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

Wednesday, September 30, 2026

2:00 P.M.

City Hall – Multipurpose Room
23825 Stuart Ranch Road

Mayor Pro Tem Steve Uhring
Councilmember Marianne Riggins

Call to Order

Roll Call

Report on Posting of the Agenda – September 24, 2026

Approval of Agenda

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. **Presentations**

   A. Code Enforcement Updates: Current Operations and Future Priorities

2. **Old Business**

   None.

3. New Business

A. Approval of Minutes – March 26, 2026

Recommended Action: Approve the minutes for the Zoning Ordinance Revisions and Code Enforcement Subcommittee (ZORACES) Special meeting of March 26, 2026.

Staff Contact: Executive Assistant Gonzalez, 310-456-2489, ext. 336

B. Mitigation Framework for ESHA and Protected Native Trees

Recommended Action: Review the proposed framework to improve the City's review process and mitigation protocol in the Local Coastal Program (LCP) to address unavoidable impacts on Environmentally Sensitive Habitat Area (ESHA) and protected native trees resulting from development, and provide guidance to staff on next steps.

Staff Contact: Community Development Director Bundy, 310-456-2489, ext. 229

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. Special meeting agendas may be amended up to 24 hours in advance of the meeting. Dated this 24th day of September 2026, at 9:00 a.m.

Alyssa Gonzalez

Alyssa Gonzalez, Executive Assistant

Zoning Ordinance Revisions & Code Enforcement Subcommittee (ZORACES) Agenda Report

Zoning Ordinance Revisions & Code Enforcement Subcommittee Special Meeting 09-30-26

Item 3.A

To: Mayor Pro Tem Uhring and Councilmember Riggins

Prepared by: Alyssa Gonzalez, Executive Assistant

Approved by: Jesse Mays, Assistant City Manager

Date prepared: September 23, 2026 Meeting date: September 30, 2026

Subject: Approval of Minutes – March 26, 2026

RECOMMENDED ACTION: Approve the minutes of the Zoning Ordinance Revisions and Code Enforcement Subcommittee (ZORACES) Special meeting of March 26, 2026.

DISCUSSION: Staff has prepared draft minutes for the ZORACES Special meeting of March 26, 2026 and hereby submits the minutes to the Subcommittee for approval.

ATTACHMENTS: Draft Minutes for the March 26, 2026 ZORACES Special meeting

MINUTES
ZONING ORDINANCE REVISIONS AND CODE ENFORCEMENT
SUBCOMMITTEE (ZORACES)
SPECIAL MEETING
MARCH 26, 2026
MULTIPURPOSE ROOM
3:00 P.M.

CALL TO ORDER

Mayor Pro Tem Uhring called the meeting to order at 3:00 p.m.

ROLL CALL

The following persons were recorded in attendance by the Recording Secretary:

PRESENT: Mayor Pro Tem Steve Uhring and Councilmember Marianne Riggins

ALSO PRESENT: Joe Irvin, City Manager; Rob DuBoux, Assistant City Manager; Yolanda Bundy Community Development Director; Tyler Eaton, Assistant Community Development Director; Cynthia Alba, Senior Management Analyst; Joseph Smith, Contract Principal Planner (Remote); and Executive Assistant Alyssa Gonzalez.

APPROVAL OF AGENDA

MOTION Councilmember Riggins moved and Mayor Pro Tem Uhring seconded a motion to approve the agenda. The motion carried unanimously.

REPORT ON POSTING OF AGENDA

Executive Assistant Gonzalez reported that the agenda for the meeting was properly posted on March 24, 2026.

DISCUSSION ITEMS

ITEM 1 Approval of Minutes – October 12, 2022, and November 11, 2022.

Staff recommendation: Approve the minutes for the Zoning Ordinance Revisions and Code Enforcement Subcommittee Special meeting of October 12, 2022, and November 11, 2022.

MOTION Councilmember Riggins moved and Mayor Pro Tem Uhring seconded a motion to approve the minutes for the Zoning Ordinance Revisions and Code Enforcement Subcommittee Special meeting of October 12, 2022, and November 11, 2022. The motion carried unanimously.

ITEM 2 Beachfront Definition for Residential Development Standards – Local Coastal Program Amendment No. Xx-xxx and Zoning Text Amendment No. xx-xxx.

Recommended Action: Review the proposed definition of "beachfront" for inclusion in the Local Coastal Program (LCP) Local Implementation Plan (LIP) and Title 17 (Zoning) of the Malibu Municipal Code (MMC) and provide feedback for consideration by the Planning Commission.

Assistant Community Development Director Eaton presented the report. Staff is requesting authorization to amend the Local Coastal Program and zoning code to clearly define "beachfront." The purpose is to eliminate ambiguity and ensure properties receive the appropriate development standards consistently.

Principal Planner Smith explained that beachfront properties have more flexible development standards, including reduced setbacks, greater height, and no maximums on impermeable coverage, two third calculations or TDSF (Total Development Square Footage). The proposed definition is intended to provide consistency while protecting the natural environment, rural character, and open-space areas.

Staff proposed three criteria for determining whether a property is beachfront: it must directly border the coast, it cannot have an RR (Rural Residential) designation, and its primary use must be in a low-lying shoreline area rather than separated from the beach by a bluff, cliff, hill, or other elevated coastal landform.

Staff reviewed photos of properties to differentiate what is considered beach front and what is not. They emphasized that simply having a parcel touch the beach does not automatically make it beachfront; the property's zoning and physical/topographic characteristics also matter.

Councilmember Uhring questioned whether the definition would be clear and easy to apply when property owners challenge the determination. Staff explained that the goal is to replace the city's informal historical practice with a written standard that can be consistently applied and defended.

Broad Beach and potential sand-dune changes were also discussed. Staff noted that the definition could be adjusted to clarify how sand dunes should be treated.

Finally, staff clarified that an accessory structure located on the beach does not make the entire property beachfront if the primary residence or primary use is located away from the beach.

Staff clarified that beach stairs, seawalls, and other accessory structures do not determine beachfront status. The primary residence or primary use is what matters. Examples showed homes on top of bluffs or elevated areas that have accessory structures leading to the beach but would still not qualify as beachfront.

Principal Planner Smith also explained that this has been a long-standing issue and that the proposed definition largely formalizes the way the city has already been making these determinations. A GIS map could eventually show property owners clearly whether their property qualifies. Staff recommended taking the proposal to the Planning Commission and then back to the City Council.

Councilmember Uhring emphasized when bringing to the Planning Commission to be clear that the proposal is not intended to change existing policy, but rather to put the city's long-standing practice into clear written rules. Councilmember Uhring supported using the examples and GIS mapping to make the rules easier for property owners and staff to understand.

MOTION Councilmember Riggins moved and Mayor Pro Tem Uhring seconded a motion to approve staff recommendation of the proposed definition of "beachfront" for inclusion in the Local Coastal Program (LCP) Local Implementation Plan (LIP) and Title 17 (Zoning) of the Malibu Municipal Code (MMC) and direct it to the Planning Commission for consideration. The motion carried unanimously.

Discussion after the motion: Councilmember Uhring suggested keeping the presentation's photographs and examples available for future property disputes and potentially putting them on the city's website. He also wanted to note that no one appeared to attend the meeting specifically to oppose the proposal.

ADJOURNMENT

At 3:35 p.m., Mayor Pro Tem Uhring adjourned the meeting.

Approved and adopted by the Zoning Ordinance Revisions and Code Enforcement Subcommittee of the City of Malibu on September 30, 2026.

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STEVE UHRING, Mayor Pro Tem

ATTEST:

_____
ALYSSA GONZALEZ, Executive Assistant

Zoning Ordinance Revisions & Code Enforcement Subcommittee Meeting
09-30-26
Item 3.B.

Zoning Ordinance Revisions and Code Enforcement Subcommittee Agenda Report

To: Councilmember Riggins and Mayor Pro Tem Uhring

Prepared by: Tyler Eaton, Assistant Community Development Director and Joseph Smith, AICP, Contract Principal Planner

Approved by: Yolanda Bundy, MS, PE, CBO, CFCO, Community Development Director

Date prepared: September 22, 2026 **Meeting date:** September 30, 2026

Subject: Mitigation Framework for ESHA and Protected Native Trees

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RECOMMENDED ACTION: Review the proposed framework to improve the City's review process and mitigation protocol in the Local Coastal Program (LCP) to address unavoidable impacts on Environmentally Sensitive Habitat Area (ESHA) and protected native trees resulting from development, and provide guidance to staff on next steps.

DISCUSSION: The proposed framework includes the following three components:

1. Establish a policy to clarify how the City's mitigation requirements apply to unavoidable impacts to ESHA and native trees (Attachment 1).

2. Establish a policy to require the City Biologist conduct a site inspection, at the applicant's expense, when impacts to ESHA and native trees may occur (Attachment 2).

3. Initiate an LCP Amendment (LCPA) to change the recipient of in-lieu fees from the Santa Monica Mountains Conservancy (SMMC) to the City and to ensure that the use of funds remains in the City to the maximum extent available.

As outlined below, the proposed framework is intended to improve the City's mitigation protocol when ESHA and native tree mitigation is required for new development.

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Proposed Components of the Framework

Component 1: Establish a policy to clarify how the City's mitigation requirements apply to unavoidable impacts to ESHA and native trees.

ESHA Component: The LCP requires that new development shall be sited and designed to avoid impacts to ESHA.[1] It further requires that where there is no feasible alternative that can eliminate all impacts, the alternative that would result in the fewest or least significant impacts shall be selected. When development results in unavoidable impacts to ESHA, the LCP mandates that those impacts be fully mitigated, with priority given to onsite mitigation. Impacts could occur in various forms of development such as the creation of a driveway, necessary grading to create a building pad, remediation of a geologic hazard, construction of a structure, voluntary vegetation management, or required fuel modification. LCP Local Implementation Plan (LIP) Section 4.8.1 provides three methods to mitigate ESHA impacts: 1) habitat restoration; 2) habitat conservation; or 3) an in-lieu fee for habitat conservation.

Native Tree Component: The LCP requires that new development shall be sited and designed to avoid impacts to native trees[2] to the maximum extent feasible. It further requires that where there is no feasible alternative that can prevent tree removal or encroachment, then the alternative that would result in the fewest or least significant impacts shall be selected. When development results in unavoidable impacts to native trees, the LCP mandates that those impacts be fully mitigated, with priority given to onsite mitigation. LIP Section 5.5 provides three methods to mitigate for native tree impacts: 1) onsite tree replacement at a 10 to 1 ratio; 2) offsite mitigation at a 10 to 1 ratio on a site that is restricted from development or is public parkland; and 3) an in-lieu fee to restore or create native tree woodland or savannah habitat.

LIP Chapters 4 (ESHA) and 5 (Native Tree Protection) emphasize the importance of fully mitigating impacts onsite. LIP Section 4.8(A) stipulates that offsite mitigation is only permitted when onsite mitigation proves infeasible. Additionally, LCP Land Use Policy (LUP) Policy 3.51 mandates that measures to restore disturbed or degraded habitat on the affected property must be included as mitigation when new development removes or adversely impacts native vegetation.

Despite the LCP's emphasis for onsite mitigation, it is staff's experience that the methods described in LIP Sections 4.8.1 (ESHA) and 5.5 (native trees) are often viewed by the public as a menu of mitigation options rather than a mitigation hierarchy. In practice, this view has resulted in the many applications proposing in-lieu fees without first documenting whether restoration or conservation on the subject parcel, or

[1] LIP §2.1 defines ESHA as "any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments." Additional criteria to be used when determining ESHA is provided in LIP §4.3(B).
[2] LIP §5.1 defines native trees as native oak, walnut, sycamore, alder, and toyon, where there is at least one trunk measuring six inches or more in diameter, or a combination of any two trunks measuring a total of eight inches or more in diameter, measured at four and one-half feet above natural grade.

offsite location, is achievable.[3] Because the LIP does not explicitly require an applicant to demonstrate infeasibility for each mitigation method before considering the next, it can be challenging to compel an applicant to use a more protective mitigation method without a definitive City policy on the matter. As a result, impacts to ESHA and native trees that occur within the City are not always offset within the City. The in lieu fees go to outside agencies that use the funds to support habitat restoration and implementation projects in the Santa Monica Mountains but it may not directly result in improving habitats in the City. Further, the City does not have a clear mechanism in the LIP to require that mitigation be provided in proximity to the ESHA or native trees that were impacted by development.

The policy mandates that ESHA and native tree mitigation is provided in a hierarchy, with methods based on an order of priority. The policy allows an applicant to propose any mitigation method only upon demonstrating, with substantial evidence and subject to the City Biologist's and the Community Development Director's review and acceptance, that each higher mitigation method is infeasible. If an applicant is unable to demonstrate infeasibility, then the higher method would be required to mitigate for impacts. This hierarchy will help staff provide concrete guidance to applicants and ensure the majority of the mitigation/restoration, if not all, happens within the City of Malibu.

The mitigation hierarchy is:

Method 1. Complete avoidance of ESHA/protected native trees wherever feasible.

Method 2. Onsite mitigation on the subject parcel, through habitat restoration or habitat conservation, at the required ratios indicated in the LIP Chapters 4 and 5 respectively. This method is strongly preferred and would be the default expectation for all projects.

Method 3. Offsite mitigation at a location within the City, where onsite mitigation is demonstrated to be infeasible. This method gives strong preference that the offsite location be as close to the area impacted as feasible.

Method 4. Offsite mitigation at a location within the Santa Monica Mountains Coastal Zone in close proximity to the City, where no feasible mitigation opportunity exists within the City.

[3] Two common reasons why an applicant desires to pay an in-lieu fee are: 1) less burdensome than restoration or conserving land; and 2) restoration may fail following installation. Regarding restoration performance, the LIP contains implementation safeguards that address this concern. LIP §4.8.1(A)(2) requires two performance bonds prior to building permit issuance, one for labor and materials and one for five years of maintenance and monitoring and authorizes the City to collect the security and complete the work on the property if the applicant fails to perform.

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Method 5. Payment of an in-lieu fee, only where mitigation is demonstrated to be infeasible at each of the higher tiers. This method would be considered a *last resort* and would not be accepted by the City as a matter of applicant preference, cost, or convenience.

Method 6. A combination of the hierarchy in this order.

Some lots that cannot accommodate a full onsite replacement may substitute some onsite mitigation for offsite mitigation first, then in lieu fees if there are no other options (Method 6). After all, within City boundaries there are a plethora of sensitive habitats that can use restoration and/or mitigative improvements. For example, if two native protected trees were impacted from a development project, the LIP requires that the trees be replaced at a 10:1 ratio, so 20 trees of the same species would need to be planted and monitored for their survival over the course of a 10-year period. If the lot was smaller and only could accommodate the planting of 12 trees onsite, and the applicant proves with substantial evidence that the remaining onsite mitigation is not feasible, they would be required to locate an alternative site within the City to plant the remaining 8 trees before turning to in lieu fees.

The policy clarifies the City's expectations to applicants and the public, and would also be used by staff and the City's decision makers when reviewing coastal development permit (CDP) applications. In particular, the policy would guide the City's determination when making the third finding required for all CDPs – that the project is the least environmentally damaging alternative (LIP Section 13.9(C)). If the City's decision makers find that a higher ESHA mitigation method is feasible and available to an applicant, but it was not adequately considered, the project's approval may be conditioned to require the higher method or denied since the finding in LIP Section 13.9(C) cannot be made. Specific to native trees, LIP Section 5.7(C) requires a finding that all feasible mitigation measures that would substantially lessen significant impacts have been incorporated. Similarly, if the City's decision makers find that a higher native tree mitigation method is feasible and available to an applicant, but it was not adequately considered, the project's approval may be conditioned to require the higher method or denied since the finding in LIP Section 5.7(C) cannot be made.

Component 1 is already being practiced by staff but could be formalized as an official City policy by the end of 2026 with the Planning Commission's adoption of a formal policy. This is because the LIP and LUP have existing language to support the hierarchy without need for an LCPA.[4] A draft policy is included as Attachment 1 for ZORACES' review and consideration.

[4] An LCPA is required only where the City proposes to change the text of the LCP or to apply a standard the LCP does not support. Neither of the policies described in Components 1 and 2 do so. The first policy states the priority for onsite mitigation is already established by LIP §§4.8(A) and 5.5 and LUP Policies 3.14 and 3.51, and the inspection policy applies the City Biologist review already required by LIP §§4.3(D) and 5.8(B). Both rest on authority the LCP already assigns to the City, including the Planning Commission's authority to find conformance with the LCP (LIP §§13.7(B) and 13.9(A) and (D)), to impose conditions necessary to ensure LCP conformance (LIP §13.8), and to require supporting information and fees (LIP §§13.6.1(A) and 13.6.3; LUP Policy 3.39)

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Component 2: Establish a policy to require the City Biologist conduct a site inspection, at the applicant's expense, when impacts to ESHA and native trees may occur.

LIP Section 4.3(A) requires the City to determine the physical extent of habitat that meets the LIP's definition of ESHA on a project site. This determination is based on the applicant's site-specific biological study and other relevant sources. Additionally, LIP Section 4.3(D) requires that the City must make findings regarding the physical extent of ESHA present. These findings are based on the applicant's study and other relevant sources, and reviews by the City Biologist and the Environmental Review Board (ERB).

Historically, the City requires an onsite investigation by the City Biologist for projects with the potential to affect ESHA and native trees, but this requirement is not expressly stated in LIP Chapters 4 or 5. The policy memorializes the City's longstanding practice and clarifies to applicants that the City Biologist is expected to conduct a site visit at the applicant's expense. The City Biologist's review of a project site is important because relying upon a review of maps and records alone is not a sufficient basis for the findings required by LIP Sections 4.3(D) and 5.7. The City Biologist would conduct the inspection and prepare a written ESHA determination identifying habitat types observed, the mapped extent of ESHA, protected native trees and their protected zones, applicable buffers under LIP Section 4.6.1, and the preliminary applicability of LIP Sections 4.6, 4.7, 4.8 and Chapter 5. The determination would be transmitted to the project planner and the applicant and incorporated into the staff report and any recommended conditions of approval.

Component 2 is already being practiced by staff but could be formalized as official policy by the end of 2026 with the Planning Commission's adoption of a formal policy. This is because the LIP and LUP have existing language to support City Biologist site inspections without need for an LCPA. A draft policy is included as Attachment 2 for ZORACES' review and consideration.

Component 3: Initiate an LCPA to change the recipient of in-lieu fees from the SMMC to the City and to ensure that the use of funds remains in the City to the maximum extent available.

When in-lieu fees are paid by an applicant, LIP Sections 4.8.1(C)(2) and 5.5.2, and LUP Policy 3.66, state that the fees may used to restore or conserve habitat anywhere within the Santa Monica Mountains Coastal Zone. The LIP does not prioritize the use of funds within the City but does require that fees shall be used within the Santa Monica Mountains for the acquisition or permanent preservation of properties containing areas designated ESHA, and to properties contiguous with existing parklands containing natural habitat. Additionally, the LCP designates the SMMC as the recipient of the funds, not the City.

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LIP Sections 4.8.1(C)(2) and 5.5.2 and LUP Policy 3.66 stipulate that in-lieu fees be paid into the Habitat Impact Mitigation Fund (ESHA) and Native Tree Impact Mitigation Fund (native trees), both of which are administered by the SMMC. Therefore, if the City desires to be the recipient of these fees, an LCPA would be required since the SMMC is named as the administering agency for in-lieu fees. Fees collected by the City would be held in a designated account and used for conservation of land, consistent with the LCP. The goal of the LCPA would ensure that mitigation for ESHA and native tree impacts remains within the City to the maximum extent available.

Staff suggests the LCPA include the following components:

1. Designate the City as recipient of in-lieu fees for ESHA and native tree mitigation;

2. Prioritize the expenditure of funds must be within the City of Malibu before use elsewhere within the Santa Monica Mountains;

3. Authorize the City Manager to have the ability to transfer funds to a public agency or nonprofit organization by written agreement when the City cannot find a proper location for fund expenditure itself(e.g., SMMC);

4. Require annual public reporting; and

5. Prohibit transfer of funds into the City's General Fund.

The LCP has precedent for naming the City as recipient for in-lieu fees and conservation easements. LIP Section 12.10 designates the City as recipient of in-lieu fees paid for new luxury overnight accommodations. Those fees are held by the City in a fund to subsidize the construction of lower cost overnight facilities in the Malibu-Santa Monica Mountains Coastal Zone area of Los Angeles County or Ventura County. Pursuant to LIP Section 12.10(C), the City may transfer funds to a public agency, nonprofit organization, or private entity by memorandum of understanding. LIP Section 4.8.1(B)(1)(a) requires that permanent, irrevocable open space easements associated with habitat conservation be dedicated to and enforceable by the City.

This component requires initiation by the City Council to start the LCPA process. Once prepared, the LCPA would be reviewed by the Planning Commission and recommendations provided to the City Council. If adopted by the City Council, the LCPA would be submitted to the California Coastal Commission (CCC) for certification in the LCP. The LCPA would not be effective unless and until the LCPA certification process was completed.

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General Plan & LCP Consistency

The following General Plan Conservation (CON) Element and LUP policies support the proposed mitigation framework.

General Plan

1. CON Policy 1.1.4: The City shall protect ESHAs as a priority over development and against any significant disruption of habitat values.

2. CON Policy 1.1.2: The City shall protect riparian areas and undisturbed areas within significant watersheds and wildlife habitat linkages through the use of open space or conservation easements or equivalent measures.

3. CON Policy 1.1.6: The City shall restore Disturbed Sensitive Resource Areas to the extent feasible and ecologically desirable.

4. CON Policy 1.2.1: The City shall preserve wildlife habitats and habitat linkages.

5. CON Policy 1.2.3: The City shall mitigate net loss of very threatened plant communities.

LUP

1. Policy 3.14: New development shall be sited and designed to avoid impacts to ESHA. If there is no feasible alternative that can eliminate all impacts, then the alternative that would result in the fewest or least significant impacts shall be selected. Impacts to ESHA that cannot be avoided through the implementation of siting and design alternatives shall be fully mitigated, with priority given to on-site mitigation. Off-site mitigation measures shall only be approved when it is not feasible to fully mitigate impacts on-site or where off-site mitigation is more protective in the context of a Natural Community Conservation Plan that is certified by the Commission as an amendment to the LCP. Mitigation shall not substitute for implementation of the project alternative that would avoid impacts to ESHA.

2. Policy 3.51: Disturbed areas' ESHAs shall not be further degraded, and if feasible, restored. If new development removes or adversely impacts native vegetation, measures to restore any disturbed or degraded habitat on the property shall be included as mitigation.

3. Policy 3.30: Protection of ESHA and public access shall take priority over other development standards and where there is any conflict between general development standards and ESHA and/or public access protection, the standards that are most protective of ESHA and public access shall have precedence.

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4. Policy 3.39 (excerpt): The ERB, in consultation with the City Biologist, shall review development within or adjacent to designated ESHA or other areas containing ESHA identified through a biological study as required pursuant to Policy 3.37. The City may impose a fee on applicants to recover the cost of review of a proposed project by the ERB when required by this policy.

5. Policy 3.65: Where the removal of native trees cannot be avoided through the implementation of project alternatives or where development encroachments into the protected zone of native trees result in the loss or worsened health of the trees, mitigation measures shall include, at a minimum, the planting of replacement trees on-site, if suitable area exists on the project site, at a ratio of 10 replacement trees for every 1 tree removed. Where on-site mitigation is not feasible, off-site mitigation shall be provided through planting replacement trees or by providing an in-lieu fee, based on the type, size and age of the tree(s) removed.

ZORACES Request

ZORACES is requested to provide staff guidance on the following:

1. Feedback on the proposed mitigation framework: 1) policy clarifying the mitigation hierarchy; 2) policy requiring City Biologist inspections; and 3) LCPA to designate the City as recipient of in-lieu fees.

2. If it is acceptable for the Planning Commission to be the entity that considers the two policies for adoption, or if the two policies should be elevated to the City Council for consideration and adoption.

3. Recommend the City Council initiates the LCPA to change the recipient of in-lieu fees from the SMMC to the City and to ensure that the use of funds remains in the City to the maximum extent available.

Next Steps

Based on the input received by the Subcommittee, the Planning Division would:

1. Finalize draft policies for Components 1 and 2 to be presented to the Planning Commission (or City Council) for adoption.

2. Request the City Council initiate an LCPA to the LIP and LUP to change the recipient of in-lieu fees from the SMMC to the City and to ensure that the use of funds remains in the City to the maximum extent available. If initiated, the Planning Division would prepare an LCPA and present it to the Planning Commission for review and recommendation to the City Council. If adopted by the City Council, the LCPA would be submitted to the CCC for certification in the

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LCP. The LCPA would not be effective unless and until the LCPA certification process was completed.

Attachments

1. Draft LCP Policy 7 – Mitigation Hierarchy for ESHA & Native Trees
2. Draft LCP Policy 8 – Site Inspections by the City Biologist

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DRAFT LCP Interpretation

(Interpretation of the provisions of the Malibu Local Coastal Program as approved by the Planning Commission of the City of Malibu)

LCP Number: _25_ **Dated**: _September 23, 2026____

Amended: _____

Community Development Director: Yolanda Bundy
Planning Manager: Tyler Eaton, Assistant Community Development Director
Interpreting Body: Planning Commission

MMC and LCP Sections: LIP Chapters 4 (Environmentally Sensitive Habitat Overlay) and 5 Native Tree Protection Ordinance

Title: Mitigation Hierarchy for ESHA & Native Trees

The Local Coastal Program (LCP) requires that new development shall be sited and designed to avoid impacts to Environmentally Sensitive Habitat Area (ESHA). It further requires that where there is no feasible alternative that can eliminate all impacts, the alternative that would result in the fewest or least significant impacts shall be selected. When development results in unavoidable impacts to ESHA, the LCP mandates that those impacts be fully mitigated, with priority given to onsite mitigation. LCP Local Implementation Plan (LIP) §4.8.1 provides three methods to mitigate ESHA impacts: 1) habitat restoration; 2) habitat conservation; or 3) an in-lieu fee for habitat conservation.

The LCP requires that new development shall be sited and designed to avoid impacts to native trees to the maximum extent feasible. It further requires that where there is no feasible alternative that can prevent tree removal or encroachment, then the alternative that would result in the fewest or least significant impacts shall be selected. When development results in unavoidable impacts to native trees, the LCP mandates that those impacts be fully mitigated, with priority given to onsite mitigation. LIP §5.5 provides three methods to mitigate for native tree impacts: 1) onsite tree replacement at a 10 to 1 ratio; 2) offsite mitigation at a 10 to 1 ratio on a site that is restricted from development or is public parkland; and 3) an in-lieu fee to restore or create native tree woodland or savannah habitat.

LIP Chapters 4 (ESHA) and 5 (Native Tree Protection) emphasize the importance of fully mitigating impacts onsite. LIP §4.8(A) stipulates that offsite mitigation is only permitted when onsite mitigation proves infeasible. Additionally, LCP Land Use Policy (LUP) Policy 3.51 mandates that measures to restore disturbed or degraded habitat on the affected property must be included as mitigation when new development removes or adversely impacts native vegetation.

Application

ESHA and native tree mitigation shall be provided in a hierarchy, with methods based on an order of priority. A project applicant may propose any mitigation method but only upon demonstrating, with substantial evidence and subject to the City Biologist's review and acceptance, that each higher method is infeasible. If an applicant is unable to demonstrate infeasibility, then the higher method would be required to mitigate for impacts.

Mitigation Hierarchy:

Method 1. Complete avoidance of ESHA/protected native trees wherever feasible.

Method 2. Onsite mitigation on the subject parcel, through habitat restoration or habitat conservation, at the required ratios indicated in the LIP Chapters 4 and 5 respectively. This method is strongly preferred and would be the default expectation for all projects.

Method 3. Offsite mitigation at a location within the City, where onsite mitigation is demonstrated to be infeasible. This method gives strong preference that the offsite location be as close to the area impacted as feasible.

Method 4. Offsite mitigation at a location within the Santa Monica Mountains Coastal Zone in close proximity to the City, where no feasible mitigation opportunity exists within the City.

Method 5. Payment of an in-lieu fee, only where mitigation is demonstrated to be infeasible at each of the higher tiers. This method would be considered a last resort and would not be accepted by the City as a matter of applicant preference, cost, or convenience.

Method 6. A combination of the hierarchy in this order.

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Some lots that cannot accommodate a full onsite replacement may substitute some onsite mitigation for offsite mitigation first, then in-lieu fees if there are no other options (Method 6). After all, within City boundaries there are a plethora of sensitive habitats that can use restoration and/or mitigative improvements. For example, if two native protected trees were impacted from a development project the LIP requires that the trees be replaced at a 10:1 ratio, so 20 trees of the same species would need to be planted and monitored for their survival over the course of a 10-year period. If the lot was smaller and only could accommodate the planting of 12 trees onsite, and the applicant proves with substantial evidence that the remaining onsite mitigation is not feasible, they would be required to locate an alternative site within the City to plant the remaining 8 trees before turning to in-lieu fees.

City Determinations on Coastal Development Permits (CDP)

This policy also provides guidance to staff and the City's decision makers when reviewing CDP applications. In particular, the policy guides the City's determination when making the third finding required for all CDPs – that the project is the least environmentally damaging alternative (LIP §13.9(C)).

For impacts to ESHA, if the City's decision makers find that a higher mitigation method is feasible for and available to an applicant, but it was not adequately considered, the project's approval may be conditioned to require the higher method or denied since the finding in LIP §13.9(C) cannot be made.

For impacts to native trees, LIP §5.7(C) requires a finding that all feasible mitigation measures that would substantially lessen significant impacts have been incorporated. If the City's decision makers find that a higher mitigation method is feasible and available to an applicant, but it was not adequately considered, the project's approval may be conditioned to require the higher method or denied since the finding in LIP §5.7(C) cannot be made.

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Draft LCP Interpretation

(Interpretation of the provisions of the Malibu Local Coastal Program as approved by the Planning Commission of the City of Malibu)

LCP Number: 26 **Dated**: September 23, 2026

Amended: _____

Community Development Director: Yolanda Bundy
Planning Manager: Tyler Eaton, Assistant Community Development Director
Interpreting Body: Planning Commission

MMC and LCP Sections: LIP Chapters 4 (Environmentally Sensitive Habitat Overlay) and 5 Native Tree Protection Ordinance

Title: Inspections by the City Biologist

Local Coastal Program (LCP) Local Implementation Plan (LIP) §4.3 requires the City to determine the physical extent of habitat that meets the LIP's definition of Environmentally Sensitive Habitat Area (ESHA) on a project site. This determination is based on the applicant's site-specific biological study and other relevant sources. Additionally, LIP Chapter 5 requires the protection of native trees subject to a tree protection plan and tree assessment. The City Biologist reviews site-specific studies, biological records, tree protection plans, and assessments, and applies applicable LCP provisions. If ESHA or native trees are present, the City Biologist determines its extent and the application of LIP requirements, including development standards (LIP §§4.6 and 5.4), economically viable use provisions (LIP §4.7), and mitigation requirements (LIP §§4.8 and 5.5).

Application

To verify the presence of ESHA or native trees and to verify the evidence presented in a biological study, an in-person inspection is mandatory for all proposed development where ESHA or native trees are documented, mapped, or has the potential to qualify as ESHA or a native tree(s). Project applicants must submit payment for the City Biologist inspection fee according to the City's current fee schedule, as adopted by the City Council.

Procedure

1. If the project contains mapped ESHA or the project materials indicate the potential presence of ESHA or Native Protected Trees, the City Biologist will coordinate a site inspection with the project applicant and include an invoice with the inspection fee.
2. Applicant shall submit payment and notify the City Biologist.
3. City Biologist will conduct the site inspection and document the City's records.
4. City Biologist will notify the project planner and applicant of the determination in writing confirming or rebutting the evidence presented in the biological study/native tree survey.
5. If additional site inspections are warranted, the City Biologist may request additional site inspections pursuant to this policy.