



Council Agenda Report

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

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

Reviewed by: Richard Mollica, Planning Director

Approved by: Steve McClary, City Manager

Date prepared: November 28, 2023 Meeting date: December 11, 2023

Subject: An amendment to Title 17 (Zoning) of the Malibu Municipal Code (MMC) and the Local Coastal Program to Update Regulations Related to Accessory Dwelling Units (Continued from November 27, 2023)

RECOMMENDED ACTION: 1) Adopt Resolution No. 23-43 (Exhibit A) approving LCP Amendment (LCPA) No. 18-002, amendments to Chapter 3 (Marine and Land Resources) and Chapter 5 (New Development) of the Local Coastal Program (LCP) Land Use Plan pertaining to accessory dwelling units (ADU), and finding the amendments exempt from the California Environmental Quality Act (CEQA); 2) After the City Attorney reads the title of the ordinance, introduce on first reading Ordinance No. 510 (Exhibit B), approving LCPA No. 18-002, an amendment to the LCP to update ADU regulations, and Zoning Text Amendment (ZTA) No. 18-004, an amendment to Title 17 (Zoning) of the Malibu Municipal Code (MMC) related to definitions, guest homes and changing the term second units to accessory dwelling units (ADUs), and finding the amendments exempt from CEQA; 3) After the City Attorney reads the title of the ordinance, introduce on first reading Ordinance No. 511 (Exhibit C), approving ZTA No. 18-004 an amendment to Title 17 (Zoning) of the MMC to update ADU regulations and finding the amendments exempt from CEQA; 4) Direct staff to schedule second reading and adoption of Ordinance No. 510 and Ordinance No. 511 for the January 8, 2023 City Council Regular meeting.

DISCUSSION: On November 27, 2023, the City Council held a public hearing on the proposed ADU amendment (LCPA No. 18-002 and ZTA No. 18-004) and determined that additional time was needed to finish deliberations on the amendment and continued the item to December 11, 2023. Ordinance 510 (Exhibit B) has been updated to re-insert

sections 4 and 6 which were inadvertently removed from the last staff report. Recitals have been added to the resolution and ordinances reflecting the continuance to the December 11, 2023 meeting. No other changes were made to proposed amendment per City Council direction. The November 27, 2023 agenda report is attached for reference as well as the correspondence received for this meeting.

EXHIBITS:

- A. Resolution No. 23-43
- B. Ordinance No. 510
- C. Ordinance No. 511
- D. November 27, 2023 Item 4A City Council Agenda Report with exhibits
 - 1. Resolution No. 23-43
 - 2. Ordinance No. 510
 - 3. Ordinance No. 511
 - 4. LCP Amendment Redline
 - 5. ZTA Redline
 - 6. Street Access Exhibits
 - 7. Public Street Width Chart
 - 8. Public Hearing Notice
- E. Correspondence received for November 27, 2023 City Council meeting

RESOLUTION NO. 23-43

A RESOLUTION OF THE CITY OF MALIBU DETERMINING LOCAL COASTAL PROGRAM AMENDMENT NO. 18-002, AMENDMENTS TO CHAPTER 3 (MARINE AND LAND RESOURCES) AND CHAPTER 5 (NEW DEVELOPMENT) OF THE LOCAL COASTAL PROGRAM LAND USE PLAN PERTAINING TO ACCESSORY DWELLING UNITS, AND FINDING THE AMENDMENTS EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

The City Council 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 December 6, 2021, the Planning Commission continued the public hearing to the January 18, 2022 Regular Planning Commission meeting.

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

L. 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.

M. 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 would not be needed at this time if the City utilizes current second unit regulations in the ADU ordinance.

N. On March 6, 2023, the Planning Commission continued the public hearing to the March 14, 2023 Special Planning Commission meeting.

O. On March 14, 2023, the Planning Commission held a duly noticed public hearing on the proposed ADU ordinance (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 and recommended approval of the amendments with some modifications.

P. On August 3, 2023, a Notice of City Council 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.

Q. On August 28, 2023, before consideration of the item, the public hearing was continued to September 11, 2023.

R. On September 11, 2023, the City Council held a duly noticed public hearing on the proposed ADU ordinance (LCPA 18-002 and ZTA No.18-004), provided direction to staff, and continued the item to a date uncertain.

S. On October 19, 2023, a Notice of City Council Public Hearing was published in a newspaper of general circulation within the City of Malibu and mailed to interested parties.

T. On November 13, 2023, before consideration of the item, the public hearing was continued to November 27, 2023.

U. On November 27, 2023, the City Council held a duly noticed public hearing on the proposed ADU ordinance (LCPA 18-002 and ZTA No 18-004), and continued the item to the December 11, 2023 Regular City Council meeting.

V. On December 11, 2023, the City Council held a duly noticed public hearing on the proposed ADU ordinance (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 City Council 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 City Council 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 contained within the record, including the agenda reports for and the hearings on September 11, November 27, and December 11, 2023, 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 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. Local Coastal Program Amendment No. 18-002, Amendments to the Land Use Plan (LUP).

The City Council hereby amends the LUP as follows:

A. Policy 3.42(c) of LUP Chapter 3, is amended to read as follows. All other subsections of Policy 3.42 remain the same.

c. Limiting the maximum number of structures to one main residence, 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.

B. Paragraph 4 of A(2). Land Use Plan Provisions of LUP Chapter 5, is amended to read as follows. All other paragraphs remain the same.

The LUP policies address new residential development. The maximum number of structures allowed in a residential development is one main residence, one 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.

C. Policies 5.21, 5.22, 5.23, and 5.24 of LUP Chapter 5 are amended to read as follows:

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, 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 Accessory dwelling units shall be limited in size to a maximum of 1,200 square feet. 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. Garages that are part of an accessory dwelling unit or guest house, shall not exceed 400 square feet (two-car) maximum. The area of a garage provided as part of a guest house or accessory dwelling unit shall not be included in the 900 or 1,200 square foot limit, respectively.

5.23 One onsite enclosed or unenclosed parking space shall be required for the exclusive use of an accessory dwelling unit or guest house.

5.24 New development of an 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.

SECTION 5. Effective Date.

This Resolution shall become effective after certification by the California Coastal Commission.

SECTION 6. Severability.

Should any section, subsection, clause, or provision of this Resolution 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 Resolution; it being hereby expressly declared and this Resolution, 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 7. Certification.

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 11th day of December 2023.

STEVE UHRING, Mayor

ATTEST:

KELSEY PETTIJOHN, City Clerk
(seal)

APPROVED AS TO FORM:

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

TREVOR RUSIN, City Attorney

ORDINANCE NO. 510

AN ORDINANCE OF THE CITY OF MALIBU APPROVING LOCAL COASTAL PROGRAM AMENDMENT 18-002, AN AMENDMENT TO THE LOCAL COASTAL PROGRAM TO UPDATE ACCESSORY DWELLING UNIT REGULATIONS, AND ZONING TEXT AMENDMENT NO. 18-004, AN AMENDMENT TO TITLE 17 (ZONING) OF THE MALIBU MUNICIPAL CODE RELATED TO DEFINITIONS, GUEST HOMES AND CHANGING THE TERM SECOND UNITS TO ACCESSORY DWELLING UNITS, AND FINDING THE AMENDMENTS EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

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SECTION 2. Environmental Review.

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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 City Council 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 City Council 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 contained within the record, including the agenda reports for and the hearings on September 11, November 27, and December 11, 2023, 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 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 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. 18-002, Amendments to the Local Implementation Plan (LIP).

The City Council hereby amends the LIP as follows:

A. Add new definitions inserted in alphabetical order to LIP Section 2.1 (Definitions) to read as follows:

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.

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.

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).B. Amend the following definitions contained in LIP Section 2.1 (Definitions) to read as follows:

B. Amend “LIVING AREA and “MULTI-FAMILY RESIDENCE” definitions contained in LIP Section 2.1 (Definitions) to read as follows:

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

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

C. Delete “ KITCHEN” and “SECOND UNIT” definitions contained in LIP Section 2.1 (Definitions).

D. Amend LIP 3.3(Q)(2)(a), to read as follows:

a. Lot Nos. 1—5

i. One single-family residence per lot.

ii. Accessory uses guest house 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.

iv. Domestic animals, kept as pets.

v. Landscaping.

E. Amend LIP 3.3(Q)(4)(a)(vi), to read as follows

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) For a guest house see Section 3.6(N)(1)(d).
- c) For an accessory dwelling unit see Section 3.10.

F. Amend LIP 3.6(D) to read as follows:

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.

G. Amend LIP 3.6(K)(2) to read as follows:

2. Multistory or Single Floor Area, Structures Greater Than Eighteen (18) Feet in Height. Notwithstanding any other provision of this chapter, the total development square footage for a structure greater than eighteen (18) feet in height shall not be greater than permitted for single-story construction. The second floor area plus the area of vaulted ceilings above eighteen (18) feet in height shall not exceed two-thirds the first floor area, and shall be oriented so as to minimize view blockage from adjacent properties.

H. Amend LIP 3.6(N), to read as follows:

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. 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 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.

I. Add LIP Section 3.10 (Accessory Dwelling Units) to read as follow:

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. Minimum Street Width Requirement. Since the entire City is located within is located in a designated “Very High Fire Hazard Severity Zone” and consistent with Los Angeles County Fire Department requirements to ensure adequate ingress and egress for fire safety a minimum street width of 20 feet shall be required.

F. Coastal Development Permit required.

1. A coastal development permit issued in accordance with Section 13.13 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 that does not change the building envelope is not considered development and does not require a CDP. Unfinished basements or attics, rooms with floor to ceiling heights less than 6 feet, and garages would not be considered habitable space.
3. Detached ADUs on a multifamily zoned property shall require a CDP. An ADU located inside of a multifamily dwelling and ADUs attached to a multifamily dwelling is not allowed.

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

G. 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 shall 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.

H. 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. Size.

a. The minimum square footage of an ADU shall be 400 square feet and 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. For purposes of TDSF, the size of an ADU shall be consistent with 3.6(K). 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 1,200 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 16 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. 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 ADU, onsite replacement parking spaces shall be required that comply with the minimum number of spaces and dimensions stated in LIP 3.14.3.

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.

J. Amend LIP 13.4.1(A) to read as follows:

- 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 attached and detached accessory dwelling units.

K. Amend LIP 13.11(A) to read as follows:

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, or (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.

L. Amend LIP 13.11(B) to read as follows:

B. Any person may submit written comments to the Planning Director 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 who shall forward them to the appropriate person, commission, board or the Council and to the applicant.

M. Amend LIP Section 13.13.1 to read as follows:

A. The Planning Director 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, accessory 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.

N. Amend Appendix 1-LIP Table B (Permitted Uses) to make the following modifications within columns as indicated, together with an additional footnote. All other portions of Table B shall remain unaffected.

USE	RR	SF	MF	MFBF	MHR	CR	BPO	CN	CC	CV-1	CV-2	CG	OS	I	PRF	RVP
RESIDENTIAL																
Accessory dwelling units	A ²²	A ²²	A ²²	A ²²	.	.	.	.	.	.	.	.	.	.	.	.
Accessory uses (guest 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	.	.	.	.	.	.	.	.	.	.	.	.

Notes:

22. Subject to Accessory Development Standards (Section 3.10).

SECTION 6. Zoning Text Amendment No. 18-004, Amendments to the Malibu Municipal Code (MMC).

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

A. Add new definitions inserted in alphabetical order to 17.02.060 (Definitions) to read as follows:

“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

“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).

B. Amend “LIVING AREA” and “MULTI-FAMILY RESIDENCE” definitions contained in 17.02.060 (Definitions) to read as follows:

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

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

C. Delete “KITCHEN” and “SECOND UNIT” definitions contained in 17.02.060 (Definitions).

D. Amend Section 17.08.020(C)(1) to read as follows

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

E. Amend Section 17.08.020(F) to read as follows:

F. Accessory dwelling units in accordance with Chapter 17.44;

F. Amend Section 17.10.020(C)(1) to read 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 houses in accordance with Section 17.40.040(A)(21), and greenhouses (noncommercial),

G. Amend Section 17.10.020(E) to read as follows:

E. Accessory dwelling units in accordance with Chapter 17.44;

H. Amend Section 17.12.020(C)(1) to read 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 houses in accordance with Section 17.40.040(A)(21), and greenhouses (noncommercial),

I. Amend Section 17.12.020(E) to read as follows:

E. Accessory dwelling units in accordance with Chapter 17.44;

J. Amend Section 17.14.020(C)(1) to read 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 houses in accordance with Section 17.40.040(A)(21), and greenhouses (noncommercial),

K. Amend Section 17.14.020(E) to read as follows:

E. Accessory dwelling units in accordance with Chapter 17.44;

L. Amend Section 17.39.020(A) to read as follows:

A. Lot Nos. 1—5.

1. One single-family residence per lot.

2. Accessory uses (guest house 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.

M. Amend Section 17.39.040(A)(6) to read as follows:

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).

c. For an accessory dwelling unit see Chapter 17.44.

N. Add Section 17.40.040(21) to read as follows:

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.

O. Amend Section 17.45.030 (Q) to revise the following definition

Q. “Principal residence” and “principal residential structure” mean the primary residential structure located on a lot. Guest houses accessory dwelling units and junior accessory dwelling units are not principal residences or principal residential structures.

P. Amend Appendix 1 (Permitted Use Table) to make the following modifications within columns as indicated, together with an additional footnote. All other portions of the Permitted Use Table shall remain unaffected.

USE	RR	SF	MF	MFBF	MHR	CR	BPO	CN	CC	CV-1	CV-2	CG	OS	I	PRF	RVP
RESIDENTIAL																
Accessory dwelling units	A ³³	A ³³	A ³³	A ³³	.	.	.	.	.	.	.	.	.	.	.	.
Accessory uses (guest 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	.	.	.	.	.	.	.	.	.	.	.	.

Notes:

33. Subject to Accessory Development Standards (Chapter 17.44).

SECTION 7. Effective Date.

This Ordinance shall become effective upon certification by the California Coastal Commission.

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 _____ day of _____ 2024.

STEVE UHRING, Mayor

ATTEST:

KELSEY PETTIJOHN, City Clerk
(seal)

APPROVED AS TO FORM:

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

TREVOR RUSIN, City Attorney

ORDINANCE NO. 511

AN ORDINANCE OF THE CITY OF MALIBU APPROVING ZONING TEXT AMENDMENT NO. 18-004 AN AMENDMENT TO TITLE 17 (ZONING) OF THE MALIBU MUNICIPAL CODE TO UPDATE ACCESSORY DWELLING UNIT REGULATIONS AND FINDING THE AMENDMENTS EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

The City Council of the City of Malibu does ordain 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 December 6, 2021, the Planning Commission continued the public hearing to the January 18, 2022 Regular Planning Commission meeting.

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

L. 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.

M. 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.

N. On March 6, 2023, the Planning Commission continued the public hearing to a March 14, 2023 Special Planning Commission meeting.

O. On March 14, 2023, the Planning Commission held a duly noticed public hearing on the proposed ADU ordinance (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 and recommended approval of the amendments with some modifications.

P. On August 3, 2023, a Notice of City Council 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.

Q. On August 28, 2023, before consideration of the item, the public hearing was continued to September 11, 2023.

R. On September 11, 2023, the City Council held a duly noticed public hearing on the proposed ADU ordinance (LCPA 18-002 and ZTA No.18-004), provided direction to staff, and continued the item to a date uncertain.

S. On October 19, 2023, a Notice of City Council Public Hearing was published in a newspaper of general circulation within the City of Malibu and mailed to interested parties.

T. On November 13, 2023, before consideration of the item, the public hearing was continued to November 27, 2023.

U. On November 27, 2023, the City Council held a duly noticed public hearing on the proposed ADU ordinance (LCPA 18-002 and ZTA No 18-004), and continued the item to the December 11, 2023 Regular City Council meeting.

V. On December 11, 2023, the City Council held a duly noticed public hearing on the proposed ADU ordinance (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 City Council 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 City Council 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. Zoning Text Amendment Findings.

Based on evidence contained within the record, including the agenda reports for and the hearings on September 11, November 27, and December 11, 2023, 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 4. Zoning Text Amendment No. 12-002, Amendments to the Malibu Municipal Code (MMC).

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

O. Add Chapter 17.44 (Accessory Dwelling Units) to read as follows:

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 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 physical improvement on a property that does not conform with current zoning standards.

17.44.040 Definitions.

“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.

“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; an enclosed use within the residence, such as an attached garage, is considered to be a part of and contained within the single-family structure;
- 3. has an 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.

“Efficiency kitchen” means a kitchen that includes all of the following:

- 1. A cooking facility with appliances.
- 2. A food preparation counter and storage cabinets that are of a reasonable size in relation to the size of the JADU.

“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.

“Proposed dwelling” means a dwelling that is the subject of a permit application and that meets the requirements for permitting.

“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.

“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.

17.44.050 Permitted Locations.

- A. ADUS and JADUs under Section 17.44.060(A) shall be allowed on lots that are in a residential or mixed-use zone.
- B. ADUs under Section 17.44.060(B) 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).
- C. Areas with Adequate Ingress and Egress. Since the entire City is located within is located in a designated “Very High Fire Hazard Severity Zone,” consistent with Los Angeles County Fire Department requirements to ensure adequate ingress and egress for fire safety, a minimum street width of 20 feet shall be required. ADUs are not allowed on parcels that do not have ingress and egress to a street at least 20 feet in width.
- D. Multifamily Lots. ADUs are allowed on multifamily lots pursuant to 17.44.060 A.3 and A.4. New attached ADUs are not allowed.

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 is 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 governs. State law is explicit about the Coastal Act not being preempted by the State’s ADU statute (Government Code Section 65852.2, subdivision (l)).

- 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.

17.44.070 Process and Timing.

- A. An APR is considered and approved ministerially by the Planning Director without discretionary review or a hearing.
- 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 January 1 following issuance of the building permit, the owner shall 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, except as otherwise provided in Government Code section 65852.26, 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.
- 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. Building and Safety.

1. Must comply with building code. Subject to subsection (H)(2) below, all ADUs and JADUs must comply with all local building code requirements.
2. 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 (H)(2) 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

I. Height.

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

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. 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, 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 850 to 1,000 square foot limit.
2. An ADU that is attached to the primary dwelling is limited to 50 percent 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 an FAR, front-setback, lot-coverage, or open-space requirement may require the ADU to be less than 800 square feet.

4. By definition, a JADU may not be larger than 500 square feet.

B. Setbacks.

1. The front yard setback of an ADU located on a non-beach front lot, subject to this Section 17.44.090, shall be at least twenty (20) percent of the total depth of the lot, or sixty-five feet, whichever is less. On a beachfront lot, the front yard setback shall be twenty (20) feet maximum or the average of the two immediate neighbors, whichever is less.
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 for an ADU that is subject to this Section 17.44.090 if the ADU is constructed in the same location and to the same dimensions as an existing legally established accessory structure that was demolished and then replaced with the ADU.

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

D. 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 part of 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. When a garage, carport, or covered parking structure is (a) demolished in conjunction with the construction of an ADU or (b) converted to an ADU, those off-street parking spaces are not required to be replaced. If replacement parking is proposed by the owner, the parking must be located on hardscape.
- E. 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 to a legally established garage that 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 ADU, divided by the square footage of the primary dwelling, 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.
3. For purposes of this section 17.44.100, “impact fee” means a “fee” under the Mitigation Fee Act (Gov. Code § 66000(b)) and a fee under the Quimby Act (Gov. Code § 66477).

B. Utility Fees.

1. ADUs constructed with a single-family dwelling shall be subject to standard utility-connection requirements and fees.
2. Converted ADUs 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) or (B)(2) 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.

SECTION 5. Effective Date.

In accordance with California Government Code section 36937, this Ordinance shall become effective on the 30th day following its passage and adoption.

SECTION 6. 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 7. Certification.

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

PASSED, APPROVED, and ADOPTED this _____ day of _____ 2024.

STEVE UHRING, Mayor

ATTEST:

KELSEY PETTIJOHN, City Clerk
(seal)

APPROVED AS TO FORM:

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

TREVOR RUSIN, City Attorney



Council Agenda Report

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

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

Reviewed by: Richard Mollica, Planning Director

Approved by: Steve McClary, City Manager

Date prepared: November 16, 2023 Meeting date: November 27, 2023

Subject: An amendment to Title 17 (Zoning) of the Malibu Municipal Code and the Local Coastal Program to Update Regulations Related to Accessory Dwelling Units (Continued from November 13, 2023)

RECOMMENDED ACTION: 1) Adopt Resolution No. 23-43 (Exhibit 1) determining Local Coastal Program Amendment (LCPA) No. 18-002 is exempt from the California Environmental Quality Act (CEQA) and amending Chapter 3 (Marine and Land Resources) and Chapter 5 (New Development) of the land use plan pertaining to accessory dwelling units; 2) After the City Attorney reads the title of the ordinance, introduce on first reading Ordinance No. 510 (Exhibit 2), approving LCPA No. 18-002, an amendment to the Local Coastal Program (LCP) to update ADU regulations and determining the amendments are exempt from the CEQA; 3) After the City Attorney reads the title of the ordinance, introduce on first reading Ordinance No. 511 (Exhibit 3), approving Zoning Text Amendment No. 18-004 an amendment to Title 17 (Zoning) of the MMC to update ADU regulations and determining the amendments are exempt from CEQA; 4) Direct staff to schedule second reading and adoption of Ordinance No. 510 and Ordinance No. 511 for the December 11, 2023 City Council Regular meeting.

FISCAL IMPACT: Funding for this project is included in the Adopted Budget for Fiscal Year 2022-23.

STRATEGIC PRIORITY: This item supports the Accessory Dwelling Unit Ordinance priority identified in the Adopted FY 2023-24 Strategic Priority Project List.

DISCUSSION: On September 11, 2023, the City Council held a public hearing on the proposed ADU amendments, provided direction to staff, and continued the item to a date uncertain. A complete history of the Planning Commission and City Council hearings on the ADU ordinance can be found in the recitals in Exhibits (1, 2, and 3). The following paragraphs are new to this agenda report and discuss the specific items that the Council asked staff to address at the September 11, 2023 meeting. Starting with the *Background* section in the report, the information is the same as was provided in the September 11, 2023 Council Agenda Report.

At the September 11, 2023 public hearing, the City Council reached a consensus on most of the proposed amendments including adding an owner occupancy requirement in the LCP Local Implementation Plan (LIP). With an owner occupancy requirement, the property owner must reside in either the primary residence or in the ADU. If the City Council votes to add the requirement, the following language could be added to LIP Section 3.10(G):

7. Owner Occupancy. A natural person with legal or title to the property must designate the property, in either the primary dwelling or ADU, as their permanent residence.

The City Council continued the item in order to have additional time to discuss and reach consensus on options for street access, unit size, guest house terminology, and whether there were other regulations that could be added besides roadway width or two means of access to make ADUs safer since the entire City is in a Very High Fire Severity Zone (VHFHSZ).

The proposed language found in the attached Resolution No. 23-42 (Exhibit 1), Ordinance No. 510 (Exhibit 2), and Ordinance No. 511 (Exhibit 3) will be updated based on the final direction from the City Council at the November 27, 2023 hearing. If adopted, the Resolution and Ordinances will update the City's regulations in the MMC and LCP for second units. Exhibits 4 and 5 are presented in underline/strikethrough format to highlight added and ~~deleted~~ language compared to existing code.

Two means of access – VHFHSZ

When the proposed amendments were last heard by the Planning Commission, they included a provision in the MMC which required a property to have two distinct means of vehicular access (public street), with a minimum of 24 feet in width, to a highway in order to have an ADU. The language required an increase in development standards but did not prohibit an ADU. The majority of the Planning Commission felt a better approach to address fire safety would be to require properties to maintain 20-foot wide streets as required by the Fire Department instead of requiring two means of access with increased development standards. It should be noted, the Fire Department does not currently

review interior remodels (Junior ADUs) nor small additions to residences. However, staff would verify if the parcel has a 20-foot wide street in order to be eligible for an ADU.

At the September 11, 2023 hearing, the City Council felt that prohibiting ADUs on lots that did not have two means of access would be a safer approach but wanted further discussion on the requirement. Requiring two means of street access to a highway would result in at least 80-85 percent of properties in the City not being eligible to add an ADU. Exhibits of all Malibu neighborhoods are included in Exhibit 6. The maps utilize a red-star symbol to indicate which streets only have one means of access. Most canyon roads have only one means of access to a highway and any property located on a cul-de-sac would have only one means of access.

The requirement to have two distinct means of street access to a highway was intended to ensure that if one street access is blocked by fire, there would be another street that would provide access to a highway. In addition to Pacific Coast Highway, Kanan Dume Road is designated as County Highway N9 and Malibu Canyon Road is County Highway (N1).

Another factor for the City Council to consider is the requirement to have vehicular access be a minimum of 24 feet wide and improved with paving or other all-weather surfacing. Exhibit 7 provides the street widths of all public streets in Malibu. Street widths for private streets are not available. While most public streets have a minimum of 24 ft. of paving, the streets that do not currently have 24 feet of paving do have available right-of-way to widen the street. This would mean, however, that properties that rely on a street with less than 24 feet in width as one of the two means of egress would need to widen the street paving on that street even if the property was not located on that street before they could have an ADU. There are portions of Malibu Road and Morning View Drive that only have 22 feet of paving. If the Council wishes to keep the two means of access requirement without the need to increase the paving on a street, they could consider requiring a paved road width of less than 24 feet.

If the Council wishes to move forward with the two means of access requirement in the MMC, the language would likely not be approved by the State Department of Housing and Community Development (HCD) without evidence that allowing ADUs in the VHFHSZ results in an increased risk to public safety. Staff reviewed HCD letters sent to other jurisdictions that contain similar language and, in each instance, the language was not accepted by HCD.

In a letter to Rancho Palos Verdes¹ HCD advised the City that the provision would need to be removed or the City would need to provide evidence that the restriction was necessary to protect public safety. The letter stated that HCD observed that the City's

¹ City of Rancho Palos Verdes - HCD Technical Assistance Letter dated August 29, 2022

General Plan Land Use, Housing, Safety, and Circulation Elements raised no concerns about housing in the VHFHSZ and proposed no housing restrictions or access concerns with regard to fire safety. HCD further indicated the City placed no similar restrictions on the construction or expansion of any other residential structures in the VHFHSZ and the City provided no evidence that its infrastructure was insufficient to handle ADUs or that two distinct means of vehicular access would be necessary in every case where an ADU is added in a VHFHSZ.

The letter also noted that neither the Los Angeles County Fire Department nor Cal Fire recommended that ADUs be limited in the VHFHSZ and that HCD was unaware of any traffic or other studies completed by the City that indicate that the City's infrastructure is inadequate to support the development of ADUs in the VHFHSZ or that evacuation would be impacted by ADUs in any material way.

This same type of evidence will likely be required before HCD would approve a requirement for two means of access in Malibu given the number of properties that would be prohibited from having an ADU. HCD will also likely require similar evidence if the City requires a 20-foot wide street. Since most ADUs will be processed under the LCP, the staff recommends not adding any additional regulations/restrictions to the MMC. If HCD finds that the City's ordinance does not comply with State law, the City would need to revise the ordinance which would require additional Planning Commission and City Council hearings which will further delay the adoption of the ADU ordinance. In addition, having a non-compliant ADU ordinance could also impact the timing for the adoption of the Housing Element. HCD will not allow cities to count ADUs towards their Regional Housing Needs Assessment (RHNA) unless the City has a compliant ADU ordinance. The Draft Housing Element relies on ADUs to help meet the City's low-income housing needs. In addition, if the City adopts an ordinance that HCD deems to be non-compliant with State law, HCD can notify the Office of the Attorney General. (Gov. Code § 65852.2(h).)

Unit Size

For ADUs processed under the MMC, State law sets a minimum size of 850 square feet for a studio or one-bedroom and 1,000 square feet for a two- or more-bedroom unit. Those minimum structure sizes are included in the MMC to ensure consistency with the State ADU law. In the LCP, the Planning Commission recommended a minimum of 400 square feet and a maximum of 1,200 square feet for an ADU. Establishing a maximum size of 1,200 square feet would be consistent with the square footage allowed for temporary housing for fire rebuilds. LIP Section 3.6(M) and MMC Section 17.40.040(A)(18) provide standards for temporary housing that allow a maximum of 1,200 square feet and provide for the removal of the temporary housing prior to final approval of the residence unless the temporary housing structure is permitted and is

converted into a permanent structure such as an ADU. This provision was included in Ordinance No. 445 which was adopted after the Woolsey Fire.

Other options include a maximum of 1,000 square feet consistent with the maximum in the MMC or 900 square feet, the current maximum for second units. If the City Council wishes to reduce the size of an ADU from the proposed 1,200 square feet, for consistency, they may wish to consider utilizing a 1,000 square-foot limit in order to match the maximum size allowed in the MMC. This could help lessen any potential confusion for residents and staff when considering an application for an ADU. In addition, the Council could add a non-conforming clause to the LCP for those fire-build properties that have already converted or intend to convert an existing legally established 1,200-square foot temporary housing to an ADU. The Environmental Sustainability Department has stopped issuing temporary power poles for temporary homes but is likely to issue them again in the future depending on the circumstances. If the City Council wants to add a non-conforming provision, the following language could be included in the amendments:

Non-Conforming Provisions: Properties impacted by the 2018 Woolsey Fire that received a City permit for a temporary housing structure pursuant to LIP Section 3.6(M) (or MMC Section 17.40.040[A][18]) may convert the existing legally established temporary housing to an ADU even if the temporary housing exceeds the square footage limits established by this Chapter. However, (1) such an ADU cannot exceed 1,200 square feet and (2) the building permit for, and construction of, the temporary housing must have occurred before November 27, 2023.

Additional Regulations to Increase Safety

After further analysis, staff has not identified any additional regulations it recommends to be included in the proposed ADU ordinance to increase public safety. As discussed previously, staff is uncertain whether adding additional requirements not specifically provided for in State law would be approved by HCD, especially if the regulation would prohibit ADUs in much of the City. While State law does allow cities to consider public safety in determining where to allow ADUs, the City would need to provide adequate evidence that the regulation would be needed to protect public safety.

Guest House Terminology

The Council requested that staff consider using different terminology for a guest house to better distinguish between a guest house with no kitchen and an ADU with a kitchen. Staff had originally changed all references to a guest unit to a guest house in an effort to distinguish a guest house from an accessory dwelling unit. Further research confirms that the term guest house is commonly used in other jurisdictions and is also found in other locations in the LCP and MMC. Generally, similar terms for a guest house such as

guest quarters or visitors' quarters may not help make the distinction whether a kitchen is allowed. However, using the word "quarters" would remove the term "house" from the title which could help distinguish between an ADU. Another means to highlight the difference could include adding the words "no kitchen" in the definition title of a guest house. For instance, the definition could read as follows:

GUEST HOUSE (No Kitchen) - attached or detached living quarters on the same premises as a single-family residence for the use of family members, guests or employees of the occupants of such residence, containing no kitchen facilities and not rented or otherwise used as a separate dwelling. The maximum living area of a guest house shall not exceed nine hundred (900) square feet, including any mezzanine or storage space. A guest house 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.

Also, the Title of the section in the LIP and MMC, which provides the development standards for guest houses, could also be revised to read as follows:

LIP Section 3.6. (N)(1) Guest Houses (No Kitchen) -...

MMC Section 17.40.040(A)(21) Guest Houses (No Kitchen) -...

Making these changes would make it easier for both applicants and staff to quickly distinguish between the two housing types.

Background

The City Council initiated LCPA No. 18-002 and ZTA No. 18-004 in June 2018. A variety of factors, including the Woolsey Fire and COVID-19 meeting restrictions, delayed the Planning Commission's ability to consider the amendments in a timely manner. The Planning Commission held three hearings on the ADU ordinance including a Special Planning Commission hearing on March 14, 2023. At that hearing, the Planning Commission unanimously recommended approval of the amendments with modifications. A complete history of the Planning Commission and City Council hearings on the ADU ordinance can be found in the recitals in the Exhibits (1, 2, and 3).

During the Commission's deliberations on March 14, 2023, straw votes were taken over the course of the deliberations and some of the votes were not unanimous, including provisions requiring two means of access and a requirement that property owners be required to report the ADU rental rates as opposed to being asked to report the rates to the City. The Planning Commission recommendations are further discussed below.

In preparation for the City Council hearing, the City Attorney's Office provided recommended changes to the ADU regulations in the MMC. These changes were intended to ensure that the language in the ordinance matches the language in the State ADU statute. These recommended changes resulted in a reorganization of the ordinance and the revision of some sections to ensure the proposed language was narrowly focused on the language used in the statute. These recommended changes did not result in substantial changes from what the Planning Commission approved.

Proposed ADU Ordinance

The proposed language found in Resolution 23-43 (Exhibit 1), Ordinance No. 510 (Exhibit 2) and Ordinance No. 511 (Exhibit 3) will update the City's regulations for second units. Exhibits 4 and 5 are presented in underline/strikethrough format to highlight added and ~~deleted~~ language compared to existing codes.

In implementing this ADU ordinance the City is seeking to balance the issues relevant to development in the Coastal Zone with the policies put forward by State ADU law. With the proposed amendments, the MMC will include all required State standards and provide for ministerial processing of ADUs consistent with State law. Introductory language in the MMC makes it clear since ADU law does not supersede the Coastal Act, every new ADU will first be subject to analysis for compliance with the LCP before it is reviewed for compliance with the MMC. The proposed LCPA would require attached, detached, and converted (ADUs created from an existing accessory building) to obtain an Administrative Coastal Development Permit (ACDP) and meet the standards set forth in the LCP.

Review and Processing

Second units are currently allowed with an ACDP. The proposed permitting process for ADUs will be the same as for second units under the current code. That process includes requirements for public noticing, reporting Director approvals to the Planning Commission where, by majority vote, the Commission can require a full Coastal Development Permit (CDP), and the ability for the public to appeal the decision of the Director to the Planning Commission and to the City Council, and if the property is within the appeal zone, it may be appealed to the California Coastal Commission (CCC).

If a project does not meet the definition of development per the LCP, then the project would be processed per the MMC. Consistent with State law, there are two options for ADU processing in the MMC (refer to the new MMC Chapter 17.44 in Exhibit 3). First, if a project is one of four specific, limited types, it would be processed with a building permit only. Second, if the ADU does not meet one of those four types, then the ADU would be processed as an Administrative Plan Review (APR). Some ADUs, even if they are not considered development per the LCP, may require upgrades to the Onsite

Wastewater Treatment System (OWTS), which will require a CDP (LIP Section 13.29). In these cases, the APR will be processed separately from the OWTS-only CDP.

Under the proposed ordinance and consistent with California Coastal Commission guidance, ADUs created from a habitable space inside an existing single-family dwelling such as a bedroom (Junior ADU) or inside an existing single-family residence, otherwise known as Internal ADUs are not considered development for purposes of the LCP and as such, will be processed under the MMC as an Administrative Plan Review (APR) which is a Planning Director ministerial project. ADUs proposed in a non-habitable space such as a garage would require an ACDP.

There are no public notice requirements for APRs. However, members of the public may file a “Request for Review” of the APR action to the Planning Director. The purpose is for the Planning Director to conduct a second review of the action. Pursuant to MMC 17.04.220, an appeal to the Planning Commission cannot be made unless a Site Plan Review for height or reduction of setbacks is proposed with the project. In the case of an ADU proposed for an existing single-family house, height and setbacks would remain the same.

State law allows both a Junior ADU (JADU) and an ADU to be built on the same property. While there could be an increase in cases where someone wants both a JADU and an ADU, staff has no way of determining which properties might choose to build both. As required by State law, JADUs are subject to an owner-occupancy requirement. The property owner would need to reside in either the JADU or the main residence in order to have a JADU. An ADU that is permitted after January 1, 2020, but before January 1, 2025, is not subject to any owner-occupancy requirement. Unless applicable law requires otherwise, all ADUs that are permitted on or after January 1, 2025 are subject to an owner-occupancy requirement.

Short-Term Rentals (STRs)

ADUs permitted ministerially under MMC Section 17.44.060(A) must be rented for terms longer than 30 days². For ADUs not processed pursuant to MMC Section 17.44.060(A), State ADU law provides that cities may require that an ADU be used for rentals of terms longer than 30 days. The proposed LCPA and MMC prohibit STRs in ADUs in all instances. While the City’s STR ordinance, considered but not approved by the CCC, did not prohibit STRs in ADUs, the Planning Commission expressed that since ADU laws were intended to increase the amount of long-term housing, STRs should be prohibited in ADUs.

² Gov. Code, §65852.2, subds. (a)(6) and (e)(4)

ADUs processed under the MMC and LCP would be required to record a deed restriction. Currently, staff has been addition a condition of approval requiring a deed restriction when a project proposes a second unit, restricting a property to only one second unit meeting the definition of LIP Section 2.1. The LCPA and ZTA proposes additional deed restrictions as part of the ADU Ordinance that will require the property to comply with restrictions such as restrictions against sold separate 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.

Relationship to Housing Element and Regional Housing Needs Assessment (RHNA)

The Housing and Community Development (HCD) direction on updating housing elements as it relates to ADUs indicates housing elements must include a description of zoning available to permit ADUs, including development standards and analysis of potential constraints on the development of ADUs. The element must include programs as appropriate to address identified constraints. Cities can use ADUs to meet up to 15 percent of their RHNA. As part of the Housing Element, a jurisdiction must include an analysis of the anticipated affordability of ADUs in order to determine which RHNA income category (very low, low, moderate, and above moderate) they should be counted toward.

The ADU Ordinance includes a requirement that property owners report the actual rent charged for an ADU to assist the City in identifying sites to meet RHNA. Language in the draft ordinance “asked” the property owner to provide the rental information but a majority of the Planning Commissioners voted to “require” the property owner to report the information. In a recent discussion with HCD, they indicated they would accept the Southern California Association of Governments (SCAG) formula for determining ADU affordability for the City’s RHNA.

As part of the 6th Cycle (2021-2029) Housing Element process, SCAG conducted an affordability analysis³ for determining affordability in order to provide local governments in the SCAG region with assumptions for ADU affordability that can be used to assign ADUs to income categories. Efforts were made to reflect the geographic distribution, size, and other characteristics of ADUs across the various counties/subregions. Los Angeles County is separated into two categories to better account for the disparities in housing costs between coastal and inland jurisdictions. The City’s 6th Cycle Housing Element is currently being updated in response to HCD comments and will rely upon the SCAG formula to determine affordability.

³ https://scag.ca.gov/sites/main/files/file-attachments/adu_affordability_analysis_120120v2.pdf?1606868527

Development Standards

The proposed development standards for ADUs in the MMC and LCP are summarized below.

Unit Size

For ADUs processed under the MMC, state law sets a minimum size of 850 square feet for a studio or one-bedroom and 1,000 square feet for a two- or more-bedroom unit. Those minimum structure sizes are included in the MMC to ensure consistency with the State ADU law.

In the LCP, the Planning Commission recommended a minimum of 400 square feet and a maximum of 1,200 square feet for an ADU. 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 No. 445 which allowed fire rebuild applicants to place temporary housing on their properties with a trailer or fabricated structure not to exceed 1,200 square feet⁴. That decision was made to ensure a trailer or other prefabricated structures could be placed on the property to accommodate the residents comfortably until they were able to rebuild their homes. Some residents invested in prefabricated temporary homes that could potentially be permitted as ADUs after the rebuild of their homes. Currently, second units are limited to 900 square feet in size.

Height

The proposed allowed height for an ADU in the MMC is 16 feet above existing or finished grade, whichever results in the lower building height. A detached ADU may be up to 18 feet in height if it is created on a lot with an existing or proposed dwelling located within one-half mile from a major transit stop or is a detached ADU created on a lot with an existing or proposed multifamily dwelling. 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.

For the LCP, the Planning Commission recommended a height limit of 16 feet above grade as measured from existing or finished grade, whichever results in the lower building height. The Director may allow heights up to 24 feet with a Site Plan Review. 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

⁴ The temporary housing regulations were placed in MMC Section 17.40,040.A.18.

exceed 18 feet in height. The current allowed height for a second unit is 18 feet and up to 24 feet for a flat roof and 28 feet for a pitched roof with a Site Plan Review.

The Commission also agreed to make the existing language in the LCP limiting a second story to 2/3rds of the first-story consistent with the language in the MMC. Since the language in the MMC is the most restrictive and is currently used by staff when determining 2/3rds, staff revised the 2/3rds language in the LCP to be consistent with the MMC language. The language in both documents would now indicate that the “second floor area plus the area of vaulted ceilings above eighteen (18) feet in height shall not exceed two-thirds the first-floor area...”. Having consistent language in both documents will avoid any questions or confusion in the future. This revised language would apply to both ADUs and single-family dwellings.

Setbacks

Consistent with State law, in the MMC, the proposed side and rear setback for ADUs is four (4) feet. In the ordinance considered by the Planning Commission a five (5) foot side and rear setbacks were required on properties without two means of access to a highway. The Planning Commission requested that staff add a cross reference between the two sections to avoid confusion; however, the section relative to having two means of access was deleted consistent with the Planning Commission direction to utilize street width as the criteria to determine whether a property can have an ADU or increased development standards were required so a cross reference was no longer needed. In the LCP, detached, attached, and converted ADUs must meet the current setback requirements for a second unit.

Parking

The parking requirement for an ADU is one space, which is consistent with the existing second unit regulations. This parking requirement would be the same in both the MMC and LCP. Consistent with State law, parking is not required for JADUs which would be processed under the MMC.

At its March 7, 2022 meeting, based on concern about the cumulative impact of allowing ADUs, the Planning Commission requested additional studies and referrals. On August 22, 2022, the City Council considered the request and directed staff to minimize changes to the LCP by utilizing most of the existing second unit regulations, which currently protect coastal resources and public access.

In order to be consistent with State law, the proposed MMC modifications do not require replacement parking for a converted garage and also include other exceptions to provide parking. One such parking exemption is that no parking is required when an ADU is located within 0.5-mile walking distance of public transit. These exceptions have been

removed from the LCPA per the Planning Commission's recommendation. ADUs processed under the LCP will require replacement parking.

After staff updated the proposed ordinance to make parking and other development standards consistent with existing second unit regulations, Coastal Commission staff reviewed the revised draft and indicated that the City should, where appropriate, try to harmonize the LIP changes with State ADU law, not just for parking requirements but other development standards as well.

The Planning Commission expressed that since the City was entirely within in a Very High Fire Hazard Severity Zone (VHFHSZ) there should be no exemptions or exceptions for providing on-site parking or reducing other development standards.

Road Width - VHFHSZ

The proposed ordinance reviewed by the Planning Commission included language that required an increase in development standards, but did not prohibit an ADU, on lots that did not have two means of access with at least 24 feet in width to a highway. This language was similar to language in the Los Angeles County North Area Plan but in that code, ADUs were prohibited on properties that did not have two means of access with 24 feet in width to a highway. This same language is not included in the Santa Monica Mountains LCP which covers the County area directly abutting the City in the coastal zone. The Santa Monica Mountains LCP uses different standards for allowing ADUs such as distance from Pacific Coast Highway and the steepness of slopes on a property. Vehicular access must be from a street with a right of way of at least 60 feet.

The majority of the Planning Commission felt a better approach to address fire safety would be to follow existing Los Angeles County Fire Department requirements which require a 20-foot-wide width for roads serving two dwelling units.

ADUs on Multifamily Properties

The proposed LCPA would not allow ADUs located inside multifamily dwellings. An ADU must have its own separate entrance. The proposed LCPA also prohibits ADUs attached to a multifamily structure but allows detached ADUs with an ACDP. The MMC has similar provisions as detached ADUs are allowed in the same manner as a detached ADU on a property with a single-family dwelling but ADUs, including a JADU, are not allowed inside a multifamily dwelling. ADUs are allowed in the non-habitable portions of a multifamily building such as a garage or storage area. Since increasing the number of dwelling units on existing multifamily properties in the City, especially if those units removed existing parking, would have a negative impact to both onsite wastewater systems and available parking, the proposed LCPA would not allow conversion of non-habitable portions of a building to ADUs.

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 project is exempt from the requirements of CEQA pursuant to CEQA Guidelines Section 21080.17, which states that the 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 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 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.

PUBLIC NOTICE: On October 19, 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 (Exhibit 8).

SUMMARY: Staff recommends that the City Council adopt Resolution No. 23-43 and introduce Ordinance No. 510 and Ordinance No. 511 approving LCPA No. 18-002 and ZTA No. 18-004 approving regulations for accessory dwelling units.

Pursuant to State law⁵, the City must submit a copy of the adopted ordinance to HCD within 60 days after adoption. After the adoption of the ordinance, HCD may review and submit written findings to the City as to whether the ordinance complies with State ADU Law.

⁵ Gov. Code, § 65852.2, subd. (h)(1)

EXHIBITS:

1. Resolution No. 23-43
2. Ordinance No. 510
3. Ordinance No. 511
4. LCP Amendment Redline
5. ZTA Redline
6. Street Access Exhibits
7. Public Street Width Chart
8. Public Hearing Notice

RESOLUTION NO. 23-43

A RESOLUTION OF THE CITY OF MALIBU DETERMINING LOCAL COASTAL PROGRAM AMENDMENT NO. 18-002 IS EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT AND AMENDING CHAPTER 3 (MARINE AND LAND RESOURCES) AND CHAPTER 5 (NEW DEVELOPMENT) OF THE LAND USE PLAN PERTAINING TO ACCESSORY DWELLING UNITS

The City Council 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 December 6, 2021, the Planning Commission continued the public hearing to the January 18, 2022 Regular Planning Commission meeting.

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

L. 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.

M. 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 would not be needed at this time if the City utilizes current second unit regulations in the ADU ordinance.

N. On March 6, 2023, the Planning Commission continued the public hearing to the March 14, 2023 Special Planning Commission meeting.

O. On March 14, 2023, the Planning Commission held a duly noticed public hearing on the proposed ADU ordinance (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 and recommended approval of the amendments with some modifications.

P. On August 2, 2023, a Notice of City Council 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.

Q. On August 28, 2023, before consideration of the item, the public hearing was continued to September 11, 2023.

R. On September 11, 2023, the City Council held a duly noticed public hearing on the proposed ADU ordinance (LCPA 18-002 and ZTA No.18-004), provided direction to staff, and continued the item to a date uncertain.

S. On October 19, 2023, a Notice of City Council Public Hearing was published in a newspaper of general circulation within the City of Malibu and mailed to interested parties.

T. On November 13, 2023, before consideration of the item, the public hearing was continued to November 27, 2023.

U. On November 27, 2023, the City Council held a duly noticed public hearing on the proposed ADU ordinance (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 City Council 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 City Council 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 contained within the record, including the agenda reports for and the hearings on September 11 and November 27, 2023, 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 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. Local Coastal Program Amendment No. 12-002, Amendments to the Land Use Plan (LUP).

The City Council hereby amends the LUP as follows:

A. Policy 3.42(c) of LUP Chapter 3, is amended to read as follows. All other subsections of Policy 3.42 remain the same.

c. Limiting the maximum number of structures to one main residence, 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.

B. Paragraph 4 of A(2) Land Use Plan Provisions of LUP Chapter 5, is amended to read as follows. All other paragraphs remain the same.

The LUP policies address new residential development. The maximum number of structures allowed in a residential development is one main residence, one 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.

C. Policies 5.21, 5.22, 5.23, and 5.24 of LUP Chapter 5 are amended to read as follows:

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, 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 Accessory dwelling units shall be limited in size to a maximum of 1,200 square feet. 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. Garages that are part of an accessory dwelling unit or guest house, shall not exceed 400 square feet (two-car) maximum. The area of a garage provided as part of a guest house or accessory dwelling unit shall not be included in the 900 or 1,200 square foot limit, respectively.

5.23 One onsite enclosed or unenclosed parking space shall be required for the exclusive use of an accessory dwelling unit or guest house.

5.24 New development of an 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.

SECTION 5. Effective Date.

This Ordinance shall become effective after certification by the California Coastal Commission.

SECTION 6. Severability.

Should any section, subsection, clause, or provision of this Resolution 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 Resolution; it being hereby expressly declared and this Resolution, 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 phrases be declared invalid or unconstitutional.

SECTION 7. Certification

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 27th day of November 2023.

STEVE UHRING, Mayor

ATTEST:

KELSEY PETTIJOHN, City Clerk
(seal)

APPROVED AS TO FORM:

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

TREVOR RUSIN, City Attorney

Superseded Draft

ORDINANCE NO. 510

AN ORDINANCE OF THE CITY OF MALIBU APPROVING LOCAL COASTAL PROGRAM AMENDMENT 18-002, AN AMENDMENT TO THE LOCAL COASTAL PROGRAM TO UPDATE ACCESSORY DWELLING UNIT REGULATIONS AND DETERMINING 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 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 December 6, 2021, the Planning Commission continued the public hearing to the January 18, 2022 Regular Planning Commission meeting.

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

L. 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.

M. 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.

N. On March 6, 2023, the Planning Commission continued the public hearing to a March 14, 2023 Special Planning Commission meeting.

O. On March 14, 2023, the Planning Commission held a duly noticed public hearing on the proposed ADU ordinance (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 and recommended approval of the amendments with some modifications.

P. On August 3, 2023, a Notice of City Council 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.

Q. On August 28, 2023, before consideration of the item, the public hearing was continued to September 11, 2023.

R. On September 11, 2023, the City Council held a duly noticed public hearing on the proposed ADU ordinance (LCPA 18-002 and ZTA No.18-004), provided direction to staff, and continued the item to a date uncertain.

S. On October 19, 2023, a Notice of City Council Public Hearing was published in a newspaper of general circulation within the City of Malibu and mailed to interested parties.

T. On November 13, 2023, before consideration of the item, the public hearing was continued to November 27, 2023.

U. On November 27, 2023, the City Council held a duly noticed public hearing on the proposed ADU amendment 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 City Council 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 City Council 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 contained within the record, including the agenda reports for and the hearings on September 11 and November 27, 2023, 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 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. Local Coastal Program Amendment No. 18-002. Amendments to the Local Implementation Plan (LIP).

The City Council hereby amends the LIP as follows:

A. Add new definitions inserted in alphabetical order to LIP Section 2.1 (Definitions) to read as follows:

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.

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.

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).

B. Amend the following definitions contained in LIP Section 2.1 (Definitions) to read as follows:

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

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

C. Delete “ KITCHEN” and “SECOND UNIT” definitions contained in LIP Section 2.1 (Definitions).

D. Amend LIP 3.3(Q)(2)(a), to read as follows:

a. Lot Nos. 1—5

i. One single-family residence per lot.

ii. Accessory uses guest house in accordance with Section 3.6(N)(1), garages, swimming pools, spas, pool houses, cabana, 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.

iv. Domestic animals, kept as pets.

v. Landscaping.

E. Amend LIP 3.3(Q)(4)(a)(vi), to read as follows

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) For a guest house see Section 3.6(N)(1)(d).

c) For an accessory dwelling unit see Section 3.10.

F. Amend LIP 3.6(D) to read as follows:

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.

G. Amend LIP 3.6(K)(2) to read as follows:

2. Multistory or Single Floor Area, Structures Greater Than Eighteen (18) Feet in Height. Notwithstanding any other provision of this chapter, the total development square footage for a structure greater than eighteen (18) feet in height shall not be greater than permitted for single-story construction. The second floor area plus the area of vaulted ceilings above eighteen (18) feet in height shall not exceed two-thirds the first floor area, and shall be oriented so as to minimize view blockage from adjacent properties.

H. Amend LIP 3.6(N), to read as follows:

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. 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 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.

I. Add LIP Section 3.10 (Accessory Dwelling Units) to read as follows:

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 (1)). 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. Minimum Street Width Requirement. Since the entire City is located within is located in a designated “Very High Fire Hazard Severity Zone” and consistent with Los Angeles County Fire Department requirements to ensure adequate ingress and egress for fire safety a minimum street width of 20 feet shall be required.

F. Coastal Development Permit required.

1. A coastal development permit issued in accordance with Section 13.13 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 that does not change the building envelope is not considered development and does not require a CDP. Unfinished basements or attics, rooms with floor to ceiling heights less than 6 feet, and garages would not be considered habitable space.

3. Detached ADUs on a multifamily zoned property shall require a CDP. An ADU located inside of a multifamily dwelling and ADUs attached to a multifamily dwelling is not allowed.

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

G. 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 shall 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 to 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.

H. 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. Size.

a. The minimum square footage of an ADU shall be 400 square feet and 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. For purposes of TDSF, the size of an ADU shall be consistent with 3.6(K). 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 1,200 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 16 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. 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 ADU, onsite replacement parking spaces shall be required that comply with the minimum number of spaces and dimensions stated in LIP 3.14.3.

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.

J. Amend LIP 13.4.1(A) to read as follows:

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 attached and detached accessory dwelling units.

K. Amend LIP 13.11(A) to read as follows:

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, or (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.

L. Amend LIP 13.11(B) to read as follows:

B. Any person may submit written comments to the Planning Director 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 who shall forward them to the appropriate person, commission, board or the Council and to the applicant.

M. Amend LIP Section 13.13.1 to read as follows:

A. The Planning Director 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, accessory 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.

N. Amend Appendix 1-LIP Table B (Permitted Uses) to make the following modifications within columns as indicated, together with an additional footnote. All other portions of Table B shall remain unaffected.

USE	RR	SF	MF	MFBF	MHR	CR	BPO	CN	CC	CV-1	CV-2	CG	OSI	PRF	RVP
RESIDENTIAL															
Accessory dwelling units	A ²²	A ²²	A ²²	A ²²	.	.	.	.	.	.	.	.	.	.	.
Accessory uses (guest 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	.	.	.	.	.	.	.	.	.	.	.

Notes:

22. Subject to Accessory Development Standards (Section 3.10).

SECTION 7. Effective Date.

This Ordinance shall become effective upon certification by the California Coastal Commission.

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 _____ day of _____ 2023.

STEVE UHRING, Mayor

ATTEST:

KELSEY PETTIJOHN, City Clerk
(seal)

APPROVED AS TO FORM:
THIS DOCUMENT HAS BEEN REVIEWED
BY THE CITY ATTORNEY'S OFFICE
TREVOR RUSIN, City Attorney

Superseded Draft

ORDINANCE NO. 511

AN ORDINANCE OF THE CITY OF MALIBU APPROVING ZONING TEXT AMENDMENT NO. 18-004 AN AMENDMENT TO TITLE 17 (ZONING) OF THE MALIBU MUNICIPAL CODE TO UPDATE ACCESSORY DWELLING UNIT REGULATIONS AND DETERMINING 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 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 December 6, 2021, the Planning Commission continued the public hearing to the January 18, 2022 Regular Planning Commission meeting.

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

L. 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.

M. 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.

N. On March 6, 2023, the Planning Commission continued the public hearing to a March 14, 2023 Special Planning Commission meeting.

O. On March 14, 2023, the Planning Commission held a duly noticed public hearing on the proposed ADU ordinance (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 and recommended approval of the amendments with some modifications.

P. On August 2, 2023, a Notice of City Council 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.

Q. On August 28, 2023, before consideration of the item, the public hearing was continued to September 11, 2023.

R. On September 11, 2023, the City Council held a duly noticed public hearing on the proposed ADU ordinance (LCPA 18-002 and ZTA No.18-004), provided direction to staff, and continued the item to a date uncertain.

S. On October 19, 2023, a Notice of City Council Public Hearing was published in a newspaper of general circulation within the City of Malibu and mailed to interested parties.

T. On November 13, 2023, before consideration of the item, the public hearing was continued to November 27, 2023.

U. On November 27, 2023, the City Council held a duly noticed public hearing on the proposed ADU amendment 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 City Council 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 City Council 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. Zoning Text Amendment Findings.

Based on evidence contained within the record, including the agenda reports for and the hearings on September 11 and November 27, 2023, 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 4. Zoning Text Amendment No. 12-002, Amendments to the Malibu Municipal Code (MMC).

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

O. Add Chapter 17.44 (Accessory Dwelling Units) to read as follows.

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 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 physical improvement on a property that does not conform with current zoning standards.

17.44.040 Definitions.

“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.

“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; an enclosed use within the residence, such as an attached garage, is considered to be a part of and contained within the single-family structure;
3. has an 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.

“Efficiency kitchen” means a kitchen that includes all of the following:

1. A cooking facility with appliances.
2. A food preparation counter and storage cabinets that are of a reasonable size in relation to the size of the JADU.

“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.

“Proposed dwelling” means a dwelling that is the subject of a permit application and that meets the requirements for permitting.

“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.

“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.

17.44.050 Permitted Locations.

- A. ADUs and JADUs under Section 17.44.060(A) shall be allowed on lots that are in a residential or mixed-use zone.
- B. ADUs under Section 17.44.060(B) 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).
- C. Areas with Adequate Ingress and Egress. Since the entire City is located within is located in a designated “Very High Fire Hazard Severity Zone,” consistent with Los Angeles County Fire Department requirements to ensure adequate ingress and egress for fire safety, a minimum street width of 20 feet shall be required. ADUs are not allowed on parcels that do not have ingress and egress to a street at least 20 feet in width.
- D. Multifamily Lots. ADUs are allowed on multifamily lots pursuant to 17.44.060 A.3 and A.4. New attached ADUs are not allowed.

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 is 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 governs. State law is explicit about the Coastal Act not being preempted by the State’s ADU statute (Government Code Section 65852.2, subdivision (l)).

- 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.

17.44.070 Process and Timing.

- A. An APR is considered and approved ministerially by the Planning Director without discretionary review or a hearing.
- 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 January 1 following issuance of the building permit, the owner shall 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, except as otherwise provided in Government Code section 65852.26, 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.
- 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 ADU, 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. Building and Safety.

1. Must comply with building code. Subject to subsection (H)(2) below, all ADUs and JADUs must comply with all local building code requirements.
2. 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 (H)(2) 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

I. Height.

1. No ADU subject to this Chapter may exceed 16 feet in height above grade, as measured from existing or finished legal 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.

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. 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, 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 850 to 1,000 square foot limit.
2. An ADU that is attached to the primary dwelling is limited to 50 percent 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 an FAR, front-setback, lot-coverage, or open-space requirement may require the ADU to be less than 800 square feet.
4. By definition, a JADU may not be larger than 500 square feet.

B. Setbacks.

1. The front yard setback of an ADU located on a non-beach front lot, subject to this Section 17.44.090, shall be at least twenty (20) percent of the total depth of the lot, or sixty-five feet, whichever is less. On a beachfront lot, the front yard setback shall be twenty (20) feet maximum or the average of the two immediate neighbors, whichever is less.

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 for an ADU that is subject to this Section 17.44.090 if the ADU is constructed in the same location and to the same dimensions as an existing legally established accessory structure that was demolished and then replaced with the ADU.
- C. Passageway. No passageway, as defined by Section 17.02.060, is required for an ADU.
- D. 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 part of 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. When a garage, carport, or covered parking structure is (a) demolished in conjunction with the construction of an ADU or (b) converted to an ADU, those off-street parking spaces are not required to be replaced. If replacement parking is proposed by the owner, the parking must be located on hardscape.

- E. 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 to a legally established garage that 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 ADU, divided by the square footage of the primary dwelling, 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.
3. For purposes of this section 17.44.100, “impact fee” means a “fee” under the Mitigation Fee Act (Gov. Code § 66000(b)) and a fee under the Quimby Act (Gov. Code § 66477).

B. Utility Fees.

1. ADUs constructed with a single-family dwelling shall be subject to standard utility-connection requirements and fees.
2. Converted ADUs 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) or (B)(2) 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.

SECTION 5. Effective Date.

In accordance with California Government Code section 36937, this Ordinance shall become effective on the 30th day following its passage and adoption.

SECTION 6. 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 of 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 7. Certification.

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

PASSED, APPROVED, and ADOPTED this _____ day of _____ 2023.

STEVE UHRING, Mayor

ATTEST:

KELSEY PETTIJOHN, City Clerk
(seal)

APPROVED AS TO FORM:

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

TREVOR RUSIN, City Attorney

Superseded Draft

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~~ 1,200 square feet. 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 a 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 a ~~second residential unit~~ guest house or accessory dwelling unit 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 second 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~~ 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:

A. through C. - No changes

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 J. – No changes

K. Residential Structure Size

2. Multistory or Single Floor Area, Structures Greater Than Eighteen (18) Feet in Height. Notwithstanding any other provision of this chapter, the total development square footage for a structure greater than eighteen (18) feet in height shall not be greater than permitted for single-story construction. The second floor area plus the area of vaulted ceilings above eighteen (18) feet in height shall not exceed two-thirds the first floor area, and shall be oriented so as to minimize view blockage from adjacent properties.

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 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, 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 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. Minimum Street Width Requirement. Since the entire City is located within is located in a designated “Very High Fire Hazard Severity Zone” and consistent with Los Angeles County Fire Department requirements to ensure adequate ingress and egress for fire safety a minimum street width of 20 feet shall be required. ADUs are not allowed on parcels that do not have ingress and egress to a street at least 20 feet in width.
- F. Coastal Development Permit required.
1. A coastal development permit issued in accordance with Section 13.13 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 that does not change the building envelope is not considered development and does not require a CDP. Unfinished basements or attics, rooms with floor to ceiling heights less than 6 feet, and garages would not be considered habitable space.
 3. Detached ADUs on a multifamily zoned property shall require a CDP. An ADU located inside of a multifamily dwelling and ADUs attached to a multifamily dwelling are not allowed.
 4. The City may charge a fee to reimburse it for costs incurred in processing CDP permits, including the costs of adopting or amending the City’s ADU ordinance. The CDP permit processing fee is determined by the City Council by resolution.
- G. 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 shall 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.

H. 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. Size.

- a. The minimum square footage of an ADU shall be 400 square feet and the maximum square footage of an ADU shall be 1,200 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. For purposes of total development square footage (TDSF), the size of an ADU shall be consistent with 3.6(K). The area of a garage (400 square feet maximum) provided as part of ADU and exterior decks or overhangs that are attached to the structure shall not be included in the 1,200 square foot limit. The maximum square footage of the ADU, garage, and other attached structures that are otherwise considered TDSF shall be included in the overall TDSF 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 16 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. 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 16 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 ADU, onsite replacement parking spaces shall be required that comply with the minimum number of spaces and dimensions stated in LIP 3.14.3.
- 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 attached and detached~~ 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, ~~except that~~ 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	.	.	.	.	.	.	.	.	.	.	.	.
<u>Second Accessory dwelling units</u>	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 <u>units</u> <u>house</u> , 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:

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

“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

“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.

~~“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.~~

“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, 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 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 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 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.

17.44.040 Definitions.

“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.

“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; an enclosed use within the residence, such as an attached garage, is considered to be a part of and contained within the single-family structure;
3. has an 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.

“Efficiency kitchen” means a kitchen that includes all of the following:

1. A cooking facility with appliances.
2. A food preparation counter and storage cabinets that are of a reasonable size in relation to the size of the JADU.

“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.

“Proposed dwelling” means a dwelling that is the subject of a permit application and that meets the requirements for permitting.

“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.

17.44.050 Permitted Locations.

A. ADUS and JADUs under Section 17.44.060(A) shall be allowed on lots that are in a residential or mixed-use zone.

B. ADUs under Section 17.44.060(B) 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).

C. Areas with Adequate Ingress and Egress. Since the entire City is located within is located in a designated “Very High Fire Hazard Severity Zone,” consistent with Los Angeles County Fire Department requirements to ensure adequate ingress and egress for fire safety, a minimum street width of 20 feet shall be required. ADUs are not allowed on parcels that do not have ingress and egress to a street at least 20 feet in width.

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

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 is 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 governs. State law is explicit about the Coastal Act not being preempted by the State's ADU statute (Government Code Section 65852.2, subdivision (l).)

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.

17.44.070 Process and Timing.

- A. An APR is considered and approved ministerially by the Planning Director without discretionary review or a hearing.
- 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 January 1 following issuance of the building permit, the owner shall 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, except as otherwise provided in Government Code section 65852.26, 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.
- 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. Building and Safety.

1. Must comply with building code. Subject to subsection (H)(2) below, all ADUs and JADUs must comply with all local building code requirements.
2. 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 (H)(2) 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

I. Height.

1. No ADU subject to this Chapter may exceed 16 feet in height above grade, as measured from existing or finished legal 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.

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. 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, 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 850 to 1,000 square foot limit.

2. An ADU that is attached to the primary dwelling is limited to 50 percent 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 an FAR, front-setback, lot-coverage, or open-space requirement may require the ADU to be less than 800 square feet.
4. By definition, a JADU may not be larger than 500 square feet.

B. Setbacks.

1. The front yard setback of an ADU located on a non-beach front lot, subject to this Section 17.44.090, shall be at least twenty (20) percent of the total depth of the lot, or sixty-five feet, whichever is less. On a beachfront lot, the front yard setback shall be twenty (20) feet maximum or the average of the two immediate neighbors, whichever is less.
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 for an ADU that is subject to this Section 17.44.090 if the ADU is constructed in the same location and to the same dimensions as an existing legally established accessory structure that was demolished and then replaced with the ADU.

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

D. 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 part of 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. When a garage, carport, or covered parking structure is (a) demolished in conjunction with the construction of an ADU or (b) converted to an ADU, those off-street parking spaces are not required to be replaced. If replacement parking is proposed by the owner, the parking must be located on hardscape.

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 to a legally established garage that 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 ADU, divided by the square footage of the primary dwelling, 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.
3. For purposes of this section 17.44.100, “impact fee” means a “fee” under the Mitigation Fee Act (Gov. Code § 66000(b)) and a fee under the Quimby Act (Gov. Code § 66477).

B. Utility Fees.

1. ADUs constructed with a single-family dwelling shall be subject to standard utility-connection requirements and fees.
2. Converted ADUs, 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) or (B)(2) 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:

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[33. Subject to Chapter 17.44.- Accessory Dwelling Units.](#)



Red star indicates streets with one means of access. Properties located beyond the red star could not have an ADU.





Red star indicates streets with one means of access. Properties located beyond the red star could not have a ADU.

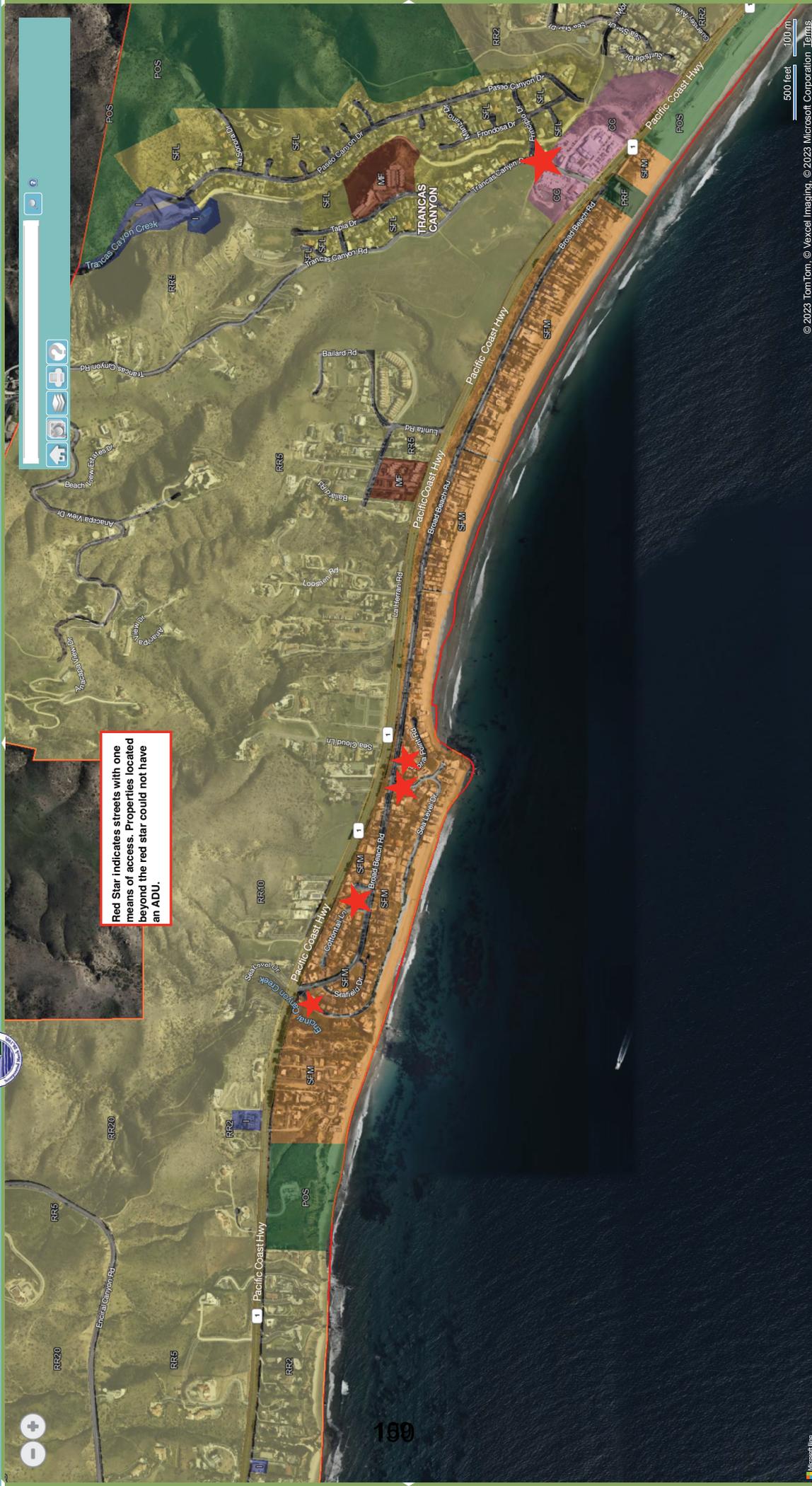




Red star indicates streets with one means of access. Properties located beyond the red star could not have an ADU.







Red Star indicates streets with one means of access. Properties located beyond the red star could not have an ADU.

MALIBU ROAD INVENTORY

Juris	Road	Limits	Length	Width	ROW	Pvmt AC Thick	Pvmt Base Thick	Shldr W/T /B	# Crb	Gtr Wid	Yr Bit	Yr Overly	Yr Seal	Yr	Stripe	Type	Grid	MO/YR	
	= FHWA		265,881	7,118															
1	Private Anacapa View Drive																###	J6	
2	Private Andromeda Lane																###	B7	
3	Private Avenida Del Mar																###	D6	
4	Private Avenida De Encinal																###	E6	
5	City Baden Place	Merritt Dr-1000' E	1,000	24	40	2	4	3/3			45	98				Rural	###	C2	
6	City Bailard Road	810' w/o Linita - 610' w/o Lunita	200	24	50	4					41	84				Rural	###	J7	
7	City Bailard Road	610' w/o Lunita - 525' w/o Lunita	85	32	32	4	8		1	2	41	84				Rural	###	J7	
8	City Bailard Road	525' w/o Lunita - 326' w/o Lunita	199	32	32	2	5		1	2	41	84				Rural	###	J7	
9	City Bailard Road	326' w/o Lunita - Lunita	326	24	50	4					41	84				Rural	###	J7	
10	Private Bailard Road																###	J7	
11	City Bayberry Lane	325' s/o Laurel Ridge - 80' n/o Laurel Ridge	405	34	58	2	10		2	2	72	2001	88			Rural	###	F6	
12	Private Backledge Terrace																###	B6	
13	City Big Rock Drive	Cool Oak - Little Rock	1,751	26	60	5		3/3			47	95	73	98	Therm	Rural	###	H5	
14	City Big Rock Drive	Little Rock - Pinnacle	200	26	60	5		5/3			47	95	73	98	Therm	Rural	###	H5	
15	City Big Rock Drive	Pinnacle - 786' w/o Seaboard	1,255	26	60	5		3/3			47	95	73	98	Therm	Rural	###	H5	
16	City Big Rock Drive	786' w/o Seaboard - Inland	1,535	32	50	4	4		1	2	47	95	73	98	Therm	Rural	###	H5	
17	City Big Rock Drive	Inland - 245' e/o Inland	245	32	50	6	4		1	2	47	95				Rural	###	H5	
18	City Big Rock Drive	245' e/o Inland - 400' w/o PCH	1,865	26	60	6		3/4			66	95				Rural	###	H5	
19	City Big Rock Drive	400' w/o PCH - PCH	400	26	60	8		3/4			59	87				Rural	###	D3	
20	City Birdview Avenue	Westward Beach - 300' w/o Bluewater	2,015	24	60	6	4	2/3									Rural	###	D3
21	City Birdview Avenue	300' w/o Bluewater - Cliffside	3,240	26	60	4	4	2/3/2									Rural	###	D3
22	City Bison Court	Fernhill - 1145' e/o Fernhill	1,145	22	40	4	4	2/2			46	95	75			Rural	###	F3	
23	City Blue Dane Lane	595' w/o Malibu Country - Malibu Country	595	34	58	2	8		2	2	72	2001	88			Urban	###	G7	
24	City Bluewater Road	Birdview - 750' e/o Birdview	750	26	50	3	9	3/3/9			86	2001				Rural	###	D3	
25	City Bluewater Road	750' e/o Birdview - 240' w/o dume	1,240	26	50	3	4	3/3			46	2001				Rural	###	D3	
26	City Bluewater Road	240' w/o Dume - Dume	240	26	50	3	9	3/3/9			86	2001				Rural	###	D3	
27	City Boniface Drive	Portthead - 500' w/o Fernhill	1,000	24	60	6	4	2/3				95				Rural	###	F3	
28	City Boniface Drive	500' w/o Fernhill - Fernhill	500	26	60	7	4				66	95				Rural	###	F3	
29	City Bonsall Drive	PCH - Rainsford	1,520	24	50	4	4				65	98		98	Therm	Rural	###	D2	
30	City Bonsall Drive	Rainsford - 1800' n/o Rainsford	1,800	24	50	4	4				75	98		98	Therm	Rural	###	D2	
31	City Bonsall Drive	1800' n/o Rainsford - 3550' n/o Rainsford	1,750	24	50	4	4				84	98		98	Therm	Rural	###	D2	
32	City Broad Beach Road	PCH - 875' e/o PCH	875	20	60	8 c		4/4								Rural	###	H7	
33	City Broad Beach Road	875' e/o PCH - 75' e/o Bunnie	520	38	60	2	6		1	2						Rural	###	H7	
34	City Broad Beach Road	75' e/o Bunnie - 255' w/o Seallevel	695	20	60	2/8		4/4								Rural	###	H7	
35	City Broad Beach Road	255' w/o Seallevel - 20' e/o Seallevel	275	40	60	2/8	5		1	2	69					Rural	###	H7	
36	City Broad Beach Road	20' e/o Seallevel - 750' e/o Seallevel	730	30	60	2/8			1	2						Rural	###	H7	
37	City Broad Beach Road	750' e/o Seallevel - 1200' e/o Seallevel	450	28	60	2/8		2/2								Rural	###	H7	
38	City Broad Beach Road	1200' e/o Seallevel - Seallevel	4,540	20	60	2/8										Rural	###	H7	
39	City Bunnie Lane	Broad Beach - 175' n/o Broad Beach	175	30	50	2	4		2		58		73			Rural	###	G7	
40	City Busch Drive	PCH - Rainsford	2,270	24	60	7	4				45	95				Rural	###	D1	
41	City Busch Drive	Rainsford - Merritt	1,930	24	60	5	6	3/2			45	98				Rural	###	D1	
42	City Busch Drive	Merritt - 100' n/o Cuthbert	2,880	26	60	8	4	2/2				0				Rural	###	D1	
43	Private Calicut Road	?????????															###	J6	
44	Private Calle De La Buritta																###	D6	

MALIBU ROAD INVENTORY

Juris	Road	Limits	Length	Width	ROW	Pvmt AC Thick	Pvmt Base Thick	Shldr W/T /B	# Crb	Gtr Wid	Yr Bit	Yr Overly	Yr Seal	Yr	Stripe	Type	Grid	MO/YR	
																			265,881	7,118
45	City	Calle Del Barco	1,050	26	30	2	4	2/1	2	1	29	97	87 R			Rural	### F6		
46	City	Calpine Drive	1,805	26	50	3	4				51	98				Rural	### D1		
47	Private	Camino De Buena Ventura																	
48	City	Carbon Canyon Road	350	30	50	6			1	2	66	95	87 R		Therm	Rural	### D4		
49	City	Carbon Canyon Road	350	26	50	4		3/1			66	95	87 R		Therm	Rural	### D4		
50	City	Carbon Canyon Road	1,630	26	50	4	4	3/1			66	95	87 R		Therm	Rural	### D4		
51	City	Carbon Mesa Road	3,225	26	50	4	4	3/1			47	95	87 R		Therm	Rural	### D6		
52	City	Carbon Mesa Road	900	26	40	4	4	3/3			47	95	87 R		Therm	Rural	### D6		
53	City	Carbon Mesa Road	1,500	26	50	4	4	3/3			47	95	87 R		Therm	Rural	### D6		
54	Private	Carrita Drive															### H5		
55	Private	Cavalleri Drive															### E1		
56	Private	Chocolate Lily Lane															### D3		
57	City	Civic Center Way	1,915	48	90	6	12	3/4			71	83			Therm	FAU	### A7	5,825	
58	City	Civic Center Way	840	56	80	6					58	83			Therm	FAU	### A7		
59	City	Civic Center Way	495	32	90	5	4				58	83			Therm	FAU	### A7		
60	City	Civic Center Way	670	30	60	5	13				74	83			Therm	FAU	### A7		
61	City	Civic Center Way	500	48	60	6	6				69	83			Therm	FAU	### A7		
62	City	Civic Center Way	805	66	60	6	6		1	2	83	83			Therm	FAU	### A7		
63	City	Civic Center Way	600	66	85	6	6		1	2	69	83			Therm	FAU	### A7		
64	City	Cliffside Drive	2,705	24	60	6	4	2/2			46	83				Rural	### E4	MTA Rte	
65	City	Cliffside Drive	1,730	28	50	8	4	2/2			46	87				Rural	### E4		
66	City	Clover Heights Avenue	1,075	24	50	4	4	2/2			51	2000				Rural	### C1		
67	City	Coast View Drive	1,975	25	40	3	4	2/3			48	2000	88			Urban	### J6		
68	City	Colony View Circle	198	25	40	5	4	3/3			2000	88				Urban	### J6		
69	City	Cool Oak Way	730	26	30	5		2/3			47	95				Rural	### H6		
70	City	Corral Canyon Road	350	46	70	6			1	2	65	74	86 C			Rural	### D5		
71	City	Corral Canyon Road	530	24	60	5					74	86 C				Rural	### D5		
72	City	Corral Canyon Road	80	24	40	5					74	86 C				Rural	### D5		
73	City	Corral Canyon Road	20 BR	28	42	c					84	86 C				Rural	### D5		
74	City	Corral Canyon Road	7,050	24	40	5					74	86 C				Rural	### D5		
75	City	Cottontail Lane	795	30	40	3	4		2		58	66	73			Rural	### G7		
76	City	Cross Creek Road	190	72	85	4	6		1	2	80			99	Paint	FAU	### A6		
77	City	Cross Creek Road	310	46	60	4	6				80			99	Paint	FAU	### A6		
78	City	Cross Creek Road	190	60	105	4	5		1	2	80			99	Paint	FAU	### A6		
79	City	Cross Creek Road	275	72	85	4	6		1	2	80			99	Paint	FAU	### A6		
80	City	Cuthbert Road	1,475	26	60	6	4	2/2			95					Rural	### C7		
81	City	Cuthbert Road	3,025	26	60	4	4	2/2			95					Rural	### C7		
82	City	De Ville Way	675	40	50	2	5		2	2	69		88			Urban	### J7		
83	Private	DeButts Terrace (Murphy Way)															### G7		
84	City	Deerhead Road	735	26	40	4	4				52	0				Rural	### B7		
85	Private	Deerpath Lane															### F6		
86	Private	Delaplaine Road															### G1		
87	City	Dume Drive	3,200	24	60	6	4	3/4				2000				Rural	### E2	6,070	
88	City	Dume Drive	2,870	24	60	6	4		1	2		2000				Rural	### E2		

MALIBU ROAD INVENTORY

Juris	Road	Limits	Length	Width	ROW	Pvmt AC Thick	Pvmt Base Thick	Shldr W/T /B	# Crb	Gtr Wid	Yr Bit	Yr Overly	Yr Seal	Yr	Stripe	Type	Grid	MO/YR
89	Private Eagle Pass Drive		265,881	7,118														
90	Private Ebbtide Way																###	G6
91	Private El Pequeno Drive																###	B2
92	Private El Sueno Drive																###	A7
93	City Encinal Canyon Road	PCH - 530 n/o PCH	530	24	70	7	2/2	2/2				86				Rural	###	F6
94	City Encinal Canyon Road	530 n/o PCH - 1230' n/o PCH	700	30	70	5	2/2	2/2				86				Rural	###	F6
95	City Encinal Canyon Road	1230 n/o PCH - 1730' n/o PCH	500	30	70	4	2/2	2/2				77				Rural	###	F6
96	City Encinal Canyon Road	1730 n/o PCH - 2850' n/o PCH	1,120	28	70	6	4/2	4/2				77				Rural	###	F6
97	City Encinal Canyon Road	2850 n/o PCH - 3120' n/o PCH	270	26	70	7	2/2	2/2				86				Rural	###	F6
98	City Encinal Canyon Road	3120 n/o PCH - 5340' n/o PCH	2,220	26	80	7	2/2	2/2				86				Rural	###	F6
99	City Encinal Canyon Road	5340 n/o PCH - 5500' n/o PCH	160	26	60	7	2/2	2/2				86				Rural	###	F6
100	City Encinal Canyon Road	5500 n/o PCH - 9710' n/o PCH	4,210	30	60	5						86				Rural	###	F6
101	City Encinal Canyon Road	9710 n/o PCH - 6895 s/o Lechuza	9,947	30	60	5						86				Rural	###	F6
102	Private Escondido Beach Road																###	A1
103	City Fernhill Drive	Cliffside - 300' n/o Bison	1,705	30	60	6	4 3/4					95				Rural	###	F4
104	City Fernhill Drive	300' n/o Bison - Grayfox	600	34	60	6	6		1	2	68	95				Rural	###	F4
105	City Fernhill Drive	Grayfox - Sea Ranch	750	24	60	8	4 3/2					95				Rural	###	F4
106	City Fernhill Drive	Sea Ranch - Boniface	355	30	60	6	4					95				Rural	###	F4
107	City Fernhill Drive	Boniface - Wildilfe	470	30	60	6	4 3/2					65				Rural	###	F4
108	City Filaree Heights Avenue	350' s/o Filaree Heights - Harvester	1,090	24	40	4	4 2/2					51				Rural	###	C1
109	City Floris Heights Road	600' s/o Filaree Heights - Filaree Heights	600	26	40	4	6 2/2					51				Rural	###	C1
110	City Forest Gate Circle	Vantage Point - 140' n/o Vantage Point	140	34	58	2	6		2	2	72	2001	88			Urban	###	G7
111	Private Fox View Drive																###	J5
112	Private Frondosa Drive																###	A7
113	Private Galahad Drive																###	F1
114	Private Gayton Place																###	E1
115	City Grasswood Avenue	Cliffside - Grayfox	2,415	30	50	7	4 2/2					95				Rural	###	E3
116	City Grayfox Street	Dume - 800' w/o Fernhill	1,200	24	50	6	4 2/2					2001				Rural	###	E3
117	City Grayfox Street	800' w/o Fernhill - Fernhill	800	32	55	6	6		1	2	68	2001				Rural	###	E3
118	City Grayfox Street	Fernhill - 2050' e/o Fernhill	2,050	26	50	4	4 2/2					2001	75			Rural	###	E3
119	City Greenwater Road	820' w/o Dume - Dume	820	20	40	8	4 3/2					2001				Rural	###	E4
120	City Guernsey Avenue	PCH - Morning View	900	24	55	6	4					63				Rural	###	A1
121	City Harbor Vista Drive	Malibu Canyon - 490' e/o Colony View	1,215	26	40	5	4 2/3					48		88		Urban	###	J6
122	City Harvester Road	Cuthbert - Busch	4,250	26	50	7	4					52				Rural	###	B7
123	City Harvester Road	Busch - 540' e/o Busch	540	26	50	6	6 2/2					2000				Rural	###	B7
124	City Heathercliff Road	600' s/o Wandermere - 340' s/o Dume	1,310	36	60	6	6 2/2					52				Rural	###	D2
125	City Heathercliff Road	340' s/o Dume - PCH	1,510	27	62	6	4		2	2	74	2000				Rural	###	D2
126	Private Horizon Drive																###	C7
127	Private Hughes Driveway																###	J5
128	Private Indian Mound Road																###	D3
129	Private Inland Lane																###	J6
130	City John Tyler Drive	PCH - Malibu Country	407	84	100	4	9		2	2	74	2001	80			Urban	###	G6
131	City John Tyler Drive	Malibu Country - 230' n/o Malibu Country	230	45	82	4	9		2	2	74	2001	80			Urban	###	G6
132	County Kanan-Dume Road	PCH - 430' n/o PCH	430	90	110	6	16		2	2	74	86				FAS	###	F1

MALIBU ROAD INVENTORY

Juris	Road	Limits	Length	Width	ROW	Pvmt AC Thick	Pvmt Base Thick	Shldr W/T /B	# Crb	Gtr Wid	Yr Bit	Yr Overly	Yr Seal	Yr	Stripe	Type	Grid	MO/YR
County	Kanan-Dume Road	430' n/o PCH - 2321' s/o Cavalleri	1,765	48	110	6	16	2/3/4		74	86					FAS	###	F1
County	Kanan-Dume Road	2321' s/o Cavalleri - 836' s/o Cavalleri	1,485	64	100	4	16	2/3		74	86					FAS	###	F1
County	Kanan-Dume Road	836' s/o Cavalleri - 231' n/o Cavalleri	1,067	62	100	4	16	2/3		74	87					FAS	###	F1
County	Kanan-Dume Road	231' n/o Cavalleri - 681' n/o Cavalleri	450	55	100	4	16	2/3		74	87					FAS	###	F1
County	Kanan-Dume Road	681' n/o Cavalleri - 1515' n/o Cavalleri	834	48	100	4	4	2/3		74	87					FAS	###	F1
County	Kanan-Dume Road	1515' n/o Cavalleri - 2081' n/o Cavalleri	566	48	100	4	4	2/3		74	87					FAS	###	F1
County	Kanan-Dume Road	2081' n/o Cavalleri - 3161' n/o Cavalleri	1,080	49	100	4	4	2/3		74	87					FAS	###	F1
County	Kanan-Dume Road	3161' n/o Cavalleri - 3331' n/o Cavalleri	170	48	100	4	4	2/3		74	87					FAS	###	F1
County	Kanan-Dume Road	3331' n/o Cavalleri - 4591' n/o Cavalleri	1,260	48	100	4	4	2/3		74	87					FAS	###	F1
Private	La Brisa Drive																###	A7
Private	La Gloria Drive	Trancas - 217' e/o Trancas	217	36	54	2	7		2	2	65		73			Rural	###	A7
Private	La Sonora Drive																###	A6
City	Larkspur Lane	Wandermere - 350' e/o Wandermere	350	26	40	6	6	2/2			52	87				Rural	###	E2
Private	Las Estrellas Drive																###	A7
City	Las Flores Canyon Road	PCH - 2700' n/o PCH	2,700	24	40	4				23	95	82 C				Urban	###	F3
Private	Las Flores Mesa Drive																###	G6
City	Latigo Canyon Road	PCH - 2700' n/o PCH	2,700	24	60	6					80					Rural	###	A7
City	Latigo Canyon Road	2700' n/o PCH - 9255' n/o PCH	6,555	24	60	6					80					Rural	###	A7
City	Latigo Canyon Road	9255' n/o PCH - Maguire	7,725	24	60	6					80					Rural	###	A7
Private	Latigo Shore Drive																###	B1
City	Laurel Ridge Drive	135' w/o Bayberry - Bayberry	135	34	58	2	10		2	2	72	2,001	88			Rural	###	F6
City	Laurel Ridge Drive	Bayberry - 150' w/o Malibu Country	179	36	60	2	10		2	2	72	2,001	88			Rural	###	F6
City	Laurel Ridge Drive	150' w/o Malibu Country - Malibu Country	150	36	60	2	6		2	2	72	2,001	88			Rural	###	F6
City	Little Rock Way	730' w/o Big Rock - Big Rock	730	26	30	5		2/2			47	95				Rural	###	H6
City	Little Rock Way	Big Rock - 400' e/o Big Rock	400	26	30	5		2/3			47	95				Rural	###	H6
Private	Lockview Lane ????																###	B1
Private	Los Olas Way																###	D3
City	Lunita Road	PCH - Bailard	515	24	50	4				41	84					Rural	###	J7
City	Malibu Canyon Road	PCH - 200' n/o PCH	200	84	100	6	12		2	2	71	87				FAU	###	J4
City	Malibu Canyon Road	200' n/o PCH - 445' n/o PCH	245	84	100	6	12		2	2	71	87				FAU	###	J4
City	Malibu Canyon Road	445' n/o PCH - 245' s/o Civic Center	1,020	72	100	6	12		1	2	71	87				FAU	###	J4
City	Malibu Canyon Road	245' s/o Civic Center - 150' n/o Civic Center	395	82	100	6	12		1	2	71	87				FAU	###	J4
City	Malibu Canyon Road	150' n/o Civic Center - 300' n/o Civic Center	150	50	120	6	12	3/3			71	88				FAU	###	J4
City	Malibu Canyon Road	300' n/o Civic Center - 985' s/o Malibu Knolls	1,585	50	120	6	12	3/3			71	88				FAU	###	J4
City	Malibu Canyon Road	985' s/o Malibu Knolls - Malibu Knolls	985	54	80	7		3/3			88					FAU	###	J4
City	Malibu Canyon Road	Malibu Knolls - 140' s/o Malibu Crest	1,575	30	80	7		3/3			88					FAU	###	J4
City	Malibu Canyon Road	140' s/o Malibu Crest - 75' n/o Malibu Crest	215	40	80	7		4/3			88					FAU	###	J4
City	Malibu Canyon Road	75' n/o Malibu Crest - 700' n/o Malibu Crest	625	68	80	6		4/3			87					FAU	###	J4
City	Malibu Canyon Road	700' n/o Malibu Crest - 1340' n/o Malibu Crest	640	52	80	6		3/3			87					FAU	###	J4
City	Malibu Canyon Road	1340' n/o Malibu Crest - Malibu Crest	428	39	80	6		4/3			87					FAU	###	J4
City	Malibu Canyon Road	1768' n/o Malibu Crest - 3685' n/o Malibu Crest	1,917	37	80	7		3/3			87					FAU	###	J4
City	Malibu Canyon Road	3685' n/o Malibu Crest - 5312' n/o Malibu Crest	1,627	37	80	9		3/5			87					FAU	###	J4
City	Malibu Canyon Road	5312' n/o Malibu Crest - 9318' n/o Malibu Crest	4,006	37	80	7		3/5			87					FAU	###	J4
City	Malibu Canyon Road	9318' n/o Malibu Crest - 9385' n/o Malibu Crest	67	34	80	9		3/5			87					FAU	###	J4

MALIBU ROAD INVENTORY

Juris	Road	Limits	Length	Width	ROW	Pvmt AC Thick	Pvmt Base Thick	Shldr W/T /B	# Crb	Gtr Wid	Yr Bit	Yr Overly	Yr Seal	Yr	Stripe	Type	Grid	MO/YR
	= FHWA		265,881	7,118														
177	Private Malibu Colony Drive											2000					###	J7
178	City Malibu Country Drive	John Tyler - Vantage Point	1,236	40	64	2	8		2	2	72	2001	88			Urban	###	G6
179	City Malibu Country Drive	Vantage Point - 1009' n/o Laurel Ridge	1,009	40	64	2	6		2	2	72	2001	88			Urban	###	G6
180	Private Malibu Cove Colony Drive											2000					###	A1
181	City Malibu Crest Drive	Malibu Canyon - 700' e/o Malibu Canyon	700	25	40	3	4	3/3			48	2000	88			Urban	###	J6
182	City Malibu Knolls Road	Malibu Canyon - 220' e/o Coast View	664	25	40	3	4				48	2000	88			Urban	###	J6
183	Private Malibu Parks Lane															Rural	###	B1
184	City Malibu Road	PCH - 2495' w/o Puerto Canyon	790	38	60	4	8				80					Urban	###	A7
185	City Malibu Road	2495' w/o Puerto Canyon - 1325' w/o Puerto Canyon	1,170	26	60	4	8				80					Urban	###	A7
186	City Malibu Road	1325' w/o Puerto Canyon - 950' e/o Puerto Canyon	2,275	22	60	4	c 8				80					Urban	###	A7
187	City Malibu Road	950' e/o Puerto Canyon - 1475' e/o Puerto Canyon	525	30	60	4	8				80					Urban	###	A7
188	City Malibu Road	1475' e/o Puerto Canyon - 3150' e/o Puerto Canyon	1,675	22	60	4	c 8				80					Urban	###	A7
189	City Malibu Road	3150' e/o Puerto Canyon - 4495' e/o Puerto Canyon	1,345	26	60	4	8				80					Urban	###	A7
190	City Malibu Road	4495' e/o Puerto Canyon - 6820' e/o Puerto Canyon	2,325	28	60	4	c 8				80					Urban	###	A7
191	City Malibu Road	6820' e/o Puerto Canyon - 2540' w/o Webb	300	26	90	4	8				80					Urban	###	A7
192	City Malibu Road	2540' w/o Webb - 900' w/o Webb	1,640	28	70	4	c 8	8/3								Urban	###	A7
193	City Malibu Road	900' w/o Webb - 500' w/o Webb	400	40	80	2/8	6	8/3								Urban	###	A7
194	City Malibu Road	500' w/o Webb - 240' e/o Webb	740	56	80	4	6		2	2						Urban	###	A7
195	City Malibu Road	240' e/o Webb - PCH	790	40	65	4	6		1	2						Urban	###	A7
196	Private Manzano Drive																###	A7
197	Private Mariposa De Oro																###	A6
198	Private Mcanany Way																###	H5
199	City Merritt Drive	Morning View - Busch	3,505	24	50	6	4	3/3				2000				Rural	###	C2
200	Private Monte Lado Drive																###	A7
201	City Morning View Drive	90' w/o Seastar - Guernsey	490	30	40	2	6		1	2		2000	73			Rural	###	B1
202	City Morning View Drive	Guernsey - 2200' e/o Guernsey	2,200	24	50	6	4	3/3				2000	73			Rural	###	B1
203	City Morning View Drive	2200' e/o Guernsey - 2700' e/o Guernsey	500	24	50	4	4	3/3				2000	73			Rural	###	B1
204	City Morning View Drive	2700' e/o Guernsey - 3334' e/o Guernsey	634	24	50	4	4					2000	73			Rural	###	B1
205	City Morning View Drive	3334' e/o Guernsey - 1180' w/o Merritt	1,416	22	50	6	4				45	2000	73			Rural	###	B1
206	City Morning View Drive	1180' w/o Merritt - 160' w/o Merritt	1,020	30	50	6	4		1	2	66	2000				Rural	###	B1
207	City Morning View Drive	160' w/o Merritt - PCH	560	40	60	6	4		1	2		2000				Rural	###	B1
208	Private Noranda Lane																###	F5
209	State Pacific Coast Highway																###	G6
210	Private Palm Canyon Lane															???	###	A5
211	Private Paradise Cove Road																###	G2
212	Private Paseo Canyon Drive																###	A6
213	City Paseo Hidalgo	Rambla Hidalgo - 448' e/o Rambla Orienta	448	24	26	4	4		2	1	29	97	87 R			Rural	###	F6
214	City Paseo Portola	523' s/o Rambla Vista - Rambla Vista	523	24	26	4	4		2	1	29	97	87 R			Rural	###	F6
215	City Paseo Serra	Rambla Vista - 650' e/o Rambla Vista	650	24	26	4	4		2	1	29	97	87 R			Rural	###	F6
216	City Philip Avenue	Morning View - Cuthbert	1,975	24	50	5	4	2/3				98	82 C			Rural	###	B1
217	City Piedra Chica Road	425' s/o Big Rock - Big Rock	425	28	42	2			2	2	65	95	75			Rural	###	J6
218	City Pinnacle Way	650' w/o Big Rock - Big Rock	650	26	30	3		2/3			47	95	73			Rural	###	H6
219	City Plover Way	145' w/o Malibu Country - Malibu Country	145	34	58	2	8		2	2	72	2001	88			Urban	###	G7
220	Private Point Lechuza Drive																###	H7

MALIBU ROAD INVENTORY

Juris	Road	Limits	Length	Width	ROW	Pvmt AC Thick	Pvmt Base Thick	Shldr W/T /B	# Crb	Gtr Wid	Yr Bit	Yr Overly	Yr Seal	Yr	Stripe	Type	Grid	MO/YR
	= FHWA		265,881	7,118														
221	City	Portshhead Road	900	24	60	5	4	2/2			46	95				Rural	###	E2
222	City	100' n/o Selfridge - 400' s/o PCH	700	24	60	4					46	95	75			Rural	###	E2
223	City	400' s/o PCH - PCH	400	24	60	5	4				46	95	75			Rural	###	E2
224	Private	Principio Drive															###	A7
225	City	Puerco Canyon Road	130	16	60	2						98				Rural	###	E6
226	City	Puerco Canyon Road	1,500	24	60	7						98				Rural	###	E6
227	City	Puerco Canyon Road	595	24	60	7						98				Rural	###	E6
228	Private	Puesta Del Sol															###	E6
229	City	Rainsford Place	835	24	50	4	4				45	95				Rural	###	D2
230	City	Rambra Orienta	1,625	26	30	4	4		2	1	29	97	87 R			Rural	###	F6
231	City	Rambra Pacifico	2,600	26	60	5						95				Urban	###	E6
232	City	Rambra Pacifico	6,852	26	60	5	3/2					95				Urban	###	E6
233	City	Rambra Vista	4,467	26	30	4	4		2	1	29	97	87 R			Rural	###	F6
234	Private	Rey De Copas Lane															###	G2
235	Private	Ridgmont Drive															###	B6
236	City	Roca Chica Drive	405	28	42	2			2	2	66	95	73			Rural	###	J6
237	City	Roca Chica Drive	985	30	50	2			2	2	65	95	73			Rural	###	J6
238	Private	Rockcroft Drive															###	H6
239	Private	Rockpoint Road															###	H6
240	Private	Rockport Way															###	J6
241	City	Royal Stone Drive	385	28	42	2			2	2	65	95	73			Rural	###	J6
242	Private	Sea Daisy Drive															###	D3
243	Private	Sea Drift Cove															###	B1
244	Private	Sea Lane															###	H1
245	Private	Sea Level Drive															###	G7
246	City	Sea Lion Place	980	26	60	6	4	2/2			46					Rural	###	E4
247	Private	Sea Ranch Way															###	F3
248	Private	Sea Vista Drive															###	A1
249	City	Seaboard Road	495	36	56	2			2	2	66	95	73			Rural	###	H6
250	City	Seaboard Road	968	36	56	2			2	2	65	95	73			Rural	###	H6
251	Private	Seafield Drive															###	G7
252	Private	Seagull Drive															###	B1
253	City	Seamoor Drive	286	28	42	2			2	2	66	95	73			Rural	###	J6
254	City	Seastar Drive	460	34	54	2	6		2	2	63	2000	73			Rural	###	A1
255	Private	Seawatch Lane															###	D3
256	City	Selfridge Drive	1,560	28	50	6	4	2/2			45					Rural	###	E2
257	Private	Serra Road															###	A5
258	Private	Shearwater Lane															###	D3
259	Private	Sicomoro Drive															###	A7
260	Private	Sierks Way										98					###	G6
261	City	Skyline View Drive	415	34	58	2	6		2	2	72	2001	88			Urban	###	G6
262	Private	Solsice Canyon Road															###	B6
263	Private	Stuart Ranch Road															###	J6
264	City	Surfside Way	540	26	40	2	6		2	2	63	2000	73			Rural	###	A1

MALIBU ROAD INVENTORY

Juris	Road	Limits	Length	Width	ROW	Pvmt AC Thick	Pvmt Base Thick	Shldr W/T /B	# Crb	Gtr Wid	Yr Bit	Yr Overly	Yr Seal	Yr	Stripe	Type	Grid	MO/YR
Private	Sweetwater Canyon Drive																### B6	
Private	Sweetwater Mesa Road																### B6	
Private	Sycamore Meadows Drive																### A1	
Private	Tantalus Drive																### A1	
Private	Tapia Drive																### A6	
Private	Teal Terrace																### F1	
City	Trancas Canyon Road	PCH - 530' n/o PCH	530	32	60	4	12				86					Rural	### A7	
City	Trancas Canyon Road	530' n/o PCH - 300' s/o La Gloria	2,104	32	50	4	7		1	2	67	84				Rural	### A7	
City	Trancas Canyon Road	300' s/o La Gloria - 178' n/o La Gloria	478	32	50	2	7				67	70	73			Rural	### A7	
City	Trancas Canyon Road	178' n/o La Gloria - 3350' n/o La Gloria	3,172	20	40	4						98				Rural	### A7	
City	Tuna Canyon Road	PCH - 3500' n/o PCH	3,500	18	40	4						79				Rural	### B4	
City	Vantage Point Terrace	505' w/o Malibu Country - Malibu Country	505	34	58	2	6		2	2	72	2001	88			Urban	### G7	
City	Vantage Point Terrace	Malibu Country - Forest Gate	613	40	64	2	6		2	2	72	2001	88			Urban	### G7	
City	Vantage Point Terrace	Forest Gate - 525' e/o Forest Gate	525	34	58	2	8		2	2	72	2001				Urban	### G7	
Private	Via Acero																### F7	
Private	Via Cabrillo																### B1	
Private	Via Cataldo																### B1	
Private	Via Escondido																### A1	
Private	Via Venezia																### B1	
Private	Via Linda																### E6	
Private	Via Vienta																### H7	
Private	Victoria Point Road																### E6	
Private	Villa Costera																### E6	
Private	Vista De Las Ondas																### D5	
Private	Vista Del Preseas																### H7	
City	Vista Pacifica Street	Civic Center Way - 240' n/o Civic Center Way	240	40	60	2	7		2	2	69		88			Urban	### H7	
Private	Vista Playa Drive																### A7	
Private	Vista Sierra Drive																### A7	
City	Wandermere Road	1350' s/o Larkspur - Heathercliff	2,210	24	60	6	6 2/2				52	87				Rural	### E3	
City	Webb Way	Malibu - PCH	340	36	54	3	4		1	2	58					Urban	### J7	
City	Webb Way	PCH - Civic Center Way	425	48	100	3	13				73	95				Urban	### J7	
City	Westward Beach Road	Birdview - 1990' s/o PCH	1,885	46	60	7	4				45	2001	75			Rural	### D3	
City	Westward Beach Road	1990' s/o PCH - 1510' s/o PCH	480	46	60	7					45	2001	75			Rural	### D3	
City	Westward Beach Road	1510' s/o PCH - PCH	1,510	36	60	7					45	2001	75			Rural	### D3	
Private	Whitecap Way																### H5	
City	Whitesand Place	Wildlife - Wildlife	630	26	50	6	4 3/2				46	2001				Rural	### F3	
Private	Wight Road																### F2	
Private	Wildflower Road																### D3	
City	Wildlife Road	Whitesand - Selfridge	3,100	28	60	6	4 3/2				44	2001				Rural	### F2	
City	Wildlife Road	Selfridge - Zumirez	1,120	28	60	4	4 2/2				44	83	75			Rural	### F2	
Private	Winding Way																### J7	
City	Winter Canyon Road	Civic Center - 1200' n/o Civic Center	1,200	20	20	2							88			Urban	### H6	
Private	Zenith Point Road																### C7	
Private	Zuma Bay Way																### D3	

MALIBU ROAD INVENTORY

Juris	Road	Limits	Length	Width	ROW	Pvmt AC Thick	Pvmt Base Thick	Shldr W/T /B	# Crb	Gtr Wid	Yr Bit	Yr Overly	Yr Seal	Yr	Stripe	Type	Grid	MO/YR	
	= FHWA		265,881	7,118															
309	Private	Zuma Mesa Drive																	
310	City	Zuma View Place	450	28	60	6	4	3/2			44	87				Rural	###	F2	
311	City	Zumirez Drive	2,500	28	60	6	4	2/3			44	87				Rural	###	F2	



City Of Malibu
23825 Stuart Ranch Road
Malibu, CA 90265
Phone (310) 456-2489
www.malibucity.org

PLANNING DEPARTMENT
NOTICE OF PUBLIC HEARING

NOTICE OF PUBLIC HEARING

The Malibu City Council will hold a public hearing on **Monday, November 13, 2023, at 6:30 p.m.** in the Council Chambers, Malibu City Hall, 23825 Stuart Ranch Road, Malibu, CA, and via teleconference for the project identified below.

Public comment can be submitted ahead of the public hearing to citycouncil@malibucity.org for inclusion in the public record. To view and participate during the public hearing, please review the meeting agenda posted at MalibuCity.org/AgendaCenter and follow the directions for public participation.

ACCESSORY DWELLING UNIT ORDINANCE

LOCAL COASTAL PROGRAM AMENDMENT NO. 18-002 AND ZONING TEXT AMENDMENT NO. 18-004 - Consider an amendment to the Local Coastal Program (LCP) and Title 17 (Zoning) of the Malibu Municipal Code (MMC) 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 14, 2023, the Planning Commission held a Special meeting and adopted Resolution No. 23-12, providing recommendations to the City Council for an amendment to the LCP and MMC in accordance with City Council direction on August 22, 2022. On September 11, 2023, the City Council provided additional direction to staff and continued the item to a date uncertain.

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. All persons wishing to address the Council regarding these matters will be afforded an opportunity in accordance with the Council's procedures. Copies of all related documents can be reviewed by any interested person at City Hall during regular business hours by appointment. Oral and written comments may be presented to the City Council on, or before, the date of the meeting.

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.

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.

RICHARD MOLLICA, Planning Director

Date: October 19, 2023

City Council



From: Jo Drummond [REDACTED]
Sent: Sunday, November 26, 2023 11:57 AM
To: City Council; Bruce Silverstein; Steve Uhring; Doug Stewart; Paul Grisanti; Marianne Riggins
Cc: John Mazza; Kraig Hill; Bill Sampson; Ann Doneen; Lsgla Saunders; Jae Flora Katz; R N; Patt Healy; Georgia Goldfarb; SheaBroussard; Frank Angel; Scott Dittrich; Dru Jacobson; Mark Olsen; Barbara Burke; Hayley Mattson; Cece Woods; Carla Mccloskey
Subject: ADUs Item 4A
Attachments: ADU-Summary-NEW_04102023.pdf

Attention Honorable Mayor Uhring & City Council,

I expected to see the two access requirement within the proposed resolution after your serious direction to planning staff from the last council meeting on this. I was extremely disappointed and surprised at the staff’s recommendation to NOT ADD this important provision into the ordinance for all our safety.

The staff mentions a random letter from State Dept of Housing & Community Development (HCD) to Rancho Palos Verdes that they would need to provide evidence that this restriction would be required to protect public safety. Rancho Palos Verdes has not had as many deadly and devastating wildfires as Malibu and the whole city is NOT designated a VHFHSZ as we are. Also according to this map with data from the California Public Utilities Commission we are a higher risk fire hazard/prone area:

<https://abc7news.com/fire-near-me-california-danger-map-wildfire/10733648/>

The cities of Los Angeles, Oakland, Angels Camp and Corte Madera all restrict ADUs similarly in high fire hazard zones and have so far suffered no ramifications. HCD has also granted the city of Portola Valley permission to continue restricting ADUs in fire hazard zones. Portola Valley provided expert analysis and robust scientific evidence to support the need for the restrictions. **From the HCD evaluation - ‘Fire Prohibitions - The Ordinance states that “ADUs are prohibited on parcels smaller than one acre whose direct vehicular access is from a road or cul-de-sac which (1) has a single point of ingress/egress and (2) has a width of less than eighteen feet.”** The Ordinance’s findings go into detail explaining the nature of the fire risk and the Town’s approach to risk management, outlining a fuel hazard study specific for the purpose and mapping where evacuation could be constrained in an emergency. The use of these locally chartered studies and the fifty pages of documents included in the May 25, 2023 email speaks to the great care and consideration the Town has put into risk management. HCD appreciates the thoughtful analysis.’ So please use some of our existing Flame Mappers study findings on this, etc. and include this in the ordinance keeping this restriction.

Given that LA County Planning gives two access restrictions in Very High Fire Hazard Severity Zones I don’t understand why staff completely ignored this in their report and are putting our community at risk. During Woolsey traffic was backed up Big Rock Drive and other canyon roads for hours not to mention the PCH for a minimum of 5 hours putting evacuees’ lives in jeopardy. This kind of traffic trapped and fatally burned many victims of the 2018 Camp Fire in Paradise and could easily happen here. Adding more dwellings and intensity of use in these areas without two egresses will make evacuation in a disaster even worse. When these roads become clogged, no cars can escape, and no emergency vehicles can get through to fight the fire or assist people to escape. In addition, the proliferation of ADU’s in these areas will increase the amount of combustible fuel, leading to a higher number of ignition sources and the likelihood of rapid spread of wildfire.

CC: Council; CM; CA ; PL _____; Ref. Binder; Original to 11/27/2023 Agenda File

FILED
City of Malibu
Office of the City Clerk
Meeting Date 11/27/2023
Agenda Item # 4A

ACCESSORY DWELLING UNITS

An ADU is permitted if:	<ul style="list-style-type: none"> The property is zoned to allow a single-family residence. For coastal areas, please refer to the applicable Local Coastal Program. A legal SFR or MFR exists on the property or is proposed.
An ADU is not permitted if:	<ul style="list-style-type: none"> Property is not zoned to allow a SFR or MFR. Located in a Very High Fire Hazard Severity Zone (VHFHSZ) adjacent to a major highway. Access must be 24 ft. wide, not including sidewalk. Access must be paved in Hillside Management Area standards approved by Public Works. VHFHSZ adjacent to a major highway. Exemption ADU/JADU types listed below.

DEVELOPMENT STANDARDS

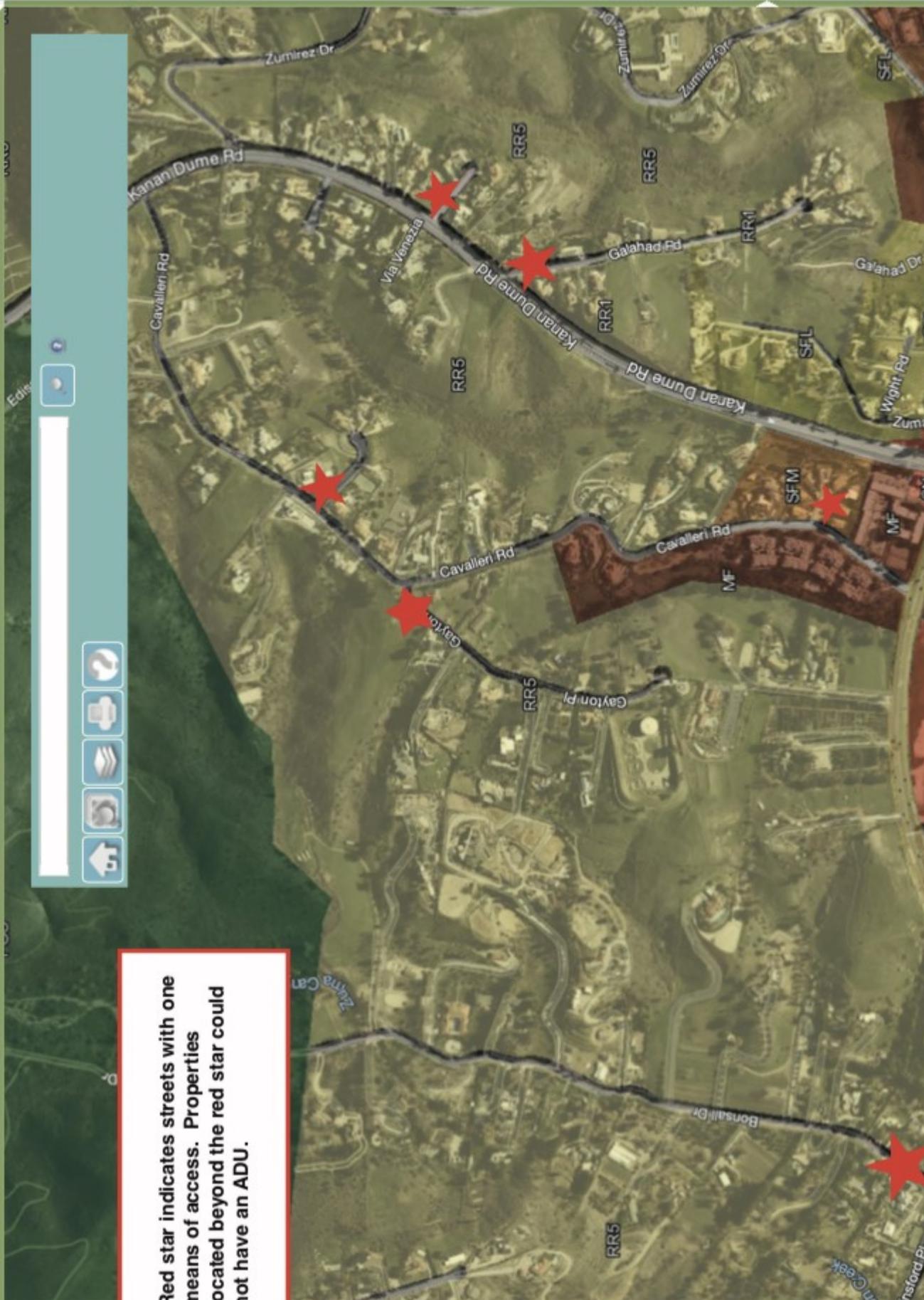
General Notes	<ul style="list-style-type: none"> "Attached" is any structure that is connected to an SFR. "Detached" is any structure not attached to an SFR or MFR. Junior ADU (JADU) means a unit that is no more than 500 sq. ft. including an attached garage. A JADU must have a separate access to the SFR and can share a bathroom with the SFR. A JADU must have an efficiency kitchen at a minimum. Either the JADU or the SFR must be owned by a property owner, not a corporate entity or LLC. Setback and height requirements do not apply to ADUs constructed in the same location and same dimensions as the SFR. Any development standard that would physically preclude an ADU/JADU shall not be imposed.
Statewide Exemption ADU/JADU types (must be approved ministerially; local requirements do not apply):	<ul style="list-style-type: none"> One ADU within existing or proposed space of SFR or MFR (must have exterior access to "Other Yard Requirements"). One new detached ADU with 4 ft. side and rear setbacks and height (or 18 ft., see "Other Height Restrictions"), on a lot with an existing SFR or MFR. A minimum of one ADU and a maximum of 25% of existing SFR or MFR not used as livable space, e.g. storage rooms, laundry, etc. A maximum of two detached ADUs, with height not exceeding 18 ft. and 4 ft. side and rear setbacks, on a lot with an existing SFR or MFR.

Single-Family Residence Only

ADU Type	Maximum Size	Setbacks
A. Attached ADU: Conversion Within Existing SFR and/or New Construction	50% of existing SFR or 1200 sq. ft., whichever is less, provided at least an 800 sq. ft. ADU is allowed.	Front: Title 22 * Side: 4 ft. Rear: 4 ft.
B. Attached ADU: Conversion Entirely Within Existing SFR	No maximum	Existing setbacks apply
C. Detached ADU:		

Also several of the red stars on the Malibu maps at the end of the staff report that are indicating the streets that do not have two egresses actually DO HAVE two accesses to the pch such as Morningview Drive so there can be more ADU's than actually projected. These maps in the staff report have some errors. And the stars that are correct would hinder evacuation down these small, windy roads to the PCH so they should NOT be discounted just because there are so many limited access roads in our city. This is WHY we are such a fire prone area.

Red star indicates streets with one means of access. Properties located beyond the red star could not have an ADU.





To accommodate the very few people who need ADU's in our neighborhoods without the two egresses you can do as Oakland does and provide - *Approved application for Reasonable Accommodation Request due to a disability of an ADU occupant or a need to accommodate a live-in caregiver for a person with disability i.e. for aging in-laws. The Reasonable Accommodation Request must include a reason for the exception.*

Thank you for fixing the ordinance, adding the required studies to keep all of Malibu safe.

Jo Drummond

ACCESSORY DWELLING UNIT (ADU) SUMMARY

An ADU is permitted if:	<ul style="list-style-type: none"> The property is zoned to allow a single-family residence (SFR) or multi-family residence (MFR). For coastal areas, please refer to the applicable Local Coastal Program at http://planning.lacounty.gov/coastal. A legal SFR or MFR exists on the property or is proposed to be built concurrently with the ADU(s).
An ADU is not permitted if:	<ul style="list-style-type: none"> Property is not zoned to allow a SFR or MFR. Located in a Very High Fire Hazard Severity Zone (VHFHSZ) and does not have two means of access to a highway. Access must be 24 ft. wide, not including sidewalks, and unobstructed from the lot to the highway. Access must be paved in Hillside Management Areas. Each means of access must be built to public street standards approved by Public Works. VHFHSZ access requirements do not apply to the four (4) Statewide Exemption ADU/JADU types listed below.

DEVELOPMENT STANDARDS

General Notes	<ul style="list-style-type: none"> “Attached” is any structure that is connected to an SFR or MFR, or conversion of space within an SFR or MFR. “Detached” is any structure not attached to an SFR or MFR. Junior ADU (JADU) means a unit that is no more than 500 sq. ft. in size and contained entirely within an SFR, including an attached garage. A JADU must have a separate entrance from the SFR. A JADU may have interior access to the SFR and can share a bathroom with the SFR if interior access is provided. A JADU must have an efficiency kitchen at a minimum. Either the JADU or the SFR must be owner-occupied. A JADU is not permitted on a property owned by a corporate entity or LLC. Setback and height requirements do not apply to ADUs converted entirely from existing square footage, or ADUs constructed in the same location and same dimensions as a structure that physically exists. Any development standard that would physically preclude an ADU of at least 800 sq. ft. with 4 ft. side and rear yard setbacks shall not be imposed.
Statewide Exemption ADU/JADU types (must be approved ministerially; local requirements do not apply):	<ul style="list-style-type: none"> One ADU within existing or proposed space of SFR or existing accessory structure, and one JADU within existing or proposed space of SFR. Must have exterior access and sufficient yards for fire and life safety (see “Other Yard Requirements”). One new detached ADU with 4 ft. side and rear setbacks, floor area of not more than 800 sq. ft., and 16 ft. max height (or 18 ft., see “Other Height Restrictions”), on a lot with existing or proposed SFR. A minimum of one ADU and a maximum of 25% of existing dwelling units, entirely within portions of an existing MFR not used as livable space, e.g. storage rooms, boiler rooms, passageways, attics, basements, garages. A maximum of two detached ADUs, with height not exceeding 16 ft (or 18 ft., see “Other Height Restrictions”) and 4 ft. side and rear setbacks, on a lot with an existing or proposed MFR.

Single-Family Residence Only

ADU Type	Maximum Size	Setbacks	Height	Other
A. Attached ADU: Conversion Within Existing SFR and/or New Construction	50% of existing SFR or 1200 sq. ft., whichever is less, provided at least an 800 sq. ft. ADU is allowed.	Front: Title 22 * Side: 4 ft. Rear: 4 ft.	25 ft. or as specified by CSD/Specific Plan, whichever is less (see Other Height Restrictions)	Setbacks and height apply to new square footage only. Can be combined with C/D and E.
B. Attached ADU: Conversion Entirely Within Existing SFR	No maximum	Existing setbacks apply	Existing height applies	Can be combined with C/D and E.
C. Detached ADU: Conversion Within Detached Accessory Structure and/or New Construction	1200 sq. ft.	Front: Title 22 * Side: 4 ft. Rear: 4 ft.	25 ft. or as specified by CSD/Specific Plan, whichever is less (see Other Height Restrictions)	Setbacks and height apply to new square footage only. Can be combined with A/B and E.
D. Detached ADU: Conversion Entirely Within Detached Accessory Structure	No maximum. Addition of up to 150 sq. ft. is allowed to accommodate ingress/egress.	Existing setbacks apply	Existing height applies	Can be combined with A/B and E.
E. JADU: Within Existing or Proposed Space of SFR	500 sq. ft.	N/A	N/A	Can be combined with A/B and C/D.

Multi-Family Residences, including Duplexes and Multiple SFRs

ADU Type	Maximum Size	Setbacks	Height	Other
F. Attached ADU: Conversion Entirely within Existing MFR	No maximum	N/A	N/A	Maximum number of attached ADUs: 1 ADU OR 25% of existing MFR units within structure, whichever is greater. Can be combined with G/H.
G. Detached ADU: Conversion Entirely Within Detached Accessory Structure	No maximum. Addition of up to 150 sq. ft. is allowed to accommodate ingress/egress.	Existing setbacks apply	Existing height applies	Maximum of 2 detached ADUs per property. Can be combined with F. ADUs can be attached to each other.
H. Detached ADU: New Construction	No maximum	Front: Title 22 * Side: 4 ft. Rear: 4 ft.	16 or 18 ft. (see Other Height Restrictions)	Maximum of 2 detached ADUs per property. Can be combined with F. ADUs can be attached to each other.

*Regular front yard setback requirements apply unless such requirement would preclude an ADU of at least 800 square feet.

Building and Safety Requirements	<ul style="list-style-type: none"> • Please consult with Building and Safety regarding building requirements. • An ADU must have a kitchen with a stove, refrigerator, and sink, at a minimum.
Other Yard Requirements	<ul style="list-style-type: none"> • Detached ADUs may be attached to accessory structures. A new garage must comply with Title 22 requirements. A proposed ADU attached to the garage must have 4 ft. setbacks. If the garage is fully or partially converted to the ADU, existing setbacks are permitted as legally built. New ADUs must comply with 6 ft. building separation requirements. Proposed accessory structures such as porches, covered patios, stairways, balconies, including roof eaves, etc. attached to the ADU must comply with Title 22 setbacks and the 6 ft. building separation requirements per Chapter 22.110, unless such structures are necessary to ensure the ADU can function as an independent living facility. • Consult with Public Works Building and Safety regarding fire and life safety requirements for ADUs with setbacks less than 4 ft. No windows/doors allowed within 3 ft. of property line. No eaves allowed within 2.5 ft. of property line. • Equipment such as water heaters, a/c units, etc. shall also comply with setback requirements. • An ADU must be at least 10 ft. from a reversed corner lot line, except for an ADU built above an existing garage, which must be at least 4 ft. from a reversed corner lot line.
Other Height Restrictions	<ul style="list-style-type: none"> • 16 feet: Detached ADU accessory to one-story MFR • 18 feet: Detached ADU accessory to multi-story MFR • 20 feet: 18 feet plus additional 2 ft to accommodate roof pitch aligned with roof of primary dwelling for detached ADU accessory to SFR or MFR within ½ mile walking distance of major transit stop or high quality transit corridor • 25 feet: New or partially new construction ADU accessory to SFR, unless otherwise specified by CSD/Specific Plan • Consult with SCE if powerlines are adjacent to a proposed 2nd floor or two-story ADU.
Lot Coverage / GSA / FAR	<ul style="list-style-type: none"> • An ADU is not counted towards lot coverage, open space requirements, GSA nor FAR. However, non-ADU structures must still adhere to maximum GSA, FAR and open space requirements.
Parking and Access	<ul style="list-style-type: none"> • When a garage, carport, or covered parking structure is demolished or rendered fully or partially unusable in conjunction with the construction of the ADU or conversion of the structure to an ADU, no replacement parking is required for the existing dwelling nor ADU. Covered parking is still required for the existing dwelling(s) if the parking structure is not being converted into an ADU. • Parking spaces, when required, must be 8 ½ ft. x 18 ft. Compact parking is not allowed. • Existing parking requirements for an SFR and MFR apply if the parking structure is not proposed for the conversion into an ADU. 26 ft. of clear vehicle backup space must be provided. • Vehicles may not be parked in required front yards (anywhere between the existing dwelling and the street), and corner side yards, except for designated driveways. • No parking is required for a JADU. • No parking is required for an ADU located outside of a Very High Fire Hazard Severity Zone (VHFHSZ). • For an ADU located within a VHFHSZ, one uncovered parking space is required for the ADU, unless the property meets any of the following exemptions: <ul style="list-style-type: none"> ○ The ADU has no bedroom. ○ The ADU is detached from an existing SFR and has a maximum floor area of 800 sq. ft and maximum height of 16 ft. ○ The ADU is detached from an existing MFR and has a maximum height of 16 ft. and minimum rear and side yard setbacks of 4 feet. ○ The ADU is entirely contained within an existing space of a primary residence or existing legal accessory structure (garage, guesthouse, rec room, etc.), and where no floor area expansion is proposed. ○ The ADU is located within ½ mile of public transit (i.e. bus stop, bike share station, train station). ○ The ADU is located within an architecturally and historically significant historic district. ○ On-street parking permits are required but not offered to the ADU occupant. ○ There is a car share vehicle located within one block (includes both sides of the street) of the ADU.

To apply for an ADU/JADU, please submit a “DRP – Base Application – Permits and Reviews” via [EPIC LA](#).

Upload the following materials to your application:

- [Owner Acknowledgement Form](#)
- [Land Use Checklist](#)
- A recorded covenant will be required for JADUs prior to approval.
- Any required discretionary permit(s), e.g. Oak Tree Permit, must be approved prior to ADU/JADU approval.
- A new SFR and ADU(s) may be submitted under one application. A new MFR and detached ADU(s) may be submitted under one application. An addition to a SFR to accommodate a JADU and the JADU itself may be submitted under one application. Please note that the 60-day review timeline does not apply when ADUs/JADUs and primary structures are submitted under one application.

MORE INFORMATION: <https://planning.lacounty.gov/adu>

Revised 06.13.2023

City Council

Subject: ADUs 2-7-22 item 4a
Attachments: County ADU ordinance high fire severity zone p15-17 9-20.pdf; cc ADU'S 11-27-23 Item 4A.docx



From: [REDACTED]
Sent: Saturday, November 25, 2023 1:59 PM
To: steve uhring [REDACTED]; Doug Stewart [REDACTED]; Bruce Silverstein [REDACTED]; Marianne Riggins <mriggins@malibucity.org>; Paul Grisanti [REDACTED]; Kelsey Pettijohn <kpettijohn@malibucity.org>; [REDACTED]
Subject: Fw: ADUs 2-7-22 item 4a

Council persons , scroll down, attached are Slow Growths comments on item 4A ADUs. Please let me know if you have questions. Thanks, Patt

<p style="text-align: center;">FILED City of Malibu Office of the City Clerk Meeting Date <u>11/27/2023</u> Agenda Item # <u>4A</u></p>
--

CC: Council; CM; CA ; PL _____; Ref. Binder; Original to 11/27/2023 Agenda File

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 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 Section 65915(h)(4) of the California Government Code.

Common interest development. As defined in 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 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 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 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 Section 21155(b) of the California Public Resources Code.

Senior citizen. A person who is 55 years of age or older, pursuant to 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 Section 798.76 or 799.5 of the California Civil Code.

Senior citizen housing development. As defined in Section 51.3(b) of the California Civil Code.

Special needs housing. As defined in Section 51312 of the California Health and Safety Code.

Specific adverse impact. As defined in Section 65589.5(d)(2) of the California Government Code.

Waiver or reduction of development standards. As specified in 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 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 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 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 Section 18008 of the California Health and Safety Code.

Mobilehome park. As defined in §section 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	<u>-SPR</u>	<u>-SPR</u>	<u>-SPR</u>	Section 22.140.640
...						
Junior accessory dwelling units ²	<u>SPR</u>	<u>SPR</u>	<u>SPR</u>	<u>SPR</u>	<u>SPR</u>	<u>Section 22.140.640</u>
...						

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.

34. Use shall be located at least 300 feet from any public park or any area in a Residential Zone.

45. Minimum lot size is one acre.

56. 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.

67. Minimum lot size is 10 acres.

78. Limited to hives only.

89. Minimum lot size is five acres.

910. 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.

4011. Use shall be limited to a seating capacity not to exceed 500 seats.

4412. Minimum lot size is one acre where sheltered employment or industrial-type training is conducted.

4213. Use is permitted if publicly owned.

4314. Minimum lot size is 100 acres.

4415. Use is allowed in an open space easement if use is consistent with the intent and language of the applicable open space easement.

4516. Use excludes airports and landing strips.

4617. 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	<u>SPR</u>	<u>SPR</u>	<u>SPR</u>	<u>SPR</u>	<u>SPR</u>	<u>SPR</u>	<u>Section 22.140.640</u>
...							

...

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.								
34. 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.								
45. The use shall comply with the standards in Section 22.20.080 (Development Standards for Zone C-R).								
56. Minimum lot size is five acres.								
67. Minimum lot size is one acre where sheltered employment or industrial-type training is conducted.								
78. 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.								
89. Use is permitted if publicly owned.								
910. Individual crucibles that exceed a capacity of 16 square feet are prohibited.								

- 4011. Sales shall be limited to retail sales only and all goods sold shall be new.
- 4412. Use does not permit a kiln or manufacture.
- 4213. 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.
- 4314. 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.
- 4415. Use includes related installation and repair if conducted within an enclosed building.
- 4516. 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.
- 4617. Use is permitted within an enclosed building only.
- 4718. Parking provided is separate from required parking in Chapter 22.112 (Parking), however, use shall be developed in compliance with Chapter 22.112 (Parking).
- 4819. When nonconforming in zones where the use is allowed with a Conditional Use Permit (Chapter 22.158).
- 4920. Use is permitted only in conjunction with a health club or center.
- 2021. Limited to helistops only.
- 2422. Use does not permit storage.
- 2223. Section 22.140.340 (Manufacturing as an Accessory Use in Commercial Zones) shall apply.
- 2324. Use includes merry-go-rounds, ferris wheels, swings, toboggans, slides, rebound-tumbling, and similar equipment operated at one particular location.
- 2425. Use includes zip-lines.
- 2526. 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.
- 2627. 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.
<u>Junior accessory dwelling units</u>	<u>No spaces required.</u>
...	
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.6G.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 theas 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 thean 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;

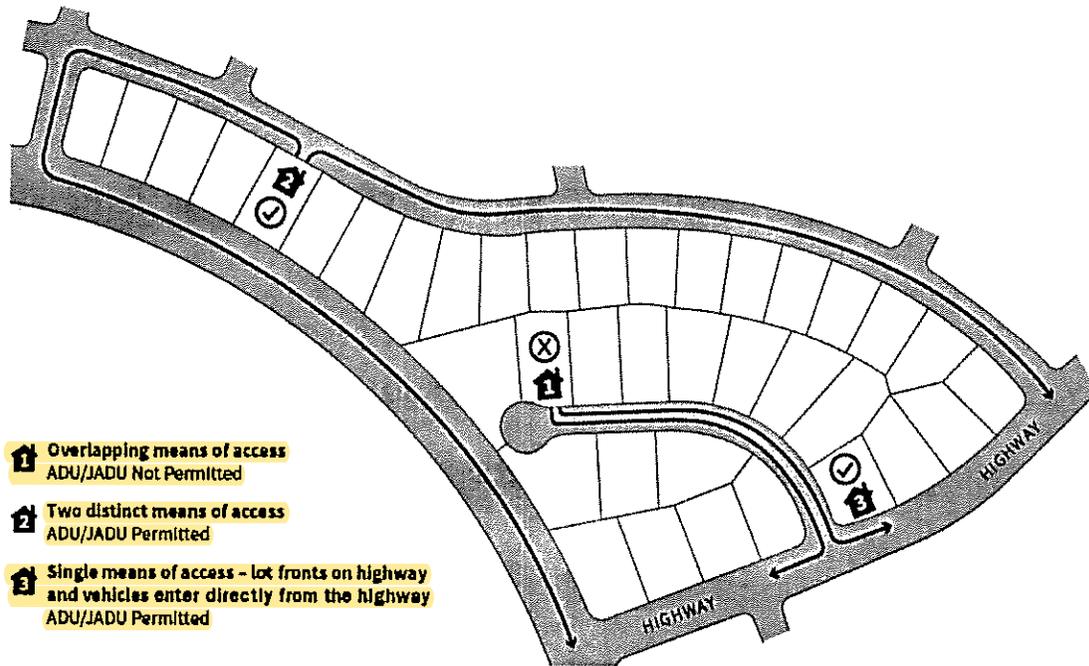
ii. Each distinct means of vehicular access shall contain pavement of at least 24 feet in width, exclusive of sidewalks; and

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.~~

~~FD. 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		
<i>Principal Use on a Lot</i>	<i>Maximum Number</i>	
	<i>Accessory Dwelling Units</i>	<i>Junior Accessory Dwelling Units</i>
<u>One proposed or existing, legally-built single-family residence in any zone that allows residential use</u>	1	1
<u>Any existing, legally-built housing type other than one single-family residence in any zone that allows residential use</u>	<u>1 or 25 percent of existing dwelling units, whichever is greater, converted from spaces within existing residential building(s); and</u> <u>2 detached from existing residential building(s)</u>	-

GF. 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.

HG. 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.~~

2a. Floor Area.

aj. 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.

bji. Maximum.

1.(1) General.

(4a) 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:

(aj) A new detached structure; or

(bji) 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.

~~(2c) 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 saidthe 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.~~

~~ii(2). ExceptionsCommunity 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), aboveAccessory 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.~~

3b. Height.

aj. ~~General.~~ The maximum height of an accessory dwelling unit on a lot with an existing or proposed single-family residence shall be 25 feet.

~~bii.~~ 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 ~~for~~ 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:

~~(4)~~ 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. ~~(4)~~ 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.~~

~~5c. Required Yards.~~

~~aj. 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.~~

bii. For an accessory dwelling unit not described in Subsection H.5.aG.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 fivefour feet from the reversed corner side lot line, notwithstanding any contrary provisions in this Title 22.

6d. 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;

(46) The accessory dwelling unit is located within one-half mile walking distance of public transit;

(27) 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;~~

(48) When on-street parking permits are required, but not offered to the occupant of the accessory dwelling unit; or

(59) 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.

biv. ~~Required~~When parking is required for the accessory dwelling unit or single-family residenceor 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.

le. 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.

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.

~~GSD 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. — GSD 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 City Council
From: Malibu Coalition for Slow Growth by Patt Healy
Date 11-27-23
Agenda Item 4A**

Honorable Members of the City Council,

The Malibu Coalition for Slow Growth asks you consider the following :

SAFETY AND LACK OF INFRASTRUCTURE

The safety of Malibu residents is the council's primary responsibility. Malibu doesn't have the infrastructure to support the safe evacuation of its existing residents much less adding more. Our infrastructure is inadequate. PCH is Malibu's evacuation route and in an emergency it will be gridlocked either citywide or at least , in the evacuation areas making any safe evacuation difficult. How will people who rely on public transportation evacuate in an emergency? What happens if a vehicle breaks down or runs out of gas and blocks an evacuation route? The Woolsey fire came from over the hill and there was time to evacuate but what if the fire starts nearby during a high wind event? What happens if the fire is at night and the smoke is so thick when evacuating people are unable to see ahead of them? The time to safely evacuate would be nonexistent likely creating harm or death to some residents, their pets and other animals. These real possibilities haveto be taken into consideration during your decision making.

Safety should be your guide not the Housing Element if it is going to jeopardize resident safety.

When deciding the ADU Ordinance we ask the Council to err on the side of caution.

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 .

Here is suggested language adapting the applicable portion County ordinance to Malibu's needs.

“ Where a lot or any portion thereof is located within a Very High Fire Hazard Severity Zone 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 except that the means of vehicular access may include an unpaved road of at least 24 feet in width maintained by the city. Notwithstanding the above 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 page 17 of the County Ordinance.”

The staff report states that cul de sac's and that don't lead directly onto a highway prohibit ADU's. This is one interpretation the council could adopt. If you think this interpretation should be interpreted more broadly we recommend it be defined as “a street that that has 2 or more ways to a highway. For Example, On Point Dume residents have 2 routes to PCH Heathercliff and Zumirez. Bonsall residents have 2 routes via Bonsell and by way of Busch to PCH.

Whatever interpretation you choose, should be clearly spelled out in the ordinance.

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. For

this reason 900 or greater square foot ADU is not appropriate on small lots or small lot subdivisions. Exclude them in these areas.

ROAD WIDTH

Many of Malibu Roads are dangerously narrow. More like driveways being only 12 or 15 ft wide which would prohibit save evacuation. That is why ADU's should only be allowed on streets 20- 24 ft. wide.

HEIGHT

The height of an ADU shall be no greater than 16 ft. or the height of the existing residence which ever is lower, Many of Malibu's existing homes are under 16 ft in height and an ADU should be limited to the lower height.

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. but for clarification add the interpretation of the ordinance.

Limit small lot subdivisions to JADUs and Garage Conversions.

Define the width of a road that can have ADU's

Limit the height of an ADU to 16ft. in height or the height of the main residence which ever is lower. height

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

Thank you for considering our comments.

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 not 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.

Mark Baute
11/27/23
Item 4A

BAUTE CROCHETIERE HARTLEY & MCCOY LLP

MEMORANDUM

TO: Council Members Stewart, Grisanti and Riggins, Planning Commissioners Peak, Smith and Leonard

FROM: Mark D. Baute

DATE: November 27, 2023

RE: **The Illegal Proposed Mazza ADU Ordinance**

Re: The Illegal Mazza ADU Ordinance, Item 4A, Malibu City Council Meeting

The proposed ADU Ordinance currently in front of the City Council for adoption on November 27, 2023, is (a) **clearly illegal**, (b) will be rejected by both the Coastal Commission and the State Housing and Community Development (“HCD”) Office, and (c) based entirely on John Mazza’s idea of blocking and discouraging ADUs by “hiding behind the LCP,” something that is expressly prohibited by the Coastal Commission and its Executive Director, Jack Ainsworth. Rather than embarrass itself by adopting something clearly illegal, the City Council should send the ADU Ordinance back to the Planning Commission, so that the Planning Commission can propose something that actually represents the city’s attempt to (a) comply with rather than violate the ADU Statute and violate Senate Bill 9, (b) limit mansionization within the city, and (c) incentivize the construction of small scale one story ADU’s within the City of Malibu. The Illegal ADU Ordinance being considered for adoption on November 27, 2023, is referred to hereafter as the “**Illegal Mazza ADU Ordinance.**”

I. WHY TONIGHT’S ILLEGAL ADU ORDINANCE IS REFERRED TO AS “THE ILLEGAL MAZZA ADU ORDINANCE.”

Sadly, the only Planning Commissioner that has been vocal over four years with irrelevant questions and a lengthy filibuster, was John Mazza (“Mazza”). His first gambit was a filibuster in 2022, which consumed an inordinate amount of the city’s staff time answering over 20 irrelevant questions. Without dignifying this silly filibuster, suffice it to say this much: (a) the city’s staff answered each of the questions, most of which were irrelevant to how the City could better itself by adopting a legal ADU Ordinance, and (b) Mazza’s filibuster tactic was nonetheless successful, the city of Malibu is now five years late in adopting an ADU statute, and is among the last (if not the only) remaining coastal enclave city that has failed to adopt an ADU ordinance.

After his filibuster ran its course, Mazza’s next suggestion at a public Planning Commission meeting was that the City should essentially do nothing, and instead, should hide behind its current “Local Coastal Plan,” the notion being that because the Coastal Act allows

coastal cities and the Coastal Commission to adopt Local Coastal Plans (“LCP”), and the city could discourage, disincentivize, block and delay the construction of small one story ADUs throughout the entire city by relying on all the standard anti-development “nimby” provisions in Malibu’s existing LCP. That is what BBK has drafted and put in front of the City Council for adoption: the Illegal Mazza ADU Ordinance you are considering tonight is designed to rely on all the “nimby” restrictions in the existing LCD, and if adopted it will discourage, delay, and prevent the construction of small-scale ADUs. Instead, and if adopted, you will be supporting the construction of more absentee-owned mansions in Malibu.

II. HOW AND WHY THE ILLEGAL MAZZA ADU ORDINANCE VIOLATES BOTH MALIBU’S GENERAL PLAN, AND VIOLATES THE STATE ADU STATUTE AND VIOLATES SENATE BILL 9.

On reading the Illegal Mazza ADU Ordinance, I decided to take the time to speak with the drafter himself, Todd, a BBK partner. Todd and I spoke for around 30 minutes on the topic. Todd was forthright and candid about how the basics of the statute were put together. Todd was not familiar with Malibu’s topography, or its seven distinct neighborhoods. Todd was not aware that the average home sale price in the Escondido Bluffs was between 20 million and 80 million dollars, or that raw land deals and tear downs in Point Dume now range between 6 million and 20 million dollars or that Malibu Park lots range in sale price from 3 million to 6 million dollars. Similarly, Todd was not familiar with the fact that the average lot sizes in Malibu Park, Point Dume, and the Escondido bluffs are between 1 to 3 acres, and some lots are as large as 4 to 6 acres. Todd was surprised at the lot sizes in these distinct neighborhoods, and was very surprised at the recent sale prices for lots and homes in these three neighborhoods, which contain among the largest number of housing units within the entire city of Malibu. When I inquired whether Todd had relied on ADU ordinances he had drafted for other cities, in the “one size fits all” way that law firms sometimes do this work, the answer was yes. The Illegal Mazza ADU Ordinance is a somewhat primitive amalgamation of language and nimby tactics from other more dense urban cities and highly dense coastal cities, without much effort to (a) differentiate among and between Malibu’s seven distinct neighborhoods, or (b) customize the proposal based on Malibu’s unique needs, goals, and topography.

This failure on the part of BBK in terms of drafting is not entirely BBK’s fault, because the City Council gave its outside law firm zero direction. Both the City Council, and the Planning Commission, quite literally, did nothing, and gave no real guidance to BBK. The only audible “voice” in the “wilderness” of municipal governance that spoke on this issue was Mazza, who is quite clearly committed to no ADUs, no nothing, no approvals, no affordable small scale one story housing, anywhere in the city.

III. THE CITY ALREADY LOST THE RIDDICK CASE, AND IS GOING TO LOSE ITS APPEAL, WHICH WAS ARGUED LAST MONDAY, NOVEMBER 20, 2023, TO A THREE JUDGE PANEL THAT WAS OVERTLY HOSTILE TO THE CITY’S ILLEGAL STANCE ON ADUs.

The City lost in front of the trial court on the Riddick ADU, a small scale ADU (less than 700 square feet) in Malibu West. Rather than adjust course and comply with California law, the City and BBK filed a losing appeal, which was argued last Monday, November 20, 2023. The central argument raised by BBK in its appeal is that the City of Malibu can hide behind its LCP, the notion being that the ADU Statute does not pre-empt or control the Coastal Act, and instead, that the Coastal Act supposedly “pre-empts the field” and controls and negates the ADU Statute. This purported local LCP “legal position” is incorrect as a matter of law and entirely misses the point. This argument by the City and BBK is not just silly and embarrassing, it is also (a) destructive housing policy for the City, and (b) expressly rejected by the Coastal Commission and the HCD. It would be an understatement to say that the three judge appellate panel was unreceptive to the City’s “hide behind our ‘nimby’ LCP” central argument, and the Court of Appeal is highly likely to see the City’s effort to hide behind its LCP for the sham “nimby” anti-development tactic it is, for reasons explained below.

IV. THE COASTAL COMMISSION EXECUTIVE DIRECTOR HAS ALREADY REJECTED MALIBU’S EFFORT TO BLOCK ADU DEVELOPMENT BY HIDING BEHIND ITS LCP, AND HAS INSTRUCTED MALIBU TO HARMONIZE ITS LCP TO ENSURE THAT ADU DEVELOPMENT IS STREAMLINED AND SUPPORTED IN WAYS THAT PROTECT COASTAL RESOURCES.

Malibu is one of many exclusionary coastal enclave cities that has a long history of self destructive anti-development “nimby” politics. The effect of these policies in Malibu has been particularly damaging to Malibu and its local residents and children. Indeed, in the three categories that small municipalities are ranked and graded on, Malibu is zero for three: Malibu does not control or employ its own police department. Malibu does not control or employ its own fire department. Malibu does not control or employ its own school district. Instead, Malibu pays the County Sheriff and County Fire Department millions of dollars per year on “service contracts,” which leaves staffing and control in the hands of decision-makers in downtown Los Angeles, while the School District is controlled in Santa Monica. This lack of local control is among the many reasons that the Woolsey fire was allowed to burn property and homes: the decision was made by people outside of Malibu and, in downtown Los Angeles, to “let it burn,” the notion being that there would be no loss of life and replacement cost insurance was sufficient for the city of Malibu to recover after the Woolsey fire burned itself out.

The resulting housing stock in Malibu is now self evident: the city is chock full of largeish mansions in the 5,000 to 8,000 square foot range, many owned by absentee non-residents. No coordinated or focused effort to incentivize, support or streamline small scale one story affordable housing stock has ever happened in Malibu. This is not just the case with bad statutes like the Illegal Mazza ADU Ordinance, which is clearly designed to prevent any ADUs from being built. The City’s entire development history has been tilted toward the construction, development and approval of nothing but mansions, and all one has to do is drive throughout the city to confirm this fact. Some of these historic mistakes are due to the lack of experience: two current commissioners (Mazza and Hill) and two current council members (Uhring and Silverstein) are unemployed and retired, and they do not appear to have ever developed any sort of housing, and they have no known

experience with housing policy. This lack of experience has been exacerbated by “nimby politics,” in which council members Uhring and Silverstein hope that pandering to the “Malibu Toddler Council” for election votes in 2024 will be viewed as an actual housing policy. Council members Uhring and Silverstein, and their appointees Hill and Mazza, do not understand that the consequence of discouraging, blocking and delaying small scale ADUs will simply be more mansions, the demolition of the few remaining small homes within the city, resulting in more overall density, more fire danger and less safety. This issue is not complicated, and in fact is so simple and obvious that the HCD and Coastal Commission have already rejected the fake and contrived efforts by white coastal nimby cities that try to hide behind labels like “high fire severity zone” and arguments like “road not wide enough” and “two roads needed.”

V. **THE COSTAL COMMISSION’S JANUARY 21, 2022 GUIDANCE MEMORANDUM ALREADY INSTRUCTS THE CITY OF MALIBU TO REJECT THE ILLEGAL MAZZA ADU ORDINANCE.**

The passage of the ADU Ordinance and Senate Bill 9 (the “Duplex Statute”) caused the white exclusionary coastal enclave cities like Malibu to immediately resort to stalling, followed by more or less standard “nimby” anti-development tactics. Malibu in particular has an informal group of confused citizens called the “Malibu Toddler Council,” which routinely attempt to misuse stalling tactics and empty phrases such as “neighborhood character” and “clustering to minimize fuel modification” to limit and destroy the ability of Malibu’s rural neighborhoods to rebuild themselves and recover from the Woolsey fire. The Malibu Toddler Council (which calls itself a “township” council) was so thoroughly committed to delaying and derailing all residential rebuild projects within Malibu Park and Point Dume, that the city’s recovery from Woolsey and its General Fund tax revenue base was crippled during the 2019 through 2023 time period. The majority of the City Council during 2018 through 2022 (Messrs. Grisanti, Farrer and Pierson) had so much on their plate dealing with the Malibu Toddler Council, that they were unable to propose, let alone adopt, a legal ADU Ordinance. The current majority of the City Council, represented by Messrs. Grisanti, Riggins and Stewart, has also thus far been unable to recognize that current proposed ADU Ordinance is in fact an illegal effort to violate the ADU Statute and Senate Bill 9, and block ADU development city-wide. This dysfunction within small cities like Malibu is not that unusual. The Malibu Toddler Council routinely stoops to empty and vacuous gamesmanship through fake and contrived efforts to pander to fools, with fake distractions such as the recent meritless “FPPC complaint” and the vapid and idiotic “Wagner affidavit” from 2020.

Thankfully, the more serious government entities that actually control certain key decisions have already instructed Malibu to throw the Illegal Mazza ADU Ordinance in the garbage, and to start over. This could not be any more obvious.

The Coastal Commission gave very specific direction to coastal cities like Malibu in two lengthy memoranda, both dated January 21, 2022, in connection with the importance of cities adhering and respecting their obligation to streamline and incentivize the construction of small scale housing under the ADU Statute and Senate Bill 9, to wit:

“The Coastal Commission recognizes the particularly critical shortage of affordable housing in the coastal zone and has strongly supported strategies to increase access to affordable housing near the coast. To address housing shortages in the coastal zone over the long-term, new residential development must be built in locations and with designs that ensure it will be safe from hazards, have access to adequate public services and will minimize coastal resource impacts.”

“The Coastal Act Act has a variety of provisions directly related to housing. Relevant here, the Coastal Act does not negate local government compliance with state and federal law “with respect to providing low and moderate income housing, replacement housing, . . . or any other obligation relate to housing imposed by existing law or any other law hereafter enacted” . . . [and] The creation of new J/ADUs in existing residential areas is one of many strategies that aims to increase the housing stock, including creating additional housing units of a type and size that can be more affordable than other forms of housing in the coastal zone, in a way that may be able to avoid significant adverse impacts on coastal resources.”

There is no factual or legal support for the meritless argument that Malibu’s existing LCP and its “nimby” anti-development restrictions are valid or “pre-empt” the State ADU law or Senate Bill 9. Just the opposite is true: the City of Malibu has been told to change its LCP to harmonize it in a manner that complies with both the ADU Statute and Senate Bill 9, in order to ensure that ADUs are built that do not harm coastal resources. The practical effect of this directive is clear: roughly 70% of Malibu’s current residential lots easily lend themselves to the construction of small scale ADUs that would be compliant with the State ADU Statute, with zero impact on coastal resources. For those 70% of buildable residential lots, an ADU that is compliant with the State ADU Statute can be built within 60 days of submission of a completed application, without regard to whether the planning department, planning commission or city council approves or denies the ADU application.

VI. THE CITY’S STAFF HAS ALREADY INFORMED THE CITY COUNCIL THAT THE RECENT NIMBY ARGUMENTS OF UHRING/SILVERSTEIN FROM THE LAST CITY COUNCIL MEETING ARE ILLEGAL AND WILL BE REJECTED BY THE COASTAL COMMISSION AND BY THE HCD.

At the last City Council meeting, Malibu Toddler Council members Uhring and Silverstein trotted out two fake arguments that have already been recognized as illegal and rejected by the Coastal Commission and the HCD. The two fake arguments raised by Uhring and Silverstein are:

1. That the “high fire severity zone” label justifies that all current LCP “nimby” provisions must still be misused to delay and block all ADU development, even if ADU development has no impact on coastal resources; and
2. That “two road access” or “extra wide road access” should be misused as a “nimby” tactic to discourage, block and delay all ADU development within the city of Malibu.

In typical fashion, these two Malibu Toddler Council members pretended that their suggestions were about “fire safety” and ensuring safe ingress and egress into and out of the city during the next fire event. Sadly, the majority of the City Council (Messrs. Stewart, Riggins and Grisanti) appeared to be confused by these two ridiculous arguments, and several soft statements of support were made by the majority members of the Council. Again, this is not complicated, the easiest way to understand that the “high fire severity zone” label and the “two roads needed” and the “need wider road” arguments are all fake and designed to discourage all ADU development would be to read the City’s staff report from tonight, on pages 3 and 4, and to also apply common sense and a basic understanding of how residential development actually works in the real world.

On pages 3 and 4 of the City’s Staff report, your full time staff is trying to educate you and teach you that the HCD and Coastal Commission will reject Malibu’s effort to hide behind it’s LCP because (a) there is no impact on coastal resources, (b) there is no evidence that “fire safety” will be enhanced through adoption of “nimby” LCP provisions designed to block and discourage ADUs, and (c) there is no evidence to support the notion that “two roads” or “a wider road” will in any way increase fire safety or reduce density. Put simply, your full time staff recognizes that the arguments made by Silverstein and Uhring are fake, meritless, and simply more of the same “Malibu Toddler Council” garbage that has severely damaged the city of Malibu for the past five years.

One way to help the majority understand the cause and effect here of adopting the Illegal Mazza ADU Ordinance based on fake arguments, is to inject how homeowners and real estate developers actually make decisions in the real world. Because Planning Commissioners Mazza and Hill, and Council Member Uhring and Silverstein, are unemployed, and retired, and have never built or developed anything, these are issues they don’t understand. Therefore, it is up to the majority members (Grisanti, Riggins and Stewart) to actually recognize the reality of how things really work. It’s like this:

If The City Council is Dumb Enough to Adopt The Illegal Mazza ADU Ordinance And Discourage All Small Scale ADU Development, Then Wealthy Homeowners and Developers Will Simply Continue to Build Mansions and Max Out Their Allowed TDSF, and Build Larger Homes, Which are Clustered Under the LCP, Which Will Increase Density, Increase Roof Sizes, Increase Fire Risk and Reduce Overall Safety.

We ask that you recognize this reality, and instead of supporting more mansions and larger roofs and clustering, that instead, you preserve some of the smaller housing stock within the city and encourage, support and incentivize the construction of small scale one story ADUs, for the first time in Malibu history. In short, please don’t let the Malibu Toddler Council pull the wool over your eyes.

VII. A QUICK SUMMARY OF THE OBVIOUS ILLEGALITIES, MISTAKES, AND FLAWS IN THE ILLEGAL MAZZA ADU ORDINANCE.

The State ADU Statute was adopted five years ago. Malibu is one of the only remaining coastal cities has failed 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 their LCPs 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, Jack Ainsworth, recently instructed coastal cities to make sure to not misuse their existing LCP to block or discourage 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 all or a portion of 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 (“HCD”), which refers cities that have adopted illegal or violative ADU proposals to the California Attorney General. The HCD’s current positions, and the Coastal Commission’s current policy positions, indicate that the Coastal Commission and the HCD will REJECT the Illegal Mazza ADU Statue.

Two very different proposals have been drafted and submitted to Malibu’s Planning Commission and City Council, summarized as follows:

<u>MALIBU CUSTOMIZED ADU ORDINANCE</u>	<u>ILLEGAL MAZZA ADU ORDINANCE</u>
<p>The ADU ordinance customized for Malibu (“Malibu ADU Ordinance”) took input from Malibu customized 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</p>	<p>The Illegal Proposed BBK ADU Ordinance (“Illegal 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</p>

<u>MALIBU CUSTOMIZED ADU ORDINANCE</u>	<u>ILLEGAL MAZZA ADU ORDINANCE</u>
<p>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 Malibu customized 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 Malibu ADU Ordinance complies with both the State ADU Law and Senate Bill 9, by harmonizing the Malibu LCP as required by the California Coastal Commission.</p>	<p>to focus in any way on the protection of coastal resources or the Coastal Act.</p> <p>The Illegal 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 Illegal ADU Ordinance also fails to differentiate among and between Malibu’s seven distinct neighborhoods, which is a violation of Malibu’s General Plan.</p> <p>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 Illegal ADU 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 Illegal Proposed Ordinance, if a small number of owners pursue permission to build a few ADUs and are blocked, this Illegal ADU 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.</p>
<p>POSITIVES</p>	<p>NEGATIVES</p>

MALIBU CUSTOMIZED ADU ORDINANCE	ILLEGAL MAZZA ADU ORDINANCE
<p>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 Malibu Customized ADU Ordinance protects Malibu West, Big Rock, Malibu Country Estates, and four other densely developed hillside/canyon neighborhoods.</p>	<p>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.</p>
<p>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.</p>	<p>2. Violates Senate Bill 9 by blocking future lot splits if an ADU is permitted and approved.</p>
<p>3. Limits mansionization by encouraging streamlined approval of qualified ADUs on large lots that do not implicate or harm coastal resources.</p>	<p>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.</p>
<p>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.</p>	<p>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 the protection of coastal resources that would justify it.</p>
<p>5. Encourages the retention of small existing homes, which can be remodeled via the “yellow card/non-cdp” process.</p>	<p>5. Improperly requires separate metering by Southern California Edison. No justification is provided. No protection of coastal resources arises from separate metering.</p>

<u>MALIBU CUSTOMIZED ADU ORDINANCE</u>	<u>ILLEGAL MAZZA ADU ORDINANCE</u>
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. Limits the expansion of existing homes by expressly stating that exceeding TDSF constraints in the existing LCP is not allowed where the ADU is “attached” to the main residence, recognizing that is not a traditional ADU and is instead an attempt by a homeowner 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 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 <u>income level</u> 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 strengthen the 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 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 LCP 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. This streamlining is	13. Encourages mansionization by discouraging ADUs.

<u>MALIBU CUSTOMIZED ADU ORDINANCE</u>	<u>ILLEGAL MAZZA ADU ORDINANCE</u>
<p>consistent with the recommendations in the Baker Tilly Report.</p>	
<p>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.</p>	<p>14. Likely to prevent Malibu from satisfying any of the 79 RHNA units with ADUs.</p>
<p>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.</p>	<p>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.</p>
<p>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.</p>	<p>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.</p>
<p>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.</p>	
<p>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.</p>	
<p>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</p>	

MALIBU CUSTOMIZED ADU ORDINANCE	ILLEGAL MAZZA ADU ORDINANCE
increase the privacy of residents and long term residents, and has no impact on “neighborhood character” or on coastal resources.	
20. Reduces 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 from major roads could be allowed.	1. The 1,200 SF and 400 SF garage size are good public policy, but should be limited to lots larger than one acre.
2. The small size of ADUs allowed on large lots could be criticized as being too restrictive/too small.	2.
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	3.

<u>MALIBU CUSTOMIZED ADU ORDINANCE</u>	<u>ILLEGAL MAZZA ADU ORDINANCE</u>
development and encourage people to sell and leave.	
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 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 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.	6.

<u>MALIBU CUSTOMIZED ADU ORDINANCE</u>	<u>ILLEGAL MAZZA ADU ORDINANCE</u>
CONCLUSION	CONCLUSION
<p>The Malibu 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 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 and HCD support the Malibu Customized ADU Ordinance, and will prevent Malibu from being sued by its own local homeowners and affordable home ownership non-profits.</p>	<p>The Illegal Mazza 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.</p>

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 directs 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 privately funded 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 required 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 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 voluntarily discourage lot splits, many existing owners, new owners and developers may 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 categories 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, such as parkland.

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 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 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 significant 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 significant 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.

(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 (but excluding the lots which border John Tyler’s Drive), 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, (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, and (g) the hillside canyon, neighborhood off Latigo Canyon Road, including the houses on Calicut Road, Latigo Bay View Drive, 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 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 or 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 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. Secondly, 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.

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. The burden is on the lot owner to show eligibility for a refund of the \$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 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 within 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 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. 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 \$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 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 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.

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To: Planning Directors of Coastal Cities and Counties
From: John Ainsworth, Executive Director, California Coastal Commission
Date: January 21, 2022

Re: Implementation of New SB 9 Housing Laws in Sea Level Rise Vulnerable Areas

As of January 1, 2022, SB 9 (Atkins) changed the way that local governments can regulate new residential development and lot splits in single-family residential zones within designated urban areas, with the goal of increasing housing density in those areas. The new housing laws added by SB 9, Government Code Sections 65852.21 and 66411.7, contain Coastal Act savings clauses. This means that, except for public hearing requirements, the Coastal Act continues to apply in full force in the coastal zone. Accordingly, certified Local Coastal Program (LCP) provisions continue to apply but, in most places, will need to be updated to conform with SB 9 to the greatest extent possible while still complying with the Coastal Act. This memorandum focuses on how to harmonize the new SB 9 requirements with LCP and Coastal Act policies in areas that are vulnerable to sea level rise because increasing residential density in these areas presents unique challenges and risks. When updating LCPs, local governments should keep in mind that LCP provisions must continue to be consistent with all applicable Coastal Act policies in all areas.

I. Housing in the Coastal Zone

The State of California is experiencing a critical shortage of affordable housing. In recognition of this critical shortage, the state Legislature passed numerous laws in recent years aimed at increasing construction of additional housing units, and preferably affordable units. Many of these measures, including SB 9, state that they do not supersede or lessen the application of the Coastal Act. The Coastal Commission (Commission) recognizes the particularly critical shortage of affordable housing in the coastal zone and has strongly supported strategies to increase access to affordable housing near the coast. To address housing shortages in the coastal zone over the long-term, new residential development must be built in locations and with designs that ensure it will be safe from hazards, have access to adequate public services, and will minimize coastal resource impacts.

Importantly, siting new housing in areas projected to be impacted by sea level rise, without planning for adaptation, will not address the housing crisis over the long-term and will instead put more residences and lives at risk and exacerbate housing shortages. The hazards and other impacts associated with sea level rise require local governments to plan carefully to ensure that new housing is safe both now and for future generations. Likewise, effective January 1, 2022, a

new section was added to the Coastal Act that explicitly requires the Commission to “take into account the effects of sea level rise in coastal resources planning and management policies and activities in order to identify, assess, and, to the extent feasible, avoid and mitigate the adverse effects of sea level rise.” (Pub. Res. Code § 30270.) While the Commission has considered sea level rise in its planning, policies, and activities for many decades, the new section of the Coastal Act further emphasizes the importance of accounting for sea level rise.

New residential development in the coastal zone must be consistent with Coastal Act and LCP policies, including requirements relating to protection of coastal resources and hazards, such as Coastal Act Sections 30250, 30253, 30235 and 30240, as discussed further below. In addition to these requirements, a variety of other provisions in the Coastal Act relate to housing in the coastal zone. As relevant here, the Coastal Act does not exempt local governments from complying with state and federal law “with respect to providing low- and moderate-income housing, replacement housing, relocation benefits, or any other obligation related to housing imposed by existing law or any other law hereafter enacted.” (Pub. Res. Code § 30007.) The Coastal Act also requires the Commission to encourage housing opportunities for low- and moderate-income households (Pub. Res. Code § 30604(f)), but states that “[n]o local coastal program shall be required to include housing policies and programs.” (Pub. Res. Code § 30500.1.) Lastly, the Coastal Act regulates where new development can be sited. New residential development must be “located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it” or in other areas where development will not have significant adverse effects, either individually or cumulatively, on coastal resources. (Pub. Res. Code § 30250(a).) Land divisions, other than leases for agricultural uses, are permitted outside existing developed areas “only where 50 percent of the usable parcels in the area have been developed and the created parcels would be no smaller than the average size of surrounding parcels.” (Pub. Res. Code § 30250(a).)

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II. Overview of New Legislation

As of January 1, 2022, SB 9 adds Government Code Sections 65852.21 and 66411.7, and amends Government Code Section 66452.6. The new laws apply only to parcels located in: (a) a city that includes some portion of either an urbanized area or urban cluster, as designated by the United States Census Bureau, within the city’s boundaries; or (b) an unincorporated area, *and* the parcel is located entirely within either an urbanized area or urban cluster, as designated by the United States Census Bureau. (Gov. Code §§ 65852.21(a)(1), 66411.7(a)(3)(B).) Currently certified LCPs are not superseded by the new laws and continue to apply until an LCP amendment is adopted.

The new legislation makes two primary changes to existing law:

a. Ministerial consideration of proposals to develop two or fewer residential units in urban areas

For projects outside the coastal zone, local governments must now ministerially consider, without discretionary review, proposals to develop two or fewer residential units in a single-family residential zone in designated urban areas when certain criteria are met. (Gov. Code § 65852.21.) Proposals to construct two new residential units and proposals to add one new unit to a parcel with an existing unit are both covered by this section. (Gov. Code § 65852.21(i)(1).) For ministerial consideration of proposed residential development to be required, proposals must meet the many criteria set forth in the statute, including that rental of any new unit created is for a term longer than 30 days. (See Gov. Code § 65852.21(a), (d)-(g).) Local governments are free to adopt objective zoning, subdivision, and design review standards for development of residential units in any residential zone that do not conflict with Government Code Section 65852.21. (Gov. Code § 65852.21(b)-(c).) This new section of the Government Code does not supersede or in any way alter application of the Coastal Act, except that local governments are not required to hold public hearings for coastal development permit (CDP) applications. (Gov. Code § 65852.21(k).) This means that, aside from CDP public hearing requirements, Government Code Section 65852.21 does not override the Coastal Act or LCP policies implementing the Coastal Act, which may involve the application of discretion. Therefore, local governments should adopt LCP amendments with standards that harmonize with SB 9 requirements as much as is feasible and that also ensure such new development is consistent with the Coastal Act and any applicable LCP policies, including requirements relating to notice of local decisions to the public and the Commission.

b. Ministerial approval of urban lot splits

For projects outside the coastal zone, local governments must now ministerially approve lot splits that create no more than two new lots in single-family residential zones in designated urban areas when certain criteria are met, (Gov. Code § 66411.7). However, as with the new requirements regarding residential development, this section of the Government Code does not supersede or in any way alter application of the Coastal Act, except that local governments are not required to hold public hearings for coastal development permit (CDP) applications. (Gov. Code § 66411.7(o).) Accordingly, for projects in the coastal zone, review for consistency with Coastal Act and applicable LCP policies is still required, and that may involve the application of discretion. For ministerial approval to be required outside the coastal zone, proposals must meet the many criteria set forth in the statute, including that no more than two new lots are created, and that rental of any new unit created is for a term longer than 30 days. (See Gov. Code § 66411.7.) Although discretionary review is prohibited in these circumstances in non-coastal zone areas, local governments are free to adopt objective zoning standards, objective subdivision standards, and objective design review standards applicable to urban lot splits that do not conflict with Government Code § 66411.7. (Gov. Code § 66411.7(c), (e).)

Although the new laws do not supersede the Coastal Act, and the requirement for ministerial approval does not automatically apply in the coastal zone, the laws should be harmonized with the Coastal Act as much as feasible. This could be accomplished, for example, by updating LCPs to create a checklist of objective standards for qualifying projects so that little or no discretion is involved when considering them. Overall, local governments should adopt LCP amendments with standards to ensure that such new development is consistent with the Coastal Act and any applicable LCP policies, including requirements relating to notice of local decisions to the public and the Commission.¹

III. SB 9 Application to Coastal Act Policies Generally

Local governments should consider how to amend their LCPs to comply with SB 9 to the greatest extent possible, while continuing to be consistent with the Coastal Act. Approval of the types of lot split and residential development projects contemplated by SB 9 is likely to increase residential density in urban areas, both in terms of the overall number of residential units and in terms of the nature of the built environment itself. In some areas, this increase in density may be able to be accommodated with limited coastal resource impacts. However, in other areas, there may be cases where such projects cause significant adverse impacts to coastal resources such as public access, sensitive habitats, and recreation areas. (See Pub. Res. Code § 30250.) For example, approval of new residential development projects and lot splits pursuant to SB 9 would not be consistent with the Coastal Act if the projects are adjacent to environmentally sensitive areas (ESHA) and are not sited and designed to prevent impacts which would significantly degrade those areas, or are incompatible with the continuance of those habitat and recreation areas. (Pub. Res. Code § 30240.) Residential areas in the coastal zone are often intertwined with significant coastal resource areas, such as along the immediate shoreline, between the first public road and the sea, near LCP-designated scenic areas, and near sensitive habitat areas. LCPs generally include a myriad of provisions protecting these coastal resources; LCP provisions designed to implement SB 9 should not conflict with or inappropriately diminish any such LCP protections that already apply. At the same time, SB 9's focus on ensuring that applicable standards are objective and processed ministerially means that local governments should consider ways to evaluate the potential for coastal resource impacts at the LCP planning stage, such as by using checklists or other such ministerial tools that can be employed at the CDP application stage as much as possible. Local governments are encouraged to coordinate with Commission staff as they develop LCP provisions to implement SB 9.

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¹ SB 9 also amends Government Code § 66452.6 to allow local governments to provide by ordinance an additional 24-month time period before an approved or conditionally approved tentative subdivision map expires.

IV. SB 9 Application in Sea Level Rise Vulnerable Areas

As described in Chapter 3 of the Coastal Commission's 2018 Update to the Sea Level Rise Policy Guidance (SLR Guidance), as sea levels rise, tidal and groundwater inundation, flooding, wave impacts, bluff and beach erosion, saltwater intrusion, and other impacts are projected to worsen and further threaten residential development and coastal resources in the coastal zone. The applicability of SB 9 in areas vulnerable to the impacts associated with sea level rise is thus a critical concern.

a. **Development of two or fewer residential units in sea level rise vulnerable areas**

In many cases, increasing density in areas subject to sea level rise impacts without including appropriate siting, design, and mitigation features will not be consistent with Coastal Act policies. Proposals to develop two or fewer residential units pursuant to Government Code Section 65852.21 may be permitted in sea level rise-vulnerable areas if they can be developed in such a way as to be found consistent with the Coastal Act and LCP provisions, and can be designed and sited to be safe from hazards for the expected life of the structures. Proposed projects to construct two or fewer residential units pursuant to Government Code Section 65852.21 typically qualify as "development" under the Coastal Act because such projects usually involve "the placement or erection of any solid material or structure," and/or a "change in the density or intensity of use of land. . . ." (Pub. Res. Code § 30106.)² As new development, the new units must minimize risks to life and property in areas of geologic and flood hazard; assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area; and not in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs. (Pub. Res. Code §§ 30253, 30270; *see also* corresponding LCP provisions.) New residential development must be consistent with the Chapter 3 policies of the Coastal Act and any relevant LCP policies, including that they must be sited and designed to prevent significant degradation of adjacent sensitive habitats and recreation areas and to allow the continuance of those areas into the future (Pub. Res. Code § 30240(b)).

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In some areas vulnerable to sea level rise, the risk of hazards during the anticipated life of the structure may be too great to permit development of two residential units on one lot if the new unit(s) cannot be sited and designed safely and consistent with relevant Coastal Act and LCP provisions. In other vulnerable areas, development may be permitted where adaptation strategies and special conditions can minimize hazard risks and avoid impacts on coastal

² As discussed in the Updates Regarding the Implementation of New ADU Laws Memorandum (Jan. 2022), conversion of existing habitable space within a single-family residence into another residential unit may not qualify as development if there are no major structural changes (e.g., changes to roofs, exterior walls, foundations, etc.) and no change to the size or intensity of use of the existing structure. (See Pub. Res. Code § 30106.)

resources. Local governments and applicants should refer to the Commission’s SLR Guidance when determining whether construction of residential units pursuant to Government Code Section 65852.21 in vulnerable areas is consistent with the Coastal Act and LCP policies. Chapter 7 of the SLR Guidance describes some of the adaptation strategies to consider when planning for development in sea level rise vulnerable areas. Some adaptation strategies may require land use plans or proposed projects to anticipate long-term impacts now. Other strategies may build adaptive capacity into the plan or project itself, such as special conditions that require elevation or removal of structures when certain triggers are met, so that future changes in hazard risks can be effectively addressed while ensuring long-term resource protection.

b. Lot splits in sea level rise vulnerable areas

As discussed above, Government Code Section 66411.7 requires ministerial consideration of urban lot splits in single-family residential zones in designated areas outside the coastal zone when certain criteria are met. “[S]ubdivision . . . and any other division of land, including lot splits,” qualify as “development” under the Coastal Act, thereby triggering the need for a CDP or other appropriate authorization. (Pub. Res. Code § 30106.) Lot splits also qualify as development because they constitute a “change in the density or intensity of use of land.” (*Id.*) As new development, proposals to subdivide land must:

- (a) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.
- (b) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.

(Pub. Res. Code § 30253.) New development must also be sited and designed to prevent significant degradation of adjacent sensitive habitats and recreation areas and to allow the continuance of those areas in the future. (Pub. Res. Code § 30240(b).) In addition, new development must be consistent with all Chapter 3 policies of the Coastal Act, including Sections 30210 through 30224 protecting public access and recreational opportunities; Sections 30230 and 30231 protecting marine habitats and water quality; Section 30250 requiring development to have adequate public services; and Section 30251 protecting visual resources. Subdivisions in areas with certified LCPs must also be consistent with corresponding, relevant LCP provisions. The Commission must also consider the effects of sea level rise in its coastal resources planning and management policies and activities, including those relating to new residential development. (Pub. Res. Code § 30270.)

The Commission’s SLR Guidance states that to comply with Section 30253 of the Coastal Act or the equivalent LCP section, projects will need to be planned, located, designed, and engineered

for the changing water levels and associated impacts that might occur over the life of the development. In addition, Chapter 7 of the SLR Guidance recommends concentrating development away from hazardous areas and limiting subdivisions in areas vulnerable to sea level rise. To be consistent with the Coastal Act, including how it is interpreted through the SLR Guidance, proposals to subdivide land in areas vulnerable to sea level rise should be considered very carefully for several reasons.

First, subdividing land projected to be negatively impacted by sea level rise in the foreseeable future is not a sound way to minimize risks to life and property in areas with high flood and geologic hazards. (See Pub. Res. Code § 30253.) Instead, subdivision in these areas is likely to increase risks to life and property by allowing for increased density and intensity of use of sites that are projected to be exposed to hazards such as tidal and groundwater inundation, flooding, wave impacts, bluff and beach erosion, and saltwater intrusion. Under SB 9, a lot currently zoned for a single-family residence could support many additional residential units. For example, a lot could be subdivided pursuant to Government Code Section 66411.7, and then two residential structures could be built on each of the newly divided lots pursuant to Government Code Section 65852.21. This scenario would result in four residences on a lot that, prior to SB 9, could only support one residence. When considering the circumstances in which residentially zoned lot splits (pursuant to SB 9 or otherwise) should be allowed in the coastal zone, local governments should consider whether each of the new lots would have a buildable area that is safe from coastal hazards for the foreseeable future without relying on shoreline armoring and could be developed in conformance with relevant coastal resource protection policies of the LCP and Coastal Act.

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Second, it is important to analyze the safety of proposed lot splits over the longest feasible timeframe. Hazard analyses typically evaluate potential hazards for the expected life of the development. Unlike the development of residential structures that may only need to be safe for approximately 75-100 years, land divisions tend to be permanent and have little to no adaptive capacity. Although the SLR Guidance does not suggest a specific timeframe for the hazard analysis of proposed lot splits, it does note that projects that are expected to last indefinitely should consider time frames of 100 years or more, and this is also consistent with past Commission action. For example, Commission staff recently recommended denial of a proposal to subdivide property in Orange County that was particularly vulnerable to sea level rise because, among other reasons, the project did not minimize risks to life and property and could not assure stability and structural integrity of the project, as Section 30253 of the Coastal Act requires. (Staff Report, Application Nos. 5-18-0907 & 5-18-0908, August 29, 2019.) The staff report found that the proposed subdivision could last in perpetuity, potentially long beyond the anticipated life of the proposed residential structure, and that both new lots would likely be subject to sea level rise impacts after the anticipated life of the residential structure. (*Id.*) After some deliberation with the Commission at the public hearing, the applicant withdrew its application and submitted a new proposal to build two single-family residences on the lot

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without subdivision. The Commission approved the new application with the condition that the property cannot be subdivided now or in the future, among other conditions addressing the property's sea level rise vulnerabilities. (Staff Report, Application No. 5-20-0646, May 21, 2021.) In the zoning context, the Commission denied a request by the County of Santa Barbara to amend its Land Use Plan (LUP) to rezone a single oceanfront property from recreation/open space to single-family residential because the property was projected to be impacted by hazards in the foreseeable future, among other reasons. The Commission found that the hazards analysis for a proposed land use designation change should consider hazards for the foreseeable future because "[u]nlike residential structural development, where the Commission generally analyzes whether the structure will be stable and safe for its expected life of 75 to 100 years, the land use designation change of a parcel would be more or less permanent." (Staff Report, Application No. LCP-4-STB-18-0039-1- Part D, July 10, 2019, p. 16.) Land divisions, like land use designation changes, may last in perpetuity. Thus, the Commission's past guidance and actions demonstrate that, in most circumstances, a hazard analysis for a lot split proposal should consider the longest time frame feasible.

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Third, subdivision may limit the adaptation strategies available to individuals and communities as sea levels rise. Unlike structural development, which can be designed to incorporate adaptive elements like waterproofing, elevation, or relocation, subdivisions have little to no adaptive capacity; thus, it is not always feasible to mitigate the impacts created by subdivisions. Subdividing a parcel can also limit the opportunities to adapt to sea level rise on that land by decreasing the land available on a lot for existing development to be moved landward, or for new development to be sited in a more landward or higher elevation location. Land divisions also increase the number of property interests in a site. This can add cost and logistical complexity to community-scale adaptation strategies, making it harder to form and manage geological hazard abatement districts, negotiate buyouts, and implement conservation easements, and making it more difficult to minimize hazards and protect coastal resources in the future.

Lastly, allowing subdivisions in vulnerable areas may negatively impact coastal resources and public access. Coastal resources such as beaches and wetlands will migrate and naturally adapt due to future coastal erosion and sea level rise conditions. Increased residential density and intensity of use along the shoreline and in vulnerable areas may impact coastal resources through, for example, "coastal squeeze" where shoreline development prevents beaches and bluffs from migrating inland, which causes the narrowing and eventual loss of beaches, dunes, and other shoreline habitats as well as the loss of offshore recreational areas. Having fewer structures on relatively larger lots may allow more opportunities for those structures to adapt—for example, by being moved to other parts of the lot that are safer. Depending on the geography and other site-specific conditions, creating additional, smaller lots with more structures may reduce this adaptive capacity.

In light of the potential hazards and coastal resource impacts associated with subdivision in areas vulnerable to sea level rise, many local governments have avoided such land divisions. For example, Policy 7-2 of the City of Half Moon Bay's Local Coastal LUP limits "subdivisions in areas vulnerable to environmental hazards, including as may be exacerbated by climate change, by prohibiting any new land divisions, including subdivisions, lot splits, and lot line adjustments that create new building sites unless specific criteria [are] met that ensure that when the subject lots are developed, the development will not be exposed to hazards, pose any risks to protection of coastal resources, or create or contribute to geologic instability." Likewise, San Mateo County's LCP Implementation Plan (IP) requires applications for proposed subdivisions to include a development footprint analysis that comprehensively evaluates site development constraints and potential impacts, including sea level rise impacts, prior to approval of subdivision parcel maps. These LCP policies allow lot splits, such as those authorized by Government Code § 66411.7, but only when consistent with the Coastal Act.

c. Identifying areas vulnerable to sea level rise

The best available, up-to-date scientific information about coastal hazards and sea level rise should be used to determine whether proposals for lot splits and new residential units in areas vulnerable to sea level rise are consistent with the Coastal Act and LCP provisions. Local governments and applicants should refer to the SLR Guidance when conducting this analysis.

Step 1: Identify sea level rise projections. First, identify the best available, locally-relevant sea level rise projections. In line with statewide guidance, the Commission currently recognizes the Ocean Protection Council's 2018 State Sea-Level Rise Guidance as the best available science on sea level rise projections for California.

- *Tide gauges.* Appendix G of the SLR Guidance includes sea level rise projections for every 10 years from 2030 to 2150 for 12 tide gauges along the California coast; the projections from the closest tide gauge to the project site should be used.
- *Planning horizon.* Hazard analyses typically evaluate potential hazards for the expected life of the development. Some LCPs include a specified design life for new types of development. If no specified time frame is provided, a time frame may be chosen based on the type of development. For proposed development of new residential units, it is generally appropriate to analyze sea level rise impacts for at least the expected life of the proposed structure(s), often 75-100 years for residential structures, as described in Chapter 6 of the SLR Guidance. Although situations may vary, local governments and applicants should typically use a longer planning horizon of at least 100 years for lot splits because, as described in subsection (b), land divisions are expected to be permanent, unlike many other kinds of development, and have a limited ability to adapt.
- *Risk aversion scenario.* Evaluate impacts from the "medium-high risk aversion" scenario, as described in Chapters 5 and 6 of the SLR Guidance. The SLR Guidance recommends

that all communities evaluate the impacts from the "medium-high risk aversion" scenario (p. 76), and that residential structures and projects with greater consequences and/or a lower ability to adapt use this projection scenario (p. 102). In addition, impacts under other risk aversion scenarios may be helpful to analyze.

Step 2: Analyze the physical effects of sea level rise. Analyze the following hazards under the medium-high risk aversion scenario: erosion of beaches, bluffs, cliffs, and other landforms; tidal inundation of shoreline areas; flooding (wave run-up and storm impacts); and saltwater intrusion and groundwater impacts, consistent with the SLR Guidance and Coastal Act and LCP requirements.

Step 3: Assess impacts to future development and coastal resources. Determine whether the proposed residential units and/or potential building sites on new parcels are vulnerable to sea level rise impacts.

Step 4: Determine whether proposed development is appropriate. Lastly, determine whether the proposed development is consistent with the LCP and Coastal Act as proposed, or can be made consistent with design modifications, adaptive strategies, or other conditions. Development of new residential units in areas projected to be impacted by sea level rise may be inconsistent with the Coastal Act or LCPs if adaptive strategies cannot minimize the risk of hazards and protect coastal resources, as discussed in subsection (a). Lot splits may be inconsistent with the Coastal Act or LCP policies if they occur in areas projected to be impacted by the hazards associated with sea level rise over the next 100+ years under the medium-high risk aversion scenario, as discussed in subsection (b). As described in the SLR Guidance, local governments should consider whether to "[p]rohibit any new land divisions, including subdivisions [and] lot splits . . . that create new beachfront or blufftop lots unless the lots can meet specific criteria that ensure that when the lots are developed, the development will not be exposed to hazards or pose any risks to protection of coastal resources." (SLR Guidance, p. 130.) A lot split may be appropriate if the project site is not projected to be impacted by sea level rise hazards for the longest time frame feasible, typically at least 100 years, and is otherwise consistent with the LCP and Coastal Act.

V. Local Government Application of SB 9 in the Coastal Zone

a. Update applicable LCP provisions

Local governments in the coastal zone are required to comply with both the Coastal Act and, to the extent they do not conflict with Coastal Act requirements, the new SB 9 requirements.

Currently certified provisions of LCPs are not superseded by Government Code Sections 65852.21 and 66411.7 and continue to apply to CDP applications until an LCP amendment is adopted. Where LCP provisions directly conflict with the new Government Code provisions or require refinement to be consistent with the new laws, those LCP provisions should be updated to be consistent with SB 9 to the greatest extent feasible while still complying with Coastal Act

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requirements. As discussed above, when updating LCP policies to account for SB 9, local governments should also consider how proposed lot splits and residential development might impact public access, sensitive habitats, recreation areas, and other coastal resources. Local governments should also consider new LCP provisions that limit or prohibit subdivisions in areas vulnerable to sea level rise, and that appropriately account for coastal hazards and coastal resource impacts, including as exacerbated or associated with sea level rise, for new residential development.

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(Although a public hearing is not required under SB 9, public notice requirements still apply.) LCP amendment applications should specify how local and Coastal Act public notice requirements will be fulfilled, including the notice requirements for: (a) pending action to interested parties prior to a local decision, and (b) notice of final action to the Commission and those who have requested such notice after a local decision. LCP amendment applications should specify the procedures for issuing a Final Local Action Notice (FLAN) for local decisions on applications for development that are appealable to the Commission. Some LCP amendments may qualify for streamlined review as minor or de minimis amendments. (Pub. Res. Code § 30514(d); Cal. Code Regs., tit. 14, § 13554.)

b. Review SB 9 applications consistent with the Coastal Act/LCP and SB 9

Local governments should generally follow the below process when considering proposed SB 9 projects outside of areas that are potentially vulnerable to sea level rise.

Review Prior CDP History. First, determine whether a CDP or other form of Coastal Act authorization was previously issued for development of the site and whether that CDP and/or authorization limits, or requires a CDP or CDP amendment for, changes to the approved development or for future development or uses of the site. The applicant should contact the appropriate Commission district office if a Commission-issued CDP and/or authorization limits the applicant's ability to apply to construct two or fewer residential units or split the lot.

Consider Possible Expedited Permitting Processes. Second, and only if an application proposes to undertake development in an area where it will be consistent with LCP and Coastal Act hazard and coastal resource protection policies, consider whether any expedited permitting processes, such as waivers or administrative permits, are available. If a local government's LCP includes a waiver provision, and the proposed lot split and/or residential unit development proposal meets the criteria for a CDP waiver, the local government may issue a CDP waiver in place of a CDP. The Commission has generally allowed a CDP waiver only when 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 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

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not impacted, etc.). (See Pub. Res. Code § 30624.7.) Projects that qualify for a CDP waiver typically allow for a substantially reduced evaluation process and streamlined approval. It may be appropriate for local governments to use waivers to approve applications in both appealable and non-appealable areas to streamline permitting.³ Local governments interested in exploring this option should consult with Commission staff. LCP amendment applications that propose to allow waivers in appealable areas should ensure that there are proper procedures for notifying the public and the Commission of approvals for individual, appealable waivers (such as Final Local Action Notices) so that the proper appeal period can be set, and any appeals received are properly considered.⁴

Require and Review a CDP Application. Lastly, if a proposal is not eligible for a waiver or similar expedited process authorized by the Coastal Act and the certified LCP, including because it is located in an area potentially subject to coastal hazards and/or future sea level rise hazards, it requires a CDP. (Pub. Res. Code § 30600.) The CDP must be consistent with the requirements of the certified LCP and any relevant policies of the Coastal Act. Local governments must provide all required public notice for any CDP applications for development covered by SB 9 and process the application pursuant to LCP requirements, but local governments are not required to hold public hearings. (Gov. Code §§ 65852.21(k); 66411.7(o).) Once the local government has made a CDP decision, it must send the required final local action notice of that decision to the appropriate Commission district office. If the CDP decision on the proposed project is appealable, a local government action to approve a CDP for the proposed project may be appealed to the Commission. (Pub. Res. Code § 30603.)

³ Most, if not all, LCPs with CDP waiver provisions do not allow for waivers in areas where local CDP decisions are appealable to the Coastal Commission. There have been a variety of reasons for this in the past, including that the Commission's regulations require that local governments hold a public hearing for all applications for appealable development (14 Cal. Code Regs § 13566), and also that development in such areas tends to raise more coastal resource concerns and that waivers may therefore not be appropriate. However, under SB 9 provisions, public hearings are not required for qualifying development. Because of this, the above-described public hearing issue would not be a concern, so it could be appropriate for LCPs to allow CDP waivers in both appealable and non-appealable areas at least related to this criterion. Local governments should consult with Commission staff should they consider proposing CDP waiver provisions in their LCP.

⁴ The development authorized by SB 9—specifically, residential lot splits and development of new residential units that change the intensity of use—are not types of development that the Commission has typically found to be exempt from CDP requirements as improvements to single-family residences. (See Pub. Res. Code § 30610; Cal. Code Regs., tit. 14, § 13250(a).) In addition, any development that is not designated as the principal permitted use under the approved zoning ordinance or zoning district map—such as lot splits—is appealable to the Commission. (Pub. Res. Code § 30603(a)(4).)

VI. Conclusion

The Commission strongly supports increased access to affordable housing and increased residential density in the coastal zone. For new housing to be a long-term solution to the housing shortage, it must be sited and designed to be safe from hazards, such as sea level rise, and to not have significant adverse effects on coastal resources. Local governments should review their LCPs to determine what changes are necessary to implement SB 9 in a manner that is consistent with the Coastal Act and appropriate for local geography, and prepare and submit LCP amendments to the Commission as soon as is feasible.

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To: Planning Directors of Coastal Cities and Counties
 From: John Ainsworth, Executive Director, California Coastal Commission
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RE: Updates Regarding the Implementation of New ADU Laws

I. Introduction

California's ongoing housing crisis continues to exacerbate housing inequity and affordability, especially in the coastal zone. To address this critical issue, the state Legislature has enacted a number of laws in the last several years that are designed to reduce barriers to providing housing and to encourage construction of additional housing units in appropriate locations. To this end, the 2019 legislative session resulted in a series of changes to state housing laws that facilitate the development of Accessory Dwelling Units (ADUs) and Junior Accessory Dwelling Units (JADUs), which can help provide additional housing units that can be more affordable than other forms of market rate housing. Importantly, the changes did not modify existing provisions of state housing law that explicitly recognize that local governments must still abide by the requirements of the Coastal Act, and by extension, Local Coastal Programs (LCPs). Thus, provisions on coastal resource protection must be incorporated into the planning and development process, and into updated LCP J/ADU requirements, when considering J/ADUs in the coastal zone.

Simple and generic

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.

The Coastal Commission has previously circulated three memos to assist local governments with understanding how to carry out their Coastal Act obligations while also implementing state requirements regarding the regulation of J/ADUs. These memos have raised some questions for local governments, including the manner in which they are to be understood together. In order to address this issue, and to reflect lessons learned regarding J/ADU regulation in the coastal zone in the past few years, this updated memo supersedes and replaces these prior memos. This updated memo also elaborates on the changes to state housing laws that went into effect on January 1, 2020 and provides further information to help local governments harmonize these laws with the Coastal Act. This memo will briefly discuss the authority that the Coastal Act grants the Commission and local governments over housing in the coastal zone, new legislation regarding J/ADUs, how local governments can streamline J/ADU applications under the Coastal Act, and some key issues that should be considered when LCP amendments for J/ADU

3 prior memos replaced

provisions are undertaken. This memo is intended to provide general guidance for local governments with fully certified LCPs. The Coastal Commission is responsible for Coastal Act review of J/ADUs in most areas that are not subject to a fully certified LCP. Local governments that have questions about specific circumstances not addressed in this memo should contact the appropriate district office of the Commission.

II. Coastal Act Authority Regarding Housing in the Coastal Zone

The Coastal Act has a variety of provisions directly related to housing. Relevant here, the Coastal Act does not negate local government compliance with state and federal law "with respect to providing low- and moderate-income housing, replacement housing, relocation benefits, or any other obligation related to housing imposed by existing law or any other law hereafter enacted." (Pub. Res. Code § 30007.) The Coastal Act also requires the Coastal Commission to encourage housing opportunities for low- and moderate-income households (Pub. Res. Code § 30604(f)) but states that "[n]o local coastal program shall be required to include housing policies and programs. (Pub. Res. Code § 30500.1.) Finally, new residential development must be "located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it" or in other areas where development will not have significant adverse effects on coastal resources. (Pub. Res. Code § 30250.)

MEANINGLESS

While the Commission does not currently have the explicit authority to provide or protect affordable housing in the coastal zone, the Commission has continued to preserve existing density and affordable housing whenever possible, including by supporting and encouraging the creation of J/ADUs. The creation of new J/ADUs in existing residential areas is one of many strategies that aims to increase the housing stock, including creating additional housing units of a type and size that can be more affordable than other forms of housing in the coastal zone, in a way that may be able to avoid significant adverse impacts on coastal resources.

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III. Overview of New Legislation

As of January 1, 2020, AB 68, AB 587, AB 881, AB 670, AB 671, and SB 13 collectively updated existing Government Code Sections 65852.2 and 65852.22 concerning local government review and approval of J/ADUs, and as of January 1, 2021, AB 3182 further updated the same laws, with the goal of increasing statewide availability of smaller, and potentially more affordable, housing units. Importantly, some of the changes affect local governments in the coastal zone and are summarized below.

- Local governments continue to have the discretion to adopt J/ADU provisions that are consistent with state law, and they may include specific requirements for protecting coastal resources and addressing issues such as design guidelines and protection of historic structures.
- Outside of an LCP context, existing or new J/ADU provisions that do not meet the requirements of the new legislation are null and void, and will be substituted with the

provisions of Section 65852.2(a) until the local government comes into compliance with new provisions. (Gov. Code § 65852.2(a)(4).) However, existing J/ADU provisions contained in certified LCPs are not superseded by Government Code Section 65852.2 and continue to apply to Coastal Development Permit (CDP) applications for J/ADUs until the LCP is modified. Coastal jurisdictions without any J/ADU provisions or with existing J/ADU provisions that were adopted prior to January 1, 2020 are encouraged to update their LCPs to comply with the State's new laws. Such new or updated LCP provisions need to ensure that new J/ADUs will protect coastal resources in the manner required by the Coastal Act and LCP, including, for example, by ensuring that new J/ADUs are not constructed in locations where they would require the construction of shoreline protective devices, in environmentally sensitive habitat areas and wetlands, or in areas where the J/ADU's structural stability may be compromised by bluff erosion, flooding, or wave uprush over the structure's lifetime.

- A major change to Section 65852.2 is that the California Department of Housing and Community Development (HCD) now has an oversight role to ensure that local J/ADU provisions are consistent with state law. If a local government adopts an ordinance that HCD deems to be non-compliant with state law, HCD can notify the Office of the Attorney General. (Gov. Code § 65852.2(h)(3).) To ensure a smooth process, local governments should submit their draft J/ADU provisions to HCD and Coastal Commission staff to review for housing law and Coastal Act consistency before they are adopted locally and should continue to foster a three-way dialogue regarding any potential issues identified. Additionally, Coastal Commission and HCD staff meet regularly to discuss and resolve any issues that arise in the development of J/ADU provisions in the coastal zone. The Commission continues to prioritize J/ADU LCP amendments, and some may qualify for streamlined review as minor or de minimis amendments. (Pub. Res. Code § 30514(d); 14 Cal. Code Regs. § 13554.)
- In non-coastal zone areas, local governments are required to provide rapid, ministerial approval or disapproval of applications for permits to create J/ADUs, regardless of whether the local government has adopted updated J/ADU provisions. (Gov. Code § 65852.2(a)(3).) In the coastal zone, CDPs are still necessary in most cases to comply with LCP requirements (see below); however, a local public hearing is not required, and local governments are encouraged to streamline J/ADU processes as much as feasible.

3 WAY
DIALOGUE

Ⓜ

Other recent legislative changes clarify that local J/ADU provisions may not require a minimum lot size; owner occupancy of an ADU (though if there is an ADU and a JADU, one of them must be owner-occupied); fire sprinklers if such sprinklers are not required in the primary dwelling; a maximum square footage of less than 850 square feet for an ADU (or 1,000 square feet if the ADU contains more than one bedroom); and in some cases, off-street parking. Section 65852.2(a) lists additional mandates for local governments that choose to adopt a J/ADU

ordinance, all of which set the “maximum standards that local agencies shall use to evaluate a proposed [ADU] on a lot that includes a proposed or existing single-family dwelling.” (Gov. Code § 65852.2(a)(6).) As indicated above, in specific cases coastal resource considerations may negate some such requirements, but only when tied to a coastal resource impact that would not be allowed under the Coastal Act and/or the LCP. In recent LCP amendments, these types of considerations have most often arisen in terms of the off-street parking provisions (see below).

IV. General Guidance for Reviewing J/ADU Applications

The following section lays out the general permitting pathway in which local governments can process J/ADU applications in a manner that is consistent with Coastal Act requirements and LCP provisions.

1) Check prior CDP history for the site.

Determine whether a CDP or other form of Coastal Act/LCP authorization was previously issued for development of the site and whether that CDP and/or authorization limits, or requires a CDP or CDP amendment for, changes to the approved development or for future development or uses of the site. The applicant should contact the appropriate Coastal Commission district office if a Commission-issued CDP and/or authorization affects the applicant’s ability to apply for a J/ADU.

2) Determine whether the proposed J/ADU constitutes “development.”

As defined by the Coastal Act, development refers to both “the placement or erection of any solid material or structure” on land as well as any “change[s] in the density or intensity of use of land[.]” (Pub. Res. Code § 30106.) Most J/ADUs constitute development if they include, for example, new construction of a detached ADU, new construction of an attached J/ADU, or conversion of an existing, uninhabitable, attached or detached space to a J/ADU (such as a garage, storage area, basement, or mechanical room). The construction of new structures constitutes the “placement or erection of solid material,” and the conversion of existing, uninhabitable space would generally constitute a “change in the density or intensity of use.” Therefore, these activities would generally constitute development in the coastal zone that requires a CDP or other authorization. (Pub. Res. Code § 30600.)

Unlike new construction, the conversion of an existing, legally established habitable space to a J/ADU within an existing residence, without removal or replacement of major structural components (e.g., roofs, exterior walls, foundations, etc.), and which does not change the intensity of use of the structure, may not constitute development within the definition in the Coastal Act. An example of a repurposed, habitable space that may not constitute new development (and thus does not require Coastal Act or LCP authorization) is the conversion of an existing bedroom within a primary structure.

Previously circulated Commission J/ADU memos (being superseded and replaced by this memo) indicated that construction or conversion of a J/ADU contained within or directly attached to an existing single-family residence (SFR) may qualify as development that was exempt from the requirement to obtain a CDP. Specifically, the Coastal Act and the Commission's implementing regulations identify certain improvements to existing SFRs that are allowed to be exempted from CDP requirements (Pub. Res. Code § 30610(a); 14 Cal. Code Regs § 13250.) Although the Commission has previously certified some LCP amendments that permitted certain exemptions for such ADU development, in a recent action, the Commission reevaluated its position and found that "the creation of a self-contained living unit, in the form of an ADU, is not an 'improvement' to an existing SFR. Rather, it is the creation of a new residence. This is true regardless of whether the new ADU is attached to the existing SFR or is in a detached structure on the same property."¹ On this basis, and based on the finding that a variety of types of J/ADUs—including both attached and detached J/ADUs—could have coastal resource impacts that make exemptions inappropriate, it rejected the local government's proposed exemptions for certain J/ADUs. Local governments considering updating LCP J/ADU provisions should consider the Commission's recent stance regarding exemptions for ADUs and may work with Commission staff to determine the best way to proceed on this issue.

IMPORTANT

EXEMPTION

3) If the proposed J/ADU constitutes development, determine whether a CDP waiver or other type of expedited processing is appropriate.

THIS PROPOSED ORDINANCE ENDS TO DO THIS

If a local government's LCP includes a waiver provision, and the proposed J/ADU meets the criteria for a CDP waiver, the local government may issue a CDP waiver for the proposed J/ADU. 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.) Projects that qualify for a CDP waiver typically allow for a reduced evaluation framework and streamlined approval.

CDP WAIVER PROCESS

Most, if not all, LCPs with CDP waiver provisions do not allow for waivers in areas where local CDP decisions are appealable to the Coastal Commission. There have been a variety of reasons for this in the past, including that the Commission's regulations require that local governments hold a public hearing for all applications for appealable development (14 Cal. Code Regs § 13566), and also that development in such areas tends to raise more coastal resource concerns and that waivers may therefore not be appropriate. However, under the state's J/ADU provisions, public hearings are not required for qualifying development.

WAVING PROCESS
NOT DONE
NOT CLEAR

Because of this, the above-described public hearing issue would not be a concern, so it could be appropriate for LCPs to allow CDP waivers in both appealable and non-appealable areas at least related to this criterion. Local governments should consult with Commission staff should they consider proposing CDP waiver provisions in their LCP. Any LCP amendment applications that propose to allow waivers in appealable areas should ensure that there are appropriate procedures for notifying the public and the Commission regarding approvals of individual, appealable waivers (such as Final Local Action Notices) so that the proper appeal period can be set, and any appeals received are properly considered.

The Coastal Act also provides for other streamlined processing for certain types of development, including for minor development. (Pub. Res. Code § 30624.9.) In certain cases, categories of development can also be excluded from CDP requirements if certain criteria are met (see box). In any case, local governments without such CDP waiver and other processing and streamlining tools are encouraged to work with Commission staff to amend their LCP to include such measures.

AN PART OF AN INTEGRATED ORDINANCE

Coastal Act section 30610(e) allows certain categories of development that are specified in Commission-approved Categorical Exclusion (Cat Ex) Orders to be excluded from CDP requirements, provided that the category of development has no potential for any significant adverse effect, either individually or cumulatively, on coastal resources. (See also 14 Cal. Code Regs §§ 13240 et seq.)

SEEK A CATEGORICAL EXCLUSION ORDER

Cat Ex Orders apply to specific types of development within identified geographical locations. For example, the Commission may approve a Categorical Exclusion for J/ADUs that would normally require a CDP (i.e., it is defined as development) because that specific development type in that specific geographic area can be demonstrated to not result in individual and/or cumulative coastal resource impacts. Cat Ex Orders are prohibited from applying to: tide and submerged lands; beaches; lots immediately adjacent to the inland extent of any beach; lots immediately adjacent of the mean high tide line of the sea where there is no beach; and public trust lands.

Cat Ex Orders provide another potential means of streamlining J/ADU consideration, and interested local governments should consult with Commission staff if they intend to propose such an Order. Cat Ex Orders are processed separately from LCP amendments, require a 2/3 vote of the Commission to be approved, and are typically subject to conditions. Once approved, the local government is responsible for reviewing development that might be subject to the Cat Ex Order and is typically required to report any exclusions applied pursuant to the Order to the Commission for review by the Executive Director and for an appeal period before they can become effective. It is important to note that while Cat Ex Orders can be a powerful tool if approved, the Commission must be able to conclude that the specific category of development in a specific geographic area has no potential for any significant adverse coastal resources impacts in order to approve one. Thus, the local government pursuing a Cat Ex Order must provide supporting documentation and evidence that can conclusively show that to be the case.

- 4) If a full CDP is required, review CDP application for consistency with certified LCP requirements.

If a proposed J/ADU constitutes development and cannot be processed as a waiver or similar expedited Coastal Act approval authorized in the certified LCP, it requires a CDP. The CDP must be consistent with the requirements of the certified LCP and, where applicable, the public access and recreation policies of the Coastal Act. The local government must then provide the required public notice for any CDP applications for J/ADUs and process the application pursuant to LCP requirements, but should process it within the time limits contained in the ADU law, if feasible. However, local governments are not required to hold a public hearing on CDPs for ADUs. (Gov. Code § 65852.2(l).) Once the local government has issued a decision, it must send the required final local action notice to the appropriate district office of the Commission. If the CDP is appealable, a local government action to approve a CDP for the ADU may be appealed to the Coastal Commission. (Pub. Res. Code § 30603.)

V. Key Considerations

Per Government Code Section 65852.2, subd. (l), known as the Coastal Act Savings Clause, the State's new ADU requirements shall not be "construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976." There are a number of key issues that local governments should account for in order to ensure their LCP J/ADU provisions are consistent with the requirements in the Coastal Act. This section addresses some of the key issues that the Commission has dealt with recently, including public coastal access parking requirements and protection of sensitive habitats and visual qualities. Local governments are encouraged to contact their local Coastal Commission district office for further assistance.

Protection of public recreational access in relation to parking requirements

Government Code Section 65852.2 requirements regarding parking for J/ADUs are as follows:

- a. One parking space is required per unit or per bedroom, whichever is less. The parking space can be a tandem space in an existing driveway.
- b. When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an ADU, no replacement parking space(s) are required.

However, Section 65852.2 further stipulates that the parking requirements listed above do not apply to ADUs constructed:

- a. Within ½ mile walking distance of public transportation stops/routes;
- b. Within a historic district;
- c. Within a primary residence or accessory structure;
- d. When on-street parking permits are required but not offered to the occupant of the ADU;

- e. And where a car-share vehicle is located within one block of the ADU.

Thus, the Government Code limits the circumstances when a local government can require a J/ADU project to address its parking needs onsite. This is a departure from most local government parking requirements which often explicitly specify the number of off-street parking spaces that must be provided onsite in any particular development, including residential development. The potential outcome is that private residential J/ADU parking needs can be shifted onto adjacent public streets. At the same time, the Coastal Act contains objectives and policies designed to protect and provide for maximum coastal access opportunities, which includes maintaining sufficient public coastal parking, including as implemented through LCP off-street parking provisions. The addition of J/ADUs may interfere with coastal public street parking availability if, for example, a garage is converted to a J/ADU and parking is not replaced onsite, in addition to the J/ADU parking demand itself. The Commission has often found that when private residential parking needs are not accommodated onsite, it can lead to increased use of on-street parking to address such needs, thereby reducing the availability of on-street parking to the general public. This may adversely affect public coastal access if it occurs in high visitor-serving areas and/or areas with significant public recreational access opportunities, and where on-street parking is heavily used. The result will be that the general public could be displaced from on-street parking by J/ADU parking needs, which may violate the Coastal Act's requirements to protect, provide, and maximize public coastal access and recreational opportunities. In many impacted coastal neighborhoods, development patterns over the years have not adequately accounted for off-street parking needs, and adding J/ADU parking to the mix will only exacerbate such public parking difficulties. Additionally, because general on-street parking is typically free or lower cost compared to other public parking facilities, J/ADU construction may also interfere with maintaining lower cost coastal access for all.

In order to avoid conflicts regarding parking requirements for J/ADUs as they may impact public access, local governments are encouraged to work with Commission staff to identify or map specific neighborhoods and locations where there is high visitor demand for public on-street parking needed for coastal access and to specify parking requirements for each such area that harmonizes Government Code requirements with the Coastal Act (and any applicable LCP policies). These maps can denote areas that supply important coastal public parking and access opportunities, and require that J/ADU development in these areas ensure that private residential parking needs are accommodated off-street. Importantly, such upfront LCP mapping and provisions allow the local government to address impacts to public access and parking supply without the need for a protracted, or even necessarily a discretionary, decision. The Commission has previously found that local governments may include specific off-street parking requirements for J/ADUs constructed in these locations and may also require maintenance of all off-street parking for the primary residence (see examples below). However, harmonizing the distinct priorities between the Coastal Act's protection of public coastal access and the J/ADU provisions on parking requirements will require a case-by-case consideration of the specific circumstances of each jurisdiction.

Protection of sensitive habitats and visual qualities; avoidance of hazards

While most J/ADU projects take place within established residential neighborhoods where potential coastal resource impacts are fairly limited, there can be cases where such projects may affect significant coastal resources, such as sensitive habitats and shorelines and beaches. As a general rule, LCPs include many provisions protecting such resources, and it is important that proposed J/ADU provisions are not structured to undo any such LCP protections that already apply. J/ADUs may need to be reviewed for specific siting and design standards, particularly in visually sensitive areas (such as the immediate shoreline, between the first public road and the sea, near LCP-designated scenic areas, etc.). Similarly, where sensitive habitat may be present, J/ADUs must be reviewed for impacts to such habitat, including with respect to fuel modification for defensible space. Additionally, local governments should include provisions for J/ADUs constructed in areas vulnerable to sea level rise and other coastal hazards which ensure not only that these structures will meet all LCP requirements for new development to be safe from such hazards, but that also addresses the need for future sea level rise adaptations (including future accommodation or removal, risk disclosure conditions on the J/ADU, and any other risk-related issues dealt with in the LCP).

VI. Examples of Recently Updated ADU Provisions in Certified LCPs

A number of local jurisdictions have recently updated their LCPs to include new J/ADU provisions. Coastal Commission staff reports are linked below, which summarize specific issues that arose between Coastal Act requirements and the new J/ADU provisions as well as the necessary changes that were made in order to harmonize each jurisdiction's LCP with the State's housing laws. The suggested modifications shown in the staff reports were all approved by the Coastal Commission.

City of Santa Cruz (approved May 2021). This LCP amendment included clarifying language to address which provisions of the new state housing laws applied to ADUs in the coastal zone of the City of Santa Cruz as well as ensuring that the coastal resource protection provisions of the City's current LCP are maintained. The amendment also addressed specific off-street parking requirements for ADUs sited near significant coastal visitor destinations. The City of Santa Cruz adopted the Commission's modifications in August 2021.

City of Pacifica (approved June 2021). This LCP amendment revised the City's Implementation Plan to incorporate J/ADU provisions that are in line with the updated state housing laws, including streamlined procedures for J/ADU review and permitting processing, providing J/ADU development standards, and crafting tailored modifications to address specific public access parking needs in key visitor destination areas. The City of Pacifica adopted the Commission's modifications in August 2021.

County of San Mateo (approved July 2021). This LCP amendment incorporated more specific ADU regulations relating to size limits, maximum number of J/ADUs permitted per lot, streamlined review and process of J/ADU permits, and parking availability in areas that are

significant coastal visitor destinations. The County of San Mateo adopted the Commission's modifications in September 2021.

City of Encinitas (approved August 2021). The Coastal Commission approved revisions to the City of Encinitas' Implementation Plan that updated existing definitions for ADUs and JADUs and clarified development standards for accessory units, including standards for size, height, and setbacks.

City of Santa Barbara (approved December 2021). The Coastal Commission approved Commission staff's revision of the City of Santa Barbara's LCP amendment submittal addressing updated ADU provisions to be consistent with state housing laws. The amendment revised J/ADU terms and definitions, building standards, parking requirements, and permitting review and processing procedures. The staff report included modifications that address the CDP exemption issue (discussed above).