Commission Agenda Report

Planning Commission Meeting
11-02-26
Item 3.A.1.

To: Chair Kamins and Members of the Planning Commission

Prepared by: Michelle Santiago, Assistant Planner

Reviewed by: Didier Murillo, Principal Planner

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

Date prepared: October 22, 2026 Meeting date: November 2, 2026

Subject: Request for Determination of Use No. 26-002 – Smoke Shop in a Community Commercial Zoning District

Location: 22775 Pacific Coast Highway
APN: 4452-021-009
Owner: Carbon Plaza LLC
Tenant: Malibu Smoke Co.

RECOMMENDED ACTION: Adopt Planning Commission Resolution No. 26-47 determining that the California Environmental Quality Act (CEQA) does not apply to projects that a public agency rejects or disapproves, and denying Determination of Use (DU) No. 26-002, determining that a smoke shop is not similar to, and is more objectionable than, a liquor store use in the Community Commercial (CC) zoning district.

DISCUSSION: On October 5, 2026, the Planning Commission conducted a public hearing on the subject application. The staff report, supplemental report, and all attachments, including the project plans and department review sheets, are available online in the Agenda Center (https://www.malibucity.org/agendacenter). Following deliberation, the Commission directed staff to return with a resolution denying DU No. 26-002. The Commission's direction was primarily based on two grounds: 1) that a smoke shop is not similar to, and is more objectionable than a liquor store use because improper cigarette disposal has been connected with increased wildfire threats and the City of Malibu is entirely located within a Very High Fire Hazard Severity Zone; and 2) cigarettes are known as the number one pollutant of beaches. The denial would become final after the close of

a 10-day appeal period, or if appealed to the City Council, after the Council's decision, provided that the Council concurs with the Commission's decision.

ENVIRONMENTAL REVIEW: Pursuant to the authority and criteria contained in CEQA, the Planning Commission has analyzed the proposed project and finds that, pursuant to CEQA Guidelines Section 15270, CEQA does not apply to projects that a public agency rejects or disapproves. No further environmental review or determination under CEQA is required, and the Planning Commission makes no determination as to whether the project would otherwise qualify for a categorical exemption or whether any exception under CEQA Guidelines Section 15300.2 would apply.

SUMMARY: Staff prepared a resolution for adoption consistent with the Commission's action on October 5, 2026.

ATTACHMENT:

Planning Commission Resolution No. 26-47

CITY OF MALIBU PLANNING COMMISSION
RESOLUTION NO. 26-47

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MALIBU DETERMINING THAT CALIFORNIA ENVIRONMENTAL QUALITY ACT DOES NOT APPLY TO PROJECTS THAT A PUBLIC AGENCY REJECTS OR DISAPPROVES, AND DENYING DETERMINATION OF USE NO. 26-002 DETERMINING THAT A SMOKE SHOP IS NOT SIMILAR TO, AND IS MORE OBJECTIONABLE THAN, A LIQUOR STORE USE IN THE COMMUNITY COMMERCIAL ZONING DISTRICT

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

SECTION 1. Recitals.

A. On August 19, 2026, Malibu Smoke Co. submitted an application for Determination of Use (DU) No. 26-002 to the Community Development Department for a determination of use pursuant to Malibu Municipal Code (MMC) Section 17.04.050.

B. On August 25, 2026, staff deemed the application complete.

C. After reviewing the application, the Community Development Director referred the matter to the Planning Commission pursuant to MMC Section 17.04.050.

D. On September 10, 2026, a Notice of Planning Commission Public Hearing was mailed to all property owners and occupants within a 500-foot (ft.) radius of the subject parcel.

E. On October 5, 2026, the Planning Commission held a duly noticed public hearing on the subject application, reviewed and considered the staff report, reviewed and considered written reports, public testimony, and other information in the record. At the conclusion of the public hearing, the Commission voted 4-0, Commissioner Peak abstaining, to direct staff to return with a resolution determining that a smoke shop use is not similar to, and is more objectionable than, a liquor store use in the Community Commercial zoning district.

F. On November 2, 2026, Planning Commission Resolution No. 26-47 memorializing the decision made on October 5, 2026 and denying the subject application was presented to the Planning Commission for adoption.

SECTION 2. Environmental Review.

Pursuant to the authority and criteria contained in California Environmental Quality Act (CEQA), the Planning Commission has analyzed the proposed project and finds that, pursuant to CEQA Guidelines Section 15270, CEQA does not apply to projects that a public agency rejects or disapproved.

SECTION 3. Findings for Denial.

Based on the evidence contained within the record, including the agenda report for the project and the hearing on October 5, 2026, and pursuant to MMC Section 17.04.050, the Planning Commission

adopts the findings of fact and denies the following determination of use request for a parcel located in the CC zoning district at 22775 Pacific Coast Highway:

A. MMC Section 17.04.050 enables the City to determine a specific use is permitted in a zone even if the use is not expressly permitted, permitted subject to Director's review, or conditionally permitted (collectively "permitted") in a zone if it is not similar to and is more objectionable than a permitted or conditionally permitted use.

B. A smoke shop is not similar to, and is more objectionable than, a liquor store use, which is conditionally allowed in the CC zoning district. A smoke shop is not similar to and is more objectionable than a liquor store use because improper cigarette disposal has been connected with increased wildfire threats and the City of Malibu is entirely located within a Very High Fire Hazard Severity Zone, and cigarettes are known as the number one pollutant of beaches.

SECTION 4. Planning Commission Action.

Based on the foregoing findings and evidence contained within the record, the Planning Commission hereby denies DU No. 26-002.

SECTION 5. The Planning Commission shall certify the adoption of this Resolution.

PASSED, DENIED AND ADOPTED this 2nd day of November 2026.

MARNI KAMINS, Planning Commission Chair

ATTEST:

REBECCA EVANS, Recording Secretary

LOCAL APPEAL - Pursuant to Local Coastal Program Local Implementation Plan (LIP) Section 13.20.1 (Local Appeals) 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. 26-47 was passed and adopted by the Planning Commission of the City of Malibu at the regular meeting thereof held on the 2nd day of November 2026, by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

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REBECCA EVANS, Recording Secretary