Commission Agenda Report

To: Chair Jennings and Members of the Planning Commission

Prepared by: Justine Kendall, Assistant Planner

Approved by: Bonnie Blue, Planning Director

Date prepared: February 6, 2020  Meeting date: February 18, 2020

Subject: Coastal Development Permit No. 19-047, Code Violation No. 20-004 and Demolition Permit No. 19-044 – An application for new landscaping and hardscaping including the relocation of a swimming pool and demolition of development implemented without the benefit of permit

Location: 29208 Cliffside Drive, within the appealable coastal zone
APN: 4468-001-003
Owner: Timara Limited, LLC

RECOMMENDED ACTION: Adopt Planning Commission Resolution No. 20-26 (Attachment 1) determining the project is categorically exempt from the California Environmental Quality Act (CEQA), and approving Coastal Development Permit (CDP) No. 19-047 to allow the demolition of the existing swimming pool, hardscaping, and ficus trees constructed or planted without the benefit of permit; construction of a new steel trellis, retaining walls, outdoor dining area, hardscaping, swimming pool, spa, and pool equipment area; and new landscaping; including Demolition Permit (DP) No. 19-044 for the demolition of those improvements implemented without the benefit of permit at the existing single-family residence located in the Rural Residential-One Acre (RR-1) zoning district at 29208 Cliffside Drive (Timara, LLC).

DISCUSSION: This agenda report provides a project overview, a summary of the surrounding land uses and project setting, description of the proposed project, staff’s analysis of the proposed project’s consistency with Malibu Local Coastal Program (LCP) and Malibu Municipal Code (MMC) provisions, and environmental review pursuant to CEQA. The analysis and findings contained herein demonstrate the proposed project is consistent with the LCP and MMC.
Normally, the scope of work proposed would qualify for an Administrative Plan Review (APR) application rather than a CDP however, due to a deed restriction required by the California Coastal Commission (CCC) as a condition of approval for Permit No. 4-95-174, additions and development proposed after the approval of that permit require a CDP. Therefore, the proposed work must be processed as a regular coastal development permit under LIP Section 13.6, subject to the provisions for hearing and appeal set forth in LIP Sections 13.11 and 13.12. The entire scope of work was originally reviewed under APR No. 19-004, and some Department Reviews documents reference that project and the reviews conducted under that submittal.

Project Overview

The subject property is zoned RR-1 and is a trapezoid-shaped lot containing an existing single-family residence located between Cliffside Drive and the Pacific Ocean. The majority of the property is flat with a steep coastal bluff located at the rear of the property. The site is currently developed with a two-story home, garage, and swimming pool, which is typical of other homes in the neighborhood.

On April 10, 1996, the CCC granted Permit No. 4-95-174 for the construction of the now existing single-family residence with associated development, and on March 4, 1997, the City approved Plot Plan Review (PPR) No. 94-188 for the removal of invasive species, including ficus trees on the subject property. On April 27, 2005, the CCC issued a Notice of Violation of the Coastal Act (Violation File No. V-4-01-103) for failure to remove unpermitted ficus trees along Cliffside Drive that blocked public ocean views; an unpermitted detached accessory structure (carport) north of the residence; a swimming pool constructed further seaward than the approved location, and other unpermitted improvements located between the residence and bluff edge, including patio/pathways and lawn.

The City approved Over-the-Counter (OC) No. 18-180 on January 7, 2019, for a minor interior remodel and re-roof of the existing residence as well as the demolition of the above-ground portion of the carport constructed without the benefit of permits. Subsequently, on July 11, 2019 the City approved APR No. 19-004 to allow for the interior and exterior remodel of the existing residence, restructuring of the existing breezeway roof into an open view-permeable trellis, interior and exterior remodel of the existing semi-detached garage, and removal of the carport footings.

The subject CDP application was submitted to address all remaining code enforcement violations and to propose a new swimming pool, trellis, landscaping, and hardscaping (Attachment 2 - Project Plans). No increase in total development square footage is proposed, and all new development proposed is landward of the existing residence except for a 440 square foot on-grade concrete patio connected to the rear of the house and subsurface drainage installed to support the new landscaping. Upon final inspection and approval of OC No. 18-180, APR No. 19-004, and CDP No. 19-047 (if approved), the code enforcement cases will be referred to the CCC for closure.
Surrounding Land Uses and Project Setting

As shown in Figure 1, the subject property is located on the ocean side of Cliffside Drive. The surrounding properties consist of Point Dume State Beach to the southwest and one and two-story single-family residences to the northeast and northwest in the RR-1 zoning district.

Figure 1 – Aerial Map

The project site is located adjacent to Point Dume State Beach; however, the site does not contain mapped trails on or adjacent to it, according to the LCP Park Lands Map. According to the LCP Environmentally Sensitive Habitat Area (ESHA) and Marine Resources Map the Point Dume State Beach headlands are mapped ESHA, and a small portion of that ESHA area is located on the northwestern boundary of the property. Additionally, the property does contain a coastal bluff at the rear of the property which is considered ESHA. No new development is proposed outside of the existing development area, nor would any of the proposed scope of work expand the fuel modification area, so no impacts to ESHA are expected.

Table 1 provides a summary of the lot dimensions and lot area of the subject parcel.

<table>
<thead>
<tr>
<th>Table 1 – Total Property Data</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lot Depth</td>
</tr>
<tr>
<td>Lot Width</td>
</tr>
<tr>
<td>Gross Lot Area</td>
</tr>
<tr>
<td>Area Comprised of Access Easements</td>
</tr>
<tr>
<td>Area Comprised of 1:1 Slopes</td>
</tr>
<tr>
<td>Net Lot Area*</td>
</tr>
</tbody>
</table>

*Net Lot Area = Gross Lot Area minus the area of access easements and 1 to 1 slopes.
Project Description

The proposed scope of work is as follows:

a. Demolition of the 1,083 square foot swimming pool;
b. Remove five non-conforming ficus trees;
c. Construct a new 732 square foot swimming pool, spa, with five-foot-tall 232 foot long fence, and 46.5 square foot new pool equipment area screened on all sides with a solid hedge;
d. Construct a new 326 square foot, ten-foot-tall steel pergola;
e. Construct a new four-foot-tall, 224 square foot outdoor barbeque, and outdoor fireplace;
f. Demolish existing hardscaping and construct new impermeable hardscaping for a total of 11,620 square feet of impermeable coverage (net loss of 54 square feet);
g. New permeable hardscaping that will total 2,230 square feet;
h. Construct new 523 square foot outdoor terraced sitting area;
i. Construct 247 linear feet of new retaining walls (six feet high maximum), 52 linear feet of free-standing walls (eight feet high maximum, not located in any required yard), and 222 linear feet of garden walls (four feet high maximum);
j. New landscaping;
k. 521 cubic yards of new non-exempt grading.

Discretionary Requests:

a. Demolition Permit No. 19-044 for the demolition of hardscaping, ficus trees, and a swimming pool constructed without the benefit of permits.

LCP Analysis

The LCP consists of the Land Use Plan (LUP) and the LIP. The LUP contains programs and policies implementing the Coastal Act in Malibu. The LIP contains provisions to carry out the policies of the LUP to which every project requiring a coastal development permit must adhere. There are 14 LIP chapters that potentially apply depending on the nature and location of the proposed project. Of these, five are for conformance review only and contain no findings: 1) Zoning, 2) Grading, 3) Archaeological/Cultural Resources, 4) Water Quality, and 5) OWTS. These chapters are discussed in the LIP Conformance Analysis section.

The nine remaining LIP chapters contain required findings: 1) Coastal Development Permit; 2) ESHA; 3) Native Tree Protection; 4) Scenic, Visual and Hillside Resource Protection; 5) Transfer of Development Credits; 6) Hazards; 7) Shoreline and Bluff Development; 8) Public Access; and 9) Land Division. For the reasons described in this report, including the project site, the scope of work, and substantial evidence in the record, only findings in the following chapters are applicable to the proposed project: Coastal Development Permit, Scenic, Visual and Hillside Resource Protection, Shoreline and Bluff Development.
Development, Public Access, and Hazards. These chapters are discussed in the *LIP Findings* section of this report. Additionally, the proposed project is subject to the Landscape Water Conservation Ordinance (MMC Chapter 9.22) as the project is proposing a new landscape area of two thousand five hundred (2,500) square feet or more.

**LIP Conformance Analysis**

The proposed project has been reviewed by the Planning Department, City Biologist, City Environmental Health Administrator, City Public Works Department, City geotechnical staff, and the Los Angeles County Fire Department (LACFD) (Attachment 3 – Department Review Sheets). The project, as proposed and conditioned, has been found to be consistent with all applicable LCP codes, standards, goals, and policies.

**Zoning (LIP Chapter 3)**

The proposed project is subject to development and design standards set forth under LIP Sections 3.5 and 3.6. Table 2 provides a summary and indicates the proposed project meets those standards.

<table>
<thead>
<tr>
<th>Development Requirement</th>
<th>Allowed/Required</th>
<th>Existing</th>
<th>Proposed</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>IMPERMEABLE COVERAGE</td>
<td>16,721.7 sq. ft.</td>
<td>11,674 sq. ft.</td>
<td>11,620 sq. ft.</td>
<td>Complies</td>
</tr>
<tr>
<td>NON-EXEMPT GRADING</td>
<td>1,000 cu. yd.</td>
<td>Less than 50*</td>
<td>521 cu. yd.</td>
<td>Complies</td>
</tr>
<tr>
<td>CONSTRUCTION ON SLOPES</td>
<td>4 to 1 and flatter</td>
<td>4 to 1 and flatter</td>
<td>4 to 1 and flatter</td>
<td>Complies</td>
</tr>
</tbody>
</table>

**FENCES/WALLS/HEDGES**

<table>
<thead>
<tr>
<th>Development Requirement</th>
<th>Allowed/Required</th>
<th>Existing</th>
<th>Proposed</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>Retaining Walls</td>
<td>6 ft. max. 12 ft. cumulative</td>
<td>6 ft. max. 12 ft. cumulative</td>
<td>6 ft. max. 12 ft. cumulative</td>
<td>Complies</td>
</tr>
<tr>
<td>Front Yard</td>
<td>Impermeable</td>
<td>42 in.</td>
<td>42 in.</td>
<td>Complies</td>
</tr>
<tr>
<td></td>
<td>Permeable</td>
<td>6 ft.</td>
<td>6 ft.</td>
<td>Complies</td>
</tr>
<tr>
<td>Rear &amp; Side Yard</td>
<td>6 ft.</td>
<td>6 ft.</td>
<td>6 ft.</td>
<td>Complies</td>
</tr>
</tbody>
</table>

*CDP No. 4-95-174, issued by the CCC in 1997, states, "less than 50 cubic yards of grading are proposed as part of this project" – “this project” being the construction of the existing residence and associated development.*

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1. The ESHA, Native Tree Protection, Transfer of Development Credits, and Land Division findings are neither applicable nor required for the proposed project.
There is no change proposed to the existing setbacks, parking spaces, total development square footage (TDSF), or height of any structures except for walls and fences (described below). No work is proposed to take place on the existing residence nor detached garage.

As shown in Table 2, the proposed project conforms to the development standards as set forth under LIP Chapter 3. The proposed project has been determined to be consistent with all applicable LCP codes, standards, goals, and policies.

Grading (LIP Chapter 8)

LIP Section 8.3 ensures that new development minimizes the visual resource impacts of grading and landform alteration by restricting the amount of non-exempt grading to a maximum of 1,000 cubic yards for a residential parcel. The total amount of grading for the currently proposed project is 913 cubic yards as provided for on the Total Grading Yardage Verification Certificate on the grading plan cover sheet. The total amount of proposed non-exempt grading is 521 cubic yards, which is less than the maximum allowable. The remaining grading is 392 cubic yards of understructure grading, which is exempt. A total of 14 cubic yards will be imported, and 243 cubic yards will be exported. The proposed project complies with grading requirements set forth under LIP Section 8.3.

Archaeological / Cultural Resources (LIP Chapter 11)

LIP Chapter 11 requires certain procedures be followed to determine potential impacts on archaeological resources. In September 1995, a Phase Two archeological study was submitted to the City, which recommended a monitoring program be put in place during any major subsurface excavation. Although all proposed changes will take place on a previously disturbed area, a condition has been included in Resolution 20-26 requiring that a qualified archeologist and Native American monitor of Chumash descent be present to monitor all excavation activities and coordinate the disposition of any resources.

Water Quality (LIP Chapter 17)

The City Public Works Department reviewed and approved the proposed project for conformance to LIP Chapter 17 requirements for water quality protection and requirements of the State Water Resources Control Board because the property is located in an Area of Special Biological Significance (ASBS). The ocean between Latigo Point and the west City limits has been established by the State Water Resources Control Board as an ASBS as part of the California Ocean Plan. Standard conditions of approval include the implementation of approved stormwater management plans during construction activities and to manage runoff from the development, including recordation of a water quality mitigation plan, and best management practices in compliance with ASBS standards. With the implementation of these conditions, the proposed project conforms to the water quality protection standards of LIP Chapter 17.
LIP Chapter 18 addresses OWTS. LIP Section 18.7 includes specific siting, design, and performance requirements. The existing OWTS is located landward of the existing residence, on the west side of the property, and will remain in place. No new fixture units or total development square footage is proposed. As such, the project does not impact the existing OWTS and would not result in the expansion of the existing OWTS. As such, the Environmental Health Administrator has determined that the project complies with LIP Chapter 18.

**LIP Findings**

**A. Coastal Development Permit (LIP Chapter 13)**

LIP Section 13.9 requires that the following four findings be made for all coastal development permits.

*Finding 1. That the project, as described in the application and accompanying materials, as modified by any conditions of approval, conforms with the certified City of Malibu Local Coastal Program.*

The proposed project is located in the RR-1 residential zoning district, an area designated for residential uses. The proposed project has been reviewed for conformance with the LCP by the Planning Department, City Biologist, City Environmental Health Administrator, City Public Works Department, City geotechnical staff, and LACFD. As discussed herein, based on submitted reports, project plans, visual analysis, and site investigation, the proposed project, as conditioned, conforms to the LCP and MMC in that it meets all applicable residential development standards and will resolve outstanding coastal violations.

*Finding 2. If the project is located between the first public road and the sea, that the project is in conformity to the public access and recreation policies of Chapter 3 of the Coastal Act of 1976 (commencing with Sections 30200 of the Public Resources Code).*

The project is located between the first public road and the sea. However, there are no known or planned trails onsite or near the subject property, and the proposed project does not affect the existing public beach access available from the adjacent properties. Therefore, no potential project-related or cumulative impact on public access is anticipated to result from the project. The proposed project conforms to the public access and recreation policies of Chapter 3 of the Coastal Act of 1976 (commencing with Sections 30200 of the Public Resources Code).
Finding 3. The project is the least environmentally damaging alternative.

This analysis assesses whether alternatives to the proposed project would significantly lessen adverse impacts to coastal resources.

1. No Project – The no project alternative would avoid any change on the subject parcel. However, the property is currently the subject of an open code enforcement case, which requires, at a minimum, the demolition of the developments implemented without the benefit of permits. In addition, the subject parcel is zoned RR-1 and the proposed improvements conform to all applicable development and design standards. Prohibiting the proposed development would not accomplish the goals of this project and is considered an infeasible alternative.

2. Smaller Project – A smaller project could be proposed on the project site, in which case, the direct land disturbance as a result of construction would be reduced. However, the project proposes a new swimming pool, landscaping, and hardscaping that meet the maximum allowable impermeable coverage, height, grading, and all other development standards. In addition, other properties in the area have been similarly improved with swimming pools and outdoor amenities. No additional total development square footage is proposed, nor will any new impacts to scenic or other coastal resources occur. All proposed development will take place within the previously disturbed area. The proposed improvements will not require an increase to the existing fuel modification areas. As such, it is not anticipated that a smaller project would offer significant environmental advantages.

4. Alternate Location – The project could be re-sited to another location on the subject parcel. However, the proposed swimming pool, trellis, and new hardscaping are sited to avoid any impact on the coastal bluff by being located on the street side of the existing residence. In addition, the proposed improvements will not require any expansions to the existing fuel modification areas and are sited on previously disturbed areas. It is anticipated that re-siting the proposed project would not offer significant environmental advantages, given that no significant environmental impacts are anticipated as a result of the proposed project.

The proposed project consists of the removal of improvements implemented without the benefit of permits, as well as a new swimming pool, trellis, landscaping, and hardscaping at an existing single-family residence, in an existing residentially developed area. The selected location has been reviewed and conditionally approved by the City Biologist, City Environmental Health Administrator, City Public Works Department, City geotechnical staff, and the LACFD, and meets the City’s residential development policies of the LCP and MMC. The proposed project, as conditioned, will comply with all applicable requirements of State and local law. The proposed project has been determined not to result in adverse biological, scenic or visual resource impacts, and is the least environmentally damaging feasible alternative.
Finding 4. If the project is located in or adjacent to an environmentally sensitive habitat area pursuant to Chapter 4 of the Malibu LIP (ESHA Overlay), that the project conforms with the recommendations of the Environmental Review Board, or if it does not conform with the recommendations, findings explaining why it is not feasible to take the recommended action.

According to the LCP ESHA and Marine Resources Map the Point Dume State Beach headlands are mapped ESHA, and a small portion of that ESHA area is located on the northwestern boundary of the property. However, no new development is proposed outside of the existing developed area, nor would any of the proposed scope of work expand the existing fuel modification area. Additionally, the property contains a coastal bluff, which is considered ESHA, at the rear of the property. All new development proposed is landward of the existing residence except for a 440 square foot on-grade concrete patio connected to the rear of the house and subsurface drainage installed to support the new landscaping. All elements of the proposed project will comply with the required bluff top setback. The project is exempt from the requirement of a detailed biological study of the site, and review by the Environmental Review Board, pursuant to LIP Section 4.4.4(D) because the the proposed swimming pool, hardscaping, and landscaping are within the permitted disturbed area authorized in the previously approved CDP. As such, this finding does not apply.

B. Environmentally Sensitive Habitat Area Overlay (LIP Chapter 4)

As stated in Section A, Finding 4, the subject property contains a small amount of designated ESHA overlay on the northwestern edge of the property, and on the coastal bluff at the rear of the property. However, all new development proposed is within the existing graded pad. All new development proposed is landward of the existing residence except for a 440 square foot on-grade concrete patio connected to the rear of the house and subsurface drainage installed to support the new landscaping. All elements of the proposed project will comply with the required bluff top setback. None of the proposed work would expand the existing fuel modification area. On December 24, 2019, the City Biologist approved the proposed project and determined that the project is not expected to result in any adverse impacts to significant biological resources. As conditioned, the proposed project will result in less than significant impacts to sensitive resources, and no significant loss of vegetation or wildlife, or encroachments into an ESHA. Therefore, the findings of LIP Section 4.7.6 are not applicable.

C. Native Tree Protection (LIP Chapter 5)

There are no native trees on or adjacent to the subject parcel. Therefore, the findings of LIP Chapter 5 are not applicable.
The Scenic, Visual, and Hillside Resource Protection Chapter governs those coastal
development permit applications concerning any parcel of land that is located along,
provides views to, or is visible from any scenic area, scenic road or public viewing area.
The subject property is located on a bluff-top property that is along the ocean side of
Cliffside Drive, which is considered a scenic road pursuant to LUP Chapter 6, Section
C.6.2; and abuts Point Dume State Beach, a scenic viewing area. The proposed project
complies with Chapter 6 of the LIP in that it includes a view corridor on the western side
(per the original CDP approved by the CCC), which will not be disrupted by the proposed
project. Since the project is located adjacent to a scenic resource and on a scenic road,
the findings set forth in LIP Section 6.4 are enumerated herein.

Finding 1. The project, as proposed, will have no significant adverse scenic or visual
impacts due to project design, location on the site, or other reasons.

With the exception of the small concrete on-grade patio attached to the rear of the house,
drainage, and demolition of the existing pool and hardscaping, all work will take place
landward of the house and required bluff setback. When viewed from the beach, the site
of development is not visible. In addition, the project provides a 16 foot wide view corridor
to allow for views of the ocean from Cliffside Drive along the west boundary of the property.
In addition, the project will continue to provide the view corridor to allow for views of the
ocean from Cliffside Drive. It is not anticipated that the project will result in adverse scenic
or visual impacts; therefore, the project is consistent with LIP Chapter 6.

Finding 2. The project, as conditioned, will not have significant adverse scenic or visual
impacts due to required project modifications, landscaping, or other conditions.

As discussed in Section D, Finding 1, as conditioned, the project will not have significant
adverse scenic or visual impacts.

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

As previously discussed in Section A, Finding 3, the project as proposed and conditioned
is the least environmentally damaging alternative.

Finding 4. There are no feasible alternatives to development that would avoid or
substantially lessen any significant adverse impacts on scenic and visual resources.

As discussed in Section D, Finding 1, the project is not expected to result in any significant
adverse impact. Therefore, there are no feasible alternatives to development that would
avoid or substantially lessen any significant adverse impacts on scenic and visual
resources.
Finding 5. Development in a specific location on the site may have adverse scenic and visual impacts but will eliminate, minimize or otherwise contribute to conformance to sensitive resource protection policies contained in the certified LCP.

As discussed in Section D, Finding 1, as conditioned, development on the site will not have significant adverse impacts on scenic and visual resources and the view corridor will remain in place.

E. Transfer of Development Credit (LIP Chapter 7)

The proposed project does not include a land division or multi-family development. Therefore, the findings of LIP Chapter 7 are not applicable.

F. Hazards (LIP Chapter 9)

Pursuant to LIP Section 9.3, written findings of fact, analysis and conclusions addressing geologic, flood and fire hazards, structural integrity or other potential hazards listed in LIP Sections 9.2(A)1-7 must be included in support of all approvals, denials or conditional approvals of development located on a site or in an area where it is determined that the proposed project causes the potential to create adverse impacts upon site stability or structural integrity.

The proposed development has been analyzed for the hazards listed in LIP Chapter 9 by the Planning Department, City Biologist, City Environmental Health Administrator, City Public Works Department, City geotechnical staff, and LACFD. The required findings are made as follows:

Finding 1. The project, as proposed will neither be subject to nor increase instability of the site or structural integrity from geologic, flood, or fire hazards due to project design, location on the site or other reasons.

The applicant submitted geotechnical and engineering reports and addenda prepared by GeoConcepts, Inc on May 6, 2019 and March 7, 2019. These reports are on file at City Hall. The reports evaluate site-specific conditions and recommendations are provided to address any pertinent issues. Potential hazards analyzed include geologic, seismic and fault rupture, liquefaction, landslide, groundwater, tsunami, and flood and fire hazards. It has been determined that the project is not located in a hazard zone, except that the project site is located within an extreme fire hazard area. Based on review of the project plans and associated geotechnical reports by City Environmental Health Administrator, City Public Works Department, City geotechnical staff, and LACFD, these specialists determined that adverse impacts to the project site related to the proposed development are not expected. The proposed project will neither be subject to nor increase the instability of the site, or adversely affect structural integrity from geologic, flood, or fire hazards. With the exception of the 440 square foot concrete patio on grade attached to the rear of the
residence, and drainage, only demolition will occur on the seaward side of the residence. All other new development will be sited landward of the house. In summary, the proposed development is suitable for the intended use provided that the certified engineering geologist and/or geotechnical engineer’s recommendations and governing agency’s building codes are followed.

The project, as conditioned, will incorporate all recommendations contained in the above cited geotechnical report and conditions required by the City Public Works Department, City geotechnical staff, and the LACFD. As such, the proposed project will not increase the instability of the site or structural integrity from geologic, flood, or any other hazards.

Fire Hazard

The entire City of Malibu is designated as a Very High Fire Hazard Severity Zone, a zone defined by a more destructive behavior of fire and a greater probability of flames and embers threatening buildings. The subject property is currently subject to wildfire hazards. The scope of work proposed as part of this application is not expected to have an adverse impact on wildfire hazards however, the construction of a pool, hardscaping, and the proposed landscaping on the subject property will not increase the site’s susceptibility to wildfire. Nonetheless, a condition of approval has been included in Planning Commission Resolution No. 20-26 which require that the property owner indemnify the City against wildfire hazards.

Finding 2. The project, as conditioned, will not have significant adverse impacts on site stability or structural integrity from geologic, flood, or fire hazards due to required project modifications, landscaping or other conditions.

As stated in Finding 1, the proposed project, as designed, conditioned and approved by the applicable departments and agencies, will not have any significant adverse impacts on the site stability or structural integrity from geologic or flood hazards due to project modifications, landscaping or other conditions.

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

As previously stated in Section A, Finding 3, the proposed project, as designed and conditioned, is the least environmentally damaging alternative.

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

The proposed development has been analyzed for the hazards listed in LIP Chapter 9 by the City Environmental Health Administrator, City geotechnical staff, City Public Works Department and LACFD. These specialists and agency determined that the proposed project does not impact site stability or structural integrity. As such, there are no feasible
alternatives to the proposed development that would avoid or substantially lessen impacts on site stability or structural integrity as no such adverse impacts are expected.

Finding 5. Development in a specific location on the site may have adverse impacts but will eliminate, minimize, or otherwise contribute to conformance to sensitive resource protection policies contained in the certified Malibu LCP.

As discussed in Section A, Finding 3, the proposed project, as designed and conditioned, is the least environmentally damaging alternative, and no adverse impacts to sensitive resources are expected as the project is sited entirely within the existing development area and away from ESHA and the coastal bluff, and results in no increase in fuel modification.

G. Shoreline and Bluff Development (LIP Chapter 10)

The project site is located on the top of an approximately 130 foot tall coastal bluff. The applicant proposes the demolition of the existing pool and some hardscaping on the coastal bluff side of the existing residence, and a new pool, hardscaping, and landscaping, on the landward side of the existing residence. All new development will be located landward of the residence and of the required blufftop setback. However, in accordance with LIP Section 10.2, the requirements of LIP Chapter 10 are applicable to the project and the required findings are made as follows.

Finding 1. The project, as proposed, will have no significant adverse impacts on public access, shoreline sand supply or other resources due to project design, location on the site or other reasons.

The proposed project complies with the development standards detailed in LIP Section 10.4(K) and will have no significant adverse impacts on public access, shoreline sand supply or other resources due to project design and location on the site. No public access currently exists on the subject property; however, the subject property abuts Point Dume State Beach, and is located less than a mile from access available via Westward Beach Road, located to the southwest. In addition, according to the LCP Public Access Map, existing lateral access documents are recorded on the three properties to the northeast, and an existing lateral accessway is located approximately 500 feet to the northeast.

With the exception of the small 440 square foot concrete pad on-grade attached to the rear of the house, and demolition of the existing pool and hardscaping, all work will take place landward of the existing residence. The new pad and residence are more than 40 feet landward of the required geotechnical setback. No work is proposed on the bluff top or on the shoreline below the bluff. The project is not expected to have significant adverse impacts on public access, shoreline sand supply or other resources.
Finding 2. The project, as conditioned, will not have significant adverse impacts on public access, shoreline sand supply or other resources due to required project modifications or other conditions.

As discussed previously in Section G, Finding 1, the project as designed and conditioned is not expected to have any significant adverse impacts on public access or shoreline sand supply or other resources.

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

As previously stated in Section A, Finding 3 the project as recommended by staff, and conditioned, is the least environmentally damaging alternative.

Finding 4. There are not alternatives to the proposed development that would avoid or substantially lessen impacts on public access, shoreline sand supply or other resources.

No work will take place on the shoreline at the base of the bluff nor will it impact the natural rate of coastal bluff retreat. No adverse impacts are expected as a result of the project on public access, shoreline sand supply or other resources.

Finding 5. The shoreline protective device is designed or conditioned to be sited as far landward as feasible to eliminate or mitigate to the maximum feasible extent adverse impacts on local shoreline sand supply and public access, and there are no alternatives that would avoid or lessen impacts on shoreline sand supply, public access or coastal resources, and it is the least environmentally damaging alternative.

The project does not include a new shoreline protection device or bluff stabilization device. Therefore, this finding is not applicable to the project.

H. Public Access (LIP Chapter 12)

LIP Section 12.4 requires public access for lateral, bluff-top, and vertical access near the ocean, trails, and recreational access for the following cases:

A. New development on any parcel or location specifically identified in the Land Use Plan or in the LCP zoning districts as appropriate for or containing a historically used or suitable public access trail or pathway.
B. New development between the nearest public roadway and the sea.
C. New development on any site where there is substantial evidence of a public right of access to or along the sea or public tidelands, a blufftop trail, or an inland trail acquired through use or a public right of access through legislative authorization.
D. New development on any site where a trail, bluff-top access or other recreational access is necessary to mitigate impacts of the development on public access where
there is no feasible, less environmentally damaging, project alternative that would avoid impacts to public access.

The project is located between the first public roadway and the sea. No onsite vertical, lateral, bluff-top, recreational, or trail access is currently provided on the subject parcel; however, the subject property abuts Point Dume State Beach, and is located less than a mile from access available via Westward Beach Road, located to the southwest. In addition, according to the LCP Public Access Map, existing lateral access documents are recorded on the three properties to the northeast, and an existing lateral accessway is located approximately 500 feet to the northeast. No proposed or existing public trails or public beaches are shown on or adjacent to the subject property on the LCP Park Lands Map; therefore, trail and recreational accesses are not applicable. Furthermore, as stated in the staff report for the original CDP for the residence (CDP No. 4-95-174), prior to the development to the site, there was no evidence of historic use of the site for access.

LIP Section 12.5 states that public access is not required when adequate access exists nearby, and the findings addressing LIP Section 12.7.3 can be made. Due to the ability of the public, through other reasonable means, to reach nearby coastal resources, an exception for public vertical, lateral and bluff-top access has been determined to be appropriate for the project and no condition for public vertical, lateral, or bluff-top access has been required. Analyses required in LIP Section 12.7.2 are provided herein and in geotechnical reports referenced earlier. The proposed project will not adversely affect, either individually or cumulatively, the ability of the public to reach and use public tidelands and coastal resources. The findings required by LIP Section 12.7.3 are made as follows:

Finding 1. The type of access potentially applicable to the site involved (vertical, lateral, bluff top, etc.) and its location in relation to the fragile coastal resource to be protected, the public safety concern, or the military facility, which is the basis for the exception, as applicable.

No new vertical, bluff-top, or lateral access is provided by the proposed project, and the proposed project would not impact fragile coastal resources, does not raise a significant public safety concern, or have any impact on a military facility. The basis for the exception to the requirement for vertical, bluff-top, and lateral access is associated with the availability of access nearby, as described in Finding 3, which follows.

Finding 2. Unavailability of any mitigating measures to manage the type, character, intensity, hours, season, or location of such use so that fragile coastal resources, public safety, or military security, as applicable, are protected.

No new vertical, bluff-top, or lateral access is provided by the proposed project, and the proposed project would not impact fragile coastal resources, does not raise a significant public safety concern, or have any impact on a military facility. The basis for the exception
to the requirement for vertical, bluff-top, and lateral access is associated with the availability of access nearby, as described in Finding 3, which follows.

**Finding 3. Ability of the public, through another reasonable means, to reach the same area of public tidelands as would be made accessible by an access way on the subject land.**

The project as proposed does not block or impede access to the ocean. The project site does not provide vertical access to the coast as it is located on top of an approximately 130-foot tall steep coastal bluff.

In addition, the public has the ability, through another reasonable means (via Westward Beach Beach Road, Point Dume State Beach, and other nearby properties in the immediate neighborhood), to reach nearby coastal resources. An existing vertical, bluff-top and lateral accessway is located to the west at Point Dume State Beach. In addition, according to the LCP Public Access Map, existing lateral access documents are recorded on the three properties to the northeast, and an existing lateral accessway is located approximately 500 feet to the northeast. Lateral public access also exists along the State of California’s “wet sand right-of-way” which allows public use of lands seaward of the mean high tide and provides public access along and parallel to the sea or shoreline. No development is proposed on or adjacent to a shoreline; therefore, no condition for lateral access is required by the Local Coastal Program. The public, through another reasonable means, can reach the same area of public tidelands as would be made accessible by an access way on the subject property.

No legitimate governmental or public interest would be furthered by requiring vertical, bluff-top or lateral access at the project site because existing access to coastal resources is adequate and the proposed project will not impact the public’s ability to access the shoreline or other coastal resources.

**I. Land Division (LIP Chapter 15)**

This project does not include a land division. Therefore, the findings of LIP Chapter 15 are not applicable.

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

MMC Section 17.70.060 requires that a demolition permit be issued for projects that result in the demolition of any building or structure. The project includes the demolition of the existing hardscape and non-conforming swimming pool. Therefore, the findings for DP No. 19-044 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.

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 CDP application is being processed concurrently with DP No. 19-044, and approval of the demolition permit is subject to the approval of CDP No. 19-047.

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 proposed project is categorically exempt from the provisions of CEQA pursuant to Sections 15303(e) – New Construction and 15304(b) – Minor Alterations to Land. 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).

CORRESPONDENCE: Staff has not received public correspondence regarding this project.

PUBLIC NOTICE: On February 6, 2020, staff published a Notice of Public Hearing in a newspaper of general circulation within the City of Malibu and mailed the notice to all property owners and occupants within a 500-foot radius of the subject property (Attachment 4).

SUMMARY: The required findings can be made that the proposed project complies with the LCP and MMC. Further, the Planning Department’s findings of fact are supported by substantial evidence in the record. Based on the analysis contained in this report and the accompanying resolution, staff recommends approval of this project, subject to the conditions of approval contained in Section 5 (Conditions of Approval) of Planning Commission Resolution No. 20-26. The proposed project has been reviewed and conditionally approved for conformance with the LCP by Planning Department staff and appropriate City and County departments.

ATTACHMENTS:

1. Planning Commission Resolution No. 20-26
2. Project Plans
3. Department Review Sheets
4. Public Hearing Notice

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

SECTION 1. Recitals.

A. On April 10, 1996, the CCC granted Permit No.4-95-174 for the construction of the existing single-family residence with associated development.

B. On March 4, 1997, the City approved Plot Plan Review No. 94-188 for the removal of invasive species.

C. On April 27, 2005, the CCC issued a Notice of Violation of the Coastal Act (Violation File No. V-4-01-103) for the failure to remove unpermitted ficus trees along Cliffside Drive which are blocking public ocean views; an unpermitted detached accessory structure north of the residence; pool constructed further seaward than the approved location, and other unpermitted improvements located between residence and bluff edge including patio/pathways and lawn.

D. On January 7, 2019, the City approved Over-the Counter (OC) No. 18-180 for minor interior and exterior remodel and the removal of the carport constructed without the benefit of permits and part of the citation mentioned above.

E. On January 31, 2019, Planning Department staff conducted a site visit as part of the review for APR No. 19-004 to document site conditions, the property and surrounding area.

F. On July 18, 2019, the City approved Administrative Plan Review (APR) No. 19-004 and Demolition Permit (DP) No. 19-004 the interior and exterior remodel of the existing residence, restructuring of the existing breezeway roof into an open view-permeable trellis, removal and construction of hardscape, interior and exterior remodel of the existing semi-detached garage, and removal of development constructed without benefit of permits as part of the citation mentioned above.

G. On July 30, 2019, the City approved OC No. 19-187 for a new air conditioning unit and screen.
H. On July 11, 2019, the Applicant submitted Coastal Development Permit No. 19-047 was submitted to the Planning Department by applicant Jaime Harnish, on behalf of the Timara Limited, LLC to address all remaining code enforcement violations and propose new landscaping and hardscaping and pool. The application was routed to the City Biologist, City Environmental Health Administrator, Los Angeles County Fire Department (LACFD), City Geologist, and the City Public Works Department for review.

I. On December 24, 2019, a Notice of Coastal Development Permit Application was posted on the subject property.

J. On February 6, 2020, a Notice of Planning Commission Public Hearing was published in a newspaper of general circulation within the City of Malibu and was mailed to all property owners and occupants within a 500-foot radius of the subject property.

K. On February 18, 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 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 proposed project is categorically exempt from the provisions of CEQA pursuant to Sections 15303(e) – New Construction and 15304(b) – Minor Alterations to Land. 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).

SECTION 3. Coastal Development Permit Findings.

Based on substantial evidence contained within the record and pursuant to LIP including Sections 13.7(B) and 13.9, the Planning Commission adopts the analysis in the agenda report, incorporated herein, the findings of fact below, and approves CDP No. 19-047 to allow the demolition of the existing pool, hardscaping, and ficus trees constructed or planted without the benefit of permit; construction of a new steel trellis, retaining walls, outdoor dining area, hardscaping, swimming pool, spa, and pool equipment area; and new landscaping; including DP No. 19-044 for the demolition of those improvements implemented without the benefit of permit at the existing single-family residence located in the Rural Residential-One Acre (RR-1) zoning district at 29208 Cliffside Drive.

The project is consistent with the zoning, grading, cultural resources, water quality, and wastewater treatment system standards requirements of the Local Coastal Program (LCP). The project, as conditioned, has been determined to be consistent with all applicable LCP codes, standards, goals, and policies. The required findings are made herein.
A. General Coastal Development Permit (LIP Chapter 13)

1. The proposed project is located in the RR-1 residential zoning district, an area designated for residential uses. The proposed project has been reviewed for conformance with the LCP by the Planning Department, City Biologist, City Environmental Health Administrator, City Public Works Department, City geotechnical staff, and LACFD. As discussed herein, based on submitted reports, project plans, visual analysis, and site investigation, the proposed project, as conditioned, conforms to the LCP and MMC in that it meets all applicable residential development standards and will resolve outstanding coastal violations.

2. The project is located between the first public road and the sea. However, there are no known or planned trails onsite or near the subject property, and the proposed project does not affect the existing public beach access available from the adjacent properties. Therefore, no potential project-related or cumulative impact on public access is anticipated to result from the project. The proposed project conforms to the public access and recreation policies of Chapter 3 of the Coastal Act of 1976 (commencing with Sections 30200 of the Public Resources Code).

3. Evidence in the record demonstrates that as conditioned, the project will not result in biological impacts and has been designed to minimize grading. There is no evidence that an alternative project would substantially lessen any potential significant adverse impacts of the development on the environment.

B. Scenic, Visual and Hillside Resource Protection (LIP Chapter 6)

1. The subject property is located on a bluff-top property that is along the ocean side of Cliffside Drive, which is considered a scenic road pursuant to LUP Chapter 6, Section C.6.2; and abuts Point Dume State Beach, a scenic viewing area. The proposed project complies with Chapter 6 of the LIP in that it includes a 16-foot-wide view corridor on the western side (per the original CDP approved by the CCC), which will not be disrupted by the proposed project. With the exception of the small concrete on-grade patio attached to the rear of the house, drainage, and demolition of the existing pool and hardscaping, all work will take place landward of the house and top of required bluff setback. When viewed from the beach, the site of development is not visible. In addition, the project provides a 16-foot-wide view corridor to allow for views of the ocean from Cliffside Drive along the west boundary of the property. In addition, the project will continue to provide the view corridor to allow for views of the ocean from Cliffside Drive. It is not anticipated that the project will result in adverse scenic or visual impacts; therefore, the project is consistent with LIP Chapter 6.

2. As discussed in Section B, Finding 1, the project, as conditioned, will not have adverse scenic or visual impacts.

3. As discussed in Section A, Finding 3, the project, as conditioned, is the least environmentally feasible alternative.

4. There are no feasible alternatives to development that would avoid substantially lessen any significant adverse impacts on scenic of visual resources as no adverse impacts are anticipated.

5. As conditioned, development on the site will not have significant adverse impacts on scenic and visual resources and the view corridor will remain in place.
C. Hazards (LIP Chapter 9)

1. The record demonstrates that the project as proposed and conditioned will not increase instability of the site or adversely affect structural integrity from geologic, flood, or any other hazards. With the exception of the 440 square foot concrete patio on grade attached to the rear of the residence, and drainage, only demolition will occur on the seaward side of the residence. All other new development will be sited landward of the house. The project site is located within an extreme fire hazard area. Since the entire city limits of Malibu are located within a high fire hazard area, a condition is included in Section 5 of this resolution that requires the property owner to indemnify the City from any hazards associated with wildfire.

2. The project as designed, conditioned, and approved by the City Geotechnical staff, the City Public Works Department and LACFD, does not have any significant adverse impacts on the site stability or structural integrity from geologic, flood or fire hazards due to the project design.

3. As discussed in Section A, Finding 3, the project, as conditioned, is the least environmentally damaging alternative.

4. There are no alternatives that would avoid or substantially lessen impacts on site stability or structural integrity as no such adverse impacts are expected.

5. No adverse impacts to sensitive resources are expected as the project is sited entirely within the existing development area and away from ESHA and the coastal bluff, and results in no increase in fuel modification.

D. Shoreline and Bluff Development (LIP Chapter 10)

1. The proposed project complies with the development standards detailed in LIP Section 10.4(K) and will have no significant adverse impacts on public access, shoreline sand supply or other resources due to project design and location on the site. No public access currently exists on the subject property; however, the subject property abuts Point Dume State Beach, and is located less than a mile from access available via Westward Beach Road, located to the southwest. In addition, according to the LCP Public Access Map, existing lateral access documents are recorded on the three properties to the northeast, and an existing lateral accessway is located approximately 500 feet to the northeast. With the exception of the small 440 square foot concrete pad on-grade attached to the rear of the house, and demolition of the existing pool and hardscaping, all work will take place landward of the existing residence. The new pad and residence are more than 40 feet landward of the required geotechnical setback. No work is proposed on the bluff top or on the shoreline below the bluff. The project is not expected to have significant adverse impacts on public access, shoreline sand supply or other resources.

2. As discussed in Section D, Finding 1, the proposed project is not expected to have an impact on public access, shoreline sand supply, or other resources.

3. As discussed in Section A, Finding 3, the proposed project, as conditioned, is the least environmentally damaging alternative.

4. No work will take place on the shoreline at the base of the bluff nor will it impact the natural rate of coastal bluff retreat. No adverse impacts are expected as a result of the project on public access, shoreline sand supply or other resources.
D. Public Access (LIP Chapter 12)

1. The project is located between the first public roadway and the sea. No onsite vertical, lateral, bluff-top, recreational, or trail access is currently provided on the subject parcel. However, the subject property abuts Point Dume State Beach, and is located less than a mile from access available via Westward Beach Road, located to the southwest. In addition, according to the LCP Public Access Map, existing lateral access documents are recorded on the three properties to the northeast, and an existing lateral accessway is located approximately 500 feet to the northeast. No proposed or existing public trails or public beaches are shown on or adjacent to the subject property on the LCP Park Lands Map; therefore, trail and recreational accesses are not applicable. Furthermore, as stated in the staff report for the original CDP for the residence (CDP No. 4-95-174), prior to the development to the site, there was no evidence of historic use of the site for access. No new vertical, bluff-top, or lateral access is provided by the proposed project, and the proposed project would not impact fragile coastal resources, does not raise a significant public safety concern, or have any impact on a military facility. The basis for the exception to the requirement for vertical, bluff-top and lateral access is associated with the availability of access nearby.

2. No new vertical, bluff-top, or lateral access is provided by the proposed project, and the proposed project would not impact fragile coastal resources, does not raise a significant public safety concern, or have any impact on a military facility.

3. The project as proposed does not block or impede access to the ocean. The project site does not provide vertical access to the coast as it is located on top of an approximately 130-foot tall steep coastal bluff. In addition, the public has the ability, through another reasonable means (via Westward Beach Beach Road, Point Dume State Beach, and other nearby properties in the immediate neighborhood), to reach nearby coastal resources. An existing vertical, bluff-top and lateral accessway is located to the west at Point Dume State Beach. In addition, according to the LCP Public Access Map, existing lateral access documents are recorded on the three properties to the northeast, and an existing lateral accessway is located approximately 500 feet to the northeast. Lateral public access also exists along the State of California’s “wet sand right-of-way” which allows public use of lands seaward of the mean high tide and provides public access along and parallel to the sea or shoreline. No development is proposed on or adjacent to a shoreline; therefore, no condition for lateral access is required by the Local Coastal Program. The public, through another reasonable means, can reach the same area of public tidelands as would be made accessible by an access way on the subject property. No legitimate governmental or public interest would be furthered by requiring vertical, bluff-top or lateral access at the project site because existing access to coastal resources is adequate and the proposed project will not impact the public’s ability to access the shoreline or other coastal resources.

E. Demolition Permit Findings (MMC Chapter 17.70)

1. 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 CDP application is being processed concurrently with DP No. 19-044, and approval of the demolition permit is subject to the approval of CDP No. 19-047.

Based on the foregoing findings and evidence contained within the record, the Planning Commission hereby approves CDP No. 19-047, CV No. 20-004 and DP No. 19-044, subject to the following conditions.

SECTION 5. 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. Approval of this application is to allow for the project described herein. The scope of work approved includes:
   a. Demolition of the 1,083 square foot swimming pool;
   b. Remove five non-conforming ficus trees;
   c. Construct a new 732 square foot swimming pool, spa, with five-foot-tall 232 foot long fence, and 46.5 square foot new pool equipment area screened on all sides with a solid hedge;
   d. Construct a new 326 square foot, ten-foot-tall steel pergola;
   e. Construct a new four-foot-tall, 224 square foot outdoor barbeque, and outdoor fireplace;
   f. Demolish existing hardscaping and construct new impermeable hardscaping for a total of 11,620 square feet of impermeable coverage (net loss of 54 square feet);
   g. New permeable hardscaping that will total 2,230 square feet;
   h. Construct new 523 square foot outdoor terraced sitting area;
   i. Construct 247 linear feet of new retaining walls (six feet high maximum), 52 linear feet of free-standing walls (eight feet high maximum, not located in any required yard), and 222 linear feet of garden walls (four feet high maximum);
   j. New landscaping;
   k. 521 cubic yards of new non-exempt grading; and
   l. Discretionary Requests:
      i. DP No. 19-044 for the demolition of hardscaping, ficus trees, and a swimming pool constructed without the benefit of permits.

3. Subsequent submittals for this project shall be in substantial compliance with plans on-file with the Planning Department, date-stamped January 27, 2020 and Landscape Plan December 24, 2019. In the event the project plans conflict with any condition of approval, the condition shall take precedence.

4. Pursuant to LIP Section 13.18.2, this permit and rights conferred in this approval shall not be effective until the property owner signs and returns the Acceptance of Conditions Affidavit accepting the conditions set forth herein. The applicant shall file this form with
the Planning Department within 10 days of this decision and/or prior to issuance of any development permits.

5. The applicant shall submit three (3) complete sets of plans to the Planning Department for consistency review and approval prior to plan check and again prior to the issuance of any building or development permits.

6. This resolution, signed Acceptance of Conditions Affidavit and all Department Review Sheets attached to the February 18, 2020 Planning Commission agenda report for this project shall be copied in their entirety and placed directly onto a separate plan sheet behind the cover sheet of the development plans submitted to the City of Malibu Environmental Sustainability Department for plan check.

7. This CDP shall expire if the project has not commenced within three (3) years after issuance of the permit. Extension of the permit may be granted by the approving authority for due cause. Extensions shall be requested in writing by the applicant or authorized agent prior to expiration of the three-year period and shall set forth the reasons for the request. In the event of an appeal, the CDP 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 Biologist, City Coastal Engineer, City Environmental Health Administrator, City geotechnical staff, City Public Works Department, Los Angeles County Waterworks District No. 29 and LACFD, as applicable. Notwithstanding this review, all required permits shall be secured. 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 M.M.C. and the LCP. Revised plans reflecting the minor changes and additional fees shall be required.

11. Pursuant to LIP Section 13.20, development pursuant to an approved CDP shall not commence until the CDP is effective. The CDP is not effective until all appeals, including those to the California Coastal Commission (CCC), have been exhausted. In the event that the CCC denies the permit or issues the permit on appeal, the CDP approved by the City is void.

12. The applicant must submit payment for any outstanding fees payable to the City prior to issuance of any building or grading permit.
Cultural Resources

13. Archaeological monitoring of all excavation activities shall be performed on the project site. The monitoring team shall consist of one qualified archaeologist and one qualified Chumash cultural resource monitor who shall observe all excavation activities and record, document, and illustrate the excavated area with plans and profiles. Should the presence of important prehistoric cultural resources or ethnohistoric Chumash cultural resources be found, an evaluation and Phase III mitigation program shall be conducted in consultation with the qualified Chumash Cultural resource monitor. The Planning Director shall review and approve all design/work plans for Phase III mitigation programs and reports which detail the evaluative techniques and results.

14. Prior to the issuance of building permits, the contact information for the retained archaeological monitoring team shall be provided to the Planning Department. A copy of this approval shall be provided to the archaeological monitoring team for reference.

15. If human bone is discovered, the procedures described in Section 7050.5 of the California Health and Safety Code shall be followed. These require notification of the coroner. If the coroner determines that the remains are those of a Native American, the applicant shall notify the Native American Heritage Commission by phone within 24 hours. Following notification of the Native American Heritage Commission, the procedures described in Section 5097.94 and Section 5097.98 of the California Public Resources Code shall be followed.

Fencing and Walls

16. The applicant shall include an elevation of the proposed driveway gate on the architectural plans that are submitted for building plan check. The gate and all fencing along the front property line shall comply with the regulations set forth in LIP Section 3.5.

17. The height of fences and walls shall comply with LIP Section 3.5.3(A). No retaining wall shall exceed six feet in height or 12 feet in height for a combination of two or more walls.

Lighting

18. Exterior lighting must comply with the Dark Sky Ordinance and shall be minimized, shielded, or concealed and restricted to low intensity features, so that no light source is directly visible from public view. Permitted lighting shall conform to the following standards:
   a. Lighting for walkways shall be limited to fixtures that do not exceed two feet in height and are directed downward, and limited to 850 lumens (equivalent to a 60 watt incandescent bulb);
   b. Security lighting controlled by motion detectors may be attached to the residence provided it is directed downward and is limited to 850 lumens;
   c. Driveway lighting shall be limited to the minimum lighting necessary for safe vehicular use. The lighting shall be limited to 850 lumens;
   d. Lights at entrances as required by the Building Code shall be permitted provided that such lighting does not exceed 850 lumens;
   e. Site perimeter lighting shall be prohibited; and
   f. Outdoor decorative lighting for aesthetic purposes is prohibited.
19. Night lighting for sports courts or other private recreational facilities shall be prohibited.

20. No permanently installed lighting shall blink, flash, or be of unusually high intensity or brightness. Lighting levels on any nearby property from artificial light sources on the subject property(ies) shall not produce an illumination level greater than one foot candle.

21. Night lighting from exterior and interior sources shall be minimized. All exterior lighting shall be low intensity and shielded directed downward and inward so there is no offsite glare or lighting of natural habitat areas. High intensity lighting of the shore is prohibited.

22. String lights are allowed in occupied dining and entertainment areas only and must not exceed 3,000 Kelvin.

23. Motion sensor lights shall be programmed to extinguish ten minutes after activation.

24. Three sequential violations of the conditions by the same property owner will result in a requirement to permanently remove the outdoor light fixture(s) from the site.

Biology/Landscaping

25. The use of pesticides, including insecticides, herbicides, rodenticides or any toxic chemical substance which has the potential to significantly degrade biological resources shall be prohibited throughout the City of Malibu. The eradication of invasive plant species or habitat restoration shall consider first the use of non-chemical methods for prevention and management such as physical, mechanical, cultural, and biological controls. Herbicides may be selected only after all other non-chemical methods have been exhausted. Herbicides shall be restricted to the least toxic product and method, and to the maximum extent feasible, shall be biodegradable, derived from natural sources, and use for a limited time.

26. Prior to installation of any landscaping, the applicant shall obtain a plumbing permit for the proposed irrigation system from the Building Safety Division.

27. Prior to final Planning inspection or other final project sign off (as applicable), the applicant shall submit to the Planning Director for review and approval a certificate of completion in accordance with the Landscape Water Conservation Ordinance (MMC Chapter 9.22). The certificate shall include the property owner’s signed acceptance of responsibility for maintaining the landscaping and irrigation in accordance with the approved plans and MMC Chapter 9.22.

28. Prior to a final plan check approval, the property owner/applicant must provide a landscape water use approval from the Los Angeles County Waterworks District No. 29.

29. Vegetation forming a view impermeable condition serving the same function as a fence or wall (also known as a hedge) located within the side or rear yard setback shall be maintained at or below a height of six feet. A hedge located within the front yard setback shall be maintained at or below a height of 42 inches. Three sequential violations of this condition will result in a requirement to permanently remove the vegetation from the site.
30. Invasive plant species, as determined by the City of Malibu, are prohibited.

31. Vegetation shall be situated on the property so as not to significantly obstruct the primary view from private property at any given time (given consideration of its future growth).

32. No non-native plant species shall be approved greater than fifty feet from the residential structure.

33. The landscape plan shall prohibit the use of building materials treated with toxic compounds such as creosote or copper arsenate.

34. Grading and/or demolition shall be scheduled only during the dry season from April 1 – October 31. If it becomes necessary to conduct grading activities from November 1 – March 31, a comprehensive erosion control plan shall be submitted for approval prior to issuance of a grading permit and implemented prior to initiation of vegetation removal and/or grading activities.

35. Any site preparation activities, including removal of vegetation, between February 1 and September 15 will require nesting bird surveys by a qualified biologist at least five days prior to initiation of site preparation activities. Should active nests be identified, a buffer area no less than 150 feet (300 feet for raptors) shall be fenced off until it is determined by a qualified biologist that the nest is no longer active. A report discussing the results of nesting bird surveys shall be submitted to the City within two business days of completing the surveys.

36. Night lighting from exterior and interior sources shall be minimized. All exterior lighting shall be low intensity and shielded directed downward and inward so there is no offsite glare or lighting of natural habitat areas.

*Environmental Health*

37. 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.

38. 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.

*Geology*

39. All recommendations of the consulting certified engineering geologist or geotechnical engineer and/or the City Geologist shall be incorporated into all final design and construction including foundations, grading, sewage disposal, and drainage. Final plans shall be reviewed and approved by the City Geologist prior to the issuance of a grading permit.

40. Final plans approved by the City Geologist shall be in substantial conformance with the approved CDP relative to construction, grading, sewage disposal and drainage. Any substantial changes may require amendment of the CDP or a new CDP.
Public Works

41. The ocean between Latigo Point and the west City limits has been established by the State Water Resources Control Board as an Area of Special Biological Significance (ASBS) as part of the California Ocean Plan. This designation prohibits the discharge of any waste, including stormwater runoff, directly into the ASBS. The applicant shall provide a drainage system that accomplishes the following:
   a. Installation of BMPs that are designed to treat the potential pollutants in the stormwater runoff so that it does not alter the natural ocean water quality. These pollutants include trash, oil and grease, metals, bacteria, nutrients, pesticides, herbicides and sediment.
   b. Prohibits the discharge of trash.
   c. Only discharges from existing storm drain outfalls are allowed. No new outfalls will be allowed. Any proposed or new storm water discharged shall be routed to existing storm drain outfalls and shall not result in any new contribution of waste to the ASBS (i.e., no additional pollutant loading).
   d. Elimination of non-storm water discharges.

42. 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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<th>Erosion Controls Scheduling</th>
<th>Preservation of Existing Vegetation</th>
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<td>Stabilized Construction Entrance</td>
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<td>Sanitary/Septic Waste Management</td>
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43. Clearing and grading during the rainy season (extending from November 1 to March 31) shall be prohibited for development that:
   a. Is located within or adjacent to ESHA, or
   b. Includes grading on slopes greater than 4 to 1.

Approved grading for development that is located within or adjacent to ESHA or on slopes greater than 4 to 1 shall not be undertaken unless there is sufficient time to complete grading operations before the rainy season. If grading operations are not completed before the rainy season begins, grading shall be halted and temporary erosion control measures shall be put into place to minimize erosion until grading resumes after March 31, unless the City determines that completion of grading would be more protective of resources.
44. 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.

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

46. Exported soil from the 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 LIP Section 8.3.

Swimming Pool / Spa

47. Onsite noise, including that which emanates from swimming pool and air conditioning equipment, shall be limited as described in MMC Chapter 8.24 (Noise).

48. Pool and air conditioning equipment that will be installed shall be screened from view by a solid wall or fence on all four sides. The fence or walls shall comply with LIP Section 3.5.3(A).

49. All swimming pools shall contain double walled construction with drains and leak detection systems capable of sensing a leak of the inner wall.

50. The discharge of swimming pool, spa and decorative fountain water and filter backwash, including water containing bacteria, detergents, wastes, algaeicides, or other chemicals is prohibited. Swimming pool, spa, and decorative fountain water may be used as landscape irrigation only if the following items are met:
   a. The discharge water is dechlorinated, debrominated or if the water is disinfected using ozonation;
   b. There are sufficient BMPs in place to prevent soil erosion; and
   c. The discharge does not reach in to the MS4 or to the ASBS (including tributaries)

51. Discharges not meeting the above-mentioned methods must be trucked to a Publicly Owned Wastewater Treatment Works.

52. A sign stating “It is illegal to discharge pool, spa, or water feature waters to a street, drainage course, or storm drain per MMC Section 13.04.060(D)(5)” shall be posted in the filtration and/or pumping equipment area for the property. Prior to the issuance of any permits, the applicant shall indicate the method of disinfection and the method of discharging.

53. Pursuant to MMC Section 9.20.040(B), all ponds, decorative fountains shall require a water recirculating/recycling system.
**Demolition/Solid Waste**

54. 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.

55. 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.

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

**Construction**

57. Prior to the commencement of work, the applicant shall submit a copy of their Construction Management Plan. The Construction Management Plan shall include a dedicated parking location for construction workers, not within the public right of way.

58. Construction hours shall be limited to Monday through Friday from 7:00 a.m. to 7:00 p.m. and Saturdays from 8:00 a.m. to 5:00 p.m. No construction activities shall be permitted on Sundays or City-designated holidays.

59. Construction management techniques, including minimizing the amount of equipment used simultaneously and increasing the distance between emission sources, shall be employed as feasible and appropriate. All trucks leaving the construction site shall adhere to the California Vehicle Code. In addition, construction vehicles shall be covered when necessary; and their tires will be rinsed off prior to leaving the property.

**Deed Restrictions**

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

61. The property owner is required to execute and record a deed restriction which shall indemnify and hold harmless the City, its officers, agents, and employees against any and all claims, demands, damages, costs and expenses of liability arising out of the acquisition, design, construction, operation, maintenance, existence or failure of the permitted project in an area where an extraordinary potential for damage or destruction from wildfire exists as an inherent risk to life and property. The property owner shall provide a copy of the recorded document to Planning department staff prior to final planning approval.
62. Prior to final Planning Department approval, the applicant shall be required to execute and record a deed restriction reflecting lighting requirements set forth in Condition Nos. 18-24. The property owner shall provide a copy of the recorded document to the Planning Department prior to final Planning Department approval.

Prior to Final Sign-Off

63. Prior to or at the time of a Planning final inspection, the property owner/applicant shall submit to the case planner a copy of the plumbing permit for the irrigation system installation that has been signed off by the Building Safety Division.

64. Prior to final approval, the City Biologist shall inspect the project site and determine that all planning conditions have been implemented to protect natural resources in compliance with approved plans and this resolution.

65. The applicant shall request a final Planning Department inspection prior to final inspection by the City of Malibu Environmental and Sustainability Department. A final approval shall not be issued until the Planning Department has determined that the project complies with this CDP.

66. Any construction trailer, storage equipment or similar temporary equipment not permitted as part of the approved scope of work shall be removed prior to final inspection and approval, and if applicable, the issuance of the certificate of occupancy.

Fixed Conditions

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

68. Violation of any of the conditions of this approval may be cause for revocation of this permit and termination of all rights granted there under.

SECTION 6. The Planning Commission shall certify the adoption of this resolution.

PASSED, APPROVED AND ADOPTED this 18th day of February 2020.

JEFFREY JENNINGS, Planning Commission Chair

ATTEST:

KATHLEEN STECKO, Recording Secretary
LOCAL APPEAL - Pursuant to Local Coastal Program Local Implementation Plan (LIP) Section 13.20.1 (Local Appeals) a decision made by the Planning Commission may be appealed to the City Council by an aggrieved person by written statement setting forth the grounds for appeal. An appeal shall be filed with the City Clerk within 10 days and shall be accompanied by an appeal form and filing fee, as specified by the City Council. Appeal forms may be found online at www.malibucity.org, in person at City Hall, or by calling (310) 456-2489, ext. 245.

COASTAL COMMISSION APPEAL – An aggrieved person may appeal the Planning Commission’s approval to the Coastal Commission within 10 working days of the issuance of the City’s Notice of Final Action. Appeal forms may be found online at www.coastal.ca.gov or in person at the Coastal Commission South Central Coast District office located at 89 South California Street in Ventura, or by calling (805) 585-1800. Such an appeal must be filed with the Coastal Commission, not the City.

I CERTIFY THAT THE FOREGOING RESOLUTION NO. 20-26 was passed and adopted by the Planning Commission of the City of Malibu at the Regular meeting held on the 18th day of February 2020 by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

KATHLEEN STECKO, Recording Secretary
NOTE: CONTRACTOR IS RESPONSIBLE TO ENSURE THAT ALL TRAFFIC LEAVING THE SITE SHOULD BE FREE FROM SEEDS TO KEEP ALONG STREETS CLEAN AT ALL TIMES. REDUCING TRACKING OF SEEDS AND OTHER POLLUTANTS INTO FLOWERS HELPS PREVENT DEPOSITION OF SEEDS INTO LOCAL STORM DRAINS AND PREVENTION OF WASHOUT EUT. IMPLEMENT 24-HOUR STREET SWEETING AND WEEDING AS NEEDED.
CONSTRUCTION NOTES

1. CONSTRUCTION NOTES ARE SUBJECT TO CHANGE DURING CONSTRUCTION. ALL WORK MUST BE PERFORMED PER PLANS.
2. REFER TO ARCHITECTURAL DRAWINGS FOR MANUFACTURER'S SPECIFICATIONS.
3. REFER TO CONSTRUCTION PLANS FOR MATERIALS AND FINISHES.
4. REFER TO ELECTRICAL PLANS FOR ELEVATION AND INSTALLATION.
5. REFER TO MECHANICAL PLANS FOR ELEVATION AND INSTALLATION.
6. REFER TO STRUCTURAL PLANS FOR ELEVATION AND INSTALLATION.
7. REFER TO SITE PLANS FOR ELEVATION AND INSTALLATION.
8. REFER TO LANDSCAPE PLANS FOR ELEVATION AND INSTALLATION.
9. REFER TO MEETING ROOM PLANS FOR ELEVATION AND INSTALLATION.
10. REFER TO CHASE PLANS FOR ELEVATION AND INSTALLATION.
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PROJECT INFORMATION

PROJECT ADDRESS:
10203 ELFINNIDE AVNUE
MALIBU, CA 90265
APN: 440-00-000

PROJECT DESCRIPTION:
RESIDENTIAL, LANDSCAPE
LOT AREA GROSS: 5,092 SF
LOT AREA NET: 5,729 SF

OWNER: 62 PROPERTIES LLC
620 MINER ROAD, DEPARTMENT
602 E. 177TH ST.
LOS ANGELES, CA 90044
TEL: 323-424-3434

APPLICANT:
SINUAN+ DANALOS+ ARCHITECTS
3034 WILSHIRE BLVD.
CULVER CITY, CA 90232
TEL: 310-204-0190

CONTACT: CHRISTINE REINS
PEAK GURUETS INC
2400 TOPANGA RD SUITE 100
TEL: 310-437-0001

LANDSCAPE DESIGN:
ELYSIAN LANDSCAPES
2340 WEST THIRD STREET
LAS VEGAS, NV 89101
TEL: 213-310-3105

STATEMENT OF COMPLIANCE
I HAVE COMPLIED WITH THE CRITERIA OF THE LANDSCAPE WATER CONSERVATION ORDINANCE, AND APPLIED THEM FOR THE EFFICIENT USE OF WATER IN THIS PROJECT.

LANDSCAPE DESIGNER: ELYSIAN LANDSCAPES
CLIFFSIDE

ELYSIAN LANDSCAPES

PHASE CDP

SCALE 1/8" = 1'-0"

LANDSCAPE PLAN

FOR COMMENT/APPROVAL - NOT FOR CONSTRUCTION

L1.02
TO: City of Malibu Biologist
FROM: City of Malibu Planning Department

PROJECT NUMBER: APR-19-004
JOB ADDRESS: 29208 CLIFFSIDE DR
APPLICANT / CONTACT: Jaime Harnish
APPLICANT ADDRESS: PO Box 6363
                  Malibu, CA 90264
APPLICANT PHONE #: (310) 589-2473
APPLICANT FAX #: n/a
APPLICANT EMAIL: jaimeharnish@hotmail.com
PLANNER: To Be Assigned
PROJECT DESCRIPTION: Relocate pool; (n) grading and landscaping; minor remodel

TO: Malibu Planning Department and/or Applicant
FROM: City Biologist, Dave Crawford

The project review package is INCOMPLETE and CANNOT proceed through Final Planning Review until corrections and conditions from Biological Review are incorporated into the proposed project design (See Attached).

The project is APPROVED, consistent with City Goals & Policies associated with the protection of biological resources and CAN proceed through the Planning process.

The project may have the potential to significantly impact the following resources, either individually or cumulatively: Sensitive Species or Habitat, Watersheds, and/or Shoreline Resources and therefore Requires Review by the Environmental Review Board (ERB).

Signature: ____________________ Date: 1/17/2019

Additional requirements/conditions may be imposed upon review of plan revision

Contact Information:
Dave Crawford, City Biologist, dcrawford@malibucity.org, (310) 456-2489, extension 277
**BIOLOGY REVIEW SHEET**

### PROJECT INFORMATION

<table>
<thead>
<tr>
<th>Applicant: Jaime Harnish</th>
<th>(name and email address)</th>
<th><a href="mailto:Jaimeharnish@hotmail.com">Jaimeharnish@hotmail.com</a></th>
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<tr>
<td>Project Address:</td>
<td>29208 Cliffside Drive</td>
<td>Malibu, California 90264</td>
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<tr>
<td>Planning Case No.:</td>
<td>APR 19-004</td>
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<tr>
<td>Project Description:</td>
<td>Relocate pool; new grading and landscaping, minor remodel</td>
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<tr>
<td>Date of Review:</td>
<td>February 11, 2019</td>
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<td>Reviewer:</td>
<td>Dave Crawford</td>
<td></td>
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<tr>
<td>Contact Information:</td>
<td>Phone: (310) 456-2489 ext. 307</td>
<td>Email: <a href="mailto:d.crawford@malibucity.org">d.crawford@malibucity.org</a></td>
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### SUBMITTAL INFORMATION

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<td>Native Tree Protection Plan</td>
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<td>Other:</td>
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### REVIEW FINDINGS

- **INCOMPLETE:** Additional information and/or a response to the listed review comments is required.
- **DENIED:** The project cannot be approved as designed as it is conflict with one or more elements of the LCP and/or City Codes.
- **APPROVED:** The proposed project approved with the conditions attached.

**Environmental Review Board:** This project has the potential to impact ESHA and may require review by the Environmental Review Board.
DISCUSSION:

1. The Maximum Applied Water Allowance (MAWA) for this project totals 273,975 gallons per year. The Estimated Applied Water Use (EAWU) totals 208,680 gpy, thus meeting the Landscape Water Conservation Ordinance Requirements.

RECOMMENDATIONS:

1. The project is recommended for APPROVAL with the following conditions:

   A. Prior to installation of any landscaping, the applicant shall obtain plumbing permit for the proposed irrigation system from the Building Safety Division.

   B. Prior to or at the time of a Planning final inspection, the property owner/applicant shall submit to the case planner a copy of the plumbing permit for the irrigation system installation that has been signed off by the Building Safety Division.

   C. Prior to final Planning inspection or other final project sign off (as applicable), the applicant shall submit to the Planning Director for review and approval a certificate of completion in accordance with the Landscape Water Conservation Ordinance (MMC Chapter 9.22). The certificate shall include the property owner's signed acceptance of responsibility for maintaining the landscaping and irrigation in accordance with the approved plans and MMC Chapter 9.22.

   D. Prior to Final Plan Check Approval, if your property is serviced by the Los Angeles County Waterworks District No. 29, please provide landscape water use approval from that department. For approval contact:

   **Nima Parsa**
   Address: 23533 West Civic Center Way, Malibu, CA 90265-4804
   Email: Nparsa@DPW.LACOUNTY.GOV (preferred)
   Phone: (310) 317-1389

   *Please note this action may require several weeks. As such, the applicant should submit their approved landscape plans to DPW as soon as feasible in order to avoid a delay at plan check.*

   E. Vegetation forming a view impermeable condition (hedge), serving the same function as a fence or wall, occurring within the side or rear yard setback shall be maintained at or below six (6) feet in height. View impermeable hedges occurring within the front yard setback serving the same function as a fence or wall shall be maintained at or below 42 inches in height.

   F. Invasive plant species, as determined by the City of Malibu, are prohibited.

   G. Vegetation shall be situated on the property so as not to obstruct the primary view from private property at any given time (given consideration of its future growth).
H. No non-native plant species shall be approved greater than 50 feet from the residential structure.

I. The landscape plan shall prohibit the use of building materials treated with toxic compounds such as creosote and copper arsenate.

J. Grading should be scheduled only during the dry season from April 1–October 31st. If it becomes necessary to conduct grading activities from November 1 –March 31, a comprehensive erosion control plan shall be submitted for approval prior to issuance of a grading permit and implemented prior to initiation of vegetation removal and/or grading activities.

K. Grading/excavation/vegetation removal scheduled between February 1 and September 15 will require nesting bird surveys by a qualified biologist prior to initiation of such activities. Surveys shall be completed no more than 5 days from proposed initiation of site preparation activities. Should active nests be identified, a buffer area no less than 150 feet (300 feet for raptors) shall be fenced off until it is determined by a qualified biologist that the nest is no longer active. A report discussing the results of the surveys shall be turned in to the City within 2 business days of completion of surveys.

L. Night lighting from exterior and interior sources shall be minimized. All exterior lighting shall be low intensity and shielded so it is directed downward and inward so that there is no offsite glare or lighting of natural habitat areas.

2. UPON COMPLETION OF ALL PLANTING, the City Biologist shall inspect the project site and determine that all planning conditions to protect natural resources are in compliance with the approved plans.

-000-

If you have any questions regarding the above requirements, please contact the City Biologist office at your earliest convenience.

cc: Planning Project file
Planning Department
TO: City of Malibu Environmental Health Administrator  DATE: 7/11/2019
FROM: City of Malibu Planning Department

PROJECT NUMBER: CDP 19-047
JOB ADDRESS: 29208 CLIFFSIDE DR
APPLICANT / CONTACT: Jaime Harnish
APPLICANT ADDRESS: 23676 Malibu Road
Malibu, CA 90264
APPLICANT PHONE #: (310)317-9352
APPLICANT FAX #: jaimeharnish@hotmail.com
APPLICANT EMAIL: jaimeharnish@hotmail.com
PROJECT DESCRIPTION: N pool, deck, and grading for Deed Restriction requirement

TO: Malibu Planning Department and/or Applicant
FROM: City of Malibu Environmental Health Reviewer

Conformance Review Complete for project submittals reviewed with respect to the City of Malibu Local Coastal Plan/Local Implementation Plan (LCP/LIP) 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/LIP 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 7/23/19
ENVIRONMENTAL HEALTH REVIEW SHEET

PROJECT INFORMATION

Applicant: Jaime Harnish
(name and email address)
jaimeharnish@hotmail.com

Project Address: 29208 Cliffside Drive
Malibu, California 90265

Planning Case No.: CDP 19-047
Project Description: New pool, deck and grading
Date of Review: July 23, 2019
Reviewer: Melinda Talent
Signature: [Handwritten signature]
Contact Information: Phone: (310) 456-2489 ext. 364 Email: mtalent@malibucity.org

SUBMITTAL INFORMATION

Fixture Worksheet:
Operating Permit: Active; expires 5-27-2020
Miscellaneous:
Previous Approval:
Previous Reviews: APR 19-004

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.

☐ CONFORMANCE 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.

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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 a relocated pool, grading, and landscape. No renovation to the existing onsite wastewater treatment system is required.

2. This review relates only to the minimum requirements of the Malibu Municipal Code (MMC), and the Local Coastal Program (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 MMC, and/or LCP, and/or Administrative Policy changes render it noncomplying.
TO: Los Angeles County Fire Department
FROM: City of Malibu Planning Department

DATE: 7/11/2019

PROJECT NUMBER: CDP 19-047
JOB ADDRESS: 29208 CLIFFSIDE DR
APPLICANT / CONTACT: Jaime Harnish
APPLICANT ADDRESS: 23676 Malibu Road
Malibu, CA 90264
APPLICANT PHONE #: (310)317-9352
APPLICANT FAX #:

PROJECT DESCRIPTION: N pool, deck, and grading for Deed Restriction requirement

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.

The project DOES require Fire Department Plan Review and Developer Fee payment
The project DOES NOT require Fire Department Plan Review Pool only/Meets fire flow \[x\]
The required fire flow for this project is _______ gallons per minute at 20 pounds per square inch for a 2 hour duration. (Provide flow information from the water dept.)

The project is required to have an interior automatic fire sprinkler system.
Final Fuel Modification Plan Approval is required prior to Fire Department Approval

Conditions below marked “not approved” shall be corrected on the site plan and resubmitted for Fire Department approval.

Required Fire Department vehicular access (including width and grade %)
as shown from the public street to the proposed project.
Required and/or proposed Fire Department Vehicular Turnaround
Required 5 foot wide Fire Department Walking Access (including grade %)
Width of proposed driveway/access roadway gates

*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

SIGNATURE:  
DATE: 10 Sep 2019
City of Malibu
23825 Stuart Ranch Rd., Malibu, California CA 90265-4804
(310) 456-2489  FAX (310) 456-7650

GEOTECHNICAL REVIEW
REFERRAL SHEET

TO:  City of Malibu Geotechnical Staff
FROM: City of Malibu Planning Department
DATE:  7/11/2019

PROJECT NUMBER:  CDP 19-047
JOB ADDRESS:  29208 CLIFFSIDE DR
APPLICANT / CONTACT:  Jaime Harnish
APPLICANT ADDRESS:  23676 Malibu Road
                      Malibu, CA  90264
APPLICANT PHONE #:  (310)317-9352
APPLICANT FAX #:  
APPLICANT EMAIL:  jaimeharnish@hotmail.com
PROJECT DESCRIPTION:  N pool, deck, and grading for Deed Restriction requirement

TO:  Malibu Planning Division and/or Applicant
FROM:  City Geotechnical Staff

✓ The project is feasible and CAN proceed through the Planning process.

The project CANNOT proceed through the planning process until geotechnical feasibility is determined. Depending upon the nature of the project, this may require engineering geologic and/or geotechnical engineering (soils) reports which evaluate the site conditions, factor of safety, and potential geologic hazards.

SIGNATURE  DATE

Determination of geotechnical feasibility for planning should not be construed as approval of building and/or grading plans which need to be submitted for Building Department approval. At that time, those plans may require approval by City Geotechnical Staff. Additional requirements/conditions may be imposed at the time building and/or grading plans are submitted for review, including geotechnical reports.

City Geotechnical Staff may be contacted on Tuesday and Thursday between 8:00 am and 11:00 am or by calling (310) 456-2489, extension 306 or 307.

Approval letter and plan check comments for the same project (ARR 19-004) dated 5-17-19 applies.
The referenced geotechnical report and submitted plans for the pool relocation, interior remodel, additional drainage facilities and grading plans were reviewed by the City from a geotechnical perspective.
Based on the submitted information and a site reconnaissance, the project comprises demolition of a pool on the bluff side (south side) of an existing house, construction of a new pool and deck area on the street side (north side) of the house, minor interior remodel, landscaping and a new drainage infiltration system adjacent to the bluff. The existing OWTS and seepage pits are not being modified and are located outside the proposed area of modifications.

**Building Plan Check Review Comments:**

1. Please submit a fee of $991.00 to City geotechnical staff for building plan check review.

2. A new surface drainage infiltration system is proposed adjacent to the bluff. The plans should be updated to show the location and extent of the existing drainage outlet on the bluff face and beach, and indicate the outlet for the system is connected to the adjacent City of Malibu storm drain, as discussed by the project geotechnical consultant in their response dated May 6, 2019.

3. Section 7.4 of the City’s geotechnical guidelines requires a minimum thickness of 10 mils for vapor barriers beneath slabs-on-grade. Building plans shall reflect these requirements, or the recommendations of the project geotechnical consultant, if more stringent.

4. Please clearly show the Code-required minimum foundation setbacks from descending slopes on the plans for the drainage infiltration system.

5. Include the following note on the foundation plans, as appropriate: “Prior to final grading approval, the Project Geotechnical Consultant shall prepare an as-built report documenting the grading and compaction testing of the proposed fill on-site for the City’s files.”

6. Two sets of final grading, drainage and building plans (APPROVED BY BUILDING AND SAFETY, AND PUBLIC WORKS WHERE APPLICABLE) incorporating the Project Geotechnical Consultant’s recommendations and items in this review sheet must be reviewed and wet stamped and manually signed by the Project Engineering Geologist and Project Geotechnical Engineer. City geotechnical staff will review the plans for conformance with the Project Geotechnical Consultants’ recommendations and items in this review sheet over the counter at City Hall. Appointments for final review and approval of the plans may be made by calling or emailing City Geotechnical staff.
This review sheet was prepared by representatives of Cotton, Shires and Associates, Inc. and GeoDynamics, Inc., contracted through Cotton, Shires and Associates, Inc., as an agent of the City of Malibu.
The following standard items should be incorporated into Building Plan-Check submittals, as appropriate:

1. One set of grading, retaining wall, swimming pool/spa, and residence addition plans, incorporating the Project Geotechnical Consultant's recommendations and items in this review sheet, must be submitted to City geotechnical staff for review. Additional review comments may be raised at that time that may require a response.

2. Show the name, address, and phone number of the Project Geotechnical Consultant(s) on the cover sheet of the Building Plans.

3. Include the following note on Grading and Foundation Plans: "Subgrade soils shall be tested for Expansion Index prior to pouring footings or slabs; Foundation Plans shall be reviewed and revised by the Project Geotechnical Consultant, as appropriate."

4. Include the following note on the Foundation Plans: "All foundation excavations must be observed and approved by the Project Geotechnical Consultant prior to placement of reinforcing steel."

5. The Foundation Plans for the proposed project shall clearly depict the embedment material and minimum depth of embedment for the foundations in accordance with the Project Geotechnical Consultant's recommendations.

6. Show the onsite wastewater treatment system on the Site Plan.

7. Please contact the Building and Safety Department regarding the submittal requirements for a grading and drainage plan review.

8. A comprehensive Site Drainage Plan, incorporating the Project Geotechnical Consultant's recommendations, shall be included in the Plans. Show all area drains, outlets, and non-erosive drainage devices on the Plans. Water shall not be allowed to flow uncontrolled over descending slopes.

Grading Plans (as Applicable)

1. Grading Plans shall clearly depict the limits and depths of overexcavation, as applicable.

2. Prior to final approval of the project, an as-built compaction report prepared by the Project Geotechnical Consultant must be submitted to the City for review. The report must include the results of all density tests as well as a map depicting the limits of fill, locations of all density tests, locations and elevations of all removal bottoms, locations and elevations of all keyways and back drains, and locations and elevations of all retaining wall backdrains and outlets. Geologic conditions exposed during grading must be depicted on an as-built geologic map. This comment must be included as a note on the grading plans.

Retaining Walls (As Applicable)

1. Show retaining wall backdrain and backfill design, as recommended by the Geotechnical Consultant, on the Plans.

2. Retaining walls separate from a residence require separate permits. Contact the Building and Safety Department for permit information. One set of retaining wall plans shall be submitted to the City for review by City geotechnical staff. Additional concerns may be raised at that time which may require a response by the Project Geotechnical Consultant and applicant.
TO: Public Works Department

FROM: City of Malibu Planning Department

DATE: 7/11/2019

PROJECT NUMBER: CDP 19-047

JOB ADDRESS: 29208 CLIFFSIDE DR

APPLICANT / CONTACT: Jaime Harnish

APPLICANT ADDRESS: 23676 Malibu Road
Malibu, CA 90264

APPLICANT PHONE #: (310)317-9352

APPLICANT FAX #: 

APPLICANT EMAIL: jaimeharnish@hotmail.com

PROJECT DESCRIPTION: N pool, deck, and grading for Deed Restriction requirement

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: ____________________________

Date: 2/6/2020

Rev 120910
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. Clearing and grading during the rainy season (extending from November 1 to March 31) shall be prohibited for development LIP Section 17.3.1 that:
   - Is located within or adjacent to ESHA, or
   - Includes grading on slopes greater than 4:1
   - Approved grading for development that is located within or adjacent to ESHA or on slopes greater than 4:1 shall not be undertaken unless there is sufficient time to complete grading operations before the rainy season. If grading operations are not completed before the rainy season begins, grading shall be halted and temporary erosion control measures shall be put into place to minimize erosion until grading resumes after March 31, unless the City determines that completion of grading would be more protective of resources.

2. 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.

3. A grading and drainage plan shall be approved containing the following information prior to the issuance of grading permits for the project.
• Public Works Department General Notes
  • The existing and proposed square footage of impervious coverage on the property shall be shown on the grading plan (including separate areas for buildings, driveways, walkways, parking, tennis courts and pool decks).
  • The limits of land to be disturbed during project development shall be delineated on the grading plan and a total area shall be shown on the plan. Areas disturbed by grading equipment beyond the limits of grading, areas disturbed for the installation of the septic system, and areas disturbed for the installation of the detention system shall be included within the area delineated.
  • The grading limits shall include the temporary cuts made for retaining walls, buttresses, and over excavations for fill slopes and shall be shown on the grading plan.
  • If the property contains trees that are to be protected they shall be highlighted on the grading plan.
  • If the property contains rare and endangered species as identified in the resources study the grading plan shall contain a prominent note identifying the areas to be protected (to be left undisturbed). Fencing of these areas shall be delineated on the grading plan if required by the City Biologist.
  • Private storm drain systems shall be shown on the grading plan. Systems greater than 12-inch diameter shall also have a plan and profile for the system included with the grading plan.
  • Public storm drain modifications shown on the grading plan shall be approved by the Public Works Department prior to the issuance of the grading permit.

4. A digital drawing (AutoCAD) of the project's private storm drain system, public storm drain system within 250 feet of the property limits, and post-construction BMP's shall be submitted to the Public Works Department prior to the issuance of grading or building permits. The digital drawing shall adequately show all storm drain lines, inlets, outlet, post-construction BMP's and other applicable facilities. The digital drawing shall also show the subject property, public or private street, and any drainage easements.

STORMWATER

5. The ocean between Latigo Point and the West City limits has been established by the State Water Resources Control Board as an Area of Special Biological Significance (ASBS) as part of the California Ocean Plan. This designation allows discharge of storm water only where it is essential for flood control or slope stability, including roof, landscape, road and parking lot drainage, to prevent soil erosion, only occurs during wet weather, and is composed of only storm water runoff. The applicant shall provide a drainage system that accomplishes the following:

• Installation of BMPs that are designed to treat the potential pollutants in the storm water runoff so that it does not alter the natural ocean water quality. These pollutants include trash, oil and grease, metals, bacteria, nutrients, pesticides, herbicides and sediment.
• Prohibits the discharge of trash.
• Only discharges from existing storm drain outfalls are allowed. No new outfalls will be allowed. Any proposed or new storm water discharged shall be routed to existing storm drain outfalls and shall not result in any new contribution of waste to the ASBS (i.e. no additional pollutant loading).
• Elimination of non-storm water discharges.

6. 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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<tr>
<th>Erosion Controls</th>
<th>Scheduling</th>
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<td>Preservation of Existing Vegetation</td>
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<th>Sediment Controls</th>
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<td>Sand Bag Barrier</td>
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<td>Stabilized Construction Entrance</td>
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<th>Non-Storm Water Management</th>
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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.

MISCELLANEOUS

7. The developer's consulting engineer shall sign the final plans prior to the issuance of permits.

8. The discharge of swimming pool, spa and decorative fountain water and filter backwash, including water containing bacteria, detergents, wastes, alagecides or other chemicals is prohibited. Swimming pool, spa, and decorative fountain water may be used as landscape irrigation only if the following items are met:

• The discharge water is dechlorinated, debrominated or if the water is disinfected using ozonation;
• There are sufficient BMPs in place to prevent soil erosion; and
• The discharge does not reach into the MS4 or to the ASBS (including tributaries).
Discharges not meeting the above-mentioned methods must be trucked to a Publicly Owned Wastewater Treatment Works.

The applicant shall also provide a construction note on the plans that directs the contractor to install a new sign stating "It is illegal to discharge pool, spa or water feature waters to a street, drainage course or storm drain per MMC 13.04.060(D)(5)." The new sign shall be posted in the filtration and/or pumping equipment area for the property. Prior to the issuance of any permits, the applicant shall indicate the method of disinfection and the method of discharging.
NOTICE OF PUBLIC HEARING

The Malibu Planning Commission will hold a public hearing on Tuesday, February 18, 2020, at 6:30 p.m. in the Council Chambers, Malibu City Hall, 23825 Stuart Ranch Road, Malibu, CA, for the project identified below.

COASTAL DEVELOPMENT PERMIT NO. 19-047 AND DEMOLITION PERMIT NO. 19-044 - An application to allow the demolition of the existing pool, hardscaping, and ficus trees constructed or planted without the benefit of permit; construction of a new steel trellis, retaining walls, outdoor dining area, hardscaping, swimming pool, spa, and pool equipment area; and new landscaping; including an demolition permit for the demolition of those improvements implemented without the benefit of permit.

LOCATION / APN / ZONING: 29208 Cliffside Drive / 4468-001-003 / Rural Residential-One Acre (RR-1)
APPLICANT / OWNER(S): Jaime Hamish / Timara Limited, LLC
APPEALABLE TO: City Council and California Coastal Commission
ENVIRONMENTAL REVIEW: Categorical Exemption CEQA Guidelines Sections 15303(e) and 15304(b)
APPLICATION FILED: July 11, 2019
CASE PLANNER: Justine Kendall, Assistant Planner, jkendall@malibucity.org (310) 456-2489, ext. 301

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.

COASTAL COMMISSION APPEAL - An aggrieved person may appeal the Planning Commission’s approval directly to the Coastal Commission within 10 working days of the issuance of the City’s Notice of Final Action. More information may be found online at www.coastal.ca.gov or by calling 805-585-1800.

BONNIE BLUE, Planning Director
Date: February 6, 2020

ATTACHMENT 4