



Council Agenda Report

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

Prepared by: Justine Kendall, Associate Planner

Reviewed by: Richard Mollica, Planning Director

Approved by: Steve McClary, Interim City Manager

Date prepared: August 4, 2021

Meeting date: August 23, 2021

Subject: 2021-2029 Housing Element Draft Update Study Session

RECOMMENDED ACTION: 1) Receive staff's presentation, 2) Receive public comments; and 3) Provide comments to staff on the draft Housing Element, as appropriate.

FISCAL IMPACT: There is no fiscal impact from the recommended action. Funding for the consultant preparing the Housing Element is included in the Adopted Budget for Fiscal Year 2021-2022 in Account No. 101-2001-5100 (Planning – Professional Services). This funding comes from the General Fund Designated Reserve for the Housing Element, provided by Patriot Homes Settlement Agreement funds.

WORK PLAN: This item was included in the Adopted Work Plan for Fiscal Year 2021-2022 as item 4e.

DISCUSSION: On June 23, 2021, the City conducted a public workshop regarding the State-mandated update to the Housing Element of the General Plan for the 2021-2029 planning period. On July 22, 2021, the City held a virtual study session to review the draft Housing Element and to allow the Planning Commission and members of the public an opportunity to provide comments on the draft Element.

Background materials and a recording of that meeting are available for review on the City's Housing Element web page at: malibucity.org/HousingElement.

Background and Analysis

State Housing Element Requirements

State law requires each city to adopt a General Plan to guide land use and development. Among the various “elements” of the General Plan is the Housing Element, which establishes City policies and programs for maintaining and improving existing housing, as well as accommodating development of new housing to meet the City’s assigned share of housing needs under the Regional Housing Needs Assessment (RHNA). In addition to the Housing Element, the Malibu General Plan includes the following elements:

- 1.0 Land Use
- 2.0 Open Space and Recreation
- 3.0 Conservation
- 4.0 Circulation and Infrastructure
- 5.0 Safety and Health
- 6.0 Noise

The City’s current Housing Element update was adopted in 2014. While many elements of the General Plan have a time horizon of approximately 20-25 years into the future, State law requires that the Housing Element be updated every eight years. Housing Element planning periods are sometimes referred to as “cycles.” The City’s current Housing Element covers the planning period extending from 2013 to 2021, which is referred to as the “5th Housing Element cycle” in reference to the five required updates that have occurred since the comprehensive revision to State Housing Element law in 1980. Every city within the Southern California Association of Governments (“SCAG”) region is required to prepare a Housing Element update for the 6th planning cycle, which spans the 2021-2029 period, regardless of when the other elements of the General Plan were adopted.

HCD Review and Certification

An important difference between the Housing Element and other elements of the General Plan is the extent of State oversight. Under California law, land use and development are generally within the authority of cities through the adoption of policies and regulations in General Plans and municipal codes. However, State law establishes many specific limitations on city land use authority with regard to housing.

The State legislature has also declared an adequate supply of housing to be a matter of statewide importance and has delegated authority to the California Department of Housing and Community Development (“HCD”) to review local government Housing Elements and issue opinions regarding their compliance with State law. A finding of Housing Element compliance by HCD is referred to as “certification” of the Housing Element. Certification is

important to enhance cities' eligibility for grant funds and also to support local land use authority.

HCD review of Housing Elements is required both prior to and after final adoption by the City Council.

Issues Addressed in the Housing Element

State law requires the Housing Element to address a number of issues including preservation of the existing housing stock, future housing needs of the community, resources and constraints affecting housing, and fair housing. The focus of the Housing Element is on the needs of lower-income persons, and special needs such as homelessness and persons with disabilities.

One of the most important requirements of State Housing Element law is that each city must adopt land use plans and regulations that create sufficient opportunities for residential development to accommodate its assigned share of statewide housing need. The RHNA is the process by which each city's need for additional housing is determined.

Prior to each Housing Element planning cycle, the region's total housing need is established by HCD based primarily on population growth trends and existing housing problems such as overcrowding and overpayment. The total housing need for the Southern California region is then distributed to cities and counties by the Southern California Association of Governments (SCAG) based upon criteria established in State law. The SCAG region includes Los Angeles, Orange, Riverside, San Bernardino, Imperial and Ventura counties.

In late 2019, HCD issued a RHNA determination of 1,341,827 additional housing units for the SCAG region during the 2021-2029 period. Following HCD's RHNA determination, SCAG prepared a methodology for distributing the total RHNA to jurisdictions in the region consistent with criteria established in State law. In early 2020, SCAG's Regional Council adopted the RHNA methodology and the final RHNA Plan was adopted on March 4, 2021.

Housing needs allocated through the RHNA process are distributed among the income categories as shown in the following table.

Table 1. RHNA Income Categories

Income Category	% of County Median Income
Extremely low*	Up to 30%
Very low*	31-50%
Low	51-80%
Moderate	81-120%
Above moderate	Over 120%

Source: California Government Code Sec. 65584(f)

*RHNA allocations for the extremely-low and very-low categories are combined into a single number

Affordable housing rents and purchase prices are determined based on State policy that households should not have to pay more than 30% of their gross income for suitable housing. Affordable housing costs for all jurisdictions in Los Angeles County that correspond to the various income categories are shown in Table 2. Affordability numbers are adjusted each year based on the countywide median income and family size. Table 2 provides the current figures for a 4-person family in Los Angeles County. Income limits and affordable cost are adjusted up or down based on family size.

Table 2. Income Categories and Affordable Housing Costs – Los Angeles County

Income Category	Maximum Income	Affordable Rent	Affordable Price (est.)
Extremely low	\$35,450	\$886	*
Very low	\$59,100	\$1,478	*
Low	\$94,600	\$2,365	*
Moderate	\$96,000	\$2,400	\$375,000
Above moderate	>\$96,000	>\$2,400	>\$375,000

Assumptions:

-Based on a family of 4 and 2021 State income limits

-30% of gross income for rent or principal, interest, taxes & insurance plus utility allowance

-10% down payment, 3.75% interest, 1.25% taxes & insurance, \$350 HOA dues

* For-sale affordable housing is typically at the moderate-income level

Source: Cal. HCD; JHD Planning LLC

Table 3 shows the RHNA allocations for Malibu, Los Angeles County, and the SCAG region.

Table 3. 6th Cycle RHNA – Malibu, Los Angeles County and SCAG Region

	Malibu	Los Angeles County	SCAG Region
Additional housing need 2021-2029 (units)	79	812,060	1,341,827

Source: SCAG, March 4, 2021

The RHNA also allocates total housing need to the income categories described in Table 2 (the extremely-low and very-low categories are combined for RHNA purposes). The 6th cycle RHNA allocation by income category for Malibu is shown in Table 4.

Table 4. 6th RHNA by Income Category – Malibu

Very Low	Low	Moderate	Above Moderate	Total
28	19	17	15	79

Source: SCAG, March 4, 2021

The RHNA identifies the amount of additional housing at different price levels a jurisdiction would need to fully accommodate its existing population plus its assigned share projected growth over the next 8 years while avoiding problems like overcrowding and overpayment. The RHNA is a planning requirement based upon housing need, *not a construction quota or mandate*. The primary significance of the RHNA is that jurisdictions are required to adopt land use plans and development regulations that create sufficient opportunities for additional housing development commensurate with the RHNA allocation. Under current law, cities are not penalized if actual housing production does not achieve the RHNA allocation, but cities may be required to streamline the approval process for qualifying housing developments that meet specific standards (such as affordability and prevailing wage labor requirements) if housing production falls short of the RHNA allocation.

The Housing Element must demonstrate compliance with the RHNA by analyzing the city’s capacity for additional housing based on an evaluation of land use patterns, development regulations, potential constraints (such as infrastructure availability and environmental conditions) and real estate market trends. The analysis must be prepared at a parcel-specific level of detail and identify properties (or “sites”) where additional housing could be built under current regulations. State law requires that the sites analysis demonstrate that city land use plans and regulations provide adequate capacity to fully accommodate its RHNA allocation in each income category. If the current development capacity is not sufficient to fully accommodate the RHNA, the Housing Element must describe proactive

steps the City will take to increase housing capacity commensurate with the RHNA – typically through amendments to land use plans and development regulations that could facilitate production of additional housing. *It is important to note that neither cities nor property owners are required to develop additional housing on the sites identified in the Housing Element, or to provide funding for housing development.*

Future accessory dwelling units (ADUs) can also satisfy a portion of the RHNA allocation based on permit trends and city ADU regulations.

The draft Housing Element evaluates the potential capacity for additional housing based on the General Plan and zoning and has concluded that current capacity for additional housing is sufficient to accommodate the RHNA allocation at each income level. It is important to note that although current land use plans allow additional housing development, there are significant constraints beyond the city's control that may limit housing development such as infrastructure capacity and environmental conditions (e.g., fire hazards, geotechnical problems, environmentally sensitive habitat, etc.).

Draft Housing Element Content

The Draft 2021-2029 Housing Element includes the following components:

- An Introduction providing background information and context for the Housing Element (Section 7.1)
- An analysis of the City's demographic and housing characteristics, trends and special needs (Section 7.2)
- An evaluation of resources and opportunities available to address housing issues (Section 7.3)
- A review of potential market, governmental, and environmental constraints to meeting housing needs (Section 7.4)
- The Housing Plan, including policies and programs for the 2021-2029 planning period (Section 7.5)
- An evaluation of the previous Housing Element (Appendix A)
- An inventory of the potential sites for housing development (Appendix B)
- A summary of opportunities for public participation during the preparation and adoption of the Housing Element (Appendix C)
- List of acronyms (Appendix D)

The most important part of the Housing Element is the Housing Plan (Section 7.5) because it describes the City's policies, programs and objectives for the 2021-2029 planning period. This section has been updated to reflect current circumstances and includes commitments for specific actions over the next eight years. While most programs reflect a continuation

of existing City policy, some recent changes in State housing law will require the City to amend local regulations to conform to current law, as described in the following programs:

- Update accessory dwelling unit (ADU) regulations (Program 2.2A)
- Update density bonus regulations (Program 2.3)
- Update regulations for supportive housing and low barrier navigation centers (Program 3.1)

Updates Following Planning Commission Study Session

The Planning Commission did not make any specific recommendations or request any changes, however, based on the discussion which took place on July 22, 2021, more information was added to section 7.4.1(b) “Development Processing Procedures” to provide more information on actions taken to improve permit processing.

Next Steps

No formal action or approval of the Housing Element is necessary at this time. Draft Housing Elements must be submitted for review by HCD prior to adoption. After receiving HCD’s comments, any required revisions to the Housing Element will be made and additional public hearings will be held by the Planning Commission and City Council to consider adoption of the Housing Element. After adoption, Housing Elements must be submitted to HCD for a second round of review.

Opportunities For Public Involvement

Additional materials regarding the Housing Element update process, including a Housing Element FAQ, meeting notices and draft documents, are posted on the City’s Housing Element website at: malibucity.org/HousingElement. Interested parties may also ask to be added to the City’s Housing Element interest list or submit questions or comments throughout the Housing Element update process by email to Justine Kendall, Associate Planner, at jkendall@malibucity.org.

CORRESPONDENCE: Correspondence related to the Draft Housing Element received to date is included in Attachment 2.

SUMMARY: No formal action is required at this time. Staff recommends the following:

1. Receive staff presentation
2. Receive public comments
3. Provide comments to staff on the draft Housing Element as appropriate

ATTACHMENTS:

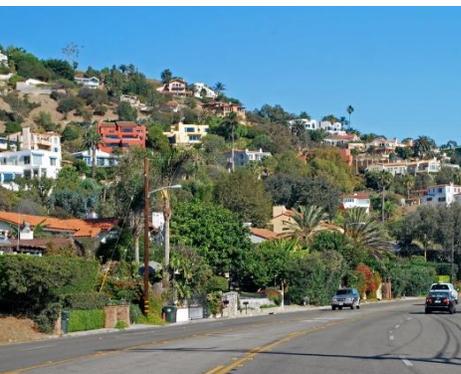
1. DRAFT 2021-2029 Housing Element
2. Correspondence



CITY OF MALIBU

2021-2029

Housing Element



Draft
August 2021

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7.0 Housing Element

7.1 Introduction

State law requires the preparation of a Housing Element ("Element") as part of a jurisdiction's General Plan (*California Government Code* §65302(c)). The Element is to consist of an identification and analysis of existing and projected housing needs, and a statement of goals, policies, quantified objectives and scheduled programs for the preservation, improvement and development of housing in the City of Malibu ("City"). The Element shall also identify adequate sites for housing and to make adequate provision for the existing and projected needs of all economic segments of the community (§65583).

Guidelines adopted by the California Department of Housing and Community Development ("HCD") are also to be considered in the preparation of the Element (§65585). Periodic review of the Element is required to evaluate: (1) the appropriateness of its goals, objectives and policies in contributing to the attainment of the state housing goal; (2) the effectiveness in attaining the community's housing goals and objectives; and (3) the progress of the City in implementation of the Element (§65588).

7.1.1 Purpose of the Housing Element

State law recognizes the vital role that local governments play in the supply and affordability of housing. Each local government in California is required to adopt a comprehensive, long-term General Plan for the physical development of the city or county. The Housing Element is one of the seven mandated elements of the General Plan. Housing Element law, first enacted in 1969, mandates that local governments plan to meet the existing and projected housing needs of all economic segments of the community. The law recognizes that, in order for the private market to adequately address housing needs, local governments must adopt land use plans and regulatory systems that provide opportunities for, and do not unduly constrain, housing development. As a result, housing policy in California rests largely upon the effective implementation of local General Plans and, in particular, local Housing Elements. Housing Element law also requires that HCD review local housing elements for compliance with State law and to report its written findings to the local government.

As mandated by State law, the planning period for this Housing Element extends from 2021 to 2029. This Element identifies strategies and programs that focus on: 1) providing diversity in housing opportunities; and 2) maintenance and preservation of the City's housing stock.

The Housing Element consists of the following major components:

- An analysis of the City's demographic and housing characteristics and trends (Section 7.2);
- An evaluation of land, financial, and administrative resources available to address the City's housing goals (Section 7.3);

- A review of potential constraints, both governmental and non-governmental, to meeting the City's housing needs (Section 7.4);
- A Housing Plan for the 2021-2029 planning period, including housing goals, policies, and programs (Section 7.5);
- A review of the City's accomplishments and progress in implementing the previous Housing Element (Appendix A);
- A detailed inventory of sites suitable for the development of housing (Appendix B);
- A summary of the City's public participation during the preparation and adoption of this Housing Element (Appendix C); and
- A list of acronyms (Appendix D).

7.1.2 Public Participation

Section 65583(c)(5) of the *California Government Code* states that “[t]he local government shall make a diligent effort to achieve public participation of all economic segments of the community in the development of the housing element, and the program shall describe this effort.” Public participation played an important role in the formulation and refinement of the City's housing goals and policies, and in the development of a Land Use Plan that determines the extent and density of future residential development in the community.

Residents and other stakeholders had many opportunities to review and provide comments on the Housing Element and related implementation actions. Please refer to Appendix C for additional information regarding the City's efforts to encourage public involvement and how comments and concerns have been addressed.

7.1.3 Consistency with Other Elements of the General Plan

The City's General Plan sets forth broad policy guidance in the areas of land use, housing, transportation, conservation, open space and recreation, noise, and public safety. The various General Plan elements provide a consistent set of policies and programs intended to preserve and enhance the quality of life, while accommodating growth and change in a proactive manner. For example, residential development capacities established in the Land Use Element, and constraints to development identified in the Conservation, Public Safety, and Noise Elements, are reflected in the Housing Element. This Housing Element builds upon the other General Plan elements and is consistent with the policies and proposals set forth by the General Plan. As the General Plan is occasionally amended, the City will review the Housing Element for internal consistency, and make any necessary revisions.

Senate Bill (SB) 1087 of 2005¹ requires cities to provide a copy of their Housing Element to local water and sewer providers, and also requires that these agencies provide priority to

¹ SB 1087 (Florez) [Stats. 2005, ch. 727].

affordable housing developers. SB 1087 further prohibits local water and sewer providers from denying services to affordable housing developers, unless they find that the capacity is unavailable to all applicants. The Housing Element will be provided to these agencies immediately upon adoption.

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7.2 Housing Needs Assessment

The City of Malibu ("City") lies within an approximately 21-mile strip of coastline at the western edge of Los Angeles County ("County"). Malibu is primarily a residential community consisting of beachfront residential lots and large estate lots in the hillsides and canyons overlooking the ocean. Some multi-family development and neighborhood/visitor-serving commercial development is located in the flatter portions of the City along Highway 1 (Pacific Coast Highway). The City has a scenic rural character that it seeks to preserve. Development within the City is constrained by numerous land features including steep slopes, environmentally sensitive habitat areas (ESHAs), geologic instability, flood hazards, and extreme wildfire hazards. The entire City lies within the Coastal Zone as defined by the California Coastal Act of 1976². Because of these constraints, a large portion of the City remains undeveloped and rural in character. Growth is also severely limited by the lack of a centralized sewer system.

Since its incorporation in 1991, the City has declined in population from approximately 11,700 to 11,537 residents in 2021, according to recent California Department of Finance estimates. The City is approximately 19.9 square miles in area and is bounded by unincorporated County areas to the west and north, the City of Los Angeles (Pacific Palisades) to the east and the Pacific Ocean to the south. Further to the east is the City of Santa Monica. The Santa Monica Mountains National Recreation Area lies just to the north.

This chapter examines general population and household characteristics and trends, such as age, employment, household composition and size, household income, and special needs. Characteristics of the existing housing stock (e.g., number of units and type, tenure, age and condition, costs) are also addressed. Finally, the City's projected housing needs based on the 2021-2029 Regional Housing Needs Assessment (RHNA) are discussed.

The Housing Needs Assessment utilizes recent data from the U.S. Census, the California Department of Finance (DOF), the California Employment Development Department (EDD), the Southern California Association of Governments (SCAG), and other relevant sources.

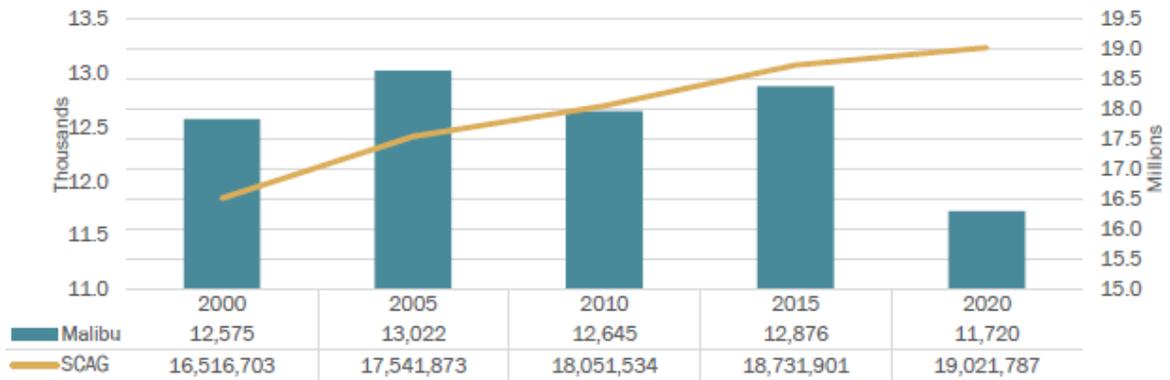
7.2.1 Population Characteristics

7.2.1(a) Population Growth Trends

In 1990, the unincorporated community of Malibu had a population of 11,643. The City of Malibu was incorporated on March 28, 1991. From 1990 to 2000, the population of the newly incorporated City grew by about 8% to 12,575. From 2000 to 2020 the City's population declined by about 855 persons (see Table 7-1). Malibu has a 2020 total population of 11,720 including 141 living in group quarters according to the California Department of Finance.

² California Public Resources Code, Division 20.

**Table 7-1
Population Trends 2000-2020
Malibu vs. SCAG Region**

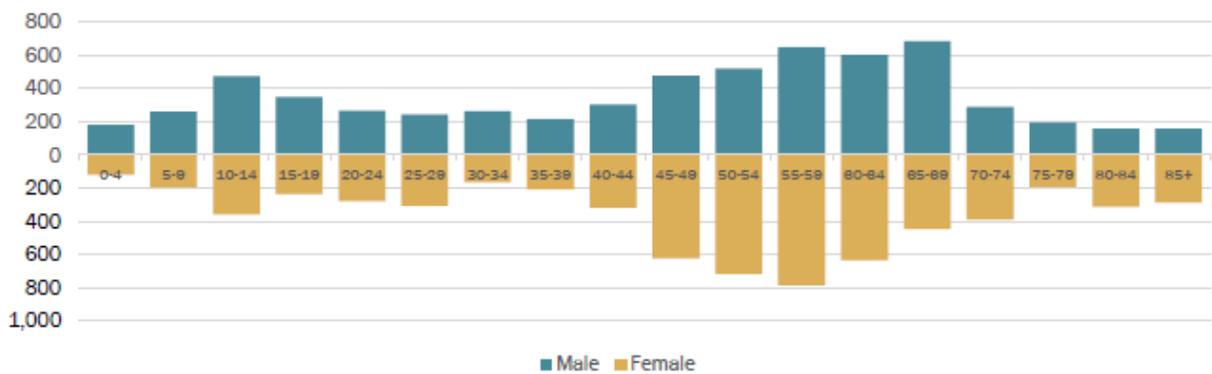


CA DOF E-5 Population and Housing Unit Estimates

7.2.1(b) Age

Housing needs are influenced by the age characteristics of the population. Different age groups require different accommodations based on lifestyle, family type, income level, and housing preference. Table 7-2 shows that the population of Malibu is 49% male and 51% female. The share of the population of Malibu under 18 years of age is 15.3%, which is lower than the regional share of 23.4%. Malibu's seniors (65 and above) make up 24.2% of the population, which is higher than the regional share of 13%.

**Table 7-2
Population by Age and Gender
Malibu**



American Community Survey 2014-2018 5-year estimates

7.2.2 Household Characteristics

7.2.2(a) Household Composition and Size

Household characteristics are important indicators of the type and size of housing needed in a city. The Census defines a “household” as all persons occupying a housing unit, which may include single persons living alone, families related through marriage or blood, or unrelated persons sharing a single unit. Persons in group quarters such as dormitories, retirement or convalescent homes, or other group living situations are included in population totals, but are not considered households by the Census Bureau.

Table 7-3 illustrates the range of household sizes in Malibu for owners, renters, and overall. The most commonly occurring household size is of two people (40.4%) and the second-most commonly occurring household is of one person (33.2%). Malibu has a higher share of single-person households than the SCAG region overall (33.2% vs. 23.4%) and a lower share of 7+ person households than the SCAG region overall (0.6% vs. 3.1%).

**Table 7-3
Household Size - Malibu**

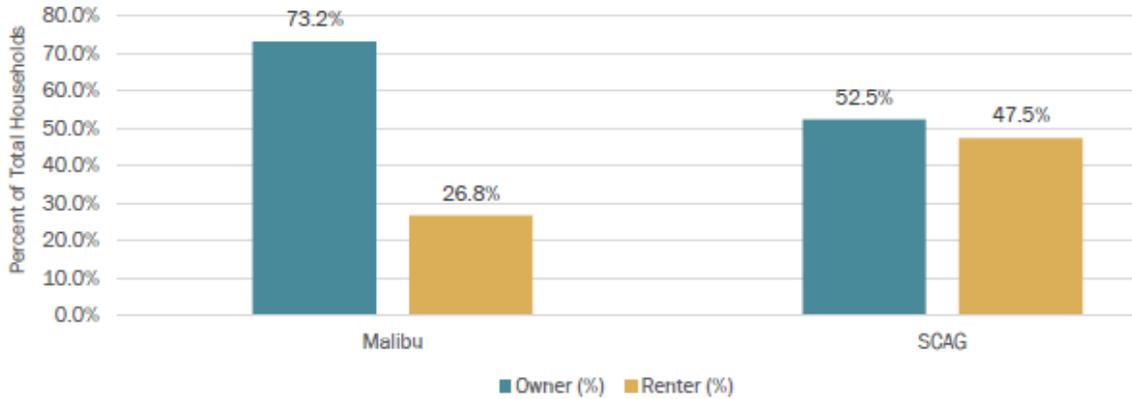


American Community Survey 2014-2018 5-year estimates.

7.2.2(b) Housing Tenure and Vacancy

Housing tenure (owner versus renter) is an important indicator of the housing market. Communities need an adequate supply of units available both for rent and for sale in order to accommodate a range of households with varying income, family size and composition, and lifestyle. As shown in Table 7-4, Malibu's housing stock consists of 5,769 total units, 4,222 of which are owner-occupied and 1,547 of which are renter-occupied. The share of renters in Malibu is lower than in the SCAG region overall.

**Table 7-4
Household Tenure**

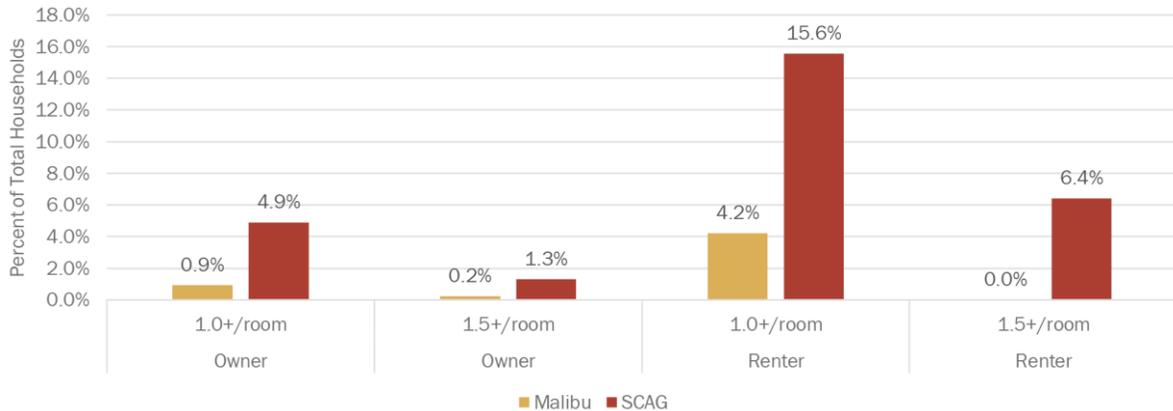


American Community Survey 2014-2018 5-year estimates.

7.2.2(c) Overcrowding

Overcrowding is often closely related to household income and the cost of housing. The U.S. Census Bureau considers a household to be overcrowded when there is more than one person per room, excluding bathrooms and kitchens, with severe overcrowding when there are more than 1.5 occupants per room. Table 7-5 summarizes overcrowding for the City of Malibu. In Malibu, 39 owner-occupied and 65 renter-occupied households had more than 1.0 occupants per room, which meets the ACS definition for overcrowding. 10 owner-occupied households and renter-occupied households had more than 1.5 occupants per room, which meets the ACS definition for severe overcrowding.

**Table 7-5
Overcrowding by Tenure – Malibu vs. SCAG Region**



American Community Survey 2014-2018 5-year estimates.

The high cost of housing in Malibu is the primary cause of overcrowding. Several programs in the Housing Plan (Section 7.5) that are designed to address housing affordability will also help to alleviate overcrowding. These programs include: Program 1.1 – Code Enforcement; Program 1.3 – Housing Rehabilitation Assistance; Program 1.4 – Preserve Existing Mobile Home Parks; Program 1.5 – Conserve Affordable Housing in the Coastal Zone; Program 2.2 – Ensure Adequate Capacity to Accommodate Housing Needs; Program 2.3 – Encourage Mixed-Use and Adaptive Reuse Development in Appropriate Locations; Program 2.2A – Second Units; Program 2.3 – Streamline Development Review and Assist Affordable Housing Developments; and Program 3.3 – Provide Financial Support and Referral Information to Persons in Need of Assistance.

7.2.2(d) Overpayment

According to State housing policy, overpaying occurs when housing costs exceed 30% of gross household income. Although homeowners enjoy income and property tax deductions and other benefits that help to compensate for high housing costs, lower-income homeowners may need to defer maintenance or repairs due to limited funds, which can lead to deterioration. For lower-income renters, severe cost burden can require families to double up resulting in overcrowding. As shown in Table 7-6, the majority of lower-income households in Malibu are paying over 50% of their gross incomes for housing.

Table 7-6
Overpayment by Income Category – Malibu

Income	Households by Share of Income Spent on Housing Cost:		
	< 30%	30-50%	> 50%
< 30% HAMFI	83	20	465
30-50% HAMFI	20	69	224
50-80% HAMFI	125	72	160
80-100% HAMFI	80	73	169
> 100% HAMFI	2,865	700	300
Total Households	3,173	934	1,318

HUD CHAS, 2012-2016. HAMFI refers to Housing Urban Development Area Median Family Income.

The high cost of housing in Malibu is the primary cause of overpayment for lower-income households. Several programs in the Housing Plan designed to address housing affordability will also help to alleviate overpayment. These programs include Program 1.1 – Code Enforcement; Program 1.3 – Rehabilitation Assistance; Program 1.4 – Preserve Existing Mobile Home Parks; Program 1.5 – Conserve Affordable Housing in the Coastal Zone; Program 2.2 – Ensure Adequate Capacity to Accommodate Housing Needs; Program 2.2A – Accessory Dwelling Units; Program 2.3 – Streamline Development Review

and Assist Affordable Housing Development; and Program 3.3 – Provide Financial Support and Referral Information to Persons in Need of Assistance.

Extremely-Low-Income Households

Extremely-low-income (ELI) is defined as household income less than 30% of area median income. Households with extremely low incomes have a variety of housing problems and needs.

According to ACS data reported by SCAG (Table 7-7) the race/ethnicity with the highest share of extremely-low-income households in Malibu is Asian and other, non-Hispanic (47% compared to 13% of the total population). In the SCAG region, the highest share of extremely-low-income households is Black, non-Hispanic (27.1% compared to 17.7% of total households).

**Table 7-7
Extremely-Low-Income Households by Race and Tenure – Malibu**

	Total Households	Households below 30% HAMFI	Share below 30% HAMFI
White, non-Hispanic	5,070	590	11.6%
Black, non-Hispanic	50	0	0.0%
Asian and other, non-Hispanic	200	94	47.0%
Hispanic	264	40	15.2%
TOTAL	5,584	724	13.0%
Renter-occupied	1,645	325	19.8%
Owner-occupied	3,945	400	10.1%
TOTAL	5,590	725	13.0%

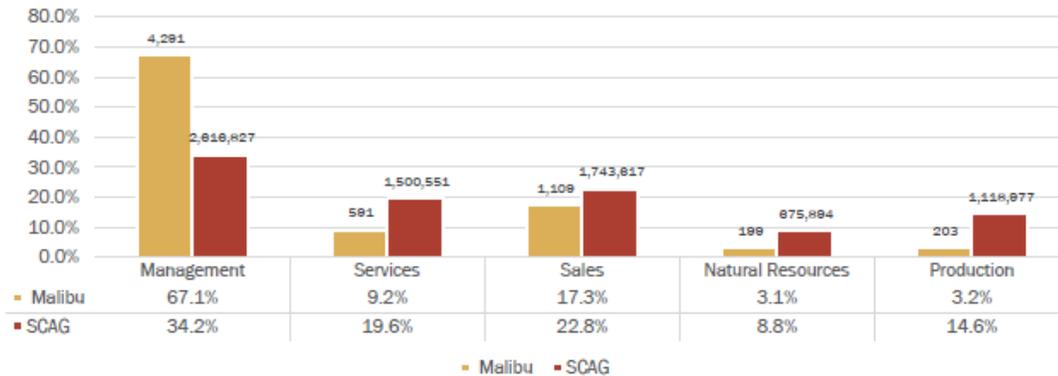
HUD CHAS, 2012-2016. HAMFI refers to Housing Urban Development Area Median Family Income.

7.2.3 Employment

Employment is an important factor affecting housing needs within a community. The jobs available in each employment sector and the wages for these jobs affect the type and size of housing residents can afford.

According to recent Census data (Table 7-8) Malibu has 6,393 workers living within its borders who work across 13 major industrial sectors. The most prevalent industry is Professional Services with 1,419 employees (22.2% of total) and the second most prevalent industry is Education & Social Services with 1,314 employees (20.6% of total).

**Table 7-8
Employment by Occupation – Malibu vs. SCAG Region**

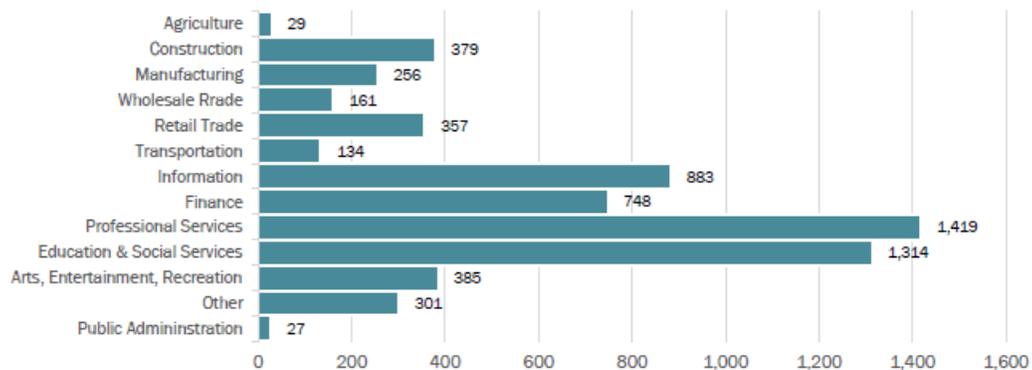


American Community Survey 2014-2018 5-year estimates using groupings of SOC codes.

Table 7-9 shows employment by industry for Malibu's workforce. The most prevalent occupational category in Malibu is Management, in which 4,291 (67.1% of total) employees work. The second-most prevalent type of work is in Sales, which employs 1,109 (17.3% of total) in Malibu. In high-cost areas like Malibu accessory dwelling units provide an important option for low-wage workers, such as caregivers and other household employees. Program 2.2 in the Housing Plan describes the City's strategy for expanding the availability of accessory dwelling units.

**Table 7-9
Employment by Industry – Malibu**

Employment by Industry



American Community Survey 2014-2018 5-year estimates using groupings of 2-digit NAICS codes.

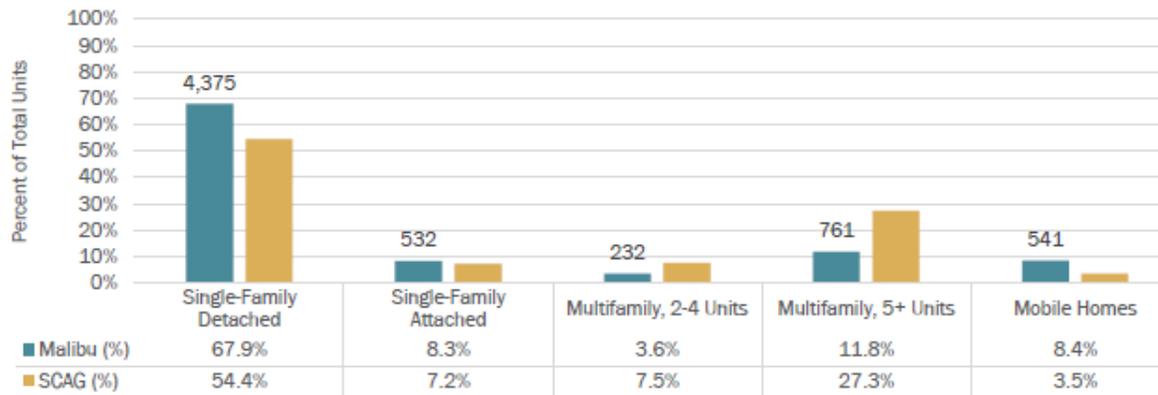
7.2.4 Housing Stock Characteristics

This section presents an evaluation of the community's housing stock and helps in identifying and prioritizing needs. The factors evaluated include the type of housing units, vacancy rates, age and condition, tenure, housing costs and affordability. A housing unit is defined as a house, apartment, mobile home, or group of rooms, occupied as separate living quarters or, if vacant, intended for occupancy as separate living quarters.

7.2.4(a) Housing Type and Vacancy

According to recent Census data, the housing stock in the City was comprised mostly of single-family detached homes, which made up about 68% of all units, while multi-family units comprised about 24% of the total. Mobile home units comprised about 8% of the total (Table 7-10).

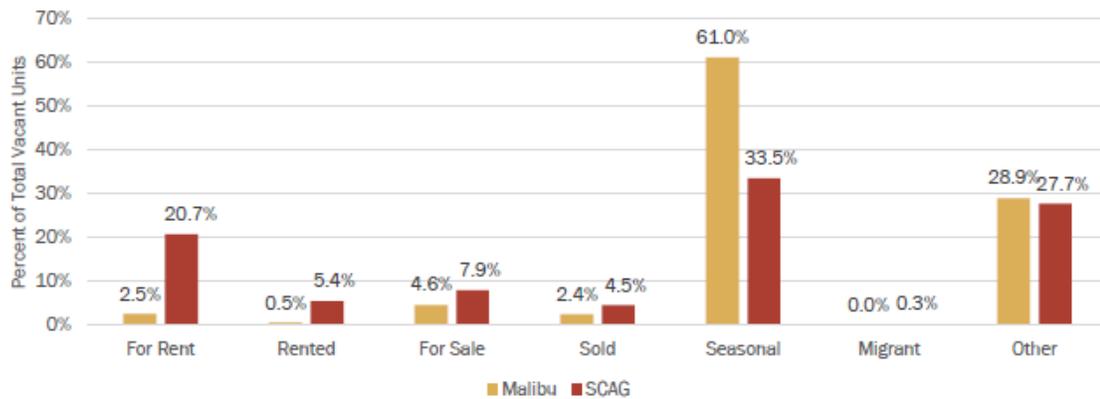
**Table 7-10
Housing by Type –
Malibu vs. SCAG Region**



CA DOF E-5 Population and Housing Unit Estimates

Recent Census estimates (Table 7-11) reported a 24.1% total vacancy rate in Malibu, with the most prevalent type of vacancy being units held for seasonal use (i.e., second homes).

**Table 7-11
Vacant Housing by Type –
Malibu vs. SCAG Region**



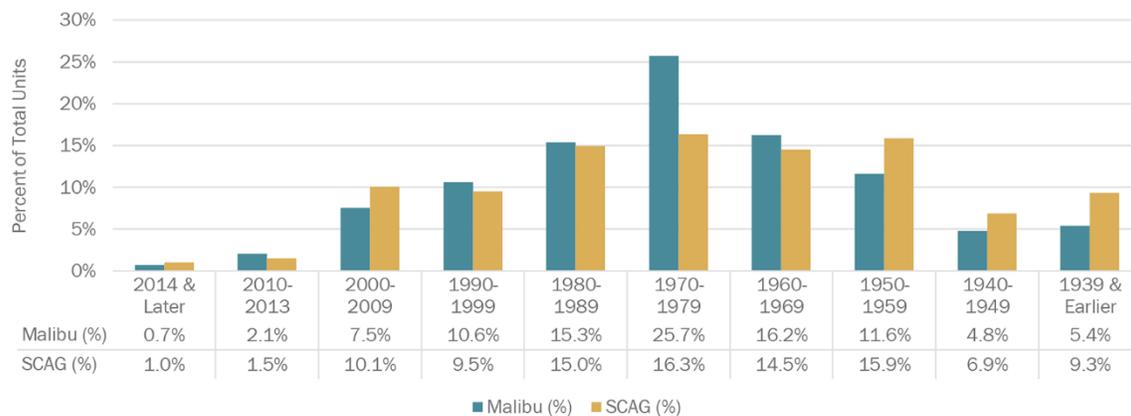
American Community Survey 2014-2018 5-year estimates.

7.2.4(b) Housing Age and Conditions

Housing age is often an important indicator of housing condition. Housing units built prior to 1978, before stringent limits on the amount of lead in paint were imposed may have interior or exterior building components coated with lead-based paint. Table 7-12 shows the age distribution of the housing stock in the City compared to the SCAG region as a whole.

This table shows that about 79% of the units in the City were constructed prior to 1990. These units are more than 30 years old and may have some need for rehabilitation, which is typical of most jurisdictions in Southern California.

**Table 7-12
Age of Housing Stock – Malibu vs. SCAG Region**



American Community Survey 2014-2018 5-year estimates.

In general, the quality of housing is exceptional in the City. At a minimum, most dwelling units are well-maintained, especially with respect to the harsh environmental conditions to which they are subject. There are areas where older housing units exist, such as along Pacific Coast Highway in the eastern portion of the City. However, even these units are maintained due to high property values. It is estimated that about 2% of the housing units within the City are in need of minor repair. The only homes in need of major structural repair or replacement are due to landslides or fire damage.

A goal of the City's Building & Safety Division as well as Code Enforcement staff is to address housing concerns before they become serious problems. Staff has helped to reduce structural deterioration by identifying problems and informing residents of programs to assist with improvements. In addition, the City addresses issues related to lead-based paint and asbestos removal through adding standard conditions of approval to include Best Management Practices for all projects that include the demolition or remodeling of older structures.

7.2.4(c) Housing Cost

Housing Affordability Criteria

State law establishes five income categories for purposes of housing programs based on the County's area median income ("AMI"): extremely-low (30% or less of AMI), very-low (31-50% of AMI), low (51-80% of AMI), moderate (81-120% of AMI) and above-moderate (over 120% of AMI). Housing affordability is based on the relationship between household income and housing expenses. According to the U.S. Department of Housing and Urban Development ("HUD") and the California Department of Housing and Community Development ("HCD"), housing is considered "affordable" if the monthly payment is no more than 30% of a household's gross income. In some areas (such as Los Angeles County), these income limits may be increased to adjust for high housing costs.

Table 7-13 shows affordable rent levels and estimated affordable purchase prices for housing in Los Angeles County³ by income category. Based on State standards, the maximum affordable monthly rent for extremely-low-income households is \$886, while the maximum affordable rent for very-low-income households is \$1,478. The maximum affordable rent for low-income households is \$2,365, while the maximum for moderate-income households is \$2,400.

Maximum purchase prices are more difficult to determine due to variations in mortgage interest rates and qualifying procedures, down payments, special tax assessments, homeowner association fees, property insurance rates, etc. With this caveat, the maximum home purchase prices by income category shown in Table 7-13 have been estimated based on current conditions.

³ Affordable rent and purchase prices are based on the county median income.

**Table 7-13
Income Categories and Affordable Housing Costs –
Los Angeles County**

Income Category (% of median income)	Income Limits	Affordable Rent	Affordable Price (est.)
Extremely Low (<30%)	\$35,450	\$886	*
Very Low (31-50%)	\$59,100	\$1,478	*
Low (51-80%)	\$94,600	\$2,365	*
Moderate (81-120%)	\$96,000	\$2,400	\$375,000
Above moderate (120%+)	>\$96,000	>\$2,400	>\$375,000

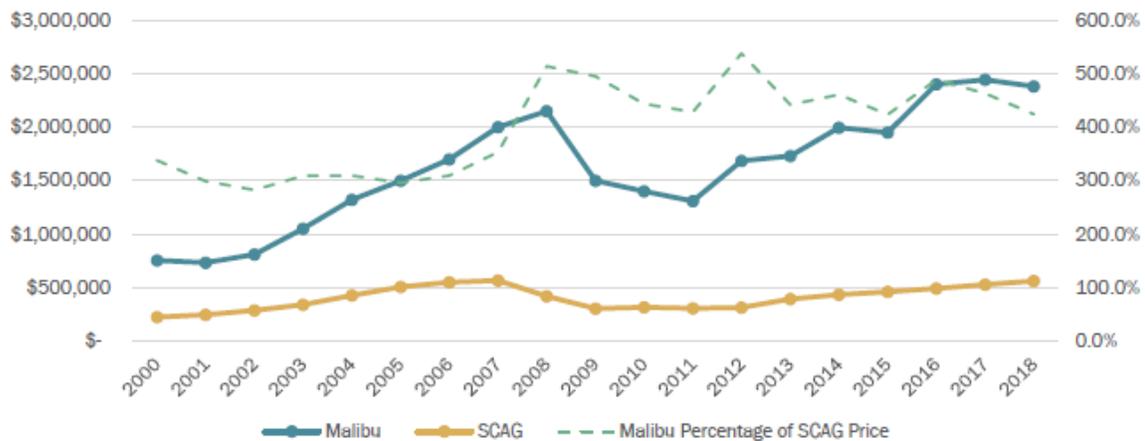
Assumptions:

- Based on a family of 4 and 2021 income limits
 - 30% of gross income for rent or principal, interest, taxes & insurance plus utility allowance
 - 10% down payment, 3.75% interest, 1.25% taxes & insurance, \$350 HOA dues
 - * For-sale affordable housing is typically at the moderate-income level
- Source: Cal. HCD; JHD Planning LLC

For-Sale Housing

Between 2000 and 2018, median home sales prices in Malibu increased 215% while prices in the SCAG region increased 151%. 2018 median home sales prices in Malibu were \$2,380,000 and the highest experienced since 2000 was \$2,443,000 in 2017. Prices in Malibu have ranged from a low of 282.4% of the SCAG region median in 2002 and a high of 537.7% in 2012 (Table 7-14).

**Table 7-14
Median Sales Price for Existing Homes –
Malibu vs. SCAG Region**

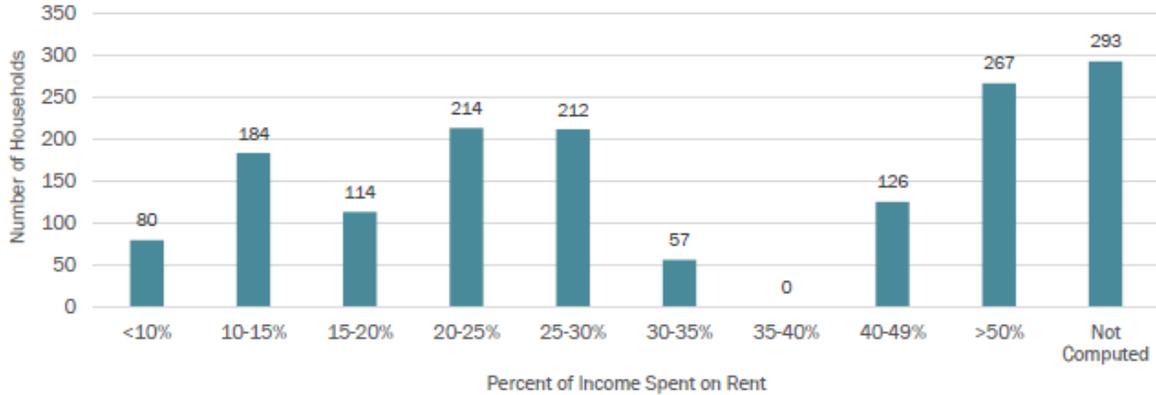


SCAG Local Profiles, Core Logic/Data Quick. SCAG median home sales price calculated as household-weighted average of county medians.

Rental Housing

Across Malibu's 1,547 renter households, 450 (29.1%) spend 30% or more of gross income on housing cost, compared to 55.3% in the SCAG region. Additionally, 267 renter households in Malibu (17.3%) spend 50% or more of gross income on housing cost, compared to 28.9% in the SCAG region (Table 7-15).

**Table 7-15
Percentage of Income Spent on Rent –
Malibu**



7.2.5 Special Needs

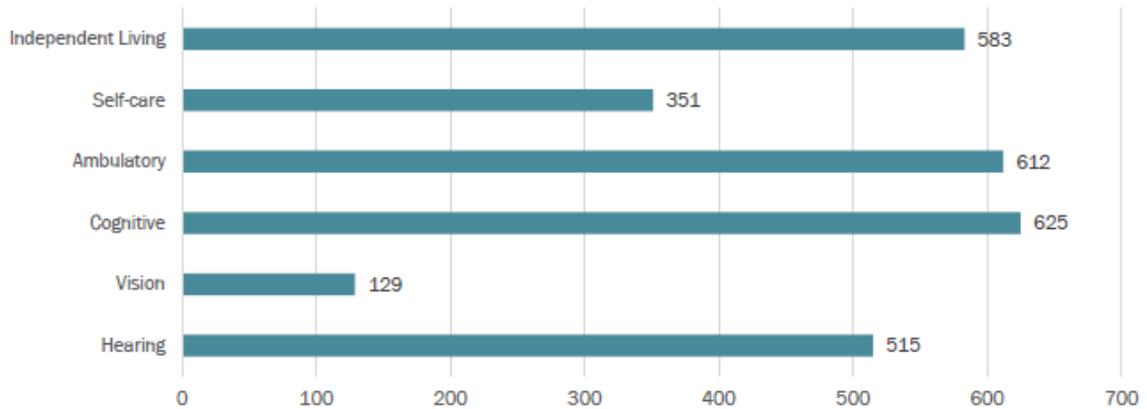
Certain groups have greater difficulty in finding decent, affordable housing due to special circumstances related to one's employment and income, family characteristics, age, disability, or other conditions. As a result, some of the City's residents may experience a higher prevalence of overpayment, overcrowding, or other housing problems.

State Housing Element law defines "special needs" groups to include persons with disabilities, the elderly, large households, female-headed households, homeless people, and farmworkers. This section contains a discussion of the housing needs facing each of these groups.

7.2.5(a) Persons with Disabilities

Recent Census data (Table 7-16) estimated that the most prevalent types of disabilities among Malibu residents included cognitive, ambulatory, and independent living disabilities. Housing opportunities for those with disabilities can be maximized through housing assistance programs, supportive housing, and by providing universal design features such as widened doorways, ramps, lowered countertops, single-level units and ground floor units. The Municipal Code establishes procedures to allow reasonable accommodation for persons with disabilities pursuant to State law.

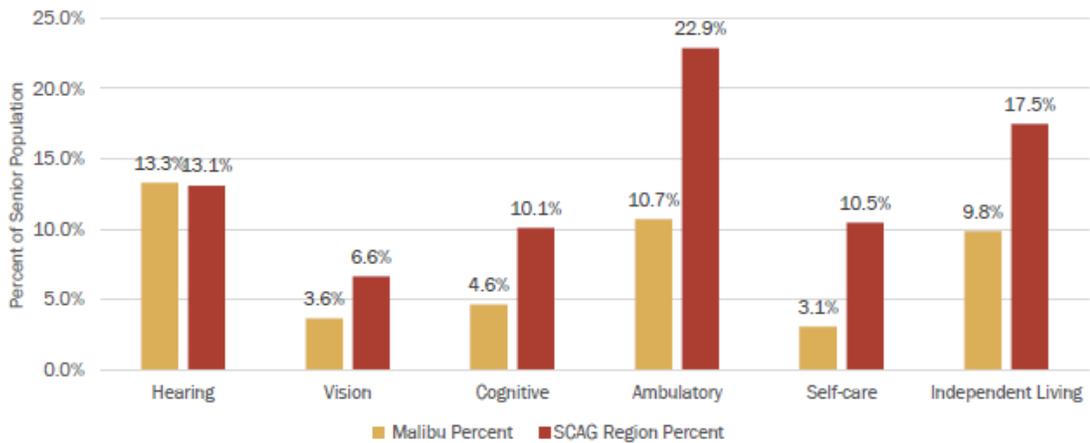
**Table 7-16
Disabilities by Type – Malibu**



American Community Survey 2014-2018 5-year estimates.

In Malibu, the most commonly occurring disability amongst seniors 65 and older was a hearing disability, experienced by 13.3% of Malibu's seniors and 13.1% of seniors in the SCAG region (Table 7-17).

**Table 7-17
Disabilities by Type for Seniors 65+ – Malibu vs. SCAG Region**



American Community Survey 2014-2018 5-year estimates.

As shown in Table 7-18, 40% of Malibu residents with a disability were employed.

**Table 7-18
Disabilities by Employment Status – Malibu**

	With a Disability	Percent of Total	No Disability	Percent of Total
Employed	259	40%	4,866	68%
Unemployed	0	0%	278	4%
Not in Labor Force	382	60%	1,985	28%
TOTAL	641		7,129	

American Community Survey 2014-2018 5-year estimates.

Developmental Disabilities

As defined by federal law, “developmental disability” means a severe, chronic disability of an individual that:

- Is attributable to a mental or physical impairment or combination of mental and physical impairments;
- Is manifested before the individual attains age 22;
- Is likely to continue indefinitely;
- Results in substantial functional limitations in three or more of the following areas of major life activity: a) self-care; b) receptive and expressive language; c) learning; d) mobility; e) self-direction; f) capacity for independent living; or g) economic self-sufficiency;
- Reflects the individual's need for a combination and sequence of special, interdisciplinary, or generic services, individualized supports, or other forms of assistance that are of lifelong or extended duration and are individually planned and coordinated.

The Census does not record developmental disabilities as a separate category of disability. According to the U.S. Administration on Developmental Disabilities, an accepted estimate of the percentage of the population that can be defined as developmentally disabled is 1.5 percent. Many developmentally disabled persons can live and work independently within a conventional housing environment. More severely disabled individuals require a group living environment where supervision is provided. The most severely affected individuals may require an institutional environment where medical attention and physical therapy are provided. Because developmental disabilities exist before adulthood, the first issue in supportive housing for the developmentally disabled is the transition from the person's living situation as a child to an appropriate level of independence as an adult.

The California Department of Developmental Services (DDS) currently provides community-based services to persons with developmental disabilities and their families

through a statewide system of 21 regional centers, four developmental centers, and two community-based facilities. The **Westside Regional Center (WRC)** located in Culver City (<http://www.westsiderc.org/>) provides services for people with developmental disabilities in Malibu. The WRC is a private, non-profit community agency that contracts with local businesses to offer a wide range of services to individuals with developmental disabilities and their families.

There is no charge for diagnosis and assessment for eligibility. Once eligibility is determined, most services are free regardless of age or income. There is a requirement for parents to share the cost of 24-hour out-of-home placements for children under age 18. This share depends on the parents' ability to pay. There may also be a co-payment requirement for other selected services.

Regional centers are required by law to provide services in the most cost-effective way possible. They must use all other resources, including generic resources, before using any regional center funds. A generic resource is a service provided by an agency that has a legal responsibility to provide services to the general public and receives public funds for providing those services. Some generic agencies may include the local school district, county social services department, Medi-Cal, Social Security Administration, Department of Rehabilitation and others. Other resources may include natural supports. This is help that disabled persons may get from family, friends or others at little or no cost. According to the latest available WRC Performance Report⁴, the Center served approximately 9,130 individuals during 2020.

In addition to the services provided by the WRC, City housing programs that respond to the needs of this population include 1d (Emergency Shelters and Transitional/Supportive Housing) and 3a (Section 8 Rental Assistance).

7.2.5(b) Elderly

Federal housing data define a household type as 'elderly family' if it consists of two persons with either or both age 62 or over. Recent HUD data (Table 7-19), estimated that of Malibu's 2,198 such households, 12.3% earn less than 30% of the surrounding area income, (compared to 24.2% in the SCAG region), 22.2% earn less than 50% of the surrounding area income (compared to 30.9% in the SCAG region). Many elderly persons are dependent on fixed incomes or have disabilities. Elderly homeowners may be physically unable to maintain their homes or cope with living alone. The housing needs of this group can be addressed through smaller units, accessory dwelling units, shared living arrangements, congregate housing, and housing assistance programs.

⁴ <https://westsiderc.org/wp-content/uploads/2021/06/WRC-Performance-Contract-Year-End-Report-for-2020.pdf>

**Table 7-19
Elderly Households by Tenure – Malibu**

		Owner	Renter	Total	Percent of Total Elderly Households:
Income category, relative to surrounding area:	< 30% HAMFI	200	70	270	12.3%
	30-50% HAMFI	200	19	219	10.0%
	50-80% HAMFI	145	14	159	7.2%
	80-100% HAMFI	135	0	135	6.1%
	> 100% HAMFI	1,250	165	1,415	64.4%
TOTAL		1,930	268	2,198	

HUD CHAS, 2012-2016. HAMFI refers to Housing Urban Development Area Median Family Income.

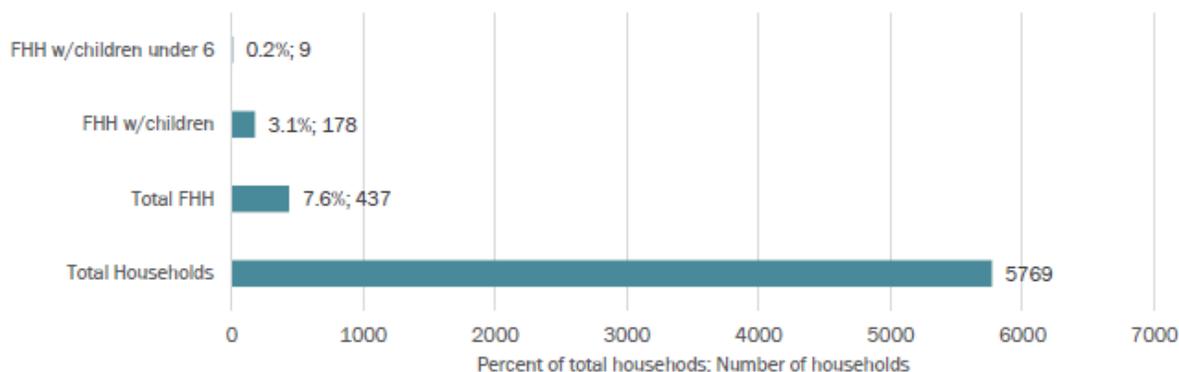
7.2.5(c) Large Households

Large households are defined as those with five or more members. As seen previously (Table 7-3) approximately 161 owner households (4%) and 33 renter households (2%) in Malibu have five or more members. This distribution indicates that the need for large units with four or more bedrooms is expected to be significantly less than for smaller units. The City responds to the needs of large households through participation in the County's Section 8 program and other housing assistance programs (see Housing Plan Program 3.3).

7.2.5(d) Female-Headed Households

Of Malibu's 5,769 total households, 7.6% are female-headed (compared to 14.3% in the SCAG region), 3.1% are female-headed and with children (compared to 6.6% in the SCAG region), and 0.2% are female-headed and with children under 6 (compared to 1.0% in the SCAG region) (Table 7-20). The City responds to the needs of female-headed households through the following: Housing Plan Program 1.1 – Code Enforcement; Program 1.3 – Housing Rehabilitation Assistance; Program 1.4 – Preserve Existing Mobile Home Parks; Program 1.5 – Conserve Affordable Housing in the Coastal Zone; Program 2.2 – Ensure Adequate Capacity to Accommodate Housing Needs; Program 2.3 – Encourage Mixed-Use and Adaptive Reuse Development; Program 2.2A – Second Units; Program 2.7 – Streamline Development Review and Assist Affordable Housing Development; and Program 3.3 – Provide Financial Support and Referral Information to Persons in Need of Assistance.

Table 7-20
Female Headed Households – Malibu



American Community Survey 2014-2018 5-year estimates.

7.2.5(e) Farmworkers

Farmworkers are traditionally defined as persons whose primary income is from seasonal agricultural work. Agricultural activities in the City are limited to horticultural businesses on approximately 25 acres of land scattered throughout the City. These horticultural activities are not a significant source of employment and do not generate a demand for permanent farm worker housing. Recent Census estimates published by SCAG estimated a total of 29 persons Malibu residents employed in the agricultural industry.

7.2.5(f) Homeless Persons

Throughout the country, homelessness has become an increasing problem. Factors contributing to the rise in homelessness include the general lack of housing affordable to lower-income persons, increases in the number of persons whose incomes fall below the poverty level, reductions in public assistance for the poor, and the de-institutionalization of the mentally ill.

The McKinney-Vento Homeless Assistance Act of 1986⁵ defines a "homeless" person as an individual who lacks a fixed, regular, and adequate nighttime residence, or an individual whose primary nighttime residence is:

1. A supervised publicly or privately operated shelter designed to provide temporary living accommodations;
2. An institution that provides a temporary residence for individuals intended to be institutionalized; or
3. A public or private place not designed for, or ordinarily used as, regular sleeping accommodations for human beings.

⁵ 42 U.S.C. §11301, et seq.

Federal agencies, such as the U.S. Department of Housing and Urban Development (HUD), interprets the McKinney-Vento definition to include only those persons who are on the streets or in shelters and persons who face imminent eviction (within a week) from a private dwelling or institution and who have no subsequent residence or resources to obtain housing.⁶

People are also at risk of homelessness when they experience a sudden drop in income or a rise in housing costs, and/or they do not have the skills necessary to manage their limited resources. According to the National Coalition for the Homeless (NCH), most individuals at risk of homelessness are on a fixed income or are marginally employed and have few ties to family and friends.

The 2020 homeless survey⁷ conducted by the Los Angeles Homeless Services Authority (LAHSA) reported 239 unsheltered homeless persons in Malibu at the time of the survey. The needs of the homeless vary by subpopulation. Mentally ill persons require housing supported by mental health care and counseling. Alcohol and drug abusers require treatment facilities and medical and social support services. Victims of domestic violence need shelter and social services to assist in the transition to independent living. Runaway and recently emancipated youths require shelter, combined with counseling and social services, in order to reintegrate them with their families or enable them to live independently.

Facilities such as emergency shelters, low barrier navigation centers, transitional housing and supportive housing address the needs of the homeless and those at risk of becoming homeless. As discussed in Section 7.4 – Constraints, the City complies with State laws related to local regulation of these types of facilities.

7.2.6 Assisted Housing at Risk of Conversion

State law requires that the Housing Element identify any residential projects in the City that are under an affordability restriction, along with those housing projects that are at risk of losing their low-income affordability restrictions within the ten-year period from 2013-2021. According to the SCAG, the California Housing Partnership Corporation and City records, there are no assisted low-income units in the City, and therefore, no housing units at risk of losing their low-income affordability.

⁶ "Who is Homeless?" 2009. Published by the National Coalition for the Homeless, July 2009. p. 1.

⁷ <https://www.lahsa.org/data?id=45-2020-homeless-count-by-community-city>

7.2.7 Housing Constructed, Demolished or Converted within the Coastal Zone

California Government Code §65588(d) requires that the Housing Element update take into account any low- or moderate-income housing provided or required in the Coastal Zone pursuant to §6590 (the Mello Act⁸). State law requires that jurisdictions monitor the following:

- The number of new housing units approved for construction within the Coastal Zone (after January 1, 1982);
- The number of low- or moderate-income units required to be provided in new developments either within the Coastal Zone or within three miles of the Coastal Zone;
- The number of existing housing units in properties with three or more units occupied by low- or moderate-income households that have been authorized for demolition or conversion since January 1, 1982; and
- The number of low- or moderate-income replacement units required within the Coastal Zone or within three miles of the Coastal Zone.

Table 7-21 provides City statistics for housing units in the Coastal Zone through 2020.

Table 7-21
Malibu Coastal Zone Housing Units – 1982-2020

	Units
Number of new units approved for construction in the Coastal Zone after January 1, 1982	503
Number of new units for low- and moderate-income households required to be provided either within the coastal zone or within three miles of it	0
Number of units occupied by low- and moderate-income households and authorized to be demolished or converted	0
Number of units for low- and moderate-income households required either within the coastal zone or within three miles of it in order to replace those demolished or converted	0

Source: City of Malibu, 2021

7.2.8 Future Housing Needs

7.2.8(a) Overview of the Regional Housing Needs Assessment (RHNA)

The RHNA is a key tool for local governments to plan for anticipated growth. The RHNA quantifies the anticipated need for housing within each jurisdiction for the period from June 30, 2021, to October 15, 2029. Local governments then determine how they will address this need through the process of updating the Housing Elements of their General Plans.

⁸ The Mello Act requires, in part, the replacement of affordable units demolished or converted within the coastal zone.

The current RHNA was adopted by SCAG in 2021. Future housing needs are determined by the forecasted growth of households in a community and also by “existing needs” due to overpayment and overcrowding. The housing need for new households is then adjusted to maintain a desirable level of vacancy to promote housing choice and mobility. An adjustment is also made to account for units expected to be lost due to demolition, natural disaster, or conversion to non-housing uses. The sum of these factors – household growth, existing need, vacancy need, and replacement need – determines the new housing need for a community. Total housing need is then distributed among four income categories on the basis of the County’s income distribution, with adjustments to avoid an over-concentration of low-income households.

7.2.8(b) 2014-2021 Housing Needs

The additional housing need assigned to Malibu for the 2021-2029 planning period is shown in Table 7-22.

**Table 7-22
Regional Housing Needs - Malibu**

Very Low ¹	Low	Moderate	Above Moderate	Total
28 ²	19	17	15	79

Source: SCAG 2021

Notes:

- 1. Includes the Extremely-Low-Income (ELI) category.
- 2. 14 units are assumed to be ELI pursuant to *Government Code §65583.a.1*

A discussion of the City's inventory of suitable sites to accommodate the City's housing need is provided in Chapter III, Resources and Opportunities, and Appendix B.

7.3 Resources and Opportunities

7.3.1 Land Resources

7.3.1(a) Inventory of Sites for Housing Development

Government Code §65583(a)(3) requires Housing Elements to contain an “inventory of land suitable for residential development, including vacant sites and sites having potential for redevelopment, and an analysis of the relationship of zoning and public facilities and services to these sites.” A detailed analysis of potential development sites has been prepared (see Appendix B) and the results of this analysis are summarized in Table 7-23 below. This analysis also addresses the unaccommodated need from the previous planning period, as required by *Government Code* §65584.09 (AB 1233).

Table 7-23
Sites Inventory Summary

Housing Sites	Income Category		
	Lower	Moderate	Above
Potential new single-family units (parcel listing on file with City Planning Dept.)	-	-	870
Potential new multi-family units (Table B-2)	159	49	-
Potential new ADUs	19	2	11
Total Inventory	178	51	986
RHNA 2021-2029	47	17	15
Adequate Capacity?	Yes	Yes	Yes

Source: City of Malibu, 2021

As summarized in Table 7-23, this analysis determined that there are sufficient vacant or underutilized sites with appropriate zoning to accommodate the City's housing need for this planning period.

7.3.1(b) Infrastructure Capacity

Wastewater - There is no municipal sewer service in the City of Malibu. All properties in the City are currently served by individual onsite wastewater treatment systems (OWTS); with the exception of those served by the Malibu Civic Center Water Treatment Facility (CCWTF)⁹, and five small package treatment plants within the City: Latigo Bay Shores, Point Dume, Trancas Canyon, Malibu Mesa, and Maison de Ville. Any new development that is not served by the six treatment plans will be required to install its own OWTS in order to serve its wastewater disposal needs.

Water - Domestic water for City residents is supplied by County Waterworks District No. 29 (“District 29”) from the Metropolitan Water District of Southern California (MWD). The MWD obtains its water from the State Water Project and the Colorado River. District No. 29 receives the water through a contract with the West Basin Municipal Water District, a

⁹ Phase One of CCWTF construction was completed in October 2018. No residential properties were connected to the facility during that phase; however, the Phase Two expansion will connect approximately 247 single-family homes, 191 condominiums, and 7 other properties.

member agency of the Metropolitan Water District. The District's connection to Metropolitan Water District's system is located in Culver City. The water travels to the District through a 35-mile transmission main in Pacific Coast Highway. Many of the City's water mains and tanks have been identified by the City and by District 29 as severely undersized. However, for projects located in areas with limited to no service by District 29, property owners may install water tanks to serve the property's needs. With the inclusion of private water tanks, domestic water supply is not expected to limit development.

7.3.2 Financial and Administrative Resources

7.3.2(a) State and Federal Resources

Community Development Block Grant Program (CDBG) – The City does not have any housing that qualifies for CDBG funding. The City receives approximately \$50,000 a year in CDBG funding. Of this total, 15% is spent on administration and program services (e.g., Malibu Community Labor Exchange). In recent years, the City has exchanged the remaining funds with other cities as Malibu does not have eligible projects.

Low-Income Housing Tax Credit Program - The Low-Income Housing Tax Credit Program was created by the Tax Reform Act of 1986 in order to provide an alternate method of funding low-and moderate-income housing. Each state receives a tax credit, based upon population, toward funding housing that meets program guidelines. The tax credits are then used to leverage private capital into new construction or acquisition and rehabilitation of affordable housing. Limitations on projects funded under the Tax Credit programs include minimum requirements that a certain percentage of units remain rent-restricted, based upon median income.

Mortgage Credit Certificates (MCC) – This program provides a federal tax credit for income-qualified homebuyers that is equivalent to 15% of the annual mortgage interest. Generally, the tax savings are calculated as income in order to help buyers qualify to purchase a home. Using an MCC, first-time homebuyers can save between \$700 and \$2,500 a year on their annual federal tax bill. The program is initiated by the homebuyer applying through a participating lender, who then submits an application to the Los Angeles County Development Authority (LACDA). The City is not involved in administering this process or approving loans.

7.3.2(b) Local Resources

The City does not have a housing department. The only local revenue source for affordable housing is through the City's approval of the Patriot Homes Overlay condominium project. The City Council resolution approving the project requires an in-lieu payment of \$30,000 per unit, required at the time of the close of escrow, to be used for programs consistent with the City's Housing Element. An Affordable Housing Trust Fund, which contains in-lieu funds generated through development agreements, was established in 2013 (Ordinance No. 375).

7.3.3 Energy Conservation Opportunities

State law (*Government Code* §65583(a)(8)) requires all new construction to comply with “energy budget” standards that establish maximum allowable energy use from depletable sources. These requirements apply to such design components as structural insulation, air infiltration and leakage control, setback features on thermostats, water heating system insulation (tanks and pipes) and swimming pool covers if a pool is equipped with a fossil fuel or electric heater. State law also requires that a tentative tract map provide for future passive or natural heating or cooling opportunities in the subdivision, including designing the lot sizes and configurations to permit orienting structures to take advantage of a southern exposure, shade or prevailing breezes.

Southern California Edison (SCE) and the Southern California Gas Company offer energy conservation programs, including audits of home energy use to reduce electricity consumption, refrigerator rebates, appliance repair and weatherization assistance to qualified low-income households, buyer’s guides for appliances and incentives by the Gas Company to switch from electric to gas appliances. Direct assistance to low-income households is provided by the Gas Company through the California Alternate Rates for Energy Program and by SCE through its Energy Management Assistance Program.

Both companies have programs to encourage energy conservation in new construction. SCE’s energy rebate program applies to residential developers as well as to individual customers. SCE also offers an Energy STAR new home program and a Sustainable Communities Program, offering design assistance and financial incentives for sustainable housing development projects. The Gas Company’s Energy Advanced Home Program is offered to residential developers who install energy-efficient gas appliances that exceed California energy standards by at least 15%.

In addition, simple water conservation techniques can save a family thousands of gallons of water per year, plus many dollars in water and associated energy consumption costs. It is now possible to obtain plumbing products that reduce water waste by restricting the volume of water flow from faucets, showerheads, and toilets. The use of plant materials that are adapted to the climate of Southern California’s coastal areas can also measurably contribute to water conservation by reducing the need for irrigation.

A household can save water by fixing dripping faucets and using water more conservatively. In addition, such conservation practices save on the amount of gas and electricity needed to heat water. By encouraging residents to conserve water and install water saving devices, the City can greatly reduce its water consumption needs and expenses.

The City has partnered with Los Angeles County Waterworks and West Basin Municipal Water District to help local residents save water and money through a comprehensive water conservation program called Malibu Smart. The goal of the Malibu Smart program is to save 28 million gallons of water annually in Malibu and Topanga Canyon through the installation of water-efficiency measures.

Actions the City of Malibu has taken to encourage energy conservation include the following:

- City policy regarding processing permits for water tanks, rainwater collection structures, etc. was created for the ease of the applicant
- Solar panels are processed with a ministerial Over-the-Counter (OC) Permit which takes only a few days to approve and costs under \$100
- A draft Exemplary Green Building Projects Fast-Tracking Pilot Program has been prepared

The City has recently adopted the Local Energy Efficiency Standards Ordinance and the Landscape Water Conservation Ordinance. The energy ordinance preserves and enhances the environment, by setting forth minimum energy efficiency standards within the City for all new single-family dwellings, multi-family residential construction, nonresidential construction, and substantial remodels. The City's ordinance includes measures which are more restrictive than the California Building Energy Efficiency Standards (Title 24). The water conservation ordinance applies to: 1) projects for a commercial, institutional, or multi-family use or a subdivision, any of which propose a new or altered landscape area, including public agency projects; and 2) projects for a single-family residential use proposing a new or altered landscape area of 2,500 square feet or more; in the case of a project associated with an existing single-family residence, the new or altered landscape area is subject to this Chapter when the landscape area is 5,000 square feet or more. The water conservation standards are intended to promote water conservation while allowing the maximum possible flexibility in designing healthy, attractive, and cost-effective water efficient landscapes.

Clean Power Alliance

In 2018, the City joined the Clean Power Alliance (CPA), a locally controlled electricity provider made up of 31 local governments across Los Angeles and Ventura counties working together to bring clean, renewable power choices to our communities. CPA purchases clean power and Southern California Edison (SCE) delivers it.

CPA energy service for residential customers in Malibu began in February 2019 and non-residential customers in May 2019. Customers in Malibu were automatically enrolled to receive 50% of their power supply from renewable sources. In June 2019, City Council approved opting all municipal electricity accounts to 100% renewable energy through CPA to lead by example for the community. In October 2019, City Council approved the selection of 100% Green Power as the default electricity choice for Clean Power Alliance customers in the City. Starting in October 2020, Malibu's Clean Power Alliance customers started to receive 100% renewable power generated by solar, wind and other renewable and carbon-free resources in California and the surrounding region.

Customers can also select two rate options: Clean Power, which provides 50% renewable and Lean Power, which provides 36% renewable content. No matter the rate option, Clean Power Alliance offers the shared benefits of local management and control, stable, competitive rates, and higher renewable energy content.

Energy Partnerships

In 2018, the City enrolled in energy partnerships like the Westside Energy Partnership and Southern California Regional Energy Network (SoCalREN) to receive public agency assistance with implementation of energy efficiency projects and programs as well as technical assistance and incentives.

Through the recommendations in SoCalREN's Comparative Energy Analysis, City Hall's HVAC system was optimized to save an estimated 11% of its energy use and the City took advantage of Southern California Edison's free Direct Install program to install LED lighting at the Michael Landon Community Center.

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7.4 Constraints

7.4.1 Governmental Constraints

7.4.1(a) Land Use Plans and Regulations

General Plan

Each city and county in California must prepare a comprehensive, long-term General Plan to guide its future development. The Land Use Element of a City's General Plan establishes the basic land uses and density of development within the various areas of the city. Under state law, the General Plan elements must be internally consistent and the city's zoning ordinance, and Local Coastal Program, as applicable, must be consistent with the General Plan. Thus, the land use plan must provide suitable locations and densities in order to implement the policies of the Housing Element.

The City of Malibu's General Plan Land Use Element provides for five residential land use designations, as shown in Table 7-24.

Table 7-24
Residential Land Use Categories –
Malibu General Plan

Designation	Maximum Density ¹	Description
Rural Residential (RR) – Includes RR-40, RR-20, RR-10, RR-5, RR-2 & RR-1	1.0	Single-family homes on large parcels ranging from one to 20 acres or more.
Single Family Residential (SF) – Includes SF-L & SF-M	4.0	Single-family homes on lots ranging from approximately 10,000 SF to one acre.
Multi-Family (MF)	6.0	Duplexes, triplexes, two- or three-unit townhomes and low-rise apartments (primarily existing) on minimum 20,000 SF parcels.
Multi-Family Beach Front (MFBF)	23.1 ²	Single-family and multi-family residences on small beach front lots.
Mobile Home Residential	-	Existing mobile home park.

Source: City of Malibu General Plan.

1. Density expressed in dwelling units per net acre of lot area (lot area excludes street rights of way but may include 1-to-1 slopes).

2. Not to exceed 4 units per lot

3. As determined by the PD process

While the City has a considerable amount of vacant land, only a small portion is suitable for development because of steep hillsides, unstable soils and subsurface conditions, extreme fire hazards, and environmentally sensitive habitat areas (ESHA). Since its incorporation in 1991, the City has focused its efforts on preserving its rural character, protecting environmental resources, and improving fire safety.

With highly constrained land, limited infrastructure, and high land costs, the City's approach to accommodating affordable housing is to identify unconstrained sites at appropriate densities and to successfully leverage State and federal subsidies for affordable housing. The encouragement of accessory dwelling units is also important, as most of Malibu's development consists of single-family homes and associated accessory structures.

Zoning Designations and Development Standards

The City regulates the type, location, density, and scale of residential development through Title 17 of the MMC (Zoning Ordinance/Zoning Map). Additionally, because the City of Malibu lies entirely within the Coastal Zone, all of the zoning designations and development standards have been incorporated into the LCP. The LIP includes additional development standards and coastal resource protection policies that are intended to augment the MMC Zoning regulations serve to implement the General Plan and are designed to protect and promote the health, safety, and general welfare of residents. The MMC and LCP also help to preserve the character and integrity of existing neighborhoods. The MMC and LCP set forth residential development standards for each zoning district.

Zoning districts that allow residential units as a permitted use are as follows:

- RR** Rural Residential
- SF** Single-Family Residential
- MF** Multi-Family Residential
- MFBF** Multi-Family Beachfront
- MH** Mobile Home Park
- PD** Planned Development
- AHO** Affordable Housing Overlay

A summary of the LCP/MMC development standards for the zoning districts permitting residential development is provided in Table 7-25. These development standards are reasonably necessary to protect the public health, safety and welfare and maintain the quality of life, and are not considered to be constraints to the development of housing.

**Table 7-25
Residential Development Standards**

Development Standard	Zoning District Designations				
	RR ¹	SF ⁷	MF	MFBF	MH
Maximum density	1 du/acre	4 du/acre	6 du/acre ⁸	23.1 du/acre ⁹	NA
Minimum lot area	1 acre	SFL = 0.5 ac SFM = 0.25 ac	20,000 sf	5,000 sf	NA
Minimum front yard	20% of lot depth ²	NA			
Minimum side yard	10% of lot width ³	10% of lot width ³	10% of lot width ³	3 feet ³	NA
Minimum rear yard	15% of lot depth ⁴	15% of lot depth ⁴	15% of lot depth ⁴	Stringline ⁴	NA
Maximum impermeable coverage	30%-45% ⁵	30%-45% ⁵	30%-45% ⁵	30%-45% ⁵	35%
Maximum building height	18 feet ⁶	18 feet ⁶	18 feet ⁶	28 feet ⁶	18 feet

Source: City of Malibu Zoning Ordinance

1. Includes RR-20, RR-10, RR-5, RR-2, and RR-1 zones. Minimum lot area varies from 1 to 20 acres depending on designator.
2. Front yard setback is 20% of lot depth or 65 feet, whichever is less. Front yard setback for beachfront lots is 20 feet or the average of the two adjacent lots, whichever is less.
3. Aggregate side yard setbacks must be at least 25% of lot width, with no single side yard less than 10% of lot width or 5 feet, whichever is greater. Side yard setback for beachfront lots is 10 percent of lot width on each side with a 3 feet minimum and a 5 feet maximum.
4. Rear yard setback must be at least 15% of lot depth or 15 feet, whichever is greater. Rear yard setbacks for beachfront lots are determined by the stringline rule.
5. Not to exceed 25,000 sf.
6. Maximum height for new construction on beachfront lots is 24 feet for flat roof structures and 28 feet for pitched roof structures. For non-beachfront lots, heights of 24 feet for flat roof structures and 28 feet for pitched roof structures may be permitted by site plan review.
7. Includes SFL and SFM. Maximum of 2 units per acre for SFL and 4 units per acre for SF-M.
8. Maximum density is 6 units per acre.
9. Maximum density is 1 unit per 1,885 sf of lot area, not to exceed 4 units per lot. One additional unit may be permitted if affordable to a very-low, low, or moderate income household.

In most residential areas of the City, densities range from about one unit per 20 acres (RR-20 zone) to six units per acre (MF zone). Higher densities (up to 23.1 units per acre, not to exceed four units per lot) occur along four small stretches of beachfront property, as well as on Affordable Housing Overlay (AHO) parcels, which allow 20 units per acre.

A summary of the residential development permitted by the LCP/ MMC is provided in Table 7-26. (Note: The PD district is not included in the table because allowable uses and development standards are established through the PD permit process.)

**Table 7-26
Permitted Residential Development by Zoning District**

Housing Type Permitted	Zoning District								
	RR	SF	MF	MFBF	MH	CC	CV	CG	I
Residential uses									
Single-family detached	P	P	P	P					
Multi-family			CUP ¹	CUP ¹		P ²			
Manufactured housing	P	P	P	P					
Mobile home	P ⁴	P ⁴	P ⁴	MCUP ⁴	P				
Accessory dwelling units	A	A	A	A					
Special needs housing									
Emergency shelters								P	P
Transitional/supportive housing ³	P	P	P	P	P				
Agricultural employee housing ⁵	A	A	CUP						
Residential care facility (6 or fewer persons)	P	P	P	P					
Residential care facility (7 or more persons)								CUP	
Residential care facilities for the elderly						CUP	CUP	CUP	CUP
Single room occupancy								P	

Source: Malibu LCP

P = Permitted CUP = Conditional Use Permit A = Permitted only as an accessory use to an otherwise permitted use.

Notes:

1. Multi-family development associated with an affordable housing development project is permitted by right.
2. 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.
3. Permitted subject to the same standards and procedures as apply to other residential uses of the same type in the same zone.
4. Permitted only during construction of permanent housing.
5. Permitted with a CUP in the Commercial-Recreational Zone as well if animal related only.

Zoning for Lower-Income Housing

As shown in Table 7-26, the LCP and MMC provide for a variety of housing types including single-family homes, multi-family (both rental and condominiums), manufactured housing and second units. Low-income housing can be accommodated in all residential districts. Accessory dwelling units, which are a tool in facilitating affordable housing, are permitted by-right in all residential districts in accordance with State law.

Density, Units per Parcel, Floor Area and Lot Coverage Limitations. Pursuant to Assembly Bill 2348,¹⁰ the “default density” for small Los Angeles County jurisdictions, including the City, is 20 dwelling units per acre¹¹. The default density refers to the density at which low-income housing development is presumed to be feasible, although State law allows jurisdictions to propose alternative densities that are sufficient to facilitate affordable housing based on local experience and circumstances. The MFBF zone allows development of more than 20 units per acre. While the MFBF zone limits development to four units per parcel, this is not a constraint to development since there are no vacant parcels large enough to accommodate more than four units at the maximum allowable density. In 2013 the City amended the General Plan, LCP and MMC to establish an Affordable Housing Overlay (AHO) zone allowing multi-family development at a minimum density of 20 units/acre by-right when affordable housing is provided. This amendment also included revisions to development standards to facilitate such development, such as maximum building square footage and lot coverage.

LCP Local Implementation Plan

The entire City is located in the Coastal Zone and is subject to the City’s LCP Local Implementation Plan (LIP). The LIP includes development standards to protect environmentally sensitive habitat areas (ESHAs) (LIP Chapter 4), native trees (LIP Chapter 5), scenic, visual, and hillside resources (LIP Chapter 6), shoreline and bluff areas (LIP Chapter 10), archaeological/cultural resources (LIP Chapter 11), public access (LIP Chapter 12), and water quality (LIP Chapter 17). Projects that contain or are located near identified coastal resources may require modifications or reductions in density to protect the identified resource. While the LIP is a City document, it must be consistent with the California Coastal Act, and any modification is subject to certification by the Coastal Commission. For a discussion of potential constraints raised by the LIP, see Chapter IV: Residential Permit Processing/Coastal Development Permit and Non-Governmental Constraints/Environmental Constraints.

Special Needs Housing

Persons with special needs may include those in residential care facilities, persons with disabilities, the elderly, farm workers, or persons needing emergency shelter, transitional living arrangements, or single room occupancy units. Many of these groups also fall under the category of extremely-low-income households. The City’s provisions for these housing types are discussed below.

Extremely Low-Income Households

Many of the persons and households discussed in this section under the topic of special needs fall within the *extremely-low-income* category, which is defined as 30% or less of area median income, or up to \$35,450 per year for a four-person household in Los Angeles County (2021).

¹⁰ AB 2348 (Mullin) [Stats. 2004, ch. 724]

¹¹ Memo of June 9, 2005 from California Department of Housing and Community Development on AB 2348 of 2004. Also available at <http://www.hcd.ca.gov/hpd/hrc/plan/he/ab2348stat04ch724.pdf>

A variety of City policies and programs described in the Housing Plan address the needs of extremely-low-income households, including persons with disabilities. However, it must be recognized that the development of new housing for the lowest income groups typically requires large public subsidies in addition to appropriate zoning and development standards.

Residential Care Facilities and Housing for Persons with Disabilities

Residential facilities refer to any family home, group care facility, or similar facility that provides non-medical care to persons in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual.¹² *Health and Safety Code* §§1267.8 and 1566.3 require local governments to treat licensed group homes and residential facilities with six or fewer residents no differently than other by-right single-family housing uses. "Six or fewer persons" does not include the licensee, the licensee's family, or persons employed as facility staff. The City shall not require a conditional use permit, zoning variance, or other zoning clearance of a residential facility which serves six or fewer persons which is not required of a family dwelling of the same type in the same zone.¹³

Residential care facilities serving six or fewer persons are permitted by-right in all residential districts in conformance with State law. The MMC and the LCP allow large family day care facilities in the CG zone subject to a conditional use permit. The City has no requirements for minimum distance between residential care facilities.

The City's building codes require that new residential construction comply with the federal American with Disabilities Act (ADA). ADA provisions include requirements for a minimum percentage of units in new developments to be fully accessible to the physically disabled.

Compliance with building codes and the ADA may increase the cost of housing production and can also impact the viability of rehabilitation of older properties required to be brought up to current code standards. However, these regulations provide minimum standards that must be complied with in order to ensure the development of safe and accessible housing. In order to facilitate the processing of requests to reduce architectural obstacles for persons with disabilities, a Reasonable Accommodation Ordinance and associated amendments to the LCP and MMC have been adopted in compliance with State law.

Farmworker Housing

As discussed in **Chapter 7.2 Housing Needs Assessment**, the City of Malibu does not have major agricultural areas nor has it identified a need for permanent on-site farm worker housing. However, the Employee Housing Act¹⁴ requires that farmworker housing for up to 12 units or 36 beds to be permitted by-right in zones that allow agricultural uses. The MMC and LCP allow farmworker housing in conformance with the Employee Housing Act.

¹² *California Health & Safety Code* §1502.

¹³ *California Health & Safety Code* §1566.3(c).

¹⁴ *California Health & Safety Code* §17021.5 and §17021.6.

Emergency Shelters and Transitional/Supportive Housing

Emergency shelters are facilities that provide a safe alternative to the streets, either through a shelter facility or through the use of motel vouchers. Emergency shelter is short-term, usually for 180 days or less. Transitional/supportive housing is longer-term housing, typically up to two years or more. Transitional housing typically requires that residents participate in a structured program to work toward established goals so that they can move on to permanent housing. Residents are often provided with supportive services to assist them in meeting goals.

Senate Bill (SB) 2 of 2007¹⁵ strengthened the planning requirements for emergency shelters and transitional/supportive housing. Unless adequate capacity is available to serve the existing emergency shelter need, SB 2 requires that shelters be allowed “by-right” (i.e., without a conditional use permit or other discretionary approval) in at least one zoning district. In accordance with SB 2, the LCP and MMC allow permanent emergency shelters by-right in the Commercial General (CG) and Institutional (I) zoning districts subject to appropriate development standards. The CG zoning district encompasses approximately 26 acres and the Institutional district encompasses approximately 208 acres (see Figure IV-1). Parcels in these districts range in size from 0.1 acre to 14 acres. The majority of CG parcels are located within the Civic Center area, in the middle of the city. Several of the parcels along Malibu Creek are vacant and tucked away from surrounding commercial and residential development. The Institutionally-zoned parcels are scattered throughout the city and although the majority of them contain existing development (fire stations, schools and churches), the parcel in the Civic Center that contains the court house is currently underdeveloped and could accommodate a shelter.

SB 2 also requires that transitional and supportive housing be treated as a residential use subject to only those requirements that apply to other residential uses of the same type in the same zone. The LCP and MMC allow transitional and supportive housing subject to the same standards and procedures as apply to other residential uses of the same type in the same zone in conformance with SB 2.

In 2018 AB 2162 amended State law to require that supportive housing be a use by-right in zones where multi-family and mixed uses are permitted, including non-residential zones permitting multi-family uses, if the proposed housing development meets specified criteria. Program 3.1 in the Housing Policy Plan includes a commitment to process an amendment to the Municipal Code in compliance with this requirement.

In 2019 the State Legislature adopted AB 101 establishing requirements related to local regulation of *low barrier navigation centers*, which are defined as “Housing first, low-barrier, service-enriched shelters focused on moving people into permanent housing that provides temporary living facilities while case managers connect individuals experiencing homelessness to income, public benefits, health services, shelter, and housing.” *Low barrier* means best practices to reduce barriers to entry, and may include, but is not limited to:

¹⁵ Senate Bill 2 (Cedillo) [Stats. 2007, ch. 633 Section 1-3]

- (1) The presence of partners if it is not a population-specific site, such as for survivors of domestic violence or sexual assault, women, or youth
- (2) Accommodation of residents' pets
- (3) The storage of possessions
- (4) Privacy, such as partitions around beds in a dormitory setting or in larger rooms containing more than two beds, or private rooms

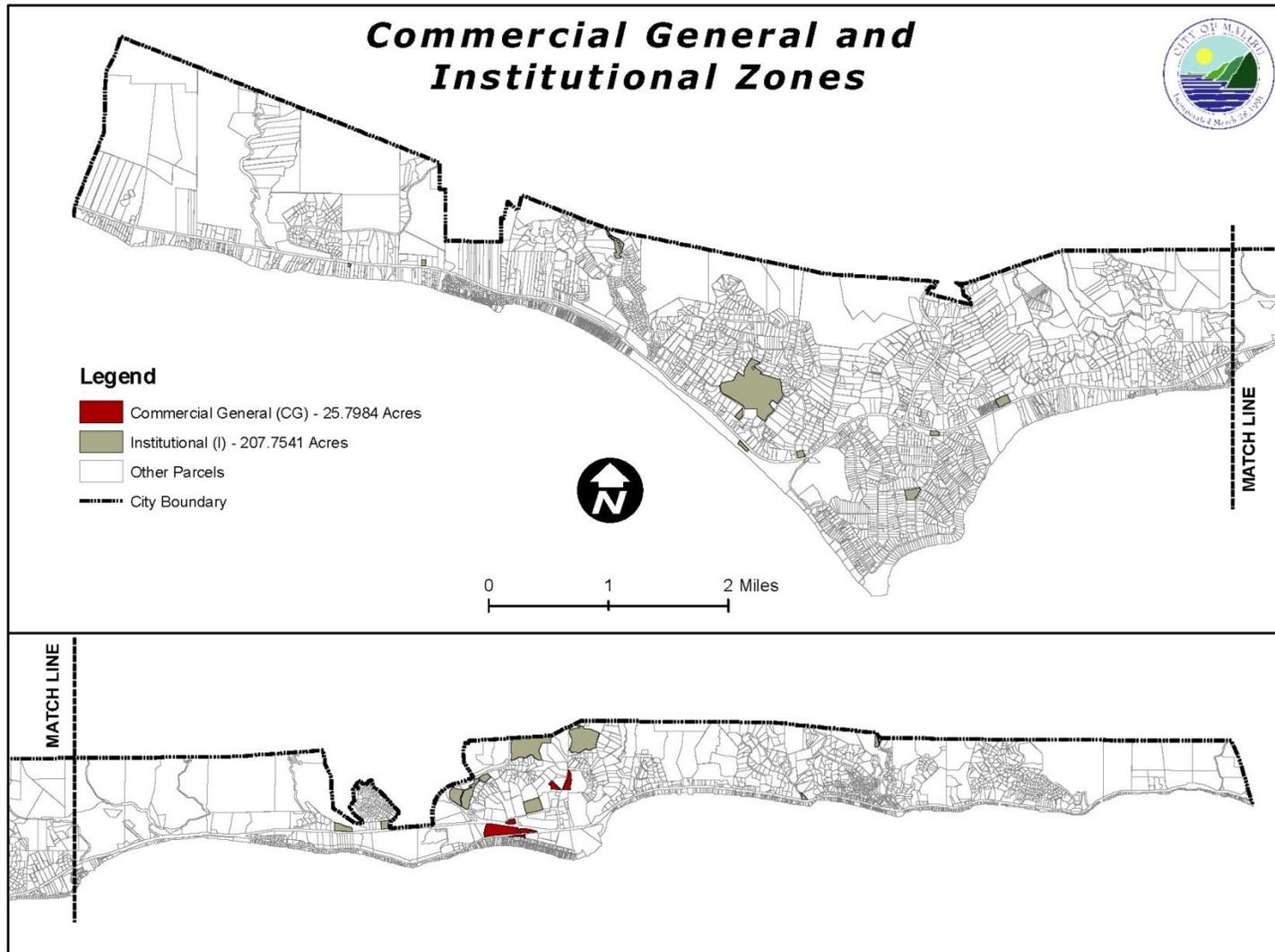
Low barrier navigation centers meeting specified standards must be allowed by-right in areas zoned for mixed use and in nonresidential zones permitting multi-family uses. Program 3.1 in the Housing Policy Plan includes a commitment to process an amendment to the Zoning Code in compliance with this requirement.

Single Room Occupancy

Single room occupancy (SRO) facilities are small studio-type units designed for extremely-low- and very-low-income persons. SRO facilities are permitted by-right in the CG zone subject to the following requirements:

- Minimum 150 sq. ft./maximum 400 sq. ft.
- Occupancy limited to 2 persons
- Laundry facilities must be provided on-site
- If bathroom facilities are not provided in each unit, common bathrooms must be provided in accordance with the California Building Code for congregate residences with at least one full bathroom per floor.
- If kitchen facilities are not provided in each unit, at least one common kitchen must be provided per floor.
- 24-hour on-site management

Figure 7-1
Commercial General and Institutional Zones



Note: This map was prepared by the City of Malibu Planning Department on November 14, 2011.

Off-Street Parking Requirements

The City's parking requirements for residential uses vary by residence type. Single-family dwellings require two enclosed and two unenclosed spaces per unit. Multi-family dwellings require two parking spaces per efficiency (studio) unit and three spaces per one- and two-bedroom units. One additional parking space is required for each additional bedroom above two. The parking requirements are summarized in Table 7-27.

Through the provisions of State density bonus law¹⁶, senior housing and other affordable housing projects are eligible to request reduced parking standards. It is widely accepted that senior and lower-income households have fewer cars on average than higher-income households. In order to reduce potential constraints to affordable housing development, reduced parking standards are allowed for multi-family projects that provide affordable housing consistent with density bonus law.

Table 7-27
Residential Parking Requirements

Unit Type	Minimum Parking Space Required
Single-family units	2 enclosed and 2 unenclosed spaces
Multi-family units	
Efficiency dwelling unit	2 spaces either enclosed or covered
1-bedroom or 2-bedroom units	3 spaces, 2 of which shall be enclosed
3 or more bedroom units	4 spaces, 2 of which shall be enclosed plus one additional space for each additional bedroom above three (enclosed or covered)
Guest parking	1 space for each 4 units

Source: Malibu LCP / MMC

Accessory Dwelling Units

In response to State-mandated requirements and local needs, the City allows the development of second units, otherwise known as accessory dwelling units (ADUs), as a permitted accessory use (i.e., no discretionary approval required) in all residential zones.

ADUs serve to augment resources for senior housing or other low- and moderate-income segments of the population.

In recent years the State legislature has adopted several amendments to ADU law. Housing Plan Program 2.2A describes actions the City will take to update ADU regulations in conformance with current law and encourage and facilitate the increased development of this type of housing.

Density Bonus

As part of the LCP, the City has adopted a residential Density Bonus Ordinance (LIP Section 3.7). Under the City's ordinance, a density increase of up to 35% over the otherwise maximum allowable residential density is available to developers who agree to

¹⁶ California Government Code Sections 65915-65918

construct housing developments with units affordable to low- or moderate-income households. The density bonus is applicable only to projects where the land use designations in the LCP allow development of at least five residential units on the property where the project is located. Additionally, the Density Bonus Ordinance requires that the project be consistent, to the maximum extent feasible and in a manner most protective of coastal resources. In recent years the State legislature has adopted amendments to density bonus law. Program 2.3 is included in the Housing Plan to process an amendment to City density bonus regulations in conformance with current State law.

Mobile Homes/Manufactured Housing

There is often an economy of scale in manufacturing homes in a plant, rather than on site, thereby reducing cost. State law precludes local governments from prohibiting the installation of mobile homes on permanent foundations on single-family lots. It also declares a mobile home park to be a permitted land use on any land planned and zoned for residential use, and prohibits requiring the average density in a new mobile home park to be less than that permitted by the LCP and M.MC.

In the City, manufactured housing is allowed in all residential zones as a permitted use, provided the installation complies with the site development standards for the applicable zoning district. Mobile home parks, in existence as of City incorporation on March 28, 1991, are allowed as permitted use within the MH District. Modification to the number, layout, or density of mobile home spaces, or internal roads or parking areas requires a conditional use permit. The City currently has two mobile home parks, both located south of Pacific Coast Highway. The first is Paradise Cove Mobile Home Park (257 units), located just east of Point Dume and the second is the Point Dume Club Mobile Home Park (297 units), located just west of Point Dume.

The City's mobile home parks are its most significant source of affordable housing. Many mobile home park residents have limited or fixed incomes. The City has adopted mobile home park rent control regulations (MMC Chapter 5.16) to ensure that mobile homes continue to provide affordable housing opportunities.

Building Codes

State law prohibits the imposition of building standards that are not necessitated by local geographic, climatic, or topographic conditions and requires that local governments making changes or modifications in building standards must report such changes to the California Department of Housing and Community Development (HCD) and file an expressed finding that the change is needed.

The City has adopted the current (2019) Los Angeles County Building Codes, with all amendments which are based on the California Code.

As noted in Chapter III, the City has adopted the Local Energy Efficiency Standards Ordinance and the Landscape Water Conservation Ordinance. The energy ordinance preserves and enhances the environment, by setting forth minimum energy efficiency standards within the City for all new single-family dwellings, multi-family residential construction, nonresidential construction and substantial remodels. The City's ordinance

includes measures which are more restrictive than the California Building Energy Efficiency Standards (Title 24). The water conservation ordinance applies to: 1) projects for a commercial, institutional, or multi-family use or a subdivision, any of which propose a new or altered landscape area, including public agency projects; and 2) projects for a single-family residential use proposing a new or altered landscape area of 2,500 square feet or more; in the case of a project associated with an existing single-family residence, the new or altered landscape area is subject to this Chapter when the landscape area is 5,000 square feet or more. The water conservation standards are intended to promote water conservation while allowing the maximum possible flexibility in designing healthy, attractive, and cost-effective water efficient landscapes. Implementation of the two ordinances has begun. These standards may result in an incremental increase in development cost, but are offset by water and energy savings throughout the life of the home.

Transfer of Development Credit Program

For each new single-family residential parcel which is proposed to be created, an applicant must acquire one transfer of development credit (TDC). That is, the applicant must demonstrate that the development potential on the equivalent of one developable parcel has been extinguished. This is normally done by recording an offer to dedicate an open space easement over the subject property. The open space easement prohibits construction of a residence and most other types of development.

As implemented by the California Coastal Commission (CCC), the TDC Program in Malibu (LIP Chapter 7) is mandatory for applicants who propose to intensify land use through subdivisions or construction of condominiums or rental housing projects (except for qualifying affordable housing developments, which are exempt from TDC requirements). Any property owner may choose not to participate in the program by simply applying for a coastal development permit for no more than one residential unit on each existing residential parcel.

The CCC has recognized several ways to "generate" a TDC (that is, to assemble the equivalent of one developable parcel which can then be restricted to open space). For instance, in a small-lot subdivision, a credit will be considered generated according to a formula which measures the buildability of the site. To qualify property as a TDC generator, site-specific soil studies, percolation tests, and the like are not typically performed, due to the often considerable expense which such tests involve. Instead, the formula is based on the criteria of slope, road access, and water service, which can be measured without undue expense to the property owner.

The number of small lots required to equal one TDC depends on the application of the formula to the lots in question: the more gentle the slope, the greater the credit value of the lots, since a more generous dwelling could be constructed. For example, one or more lots capable of supporting a small-to-medium sized dwelling (one with 1,500 square feet of floor space) are determined to generate one TDC.

Where small lots are less suited to development, TDCs may be generated based on their size rather than slope. Thus, the second way of generating a TDC would be based on 500

square feet of credit for each lot of at least 4,000 square feet of area; three such lots, generating 1,500 square feet of credit, are considered to generate one TDC.

A third way to generate TDCs, for lots smaller than 4,000 square feet, is to assign a value of one TDC for any combination of lots adding up to a total of one acre. The assumption here is that an acre of land, even if steep, can probably accommodate at least a small dwelling. Of course, if the property were determined to be completely unbuildable, no TDCs would be generated, since the whole point of the program is to avoid development that could otherwise occur.

However TDCs are generated, the mechanism by which development potential is extinguished is recordation of an offer to dedicate an open space easement. In general, the open space easement allows no development as defined by the Coastal Act, except for removal of vegetation that constitutes a fire hazard, installation of underground utility lines or septic systems, passive public recreational use, directional or no-trespassing signs, and fences which are necessary to protect natural resources and/or private property. Residential use, as a primary use, is not allowed, although some easements allow uses associated with a residence, such as corrals or decks. Such ancillary uses are appropriate where the underlying fee interest in the land is under the ownership of an adjacent homeowner who can assume the necessary responsibility for property taxes and weed abatement. In other instances, where other public land holdings are adjacent or nearby, fee ownership of the land is turned over to a public agency, such as the California Department of Parks and Recreation.

Existing regulations generally limit development in the MF and MFBF zones to one unit per existing parcel unless development credits are obtained. The developer of the recipient site must purchase development credits on a unit-for-unit basis to attain the maximum density allowed in the MF and MFBF zones. LCP regulations specifically exempt low-income units from the requirement to purchase TDCs; therefore, this policy does not represent a constraint to the development of affordable housing.

7.4.1(b) Development Processing Procedures

Residential Permit Processing/Coastal Development Permits

State planning and zoning laws provide permit processing requirements for residential development. Within the framework of State requirements, including the Coastal Act, the City has structured its development review process in order to minimize the time required to obtain permits, and ensure that projects receive careful review.

All residential development is reviewed by City staff for LCP/ MMC and Building Code compliance prior to the issuance of building permits. These reviews are conducted concurrently with the planning review process, which shortens the overall processing time:

City Biologist/Environmental Review Board: Biological review is required if a project is near an environmentally sensitive habitat area (ESHA) or includes landscaping. The City Biologist reviews all new residential projects to determine whether they should be reviewed by the Environmental Review Board (ERB). The City Biologist's review typically takes three weeks. If the City Biologist determines that ERB review

is required, then the process typically extends another several months. Additionally, the review process may be extended if the application includes the installation of 2,500 square feet of landscaping, as the project must be reviewed for conformance with the MMC Landscape Water Conservation Ordinance.

City Coastal Engineer: The City Coastal Engineer reviews projects that are located along the coast and can be potentially affected by tidal forces. Although the requirement that the application include a wave uprush report can extend the permit process, and thereby raise the cost of residential development, these reports are necessary to ensure public safety. On average, the Coastal Engineer will respond within one month of receiving submitted materials. The entire review process varies greatly depending upon the complexity of the project and the promptness of the applicant's consultant.

City Environmental Health Administrator: The City Environmental Health Administrator reviews the adequacy of on-site wastewater treatment systems (OWTS) for all those properties in the City that are not served by a wastewater treatment plant. Review by the City Environmental Health Administrator is necessary because the City has no public sewer system and approximately 84% of the dwelling units in the City have no access to a local/ neighborhood sewer system at this time. The entire review process varies greatly depending upon the complexity of the project and the promptness of the applicant's consultant.

City Geologist and City Geotechnical Engineer: Due to complex geologic and geotechnical conditions in the City, development is subject to review by the City Geologist and/or City Geotechnical Engineer. Although the requirement that the applicant submit geological and geotechnical reports can extend the permit process, and thereby raise the cost of residential development, these reports are necessary to ensure public safety. On average, the City Geologist and / or City Geotechnical Engineer will respond within one month of receiving submitted materials. The entire review process varies greatly depending upon the complexity of the project and the promptness of the applicant's geotechnical consultant.

City Public Works Department: The City's Public Works Department is responsible for reviewing projects that include grading, drainage, demolition and right-of-way improvements. On average, comments will be provided by the Public Works Department within one month of submittal. The entire review process varies greatly depending upon the complexity of the project and the promptness of the applicant's geotechnical consultant.

Additional reviews: Although additional reviews may not be required for all applications, reviews by the City Engineer, Los Angeles County Fire Department, Los Angeles County Waterworks District No. 29 (District 29), California Department of Fish and Wildlife, California State Lands Commission, and California Department of Transportation may be required so that appropriate conditions can be placed on projects. The amount of time required for review varies depending on the complexity of the project.

All residential projects require an Over-the-Counter (OC) permit, an Administrative Plan Review (APR), or a Coastal Development Permit (CDP). OC permits are issued for such

projects as free-standing garden walls, on-grade patio slabs, interior remodels and other smaller residential improvements. APR permit-eligible projects include those that are exempt from requiring a CDP. A list of exemptions from a CDP are provided in LIP Section 13.4 and include improvements to single-family residences, such as the addition of garages, swimming pools, fences, storage sheds, certain types of landscaping, and a minimal amount of grading. Typically, projects located on beachfront properties do not qualify for an APR permit. A CDP is required for projects that are not exempt and ensures that development within the Coastal Zone (the entire City of Malibu) is consistent with the LCP, the California Coastal Act, and California Code of Regulations Title 14 Division 5.5. Other discretionary requests, such as a site plan review, minor modification, conditional use permit, string-line modification, or variance, are processed concurrently with an APR or a CDP.

Permit Processing Times

Processing times vary and depend on the size, complexity, and location of the project. APR projects are reviewed and approved by the Planning Director. CDPs are separated into two types – Administrative CDP (ACDP) and full CDP. Administrative CDPs are reviewed and approved by the Planning Director and reported to Planning Commission. A regular CDP requires a public hearing and is approved by the Planning Commission. Some discretionary requests, such as conditional use permits and variances, require a public hearing before the Planning Commission. Projects that involve potential impacts to ESHAs may also be reviewed by the City's ERB prior to a decision by the Planning Director or Planning Commission. This process typically adds from one to two months to the permit process. The City does not require architectural review; however, a visual impact analysis requiring the installation of story poles onsite is required for all projects that are visible from a scenic area or include a discretionary request unless waived by the Planning Manager.

Tentative parcel maps and tentative tract maps require approximately six to eight months to process and both are processed concurrently with a CDP. However, review time depends greatly on the promptness of the applicant. Projects reviewed by the Planning Commission and the City Council, such as amendments to the General Plan, LCP and MMC, typically add, at a minimum, six months to the process.

Certain steps of the development process are required by State rather than local laws. The State has defined processing deadlines to limit the amount of time needed for review of required reports and projects. In an effort to provide an efficient permit processing system, the City has implemented the following time and cost saving developmental processes:

- Prepared permit processing guidelines to assist residential builders in applying for development permits.
- Located all City divisions involved in the permitting process in one central location.
- Updated the referral process for projects requiring review by outside agencies, such as the County of Los Angeles Fire Department and Water District No. 29 to reduce confusion and burden on the applicant.

- Developed an “early consultation” pre-application process to identify issues as soon as possible and reduce processing time, if requested.
- Encouraged processing of one comprehensive project to avoid multiple applications on one property.
- Provided a GIS (Geographic Information System) application on the City's website with land use information and hyperlinks to important information, such as General Plan and Zoning Code documents.
- Allowed for planning-related inquiries to be addressed Mondays through Fridays at the public counter and through a Planning Department telephone and email hotline.
- Adopted a concurrent submittal program through which projects can be reviewed by the Planning Department and the Building Safety Division at the same time.

While the City has adopted procedures to minimize the review time for development applications, such as concurrent processing of all related applications, the additional complexity of Coastal Commission involvement and sensitive environmental conditions on nearly every site results in more lengthy processing times than is often the case in non-coastal areas. While lengthy review procedures can present a constraint to housing development and affordability, the City has few options for expediting permits that have not already been implemented or do not require significant financial investment.

Table 7-28 summarizes the review process for single-family and multi-family projects.

**Table 7-28
Permit Processing Steps**

Single-Family Projects	Multi-Family Projects
Example: 5-lot subdivision with development	Example: 5-unit apartment building
1. Pre-application consultation-optional (staff) – 2 weeks	1.Pre-application consultation-optional (staff) – 2 weeks
2. Review application for completeness by all City and appropriate County agencies – 12 weeks	2. Determine if any affordable unit are to be incorporated and review Affordable Housing Density Bonus options as requested
3. Board hearing for the application (Subdivision Review Committee) – 4 weeks	2. Review application for completeness by all City agencies – 12 weeks
4. Tentative tract map/CDP approval (Planning Commission) – 4 weeks	3. CDP review (Planning Commission or Planning Director) – 4 weeks
5. Final map approval (City Council) – 6 weeks	4.Building plan check (ministerial) – 8 weeks
6. Building plan check (ministerial) – 8 weeks	5.Building permits (ministerial) – 1 week
7. Building permits (ministerial) – 1 week	
Total Time Estimated = 37 weeks (9.25 months) of active staff time	Total Time Estimated = 27 weeks (6.75 months) of active staff time

Source: City of Malibu Planning Department, 2021

Notes: Process assumes that the project is consistent with the General Plan and LCP and does not include time spent on redesign or waiting for response to comments.

Environmental Review

Environmental review is required for all development projects under the California Environmental Quality Act¹⁷ (CEQA). An Environmental Impact Report (EIR) is required for all developments that have the potential of creating significant impacts that cannot be mitigated. Typically, residential projects in the City are either Categorically Exempt or require an Initial Study and Negative Declaration or Mitigated Negative Declaration under CEQA. The Negative Declaration process typically takes six to eight weeks to prepare, plus the mandated public review period. Categorically Exempt developments, such as ADUs, require a minimal amount of time. As a result, while State-mandated environmental review can pose a constraint to housing development, the City does not have the authority to modify these requirements.

7.4.1(c) Development Fees and Improvement Requirements

State law limits the amount of fees charged for development permit processing to the reasonable cost of providing the service for which the fee is charged. Various fees and assessments are charged by the City and other public agencies in order to cover the costs of processing permit applications and providing services and facilities such as schools, parks and infrastructure. Almost all of these fees are assessed through a pro rata share system, based on the magnitude of the project's impact or on the extent of the benefit that will be derived.

Table 7-29 provides a list of fees the City charges for new, standard residential development. Table 7-30 and Table 7-31 provide a summary of fees charged for a typical single-family and multi-family project. The rates charged by the City are inclusive and based on standardized unit sizes. Because of environmental and infrastructure constraints, residential development consists primarily of infill projects that do not involve LCP, MMC or General Plan amendments. Development fees will vary from project to project but are currently estimated to be approximately \$41,000 per unit for single-family units and \$18,000 per unit for multi-family units.

The City annually evaluates the actual cost of processing the development permits when revising its fee schedule.

After the passage of Proposition 13 and its limitation on local governments' property tax revenues, cities and counties have faced increasing difficulty in providing public services and facilities to serve their residents. One of the main consequences of Proposition 13 has been the shift in funding of new infrastructure from general tax revenues to development impact fees and improvement requirements on land developers. The City requires developers to provide on-site and off-site improvements necessary to serve their projects. Such improvements may include water and other utility extensions, street construction and traffic control device installation that are reasonably related to the project. Dedication of land or in-lieu fees may also be required of a project for improvements to the right-of-way, transit facilities, recreational facilities and school sites, consistent with the Subdivision Map Act¹⁸.

¹⁷ California Public Resources Code §21000, et seq.

¹⁸ California Government Code §§66410-66499

**Table 7-29
Planning and Development Fees**

Fee Category	Fee
Planning and Application Fees	
Coastal Development Permit– New Single-Family Residence	\$10,258
Coastal Development Permit– Subdivision and Parcel/Tract Map	\$15,929
Coastal Development Permit - Multi-Family Attached Residential Development (2-4 Units)	\$177 per hour
Minor Modification	\$1,056
Site Plan Review for height/ others	\$3,100/ \$2,641
Variance	\$3,169
Conditional Use Permit (Major)	\$3,523
Conditional Use Permit (Minor)	\$1,762
General Plan Amendment	\$177 per hour
Zoning Text Amendment	\$177 per hour
Local Coastal Program Amendment	\$177 per hour
Referral Fees	
Geology (Major)	\$4,646
Coastal Engineering (standard project)	\$3,236
City Biologist	\$1,618
Environmental Health (Specialist Review)	\$2,209
Public Works (CDP)	\$225 per hour
Environmental Review	
Categorical Exemption	177
Negative Declaration	\$177 per hour
Negative Declaration - Mitigated	\$177 per hour
Environmental Impact Report	Cost = 30%
Environmental Review Board Analysis	\$2,818

Source: City of Malibu Planning Dept., 2021

**Table 7-30
Planning and Development Fee Example
Single-Family Development**

Fee Category	Fee (per unit)*
Planning and Development Fees	
Coastal Development Permit with ESHA	\$ 10,258
Site Plan Review for height	\$3,100
Geology	\$4,646
City Biologist	\$ 1,720
Environmental Health	\$2,209
Public Works	\$2,700
Environmental Review Board Analysis	\$2,818
Categorical Exemption	\$177
Impact Fees	
Fire protection fee - \$0.9705 per square foot	\$2,427
Park fee - \$4,401 per single-family residence***	\$4,401
School impact fee (\$2.63/sq.ft.)	\$6,575
Total per unit fees	\$41,031
Estimated portion of total development cost**	3%

Source: City of Malibu Planning Dept., 2021

*Based on a 2,500-sq.ft. single-family house on a 1-acre lot

** Based on development cost of \$500/sq.ft (excluding land cost)

*** Park fee is charged the first time the property is developed from vacant land, demolition of an existing structure does not trigger the requirement for payment

**Table 7-31
Planning and Development Fee Example
Multi-Family Development**

Fee Category	Fee (per unit)*
Per-unit Planning and Development Fees	
Multi-Family Residential Development	\$20,000
Conditional Use Permit (Major)	\$3,523
Site Plan Review for height	\$3,100
Geology	\$4,646
City Biologist	\$1,720
Environmental Health	\$2,209
Public Works	\$2,700
Categorical Exemption	\$177
Impact Fees	
Fire protection fee - \$0.9705 per square foot	\$3,494
Park fee	\$3,489
School impact fee (\$2.63/sq.ft.)	\$9,468
Total per unit fees	\$18,175
Estimated portion of total development cost**	4%

Source: City of Malibu Planning Dept., 2013

*Based on a 3-unit project of 1,200-sq.ft. units on a 20,000-sq.ft. lot

**Based on development cost of \$400/sq.ft (excluding land cost)

The City requires the payment of three impact fees prior to the issuance of building permits: the Los Angeles County Fire Department Developer Fee, the Santa Monica – Malibu Unified School District (SMMUSD) Developer Fee, and the Quimby Act/Parkland Development Fee. The Fire Department Developer Fee was initiated by the Los Angeles County Fire Department and is the same fee charged by most of the cities and in the unincorporated areas of the County surrounding the City of Malibu. The fee is necessary to assure adequate fire equipment and services are available as Malibu is designated as a Very High Fire Hazard Severity Zone. The fee is \$0.9705 per square foot of new construction. The School District Developer Fee was initiated by the SMMUSD and is used to fund school improvements in the district. The fee is \$2.63 per habitable square foot of new residential (both single-family and multi-family) construction. The Quimby Act/Parkland Development Fees are designed to ensure that new development meets local park space obligations. The Quimby Act fee is applied to new subdivisions while the Parkland Development Fee applies to new construction other than subdivisions. The Parkland Development Fees are \$4,401 per single-family unit, \$3,756 per unit in a multi-family project containing less than five dwelling units per building, and \$2,799 per unit in a multi-family project containing five or more units per building. These fees are typical of other cities in environmentally constrained areas and are not considered to be a constraint to development.

Development and growth in the City are limited by geologic and environmental constraints, steep slopes, and dependence on private OWTS for wastewater management. Public works facilities that exist in the City include roads and highways, public water and telephone utilities, and all publicly financed recreational facilities. Major capital improvement projects completed by the Department of Public Works in Malibu consist of road repairs, maintenance, and improvements.

The majority of new housing development that has occurred in the City during the previous housing cycle has been single-family homes on infill sites, including large rural estate parcels. These projects typically do not require off-site improvements but are dependent on public roads that must be maintained by the City. The City's roads are vulnerable to damage by winter storms, and considerable expense is required to keep the roads open. Local streets are defined in the General Plan Circulation Element as two-lane, undivided roadways with frequent driveway access and 48- to 58-foot right-of-ways, although many of the City's canyon access roads have narrower right-of-ways. To maintain the rural character of its residential areas, the General Plan discourages the use of curbs and sidewalks. Malibu's standards for local streets are modest when compared to more urbanized cities in Los Angeles County and do not act as a constraint to development.

The City's Capital Improvement Program (CIP) contains a schedule of public improvements including streets, storm water and wastewater treatment facilities, parks, and other public works projects to facilitate the continued build-out forecast in the City's General Plan. The CIP helps to ensure that construction of public improvements is coordinated with private development.

Although development fees and improvement requirements increase the cost of housing, cities have little choice in establishing such requirements due to the limitations

on property taxes and other revenue sources needed to fund public services and improvements.

7.4.2 Non-Governmental Constraints

7.4.2(a) Environmental Constraints

Malibu is located on a narrow coastal strand on the southern slope of the Santa Monica Mountains, which are characterized by steep and rugged hillsides and canyons draining into the Pacific Ocean. More than 80% of Malibu is hillside area; the remaining relatively flat land is subject to ocean and/or canyon (creek) flooding, or other significant environmental constraints. Geologic and seismic hazards include landslides, soil erosion, mudflows, and liquefaction potential. Additionally, the City is located in the Very High Fire Hazard Severity Zone, and the majority of the City has experienced major brush fires in recent decades. The City's environmental constraints are well documented in the General Plan. Since its incorporation in 1991, the City of Malibu has had six federally declared disasters and one federally declared emergency.

Although the City is characterized by a large amount of vacant land, only a small portion of that land is suitable for development due to these natural constraints. Development in steeply sloping properties would require substantial modification to the natural terrain, which would significantly add to the cost of development. Development on the steep hillsides would also add to erosion and landslide potential. Additionally, all new single-family residences and multi-family residential development in the City require a Coastal Development Permit pursuant to the development requirements of the LCP, which limit grading on steep slopes and encroachment into environmentally sensitive habitat areas (ESHA). Development is also constrained by federal and state laws (e.g., Federal Emergency Management Agency floodplain regulations, Clean Water Act, Endangered Species Act; and California Fish and Game Code and Alquist-Priolo Earthquake Fault Zoning Act).

While environmental conditions constrain development throughout the city, these factors have been considered in the analysis of potential development sites described in Appendix B, and are not expected to preclude projects from achieving the estimated level of development.

7.4.2(b) Infrastructure Constraints

Infrastructure in the City is designed to serve resident needs in a manner that respects environmental constraints and retains the City's rural residential character. As discussed previously under *Development Fees and Improvement Requirements*, the City requires developers to provide on-site and off-site improvements necessary to serve their projects. Dedication of land or in-lieu fees may also be required of a project for rights of way, transit facilities, recreational facilities, and school sites, consistent with the Subdivision Map Act.

Additionally, the City's Capital Improvement Program (CIP) contains a schedule of public improvements including streets, public structures, storm water conveyance and wastewater treatment facilities, parks and other public works projects to facilitate the

continued build-out of the City's General Plan. The CIP helps to ensure that construction of public improvements is coordinated with private development. As a result of these policies, any infrastructure constraints that currently exist must be fully mitigated and financed as growth occurs. While infrastructure requirements can add to the cost of housing, these improvements are necessary to ensure public health and safety, and would not preclude the level of development that is necessary to accommodate the city's housing needs.

Wastewater

There is no municipal sewer service in the City. All properties in the City are currently served by individual on-site wastewater treatment systems (OWTS); with the exception of those properties served by six small, community-serving package wastewater treatment plants: Point Dume (serving the Point Dume Mobile Home Park), Trancas Canyon (serving Malibu West and a number of homes on Broad Beach Road and Victoria Point), Malibu Mesa (at Pepperdine University, serving the Malibu Country Estates), Tivoli Cove Condominiums, Maison de Ville (serving three condominium complexes) and the Civic Center Water Treatment Facility (CCWTF). The lack of a municipal sewer system constrains the amount of development that the City can accommodate; however, the underlying constraint is the steep terrain that is better suited to onsite systems than a community sewer system. Additional high-density residential development to accommodate the City's assigned regional housing need would require either the construction of a municipal wastewater treatment system or small treatment plants to serve individual developments.

Water

Domestic water for City residents is supplied by District 29 from the Metropolitan Water District of Southern California (MWD). The MWD obtains its water from the State Water Project and the Colorado River. Wholesalers of water in the Malibu/Santa Monica Mountains areas are the Las Virgenes Municipal Water District and the West Basin Municipal Water District. These wholesalers distribute to three retailers, which include District 29, Silvas Park Mutual Water Company, and Las Virgenes Metro Water District. Many of the City's water mains and tanks have been identified by the City and by District 29 as severely undersized. However, for projects located in areas with limited to no service by District 29, property owners may install water tanks to serve the property's needs.

The Los Angeles County Fire Department (LACFD) has recently adopted new water supply requirements for the issuance of final approval. New construction projects will not receive final approval unless they can show adequate fire flow capacity. Furthermore, the Fire Department will no longer accept onsite water tanks to be used as a primary source of water for fire-fighting purposes. The problem with these new requirements is that the majority of remaining vacant properties in the City are located within the mountain canyons. These properties do not have ready access to water lines; therefore, they cannot prove adequate fire flow.

The problem has been compounded by the aging water infrastructure in District 29. In many of the more remote areas of the City, there is no infrastructure. In the past,

properties in these areas have relied upon wells and/or large water storage tanks to provide water in times of fire.

Currently, the LACFD will not issue final approval without District 29 sign-off and LACFD approval. The City is in negotiations with both departments, but has not rectified the problems to date.

Storm Water Drainage

The City has numerous streams and creeks that drain the hillsides and canyons. The majority of storm water runoff follows natural drainage courses to the ocean. The City has two storm water treatment projects to remove pollutants: Paradise Cove Storm Water Treatment Facility and the Civic Center Storm Water Treatment Facility, which is tied into Legacy Park. The LIP includes provisions to ensure development projects will not result an increase of storm water runoff. The City Public Works Department reviews hydrology reports for all new development to ensure compliance with storm water runoff provisions; therefore, with these existing facilities and review procedures in place, the City's flood control system is not expected to limit development during the planning period.

7.4.2(c) Land and Construction Costs

Land represents one of the most significant components of the cost of new housing. Land values fluctuate with market conditions, and changes in land prices reflect the cyclical nature of the residential real estate market.

The natural resources, commitment to a rural character, and location of the City has made Malibu a very desirable place to live. Additionally, most of the buildable land in the City has already been developed. The high demand for housing in the City combined with a limited supply has made land prices considerably higher than in most other areas of Los Angeles County, and this trend is expected to continue in the foreseeable future.

The cost of construction is affected by the price of materials and labor, development standards, and general market conditions. The City has no influence over the cost of materials and labor, and the building codes and development standards are not substantially different than most other cities in the County. Construction costs for materials and labor in the City have increased at a higher pace than the general rate of inflation, according to the Construction Industry Research Board.

7.4.2(d) Cost and Availability of Financing

The crisis in the mortgage industry that accompanied the Great Recession affected the availability of real estate loans, although for those with excellent credit, mortgage interest rates are at historic lows. However, the changes in mortgage underwriting standards have had greater impacts on low-income families than other segments of the community. Programs such as 2.7 and 3.2 in the Housing Plan help to reduce financing costs for low- and moderate-income homebuyers.

Under State law, it is illegal for real estate lending institutions to discriminate against entire neighborhoods in lending practices because of the physical or economic conditions in the area ("redlining"). The City is not aware of any evidence that redlining is currently practiced in the City.

7.4.3 Affirmatively Furthering Fair Housing

State law prohibits discrimination in the development process or in real property transactions, and it is the City's policy to uphold the law in this regard. Fair housing issues are addressed in Malibu through coordination with fair housing organizations to process complaints regarding housing discrimination and to provide counseling in landlord/tenant disputes.

Assembly Bill (AB) 686 requires that housing elements contain an Assessment of Fair Housing (AFH) consistent with the core elements of the analysis required by the federal Affirmatively Furthering Fair Housing (AFFH) Final Rule of July 16, 2015.

Under State law, affirmatively further fair housing means "taking meaningful actions, in addition to combating discrimination, that overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity based on protected characteristics."

There are three parts to this requirement:

1. Include a Program that Affirmatively Furthers Fair Housing and Promotes Housing Opportunities throughout the Community for Protected Classes.
2. Conduct an Assessment of Fair Housing that includes summary of fair housing issues, an analysis of available federal, state, and local data and local knowledge to identify, and an assessment of the contributing factors for the fair housing issues.
3. Prepare the Housing Element Land Inventory and Identification of Sites through the Lens of Affirmatively Furthering Fair Housing.

In compliance with AB 686, the City has completed the following outreach and analysis.

Outreach

As discussed in Appendix C, the City held a total of ## public meetings during the Housing Element update in an effort to include all segments of the community. Each meeting was publicized on the City's website and meeting notices were also sent to persons and organizations with expertise in affordable housing and supportive services. Interested parties had the opportunity to interact with City staff throughout the Housing Element update process and provide direct feedback regarding fair housing issues.

The City also created a dedicated web page for the 2021 Housing Element update (<https://www.malibucity.org/370/Housing-Element-Update>) and provided opportunities for all interested persons to participate in public meetings remotely and by email, which made it possible for those with disabilities limiting their travel to participate and comment on the Housing Element regardless of their ability to attend the meetings.

Assessment of Fair Housing

The following analysis examines geographic data regarding racial segregation, poverty, persons with disabilities, and areas of opportunity as identified by the TCAC/HCD Opportunity Areas map.

Racial segregation. As seen in Figure 7-2, the percentage of non-white population in the city is relatively low compared to many areas of Los Angeles County. The block groups with the highest percentage of non-white residents are located in the central and western portions of the city, although the non-white population of this area is no more than 40% in all block groups.

Poverty. Recent Census estimates regarding poverty status of households in Malibu are shown in Figure 7-3. As seen in this map, poverty rates are low, with most census tracts less than 10% while in the central area of the city the poverty rate is between 10 and 20%.

Persons with disabilities. The incidence of disabilities in Malibu is similar to most surrounding areas of Los Angeles County. As shown in Figure 7-4, the percentage of residents reporting a disability is less than 20% in all census tracts in the city.

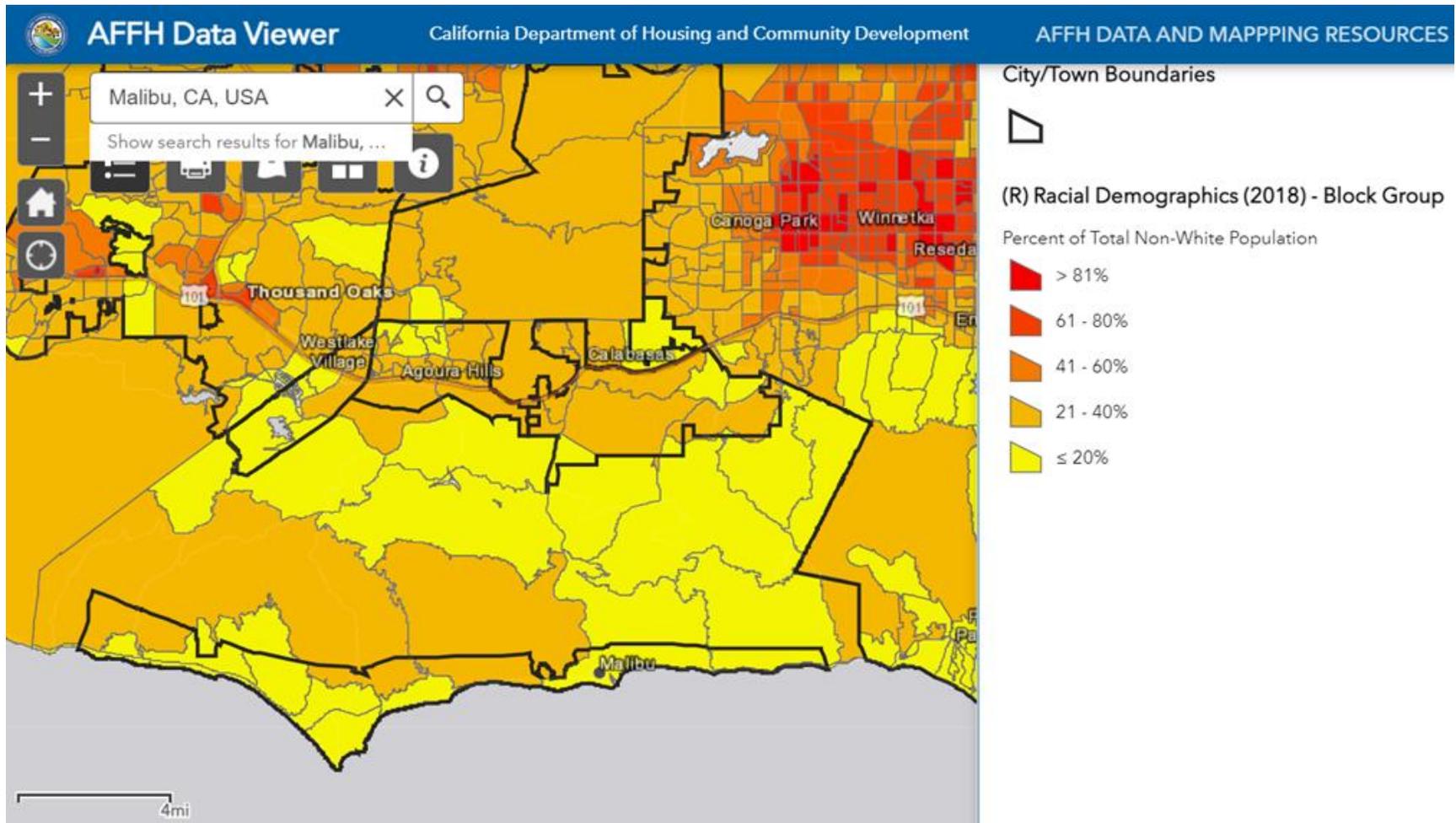
Access to opportunity. According to the 2020 California Department of Housing and Community Development (HCD) and the California Tax Credit Allocation Committee (TCAC) Opportunity Area Map (Figure 7-5), Malibu is entirely within designated "Highest Resource" areas. Highest Resource areas are those with very high index scores for a variety of educational, environmental, and economic indicators. Some of the indicators identified by TCAC include high levels of employment and close proximity to jobs, access to effective educational opportunities for both children and adults, low concentration of poverty, and low levels of environmental pollutants, among others.

Conclusion

This analysis indicates that the primary barrier to fair housing in the city is high housing cost, which has the effect of limiting access by lower-income households to the high opportunities and resources available in Malibu. There is no evidence to suggest that discrimination against racial groups or persons with disabilities is a major issue.

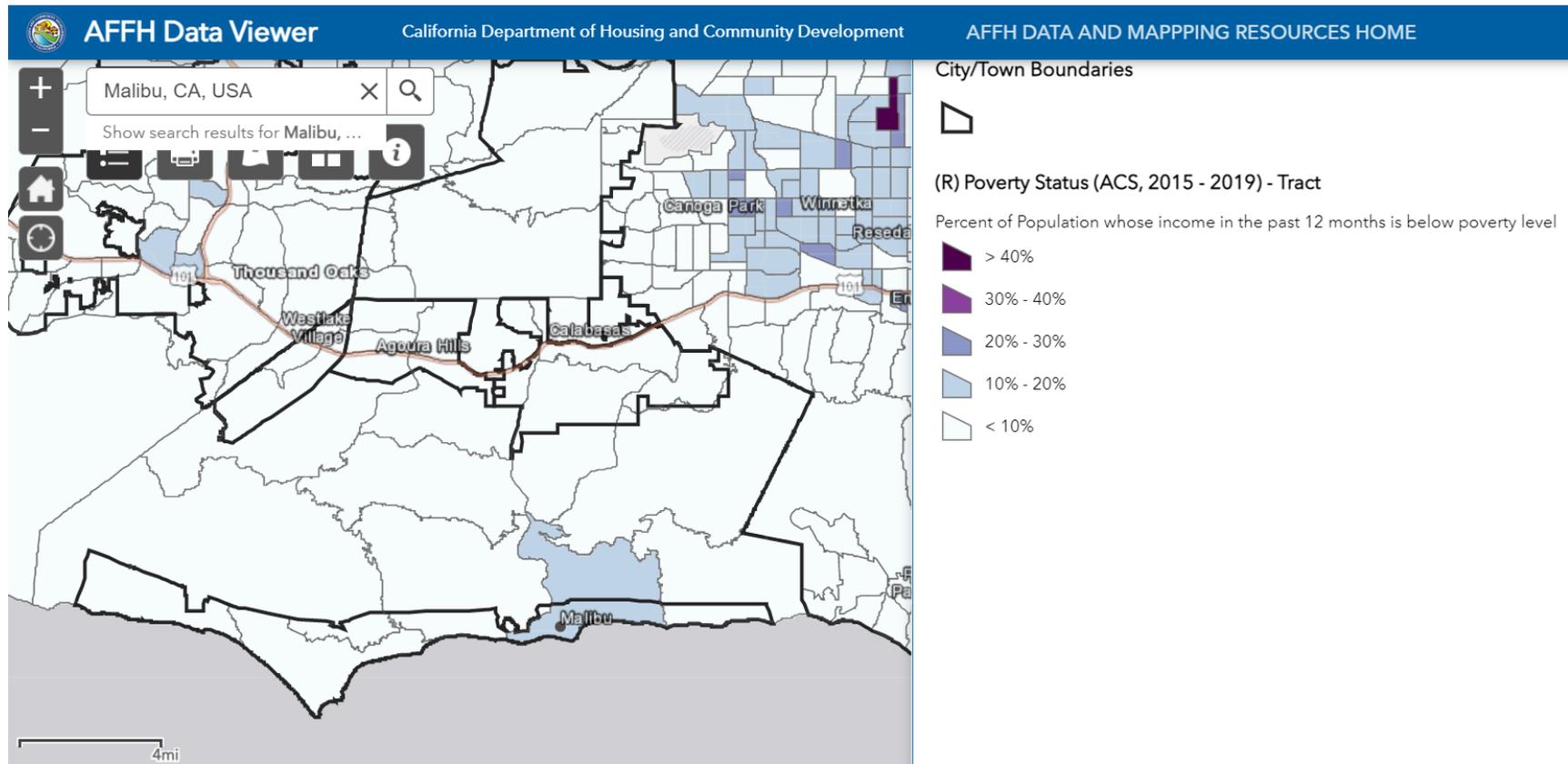
The Housing Plan (Section 7.5) includes programs intended to encourage and facilitate multi-family and mixed-use development to accommodate low- and moderate-income housing, and also encourage the provision of accessory dwelling units, which can expand affordable housing opportunities for lower-income persons such as care-givers, household employees and others working in service occupations. Program 3.1 describes actions the City will take to affirmatively further fair housing and address any issues of housing discrimination that may arise.

Figure 7-2
Racial Characteristics – Malibu



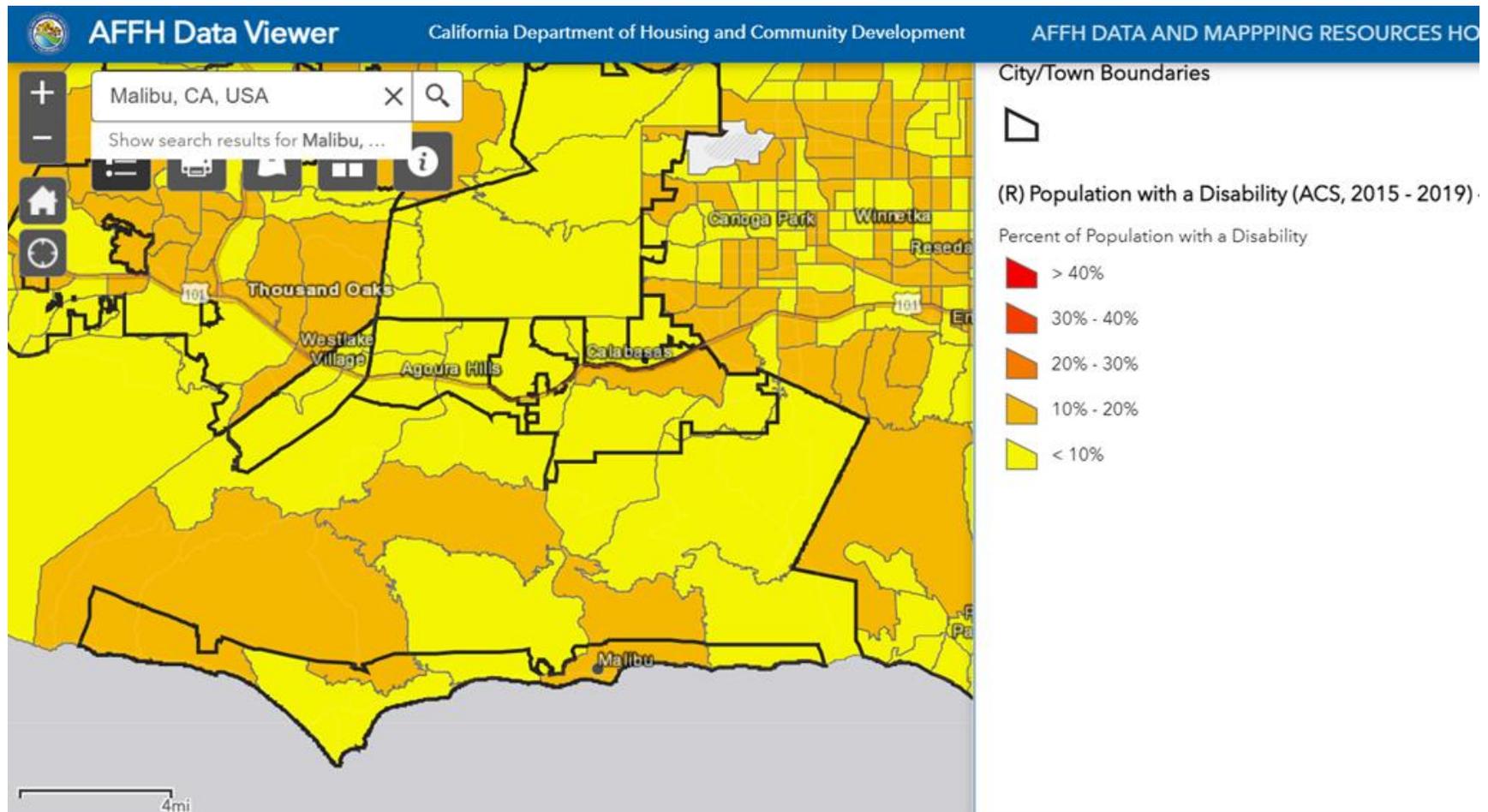
Source: California Department of Housing and Community Development, AFFH Data Viewer, 2021

Figure 7-3
Poverty Status – Malibu



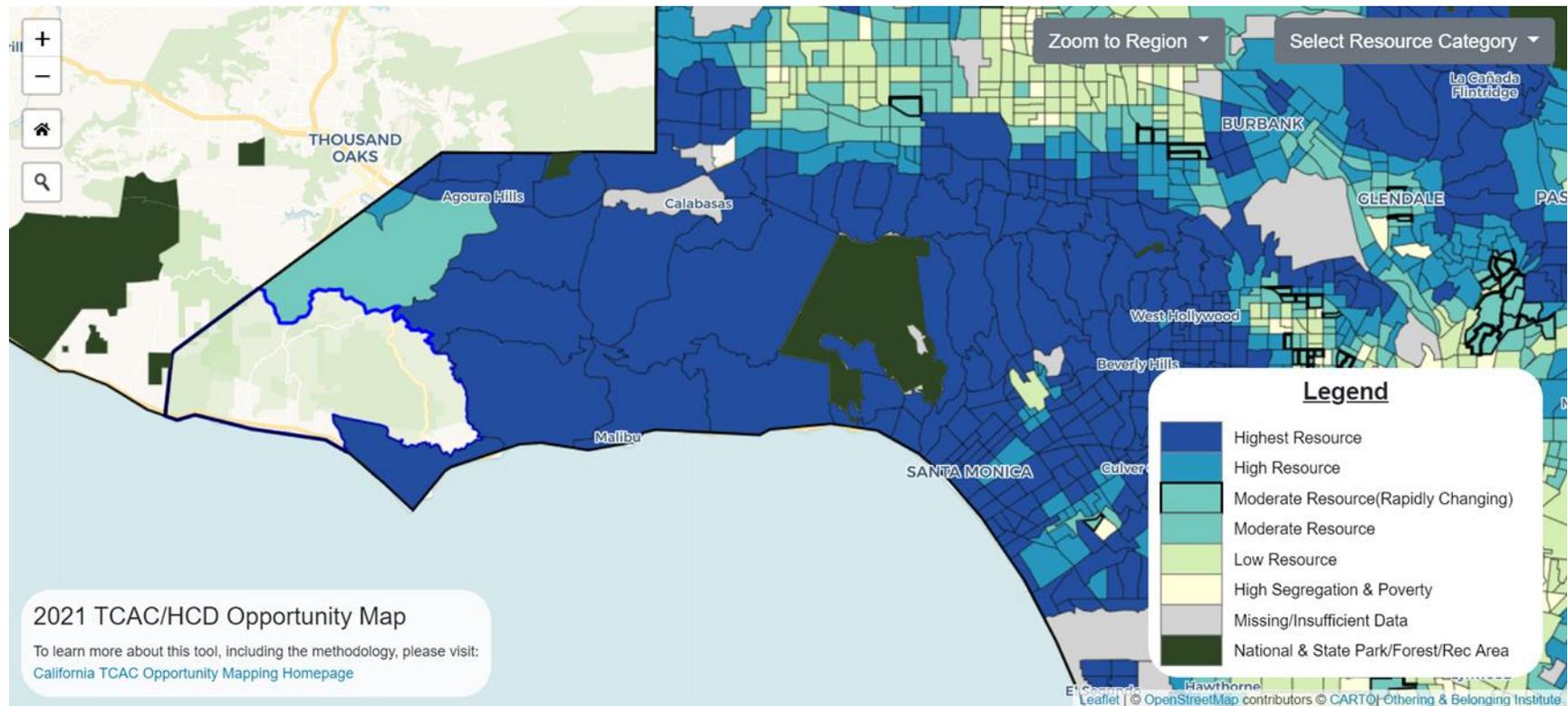
Source: California Department of Housing and Community Development, AFFH Data Viewer, 2021

Figure 7-4
Population with a Disability – Malibu



Source: California Department of Housing and Community Development, AFFH Data Viewer, 2021

**Figure 7-5
TCAC/HCD Opportunity Map**



7.5 Housing Plan

7.5.1 Goals, Objectives, Policies, and Implementation Programs

This chapter outlines the City of Malibu's goals, policies and programs to encourage the provision of adequate housing to meet the needs of residents from all economic segments throughout the 2021-2029 planning period. The overriding housing goal of the City is:

GOAL: Adequate Housing for the Existing and Projected Needs of All Economic Segments of the Community

The City's policies and implementation programs designed to support this goal are organized into four general areas as described below.

1. Preserve and Improve the Existing Housing Stock

- Policy 1.1** **Ensure compliance with existing codes to protect health, safety and community sustainability**
- Policy 1.2** **Assist property owners in repairing or rebuilding damaged or deteriorated housing units, especially affordable housing**
- Policy 1.3** **Preserve existing mobile home parks as an important source of affordable housing**
- Policy 1.4** **Conserve affordable housing in the Coastal Zone**

Program 1.1 – Code Enforcement

Ensure compliance with the City's codes and regulations. Particularly in the case of code violations in units that are occupied by lower-income persons or persons with special needs, direct property owners and renters to programs that are available to provide assistance. Offer amnesty and legalization for existing housing units where:

- 1) The unit is "livable" and meets basic health and safety requirements
- 2) The unit existed at the time of the City's incorporation; and
- 3) The unit is restricted for owner-occupancy or rental by low- or moderate-income persons at an affordable rate.

Responsible department: Planning Department

Funding source: General Fund; permit fees

Time frame: Throughout the planning period

Objective: Reduce code violations and health & safety issues in existing housing

Program 1.2 – Rebuilding Assistance

Expedite permit processing and provide special assistance to homeowners seeking to repair or rebuild homes that have been lost or damaged in a fire, flood or other disaster, especially units that accommodate low- and moderate-income households, elderly, disabled, large families, single heads of households, farm workers, individuals in need of emergency shelter, and other individuals or household types with special needs, unless those units are located in areas that are physically unsuitable for development.

Responsible department: Planning Department; Building & Safety Division
 Funding source: General Fund; Federal Emergency Management Agency (FEMA); Office of Emergency Services (OES)
 Time frame: Throughout the planning period
 Objective: Facilitate rebuilding of lost or damaged homes

Program 1.3 – Housing Rehabilitation Assistance

Provide incentives to rehabilitate existing housing units, such as permit fee waivers for units that are deed-restricted for low- and moderate-income families.

Responsible department: Planning Department
 Funding source: Affordable Housing Trust Fund
 Time frame: Throughout the planning period
 Objective: 4 units rehabilitated

Program 1.4 – Preserve Existing Mobile Home Parks

Maintain the Mobile Home Park Rent Control Regulations Ordinance that regulates maximum allowable rents and limits rent increases. Pursuant to the provisions of *Government Code §65863.7*, require the submittal of a report detailing the impacts of any proposed mobile home park conversion to a nonresidential use concurrent with the filing of any discretionary permit on such property and impose reasonable mitigation measures upon the park owners.

Responsible department: City Manager's Department; State of California
 Funding source: General Fund; registration fees
 Time frame: Throughout the planning period
 Objective: No net loss of mobile home units

Program 1.5 – Conserve Affordable Housing in the Coastal Zone

In accordance with *Government Code* §65590, continue to require the replacement of low- or moderate-income units that have been removed from the coastal zone (either by demolition or conversion), whenever feasible.

Responsible department:	Planning Department
Funding source:	General Fund
Time frame:	Throughout the planning period
Objective:	No net loss of affordable units in the coastal zone

2. New Housing Development

Policy 2.1 Support a regional fair-share approach to meeting housing needs

Policy 2.2 Support a range of new housing development commensurate with the City's needs and consistent with environmental and public service limitations through all appropriate regulatory and administrative mechanisms

Program 2.1 – Regional Housing Needs Identification

Work with the Southern California Association of Governments (SCAG) and the Las Virgenes-Malibu Subregional Council of Governments (COG) to encourage an appropriate fair share allocation of future regional housing needs based on population need, existing supply/demand, ability to accommodate growth given the physical/environmental constraints and the jobs-to-housing ratio.

Responsible Department:	City Manager; City Council liaison to COG; Planning Department
Funding source:	General Fund
Time frame:	Throughout the planning period
Objective:	Encourage fair and realistic RHNA allocations

Program 2.2 – Ensure Adequate Capacity to Accommodate Regional Housing Needs

The City's residential land inventory provides adequate capacity to accommodate the City's housing needs as identified in the 2021-2029 RHNA (see Appendix B). The City will pursue a two-part strategy to provide sites for lower-income housing: 1) Opportunities and incentives for accessory dwelling units; and 2) Zoning regulations to facilitate affordable multi-family or mixed-use development in suitable locations.

A. Expand the Supply of Accessory Dwelling Units

Accessory dwelling units (ADUs) represent an important source of affordable housing in Malibu (see Appendix B for further discussion of ADU production). Due

to extraordinarily high land cost and environmental constraints, development of new affordable housing is very difficult. Since ADUs can be accommodated on developed sites at no additional land cost, they represent an excellent option for addressing the needs of seniors, university students, household employees, local service workers, and extended family members.

In recent years State law has been amended to encourage ADU production. The City is currently processing amendment to the Zoning Ordinance to update local ADU regulations in conformance with current law.

In order to maximize the availability of additional ADUs, the City will continue to implement the following actions:

1. **Promote the Development of ADUs** - Provide a brochure with information on the City's ADU standards and incentives to promote their development. The brochure will be distributed at City Hall, posted on the website, and provided to all applicants for new residential development.
2. **Amnesty Program for ADUs** - Implement and promote the amnesty program for legalized ADUs that meet all health and safety requirements. The amnesty program may include the waiver of City fees and penalties and will allow the legal registration of both ADUs and converted guest houses.
3. **Financial Assistance for ADUs** - Contact local service providers, including the Water District and School District, to pursue reduced development impact fees on ADUs dedicated for occupancy by lower-income households. Evaluate mechanisms to subsidize impact fees using local, state, and nonprofit sources, including the City's Affordable Housing Trust Fund.
4. **Pre-Approved ADU Prototypes** - Make available pre-approved second unit prototype plans to assist applicants and streamline the approval process.

Responsible department:	Planning Department
Funding sources:	General Fund; Affordable Housing Trust Fund; other governmental agencies; grant funds
Time frame:	Code amendment in 2021/22; implementation throughout the planning period
Objective:	32 ADUs during 2021-2029

B. Facilitate New Affordable Housing Development

In order to accommodate lower-income housing, the MMC and LCP regulations establish an Affordable Housing Overlay (AHO) allowing multi-family or mixed-use development by-right at a density of 20 units/acre for projects that include affordable housing. In order to qualify for the increased density incentive, all "bonus" units (i.e., additional units allowed above the base density of 6 units per

acre) must be deed-restricted for low- and moderate-income households for a minimum of 30 years at a ratio of 50% low- and 50% moderate-income. As an alternative, very-low-income units may offset the requirement for low-income and moderate-income units¹⁹. Any developer utilizing these incentives shall be required to screen tenants or buyers for compliance with income limits and establish a monitoring system to ensure the unit's continued affordability. This program creates a strong incentive for affordable housing development because of the additional units allowed at 20 units per acre compared to the base density of 6 units per acre. The allowable density of 20 units per acre does not include the State-mandated density bonus, and it is anticipated that all projects utilizing this option will also qualify for a density bonus.

This program does not represent an "inclusionary" requirement because property owners who do not wish to take advantage of the density incentive would be allowed to develop market-rate housing at the allowable base density of 6 units/acre.

Incentives and concessions for ELI units will include a variety of housing types such as SROs and supportive housing. Incentives may include priority processing, density bonus, modified development standards, administrative support with funding applications, and/or fee waivers or deferrals.

In order to facilitate development of affordable housing, including housing for persons with developmental disabilities and other special needs, the City will contact non-profit developers annually to implement a strategy for developing housing, including site identification, priority processing, density bonus and modified development standards, administrative support with funding applications, and fee waivers or deferrals if feasible. The City has had conversations with nonprofit developers regarding affordable housing opportunities on the La Paz site.

Responsible department:	Planning Department
Funding source:	Affordable Housing Trust; CDBG; General Fund
Time frame:	Throughout the planning period
Objective:	Provide suitable sites with appropriate zoning that could accommodate lower- income housing

Program 2.3 – Streamline Development Review and Assist Affordable Housing Developments

Streamline the development review and permit process for all residential development by upgrading the City's permitting software and other integrated programs to facilitate an accelerated transition to a digital project submittal and review process. This transition is crucial in order to both speed up the permitting process for new housing units and to prevent disruptions in service during emergencies such as wildfires, pandemics, and other natural disasters, which limit

¹⁹ For example, a 20-unit qualifying project may provide 7 low-income units, 7 moderate-income units and 6 market-rate units; or as an alternative, 7 very-low-income units and 13 market-rate units.

applicant access to City Hall and staff access to physical files and in-office resources. Informational handouts describing how to apply for housing development and summarizing the basic development criteria for different zones will be provided online and at the public counter. When developers propose to include affordable units in a project, provide assistance through expedited processing, density bonus and other modified development standards, and administrative assistance with grant applications.

To ensure that City land use regulations encourage and facilitate affordable housing, the City will monitor State legislation and update City regulations as necessary. In recent years State density bonus law has been revised to provide increased incentives for affordable housing production. An amendment to the Municipal Code and Local Coastal Program will be processed in 2021 to incorporate current density bonus regulations consistent with State law.

Responsible department:	Planning Department
Funding source:	Grant funds; General Fund; permit fees
Time frame:	Municipal Code and LCP amendments in 2021
Objective:	Minimize residential permit processing time and assist affordable housing developments

3. Fair Housing and Assistance to Lower-Income Households and Persons with Special Needs

- Policy 3.1 Facilitate the provision of fair housing services.**
- Policy 3.2 Remove regulatory barriers to housing for all residents, including those with special needs.**
- Policy 3.3 Provide financial support, where feasible, and referral information to persons in need of housing assistance.**

Program 3.1 – Affirmatively Further Fair Housing

Support fair housing efforts by contracting with the Los Angeles County Housing Authority, Westside Fair Housing Council, or other appropriate organization, to provide fair housing services, including investigation of discrimination complaints, research on housing discrimination-related issues, public information about the rights and responsibilities of landowners and tenants, and landlord/tenant dispute resolution. Promote the program each year through the use of pamphlets, public bulletin boards on community television; educational flyers distributed to property owners, apartment managers and tenants; public service announcements on local radio stations and in local print media; and presentations at community groups.

To ensure that City land use regulations encourage and facilitate housing for persons with special needs, the City will monitor State legislation and update City regulations as necessary. In 2018 AB 2162 amended State law to require that

supportive housing be permitted by-right in zones where multi-family and mixed uses are permitted, including non-residential zones permitting multi-family uses, if the proposed housing development meets specified criteria.

AB 101 (2019) added the requirement that low barrier navigation centers meeting specified standards be allowed by-right in areas zoned for mixed use and in non-residential zones permitting multi-family uses pursuant to *Government Code* §65660 et seq.

An amendment to the Municipal Code will be processed in 2021 to incorporate the requirements of AB 2162 and AB 101 consistent with State law.

Responsible department:	Planning Department
Funding source:	General Fund; CDBG
Time frame:	Annual appropriation and semi-annual publications and announcements Code amendment in 2021 to update regulations for supportive housing and low barrier navigation centers
Objectives:	Provide and publicize fair housing services through contracting with a public or non-profit service provider Encourage and facilitate housing for persons with special needs

Program 3.2 – Provide Financial Support and Referral Information to Persons in Need of Assistance

Malibu is a small jurisdiction without a redevelopment successor agency or housing department, and is not an entitlement jurisdiction for federal grants, such as Community Development Block Grants (CDBG) and the HOME Investment Partnerships Program (HOME). Therefore, the City does not have any resources for direct financial housing assistance, other than a small Affordable Housing Trust Fund. The City will provide referral information to extremely-low-, very-low-, low-, and moderate-income persons and families, the elderly, and persons with disabilities regarding affordable and special needs housing, such as Section 8 Rental Assistance and the Mortgage Credit Certificate program. If feasible, the City will seek CDBG and HOME funds.

- a. **Affordable Housing Trust Fund.** Maintain an Affordable Housing Trust Fund and use the proceeds to leverage other sources of funding for affordable housing.
- b. **State and Federal Grants.** Where feasible, seek state and federal grant funds, such as CDBG and HOME, in order to provide support for affordable housing activities.

- c. **Section 8 Rental Assistance.** Provide referral information to low-income persons seeking rental assistance by publicizing the program in flyers posted at City Hall, the City's website and other public locations.
- d. **Mortgage Credit Certificates.** Provide referral information regarding the mortgage credit certificate program to homebuyers by publicizing the program in flyers posted at City Hall, the City website and other public locations.

Responsible department: Planning Department; Los Angeles County Development Authority (LACDA)

Funding source: General Fund; Section 8; mortgage credit certificates; Affordable Housing Trust Fund; CDBG/HOME (if feasible)

Time frame: The City's Housing Coordinator has responsibility for monitoring all activities related to Housing Element implementation, including preparation of annual progress reports, annual monitoring of sources of financial assistance such as Section 8, state/federal grants, and mortgage credit certificates. The Housing Coordinator shall also be responsible for disseminating information to the community regarding this activities and resources.

Depending on program availability and City eligibility, apply for state/federal funds on a bi-annual basis to assist affordable housing development.

Objective: Disseminate housing assistance information; provide direct funding in support of affordable housing when feasible

4. Housing Performance Monitoring

Policy 4.1 Monitor housing program results and revise strategies as necessary

Program 4.1 – Monitor and Report Annually on Housing Program Accomplishments

The City will monitor accomplishments toward Housing Element objectives and report annually to the City Council and California Department of Housing and Community Development. If implementation measures are ineffective in achieving desired results, adjustments will be made to improve the efficacy of programs.

Responsible department: Planning Department

Funding source: General Fund

Time frame: Annual progress reports
 Objective: Monitor progress and make mid-course corrections if necessary to achieve desired results

7.5.2 Quantified Objectives

The City's quantified objectives for new construction, rehabilitation and conservation are presented in Table 7-32. It must be recognized, however, that many factors and constraints outside the City's control may influence its ability to achieve these objectives. These estimates represent the City's best effort to quantify potential results.

**Table 7-32
 Quantified Objectives 2021-2029**

Category	Income Level					Totals
	Ex. Low	V. Low	Low	Mod	Above Mod.	
New Construction*	14	14	19	17	15	79
Rehabilitation	1	1	1	1		4
Conservation**	0	0	0	0	0	0

*Quantified objective for new construction is for the period 6/30/2021 to 10/15/2029 per the RHNA

**There are no deed-restricted affordable units at risk of conversion

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Appendix A – Evaluation of the Previous Housing Element

Section 65588(a) of the *Government Code* requires that jurisdictions evaluate the effectiveness of the existing Housing Element, the appropriateness of goals, objectives and policies, and the progress in implementing programs for the previous planning period. This appendix contains a review of the housing goals, policies, and programs of the previous housing element, and evaluates the degree to which these programs have been implemented during the previous planning period, 2013 through 2021. The findings from this evaluation have been informative in determining the City's 2013-2021 Housing Plan.

Table A-1 summarizes the programs contained in the previous Housing Element, along with the City's accomplishments, and implications for future policies and actions.

Table A-2 summarizes progress compared to the quantified objectives of the previous Housing Element period.

**Table A-1
2013-2021 Housing Element Program Evaluation**

Program	Objective	Timeframe	Status of Program Implementation
<p>Program 1.1 – Code Enforcement Ensure compliance with the City’s codes and regulations. Particularly, in the case of code violations in units that are occupied by lower-income persons or persons with special needs, direct property owners and renters to programs that are available to provide assistance. Offer amnesty and legalization for existing housing units where: 1) The unit is “livable” and meets basic health and safety requirements 2) The unit existed at the time of the City’s incorporation; and 3) The unit is restricted for owner-occupancy or rental by low- or moderate-income persons at an affordable rate.</p>	<p>Reduce code violations and health & safety issues in existing housing</p>	<p>Throughout the planning period</p>	<p>Ongoing</p>
<p>Program 1.2 – Rebuilding Assistance Expedite permit processing and provide special assistance to homeowners seeking to repair or rebuild homes that have been lost or damaged in a fire, flood or other disaster, especially units that accommodate low- and moderate-income households, elderly, disabled, large families, single heads of households, farm workers, individuals in need of emergency shelter, and other individuals or household types with special needs, unless those units are located in areas that are physically unsuitable for development.</p>	<p>Facilitate rebuilding of lost or damaged homes</p>	<p>Throughout the planning period</p>	<p>In progress - MMC and LCP amendments have been adopted or are in progress to expedite permit processing for those seeking to repair or rebuild homes that have been affected by the Woolsey Fire and/or related flooding and debris flow.</p>
<p>Program 1.3 – Housing Rehabilitation Assistance Provide incentives to rehabilitate existing housing units, such as permit fee waivers for units that are deed-restricted for low- and moderate-income families.</p>	<p>4 units</p>	<p>Throughout the planning period</p>	<p>Opportunities for this are reviewed on a case by case basis. No requests were made during the 2020 reporting period.</p>
<p>Program 1.4 – Preserve Existing Mobile Home Parks Maintain the Mobile Home Park Rent Control Regulations Ordinance that regulates maximum allowable rents and limits rent increases. Pursuant to the provisions of Government Code §65863.7, require the submittal of a report detailing the impacts of any proposed mobile home park conversion to a nonresidential use concurrent with the filing of any discretionary permit on such property and impose reasonable mitigation measures upon the park owners.</p>	<p>No net loss of mobile home units</p>	<p>Throughout the planning period</p>	<p>Ongoing – no mobile home parks were proposed for conversion in 2020</p>
<p>Program 1.5 – Conserve Affordable Housing in the Coastal Zone In accordance with Government Code §65590, continue to require the replacement of low- or moderate-income units that have been removed from the coastal zone (either by</p>	<p>LCP and MMC amendment</p>	<p>Throughout the planning period</p>	<p>Ongoing – no low- or moderate-income units were demolished or converted. LCP and MMC amendments for the Affordable</p>

Program	Objective	Timeframe	Status of Program Implementation
demolition or conversion), whenever feasible.			Housing Overlay District were certified in 2019. Short-Term Rental Ordinances were passed in 2020 to encourage homes to be used for permanent residential use.
<p>Program 2.1 – Regional Housing Needs Identification</p> <p>Work with the Southern California Association of Governments (SCAG) and the Las Virgenes-Malibu Subregional Council of Governments (COG) to encourage an appropriate fair share allocation of future regional housing needs based on population need, existing supply/demand, ability to accommodate growth given the physical/environmental constraints and the jobs-to-housing ratio.</p>	Encourage fair and realistic RHNA allocations	Throughout the planning period	City staff continues to monitor SCAG programs related to housing needs.
<p>Program 2.2 – Ensure Adequate Capacity to Accommodate Regional Housing Needs</p> <p>The City’s residential land inventory provides adequate capacity to accommodate the City’s housing needs as identified in the 2013-2021 RHNA (see Appendix B). The City will pursue a two-part strategy to provide sites for lower-income housing: 1) Opportunities and incentives for second units; and 2) Zoning regulations to facilitate affordable multi-family or mixed-use development in suitable locations.</p> <p>A. Expand the Supply of Second Units. In order to maximize the availability of additional second units, the City will implement the following actions:</p> <ol style="list-style-type: none"> 1. Promote the Development of Second Units 2. Amnesty Program for Second Units 3. Financial Assistance for Second Units 4. Pre-Approved Second Unit Prototypes 	21 second units during 2013-2021	Throughout the planning period	<p>City staff informally encouraged the development of second residential units over guest houses or studios.</p> <p>No requests were made to legalize previously developed second units during this year.</p> <p>The City is preparing an ADU ordinance that will streamline the process for creating new ADUs and promote their development. Building permits for one new (not a rebuild or replacement) second unit were issued in 2020.</p> <p>The City successfully applied for a LEAP grant to support the ADU ordinance and ADU processing.</p>
<p>B. Facilitate New Affordable Housing Development</p> <p>In order to accommodate lower-income housing, the MMC and LCP regulations were amended in the previous planning period to establish an Affordable Housing Overlay allowing multi-family or mixed-use development by-right at a density of 20 units/acre for projects that include affordable housing. In order to qualify for the increased density</p>	Provide suitable sites with appropriate zoning that could accommodate lower- income housing	The Local Coastal Program Amendment to allow for multi-family development in compliance with the adopted 2013-2021 Housing Element	Accomplished - The applicable LCP amendments have been certified.

Program	Objective	Timeframe	Status of Program Implementation
<p>incentive, all “bonus” units (i.e., additional units allowed above the base density of 6 units per acre) must be deed-restricted for low- and moderate-income households for a minimum of 30 years at a ratio of 50% low- and 50% moderate-income. As an alternative, very-low-income units may offset the requirement for moderate-income units on a one-for-one basis. Any developer utilizing these incentives shall be required to screen tenants or buyers for compliance with income limits and establish a monitoring system to ensure the unit’s continued affordability. This program creates a strong incentive for affordable housing development because of the additional units allowed at a density of 20 units per acre compared to the base density of 6 units per acre. The allowable density of 20 units per acre does not include the state-mandated density bonus, and it is anticipated that all projects utilizing this option will also qualify for a density bonus of up to 35%.</p>		<p>was certified by the California Coastal Commission on December 11, 2019.</p>	
<p>Program 2.3 – Streamline Development Review and Assist Affordable Housing Developments Streamline the development review and permit process for all residential development by providing a series of informational handouts describing how to apply for housing development and summarizing the basic development criteria for different zoning districts. When developers propose to include affordable units in a project, provide assistance through expedited processing, density bonus and other modified development standards, and administrative assistance with grant applications.</p>	<p>Minimize residential permit processing time and assist affordable housing developments</p>	<p>Throughout the planning period</p>	<p>Ongoing – Staff has created various pamphlets as well as forms to help guide applicants through the permitting process. No applications have been submitted for affordable housing projects. However, staff has worked with parties interested in affordable housing to determine the appropriate project standards and submittal processes.</p>
<p>Program 3.1 – Fair Housing Support fair housing efforts by contracting with the Los Angeles County Housing Authority, Westside Fair Housing Council, or other appropriate organizations, to create a program that provides fair housing services, including investigation of discrimination complaints, research on housing discrimination-related issues, public information about the rights and responsibilities of landowners and tenants, and landlord/tenant dispute resolution. Promote the program each year through the use of pamphlets, public bulletin boards on community television; educational flyers distributed to property owners, apartment managers and tenants; public service announcements on local radio stations and in local print media; and presentations at community groups.</p>	<p>Provide and publicize fair housing services through contracting with a public or non-profit service provider</p>	<p>Annual appropriation and semi-annual publications and announcements</p>	<p>Ongoing. Since 2016 the City has contracted with The People Concern to help transition individuals experiencing homelessness to permanent housing.</p>
<p>Program 3.2 – Provide Financial Support and Referral Information to Persons in Need of Assistance</p>	<p>Disseminate housing assistance information; provide direct funding</p>	<p>The City’s Housing Coordinator has the responsibility for</p>	<p>The City received \$67,062 of CDBG funding as part of the</p>

Program	Objective	Timeframe	Status of Program Implementation
<p>Malibu is a small jurisdiction without a redevelopment agency or housing department; furthermore, the City is not an entitlement jurisdiction for federal grants. Therefore, the City does not have any resources for direct financial housing assistance, other than a small Affordable Housing Trust Fund and Community Development Block Grant (CDBG) funds. The City will provide referral information to extremely-low-, very-low-, low-, and moderate-income persons and families, the elderly, and persons with disabilities regarding affordable and special needs housing, such as Section 8 Rental Assistance and the Mortgage Credit Certificate program. In addition, it will continue to seek CDBG and HOME funds.</p>	<p>in support of affordable housing when feasible</p>	<p>monitoring all activities related to the implementation of the Housing Element, including preparation of annual progress reports, annual monitoring of sources of financial assistance such as Section 8 funds, state/federal grants, and mortgage credit certificates. The Housing Coordinator shall also be responsible for disseminating information to the community regarding these activities and resources.</p> <p>Depending on program availability and City eligibility, apply for state/federal funds on a bi-annual basis to assist with affordable housing development.</p>	<p>Urban County Entitlement program in fiscal year 2019-2020. These funds are utilized within the community to facilitate public service projects benefitting low and moderate income families. For example, the City typically allocated about \$20,000 for the Malibu Community Labor Exchange for 2020. In addition, in the 2020-2021 fiscal year, the City included approximately \$340,000 directly to address homelessness.</p>
<p>Program 4.1 – Monitor and Report Annually on Housing Program Accomplishments The City will monitor accomplishments toward Housing Element objectives and report the results annually to the City Council and California Department of Housing and Community Development. If implementation measures are ineffective in achieving the desired results, adjustments will be made to improve the efficacy of programs.</p>	<p>Monitor progress and make mid-course corrections if necessary to achieve desired results</p>	<p>Annual progress reports</p>	<p>The City continues to monitor Housing Element programs and report progress annually.</p>

**Table A-2
Progress in Achieving Quantified Objectives
2014-2021**

Program Category	Quantified Objective	Progress
New Construction¹		
Extremely Low	15	0
Very Low	-	0
Low	23	0
Moderate	23	0
Above Moderate	20	98
Total	81	98
Rehabilitation		
Extremely Low	4	0
Very Low		
Low		
Moderate		
Above Moderate	-	-
Total	4	0

Quantified objective and progress for new construction reflect units built 2014-2021

Appendix B

Residential Land Inventory

The assumptions and methodology for the Residential Land Inventory are provided below.

METHODOLOGY FOR INCOME CATEGORIES AND REALISTIC CAPACITY OF VACANT SITES

Vacant sites in the Multi-Family Beach Front (MFBF) zone allow one unit per 1,885 square feet of lot area (23.1 units/acre). These sites were assigned to the lower-income category based on the "default density" of 20 units/acre established in State law, except that sites smaller than one-half acre were assigned to the moderate-income category pursuant to Government Code Sec. 65583.2(c)(2)(A). Sites in the Multi-Family (MF) zone allow a density of six units/acre and were assigned to the moderate-income category. Potential new single-family detached units were assigned to the above-moderate category based on prevailing market conditions.

The Affordable Housing Overlay (AHO) District is applied to three vacant sites shown in Table B-2. The AHO allows multi-family development by-right at a density of 20 units/acre. These sites were assigned to the lower-income category.

Vacant multi-family parcels, shown on Figure B-2, can accommodate a total of 159 lower-income units and 49 moderate-income units. Vacant parcels zoned for single-family development can accommodate an estimated 870 units. A listing of vacant single-family parcels is on file with the Planning Department.

Accessory Dwelling Units

Trends in ADU Construction. In a high-cost housing market such as Malibu, ADUs represent an excellent opportunity to provide housing that is affordable to lower-income persons such as college students, the elderly, household employees and service workers. City records indicate that during the period 2018-2020, 12 ADUs were permitted. By definition, ADUs contain both kitchen and bathroom facilities that are separate from the main house. Additional "guest houses" that did not contain both kitchen and bathroom facilities were not counted in ADU totals.

Income Levels for ADUs. In December 2020, SCAG published a study of ADU affordability in Southern California²⁰ and concluded that a significant portion of ADUs built recently have been affordable to low- and moderate-income households. For the higher-cost areas of Los Angeles County ("LA County I") which include the City of Los Angeles and the Las Virgenes-Malibu, South Bay Cities and Westside Cities subregions, SCAG determined that the following affordability assumptions are appropriate:

²⁰ https://scag.ca.gov/sites/main/files/file-attachments/adu_affordability_analysis_120120v2.pdf?1606868527

Very Low	Low	Moderate	Above Moderate
17%	43%	6%	34%

Source: SCAG 2020

Malibu is located within the Las Virgenes-Malibu subregion.

ADU permits during the 2018-2020 period in Malibu are as follows:

2018: 3

2019: 7

2020: 2

Based on this trend and SCAG's analysis, it is assumed that an average of 32 ADUs will be produced in the during the 2021-2029 planning period.

Potential to Accommodate the RHNA

Table B-1 summarizes the City's residential site capacity compared to the RHNA allocation for this planning period. The table shows that there is adequate capacity to accommodate housing need in all income categories.

**Table B-1
Sites Inventory Summary**

Housing Sites	Income Category		
	Lower	Moderate	Above
Potential new single-family units (parcel listing on file with City Planning Dept.)	-	-	870
Potential new multi-family units (Table B-2)	159	49	-
Potential new ADUs	19	2	11
Total Inventory	178	51	986
RHNA 2021-2029	47	17	15
Adequate Capacity?	Yes	Yes	Yes

Source: City of Malibu, 2021

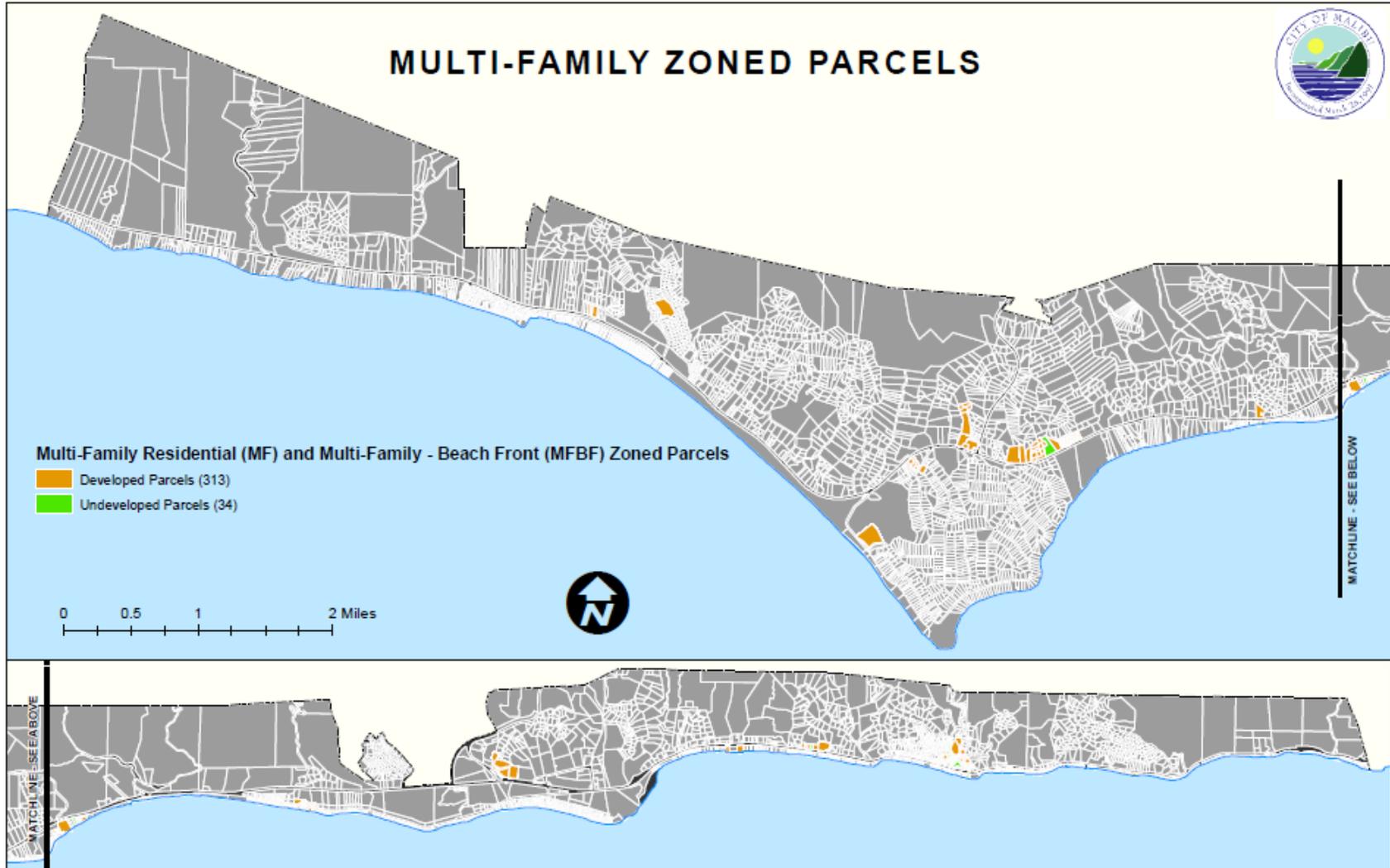
**Table B-2
Multi-Family Sites Inventory**

APN	Address	Street	Parcel Size (acres)	Parcel Size (sq.ft.)	Zone	Realistic Density (units/acre)	Potential Units	
							Lower	Moderate
4467013022	28517	PACIFIC COAST HWY	5.12		AHO	20	61	
4467013023			0.74					
4467012005	28401	PACIFIC COAST HWY	3.25		AHO	20	52	
4458022023	3700	LA PAZ LN	2.3		AHO	20	46	
4458022024								
4450025041		LAS FLORES CANYON RD	0.1533	6,678	MF	6		1
4460019024	26544	LATIGO SHORE DR	0.8900	38,768	MF	6		5
4459016001	25222	MALIBU RD	0.1476	6,429	MFBF	23		3
4459017005	25360	MALIBU RD	0.1810	7,884	MFBF	23		4
4450005041		PACIFIC COAST HWY	0.1134	4,940	MFBF	23		2
4451023022		PACIFIC COAST HWY	0.1724	7,510	MF	6		1
4451023023		PACIFIC COAST HWY	0.0872	3,798	MF	6		1
4450003012	20222	PACIFIC COAST HWY	0.0660	2,879	MFBF	23		1
4450007033	20742	PACIFIC COAST HWY	0.1336	5,820	MFBF	23		3
4450007030	20758	PACIFIC COAST HWY	0.1795	7,819	MFBF	23		4
4450008041	20838	PACIFIC COAST HWY	0.0876	3,816	MFBF	23		2
4451020002		RAMBLA PACIFICO	0.0325	1,416	MF	6		1
4451022002		RAMBLA PACIFICO	0.1859	8,098	MF	6		1
4451022021		RAMBLA PACIFICO	0.2369	10,319	MF	6		1
4451022022		RAMBLA PACIFICO	0.2011	8,760	MF	6		1
4451022024		RAMBLA PACIFICO	0.0812	3,537	MF	6		1
4451022028		RAMBLA PACIFICO	0.1005	4,378	MF	6		1
4451022063		RAMBLA PACIFICO	0.1157	5,040	MF	6		1
4451022023	3833	RAMBLA PACIFICO	0.1864	8,120	MF	6		1
4451022062	3859	RAMBLA PACIFICO	0.2313	10,075	MF	6		1
4451022061	3861	RAMBLA PACIFICO	0.4123	17,960	MF	6		2
4451022004	3863	RAMBLA PACIFICO	0.1574	6,856	MF	6		1
4451022003	3865	RAMBLA PACIFICO	0.1772	7,719	MF	6		1
4451021010		RAMBLA VISTA	1.0900	47,480	MF	6		6
4451022019		RAMBLA VISTA	0.2952	12,859	MF	6		1
4451022017	21331	RAMBLA VISTA	0.2685	11,696	MF	6		1
4460009001		SYCAMORE MEADOWS DR	0.0032	139	MF	6		1
TOTALS							159	49

Source: City of Malibu, 2021

Notes: Sites smaller than 0.5 acre are shown as moderate-income pursuant to Govt Code Sec. 65583.2(c)(2)(A)

**Figure B-1
Residential Land Inventory Map**



Appendix C – Public Participation Summary

Public participation is an important component of the planning process in the City of Malibu. This update to the Housing Element has provided residents and other interested parties with numerous opportunities for review and comment on this document.

Early in the process the City created a web page dedicated to the 2021 Housing Element update and a Housing Element FAQ was prepared and posted on the website along with meeting notices and other housing reference information.

Public notices of all Housing Element meetings and public hearings were published in the local newspaper in advance of each meeting, as well as posted on the City's website. Meeting notices were also posted on bulletin boards at City Hall.

A virtual public workshop was conducted on June 23, 2021 to provide background information and solicit public comments regarding housing needs in the community. Public meetings to review the draft Housing Element were conducted by the Planning Commission on July 22, 2021 and City Council on August 23, 2021.

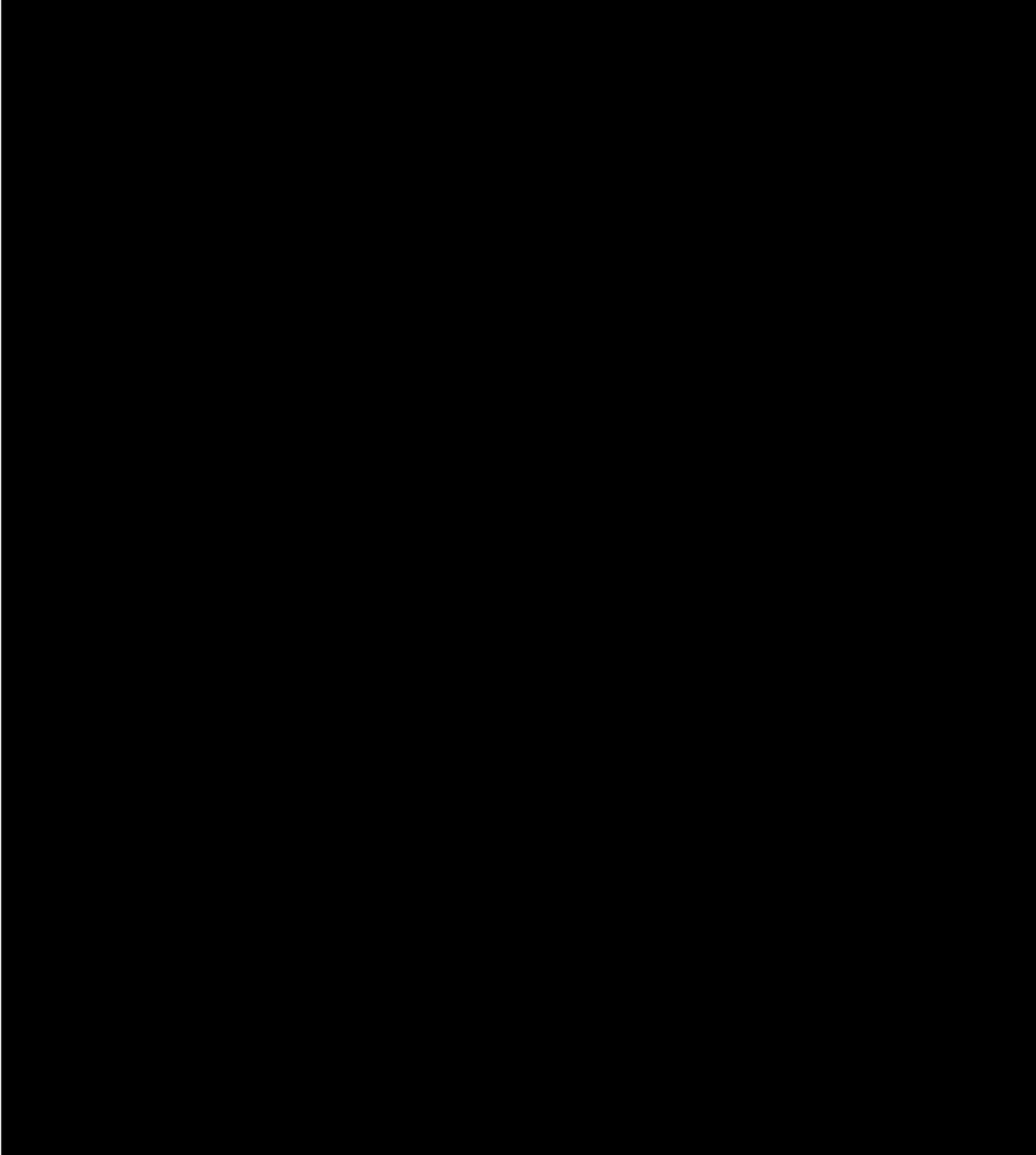
After receiving comments on the draft Housing Element from the California Housing and Community Development Department (HCD), a proposed final Housing Element was reviewed at a Planning Commission public hearing on _____ and adopted by the City Council at a public hearing on _____.

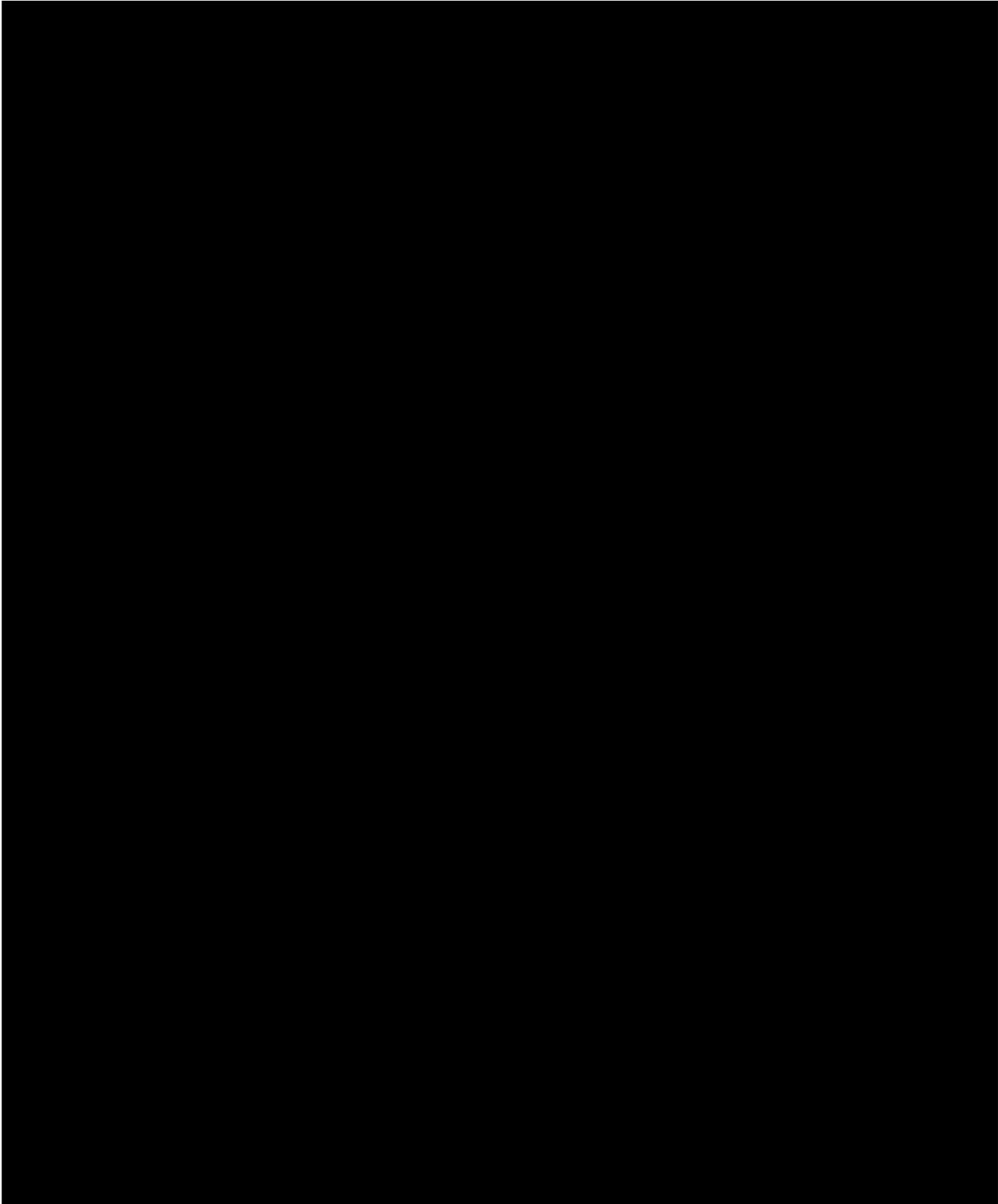
The City encouraged participation of low-income groups and persons with special needs through direct mail or e-mail notices of all Housing Element meetings. Table C-1 contains a list of parties that were sent notices. This list includes a number of non-profit housing providers, housing advocates, and fair housing organizations including the following:

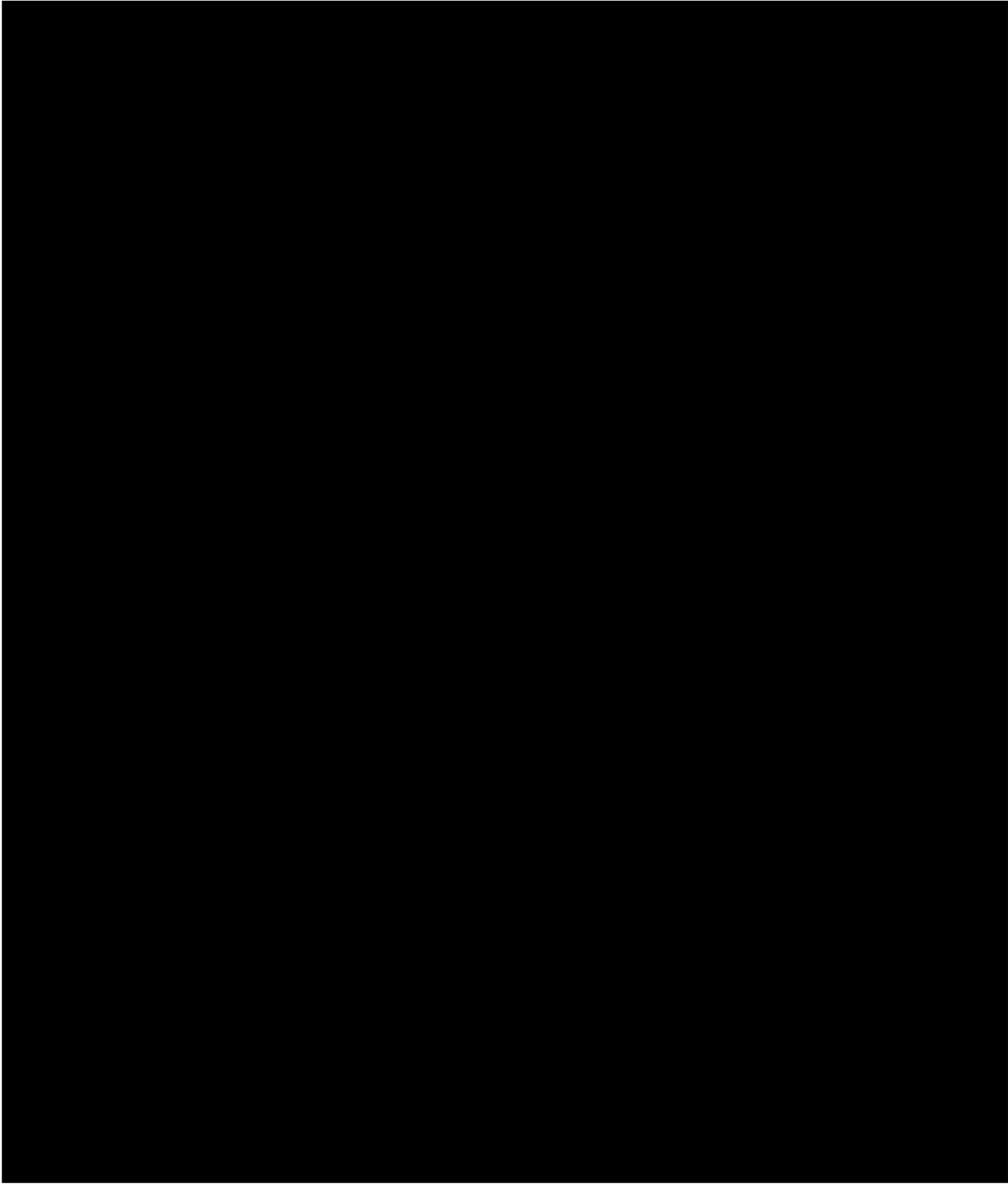
AMCAL Multi-Housing, Inc.	League of Women Voters
Alternative Living for the Aging	Legal Aid Foundation of LA
Area Housing Authority of Ventura County	LINC Housing
Building Industry Association	Many Mansions
Cabrillo Economic Development Corporation	Meta Housing
California Rural Legal Assistance	Olson Company
Community Action of Ventura County	Public Counsel Law Center
Community Housing Foundation Land Trust	Senior Concerns
Habitat for Humanity	So Cal Association of Non-Profit Housing
House Farm Workers	Upward Bound House
Housing Rights Center	Ventura County Civil Alliance
Jamboree Housing Corp.	Ventura County Housing & Homeless Coalition

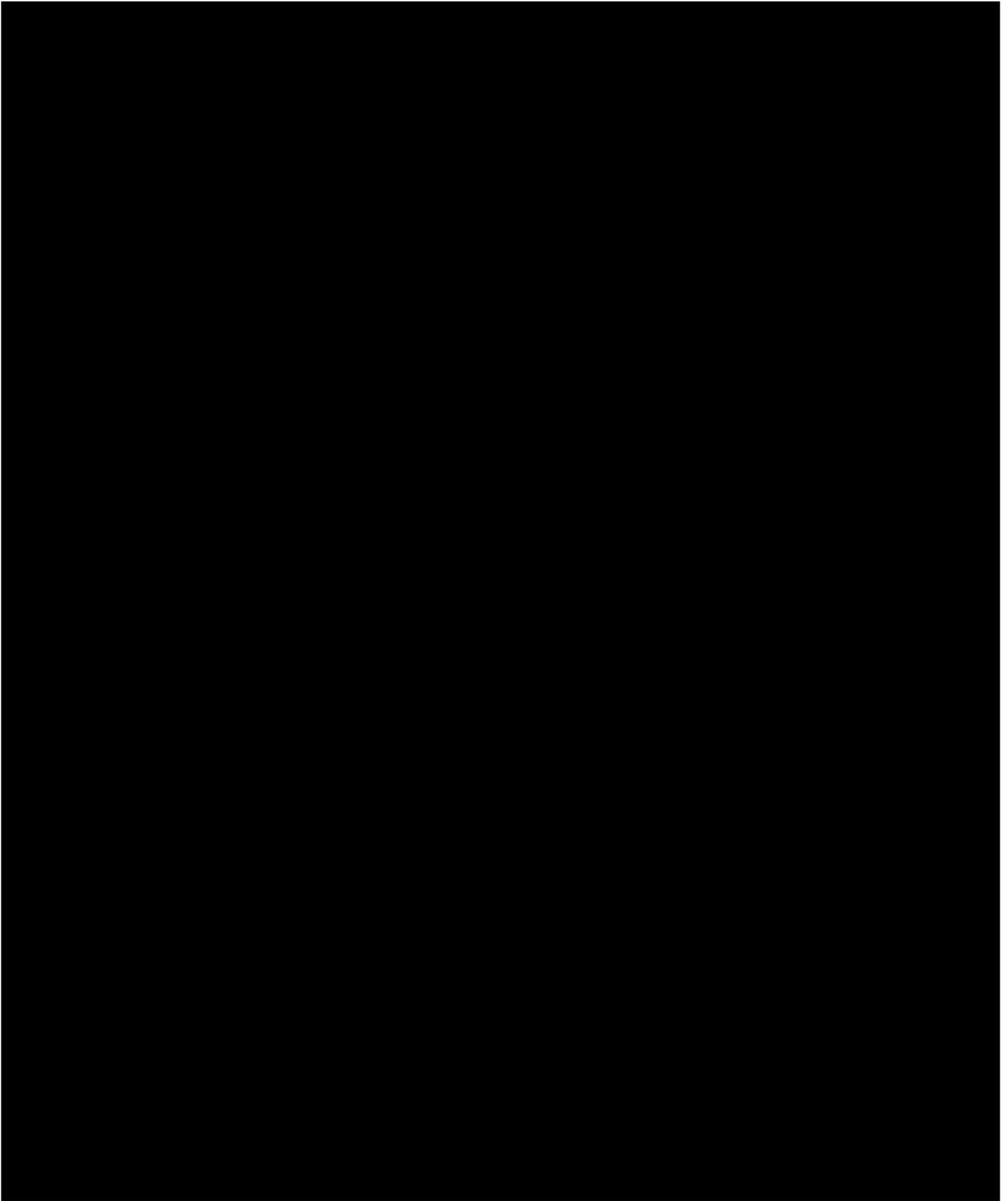
Table C-1
Public Notice Distribution List
City of Malibu Housing Element Update

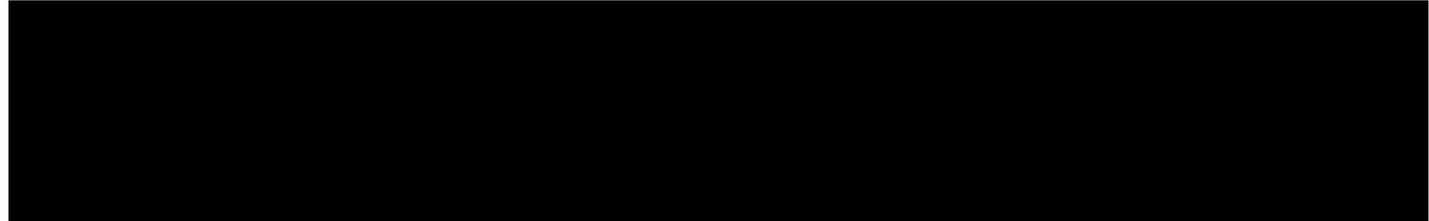
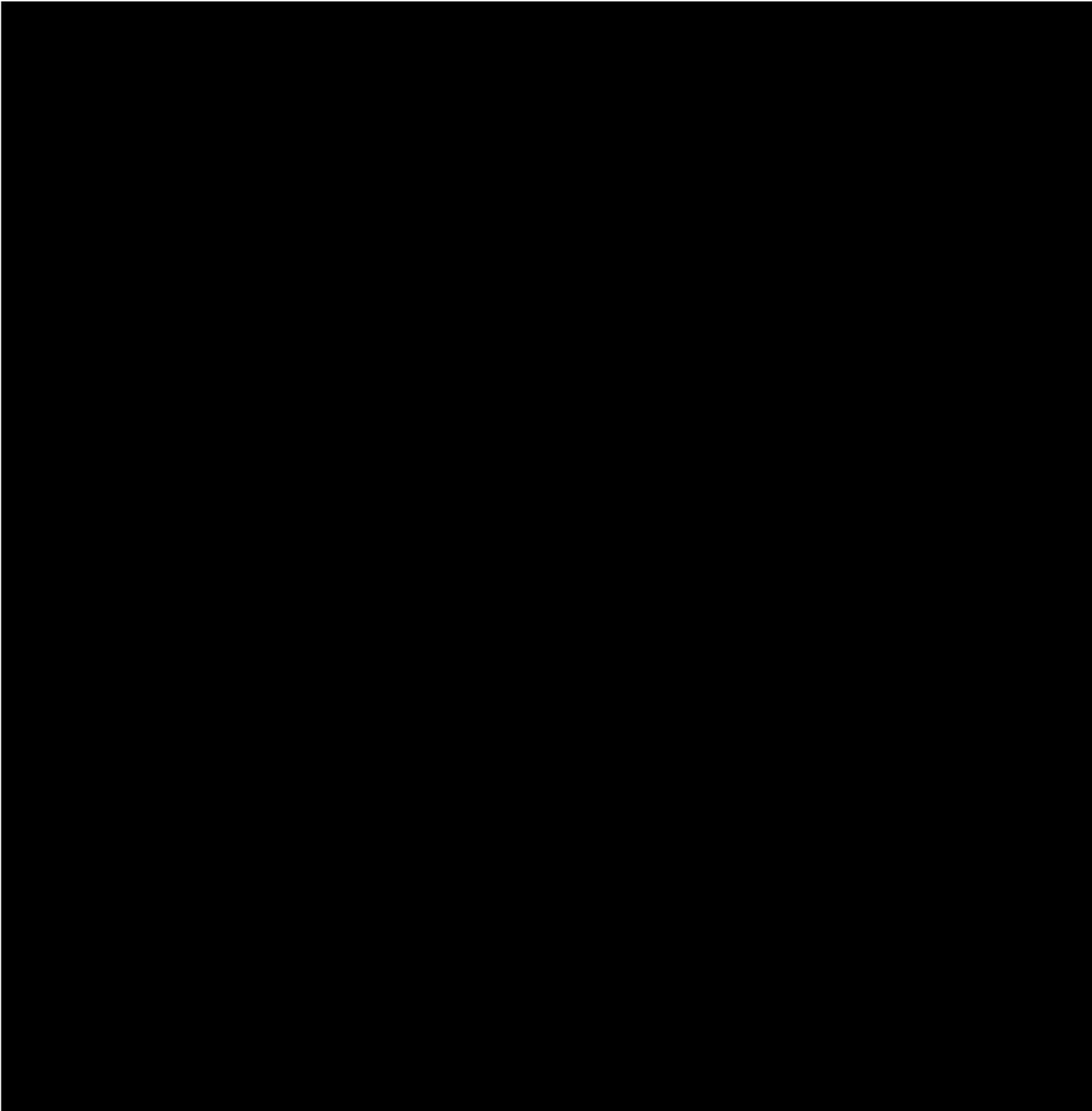
Available upon request by contacting the Planning Department.

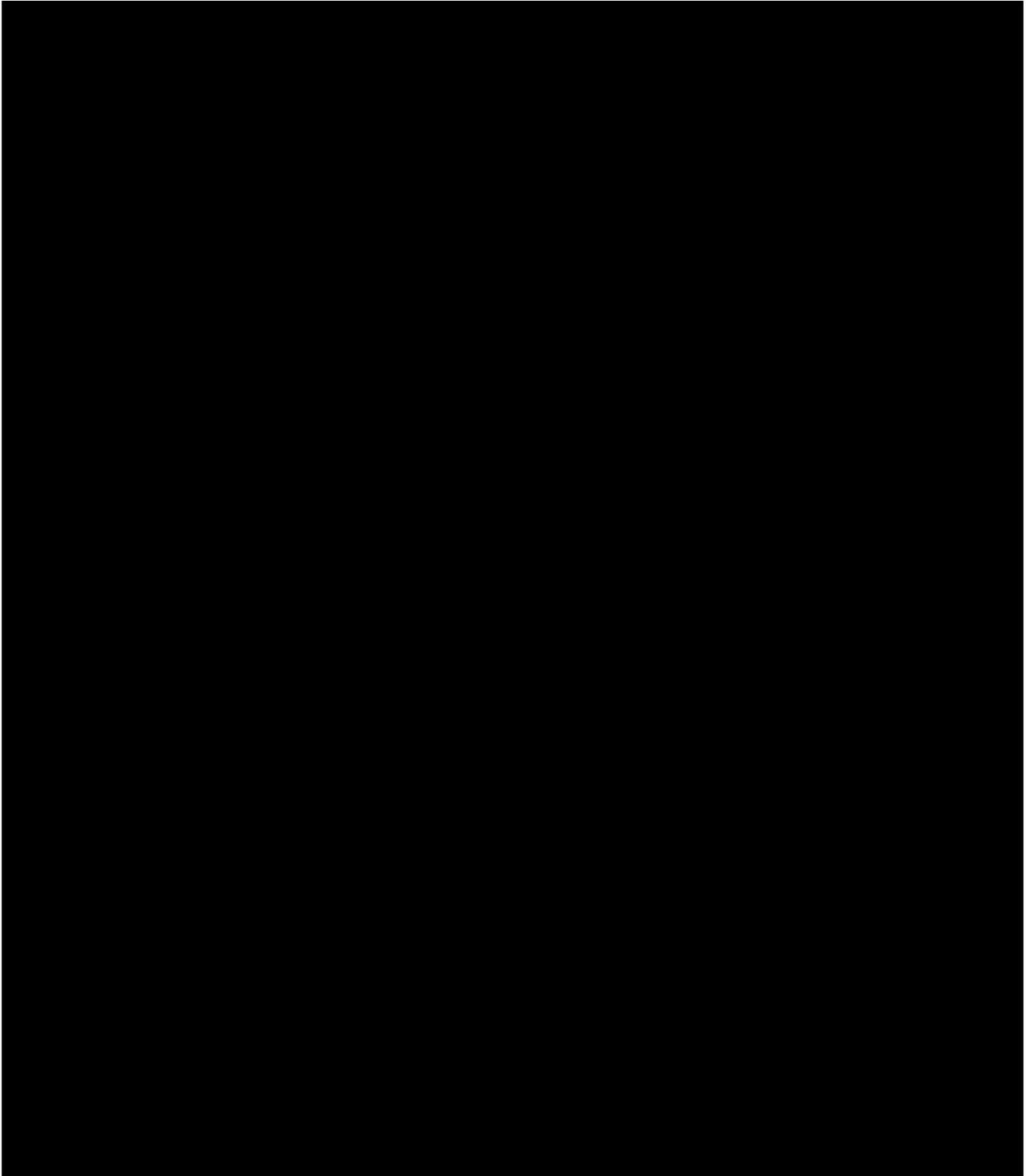












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Appendix D – List of Acronyms

AB	Assembly Bill
AHO	Affordable Housing Overlay
AMI	Areawide Median Income
CCC	California Coastal Commission
CCRL	California Community Redevelopment Law
CDBG	Community Development Block Grant
CDP	Coastal Development Permit
CEQA	California Environmental Quality Act
CUP	Conditional Use Permit
DOF	California Department of Finance
DU	Dwelling unit
ELI	Extremely low income
ESHA	Environmentally Sensitive Habitat Area
FAR	Floor area ratio
FMR	Fair market rent
HCD	California Department of Housing and Community Development
HMDA	Home Mortgage Disclosure Act
HUD	U.S. Department of Housing and Urban Development
LCP	Local Coastal Program
LIP	Local Implementation Plan
MF	Multi-family
RHNA	Regional Housing Needs Assessment
SB	Senate Bill
SCAG	Southern California Association of Governments
SF	Single-family

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From: [Anthony Dedousis](#)
To: [Mikke Pierson](#); [Reva Feldman](#); [Richard Mollica](#); [Justine Kendall](#)
Subject: 2021 Housing Element Update
Date: Monday, November 30, 2020 5:01:38 AM

Dear Mayor Pierson, Ms. Feldman, Ms. Kendall, and Mr. Mollica,

My name is Anthony Dedousis, and I'm director of policy and research at [Abundant Housing LA](#). We're a pro-housing education and advocacy group focused on helping to solve Southern California's housing crisis.

I'm reaching out to [share a letter](#) offering guidance for Malibu's upcoming 2021 housing element update. It contains a detailed summary of key legal requirements and recommended best practices for housing element updates, and highlights four critical components of the site inventory analysis portion of the housing element. We strongly recommend that you and your team follow these standards as you begin the housing element update process.

Additionally, we'd like to [share a memo](#) with additional detail on recommended best practices and legal requirements for the site inventory analysis, as well as a [one-page "checklist" summary version](#). These reflect guidance from the state Department of Housing and Community Development (HCD), legal scholars, and planners.

We would be glad to engage with your office and with the Planning Department throughout the housing element update process. We look forward to a productive and collaborative working relationship with the City of Malibu on this critical effort.

Thank you,

Anthony

--

Anthony Dedousis

Director, Policy and Research
Abundant Housing LA
515 S Flower Street, 18th Floor
Los Angeles, CA 90071
516-660-7402



November 30, 2020

Mayor Mikke Pierson
City of Malibu
23825 Stuart Ranch Road
Malibu, CA 90265

Dear Mayor Pierson,

We are writing on behalf of **Abundant Housing LA** regarding Malibu's upcoming 6th Cycle housing element update. Abundant Housing LA is a pro-housing education and advocacy organization working to help solve Southern California's housing crisis. We support efforts to reform zoning codes and expand housing production, which are needed to reduce rents, improve access to jobs and transit, strengthen the local economy and job market, and combat segregation. We have a large and growing membership base throughout Los Angeles County.

California has a statewide housing shortage of nearly 3.5 million homes, and [has the highest poverty rate in the nation](#) after accounting for housing costs. Households at all levels of income face a historically high rent burden. Exclusionary zoning and longstanding constraints on denser housing have led to an undersupply of medium and high density housing near jobs and transit. This contributes to high rents and displacement of households.

Over the past few years, new state laws (e.g. AB 686 (2018), SB 166 (2017), AB 1397 (2017), SB 828 (2018), SB 35 (2017), etc.) have strengthened the Regional Housing Needs Assessment (RHNA), which sets a housing growth target for individual jurisdictions and requires jurisdictions to update their housing elements in order to achieve these targets.

These changes to state law have led to historically high jurisdiction-level housing growth targets in the upcoming 6th Cycle Housing Element Planning Cycle, and have empowered the state Department of Housing and Community Development (HCD) to enforce appropriately high standards for housing element updates. We are encouraged that Malibu was given a target of **79 new homes, of which 45 must be affordable to lower-income households.**

As jurisdictions start the housing element update process, AHLA seeks to provide guidance on how jurisdictions should fulfill both the letter and the spirit of housing element law. Unfortunately, some jurisdictions are already seeking to skirt their obligation to sufficiently plan to meet their housing needs. AHLA will scrutinize jurisdictions' housing elements, submit comments to HCD as needed, and collaborate closely with nonprofits that bring legal action against jurisdictions that fail to comply with state housing laws.

Of course, AHLA recognizes that the COVID-19 pandemic and resulting economic devastation have made it more difficult for jurisdictions to meet ambitious RHNA targets. But the pandemic has made it even more critical than ever for jurisdictions to solve the region's housing crisis and



encourage economic recovery. We seek to collaborate with you and your team on policy efforts to achieve the RHNA goals.

To that end, we have published a memo, [Requirements and Best Practices for Housing Element Updates: The Site Inventory](#), explaining the key legal requirements, as well as HCD and AHFA's recommended best practices, for housing element updates. Additionally, [this checklist provides a summary of our core policy recommendations](#). We respectfully encourage you to incorporate the concepts detailed in these documents into Malibu's housing element update.

As your team begins to develop Malibu's housing element update, we would like to draw particular attention to four critical components of the site inventory analysis:

1. Incorporating an estimate of the **likelihood of development** and the **net new units if developed** of inventory sites
2. Using an HCD-recommended "safe harbor" methodology for **forecasting future ADU production**
3. Prioritizing high-opportunity census tracts and well-resourced areas (e.g. near transit, jobs, schools, parks, etc.) when selecting sites for lower-income housing opportunities, in order to **affirmatively further fair housing**
4. Including the HCD-recommended buffer of at least 15-30% extra capacity in the site inventory, in order to **avoid violating the No Net Loss requirement**

Component #1: Housing elements should estimate and report both the **likelihood of development** and the **net new units if developed** of inventory sites.

Just because jurisdictions zone for more housing doesn't mean that the housing will actually be built. The economic cycle, uncertainty of market conditions, the current usage of nonvacant sites, and land use regulations all influence the extent to which rezoned parcels are built to their maximum theoretical capacity.

A parcel's maximum theoretical capacity is not the same as its realistic capacity. To draw a parallel to college admissions, when UCLA wants 2,000 students in its incoming class, they admit 4,000 students. Similarly, to achieve housing production targets, jurisdictions must increase zoned capacity well above the target number of new homes.

An accurate assessment of site capacity is necessary in order for the housing element to achieve sufficient housing production. The site capacity estimate should account for the following **two factors**:

- What is the likelihood that the site will be developed during the planning period?
- If the site were to be developed during the planning period, how many net new units of housing are likely to be built on it?

These are the **likelihood of development**¹ and **net new units if developed**² factors, as required by HCD guidelines. The portion of the jurisdiction’s RHNA target that a site will realistically accommodate during the planning period is:

(likelihood of development) x (net new units if developed) = realistic capacity.

In past planning cycles, the likelihood of development factor was not expressly considered; housing elements frequently assumed that most or all site inventory locations would be redeveloped to their maximum theoretical capacity. Since this generally did not happen, jurisdictions consistently fell short of their RHNA targets as a result. This is the case for Malibu, which is not on a path to achieving its 5th cycle RHNA targets for very low, low, and moderate income housing. Through 2019, it has permitted 0 homes that are affordable at these income levels, despite an extremely low RHNA target of 2 homes. Worse, the 2019 Woolsey fire caused the destruction of 480 homes in Malibu³, leading to a net decrease in housing since the start of the 5th cycle.

5th Cycle RHNA Targets vs. Actual Housing Production (2014-19)

Income Bucket	RHNA Target	Homes Permitted
VLI	1	0
LI	1	0
MI	0	0
AMI	0	84
Total	2	84

According to Malibu’s 5th cycle housing element, the city had theoretical capacity for roughly 1,099 more housing units.⁴ Through 2019, Malibu permitted 84 housing units⁵, which equates to 112 housing units permitted by the end of the 5th cycle (assuming that the same annual permitting pace continues in 2020 and 2021). This implies that in Malibu, excess zoned capacity has a **10% likelihood of being developed** (112 actual units divided by 1,099 theoretical units).

Malibu’s 6th cycle housing element should incorporate this likelihood of development estimate into its site inventory analysis. This would be consistent with HCD guidelines,⁶ while also ensuring that enough zoned capacity is available to encourage 79 housing units to be built by

¹ [HCD Site Inventory Guidebook, pg. 20](#)
² [HCD Site Inventory Guidebook, pg. 21](#)
³ [Los Angeles Times, August 5, 2019](#)
⁴ [Malibu 5th Cycle Housing Element, pg. 71](#)
⁵ [HCD Annual Progress Report dataset, 2020](#)
⁶ [HCD Site Inventory Guidebook, pg. 20](#)



the end of the 6th cycle. Assuming that zoned capacity has a 10% likelihood of being developed in the next 8 years, **the housing element must allow for 790 units of zoned capacity in order to achieve 79 actual housing units.** If Planning believes that a higher likelihood of development (and thus a smaller zoned capacity increase) is justified for certain parcels in the site inventory, persuasive data to support this assumption must be provided.⁷

Component #2: Housing element updates should use an HCD-recommended “safe harbor” methodology for forecasting future ADU production.

Local jurisdictions frequently use overly optimistic estimates of future ADU production to avoid necessary housing reform and rezoning. ADU development estimates must reflect actual on-the-ground conditions to ensure that they are realistic. Overly aggressive ADU production estimates set jurisdictions up for failure in providing the required housing for residents.

To that end, HCD has established two safe harbors for forecasting ADU production during the 6th Cycle⁸. One option (“Option #1”) is to project forward the local trend in ADU construction since January 2018. The other, for use when no other data is available (“Option #2”), assumes ADU production at five times the local rate of production prior to 2018. Jurisdictions are also permitted to include programs that aggressively promote and incentivize ADU construction.

Where no other data is available, jurisdictions may assume an average increase of five times the previous planning period construction trends prior to 2018. Jurisdictions may also use regional ADU production trends, and include programs that aggressively promote and incentivize ADU construction. Jurisdictions should clearly and explicitly state their methodology and data sources for future ADU development forecasts.

According to HCD, Malibu issued permits for 1 ADU in 2017, 3 ADUs in 2018, and 7 ADUs in 2019. Under HCD’s “Option #1”, Malibu could take the average of the 2018 and 2019 ADU production trends, and forecast that 5 ADUs will be permitted per year during the 6th cycle. This would allow for a **total 6th cycle forecast of 40 ADUs.**

Under HCD’s “Option #2”, Malibu could multiply the 2017 ADU production trend by five, and forecast that 5 ADUs will be permitted per year during the 6th cycle. This also would allow for a **total 6th cycle forecast of 40 ADUs.**

Another, more aggressive, option would take the average of the 2018 and 2019 ADU production trends, and multiply that average by five. This methodology would forecast that 25 ADUs will be permitted per year during the 6th cycle. This would allow for a **total 6th cycle forecast of 200 ADUs.** Abundant Housing LA does not recommend this methodology, since it is not an HCD-defined safe harbor forecasting option.

⁷ [HCD Site Inventory Guidebook, pg. 20-21](#)

⁸ [HCD Site Inventory Guidebook, pg. 31](#)

Malibu should use HCD’s Option 1 or 2 safe harbor when projecting annual ADU production. If it believes that higher ADU production forecasts are warranted, it must provide well-grounded estimates, based on the pace of ADU production in neighboring jurisdictions, and must explain programs or policy efforts that could lead to higher ADU production.

Finally, per HCD, the housing element “should also include a monitoring program that a) tracks ADU and JADU creation and affordability levels, and b) commits to a review at the planning cycle midpoint to evaluate if production estimates are being achieved.”⁹ Malibu’s housing element should commit to mid-cycle rezoning if ADU production is lower than forecasted, and its midpoint review should be linked with immediate and automatic programs to increase housing production in the second half of the RHNA cycle. AHLA’s recommended approach is to incorporate by-right density bonuses on inventory sites, which would automatically take effect mid-cycle if the ADU target is not met. The density bonus should be large enough, and apply to enough parcels, to fully make up for any ADU production shortfall.

Component #3: Housing elements must prioritize high-opportunity census tracts and well-resourced areas (e.g. near transit, jobs, schools, parks, etc.) when selecting sites for lower-income housing opportunities, in order to affirmatively further fair housing.

AB 686 (2018) requires housing element updates to “affirmatively further fair housing”, which is defined as “taking meaningful actions, in addition to combating discrimination, that overcome patterns of segregation and fosters inclusive communities free from barriers that restrict access to opportunity based on protected characteristics.”

In our region, housing policy and land use regulations were once used to exclude members of minority groups. [Redlining and restrictive covenants, which restricted where Black Americans could live, were once commonplace throughout Los Angeles County.](#) Malibu remains segregated today, with white Americans making up nearly 80% of the city’s population.¹⁰ Exclusion also continues on the basis of income: the estimated median home value in Malibu is \$3.3 million¹¹, and 24% of the city’s renters are “rent-burdened” (i.e. they spend more than 30% of their income on rent)¹². High housing costs place a disproportionate burden on lower-income communities of color, and have the effect of excluding them from the city altogether.

Jurisdictions must address this issue by accommodating the lower-income RHNA targets in a way that conforms with AFFH requirements. HCD’s Site Inventory Guidebook offers recommendations for **how** jurisdictions should accomplish this. HCD is **likely to require jurisdictions to distribute lower-income housing opportunities throughout the**

⁹ [HCD Site Inventory Guidebook, pg. 31](#)

¹⁰ American Community Survey, 2014-18

¹¹ [Zillow Home Value Index, Malibu](#)

¹² American Community Survey, 2014-18



jurisdiction, and recommends that jurisdictions first identify development potential for lower-income housing in high-opportunity neighborhoods¹³.

Given that single-family, exclusionary zoning predominates in Malibu, and that its single census tract is classified as “highest-opportunity” [in the TCAC/HCD Opportunity Map](#), rezoning is required in order to accommodate the RHNA targets for lower-income households. Additionally, focusing rezoning in single-family zoned areas will expand housing opportunities while minimizing the impact on existing renters in multifamily-zoned areas.

In order to fairly distribute housing opportunities citywide, Malibu should develop a quantitative methodology for scoring neighborhoods, based on factors like housing costs, median income, access to transit, access to jobs, access to schools, and environmental quality. Neighborhoods that score higher on these dimensions should be allocated higher housing growth targets, and rezoning should be based on these neighborhood-level housing growth targets.

Finally, Malibu should identify funding sources, public resources, and density bonus programs to maximize the likelihood that housing projects with below market-rate units are actually built. Local measures like a [real estate transfer tax](#) and [congestion pricing](#) could help generate new funding to support affordable housing production and preservation.

Component #4: Housing elements should include the HCD-recommended buffer of at least 15-30% extra capacity in the site inventory, in order to avoid violating the No Net Loss requirement.

SB 166 (2017) requires adequate sites to be maintained **at all times** throughout the planning period to accommodate the remaining RHNA target by each income category.¹⁴ This means that if a jurisdiction approves a development on a parcel listed in the site inventory that will have fewer units (either in total or at a given income level) than the number of units (either in total or at a given income level) anticipated in the site inventory, then the jurisdiction must identify and make available enough sites to accommodate the remaining unmet RHNA target for each income category.¹⁵

If additional sites with adequate zoned capacity don’t exist, then the jurisdiction must rezone enough sites to accommodate the remaining unmet RHNA target within 180 days. If the jurisdiction fails to accomplish this rezoning in the required period, then the consequences will include decertification of the housing element and potential state legal action.

To ensure that adequate housing capacity at all income levels exists in the housing element through the 6th Cycle, HCD recommends that “the jurisdiction create a buffer in the housing

¹³ [HCD Site Inventory Guidebook, pg. 3](#)

¹⁴ HCD [No Net Loss Law Memo](#), pg. 1

¹⁵ [HCD Site Inventory Guidebook, pg. 22](#)



element inventory of at least 15-30% more capacity than required, especially for capacity to accommodate the lower income RHNA.”¹⁶ **Malibu should “overshoot” on total site capacity for each income level, in order to ensure that the City’s RHNA target is achieved at all income levels.**

The City of Malibu has an obligation to sufficiently plan to meet current and future residents’ housing needs. The housing element update affords Malibu, and the broader Southern California region, the chance to take bold action on lowering housing costs, reducing car dependency, strengthening the local economy, and guaranteeing access to opportunity for Californians of all racial and ethnic backgrounds. We urge you and your colleagues to fully embrace this opportunity to transform Malibu for the better.

Finally, it is worth noting that state law imposes penalties on jurisdictions that fail to adopt a compliant 6th cycle housing element update by October 15, 2021. On that date, noncompliant jurisdictions will forfeit the right to deny residential projects on the basis of local zoning, so long as projects include at least a 20% set-aside for below market-rate units¹⁷. Jurisdictions that want to maintain local control over new development should therefore plan to adopt a compliant housing element update on time.

We would be glad to engage with your office and with the Planning Department throughout the housing element update process. We look forward to a productive and collaborative working relationship with the City of Malibu on this critical effort. Thank you for your consideration.

Sincerely,

Leonora Camner
Executive Director
Abundant Housing LA

Anthony Dedousis
Director of Policy and Research
Abundant Housing LA

¹⁶ [HCD Site Inventory Guidebook, pg. 22](#)

¹⁷ [California Government Code 65589.5\(d\)\(5\)](#)

Requirements and Best Practices for Housing Element Updates: Checklist

Abundant Housing LA

Site Capacity Assessment

- Does the housing element estimate and report both the **likelihood of development** and the **net new units if developed** of inventory sites, both vacant and nonvacant?
- Does the housing element **report the proportion of sites from the previous housing element's inventory that were developed** during the previous planning period?
 - If not, were HCD-recommended methodologies and data sources used in order to conduct a thorough "factors" analysis of sites' realistic development capacity?
- Does the housing element declare a "fundamental, mandatory, and clear" policy of allowing inventory sites to be developed at the density ascribed to them in the housing element?
- If the housing element assigns more than 50% of the lower-income RHNA target to nonvacant sites, were statistical methods (e.g. surveying a random sample of owners of nonvacant sites) used to determine that the sites' existing uses are likely to be discontinued during the planning period?
- Was a buffer **of at least 15-30%** extra capacity included in the housing element site inventory, especially for capacity to accommodate the lower-income RHNA target?

Affirmatively Furthering Fair Housing

- Does the housing element include a thorough analysis of local patterns in socioeconomic/racial segregation and integration, including patterns of overt racial or ethnic discrimination in the housing and land development market?
- Does the housing element prioritize high-opportunity census tracts and well-resourced areas (e.g. near transit, jobs, schools, parks, etc.) when selecting sites for lower-income housing opportunities?
- Does the housing element identify funding sources, public resources, and density bonus programs to maximize the likelihood that projects with below-market-rate units are built?
- Did the jurisdiction solicit public feedback and commentary on the housing element in a way that accurately reflects the jurisdiction's socioeconomic makeup?

Forecasts of ADU Development

- Did the housing element use an HCD-recommended safe harbor methodology for forecasting future ADU production?
- Does the housing element provide for mid-cycle adjustments if a) inventory sites are developed at lower rates, or lesser densities, than the housing element anticipated and if b) ADU production falls short of projections?
 - Do mid-cycle adjustments automatically implement a by-right density bonus on inventory sites, starting mid-cycle, and is it large enough to make up for an ADU shortfall?

Requirements and Best Practices for Housing Element Updates: The Site Inventory
Abundant Housing LA
August 18, 2020

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[Background](#)

[Part 1 - General Principles for Site Inventory Assessment](#)

[Part 2 - Capacity Assessment for Vacant Sites: Minimum Zoned Density Method](#)

[Part 3 - Capacity Assessment for Vacant and Nonvacant Sites: Factors Method](#)

[Part 4 - Site Selection and the Duty to Affirmatively Further Fair Housing](#)

[Part 5 - Findings Required if the Housing Element Assigns >50% of the Lower-Income RHNA Target to Nonvacant Sites](#)

[Part 6 - Forecasts of ADU Development and Credits for Anticipated Production](#)

[Part 7 - No Net Loss](#)

[Part 8 - What If the RHNA Target is Not Realistic?](#)

Background

California has a statewide housing shortage of nearly 3.5 million homes, and households at all levels of income face a historically high rent burden throughout the state. Exclusionary zoning and longstanding constraints on denser housing production have led to an undersupply of medium and high density housing near jobs and transit, contributing to high rents and displacement of households across Southern California.

Over the past few years, new state laws (e.g. AB 686 (2018), SB 166 (2017), AB 1397 (2017), SB 828 (2018), SB 35 (2017), etc.) have strengthened the Regional Housing Needs Assessment (RHNA), a state-mandated process that sets a housing growth target for individual jurisdictions, and requires jurisdictions to update their housing elements in order to achieve the RHNA targets. These changes have led to historically high jurisdiction-level housing growth targets in the upcoming 6th Cycle Housing Element Planning Cycle, and have empowered the state Department of Housing and Community Development (HCD) to enforce appropriately high standards for housing element updates. As a result, the 6th Housing Element Planning Cycle has the potential to be transformative for our region and to relieve its housing crisis.

As jurisdictions start the housing element update process, Abundant Housing LA (AHLA) seeks to provide guidance on how jurisdictions should fulfill both the letter and the spirit of housing element law. Unfortunately, some jurisdictions are already seeking to skirt their obligation to sufficiently plan to meet their housing needs. AHLA will scrutinize jurisdictions' housing elements, submit comments to HCD as needed, and collaborate closely with nonprofits that bring legal action against jurisdictions that fail to comply with state housing laws.

To that end, we've prepared this report to explain both the key legal requirements and our recommended best practices for the housing element updates. These guidelines will inform how AHLA will review, assess, and comment on housing element updates. We believe that jurisdictions that follow these guidelines will succeed in designing housing element updates that expand the availability of housing at all income levels, reduce longstanding patterns of racial segregation and lack of equal access to high-resource areas, and promote climate-friendly living patterns that increase transit usage and reduce carbon emissions from transportation.

This report is focused on the **site inventory assessment** portion of the housing element update. HCD has provided detailed guidance on requirements and best practices for the site inventory assessment in its [Site Inventory Guidebook](#), and this report identifies the most impactful elements of housing element law and the Guidebook to help jurisdictions simplify their housing element process and implement policies that encourage significant housing production.

Housing element law also requires an analysis of constraints on housing development and a program to mitigate or remove these constraints. This is a substantial topic that merits its own Requirements and Best Practices analysis, and we will address it in a future report. Finally, while this report addresses the legal requirement to affirmatively further fair housing in the site

inventory assessment, it is worth noting that HCD will soon release a technical assistance memo offering more specifics on how to address AFFH requirements in the housing element.

Part 1 - General Principles for Site Inventory Assessment

[See HCD's Site Inventory Guidebook, June 2020](#) for citations and examples

The site inventory and assessment of capacity is the heart of the housing element. But the numerous, sometimes convoluted, requirements and factors for assessing capacity make it easy to lose sight of the [big picture](#). This report presents AHLA's view of the big picture, and explains what we'll be looking for when we review, comment on, and litigate housing elements.

The big picture is this: housing element law aims to bring about the production of the total RHNA target and, where feasible, the subsidiary targets in each income bin.¹ A further goal is to enable the development of relatively low-cost housing types in high-opportunity neighborhoods (Gov't Code 65583(c)(10)), which helps to address jurisdictions' requirement to affirmatively further fair housing (see Part 3). Ambiguities in the law should be worked out with these central objectives in view.

An accurate assessment of site capacity is necessary in order for the housing element to achieve the above central objectives. The site capacity estimate should account for the following **two factors**:

- What is the likelihood that the site will be developed during the planning period?
- If the site were to be developed during the planning period, how many net new units of housing are likely to be built on it?

We call these the **likelihood of development** (pg. 20, Guidebook) and **net new units if developed** (pg. 21, Guidebook) factors. The portion of the jurisdiction's RHNA target that a site will realistically accommodate during the planning period is:

(likelihood of development) x (net new units if developed) = realistic capacity.²

In past planning cycles, the likelihood of development factor was not expressly considered, and jurisdictions consistently fell short of their targets. Not accounting for the likelihood factor in a housing plan is like failing to account for the probability of enrollment in a college admissions plan. When UCLA wants a first-year class of 6,000 students, it admits 14,000 high school seniors, knowing that many who are offered admission will decline.

Similarly, not every owner of a suitably zoned site will accept the "offer" to develop it during the planning period. In fact, the median city is on track to develop [only 25% of the nominal site capacity](#) of its 5th cycle housing element.

¹ [Elmendorf et al. "Making It Work: Legal Foundations for Administrative Reform of California's Housing Framework"](#)

² The example calculation of realistic capacity on pg. 21-22 of the Guidebook is instructive here.

Recent amendments to the housing element law, including AB 1397 and SB 6, position HCD to require discounting of the **net new units if development** factor by the likelihood of development factor. The Guidebook directs attention to the likelihood of development factor on pg. 20-22 and pg. 25.

Part 2 - Capacity Assessment for Vacant Sites: Minimum Zoned Density Method

See [HCD's Site Inventory Guidebook](#), pg. 19 for citations and examples

The housing element law provides jurisdictions with a “safe harbor” for counting vacant, residentially zoned sites at their **minimum** zoned density. Although it’s not clear that this provision excuses jurisdictions from accounting for the site’s likelihood of development, the Guidebook interprets the safe harbor in this way. AHLA will accept this interpretation.

Principal requirements for legal compliance

A housing element that uses the minimum zoned density safe harbor must ensure that “overlay zones, zoning allowing nonresidential uses, or other factors potentially impacting the minimum density” will not preclude development of the site at that density (pg. 19). The only way to provide this guarantee is to declare in the housing element a “fundamental, mandatory, and clear” policy of allowing inventory sites to be developed at the density ascribed to them in the housing element. The housing element is a component of the general plan, and under background principles of state law, any “fundamental, mandatory and clear” policy of the plan supersedes contrary municipal ordinances and regulations, and is judicially enforceable.

Recommended best practices

We counsel against use of the “minimum zoned density” safe harbor, as it may be highly unrealistic. It both ignores the possibility that the site won’t be developed at all during the planning period, and the possibility that the site will be developed at a density exceeding the minimum. That said, if a jurisdiction does use the “minimum zoned density” safe harbor, the housing element should certainly declare a “fundamental, mandatory and clear” policy of allowing development at the stipulated minimum density.

Part 3 - Capacity Assessment for Vacant and Nonvacant Sites: Factors Method

See [HCD's Site Inventory Guidebook](#), pg. 19-26 for citations and examples

For vacant sites, the alternative to relying on the “minimum zoned density” safe harbor is to assess capacity using what the Guidebook calls the “factors” or “Step 2” method (pg. 19). The statute lists a number of overlapping factors to be considered, such as “realistic capacity,” “current or planned availability and accessibility of sufficient water, sewer, and dry utilities,” “typical densities of existing or approved residential developments,” and “land use controls and site improvement requirements.” (Gov’t Code 65583.2(c)(2); Guidebook pg. 19).

The statute is confusing because the various factors are all subsumed by the concept of **realistic capacity** (i.e. **likelihood of development** multiplied by **net new units if developed**), which is itself listed as one of the factors (pg. 20)). For example, if a site doesn't have current or planned access to utilities, the site is very unlikely to be developed during the planning period, and hence has little realistic capacity.

Another section of the statute lists additional factors to be weighed in assessing the capacity of nonvacant sites. These include “the extent to which existing uses may constitute an impediment to additional residential development, ... past experience with converting existing uses to higher density residential development, the current market demand for the existing use, an analysis of any existing leases or other contracts ..., development trends, market conditions, and regulatory or other incentives or standards to encourage additional residential development.” (Gov't Code 65583.2(g), Guidebook pg. 24-26). All of these factors bear in one way or another on the two central questions identified in Part 1: **What is the site's likelihood of development during the planning period, and how many net new units will be built if it is developed?** Jurisdictions should estimate site inventory capacity in a way that directly addresses these two questions.

Principal requirements for legal compliance

The factors listed in Gov't Code 65583.2(c) and (g) should not be treated as a mechanical checklist, such that a housing element “complies” if it discusses every factor, and “fails to comply” if it doesn't. Rather, the housing element's analysis of vacant site capacity (using the factor method) and of nonvacant site capacity, should focus on whether the jurisdiction reasonably assessed both the **likelihood of development** and the **net new units if developed** of the sites in the inventory.³

Every housing element should **report the proportion of sites from the previous housing element's inventory that were developed** during the previous planning period. This proportion need not be used as a proxy for current inventory sites' likelihood of development, but it provides a starting point, especially “[i]f no information about the rate of development of similar parcels is available.” (Guidebook, pg. 21) A jurisdiction may find that current inventory parcels have a higher likelihood of development, possibly owing to new “market conditions” or “regulatory or other incentives” that the jurisdiction had enacted to facilitate the sites' development (Gov't Code 65583.2(g)). But if the housing element assumes a likelihood of development for a given site that is higher than the likelihood implied by past performance, the assumption requires justification (“The methodology analysis must describe how each of these adjustments was generated” (pg. 21)).

Again, jurisdictions must estimate and report both the **likelihood of development** and the **net new units if developed** of inventory sites. This requirement doesn't impose a single methodology for **how** jurisdictions should estimate these two factors. Rather, this requirement

³ During economic recessions, the rate of housing development usually falls. A housing element's assessment of development likelihood may properly focus on normal years, not recession or pandemic years.

improves accountability (e.g. makes it easier to compare capacity assessment methodologies across jurisdictions) while leaving jurisdictions flexibility to estimate the two factors in any reasonable manner.

For this reason, AHLA will scrutinize housing elements to ensure that jurisdictions provide both a “likelihood of development” and a “net new units if developed” number for every parcel in the inventory (excluding vacant sites counted at their minimum zoned density), as well as a reasonable justification for likelihood of development estimates that exceed the rate of development from the previous housing element’s inventory.

If the analysis of inventory sites’ capacity reveals a shortfall (relative to the RHNA) under current zoning, the housing element must include rezoning programs to make additional capacity available (Gov’t Code 65583(c)(1)). These rezoning programs should be described with enough specificity for site owners to determine how much they will be allowed to build. The Housing Accountability Act (HAA) disallows jurisdictions from denying or reducing the density of projects (with at least a 20% affordable set-aside) if the project is “consistent with the density specified in the housing element, even though it is inconsistent with ... the jurisdiction’s zoning ordinance.” (Gov’t Code 65589.5(d)). The HAA thus presupposes that housing elements will include site-specific plans for accommodating the RHNA, even if the plan necessitates greater density than the zoning code currently allows.

Recommended best practices

To ensure that inventory sites can actually be built to the intended density, AHLA recommends that jurisdictions declare a “fundamental, mandatory, and clear” policy of allowing development of the number of units anticipated in the housing element. The policy should also declare an average unit size that will be allowed on the site. These declarations would entitle developers to an exception from local ordinances and regulations that physically preclude development of inventory sites to the scale and density anticipated in the housing element. The declaration may provide for exceptions if development would have an adverse health or safety impact within the meaning of the Housing Accountability Act. (Gov’t Code 65589.5(j)).

Because development trends and market conditions are subject to change, AHLA recommends that housing elements provide for mid-cycle adjustments if inventory sites are developed at lower rates, or lesser densities, than the housing element anticipated. The mid-cycle adjustment could take the form of:

- An automatic density bonus on inventory sites
- An option for developers to elect ministerial permitting of projects on inventory sites
- A procedure for developers to obtain waivers of fee, exaction, or parking and design requirements that make it economically infeasible to develop inventory sites to the density the housing element anticipated

Part 4 - Site Selection and the Duty to Affirmatively Further Fair Housing

[See HCD's Site Inventory Guidebook, pg. 9, and HCD's AB 686 Summary of Requirements in Housing Element Law, April 2020](#) for citations and examples

High-income neighborhoods with good access to jobs, transit, schools, and parks tend to have very high housing costs. Racially motivated zoning [created many of these neighborhoods](#), and today's single-family zoning reinforces historical patterns of racial and income segregation, disproportionately harming Black and Latino communities.

AB 686 requires jurisdictions to analyze fair housing issues and to affirmatively further fair housing (AFFH) through their housing element. It's no longer permissible to allow relatively affordable housing to be built only in areas of socioeconomic disadvantage.

Below, we summarize AHLA's understanding of the AFFH requirements in relation to housing elements, specifically the site inventory and associated rezoning programs. HCD intends to release a technical assistance memo about AFFH requirements (Guidebook, pg. 9), and we will update our guidance after that memo is released.

Principal requirements for legal compliance

The new AFFH duty encompasses **analytic, programmatic, and procedural** requirements. Housing elements must analyze "available federal, state, and local data and knowledge to identify integration and segregation patterns and trends, racially or ethnically concentrated areas of poverty, disparities in access to opportunity, and disproportionate housing needs within the jurisdiction, including displacement risk." (Gov't Code 65583(c)(10)). The analysis must dig into causes as well as patterns (Gov't Code 65583(c)(10)(iii)).

AHLA will monitor housing elements to ensure that the fair housing analysis **acknowledges any publicly available data or reports about the history of overt racial or ethnic discrimination in the jurisdiction's housing and land development market**. This includes racial covenants, racially discriminatory lending, and the adoption of exclusionary zoning in response to actual or feared demographic change.

With respect to the site inventory and rezoning programs, a housing element must not concentrate opportunities for affordable housing development in areas of segregation or high poverty. Rather, "sites must be identified throughout the community in a manner that affirmatively furthers fair housing." (Guidebook, pg. 9). Additionally, the site inventory must not only include an analysis of site capacity to accommodate the RHNA target for each income level, "but also whether the identified sites serve the purpose of replacing segregated living patterns with truly integrated and balanced living patterns, transforming racially and ethnically concentrated areas of poverty into areas of opportunity" (pg. 6, AB 686 Summary).

The [TCAC/HCD Opportunity Area Maps](#), which characterize existing socioeconomic patterns at the census tract level, can be used to gauge compliance with this requirement. **AHLA will oppose housing elements that fail to accommodate at least a pro-rata portion of the lower-income RHNA in high-opportunity census tracts** (e.g. if 30% of a jurisdiction’s land area is located in high-opportunity tracts, then at least 30% of the lower-income RHNA should be allocated to such tracts.)

Regarding procedure, the jurisdiction “shall make a diligent effort to achieve public participation of all economic segments of the community in the development of the housing element, and the program shall describe this effort.” (Gov’t Code 65583(c)(7)). Housing elements should not cater to the predominantly [wealthy, white, and homeownership populations that customarily dominate land-use policy forums](#).

Recommended best practices

Analysis: AHLA recommends that jurisdictions set up a public web portal to elicit studies and other information about the history of overt racial, ethnic, and socioeconomic discrimination in their community. This portal should go online at least one year prior to the target date for completing the draft housing element.

Programs: Particularly in communities with a history of discrimination and substantial racial or socioeconomic segregation, housing elements should go beyond the minimal duty not to further concentrate lower-income housing in disadvantaged areas. As the Guidebook explains (p. 9), jurisdictions should try to accommodate as much of the lower-income RHNA as possible on sites with:

- Proximity to transit
- Access to high performing schools and jobs
- Access to amenities, such as parks and services
- Access to health care facilities and grocery stores
- No need for environmental mitigation

A housing element must affirmatively “[a]ssist in the development of adequate housing to meet the needs of extremely low, very low, low, and moderate-income households” (Gov’t Code 65583(c)(2)). The AFFH program should use available public resources, including real estate transfer taxes, publicly owned land, and the potential for “super” density bonuses (in excess of those under state law) for projects with below-market-rate units. **Simply rezoning parcels to the density that state law deems suitable for affordable housing isn’t enough.**

Procedure: To overcome bias in patterns of public participation, jurisdictions should sample a random cross-section of the community (e.g., from voter or jury rolls), and elicit the respondents’ preferences and priorities regarding zoning and residential development. If response rates vary with demographic or geographic characteristics of respondents, the survey results should be reweighted accordingly so that they more accurately reflect the distribution of opinion within the community.

Additionally, when the jurisdiction takes public comment on its draft housing element, it should require commentators to provide their name and address. Comments from people whose name or address cannot be verified should be disregarded. Names should be matched to property tax records (to determine whether the commentator is a homeowner), and addresses should be matched to census tracts (to determine whether the commentator lives in a high-opportunity or low-opportunity neighborhood). If the pattern of participation proves to be demographically skewed, the jurisdiction should give less weight to the comments.

Part 5 - Findings Required if the Housing Element Assigns >50% of the Lower-Income RHNA Target to Nonvacant Sites

[See HCD's Site Inventory Guidebook](#), pg. 26-28 for citations and examples

If a housing element assigns more than 50% of the lower-income RHNA to nonvacant sites, the jurisdiction must make findings supported by “substantial evidence” that the sites’ existing uses are “likely to be discontinued during the planning period.” (Gov’t Code 65583.2(g)(2)).

This “findings requirement” should be approached with practical considerations in view. In communities where most sites have already been developed, there are real advantages to assigning the lower-income RHNA target to nonvacant sites. This tends to advance fair housing goals, as vacant sites in already-developed jurisdictions are likely to be concentrated in poor communities. Moreover, by spreading the RHNA target over a large number of sites, a jurisdiction hedges against the risk of unanticipated development barriers on any given site. Much as the prudent investor diversifies her portfolio of assets (rather than trying to pick a few “winning” stocks), the prudent jurisdiction plans to accommodate its RHNA target on a large and diverse portfolio of sites.

However, the Guidebook implies (pg. 26-28) that if a jurisdiction assigns more than 50% of its lower-income RHNA to nonvacant sites, the jurisdiction must make findings about the discontinuation of existing uses **for each individual site**. This becomes increasingly impractical as the number of sites grows. As such, it could discourage jurisdictions from pursuing prudent, diversified strategies for site capacity and fair housing compliance.

Principal requirements for legal compliance

It’s not yet clear what courts will deem sufficient to satisfy the “findings requirement”. To encourage diversification, AHFA endorses [Monkkonen et al.’s proposal](#) to interpret “likely to be discontinued” to mean “more likely to be discontinued than the development probability claimed for the site.” Since redevelopment **by definition** requires discontinuation of the current use, the findings requirement should be deemed satisfied if:

- The housing element discounts inventory sites’ “net new units if developed” by the likelihood of development, using factors supported by substantial evidence, and

- The aggregate realistic capacity of the housing element’s lower-income inventory sites equals or exceeds the RHNA target.

In a recent [webinar](#), HCD presenters interpreted “likely to be discontinued” to mean “a greater than 50% chance of being discontinued.” Though different from Monkkonen et al.’s approach, this interpretation is also reasonable. However, it may unnecessarily hinder the distribution of the lower-income RHNA to nonvacant sites, particularly if site-specific discontinuation-of-use findings are required.

Recommended best practices

To the extent that jurisdictions adopt the “greater than 50%” interpretation, AHLA encourages jurisdictions to use statistical methods to justify the requisite findings, at least for housing elements that rely on large numbers of nonvacant sites.

For example, a jurisdiction or its Council of Governments could survey a random sample of owners of nonvacant sites, asking whether they intend to discontinue their current use during the next eight years. If 40% of the site owners answer affirmatively, the jurisdiction could assume that 40% of its nonvacant inventory sites satisfy the “existing uses are likely to be discontinued” condition. The housing element’s nonvacant site capacity (for lower-income housing) would be deemed sufficient if the jurisdiction’s lower-income RHNA could realistically be accommodated on 40% of such sites, chosen at random from the inventory. This is a way for jurisdictions to comply with the statutory findings requirement while employing a large, diversified portfolio of inventory sites.

Part 6 - Forecasts of ADU Development and Credits for Anticipated Production

See [HCD’s Site Inventory Guidebook](#), pg. 30-32 for citations and examples

Local jurisdictions frequently use overly optimistic estimates of ADU capacity and future production to avoid necessary housing reform and rezoning. ADU development estimates must reflect actual on-the-ground conditions to ensure that they are realistic. This will maximize the likelihood that ADUs will be built to the level forecasted in the housing element update.

Principal requirements for legal compliance

Housing element law and the Guidebook allow jurisdictions to count anticipated ADU production on non-inventory sites toward the jurisdiction’s RHNA target. The analysis of ADU capacity must be “based on the number of accessory dwelling units developed in the prior housing element planning period,” and “other relevant factors.” (Gov’t Code 65583.1).

Fundamentally, the assessment of ADU capacity is no different from the assessment of capacity for any other type of housing. The ultimate question is: **what is the realistic housing production yield that can be anticipated during the planning period?** The answer depends

on the number of sites, the sites' likelihood of development, and the number of units likely to be built on each site in the event of development.

To that end, the Guidebook establishes two safe harbors for forecasting ADU production during the 6th Cycle (pg. 31). One option is to project forward the local trend in ADU construction since January 2018. The other, for use when no other data is available, assumes ADU production at five times the local rate of production prior to 2018. Jurisdictions are also permitted to use trends from regional production of ADUs, and include programs that aggressively promote and incentivize ADU and JADU construction.

The housing element "should also include a monitoring program that a) tracks ADU and JADU creation and affordability levels, and b) commits to a review at the planning cycle midpoint to evaluate if production estimates are being achieved." (pg. 31). "Depending on the finding of that review, amendments to the housing element may be necessary, including rezoning pursuant to Government Code 65583.2 (h) and (i)." (pg. 31). This provides a fail-safe in the event that ADU development falls short of forecasted production by the midpoint of the planning cycle.

Recommended best practices

Jurisdictions should clearly explain their methodology and data sources for forecasting ADU development. The data and models should be shared publicly online.

A housing element's provision for mid-cycle adjustment should be feasible to implement at the midpoint of the cycle. Rezoning is generally a multiyear process, often involving extensive CEQA review and litigation. Rezoning initiated at the midpoint may result in little (if any) new zoned capacity during the planning period.

AHLA therefore recommends that jurisdictions proactively plan for the possibility of an ADU shortfall by either:

- Providing in the housing element for by-right density bonuses on inventory sites, which would become automatically available mid-cycle if the ADU target is not met, or
- Completing a fallback rezoning during the first half of the cycle, which would take effect at mid-cycle if the ADU target is not met.

Given the choice between these two approaches, we recommend the first one. It is more transparent and predictable, and it also avoids wasting resources on a rezoning program that may never be adopted.

The density bonus should be large enough, and apply to enough parcels, to fully make up for any ADU production shortfall. For example, if the parcels designated for the bonus have realistic capacity under current zoning of 5,000 units (in the aggregate), and the ADU production shortfall during the first half of the cycle was 1,000 units, the "make up" density bonus would entitle developers to 20% (1,000 / 5,000) more density on each inventory site than the zoning

otherwise allows. To ensure that use of the bonus is economically feasible, no below-market-rate requirements should attach to it.

Part 7 - No Net Loss

See HCD's [Site Inventory Guidebook](#), pg. 22, and HCD's [No Net Loss Law Memo, November 2019](#) for citations and examples

California's No Net Loss law requires jurisdictions to maintain adequate site capacity throughout the planning period. Gov't Code 65863. SB 166 (2017) amended this law to require maintenance of site capacity **by income category**, not just in the aggregate.

Principal requirements for legal compliance

If a jurisdiction downzones a site inventory parcel, or approves a project with fewer units at the targeted affordability level than the housing element planned to accommodate on the site, then the jurisdiction must ensure that it has enough remaining inventory capacity to accommodate the remaining unmet RHNA target at that affordability level (Guidebook, pg. 22). If additional sites with adequate zoned capacity don't exist, the jurisdiction must rezone enough sites to accommodate the remaining unmet RHNA within 180 days. A failure to rezone within this window may result in decertification of the housing element and legal action.

Recommended best practices

Six months is a small window of time for rezoning, and likely sets the stage for a messy, rushed process that results in suboptimal housing policy and litigation risk. To avoid this situation, jurisdictions should take proactive steps when creating their housing element to ensure adequate site capacity throughout the planning period. AHLA endorses HCD's recommendation that jurisdictions "create a **buffer in the housing element inventory of at least 15-30%** more capacity than required, especially for capacity to accommodate the lower income RHNA." (Guidebook, pg. 22).

Part 8 - What If the RHNA Target is Not Realistic?

Having realistically assessed site capacity and potential ADU production, and having developed a housing element that meets AFFH and No Net Loss Law requirements, a jurisdiction may still conclude that the RHNA target itself is unachievable or unrealistic. What then?

We must distinguish two senses in which the RHNA target may be unrealistic. First, it could be practically impossible for the jurisdiction to achieve its targets by income bin without "expend[ing] local revenues for the construction of housing, housing subsidies, or land acquisition." (Gov't Code 65589.9(a)). Second, it could be practically impossible for the jurisdiction to provide sufficient capacity to achieve the aggregate target, without regard to affordability levels, owing to a lack of demand for housing, high-value existing uses, or construction costs that are high for reasons beyond the jurisdiction's control.

In the first scenario, the jurisdiction's problem is more apparent than real. This is because the law allows sites to be counted toward the lower-income target if they are zoned to allow certain densities (30 units per acre in metropolitan counties), regardless of whether market-rate units are more likely than subsidized units to be constructed on the sites (Gov't Code 65583.2(c); Guidebook, pg. 13). To achieve minimum legal compliance, the jurisdiction just needs to zone at the stipulated density and include a capacity buffer for ongoing compliance with No Net Loss law. The same goes for moderate-income housing. Statutory densities deemed adequate for lower-income housing are adequate for moderate-income housing too. (Of course, AHLA expects jurisdictions to both zone for **and** fund subsidized affordable housing. Local funding sources and other incentives, like density bonus programs, can ensure that lower-income housing is actually built; see pg. 8 of this memo.)

In the second scenario, where weak demand or unavoidably high construction costs make it impractical to provide sufficient site capacity, the jurisdiction may be able to achieve compliance by assigning its RHNA target to vacant sites and using HCD's safe harbor for counting vacant sites at their minimum zoned density, regardless of likelihood of development (Guidebook, pg. 19). Alternatively (and preferably) the jurisdiction could comply by committing through its housing element to aggressive rezoning and constraint removal programs, with the goal of creating as much realistic capacity as is feasible.

Concurrently, the jurisdiction would set "quantified objectives" for housing production in each income bin, commensurate with its rezoning and constraint removal programs. These quantified objectives may be smaller than the RHNA targets. (See Gov't Code 65583(b)(2): "[if] total housing needs ... exceed available resources and the community's ability to satisfy this need ..., the quantified objectives need not be identical to the total housing needs"). However, a jurisdiction should never set quantified objectives below its RHNA targets without exhausting all practicable options for increasing housing production during the planning period. AHLA will carefully monitor jurisdictions' use of the quantified objectives proviso.

From: [Barb Dijker](#)
To: [Justine Kendall](#)
Cc: [Bruce Silverstein](#)
Subject: Housing Element update comments
Date: Monday, June 21, 2021 5:52:33 PM

Dear Justine,

I have a conflict on 6/23, so I am unable to attend the public workshop. So I'd like to provide my comments via email. Note that I can find nowhere on the City web site with connection or location information for that meeting.

I read through the FAQ available regarding the Housing Element plan. In essence, it seems that this plan, while required, is nothing but window dressing. I'm certain that this update will confirm sufficient capacity exists in the City for the required RHNA allocations. However, capacity is not housing. I challenge anyone to find a single housing unit today in Malibu within the targeted affordable rent, available or currently occupied. Prior to Woolsey there might have been some, but unlikely as many as the RHNA allocations. Between Woolsey and short-term rentals, there is little hope of anything close to "affordable" in Malibu.

There are many long-time Malibu residents, in previously affordable situations, who were dislocated due to Woolsey and now can't return due to the skyrocketing rents. I can think of at least 4 off the top of my head, whom I know personally. A one bedroom guest house generally rents for about \$3000+/mo now. Single rooms with shared kitchen and/or shared bath rent for over \$2000/mo. These figures are 2-4 times higher than pre-Woolsey rents. The lowest purchase price is over \$700k.

While this is outside the scope of the current Housing Elements update, I would like suggest that the City adopt as a goal the actual conversion of capacity to units within the targeted maximum affordable rents in the plan, at the RHNA allocations as a bare minimum. The City would need to determine how to be accountable and measure success of such a goal. The actions to achieve this goal might include:

- streamlined permitting for ADU
- streamlined planning and permitting for ADU as part of Woolsey rebuilds
- incentivizing ADU development
- aggressive and proactive enforcement of the STRO
- establishing a means by which property owners can register their property as qualifying, which will help the City track units, and offer some incentive for doing so as well as means to verify long-term, and potentially support lessors in qualifying tenants as low income and a public list of available qualifying units
- establish rent controls (I said "might" - this needs serious consideration)
- proactively solicit multi-unit developers and incentivize units permanently registered as affordable
- where zoning allows, allow, incentivize, and streamline permitting of the conversion of a single-family unit to multi-family, with designation of some units as affordable

I don't have a ton of knowledge of the City ordinances, policies, procedures, and objectives. But I do know that the "maximum affordable rent" is laughable in Malibu and it's a big problem. Employers here have difficulty hiring help because they have to drive so far from where they can afford to live, and their pay gets eaten up by gas expenses. Children who've

grown up here have little hope of living here on their own salary, especially those children of families who moved here generations ago. Young families have no way to get a foothold here. Malibu used to be a very diverse community. The loss of housing due to Woolsey and STR has been devastating.

Thank you for your efforts, time, and consideration.

Barb Dijker