



# Council Agenda Report

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

Prepared by: Tracey Rossine, Environmental Programs Manager

Reviewed by: Yolanda Bundy, Environmental Sustainability Director  
Richard Mollica, Planning Director

Approved by: Steve McClary, City Manager

Date prepared: August 31, 2023

Meeting date: September 11, 2023

Subject: Woolsey Fire Fee Waiver Program and Rebuild Deadlines

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**RECOMMENDED ACTION:** 1) Consider adopting Resolution No. 23-40 superseding and replacing Resolution No. 21-62, directing the City Manager to waive certain fees related to the rebuilding of structures that were damaged or destroyed by the Woolsey Fire on a property used as a primary residence; 2) Consider adopting Resolution No. 23-41 initiating a Zoning Text Amendment (ZTA) to modify Malibu Municipal Code (MMC) Section 17.60.020(C) to extend the submittal deadline for owners to obtain a permit for Planning Verification approvals for nonconforming structures damaged or destroyed in the Woolsey Fire; and 3) If Resolution No. 23-41 is adopted, direct the Planning Commission to schedule a public hearing regarding the same.

**FISCAL IMPACT:** There is no fiscal impact associated with parts 1 and 3 of the recommended action. To date, the City has waived or refunded approximately \$5.22 million in fees associated with the Woolsey Fire. The Adopted Budget for FY 2023-24 includes sufficient funding to assist all remaining Woolsey Fire property owners and is not reliant on revenue from permit fees.

**WORK PLAN:** This item was included as item 2.a. in the Adopted Work Plan for FY 2022-2023. Staff continue to work on ongoing projects and normal business while the FY 2023-24 Work Plan is finalized.

**DISCUSSION:** On August 14, 2023, the City Council discussed the upcoming Woolsey Fire fee waiver deadlines for as well as the rebuild deadlines. After discussion, the Council directed staff to research the reason some owners have not filed a rebuild application. Also, the Council requested that staff bring an item back for the purposes of discussing

the extension of the fee waiver program as well as the rebuild deadlines. The purpose of this report is to provide options for the Council to assist Woolsey Fire Victims

### Woolsey Fire Fee Waiver Program

On February 24, 2020, the City Council adopted Resolution No. 20-10 which directed staff to waive certain Woolsey Fire rebuild fees; subsequent resolutions were adopted that modified the provisions of the program and extended the fee waiver program. For property owners to qualify for the existing fee waiver program, fee waiver applications were required to be received by June 30, 2023; all required Planning applications were required to be deemed complete by June 30, 2023, and all required building permits are required to be obtained by December 30, 2023.

Should the Council wish to assist those owners that have not begun the development process, the City Council may retroactively extend the fee waiver application submittal and planning application complete determination deadline and the upcoming pending December 30, 2023 deadline to obtain building permits. A resolution (Attachment 1) is attached for this purpose and shall be modified according to the Council's guidance.

### Deadlines for Legal Nonconforming In-kind Disaster Rebuild Projects

Following the Woolsey Fire, the City Council amended MMC Chapter 17.60<sup>1</sup> (Nonconforming Uses and Structures) to facilitate a streamlined permitting process for reconstruction of destroyed structures. The amendment updated the Planning Verification (PV) process to allow for a period of two years (November 8, 2020) for fire victims to apply for a Planning approval and four years (November 8, 2022) to obtain a building permit to allow for the in-kind replacement of nonconforming structures without having to bring them into conformance with current codes.

On August 24, 2020, the Council discussed delays that Woolsey Fire victims were experiencing in rebuilding their homes or initiating the rebuild process. These difficulties included resolving insurance claims or settlements, health issues, impacts of the COVID-19 pandemic including supply chain issues, and change of ownership. Subsequently, on December 14, 2020, the City Council adopted Ordinance No. 476 which added one year to the rebuild deadlines.

### MMC Section 17.60.020(C) currently reads as follows:

C. Any structure described in subsection A of this section, may be remodeled, or may be reconstructed in the general location and to the same height as it existed prior to damage or destruction, subject to obtaining planning verification and provided that the application for the reconstruction is initiated with the city within three years of the date of damage or destruction, and a building permit is diligently

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<sup>1</sup> Ordinance No. 445

pursued and obtained within five years from the date of damage or destruction and has not expired. A request for an extension of time to the three-year or five-year periods may be granted by the planning commission where it finds, based on substantial evidence, that due to unusual circumstances, strict compliance with the three- or five-year limit creates an undue hardship. Extensions may not total more than six years. Any reconstruction shall extend the termination date described in Section 17.60.040 for the use operating within such a structure.

Although 78 percent of homes destroyed in the Woolsey Fire are either completed or in the development process, the remaining 22 percent have not yet obtained Planning or Building Plan Check approvals nor obtained permits for their project. At this time, pursuant to MMC Section 17.60.020(C), the City is not accepting any applications for Planning Verifications for non-conforming replacement structures, except those previously extended by the Planning Commission. However, there are several approved Planning Verification applications that have not yet obtained building permits, and the five-year deadline is approaching. The City has begun the process to notify property owners who have not yet obtained building permits of the upcoming deadline and provided information on how to file an extension request. Per MMC Section 17.60.020(C), those extension requests will be presented to the Planning Commission for consideration.

Should the Council wish to extend the deadline to obtain building permits or retroactively modify the date to submit for a Planning Verification application to accommodate those who have not yet submitted applications to replace their non-conforming replacement structure, an ordinance would need to be adopted by the City Council through the zoning text amendment process. The steps to process a zoning text amendment are as follows:

- Initiation of the ZTA by the City Council.
- Planning Commission Public Hearing (Tentative October 16, 2023).
- City Council Hearing to consider the Planning Commission's recommendation and introduce the ordinance on first reading (Tentative November 27, 2023).
- City Council second reading of ordinance (Tentative December 11, 2023).

Given that the November 8, 2023 (5 year) deadline is approaching, should the City Council decide to modify MMC Section 17.60.020(C), staff has included a resolution (Attachment 2) to initiate a ZTA per the Council's guidance.

### Procedural Considerations

Due to the pending submittal deadline to obtain a building permit for Planning Verification application to allow for the in-kind replacement of a legal nonconforming structure, property owners were encouraged to submit their time extension request prior to the November 8, 2020, deadline. These extensions requests will be placed on hold until the outcome of the City Council's action is known. If a code amendment is adopted, these extensions will be considered moot.

SUMMARY: The options presented may assist Woolsey Fire victims by modifying the Woosley Fire Fee Waiver program and rebuild deadlines. The options presented also distinguish between assisting property owners that have started the development process versus those that have not initiated development, which would require retroactively modifying deadlines that have passed.

ATTACHMENTS:

1. Resolution No. 23-40
2. Resolution No. 23-41

## RESOLUTION NO. 23-40

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MALIBU SUPERSEDING AND REPLACING RESOLUTION NO. 21-62; DIRECTING THE CITY MANAGER TO WAIVE CERTAIN FEES RELATED TO THE REBUILDING OF STRUCTURES THAT WERE DAMAGED OR DESTROYED BY THE WOOLSEY FIRE ON A PROPERTY USED AS A PRIMARY RESIDENCE; AND FINDING THE ACTION TO BE 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. The 2018 Woolsey Fire destroyed at least 488 single-family homes in Malibu.
- B. In the public interest of encouraging the rebuilding of homes in the City that were lost in the Woolsey Fire, the City desires to waive certain planning and building permit fees related to the rebuilding structures that were damaged or destroyed by the Woolsey Fire.
- C. The waiving of fees will only be applicable to owners of properties that are being rebuilt as a like-for-like or like-for-like plus 10% rebuild and were used as a primary residence by such owners as of November 8, 2018.
- D. Property owners requesting a waiver of fees must demonstrate primary residency with an active voter registration, a valid driver's license or other government-issued identification card with the address of the property that was destroyed by the Woolsey Fire acceptable to the City Manager and file an affidavit with the City on the form specified by the City Manager.
- E. Building permits eligible for fee waiver shall include grading, foundation, building, plumbing, mechanical, electrical and Onsite Wastewater Treatment System (OWTS) permits.
- F. The City cannot waive permit fees required by other agencies including, but not limited to, the County of Los Angeles and the State of California.
- G. On June 24, 2019, the City Council adopted Resolution No. 19-30 authorizing the waiving of fees from November 8, 2018 through June 30, 2020.
- H. On February 24, 2020, the City Council adopted Resolution No. 20-10 authorizing the waiving of certain fees from November 8, 2018 through December 30, 2020.
- I. On June 22, 2020, the City Council adopted Resolution No. 20-32 authorizing the waiving of certain fees from November 8, 2018 through June 30, 2021.

J. On March 22, 2021, the City Council adopted Resolution No. 21-10 authorizing the waiving of certain fees from November 8, 2018 through June 30, 2022.

K. On November 8, 2021, the City Council adopted Resolution No. 21-62 authorizing the waiving of certain fees, November 8, 2018 through December 30, 2023, related to the rebuilding of structures that were damaged or destroyed by the Woolsey Fire on a property used as a primary residence as of November 8, 2018. The City Council now desires to modify and replace Resolution No. 21-62 as herein described.

## SECTION 2. Action

The recitals above are adopted and, based thereon, the City Council directs the City Manager to waive the necessary planning and building permit fees for projects rebuilding a like-for-like or like-for-like plus 10% structures that were damaged or destroyed by the Woolsey Fire where the property owner demonstrates to the satisfaction of the City Manager that the property was used as the primary residence by the property owner on November 8, 2018, subject to the following requirements and limitations:

- (1) an application for waiver is received by June 30, 2024.
- (2) all required Planning Department applications for the project are deemed complete by June 30, 2024.
- (3) all required building permits are pulled by December 30, 2024 (fees will have to be paid for any building permit pulled after December 30, 2024, before it will be issued.
- (4) all fees associated with post-approval revisions to the project's Planning Department approval or building permit issuance will be charged in accordance the City's Adopted Fee Schedule.
- (5) in no case shall any fees be waived after December 30, 2024.
- (6) fee waivers are not transferable. If a waiver is obtained, a Certificate of Occupancy will only be issued to the property owner who filed the affidavit establishing primary residence at the time of the Woolsey Fire with the City. All fees that were waived must be paid to the City before a Certificate of Occupancy will be issued to an owner other than the one listed on the fee waiver.

This resolution supersedes and replaces Resolution 21-62.

## SECTION 3. Environmental Review.

The Council finds that the adoption and implementation of this resolution is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines section 15061(b)(3) because it can be seen with certainty that there is no possibility that the Ordinance may have a significant effect on the environment, section 15064(e) which exempts purely economic regulations, and Public Resources Code Section 21080(b)(4) regarding actions to mitigate or prevent an emergency.

SECTION 4. 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 \_\_\_th day of \_\_\_\_ 2023.

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BRUCE SILVERSTEIN, Mayor

ATTEST:

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KELSEY PETTIJOHN, City Clerk  
(seal)

APPROVED AS TO FORM:

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

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TREVOR RUSIN, Interim City Attorney

## RESOLUTION NO. 23-41

### A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MALIBU INITIATING AN AMENDMENT TO MODIFY SECTION 17.60.020(C) TO MALIBU MUNICIPAL CODE CHAPTER 17.60 (NONCONFORMING STRUCTURES AND USES) REGARDING PLANNING VERIFICATION

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

#### SECTION 1. Recitals.

- A. The City of Malibu issued Planning Verification approval to property owners whose homes were damaged or destroyed in the 2018 Woolsey Fire, pursuant to Chapter 17.060.020(C) of Title 17 of the Malibu Municipal Code.
- B. The Malibu community has been rebuilding steadily in the aftermath of the Woolsey Fire and during the COVID-19 pandemic.
- C. The City intends to continue its fee waiver program to benefit the remaining eligible property owners and desires to extend the period of time for Planning Verification submittals.

#### SECTION 2. Initiation.

Pursuant Malibu Municipal Code Chapter 17.74, the City Council hereby initiates an amendment to Malibu Municipal Code Chapter 17.60.020 pertaining to the deadlines in Subsection (C) to rebuild a legal nonconforming structure that was damaged or destroyed pursuant to a planning verification.

#### SECTION 3. Planning Commission Hearing.

The Planning Commission is hereby directed to conduct a duly noticed public hearing in accordance with MMC Chapter 17.74. Following the public hearing, the Planning Commission shall recommend to the City Council whether it should approve, modify, or deny the proposed amendments. The Planning Commission's recommendation shall be made by resolution carried by the affirmative vote of not less than the majority of the entire Planning Commission.

#### SECTION 4. 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 11<sup>th</sup> day of September 2023.

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BRUCE SILVERSTEIN, Mayor

ATTEST:

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KELSEY PETTIJOHN, City Clerk

APPROVED AS TO FORM:

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

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TREVOR RUSIN, Interim City Attorney