Supplemental Commission Agenda Report

To: Chair Jennings and Members of the Planning Commission

Prepared by: Richard Mollica, Assistant Planning Director

Reviewed: Bonnie Blue, Planning Director

Date prepared: February 26, 2020 Meeting date: March 2, 2020

Subject: Coastal Development Permit No. 13-054, Lot Line Adjustment No. 18-001, Variance Nos. 19-022 and 19-023, Site Plan Review Nos. 13-053 and 13-054, and Demolition Permit No. 19-048 – An application for a lot line adjustment and the construction of a new single-family residence (Continued from February 18, 2020)

Locations: 3469 and 3441 Cross Creek Road, within the appealable coastal zone

APNs: 4458-023-003 and 4458-023-004

Owner: Malibu Realty, LLC

RECOMMENDED ACTION: Adopt Planning Commission Resolution No. 20-16 determining the project is categorically exempt from the California Environmental Quality Act, and approving Coastal Development Permit No. 13-054 to construct a new 5,056 square foot, single-story, single-family residence with a 920 square foot basement, landscaping, riparian habitat restoration, Lot Line Adjustment No. 18-001 to allow for a lot line adjustment between 3469 and 3441 Cross Creek Road, Variance No. 19-022 to allow for unenclosed parking to replace enclosed parking, Variance No. 19-023 to allow for the proposed residence’s fuel modification to extend into the required Environmentally Sensitive Habitat Area buffer, Site Plan Review No. 13-053 to allow for a 28-foot tall pitched roof, Site Plan Review No. 13-054 to allow for construction on slopes steeper than 3:1 but flatter than 2.5:1, and Demolition Permit No. 19-048 to allow for the demolition of an existing accessory structure located in the Rural Residential-Five Acre zoning district at 3469 and 3441 Cross Creek Road (Malibu Realty, LLC).
DISCUSSION: On February 18, 2020, the Planning Commission held a duly noticed public hearing on the subject application, reviewed and considered the agenda report, reviewed and considered written reports, public testimony, and other information in the record. The Planning Commission deliberated, and directed staff to return with an updated resolution approving the proposed project; and adding the following conditions to require:

- An Archaeologist shall be present during excavation activities, and
- A deed restriction shall be recorded on the lot addressed as 3441 Cross Creek Rd to prohibit further subdivision of the lot.

The revised resolution is attached for the Commission’s consideration. Changes from the resolution originally attached to the staff report provided for the February 18, 2020 Planning Commission meeting are noted with strikeouts to indicate deletions, and underlines to indicate additions.

ATTACHMENT: Planning Commission Resolution No. 20-16
A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MALIBU, DETERMINING THE PROJECT IS CATEGORICALLY EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, AND APPROVING COASTAL DEVELOPMENT PERMIT NO. 13-054 TO CONSTRUCT A NEW 5,056 SQUARE FOOT, SINGLE-STORY, SINGLE-FAMILY RESIDENCE WITH A 920 SQUARE FOOT BASEMENT, LANDSCAPING, RIPARIAN HABITAT RESTORATION, LOT LINE ADJUSTMENT NO. 18-001 TO ALLOW FOR A LOT LINE ADJUSTMENT BETWEEN 3469 AND 3441 CROSS CREEK ROAD, VARIANCE NO. 19-022 TO ALLOW FOR UNENCLOSED PARKING TO REPLACE ENCLOSED PARKING, VARIANCE NO. 19-023 TO ALLOW FOR THE PROPOSED RESIDENCE’S FUEL MODIFICATION TO EXTEND INTO THE REQUIRED ENVIRONMENTALLY SENSITIVE HABITAT AREA BUFFER, SITE PLAN REVIEW NO. 13-053 TO ALLOW FOR A 28 FOOT TALL PITCHED ROOF, AND SITE PLAN REVIEW NO. 13-054 TO ALLOW FOR CONSTRUCTION ON SLOPES STEEPER THAN 3:1 BUT FLATTER THAN 2.5:1 AND DEMOLITION PERMIT NO. 19-048 TO ALLOW FOR THE DEMOLITION OF THE EXISTING ACCESSORY STRUCTURE LOCATED IN THE RURAL RESIDENTIAL-FIVE ACRE ZONING DISTRICT AT 3469 AND 3441 CROSS CREEK ROAD (MALIBU REALTY, LLC)

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

SECTION 1. Recitals.

A. On November 13, 2013, an application for Coastal Development Permit (CDP) No. 13-054 and Site Plan Review (SPR) Nos. 13-053 and 13-054 was submitted to the Planning Department by applicant, DP Planning and Development, on behalf of Malibu Reality, LLC. The application was routed to the City’s geotechnical staff, City Environmental Health Administrator, City Biologist, the City Public Works Department, and Los Angeles County Fire Department (LACFD) for review.

B. On January 11, 2018, Planning Department staff conducted a site visit to document site conditions, the story poles, the property and surrounding area.

C. On August 28, 2018, the applicant submitted revised project plans.

D. On March 1, 2019, the applicant submitted revised project plans and applied for Variance (VAR) Nos. 19-022 and 19-023 to allow for the elimination of the required enclosed parking and a reduction in the size of the required ESHA buffer. Also, the application was deemed complete for processing.

E. On October 1, 2019, the Environmental Review Board (ERB) reviewed and considered the subject application, written reports, and provided recommendations to staff regarding the project.

F. On January 2, 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.
G. On February 3, 2020, the Planning Commission continued the application to the February 18, 2020 regularly scheduled Planning Commission Meeting at the applicant’s request.

H. 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. The Planning Commission deliberated, and directed staff to return with an update resolution on the consent agenda approving the proposed CUP.

I. On March 2, 2020, the Planning Commission considered the subject resolution.

SECTION 2. Environmental Review.

Pursuant to the authority and criteria contained in the California Environmental Quality Act (CEQA), the Planning Commission has analyzed the proposed project. The Planning Commission found that this project is listed among the classes of projects that have been determined not to have a significant adverse effect on the environment. Therefore, the project is categorically exempt from the provisions of CEQA pursuant to Sections 15303(a) and (e) – New Construction and 15305(a) – Minor Changes in Land Use Limitations. The Planning Commission has further determined that none of the six exceptions to the use of a categorical exemption apply to this project (CEQA Guidelines Section 15300.2).

SECTION 3. Coastal Development Permit Findings.

Based on substantial evidence contained within the record and pursuant to 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. 13-054 to construct a new 5,056 square foot, single-story, single-family residence with a 920 square foot basement, landscaping, riparian habitat restoration, Lot Line Adjustment (LLA) No. 18-001 to allow for a lot line adjustment between 3469 and 3441 Cross Creek Road, VAR No. 19-022 to allow for unenclosed parking to replace enclosed parking, VAR No. 19-023 to allow for the proposed residence’s fuel modification to extend into the required Environmentally Sensitive Habitat Area (ESHA) buffer and riparian habitat restoration, Site Plan Review SPR No. 13-053 to allow for a 28 foot tall pitched roof, and SPR No. 13-054 to allow for construction on slopes steeper than 3:1 but flatter than 2.5:1 and Demolition Permit (DP) No. 19-048 to allow for the demolition of the existing accessory structure located in the Rural Residential-Five Acre (RR-5) zoning district at 3469 and 3441 Cross Creek Road (Malibu Realty, LLC).

The project is consistent with the LCP’s zoning, grading, cultural resources, water quality, and wastewater treatment system standards requirements. With the inclusion of the proposed variances, 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 project is located in the RR-5 zoning district, an area designated for rural residential uses. A single-family residence and associated development are permitted uses. The project has been reviewed for conformance with the LCP by the Planning Department, City
Biologist, City Environmental Health Administrator, City geotechnical staff, City Public Works Department and LACFD. As discussed herein, based on submitted reports, project plans, visual analysis and site investigations, the proposed project, as conditioned, conforms to the LCP and MMC in that it meets all applicable residential development standards with the inclusive of the requested LLA, VARs, SPRs and DP.

2. The project is not located between the first public road and the sea. Therefore, this finding does not apply.

3. Evidence in the record demonstrates that as conditioned, the project will not result in biological impacts and has been designed to minimize grading, site disturbance and protect ESHA by eliminating the development potential on the property addressed as 3441 Cross Creek Road. There is no evidence that an alternative project would substantially lessen any potential significant adverse impacts of the development on the environment.

4. According to the LCP ESHA and the Marine Resources Map and Biological Assessment prepared by Forde Biological Consultants, the project’s Consulting Biologist, dated January 27, 2014, the eastern property line of the parcel addresses as 3469 Cross Creek Road is directly adjacent to riparian habitat as well as chaparral ESHA. Therefore, pursuant to LUP Policy 5.5 and LIP Section 13.7(C), the application was subject to the Environmental Review Board (ERB) because the proposed development will impact ESHA. On October 1, 2019, the ERB reviewed the project and recommended that the portion of Cross Creek Road that serves the subject properties be improved to public road standards. To accomplish this, the applicant would need to obtain permission from the property owners along Cross Creek Road. At this time, no plans or fire department requirements relate to the widening of Cross Creek Road. The ERB supported the lot line adjustment because it eliminated the development potential for the lot addressed as 3441 Cross Creek Road. The elimination of future development on the lot will result in increased ESHA protection.

B. Variance to Eliminate the Enclosed Parking Requirement (LIP Section 13.26.5)

1. There are special circumstances and exceptional characteristics applicable to the subject property such that strict application of the zoning ordinance deprives the property of privileges enjoyed by other properties in the vicinity. The project proposes the construction of a single-story, single-family residence on an existing building pad. To construct a garage, additional hardscape and grading would be required. However, given the size of the parcel unenclosed parking is abundant and out of view of the public and adjacent neighbors. Furthermore, according to information from the LA County Assessor’s office, a number of properties immediately adjacent the subject property do not have enclosed parking.

2. The granting of the variance will relieve the project from providing two enclosed parking spaces and allow for the construction of a single-family residence in an area that has been determined to be appropriate for such a use. Given the size of the property, the owner will be able to accommodate all required parking onsite and outside the view of neighboring properties. The project has been reviewed and approved by the City geotechnical staff, and the City Public Works Department for consistency with all applicable regulations and policies. Therefore, the granting of the variance will not be detrimental to the public interest, safety, health or welfare, and will not be detrimental or injurious to the property or improvements in the same vicinity in which the property is located.
3. According to the LA County Assessor’s office there are a number of properties adjacent to the subject property that do not contain garages due to their age. The granting of the variance will not constitute a special privilege to the applicant, because the owner will still be capable of parking four cars on the subject parking without impacting surrounding properties or streets.

4. The project is consistent with the LCP, the Coastal Act, and other applicable regulations. The granting of the variance will not be contrary to or in conflict with the general purposes and intent of LIP Chapter 13, nor the goals, objectives, and policies of the LCP. As discussed previously, the granting of the requested variance will allow for relief from the required enclosed parking; however, given the size of the subject parcel all parking will remain on site and not on adjacent streets.

5. The properties that are the subject of this application are both ESHA adjacent and contain ESHA, however, the proposed variance does not result in ESHA impacts. The proposed unclosed parking is located within a previously permitted and disturbed area on the property.

6. The requested variance is for relief from a specific development standard and does not authorize a use not otherwise permitted within the RR-5 zoning designation. The proposed project will allow for the construction of a single-family residence, which is permitted in the subject zone.

7. The granting of the variance will allow construction of a single-family residence in an area designated for single-family residences. The site is currently developed with a driveway and unenclosed parking that will continue to be utilized. The subject site is physically suitable for the proposed variance in that there is no alternate building site or configuration, which would be less environmentally damaging.

8. The variance complies with all requirements of state and local law.

C. Variance for Fuel Modification to Extend into ESHA (LIP Section 13.26.5)

1. Exceptional characteristics applicable to the subject parcel exist with regards to ESHA. According to the Forde Biological Consultants, the project’s Consulting Biologist, dated January 27, 2014, the eastern property line of the parcel addressed as 3469 Cross Creek Road is directly adjacent to riparian habitat as well as chaparral ESHA. Even though the proposed structure will be located on the previously developed building pad, portions of the structure’s required fuel modification zones will extend into the riparian habitat. Due to the shape and location of the existing building pad on the subject property, there is no feasible alternative location on the property that could support the proposed development and avoid encroachments into ESHA for fuel modification. Therefore, strict application of the zoning ordinance could preclude use of the existing building pad on the property zoned to permit residential land uses.

2. The City Biologist, City Environmental Health Administrator, City geotechnical staff, City Public Works Department, and LACFD have reviewed the proposed project and determined it was consistent with all applicable safety, health or welfare regulations and policies.
The project is designed to utilize an existing building pad, OWTS, and driveway as well as preserving the natural condition of the slopes adjacent to the development area. Therefore, granting of the proposed variance will not be detrimental to the public interest, safety, health or welfare, and will not be detrimental or injurious to the property or improvements in the same vicinity and zone in which the property is located.

3. The granting of the proposed variance will not constitute a special privilege to the applicant or property owner. The proposed single-family residence is consistent with the uses permitted in the applicable zoning designation and the neighboring properties are similarly developed with single-family residences. Therefore, granting the proposed variance does not constitute a special privilege to the property owner.

4. This variance will not be contrary to or in conflict with the zoning provisions nor LCP goals, objectives and policies as variances to ESHA protection standards may be granted pursuant to LIP Section 4.6.4(A). As previously discussed in Section A, the proposed project is consistent with the LCP in that with the inclusion of the lot line adjustment, the overall potential for impacts to ESHA would be reduced. Mitigation for fuel modification encroachment into ESHA will be provided in accordance with LIP Section 4.8.1. The mitigation will require habitat restoration, habitat conservation or an in-lieu fee for habitat conservation. The Planning Commission has determined the proposed project is consistent with the LCP, inclusive of the requested variances and site plan reviews.

5. Pursuant to LIP Section 4.7, which states that “where all feasible building sites are ESHA or ESHA buffer, the City may only permit development as specified in Sections 4.7.1 through 4.7.4.” LIP Sections 4.7.1 through 4.7.4 have been satisfied given the proposed development area on the existing building pad does not exceed the 10,000 square foot development area (9,921 square feet proposed). The Planning Commission has reviewed the subject application, including the approved fuel modification plan and determined that the proposed development complies with the 10,000 square foot development area limitation.

6. The proposed uses are consistent with the permitted uses in the applicable RR-5 zoning district. The proposed variance would not authorize an unpermitted use or activity.

7. The subject parcel is physically suitable for the proposed variance in that there are no alternate building sites that would eliminate the need for a variance requiring the fuel modification for the residence to encroach into ESHA.

8. The City Biologist, City geotechnical staff, City Environmental Health Administrator, City Public Works Department, and LACFD reviewed the proposed project and determined it was in conformance with State and local requirements. Therefore, the proposed project complies with all applicable requirements of State and local law.

D. Site Plan Review for Construction in Excess of 18 Feet in Height (LIP Section 13.27.5)

1. The project has been reviewed for conformance with all relevant policies and provisions of the LCP. Based on submitted reports, visual impact analysis, and detailed site investigation, the project is consistent with all policies and provisions of the LCP and MMC.
2. Story poles were installed in January of 2018. Staff visited the project site and photo-documented the story poles and evaluated the project for conformance with City codes. Neighboring properties located along Cross Creek Road are developed with a mix of one- and two-story residential structures of similar size with mature landscaping. The subject application includes a new single-story, single-family residence, with a proposed pitched roof, not to exceed 28 feet in height. As demonstrated in the story pole photographs, due to the size, shape, and topography of the lot, the proposed development will not be visible from public viewing areas or scenic roads. Furthermore, the story poles demonstrate that the proposed development will not be located within primary views of neighboring properties. Based on the existing development within the surrounding neighborhood, the proposed project is expected to blend with the surrounding built environment. Therefore, the portion of the residence in excess of 18 feet is not anticipated to adversely affect neighborhood character.

3. As evident from the story poles, the proposed residence is similar in size, height and massing to existing homes in the surrounding area. In addition, the story poles demonstrate how the design is integrated into the hillside and is shielded from view. Therefore, the proposed development is designed to not block views from a scenic area, scenic road or public viewing area.

4. The proposed project will comply with all applicable requirements of State and local law and is conditioned to comply with any relevant approvals, permits and licenses from the City of Malibu and other related agencies.

5. The proposed project is consistent with the LCP in that the property is located in an area that has been identified and zoned for residential use. The proposed project is also consistent with the City's General Plan and LCP. The goals and policies of the General Plan intend to maintain rural residential character in this area, and all components of the project are consistent with these goals. The proposed project is consistent with the LCP in that it conforms to the residential land use designation and all applicable development standards.

6. The proposed development is not expected to obstruct visually impressive scenes from private property as all nearby residences have views oriented away from the subject property. This analysis is based on aerial photographs, site visits and story pole placement.

E. Site Plan Review for Construction on Slopes between 3 to 1 and 2.5 to 1 (LIP Section 13.27.5)

1. The project has been reviewed for conformance with all relevant policies and provisions of the LCP. Based on submitted reports, visual impact analysis, and detailed site investigations, the project is consistent with all policies and provisions of the LCP and MMC.

2. The existing structure is sited on a pad that was the result of a cut into slopes that range from 3 to 1 to 2.5 to 1. As proposed the structure would utilize the existing pad and extend the existing cut into the slope. Given the siting of the home, mature landscaping, and the structures location, it will not be visible from the street or surrounding residences. Neighboring properties were also constructed on similar slopes and feature homes that blend into the surrounding topography. Therefore, the portions of the structure proposed on slopes between 3 to 1 and 2.5 to 1 are not anticipated to adversely affect neighborhood character.
3. The portions of the proposed single-family residence sited on slopes between 3 to 1 and 2.5 to 1 are located at the rear of the proposed structure and will not be visible from public viewing areas due to the size and shape of the lot. Therefore, the project provides maximum feasible protection to significant public views.

4. The proposed project will comply with all applicable requirements of State and local law and is conditioned to comply with any relevant approvals, permits and licenses from the City of Malibu and other related agencies.

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

1. Exceptional characteristics exist on the subject property which limit development and the project as proposed will utilize an existing building pad. The entire eastern portion of the lot is directly adjacent riparian habitat. The northern and western property lines are adjacent to chaparral ESHA. The project as proposed will limit encroachment into the surrounding ESHA by utilizing the existing developed pad on the lot addressed as 3469 Cross Creak Road and by adjusting the lot line for the lot addressed as 3441 Cross Creek Road, no further development will take place. Given the constraints of the lot, there is no feasible location on the parcel that would avoid fuel modification from extending into ESHA. A residence and related fuel modification are not permitted activities in ESHA. However, without the implementation of LIP Section 4.7, the application of LIP Chapter 4 would not allow construction of a residence on this parcel.

2. The proposed project is consistent with all applicable provisions of the LCP including LIP Section 4.7. Because ESHA encroachments could not be avoided, LIP Section 4.7.1 states the allowable development area shall not exceed 10,000 square feet. The proposed development area (9,921 square feet) is in conformance with LIP Section 4.7.1, has been reviewed and approved by the City Biologist. Additionally, the proposed project includes ESHA habitat restoration. Therefore, the proposed project complies with the provision of LIP Section 4.7.

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

1. The proposed project is a new single-story, single-family residence and associated development on a currently developed building pad. Story poles were placed on the project site to demonstrate the size, mass, height, and bulk of the proposed development. An analysis of the project’s visual impact was conducted through site inspections, architectural plans and review of neighborhood character. Based on a staff site visit after story poles were installed, it was determined the proposed development is not expected to have significant adverse scenic or visual impacts as the development appears to not be visible from public viewing areas because of existing landscaping. Therefore, the project as conditioned will not have significant adverse scenic or visual impacts due to project design, location or other reasons. Standard conditions of approval have been included for colors, materials, and lighting.

2. The project has been designed to avoid any adverse or scenic impacts. The proposed development has been conditioned to utilize colors and materials that will be compatible with the surrounding natural environment. Additionally, the project site has been conditioned to restrict exterior lighting per the requirements of LIP Section 6.5(G). Therefore, the proposed development will not result in significant adverse scenic visual impacts.
3. The project, as proposed or conditioned, is the least environmentally damaging alternative and will limit further development potential of the site through the proposed lot line adjustment.

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

5. As conditioned, development on the site will not have significant adverse impacts on scenic and visual resources.

I. Hazards (LIP Chapter 9)

1. Analysis for potential hazards included review of the submitted geotechnical reports prepared by Mountain Geology, Inc., dated October 9, 2013 and January 9, 2014, CalWest Geotechnical Consulting Engineers, dated November 4, 2019 and January 10, 2014, EPD Consultants, dated October 14, 2013, and GeoSystems, dated October 14, 2001, February 13, 2004, September 17, 2004, and June 23, 2005. According to the geotechnical reports, the proposed development was determined to not increase instability of the site or structural integrity from a geologic, flood or fire hazards perspective. 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 by City Environmental Health Administrator, City geotechnical staff, City Public Works Department and LACFD, these specialists and agency determined that adverse impacts to the project site related to the proposed development are not expected. 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.

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

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.

5. No adverse impacts to sensitive resources are expected.

J. Land Division (LIP Chapter 15)

1. Based on review by the City’s Surveyor, both lots that are involved in the lot line adjustment are legal lots. Certificates of Compliance for each adjusted lot are required to be recorded in conjunction with the approval of the proposed lot line adjustment.

2. The Public Works Department and the Planning Commission have reviewed the proposed lot line adjustment and found it to be in conformance with all provisions of the Subdivision Map Act and no additional parcels will be created.
3. Lots 1 and 2 will conform to the RR-5 minimum lot size standard. Therefore, the proposed lot line adjustment is consistent with applicable LCP policies and standards as the new lot configurations will not conflict with LCP policies.

4. The lot line adjustment will decrease the amount of ESHA that would be damaged or destroyed by eliminating the future development potential on the lot addressed as 3441 Cross Creek Road which currently is not developed with a single-family residence. As proposed, the existing single-family residence that is addressed as 3469 Cross Creek will now be part of 3441 Cross Creek Road. Without approval of the lot line adjustment, the lot addressed as 3441 Cross Creek Road could be developed with a single-family residence on a 10,000 square foot building pad. Furthermore, the additional fuel modification required by a new residence would result in further ESHA disturbance. As proposed the lot line adjustment will take advantage of existing developed building pads and sit disturbance. The reconfiguration of the lots would not increase the amount of environmentally sensitive habitat that would be damaged or destroyed as part of any future development.

5. As proposed the lot line adjustment will not result in additional landform alteration. As discussed throughout this report, the lot line adjustment will eliminate the future development potential of the lot addressed as 3441 Cross Creek Road and the development that is taking place on the lot addressed as 3469 will be limited to an existing developed pad because of topography and ESHA limitations. Therefore, landform alteration will not occur.

6. Based on existing development, topography and building pad limitations, no adverse visual impacts to scenic views are expected. Future development facilitated by the lot line adjustment will be located within existing flat building pad areas, which will minimize grading quantities and impacts to ESHA when compared to the existing lot configuration.

K. Lot Line Adjustment Findings (MMC Section 16.28.020)

1. Lots 1 and 2 will conform to the RR-5 minimum lot size standards. Therefore, the proposed lot line adjustment is consistent with applicable MMC policies and standards as the new lot configurations will not conflict with MMC policies.

2. The proposed lot line adjustment will not result in the need for additional improvements and/or facilities since both lots will have developed building pads and a previously constructed access road. Without the lot line adjustment, development of a new residence could take place on the lot addressed as 3441 Cross Creek Road and that development would result in the need for additional improvement and facilities.

3. Two legal lots exist and the proposed lot line adjustment will result in the same number of lots, with the same cumulative total square footage.

4. The proposed lot line adjustment relocates the existing common north-south lot line to the east. The new lot line will be continuous and will extend near the full length of both properties, similar to what exists today. The newly configured lot lines are adjusted in a generally continuous and straight configuration, given the topographic configuration of the properties.

5. A written authorization for the proposed lot line adjustment by the owner of both properties is on file with City.
L. Demolition Permit Findings (MMC Chapter 17.70)

1. The proposed project includes the demolition of an existing 1,744 square foot accessory building. 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. 19-048. Therefore, approval of the demolition permit is subject to approval of CDP No. 13-054.


Based on the foregoing findings and evidence contained within the record, the Planning Commission hereby approves CDP No. 13-054, LLA No. 18-001, VAR Nos. 19-022 and 19-023, SPR No. 13-053, and DP No. 19-048, 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 an existing 1,744 square foot, single-story structure;
   b. Construction of a new single-story, 5,056 square foot single-family residence that is 28 feet in height that includes a 921 square foot basement;
   c. Grading;
   d. Riparian habitat restoration;
   e. Landscaping;
   f. Hardscaping;
   g. Lot line adjustment between 3441 and 3469 Cross Creek Road;
   h. Construction of retaining walls (six feet high maximum);
   i. Discretionary Requests:
      i. VAR No. 19-022 to allow for the elimination of the two required enclosed parking spaces;
      j. VAR No. 19-023 to allow for a reduction in the required ESHA buffer;
      k. SPR No. 13-053 to allow for height up to 28 feet for a pitched roof, and
      l. SPR No. 13-054 to allow for construction on slopes steeper than 3:1 but flatter than 2.5:1.
3. Subsequent submittals for this project shall be in substantial compliance with plans on-file with the Planning Department, date-stamped March 1, 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 MMC and the LCP. Revised plans reflecting the minor changes and additional fees shall be required.

11. Pursuant to LIP Section 13.20, development pursuant to an approved CDP shall not commence until the CDP is effective. The CDP is not effective until all appeals, including those to the California Coastal Commission (CCC), have been exhausted. In the event that the CCC denies the permit or issues the permit on appeal, the CDP approved by the City is void.
12. The applicant must submit payment for any outstanding fees payable to the City prior to issuance of any building or grading permit.

Cultural Resources

13. In the event that potentially important cultural resources are found in the course of geologic testing or during construction, work shall immediately cease until a qualified archaeologist can provide an evaluation of the nature and significance of the resources and until the Planning Director can review this information. Thereafter, the procedures contained in LIP Chapter 11 and those in MMC Section 17.54.040(D)(4)(b) shall be followed.

14. If human bone is discovered during geologic testing or during construction, work shall immediately cease and the procedures described in Section 7050.5 of the California Health and Safety Code shall be followed. Section 7050.5 requires notification of the coroner. If the coroner determines that the remains are those of a Native American, the applicant shall notify the Native American Heritage Commission by phone within 24 hours. Following notification of the Native American Heritage Commission, the procedures described in Section 5097.94 and Section 5097.98 of the California Public Resources Code shall be followed.

15. An Archaeologist shall be present during excavation activities.

Lighting

16. 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.

17. Night lighting for sports courts or other private recreational facilities shall be prohibited.

18. 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.

19. 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.
19.20. String lights are allowed in occupied dining and entertainment areas only and must not exceed 3,000 Kelvin.

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

24.22. 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.

Fencing and Walls

22.23. 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.

23.24. Necessary boundary fencing shall be of an open rail-type design with a wooden rail at the top (instead of wire), be less than 40-inches high, and have a space greater than 14-inches between the ground and the bottom post or wire. A split rail design that blends with the natural environment is preferred.

24.25. Fencing or walls shall be prohibited within ESHA, except where necessary for public safety or habitat protection or restoration. Fencing or walls that do not permit the free passage of wildlife shall be prohibited in any wildlife corridor.

25.26. Development adjacent to, but not within ESHA, may include fencing, if necessary for security, that is limited to the area around the clustered development area.

26.27. No exterior lighting is proposed as part of this project; therefore, no new exterior lighting is permitted as part of this project.

Demolition/Solid Waste

27.28. Prior to demolition activities, the applicant shall receive Planning Department approval for compliance with conditions of approval.

28.29. 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.

29.30. 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.

30.31. 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.
34.32. No demolition permit shall be issued until building permits are approved for issuance. Demolition of the existing structure and initiation of reconstruction must take place within a six month period. Dust control measures must be in place if construction does not commence within 30 days.

32.33. The project developer shall utilize licensed subcontractors and ensure that all asbestos-containing materials and lead-based paints encountered during demolition activities are removed, transported, and disposed of in full compliance with all applicable federal, state and local regulations.

33.34. Any building or demolition permits issued for work commenced or completed without the benefit of required permits are subject to appropriate “Investigation Fees” as required in the Building Code.

34.35. Upon completion of demolition activities, the applicant shall request a final inspection by the Building Safety Division.

Construction / Framing

35.36. 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.

36.37. 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 rinsed prior to leaving the property.

37.38. All new development, including construction, grading, and landscaping shall be designed to incorporate drainage and erosion control measures prepared by a licensed engineer that incorporate structural and non-structural Best Management Practices (BMPs) to control the volume, velocity and pollutant load of storm water runoff in compliance with all requirements contained in LIP Chapter 17, including:
   a. Construction shall be phased to the extent feasible and practical to limit the amount of disturbed areas present at a given time.
   b. Grading activities shall be planned during the southern California dry season (April through October).
   c. During construction, contractors shall be required to utilize sandbags and berms to control runoff during on-site watering and periods of rain in order to minimize surface water contamination.
   d. Filter fences designed to intercept and detain sediment while decreasing the velocity of runoff shall be employed within the project site.

38.39. When framing is complete, a site survey shall be prepared by a licensed civil engineer or architect that states the finished ground level elevation and the highest roof member elevation. Prior to the commencement of further construction activities, said document shall be submitted to the assigned Building Inspector and Planning Department for review and sign off on framing.
Colors and Materials

39.40. The project is in the vicinity of a public viewing area and shall incorporate colors and materials that are compatible with the surrounding landscape.

   a. Acceptable colors shall be limited to colors compatible with the surrounding environment (earth tones) including shades of green, brown and gray, with no white or light shades and no bright tones. Colors shall be reviewed and approved by the Planning Director and clearly indicated on the building plans.

   b. The use of highly reflective materials shall be prohibited except for solar energy panels or cells, which shall be placed to minimize significant adverse impacts to public views to the maximum extent feasible.

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

40.41. Retaining walls visible from beaches or public viewing areas shall incorporate veneers, texturing and/or colors to blend with the surrounding earth materials. The colors shall be reviewed and approved by the Planning Director and clearly indicated on the grading and building plans.

Biology/Landscaping

41.42. Pursuant to LIP Section 4.8.1, all new development shall include mitigation for unavoidable impacts to ESHA from the removal, conversion, or modification of natural habitat for new development, including required fuel modification and brush clearance. One of the following three Habitat Impact Mitigation methods shall be required: (1) habitat restoration; (2) habitat conservation; or (3) in-lieu fee for habitat conservation. The CDP shall include conditions setting forth the requirements for habitat mitigation. Prior to Final Plan Check the applicant shall provide either a detailed restoration plan, a habitat conservation plan, or evidence of payment of in lieu fees to the Santa Monica Mountains Conservancy.

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

43.44. 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.

44.45. Prior to final Planning inspection or other final project sign off 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.

45.46. Prior to Final Plan Check Approval, the applicant shall submit a landscape water use approval from the Los Angeles County Waterworks District No. 29.
46.47. 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.

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

48.49. 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).

49.50. No non-native plant species shall be approved greater than 50 feet from the residential structure.

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

51.52. Grading shall 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.

52.53. 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.

53.54. Construction fencing shall be placed at the ESHA buffer limits. Construction fencing shall be installed prior to the beginning of any construction and shall be maintained throughout the construction period to protect the site’s sensitive habitat areas.

54.55. All new development including structures, septic systems, or landscaping, shall be set back no less than 100 feet from the identified ESHA boundary.

55.56. 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.

56.57. Up-lighting of landscaping is prohibited.

57.58. Necessary boundary fencing of any single area exceeding ½ acre shall be of an open rail-type design with a wooden rail at the top (instead of wire), be less than 40 inches high, and have a space greater than 14 inches between the ground and the bottom post or wire. A split rail design that blends with the natural environment is preferred.
58.59. 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.

*Environmental Health*

59.60. Prior to recordation of the lot line adjustment, Environmental Health final approval is required.

60.61. Environmental Health final approval of the lot line adjustment is contingent upon verification that the following state agency actions have been completed:

a. California State Water Resources Control Board approval of the “Table 4-zz Basin Plan Amendment” as present in Los Angeles Regional Water Quality Control Board Resolution R14-003 adopted on 2-6-2014, and

b. State Office of Administration law formal adoption of Los Angeles Regional Water Quality Control Board Resolution R14-003 into California State Law.

*Geology*

61.62. 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.

62.63. 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.

*Grading/Drainage/Hydrology (Public Works)*

63.64. The non-exempt grading for the project shall not exceed a total of 1,000 cubic yards, cut and fill.

64.65. The total grading yardage verification certificate shall be copied onto the coversheet of the Grading Plan. No alternative formats or substitutes will be accepted.
65.66. A Water Quality Mitigation Plan (WQMP) shall be submitted for review and approval of the Public Works Director. The WQMP shall be supported by a hydrology and hydraulic study that identifies all areas contributory to the property and an analysis of the predevelopment and post development drainage on the site. The WQMP shall meet all the requirements of the City’s current Municipal Separate Stormwater Sewer System (MS4) permit. The following elements shall be included within the WQMP:
   a. Site Design Best Management Practices (BMPs):
   b. Source Control BMPs;
   c. Treatment Control BMPs that retain on-site Stormwater Quality Design Volume (SWQDv). Or where it is technically infeasible to retain on-site, the project must biofiltrate 1.5 times the SWQDv that is not retained on-site;
   d. Drainage improvements;
   e. A plan for the maintenance and monitoring of the proposed treatment BMPs for the expected life of the structure;
   f. Methods of onsite percolation, site re-vegetation and an analysis for off-site project impacts;
   g. Measures to treat and infiltrate runoff from impervious areas;
   h. A copy of the WQMP shall be filed against the property to provide constructive notice to future property owners of their obligation to maintain the water quality measure installed during construction prior to the issuance of grading or building permits; and
   i. The WQMP shall be submitted to the Public Works Department and the fee applicable at the time of submittal for review of the WQMP shall be paid prior to the start of the technical review. The WQMP shall be approved prior the Public Works Department’s approval of the grading and drainage plan and/or building plans. The Public Works Department will tentatively approve the plan and will keep a copy until the completion of the project. Once the project is completed, the applicant shall verify the installation of the BMP’s, make any revisions to the WQMP, and resubmit to the Public Works Department for approval. The original signed and notarized document shall be recorded with the Los Angeles County Recorder. A certified copy of the WQMP shall be submitted to the Public Works Department prior to the issuance of the certificate of occupancy.

66.67. A grading and drainage plan containing the following information shall be approved, and submitted to the Public Works Department, prior to the issuance of grading permits for the project:
   a. Public Works Department general notes;
   b. The existing and proposed square footage of impervious coverage on the property shall be shown on the grading plan (including separate areas for buildings, driveways, walkways, parking, tennis courts and pool decks);
   c. The limits of land to be disturbed during project development shall be delineated and a total area shall be shown on this plan. Areas disturbed by grading equipment beyond the limits of grading, 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;
   d. The limits to land to be disturbed during project development shall be delineated and a total area of disturbance should be shown on this plan. Areas disturbed by grading equipment beyond the limits of grading shall be included within the area delineated;
e. If the property contains rare, endangered or special status species as identified in the Biological Assessment, this plan shall contain a prominent note identifying the areas to be protected (to be left undisturbed). Fencing of these areas shall be delineated on this plan is required by the City Biologist;
f. The grading limits shall include the temporary cuts made for retaining walls, buttresses and over excavations for fill slopes; and
g. Private storm drain systems shall be shown on this plan. Systems greater than 12 inch in diameter shall also have a plan and profile for the system included with this plan.

67-68. A Local Storm Water Pollution Prevention Plan (LSWPPP) shall be provided prior to issuance of grading/building permits. This plan shall include and Erosion and Sediment Control Plan (ESCP) that includes, but not limited to:

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<td>Preservation of Existing Vegetation</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.

68-69. Prior to the approval of any permits and prior to the submittal of the required construction general permit document to the State Water Quality Control Board, the property owner / applicant shall submit the Public Works Department an Erosion and Sediment Control Plan (ESCP) for review. The ESCP shall contain appropriate site-specific construction site BMPs prepared and certified by a qualified SWPPP developer (QWD). All structural BMPs must be designed by a licensed California civil engineer. The ESCP must address the following elements:

- Methods to minimize the footprint of the disturbed area and to prevent soil compaction outside the disturbed area
- Methods used to protect native vegetation and trees
- Sediment / erosion control
- Controls to prevent tracking on- and off-site
- Non-stormwater control
- Material management (delivery and storage)
- Spill prevention and control
h. Waste management
i. Identification of site risk level as identified per the requirements in Appendix 1 of the Construction General Permit
j. Landowner must sign the following statement on the ESCP:

“I certify that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to ensure that quality personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering the information, to the best of my knowledge and belief, the information submitted is true, accurate and complete. I am aware that submitting false and/or inaccurate information, failing to properly and/or adequately implement the ESCP may result in revocation of grand and/or other permits or other sanctions provided by law.”

69-70. Storm drainage improvements are required to mitigate increased runoff generated by property development. The applicant shall have the choice of one method specified within LIP Section 17.3.2.B.2.

70-71. A Storm Water Management Plan (SWMP) shall be submitted for review and approval of the Public Works Director. The SWMP shall be prepared in accordance with the LIP Section 17.3.2 and all other applicable ordinances and regulations. The SWMP shall be supported by a hydrology and hydraulic study that identifies all areas contributory to the property and an analysis of the pre-development and post-development drainage of the site. The SWMP shall identify the site design and source control BMPs that have been implemented in the design of the project. The SWMP shall be reviewed and approved by the Public Works Department prior to the issuance of the grading or building permit for this project.

71-72. 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.

72-73. The Building Official may approve grading during the rainy season to remediate hazardous geologic conditions that endanger public health and safety.

73-74. Exported soil from a site shall be taken to the Los Angeles County Landfill or to a site with an active grading permit and the ability to accept the material in compliance with LIP Section 8.3.
All cut and fill slopes shall be stabilized with landscaping at the completion of final grading.

Lot Line Adjustment

Prior to LLA recordation, the applicant shall submit the following documents for review and approval by the Public Works Department:

a. Certificate of Compliance for the Lot Line Adjustment in the current City format;
b. Legal descriptions of the new parcel configurations along with copies of all documents referenced in legal descriptions;
c. An exhibit showing new configuration and identifying what line or lines were adjusted, and the areas of the adjusted parcels;
d. Closure calculations; and
e. Grant Deeds to be used to actuate the lot line adjustment, along with legal descriptions.

Prior to Final Sign-Off

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.

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.

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

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

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.

Deed Restrictions

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.
83. 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. 45-16 - 2422. The property owner shall provide a copy of the recorded document to the Planning Department prior to final Planning Department approval.

82.84. A deed restriction shall be recorded on the lot addressed as 3441 Cross Creek Rd to prohibit further subdivision of the lot.

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

PASSED, APPROVED AND ADOPTED this 18th, 2nd day of February-March 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. 20-16 was passed and adopted by the Planning Commission of the City of Malibu at the regular meeting held on the 29th-30th day of February-March 2020 by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

KATHLEEN STECKO, Recording Secretary