To: Chair Jennings and Members of the Planning Commission

Prepared by: Didier Murillo, Assistant Planner

Approved by: Bonnie Blue, Planning Director

Date prepared: December 23, 2019

Meeting date: January 6, 2020

Subject: Conditional Use Permit Amendment No 19-001, Administrative Plan Review No. 19-158 and Demolition Permit No. 19-046 — An application to amend Conditional Use Permit No 14-008 to expand the existing dining room service area and allow the restaurant to close at 10:00 p.m. instead of 8:30 p.m. daily at an existing restaurant (Lily’s Malibu)

Location: 29211 Heathercliff Road
APN: 4468-010-017
Zoning: Community Commercial (CC)
Owner: Dume Plaza I, II, & II, LLC
Tenant: Lily’s Malibu

RECOMMENDED ACTION: Adopt Planning Commission Resolution No. 20-07 (Attachment 1) determining the project is categorically exempt from the California Environmental Quality Act (CEQA), and approving Conditional Use Permit Amendment (CUPA) No. 19-001 amending Conditional Use Permit (CUP) No. 14-008 and Administrative Plan Review (APR) No. 19-158 to expand the existing dining room service area by 199 square feet for a total of 443 square feet, Demolition Permit (DP) No. 19-046 to allow for the demolition of an existing 528 square foot multi-purpose structure located in the shopping center parking lot that is currently used for a postal authorized shipping center with ancillary uses commonly known as “R Quick Stop,” located on the southern corner of the parcel to allow for additional parking spaces and allow the existing restaurant to close at 10:00 p.m. instead of 8:30 p.m. daily (Lily’s Malibu), located in the Community Commercial (CC) zoning district at 29211 Heathercliff Road (Dume Plaza I, II, & III, LLC).

DISCUSSION: On January 23, 2019, the applicant submitted a request pursuant to Malibu Municipal Code (MMC) Chapter 17.66 to amend CUP No. 14-008 to expand the existing 244 square foot dining room service area by 199 square feet for a total of 443
square feet and modify the hours of operation to allow the restaurant to close at 10:00 p.m. instead of 8:30 p.m. daily. No changes to the exiting sale of beer and wine for onsite consumption within the existing tenant space or modifications to the existing restaurant use are requested as part this application.

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 MMC, and environmental review pursuant to CEQA. The analysis and findings contained herein demonstrate the recommended project is consistent with the MMC.

Background and Existing Approvals

Lily’s Malibu (formerly Lily’s Café and Pastries) has been in operation since 1989. Due to the age of the restaurant, a CUP did not exist that regulated the operation of the restaurant. The tenant operated from 7:30 a.m. to 5:30 p.m. daily and did not sell beer or wine. The original service area for Lily’s Malibu was 243 square feet and did not extend into the exterior breezeway or common courtyard areas of the existing shopping center. The exterior seating located in the Point Dume Village Shopping Center is provided as an amenity for visitors of the shopping center and is maintained by the property owner.

On April 23, 2013, the City of Malibu approved Over-the-Counter (OC) Permit No. 11-135 to allow a tenant improvement that included the construction of new public restrooms and a hallway within the tenant space but no expansion to the food service area was approved.

On October 20, 2014, the Planning Commission adopted Resolution No. 14-99 (Attachment 2), approving the existing restaurant operation, the 243 square foot interior service area, established hours of operation (7:30 a.m. to 8:30 p.m. daily) as well as allowed for the ability to sell beer and wine for onsite consumption within the restaurant. The existing restaurant has been operating for five years under the approved CUP No. 14-008 and no violations of the CUP have been documented.

Surrounding Land Use and Setting

The subject tenant space is located in the Point Dume Village Shopping Center. The shopping center is bordered by Pacific Coast Highway (PCH) to the north and Heathercliff Road to the south. The subject property is accessed from Heathercliff Road. The table below describes land uses adjacent to the subject property.

<table>
<thead>
<tr>
<th>Address</th>
<th>Parcel Size</th>
<th>Zone</th>
<th>Land Use</th>
</tr>
</thead>
<tbody>
<tr>
<td>29243 Pacific Coast Hwy</td>
<td>6.55 acres</td>
<td>RR-5</td>
<td>Theater</td>
</tr>
<tr>
<td>29191 Pacific Coast Hwy</td>
<td>9.83 acres</td>
<td>RR-5</td>
<td>Vacant</td>
</tr>
</tbody>
</table>
Land uses in Point Dume Village Shopping Center consist of a food market (Pavilions), a pharmacy, Chase & Bank of America, Subway, D’amores Naturally, Ollie’s Duck & Dive, dry cleaners, general retail, coffee shop, a nail salon and general office.

Figure 1 shows the location of the subject property bordered by PCH and Heathercliff Road. The red star and yellow star in Figure 1 indicate the approximate locations of the restaurant and the multi-purpose structure respectively.

### Table 1 — Adjacent Land Uses

<table>
<thead>
<tr>
<th>South</th>
<th>Address</th>
<th>Parcel Size</th>
<th>Zone</th>
<th>Land Use</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>6501-6515 Dume Dr / 29200-29212 Heathercliff Rd</td>
<td>1.45 acres</td>
<td>MF</td>
<td>Condominiums</td>
</tr>
<tr>
<td></td>
<td>6500-6508 Dume Rd / 29192 Heathercliff Rd</td>
<td>0.31 acre</td>
<td>CN</td>
<td>Condominiums</td>
</tr>
<tr>
<td></td>
<td>29178 Heathercliff Rd</td>
<td>0.34 acre</td>
<td>CN</td>
<td>Office</td>
</tr>
<tr>
<td></td>
<td>29170 Heathercliff Rd</td>
<td>0.43 acre</td>
<td>CN</td>
<td>Office</td>
</tr>
<tr>
<td></td>
<td>29160 Heathercliff Rd</td>
<td>1.62 acres</td>
<td>CN</td>
<td>Institutional (Post Office)</td>
</tr>
<tr>
<td>East</td>
<td>29145 Heathercliff Rd</td>
<td>0.29 acre</td>
<td>CC</td>
<td>Service Station</td>
</tr>
<tr>
<td>West</td>
<td>29221 Heathercliff Rd</td>
<td>1 acre</td>
<td>MF</td>
<td>Condominiums</td>
</tr>
</tbody>
</table>

Source: GovClarity 2019

Figure 1 — Aerial Photograph
Project Description

The applicant is seeking to expand the existing 244 square foot dining room service area by 199 square feet for a total of 443 square feet by expanding into the adjacent 412 square foot vacant tenant space (formally an office space). The application also proposes to modify the hours of operation from 7:30 a.m. to 8:30 p.m. to 7:30 a.m. to 10:00 p.m. daily. Additionally, the application proposes the demolition of a 528 square foot existing multi-purpose structure commonly known as “R Quick Stop,” located on the southern corner of the parcel to allow for two new additional parking spaces. The two new parking spaces created by the demolition of the R Quick Stop structure and the two spaces formally provided by the vacant tenant space (formally an office space) will provide a total of four new parking spaces to adequately address the parking demand created by the proposed service area expansion.

The subject application includes Administrative Plan Review (APR) No. 19-158 for the expansion of the service area and demolition of the R Quick Stop structure.

All other conditions of approval of Planning Commission Resolution No. 14-99 would remain in effect, unless modified herein, and updated conditions of approval will be added to Planning Commission Resolution No. 20-07.

Parking

The Point Dume Village Shopping Center was built in 1969 and is substantially underparked based on current parking requirements. For the purposes of parking demand, both the MMC and the Local Coastal Program (LCP) base parking requirements on the size of the service area. The parking requirement based on a well-balanced\(^1\) shopping center is five spaces for each 1,000 square feet of gross floor area. Using the above mentioned parking criteria, the required number of parking spaces for the entire shopping center is 293 spaces. Currently, the total number of onsite parking spaces provided is 180, which is 113 fewer than required. Thus, the shopping center is considered to be non-conforming due to the number of onsite parking spaces.

The proposed CUP amendment is not expected to impact onsite parking because the proposed expansion of the existing service area will be accomplished by expanding into the adjacent 412 square foot tenant space which was previously parked as general office and required two parking spaces \((412 / 225 = 2)\). In addition, the proposed project also includes the demolition of a 528 square foot existing multi-purpose structure commonly known as “R Quick Stop,” located on the southern corner of the parcel. The demolition of R Quick Stop will provide two additional parking spaces and the two spaces formally provided by the vacant tenant space (formally an office space) will result in a total of four parking spaces to adequately address the parking demand created by the proposed service area expansion. Furthermore, the additional hours of operation will take place in

\(^1\)“Well-balanced” refers to the mix of uses within the shopping center as it relates to intensity of parking demand.
the evening when many of the tenants, including the two banks, in the shopping center are closed. Therefore, no additional parking spaces are required.

**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 renovation to the existing OWTS is required. The OWTS conforms to the requirements of the MMC and the LCP.

**Hours of Operation**

The amendment includes a request to extend the hours of operation which are currently 7:30 a.m. to 8:30 p.m. to 7:30 a.m. to 10:00 p.m. daily. The additional hours of operation will take place in the evening when many of the tenants, including the two banks, in the shopping center are closed.

**Daily Operations and Service Area**

The daily operations of the restaurant would remain the same. The only physical change to the restaurant will be the expansion of the existing dining room service area by 199 square feet for a total of 443 square feet. The proposed expansion will result in 26 additional seats.

**Liquor License**

The current liquor license approved under CUP No. 14-008 will remain in effect. The applicant has an active ABC Type 41 license. The existing license requires that the restaurant must operate as a bona fide eating place by maintaining suitable kitchen facilities and makes actual and substantial sales of meals for consumption on the premises. Minors are allowed on the premises as part of an ABC Type 41 license. The subject application will not modify the existing license and will continue to operate as is.

**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) and submittal of an application to the City.

**Administrative Plan Review Findings (MMC Section 17.40.040)**

The proposed project was reviewed by the Planning Department, City Environmental Health Administrator, Los Angeles County Fire Department and Public Works Department. The Planning Director has determined that the project, as designed and conditioned, is consistent with all applicable development standards, City goals and
policies, and conforms to the property development standards and designs of MMC Chapter 17.40. The project proposes an interior tenant improvement to expand the existing 244 square foot dining room service area by 199 square feet for a total of 443 square feet by expanding into the adjacent 412 square foot tenant space. Also, the application proposes the demolition of a 528 square foot existing multi-purpose structure commonly known as “R Quick Stop,” located on the southern corner of the parcel.

Normally, review and approval of an APR would fall under the purview of the Planning Director; however, since the subject application includes a CUPA for the proposed use along with the interior tenant improvement and demolition of a structure, it has been referred to the Planning Commission for a public hearing pursuant to MMC Section 17.72.060. Additionally, pursuant to MMC Section 17.70.060 the scope of work requires that a demolition permit (DP) be issued for projects that result on the demolition of any building or structure.

**Demolition Permit Findings (MMC Chapter 17.70)**

The findings for DP No. 19-046 are made as follows:

Finding 1. The demolition permit is conditioned to assure that it will be conducted in a manner that will not create significant adverse environmental impacts.

The proposed project includes the demolition of a 528 square foot existing multi-purpose structure commonly known as “R Quick Stop,” located on the southern corner of the parcel. Conditions of approval, including the recycling of demolished materials have been included to ensure that the proposed project will not create significant adverse environmental impacts.

Finding 2. A development plan has been approved or the requirement waived by the city.

This CUPA / APR application is being processed concurrently with DP No. 19-046. Therefore, approval of the demolition permit is subject to approval of CUPA No. 19-001 and APR No. 19-158.

**CUP ANALYSIS AND RECOMMENDED CONDITIONS**

The applicant is requesting a CUPA to expand the existing dining room service area by 199 square feet for a total of 443 square feet and to extend the hours of operation from 8:30 p.m. to 10:00 p.m. daily, at an existing restaurant, located in the CC zoning district. Pursuant to MMC Sections 17.22.040(B) and 17.24.030(A) restaurants are conditionally permitted uses in the CC zoning district of the subject property. The CUP can be supported based on the analysis herein and the findings contained in Planning Commission Resolution No. 20-07.
Conditional Use Permit Findings (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 CUPA No. 19-001 amending CUP No. 14-008 to expand the existing dining room service area by 199 square feet for a total of 443 square feet, demolition of an existing 528 square foot existing multi-purpose structure commonly known as “R Quick Stop,” located on the southern corner of the parcel to allow for additional parking spaces, and extend the hours of operation, to allow for the restaurant to close at 10:00 p.m. instead of 8:30 p.m. daily, at an existing restaurant. The CUPA, 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 proposed amendment will not affect the determinations previously made by the Planning Commission in that the proposed use is consistent with the provisions of Title 17 of the MMC. Pursuant to MMC Sections 17.22.040(B) and 17.24.030(A), restaurants and onsite beer and wine sales/consumption are conditionally permitted uses in the CC zoning district. 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.

Pursuant to MMC Section 17.66.010, conditional uses are those uses which are regarded as compatible with uses which are automatically permitted in a zoning district but which have a special impact or uniqueness such that their effect on the surrounding environment cannot be determined in advance. It is not expected that the extended hours of operation and the expansion of the service area of the existing restaurant will impact surrounding residences located outside of the shopping center. Therefore, the proposed expansion of the existing restaurant is considered a compatible use with all other permitted uses in the same zoning district. In addition, no complaints have been filed with the City regarding the existing restaurant operation. Therefore, the proposed use is not expected to impair the integrity and character of the zoning district in which it is located.

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

The proposed amendment to the existing restaurant will only require a modification to the existing tenant space. No structural alterations to the building are proposed. In
addition, the restaurant that is the subject of this CUP is currently in operation and the previous determinations made by the Planning Commission will not be affected by the expansion of the service area or additional hours of operation. Therefore, the subject site is physically suitable for the proposed project.

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 Planning Commission’s previous determination that the existing restaurant use is compatible with the land uses presently on the subject property and in the surrounding neighborhood. The site has been developed with a shopping center since 1969. The existing use, Lily’s Malibu (formally Lily’s Café and Pastries) has been in operation since 1989 and the existing restaurant had been operating for five years under the approved CUP No. 14-008. The restaurant has and will continue to offer food services to both visitors and surrounding residents and is therefore complimentary to the surrounding neighborhood which consists of both commercial and residential uses. 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 with future land uses. The restaurant operation will only be expanded as part of this application and will continue to be complimentary to surrounding residential and commercial uses.

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 City Environmental Health Administrator reviewed the CUPA and determined that the existing OWTS is adequate for the proposed restaurant expansion. In addition, no physical changes are proposed to the exterior of the existing building and minor changes are proposed to the interior. Therefore, the project will not affect solar access or adversely impact existing public or private views.

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

Provisions for public access to serve the existing center are currently in place and no physical changes are proposed to the exterior of the existing building. Only minor changes to the interior are proposed. Although the center is under-parked based on the parking requirements for commercial shopping centers with a well-balanced mix of uses,
the subject restaurant has been in operation since 1989 and the existing restaurant has been operating for five years under the approved CUP No. 14-008 with no issues. To address parking need that will be generated by the service area expansion, the applicant is proposing to demolish a 528 square foot existing multi-purpose structure commonly known as “R Quick Stop,” located on the southern corner of the parcel. The demolition of R Quick Stop will create two additional parking spaces. The two new parking spaces created by the demolition of the structure and the two spaces formally provided by the vacant tenant space (formally an office space) will provide a total of four new parking spaces to adequately address the parking demand created by the proposed service area expansion.

Furthermore, the additional hours of operation will take place in the evening when many of the tenants, including the two banks, in the shopping center are closed. Therefore, there are adequate provisions currently in place for public access to serve the proposed expansion of the existing restaurant use.

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 is a conditionally permitted commercial use in the CC zoning district. The General Plan defines the CC zone as providing for the resident serving needs of the community similar to the CN district. The CN district is intended to provide for low intensity commercial activity emphasizing service to the residents in the surrounding neighborhoods. The district establishes standards which ensure that the types of uses and development pattern maintain compatibility with nearby and adjacent residential areas.

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 LACFD.

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

Restaurants are conditionally permitted uses in the CC zoning district. Additionally, as demonstrated through an ABC license query the property owner maintains a valid ABC license and has not been subject to any disciplinary infractions. 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 a minor interior tenant improvement within the existing commercial structure and the demolition of an existing multi-purpose structure commonly known as "R Quick Stop," located on the southern corner of the parcel. The existing building will not change, and the demolition of the multipurpose structure was not determined to be in an area at risk from earth movement and flood hazards; therefore, there is no new impact related to earth movement, flooding or liquefaction.

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 December 12, 2019 and mailed the notice to all
property owners and occupants within a 500-foot radius of the subject property (Attachment 5).

**CORRESPONDENCE:** To date, staff has not received public comments regarding this application.

**SUMMARY:** The required CUP 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 7 (Conditions of Approval) of Planning Commission Resolution No. 20-07. The project has been reviewed and conditionally approved for conformance with the MMC.

**ATTACHMENTS:**

1. Planning Commission Resolution No. 20-07
3. Project Plans
4. Department Review Sheets
5. 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. 19-001 AMENDING CONDITIONAL USE PERMIT NO. 14-008 AND ADMINISTRATIVE PLAN REVIEW NO. 19-158 TO EXPAND THE EXISTING DINING ROOM SERVICE AREA BY 199 SQUARE FEET FOR A TOTAL OF 443 SQUARE FEET, DEMOLITION PERMIT NO. 19-046 TO ALLOW FOR THE DEMOLITION OF AN EXISTING 528 SQUARE FOOT EXISTING MULTI-PURPOSE STRUCTURE COMMONLY KNOWN AS "R QUICK STOP," LOCATED ON THE SOUTHERN CORNER OF THE PARCEL TO ALLOW FOR ADDITIONAL PARKING SPACES AND ALLOW THE EXISTING RESTAURANT TO CLOSE AT 10:00 P.M. INSTEAD OF 8:30 P.M. DAILY (LILY’S MALIBU), LOCATED IN THE COMMUNITY COMMERCIAL (CC) ZONING DISTRICT AT 29211 HEATHERCLIFF ROAD (DUME PLAZA I, II, & III, LLC)

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

SECTION 1. Recitals.

A. On October 20, 2014, 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. 14-99 approving Conditional Use Permit (CUP) No. 14-008.

B. On January 23, 2019, an application for a Conditional Use Permit Amendment (CUPA) No. 19-001 was submitted to the Planning Department, on behalf of the property owner, Dume Plaza I, II, & II, LLC to expand the existing dining room service area and extend the hours of operation from 7:30 a.m. to 10:00 p.m. daily at the existing restaurant. The restaurant is currently operated by Lily’s Malibu. The application was routed the City Environmental Health Administrator, Los Angeles County Fire Department (LACFD), and City Public Works Department for review.

C. On February 22, 2019, a site visit was conducted.

D. On September 18, 2019, the application was deemed complete.

E. On December 3, 2019, APR No. 19-158 and DP No. 19-046 were added to the application to allow for the expansion of the existing dining room service area and the demolition of an existing multi-purpose structure to allow for additional parking space.

F. On December 12, 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.
G. On January 6, 2020, 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).


Based on substantial evidence contained within the record and pursuant to Malibu Municipal Code (MMC) Section 17.40.040, the Planning Commission adopts the analysis in the agenda report, incorporated herein, the findings of fact below, and approves APR No. 19-158 in the Community Commercial (CC) zoning district located at 29211 Heathercliff Road.

The proposed project was reviewed by the Planning Department, City Environmental Health Administrator, Los Angeles County Fire Department and Public Works Department. The Planning Commission has determined that the project, as designed and conditioned, is consistent with all applicable development standards, City goals and policies, and conforms to the property development standards and designs of MMC Chapter 17.40. The project proposes an interior tenant improvement to expand the existing 244 square foot dining room service area by 199 square feet for a total of 443 square feet by expanding into the adjacent 412 square foot tenant space. Also, the application includes the demolition of a 528 square foot existing multi-purpose structure commonly known as “R Quick Stop,” located on the southern corner of the parcel.

Normally, review and approval of an APR would fall under the purview of the Planning Director; however, since the subject application includes a CUPA for the proposed use along with the interior tenant improvement and demolition of a structure, it has been referred to the Planning Commission for a public hearing pursuant to MMC Section 17.72.060.

SECTION 4. Demolition Permit Findings of Fact.

The Planning Commission hereby approves DP No. 19-046 based on the findings of fact as follows:

1. The demolition of a 528 square foot existing multi-purpose structure commonly known as “R Quick Stop,” located on the southern corner of the parcel is not expected to create adverse environmental impacts. Conditions of approval, including the recycling of demolished materials have been included to ensure that the proposed project will not create significant adverse environmental impacts.
2. This CUPA / APR application is being processed concurrently with DP No. 19-046. Therefore, approval of the demolition permit is subject to approval of CUPA No. 19-001 and APR No. 19-158.

SECTION 5. 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 October 20, 2014, the Planning Commission made all required findings for the approval of CUP No. 14-008. CUPA No. 19-001 to expand the existing service area by 199 square feet for a total of 443 square feet and extend the hours of operation from 8:30 p.m. to 10:00 p.m. daily, at the existing restaurant, located in the CC zoning district. All other findings set forth in City Council Resolution No. 14-99 are hereby incorporated by reference and remain in full force and effect. The Planning Commission hereby approves CUPA No. 19-001 based on the findings of fact as follows:

1. The proposed amendment will not affect the determinations previously made by the Planning Commission in that the proposed use is consistent with the provisions of Title 17 of the MMC. Pursuant to MMC Sections 17.22.040(B) and 17.24.030(A), restaurants and onsite beer and wine sales/consumption are conditionally permitted uses in the CC zoning district. Therefore, the proposed project has been conditioned to comply with all applicable provisions of the MMC.

2. Pursuant to MMC Section 17.66.010, conditional uses are those uses which are regarded as compatible with uses which are automatically permitted in a zoning district but which have a special impact or uniqueness such that their effect on the surrounding environment cannot be determined in advance. It is not expected that the extended hours of operation and the expansion of the service area of the existing restaurant will impact surrounding residences located outside of the shopping center. Therefore, the proposed expansion of the existing restaurant is considered a compatible use with all other permitted uses in the same zoning district. In addition, no complaints have been filed with the City regarding the existing restaurant operation. Therefore, the proposed use is not expected to impair the integrity and character of the zoning district in which it is located.

3. The proposed amendment to the existing restaurant will only require a modification to the existing tenant space. No structural alterations to the building are proposed. In addition, the restaurant that is the subject of this CUP is currently in operation and the previous determinations made by the Planning Commission will not be affected by the expansion of the service area or additional hours of operation. Therefore, the subject site is physically suitable for the proposed project.

4. The proposed amendment will not affect the Planning Commission’s previous determination that the existing restaurant use is compatible with the land uses presently on the subject property and in the surrounding neighborhood. The site has been developed with a shopping center since 1969. The existing use, Lily’s Malibu (formally Lily’s Café and Pastries) has been in operation since 1989 and the existing restaurant had been operating for five years under the approved CUP No. 14-008. The restaurant has and will continue to offer food services to both visitors and surrounding residents and is therefore complimentary to the surrounding neighborhood which consists of both commercial and residential uses. Therefore, this proposed use is compatible with the land uses in the surrounding neighborhood.
5. The proposed amendment will not affect the compatibility of the existing use with future land uses. The restaurant operation will only be expanded as part of this application and will continue to be complimentary to surrounding residential and commercial uses.

6. The proposed amendment will not alter the existing utilities. Existing utilities will continue to serve the existing site. The City Environmental Health Administrator reviewed the CUPA and determined that the existing OWTS is adequate for the proposed restaurant expansion. In addition, no physical changes are proposed to the exterior of the existing building and minor changes are proposed to the interior. Therefore, the project will not affect solar access or adversely impact existing public or private views.

7. Provisions for public access to serve the existing center are currently in place and no physical changes are proposed to the exterior of the existing building. Only minor changes to the interior are proposed. Although the center is under-parked based on the parking requirements for commercial shopping centers with a well-balanced mix of uses, the subject restaurant has been in operation since 1989 and the existing restaurant has been operating for five years under the approved CUP No. 14-008 with no issues. To address parking need that will be generated by the service area expansion, the applicant is proposing to demolish a 528 square foot existing multi-purpose structure commonly known as “R Quick Stop,” located on the southern corner of the parcel. The demolition of R Quick Stop will create two additional parking spaces. The two new parking spaces created by the demolition of the structure and the two spaces formally provided by the vacant tenant space (formally an office space) will provide a total of four new parking spaces to adequately address the parking demand created by the proposed service area expansion.

Furthermore, the additional hours of operation will take place in the evening when many of the tenants, including the two banks, in the shopping center are closed. Therefore, there are adequate provisions currently in place for public access to serve the proposed expansion of the existing restaurant use.

8. The proposed amendment will not change the nature of the existing conditionally permitted use. The restaurant is a conditionally permitted commercial use in the CC zoning district. The General Plan defines the CC zone as providing for the resident serving needs of the community similar to the CN district. The CN district is intended to provide for low intensity commercial activity emphasizing service to the residents in the surrounding neighborhoods. The district establishes standards which ensure that the types of uses and development pattern maintain compatibility with nearby and adjacent residential areas.

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.

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 LACFD.
10. Restaurants are conditionally permitted uses in the CC zoning district. Additionally, as demonstrated through an ABC license query the property owner maintains a valid ABC license and has not been subject to any disciplinary infractions. As conditioned, the proposed use will not be detrimental to the public interest, health, safety, convenience or welfare.

11. The project will not be at risk from earth movement and flood hazards since the application only involves a minor interior tenant improvement within the existing commercial structure and the demolition of an existing multi-purpose structure commonly known as “R Quick Stop,” located on the southern corner of the parcel. The existing building will not change, and the demolition of the multipurpose structure was not determined to be in an area at risk from earth movement and flood hazards; therefore, there is no new impact related to earth movement, flooding or liquefaction.


Based on the foregoing findings and evidence contained within the record, the Planning Commission hereby approves CUPA No. 19-001, APR No. 19-158, and DP No. 19-046 subject to the following conditions. Other than the changes noted below, no other changes to the conditions contained in Planning Commission Resolution No. 14-99 are made by this amendment and all other applicable findings, terms, and/or conditions contained in Planning Commission Resolution No. 14-99 remain in full force and effect.

SECTION 7. 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 expansion of the existing dining room service area by 199 square feet for a total of 443 square feet, demolition of an existing 528 square foot existing multi-purpose structure commonly known as “R Quick Stop,” located on the southern corner of the parcel to allow for additional parking spaces and allow the restaurant to close at 10:00 p.m. instead of 8:30 p.m. daily, at an existing restaurant (Lily’s Malibu).

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. 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 **May 22, 2019**. 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.

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 and notarized Acceptance of Conditions Affidavit and all Department Review Sheets attached to the 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, and the City of Malibu Public Works Department for an encroachment permit (as applicable).

7. The APR 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 APR 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 Environmental Health Administrator, City Public Works Department, 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 Malibu Municipal Code and the Local Coastal Program. Revised plans reflecting the minor changes and additional fees shall be required.

11. The property owner must submit payment for all outstanding fees payable to the City prior to issuance of any building permit, including grading or demolition.

12. The property owner shall comply with all provisions of the MMC and LIP.

*Operations*

13. Condition No. 7 of Resolution No. 14-99 shall be replaced by the following: The hours of operation shall be limited to 7:30 a.m. to 10:00 p.m. daily.
14. 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.

15. Condition No. 17 of Resolution No. 14-99 shall be replaced by the following: The use or distribution of plastic shopping bags (compostable and non-compostable) is prohibited. Applicant and all event contractors shall not use plastic bags for any aspect of their event including food distribution, nor for any distribution of items or goods to the participants and/or attendees except as stated in Chapter 9.28 of the Malibu Municipal Code. Applicant shall comply with Chapter 9.28 of the Malibu Municipal Code and shall be responsible for informing vendors of this ban.

16. Condition No. 18 of Resolution No. 14-99 shall be replaced by the following: The use or distribution of expanded polystyrene foam packaging, also known as “Styrofoam,” is prohibited. Applicant and all event contractors shall not use expanded polystyrene foam packaging for any aspect of their event including food preparation/distribution. The applicant shall comply with MMC chapter 9.24 (Ordinance No. 286).

17. The use or distribution of plastic beverage straws, plastic stirrers, or plastic cutlery is prohibited. Applicant and all event contractors shall not use the aforementioned for any aspect of their event including food preparation/distribution. Applicant shall comply with Chapter 9.24 of the Malibu Municipal Code (Ordinance No. 432). The applicant shall be responsible for informing vendors of this ban.

**Environmental Health**

18. All project 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.

**Public Works**

19. Exported soil from a site shall be taken to the Los Angeles 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.

20. A local Storm Water Pollution Prevention Plan (LSWPPP) shall be provided prior to issuance of grading/building permits. This plan shall include and 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.

**Construction**

21. Prior to construction, the applicant shall receive Planning Department approval for compliance with conditions of approval.

22. 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 and federal, state and local holidays.

23. Construction management techniques, including minimizing the amount of equipment used simultaneously and increasing the distance between emission sources, will 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.

24. 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.

25. 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.
Fixed Conditions

26. 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.

27. All other conditions of Planning Commission Resolution No. 14-99 are incorporated herein by reference.

Prior to Final Inspection

28. Prior to final building inspection, the applicant shall provide the Environmental Sustainability Department with a WRRP Final Summary Report. The Final Summary Report shall designate all materials that were landfilled or recycled, broken down by material types. The Environmental Sustainability Department shall approve the Final Summary Report.

29. The applicant shall request a final planning inspection prior to final inspection by the City of Malibu Environmental Sustainability Department. Final Building and Safety Division approval shall not be issued until the Planning Department has determined that the project complies with this administrative plan review permit.

30. 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.

SECTION 8. 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 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. 20-07 was passed and adopted by the Planning Commission of the City of Malibu at the Regular meeting held on the 6th day of January, 2020 by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

KATHLEEN STECKO, Recording Secretary

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

Section 1. Recitals.

A. On February 11, 2014, an application for Conditional Use Permit (CUP) No. 14-003 was submitted to the Planning Department.

B. On September 11, 2014, a Notice of Public Hearing was published in a newspaper of general circulation within Malibu and was mailed to all property owners and occupants within a 500-foot radius of the subject property.

C. On September 26, 2014, Planning Department staff deemed the application complete

D. On October 6, 2014, the Planning Commission continued the item to the Regular Planning Commission meeting on October 20, 2014.

E. On October 20, 2014, 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 proposal as described above. The Planning Commission has 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 and therefore, exempt from the provisions of CEQA. Accordingly, a CATEGORICAL EXEMPTION will be prepared and issued 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. Conditional Use Permit Findings.

The applicant is requesting a CUP to allow for the continued operation of a legal non-conforming restaurant with expanded hours on a commercial property, in an existing structure. This CUP will allow for the continued operation of Lily’s Café and Pastries. The subject restaurant currently has 243 square feet of interior service area, and the existing service area will not be expanded as part of this application. No outdoor service area exists and no outdoor service area is approved as part of this application. In addition, this CUP will allow the restaurant to sell beer and wine for onsite consumption within the 243 square foot interior service area only. Pursuant to Malibu Municipal Code (M.M.C.) Sections 17.22.040(B) and 17.24.030(A), restaurants are conditionally permitted uses in the Community Commercial (CC) zoning district. Pursuant to M.M.C. Section 17.66.080, the Planning Commission may approve, deny and/or modify an application for a CUP, with or without conditions, provided that it makes all of the following findings of fact. Based on evidence in the record, including all written and oral testimony, the Planning Commission hereby makes the following findings of fact and approves CUP No. 14-008.

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.

Pursuant to M.M.C. Sections 17.22.040(B) and 17.24.030(A), restaurants and onsite beer and wine sales/consumption are conditionally permitted uses in the CC zoning district. Therefore, the proposed project has been conditioned to comply with all applicable provisions of the M.M.C.

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

The proposed project is located at 29211 Heathercliff Road, which is currently developed as the Point Dume Shopping Center. The CUP will allow for the continued operation of an existing restaurant. Properties in the surrounding area consist of commercial and residential development. In addition, this CUP will allow for the sale of beer and wine for onsite consumption. The request for alcohol is ancillary to the primary restaurant use and will serve to augment the overall dining experience. Furthermore, the consumption of alcoholic beverages will be wholly contained within the building’s interior and will not generate detrimental impacts onto surrounding properties. Pursuant to M.M.C. Section 17.66.010, conditional uses are those uses which are regarded as compatible with uses which are automatically permitted in a zoning district but which have a special impact or uniqueness such that their effect on the surrounding environment cannot be determined in advance. It is not expected that the sale of beer and wine within the existing restaurant will impact surrounding residences located outside of the shopping center. Therefore, the existing restaurant is considered a compatible use with all other permitted uses in the same zoning district. Therefore, the proposed use is not expected to impair the integrity and character of the zoning district in which it is located.

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

The proposed project will not physically change the existing building or the subject site. In addition, the restaurant that is the subject of this CUP is currently in operation. Therefore, the subject site is physically suitable for the proposed project.
Finding 4. The proposed use is compatible with the land uses presently on the subject property and in the surrounding neighborhood.

The site has been developed with a shopping center since 1969. The proposed use will not result in the expansion of the existing building or the service area of the existing restaurant that is the subject of this CUP. The restaurant has and will continue to offer food service to both visitors and surrounding residents, and is therefore complimentary to the surrounding neighborhood. Accordingly, the use is compatible with onsite uses and other uses in the surrounding neighborhood.

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 project will not affect existing water, sanitation, and public utilities and services. No physical changes are proposed to the exterior of the existing building and minor changes are proposed to the interior. Therefore, the project will not affect solar access or adversely impact existing public or private views.

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

Provisions for public access to serve the existing center are currently in place and no physical changes are proposed to the exterior of the existing building. Only minor changes to the interior are proposed; however, these alterations will not increase the restaurant service area or footprint. Although the center is under-parked based on the parking requirements for commercial shopping centers with a well-balanced mix of uses, the subject restaurant is currently in operation and the proposed extended hours of operation do not require any additional parking spaces. The addition of the proposed onsite beer and wine license is not expected to have an impact on parking demand. Similarly, three additional service hours (5:30 p.m. to 8:30 p.m.) are not expected to adversely impact parking because the majority of the shops in the Point Dume Village Shopping Center will be closed. Therefore, there are adequate provisions currently in place for public access to serve the proposed project.

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 CC zoning district and, as conditioned, is consistent with goals, objectives and policies of the General Plan. In addition, restaurant use on the subject tenant space has been in place since prior to the adoption of the City’s General Plan. Furthermore, the use is located in an area identified for commercial uses.

Finding F9. 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, in that it is conditioned to comply with any relevant approvals, permits, and licenses from the City of Malibu and other related agencies, such as Alcohol Beverage Control Board (ABC) and the Los Angeles County
Finding F10. The proposed use would not be detrimental to the public interest, health, safety, convenience or welfare.

Restaurants are conditionally permitted uses in the CC zoning district. 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 a minor modification to an existing use located within a developed property. The building footprint and envelope will not change; therefore, there is no new impact related to earth movement, flooding, or liquefaction.

Section 4. Letter of Public Convenience or Necessity

Letter of Public Convenience or Necessity maybe required by the State Department of Alcoholic Beverage Control. Based on CUP findings in Section 3 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 authorizes the Planning Director to prepare and submit a Letter of Public Convenience or Necessity for the proposed use to the State Department of Alcoholic Beverage Control.

Section 5. Planning Commission Approval.

Based on the foregoing findings and evidence contained within the record, the Planning Commission hereby approves Conditional Use Permit No. 14-008, subject to the conditions listed below.

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. This approval is for the operation a restaurant as follows:
   a. Operation of a restaurant that has an internal service area of 243 square feet, with no exterior service area;
b. The ability to sell beer and wine for onsite consumption; and
c. The restaurants hours of operation shall be limited to 7:30 a.m. to 8:30 p.m. daily.

3. Subsequent submittals for this project shall be in substantial compliance with plans on-file with the Planning Department, date-stamped, **February 11, 2014**. In the event the project plans conflict with any condition of approval, the condition shall take precedence.

4. This resolution (including signed and notarized Acceptance of Conditions Affidavit and Department Review Sheets) shall be submitted to the City of Planning Department.

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

6. 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 M.M.C. Revised plans reflecting the minor changes and additional fees shall be required.

*Operations*

7. The restaurants hours of operation shall be limited to 7:30 a.m. to 8:30 p.m. daily.

8. No outdoor music or public address system is approved as part of this CUP.

9. This CUP permits the sale of beer and wine for onsite consumption. The property owner/operator shall obtain all necessary approvals from the California Department of Alcohol Beverage Control. Once obtained and prior to the issuance of a Certificate of Occupancy, the tenant is shall submit a copy of the ABC issued On-Premise Consumption License to the Planning Department.

10. This conditional use permit only contemplates and authorizes a restaurant as the primary use of the premises. Accordingly, at least 51% of all gross revenues must be derived from the sale of food.

11. At all times during the conduct of the permitted use, the permittee shall maintain and keep in effect valid licensing approval from the Department of Alcoholic Beverage Control (ABC). Should such licensing be denied, expire or lapse at any time in the future, this permit shall become null and void.

12. A copy of the current ABC license shall be kept on the premises of the establishment and be presented to the City's Planning Director, Code Enforcement officers, law enforcement officers or their duly authorized representatives, upon request.

13. The restaurant shall contain a self-contained wash area, equipped with grease trap, shall be properly connected to Septic System.

14. All alcoholic beverages shall remain within the interior of the restaurant. Service of alcoholic
beverages for offsite consumption is prohibited.

15. A sign shall be posted stating that alcoholic beverages are not allowed outside the interior of the restaurant area.

16. No new signage is permitted under this application. A sign permit shall be submitted and approved by the Planning Department prior to the installation of any new sign.

17. The tenant shall comply with the requirements set forth in M.M.C. Chapter 9.28 (Plastic Bag Ban). 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. The Plastic Bag Ban went into effect in January 2009.

18. 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.

19. 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 Department.

**Fixed Conditions**

20. The conditions under which this conditional use permit was approved 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.

21. A conditional use permit that is valid and in effect, and was granted pursuant to the provisions of the M.M.C., 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.

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

23. 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.
24. The conditional use permit shall become null and void 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.

25. The conditional use permit shall be reviewed after the first year of operation by the Planning Director. The Planning Director shall verify compliance with the provisions of the Malibu Municipal Code and the conditions of approval contained herein. At least two weeks prior to the review date, the applicant shall pay a 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 and report back to the Planning Director. The results of that report shall be presented to the Planning Commission.

Section 7. Certification.

The Planning Commission shall certify the adoption of this Resolution.

PASSED, APPROVED AND ADOPTED this 20th day of October, 2014.

ATTEST:

MIKKE PIERSON, Planning Commission Chair

LAURA HALL, 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 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. 14-99 was passed and adopted by the Planning Commission of the City of Malibu at the regular meeting thereof held on the 20th day of October 2014, by the following vote:

AYES: 5 Commissioners: Jennings, Mazza, Stack, Brotman, and Pierson
NOES:
ABSTAIN:
ABSENT:

[Signature]
LAURA HALL, Recording Secretary
Lily's proposed Dining Room Expansion/Amendment to CUP 14-008

Lily's CUP Amendment to reflect expanded Dining Room Service Area and later service hours:

Current Service Hours are from 7:30 AM to 8:30 PM 7 days a week.
The proposed amendment requests service hours from 7:30 AM to 10:00 PM 7 days a week.

The current service area is 243 SF.
The proposed amendment requests that the service area be increased to 443 SF.

Parking Tabulation For Justification Of Increased Service Area.

Existing Lily's Service Area: 243 SF
Existing Suite 50 (Retail Space): 412 SF
(412/225 = 2 Parking Spaces)

Physical Demolition of R Quikstop creates 2 New Parking Spaces
(Translates to 100 SF of Additional Service Area)

Total Service Area Increase Per Parking Justification: 200 SF
Total Proposed Service Area: 243 SF + 200 SF = 443 SF
ENVIRONMENTAL HEALTH REVIEW
REFERRAL SHEET

TO: City of Malibu Environmental Health Administrator  DATE: 1/23/2019
FROM: City of Malibu Planning Department

PROJECT NUMBER: CUPA 19-001
JOB ADDRESS: 29211 HEATHERCLIFF RD
APPLICANT / CONTACT: Steve Yett
APPLICANT ADDRESS: PO Box 682
Malibu, CA 90265
APPLICANT PHONE #: (310) 383-7187
APPLICANT FAX #: (310) 317-9766
APPLICANT EMAIL: syettarch@aol.com
PROJECT DESCRIPTION: Proposed expansion of existing Restaurant

Conformance Review Complete for project submittals reviewed with respect to the City of Malibu Local Coastal Plan (LCP) 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 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:  

Date: 7-25-19

The applicant must submit to the City of Malibu Environmental Health Specialist to determine whether or not an onsite wastewater treatment system (OWTS) Plot Plan approval is required.

The Environmental Health Specialist may be contacted Tuesday and Thursday from 8:00 am to 11:00 am, or by calling (310) 456-2489, extension 364.
ENVIRONMENTAL HEALTH REVIEW SHEET

PROJECT INFORMATION

Applicant: Steve Yett
(name and email address)

Project Address: 29211 Heathercliff Road, (Lily's Cafe)
Malibu, California 90265

Planning Case No.: CUPA 19-001

Project Description: Proposed expansion of restaurant, additional seating

Date of Review: July 25, 2019

Reviewer: Melinda Talent
Signature: 

Contact Information: Phone: (310) 456-2489 ext. 364 Email: mtalent@malibucity.org

SUBMITTAL INFORMATION

Architectural Plans: Plans by Steve Yett dated 10-19-18
OWTS Report: OWTS Verification report by Ensitu dated 7-10-19
Operating Permit: Operating Permit expires 2020
Miscellaneous:
Prev. EH Approval: 2-4-19

Previous Reviews: 2-4-19

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.

Clinical 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

☑ REQUIRED (attached hereto) ☐ REQUIRED (not attached)

Environmental Health conformance review has been completed for the development proposal described in the project description provided by the Planning Department and the project plans and reports submitted to this office. 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 project. In order to obtain Environmental Health final approval of the OWTS Plot Plan and project 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) Building Plans: All final project 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.

2) Environmental Health Final Review Fee: A 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 Building Plan Check review.

-o0o-

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
1. This conformance review is for tenant improvement to add 25 seats to the Café. No renovation to the existing onsite wastewater treatment system (OWTS) is required. The OWTS conforms to the requirements of the Malibu Municipal Code (MCM) and the Local Coastal Program (LCP).

2. This review only relates to the minimum requirements of the MCM and LCP, and does not include an evaluation of any geological or other potential problems, which may require an alternative method of wastewater treatment.

3. This review is valid for one year, or until the MCM, LCP, and/or Administrative Policy changes render it noncomplying.

NOTES:

1. This conformance review is for tenant improvement to add 25 seats to the Café. No renovation to the existing onsite wastewater treatment system (OWTS) is required. The OWTS conforms to the requirements of the Malibu Municipal Code (MCM) and the Local Coastal Program (LCP).

2. This review only relates to the minimum requirements of the MCM and LCP, and does not include an evaluation of any geological or other potential problems, which may require an alternative method of wastewater treatment.

3. This review is valid for one year, or until the MCM, LCP, and/or Administrative Policy changes render it noncomplying.
TO: Los Angeles County Fire Department  
FROM: City of Malibu Planning Department  
DATE: 1/23/2019

PROJECT NUMBER: CUPA 19-001  
JOB ADDRESS: 29211 HEATHERCLIFF RD  
APPLICANT / CONTACT: Steve Yett  
APPLICANT ADDRESS: PO Box 682  
Malibu, CA 90265  
APPLICANT PHONE #: (310) 383-7187  
APPLICANT FAX #: (310) 317-9766

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.

<table>
<thead>
<tr>
<th>Condition</th>
<th>App'd</th>
<th>N/app'd</th>
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<tbody>
<tr>
<td>The project DOES require Fire Department Plan Review and Developer Fee payment</td>
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</tr>
<tr>
<td>The project DOES NOT require Fire Department Plan Review</td>
<td>X</td>
<td></td>
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<tr>
<td>The required fire flow for this project is _______ gallons per minute at 20 pounds per square inch for a 2 hour duration.</td>
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<td>(Provide flow information from the water dept.)</td>
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<tr>
<td>The project is required to have an interior automatic fire sprinkler system</td>
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<tr>
<td>Final Fuel Modification Plan Approval is required prior to Fire Department Approval</td>
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Conditions below marked “not approved” shall be corrected on the site plan and resubmitted for Fire Department approval.

<table>
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<tr>
<th>Condition</th>
<th>App’d</th>
<th>N/app’d</th>
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<tbody>
<tr>
<td>Required Fire Department vehicular access (including width and grade %)</td>
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<td>as shown from the public street to the proposed project.</td>
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<tr>
<td>Required and/or proposed Fire Department Vehicular Turnaround</td>
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<tr>
<td>Required 5 foot wide Fire Department Walking Access (including grade %)</td>
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<tr>
<td>Width of proposed driveway/access roadway gates</td>
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*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.

Additional requirements/conditions may be imposed upon review of complete architectural plans.

The Fire Prevention Engineering may be contacted by phone at (818) 880-0341 or at the Fire Department Counter: 26600 Agoura Road, Suite 110, Calabasas, CA 91302; Hours: Monday – Thursday between 7:00 AM and 11:00 AM
TO: Public Works Department
FROM: City of Malibu Planning Department

PROJECT NUMBER: CUPA 19-001
JOB ADDRESS: 29211 HEATHERCLIFF RD
APPLICANT / CONTACT: Steve Yett
APPLICANT ADDRESS: PO Box 682
Malibu, CA 90265
APPLICANT PHONE #: (310) 383-7187
APPLICANT FAX #: (310) 317-9766
APPLICANT EMAIL: syettarch@aol.com
PROJECT DESCRIPTION: Proposed expansion of existing Restaurant

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.

SIGNATURE: [Signature]
DATE: 7/1/19
To: Planning Department

From: Public Works Department
      Ryan Lim, Assistant Civil Engineer

Date: July 1, 2019

Re: 29211 Heathercliff Road Conditions of Approval CUPA 19-001

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.

GRADING AND DRAINAGE

1. 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.

STORMWATER

2. 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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<thead>
<tr>
<th>Erosion Controls</th>
<th>Scheduling</th>
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<td>Preservation of Existing Vegetation</td>
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<table>
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<tr>
<th>Sediment Controls</th>
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<td></td>
<td>Silt Fence</td>
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<td>Sand Bag Barrier</td>
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<td>Stabilized Construction Entrance</td>
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<tr>
<th>Non-Storm Water Management</th>
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<td>Water Conservation Practices</td>
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<td>Dewatering Operations</td>
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<td>Waste Management</td>
<td>Material Delivery and Storage</td>
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<td>Stockpile Management</td>
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<td>Spill Prevention and Control</td>
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<td>Solid Waste Management</td>
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<td>Concrete Waste Management</td>
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<td>Sanitary/Septic Waste Management</td>
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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.
NOTICE OF PUBLIC HEARING

The Malibu Planning Commission will hold a public hearing on Monday, January 6, 2020, at 6:30 p.m. in the Council Chambers, Malibu City Hall, 23825 Stuart Ranch Road, Malibu, CA, for the project identified below.

CONDITIONAL USE PERMIT AMENDMENT NO. 19-001. ADMINISTRATIVE PLAN REVIEW NO. 19-158. AND DEMOLITION PERMIT NO. 19-046 - An application to amend Conditional Use Permit No. 14-008 to expand the existing dining room service area by 199 square feet and extend the closing hours of operation from 8:30 PM to 10:00 PM daily at an existing restaurant (Lily's Malibu), and to allow demolition of a 528 square foot multi-purpose structure located in the shopping center parking lot that is currently used for a postal authorized shipping center with ancillary uses (R Quick Stop) and the tenant improvement to expand the restaurant service area (Addresses: 29211 Heathercliff Road, Suite 60, and 29201 Heathercliff Road).

LOCATION / APN: 29211 Heathercliff Road, Suite 60 and 29201 Heathercliff Road / 4468-010-017
TENANT: Lily's Malibu and R Quick Stop
ZONING: Community Commercial (CC)
APPLICANT / OWNER(S): Stefanie Edmondson / Pt Dume Plaza Ill & Ill
APPEALABLE TO: City Council
ENVIRONMENTAL REVIEW: Categorical Exemption CEQA Guidelines Section 15301(e)
APPLICATION FILED: January 23, 2019
CASE PLANNER: Didier Murillo, Assistant Planner, dmurillo@malibucity.org
(310) 456-2489, ext. 353

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 at City Hall 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 - 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 ten days following the date of action which the appeal is made 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 or in person at City Hall, or by calling (310) 456-2489, extension 245.

BONNIE BLUE, Planning Director
Date: December 12, 2019

ATTACHMENT 5