AUGUST 26, 2021 SPECIAL MEETING
HTTPS://MALIBUCITY.ORG/VIRTUALMEETING

1. Meeting Agenda
   Documents:
   PC210826_AGENDA_SPECIAL.PDF

2. Item 1A - Coastal Development Permit No. 21-008 / Pacific Coast Highway Between Webb Way And Puerco Canyon Road
   Documents:
   PC210826_ITEM 1A.PDF

3. Item 1B - Conditional Use Permit Amendment No 13-006 / 22969 Pacific Coast Highway
   Documents:
   PC210826_ITEM 1B.PDF

4. Item 1C - Malibu Inn Motel - Coastal Development Permit No. 09-067 / 22959 Pacific Coast Highway
   Documents:
   PC210826_ITEM 1C.PDF
This meeting will be held via teleconference only in order to reduce the risk of spreading COVID-19 and pursuant to the Governor’s Executive Order N-08-21 and the County of Los Angeles Public Health Officer’s Order (revised August 16, 2021). All votes taken during this teleconference meeting will be by roll call vote, and the vote will be publicly reported.

HOW TO VIEW THE MEETING: No physical location from which members of the public may observe the meeting and offer public comment will be provided. Please view the meeting, which will be live streamed at https://malibucity.org/video and https://malibucity.org/VirtualMeeting.

HOW TO PARTICIPATE BEFORE THE MEETING: Members of the public are encouraged to submit email correspondence to planningcommission@malibucity.org before the meeting begins.

HOW TO PARTICIPATE DURING THE MEETING: Members of the public may also speak during the meeting through the Zoom application. You must first sign up to speak before the item you would like to speak on has been called by the Chair and then you must be present in the Zoom conference to be recognized.

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Malibu Planning Commission
Special Meeting Agenda
(to be held during COVID-19 emergency)

Thursday, August 26, 2021

6:30 P.M. – SPECIAL PLANNING COMMISSION MEETING
Various Teleconference Locations
YOU MAY VIEW THIS MEETING LIVE OVER THE INTERNET AT MALIBUCITY.ORG/VIDEO

Call to Order - Chair

Roll Call - Recording Secretary

Approval of Agenda

Report on Posting of Agenda – August 20, 2021

1. Public Hearings

   A. Coastal Development Permit No. 21-008 – An application to construct median improvements to widen the outside shoulder for a distance of approximately two miles along Pacific Coast Highway between Webb Way and Puerco Canyon Road

      Location: 24201.5 Pacific Coast Highway, approximately two miles along Pacific Coast Highway between Webb Way and Puerco Canyon Road, within the appealable coastal zone
Applicant: City of Malibu Public Works Department and California Department of Transportation
Case Planner: Associate Planner Thompson, 456-2489, ext. 280

Recommended Action: Adopt Planning Commission Resolution No. 21-57 determining the project is categorically exempt from the California Environmental Quality Act, and approving Coastal Development Permit No. 21-008 to construct median improvements to widen the outside shoulder for a distance of approximately two miles along Pacific Coast Highway between Webb Way and Puerco Canyon Road located entirely within the California Department of Transportation public right-of-way to better allow a combination of bicycle use and on-street parking (City of Malibu and Caltrans).

B. Conditional Use Permit Amendment No 13-006 and Joint Use Parking Agreement No. 14-001 – An application to amend Conditional Use Permit No. 09-009 and Joint Use Parking Agreement No. 10-001 to reduce the restaurant service area in order to accommodate for the creation of a new retail tenant space, and decrease the number of required off-site parking spaces (Aviation Nation)

Location: 22969 Pacific Coast Highway, within the appealable coastal zone
APN: 4452-019-004
Owner: SKA Group, LLC
Tenant: Aviation Nation Dreamland/Aviation Nation
Case Planner: Assistant Planning Director Fernandez, 456-2489, ext. 482

Recommended Action: Adopt Planning Commission Resolution No. 21-64 determining the project is categorically exempt from the California Environmental Quality Act, and approving Conditional Use Permit Amendment No. 13-006 and Joint Use Parking Agreement Amendment (JUPA) No. 14-001 amending Conditional Use Permit No. 09-009 and JUPA No. 10-001 to allow the reduction of the restaurant service area in order to accommodate the creation of a new retail tenant space, and decrease the number of required offsite parking spaces in the JUPA to reflect the new number of required offsite parking spaces at an existing restaurant (Aviation Nation Dreamland) located in the Commercial Visitor-Serving-One zoning district at 22969 Pacific Coast Highway (SKA Group, LLC).

C. Malibu Inn Motel - Coastal Development Permit No. 09-067, Conditional Use Permit No. 18-002, Variance Nos. 18-029, 18-030, 18-031, and 20-035, Site Plan Review No. 18-025, Joint Use Parking Agreement No. 18-001, Initial Study No. 20-003, and Mitigated Negative Declaration No. 20-003 – An application for development of a motel project

Location: 22959 Pacific Coast Highway, within the appealable coastal zone
APN: 4452-019-005
Owner: Surfrider Plaza, LLC
Case Planner: Assistant Planning Director Fernandez, 456-2489, ext. 482

Recommended Action: Adopt Planning Commission Resolution No. 21-65 adopting Initial Study No. 20-003, and Mitigated Negative Declaration No. 20-003 pursuant to the California Environmental Quality Act, and approving Coastal Development Permit No. 09-067 for the construction of a new 7,693 square foot, 20-room motel above a new subterranean parking garage, surface parking lot, rooftop deck with swimming pool, spa and bar area, grading, retaining walls, landscaping, a new onsite wastewater treatment system and authorization for the Planning Director to submit a letter of public convenience or necessity for the sale of alcohol; including Conditional Use Permit No. 18-002 for a motel in the Commercial Visitor-Serving-One (CV-1) zoning district and sale of alcohol, Variance (VAR) No. 18-029 for non-exempt grading in excess of 1,000 cubic
yards per acre of commercial development, VAR No. 18-030 construction on slopes steeper than 3 to 1, VAR No. 18-031 for a retaining wall that is an integral part of the building in excess of 12 feet in height, VAR No. 20-035 for surface parking within the required front yard setback, Site Plan Review No. 18-025 for a building height in excess of 18 feet, not to exceed 24 feet for a flat roof, and Joint Use Parking Agreement No. 18-001 to share the parking spaces with the adjacent lot to the east (22969 Pacific Coast Highway [PCH] – Malibu Inn) located in the CV-1 zoning district at 22959 PCH (Surfrider Plaza, LLC).

Adjournment

Future Meetings

Wednesday, September 8, 2021  6:30 p.m.  Adjourned Regular Planning Commission Meeting  Location TBD
Monday, September 20, 2021  6:30 p.m.  Regular Planning Commission Meeting  Location TBD
Monday, October 4, 2021  6:30 p.m.  Regular Planning Commission Meeting  Location TBD

Guide to the Planning Commission Proceedings

As a result of the Coronavirus (COVID-19) pandemic, the City is under a state of local emergency, as well as states of emergency that have been declared in the County of Los Angeles, state of California, and a federal emergency declared by the President of the United States. In order to reduce the risk of spreading COVID-19, consistent with these emergency measures, the Planning Commission meeting will be open and public but conducted via teleconference only. This way the public, the staff, and the Commission will not be physically in the same place.

For Public Hearings involving zoning matters the appellant and applicant will be given 15 minutes each to present their position to the Planning Commission, including rebuttal time. Members of the public wishing to speak during the meeting must participate through the Zoom application. Each speaker is limited to three (3) minutes. In order to speak, individuals must visit https://malibucity.org/VirtualMeeting and follow the directions for signing up to speak and downloading the Zoom application.

Planning Commission meetings are aired live and replayed on City of Malibu Government Access Channel 3 and are available on demand on the City’s website at https://www.malibucity.org/video. Copies of the staff reports or other written documentation relating to each item of business described above are available upon request by emailing planningcommission@malibucity.org.

The City Hall phone number is (310) 456-2489. To contact City Hall using a telecommunication device for the deaf (TDD), please call (800) 735-2929 and a California Relay Service operator will assist you. In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact Environmental Sustainability Director Yolanda Bundy, (310) 456-2489, ext. 229. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting. [28 CFR 35.102-35.104 ADD Title II.

Requests to show an audio or video presentation during a Council meeting should be directed to Alex Montano at (310) 456-2489, ext. 227 or amontano@malibucity.org. Material must be submitted by 12:00 p.m. on the meeting day.

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 20th day of August 2021 at 2:30 p.m.

Patricia Salazar
Patricia Salazar, Senior Administrative Analyst
Commission Agenda Report

To: Chair Jennings and Members of the Planning Commission

Prepared by: Jessica Thompson, Associate Planner

Approved by: Richard Mollica, Planning Director

Date prepared: August 19, 2021  Meeting date: August 26, 2021

Subject: Coastal Development Permit No. 21-008 – An application to construct median improvements to widen the outside shoulder for a distance of approximately two miles along Pacific Coast Highway between Webb Way and Puerco Canyon Road

Location: 24201.5 Pacific Coast Highway, approximately two miles along Pacific Coast Highway between Webb Way and Puerco Canyon Road, within the appealable coastal zone

Applicant: City of Malibu Public Works Department and California Department of Transportation

RECOMMENDED ACTION: Adopt Planning Commission Resolution No. 21-57 (Attachment 1) determining the project is categorically exempt from the California Environmental Quality Act (CEQA), and approving Coastal Development Permit (CDP) No. 21-008 to construct median improvements to widen the outside shoulder for a distance of approximately two miles along Pacific Coast Highway (PCH) between Webb Way and Puerco Canyon Road located entirely within the California Department of Transportation (Caltrans) public right-of-way (ROW) to better allow a combination of bicycle use and on-street parking (City of Malibu and Caltrans).

DISCUSSION: This agenda report provides a project overview, a summary of the surrounding land uses and project setting, description of the proposed project, staff's analysis of the proposed project’s consistency with Malibu Local Coastal Program (LCP) and Malibu Municipal Code (MMC) provisions, and environmental review pursuant to CEQA. The analysis and findings contained herein demonstrate the proposed project is consistent with the LCP and MMC.
Project Overview

The City of Malibu and Caltrans District 7 propose to construct median improvements to widen the outside shoulder for a distance of approximately two miles on PCH between its intersections with Webb Way and Puerco Canyon Road. Modifying the curbed median where feasible will provide increased travel space on the right shoulder for a combination of bicycle use and on-street parking, thereby improving safety on this segment of PCH.

The project includes painting bicycle refuge lanes between the through lane and right turn lane at the northbound intersections PCH/Malibu Canyon Road and PCH/John Tyler Drive, and at the southbound intersection PCH/Webb Way. Striping to separate bicycle lanes is not proposed. The project only includes increasing the right shoulder width within the existing paved cross section without widening the public ROW and establishing the above-mentioned bicycle refuges for increased visibility at the above-mentioned intersections. This improvement would allow for additional lateral public access within the City’s Coastal Zone, particularly involving active transportation. In addition, currently, the curbed median is not landscaped or hardscaped within the project site boundary. Providing hardscaping in the curbed median would benefit the roadway aesthetics along this scenic corridor. Drainage improvements would be an improvement over the existing condition.

Existing on-street parking would remain unchanged. No changes are proposed to driveway access or on-street parking. The existing 11-foot-wide vehicular travel lanes will also remain the same width.

The construction will be staged to minimize impacts during construction and maintain existing parking whenever possible. Based on available width, temporary K-rail will be implemented to provide an adequate work zone around the median under construction. This will require temporary re-striping of the travel lanes onto a portion of existing shoulders; in certain locations this will temporarily eliminate on-street parking to allow for continued bicycle access within the project site. On-street parking will be temporarily eliminated between John Tyler Drive to Puerco Canyon. However, construction will not occur during the summer months to prevent loss of parking from significantly affecting coastal access. The construction window will occur between September to May, except for some minor work during nighttime only as permitted. All construction and construction staging areas will occur within the existing Caltrans public ROW, to minimize negative impacts on neighboring land uses and environment.

Project Setting

The project site is located within the North Santa Monica Bay Watershed and is primarily in the Corral Canyon Subarea, with a portion of drainage towards the Malibu Creek Subarea. Runoff is collected in catch basins and conveyed via storm drains towards the Pacific Ocean. The project site primarily drains east to west with elevations along the project site ranging from 17 to 203 feet above mean sea level. Most of the flow drains
towards the shoulders into curb opening inlets and overside drains (OSDs) or down drains. In areas of sloped roadways and high side gutters, portions of the roadway have curb side inlets within the median.

Land uses adjacent to the project site include commercial and residential. Land uses north of John Tyler Drive are mainly residential. Pepperdine University is located along PCH on the north (east) side between Malibu Canyon Road and John Tyler Drive. At the intersection of PCH and Webb Way, the land use is primarily commercial, with Malibu Colony Plaza south of the project site boundary.

PCH, within the project site, is protected as a scenic highway according to the LCP Local Implementation Plan (LIP). During the summer months, PCH serves as a major access route to the beaches along the coast and experiences higher seasonal traffic volumes. The segment of PCH within the project site area is a four-lane highway, with two lanes in each direction and a raised median to separate the two directions of travel. In general, the public ROW is 100 feet wide within the project site. The raised median has a curb, gutter, and catch basin inlets to facilitate drainage. The project site includes three signalized intersections at Webb Way, Malibu Canyon Road, and John Tyler Drive. Sidewalks within the project site include one in the southbound direction south of John Tyler Drive to provide bus stop access; and one southbound adjacent to Malibu Colony Plaza. The posted speed limit is 50 miles per hour in both directions, except for east of John Tyler Drive in the southbound direction where it is 45 miles per hour. The shoulders are generally wider than eight feet and on-street parking is allowed in both directions west of John Tyler Drive and in some locations south of Malibu Canyon Road.

Figure 1 – Aerial Map
There are no structures within the project site, sound walls or retaining walls within the project limits. The existing pavement along this portion of the SR-1 corridor is generally comprised of Portland Cement Concrete (PCC) for the travel lanes, with an Asphalt Concrete (AC) Overlay in some locations, and AC shoulders.

According to the Los Angeles County Bicycle Master Plan, dated March 2012, PCH is a Class III Bike Route, meaning it is a facility shared between bicyclists and vehicles. Dedicated bicycle lanes are not provided throughout the project site, nor are bicycle lanes provided north or south of the project site. The existing shoulder widths on PCH do not provide an acceptable level of comfort and security to bicyclists for the combination of bicycle use and on-street parking. Bicyclists must travel close to the edge of vehicle lanes at the right shoulder, which is also the joint location between AC and PCC pavements. According to State collision data, there have been several bicycle collisions within the past three years including: three broadside collisions (including one fatal incident), one rear end collision and one involving a bicyclist and parked vehicle. Widening the roadway shoulder within the project site will increase safety and reduce collision incidents.

The project site does not contain mapped trails on or adjacent to it according to the LCP Park Lands Map. According to the LCP Environmentally Sensitive Habitat Area (ESHA) and Marine Resources Map, the Malibu Bluffs Recreation Area, which abuts PCH on the south side between the intersections with Malibu Canyon Road and John Tyler Drive, and on both sides at the bridge west of John Tyler Drive, is mapped ESHA. However, no new
development is proposed outside of the existing developed area, nor would any of the proposed scope of work create a new fuel modification area, so no impacts to ESHA are expected.

Project Description

The project involves narrowing the curbed median to widen the outside shoulders where feasible and rehabilitate the existing AC shoulder pavement. No public ROW acquisition would occur, and no changes to existing driveway access would occur. All existing on-street parking would remain after construction is complete. Below is a summary of the proposed scope of work:

- South of John Tyler Drive:
  o Narrow the median one to three feet to allow an inward shift of the travel lanes in order to widen the outside shoulders to provide additional room for bicyclists to travel safely between parked cars and vehicles.
  o The segment between John Tyler Drive and Malibu Canyon Road would have the proposed median at 15 feet maximum width. The median widths would vary from 9 feet to 14 feet on the southbound side, and 12 feet on the northbound side. The lanes would remain 11 feet wide.

- Other design improvements throughout the project site:
  o Provide median hardscaping to improve aesthetic appearance.
  o Provide bicycle green refuge lanes between the through lane and right-turn lane at the following intersections:
    1. the northbound approach of PCH/Malibu Canyon Road;
    2. the northbound approach of PCH/John Tyler Drive; and,
    3. the southbound approach to the Malibu Colony Plaza shopping center north of Webb Way.
  o Reconstruct curb height at a standard height to improve drainage and enhance safety by providing a clear delineation between the travel lane and the raised median as an impediment for errant vehicles.
  o Cold-plane and overlay outside shoulders with Rubberized Hot Mix Asphalt (RHMA-G) to close the existing gap at the joint between the PCC travel lanes and the right AC shoulders.
  o Overlay portions of the traveled way including the outside shoulders with RHMA-G.
  o Extend left turn pockets to better accommodate traffic storage and provide adequate deceleration length at the following intersections: Webb Way, Malibu Canyon Road, and John Tyler Drive.
  o Modify the existing traffic signal loop detectors at PCH/Malibu Canyon Road and PCH/John Tyler Drive intersections to accommodate changes to intersection lane configurations.
• Install bicycle loop detectors at the PCH/Malibu Canyon Road and PCH/John Tyler Drive intersections.
  o Modify signage as needed to provide proper advance guidance and warning that bicyclists may be sharing the roadway.

• Proposed drainage improvements:
  o Remove and replace impacted curb open inlets within the median.
  o Connect proposed drainage systems to existing storm drain culverts.
  o Clean, inspect, and repair existing culvert and concrete ditches as necessary, per the Caltrans Element Inspection Manual and DIB 86-03.

• Construction will be done in stages between September to May, except for some minor/light work during nighttime only as permitted to minimize impacts during construction and maintain existing parking whenever possible, and includes the following temporary work:
  o Based on available width, temporary K-rail will be implemented to provide an adequate work zone around the median. This will require temporary re-striping of the travel lanes onto a portion of existing shoulders; in certain locations this will temporarily eliminate on-street parking to allow for continued bicycle access within the project site.
  o On-street parking will be temporarily eliminated between John Tyler Drive to Puerco Canyon. However, daytime construction will not occur during the summer months to prevent loss of parking which would significantly affect coastal access.

LCP Analysis

The LCP consists of the Land Use Plan (LUP) and the LIP. The LUP contains programs and policies implementing the Coastal Act in Malibu. The LIP contains provisions to carry out the policies of the LUP to which every project requiring a coastal development permit must adhere.

There are 14 LIP chapters that potentially apply depending on the nature and location of the proposed project. Of these, five are for conformance review only and contain no findings: 1) Zoning, 2) Grading, 3) Archaeological/Cultural Resources, 4) Water Quality, and 5) OWTS. These chapters are discussed in the LIP Conformance Analysis section.

The nine remaining LIP chapters contain required findings: 1) Coastal Development Permit; 2) ESHA; 3) Native Tree Protection; 4) Scenic, Visual and Hillside Resource Protection; 5) Transfer of Development Credits; 6) Hazards; 7) Shoreline and Bluff Development; 8) Public Access; and 9) Land Division. For the reasons described in this report, including the project site, the scope of work and substantial evidence in the record, only findings in the following chapters are applicable to the proposed project: Coastal
Development Permit, Scenic, Visual and Hillside Resource Protection, and Hazards. These chapters are discussed in the LIP Findings section of this report.

**LIP Conformance Analysis**

The proposed project has been reviewed by the Planning Department, City Biologist and City Public Works Department (Attachment 4 – Department Review Sheets). The project, as proposed and conditioned, has been found to be consistent with all applicable LCP codes, standards, goals and policies.

**Zoning (LIP Chapter 3)**

The project does not include structures or development for which standards of LIP Chapter 3 would apply and the entire project is located within the public right-of-way. Therefore, review under this chapter is not applicable to the project.

**Grading (LIP Chapter 8)**

The project does not involve any grading for which the grading standards of LIP Chapter 8 would apply. Therefore, review under this chapter is not applicable to the project.

**Archaeological / Cultural Resources (LIP Chapter 11)**

LIP Chapter 11 requires certain procedures be followed to determine potential impacts on archaeological resources. Roadway improvements, commercial development, and other vehicle parking improvements have already taken place in the area. Therefore, the project area has been previously graded and disturbed. Nevertheless, a review of cultural resources sensitivity was completed for the proposed project by a Caltrans Professionally Qualified Staff people and is on file with the City. This assessment did not identify any significant historical resources and concluded that the project will not have an adverse impact on cultural resources.

Nevertheless, a condition of approval is included in the resolution which states that in the event that potentially important cultural resources are found in the course of geologic testing or during construction, work shall immediately cease until a qualified archaeologist can provide an evaluation of the nature and significance of the resources, and until the Planning Director can review this information.

**Water Quality (LIP Chapter 17)**

The project would require construction activities within the PCH right-of-way for which the water quality protection standards of LIP Chapter 17 would apply. Therefore, the proposed

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1 The ESHA, Native Tree Protection, Transfer of Development Credits, Shoreline and Bluff Development, Public Access, and Land Division findings are neither applicable nor required for the proposed project.
project was reviewed by the Public Works Department and conditions of approval are required. Specifically, the project will be required to prepare a Local Stormwater Pollution Prevention Plan that will include an Erosion and Sediment Control Plan that incorporates erosion control, sediment control, non-storm water management, and waste management best management practices (BMPs). Upon implementation of the conditions of approval required by the Public Works Department, the proposed project will be consistent with LIP Chapter 17.

Wastewater Treatment System Standards (LIP Chapter 18)

The project does not include development associated with the provisions in LIP Chapter 18. Therefore, review under this chapter is not applicable to the project.

**LIP Findings**

**A. Coastal Development Permit (LIP Chapter 13)**

LIP Section 13.9 requires that the following four findings be made for all coastal development permits.

*Finding 1. That the project as described in the application and accompanying materials, as modified by any conditions of approval, conforms with the certified City of Malibu Local Coastal Program.*

The project involves improvements to an existing public road and is consistent with the policies of LUP Chapter 7 (Public Works) by improving public safety and multimodal access to and between visitor-serving and recreation areas. The project has been reviewed for conformance with the LCP and MMC by the Planning Department and City Public Works Department. As discussed herein, based on submitted reports, project plans, visual analysis and site investigation, the proposed project, as conditioned, conforms to the LCP in that it meets all applicable development standards.

*Finding 2. If the project is located between the first public road and the sea, that the project is in conformity to the public access and recreation policies of Chapter 3 of the Coastal Act of 1976 (commencing with Sections 30200 of the Public Resources Code).*

The project is not located between the first public road and the sea. In addition, the subject property does not contain any mapped trails as depicted on the LCP Park Lands Map. In addition, with the inclusion of the proposed bicycle lane improvements, the proposed project improves public access to recreational opportunities. Therefore, this finding is not applicable.

*Finding 3. The project is the least environmentally damaging alternative.*
The project complies with all applicable development standards, including size, location and height requirements of the LCP. As described in Attachment 5, Feasible Alternatives Report, the following project alternatives were considered:

**No Project:** Under this alternative, no reconstruction or improvements would be made to PCH, other than routine roadway maintenance and currently approved improvements. Existing drainage patterns would remain, with flows draining either east toward Webb Way or west toward the sump area near Coral Canyon Park. Existing impacted curb openings within the median would remain in-place, and there would be no project-induced inspection of culverts/concrete ditches for possible repair needs.

**Alternative Project:** An alternative project considered was to incorporate the proposed improvements by bringing all existing and proposed roadway development into compliance with the Caltrans Highway Design Manual standards (nonstandard design features (existing and proposed) are described in more detail in Attachment 5). Bringing each component into compliance with the standard would require a substantial construction effort, including grading, pavement replacement, tree removal, roadway realignment, utility realignment and public ROW acquisition. Construction efforts could take several years, resulting in significant environmental impacts with only nominal potential for safety improvements; no documented collisions during the study period are attributed to a nonstandard design feature within the project boundaries. Thus, bringing all design features up to standard is unlikely to result in fewer collisions or safety improvements while incurring significantly more costs and impact to the environment.

**Proposed Project:** PCH is a designated Class III Bike Route, meaning it is a shared facility between bicyclists and vehicles. The existing outside shoulder widths do not provide a level of comfort and security to bicyclists for the combination of bicycle use and on-street parking. Bicyclists must travel very close to the edge of traveled way at the right shoulder, which is also the joint location between existing AC and PCC pavements. Currently, the curbed median is not landscaped or hardscaped within the project limits. Providing hardscaping in the curbed median would benefit the roadway aesthetics along this scenic corridor. All proposed work will take place within the existing public ROW and in previously disturbed areas. As such, the project is consistent with all State and local policies and is the least environmentally damaging alternative.

*Finding 4.* If the project is located in or adjacent to an environmentally sensitive habitat area pursuant to Chapter 4 of the Malibu LIP (ESHA Overlay), that the project conforms with the recommendations of the Environmental Review Board, or if it does not conform with the recommendations, findings explaining why it is not feasible to take the recommended action.

According to the LCP ESHA and Marine Resources Map, the Malibu Bluffs Recreation Area, which abuts PCH on the south side between the intersections with Malibu Canyon Road and John Tyler Drive, and on both sides at the bridge west of John Tyler Drive, is
mapped ESHA. However, no new development is proposed outside of the existing developed area, nor would any of the proposed scope of work create a new fuel modification area. Furthermore, a detailed biological study was conducted in 2019 which concluded that, as conditioned, there would be no significant impacts to environmental resources. As such, the project is exempt from review by the Environmental Review Board, pursuant to LIP Section 4.4.4(D) because the proposed work is within the existing disturbed area. As such, this finding does not apply.

C. Environmentally Sensitive Habitat Area Overlay (LIP Chapter 4)

As stated in Section A, Finding 4, the project site is adjacent to mapped ESHA. However, the proposed project will be limited to existing the Caltrans public ROW along PCH, which is comprised of previously developed and disturbed areas. All development proposed is to replace existing development such as medians, curbs, and pavements with the exception of the new signs. None of the proposed work would create a fuel modification area. At the time of submittal, the City Biologist determined that the project is not expected to result in any adverse impacts to significant biological resources. However, as the Biological Review and Final Categorical Exemption (see Attachment 3) include minimization measures to address any possible indirect impacts to wildlife during construction, all measures included in the Categorical Exemption have been included as conditions in Resolution No. 21-57. As conditioned, the proposed project will result in less than significant impacts to sensitive resources, and no significant loss of vegetation or wildlife, or encroachments into ESHA. Therefore, the findings of LIP Section 4.7.6 are not applicable.

D. Native Tree Protection (LIP Chapter 5)

The provisions of the Native Tree Protection Ordinance only apply to those areas containing one or more native Oak, California Walnut, Western Sycamore, Alder or Toyon trees that has 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, 4.5 feet from the ground. A CDP that includes the removal of a protected native tree and/or the encroachment of development within the protected zone of a protected native tree is subject to the supplemental findings in LIP Section 5.7.

According to the Natural Environment Study prepared by Michael Baker, International in July 2019, there are several California Black Walnuts present within 50 feet of the existing public ROW. However, no protected native trees will be removed or encroached upon as all work will be conducted within previously disturbed areas. Therefore, the supplemental findings in LIP Section 5.7 do not apply to this project.

E. Scenic, Visual and Hillside Resource Protection (LIP Chapter 6)

The Scenic, Visual and Hillside Resource Protection Chapter governs those coastal development permit applications concerning any parcel of land that is located along,
within, provides views to, or is visible from any scenic area, scenic road, or public viewing area. The proposed project is adjacent to and visible from PCH and Malibu Canyon Road, which are identified as scenic roads in LUP Section 6.3 and Legacy Park, a designated scenic area. Therefore, the Scenic, Visual and Hillside Resource Protection Ordinance applies, and the five findings set forth in LIP Section 6.4 are hereby made as follows.

Finding 1. The project, as proposed, will have no significant adverse scenic or visual impacts due to project design, location on the site or other reasons.

The proposed roadway improvements will be visible from PCH and partially visible from Malibu Canyon Road, and Legacy Park. The proposed improvements, including the proposed shoulder and median improvements are within or along an already developed roadway. The proposed project will not alter the topography of the existing intersection and the majority of the improvements will occur at the ground level. While several signs as tall as 16 feet are proposed to be relocated along both sides of PCH, none would substantially block views of the Santa Monica Mountains or the Pacific Ocean. No other proposed development would be significantly taller than the existing curbs and medians or introduce new impacts to views. Therefore, based on a review of the project plans and the nature of the surrounding area, the proposed scope of work will result in a less than significant visual impact to public views.

Finding 2. The project, as conditioned, will not have significant adverse scenic or visual impacts due to required project modifications, landscaping or other conditions.

As previously stated, the project does not have a significant adverse impact on any public views. The conditions of approval include restrictions on materials that can be used at the site to prevent any future impacts as they pertain to public views. Therefore, the project will not have any significant adverse scenic or visual impacts due to project modifications, new landscaping or other conditions.

Finding 3. The project, as proposed or as conditioned, is the least environmentally damaging alternative.

As discussed in Section A, Finding 3, the project, as proposed and conditioned, is the least environmentally damaging alternative. Other configurations of the proposed roadway improvements would require more landform alteration than what is currently proposed.

Finding 4. There are no feasible alternatives to development that would avoid or substantially lessen any significant adverse impacts on scenic and visual resources.

As discussed in Findings 1 and 2, there are no significant scenic or visual resources located on the site and the project does not create any scenic new impacts.
Finding 5. Development in a specific location on the site may have adverse scenic and visual impacts but will eliminate, minimize or otherwise contribute to conformance to sensitive resource protection policies contained in the certified LCP.

As discussed in Section A, Finding 3, the project will have no significant scenic and visual impacts nor contribute adversely to sensitive resource protection policies.

F. Transfer of Development Credit (LIP Chapter 7)

The proposed project does not include a land division or multi-family development. Therefore, the findings of LIP Chapter 7 are not applicable.

G. Hazards (LIP Chapter 9)

Pursuant to LIP Section 9.3, written findings of fact, analysis and conclusions addressing geologic, flood and fire hazards, structural integrity or other potential hazards listed in LIP Sections 9.2(A)(1-7) must be included in support of all approvals, denials or conditional approvals of development located on a site or in an area where it is determined that the proposed project causes the potential to create adverse impacts upon site stability or structural integrity.

The proposed development has been analyzed for the hazards listed in LIP Chapter 9 by the Planning Department, City Biologist, City Public Works Department, City geotechnical staff, and LACFD. The required findings are made as follows:

Finding 1. The project, as proposed will neither be subject to nor increase instability of the site or structural integrity from geologic, flood, or fire hazards due to project design, location on the site or other reasons.

Based on review of the project plans by City geotechnical staff, LACFD, and City Public Works Department, these specialists determined that adverse impacts to the project site related to the proposed development are not expected. The project will neither be subject to nor increase the instability of the site from geologic, flood, or fire hazards. In summary, the proposed development is suitable for the intended use provided that the certified engineering geologist and/or geotechnical engineer’s recommendations and governing agency’s building codes are followed.

The project, as conditioned, will incorporate all recommendations contained in the above cited geotechnical report and conditions required by the City geotechnical staff, City Public Works Department, and the LACFD. As such, the proposed project will not increase instability of the site or structural integrity from geologic, flood, or any other hazards.
Fire Hazard

The entire City of Malibu is designated as a Very High Fire Hazard Severity Zone, a zone defined by a more destructive behavior of fire and a greater probability of flames and embers threatening buildings. The project site is currently subject to wildfire hazards and roadway improvements along the existing roadway will not increase the site’s susceptibility to wildfire but will improve emergency access. The scope of work proposed as part of this application is not expected to have an impact on wildfire hazards.

Finding 2.  The project, as conditioned, will not have significant adverse impacts on site stability or structural integrity from geologic, flood or fire hazards due to required project modifications, landscaping or other conditions.

As stated in Finding 1, the proposed project, as designed, conditioned and approved by the applicable departments and agencies, will not have any significant adverse impacts on the site stability or structural integrity from geologic or flood hazards due to project modifications, landscaping or other conditions.

Finding 3.  The project, as proposed or as conditioned, is the least environmentally damaging alternative.

As previously stated in Section A, the proposed project, as designed and conditioned, is the least environmentally damaging alternative.

Finding 4.  There are no alternatives to development that would avoid or substantially lessen impacts on site stability or structural integrity.

There are no feasible alternatives to development that would avoid or substantially lessen impacts on site stability or structural integrity as no such adverse impacts are expected.

Finding 5.  Development in a specific location on the site may have adverse impacts but will eliminate, minimize or otherwise contribute to conformance to sensitive resource protection policies contained in the certified Malibu LCP.

As discussed in Section A, the proposed project, as designed and conditioned, is the least environmentally damaging alternative and no adverse impacts to sensitive resources are anticipated.

H.  Shoreline and Bluff Development (LIP Chapter 10)

The project site is not located on or along the shoreline, a coastal bluff or bluff top fronting the shoreline. Therefore, the findings of LIP Chapter 10 are not applicable.

I.  Public Access (LIP Chapter 12)
LIP Section 12.4 requires public access for lateral, bluff-top, and vertical access near the ocean, trails, and recreational access for the following cases:

A. New development on any parcel or location specifically identified in the Land Use Plan or in the LCP zoning districts as appropriate for or containing a historically used or suitable public access trail or pathway.
B. New development between the nearest public roadway and the sea.
C. New development on any site where there is substantial evidence of a public right of access to or along the sea or public tidelands, a blufftop trail or an inland trail acquired through use or a public right of access through legislative authorization.
D. New development on any site where a trail, bluff top access or other recreational access is necessary to mitigate impacts of the development on public access where there is no feasible, less environmentally damaging, project alternative that would avoid impacts to public access.

As described herein, the subject property and the proposed project do not meet any of these criteria in that no trails are identified on the LCP Park Lands Map on or adjacent to the property, and the property is not located between the first public road and the sea, or on a bluff or near a recreational area. Some on-street parking will be interrupted temporarily during non-summer daytime construction but will not be permanently removed. Therefore, the requirement for public access of LIP Section 12.4 does not apply and further findings are not required.

J. Land Division (LIP Chapter 15)

This project does not include a land division. Therefore, the findings of LIP Chapter 15 are not applicable.

ENVIRONMENTAL REVIEW: Pursuant to the authority and criteria contained in CEQA, the Planning Director has analyzed the proposed project. The Planning Director found that this project is listed among the classes of projects that have been determined not to have a significant adverse effect on the environment. Therefore, the proposed project is categorically exempt from the provisions of CEQA pursuant to Sections 15301(c) – Existing Facilities. The Planning Director has further determined that none of the six exceptions to the use of a categorical exemption apply to this project (CEQA Guidelines Section 15300.2).

CORRESPONDENCE: Staff has received correspondence requesting additional protected bicycle lanes (Attachment 6).

PUBLIC NOTICE: On August 12, 2021, staff published a Notice of Public Hearing in a newspaper of general circulation within the City of Malibu and mailed the notice to all property owners and occupants within a 500-foot radius of the subject property (Attachment 7).
SUMMARY: The required findings can be made that the proposed project complies with the LCP and MMC. Further, the Planning Department’s findings of fact are supported by substantial evidence in the record. Based on the analysis contained in this report and the accompanying resolution, staff recommends approval of this project, subject to the conditions of approval contained in Section 5 (Conditions of Approval) of Planning Commission Resolution No. 21-57. The proposed project has been reviewed and conditionally approved for conformance with the LCP by Planning Department staff and appropriate City and County departments.

ATTACHMENTS:

1. Planning Commission Resolution No. 21-57
2. Project Plans
3. Final Categorical Exemption
4. Department Review Sheets
5. Feasible Alternatives Report
6. Correspondence
7. Public Hearing Notice
CITY OF MALIBU PLANNING COMMISSION
RESOLUTION NO. 21-57

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MALIBU, DETERMINING THE PROJECT IS CATEGORICALLY EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, AND APPROVING COASTAL DEVELOPMENT PERMIT NO. 21-008 TO CONSTRUCT MEDIAN IMPROVEMENTS TO WIDEN THE OUTSIDE SHOULDER FOR A DISTANCE OF APPROXIMATELY TWO MILES ALONG PACIFIC COAST HIGHWAY BETWEEN WEBB WAY AND PUERCO CANYON ROAD LOCATED ENTIRELY WITHIN THE CALIFORNIA DEPARTMENT OF TRANSPORTATION PUBLIC RIGHT-OF-WAY TO BETTER ALLOW A COMBINATION OF BICYCLE USE AND ON-STREET PARKING (CITY OF MALIBU AND CALTRANS)

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

SECTION 1. Recitals.

A. On February 23, 2021, an application for a Coastal Development Permit (CDP) No. 21-008 was submitted to the Planning Department by the City of Malibu Public Works Department.

B. On July 2, 2021, a Notice of Coastal Development Permit Application was posted on the subject property.

C. On July 6, 2019, a Notice of Planning Commission Public Hearing was published in a newspaper of general circulation within the City of Malibu.

D. On July 7, 2021, a Notice of Planning Commission Public Hearing was mailed to all property owners and occupants within a 500-foot radius of the subject property.

E. On July 19, 2021, the Planning Commission continued the subject item.

F. On August 12, 2019, a Notice of Planning Commission Public Hearing was published in a newspaper of general circulation within the City of Malibu.

G. On August 12, 2021, a Notice of Planning Commission Public Hearing was mailed to all property owners and occupants within a 500-foot radius of the subject property.

H. On August 26, 2021, the Planning Commission held a duly noticed public hearing on the subject application, reviewed and considered the staff report, reviewed and considered written reports, public testimony, and other information in the record.

SECTION 2. Environmental Review.

Pursuant to the authority and criteria contained in the California Environmental Quality Act (CEQA), the Planning Commission has analyzed the proposed project. The Planning Commission found that this project is listed among the classes of projects that have been determined not to have a significant adverse effect on the environment. Therefore, the project is categorically exempt from the provisions of CEQA pursuant to Sections 15301(c) – Existing Facilities. The Planning Commission has further determined that none of the six exceptions to the use of a categorical exemption apply to this project (CEQA Guidelines Section 15300.2).
SECTION 3. Coastal Development Permit Findings.

Based on substantial evidence contained within the record and pursuant to Local Coastal Program (LCP) Local Implementation Plan (LIP) Sections 13.7(B) and 13.9, the Planning Commission adopts the analysis in the agenda report, incorporated herein, the findings of fact below, and approves CDP No. 21-008 to allow the construction of median improvements to widen the outside shoulder for a distance of approximately two miles along Pacific Coast Highway (PCH) between Webb Way and Puerco Canyon Road located entirely within the California Department of Transportation (Caltrans) public right-of-way (ROW) to better allow a combination of bike use and on-street parking.

The project is consistent with the LCP’s zoning, grading, cultural resources, water quality, and wastewater treatment system standards requirements. The project, as conditioned, has been determined to be consistent with all applicable LCP codes, standards, goals, and policies. The required findings are made herein.

A. General Coastal Development Permit (LIP Chapter 13)

1. The project involves improvements to an existing public road and is consistent with the policies of Chapter 7 – Public Works of the LCP Land Use Plan (LUP) by improving public safety and multimodal access to and between visitor-serving and recreation areas. The project has been reviewed for conformance with the LCP and Malibu Municipal Code (MMC) by the Planning Department and City Public Works Department. Based on submitted reports, project plans, visual analysis, site investigation and other evidence in the record, the proposed project, as conditioned, conforms to the LCP in that it meets all applicable development standards.

2. Evidence in the record demonstrates that as conditioned, the project is all proposed work will take place within the existing public ROW and in previously disturbed areas. As such, the project is consistent with all state and local policies and is the least environmentally damaging alternative.

B. Scenic, Visual, and Hillside Resource Protection Findings (LIP Section 6.4)

1. The proposed roadway improvement will be visible from PCH and partially visible from Malibu Canyon Road, and Legacy Park. The proposed improvements, including the proposed shoulder and median improvements are within or along an already developed roadway. The proposed project will not alter the topography of the existing intersection and the majority of the improvements will occur at the ground level. While several signs as tall as 16 feet are proposed to be relocated along both sides of PCH, none would substantially block views of the Santa Monica Mountains or the Pacific Ocean. No other proposed development would be significantly taller than the existing curbs and medians or introduce new impacts to views. Therefore, based on a review of the project plans and the nature of the surrounding area, the proposed scope of work will result in a less than significant visual impact to public views.

2. The project does not have a significant adverse impact on any public views. The conditions of approval include restrictions on materials that can be used at the site to prevent any future impacts as they pertain to public views. Therefore, the project will not have any significant adverse scenic or visual impacts due to project modifications, new landscaping or other conditions.
3. The project, as proposed and conditioned, is the least environmentally damaging alternative. Other configurations of the proposed roadway improvements would require more landform alteration than what is currently proposed.

C. Hazards (LIP Chapter 9)

1. The project consists of improvements to increase safety within the public ROW and previously disturbed areas. It has been determined that the project is not located in any other hazard zone, except that the project site is located within an extreme fire hazard area. Based on review of the project plans by City geotechnical staff, and City Public Works Department, these specialists determined that adverse impacts to the project site related to the proposed development are not expected. The project will neither be subject to nor increase the instability of the site from geologic, flood, or fire hazards. In summary, the proposed development is suitable for the intended use provided that the certified engineering geologist and/or geotechnical engineer’s recommendations and governing agency’s building codes are followed. The project, as conditioned, will incorporate all recommendations contained in the above cited geotechnical report and conditions required by the City geotechnical staff, City Public Works Department, and Caltrans. As such, the proposed project will not increase instability of the site or structural integrity from geologic, flood, or any other hazards. In addition, since the entire city limits of Malibu are located within a high fire hazard area, a condition is included in Section 5 of this resolution that requires the property owner to indemnify the City from any hazards associated with wildfire.

2. The project as designed, conditioned, and approved by the City Public Works Department, does not have any significant adverse impacts on the site stability or structural integrity from geologic or flood hazards due to project modifications, landscaping, or other conditions.

3. The project, as conditioned, is the least environmentally damaging alternative.

4. There are no alternatives that would avoid or substantially lessen impacts on site stability or structural integrity.

5. No adverse impacts to sensitive resources are expected.


Based on the foregoing findings and evidence contained within the record, the Planning Commission hereby approves CDP No. 21-008 subject to the following conditions.

SECTION 5. Conditions of Approval.

1. The property owners, and their successors in interest, shall indemnify and defend the City of Malibu and its officers, employees and agents from and against all liability and costs relating to the City's actions concerning this project, including (without limitation) any award of litigation expenses in favor of any person or entity who seeks to challenge the validity of any of the City's actions or decisions in connection with this project. The City shall have the sole right to choose its counsel and property owners shall reimburse the City’s expenses incurred in its defense of any lawsuit challenging the City’s actions concerning this project.
2. Approval of this application is to allow for the project described herein. The scope of the event is as follows:

   o South of John Tyler Drive:
     ▪ Narrow the median one to three feet to allow an inward shift of the travel lanes in order to widen the outside shoulders to provide additional room for bicyclists to travel safely between parked cars and vehicles.
     ▪ The segment between John Tyler Drive and Malibu Canyon Road would have the proposed median at 15 feet maximum width. The median widths would vary from 9 feet to 14 feet on the southbound side, and 12 feet on the northbound side. The lanes would remain 11 feet wide.

   o Other design improvements throughout project site:
     ▪ Provide median hardscaping to improve aesthetic appearance.
     ▪ Provide bike green refuge lanes between the through lane and right-turn lane at the following intersections:
       • the northbound approach of PCH/Malibu Canyon Road;
       • the northbound approach of PCH/John Tyler Drive; and,
       • the southbound approach to the Malibu Colony Plaza shopping center north of Webb Way.
     ▪ Reconstruct curb height at a standard height to improve drainage and enhance safety by providing a clear delineation between the travel lane and the raised median as an impediment for errant vehicles.
     ▪ Cold-plane and overlay outside shoulders with Rubberized Hot Mix Asphalt (RHMA-G) to close the existing gap at the joint between the PCC travel lanes and the right AC shoulders.
     ▪ Overlay portions of the traveled way including the outside shoulders with RHMA-G.
     ▪ Extend left turn pockets to better accommodate traffic storage and provide adequate deceleration length at the following intersections: Webb Way, Malibu Canyon Road, and John Tyler Drive.
     ▪ Modify the existing traffic signal loop detectors at PCH/Malibu Canyon Road and PCH/John Tyler Drive intersections to accommodate changes to intersection lane configurations.
     ▪ Install bicycle loop detectors at the PCH/Malibu Canyon Road and PCH/John Tyler Drive intersections.
     ▪ Modify signage as needed to provide proper advance guidance and warning that bicyclists may be sharing the roadway.

   o Proposed drainage improvements:
     ▪ Remove and replace impacted curb open inlets within the median.
     ▪ Connect proposed drainage systems to existing storm drain culverts.
     ▪ Clean, inspect, and repair existing culvert and concrete ditches as necessary, per the Caltrans Element Inspection Manual and DIB 86-03.

   o Construction will be done in stages between September to May, except for some minor/light work during nighttime only as permitted to minimize impacts during construction and maintain existing parking whenever possible, and includes the following temporary work:
Based on available width, temporary K-rail will be implemented to provide an adequate work zone around the median. This will require temporary re-striping of the travel lanes onto a portion of existing shoulders; in certain locations this will temporarily eliminate on-street parking to allow for continued bicycle access within the project site.

- On-street parking will be temporarily eliminated between John Tyler Drive to Puerco Canyon. However, daytime construction will not occur during the summer months to prevent loss of parking which would significantly affect coastal access.

3. Except as specifically changed by conditions of approval, the proposed development shall be constructed in substantial conformance with the approved scope of work, as described in Condition No. 2 and depicted on plans on file with the Planning Department date stamped June 30, 2021. The proposed development shall further comply with all conditions of approval stipulated in this resolution and Department Review Sheets attached hereto. In the event project plans conflict with any condition of approval, the condition shall take precedence.

4. Pursuant to LIP Section 13.18.2, this permit and rights conferred in this approval shall not be effective until the property owner signs, notarizes and returns the Acceptance of Conditions Affidavit accepting the conditions of approval set forth herein. The applicant shall file this form with the Planning Department prior to the issuance of any development permits.

5. The applicant shall digitally submit a complete set of plans, including the items required in Condition No. 6 to the Planning Department for consistency review and approval prior to plan check and again prior to the issuance of any building or development permits.

6. This resolution, signed Acceptance of Conditions Affidavit, and all Department Review Sheets attached to the July 19, 2021 Planning Commission agenda report for this project shall be copied in their entirety and placed directly onto a separate plan sheet behind the cover sheet of the development plans submitted to the City of Malibu Environmental Sustainability Department for plan check.

7. The CDP shall expire if the project has not commenced within three (3) years after issuance of the permit, unless a time extension has been granted. Extension of the permit may be granted by the approving authority for due cause. Extensions shall be requested in writing by the applicant or authorized agent prior to expiration of the three-year period and shall set forth the reasons for the request. In the event of an appeal, the CDP shall expire if the project has not commenced within three years from the date the appeal is decided by the decision-making body or withdrawn by the appellant.

8. Any questions of intent or interpretation of any condition of approval will be resolved by the Planning Director upon written request of such interpretation.

9. All development shall conform to requirements of the City of Malibu Environmental Sustainability Department, City Biologist, City Coastal Engineer, City Environmental Health Administrator, City geotechnical staff, City Public Works Department, Los Angeles County Waterworks District No. 29 and LACFD, as applicable. Notwithstanding this review, all required permits shall be secured.
10. Minor changes to the approved plans or the conditions of approval may be approved by the Planning Director, provided such changes achieve substantially the same results and the project is still in compliance with the MMC and the LCP. Revised plans reflecting the minor changes and additional fees shall be required.

11. Pursuant to LIP Section 13.20, development pursuant to an approved CDP shall not commence until the CDP is effective. The CDP is not effective until all appeals, including those to the California Coastal Commission (CCC), have been exhausted. In the event that the CCC denies the permit or issues the permit on appeal, the CDP approved by the City is void.

**Cultural Resources**

12. In the event that potentially important cultural resources are found in the course of geologic testing or during construction, work shall immediately cease until a qualified archaeologist can provide an evaluation of the nature and significance of the resources and until the Planning Director can review this information. Thereafter, the procedures contained in LIP Chapter 11 and those in MMC Section 17.54.040(D)(4)(b) shall be followed.

13. If human bone is discovered during geologic testing or during construction, work shall immediately cease and the procedures described in Section 7050.5 of the California Health and Safety Code shall be followed. Section 7050.5 requires notification of the coroner. If the coroner determines that the remains are those of a Native American, the applicant shall notify the Native American Heritage Commission by phone within 24 hours. Following notification of the Native American Heritage Commission, the procedures described in Section 5097.94 and Section 5097.98 of the California Public Resources Code shall be followed.

**Site-Specific Conditions**

14. All mitigation measures included in the Final Categorical Exemption (Exhibit A) are incorporated herein by reference.

15. The use of pesticides, including insecticides, herbicides, rodenticides or any toxic chemical substance which has the potential to significantly degrade biological resources shall be prohibited throughout the City of Malibu. The eradication of invasive plant species or habitat restoration shall consider first the use of non-chemical methods for prevention and management such as physical, mechanical, cultural, and biological controls. Herbicides may be selected only after all other non-chemical methods have been exhausted. Herbicides shall be restricted to the least toxic product and method, and to the maximum extent feasible, shall be biodegradable, derived from natural sources, and use for a limited time.

**Colors and Materials**

16. The project is visible from scenic roads or public viewing areas and shall incorporate colors and materials that are compatible with the surrounding landscape.
   a. Acceptable colors shall be limited to colors compatible with the surrounding environment (earth tones) including shades of green, brown and gray, with no white or light shades and
no bright tones. Colors shall be reviewed and approved by the Planning Director and clearly indicated on the building plans.

b. The use of highly reflective materials shall be prohibited except for solar energy panels or cells, which shall be placed to minimize significant adverse impacts to public views to the maximum extent feasible.

c. All windows shall be comprised of non-glare glass.

Geology

17. All recommendations of the consulting certified engineering geologist or geotechnical engineer and/or the City Geologist shall be incorporated into all final design and construction including foundations, grading, sewage disposal, and drainage. Final plans shall be reviewed and approved by the City Geologist prior to the issuance of a grading permit.

18. Final plans approved by the City Geologist shall be in substantial conformance with the approved CDP relative to construction, grading, sewage disposal and drainage. Any substantial changes may require amendment of the CDP or a new CDP.

Public Works

19. A Local Storm Water Pollution Prevention Plan shall be provided prior to the issuance of the Grading/Building permits for the project. This plan shall include an Erosion and Sediment Control Plan (ESCP) that includes, but not limited to:

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20. All Best Management Practices (BMP) shall be in accordance to the latest version of the California Stormwater Quality Association (CASQA) BMP Handbook. Designated areas for the storage of construction materials, solid waste management, and portable toilets must not disrupt drainage patterns or subject the material to erosion by site runoff.

21. This project proposes to construct improvements within Caltrans’ right-of-way. Prior to the Public Works Department approval of the grading or building permit, the applicant shall obtain encroachment permits from Caltrans for the proposed improvements.
22. The developers consulting engineer shall sign the final plans prior to the issuance of permits.

23. Exported soil from the site shall be taken to the County Landfill or to a site with an active grading permit and the ability to accept the material in compliance with LIP Section 8.3.

24. The applicant shall label all City/County storm drain inlets within 250 feet from each property line per the City of Malibu’s standard label template. A note shall be placed on the project plans that address this condition.

25. A grading and drainage plan containing the following information shall be submitted to the Public Works Department for approval, prior to the issuance of grading permits for the project:
   
   d. Public Works Department General Notes;
   e. The existing and proposed square footage of impervious coverage on the property (including separate areas for buildings, driveways, walkways, parking, tennis courts and pool decks, as applicable);
   f. The limits of land to be disturbed during project development, and a total area, to include areas disturbed by grading equipment beyond the limits of grading, areas disturbed for the installation of the septic system, and areas disturbed for installation of the detention system, as applicable;
   g. Grading limits, including the temporary cuts made for retaining walls, buttresses and over-excavations for fill slopes;
   h. Private storm drain systems, with systems greater than 12 inch diameter to include a plan and profile; and
   i. Public storm drain modifications.

26. The applicant shall label all City/County storm drain inlets within 250 feet of each property line per the City of Malibu’s standard label template. A note shall be placed on the project plans to address this condition.

27. Prior to the approval of any permits and prior to the submittal of the required construction general permit document to the State Water Quality Control Board, the property owner / applicant shall submit the Public Works Department an Erosion and Sediment Control Plan (ESCP) for review. The ESCP shall contain appropriate site-specific construction site BMPs prepared and certified by a qualified SWPPP developer (QWD). All structural BMPs must be designed by a licensed California civil engineer. The ESCP must address the following elements:
   
   a. Methods to minimize the footprint of the disturbed area and to prevent soil compaction outside the disturbed area
   b. Methods used to protect native vegetation and trees
   c. Sediment / erosion control
   d. Controls to prevent tracking on- and off-site
   e. Non-stormwater control
   f. Material management (delivery and storage)
   g. Spill prevention and control
   h. Waste management
   i. Identification of site risk level as identified per the requirements in Appendix 1 of the Construction General Permit
   j. Landowner must sign the following statement on the ESCP:
“I certify that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to ensure that quality personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering the information, to the best of my knowledge and belief, the information submitted is true, accurate and complete. I am aware that submitting false and/or inaccurate information, failing to properly and/or adequately implement the ESCP may result in revocation of grant and/or other permits or other sanctions provided by law.”

28. A State Construction Activity Permit is required for this project due to the disturbance of more than one acre of land for development. Provide a copy of the letter from the State Water Quality Control Board containing the Waste Discharge Identification (WDID) number prior to the issuance of grading or building permits.

29. The developer’s consulting engineer shall sign the final plans prior to the issuance of permits.

**Solid Waste**

30. The applicant/property owner shall contract with a City approved hauler to facilitate the recycling of all recoverable/recyclable material. Recoverable material shall include but shall not be limited to: asphalt, dirt and earthen material, lumber, concrete, glass, metals, and drywall.

31. Prior to the issuance of a building/demolition permit, an Affidavit and Certification to implement waste reduction and recycling shall be signed by the Owner or Contractor and submitted to the Environmental Sustainability Department. The Affidavit shall indicate the agreement of the applicant to divert at least 65 percent (in accordance with CalGreen) of all construction waste from the landfill.

32. The project developer shall utilize licensed subcontractors and ensure that all asbestos-containing materials and lead-based paints encountered during demolition activities are removed, transported, and disposed of in full compliance with all applicable federal, state and local regulations.

**Construction**

33. Prior to the commencement of work, the applicant shall submit a copy of their Construction Management Plan. The Construction Management Plan shall include a dedicated parking location for construction workers, not within the public right of way.

34. Construction management techniques, including minimizing the amount of equipment used simultaneously and increasing the distance between emission sources, shall be employed as feasible and appropriate. All trucks leaving the construction site shall adhere to the California Vehicle Code. In addition, construction vehicles shall be covered when necessary; and their tires rinsed prior to leaving the property.
35. All new development, including construction, grading, and landscaping shall be designed to incorporate drainage and erosion control measures prepared by a licensed engineer that incorporate structural and non-structural Best Management Practices (BMPs) to control the volume, velocity and pollutant load of storm water runoff in compliance with all requirements contained in LIP Chapter 17, including:
   a. Construction shall be phased to the extent feasible and practical to limit the amount of disturbed areas present at a given time.
   b. Grading activities shall be planned during the southern California dry season (April through October).
   c. During construction, contractors shall be required to utilize sandbags and berms to control runoff during on-site watering and periods of rain in order to minimize surface water contamination.
   d. Filter fences designed to intercept and detain sediment while decreasing the velocity of runoff shall be employed within the project site.

Prior to Final Sign-Off

36. The applicant shall request a final Planning Department inspection prior to final inspection by the City of Malibu Environmental and Sustainability Department. A final approval shall not be issued until the Planning Department has determined that the project complies with this CDP.

37. Any construction trailer, storage equipment or similar temporary equipment not permitted as part of the approved scope of work shall be removed prior to final inspection and approval, and if applicable, the issuance of the certificate of occupancy.

Fixed Conditions

38. This coastal development permit shall run with the land and bind all future owners of the property.

39. Violation of any of the conditions of this approval may be cause for revocation of this permit and termination of all rights granted there under.

SECTION 6. The Planning Commission shall certify the adoption of this resolution.

PASSED, APPROVED AND ADOPTED this 26th day of August 2021.

________________________________________
JEFFREY JENNINGS, Planning Commission Chair

ATTEST:

________________________________________
PATRICIA SALAZAR, Recording Secretary
LOCAL APPEAL - Pursuant to Local Coastal Program Local Implementation Plan (LIP) Section 13.20.1 (Local Appeals), a decision made by the Planning Commission may be appealed to the City Council by an aggrieved person by written statement setting forth the grounds for appeal. An appeal shall be filed with the City Clerk within 10 days and shall be accompanied by an appeal form and filing fee, as specified by the City Council. Appeal forms may be found online at www.malibucity.org/planningforms, in person, or by calling (310) 456-2489, ext. 245.

COASTAL COMMISSION APPEAL – An aggrieved person may appeal the Planning Commission’s approval to the Coastal Commission within 10 working days of the issuance of the City’s Notice of Final Action. Appeal forms may be found online at www.coastal.ca.gov or by calling (805) 585-1800. Such an appeal must be filed with the Coastal Commission, not the City.

I CERTIFY THAT THE FOREGOING RESOLUTION NO. 21-57 was passed and adopted by the Planning Commission of the City of Malibu at the special meeting held on the 26th day of August 2021 by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

PATRICIA SALAZAR, Recording Secretary
EXHIBIT A
CATEGORICAL EXEMPTION/CATEGORICAL EXCLUSION DETERMINATION FORM

07-LA-1 47.4/49.3 34100/CE 201909004 N/A/EFIS 0717000183
Dist.-Co.-Rte. (or Local Agency) P.M./P.M. E/A/Project No. Federal-Aid Project No. (Local Project)/Project No.

PROJECT DESCRIPTION: (Briefly describe project including need, purpose, location, limits, right-of-way requirements, and activities involved in this box. Use Continuation Sheet, if necessary.)
The City of Malibu (the City) proposes to narrow the curbed median where feasible on State Route 1 (SR-1) from Webb Way (PM 47.4) to Puero Canyon Road (PM 49.3) for a distance of 1.9 miles. Narrowing the curbed median where feasible would provide more room on the right shoulder for a combination of bike use and on-street parking, thereby improving safety on this segment of Pacific Coast Highway (PCH). The City would not stripe separate bike lanes, but simply increase the right shoulder width within the existing paved cross section without widening the right-of-way (ROW). No changes are proposed to driveway access or on-street parking. Existing 11-foot wide vehicular travel lanes will remain the same. (Continued on page 2)

CALTRANS CEQA DETERMINATION (Check one)
☐ Not Applicable – Caltrans is not the CEQA Lead Agency ☐ Not Applicable – Caltrans has prepared an Initial Study or Environmental Impact Report under CEQA

Based on an examination of this proposal, supporting information, and the above statements, the project is:
☐ Exempt by Statute. (PRC 21080(b); 14 CCR 15260 et seq.)
☒ Categorically Exempt. Class 1(c). (PRC 21084; 14 CCR 15300 et seq.)

Based on an examination of this proposal and supporting information, the following statements are true and exceptions do not apply:
- If this project falls within exempt class 3, 4, 5, 6 or 11, it does not impact an environmental resource of hazardous or critical concern where designated, precisely mapped, and officially adopted pursuant to law.
- There will not be a significant cumulative effect by this project and successive projects of the same type in the same place, over time.
- There is not a reasonable possibility that the project will have a significant effect on the environment due to unusual circumstances.
- This project does not damage a scenic resource within an officially designated state scenic highway.
- This project is not located on a site included on any list compiled pursuant to Govt. Code § 65962.5 ("Cortese List").
- This project does not cause a substantial adverse change in the significance of a historical resource.

☐ Common Sense Exemption. [This project does not fall within an exempt class, but it can be seen with certainty that there is no possibility that the activity may have a significant effect on the environment (14 CCR 15061[b][3]).]

Karl Price
Print Name: Senior Environmental Planner or Environmental Branch Chief
Signature Date

Tin Dinh
Print Name: Project Manager
Signature Date

NEPA COMPLIANCE
In accordance with 23 CFR 771.117, and based on an examination of this proposal and supporting information, the State has determined that this project:
- does not individually or cumulatively have a significant impact on the environment as defined by NEPA, and is excluded from the requirements to prepare an Environmental Assessment (EA) or Environmental Impact Statement (EIS), and
- has considered unusual circumstances pursuant to 23 CFR 771.117(b).

CALTRANS NEPA DETERMINATION (Check one)
☐ 23 USC 326: The State has determined that this project has no significant impacts on the environment as defined by NEPA, and that there are no unusual circumstances as described in 23 CFR 771.117(b). As such, the project is categorically excluded from the requirements to prepare an EA or EIS under the National Environmental Policy Act. The State has been assigned, and hereby certifies that it has carried out the responsibility to make this determination pursuant to Chapter 3 of Title 23, United States Code, Section 326 and a Memorandum of Understanding dated May 31, 2016, executed between the FHWA and the State. The State has determined that the project is a Categorical Exclusion under:
- 23 CFR 771.117(c): activity (c)(___)
- 23 CFR 771.117(d): activity (d)(___)
- Activity ___ listed in Appendix A of the MOU between FHWA and the State

☐ 23 USC 327: Based on an examination of this proposal and supporting information, the State has determined that the project is a Categorical Exclusion under 23 USC 327. The environmental review, consultation, and any other actions required by applicable Federal environmental laws for this project are being, or have been, carried out by Caltrans pursuant to 23 USC 327 and the Memorandum of Understanding dated December 23, 2016 and executed by FHWA and Caltrans.

N/A
Print Name: Senior Environmental Planner or Environmental Branch Chief
Signature Date

N/A
Print Name: Project Manager/DLA Engineer
Signature Date

N/A
Date of Categorical Exclusion Checklist completion: N/A Date of ECR or equivalent: 10/1/2019

Briefly list environmental commitments on continuation sheet. Reference additional information, as appropriate (e.g., CE checklist, additional studies and design conditions).
CATEGORICAL EXEMPTION/CATEGORICAL EXCLUSION DETERMINATION FORM
Continuation Sheet

Continued from page 1:

**Purpose**
The City of Malibu proposes to narrow the curbed median where feasible to provide more room on the right shoulder for a combination of bike use and on-street parking, thereby improving safety on this segment of Pacific Coast Highway (PCH). The City's intent is to not stripe separate bike lanes, but to simply increase the right shoulder width within the existing paved cross section, without widening the roadway. Where the median width is already at a minimum, the City proposes to rehabilitate the shoulder pavement to reduce the joint gap between the asphalt concrete (AC) and Portland Cement concrete (PCC) pavement sections.

**Need**
PCH (State Route 1) is a designated Class III bike route, meaning it is a shared facility between bicyclists and vehicles. The existing outside shoulder widths do not provide a comfortable width for the combination of bicycle use and on-street parking. Bicyclists must travel very close to the edge of traveled way (ETW) at the right shoulder, which is also the joint location between existing asphaltic concrete (AC) and Portland Cement concrete (PCC) pavements. Bicycle collisions have occurred as a result of this condition.

Currently the curbed median is not landscaped within the project limits. Providing landscaping or hardscaping in the curbed median would benefit the roadway aesthetics along this scenic corridor.

**Project Description**
The project proposes the following modifications:

- South of John Tyler Drive, the median would be narrowed by 1-3 feet to allow an inward shift of the travel lanes in order to widen the outside shoulders. The lanes would remain 11 feet wide. The widened shoulder would provide more room for bicyclists to travel safely between parked cars and vehicles. Where the median shifts inward, the existing PCC pavement would be sawcut to accommodate a minimum four-foot wide dowelled joined plain concrete pavement (JPCP) slab between the existing PCC slab and the reconstructed median.

- North of John Tyler Drive, the existing cross section would remain unchanged, but the existing AC shoulders would be rehabilitated to improve safety for bicyclist traveling near the joint line.

- Bike refuge lanes would be provided between the through lane and right turn lane at the northbound approaches of SR-1 and Malibu Canyon Road and SR-1 and John Tyler Drive, and at the southbound approach to the Malibu Colony Plaza shopping center north of Webb Way.

- The curbed median would be at least eight feet wide to allow for landscaping and maintenance should the City decide that landscaping is the preferred design.

- The curb height would be reconstructed at a standard height within the project area. This modification would improve drainage and enhance safety by providing a clear delineation between the travel lane and the raised median as an impediment for errant vehicles.

- In Pavement: Option A, the outside shoulders would be cold-planed and overlaid with Hot Mix Asphalt (HMA) to close the existing gap at the joint between the PCC travel lanes and the right AC shoulders. Where the proposed ETW shifts outward, the existing AC shoulder section would be removed and replaced with JPCP. This would prevent vehicles from travelling on the original AC shoulder section which is not designed to accommodate vehicle loads over a long period of time.

- In Pavement: Option B, all outside shoulders throughout the project limits would be replaced with JPCP, which would be tied with dowels into the existing traveled way PCC pavement. This would reduce the gap at the ETW for improved bicycle rideability; however, this Option may be cost prohibitive.

- The proposed project would extend the left turn pocket lengths at the intersections of John Tyler Drive and Malibu Canyon Road to better accommodate traffic storage and provide adequate deceleration length.

- Signage would be modified within the project limits, as needed, to provide proper advance guidance and warning of bicyclists using the facility.

- The existing traffic signal loop detectors at the intersections of SR-1 and Malibu Canyon Road and SR-1 and John Tyler Drive would be modified to accommodate changes to intersection lane configurations.

**No significant environmental consequences are anticipated with the proposed project.**

**Technical Studies/Memorandums Prepared (Bound Separately)**

- Natural Environmental Study – Minimal Impact, Michael Baker International, Inc., July 2019
- Screened Undertaking, State of California Department of Transportation, District 7, August 2019
- Initial Site Assessment (ISA) Checklist, Michael Baker International, Inc., August 22, 2018
- Aerially Deposited Lead (ADL) Site Investigation Work Plan, January 28, 2019, Revised August 22, 2019

**Avoidance and Minimization Measures:**

The following Measures would minimize potential indirect impacts to drainage features.

**BIO-1** Project activities were designed to avoid impacts to jurisdictional waters within the BSA. A Stormwater Pollution Prevention Plan (SWPPP)/Water Pollution Control Program (WPCP) shall be prepared and implemented to address all construction-related activities, equipment, and materials that have the potential to impact water quality. The SWPPP/WPCP shall identify the sources of pollutants that may affect the quality of stormwater and include the construction site specific Best Management Practices (BMPs) to control pollutants such as sediment control, catch basin inlet protection, construction materials management and non-stormwater. BMPs will be implemented to the maximum extent practicable, meeting requirements in the City and/or County ordinances and any subsequent permits. All appropriate BMPs will be utilized during construction and
maintenance to ensure that no indirect impacts occur to the downstream system. Fiber rolls (weed-free coconut or straw waddles) would be used to temporarily divert the flows.

The following Measures would minimize potential indirect impacts to special-status plant species.

BIO-2: Project materials shall not be cast from the limits of disturbance into nearby habitats and project-related debris, spills, and trash shall be contained and removed to a proper disposal facility.

BIO-3: All construction equipment shall be inspected and cleaned prior to use in the project footprint to minimize the importation of non-native plant material. A weed abatement program shall be implemented should invasive plant species colonize the area within the limits of disturbance post-construction.

The following Measures would minimize potential indirect impacts to southern California black walnut.

BIO-4: Protective fencing shall be used around the outermost limits of the protected zones of the southern California black walnuts within or adjacent to the construction area that may be disturbed during construction or grading activities. Before the commencement of any clearing, grading, or other construction activities, protective fencing shall be placed around each applicable tree. Fencing shall be maintained in place for the duration of all construction. No construction, grading, staging, or materials storage shall be allowed within the fenced exclusion areas, or within the protected zones of any southern California black walnut.

BIO-5: Any approved development, including grading or excavation, that encroaches into the protected zone of a native tree shall be conducted using only hand-held tools.

BIO-6: The applicants shall retain the services of a qualified independent biological consultant or arborist, approved by the Planning Manager to monitor native trees (i.e., southern California black walnut) that are within or adjacent to the construction area. Public agencies may utilize their own staff who have the appropriate classification. If any breach in the protective fencing occurs, all work shall be suspended until the fence is repaired or replaced.

The following Measures would minimize potential impacts to cultural resources.

CUL-1: If there are any such changes to the proposed undertaking, an additional review by the cultural resources’ unit will be required.

CUL-2: If previously unidentified cultural materials are unearthed during construction, work shall be halted in that area until a qualified archaeologist can assess the significance of the find.

The following Measures would minimize potential impacts related to hazardous waste.

HAZ-1: Import borrow needs to be free of contamination and tested prior to entering project area. Do not accept contaminated material.

HAZ-2: Shallow subsurface soil sampling will be conducted for aerially deposited lead (ADL) in unpaved locations in the vicinity of the roadway. The soil ADL evaluation and/or investigation will be consistent with the new California Department of Toxic Substances Control (DTSC) Lead Agreement contaminant concentration limits.

HAZ-3: If yellow thermoplastic traffic markings are removed separately from the adjacent pavement, the markings shall be removed and sampled for lead chromate prior to construction, consistent with Caltrans’ SSP 14-11.12. If the traffic markings are non-hazardous, then SSP 84-9.038 shall be followed.

HAZ-4: Lead Compliance Plan (LCP) shall be prepared prior to the start of construction activities to prevent or minimize worker exposure to lead in the soil during disturbance activities in unpaved areas.

HAZ-5: The removal and disposal of treated wood waste would comply with the Department’s Standard Specifications Section 14-11.14 pertaining to the disposal of treated wood waste.

HAZ-6: The upper two feet of soil is considered hazardous waste, Type Z-2 material, that must be disposed at a Class I disposal facility.

HAZ-7: Any electronic waste generated as a result of this project (i.e. during removal of pull boxes), shall be disposed of properly as outlined in NSSP 14-11.15A. Electronic waste would include sensors, switches, mercury vapor lamps, ballasts, CRT’s, etc.

HAZ-8: Health, Safety, and Environmental (HSE) and Lead Awareness Procedures shall be in-place and reviewed with staff prior to beginning ADL field work. All staff must have completed the 40-hour HAZWOPER training, possess a current 8-hour refresher certificate and meet required field experience per the requirements of 29 CFR 1910.120 and 8 CCR 5192.

HAZ-9: ADL field crew members shall be familiar with the best management practices for hazardous waste/hazardous materials investigations, including

- Physical characteristics;
- Eating, drinking, smoking, and chewing gum or tobaccos are strictly prohibited while conducting field work;
- Wash hands and face before eating, drinking, or smoking following field activities;
- Minimize contact with potentially contaminated substances through use of Level D PPE including nitrile gloves;
- Change out of and wash work clothes separately, at the end of the work shift. Clean clothes should be worn each day. Avoid splash of decontamination water onto clothes and exposed skin and face areas. Use available fresh water to immediately wash exposed skin and face areas which have been splashed onto.
- Use all senses to alert potentially dangerous situations (i.e., presence of strong and irritating or nauseating odors, uncontrolled dust, and unsafe vehicle traffic conditions);
- Water spray will be applied during soil excavation activities to minimize exposure.
- Prevent, to the extent possible, spills.
HAZ-10: ADL field staff shall have a MultiRAE four-gas detector equipped with a PID, methane, oxygen, and hydrogen sulfide detectors to screen the breathing zone and soil head space concentrations. If PID concentrations are above 1 ppm above background or bag sample headspace values are above 50 ppm, work shall stop and call the ADL project manager shall be contacted to review PPE, soil containment, and decontamination procedures before proceeding.

HAZ-11: Project-generated wastes shall be segregated into classes for disposal purposes. Domestic garbage shall be enclosed in a refuse container and disposed of in appropriate containers.
Begin Work
Sta "PCH" 2748+00

Begin Construction
Sta "PCH" 2768+00 PM 47.4

End Work
Sta "PCH" 2884+25

End Construction
Sta "PCH" 2864+25 PM 49.3
NOTES:
1. FOR CURB CURB (TYPE D-4 Mod) DETAILS INCLUDING TYPICAL SECTIONS SEE DETAIL SHEET X-1.

"PCH" Sta 2862+41.80 TO "PCH" Sta 2862+47.00
"PCH" Sta 2836+16.02 TO "PCH" Sta 2833+87.34
"PCH" Sta 2828+88.00 TO "PCH" Sta 2833+92.11

ROUTE 1

"PCH" Sta 2827+01.50 TO "PCH" Sta 2828+88.00

ROUTE 1

"PCH" Sta 2822+95.00 TO "PCH" Sta 2827+01.50

ROUTE 1

TYPICAL CROSS SECTIONS
NO SCALE

X-3
NOTES:
1. For curb, Curb [Type ES-4] used. Details including structural sections behind the curb see construction detail sheet C-1.

"PCH" LINE

EXIST BACK OF CURB

ROUTE 1
"PCH" Sta 2852+14.90 TO "PCH" Sta 2852+47.00

TYPICAL CROSS SECTIONS
NO SCALE
X-4
NOTES:
1. FOR ACCURATE EIGHT OF PHK DATA CONTACT
   REGION OF HIGH ENGINEERING AT THE DISTRICT OFFICE.
NOTES:
1. FOR ACCURATE RIGHT OF WAY DATA CONTACT
   RIGHT OF WAY ENGINEERING AT THE PROJECT OFFICE.
CATEGORICAL EXEMPTION/CATEGORICAL EXCLUSION DETERMINATION FORM

07-LA-1  47.4/49.3  34100/CE 201909004  N/A/EFIS 0717000183
Dist-Co.-Rte. (or Local Agency)  P.M./P.M.  E/A/Project No.  Federal-Aid Project No. (Local Project)/Project No.

PROJECT DESCRIPTION: (Briefly describe project including need, purpose, location, limits, right-of-way requirements, and activities involved in this box. Use Continuation Sheet, if necessary.)

The City of Malibu (the City) proposes to narrow the curbed median where feasible on State Route 1 (SR-1) from Webb Way (PM 47.4) to Puerto Canyon Road (PM 49.3) for a distance of 1.9 miles. Narrowing the curbed median where feasible would provide more room on the right shoulder for a combination of bike use and on-street parking, thereby improving safety on this segment of Pacific Coast Highway (PCH). The City would not stripe separate bike lanes, but simply increase the right shoulder width within the existing paved cross section without widening the right-of-way (ROW). No changes are proposed to driveway access or on-street parking. Existing 11-foot wide vehicular travel lanes will remain the same. (Continued on page 2)

CALTRANS CEQA DETERMINATION (Check one)

☐ Not Applicable – Caltrans is not the CEQA Lead Agency
☐ Not Applicable – Caltrans has prepared an Initial Study or Environmental Impact Report under CEQA

Based on an examination of this proposal, supporting information, and the above statements, the project is:

☐ Exempt by Statute. (PRC 21080(b); 14 CCR 15260 et seq.)
☐ Categorically Exempt. Class 1(c). (PRC 21084; 14 CCR 15300 et seq.)

Based on an examination of this proposal and supporting information, the following statements are true and exceptions do not apply:

- If this project falls within exempt class 3, 4, 5, 6 or 11, it does not impact an environmental resource of hazardous or critical concern where designated, precisely mapped, and officially adopted pursuant to law.
- There will not be a significant cumulative effect by this project and successive projects of the same type in the same place, over time.
- There is not a reasonable possibility that the project will have a significant effect on the environment due to unusual circumstances.
- This project does not damage a scenic resource within an officially designated state scenic highway.
- This project is not located on a site included on any list compiled pursuant to Govt. Code § 65662.5 (“Cortese List”).
- This project does not cause a substantial adverse change in the significance of a historical resource.

☐ Common Sense Exemption. (This project does not fall within an exempt class, but it can be seen with certainty that there is no possibility that the activity may have a significant effect on the environment (14 CCR 15061[b][3]).

Karl Price
Print Name: Senior Environmental Planner or Environmental Branch Chief

Date: 10/14/19

Tin Dinh
Print Name: Project Manager

Date: 10/14/19

NEPA COMPLIANCE

In accordance with 23 CFR 771.117, and based on an examination of this proposal and supporting information, the State has determined that this project:

- does not individually or cumulatively have a significant impact on the environment as defined by NEPA, and is excluded from the requirements to prepare an Environmental Assessment (EA) or Environmental Impact Statement (EIS), and
- has considered unusual circumstances pursuant to 23 CFR 771.117(b).

CALTRANS NEPA DETERMINATION (Check one)

☐ 23 USC 326: The State has determined that this project has no significant impacts on the environment as defined by NEPA, and that there are no unusual circumstances as described in 23 CFR 771.117(b). As such, the project is categorically excluded from the requirements to prepare an EA or EIS under the National Environmental Policy Act. The State has assigned, and hereby certifies that it has carried out the responsibility to make this determination pursuant to Chapter 3 of Title 23, United States Code, Section 326 and a Memorandum of Understanding dated May 31, 2016, executed between the FHWA and the State. The State has determined that the project is a Categorical Exclusion under:

☐ 23 CFR 771.117(c): activity (c)(____)
☐ 23 CFR 771.117(d): activity (d)(____)
☐ Activity ____ listed in Appendix A of the MOU between FHWA and the State

☐ 23 USC 327: Based on an examination of this proposal and supporting information, the State has determined that the project is a Categorical Exclusion under 23 USC 327. The environmental review, consultation, and any other actions required by applicable Federal environmental laws for this project are being, or have been, carried out by Caltrans pursuant to 23 USC 327 and the Memorandum of Understanding dated December 23, 2016 and executed by FHWA and Caltrans.

N/A
Print Name: Senior Environmental Planner or Environmental Branch Chief

N/A
Print Name: Project Manager/DLA Engineer

N/A
Signature
Date

N/A
Signature
Date

Date of Categorical Exclusion Checklist completion: N/A

Date of ECR or equivalent: 10/1/2019

Briefly list environmental commitments on continuation sheet. Reference additional information, as appropriate (e.g., CE checklist, additional studies and design conditions).

Page 1 of 4

January 3, 2019

ATTACHMENT 3
CATEGORICAL EXEMPTION/CATEGORICAL EXCLUSION DETERMINATION FORM
Continuation Sheet

Purpose
The City of Malibu proposes to narrow the curbed median where feasible to provide more room on the right shoulder for a combination of bike use and on-street parking, thereby improving safety on this segment of Pacific Coast Highway (PCH). The City’s intent is to not stripe separate bike lanes, but to simply increase the right shoulder width within the existing paved cross section, without widening the roadway. Where the median width is already at a minimum, the City proposes to rehabilitate the shoulder pavement to reduce the joint gap between the asphalt concrete (AC) and Portland Cement concrete (PCC) pavement sections.

Need
PCH (State Route 1) is a designated Class III bike route, meaning it is a shared facility between bicyclists and vehicles. The existing outside shoulder widths do not provide a comfortable width for the combination of bicycle use and on-street parking. Bicyclists must travel very close to the edge of traveled way (ETW) at the right shoulder, which is also the joint location between existing asphaltic concrete (AC) and Portland Cement concrete (PCC) pavements. Bicycle collisions have occurred as a result of this condition.

Currently the curbed median is not landscaped within the project limits. Providing landscaping or hardscaping in the curbed median would benefit the roadway aesthetics along this scenic corridor.

Project Description
The project proposes the following modifications:

- South of John Tyler Drive, the median would be narrowed by 1-3 feet to allow an inward shift of the travel lanes in order to widen the outside shoulders. The lanes would remain 11 feet wide. The widened shoulder would provide more room for bicyclists to travel safely between parked cars and vehicles. Where the median shifts inward, the existing PCC pavement would be sawcut to accommodate a minimum four-foot wide dowelled joined plain concrete pavement (JPCP) slab between the existing PCC slab and the reconstructed median.

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- Bike refuge lanes would be provided between the through lane and right turn lane at the northbound approaches of SR-1 and Malibu Canyon Road and SR-1 and John Tyler Drive, and at the southbound approach to the Malibu Colony Plaza shopping center north of Webb Way.

- The curbed median would be at least eight feet wide to allow for landscaping and maintenance should the City decide that landscaping is the preferred design.

- The curb height would be reconstructed at a standard height within the project area. This modification would improve drainage and enhance safety by providing a clear delineation between the travel lane and the raised median as an impediment for errant vehicles.

- In Pavement: Option A, the outside shoulders would be cold-planed and overlaid with Hot Mix Asphalt (HMA) to close the existing gap at the joint between the PCC travel lanes and the right AC shoulders. Where the proposed ETW shifts outward, the existing AC shoulder section would be removed and replaced with JPCP. This would prevent vehicles from travelling on the original AC shoulder section which is not designed to accommodate vehicle loads over a long period of time.

- In Pavement Option B, all outside shoulders throughout the project limits would be replaced with JPCP, which would be tied with dowels into the existing traveled way PCC pavement. This would reduce the gap at the ETW for improved bicycle rideability; however, this Option may be cost prohibitive.

- The proposed project would extend the left turn pocket lengths at the intersections of John Tyler Drive and Malibu Canyon Road to better accommodate traffic storage and provide adequate deceleration length.

- Signage would be modified within the project limits, as needed, to provide proper advance guidance and warning of bicyclists using the facility.

- The existing traffic signal loop detectors at the intersections of SR-1 and Malibu Canyon Road and SR-1 and John Tyler Drive would be modified to accommodate changes to intersection lane configurations.

No significant environmental consequences are anticipated with the proposed project.

Technical Studies/Memorandums Prepared (Bound Separately)

- Natural Environmental Study – Minimal Impact, Michael Baker International, Inc., July 2019
- Screened Undertaking, State of California Department of Transportation, District 7, August 2019
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- Aerially Deposited Lead (ADL) Site Investigation Work Plan, January 28, 2019, Revised August 22, 2019

Avoidance and Minimization Measures:

The following Measures would minimize potential indirect impacts to drainage features.

BIO-1 Project activities were designed to avoid impacts to jurisdictional waters within the BSA. A Stormwater Pollution Prevention Plan (SWPPP)/Water Pollution Control Program (WPCP) shall be prepared and implemented to address all construction-related activities, equipment, and materials that have the potential to impact water quality. The SWPPP/WPCP shall identify the sources of pollutants that may affect the quality of stormwater and include the construction site specific Best Management Practices (BMPs) to control pollutants such as sediment control, catch basin inlet protection, construction materials management and non-stormwater. BMPs will be implemented to the maximum extent practicable, meeting requirements in the City and/or County ordinances and any subsequent permits. All appropriate BMPs will be utilized during construction and
CATEGORICAL EXEMPTION/CATEGORICAL EXCLUSION DETERMINATION FORM

Continuation Sheet

Maintenance to ensure that no indirect impacts occur to the downstream system. Fiber rolls (weed-free coconut or straw waddles) would be used to temporarily divert the flows.

The following Measures would minimize potential indirect impacts to special-status plant species.

**BIO-2:** Project materials shall not be cast from the limits of disturbance into nearby habitats and project-related debris, spoils, and trash shall be contained and removed to a proper disposal facility.

**BIO-3:** All construction equipment shall be inspected and cleaned prior to use in the project footprint to minimize the importation of non-native plant material. A weed abatement program shall be implemented should invasive plant species colonize the area within the limits of disturbance post-construction.

The following Measures would minimize potential indirect impacts to southern California black walnut.

**BIO-4:** Protective fencing shall be used around the outermost limits of the protected zones of the southern California black walnuts within or adjacent to the construction area that may be disturbed during construction or grading activities. Before the commencement of any clearing, grading, or other construction activities, protective fencing shall be placed around each applicable tree. Fencing shall be maintained in place for the duration of all construction. No construction, grading, staging, or materials storage shall be allowed within the fenced exclusion areas, or within the protected zones of any southern California black walnut.

**BIO-5:** Any approved development, including grading or excavation, that encroaches into the protected zone of a native tree shall be conducted using only hand-held tools.

**BIO-6:** The applicants shall retain the services of a qualified independent biological consultant or arborist, approved by the Planning Manager to monitor native trees (i.e., southern California black walnut) that are within or adjacent to the construction area. Public agencies may utilize their own staff who have the appropriate classification. If any breach in the protective fencing occurs, all work shall be suspended until the fence is repaired or replaced.

The following Measures would minimize potential impacts to cultural resources.

**CUL-1:** If there are any such changes to the proposed undertaking, an additional review by the cultural resources’ unit will be required.

**CUL-2:** If previously unidentified cultural materials are unearthed during construction, work shall be halted in that area until a qualified archaeologist can assess the significance of the find.

The following Measures would minimize potential impacts related to hazardous waste.

**HAZ-1:** Import borrow needs to be free of contamination and tested prior to entering project area. Do not accept contaminated material.

**HAZ-2:** Shallow subsurface soil sampling will be conducted for aerially deposited lead (ADL) in unpaved locations in the vicinity of the roadway. The soil ADL evaluation and/or investigation will be consistent with the new California Department of Toxic Substances Control (DTSC) Lead Agreement contaminant concentration limits.

**HAZ-3:** If yellow thermoplastic traffic markings are removed separately from the adjacent pavement, the markings shall be removed and sampled for lead chromate prior to construction, consistent with Caltrans’ SSP 14-11.12. If the traffic markings are non-hazardous, then SSP 84-9.038 shall be followed.

**HAZ-4:** Lead Compliance Plan (LCP) shall be prepared prior to the start of construction activities to prevent or minimize worker exposure to lead in the soil during disturbance activities in unpaved areas.

**HAZ-5:** The removal and disposal of treated wood waste would comply with the Department’s Standard Specifications Section 14-11.14 pertaining to the disposal of treated wood waste.

**HAZ-6:** The upper two feet of soil is considered hazardous waste, Type Z-2 material, that must be disposed of at a Class I disposal facility.

**HAZ-7:** Any electronic waste generated as a result of this project (i.e. during removal of pull boxes), shall be disposed of properly as outlined in NSSP 14-11.15A. Electronic waste would include sensors, switches, mercury vapor lamps, ballasts, CRT's, etc.

**HAZ-8:** Health, Safety, and Environmental (HSE) and Lead Awareness Procedures shall be in-place and reviewed with staff prior to beginning ADL field work. All staff must have completed the 40-hour HAZWOPER training, possess a current 8-hour refresher certificate and meet required field experience per the requirements of 29 CFR 1910.120 and 8 CCR 5192.

**HAZ-9:** ADL field crew members shall be familiar with the best management practices for hazardous waste/hazardous materials investigations, including

- Physical characteristics;
- Eating, drinking, smoking, and chewing gum or tobaccos are strictly prohibited while conducting field work;
- Wash hands and face before eating, drinking, or smoking following field activities;
- Minimize contact with potentially contaminated substances through use of Level D PPE including nitrile gloves;
- Change out of and wash work clothes separately, at the end of the work shift. Clean clothes should be worn each day.
- Avoid splash of decontamination water onto clothes and exposed skin and face areas. Use available fresh water to immediately wash exposed skin and face areas which have been splashed onto.
- Avoid all senses to alert potentially dangerous situations (i.e., presence of strong and irritating or nauseating odors, uncontrolled dust, and unsafe vehicle traffic conditions);
- Water spray will be applied during soil excavation activities to minimize exposure.
- Prevent, to the extent possible, spills.
HAZ-10: ADL field staff shall have a MultiRAE four-gas detector equipped with a PID, methane, oxygen, and hydrogen sulfide detectors to screen the breathing zone and soil head space concentrations. If PID concentrations are above 1 ppm above background or bag sample headspace values are above 50 ppm, work shall stop and call the ADL project manager shall be contacted to review PPE, soil containment, and decontamination procedures before proceeding.

HAZ-11: Project-generated wastes shall be segregated into classes for disposal purposes. Domestic garbage shall be enclosed in a refuse container and disposed of in appropriate containers.
City of Malibu
23825 Stuart Ranch Rd., Malibu, California CA 90265-4861
(310) 456-2489  FAX (310) 456-7650

PUBLIC WORKS REVIEW
REFERRAL SHEET

TO: Public Works Department
FROM: City of Malibu Planning Department
DATE: 2/23/2021

PROJECT NUMBER: CDP 21-008
JOB ADDRESS: 24201.5 PACIFIC COAST HWY
APPLICANT / CONTACT: Jorge Rubalcava, City of Malibu
APPLICANT ADDRESS: 23825 Stuart Ranch Road
Malibu, CA 90265
APPLICANT PHONE #: (310)456-2489
APPLICANT FAX #: 
APPLICANT EMAIL: jrubalcava@malibuciy.org
PROJECT DESCRIPTION: Median improvements between Webb Way/PCH and Puerco Canyon/PCH.

TO: Malibu Planning Department and/or Applicant
FROM: Public Works Department

- The following items described on the attached memorandum shall be addressed and resubmitted.

X The project was reviewed and found to be in conformance with the City’s Public Works and LCP policies and CAN proceed through the Planning process.

[Signature]
[Date] 03/29/21
To: Planning Department
From: Public Works Department
Jorge Rubalcava P.E., Senior Civil Engineer
Date: March 26, 2021
Re: Proposed Conditions of Approval for 242015.5 Pacific Coast Highway CDP 21-008

The Public Works Department has reviewed the plans submitted for the above referenced project. Based on this review sufficient information has been submitted to confirm that conformance with the Malibu Local Coastal Plan (LCP) and the Malibu Municipal Code (MMC) can be attained. Prior to the issuance of building and grading permits, the applicant shall comply with the following conditions.

**STREET IMPROVEMENTS**

1. This project proposes to construct improvements within Caltrans’ right-of-way. Prior to the Public Works Department approval of the grading or building permit, the applicant shall obtain encroachment permits from Caltrans for the proposed improvements.

**GRADING AND DRAINAGE**

2. Exported soil from a site shall be taken to the County Landfill or to a site with an active grading permit and the ability to accept the material in compliance with the City’s LIP Section 8.3. **A note shall be placed on the project that addresses this condition.**

3. A grading and drainage plan shall be approved containing the following information prior to the issuance of grading permits for the project.
   - Public Works Department General Notes
   - The existing and proposed square footage of impervious coverage on the property shall be shown on the grading plan (including separate areas for buildings, driveways, walkways, parking, tennis courts and pool decks).
   - The limits of land to be disturbed during project development shall be delineated on the grading plan and a total area shall be shown on the plan. Areas disturbed by grading equipment beyond the limits of grading, areas disturbed for the installation of
the septic system, and areas disturbed for the installation of the detention system shall be included within the area delineated.

- The grading limits shall include the temporary cuts made for retaining walls, buttresses, and over excavations for fill slopes and shall be shown on the grading plan.
- If the property contains trees that are to be protected they shall be highlighted on the grading plan.
- If the property contains rare and endangered species as identified in the resources study the grading plan shall contain a prominent note identifying the areas to be protected (to be left undisturbed). Fencing of these areas shall be delineated on the grading plan if required by the City Biologist.
- Private storm drain systems shall be shown on the grading plan. Systems greater than 12-inch diameter shall also have a plan and profile for the system included with the grading plan.
- Public storm drain modifications shown on the grading plan shall be approved by the Public Works Department prior to the issuance of the grading permit.

4. The applicant shall label all City/County storm drain inlets within 250 feet from each property line per the City of Malibu’s standard label template. A note shall be placed on the project plans that address this condition.

**STORMWATER**

5. A Storm Water Pollution Prevention Plan shall be provided prior to the issuance of the Grading/Building permits for the project. This plan shall include an Erosion and Sediment Control Plan (ESCP) that includes, but not limited to:

<table>
<thead>
<tr>
<th>Erosion Controls</th>
<th>Hydraulic Mulch</th>
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<tr>
<td></td>
<td>Hydrotech</td>
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<td>Soil Binders</td>
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<td>Straw Mulch</td>
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<td>Geotextiles and Mats</td>
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<td>Wood Mulching</td>
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<td>Sediment Controls</td>
<td>Fiber Rolls</td>
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<td>Gravel Bag Berm</td>
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<td>Street Sweeping and/ or Vacuum</td>
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<td>Storm Drain Inlet Protection</td>
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<td>Scheduling</td>
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<td>Check Dam</td>
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<td>Stabilized Construction Roadway</td>
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<tr>
<td></td>
<td>Entrance/ Exit Tire Wash</td>
</tr>
<tr>
<td>Non-Stormwater</td>
<td>Vehicle and Equipment Washing</td>
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</tbody>
</table>
All Best Management Practices (BMP) shall be in accordance to the latest version of the California Stormwater Quality Association (CASQA) BMP Handbook. Designated areas for the storage of construction materials, solid waste management, and portable toilets must not disrupt drainage patterns or subject the material to erosion by site runoff.

6. Prior to the approval of any permits and prior to the applicant submitting the required Construction General Permit documents to the State Water Quality Control Board, the applicant shall submit to the Public Works Department for review and approval an Erosion and Sediment Control Plan (ESCP). The ESCP shall contain appropriate site-specific construction site BMPs and developed and certified by a Qualified SWPPP Developer (QWD). All structural BMPs must be designed by a licensed California Engineer. The ESCP must address the following elements:

- Methods to minimize the footprint of the disturbed area and to prevent soil compaction outside the disturbed area.
- Methods used to protect native vegetation and trees.
- Sediment/Erosion Control.
- Controls to prevent tracking on and off the site.
- Non-storm water controls.
- Material management (delivery and storage).
- Spill Prevention and Control.
- Waste Management
- Identification of site Risk Level as identified per the requirements in Appendix 1 of the Construction General Permit.
- Landowner must sign the following statement on the ESCP:

“I certify that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to ensure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering the information, to the best of my knowledge and belief, the information submitted is true, accurate and complete. I am aware that submitting false and/or inaccurate information, failing to update the ESCP to reflect current conditions, or failing to properly and/or adequately implement the ESCP may result in revocation of grading and/or other permits or other sanctions provided by law.”

7. A State Construction activity permit is required for this project due to the disturbance of more than one acre of land for development. Provide a copy of the letter from the State Water
Quality Control Board containing the WDID number prior to the issuance of grading or building permits.

MISCELLANOUS

8. The developer’s consulting engineer shall sign the final plans prior to the issuance of permits.
I. FEASIBLE ALTERNATIVES REPORT

The Local Coastal Program (LCP) requires a finding that there are no feasible alternatives to development that would avoid or substantially lessen any significant adverse impacts. The following letter is being provided to describe feasible alternatives that were considered by the applicant and why the alternatives were rejected and why Alternative 1: Build Alternative was selected.

A. Introduction

Purpose

The City of Malibu proposes to narrow the curbed median where feasible to provide more space on the right shoulder for a combination of bike use and on-street parking, thereby improving safety on this segment of Pacific Coast Highway (PCH). The City’s intent is not to stripe separate bike lanes, but to simply increase the right shoulder width within the existing paved cross section of road, without widening the roadway itself.

Need

SR-1 is a designated Class III bike route, meaning it is a shared facility between bicyclists and vehicles. The existing outside shoulder widths do not provide a level of comfort and security to bicyclists for the combination of bicycle use and on-street parking. Bicyclists must travel very close to the edge of traveled way at the right shoulder, which is also the joint location between existing AC and PCC pavements. Currently the curbed median is not landscaped or hardscaped within the project limits. Providing hardscaping in the curbed median would benefit the roadway aesthetics along this scenic corridor.

Findings Requirement

The Malibu LCP requires the following findings to be made in order to issue a Coastal Development Permit:

- The project, as proposed, will have no significant adverse scenic or visual impacts due to the project design, location on the site or other reasons.
- The project, as conditioned, will not have significant adverse scenic or visual impacts due to required project modifications, landscaping or other conditions.
- The project, as proposed or as conditioned, is the least environmentally damaging alternative.
- There are no feasible alternatives to development that would avoid or substantially lessen any significant adverse impacts on scenic and visual resources.
- Development in a specific location on the site may have adverse scenic and visual impacts but will eliminate, minimize, or otherwise contribute to conformance to sensitive resource protection policies contained in the certified LCP.

In order to make the above findings, an alternatives analysis report was prepared, which demonstrates how the following two alternatives were explored and the best scenario selected.
II. Alternatives Considered

Alternative 1 – Build Alternative:

Below is a summary of modifications proposed in Alternative 1.

- South of John Tyler Drive:
  - The median would be narrowed 1 – 3’ to allow an inward shift of the travel lanes in order to widen the outside shoulders. The lanes would remain 11’ wide. The widened shoulder would provide additional room for bicyclists to travel safely between parked cars and vehicles.
  - The segment between John Tyler Drive and Malibu Canyon Road would have the proposed median at 15’ maximum width. The median widths would vary from 9’ to 14’ on the southbound side, and 12’ on the northbound side.

- North of John Tyler Drive:
  - The existing cross section would remain unchanged but shoulder pavement would be rehabilitated to improve safety for all users.
  - Existing Asphalt Concrete (AC) shoulders would be rehabilitated to improve rideability for bicyclist traveling near the joint line.

- Other Design Improvements Throughout Project Site:
  - Bike refuge lanes would be provided between the through lane and right-turn lane at the following intersections: 1) the northbound approach of SR-1/Malibu Canyon Road; 2) the northbound approach of SR-1/John Tyler Drive; and, the 3) southbound approach to the Malibu Colony Plaza shopping center north of Webb Way.
  - Curb height would be reconstructed at a standard height within the Project site. This modification would improve drainage and enhance safety by providing a clear delineation between the travel lane and the raised median as an impediment for errant vehicles.
  - Outside shoulders would be cold-planed and overlaid with Rubberized Hot Mix Asphalt (RHMA-G) to close the existing gap at the joint between the PCC travel lanes and the right AC shoulders.
  - Portions of the traveled way including the outside shoulders would be overlaid with Rubberized Hot Mix Asphalt RHMA-G.
  - Left turn pockets would be extended to better accommodate traffic storage and provide adequate deceleration length at the following intersections: Webb Way, Malibu Canyon Road, and John Tyler Drive.
  - The existing traffic signal loop detectors at the SR-1/Malibu Canyon Road and SR-1/John Tyler Drive intersections would be modified to accommodate changes to intersection lane configurations.
  - Bicycle loop detectors would be installed at the SR-1/Malibu Canyon Road and SR-1/John Tyler Drive intersections.
- Signage would be modified in the project limits as needed to provide proper advance guidance and warning of bicyclists using the facility.

- Proposed Drainage Improvements:
  - Impacted curb open inlets within the median would be removed and replaced.
  - Proposed drainage systems would be connected to existing storm drain culverts.
  - Existing culvert and concrete ditches would be cleaned, inspected and repaired (if necessary) per the Caltrans Element Inspection Manual and DIB 86-03.

This design alternative was developed in cooperation between the City of Malibu and Caltrans. Design decisions are documented in the Design Standard Decision Document (DSDD) prepared in accordance with the Caltrans District 7 Design Delegation Master Agreement signed on March 19, 2020. Nonstandard design features are identified in this document, based on the Caltrans Highway Design Manual (HDM) 6th Edition published on March 20, 2020. Caltrans District 7 retains approval authority for all nonstandard design features. Caltrans signed/approved the project DSDD on May 4, 2020.

Environmental impacts with Alternative 1 would be minimal. All construction and construction staging areas would occur within the existing Caltrans right-of-way, to minimize negative impacts on neighboring land uses and environments. Drainage improvements would be a betterment over existing condition. As the lead agency, Caltrans determined the appropriate environmental document to be a Categorical Exemption, citing 15301 Class 1(c), Existing Facilities.

The estimated construction cost (current year) for Alternative 1 is $6,400,000.

Alternative 2 – Build Alternative, Standard Design Features

Under this alternative, the proposed improvements in Alternative 1 would be incorporated with bringing all existing and proposed nonstandard design features into standards based on the Caltrans HDM. Nonstandard design features are detailed in the DSDD, and include the following components at specific locations: stopping sight distance (vertical and horizontal), lane and shoulder width, left-turn channelization, right-turn channelization, relation of access to a median opening, sidewalks, location/design of curb ramps, vertical curves, slide slopes, median width, turning traffic, design vehicles (Surface Transportation Assistance Act (STAA), CA Legal and 45-Foot Bus), corner sight distance at intersections, and tree setbacks.

Bringing each component into standard would require a substantial construction effort, including grading, pavement replacement, tree removal, roadway realignment, utility realignment and right-of-way acquisition. Construction efforts could take several years, resulting in significant environmental impacts. Additionally, potential for safety improvements is nominal, as collision data between 2012 and 2015 was thoroughly analyzed in the DSDD; no documented collisions during the study period are attributed to a nonstandard design feature within the Project boundaries. Thus, bringing all design features up to standard is unlikely to result in fewer collisions or safety improvements.

The estimated cost for Alternative 2 is approximately $71 million.

Alternative 3 – No Build Alternative:
Under this alternative, no reconstruction or improvements would be made to Pacific Coast Highway (State Route 1), other than routine roadway maintenance and currently approved improvements. Existing drainage patterns would remain, with flows draining either east toward Webb Way or west toward the sump area near Coral Canyon Park. Existing impacted curb openings within the median would remain in-place, and culverts/concrete ditches would not be inspected for repair (if necessary).

III. Preferred Alternative

The preferred alternative consists of the Alternative 1 – Build Alternative, to meet the project’s need and purpose. This alternative would improve safety conditions on SR-1 for both motorized and active transportation, while retaining existing parking and driveway access. The proposed project will not have an adverse impact on scenic or visual resources, as all improvements would occur within the existing Caltrans ROW. Median and hardscape improvements would be an aesthetic improvement over the existing condition.

Additionally, this alternative meets the purpose and need of the project with minimal environmental impacts. Because construction and staging would remain in the ROW, adjoining uses shall be protected from negative impacts. As the lead agency, Caltrans filed a Categorical Exemption under Section 15301, Class 1(c) “Existing Facilities”. Thus, this alternative is found to be the least environmentally damaging alternative. Alternative 1 proposes a minor alteration to the existing roadway for safety improvements for vehicles, cyclists and pedestrians while meeting the California Coastal Act requirements for maintaining and enhancing vertical and lateral access to the coast. Additionally, drainage improvements proposed would be a betterment over existing condition. By standardizing median curb height, replacing impacted curb openings inlets on the median, connecting proposed drainage systems to the existing storm drain culverts, and evaluating existing culverts/concrete ditches (for cleaning, inspection and repair, if necessary), further reducing environmental impacts will be further reduced.

IV. Alternatives Considered but Rejected

The Alternative 2 – Build Alternative, Standard Design Features was rejected due to significant environmental impacts, increased length of construction timing, and economic infeasibility. Due to the projected level of construction required to conduct grading, pavement replacement, tree removal, roadway realignment, utility realignment and right-of-way acquisition, Alternative 2 would result in significant impacts over Alternative 1. Despite the cost and resource allocation required in Alternative 2, it is unlikely that safety would be substantially improved over the existing condition. As previously discussed, the DSDD analyzed collision data between 2012 – 2015 and determined no collisions occurred due to the listed nonstandard design features. Alternative 1 offers an economically feasible design to enhance safety, while maintaining low visual and environmental impacts. For the reasons listed above, Alternative 2 has been rejected.

Alternative 3 – No Build was rejected as this alternative does not address the purpose and need of the Project. The existing outside shoulder widths do not provide a level of comfort or security to bicyclists for the combination of bicycle use and on-street parking. Bicycle collisions have occurred as a result of this condition. Thus, this alternative has been rejected.
V. Conclusion

The preferred alternative would not cause a change in scenic or visual impacts, nor would it propose impacts to any existing environmental resources (i.e., ESHA); therefore, the Preferred Alternative (Alternative 1) would be consistent with the findings required by the City of Malibu’s LCP.

**Table 1: Alternatives Summary**

<table>
<thead>
<tr>
<th>Alternative</th>
<th>Benefits</th>
<th>Drawbacks</th>
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</table>
| **Alternative 1 – Build Alternative** | • Meets project objectives  
• Cost effective  
• Aesthetic improvement  
• Minor environmental impacts (approved Categorical Exemption) | • Minor temporary reduction in parking supply during off season          |
| **Alternative 2 – Build Alternative, Standard Design Features** | • Meets project objectives | • Significant environmental impacts  
• Costly  
• Does not significantly improve safety or circulation  
• Major reduction in parking supply during extended construction period |
| **Alternative 3 – No Build**       | • No environmental impacts  
• No cost | • Does not meet project objectives  
• Existing drainage deficiencies continue  
• No aesthetic improvements |
PLANNING DEPARTMENT
NOTICE OF PUBLIC HEARING

Notice of Public Hearing

The Malibu Planning Commission will hold a public hearing on Monday, July 19, 2021, at 6:30 p.m. on the project identified below via teleconference only in order to reduce the risk of spreading COVID-19, pursuant to the Governor’s Executive Orders N-25-20 and N-29-20 and the County of Los Angeles Public Health Officer’s Safer at Home Order.

COASTAL DEVELOPMENT PERMIT NO. 21-008 - An application to construct median improvements to widen the outside shoulder for a distance of approximately 2 miles along Pacific Coast Highway between Webb Way and Puerco Canyon Road, located entirely within the California Department of Transportation right-of-way, to better allow a combination of bike use and on-street parking.

APPLICANT: City of Malibu
PROPERTY OWNER: California Department of Transportation (Caltrans)
APPEALABLE TO: City Council and California Coastal Commission
ENVIRONMENTAL REVIEW: Categorical Exemption CEQA Guidelines Section 15301(c)
APPLICATION FILED: February 23, 2021
CASE PLANNER: Jessica Thompson, Associate Planner, jthompson@malibucity.org, (310) 456-2489, ext. 280

A written staff report will be available at or before the hearing for the project, typically 10 days before the hearing in the Agenda Center: http://www.malibucity.org/agendacenter. Related documents are available for review by contacting the case planner during regular business hours. You will have an opportunity to testify at the public hearing; written comments which shall be considered public record, may be submitted any time prior to the beginning of the public hearing. If the City’s action is challenged in court, testimony may be limited to issues raised before or at the public hearing.

LOCAL APPEAL - Pursuant to Local Coastal Program Local Implementation Plan (LIP) Section 13.20.1 (Local Appeals), a decision made by the Planning Commission may be appealed to the City Council by an aggrieved person by written statement setting forth the grounds for appeal. An appeal shall be filed with the City Clerk within 10 days and shall be accompanied by an appeal form and filing fee, as specified by the City Council. Appeal forms may be found online at www.malibucity.org/planningforms, in person, or by calling (310) 456-2489, ext. 245.

COASTAL COMMISSION APPEAL - An aggrieved person may appeal the Planning Commission’s approval directly to the Coastal Commission within 10 working days of the issuance of the City’s Notice of Final Action. More information may be found online at www.coastal.ca.gov or by calling 805-585-1800.

RICHARD MOLLICA, Planning Director
Date: July 8, 2021

ATTACHMENT 6
PLANNING DEPARTMENT

Notice of Public Hearing

The Malibu Planning Commission will hold a public hearing on Thursday, August 26 2021, at 6:30 p.m. on the project identified below via teleconference only in order to reduce the risk of spreading COVID-19, pursuant to the Governor’s Executive Order N-08-21 and the County of Los Angeles Public Health Officer’s Order.

**COASTAL DEVELOPMENT PERMIT NO. 21-008** - An application to construct median improvements to widen the outside shoulder for a distance of approximately two miles along Pacific Coast Highway between Webb Way and Puerco Canyon Road, located entirely within the California Department of Transportation public right-of-way, to better allow a combination of bicycle use and on-street parking.

**APPLICANT:** City of Malibu

**PROPERTY OWNER:** California Department of Transportation (Caltrans)

**APPEALABLE TO:** City Council and California Coastal Commission

**ENVIRONMENTAL REVIEW:** Categorical Exemption CEQA Guidelines Section 15301(c)

**APPLICATION FILED:** February 23, 2021

**CASE PLANNER:** Jessica Thompson, Associate Planner, jthompson@malibucity.org (310) 456-2489, ext. 280

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RICHARD MOLLICA, Planning Director

Date: August 12, 2021
Commission Agenda Report

To: Chair Jennings and Members of the Planning Commission

Prepared by: Adrian Fernandez, Assistant Planning Director

Approved by: Richard Mollica, Planning Director

Date prepared: August 19, 2021  Meeting date: August 26, 2021

Subject: Conditional Use Permit Amendment No 13-006 and Joint Use Parking Agreement No. 14-001 – An application to amend Conditional Use Permit No 09-009 and Joint Use Parking Agreement No. 10-001 to reduce the restaurant service area in order to accommodate for the creation of a new retail tenant space, and decrease the number of required off-site parking spaces (Aviation Nation)

Location: 22969 Pacific Coast Highway, within the appealable coastal zone
APN: 4452-019-004
Owner: SKA Group, LLC
Tenant: Aviation Nation Dreamland/Aviation Nation

RECOMMENDED ACTION: Adopt Planning Commission Resolution No. 21-64 (Attachment 1) determining the project is categorically exempt from the California Environmental Quality Act (CEQA), and approving Conditional Use Permit Amendment (CUPA) No. 13-006 and Joint Use Parking Agreement Amendment (JUPA) No. 14-001 amending Conditional Use Permit (CUP) No. 09-009 and JUPA No. 10-001 to allow the reduction of the restaurant service area in order to accommodate the creation of a new retail tenant space, and decrease the number of required off-site parking spaces in the JUPA to reflect the new number of required offsite parking spaces at an existing restaurant (Aviation Nation Dreamland) located in the Commercial Visitor-Serving-One (CV-1) zoning district at 22969 Pacific Coast Highway (PCH) (SKA Group, LLC).

DISCUSSION: This agenda report provides a project overview, project description, summary of surrounding land uses and project setting, and analysis of the recommended project’s consistency with the applicable provisions of the Malibu Municipal Code (MMC), and environmental review pursuant to CEQA. The analysis and findings contained herein demonstrate the recommended project is consistent with the MMC.
Project Overview

The property at 22969 PCH is developed with a commercial building which is currently occupied by a restaurant, Aviation Nation Dreamland (formally Casa Escobar and Malibu Inn). Fifty parking spaces are required for the existing use, thirty-one of them are located offsite at 22959 PCH pursuant to a JUPA.

On December 11, 2013, the applicant submitted a request pursuant to Malibu Municipal Code (MMC) Chapter 17.66 to amend CUP No. 09-009 in conjunction with an interior tenant remodel that will subdivide the single tenant building into two separate and independent tenant spaces. The existing restaurant that currently occupies the entirety of the building will be reduced in size to allow for the creation of the retail space. As a result, the 2,474 square feet of restaurant service area is being reduced to 1,935 square feet, and a new retail store with a gross floor area of 1,636 square feet is proposed. (Attachment 2 – As-Built Plan) The total required parking for the restaurant and retail use is 46 parking spaces. There are 22 onsite parking spaces, and 24 offsite parking spaces proposed.

The change of use alters the required parking for the site because the MMC parking requirements for a restaurant use are different, and less than, that required for a retail use. The parking requirement for restaurants is based upon service area, with one space required for every 50 square feet of service area. Retail has a lower parking requirement, with one space required for every 225 square feet of gross floor area.

The restaurant service area of 2,474 square feet required 50 parking spaces and the retail space of 565 square feet required 3 parking spaces. The 1,935 square feet of proposed service area reduces the required restaurant parking to 39 parking spaces. The number of parking spaces required for the 1,636 square feet of proposed retail area is 7 spaces. The overall required parking is decreased from 53 spaces to 46 spaces with the proposed project.

As a result of the reduction in the overall number of required parking spaces, the 31 parking spaces required pursuant to the JUPA are no longer necessary. There are 22 onsite parking spaces, so only 24 offsite parking spaces are required. The JUPA is proposed to be amended accordingly.

Background and Existing Approvals

On September 7, 2010, the Planning Commission adopted Resolution No. 10-59 (Attachment 3), approving CUP No. 09-009 and JUPA No. 10-001 to permit a restaurant use (the Malibu Inn restaurant) with live entertainment which serves liquor. The approval allowed the use to operate between the hours of 7:00 a.m. and 2:00 a.m., with a maximum dining seating capacity of 94 patrons and a maximum event capacity of 340 patrons for entertainment events, plus 565 square feet of retail space at the existing 8,960 square foot commercial building. The approval allowed for eight small events and
two large events per month. JUPA No. 10-001 allows the vacant adjacent parcel to the east (22959 PCH, APN 4452-019-005) to subsidize the 31 additional required parking for the subject property’s use.

On September 16, 2010, an appeal of the Planning Commission’s approval was filed by property owners of residences located across PCH and south of the subject property.

On November 22, 2010, the City Council denied the appeal and approved CUP No. 09-009 and JUPA No. 10-001. The eight small events and two large events allowed did not change; however, the Council revised the permitted hours of operation and alcohol sales. City Council Resolution No. 10-59 indicates that the approved hours of operation for the Malibu Inn are from 7:00 a.m. to 12:00 a.m. on Sundays, Mondays, Tuesdays, and Wednesdays and from 7:00 a.m. to 2:00 a.m. on Thursdays, Fridays, and Saturdays, with the exception that the use may be open until 2:00 a.m. only on those Sundays when the following Monday is a federal holiday. Furthermore, the approved hours of alcohol sales are from 7:00 a.m. to 11:00 p.m. on Sundays, Mondays, Tuesdays, and Wednesdays and from 7:00 a.m. to 1:00 a.m. on Thursdays, Fridays, and Saturdays, with the exception that alcohol may be served until 1:00 a.m. only on those Sundays when the following Monday is a federal holiday.

On February 22, 2011, the City of Malibu approved Over-the-Counter (OC) Permit No. 11-019 to allow parking lot restriping of the 22 spaces (20 standard size parking spaces plus two Americans with Disabilities (ADA) accessible parking spaces) which involved no change in the number of parking spaces from CUP No. 09-009, a site wall, and ADA upgrades.

On September 8, 2010, the Planning Commission adopted Resolution No. 10-59 approving CUPA No. 11-001 amending City Council Resolution No. 10-59 to allow the hours of operation from 7:00 a.m. to 2:00 a.m. daily. Regulation of alcohol service during hours of operation was deferred to the authority of the California Department of Alcoholic Beverage Control (ABC) requirements.

December 19, 2018, a CUPA to amend CUP No. 09-009 was submitted to the Planning Department to add outdoor live entertainment on the exterior patio and to convert three of the currently allowed small events into large events for a total of five large events per month. The application was withdrawn a year later. At that time, Casa Escobar operated the restaurant and Aviation Nation operated the retail space.

The property owner of the adjacent property to the east (22959 PCH) has submitted a separate application, Coastal Development Permit (CDP) No. 09-067 and associated requests, to fully develop the property into a motel. CDP No. 09-067 is scheduled before the Planning Commission on the same hearing date as the subject application. The future development at 22959 PCH would continue to provide 24 required parking spaces for the subject restaurant and retail uses.
Project Description

The applicant is seeking to amend the existing CUP No. 09-009 and JUPA No. 10-001 to allow the reduction of the restaurant service area, to accommodate the creation of a new retail tenant space, and decrease the number of required off-site parking spaces in the JUPA to reflect the new number of required offsite parking spaces at an existing restaurant.

The existing and proposed uses, and associated required parking are represented in Tables 1 and 2 below.

### Table 1 – Existing and Proposed Uses

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<tr>
<th>Uses</th>
<th>Existing</th>
<th>Proposed</th>
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<tr>
<td>Restaurant (Service Area Sq.Ft.)</td>
<td>2,474 sq. ft.</td>
<td>1,935 sq.ft.</td>
</tr>
<tr>
<td>Interior</td>
<td>1,184 sq.ft.</td>
<td>1184 sq.ft.</td>
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<td>Outdoor Patio</td>
<td>751 sq.ft.</td>
<td>751 sq.ft.</td>
</tr>
<tr>
<td>Banquet Room</td>
<td>539 sq.ft.</td>
<td>None</td>
</tr>
<tr>
<td>Retail (Gross Floor Area Sq.Ft.)</td>
<td>565</td>
<td>1,636 sq.ft.</td>
</tr>
</tbody>
</table>

### Table 2 – Required Parking

<table>
<thead>
<tr>
<th>Uses</th>
<th>Parking Requirement</th>
<th>Proposed</th>
<th>Required</th>
</tr>
</thead>
<tbody>
<tr>
<td>Restaurant</td>
<td>one space for each 50 square feet of service area</td>
<td>1,935 sq. ft. service area / 50 sq. ft.</td>
<td>39 spaces</td>
</tr>
<tr>
<td>General Retail Store</td>
<td>one space for each 225 square feet of gross floor area</td>
<td>1,636 sq. ft. of gross floor area / 225 sq. ft.</td>
<td>7 spaces</td>
</tr>
<tr>
<td>Total</td>
<td>Onsite: 22 spaces Offsite: 24 spaces</td>
<td></td>
<td>46 spaces</td>
</tr>
</tbody>
</table>

Parking:

The existing required onsite parking is comprised of 20 regular and compact parking spaces plus two ADA accessible parking spaces. There are four driveway curb cuts which provide access to the property off of PCH. There is a traffic signal and cross walk immediately south of the property, which provides safe access across PCH to the Malibu Pier and its adjacent public parking lot. The farthest curb cut to the east will be shared with the motel project to east. The next onsite curb cut to the east is conditioned to be removed for safety reasons. Per the JUPA, the adjacent 22959 PCH lot to the east provides 31 additional donor parking spaces at all times during the permitted operating hours. The JUPA is being amended to reduce the number of required donor spaces from 31 to 24, to reflect the reduction in the number of required parking spaces, and provide the number of offsite parking spaces required for the project in conformance with the MMC parking requirements.
All other conditions of approval of City Council Resolution No. 10-59 and Planning Commission Resolution No. 11-72 (Attachment 4), and associated amendments remain in effect, unless modified herein.

**Hours of Operation**

The proposed hours of operation would remain the same at seven days a week from 7:00 am to 2:00 a.m.

**Daily Operations**

The daily operations would remain the same.

The restaurant will maintain a full menu served during all hours of operation, including breakfast, brunch, lunch and dinner offerings. On days featuring live music, dinner will continue to be served as normal and the kitchen will be open until 2:00 a.m.

Deliveries are planned for Mondays, Wednesdays and Fridays every week. All deliveries are scheduled between 8:00 a.m. and 11:00 a.m. on those days.

**Liquor and Entertainment Licenses**

The current liquor and entertainment licenses approved under CUP No. 09-009 will remain in effect. The applicant has an ABC Type 47 license which permits the sale of beer, wine and distilled spirits for consumption on the licensed premises. The license holder must operate and maintain the premises as a bona fide eating place. They must maintain suitable kitchen facilities, and must make actual and substantial sales of meals for consumption on the premises. Minors are allowed on premises that hold this type of license.

In addition, the applicant has an entertainment license from the Los Angeles County Sheriff’s Department (LACSD) to permit dancing and live entertainment.

**Signs**

No change to the existing signage is proposed. Any future proposed changes to the existing signs would require review for the requirements set forth in MMC Chapter 17.52 (Signs).

**Surrounding Land Use and Setting**

The subject property is located on the inland side of PCH, north of the Pacific Ocean and Malibu Pier. The vacant adjacent easterly lot at 22959 PCH is also zoned CV-1, and has an application for a motel project submitted to the City. That lot currently contains a surface parking lot providing the 31 donor spaces under the current JUPA. Another CV-1
property is located to the west and is occupied by a fast-food restaurant (Jack in the Box). A steep parcel zoned Rural Residential - One Acre (RR-1) is located adjacent to the north property line. Both Single-Family Medium (SFM) and Public Open Space zoned properties (Malibu Pier and public parking) exist to the south of the subject site. In addition, there is a small grouping of six beachfront residences located adjacent to the Pier, across PCH to the southwest.

Figure 1 shows the subject property location and the vicinity.

**Figure 1 – Aerial Photograph**

The subject property is approximately 30,108 square feet in size and is rectangular in shape. The site contains an existing 8,960 square foot building that is one-story in height, with the exception of a small 220 square foot dressing room and restroom located above the first floor restroom area. Refer to Attachments 5 and 2 for site photos and the as-built floor plan. The building currently has five restrooms, two which serve the main service area; one is located on the upper level in the dressing room and two are located adjacent to the retail space. The space also includes a large bar, a stage and dance floor area and a billiards room that is currently used as an employee lounge.
MMC ANALYSIS

Pursuant to MMC Sections 17.26.020(A) and (B), and 17.26.030(A) permitted and conditionally permitted uses in the CV-1 zone include all permitted and conditionally permitted uses in the Community Commercial (CC) zone, and retail stores selling recreational equipment and clothes, and souvenirs and jewelry. In the CC zone, subject to the approval of a CUP, MMC Section 17.24.030 (B-D) allows for: 1) restaurants, exceeding a maximum interior occupancy of 125; 2) bars; and 3) live entertainment. The existing restaurant use is a conditionally permitted use, while the proposed retail use is a permitted use that does not otherwise require a use permit.

Onsite Wastewater Treatment System

The proposed amendment would not require any modifications to the existing Onsite Wastewater Treatment System (OWTS). The application was routed to the City Environmental Health Administrator who indicated that no review was required for the subject application because the proposed amendment does not represent an expansion, modification or change in the type or intensity of the use that would affect the design of the existing OWTS. All OWTS conditions of approval in City Council Resolution No. 10-59 and Planning Commission Resolution No. 11-72, and associated amendments, remain in effect.

MMC Findings

A. Conditional Use Permit Findings (MMC Section 17.66.080)

CUPA No. 13-008 is requested to amend CUP No. 08-008 to allow the reduction of the restaurant service area in order to accommodate the creation of a new retail tenant space. The Planning Commission may approve, deny and/or modify an amendment to a CUP in whole or in part, with or without conditions, provided that it makes all of the findings of fact required by MMC Section 17.66.080. The CUPA can be supported based on the findings below:

Finding 1. The proposed use is one that is conditionally permitted within the subject zone and complies with the intent of all of the applicable provisions of Title 17 of the Malibu Municipal Code.

The proposed amendment will not affect the finding previously made by the Planning Commission in that the proposed use remains consistent with the provisions of MMC Title 17 and is still a conditionally permitted use within the zone. A restaurant with an interior capacity in excess of 125 people, nightclub, and bar are all conditionally permitted uses in the CV-1 zoning district. The square footages and service areas of the use as originally permitted are being reduced by the amendment. Therefore, the proposed project has been conditioned to comply with all applicable provisions of the MMC.
Finding 2. The proposed use would not impair the integrity and character of the zoning district in which it is located.

The proposed amendment would not impair the integrity and character of the zoning district in which it is located, and is compatible with the existing land uses on the site and surrounding neighborhood, as the amended use is still a commercial use on commercially zoned property. The restaurant use has occupied the subject property for several decades and has been operating for eleven years under the approved CUP No. 09-009, and associated amendments. The property is located within a long strip of CV-1 zoned properties located on the landward side of PCH that extends east of the Malibu Pier. The existing restaurant has ABC liquor and entertainment licenses and is operated as a restaurant that already has an interior and exterior bar and interior live entertainment. The restaurant will now provide a reduced service area, with no other change to operations. The project has been conditioned to comply with all applicable provisions of the MMC and will continue to provide the necessary parking consistent with past operational practices on the adjacent property via the amendment to JUPA No. 14-001. All other conditions of approval of City Council Resolution No. 10-59 and Planning Commission Resolution No. 11-72, and associated amendments remain in effect, unless modified herein. For these reasons, the amendment is not anticipated to result in a change from the existing conditions within the zoning district.

Finding 3. The subject site is physically suitable for the type of land use being proposed.

The proposed amendment will not physically alter the size or footprint of the existing building, or the existing paved parking. The proposed tenant improvements involve permanently converting restaurant service area into retail and separate the interior of the building from one tenant into two tenant spaces. The business has operated on the subject property since the 1950s and the existing restaurant use has been operating for eleven years under the approved CUP No. 09-009. A total of 46 parking spaces are required for the proposed use, which reflects a reduction of 7 required parking spaces. All other conditions of approval of City Council Resolution No. 10-59 and Planning Commission Resolution No. 11-72, and associated amendments remain in effect, unless modified herein. Therefore, the site is physically suitable for the use being proposed.

Finding 4. The proposed use is compatible with the land uses presently on the subject property and in the surrounding neighborhood.

The proposed amendment will not affect the use’s compatibility with the land uses presently on the subject property and in the surrounding neighborhood. The restaurant has operated at the subject property since the 1950s and the existing restaurant use has been operating for eleven years under the approved CUP No. 09-009. The property is surrounded by both commercial and residential uses. There is a mix of commercial, office and retail uses in the immediate vicinity of the site. The proposed retail use expansion is similarly an allowed commercial use in the zone. All other conditions of approval of City Council Resolution No. 10-59, and Planning Commission Resolution No.
11-72, and associated amendments, remain in effect, unless modified herein. Therefore, this proposed use is compatible with the land uses in the surrounding neighborhood.

**Finding 5.** *The proposed use would be compatible with existing and future land uses within the zoning district and the general area in which the proposed use is to be located.*

The proposed amendment will not affect the compatibility of the existing use. The use is compatible with existing and future land uses within the zoning district and the general area in which the proposed use is to be located in that the surrounding land uses are comprised of a wide range of commercial uses including restaurants, retail uses, medical and professional offices, as well as public open space, and residential uses to the south.

**Finding 6.** *There would be adequate provisions for water, sanitation, and public utilities and services to ensure that the proposed use would not be detrimental to public health and safety and the project does not affect solar access or adversely impact existing public and private views, as defined by the staff.*

The proposed amendment will not alter the existing utilities. Existing utilities will continue to serve the existing site. The LACFD and LACSD reviewed the original CUP No. 09-009 and indicated that the amendment did not require additional review. In addition, the City Environmental Health Administrator reviewed the CUPA and determined that the existing OWTS is adequate for the proposed use.

The proposed project will not create any shade or shadow impacts that would impede solar access. The existing commercial structure at 22969 PCH will not change under this amendment and therefore, will not adversely impact existing public and private views.

**Finding 7.** *There would be adequate provisions for public access to serve the subject proposal.*

As discussed in Finding 3, the existing use has adequate parking for public access and will not obstruct public traffic circulation. The number of required parking spaces is reduced from 53 to 46, and all parking will be maintained onsite, and offsite on the adjacent property pursuant to JUPA No. 14-001. The existing traffic circulation will remain unmodified.

**Finding 8.** *The proposed use is consistent with the goals, objectives, policies, and general land uses of the General Plan.*

The proposed amendment will not change the nature of the existing conditionally permitted use. The restaurant and bar use are conditionally permitted in the CV-1 zoning district and provides live entertainment as an ancillary use. The General Plan defines the CV zone as providing for visitor serving uses which serve visitors and residents such as hotels and restaurants which respect the rural character and natural environmental
setting. Visitor serving uses shall protect the surrounding properties, shall ensure safe traffic circulation and shall promote economically viable visitor serving areas of the City.

The proposed project meets the goals of the following land use policies of the General Plan:

LU Policy 3.1.1: The City shall ensure visitor serving and recreational uses are compatible with the natural resources and aesthetic values of the area.

LU Policy 3.2.1: The City shall permit the development of commercial recreational and visitor servicing facilities at suitable locations which provide convenient public access, adequate infrastructure, convenient parking and, when feasible, are located where existing low cost recreational uses will be enhanced.

LU Policy 4.4.1: The City shall encourage establishment and continued operation of small neighborhood and community serving businesses.

The proposed project, as conditioned, is consistent with goals, objectives and policies of the General Plan because the proposed amendment, as conditioned, will continue to provide for visitor and resident serving uses in a manner compatible with the surrounding area, with safe traffic circulation and parking.

Finding 9. The proposed project complies with all applicable requirements of state and local law.

The proposed project will comply with all applicable requirements of State and local law and is conditioned to comply with any relevant approvals, permits and licenses from the City of Malibu and other related agencies such as the ABC and the LACSD.

Finding 10. The proposed use would not be detrimental to the public interest, health, safety, convenience or welfare.

The proposed amendment is a reduction in service area of the existing restaurant, and will not otherwise affect the existing restaurant and bar, which are a conditionally permitted use in a commercial zone. Conditions of City Council Resolution No. 10-59 which required that the property owner notify the LACSD no less than three days prior to a large entertainment event will remain in effect. Finally, as demonstrated through an ABC license query the property owner maintains a valid ABC license and has not been subject to any disciplinary infractions in the past with regard to a liquor license. All other conditions of approval of City Council Resolution No. 10-59 and Planning Commission Resolution No. 11-72, and associated amendments remain in effect, unless modified herein, including those that prohibit noise impacts and facilitate traffic and parking safety.
As conditioned, the proposed use will not be detrimental to the public interest, health, safety, convenience or welfare.

Finding 11. If the project is located in an area determined by the City to be at risk from earth movement, flooding or liquefaction, there is clear and compelling evidence that the proposed development is not at risk from these hazards.

The project will not be at risk from earth movement and flood hazards since the application only involves an amendment to the service area of an existing restaurant use within the existing commercial structure. The existing building will not change; therefore, there is no new impact related to earth movement, flooding or liquefaction.

B. Joint Use Parking Agreement Amendment No. 18-001 (MMC Section 17.48.040)

JUPA No. 14-001 is requested to decrease the number of required off-site parking spaces in to reflect the new number of required offsite parking spaces for the uses at 22969 PCH. A total of 53 parking spaces were required and now 46 parking spaces are required for the proposed use. There are 22 parking spaces onsite, and JUPA No. 14-001 provides for 31 spaces to be located on the adjacent property. JUPA No. 14-001 will reduce the required number of donor parking spaces from 31 to 24, which is sufficient to meet the required number of spaces for the proposed restaurant and retail use on the property. A deed restriction shall be recorded on the title of each property reflecting the permanent reciprocal parking agreement. All other conditions of approval of City Council Resolution No. 10-59 and Planning Commission Resolution No. 11-72, and associated amendments remain in effect, unless modified herein.

A. Up to one-half of the parking facilities required for a primarily daytime use may be used to meet the requirements of a primarily nighttime use and up to one-half of the parking facilities required for a primarily nighttime use may be used to meet the requirements of a primarily daytime use; provided, that such reciprocal parking arrangement shall comply with subsection C of this section.

The hours of operation for the restaurant will remain 7 to 2 a.m. No additional parking is required for the proposed reduction in the restaurant service area.

B. The planning commission may reduce parking requirements for common parking facilities by up to 25 percent in shopping centers or other commercial areas where a parking lot with common access and joint use is provided.

The property owner has not requested to reduce the required parking spaces. The reciprocal parking agreement will provide additional parking spaces in excess of what is required for the existing use.
C. The parties concerned shall show that there is no substantial conflict in the principal operating hours of the building or uses for which the joint use is proposed and shall evidence agreement for such use by a proper legal instrument, to which the city is a party.

The existing restaurant will continue to operate from 7:00 a.m. to 2:00 a.m. daily, with live entertainment events primarily being held in the evenings. There will be no substantial conflict in the principal operating hours for the two properties. Prior to the approval of any project on the adjacent lot, all code required parking will need to be provided, and the required parking for proposed JUPA amendment will be included. A legal agreement between the City and the property owner is required as a condition of approval. The agreement will contain requirements for an annual review by the Planning Director with authority to modify the agreement as necessary to maintain onsite parking arrangements.

ENVIRONMENTAL REVIEW: Pursuant to the authority and criteria contained in CEQA, the Planning Director has analyzed the proposed project. The Planning Director found that this project is listed among the classes of projects that have been determined not to have a significant adverse effect on the environment. Therefore, the project is categorically exempt from the provisions of CEQA pursuant to Section 15301 - Existing Facilities. The Planning Director has further determined that none of the six exceptions to the use of a categorical exemption apply to this project (CEQA Guidelines Section 15300.2).

PUBLIC NOTICE: Staff published a Notice of Public Hearing in a newspaper of general circulation within the City of Malibu on August 5, 2021 and mailed the notice to all property owners and occupants within a 500-foot radius of the subject property (Attachment 6).

CORRESPONDENCE: To date, staff has received no public comments regarding this application.

SUMMARY: The required CUPA findings can be made. Further, the Planning Department’s findings of fact are supported by substantial evidence in the record. Based on the analysis contained in this report, staff is recommending approval of this project subject to the conditions of approval contained in Section 6 (Conditions of Approval) of Planning Commission Resolution No. 21-64. The project has been reviewed and conditionally approved for conformance with the MMC.

ATTACHMENTS:

1. Planning Commission Resolution No. 21-64
2. As-Built Floor Plan
3. City Council Resolution No. 10-59
4. Planning Commission Resolution No. 11-72
5. Site Photos
6. Public Hearing Notice
A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MALIBU DETERMINING THE PROJECT IS CATEGORICALLY EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, AND APPROVING CONDITIONAL USE PERMIT AMENDMENT NO. 13-006 AND JOINT USE PARKING AGREEMENT AMENDMENT NO. 14-001 AMENDING CONDITIONAL USE PERMIT NO. 09-009 AND JOINT USE PARKING AGREEMENT NO. 10-001 TO REDUCE THE RESTAURANT SERVICE AREA IN ORDER TO ACCOMMODATE THE CREATION OF A NEW RETAIL TENANT SPACE, AND DECREASE THE NUMBER OF REQUIRED OFF-SITE PARKING SPACES CONSISTENT WITH THE NEW REQUIRED PARKING AT AN EXISTING RESTAURANT (AVIATION NATION DREAMLAND) IN THE COMMERCIAL VISITOR SERVING ZONING DISTRICT LOCATED AT 22969 PACIFIC COAST HIGHWAY (SKA GROUP, LLC)

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

SECTION 1. Recitals.

A. On December 3, 2009, Conditional Use Permit (CUP) No. 09-009 and Joint Use Parking Agreement (JUPA) No. 10-001 were submitted to the Planning Department.

B. On September 7, 2010, the Planning Commission held a duly noticed public hearing on the subject application, reviewed and considered the agenda report, public testimony and all related information. At the conclusion of the hearing, the Planning Commission adopted Resolution No. 10-59 approving CUP No. 09-009 and JUPA No. 10-001.

C. On September 16, 2010, Appeal No. 10-002 was filed by Klaus Obermeyer (property owner at 23006 Pacific Coast Highway) and Robert J. Allan (property owner at 23018 Pacific Coast Highway).

D. On November 22, 2010, the City Council held a duly noticed public hearing on the subject appeal, reviewed and considered the staff report, reviewed and considered written reports, public testimony, and other information in the record, and denied the appeal and approved the applications. The approval allowed for eight small live entertainment events, two large events, set hours for operation and alcohol sales, and prohibited live entertainment on the outdoor patio. Low level amplified music on the patio was allowed from 7:00 a.m. to 10:00 p.m. daily.

E. On February 22, 2011, the City of Malibu approved Over-the-Counter (OC) Permit No. 11-019 to allow parking lot restriping of the 22 spaces (20 standard size parking spaces plus two Americans with Disabilities (ADA) accessible parking spaces) which involved no change in the number of parking spaces from CUP No. 09-009, a site wall, and ADA upgrades.

F. On August 2, 2011, the Planning Commission adopted Planning Commission Resolution No. 11-72 to extend the hours of operation to 7 to 2 a.m. daily.
G. On December 11, 2013, an application for CUPA No. 13-006 and JUPA No. 14-001 was submitted to the Planning Department, on behalf of the property owner, SKA Group, LLC to reduce the restaurant service area, to allow for the creation of a new retail tenant space, and decrease the number of required off-site parking spaces consistent with the new required parking at an existing restaurant. The application was routed the City Environmental Health Administrator for review.

H. On July 8, 2021, the application was deemed complete.

I. On August 5, 2021, a Notice of Public Hearing was published in a newspaper of general circulation within the City of Malibu and was mailed to all property owners and occupants within a 500-foot radius of the subject property.

J. On August 26, 2021, the Planning Commission held a duly noticed public hearing on the subject application, reviewed and considered the staff report, reviewed and considered written reports, public testimony, and other information in the record.

SECTION 2. Environmental Review.

Pursuant to the authority and criteria contained in the California Environmental Quality Act (CEQA), the Planning Commission has analyzed the proposed project. The Planning Commission found that this project is listed among the classes of projects that have been determined not to have a significant adverse effect on the environment. Therefore, the project is categorically exempt from the provisions of CEQA pursuant to Section 15301 - Existing Facilities. The Planning Commission has further determined that none of the six exceptions to the use of a categorical exemption apply to this project (CEQA Guidelines Section 15300.2).

SECTION 3. Amendment of Conditional Use Permit Findings of Fact.

Pursuant to Malibu Municipal Code (MMC) Section 17.66.020, a CUP may be amended upon submittal of an application by the permittee. On November 22, 2010, the Planning Commission made all required findings for the approval of CUP No. 09-009 to permit a restaurant use (the Malibu Inn restaurant) with live entertainment which serves liquor, and approved by the City Council on November 22, 2010. All other findings and conditions of approval set forth in City Council Resolution No. 10-59, and Planning Commission Resolution No. 11-72, and associated amendments are hereby incorporated by reference and remain in full force and effect. Based on the findings of fact, the Planning Commission hereby approves CUPA No. 13-006, amending CUP No. 09-009 and JUPA No. 10-001 to allow the reduction of the restaurant service area in order to accommodate the creation of a new retail tenant space, and decrease the number of required off-site parking spaces in the JUPA to reflect the new number of required offsite parking spaces at an existing restaurant (Aviation Nation Dreamland) in the Commercial Visitor-Serving-One (CV-1) zoning district located at 22969 Pacific Coast Highway (PCH)
MMC Findings

A. Conditional Use Permit Findings (MMC Section 17.66.080)

1. The proposed amendment will not affect the finding previously made and the use is still a conditionally permitted use. A restaurant with an interior capacity in excess of 125 people, a nightclub and a bar are all conditionally permitted uses in the CV-1 zoning district. The project has been conditioned to comply with all applicable provisions of the MMC and conditions of approval of City Council Resolution No. 10-59, and Planning Commission Resolution No. 11-72, and associated amendments, are incorporated herein by reference.

2. The proposed amendment will not affect the use as it is still a commercial use on commercially zoned property and therefore, would not impair the integrity and character of the CV-1 zoning district. A restaurant has occupied the subject property since the 1950s and the existing restaurant has been operating for eleven years under the approved CUP No. 09-009. Furthermore, the proposed amendment project is not anticipated to result in a change from the existing conditions within the zoning district. Finally, the existing restaurant has an ABC liquor and entertainment licenses and operated as a restaurant with a bar and live entertainment.

3. The proposed amendment will not physically alter the size or footprint of the existing building, or the existing paved parking. The proposed tenant improvements involve permanently converting restaurant service area into retail and separate the interior of the building from one tenant into two tenant spaces. The restaurant service area is being reduced, and can continue to use and occupy the existing space. The business has operated on the subject property since the 1950s and the existing restaurant has been operating for eleven years under the approved CUP No. 09-009. A total of 46 parking spaces are required for the proposed use, which reflects a reduction of seven required parking spaces. All other conditions of approval of City Council Resolution No. 10-59 and Planning Commission Resolution No. 11-72, and associated amendments remain in effect, unless modified herein. Therefore, the site is physically suitable for the use being proposed.

4. The proposed amendment will not affect the compatibility with the land uses presently on the subject property and in the surrounding neighborhood. The property is surrounded by both commercial and residential uses. There is a mix of commercial, office and retail uses in the immediate vicinity of the site. The proposed retail use expansion is similarly an allowed commercial use in the zone. All other conditions of approval of City Council Resolution No. 10-59, and Planning Commission Resolution No. 11-72, and associated amendments, remain in effect, unless modified herein.

5. The proposed amendment will not affect the compatibility of the existing use. The use is compatible with existing and future land uses within the zoning district and the general area in which the proposed use is to be located in that the surrounding land uses are comprised of a wide range of commercial uses including restaurants, retail uses, medical and professional offices, as well as public open space and residential uses to the south.

6. The proposed amendment will not alter the existing utilities. Existing utilities will continue to serve the existing site. The LACFD and LACSD reviewed the original CUP No. 09-
009 and indicated that the amendment did not require additional review. In addition, the City Environmental Health Administrator reviewed the CUPA and determined that the existing OWTS is adequate for the proposed use. No changes to the exterior of the existing structure are proposed, so no impacts to solar access or public or private views will occur.

The proposed project will not create any shade or shadow impacts that would impede solar access. The existing commercial structure at 22969 PCH will not change under this amendment, and therefore, will not adversely impact existing public and private views.

7. The existing use will have adequate parking for public access and will not obstruct public traffic circulation. The number of required parking spaces is reduced from 53 to 46.

8. The proposed amendment will not change the nature of the existing conditionally permit use. The use is a conditionally permitted commercial use in the CV-1 zoning district. The General Plan defines the CV zone as providing for visitor serving uses which serve visitors and residents such as hotels and restaurants which respect the rural character and natural environmental setting. Visitor serving uses shall be consistent with compatible accessory uses, shall protect the surrounding properties, shall ensure safe traffic circulation and shall promote economically viable visitor serving areas of the City.

9. The proposed project will comply with all applicable requirements of State and local law and is conditioned to comply with any relevant approvals, permits and licenses from the City of Malibu and other related agencies such as the ABC and the LACSD.

10. The proposed amendment will not affect the existing restaurant and bar, which are a conditionally permitted use in a commercial zone. Conditions of City Council Resolution No. 10-59 which required that the property owner notify the LACSD no less than three days prior to a large entertainment event will remain in effect. Finally, as demonstrated through an ABC license query the property owner maintains a valid ABC license and has not been subject to any disciplinary infractions in the past with regard to a liquor license. All other conditions of approval of City Council Resolution No. 10-59 and Planning Commission Resolution No. 11-72, and associated amendments remain in effect, unless modified herein, including those that prohibit noise impacts and facilitate traffic and parking safety.

11. The project will not be at risk from earth movement and flood hazards since the application only involves an amendment of conditions of approval to a previously existing use within the existing commercial structure. The building will not change; therefore, there is no new impact related to earth movement, flooding or liquefaction.

SECTION 4. Joint Use Parking Agreement Amendment Approval

JUPA No. 14-001 is requested to decrease the number of required off-site parking spaces in to reflect the new number of required offsite parking spaces for the uses at 22969 PCH. A total of 53 parking spaces were required and now 46 parking spaces are required for the proposed use. There are 22 parking spaces onsite, and JUPA No. 14-001 provides for 31 spaces to be located on the adjacent property. JUPA No. 14-001 will reduce the required number of donor parking spaces from 31 to 24, which is sufficient to meet the required number of spaces for the proposed restaurant and
retail use on the property. A deed restriction shall be recorded on the title of each property reflecting the permanent reciprocal parking agreement. All other conditions of approval of City Council Resolution No. 10-59 and Planning Commission Resolution No. 11-72, and associated amendments remain in effect, unless modified herein.

A. Up to one-half of the parking facilities required for a primarily daytime use may be used to meet the requirements of a primarily nighttime use and up to one-half of the parking facilities required for a primarily nighttime use may be used to meet the requirements of a primarily daytime use; provided, that such reciprocal parking arrangement shall comply with subsection C of this section.

The hours of operation for the restaurant will remain 7 to 2:00 a.m. No additional parking is required for the proposed reduction in the restaurant service area.

B. The planning commission may reduce parking requirements for common parking facilities by up to 25 percent in shopping centers or other commercial areas where a parking lot with common access and joint use is provided.

The property owner has not requested to reduce the required parking spaces. The reciprocal parking agreement will provide additional parking spaces in excess of what is required for the existing use.

C. The parties concerned shall show that there is no substantial conflict in the principal operating hours of the building or uses for which the joint use is proposed and shall evidence agreement for such use by a proper legal instrument, to which the city is a party.

The existing restaurant will continue to operate from 7:00 a.m. to 2:00 a.m. daily, with live entertainment events primarily being held in the evenings. There will be no substantial conflict in the principal operating hours for the two properties. Prior to the approval of any project on the adjacent lot, all code required parking will need to be provided, and the required parking for proposed JUPA amendment will be included. A legal agreement between the City and the property owner is required as a condition of approval. The agreement will contain requirements for an annual review by the Planning Director with authority to modify the agreement as necessary to maintain onsite parking arrangements.

SECTION 5. Planning Commission Approval.

Based on the foregoing findings and evidence contained within the record, the Planning Commission hereby approves CUPA No. 13-006 and JUPA Amendment No. 14-001, subject to the following conditions. No other changes to the conditions contained in City Council Resolution No. 10-59, and Planning Commission Resolution No. 11-72, and associated amendments, are made by this amendment and all other applicable findings, terms, and/or conditions remain in full force and effect.
SECTION 6. Conditions of Approval.

1. The property owners and their successors in interest, shall indemnify and defend the City of Malibu and its officers, employees and agents from and against all liability and costs relating to the City's actions concerning this project, including (without limitation) any award of litigation expenses in favor of any person or entity who seeks to challenge the validity of any of the City's actions or decisions in connection with this project. The City shall have the sole right to choose its counsel and property owners shall reimburse the City’s expenses incurred in its defense of any lawsuit challenging the City’s actions concerning this project.

2. This approval is to allow the reduction of the restaurant service area in order to accommodate the creation of a new retail tenant space, and decrease the number of required off-site parking spaces in JUPA No. 14-001, to reflect the new number of required offsite parking spaces for the uses onsite.

3. This conditional use permit amendment shall not be effective until all appeals are exhausted and the property owner, applicant and the business operator execute the Affidavit of the Acceptance of Conditions. Said documents shall be recorded with the Los Angeles County Recorder and a certified copy of said recordation shall be filed with the Planning Department within 10 days of the effective date of the approval.

4. A review of the proposed amendment and compliance with the conditions of approval shall be conducted by Planning Department staff and reported to the Planning Commission within one year, and again within five years, of commencement of operations. Staff will report whether the amendment is operating in compliance with the Planning Commission’s findings and all approved conditions, and whether it recommends initiating proceedings to modify or revoke the permit.

5. The third driveway curb cut from west to east must be removed.

Joint Use Parking Agreement

6. The number of required parking spaces required to be provided for the restaurant service area will be reduced to 24 parking spaces to reflect a restaurant service area of 1,935 square feet.

Operations

7. The restaurant service area is 1,935 square feet, and allocated as follows:
   a. Interior service area: 1,184 square feet; and
   b. Outdoor patio: 751 square feet.

8. The retail space area is 1,636 square feet.
Fixed Conditions

9. If it has cause to believe that grounds for revocation or modification may exist, the Planning Commission shall hold a public hearing upon the question of modification or revocation of this conditional use permit pursuant to MMC Section 17.66.100(C). The conditional use permit may be revoked if the Planning Commission finds that one or more of the following conditions exists:
   a. The conditional use permit was obtained in a fraudulent manner.
   b. The use for which the conditional use permit was granted has ceased or was suspended for at least six successive calendar months.
   c. One or more of the conditions found within this resolution have not been substantially met.

10. Prior to the approval of any project on the adjacent lot, all code required parking will need to be provided. A legal agreement between the City and the property owner is required as a condition of approval. The agreement will contain requirements for an annual review by the Planning Manager with authority to modify the agreement as necessary to maintain onsite parking arrangements.

11. A deed restriction shall be recorded on the title of each property reflecting the permanent reciprocal parking agreement (JUPA).

12. All other conditions of City Council Resolution No. 10-59, and Planning Commission Resolution No. 11-72, and associated amendments are hereby incorporated by reference and remain in full force and effect.

SECTION 7. The Planning Commission shall certify the adoption of this Resolution.

PASSED, APPROVED AND ADOPTED this 26th day of August, 2021.

JEFFREY JENNINGS, Planning Commission Chair

ATTEST:

PATRICIA SALAZAR, Recording Secretary

LOCAL APPEAL - Pursuant to Malibu Municipal Code Section 17.04.220 (Appeal of Action), a decision of the Planning Commission may be appealed to the City Council by an aggrieved person by written statement setting forth the grounds for appeal. An appeal shall be filed with the City Clerk within 10 days and shall be accompanied by an appeal form and filing fee, as specified by the City Council. Appeal forms and fee schedule may be found online at www.malibucity.org/planningforms, in person, or by calling (310) 456-2489, extension 245.
I CERTIFY THAT THE FOREGOING RESOLUTION NO. 21-64 was passed and adopted by the Planning Commission of the City of Malibu at the special meeting held on the 26th day of August, 2021 by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

____________________________________
PATRICIA SALAZAR, Recording Secretary
RESOLUTION NO. 10-59

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MALIBU DENYING APPEAL NO. 10-002, APPROVING CONDITIONAL USE PERMIT NO. 09-009 AND JOINT USE PARKING AGREEMENT NO. 10-001 TO PERMIT THE MALIBU INN RESTAURANT WITH LIVE ENTERTAINMENT WHICH WILL SERVE LIQUOR, OPERATE BETWEEN THE HOURS OF 7:00 A.M. AND 2:00 A.M., AND HAVE A MAXIMUM RESTAURANT SEATING CAPACITY OF 94 PATRONS, A MAXIMUM CAPACITY OF 340 PATRONS FOR ENTERTAINMENT EVENTS AND 565 SQUARE FEET OF RETAIL SPACE AT THE 8,960 SQUARE FOOT COMMERCIAL BUILDING; INCLUDING A JOINT USE PARKING AGREEMENT FOR REQUIRED PARKING SPACES TO BE LOCATED ON THE ADJACENT PROPERTY IN THE COMMERCIAL VISITOR SERVING—1 ZONING DISTRICT LOCATED AT 22969 PACIFIC COAST HIGHWAY (HAKIM)

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

Section 1.  Recitals.

A. The building which houses the Malibu Inn was constructed in 1950 and the adjacent lot has historically provided parking. The use has operated under multiple owners for more than 50 years at the current location.

B. On June 3, 2008, Over the Counter Permit (OC) No. 08-102 was issued to re-open the 565 square foot retail space for the tenant Sabotage.

C. Due to a change in ownership of the subject property, the business closed in December 2008 and the restaurant and entertainment venue use ceased.

D. On May 26, 2009, breakfast and lunch service at the restaurant resumed. Currently, the Malibu Inn typically closes around mid-afternoon / early evening, after patrons have finished lunch.

E. On December 3, 2009, Conditional Use Permit (CUP) No. 09-009 and Joint Use Parking Agreement (JUPA) No. 10-001 was submitted to the Planning Division by Elizabeth Peterson. The application was routed to the City Environmental Health Administrator, the Los Angeles County Fire Department (LACFD) and the Los Angeles County Sheriff’s Department (LACSD) for review.

F. On January 12, 2010, a Courtesy Notice of Proposed Project was mailed to all property owners and occupants within a 500 foot radius of the subject property.

G. On May 26, 2010, the application was deemed complete for processing.

H. On July 8, 2010, a Notice of Planning Commission Public Hearing was published in a
newspaper of general circulation within the City of Malibu and was mailed to all property owners
and occupants within a 500 foot radius of the subject property.

I. On August 3, 2010, at the request of the applicant, the public hearing was continued
to the September 7, 2010 Regular Planning Commission meeting.

J. On September 7, 2010, the Planning Commission held a duly noticed public hearing
on the subject application, reviewed and considered the agenda report, public testimony and all
related information. At the conclusion of the hearing, the Planning Commission adopted Resolution
No. 10-79 approving CUP No. 09-009 and JUPA No. 10-001.

K. On September 16, 2010, Appeal No. 10-002 was filed by Klaus Obermeyer (property
owner at 23006 Pacific Coast Highway) and Robert J. Allan (property owner at 23018 Pacific Coast
Highway).

L. On September 27, 2010, in accordance with Malibu Municipal Code (M.M.C.)
Section 17.04.220(C), the appellants submitted additional information related to the appeal before
the 10 day deadline.

M. On October 12, 2010, the appeal was deemed complete by staff.

N. On October 28, 2010, a Notice of City Council Public Hearing was published in a
newspaper of general circulation within the City of Malibu and was mailed to all interested parties,
regional, state and federal agencies, local libraries and media, and the California Coastal
Commission (CCC).

O. On November 22, 2010, the City Council held a duly noticed public hearing on the
subject appeal, reviewed and considered the staff report, reviewed and considered written reports,
public testimony, and other information in the record.

Section 2. Appeal of Action.

The appellants appealed Planning Commission Resolution No. 10-79, contending that the proposed
conditional use permit is not consistent with various sections of the M.M.C. as well as the General
Plan. Additional information submitted with the appeal includes numerous statements in support of
the appeal. Planning Division staff prepared an extensive agenda report responding to each of the
appellant’s contentions. The City Council concurs with the findings and conclusions of staff as set
forth in the report and adopts staff’s analysis, findings, and conclusions as though fully set forth
herein.

Section 3. Conditional Use Permit Approval and Findings.

Pursuant to M.M.C. Section 17.66.080, the City Council may approve, deny and/or modify an
application for a CUP in whole or in part, with or without conditions, provided that it makes all of the following findings of fact. The City Council hereby makes the following findings of fact to approve CUP No. 09-009.

CUP Finding 1. The proposed use is one that is conditionally permitted within the subject zone and complies with the intent of all of the applicable provisions of Title 17 of the Malibu Municipal Code.

A restaurant with an interior capacity in excess of 125 people, a nightclub and a bar are all conditionally permitted uses in the Commercial Visitor Serving–1 (CV-1) zoning district. The existing commercial structure includes a total interior square footage of 8,960 square feet, with a service area that totals 2,474 square feet (comprised of 1,184 square foot interior service area which includes the bar, a 751 square foot service area on the outdoor patio which includes a bar and a 539 square foot service area in the banquet room). The project has been conditioned to comply with all applicable provisions of the M.M.C.

CUP Finding 2. The proposed use would not impair the integrity and character of the zoning district in which it is located.

The proposed use is a commercial use on commercially zoned property and therefore, would not impair the integrity and character of the CV-1 zoning district. The Malibu Inn has occupied the subject property for several decades and is located within a long strip of commercial properties located on the landward side of Pacific Coast Highway, east of the Pier. Furthermore, the proposed project will conditionally permit the previously operating restaurant and therefore is not anticipated to result in a change from the existing conditions within the zoning district. Finally, the use previously had a California Department of Alcohol Beverage Control (ABC) Liquor Licenses and operated as a restaurant with a bar and live entertainment.

CUP Finding 3. The subject site is physically suitable for the type of land use being proposed.

The project site contains existing commercial development. The proposed tenant improvements consist of a minor interior remodel only and no exterior changes are included in the project scope. The business has operated on the subject property since the 1950s. A total of 53 parking spaces are required for the proposed use. There are 22 parking spaces that exist onsite and the property owner has agreed to a joint use parking agreement to provide for the remaining 31 spaces to be located on the adjacent property that he also owns. The parking spaces will be provided for the use of the patrons and employees of the Malibu Inn. Therefore, the site is physically suitable for the use being proposed.

CUP Finding 4. The proposed use is compatible with the land uses presently on the subject property and in the surrounding neighborhood.

The Malibu Inn has operated at the subject property since the 1950s. It closed briefly at the end of 2008 due to the sale of the property. The property is surrounded by both commercial, open space and
residential uses. There is a mix of commercial, office and retail uses in the immediate vicinity of the site. There are very few residences located within close proximity to the subject property.

The property owner has agreed to a condition of approval which will prohibit live entertainment on the exterior patio. In addition, further conditions of approval which limit noise from the patio have been included for this project in compliance with the M.M.C. Noise Ordinance. Furthermore, conditions of approval have been included to require that the property owner notify the City Code Enforcement Officer and the Los Angeles County Sheriff's Department no less than three days prior to a large entertainment event (defined as any event with 100 or more persons in attendance) and to provide security personnel onsite seven days a week from 9:00 p.m. to closing to ensure that noisy and rowdy patrons leaving the establishment will not adversely affect the welfare of neighborhood residents.

A Security Plan which was submitted to the Planning Commission on September 7, 2010 details a listing of goals which include:

- Creation of a safe and secure environment within the Malibu Inn for all patrons;
- Provision of a level of control and safety for all arriving and departing guests;
- Mitigation of any noise or inappropriate conduct directed at the immediate neighbors and leaseholds by patrons upon entry or departure; and
- Diffusion of all situations as they occur.

The Security Plan demonstrates an understanding of neighbor concerns and strives to address these concerns through the following actions:

- Full disclosure and cooperation with law enforcement personnel and other City officials;
- Requirement that security personnel wear easily identifiable uniforms and identification badges at all times;
- Provision of one security guard per 50 patrons, with security staff being present at all times the venue is hosting dancing or live entertainment;
- Includes a detailed listing of responsibilities that each security guard will have – including stationary, roving and patio guards;
- Security guards will take part in the following training programs: 1) Licensee Education on Alcohol and Drugs (L.E.A.D) which is put on by the Department of Alcoholic Beverage Control; 2) proper cueing to lessen the impact of foot traffic and traffic flow for motor vehicles; 3) emergency preparedness including all safety devices present onsite and emergency escape routes; and 4) Standard First Aid provided through the Red Cross.

Finally, the Planning Commission, at its September 7, 2010 meeting, added an additional condition of approval which set a limit on live entertainment events not to exceed two large events and eight small events per month. The provisions included in the Security Plan are specifically intended to allow the proposed use to be compatible with adjacent neighbors. With the incorporation of all the aforementioned conditions of approval, this proposed use is compatible with the land uses in the surrounding neighborhood.
CUP Finding 5. The proposed use would be compatible with existing and future land uses within the zoning district and the general area in which the proposed use is to be located.

The proposed use is compatible with existing and future land uses within the zoning district and the general area in which the proposed use is to be located in that the surrounding land uses are comprised of a wide range of commercial uses including restaurants, retail uses, medical and professional offices, as well as public open space to the south. The only vacant property in the immediate vicinity (22959 Pacific Coast Highway) is owned by the subject property owner and is zoned for commercial development.

CUP Finding 6. There would be adequate provisions for water, sanitation, and public utilities and services to ensure that the proposed use would not be detrimental to public health and safety and the project does not affect solar access or adversely impact existing public and private views, as defined by the staff.

Existing utilities will serve the proposed project. The LACFD reviewed the CUP and issued a conditional approval on February 18, 2010. Some of the conditions require that applicant test existing fire hydrants and submit plans to the Fire Prevention Engineering Department.

In order to confirm conformance with percolation test requirements as outlined in the Malibu Plumbing Code (MPC), Ensitu Engineering Inc. oversaw flow testing at the subject property. The testing required isolation of the front, east and west leachfields prior to beginning the test. On the first day of the test, a license soils engineer introduced 6,497 gallons of water to the three dispersal fields in order to pre-soak the leachfields prior to performing water absorption measurements on the three following consecutive days. On each of the following three consecutive days, the soils engineer introduced an additional 6,497 gallons of water to the three fields. A final additional test was performed on the fifth day. Using the allocations of restaurant / retail and entertainment flows outlined in the MPC, the water was metered according to the proportion of total absorption area contributed by each leachfield.

After a five day testing period, Ensitu determined the following: 1) the existing grease interceptor capacity is sized to accommodate a full day’s flow, rather than the code required minimum; 2) the site is currently served by two 3,000 gallon septic tanks (providing storage for 6,000 gallons total), which meet the required septic tank capacity of 5,998 gallons; and 3) the absorption area of the existing leachfields is 3,360 square feet and the existing seepage pits will be abandoned. The existing leachfield size exceeds the minimum required effective absorption area which is 3,187 square feet. As a result of the testing, Ensitu concluded that the OWTS is acceptable for the use proposed. The City Environmental Health Administrator reviewed the CUP and Ensitu’s report and determined that the existing onsite wastewater treatment system (OWTS) is adequate for the proposed use.

As conditioned, the proposed conditional use permit would limit the hours of operation from 7:00 a.m. to 2:00 a.m. daily. No changes to the exterior of the existing structure are proposed, so no
impacts to solar access or public or private views will occur. The existing commercial structure at 22969 Pacific Coast Highway will not change under this application, and therefore, will not adversely impact existing public and private views.

*CUP Finding 7. There would be adequate provisions for public access to serve the subject proposal.*

No change to the site or circulation plan for the existing commercial property is proposed by this CUP. Upon completion of the construction of the commercial building on the adjacent parcel to the east, parking will be accommodated in accordance with the joint use parking agreement. The proposed use will have adequate parking for public access and will not obstruct public traffic circulation. It is anticipated that the reopening of the previously existing use would not substantially impact public access or circulation.

*CUP Finding 8. The proposed use is consistent with the goals, objectives, policies, and general land uses of the General Plan.*

The use is a conditionally permitted commercial use in the CV-1 zoning district. The General Plan defines the CV zone as providing for visitor serving uses which serve visitors and residents such as hotels and restaurants which respect the rural character and natural environmental setting. Visitor serving uses shall be consistent with compatible accessory uses, shall protect the surrounding properties, shall ensure safe traffic circulation and shall promote economically viable visitor serving areas of the City. The proposed project meets the goals of the following land use policies of the General Plan:

**Land Use Policy 3.1.1:** The City shall ensure visitor serving and recreational uses are compatible with the natural resources and aesthetic values of the area.

**Land Use Policy 3.2.1:** The City shall permit the development of commercial recreational and visitor servicing facilities at suitable locations which provide convenient public access, adequate infrastructure, convenient parking and, when feasible, are located where existing low cost recreational uses will be enhanced.

**Land Use Policy 4.4.1:** The City shall encourage establishment and continued operation of small neighborhood and community serving businesses.

As such, the proposed project, as conditioned, is consistent with goals, objectives and policies of the General Plan.
CUP Finding 9. The proposed project complies with all applicable requirements of state and local law.

The proposed project will comply with all applicable requirements of State and local law and is conditioned to comply with any relevant approvals, permits and licenses from the City of Malibu and other related agencies such as the ABC and the Los Angeles County Sheriff’s Department.

CUP Finding 10. The proposed use would not be detrimental to the public interest, health, safety, convenience or welfare.

The proposed project will reopen a previously existing restaurant and bar that provides live entertainment, which is a conditionally permitted use in a commercial zone. As stated in Finding 6, the LACFD has conditionally approved the CUP and set maximum occupancy for both dining and live entertainment events. In addition, the Los Angeles County Sheriff’s Department issued a conditional approval of the CUP on May 13, 2010, specifically requiring that the property owner notify the department of all planned entertainment events. A condition is included in Section 7 of this resolution which requires that the property owner notify the City Code Enforcement Officer and the Los Angeles County Sheriff’s Department no less than three days prior to a large entertainment event (defined as any event with 100 or more persons in attendance).

Furthermore, specific conditions have been included in Section 7 of this resolution which require: 1) training for bartenders and servers through the TIPS program (Training for Intervention Procedures) which is designed to prevent intoxication, underage drinking and drunk driving; 2) training for security personnel through the Licensee Education on Alcohol and Drugs (L.E.A.D) program which is put on by the Department of Alcoholic Beverage Control; 3) extensive conditions limiting noise during hours of operation; and 4) the provision of a detailed security plan to monitor patrons both within and outside of the Malibu Inn. All of these requirements are intended to maintain public health, safety and welfare.

Finally, the report generated in conjunction with the ABC application indicates that the current property owner has not been subject to any disciplinary infractions in the past with regard to a liquor license. As conditioned, the proposed use will not be detrimental to the public interest, health, safety, convenience or welfare.

CUP Finding 11. If the project is located in an area determined by the City to be at risk from earth movement, flooding or liquefaction, there is clear and compelling evidence that the proposed development is not at risk from these hazards.

The project will not be at risk from earth movement and flood hazards since the application only involves reopening a previously existing use within the existing commercial structure. The building footprint and envelope will not change; therefore, there is no new impact related to earth movement, flooding or liquefaction.
Section 4. Joint Use Parking Agreement Approval.

As stated in M.M.C. Section 17.48.050(A)(1), the decision making body may approve parking on a separate lot, via a Joint Use Parking Agreement, under the following conditions (which are set forth in M.M.C. Section 17.48.040). The agreement will be between 22959 Pacific Coast Highway and 22969 Pacific Coast Highway, which are under common ownership. A deed restriction shall be recorded on the title of each property reflecting the permanent reciprocal parking agreement. The City Council finds that the evidence in the record supports the three following conditions.

**JUPA Condition A.** Up to one-half of the parking facilities required for a primarily daytime use may be used to meet the requirements of a primarily nighttime use and up to one-half of the parking facilities required for a primarily nighttime use may be used to meet the requirements of a primarily daytime use; provided, that such reciprocal parking arrangement shall comply with subsection C of this section.

The proposed hours of operation for the subject use are from 7:00 a.m. to 2:00 a.m. The adjacent property at 22959 Pacific Coast Highway is undeveloped with the exception of the parking lot historically used to provide parking for the Malibu Inn. However, an application (CDP No. 09-67) for a commercial building for that site has been submitted to the Planning Division. The new commercial building design will incorporate the required parking for any proposed office/retail use as well as maintain the required parking for the Malibu Inn pursuant to the joint use parking agreement.

Although the commercial building is not expected to be approved in the near future, staff has anticipated parking impacts during the course of construction and provided conditions of approval to maintain required parking. Parking displaced during construction would be temporarily relocated to the commercial/office building located at 22761 Pacific Coast Highway since it is also owned by the same owner as the Malibu Inn.

Historically, the heaviest parking demand at the Malibu Inn is primarily evenings and weekends. Commercial development on the adjacent parcel is anticipated to be either office or retail with primarily daytime operating hours. In addition, the 31 spaces required for the Malibu Inn will be supplementary to the parking spaces required for the new commercial development, so the uses will not be in conflict. Therefore, the reciprocal parking arrangement will comply with JUPA Condition C.

**JUPA Condition B.** The planning commission may reduce parking requirements for common parking facilities by up to 25 percent in shopping centers or other commercial areas where a parking lot with common access and joint use is provided.

The property owner has not requested to reduce the required parking spaces. The reciprocal parking agreement will provide additional parking spaces in excess of what is required for the proposed use.
JUPA Condition C. The parties concerned shall show that there is no substantial conflict in the principal operating hours of the building or uses for which the joint use is proposed and shall evidence agreement for such use by a proper legal instrument, to which the city is a party.

The subject property owner owns the subject property and the other commercial property involved in the joint use parking agreement. The subject property will operate from 7:00 a.m. to 2:00 a.m. daily, with live entertainment events primarily being held in the evenings. The other property is proposed to be office / retail uses with principal operating hours during the daytime. There will be no substantial conflict in the principal operating hours for the two properties. Prior to the approval of any project on the adjacent lot, all code required parking will need to be provided. A legal agreement between the City and the property owner is required as a condition of approval. The agreement will contain requirements for an annual review by the Planning Manager with authority to modify the agreement as necessary to maintain onsite parking arrangements.

Section 5. City Council Action.

Based on the record as a whole, including but not limited to all written and oral testimony offered in connection with this matter, the City Council hereby denies Appeal No. 10-002 and approves Conditional Use Permit No. 09-009 and Joint Use Parking Agreement No. 10-001 to permit the operation of the Malibu Inn at 22969 Pacific Coast Highway, subject to the conditions set forth herein.

Section 6. Conditions of Approval.

Standard Conditions

1. The applicants and property owners, and their successors in interest, shall indemnify and defend the City of Malibu and its officers, employees and agents from and against all liability and costs relating to the City's actions concerning this project, including (without limitation) any award of litigation expenses in favor of any person or entity who seeks to challenge the validity of any of the City's actions or decisions in connection with this project. The City shall have the sole right to choose its counsel and property owners shall reimburse the City's expenses incurred in its defense of any lawsuit challenging the City's actions concerning this project.

2. This approval is to allow for the following:
   a. Operation of a restaurant with live entertainment;
   b. Maximum dining seating capacity of 94 patrons and maximum event capacity of 340 patrons;
   c. Service of distilled liquor;
   d. Interior improvements including:
      i. Replacing existing flooring,
      ii. Refinishing the bars,
iii. Upgrading televisions,
iv. Changing furniture and lighting fixtures, and
v. Replacing windows with double pane soundproof glass; and
e. Joint use parking agreement between properties addressed as 22959 Pacific Coast Highway and 22969 Pacific Coast Highway.

3. Subsequent submittals for this project shall be in substantial compliance with plans on-file with the Planning Division. In the event the project plans conflict with any condition of approval, the condition shall take precedence.

4. This permit and rights conferred in this approval shall not be effective until the property owner signs and returns the Acceptance of Conditions Affidavit accepting the conditions set forth herein. The applicant shall file this form with the Planning Division within 10 days of this decision and prior to issuance of any development permits.

5. This conditional use permit shall be reviewed on a semi-annual basis for the first year, and then on an annual basis thereafter, starting on November 22, 2010. At this time, the property owner shall provide evidence that the joint use parking agreement is still in effect. At least two weeks prior to the review date, the applicant shall pay the Planning Division staff site inspection fee in effect at the time of request for site inspection. A staff planner will conduct a site visit to verify compliance with the provisions set forth in this resolution. If necessary, the conditional use permit may be brought back to the Planning Commission for additional conditions to mitigate and/or prevent nuisances that were identified. Possible mitigation measures can include:
   a. Modifying the hours of operation;
   b. Restricting alcohol service;
   c. Hiring additional security personnel;
   d. Prohibiting music;
   e. Installing noise mitigating measures / devices; or
   f. Other measures deemed necessary by the Planning Commission.

6. Any questions of intent or interpretation of any condition of approval will be resolved by the Planning Manager upon written request of such interpretation.

7. All interior tenant improvements shall conform to requirements of the City of Malibu Environmental and Building Safety Division, City Environmental Health Administrator and City Public Works Department, as applicable. Notwithstanding this review, all required permits shall be secured.

8. Minor changes to the approved plans or the conditions of approval may be approved by the Planning Manager, provided such changes achieve substantially the same results and the project is still in compliance with the M.M.C. Revised plans reflecting the minor changes and additional fees shall be required.
Site Specific Conditions

Fire Department

9. All applicable requirements of the Los Angeles County Fire Department Land Development Unit – Fire Prevention Division set forth in the review sheet dated February 18, 2010 shall apply.

Environmental Health

10. Except as specifically required by the conditions of approval, no renovation of the septic tank and drainfield system is required. The City Environmental Health Administrator’s approval dated May 13, 2010, does not represent an expansion, modification or change in the type or intensity of use of the existing onsite wastewater treatment system.

11. The piping connections between the grease interceptor, septic tanks and distribution boxes shall be brought into conformance with the Malibu Plumbing Code (MPC). Prior to the authorization to operate the restaurant during dinner and/or nightclub hours, a piping plan shall be submitted for review and approval, and a final construction permit shall be submitted to the Environmental Health Administrator.

12. The subject Environmental Health approval pertains only to the use of the premises not to exceed 94 restaurant seats, 340 nightclub patrons and 565 square feet of retail space.

Sheriff’s Department

13. The property owner shall be required to notify the Sheriff’s Department (Malibu / Lost Hills Station) and the City of Malibu of any live entertainment event (including DJs) scheduled to take place within the Malibu Inn, especially pertaining to live bands, no less than three days prior to the event. If the property owner books a larger event (in excess of 100 attendees), the property owner shall discuss potential requirements for contracting for a law enforcement presence to handle any crowd and traffic control with the Sheriff’s Department. Additionally, the plan shall include a contact phone number of an individual who will be available during entertainment events to address complaints.

Joint Use Parking Agreement

14. The property at 22959 Pacific Coast Highway shall serve as a donor site for no less than 31 parking spaces for the subject property at 22969 Pacific Coast Highway. A legal agreement (Joint Use and Common Parking Facilities Agreement) between the City and the property shall be required. The agreement shall be submitted to the City prior to the commencement of alcohol service and shall contain requirements for an annual review by the City Planning Manager with authority to modify the agreement as necessary to maintain onsite parking.
arrangements. A deed restriction shall be recorded on the title of each property reflecting the permanent reciprocal parking agreement. Should the 31 offsite parking spaces at any point be provided elsewhere, the legal agreement shall be amended to reflect the new offsite parking location. The 31 parking spaces at 22959 Pacific Coast Highway may be reallocated to any future development on this site.

15. An amendment to the conditions set forth in the CUP shall be required if there is a proposed change to the joint use parking agreement.

Operations

16. The approved hours of operation are from 7:00 a.m. to 12:00 a.m. on Sundays, Mondays, Tuesdays and Wednesdays and from 7:00 a.m. to 2:00 a.m. on Thursdays, Fridays and Saturdays, with the exception that the use may be open until 2:00 a.m. only on those Sundays when the following Monday is a federal holiday. Closure must be complete and all employees must vacate the premises no more than one hour after closing, daily. No after hours operation shall be permitted.

17. The approved hours for alcohol sales are from 7:00 a.m. to 11:00 p.m. on Sundays, Mondays, Tuesdays and Wednesdays and from 7:00 a.m. to 1:00 a.m. on Thursdays, Fridays and Saturdays, with the exception that alcohol may be served until 1:00 a.m. only on those Sundays when the following Monday is a federal holiday.

18. A maximum of 94 seats for dining are approved under this permit. The maximum interior and exterior occupancy for entertainment events is 340 patrons.

19. Live entertainment events shall be limited to a maximum of two large events (defined as events with 100 or more attendees) and eight small events (events with less than 100 attendees) per month.

20. Valet parking must be provided for all events with 100 or more attendees.

21. No exterior activity such as trash disposal, recycling pickup, delivery trucks or exterior maintenance is permitted onsite between the hours of 10:00 p.m. and 7:00 a.m. Additionally, bottles and glass containers shall not be emptied into outdoor trash or recycling bins between 10:00 p.m. and 7:00 a.m.

22. This CUP permits the sale of distilled spirits as well as beer and wine with a Type 47 License. The property owner / operator shall obtain all necessary approvals from the California Department of Alcohol Beverage Control. Once obtained, the applicant is required to provide to the Planning Division a copy of the ABC issued On-Premise Consumption License.
23. Prior to the start of employment, employees that serve alcohol shall undergo an alcohol training program such as TIPS (Training for Intervention Procedures), designed to prevent intoxication, underage drinking and drunk driving. Evidence of completion of this training shall be submitted to the Planning Division.

24. This CUP permits live entertainment and dancing. Once obtained, the applicant is required to provide to the Planning Division a copy of the Los Angeles County Sheriff’s Department Entertainment License.

25. No live entertainment is permitted on the exterior patio at any time. Low level amplified music is permitted on the patio during the hours of 7:00 a.m. to 10:00 p.m., daily. Unnecessary and boisterous noise from the patio between the hours of 10:00 p.m. and 2:00 a.m. shall be prohibited.

26. Prior to the commencement of alcohol service, the property owner/operator shall install small signs in the interior of the business on or near the exit doors requesting that patrons not loiter outside and be courteous and quiet when leaving the building and parking areas.

27. All exterior doors shall remain closed when not being used for ingress/egress purposes. The property owner shall install self-closing door mechanisms on all exterior doors.

28. Noise emanating from the premises shall not be plainly audible at a distance of five feet of any residential dwelling unit between 10:00 p.m. and 7:00 a.m., as required by M.M.C. Section 8.24.050(L).

29. The property owner/operator (or designated representative) shall monitor the noise levels adjacent to nearby residences to check compliance with City noise regulations (i.e. the noise should not be plainly audible within five feet of any residential dwelling unit). If the property owner/operator (or designated representative) determines that the noise level exceeds City noise regulations, they shall immediately notify the musicians to reduce noise levels in compliance with City noise regulations.

30. The property owner/operator shall adhere to a “good neighbor” policy, meaning that the operator and employees must respect the rights of neighboring properties and, to the best of their ability, shall ensure their patrons’ compliance with the City’s noise and smoking regulations and any applicable conditions of approval for the subject use relating to parking, smoking, litter, noise, loitering, etc.

31. Pursuant to M.M.C. Section 9.34.020, smoking is prohibited in all outdoor dining areas located on private or public property, including the public right-of-way. Smoking is also prohibited within 20 feet of an outdoor dining area, except while actively passing by on the way to another destination.
32. Per M.M.C. Section 9.34.030, the property owner shall post and maintain "no smoking" signs in conspicuous locations within the outdoor dining area. All such signs shall: 1) be no greater than one square foot in size; 2) be prominently displayed; 3) clearly state "no smoking" and/or use the international "no smoking" symbol; and 4) reference M.M.C. Section 9.34.020.

33. Prior to commencement of alcohol service, a final security plan shall be submitted to the City Environmental and Community Development Department and the Los Angeles County Sheriff’s Department for review and approval. The plan shall address both physical and operational security issues and shall be no less stringent than the plan submitted to the City on September 7, 2010. Additionally, the plan shall include a contact phone number of an individual who will be available during entertainment events to address complaints. Evidence of the Sheriff’s Department approval of the plan shall be provided to the City.

34. The property owner/operator (or designated representative) shall regularly monitor the area outside of the restaurant to ensure peace and quiet. Security personnel shall be provided seven days a week from 9:00 p.m. to closing to ensure that noisy patrons leaving the establishment will not adversely affect the welfare of neighborhood residents.

35. At the close of business each day, the property owner/operator shall clean up any litter or any other items that were likely to have been left by patrons of the subject establishment found on the subject property or along the public right-of-way.

36. No sign shall be illuminated after 11:30 p.m., or close of business, whichever occurs last.

37. Any proposed structural changes to the existing signs shall require review for the requirements set forth in M.M.C. Chapter 17.52 (Signs).

38. Window or other signage visible from the public right-of-way that advertises beer or alcohol shall not be permitted.

39. No restaurant, food packager, retail food vendor, vendor or nonprofit food provider shall provide prepared food to its customers in any food packaging that utilizes expanded polystyrene. "Expanded polystyrene" means and includes blown polystyrene and expanded and extruded foams (sometimes incorrectly called Styrofoam®, a Dow Chemical Company trademarked form of polystyrene foam insulation) which are thermoplastic petrochemical materials utilizing a styrene monomer and processed by any number of techniques including, but not limited to, fusion of polymer spheres (expandable bead polystyrene), injection molding, foam molding, and extrusion-blow molding (extruded foam polystyrene). Expanded polystyrene is generally used to make cups, bowls, plates, trays, clamshell containers, meat trays and egg cartons.

40. The property owner/tenant shall comply with the requirements set forth in M.M.C. Chapter
9.28 (Ban on Plastic Shopping Bags). No retail establishment, restaurant, vendor or nonprofit vendor shall provide plastic bags or compostable bags to customers. This requirement applies to plastic or compostable bags provided at the point of sale for the purpose of carrying away goods.

41. A copy of the conditions of approval must be kept on the premises and presented to the Los Angeles County Sheriff's Department upon request.

42. Parking displaced during any future construction on 22959 Pacific Coast Highway shall be temporarily relocated to the commercial / office building located at 22761 Pacific Coast Highway since it is owned by the same property owner (Kambiz Hakim) as the Malibu Inn. If this situation changes, alternate offsite parking arrangements will need to be coordinated with the Planning Manager prior to building permit issuance for development at 22959 Pacific Coast Highway.

43. Within 60 days of the issuance of the conditional use permit, an after-the-fact building permit shall be obtained for the retaining wall along the hillside at the rear of the property (as identified in Building Permit No. 02-0233), which creates the area for the planter.

Fixed Conditions

44. The conditions under which this conditional use permit was approved may be modified by the City of Malibu without the consent of the property owner or operator if the Planning Commission finds that the use is creating a nuisance.

45. A conditional use permit that is valid and in effect, and was granted pursuant to the provisions of the Malibu Municipal Code shall run with the land and continue to be valid upon change of ownership of the land or any lawfully existing building or structure on the land.

46. Violation of any of the conditions of approval shall be cause for revocation of the conditional use permit and termination of all rights contained therein.

47. This conditional use permit shall become null and void with the demolition of the building.

48. The conditional use permit shall be reviewed by the Planning Manager for compliance with the conditions of approval and a report shall be presented to the Planning Commission no earlier than three months from the date of issuance.

49. If it has cause to believe that grounds for revocation or modification may exist, the Planning Commission shall hold a public hearing upon the question or modification or revocation of this conditional use permit granted under or pursuant to the provisions of M.M.C. Section 17.66.100(C). If a hearing is required, the City shall notify the property owner / operator
more of the following conditions exists:
   a. The conditional use permit was obtained in a fraudulent manner.
   b. The use for which the conditional use permit was granted has ceased or was suspended for at least six successive calendar months.
   c. One or more of the conditions found within this resolution have not been substantially met.

Section 7. Certification.

The City Clerk shall certify the adoption of this Resolution.

PASSED, APPROVED AND ADOPTED this 22nd day of November 2010.

JEFFERSON WAGNER, Mayor

ATTEST:

LISA POPE, City Clerk
(seal)

APPROVED AS TO FORM:

CHRISTI HOGIN, City Attorney

Any action challenging the final decision of the City made as a result of the public hearing on this application must be filed within the time limits set forth in Section 1.12.010 of the M.M.C. and Code of Civil Procedure. Any person wishing to challenge the above action in Superior Court may be limited to raising only those issues they or someone else raised at the public hearing, or in written correspondence delivered to the City of Malibu at or prior to the public hearing.

I CERTIFY THAT THE FOREGOING RESOLUTION NO. 10-59 was passed and adopted by the City Council of the City of Malibu at the regular meeting thereof held on the 22nd day of November, 2010, by the following vote:

AYES: 4 Councilmembers: Conley Ulich, La Monte, Rosenthal, Sibert
NOES: 0
ABSTAIN: 0
ABSENT: 1 Councilmember: Wagner

LISA POPE, City Clerk
(seal)
CITY OF MALIBU PLANNING COMMISSION
RESOLUTION NO. 11-72

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MALIBU APPROVING CONDITIONAL USE PERMIT AMENDMENT NO. 11-001 TO AMEND CITY COUNCIL RESOLUTION NO. 10-59 (CONDITIONAL USE PERMIT NO. 09-009) TO CHANGE THE MALIBU INN’S HOURS OF OPERATION FROM WHAT WAS APPROVED (7:00 A.M. TO 12:00 A.M. ON SUNDAYS THROUGH WEDNESDAYS AND 7:00 A.M. TO 2:00 A.M. ON THURSDAYS, FRIDAYS AND SATURDAYS, WITH THE EXCEPTION THAT THE USE MAY BE OPEN UNTIL 2:00 A.M. ONLY ON THOSE SUNDAYS WHEN THE FOLLOWING MONDAY IS A FEDERAL HOLIDAY) TO OPERATE BETWEEN THE HOURS OF 7:00 A.M. AND 2:00 A.M. DAILY AT 22969 PACIFIC COAST HIGHWAY (SKA GROUP LLC)

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

Section 1. Recitals.

A. On December 3, 2009, an application for Conditional Use Permit (CUP) No. 09-009 and Joint Use Parking Agreement (JUPA) No. 10-001 was submitted to the Planning Division to permit the operation of the Malibu Inn Restaurant at 22969 Pacific Coast Highway. The application was routed to the City Environmental Health Administrator, Los Angeles County Sheriff’s Department (LACSD) and Los Angeles County Fire Department (LACFD) for Malibu Municipal Code (M.M.C.) conformance review.

B. On September 7, 2010, the Planning Commission held a duly noticed public hearing on the subject application to permit the Malibu Inn with live entertainment which will serve liquor, operate between the hours of 7:00 a.m. and 2:00 a.m., and have a maximum restaurant seating capacity of 94 patrons, a maximum capacity of 340 patrons for entertainment events and 565 square feet of retail space. At the conclusion of the hearing, the Planning Commission adopted Planning Commission Resolution No. 10-79 approving CUP No. 09-009 and JUPA No. 10-001.

C. On September 16, 2010, an appeal (Appeal No. 10-002) of the Planning Commission’s approval was filed by Klaus Obermeyer and Robert J. Allan, who are both owners of residences located across Pacific Coast Highway and south of the subject property.

D. On November 22, 2010, the City Council held a duly noticed public hearing on the subject appeal, reviewed and considered the staff report, reviewed and considered written reports, public testimony, and other information in the record. At that meeting, the City Council denied the appeal and approved CUP No. 09-009; however, the Council revised the permitted hours of operation and alcohol sales.

Planning Commission Resolution No. 11-72
Page 1 of 4

ATTACHMENT 4
E. City Council Resolution No. 10-59 indicates that the approved hours of operation for the Malibu Inn are from 7:00 a.m. to 12:00 a.m. on Sundays, Mondays, Tuesdays and Wednesdays and from 7:00 a.m. to 2:00 a.m. on Thursdays, Fridays and Saturdays, with the exception that the use may be open until 2:00 a.m. only on those Sundays when the following Monday is a federal holiday. Furthermore, the approved hours for alcohol sales are from 7:00 a.m. to 11:00 p.m. on Sundays, Mondays, Tuesdays and Wednesdays and from 7:00 a.m. to 1:00 a.m. on Thursdays, Fridays and Saturdays, with the exception that alcohol may be served until 1:00 a.m. only on those Sundays when the following Monday is a federal holiday.

F. During the City Council hearing, it was determined that no sooner than three months after the CUP had gone into effect, the applicant could return to the Planning Commission to petition for a change in the hours of operation and liquor sales. The CUP went into effect on April 13, 2011, as designed by the Malibu Inn’s re-opening for events, setting the earliest potential follow-up date for a hearing at the Planning Commission for July 13, 2011.

G. On June 16, 2011, the property owners submitted an application for Conditional Use Permit Amendment (CUPA) No. 11-001 to extend the hours of operation to match what was originally approved by the Planning Commission in Planning Commission Resolution No. 10-79.

H. On June 23, 2011, a Notice of Public Hearing for July 19, 2011 was published in a newspaper of general circulation within the City of Malibu and was mailed to all property owners and occupants within a 500 foot radius of the subject property.

I. On June 28, 2011, the CUPA application was deemed complete.

J. The July 19, 2011 Planning Commission meeting was canceled due to a lack of quorum.

K. On August 2, 2011, the Planning Commission held a duly noticed public hearing on the subject amendment application, reviewed and considered the staff report, reviewed and considered written correspondence, public testimony, and other information in the record.

Section 2. Environmental Review.

Pursuant to the authority and criteria contained in the California Environmental Quality Act (CEQA), the Planning Commission has previously analyzed the proposal as described above. A CATEGORICAL EXEMPTION (CE No. 10-068) was previously prepared for CUP No. 09-009 pursuant to CEQA Guidelines Section 15301 – Existing Facilities.

The Planning Commission has found that the proposed amendment is listed among the classes of projects that have been determined not to have a significant adverse effect on the environment, and therefore, is exempt from the provisions of CEQA. Accordingly, a CATEGORICAL EXEMPTION will be prepared and issued for the amendment pursuant to CEQA Guidelines Section 15301 – Existing Facilities. The Planning Commission has further determined that none of the six exceptions to the use of a categorical exemption applies to this project (CEQA Guidelines, Section 15300.2).
Section 3. Findings of Fact.

1. Pursuant to Malibu Municipal Code (M.M.C.) Section 17.66.020, a CUP may be amended upon submittal of an application by the permittee. CUP No. 09-009 was approved by the Planning Commission on September 1, 2009. The decision of the Planning Commission was appealed and on November 22, 2010, the City Council denied the appeal and approved CUP No. 09-009 with limited hours of operation.

2. The LACSD and City of Malibu Code Enforcement have confirmed that since the reopening of the Malibu Inn for entertainment, neither has received complaints from the public regarding its operations.

3. Staff completed a site inspection on June 24, 2011, and confirmed that all conditions of approval set forth in City Council Resolution No. 10-59 have been completed.

4. The proposed amendment will extend the hours of operation from 7:00 a.m. to 2:00 a.m. daily.

5. The proposed amendment does not affect any of the required M.M.C. findings for a conditional use permit. All findings and conditions for CUP No. 09-009 remain in effect and are incorporated herein by reference.

Section 4. Amendment of Conditional Use Permit.

Based on the record as a whole, including but not limited to all written and oral testimony offered in connection with this matter, and pursuant to M.M.C. Section 17.66.060, the Planning Commission approves CUPA No. 11-001, amending CUP No. 09-009, to change the Malibu Inn’s hours of operation from what was approved (7:00 a.m. to 12:00 a.m. on Sundays through Wednesdays and 7:00 a.m. to 2:00 a.m. on Thursdays, Fridays and Saturdays, with the exception that the use may be open until 2:00 a.m. only on those Sundays when the following Monday is a federal holiday) to operate between the hours of 7:00 a.m. and 2:00 a.m. daily.

No other changes to the conditions contained in City Council Resolution No. 10-59 are made by this amendment and all other findings, terms and/or conditions contained in City Council Resolution No. 10-59 shall remain in full force and effect.

Section 5. Conditions of Approval.

1. The property owners, and their successors in interest, shall indemnify and defend the City of Malibu and its officers, employees and agents from and against all liability and costs arising from the City's actions in connection with this resolution, including (without limitation) any award of litigation expenses in favor of any person or entity who seeks to challenge the validity of any of the City's actions or decisions in connection with this resolution. The City shall have the sole right to choose its counsel and property owners shall reimburse the City’s expenses incurred in its...
defense of any lawsuit challenging the City’s actions concerning this resolution.

2. The approved hours of operation are from 7:00 a.m. to 2:00 a.m. daily. Alcohol service during hours of operation shall be regulated by California Department of Alcoholic Beverage Control (ABC) requirements. Closure must be complete and all employees must vacate the premises no more than one hour after closing, daily. No after hours operation shall be permitted.

3. All other conditions of City Council Resolution No. 10-59 are incorporated herein by reference.

Section 6. Certification.

The Planning Commission shall certify the adoption of this Resolution.

PASSED, APPROVED AND ADOPTED this 19th day of July 2011.

JEFFREY D. JENNINGS, Planning Commission Chair

ATTEST:

JESSICA BLAIR, Recording Secretary

LOCAL APPEAL - Pursuant to Malibu Municipal Code Section 17.04.220 (Appeal of Action), a decision of the Planning Commission may be appealed to the City Council by an aggrieved person by written statement setting forth the grounds for appeal. An appeal shall be filed with the City Clerk within 10 days and shall be accompanied by an appeal form and proper appeal fee. The appellant shall pay fees as specified in the Council adopted fee resolution in effect at the time of the appeal. Appeal forms and fee schedule may be found online at www.malibucity.org, in person at City Hall, or by calling (310) 456-2489, extension 245.

I CERTIFY THAT THE FOREGOING RESOLUTION NO. 11-72 was passed and adopted by the Planning Commission of the City of Malibu at the regular meeting thereof held on the 19th day of July 2011, by the following vote:

AYES: COMMISSIONERS: HOUSE, TOLEDO AND JENNINGS
NOES: COMMISSIONERS: MAZZA
ABSTAIN: 
ABSENT: COMMISSIONERS: STACK

JESSICA BLAIR, Recording Secretary
Northeast view of the Malibu Inn, including existing restaurant and retail space

North view of the easterly side yard and retail space
Southeast view of the restaurant’s seating area (south of the stage)

Southeast view of the restaurant’s seating area (south and west of the stage)

East view of the restaurant's stage

North view of the restaurant’s seating area (north of the stage)
South view of the restaurant’s seating area (just north of the entrance)

South view of the restaurant’s seating area (southeast of the interior bar)

North view of the restaurant looking into the employee lounge (formerly the billiard room)

Northeast view of the restaurant’s opening with the retail space
Site Photographs

North view hallway into the employee lounge (formerly the billiard room)

West view of the employee lounge (formerly the billiard room)

East view of the employee lounge (formerly the billiard room)
The Malibu Planning Commission will hold a public hearing on THURSDAY, August 26, 2021, at 6:30 p.m. on the project identified below via teleconference only in order to reduce the risk of spreading COVID-19, pursuant to the Governor’s Executive Orders N-29-20 & N-29-20 & the County of Los Angeles Public Health Officer’s Safer at Home Order.

CONDITIONAL USE PERMIT AMENDMENT NO. 13-006 AND JOINT USE PARKING AGREEMENT NO. 14-001 - An application to amend Conditional Use Permit No. 09-009 and Joint Use Parking Agreement No. 10-001 to allow the reduction of the restaurant service area in order to accommodate the creation of a new retail tenant space, and decrease the number of required off-site parking spaces in the JUPA to reflect the new number of required off-site parking spaces at an existing restaurant (Aviation Nation Dreamland).

For the project listed above with a categorical exemption for environmental review, pursuant to the authority and criteria contained in the California Environmental Quality Act (CEQA), the Planning Director has determined that none of the exceptions to the use of a categorical exemption apply to this project (CEQA Guidelines Section 15300.2).

STAFF CONTACT CASE PLANNER: Adrian Fernandez, Assistant Planning Director, afernandez@malibucity.org (310) 456-2489, ext. 482

LOCAL APPEAL - Pursuant to Local Coastal Program Local Implementation Plan (LIP) Section 13.20.1 (Local Appeals), a decision made by the Planning Commission may be appealed to the City Council by an aggrieved person by written statement setting forth the grounds for appeal. An appeal shall be filed with the City Clerk within 10 days and shall be accompanied by an appeal form and filing fee, as specified by the City Council. Applications for appeal are available in the Planning Department, in person, or by calling (310) 456-2489, ext. 245.

RICHARD MOLLICA, Planning Director

ATTACHMENT 6
To: Chair Jennings and Members of the Planning Commission

Prepared by: Adrian Fernandez, Assistant Planning Director

Approved by: Richard Mollica, Planning Director

Date prepared: August 19, 2021 Meeting date: August 26, 2021

Subject: Malibu Inn Motel - Coastal Development Permit No. 09-067, Conditional Use Permit No. 18-002, Variance Nos. 18-029, 18-030, 18-031, and 20-035, Site Plan Review No. 18-025, Joint Use Parking Agreement No. 18-001, Initial Study No. 20-003, and Mitigated Negative Declaration No. 20-003 – An application for development of a motel project

Location: 22959 Pacific Coast Highway, within the appealable coastal zone
APN: 4452-019-005
Owner: Surfrider Plaza, LLC

RECOMMENDED ACTION: Adopt Planning Commission Resolution No. 21-65 (Attachment 1) adopting Initial Study (IS) No. 20-003, and Mitigated Negative Declaration (MND) No. 20-003 pursuant to the California Environmental Quality Act (CEQA), and approving Coastal Development Permit (CDP) No. 09-067 for the construction of a new 7,693 square foot, 20-room motel above a new subterranean parking garage, surface parking lot, rooftop deck with swimming pool, spa and bar area, grading, retaining walls, landscaping, a new onsite wastewater treatment system (OWTS) and authorization for the Planning Director to submit a letter of public convenience or necessity for the sale of alcohol; including Conditional Use Permit (CUP) No. 18-002 for a motel in the Commercial Visitor-Serving-One (CV-1) zoning district and sale of alcohol, Variance (VAR) No. 18-029 for non-exempt grading in excess of 1,000 cubic yards per acre of commercial development, VAR No. 18-030 construction on slopes steeper than 3 to 1, VAR No. 18-031 for a retaining wall that is an integral part of the building in excess of 12 feet in height, VAR No. 20-035 for surface parking within the required front yard setback, Site Plan Review (SPR) No. 18-025 for a building height in excess of 18 feet, not to exceed 24 feet for a flat roof, and Joint Use Parking Agreement (JUPA) No. 18-001 to share the parking...
spaces with the adjacent lot to the east (22969 Pacific Coast Highway [PCH] – Malibu Inn) located in the (CV-1) zoning district at 22959 PCH (Surfrider Plaza, LLC).

DISCUSSION: This agenda report provides a Project overview, summary of the Project setting and surrounding land uses, description of the Project, an analysis of the Project’s consistency with applicable Malibu Local Coastal Program (LCP) and Malibu Municipal Code (MMC) provisions, and environmental review pursuant to CEQA. The analysis and findings contained herein demonstrate the Project is consistent with the LCP and MMC.

Project Overview

The proposed Malibu Inn Motel (Project) is a 20-room motel with associated amenities, including a rooftop deck with a swimming pool, spa and bar (Attachment 2 – Project Plans). The Project Site is the 51,352 square foot (1.18 acre) parcel located adjacent to the north (inland) side of PCH, and across the highway from the Malibu Pier (Figure 1 – Project Site Vicinity Map/Aerial). The Project Site is located in the CV-1 zoning district and the proposed motel is a conditionally permitted use in the CV-1 zone.

Figure 1 – Project Site Vicinity Map/Aerial
On November 4, 2009, the subject application was submitted for a former project consisting of a new commercial plaza providing 7,713 gross square feet of floor area between two buildings and 82 surface and subterranean parking spaces. This former project also included a retaining wall of up to 62 feet, 2 inches in height above finished grade (with a total height of 77 feet, 5 inches above the bottom of the subterranean parking level).

On November 5, 2009, the Los Angeles Regional Water Quality Control Board (LARWQCB) approved Resolution No. R4-2009-007, banning the use of OWTS in the area. On September 21, 2010, the State Water Reginal Control Board (SWRCB) approved that same resolution, thereby amending the State Basin Plan. The adopted plan for a specific Prohibition Area, which includes the Project Site, included the following mandates:

- All commercial properties must cease wastewater discharge by 2015;
- All residential properties must cease wastewater discharge by 2019; and
- No new wastewater discharge is allowed from any property in the prohibition boundary, except for those listed within the Resolution under Table 4-zz.

Since an application for the Project Site was submitted prior to the adoption of Resolution No. R4-2009-007, the application is listed on Table 4-zz as being eligible for a new OWTS.¹

An IS/MND was prepared and published for the former project. On June 27, 2017, the Environmental Review Board (ERB) review the former project and the IS/MND and provided recommendations.

On June 11, 2018, the applicant submitted revised plans for a new motel instead of the previously submitted commercial retail plaza. The revised project plans were then routed to all applicable City departments and Country agencies for review. IS/MND No. 20-003 was prepared and published for the revised project.

A CDP and CUP are required to permit the Project. The Project also requires approval of four variances from development standards established under the MMC Chapter 17.40.080 and LCP Local Implementation Plan (LIP) Sections 3.5, 3.8 and 8.3(C). With City approval of the requested entitlements, including VARs, SPR, CUP and JUPA, the would be consistent with the MMC and LCP. Table 1 provides a summary of the required entitlements.

¹ At its February 2, 2017 Board Meeting, the LARWQCB approved an updated Memorandum of Understanding (MOU) with the City that extends the deadlines by which properties must cease discharging from septic systems and connect to the CCWTF. The updated MOU extends the schedule for the Phase 3 area from 2025 to November 2028.
Table 1 – Required Project Entitlements

<table>
<thead>
<tr>
<th>Application</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>CDP No. 09-067</td>
<td>Required for development in the Coastal Zone in accordance with LCP Local Implementation Plan (LIP) Section 13.3</td>
</tr>
<tr>
<td>CUP No. 18-002</td>
<td>For a new motel in the CV-1 zoning district and sale of alcohol</td>
</tr>
<tr>
<td>VAR No. 18-029</td>
<td>For non-exempt grading in excess of 1,000 cubic yards per acre of commercial development</td>
</tr>
<tr>
<td>VAR No. 18-030</td>
<td>For construction on slopes steeper than 3 to 1</td>
</tr>
<tr>
<td>VAR No. 18-031</td>
<td>For a retaining wall that is an integral part of the building in excess of 12 feet in height</td>
</tr>
<tr>
<td>VAR No. 20-035</td>
<td>For surface parking within the required front yard setback</td>
</tr>
<tr>
<td>SPR No. 18-025</td>
<td>For a building height in excess of 18 feet not to exceed 24 feet for a flat roof</td>
</tr>
<tr>
<td>JUPA No. 13-001</td>
<td>Parking agreement to provide 24 donor parking spaces to the Malibu Inn site</td>
</tr>
<tr>
<td>IS/MND No. 20-003</td>
<td>Adoption as required by CEQA</td>
</tr>
</tbody>
</table>

Project Setting and Surrounding Land Uses

Table 2 provides a summary of the lot dimensions and lot area of the Project Site.

<table>
<thead>
<tr>
<th>Table 2 – Total Project Site Data</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lot Depth</td>
</tr>
<tr>
<td>Lot Width</td>
</tr>
<tr>
<td>Gross Lot Area</td>
</tr>
<tr>
<td>Area Comprised of 1:1 Slopes</td>
</tr>
<tr>
<td>Area Comprised of Easements</td>
</tr>
<tr>
<td>Net Lot Area*</td>
</tr>
</tbody>
</table>

*Net Lot Area=Gross Lot Area minus the area of public or private future street easements and 1:1 slope.

The Project Site’s land use designation pursuant to the Malibu General Plan is Commercial Visitor Serving (CV), and the zoning designation pursuant to the Malibu Municipal Code (MMC) and LCP is CV-1. The CV-1 district is intended to provide for visitor serving uses, including motels and bed and breakfast inns, which serve visitors and residents that are designed to be consistent with the rural character and natural environmental setting. The allowable Floor-to-Area Ratio (FAR) is 0.15.

Project Jurisdiction: The Project Site is located within the Appeal Jurisdiction of the California Coastal Commission (CCC) as depicted on the Post-LCP Certification Permit and Appeal Jurisdiction Map, so the Project is appealable to the CCC. The Project Site has no trails on or adjacent to it according to the LCP Park Lands Map and is not within a designated ESHA) or ESHA buffer as shown on the LCP ESHA and Marine Resources Map, which would trigger ERB review.

Project Setting: The Project Site is located in a commercial area of the City. The highest densities of development occur in the strip between the eastern City boundary and
Pepperdine University. East of the Malibu Civic Center area, the land use pattern is characterized by a single lot depth of single-family and multi-family residential development. The Malibu Civic Center area contains the largest aggregation of existing and planned commercial uses in the City as well as Santa Monica College (under construction), regional administrative offices of the County of Los Angeles, library, and the City of Malibu’s offices. Uses included in the commercial area are food stores, restaurants, small general clothing and specialty shops, financial institutions, and entertainment establishments.

**Surrounding Land Uses:** The Project Site is situated on the north side of PCH, bordered on the south by PCH on the south and commercial land uses zoned CV-1 on the west and east. The Aviation Nation restaurant/retail establishment is located to the west and a single-story commercial building containing Chabad of Malibu preschool and the Traveler Surf Club and Coastal Outpost to the east. The Malibu Plaza, a contemporary three-story commercial mixed-use building, is located 175 feet east of the Project Site, adjacent to the north side of PCH and east of the Malibu Surf Shack. A single-family home is located to the north on Sweetwater Mesa Road on the top of the slope overlooking the Project Site. A public parking lot is located across PCH from the Project Site, adjacent to the Malibu Pier, the beach, and the Pacific Ocean (see Figure 1).

PCH, bordering the Project Site, is approximately 85 feet wide from curb to curb and supports five lanes, including two travel lanes in both directions and a center left-turn lane. Curbside parallel parking is available along the Project Site frontage with more limited available curbside parking located across PCH. Complete sidewalks are present on both sides of the roadway. The nearest signalized intersection along PCH at its intersection with the Malibu Pier approximately 150 feet west of the site supports a pedestrian crosswalk and access to the Malibu Pier and driveway access to the Malibu Inn.

In the span between Malibu Beach and 22445 PCH (approximately 1 mile to east area) there are currently 20 properties zoned CV-1 and one property zoned CV-2.

Table 3 summarizes the immediate surrounding land uses.

<table>
<thead>
<tr>
<th>Address/ APN</th>
<th>Size</th>
<th>Zone</th>
<th>Land Use</th>
</tr>
</thead>
<tbody>
<tr>
<td>North</td>
<td></td>
<td></td>
<td><strong>RR1</strong> Single-Family Residence</td>
</tr>
<tr>
<td>3556 Sweetwater Mesa</td>
<td>2.49 acre</td>
<td>RR1</td>
<td>Single-Family Residence</td>
</tr>
<tr>
<td>East</td>
<td></td>
<td></td>
<td><strong>CV-1</strong> Chabad of Malibu</td>
</tr>
<tr>
<td>22941 PCH</td>
<td>0.12 acre</td>
<td>CV-1</td>
<td>Restaurant (Aviation Nation Dreamland); and Retail (Aviation Nation)</td>
</tr>
<tr>
<td>West</td>
<td></td>
<td></td>
<td><strong>CV-1</strong> Restaurant (Aviation Nation Dreamland); and Retail (Aviation Nation)</td>
</tr>
<tr>
<td>22969 PCH</td>
<td>0.69 acre</td>
<td>CV-1</td>
<td>Chabad of Malibu</td>
</tr>
<tr>
<td>South</td>
<td></td>
<td></td>
<td><strong>POS</strong> Malibu Pier/Public Parking Lot</td>
</tr>
<tr>
<td>23000 PCH</td>
<td>1.57 acres</td>
<td>POS</td>
<td>Malibu Pier/Public Parking Lot</td>
</tr>
</tbody>
</table>

Source: City GIS
Existing Development

The southern 30 percent of the Project Site is currently improved with a privately operated, commercial, stand-alone surface parking lot that maintains 40 parking spaces. The northern 70 percent of the Project Site consists of a steep slope that rises approximately 190 feet above PCH, with the parking lot situated at the base of this slope. The slope face is sparsely vegetated, supporting primarily non-native grassland and weedy vegetation.

The existing parking lot on the Project Site currently has no direct access to PCH. There is an existing curb cut east of the Project Site but the lot’s boundary abutting PCH is fenced off with a chainlink fence. The parking lot is accessed from PCH via a shared driveway that crosses the westerly adjacent property at 22969 PCH. The property at 22969 PCH is developed with a commercial building which is currently occupied by a new restaurant, Aviation Nation Dreamland (formally Casa Escobar and Malibu Inn), and a retail store, Aviation Nation (“Aviation Nation Site”). Thirty-one of the required parking spaces for the Aviation Nation Site are located on the Project Site pursuant to a JUPA.

The Project Site is subject to two covenants:

- A JUPA – There is an existing JUPA in place whereby a total of 31 parking spaces on the Project Site are dedicated to the Aviation Nation Site; and
- A Wastewater Treatment Covenant – There is a covenant recorded on the Project Site for the future expansion of Aviation Nation Site septic system leachfield.

The two properties would continue to be subject to the Wastewater Treatment Covenant and a modified JUPA.

- Modified JUPA (JUPA No. 18-001) – The pending remodel of the Aviation Nation Site will reduce the number of required donor spaces to 24 by permanently converting restaurant service area to retail, which has a lower parking demand. Under the modified JUPA, a total of 24 donor parking spaces to the Aviation Nation Site are required to be provided by the Project Site. The Project proposes 47 spaces, of which 24 donor parking spaces would be provided in compliance with these parking requirements.

Project Description

The Project involves the redevelopment of the Project Site with a two-story motel, providing 7,693 square feet of floor area (0.15 FAR), with 20 motel rooms and suites, and 47 compliant surface and subterranean parking spaces, which may also be stacked to provide additional parking spaces beyond those required. The ground floor of the building consists of the lobby and a valet parking garage. The main and upper floors accommodate the rooms and suites. A rooftop deck with swimming pool, spa and bar (Figure 2 – Conceptual Site Plan).
As proposed, the FAR, building setbacks, landscaping, open space, and number and dimensions of parking spaces conform to the development standards of the MMC and LCP. The proposed height, parking front yard setback, grading and retaining wall height are also designed to be compliant with the MMC and LCP development standards, and can be approved pursuant to the requested VARs, and SPR.

<table>
<thead>
<tr>
<th>Table 4 – Proposed Development Plan Summary</th>
</tr>
</thead>
<tbody>
<tr>
<td>Site Area</td>
</tr>
<tr>
<td>Floor Area (0.15 FAR)</td>
</tr>
<tr>
<td><strong>Motel Total FAR</strong></td>
</tr>
<tr>
<td>Roof Deck</td>
</tr>
<tr>
<td>Subterranean Parking Garage</td>
</tr>
<tr>
<td><strong>Total Landscape and Open Space</strong></td>
</tr>
<tr>
<td>Open Space Area</td>
</tr>
<tr>
<td>Landscaped Area</td>
</tr>
<tr>
<td><strong>Total Onsite Parking</strong></td>
</tr>
<tr>
<td>At Grade Surface Parking</td>
</tr>
<tr>
<td>Subterranean Parking</td>
</tr>
</tbody>
</table>
**FAR:** FAR establishes the total allowable square footage for commercial development pursuant to the commercial development standards contained in LIP Section 3.8. Pursuant to LIP Section 3.8(A)(5)(a), the gross square footage of all buildings on a given parcel shall be limited to a maximum FAR of 0.15, or 15 percent of the lot area (excluding any street rights of way). For the Project Site, that equates to:

- **0.15 FAR:** The allowable FAR is 7,703 square feet. 7,693 square feet of FAR is proposed.

The development standards for commercial development regulate density based upon Lot Area and Floor Area, and the associated FAR calculation.

- **Lot Area** is defined as — the total area within the lot lines of a lot, excluding any street rights of way.

- **Floor Area** is defined as — the sum of the gross horizontal areas of the several floors of a building measured from the interior face of exterior walls, or from the centerline of a wall separating two buildings. Floor area does not include interior parking spaces, loading space for motor vehicles, vehicular maneuvering areas, or any space where the floor-to-ceiling height is less than 6 feet. (LIP Section 2.1)

- **FAR** is defined as — the formula for determining permitted building area as a percentage of lot area; obtained by dividing the above-ground gross floor area of a building or buildings located on a lot or parcel of land by the total area of such lot or parcel of land. FAR does not include interior parking spaces, including its maneuvering and loading space, and below ground floor area. (LIP Section 2.1)

**Landscape and Open Space:** The commercial development standards further regulate density by requiring that a certain percentage of lot area be devoted to landscaping and open space. Pursuant to LIP Section 3.8(A)(5)(b) 40 percent of lot area shall be devoted to landscaping and an additional 25 percent of the lot area shall be devoted to open space. For this Project Site, that equates to:

- **Landscaping at 40% of lot area** – The required landscaping area is 20,541 square feet and 29,173 square feet is proposed.

- **Open Space at 25% of lot area** – The required open space area is 12,838 square feet, which may include courtyards, patios, natural open space and additional landscaping, but not parking lots, buildings, exterior hallways and stairways, and 27,652 square feet is proposed.

**Access and Parking:** LIP Section 3.14 provides specific parking requirements and parking development standards, including location, access, screening and layout.
Access – The development proposes to use the existing, unused driveway on PCH at the eastern edge of the Project Site for direct access to the Project Site. The existing driveways at the adjacent Aviation Nation Site, including one signalized driveway, would also continue to provide vehicle access to the Project Site from the west. One of the four driveway cuts to the Aviation Nation Site is conditioned to be removed as it is not required for circulation and, in fact, is not considered safe. Since the Project Site will continue to provide shared parking to the Aviation Nation Site, an internal access is provided and the parking lots will remain connected so that shared parking operations do not require entering PCH.

Parking – The required number of parking spaces for the Project, as per LIP Sections 3.14.2 and 3.14.3 is as follows: one parking space for each lodging unit (keyed room) is required, totaling 20 spaces; in addition to one space for the average, per-shift number of employees, totaling 3 spaces. A total of 23 spaces are required for the Project.

The Project Site would continue to be subject to a JUPA with the Aviation Nation Site, under which the Project Site is required to provide enough parking spaces to support land uses on both properties. The parking required for the Aviation Nation Site is one parking space for every 50 square feet of restaurant service area, and one parking space for every 225 square feet of retail area. As a result of tenant improvements on the Aviation Nation Site, a portion of restaurant service area has been converted to retail. Based upon the current use allocations, a total of 47 spaces is required, of which 23 are provided onsite. The number of offsite spaces required has been reduced to 24. A modified JUPA is proposed as part of the Project to reflect the revised number of donor spaces on the Project Site (JUPA No. 18-001).

The Project would provide 47 parking spaces, as detailed in Table 5, Proposed Parking Program.

<table>
<thead>
<tr>
<th>Table 5 – Proposed Parking Program</th>
</tr>
</thead>
<tbody>
<tr>
<td>Required Parking</td>
</tr>
<tr>
<td>Lodging (20 units)</td>
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<tr>
<td>Average, per-shift number of employees</td>
</tr>
<tr>
<td>JUPA- Aviation Nation</td>
</tr>
<tr>
<td><strong>Total Onsite Parking Required</strong></td>
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<tr>
<td>Proposed Parking</td>
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<tr>
<td>Regular Parking</td>
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<tr>
<td>ADA Parking</td>
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<tr>
<td>Compact Parking</td>
</tr>
<tr>
<td><strong>Total Onsite Parking Proposed</strong></td>
</tr>
</tbody>
</table>
The onsite parking is located as follows:

- **Subterranean Parking:** 29 parking spaces are located in the proposed subterranean parking level, stacked parking space numbers in the subterranean parking have not been enumerated but would be additive to the minimum surface parking requirements of the LCP.

- **Surface Parking:** 18 spaces are provided in the at grade surface parking lot adjacent to PCH, which is located in the front yard setback. LIP Section 3.14.5(A)(2) provides that required parking spaces may only be located in interior side and rear setbacks, and no parking space for a commercial use, required or otherwise, shall be located in any required front or street-side setback area, unless regulations provide otherwise. The Project requires VAR No. 20-035 for these parking spaces to remain within the required front yard setback.

**Height:** The motel would reach a height of two stories or up to 24 feet above finished or natural grade, with an elevator shaft at 23 feet, 8 inches from finished grade at perimeter exterior walls (lowest grade). The remaining 34 percent of the Project Site closest to the top of the slope would be maintained as undeveloped open space. The commercial development standards regulate mass and visual impacts by regulating height and number of stories. Pursuant to LIP Section 3.8(A)(1), building height shall not be higher than 18 feet above natural or finished grade, whichever results in a lower building height and that in no event shall the number of stories above grade be greater than two. LIP Section 13.27 provides that the Planning Commission may allow heights up to 24 feet for flat roofs.

- A 24-foot tall, two-story motel building with a rooftop deck and pool, and subterranean parking is proposed to be notched into the hillside. The motel would reach a height of two stories or up to 24 feet for a flat roof above the lowest grade.

- Full site development would be enabled by construction of a retaining wall at the north side of the motel structure along to retain the graded slope and would extend up to 46 feet in height above the surface parking lot (with a total height of 50 feet above the bottom of the subterranean parking level), constructed to secure the slope following excavation. However, most of the retaining is subterranean with a maximum height of 21 feet, 10 inches exposed above grade. Up to 11 feet, 10 inches of the exposed retaining wall projects above the rooftop deck. From a line-of-sight, only a small portion of the wall will be visible above the proposed motel from PCH.

**Setbacks:** A setback is the distance by which a structure or an addition to a structure must be separated from a parcel line, natural feature, other structure, road, right-of-way, or easement. Building setbacks are intended to provide open areas around structures for visibility, access to and around structures for safety and convenience purposes, access to natural light, ventilation and direct sunlight, separation of incompatible land uses, space
for privacy and landscaping, protection of natural resources, and defensible space against fire.

The Project’s proposed setbacks are designed to be compliant with the City’s LCP development standards. Pursuant to LIP Section 3.8(A)(2)(a)-(c), the required setbacks are as follows:

- **Front yard**: 20% of the total depth of the lot. The required setback is 47 feet, 5 inches. The proposed building setback is 61 feet and the surface parking is 5 feet. VAR No. 20-035 for surface parking within the required front yard setback.

- **Side yard**: 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. The required setbacks of 21 feet, 7 inches and 32 feet, 5 inches are proposed.

- **Rear yard**: Setbacks shall be at least fifteen percent of the lot depth or fifteen feet whichever is greater. The required setback is 35 feet, 7 inches. The proposed is 104 feet, 1 inch.

**Grading and Retaining Wall**: Project development requires grading and excavation of approximately 0.77 acre of the existing lower portion of the slope and existing parking lot to accommodate the two-story motel building (with a single level of subterranean parking and surface parking lot). A proposed retaining wall would be installed at the north side of the motel structure to retain the graded slope and would extend up to 46 feet in height above the surface parking lot (and 52.5 feet above the finished floor elevation of the subterranean parking level), constructed to secure the slope following excavation and to provide a 15-foot structural building setback from the slope. The slopes proposed for grading and construction of a retaining wall are steeper than a 3 to 1 slope (Figure 3 – Representative Cross Section).

**Grading** – The Project requires a total of 13,043 cubic yards of grading, with excavation of approximately 12,649 cubic yards of soil. Approximately 394 cubic yards of the excavated soil would be used as fill material onsite, while the remaining material (approximately 12,255 cubic yards) would be exported from the Project Site via roughly 600 to 875 heavy haul trucks, depending on the size of trucks utilized. Of the 13,043 cubic yards of total grading, 11,693 is understructure grading, which is an LIP exempt category from the total allowable. LIP Section 8.3(B) allows for 1,000 cubic yards of non-exempt grading per acre of commercial development, allowing 1,180 cubic yards of non-exempt grading on the Project Site. The total amount of non-exempt grading is 1,348 cubic yards. VAR No. 18-029 is proposed for the Project, since the proposed non-exempt grading exceeds 1,180 cubic yards of non-exempt grading.
Retaining Wall – Project development requires the construction of a retaining wall at the northern edge of the proposed motel building. The retaining wall would rise to a height of 46 feet above the surface parking lot. However, as the retaining is behind the proposed two-story motel building, the motel building will obstruct most of the retaining wall from a line-of-sight perspective taken from PCH. LIP Section 8.3(C) limits the height of vertical cut up to 12 feet for a retaining wall that is an integral part of the structure. VAR No. 18-031 is requested for the proposed installation of a retaining wall taller than 12 feet. VAR No. 18-030 is requested for the siting of structures on slopes steeper than a 3 (horizontal) to 1 (vertical).

**Figure 3 – Representative Cross Section**

**Events:** The rooftop deck and amenities would be used by motel guests on a daily basis. Per the MMC, events that would bring in visitors can be held onsite in the motel subject to City approval of a Temporary Use Permit (TUP).² Typical events include weddings, B’nai Mitzvahs, parties, corporate events, and other festivities. Pursuant to MMC Section 17.68.010, TUPs are limited to six events per calendar year.

Any increased permanent noise during the operation of the Project would be controlled by the noise regulations contained in the MMC (Chapter 8.24).

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² Per the MMC, a special event is defined as a significant occurrence or happening which is arranged for a particular occasion or purpose.
The Project Site is buffered from surrounding residential areas by open space and the incorporation of additional landscaping. The design of the proposed building would also serve as a barrier that reduces noise transmission, as patios would face away from residential areas and the building would contain some vehicle noise within the subterranean parking garage. The Project does not propose amplified sound (music, concerts, etc.).

**Site Lighting:** In accordance with LIP Sections 4.6.2 and 6.5(G) and MMC Chapter 17.41, the Project would include installation of low intensity, shielded light fixtures, including a color temperature of proposed lighting less than 3,000 Kelvin. Sources of lighting would include interior lighting, exterior wayfinding, and security lighting.

In accordance with the requirements set forth in LIP Sections 4.6.2 and 6.5.G, the Project would include installation of low intensity, shielded light fixtures. Sources of lighting would include interior lighting, exterior wayfinding, and security lighting. Open public areas, such as parking lots, would be lit by both wall-mounted and free-standing path lights. Pathways immediately adjacent to buildings would generally be lit with free standing, downward facing LED light fixtures. Recessed, wall-mounted LED lighting would be used for step lighting and some narrower publicly accessible walkways and to enhance security. Certain areas (i.e., water features and the lobby entrance) would be accented with low wattage, shielded flood light fixtures.

**OWTS:** The Project Site is located in Phase 3 of the Civic Center Prohibition Area, which is subject to deadlines by which properties must cease discharging from individual septic systems and connect to the Civic Center Wastewater Treatment Facility (CCWTF) Project. The CCWTF Project was recently constructed approximately 1.3 miles west of the Project Site in Winter Canyon off of Civic Center Way. Phase 2 was recently approved and would be under construction shortly, expanding the area being converted from OWTS to public sewer. Wastewater flows from the Project Site would eventually be accommodated by Phase 3 buildout of CCWTF Project estimated to occur in 2028, after which individual septic systems would no longer be allowed.

**New Luxury Overnight Accommodations:** Pursuant to LIP Section 12.10, the City may approve new luxury overnight visitor accommodations if the Project lower cost overnight accommodations consisting of fifteen percent of the number of luxury overnight accommodations that are approved. Luxury overnight accommodations shall be defined as the point at which the cost of an overnight room exceeds 120 percent of the median cost of an overnight room for all overnight accommodations in the City of Malibu. The applicant has expressed that the exemption would apply, since the accommodations are not going to meet the definition of luxury overnight accommodations.

Should the accommodations be classified as luxury accommodations, the lower cost overnight accommodations may be provided, either onsite, offsite, or through payment of an *in-lieu* fee to the City for deposit into 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. A condition has been added for the property owner to pay the in-lieu fee in compliance with LIP Section 12.10.

**ABC License:** The applicant will later submit an application to the California Department of Alcoholic Beverage Control (ABC) for a license to sale alcoholic beverages. ABC will not issue the license until the proposed CUP is approved. Therefore, a condition of approval has been included stating that the owner would be required to submit a copy of the ABC license to the Planning Department prior to alcohol sales. It is unknown at this time whether a Letter of Public Convenience or Necessity will be required prior to the issuance of the ABC license. In case this letter is required, the resolution authorizes the Planning Director the ability to issue it.

**ERB Review**

Pursuant to LIP Sections 4.4.4(C) and (D), the Project is exempt from ERB review because the Project Site is currently developed with a commercial parking lot and the slope face is sparsely vegetated, supporting primarily non-native grassland, and weedy vegetation. The Project Site is not within a designated ESHA or ESHA buffer as shown on the LCP ESHA and Marine Resources Map.

Nevertheless, on June 27, 2017, ERB reviewed the IS/MND for the Malibu Surfrider Plaza Project, which was the former development project on the Project Site. The Malibu Surfrider Plaza Project included two buildings with a two-story building and subterranean garage in the same location of the Project. However, the exposed portion of the proposed retaining wall is shorter, and the motel building will obstruct more of the wall with vegetation which will help screen it. Therefore, even though the projects are similar, the impacts of the Project would be even less significant compared to the former project. As a result, staff determined that the IS/MND for the Project did not need ERB review.

The ERB recommendations for the Malibu Surfrider Plaza Project are as follows:

1. It is recommended that the landscaping plan be revised to replace the proposed California Sycamore tree at the southwest corner of the subject property with a tree that is less prone to damage the surrounding sidewalk and parking lot such a Toyon (*Heteromeles arbutifolia*).

2. The potential traffic impact as a result of the Project is a concern.

The owner has chosen to keep the California Sycamore trees in an 18-inch root barrier encircling the root ball to minimize potential root damage to the sidewalk or parking lot area. The owner is concerned that the suggested Toyon trees are smaller trees and their canopy would interfere with parking and small berries would be a nuisance. A condition of approval has been added requiring that the landscaping plan be revised to include a detail
of the barrier encircling root ball and that the California Sycamore trees be installed in compliance with the detail.

The potential traffic impact is addressed in the IS/MND in more detail and in the Response to Comments. The Project Site currently holds a parking lot, which supports a limited number of trips to the site under existing conditions. It is disclosed that the Project would increase vehicle miles traveled (VMT) compared to this existing setting. Under CEQA, due to the Project’s location on the State Highway System, VMT is used for impact analysis purposes, overseen by Caltrans. As a Project with a motel use, it is anticipated to generate approximately 68 average daily trips (ADT), which is well below the threshold of 110 trips per day set by Caltrans that would signify a significant impact. As the increase in trips are not considered significant, the overall traffic conditions would not be significantly impacted from implementation of the Project or on a cumulatively considerable basis.

LCP Analysis

The LCP consists of the Land Use Plan (LUP) and the LIP. The LUP contains programs and policies implementing the Coastal Act in Malibu. The LIP contains provisions to carry out the policies of the LUP to which every Project requiring a coastal development permit must adhere.

There are 14 LIP chapters that potentially apply depending on the nature and location of the Project. Of these, five are for conformance review only and contain no findings: 1) Zoning, 2) Grading, 3) Archaeological/Cultural Resources, 4) Water Quality, and 5) OWTS. These chapters are discussed in the LIP Conformance Analysis section.

The nine remaining LIP chapters contain required findings: 1) Coastal Development Permit; 2) ESHA; 3) Native Tree Protection; 4) Scenic, Visual and Hillside Resource Protection; 5) Transfer of Development Credits; 6) Hazards; 7) Shoreline and Bluff Development; 8) Public Access; and 9) Land Division.

For the reasons described in this report, including the Project Site, the scope of work and substantial evidence in the record, only the following chapters and associated findings are applicable to the Project: Coastal Development Permit (including the required findings for the VARs and SPR), and Hazards. These chapters are discussed in the LIP Findings section of this report.

The findings required by MMC Sections 17.66.080 and 17.72.060 for the conditional use permit and variance for construction on slopes are also discussed later.

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3 The ESHA, Native Tree Protection, Transfer of Development Credits, Public Access, Shoreline and Bluff Development, Land Divisions and Scenic, Visual and Hillside Resource Protection findings are neither applicable nor required for the Project.
**LIP Conformance Analysis**

The Project has been reviewed by the Planning Department, City Biologist, City Environmental Health Administrator, City Public Works Department, City geotechnical staff, Los Angeles County Waterworks District No. 29 (WD29), and the Los Angeles County Fire Department (LACFD) (Attachment 3 – Department Review Sheets). WD29 provided a Department Review Sheet stating that it will serve water to the property.

The Project, as proposed and conditioned, has been found to be consistent with all applicable LCP codes, standards, goals and policies, inclusive of the requested VARs, and SPR.

**Zoning (LIP Chapter 3)**

The Project is subject to non-beachfront commercial development and design standards set forth under LIP Sections 3.5 and 3.8. Table 6 provides a summary and indicates the Project meets those standards. As shown in Table 6, the Project conforms to the development standards as set forth under LIP Chapter 3. The Project has been determined to be consistent with all applicable LCP codes, standards, goals, and policies, inclusive of the requested VARs, and SPR.

<table>
<thead>
<tr>
<th>Development Requirement</th>
<th>Allowed/ Required</th>
<th>Proposed</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>SETBACKS (ft.)</td>
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</tr>
<tr>
<td>Front Yard (20%)</td>
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<td>69 ft, 2 in</td>
<td>Complies</td>
</tr>
<tr>
<td>Parking</td>
<td>47 ft, 5 in</td>
<td>5 ft</td>
<td>VAR No. 20-035</td>
</tr>
<tr>
<td>Rear Yard (5 ft or 15%)</td>
<td>35 ft, 7 in</td>
<td>104 ft, 1 in</td>
<td>Complies</td>
</tr>
<tr>
<td>Side Yard (10%)</td>
<td>21 ft, 7 in</td>
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<td>Complies</td>
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<tr>
<td>Side Yards (25%)</td>
<td>54 ft</td>
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<td>Complies</td>
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<tr>
<td>PARKING SPACES</td>
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<td>Standard</td>
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<td>Compact</td>
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<td>ADA Accessible</td>
<td>4</td>
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<td>FAR (15%)</td>
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<td>7,693</td>
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<td>HEIGHT (ft.)</td>
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<td>SPR No. 18-025</td>
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<td>Construction on Slopes</td>
<td>3:1 or flatter</td>
<td>Steeper than 3:1</td>
<td>VAR No. 18-030</td>
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<td>LANDSCAPING (40%) (sq. ft.)</td>
<td>20,541</td>
<td>29,173</td>
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<td>Open Space (25%) (sq. ft.)</td>
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<td>Total</td>
<td>33,379</td>
<td>56,825</td>
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4 As stated in the Parking and Access section above, the Project includes 23 spaces required for the proposed motel use and 24 parking spaces for the adjacent Aviation Nation Site. The spaces required for the Aviation Nation Site are subject to JUPA No. 18-001.

5 Pursuant to LIP Section 3.8(A)(5)(b), open space areas may include courtyards, patios, natural open space and additional landscaping.
Grading (LIP Chapter 8)

LIP Section 8.3 ensures that new development minimizes the visual resource impacts of grading and landform alteration by restricting the amount of non-exempt grading. LIP Section 8.3(B) allows for 1,000 cubic yards of non-exempt grading per acre of commercial development, allowing 1,180 cubic yards of non-exempt grading on the Project Site. Table 7 includes the grading quantities proposed for the Project.

<table>
<thead>
<tr>
<th>Exempt**</th>
<th>R&amp;R*</th>
<th>Understructure</th>
<th>Safety**</th>
<th>Non-Exempt</th>
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<td>11,695</td>
<td>0</td>
<td>560</td>
<td>0</td>
<td>12,255</td>
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</tbody>
</table>

As detailed in Table 7, the Project requires a total of 13,043 cubic yards of grading. Of the 13,043 cubic yards of total grading, 11,693 cubic yards is understructure grading, which is an LIP exempt category from the total allowable. The total amount of non-exempt grading is 1,348 cubic yards, which exceed the total allowable non-exempt grading by 168 cubic yards. Since the proposed non-exempt grading exceeds 1,000 cubic per acre, the Project requires VAR No. 18-029.

Archaeological / Cultural Resources (LIP Chapter 11)

LIP Chapter 11 requires certain procedures be followed to determine potential impacts on archaeological resources. The Project is proposed on a site that was likely on or immediately adjacent to a beach prior to development and was subject to coastal processes (e.g., wave action, beach scour), and has experienced substantial erosion from...
the northern slope into the Project Site. Additionally, the Project Site has been previously disturbed during construction of PCH and the existing parking lot and past grading on the hillside to maintain a stable slope. The Project’s location in an area that was likely subject to coastal processes and past disturbance from development limits the potential for encountering subsurface cultural resources. No archaeological resources are known to exist on the Project Site or immediate vicinity. In addition, the steep slope is unlikely to support cultural remains both due to its steepness and past disturbance for slope stabilization.

Nevertheless, a condition of approval is included in the resolution which states that in the event that potentially important cultural resources are found in the course of geologic testing or during construction, work shall immediately cease until a qualified archaeologist can provide an evaluation of the nature and significance of the resources, and until the Planning Director can review this information.

**Water Quality (LIP Chapter 17)**

The City Public Works Department reviewed and approved the Project for conformance to LIP Chapter 17 requirements for water quality protection. A standard condition of approval for the Project requires that prior to the issuance of any development permit, a Local Storm Water Pollution Prevention Plan incorporating construction-phase Erosion and Sediment Control Plan and Best Management Practices, a Storm Water Management Plan (SWMP), and a Water Quality Mitigation Plan (WQMP) must be approved by the City Public Works Department. With the implementation of these conditions, the Project conforms to the water quality protection standards of LIP Chapter 17.

**Wastewater Treatment System Standards (LIP Chapter 18)**

LIP Chapter 18 addresses OWTS. LIP Section 18.7 includes specific siting, design, and performance requirements. The Project includes a new OWTS in the western and southern portions of the Project Site for use until the parcel is connected to improvements anticipated by Phase 3 of the CCWTF Project. The entire septic system would be contained within the Project Site.

The Project’s wastewater system requires compliance with all applicable standards and issuance of associated local and State operating permits. Specifically, the septic system would be designed to accommodate the Project’s estimated demand generated by the motel’s 20 rooms, 229 fixture units, and associated communal areas for the motel’s kitchen, employee areas, and communal uses. The associated estimated wastewater discharge rate for the proposed motel uses is approximately 4,056 gallons per day, and includes consideration for the expansion capacity required under the existing covenant with the adjacent Aviation Nation Site. The proposed OWTS would comprise of a series of subterranean treatment tanks, a secondary treatment (disinfection) system with ultraviolet (UV) disinfection, a leach field and dispersal area beneath the proposed surface.
parking lot, and the system designed to nitrify wastewater to meet California Ocean Plan standards.

The proposed OWTS was reviewed by the City Environmental Health Administrator and it was determined to meet the minimum requirements of the Malibu Plumbing Code, the MMC, and the LCP. In addition, the LARWQCB would review the proposed development under a waste discharge permit (WDR) for the proposed system. Conditions of approval have been included in the resolution, which require continued operation, maintenance, and monitoring of onsite facilities. The subject system will meet all applicable requirements, and operating permits will be required.

**LIP Findings**

**A. Coastal Development Permit (LIP Chapter 13)**

LIP Section 13.9 requires that the following four findings be made for all coastal development permits.

*Finding 1. That the Project as described in the application and accompanying materials, as modified by any conditions of approval, conforms with the certified City of Malibu Local Coastal Program.*

The Project is located in the CV-1 zoning district, an area designated for rural commercial uses. The proposed motel is a conditionally permitted use in the CV land use designation and CV-1 zoning district in which the Project Site is located. The proposed motel use complies with the intent of the zoning provisions of the MMC and the LCP.

The Project has been reviewed for conformance with the LCP by the Planning Department, City Biologist, City Environmental Health Administrator, City Public Works Department, City geotechnical staff, WD29, and LACFD. As discussed herein, based on submitted reports, project plans, visual analysis and site investigation, the Project, as conditioned, complies with all applicable provisions of the MMC and the LCP, inclusive of the VARs and SPR.

*Finding 2. If the Project is located between the first public road and the sea, that the Project is in conformity to the public access and recreation policies of Chapter 3 of the Coastal Act of 1976 (commencing with Sections 30200 of the Public Resources Code).*

The Project is not located between the first public road and the sea. Therefore, this finding does not apply.
Finding 3. The Project is the least environmentally damaging alternative.

An IS/MND was prepared in accordance with CEQA and the CEQA Guidelines. More specifically, the CEQA Guidelines require that a range of reasonable alternatives to the Project be described, or to the location of the Project, which would feasibly attain most of the basic objectives of the Project but would avoid or substantially lessen any of the significant effects of the Project, and evaluate the comparative merits of the alternatives. The discussion of alternatives, however, need not be exhaustive, but rather it must consider a reasonable range of potentially feasible alternatives that will foster informed decision-making and public participation.

This analysis assesses whether alternatives to the Project would significantly lessen adverse impacts to coastal resources. Based on LCP conformance review, the Project as proposed will not result in any significant adverse impacts. Nevertheless, the following alternatives were considered.

1. Reduced Project. The project includes replacement of a 40-space existing parking lot with a 24-foot tall, two-story motel building fronting PCH with 20 lodging rooms, a rooftop deck and pool, and subterranean parking. The proposed development would alter the visual character of the Project Site from a surface parking lot with no landscaping and a lightly vegetated hillside to that of a contemporary, landscaped frontage and motel building with architectural design features intended to comply with the LCP and MMC, as well as with all relevant City standard conditions of approval listed above.

A smaller or alternative project could be proposed on the subject parcel. However, the proposed development area conforms with the commercial development standards, regarding density and intensity of the use, including FAR, open space and landscaping requirements, and required building setbacks. The applicant provided photo simulations to show the design and scale of the proposed development from three vantage points (Attachment 4). Due to the presence of a steep slope that occupies the northern 70 percent of the Project Site, there are no feasible alternative site locations for the proposed development. Siting the development on the most disturbed portion of the property reduces environmental impacts due to landform alteration.

The Project lies within a developed commercial area with existing development bordering the site. The proposed motel would be similar in size, bulk and scale to existing structures to the east and west and would be designed to step back into the hillside to the north. Views of identified scenic resources from public viewing areas such as PCH, the beach, the Pacific Ocean, and Malibu Pier, would not be altered by project implementation. Although the onsite slope is sparsely vegetated, supporting primarily non-native grassland, and weedy vegetation, efforts to preserve the aesthetic of the slope would be implemented by the Project, including utilizing drought-tolerant plant species in Project landscaping and the use of an earth-tone colors and materials.
As designed, the Project complies with the requirements of both the MMC and LCP. In conclusion, it is not anticipated that an alternative Project would offer any environmental advantages.

2. Commercial Retail. A new commercial plaza providing 7,713 gross square feet of floor area between two buildings and 82 surface and subterranean parking spaces was the original project for the Project Site. The former project also included a retaining wall of up to 62 feet, 2 inches in height above finished grade (with a total height of 77 feet, 5 inches above the bottom of the subterranean parking level). The former project included two buildings with a two-story building and subterranean garage in the same location of the Project. However, the exposed portion of the proposed retaining wall is shorter, and the motel building will obstruct more of the wall with vegetation which will help screen it. Therefore, even though the projects are similar, the impacts of the Project would be even less significant compared to the former project.

3. Proposed Project. The motel would consist of a single building oriented parallel to PCH and separated from PCH by a surface parking lot and driveway aisle. The building would be set back approximately 61 feet from PCH and provide 7,693 square feet of occupied motel space. The building would include 20 lodging units, a rooftop deck with a pool, spa and bar area, and a single level of subterranean parking with an optional stacked parking system (i.e., auto lifts) to provide added spaces beyond those required under the MMC. The building setbacks are designed to be compliant with the LCP's development standards. The Project’s architectural design incorporates the following items intended to minimize visual impacts: earth-tone colors similar to the surrounding environment; limited height to not exceed that of nearby buildings; perimeter and internal drought resistant landscaping; retaining wall with textured materials, partially screened by the structure and landscaping; parking partially screened from public view through the use of frontage landscaping and building design (subterranean); and the building would consist of tiered floors, ascending away from PCH at approximately the natural grade of the nearby slope. The building’s exterior architectural finishes fronting PCH would be comprised of non-glare windows, glass paneled railings, and wood siding and paneling.

The Project has been reviewed and conditionally approved by the City Biologist, City Environmental Health Administrator, City Public Works Department, City geotechnical staff, WD29, and the LACFD, and meets the City’s commercial development policies of the LCP and MMC. The Project as conditioned will comply with all applicable requirements of State and local law. The Project has been determined not to result in adverse biological, scenic or visual resource impacts, and is the least environmentally damaging feasible alternative.

Finding 4. If the Project is located in or adjacent to an environmentally sensitive habitat area pursuant to Chapter 4 of the Malibu LIP (ESHA Overlay), that the project conforms with the recommendations of the Environmental Review Board, or if it does not conform
with the recommendations, findings explaining why it is not feasible to take the recommended action.

The Project Site is not in a designated ESHA or ESHA buffer as shown on the LCP ESHA and Marine Resources Map. However, due to the preparation of an IS/MND the former Malibu Surfrider Plaza Project, was reviewed by the ERB. The Project is similar to the former project but has a retaining wall that is shorter as measured from finished grade and will be screened with vegetation and the proposed motel building. Therefore, the Project did not need to be reviewed by ERB. ERB’s recommendation for replacing the proposed California Sycamore trees with Toyon trees was suggested due to a concern that the Sycamore’s root system has a potential for damaging the adjacent sidewalk. The owner instead agreed to a condition to include a barrier encircling root ball for each of the Sycamore trees and therefore, would meet the intent of ERB’s recommendation by minimizing the potential for sidewalk damage.

B. Variance for Non-Exempt Grading in Excess of 1,000 Cubic Yards per Acre of Commercial Development (LIP Section 13.26)

A variance is proposed to allow non-exempt grading in excess of 1,000 cubic yards per acre of commercial development. LIP Section 13.26.5 requires that the City makes ten findings in consideration and approval of a variance. Based on the foregoing evidence contained within the record, the required findings for VAR No. 18-029 are made as follows:

Finding 1. There are special circumstances or exceptional characteristics applicable to the subject property, including size, shape, topography, location, or surroundings, such that strict application of the zoning ordinance deprives such property of privileges enjoyed by other property in the vicinity and under the identical zoning classification.

LIP Section 8.3(B) allows for 1,000 cubic yards of non-exempt grading per acre of commercial development, allowing 1,180 cubic yards of non-exempt grading on the Project Site. The Project’s total amount of non-exempt grading is 1,348 cubic yards, which exceeds the total allowable non-exempt grading by 168 cubic yards.

The special circumstance or exceptional characteristic applicable to the subject property is the site’s topography, which is primarily a steep slope. The northern 70 percent of the Project Site consists of a steep slope that rises approximately 190 feet above PCH, while only 30 percent of the Project Site is currently improved with a level surface parking lot with only 40 parking spaces. In order to place a building on the Project Site, the northern slope must be stabilized, and a structural setback is required from the slope to the proposed motel building. Therefore, it would not be feasible to develop the property without substantial grading. As designed, most of the grading is understructure to accommodate the underground garage and motel and thus, limiting the total amount of landform alteration.
The proposed development requires grading and excavation of approximately 0.77 acre of the Project Site, which includes the toe of slope adjacent to the parking lot to accommodate the proposed subterranean garage and motel building. The required non-exempt grading is necessary to reduce the height of the northern retaining wall, and to accommodate the proposed subterranean garage and at-grade surface parking lot adjacent to PCH.

Therefore, commercial development on the subject property would not be feasible without granting a variance for non-exempt grading in excess of 1,000 cubic yards per acre.

Finding 2. The granting of such variance will not be detrimental to the public interest, safety, health or welfare, and will not be detrimental or injurious to the property or improvements in the same vicinity and zone(s) in which the property is located.

The proposed variance will allow construction of the proposed motel. The Project has been evaluated for impacts on environmental factors pursuant to CEQA. Based on the IS/MND and LCP conformance review, the Project as conditioned will not result in any significant adverse impacts to the environment, and will not be detrimental to the public interest, health, safety, convenience or welfare. Furthermore, the Project has been reviewed and approved by the City Biologist, City Environmental Health Administrator, City geotechnical staff and City Public Works Department for conformance with the LCP and determined not to be detrimental to the public interest safety, health or welfare, nor detrimental or injurious to the property.

Finding 3. The granting of the variance will not constitute a special privilege to the applicant or property owner.

As previously stated, the site’s topography is primarily a steep slope. The northern 70 percent of the Project Site consists of a steep slope that rises approximately 190 feet above PCH, while only 30 percent of the Project Site is currently improved with a level surface parking lot with only 40 parking spaces. The required grading and excavation of the lower portion of the slope within the site boundary and adjacent to the existing parking lot is necessary to provide a level building area for the motel building, subterranean parking level, and the at-grade surface parking lot adjacent to PCH. There is no alternative development pad on the property that would avoid grading. Therefore, approval of the variance will grant relief from a technical development standard, which if strictly applied, could limit development of a commercial building completely on the subject property. The proposed development is consistent with surrounding properties and in the CV-1 zoning district. Therefore, the granting of the variance will not constitute a special privilege to the applicant or the property owner.

Finding 4. The granting of such variance will not be contrary to or in conflict with the general purposes and intent of this Chapter, nor to the goals, objectives and policies of the LCP.
The granting of the proposed variance will not be contrary to or in conflict with the LCP as the improvements, consisting of a motel and associated development, are conditionally permitted in the CV-1 zoning district. As previously stated, with the inclusion of the variance, the Project is consistent with the LCP, the Coastal Act, and other applicable regulations. The granting of the variance will not be contrary to or in conflict with the general purposes and intent of LIP, nor the goals, objectives, and policies of the LCP.

**Finding 5.** For variances to environmentally sensitive habitat area buffer standards or other environmentally sensitive habitat area protection standards, that there is no other feasible alternative for siting the structure and that the development does not exceed the limits on allowable development area set forth in Section 4.7 of the Malibu LIP.

The requested variance is not associated with ESHA or ESHA buffer standards. Therefore, this finding does not apply.

**Finding 6.** For variances to stringline standards, that the project provides maximum feasible protection to public access as required by Chapter 2 of the Malibu LIP.

The requested variance is not associated with stringline standards. Therefore, this finding does not apply.

**Finding 7.** The variance request is consistent with the purpose and intent of the zone(s) in which the site is located. A variance shall not be granted for a use or activity which is not otherwise expressly authorized by the zone regulation governing the parcel of property.

The variance request is to allow additional non-exempt grading quantities so that the motel development can be constructed in the CV-1 zoning district. The motel is a conditionally permitted use in the CV-1 zoning district. Therefore, the variance request does not authorize a use or activity that is not expressly authorized by the zoning regulations for the subject property.

**Finding 8.** The subject site is physically suitable for the proposed variance.

The subject site is physically suitable for the proposed variance. The proposed development is primarily sited on the disturbed portion of the subject site; however, grading cannot be avoided. In addition, the Project has been reviewed and approved by City geotechnical staff and City Public Works Department for structural integrity and stability, and determined that the subject site is physically suitable for the proposed variance.

**Finding 9.** The variance complies with all requirements of state and local law.
The Project complies with all applicable requirements of State and local law, and is conditioned to comply with any relevant approvals and permits. Construction of the motel and associated development is conditioned to comply with all building code requirements and will incorporate all recommendations from applicable City agencies and project consultants.

Finding 10. A variance shall not be granted that would allow reduction or elimination of public parking for access to the beach, public trails or parklands.

The Project does not include or encroach upon public parking. Therefore, this finding does not apply.

C. Variance for Retaining Wall in Excess of 12 Feet in Height (LIP Section 13.26)

A variance is proposed to allow construction of the development of a retaining wall that is an integral part of the motel building in excess of 12 feet in height. LIP Section 13.26.5 requires that the City makes ten findings in consideration and approval of a variance. Based on the foregoing evidence contained within the record, the required findings for VAR No. 18-031 are made as follows:

Finding 1. There are special circumstances or exceptional characteristics applicable to the subject property, including size, shape, topography, location, or surroundings, such that strict application of the zoning ordinance deprives such property of privileges enjoyed by other property in the vicinity and under the identical zoning classification.

The proposed development requires the construction of a retaining wall at the rear (north side) of the motel building. The retaining wall would be constructed to secure the graded slope following the excavation and to provide a 15-foot structural setback from the slope. The retaining wall is 21 feet, 10 inches in height above finished grade. The retaining wall would extend below finished grade to accommodate the subterranean parking level and provide for an adequate foundation.

While the lower portion of the retaining wall would be visually obstructed by the motel building, up to 11 feet, 10 inches of the exposed retaining wall projects above the rooftop deck. From a line-of-sight, only a small portion of the wall will be visible above the proposed motel from PCH. The use of earth-tones, faux-rock, and landscaping would be implemented to soften the wall’s appearance.

The wall will be visually obstructed by the motel building and elevator shaft, and an approximately 180-foot-wide terrace that would obstruct approximately half of the retaining wall. The wall will also be screened from view by proposed landscaping and roof deck elements. Giant Bird of Paradise, which is a plant that can reach a height of 20 feet and the clumps of long stalks can spread as far as 11 feet, are proposed to be planted in front of the retaining wall with the intent of visually screening the portions of the retaining wall.
above the roofline of the motel building. The retaining wall would be cladded with earth-
tone, faux-rock to mimic and blend with the natural hillside where visible through the
proposed vegetation.

The retaining wall is integral to the Project: it is integrated as part of the building to create
the subterranean parking; it is required to create a level building area for the motel building,
subterranean parking level, and the at-grade surface parking lot adjacent PCH; and it is
essential for securing the excavation of the steep slope to accommodate the structure.
Therefore, commercial development on the Project Site would not be feasible without
granting a variance for retaining wall height in excess of 12 feet.

Finding 2. The granting of such variance will not be detrimental to the public interest,
safety, health or welfare, and will not be detrimental or injurious to the property or
improvements in the same vicinity and zone(s) in which the property is located.

The proposed variance will allow construction of a motel. The Project has been evaluated
for impacts on environmental factors pursuant to CEQA. Based on the IS/MND and LCP
conformance review, the Project as conditioned will not result in any significant adverse
impacts, and will not be detrimental to the public interest, health, safety, convenience or
welfare. Furthermore, the Project has been reviewed and approved by the City Biologist,
City Environmental Health Administrator, City geotechnical staff and City Public Works
Department for conformance with the LCP and determined not to be detrimental to the
public interest safety, health or welfare, nor detrimental or injurious to the property.

Finding 3. The granting of the variance will not constitute a special privilege to the
applicant or property owner.

As previously stated, the site’s topography is predominantly characterized by a steep
slope. There is no alternative development pad on the Project Site that would avoid
excavation in to the steep slope and the resulting retaining wall to secure the excavation.
Therefore, approval of the variance will grant relief from a technical development standard,
which if strictly applied, would prohibit commercial development on the Project Site. The
proposed development is consistent with surrounding properties and in the CV-1 zoning
district. Therefore, the granting of the variance will not constitute a special privilege to the
applicant or the property owner.

Finding 4. The granting of such variance will not be contrary to or in conflict with the
general purposes and intent of this Chapter, nor to the goals, objectives and policies of
the LCP.

The granting of the proposed variance will not be contrary to or in conflict with the LCP as
the improvements, consisting of a motel and associated development, are allowed in the
CV-1 zoning district. As previously stated, with the inclusion of the variance, the Project is
consistent with the LCP, the Coastal Act, and other applicable regulations. The granting
of the variance will not be contrary to or in conflict with the general purposes and intent of LIP, nor the goals, objectives, and policies of the LCP.

Finding 5. For variances to environmentally sensitive habitat area buffer standards or other environmentally sensitive habitat area protection standards, that there is no other feasible alternative for siting the structure and that the development does not exceed the limits on allowable development area set forth in Section 4.7 of the Malibu LIP.

The requested variance is not associated with ESHA or ESHA buffer standards. Therefore, this finding does not apply.

Finding 6. For variances to stringline standards, that the project provides maximum feasible protection to public access as required by Chapter 2 of the Malibu LIP.

The requested variance is not associated with stringline standards. Therefore, this finding does not apply.

Finding 7. The variance request is consistent with the purpose and intent of the zone(s) in which the site is located. A variance shall not be granted for a use or activity which is not otherwise expressly authorized by the zone regulation governing the parcel of property.

The variance request is to allow for the construction of a retaining wall that exceeds 12 feet in height to allow for the development of the proposed motel in the CV-1 zoning district. Therefore, the variance request does not authorize a use or activity that is not expressly authorized by the zoning regulations for the Project Site.

Finding 8. The subject site is physically suitable for the proposed variance.

The subject site is physically suitable for the proposed variance. The proposed development is sited on the disturbed portion of the subject site, however, construction of the proposed retaining wall in excess of 12 feet in height cannot be avoided. In addition, the Project has been reviewed and approved by City geotechnical staff and City Public Works Department for structural integrity and stability, and determined that the Project Site is physically suitable for the proposed variance.

Finding 9. The variance complies with all requirements of state and local law.

The Project complies with all applicable requirements of State and local law, and is conditioned to comply with any relevant approvals and permits. Construction of the motel and associated development is conditioned to comply with all building code requirements and will incorporate all recommendations from applicable City agencies and project consultants.
Finding 10. A variance shall not be granted that would allow reduction or elimination of public parking for access to the beach, public trails or parklands.

The Project does not include or encroach upon public parking. Therefore, this finding does not apply.

D. Variance for Construction for Surface Parking within the Required Front Yard Setback (LIP Section 13.26)

A variance is proposed to permit surface parking within the required front yard setback. Based on the foregoing evidence contained within the record, the required findings for VAR No. 20-035 are made as follows.

Finding 1. There are special circumstances or exceptional characteristics applicable to the subject property, including size, shape, topography, location, or surroundings such that strict application of the zoning ordinance deprives such property of privileges enjoyed by other property in the vicinity and under the identical zoning classification.

LIP Section 3.8(A)(2)(a) requires that the front yard setback be at least 20 percent of the total lot depth, or 47 feet, 5 inches for the Project Site. LIP Section 3.14.5(A)(2) provides that required parking spaces may only be located in interior side and rear setbacks, and no parking space for a commercial use, required or otherwise, shall be located in any required front or street-side setback area, unless regulations provide otherwise.

Special circumstances or exceptional characteristics applicable to the subject parcel consists of the steep slope that occupies the northern 70 percent of the Project Site. Without allowing the required parking within the front yard setback, there would not be sufficient space to site for the required parking. A subterranean parking level is proposed, which can accommodate 29 parking spaces. The remaining 18 spaces are provided in the at grade surface parking lot adjacent to PCH, which is located in the front yard setback.

The proposed variance would allow for the parking required for the use to be provided onsite as required by the LCP. Due to these special circumstances and exceptional characteristics, the strict application of the zoning ordinance would deprive the property of privileges enjoyed by other property in the vicinity and under the identical zoning classification.

Finding 2. The granting of such variance will not be detrimental to the public interest, safety, health or welfare, and will not be detrimental or injurious to the property or improvements in the same vicinity and zone(s) in which the property is located.

The proposed variance will allow construction of a motel. The Project has been evaluated for impacts on environmental factors pursuant to CEQA. Based on the IS/MND and LCP conformance review, the Project as conditioned will not result in any significant adverse
impacts, and will not be detrimental to the public interest, health, safety, convenience or welfare. Furthermore, the Project has been reviewed and approved by the City Biologist, City Environmental Health Administrator, City geotechnical staff and City Public Works Department for conformance with the LCP and determined not to be detrimental to the public interest safety, health or welfare, nor detrimental or injurious to the property.

**Finding 3. The granting of the variance will not constitute a special privilege to the applicant or property owner.**

As previously stated, the site’s topography is predominantly characterized by a steep slope, limiting the area of development. There is no alternative development pad on the property that would avoid encroachment of the required parking in the front yard setback. Therefore, approval of the variance will grant relief from a technical development standard, which if strictly applied, would prohibit commercial development on the Project Site. The proposed development is consistent with surrounding properties and in the CV-1 zoning district. Therefore, the granting of the variance will not constitute a special privilege to the applicant or the property owner.

**Finding 4. The granting of such variance will not be contrary to or in conflict with the general purposes and intent of this Chapter, nor to the goals, objectives and policies of the LCP.**

The granting of the proposed variance will not be contrary to or in conflict with the LCP as the improvements, consisting of a motel and associated development, are allowed in the CV-1 zoning district. As previously stated, with the inclusion of the variance, the Project is consistent with the LCP, the Coastal Act, and other applicable regulations. The granting of the variance will not be contrary to or in conflict with the general purposes and intent of LIP, nor the goals, objectives, and policies of the LCP.

**Finding 5. For variances to environmentally sensitive habitat area buffer standards or other environmentally sensitive habitat area protection standards, that there is no other feasible alternative for siting the structure and that the development does not exceed the limits on allowable development area set forth in Section 4.7 of the Malibu LIP.**

The requested variance is not associated with ESHA standards. Therefore, this finding does not apply.

**Finding 6. For variances to stringline standards, that the project provides maximum feasible protection to public access as required by Chapter 2 of the Malibu LIP.**

The requested variance is not associated with stringline standards. Therefore, this finding does not apply.
Finding 7. The variance request is consistent with the purpose and intent of the zone(s) in which the site is located. A variance shall not be granted for a use or activity, which is not otherwise expressly authorized by the zone regulation governing the parcel of property.

The proposed uses are consistent with the allowed uses in the applicable CV-1 zoning district. The proposed variance would not authorize an unpermitted use or activity.

Finding 8. The subject site is physically suitable for the proposed variance.

The subject site is physically suitable for the proposed variance. The proposed development is utilizing the disturbed portion of the subject site, however, locating the surface parking lot within the front yard setback cannot be avoided. There is already an existing surface parking lot located within the front yard setback. Due to the steep slope to the north of the parking lot, there was no other location that the parking lot could be constructed without encroaching into the front yard setback. The existing parking lot has no direct access from PCH and is accessed via a driveway aisle through the Aviation Nation Site. The Project Site is currently sparsely vegetated and provides no landscaping along the frontage with PCH.

The proposed development includes using an existing driveway on PCH at the eastern edge of the Project Site for direct access to the Project Site, which will improve access to the Project Site. The existing driveways at the adjacent Aviation Nation Site, including one signalized driveway, would also continue to provide vehicle access to the Project Site from the west. The Aviation Nation Site also is developed with a surface parking lot within the front yard setback. Since the Project Site will continue to provide shared parking to the Aviation Nation Site, an internal access is provided and the surface parking lots will remain connected so that shared parking operations do not require entering PCH. Since the Project Site is designed with throughput access from PCH to the Aviation Nation Site parking lot, negating any need for vehicles to turnaround. The surface parking lot would also be partially screened from view from PCH through the use of frontage landscaping along PCH. Landscaped planter strips would also be installed along pedestrian walkways and roadways throughout the Project Site.

In addition, the Project has been reviewed and approved by City geotechnical staff and City Public Works Department for structural integrity and stability, and determined that the Project Site is physically suitable for the proposed variance.

Finding 9. The variance complies with all requirements of state and local law.

The City Biologist, City geotechnical staff, City Environmental Health Administrator, City Public Works Department, and LACFD reviewed the Project and determined it was in conformance with State and local requirements. Therefore, the Project complies with all applicable requirements of State and local law.
Finding 10. A variance shall not be granted that would allow reduction or elimination of public parking for access to the beach, public trails or parklands.

The Project does not include or encroach upon public parking. Therefore, this finding does not apply.

E. Site Plan Review for Construction in Excess of 18 Feet in Height (LIP Section 13.27.5)

LIP Section 13.27.5(A) requires that the City makes four findings in the consideration and approval of a site plan review for construction in excess of the City’s base 18 feet in height up to a maximum of 24 feet with a flat roof. Two additional findings are required pursuant to MMC Section 17.62.060. Based on the evidence in the record, the findings of fact for SPR No. 18-025 are made as follows:

Finding 1. The project is consistent with policies and provisions of the Malibu LCP.

The Project has been reviewed for conformance with all relevant policies and provisions of the LCP. Based on submitted reports, visual impact analysis, and detailed site investigation, the Project is consistent with all policies and provisions of the LCP and MMC.

Finding 2. The project does not adversely affect neighborhood character.

The Project would alter the visual appearance of the Project Site, but would not substantially degrade the visual character or quality of the Project Site or introduce any aesthetic elements incompatible with the surrounding land uses, and the height of the proposed building has been limited to minimize impacts to visual character. The Project Site is buffered from surrounding residential areas by open space and the incorporation of additional landscaping. The design of the proposed building would also serve as a barrier that reduces noise transmission, as patios would face away from residential areas and the building would contain some vehicle noise within the subterranean parking garage. The Project does not propose amplified sound (music, concerts, etc.).

Surrounding development includes commercial buildings, visitor-serving attractions, and single-family residences atop the slope roughly 190 feet above the Project Site. The Project Site is bordered on the west and east by commercial land uses, including the Aviation Nation Site to the west, and a single-story commercial building containing Chabad of Malibu preschool and the Traveler Surf Club and Coastal Outpost to the east. The Malibu Plaza, a contemporary three-story commercial mixed-use building, is located 175 feet east of the Project Site, adjacent to the north side of PCH and east of the Malibu Surf Shack.

Notable public viewing locations with views of the Project Site are limited to PCH and Malibu Pier located across PCH from the Project Site. From these locations, the view of
the coastline towards the Project Site along the PCH corridor includes the steep slope fronted by one- to two-story commercial buildings and parking lots and residential uses along the shoreline. Due to elevation differences such as the higher elevation of PCH, the Project Site is only minimally visible from the public beaches.

Photo simulations to show the design and scale of the proposed development from three vantage points were submitted instead of story poles (Attachment 4 – Photo Simulations). As demonstrated in the photo simulations, due to the size, shape, and topography of the lot, the proposed development will blend into the hillside, will be minimally visible from public viewing areas or scenic roads, and is not located within primary views of neighboring properties. Based on the existing development within the surrounding neighborhood, and the standard conditions associated with applicable projects to minimize impacts to aesthetic resources, including incorporating colors and exterior materials that are compatible with the surrounding landscape, the Project is expected to blend with the surrounding built environment. Therefore, the portion of the commercial building in excess of 18 feet is not anticipated to adversely affect neighborhood character.

Finding 3. The project provides maximum feasible protection to significant public views as required by Chapter 6 of the Malibu LIP.

As discussed in Finding 2, as evident from the story poles, and the Project as conditioned, is designed provide maximum feasible protection to significant public views

Finding 4. The proposed project complies with all applicable requirements of state and local law.

The Project complies with all applicable requirements of State and local law, and is conditioned to comply with any relevant approvals and permits. Construction of the motel and associated development is conditioned to comply with all building code requirements and will incorporate all recommendations from applicable City agencies and project consultants.

Finding 5. The project is consistent with the City’s general plan and local coastal program.

The Project is located in the CV-1 zoning district, an area designated for rural commercial uses. The proposed motel is a conditionally permitted use in the CV land use designation and CV-1 zoning district in which the Project Site is located. The proposed motel use complies with the intent of the zoning provisions of the MMC and the LCP.

The Project has been reviewed for conformance with the LCP by the Planning Department, City Biologist, City Environmental Health Administrator, City Public Works Department, City geotechnical staff, WD29, and LACFD. As discussed herein, based on submitted reports, project plans, visual analysis and site investigation, the Project, as conditioned,
complies with all applicable provisions of the MMC and the LCP, inclusive of the VARs and SPR.

Finding 6. The portion of the project that is in excess of 18 feet in height does not obstruct visually impressive scenes of the Pacific Ocean, off-shore islands, Santa Monica Mountains, canyons, valleys, or ravines from the main viewing area of any affected principal residence as defined in MMC Section 17.40.040(A)(17).

The proposed development is not expected to obstruct visually impressive scenes from private property as all nearby residences have views oriented away from the subject property. This analysis is based on aerial photographs, site visits and story pole placement.

F. Environmentally Sensitive Habitat Area Overlay (LIP Chapter 4)

The subject property is not in a designated ESHA or ESHA buffer as shown on the LCP ESHA and Marine Resources Map. Therefore, the findings of LIP Section 4.7.6 do not apply.

G. Native Tree Protection (LIP Chapter 5)

There are no native trees on or adjacent to the Project Site. Therefore, the findings contained in LIP Chapter 5 do not apply.

H. Scenic, Visual and Hillside Resource Protection (LIP Chapter 6)

The Scenic, Visual, and Hillside Resource Protection Chapter governs those coastal development permit applications concerning any parcel of land that is located along, within, provides views to or is visible from any scenic area, scenic road or public viewing area.

LUP Policy 6.4 states that scenic areas do not include inland areas along PCH east of Malibu Canyon Road. No unique rock outcroppings or historic buildings exist on the Project Site. The Malibu Pier and adjacent beaches would be considered public viewing areas under the LCP, although due to elevation differences such as the higher elevation of PCH, the Project Site is only minimally visible from the public beaches.

The Project is located within the commercial corridor of the City and the surrounding development is comprised of restaurants, motels, and other commercial development, as well as multi-family residential development. The intensity and density of the proposed use is commensurate with that of the surrounding development. Since the Project is within an inland area that is largely developed or build out with existing commercial development along PCH, east of Malibu Canyon Road, the findings set forth in LIP Section 6.4 do not apply.
I. Transfer of Development Credit (LIP Chapter 7)

The Project does not include a land division or multi-family development. Therefore, the findings of LIP Chapter 7 do not apply.

J. Hazards (LIP Chapter 9)

Pursuant to LIP Section 9.3, written findings of fact, analysis and conclusions addressing geologic, flood and fire hazards, structural integrity or other potential hazards listed in LIP Sections 9.2(A)(1-7) must be included in support of all approvals, denials or conditional approvals of development located on a site or in an area where it is determined that the Project causes the potential to create adverse impacts upon site stability or structural integrity.

The proposed development has been analyzed for the hazards listed in LIP Chapter 9 by the Planning Department, City Biologist, City Environmental Health Administrator, City Public Works Department, City geotechnical staff, WD29, and LACFD. The required findings are made as follows:

Finding 1. The Project, as proposed will neither be subject to nor increase instability of the site or structural integrity from geologic, flood, or fire hazards due to Project design, location on the site or other reasons.

The applicant submitted geotechnical and engineering reports and addenda prepared by GeoConcepts, Inc., dated June 4, 2003, November 3, 2009, February 27, 2012, April 27, 2012, June 27, 2012, December 4, 2014, February 26, 2015, May 29, 2015, June 16, 2015, September 21, 2015, April 28, 2016, October 16, 2018 and June 20, 2018, and EnSitu Engineering, Inc., dated September 12, 2014, March 3, 2015, February 25, 2016 and February 21, 2019. All reports are on file at City Hall. In these reports, site-specific conditions are evaluated, and recommendations are provided to address any pertinent issues. Potential geologic hazards analyzed include geologic, seismic, and fault rupture, liquefaction, landslide, groundwater, tsunami, and flood hazards. Based on review of the project plans and associated reports by City geotechnical staff, LACFD, City Public Works Department, and the City Environmental Health Administrator, these specialists determined that adverse impacts to the Project Site related to the proposed development as designed and conditioned are not expected.

The Project, as conditioned, incorporates all recommendations contained in the above cited reports and conditions required by the City geotechnical staff, City Public Works Department and the LACFD, including foundations and drainage. The Project will neither be subject to nor increase the instability of the Project Site from geologic, flood, or fire hazards.
**Fire Hazard**

The entire City of Malibu is designated as a Very High Fire Hazard Severity Zone, a zone defined by a more destructive behavior of fire and a greater probability of flames and embers threatening buildings. The subject property is currently subject to wildfire hazards. The scope of work proposed as part of this application is not expected to have an adverse impact on wildfire hazards. The proposed development may actually decrease the site’s susceptibility to wildfire through compliance with fuel modification requirements and the use of appropriate building materials will be utilized during construction.

The City is served by the LACFD, as well as the California Department of Forestry, if needed. In the event of major fires, the County has “mutual aid agreements” with cities and counties throughout the State so that additional personnel and firefighting equipment can augment the LACFD. Conditions of approval have been included in the resolution to require compliance with all LACFD development standards. As such, the Project, as designed, constructed, and conditioned, will not be subject to nor increase the instability of the Project Site or structural integrity involving wildfire hazards.

*Finding 2. The Project, as conditioned, will not have significant adverse impacts on site stability or structural integrity from geologic, flood or fire hazards due to required Project modifications, landscaping or other conditions.*

As stated in Finding 1, the Project, as designed, conditioned and approved by the applicable departments and agencies, will not have any significant adverse impacts on the site stability or structural integrity from geologic or flood hazards due to Project modifications, landscaping or other conditions.

*Finding 3. The Project, as proposed or as conditioned, is the least environmentally damaging alternative.*

As previously stated in LIP Findings, Section A, the Project, as designed and conditioned, is the least environmentally damaging alternative.

*Finding 4. There are no alternatives to development that would avoid or substantially lessen impacts on site stability or structural integrity.*

The proposed development has been analyzed for the hazards listed in LIP Chapter 9 by the Planning Department, City Biologist, City Environmental Health Administrator, City Public Works Department, City geotechnical staff, WD29, and LACFD. These specialists and agency determined that the Project does not impact site stability or structural integrity. As previously discussed in Section A, there are no feasible alternatives to the proposed development that would result in less site disturbance.

*Finding 5. Development in a specific location on the site may have adverse impacts but will eliminate, minimize or otherwise contribute to conformance to sensitive resource protection policies contained in the certified Malibu LCP.*
As previously discussed in LIP Findings, Section A, the Project, as designed and conditioned, is the least environmentally damaging alternative and no adverse impacts to sensitive resources are anticipated.

**K. Shoreline and Bluff Development (LIP Chapter 10)**

LIP Chapter 10 applies to land that is located on or along the shoreline, a coastal bluff or bluff-top fronting the shoreline. The Project is not located on or along the shoreline, a coastal bluff or bluff-top fronting the shoreline. Therefore, the findings contained in LIP Chapter 10 do not apply.

**L. Public Access (LIP Chapter 12)**

LIP Section 12.4 requires public access for lateral, bluff-top, and vertical access near the ocean, trails, and recreational access for the following cases:

A. New development on any parcel or location specifically identified in the Land Use Plan or in the LCP zoning districts as appropriate for or containing a historically used or suitable public access trail or pathway.

B. New development between the nearest public roadway and the sea.

C. New development on any site where there is substantial evidence of a public right of access to or along the sea or public tidelands, a blufftop trail or an inland trail acquired through use or a public right of access through legislative authorization.

D. New development on any site where a trail, bluff top access or other recreational access is necessary to mitigate impacts of the development on public access where there is no feasible, less environmentally damaging, Project alternative that would avoid impacts to public access.

The Project does not meet any of the criteria above. Furthermore, no trails are identified on the LCP Park Lands Map on or adjacent to the Project Site. Therefore, the requirement for public access of LIP Section 12.4 does not apply and further findings are not required.

**M. Land Division (LIP Chapter 15)**

The Project does not include a land division. Therefore, the findings in LIP Chapter 15 do not apply.

**N. Conditional Use Permit for New Motel Use and Sale of Alcohol (MMC Section 17.66.080)**

The Planning Commission may approve, deny and/or modify an amendment to a CUP in whole or in part, with or without conditions, provided that it makes all of the findings of fact required by MMC Section 17.66.080. Staff is recommending that the Planning Commission
approve CUP No. 18-002 for a new motel, with associated uses, in the CV-1 zoning district. The CUP, as recommended, can be supported based on the findings below:

Finding 1. The proposed use is one that is conditionally permitted within the subject zone and complies with the intent of all of the applicable provisions of Title 17 of the Malibu Municipal Code.

The Project Site is zoned for commercial use, and the proposed motel use is a conditionally permitted in the CV-1 zoning district and is consistent with existing land uses in the vicinity. MMC Chapter 17.40.080, Commercial Development Standards, limits commercial development to a maximum FAR of 0.15. As the Project proposes 7,693 square feet of commercial floor area on a 51,352 square foot (1.18 acre) parcel, the resulting FAR would be 0.15, consistent with the maximum FAR permitted.

The Project has been reviewed for conformance with the LCP by the Planning Department, City Biologist, City Environmental Health Administrator, City Public Works Department, City geotechnical staff, WD29, and LACFD. As discussed herein, based on submitted reports, project plans, visual analysis and site investigation, the Project, as conditioned, complies with all applicable provisions of the MMC and the LCP.

Finding 2. The proposed use would not impair the integrity and character of the zoning district in which it is located.

The Project is located within the commercial corridor of the City and the surrounding development is comprised of restaurants, motels, and other commercial development, as well as multi-family residential development. The intensity and density of the proposed use is commensurate with that of the surrounding development. The Project Site is zoned for commercial use. The proposed motel use is consistent with the zoning designation and consistent with existing land uses in the vicinity.

Finding 3. The subject site is physically suitable for the type of land use being proposed.

The Project Site is located within the commercial corridor of the City and the surrounding development is comprised of restaurants, motels, and other commercial development, as well as multi-family residential development. The intensity and density of the proposed use is commensurate with that of the surrounding development.

The Project Site is located adjacent to PCH on a stretch of highway connecting the Civic Center area of the City with the City’s eastern region. Existing utilities are located within the PCH right-of-way that will serve the Project. The site is physically suitable for the proposed use.

Finding 4. The proposed use is compatible with the land uses presently on the subject property and in the surrounding neighborhood.
The proposed use is compatible with the land uses presently on the subject property and in the surrounding neighborhood. The existing legal non-conforming commercial parking lot as a stand-alone use is being replaced with a commercial use that in contrast is authorized with a conditional use permit in the CV-1 zoning designation.

The Project is located within the commercial corridor of the City and the surrounding development is comprised of restaurants, motels, and other commercial development, as well as multi-family residential development. The intensity and density of the proposed use is commensurate with that of the surrounding development and applicable design and development standards.

**Finding 5.** The proposed use would be compatible with existing and future land uses within the zoning district and the general area in which the proposed use is to be located.

The Project would alter the visual appearance of the Project Site, but as described above, it would not substantially degrade the visual character or quality of the Project Site or introduce any aesthetic elements incompatible with the surrounding land uses. Additionally, the proposed motel is a conditionally permitted use in the CV-1 zoning district, which is compatible with the commercial zoning in the general area. The Project is located within the commercial corridor of the City and the surrounding development is comprised of restaurants, motels, and other commercial development, as well as multi-family residential development. The intensity and density of the proposed use is commensurate with that of the surrounding development.

**Finding 6.** There would be adequate provisions for water, sanitation, and public utilities and services to ensure that the proposed use would not be detrimental to public health and safety and the Project does not affect solar access or adversely impact existing public and private views, as defined by the staff.

There would be adequate provisions for water, sanitation, and public utilities and services to ensure that the proposed use would not be detrimental to public health and safety. The Project Site, is served by Southern California Edison for electricity and natural gas is provided by the Southern California Gas Company. Water will be provided by WD29, and has provided Department Review Sheet indicating the Project Site may be served. Additionally, there is no municipal sewer yet available in this area of Malibu. However phased construction is continuing on the CCWTF. The CCWTF now includes a centralized wastewater treatment facility in the Malibu Civic Center area that treats, reuses, and/or disposes of wastewater flows from properties now being served by the system, and will also serve two planned expansions areas (i.e., Phases 2 and 3), including the Project Site within Phase 3. The Project proposes an OWTS composed of a septic system, treatment tank, and disinfection system, subject to review by the City Environmental Health Administrator. The entire system would be contained within the Project Site and has been adequately designed to accommodate wastewater generated by the Project, and wastewater flows of adjacent Aviation Nation Site, and not result in a seepage of
groundwater pollutants into the ocean. Additionally, since the Project Site is located in the Phase 3 Prohibition Area of the CCWTF and may be accommodated under the CCWTF buildout by 2028, should Phase 3 CCWTF improvements move forward, the Project’s septic system may have a relatively short life span of approximately ten years.

The Project does not affect solar access or adversely impact existing public and private views. The building would consist of tiered floors, ascending away from PCH at approximately the natural grade of the nearby slope. The building’s exterior architectural finishes fronting PCH would be comprised of non-glare windows, glass paneled railings, and wood siding and paneling. The proposed development would alter the visual character of the Project Site from a surface parking lot with no landscaping and a lightly vegetated hillside to that of a contemporary, landscaped frontage and motel building with architectural design features intended to comply with the LCP and MMC, as well as with all relevant City standard conditions of approval. The proposed new motel would be similar in size, bulk and scale to existing structures to the east and west and would be designed to step back into the hillside to the north. Views of identified scenic resources from public viewing areas such as PCH, the beach, the Pacific Ocean, and Malibu Pier, would not be altered by Project implementation. Although the onsite slope is sparsely vegetated, supporting primarily non-native grassland, and weedy vegetation, efforts to preserve the aesthetic of the slope would be implemented by the Project, including utilizing drought-tolerant plant species and the use of an earth tone, faux-rock cladding in the retaining wall. Portions of the retaining wall extending above the proposed roofline would be further screened from view by Giant Bird of Paradise, which is a plant that can reach a height of 20 feet and the clumps of long stalks can spread as far as 11 feet. The surface and subterranean parking lots would be partially screened from view from PCH through the use of frontage landscaping and/or subterranean parking design. Further, the Project would only alter the lower approximately 50 feet of the slope, while the upper 130 feet will remain unaltered.

Finding 7. There would be adequate provisions for public access to serve the subject proposal.

Access to the Project is from PCH, an existing public highway. The public, as well as emergency vehicles, would enter and exit the Project Site via PCH. The Project Site is designed with throughput access from PCH to the Aviation Nation Site parking lot, negating any need for vehicles to turnaround. The modified driveways would require review and approval of an Encroachment Permit by Caltrans. During its review of the permit, Caltrans would ensure the driveways are properly designed to ensure adequate emergency access. All roadway connections would be constructed in conformance with City and Caltrans standards, and would be consistent with LACFD access requirements. Consequently, roadways would be adequate to provide public and emergency access to the Project Site.
Finding 8. The proposed use is consistent with the goals, objectives, policies, and general land uses of the General Plan.

The General Plan is a policy document that contains policy measures, while the specific development standards to implement these policy measures are located in the MMC. The Project Site is designated as CV in the General Plan, and is subject to the commercial land use policies of the General Plan. The CV zone is designated for development that is visitor-serving, including overnight accommodations. The motel with ancillary uses is a conditionally permitted commercial use pursuant to the CV land use designation of the General Plan and the CV-1 zoning district of the MMC. Therefore, the proposed motel land use is consistent with the City’s General Plan land use map, and as conditioned, is consistent with the goals, objectives, policies, and general land uses of the General Plan.

Finding 9. The proposed project complies with all applicable requirements of state and local law.

Motels and sale of alcohol are conditionally permitted uses in the CV-1 zoning district. The Project has been reviewed by the Planning Department, City Biologist, City Environmental Health Administrator, City Public Works Department, City geotechnical staff, WD29, and LACFD. As discussed herein, based on submitted reports, project plans, visual analysis and site investigation, the Project, as conditioned, complies with all applicable requirements of State and local law.

Finding 10. The proposed use would not be detrimental to the public interest, health, safety, convenience or welfare.

An IS/MND was prepared in accordance with CEQA Guidelines. More specifically, the CEQA Guidelines require that potential environmental impacts be evaluated. The range of environmental factors considered include: Aesthetics, Agriculture and Forestry Resources, Air Quality, Biological Resources, Cultural Resources, Energy, Geology/Soils, Greenhouse Gas Emissions, Hazards & Hazardous Materials, Hydrology/Water Quality, Land Use/Planning, Mineral Resources, Noise, Population/Housing, Public Services, Recreation, Transportation, Tribal Cultural Resources, Utilities/Service Systems, and Wildfire. On the basis of the evaluation, it was determined that although the Project would have a less than significant effect on the environment with mitigations for Geology/Soils, Noise and Tribal Cultural Resources.

Based on the IS/MND and LCP conformance review, the Project, as conditioned, will not result in any significant adverse impacts, and will not be detrimental to the public interest, health, safety, convenience or welfare.

Furthermore, the Project has been reviewed and approved by the City Biologist, City Environmental Health Administrator, City geotechnical staff and City Public Works
Department for conformance with the LCP and determined not to be detrimental to the public interest safety, health or welfare, nor detrimental or injurious to the property.

Finding 11. If the Project is located in an area determined by the City to be at risk from earth movement, flooding or liquefaction, there is clear and compelling evidence that the proposed development is not at risk from these hazards.

As discussed in above in the Hazards findings, there is clear and compelling evidence that the Project is not located in an area determined by the City to be at risk from earth movement, flooding or liquefaction.

O. Variance for Construction on Slopes Steeper than 3 to 1 (MMC Section 17.72.060)

Pursuant to MMC Section 17.40.080(A)(6), the site of construction is limited to areas containing slopes flatter than 3 to 1. Pursuant to MMC Section 17.72.060, the City may approve and/or modify an application for a variance in whole or in part, with or without conditions, provided that it makes eight required findings. Based on evidence in the record, the findings required for VAR No. 18-030 for construction on slopes steeper than 3 to 1 are made as follows.

Finding 1. There are special circumstances or exceptional characteristics applicable to the subject property, including size, shape, topography, location, or surroundings such that strict application of the zoning ordinance deprives such property of privileges enjoyed by other property in the vicinity and under the identical zoning classification.

LIP Section 13.27.1(A)(4) allows construction to be located on slopes flatter than 3 to 1. The proposed development requires grading and excavation of approximately 0.77 acre of the Project Site, which includes a portion of the slope that is steeper than 3 to 1, to accommodate a subterranean garage and structural setback to the proposed motel building. A proposed retaining wall would be installed north of the motel structure, constructed to secure the slope following excavation and maintain a structural setback from the slope, that is also subject to a separate variance request related to height.

The grading, retaining wall and motel building are occurring within the steep slope that rises approximately 190 feet above PCH, which comprises the northern 70 percent of the Project Site. The slope face is sparsely vegetated, supporting primarily non-native grassland, and weedy vegetation. The required grading and excavation, and retaining wall at the lower portion of the slope within the site boundary and adjacent to the existing parking lot is necessary to provide a level building area for the motel building, subterranean parking level, and the at-grade surface parking lot adjacent PCH.

Due to these site characteristics, the proposed development takes advantage of the currently disturbed areas and minimizes construction on steep slopes by keeping the
proposed development near PCH as much as possible. The slope analysis that was submitted shows that the Project Site does not offer any alternative locations for development where steep slopes can be avoided. Therefore, a commercial development on the subject property would not be feasible without granting a variance for construction on slopes steeper than 3 to 1.

Finding 2. The granting of such variance will not be detrimental to the public interest, safety, health or welfare, and will not be detrimental or injurious to the property or improvements in the same vicinity and zone(s) in which the property is located.

The proposed variance will allow construction of a motel. The Project has been evaluated for impacts on environmental factors pursuant to CEQA. Based on the IS/MND and LCP conformance review, the Project, as conditioned, will not result in any significant adverse impacts, and will not be detrimental to the public interest, health, safety, convenience or welfare. Furthermore, the Project has been reviewed and approved by the City Biologist, City Environmental Health Administrator, City geotechnical staff and City Public Works Department for conformance with the LCP and determined not to be detrimental to the public interest safety, health or welfare, nor detrimental or injurious to the property.

Finding 3. The granting of the variance will not constitute a special privilege to the applicant or property owner.

As previously stated, the site’s topography is predominantly characterized by a steep slope. There is no alternative development pad on the property that would avoid construction on steep slopes. Therefore, approval of the variance will grant relief from a technical development standard, which if strictly applied, could limit commercial development completely on the subject property. The proposed development is consistent with surrounding properties and in the CV-1 zoning district. Therefore, the granting of the variance will not constitute a special privilege to the applicant or the property owner.

Finding 4. The granting of such variance or modification will not be contrary to or in conflict with the general purposes and intent of this chapter, nor to the goals, objectives and policies of the General Plan.

The granting of such variance for construction on slopes steeper than 3 to 1 will not be contrary to or in conflict with the general purposes and intent of this Chapter, nor to the goals, objectives and policies of the General Plan. The proposed motel and associated development are allowed in the CV-1 zoning district. As previously stated, with the inclusion of the variance, the project is consistent with the LCP, the Coastal Act, and other applicable regulations. The Project, as conditioned, conforms to the MMC and LCP in that it meets all the required commercial standards inclusive of discretionary requests.
Finding 5. The variance or modification request is consistent with the purpose and intent of the zone(s) in which the site is located.

The variance request is for development on slopes steeper than 3 to 1 to allow for the construction of a motel in the CV-1 zoning district. Therefore, the variance request does not authorize a use or activity that is not expressly authorized by the zoning regulations for the subject property.

Finding 6. The subject site is physically suitable for the proposed variance or modification.

The subject site is physically suitable for the proposed variance. The proposed development is sited on the disturbed portion of the subject site, however, construction on slopes steeper than 3 to 1 cannot be avoided. In addition, the Project has been reviewed and approved by City geotechnical staff and City Public Works Department for structural integrity and stability, and determined that the Project Site is physically suitable for the proposed variance.

Finding 7. The variance or modification permit complies with all requirements of State and local law.

The Project complies with all applicable requirements of State and local law, and is conditioned to comply with any relevant approvals and permits. Construction of the motel and associated development is conditioned to comply with all building code requirements and will incorporate all recommendations from applicable City agencies and project consultants.

Finding 8. All or any necessary conditions have been imposed on the variance or modification as are reasonable to assure that the variance will not be detrimental to the health, safety and welfare of the City.

The Project is conditioned for all recommendations of the project engineering geologist or geotechnical engineer, and the City geotechnical staff to be incorporated into the final design. Among other conditions, the project was also conditioned to provide a construction staging plan, adhere to limited construction hours, construction management techniques, and dark sky lighting requirements, fuel modification plans, and grading and water quality provisions. With these conditions, the requested variance will not be detrimental to health, safety and welfare of the City.

ENVIRONMENTAL REVIEW: Pursuant to the authority and criteria contained in CEQA, the Planning Department has analyzed the proposed project. The Planning Department prepared an initial study (IS No. 20-003) pursuant to CEQA Guidelines Section 15300.2(c). The initial study analyzed the proposed Malibu Inn Motel Project and determined that with mitigation measures and standard conditions of approval, the Project will not have a
significant impact on the environment; subsequently, MND No. 20-003 was prepared and circulated pursuant to CEQA Guidelines Section 15070.

On February 19, 2021, the City made IS/MND No. 20-003 available to the public for the required 30-day circulation period, which concluded on March 22, 2021. The Draft IS/MND was circulated again for another 30-day review period, directed towards agencies due to a file discrepancy, that began on March 29, 2021 and ended on April 28, 2021. During the public review period, the following comments were received from public agencies and members of the public:

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<th>Comment Set/ Number of Comments</th>
<th>Name of Commenter</th>
<th>Date Received</th>
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<tr>
<td><strong>Agency Letters</strong></td>
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<tr>
<td>A</td>
<td>California Department of Transportation (Caltrans)</td>
<td>April 14, 2021</td>
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<td>B</td>
<td>Malibu Open Space Alliance</td>
<td>April 27, 2021</td>
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<td><strong>Individual Letters</strong></td>
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<td>1</td>
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<td>March 7, 2021</td>
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<td>25</td>
<td>Roni Serrato</td>
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These comments were discussed in the *Responses to Comments on the Draft IS / MND* (Attachment 6) added to the Final IS/MND. To make minor clarifications and corrections to the document, the IS/MND has also been updated. The complete document is listed as Attachment 5 and can be viewed online: [https://www.malibucity.org/810/Malibu-Inn-Motel](https://www.malibucity.org/810/Malibu-Inn-Motel)

Pursuant to CEQA Guidelines Section 15073.5, the IS/MND is not required to be recirculated as long as the document has not been substantially revised. A "substantial revision" occurs when a new avoidable significant effect is identified and mitigation measures or project revisions must be added to reduce the effect to insignificance, or the City determines the measures will not reduce the effect to insignificant and new measures or revisions are required. No substantial revision has been made to the project.

The Guidelines also state that recirculation is not required under the following circumstances:

- Mitigation measures are replaced with equal or more effective measures, or
- New project revisions made in response to comments on project effects which are not new avoidable significant effects, or
- Measures or conditions of approval are added that are not required by CEQA and which do not create new significant effects and are not necessary to mitigate an avoidable significant effect, or
- New information is added which merely clarifies, amplifies or makes insignificant modifications to the IS/MND.

The Planning Department finds that through feasible conditions and mitigation measures placed on the Project, less than significant impacts on the environment are expected. Based on the record as a whole, there is no substantial evidence that the Project, as conditioned, will have a significant effect on the environment.

**CORRESPONDENCE:** As mentioned in the *Environmental Review* section above, staff received 27 public comments related to the IS/MND during the public review period. The
public comments and responses are provided in the Responses to Comments on the Draft IS/MND.

PUBLIC NOTICE: On August 5, 2021, staff published a Notice of Public Hearing in a newspaper of general circulation within the City of Malibu and mailed the notice to all property owners and occupants within a 500-foot radius of the subject property. (Attachment 7)

SUMMARY: The required findings can be made that the Project complies with the LCP and MMC. Further, the Planning Department’s findings of fact are supported by substantial evidence in the record. Based on the analysis contained in this report and the accompanying resolution, staff recommends approval of this Project, subject to the conditions of approval contained in Section 6 (Conditions of Approval) of Planning Commission Resolution No. 21-65. The Project has been reviewed and conditionally approved for conformance with the LCP by Planning Department staff and appropriate City and County departments.

ATTACHMENTS:

1. Planning Commission Resolution No. 21-65
2. Project Plans
3. Department Review Sheets
4. Photo Simulations
5. IS/MND https://www.malibucity.org/810/Malibu-Inn-Motel
6. Responses to Comments on the Draft IS/MND
7. Public Hearing Notice
A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MALIBU ADOPTING INITIAL STUDY NO. 20-003, AND MITIGATED NEGATIVE DECLARATION NO. 20-003 PURSUANT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, AND APPROVING COASTAL DEVELOPMENT PERMIT NO. 09-067 FOR THE CONSTRUCTION OF A NEW 7,693 SQUARE FOOT, 20-ROOM MOTEL ABOVE A NEW SUBTERRANEAN PARKING GARAGE, SURFACE PARKING LOT, ROOFTOP DECK WITH SWIMMING POOL, SPA AND BAR AREA, GRADING, RETAINING WALLS, LANDSCAPING, A NEW ONSITE WASTEWATER TREATMENT SYSTEM AND AUTHORIZATION FOR THE PLANNING DIRECTOR TO SUBMIT A LETTER OF PUBLIC CONVENIENCE OR NECESSITY FOR THE SALE OF ALCOHOL; INCLUDING CONDITIONAL USE PERMIT NO. 18-002 FOR A MOTEL IN THE COMMERCIAL VISITOR-SERVING-ONE (CV-1) ZONING DISTRICT AND SALE OF ALCOHOL, VARIANCE NO. 18-029 FOR NON-EXEMPT GRADING IN EXCESS OF 1,000 CUBIC YARDS PER ACRE OF COMMERCIAL DEVELOPMENT, VARIANCE NO. 18-030 CONSTRUCTION ON SLOPES STEEPER THAN 3 TO 1, VARIANCE NO. 18-031 FOR A RETAINING WALL THAT IS AN INTEGRAL PART OF THE BUILDING IN EXCESS OF 12 FEET IN HEIGHT, VARIANCE NO. 20-035 FOR SURFACE PARKING WITHIN THE REQUIRED FRONT YARD SETBACK, SITE PLAN REVIEW NO. 18-025 FOR A BUILDING HEIGHT IN EXCESS OF 18 FEET, NOT TO EXCEED 24 FEET FOR A FLAT ROOF, AND JOINT USE PARKING AGREEMENT NO. 18-001 TO SHARE THE PARKING SPACES WITH THE ADJACENT LOT TO THE EAST (22969 PACIFIC COAST HIGHWAY [PCH] – MALIBU INN) LOCATED IN THE CV-1 ZONING DISTRICT AT 22959 PCH (SURFRIDER PLAZA, LLC)

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

SECTION 1. Recitals.

A. On November 4, 2009, an application for Coastal Development Permit (CDP) No. 09-067, was submitted for the Malibu Surfrider Plaza Project (Former Project) consisting of a new commercial plaza providing 7,713 gross square feet of floor area between two buildings and 82 surface and subterranean parking spaces, located at 22959 Pacific Coast Highway (PCH) in the Community Visitor Serving - 1 (CV-1) zoning district, by Surfrider Plaza, LLC. The application was routed to the City Geotechnical staff, City Environmental Health Administrator, City Biologist, City Public Works Department, Los Angeles County Fire Department (LACFD), and Los Angeles County Waterworks District No. 29 (WD29).

B. On November 5, 2009, the Los Angeles Regional Water Quality Control Board (LARWQCB) approved Resolution No. R4-2009-007, banning the use of OWTS in the area. On September 21, 2010, the State Water Regional Control Board (SWRCB) approved that same resolution, thereby amending the State Basin Plan. The adopted plan for a specific Prohibition Area includes the Project Site. Since an application for the Project Site was submitted prior to the adoption of Resolution No. R4-2009-007, the application is listed on Table 4-zz as being eligible for a new onsite wastewater treatment system (OWTS).
C. On June 15, 2017, a Notice of Intent to Adopt a Mitigated Negative Declaration (MND) for the Former Project was published in a newspaper of general circulation within the City of Malibu. The 30-day public review period ran from July 19, 2017.

D. On June 27, 2017, the Environmental Review Board (ERB) reviewed and considered the Former Project, written reports, Initial Study (IS) No. 16-003/MND No. 17-001 and provided recommendations to the Planning Commission.

E. On June 11, 2018, the applicant submitted revised plans for a new motel instead of the previously submitted commercial retail plaza. The revised project plans were then routed to all applicable City departments and Country agencies for review. Conditional Use Permit (CUP) No. 18-002, Variance (VAR) Nos. 18-029, 18-030, 18-031 and 20-035, Site Plan Review (SPR) No. 18-025, and Joint Use Parking Agreement (JUPA) No. 18-001 were added to the Malibu Inn Motel Project (Project).

F. On June 17, 2020, staff deemed the application complete.

G. On February 19, 2021, a Notice of Intent to Adopt a MND was published in a newspaper of general circulation within the City of Malibu. The 30-day public review period ran from February 19, 2021 to March 22, 2021. The Draft IS/MND No. 20-003 was circulated again for another 30-day review period, directed towards agencies due to a file discrepancy, that began on March 29, 2021 and ended on April 28, 2021.

H. On June 10, 2021, a Notice of Coastal Development Permit Application was posted on the subject property.

I. On June 24, 2021, Planning Department staff conducted a site visit to document site conditions, the property and surrounding area.

J. On August 5, 2021, a Notice of Planning Commission Public Hearing was published in a newspaper of general circulation within the City of Malibu and was mailed to all property owners and occupants within a 500-foot radius of the subject property.

K. On August 26, 2021, the Planning Commission held a duly noticed public hearing on the subject application, reviewed and considered the staff report, reviewed and considered written reports, public testimony, and other information in the record.

SECTION 2. Adoption of Mitigated Negative Declaration

Pursuant to the authority and criteria contained in the California Environmental Quality Act (CEQA), the Planning Commission has analyzed the proposed Project. The Planning Department prepared an initial study (IS No. 20-003) pursuant to CEQA Guidelines Section 15305. The initial study analyzed the Project and determined that it will not have a significant impact on the environment with implementation of mitigation measures; subsequently, MND No. 20-003 was prepared and circulated pursuant to CEQA Guidelines Section 15070.

On February 19, 2021, the City made IS/MND No. 20-003 available to the public for the required 30-day circulation period, which concluded on March 22, 2021. The Draft IS/MND was circulated again for another 30-day review period, directed towards agencies due to a file discrepancy, that
began on March 29, 2021. The State Clearinghouse closed its review period on April 28, 2021. A total of twenty-seven pieces of correspondence was received during the public comment period, which is discussed in a Response to Comments (Section 2.0) added to the Final IS/MND.

The Planning Commission has considered IS/MND No. 20-003 together with the comments received during the public review process. IS/MND No. 20-003 reflects the independent judgment of the Planning Commission, and has been completed in compliance with CEQA, and is adequate for this Project.

The Planning Commission finds that the Project does not have the potential to significantly degrade the quality of the environment, nor does it have impacts which are individually limited but cumulatively considerable.

The Planning Commission further finds that less than significant impacts on the environment are expected from the Project, with implementation of mitigation measures. Based on the record as a whole, there is no substantial evidence that the Project, as conditioned, will have a significant effect on the environment.

SECTION 3. Coastal Development Permit Findings.

Based on substantial evidence contained within the record and pursuant to Local Coastal Program (LCP) Local Implementation Plan (LIP), including Sections 13.7(B) and 13.9, the Planning Commission adopts the analysis in the agenda report, incorporated herein, the findings of fact below, and approves CDP No. 09-067 for the construction of a new 7,693 square foot, 20-room motel above a new subterranean parking garage, surface parking lot, rooftop deck with swimming pool, spa and bar area, grading, retaining walls, landscaping, a new OWTS and authorization for the Planning Director to submit a letter of public convenience or necessity for the sale of alcohol; including CUP No. 18-002 for a motel in the CV-1 zoning district and sale of alcohol, VAR No. 18-029 for non-exempt grading in excess of 1,000 cubic yards per acre of commercial development, VAR No. 18-030 construction on slopes steeper than 3 to 1, VAR No. 18-031 for a retaining wall that is an integral part of the building in excess of 12 feet in height, VAR No. 18-035 for surface parking within the required front yard setback, SPR No. 18-025 for a building height in excess of 18 feet, not to exceed 24 feet for a flat roof, and JUPA No. 18-001 to share the parking spaces with the adjacent lot to the east (22969 PCH – Malibu Inn) located in the CV-1 zoning district at 22959 PCH.

The Project is consistent with the LCP’s zoning, grading, cultural resources, water quality, and wastewater treatment system standards requirements. With the inclusion of the proposed discretionary requests, the Project, as conditioned, has been determined to be consistent with all applicable LCP codes, standards, goals, and policies. The required findings are made herein.

A. General Coastal Development Permit (LIP Chapter 13)

1. Evidence in the record, including submitted reports, project plans, visual analysis and site investigation, demonstrates that the Project, as conditioned, conforms to the LCP and MMC in that it meets all applicable development standards inclusive of the requested discretionary requests. The Project has been reviewed for conformance with the LCP by the Planning Department, City Biologist, City Environmental Health Administrator, City geotechnical staff, City Public Works Department, WD29, and LACFD.
2. IS/MND No. 20-003 was prepared in accordance with CEQA and the CEQA Guidelines. Other alternatives were analyzed. This analysis assesses whether alternatives to the Project would significantly lessen adverse impacts to coastal resources. Evidence in the record demonstrates an alternative project will not have a significant environmental or visual advantage as the development is sited within the property dimensions of legal lots and the footprint of existing and previously existing development. As a result, the Project, as proposed and conditioned, is the least environmentally damaging alternative.

3. The Project and IS/MND No. 20-003 were not reviewed by the ERB. However, as a matter of policy, the Former Project for a commercial shopping center and associated IS/MND were reviewed by ERB. The potential environmental impacts as a result of the Project are considered less significant than the Former Project. The ERB recommendation and comment were addressed in IS/MND No. 20-003 and a condition has been added requiring a rootball barrier for the Sycamore trees to minimize potential root damage to the adjacent sidewalk and parking lot.

B. Variance for Non-Exempt Grading in Excess of 1,000 Cubic Yards per Acre of Commercial Development (LIP Section 13.26)

1. There are special circumstances and exceptional characteristic applicable to the subject property. The site’s topography is primarily a steep slope. In order to place a building on the Project Site, the northern slope must be stabilized, and a structural setback is required from the slope to the proposed motel building. Therefore, it would not be feasible to develop the property without substantial grading.

2. The proposed variance will allow construction of the proposed motel. The Project has been evaluated for impacts on environmental factors pursuant to CEQA. Based on the IS/MND and LCP conformance review, the Project as conditioned will not result in any significant adverse impacts to the environment, and will not be detrimental to the public interest, health, safety, convenience or welfare.

3. The granting of the variance will not constitute a special privilege to the applicant or the property owner. The required grading and excavation of the lower portion of the slope within the site boundary and adjacent to the existing parking lot is necessary to provide a level building area for the motel building, subterranean parking level, and the at-grade surface parking lot adjacent to PCH. There is no alternative development pad on the property that would avoid grading. Therefore, approval of the variance will grant relief from a technical development standard, which if strictly applied, could limit development of a commercial building completely on the subject property.

4. The granting of the proposed variance will not be contrary to or in conflict with the LCP as the improvements, consisting of a motel and associated development, are conditionally permitted in the CV-1 zoning district.

5. The variance request does not authorize a use or activity that is not expressly authorized by the zoning regulations for the Project Site. The variance request is consistent with the intent and purpose of the CV-1 zoning district. The motel is a conditionally permitted use in the CV-1 zoning district and additional non-exempt grading quantities are necessary so that the motel development can be constructed in the CV-1 zoning district.
6. The subject site is physically suitable for the proposed variance. The proposed development is primarily sited on the disturbed portion of the subject site; however, given that the site is predominantly on a slope, grading cannot be avoided.

7. The Project complies with all applicable requirements of State and local law, and is conditioned to comply with any relevant approvals and permits. Construction of the motel and associated development is conditioned to comply with all building code requirements and will incorporate all recommendations from applicable City agencies and Project consultants.

C. Variance for Retaining Wall in Excess of 12 Feet in Height (LIP Section 13.26)

1. There are special circumstances and exceptional characteristic applicable to the subject property. The site’s topography is primarily a steep slope. In order to place a building on the Project Site, the northern slope must be stabilized, and a structural setback is required from the slope to the proposed motel building. The retaining wall would be constructed to secure the graded slope following the excavation and to provide a 15-foot structural setback from the slope. The retaining wall is 21 feet, 10 inches in height above finished grade. The retaining wall would extend below finished grade to accommodate the subterranean parking level and provide for an adequate foundation. Therefore, it would not be feasible to develop the property without the proposed retaining wall.

2. The proposed variance will allow construction of a motel. The Project has been evaluated for impacts on environmental factors pursuant to CEQA. Based on the IS/MND and LCP conformance review, the Project as conditioned will not result in any significant adverse impacts, and will not be detrimental to the public interest, health, safety, convenience or welfare.

3. The granting of the variance will not constitute a special privilege to the applicant or the property owner. The site’s topography is predominantly characterized by a steep slope. There is no alternative development pad on the Project Site that would avoid excavation into the steep slope and the resulting retaining wall to secure the excavation. Therefore, approval of the variance will grant relief from a technical development standard, which if strictly applied, would prohibit commercial development on the Project Site. The proposed development is consistent with surrounding properties and in the CV-1 zoning district.

4. The granting of the proposed variance will not be contrary to or in conflict with the LCP as the improvements, consisting of a motel and associated development, are conditionally permitted in the CV-1 zoning district.

5. The variance request does not authorize a use or activity that is not expressly authorized by the zoning regulations for the Project Site. The variance request is to allow for the construction of a retaining wall that exceeds 12 feet in height to allow for the development of the proposed motel in the CV-1 zoning district.

6. The subject site is physically suitable for the proposed variance. The proposed development is primarily sited on the disturbed portion of the subject site; however, given that the site is predominantly on a slope, the proposed retaining wall in excess of 12 feet in height cannot be avoided.
7. The Project complies with all applicable requirements of State and local law, and is conditioned to comply with any relevant approvals and permits. Construction of the motel and associated development is conditioned to comply with all building code requirements and will incorporate all recommendations from applicable City agencies and Project consultants.

D. Variance for Construction for Surface Parking within the Required Front Yard Setback (LIP Section 13.26)

1. There are special circumstances and exceptional characteristic applicable to the subject property. The site’s topography is primarily a steep slope. Without allowing the required parking within the front yard setback, there would not be sufficient space to site for the required parking. The proposed variance would allow for the parking required for the use to be provided onsite as required by the LCP.

2. The proposed variance will allow construction of the proposed motel. The Project has been evaluated for impacts on environmental factors pursuant to CEQA. Based on the IS/MND and LCP conformance review, the Project as conditioned will not result in any significant adverse impacts to the environment, and will not be detrimental to the public interest, health, safety, convenience or welfare.

3. The granting of the variance will not constitute a special privilege to the applicant or the property owner. The site’s topography is predominantly characterized by a steep slope. There is no alternative development pad on the property that would avoid encroachment of the required parking in the front yard setback. Therefore, approval of the variance will grant relief from a technical development standard, which if strictly applied, would prohibit commercial development on the Project Site. The proposed development is consistent with surrounding properties and in the CV-1 zoning district.

4. The granting of the proposed variance will not be contrary to or in conflict with the LCP as the improvements, consisting of a motel and associated development, are conditionally permitted in the CV-1 zoning district.

5. The variance request does not authorize a use or activity that is not expressly authorized by the zoning regulations for the Project Site. The proposed uses are consistent with the allowed uses in the applicable CV-1 zoning district.

6. The subject site is physically suitable for the proposed variance. The proposed development is utilizing the disturbed portion of the subject site, and there is an existing surface parking lot located within the front yard setback. Locating the surface parking lot within the front yard setback cannot be avoided due to the steep slope to the north of the parking lot.

7. The Project complies with all applicable requirements of State and local law, and is conditioned to comply with any relevant approvals and permits. Construction of the motel and associated development is conditioned to comply with all building code requirements and will incorporate all recommendations from applicable City agencies and Project consultants.
E. Site Plan Review for Construction in Excess of 18 Feet in Height (LIP Section 13.27.5)

1. Evidence in the record, including submitted reports, project plans, visual analysis and site investigation, demonstrates that the Project, as conditioned, conforms to the LCP and MMC in that it meets all applicable development standards inclusive of the requested discretionary requests. The Project has been reviewed for conformance with the LCP by the Planning Department, City Biologist, City Environmental Health Administrator, City geotechnical staff, City Public Works Department, WD29, and LACFD.

2. The Project would alter the visual appearance of the Project Site, but would not substantially degrade the visual character or quality of the Project Site or introduce any aesthetic elements incompatible with the surrounding land uses, and the height of the proposed building has been limited to minimize impacts to visual character. The Project Site is buffered from surrounding residential areas by open space and the incorporation of additional landscaping. The design of the proposed building would also serve as a barrier that reduces noise transmission, as patios would face away from residential areas and the building would contain some vehicle noise within the subterranean parking garage. The Project does not propose amplified sound (music, concerts, etc.).

3. Photo simulations to show the design and scale of the proposed development from three vantage points were submitted instead of story poles. As demonstrated in the photo simulations, due to the size, shape, and topography of the lot, the proposed development will blend into the hillside, will be minimally visible from public viewing areas or scenic roads, and is not located within primary views of neighboring properties.

4. The Project complies with all applicable requirements of State and local law, and is conditioned to comply with any relevant approvals and permits. Construction of the motel and associated development is conditioned to comply with all building code requirements and will incorporate all recommendations from applicable City agencies and Project consultants.

5. The Project has been reviewed for conformance with the LCP by the Planning Department, City Biologist, City Environmental Health Administrator, City Public Works Department, City geotechnical staff, WD29, and LACFD. As discussed herein, based on submitted reports, Project plans, visual analysis and site investigation, the Project, as conditioned, complies with all applicable provisions of the MMC and the LCP, inclusive of the VARs and SPR.

F. Hazards (LIP Chapter 9)

1. Evidence in the record demonstrates that the Project, as conditioned, will incorporate all recommendations contained in the above cited geotechnical report and conditions required by the City geotechnical staff, City Public Works Department, and the LACFD, including foundations, AOWTS, and drainage. As such, the proposed Project will not increase instability of the site or structural integrity from geologic, flood, or any other hazards.

2. The Project, as designed, conditioned and approved by the applicable departments and agencies, will not have any significant adverse impacts on site stability or structural integrity from geologic, flood or fire hazards due to Project modifications, landscaping or other conditions.

3. Evidence in the record demonstrates that the Project, as designed and conditioned, is the least environmentally damaging alternative.
4. Evidence in the record demonstrates that there are no feasible alternatives to the proposed development that would avoid or substantially lessen any adverse impacts on site stability or structural integrity as none are expected as a result of the Project.

5. Evidence in the record demonstrates that the Project, as designed and conditioned, is the least environmentally damaging alternative and no adverse impacts to sensitive resources are anticipated.

G. Conditional Use Permit for New Motel Use and Sale of Alcohol (MMC Section 17.66.080)

1. The Project Site is zoned for commercial use, and the proposed motel use is a conditionally permitted in the CV-1 zoning district and is consistent with existing land uses in the vicinity.

2. The proposed motel use is consistent with the commercial zoning designation and consistent with existing commercial land uses in the vicinity. The Project is located within the commercial corridor of the City and the surrounding development is comprised of restaurants, motels, and other commercial development, as well as multi-family residential development. The intensity and density of the proposed use is commensurate with that of the surrounding development and will not impair the integrity and character of the zoning district.

3. The subject site is physically suitable for the proposed motel land use. The Project is located within the developed commercial corridor of the City and the surrounding development is comprised of restaurants, motels, and other commercial development, as well as multi-family residential development. The intensity and density of the proposed use is commensurate with that of the surrounding development and will not impair the integrity and character of the zoning district.

4. The proposed use is compatible with the land uses presently on the subject property and in the surrounding neighborhood. The existing legal non-conforming commercial parking lot as a stand-alone use is being replaced with a commercial use that in contrast is authorized with a conditional use permit in the CV-1 zoning designation.

5. The proposed use will be compatible with the existing and future land uses within the zone district and surrounding area, as it is a commercial use contemplated by the zoning district. The Project is located within the commercial corridor of the City and the proposed motel is a conditionally permitted use in the CV-1 zoning district, which is compatible with the commercial zoning in the general area.

6. There would be adequate provisions for water, sanitation, and public utilities and services to ensure that the proposed use would not be detrimental to public health and safety. Adequate public services and utilities are available to serve the Project. The Project does not affect solar access or adversely impact existing public and private views.

7. Adequate public access is available to serve the Project. Access to the Project is from PCH, an existing public highway. The public, as well as emergency vehicles, would enter and exit the Project Site via PCH. The Project Site is designed with throughput access from PCH to the Aviation Nation Site parking lot, negating any need for vehicles to turnaround. The modified
driveways would require review and approval of an Encroachment Permit by Caltrans. During its review of the permit, Caltrans would ensure the driveways are properly designed to ensure adequate emergency access. All roadway connections would be constructed in conformance with City and Caltrans standards, and would be consistent with LACFD access requirements.

8. Evidence in the record demonstrates the proposed use is consistent with the goals, objectives and policies of the General Plan.

9. The Project will be in full compliance with all applicable State, County and City of Malibu ordinances and laws.

10. As designed and conditioned, the proposed use will not be detrimental to the public interest, health, safety, convenience or welfare, and will provide the public benefit of a potable water supply for domestic use and fire protection.

11. There is clear and compelling evidence that the Project is not located in an area determined by the City to be at risk from earth movement, flooding or liquefaction. With the implementation of the recommendations of the Project geotechnical engineer and City geotechnical staff, less than significant impacts on structural integrity from geologic or flood hazards are expected. The Project, as conditioned, will not increase instability of the site or structural integrity from geologic, flood, fire or any other hazards.

H. Variance for Construction on Slopes Steeper than 3 to 1 (MMC Section 17.72.060)

1. There are special circumstances and exceptional characteristic applicable to the subject property. The site’s topography is primarily a steep slope. The proposed development requires grading and excavation of approximately 0.77 acre of the Project Site, which includes a portion of the slope that is steeper than 3 to 1, to accommodate a subterranean garage and structural setback to the proposed motel building. It would not be feasible to develop the property without development on slopes steeper than 3 to 1.

2. The proposed variance will allow construction of the proposed motel. The Project has been evaluated for impacts on environmental factors pursuant to CEQA. Based on the IS/MND and LCP conformance review, the Project as conditioned will not result in any significant adverse impacts to the environment, and will not be detrimental to the public interest, health, safety, convenience or welfare.

3. The granting of the variance will not constitute a special privilege to the applicant or the property owner. The required grading and excavation of the lower portion of the 3 to 1 slope within the site boundary and adjacent to the existing parking lot is necessary to provide a level building area for the motel building, subterranean parking level, and at-grade surface parking lot adjacent to PCH. There is no alternative development pad on the property that would avoid construction on steep slopes. Therefore, approval of the variance will grant relief from a technical development standard, which if strictly applied, could limit development of a commercial building completely on the subject property.

4. The granting of the proposed variance will not be contrary to or in conflict with the LCP as the improvements, consisting of a motel and associated development, are conditionally permitted in the CV-1 zoning district.
5. The variance request does not authorize a use or activity that is not expressly authorized by the zoning regulations for the Project Site. The variance request is consistent with the intent and purpose of the CV-1 zoning district. The motel is a conditionally permitted use in the CV-1 zoning district and development on slopes steeper than 3 to 1 is necessary so that the motel development can be constructed in the CV-1 zoning district.

6. The subject site is physically suitable for the proposed variance. The proposed development is primarily sited on the disturbed portion of the subject site; however, given that the site is predominantly on a slope, development on slopes steeper than 3 to 1 to allow for the construction of a motel in the CV-1 zoning district cannot be avoided.

7. The Project complies with all applicable requirements of State and local law, and is conditioned to comply with any relevant approvals and permits. Construction of the motel and associated development is conditioned to comply with all building code requirements and will incorporate all recommendations from applicable City agencies and Project consultants.

8. The Project is conditioned for all recommendations of the project engineering geologist or geotechnical engineer, and the City geotechnical staff to be incorporated into the final design. Among other conditions, the project was also conditioned to provide a construction staging plan, adhere to limited construction hours, construction management techniques, and dark sky lighting requirements, fuel modification plans, and grading and water quality provisions. With these conditions, the requested variance will not be detrimental to health, safety and welfare of the City.

SECTION 4. Determination of Public Convenience or Necessity.

According to the State Department of Alcoholic Beverage Control, a Letter of Public Convenience or Necessity may be required for the overconcentration of licenses. Based on CUP findings in Section 3(G) of this resolution, the Planning Commission finds that the proposed use will not be detrimental to the public health, safety, or general welfare and is compatible with the land uses presently on the subject property and in the surrounding neighborhood. The Planning Commission hereby recommends that the City Council authorizes the Planning Director to prepare and submit a Letter of Public Convenience or Necessity for the proposed use to the State Alcoholic Beverage Control Department.


Based on the foregoing findings and evidence contained within the record, the Planning Commission hereby adopts IS-MND No. 20-003 and approves CDP No. 09-067, CUP No. 18-002, VAR Nos. 18-029, 18-030, 18-031, and 20-035, SPR No. 18-025, and JUPA No. 18-001, subject to the following conditions.

SECTION 6. Conditions of Approval.

Standard Conditions

1. The property owners, and their successors in interest, shall indemnify and defend the City of Malibu and its officers, employees and agents from and against all liability and costs relating to the City's actions concerning this Project, including (without limitation) any
award of litigation expenses in favor of any person or entity who seeks to challenge the validity of any of the City's actions or decisions in connection with this Project. The City shall have the sole right to choose its counsel and property owners shall reimburse the City’s expenses incurred in its defense of any lawsuit challenging the City’s actions concerning this Project.

2. Approval of this application is to allow for the Project described herein. The scope of work approved includes:
   a. Construction of a new, 2-story, 7,693 square foot, 20-room motel above a new subterranean parking garage (0.15 FAR);
   b. Rooftop deck with a swimming pool, spa and bar;
   c. Surface parking lot;
   d. Hardscape and landscaping;
   e. Grading and retaining wall;
   f. Onsite wastewater treatment system; and
   g. Discretionary Requests:
      i. CUP No. 18-002 for a new motel in the CV-1 zoning district and sale of alcohol;
      ii. VAR No. 18-029 for non-exempt grading in excess of 1,000 cubic yards per acre of commercial development;
      iii. VAR No. 18-030 for construction on slopes steeper than 3 to 1;
      iv. VAR No. 18-031 for a retaining wall that is an integral part of the building in excess of 12 feet in height;
      v. VAR No. 20-035 for surface parking within the required front yard setback;
      vi. SPR No. 18-025 for a building height in excess of 18 feet not to exceed 24 feet for a flat roof; and
      vii. JUPA No. 18-001 for a parking agreement to provide 24 donor parking spaces to the Malibu Inn site.

3. Except as specifically changed by conditions of approval, the proposed development shall be constructed in substantial compliance with plans on-file with the Planning Department, date-stamped May 18, 2020. The proposed development shall further comply with all conditions of approval stipulated in this resolution and Department Review Sheets attached hereto. In the event the Project plans conflict with any condition of approval, the condition shall take precedence.

4. This conditional use permit and rights conferred in this approval shall not be effective until all appeals are exhausted and the property owner execute the Affidavit of the Acceptance of Conditions. Said documents shall be recorded with the Los Angeles County Recorder and a certified copy of said recordation shall be filed with the Planning Department within 10 days of the effective date of the approval.

5. The applicant shall submit three (3) complete sets of plans, including the items required in Condition No. 6, to the Planning Department for consistency review and approval prior to plan check and again prior to the issuance of any building or development permits.

6. This resolution, signed Acceptance of Conditions Affidavit and all Department Review Sheets attached to the Planning Commission agenda report for this Project shall be copied in their entirety and placed directly onto a separate plan sheet behind the cover sheet of the
development plans submitted to the City of Malibu Environmental Sustainability Department for plan check.

7. This CDP shall expire if the Project has not commenced within three (3) years after issuance of the permit. Extension of the permit may be granted by the approving authority for due cause. Extensions shall be requested in writing by the applicant or authorized agent prior to expiration of the three-year period and shall set forth the reasons for the request. In the event of an appeal, the CDP shall expire if the Project has not commenced within three years from the date the appeal is decided by the decision-making body or withdrawn by the appellant.

8. Any questions of intent or interpretation of any condition of approval will be resolved by the Planning Director upon written request of such interpretation.

9. All development shall conform to requirements of the City of Malibu Environmental Sustainability Department, City Biologist, City Environmental Health Administrator, City geotechnical staff, City Public Works Department, Los Angeles County Sheriff’s Department, WD29, and LACFD, as applicable. Notwithstanding this review, all required permits shall be secured. Notwithstanding this review, all required permits shall be secured.

10. Minor changes to the approved plans or the conditions of approval may be approved by the Planning Director, provided such changes achieve substantially the same results and the Project is still in compliance with the MMC and the LCP. Revised plans reflecting the minor changes and additional fees shall be required.

11. Pursuant to LIP Section 13.20, development pursuant to an approved CDP shall not commence until the CDP is effective. The CDP is not effective until all appeals, including those to the CCC, have been exhausted. In the event that the CCC denies the permit or issues the permit on appeal, the CDP approved by the City is void.

12. The applicant must submit payment for any outstanding fees payable to the City prior to issuance of any building or grading permit.

**Lighting**

13. Exterior lighting must comply with the Dark Sky Ordinance and shall be minimized, shielded, or concealed and restricted to low intensity features, so that no light source is directly visible from public view. Permitted lighting shall conform to the following standards:
   a. Lighting for walkways shall be limited to fixtures that do not exceed two feet in height and are directed downward, and limited to 850 lumens (equivalent to a 60-watt incandescent bulb);
   b. Security lighting controlled by motion detectors may be attached to the residence provided it is directed downward and is limited to 850 lumens;
   c. Driveway lighting shall be limited to the minimum lighting necessary for safe vehicular use. The lighting shall be limited to 850 lumens;
   d. Lights at entrances as required by the Building Code shall be permitted provided that such lighting does not exceed 850 lumens;
   e. Site perimeter lighting shall be prohibited; and
f. Outdoor decorative lighting for aesthetic purposes is prohibited.

14. Night lighting for sports courts or other private recreational facilities shall be prohibited.

15. No permanently installed lighting shall blink, flash, or be of unusually high intensity or brightness. Lighting levels on any nearby property from artificial light sources on the subject property(ies) shall not produce an illumination level greater than one foot candle.

16. Night lighting from exterior and interior sources shall be minimized. All exterior lighting shall be low intensity and shielded directed downward and inward so there is no offsite glare or lighting of natural habitat areas.

17. String lights are allowed in occupied dining and entertainment areas only and must not exceed 3,000 Kelvin.

18. Motion sensor lights shall be programmed to extinguish ten minutes after activation.

19. Three sequential violations of the conditions by the same property owner will result in a requirement to permanently remove the outdoor light fixture(s) from the site.

**Construction / Framing**

20. A construction staging plan shall be reviewed and approved by the Planning Director prior to plan check submittal.

21. Construction hours shall be limited to Monday through Friday from 7:00 a.m. to 7:00 p.m. and Saturdays from 8:00 a.m. to 5:00 p.m. No construction activities shall be permitted on Sundays or City-designated holidays.

22. Construction management techniques, including minimizing the amount of equipment used simultaneously and increasing the distance between emission sources, shall be employed as feasible and appropriate. All trucks leaving the construction site shall adhere to the California Vehicle Code. In addition, construction vehicles shall be covered when necessary; and their tires will be rinsed off prior to leaving the property.

23. When framing is complete, a site survey shall be prepared by a licensed civil engineer or architect that states the finished ground level elevation and the highest roof member elevation. Prior to the commencement of further construction activities, said document shall be submitted to the assigned Building Inspector and Planning Department for review and sign off on framing.

24. Prior to issuance of a building/demolition permit, an Affidavit and Certification to implement a Waste Reduction and Recycling Plan (WRRP) shall be signed by the Owner or Contractor and submitted to the Environmental Sustainability Department. The WRRP shall indicate the agreement of the applicant to divert at least 50 percent of all construction generated by the Project.

25. For the transportation of heavy construction equipment and/or material, which requires the use of oversized-transport vehicles on State highways, the applicant / property owner is
required to obtain a transportation permit from the California Department of Transportation.

Cultural Resources

26. In the event that potentially important cultural resources are found in the course of geologic testing or during construction, work shall immediately cease until a qualified archaeologist can provide an evaluation of the nature and significance of the resources and until the Planning Director can review this information. Thereafter, the procedures contained in LIP Chapter 11 and those in MMC Section 17.54.040(D)(4)(b) shall be followed.

27. If human bone is discovered, the procedures described in Section 7050.5 of the California Health and Safety Code shall be followed. These require notification of the coroner. If the coroner determines that the remains are those of a Native American, the applicant shall notify the Native American Heritage Commission by phone within 24 hours. Following notification of the Native American Heritage Commission, the procedures described in Section 5097.94 and Section 5097.98 of the California Public Resources Code shall be followed.

Site-Specific Conditions

28. No off-site sale of alcohol shall be permitted. Alcohol shall only be served for room service and within the rooftop deck for motel guests.

29. This CUP permits the sale and consumption of alcoholic beverages. The property owner / motel operator shall obtain all necessary approvals from ABC. Once obtained, the applicant is required to provide the Planning Department a copy of the issued ABC license.

30. A copy of the current ABC license shall be kept on the premises of the establishment and be presented to City staff, including the City’s Planning Director and Code Enforcement staff, law enforcement officers or their duly authorized representatives, upon request.

31. At all times during the conduct of the permitted use, the permittee shall maintain and keep in effect valid licensing approval from ABC. Should such licensing be denied, expire or lapse at any time in the future, the approval of alcohol sale pursuant to this permit is subject to modification or revocation of this conditional use permit pursuant to MMC Section 17.66.100(C).

32. Prior to the commencement of alcohol service, the property owner / operator shall install small signs in the interior of the business, as depicted on the project plans, requesting that patrons be courteous and quiet when occupying outdoor areas and stating that alcohol may only be consumed in compliance with the motel’s ABC license.

33. The approved hours of operation for the sale or serving of alcoholic beverages are limited to 12:00 p.m. to 10:00 p.m., Sunday through Thursday, and 12:00 p.m. to 11:00 p.m., Friday and Saturday.

34. No live entertainment or amplified sound is permitted on the property except in compliance with an approved temporary use permit provided it can be demonstrated that the noise
generated from the event would be in compliance with Condition No. 38 and off-street parking spaces can be secured to accommodate the number of people expected in the event.

35. The property owner / operator shall adhere to a “good neighbor” policy, meaning that the operator and employees must respect the rights of neighboring properties and, to the best of their ability, shall ensure their patrons’ compliance with the City’s noise and smoking regulations and all conditions of approval for the subject use relating to parking, smoking, litter, noise, loitering, etc.

36. Noise emanating from the premises shall not be audible at a distance of five feet of any residential unit between the hours of 10:00 p.m. and 7:00 a.m., as required by MMC Section 8.24.050(L).

37. The onsite kitchen may only serve food and beverages to motel guests.

38. The motel operator must adhere to all laws related to the sale of alcohol. Violations of such laws may be cause for modification or revocation of this conditional use permit pursuant to MMC Section 17.66.100(C).

39. No other new signage is permitted under this application; a sign permit shall be submitted and approved by the Planning Department prior to installation of any new sign.

40. The landscaping plan must be revised to include a detail depicting a barrier encircling root ball to be used for all the California Sycamore trees in order to minimize potential root damage to the sidewalk and parking lot. The planting of the California Sycamore trees must be in compliance with this detail.

41. The third driveway curb cut on the Aviation Nation Site from west to east must be removed.

42. Prior to the issuance of a development permit, the property owner must pay the in-lieu fee for the lower cost overnight accommodations in compliance with LIP Section 12.10.

43. Prior to the issuance of a development permit, the property owner / applicant must provide a rooftop floor plan showing the location of the umbrellas in compliance with the height limit.

44. Stack parking spaces may not be used as public parking.

**Mitigation Monitoring and Reporting Program**

45. The Project shall comply with all the mitigation measures included in the MMRP of IS/MND No. 20-003.

**Colors and Materials**

46. The Project is visible from scenic roads or public viewing areas and shall incorporate colors and materials that are compatible with the surrounding landscape.
   a. Acceptable colors shall be limited to colors compatible with the surrounding environment (earth tones) including shades of green, brown and gray, with no white or
light shades and no bright tones. Colors shall be reviewed and approved by the Planning Director and clearly indicated on the building plans.

b. The use of highly reflective materials shall be prohibited except for solar energy panels or cells, which shall be placed to minimize significant adverse impacts to public views to the maximum extent feasible.

c. All windows shall be comprised of non-glare glass.

47. Retaining walls visible from beaches or public viewing areas shall incorporate veneers, texturing and/or colors to blend with the surrounding earth materials. The colors shall be reviewed and approved by the Planning Director and clearly indicated on the grading and building plans.

48. All driveways shall be a neutral color that blends with the surrounding landforms and vegetation. The colors shall be reviewed and approved by the Planning Director and clearly indicated on the grading and building plans.

Conditional Use Permit

49. This conditional use permit may be reviewed by the Planning Director (predecessor and/or designee) and/or Planning Commission on an as-needed basis at the discretion of the Planning Director (predecessor and/or designee) or Planning Commission. Should it be determined that a review is required, the applicant shall pay the Planning Department staff site inspection fee in effect at the time of request for a site inspection. A staff planner will conduct a site visit to verify compliance with the provisions set forth in this resolution. If necessary, the Planning Director will determine whether the conditional use permit may be brought back to the Planning Commission for additional conditions to mitigate and/or prevent nuisances that were identified during the site inspection or made aware of by members of the public. Possible mitigation measures can include:

a. Modifying the hours of operation;

b. Incorporate noise mitigating measures / devices;

c. Traffic safety measures;

d. Land use intensification or reconfiguration of shared parking that would result in a parking demand greater than approved under this application; or

e. Other measures deemed necessary by the Planning Commission.

50. The property owner / tenant shall not use the parking lot for any use other than the uses and activities explicitly permitted for the subject parcel or as permitted by a temporary use permit or filming permit.

51. The property owner and operator must secure an off-site parking area to accommodate vehicles for all events that overlap with other uses that will generate a parking demand in excess of the proposed parking spaces. A shuttle service must be provided between the off-site parking area and the subject property.

52. The conditions under which this conditional use permit may be modified by the City without the consent of the property owner or operator if the Planning Commission finds that the use is creating a nuisance.
53. A conditional use permit that is valid and in effect, and was granted pursuant to the provisions of the MMC, shall run with the land and continue to be valid upon change of ownership of the land or any lawfully existing building or structure on the land.

54. This conditional use permit shall no longer be valid and in effect with the demolition of all buildings, including a major remodel constituting new development requiring a new CDP.

55. The conditional use permit may be revoked if the Planning Commission finds that one or more of the following conditions exists:
   a. The conditional use permit was obtained in a fraudulent manner;
   b. One or more of the conditions found within this resolution have not been substantially met; or
   c. The use for which the CUP was granted ceased for six successive calendar months after the start of operations, except in the case of natural disaster.

56. The conditional use permit is subject to Planning Commission revocation should the use for which the conditional use permit was granted cease for six successive calendar months, except in the case of a natural disaster.

**Building Plan Check/Department Conditions**

**Water Quality/Water Service**

57. Prior to the issuance of a building permit, the applicant shall submit a Will Serve Letter from WD29 to the Planning Department indicating the ability of the property to receive adequate water service.

**Biology/Landscaping**

58. The use of pesticides, including insecticides, herbicides, rodenticides or any toxic chemical substance which has the potential to degrade biological resources shall prohibited throughout the City of Malibu. The eradication of invasive plant species or habitat restoration shall consider first the use of non-chemical methods for prevention and management such as physical, mechanical, cultural, and biological controls. Herbicides may be selected only after all other non-chemical methods have been exhausted. Herbicides shall be restricted to the least toxic product and method, and to the maximum extent feasible, shall be biodegradable, derived from natural sources, and use for a limited time.

59. Prior to final Planning inspection or other final Project sign off (as applicable), the applicant shall submit to the Planning Director for review and approval a certificate of completion in accordance with the Landscape Water Conservation Ordinance (MMC Chapter 9.22). The certificate shall include the property owner’s signed acceptance of responsibility for maintaining the landscaping and irrigation in accordance with the approved plans and MMC Chapter 9.22.

60. Invasive plant species, as determined by the City of Malibu, are prohibited.

61. Vegetation shall be situated on the property so as not to significantly obstruct the primary view from private property at any given time (given consideration of its future growth).
62. The landscape plan shall prohibit the use of building materials treated with toxic compounds such as creosote or copper arsenate.

63. Prior to installation of any landscaping, the applicant shall obtain a plumbing permit for the proposed irrigation system from the Building Safety Division.

64. Prior to a final plan check approval, the property owner/applicant must provide a landscape water use approval from the WD29.

65. Vegetation forming a view impermeable condition serving the same function as a fence or wall (also known as a hedge) located within the side or rear yard setback shall be maintained at or below a height of six feet. A hedge located within the front yard setback shall be maintained at or below a height of 42 inches. Three sequential violations of this condition will result in a requirement to permanently remove the vegetation from the site.

66. Vegetation in excess of six feet in height shall not obstruct the primary view of existing residences located within a 1,000-foot radius at any given time (given consideration of its future growth).

67. Plantings required for fuel modification must be native, drought-tolerant species and shall blend with the existing natural vegetation and natural habitats on the site.

68. Use of wood chips and shredded rubber is prohibited anywhere on the site. Flammable mulch material, including shredded bark, pine needles, and artificial turf, are prohibited between zero and five feet of a structure. Non-continuous use of flammable mulch (excluding wood chips and shredded rubber) is allowed between 5 and 30 feet from the eave/overhang of a structure with limited application areas. Any mulch materials (excluding wood chips and shredded rubber) are allowed 30 feet or more from a structure with no limitation on application area.

69. Delete Dragon tree (*Dracaena draco*) from the planting plan along the PH frontage. All street frontage trees are limited to species natives to the Santa Monica Mountains.

**Environmental Health**

70. Prior to the issuance of a building permit the applicant shall demonstrate, to the satisfaction of the Building Official, compliance with the City of Malibu’s onsite wastewater treatment regulations including provisions of MMC Chapters 15.40, 15.42, 15.44, and LIP Chapter 18 related to continued operation, maintenance and monitoring of the OWTS.

71. Prior to final Environmental Health approval, a final OWTS plot plan shall be submitted showing an OWTS design meeting the minimum requirements of the MMC and the LCP, including necessary construction details, the proposed drainage plan for the developed property and the proposed landscape plan for the developed property. The OWTS plot plan shall show essential features of the OWTS and must fit onto an 11-inch by 17-inch sheet leaving a five-inch margin clear to provide space for a City applied legend. If the scale of the plans is such that more space is needed to clearly show construction details and/or all necessary setbacks, larger sheets may also be provided (up to a maximum size of 18 inches by 22 inches).
72. A final design and system specifications shall be submitted as to all components (i.e., alarm system, pumps, timers, flow equalization devices, backflow devices, etc.) proposed for use in the construction of the proposed OWTS. For all OWTS, final design drawings and calculations must be signed by a California registered civil engineer, a registered environmental health specialist or a professional geologist who is responsible for the design. The final OWTS design drawings shall be submitted to the City Environmental Health Administrator with the designer’s wet signature, professional registration number and stamp (if applicable).

73. Any above-ground equipment associated with the installation of the OWTS shall be screened from view by a solid wall or fence on all four sides. The fence or walls shall not be higher than 42 inches tall.

74. The final design report shall contain the following information (in addition to the items listed above).
   a. Required treatment capacity for wastewater treatment and disinfection systems. The treatment capacity shall be specified in terms of flow rate, gallons per day, and shall be supported by calculations relating the treatment capacity to the number of bedroom equivalents, plumbing fixture equivalents, and/or the subsurface effluent dispersal system acceptance rate. The fixture unit count must be clearly identified in association with the design treatment capacity, even if the design is based on the number of bedrooms. Average and peak rates of hydraulic loading to the treatment system shall be specified in the final design;
   b. Description of proposed wastewater treatment and/or disinfection system equipment. State the proposed type of treatment system(s) (e.g., aerobic treatment, textile filter ultraviolet disinfection, etc.); major components, manufacturers, and model numbers for “package” systems; and conceptual design for custom engineered systems;
   c. Specifications, supporting geology information, and percolation test results for the subsurface effluent dispersal portion of the onsite wastewater disposal system. This must include the proposed type of effluent dispersal system (drainfield, trench, seepage pit subsurface drip, etc.) as well as the system’s geometric dimensions and basic construction features. Supporting calculations shall be presented that relate the results of soils analysis or percolation/infiltration tests to the Projected subsurface effluent acceptance rate, including any unit conversions or safety factors. Average and peak rates of hydraulic loading to the effluent dispersal system shall be specified in the final design. The Projected subsurface effluent acceptance rate shall be reported in units of total gallons per day and gallons per square foot per day. Specifications for the subsurface effluent dispersal system shall be shown to accommodate the design hydraulic loading rate (i.e., average and peak OWTS effluent flow, reported in units of gallons per day). The subsurface effluent dispersal system design must take into account the number of fixture units and building occupancy characteristics; and
   d. All final design drawings shall be submitted with the wet signature and typed name of the OWTS designer. If the scale of the plan is such that more space is needed to clearly show construction details, larger sheets may also be provided (up to a maximum size of 18 inch by 22 inch, for review by Environmental Health). Note: For OWTS final designs, full-size plans are required for review by the Building Safety Division and/or the Planning Department.
75. Prior to final Environmental Health approval, the construction plans for all structures and/or buildings with reduced setbacks must be approved by the City Building Safety Division. The architectural and/or structural plans submitted to Building and Safety plan check must detail methods of construction that will compensate for the reduction in setback (e.g., waterproofing, concrete additives, etc.). For complex waterproofing installations, submittal of a separate waterproofing plan may be required. The architectural/structural/waterproofing plans must show the location of OWTS components in relation to those structures from which the setback is reduced, and the plans must be signed and stamped by the architect, structural engineer, and geotechnical consultants (as applicable).

76. Prior to final Environmental Health approval, the applicant shall provide engineer’s certification for reduction in setbacks to buildings or structures: All proposed reductions in setback from the OWTS to structures (i.e., setbacks less than those shown in MMC Table 15.42.030(E)) must be supported by a letter from the project structural engineer and a letter from the project soils engineer (i.e., a geotechnical engineer or civil engineer practicing in the area of soils engineering). Both engineers must certify unequivocally that the proposed reduction in setbacks from the treatment tank and effluent dispersal area will not adversely affect the structural integrity of the OWTS, and will not adversely affect the structural integrity of the structures for which the Table 15.42.030(E) setback is reduced. Construction drawings submitted for plan check must show OWTS components in relation to those structures from which the setback is reduced. All proposed reductions in setback from the OWTS to buildings (i.e., setbacks less than those shown in Table 15.42.030(E)) also must be supported by a letter from the project architect, who must certify unequivocally that the proposed reduction in setbacks will not produce a moisture intrusion problem for the proposed building(s). If the building designer is not a California-licensed architect, then the required architect’s certification may be supplied by an engineer who is responsible for the building design with respect to mitigation of potential moisture intrusion from reduced setbacks to the wastewater system. In this case, the engineer must include in his/her letter an explicit statement of responsibility for mitigation of potential moisture intrusion. If any specific construction features are proposed as part of a moisture intrusion mitigation system in connection with the reduced setback, then the architect or engineer must provide associated construction documents for review and approval during Building Safety Division plan check. The wastewater plans and the construction plans must be specifically referenced in all certification letters.

77. All project architectural plans and grading/drainage plans shall be submitted for Environmental Health review and approval. The floor plans must show all drainage fixtures, including in the kitchen and laundry areas. These plans must be approved by the Building Safety Division prior to receiving Environmental Health final approval.

78. A covenant running with the land shall be executed between the City of Malibu and the holder of the fee simple absolute as to subject real property and recorded with the City of Malibu Recorder's Office. Said covenant shall serve as constructive notice to any future purchaser for value that the onsite wastewater treatment system serving subject property is an advanced method of sewage disposal pursuant to the City of Malibu Municipal Code. Said covenant shall be provided by the City of Malibu Environmental Health Administrator. Please submit a certified copy issued by the City of Malibu Recorder.
79. A covenant running with the land shall be executed by the property owner and recorded with the Los Angeles County Recorder’s Office. Said covenant shall serve as constructive notice to any successors in interest that: 1) the private sewage disposal system serving the development on the property does not have a 100 percent expansion effluent dispersal area (i.e., replacement disposal field(s) or seepage pit(s)), and 2) if the primary effluent dispersal area fails to drain adequately, the City of Malibu may require remedial measures including, but not limited to, limitations on water use enforced through operating permit and/or repairs, upgrades or modifications to the private sewage disposal system. The recorded covenant shall state and acknowledge that future maintenance and/or repair of the private sewage disposal system may necessitate interruption in the use of the private sewage disposal system and, therefore, any building(s) served by the private sewage disposal system may become non-habitable during any required future maintenance and/or repair. Said covenant shall be in a form acceptable to the City Attorney and approved by the City Environmental Sustainability Department.

80. Proof of ownership of subject property shall be submitted to the City Environmental Health Administrator.

81. An operations and maintenance manual specified by the OWTS designer shall be submitted to the property owner and maintenance provider of the proposed OWTS.

82. Prior to final Environmental Health approval, a maintenance contract executed between the owner of the subject property and an entity qualified in the opinion of the City of Malibu to maintain the proposed OWTS after construction shall be submitted. Only original wet signature documents are acceptable and shall be submitted to the City Environmental Health Administrator.

83. Prior to final Environmental Health approval, a covenant running with the land shall be executed between the City of Malibu and the holder of the fee simple absolute as to subject real property and recorded with the City of Malibu Recorder’s Office. Said covenant shall serve as constructive notice to any future purchaser for value that the onsite wastewater treatment system serving subject property is an advanced method of sewage disposal pursuant to the MMC. Said covenant shall be provided by the City of Malibu Environmental Health Administrator.

84. The City geotechnical staff final approval shall be submitted to the City Environmental Health Administrator.

85. The City Biologist’s final approval shall be submitted to the City Environmental Health Administrator. The City Biologist shall review the OWTS design to determine any impact on Environmentally Sensitive Habitat Area if applicable.

86. In accordance with MMC Chapter 15.44, prior to Environmental Health approval, an application shall be made to the Environmental Sustainability Department for an OWTS operating permit.

87. Submit wastewater plans, and all necessary supporting forms and reports to the Los Angeles Regional Water Quality Control Board (RWQCB), 320 W. 4th St., Los Angeles, CA 90013, (213)576-6600, to assure compliance with the California Water Quality Control
Plan, Los Angeles Region (Basin Plan). RWQCB Waste Discharge Requirements shall be obtained and submitted to the City of Malibu Environmental Health Administrator

Geology

88. All recommendations of the consulting certified engineering geologist or geotechnical engineer and/or the City Geologist shall be incorporated into all final design and construction including foundations, grading, sewage disposal, and drainage. Final plans shall be reviewed and approved by the City Geologist prior to the issuance of a grading permit.

89. Final plans approved by the City Geologist shall be in substantial conformance with the approved CDP relative to construction, grading, sewage disposal and drainage. Any substantial changes may require amendment of the CDP or a new CDP.

Public Works

Street Improvements

90. The Project proposes to construct a new driveway and other improvements within Caltrans' right-of-way. Prior to the Public Works Department approval of the grading or building permit, the applicant shall obtain encroachment permits from Caltrans for the proposed improvements.

Grading/Drainage

91. Exported soil from the site shall be taken to the County Landfill or to a site with an active grading permit and the ability to accept the material in compliance with LIP Section 8.3. A note shall be placed on the project plans that addresses this condition.

92. A grading and drainage plan containing the following information shall be submitted to the Public Works Department for approval, prior to the issuance of grading permits for the Project:
   a. Public Works Department general notes;
   b. The existing and proposed square footage of impervious coverage on the property shall be shown on the grading plan (including separate areas for buildings, driveways, walkways, parking, tennis courts and pool decks);
   c. The limits of land to be disturbed during project development shall be delineated and a total area shall be shown on this plan. Areas disturbed by grading equipment beyond the limits of grading, areas disturbed for the installation of the septic system, and areas disturbed for the installation of the detention system shall be included within the area delineated;
   d. The limits to land to be disturbed during project development shall be delineated and a total area of disturbance should be shown on this plan. Areas disturbed by grading equipment beyond the limits of grading shall be included within the area delineated;
   e. If the property contains rare, endangered or special status species as identified in the Biological Assessment, this plan shall contain a prominent note identifying the areas to be protected (to be left undisturbed). Fencing of these areas shall be delineated on this plan is required by the City Biologist;
f. The grading limits shall include the temporary cuts made for retaining walls, buttresses and over excavations for fill slopes;

g. Private storm drain systems shall be shown on this plan. Systems greater than 12 inch in diameter shall also have a plan and profile for the system included with this plan; and

h. Public storm drain modifications shown on the grading plan shall be approved by the Public Works Department prior to the issuance of the grading permit.

93. Clearing and grading during the rainy season (extending from November 1 to March 31) shall be prohibited for development that:

a. Is located within or adjacent to ESHA, or

b. Includes grading on slopes greater than 4 to 1.

Approved grading for development that is located within or adjacent to ESHA or on slopes greater than 4 to 1 shall not be undertaken unless there is sufficient time to complete grading operations before the rainy season. If grading operations are not completed before the rainy season begins, grading shall be halted and temporary erosion control measures shall be put into place to minimize erosion until grading resumes after March 31, unless the City determines that completion of grading would be more protective of resources.

94. A digital drawing (AutoCAD) of the Project’s private storm drain system, public storm drain system within 250 feet of the property limits and post-construction BMPs shall be submitted to the Public Works Department prior to grading or building permit issuance. The digital drawing shall adequately show all storm drain lines, inlets, outlet, post-construction BMPs and other applicable facilities. The digital drawing shall also show the subject property, public street and any drainage easements.

*Stormwater*

95. A Local Storm Water Pollution Prevention Plan shall be provided prior to the issuance of the Grading/Building permits for the Project. This plan shall include an Erosion and Sediment Control Plan (ESCP) that includes, but not limited to:

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All Best Management Practices (BMP) shall be in accordance to the latest version of the California Stormwater Quality Association (CASQA) BMP Handbook. Designated areas for the storage of construction materials, solid waste management, and portable toilets must not disrupt drainage patterns or subject the material to erosion by site runoff.

96. **A Storm Water Management Plan (SWMP)** shall be submitted for review and approval of the Public Works Director. The SWMP shall be prepared in accordance with the LIP Section 17.3.2 and all other applicable ordinances and regulations. The SWMP shall be supported by a hydrology and hydraulic study that identifies all areas contributory to the property and an analysis of the pre-development and post-development drainage of the site. The SWMP shall identify the site design and source control BMPs that have been implemented in the design of the project. The SWMP shall be reviewed and approved by the Public Works Department prior to the issuance of the grading or building permit for this project.

97. **A Water Quality Mitigation Plan (WQMP)** shall be submitted for review and approval of the Public Works Director. The WQMP shall be prepared in accordance with the LIP Section 17.3.3 and all other applicable ordinances and regulations. The WQMP shall be supported by a hydrology and hydraulic study that identifies all areas contributory to the property and an analysis of the predevelopment and post development drainage on the site. The following elements shall be included within the WQMP:
   a. Site Design Best Management Practices (BMPs);
   b. Source Control BMPs;
   c. Treatment Control BMPs;
   d. Drainage improvements;
   e. Methods for onsite percolation, site re-vegetation and an analysis for off-site Project impacts;
   f. Measures to treat and infiltrate runoff from impervious areas;
   g. A plan for the maintenance and monitoring of the proposed treatment BMPs for the expected life of the structure;
   h. A copy of the WQMP shall be filed against the property to provide constructive notice to future property owners of their obligation to maintain the water quality measures installed during construction prior to the issuance of grading or building permits; and
   i. The WQMP shall be submitted to the Building Safety Division and the fee applicable at the time of submittal for review of the WQMP shall be paid prior to the start of the technical review. Once the plan is approved and stamped by the Public Works Department, the original signed and notarized document shall be recorded with the County Recorder. A certified copy of the WQMP shall be submitted prior to the Public Works Department approval of building plans for the Project.

**Miscellaneous**

98. The developers consulting engineer shall sign the final plans prior to the issuance of permits.

99. Prior to the commencement of work, the applicant shall submit a copy of their Construction Management Plan. The Construction Management Plan shall include a dedicated parking
location for construction workers, not within the public right-of-way.

100. Prior to the approval of any grading and drainage permit, the applicant shall submit a PDF of the final plans. If there are further modifications to the plans, the applicant shall provide the City with an updated PDF.

Swimming Pool and Spa

101. The discharge of swimming pool, spa and decorative fountain water and filter backwash, including water containing bacteria, detergents, wastes, algaeicides or other chemicals is prohibited. Swimming pool, spa, and decorative fountain water may be used as landscape irrigation only if the following items are met:
   a. The discharge water is dechlorinated, debrominated or if the water is disinfected using ozonation;
   b. There are sufficient BMPs in place to prevent soil erosion; and
   c. The discharge does not reach into the MS4 (including tributaries).

Discharges not meeting the above-mentioned methods must be trucked to a Publicly Owned Wastewater Treatment Works.

102. The applicant shall also provide a construction note on the plans that directs the contractor to install a new sign stating "It is illegal to discharge pool, spa or water feature waters to a street, drainage course or storm drain per MMC 13.04.060(D)(5)." The new sign shall be posted in the filtration and/or pumping equipment area for the property. Prior to the issuance of any permits; the applicant shall indicate the method of disinfection and the method of discharging.

Commercial Development

103. All commercial developments shall be designed to control the runoff of pollutants from structures, parking and loading docks. The following minimum measures shall be implemented to minimize the impacts of commercial developments on water quality:
   a. Proper design of loading and unloading docks.
      i. Cover loading/unloading dock areas or design drainage to minimize run-on and runoff of storm water.
      ii. Direct connections to storm drains from depressed loading/unloading docks are prohibited.
   b. Properly design Repair/Maintenance Bays
      i. Repair/maintenance bays must be indoors or designed to prohibit storm water runoff or contact with storm water runoff.
      ii. Repair/maintenance bays shall be designed to capture all wash water, leaks, and spills. Connect drains to a sump for collection and disposal. Direct connection of the repair/maintenance bays to the storm drain is prohibited. Obtain an Industrial waste discharge permit if required.
   c. Properly Design Vehicle/Equipment Wash Areas
      i. Self-contained and/or covered wash areas shall be equipped with a clarifier or other pretreatment facility and properly connected to a sanitary sewer.
   d. Properly designed Parking lots (5,000 square feet of impervious surface or 25
parking spaces.)
  i. Minimize impervious surfacing for parking area.
  ii. Infiltrate runoff before it reaches a storm drain system.
  iii. Treat to remove oil and petroleum hydrocarbons at parking lots that are heavily used.
  iv. Ensure adequate operation and maintenance of treatment systems particularly sludge and oil removal system fouling and plugging prevention control.

Restaurants

104. Properly design equipment/accessory wash areas:
    a. Install self-contained wash area, equipped with grease trap, and properly connected to Sanitary Sewer.
    b. If the Wash area is located outdoors, it must be covered, paved, have secondary containment and shall be connected to the sanitary sewer.

Trash Storage Areas

105. Trash container areas must have drainage from adjoining roofs and pavement diverted around the area.

106. Trash container areas must be screened or walled to prevent off-site transport of trash.

Outdoor Material Storage

107. Materials with the potential to contaminate storm water must be: (1) placed in an enclosure such as a cabinet shed or similar structure that prevents contact with runoff or spillage to the storm water conveyance system; or (2) protected by secondary containment structures such as berms, dikes or curbs.

108. The storage areas must be paved and sufficiently impervious to contain leaks and spills.

109. The storage area must have a roof or awning to minimize collection of storm water within the secondary containment area.

Prior to Final Sign-Off/Prior to Occupancy

110. Prior to the issuance of a Certificate of Occupancy =, the City Biologist shall inspect the Project site and determine that all planning conditions have been implemented to protect natural resources in compliance with approved plans and this resolution.

111. Prior to a final Building inspection, the applicant shall provide the Environmental Sustainability Department a final Waste Reduction and Recycling Summary Report (WRRP Summary Report). The final Summary Report shall designate all material that were land filled or recycled, broken down by material types. The Environmental Sustainability Department shall approve the Final Summary Report.
112. Prior to, or at the time of a Planning final inspection, the property owner / applicant shall submit to the Planning Department the plumbing permit for the irrigation system installation signed off by the Building Safety Division.

113. The applicant shall request a final Planning Department inspection prior to final inspection by the City of Malibu Environmental and Sustainability Department. A final approval and Certificate of Occupancy shall not be issued until the Planning Department has determined that the Project complies with this CDP. A temporary Certificate of Occupancy may be granted at the discretion of the Planning Director, provided adequate security has been deposited with the City to ensure compliance should the final work not be completed in accordance with this permit.

114. Any construction trailer, storage equipment or similar temporary equipment not permitted as part of the approved scope of work shall be removed prior to final inspection and approval, and if applicable, the issuance of the certificate of occupancy.

Deed Restrictions

115. The property owner(s) are required to execute and record a deed restriction which shall indemnify and hold harmless the City, its officers, agents, and employees against any and all claims, demands, damages, costs and expenses of liability arising out of the acquisition, design, construction, operation, maintenance, existence or failure of the permitted Project in an area where an extraordinary potential for damage or destruction from wildfire exists as an inherent risk to life and property. The property owner shall provide a copy of the recorded document to Planning Department staff prior to final Planning approval.

116. Prior to final Planning Department approval, the applicant shall be required to execute and record a deed restriction reflecting lighting requirements set forth in this resolution. The property owner shall provide a copy of the recorded document to the Planning Department prior to final Planning Department approval.

Fixed Conditions

117. This coastal development permit shall run with the land and bind all future owners of the property.

118. Violation of any of the conditions of this approval may be cause for revocation of this permit and termination of all rights granted there under.

Mitigation Measures

119. Worker Education and Unanticipated Discovery Response. A qualified paleontologist as approved by the City of Malibu and the Los Angeles County Natural History Museum Vertebrate Paleontology Department shall be retained prior to ground-disturbing activities associated with construction of any individual project phase. Prior to ground-disturbance, the qualified paleontologist shall provide the construction crew(s) a brief summary of the paleontological potential of the underlying geology, the rationale behind the need for protection paleontological resources, information on the initial identification of
paleontological resources, and procedures to implement in the event paleontological resources are discovered.

In the event paleontological resources are uncovered at any point during construction activities, the Construction Contractor shall halt ground-disturbing activities and notify the Paleontologist and City, at which time the Paleontologist shall conduct an on-site inspection of the discovery, make a preliminary taxonomic identification, determine whether further action is required, and recommend measures for further evaluation, and/or collection of the resource as appropriate.

a. Ground-disturbance shall not resume in the vicinity of the discovery until the Paleontologist has assessed the resource.

b. The Paleontologist shall have the authority to halt and/or redirect construction activities to allow a reasonable amount of space and time to evaluate potential resources.

c. Significant resources shall be collected, prepared, and curated with an accredited institution as determined necessary by the Paleontologist.

120. **Construction Noise Control.** All construction machinery and delivery trucks shall be maintained to the highest level of performance, and shall be outfitted with all noise reduction accessories, e.g., mufflers, enclosures, etc. that are offered by the equipment manufacturers. The construction site shall be laid out such that materials are stored and staged near the southwestern edge of the site to maximize the distance from the residence and daycare. A temporary barrier capable of reducing the intensity of sound shall be erected between the project site and the school during the construction period. Prior to construction, all residences within 500 feet of the property line shall be individually notified of the project’s construction schedule. Prior to construction, a sign shall be posted on the site that is legible from at least 50 feet off-site. The sign shall include a telephone number that residents can call to inquire about the construction process and to register complaints. The project applicant shall designate a “noise control coordinator” who will reply to all construction noise-related questions and complaints. Pile driving shall not be conducted on-site unless approved by the City.

121. **Prohibition of Amplified Sound.** Amplified sound outdoors is prohibited from occurring at the property. In the case that amplified sound is proposed outdoors at the property, the applicant shall prepare a noise study and/or otherwise demonstrate that the use of amplified sound would adhere to City noise regulation. The noise study and/or demonstration shall include review by the City and approval would be subject to conditions of approval as necessary (e.g., maximum volume limits, complaint system implementation, etc.) to avoid impacts on nearby land uses.

122. In the event that Tribal Cultural Resources are discovered during Project activities, all work in the immediate vicinity of the find (within a 75-foot buffer) shall cease and a qualified archaeologist meeting Secretary of Interior standards shall assess the find. The Lead Agency or Project manager shall contact the Fernandeño Tataviam Band of Mission Indians and Kizh Nation Gabrieleno Band of Mission Indians to consult if any such find occurs within areas culturally and traditionally affiliated with the Fernandeño Tataviam Band of Mission Indians and Kizh Nation Gabrieleno Band of Mission Indians.
SECTION 7. The Planning Commission shall certify the adoption of this resolution.

PASSED, APPROVED AND ADOPTED this 26th of August 2021.

__________________________________________
JEFFREY JENNINGS, Planning Commission Chair

ATTEST:

____________________________________
PATRICIA SALAZAR, Recording Secretary

LOCAL APPEAL - Pursuant to Malibu Municipal Code Section 17.04.220 (Appeal of Action), a decision of the Planning Commission may be appealed to the City Council by an aggrieved person by written statement setting forth the grounds for appeal. An appeal shall be filed with the City Clerk within 10 days and shall be accompanied by an appeal form and filing fee, as specified by the City Council. Appeal forms and fee schedule may be found online at www.malibucity.org/planningforms, in person, or by calling (310) 456-2489, extension 245.

COASTAL COMMISSION APPEAL – An aggrieved person may appeal the Planning Commission’s approval to the Coastal Commission within 10 working days of the issuance of the City’s Notice of Final Action. Appeal forms may be found online at www.coastal.ca.gov or by calling (805) 585-1800. Such an appeal must be filed with the Coastal Commission, not the City.

I CERTIFY THAT THE FOREGOING RESOLUTION NO. 21-65 was passed and adopted by the Planning Commission of the City of Malibu at the special meeting held on the 26th of August 2021 by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

____________________________________
PATRICIA SALAZAR, Recording Secretary
**LANDSCAPE AREA TABULATION:**

**TOTAL LOT SIZE:**
GROSS AREA = 1,362 SF  
NET AREA = 46,413 SF

**REQUIRED OPEN SPACE:**
25% x 46,413 SF = 11,603 SF

**REQUIRED LANDSCAPE AREA:**
40% x 46,413 SF = 18,565 SF

**NATURAL UNDISTURBED HILLSIDE OPEN SPACE:**
17,052 SF

**TOTAL PLANTED AREA:**
11,572 SF

**PROPOSED TOTAL LANDSCAPING AREA / PERMEABLE AREA / OPEN SPACE:**
23,173 SF, (47% OF LOT AREA)

**LANDSCAPE AREA TABULATION:**
- AREA #1 - LANDSCAPE PLANTED AREA (MEDIUM WATER USE) = 1,501 SF
- AREA #2 - HEDGE (MEDIUM WATER USE) = 275 SF
- AREA #3 - VAPE PLANTED = 363 SF
- AREA #4 - DROUGHT TOLERANT PLANTED AREA = 84,330 SF

**BLOG: DOT PRINT & IMPERMEABLE DRIVEWAY & EXTERIOR STAIRS = 22,179 SF, (43% OF LOT AREA)**

**PARKING LOT & PLANTING AREA:**
- FRONT YARD PARKING AREA = 9,734 SF
- 5% OF PARKING LOT REQUIRED FOR PLANTED AREA = 485 SF
- PROPOSED PLANTED AREAS WITHIN THE PARKING LOT = 491 SF
- PROPOSED PLANTED AREAS WITHIN THE PARKING LOT = 835 SF
- TOTAL PROPOSED PLANTED AREAS WITHIN THE PARKING LOT = 733 SF
- 5% FRONT YARD PARKING AREA
LANDSCAPE LIGHTING KEY:

- CONTROLLER, 12 VOLT NI-CD (CHARGER)
- OPERATIONAL DECK LIGHT, 3W-HV 120V AC-DC (10)
- TRACK LIGHT, 3W-HV 120V AC-DC 120V (10)
- BUSH LIGHT, 3W-HV 120V AC-DC 120V (10)
- GLOBE LIGHT, 3W-HV 120V AC-DC 120V (10)
- WIRE MOUNTED LIGHT, 60W-HV 120V AC-DC 120V (10)
- WIRE MOUNTED LIGHT, 60W-HV 120V AC-DC 120V (10)
- WIRE MOUNTED LIGHT, 60W-HV 120V AC-DC 120V (10)
- WIRE MOUNTED LIGHT, 60W-HV 120V AC-DC 120V (10)
- WIRE MOUNTED LIGHT, 60W-HV 120V AC-DC 120V (10)
- WIRE MOUNTED LIGHT, 60W-HV 120V AC-DC 120V (10)

LIGHTING NOTES:
LOCATION OF LIGHTS AND DESIGN AREAS TO BE SET POST CONSTRUCTION LIGHTS ARE TO BE ITALIAN OR LEATHER LIGHTS ARE TO BE SET UP PRIOR TO INSTALLATION.

WIRE MOUNTED LIGHTS ARE TO BE PROCED BY ELECTRICIAN

ALL LIGHTS SHALL BE TUNED AND SUITABLE FOR INSTALLATION.

LIGHTS AS NOTED SHALL NOT BE USED FOR LIGHTING.

WIRE MOUNTED LIGHTS SHALL NOT BE USED FOR LIGHTING.
TO: City of Malibu Biologist
FROM: City of Malibu Planning Department

PROJECT NUMBER: CDP 09-067
JOB ADDRESS: 22959 PACIFIC COAST HWY
APPLICANT / CONTACT: Joseph Lezama, Burdge and Associates Architect
APPLICANT ADDRESS: 24911 Pacific Coast Highway
Malibu, CA 90265
APPLICANT PHONE #: (310) 456-5905
APPLICANT EMAIL: joseph@buaia.com
PLANNER: Adrian Fernandez
PROJECT DESCRIPTION: New Motel, Grading, Retaining Walls, NAOWTS. Previously proposed as a new commercial building.

TO: Malibu Planning Department and/or Applicant
FROM: City Biologist, Dave Crawford

The project review package is INCOMPLETE and CANNOT proceed through Final Planning Review until corrections and conditions from Biological Review are incorporated into the proposed project design (See Attached).

The project is APPROVED, consistent with City Goals & Policies associated with the protection of biological resources and CAN proceed through the Planning process.

The project may have the potential to significantly impact the following resources, either individually or cumulatively: Sensitive Species or Habitat, Watersheds, and/or Shoreline Resources and therefore Requires Review by the Environmental Review Board (ERB).

Signature: __________ Date: ________

Additional requirements/conditions may be imposed upon review of plan revision

Contact Information:
Dave Crawford, City Biologist, dcrawford@malibucity.org, (310) 456-2489, extension 277
## BIOLOGY REVIEW SHEET

### PROJECT INFORMATION

<table>
<thead>
<tr>
<th>Applicant:</th>
<th>Joseph Lezama</th>
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<tbody>
<tr>
<td>(name and email</td>
<td><a href="mailto:joseph@buaia.com">joseph@buaia.com</a></td>
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<td>address)</td>
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<tr>
<td>Project Address:</td>
<td>22959 Pacific Coast Highway</td>
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<tr>
<td>Planning Case No.:</td>
<td>CDP 09-067</td>
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<tr>
<td>Project Description:</td>
<td>New motel, grading, retaining</td>
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<td>walls, NAOWTS, Previously proposed</td>
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<td>as a new commercial building</td>
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<td>Date of Review:</td>
<td>February 11, 2019</td>
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<td>Reviewer:</td>
<td>Dave Crawford</td>
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<tr>
<td>Contact Information:</td>
<td>Phone: (310) 456-2489 ext. 307</td>
</tr>
<tr>
<td></td>
<td>Email: <a href="mailto:dcrawford@malibucity.org">dcrawford@malibucity.org</a></td>
</tr>
</tbody>
</table>

### SUBMITTAL INFORMATION

| Site Plans:       | 1/8/19 |
| Site Survey:      | 1/8/19 |
| Planting Plan:    | 1/8/19 |
| Irrigation/Hydrozone/ water budget Plan: | 1/8/19 |
| Grading Plans:    | 1/8/19 |
| OWTS Plan:        | 1/8/19 |
| Bio Assessment:   |        |
| Bio Inventory:    |        |
| Native Tree Survey: |      |
| Native Tree Protection Plan | |
| Other:            |        |
| Previous Reviews: | Incomplete 12/14/09, incomplete 5/22/12, incomplete 4/7/15, approved 8/25/15, incomplete 6/26/18 |

### REVIEW FINDINGS

- **Review Status:**
  - □ INCOMPLETE: Additional information and/or a response to the listed review comments is required.
  - □ DENIED: The project cannot be approved as designed as it is conflict with one or more elements of the LCP and/or City Codes.
  - ☑ APPROVED: The proposed project approved with the conditions attached.

- Environmental Review Board:
  - □ This project has the potential to impact ESHA and may require review by the Environmental Review Board.
DISCUSSION:

1. The Maximum Applied Water Allowance (MAWA) for this project totals 131,018 gallons per year. The Estimated Applied Water Use (EAWU) totals 120,472 gpy, thus meeting the Landscape Water Conservation Ordinance Requirements.

RECOMMENDATIONS:

1. The project is recommended for APPROVAL with the following conditions:

A. Prior to installation of any landscaping, the applicant shall obtain plumbing permit for the proposed irrigation system from the Building Safety Division.

B. Prior to or at the time of a Planning final inspection, the property owner/applicant shall submit to the case planner a copy of the plumbing permit for the irrigation system installation that has been signed off by the Building Safety Division.

C. Prior to final Planning inspection or other final project sign off (as applicable), the applicant shall submit to the Planning Director for review and approval a certificate of completion in accordance with the Landscape Water Conservation Ordinance (MMC Chapter 9.22). The certificate shall include the property owner’s signed acceptance of responsibility for maintaining the landscaping and irrigation in accordance with the approved plans and MMC Chapter 9.22.

D. Prior to Final Plan Check Approval, if your property is serviced by the Los Angeles County Waterworks District No. 29, please provide landscape water use approval from that department. For approval contact:

Nima Parsa
Address: 23533 West Civic Center Way, Malibu, CA 90265-4804
Email: Nparsa@DPW.LACOUNTY.GOV (preferred)
Phone: (310) 317-1389

Please note this action may require several weeks. As such, the applicant should submit their approved landscape plans to DPW as soon as feasible in order to avoid a delay at plan check.

E. Delete Dragon tree (Dracaena draco) from the planting plan along the PCH frontage. All street frontage trees are limited to species native to the Santa Monica Mountains.

F. Vegetation forming a view impermeable condition (hedge), serving the same function as a fence or wall, occurring within the side or rear yard setback shall be maintained at or below six (6) feet in height. View impermeable hedges occurring within the front yard setback serving the same function as a fence or wall shall be maintained at or below 42 inches in height.

G. Invasive plant species, as determined by the City of Malibu, are prohibited.
H. Vegetation shall be situated on the property so as not to obstruct the primary view from private property at any given time (given consideration of its future growth).

I. The landscape plan shall prohibit the use of building materials treated with toxic compounds such as creosote and copper arsenate.

J. Grading should be scheduled only during the dry season from April 1-October 31st. If it becomes necessary to conduct grading activities from November 1 - March 31, a comprehensive erosion control plan shall be submitted for approval prior to issuance of a grading permit and implemented prior to initiation of vegetation removal and/or grading activities.

K. Night lighting from exterior and interior sources shall be minimized. All exterior lighting shall be low intensity and shielded so it is directed downward and inward so that there is no offsite glare or lighting of natural habitat areas.

L. Up-lighting of landscaping is prohibited.

2. PRIOR TO ISSUING A CERTIFICATE OF OCCUPANCY, the City Biologist shall inspect the project site and determine that all planning conditions to protect natural resources are in compliance with the approved plans.

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If you have any questions regarding the above requirements, please contact the City Biologist office at your earliest convenience.

cc: Planning Project file  
Planning Department
ENVIRONMENTAL HEALTH REVIEW
REFERRAL SHEET

TO: City of Malibu Environmental Health Administrator  DATE: 6/11/2018
FROM: City of Malibu Planning Department

PROJECT NUMBER: CDP 09-067
JOB ADDRESS: 22959 PACIFIC COAST HWY
APPLICANT / CONTACT: Joseph Lezama, Burdge and Associates Architects
APPLICANT ADDRESS: 24911 Pacific Coast Highway Malibu, CA 90265
APPLICANT PHONE #: (310) 456-5905
APPLICANT FAX #: 
APPLICANT EMAIL: joseph@buaia.com
PROJECT DESCRIPTION: New Motel, Grading, Retaining Walls, NAOWTS. Previously proposed as a new commercial building.

TO: Malibu Planning Department and/or Applicant
FROM: City of Malibu Environmental Health Reviewer

Conformance Review Complete for project submittals reviewed with respect to the City of Malibu Local Coastal Plan/Local Implementation Plan (LCP/LIP) and Malibu Municipal Code (MMC). The Conditions of Planning conformance review and plan check review comments listed on the attached review sheet(s) (or else handwritten below) shall be addressed prior to plan check approval.

Conformance Review Incomplete for the City of Malibu LCP/LIP and MMC. The Planning stage review comments listed on the City of Malibu Environmental Health review sheet(s) shall be addressed prior to conformance review completion.

OWTS Plot Plan:  
☐ NOT REQUIRED  
☒ REQUIRED (attached hereto)  ☐ REQUIRED (not attached)

Signature: [Signature]
Date: 3-8-19
ENVIRONMENTAL HEALTH REVIEW SHEET

PROJECT INFORMATION

Applicant:
(name and email address) Joseph Lezama
Burdge & Associates
joseph@buaia.com

Project Address:
22959 Pacific Coast Hwy, Malibu Inn Motel
Malibu, CA 90265

Planning Case No.: CDP 09-067 Revised

Project Description: New motel, grading, retaining walls, new AOWTS

Date of Review: March 8, 2019

Reviewer: Melinda Talent Signature: Melinda Talent
Contact Information: Phone: (310) 456-2489 ext.364 Email: mtalent@malibucity.org

SUBMITTAL INFORMATION

Architectural Plans: Burdge & Associates dated 6-8-18
Grading Plans: Grading and Drainage plan by GeoWorks dated 5-8-18
OWTS Plan: Ensitu Engineering dated 5-30-18, Revised plan dated 2-19-19
OWTS Report: Ensitu Engineering dated 7-26-18, 2-21-19
Geology Report: Geologic Map by GeoConcepts dated May 2018


REVIEW FINDINGS

Planning Stage: CONFORMANCE REVIEW COMPLETE for the City of Malibu Local Coastal Program/Local Implementation Plan (LIP) and Malibu Municipal Code (MMC). The listed conditions of Planning stage conformance review and plan check review comments shall be addressed prior to plan check approval.

☐ CONFORMANCE REVIEW INCOMPLETE for the City of Malibu LIP and MMC. The listed Planning stage review comments shall be addressed prior to conformance review completion.

OWTS Plot Plan: NOT REQUIRED

Based upon the project description and submittal information noted above, a conformance review was completed for a new advanced onsite wastewater treatment system (OWTS) proposed to serve the onsite wastewater treatment and disposal needs of the subject property. The proposed advanced OWTS meets the minimum requirements of the Malibu Municipal Code and the City of Malibu Local Coastal Program (LCP)/Local Implementation Plan (LIP). Please distribute this review sheet to all of the project consultants and, prior to final approval, provide a coordinated submittal addressing all conditions for final approval and plan check items.

The conditional conformance findings hereby transmitted complete the Planning stage Environmental Health review of the subject development project. In order to obtain Environmental Health final approval.
of the project OWTS Plot Plan and associated construction drawings (during Building Safety plan check), all conditions and plan check items listed below must be addressed through submittals to the Environmental Health office.

Conditions of Planning Conformance Review for Building Plan Check Approval:

1) **Final Onsite Wastewater Treatment System (OWTS) Plot Plan:** A final plot plan prepared by a City Registered OWTS Designer shall be submitted showing an OWTS design meeting the minimum requirements of the Malibu Municipal Code (MMC) and the Local Coastal Program (LCP)/Local Implementation Plan (LIP). The plans must include all necessary construction details, the proposed drainage plan for the developed property, and the proposed landscape plan for the developed property. The OWTS Plot Plan shall show essential features of the OWTS, existing improvements, and proposed/new improvements. The plot must fit on an 11" x 17" sheet leaving a 5" left margin clear to provide space for a City-applied legend. If the plan scale is such that more space is needed to clearly show construction details and/or all necessary setbacks, larger sheets may also be provided (up to a maximum size of 18" x 22" for review by Environmental Health).

2) **Final OWTS Design Report, Plans, and System Specifications:** A final OWTS design report and large set of construction drawings with system specifications (four sets) shall be submitted to describe the OWTS design basis and all components proposed for use in the construction of the OWTS. All plans and reports must be signed by a City Registered OWTS Designer and the plans stamped by the project Geologist, Coastal Engineer, and Structural Engineer as applicable. The final OWTS design report and construction drawings shall be submitted with the designer’s signature, professional registration number, and stamp (if applicable).

The final OWTS design submittal shall contain the following information (in addition to the items listed above).

a. Required treatment capacity for wastewater treatment and disinfection systems. The treatment capacity shall be specified in terms of flow rate, gallons per day (gpd), and shall be supported by calculations relating the treatment capacity to the number of bedroom equivalents, plumbing drainage fixture units, and the subsurface effluent dispersal system acceptance rate. The drainage fixture unit count must be clearly identified in association with the design treatment capacity, even if the design is based on the number of bedrooms. Average and peak rates of hydraulic loading to the treatment system shall be specified in the final design.

b. Sewage and effluent pump design calculations (as applicable).

c. Description of proposed wastewater treatment and/or disinfection system equipment. State the proposed type of treatment system(s) (e.g., aerobic treatment, textile filter, ultraviolet disinfection, etc.); major components, manufacturers, and model numbers for “package” systems; and the design basis for engineered systems.

d. Specifications, supporting geology information, and percolation test results for the subsurface effluent dispersal portion of the onsite wastewater disposal system. This must include the proposed type of effluent dispersal system (drainfield, trench, seepage pit, subsurface drip, etc.) as well as the system’s geometric dimensions and basic construction features. Supporting calculations shall be presented that relate the results of soils analysis or percolation/infiltration tests to the projected subsurface effluent acceptance rate, including any
unit conversions or safety factors. Average and peak rates of hydraulic loading to the effluent dispersal system shall be specified in the final design. The projected subsurface effluent acceptance rate shall be reported in units of total gallons per day (gpd) and gallons per square foot per day (gpsf). Specifications for the subsurface effluent dispersal system shall be shown to accommodate the design hydraulic loading rate (i.e., average and peak OWTS effluent flow, reported in units of gpd). The subsurface effluent dispersal system design must take into account the number of bedrooms, fixture units, and building occupancy characteristics.

e. All OWTS design drawings shall be submitted with the wet signature and typed name of the OWTS designer. If the plan scale is such that more space than is available on the 11" x 17" plot plan is needed to clearly show construction details, larger sheets may also be provided (up to a maximum size of 18" x 22" for review by Environmental Health). [Note: For OWTS final designs, full-size plans for are also required for review by Building & Safety and Planning.]

3) Building Plans: All project architectural plans and grading/drainage plans shall be submitted for Environmental Health review and approval. These plans must be approved by the Building Safety Division prior to receiving Environmental Health final approval.

4) Traffic-Rated Slab Plan(s): All project traffic rated slab plans shall be submitted for Environmental Health review and approval. These plans must be approved by the Building Safety Division prior to receiving Environmental Health final approval.

5) Notice of Decision: The final onsite wastewater treatment system plans shall include the Conditions of Approval sections of the Notice of Decision (NOD) from the Planning Department.

6) Architect / Engineer Certification for Reduction in Setbacks to Buildings or Structures:
All proposed reductions in setbacks from the onsite wastewater treatment system to structures or other features less than those shown in Malibu Municipal Code (MMC) Section 15.42 must be supported by letters from the project consultants. The wastewater plans and the construction plans must be specifically referenced in all certification letters. The construction plans for all structures and/or buildings with reduced setback must be approved by City of Malibu Building Safety prior to Environmental Health final approval. The architectural and/or structural plans submitted for Building Safety plan check must detail methods of construction that will compensate for the reduction in setback (e.g., waterproofing, concrete additives). For complex waterproofing installations, submittal of a separate waterproofing plan may be required. All plans must show the location of onsite wastewater treatment system components in relation to those structures from which the setback is reduced, and the plans must be signed and stamped by the architect, structural engineer, and geotechnical consultants (as applicable).

- Structures – All proposed reductions in setback from the onsite wastewater treatment system to structures (i.e., setbacks less than those shown in MMC Section 15.42) must be supported by a letter from the project Structural Engineer and a letter from the project Soils Engineer (i.e., a Geotechnical Engineer or Civil Engineer practicing in the area of soils engineering). Both engineers must certify unequivocally that the proposed reduction in setbacks from the treatment tank and effluent dispersal area will not adversely affect the structural integrity of the onsite wastewater treatment system, and will not adversely affect the structural integrity of the structures for which the setback is reduced.
Buildings – All proposed reductions in setback from the onsite wastewater treatment system to buildings (i.e., setbacks less than those shown in MMC Section 15.42) also must be supported by a letter from the project Architect, who must certify unequivocally that the proposed reduction in setbacks will not produce a moisture intrusion problem for the proposed building(s). If the building designer is not a California licensed architect, then the required Architect’s certification may be supplied by an Engineer who is responsible for the building design with respect to mitigation of potential moisture intrusion from reduced setback to the wastewater system; in this case the Engineer must include in the letter an explicit statement of responsibility for mitigation of potential moisture intrusion. If any specific construction features are proposed as part of a moisture intrusion mitigation system in connection with the reduced setback(s), then the Architect (or Engineer) must provide associated construction documents for review and approval during Building Plan Check.

7) **Proof of Ownership:** Proof of ownership of subject property shall be submitted.

8) **Operations & Maintenance Manual:** An operations and maintenance manual specified by the OWTS designer shall be submitted to the property owner and maintenance provider of the proposed advanced OWTS.

9) **Maintenance Contract:** A maintenance contract executed between the owner of subject property and an entity qualified in the opinion of the City of Malibu to maintain the proposed advanced onsite wastewater treatment system shall be submitted prior to Environmental Health approval. Please note only original “wet signature” documents are acceptable.

10) **Advanced Onsite Wastewater Treatment System (OWTS) Covenant:** A covenant running with the land shall be executed between the City of Malibu and the holder of the fee simple absolute as to subject real property and recorded with the City of Malibu Recorder’s Office. Said covenant shall serve as constructive notice to any future purchaser for value that the onsite wastewater treatment system serving subject property is an advanced method of sewage disposal pursuant to the City of Malibu Municipal Code. Said covenant shall be provided by the City of Malibu Environmental Health Administrator. Please submit a certified copy issued by the City of Malibu Recorder.

11) **Covenant to Forfeit 100% Expansion Effluent Disposal Area:** A covenant running with the land shall be executed by the property owner and recorded with the City of Malibu Recorder’s Office. Said covenant shall serve as constructive notice to any successors in interest that (1) the private sewage disposal system serving the development on the property does not have a 100% expansion effluent dispersal area (i.e., replacement disposal field(s) or seepage pit(s)) and (2) if the primary effluent dispersal area fails to drain adequately, the City of Malibu may require remedial measures including, but not limited to, limitations on water use enforced through an operating permit and/or repairs, upgrades or modifications to the private sewage disposal system. The recorded covenant shall state and acknowledge that future maintenance and/or repair of the private sewage disposal system may necessitate interruption in use of the private sewage disposal system and, therefore, any building(s) served by the private sewage disposal system may become non-habitable during any required future maintenance and/or repair. Said covenant shall be in a form acceptable to the City Attorney and approved by the Environmental Sustainability Department. Please submit a certified copy issued by the City of Malibu Recorder.

12) **OWTS Monitoring Plan:** A monitoring and maintenance plan must be submitted to the Environmental Health Administrator for approval. The plan must adhere to the recommendations of the OWTS designer and include a monitoring plan, maintenance schedule, sampling program and
corrective actions if the OWTS fails to function as designed or meet the prescribed standards outlined in the monitoring plan.

13) Project Geologist/Geotechnical Consultant Approval: Project Geologist/Geotechnical Consultant final approval of the Onsite Wastewater Treatment System plan shall be submitted to the Environmental Health Administrator.

14) City of Malibu Geologist/Geotechnical Approval: City of Malibu geotechnical staff final approval of the Onsite Wastewater Treatment System plan shall be submitted to the Environmental Health Administrator.

15) City of Malibu Planning Approval: City of Malibu Planning Department final approval of the OWTS plan shall be obtained.

16) Environmental Health Final Review Fee: A final fee in accordance with the adopted fee schedule at the time of final approval shall be paid to the City of Malibu for Environmental Health review of the OWTS design and system specifications.

17) Operating Permit Application and Fee: In accordance with Malibu Municipal Code, an application shall be made to the Environmental Health office for an Onsite Wastewater Treatment System operating permit. An operating permit fee in accordance with the adopted fee schedule at the time of final approval shall be submitted with the application.

18) Waste Discharge Requirements: Submit wastewater plans, and all necessary supporting forms and reports, to the Los Angeles Regional Water Quality Control Board (RWQCB), 320 W. 4th St., Los Angeles, CA 90013, (213) 576-6600, to assure compliance with the California Water Quality Control Plan, Los Angeles Region (Basin Plan). RWQCB Waste Discharge Requirements shall be obtained and submitted to the City of Malibu Environmental Health Administrator.

If you have any questions regarding the above requirements, please contact the Environmental Health office at your earliest convenience.

cc: Environmental Health file
Planning Department
City of Malibu
23825 Stuart Ranch Rd., Malibu, California CA 90265-4804
(310) 456-2489  FAX (310) 456-7650

FIRE DEPARTMENT REVIEW
REFERRAL SHEET

TO: Los Angeles County Fire Department
FROM: City of Malibu Planning Department

PROJECT NUMBER: CDP 09-067
JOB ADDRESS: 22959 PACIFIC COAST HWY
APPLICANT / CONTACT: Joseph Lezama, Burdge and Associates Architect
APPLICANT ADDRESS: 24911 Pacific Coast Highway
Malibu, CA 90265
APPLICANT PHONE #: (310) 456-5905
APPLICANT FAX#: (310) 456-7650
PROJECT DESCRIPTION: New Motel, Grading, Retaining Walls, NAOWTS. Previously proposed as a new commercial building.

TO: Malibu Planning Department and/or Applicant
FROM: Fire Prevention Engineering Assistant

Compliance with the conditions checked below is required prior to Fire Department approval.

The project DOES require Fire Department Plan Review and Developer Fee payment
The project DOES NOT require Fire Department Plan Review

The required fire flow for this project is 2,000 gallons per minute at 20 pounds per square inch for a 2 hour duration. (Provide flow information from the water dept.)
The project is required to have an interior automatic fire sprinkler system.

Final Fuel Modification Plan Approval is required prior to Fire Department Approval

Conditions below marked “not approved” shall be corrected on the site plan and resubmitted for Fire Department approval.

Required Fire Department vehicular access (including width and grade %)
 as shown from the public street to the proposed project.
Required and/or proposed Fire Department Vehicular Turnaround
Required 5 foot wide Fire Department Walking Access (including grade %)
Width of proposed driveway/access roadway gates

*County of Los Angeles Fire Department Approval Expires with City Planning permits expiration, revisions to the County of Los Angeles Fire Code or revisions to Fire Department regulations and standards.

**Minor changes may be approved by Fire Prevention Engineering, provided such changes achieve substantially the same results and the project maintains compliance with the County of Los Angeles Fire Code valid at the time revised plans are submitted. Applicable review fees shall be required.

C. KENNELLY

SIGNATURE

DATE
GEOTECHNICAL REVIEW SHEET

### Project Information

<table>
<thead>
<tr>
<th>Date</th>
<th>March 22, 2019</th>
<th>Review Log #:</th>
<th>3701</th>
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<tbody>
<tr>
<td>Site Address</td>
<td>22959 Pacific Coast Highway</td>
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<td>Lot/Tract/PM #</td>
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<tr>
<td>Applicant/Contact</td>
<td>Joseph Lezama, joseph@buaia</td>
<td></td>
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<tr>
<td>Contact Phone #</td>
<td>310-456-5905</td>
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<tr>
<td>Fax#</td>
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<tr>
<td>Planner</td>
<td>Adrian Fernandez</td>
<td></td>
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<tr>
<td>Project Type</td>
<td>Revised project: New three-level Malibu Inn Motel, grading, retaining walls with soldier piles and tie-backs, subterranean parking, new onsite wastewater treatment system (OWTS)</td>
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### Submittal Information

<table>
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<tr>
<th>Consultant(s) / Report Date(s):</th>
<th>GeoConcepts, Inc. (Barrett, CEG 2088; Walter, RGE 2476): 10-16-18, 6-20-18, 4-28-16, 9-21-15, 5-29-15, 2-26-15, 12-4-14</th>
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<td>GeoConcepts, Inc. (Sousa, CEG 1315; Walter, RGE 2476): 4-27-12, 2-27-12, 6-4-03</td>
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<td>GeoConcepts, Inc. (Sousa, CEG 1315): 11-3-09</td>
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<td>EnSitu Engineering, Inc. (Yaroslaski, RCE 60149): 2-21-19, 2-25-16, 3-3-15, 9-12-14</td>
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<tr>
<td></td>
<td>Final OWTS plans prepared by EnSitu Engineering, Inc. dated February 19, 2019.</td>
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### Previous Reviews:

| Date                  | 11-8-18; Ref: Environmental Health Review Sheets dated 3-8-19 and 6-25-18; Ref: 5-31-16 (for new commercial development), Environmental Health Review Sheet dated April 19, 2016, 4-8-16, 7-24-15, Environmental Health Review Sheet dated April 3, 2015, 4-1-15, 1-28-15, 7-24-12, 6-4-12, 12-2-09, Geology Review Referral Sheet dated 11-5-09 |

### Review Findings

**Coastal Development Permit Review**

- The motel development project is **APPROVED** from a geotechnical perspective.
- The motel development project is **NOT APPROVED** from a geotechnical perspective. The listed ‘Review Comments’ shall be addressed prior to approval.

**Building/Grading Plan-Check Review**

- Awaiting Building plan check submittal. Please respond to the listed ‘Building Plan-Check Stage Review Comments’ AND review and incorporate the attached ‘Geotechnical Notes for Building Plan Check’ into the plans.
Remarks

The referenced OWTS design report and OWTS plans were reviewed by the City from a geotechnical perspective. The revised project includes constructing a 7,703 square foot three-level motel with 20 lodging units, 46 parking spaces with 24 extra with stacked parking system, grading (11,752 yards of cut under structure: 837 yards of cut and 319 yards of fill non-exempt; and 12,270 yards of export), rear yard retaining walls with tie-back stabilization/soldier piles, terraces and landscaping on the rear-yard ascending slope, and a new onsite wastewater treatment system (OWTS) in the front parking area consisting of a treatment tank system and a new 2,600 square foot leach field with a design peak flow of 4,056 GPD and a design loading rate of 1.56 GPSFD with 100% expansion. A 3,600 square foot expansion dispersal field serving the Malibu Inn property at 22969 Pacific Coast Highway is proposed in the front parking area immediately east of the leach field for the proposed project.

The Consultant asserted that the proposed 20' high 1.5:1 cut slope above the western portion of the rear-yard retaining wall consists of a trim of the thin layer of fill and colluvium on the slope, and that the surficial stability would not be reduced by the cut slope. In addition, the Consultant has recommended 4' of freeboard on the top of the rear-yard retaining wall as well as a debris fence on the slope to protect the development from surficial instabilities, should they occur. The recommendations by the Consultant in this regard appear to be reasonable.

Building/Grading Plan-Check Stage Review Comments:

1. As per the plans, access to the site is from the adjacent property. Granting access from the adjacent property owner (recording of an easement) is a pre-requisite to establish the feasibility of the project.

2. The freeboard on the rear yard retaining wall will designed to provide the Code-required setbacks from ascending slopes. The freeboard should be designed as an impact wall with a minimum equivalent fluid pressure of 125 pcf, based on the Consultant’s recommendations.

3. The proposed location and extent (vertical and horizontal) of the impact fence should be depicted on the grading plans and cross-sections. Specifications for the installation of the fence should be provided by the manufacturer and incorporated, as appropriate, with the project documents. Details of the fence installation at the eastern and western property lines should be designed and outlined to prevent debris deflecting into adjacent properties.

4. Based on assumptions by the Consultant in calculating the lateral spreading resistance, pile spacing should not exceed twice the diameter of piles.

5. Please provide to the City an as-built geotechnical report documenting the installation of the pile and soldier pile foundation elements for the motel and retaining walls. The report should document total depth, depth into bedrock, depth to groundwater, and include a map with the final locations of the piles. Please include this comment as a note on the Building plans.

6. Section 7.4 of the City’s geotechnical guidelines requires a minimum thickness of 10 mils for vapor barriers beneath slabs-on-grade. The Project Geotechnical Engineer has recommended that the vapor barrier be a minimum thickness of 15 mils and conform to ASTM E1745 Class A requirements. Building plans shall reflect the Consultant’s recommendation.

7. The following note must appear on the foundation plans: “Tests shall be performed prior to pouring foundations to evaluate corrosivity of the supporting soils. Foundation plans should be reviewed by the
8. It appears from the cross sections that the soldier pile walls may be integral to the proposed structure(s). The Consultant should work with the structural engineer to ensure that pile deflections do not induce catastrophic failure or induce other negative impacts to the structure(s).

9. The grading plans need to include specific details for tiebacks including unbonded, bonded, and minimum lengths, bar type and size, and procedures for proof and performance testing. The proof and performance testing should be under the observation of the project geotechnical consultant, who must document the results and submit the observations to the City for review and state that the tiebacks were installed per the approved plans and specifications.

10. Prior to final approval of the project, an as-built report documenting the installation of the retaining wall tie-back systems shall be prepared by the Project Geotechnical Consultant. The report shall include, as a minimum, the locations and details of the installations such as tie-back lengths, dates of installation, and test results of tension capacities. The report shall include a statement that the retaining walls and tie-back systems were installed under the observation of the geologist and geotechnical engineer of record and that the installations conformed to the approved plan and specifications. Any modifications to the plans necessary for the conditions encountered during the construction must be documented in the final report. Please include this comment as a note on the plans.

11. A letter should be provided by the Project Structural Engineer indicating that they are aware of the anticipated displacements associated with the installation of the soil nail walls and, given the potential for some slope displacement, the proposed design is adequate to provide slope support required by the CBC (e.g., safeguard against major structural failures and loss of life).

12. Two sets of final grading, retaining wall, soldier pile, tie-back, and motel plans (APPROVED BY BUILDING AND SAFETY) incorporating the Project Geotechnical Consultant’s recommendations and items in this review sheet must be reviewed and wet stamped and manually signed by the Project Engineering Geologist and Project Geotechnical Engineer. City geotechnical staff will review the plans for conformance with the Project Geotechnical Consultants’ recommendations and items in this review sheet over the counter at City Hall.

Please direct questions regarding this review sheet to City Geotechnical staff listed below.

Engineering Geology Review by: [Signature] 3/22/19
Christopher Dean, C.E.G. #1751, Exp. 9-30-20
Engineering Geology Reviewer (310-456-2489, x306)
Email: cdean@malibucity.org

This review sheet was prepared by representatives of Cotton, Shires and Associates, Inc. and GeoDynamics, Inc., contracted through Cotton, Shires and Associates, Inc., as an agent of the City of Malibu.
The following standard items should be incorporated into Building Plan-Check submittals, as appropriate:

1. One set of grading, retaining wall, OWTS, soldier pile, and office building plans, incorporating the Geotechnical Consultant’s recommendations and results of all density tests as well as a map depicting the limits of fill, locations of all density tests, locations and elevations of all removal bottoms, locations and elevations of all keyways and back drains, and locations and elevations of all retaining wall backdrains and outlets. Geologic conditions exposed during grading must be depicted on an as-built geologic map. This comment must be included as a note on the grading plans.

2. Show the name, address, and phone number of the Geotechnical Consultant(s) on the cover sheet of the Building and grading Plans.

3. Include the following note on the Foundation Plans: "All foundation excavations must be observed and approved by the Geotechnical Consultant prior to placement of reinforcing steel."

4. Include the following note on Grading and Foundation Plans: "Subgrade soils shall be tested for Expansion Index prior to pouring footings or slabs; Foundation Plans shall be reviewed and revised by the Geotechnical Consultant, as appropriate."

5. The Foundation Plans for the proposed structures shall clearly depict the embedment material and minimum depth of embedment for the foundations in accordance with the Geotechnical Consultant’s recommendations.

6. Show the onsite wastewater treatment system on the grading and building plans.

7. Please contact the Building and Safety Department regarding the submittal requirements for a grading and drainage plan review.

Retaining Walls (As Applicable)

1. Show retaining wall backdrain and backfill design, as recommended by the Geotechnical Consultant, on the Plans.

2. Retaining walls separate from a residence require separate permits. Contact the Building and Safety Department for permit information. One set of retaining wall plans shall be submitted to the City for review by City geotechnical staff. Additional concerns may be raised at that time which may require a response by the Project Geotechnical Consultant and applicant.

Grading Plans (as Applicable)

1. Grading Plans shall clearly depict the limits and depths of overexcavation, as applicable.

2. Prior to final approval of the project, an as-built compaction report prepared by the Project Geotechnical Consultant must be submitted to the City for review. The report must include the
TO: Public Works Department
FROM: City of Malibu Planning Department

REVISED DATE 06/22/2020

PROJECT NUMBER: CDP 09-067
JOB ADDRESS: 22959 PACIFIC COAST HWY
APPLICANT / CONTACT: Joseph Lezama, Burdge and Associates Architects
APPLICANT ADDRESS: 24911 Pacific Coast Highway
Malibu, CA 90265
APPLICANT PHONE #: (310) 456-5905
APPLICANT FAX #: 
APPLICANT EMAIL: joseph@buaia.com
PROJECT DESCRIPTION: New Motel, Grading, Retaining Walls, NAOWTS. Previously proposed as a new commercial building.

TO: Malibu Planning Department and/or Applicant
FROM: Public Works Department

The following items described on the attached memorandum shall be addressed and resubmitted.

✓ The project was reviewed and found to be in conformance with the City’s Public Works and LCP policies and CAN proceed through the Planning process.

7/16/20

7/16/20

7/16/20
MEMORANDUM

To: Planning Department
From: Public Works Department
Nicole Benyamin, Assistant Civil Engineer
Date: July 16, 2020
Re: Proposed Conditions of Approval for 22959 Pacific Coast Hwy CDP 09-067

The Public Works Department has reviewed the plans submitted for the above referenced project. Based on this review sufficient information has been submitted to confirm that conformance with the Malibu Local Coastal Plan (LCP) and the Malibu Municipal Code (MMC) can be attained.

Prior to the issuance of building and grading permits, the applicant shall comply with the following conditions.

STREET IMPROVEMENTS

1. This project proposes to construct a new driveway and drain outlet within Caltrans' right-of-way. Prior to the Public Works Department approval of the grading or building permit, the applicant shall obtain encroachment permits from Caltrans for the proposed work.

GRADING AND DRAINAGE

2. Clearing and grading during the rainy season (extending from November 1 to March 31) shall be prohibited for development LIP Section 17.3.1 that:
   • Is located within or adjacent to ESHA, or
   • Includes grading on slopes greater than 4:1

   Approved grading for development that is located within or adjacent to ESHA or on slopes greater than 4:1 shall not be undertaken unless there is sufficient time to complete grading operations before the rainy season. If grading operations are not completed before the rainy season begins, grading shall be halted and temporary erosion control measures shall be put into place to minimize erosion until grading resumes after March 31, unless the City determines that completion of grading would be more protective of resources.
3. Exported soil from a site shall be taken to the County Landfill or to a site with an active grading permit and the ability to accept the material in compliance with the City’s LIP Section 8.3. A note shall be placed on the project that addresses this condition.

4. A grading and drainage plan shall be approved containing the following information prior to the issuance of grading permits for the project.

- Public Works Department General Notes
- The existing and proposed square footage of impervious coverage on the property shall be shown on the grading plan (including separate areas for buildings, driveways, walkways, parking, tennis courts and pool decks).
- The limits of land to be disturbed during project development shall be delineated on the grading plan and a total area shall be shown on the plan. Areas disturbed by grading equipment beyond the limits of grading, areas disturbed for the installation of the septic system, and areas disturbed for the installation of the detention system shall be included within the area delineated.
- The grading limits shall include the temporary cuts made for retaining walls, buttresses, and over excavations for fill slopes and shall be shown on the grading plan.
- If the property contains trees that are to be protected they shall be highlighted on the grading plan.
- If the property contains rare and endangered species as identified in the resources study the grading plan shall contain a prominent note identifying the areas to be protected (to be left undisturbed). Fencing of these areas shall be delineated on the grading plan if required by the City Biologist.
- Private storm drain systems shall be shown on the grading plan. Systems greater than 12-inch diameter shall also have a plan and profile for the system included with the grading plan.
- Public storm drain modifications shown on the grading plan shall be approved by the Public Works Department prior to the issuance of the grading permit.

5. A digital drawing (AutoCAD) of the project’s private storm drain system, public storm drain system within 250 feet of the property limits, and post-construction BMP’s shall be submitted to the Public Works Department prior to the issuance of grading or building permits. The digital drawing shall adequately show all storm drain lines, inlets, outlet, post-construction BMP’s and other applicable facilities. The digital drawing shall also show the subject property, public or private street, and any drainage easements.

STORMWATER

6. A Local Storm Water Pollution Prevention Plan shall be provided prior to the issuance of the Grading/Building permits for the project. This plan shall include an Erosion and Sediment Control Plan (ESCP) that includes, but not limited to:

- Erosion Controls
- Scheduling
- Preservation of Existing
All Best Management Practices (BMP) shall be in accordance to the latest version of the California Stormwater Quality Association (CASQA) BMP Handbook. Designated areas for the storage of construction materials, solid waste management, and portable toilets must not disrupt drainage patterns or subject the material to erosion by site runoff.

7. A Storm Water Management Plan (SWMP) is required for this project. Storm drainage improvements are required to mitigate increased runoff generated by property development. The applicant shall have the choice of one method specified within the City's Local Implementation Plan Section 17.3.2.B. The SWMP shall be supported by a hydrology and hydraulic study that identifies all areas contributory to the property and an analysis of the predevelopment and post development drainage of the site. The SWMP shall identify the Site design and Source control Best Management Practices (BMP's) that have been implemented in the design of the project (See LIP Chapter 17 Appendix A). The SWMP shall be reviewed and approved by the Public Works Department prior to the issuance of the grading/building permits for this project.

8. A Water Quality Mitigation Plan (WQMP) is required for this project. The WQMP shall be supported by a hydrology and hydraulic study that identifies all areas contributory to the property and an analysis of the predevelopment and post development drainage of the site. The WQMP shall meet all the requirements of the City's current Municipal Separate Stormwater Sewer System (MS4) permit. The following elements shall be included within the WQMP:

• Site Design Best Management Practices (BMP's)
• Source Control BMP's
• Treatment Control BMP's that retains on-site the Stormwater Quality Design Volume (SWQDv). Or where it is technical infeasible to retain on-site, the project must biofiltrate 1.5 times the SWQDv that is not retained on-site.
• Drainage Improvements
• A plan for the maintenance and monitoring of the proposed treatment BMP's for the expected life of the structure.
• A copy of the WQMP shall be filed against the property to provide constructive notice to future property owners of their obligation to maintain the water quality measures installed during construction prior to the issuance of grading or building permits.

• The WQMP shall be submitted to Public Works Department and the fee applicable at time of submittal for the review of the WQMP shall be paid prior to the start of the technical review. The WQMP shall be approved prior to the Public Works Department’s approval of the grading and drainage plan and/or building plans. The Public Works Department will tentatively approve the plan and will keep a copy until the completion of the project. Once the project is completed, the applicant shall verify the installation of the BMP’s, make any revisions to the WQMP, and resubmit to the Public Works Department for approval. The original signed and notarized document shall be recorded with the County Recorder. A copy of the WQMP shall be submitted to the Public Works Department prior to the certificate of occupancy.

MISCELLANEOUS

9. The developer’s consulting engineer shall sign the final plans prior to the issuance of permits.

10. The discharge of swimming pool, spa and decorative fountain water and filter backwash, including water containing bacteria, detergents, wastes, alagecides or other chemicals is prohibited. Swimming pool, spa, and decorative fountain water may be used as landscape irrigation only if the following items are met:

• The discharge water is dechlorinated, debrominated or if the water is disinfected using ozonation;

• There are sufficient BMPs in place to prevent soil erosion; and

• The discharge does not reach into the MS4 or to the ASBS (including tributaries) Discharges not meeting the above-mentioned methods must be trucked to a Publicly Owned Wastewater Treatment Works. The applicant shall also provide a construction note on the plans that directs the contractor to install a new sign stating “It is illegal to discharge pool, spa or water feature waters to a street, drainage course or storm drain per MMC 13.04.060(D)(5).” The new sign shall be posted in the filtration and/or pumping equipment area for the property. Prior to the issuance of any permits, the applicant shall indicate the method of disinfection and the method of discharging.

11. The applicant shall prepare a Traffic Impact Analysis (TIA) per the City of Malibu TIA Guidelines. The TIA shall be reviewed and approved by the Public Works Department prior to the issuance of the grading and/or building permits. The applicant shall also be...
COMMERCIAL DEVELOPMENT

12. All commercial developments shall be designed to control the runoff of pollutants from structures, parking and loading docks. The following minimum measures shall be implemented to minimize the impacts of commercial developments on water quality:

- Proper design of loading and unloading docks:
  1. Cover loading/unloading dock areas or design drainage to minimize run-on and runoff of storm water
  2. Direct connections to storm drains from depressed loading/unloading docks are prohibited.

- Properly design Repair/Maintenance Bays:
  1. Repair/maintenance bays must be indoors or designed to prohibit storm water runoff or contact with storm water runoff.
  2. Repair/maintenance bays shall be designed to capture all wash water, leaks, and spills. Connect drains to a sump for collection and disposal. Direct connection of the repair/maintenance bays to the storm drain is prohibited.
  3. Obtain an Industrial waste discharge permit if required.

- Properly Design Vehicle/Equipment Wash Areas:
  1. Self-contained and/or covered wash areas shall be equipped with a clarifier or other pretreatment facility and properly connected to a sanitary sewer.

- Properly designed Parking lots (5,000 square feet of impervious surface or 25 parking spaces):
  1. Minimize impervious surfacing for parking area.
  2. Infiltrate runoff before it reaches a storm drain system.
  3. Treat to remove oil and petroleum hydrocarbons at parking lots that are heavily used.
  4. Ensure adequate operation and maintenance of treatment systems particularly sludge and oil removal and system fouling and plugging prevention control.

- RESTAURANTS – Properly design Equipment/accessory wash areas:
  1. Install self-contained wash area, equipped with a grease trap, and properly connected to Sanitary Sewer.
  2. If the Wash area is located outdoors, it must be covered, paved, have secondary containment and shall be connected to the sanitary sewer.

- TRASH STORAGE AREAS
Trash container areas must have drainage from adjoining roofs and pavement diverted around the area.

Trash container areas must be screened or walled to prevent off-site transport of trash.

• OUTDOOR MATERIAL STORAGE
  
i. Materials with the potential to contaminate storm water must be: (1) placed in an enclosure such as a cabinet, shed, or similar structure that prevents contact with runoff or spillage to the storm water conveyance system; or (2) protected by secondary containment structures such as berms, dikes or curbs.

ii. The storage areas must be paved and sufficiently impervious to contain leaks.

iii. The storage area must have a root or awning to minimize collection of storm water within the secondary containment area.

13. Prior to the commencement of work, the applicant shall submit a copy of their Construction Management Plan. The Construction Management Plan shall include a dedicated parking location for construction workers, not within the public right of way.

14. Prior to the approval of any grading and drainage permit, the applicant shall submit a PDF of the final plans. If there are further modifications to the plans, the applicant shall provide the City with an updated PDF.
City of Malibu
23825 Stuart Ranch Rd., Malibu, California CA 90265-4804

LOS ANGELES COUNTY WATERWORKS DISTRICTS REVIEW
REFERRAL SHEET

FROM: City of Malibu Planning Department
DATE 6/11/2018

PROJECT NUMBER: CDP 09-067

JOB ADDRESS: 22959 PACIFIC COAST HWY

APPLICANT / CONTACT: Joseph Lezama, Burdge and Associates Architects

APPLICANT EMAIL: joseph@buaia.com

APPLICANT PHONE #: (310) 456-5905

PLANNER: Adrian Fernandez

PROJECT DESCRIPTION: New Motel, Grading, Retaining Walls, NAOWTS. Previously proposed as a new commercial building.

TO: Malibu Planning Department and/or Applicant

FROM: LACWD No. 29, Malibu

Compliance with the conditions checked below is required prior to Waterworks Districts approval:

The project DOES NOT require any system improvements for domestic and/or fire flow conditions
The project DOES NOT require capital improvement fees and/or participation fees
The project DOES require a Will Serve Letter (Final Waterworks Districts approval)
The project DOES require capital improvement fees and/or participation fees
The project DOES require the owner to execute an agreement and participate financially in the design and construction of a future water system to increase local storage and conveyance capacity in the event of an interruption of the primary water supply
The project DOES require private contract water system improvements for domestic and/or fire flow conditions

The required fire flow for this project set by the Fire Department is 2,000 gallons per minute at 20 pounds per square inch for a 2 hour duration

Scope of water system improvements required:
REPLACEMENT OF A 2.0" DIAMETER CHECK VALVE IN THE VAULT
LOCATED WITHIN THE NORTHBOUND LANE OF TORANGLA CANYON BLVD, ABOUT 600' NORTH OF PACIFIC COAST HWY.

Note: Los Angeles County Waterworks District No. 29, Malibu approval expires upon the earliest of the following: 1) Two years from the date of this form; 2) Expiration date of the City Planning permit(s); or 3) Date County adopts changes to the county of Los Angeles fire code and/or makes revisions to applicable fire department regulations and standards.

SIGNATURE 4/7/2020

DATE

ADDITIONAL REQUIREMENTS/CONDITIONS MAY BE IMPOSED UPON REVIEW OF COMPLETE ARCHITECTURAL PLANS
Attachment 5

Initial Study/Mitigated Negative Declaration

Available at:

https://www.malibucity.org/810/Malibu-Inn-Motel
Responses to Comments on the Draft Initial Study Mitigated Negative Declaration

This section includes comments received during circulation of the Draft Initial Study Mitigated Negative Declaration (IS-MND) prepared for the Malibu Inn Motel Project (Project).

The Draft IS-MND was circulated for a 30-day public review period that began on February 19, 2021, and ended on March 22, 2021. The Draft IS-MND was circulated again for another 30-day review period, directed towards agencies due to a file discrepancy, that began on March 29, 2021 and ended on April 28, 2021. The City of Malibu (City) received 27 comment letters on the Draft IS-MND. The commenters and each commenter’s identifying letter or number are listed below.

Letter No. and Commenter

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The comment letters and responses are organized as follows. The comment letters have been lettered first by agency, and then individuals’ letters numbered by date received and then by first name, alphabetically. Each separate issue raised by the commenter, if more than one, has been assigned a number. The responses to each comment identify first the letter or number of the comment letter, and then the number assigned to each issue (Response A.1, for example, indicates that the response is for the first issue raised in comment Letter A, and Response 1.1 indicates that the response is for the first issue raised in comment Letter 1). Edits made to the IS-MND between the Draft and Final Draft manifest in a strikeout and underline format to identify removed and added text, respectively.
April 14, 2021

Ms. Adrian Fernandez, Principle Planner
City of Malibu
Planning Department
23825 Stuart Ranch Road
Malibu, CA 90265

RE: Malibu Inn Motel
Vic. LA-1 PM 46.14
SCH # 2021020396
GTS # LA-2021-03506AL-MND

Dear Ms. Fernandez:

This letter supersedes our letter dated March 17, 2021 as OPR website provided incorrect project document. Thank you for including the California Department of Transportation (Caltrans) in the environmental review process for the above referenced project. The proposed Project is to construct a new 7,693 square foot motel above a new subterranean parking garage, surface parking lot, grading, retaining walls, landscaping and a new onsite wastewater treatment system.

A.1 The mission of Caltrans is to provide a safe and reliable transportation network that serves all people and respects the environment. Senate Bill 743 (2013) has been codified into CEQA law. It mandates that CEQA review of transportation impacts of proposed developments be modified by using Vehicle Miles Traveled (VMT) as the primary metric in identifying transportation impacts. As a reminder, Vehicle Miles Traveled (VMT) is the standard transportation analysis metric in CEQA for land use projects after the July 1, 2020 statewide implementation date. You may reference The Governor’s Office of Planning and Research (OPR) website for more information.

http://opr.ca.gov/ceqa/updates/guidelines/

A.2 This development should incorporate multi-modal and complete streets transportation elements that will actively promote alternatives to car use and better manage existing parking assets. Prioritizing and allocating space to efficient modes of travel such as bicycling and public transit can allow streets to transport more people in a fixed amount of right-of-way.

“Provide a safe and reliable transportation network that serves all people and respects the environment”
Caltrans supports the implementation of complete streets and pedestrian safety measures such as road diets and other traffic calming measures. Please note the Federal Highway Administration (FHWA) recognizes the road diet treatment as a proven safety countermeasure, and the cost of a road diet can be significantly reduced if implemented in tandem with routine street resurfacing.


https://dot.ca.gov/programs/transportation-planning/office-of-smart-mobility-climate-change/sb-743

Overall, the environmental report should include a Transportation Impact Study (TIS) to ensure all modes are well served by planning and development activities. This includes reducing single occupancy vehicle trips, ensuring safety, reducing vehicle miles traveled, supporting accessibility, and reducing greenhouse gas emissions.

The study has evaluated a few alternatives regarding on-site circulation associated with internal access to the adjacent site from the Pacific Coast Highway. Alternative 3 is recommended by Caltrans since it will always maintain the internal access with no access restriction between two adjacent sites. The new access or driveway to the proposed site will be restricted to right turn only movements (egress). "Right Turn Only" signs (R3- 5R) and pavement arrow markings will be installed to prohibit left-turn egress at project driveway as well as the restaurant driveway adjacent to the property line. Please be reminded that any work performed within the State Right-of-way will require an Encroachment Permit including a construction management plan from Caltrans when the driveway construction is at State Right-of-way. Any modifications to State facilities must meet all mandatory design standard and specifications.

Storm water run-off is a sensitive issue for Los Angeles and Ventura counties. Please be mindful that projects should be designed to discharge clean run-off water. Additionally, discharge of storm water run-off is not permitted onto State highway facilities (SR 1) without a storm water management plan.

For this project, transportation of heavy construction equipment and/or materials, which requires the use of oversized-transport vehicles on State highways, will require a transportation permit from Caltrans. It is recommended that large size truck trips be limited to off-peak commute periods and idle time not to exceed 10 minutes.

“Provide a safe and reliable transportation network that serves all people and respects the environment”
If you have any questions, please feel free to contact Mr. Alan Lin the project coordinator at (213) 269-1124 and refer to GTS # LA-2021-03506AL-MND.

Sincerely,

Anthony Higgins for

MIYA EDMONSON
IGR/CEQA Branch Chief

email: State Clearinghouse

“Provide a safe and reliable transportation network that serves all people and respects the environment”
Letter A

Commenter: Miya Edmonson, IGR/CEQA Branch Chief, California Department of Transportation (Caltrans)

Date: April 14, 2021

Response A.1

Thank you for the comments regarding the proposed Malibu Inn Motel Project Draft IS-MND. The comment states this letter supersedes the letter dated March 17, 2021 as the Office of Planning and Research (OPR) provided incorrect project documentation. The commenter correctly identifies the proposed Project’s general specifications and acknowledges vehicle miles traveled (VMT) is the standard transportation analysis for the California Environmental Quality Act (CEQA) as of July 1, 2020.

Comments regarding feedback of the IS-MND and associated Traffic Study will be included within the public record and made available to decision-makers for planning and policy consideration. Detailed responses to the discrete comments made by Caltrans regarding the Project are provided below.

Response A.2

The comment states the Project should incorporate multi-modal and complete streets transportation elements that will actively promote alternatives to car use and better manage existing parking assets. The commenter states the Project should prioritize and allocate space for efficient modes of travel, which would allow streets to transport more people in a designated right-of-way.

However, the Project is located along Pacific Coast Highway (PCH) which serves heavy through commuter and tourist traffic in a low density semi-rural area with minimal transit service, and is therefore not amendable to urban area alternative transportation solutions. In addition, PCH lies under the control of Caltrans, which has sole authority to implement changes to PCH. In the project vicinity, PCH provides limited pedestrian accommodation and no bicycle lanes. However, the project site would have pedestrian access provided via the sidewalk along PCH adjacent to the site where Malibu Pier connects to PCH as well as associated walkways entering the site. Landscaped planter strips would be installed along the pedestrian walkways and roadways throughout the project site. The project site would be a pedestrian-oriented landscape frontage. As described in Section 4.17.2, Transportation-Impact Discussion, under Impact A, “development of the Project would not interfere with public transit, bicycle, and/or pedestrian facilities, and would facilitate Americans with Disabilities Act (ADA) site access.” Therefore, the Project is consistent with Caltrans’s prioritization of multi-modal transportation along right-of-ways to the extent feasible from the roadway design of PCH in the City.

Response A.3

The comment states Caltrans supports the implementation of complete streets and pedestrian safety measures such as road diets (a reduction of lanes that a pedestrian needs to cross, thus reducing their exposure to traffic) and other traffic calming measures.
The Project and IS-MND do not include a road diet or traffic calming features, as PCH is under the authority of Caltrans which has the sole authority to implement such measures. Further, PCH serves heavy through commuter and tourist traffic in a low density semi-rural area with minimal transit service, and is therefore not amendable to urban area alternative transportation solutions such as road diets or traffic calming. However, the City would consider supporting any such changes implemented by Caltrans. Further, as stated in Section 4.17, Transportation- Impact A, “per the OPR December 2018 Technical Advisory on Evaluating Transportation Impacts in CEQA, projects that generate or attract fewer than 110 trips per day generally may be assumed to cause a less-than significant transportation impact. Per the Institute of Transportation Engineers (ITE) Trip Generation 10th Edition trip generation rates, the total daily Project trips are estimated as 68. As such, impacts to transportation would be less than significant.” Therefore, no road diet or other traffic calming measures are required for the Project due to its less than significant traffic impact. Nevertheless, the comment will be included within the public record and made available to decision-makers for planning and policy consideration.

Response A.4


The IS-MND provides analysis consistent with Caltrans adopted standards, including both VMT analysis as well as documented safety issues along PCH. The IS-MND relies on VMT-based analysis for roadway capacity assessment pursuant to Senate Bill (SB) 743 as the CEQA metric for impact analysis. As described in Section 4.17, Transportation, the City is in the process of creating local transportation assessment guidelines consistent with SB 743 and OPR’s guidance, but these guidelines are not yet available and trip length estimates for hotel/motel uses in the City have not been established. However, Caltrans has chosen to use VMT as the CEQA transportation metric for projects on the State Highway System. As the Project is located on the State Highway System, VMT was used for impact analysis purposes and is consistent with Caltrans comment.

Response A.5

The comment asserts that Alternative 3 is recommended by Caltrans since it will always maintain the internal access with no access restriction between two adjacent areas. The comment also notes that any work performed within the State right-of-way will require an Encroachment Permit including a construction management plan from Caltrans when the driveway construction is in the State right-of-way.

Appendix C, Transportation Studies, of the IS-MND provides a detailed description of Alternative 3, and ultimately recommends this as the preferred alternative as the pros outweigh the cons in roadway access and circulation. Additionally, the IS-MND in Section 4.15, Public Services, states the “modified driveways would require review and approval of an Encroachment Permit by Caltrans.” If approved, the Project and Applicant would coordinate with Caltrans further for all necessary permitting. Therefore, the comment directly aligns with the IS-MND and associated Appendix C.
Response A.6

The comment states the Project should be designed to discharge clean water, and that discharge of stormwater runoff is not permitted onto State Highway facilities without a stormwater management plan.

As described in Section 4.10, *Hydrology and Water Quality*, of the IS-MND, the Project would comply with State requirements for stormwater discharge. The Project would not have the potential to exceed drainage flows during design year storms, which has the potential to continue to outlet to PCH and may contain contaminants associated with urban areas (e.g., oil and grease). To minimize and avoid contamination runoff onto PCH and ultimately the Pacific Ocean, the Project would implement specific Best Management Practices (BMPs) to retain and treat stormwater on-site. BMPs include catch basins at varying levels of the proposed structure leading up to the retaining wall in addition to locations in the surface parking areas. The Applicant would be responsible for routine maintenance of the catch basins, filter inserts, and water storage tank. Additionally, implementation of the approved water quality plans for the Project would ensure pollutants do not runoff and enter PCH and the Pacific Ocean. Therefore, the Project is consistent with Caltrans comment.

Response A.7

The comment states the Project is required to have a transportation permit from Caltrans for transportation of heavy construction equipment and/or materials that require the use of oversized transport vehicles on State highways. Caltrans recommends large size truck trips be limited to off-peak commute periods and idle times to not exceed 10 minutes.

As described in Section 1.4, *Project Approvals*, the Project is required to obtain permit approval for hauling on Caltrans right-of-way, such as along PCH, which may include additional construction-related requirements to obtain approval as mentioned above. Further, as described in Section 4.17, *Transportation*, of the IS-MND, the City applies Local Coastal Plan standard conditions to all applicable projects to minimize impacts to transportation and traffic including but not limited to: “for the transportation of heavy construction equipment and/or material, which requires the use of oversized-transport vehicles on State highways, the applicant / property owner is required to obtain a transportation permit from Caltrans.” Comments regarding recommendations for the Project that do not directly pertain to the analysis within the IS-MND will be included within the public record and will be available to decision-makers for planning and policy consideration.
MALIBU OPEN SPACE ALLIANCE

TO: Adrian Hernandez, Principal Planner
FROM: Malibu Open Space Alliance by Charlotte Frieze
RE: Malibu Inn Motel Mitigated Negative Declaration
DATE: April 22, 2021

“The CV-1 District is intended to provide for visitor serving uses, including motels and bed and breakfast inns, which serve visitors and residents that are designed to be consistent with the rural character and natural environmental setting.”

It is not clear how this project benefits the residents of Malibu. Nor how it is designed to be consistent with the rural character and natural environment. A project that requires this number of variances is not one that is respectful of Malibu’s residents, its rural character and natural environmental setting and its Malibu Building Codes.

Malibu has building codes and guidelines for the purpose of steering the development within the City. The City Planning Department should be working to benefit Malibu residents and insist that developers design to meet these codes.

Malibu’s Mission and Vision Statements have been ignored by the Planning Department in their review of this project. This project is far from residential in scale. It accelerates urbanization in the center of Malibu.

If City staff were working to prevent the urbanization of Malibu, they would have recognized that the proposed project is out of scale with central Malibu. Malibu instated codes to prevent super sized structures to over shadow the low, beach community type buildings for which Malibu is known. For instance the neighboring Chabad building and the Casa Escobar are both under 18 feet high. The Municipal Code and MLCP were enacted to prevent the repeat of the overpowering County approved clock tower.

The total effect of the Malibu Inn Motel when combined with the clock tower building is to create a concrete canyon where before there was a naturally sloping coastal bluff. This is appropriate for a large city not a coastal destination that attracts tourists for its rural character and natural environmental setting.

How could the City staff not recognize that not only does the FAR exceed the allowable FAR, but the height has been miscalculated as well? The height should have been calculated from grade making this structure 46 feet to the top
of the elevator shaft not the allowable 28 feet. In actuality this project is a two-story motel with a one-story garage and a 4th floor pool deck that is serviced by an elevator and surrounded by a 36-42" high guardrail. The so-called subterranean parking is only 4 feet below grade with most of the parking above grade.

The property currently meets the adjacent properties at grade. The renderings illustrate the walls required to retain the slope on the sides as well as behind the structure. Whereas the sidewalk currently meets the grade flush, the outdoor parking is a car height above and requires a sloped driveway for entry. This does not demonstrate a project that is trying to fit into the community as required by CV-1: “designed to be consistent with the rural character and natural environmental setting.” This project is instead a dominating presence especially when combined with the overpowering retaining wall built into the hillside.

It is also more difficult for a car or delivery vehicle to make the turn off PCH up a slope. This could cause back ups on PCH in an already congested area. In addition the slope could become a skateboarders dream.

Malibu has a distinctive character dominated by its mountains and bluffs that descend to PCH. The developer seemingly ignores the site’s existing geological restraints by proposing to construct a 56.5-foot high retaining wall that cuts off the toe of the sloping natural coastal bluff.

The coastal bluffs give Malibu its character. How can the City permit cutting into the face of a coastal bluff in the center of town? This is not “consistent with the rural character and natural environmental setting”.

This is an unstable bluff in a seismically active area. Malibu is known for its heavy rains and mudslides. What studies have been made to confirm the continued stability of the hillside once the project cuts into the existing slope to construct the retaining wall? What studies have been made to ensure the stability of the residential structure perched above this site?

The Malibu code allows for 1000 cu yds. of grading. The resulting cut and fill should be balanced and remain on site and not be exported. Grading into the bluff is not exempt. The Malibu Inn Motel project proposes 12,649 cu yds. of cut into a natural bluff. This is an amount they cannot reuse on the limited site. Hauling this amount of cut would require over a thousand truckloads each containing 10 cu yds. To say this would disrupt traffic and business in a key tourist area across from the renowned Malibu pier would be an understatement.

By code retaining walls in Malibu cannot exceed 6 feet. To fit this hotel into the site requires not only the rear 56.5-foot massive retaining wall but also high side retaining walls. The proposed hotel is embraced by retaining walls on three
sides to make its elevated construction possible. Consequently the hotel’s ground level in effect sits one story above the adjacent properties dominating the streetscape. This not only requires excessive excavation but also would create an uncomfortable condition on the adjacent properties. Instead of a continuous flow both visually and actively from property to property on grade, this project bumps the grade up using terracing.

It is necessary to review more carefully the Traffic numbers provided by the developer. The traffic and congestion in the Pier Area and the number of accidents and deaths increase annually. Since the Woolsey Fire and the beginning of the Covid Pandemic, there has been a change in traffic flow. There is more construction in Malibu at a time when more people have chosen to work from home. Others have more flexible working hours that has led to an increase in tourism especially to Malibu’s beaches and hiking trails. What used to be summer time weekend traffic has become year-round traffic. In pre-summer traffic it regularly takes 45 minutes on a weekend to travel from Big Rock to Trancas.

Emergency vehicles already are challenged by the weekend gridlock.

Parking is a critical challenge in the area due to the demands for employees as well as visitors. Cars waiting on the street to pull into parking lots block an entire lane on weekends reducing the traffic flow to a crawl.

It is time for the City to address the totality of the parking and circulation in this key tourist zone including the proposed Sea View Hotel and Malibu Inn Motel, the Malibu Beach Inn, Nobu, Soho House, the Malibu Pier and up to and including the Surfrider Beach Parking lot. Let’s learn from Orange County where the beachside communities are now parking lots and major highways have been constructed to circumvent them.

Now is the time for Master Planning that takes into consideration the Vision and Mission statement that respects Malibu’s rural character and natural setting, the continuous urbanization of Malibu, increased tourism traffic, parking challenges, increased pressure on groundwater, and most importantly SAFE EVACUATION. Residents of Western Malibu can attest to the fear created by congestion as they tried to flee the Woolsey Fire. PCH was moving at a snail’s pace. Many drove through fire on both sides of PCH to reach safety.

In this time of Climate Change, it is necessary to rethink Malibu’s development goals. **Recycle, Reuse, Reduce** should be foremost in developing a Master Plan for Malibu.

Malibu residents come first. Let’s plan to preserve our community not make money for the developers. The money made by developers after all leaves
Malibu. We should encourage projects that respect Malibu and support small businesses.

Malibu is a sliver of paradise tucked in between the Santa Monica Mountains and the Pacific Ocean. Let’s work together to keep it that way.

Thank you,

Charlotte M. Frieze
Founding Member
Malibu Open Space Alliance
Letter B

Commenter: Charlotte M. Frieze, Malibu Open Space Alliance

Date: April 22, 2021

Response B.1

The commenter states the visitor serving commercial (CV-1) zone district is intended to provide visitor serving users and be consistent with the rural character and natural environmental setting.

Thank you for the comments regarding the proposed Malibu Inn Motel Project Draft IS-MND. As described in Section 4.11, Land Use and Planning, the Project’s proposed motel use would be consistent with the CV-1 zone district. Comments regarding opposition to the Project that do not directly pertain to the analysis within the IS-MND will be included within the public record and made available to decision-makers for planning and policy consideration.

Response B.2

The comment states it is unclear how the Project would benefit residents of Malibu and be consistent with the rural character and natural environment. Further, the comment states that a project with many variances is not respectful of City Code.

The Project would expand overnight accommodation access in the City, which would provide additional transient occupancy tax (TOT) revenue for the City to provide services and City improvements to residents, as well as benefiting local businesses such as restaurants and retail uses through increased visitation. Additionally, the Project would support resident’s capacity to have overnight accommodation access for visiting family and friends. With regards to consistency with the rural character and natural environment of the area, the project site lies along PCH, a busy 4-lane arterial generally lined with existing 2- to 3-story commercial structures and only very limited natural habitats bordering or in the immediate vicinity of the site. Therefore, while many areas of the City are decidedly rural, the project site and vicinity are less so, and proposed development would generally be consistent with surrounding uses. Comments regarding the usefulness of the Project to City residents do not directly pertain to the analysis within the IS-MND.

With regards to variances, as described in Section 1.4, Project Approvals, of the IS-MND, the Project would require four variance approvals for grading, slope construction, retaining wall height, and surface parking setback. As described in the IS-MND, extensive technical studies particularly in regards to geology and soil impacts (refer to Section 4.7, Geology and Soils) have been completed for the Project. Technical expertise and the IS-MND conclude the Project would be safe to the public and environment with inclusion of the proposed variances. Approval of the Project and associated variances will be determined by the City. Therefore, the IS-MND provides analysis of impacts and required mitigation measures which directly address issues associated with the proposed variances. Nevertheless, comments regarding concern of the required extent of variances will be included within the public record and made available to decision-makers for planning and policy consideration.
Response B.3

The commenter states the Project is inconsistent with Malibu’s Mission and Vision Statements, and would increase urbanization including through the height of the building. The commenter adds the Project when combined with the clock tower creates a concrete canyon and would not be consistent with the rural character and natural environmental setting.

The Project is consistent with the City’s mission and vision statements and would not accelerate urbanization, nor create inconsistency with the character of the City. The project site is located along PCH, a busy 4-lane arterial generally lined with existing 2-story commercial structures in the City’s CV-1 zone district, which allows for motel development. Given surrounding uses, the Project would not create a “concrete canyon”. As stated in Section 1.4, Project Approvals, the Project would require a height variance for development of the retaining walls in excess of six feet in height (Approval of Variance NO. 18-031), and Project approvals and approvals of variances are required by the City’s Planning Commission.

Response B.4

The commenter states the City did not recognize that the Project’s floor-area ratio (FAR) exceeds the allowable FAR as well as that the building’s height was miscalculated. The commenter feels the correct height is 46 feet (including the elevator shaft) not the allowable 28 feet. The commenter also disagrees that the structure is 2-stories and instead should be described as 4 stories to include the parking garage and rooftop deck.

The Project’s FAR is correctly calculated at 0.15, which is consistent with City code. As described in Section 4.11, Land Use and Planning- Impact B, the Project proposes 7,693 square feet (sf) of commercial floor area on a 51,352 sf (1.18 acre) parcel, the resulting FAR would be 0.15, consistent with the maximum FAR permitted. The Project would require approval of Coastal Development Permit (CDP) No. 09-067, ensuring adherence to local and regional policies and goals throughout implementation of the Project. Therefore, the commenter’s statement in regards to FAR exceedance is not accurate. Consistent with the Malibu Municipal Code (MMC), the Project does not include the subterranean parking lot as a floor in the building as it is located below ground and consists of interior parking spaces. Additionally, the rooftop deck is not a floor as defined under the MMC, but instead an additional use area located on a rooftop, which are not typically designated as a floor in commercial development in the City under adopted codes.

Comments regarding concern of the height of the Project as defined under the MMC that do not directly pertain to the analysis within the IS-MND will be included within the public record and made available to decision-makers for planning and policy consideration. It should be noted that the IS-MND discusses potential impacts to visual resource and aesthetics, as well as potential consistency with adopted City policy; impacts were found to be less than significant.

Response B.5

The commenter states the required sloping of the driveway for entry to the subterranean parking structure would not be consistent with the rural character and natural environmental setting required in CV-1 district. The commenter feels the Project is a dominating presence when combined with the retaining wall.

Subterranean parking lots are permitted within the CV-1 district in the City, which require sloped driveways to enter. The commenter states that the Project’s driveway design is inconsistent with policies
related to the rural character and natural environmental setting. However, as described above, the Project is located along PCH, a busy 4-lane arterial generally lined with existing 2-story commercial structures, similar in size, bulk and scale to development nearby to the east and west of the site, including the Surfrider Inn. Please refer to Section 3.1, Aesthetics, for further discussion of driveway design and the limited visibility of the retaining wall.

Response B.6

The commenter states the sloped driveway would make vehicle entrance of PCH more difficult and increase congestion. The commenter states that the driveway slope would be a skateboarder’s dream.

The driveway to PCH does not have any steep slopes, and the design of the subterranean parking lot’s driveway would not increase traffic congestion from the existing level at the current surface parking lot. A through traffic study prepared by a licensed traffic engineer was prepared for the Project as described in Section 4.17, Transportation, which determined the Project would generate no more than 8 trips during the AM peak hour and 10 trips during the PM peak hour that would utilize this driveway. The proposed driveway alteration was reviewed by the City Public Works which ensured the driveway was properly designed so as not to substantially increase traffic hazards along PCH and would have excellent line-of-sight in both directions. With this review, the driveways would not pose any more safety effects than the existing driveway and would be similar to others entering PCH in the vicinity. Further, the Traffic Study concluded the proposed driveway system would improve onsite circulation and the sites connection with PCH and would not significantly impact operational efficiency of PCH’s intersections. Therefore, the Project’s driveway would not significantly impact traffic flows, turning movements, safety or congestion along PCH. Comments regarding concern of skateboard use of the driveway that do not directly pertain to the analysis within the IS-MND will be included within the public record and made available to decision-makers for planning and policy consideration.

Response B.7

The commenter notes that the mountains and bluffs in Malibu form a key part of the City’s rural and natural environmental character, and states the developer ignores the site’s geological restraints by placement of a retaining wall in the toe of a coastal bluff.

The Project would not reduce mountain or coastal bluff views and the building’s roofline would remain well below the top of the slope and would not obstruct or alter any mountain views. Please refer to Section 4.1, Aesthetics, for analysis of the Project's design in consideration to view protection and potential impacts. The Project would not increase risks to the environment or public associated with potential geologic hazards of landslide or slope collapse by placement of the Project along the toe of the slope. The Project’s geotechnical report thoroughly assesses these potential hazards and the adequacy of the site's proposed retaining wall and grading to avoid hazards. The geotechnical reports prepared for this Project’s safety and stability include recommendations and approaches that address rainfall and earthquake hazards. For instance, Project design includes an additional freeboard on the rear yard retaining wall to provide added stability and tie backs for soil stability and fluid pressure accommodation.

Response B.8

The comment states the coastal bluffs give Malibu its character, and cutting into the coastal bluff would be inconsistent with the rural character and natural environmental setting.
The IS-MND addresses the potential changes in visual character of the site and slope and notes that views of the upper slope would not be impeded. Further, the Project would be generally visually consistent with existing buildings such as the existing Surfrider Inn to the west and Malibu Plaza to the east, both of which partially block views of the slope. Thus, the Project would not constitute a noticeable change from existing visual conditions along PCH. The City's code does not restrict development from obstructing a portion of the slope in the CV-1 zone district. The commenter asserts with evidence or citation of precedent that placement of a 2-story building, which is similar in size and height to other previously approved buildings along PCH within the CV-1 zone district to the east and west would be inconsistent with the rural character and natural environmental setting. However, as noted above, this segment of PCH is already relatively intensively developed, and while scenic, is not one of the City's more natural or rural areas and the Project would effectively constitute infill between the large scale Malibu Plaza to the east and the Surfrider Inn to the west.

**Response B.9**

The commenter states the Project is located adjacent to an unstable bluff in a seismically active area that is known for heavy rains and mudslides. The comment asks what studies have been done to confirm the continued stability of the hillside after placement of the retaining wall as well as to residential structures above the site.

While the City may be seismically active and support areas prone to mudslides, the bluff at the project site has been subject to extensive study by qualified geotechnical experts and has not been found to be particularly unstable (see Appendix B). These studies have set forth a detailed set of *required* recommendations to address slope stability, provide adequate design of the retaining wall and ensure protection of structures upslope from the Project. The City's code does not require all cut and fill to remain onsite for construction projects. As described in Section 4.7, *Geology and Soils-City Standard Conditions of Approval*, the Project would comply with City Standard Conditions of Approval. Additionally, all recommendations of consulting certified engineering geologist or geotechnical engineer and/or City geotechnical staff related to grading will be incorporated into the final design. Further, the Project would be required to follow design provisions through the International Building Code (IBC) and California Building Code (CBC) (as adopted by the City of Malibu and codified in MMC Section 15.04.010) to employ design standards that consider seismically active areas to safeguard against major structural failures or loss of life, including standards related to material composition and hillside tie-backs. Therefore, as described in the IS-MND, the Project would be required to incorporate adequate design measures to reduce impacts from seismic activity risk from slope development. Finally, the IS-MND does not state grading on a slope is an exempt activity, and as stated above would comply with all required approvals and design methods.

**Response B.10**

The comment states the Malibu code allows for 1,000 cubic yards (cy) of grading, and cut and fill should be balanced onsite. The comment also states grading on a bluff is not exempt and that the Project would require thousands of truckloads of graded materials containing 10 cy, which would disrupt traffic.

The IS-MND acknowledges the Project's exceedance of the City code's 1,000 cy per commercial acres of non-exempt grading would require a variance approval (Variance No. 18-029), as stated in Section 1.4, *Project Approvals*. However, the City's code does not require all cut and fill to remain onsite for
construction projects. The IS-MND identifies the required projected number of heavy haul truck trips for export of materials during project construction and addresses associated potential impacts to transportation, air quality and other issues. As described in Section 1.3, Project Description, export of approximately 12,255 cy of excavated soil would require use of approximately 613 to 875 heavy haul truck trips, assuming use of 14 to 20 cy haul trucks, though notes the average amount varies. As described in Section 4.17, Transportation, traffic control measures would be required, such as through use of flaggers for trucks entering and leaving the site along PCH.

Response B.11

The comment states City code does not allow retaining walls to exceed 6 feet. The comment states the proposed 56.5 foot retaining wall touches the hotel on 3 sides, which would elevate the Project’s ground level to be one story above adjacent properties resulting in an uncomfortable condition and visual impacts.

The IS-MND acknowledges the Project’s retaining walls would not be exempt from approval and that the Project is required to apply for approval of a variance for this retaining wall, as stated in Section 1.4, Project Approvals. The commenter incorrectly states the retaining wall would be 56.5 feet; as stated in Section 1.3, Project Description, the retaining wall would be installed at the north side of the motel structure along to retain the graded slope and would extend up to 46 feet in height above the elevation of the first floor, constructed to secure the slope following excavation. The proposed structure and proposed trees would obscure the vast majority of the retaining wall, resulting in less than significant impacts, as further discussed in Section 4.1, Aesthetics.

Response B.12

The commenter asserts the Project’s traffic numbers need to be more carefully considered due to existing traffic and the number of accidents annually. The commenter adds since the Woolsey Fire and beginning of COVID-19 pandemic, more construction has occurred in the City and tourism has increased.

The IS-MND and associated traffic study carefully document and support project increases in traffic volumes as well as accident patterns and frequency along PCH. The COVID-19 pandemic is anticipated to have included abnormal traffic volumes in the City. Therefore, the IS-MND, as stated in Section 4.17, Transportation, uses traffic counts collected in 2019 to provide a more representative typical long-term level of traffic “pre-pandemic”. As described in Section 4.17, Transportation-Impact A, of the IS-MND, the Project would not conflict with any ordinance or policy establishing measures of effectiveness for the performance of the circulation system. The Project would improve driveway circulation efficacy at the site and would not significantly impact or alter the operational efficiency of nearby signalized intersections. The IS-MND acknowledges that PCH in the City experiences peak periods of visitor traffic on weekends particularly in the summer months, and coincidental with the weekday afternoon commuter peak period. Based upon the traffic study contained in Appendix C, the Project is projected to generate a net increase of approximately 68 average daily trips (ADT), which is well below Caltrans’ threshold of 110 trips per day; therefore, the IS-MND describes impacts as less than significant to traffic, as described in Section 4.17, Transportation.
Response B.13

The comment states emergency vehicles already experience challenges from weekend traffic congestion. The Project would not result in a significant impact to emergency vehicle access to PCH or resident evacuation during disasters including wildfires. As stated in Section 4.9, Hazards and Hazardous Materials, the Project’s incremental increase in traffic would not substantially increase congestion during disasters and would have less than significant impacts as it would not impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan. Caltran’s review of the Project’s Encroachment Permit would ensure circulation modifications to the driveways (e.g., removing one western driveway and inserting one eastern driveway) would not impact emergency operations on PCH. Additionally, options available to emergency vehicles such as using sirens to clear a path of travel or driving in opposite traffic lanes would ensure the effect of any incremental increases in traffic remain less than significant. Please refer to Section 4.9, Hazards and Hazardous Materials, for further discussion of emergency vehicle access to the site and PCH.

Response B.14

The comment states the City needs to address the parking and circulation issues in the key tourist zone around the Malibu Inn Motel and other major businesses.

The IS-MND thoroughly addresses potential parking and circulation impacts associated with the Project, including cumulative impacts and finds all impacts are less than significant, with mitigation. Finding a parking solution for this area is not in the purview of this IS-MND and the comment will be made available to decision-makers for planning and policy consideration.

Response B.15

The comment states master planning must take into consideration Malibu’s rural character and natural setting, continuous urbanization of Malibu, increased tourism traffic, parking, groundwater, and most importantly safe evacuation. The commenter states traffic along PCH caused a safety concern during the Woolsey Fire due to the slow speed on both sides of PCH.

The IS-MND considers all aspects considered by the commenter, including biological resources, aesthetic considerations, traffic, parking, groundwater, evacuation, and safety. Additionally, all comments will be included in decision-maker considerations on Project approval. The IS-MND considers the City’s natural setting within Section 4.4, Biological Resources, which considers species and natural habitats, rural character within Section 4.1, Aesthetics, which considers the area’s topography and existing development, and groundwater within Section 4.10, Hydrology and Water Quality, which considers the Project’s potential impacts on surface and subterranean water quality. Traffic and safety considerations are included within Section 4.17, Transportation, including congestion, vehicle miles traveled, and geometric hazards from site ingress and egress, and safety and evacuations – particularly those from wildfire. Further, Sections 4.20, Wildfire, 4.17, Transportation, and 4.9, Hazards and Hazardous Materials, note that the Project would not exacerbate existing wildfire threat nor impede potential evacuation efforts.
Response B.16

The comment states the City should rethink development to consider recycle, reuse, and reduce. The comment asserts Malibu residents should come first and the community should be preserved above making money for developers.

The IS-MND provides detailed analysis of all potential Project impacts and requires mitigation measures to address such where required. Comments regarding opposition to the proposed Project that do not directly pertain to the analysis within the IS-MND will be included within the public record and made available to decision-makers for planning and policy consideration.
Mr. Hernandez:

As a Malibu resident, I oppose the new hotel proposed to be built across from the pier. During summer and weekends, that area is already way too congested with people looking for parking and making dangerous u-turns.

Instead, we desperately need a PARKING lot (preferably multi-story) there!!! Other towns make sure to have public parking. Why doesn’t Malibu???

Thank you,
Cynthia Randall Hutchison

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Peace and blessings,

Cynthia Randall
Letter 1

Commenter: Cynthia Randall, Malibu resident
Date: March 7, 2021

Response 1.1

Thank you for the comment regarding the proposed Malibu Inn Motel Project Draft IS-MND. The commenter states that they oppose the Project to be built across from the pier due to the area’s existing traffic congestion and associated safety concerns for parking and U-turns by the public.

However, the proposed Project would provide safe and legal vehicular access and would not substantially increase traffic on PCH. As described in Section 4.17, Transportation-Impact A, of the IS-MND, the Project would not conflict with any ordinance or policy establishing measures of effectiveness for the performance of the circulation system. The Project would improve driveway circulation and access to PCH and would not significantly impact or alter the operational efficiency of nearby signalized intersections. The Project would result in a limited increase in the number of trips from existing use as a parking lot given the proposed motel use. The Project anticipates generating approximately 68 ADT, which is well below Caltrans’ threshold of 110 trips per day; therefore, the IS-MND describes impacts as less than significant to traffic, as described in Section 4.17, Transportation. Please refer to Section 4.17, Transportation, for further discussion of transportation related issues. Comments regarding opposition to the Project that do not directly pertain to the analysis within the IS-MND will be included within the public record and made available to decision-makers for planning and policy consideration.

Response 1.2

The commenter suggests the site should be a parking lot to address existing public parking challenges in the City.

The Project would not substantially affect parking demand in the area, would provide adequate parking and would include a total of 24 parking spaces for Malibu Inn under a Joint Use Parking Agreement (JUPA). Malibu Inn’s parking is currently addressed at the site through a JUPA, as described in the IS-MND. Further, the Project complies with MMC requirements for parking as described in Section 1.3, Project Description of the IS-MND.

"The Project would provide 47 parking spaces, as detailed in Table 2, Proposed Parking Program. Per MMC requirements and the JUPA, one parking space is required for every 50 sf of restaurant floor area for the restaurant that currently exists at the adjacent Malibu Inn property, and one parking space as required for every 225 sf of retail or office floor area. This totals 24 spaces that are required from the adjacent Malibu Inn property. Additionally, per MMC Section 17.48.030 – Specific Parking Requirements – one parking space for each lodging unit (keyed room) is required, totaling 20 spaces, in addition to one space for the average, per-shift number of employees, totaling 3 spaces. As a result, the Project is required to provide a minimum of 47 parking spaces to be consistent with MMC requirements."

In addition, as described in Section 4.17, Transportation-Impact A, of the IS-MND, the Project would increase the amount of onsite parking by 7 spaces from existing capacity, and similar to existing
conditions, the property owners are contemplating the installation of car lifts in excess of the minimum required parking spaces, which they would make available for paid public parking during periods of lower occupancy.

Nevertheless, comments regarding opposition to the Project that do not directly pertain to the adequacy of analysis within the IS-MND will be included within the public record and made available to decision-makers for planning and policy consideration.
To Whom it may concern

I object to the proposed construction. I have lived in Malibu since 1976. It is necessary to maintain infrastructure to support residents and tourists. Turning one of the few available parking areas in that area into a motel is ridiculous. That area has a major amount of congestion on its good days. Adding to it makes no sense with such a limited payback for the overall community.

Sincerely,

David L. King
Letter 2

Commenter: David King, Malibu resident

Date: March 7, 2021

Response 2.1

The commenter states that they oppose the Project due to the conversion of a public parking lot to motel use.

The project site is currently operated as a private parking lot where the public is allowed to park for a fee. The Project would include a total of 24 parking spaces for Malibu Inn under a JUPA. Malibu Inn’s parking is currently addressed at the site through a JUPA, as described in the IS-MND. Further, the Project complies with MMC requirements for parking as described in Section 1.3, Project Description of the IS-MND.

The Project would provide 47 parking spaces, as detailed in Table 2, Proposed Parking Program. Per MMC requirements and the JUPA, one parking space is required for every 50 sf of restaurant service area for the restaurant that currently exists at the adjacent Malibu Inn property, and one parking space as required for every 225 sf of retail or office floor area. This totals 24 spaces that are required on the project site from the adjacent Malibu Inn property. Additionally, per MMC Section 17.48.030 – Specific Parking Requirements – 23 spaces are required of the project site. In addition, as described in Section 4.17, Transportation-Impact A, of the IS-MND, the Project would increase the amount of onsite parking by 7 spaces from existing capacity and similar to existing conditions, and some stacked parking spaces may be made available for paid public parking during periods of lower occupancy.

Nevertheless, comments regarding opposition to the Project that do not directly pertain to the analysis within the IS-MND will be included within the public record and made available to decision-makers for planning and policy consideration.

Response 2.2

The commenter states the area experiences a major amount of congestion typically, so an additional source of traffic would have limited payback for the community.

The Project would not add a significant number of trips to the area. As described in Section 4.17, Transportation-Impact A, of the IS-MND, the Project would not conflict with any ordinance or policy establishing measures of effectiveness for the performance of the circulation system. The Project would improve driveway circulation efficacy at the site and would not significantly impact or alter the operational efficiency of nearby signalized intersections. The IS-MND acknowledges PCH in the City experiences peak periods of visitor traffic on weekends particularly in the summer months, and coincidental with the weekday afternoon commuter peak period. The Project would result in a limited increase in the number of trips from existing use as a parking lot given the proposed motel use. The Project anticipates generating approximately 68 ADT, which is well below Caltrans’ threshold of 110 trips per day; therefore, the IS-MND describes impacts as less than significant to traffic, as described in Section 4.17, Transportation. Please refer to Section 4.17, Transportation, for further discussion of transportation
related discussion and analysis. Comments regarding opposition to the Project that do not directly pertain to the analysis within the IS-MND will be included within the public record and made available to decision-makers for planning and policy consideration.
I have lived in Malibu for over 20 years. I stopped driving 7 years ago because I found the traffic to be too unpredictable for someone in their 60s. Between weekend traffic, summer traffic, blissed out surfers, bicycles and pedestrians the confusion and aggression of other drivers this driver threw up her hands and said no more! I value life and limb of myself and others.

Putting a "motel" up is a recipe for disaster and death. These 24 miles of PCH already exceed the death rate of other roads in similar small towns. The road and residents cannot be expected to deal with an increase in traffic, parking and accidents.

Sent from my iPad
Letter 3

**Commenter:** Christine Kauffman, Malibu resident

**Date:** March 8, 2021

**Response 3.1**

Thank you for the comment regarding the proposed Malibu Inn Motel Project IS-MND. The commenter opposes the Project due to the existing congestion along PCH in the City, particularly during weekend and summer traffic. The commenter asserts the 24 mile stretch of PCH in Malibu exceeds the death rate of other roads in small towns, so the City should not cause an increase in traffic through development of the Project.

The Project would result in a minimal increase in traffic and would be designed to safely accommodate moderate amounts of new traffic onto PCH. As described in Section 4.17, *Transportation- Impact A*, of the IS-MND, the Project would not conflict with any ordinance or policy establishing measures of effectiveness for the performance of the circulation system. The Project would improve driveway circulation efficacy at the site and would not significantly impact or alter the operational efficiency of nearby signalized intersections. Additionally, the IS-MND acknowledges the importance of traffic safety to residents and the public along PCH in the City, and addresses the risk of U-turns and pedestrians stops during busy times in Section 4.17, *Transportation*, and addressed within *Impact C*, which addresses hazards and geometric design features. The Project would not increase the number of driveways that could increase vehicle congestion, and Appendix C, *Transportation Studies*, includes further assessment of the Project's safety and finds no exacerbation of safety associated with U-turns or pedestrian use. The Project would comply with the City's Local Coastal Plan standard conditions to minimize impacts to transportation and traffic (e.g., completion of a construction staging plan, transportation permit from Caltrans, etc.). The IS-MND further acknowledges PCH in the City experiences peak periods of visitor traffic on weekends, particularly in the summer months, and coinciding with weekday afternoon commuter peak period. The Project would result in a limited increase in the number of trips from existing use as a parking lot given the proposed motel use. The Project anticipates generating approximately 68 ADT, which is well below Caltrans' threshold of 110 trips per day; therefore, the IS-MND describes impacts as less than significant to traffic, as described in Section 4.17, *Transportation- Impact B*. Comments regarding opposition to the Project that do not directly pertain to the analysis within the IS-MND, will be included within the public record, and made available to decision-makers for planning and policy consideration.
Good afternoon,

I would like to voice my opposition to a new motel at the Malibu Inn site. That is one of the most congested and dangerous sections of PCH and adding a motel would make it more so. On a weekend, or for that matter any sunny beach going day, it is like running the gauntlet thru that stretch of highway. With the pier traffic, pedestrians, Nobu and beachgoers all looking for parking and pulling out into traffic or making illegal u-turns, it is already an insane driving situation. Enough already. Please do not let this project go forward.

Thank you and be well,

Inez McGee
Pt. Dume resident since 1993
Letter 4

Commenter:    Inez McGee, Point Dume resident
Date:        March 8, 2021

Response 4.1

Thank you for the comment regarding the proposed Malibu Inn Motel Project Draft IS-MND. The commenter opposes the Project due to its location on a dangerous and congested portion of PCH, which the Project would exacerbate. The commenter feels existing parking and traffic conditions make safe driving in the area a challenge.

The project site has adequate line of site along PCH and the limited increase in traffic associated with project development would not cause a substantial increase in congestion or traffic safety hazards. As described in Section 4.17, Transportation, of the IS-MND, the Project would not conflict with any ordinance or policy establishing measures of effectiveness for the performance of the circulation system. The Project would improve driveway circulation efficacy at the site and would not significantly impact or alter the operational efficiency of nearby signalized intersections. Section 4.17, Transportation- Existing Setting, further acknowledges the importance of traffic safety to residents and the public along PCH in the City. As noted by the IS-MND and Appendix C, the City completed a PCH Safety Study including review of collision data from 2012, 2013, and 2014, and PCH Safety Study found that there were 20 collisions along the segment of PCH between Serra Road and Sweetwater Canyon Drive during the study period. The most common types of collisions in this segment of PCH were rear-end collisions associated with excessive vehicle speed and sudden stops for mid-block pedestrian crossings or vehicles making left-or U-turns, as described in Section 4.17, Transportation-Existing Setting. Therefore, the surrounding Project area along PCH has underlying collision rates based on pedestrians, unsignalized left turns, and U-turns. To avoid exacerbating this condition,

"Direct vehicle access from PCH would be implemented through the installation of an unsignalized right-in and right-out driveway at the eastern edge of the project site's southern boundary. The existing driveways at the adjacent Malibu Inn, including one signalized driveway, would also continue to provide vehicle access to the project site from the west. Pedestrian access would be provided via the sidewalk along PCH and associated walkways entering the site."

Therefore, the Project would not increase unsignalized pedestrian crossings, unsignalized left-turns, or U-turns. The Project would also comply with the City's Local Coastal Plan standard conditions to minimize impacts to transportation and traffic (e.g., completion of a construction staging plan, transportation permit from Caltrans, etc.) to the greatest extent feasible.

The IS-MND also acknowledges PCH in the City experiences peak periods of visitor traffic on weekends particularly in the summer months, and coincidental with the weekday afternoon commuter peak period. The Project would result in a limited increase in the number of trips from existing use as a parking lot given the proposed motel use. The Project anticipates generating approximately 68 ADT, which is well below Caltrans' threshold of 110 trips per day; therefore, the IS-MND describes impacts as less than significant to traffic Section 4.17, Transportation- Impact B. Please refer to Section 4.17, Transportation,
for further discussion of transportation related discussion and analysis. Comments regarding opposition to the Project that do not directly pertain to the analysis within the IS-MND will be included within the public record and made available to decision-makers for planning and policy consideration.
Hello there.

I am writing to voice my concern over the proposed new motel plans opposite Malibu Pier.....

I moved from Silverlake LA, to Malibu for a particular lifestyle, one that had less population density, less commercial real estate and more open space..... If I had wanted to live in a ‘beach city’ I would have moved to Manhattan Beach, LongBeach, or San Pedro.

I am very concerned that certain members of Malibu council and other powers-that-be seem to want to turn Malibu into a shopping-by-the-sea-hotel destination.

We already have the massive development, next to the large Wholefoods development being built.... More empty storefronts serving no-one in the community, and depriving humans and wildlife of beautiful nature.....

PCH is a nightmare drive on weekends (ask the majority of residents and you will find most do not leave their houses on these days).

Reckless drivers, including car clubs, descend in vast numbers with little police oversight (no local force of our own) and no local tow truck company!!!(because they were forced out due to commercial real estate development).

The particular stretch by the pier where the new motel wants to build is particularly problematic due to high traffic density (much of which is caused by NOBU and Soho House, that still can’t seem to abide by the rules that they agreed to abide by when planning permission was granted).

Parking is already limited at best..... (I know, the motel will have its own parking lot, but the reality will be more cars and less parking for all)!

I can’t begin to stress enough that PCH and the surrounding infrastructure cannot take this never ending commercialization.

We, the residents, the people that live here, should have our voices heard.

We don’t want another massive shopping center. We don’t want a Tesla car showroom. We don’t want a motel. If we have to have commercial development, we want businesses that serve our community ie; a local tow truck company.

Otherwise we just would rather have wild open space for all of us humans and non-humans alike to enjoy.

Thank you for your time.

Katarina Vinegrad/Calderon.

"What the caterpillar calls the end, the rest of the world calls a butterfly."

Lao Tsu

"What the caterpillar calls the end, the rest of the world calls a butterfly."

Lao Tsu
Letter 5

Commenter: Katarina Vinegrad Calderon, Malibu resident

Date: March 8, 2021

Response 5.1

Thank you for the comment regarding the proposed Malibu Inn Motel Project Draft IS-MND. The commenter voices concern of the Project due to existing conditions on PCH in the City. The commenter is concerned some of the Malibu City Council-members and other powers want to turn Malibu into a shopping by the sea hotel destination. The commenter cites existing problems of weekend roadway congestion, traffic safety challenges, and particular congestion across from the proposed site associated with the pier.

The project site has adequate line of site along PCH and the limited increase in traffic associated with project development would not cause a substantial increase in congestion or traffic safety hazards. As described in Section 4.17, Transportation, of the IS-MND, the Project would not conflict with any ordinance or policy establishing measures of effectiveness for the performance of the circulation system. The Project would improve driveway circulation efficacy at the site and would not significantly impact or alter the operational efficiency of nearby signalized intersections. Section 4.17, Transportation-Existing Setting, acknowledges the importance of traffic safety to residents and the public along PCH in the City. The City completed a PCH Safety Study including review of collision data from 2012, 2013, and 2014, and PCH Safety Study found that there were 20 collisions along the segment of PCH between Serra Road and Sweetwater Canyon Drive during the study period (Appendix C). The most common types of collisions in this segment of PCH were rear-end collisions associated with excessive vehicle speed and sudden stops for mid-block pedestrian crossings or vehicles making left-or U-turns, as described in Section 4.17, Transportation-Existing Setting. Therefore, the surrounding Project area along PCH has underlying collision rates based on pedestrians, unsignalized left turns, and U-turns. To avoid exacerbating this condition,

"Direct vehicle access from PCH would be implemented through the installation of an unsignalized right-in and right-out driveway at the eastern edge of the project site's southern boundary. The existing driveways at the adjacent Malibu Inn, including one signalized driveway, would also continue to provide vehicle access to the project site from the west. Pedestrian access would be provided via the sidewalk along PCH and associated walkways entering the site."

Therefore, the Project would not increase unsignalized pedestrian crossings, unsignalized left-turns, or U-turns. The Project would also comply with the City's Local Coastal Plan standard conditions to minimize impacts to transportation and traffic (e.g., completion of a construction staging plan, transportation permit from Caltrans, etc.) to the greatest extent feasible.

The IS-MND acknowledges PCH in the City experiences peak periods of visitor traffic on weekends particularly in the summer months, and coincidental with the weekday afternoon commuter peak period. The Project would result in a limited increase in the number of trips from existing use as a parking lot given the proposed motel use. The Project anticipates generating approximately 68 ADT, which is well
Malibu Inn Motel Project
Responses to Comments on the Draft Initial Study Mitigated Negative Declaration

below Caltrans' threshold of 110 trips per day; therefore, the IS-MND describes impacts as less than significant to traffic. Please refer to Section 4.17, Transportation, for further discussion of transportation related discussion and analysis. Comments regarding opposition to the Project that do not directly pertain to the analysis within the IS-MND will be included within the public record and made available to decision-makers for planning and policy consideration.
Public comment. Please have this uploaded to onbase for each project.

From: Karen Farrer <kfarrer@malibucity.org>, Mikke Pierson <mpierson@malibucity.org>, Bruce Silverstein <bsilverstein@malibucity.org>, Steve Uhring <suhring@malibucity.org>, Kathleen Stecko <kstecko@malibucity.org>, Steve Uhring <suhring@malibucity.org>, Jakki Ziegler <jziegler@verizon.net>, Jeffrey D Jennings <jdjenningslaw@gmail.com>, Patricia Salazar <psalazar@malibucity.org>, Richard Mollica <rmollica@malibucity.org>, Fred Roberts

Subject: hotels on the pch

Reply-To: 

The number one job of the city council is safety.

Now 2 new hotels are proposed for the PCH. People on cell phones not knowing Malibu looking to turn in and out on the PCH. The PCH in the Carbon Beach area has an already high number of accidents and now you want to consider approving 2 new hotels in case of fire. Most fires come over the mountains from the valley on Santa Ana winds.

How are you proposing to evacuate Malibu residents down the Pacific Coast Highway.

The city's failure was quite evident in the last fire on November 2018.

The city has done nothing to mitigate the traffic and several new buildings have already been approved in the Civic Center Commercial area adding to congestion on the highway.

For the sake of safety please do not approve either of the proposed hotels.

BEST REGARDS

TERRY LUCOFF
City of Malibu
Malibu Inn Motel Project
Responses to Comments on the Draft Initial Study Mitigated Negative Declaration

Letter 6

Commenter: Terry Lucoff
Date: March 9, 2021

Response 6.1

Thank you for the comment regarding the proposed Malibu Inn Motel Project Draft IS-MND. The commenter states PCH has a high number of accidents and opposes the development of the two currently proposed hotels in the City. To note, this Project and IS-MND pertain to solely the Malibu Inn Motel Project.

The project site has adequate line of site along PCH and the limited increase in traffic associated with project development would not cause a substantial increase in congestion or traffic safety hazards. Section 4.17, Transportation- Existing Setting, acknowledges the importance of traffic safety to residents and the public along PCH in the City. The City completed a PCH Safety Study including review of collision data from 2012, 2013, and 2014, and PCH Safety Study found that there were 20 collisions along the segment of PCH between Serra Road and Sweetwater Canyon Drive during the study period (Appendix C). The most common types of collisions in this segment of PCH were rear-end collisions associated with excessive vehicle speed and sudden stops for mid-block pedestrian crossings or vehicles making left-or U-turns, as described in Section 4.17, Transportation-Existing Setting. Therefore, the surrounding project area along PCH has underlying collision rates based on pedestrians, unsignalized left turns, and U-turns. To avoid exacerbating this condition,

"Direct vehicle access from PCH would be implemented through the installation of an unsignalized right-in and right-out driveway at the eastern edge of the project site’s southern boundary. The existing driveways at the adjacent Malibu Inn, including one signalized driveway, would also continue to provide vehicle access to the project site from the west. Pedestrian access would be provided via the sidewalk along PCH and associated walkways entering the site."

Therefore, the Project would not increase unsignalized pedestrian crossings, unsignalized left-turns, or U-turns. The Project would also comply with the City’s Local Coastal Plan standard conditions to minimize impacts to transportation and traffic (e.g., completion of a construction staging plan, transportation permit from Caltrans, etc.) to the greatest extent feasible.

Please refer to Section 4.17, Transportation, for further discussion of transportation related discussion and analysis. Comments regarding opposition to the Project that do not directly pertain to the analysis within the IS-MND will be included within the public record and made available to decision-makers for planning and policy consideration.

Response 6.2

The commenter states most wildfires come over the mountains from the valley due to the Santa Ana winds and requests information on how the Project would evacuate Malibu residents down PCH.

The Project would contribute in a minor incremental way to wildfire evacuation related congestion and would be subject to any City adopted emergency evacuations plans. The commenter identifies the Santa
Monica Mountains along the southern edge of the City that is known for the chaparral-urban interface of dry vegetation and urban development, which during dry weather conditions, seasonal Santa Ana winds, and high temperatures contribute to a risk of wildfire, as described in Section 4.20, Wildfire- Existing Setting, of the IS-MND. As described in Section 4.20, Wildfires- Impact A, the Project would be located in a designated Fire Hazard Severity Area. However, the Project is required to comply with existing County of Los Angeles and City of Malibu Emergency Response Plans. The City of Malibu's 2018 emergency Operations Plan provides an operational approach to response and recovery from potential hazards. The site is directly accessible to a regional transportation resource, PCH, and no new areas of service would be required for emergency personnel. Additionally, the site is designed for throughput access from PCH to the Malibu Inn parking area, which would improve adequate fire department access with the Project's driveway modification on the eastern end. As such, the Project would be in compliance with the City's Emergency Response Plans and would not exacerbate wildfire risk to the public.

Please refer to Section 4.20, Wildfires, for further discussion and analysis of wildfire setting and impacts. Comments regarding opposition to the Project that do not directly pertain to the analysis within the IS-MND will be included within the public record and made available to decision-makers for planning and policy consideration.

Response 6.3

The commenter states the City has not adequately mitigated traffic from new development and is adding congestion to PCH.

As noted within the IS-MND, Caltrans has responsibility for managing traffic flows along PCH and implementing required improvements. The City can only condition individual development projects to provide frontage and other improvements as has been done in this case. As described in Section 4.17, Transportation, of the IS-MND, the Project would not conflict with any ordinance or policy establishing measures of effectiveness for the performance of the circulation system. The Project would improve driveway circulation efficacy at the site and would not significantly impact or alter the operational efficiency of nearby signalized intersections. The Project would result in a limited increase in the number of trips from existing use as a parking lot given the proposed motel use. The Project anticipates generating approximately 68 ADT, which is well below Caltrans' threshold of 110 trips per day; therefore, the IS-MND describes impacts as less than significant to traffic, as further described in Section 4.17, Transportation. Please refer to Section 4.17, Transportation, for additional discussion of transportation related discussion and analysis. Comments regarding opposition to the Project that do not directly pertain to the analysis within the IS-MND will be included within the public record and made available to decision-makers for planning and policy consideration.
I and all members of my family are very much against the new Malibu Inn Hotel project. As we all know PCH is already gridlocked most of the time. We have Norm Hainey's hotel going up very close by and of course our favorite, La Paz (don't remember the new name) in the Civic Center. Do we want complete gridlock on PCH? We definitely need a traffic study. The height of this is a blight on PCH. Why does it need to be so high. Of course Malibu will get more revenue. Seems to be the only thing our city cares about. We've forgotten about the quality of life for people that live here. Please deny this project.

Carla McCloskey
Letter 7

Commenter: Carla McCloskey (1), Malibu resident
Date: March 14, 2021

Response 7.1

Thank you for the comment regarding the proposed Malibu Inn Motel Project Draft IS-MND. The commenter opposes the Project due to the existing traffic congestion on PCH in the City, which will be exacerbated by additional proposed hotel development (e.g., Norm Hainey's hotel).

The Project would result in a minor incremental increase in traffic and proposed driveway improvement would be designed to ensure safe access and avoid disruption of existing traffic flows. As described in Section 4.17, Transportation, of the IS-MND, the Project would not conflict with any ordinance or policy establishing measures of effectiveness for the performance of the circulation system. The Project would improve driveway circulation efficacy at the site and would not significantly impact or alter the operational efficiency of nearby signalized intersections. The Project would result in a limited increase in the number of trips from existing use as a parking lot given the proposed motel use. The Project anticipates generating approximately 68 ADT, which is well below Caltrans’ threshold of 110 trips per day; therefore, the IS-MND describes impacts as less than significant to traffic, as described in Section 4.17, Transportation. Please refer to Section 4.17, Transportation, for further discussion of transportation related discussion and analysis. Comments regarding opposition to the Project that do not directly pertain to the analysis within the IS-MND will be included within the public record and made available to decision-makers for planning and policy consideration.

Response 7.2

The commenter feels the proposed Project height would be a blight on PCH, and requests additional information on why the structure is so high.

The Project would be similar in size, bulk and scale to other surrounding developments. The Project would be a height of two stories or nearly 24 feet above finished or existing grade for plat roofs and 28 feet above finished or existing grade for sloped roofs, with the elevator shaft protruding the highest. The remaining 36 percent of the site would remain undeveloped open space. The Project's design has limited height to not exceed nearby building height, and earth tone color walls to match the surrounding environment. While the Project would be of greater height than the existing site's surface parking lot and requires approval of Site Plan Review (SPR) No. 18-025 for a building height over 18 feet, the site height is aesthetically consistent with surrounding development's height. Therefore, aesthetic impacts associated with the Project's height would be less than significant. Please refer to section 4.1, Aesthetics for further discussion and analysis of building height and design features.

Response 7.3

The commenter states the Project is revenue driven, feels this is the City's top priority, and expresses the City has forgotten about quality of life for residents.
The Project is providing visitor serving uses consistent with underlying Visitor Serving 1 zone and the State Coastal Act priorities. Comments regarding opposition to the Project that do not directly pertain to the analysis within the IS-MND will be included within the public record and made available to decision-makers for planning and policy consideration.
I am writing in opposition to the proposed hotel on the site adjacent to the Malibu Inn.

My first point of opposition is that there is no relief in our LIP for a retaining wall that is fifty feet tall (the dimensioning of their figure 3 is incorrect), with thirteen feet exposed, and a secondary retaining wall behind it.

The spirit of our retaining wall limitations is rooted in “landform alteration” as well as visual appearance. When our code goes to great length to talk about working with existing topography, and limiting grading to a mere one thousand cubic yards, this is done to minimize the impacts of construction on the “natural” topography (or at least the topography that exists when a project is proposed).

The findings for the variance for the grading and the retaining wall simply can not be met.

My second point of opposition is that the existing JUPA and parking space analysis is significantly under counted, and since a JUPA is not a right, but a granted privilege, I think the city would be making a mistake in approving any transfer of rights or a new JUPA without significant increases to the required parking numbers.

I am a proponent of a comprehensive study and possible new zoning designation for the landward side of the Pacific Coast Highway between, say Carbon Mesa and the Civic Center to something along the lines of a “Hospitality Zone” with the types of setbacks, landform alterations, and other amenities like shuttle services and pedestrian bridges to allow for safe, reasonable commercial development of small hotels and restaurants while safely moving through-traffic along that corridor.

Until we have this new zoning, I oppose all of these slap-dash, multi-variance submittals that do nothing for Malibu, and everything for the property developer.

Thanks.

LT

--

Lester Tobias, Principal
Tobias Architecture, Incorporated
29160 Heathercliff, Suite 400
Malibu, California  90265
(310) 317-0507
Letter 8

Commenter: Lester Tobias, Tobias Architecture, Inc.

Date: March 14, 2021

Response 8.1

Thank you for the comment regarding the proposed Malibu Inn Motel Project Draft IS-MND. The commenter opposes the Project partially because the City's Local Coastal Program Local Implementation Plan has no relief for a retaining wall that is fifty feet tall (states the Figure 3 dimensions are incorrect) with thirteen feet exposed. The commenter asserts the findings for variance for the Project’s grading and the retaining wall cannot be met effectively.

The comment notes that the proposed retaining wall could impact the visual character of the area, although the wall would not be visible to passersby on PCH. The comment incorrectly states Figure 3 is inaccurate in regards to Figure 3's retaining wall height. As described in Section 1.3, Project Description, of the IS-MND, the back support wall would be a height of 46 feet above finished grade and approximately 52.5 feet above the finished floor elevation of the subterranean parking level. Therefore, Figure 3 is accurate in its depiction of the retaining wall. Further, a variance would be required for the proposed installation of a retaining wall taller than 6 feet and on a slope steeper than 2.5 (horizontal) to 1 (vertical) slopes.

Section 4.7, Geology and Soils-Impact A, provides discussion and analysis of required building compliances and recommendations of Appendix B to ensure the Project’s retaining wall sufficiently meets building development standards for public safety including during earthquakes and landslides. The following excerpt from Impact A for earthquake related impacts provides an example of how the Project will ensure geotechnical safety.

“The residential structure located north of and above the slopes on and adjacent to the project site has been identified on top of a potentially unstable slope, and excavation of the toe to this slope for the new hotel, subterranean parking and retaining wall have the potential to cause slope failure if exacerbated by rainfall. However, the Project would be designed to not impact the structure above, as it has undergone extensive geotechnical review to ensure stability, incorporates stabilizing and wing retaining walls for heightened slope stability, and would be required to follow design provisions through the International Building Code (IBC) and California Building Code (CBC) (as adopted by the City of Malibu and codified in MMC Section 15.04.010) to employ design standards that consider seismically active areas to safeguard against major structural failures or loss of life. With adherence to applicable building codes and the recommendations of the Project-specific geotechnical report, direct and indirect impacts associated with the exposure of people or structures to potential substantial adverse effects, including the risk of loss of life, injury, or death involving rupture of a known earthquake fault would be less than significant.”

Nevertheless, comments regarding opposition to the Project will be included within the public record and made available to decision-makers for planning and policy consideration.
Response 8.2

The commenter’s additional point of opposition is the existing JUPA and parking space analysis is that parking demand is significantly undercounted. The commenter adds a JUPA is a granted privilege and not a right, so asserts that the City is making a mistake in approving any transfer of rights of a new JUPA without significant require parking increases.

The IS-MND fully assesses potential parking impacts and there is no evidentiary basis to assert otherwise. The Project would continue to be subject to the existing JUPA with Malibu Inn under which the project site is required to provide sufficient parking to support land uses on both properties. A JUPA was previously approved by the City for the Malibu Inn to use 31 parking spaces on the adjacent surface parking lot. The JUPA will continue to be honored except the total number of offsite parking spaces will be reduced to 24, given a change in restaurant service area to retail, which has a lower parking demand. The Project would provide 47 parking spaces, as detailed in Table 2, Proposed Parking Program. Per MMC requirements and the JUPA, one parking space is required for every 50 sf of restaurant service area for the restaurant that currently exists at the adjacent Malibu Inn property, and one parking space as required for every 225 sf of retail or office floor area. This totals 24 spaces that are required on the project site for the adjacent Malibu Inn property. Additionally, per MMC Section 17.48.030 – Specific Parking Requirements – 23 spaces are required of the project site property. Please refer to Section 1.3 Project Description, for full description of the JUPA. Comments pertaining to the City’s rights to approve a JUPA are noted as well as the comments regarding opposition to the Project that do not directly pertain to the analysis within the IS-MND will be included within the public record and made available to the decision-makers for planning and policy consideration.

Response 8.3

The commenter is a proponent of a comprehensive study and possible new zoning designation for the landwards side of PCH as a “Hospitality Zone.” However, until this new zoning would be in place the commenter opposes variance submittals for the City.

The Project is consistent with existing zoning and the long-term concept of a new hospitality zone. Comments pertaining to a recommended new zoning designation named “Hospitality Zone” are noted, and the IS-MND otherwise considers land use impacts, of which the IS-MND’s Section 4.11, Land Use and Planning, did not identify a potentially significant impact. Comments regarding opposition to the Project that do not directly pertain to the analysis within the IS-MND will be included within the public record and made available to decision-makers for planning and policy consideration.
I understand that the proposal for the Malibu Beach Inn is coming before the planning commission. I have the following questions and comments:

- Has a traffic study for the area been completed that takes into account all of the driveways, left turns, pedestrians jay walking to the beach, people making illegal u turns etc in the area?

- How can additional development be considered for this area when Nobu and Little Beach House continue to create traffic nightmares every warm weekend? There needs to be resolution.

- In looking at the design – I do not understand how the property will be built without substantial variances for height – size of the retaining walls – and parking for both employees and guests. I am not in favor of malibu granting ANY variances in this area that increases development density.

- What will happen to the Malibu Inn building if they lose the overflow parking lot? It appears that neither of these properties will have enough parking once complete.

- Since most of our traffic comes from Santa Monica – what are the plans for people making left turns out of the hotel? Just making them illegal will not work – as we see from McDonalds, the former KFC location, V’s etc.

- How will traffic enter the hotel? There is no room for a right hand turn lane without taking away public parking – is the hotel going to offer up FREE public parking to replace these spots?

I do not see how this project can be made traffic neutral nor how they will be able to pass an environmental impact study given the amount of grading required. I would urge the planning commission to view this project as skeptically as those of us who have lived in Malibu and watched our traffic and quality of life slowly get degraded. Without a longterm solution to congestion and traffic on this section of PCH – I believe that ALL development should be halted in the area until solutions can be found.

Sincerely,
Jamie Ottilie
Letter 9

Commenter: Jamie Otilie (1), Malibu resident

Date: March 15, 2021

Response 9.1

Thank you for the comment regarding the proposed Malibu Inn Motel Project Draft IS-MND. The commenter asks if a traffic study has been completed for the area that takes into account all driveways, left turns, pedestrians jay walking to the beach, and people making illegal U-turns in the area.

The draft IS-MND fully accounts for and addresses existing and potential future access. As described in Section 4.17, Transportation, and Appendix C, Transportation Studies, K2 Traffic Engineering, Inc. provided a comprehensive transportation study for the Project. Additionally, the City commissioned a PCH Safety Study based on a review of collision data from 2012, 2013, and 2014 for the City’s section of PCH. The transportation study and analysis takes into account all project driveways as well as adjacent driveways, unsignalized and signalized pedestrian walkways, left hand turns, and U-turns. The Project’s transportation studies and analysis do not take into account illegal pedestrian or car actions as illegal actions are not included under CEQA. Please also refer to Section 4.17, Transportation, and/or Appendix C for further transportation impact discussion and analysis.

Response 9.2

The commenter asks how additional development can be considered in their area due to the current traffic congestion from Nobu and Little Beach House.

The IS-MND fully accounts for and addresses existing and potential future access. As described in Section 4.17, Transportation-Impact A, of the IS-MND, the Project would not conflict with any ordinance or policy establishing measures of effectiveness for the performance of the circulation system. The Project would improve driveway circulation efficacy at the site and would not significantly impact or alter the operational efficiency of nearby signalized intersections. The IS-MND acknowledges PCH in the City experiences peak periods of visitor traffic on weekends particularly in the summer months, and coincidental with the weekday afternoon commuter peak period. The Project would result in a limited increase in the number of trips from existing use as a parking lot given the proposed motel use. The Project anticipates generating approximately 68 ADT, which is well below Caltrans’ threshold of 110 trips per day; therefore, the IS-MND describes impacts as less than significant to traffic, as described in Section 4.17, Transportation. Please refer to Section 4.17, Transportation, for further discussion of transportation related discussion and analysis. Comments regarding opposition to the Project that do not directly pertain to the analysis within the IS-MND will be included within the public record and made available to decision-makers for planning and policy consideration.
Response 9.3

The commenter requests clarification on how the property will be built without substantial variances for height, size of retaining walls, and parking. The commenter does not support any variances that increase development density.

Although the Project will require approval of variances, its location at the base of a slope would minimize visual changes and the proposed project would be largely visually consistent with nearby uses. As described in Section 1.4, Project Approvals of the IS-MND, the Project would require approval of Variances from the City for project development including but not limited to retaining wall height (No. 18-031) and for surface parking in front yard setback (No. 20-035). With approval of SPR No. 18-025 for building height, the building would be found in compliance with City code. Please refer to Section 1.4, Project Approvals for further discussion of variances.

Response 9.4

The commenter asks what will happen to Malibu Inn if they lose their overflow parking lot. The commenter expresses concern that Malibu Inn or the Project will not have sufficient parking.

The Project would include adequate parking to ensure that typical operation of both Malibu Inn and the Project would not result in parking spillover into adjacent neighborhoods. The Project would include a total of 24 parking spaces for Malibu Inn under a JUPA. Malibu Inn’s parking is currently addressed at the site through a JUPA, as described in the IS-MND. Further, the Project complies with MMC requirements for parking as described in Section 1.3, Project Description of the IS-MND. The Project would provide 47 parking spaces, as detailed in Table 2, Proposed Parking Program. Per MMC requirements and the JUPA, one parking space is required for every 50 sf of restaurant service area for the restaurant that currently exists at the adjacent Malibu Inn property, and one parking space as required for every 225 sf of retail or office floor area. This totals 24 offsite spaces that are required from the adjacent Malibu Inn. Additionally, per MMC Section 17.48.030 – Specific Parking Requirements – 23 spaces are required of the Project. In addition, as described in Section 4.17, Transportation-Impact A, of the IS-MND, the Project would increase the amount of onsite parking by 7 spaces from existing capacity and similar to existing conditions. Additionally, stacked parking within the subterranean garage may be installed by the property owner, which would provide overflow parking spaces, as necessary for the property. In summary, Malibu Inn will not lose parking space allocation at the project site.

Response 9.5

The commenter asks what the plans are for property guests making left turns out of the hotel. The commenter feels making them illegal will be ineffective.

The Project would include adequate access via two driveways with good line of sight along PCH. As described in Section 1.3, Project Description,

"Direct vehicle access from PCH would be implemented through the installation of an unsignalized right-in and right-out driveway at the eastern edge of the project site’s southern boundary. The existing driveways at the adjacent Malibu Inn, including one signalized driveway, would also
continue to provide vehicle access to the project site from the west. Pedestrian access would be provided via the sidewalk along PCH and associated walkways entering the site.”

The commenters opinion making left-hand exits illegal will be ineffective will be included within the public record and made available to decision-makers for planning and policy consideration.

**Response 9.6**

The commenter asks how traffic will enter the hotel as there is no room for a right-hand turn lane without taking public parking. The commenter requests the Project provide free public parking to replace any spots that are taken away by a right-hand turn lane.

The Project will provide safe access via two driveways which would accommodate hotel guests. As described above, project site access will be available from an unsignalized right-in and right-out driveway at the eastern edge of the Project’s southern boundary. No signaled right-hand turn lane is proposed under the Project and no net loss in street parking along PCH would be lost. The Project would not be required to provide free public parking as none will be removed.

**Response 9.7**

The commenter does not feel the Project can be made traffic neutral nor how an EIR was not required for grading. The commenter urges the Planning Commission to oppose this project.

The IS-MND provides detailed analysis of potential project impacts and no impacts were identified that could require preparation of an EIR. As described above, the IS-MND acknowledges PCH in the City experiences peak periods of visitor traffic on weekends particularly in the summer months, and coincidental with the weekday afternoon commuter peak period. The Project would result in a limited increase in the number of trips from existing use as a parking lot given the proposed motel use. The Project anticipates generating approximately 68 ADT, which is well below Caltrans’ threshold of 110 trips per day; therefore, the IS-MND describes impacts as less than significant to traffic, as described in Section 4.17, Transportation- Impact B. Further, the Project would apply for a variance approval for grading in excess of 1,000 cy per lot area acreage, and with approval of the variance, Caltrans approval of the road encroachment permit, and adherence to mitigation measures included within the IS-MND, impacts would be considered less than significant, not warranting the issuance of an EIR analysis under CEQA. Comments regarding opposition to the Project that do not directly pertain to the analysis within the IS-MND will be included within the public record and made available to decision-makers for planning and policy consideration.
I would add that I am adamantly against offsite parking for the Malibu Beach Inn – this is against the building code and should not be allowed.

Jamie
Letter 10

Commenter: Jamie Ottilie (2), Malibu resident
Date: March 15, 2021

Response 10.1

Thank you for the comment regarding the proposed Malibu Inn Motel Project Draft IS-MND. The commenter asserts the project site contains parking that supports the Malibu Beach Inn. However, historically, there has been no JUPA for the project site with the Malibu Beach Inn. Please refer to Section 3.17, Transportation, to see an overview of the Project’s proposed JUPA with the Malibu Inn (retail and restaurant building). Nevertheless, comments regarding opposition to the Project that do not directly pertain to the analysis within the IS-MND will be included within the public record and made available to decision-makers for planning and policy consideration.
Dear Planning Dept,

Please do not consider building a hotel at the most congested area of PCH in Malibu. It is unbearable trying to commute regularly in and out of Malibu and I think building this hotel right at the bottleneck will hugely exacerbate the existing problem.

Kind regards,

Lisa McKean (Owner)
Letter 11

Commenter: Lisa McKean, Malibu Fountains

Date: March 15, 2021

Response 11.1

Thank you for the comment regarding the proposed Malibu Inn Motel Project Draft IS-MND. The commenter opposes the Project due to the existing congestion on the City’s stretch of PCH and existing traffic impacts to commuters.

The Project would not conflict with any ordinance or policy establishing measures of effectiveness for the performance of the circulation system, as described in Section 4.17, Transportation of the IS-MND. The Project would improve driveway circulation efficacy at the site and would not significantly impact or alter the operational efficiency of nearby signalized intersections. The IS-MND acknowledges PCH in the City experiences peak periods of visitor traffic on weekends particularly in the summer months, and coincidental with the weekday afternoon commuter peak period. The Project would result in a limited increase in the number of trips from existing use as a parking lot given the proposed motel use. The Project anticipates generating approximately 68 ADT, which is well below Caltrans’ threshold of 110 trips per day; therefore, the IS-MND describes impacts as less than significant to traffic, as described in Section 4.17, Transportation-Impact B. Please refer to Section 4.17, Transportation, for further discussion of transportation related discussion and analysis. Comments regarding opposition to the Project will be included within the public record and made available to decision-makers for planning and policy consideration.
Hello,

I understand there is a planning meeting upcoming and I would like to submit my questions and request for a noise survey for this potential plan.

This will definitely draw a crowd and so to also see a survey for occupancy, daily attendance and parking availability provided for the property only is important and that there are reasonable rates extended, as it will impact other retailers in the area.

I will watch to see the acknowledgment and plans to provide a response.

Thank you,

Suzanne
Letter 12

Commenter: Suzanne Titus
Date: March 15, 2021

Response 12.1

Thank you for the comment regarding the proposed Malibu Inn Motel Project Draft IS-MND. The commenter expresses a concern with potential noise impacts from the Project through a request for a noise survey for the Project.

The IS-MND includes a detailed noise analysis that revealed no potential for significant impacts. Please refer to Section 3.13, Noise, which identifies potential for noise during construction and operation of the Project and provides two mitigation measures to reduce noise related effects. NOI-1 which reduces construction noise through construction machinery and truck noise reduction accessories, staging area location, temporary sound barriers, and public noticing. Additionally, the Project would be required to designate a noise control coordinator. NOI-2 prohibits amplified sound from the Project. If amplified sound is later proposed outdoors, the Applicant must prepare a noise study and must submit an amendment to the proposed conditional use permit.

Response 12.2

The commenter expresses concern of parking availability upon implementation of the Project.

The Project would provide adequate parking. The Project would include a total of 24 parking spaces for Malibu Inn under a JUPA to continue to support the required parking spaces for the Malibu Inn, as described in the IS-MND. Further, the Project complies with MMC requirements for parking as described in Section 1.3, Project Description of the IS-MND. The Project would provide 47 parking spaces, as detailed in Table 2, Proposed Parking Program. Per MMC requirements and the JUPA, one parking space is required for every 50 sf of restaurant service area for the restaurant that currently exists at the adjacent Malibu Inn property, and one parking space as required for every 225 sf of retail or office floor area. This totals 24 spaces that are required from the adjacent Malibu Inn property. Additionally, per MMC Section 17.48.030 – Specific Parking Requirements – 23 spaces are required of the project site for the proposed motel use. In addition, as described in Section 4.17, Transportation-Impact A, of the IS-MND, the Project would increase the amount of onsite parking by 7 spaces from existing capacity. Additionally, stacked parking within the subterranean garage may be provided for overflow parking spaces, as necessary for the property.
This is a follow up to my original email as I have read other disturbing details. How can they predict that there will only be 14/16 additional trips daily? This is absurd. Events always generate more traffic than what they are predicting. I'm also concerned when they say they will only have 3 employees--that doesn't make sense. And the noise that will be generated from a rooftop event center? There are many questions that need to be answered and this report seems about as factual as the one a few years ago that said Malibu traffic hadn't increased in 25 years. We need an accurate factual study that doesn't presume Malibu residents aren't aware of what the actual truth is.

Thank you. Carla McCloskey

Here they claim that they anticipate large events every weekend - more in the summer and YET - predict only 14 more cars during the day and 16 at night. Large events, even medium events such as the one most likely to be held there, weddings, will bring hundreds of cars per each event.

The proposed Project also includes a rooftop bar and pool area, with potential for noise generation, particularly during evening hours. During summer months, events held on the rooftop would be anticipated to occur more frequently, potentially with events or larger gatherings occurring almost every weekend. During winter months, it is anticipated that outdoor events would be less frequent. Any increased permanent noise during the operation of the Project would be controlled by the noise regulations contained in the MMC (Chapter 8.24). Ambient noise associated from the site would continue to be subordinate to noise levels in the existing environment, where ambient noise is dominated by traffic along PCH and nearby commercial areas, and the existing 40-space parking lot that generates ongoing user noise. The project site
City of Malibu
Malibu Inn Motel Project
Responses to Comments on the Draft Initial Study Mitigated Negative Declaration

Letter 13

Commenter: Carla McCloskey (2), Malibu resident
Date: March 15, 2021

Response 13.1

Thank you for the comments regarding the proposed Malibu Inn Motel Project Draft IS-MND. The commenter expresses concern over the general Project transportation and traffic details. The commenter states events generate more traffic than what the IS-MND predicts (14 to 16 additional trips daily). However, the IS-MND fully describes potential project traffic impacts, including special events.

The Project and IS-MND’s transportation and traffic analysis, as described in Section 4.17, Transportation-Existing Setting, on a Traffic Study prepared for the project site (Appendix C). The Traffic Study assesses and describes estimated trip generation, potential congestion impacts, and site access. The following excerpt from Section 4.17, Transportation-Impact A identifies transportation impacts to be less than significant as the Project trip generation would be below TIA Guideline thresholds and OPR guidelines.

“According to the Traffic Study and detailed in Table 13, Project Trip Generation, the Project is estimated to generate 14 trips occurring during the AM peak period (6 inbound, 8 outbound) and 16 trips occurring during the PM peak period (6 inbound, 10 outbound) (see Appendix C). These net Project trips are below the City TIA Guidelines thresholds (30 or more peak-hour trips), which require a preparation of a formal transportation impact analysis. Additionally, per the OPR December 2018 Technical Advisory on Evaluating Transportation Impacts in CEQA, projects that generate or attract fewer than 110 trips per day generally may be assumed to cause a less-than significant transportation impact. Per Institute of Transportation Engineers (ITE) Trip Generation 10th Edition trip generation rates, the total daily project trips are estimated as 68. As such, impacts to transportation would be less than significant.”

Please refer to Appendix C for further details and discussion of the traffic and transportation analysis for the IS-MND. Comments regarding opposition to the Project that do not directly pertain to the analysis within the IS-MND will be included within the public record and made available to decision-makers for planning and policy consideration.

Response 13.2

The commenter expresses concern that the IS-MND only accounts for three employees under the Project.

While it is acknowledged that employment may vary, with consideration for the size of the motel, the number of projected employees would be insignificant in terms of traffic or parking demand. Given the nature of the Project as a boutique hotel with 20-rooms, per-shift operational employees is estimated as three as estimated by the Project’s site plans and technical analysis. Please also refer to Section 4.14, Population and Housing, for further discussion and analysis of temporary and long-term employment for the proposed Project. If additional employees are at the property, the owner would be in violation of their permit. Comments regarding opposition to the Project that do not directly pertain to the analysis within the IS-MND will be included within the public record and made available to decision-makers for planning and policy consideration.
Response 13.3

The commenter expresses concern over noise levels from the outdoor rooftop.

Noise levels are assessed by the IS-MND and the Project would not allow for amplified music that may affect nearby properties. Please see Comment Response 12.1 for additional information on this topic.

Response 13.4

The commenter expresses concern that the IS-MND is not factual in its account of City traffic.

The IS-MND fully describes both existing and project future traffic levels. As described above, the Project’s transportation and traffic analysis is provided in Appendix C, which were prepared by an accredited traffic engineering firm with local knowledge (K2 Traffic Engineering, Inc.). The traffic analysis includes PCH Traffic Study from 2012 to 2014, and the most recent traffic approvals conducted in 2019 and 2020 during IS-MND preparation with consideration of pre-Covid traffic. Therefore, the Project utilizes Project-specific traffic analysis as well as existing studies of PCH in the City. Please refer to Appendix C for further discussion and analysis of methodology and approach of transportation analysis in the IS-MND. Comments regarding opposition to the Project that do not directly pertain to the analysis within the IS-MND will be included within the public record and made available to decision-makers for planning and policy consideration.
Please add this to Malibu Inn Hotel EIR Comments.

COMMENT ON MALIBU INN HOTEL.

Unfortunately, once again, our city has been presented with a staff report dismissing and understating the impacts of new development on Malibu. This project needs an EIR to study noise, traffic, and the impact of a combination of two venues next to each other. A nightclub next to a potential new hotel.

The Malibu Inn Hotel project is proposed at one of the busiest and most dangerous sections of PCH in Malibu. Across from the heavily populated pier, filled Surfrider Beach, the only fast-food spots in Malibu, close proximity to crowded Nobu, Soho House, Malibu Beach Inn, and busy public parking lots. The staff report states that this hotel will hold large events every weekend at the new rooftop bar. These will undoubtedly include weddings, parties, conventions which will bring in hundreds of new cars and yet - staff states only 14 AM and 16 PM new additional daily car trips. This claim flies in the face of the most basic logic and accuracy.

The proposed Project also includes a rooftop bar and pool area, with potential for noise generation, particularly during evening hours. During summer months, events held on the rooftop would be anticipated to occur more frequently, potentially with events or larger gatherings occurring almost every weekend. During winter months, it is anticipated that outdoor events would be less frequent. Any increased permanent noise during the operation of the Project would be controlled by the noise regulations contained in the MMC (Chapter 8.24). Ambient noise associated from the site would continue to be subordinate to noise levels in the existing environment, where ambient noise is dominated by traffic along PCH and nearby commercial areas, and the existing 40-space parking lot that generates ongoing user noise. The project site

Heavy haul trucks will need to run at least 600 - 875 loads to evacuate mounds of dirt on an already overrun PCH.

Approximately 394 cy of the excavated soil would be used as fill material onsite, while the remaining material (approximately 12,255 cy) would be exported from the project site via roughly 600 to 875 heavy haul trucks, depending on the size of trucks utilized (see Section J, below). The total area of ground disturbance would be 0.77 acre, or approximately 33,541 sf. As detailed in

While scaled-down hotels can have advantages, this project at this intersection could not possibly be proposed at a more disruptive location. There is no possible way that this new hotel, in this area, will not greatly impact and cause more disturbance on PCH for visitors and residents. And yet this staff claims this project “would not result in any cumulative impacts”. This is a clear example of truth being understated and buried to serve developers, rather than data that protects the city and visitors on PCH.

Please unbury the truth and conduct a proper EIR. Protect this fragile city and Malibu's already overloaded infrastructure. Malibu must demand that a full and accurate traffic study is conducted that includes ingress and egress of all uses within a mile of this location including traffic from the pier, Nobu, Malibu Beach Inn, public parking lot, Surfrider Beach, Jack In The Box, Serra entrance, etc.

Thank you for listening, please do the job of planning correctly.

Thank you,
Letter 14

Commenter:  Jae FloraKatz
Date:        March 17, 2021

Response 14.1
Thank you for the comments regarding the proposed Malibu Inn Motel Project Draft IS-MND. The commenter asserts that the project would result in a nightclub next to a new hotel, large events every weekend, and hundreds of new cars. The commenter quotes an excerpt from the IS-MND of potential impacts before further analysis and mitigation is introduced.

The proposed Project would not include a nightclub and would be subject to strict City regulation and enforcement. The IS-MND confirms the commenter’s statement that larger gatherings may occur during summer month weekends, noting that it is a hotel. However, the use of the term “event” in the IS-MND does not align with the commenter’s perception of what may occur – or would be allowed – at the property, nor what is proposed in the project description. The IS-MND and Project does not allow for, anticipate, nor require analysis of the potential for large events, hundreds of cars, or nightclubs. In the case that the property would have an “event” that exceeds the property capacity, a City permit is required. Additionally, the IS-MND notes that the project site is buffered from surrounding residential areas by open space and the incorporation of landscaping. Finally, amplified sound is not proposed and the Project will be conditioned as such. It is also noted that the adjacent noise of PCH would exceed the noise of typical use that may occur on the rooftop. Finally, the commenter’s recommendations will be forwarded to the decision-makers for consideration.

Response 14.2
The commenter expresses a concern with potential impacts from the Project from haul trucks that may be required during dirt excavation.

The IS-MND includes a thorough discussion of the impacts of haul trucks. As described in Section 1.4, Project Approvals, the project is required to obtain permit approval for hauling on Caltrans right-of-way, such as along PCH, which may include additional construction-related requirements to obtain approval as mentioned above. Further, as described in Section 4.17, Transportation, of the IS-MND, the City applies Local Coastal Plan standard conditions to all applicable projects to minimize impacts to transportation and traffic including but not limited to: “for the transportation of heavy construction equipment and/or material, which requires the use of oversized-transport vehicles on State highways, the applicant / property owner is required to obtain a transportation permit from Caltrans.” Regarding further traffic considerations, please also refer to Appendix C for a detailed analysis of construction impacts. In the case of noise concerns, please also refer to Section 3.13, Noise, which identifies potential for noise during construction and operation of the Project and provides two mitigation measures to reduce noise related effects. NOI-1 which reduces construction noise through construction machinery and truck noise reduction accessories, staging area location, temporary sound barriers, and public noticing. Additionally, the Project would be required to designate a noise control coordinator. If an amplified sound is proposed outdoors, the Applicant must prepare a noise study and must submit an amendment to the proposed
conditional use permit. Ultimately, potential traffic and noise concerns will be included in decision maker considerations in project approval deliberations.

**Response 14.3**

The commenter asserts the project will result in cumulatively considerable impacts, and suggests the Project would result in traffic impacts at the intersection for visitors and residents.

The Project would not result in cumulative considerable impacts, including those associated with increased traffic. As described in Section 4.17, Transportation-Impact A, of the IS-MND, the Project would not conflict with any ordinance or policy establishing measures of effectiveness for the performance of the circulation system. The Project would improve driveway circulation efficacy at the site and would not significantly impact or alter the operational efficiency of nearby signalized intersections. The Project would result in a limited increase in the number of trips from existing use as a parking lot given the proposed motel use. The Project anticipates generating approximately 68 ADT, which is well below Caltrans' threshold of 110 trips per day; therefore, the IS-MND describes impacts as less than significant to traffic, as described in Section 4.17, Transportation. Please refer to Section 4.17, Transportation, for further discussion of transportation related discussion and analysis. Additionally, the IS-MND acknowledges the importance of traffic safety to residents and the public along PCH in the City, and addresses the risk of U-turns and pedestrians stops during busy times in Section 4.17, Transportation, and addressed within Impact C, which addresses hazards and geometric design features. To avoid exacerbating this condition,

"Direct vehicle access from PCH would be implemented through the installation of an unsignalized right-in and right-out driveway at the eastern edge of the project site's southern boundary. The existing driveways at the adjacent Malibu Inn, including one signalized driveway, would also continue to provide vehicle access to the project site from the west. Pedestrian access would be provided via the sidewalk along PCH and associated walkways entering the site."

Therefore, the Project would not increase unsignalized pedestrian crossings, unsignalized left-turns, or U-turns. The Project would not increase the number of driveways that could increase vehicle congestion, and Appendix C, Transportation Studies, includes further assessment of the Project’s safety and finds no exacerbation of safety associated with U-turns or pedestrian use. Comments regarding opposition to the Project that do not directly pertain to the analysis within the IS-MND will be included within the public record and made available to decision-makers for planning and policy consideration.
Hi Adrian, it’s John Stockwell the owner of Malibu Farm on the Malibu pier as well as a Pt Dume resident.

I wanted to just quickly weigh in on the potential hotel project across the street from the pier. As everyone in Malibu knows parking is already a huge issue in that area and I don’t understand how the parking for the current Aviator Nation expansion to food and entertainment will be handled if they no longer have the joint use agreement for the lot next to them.

So many of us have always felt that this location would be perfect for a well designed and well landscape parking garage to accommodate all the visitor serving parking that this area is overwhelmed with and give PCH back to the residents for their parking. The current parking lot next to aviator nation where this potential motel would go is full by 10 AM in the summer with people paying $45 a car so where will all those people go if there is no parking option there anymore?

There are obviously a host of additional issues such as the amount of excavation and retaining walls necessary as well as the impact of the construction on PCH but my bigger issue is this is an incredible opportunity to create parking in the center of the commercial district of Malibu.
City of Malibu
Malibu Inn Motel Project
Responses to Comments on the Draft Initial Study Mitigated Negative Declaration

Letter 15

Commenter:  John Stockwell, Malibu Farm Owner
Date:  March 8, 2021

Response 15.1

Thank you for the comments regarding the proposed Malibu Inn Motel Project Draft IS-MND. The commenter expresses concern on how parking for Aviator Nation’s expansion to food and entertainment will be handled if they do not have a JUPA with the Project’s property.

Parking under the site’s JUPA is addressed and explained within the IS-MND. As described in Section 1.1, Project Site and Existing Uses, the Aviator Nation of the Malibu Inn building is subject to a JUPA with the project site. Aviator Nation resides in the adjacent Malibu Inn property, and following an update of land use and site approval associated with onsite land uses and the Project, as described in Section 4.17, Transportation, the Project would continue to be subject to a JUPA with Malibu Inn that would require the project site to provide 24 spaces to the Malibu Inn property. As the Project would provide 24 spaces to the Malibu Inn under the JUPA for the Project, as described in Section 1.3, Project Description, the Project would be compliant with MMC requirements and the JUPA. Therefore, the Aviator Nation property will be accommodated under the Project’s new JUPA and accounts for operational changes planned at the Malibu Inn.

“Per MMC requirements and the JUPA, one parking space is required for every 50 sf of restaurant floor area for the restaurant that currently exists at the adjacent Malibu Inn property, and one parking space as required for every 225 sf of retail or office floor area. This totals 24 spaces that are required from the adjacent Malibu Inn property.”

Response 15.2

The commenter suggests this property should be a well landscaped parking garage to accommodate visitor-serving parking, particularly in summer.

As described in Section 1.3, Project Description, of the IS-MND, the Project would continue to provide onsite parking for property and adjacent property visitors year-round, as under existing conditions. The Project would provide 47 parking spaces through surface and subterranean parking spaces including 35 regular parking spaces, 3 ADA parking spaces, and 9 compact spaces. Stacked parking spaces may be included in the overall design, which would be additive to the minimum of 47 parking spaces required for the site. Please refer to Section 4.17, Transportation, for further discussion and analysis of parking in the IS-MND. Comments regarding suggestion of the property for parking that do not directly pertain to the analysis within the IS-MND will be included within the public record and made available to decision-makers for planning and policy consideration.
Response 15.3

The commenter states he feels there are other general concerns with the project associated with excavation, retaining walls, and construction impacts on PCH but reiterates this site should be used for parking.

A high priority for land use under the State Coastal Act is visitor-serving uses, which the Project would provide. Site alteration and grading are fully addressed in the IS-MND. Please refer to Section 4.7, Geology and Soils, for discussion and analysis of the proposed excavation quantity, retaining wall construction and materials, and overall construction effects. Comments regarding suggestion of the property for parking that do not directly pertain to the analysis within the IS-MND will be included within the public record and made available to decision-makers for planning and policy consideration.
Dear Malibu City Council:

It is inadvisable for the City of Malibu to approve the project known as the ‘Malibu Inn Motel’ as proposed by Burdge & Associates Architects and Surfrider Plaza LLC.

Furthermore, the excavation and removal of 12,255 cubic yards of soil, the sinking of caissons, the ‘carving out’ of a substantial portion of the hillside necessitating the construction of a massive retaining wall, needs extensive due diligence for the feasibility and safety of family homes located above said excavation and build-out.

This project should be evaluated by legal counsel for extensive liability issues; reference the building of a mega mansion in Beverly Hills on a hillside and the potential jeopardy to surrounding residences.

Additionally, just think - an estimated 600 to 875 heavy haul truck trips to remove approximately 12,225 cubic yards of soil. This vehicle count does not include regular construction - just the excavation...

“Hot time in the summertime” seriously? “Minimally affect roadways” - please who drew this conclusion? This project is located in the most heavily congested stretch of Pacific Coast Highway. It is already populated with hospitality service businesses with totally inadequate parking. The City of Malibu has approved these projects, knowing full-well they were not in compliance. The end result - pandemonium; no parking, traffic accidents, congestion lasting hours and residents being trapped at home.

The residents of Malibu suffered the unimaginable trauma of the Woolsey fires. Many still harbor resentment about the perceived failures of our city government. Many know
precisely the roar of heavy haul trucks removing debris from burned-out family homes. Now imagine
600 to 875 heavy haul trucks, filled with dirt and debris, 6 days a week, on the main thoroughfare, in
and out of Malibu... to excavate for the Malibu Inn Motel.

A year of isolation, the result of a global pandemic and ‘you all’ decided to give final approval and
allow construction to begin on a mega project known as Cross Creek Ranch. Smart developer, with
impeccable timing, to push this 2008 project through in January 2021 when Malibuites were
quarantined.

Please consider the following notations when considering the Malibu Inn Motel:
1. cubic yard of topsoil weighs 2,200lbs.
2. cubic yard of loose dirt weighs 2,800lbs.
3. Minimally affect roadways - nonsense.
4. 12,225 cubic yards of excavated soil.
5. 600 to 875 HEAVY HAUL TRUCK TRIPS.
6. Construction to begin SUMMER 2021

b. Less than Significant with Mitigation. It is not anticipated that the Project when viewed in
connection with the effects of past projects, the effects of other current projects, and the effects
of probable future projects, would have a significant effect on the environment. While the Project
and cumulative development are anticipated to minimally affect roadways in the project vicinity,
the Project would have less than significant impacts to area traffic both on a Project and
cumulative level. Also, as previously discussed in the Section 4.13, Noise, cumulative impacts
were analyzed and with implementation of mitigation measures the Project is not expected to
result in significant adverse impacts either individually or cumulatively. Although excavation of the
subterranean garage could potentially uncover previously undisturbed cultural and/or
paleontological resources, and standard conditions would ensure the proper steps are taken to
avoid impacts. Therefore, the Project in combination with recommended mitigation measures
would not result in any cumulative impacts.

Site preparation, grading and excavation of the lower half of the existing slope would require use
of excavators, backhoes, bulldozers and heavy haul trucks. Export of approximately 12,255 cubic
yards of excavated soil would require use of approximately 600 to 875 heavy haul truck trips,
assuming 14 to 20 cubic yard haul trucks. Traffic control for trucks entering and leaving the site
along PCH would be implemented through use of flaggers.

A number of us have been friends for years. We’ve raised our children together and we love our little
town. Let’s remember; we all want what’s best and most of us have very good intentions.

Thank you for your time and consideration. And most importantly, thank you for your service and
dedication to our community.

Be kind whenever possible. It’s always possible. ~ Dalai Lama

Best regards,

Lynn Saunders Guilburt

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Letter 16

Commenter:  Lynn Saunders Guilburt, Malibu resident

Date:  March 17, 2021

Response 16.1

Thank you for the comments regarding the proposed Malibu Inn Motel Project Draft IS-MND. The commenter notes the excavation of soil for the project, sinking of caissons, and concern for the feasibility and safety of property surrounding the project site, including the need for extensive due diligence.

The proposed Project would be subject to both City and State regulations regarding public safety, slope stability and construction methods. As noted in IS-MND Section 1.4, Project Approvals, the Project requires approval of Variance Nos. 18-029, 18-030, 18-031 associated with approvals for slope stability, retaining walls, and soil excavation. Additionally, as noted in Appendix B, Geotechnical Reports, a series of explorations, studies, and approvals of geotechnical review for the project site are referenced, with the most recent versions attached within the Appendix. The reports for the Project include successive review and final approval from a geotechnical perspective. The Project includes a series of protections for the hillside, including reduced exposed face, stabilization wings, and secondary slope barriers. Please also see Section 4.7, Geology and Soils, for additional information on stability, review, and soil analysis.

Response 16.2

The commenter expresses a concern with potential impacts from the Project from haul trucks that may be required during dirt excavation.

The Project would be subject to both City and State regulations regarding haul truck trips and public safety. As described in Section 1.4, Project Approvals, the Project is required to obtain permit approval for oversized transport vehicles on Caltrans right-of-way, such as along PCH, which may include additional construction-related requirements to obtain approval as mentioned above. Further, as described in Section 4.17, Transportation, of the IS-MND, the City applies Local Coastal Plan standard conditions to all applicable projects to minimize impacts to transportation and traffic including but not limited to: “for the transportation of heavy construction equipment and/or material, which requires the use of oversized-transport vehicles on State highways, the applicant/property owner is required to obtain a transportation permit from Caltrans.” Regarding further traffic considerations, please also refer to Appendix C for a detailed analysis of construction impacts. In the case of noise concerns, please also refer to Section 3.13, Noise, which identifies potential for noise during construction and operation of the Project and provides two mitigation measures to reduce noise related effects. NOI-1 which reduces construction noise through construction machinery and truck noise reduction accessories, staging area location, temporary sound barriers, and public noticing. Additionally, the Project would be required to designate a noise control coordinator. If an amplified sound is proposed outdoors, the Applicant must prepare a noise study and must submit an amendment to the proposed conditional use permit. Ultimately, potential traffic and noise concerns will be included in decision maker considerations in project approval deliberations.
Response 16.3

The commenter notes an issue of no parking, traffic accidents, congestion lasting for hours, haul truck traffic, and trauma from the Woolsey Fire and the failures of City government.

The proposed Project would be subject to both City and State regulations regarding haul truck trips and public safety. The Project is required to comply with existing County of Los Angeles and City Emergency Response Plans. The City's 2018 Emergency Operations Plan provides an operational approach to response and recovery from potential hazards. The site is directly accessible to a regional transportation resource, PCH, and no new areas of service would be required for emergency personnel. Additionally, the site is designed for throughput access from PCH to the Malibu Inn parking area, which would improve adequate fire department access with the Project's driveway modification on the eastern end. Additionally, as described in Section 4.17, Transportation, of the IS-MND, the Project would not conflict with any ordinance or policy establishing measures of effectiveness for the performance of the circulation system. The Project would improve driveway circulation efficacy at the site and would not significantly impact or alter the operational efficiency of nearby signalized intersections. The Project would result in a limited increase in the number of trips from existing use as a parking lot given the proposed motel use. The Project anticipates generating approximately 68 ADT, which is well below Caltrans' threshold of 110 trips per day; therefore, the IS-MND describes impacts as less than significant to traffic, as further described in Section 4.17, Transportation. Please refer to Section 4.17, Transportation, for additional discussion of transportation related discussion and analysis. Comments regarding opposition to the Project that do not directly pertain to the analysis within the IS-MND will be included within the public record and made available to decision-makers for planning and policy consideration.
Hello Adrian,

I'm writing in regards to the Staff Report and Draft Mitigated Negative Declaration for 22959 Pacific Coast Highway Malibu, CA.

Below is an outline of key items I would like to flag. This project will require significant disruption to the existing mountainside, thereby creating earth movement in an earthquake zone, significant construction noise, major PCH shutdowns and traffic throughout construction for utilities and will set precedents that Malibu hasn't seen before like 55ft retaining walls and subterranean parking in beachfront environments.

In addition, the City has indicated in this report that the project does not propose an Environmental Issue, and is suggesting a Negative Mitigated Declaration, as opposed to requiring a full Environmental Impact Report (EIR). I think there are plenty of environmental issues/risks that would trigger an EIR.

Issues

- **EIR** - The City has indicated in this Staff Report and Proposed Adoption that the project satisfies a Negative Mitigated Declaration ("NMD") as opposed to requiring a full Environmental Investigation Report ("EIR"). Based on the scale of this project, request for numerous variances and obvious disruption to natural environment disruption and risks and construction hurdles, this should obviously be an EIR requirement.

- **EIR Risks Not Listed** - On page 20 you only list "Noise" and "Geology/Soils" as items of Risk. However they should also be checking Aesthetics due to the natural hillside landscape, Air Quality through Construction with that much earth movement and dust, Biological, Land/Use Planning, Hydrology/Water Quality due to Subterranean Parking.

- **Construction & Subterranean Parking** - The creation of subterranean parking and a 55ft tall retaining wall should create a massive amount of heavy duty construction through the use of foundation piles that will create major earth vibration and sound during the course of construction. Approving an enormously large wall and subterranean parking would create a significant impact to the existing landscape and residential well being and create a new precedent for Malibu. I am also concerned for the stability of his hillside as it also relates to our property just two lots to the west. I can imagine during construction that significant vibration from pile driving and foundation / shoring work will create similar vibrations further west and put our hillside at risk. Have they considered vibration monitors so they do not affect the neighbors properties and cause landslides? Additionally, subterranean parking seems like a stretch for such a close proximity to the beachfront.

- **Retaining Wall, Construction on Slope, Non Exempt Grading Variances** - If you refer to the graphic below, you will see how much land is being proposed to be removed from the mountain which is quite enormous and will trigger environmental and stability issues. This project is requesting major variances and should be considered within the more suitable flat land, versus carving into the mountainside.

- **Height of Elevator Bulkhead** - In Malibu, a maximum building height can be 24' or 28'
with a pitched roof. As you can see in this plan the height to the roof bulkhead of the elevator is 44'-1" which is significantly taller than the allotted requirement. As a note, we were building a similar elevator to take guests to our roof deck and we would've been at 28'-6" due to the nature of the elevator shaft, but also lower than our existing roof line. We were denied and ended up having to build one elevator that goes from the ground to second floor and another ADA lift from the 2nd floor to the roof deck. Thereby this is another "variance / ask" that seems to be out of place and should be reviewed in equal detail.

It seems also the loss of public parking will only create further parking issues for the Malibu Pier / Surfrider Beach area. Perhaps it could be a nice parking structure?

Thank you,
Matthew Goodwin
Letter 17

Commenter: Matt Goodwin, Malibu resident
Date: March 17, 2021

Response 17.1

Thank you for the comments regarding the proposed Malibu Inn Motel Project Draft IS-MND. The commenter includes general concerns about potential earth movement at the site in the event of an earthquake, construction noise, PCH shutdowns, and beachfront aesthetics.

The Project would be subject to both City and State regulations regarding public safety, slope stability and construction methods and the Project would be generally visually consistent with surrounding uses. Please see Section 4.7, Geology and Soils, Section 4.13, Noise, Section 4.17, Transportation, and Section 4.1, Aesthetics, for assessments of each of these concerns. The Geotechnical analysis, as summarized in Section 4.7, Geology and Soils, and detailed further within Appendix B, note that geotechnical recommendations (conditioned within the Project), would be required to mitigate the potential impact of surficial instabilities from impacting the proposed structure, including debris fences installed on the ascending slope above the project site to protect the structure from surface instabilities. Section 4.17, Transportation, 4.20, Wildfire, and 4.9, Hazards and Hazardous Materials, note that the Project would not introduce a significant new number of visitors to the area, would not interfere with any adopted evacuation routes, and would not significantly exacerbate existing regional traffic conditions with implementation of the Project. Finally, Section 4.1, Aesthetics, notes that the Project would follow the existing topography, would minimize views of the vast majority of the proposed retaining wall, and would allow for a structure that is generally consistent with the surrounding development along PCH. All analyses found less than significant impacts, and general comments regarding opposition to the Project that do not directly pertain to the analysis within the IS-MND will be included within the public record and made available to decision-makers for planning and policy consideration.

Response 17.2

The commenter asserts that the IS-MND is insufficient and that an Environmental Impact Report is warranted due to natural environment disruption, risks, and construction hurdles.

The Project would be subject to both City and State regulations regarding public safety, slope stability and construction methods. As noted in IS-MND Section 2, Evaluation of Environmental Impacts, subsection 3, an EIR would be required in the case that an IS-MND identifies potentially significant impacts that cannot be mitigated to a less than significant level. In the case of the Project, no impacts were identified as potentially significant without mitigation, indicating that all potential impacts would either be less than significant or could be reduced to a less than significant level with the implementation of Project-specific mitigation, and all impacts would be maintained lower than those thresholds established by CEQA. Therefore, with consideration for the conducted IS-MND analysis, an EIR was not determined necessary to address environmental review.
Response 17.3

The commenter asserts that, in addition to “Noise” and “Geology/Soils” marked as potentially affected in IS-MND Section 3, Environmental Factors Potentially Affected, the resource sections “Aesthetics”, “Air Quality”, “Biological Resources”, “Land Use and Planning”, and “Hydrology/Water Quality” should also be marked as potentially significant.

The Project would be subject to both City and State regulations regarding public safety, slope stability and construction methods. Marked resources in Subsection 3 are reserved for those resource areas that are identified as potentially significant, with or without mitigation. Resource areas identified as less than significant, due to project features, City or State regulation, or other reasons, are not marked within this subsection. As such, it would not be appropriate to mark “Aesthetics”, “Air Quality”, “Biological Resources”, “Land Use and Planning”, or “Hydrology/Water Quality” within this section. It should be noted that the resource areas with identified mitigation measures that were subject to public review (Cultural Resources, Geology and Soils, Noise, and Tribal Cultural Resources) have been comprehensively addressed throughout the document.

Response 17.4

The commenter raises concern associated with the construction of the Project’s proposed subterranean parking and retaining wall, including earth vibration, earth stability, and requests vibration monitors, and expresses concern for subterranean parking in close proximity to the beachfront.

The Project would be subject to both City and state regulations regarding public safety, slope stability and construction methods. As noted in Appendix B, Geotechnical Reports, a series of explorations, studies, and approvals of geotechnical review for the project site are referenced, with the most recent versions attached within the Appendix. The reports for the Project include successive review and final approval from a geotechnical perspective. The Project includes a series of protections for the hillside, including reduced exposed face, stabilization wings, and secondary slope barriers. Please also see Section 4.7, Geology and Soils, for additional information on stability, review, and soil analysis. Regarding potential vibration impacts, please see Section 4.13, Noise, Impacts A and B, which note that pile drivers are not proposed for construction, and notes that any use of a pile driver would require City approval and conditioning prior to use, reiterated though NOI-1. Regarding hydrologic impacts onsite that may occur from subterranean features and proximity, please also refer to Section 4.7, Geology and Soils, which notes that the Project has undergone extensive geotechnical review to ensure stability, incorporates stabilizing and wing retaining walls for heightened slope stability, and would be required to follow design provisions through the IBC and CBC (as adopted by the City and codified in MMC Section 15.04.010) to employ design standards that consider seismically active areas to safeguard against major structural failures or loss of life.

Response 17.5

The commenter raises concerns regarding the Project’s proposed retaining wall, construction on slopes, and associated variances.
The Project would be subject to both City and state regulations regarding public safety, slope stability, and construction methods. As noted in IS-MND Section 1.4, Project Approvals, the Project requires approval of Variance Nos. 18-029, 18-030, 18-031 associated with approvals for retaining walls, height, non-exempt grading in excess of 1,000 cy per lot area acreage, and the location of parking spaces within the front yard setback. Additionally, Appendix B, Geotechnical Reports, a series of explorations, studies, and approvals of geotechnical review for the project site are referenced, with the most recent versions attached within the Appendix. The reports for the Project include successive review and final approval from a geotechnical perspective. The Project includes a series of protections for the hillside, including reduced exposed face, stabilization wings, and secondary slope barriers. Please also see Section 4.7, Geology and Soils, for additional information on stability, review, and soil analysis, and consider the geotechnical report findings included in Appendix B, Geotechnical Reports.

Response 17.6

The commenter states that the building height would exceed that of the City's requirements, specifically that the City allows buildings up to 28 feet with a pitched roof, and that the IS-MND cross section indicates an elevator height of 44 feet and 1 inch.

The Project would be in compliance with the City's requirements, with approval of SPR No. 18-025. As noted in Section 1.4, Project Approvals, the Project would require approval of SPR No. 18-025 for a building height in excess of 18 feet and not to exceed 28 feet for a pitched roof. The 44 feet and 1 inch measurement indicated by the commenter includes the subterranean feature. In the City, subterranean features and elevator features are not included in the calculation of total building height under SPR 18-025. As noted in Section 4.11, Land Use and Planning, the Project requires the approval of discretionary requests in line with City code to be deemed consistent with land use policy. With those approvals, impacts are found to be less than significant. As such, with review and approval of SPR No. 18-025, the Project would be confirmed in compliance with City for the purposes of environmental review. Comments regarding suggestions on heightened Project review will be included within the public record and available to decision-makers for planning and policy consideration.

Response 17.7

The commenter raises a concern about the loss of public parking and associated area issues.

The IS-MND assesses the impacts to parking onsite and for adjacent uses. Please refer to Comment Responses 12.2 and 15.2 for further parking related discussion.
To: Adrian Fernandez  
From: Malibu Coalition for Slow Growth by Patt Healy  
Re: Malibu Inn Motel Mitigated Negative Declaration  
Date: 3-17-21  

Malibu Inn Motel Mitigated Negative Declaration  

Project Description  
The Malibu Inn Motel, proposed to be located at 22959 Pacific Coast Highway, is for the construction of a new 7,693 square foot motel above a new subterranean parking garage, surface parking lot, grading, retaining walls, landscaping and a new onsite wastewater treatment system; including variances for non-exempt grading in excess of 1,000 cubic yards per acre of commercial development, construction on slopes steeper than 2.5 to 1, surface parking within the required front yard setback, and retaining walls in excess of six feet in height, a site plan review for a building height in excess of 18 feet, not to exceed 28 feet for a pitched roof, a conditional use permit for a new commercial development over 500 square feet and a motel in the CV-1 zoning district, and for a Joint Use Parking Agreement to share parking spaces with the adjacent lot.  

Benefit to Residents  
How does this project benefit the residents of Malibu?  
How does this project enhance residents quality of life?  
Why were residents not notified and allowed input prior to the preparation of this Negative Declaration (“ND”)?  

Development Criteria Ignored  
With so many major variances required, how did this project get to the point of the city proposing a mitigated negative declaration?  
Why didn’t the city ask the owner to develop within the code, instead of allowing the developer to ignore the development standards put in place to protect the small town rural feeling of Malibu?  
The General Plan states that Commercial Development has to be residential in size. Why was this ignored?
Why isn’t the city insisting its development criteria be met to protect Malibu from urbanization?

Why is city staff justifying this project by stating it is the same height as the oversized county approved clock building when the Municipal Code and MLCP were enacted to prevent the continuation of this county allowed type of construction?

FAR

The code allows for commercial development at a maximum FAR of .15.

According to Slow Growth’s calculations the actual FAR is .15.37 If we are correct this exceeds the allowable FAR.

What is the actual FAR of this project? The ND states the slope is greater than 2 ½ to1. What percentage of the slope is 1:1 or steeper?

Has the portion of the slope which is 1:1 or greater been deducted when calculating the properties square footage? If not, how much has to be deducted? And how much smaller does the project have to be to meet the required .15 FAR after the deduction of the 1:1 or greater slopes?

Height

The ND states the structure is 28 ft in height. Height is measured from grade and this structure is 46 ft in height from finished grade to the top of the roof’s elevator shaft. Elevator’s are not excluded when calculating height.

This is in reality a 3 or 4 story structure. There is the 2 story motel and the third story is the actual above ground parking under the motel. The 4th story is the rooftop space containing the pool and the produding 10ft high elevator and a 3 ft. high guard rail.

Although described as subterranean parking, to say the parking structure is subterranean is misleading since only about 4 ft is actually underground. This parking structure is not subterranean since the majority of the parking is above ground level. (See figure 3 ND.)

Was the above ground portion of the parking structure counted in calculating the FAR?
The NG states: “The proposed new motel would be similar in size, bulk and scale to existing structures to the east and west ...” This is an inaccurate statement. This building is massive in relation to the Malibu Inn which is directly to the west and the Chabad building directly to the east which are both one story and under 18 ft. in height (see rendering).

https://www.malibucity.org/DocumentCenter/View/27710/Malibu-Inn-Motel_Renderings

Why is city staff justifying this project by stating it is the same height, bulk and scale as a oversized county approved clock building when the Municipal Code and MLCP were enacted to prevent the continuation of this non-human scale type of urban construction?

Geology

Why wasn’t the fact that the project is in a tsunami zone analyzed?

The ND states: “As the project site is located within the seismically active Southern California region, there is the potential for regional seismic events to cause strong ground shaking at the project site. There is also a possibility that there could be trace of previously unidentified faults somewhere onsite. The residential structure located north of and above the slopes on and adjacent to the project site has been identified on top of a potentially unstable slope, and excavation of the toe to this slope for the new hotel, subterranean parking and retaining wall have the potential to cause slope failure if exacerbated by rainfall”.

The Geology study confirms this is an unstable bluff. What is to prevent the portion of the bluff above the retaining wall from sliding in a heavy rain or a major earthquake?

Did the owner do anything to determine that there were no faults running through the property? Is so, what kind of investigation did they do and what did they find?

The ND states that even following the codes loss of life could occur, and the loss of life and property would have a less than a significant impact. Please explain how can loss of life ever be considered a less than a significant impact
Coastal Bluff/Grading

The ND states: “The Project is proposed on a site that was likely on or immediately adjacent to a beach prior to development and was subject to coastal processes (e.g., wave action, beach scour), and has experienced substantial erosion from the northern bluff into the project site (Appendix B).” This description meets the definition of a Coastal Bluff.

Elsewhere in the ND it states “the Project would only alter the lower approximately 50 feet of the slope, while the upper 130 feet remain unaltered.” This would be accomplished by cutting into/ excavating a massive amount of the coastal bluff. This excavated soil will have to be exported off site.

’Where does the code allow cutting into a coastal bluff? If the city denies it is a coastal bluff, where in the code does it allow cutting into a bluff face allowable?

What is the length and depth of the cuts into bluff?

The code allows for 1000 cu yds of grading and the cut and fill should be balanced remain on site and not be exported.

Grading Into the slope is not exempt. The only exempt grading is the approximately 4ft. underground portion of the parking structure.

12,649 cu yds of cut into this bluff is an enormous amount of grading into an admittedly unstable hillside. What is to prevent the hillside from sliding during the grading 50 ft high into slope?

Is the 11,693 understory grading for the approximately 4 ft of the subterrain parking Lot?

Why was the removal al of the cut dirt off site estimated to be only 600-800 cu. yds when a normal dump truck carries 10 cu.yds. of dirt? A more realistic calculation is 1,269 truck loads have to hauled off site.

Over how may days will PCH traffic be disrupted as the dirt is being hauled off site?

Why isn’t a traffic management plan required now so the impact of this project is known to the decision makers and the public?
Retaining Wall

Retaining walls are to be no higher than 6 feet in height. The proposed retaining wall height is 46 ft above finished grade but in reality is 56.5 ft high measured in its entirety.

What is the length of the retaining wall?

Just because the retaining wall will be camouflaged and hence supposedly looks ok from PCH doesn’t mean such a high deviation of what is allowed under the code should be granted.

What is the visual impact of this retaining wall from the end and middle of the Malibu Pier?

How far will west bound traffic be backed up because of the construction of this project during Saturdays and in the summer?

Cultural Resources

Where did the preparer of the ND get information regarding the lack of the possibility of cultural resources on site dismissing the potential for their existence due to possible past wave action? Recent 20th century evidence proves otherwise.

According to a supporter of Slow Growth when the clock tower building 2 properties to the east was under construction a Chumash burial site was found and excavated. All along this area east of the Malibu Creek at various times Chumash artifacts and burials have been found. It is therefore likely that this site could harbor a Chumash burial ground or in the very least Chumash artifacts.

It appears that this section of the ND was written based on supposition rather than researching the actual situation. We suspect if the research was done there are probably several recorded Chumash sites in the vicinity.

The MLCP gives instruction as to how to the city is to deal with potential Chumash sites both pre construction site and during construction. Why isn’t the LUP being ignored instead of being followed?

Wastewater
It appears that the OWTS is being allowed only because there is an expectation that this part of town will be required to hookup to the Civic Center Treatment in phase 3 which is expected to occur in 2028.

Is Phase 3 guaranteed? Can this OWTS perform for the life of the project if phase 3 doesn’t happen? What is the expected life of this system?

How far above the groundwater table is the OWTS? Is there a chance that groundwater brackish or fresh can enter the system?

What kind of problems can be caused because the leach field is not large enough to hold the effluent from this project and the Malibu Inn?

The ND states:’”The fact the property owner has to record a covenant notifying new owners of the following: 1) the private sewage disposal system serving the development on the property does not have a 100 percent expansion effluent dispersal area (i.e., replacement disposal field(s) or seepage pit(s)), and 2) if the primary effluent dispersal area fails to drain adequately, the City of Malibu may require remedial measures including, but not limited to, limitations on water use enforced through operating permit and/or repairs, upgrades or modifications to the private sewage disposal system. The recorded covenant shall state and acknowledge that future maintenance and/or repair of the private sewage disposal system may necessitate interruption in the use of the private sewage disposal system and, therefore, any building(s) served by the private sewage disposal system may become non-habitable during any required future maintenance and/or repair”’.

The uncertainties of the workability of the OWTS and its leach fields should result in project denial or in the very least require an EIR since the possibility of it not working is significant.

**Public Access**

The denial/loss of public parking for visitors to the Malibu Pier will be significant and is not mitigable. Why isn’t this loss of parking acknowledged in the ND?

What percentage of the motel rooms will be low income accommodations?

**Parking**
The joint use parking agreement with the Malibu Inn is not sufficient when the restaurant dining area is full, the outdoor tent is in use and/or they have bands and other entertainment on site. Since this is the case why isn’t the actual required parking being increased?

What motel personnel will occupy the 3 employee parking spaces?

How many employees will be employed by the Malibu Inn and The Aviation Nation shop when the Malibu Inn is at full capacity? Where will these employees park?

Will the motel and Inn parking be valet parking or self serve?

Why isn’t stacked parking being required now as a part of the project?

Stacked parking will have to be installed now or installed later since the Malibu Inn is under parked for the amount of cars that will using the site? How will the after the fact installation of stacked disrupt needed project parking and for how long?

In an emergency, stacked parking is not a good idea because of the time needed to get cars out of the lot and on to the driveway how long a delay will there be if the stacked cars and their drivers have to be evacuated?

Even if there is no stacked parking in an evacuation situation it will take an enormous amount of time to get all the cars and their occupants off site. A EIR needs to analyze this situation because in an emergency a very dangerous situation is being created.

If there is valet parking and/or stacked parking have these employees been counted in the 3 employee parking space allotment? If not, how many more parking spaces will be needed for these employees?

Will the handicap parking stalls reduce the needed/required parking if they are not being used?

At one point the ND says only 3 additional parking spaces are needed for employees. Later on it says there will be 20 employees onsite at peak times. If this is the case why aren’t more spaces being provided?
Why does the ND not analyze the impact of loss of needed Malibu Pier parking which is needed on weekends and summer days. This needs to be analyzed in an EIR.

Since it is rare, if not impossible, to find parking along PCH and the pier parking lot is full in the summer and often in winter weekends there certainly will a loss of needed pier/beach parking. How is the current property’s parking spaces used by residents and visitors alike being replaced?

Traffic

The traffic study doesn’t reflect the reality of the traffic backup and gridlock on this strip of PCH. It talks around it. In actuality, there is a traffic movement problem on a regular basis during rush hour and in the summer and it is significant and not mitigable.

Why are we allowing a minimum 20 more visitor cars going in and out of the motel more than once a day add to the already unmitigable traffic problems?

Emergency

PCH is a major evacuation route and the ND states the incremental increase in traffic is not an evacuation problem and the impact is not significant. Obviously, the preparer of the emergency impacts has never been on PCH in an emergency situation or when an ambulance is trying to get to Santa Monica on a summer day when traffic is gridlocked. Even an incremental increase if traffic can be and is significant.

These so called incremental impacts have to be studied along with the incremental impacts of all of the earlier projects mentioned below in the cumulative an EIR.

There is no real analysis in the ND. Statement are simplistically made and expected to be accepted as true. The expectation in the ND is the evacuation will go perfectly without real consideration of an overcrowded after dark smoke filled gridlocked highway, with non functioning traffic lights, and unpredictable human behavior to name just a few of the many safe evacuation impediments. The worst case situation has to be analyzed in an EIR.
The ND naively states that with implementation of the required fuel modification plan on the project site, wind driven wildfire impacts would be less than significant. This statement doesn’t take into account that wildfire embers travel for miles.

Cumulative Impacts

As required by CEQA why doesn’t this ND take into account the whole action involved, including off-site as well as onsite, cumulative as well as project-level, indirect as well as direct?

Why aren’t the cumulative impacts of this project being studied in light of all the created traffic congestion and parking impacts from recently approved development which residents are constantly upset about.

The project needs be studied in conjunction with the traffic circulation and off site parking impacts created by the Sea View Hotel, the Malibu Beach Inn, Avis lot parking, Nobu, Soho House, Malibu Pier and Malibu Inn as well as Surfrider beach parking east of the Adamson house and west of the Malibu Pier. The traffic and the PCH parking impacts of all of these projects should be factored in when considering the impact of this project. This is a major reason why an EIR is needed.

It is well known to residents that there is not enough parking in the vicinity for the users of these facilities and their employees.

And despite what individual traffic studies state, this area of PCH is highly congested. During rush hour westbound traffic often backed up all the way to Carbon Canyon. On a good day traffic is backed up during rush hour from the Malibu Beach Inn to Cross Creek Rd.

On summer weekends and even during summer weekdays traffic doesn’t move in this area. It is gridlocked. The city’s traffic studies do not reflect reality.

This project as well as the many others in this vicinity have/are being piecemealed through with no thought given to the cumulative traffic, parking and other environmental impacts such as aesthetics, increased groundwater, urbanization of Malibu, safe evacuation and the failure to construct projects
that meet the development criteria/standards set forth in the Municipal Code and MLCP.

Since the cumulative impacts are not being studied in relation to recently past piecemealed projects and potential future projects, this ND is fatally flawed.

**EIR Required**

Under CEQA, if there is substantial evidence that an effect may be significant. If there are one or more "Potentially Significant Impact" entries when the determination is made, an EIR is required.

The ND failed to indicate any potentially significant impacts but there are some that are significant not mitigable such as traffic. An EIR needs to be done and if the city council desires this project, it would have to make a finding of overriding consideration.

The very fact that this project is a significant departure from the code requirements makes an EIR necessary. In the EIR more environmentally protective alternatives have to be analyzed such as "no project" and a smaller one story commercial project which is residential in scale that doesn't need all these monumental variances have to be analyzed.

In this instance the parking impacts are significant and they are glossed over in the ND. The current site during the day provided parking for visitors to the pier and the Farm restaurants on the pier. This needed parking is being lost.

Cuts and excavation into the toe and then excessive excavation of the slope 50 foot high to a unknown depth is destabilizing the slope without an enormous 56.6 ft retaining wall.

Furthermore it is questionable if these cuts are allowable since it is cutting into a bluff face and the cuts and retaining wall are of a magnitude that is unimaginable in Malibu.
Letter 18

Commenter: Patt Healy

Date: March 17, 2021

Response 18.1

The commenter correctly describes elements of the proposed Project’s location, square footage, and variances.

Thank you for the comments regarding the proposed Malibu Inn Motel Project Draft IS-MND. Comments regarding the specifics of the Project do not directly pertain to the analysis within the IS-MND will be included within the public record and made available to decision-makers for planning and policy consideration.

Response 18.2

The commenter asks how the Project benefits Malibu residents and improve quality of life.

The Project would expand overnight accommodation access in the City, which would provide additional TOT revenue to the City to provide services and City improvements to residents as well as benefiting local businesses such as restaurants and retail uses through increased visitation. Additionally, the Project would support resident’s capacity to have overnight accommodation access for visiting family and friends. Comments regarding the usefulness of the Project to Malibu residents do not directly pertain to the analysis within the IS-MND. Nevertheless, comments will be included within the public record and made available to decision-makers for planning and policy consideration.

Response 18.3

The commenter asks why Malibu residents were not notified and allowed to provide input prior to the preparation of the Project’s Negative Declaration.

In compliance with CEQA and adopted City procedures, the public draft IS-MND was provided to the public for the required 30-day comment period, and all public comments received have been responded to. Under CEQA, MNDs do not provide an opportunity for the public to comment until the public draft review period. CEQA Statute 15375 describes only EIRs shall provide a Notice of Preparation period prior to drafting of the EIR for public comment. Therefore, the Project and IS-MND complied with CEQA requirements for public noticing and comment periods. Additional opportunities to provide comment to decision-makers will occur during public hearings with time to voice opposition to the Project. Further, it should be noted that the Project’s CEQA review is not a Negative Declaration, but rather a MND due to required mitigations to noise, geology and soils, and cultural resources.

Response 18.4

The commenter asks why with major variances required for Project approval the Project has gotten to the stage that the City has prepared a Negative Declaration.
The IS-MND thoroughly addresses all potential impacts associated with required variances. In addition, as stated in Response 18.3, the City actually prepared an IS-MND. As described in Section 1.4, Project Approvals, of the IS-MND, the Project would require four variance approvals for grading, slope construction, retaining wall height, and surface parking setback. As described in the IS-MND, extensive technical studies particularly in regards to geology and soil impacts (refer to Section 4.7, Geology and Soils) have been completed for the Project, several of which directly address potential impacts associated with requested variances. The technical studies support the finding of the IS-MND that the Project would not create significant safety hazards associated with slope stability or seismic hazards and that both public safety and the environment would be protected with inclusion of proposed mitigation measures and the City’s standard conditions of approval. Approval of the Project and associated variances will be consider by the City Planning Commission and associated conditions of approval will be imposed to protect the City and environment as determined necessary. Therefore, the City has required preparation of a IS-MND to ensure complete review and analysis of potential project impacts and any required mitigations, including those associated with proposed variances. Nevertheless, comments regarding concern of the required extent of variances that do not directly pertain to the analysis within the IS-MND will be included within the public record and made available to decision-makers for planning and policy consideration.

Response 18.5

The commenter asks why the City did not ask the owner to develop within the City's code instead of allowing the developer to ignore development standards in the City to protect the small town rural feeling.

The IS-MND addresses the Project as proposed by the developer as required under the law. The City Planning Commission and City Council retain full discretion to impose additional measures as warranted and to consider whether to approve or reject the requested variances based upon the evidence before them, including the IS-MND. As described in Section 1.1, Project Site and Existing Uses of the IS-MND, the Project would be consistent with the City's General Plan and all applicable development standards, with the inclusion of requested variances. Therefore, the Project would be consistent with City code related to preservation of the rural character of the City. The Project would require approval of requested variances; however, the City maintains the right to approve or deny variances on a project-by-project basis. Comments regarding concern of the Project's consistency with City code that do not directly pertain to the analysis within the IS-MND will be included within the public record and made available to decision-makers for planning and policy consideration.

Response 18.6

The commenter asserts the City's General Plan requires commercial development by residential size and asks why this was ignored.

The City's 2010 Land Use and Circulation Element does not have a policy or standard requiring commercial development to be of residential size. Please refer to Response 18.5 for discussion of the Project's compliance with City Code and the General Plan. The Project is consistent with the code for required FAR and height; the proposed motel use is conditionally permitted in the CV-1 zone district. Comments regarding concern that the Project would not be of residential size and compliant with the City's General Plan that do not directly pertain to the analysis within the IS-MND will be included within the public record and made available to decision-makers for planning and policy consideration.
Response 18.7

The commenter asks why the City is not insisting the development criteria be met for the Project to protect Malibu from urbanization.

Please refer to Response 18.4.

Response 18.8

The commenter asks why the City is justifying the Project by asserting the Project would be the same height as the oversized County approved clock building when Municipal Code and Local Coastal Plan were enacted to prevent the County from further similar construction.

The IS-MND does not attempt to justify the Project by comparison of the Project’s proposed height or size to the County approved clock building, rather the IS-MND provides a detailed analysis of potential project impacts compared to the existing physical environmental setting. As stated in Section 1.4, Project Approvals, the Project would require a height variance for development of the retaining walls in excess of six feet in height (Approval of Variance NO. 18-031). As described in Response 18.3, Project approvals and approvals of variances are required by the City Council prior to adoption of the IS-MND. Comments regarding concern of the height of the proposed Project that do not directly pertain to the analysis within the IS-MND will be included within the public record and made available to decision-makers for planning and policy consideration.

Response 18.9

The commenter states the Project’s FAR should be .1537 based on Slow Growth calculations, which exceeds the commercial development maximum of .15 FAR for the City.

Following the MMC, which provides guidance on FAR calculation, FAR on the site is not exceeded. As described in Section 4.11, Land Use and Planning-Impact B, “the Project proposes 7,693 sf of commercial floor area on a 51,352 sf (1.18 acre) parcel, the resulting FAR would be 0.15, consistent with the maximum FAR permitted. The Project would require approval of CDP No. 09-067, ensuring adherence to local and regional policies and goals throughout implementation of the Project.” The IS-MND calculated the FAR using the Project’s square footage (7,693 sf) based on a 51,352 sf lot area.

Response 18.10

The commenter asks what is the actual FAR of the Project as the IS-MND states the slope is greater than 2.5 to 1. The commenter additionally asks what percentage of the slope is greater than 1:1.

Based upon the provisions of the MMC, the FAR of the Project is 0.15 as described above. The square footage of the site relies upon the total area of the site parcel (APN 4452-019-005). As shown in Figure 2, the parcel boundary includes the slope; therefore, it must be included in the FAR calculations. The slope grades indicated within Appendix B, Geotechnical Reports, do not indicate any portion of the slope exceeding 1:1, and instead indicate 1:1.5 and 1:2.0 grades within the site.
Response 18.11

The commenter asks if the portion of the slope that is 1:1 or greater has been deducted when calculating the properties square footage. If not, the commenter asks what percentage has been deducted and how much smaller the Project would need to be to meet the required 0.15 FAR after a deduction of the 1:1 or greater slopes.

The IS-MND nor Appendices indicate any portion of the slope exceeds a 1:1 slope. Additionally, as described in Section 1.4, Project Approvals, the Project is only required to apply for a variance for development of slopes at or greater than 2.5:1. The Project does not consider what portion of the slope is 1:1 or greater nor is that sum reduced when calculating the FAR as no required City or state policy recommends or requires such action for commercial development. Therefore, the Project is in compliance with City FAR standards for commercial development and does not require reduction of the Project footprint to meet 0.15 FAR.

Response 18.12

The commenter states that the proposed Project structure of 28 feet in height is incorrect, as the commenter asserts the height measured from grade to the roof’s elevator shaft is 46 feet, and that elevators should not be excluded when calculating a structure’s height. The commenter also asserts the Project is a 3 to 4 story structure not 2 stories.

Regarding building height calculations within the City, the standards limit the structure from finished grade, and the proposed structure is in compliance with measurements of the building height from finished grade, of which the calculations do not include subterranean features. The 36- and 44-foot heights previously indicated in Section 1.4, Project Approvals, more accurately refer to the height of the structure above the structure’s ground floor elevation, while the structure is actually built into the slope and does not exceed 28 feet above finished or natural grade at any location. This number clarification has been included within Section 1.3, Project Description, and appropriately characterized in Figure 3. The remaining 34 percent of the project site closest to the top of the slope would be maintained as undeveloped open space.

Response 18.13

The commenter states the IS-MND’s description of parking as subterranean is inaccurate as only approximately 4 feet of the structure would be underground. Also, the commenter feels the parking structure is not subterranean since the majority of the parking is above ground level.

The commenter identifies approximately 4 feet of the subterranean parking garage would be below grade, however no portion of subterranean garage daylights more than 3 feet from finished grade, except for a vehicle opening and building required emergency egress. The IS-MND correctly identifies the 29 subterranean parking spaces as subterranean, and underground access via a driveway would be required. The Project would additionally provide 18 at grade surface parking spaces as shown in Table 1 of the IS-MND. Nevertheless, comments regarding assertion that the subterranean parking should be described as at grade that do not directly pertain to the analysis within the IS-MND will be included within the public record and made available to decision-makers for planning and policy consideration.
Response 18.14

The commenter asks if the above ground portion of the Project’s parking structure was included in calculating the FAR.

All necessary components of FAR are included within the document and calculated per City requirements. As noted in Note 1 of Table 1, the occupied space of the motel is the only feature that is to be included in calculations of the structure’s FAR. Occupied Space, or the gross floor area, comprises the structure’s Total Floor Area, which includes the square footage that is used to calculate estimated water use, sewer rates, trip generation, FAR, and associated considerations. Considering the site’s 7,693 sf of occupied space, and the lot area of 51,352 sf (1.18 acres), the total FAR is approximately 14.98 percent, which is lower than the 0.15 FAR lot limit. Please refer to Section 1.3, Project Description, for more detail on the site’s calculations.

Response 18.15

The commenter states the MND’s assertion that “the proposed new motel would be similar in size, bulk and scale to existing structures to the east and west” is inaccurate given the Project’s structure is massive compared to the Malibu Inn and Chabad building which are both under 18 feet in height.

While the Malibu Inn and Chabad building, which lie immediately adjacent to the site are single story, to the west and east, as stated in the IS-MND are multiple two-story or greater structures with similar size, bulk and scale, including the much larger Malibu Plaza within 185 feet of the eastern project boundary and the Surfrider Inn approximately 300 feet from the western boundary. Multiple other large structure also lie along both sides of PCH east of the project site.

Response 18.16

The commenter asks why the City is justifying this project by stating it is the same height, bulk, and scale, as the County approved clock building.

Please refer to Response 18.8.

Response 18.17

The commenter asks why the Project’s location in a tsunami zone was not analyzed.

The IS-MND does address potential Tsunami hazards. As stated in Section 4.10, Hydrology and Water Quality, the California Department of Conservation Tsunami Inundation Maps for southern California indicate the project site would be outside any potential tsunami inundation area. However, the project site is within 200 feet of the upper limit of the potential inundation area, located on the opposite (southern) edge of PCH. Given the Project is outside of mapped tsunami inundation zones for southern California, the IS-MND describes impacts as less than significant and no mitigation is required.

Response 18.18

The commenter states the IS-MND describes the Project is located within seismically active southern California and has potential for impacts from regional seismic events, and the residential structures on the north of and above the slopes are on potentially unstable soil, and raises the concern that Project
excavation activities could cause slope failure. The commenter requests clarification on if the bluff is unstable what would prevent the bluff above the retaining wall from sliding in a heavy rain event or major earthquake.

The IS-MND includes adequate assessment of potential geologic impacts and consideration for the project’s geotechnical review, and refers to additional detail that can be found within Appendix B. In Section 4.7, Geology and Soils, the IS-MND notes that the Project would be located in the seismically active southern California region. Please see Comment Response 18.4 for additional discussion on the geotechnical reports. Design requirements include the freeboard on the rear yard retaining wall will be designed to provide code-require setbacks from ascending slopes. The freeboard would be designed as an impact wall with a minimum equivalent fluid pressure of 125 pcf, based on the geotechnical recommendations by the Consultant. Therefore, the Project’s retaining wall design would adequately protect life and property from unstable slopes during an earthquake and/or rainfall event.

Response 18.19

The commenter asks if the property owner worked to determine if there were faults underlying the property and if so what kind of investigation was done and the following results.

The Proposed Project has been subject to extensive geotechnical analysis, including the potential for damage from seismic events. As described in Section 4.7, Geology and Soils, the project site is located between two mapped splays of the Malibu Coast Fault Zone. However, the project site is not located in a designated Alquist-Priolo Earthquake Fault Zone, nor was there positive evidence of active faulting during geologic mapping and subsurface explorations conducted at the project site as part of the site-specific Geotechnical Report (Appendix B). Therefore, the potential for surface rupture during a seismic event is considered remote and less than significant. No further evaluation of fault locations is required by CEQA, and the Project would comply with IBC and CBC to employ design standards that consider seismically active areas to safeguard against major structural failures or loss of life.

Response 18.20

The commenter states the IS-MND identifies that, even with full compliance to City code, the loss of life and property could occur. The commenter requests that the IS-MND explain how a loss of life can be described as less than significant, or how an IS-MND can conclude less than significant impacts when stating a potential for loss of life.

The IS-MND thoroughly analyzes potential impacts associated with geology and soils and other hazards which are described in great detail. As discussed in the IS-MND, the Project will not exacerbate the risk of an earthquake or liquefaction. Loss of life is always a crucial element to consider under CEQA; however, the IS-MND found the Project would not exacerbate the risk to the public in the event of an earthquake in southern California. The Project cannot alter existing conditions of earthquake risk to the southern California region, which are addressed in the CBC, as well as City policy. Please refer to Response 18.19 for discussion of the Project’s building code compliance for earthquake events.

Response 18.21

The commenter states the IS-MND identifies the site as located on a “coastal bluff” and states the Project would only alter the lower approximately 50 feet of the slope with the remaining upper 130 feet unaltered.
The commenter asks where the City code allows cutting into a coastal bluff, and if the City denies the site is a coastal bluff, where does the code allow cutting into a general bluff face.

The IS-MND notes the Project’s location at the base of a slope, and assesses all relevant City policies regarding slope development. The City of Malibu’s Local Coastal Plan/Land Use Plan item 3.50 requires “cut and fill slopes and other areas disturbed by construction activities (including areas disturbed by fuel modification or brush clearance) shall be landscaped or revegetated at the completion of grading.” As stated in the IS-MND, Project Description, the cut and fill slopes will be stabilized with landscaping. Further the Malibu Local Coastal Plan/Land Use Plan line item 6.9.h requires all new development to be sited and designed to minimize height and length of cut and fill slopes; however, such activities remain allowed with City approval. Therefore, as noted within the IS-MND, through adherence to City code, geotechnical specifications, and approval of project variances, the Project is consistent with all existing City policy related to cut and fill on slopes.

Response 18.22

The commenter asks what length and depth the coastal bluff cuts would be for the proposed Project.

The IS-MND and supporting geotechnical reports thoroughly describe changes to the base of the slope as well as any potential hazards. The 13,043 cubic yards of excavation would be conducted within the approximate 160 foot length and 50 foot height, with variations in height or length to accommodate geologic stability and re-added fill and soil, calculated within Appendix B and summarized within the IS-MND.

Response 18.23

The commenter states the City’s code allows for 1,000 cy of grading, and cut and fill should be remain onsite with no offsite transport. The commenter further asserts grading in a slope is not an exempt activity, and 12,649 cy of cut into a bluff is an enormous amount of grading on an unstable hillside. The commenter asks what would prevent the hillside from sliding during grading.

The IS-MND thoroughly addresses grading and impacts associated with alternation of the slope and acknowledges the Project’s exceedance of the City Code, as further detailed in Comment Response B.10 and noted in IS-MND Section 1.4, Project Approvals. The City’s Code does not require all cut and fill to remain onsite for construction projects. As described in Section 4.7, Geology and Soils-City Standard Conditions of Approval, the Project would comply with City Standard Conditions of Approval including: Grading should be scheduled only during the dry season from April 1 through October 31. If it becomes necessary to conduct grading activities from November 1 through March 31, a comprehensive erosion control plan shall be submitted for approval prior to issuance of a grading permit and implemented prior to initiation of vegetation removal and/or grading activities. Additionally, all recommendations of consulting certified engineering geologist or geotechnical engineer and/or City geotechnical staff related to grading will be incorporated into the final design. Please also refer to Comment Response 18.4 for further discussion of variances. The IS-MND does not state grading on a slope is an exempt activity, and as stated above would comply with all required approvals and design methods. Therefore, the Project would not exacerbate hillside stability during grading.
Response 18.24

The commenter asks if the 11,693 cy of understory grading is for the four feet of subterranean parking.

The IS-MND thoroughly describes Project grading and any resultant potential impacts. Due to the structure's location on a hillside, understructure grading includes the total slope area beneath that required for the structure, and so it does include the subterranean parking. The IS-MND notes that the 11,639 cy of total grading is considered understructure grading, which is a Local Implementation Plan-exempt category from the total allowable.

Response 18.25

The commenter inquires on the estimated total number of haul trucks that would be used to haul dirt off site, noting a normal dump truck carries 10 cy of dirt.

The IS-MND thoroughly describes project grading and associated truck traffic. Please refer to Comment Response B.10 for additional information on this topic.

Response 18.26

The commenter inquires on the number of days PCH traffic would be disrupted during excavation haul activities.

The IS-MND thoroughly describes Project grading and associated truck traffic. Haul truck activity associated with site grading would require approximately 108 days (Appendix A). Based upon the detailed analysis within the IS-MND, this number of trips would be far below that which may cause transportation impacts. While not every day would include haul truck activity, assuming the highest estimated number of truck trips required (875 haul trucks), over this period, this would result in an average of 8.1 haul truck trips per day, which would not result in substantial traffic impacts considering avoiding generating vehicle trips during rush hour traffic (see Section 4.17, Impact C) and adhering to California Vehicle Code and City Standard Conditions of Approval.

Response 18.27

The commenter inquires why a traffic management plan is not required.

Approval of Caltrans' Stage Construction, Traffic Handling, and Detour Construction plans are required, including encroachment permits for the work that requires hauling on Caltrans right-of-way, such as along PCH. These requirements are noted within Section 1.4, Project Approvals, and the discussion within Section 4.17, Transportation, Impact C of the IS-MND. Additional traffic management plans are not required under CEQA, however the comment will be included within decision-maker consideration.

Response 18.28

The commenter asks for the length of the retaining wall.

The IS-MND describes that the length of the retaining wall would be approximately 160 feet, as measured within Appendix B, Geotechnical Report. As noted within the plans, added stability would be provided via an approximate 25 feet of stabilization wing wall extending west of the primary retaining wall, and an
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approximate 205 foot long, 4-foot-high debris wall included above the retaining wall to further protect the reach of development.

Response 18.29

The commenter asserts the retaining wall height deviation should not be granted, despite camouflage and apparent reduced visibility from PCH.

The City retains full discretion to approve or deny any requested variances. Approval of Variance No. 18-031 would allow for wall height to be granted in excess of six feet in height, as noted within Section 1.4, Project Approvals. Comments regarding aspects of the project that do not specifically relate to CEQA review will be included in decision maker deliberations.

Response 18.30

The commenter inquires on the visual impact of the retaining wall from various locations on the Malibu Pier.

The IS-MND assesses visual impacts from Malibu Pier and a variety of surrounding public viewing areas, including the beach, PCH, and the Pacific Ocean. The proposed new motel and associated retaining wall would be similar in size, bulk, and scale to existing structures to the east and west, in addition to noting that it would be designed to step back into the hillside. Additionally, it is noted that the project would not include alterations to Malibu Pier, as the existing surface parking lot is not identified as contributing to the historic setting of the pier. Please see Section 4.1, Aesthetics, Impact A-B discussion for further assessment information.

Response 18.31

The commenter inquires how far west bound traffic will be backed up because of construction during Saturdays and in the summer.

The IS-MND thoroughly describes potential impacts associated with haul truck traffic associated with the Project, including possible disruption of traffic flows along PCH. Specific distances of potential traffic backups cannot be determined, and would be speculative under the scope of a CEQA assessment. Traffic volumes, intersection operation, and approval requirements are all assessed within the IS-MND, specifically within Section 4.17, Transportation. Though not specifically necessary under CEQA, intersections in the area are all operating at LOS A or B, indicating acceptable traffic flow. It is noted within Section 4.17, Transportation, Impact C discussion that construction would not add a significant number of trips to the project site, review and approval of an Encroachment Permit from Caltrans would be required, and the absence of significant curves would provide a safe means of transportation access.

Response 18.32

The commenter asks what source of information the IS-MND used to establish that the site would not support substantial cultural resources and dismissing the potential for cultural resources due to possible past wave action.

The IS-MND thoroughly describes potential impacts to cultural resources and provides the information source at the end of the sentence noted by the commenter, cited as Appendix B, which is the document’s
Geological Reports. Appendix B includes existing setting information, including the underlying coastal sediment, overall slope erosion, and other underlying geology. It should be noted that wave action was provided as an example of what “coastal processes” could include, based on the underlying sediment, and was not specifically stated as the reason for potential lack of cultural resources. In support of the potential for cultural resources, the IS-MND discloses that the project site is located within a region that has a history of habitation by the Chumash and Tongva tribal populations, and that there is the potential for unanticipated encounters with tribal cultural resources. Consultation with local tribes was held to solicit additional information, which is further considered within Section 4.5, Cultural Resources, and Section 4.18, Tribal Cultural Resources. Accordingly, the IS-MND includes three mitigation measures (MM TCR-1, -2, and -3) beyond the City's standard existing conditions of approval.

Response 18.33

The commenter states that a supporter of Slow Growth asserts a Chumash burial site was found and excavated at a nearby site, and that additional artifacts and burials have been found within the area east of Malibu Creek at various times. The commenter includes a question on the extent of research conducted in preparation of the IS-MND.

The IS-MND includes a review of the site's existing setting in compliance with CEQA, including cultural resources. Despite multiple meetings with local tribe representatives, the sites indicated by the commenter could not be corroborated and are not listed in either City or State resources. Following additional due-diligence review, no archaeological reports have been presented for properties immediately adjacent to the subject property, and those further away in the general vicinity did not require higher than a Phase 1 review, further indicating a lack of significant findings. See Response 18.32 for a summary of the research conducted to establish the CEQA baseline, and please note the City conditions of approval, which stem from the City's Local Coastal Plan/Land Use Plan, and three mitigation measures (MM TCR-1, -2, and -3) required of the project to avoid potentially significant impacts to cultural resources with implementation of the project.

Response 18.34

The commenter raises a concern that the proposed onsite water treatment system (OWTS) will be able to perform for the life of the project, considering that a hookup to the Civic Center Wastewater Treatment Facility may occur within the next 8 years.

The proposed OWTS is designed to last for the life of the Project and far beyond the potential window to connection to the Civic Center Wastewater Treatment Facility, due to meeting the requirements of the Malibu Plumbing Code, Los Angeles Regional Water Quality Control Board Resolution No. R4-2009-007, and the LCP. The IS-MND notes that the proposed OWTS may need to be abandoned shortly, considering the potential for future connection to the Civic Center Wastewater Treatment Facility within ten years. Please see IS-MND Section C, Onsite Wastewater Treatment System, Section 1.4, Project Approvals, Section 4.10, Hydrology and Water Quality, and Section 4.19, Utilities and Service Systems, for extensive discussion on the required approvals and analysis regarding the efficacy of the proposed OWTS.

Response 18.35

The commenter raises a concern about the proximity of the groundwater table and associated potential for brackish or fresh water to enter the system.
The area’s groundwater table would not affect the proposed OWTS. The project site and associated septic infrastructure would be located at approximately 20 feet above sea level, above the underlying coastal groundwater table and any potential influence of brackish or fresh water. Please see IS-MND Section 4.10, *Hydrology and Water Quality*, and Section 4.19, *Utilities and Service Systems*, for further discussion on the required approvals and analysis regarding the efficacy of the proposed OWTS.

**Response 18.36**

The commenter raises concerns about what may happen from an inadequately designed septic system.

The IS-MND thoroughly address potential impacts of the proposed OWTS including those to groundwater. The Project proposes an adequate septic system (Appendix B), and will not result in potentially significant impacts to water quality or utilities, as noted within Section 4.10, *Hydrology and Water Quality*, and Section 4.19, *Utilities and Service Systems*. The IS-MND notes potential impacts of an inadequately designed leach field within Section 4.10, *Hydrology and Water Quality*, including potential groundwater or ocean water pollution impacts. However, the IS-MND also notes these impacts would be avoided due to the multi-phase treatment implemented by the system and associated permitting requirements, which includes detailed calculations and requirements that – among other considerations – the septic system be large enough to accommodate the proposed project.

**Response 18.37**

The commenter raises a concern with the City’s Standard Conditions of Approval regarding private sewage disposal system covenant notification requirements to new owners, and states that this requirement should necessitate an EIR for this project’s use of an OWTS.

The City’s standards for the OWTS have been subject to extensive regulatory agency review and reflect measures needed to protect groundwater quality. The City’s covenant notification requirement for private sewage disposal systems is not a project-specific requirement, and does not effect the proposed efficacy of the system. Please see Section 4.10, *Hydrology and Water Quality*, and Section 4.19, *Utilities and Service Systems*, for discussion of the extensive City requirements necessary of the proposed OWTS. Comments regarding topics outside the scope of CEQA review, such as those regarding the City’s Standard Conditions of Approval, will be included in decision-maker deliberations.

**Response 18.38**

The commenter argues the loss of public parking for visitors to the Malibu Pier will be significant and unmitigable, and states this is not acknowledged in the IS-MND.

The IS-MND thoroughly discusses potential impacts associated with the loss of coastal access parking. As discussed in the IS-MND, the project’s development of a paid private parking lot would provide adequate and required parking, and would not result in the loss of existing public parking. The project site is currently operated as a private parking lot where the public is allowed to park for a fee, and the project would include a total of 24 parking spaces for Malibu Inn under a JUPA, as required. Malibu Inn’s parking is currently addressed at the site through a JUPA, as described in the IS-MND. Further, the Project complies with MMC requirements for parking as described in Section 1.3, *Project Description* of the IS-MND. The Project would provide 47 parking spaces, as detailed in Table 2, Proposed Parking Program. Per MMC requirements and the JUPA, one parking space is required for every 50 sf of the restaurant’s service area.
that currently exists at the adjacent Malibu Inn property, and one parking space as required for every 225 sf of retail or office floor area. This totals 24 spaces that are required from the adjacent Malibu Inn property. Additionally, per MMC Section 17.48.030 – Specific Parking Requirements – one parking space for each lodging unit (keyed room) is required, totaling 20 spaces, in addition to one space for the average, per-shift number of employees. As a result, the Project is required to provide a minimum of 47 parking spaces to be consistent with MMC requirements. Additionally, stacked parking within the subterranean garage – if implemented – would provide additional overflow parking spaces as necessary for the property.

Response 18.39

The commenter inquires what percentage of motel rooms would be low-income accommodations.

The IS-MND did not identify potential significant impacts to land use or zoning consistency. The proposed Project is not required to supply low-income accommodations. Please refer to Section 4.11, Land Use and Planning, and Section 4.14, Population and Housing, for further discussion on land use consistency and low-income population considerations.

Response 18.40

The commenter raises a concern of the existing JUPA and total required parking spaces, noting the restaurant use and outdoor tent use. Additionally, the commenter inquires which motel personnel will occupy the employee parking spaces and the number of employees between the Malibu Inn and Aviation Nation shop.

With approval of JUPA No. 18-001, the Project is in compliance with the proposed JUPA and associated parking requirements. Under the project’s JUPA, the land use of the adjacent Malibu Inn is being updated to entirely retail with no restaurant, which reduces the total parking requirements, and reduces the potential for bands, outdoor tents, or other entertainment onsite. Additionally, the parking spaces allocated to motel employees will include those associated with cleaning, receptionist, and other hospitality-related roles. Please see Section 1.4, Project Approvals, and associated analysis within Section 4.17, Transportation, for further discussion.

Response 18.41

The commenter questions whether the motel and inn parking will be valet parking or self-serve.

Valet capabilities would be subject to the property operator and would be a service that could be provided by the motel operator, though the difference between valet parking versus self-serve would not affect CEQA conclusions as contained within the IS-MND. For further information on valet capabilities, please note descriptions and discussion contained within Section I, Construction and Staging, and within Section 4.17, Transportation.

Response 18.42

The commenter asserts stacked parking is required under the project, and raises concerns about installing stacked parking at a later date, which could affect future parking disruptions.
Stacked parking is not required to fulfill parking requirements. Descriptions of stacked parking and its potential inclusion in the project is noted within Table 1, Proposed Development Plan, which notes “Proposed stacked parking may be utilized to provide additional parking above MMC requirements”, Section A, Project Design, and Section B, Access and Parking, which states, “Stacked parking space numbers have not been enumerated but would be additive to the minimum surface parking requirements of the MMC”. Please see Comment Response 18.40 for additional information on the site’s requirements in relation to the proposed JUPA. Additionally, the project description does not assume stacked parking would be added at a later date, and delayed construction is not assumed as part of this Project. As such, future parking disruptions are not anticipated.

Response 18.43

The commenter asserts stacked parking will result in evacuation delays, and that the subterranean parking as proposed is a safety hazard due to occupants retrieving their cars in the event of an emergency. The commenter requests an EIR to further assess the danger.

The proposed subterranean garage does not exacerbate existing hazards during an emergency nor disrupt emergency vehicle access. As further discussed within Section 4.15, Public Services, the project is required to comply with the Los Angeles County Fire Code (Title 32) regarding access requirements for the proposed project and design standards for fire prevention and access, including consideration for emergency plans and evacuation routes. As discussed within Section 4.20, Wildfire, the project is designed with throughput access from PCH to the Malibu Inn parking lot, allowing for adequate fire department access via the improved driveway access radius, and that the Project would not impair adopted emergency evacuation plans. As stated in Section 1.4, Project Approvals, the Los Angeles County Fire Department (LACFD) will need to approve the final project plans for safety and access. During LACFD review, fire-specific and evacuation-specific parameters will be assessed, which may eliminate the proposed parking, or increase underground parking ventilation, or other site-specific adjustments. No CEQA-specific hazards regarding underground parking were identified during review.

Response 18.44

The commenter implies inadequate parking would be available in the case that potential valet parking or stacked parking is implemented, particularly associated with employee parking.

Please refer to Comment Response 18.40, 18.41, and 18.42 for information on these topics.

Response 18.45

The commenter raises a concern that handicap parking stalls may affect the total number of needed or required parking spaces.

The Project provides the necessary number of handicap parking stalls. The number of handicap parking stall required is derived from the requirements of MMC Section 17.48.030, Specific Parking Requirements. Please refer to Section B, Access and Parking, for additional information on the project’s required parking.

Response 18.46

The commenter requests clarification on the number of parking spaces required for employees.
The average number of employees per shift would be 3 employees onsite. The associated number has been updated throughout the document to reflect this value.

**Response 18.47**

The commenter raises concern with the loss of parking on weekend and summer days for pier and beach parking, and requests an EIR to further assess this topic.

Please refer to Comment Response 18.38 and 18.40 for information on this topic.

**Response 18.48**

The commenter states there is traffic on this strip of PCH, with traffic movement problems during rush hour and during the summer. The commenter raises a concern that additional visitors to the project site would exacerbate this problem, and that it may affect evacuation routes and emergency response times. The commenter requests an EIR to further assess this topic.

The project would not add a significant number of vehicle miles traveled to the project site and vicinity, as detailed within Section 4.17, *Transportation*. The site currently holds a parking lot, which supports a limited number of trips to the site under existing conditions. It is disclosed that the Project would increase VMT compared to this existing setting. Under CEQA, due to the project's location on the State Highway System, vehicle miles traveled (VMT) is used for impact analysis purposes, overseen by Caltrans. As a project with a motel land use, it is anticipated to generate approximately 68 average daily trips (ADT), which is well below the threshold of 110 trips per day set by Caltrans that would signify a significant impact. Traffic conditions were noted that may affect evacuation routes and response times, though the Project would not specifically conflict with an adopted evacuation plan or route. Additionally, as the increase in trips are not considered significant, the overall traffic conditions would not be significantly impacted from implementation of the Project or on a cumulatively considerable basis. Please refer to Section 4.17 for additional analysis associated with safety and traffic flow that acknowledges local traffic throughput and potential impacts, of which were found less than significant.

**Response 18.49**

The commenter asserts wildfire impacts are inadequately assessed by the MND, stating that the fuel modification plan is insufficient and that the wind-driven effect of embers from wildfires were not taken into account.

The IS-MND includes sufficient assessment of wildfire impacts, included within Section 4.20, *Wildfire*, Section 4.9, *Hazards and Hazardous Materials*, and Section 4.15, *Public Services*. The vegetation, or lack thereof, surrounding the project site is described, specifically in its relation to the potential for wildfire effects. The historic Woolsey Fire and the effects of wind are included within the document, including consideration for the Santa Ana winds, noting that these effects can contribute to the spread of wildfire. Prevailing wind directions are assessed, and the site's location within a Very High fire hazard safety zone are considered. Compared to the existing setting, the Project would not exacerbate the existing potential hazards from wildfire, particularly following LACFD approval. Finally, the site is within the service area of the nearest fire station and would not necessitate an expansion of fire-related public services to the site.
Response 18.50

The commenter asserts cumulative impacts are not adequately addressed by the MND, particularly regarding traffic congestion and regional development.

The IS-MND addresses cumulative impacts in numerous sections of the document, in compliance with CEQA and best planning practices. To summarize, cumulatively considerable air quality pollutants are addressed in Section 4.3, \textit{Air Quality}, and Section 4.8, \textit{Greenhouse Gas Emissions}, including those criteria included within SCAQMD's CEQA guidance. Water quality impacts from the project site and surrounding development is cumulatively considered within Section 4.10, \textit{Hydrology and Water Quality}, notably for the potential for surface water quality pollution from other parking lot and building drainage. Surrounding development and cumulative conditions are considered within 4.17, \textit{Transportation}, addressing street flow and congestion. Utilities and wastewater facility potential impacts are addressed within Section 4.19, \textit{Utilities and Service Systems}, and fire service capability to accommodate regional development is considered within Section 4.20, \textit{Wildfire}. Additional sections also consider the CEQA required existing setting, including consideration for surrounding development and projects, culminating in the review within Section 4.21, \textit{Mandatory Findings of Significance}, which summarizes and concludes potential impacts of the project on a cumulatively considerable basis, including those to noise, traffic, cultural resources, wildlife species, and more. Please also see Comment Responses 18.31 and 18.48.

Response 18.51

The commenter asserts there is insufficient parking for the project site.

Please refer to Comment Responses 18.38 through 18.42 for responses to this topic.

Response 18.52

The commenter raises a concern of traffic, rush hour traffic, backed up intersections, and gridlocked traffic.

Please refer to Comment Responses 18.31, 18.48, and 18.50 for responses to this topic.

Response 18.53

The commenter asserts cumulative impacts are not adequately addressed by the MND, and are being piecemealed through.

Please refer to Comment Response 18.50 for cumulative impact response information. Regarding piecemealing, the scope of the IS-MND includes this Project and consideration for cumulative impacts in the region, following best available information in compliance with CEQA. The IS-MND contains input from successive rounds of technical review, consideration for the Project at a regional scale, includes consultation periods, and public input, and does not directly connect to another project that may suggest piecemeal adoption. Comments that do not directly pertain to the analysis will be included in decision maker deliberations.
Response 18.54

The commenter asserts an EIR is required due to substantial evidence that an effect may be significant, particularly those associated with traffic.

The IS-MND did not identify any potentially significant impacts that would not be reduced to a less than significant level through the use of proposed mitigation. Traffic impacts were found as less than significant following accepted VMT thresholds and consideration for local policy such as an analysis of LOS. If the Project had exceeded these thresholds, an EIR would be required, however none were triggered. Please see Comment Responses 18.31, 18.48, and 18.50 for responses to this topic in addition to the analysis contained within the MND, particularly Section 4.17, Transportation.

Response 18.55

The commenter asserts the number of variances indicate an EIR is required to ensure consistency.

There is no threshold for the number of variances associated with a Project required to trigger an EIR. As noted in Section 1.4, Project Approvals, and throughout the MND, approval of each variance would be required to ensure project consistency. With variance approvals, certain land use and resource-specific impacts would be avoided, particularly those related to aesthetic or geologic review. Variance approval requires extensive review and, in the case of this project, extensive geotechnical review for safety and geologic stability, which has been conducted over the past years. As no potentially significant impacts were identified, with approval of the MND, an EIR would not be required under CEQA.

Response 18.56

The commenter asserts parking impacts are glossed over in the ND.

The IS-MND adequately addresses parking. Please see Comment Responses 18.38 through 18.42 for associated responses on this topic.

Response 18.57

The commenter raises a concern that the amount of excavation would result in destabilization and the location of potential cuts are questionable.

The Project would not result in slope destabilization. Extensive review has been conducted from a geotechnical perspective. Please see Comment Responses 18.18, 18.19, 18.21, and 18.23 for additional discussion on these topics, in addition to Section 4.7, Geology and Soils, and Section 4.9, Hazards and Hazardous Materials, of the MND, and Appendix B for further information and review from the geotechnical reports.
To Whom it May Concern,

I am emailing regarding the current Malibu Inn project. The city is in dire need of more hotel rooms and I believe this will be a great improvement to the empty parking lot that is currently there.

I think this project will be a great asset to the city and I look forward to referring family members from out of town.

Best,
Suzannah
Letter 19

Commenter: Suzanne Owens  
Date: March 17, 2021

Response 19.1

Thank you for the comments regarding the proposed Malibu Inn Motel Project Draft Initial Study Mitigated Negative Declaration. The comment notes support for the Project’s component of additional hotel rooms in the City and conversion of the parking lot to the Project’s proposed use. Comments regarding support for the Project that do not directly pertain to the analysis within the IS-MND will be included within the public record and made available to decision-makers for planning and policy consideration.
Dear Adrian:

After reading about the new proposed hotel for Malibu, called The Malibu Inn Motel, I would like to bring up the point that a 20 room motel would be a great fit for Malibu, since it would be considered more of a boutique hotel. I really liked the design, with the use of the exterior wood, it looks like it would blend nicely into the current landscaping.

I do agree that we need a new hotel and new growth in Malibu, it has been long over due. I have a lot of relatives that come from out of town that would really enjoy a pool with a restaurant, especially in that location with the view of Malibu and the Ocean. I look forward to having a new hotel for my friends and family to come visit Southern California.
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Letter 20

Commenter: Judy Ettinger, Malibu resident
Date: March 17, 2021

Response 20.1

Thank you for the comments regarding the proposed Malibu Inn Motel Project Draft Initial Study Mitigated Negative Declaration. The comment notes support for the Project’s addition of 20 rooms to the City, and notes the design with exterior wood will blend well with the existing landscaping. Comments regarding support for the Project that do not directly pertain to the analysis within the IS-MND will be included within the public record and made available to decision-makers for planning and policy consideration.
Hello Ms. Fernandez,

We are residential owners at 23006 Pacific Coast Highway (across the street, approximately in between Jack-in-the-Box and Aviator Nation and directly next door to the Malibu Pier).

Let me start by saying that a new hotel would be a net positive to Malibu generally and this neighborhood specifically. However, as proposed, we are diametrically opposed to any aspect of this project. In fact, we oppose a project that's even half this scale and impact. What we do support is a project that is not a square inch larger than the Surfrider Hotel and one that follows every single letter of the code without a single variance, just as the Surfrider abided by with their renovation.

Our view is that the owner and the architect of 22959 PCH actually don't want this project, as proposed. We believe they are doing nothing more than playing a game with the City of Malibu. That game is to submit a set of basic drawings that reflects a maximum footprint, per the square footage of the lot, and ask for every variance under the sun to make that proposal achievable from an engineering and construction standpoint. But, our suspicion is that the owner and the architect know full well that there's zero chance of approval of this proposal, are expecting to get pushed back to a more achievable and desirable project, but one that still got a number of variances granted by the city.

The owner and architect could have followed a more neighborly and measured process in drafting their first proposal. But, for their conscious game playing, we ask that the city put this project through the gauntlet of following proper protocol.

Specifically, we ask that the city not grant this project
the requested variances:

1. Non-Exempt grading in excess of 1,000 cubic yards per acre of commercial development (asking to export 12,255 cubic yards as reference)
2. Construction on slopes steeper than 2.5 to 1
3. Surface parking beyond the required front yard setback
4. Retaining walls in excess of six feet in height (asking for a 52.5ft all wall above the subterranean parking garage as reference)

Furthermore, we ask the city insist that this project not deviate from the following:

- **EIR** - The City has indicated in this Staff Report and Proposed Adoption that the project satisfies a Negative Mitigated Declaration ("NMD") as opposed to requiring a full Environmental Investigation Report ("EIR"). Based on the scale of this project, request for numerous variances and obvious disruption to natural environment disruption and risks and construction hurdles, this should obviously. Refer to Pg3 to get an understanding on the EIR requirement vs NMD requirement.

- **EIR Risks Not Listed** - On page 20 they only list "Noise" and "Geology/Soils" as items of Risk. However they should also be checking Aesthetics due to the natural hillside landscape, Air Quality through Construction with that much earth movement and dust, Biological, Land/Use Planning, Hydrology/Water Quality due to Subterranean Parking

- **Construction & Subterranean Parking** - The creation of subterranean parking and a 55ft tall retaining wall should create a massive amount of heavy duty construction through the use of foundation piles that will create major earth vibration and sound during the course of construction. Approving an enormously large wall and subterranean parking would create a significant impact to the existing landscape and residential well being and creating a new precedent for Malibu.

- **Retaining Wall, Construction on Slope, Non**
Exempt Grading Variances - If you refer to the graphic below, you will see how much land is being proposed to be removed from the mountain which is quite enormous and will trigger environmental and stability issues. This project is requesting major variances and should be considered within the more suitable flat land, versus carving into the mountainside.

- **Height of Elevator Bulkhead** - In Malibu, a maximum building height can be 24' or 28' with a pitched roof. As you can see in this plan the height to the roof bulkhead of the elevator is 44'-1" which is significantly taller than the allotted requirement. As a note, we were building a similar elevator to take guests to our roof deck and wee would've been at 29' due to the nature of the elevator shaft, but also lower than our existing roof line. Wee were denied and ended up having to build one elevator that goes from the ground to second floor and another ADA lift from the 2nd floor to the roof deck. Thereby this is another "variance / ask" that seems to be out of place and should be scrutinized.

My contact information is below should you have the need for any follow-up.

Thank you for your consideration.

Mark & Kim Dempster
City of Malibu
Malibu Inn Motel Project
Responses to Comments on the Draft Initial Study Mitigated Negative Declaration

Letter 21

Commenter: Mark and Kim Dempster, Malibu Property Owner
Date: March 17, 2021

Response 21.1

Thank you for the comments regarding the proposed Malibu Inn Motel Project Draft Initial Study Mitigated Negative Declaration. The comment notes support for the Project’s addition of a new hotel to Malibu generally and this neighborhood specifically. Comments regarding support for the Project that do not directly pertain to the analysis within the IS-MND will be included within the public record and made available to decision-makers for planning and policy consideration.

Response 21.2

Thank you for the comments regarding the proposed Malibu Inn Motel Project Draft Initial Study Mitigated Negative Declaration. The commenter includes opposition to all aspects of the Project that require approval of a City variance. The comment includes requests of the City to not grant the project the variances for non-exempt grading, construction on steeper slopes, surface parking within the required front yard setback, and retaining walls in excess of six feet in height.

The Project includes requests for approval of associated variances, and overall Project approval is contingent on stated variance approval. Please see Section 4.7, Geology and Soils, Section 4.13, Noise, Section 4.17, Transportation, and Section 4.1, Aesthetics, for assessments of the concerns raised. All analyses found less than significant impacts, and general comments regarding opposition to the Project that do not directly pertain to the analysis within the IS-MND will be included within the public record and made available to decision-makers for planning and policy consideration.

Response 21.3

The commenter asserts that the IS-MND is insufficient and that an Environmental Impact Report is warranted due to natural environment disruption, risks, and construction hurdles.

The IS-MND addresses natural environment disruption, risks, and construction hurdles; please see Comment Response 17.2 for further discussion on this topic.

Response 21.4

The commenter asserts that, in addition to “Noise” and “Geology/Soils” marked as potentially affected in IS-MND Section 3, Environmental Factors Potentially Affected, the resource sections “Aesthetics”, “Air Quality”, “Biological Resources”, “Land Use and Planning”, and “Hydrology/Water Quality” should also be marked as potentially significant.

The IS-MND addresses potentially significant impacts; please see Comment Response 17.3 for further discussion on this topic.
Response 21.5

The commenter raises concern associated with the construction of the Project's proposed subterranean parking and retaining wall, including earth vibration, earth stability, and requests vibration monitors, and expresses concern for subterranean parking in close proximity to the beachfront.

The IS-MND addresses Project construction of the retaining wall, earth vibrations, and subterranean features; please refer to Comment Response 17.4 for further discussion on this topic.

Response 21.6

The commenter raises concerns regarding the Project's proposed retaining wall, construction on slopes, and associated variances.

The proposed Project would be subject to both City and State regulations regarding public safety, slope stability and construction methods; please refer to Comment Response 17.5 for further discussion on this topic.

Response 21.7

The commenter states that the building height would exceed that of the City's requirements, specifically that the City allows buildings up to 28 feet with a pitched roof, and that the IS-MND cross section indicates an elevator height of 44 feet and 1 inch.

The Project would be in compliance with the City's requirements, with approval of SPR No. 18-025; please refer to Comment Response 17.6 for further discussion on this topic.
Dear Mr. Fernandez,

I would like to express my support for the proposed motel across from the Malibu pier at 22959 PCH. The motel would be a welcome addition to Malibu. I am a native Angeleno and have lived in Malibu. When friends and family visit they always comment on the lack of nice lodging in Malibu. It is such a beautiful place and Malibu very much needs more quality lodging.

The rendering shows a design that is beautiful and fits in so nicely with Malibu. The motel is perfectly located across from the pier and beach. There is a traffic light across from the motel which makes crossing to the pier and beach easily accessible.

The project seems to be extremely well planned and includes subterranean and grade level parking. Having more lodging in Malibu will help alleviate the often-unwelcomed airbnb use. I would enjoy patronizing a motel like this for myself and my visiting friends and family and to enjoy another dining choice in Malibu. I was very excited to see this proposed motel and very much support the project.

Sincerely,

Nick Eliopoulos
Letter 22

Commenter: Nick Eliopoulos, Los Angeles resident

Date: March 17, 2021

Response 22.1

Thank you for the comments regarding the proposed Malibu Inn Motel Project Draft Initial Study Mitigated Negative Declaration. The comment states support for the Project particularly the expansion of additional overnight accommodation. Comments regarding support for the Project that do not directly pertain to the analysis within the IS-MND will be included within the public record and made available to decision-makers for planning and policy consideration.
Dear Mr. Fernandez,

I, Paul Astin, Trustee of the Astin Family Trust, the owner of 23034 PCH hereby join in and adopt in full the objections made by Mark Dempster at [redacted] regarding the proposed developments across the street from our home.

We are extremely concerned on the impact this development as proposed will have on our home and community.

Please do not hesitate to contact me with any questions.

Please also confirm you have received my email at your earliest convenience.

Sincerely,

Paul Astin
City of Malibu

Malibu Inn Motel Project

Responses to Comments on the Draft Initial Study Mitigated Negative Declaration

Letter 23

Commenter:  Paul Astin, Trustee of Astin Family Trust

Date:  March 17, 2021

Response 23.1

The commenter expresses concern of impacts that could occur from the implementation of the Project, and specifically refers to the objections made by Mark Dempster regarding the development proposed across the street from their home. Please refer to the responses within Letter #21, which contains those of Mark and Kim Dempster. Additionally, comments that include general opposition to the project will be included within the public record and available to decision-makers for planning and policy consideration.
Dear Mr. Fernandez,

I Robert J. Allan, Trustee of the Malibu Property Trust U/D/T 12/14/00, the owner of 23018 PCH hereby hereby join in and adopt in full the objections made by Mark Dempster at 23006 PCH, Malibu, CA.

We are extremely concerned on the impact this development as proposed will have on our home and community.

Please do not hesitate to contact me with any questions.

Please also confirm you have received my email at your earliest convenience.

Regards,

Robert J. Allan
Letter 24

Commenter: Robert Allan, Malibu Property Owner

Date: March 17, 2021

Response 24.1

Thank you for the comments regarding the proposed Malibu Inn Motel Project Draft Initial Study Mitigated Negative Declaration. The commenter expresses concern of impacts that could occur from the implementation of the proposed Project, and specifically refers to the objections made by Mark Dempster regarding the proposed Project. Please refer to the responses within Letter #21, which contains those of Mark and Kim Dempster. Additionally, comments that include general opposition to the project will be included within the public record and available to decision-makers for planning and policy consideration.
Hello Ms. Fernandez,

I am the residential owner at 23038 Pacific Coast Highway (across the street and one of the six houses next door to the Malibu Pier).

I am opposed to any aspect of this project. In fact, I oppose a project that's even half this scale and impact. What I do support is a project that is not a square inch larger than the Surfrider Hotel and one that follows every single letter of the code without a single variance, just as the Surfrider abided by with their renovation.

MY view is that the owner and the architect of 22959 PCH actually don't want this project, as proposed. We believe they are doing nothing more than playing a game with the City of Malibu. That game is to submit a set of basic drawings that reflects a maximum footprint, per the square footage of the lot, and ask for every variance under the sun to make that proposal achievable from an engineering and construction standpoint. But, our suspicion is that the owner and the architect know full well that there's zero chance of approval of this proposal, are expecting to get pushed back to a more achievable and desirable project, but one that still got a number of variances granted by the city.

The owner and architect could have followed a more neighborly and measured process in drafting their first proposal. But, for their conscious game playing, we ask that the city put this project through the gauntlet of following proper protocol.

Specifically, we ask that the city not grant this project the requested variances:

1. Non-Exempt grading in excess of 1,000 cubic yards per acre of commercial development (asking to export 12,255 cubic yards as reference)
2. Construction on slopes steeper than 2.5 to 1
3. Surface parking beyond the required front yard setback
4. Retaining walls in excess of six feet in height
   (asking for a 52.5ft all wall above the subterranean parking garage as reference)

Furthermore, we ask the city insist that this project not deviate from the following:

- **EIR** - The City has indicated in this Staff Report and Proposed Adoption that the project satisfies a Negative Mitigated Declaration ("NMD") as opposed to requiring a full Environmental Investigation Report ("EIR"). Based on the scale of this project, request for numerous variances and obvious disruption to natural environment disruption and risks and construction hurdles, this should obviously. Refer to Pg3 to get an understanding on the EIR requirement vs NMD requirement.

- **EIR Risks Not Listed** - On page 20 they only list "Noise" and "Geology/Soils" as items of Risk. However they should also be checking Aesthetics due to the natural hillside landscape, Air Quality through Construction with that much earth movement and dust, Biological, Land/Use Planning, Hydrology/Water Quality due to Subterranean Parking

- **Construction & Subterranean Parking** - The creation of subterranean parking and a 55ft tall retaining wall should create a massive amount of heavy duty construction through the use of foundation piles that will create major earth vibration and sound during the course of construction. Approving an enormously large wall and subterranean parking would create a significant impact to the existing landscape and residential well being and creating a new precedent for Malibu.

- **Retaining Wall, Construction on Slope, Non Exempt Grading Variances** - If you refer to the graphic below, you will see how much land is being proposed to be removed from the mountain which is quite enormous and will trigger environmental and stability issues. This project is requesting major variances and should be considered within the more suitable
flat land, versus carving into the mountainside.

- **Height of Elevator Bulkhead** - In Malibu, a maximum building height can be 24' or 28' with a pitched roof. As you can see in this plan the height to the roof bulkhead of the elevator is 44'-1" which is significantly taller than the allotted requirement. As a note, we were building a similar elevator to take guests to our roof deck and we would've been at 29' due to the nature of the elevator shaft, but also lower than our existing roof line. We were denied and ended up having to build one elevator that goes from the ground to second floor and another ADA lift from the 2nd floor to the roof deck. Thereby this is another "variance / ask" that seems to be out of place and should be scrutinized.

If you need to contact me

Sincerely,
Roni Serrato
Letter 25

Commenter:  Roni Serrato, Malibu Property Owner
Date: March 17, 2021

Response 25.1

Thank you for the comments regarding the proposed Malibu Inn Motel Project Draft Initial Study Mitigated Negative Declaration. The commenter includes opposition to all aspects of the Project that require approval of a City variance. The comment includes requests of the City to not grant the Project the variances for non-exempt grading, construction on steeper slopes, surface parking beyond the required front yard setback, and retaining walls in excess of six feet in height.

The Project includes requests for approval of associated variances, and overall Project approval is contingent on stated variance approval. Please see Comment Response 21.2 for further discussion on this topic.

Response 25.2

The commenter asserts that the IS-MND is insufficient and that an Environmental Impact Report is warranted due to natural environment disruption, risks, and construction hurdles.

The IS-MND addresses natural environment disruption, risks, and construction hurdles; please see Comment Response 17.2 for further discussion on this topic.

Response 25.3

The commenter asserts that, in addition to “Noise” and “Geology/Soils” marked as potentially affected in IS-MND Section 3, Environmental Factors Potentially Affected, the resource sections “Aesthetics”, “Air Quality”, “Biological Resources”, “Land Use and Planning”, and “Hydrology/Water Quality” should also be marked as potentially significant.

The IS-MND addresses potentially significant impacts; please see Comment Response 17.3 for further discussion on this topic.

Response 25.4

The commenter raises concern associated with the construction of the Project’s proposed subterranean parking and retaining wall, including earth vibration, earth stability, and requests vibration monitors, and expresses concern for subterranean parking in close proximity to the beachfront.

The IS-MND addresses Project construction of the retaining wall, earth vibrations, and subterranean features; please refer to Comment Response 17.4 for further discussion on this topic.
City of Malibu
Malibu Inn Motel Project
Responses to Comments on the Draft Initial Study Mitigated Negative Declaration

Response 25.5

The commenter raises concerns regarding the Project’s proposed retaining wall, construction on slopes, and associated variances.

The proposed Project would be subject to both City and State regulations regarding public safety, slope stability and construction methods; please refer to Comment Response 17.5 for further discussion on this topic.

Response 25.6

The commenter states that the building height would exceed that of the City’s requirements, specifically that the City allows buildings up to 28 feet with a pitched roof, and that the IS-MND cross section indicates an elevator height of 44 feet and 1 inch.

The Project would be in compliance with the City’s requirements, with approval of SPR No. 18-025; please refer to Comment Response 17.6 for further discussion on this topic.
Notice of Public Hearing

The Malibu Planning Commission will hold a public hearing on THURSDAY, August 26, 2021, at 6:30 p.m. on the project identified below via teleconference only in order to reduce the risk of spreading COVID-19, pursuant to the Governor’s Executive Orders N-25-20 & N-29-20 & the County of Los Angeles Public Health Officer’s Safer at Home Order.

22969 PCH

Application Filed: Environmental Review
APPEALABLE TO: City Council
APPLICANT / OWNER: Burdge and Associates Architects, Inc. / Surfrider Plaza, LLC
LOCATION / APN / ZONING: 22969 Pacific Coast Highway / 4452-019-004/Commercial Visitor-Serving-One (CV-1)
ENVIRONMENTAL REVIEW: Initial Study/Mitigated Negative Declaration (SCH No. 202102396) CEQA Guidelines 15164
APPLICATION FILED: June 11, 2018

For the project listed above with an initial study for environmental review, pursuant to CEQA, the City adopted an initial study and mitigated negative declaration finding that the project would have no significant adverse effects on the environment (CEQA Guidelines Section 15061).

STAFF CONTACT CASE PLANNER: Adrian Fernandez, Assistant Planning Director, afemandez@malibucity.org (310) 456-2489, ext. 482

A written staff report will be available at least 10 days before the hearing for the project. Typically 10 days before the hearing in the Agenda Center: http://www.malibucity.org/Agendaplate. Related Documents are available for review by contacting the Case Planner during regular business hours. You will have an opportunity to testify at the public hearing; written comments which shall be considered public record, may be submitted any time prior to the beginning of the public hearing. If the City’s action is challenged in court, testimony may be limited to issues raised before or at the public hearing. To view or sign up to speak during the meeting, visit www.malibucity.org/teleconference.

LOCAL APPEAL - Pursuant to Local Coastal Program Local Implementation Plan (LIP) Section 13.20.1 (Local Appeals), a decision made by the Planning Commission may be appealed to the City Council by an aggrieved person by written statement setting forth the grounds for appeal. An appeal must be filed with the City Clerk within 10 days and shall be accompanied by an appeal form and filing fee, as specified by the City Council. Appeal forms may be found online at www.malibucity.org/planningforms, in person, or by calling (310) 456-2489, ext. 245.

COASTAL COMMISSION APPEAL - For the project appealable to the Coastal Commission, an aggrieved person may appeal the Planning Commission’s approval decision to the Coastal Commission within 10 working days of the issuance of the City’s Notice of Final Action. More information may be found online at www.coastal.ca.gov or by calling 805-585-1800.

RICHARD MOLLICA, Planning Director

Date: August 5, 2021