/22
Agenda Item No. 4A
Total No. of Pages 1

Received
03/07/22
Planning Dept.

Planning Commission

From: Erik Yesayan <eyesayan@keystoneplanners.com>
Sent: Monday, March 7, 2022 10:27 AM
To: Planning Commission
Cc: Matt Jewett; Patricia Salazar; Tyler Eaton
Subject: Re: Comment Letter for Proposed ADU Ordinance

To the Honorable Members of the Planning Commission,

As a follow up to our comment letter below and, in advance of the Planning Commission meeting tonight, we wanted to highlight some recent developments that have transpired with other similarly situated Coastal Cities and the Coastal Commission, in an ongoing effort to maximize consistency between the State's ADU requirements and the Coastal Act.

As mentioned in prior correspondence, and as alluded to in Staff's recommendations, State law requires an expedited administrative path to create desperately needed housing opportunities throughout the State. State ADU law does state that these ADU requirements do not supersede the requirements to protect the Coastal resources identified in the Coastal Act. However, this appears to be a narrower exclusion than many may presume, and we believe that it would be of benefit to the City of Malibu and its residents to ensure the provision of Exemption and/or Waiver mechanisms, consistent with the most recent Coastal Commission memo, for attached *and* detached ADU units smaller than 800 sq. ft. that do **not** have potential to impact coastal resources.

In their memo dated January 21, 2022, the Coastal Commission states:

> *The Commission has generally allowed a CDP **waiver** for proposed J/ADUs if the Executive Director determines that the proposed development is de minimis (i.e., it is development that has no potential for any individual or cumulative adverse effect on coastal resources and is consistent with all Chapter 3 policies of the Coastal Act). Such a finding can typically be made when the proposed J/ADU project has been sited, designed, and limited in such a way as to ensure any potential impacts to coastal resources are avoided (such as through habitat and/or hazards setbacks, provision of adequate off-street parking to ensure that public access to the coast is not impacted, etc.). (See Pub. Res. Code § 30624.7.)*

These Waiver provisions would apply only to projects that have been determined not to pose any impact to the coastal resources identified in Coastal Act Section 30624.7. This includes ensuring that proposed ADUs do not remove existing parking in coastal access areas without providing replacements.

In lieu of the Waiver suggestion provided by the Coastal Commission, it stands to reason that if an ADU (whether attached or detached) has no identifiable impacts to the above-referenced Coastal Resources, then it should qualify for the expedited process outlined for Junior ADU's in Staff's recommendations. (i.e. less than 800 sq. ft. with no potential impact on coastal resources).

The existing LCP standards are geared towards minimizing adverse impacts of large single-family homes and do not directly address the potential for the creation of smaller/affordable units that newer State ADU laws contemplate. Current LCP standards make it extraordinarily difficult to build a detached ADU unit on many parcels that are able to facilitate an ADU with no impacts on coastal resources.

These smaller ADU units are consistent with the Coastal Act's section 30253 that new development shall minimize energy consumption, vehicle miles traveled, be consistent with air quality standards, protect special communities, and minimize risk to life and property. And importantly, small detached ADUs are in line with Malibu's foundational idea of preserving a rural aesthetic and feel. Prioritizing and incentivizing attached ADUs without similar regard for the benefits

CC: Planning Commission, PD,

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Date Received 03/07/22 Time 10:27 am
Planning Commission meeting of 03/07/22
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of detached ADUs may inadvertently incentivize larger single structures that would give the appearance of larger single-family homes in Malibu, which is not consistent with City goals of preserving rural character.

In the latest Coastal Commission memo, they shared an example of the City of Pacifica, which did not require detached ADU units under 800 sq. ft. to comply with lot size and setback requirements of the LCP (page 11). This appears to strike an appropriate balance between processing attached and detached ADUs through an administrative CDP while providing relief from certain (non-Coastal resource) development standards for a single-family residence to provide a clear path forward that is more consistent with the goals and requirements of State ADU law.

We continue to be grateful for the staff's effort to move forward with the ADU ordinance and are hopeful that the Commission will recommend a Waiver/Exemption/Administrative mechanism for both attached and detached ADU units under 800 sq. ft. that do not have a potential coastal resource impact, based upon these considerations.

Sincerely,
Erik

Erik Yesayan
Keystone Strategic Planning
4859 West Slauson Avenue, #753 Los Angeles, CA 90056
818.269.6622
eyesayan@keystoneplanners.com
www.keystonestrategicplanning.com

From: Erik Yesayan <eyesayan@keystoneplanners.com>
Date: Tuesday, January 18, 2022 at 5:10 PM
To: "PlanningCommission@malibucity.org" <PlanningCommission@malibucity.org>
Cc: Matt Jewett <mjewett@keystoneplanners.com>, "psalazar@malibucity.org" <psalazar@malibucity.org>, Tyler Eaton <teaton@malibucity.org>
Subject: Comment Letter for Proposed ADU Ordinance

Dear Honorable Members of the Planning Commission,

We are writing to express our appreciation for City Staff's efforts in updating the LCP in accordance with State ADU laws. Particularly, we would like to express our support related to Comment No. 12 on Page 11 of the Staff Report to provide some relief for smaller properties with a proposed ADU. These comments and preliminary recommendations seem to go a long way towards synthesizing the requirements of the LCP and State Law pertaining to ADUs.

One point of consideration that we would request that the Commission deliberate on is to ensure that the ADU Ordinance isn't entirely crafted around any one particular project that has been vetted with the City. The case referenced by Staff is useful in highlighting some key issues and/or points of contention that should be anticipated and Staff has done an excellent job on that front by providing some suggestions for mechanisms for an administrative equivalent for attached ADUs not to exceed 800 sq. ft. and 500 sq. ft. Junior ADUs.

While it's true that many ADUs would likely be proposed inside an existing building, including garages, there are certain instances, due to a topographical, lot shape, or the configuration of existing buildings on site, that a detached ADU may be a more feasible option and/or have fewer impacts than adding on to or modifying an existing building, which may be located next to steep slopes, sensitive habitat/protected trees, or other constraints/considerations.

In these types of cases, a max. 800 sq. ft. detached ADU may be most appropriate to minimize impacts. We would respectfully suggest the Commission's consideration of adding detached ADUs as part of the administrative equivalent process that Staff outlines. Staff has requested that the Commission establish guidelines for ADUs that meet the administrative equivalent criteria. Considerations of lot size, topography, lot shape, and other factors that may make a detached ADU more appropriate could be incorporated in those guidelines.

If the proposed ADU (attached or detached) will not have a significant impact on protected coastal resources, it seems appropriate to provide a potential administrative equivalent path for all ADU proposals that are consistent with the State development standards for an ADU.

Sincerely,

KEYSTONE
Strategic Planning

Erik Yesayan
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Received
3/1/22
Planning Dept.

Rebecca Evans

From: Patricia Salazar
Sent: Tuesday, March 1, 2022 11:12 AM
To: Rebecca Evans
Subject: FW: Supplemental Correspondence - March 7th Planning Commission Hearing on the City's Proposed ADU Ordinance - Item 4A
Attachments: ADU Ordianance, Item 4A, Supplemental Correspondence based on CCC 1-21-2022 Memo.pdf

---

From: Cindy Martin <cmartin@schmitzandassociates.net>
Sent: Tuesday, March 1, 2022 11:09 AM
To: Patricia Salazar <psalazar@malibucity.org>; Trevor Rusin [redacted].com>
Cc: Cindy Martin <cmartin@schmitzandassociates.net>; Schmitz and Associates <bsuber@schmitzandassociates.net>
Subject: Supplemental Correspondence - March 7th Planning Commission Hearing on the City's Proposed ADU Ordinance - Item 4A

Hello Patricia and Trevor,

Please find our supplemental correspondence in preparation of the March 7th Planning Commission hearing on the City's proposed ADU Ordinance, Item 4A. This supplemental correspondence is based on the Coastal Commission's updated and superseding memo of 1/21/2022, including pages 9-10, which provide links to recently approved LCPs with State compliant ADU provisions, all of which have implemented 4' side and rear setbacks for ADUs.

Patricia, please forward this supplemental correspondence to the Planning Commissioners.

Thank you for all you do.

Sincerely,

Cynthia Martin, JD I Special Projects Manager **I Schmitz & Associates, Inc.**
28230 Agoura Rd. Suite 200 Agoura Hills, CA 91301
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CC: Planning Commission, PD,

Recording Secretary, File

Date Received 3/1/22 Time 11:09 AM
Planning Commission meeting of 03/07/22
Agenda Item No. 4A
Total No. of Pages 6

Via Email: PSalazar@malibucity.org; [redacted].com
March 1, 2022

SUPPLEMENTAL CORRESPONDENCE
BASED ON COASTAL COMMISSION UPDATED MEMO, DATED 1/21/2022

City of Malibu Planning Commission
Attention: Chair Hill, Honorable Members of the Planning Commission and Asst. City Attorney Trevor Rusin
23825 Stuart Ranch Rd.
Malibu, CA 90265

Hearing Date: March 7, 2022, Item 4A, Planning Commission Resolution No. 22-08

Re: Supplemental Correspondence - Proposed ADU Ordinance - Four-Foot Side and Rear Yard Setbacks

Dear Chair Hill, Honorable Members of the Planning Commission and Mr. Rusin,

BASIS FOR SUPPLEMENTAL CORRESPONDENCE.

Please be advised, on January 21, 2022, the California Coastal Commission (CCC) issued an updated guidance memorandum regarding ADUs (CCC UPDATED MEMO), which supersedes all earlier memos.[1] This updated memo is included as an Appendix to the Staff Report.

In the CCC UPDATED MEMO, the Coastal Commission provides examples of recently approved ADU provisions in certified LCPs.[2]

Without exception, all jurisdiction with newly certified LCPs have implemented the four-foot side and rear yard setback provisions of State ADU laws, and in some instances, even less.

This supplemental correspondence discusses those jurisdictions.

This supplemental correspondence also replaces prior references to earlier CCC memos with references to the CCC UPDATED MEMO.

ALL UPDATED ADU PROVISIONS IN CERTIFIED LCPS INCLUDE FOUR-FOOT SIDE AND REAR SETBACKS, AND IN SOME INSNTANCES EVEN LESS.

In the CCC UPDATED MEMO, examples of recently approved ADU provisions are provided from all jurisdictions which have updated their LCPs to comply with State UDU laws.[3] Those Updated ADU Provisions are included as examples of how each jurisdiction harmonized their LCP amendments with

[1] CCC Updated Memo, page 1.
[2] California Coastal Commission Updated Guidance Memorandum dated January 21, 2022 (CCC Updated Memo), pages 9 10.
[3] California Coastal Commission Updated Guidance Memorandum dated January 21, 2022 (CCC Updated Memo), pages 9-10.

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State ADU laws. This includes:

- City of Santa Cruz, approved May 2021[4]
- City of Pacifica, approved June 2021[5]
- County of San Mateo, approved July 2021[6]
- City of Encinitas, approved August 2021[7]
- City of Santa Barbara, approved December 2021[8]

CITY OF SANTA CRUZ, APPROVED MAY 2021

The City of Santa Cruz's ADU side and rear yard setbacks are as follows:

New Detached ADUs: Side Yard: 3', Rear Yard: 3'
New Attached ADUs: Side Yard: 4', Rear Yard: 4'
Conversion: Compliance with setbacks applicable to new ADUs[9]

CITY OF PACIFICA, APPROVED JUNE 2021

The City of Pacifica's ADU side and rear yard setbacks are as follows:

Detached ADUs: Side Yard: 4' Rear Yard: 4'
Detached ADUs: Side Yard: 4' Rear Yard: 4'[10]

COUNTY OF SAN MATEO, APPROVED JULY 2021

The County of San Mateo's ADU side and rear yard setbacks are as follows:

ADUs Regardless of Height: Side Yard: 4' Rear Yard: 4'
ADUs Within an Existing Structure: Existing Setbacks[11]

CITY OF ENCINITAS, APPROVED AUGUST 2021

The City of Encinitas's ADU side and rear yard setbacks are as follows:

Accessory Dwelling Units: Side Yard: 4' Rear Yard: 4'
ADUs Within an Exisitng Structure: No Setbacks.[12]

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[4] See https://www.cityofsantacruz.com/home/showpublisheddocument/84532/637584175422900000
See https://www.cityofsantacruz.com/home/showpublisheddocument/84534/637584175449470000
[5] See https://library.municode.com/ca/pacifica/codes/code_of_ordinances?nodeId=TIT9PLZO_CH4ZO_ART4.5ACDWUN
[6] See Th15a-7-2021-exhibits.pdf (ca.gov)
[7] See F13c-8-2021-exhibits.pdf (ca.gov)
[8] See F14b-12-2021-exhibits.pdf (ca.gov)
[9] See https://www.cityofsantacruz.com/home/showpublisheddocument/84532/637584175422900000, Note: Step backs are required for portions of structures in excess of 16': Side Step Back: 5', Rear Step Back: 10'.
[10] See IP § 9-4.453 Development standards for accessory dwelling units, and see https://library.municode.com/ca/pacifica/codes/code_of_ordinances?nodeId=TIT9PLZO_CH4ZO_ART4.5ACDWUN
[11] See Th15a-7-2021-exhibits.pdf (ca.gov), Note: Step backs are required for portions of structures in excess of 16': Side Step Back: 5', Rear Step Back: 10'.
[12] See F13c-8-2021-exhibits.pdf (ca.gov)

CITY OF SANTA BARBARA, APPROVED DECEMEBER 2021

The City of Santa Barbara's ADU side and rear yard setbacks are as follows:

> Side and Rear Setbacks: 4'
> Converted Legal Nonconforming: No Setback.
> Demolished and Converted, Same Location and Dimensions: No Setback.[13]

The City of Malibu should take guidance from ALL other coastal cities and counties which have updated their LCPs and require no more than a four-foot side and rear building setback, consistent with State law, unless there are identifiable impacts to coastal resources.

THE UPDATED CCC MEMO SUPERSEDES ALL EARLIER MEMOS.

The CCC UPDATED MEMO supersedes all prior memos.[14] However, similar to earlier memos, the CCC UPDATED MEMO instructs coastal cities to update their LCPs with ADU provisions in a manner that harmonizes State housing laws with the Coastal Act.[15]

The City of Malibu's Proposed CDP amendments require regular yard setbacks for all ADUs unless the proposed ADU is a demolished and replacement structure in the same location and dimensions as the original structure.[16]

As set forth in the Planning Department's Staff Report, the basis for the City's divergence from State ADU law is based on language from the statute which states:

> "Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the Coastal Act of 1976 (Division 20)(Commencing with Section 30000) of the Public Resources Code)..." Citing Gov't Code 65852.2 (I)).[17]

The Staff Report then states, "Since Malibu has a certified LCP, the LCP still applies."[18] However, Chapter 3 of the Coastal Act protects *Coastal Resources* and not *LCPs.*[19]

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[13] See F14b-12-2021-exhibits.pdf (ca.gov), and see IP § 28.86.055 (G) SETBACKS
The following setbacks shall apply to new and converted standard accessory dwelling units approved pursuant to this section:
1. New Construction. Newly constructed accessory dwelling units shall comply with the following setback standards:
a. Front Setback: Meet the minimum front setback for residential structures in the zone...
b. Interior Setback: Four feet.
2. Converted. No setback is required...
3. Demolished and Converted. No setback is required... provided that the new building is reconstructed in the same location and with the same dimensions...

[14] CCC Updated Memo at pg 1

[15] Id.

[16] City of Malibu, Planning Department, Proposed ADU Ordinance Staff Report, dated February 24, 2022, Exhibit A (proposed Local Coastal Program amendments), § 3.10 Accessory Dwelling Units (G)(3).

[17] City of Malibu, Planning Department, Proposed ADU Ordinance Staff Report, dated February 24, 2022, page 2.

[18] Id.

[19] Ca Pub Res Code § 30001.

THE CITY'S LCP AMENDMENTS, SHOULD REQUIRE NO MORE THAN FOUR-FOOT SIDE AND REAR YARD SETBACKS, IF THERE ARE NO IDENTIFIABLE IMPACTS TO *COASTAL RESOURCES*.

In the CCC UPDATED MEMO, Executive Director Jack Ainsworth instructs local governments to comply with State ADU law unless there are significant adverse impacts on *coastal resources*.[20]

Executive Director Ainsworth then provides examples of impacts to coastal resources, which include:

- ADUs which require a shoreline protective device.[21]
- Development in ESHA or wetlands.[22]
- Where structural integrity of an ADU is compromised by bluff erosion, flooding or wave uprush.[23]

Locating an ADU within four feet of a side or rear property line does not, in and of itself, impact coastal resources.

Moreover, arbitrarily diverging from State ADU laws by requiring standard yard setbacks, without identifying impacts to coastal resources, is inconsistent with Coastal Act policies as articulated by the California Coastal Commission:

> "The Coastal Commission strongly encourages local governments to update their LCPs with J/ADU provisions in a manner that harmonizes the State's housing laws with the Coastal Act. Doing so would protect the State's *coastal resources* while also reducing barriers to constructing J/ADUs and helping to promote more affordable coastal housing."[24]

Thus, requiring standard side and rear building yard setbacks, without requiring an identifiable impact to a coastal resource, is inconsistent with the Coastal Commission standards put forth in the CCC UPDATED MEMO and does not balance State ADU laws with the Coastal Act.

The City's proposed ADU Ordinance should include provisions requiring no more than a four-foot side or rear yard setback for ADUs when there are no identifiable impacts to a coastal resource.

REPORTING TO ATTORNEY GENERAL'S OFFICE

In the CCC UPDATED MEMO, Executive Director Ainsworth once again recognizes that the California Department of Housing and Community Development ("HCD") now has an oversight and approval role to ensure that local ADU Ordinances are consistent with State law, similarly to the Coastal Commissions review of LCP's.[25] If a local government adopts an ordinance that HCD deems to be noncompliant with State law, the HCD has the authority to notify the Office of the Attorney General.[26] Veering from State ADU law, by requiring regular yard setbacks when there are no identifiable impacts to a coastal resource, could result in the HSD notifying the Attorney General's office.

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[20] "The creation of new J/ADUs in existing residential areas is one of many strategies that aim to increase housing stock, including creating additional housing units of a type and size that can be more affordable that other forms of housing in the coastal zone, in a way that may be able to avoid significant adverse impacts on coastal resources." CCC Updated Memo at page 2.
[21] CCC Updated Memo at page 3
[22] Id. at page 3
[23] Id. at page 3.
[24] Id. at page 1.
[25] Id. at page 3.
[26] Gov. Code § 65852.2(h)(3), CCC Memo at page 3.

CONCLUSION

Based on the foregoing, the City of Malibu's Proposed ADU Ordinance and related LCP amendments should require no more than a four-foot side or rear setback for ADUs when there are no identifiable impacts to a coastal resource. This is consistent with State ADU law, the Coastal Act, and the CCC Memo as authored by Executive Director Jack Ainsworth.

Respectfully submitted,

Cynthia M. Martin, JD,
Special Projects Manager
cmartin@schmitzandassociates.net

Kelsey Pettijohn

Subject: Proposed ADU Ordinance for Inclusion to Agenda for August 22, 2022 city council meeting
Attachments: Memorandum re Mazza ADU Ordinance and Malibu Action Committee Ordiance Pros and Cons.DOCX; Memorandum to Malibu Planning and Commissions re Malibu_s Rural Small Scale One Story ADU and Affordable Housing Statute (Dated_ 2_18_22).DOCX; Malibu Affordable One Story Rural Housing Amendment Ordinance.DOCX



From: Mark D. Baute <Mbaute@bautelaw.com>
Sent: Wednesday, August 10, 2022 11:51:51 AM
To: Paul Grisanti <pgrisanti@malibucity.org>; Karen Farrer [redacted]; Mikke Pierson [redacted]; Richard Mollica <rmollica@malibucity.org>; ybundy@malibucity.com <ybundy@malibucity.com>; Bruce Silverstein <bsilverstein@malibucity.org>; suhring@malibuticy.org <suhring@malibuticy.org>; Trevor Rusin <trevor.rusin@bbklaw.com>
Subject: FW: Proposed ADU Ordinance for Inclusion to Agenda for August 22, 2022 city council meeting

All:

Paul informed me that the city council will consider what form of ADU Ordinance to adopt, if any, at its August 22 meeting. The Malibu Action Committee ("MAC") would like the enclosed proposed ADU ordinance to be considered for adoption by the city council, and for the related materials to be circulated as part of the agenda. The ordinance we refer to as the Mazza ADU ordinance contains far too many illegalities to be adopted or considered, and to be fair to BBK, it is clear that BBK was given no real guidance at all by the council or planning commission, and the proposed Mazza ordinance also pre-dates the Ainsworth January 2022 letter and the passage of Senate Bill 9.

Mark

FILED
City of Malibu
Office of the City Clerk
Meeting Date 8/22/22
Agenda Item # 6C

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From: Julie Q. Diep <jdiep@bautelaw.com>
Sent: Wednesday, August 10, 2022 11:02 AM
To: Mark D. Baute <Mbaute@bautelaw.com>
Subject: Memo re ADU

Kind regards,

Julie Diep
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FROM: **MALIBU ACTION COMMITTEE**

TO: MAC Members, City Council, and Planning Commission

DATE: August 10, 2022

RE: The Two Very Different Competing Proposed ADU Ordinances

The State ADU Statute was adopted four years ago. Malibu is among the last coastal cities to adopt an ADU Ordinance. The purpose of the State ADU Statute ("State ADU Law") is to streamline the construction of small scale one story affordable ADU housing by avoiding public hearings and coastal development permits, through 60 day "ministerial approval" of ADUs by the Planning Department. Because coastal enclave cities throughout California have misused public hearings, coastal development permitting, TDSF constraints, impermeable square footage constraints, and restrictions embodied in their Local Coastal Programs ("LCP") to block, delay and derail small scale ADU housing, the State ADU Law specifically prohibits coastal cities like Malibu from attempting to block and delay ADU construction through the tactical misuse of the various restrictions contained within the LCP that are unrelated to the protection of Coastal Resources. The State ADU Law also requires the creation of an exemption or "waiver" process through which homeowners that own qualified lots or who seek to construct an ADU that does not harm or implicate coastal resources can do so without the undue delays, expense and anti-development tactics that coastal enclave cities like Malibu have engaged in to block all residential development. The head of the Coastal Commission, John Ainsworth, recently instructed coastal cities to make sure to not misuse their existing LCP to block affordable one story ADU housing, and instead, to modify their LCP to support small scale ADUs while also protecting coastal resources. The State ADU Law also allows Malibu to potentially satisfy its entire 79 affordable RHNA housing unit requirement through the construction of qualified ADUs.

An additional recent law, effective January 1, 2022, titled Senate Bill 9, prevents coastal enclave cities such as Malibu from imposing any sort of deed restriction which would limit lot splits, and further streamlines the ability of homeowners to split qualified lots for the purpose of constructing additional small scale housing and ADU units. Senate Bill 9 is recent enough that Malibu has not yet had an opportunity to take its effect into account in the context of the two very different Proposed ADU Ordinances.

For an ADU Ordinance to be adopted, it must be approved by the Planning Commission, City Council and California Coastal Commission, with a final approval role of sorts played by the California Department of Community Housing and Development ("CDHCD"), which refers cities that have adopted illegal or violative ADU proposals to the California Attorney General.

Two very different proposals have been drafted and submitted to Malibu's Planning Commission and City Council, summarized as follows:

MAC PROPOSED ADU ORDINANCE	BBK PROPOSED ADU ORDINANCE
The MAC ADU ordinance took input from Malibu residents, architects, land use consultants and real estate lawyers. It carefully limits the development of ADUs to ensure that Malibu's small lot/hillside/canyon and densely developed neighborhood areas are protected, and provides that such lots/locations are not exempt and must comply with the public hearing/coastal development permitting processes due to the impact on coastal resources. This MAC Proposed ADU ordinance also limits mansionization by incentivizing and streamlining smaller scale ADU housing so that owners who could build mansions instead voluntarily choose to build small scale ADU housing units, which, in turn, may enable Malibu to satisfy some of the 79 affordable "RHNA" housing units that Malibu is required to approve/build during the 2021-2029 RHNA cycle. Finally, the MAC Proposed Ordinance complies with both the State ADU Law and Senate Bill 9, by harmonizing the Malibu LCP as required by the California Coastal Commission.	The BBK Proposed ADU Ordinance: This proposed ordinance violates the State ADU Law and also violates Senate Bill 9. It fails to make any material changes in the LCP to harmonize the LCP with the State ADU Law and with Senate Bill 9, and does not appear to focus in any way on the protection of coastal resources or the Coastal Act. The BBK Proposed Ordinance also discriminates against older homeowners and owners of small homes and incentivizes further mansionization by limiting the size of proposed ADUs to 50% of the size of the main house, which will result in more demolition of smaller homes and the construction of more mansions by absentee owners. This proposed BBK ADU Ordinance also fails to differentiate among and between Malibu's seven distinct neighborhoods, which is a violation of Malibu's General Plan. Finally, it contains an illegal deed restriction which violates Senate Bill 9, and contains unenforceable rental reporting requirements for homeowners, while also requiring unnecessary underground demolition of streets by requiring separate SCE metering when most properties do not need or require separate metering. The BBK Proposed Ordinance appears to be intended to block, delay and disincentivize any and all small scale ADU construction, and will incentivize owners and developers to avoid ADUs and instead build more mansions (or mansions with ADUs), the very sort of overdevelopment which Malibu historically has sought to limit and avoid. Sadly, under this BBK Proposed Ordinance, if a small number of owners pursue permission to build a few ADUs and are blocked, this BBK Proposed Ordinance is so clearly illegal in violating the State ADU Law that Malibu

MAC PROPOSED ADU ORDINANCE	BBK PROPOSED ADU ORDINANCE
	will likely be sued, and lose, for any owner who wishes to develop an otherwise compliant ADU that adheres to the State ADU Law.
POSITIVES	**NEGATIVES**
1. Limits ADU development in small dense hillside/canyon neighborhoods, by requiring public hearing/CDP and imposing the State ADU Law reduced maximum square footage of 1,000 SF. Malibu's General Plan requires that individual neighborhood designs/aesthetics be taken in to account when amending the LCP or Zoning Code. This MAC Proposed Ordinance protects Malibu West, Big Rock, Malibu Country Estates, and four other densely developed hillside/canyon neighborhoods.	1. Discourages ADUs by imposing a deed restriction. No sophisticated owner will want a deed restriction, thus, few or zero ADUs will be built. Also, the city will be unable to monitor or enforce the proposed deed restrictions in the context of short term rentals.
2. Complies with the State ADU Law. Does not seek to block or prevent ADUs based on existing TDSF or impermeable SF in the existing LCP, because the State ADU Law expressly prohibits Malibu from this sort of NIMBY anti-development abuse.	2. Violates Senate Bill 9 by blocking future lot splits if an ADU is permitted and approved.
3. Limits mansionization by encouraging streamlined approval of qualified ADUs on large lots that do not implicate or harm coastal resources.	3. Violates State ADU Statute by blocking ADUs on lots where the existing house maxes out allowed total square footage ("TDSF"). The State ADU Statute specifically prohibits this type of "nimby" anti-development tactic. This "TDSF" tactic has no connection to protecting coastal resources.
4. Blocks short term rentals of ADUs, to protect housing opportunities for locals and permanent residents and long term tenants who may be qualified as RHNA unit occupants.	4. Violates the State ADU statute by blocking ADUs on lots where the maximum impermeable square footage has already been met by existing impermeable surfaces. This is a clear violation of the State ADU Law and there is no linkage to

MAC PROPOSED ADU ORDINANCE	BBK PROPOSED ADU ORDINANCE
	the protection of coastal resources that would justify it.
5. Encourages the retention of small existing homes, which can be remodeled via the "yellow card/non-cpp" process.	5. Improperly requires separate metering by Southern California Edison. No justification is provided. No protection of coastal resources arises from separate metering.
6. Prohibits beachfront ADUs due to impact on coastal resources.	6. Violates State ADU Statute by imposing existing LCP setback requirements, without any linkage to protecting coastal resources.
7. Prevents homeowners from violating TDSF constraints where the ADU is "attached" to the main residence, by recognizing that is not a traditional ADU and is instead an attempt by a homeowner/developer to disguise a home expansion as an "ADU."	7. Penalizes older homeowners of smaller, older homes, by purporting to limit the size of an ADU to 50% of the size of the existing main house. This encourages continued mansionization and will result in demolition of all small homes and the construction of more mansions.
8. Creates a well thought out approach to which lots/locations are suitable for a waiver/exemption from the public hearing/CDP processes and which can be approved ministerially by the planning department.	8. Violates State ADU Law by prohibiting ADUs on old lots that already have a guest house. No effort to link this restriction to protecting coastal resources.
9. Prohibits underground basements by recognizing them as a tactic to increase square footage unrelated to affordable housing.	9. No legitimate or clear exemption or waiver process for ADUs. Requires a coastal development permit for all detached ADUs, a clear violation of the State ADU Law.
10. Limits bluff/ridge/hillside/canyon ADU development to protect scenic views, which are a recognized coastal resource.	10. Erroneously attempts to track "Rental Rates," which is not germane to the RHNA 79 affordable housing units. The 79 RHNA units relate to the income level of the long term tenants.
11. Continues city-wide protection of view covenants by preventing roof lines or intrusions that harm an adjacent neighbor's primary view, whether mountain or ocean view.	11. Because it violates the State ADU Law passing the BBK ADU Ordinance will prolong and strengthen Riddick lawsuit against the City of Malibu.
12. Enables Malibu to satisfy some of its 79 RHNA units by designing an income level reporting process and a potential	12. Violates the vagueness legal standard for due process protection by using language such as "other development standards may further limit the size of the ADU."

MAC PROPOSED ADU ORDINANCE	BBK PROPOSED ADU ORDINANCE
rebate of ADU fees paid to the city for qualified RHNA ADU units.	
13. Gives the planning department time to approve "eligibility" for a lot in a 30 day time period, followed by a longer 90 day process for ministerial approval of the proposed ADU on a completed application.	13. Encourages mansionization by discouraging ADUs.
14. Prevents the demolition of small existing housing stock by NOT imposing a "50% of main house square footage" cap, instead, recognizing that ADU size should be correlated to lot size and location, and should not penalize older homeowners that still live in small older homes on large lots.	14. Likely to prevent Malibu from satisfying any of the 79 RHNA units with ADUs.
15. Creates a sliding scale for allowed square footage of ADU based on lot size, small lots under a half acre are capped at 1,000 SF, large lots of more than 66,000 SF (1.5 acres) are capped at 2,000 SF.	15. Fails to customize ADU size based on lot size and lot conditions. The Coastal Commission January 21, 2022 memorandum and State ADU Law encourage larger ADUs on larger lots which do not harm coastal resources.
16. Imposes tracking obligation on income level of the long term tenant for purposes of RHNA qualification on the owner, not the city, and enables a rebate of fees for qualified RHNA ADU units.	16. Fails to protect specific small lot/densely developed existing hillside/canyon neighborhoods. Violates Malibu General Plan by failing to develop custom standards that are specific to individual neighborhoods.
17. Complies with Senate Bill 9 by allowing owners to voluntarily agree to a lot split restriction in exchange for receiving expedited approval of an ADU.	
18. Avoids illegal deed restriction linked to routine ADU approval, avoids unnecessary and inconsistent "separate metering," which would tear up more residential streets without any public policy reason for such a requirement.	
19. Modifies "clustering" and "neighborhood character" policies to comply with the State ADU Law and	

MAC PROPOSED ADU ORDINANCE	BBK PROPOSED ADU ORDINANCE
Senate Bill 9. The city's "clustering" policy actually increases the risk of fires spreading from structure to structure and vent to vent by forcing structures to be too close to one another. Separating an ADU from a main house with some distance can reduce the risk of fire, and increase the privacy of residents and long term residents, and has no impact on "neighborhood character" or on coastal resources.	
20. educes the likely "apartment building" density of the required 79 RHNA units, by incentivizing ADUs which can qualify, satisfy and eliminate "apartment building" units as affordable RHNA units.	
21. States a clear fee structure to enable the city to hire staff to support ADU approvals on a ministerial level. This is legal under the State ADU Law because it involves ADUs that are qualified as exempt, under a modification of the LCP, with slightly larger allowed square footage and ceiling height (18 feet above grade) than under State ADU Law.	
22. Slows down mansion approval by directing planning department resources to approving small ADUs that can help the city meet its 79 RHNA unit minimum.	
NEGATIVES	**POSITIVES**
1. The approach to requiring ADUs to not be visible from bluffs or ridgelines or major thoroughfare roads may be an over-protective anti-development approach to ADUs. Some level of visibility could be allowed.	1. The 1,200 square foot maximum and 400 square foot garage is consistent with the State ADU law, but the failure to correlate ADU size to lot size is likely a mistake, particularly for Malibu's densely developed pocket neighborhoods.
2. The small size of ADUs allowed on large lots (2,000 SF allowed on 66,000	2. The 18 foot above grade roof height is consistent with State ADU law, and is good

MAC PROPOSED ADU ORDINANCE	BBK PROPOSED ADU ORDINANCE
SF lots) could be criticized as being too restrictive/too small.	public policy. It is also consistent with Malibu's current zoning and code.
3. Far more progressive and customized neighborhood by neighborhood than Malibu government is used to; typically, Malibu adopts primitive "one size fits all" incoherent anti-development statutes designed to block all development and encourage people to sell and leave.	3.
4. Rebate structure for qualified RHNA units is a good economic deal for the city, but the city has limited resources, limited staff, and limited capacity to monitor or enforce anything, so the fees per ADU could be made non-refundable even if the ADU qualifies as a RHNA unit.	4.
5. Too progressive/too creative on the incentive for voluntary agreement to no lot split deed restriction under Senate Bill 9. Senate Bill 9 is so recent (January 2022 effective date) that nobody in Malibu or BBK has yet had time to study or analyze whether the incentivized deed restriction in Section 6 is beneficial to Malibu and would support lower density/smaller homes than without Section 6.	5.
6. Modification of "clustering" and "neighborhood character" policies in Section 7 may be more than current appointees and planning commission members can handle. Relatively few people understand or realize that the City's current LCP, LIP and Zoning Code support and encourage that nothing but large mansions will be built mostly by absentee owners, and that the tactical abuse of "clustering" and "neighborhood character" policies by city officials has resulted in wealthy	6.

MAC PROPOSED ADU ORDINANCE	BBK PROPOSED ADU ORDINANCE
owners/buyers/developers advised by architects and land use professionals to "just go large" because building a mansion bypasses any "clustering" restriction and is now consistent with most "neighborhood character" because entire neighborhoods have succumbed to mansion development by absentee owners.	
CONCLUSION	**CONCLUSION**
The MAC Proposed ADU Ordinance is the better proposed ADU Ordinance. It will slow down mansionization, expedite a small number of safe and small scale and appropriate ADUs, and will prevent the destruction of all small homes in Malibu. Further, if adopted, it has the legal effect of ending the Riddick lawsuit against the City, and protects older homeowners of small older homes from forced mansionization. It will also help the city reduce density and over-development, and a certain number of approved ADUs are likely to qualify as RHNA units, which should limit the size and height of any apartment building that would otherwise need to be built to satisfy the city's 79 RHNA unit requirement. Blocking short term rentals, limiting any deed restriction to a voluntary choice, and preventing underground basements while protecting primary views of adjacent neighbors should also reduce the amount of litigation. The effort to focus on defined coastal resources as part of modifying the LCP will ensure that the Coastal Commission supports the MAC Proposed ADU Ordinance,	The BBK Proposed ADU Ordinance is poorly written, violates the State ADU Law in numerous respects, violates Senate Bill 9, and is intended to block and derail and disincentivize any homeowner from building an ADU, and invites litigation in those instances in which a handful of homeowners seek approval for an ADU and are either denied or delayed. Further, it encourages the demolition of small homes due to the "50% of existing square footage" cap, which results in an incentive for more mansions to be built by absentee owners. On balance, because the BBK proposed ordinance does not make any changes to the LCP to comply with the State ADU Law, and contains illegal deed restrictions and other unjustifiable development restrictions, it appears that the underlying intent is to block, delay, and derail all ADU construction, which will have the effect of resulting in more overdevelopment and large mansions being built by absentee owners.

MAC PROPOSED ADU ORDINANCE	**BBK PROPOSED ADU ORDINANCE**
and will prevent Malibu from being sued by many homeowners and affordable home ownership non-profits.	

DRAFT

Small Scale One Story Rural Housing and Accessory Dwelling Unit ("ADU") Ordinance

CITY OF MALIBU PLANNING COMMISSION RESOLUTION NO. 22-01

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MALIBU DETERMINING THE AMENDMENTS ARE EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT AND RECOMMENDING THAT THE CITY COUNCIL APPROVE THE FOLLOWING MALIBU AFFORDABLE ONE STORY RURAL HOUSING STATUTE, AS AN AMENDMENT 18-002 TO THE LOCAL COASTAL PROGRAM TITLE 17 (ZONING ORDINANCE) OF THE MALIBU MUNICIPAL CODE, TO MODIFY REGULATIONS PERTAINING TO GUEST HOUSES AND ACCESSORY DWELLING UNITS AND TO INCENTIVIZE, SUPPORT AND ENCOURAGE THE CONSTRUCTION OF SMALL SCALE ENERGY EFFICIENT ONE STORY RURAL RESIDENTIAL HOUSING UNITS WITHIN THE CITY OF MALIBU

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

Section 1. Title, Legislative Intent And Recitals.

1.1 Title.

The title of this amendment to Malibu's Local Coastal Program ("LCP"), Local Implementation Plan ("LIP") and Zoning Code is the "Malibu Small Scale One Story Rural Housing And Accessory Dwelling Unit Ordinance," or "Amendment."

1.2 General Legislative Intent.

A. Malibu's General Plan emphasizes the protection and maintenance of the natural environment, while appropriately limiting the size and scale of residential development in a manner consistent with both the (a) the rural residential nature of the individual neighborhoods within Malibu, and (b) the fragile land, ecosystems and natural environment within Malibu.

B. The State of California passed Government Code Section 65852.150 *et seq.* (the "Guest House Statute" or "ADU Statute") for the express purpose of expediting and incentivizing the private construction of small scale one story affordable housing units, without a public hearing and without significant involvement, delay or obstruction by any municipality within the State of California. The express intent of the ADU Statute is to create additional small scale one story housing to address California's housing shortage, and the ADU Statute itself expressly declares that any city zoning code or municipal regulation that would otherwise restrict or delay the construction of Guest Houses or ADUs that meet the minimum provisions of the ADU Statute are null and void and of no force or effect. On January 21, 2022, the California Coastal Commission expressly directeds all coastal cities to modify and update their LCP to ensure that ADUs and JADUs that do not harm coastal resources are approved on an expedited and streamlined basis.

C. The State of California passed Senate Bill 9, sometimes referred to as the "Duplex Statute" or "Lot Split Statute," which became effective on January 1, 2022. Like the ADU Statute,

the express intent of the Duplex Statute is to create additional small scale privately funded residential housing units, without government financial assistance, to address California's housing shortage, and to limit the delay and obstruction tactics are often utilized by municipalities to delay, block or prevent the construction of small additional housing units in their cities. As such, and within certain parameters, the Duplex Statute effectively outlaws R1 zoning statewide, and allows owners of lots to subdivide their lots and build additional housing units, as long as they meet the minimum requirements of the Duplex Statute. On January 21, 2022, the California Coastal Commission expressly directed all coastal cities to amend and update their LCP to ensure compliance with Senate Bill 9 to the greatest extent possible, while also protecting coastal resources.

D. Malibu's General Plan supports and encourages small scale one story residential construction that can be visually harmonized with the local environment, and expressly discourages the widespread construction of two story mansions which can overwhelm the natural environment, and which consume more energy and force more gray water into storm drains (and the ocean) than smaller scale one story rural residential housing. Further, small scale one story "ranch" and "mid-century modern" homes are in keeping with Malibu's history and rural character.

E. The ADU Statute and the Duplex Statute both encourage cities to adopt their own local affordable housing statutes, designed to streamline, expedite and incentivize the private construction of affordable small scale one story energy efficient housing units.

1.3 Specific Legislative Intent.

A. The ADU Statute expressly allows cities like Malibu to have approved ADU/Guest House dwellings that are privately funded and constructed by local residents to count toward the mandatory minimum number of "RHNA" affordable housing units that Malibu is required to build during 2021 to 2029. It is Malibu's intent in passing this Affordable One Story Rural Housing Amendment to have as many of the require 79 affordable housing units under the 2021-2029 RHNA minimum be satisfied by ADUs/Guest Houses that are built within the city in compliance with the passage of this Malibu Affordable One Story Rural Housing Amendment.

B. Malibu intends to incentivize, encourage and support the construction of small scale energy efficient one story housing units by private owners, without government funding or involvement, for the specific purpose of avoiding or limiting the construction of two or three story apartment buildings, which Malibu could otherwise have to fund or approve and allow to meet the minimum number of 79 affordable housing units as part of the mandatory RHNA unit assessment.

C. Malibu intends to increase its General Fund Revenue by quickly approving, incentivizing and encouraging the private construction of small scale one story energy efficient ADU/JADU housing stock within the city's boundaries. This component of intent is designed to offset any future declines or reduction in General Fund Revenue that may arise due to Proposition 19, and the reassessments in valuation that will increase assessed property tax revenue after new small scale ADU/JADU housing units are approved, built and final inspections and certificates of occupancy are issued.

D. Malibu intends to keep the overall size of homes as small as possible under the circumstances, and to limit to the extent possible the further subdivisions and lot splits that would otherwise increase residential density. Malibu acknowledges and recognizes that without supporting and incentivizing the construction of small scale one story energy efficient housing stock, the city itself will continue to be subjected to the construction of large mansions by absentee owners. Further, Malibu acknowledges and recognizes that without creating incentives to avoid lot splits, many existing owners, new owners and developers will pursue lot splits and increase the residential density and change what are currently "one house on one large lot" scenarios into R2, R3 and R4 development scenarios, as contemplated and allowed by the Duplex Statute.

E. Malibu continues to intend to limit the construction of short term vacation rental housing units, which do not provide affordable housing options for local residents. Thus, any one story housing unit constructed under the ADU Statute or Malibu's Affordable One Story Rural Housing Amendment may **not** be utilized by owners as a short term vacation rental, and must be made available for long term occupancy by either the owner, the owner's extended family members, or a monthly tenant that may or may not qualify under the income level constraints mandated by the 2021-2029 79 RHNA affordable housing units Malibu is required to build or approve. There is no rent control ordinance in Malibu, and Malibu does not intend to adopt a rent control ordinance.

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F. Malibu does not intend to allow or construct high density, three story apartment rental housing of any kind on the three strategic parcels of raw land that Malibu owns in Trancas~~,~~ Canyon Road, Heathercliff/PCH ~~-~~or near the Civic Center. It is the intent of the Malibu Affordable One Story Rural Housing Amendment to ensure that those three strategic parcels of raw land can be preserved for other uses suitable for local residents, likely as rural parkland or walking trails.

Section 2. Statutory Provisions Governing The Incentivized Construction Of Small Scale One Story Affordable ADUs, Guest Houses And Small Homes.

2.1 No Short Term Rentals Allowed For All One Story Affordable Housing Units Approved Under This Amendment.

The City of Malibu faces intense demand for short term rental housing product, at high rental rates, but the loss of affordable housing units to short term vacation renters has played a causal role in creating the shortage of affordable housing units for Malibu's actual residents and voters. ~~permanent and new long term residents.~~ Any and all ADU/JADU housing units approved and built under this Amendment may not be utilized by an owner for short term rentals of less than 30 days. One purpose of this Amendment is to provide long term affordable one story housing for residents of Malibu, not to generate rental income for owners from tourists renting homes on a short term "vacation rental" basis.

2.2 Roof Height Cannot Exceed Eighteen Feet From Grade.

Any and all ADU/JADU housing units approved under this Amendment must be limited to a maximum height of any roof at eighteen (18) feet above grade. For purposes of insulation, storage, location of ducting or HVAC equipment, ventilation, heat retention, heat expulsion, a housing unit approved under this Amendment can utilize the space between a roof and a "drop

ceiling" to locate ducting, HVAC equipment, insulation and/or heat retention or heat expulsion skylights or similar energy conservation equipment. Use of dormer windows or other windows for small usable second story square footage is permissible, subject to the 18 feet above grade height cap.

2.3 Limitation On ~~No~~ Underground Basements.

E~~No e~~xcavation or grading for purposes of constructing an underground basement space will be counted as part of the maximum allowed square footage for ~~allowed in~~ any ADU, JADU or Guest House unit approved under this Amendment.

2.4 No Expansion Of Primary Residence In Violation Of TDSF/LCP Allowed For ADUs.

A JADU differs from an ADU, in that a JADU incorporates livable square footage that is contained entirely within an existing floor plan or existing footprint of an existing residence, and a JADU does not contemplate an expansion of the footprint of the primary residence or dwelling. ADUs may not exceed the allowed total development square footage (TDSF) of the main residence under the existing LCP by being attached to the main residence while seeking an expansion of the main footprint and increase in existing square footage of an existing main residence. This restriction is because expanding a main residence is generally not the sort of separate one story small scale affordable housing contemplated by this Amendment, and the expansion of primary residences reduces the available buildable land on any given lot which could therefore constrain and limit otherwise viable ADUs and Guest Houses, which would actually undermine and negate the intent of this Amendment, the ADU Statute and the Duplex Statute, all of which seek to incentivize and expedite the construction of separate small scale affordable one story ADU and/or Guest House housing stock.

Section 3. The Waiver And Exemption Procedure For Ministerial Approval Of Certain Qualified ADUs And JADUs, The Modification Of The Malibu LCP To Harmonize The LCP With The ADU Statute And The Duplex Statute, While Also Protecting Coastal Resources.

The California Coastal Commission instructed coastal cities on January 21, 2022 to modify their LCPs in order to ensure that any LCP is harmonized with Senate Bill 9 and the ADU Statute, in order to ensure that affordable small scale ADUs, JADUs, Guest Houses, and Lot Splits are streamlined, incentivized and expedited, and to do so in ways that are fully protective of coastal resources, consistent with Coastal Act. Through this Amendment, Malibu intends to comply with the January 21, 2022 instructions of the Coastal Commission by fully protecting coastal resources, public beach access, and scenic visual resources, by carefully limiting the lot splits, ADUs, JADUs and Guest Houses that are suitable for a waiver and/or exemption from the normal public hearing coastal development permit process, as described below in this Section 3.

3.1 Lots, Parcels, Neighborhoods And Geographic Areas That Are Not Suitable For A Waiver Or Exemption, And For Which A Public Hearing And Coastal Development Permit Is Still Required, And For Which The Maximum Allowed Square Footage Under The ADU Statute Would Be Allowed In The Event A Coastal Development Permit Is Issued After A Public Hearing.

The lots and locations identified below in this Section 3.1 (a) through (d) are generally not exempt or eligible for a waiver of the standard public hearing coastal development permit process, unless the proposed ADU or Guest House sought by the applicant complies with the maximum square footage caps allowed by the ADU Statute (800 square feet for a one bedroom ADU; 1,000 square feet for a two bedroom ADU). Instead, the lots and locations identified below in this Section 3.1 (a) through (d) can pursue the development of an ADU, JADU or Guest House under the ADU statute in one of two discrete pathways, either through (i) compliance and adherence to the standard public hearing and coastal development permitting process pursuant to the existing LCP, or (ii) applications limited to the minimum size of ADU (800 square feet for a one bedroom ADU; 1,000 square feet for a two bedroom ADU) allowed under the ADU Statute can, at the option of the applicant, be sought via a ministerial approval pathway, without a public hearing or without a coastal development permit process, subject to the discretion of the planning department to transfer the application into the public hearing/coastal development process in the event that the planning department believes that a particular ADU or Guest House impacts coastal resources in a harmful way. The limited eligibility for an exemption or waiver for the lots and locations identified below is because the lots and locations identified in subsections 3.1 (a) through (d) below have unique implications for coastal resources (steep hillsides; beach or ocean front; visible from major roads; densely developed fire prone areas or areas with unstable soil and steep slopes), and the Coastal Act and existing LCP generally provide an adequate way for the balancing inherent in harmonizing the need to protect coastal resources with the need to streamline and incentivize ADUs. Rather than prevent, prohibit or discourage all eligibility for an exemption or waiver from the public hearing/coastal development process, the City of Malibu has instead allowed small ADUs compliant with the maximum square footage of the ADU Statute to still seek an exemption or waiver, to streamline minimal impact small ADU structures even in these identified neighborhoods.

(a) Beach lots on the sand. The Coastal Act states expressly that further development of lots on the public beach, sand or near the high tide line, are to be discouraged due to sea level rise, existing density, protecting public beach access, and negative impacts on scenic visual resources. The existing LCP as approved by the Coastal Commission strongly discourages any development or construction on the sand, beach or near the high tide line. In general, ADUs, JADUs and Guest Houses and lot splits will not be allowed, or will be strongly discouraged, for lots on the sand, beach or near the high tide line. This does not prohibit or preclude the owner of a beachfront lot from attempting to obtain a Coastal Development Permit at a public hearing for approval of an ADU, JADU or Guest House on a beachfront lot.

(b) Ocean Front Bluffs/Cliffs/Hillsides Visible From The Ocean, A Public Beach, Or PCH.

ADUs, JADUs and Guest Houses are not exempt or eligible for a waiver if any portion of the structure is visible from the sand, beach or Pacific Coast Highway.

(c) Sloped Hillside Lots Where A Proposed ADU, JADU Or Guest House Would Be Visible From Pacific Coast Highway, Or Other Major Canyon Thoroughfare Roads.

Malibu contains thousands of acres of steep hillsides and canyons often with unstable soil, including cut and fill compacted grading work, along with public canyon thoroughfare roads that provide the public with scenic views, which are defined as a scenic coastal resource under the Coastal Act. ADUs, JADUs and Guest Houses within the City of Malibu are not exempt or eligible for a waiver if more than the roofline ~~any portion~~ of the structure is visible from Pacific Coast Highway, ~~Deer Creek Road, Yerba Buena Road,~~ Mulholland Highway, Decker Road, Encinal Canyon Road, Kanan Dume Road, Latigo Canyon Road, Malibu Canyon Road, Corral Canyon Road, Las Flores Canyon Road or Carbon Canyon Road. Exempt ADUs, JADUs and Guest Houses are to be set back far enough to limit visibility from the roads identified in this Section 3.1(c).

(d) Small Lot Neighborhoods On Slopes/Hillsides With Dense Existing Development Or Adjacent To Fire Prone Canyons, Creeks Or Potential Subsidence Events Due To Steep Hillsides.

The following neighborhoods are already densely developed with single family homes on small lots in areas in which the topography is either steeply graded "cut and fill" slopes or hillsides, immediately "above" or adjacent to nearby neighbors, with relatively small building pads, next to property lines or existing structures, and/or in canyon or hillside areas in which fires can move rapidly, or with unstable soil, or near ESHA or creek/streamside areas, and these areas are not suitable for exemptions or waivers, and are better suited to undergo public hearings and standard coastal development permit processing: (a) Malibu West/Trancas, as shown on Exhibit A, the Trancas map, (b) Malibu Country Estates, as shown on Exhibit B, the Malibu Country Estates map, (c) Big Rock, as shown on Exhibit C, the Big Rock map, (d) ~~The Valmere/Seabreeze/Sequit subdivision west of Corral Canyon Road, as shown on Exhibit D, the "Valmere/Corral Canyon" map, (e)~~ Las Flores Canyon, as shown on Exhibit E, the Las Flores Canyon map, (~~ce~~) the steep hillside/canyon west of Cross Creek, visible from Pacific Coast Highway, including all homes/lots located on Malibu Crest Drive, Harbor Vista Drive, Colony View Circle, Malibu Knolls Road and Coast View Drive, and (~~fg~~) the hillside canyon~~,~~ neighborhood off Latigo Canyon Road, including the houses on Calicut Road, Latigo Bay View Drive and ~~,~~Hillview Drive~~, Ocean View Driver and Escondido Drive~~.

3.2 Lots And Neighborhoods With Characteristics Suitable For A Waiver Or Exemption Application Which, If Approved, Exempts The Lot, ADU, JADU Or Guest House From A Noticed Public Hearing And Exempt From The Coastal Development Permit Process, And Which, If Granted, Enables Ministerial Approval Of The ADU, JADU Or Guest House By The Planning Department, Without The Involvement Of The Planning Commission And Without The Involvement Of The City Council.

The Coastal Commission's January 21, 2022 guidance letter recommends that coastal cities like Malibu should identify neighborhoods and/or the types, locations or sizes of lots that are suitable for exemptions or waivers in connection with allowing ministerial approval of proposed ADUs, JADUs or Guest Houses. Any owner in Malibu can apply for an exemption or waiver from the Planning Department, and the Planning Department itself will have the discretion to decide

whether to grant an exemption or waiver. The statutory guidelines that will determine whether an exemption or waiver will be granted for any such ADU, JADU or Guest House which meets all four criteria (a)-(d) below in this Section 3.2:

(a) ADUs, or JADUs or Guest Houses that are not visible from the ocean or from the specific major canyon thoroughfare roads identified in Section 3.1(c) of this Amendment, and which are not located in the specific densely developed neighborhoods identified in Section 3.1(d) of this Amendment.

(b) ADUs or JADUs or Guest Houses on ~~flat~~ lots more than a half-acre in size, in which the ADU, JADU or Guest House itself will be built on flat land or a minimal slope less than a 1:1 slope grade and within the normal development area for the lot at issue.

(c) Mostly flat discrete neighborhoods or large lot gradual sloped neighborhoods or areas such as Point Dume, Malibu Park and the Escondido Beach Bluffs (on the ocean side of Pacific Coast Highway), as well as other lots larger than one acre in which the ADU, JADU or Guest House is not visible from the major canyon thoroughfare roads identified in Section 3.1(c) of this Amendment.

(c) Lots of more than one acre (44,000 square feet) square feet in which the ADU, JADU or Guest House poses no substantial impact to the primary ocean view or primary mountain view of all immediately adjacent neighbors.

3.3 Continuing Protection Of Primary View Rights.

~~Though s~~Story poles will not be required for the small scale one story housing units which are approved as exempt or eligible for a waiver under this Amendment, the existing non-fee provisions in Malibu's land use codes concerning the protection of primary ~~ocean or mountain~~ views remain binding. ~~and are in full force and effect.~~ Thus, no affordable one story housing unit will be administratively or "ministerially" approved if the Planning Department determines in its reasonable discretion that the proposed structure or its roof line violates a protected primary view right of any immediately adjacent neighbor and which exists in Malibu's various land use codes. Owners that wish to challenge the findings or decisions of the Planning Department in this regard must go through the longer and much more expensive processes and procedures inherent in public hearings in front of the Planning Commission, with appeal rights in front of the City Council, per the existing land use codes, as part of obtaining a Coastal Development Permit.

3.4 Soils, Percolation And Septic System Compliance.

A completed application to the Planning Department for expedited exempt administrative approval of a small scale one story housing unit approved under this Amendment must still provide a soils/percolation test from a soils engineer, or must otherwise provide proof of lawful septic treatment capacity through an existing septic system, or a new code-compliant separate septic system that complies with existing Malibu land use codes.

3.5 Reducing Burden On Planning Department: Separation Of The 30 Day Application/Approval Process For An Exemption/Waiver For A Specific Lot Or

Parcel, As Distinct From The 90 Day Completed Application/Approval Process For An Exempt ADU, JADU, Guest House Or Small Home.

Streamlining the approval process for small one story ADUs, JADUs, Guest Houses or Single Family Homes can be done in a way that minimizes the burden on full time city Planning Department staff, by separating the process through which (a) lots are approved as exempt or eligible for a waiver within 30 days, from (b) the longer 90 day ministerial approval process for an exempt ADU, JADU, Guest House or small home, which requires a completed application, percolation test, and full scale architectural drawings. The purpose of the first 30 day application for an exemption or waiver for a given parcel or lot requires that the owner submit an application of no more than three pages in length, identifying the specific lot by street address and parcel number, with a vertical site plan and elevation drawings which clearly delineates and fully reveals the specific location and exterior perimeter walls and roof lines (including any roof overhangs) that differentiates the main house from any ADU, Guest House or small home, including the location of any enclosed JADU that is to be contained within an existing home. JADUs under the ADU Statute do not require any formal exemption or waiver, and will be ministerially approved so long as they comply with the ADU Statute and do not violate Section 2.4 of this Amendment.

Section 4. Square Footage Caps And Square Footage Maximums, Fee Structure, Limited Rebates For RHNA Qualified Units.

4.1 Preventing Mansionization And Preventing High Density, Encouraging Small Scale One Story Privately Funded Rural Housing Units.

California's existing Senate Bill 9 (the "Duplex Statute") and Government Code Section 65852.150, *et seq*. (the "ADU Statute") provide for a range of minimum allowed building constraints on setbacks, roof height and building size. However, Malibu still contains many large buildable lots, in excess of one acre, and lots up to 40 acres (or larger) in size. As such, any allowed square footage figure that would be based on a percentage size of a large lot, could be misused by a developer or owner to construct an overly large guest house, or a mansion-like second home. By way of example, a five acre lot contains over 220,000 square feet of raw land; thus, if a "guest home" were allowed to consume as little as 3% of the size of a five acre lot, a developer owner could erect a "guest house" that was itself 6,600 square feet, which is clearly **not** a small affordable one story rural home, and is instead a high priced "mansion." Thus, due to the large number of large acreage lots that still exist in Malibu, the maximum allowed square footage under this Amendment will **not** be expressed or identified as a percentage of the total square footage of any given lot, and will instead be capped by a specific number of allowed square feet. Secondarily, and because Malibu's General Plan seeks to ensure that residential construction does not overwhelm the natural environment or create a visual blight, and residential construction is supposed to blend in with natural environment, the allowed square footage maximums will correlate to lot size, so that smaller lots require smaller ADUs, smaller guest houses and smaller homes, and larger lots are still capped out at allowed maximums that (a) qualify as "small square footage," affordable dwelling units, and (b) would potentially rent on a monthly basis to lower and middle income tenants so as to enable the city to potentially meet a portion of its minimum affordable 2021-2029 79 RHNA housing units.

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4.2 Maximum Square Footage For ADUs, Guest Houses, According To Lot Size.

For lots less than one half acre in size, the maximum allowed square footage for an ADU or Guest House will be the existing 1,000 maximum square feet in the California ADU Statute. In Malibu, lots that are one half acre or less are viewed as ~~"small" or~~ average, and that level of lot size should not allow for any increased square footage beyond the minimum allowed ADU size provided for in the existing California ADU Statute. With respect to lots larger than one-half acre in size, and which are eligible under Section 3.2 above for exempt status, the following square footage maximums shall apply, based on the size of the lot at issue:

- Lots between one half acre and three fourths of an acre: instead of the California allowed maximum of 1,000 square feet, an ADU or guest house may be as large as 1,200 square feet.

- Lots between three quarters of an acre and one full acre: instead of the California allowed maximum of 1,000 square feet, an ADU or guest house may be as large as 1,~~5~~400 square feet.

- Lots between a full acre and 1.5 acres in size: instead of the California allowed maximum of 1,000 square feet, an ADU or guest house may be as large as 1,~~6~~800 square feet.

- Lots larger than 1.5 acres in size: instead of the California allowed maximum of 1,000 square feet, an ADU or guest house may be as large as 2,000 square feet. This ~~2~~1,~~0~~800 square feet maximum on large lots more than 1.5 acres in size is the maximum allowed size for an ADU or guest house that may be built under this Amendment.

The area of a garage (400 square feet maximum) provided as part of an accessory dwelling unit and exterior decks or overhangs that are attached to the structure shall not be included in the maximum allowed square footage limits set forth in this 4.2.

4.3 Fee And Rebate Structure.

4.3.1 Minimum Fees For Ministerially Approved One Story ADUs And Guest Houses; Rebate Allowance Scenarios For RHNA Qualified Units/Occupants.

The ADU Statute and Senate Bill 9 allow cities to charge fees for the expedited "ministerial" approval of small one story ADUs/JADUs or Guest Houses. The fee for approvals of exempt ADUs, JADUs or Guest Houses by the Planning Department without a public hearing will be $3~~2~~,000 per ADU/JADU or Guest Home. That $~~2~~3,000 fee will be non-refundable to the applicant/owner. However, the applicant will be eligible to apply for and receive a rebate and will qualify for a rebate if (a) the owner/applicant has qualified the approved ADU/Guest House as an affordable RHNA unit due to long term occupancy by a lower or middle income tenant or resident, and (b) the City of Malibu is afforded credit for that ADU/JADU or Guest House as one of the 2021-2029 RHNA 79 affordable housing units.

4.3.2 Restricted Eligibility For Rebates Of The $3~~2~~,000 Per Unit Fee.

The California Department of Housing and Community Development ("CDHCD") and the ADU Statute have created an environment in which receiving credit for satisfying the lower to middle income thresholds for the required 79 affordable housing units during the 2021 to 2029 time period is discretionary, and uncertain, and at the discretion of the CDHCD, and Malibu may not be able to change or alter decisions made by the CDHCD in this regard. Thus, Malibu does not guarantee or promise that any rebate or refund of the $~~23~~3,000 per unit fee will happen, and the owner/applicant accepts that any such refund may never happen, and Malibu is not responsible for tracking or monitoring or verifying the income levels of the occupants of the approved ADU/JADU or Guest House over time, that obligation is on the owner/applicant for purposes of any rebate or refund of a $~~23~~3,000 fee. The burden is on the lot owner to show eligibility for a refund of the $~~23~~3,000 fee.

Section 5. Time Limits Associated With Ministerial Approval By The Planning Department, And No Public Hearings, And No Coastal Development Permit.

5.1 Ninety (90) Day Time Period For Ministerial Approval Without A Public Hearing.

The Malibu Affordable One Story Affordable Rural Housing Amendment provides special incentives, a $3~~2~~,000 per unit fee, for ADUs/JADUs and Guest Houses that are larger than the minimum 1,000 square foot size provided for by the ADU Statute. For lots eligible for exemption or waivers, the time period in which the Planning Department will approve or deny any such permit for an ADU/JADU or Guest House on a "ministerial" basis without a public hearing will be ninety (90) days from the owner/applicant's submission of a completed application. Because the construction of such ADUs, JADUs or Guest Houses are slightly larger than the 1,000 square foot maximum amount contemplated by the ADU Statute, the ADU or Guest House at issue and the completed application must provide a clear evidentiary showing that (a) all primary view rights of adjacent neighbors are protected, (b) adequate percolation of the soil and code compliant septic capacity, (c) drought resistant landscaping exists or will be planted, and (d) fire hardened surfaces and energy efficiency and adequate stormwater drainage systems exist. The purpose of this Malibu Affordable One Story Rural Housing Amendment is to expedite, simplify and cheapen the process through which small one story ADUs/JADUs and small Guest Houses, ancillary to the main residence, can be built, in order to privately create, fund and build more small scale housing units. As such, there is to be no public hearing, no Coastal Development Permit, and no involvement or discretion from the Malibu Planning Commission or Malibu City Council in connection with ADUs, JADUs and Guest Houses that comply with the ADU Statute or which are approved by the Planning Department ministerially under the Malibu Affordable One Story Rural Housing Amendment. If an owner/applicant does not receive an approval or denial from the Planning Department withing the ninety (90) day time period, the proposed ADU, JADUs or Guest House will be deemed approved. Any ministerial denial by the Planning Department can be appealed on ministerial basis to the Planning Department itself. In the event a second appeal is necessary, that appeal would be ~~through the normal public hearing process~~ in front of the Planning Commission with final appeal rights to the City Council.

Section 6. Incentives To Avoid And Prevent Higher Density Lot Splits Under Senate Bill 9; Maximum Size Of 2,500 Square Feet For One Story Rural Homes Capped At 18 Feet Of Roof Height, For Lots Larger Than One Acre; Fee Structure; Appeal Rights If Denied.

Senate Bill 9 will, if not addressed by the City of Malibu, result in an unknown number of higher density lot splits on existing residential lots within the City of Malibu. The use of labels, such as "High Fire Severity Zone" may not be pre-empted by Senate Bill 9, and may not prevent lot splits under Senate Bill 9. While Malibu does not intend to violate or ignore Senate Bill 9, Malibu does have the legal right to incentivize existing and future owners of lots more than one acre in size to voluntarily reduce future density and to encourage (a) the construction of single story affordable homes (including ADUs, JADUs and Guest Homes) which are smaller than the allowed square footage maximum ("TDSF") contemplated by Malibu's existing Local Coastal Plan and Local Implementation Plan, and (b) owners to retain a single lot and not subdivide their lots into ~~one,~~ two ~~or three~~ separate lots with four separate domiciles. Under Section 3.6K of Malibu's Local Implementation Plan, the allowed total development square footage for lots larger than one acre is calculated as a straight mathematical formula, in which the square footage of a residence or home is capped at a particular percentage of total developable square footage (sometimes referred to as the total "TDSF" percentage or ratio), or, for smaller lots of 5,000 square feet or less, at a maximum square footage of 1,885 square feet for the dwelling itself. This Section 6 of the Malibu Affordable One Story Rural Housing Amendment applies to and allows owners of residential lots larger than one acre to secure "ministerial" approval within ninety (90) days of a completed application to build a second home capped at no more than 2,500 square feet, if, and only if, the owner can show that (a) their lot is more than one acre in size and is not located in any Section 3.1(a)-(d) locations, (b) their lot is otherwise eligible for a lot split or subdivision under Senate Bill 9, and (c) the allowed home after a lot split under Senate Bill 9 could be two stories (and have a basement) which could in total exceed 2,500 square feet, and (c) the owner has agreed to a recorded deed restriction to not split the lot as a permanent contractual concession for the city's willingness to grant an expedited permit to construct a one story home up to 2,500 square feet in size on a ministerial basis, without a public hearing, and without a required Coastal Development Permit, subject to (a) the initial thirty (30) day exemption/waiver application process identified in Section 2.5 above to be followed by the (b) complete ninety (90) day ministerial approval process set forth in Section 5.1 above, within ninety (90) days of the owner's completed application being submitted. Approval by the Planning Department can be provided by either the express granting of the building permit, or by silence after the passage of ninety (90) days of the owners' submission of a completed application. The fee charged to the owner for the processing of a completed application for a one story home up to 2,500 square feet in size on lots larger than one full acre will be $5,000 per home. Denial of such an application on an expedited ministerial basis does not preclude or prohibit an owner from undergoing the public hearing/CDP process in front of the Planning Commission, with full appellate rights in front of the City Council. Lots smaller than one acre within Malibu are generally not suitable for higher density development in a "duplex" or "triplex" scenario, and would likely have a direct or indirect impact on coastal resources. Thus, this expedited incentive for ministerial approval of small scale one story homes of 2,500 square feet or less exists only for lots larger than one full acre. Lots that are less than one full acre would not be eligible for expedited ministerial approval of a second home, but owners of all residential lots are allowed to pursue development in compliance with Senate Bill 9 and whichever Malibu building, zoning and local coastal codes then exist.

Section 7. Modification Of "Clustering" And "Neighborhood Character" Policies For Small Scale One Story Housing Units Approved Under This Amendment.

The Malibu Local Coastal Plan and Local Implementation Plan each have vaguely worded policies purportedly in support of the "clustering" of accessory structures and/or guest residences close to (within ten (10) feet) of primary homes within acceptable building envelopes, with vague cross referencing to an unsupported notion that "clustering" will "reduce fuel modification," and an implied suggestion that "clustering" will help with fire prevention or increase ease of fire truck access. These "clustering" policies ~~may~~ actually increase the destructive effect of spreading wildfires and burning multiple structures, because closely "clustered" structures are more likely to spread embers from structure to structure and roof to roof and vent to vent. Further, closely "clustered" structures actually block and limit fire truck and firefighter access, because "clustered" structures with ten (10) feet of each other are too close to allow fire trucks to pass through such clustering of structures. The LCP and LIP also contain vague references to "neighborhood character," which are subjective and ~~can be and~~ have been easily manipulated by planning commissioners that are in favor of zero development and prone to deny even acceptable building permits. Small one story energy efficient ADUs/JADUs/Guest Homes and small homes that are approved under this Amendment are to be approved without regard to "neighborhood character," and it is acknowledged that rural one story small scale homes limited in height and size are a type of housing that is the sort of rural residential aesthetic that Malibu would like to preserve even if prior development has limited or altered any sort of uniform or singular aesthetic character within a neighborhood. The "clustering" of ADUs/JADUs or small homes within ten (10) feet of a primary home is not required or encouraged under this Amendment, and creating some distance among and between structures is favored and recognized by the Planning Department as a mechanism for reducing the risk that fires will spread from structure to structure, and enhancing privacy, provided that all ADU/JADUs must be located in lot areas appropriate for development and consistent with the protection of coastal resources.

MALIBU ACTION COMMITTEE ("MAC")

M E M O R A N D U M

TO: Mikke Pierson, Paul Grisanti, Karen Farrer, Bruce Silverstein, Steve Uhring, Kraig Hill, Jeff Jennings, Dennis Smith and Mark Wetton, Patricia Salazar, Richard Mollica, Yolanda Bundy, Tyler Eaton and Trevor Rusin

FROM: Malibu Action Committee

DATE: August 10, 2022

RE: Malibu's Rural Small Scale One Story ADU and Affordable Housing Statute, Amending the LCP and Zoning Code

---

A large number of residents and voters in Malibu Park and Point Dume have been discussing the after effects of the Woolsey fire, along with the recent statutes passed in Sacramento, in particular, Senate Bill 9, and the so called "ADU Statute." We have also read, and discussed at length, the two recent memoranda generated by John Ainsworth, dated January 21, 2022, which states the most recent of the California Coastal Commission, on how coastal cities like Malibu are required to support, incentivize and encourage small scale affordable housing and affordable ADU housing stock in the coastal zone. The Malibu Action Committee has witnessed firsthand the long term "mansionization" of the entire city, due in part to a lack of vision and three decades of fairly standard "nimby" anti-development provisions now embodied within Malibu's Local Coastal Plan ("LCP") and Malibu's Zoning Code.

Many of us observed and participated in the first lengthy ADU meeting in front of the Planning Commission in 2021. That meeting occurred prior to the passage of Senate Bill 9. We have read the current proposed ADU Ordinance that was drafted for the city of Malibu by Best, Best & Krieger LLP ("BBK"), which was prepared by a BBK partner other than Mr. Cotti and Mr. Rusin. We refer to this proposed ADU Ordinance as the "Mazza ADU Ordinance," in part because it does not appear to have been customized in any way so as to address Malibu's unique geographic neighborhoods, or needs, or the large lots present in Point Dume and Malibu Park, which were heavily damaged in the Woolsey fire. The Mazza ADU Ordinance also does not take into account certain other financial needs and affordable housing goals that Malibu is nearly two decades behind on, and which Malibu cannot catch up on without an ADU Ordinance that is customized according to the unique needs and topography of Malibu and it's seven distinct neighborhoods, all of which are in the Coastal Zone, all of which are in a high fire severity zone. At present, Malibu is lacking any affordable housing for the elderly, disabled or lower income groups, and this failure is due in part to a deliberate and conscious "nimby" strategy. The former Malibu City Attorney, Christi

Hogin[1], was able to secure a "sign off" from the California Department of Community Housing and Development ("CDHCD"), through which essentially zero RHNA affordable housing units were built or developed during the previous eight year RHNA cycle, 2012-2020. The CDHCD approved of this "nimby" strategy through artful lawyering by Ms. Hogin, who implemented the desires of the then existing Planning Commission, which did not want to be required to approve, develop or build any housing units for the elderly, disabled or lower income residents. The "pitch" was that Malibu's unique topography, lack of sewer systems, and fire risks made small scale affordable housing so difficult, that the primary solution for maintaining affordable housing units as part of the RHNA cycle would be to maintain the existing supply of mobile home dwelling units, the largest number of units existing in Paradise Cove and Point Dume mobile home parks, both of which are on the easternmost and westernmost perimeter boundaries of Point Dume. These mobile homes now sell for prices ranging from $1 million to $6 million dollars, and are no longer considered to be "affordable" housing, and do not qualify as RHNA units. The current RHNA cycle requires that Malibu approve, develop and build a minimum of 79 RHNA units during the 2021 to 2028 RHNA cycle.

We believe, objectively, that the Mazza ADU Ordinance prepared by the BBK partner is a serious mistake, illegal in multiple respects, and that it will be rejected by the CDHCD, and may even be rejected by the California Coastal Commission. We do not expect the City Council to approve of the Mazza ADU Ordinance. We would expect it to be rejected on a 5 to 0 vote. We are concerned that if the Mazza ADU Ordinance were adopted, that relatively few small scale ADUs would ever be built within Malibu, and Malibu would be sued repeatedly, and lose often, for the few homeowners that are willing to file suit to enforce their rights to construct a small scale ADU without undue interference by Malibu's Planning Commission. These concerns are not about "blame" or attributing fault to anyone in particular. Indeed, the BBK partner that was tasked with drafting the Mazza ADU Ordinance does not appear to have been given any clear guidance by anyone from the Planning Commission, the City Council, or the Planning Department, and instead, was left to mostly read "tea leaves" and guess what might work. About the only substantive comment made by any Planning Commission member during the 2021 meeting was by Commissioner Mazza, the "gist" of which was in the vein of "why can't we do nothing, and just hide behind the existing LCP." Given that limited guidance, it is not surprising that the Mazza ADU Ordinance fails to expedite or incentivize any ADUs at all, and instead, adopts every LCP barrier that currently exists and will have the effect of discouraging most owners from building any small scale ADU housing stock, and instead, just stick with the large mansions that now predominate throughout the entire city. This lack of vision, and lack of guidance, simply means that the Mazza ADU Ordinance is a poorly thought out statute, that violates Senate Bill 9 and violates the ADU Statute, and will not improve or solve anything within Malibu with respect to small scale affordable one story housing.

[1] To the extent that Malibu's goal in 2012 was to <u>not</u> approve or develop any affordable housing units, Ms. Hogin helped Malibu accomplish that goal.



From: Cindy Martin <cmartin@schmitzandassociates.net>
Sent: Monday, August 22, 2022 12:52 PM
To: Paul Grisanti <pgrisanti@malibucity.org>; Bruce Silverstein <bsilverstein@malibucity.org>; Karen Farrer <kfarrer@malibucity.org>; Mikke Pierson <mpierson@malibucity.org>; Steve Uhring <suhring@malibucity.org>; Richard Mollica <rmollica@malibucity.org>
Cc: Steve McClary <SMcClary@malibucity.org>; Kelsey Pettijohn <kpettijohn@malibucity.org>; Scott Hoeft <shoeft@schmitzandassociates.net>; Don Schmitz <dons@schmitzandassociates.net>
Subject: 8-22-2022 Malibu City Council Meeting - Item 6C ADU Ordinance

Dear Mayor Grisanti and the Honorable Members of the City Council,

Please find our attached correspondence in preparation for tonight's 8/22/2022 City Council meeting, Item 6C (ADU Ordinance).

The Planning Department has requested the City Council provide guidance and direction regarding the City's proposed ADU Ordinance. This correspondence addresses the Council providing that direction as it relates to side and rear building yard setbacks.

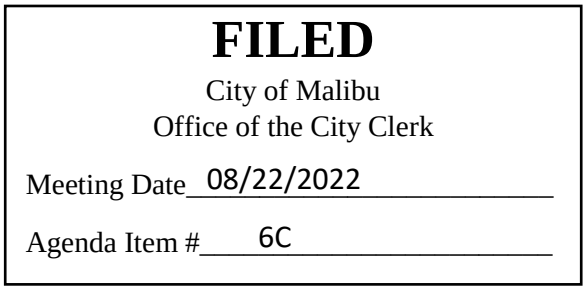
Please take a moment to read this correspondence.

Thank you for your time.

Sincerely,

Cynthia Martin, JD I Special Projects Manager **I Schmitz & Associates, Inc.**
28230 Agoura Rd. Suite 200 Agoura Hills, CA 91301
Direct Phone: (818) 338-3636
Cmartin@schmitzandassociates.net www.schmitzandassociates.com

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CC: Council; CM; CA ; PL ; Ref. Binder; Original to 08/22/2022 Agenda File

Via Email
PGrisanti@malibucity.org; BSilverstein@malibucity.org; KFarrer@malibucity.org; MPierson@malibucity.org; SUhring@malibucity.org; rmollica@malibucity.org; SMcClary@malibucity.org

August 22, 2022

Malibu City Council
23825 Stuart Ranch Rd.
Malibu, CA 90265
Attn: Mayor Grisanti and the Honorable Members of the City Council

Re: Item 6C - Proposed ADU Ordinance – Providing Direction to Staff Re Content of the ADU Ordinance: Side and Rear Yard Setbacks

Dear Mayor Grisanti and the Honorable Members of the City Council,

THE CITY COUNCIL SHOULD PROVIDE DIRECTION TO STAFF REGARDING THE PROPOSED ADU ORDINANCE RELATING TO SIDE AND REAR YARD SETBACKS.

The City Council should advise staff to require no more than four-foot, or alternatively five-foot, side and rear yard setbacks, consistent with the Coastal Act, and as articulated by the California Coastal Commission in its in the January 21, 2022, updated guidance memorandum regarding ADUs (CCC UPDATED MEMO), which supersedes all earlier memos.[1]

State ADU law mandates no more than four-foot side and rear building yard setback for ADUs.[2]

In the CCC UPDATED MEMO, Executive Director Jack Ainsworth instructs local governments to comply with State ADU law unless there are *significant adverse impacts* on coastal resources.[3] This raised the standard of prior memos which only required an "identifiable impact" to a coastal resource.

In the CCC UPDATED MEMO, Executive Director Ainsworth then provides examples of *significant adverse impacts* to coastal resources, which include:

- ADUs which require a shoreline protective device.[4]
- Development in ESHA or wetlands.[5]
- Where structural integrity of an ADU is compromised by bluff erosion, flooding or wave uprush.[6]

Locating an ADU within four feet of a side or rear property line does not, in and of itself, create a *significant adverse impacts* to a coastal resource.

[1] CCC Updated Memo, page 1.
[2] "No setback shall be required for an existing living area or accessory structure or a structure constructed in the same location and to the same dimensions as an existing structure that is converted to an accessory dwelling unit or to a portion of an accessory dwelling unit, and a setback of no more than four feet from the side and rear lot lines shall be required for an accessory dwelling unit that is not converted from an existing structure or a new structure constructed in the same location and to the same dimensions as an existing structure (emphasis added)." Gov't Code § 65852.2(a)(1)(D)(viii)
[3] "The creation of new J/ADUs in existing residential areas is one of many strategies that aim to increase housing stock, including creating additional housing units of a type and size that can be more affordable that other forms of housing in the coastal zone, in a way that may be able to avoid significant adverse impacts on coastal resources." CCC Updated Memo at page 2.
[4] CCC Updated Memo at page 3
[5] Id. at page 3
[6] Id. at page 3.

Moreover, arbitrarily diverging from State ADU law by requiring standard yard setbacks, without identifying *substantial adverse impacts* to coastal resources, is inconsistent with Coastal Act policies as articulated by the California Coastal Commission:

> "The Coastal Commission strongly encourages local governments to update their LCPs with J/ADU provisions in a manner that harmonizes the State's housing laws with the Coastal Act. Doing so would protect the State's *coastal resources* while also reducing barriers to constructing J/ADUs and helping to promote more affordable coastal housing."[7]

THE CITY'S LCP AMENDMENTS SHOULD BALANCE STATE ADU LAW WITH THE COASTAL ACT, *SIMILARLY TO ALL OTHER COASTAL CITIES AND COUNITES WITH APPROVED ADU ORDINANCES,* AND REQUIRE NO MORE THAN FOUR-FOOT SIDE AND REAR YARD SETBACKS UNLESS THERE ARE "SIGNIFICANT ADVERSE IMPACTS ON COASTAL RESOURCES".

The CCC UPDATED MEMO includes examples of recently approved ADU provisions in certified LCPs.[8] Without exception, all jurisdiction with newly certified LCPs have implemented the four-foot side and rear yard setback provisions of State ADU laws, and in some instances, even less. This includes:

- City of Santa Cruz, approved May 2021[9]
- City of Pacifica, approved June 2021[10]
- County of San Mateo, approved July 2021[11]
- City of Encinitas, approved August 2021[12]
- City of Santa Barbara, approved December 2021[13]
- City of Redondo Beach, approved April 8, 2022 (subsequent to CCC UPDATE MEMO)[14]

The City of Malibu should also balance ADU State law with the provisions of the Coastal Act by requiring no more than four-foot side and rear yard setbacks unless there are *significant adverse impacts* to coastal resources.

ALTERNATIVELY, THE CITY'S LCP AMENDMENTS SHOULD REQUIRE NO MORE THAN A FIVE-FOOT SIDE AND REAR YARD SETBACKS, DUE TO THE CITY BEING ENTIRELY WITHIN A MAPPED VHFHSZ AREA.

It is pointed out by Kraig Hill, in his comment letter of March 14, 2022, that the CCC UPDATED MEMO does not address Very High Fire Hazard Severity Zone areas (VHFHSZ).[15] Mr. Hill then relies on SB9 law, as a corollary, stating that the provisions of SB9 are not applicable in VHFHSZ areas. However, the provisions of SB9 do not apply in VHFHSZ areas *unless* there are adopted fire hazard mitigation measures pursuant to existing building standards or state fire mitigation measures. There are adopted fire hazard mitigation measures applicable to Malibu development.[16]

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[7] Id. at page 1.
[8] California Coastal Commission Updated Guidance Memorandum dated January 21, 2022 (CCC Updated Memo), pages 9-10.
[9] See https://www.cityofsantacruz.com/home/showpublisheddocument/84532/637584175422900000
See https://www.cityofsantacruz.com/home/showpublisheddocument/84534/637584175449470000
[10] See https://library.municode.com/ca/pacifica/codes/code_of_ordinances?nodeId=TIT9PLZO_CH4ZO_ART4.5ACDWUN
[11] See Th15a-7-2021-exhibits.pdf (ca.gov)
[12] See F13c-8-2021-exhibits.pdf (ca.gov)
[13] See F14b-12-2021-exhibits.pdf (ca.gov)
[14] See W15a-exhibits.pdg (ca.gov)
[15] See Kraig Hill Correspondence to Planning Commission and Staff, page dated March 14, 2022, included as Attachment 2 to Staff Report for subject hearing.
[16] See Los Angeles County Building Code Section 701A.3.1 (includes fire hazard mitigation measures). See also, CA Residential Code, R337 (specific state fire mitigation measures).

Kraig Hill then discusses the five-foot walk around required by Title 32 (L.A. County Fire Code), and suggests, among other things, that side and rear yard setbacks accommodate the five-foot walk around.[17] Because the City of Malibu is entirely within a mapped VHFHSZ area, an alternative to the four-foot side and rear setback, would be to implement no more than a five-foot side and rear setback unless there are *significant adverse impacts* to coastal resources.

REPORTING TO ATTORNEY GENERAL'S OFFICE

In the CCC UPDATED MEMO, Executive Director Ainsworth recognizes that the California Department of Housing and Community Development ("HCD") now has an oversight and approval role to ensure that local ADU Ordinances are consistent with State law, similarly to the Coastal Commissions review of LCP's.[18] If a local government adopts an ordinance that HCD deems to be noncompliant with State law, the HCD has the authority to notify the Office of the Attorney General.[19] Veering from State ADU law, by requiring regular yard setbacks when there are no *significant adverse impacts* to a coastal resource, could result in the HSD notifying the Attorney General's office.

CONCLUSION

Based on the foregoing, the City Council should provide direction to staff to require no more than four-foot, or alternatively five-foot, side and rear yard setbacks, consistent with balancing the Coastal Act with State ADU law.

Respectfully submitted,

Cynthia Martin

Cynthia M. Martin, JD,
Special Projects Manager
cmartin@schmitzandassociates.net

[17] See FN 14, at page 11, suggesting 6' side and rear yard setbacks to accommodate 5' walk around and 1' fence.
[18] Id. at page 3.
[19] Gov. Code § 65852.2(h)(3), CCC Memo at page 3.

Kelsey Pettijohn

Subject: Item 6C ADU

FILED
City of Malibu
Office of the City Clerk
Meeting Date 8/22/22
Agenda Item # 6C

RECEIVED
Aug 19 2022
CITY CLERKS OFFICE
CITY OF MALIBU

From: John Mazza [redacted]
Sent: Thursday, August 18, 2022 5:19 PM
To: Trevor Rusin <trevor.rusin@bbklaw.com>; Karen Farrer <kfarrer@malibucity.org>; Mikke Pierson <mpierson@malibucity.org>; Steve Uhring <suhring@malibucity.org>; Bruce Silverstein <bsilverstein@malibucity.org>; Paul Grisanti <pgrisanti@malibucity.org>; Richard Mollica <rmollica@malibucity.org>; Kraig Hill [redacted] Steve McClary <SMcClary@malibucity.org>
Cc: John Mazza [redacted]
Subject: Item 6C ADU

Council Members

You recently received a email on this item that contains many misstatements of fact that you should be aware of.

#1 The purpose of his comment is based on a false understanding of what is the purpose of item 6C. He states"

All: Paul informed me that the city council will consider what form of ADU Ordinance to adopt, if any, at its August 22 meeting. The Malibu Action Committee ("MAC") would like the enclosed proposed ADU ordinance to be considered for adoption by the city council, and for the related materials to be circulated as part of the agenda. The ordinance we refer to as the Mazza ADU ordinance contains far too many illegalities to be adopted or considered, and to be fair to BBK, it is clear that BBK was given no real guidance at all by the council or planning commission, and the proposed Mazza ordinance also pre-dates the Ainsworth January 2022 letter and the passage of Senate Bill 9. Mark"

The actual purpose of the item before you is stated in the staff report (page 1) as :

DISCUSSION: The item before the City Council stems from the Planning Commission data requests and referrals related to the cumulative impact of adopting an ADU ordinance. The data requests include additional studies and referrals that will require additional funding. Staff is seeking direction from the Council on the request to conduct the additional studies and if additional studies are requested, authorization to proceed with a Request for Proposal to hire a consultant to complete the work. The cost to complete the work would be brought back to the Council at a future hearing. The Commission requests also include a referral to the Public Safety Commission to update evacuation routes and a request for the Water Control Board to analyze the need for additional water. Given the length of time since the draft ordinance was originally brought to the Planning Commission, this is also an opportunity for the council to adjust or clarify its direction to staff. .

This is to be a discussion of how to proceed with the process NOT a new ordinance for you to consider.

#2. Mr Baute state "The ordinance we refer to as the Mazza ADU "

Be aware that I had absolutely nothing to do and did not comment on the ADU ordinance proposed by the staff in the March 7,2022 Planning Commission meeting. One hundred percent of the ABU draft was written by the staff and BBK lawyers. Attachment 1 of the current staff report officially enumerates the actions taken at that meeting. The item was continued because the Planning Commission felt it did not have enough information to review the ordinance and continues the item to a date uncertain. No discussion was held. Below is the attachment one official report

CC: Council; CM; CA ; PL ; Ref. Binder; Original to 8/22/22 Agenda File

on the meeting from your staff report. You wil note that other than studies asked of the staff the planning commission asked that the designers of the evacuation plan , the Public Safety Commission, be requested to weigh in on the effect the additional population and canyon routes would have. Staff is before you on this item to secure funding to continue the process.

Action taken by the planning commission on this item from Attachment 1

13)Continued the 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 public hearing to a date uncertain and provide the following information 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 District 9 Water Quality Control Board of the availability of water that can be allocated to do 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 ofPage 3 of 3 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 squarefoot 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. (Associate Planner Eaton) .

Comments

You should take into consideration the following facts when you make you decision to fund the necessary informational requests from the Planning Commission.

1. Legal mandate for ADUs. This is due to the fact that the letter from the coastal commission has claimed jurisdiction over the state on coastal zoning issues (See Coastal letter from director Ainsworth). The ADU state ordinance excludes high fire zones from the requirement (we are 100%) high fire zone. The county ADU Coastal Plan that has been approved excludes large portions of the adjacent mountains and all of the Topanga area as too dangerous. The legal position should be clear to the planning commission and the council BEFORE the process continues.

2. The planning staff and commission do not have the tools to evaluate the already approved evacuation plan. The ADU ordinance will involve many new structures many of which will be up canyons and in neighborhoods that already have access issues.

3 and 4 Legal issues that need to be part of the necessary findings

5. A highway traffic study is necessary to evaluate the effect of a higher population on the highway especially in the western part of Malibu.

6.Discrepancys in the LIP and MMC covering ADUs and guest houses which currently do not allow kitchens. How to adjust the MMC/LIP is necessary and was not covered in the staff report of March 7

7.Required discussion by staff of parking issues especially in the hills.

8.Comparison of the proposed Malibu ZTA vs the already adopted County plan for coastal consistency .

9. Legal explanation of State Law applicability of to Malibu.

10, 11, 12 Legal issue guidance.

13. An explanation of why TDSF is not used (our standard) in measuring ADUs vs the proposal of a new standard " habitable floor area "

14. A report on the amount of water available from District 29 for expansion of water supply for ADU use and fire suppression. As you know the MWD was recently denied additional water and western Malibu experienced a lack of supple on the western end of the Woolsey fire zone. Also to be considered is the cost of expanding the water main in Malibu ($100 million is one estimate). Without this knowledge we could experience the suspension of "will serve letters " throughout Malibu in the future.

15 The staff report received on March 7 stated that there are no lots in Malibu meet the baseline standard for ADUs. The request of the planning commission is merely a request to estimate how many ADU's could be built to evaluate many other factors such a police costs, school attendance , traffic , commerce etc.

16. Analysis of additional police costs

17 Analysis of he effects on schools

18. An analysis of low income housing requirements due to expanded housing supply and the expectation that ADU could or could not be counted.

19. An analysis of future compliance costs which should include planning costs required for approval and compliance.

20.Appeals considerations.

21. Height requirements

22, 23 Areas not appropriate and and adequate fire access

24 Mobile home unit conversion due to Woolsey rebuilds.

25. Parking and half mile from public trransit exemption.

As you can see many of these items to not involve extensive studies and are legal issues that BBK can cover BUT all are necessary to render a workable ordinance. None of them are unreasonable. This is not a simple process as Steve and Mikke can attest. We are under no set deadline or absolute requirement to have produced an ADU ordinance or ZTA. There are huge monetary, infrastructure and most of all safety consequences to this proposed ordinance. The county favored safety and restricted unsafe use of ADUs. There were lives lost in Woolsey from the inability to flee and we experienced a stand down by the fire department.

Please fund the required studies, resist the politcal pressure of developers and allow the staff and the planning and safety commissions to bring to you a good ordinance that will not backfire on the city. To do otherwise could cost the city a lot of money and in fact WE ARE EXEMPT FROM STATE ADU PROVISIONS AS THE ALREADY APPROVES COUNTY ORDINANCE/ZTA ATTESTS.

John Mazza

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Malibu, CA 90265
Phone (310) 456-2489
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PLANNING DEPARTMENT

NOTICE OF PUBLIC HEARING

NOTICE OF PUBLIC HEARING

The Malibu Planning Commission will hold a public hearing on **Monday, March 6, 2023, at 6:30 p.m**. for the project identified below which will be held via teleconference only in order to reduce the risk of spreading COVID-19 pursuant to AB 361 and the County of Los Angeles Public Health Officer's Safer at Home Order.

ACCESSORY DWELLING UNIT ORDINANCE

LOCAL COASTAL PROGRAM AMENDMENT NO. 18-002 AND ZONING TEXT AMENDMENT NO. 18-004 - Consider an amendment and make a recommendation to the City Council to amend the Local Coastal Program (LCP) and Title 17 (Zoning) of the Malibu Municipal Code modifying regulations pertaining to accessory dwelling units, also known as second dwelling units, to bring existing regulations into compliance with State law (Location: Citywide)

On March 7, 2022, prior to the opening of the public hearing on the City's ADU draft ordinance, the Planning Commission requested staff prepare a report with numerous discussion items and postponed the public hearing. On August 22, 2022, the City Council directed staff 1) in order to protect sensitive coastal resources and public access to the coast, minimize substantive changes in the Local Coastal Program (LCP) for the proposed ordinance which complies with state law; and 2) bring the item back to the Planning Commission without the studies requested.

In accordance with the CEQA, Public Resources Code Section 21080.9, CEQA does not apply to activities and approvals by the City as necessary for the preparation and adoption of an LCP amendment (LCPA). This application is for an LCPA which must be certified by the California Coastal Commission before it takes effect. The ZTA and LCPA are not a project within the meaning of CEQA Guidelines Section 15378, because they have no potential to result in physical change to the environment, directly or indirectly. Pursuant to CEQA Guidelines Section 15061(b)(3), where it can be seen with certainty that there is no possibility and is not subject to CEQA. Moreover, in the event that the code amendment and LCPA are interpreted so as to permit construction of an ADU on a particular site, the construction would be exempt from CEQA review in accordance with either State CEQA Guidelines Section 15301 (existing facilities), State CEQA Guidelines Section 15303 (new construction or conversion of small structures), and/ or State CEQA Guidelines Section 15304 (minor alterations to land).

A written staff report will be available at or before the hearing for the project, typically 10 days before the hearing in the Agenda Center: http://www.malibucity.org/agendacenter. Related documents are available for review at City Hall or by contacting the Case Planner. You will have an opportunity to testify at the public hearing; written comments which shall be considered public record, may be submitted any time prior to the beginning of the public hearing. To view or sign up to speak during the meeting, visit www.malibucity.org/virtualmeeting.

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.

STAFF CONTACT: Tyler Eaton, Associate Planner, teaton@malibucity.org, (310) 456-2489, ext. 273

MORE INFORMATION: For more information, view the City's Accessory Dwelling Units website at www.malibucity.org/adu.

RICHARD MOLLICA, Planning Director

Date: February 9, 2023

ATTACHMENT 5