To: Chair Jennings and Members of the Planning Commission
Prepared by: Adrian Fernandez, Principal Planner
Reviewed: Bonnie Blue, Planning Director

Date prepared: December 23, 2019 Meeting date: January 6, 2020

Subject: Coastal Development Permit No. 19-040, Variance No. 19-043, Site Plan Review Nos. 19-089 and 19-090, Demolition Permit No. 19-037 and Offer-to-Dedicate No. 19-003 - An application for the demolition of an existing single-family residence, construction of a new bluff-top, two-story single-family residence and associated development (Continued from December 2, 2019)

Location: 27530 Pacific Coast Highway, within the appealable coastal zone
APN: 4460-031-001
Owner: Jinpar 1031, LLC

RECOMMENDED ACTION: Adopt Planning Commission Resolution No. 20-03 determining that the California Environmental Quality Act does not apply to the project and denying Coastal Development Permit No. 19-040 for the construction of a 8,303 square foot, two-story, bluff-top single-family residence, swimming pool, cantilevered deck, driveway, landscaping, grading and onsite wastewater treatment system, including Variance No. 19-043 for the residence to extend higher than the adjacent road grade, Site Plan Review (SPR) No. 19-089 for construction over 18 feet in height, SPR No. 19-090 for construction on slopes between 3 to 1 and 2.5 to 1, Demolition Permit No. 19-037 for the demolition of an existing 839 square foot, single-family residence and Offer-to-Dedicate No. 19-003 to grant a lateral beach access easement located in the Rural Residential - Two Acre Zoning District at 27530 Pacific Coast Highway (Jinpar 1031, LLC).

DISCUSSION: On December 2, 2019, the Planning Commission held a duly noticed public hearing on the subject application, reviewed and considered the agenda report, reviewed and considered written reports, public testimony, and other information in the record. The Planning Commission deliberated, and directed staff to return with an updated
resolution denying the project and updating the findings that could not be made. The revised resolution is attached for the Commission’s consideration.

ATTACHMENT: Planning Commission Resolution No. 20-03
CITY OF MALIBU PLANNING COMMISSION  
RESOLUTION NO. 20-03

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MALIBU
DETERMINING THAT THE CALIFORNIA ENVIRONMENTAL QUALITY ACT
DOES NOT APPLY TO THE PROJECT AND DENYING COASTAL
DEVELOPMENT PERMIT NO. 19-040 FOR THE CONSTRUCTION OF A 8,303
SQUARE FOOT, TWO-STORY, BLUFF-TOP SINGLE-FAMILY RESIDENCE,
SWIMMING POOL, CANTILEVERED DECK, DRIVEWAY, LANDSCAPING,
GRADING AND ONSITE WASTEWATER TREATMENT SYSTEM, INCLUDING
VARIANCE NO. 19-043 FOR THE RESIDENCE TO EXTEND HIGHER THAN THE
ADJACENT ROAD GRADE, SITE PLAN REVIEW NO. 19-089 FOR
CONSTRUCTION OVER 18 FEET IN HEIGHT, SITE PLAN REVIEW NO. 19-090
FOR CONSTRUCTION ON SLOPES BETWEEN 3 TO 1 AND 2.5 TO 1,
DEMOLITION PERMIT NO. 19-037 FOR THE DEMOLITION OF AN EXISTING
839 SQUARE FOOT, SINGLE-FAMILY RESIDENCE AND OFFER-TO-DEDICATE
NO. 19-003 TO GRANT A LATERAL BEACH ACCESS EASEMENT LOCATED IN
THE RURAL RESIDENTIAL - TWO ACRE ZONING DISTRICT AT 27530
PACIFIC COAST HIGHWAY (JINPAR 1031, LLC)

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

SECTION 1. Recitals.

A. On February 1, 2019, Planning Commission Resolution No. 16-09 approving Coastal Development Permit (CDP) No. 13-068, Site Plan Review (SPR) No. 13-064 and Demolition Permit (DP) No. 13-032 for the proposed project expired immediately after completion of Building Safety plan check but prior to final stamps, permit issuance and project commencement.

B. On June 19, 2019, an application for Coastal Development Permit (CDP) No. 19-040, Variance (VAR) No. 19-043, Site Plan Review (SPR) Nos. 19-089 and 19-090, Demolition Permit (DP) No. 19-037, Offer-to-Dedicate (OTD) No. 19-003 to reapprove the expired project was submitted to the City for review. The application was routed to appropriate City and County agencies for review.

C. On September 26, 2019, a Notice of Application for CDP was posted on the subject parcel.

D. On September 27, 2019, staff deemed the application complete for processing.

E. On November 7, 2019, 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.

F. On December 2, 2019, the Planning Commission held a duly noticed public hearing on the subject application, reviewed and considered the agenda report, staff presentation and written reports, public testimony, and other information in the record. At the conclusion of the hearing, the Commission directed staff to return with an updated resolution denying the project and updating the findings that could not be made.

G. On January 6, 2020, the revised resolution denying the project came before the Planning Commission as a consent item.
SECTION 2. Environmental Review.

Pursuant to the California Environmental Quality Act (CEQA) Guidelines Section 15270, CEQA does not apply to projects which a public agency rejects or disapproves.

SECTION 3. Findings for Denial.

Based on substantial evidence contained within the record and pursuant to City of Malibu Local Coastal Program (LCP) Local Implementation Plan (LIP) Sections 13.7.B and 13.9, the Planning Commission adopts the findings of fact below, and denies CDP No. 19-040, VAR No. 19-043, SPR Nos. 19-089 and 19-090, and DP No. 19-037 for the construction of a 8,303 square foot, two-story single-family residence, swimming pool, cantilevered deck, driveway, landscaping, grading and onsite wastewater treatment system.

The proposed project, as designed, is not consistent with applicable LCP standards and policies. The portion of the proposed residence projecting above the road grade elevation is not consistent with LCP Section 6.5(E) and the Commission could not make findings for the variance and site plan review related to this portion of the residence. The required findings for denial of the CDP and site plan review request for construction in excess of 18 feet in height are made herein.

A. General Coastal Development Permit (LIP Chapter 13)

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.

LIP Section 6.5(E) requires that new structures on properties with descending slopes between PCH and ocean not extend higher than the road grade adjacent to the project site, where feasible. Given the large area of the flat portion of the building pad and the majority of the residence designed below road grade, it would be feasible to comply with the LCP.

B. Variance for the Residence to Extend Higher than the Adjacent Road Grade (LIP Section 13.26.5)

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 requested variance is detrimental to the public interest and would be injurious to the property or improvements in the same vicinity and zone in which the property is located. The variance is requested to permit the proposed upper level to extend above road grade elevation. This portion of the residence obstructs bluewater ocean views from Pacific Coast Highway (PCH), an LCP-designated scenic highway. The public view impacts as a result of the upper level are detrimental to the public interest and would be injurious to surrounding properties and improvements.

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

The granting of the variance constitutes a special privilege to the property owner in that it permits an upper level above road grade elevation where the house could be designed to avoid the variance. Even
though there are other two- or multi-story houses in the vicinity similar to the proposed residence, the majority of the surrounding residences do not descend from PCH and do not provide bluewater views across the property and were constructed prior to the adoption of the LCP. Because the proposed residence can be designed without the requested variance, the proposed variance would constitute a special privilege to the 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.

LIP Section 6.5(E) requires that new structures on properties with descending slopes between PCH and ocean not extend higher than the road grade adjacent to the project site, where feasible. The granting of the variance is contrary to or in conflict with this code requirement.

C. Site Plan Review for Construction in Excess of 18 Feet in Height (LIP Section 13.27.5)

Finding 3. The project provides maximum feasible protection to significant public views as required by Chapter 6 of the Malibu LIP.

The project, as designed, does not provide maximum feasible protection to significant public views pursuant to LIP Chapter 6 in that the portion of the residence above the road grade elevation obstructs bluewater ocean views from PCH. LIP Section 6.5(E) requires that new structures on properties with descending slopes between PCH and ocean not extend higher than the road grade adjacent to the project site, where feasible. Given the large area of the flat portion of the building pad and the majority of the residence designed below road grade, it would be feasible to comply with this requirement.

D. Site Plan Review for Construction on Slopes Between 3 to 1 and 2.5 to 1 (LIP Section 13.27.5)

Finding 3. The project provides maximum feasible protection to significant public views as required by Chapter 6 of the Malibu LIP.

The project, as designed, does not provide maximum feasible protection to significant public views pursuant to LIP Chapter 6 in that the portion of the residence above the road grade elevation obstructs bluewater ocean views from PCH. LIP Section 6.5(E) requires that new structures on properties with descending slopes between PCH and ocean not extend higher than the road grade adjacent to the project site, where feasible. Given the large area of the flat portion of the building pad and the majority of the residence designed below road grade, it would be feasible to comply with this requirement.


Based on the foregoing findings and evidence contained within the record, the Planning Commission hereby denies CDP No. 19-040, VAR No. 19-043, SPR No. 19-089 and 19-090, and DP No. 19-037.
SECTION 5. The Planning Commission shall certify the adoption of this Resolution.

PASSED, APPROVED AND ADOPTED this 6th day of January 2020.

JEFFREY JENNINGS, Planning Commission Chair

ATTEST:

KATHLEEN STECKO, Recording Secretary

LOCAL APPEAL - 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.

COASTAL COMMISSION APPEAL – An aggrieved person may appeal the Planning Commission’s decision 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 in person at the Coastal Commission South Central Coast District office located at 89 South California Street in Ventura, 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. 20-03 was passed and adopted by the Planning Commission of the City of Malibu at the regular meeting thereof held on the 6th day of January 2020, by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

KATHLEEN STECKO, Recording Secretary