CITY OF MALIBU PLANNING COMMISSION
RESOLUTION NO. 16-74

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. 14-003 FOR THE CONSTRUCTION OF A NEW 5,094 SQUARE FOOT, TWO-STORY, SINGLE-FAMILY BEACHFRONT RESIDENCE WITH ATTACHED GARAGE, DECKS, RETURN WALLS, RETAINING WALLS, INSTALLATION OF A NEW ALTERNATIVE ONSITE WASTEWATER TREATMENT SYSTEM AND REMOVAL OF EXISTING TIMBER WALLS, VARIANCE NO. 16-010 FOR THE INSTALLATION OF A NEW BULKHEAD SITED SEAWARD OF THE SHORELINE PROTECTION DEVICE STRINGLINE, VARIANCE NO. 16-023 FOR CONSTRUCTION ON SLOPES STEEPER THAN 2.5 TO 1, MINOR MODIFICATION NO. 15-016 FOR A REDUCTION OF THE REQUIRED FRONT YARD SETBACK, AND OFFER TO DEDICATE NO. 16-006 FOR A LATERAL ACCESS EASEMENT ACROSS THE PROPERTY, LOCATED IN THE MULTI-FAMILY BEACHFRONT ZONING DISTRICT AT 25306 MALIBU ROAD (CHAMBERS CREEK, LLC)

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

SECTION 1. Recitals.

A. On August 1, 2010, a demolition permit was issued by the City of Malibu Building Safety Division for the removal of a single-family residence built without the benefit of permit.

B. On January 23, 2014, an application for Coastal Development Permit (CDP) No. 14-003 for the construction of a new two-story, single-family beachfront residence with attached garage, decks, return walls, retaining walls, installation of a new alternative onsite wastewater treatment system (AOWTS), and removal of existing timber walls was submitted to the Planning Department, on behalf of property owner, Chambers Creek, LLC. The application was routed to the City Coastal Engineer, City geotechnical staff, City Environmental Health Administrator, City Biologist, City Public Works Department, California State Lands Commission (CSLC), Los Angeles County Fire Department (LACFD) and Los Angeles County Waterworks District No. 29 (WD29) for review.

C. On March 20, 2014, a courtesy notice of the proposed project was mailed to all property owners and occupants within a 500-foot radius of the subject property.

D. On March 17, 2016, an application for Minor Modification (MM) No. 15-016 was submitted to the Planning Department for a reduced front yard setback.

E. On May 2, 2016, an application for Variance (VAR) No. 16-010 was submitted to the Planning Department for the construction of a bulkhead sited seaward of the shoreline protection device stringline.

F. On June 20, 2016, a Notice of CDP Application was posted on the subject property.
G. On July 27, 2016, story poles were installed on the subject property and photo documented by staff.

H. On August 11, 2016, an application for Variance (VAR) No. 16-023 was submitted to the Planning Department for construction on slopes steeper than 2.5 to 1 and the CDP application was deemed complete for processing.

I. On August 25, 2016, 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.

J. On September 6, 2016, the Planning Commission continued the item to the September 19, 2016, Regular Planning Commission meeting, at the applicant’s request, to allow time to revise plans to address concerns expressed by the neighbors with regards to height and the placement of the HVAC units.

K. On September 19, 2016, the property owner agreed to voluntarily dedicate a lateral access easement across the subject property.

L. On September 19, 2016, the Planning Commission continued the item to the October 17, 2016, Regular Planning Commission hearing, at the applicant’s request, to allow time to make additional changes to the plans.

M. On October 17, 2016, the Planning Commission continued the item to a date uncertain at the applicant’s request to allow time to revise and resubmit architectural plans and a supplemental response letter to address concerns regarding the recommended finish floor elevation and sea level rise.

N. On October 27, 2016, the applicant submitted revised plans to the Planning Department, City Environmental Health Administrator and City Coastal Engineer for review.

O. On November 10, 2016, 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.

P. On December 5, 2016, 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 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 15303(a) and (e) - New Construction. 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, and the findings of fact below, for CDP No. 14-003, VAR No. 16-010, VAR No. 16-023, MM No. 15-016, and OTD No. 16-006, to construct a new 5,094 square foot, two-story, single-family beachfront residence, including an attached garage, decks, return walls, retaining walls, installation of a new AOWTS, and removal of existing timber walls, VAR No. 16-010 to site the proposed bulkhead seaward of the shoreline protection device stringline, VAR No. 16-023 for construction on slopes steeper than 2.5 to 1, MM No. 15-016 for a reduced front yard setback, and OTD No. 16-006 for a lateral access easement across the property in the Multi-Family Beachfront (MFBF) zoning district located at 25306 Malibu Road.

The project is consistent with the zoning, grading, cultural resources, water quality, and onsite wastewater treatment requirements of the LCP. With the inclusion of the proposed variances and minor modification, 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 demonstrates that the proposed project, with the inclusion of the variances and minor modification and as conditioned, conforms to the LCP in that it meets all of the required beachfront residential development standards of the MFBF residential zoning district.

2. Evidence in the record demonstrates that the project is not expected to interfere with the public’s ability to use the beach. The property owner has voluntarily agreed to grant a lateral access easement across the property. Therefore, the project conforms to the public access and recreation policies of Chapter 3 of the Coastal Act of 1976.

3. The proposed project consists of the demolition of the remaining unpermitted timber walls and the construction of a new single-family residence and associated development. The proposed project will provide a five foot wide view corridor on each side of the residence, running parallel to the east and west property lines. The view corridor preserves views in perpetuity, where no such view protection existed before. The project includes a variance for a seawall sited seaward of the shoreline protection device stringline to address site-specific conditions and allow adequate area outside the landslide area to accommodate the leach field. The project also includes an offer to dedicate a lateral access easement across the property. The proposed project meets the development policies of the LCP and has been determined to be the least environmentally damaging feasible alternative.

B. Variance Findings for Stringline Standards (LIP Section 13.26)

VAR No. 16-010 from LIP Section 10.4(G) will allow an adjusted shoreline protection device stringline as measured from the second downcoast property and adjacent upcoast property.
1. Due to the topography of the lot, strict application of the zoning ordinance would prevent the construction of the proposed seawall that is necessary for the protection of the leach field outside of the landslide area. The AOWTS has been sited as landward as feasible while still reducing the amount of effluent that could enter the ground water table. Given the surveyor could not locate the seawall for the upcoast property at 25308 Malibu Road, the mapped seawall stringline was measured from the second closest upcoast neighbor at 25316 Malibu Road. The seawall to the east is approximately 25 feet landward from the next adjacent neighbor (25272 Malibu Road). Due to the lack of, and varying location of the adjacent seawalls, strict application of the code would deprive the property owner of the ability to install an adequate AOWTS.

2. Evidence in the record demonstrates that granting of the variance will not be detrimental to the public’s interest, safety, health or welfare.

3. The granting of the variance does not constitute a special privilege as a neighboring downcoast property at 25272 Malibu Road currently has a seawall that is approximately 65 feet from the edge of Malibu Road. The subject application is for a seawall located approximately 62 feet from the edge of Malibu Road which is more landward than the adjacent neighboring property.

4. Evidence in the record demonstrates that the granting of the variance will not be contrary to or in conflict with the general provisions and intent, nor the goals, objectives and policies of the LCP and the General Plan. Granting the variance will allow the subject property to be developed in a similar manner to properties in the vicinity, and will provide adequate space for the protection of the proposed AOWTS.

5. The proposed variance is for a deviation of shoreline protection device stringline standards. Due to the location of the seawall, which is 60 feet landward from the required 10 foot MHTL setback, the project will not impede the public’s access. Therefore, the project provides the maximum feasible protection to public access.

6. The requested variance is for relief from a specific development standard and does not authorize a use not otherwise permitted within the MFBF zoning designation. The granting of the variance will allow construction of a new single-family residence with associated development that is compatible with the surrounding built environment and permitted in the zone.

7. The project site is physically suitable for the proposed variance in that there is no feasible alternative location or configuration which would provide an environmental advantage or that would eliminate the need for the variance request.

8. Evidence in the record demonstrates that the variance complies with all requirements of state and local law.

C. Variance Findings for Construction on Slopes Steeper than 2.5 to 1 (LIP Section 13.26)

VAR No. 16-023 from LIP Section 3.6(J) will allow for construction on slopes steeper than 2.5 to 1 for the placement of three caissons sited at the most landward location feasible.
1. The proposed residence has been designed to be sited the most landward feasible in order to comply with the existing building and deck stringlines as measured from the nearest adjacent neighbors. A minimal amount of construction is proposed on steep slopes. The proposed construction on slopes includes the placement of three caissons for the foundation. Neighboring properties were constructed on similar slopes along Malibu Road. Therefore, strict application of the code would deprive the property owner of privileges enjoyed by other surrounding property owners.

2. Evidence in the record demonstrates that granting of the variance will not be detrimental to the public’s interest, safety, health or welfare. The project was reviewed by City geotechnical staff, City Coastal Engineer and City Public Works Department for consistency with all applicable regulations and policies.

3. The residence is being proposed as landward as feasible to comply with building and deck stringlines. Additionally, similar development on steep slopes exists along Malibu Road. Therefore, granting of the proposed variance will not constitute a special privilege to the applicant as the development is compatible with the existing neighborhood character.

4. Evidence in the record demonstrates that the granting of the variance will not be contrary to or in conflict with the general provisions and intent, nor the goals, objectives and policies of the LCP and the General Plan.

5. The requested variance is for relief from a specific development standard and does not authorize a use not otherwise permitted within the MFBF zoning designation.

6. The subject site is physically suitable for the proposed variance in that there is no feasible alternative location or configuration which would be less environmentally damaging or that would eliminate the need for the variance request.

7. Evidence in the record demonstrates that the variance complies with all requirements of state and local law.

D. Minor Modification for a Reduced Front Yard Setback (LIP Section 13.27)

MM No. 15-016 from LIP Section 3.6(G) will allow a 31 percent reduction in the front yard setback creating an eight foot setback instead of the required 11 feet, 6 inch setback.

1. The project has been reviewed and analyzed for conformance with the LCP and determined to be consistent with the policies and provisions of the LCP.

2. The project is being proposed along a stretch of Malibu Road that is currently developed with single-family and multi-family residences. The front yard setbacks for the existing neighboring development vary from 2 feet to 20 feet. The project proposes an 8 foot setback, which is similar to the neighboring properties. Therefore, granting the minor modification will not adversely affect the neighborhood character.

3. Evidence in the record demonstrates that the minor modification complies with all requirements of state and local law.
E. Scenic, Visual and Hillside Resource Protection (LIP Chapter 6)

1. Due to the lot dimensions, view corridors and setbacks, there is no feasible alternative building site location where the development would not have the potential to be visible from Malibu Road or the beach, which are public viewing areas. With the inclusion of the conditions set forth in Section 5 of this resolution, pertaining to permissible exterior colors, materials and lighting restrictions, the required view corridor pursuant to LIP Section 6.5, and conformance with LIP beachfront development standards, the project will blend in with the surrounding environment.

2. With the implementation of the conditions set forth in Section 5 of this resolution, the project, as proposed and conditioned, will not have significant adverse scenic or visual impacts.

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

4. The project has been designed to minimize any adverse or scenic impacts from the beach and adjacent structures by providing the required view corridor pursuant to LIP Section 6.5. The total view corridor provided is 10 feet to preserve views in perpetuity pursuant to LIP Section 6.5(E)(2)(a). The view corridor is split equally on both sides of the residence, with a five foot wide view corridor running parallel to the east and west property lines.

5. The location proposed for development would result in a less than significant visual impact to public views from the beach and will not impact sensitive resources. All proposed development conforms to the view corridor requirement and will be constructed landward of the required building stringline and deck stringline, and set back 60 feet from the most landward MHTL. The project, as proposed and conditioned, will result in less than significant impacts on scenic and visual resources.

F. Hazards (LIP Chapter 9)

1. Based on review of project plans, geotechnical reports and Wave Uprush Study, the project engineers concluded the project is feasible from an engineering geologic standpoint, will be free from geologic hazards such as landslides, slippage, settlement, and will not have an adverse effect upon the stability of the site or adjacent properties provided their recommendations and those of the project Geotechnical Engineer are incorporated into the plans, and implemented during construction, and the subject property and proposed structures are properly maintained.

2. 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.

The project geotechnical engineer determined that the project is located within a landslide assessment district and in a Federal Emergency Management Agency (FEMA) identified VE Zone. The project site is subject to wave action and the entire city limits of Malibu are located within a high fire hazard area.
The project, as conditioned, will incorporate all recommendations contained in the geotechnical report and wave uprush report and conditions required by the City Coastal Engineer, City geotechnical staff, City Public Works Department and 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. Additionally, there are conditions included in Section 5 of this resolution that require the property owner to acknowledge the potential for damage or destruction from wildfire and that the property is subject to wave action, erosion, flooding, landslides, or other hazards associated with development on a beach or bluff, and that the property owner assumes said risks and waives any future claims of damage or liability against the City of Malibu and agrees to indemnify the City of Malibu against any liability, claims, damages or expenses arising from any injury or damage due to such hazards.

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

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

5. No adverse impacts to sensitive resources are expected.

G. Shoreline and Bluff Development (LIP Chapter 10)

1. The proposed project includes the removal of unpermitted timber walls and the construction of a new two-story, single-family residence, and AOWTS. The proposed seawall is only for the protection of the AOWTS. The residence and all accessory development is designed with a pile foundation that does not require a shoreline protection device for the life of the project. The proposed development is sited 60 feet from the MHTL, a location as landward as feasible. The proposed project also includes an offer to dedicate a lateral access easement across the property. Due to the project design, the project is not anticipated to result in significant adverse impacts to public access, shoreline sand supply or other resources.

2. The proposed location of the AOWTS and seawall have been reviewed and conditionally approved by the City Coastal Engineer, City geotechnical staff and City Environmental Health Administrator for compliance with LIP Chapter 10. The proposed project, as designed and conditioned, will not have any significant adverse impacts on public access or shoreline sand supply or other resources.

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

4. With the inclusion of the proposed offer to dedicate a lateral access easement, the proposed project, as designed and conditioned, will not have any significant adverse impacts on public access or shoreline sand supply or other resources.

5. The seawall and return walls will protect the new AOWTS only. The existing shoreline protection device is located in the most landward location feasible on the project site and is in compliance with LIP Section 10.4. A condition is included in Section 5 of this resolution that
requires the property owner to acknowledge, by recordation of a deed restriction that no future repair or maintenance, enhancement, reinforcement, or any other activity affecting the shoreline protection structure which extends the seaward footprint of the subject structure shall be undertaken and that he/she expressly waives any right to such activities that may exist under Coastal Act Section 30235. The deed restriction shall also acknowledge that the intended purpose of the shoreline protection structure is solely to protect the proposed septic disposal system and that any future development on the subject site landward of the shoreline protection structure including changes to the foundation, major remodels, relocation or upgrade of the septic disposal system, or demolition and construction of a new structure shall be subject to a requirement that a new coastal development permit be obtained for the shoreline protection structure unless the City determines that such activities are minor.


Based on the foregoing findings and evidence contained within the record, the Planning Commission hereby approves CDP No. 14-003, VAR Nos. 16-010 and 16-023, MM No. 15-016, and OTD No. 16-006, subject to the following conditions.

SECTION 5. 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 following:

Demolition
   a. Two unpermitted timber retaining walls.

Construction
   b. A new 5,094 square foot, two-story, single-family residence with attached two-car garage and decks;
   c. Roof mounted solar panels;
   d. Retractable stairs to the beach;
   e. New bulkhead with return walls, and piles;
   f. AOWTS;
   g. View corridor of 10 feet wide along the linear frontage of the lot, equally split, so that 5 foot wide view corridors run parallel to the east and west property lines.
   h. VAR No. 16-010 for the bulkhead sited seaward of the shoreline protection device stringline;
   i. VAR No. 16-023 for construction on slopes steeper than 2.5 to 1;
3. Subsequent submittals for this project shall be in substantial compliance with plans on-file with the Planning Department, date-stamped **October 27, 2016**. In the event the 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 and returns the Acceptance of Conditions Affidavit accepting the conditions set forth herein. The applicant shall file this form with the Planning Department within 10 days of this decision and/or prior to issuance of any development permits.

5. The applicant shall submit three (3) complete sets of plans 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.

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 structures shall conform to requirements of the City of Malibu Environmental Sustainability Department, City Biologist, City geotechnical staff, City Environmental Health Administrator, City Public Works Department, WD29, 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.
12. The applicant must submit payment for any outstanding fees payable to the City prior to issuance of any building or grading permit.

**Cultural Resources**

13. 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.

14. 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.

**Demolition/Solid Waste**

15. Upon plan check approval of demolition plans, the applicant shall secure a demolition permit from the City. The applicant shall comply with all conditions related to demolition imposed by the Building Official.

16. No demolition permit shall be issued until building permits are approved for issuance. Demolition of the existing structure and initiation of reconstruction must take place within a six month period. Dust control measures must be in place if construction does not commence within 30 days.

17. 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.

18. An Affidavit and Certification to implement a Waste Reduction and Recycling Plan (WRRP) signed by the Owner or Contractor shall be submitted to the Environmental and Sustainability Department for review and approval. The WRRP shall indicate the agreement of the applicant to divert at least 50 percent of all construction waste generated by the project.

19. Prior to Final Building inspection, the applicant shall provide the Public Works Department with a Final Waste Reduction and Recycling Summary Report (Summary Report). The Final Summary Report shall designate all material that were land filled or recycled, broken down by material types. The Public Works Department shall approve the final Summary Report.
**Construction / Framing**

20. 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.

21. When framing is complete, a site survey shall be prepared by a licensed civil engineer or architect that states the highest roof member elevation, lowest finish floor elevation and elevation of centerline of Malibu Road. 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.

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. Construction debris and sediment shall be properly contained and secured on site with BMPs to prevent the unintended transport of sediment and other debris into coastal waters by wind, rain or tracking.

24. 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; and
   d. Filter fences designed to intercept and detain sediment while decreasing the velocity of runoff shall be employed within the project site.

**Public Works**

25. The consulting engineer shall sign the final plans prior to the issuance of permits.

**Street Improvements**

26. The project proposes to construct a new driveway within the City’s right-of-way. Prior to the Public Works Department’s approval of the grading or building permit, the applicant shall obtain encroachment permits from the Public Works Department for the proposed driveway.
The driveway shall be constructed of either six inches of concrete over four inches of aggregate base or four inches of asphalt concrete over six inches of aggregate base. The driveway shall be flush with the existing grades with no curbs.

**Grading and Drainage**

27. Exported soils 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.

28. A Grading and Drainage Plan for the excavation containing the following information shall be reviewed and approved by the Public Works Department, 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 shall be included within the area delineated;
   d. The grading limits shall include the temporary cuts made for buttresses, and over-excavation for fill slopes shall be shown;
   e. Any native trees required to be protected;
   f. Any rare or endangered species as identified in the biological assessment, along with fencing of these areas if required by the City Biologist;
   g. Private storm drains, and systems greater than 12-inch diameter shall also include a plan and profile; and
   h. Public storm drain modifications shown on the grading plan shall require approval by the Public Works Department prior to the issuance of the grading permit.

29. 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 the issuance of building permits. The digital drawing shall adequately show all storm drain lines, inlets, outlets, post-construction BMPs and other applicable facilities. The digital drawing shall also show the subject property, public or private streets, and any drainage easements.

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

**Stormwater**

31. 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:
32. 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:

a. Site Design BMPs;
b. Source Control BMPs;
c. Treatment Control BMPs that retains on-site the Stormwater Quality Design Volume (SWQDv). Or where it is technically infeasible to retain on-site, the project must biofiltrate 1.5 times the SWQDv that is not retained on-site.
d. Drainage Improvements;
e. A plan for the maintenance and monitoring of the proposed treatment BMP for the expected life of the structure;
f. 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;
g. The WQMP shall be submitted to the 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 certified copy of the WQMP shall be submitted to the Public Works Department prior to the certificate of occupancy.
Geology

33. Applicant shall provide assurances that the abandonment of the existing OWTS has been completed.

34. Two sets of final grading, retaining wall, OWTS and residence plans (approved by the Building Safety Division) incorporating the project geotechnical consultant's recommendations and building plan check review comments must be reviewed and wet stamped and manually signed by the project engineering geologist and project Geotechnical Engineer and submitted to City geotechnical staff for review and approval.

Coastal Engineering

35. The property owner shall comply with the requirements for recorded documents and deed restrictions outlined in LIP Sections 10.6(A) and 10.6(B)(1).

36. The City requires that allowances for both storm surge and sea level rise be included in the design life of new coastal developments. In addition to the allowance given for storm surge, the design Stillwater Level should include a minimum 100-year projected sea level rise, i.e., 17 inches or greater, in accordance with NRC projections which were adopted as interpretive guidelines by the California Coastal Commission in August 2015. The Consultant shall design the seawall so that it is amenable to adaptation strategies in the future, such as increasing the height of the seawall, should the maximum projected sea level rise of 66 inches occur.

37. The property owner shall record at the County of Los Angeles Recorder's office and submit a certified copy, a covenant providing constructive notice to any future purchaser for value that monitoring of the shore protection device is required according to the approved shoreline protection device monitoring plan prior to issuance of a building permit.

Environmental Health

38. Prior to final Environmental Health approval, a final AOWTS plot plan shall be submitted showing an AOWTS design meeting the minimum requirements of the Malibu Plumbing Code (MPC) 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 AOWTS plot plan shall show essential features of the AOWTS 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).

39. 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 AOWTS. For all AOWTS, 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 designer must also be a registered OWTS designer with the City of Malibu. The final AOWTS design report and drawings shall be submitted to the City Environmental Health Administrator with the designer’s wet signature, professional registration number and stamp (if applicable).

40. The final AOWTS 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. 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 conceptual design for custom 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. Provide seepage pit cap depth relative to original and finished grades. 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 bedrooms, fixture units and building occupancy characteristics; and

e. 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.

41. 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.
42. All proposed reductions in setback from the OWTS to structures (i.e., setbacks less than those shown in Malibu Plumbing Code Table H 1.7) 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 verify 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 H 1.7 setback is reduced.

All proposed reductions in setback from the OWTS to buildings also must be supported by a letter from the project Architect, who must verify unequivocally that the proposed reduction in setbacks will not produce a moisture intrusion problem for the proposed building. If the building designer is not a California licensed architect, then the required Architect’s verification 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 his 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 setbacks(s), then the Architect (or Engineer) must provide associated construction documents for review and approval during Building Plan Check.

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 the City of Malibu Building Safety Division 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, 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).

43. Proof of ownership of subject property shall be submitted to the City Environmental Health Administrator.

44. An operations and maintenance manual specified by the AOWTS designer shall be submitted to the City Environmental Health Administrator. This shall be the same operations and maintenance manual submitted to the owner and/or operator of the proposed AOWTS following installation.

45. 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 AOWTS after construction shall be submitted. Only original wet signature documents are acceptable and shall be submitted to the City Environmental Health Administrator.
46. Prior to final Environmental Health approval, a covenant which runs 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 Los Angeles County Recorder’s Office. Said covenant shall serve as constructive notice to any future purchaser for value that the AOWTS serving subject property is an alternative method of onsite wastewater disposal pursuant to the MPC, Appendix K, Section 1(i). Said covenant shall be provided by the City of Malibu Environmental Health Administrator and shall be submitted to the City of Malibu with proof of recordation by the Los Angeles County Recorder.

47. Prior to final Environmental Health approval, a covenant which runs 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 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 fields(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 dispersal 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 dispersal system and therefore, any buildings(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. Said covenant shall be provided by the City of Malibu Environmental Health Administrator and shall be submitted to the City of Malibu with proof of recordation by the Los Angeles County Recorder.

48. Final approval by the City of Malibu Coastal Engineer, City geotechnical staff and Geotechnical Engineer, and City Planning Department shall be submitted to the City Environmental Health Administrator.

49. A final Planning Department approval shall be submitted to the City Environmental Health Administrator.

50. In accordance with MMC Chapter 15.14, an application shall be made to the Environmental Sustainability Department for an OWTS operating permit. An operating permit fee shall be submitted with the application and a final fee shall be paid for Environmental Health review of the OWTS design and system specifications.

Biology/Landscaping

51. No new landscaping is proposed with this project. Therefore, none is approved. Should the applicant intend to plant any new vegetation with a potential to exceed six (6) feet in height, or install 2,500 square feet or more of new landscaping, a detailed landscape plan shall be submitted for review and approval prior to any planting.
52. All construction equipment shall access the site from Malibu Road. No equipment shall be operated within the surf zone and no equipment or materials shall be staged anywhere on the beach.

53. 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.

54. Lighting of the shore is prohibited.

Site Specific Conditions

55. All air conditioning equipment that will be installed shall be screened from view by a solid wall or fence on all four sides. The fence or walls shall comply with LIP Section 3.5.3(A). All rooftop equipment shall comply with the LIP Section 3.6.3 height requirements.

Colors and Materials

56. The residence shall have an exterior siding of brick, wood, stucco, metal, concrete or other similar material. Reflective glossy, polished and/or roll-formed type metal siding is prohibited.

57. New structures shall incorporate colors and exterior 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;

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; and

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

Lighting

58. Exterior lighting 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 and lighting of the shore are prohibited.

59. 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.

60. 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. Lighting of the shore and up-lighting of landscaping are prohibited.

Water Service

61. Prior to the issuance of a building permit, the applicant shall submit an updated Will Serve Letter from WD29 indicating the ability of the property to receive adequate water service.

U.S. Army Corps of Engineers

62. The applicant/property shall obtain all required permits, if any, including any necessary permits from the U.S. Army Corps of Engineers, prior to commencement of construction.

Shoreline Construction Protection

63. No stockpiling of dirt or construction materials shall occur on the beach.

64. Construction debris and sediment shall be properly contained and secured on site with BMPs to prevent the unintended transport of sediment and other debris into coastal waters by wind, rain or tracking, and construction equipment shall not be cleaned on the beach.

65. No machinery shall be allowed in the intertidal zone at any time unless necessary for protection of life and/or property.

66. The applicant/property owner shall not store any construction materials or waste where it will be or could potentially be subject to wave erosion and dispersion.

67. The applicant/property owner shall not store any construction materials or waste where it will be or could potentially be subject to wave erosion and dispersion, and all construction debris shall be removed from the beach daily and at the completion of development.

View Corridor

68. Pursuant to LIP Section 6.5(E)(2) and in order to insure the protection of scenic and visual resources, the applicant is required to maintain:
a. A view corridor a minimum of 10 feet wide across along the linear frontage of the lot, equally split, resulting in five foot wide view corridors running parallel to the east and west property lines.

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

c. Any fencing across the view corridor shall be permanently maintained as visually permeable. Tinted or frosted glass, and louvered or slatted screen fences are not permitted.

d. Any landscaping in this area shall include only low-growing species that will not obscure or block bluewater views.

e. If at any time the property owner allows the view corridor to become impaired or blocked, it would constitute a violation of the coastal development permit and the Coastal Act and be subject to all civil and criminal remedies.

Deed Restrictions

69. The property owner is required to acknowledge, by recordation of a deed restriction, that the property is subject to wave action, erosion, flooding, landslides, or other hazards associated with development on a beach or bluff, and that the property owner assumes said risks and waives any future claims of damage or liability against the City of Malibu and agrees to indemnify the City of Malibu against any liability, claims, damages or expenses arising from any injury or damage due to such hazards. The property owner shall provide a copy of the recorded document to Planning Department staff prior to final Planning Department approval.

70. The property owner is 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 Department approval.

71. Prior to final Planning Department approval, the applicant shall be required to execute and record a deed restriction reflecting lighting requirements set forth previously under Lighting. The property owner shall provide a copy of the recorded document to Planning Department staff prior to final Planning Department approval.

72. The property owner is required to acknowledge, by the recordation of a deed restriction, that no future repair or maintenance, enhancement, reinforcement, or any other activity affecting the shoreline protection structure which extends the seaward footprint of the subject structure shall be undertaken and that he/she expressly waives any right to such activities that may exist under Coastal Act Section 30235. Said deed restriction shall be submitted to the Planning Department for approval prior to recordation. The deed restriction shall also acknowledge that the intended purpose of the shoreline protection structure is solely to protect the proposed septic disposal system and that any future development on the subject site landward of the subject shoreline protection structure including changes to the
foundation, major remodels, relocation or upgrade of the septic disposal system, or demolition and construction of a new residence shall be subject to a requirement that a new coastal development permit be obtained for the shoreline protection structure unless the City determines that such activities are minor.

73. In order to implement the property owner's proposal of an offer to dedicate an easement for lateral public access and passive recreational use along the shoreline as part of this project, the property owner agrees to complete the following prior to final Planning Department approval: the property owner shall execute and record a document, in a form and content acceptable to the Planning Director and California Coastal Commission (CCC), irrevocably offering to dedicate to a public agency or private association approved by the City and CCC an easement for lateral public access and passive recreational use along the shoreline. The document shall provide that the offer of dedication shall not be used or construed to allow anyone, prior to acceptance of the offer, to interfere with any rights of public access acquired through use which may exist on the property. Such easement shall be located along the entire width of the property from the ambulatory mean high tide line landward to the dripline of the deck. The document shall be recorded free of prior liens which the Planning Director and/or CCC determines may affect the interest being conveyed, and free of any other encumbrances which may affect said interest. The offer shall run with the land in favor of the People of the State of California, binding all successors and assignees, and the offer shall be irrevocable for a period of 21 years, such period running from the date of recording. The recording document shall include a formal legal description and graphic depiction, prepared by a licensed surveyor, of both the property owner's entire parcel and the easement area.

Prior to Occupancy

74. The applicant shall request a final Planning Department inspection prior to final inspection by the City of Malibu Environmental and Sustainability Department. A 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.

75. 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

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

77. 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 5th day of December 2016.

JOHN MAZZA, Planning Commission Chair

ATTEST:

KATHLEEN STECKO, Recording Secretary

LOCAL APPEAL - Pursuant to LCP 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, in person at City Hall, 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 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. 16-74 was passed and adopted by the Planning Commission of the City of Malibu at the Regular meeting held on the 5th day of December, 2016 by the following vote:

AYES: 4 Commissioners: Brotman, Pierson, Stack, Jennings
NOES: 1 Commissioner: Mazza
ABSTAIN: 0
ABSENT: 0

KATHLEEN STECKO, Recording Secretary