

**Malibu City Council**  
**Zoning Ordinance Revisions and**  
**Code Enforcement Subcommittee (ZORACES)**  
**Special Meeting Agenda**

**Tuesday, April 26, 2016**

**9:30 A.M.**

**City Hall – Zuma Room  
23825 Stuart Ranch Road**

**Mayor Laura Rosenthal  
Councilmember Skylar Peak**

**Call to Order**

**Approval of Agenda**

**Report on Posting of the Agenda** – April 19, 2016

**Public Comment** *This is the time for the public to comment on any items not appearing on this agenda. Each public speaker shall be allowed up to three (3) minutes for comments. The Subcommittee may not discuss or act on any matter not specifically identified on this agenda, pursuant to the Ralph M. Brown Act.*

**Discussion Items**

1. Approval of Minutes – December 14, 2015

Recommended action: Approve the minutes of the Zoning Ordinance Revisions and Code Enforcement Subcommittee (ZORACES) Special meeting of December 14, 2015.

Staff contact: Planning Director Blue, 310-456-2489, ext. 258

2. Amendments Addressing Beachfront and Non-Beachfront Development

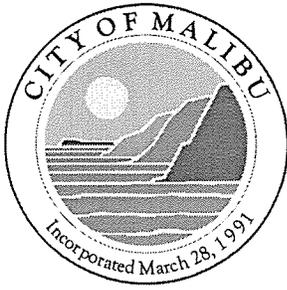
Recommended action: Provide comments on proposed amendments addressing policy issues with beachfront and non-beachfront development standards and property zoning.

Staff contact: Senior Planner Fernandez, 310-456-2489, ext. 482

**Adjournment**

*I hereby certify under penalty of perjury, under the laws of the State of California, that the foregoing agenda was posted in accordance with the applicable legal requirements. Dated April 19, 2016.*

  
\_\_\_\_\_  
Mary Linden, Executive Assistant



Zoning Ordinance  
Revisions & Code  
Enforcement  
Subcommittee Meeting  
04/26/16  
**Item 1**

## Zoning Ordinance Revisions and Code Enforcement Subcommittee Agenda Report

**To:** Zoning Ordinance Revisions and Code Enforcement  
Subcommittee (ZORACES) Members Rosenthal and Peak

**Prepared by:** Bonnie Blue, Planning Director BB

**Date prepared:** April 11, 2016

**Meeting date:** April 26, 2016

**Subject:** Approval of Minutes – December 14, 2015

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**RECOMMENDED ACTION:** Approve the minutes of the Zoning Ordinance Revisions and Code Enforcement Subcommittee (ZORACES) Special meeting of December 14, 2015.

**DISCUSSION:** Staff has prepared draft minutes for the ZORACES Special meeting of December 14, 2015 and hereby submits the minutes to the Subcommittee for approval.

**ATTACHMENT:** Draft Minutes of the December 14, 2015 ZORACES Special meeting.

MINUTES  
MALIBU ZONING ORDINANCE REVISIONS AND CODE ENFORCEMENT  
SUBCOMMITTEE  
SPECIAL MEETING  
DECEMBER 14, 2015  
CITY HALL - ZUMA ROOM  
9:30 A.M.

CALL TO ORDER

Mayor Rosenthal called the meeting to order at 9:37 a.m.

ROLL CALL

The following persons were recorded in attendance:

PRESENT: Mayor Laura Rosenthal and Councilmember Skylar Peak

ALSO PRESENT: Bonnie Blue, Planning Director; Christopher Deleau, Planning Manager; and John Mazza, Planning Commission Chair; and Norman Haynie

APPROVAL OF AGENDA

CONSENSUS

By consensus, the Subcommittee approved the agenda.

REPORT ON POSTING OF AGENDA

Planning Director Bonnie Blue reported that the agenda for the meeting was properly posted on December 10, 2015.

PUBLIC COMMENT

Norman Haynie stated that the City's current Commercial Development Standards are too severe. Specifically, Mr. Haynie noted that the landscaping and open space requirements are so severe that these standards are not possible to comply with unless subterranean parking is provided or a parking variance or other variance is processed concurrently. He noted that these standards should be considered for revision in a zone text amendment. He specifically recommended that the landscaping and open space area requirements be consolidated and reduced to 40 percent from a combined 65 percent.

DISCUSSION ITEMS

1. Approval of Minutes – September 29, 2015

Recommended Action: Approve the minutes of the Zoning Ordinance Revisions and Code Enforcement Subcommittee (ZORACES) Special Meeting of September 29, 2015.

CONSENSUS

By consensus, the Subcommittee approved the minutes of the ZORACES Special Meeting of September 29, 2015.

2. Zoning Text Amendment No. 15-004 to Establish Parking Lot Safety Standards Citywide

Recommended Action: Review proposed Zoning Text Amendment No. 15-004 amending the Malibu Municipal Code to establish parking lot safety standards citywide and provide staff with comments and recommendations.

CONSENSUS

By consensus, the Subcommittee recommended that:

1. Outdoor dining and seating areas and areas of high pedestrian traffic should be within the scope of what should be regulated and;
2. All approved parking lot safety devices should meet the ASTM-F3016 performance standard for low speed crash impact resistance and;
3. Ordinance should be drafted so that property owners can have broad discretion as to what type of protective devices might be employed (e.g., bollards, barriers, posts, trees); so long as the applicant's structural engineer and the building official can confirm compliance with the performance standard, different impact protection devices may be utilized.  
City can confirm that the ASTM standard can be met.
4. The ordinance should apply to existing as well as proposed parking lots and should have an amortization schedule that, to the extent feasible, will be the same as the pending Dark Sky Ordinance.
5. Planning staff should consider meeting with the Malibu Chamber of Commerce and discuss the nature and scope of the pending parking lot safety ordinance.

ADJOURNMENT

CONSENSUS

By consensus, the Subcommittee adjourned the meeting at 10:30 a.m.

Approved and adopted by the Zoning Ordinance Revisions and Code Enforcement Subcommittee of the City of Malibu on April 26, 2016.

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LAURA ROSENTHAL, Mayor

ATTEST:

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MARY LINDEN, Executive Assistant



Zoning Ordinance  
Revisions & Code  
Enforcement  
Subcommittee Meeting  
04-26-16  
**Item 2**

## Zoning Ordinance Revisions and Code Enforcement Subcommittee Agenda Report

**To:** Zoning Ordinance Revision and Code Enforcement Subcommittee (ZORACES) Members Rosenthal and Peak

**Prepared by:** Adrian Fernandez, Senior Planner

**Approved by:** Bonnie Blue, Planning Director *BB*

**Date prepared:** April 14, 2016 **Meeting date:** April 26, 2016

**Subject:** Amendments Addressing Beachfront and Non-Beachfront Development

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**RECOMMENDED ACTION:** Provide comments on proposed amendments addressing policy issues with beachfront and non-beachfront development standards and property zoning.

**DISCUSSION:** The Malibu Municipal Code (MMC) and Local Coastal Program (LCP) provide distinct development standards for beachfront and non-beachfront lots. Beachfront lots are exempt from limits on total development square footage and impermeable coverage, and do not require a site plan review approval for height over 18 feet. However, neither the MMC nor the LCP defines what constitutes a beachfront lot or a non-beachfront lot. Per the City's zoning maps, there are many parcels located along the shore which do not have a "beachfront" designation. Out of all residential land use districts in the LCP and MMC, only the Multi-family Beachfront zone contains the term "beachfront" in its name. This makes it unclear when to apply beachfront standards.

The implications are significant. Table 1 below provides a comparison of how the beachfront versus non-beachfront development standards would affect the development of a new single-family residence along the shore.

<b>Table 1 – Comparison of Development Standards</b>		
<b>Development Standards</b>	<b>Non-Beachfront</b>	<b>Beachfront</b>
<b>SETBACKS</b>		
Front yard	20% of lot depth, 65 ft., whichever is less	20 ft. or the average of the neighbors, whichever is less
Side yard	Cumulatively at least 25% of lot width, a single side shall not be less than 10%, or 5 ft., whichever is greater	10% of the lot width, with a 3 ft. minimum and 5 ft. maximum
Rear yard	15% of lot depth, or 15 ft., whichever is greater	Stringline
<b>HEIGHT</b>	18 ft. or SPR for 24 ft. flat, or 28 ft. pitched	24 ft. flat, or 28 ft. pitched
<b>2/3RDS RULE</b>	Applies	Does not apply
<b>TDSF</b>	Applies	Does not apply
<b>IMPERMEABLE COVERAGE</b>	Applies	Does not apply

Especially noteworthy are the unlimited total development square footage and lot coverage standards, small side yard setbacks, and height up to 24 or 28 feet without a site plan review.

Long-standing City practice has been to apply non-beachfront standards to lots zoned Rural Residential (RR) and Multifamily (MF), regardless of whether the parcels abut the shore. Nowhere in the MMC or the LCP is this stated; however, because RR and MF lots are typically large in size, applying beachfront standards would allow an unusually large amount of development.

In 2005 and 2006, staff and the Planning Commission began to address this issue after City Council initiated a zoning text amendment. The approach was to codify definitions for “beachfront lot” and “non-beachfront lot.” Planning Commission Resolution No. 06-89 recommended that the City Council adopt Zoning Text Amendment No 05-007 to add the following definitions into Title 17 (Zoning Code):

“Beachfront Lot” means any parcel of land that meets the following criteria: 1) one of the exterior boundary lines of the subject site is the Pacific Ocean or a mean high tide line of the Pacific Ocean; and 2) the property is not designated on the official Zoning Map as Rural Residential (RR).”

“Non-beachfront Lot” means any parcel of land not meeting the criteria for beachfront lot.

The adopted Planning Commission resolution and associated agenda report are included as Attachments 1 and 2. The resolution specifically excluded RR zoned parcels from beachfront development standards because these lots tend to be larger in size and beachfront standards were meant to be used on smaller beachfront lots

where a relatively dense development pattern already exists, such as along Pacific Coast Highway in east Malibu. The ZTA was never scheduled for Council consideration and the definitions have never been codified. However, this issue remains at the forefront because several applications are presently pending where the applicability of beachfront standards is pertinent.

A related issue is that some small lots located along the beach are zoned MF, but have the characteristics of and locations near the MFBF zone and could be rezoned.

Finally, some lots zoned RR have beach level or bluff face development that is legal non-conforming with respect to non-beachfront development standards. Others are vacant proposing new development. Attachment 3 is a map that shows all RR zoned parcels abutting the beach that are less than 20,000 square feet, which is less than half the minimum lot size for RR. Of the 15 lots that are less than 20,000 square feet, four are undeveloped. Coastal development permit applications (CDP Nos. 14-072 and 14-073) are currently under review for the development of three of the four undeveloped lots. Most of these RR zoned properties are developed. Most have lot areas greater than 10,000 square feet and are surrounded by other RR zoned lots. Therefore, rezoning is not recommended. However, clarification is needed as to the appropriate standards to apply for these situations. Staff is proposing *Recommendation No. 2* below to address existing and future development on these lots.

City practice has been memorialized in two pre-application reviews<sup>1</sup> and other projects that have been processed:

PA No. 07-45 – The property at 26422-26488 Latigo Shore Drive was thought to be zoned MF and staff found that due to the large size of the MF zoned parcel (20,000 square feet), development designed to meet beachfront standards would result in a massive project with minimal setback from the street, the ocean and adjacent properties (Attachment 4).

PA No. 11-025 –Staff's response letter for the property at 26544 Latigo Shore Drive states that beachfront development standards do not apply to MF zoned parcels since beachfront development standards were designed to accommodate development on smaller, much more constrained parcels (i.e., parcels designated MFBF).

These pre-application determinations highlight the primary problems with applying beachfront standards to a large lot. For example, the property located at 26544 Latigo Shore Drive is the last remaining undeveloped MF zoned parcel that abuts the shore. This parcel has a gross lot area of 38,768 square feet which is nearly twice

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<sup>1</sup> A pre-application review is a written Planning Department determination on how a City regulation, policy and/or interpretation may apply to a specific project. It is a non-binding determination meant to answer applicant questions prior to application submittal.

the minimum lot size and nearly eight times the minimum lot size for MFBF zoned parcels.<sup>2</sup>

### Recommendation No. 1 - Definitions (ZTA No. 05-007)

Today, MFBF zoned parcels are only located along the shore, whereas the MF zoned parcels are located both along the shore and inland. The fact that there are two distinct multifamily districts – one with “beachfront” in the name, and one without - implies that one is meant to fall under non-beachfront standards and the other is should fall under beachfront standards. To clarify when beachfront standards should be applied, staff recommends adding the definitions previously recommended by the Planning Commission to the MMC and the LCP, with one change to the “beachfront definition” (underlined), as shown below:

“Beachfront Lot” means any parcel of land that meets the following criteria: 1) one of the exterior boundary lines of the subject site is the Pacific Ocean or a mean high tide line of the Pacific Ocean; and 2) the property is not designated on the official Zoning Map as Rural Residential (RR) and Multi-Family Residential (MF).”

“Non-beachfront Lot” means any parcel of land not meeting the criteria for beachfront lot.

### Recommendation No. 2 - Beach Development on RR and MF lots

Whether under current City practice or the proposed definitions, it is difficult to review beach and bluff level development on RR and MF lots. This is also highlighted in the pre-application letters (Attachments 4 and 5). For example, height should be based on finished or existing grade, whichever is lower; however, if a structure is on the beach, the “grade” is the sand, which is constantly changing, and may be an artificially low measuring point if a house is on piles.

The rear yard setback for a non-beachfront (RR or MF) lot is measured from a property line or bluff-top. When the development abuts the beach and does not have a bluff-top, or is seaward of the bluff-top, the rear property line is the ambulatory mean high tide line. If the rear yard setback were measured from the ambulatory mean high tide line, a rear yard setback based on this lot depth is likely to allow development to extend further seaward than adjacent development, contrary to the intent of the code and/or on a bluff face.

Adding some additional language to ZTA No. 05-007 (and the associated LCPA<sup>3</sup>) could address these issues. Examples include:

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<sup>2</sup> On May 19, 2014, a CDP application for a new single-family residence located at 26544 Latigo Shore Drive was submitted to the City. The application is currently under review.

- Specifying that height on the beach be measured from the recommended finished floor elevation;
- Specifying use of a stringline “endpoint” or the 10 foot mean high tide line, whichever is more restrictive, and/or limiting the total building footprint for the rear yard setback<sup>4</sup>; and
- If there is no surrounding development abutting the beach within a 500 foot radius, staff suggests a code update to limit the total depth of the building footprint to 40 feet and decks/balconies to a maximum projection of six feet seaward of the established building rear yard setback/stringline consistent with LCP Local Implementation Plan Section 3.5.3(B).

### Recommendation No. 3 - Rezoning

As shown in Table 2 below, the minimum lot size for MF zoned parcels is much larger than MFBF parcels. However, there are several MF zoned parcels located on the beach that are small and equally as constrained as MFBF zoned parcels and were developed under beachfront standards.

<b>Table 2 - Lot Development Criteria</b>		
<b>Zoning District</b>	<b>MFBF</b>	<b>MF</b>
Minimum Lot Size	5,000 sq. ft.	20,000 sq. ft.
Maximum Density	1 unit per 1,885 sf. ft. not to exceed four units	6 units per acre
Minimum Lot Depth	100 feet	150 feet
Minimum Lot Width	50 feet	100 feet
Example	5000 sf lot/1,885 sf = 2.65 units	20,000 sf lot/43,560 sf = 0.46 ac x 6 units/ac = 2.76 units

Maps depicting MF zoned parcels abutting the beach are included as Attachments 6 and 7. Table 3 below identifies all of the MF zoned parcels that would be considered beachfront per the definition under ZTA No. 05-007, given that at least one of the exterior boundary lines abuts the Pacific Ocean. Parcels are identified with numbers on Table 2 as a reference, the parcels are listed in ascending order by lot size, as determined by the Los Angeles County Assessor’s Office.

<b>Table 3 - MF Zoned Parcels that abut the shore</b>						
<b>#</b>	<b>Street No.</b>	<b>Street Name</b>	<b>Lot Size</b>	<b>Existing Units*</b>	<b>MFBF Max Density</b>	<b>Year Built</b>
1	26054	Pacific Coast Highway	4,976	2	2	1980
2	26050	Pacific Coast Highway	5,322	3	2	1959
3	26060	Pacific Coast Highway	5,804	3	3	1966
4	26110	Pacific Coast Highway	6,519	1	3	1976

<sup>3</sup> The City Council did not specifically initiate the LCPA in 2005; however, a companion LCPA will be processed with this ZTA to ensure consistency between the MMC and LCP.

<sup>4</sup> A stringline end point is determined by taking the nearest corner of a downcoast or upcoast residence and drawing a parallel line to the road across the subject property.

Table 3 - MF Zoned Parcels that abut the shore						
#	Street No.	Street Name	Lot Size	Existing Units*	MFBF Max Density	Year Built
5	22832	Pacific Coast Highway	7,872	3	4	unknown
6	22838	Pacific Coast Highway	7,915	2	4	1953
7	22852	Pacific Coast Highway	8,399	6	4	unknown
8	22828	Pacific Coast Highway	8,478	4	4	1955
9	22816	Pacific Coast Highway	8,486	6	4	unknown
10	26520	Latigo Shore Drive	8,721	1	4	2000
11	26044	Pacific Coast Highway	8,771	3	4	1960
12	22810	Pacific Coast Highway	8,847	2	4	1954
13	26524	Latigo Shore Drive	8,917	1	4	2000
14	22806	Pacific Coast Highway	9,203	2	4	1954
15	22844	Pacific Coast Highway	9,439	6	4	1954
16	26122	Pacific Coast Highway	10,937	1	4	2013
17	26530	Latigo Shore Drive	12,362	1	4	1993
18	22824	Pacific Coast Highway	13,089	4	4	1984
19	22524	Pacific Coast Highway	13,577	Multi-Family**	4	1946
20	22860	Pacific Coast Highway	14,819	12	4	1955
21	22514	Pacific Coast Highway	21,285	Multi-Family**	4	1949
22	21218	Pacific Coast Highway	24,754	11	4	1973
23	26500	Latigo Shore Drive	27,942	5	4	1990
24	26544	Latigo Shore Drive	36,612	N/A	4	Vacant
25	22548	Pacific Coast Highway	66,108	42	4	1963

\*This information was obtained from the Los Angeles County Tax Assessor's Office.

\*\*The Los Angeles County Tax Assessor's Office identified this property as a multi-family use but did not provide a number of units.

The MF zoned parcels range from 4,976 square feet to 66,108 square feet in size. The median lot size for MF zoned parcels is 8,917 square feet, which is generally similar in size as SFL and SFM zoned parcels. Although the parcels shown in Table 3 meet the definition of beachfront established by the Planning Commission under ZTA No. 05-007, Parcels 21 through 25 would not meet the intent articulated in the report since these are large parcels that were meant to be excluded from beachfront development standards. Therefore, these larger parcels are recommended to remain MF. In addition, Parcels 1 through 20 are less than 20,000 square feet in size, which is more characteristic of the MFBF zoning district. For that reason, staff recommends that parcels zoned MF that are less than 20,000 square feet in size be rezoned to MFBF. As all these lots are already developed and appear to have been developed under beachfront development standards, it is not anticipated that this change would have an effect on surrounding development. However, it would benefit the property owner in reducing non-conformities and the future redevelopment of these lots. It will also allow a density of up to 4 units for lots greater than 7,540 square feet, whereas the MF zone allows a maximum density of six units per acre. As shown in Table 3

above, the maximum density permitted in the MFBF is similar to the existing densities on these properties.

Regarding potential for subdivision, it should be noted that while Parcels 16 through 20 are more than twice the minimum 5,000 square foot lot size for MFBF parcels, the lot widths are between 50 and 75 feet. Since the minimum MFBF lot width is 50 feet, it is unlikely these lots could achieve a lot split due to the required findings for a land division.<sup>5</sup>

### SUMMARY:

Staff recommends:

1. Completing ZTA No. 05-007 with the appropriate companion LCPA to add definitions for beachfront lot and lots non-beachfront lot.
2. Adding to the ZTA/LCPA standards for development abutting the beach but does not qualify for beachfront lot development standards.
3. Initiating a rezone of all MF zoned lots abutting the beach that have a lot area of less than 20,000 square feet.

STAFF FOLLOW-UP: Based on comments from ZORACES, staff will pursue some or all of these recommendations.

### ATTACHMENTS:

1. Planning Commission Resolution No. 06-89
2. November 7, 2006 Planning Commission Agenda Report Item 6.A. – ZTA No. 05-007
3. RR Zoned Parcels Abutting the Beach
4. Determination Letter for PA No. 07-045
5. Determination Letter for PA No. 11-025
6. LCP Map – MF Zoned Parcels Abutting the Beach
7. MMC Map – MF Zoned Parcels Abutting the Beach

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<sup>5</sup> The lot depths cannot be determined with certainty without a survey. Nevertheless, based on the Los Angeles County Assessor's tax maps the lots were all at least 25 feet under the minimum required to subdivide under the MFBF lot criteria.

**CITY OF MALIBU PLANNING COMMISSION  
RESOLUTION NO. 06-89**

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MALIBU RECOMMENDING THAT THE CITY COUNCIL APPROVE ZONING TEXT AMENDMENT (ZTA) NO. 05-007 AMENDING TITLE 17 OF THE MALIBU MUNICIPAL CODE, SECTIONS 17.02.060 (DEFINITIONS) AND 17.40.040 (RESIDENTIAL DEVELOPMENT STANDARDS) TO CLARIFY THE DEFINITION OF BEACHFRONT DEVELOPMENT

THE PLANNING COMMISSION OF THE CITY OF MALIBU DOES HEREBY FIND, ORDER AND RESOLVE AS FOLLOWS:

Section 1. Recitals.

A. On June 27, 2005, the City Council directed staff to begin processing a number of ZTAs by initiating one ZTA per quarter. Consistent with the City Council's direction, on December 12, 2005, the beachfront lot ZTA was initiated.

B. On February 15, 2006, staff made a presentation to the Architects & Engineers Committee regarding possible solutions for governing development on larger beachfront lots that would be consistent with the General Plan and Local Coastal Program (LCP). The Committee recommended the creation of an overlay district. Staff recommended that the proposed ZTA adopt non beachfront development standards instead of an overlay district. Staff was directed to research these options and come back with a recommendation.

C. On June 14, 2006, staff made another presentation to the Architects & Engineers Committee. Staff researched multiple approaches and determined that the current ZTA utilizing non beachfront development standards best addresses these parcels. In addition the proposed ZTA is consistent with both the General Plan and Local Coastal Program (LCP).

D. On October 5, 2006, a Notice of Public Hearing was published in a newspaper of general circulation within the City of Malibu.

E. On November 7, 2006, the Planning Commission held a duly noticed public hearing on Zoning Text Amendment No. 05-007, reviewed and considered written reports, public testimony, and related information.

Section 2. Environmental Review.

Pursuant to the authority and criteria contained in the California Environmental Quality Act ("CEQA"), the Planning Commission has analyzed the proposal as described above. The Planning Commission has found that the subject ordinance does not portent any new or different development. There is no possibility that the proposed Malibu Municipal Code zoning text amendment may have significant impact on the environment.

Section 3. Zoning Text Amendment No. 06-002.

Add the following two new definitions to M.M.C. Section 17.02.060.

“Beachfront Lot” means any parcel of land that meets the following criteria: (1) one of the exterior boundary lines of the subject site is the Pacific Ocean or a mean high tide line of the Pacific Ocean; and, (2) the property is not designated on the official Zoning Map as Rural Residential.

“Non-beachfront Lot” means any parcel of land not meeting the criteria for beachfront lot.

Section 4. Zone Text Amendment Recommendation.

A. Adopt Resolution No. 06-89, recommending that the City Council adopt Zoning Text Amendment No. 05-007.

Section 5. Certification.

The Planning Commission shall certify the adoption of this Resolution.

PASSED, APPROVED AND ADOPTED this 7<sup>th</sup> day of November 2006.

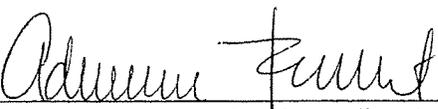
  
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CAROL RANDALL, Planning Commission Chair

ATTEST:

  
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ADRIENNE FURST, Recording Secretary

I CERTIFY THAT THE FOREGOING RESOLUTION NO. 06-89 was passed and adopted by the Planning Commission of the City of Malibu at the regular meeting thereof held on the 7<sup>th</sup> day of November 2006, by the following vote:

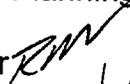
AYES: 5 Commissioners: House, Sibert, Moss, Schaar and Randall  
NOES: 0  
ABSTAIN: 0  
ABSENT: 0

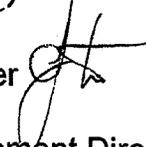
  
\_\_\_\_\_  
ADRIENNE FURST, Recording Secretary



## Commission Agenda Report

To: Chair Randall and Members of the Planning Commission

Prepared by: Richard Mollica, Associate Planner 

Reviewed by: CJ Amstrup, AICP, Planning Manager 

Approved by: Victor Peterson, Community Development Director 

Date prepared: September 28, 2006 Meeting date: November 7, 2006

Subject: Zoning Text Amendment No. 05-007 – An Amendment to Title 17 of the Malibu Municipal Code, Sections 17.02.060 (Definitions) and 17.40.040 (Residential Development Standards) to Clarify the Definition of Beachfront Development

Application Number: ZTA No. 05-007  
Applicant: City of Malibu  
Location: Citywide

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**RECOMMENDED ACTION:** Adopt Resolution No. 06-89, recommending that the City Council adopt Zoning Text Amendment (ZTA) No. 05-007.

**DISCUSSION:** On June 27, 2005, the City Council directed staff to begin processing a number of ZTAs by initiating one ZTA per quarter. Consistent with the City Council's direction, on December 12, 2005, the beachfront lot ZTA was initiated.

On February 15, 2006, staff made a presentation to the Architects & Engineers Committee regarding possible solutions for governing development on larger beachfront lots that would be consistent with the General Plan and Local Coastal Program (LCP). The Committee recommended the creation of an overlay district. Staff researched this approach and determined that the current ZTA best addresses these parcels. In addition the proposed ZTA is consistent with both the General Plan and Local Coastal Program (LCP).

## Issue

The City of Malibu Municipal Code (M.M.C.) provides distinct development standards for beachfront and non-beachfront lots. However, neither the M.M.C. nor the LCP define what constitutes a beachfront lot as opposed to a non-beachfront lot.

Malibu Municipal Code Section 17.40.040(A) and the LCP Local Implementation Plan Chapter 3 establish the following residential development standards for beachfront lots.

- Front yard setback – 20-feet or the average front yard setback of the two immediate neighbors, whichever is less;
- Side yard setback – 10 percent of lot width, with a minimum of three-feet and a maximum of five-feet;
- Structure height – 28-feet for pitched roofs, 24-feet for flat roofs; no site plan review required;
- Impermeable coverage – no limit;
- Total development square footage – no limit;
- 2/3rds rule – not applicable.

Staff believes that these standards were intended for smaller beachfront lots, such as along Pacific Coast Highway (PCH) in east Malibu and on Malibu Road, Malibu Cove Colony Drive and Broad Beach Road. Zoning in these areas includes Single-Family Low Density (SF-L), Single-Family Medium Density (SF-M), Multiple-Family (MF), and Multiple-Family Beach Front (MFBF). However, there are areas in Malibu that front on the beach but are characterized by relatively large lots. These areas primarily are in west Malibu and Point Dume and are zoned Rural Residential (RR). If these lots were developed according to the beachfront requirements, the resulting structures could be massive with minimal setback from the street, the ocean and adjacent properties.

Residential development according to beachfront standards is appropriate on smaller beachfront lots where a relatively dense development pattern already exists, such as along PCH in east Malibu. However, given that the minimum lot size in the RR zones is one acre or greater, development to beachfront standards on these lots could result in projects that do not comply with the General Plan or the LCP. Therefore, it is appropriate that lots of this size conform to non-beachfront development standards.

Staff has recently been processing residential projects based on an informal interpretation that if an RR-zoned parcel is located on the beach, it will not be considered beachfront. This interpretation has not been applied consistently in the past.

## **Solution**

The A & E Committee recommended that an overlay district be created for beachfront lots, as a possible alternative. Staff researched this approach and concluded that the proposed language in the draft ZTA, proposing utilization of the non-beachfront standards for beachfront RR-zoned lots, is consistent with the goals of the General Plan and the LCP since the RR-zoned beachfront lots are far larger in size than other beachfront lots.

In addition, staff could not identify any RR-zoned lots that were so small that beachfront standards were needed to allow for development that is comparable to other beachfront development within the City. The RR-zoned lots identified by staff were large enough to allow for the application of non-beachfront standards for total development size and setbacks. Permitting development on those lots identified by staff that is consistent with the beachfront lot development standards would be in conflict with the goals and policies of the General Plan and the Local Coastal Plan because it would allow structures much larger than those found on similarly sized lots not adjacent to the beach. Beachfront lots along the eastern portion of the City are not RR-zoned and are much smaller in size. (Attachment 2 – Parcel Map of RR-Zoned Beachfront Properties)

Resolution No. 06-89 (Attachment 1) essentially memorializes the interpretation described above. The proposed definitions of beachfront and non-beachfront lots are proposed to be incorporated into M.M.C. Section 17.02.060 (Definitions).

ALTERNATIVES: The current interpretation could continue to be implemented, but will not be supported by definitive language in the M.M.C. Staff also could undertake a different approach to the ZTA, such as mapping beachfront lots, or otherwise exploring different criteria to determine if a lot is considered beachfront.

STAFF FOLLOW-UP: Staff requests that the Commission review the draft ZTA and provide comments and recommendations. Based on the Planning Commission's recommendation, the ZTA will then be presented to the City Council.

An LCP amendment will be required as well. The standards of the ZTA will be incorporated into a future LCP amendment.

ENVIRONMENTAL REVIEW: Pursuant to the authority and criteria contained in the California Environmental Quality Act ("CEQA"), the Planning Division has analyzed the proposal as described above. The Planning Division has found that the subject ordinance does not portent any new or different development. There is no possibility that the proposed M.M.C. zoning text amendment may have significant impact on the environment.

CORRESPONDENCE: To date, no correspondence has been received for this amendment.

PUBLIC NOTICE: Pursuant to M.M.C. Section 17.74.040, a 21-day, quarter page Notice of Public Hearing was published in the Malibu Surfside News on October 5, 2006.

ATTACHMENTS:

1. Resolution No. 06-89
2. Parcel map of RR-zoned beachfront properties
3. Notice of Public Hearing

# Rural Residential Zoned Parcels Abutting the Beach



**Legend**

- RR < 20,000 Square Feet
- Other Parcels
- Coastline Boundary

**LCP Zoning Map**

- RR1
- RR2
- RR5
- RR10
- RR20
- RR40
- SFL
- SFM
- MF
- MFBF
- MH
- MHR
- RVP
- CR
- CN
- CC
- CG
- CV-1
- CV-2
- POS
- OS
- PRF
- I
- RD
- PD
- TCO



# City of Malibu

23825 Stuart Ranch Road · Malibu, California · 90265-4861  
(310) 456-2489 · fax (310) 456-7650  
www.malibucity.org

October 3, 2011

Farshad Azarnoush  
13743 Ventura Boulevard, #270  
Sherman Oaks, CA 91423

**Reference: Pre-Application No. 11-025**

**26544 Latigo Shore Drive (APN 4460-019-024)**

*A pre-application requesting clarification regarding the application of development standards for the construction of a single-family residence on an undeveloped lot*

Dear Mr. Azarnoush:

On **September 1, 2011**, the above-referenced pre-application (PA) was submitted to the City of Malibu Planning Department. The subject parcel is located at 26544 Latigo Shore Drive (APN 4460-019-024) and is zoned Multifamily Residential (MF). The subject parcel is located in the Appeal Jurisdiction of the California Coastal Commission (CCC) as depicted on the Post-Local Coastal Program (LCP) Certification Permit and Appeal Jurisdiction Map.

Pursuant to the PA request, Planning staff completed a review of the submitted materials. This response is based on questions and preliminary plans provided by the applicant.

- 1. The designated zone is MF. However, all beachfront physical and adjacency characteristics of the property are consistent with beachfront properties, and therefore we should comply with the beachfront development standards.*

The City's Zoning Map has two zoning designations for multi-family residential land uses (i.e., MF and MF-BF [Multifamily Residence – Beach Front]). It has been previously determined that non-beachfront development standards apply to MF zoned parcels and beachfront development standards apply to MF-BF zoned parcels (see enclosed PA No. 07-045 prepared for adjacent parcel). The minimum lot area for an MF zoned parcel is 20,000 square feet compared to 5,000 square feet for an MF-BF zoned parcel. Additionally, the density allowed on parcels zoned MF-BF is much higher than what is allowed for MF. Beachfront development standards are less stringent because they have been designed to accommodate development on smaller, much more constrained parcels. The parcel's gross lot area is 38,768 square feet which is nearly twice the minimum permitted and nearly eight times the size permitted for MF-BF zoned parcels. Therefore, the application of non-beachfront development standards on the subject parcel is appropriate.

Due to the parcel's location along the shore, the height will be measured from the lowest recommended finished floor elevation on the ocean side, as defined by Engineer, based upon a comprehensive wave action report. The height f

portion of the building will be measured from the lowest grade elevation. Please note that any portion of the building in excess of 18 feet will require a site plan review for a maximum height of 24 feet for a flat roof, or 28 feet for a pitched roof.

For your reference, the second residential unit is sited on a densely vegetated drainage swale which may meet the definition of environmentally sensitive habitat area (ESHA) and/or the required fuel modification may impact mapped ESHA across Pacific Coast Highway. Please coordinate with Mr. Dave Crawford whether a biological assessment will be required when a formal coastal development permit (CDP) application is submitted. Mr. Crawford may be reached at (310) 456-2489, extension 277.

2. *Since the development/building area fronts a private road and the access is from a private road, confirm that no view corridor or public access is required. Pacific Coast Highway is higher than the top of the proposed building, and the access to the proposed building is from a private street, Latigo Shore Drive.*

Pursuant to LCP Local Implementation Plan (LIP) Section 6.5(E), development on parcels located on the ocean side of public roads shall protect public ocean views. In the case of the subject parcel, bluewater ocean view impacts are assessed from Pacific Coast Highway as Seagull Drive and Latigo Shore Drive are both private roads. As depicted in the cross-sections, the proposed buildings are lower than the adjacent road grade of Pacific Coast Highway consisting with LIP Section 6.5(E)(1)(a). Based on the submitted preliminary plans, no view corridors are required.

3. *Please confirm that the stringline indicated on plan is acceptable. The stringline connects the building and deck from the neighboring property to the north and the closest single-family dwelling in the south, three properties over. The stringline as indicated is parallel to the beach.*

Due to the parcel's location along the shore, new construction is subject to the building and deck stringline rules. Pursuant to LIP Section 3.6(G)(3)(a), a dwelling may not extend seaward of a stringline drawn from a point on the closest upcoast and downcoast dwelling. The stringline point shall be located on the nearest adjacent corner of the upcoast and downcoast dwellings. The nearest adjacent upcoast dwelling (west) is the condominiums located at 26665 Seagull Way. However, other alternatives may be considered with a stringline modification should the application of the stringline rule result in a stringline substantially inconsistent with adjacent development. When a formal CDP application is submitted, please provide a survey showing development on adjacent parcels. The survey will assist staff in determining whether to support a stringline modification and, if so, which stringline points to use.

4. *Please confirm that we are allowed to have an elevator shaft that provides accessibility to the second floor of the building next to Latigo Shore Drive as well as accessibility to the first floor on the beach side. The elevator would need to be placed at the junction where the building appears to be three stories high, but is not.*

In concept, a standard size elevator shaft on the road side half of the building may be permitted to access all three levels provided it complies with the height limit. However, it is not possible to

PA 11-025  
26544 Lafigo Shore Drive  
October 3, 2011  
Page 3 of 3

verify whether the proposed elevator shaft meets the height limit as height for a non-beachfront building is measured from the lowest grade elevation.

This response letter addresses the questions included in the application. The information provided above is based on information submitted for this review, and is not based on a complete application. Upon submittal of a formal CDP application, additional exhibits and information from a complete application submittal will be evaluated to establish conformance with the applicable design and development standards. The previously discussed information may change as a result of necessary submittal requirements provided in the official application.

This review letter is non-binding and is not a zoning approval. It is based solely on applicable regulations, policies, and interpretations effective at the time of the review. Any changes to applicable zoning regulations, policies and/or interpretations may result in a different determination at a later date and may require modifications to the project.

If you have any questions, do not hesitate to contact me at (310) 456-2489, extension 482, or at [afernandez@malibucity.org](mailto:afernandez@malibucity.org).

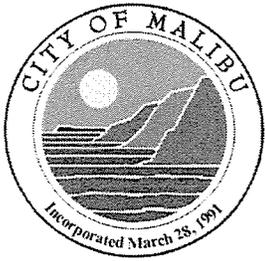
Sincerely,



Adrian Fernandez  
Assistant Planner

Enclosure:

- Review Letter of PA No. 07-045



# City of Malibu

23815 Stuart Ranch Road • Malibu, California • 90265-4861  
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September 6, 2007

Frank J. Schuetz  
8449 Grandview Drive  
Los Angeles, CA 90046

Re: **Pre-Application Review No. 07-045**  
26422 – 26488 Latigo Shores Drive  
Multi-Family (MF) residential zoning designation  
Conformance Review Questions

Dear Mr. Schuetz:

The application listed above was submitted to the City of Malibu Planning Department for processing. The pre-application includes over 30 individual questions regarding the feasibility of development on two adjacent parcels along Latigo Shores Drive.

Apparently, there has been some misunderstanding as to what the City's pre-application process can offer prospective applicants. There is no process in the City of Malibu where a staff member can make an assessment as to the likelihood of a proposed project being approved or denied. There are certain consulting firms which offer "feasibility studies" as a service to their clients in order to better understand the viability of their proposed project.

The City of Malibu's pre-application process assists applicants with setback determinations and other zoning compliance or procedural issues related to their proposed project and does not provide a viability assessment or stand as a pre-approval mechanism. Furthermore, the Planning Division does not offer processing timelines regarding project completion time. It should be understood that the discretionary decision making bodies in the City of Malibu are the Planning Commission and the City Council and at no time does City staff represent otherwise. Furthermore, the California Coastal Commission maintains its appealable jurisdiction over properties located between the sea and the first public road paralleling the sea, within 300 feet of the inland extent of any beach or of the mean high tide of the sea where there is no beach (whichever is the greater distance) or development within 100 feet of significant scenic resources.

The pre-application includes several questions regarding the coastal review process. All questions regarding the California Coastal Commission (CCC) should be addressed directly to that body. The South Central Coast Area Office of the CCC is located at 89 S. California Street, Suite 200, Ventura, CA 93001-2801.



Additionally, all questions regarding wave uprush and associated engineering standards in the City of Malibu should be addressed to the City Coastal Engineer, Alexis Spencer. Ms. Spencer may be contacted at (310) 456-2489, extension 307 or by email at [aspencer@ci.malibu.ca.us](mailto:aspencer@ci.malibu.ca.us).

Several questions listed on your pre-application do fall under the realm of conformance review and will be addressed as follows:

### **1(a). Multi-Family zoning designation development regulations**

The fact that the subject property is zoned MF and not MFBF is not a unique occurrence in the City of Malibu. Per the City's zoning maps, there are many other parcels located along the shore which do not have a beachfront designation. The density allowed on parcels zoned beachfront is much higher than what is allowed for multi-family and, therefore, not appropriate for all parcels along the shore.

**MULTI-FAMILY RESIDENCE** - a building or portion thereof used for occupancy by two or more families living independently of each other and containing three or more dwelling units.

When the time comes to submit your application, you will be required to prove to the Planning Division (with the submittal of a Certificate of Compliance) whether the subject property is one or two separate lots. This distinction will allow the planner to discern whether or not your proposal meets the requirements for development in the MF zone.

The submitted plans show two detached residences on each parcel. Per the requirements set forth in the LIP pertaining to the MF zone, the maximum density for each parcel is six dwelling units per acre. A wet-stamped and wet-signed survey drafted by a licensed surveyor is required at the time of application submittal. This survey must include the gross and net lot area of the subject property. Planning staff cannot determine if the density proposed in this pre-application meets the requirements of the MF zone without exact lot size square footage. The proposed residential dwellings would be required to abide by the regulations enumerated in LIP Section 3.6 regarding non-beachfront development.

Per LCP Table 3 (Permitted Uses), multi-family residences are conditionally permitted in the MF zone. Therefore, a conditional use permit (CUP) would have to be processed to allow this type of development.

One item I did notice on the submitted plans is that the beachfront setbacks were being applied. Due to the MF zoning designation of the parcel, you will be required to utilize the non-beachfront setback standards as listed below:

1. Front yard setbacks shall be at least 20% of the total depth of the lot, or 65 feet, whichever is less.
2. Side yard setbacks shall be cumulatively at least 25% of the total width of the lot but, in no event, shall a single side yard setback be less than 10% of the width of the lot or 5 feet, whichever is greater.



3. Rear yard setbacks shall be at least 15% of the lot depth or 15 feet whichever is greater.
4. For the purpose of calculating yards, slopes equal to or greater than 1:1 shall not be included in the lot dimensions.

### **1(c). Subdivision**

You touched on the possibility of applying for a subdivision of the subject parcel. Please note that the Planning Commission must make 16 required findings for all proposed subdivision projects. Finding No. 14 states that the subdivision "does not create any parcel where a shoreline protection structure or bluff stabilization structure would be necessary to protect development on the parcel from wave action, erosion or other hazards at any time during the full 100 year life of such development". Due to the proximity of the shore and associated wave action, some type of shoreline protective device would be required for the new structures. Therefore, this finding could not be made and Planning staff would not recommend approval of the subdivision request.

### **2(a). Guarded entry gates**

Enclosed you will find Zoning Code Interpretation No. 8 regarding the criteria by which Planning staff evaluates applications for entry gates on private roads.

### **2(e). Setbacks from private streets**

Enclosed you will find Zoning Code Interpretation No. 1 regarding the determination regarding how Planning staff evaluates property lines which abut private roads.

### **2(g). View corridor requirements for lots averaging 50 to 60 feet in width**

LIP Section 6.5(E)(2)→ Where the topography of the project site does not permit the siting or design of a structure that is located below road grade, new development shall provide an ocean view corridor on the project site by incorporating the following measures.

- a. Buildings shall not occupy more than 80 percent maximum of the lineal frontage of the site.
- b. The remaining 20 percent of lineal frontage shall be maintained as one contiguous view corridor, except on lots with a width of 50 feet or less. Lots with a lineal frontage of 50 feet or less shall provide 20 percent of the lot width as view corridor; however, the view corridor may be split to provide a contiguous view corridor of not less than 10 percent of the lot width on each side. For lots greater than 50 feet in width, the view corridor of not less than 10 percent of the lot width on each side, provided that each foot of lot width greater than 50 feet is added to the view corridor. On irregularly shaped lots, the Planning Manager shall determine which side yards shall constitute the view corridor in order to maximize public views. Site shall not be designed so as to provide for parking within these designated view corridors.



c. No portion of any structure shall extend into the view corridor above the elevation of the adjacent street.

d. Any fencing across the view corridor shall be visually permeable and any landscaping in this area shall include only low-growing species that will not obscure or block blue water views.

e. In the case of development that is proposed to include two or more parcels, a structure may occupy up to 100 percent of the lineal frontage of any parcel(s) provided that the development does not occupy more than 80 percent maximum of the total lineal frontage of the overall project site and that the remaining 20 percent is maintained as one contiguous view corridor.

Because the subject lots exceed 50 feet in width, a 20 percent view corridor is required for each property.

## **2(m). Structures allowed to exceed the maximum height requirements**

LIP Section 3.6(E)(1)→ Non-beachfront lots. Every residence and every other building or structure associated with a residential development, including satellite dish antenna, shall not be higher than 18 feet above natural or finished grade, including rooftop, parapet and deck walls and railings, whichever results in a lower building height, except for chimneys and rooftop antenna other than satellite dish antenna. Pursuant to this section of the LIP, no structures are permitted to exceed the maximum roof height as enumerated for non-beachfront development.

The LCP does contain a mechanism, a site plan review, to permit the construction over 18 feet in height up to a maximum of 24 feet for a flat roof and 28 feet for a pitched roof. In order to grant a site plan review the following findings (LIP Section 13.27 and Malibu Municipal Code Section (M.M.C.) 17.62) must be made.

1. That the project does not adversely affect neighborhood character.
2. That the project provides maximum feasible protection to significant public views as required by Chapter 6 of the Malibu LIP.
3. That the project does not obstruct visually impressive scenes of the Pacific Ocean, offshore islands, Santa Monica Mountains, canyons, valleys, or ravines from the main viewing area of any affected principal residence as defined in M.M.C. Section 17.40.040(A)(17).
4. That the project does not affect *solar access*, as defined by staff.
5. That the project is consistent with the city's general plan, local coastal program, municipal code, and city standards.
6. That the proposed project complies with all applicable requirements of State and local law.

Due to the fact that this property is located along the shore, the height will be measured from the lowest recommended finish floor elevation on the ocean side, as defined by a licensed Civil Engineer, based upon a Comprehensive Wave Action Report.



## **2(n). Required setbacks between swimming pools and buildings**

LIP Section 3.5.3(B)(6)→ Underground structures, such as swimming pools, may project without limit into any required yards; provided, that such structures shall not have a height of more than two and one-half feet above adjacent grade and shall not be located closer than five feet to any property line, or main structure.

Pursuant to this section, pools may not be sited closer than five feet to a main structure, i.e. a residential structure.

## **3(a). Incorporation of a mezzanine into the residence**

Definition as set forth in LIP Chapter 2.

**MEZZANINE** - an intermediate level without walls or partitions, placed in any story or room and open to the space below. When the total of any such mezzanine floor exceeds 33-1/3% of the total floor area in that room, it shall constitute an additional story. The clear height above or below a mezzanine floor shall not be less than seven feet. No more than one continuous mezzanine may be permitted in any one room. A loft shall be considered a mezzanine.

Please note that a mezzanine can be incorporated into your project design, but the overall height of 24 feet for a flat roof and 28 feet for a pitched roof may not be exceeded. Furthermore, under no circumstances shall the maximum number of stories above grade be greater than two.

## **3(c). Current basement and/or cellar rules for beachfront properties**

LIP Section 3.6(K)(3)→ Basements shall not be constructed on beachfront parcels. However, subterranean equipment vaults not containing habitable space may occupy a landward area of a beachfront parcel that is not required for the construction of the OWTS and as long as the vault does not require a shoreline protection structure. This section goes on further to stat that "cellars shall not be constructed on beachfront parcels".

## **3(d). Difference between a guest house and a second residential unit**

Definitions as set forth in LIP Chapter 2.

**GUEST HOUSE** – attached or detached living quarters on the same premises as a single family residence for the use of family members, guests or employees of the occupants of such residence, containing no kitchen facilities and not rented or otherwise used as a separate dwelling. The maximum living area of a guest house shall not exceed 900 square feet, including any mezzanine or storage space. A guest house may include a garage not to exceed 400 square feet. The square footage of the garage shall not be included in the maximum living area.



**SECOND UNIT** – an attached or detached residential dwelling unit which provides complete independent living facilities for one or more persons. It shall include permanent provisions for living, sleeping, eating, cooking and sanitation on the same parcel as the single family dwelling is situated. The maximum living area of a second unit shall not exceed 900 square feet, including any mezzanine or storage space. A second unit may include a garage not to exceed 400 square feet. The square footage of the garage shall not be included in the maximum living area.

**3(e). Granny units in MF zoning designation**

A granny unit is considered an accessory structure pursuant to the LCP. Per Table 3 (Permitted Uses), accessory structures are permitted in the MF zone as long as they conform to the residential development standards found in LIP Section 3.6.

Should the granny unit contain a full kitchen, then it will fall under the category of a second residential unit. Please note that only one second residential unit is permitted per primary residence.

This pre-application determination is non-binding and is not a zoning approval. It is based solely on applicable zoning regulations, policies, and interpretations in effect as of this date. Any changes to applicable zoning regulations, policies, and/or interpretations may result in a different determination at a later date and may require modifications to your project to comply with applicable zoning regulations, policies and/or interpretations in effect at the time a formal zoning application is deemed complete.

Sincerely,

Stephanie Danner  
Associate Planner



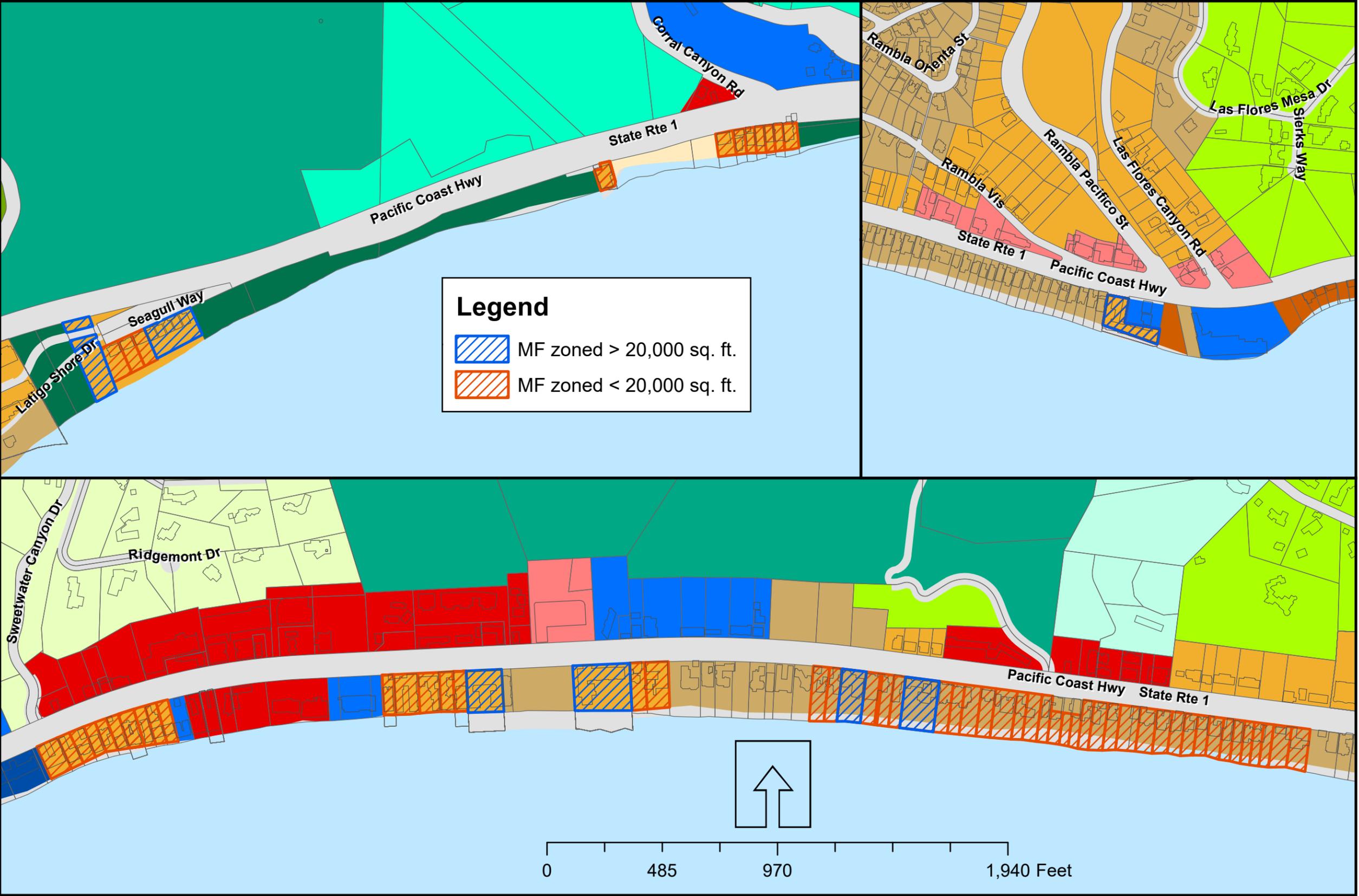
# LCP - Multi-Family Residential Zoned Parcels Abutting the Beach



LCP Zoning Map

- RR1
- RR2
- RR5
- RR10
- RR20
- RR40
- SFL
- SFM
- MF
- MFBF
- MH
- MHR
- RVP
- CR
- CN
- CC
- CG
- CV-1
- CV-2
- POS
- OS
- PRF
- I
- RD
- PD
- TCO

# MMC - Multi-Family Residential Zoned Parcels Abutting the Beach



## LCP Zoning Map

- RR1
- RR2
- RR5
- RR10
- RR20
- RR40
- SFL
- SFM
- MF
- MFBF
- MH
- MHR
- RVP
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