To: Chair Jennings and Members of the Planning Commission
Prepared by: Richard Mollica, Assistant Planning Director
Approved by: Bonnie Blue, Planning Director
Date prepared: January 10, 2020
Meeting date: January 21, 2020

Subject: Extension of Coastal Development Permit No. 14-035 – A request to extend the Planning Commission’s approval of an application for the replacement of an existing onsite wastewater treatment system (OWTS) with a new OWTS and associated development

Location: 25321 Malibu Road
APN: 4459-014-002
Owners: Alessandro and Irene Dazzan

RECOMMENDED ACTION: Adopt Planning Commission Resolution No. 20-14 (Attachment 1), granting a one-year extension of Coastal Development Permit (CDP) No. 14-035 to allow the abandonment of an existing onsite wastewater treatment system and dewatering well, and installation of a new onsite wastewater treatment system, and a new dewatering well in the Rural Residential-Two Acre zoning district located at 25321 Malibu Road (Dazzan).

DISCUSSION: Pursuant to Local Coastal Program Local Implementation Plan Section 13.21, Condition of Approval No. 7 in Planning Commission Resolution No. 15-77 which approved the project states that the CDP and associated requests shall expire if the project has not commenced within three years after final City action. Extension of a CDP may be granted by the approving authority for due cause. The item before the Commission is an extension request by the applicant. A complete project chronology of the project, including scope of work and approvals, can be found in Planning Commission Resolution No. 20-14.

The subject CDP was originally approved on August 17, 2015 and was set to expire on August 17, 2018. On September 17, 2018, the Planning Commission granted a one-year extension that allowed the permit to remain active until August 17, 2019. On August 15, 2019, the applicant submitted a subsequent extension request for additional
time to complete the plan check process. According to the August 15, 2019 extension request letter¹ that was prepared by the project’s civil engineer, the plan check process is near completion; however, additional time is required given the complexity of the project. On November 5, 2019, a second set of building plan check corrections were issued to the applicant by the City. The applicant is currently making those corrections and preparing a resubmittal application. In addition, according to the August 15, 2019 letter, there are new requirements that were issued by the City’s Public Works Department which will take approximately three to five months to address (Attachment 2). Given the applicant’s diligent pursuit of building permits for the project through plan check, and that the CDP was approved just over four years ago, there is due cause for granting a one-year extension, consistent with LCP Policy No. 5 (CDP Extensions) (Attachment 3).

CONCLUSION: The project conditions, and the zoning ordinance under which the approval was issued, have not significantly changed. Upon the Planning Commission’s approval of the time extension request, the approval set forth in Planning Commission Resolution No. 15-77 shall remain valid for an additional one-year term. The expiration date of this approval would then be August 17, 2020. All conditions of approval in Planning Commission Resolution No. 15-77 will remain in effect.

ATTACHMENTS:

1. Planning Commission Resolution No. 20-14
2. Time Extension Request
3. LCP Policy No. 5 (CDP Extensions)
4. Public Hearing Notice

All referenced City Council and Planning Commission records are available for review at http://www.malibucity.org/onbase.

¹ The extension letter date contains a typographical error in the year shown for the letter date, which states 2016. As indicated on the Planning Department’s “Date Received” stamp, the letter was submitted on August 15, 2019.
CITY OF MALIBU PLANNING COMMISSION
RESOLUTION NO. 20-14

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MALIBU GRANTING A ONE-YEAR EXTENSION OF COASTAL DEVELOPMENT PERMIT NO. 14-035 TO EXTEND THE PLANNING COMMISSION’S APPROVAL OF AN APPLICATION TO ALLOW THE ABANDONMENT OF AN EXISTING ONSITE WASTEWATER TREATMENT SYSTEM AND DEWATERING WELL, AND INSTALLATION OF A NEW ONSITE WASTEWATER TREATMENT SYSTEM, AND A NEW DEWATERING WELL LOCATED IN THE RURAL RESIDENTIAL-TWO ACRE ZONING DISTRICT AT 25321 MALIBU ROAD (DAZZAN)

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

SECTION 1. Recitals.

A. On February 2, 2012, an application for Administrative Coastal Development Permit No. 12-006 was submitted to the Planning Department by the applicant, Kevin Poffenbarger, on behalf of the property owners, Joseph Arenson and Steve Adelson. The application was routed to the City Geologist, City Environmental Health Administrator, City Biologist, and the City Public Works Department for review.

B. On May 27, 2014, the applicant amended the application to include a new dewatering well, and the application was changed to Coastal Development Permit (CDP) No. 14-035.

C. On August 17, 2015, 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, and adopted Resolution No. 15-77, approving CDP No. 14-035.

D. In May, 2016, Alessandro and Irene Dazzan acquired the subject property.

E. July 17, 2018, an extension request was submitted to the Planning Department by applicant Lester Tobias, Tobias Architecture.

F. On September 17, 2018, the Planning Commission granted a one-year extension of CDP No. 14-035 and set a new expiration date of August 17, 2019.

G. On August 15, 2019, an extension request was submitted to the Planning Department by the property owners Alessandro and Irene Dazzan.

H. On January 9, 2020, 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.

I. On January 21, 2020, the Planning Commission held a duly noticed public hearing on the subject time extension request, reviewed and considered the staff report, reviewed and considered written correspondence, public testimony, and other information in the record.
SECTION 2. Environmental Review.

Pursuant to the authority and criteria contained in the California Environmental Quality Act (CEQA), the Planning Commission previously determined the project to be categorically exempt pursuant to CEQA Guidelines Sections 15302(c) – Replacement or Reconstruction, and 15303(d) – New Construction or Conversion of Small Structures. As such, Categorical Exemption No. 15-075 was filed for CDP No. 14-035.

SECTION 3. Findings of Fact.

Pursuant to Local Coastal Program Local Implementation Plan Section 13.21, the Planning Commission, having considered the staff report, all written correspondence and oral testimony presented at the public hearing, hereby finds that the applicant has demonstrated due cause for the necessity of a time extension of the approval of the coastal development permit and associated requests.


A. The approvals set forth in Planning Commission Resolution No. 15-77 are hereby extended for an additional one-year term. The approval is now set to expire on August 17, 2020.

B. No other changes to the conditions contained in Planning Commission Resolution No. 15-77 are made and all other findings, terms and/or conditions contained in Planning Commission Resolution No. 15-77 shall remain in full force and effect.

SECTION 5. The Planning Commission shall certify the adoption of this Resolution.

PASSED, APPROVED AND ADOPTED this 21st day of January, 2020.

JEFFREY JENNINGS, Planning Commission Chair

ATTEST:

KATHLEEN STECKO, Recording Secretary

LOCAL APPEAL - A decision of the Planning Commission may be appealed to the City Council by an aggrieved person by written statement setting forth the grounds for appeal. An appeal shall be filed with the City Clerk within 10 days and shall be accompanied by an appeal form and proper appeal fee. The appellant shall pay fees as specified in the Council adopted fee resolution in effect at the time of the appeal. Appeal forms and fee schedule may be found online at www.malibucity.org/planningforms, in person at City Hall, or by calling (310) 456-2489, extension 245.
I CERTIFY THAT THE FOREGOING RESOLUTION NO. 20-14 was passed and adopted by the Planning Commission of the City of Malibu at the regular meeting thereof held on the 21st day of January, 2020, by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

KATHLEEN STECKO, Recording Secretary
City of Malibu  
Attn: Mr. Didier Murillo  
23825 Stuart Ranch Road  
Malibu, CA 90265  

Subject: CDP Time Extension Request, New Onsite Wastewater System and Dewatering Well Relocation, CDP 14-035, 25321 Malibu Road, Malibu, CA 90265.

References: 1. City of Malibu Public Works: (a) 1st Plan Check Memo, dated September 5, 2018; (b) 2nd Plan Check Memo, dated July 23, 2019.

Dear Mr. Murillo,

I am the civil engineer of record for the subject project, as well as the original CDP applicant. This is a complicated project, with the base intent of relocating the Onsite Wastewater System (OWS) from the geologically unstable southerly slope to more stable Bayshore Drive private road easement. There is an existing groundwater dewatering well located in the proposed OWS location, which is part of the Malibu Road Landslide Assessment District managed by the City’s Public Works Department. The existing dewatering well must be relocated to the northerly slope of the property, which is included in the scope of the CDP. Due to the complicated nature of the overall scope of work, finalizing the plan check process to facilitate building permits has proved to be more time consuming than anticipated. The CDP is scheduled to expire on August 17, and this Letter is being provided as part of the complete Time Application Request Application. In order to be able to complete the building plan check process and facilitate issuance of building permit under the CDP, an additional time extension of one year for the CDP is required and requested.

A construction contractor is under contract to perform the work. Some of the more costly long lead time materials necessary to complete the work have been ordered and are ready for delivery to the project site. The recent Woolsey Fires have consumed the resources of our firm and my time, and have unfortunately slowed down our ability to prepare and process technical matters such as this project. To further complicate matters, the City of Malibu Public Works department recently added a plan check approval requirement that is entirely new and will take three to five months to complete with them. Attached are copies of their 1st Plan Check Memo, dated September 5, 2018 (Reference 1(a)). This was provided just prior to the Woolsey Fire, and took longer than we had hoped to address. The 2nd Plan
Check Memo, dated July 23, 2019 (Reference 1(b)) adds a requirement to provide an easement to the City for the relocated dewatering well. Whereas adding the easement is administrative in nature and achievable, the details require technical input and analysis by a surveyor and the City Public Works department. It is anticipated to take three to five months to satisfy this requirement.

Once complete, the approved plans still require final clearance from the City Geology, Biology, and Environmental Health departments prior to getting Planning Red Stamp and Los Angeles County Waterworks approvals. In recent months, Los Angeles County Waterworks has been taking two weeks and sometimes longer to review and approve the plans. Building permits cannot be issued until all of these stamps are on the plans. Feel free to contact the City Geology and Environmental Health departments directly to better understand the complexity of this project and the substantial extent of work that has been already completed that will ensure that a CDP time extension of one year will be adequate to issue building permits and vest the CDP.

Please advise whether this Time Extension Request of one year is acceptable, and whether you would require any additional documentation from us or the property owners in order to be able to approve this request.

Respectfully submitted,
EPD Consultants, Inc.

Kevin Poffenbarger
RCE 69089, Exp 6/30/20
Senior Project Engineer

xc: File
Client
To: Lester Tobias  
From: Public Works Department  
Jonathan Pichardo, Assist. Civil Engineer  
Date: September 5, 2018  
Re: 25321 Malibu Road CDP14-035 CC18-0341,0342,0343 1ST Plan Check Memo

The Public Works Department has reviewed the plans submitted for the above referenced project. At this time we are unable to approve this plan until the following changes are made

GRADING AND DRAINAGE

1. The applicant shall not block Bayshore Drive during construction. Prior to the issuance of the grading and or building permit, the applicant shall submit a detailed construction traffic control plan. At a minimum, one travel lane shall be open at all times and no lane closures will be allowed.

2. The Developers Consulting Engineer shall sign the final plans prior to the issuance of permits.

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

Please include a comment response letter with your next submittal that addresses the above mentioned items. Failure to submit a detailed comment response letter may result in the Public Works Department not accepting your re-submittal and or may result in additional plan checking fees.
To: Lester Tobias

From: Public Works Department
Nicole Benyamin, Assistant Civil Engineer  

Date: July 23, 2019

Re: 25321 Malibu Road CDP14-035 CC18-0341,0342,0343 2nd Plan Check Memo

The Public Works Department has reviewed the plans submitted for the above referenced project. At this time we are unable to approve this plan until the following changes are made

1. The owner must provide an easement to the City for the relocated dewatering well. Please submit easement documents for review. Estimated fees for the review of the easement is $2,160. Additional fees may or not be required. Please submit payment before or at time of easement submission.

Please include a comment response letter with your next submittal that addresses the above mentioned items. Failure to submit a detailed comment response letter may result in the Public Works Department not accepting your re-submittal and or may result in additional plan checking fees.
November 13, 2017

**LCP Policy 5: Coastal Development Permit Extensions**

LIP Section 13.21 provides:

Unless the permit states otherwise, a coastal development permit shall expire two years from its date of approval if the development has not commenced during that time. The approving authority may grant a reasonable extension of time for due cause. Extensions shall be requested in writing by the applicant or authorized agent prior to the expiration of the two-year period.

Due cause shall generally not exist unless the applicant has demonstrated the following:

- There are extraordinary circumstances beyond the applicant’s control that have prevented the applicant from commencing the development, such as financial hardship due to extreme economic conditions or job loss, inability to obtain a construction loan, personal reason, such as illness, divorce or death, restricted access to the property because of an existing lease or a necessary agency approval has not been obtained despite diligent efforts. Change of project ownership or architect and elective project redesigns do not by themselves constitute due cause; and
- The applicant has exercised due diligence in its efforts to commence the project, such as contracting for and completing necessary studies, reports, drawings and plans to pursue and complete the plan check process.

Absent extraordinary circumstances, the aggregate life of the permit shall not exceed five years.
NOTICE OF PUBLIC HEARING

The Malibu Planning Commission will hold a public hearing on TUESDAY, January 21, 2020, at 6:30 p.m. in the Council Chambers, Malibu City Hall, 23825 Stuart Ranch Road, Malibu, CA, for the project identified below.

EXTENSION OF COASTAL DEVELOPMENT PERMIT NO. 14-035 - A request to extend the Planning Commission's approval of an application for the replacement of an existing onsite wastewater treatment system (OWTS) with a new OWTS and associated development

LOCATION / APN / ZONING: 25321 Malibu Road / 4459-014-002 / Rural Residential-Two Acre (RR-2)
APPLICANT / OWNER(S): EPD Consultants Inc. / Alessandro and Irene Dazzan
APPEALABLE TO: City Council and California Coastal Commission
ENVIRONMENTAL REVIEW: Categorical Exemption CEQA Guidelines Sections 15302(c) and 15303(d)
EXTENSION FILED: August 15, 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. 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.

Extension requests will be presented on consent calendar based on staff's recommendation but any person wishing to be heard may request at the beginning of the meeting to have the application addressed separately. Please see the recording secretary before start of the meeting to have an item removed from consent calendar.

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 26, 2019