City Council Meeting
05-26-26
Item 1.A.1.

Council Agenda Report

To: Mayor Silverstein and the Honorable Members of the City Council

Prepared by: Aakash Shah, Contract Planner

Reviewed by: Yolanda Bundy, Community Development Director
Tyler Eaton, Assistant Community Development Director

Approved by: Joseph D. Irvin, City Manager
Trevor Rusin, Interim City Attorney

Date prepared: May 6, 2026 Meeting date: May 26, 2026

Subject: Appeal of Planning Commission Resolution No. 24-39 Regarding Coastal Development Permit No. 23-004 (29738 Cuthbert Road, APN 4469-041-011, Owner Malibo LLC, Appellant Charlotte Frieze Jones, for Malibu Park Neighbors Group)

RECOMMENDED ACTION: Adopt Resolution No. 26-05 (Attachment 1) upholding Appeal No. 24-010 and denying Coastal Development Permit- Woolsey Fire (CDPWF) No. 23-004, Site Plan Review No. 23-026 and Demolition Permit No. 24-020, an application to allow for the construction of a 4,620 square-foot addition to a like-for like rebuild of a destroyed single-family residence approved under Planning Verification-Woolsey Fire No. 21-034, enlargement of the existing swimming pool and spa, reconfiguration of the existing driveway, hardscape, landscape, grading, improvements to the existing tennis court; demolition of existing hardscape and landscape, and installation of a new onsite wastewater treatment system; including a site plan review for construction of the residence over 18 feet in height not to exceed 24 feet in height located in the Rural Residential-Two acre zoning district at 29738 Cuthbert Road (Malibo LLC), and finding that California Environmental Quality Act (CEQA) does not apply.

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

STRATEGIC PLAN IMPLEMENTATION: N/A.

DISCUSSION: On August 5, 2024, the Planning Commission adopted Planning Commission Resolution No. 24-39 approving CDPWF No. 23-004. On August 15, 2024,

Appeal No. 24-010 was filed. The appeal was considered by the City Council on February 18, 2026, where, after conducting a public hearing and reviewing the complete record and testimony, the Council directed staff to return with a resolution granting the appeal and denying the project, with findings reflecting the deliberations of the Council. The resolution of denial is attached.

Background material on the appeal and project is available on the City's website – February 18, 2026 City Council Special Meeting Item 1A.

ENVIRONMENTAL REVIEW: Pursuant to the authority and criteria contained in CEQA, the City Council has analyzed the proposed project. Pursuant to CEQA Guidelines Section 15270, CEQA does not apply to projects which a public agency rejects or disapproves.

ATTACHMENT: Resolution No. 26-05

RESOLUTION NO. 26-05

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MALIBU, UPHOLDING APPEAL NO. 24-010 AND DENYING COASTAL DEVELOPMENT PERMIT–WOOLSEY FIRE NO. 23-004, SITE PLAN REVIEW NO. 23-026 AND DEMOLITION PERMIT NO. 24-020 AN APPLICATION TO ALLOW FOR THE CONSTRUCTION OF A 4,620 SQUARE FOOT ADDITION TO A LIKE-FOR-LIKE REBUILD OF A DESTROYED SINGLE-FAMILY APPROVED UNDER PLANNING VERIFICATION-WOOLSEY FIRE NO. 21-034, ENLARGEMENT OF THE EXISTING SWIMMING POOL AND SPA, RECONFIGURATION OF THE EXISTING DRIVEWAY, HARDSCAPING, LANDSCAPING, GRADING, IMPROVEMENTS TO EXISTING TENNIS COURT; DEMOLITION OF EXITING HARDSCAPE AND LANDSCAPE, AND INSTALLATION OF A NEW ONSITE WASTEWATER TREATMENT SYSTEM; INCLUDING A SITE PLAN REVIEW FOR CONSTRUCTION OF THE RESIDENCE OVER 18 FEET IN HEIGHT NOT TO EXCEED 24 FEET IN HEIGHT FOR A FLAT ROOF LOCATED IN THE RURAL RESIDENTIAL, TWO-ACRE ZONING DISTRICT AT 29738 CUTHBERT ROAD (MALIBO, LLC), AND FINDING CALIFORNIA ENVIRONMENTAL QUALITY ACT DOES NOT APPLY

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

SECTION 1. Recitals.

A. On September 28, 2021, Planning Verification-Woolsey Fire (PVWF) No. 21-034 was approved for the in-kind replacement of the single-family residence and swimming pool.

B. On October 26, 2023, an application for Coastal Development Permit-Woolsey Fire (CDPWF) No. 23-004, Site Plan Review (SPR) No. 23-026 and Demolition Permit (DP) No. 24-020 was submitted to the Planning Department by applicant, Janek Dombrowa, on behalf of the property owner, Malibo LLC. The application was routed to the City Biologist, City Environmental Health Administrator, City geotechnical consultant reviewers, City Public Works Department, Los Angeles County Fire Department (LACFD) and Los Angeles County Waterworks District No. 29 (WD29) for review.

C. On April 22, 2024, a Notice of Coastal Development Permit (CDP) Application was posted on the subject property.

D. On April 25, 2024, the CDP application was deemed complete for processing.

E. On May 9, 2024, a Notice of Planning Commission Public Hearing was published in a newspaper of general circulation within the City of Malibu and was mailed to all property owners and occupants within a 500-foot radius of the subject property.

F. On June 3, 2024, the item was continued to July 15, 2024, Regular Planning Commission meeting.

G. On July 15, 2024, the Planning Commission held a duly noticed public hearing on the application subject, reviewed and considered the staff report, reviewed and considered written reports, public testimony, and other information in the record. Commissioner Peak moved, and

Commissioner Smith seconded a motion to direct staff to return with a resolution for approval of Coastal Development Permit-Woolsey Fire No. 23-004 the subject application including the following conditions of approval: 1) remove tennis court lighting; 2) comply with Dark Sky Ordinance; 3) Environmentally Sensitive Habitat Area restoration shall be completed prior to issuance of a Certificate of Occupancy to the satisfaction of the California Department of Fish and Wildlife; 4) a private party deed restriction shall be recorded to prevent an alcohol, drug or psychiatric recovery or sober living rehabilitation facility from being located on the property in the future; 5) a deed restriction shall be recorded to prevent future use of the property for short-term rentals; and 6) restrict lighting on the rooftop decks to one Dark Sky compliant luminaire per deck. The question was called, and the motion carried 3-2, Chair Mazza and Commissioner Hill dissenting.

H. On August 5, 2024, a resolution approving the subject application was presented to the Planning Commission for adoption.

I. On August 15, 2024, Appeal No. 24-010 was filed by the group of residents.

J. On May 15, 2025, a Notice of City Council Public Hearing was published in a newspaper of general circulation within the City of Malibu and was mailed to all property owners and occupants within a 500-foot radius of the subject property.

K. On June 9, 2025, the item was continued to June 23, 2025 Regular City Council Meeting.

L. On June 23, 2025, the item was continued to date uncertain.

M. On November 13, 2025, a Notice of City Council Public Hearing was published in a newspaper of general circulation within the City of Malibu and was mailed to all property owners and occupants within a 500-foot radius of the subject property.

N. On November 19, 2025, a notification of was sent out that the item was cancelled and the hearing will be re-scheduled at a future date.

O. On January 14, 2025, a Notice of City Council Public Hearing was published in a newspaper of general circulation within the City of Malibu and was mailed to all property owners and occupants within a 500-foot radius of the subject property.

P. On February 18, 2026, the City Council held a duly noticed public hearing on the subject application and appeal, reviewed and considered the staff report, reviewed and considered written reports, public testimony, and other information in the record and directed staff to return with a resolution granting the appeal and denying the project, as proposed, in accordance with the Council's findings.

Q. On May 25, 2026, the City Council reviewed and considered the resolution and its proposed findings and conclusions upholding the appeal and denying the application for project CDPWF No. 23-004.

SECTION 2. Environmental Review.

Pursuant to the authority and criteria contained in California Environmental Quality Act (CEQA), the City Council has analyzed the proposed project. Pursuant to CEQA Guidelines Section 15270, CEQA does not apply to projects which a public agency rejects or disapproves.

SECTION 3. Appeal of Action.

The appeal filed by the Appellant contends the appeal should be granted and the project application should be denied based on following alleged issues with the project:

1. Rebuild does not meet all the requirements described in the City of Malibu Local Implementation Plan (LIP).
2. The project as proposed is not an addition to the existing single-family residence but a new single-family residence, and the project is submitted under two different applications.
3. The project as proposed does not meet the General Coastal Development Permit findings.
4. The size of the residence should be smaller.
5. The project is not within the characteristic of the neighborhood.
6. The project was previously denied.
7. The recitals adopted in the Planning Commission resolution are incorrect.
8. The appellant claims they were denied a fair or impartial hearing, and the decision was made contrary to law.

SECTION 4. Findings for Upholding the Appeal.

Based on evidence contained within the record, including the content of the Council Agenda Reports, Planning Commission Agenda Reports, and the testimony and materials considered by the Planning Commission and the City Council, the City Council hereby finds, determines and makes the below findings of fact, and based thereon upholds the appeal, and denies CDPWF No. 23-004, SPR No. 23-026 (building height) and DP No. 24-020 (existing hardscape and landscape).

The appellant has demonstrated that the Planning Commission's decision is not based on the findings and conditions are not supported by evidence, and the decision is not supported by the findings. That there was a lack of a fair or impartial hearing, and the decision was contrary to law. The appellants also demonstrated that the proposed project does not meet the Malibu Local Coastal Program (LCP) and is not the least environmentally damaging alternative and that a smaller project would better fit the neighborhood. Based on the evidence in the record, in the agenda report, and at the hearing on the matter, the City Council has determined that the project does not conform to the LCP and Malibu Municipal Code (MMC), denying the project.

SECTION 5. Findings to Deny the Entitlements.

Based on the evidence contained within the record, including the agenda report for the project, the Council hearing on February 18, 2026, the prior hearings and written correspondence, verbal testimony and written correspondence submitted, the materials in the record, and pursuant to LIP Sections 13.7(B) and 13.9, and MMC Section 17.72.060, the City Council denies CDPWF No. 23-004 for the construction of a 4,620 square foot addition to a destroyed single-family residence with an attached garage approved under PVWF No. 21-034, extension of the existing

swimming pool and spa, driveway reconfiguration, improvements to the existing tennis court, new hardscaping, landscaping, grading, and OWTS; including DP No. 24-020 for the demolition of an existing hardscape and landscape; and SPR No. 23-026 for construction of the residence over 18 feet in height not to exceed 24 feet in height for a flat roof located in the Rural Residential, Two-Acre (RR-2) zoning district at 29738 Cuthbert Road.

The project, as proposed, is not consistent with the applicable LCP and MMC codes, standards, goals, and policies of the General Plan. The findings for denial, among other reasons, are provided in more detail below.

The City Council finds that the proposed project is not consistent with the LCP and LIP and MMC. While other required findings can be made, the evidence does not support some specifically required findings. Due to the height of the project, a site plan review is required pursuant to LIP Section 13.27 and MMC Section 17.62.060. The applicant has not demonstrated that a preponderance of the evidence establishes the required site plan review findings, including that the project is compatible with surrounding development and that it will not adversely affect the neighborhood character. Also, the applicant has not demonstrated that the proposed expansion of the legal non-conforming structure complies with the LCP Interpretation No. 7 requirements governing modifications to legal nonconforming development and the project also fails to demonstrate that it represents the least environmentally damaging feasible alternative given its proximity to a mapped blue-line stream. Lastly, the Council finds that the proposed development is not consistent with the LCP in that it exceeds what is allowed to be replaced for structures destroyed in a natural disaster (LIP Section 13.5(F)) since the proposed improvements result in substantially more development than what had been destroyed in the 2018 Woolsey Fire. Substantial evidence in the records also supports the Council's findings as demonstrated below.

A. General Coastal Development Permit (LIP Chapter 13)

1. That the project as described in the application and accompanying materials, as modified by any conditions of approval, conforms with certified City of Malibu Local Coastal Program.

The applicant has not demonstrated that the evidence supports this finding. In fact, as demonstrated below, substantial evidence demonstrates that the Project does not conform with the City's LCP—because a preponderance of the evidence does not support the required site plan review findings. Further, LCP Interpretation No. 7, provides that any expansion of a non-conforming structure that increases the structure by 50 percent or more and requires a coastal development permit is not permitted unless the entire structure is brought into conformance with LCP policies. Here, the Project does not conform with the City's LCP, and violates longstanding LCP Interpretation No. 7, because it proposes to increase the nonconforming structure approved by PVWF No. 21-034 by over 50%.

2. The Project is the least environmentally damaging alternative.

The Applicant has not established that the Project is the least environmentally damaging alternative. In fact, substantial evidence demonstrates that the Project is located in close proximity to a blue line stream. LIP Section 4.6.1 states that development shall be located '*no less than 100 feet in width from the outer edge of the canopy of riparian vegetation. Where riparian vegetation is not present, the buffer shall be measured from the outer edge of the bank of the subject stream.*'.

Here, the Applicant has located the Project approximately 50 feet from the stream. Locating the Project further from the stream would be less environmentally damaging because it would reduce potential impacts to the riparian habitat, water quality and other environmentally sensitive resources.

B. Site Plan Review Findings for Construction in Excess of 18 Feet in Height (LIP Section 13.27, MMC Section 17.62.060)

1. The project is consistent with the policies and provisions of the Malibu LCP.

All of the required findings to grant the site plan review cannot be made, as there are alternative designs to potentially lower the height and reduce the total development square footage of the proposed structure. The Council further finds that the project would adversely affect neighborhood character, as the proposed scale and massing are significantly larger than surrounding development within the neighborhood.

2. *That the project does not adversely affect neighborhood character.*

The Applicant has not established that the project will not adversely affect neighborhood character. In fact, substantial evidence in the record establishes that the Project will adversely affect neighborhood character. The project proposes height and bulk that significantly exceeds the vast majority of the other homes in the area. The proposed project surpasses this average, rendering it inconsistent with the prevailing scale and massing of the neighborhood. An alternative design could result in a lower building height and would reduce view impacts to neighboring properties. Since there is the potential for a design that is lower in height, the findings cannot be made that the project will not be detrimental to the neighborhood and more specifically, the public's interest, safety, health, welfare or detrimental or injurious to the property or improvements in the same vicinity and zone as the subject property.

3. The proposed project complies with all applicable requirements of state and local law.

As described above, the project does not comply with local law and the City's LIP. The Project also conflicts with the general provisions and intent, goals, objectives and policies of the LCP and the General Plan which emphasize preservation of the neighborhood character, protection of scenic and visual resources, and ensuring that new development is compatible in scale with the surrounding development. Due to the proposed height, bulk and overall scale of the residence, the project does not demonstrate consistency with these General Plan policies intended to maintain Malibu's rural character and visual quality.

C. Environmentally Sensitive Habitat Area (LIP Chapter4)

1. The project is consistent with all provisions of the certified LCP with the exception of the ESHA overlay and it complies with the provisions of Section 4.7 of the Malibu LIP.

The City Council finds that the proposed development is located in close proximity to a mapped blue-line stream and, as proposed, is not the least environmentally feasible or least environmentally damaging alternative. Relocating the development farther from the stream constitutes a feasible alternative that would avoid or substantially lessen potential impacts to

sensitive environmental resources associated with the mapped stream onsite. The site has other alternatives that could avoid impacts to ESHA and still allow an economically viable use of the property.

SECTION 6. City Council Action.

Based on the foregoing findings and evidence contained within the record, the City Council hereby upholds the appeal, and denies CDPWF No. 23-004, SPR No. 23-026 and DP No. 24-020.

SECTION 7. The City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

PASSED, APPROVED AND ADOPTED this 26th day of May 2026.

BRUCE SILVERSTEIN, Mayor

ATTEST:

KELSEY PETTIJOHN, City Clerk
(seal)

APPROVED AS TO FORM:

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

TREVOR RUSIN, Interim City Attorney