To: Chair Marx and Members of the Planning Commission

Prepared by: Didier Murillo, Assistant Planner

Approved by: Bonnie Blue, Planning Director

Date prepared: September 5, 2018

Meeting Date: September 17, 2018

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 Alternative OWTS and associated development

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

RECOMMENDED ACTION: Adopt Planning Commission Resolution No. 18-55 (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 alternative 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. 18-55.

The subject CDP was originally approved on August 17, 2015 and was set to expire on August 17, 2018. On July 17, 2018, the applicant submitted a time extension request and submitted additional information on August 15, 2018 detailing the complexities of the permitting process. The applicant became involved with the project upon a change in
property ownership in 2016. The project is currently undergoing the plan check process and is anticipated that building permits will be obtained within six to eight weeks from approval of this time extension request (Attachment 2). Given the applicants diligent pursuit of building permits for the project through plan check, and that the CDP was approved just over three years ago, there appears to be due cause for granting a one year extension, consistent with LOP 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 18, 2019. All conditions of approval in Planning Commission Resolution No. 15-77 will remain in effect.

ATTACHMENTS:

1. Planning Commission Resolution No. 18-55
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.
CITY OF MALIBU PLANNING COMMISSION
RESOLUTION NO. 18-55

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 ALTERNATIVE 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 Coastal Development Permit 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 August 23, 2018, 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 September 17, 2018, 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.

ATTACHMENT 1
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 Section 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, 2019.

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 17th day of September, 2018.

CHRIS MARX, 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. 18-55 was passed and adopted by the Planning Commission of the City of Malibu at the regular meeting thereof held on the 17th day of September, 2018, by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

KATHLEEN STECKO, Recording Secretary
To: Didier Murillo

This memo is a request for a permit extension to CDP no.14-035 for a new OWTS.

It is a tricky, but viable system that has taken a fair amount of time to get right from a technical standpoint. By the time we go through all of our Building and Safety plan checks, we will have run past our CDP permit period.

The project is progressing, as evidenced by our recent email correspondence. I have my green stamp sets, and will be meeting with Environmental Health to finalize heir checklist.

Pursuant to the following section of the LIP:

13.21. EXPPIRATION OF COASTAL DEVELOPMENT PERMIT

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 expiration of the two-year period.

Please consider this memorandum my formal request, as the authorized agent, for an extension.

Thank you very much.

Regards,

Lester Tobias
Kathleen Stecko

Subject: 25321 MALIBU ROAD: extension status

From: Lester Tobias [mailto:lester@tobiasarchitecture.com]
Sent: Wednesday, August 15, 2018 3:36 PM
To: Didier Murillo <dmurillo@malibucity.org>
Subject: Re: 25321 MALIBU ROAD: extension status

I became involved in this project about a year ago, when the current owner purchased the house.

Basically, prior to the purchase, the seller had submitted, and received a CDP (14-035) for a more comprehensive project that included site walls, a pool, and deck and other things (as well as the OWTS). My client, the current owner, is just doing the OWTS at this time. It is a complex permitting process; there are 7 separate types of plans, permits and reviews required. It took a fair amount of time to organize it and get the various plans into plan check. Also, with numerous consultants involved, every "back and forth" took a fair amount of time. We are in building plan check on everything, as you are aware that you green stamped all the plans this week. I anticipate 6 to 8 weeks to get the actual building permit, mostly due to the fact that we have a complete Env. Health submittal and Melinda has reviewed it all, all ready.

I hope this helps. Let me know if you need anything else.

Lester

On Mon, Aug 13, 2018 at 12:01 PM, Didier Murillo <dmurillo@malibucity.org> wrote:

Good afternoon Lester,

This is such a timely email. I just got out of our Staff meeting and your CDP time extension is scheduled for September 17th. This will be my first time extension and as you know I inherited this project. For my information and understanding could you provide me with some more information as to the why this project is requiring a time extension and also when do you anticipate for the project to commence construction. I'm just trying to think ahead and answer any questions that may come up. I know it's a consent item but would like to know, just in case.

Thank you very much!

Didier Murillo | Assistant Planner | City of Malibu
23825 Stuart Ranch Road, Malibu CA, 90265
Phone: (310) 456-2489 ext. 353
Front Counter Hours: M-Fri 7:30 a.m. to 12:30 p.m.
Malibu, CA - Official Website - Planning Department

From: Lester Tobias [mailto:lester@tobiasarchitecture.com]
Sent: Monday, August 13, 2018 10:32 AM
To: Didier Murillo <dmurillo@malibucity.org>
Subject: 25321 MALIBU ROAD: extension status

Good Morning Didier,

I picked up the green stamped plans, thanks. My client was asking about the CDP extension that I filed. Are we going to be okay time wise?

Thanks.

Lester

Lester Tobias, Principal
Tobias Architecture, Incorporated
22221 Pacific Coast Highway
Malibu, California 90265
(310) 317-0507
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 MONDAY, September 17, 2018, 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 Alternative OWTS and associated development

LOCATION / APN / ZONING: 25321 Malibu Road / 4459-014-002 / RR-2
APPLICANT / OWNER: Tobias Architecture, on behalf of owner Alessandro Dazzan
APPEALABLE TO: City Council
ENVIRONMENTAL REVIEW: Categorical Exemption CEQA Guidelines Sections 15303(d)
EXTENSION FILED: July 17, 2018
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.

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. The Commission's decision will be memorialized in a written resolution.

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 pursuant to Malibu Municipal Code Section 17.04.220 within 10 days (15 days for tentative parcel maps) following the date of action.

BONNIE BLUE, Planning Director

Publish Date: August 23, 2018