Commission Agenda Report

Planning Commission Meeting
10-05-26
Item 3.B.4.

To: Chair Kamins and Members of the Planning Commission

Prepared by: Rebecca Evans, MS, Senior Management Analyst

Reviewed by: Tyler Eaton, Assistant Community Development Director

Approved by: Yolanda Bundy, MS, PE, CBO, CFCO, Community Development Director and Tyler Eaton, Assistant Community Development Director

Date prepared: September 24, 2026 Meeting date: October 5, 2026

Subject: Extension of Planning Verification-Woolsey Fire No. 21-059 – An application to extend the deadline to obtain a building permit for structures damaged or destroyed in the Woolsey Fire

Location: 29842 Cuthbert Road
APN: 4469-041-007
Owner: Orr Family Trust

RECOMMENDED ACTION: Adopt Planning Commission Resolution No. 26-54 (Attachment 1) granting a three-year extension to obtain a building permit for Planning Verification-Woolsey Fire No. 21-059 to rebuild nonconforming uses or structures damaged or destroyed in the Woolsey Fire for the property located in the Rural Residential, Two-Acre zoning district at 29842 Cuthbert Road (Orr Family Trust).

DISCUSSION: On November 8, 2018, the Woolsey Fire destroyed 465 homes in the City of Malibu. On March 12, 2025, the City Council adopted Ordinance No. 524 (Attachment 3), which extended the ability to initiate the planning application process and obtain a building permit to rebuild a structure that was damaged or destroyed by a disaster. Section 17.60.020(C) of the Malibu Municipal Code was amended to read as follows:

> Any structure, including any structure that was damaged or destroyed by a natural disaster, described in subsection A of this section, may be remodeled, or may be reconstructed in the general location and to the same height as it existed prior to damage or destruction, subject to obtaining planning verification. Structures that were damaged or destroyed by a

> natural disaster may be permitted, at the discretion of the planning director through approval of a planning verification, to increase the square footage, height or bulk permitted by this title by 10 percent of the existing or previously existing square footage, height or bulk of the structure. Increased height or bulk on non-beachfront properties shall not exceed 18 feet, unless a site plan review is obtained, and increased square footage shall not exceed the limits of Section 17.40.040(A)(13). The application for the reconstruction must be initiated with the city within six years of the date of damage or destruction, and a building permit must be diligently pursued and obtained within eight years from the date of damage or destruction and not become expired. A request for an extension of time past the six-year or eight-year periods may be granted by the planning commission where it finds, based on substantial evidence, that due to unusual circumstances, strict compliance with the six- or eight-year limit creates an undue hardship. Extensions for applications may not total more than three years for a maximum total of nine years from the date of the disaster. Extensions for building permits may not total more than three years for a maximum total of eleven years from the date of the disaster. Any reconstruction shall extend the termination date described in Section 17.60.040 for the use operating within such a structure.

Absent a time extension, a building permit would need to be obtained for Planning Verification-Woolsey Fire (PVWF) No. 21-059 no later than November 9, 2026. On September 15, 2026, Trustee Leo Orr, on behalf of owner Orr Family Trust, submitted a request for a three-year time extension to the deadline to obtain a building permit for a nonconforming in-kind plus ten percent disaster rebuild of a single-family residence.

The Woolsey Fire rebuild was delayed initially by the contracted architect's illness in 2025 and subsequent inability to continue with the project in 2026. Additionally, Trustee Leo Orr suffered a serious injury early in the summer of 2026. Mr. Orr has only recently recovered sufficiently to pursue the development. The owner's basis for due cause is included as Attachment 2.

CONCLUSION: Should the Planning Commission approve the time extension request, the owner would have until November 8, 2029 to obtain a building permit for PVWF No. 21-059.

ATTACHMENTS:

1. Planning Commission Resolution No. 26-54
2. Time Extension Request
3. City Council Ordinance No. 524

All referenced City Council and Planning Commission records are available for review at http://www.malibucity.org/onbase.

CITY OF MALIBU PLANNING COMMISSION
RESOLUTION NO. 26-54

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MALIBU GRANTING A THREE-YEAR EXTENSION TO OBTAIN A BUILDING PERMIT FOR PLANNING VERIFICATION-WOOLSEY FIRE NO. 21-059 TO REBUILD NONCONFORMING USES OR STRUCTURES DAMAGED OR DESTROYED IN THE WOOLSEY FIRE FOR THE PROPERTY LOCATED IN THE RURAL RESIDENTIAL, TWO-ACRE ZONING DISTRICT AT 29842 CUTHBERT ROAD (ORR FAMILY TRUST)

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

SECTION 1. Recitals.

A. The 2018 Woolsey Fire destroyed at least 488 single-family homes in Malibu and over 640 parcels were damaged, destroyed, or affected by the Woolsey Fire.

B. On February 25, 2019, the City Council adopted Ordinance No. 445, amendments to the Malibu Municipal Code Title 17 (Zoning Ordinance) and the Local Coastal Program, to facilitate the rebuilding of structures damaged or destroyed by the 2018 Woolsey Fire. The Ordinance included deadlines for property owners to rebuild nonconforming structures and uses: two years from the date of damage to initiate a Planning Verification-Woolsey Fire (PVWF), four years from the date of damage or destruction to obtain building permits, and extensions to these deadlines could not total more than five years.

C. On December 14, 2020, approximately 50 percent of property owners of destroyed homes had submitted a PVWF to rebuild homes. Due to a desire to encourage the rebuilding of homes, the City Council adopted Ordinance No. 476, extending the deadlines to initiate the planning application process and obtain building permits by one year, and allowed for extensions of these deadlines to not total more than six years combined.

D. On June 28, 2023, Planning Verification-Woolsey Fire No. 21-059 was approved.

E. On January 8, 2024, City Council adopted Ordinance No. 513, which extended the ability to initiate a PVWF within six years of the date of damage or destruction to November 8, 2024, with the ability for the Planning Commission to grant extensions when strict compliance created an undue hardship. Extensions could not total more than nine years. In addition, the deadline to obtain building permits was extended to November 8, 2026.

F. On March 12, 2025 following the 2025 Palisades Fire, City Council adopted Ordinance No. 524, which included an amendment to Malibu Municipal Code Section 17.60.020(C) to allow the Planning Commission to consider requests for an extension of time to obtain a building permit for structures damaged or destroyed by a natural disaster for a maximum total of eleven years from the date of the disaster (November 8, 2029 for the Woolsey Fire).

G. On September 15, 2026, Trustee Leo Orr, on behalf of owner Orr Family Trust, submitted an application requesting a three-year extension to the November 8, 2026 deadline to obtain a building permit for an in-kind rebuild of nonconforming uses or structures. The Woolsey Fire destroyed the single-family residence. The owner cited delays caused by the original architect's illness in 2025, followed by an inability to resume work in 2026. Additionally, Trustee Leo Orr suffered a serious injury early in the summer of 2026 and has only recently recovered

sufficiently to pursue the approved development.

H. On October 5, 2026, the Planning Commission held a duly noticed public hearing on the request, reviewed and considered the agenda report, reviewed and considered written correspondence, public testimony, and other information in the record.

SECTION 2. Environmental Review.

Pursuant to the authority and criteria contained in the California Environmental Quality Act (CEQA), the Planning Commission determined the project to be categorically exempt pursuant to CEQA Guidelines Section 15061(b)(3), which exempts those activities for which it can be seen with certainty that there is no potential to result in significant environmental effects. This Resolution is merely extending the time an applicant has to obtain a building permit for nonconforming structures and uses damaged or destroyed by the Woolsey Fire. Further, this act is not a "project" pursuant to CEQA Guidelines Section 15378(b)(5), which provides that organizational and administrative activities of governments that will not result in physical environmental impacts are not CEQA projects.

SECTION 3. Planning Commission Action.

Based on substantial evidence in the record, the Planning Commission finds that, due to unusual circumstances, strict compliance with the eight-year time limit imposed by Malibu Municipal Code Section 17.60.020(C) would create an undue hardship. The recitals above are adopted hereon, and the property owner has demonstrated to the satisfaction of the Planning Commission the necessity of a time extension to obtain a building permit for PVWF No. 21-059. The Planning Commission, having considered the staff report, all written correspondence and oral testimony presented at the public hearing, hereby grants the property owner a three-year time extension to obtain a building permit for PVWF No. 21-059 to rebuild non-conforming uses or structures destroyed or damaged in the Woolsey Fire. Said building permit shall be obtained by November 8, 2029.

SECTION 4. The Planning Commission shall certify the adoption of this Resolution.

PASSED, APPROVED AND ADOPTED this 5th day of October, 2026.

_____
MARNI KAMINS, Planning Commission Chair

ATTEST:

_____
REBECCA EVANS, Recording Secretary

LOCAL APPEAL - Pursuant to Malibu Municipal Code Section 17.04.220 (Appeal of Action), a decision made by the Planning Commission may be appealed to the City Council by an aggrieved person by written statement setting forth the grounds for appeal. An appeal shall be filed with the City Clerk within 10 days and shall be accompanied by an appeal form and filing fee, as specified by the City Council. Appeal forms may be found online at www.malibucity.org, in person at City Hall, or by calling (310) 456-2489, ext. 246.

Any action challenging the final decision of the City made as a result of the public hearing on this application must be filed within the time limits set forth in Section 1.12.010 of the MMC and Code of Civil Procedure. Any person wishing to challenge the above action in Superior Court may be limited to raising only those issues they or someone else raised at the public hearing, or in written correspondence delivered to the City of Malibu at or prior to the public hearing.

I CERTIFY THAT THE FOREGOING RESOLUTION NO. 26-54 was passed and adopted by the Planning Commission of the City of Malibu at the regular meeting thereof held on the 5th day of October, 2026, by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

REBECCA EVANS, Recording Secretary

Received
09/15/26
Planning Div.

City of Malibu

23825 Stuart Ranch Road · Malibu, California · 90265-4861
Phone (310) 456-2489 · www.malibucity.org

WOOLSEY FIRE
Non-Conforming In-kind Disaster Rebuild Building Permit Time Extension Request

The City of Malibu will not accept incomplete applications.

Staff use only

Woolsey Fire Extension No. EXTWF No. 26-009

To submit a Woolsey Fire building permit time extension request:

To request a time extension to obtain building permits for a previously approved Planning Verification for a non-conforming in-kind rebuild, the request must be timely received by the Planning Division in person or via email to planningadmin@malibucity.org. The deadline to submit a Woolsey Fire building permit time extension request is **November 8, 2026**. Per California Code of Civil Procedure Section 12(a), because this falls on a weekend, the City will accept requests received and paid on the next business day, Monday, November 9, 2026, by 5:30 PM.

Extensions for building permits may not total more than three years for a maximum total of eleven years from the date of the disaster, with maximum extension to **NOVEMBER 8, 2029**. For questions about this form, please email revans@malibucity.org.

Site Address: 29842 Cuthbert Rd.

Planning Verification-Woolsey Fire No: _____ **(if applicable)**

ALL of the following must be timely filed to perfect a time extension request.

1. **Time Extension Checklist** _____

   This form with property owner's signature

2. **Time Extension to Obtain Building Permits Request Letter** _____

   A letter setting forth unusual circumstances that render strict compliance to the deadline an undue hardship. Property Owners are encouraged to provide evidence of such hardship. This letter and evidence will be provided to the Planning Commission. I am requesting an extension for 3 year(s). LEO

3. **Time Extension Fee** (Director: $723) (Planning Commission: $2,600) or currently adopted fee _____

ATTACHMENT 2

4. **Property Owner's /Occupant's Information**

Name: Leo E. Orr and Marian A. Orr

Property Owner's mailing Address: [redacted]

Property Owner's telephone: [redacted]

Property Owner's email address: [redacted]

5. **Proof of Ownership / Authorized Representatives**

If grant deed or title report is held by an LLC or Trust, submit Operating Agreement for LLC or Trust Documents for Trusts to identify authorized representatives

6. **Applicant's Information**

If an applicant is submitting this form on behalf of the property owner, the Authorization to Submit a Project must be filled out and returned with this form.

Name: Leo E. Orr

Applicant's mailing address: [redacted]

Applicant's telephone: [redacted]

Applicant's email address: [redacted]

7. **Acknowledgements**

MMC Section 17.60.020(A) states "Any structure which was lawfully erected and which does not conform to the current design and development standards or lot development criteria of this title may be continuously maintained and shall be treated in all respects as though in full compliance with this title."

Pursuant to MMC Section 17.60.020(C), any structure described in subsection Section 17.60.020 (A), may be remodeled, or may be reconstructed in the general location and to the same height as it existed prior to damage or destruction, subject to obtaining planning verification and provided that the application for the reconstruction is initiated with the city within six years of the date of damage or destruction, and a building permit is diligently pursued and obtained within eight years from the date of damage or destruction and has not expired. A request for an extension of time to the six-year or eight-year periods may be granted by the Planning Commission where it finds, based on substantial evidence, that due to unusual circumstances, strict compliance with the six- or eight-year limit creates an undue hardship. **Extensions for building permits may not total more than three years for a maximum total of eleven years from the date of the disaster**. Any reconstruction shall extend the termination date described in Section 17.60.040 for the use operating within such a structure.

I hereby certify that I am presently the legal owner of the above-described property and have read MMC Sections 17.60.020(A) and (C).

PROPERTY OWNER SIGNATURE	Leo E. Orr PROPERTY OWNER NAME (PRINT)	09/10/2026 DATE
PROPERTY OWNER SIGNATURE	Marian A. Orr PROPERTY OWNER NAME (PRINT)	09/10/2026 DATE

I hereby certify that the time extension request submittal contains all of the above items. I understand that if any of the items are missing or subsequently deficient, the time extension shall be deemed to have been withdrawn and the request is invalid. I acknowledge that the City strongly encourages me to immediately calendar the expiration date of this permit, that it is my responsibility to monitor its status and that the City has no ability to provide relief when a permit has expired.

PROPERTY OWNER SIGNATURE	Leo E. Orr PROPERTY OWNER NAME (PRINT)	09/10/2026 DATE
PROPERTY OWNER SIGNATURE	Marian A. Orr PROPERTY OWNER NAME (PRINT)	09/10/2026 DATE

8. Indemnification Clause

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

PROPERTY OWNER SIGNATURE	Leo E. Orr PROPERTY OWNER NAME (PRINT)	09/10/2026 DATE
PROPERTY OWNER SIGNATURE	Marian A. Orr PROPERTY OWNER NAME (PRINT)	09/10/2026 DATE

Note: November 8, 2024 was the deadline to submit a time extension request to submit a <u>Planning Verification</u> for non-conforming structures damaged or destroyed in the Woolsey Fire. No request to extend the deadline to submit a Planning Verification can be accepted at this time.

AUTHORIZATION TO SUBMIT A PROJECT

Leo E. Orr (print name) is authorized by me/us as the owner(s) of the property located at 29842 Cuthbert Rd, to submit an application to and obtain permits from the City of Malibu Planning Division and to act on my/our behalf of the process that applicant. This authorization will be valid until revoked by me/us in writing.

This form must be notarized if not witnessed by City of Malibu staff.

PROPERTY OWNER SIGNATURE	Leo E. Orr PROPERTY OWNER NAME (PRINT)	09/10/2026 DATE
Marian A. Orr PROPERTY OWNER SIGNATURE	Marian A. Orr PROPERTY OWNER NAME (PRINT)	09/10/2026 DATE

Witnessed by:

Dated: _____

_____
Witness Signature (Staff)

_____
Print Name

Leo E. Orr
Marian A. Orr
[redacted]

September 10, 2026

Planning Administration, Malibu City
Malibu, CA 90265
Email: planningadmin@malibucity.org

Re: attached Woolsey Fire Rebuild Permit Time Extension Request for 29842 Cuthbert Rd.

We are requesting a three-year Fire rebuilding permit time extension to due unforeseen hardship events developing in 2025 and extending into 2026.

The assigned architect contracted several years ago became ill in 2025 and subsequently became inexorably incapacitated this year. Her permanent unavailability was only realized late this past spring. As such, she was unable to push the project forward expeditiously. In addition, one of the applicants, Leo Orr suffered a serious injury early this summer and has only recently recovered sufficiently to perform. We are in the process of hiring a suitable replacement architect to continue the rebuilding process.

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Leo E. Orr

Marian A. Orr

ORDINANCE NO. 524

AN ORDINANCE OF THE CITY OF MALIBU APPROVING LOCAL COASTAL PROGRAM AMENDMENT 25-001, AN AMENDMENT TO THE LOCAL COASTAL PROGRAM AND ZONING TEXT AMENDMENT NO. 25-001, AN AMENDMENT TO TITLE 17 (ZONING) OF THE MALIBU MUNICIPAL CODE UPDATING REGULATIONS TO FACILITATE THE REBUILDING OF STRUCTURES DAMAGED OR DESTROYED BY NATURAL DISASTERS, INCLUDING BUT NOT LIMITED TO, THE 2025 PALISADES FIRE, 2024 FRANKLIN FIRE, AND 2024 BROAD FIRE TO PROVIDE RELIEF FOR THOSE AFFECTED, AND FINDING THE AMENDMENTS ARE EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

The City Council of the City of Malibu does ordain as follows:

SECTION 1. Recitals.

A. On November 6, 2024, the Broad Fire began and destroyed structures on at least 4 properties in Malibu leaving residents with an urgent need to rebuild.

B. On December 9, 2024, the Franklin Fire destroyed structures on at least 38 properties in Malibu leaving residents with an urgent need to rebuild.

C. On January 7, 2025, the Palisades Fire destroyed structures on over 700 properties in Malibu leaving residents with an urgent need to rebuild. The Governor of California has declared the event a State of Emergency and the President of the United States has declared the event a Federal Emergency.

D. On January 27, 2025, the City Council adopted Resolution No. 25-06 to: 1) initiate a Local Coastal Program (LCP) amendment and zoning text amendment to consider changes to the Malibu LCP and Title 17 (Zoning) of the Malibu Municipal Code (MMC) to facilitate the rebuilding of structures damaged or destroyed by the 2025 Palisades Fire, 2024 Franklin Fire, and 2024 Broad Fire and provide relief for those affected by the fires; 2) Bypass the Zoning Ordinance Revisions and Code Enforcement Subcommittee and directed the Planning Commission to schedule a public hearing regarding the same.

E. On January 30, 2025, 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.

F. On February 6, 2025, a Notice of Planning Commission Public Hearing was republished in a newspaper of general circulation within the City of Malibu as a courtesy.

G. On February 13, 2025, Governor Newsom issued Executive Order N-20-25, which suspended requirements of the California Environmental Quality Act and California Coastal Act for Palisades Fire rebuilds and related issues.

H. On February 13, 2025, a Notice of Availability of Local Coastal Program Amendment (LCPA) Documents and a Notice of City Council Public Hearings for both the March 4, 2025 and March 10, 2025 meetings were published in a newspaper of general circulation within the City of Malibu and mailed to interested parties.

I. On February 20, 2025, the Planning Commission held a duly noticed public hearing on the proposed rebuild amendments on LCPA 25-001 and ZTA No.25-001, reviewed and considered the agenda report, reviewed and considered written reports, public testimony, and other information on the record.

J. On March 4, 2025, the City Council held a meeting which included a public workshop on the proposed rebuild amendments LCPA 25-001 and ZTA No. 25-001, reviewed and considered the agenda report, reviewed and considered written reports, public testimony, and other information in the record. The City Council completed the public workshop and adjourned the public hearing to March 5, 2025.

K. On March 5, 2025, the City Council held a duly noticed public hearing on the proposed rebuild amendments LCPA 25-001 and ZTA No. 25-001, reviewed and considered the agenda report, reviewed and considered written reports, public testimony, and other information in the record. The meeting was adjourned to March 6, 2025.

L. On March 6, 2025, the City Council continued the public hearing on the proposed rebuild amendments LCPA 25-001 and ZTA No. 25-001, reviewed and considered the agenda report, reviewed and considered written reports, public testimony, and other information in the record. The City Council approved on first reading Ordinance No. 524, approving LCPA 25-001 and ZTA No. 25-001 as recommended by staff with the additional changes presented at the March 6, 2025 meeting. The City Council adopted Urgency Ordinance No. 524U for the Malibu Municipal Code amendments to go into effect immediately.

M. On March 10, 2025, the City Council continued the public hearing for the second reading to March 12, 2025.

N. On March 12, 2025, the City Council held a duly noticed public hearing on the proposed rebuild amendments LCPA 25-001 and ZTA No. 25-001, reviewed and considered the agenda report, reviewed and considered written reports, public testimony, and other information in the record. The City Council approved on second reading Ordinance No. 524, approving LCPA 25-001 and ZTA No. 25-001.

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 LCPA 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.

Pursuant to CEQA Guidelines Section 15061(b)(3), where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. The Planning Commission determined that there is no possibility the amendment will have a significant effect on the environment and accordingly, the exemption set forth in Section 15061(b)(3) applies. The amendments to the MMC that are not corollary to the LCP can be seen not to have a significant effect on the environment as they merely create permit and fine requirements and allow structures that existed previously to be rebuilt in the same location with substantially the same purpose and capacity as the structure that would be replaced, while also further protecting coastal resources and hazard protections.

SECTION 3. Local Coastal Program Findings.

Based on evidence contained within the record, including the agenda reports for and the hearings on February 20 and March 4, 2025, the City Council 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 rebuild projects that were destroyed in natural disaster and relief for those affected, ensure that development standards are in place to facilitate people getting their properties back to where they were before the natural disaster while also incorporating measures that will further enhance and protect coastal resources. Development standards were carefully crafted to meet the goals of the of the LCP.

B. As a part of the LIP, the updated development standards specific to rebuild projects that were destroyed in natural disaster and providing relief for those affected 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 rebuild structures to avoid coastal accessways, be sited the most landward feasible and the installation of structures that will protect the coastal resources from contamination greater than current.

SECTION 4. Zoning Text Amendment Findings.

Pursuant to Malibu Municipal Code Section 17.74.040, the City Council hereby makes the following findings:

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 City Council 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. Local Coastal Program Amendment No. 25-001, Amendments to the Local Implementation Plan (LIP).

The City Council hereby amends the LIP as follows:

A. Amend Section 2.1 related to LIP definitions to include the following:

SECONDARY DEVELOPMENT PAD - a building pad, disturbed area, or development area that is not connected to a primary development pad other than by a driveway or walkway.

PRIMARY DEVELOPMENT PAD - the main building pad, disturbed area, or development area which supported the primary building in which the principal use of the lot was situated or conducted, as distinguished from a secondary building pad or development area that is not attached to the main building pad or development area, for purposes of properties that were damaged or destroyed by a natural disaster. For beachfront lots, decks that were attached to the primary building shall be included in the primary development pad if replaced with another deck in the same footprint.

B. Amend Section 3.6(M)(1) related to residential development standards for temporary homes, to read as follows:

1. No more than two temporary housing structures which together total no more than one thousand (1,000) square feet shall be permitted.

C. Amend LIP Section 13.4.6(A) and (B), and add Section 13.4.6(A)(4) related to coastal development permit exemptions, to read as follows:

A. The replacement of any structure, other than a public works facility, destroyed by a disaster provided that the replacement structure meets all the of the following criteria:

1. It is for the same use as the destroyed structure;
2. It does not exceed either the floor area, height, or bulk of the destroyed structure by more than ten (10) percent, and

3. It is sited in substantially the same location on the affected property as the destroyed structure.

As used in this section, "structure" includes landscaping and any erosion control structure or device which is similar to that which existed prior to the occurrence of the disaster.

4. Mechanized equipment or temporary shoring on the beach necessary to construct the replacement structure is allowed under this exemption for beachfront properties only if there are no feasible alternatives and construction activities do not enter the intertidal zone or extend beyond the previously existing primary development pad and appropriate Best Management Practices are used.

B. An onsite wastewater treatment system (OWTS) that was damaged or destroyed by a natural disaster may be replaced and improved provided that the replacement OWTS is located within the existing primary development pad and is the minimum standard size necessary to meet the building code for the existing or replacement structure it serves. If the new OWTS exceeds the minimum standard size or is located outside the primary development pad, then a De Minimis Waiver or OWTS Coastal Development Permit shall be required as applicable by Sections 13.4.11 and 13.29 respectively. For OWTS replacements on or adjacent to a sandy beach or coastal bluff, the OWTS shall be sited in the most landward location feasible and may not extend further seaward than the existing and/or previously existing seawall, whichever is more landward.

D. Amend LIP Section 13.4.11(A) and (A)(1) and (2), and add subsections (3), (4), (5), and (6); Amend 13.4.11(B)(1),(2), (3), and (5); Amend 13.4.11(C)(2) and(3); and amend 13.4.11(D), related to general requirements for de minimis waiver, to read as follows:

13.4.11 General Requirements for De Minimis Waiver

A. General Requirements for De Minimis Waiver.

The requirement for a coastal development permit may be waived through a De Minimis Coastal Development Permit Waiver issued by the planning director for the items listed below where the improvements are not otherwise exempt pursuant to Section 13.4, provided all the requirements of subsections B and C are met. The planning director's decision on whether to issue a de minimis waiver is not locally appealable; however if the development is within the appealable jurisdiction of the California Coastal Commission, the decision of the planning director is appealable to the Coastal Commission as described below in subsection (C).

1. Improvements to an onsite wastewater treatment system (OWTS) serving a structure that replaces one that was damaged or destroyed as a result of a natural disaster, where the improvements involve installing a new system or upgrading an

existing system to an advanced system on the same lot and does not meet the exemption criteria of Section 13.4.6(B).

2. Minor improvements to existing driveways or access roads that are required by the fire department after a natural disaster, such as minor changes to the width or grade of driveways or access roads. This includes accessory structures, such as retaining walls, necessary to accommodate the driveway or access road improvement, including new cuts on slopes steeper than 3:1 but less than 1:1, subject to geotechnical feasibility review. Retaining walls shall not exceed six (6) feet in height. New retaining walls that replace an existing wall being removed as a result of the driveway widening are allowed to be replaced to the same height of previous wall and may increase in height by a maximum of three (3) additional feet but shall not have a total height in excess of nine (9) feet. Access improvements that do not meet the findings for a waiver may be processed as an administrative coastal development permit (ACDP) under Section 13.13.1(A) or as a regular coastal development permit.
3. Replacement seawalls that exceed ten (10) percent in height. The replacement seawall shall be sited in the same footprint as the previous seawall and shall not expand further seaward nor shall it extend further into an existing public access easement, deed restriction or view corridor.
4. Increases in the previous finished floor elevation for structures that replace one that was damaged or destroyed as result of a natural disaster, where the previous finished floor elevation must be raised to a higher elevation to meet Federal Emergency Management Agency (FEMA) flood zone requirements as determined by the City's floodplain administrator. Such increase shall not exceed the increase in elevation to the finished floor required to meet the minimum FEMA flood zone requirements. The height of the structure from the finished floor to the roof may remain the same as existed for the prior structure even if the prior structure was nonconforming in height. No additional height shall be allowed for the replacement structure if it has a nonconforming height. A conforming structure shall not be granted an additional height increase if it creates a nonconforming height.
5. Replacement structures that would otherwise be exempt from the requirement to obtain a coastal development permit pursuant to Section 13.4.6(A) but are proposed to be sited not in substantially the same location where the damaged or destroyed structure was located so long as the new location is substantially superior after considering the impact of the relocation on ESHA, visual resources, and safety; with safety being the primary consideration. This waiver may include retaining walls and grading necessary for the construction of the relocated structure, but cuts may not be made into slopes steeper than 1:1 and retaining walls shall not exceed six feet in height for any one wall, nor twelve (12) feet for any combination of walls (including required freeboard), and which shall be separated by at least three feet.
6. Water tanks and other water storage devices necessary to construct, install, or use a replacement structure that was damaged or destroyed by a natural disaster and as required or recommended by applicable federal, state and local laws and regulations. New shoreline protection devices are not included under this waiver.

B. Findings for and Reporting of De Minimis Waivers.

All decisions on de minimis waivers shall be accompanied by written findings:

1. That the structures or improvements have no potential for adverse effects, either individually or cumulatively, on coastal resources or public access to the shoreline or along the coast.
2. That the structures or improvements are consistent with the certified Malibu Local Coastal Program, including the resource protection policies, as applicable.
3. If an OWTS is to be relocated on the lot, that the director, in consultation with the environmental health administrator, has determined the relocation is necessary to better protect coastal resources and if on a beachfront lot, is no further seaward than the existing OWTS or no further seaward than the previously existing seawall, whichever is further landward.
4. If driveway/road improvements are proposed, that: (a) they are in the same general alignment as the existing road; (b) they are not located in environmentally sensitive habitat area (ESHA); (c) they do not remove or encroach within the protected zone of native trees; and (d) they do not adversely impact visual resources.
5. For relocation pursuant to Section 13.4.11(A)(5), that the new location is substantially superior after considering the impact of the relocation on ESHA, visual resources, and primarily safety.

C. Reporting De Minimis Waiver.

1. At the time the application is submitted for filing, the applicant must post, at a conspicuous place as close to the site as possible that is easily accessible by the public and approved by the city, notice, on a form approved by the city, that an application for a de minimis waiver has been submitted to the city. Such notice shall contain a general description of the nature of the proposed development.
2. The planning director shall issue a notice of determination on the application which shall be reported to the planning commission. The notice of determination shall be provided to all known interested parties, including the executive director of the coastal commission, at least ten (10) days prior to the waiver determination being reported to the planning commission. For development within the appealable jurisdiction of the California Commission, the planning director's decision may be appealed by an aggrieved person directly to the California Coastal Commission within ten (10) working days of issuance of the notice of determination only if the development is one of the four types of development listed in the definition of Appealable Coastal Development Permit.
3. If, after consideration of the waiver and any public objections to it, the planning commission requests that the waiver not be effective, then the applicant shall be advised that a Coastal development permit is required for the structures or improvements. Otherwise, the waiver is effective immediately after the planning commission meeting where the matter is heard.

D. Waiver Expiration.

A de minimis waiver shall expire and be of no further force and effect if the authorized structures or improvements are not commenced pursuant to a valid grading and/or building permit, as applicable, within five years of the effective date of the waiver. If expired, a coastal development permit or another waiver shall be required.

SECTION 6. Zoning Text Amendment No. 25-001, Amendments to the Malibu Municipal Code (MMC).

The City Council hereby amends Title 17 - Zoning in the MMC as follows:

A. Amend Section 17.02.060 related to definitions to include the following:

"Secondary development pad" means a building pad, disturbed area, or development area that is not connected to a primary development pad other than by a driveway or walkway.

"Primary development pad" means the main building pad, disturbed area, or development area which supported the primary building in which the principal use of the lot was situated or conducted, as distinguished from a secondary building pad or development area that is not attached to the main building pad or development area, for purposes of properties that were damaged or destroyed by a natural disaster. For beachfront lots, decks that were attached to the primary building shall be included in the primary development pad if replaced with another deck in the same footprint.

B. Amend Section 17.40.040(A)(18)(a) and (g) and add subsections (i), (j), and (k) to read as follows:

18. Temporary Housing. Temporary housing structures as used herein means mobilehomes, trailers, recreational vehicles or other structures which are self-contained units which include sanitary facilities, and facilities for normal daily routines including cooking and sleeping. Temporary housing structures do not include any structure placed upon a permanent foundation, nor do they include tents, yurts, or similar fabric or textile installations. Temporary housing structures used as a residence during reconstruction or in anticipation of reconstruction of a residence destroyed due to natural disaster shall be permitted with a temporary housing permit approved by the Planning Director and shall comply with the following conditions:

a. No more than two temporary housing structures which together total no more than 1,000 square feet shall be permitted.

g. Upon expiration of the temporary housing permit, the property owner shall obtain verification from the city that all temporary housing structures have been removed

from the property. Failure to obtain this verification shall result in a fine of $1,000 per day until the verification is obtained.

i. The temporary housing structures shall be occupied only by the property owner(s) or tenant(s) living on the property at the date of the natural disaster, or their families. Should this requirement be violated, the temporary housing structures must be immediately removed, the property will no longer be eligible to place temporary housing on the property for a period of 5 years, and the owner shall be subject to a fine of $1,000 per day. Liens may also be imposed on the property by the City as a means of compliance.

j. The siting of temporary housing shall be supported by a limited geotechnical report prepared by appropriately licensed professionals which evaluates the location of the proposed temporary housing with respect to geologic and flood hazards that the specific location(s) may be exposed to during the proposed four-year use of the location. Specifically, the threat of post-fire debris flows and floods as described by the United States Geological Survey and identified by the Watershed Emergency Response Team Assessments. A finding is required that the specific location of the temporary housing is safe for its intended use for the duration of use. The report must be submitted to the City for review and accepted by the Building Official.

k. If the temporary housing is supported on anything other than wheels or a trailer which can be readily moved (i.e. a manufactured home), it shall comply with requirements for foundations as noted in Chapter 16, 18 and Appendix G – Flood proof Construction of the current California Building Code and requires a building permit from the City. Temporary housing supported on wheels shall be fastened to the ground.

C. Amend Section 17.44.090(A)(1), to read as follows:

1. The maximum square footage of an ADU shall be 1,000 square feet. The maximum square footage shall include interior and exterior walls, finished and unfinished 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 1,000 square foot limit.

D. Amend Section 17.45.150(B), to read as follows:

B. Prohibition. All properties within a disaster area are temporarily prohibited from obtaining a new or updated primary view determination unless: (1) the request was submitted prior to the date the natural disaster began as declared or proclaimed by the City, State or Federal government, or as determined by the Planning Director if no declaration or proclamation has been made; or (2) the primary view determination would not impose any limitation on replacement landscaping or replacement structures.

E. Amend Section 17.53.090(C)(1)(a),(b), (c), (e), and (f) and add subsections (h), (i), and (j); and amend Section 17.53.090(C)(2), to read as follows:

a. Palm trees and eucalyptus trees are prohibited.
b. All vegetation is prohibited between zero and five feet from a structure.
c. The following species are prohibited within 50 feet of structures: Pine (Pinus species), Cypress (Cupressus species), Cedar (Cedrus species), Ficus (Ficus species), and Tree of Heaven (Ailanthus altissima).

e. Existing eucalyptus trees are allowed between five feet and 50 feet of a structure if a qualified expert, as determined by the director, identifies the tree(s) as a monarch butterfly habitat.
f. The distances for trees and shrubs subject to (b) through (e) shall be measured from the dripline of the tree or shrub at its projected maturity to the outermost projection of the structure including eaves and overhangs. No tree canopy shall be within five feet of the outermost projection of the structure including eaves and overhangs at projected maturity. Smaller diameter tree branches less than two inches must be removed within five feet of the outermost projection of the structure including eaves and overhangs and within 10 feet above the roof.

h. Only efficiently-irrigated plants and trees as allowed by this chapter shall be allowed between five feet and 30 feet of a structure.
i. Irrigation shall be required and maintained on the site in all planting areas between five feet and 100 feet of a structure, except in geologic hazard areas in which irrigation may not be allowed. Any proposed irrigation shall be reviewed by the project geotechnical consultant and conform to existing surficial stability standards, not contribute to any geologic hazard, and not adversely affect offsite properties. The consultant shall include a statement regarding the impact of the proposed irrigation system in the required Section 111 statement. The city shall review analyses and findings provided by the project geotechnical consultant and determine whether irrigation is allowed or required in geologic hazard areas. All vegetation within 100 feet of a structure shall maintain sufficient moisture content and be supported by appropriately designed irrigation.
j. Plants listed in the City of Malibu 'Invasive Species List' are prohibited.

2. Mulch material proposed between zero and five feet from a structure must consist of nonflammable materials, such as gravel and decomposed granite. Flammable mulch material, including shredded bark, pine needles, and artificial turf, are prohibited between zero and five feet of a structure. Use of wood chips and shredded rubber is prohibited anywhere on the site. Non-continuous use of flammable mulch (excluding wood chips and shredded rubber) is allowed between five feet and 30 feet from a structure. Non-continuous mulched areas shall be separated with non-flammable materials such as gravel, rocks, decomposed granite, or stone. The distance shall be measured from the outermost projection of the

structure including eaves and overhangs. The maximum application area of mulch located between five feet and 30 feet from a structure is 20 feet by 20 feet with a five-foot separation between application areas. Any mulch materials (excluding wood chips and shredded rubber), are allowed 30 feet or more from a structure with no limitation on application area. Organic mulch shall be maintained with at least a 3 inch depth but must not exceed 6 inches in depth.

F. Amend Section 17.60.020(C) and add subsection (C)(1), to read as follows:

C. Any structure, including any structure that was damaged or destroyed by a natural disaster, described in subsection A of this section, may be remodeled, or may be reconstructed in the general location and to the same height as it existed prior to damage or destruction, subject to obtaining planning verification. Structures that were damaged or destroyed by a natural disaster may be permitted, at the discretion of the planning director through approval of a planning verification, to increase the square footage, height or bulk permitted by this title by 10 percent of the existing or previously existing square footage, height or bulk of the structure. Increased height or bulk on non-beachfront properties shall not exceed 18 feet, unless a site plan review is obtained, and increased square footage shall not exceed the limits of Section 17.40.040(A)(13). The application for the reconstruction must be initiated with the city within six years of the date of damage or destruction, and a building permit must be diligently pursued and obtained within eight years from the date of damage or destruction and not become expired. A request for an extension of time past the six-year or eight-year periods may be granted by the planning commission where it finds, based on substantial evidence, that due to unusual circumstances, strict compliance with the six- or eight-year limit creates an undue hardship. Extensions for applications may not total more than three years for a maximum total of nine years from the date of the disaster. Extensions for building permits may not total more than three years for a maximum total of eleven years from the date of the disaster. Any reconstruction shall extend the termination date described in Section 17.60.040 for the use operating within such a structure.

1. Replacement structures on beachfront lots are allowed to meet the minimum increases necessary to meet Federal Emergency Management Agency (FEMA) requirements but shall, to the maximum extent feasible, protect neighboring ocean views. Replacement structures shall seek increases in square footage laterally before they are allowed to increase vertically as viewed by neighboring properties. The height of the structure from the finished floor to the roof may remain the same as existed for the prior structure even if the prior structure was nonconforming in height. No additional height shall be allowed for the replacement structure if it has a nonconforming height. A conforming structure shall not be granted an additional height increase if it creates a nonconforming height.

G. Delete Section 17.60.020(F).

H. Amend Section 17.62.030(A), to read as follows:

A. An administrative plan review shall be required for the following development projects, unless they fall under the provisions for a rebuild development permit as provided in Section 17.62.080. If the project meets the requirements of this title and is consistent with Chapter 17.40, the planning manager/ director shall issue a development permit.

I. Amend Section 17.62.040(A) and (A)(10); and add subsection (A)(13) and (C)(1), to read as follows:

A. The planning manager/director may approve a site plan review after consultation with all appropriate city staff and specialists including the building official, city engineer, city biologist, city geologist, city archeologist and city coastal engineer; and where substantial evidence supports the findings set forth in subsection D of this section for new construction or reconstruction of structures authorizing the following:

10. Sea walls, bulkheads, or any other shoreline protective devices, except for those that meet the requirements for a De Minimis Waiver listed in LIP Section 13.4.11 or rebuild development permit listed in Section 17.62.080 as required;

13. Non-beachfront development over 18 feet in height on a replacement structure where the previously existing structure was damaged or destroyed by a natural disaster and the replacement structure is not sited substantially in the same location on the affected property as the damaged or destroyed structure, so long as the new location is substantially superior after considering the impact of the relocation on ESHA, visual resources, and safety; with safety being the primary consideration.

C. Notice of Application Filing. Within 10 calendar days from the receipt date of a complete application, the planning manager/director shall notify in writing of the filing of the application to property owners and residents of all property within a 500 foot radius of the proposed project, but in no event fewer than the owners and occupants of 10 developed properties. Notwithstanding the foregoing, for property in the RR-10 and RR-20 zones the notice radius shall be 1,000 feet. The purpose of the notice is to inform the surrounding property owners and residents of the filing of the application and provide an opportunity for comment on the application prior to the planning manager/director's decision. The notice shall describe the request, provide a map showing the specific location of the property, describe the review process and timeframes, and indicate how to contact the case planner assigned to the application.

1. For development over 18 feet in height where the replacement structure is not proposed to be sited in substantially the same location on the affected property as the damaged or destroyed structure, a notice of application shall be provided to all properties within a 1,000 foot radius of the development.

J. Add Section 17.62.080. Rebuild development permit, to read as follows:

§ 17.62.080. Rebuild development permit.

A. A rebuild development permit shall be required for the following development projects related to structures being replaced after being damaged or destroyed in a natural disaster. It shall be issued by planning manager/director upon demonstrating by a preponderance of the evidence that all requirements of the municipal code are met, as applicable.

1. Mechanized equipment or temporary shoring on the beach necessary to construct beachfront properties so long as construction activities do not enter the intertidal zone and in no case shall extend beyond the previously existing primary development pad.

2. An onsite wastewater treatment system (OWTS) that replaces or improves an OWTS serving a structure that that was damaged or destroyed by a natural disaster.

a. OWTS replacements on a sandy beach or coastal bluff shall be sited the most landward feasible as determined by appropriate city staff, shall not impact existing public accessways, and shall not extend seaward of the previously existing primary development pad.

b. OWTS replacements shall be located in the least environmentally impactful area.

3. New seawalls, as determined necessary by the planning director or building official to protect coastal resources, that protect an OWTS serving a structure that was damaged or destroyed by a natural disaster. New seawalls shall be sited only at the boundary of OWTS that it protects. New seawalls shall not extend into any existing public access easements or public access deed restrictions, excluding any such easements or deed restrictions on the seaward side of the OWTS it protects, and shall not expand further into previously approved public view corridors or further into open space deed restrictions.

4. Any new structure or improvement (including, but not limited to, foundation systems, utilities, driveways, water tanks, and other water storage devices) that is necessary or recommended to construct, install, or use the replacement structure described in subsection (A) in compliance with all applicable state and local laws and regulations.

5. Minor improvements to existing driveways or access roads that are required by the fire department after a natural disaster, such as minor changes to the width or grade of driveways or access roads. Accessory structures, such as retaining walls, necessary to accommodate the driveway or access road improvement shall also be allowed, including new cuts on slopes steeper than 3:1 but shall not exceed 1:1 or steeper. Retaining walls shall not exceed six feet in height for any one wall, nor twelve (12) feet for any combination of walls (including required freeboard), and which shall be separated by at least three feet. Improvements shall not extend into a public access easement or public access deed restriction and shall not expand further into a previously approved public view corridor (except for on-grade driveways), or further into open space deed restrictions. Access improvements that

do not meet the requirements of this subsection may be processed as an administrative coastal development permit or as a regular coastal development permit as listed in the Malibu LIP.

B. Application Submittal. An application shall be filed with the planning division and may be part of the planning verification application for replacement structures that were damaged or destroyed by a natural disaster. Applications shall be complete only after all required information is submitted; review by all appropriate city staff and specialists including review by the building official, city engineer, city biologist, city geologist, city archeologist, city coastal engineer and city environmental health specialist, as deemed necessary, is complete; and the application fee determined by resolution of the city council is paid.

C. Action. The planning manager/director shall approve, deny, or approve with conditions a rebuild development permit within 15 calendar days from the date of a complete application. Complete application determinations shall be determined solely by the City. The City may include incomplete/or nonconforming plans as a basis for an incomplete application in addition to standard application requirements. No decision shall be subject to invalidation on the grounds that it is made after the deadline. The applicant shall be informed of the action by letter and/or approved plans. Action of the planning manager/director shall be final and not appealable.

D. Expiration. An approved rebuild development permit shall expire three years from the date of final approval, unless a time extension has been granted, or work has commenced and substantial progress made (as determined by the building official) and the work is continuing under a valid building permit. If no building permit is required, the rebuild development permit approval shall expire after three years from the date of final planning approval if construction is not completed. If a rebuild development permit is included within a planning verification application pursuant to Section 17.60.020(C), then the rebuild development permit shall expire when the planning verification expires.

E. Extension. The planning manager/director may grant up to four one-year extensions of the expiration of a rebuild development permit approval, if the planning manager/director finds, Based on substantial evidence, that due to unusual circumstances, strict compliance with the expiration date of the permit would create an undue hardship for the applicant.

SECTION 7. Effective Date.

The LCPA sections referenced in Section 5 of this Ordinance shall become effective upon certification by the California Coastal Commission. The ZTA sections referenced in Section 6 of this ordinance shall become effective 30 days following adoption by the City Council.

SECTION 8. Severability.

Should any section, subsection, clause, or provision of this Ordinance for any reason be held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality or the remaining portions of this Ordinance; it being hereby expressly declared and this Ordinance, and each section, subsection, sentence, clause, and phrase hereof would have been prepared, proposed, approved, and ratified irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phases be declared invalid or unconstitutional.

SECTION 9. Certification.

The City Clerk shall certify to the passage and adoption of this Ordinance.

PASSED, APPROVED, and ADOPTED this 12th day of March 2025.

MARIANNE RIGGINS, Mayor Pro-Tem

ATTEST:

CHRISTINA MUNOZ, Deputy City Clerk
for KELSEY PETTIJOHN, City Clerk
(seal) 3/12/2025

APPROVED AS TO FORM:

KELLAN MARTZ, Assistant City Attorney
for TREVOR RUSIN, Interim City Attorney

I CERTIFY THAT THE FOREGOING ORDINANCE NO. 524 was passed and adopted at the Adjourned Regular City Council meeting of March 12, 2025, by the following vote:

AYES:	3	Councilmembers:	Conrad, Uhring, Riggins
NOES:	0		
ABSTAIN:	1	Councilmembers:	Silverstein
ABSENT:	1	Councilmembers:	Stewart

CHRISTINA MUÑOZ, Deputy City Clerk
for KELSEY PETTIJOHN, City Clerk
(seal)