To: Chair Randall and Members of the Planning Commission

Prepared by: Stacey Rice, Ph.D., AICP, Senior Planner

Reviewed by: CJ Amstrup, AICP, Planning Manager

Approved by: Victor Peterson, Community Development Director

Date prepared: December 15, 2006       Meeting date: January 16, 2007

Subject: Coastal Development Permit No. 05-192, Variance No. 05-039, Variance No. 05-040, Conditional Use Permit No. 06-010, Demolition Permit No. 06-020, Initial Study No. 06-007 and Mitigated Negative Declaration No. 06-008 - An application to allow for the construction of a new, 7,100 square foot restaurant to replace the existing, vacant restaurant building and the installation of a new alternative onsite wastewater treatment system.

Application Number: Coastal Development Permit No. 05-192
Variance Nos. 05-039 and 05-040
Conditional Use Permit No. 06-010
Demolition Permit No. 06-020
Initial Study No. 06-007
Mitigated Negative Declaration No. 06-008

Application Filing Date: November 30, 2005

Applicant: Scott Mitchell Studios

Owner: Malibu Cantina, LLC

Location: 22716 Pacific Coast Highway, within the coastal zone

APNs: 4452-004-036 and 4452-004-037

Zoning: Commercial Visitor Serving - 1 (CV-1)

RECOMMENDED ACTION: Adopt Planning Commission Resolution No. 07-03 (Attachment 1) approving Coastal Development Permit (CDP) No. 05-192, Variance (VAR) No. 05-039, Variance No. 05-040, Conditional Use Permit (CUP) No. 06-010, Demolition Permit (DP) No. 06-020, Initial Study (IS) No. 06-007 and Mitigated Negative Declaration (ND) No. 06-008, to allow for the construction of a new (replacement), 7,100
square foot restaurant with liquor, beer and wine service, outdoor seating, associated development and installation of an alternative onsite wastewater treatment system (AOWTS) in the Commercial Visitor Serving-1 (CV-1) zoning district located at 22716 Pacific Coast Highway (PCH).

Chronology of Project

On November 30, 2005, an application for CDP No. 05-192 was submitted by Scott Mitchell Studios on behalf of Malibu Cantina, LLC to the Planning Division for processing. The application was reviewed and approved by the City of Malibu Public Works Department, City Geologist, City Coastal Engineer, City Environmental Health Administrator, City Biologist, and Los Angeles County Fire Department. The submitted project consisted of the following:

- Demolition of an existing 8,004 square foot, vacant restaurant building;
- Construction of a new, 7,100 square-foot restaurant with full liquor service, and a new AOWTS;
- Grading and landscaping;
- Conditional Use Permit for the restaurant/bar use with the proposed hours of operation limited to 11:00 am to midnight, each day, and from 11:00 am to 2 am on Friday and Saturday.
- The new restaurant at 22716 PCH shall serve as a donor site for 10 parking spaces for the adjacent restaurant at 22706 PCH. A legal agreement between the City and the applicant is required as a condition of approval; and
- Lot Tie Covenant and Agreement for the three adjoining parcels.

On December 28, 2006, a Notice of Application for Coastal Development Permit No. 05-192 was posted on the subject property.

On August 23, 2006, the project was heard before the Environmental Review Board.

On December 6, 2006, the application was deemed complete for processing.

On December 14, 2006, a Notice of Intent to adopt Mitigated Negative Declaration was published on December 13, 2006

On December 21, 2006, a Notice of Public Hearing was published in a newspaper of general circulation within the City of Malibu. In addition, on December 21, 2006, a Notice of Public Hearing was mailed to all property owners and occupants within a 500-foot radius of the subject property.
**Surrounding Land Use and Setting**

The project is located at 22716 Pacific Coast Highway and was formerly known as Pierview Restaurant. This site is located in the CV-1 zoning district. Currently the site is comprised of 8,003 square feet of developed, out-of-operation, commercial property. The subject property lies within the Appeal Jurisdiction as depicted on the Post-LCP Certification Permit and Appeal Jurisdiction Maps and is not designated Environmentally Sensitive Habitat Area (ESHA).

Properties in the immediate area are developed with commercial storefronts and a mix of uses. The subject site is bordered to the east by a vacant property and residential development. The former Windsail Restaurant is located west of the site. Pacific Coast Highway lies immediately to the north of the site, along with existing commercial development. The Pacific Ocean lies to the immediate south.

**Project Description**

The proposed project consists of demolishing the existing 8,003 square foot restaurant, constructing a new, 7,100 square-foot restaurant with full liquor service, and a new AOWTS. The proposed hours of operation are limited to 11:00 am to midnight, each day, and from 11:00 am to 2 am on Friday and Saturday. The new restaurant is proposed to be a two-story structure and would contain kitchens, bar/lounge areas, dining rooms and indoor/outdoor seating. The structure is proposed to be connected to the proposed (adjacent) restaurant at 22706 Pacific Coast Highway by a landscaped outdoor deck. The new restaurant at 22716 PCH shall serve as a donor site for 10 parking spaces for the adjacent restaurant at 22706 PCH. A legal agreement between the City and the applicant is required as a condition of approval. The agreement will contain requirements for an annual review by the City Planning Manager with authority to modify the agreement as necessary to maintain onsite parking arrangements. The project also proposes minor grading and landscaping, and a lot tie for the two contiguous parcels. Attachment 4 (Project Plans)

**Local Coastal Program**

The Malibu Local Coastal Program (LCP) consists of a Land Use Plan (LUP) and a Local Implementation Plan (LIP). The LUP contains programs and policies to implement the Coastal Act in Malibu. The purpose of the LIP is to carry out the policies of the LUP. The LIP contains specific regulations to which every project requiring a coastal development permit must adhere.

There are 12 sections within the LIP that potentially require specified findings to be made, depending on the nature and location of the proposed project. Of these 12, three are for conformance review only and require no findings. These three sections, which
include Zoning, Grading and Archaeological/Cultural Resources, are discussed under the “Conformance Analysis” section below.

There are nine remaining sections that potentially require specific findings to be made. These findings are found in the following LIP sections: (1) General Coastal Development Permit Findings; (2) Environmentally Sensitive Habitat Area (ESHA); (3) Native Tree Protection (4) Scenic Visual and Hillside Protection; (5) Transfer of Development Credits; (6) Hazards; (7) Shoreline and Bluff Development; (8) Public Access; and, (9) Land Division. Of these nine, for the reasons discussed below, only four (General Coastal Development Permit, Hazards, Shoreline Development and Public Access) apply and warrant further discussion.

Conformance Analysis

The proposed project has been reviewed by the City of Malibu Public Works Department, City Geologist, City Environmental Health Administrator and City Biologist. The project has been determined to be consistent with all applicable LCP codes, standards, goals, and policies. Attachment 3 (Department Review Sheets). In addition the project has been required to meet the Waste Discharge Requirements of the Los Angeles County Regional Water Quality Board.

Zoning

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

<table>
<thead>
<tr>
<th>Table 1 – Subject Site Data</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lot Depth</td>
</tr>
<tr>
<td>Lot Width</td>
</tr>
<tr>
<td>Gross Lot Area (including driveway easements)</td>
</tr>
<tr>
<td>*Net Lot Area</td>
</tr>
</tbody>
</table>

*Net Lot Area = Gross Lot Area minus the area of public or private easements and 1:1 slopes.

Table 2 provides a summary and indicates that the project meets the property development and design standards set under LIP Section 3.5, and 3.8. Although the project does not meet the minimum landscape area requirement, the required variance findings can be made to permit 24,630 square feet of landscaping where 32,558 square feet is required. Otherwise, the project complies with the relevant development standards.
<table>
<thead>
<tr>
<th>Development Requirement</th>
<th>Allowed</th>
<th>Proposed</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>SETBACKS</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Front Yard 20 feet maximum or the average of the two immediate commercial properties</td>
<td>20 feet</td>
<td>79'-6&quot;</td>
<td>Complies</td>
</tr>
<tr>
<td>Rear Yard</td>
<td>Stringline</td>
<td>Stringline</td>
<td>Complies</td>
</tr>
<tr>
<td>Side Yard (10) percent of lot width on each side, with a three feet minimum and five feet maximum.</td>
<td>5 feet 5 feet</td>
<td>30 feet 5 feet</td>
<td>Complies</td>
</tr>
<tr>
<td><strong>PARKING</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2,950 square feet of Service Area = 59 required spaces</td>
<td>70 spaces</td>
<td>Complies with spaces; variance for parking in FYSB</td>
<td></td>
</tr>
<tr>
<td><strong>FLOOR AREA RATIO (FAR) SQ.FT.</strong></td>
<td>7,513.5 square feet</td>
<td>7,100 sq ft (.14)</td>
<td>Complies</td>
</tr>
<tr>
<td><strong>HEIGHT</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>28 feet (pitched)</td>
<td>28 feet (pitched)</td>
<td>Complies</td>
<td></td>
</tr>
<tr>
<td><strong>OPEN SPACE</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>25% of lot area of 12,522.5 square feet</td>
<td>17,830 square feet or 36%</td>
<td>Complies</td>
<td></td>
</tr>
<tr>
<td><strong>LANDSCAPING</strong></td>
<td></td>
<td>7,160 square feet or 14%</td>
<td>VARIANCE</td>
</tr>
<tr>
<td><strong>CONSTRUCTION ON SLOPES</strong></td>
<td>3:1</td>
<td>Complies</td>
<td></td>
</tr>
<tr>
<td><strong>Fence/Wall Height</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Front</td>
<td>42 inches impermeable 72 inches permeable</td>
<td>None proposed</td>
<td>Complies</td>
</tr>
<tr>
<td>Side(s)</td>
<td>6 feet</td>
<td>6 foot fence along property line</td>
<td>Complies</td>
</tr>
<tr>
<td>Rear</td>
<td>6 feet</td>
<td>None proposed</td>
<td>Complies</td>
</tr>
<tr>
<td>Retaining wall height</td>
<td>6 feet</td>
<td>None proposed</td>
<td>Complies</td>
</tr>
</tbody>
</table>
Grading

There is minimal grading proposed (310 cubic yards). Therefore, the project conforms to the grading requirements as set forth under LIP Section 8.3, which ensures that new development minimizes the visual and resource impacts of grading and landform alteration.

Archaeological/Cultural Resources

According to the City of Malibu Cultural Resources Sensitivity Maps, the subject site has a very low potential to contain archaeological resources. Nevertheless, conditions in the attached resolution require on-site monitoring of grading operations and define procedures to be followed in the event cultural resources are discovered.

Findings

The proposed project has been reviewed for conformance with the City of Malibu Local Coastal Program (LCP) and approved by the Planning Division staff, Los Angeles County Fire Department, City of Malibu Public Works Department, City Geologist, City Coastal Engineer, City Environmental Health Administrator and City Biologist. The project has been determined to be consistent with all applicable LCP codes, standards, goals, and policies. Staff has determined that, subject to the proposed conditions of approval, the project conforms to the City’s LCP. The required findings are made below.

A. General Coastal Development Permit (LIP Chapter 13)

Pursuant to LIP Section 13.9 the following four findings need to be made on all coastal development permits.

Finding 1A. 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 project has been reviewed and approved for conformance with the LCP by City staff. As discussed herein, the project, as proposed and/or conditioned, conforms to the certified City of Malibu LCP.

Finding 1B. If the project is located between the first public road and the sea, that the 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).

The project is located between the first public road and the sea. The project site is off a public street and does accommodate public access to the shoreline. Existing onsite
development blocks vertical access to the ocean. Nearby public access is available to the east at Zonker Harris access easement adjacent to Windsail. The location of the proposed project and related construction activities is not anticipated to interfere with the public’s right to access the coast. The 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 1C. The project is the least environmentally damaging alternative.**

Pursuant to the California Environmentally Quality Act (CEQA), an Initial Study and Negative Declaration were circulated for public review and considered by the City. According to the Initial Study, the project will result in less than significant adverse effects on the environment, within the meaning of CEQA (Attachment 2). There are no further feasible alternatives that would further reduce any impacts on the environment. The project complies with the size and height requirements of the LCP and the Malibu Municipal Code (M.M.C.).

The project will result in less than significant impacts on the physical environment. The new restaurant and AOWTS system will be replacing the existing restaurant and onsite wastewater treatment system. Because the proposed restaurant will be built in the same general location as the existing restaurant, site disturbance will be minimized. Therefore, the proposed location is the least environmentally damaging feasible alternative.

The project consists of a new restaurant and AOWTS. The project will not result in potentially significant impacts because 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any potentially significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any potentially significant adverse impacts of the development on the environment.

**Finding 1D. 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.**

The subject parcel is not located within ESHA as defined by the ESHA Overlay Map and the project will not result in negative impacts to sensitive resources, significant loss of vegetation or wildlife, or encroachments into an ESHA. Nevertheless, the project was reviewed by the City Biologist and determined to be exempt from ESHA requirements. The project was determined to be consistent with the provisions of LIP Section 4.4.4(b). The project was reviewed by the Environmental Review Board as an initial study was prepared to analyze potential environmental impacts. The project does not result in the increase of an existing graded pad or developed area.
B. Variance for Parking in the Front Yard (LIP – Chapter 13.26.5)

Pursuant to LIP Section 13.26.5, the Planning Commission may approve and/or modify an application for a variance in whole or in part, with or without conditions, provided that it makes ten findings of fact. The project includes a variance application to provide parking in the front yard. This condition will exceed that which is permitted by LIP Sections 13.12.5(A)(2). However, due to the orientation of the parking and the sandy beach, parking in the front yard protects sensitive environmental resources on the beach. The evidence in the record supports the requested variance and the following findings of fact can be made.

Finding A. There are special circumstances or exceptional characteristics applicable to the subject property, including size, shape, topography, location, or surroundings such that strict application of the zoning ordinance deprives such property of privileges enjoyed by other property in the vicinity and under the identical zoning classification.

The proposed parking facilities in the front yard are necessary to minimize grading and pull the development away from the beach. Requiring the project to comply with the subject regulations would result in additional grading and pushing the development towards this potentially sensitive resource. Other commercial development in the vicinity includes parking in the front yard, which also prevents potential pollution from cars by increasing distance to the beach. Therefore, special circumstances or exceptional characteristics apply to the subject property such that strict application of the zoning ordinance deprives such property of privileges enjoyed by other property in the vicinity and under the identical zoning classification.

Finding B. The granting of such 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(s) in which the property is located.

The project will meet all applicable building and engineering safety codes and will not be detrimental to other adjacent properties or improvements. The variance will reduce required grading and work to push the development away from the beach. The variance will allow the construction of the building in an area that has been determined to be appropriate for such use and protect nearby sensitive resources. The depth of the property is 201 feet and the rear 27 feet (13 percent) of the subject property is sandy beach. The first eight feet of the front yard is the sidewalk, the next five feet is the landscaped planter required by LIP Section 3.12.5.E.1. In order to keep the parking as landward as possible and away from the beach area, the parking stalls encroach approximately seven feet into the required 20 foot front yard setback. As stated previously, the project has been reviewed and approved by the Los Angeles County Fire Department, the City Public Works Department, City Biologist, Environmental Health
Administrator, City Coastal Engineering and the City Geologist. The project is consistent with applicable City goals and policies and will not be detrimental to the public’s interest, safety, health or welfare or injurious to the property or improvements in the same vicinity and zones in which the property is located.

**Finding C.** The granting of the variance will not constitute a special privilege to the applicant or property owner.

Granting of the variance will not constitute a special privilege to the applicant or property owner because other properties in the immediate vicinity are developed with parking in close proximity to the street. The variance will work to protect potentially sensitive resources near the project site and limit overall grading. Since restaurants are consistent with the uses allowed by the zoning district, granting the variance does not constitute a special privilege to the property owner.

**Finding D.** The granting of such variance will not be contrary to or in conflict with the general purposes and intent of this Chapter, nor to the goals, objectives and policies of the LCP.

The granting of the variance is not contrary to or in conflict with the general purposes or intent of the LCP in that granting the variance will allow construction of a restaurant in the CV zoning district. The protection of sensitive resources overrides other development standards and is consistent with the goals, objectives and policies of the LCP.

**Finding E.** For variances to environmentally sensitive habitat area buffer standards or other environmentally sensitive habitat area protection standards, that there is no other feasible alternative for siting the structure and that the development does not exceed the limits on allowable development area set forth in Section 4.7 of the Malibu LIP.

The variance does not propose reduction of any ESHA standards. The development limits of LIP Section 4.7 do not apply because the project site is not in ESHA or ESHA buffer.

**Finding F.** For variances to stringline standards, that the project provides maximum feasible protection to public access as required by Chapter 2 of the Malibu LIP.

The variance is not for a deviation of stringline standards. Therefore, this finding is not applicable.
Finding G. The variance request is consistent with the purpose and intent of the zone(s) in which the site is located. A variance shall not be granted for a use or activity which is not otherwise expressly authorized by the zone regulation governing the parcel of property.

The project is for a restaurant, which is an allowed use in the CV zoning district in which the project is located. The variance is for parking in the front yard and does not authorize a use or activity that is not expressly authorized by the zoning regulations for the subject property.

Finding H. The subject site is physically suitable for the proposed variance.

The granting of the variance will allow construction of a restaurant in a location that will protect potentially sensitive resources near the site and limit overall grading. The proposed and existing developments share a similar use and layout, and the site has consistently been utilized as a restaurant. With implementation of specific geo-technical specifications, the subject site is physically suitable for the variance.

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

The variance complies with all requirements of state and local law. Construction of the improvements will comply with all building code requirements and will incorporate all recommendations from applicable City Agencies.

Finding J. A variance shall not be granted that would allow reduction or elimination of public parking for access to the beach, public trails or parklands.

The project does not include any reduction or elimination of public parking for access to the beach, public trails, or parklands. The variance will aid in accommodating all required on site parking thereby minimizing any use of available public parking by restaurant patrons.

C. Joint Use and Common Parking Facilities (3.12.4)

The Planning Commission may permit the joint use of parking facilities to meet the standards for certain commercial, office, or mixed uses under the following conditions:

Condition A. Up to one-half of the parking facilities required for a primarily daytime use may be used to meet the requirements of a primarily nighttime use and up to one-half of the parking facilities required for a primarily nighttime use may be used to meet the requirements of a primarily daytime use; provided, that such reciprocal parking arrangement shall comply with subsection C of this section.
The applicant has requested a Joint Use and Common Parking Facilities Agreement with the adjacent restaurant use. The adjacent restaurant use at 22716 PCH requires 59 parking spaces while they have proposed 70 (11 extra) parking spaces onsite. The proposed restaurant use at 22706 PCH requires 74 spaces and provides 64 spaces onsite. The reciprocal parking agreement will allow the 10 required spaces to be utilized on the adjacent site. The two sites together have a net of one extra parking space. Since both properties are restaurant uses, with the same proposed hours of operation and both are conditioned to require only valet parking, the two parking lots will efficiently manage parking for both restaurants through the Joint Use and Common Parking Facilities Agreement (Attachment 5).

**Condition B.** *The Planning Commission may reduce parking requirements for common parking facilities by up to twenty-five percent in shopping centers or other commercial areas where a parking lot with common access and joint use is provided.*

The applicant has not requested to reduce the required parking spaces as allowed in a Joint Use and Common Parking Facilities Agreement (a twenty-five percent reduction would equate to a loss of 33 parking spaces) but rather to allow some flexibility in the use of the two adjoining parking lots. As discussed above, the total required parking for the site is distributed on both sites.

**Condition C.** *The parties concerned shall show that there is no substantial conflict in the principal operating hours of the building or uses for which the joint use is proposed and shall evidence agreement for such use by a proper legal instrument, to which the city is a party.*

As both properties will be restaurant uses and will both be required to have valet parking, there should be no conflict in the principal operating hours. A recorded legal agreement between the City and the applicant is required as a condition of approval. The agreement will contain requirements for an annual review by the City Planning Manager with authority to modify the agreement as necessary to maintain onsite parking arrangements.

**Condition D.** *Parking facilities for new development of general office or commercial use, which may cumulatively impact public access and recreation, shall be designed to serve not only the development during ordinary working hours, but also public beach parking during weekends and holidays, in conjunction with public transit or shuttle buses serving beach recreation areas.*

The proposed new development is not anticipated to impact public access or recreation as the site already contains both dedicated vertical and lateral public access.
Condition E. A program to utilize existing parking facilities for office and commercial development located near beaches for public access parking during periods of normal beach use when such development is not open for business should be developed. As feasible, new non-visitor serving office or commercial development shall be required to provide public parking for beach access during weekends and holidays.

The site is a visitor serving development not an office development and will be in operation during the highest beach use times of the day. Adequate parking to meet onsite uses shall be provided, ensuring that restaurant patrons do not park offsite, thereby displacing public parking for beach access.

D. Variance for reduction of the amount of required landscaping.

The applicant is requesting approval of a variance to reduce the amount of required landscaping. Pursuant to LIP Chapter 3.8.A.5.b, forty (40) percent of a commercial lot area shall be devoted to landscaping. The proposed project has a total landscaped area of 17 percent, and 34 percent open space (25 percent open space is required). As such the applicant is requesting a variance for relief from this requirement based on the following findings:

Finding 1. There are special circumstances or exceptional characteristics applicable to the subject property, including size, shape, topography, location, or surroundings such that strict application of the zoning ordinance deprives such property of privileges enjoyed by other property in the vicinity and under the identical zoning classification.

Due to the constrained parcel and the sandy beach, there are special circumstances or exceptional characteristics applicable to the subject property in that the strict application of the 40 percent landscape requirement will make the lot economically un-useable and deny the applicant privileges enjoyed on similar properties in the vicinity and same zone. Abutting and similar beach front properties developed with restaurant uses, including Dukes and Moonshadows have significantly less than the required 40 percent landscaped area due to the sandy beach.

Finding 2. The granting of such 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(s) in which the property is located.

The granting of the requested 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(s) in which the property is located. The proposed project will eliminate an existing blighted property.
Finding 3. The granting of the variance will not constitute a special privilege to the applicant or property owner.

The granting of the variance will not constitute a special privilege since similar properties with existing restaurant facilities in the vicinity and same zone have similar or less landscaping percentages.

Finding 4. The granting of such variance will not be contrary to or in conflict with the general purposes and intent of this Chapter, nor to the goals, objectives and policies of the General Plan.

LU Policy 4.1.7: The City shall require visually aesthetic screening of service areas and well landscaped parking lots

The proposed variance will not be in conflict with the purposes and intent of the LCP nor the goals, objectives and policies of the General Plan. Landscape screening of the parking area from Pacific Coast Highway will be installed as part of the project to lessen the impact of parking located within the front yard setback area. The modification to landscape standards will allow the proposed project to renovate and enhance an existing vacant commercial property.

Finding 5. The variance request is consistent with the purpose and intent of the zone(s) in which the site is located.

The variance request is for landscaping reduction related to the development of a restaurant/bar in the CV-1 zone. This use is consistent with the purpose and intent of the proposed CV-1 zone.

Finding 6. The subject site is physically suitable for the proposed variance.

The subject site as currently developed has a limited amount of area for landscaping. However, the site is physically suited to allow for extensive landscaping along the front property line to screen parking from the public right-of-way.

Finding 7. The variance request complies with all requirements of state and local law.

The variance request and the proposed project will comply with all the requirements of state and local laws.

Finding 8. The variance will not be detrimental to the health, safety and welfare of the City.
All or any necessary conditions have been imposed on the proposed project to ensure that the project will not be detrimental to the health, safety and welfare of the City. In addition, the City Biologist will review landscaping conditions prior to issuance of Certificate of Occupancy.

E. Conditional Use Permit and Findings (M.M.C. Section 17.66.080)

The applicant is requesting a CUP to allow a new restaurant with beer, wine and liquor. Pursuant to M.M.C. Section 17.66.080, the Planning Commission may approve, deny and/or modify an application for a CUP in whole or in part, with or without conditions, provided that it makes all of the following findings of fact. The CUP can be supported based on the findings below:

Finding 1. The proposed use is one that is conditionally permitted within the subject zone and complies with the intent of all of the applicable provisions of Title 17 of the Malibu Municipal Code.

The proposed restaurant is a conditionally permitted use in the CV-1 zoning district. The project has been conditioned to comply with all applicable provisions of the M.M.C.

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

The restaurant use is a visitor-serving commercial use on visitor-serving zoned property and therefore promotes the intent of the CV-1 zoning district.

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

It has been determined that the subject site is physically suitable for supporting a restaurant, as the site has previously operated as a restaurant for many years.

Finding 4. The proposed use is compatible with the land uses presently on the subject property and in the surrounding neighborhood.

The subject site is currently developed with a vacant restaurant, and is surrounded by both commercial and residential uses. The proposed hours of operation are limited to 11:00 am to midnight Monday through Thursday, and from 11:00 am to 2:00 am on Friday and Saturday. The proposed project will not interfere with the parking and circulation in the area and therefore the use is compatible with on-site uses and other uses in the surrounding neighborhood.
Finding 5. The proposed use would be compatible with existing and future land uses within the zoning district and the general area in which the proposed use is to be located.

As conditioned, the proposed restaurant will have limited hours of operation and full liquor service (11:00 am to 12:00 am Sunday through Thursday, and 11:00 am through 2:00 am on Friday and Saturday) and no live entertainment will be permitted. Therefore the proposed use is not anticipated to generate any impacts that would be incompatible with uses permitted by the General Plan, Local Coastal Plan or Zoning Ordinance, or any use uses in the vicinity.

Finding 6. There would be adequate provisions for water, sanitation, and public utilities and services to ensure that the proposed use would not be detrimental to public health and safety and the project does not affect solar access or adversely impact existing public and private views, as defined by the staff.

Existing utilities will serve the proposed project. Since the previous use is a restaurant, no significant impacts on City services are anticipated. The conditional use permit has been conditioned so that the hours of operation are from 11 am - midnight Monday through Thursday; 2 am on Friday and Saturday nights.

The proposed project will not create any shade or shadow impacts that would impede solar access. The structure size at 22716 Pacific Coast Highway will not change significantly under this application, and; therefore, will not adversely impact existing public and private views.

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

The proposed restaurant replaces a former restaurant of slightly larger size. The proposed restaurant will not impact parking or circulation for the area.

Finding 8. The proposed use is consistent with the goals, objectives, policies, and general land uses of the General Plan.

The use is a conditionally permitted commercial use in the CV-1 district and, as conditioned, is consistent with goals, objectives and policies of the General Plan.

Finding 9. The proposed project complies with all applicable requirements of state and local law.

The proposed project will comply with all applicable requirements of State and local law and is conditioned to comply with any relevant approvals, permits and licenses from the City of Malibu and other related agencies such as Alcoholic Beverage Control (ABC).
Finding 10. The proposed use would not be detrimental to the public interest, health, safety, convenience or welfare.

The proposed project is a restaurant with beer, wine and liquor service, which is a conditionally permitted use in a visitor serving commercial zone. As conditioned, the proposed use will not be detrimental to the public interest, health, safety, convenience or welfare.

Finding 11. If the project is located in an area determined by the City to be at risk from earth movement, flooding or liquefaction, there is clear and compelling evidence that the proposed development is not at risk from these hazards.

The project will not be at risk from earth movement and flood hazards since the application is limited to redevelopment of an already developed property. The building footprint and envelope will change slightly; but there is no new impact related to earth movement or liquefaction.

F. Environmentally Sensitive Habitat Area (ESHA) Overlay (LIP Chapter 4)

The subject parcel is not located in the ESHA Overlay Map and the project will not result in negative impacts to sensitive resources, significant loss of vegetation or wildlife, or encroachments into an ESHA. Therefore, according to LIP Section 4.7.6(C), the supplemental ESHA findings are not applicable.

G. Native Tree Protection Ordinance (LIP Chapter 5)

No native trees exist on the property; therefore, this finding does not apply.

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

The Scenic, Visual and Hillside Resource Protection Ordinance governs those CDP applications concerning any parcel of land that is located along, within, provides views to or is visible from any scenic area, scenic road, or public viewing area. The proposed project is visible from PCH, but according to LUP Policy 6.4, the area of development is not considered a scenic area since it is existing commercial development on PCH east of Malibu Canyon Road. In addition the project is for reconstruction of a restaurant in the same location as the former, and the installation of a new AOWTS, and will not impede views once installed. No potentially significant impacts on scenic and/or visual resources are anticipated. Therefore, according to LIP Section 6.4, the scenic resource findings are not applicable.
I. Transfer Development Credits (LIP Chapter 7)

Pursuant to LIP Section 7.2, transfers of development credits only apply to land division and/or new multi-family development in specified zoning districts. The proposed CDP does not involve land division or multi-family development. Therefore, LIP Chapter 7 does not apply.

J. 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 hazard 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. Staff has determined that the project is located on a site or in an area where the proposed project causes the potential to create adverse impacts upon site stability or structural integrity. Therefore, the requirements of Chapter 9 of the LIP are applicable to the project and the required findings are made below.

**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 project was analyzed by staff for the hazards listed in the LIP Section 9.2.A. (1-7). Analysis of the project for hazards included review of the following documents/data, which are available on file with the City: 1) existing City Geologic Data maintained by the City; 2) submitted geological reports; 3) Wave Uprush Analysis.

The General Plan shows that the project site is in the vicinity of the Malibu Coast Fault. The Malibu Coast Fault Zone has not been recognized as an active fault by the State and no special study zones have been delineated along its length. The General Plan also shows the project site is in the vicinity of extreme fire hazards areas. The project could be subject to hazards from liquefaction (LIP 9.2.A.4), wave action (LIP Section 9.2.A.5) and potential tsunamis (LIP Section 9.2.A.6). Therefore, the proposed site was analyzed for geologic and structural integrity hazards.

Based on staff’s review of the above referenced information, it has been determined that:

1. The project site has a low potential to be subject to liquefaction hazards;
2. The project site could be subject to hazards from wave action and tsunami hazard; and
3. The project site is in the vicinity of extreme fire hazard areas.
The City Coastal Engineer, the City Geologist, Public Works Department, Environmental Health Specialist and LACFD have reviewed the project and found that there were no substantial risks to life and property related to any of the above hazards provided that their recommendations and those contained in the associated geotechnical and wave uprush reports are incorporated into the project design.

<table>
<thead>
<tr>
<th>Table 3 – LCP Grading Conformance</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
</tr>
<tr>
<td>R&amp;R</td>
</tr>
<tr>
<td>Cut</td>
</tr>
<tr>
<td>Fill</td>
</tr>
<tr>
<td>Total</td>
</tr>
<tr>
<td>Import</td>
</tr>
<tr>
<td>Export</td>
</tr>
</tbody>
</table>

Note: all quantities in cubic yards unless otherwise indicated. R&R = removal and recompaction
Exempt grading includes all removal and recompaction (R&R), understructure, and safety grading.

Liquefaction Hazard

The project site soils consist primarily of existing fill and littoral sands that are subject to liquefaction and erosion due to wave action. The proposed two-story wood frame structure will be supported by caisson and grade-beam foundation system embedded into bedrock beneath the sandy soils. The building superstructure will be supported directly by the caissons and the ground floor will consist of a structural deck also supported by the caissons. Any exterior concrete slab-on-grade construction would be supported by compacted soils. The proposed structure foundations will extend into the bedrock which is not susceptible to liquefaction thus mitigating seismically induced settlement and earth movement due to liquefaction hazards.

Wave Uprush Hazard

Wave Uprush analysis can be found on file at city hall. The wave uprush study recognized that the adjacent structures have been in place for over thirty years and have not been subject to wave runup damage and recommended that the finished floor of the proposed structure be the same as those adjacent.

Flood/Fire Hazard

The proposed site was also evaluated for flood hazards and the project has been designed to meet the Federal Emergency Management Act’s requirements for flood prone areas. In addition, the entire City of Malibu is located within the fire hazard zone.
**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 F. Hazards Finding 1 above, the proposed project as designed, conditioned, and approved by the City Coastal Engineer, City Geologist, City Public Works Department and the LACFD, the project will not have any significant adverse impacts on the site stability or structural integrity.

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

As discussed previously, the project will not result in any potentially significant environmental impacts because 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen potentially significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any potentially significant adverse impacts of the development on the environment. The project is the least environmental damaging alternative.

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

As stated in F. Hazards Finding 1 above, the proposed project as designed, conditioned, and approved by the City Coastal Engineer, City Geologist, City Public Works Department and the LACFD, the project will not have any significant adverse impacts on the site stability or structural integrity.

**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 stated in F. Hazards Finding 1 above, the proposed project as designed, conditioned, and approved by the City Coastal Engineer, City Geologist, City Public Works Department and the LACFD, the project will not have any significant adverse impacts on the site stability or structural integrity. Therefore, no adverse impacts are anticipated to result from hazards or conflict with sensitive resource protection policies contained in the LCP.

In addition, pursuant to LIP Section 4.42, the property owner will be required, as a condition of approval, to record a deed restriction acknowledging and assuming the hazard risk of development at the site. The deed restriction shall state that the proposed project 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 liability, claims, damages or expenses arising from any inquiry or damage due to such hazards.

K. Shoreline and Bluff Development (LIP Chapter 10)

The project does include development of a parcel located on or along the shoreline, a coastal bluff or bluff top fronting the shoreline as defined by the Malibu Local Coastal Program. Therefore, in accordance with Section 10.2 of the Local Implementation Plan, the requirements of Chapter 10 of the LIP are applicable to the project and the required findings made below.

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 project is located between the first public road and the sea. However, the proposed project and related construction activities are not anticipated to interfere with the public's right to access the coast as the site offers no direct or indirect beach access. There is existing vertical public access directly to the west at 22706 Pacific Coast Highway near the former Windsail restaurant. In addition, the applicant has offered to provide a lateral access easement; therefore, the proposed project will have no significant adverse impacts on public access. It is also anticipated that shoreline sand supply or other resources will not be impacted by the proposed project.

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 stated in G. Shoreline and Bluff Development Finding 1 above, as designed, conditioned, and approved by the City Geologist and City Geotechnical Engineer the project will not 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 discussed previously, the project will not result in potentially significant impacts because 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any potentially significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any potentially significant adverse impacts of the development on the environment. The project 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.

As stated in G. Shoreline and Bluff Development Finding 1 above, as designed, conditioned, and approved by the City Geologist and City Geotechnical Engineer the project will not have any significant adverse impacts on public access or shoreline sand supply or other resources.

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

As stated in G. Shoreline and Bluff Development Finding 1 above, as designed, conditioned, and approved by the City Geologist and City Geotechnical Engineer the project will not have any significant adverse impacts on public access or shoreline sand supply or other resources. The proposed structure is located as far landward as feasible while maintaining required setbacks.

Per LIP 10.5 (c) (page 184), all applications for proposed development on a beach or along a shoreline, including a shoreline protection structure, shall contain written evidence of review and determination from the California State Lands Commission (CSLC) relative to the proposed project’s location to or impact upon the boundary between public tidelands and private property. The CDP application contains the determination from the State Land Commission which indicates that “the CSLC presently asserts no claims that the project intrudes onto sovereign lands or that it would lie in an area that is subject to the public easement in navigable waters or that it falls within the LCP’s ten-foot setback requirement.”

Finally, the AOWTS requires further wastewater treatment than the systems of the adjacent existing properties. Therefore, the proposed project is the least environmentally damaging alternative.

In addition, the property owner will be required, as condition of approval, to record a deed restriction waiving any right to extend the seaward footprint of the onsite structures. The deed restriction shall state that no future repair or maintenance, enhancement, reinforcement or any other activity affecting the shoreline protection structure which extends the seaward footprint of the subject structure shall be undertaken and that he/she expressly waives any right to such activities that may exist under Coastal Act Section 30235.
L. Public Access (LIP Chapter 12)

The subject site is located between the first public road and the sea, on the ocean side of PCH. The project involves the construction of a new restaurant on a previously developed lot. The project does not meet the definitions of exceptions to public access requirements identified in LIP Section 12.2.2; however, LIP Section 12.6 states that public access is not required when adequate access exists nearby and the findings addressing LIP Section 12.8.3 can be made. The following findings satisfy this requirement. Analyses required by LIP Section 12.8.2 are provided herein, and in geotechnical and coastal engineering reports referenced previously in this report. Bluff top, trail, and recreational accesses are not applicable. No issue of public prescriptive rights has been raised.

The subject parcel is located on or near a public beach. The project involves construction of a new restaurant. No on-site vertical access is provided currently. A lateral access easement will be provided prior to the issuance of building permits. Therefore, the project will not hinder public access either during short-term construction activities nor long-term operation.

Lateral Access

The project is on the shoreline. According to LIP Section 12.5, access is required for new development between the nearest public roadway and the sea. Standards for lateral public access are identified in LIP Section 12.7.1. As previously mentioned, the applicant must record a lateral access easement prior to the issuance of building permits.

A lateral public access easement provides public access and use along or parallel to the sea or shoreline. The applicant has agreed to provide an offer to dedicate a lateral access easement subject to project approval. Such Offer to Dedicate (OTD) shall include a site map that shows all easements, deed restrictions, or OTD and/or other dedications to public access and open space and provide documentation for said easement or dedication.

Due to the scope of the project, and that a lateral access easement must be recorded prior to the issuance of building permits, no potential project-related or cumulative impacts on lateral public access are anticipated. LIP Section 12.6 indicates that public access is not required when public access is inconsistent with public safety and the findings addressing LIP Section 12.8.3 can be made. The following findings apply.

Finding A. 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.
Lateral access will be provided. No potential project-related or cumulative impact on public access is anticipated.

**Finding B. 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 mitigation measures to manage the type, character, intensity, hours, season or location of lateral access are available to protect public safety. Lateral access will be provided. In any case, no potential project-related or cumulative impact on public access is anticipated.

**Finding C. 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 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 land. Nonetheless, lateral access will be provided as a condition of approval. In any case, no potential project-related or cumulative impact on public access is anticipated.

**Vertical Access**

As discussed previously, the project is located between the shore and the first public road. Due to the scope of the project, no potential project-related or cumulative impact on vertical public access is anticipated. Furthermore, due to nearby vertical access, vertical access across the site is not deemed appropriate. The basis for the exception to the requirement for vertical access is associated with the availability of the Zonker Harris accessway nearby at the street address immediately next door. Due to the scope of the project, no potential project-related or cumulative impact on vertical public access is anticipated. Nevertheless, the following findings and analysis were conducted in accordance with LIP Section 12.8.3 regarding vertical access. Due to these findings, LIP Section 12.8.1 is not applicable.

**Finding A. The type of access potentially applicable to the site involved (vertical, lateral, blufftop, 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.**

Vertical access would not impact fragile coastal resources or have any impact on a military facility. The basis for the exception to the requirement for vertical access is associated with the availability of access nearby as described above. Due to the scope of the project, no potential project-related or cumulative impact on vertical public access is anticipated.
**Finding B. 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.**

As discussed previously, no mitigation measures are available to manage the type, character, intensity, hours, season or location of a vertical access to public safety because of wave and tidal forces. No impacts to military security or to fragile coastal resource have been identified. Due to the scope of the project, no potential project-related or cumulative impact on vertical public access is anticipated.

**Finding C. 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.**

Due to the scope of the project, no potential project-related or cumulative impact on vertical public access is anticipated. The ability of the public to access nearby public coastal tidelands is available from the beaches located both east and west of the project site.

The project as proposed does not block or impede access to the ocean. Conditioning the project to provide a vertical public access would not provide additional access to coastal resources because adequate public access is provided in the vicinity. Since existing access to coastal resources is adequate, and the project site is located on a private street that is not accessible to the public, no legitimate governmental or public interest would be furthered by requiring access at the project site.

**Bluff Top Access**

The project is not located on a bluff top. Therefore, no potential project-related or cumulative impact on bluff top access is anticipated. The ability of the public to access nearby public coastal tidelands is available from the public beaches located both east and west of the project site. The project as proposed does not block or impede access to the ocean. Because existing access to coastal resources is adequate, no legitimate governmental or public interest would be furthered by requiring access at the project site.

Due to the scope of the project, no potential project-related or cumulative impact on bluff top public access is anticipated and the findings in LIP Section 12.8.3 regarding bluff top access are not applicable.

**Trail Access**

The project site does not include any existing or planned trails as indicated in the LCP, the General Plan, or the Trails Master Plan. Therefore, no conditions or findings for trail access are required.
Recreational Access

The project site is not adjacent to, does not include, nor has any access ways to existing or planned public recreational areas. Therefore, no conditions or findings for recreational access are required.

M. Land Division (LIP - Chapter 15)

This project does not involve a division of land as defined in LIP Section 15.1; however the proposed lot tie is subject to the requirements of Section 15.4, Merger of Parcels. The requirements for a voluntary merger (applicant requested) are identified as follows:

A. Contiguous parcels under common ownership may be voluntarily merged if:

1. Either a merger or lot tie is authorized or required pursuant to a term or condition of a coastal development permit; or

2. The City determines that the merger is not inconsistent with any policy or standard of the LCP that protects environmentally sensitive habitat areas and/or visual resources of the coastal zone.

The parcels are under common ownership and the application is for a Lot Tie Covenant and Agreement for the three adjoining parcels (Attachment 7). Staff has determined in the Findings previously stated in this report that the proposed project, including the lot tie, is not inconsistent with any policy or standard of the LCP that protects environmentally sensitive habitat or visual resources of the coastal zone.

B. An instrument evidencing the lot tie shall be recorded. The recorded instrument shall contain a legal description of the contiguous parcels prior to the merger, and the new parcel that results after the lot tie. The instrument must be reviewed and approved by the City prior to recording. A copy of the recorded instrument shall be provided to the Los Angeles County Assessor’s Office.

Said instrument is required as Condition of Approval No. 38 of Resolution No. 07-02. Upon submittal, the document shall be reviewed and approved by the City Engineer and forwarded to the Los Angeles County Recorder’s office for recordation. In addition, Condition of Approval No. 39 requires that the applicant supply proof that the recorded document was submitted to the Los Angeles County Assessor’s Office.

N. Onsite Wastewater Treatment System (LIP Chapter 18)

LIP Chapter 18 addresses AOWTS. LIP Section 18.7 includes specific siting, design, and performance requirements. The project includes an AOWTS, which has been reviewed by the City Environmental Health Specialist and found to meet the minimum
requirements of the Malibu Plumbing Code, the City of Malibu Municipal Code and the LCP. The subject system will meet all applicable requirements, and operating permits will be required from the City of Malibu’s Environmental and Building Safety Division. An operation and maintenance contract and recorded covenant covering such shall be in compliance with the City of Malibu Environmental Health requirements. Nevertheless, conditions of approval have been included to require continued operation, maintenance and monitoring of on site facilities.

O. Demolition Permit

Pursuant to Section 17.70.060 of the IZO the following findings must be made in order for the review and approval body to approve a demolition permit application.

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

   Project Specific conditions and mitigation measures will ensure that the demolition will not create a significant adverse environmental impact.

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

   A demolition permit will only be approved as part of the approval all other development permits requested as part of this application.

Malibu Municipal Code Section 17.70 requires that demolition permits be issued for projects that result in the demolition of any building or structure. The project proposes to demolish onsite development. The required findings can be made since (1) the project will not result in potentially significant adverse environmental impacts, and (2) the project includes a replacement development.

Environmental Review Board

The ERB evaluated this project because an initial study was prepared to analyze potential environmental impacts. ERB recommendations are contained herein as Attachment 3. It has been determined that the project will not impact areas identified as ESHA on the LCP ESHA Overlay Map.

CORRESPONDENCE: To date, no correspondence has been received regarding this project.

ENVIRONMENTAL REVIEW: Pursuant to the authority and criteria contained in the CEQA, the Planning Division has analyzed the proposal as described above. Initial Study No. 06-007 and Mitigated Negative Declaration No. 06-008 were circulated for public review through the State Clearinghouse.

Page 26 of 27    Agenda Item 6.B.
PUBLIC NOTICE: Pursuant to Malibu Local Coastal Program LIP Section 13.12.1, staff published the required 10-day Notice of Public Hearing in the Malibu Surfside News on December 21, 2006. In addition, a Notice of Public Hearing was mailed to property owners and occupants within a 500-foot radius of the subject property on December 21, 2006. Attachment 5 The subject site was also posted on December 28, 2005.

SUMMARY: The required findings can be made that the project complies with the LCP. Further, the Planning Division’s findings of fact are supported by substantial evidence in the record. Based on the analysis contained in this report, staff is recommending approval of this project subject to the conditions of approval contained in Section 4 of Planning Commission Resolution No. 07-03. The project has been reviewed and conditionally approved for conformance with the LCP by staff and appropriate City departments.

ATTACHMENTS:

1. Planning Commission Resolution No. 07-03
2. Initial Study/Mitigated Negative Declaration
3. Department Review Sheets and ERB recommendation
4. Project Plans
5. Public Hearing/Mailing Notice

All referenced reports not included in the attachments can be viewed in their entirety in the project file located at Malibu City Hall
CITY OF MALIBU PLANNING COMMISSION
RESOLUTION NO. 07-03

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MALIBU APPROVING COASTAL DEVELOPMENT PERMIT NO. 05-192, VARIANCE NOS. 05-039 AND 05-040, CONDITIONAL USE PERMIT NO. 06-010, DEMOLITION PERMIT NO. 06-020, INITIAL STUDY NO. 06-007 AND MITIGATED NEGATIVE DECLARATION NO. 06-008 TO ALLOW FOR THE CONSTRUCTION OF A NEW, 7,100 SQUARE FOOT RESTAURANT TO REPLACE AN EXISTING VACANT RESTAURANT BUILDING AND THE INSTALLATION OF A NEW, ALTERNATIVE ON SITE WASTEWATER TREATMENT SYSTEM IN A COMMERCIAL VISITOR SERVING - 1 (CV-1) ZONING DISTRICT LOCATED AT 22716 PACIFIC COAST HIGHWAY (MALIBU CANTINA, LLC)

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

Section 1. Recitals.

A. On November 30, 2005, an application for Coastal Development Permit (CDP) No. 05-192 and associated requests was submitted by Scott Mitchell Studios on behalf of Malibu Cantina, LLC to the Planning Division for processing. The application was reviewed and approved by the City of Malibu Public Works Department, City Geologist, City Coastal Engineer, City Environmental Health Administrator, City Biologist and the Los Angeles County Fire Department. The submitted project consisted of the replacement of an 8,004 square foot restaurant with a new, 7,100 square foot restaurant with full liquor license, outdoor seating, and associated development.

B. On December 28, 2006, Notice of Application for Coastal Development Permit No. 05-192 was posted on the subject property.

C. On August 23, 2006, the project was heard before the Environmental Review board.

D. On December 6, 2006, the application was deemed complete for processing.

E. On December 14, 2006, a Notice of Intent to adopt a Mitigated Negative Declaration was issued on December 13, 2006.

F. On December 21, 2006, a Notice of Public Hearing was published in a newspaper of general circulation within the City of Malibu. In addition, on December 21, 2006, a Notice of Public Hearing was mailed to all property owners and occupants within a 500-foot radius of the subject property.

G. On January 16, 2007, the Planning Commission held a duly noticed public hearing on the subject application, reviewed and considered the staff report, reviewed and considered written reports, public testimony, and other information in the record.
Section 2. Environmental Review.

Pursuant to the authority and criteria contained in the CEQA, the Planning Division has analyzed the proposal as described above. Initial Study No. 06-007 and Mitigated Negative Declaration No. 06-008 were circulated for public review through the State Clearinghouse.

Section 3. Coastal Development Permit Approval and Findings.

Based on substantial evidence contained within the record and pursuant to Sections 13.7.B and 13.9 of the City Malibu Local Coastal Program (LCP) Local Implementation Plan (LIP), the Planning Commission adopts the findings in the staff report, the findings of fact below, and approves Coastal Development Permit No. 05-192.

The proposed project has been reviewed by the City of Malibu Public Works Department, City Geologist, City Coastal Engineer, City Environmental Health Administrator, City Biologist and Los Angeles County Fire Department. According to the City of Malibu’s Cultural Resources Sensitivity Maps, the subject site has a low potential to contain archaeological resources. The project is consistent with the LCP’s zoning, grading, water quality, and onsite wastewater treatment requirements. The project has been determined to be consistent with all applicable LCP codes, standards, goals, and policies.

A. General Coastal Development Permit (LIP Chapter 13)

Finding A. 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 project has been reviewed and approved for conformance with the LCP by the Planning Commission. As discussed herein, the project, as proposed and/or conditioned, conforms to the certified City of Malibu LCP.

Finding B. The project is located between the first public road and the sea. The 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).

The project is located between the first public road and the sea. The project site is off a public street and does accommodate public access to the shoreline. Existing onsite development blocks vertical access to the ocean. Nearby public access is available to the east at Zonker Harris access easement adjacent to Windsail. The location of the proposed project and related construction activities is not anticipated to interfere with the public’s right to access the coast. The 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 C. The project is the least environmentally damaging alternative.

Pursuant to the California Environmentally Quality Act (CEQA), an Initial Study and Negative Declaration were circulated for public review and considered by the City. According to the Initial Study, the project will result in less than significant adverse effects on the environment, within the meaning of
CEQA. There are no further feasible alternatives that would further reduce any impacts on the environment. The project complies with the size and height requirements of the LCP and the Malibu Municipal Code (M.M.C.).

The project will result in less than significant impacts on the physical environment. The new restaurant and AOWTS system will be replacing the existing restaurant and onsite wastewater treatment system. Because the proposed restaurant will be built in the same general location as the existing restaurant, site disturbance will be minimized. Therefore, the proposed location is the least environmentally damaging feasible alternative.

The project consists of a new restaurant and AOWTS. The project will not result in potentially significant impacts because 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any potentially significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any potentially significant adverse impacts of the development on the environment.

Finding D. If the project is located in or adjacent to an environmentally sensitive habitat area (ESHA) 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.

The subject parcel is not located within ESHA Overlay Map and the project will not result in negative impacts to sensitive resources, significant loss of vegetation or wildlife, or encroachments into an ESHA. Nevertheless, the project was reviewed by the City Biologist and determined to be exempt from ESHA requirements. The project was determined to be consistent with the provisions of LIP Section 4.4.4(b). The project was reviewed by the Environmental Review Board as an initial study was prepared to analyze potential environmental impacts. The project does not result in the increase of an existing graded pad or developed area.

B. Variance for Parking in the Front Yard (LIP - Chapter 13.26.5)

Pursuant to LIP Section 13.26.5, the Planning Commission may approve and/or modify an application for a variance in whole or in part, with or without conditions, provided that it makes ten findings of fact. The project includes a variance application to provide parking in the front yard. This condition will exceed that which is permitted by LIP Sections 13.12.5(A)(2). The evidence in the record supports the requested variance and the following findings of fact can be made.

Finding A. There are special circumstances or exceptional characteristics applicable to the subject property, including size, shape, topography, location, or surroundings such that strict application of the zoning ordinance deprives such property of privileges enjoyed by other property in the vicinity and under the identical zoning classification.

The proposed parking facilities in the front yard are necessary to minimize grading and pull the development away from the beach. Requiring the project to comply with the subject regulations would result in additional grading and pushing the development towards this potentially sensitive resource. Other commercial development in the vicinity includes parking in the front yard. Therefore, special
circumstances or exceptional characteristics apply to the subject property such that strict application of
the zoning ordinance deprives such property of privileges enjoyed by other property in the vicinity and
under the identical zoning classification.

Finding B. The granting of such 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(s) in which the property is located.

The project will meet all applicable building and engineering safety codes and will not be detrimental to
other adjacent properties or improvements. The variance will reduce required grading and work to push
the development away from the beach. The variance will allow the construction of the building in an area
that has been determined to be appropriate for such use and protect nearby sensitive resources. As stated
previously, the project has been reviewed and approved by the Los Angeles County Fire Department, the
City Public Works Department, City Biologist, Environmental Health Administrator, City Coastal
Engineering and the City Geologist. The project is consistent with applicable City goals and policies and
will not be detrimental to the public’s interest, safety, health or welfare or injurious to the property or
improvements in the same vicinity and zones in which the property is located.

Finding C. The granting of the variance will not constitute a special privilege to the applicant or
property owner.

Granting of the variance will not constitute a special privilege to the applicant or property owner because
other properties in the immediate vicinity are developed with parking in close proximity to the street. The
variance will work to protect potentially sensitive resources near the project site and limit overall grading.
Since restaurants are consistent with the uses allowed by the zoning district, granting the variance does
d not constitute a special privilege to the property owner.

Finding D. The granting of such variance will not be contrary to or in conflict with the general purposes
and intent of this Chapter, nor to the goals, objectives and policies of the LCP.

The granting of the variance is not contrary to or in conflict with the general purposes or intent of the
LCP in that granting the variance will allow construction of a restaurant in the CV zoning district. The
protection of sensitive resources overrides other development standards and is consistent with the goals,
objectives and policies of the LCP.

Finding E. For variances to environmentally sensitive habitat area buffer standards or other
environmentally sensitive habitat area protection standards, that there is no other feasible alternative for
siting the structure and that the development does not exceed the limits on allowable development area
set forth in Section 4.7 of the Malibu LIP.

The variance does not propose reduction of any ESHA standards. The development limits of LIP Section
4.7 do not apply because the project site is not in ESHA or ESHA buffer.
Finding F. For variances to stringline standards, that the project provides maximum feasible protection to public access as required by Chapter 2 of the Malibu LIP.

The variance is not for a deviation of stringline standards. Therefore, this finding is not applicable.

Finding G. The variance request is consistent with the purpose and intent of the zone(s) in which the site is located. A variance shall not be granted for a use or activity which is not otherwise expressly authorized by the zone regulation governing the parcel of property.

The project is for a restaurant, which is an allowed use in the CV zoning district in which the project is located. The variance is for parking in the front yard and does not authorize a use or activity that is not expressly authorized by the zoning regulations for the subject property.

Finding H. The subject site is physically suitable for the proposed variance.

The granting of the variance will allow construction of a restaurant in a location that will protect potentially sensitive resources near the site and limit overall grading. The proposed and existing developments share a similar use and layout, and the site has consistently been utilized as a restaurant. With implementation of specific geo-technical specifications, the subject site is physically suitable for the variance.

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

The variance complies with all requirements of state and local law. Construction of the improvements will comply with all building code requirements and will incorporate all recommendations from applicable City Agencies.

Finding J. A variance shall not be granted that would allow reduction or elimination of public parking for access to the beach, public trails or parklands.

The project does not include any reduction or elimination of public parking for access to the beach, public trails, or parklands. The variance will aid in accommodating all required on site parking thereby minimizing any use of available public parking by restaurant patrons.

C. Joint Use and Common Parking Facilities (3.12.4)

The Planning Commission may permit the joint use of parking facilities to meet the standards for certain commercial, office, or mixed uses under the following conditions:

Condition A. Up to one-half of the parking facilities required for a primarily daytime use may be used to meet the requirements of a primarily nighttime use and up to one-half of the parking facilities required for a primarily nighttime use may be used to meet the requirements of a primarily daytime use; provided, that such reciprocal parking arrangement shall comply with subsection C of this section.
The applicant has requested a Joint Use and Common Parking Facilities Agreement with the adjacent restaurant use. The restaurant use at 22716 PCH requires 59 parking spaces while they have proposed 70 (11 extra) parking spaces onsite. The proposed restaurant use at 22706 PCH requires 74 spaces and provides 64 spaces onsite. The reciprocal parking agreement will allow the 10 required spaces to be utilized on the adjacent site. The two sites together have a net of one extra parking space. Since both properties are restaurant uses, with the same proposed hours of operation and both are conditioned to require only valet parking, the two parking lots will efficiently manage parking for both restaurants through the Joint Use and Common Parking Facilities Agreement.

**Condition B. The Planning Commission may reduce parking requirements for common parking facilities by up to twenty-five percent in shopping centers or other commercial areas where a parking lot with common access and joint use is provided.**

The applicant has not requested to reduce the required parking spaces as allowed in a Joint Use and Common Parking Facilities Agreement (a twenty five percent reduction would equate to a loss of 33 parking spaces) but rather to allow some flexibility in the use of the two adjoining parking lots. As discussed above, the total required parking for the site is distributed on both sites.

**Condition C. The parties concerned shall show that there is no substantial conflict in the principal operating hours of the building or uses for which the joint use is proposed and shall evidence agreement for such use by a proper legal instrument, to which the city is a party.**

As both properties will be restaurant uses and will both be required to have valet parking, there should be no conflict in the principal operating hours. A recorded legal agreement between the City and the applicant is required as a condition of approval. The agreement will contain requirements for an annual review by the City Planning Manager with authority to modify the agreement as necessary to maintain onsite parking arrangements.

**Condition D. Parking facilities for new development of general office or commercial use, which may cumulatively impact public access and recreation, shall be designed to serve not only the development during ordinary working hours, but also public beach parking during weekends and holidays, in conjunction with public transit or shuttle buses serving beach recreation areas.**

The proposed new development is not anticipated to impact public access or recreation as the site already contains both dedicated vertical and lateral public access.

**Condition E. A program to utilize existing parking facilities for office and commercial development located near beaches for public access parking during periods of normal beach use when such development is not open for business should be developed. As feasible, new non-visitor serving office or commercial development shall be required to provide public parking for beach access during weekends and holidays.**

The site is a visitor serving development not an office development and will be in operation during the highest beach use times of the day. Adequate parking to meet onsite uses shall be provided, ensuring that off-site restaurant patron parking does not displace public parking for beach access.
D. Variance for Reduction of the Amount of Required Landscaping.

The applicant is requesting approval of a variance to reduce the amount of required landscaping. Pursuant to LIP Chapter 3.8.A.5.b, forty (40) percent of a commercial lot area shall be devoted to landscaping. The proposed project has a total landscaped area of 17 percent, and 34 percent open space (25 percent open space is required). As such, the applicant is requesting a variance for relief from this requirement based on the following findings:

Finding 1. There are special circumstances or exceptional characteristics applicable to the subject property, including size, shape, topography, location, or surroundings such that strict application of the zoning ordinance deprives such property of privileges enjoyed by other property in the vicinity and under the identical zoning classification.

Due to the constrained parcel and sandy beach, there are special circumstances or exceptional characteristics applicable to the subject property in that the strict application of the 40 percent landscape requirement will make the lot economically un-useable and deny the applicant privileges enjoyed on similar properties in the vicinity and same zone. Abutting and similar properties developed with restaurant uses, including Dukes and Moonshadows have significantly less than the required 40 percent landscaped area.

Finding 2. The granting of such 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(s) in which the property is located.

The granting of the requested 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(s) in which the property is located. The proposed project will eliminate an existing blighted property.

Finding 3. The granting of the variance will not constitute a special privilege to the applicant or property owner.

The granting of the variance will not constitute a special privilege since similar properties with existing restaurant facilities in the vicinity and same zone have similar or less landscaping percentages.

Finding 4. The granting of such variance will not be contrary to or in conflict with the general purposes and intent of this Chapter, nor to the goals, objectives and policies of the General Plan.

LU Policy 4.1.7: The City shall require visually aesthetic screening of service areas and well landscaped parking lots

LU Implementation Measure 71: Permit minor modifications to development standards to accommodate renovation and adaptive reuse of existing commercial/retail buildings.

The proposed variance will not be in conflict with the purposes and intent of the LCP nor the goals, objectives and policies of the General Plan. Landscape screening of the parking area from Pacific
Coast Highway will be installed as part of the project to lessen the impact of parking located within the front yard setback area. The modification to landscape standards will allow the proposed project to renovate and enhance an existing vacant blighted commercial property.

Finding 5. The variance request is consistent with the purpose and intent of the zone(s) in which the site is located.

The variance request is for landscaping reduction related to the development of a restaurant/bar in the CV-1 zone. This use is consistent with the purpose and intent of the proposed CV-1 zone.

Finding 6. The subject site is physically suitable for the proposed variance.

The subject site as currently developed has a limited amount of area for landscaping. However, the site is physically suited to allow for extensive landscaping along the front property line to screen parking from the public right-of-way.

Finding 7. The variance request complies with all requirements of state and local law.

The variance request and the proposed project will comply with all the requirements of state and local laws.

Finding 8. The variance will not be detrimental to the health, safety and welfare of the City.

All or any necessary conditions have been imposed on the proposed project to ensure that the project will not be detrimental to the health, safety and welfare of the City.

E. Conditional Use Permit and Findings (M.M.C. Section 17.66.080)

The applicant is requesting a CUP to allow a new restaurant with beer, wine and liquor. Pursuant to M.M.C. Section 17.66.080, the Planning Commission may approve, deny and/or modify an application for a CUP in whole or in part, with or without conditions, provided that it makes all of the following findings of fact. The CUP can be supported based on the findings below:

Finding 1. The proposed use is one that is conditionally permitted within the subject zone and complies with the intent of all of the applicable provisions of Title 17 of the Malibu Municipal Code.

The proposed restaurant is a conditionally permitted use in the CV-1 zoning district. The project has been conditioned to comply with all applicable provisions of the M.M.C.

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

The restaurant use is a visitor serving use on a visitor serving zoned property and therefore promotes the intent of the CV-1 zoning district.
Finding 3. The subject site is physically suitable for the type of land use being proposed.

It has been determined that the subject site is physically suitable for supporting a restaurant, as the site has previously operated as a restaurant for many years.

Finding 4. The proposed use is compatible with the land uses presently on the subject property and in the surrounding neighborhood.

The subject site is currently developed with a vacant restaurant, and is surrounded by both commercial and residential uses. The proposed hours of operation are limited to 11:00 am to midnight, Monday-Thursday, and from 11:00 am to 2:00 am on Friday and Saturday. The proposed project will not interfere with the parking and circulation in the area and therefore the use is compatible with on-site uses and other uses in the surrounding neighborhood.

Finding 5. The proposed use would be compatible with existing and future land uses within the zoning district and the general area in which the proposed use is to be located.

As conditioned, the proposed restaurant will have limited hours of operation and full liquor service (11:00 am to 12:00 am Sunday through Thursday, and 11:00 am through 2:00 am on Friday and Saturday) and no live entertainment will be permitted. Therefore the proposed use is not anticipated to generate any impacts that would be incompatible with uses permitted by the General Plan, Local Coastal Plan or Zoning Ordinance, or any use uses in the vicinity.

Finding 6. There would be adequate provisions for water, sanitation, and public utilities and services to ensure that the proposed use would not be detrimental to public health and safety and the project does not affect solar access or adversely impact existing public and private views, as defined by the staff.

Existing utilities will serve the proposed project. Since the previous use is a restaurant, no significant impacts on City services are anticipated. The conditional use permit has been conditioned so that the hours of operation are from 11 am - midnight Sunday through Thursday; 2 am on Friday and Saturday nights.

The proposed project will not create any shade or shadow impacts that would impede solar access. The structure size at 22716 Pacific Coast Highway will not change significantly under this application, and, therefore, will not adversely impact existing public and private views.

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

The proposed restaurant replaces a former restaurant of slightly larger size. The proposed restaurant will not impact parking or circulation for the area.

Finding 8. The proposed use is consistent with the goals, objectives, policies, and general land uses of the General Plan.

The use is a conditionally permitted commercial use in the CV-1 district and, as conditioned, is consistent with goals, objectives and policies of the General Plan.
Finding 9. The proposed project complies with all applicable requirements of state and local law.

The proposed project will comply with all applicable requirements of State and local law and is conditioned to comply with any relevant approvals, permits and licenses from the City of Malibu and other related agencies such as Alcoholic Beverage Control (ABC).

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

The proposed project is a restaurant with beer, wine and liquor service, which is a conditionally permitted use in a visitor serving commercial zone. As conditioned, the proposed use will not be detrimental to the public interest, health, safety, convenience or welfare.

Finding 11. If the project is located in an area determined by the City to be at risk from earth movement, flooding or liquefaction, there is clear and compelling evidence that the proposed development is not at risk from these hazards.

The project will not be at risk from earth movement and flood hazards since the application is limited to redevelopment of an already developed property. The building footprint and envelope will change slightly; but there is no new impact related to earth movement or liquefaction.

F. Environmentally Sensitive Habitat Area (LIP Chapter 4)

The subject parcel is not located in the ESHA Overlay Map and the project will not result in negative impacts to sensitive resources, significant loss of vegetation or wildlife, or encroachments into an ESHA. Therefore, according to LIP Section 4.7.6(C), the supplemental ESHA findings are not applicable.

G. Native Tree Protection Ordinance (LIP Chapter 5)

No native trees exist on the property; therefore, this finding does not apply.

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

The Scenic, Visual and Hillside Resource Protection Ordinance governs those CDP applications concerning any parcel of land that is located along, within, provides views to or is visible from any scenic area, scenic road, or public viewing area. The proposed project is visible from PCH, but according to LUP Policy 6.4, the area of development is not considered a scenic area since it is existing commercial development on PCH east of Malibu Canyon Road. In addition the project is for reconstruction of a restaurant in the same location as the former, and the installation of a new AOWTS, and will not impede views once installed. No potentially significant impacts on scenic and/or visual resources are anticipated. Therefore, according to LIP Section 6.4, the scenic resource findings are not applicable.

I. Transfer Development Credits (LIP Chapter 7)

Pursuant to LIP Section 7.2, transfers of development credits only apply to land division and/or new multi-family development in specified zoning districts. The proposed CDP does not involve land
division or multi-family development. Therefore, LIP Chapter 7 does not apply.

J. 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 hazard 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 Planning Commission has determined that the project is located on a site or in an area where the proposed project causes the potential to create adverse impacts upon site stability or structural integrity. Therefore, the requirements of Chapter 9 of the LIP are applicable to the project and the required findings are made below.

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 project was analyzed by the Planning Commission for the hazards listed in the LIP Section 9.2.A. (1-7). Analysis of the project for hazards included review of the following documents/data, which are available on file with the City: 1) existing City Geologic Data maintained by the City; 2) submitted geological reports; 3) Wave Uprush Analysis.

The General Plan shows that the project site is in the vicinity of the Malibu Coast Fault. The Malibu Coast Fault Zone has not been recognized as an active fault by the State and no special study zones have been delineated along its length. The General Plan also shows the project site is in the vicinity of extreme fire hazards areas. The project could be subject to hazards from liquefaction (LIP 9.2.A.4), wave action (LIP Section 9.2.A.5) and potential tsunamis (LIP Section 9.2.A.6). Therefore, the proposed site was analyzed for geologic and structural integrity hazards.

Based on the Planning Commission’s review of the above referenced information, it has been determined that:

1. The project site has a low potential to be subject to liquefaction hazards;
2. The project site could be subject to hazards from wave action and tsunami hazard; and
3. The project site is in the vicinity of extreme fire hazard areas.

The City Coastal Engineer, the City Geologist, Public Works Department, Environmental Health Specialist and LACFD have reviewed the project and found that there were no substantial risks to life and property related to any of the above hazards provided that their recommendations and those contained in the associated geotechnical and wave uprush reports are incorporated into the project design.

Exempt grading includes all removal and recompaction (R&R), understructure, and safety grading. Safety grading is the incremental grading required for fire department access (such as turnouts, hammerheads, and turnarounds and any other increases in driveway width above 15 feet required by the Los Angeles County Fire Department).

Planning Commission Resolution No. 07-03
Page 11 of 26
Liquefaction Hazard

The project site soils consist primarily of existing fill and littoral sands that are subject to liquefaction and erosion due to wave action. The proposed two-story wood frame structure will be supported by caisson and grade-beam foundation system embedded into bedrock beneath the sandy soils. The building superstructure will be supported directly by the caissons and the ground floor will consist of a structural deck also supported by the caissons. Any exterior concrete slab-on-grade construction would be supported by compacted soils. The proposed structure foundations will extend into the bedrock which is not susceptible to liquefaction thus mitigating seismically induced settlement and earth movement due to liquefaction hazards.

Wave Uprush Hazard

Wave Uprush analysis can be found on file at city hall. The wave uprush study recognized that the adjacent structures have been in place for over thirty years and have not been subject to wave runup damage and recommended that the finished floor of the proposed structure be the same as those adjacent.

Flood/Fire Hazard

The proposed site was also evaluated for flood hazards and the project has been designed to meet the Federal Emergency Management Act's requirements for flood prone areas. In addition, the entire City of Malibu is located within the fire hazard zone.

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 F. Hazards Finding 1 above, the proposed project as designed, conditioned, and approved by the City Coastal Engineer, City Geologist, City Public Works Department and the LACFD, the project will not have any significant adverse impacts on the site stability or structural integrity.

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

As discussed previously, the project will not result in any potentially significant environmental impacts because 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen potentially significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any potentially significant adverse impacts of the development on the environment. The project is the least environmental damaging alternative.

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

As stated in F. Hazards Finding 1 above, the proposed project as designed, conditioned, and approved by the City Coastal Engineer, City Geologist, City Public Works Department and the LACFD, the project...
will not have any significant adverse impacts on the site stability or structural integrity.

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 stated in F. Hazards Finding 1 above, the proposed project as designed, conditioned, and approved by the City Coastal Engineer, City Geologist, City Public Works Department and the LACFD, the project will not have any significant adverse impacts on the site stability or structural integrity. Therefore, no adverse impacts are anticipated to hazards or to sensitive resource protection policies contained in the LCP.

In addition, pursuant to LIP Section 4.42, the property owner will be required, as a condition of approval, to record a deed restriction acknowledging and assuming the hazard risk of development at the site. The deed restriction shall state that the proposed project 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 liability, claims, damages or expenses arising from any inquiry or damage due to such hazards.

K. Shoreline and Bluff Development (LIP Chapter 10)

The project does include development of a parcel located on or along the shoreline, a coastal bluff or bluff top fronting the shoreline as defined by the Malibu Local Coastal Program. Therefore, in accordance with Section 10.2 of the Local Implementation Plan, the requirements of Chapter 10 of the LIP are applicable to the project and the required findings made below.

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 project is located between the first public road and the sea. However, the proposed project and related construction activities are not anticipated to interfere with the public’s right to access the coast as the site offers no direct or indirect beach access. There is existing vertical public access at 22706 Pacific Coast Highway near the former Windsail restaurant. In addition, the applicant has offered to provide a lateral access easement; therefore, the proposed project will have no significant adverse impacts on public access. It is also anticipated that shoreline sand supply or other resources will not be impacted by the proposed project.

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 stated in K. Shoreline and Bluff Development Finding 1 above, as designed, conditioned, and approved by the City Geologist and City Geotechnical Engineer the project will not 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 discussed previously, the project will not result in potentially significant impacts because 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any potentially significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any potentially significant adverse impacts of the development on the environment. The project 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.

As stated in K. Shoreline and Bluff Development Finding 1 above, as designed, conditioned, and approved by the City Geologist and City Geotechnical Engineer the project will not have any significant adverse impacts on public access or shoreline sand supply or other resources.

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

As stated in K. Shoreline and Bluff Development Finding 1 above, as designed, conditioned, and approved by the City Geologist and City Geotechnical Engineer the project will not have any significant adverse impacts on public access or shoreline sand supply or other resources. The proposed structure is located as far landward as feasible while maintaining required setbacks.

Per LIP 10.5 (c) (page 184), all applications for proposed development on a beach or along a shoreline, including a shoreline protection structure, shall contain written evidence of review and determination from the California State Lands Commission (CSLC) relative to the proposed project’s location to or impact upon the boundary between public tidelands and private property. The CDP application for the associated staff report contains the determination from the State Land Commission which indicates that “the CSLC presently asserts no claims that the project intrudes onto sovereign lands or that it would lie in an area that is subject to the public easement in navigable waters or that it falls within the LCP’s ten-foot setback requirement.”

Finally, the AOWTS requires further wastewater treatment than the systems of the adjacent existing properties. Therefore, the proposed project is the least environmentally damaging alternative.

In addition, the property owner will be required, as condition of approval, to record a deed restriction waiving any right to extend the seaward footprint of the onsite structures. The deed restriction shall state that no future repair or maintenance, enhancement, reinforcement or any other activity affecting the shoreline protection structure which extends the seaward footprint of the subject structure shall be undertaken and that he/she expressly waives any right to such activities that may exist under Coastal Act Section 30235.
L. Public Access (LIP Chapter 12)

The subject site is located between the first public road and the sea, on the ocean side of PCH. The project involves the construction of a new restaurant on a previously developed lot. The project does not meet the definitions of exceptions to public access requirements identified in LIP Section 12.2.2; however, LIP Section 12.6 states that public access is not required when adequate access exists nearby and the findings addressing LIP Section 12.8.3 can be made. The following findings satisfy this requirement. Analyses required by LIP Section 12.8.2 are provided herein, and in geotechnical and coastal engineering reports referenced previously in this report. Bluff top, trail, and recreational accesses are not applicable. No issue of public prescriptive rights has been raised.

The subject parcel is located on or near a public beach. The project involves construction of a new restaurant. No on-site vertical access is provided currently. A lateral access easement will be provided prior to the issuance of building permits. Therefore, the project will not hinder public access either during short-term construction activities nor long-term operation.

Lateral Access

The project is on the shoreline. According to LIP Section 12.5, access is required for new development between the nearest public roadway and the sea. Standards for lateral public access are identified in LIP Section 12.7.1. As previously mentioned, the applicant must record a lateral access easement prior to the issuance of building permits.

A lateral public access easement provides public access and use along or parallel to the sea or shoreline. The applicant has agreed to provide an offer to dedicate a lateral access easement subject to project approval. Such Offer to Dedicate (OTD) shall include a site map that shows all easements, deed restrictions, or OTD and/or other dedications to public access and open space and provide documentation for said easement or dedication.

Due to the scope of the project, and that a lateral access easement must be recorded prior to the issuance of building permits, no potential project-related or cumulative impacts on lateral public access are anticipated. LIP Section 12.6 indicates that public access is not required when public access is inconsistent with public safety and the findings addressing LIP Section 12.8.3 can be made. The following findings apply.

Finding A. 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.

Lateral access will be provided. No potential project-related or cumulative impact on public access is anticipated.

Finding B. 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 mitigation measures to manage the type, character, intensity, hours, season or location of lateral access are available to protect public safety. Lateral access will be provided. In any case, no potential project-related or cumulative impact on public access is anticipated.

Finding C. 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 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 land. Nonetheless, lateral access will be provided as a condition of approval. In any case, no potential project-related or cumulative impact on public access is anticipated.

Vertical Access

As discussed previously, the project is located between the shore and the first public road. Due to the scope of the project, no potential project-related or cumulative impact on vertical public access is anticipated. Furthermore, due to nearby vertical access, vertical access across the site is not deemed appropriate. The basis for the exception to the requirement for vertical access is associated with the availability of the Zonker Harris accessway nearby at Windsail, immediately next door.

Due to the scope of the project, no potential project-related or cumulative impact on vertical public access is anticipated. Nevertheless, the following findings and analysis were conducted in accordance with LIP Section 12.8.1 regarding vertical access. Due to these findings, LIP Section 12.8.1 is not applicable.

Finding A. The type of access potentially applicable to the site involved (vertical, lateral, blufftop, 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.

Vertical access would not impact fragile coastal resources or have any impact on a military facility. The basis for the exception to the requirement for vertical access is associated with the availability of access nearby as described above. Due to the scope of the project, no potential project-related or cumulative impact on vertical public access is anticipated.

Finding B. 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.

As discussed previously, no mitigation measures are available to manage the type, character, intensity, hours, season or location of a vertical access to public safety because of wave and tidal forces. No impacts to military security or to fragile coastal resource have been identified. Due to the scope of the project, no potential project-related or cumulative impact on vertical public access is anticipated.

Finding C. 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.
Due to the scope of the project, no potential project-related or cumulative impact on vertical public access is anticipated. The ability of the public to access nearby public coastal tidelands is available from the beaches located both east and west of the project site.

The project as proposed does not block or impede access to the ocean. Conditioning the project to provide a vertical public access would not provide additional access to coastal resources because adequate public access is provided in the vicinity. Since existing access to coastal resources is adequate, and the project site is located on a private street that is not accessible to the public, no legitimate governmental or public interest would be furthered by requiring access at the project site.

**Bluff Top Access**

The project is not located on a bluff top. Therefore, no potential project-related or cumulative impact on bluff top access is anticipated. The ability of the public to access nearby public coastal tidelands is available from the public beaches located both east and west of the project site. The project as proposed does not block or impede access to the ocean. Because existing access to coastal resources is adequate, no legitimate governmental or public interest would be furthered by requiring access at the project site. Due to the scope of the project, no potential project-related or cumulative impact on bluff top public access is anticipated and the findings in LIP Section 12.8.3 regarding bluff top access are not applicable.

**Trail Access**

The project site does not include any existing or planned trails as indicated in the LCP, the General Plan, or the Trails Master Plan. Therefore, no conditions or findings for trail access are required.

**Recreational Access**

The project site is not adjacent to, does not include, nor has any access ways to existing or planned public recreational areas. Therefore, no conditions or findings for recreational access are required.

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

This project does not involve a division of land as defined in LIP Section 15.1; however the proposed lot tie is subject to the requirements of Section 15.4, Merger of Parcels. The requirements for a voluntary merger (applicant requested) are identified as follows:

A. Contiguous parcels under common ownership may be voluntarily merged if:

1. Either a merger or lot tie is authorized or required pursuant to a term or condition of a coastal development permit; or

2. The City determines that the merger is not inconsistent with any policy or standard of the LCP that protects environmentally sensitive habitat areas and/or visual resources of the coastal zone.

The parcels are under common ownership and the application is for a Lot Tie Covenant and Agreement for the three adjoining parcels. The Planning Commission has determined in the Findings previously stated in this report that the proposed project, including the lot tie is not inconsistent with any policy or standard of the LCP that protects environmentally sensitive habitat or visual resources of the coastal zone.
B. An instrument evidencing the merger shall be recorded. The recorded instrument shall contain a legal description of the contiguous parcels prior to the merger, and the new parcel that results after the merger. The instrument must be reviewed and approved by the City prior to recording. A copy of the recorded instrument shall be provided to the Los Angeles County Assessor’s Office.

Said instrument is required as Condition of Approval No. 37 of Resolution No. 07-02. Upon submittal, the document shall be reviewed and approved by the City Engineer and forwarded to the Los Angeles County Recorder’s office for recordation. In addition, Condition of Approval No. 38 requires that the applicant supply proof that the recorded document was submitted to the Los Angeles County Assessor’s Office.

N. Onsite Wastewater Treatment System (LIP Chapter 18)

LIP Chapter 18 addresses AOWTS. LIP Section 18.7 includes specific siting, design, and performance requirements. The project includes an AOWTS, which has been reviewed by the City Environmental Health Specialist and found to meet the minimum requirements of the Malibu Plumbing Code, the City of Malibu Municipal Code and the LCP. The subject system will meet all applicable requirements, and operating permits will be required from the City of Malibu’s Environmental and Building Safety Division. An operation and maintenance contract and recorded covenant covering such shall be in compliance with the City of Malibu Environmental Health requirements. Nevertheless, conditions of approval have been included to require continued operation, maintenance and monitoring of on site facilities.

Demolition Permit

Pursuant to Section 17.70.060 of the IZO the following findings must be made in order for the review and approval body to approve a demolition permit application.

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

   Project Specific conditions and mitigation measures will ensure that the demolition will not create a significant adverse environmental impact.

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

   A demolition permit will only be approved as part of the approval all other development permits requested as part of this application.

Malibu Municipal Code Section 17.70 requires that demolition permits be issued for projects that result in the demolition of any building or structure. The project proposes to demolish onsite development. The required findings can be made since (1) the project will not result in potentially significant adverse environmental impacts, and (2) the project includes a replacement development.

Planning Commission Resolution No. 07-03
Page 18 of 26
Section 4. Conditions of Approval

Based on the foregoing findings and evidence contained within the record, the Planning Commission hereby approves Coastal Development Permit No. 05-193 and associated requests, subject to the conditions listed below:

1. The applicants and 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.

   - Demolition of an existing 8,004 square foot vacant restaurant building;
   - Construction of a new, 7,100 square foot restaurant, and a new AOWTS;
   - Grading and landscaping;
   - Conditional Use Permit for the restaurant/bar use with the proposed hours of operation limited to 11:00 am to midnight, each day, and from 11:00 am to 2 am on Friday and Saturday, with no amplified music or outdoor speaker system permitted;
   - Joint Use and Common Parking Facilities Agreement to allow reciprocal parking. The agreement will contain requirements for an annual review by the City Planning Manager with authority to modify the agreement as necessary to maintain onsite parking arrangements; and
   - Lot Tie Covenant and Agreement for the three adjoining parcels

Subsequent submittals for this project shall be in substantial compliance with the plans on-file with the Planning Division. In the event the project plans conflict with any condition of approval, the condition shall take precedence.

3. Pursuant to LIP Section 13.18.2 (page 237), 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 Division within 10 days of this decision and prior to issuance of any development permits.

4. This resolution and the referral sheets attached to the agenda report for this project shall be copied in their entirety and placed directly onto a separate plan sheet behind the cover sheet of the development plans submitted to the City of Malibu Environmental and Building Safety Division for plan check and the City of Malibu Public Works/Engineering Services Department for an encroachment permit (as applicable).

5. The CDP shall be null and void if the project has not commenced within two (2) years after issuance of the permit. Extension to the permit may be granted by the approving authority for due cause. Extensions shall be requested in writing by the applicant or authorized agent at least two weeks prior to expiration of the two-year period and shall set forth the reasons for the request.
6. Any questions of intent or interpretation of any condition of approval will be resolved by the Planning Manager upon written request of such interpretation.

7. All structures shall conform to all requirements of the City of Malibu Environmental and Building Safety Division, City Geologist, City Environmental Health Specialist, City Biologist, Los Angeles County Water District No. 29, and Los Angeles County Fire Department, as applicable. Notwithstanding this review, all required permits shall be secured.

8. The applicant shall submit three (3) complete sets of plans to the Planning Division for consistency review and approval prior to the issuance of any building or development permit.

9. The applicant shall request a final planning inspection prior to final inspection by the City of Malibu Environmental and Building Safety Division. A Certificate of Occupancy shall not be issued until the Planning Division has determined that the project complies with this Coastal Development Permit. A temporary certificate of occupancy may be granted at the discretion of the Planning Manager, provided adequate security has been deposited with the City to ensure compliance should the final work not be completed in accordance with this permit.

10. In the event that potentially important cultural resources are found in the course of geologic testing, work shall immediately cease until a qualified archaeologist can provide an evaluation of the nature and significance of the resources and until the Planning Manager can review this information. Thereafter, the procedures contained in Chapter 11 of the LCP and those in Section 17.54.040(D)(4)(b) of the City of Malibu Municipal Code (M.M.C.) shall be followed.

11. 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.

12. Minor changes to the approved plans or the conditions of approval may be approved by the Planning Manager, provided such changes achieve substantially the same results and the project is still in compliance with the Municipal Code and the Local Coastal Program. An application with all required materials and fees shall be required.

13. Violation of any of the conditions of this approval shall be cause for revocation and termination of all rights thereunder.

14. The CDP runs with the land and binds all future owners of the property.

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

16. New development shall incorporate colors and exterior materials that are compatible with the surrounding landscape.

   a. Colors shall be compatible with the surrounding environment (earth tones) including shades of green, brown and gray with no white or light shades and no bright tones.
   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.

Lighting

17. Exterior lighting shall be minimized and restricted to low intensity features, shielded, and concealed so that no light source is directly visible from public viewing areas. 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 that are directed downward, and use bulbs that do not exceed 60 watts or the equivalent.
   b. Security lighting controlled by motion detectors may be attached to the residence provided it is directed downward and is limited to 60 watts or the equivalent.
   c. Driveway lighting shall be limited to the minimum lighting necessary for safe vehicular use. The lighting shall be limited to 60 watts or the equivalent.
   d. Lights at entrances in accordance with Building Codes shall be permitted provided that such lighting does not exceed 60 watts or the equivalent.
   e. Site perimeter lighting shall be prohibited.
   f. Outdoor decorative lighting for aesthetic purposes is prohibited.
   g. Night lighting for sports courts or other private recreational facilities in scenic areas designated for residential use shall be prohibited.
   h. Prior to issuance of the CDP, the applicant shall be required to execute and record a deed restriction reflecting the above restrictions.

18. The project applicant shall prepare a lighting plan prior to issuance of a building permit that demonstrates to the satisfaction of the Planning Manager and Building Official that all lighting for the site shall be confined to the project site.

Landscaping

19. All open areas not used for buildings, driveways, parking areas, or walkways shall be attractively landscaped and maintained in accordance with a landscape plan, with native plant species, to the satisfaction of the Planning Manager.
**Geology**

20. All recommendations of the consulting Certified Engineering Geologist (CEG) or Geotechnical Engineer (GE) 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.

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

**Water Service Condition**

22. Prior to the issuance of a building permit, the applicant shall submit a Will Serve letter from the Los Angeles County Waterworks District No. 29 indicating the ability of the project to receive adequate water service.

**Water Quality**

23. 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 Chapter 17 of the Malibu LIP.

24. 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 Malibu LCP and all other applicable ordinances and regulations.

25. A Water Quality Management Plan (WQMP) shall be submitted for review and approval of the Public Works Director. The WQMP shall be prepared in accordance with the Malibu LCP and all other applicable ordinances and regulations.

26. The design of the proposed project shall comply with the applicable provisions of the Water Quality Management Plan (WQMP), and if required by the WQMP, shall include structural or other measures to collect and treat the first 3/4 inch of stormwater runoff from the site, and control peak flow discharge.

27. In order to further reduce potentially significant impacts to surface water quality resulting from implementation of the proposed project, the following mitigation measures are recommended. Implementation of these measures would reduce all project impacts to less than significant levels.
28. The following conditions deal with temporary construction impacts.
   - Construction shall be phased to the extent feasible and practical to limit the amount of disturbed areas present at a given time.
   - Grading activities shall be planned during the southern California dry season (April through October).
   - 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.
   - Filter fences designed to intercept and detain sediment while decreasing the velocity of runoff shall be employed within project sites.

Demolition/Solid Waste

29. 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.

30. Applicant/property owner shall contract with a City approved hauler to facilitate the recycling of all recoverable/recyclable material. Recoverable material shall include but not be limited to: asphalt, dirt and earthen material, lumber, concrete, glass, metals, and drywall.

31. Prior to the issuance of the Certificate of Occupancy, the applicant shall provide the City Public Works Department with a Final Waste Reduction and Recycling Report. This report shall designate all materials that were land filled and recycled, broken down into material types. The final report shall be approved by the City Public Works Department.

Hazards

32. 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.

Onsite Wastewater Treatment System

33. Prior to the issuance of a building permit the applicant shall demonstrate, to the satisfaction of the Building Official, compliance with the City of Malibu’s Onsite Wastewater Treatment regulations including provisions of the Chapter 18.9 of the LCP related to continued operation, maintenance and monitoring of onsite facilities.
Shoreline Protection

34. 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.

35. The property owner is required to acknowledge, by the recordation of a deed restriction, that no future repair or maintenance, enhancement, reinforcement, or any other activity affecting the shoreline protection structure which extends the seaward footprint of the subject structure shall be undertaken and that he/she expressly waives any right to such activities that may exist under Coastal Act Section 30235. Said deed restriction shall be submitted to the Planning Division for approval prior to recordation. The deed restriction shall also acknowledge that the intended purpose of the shoreline protection structure is solely to protect existing structures located on the site, in their present condition and location, including the septic disposal system and that any future development on the subject site landward of the subject shoreline protection structure including changes to the foundation, major remodels, relocation or upgrade of the septic disposal system, or demolition and construction of a new structure shall be subject to a requirement that a new coastal development permit be obtained for the shoreline protection structure unless the City determines that such activities are minor in nature or otherwise do not affect the need for a shoreline protection structure.

36. Pursuant to LIP Section 10.4.C. Development on or near sandy beach or bluffs, including the construction of a shoreline protection device, shall include measures to insure that:
   1. No stockpiling of dirt or construction materials shall occur on the beach;
   2. All grading shall be properly covered and sandbags, ditches, or other Best Management Practices (BMPs) shall be used to prevent runoff and siltation;
   3. Measures to control erosion, runoff, and siltation shall be implemented at the end of each day’s work;
   4. No machinery shall be allowed in the intertidal zone at any time unless authorized in the Coastal Development Permit;
   5. All construction debris shall be removed from the beach daily and at the completion of development.

Lot Tie and Covenant Agreement

37. An instrument evidencing the lot tie shall be recorded. The recorded instrument shall contain a legal description of the contiguous parcels prior to the merger, and the new parcel that results after the merger. The instrument must be reviewed and approved by the City Planning Department and City Engineer prior to recording.

38. The applicant shall supply proof that the recorded Lot Tie Covenant Agreement was provided to the Los Angeles County Assessor’s Office.
Restaurant

39. The new restaurant at 22716 PCH shall serve as a donor site for 10 parking spaces for the adjacent restaurant at 22706 PCH. A legal agreement (Joint Use and Common Parking Facilities Agreement) between the City and the applicant is required as a condition of approval. The agreement will contain requirements for an annual review by the City Planning Manager with authority to modify the agreement as necessary to maintain onsite parking arrangements.

40. The proposed hours of operation are limited to 11:00 am to midnight, each day, and from 11:00 am to 2 am on Friday and Saturday.

41. No live entertainment or amplified sound will be permitted. Additionally, no outdoor speaker/pager system or shall be allowed.

42. No trash or recycling pick up is permitted between the hours of 10:00 pm and 8:00 am.

43. Valet parking shall be used for all uses associated with the project and during all hours of operation.

44. Once obtained, the applicant is required to provide to the Planning Division a copy of the California Department of Alcohol Beverage Control issued On-Premise Consumption License.

45. Violation of any of the conditions of approval shall be cause for revocation of the conditional use permit and termination of all rights contained therein.

Section 5. Certification.

The Planning Commission shall certify the adoption of this Resolution.

PASSED, APPROVED AND ADOPTED this 16th day of January 2007.

CAROL RANDALL, Planning Commission Chair

ATTEST:

ADRIENNE FURST, Recording Secretary
Local Appeal - Pursuant to Local Coastal Program Local Implementation (LIP) Section 13.20.1 (Local Appeals), a decision of the Planning Commission may be appealed to the City Council by an aggrieved person by written statement setting forth the grounds for appeal. An appeal shall be filed with the City Clerk within 10 days and shall be accompanied by an appeal form and filing fee of $655.00, as specified by the City Council. Appeal forms may be found online at www.ci.malibu.ca.us, in person at City Hall, or by calling (310) 456-2489 ext. 245 or ext. 256.

Coastal Commission Appeal – An aggrieved person may appeal the Planning Commission’s decision 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. 07-02 was passed and adopted by the Planning Commission of the City of Malibu at the regular meeting thereof held on the 16th day of January 2007, by the following vote:

AYES: 
NOES: 
ABSTAIN: 
ABSENT: 

ADRIENNE FURST, Recording Secretary
Mitigated Negative Declaration No. 06-008
City of Malibu
23815 Stuart Ranch Road, Malibu, California 90265
(310) 456-2489 FAX (310) 456-7650
www.ci.malibu.ca.us

Name of Project: 22706 and 22716 Pacific Coast Highway

Description of Project A – 22716 Pacific Coast Highway (APNs 4452-004-038 and 42)
The proposed project at 22716 Pacific Coast Highway consists of the demolition of an existing 8,003 square foot vacant restaurant building (formerly Pierview / Malibu Cantina) and the construction of a new, 7,514 square foot restaurant. The new restaurant is proposed to be two-stories in height and would include kitchens, dining rooms, bars/lounge areas and outdoor patios. The structure is proposed to be connected to the proposed (adjacent) restaurant at 22706 Pacific Coast Highway by a landscaped outdoor deck.

Description of Project B – 22706 Pacific Coast Highway (APNs 4452-004-036 and 37)
The proposed project at 22706 Pacific Coast Highway consists of the demolition of an existing 7,732 square foot vacant restaurant building (formerly Windsail Restaurant) and the construction of a new, 5,904 square foot restaurant. The new restaurant is proposed to be a single-story structure and would contain kitchens, bar/lounge areas, dining rooms and indoor/outdoor seating. The structure is proposed to be connected to the proposed (adjacent) restaurant at 22716 Pacific Coast Highway by a landscaped outdoor deck.

Associated Case Numbers: Demolition Permit Nos. 06-019 and 06-020; Coastal Development Permit Nos. 06-192 and 06-193; Variance Nos. 05-039, 05-040, 05-041, 05-042; Conditional Use Permit Nos. 06-009 and 06-010; Initial Study No. 06-007 and Mitigated Negative Declaration No. 06-008

Applicant: Scott Mitchell Studio, LLC
Property Owners: Malibu Cantina, LLC and Wave Break LLC
Lead Agency: City of Malibu
Contact Person: Stacey Rice, Ph.D., AICP, Senior Planner
(310) 456-2489, ext. 265, srice@ci.malibu.ca.us
Stefanie Edmondson, AICP, Associate Planner
(310) 456-2489, ext. 233, sedmondson@ci.malibu.ca.us

Adoption and Review Process: Prior to approving the project, the City of Malibu Planning Commission shall consider the Mitigated Negative Declaration together with any comments received during the public review process. The City Council shall adopt the Mitigated Negative Declaration only if it finds on the basis of the whole record before it (including the Initial Study and any comments received), that there is no substantial evidence that the project will have a significant effect on the environment and that the Mitigated Negative Declaration reflects the City of Malibu's independent judgment and analysis. The projects anticipated environmental effects are discussed in the Initial Study.

A review period beginning on December 14, 2006 and ending on January 12, 2007 will be provided to enable public review of the project specifications, the Initial Study, and this document prior to the final adoption of the Mitigated Negative Declaration by the City of Malibu. A copy of the project specifications are on file at the City of Malibu, 23815 Stuart Ranch Road, Malibu, CA 90265.
Where to Send Comments: Comments regarding the Initial Study and Mitigated Negative Declaration should reference IS No. 06-008. Comments may be submitted as follows:

Post: City of Malibu
Planning Division
Attn: IS No. 06-002
23815 Stuart Ranch Road

Fax: (310) 456-7650
Email: sedmondson@ci.malibu.ca.us
srice@ci.malibu.ca.us

Address Where Documents Are Available for Review:

City of Malibu City Hall
Planning Division
23815 Stuart Ranch Road
Malibu, CA 90265-4861

Stacey Rice, Ph.D. AICP,

Stefanie Edmonson, AICP

December 12, 2006
INITIAL STUDY /MITIGATED NEGATIVE DECLARATION

Demolish and Reconstruct Two Ocean-Front Restaurants  
22706 and 22716 Pacific Coast Highway  
Demolition Permit Nos. 06-019 and 06-020  
Coastal Development Permit Nos. 05-193 and 05-192  
Variance Nos. 05-041, 05-042 and 05-039, 05-040  
Conditional Use Permit Nos. 06-009 and 06-010  
Initial Study No. 06-007  
Mitigated Negative Declaration No. 06-008

Introduction

This Initial Study has been prepared in accordance with relevant provisions of the California Environmental Quality Act (CEQA) of 1970, as amended, and the CEQA Guidelines as revised. Section 15063(c) of the CEQA Guidelines indicates that the purposes of an Initial Study are to:

1. Provide the Lead Agency (i.e., the City of Malibu) with information to use as the basis for deciding whether to prepare an Environmental Impact Report (EIR) or Negative Declaration;

2. Enable an applicant or Lead Agency to modify a project, mitigating adverse impacts before an EIR is prepared, thereby enabling the project to qualify for a Negative Declaration;

3. Assist the preparation of an EIR, if one is required, by:
   ▶ Focusing the EIR on the effects determined to be significant;
   ▶ Identifying the effects determined not to be significant;
   ▶ Explaining the reasons why potentially significant effects would not be significant; and
   ▶ Identifying whether a program EIR, tiering, or another appropriate process can be used for analysis of the project's environmental effects.

4. Facilitate environmental assessment early in the design of a project.

5. Provide documentation of the factual basis for the finding in a Negative Declaration that a project will not have a significant effect on the environment;

6. Eliminate unnecessary EIRs; and

7. Determine whether a previously prepared EIR could be used with the project.
CITY OF MALIBU
INITIAL STUDY ENVIRONMENTAL CHECKLIST FORM

1. Project Title:
   A. Coastal Development Permit (CDP) No. 05-192
      Demolish Existing and Construct New Restaurant
      at 22716 Pacific Coast Highway
   B. Coastal Development Permit (CDP) No. 05-193
      Demolish Existing and Construct New Restaurant
      at 22706 Pacific Coast Highway

2. Lead Agency Name and Address:
   City of Malibu
   Planning Division
   23815 Stuart Ranch Road
   Malibu, CA 90265-4861

3. Contact Persons and Phone Number:
   Stacey Rice, Ph.D., AICP
   Senior Planner
   (310) 456-2489, extension 265
   Stefanie Edmondson, AICP
   Associate Planner
   (310) 456-2489, extension 233

4. Project Location:
   A. 22716 Pacific Coast Highway
      (APNs 4452-004,036 and 47)
   B. 22706 Pacific Coast Highway
      (APNs 4452-004-038 and 42)

5. Project Applicant Name and Address:
   Scott Mitchell Studio, LLC
   Scott Mitchell
   8930 Keith Avenue
   West Hollywood, CA 90069

6. General Plan/Land Use Plan Designation:
   Commercial Visitor Serving

7. Zoning:
   Commercial Visitor Serving -1 (CV-1)

8. Description of Project:
   The proposed project involves the demolition of two existing restaurant buildings and replacing them with two new restaurants. Demolition permits are required as part of this project in order to tear down the existing facilities. Conditional use permits are required in order to permit restaurant and bar facilities in the CV-1 zoning district. In addition, two variances are requested as part of each restaurant. One variance is to allow parking within the required front yard setback area; and the second variance is a request for the
reduction in the amount of required landscaping/open space from 65 percent to 20 percent.

An existing public beach access way (Zonker Harris) located along the east side of the subject property at 22706 Pacific Coast Highway (PCH), will be maintained as part of the proposed project.

Project A - 22716 PCH
The proposed project at 22716 Pacific Coast Highway (PCH) consists of the demolition of an existing 8,003 square foot vacant restaurant building (formerly Pierview/Malibu Cantina) and the construction of a new, 7,514 square foot restaurant. The new restaurant is proposed to be two-stories in height, and would include kitchens, dining rooms, bars/lounge areas and outdoor patios. The structure is proposed to be connected to the proposed (adjacent) restaurant at 22706 PCH via a landscaped outdoor deck.

Project B - 22706 PCH
The proposed project at 22706 PCH consists of the demolition of an existing 7,732 square foot vacant restaurant building (formerly Windsail Restaurant) and the construction of a new, 5,904 square foot restaurant. The new restaurant is proposed as a single-story structure, and would contain kitchens, bar/lounge areas, dining rooms and indoor/outdoor seating. The structure is proposed to be connected to the proposed (adjacent) restaurant at 22716 PCH via a landscaped outdoor deck.

9. Surrounding Land Uses and Setting:

The subject beachfront properties lie within the Appealable Jurisdiction of the California Coastal Commission, as depicted on the Post-LCP Certification Permit and Appeal Jurisdiction maps. Surrounding land use consists of a mix of existing uses. Properties adjacent and in close proximity to the east and beach side of the sites consist mainly of multiple family housing. To the west and beach sides, the uses vary from restaurants and motels to small specialty shops. The area north of the sites, across Pacific Coast Highway, is lined with offices, specialty shops, restaurants, and a gas station.

The project sites presently contain two vacant restaurant buildings with parking lots fronting onto Pacific Coast Highway. The sites are accessed via two driveways from Pacific Coast Highway. Public access to the beach is located between the 22706 PCH site and an adjacent four-unit condominium building.
10. **Project Approvals**

The projects require the following City of Malibu approvals for the construction of the proposed restaurants:

- Certification and approval of the Mitigated Negative Declaration
- Approval of Coastal Development Permits (CDP)
- Issuance of demolition permits (concurrent with approval of CDP)
- Issuance of building/grading permits (concurrent with approval of CDP)
- A lot tie covenant will be drafted ensuring the onsite wastewater treatment systems will comply with the Local Coastal Program (LCP).

All of the appropriate City Departments have reviewed and given preliminary approval to the proposed projects. The projects conform to the Local Coastal Program (LCP) with the exception of requirements for parking in the front yard setback and percentage of landscaping/open space, for which variances have been requested.

11. **Other agencies whose approval is required (e.g., permits, financing approval; or participating agreement):**

California Department of Transportation (Caltrans) — The applicant for Project A must obtain encroachment permits for any work which requires construction staging or trash receptacle placement on any Caltrans right-of-way.

**ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED**

The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a "Potentially Significant Impact" or as indicated by the checklist on the following pages.

- Aesthetics
- Biological Resources
- Hazards & Hazardous Materials
- Mineral Resources
- Public Services
- Utilities/Service Systems
- Agricultural Resources
- Cultural Resources
- Hydrology/Water Quality
- Noise
- Recreation
- Mandatory Findings of Significance
- Air Quality
- Geology/Soils
- Land Use/Planning
- Population/Housing
- Transportation/Traffic

**DETERMINATION: (To be completed by Lead Agency)**

On the basis of this initial evaluation:

- I find the proposed project **COULD NOT** have a significant effect on the environment and a **NEGATIVE DECLARATION** will be prepared.

- I find that although the project could have a significant effect on the environment there will not be a significant effect in this case because revisions in the project have been made or agreed to by the project proponent. A **MITIGATED NEGATIVE DECLARATION** will be prepared.
I find that the proposed project MAY have a significant effect on the environment and an ENVIRONMENTAL IMPACT REPORT is required.

I find that the proposed project MAY have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.

I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.

Stacey Rice, Ph.D. AICP

Stefanie Edmonson, AICP

December 12, 2006

EVALUATION OF ENVIRONMENTAL IMPACTS

1. A brief explanation is required for all answers except "No Impact" answers that are adequately supported by the information sources a lead agency cites in the parentheses following each question. A "No Impact" answer is adequately supported if the referenced information sources show that the impact simply does not apply to projects like the one involved (e.g., the project falls outside a fault rupture zone). A "No Impact" answer should be explained where it is based on project-specific factors as well as general standards (e.g., the project will not expose sensitive receptors to pollutants, based on a project-specific screening analysis).

2. All answers must take account of the whole action involved, including offsite as well as onsite, cumulative as well as project level, indirect as well as direct, and construction as well as operational impacts.

3. Once the lead agency has determined that a particular physical impact may occur, the checklist answers must indicate whether the impact is potentially significant, less than significant with mitigation, or less than significant. "Potentially Significant Impact" is appropriate if there is substantial evidence that an effect may be significant. If there are one or more "Potentially Significant Impact" entries when the determination is made, an EIR is required.
4. "Negative Declaration: Less Than Significant With Mitigation Incorporated" applies where the incorporation of mitigation measures has reduced an effect from "Potentially Significant Impact" to a "Less Than Significant Impact." The lead agency must describe the mitigation measures, and briefly explain how they reduce the effect to a less than significant level (mitigation measures from "Earlier Analyses," cited in support of conclusions reached in other sections may be cross-referenced).

5. Earlier analyses may be used where, pursuant to the tiering, program EIR, or other CEQA process, an effect has been adequately analyzed in an earlier EIR or negative declaration Section 15063(c)(3)(D). In this case, a brief discussion should identify the following:

a. Earlier Analysis Used-Identify and state where they are available for review.

b. Impacts Adequately Addressed-Identify which effects from the above checklist were within the scope of and adequately analyzed in an earlier document pursuant to applicable legal standards, and state whether such effects were addressed by mitigation measures based on the earlier analysis.

c. Mitigation Measures-For effects that are "Less than Significant with Mitigation Measures Incorporated," describe the mitigation measures which were incorporated or refined from the earlier document and the extent to which they address site-specific conditions for the project.

6. Lead agencies are encouraged to incorporate into the checklist references to information sources for potential impacts (e.g., Comprehensive Plans, zoning ordinances). Reference to a previously prepared or outside document should, where appropriate, include a reference to the page or pages where the statement is substantiated.

7. Supporting Information Sources: A source list should be attached, and other sources used or individuals contacted should be cited in the discussion.

8. The explanation of each issue should identify: a) The significance criteria or threshold, if any, used to evaluate each question; and b) The mitigation measure identified, if any, to reduce the impact to less than significant.
A. AESTHETICS

<table>
<thead>
<tr>
<th>Would the project:</th>
<th>Potentially Significant Impact</th>
<th>Less than Significant with Mitigation</th>
<th>Less than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Have a substantial adverse effect on a scenic vista?</td>
<td>[ ]</td>
<td>[ ]</td>
<td>[ ]</td>
<td>[x]</td>
</tr>
<tr>
<td>2. Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?</td>
<td>[ ]</td>
<td>[ ]</td>
<td>[ ]</td>
<td>[x]</td>
</tr>
<tr>
<td>3. Substantially degrade the existing visual character or quality of the site and its surroundings?</td>
<td>[ ]</td>
<td>[ ]</td>
<td>[ ]</td>
<td>[x]</td>
</tr>
<tr>
<td>4. Create a source of substantial light or glare, which would adversely affect day or nighttime views in the area?</td>
<td>[ ]</td>
<td>[x]</td>
<td>[ ]</td>
<td>[ ]</td>
</tr>
</tbody>
</table>

Sources: City of Malibu General Plan, November 1995; City of Malibu Municipal Code, 2001; City of Malibu General Plan - Land Use Element; City of Malibu Zoning Ordinance; City of Malibu Local Coastal Program; Land Use Plan and Local Implementation Plan, September 13, 2002.

Impact Discussion:

1. The proposed project will replace existing restaurants (totaling 15,735 square feet) with new restaurants (totaling 13,418 square feet). Presently, there are no scenic views available as the structures, fencing and vegetation occupy the majority views across the lots. However, the new development will provide public view corridors; therefore, the proposed project will not have a substantial adverse effect on scenic vistas.

2. The proposed project will not damage scenic resources including, but not limited to trees, rock outcroppings, and historic buildings. Although the project site is adjacent to PCH, which is designated as a scenic highway, the proposed projects do not encroach into the roadway and will not impact existing landscaping or historic structures in the vicinity. Per LIP Section 6.5.H.1.B, the parking lot visible from PCH is required to be screened with landscaping and/or berming to address potential visual impacts. The required screening shall be designed so as to not block or obscure the ocean as viewed from PCH.

3. The proposed project will not substantially degrade the visual character or quality of the site and its surroundings. The subject parcels are presently developed with
buildings and associated hardscape. As the sites are already improved, no substantial degradation of the existing visual character of the site or its developed surroundings will result from the subject projects.

4. The proposed projects could create new sources of light or glare via (patron) vehicle headlamps (which presently do not access the project sites). As restaurant uses, the proposed project sites will be lit during the daytime as well as evening hours. Given the adjacency of development (specifically multi-family residential units), it is intended that any such lighting not be permitted to travel offsite, and potentially create a nuisance to adjacent development.

5. Furthermore, in accordance with LIP Section 6.5.B.5, which is included as a standard condition of approval; new development shall be limited to colors compatible with the surrounding environment (earth tones). White, light shades and bright tones are prohibited. Reflective, glossy, polished and/or roll-formed type metal siding except for solar energy panels or cells, shall be prohibited. Use of non-glare glass for windows shall be required. The exterior siding of the structures shall be limited to brick, wood, stucco, metal, concrete or other similar materials. Lighting for walkways shall be limited to fixtures that do not exceed two feet in height that are directed downward, and use bulbs that do not exceed 60 watts or the equivalent. Security lighting controlled by motion detectors may be permitted provided that the lighting is directed downward and is limited to 60 watts or the equivalent. Driveway lighting shall be limited to the minimum lighting necessary for safe vehicular use. The lighting shall be limited to 60 watts or the equivalent. Lights at entrances in accordance with Building Codes shall be permitted provided that such lighting does not exceed 60 watts or the equivalent. Site perimeter lighting shall be prohibited. Outdoor decorative lighting for aesthetic purposes is prohibited.

All projects in the City of Malibu must conform to the City's standard conditions of approval and the LCP provisions as detailed herein. Therefore, the projects as proposed and/or conditioned (including a lighting deed restriction), will not result in adverse impacts to day or night time views in the area.

Recommended Mitigation Measures:

**AS-1**

All open areas not used for buildings, driveways, parking areas, or walkways shall be attractively landscaped and maintained in accordance with a landscape plan, with native plant species, to the satisfaction of the Planning Manager.

**AS-2**

The project applicant shall prepare a lighting plan prior to issuance of a building permit that demonstrates to the satisfaction of the Planning Manager and Building Official that all lighting for the site shall be confined to the project site.
Residual Impacts:
Subject to implementation of the above mitigation measures, potential aesthetic impacts will be mitigated to less than significant.

B. AGRICULTURAL RESOURCES

<table>
<thead>
<tr>
<th>Would the project:</th>
<th>Potentially Significant Impact</th>
<th>Less than Significant with Mitigation</th>
<th>Less than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to nonagricultural use?</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>2. Conflict with existing zoning for agricultural use, or a Williamson Act contract?</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>3. Involve other changes in the existing environment, which, due to their location or nature, could result in conversion of Farmland to nonagricultural use?</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
</tbody>
</table>

Sources: City of Malibu General Plan, November 1995; California Department of Conservation, Farmland Mapping and Monitoring Program, 2002; City of Malibu Municipal Code, 2001; City of Malibu Local Coastal Program, Land Use Plan and Local Implementation Plan, September 13, 2002; The Los Angeles County Important Farmland Map, 1992; Soils of the Malibu Area, California, United States Department of Agriculture, October 1967

Impact Discussion:

1-3. The Los Angeles County Important Farmland Map, 1992 illustrates that the sites are designated as "D - Urban and Built-Up Land". The category includes land occupied by structures or infrastructure to accommodate a building density of at least one unit to one and one-half acres, or approximately six structures to ten acres. The soil classification of the project site can be characterized as CB- Coastal Beaches as outlined in the Soils of the Malibu Area, California, United States Department of Agriculture, October 1967, page 64. This report states that "this land type has no agricultural value and is used mainly for recreation and houses."
The proposed project is located in an urbanized area. Therefore, approval and implementation of the proposed project would not conflict with the zoning of lands for agricultural uses nor would it interfere with a Williamson Act contract. As a result, the proposed project will not create any potential impacts.

As discussed above, the project sites are currently developed and will not result in the conversion of any farmland to non-agricultural uses.

**Recommended Mitigation Measures:**

The proposed project will not impact any land considered to be Prime Farmland, Unique Farmland, or Farmland of Statewide Importance, nor does it conflict with any existing zoning for agricultural uses. Therefore, no impacts to agricultural resources are possible, no mitigation measures are proposed or required and no further analysis is necessary.

**Residual Impacts:**

The project will have no impact to Agricultural Resources in the project area or in the project vicinity.

### C. AIR QUALITY

<table>
<thead>
<tr>
<th>Would the project:</th>
<th>Potentially Significant Impact</th>
<th>Less than Significant with Mitigation</th>
<th>Less than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Conflict with or obstruct implementation of the applicable air quality plan?</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>2. Violate any air quality standard or contribute substantially to an existing or projected air quality violation?</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>3. Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed qualitative thresholds for ozone precursors?)</td>
<td>☐</td>
<td>☒</td>
<td>☐</td>
<td>☐</td>
</tr>
<tr>
<td>4. Expose sensitive receptors to substantial pollutant concentrations?</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>5. Create objectionable odors affecting a substantial number of people?</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
<td>☐</td>
</tr>
</tbody>
</table>
Sources: City of Malibu General Plan, November 1995; City of Malibu Municipal Code, 2001; City of Malibu Zoning Ordinance; City of Malibu Local Coastal Program, Land Use Plan and Local Implementation Plan, September 13, 2002; SCAQMD CEQA Air Quality Handbook, 1993

Impact Discussion:

1. Regional planning efforts to improve air quality include a variety of strategies to reduce emissions from motor vehicles and minimize emissions from stationary sources. The South Coast Air Quality Management District (SCAQMD) is the agency principally responsible for comprehensive air pollution control in the South Coast Air Basin. The Air Quality Management Plan prepared by SCAQMD includes air quality control measures, such as transit use and carpooling, which are to be implemented by local jurisdictions. Onsite stationary sources, heavy-duty construction vehicles, and construction workers' vehicles would generate emissions. In addition, fugitive dust may be generated by construction activities.

It is foreseen that emissions would result from project demolition and construction activities, as well as from operation of the new structures. While variability in construction timeframe and activities day-to-day make a precise quantification of emissions difficult, preliminary impact screening criteria published in the SCAQMD CEQA Air Quality Handbook cites project activities (associated with operation and/or construction) are not likely to result in significant air quality impacts.

During construction specifically, three basic types of activities would be expected to occur and generate emissions: The demolition of the existing restaurant, (followed by) site preparation, excavation/grading (to accommodate new building foundations) and finally, new buildings constructed and occupied. Pages 6 through 12 of the SCAQMD's CEQA Air Quality Handbook provide a screening table for use in determining whether a project has the potential to generate significant construction-related emissions. The construction threshold identified in the screening table for a restaurant is for 975,000 square feet of gross floor area. The proposed projects are well below this threshold. Because the proposed projects are substantially below this threshold, construction impacts are not considered to be significant.

According to the construction emissions analyses, when best management practices are incorporated, site preparation, demolition of the existing structures, and the construction of the project would not exceed the SCAQMD threshold levels for criteria pollutants. Mitigation Measure AQ-1 includes the best management practices that would allow the project to achieve the SCAQMD thresholds. Implementation of the mitigation measure would further minimize any potentially significant, temporary impacts related to construction. Therefore, construction activities would not cause significant emissions and would not be expected to cause or contribute to any violation of adopted air quality standards.

Demolition of the existing structures at the project site could disturb asbestos-containing materials and potentially release asbestos into the air. However, the project would be subject to SCAQMD Rule 1403, which specifies work practice
requirements to limit asbestos emissions from building demolition and renovation activities. The requirements of Rule 1403, which requires mandatory compliance, ensure that there is virtually no release of asbestos into the air. This impact would be less than significant.

All construction and demolition activities are required to comply with SCAQMD rules for control of fugitive dust or asbestos emissions. Rule 1403 requires implementation of best available control measures to minimize fugitive dust emissions. Implementation of Mitigation Measure No. 3 would provide best management practices consistent with Rule 1403. Rule 1403 applies to demolition activities where asbestos-containing materials could be encountered.

2. The project, once complete would not generate operational emissions in excess of that previously experienced on the project site. Consequently, the proposed project would not contribute to a considerable net increase of any criteria pollutant for which the project region is in non-attainment under an applicable federal or state ambient air quality standard.

3. Construction activities have the potential to expose nearby residents to construction exhaust during heavy equipment operations. It is expected that equipment to be used on the site will vary given the nature of the construction activity for a particular day and the task to be accomplished. It is expected that one or more of the following pieces of equipment may be required: bulldozer, crane, excavator, backhoe, pile driver, flatbed delivery vehicles, concrete mixer, jackhammer, dump truck, generator, compactor, and miscellaneous power and hand tools. However given that the project will be adjacent to the ocean, the prevailing winds, and the relatively small size of the project; it is not expected that residents will be exposed to substantial amounts of pollutant concentrations.

4. Any odors generated by the proposed project will be limited to exhaust fumes from construction equipment during the (temporary) construction period and by the proposed restaurant use itslf during daily operation. It should be noted that construction activities will be conditioned to adhere to the City of Malibu's Best Management Practices (BMPs), limiting construction activities to between the hours of 7:00 a.m. and 7:00 p.m. Monday through Friday and 8:00 a.m. to 5:00 p.m. on Saturdays. No construction activities will be permitted to occur on Sundays, Local, State or Federal Holidays, further limiting the amount of cumulative effects on air quality.

The proposed restaurants shall be equipped with contemporary filters that prevent cooking food or other odors from leaving the project site. The project applicant shall demonstrate (by equipment product specifications) and prior to issuance of a building permit, that equipment proposed to be utilized will not release food odors to the exterior of the building. Waste storage equipment
will be covered, and all waste shall be disposed of with regularity to minimize the potential transfer or emanation of any objectionable odors from the project site to surrounding land uses. Accordingly, the proposed project will not create objectionable odors affecting a substantial number of people.

Recommended Mitigation Measure:

AQ-1 The project applicant and their contractor shall implement and monitor the use of the following best management practices, with all construction contracts requiring contractor(s) to perform the following actions:

Apply non-toxic soil stabilizers according to manufacturers’ specification to all inactive construction areas (previously graded areas inactive for ten days or more):

- Replace ground cover in disturbed areas as quickly as possible;
- Enclose, cover, water twice daily or apply non-toxic soil binders to manufacturers’ specifications to exposed piles (i.e., gravel, sand, dirt) with five percent or greater silt content;
- Water active sites at least twice daily;
- All trucks hauling dirt, sand, soil, or other loose materials are to be covered or should maintain at least two feet of freeboard (i.e., minimum vertical distance between top of the load and the top of the trailer) in accordance with the requirements of California Vehicle Code;
- Sweep streets (paved) at the end of the day if visible soil material is carried onto adjacent public paved roads (recommend water sweepers with reclaimed water);
- Apply water three times daily, or non-toxic soil stabilizers according to manufacturers’ specifications, to all unpaved parking or staging areas or unpaved road surfaces; and
- Prevent trucks from idling longer than two minutes.

Residual Impacts:
With the implementation of the above mitigation measures, project-related construction emissions would be less than significant.

D. BIOLOGICAL RESOURCES

Would the project:

1. Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish

<table>
<thead>
<tr>
<th>Potentially Significant Impact</th>
<th>Less than Significant with Mitigation</th>
<th>Less than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td>[x]</td>
</tr>
</tbody>
</table>
and Game or U.S. Fish and Wildlife Service?

2. Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?

3. Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?

4. Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?

5. Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?

6. Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?

Sources: City of Malibu Local Coastal Program, Land Use Plan and Local Implementation Plan, September 13, 2002; Nelson, Steven G. "Biological Assessment for 22176 Pacific Coast Highway, Malibu, California", October 2004; Nelson, Steven G. "Biological Assessment for 22706 Pacific Coast Highway, Malibu, California", October 2004; and City of Malibu Biologist Referral dated March 30, 2006

Impact Discussion:

1. Native vegetation and wildlife resources do not exist on site. The proposed sites are in an urbanized area and are currently occupied by vacant restaurants and a paved parking area, with relatively little vegetation. The proposed site provides no significant habitat due to the urbanized character of the site and surrounding area, although there may be a variety of common wildlife species, including rodents (e.g., mice, rats, and squirrels), snakes, lizards, and birds. The presence of rodents may
attract larger mammals, such as skunks and raccoons. No candidate, sensitive, or special status species are known or suspected to be located on the site or in the immediate vicinity. Therefore, no substantial adverse effects would occur.

2. The proposed sites are currently occupied by vacant restaurants and a paved parking area, and do not contain any riparian areas or natural communities.

3. No wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to marsh, vernal pool, coastal, etc.) exist on, or in proximity to the subject properties, and accordingly no such areas will be impacted by the proposed project activities. Chapter four (4) of the LIP specifies areas of the City of Malibu which contain ESHA and sets specific development standards for such areas. The sites are not mapped Environmentally Sensitive Habitat (ESHA) in LIP. However, the rear of the properties is sandy beach and the coast of the Pacific Ocean. Accordingly, conditions have been proposed by the City Biologist that will require fencing during construction operations, with the intention of protecting the beach from any construction-related activities. In the submitted Biological Assessment of the subject properties it was found that the project sites do not contain federal or state-listed threatened, endangered or otherwise sensitive habitats, plant or wildlife species – nor are any expected to occur or be found in the future. As the project sites are currently developed, any loss of vegetation or wildlife onsite (as a result of the proposed improvements) will not be significant.

4. The properties exist in an urbanized area and are currently occupied by vacant restaurants and a paved parking area. In the submitted Biological Assessment of the subject properties it was found that the project sites do not contain federal or state-listed threatened, endangered or otherwise sensitive habitats, plant or wildlife species – nor are any expected to occur or be found in the future. Accordingly the proposed projects will not interfere substantially with the movement of any native resident or migratory fish or wildlife species nor with established native resident or migratory wildlife corridors nor impede the use of a native wildlife nursery.

5 -6. No Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan exist for the subject properties. Chapter four (4) of the LIP specifies areas of the City of Malibu which contain ESHA and sets specific development standards for such areas. The sites are not mapped Environmentally Sensitive Habitat (ESHA) in LIP. However, the rear of the properties is sandy beach and the coast of the Pacific Ocean. Accordingly, conditions have been proposed by the City Biologist that will require fencing during construction operations, with the intention of protecting the beach from any construction-related activities. Accordingly, the proposed projects (as conditioned and/or proposed) conform to the required standards of the Malibu LCP and shall not conflict with adopted local policies.
Recommended Mitigation Measure:

With standard conditions of approval, no mitigation is necessary for this project.

Residual Impacts:
The proposed project will not create substantial biological impacts. No further analysis is required.

E. CULTURAL RESOURCES

<table>
<thead>
<tr>
<th>Would the project:</th>
<th>Potentially Significant Impact</th>
<th>Less than Significant with Mitigation</th>
<th>Less than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Cause a substantial adverse change in the significance of a historical resource as defined in §15064.5?</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☑</td>
</tr>
<tr>
<td>2. Cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5?</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☑</td>
</tr>
<tr>
<td>3. Directly or indirectly destroy a unique paleontological resource or site or unique geological feature?</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☑</td>
</tr>
<tr>
<td>4. Disturb any human remains, including those interred outside of formal cemeteries?</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☑</td>
</tr>
</tbody>
</table>

Sources: Malibu General Plan, November 1995; City of Malibu Municipal Code, 2001; City of Malibu General Plan - Land Use Element; City of Malibu Zoning Ordinance; and City of Malibu Local Coastal Program, Land Use Plan and Local Implementation Plan, September 13, 2002; City of Malibu Cultural Sensitivity Map

Impact Discussion:

1-4. Per adopted Malibu City Cultural Sensitivity Maps, the subject parcels have a "low" potential to contain archaeological or related resources. No known archaeological resources have been identified on the project site. Demolition of the existing restaurant facilities and construction of the new structures has the potential, although considered minimal, to result in impacts to any as yet unknown archaeological resources. The presence, extent, and significance of subsurface archaeological deposits on the site are not known at this time.
1-5. The project will be subject to the City's standard condition of approval which requires that should unanticipated cultural resource remains be found in the course of 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 Division Manager can review this information. If human bone is discovered during construction, work shall immediately cease and the procedures described in Section 7050.5 of the California Health and Safety Code shall be followed including notification of a 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. Thereafter, the procedures contained in Chapter 11 of the LIP and those in Section 17.54.040(D)(4)(b) of the City of Malibu Municipal Code shall be followed. In accordance with LIP Section 11.3 the aforementioned conditions are standard conditions applied to all projects.

All development projects in the City of Malibu must conform to the City's standard conditions of approval and the LCP provisions detailed herein, therefore, the project is not anticipated to impact cultural resources.

Recommended Mitigation Measures:

With standard conditions of approval, no mitigation is necessary related to cultural resource protection.

Residual Impacts:
The project will have no significant impacts to Cultural Resources in the project area or in the project vicinity.

F. GEOLOGY AND SOILS

Would the project:

<table>
<thead>
<tr>
<th>Potentially Significant Impact</th>
<th>Less than Significant with Mitigation</th>
<th>Less than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>□</td>
<td>□</td>
<td>□</td>
<td>☒</td>
</tr>
</tbody>
</table>

1. Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:

   a. Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of known fault? Refer to Division of Mines and Geology Special Pub 42.
b. Strong seismic ground shaking? [x]

c. Seismic-related ground failure, including liquefaction? [x]

d. Landslides? [x]

2. Result in substantial soil erosion, or the loss of topsoil? [x]

3. Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse? [x]

4. Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (2001), creating substantial risks to life or property? [x]

5. Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water? [x]

Sources: City of Malibu General Plan, November 1995; City of Malibu Municipal Code, 2001; City of Malibu General Plan - Land Use Element; City of Malibu Zoning Ordinance; City of Malibu Local Coastal Program, Land Use Plan and Local Implementation Plan, 2002; City of Malibu Geology Referral, January 17, 2006; and Earth Systems Southern California (Russell, RGE 2393; LaChapelle, (CEG 1311), November 18, 2005 (Reference July 31, 2002 and April 24, 2002)

Response:

1. Any developments that occur within the geographical boundaries of Southern California have the potential of exposing people and/or structures to potentially substantial adverse effects involving the rupture of a known earthquake fault, a strong seismic ground shaking, seismic-related ground failure (including liquefaction), or landslides. However,

a – d. According to the City of Malibu General Plan, Safety and Health Element, Figure S-2, and the Geotechnical Reports referenced above, there is no known, or mapped, active faults that pass through the proposed project site. The site does not fall within a currently designated California Department of Conservation, Division of Mines and Geology (CDMG) Alquist-Priolo...
Earthquake Zone. However, the Malibu Coast fault zone is less than a kilometer (about .6 of a mile) from the subject site.

As indicated in the City of Malibu General Plan, Safety and Health Element, pages 5 through 7, “there are numerous faults surrounding and traversing the Malibu area including the Malibu Coast Fault, the Santa Monica Fault, the Los Flores Reverse Fault and the Anacapa Fault. Because of its proximity to the City of Malibu, these faults “may generate strong ground shaking impacting the Malibu area”. Alleviation of ground-shaking effects is provided through enforcement of structural and nonstructural seismic design provisions defined in the Uniform Building Code. These codes are updated every three years and through this update process, will incorporate new design provisions as needed. Application of these design provisions to the proposed project will minimize potential effects of groundshaking to a level considered less than significant.

The Malibu General Plan, Safety and Health Element, states that “liquefaction and subsidence is a process by which water-saturated sediment suddenly loses strength, which commonly accompanies strong ground motions caused by earthquakes. During an extended period of ground shaking or dynamic loading, porewater pressures increase and the ground is temporarily altered from a solid to a liquid state. Liquefaction is most likely to occur in unconsolidated, sandy sediments, which are water-saturated within less than 30 feet of the ground surface. Few areas of significant liquefaction susceptibility exist in the City of Malibu. These few areas are located along the beaches and in the flood plains of the major streams, such as Malibu Creek.” Given its location adjacent to the Pacific Ocean, the proposed project is susceptible to liquefaction impacts. The potential for liquefaction of the soils beneath the site was evaluated in accordance with currently accepted guidelines. Based on this analysis (see above referenced Geotechnical Reports), the potential for liquefaction beneath the subject site is considered less than significant.

The potential for landslides is virtually non-existent due to the relatively flat topography of the site.

2. Construction of the proposed project will involve demolition and limited grading activities that may result in short-term wind and water driven erosion of soils. This impact is not considered significant, as the project is a replacement of existing restaurant facilities that presently covered with impermeable surfaces. Given these factors, implementation of the proposed project is not anticipated to result in the significant loss of topsoil and no long-term potential impacts are anticipated.

3. As mentioned earlier, the project site has a relatively flat topographic surface but has liquefaction potential. The likelihood of the site becoming unstable as a result of the project is minimal. The proposed structure shall be designed and constructed in compliance with the UBC as required by law. The requirements of the UBC shall reduce potential hazards to a less than significant level.
4. Subsurface soils tests conducted by Earth Systems revealed that the development areas consist primarily of fill soils. The depth of the fill ranged from four to eight feet. These fill soils were found to consist predominantly of poorly to moderately compacted clayey sand and silty sand with clay. Based upon the Expansion Index Tests conducted for this investigation, these on-site fill soils are considered to have a very low expansion potential.

5. The proposed projects will utilize alternative onsite waste water treatment systems (OWTS). The City Environmental Health Specialist, the City Coastal Engineer, and the City Geologist have all reviewed and approved the proposed (OWTS) as being adequately supportable outside the wave uprush zone in the parking lot which will require a shoreline protection device.

All development projects in the City of Malibu must conform to the City’s standard conditions of approval and the LCP provisions. The proposed project will be constructed in accordance with the seismic safety standards set forth by the Uniform Building Code (UBC) and the State of California. In addition, the City of Malibu requires all new construction be designed by a licensed architect/engineer to meet the requirements of the UBC and the State of California. Therefore, as a result of the proposed design, and required adherence to standard conditions of approval, the proposed project will have a less than significant impact to geology and soils.

Recommended Mitigation Measures:

No mitigation measures are required regarding Geology and Soils.

Residual Impacts:
The project will not have significant impacts to Geology and Soils in the project area or in the project vicinity.

G. HAZARDS AND HAZARDOUS MATERIALS

Would the project:

<table>
<thead>
<tr>
<th>Would the project:</th>
<th>Potentially Significant Impact</th>
<th>Less than Significant with Mitigation</th>
<th>Less than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Create a significant hazard to the public or the environment through the routine transport, use or disposal of hazardous materials?</td>
<td>☐</td>
<td>☒</td>
<td>☐</td>
<td>☐</td>
</tr>
<tr>
<td>2. Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
</tbody>
</table>
3. Emit hazardous emissions or handle
   hazardous or acutely-hazardous
   materials, substances, or waste
   within one-quarter mile of an
   existing or proposed school?

4. Be located on a site which is
   included on a list of hazardous
   materials sites compiled pursuant
   to Government Code Section
   65962.5 and, as a result, would it
   create a significant hazard to the
   public or the environment?

5. For a project located within an airport
   land use plan or, where such a plan
   has not been adopted, within two
   miles of a public airport or public use
   airport, would the project result in a
   safety hazard for people residing or
   working in the project area?

6. For a project within the vicinity of a
   private airstrip, would the project
   result in a safety hazard for people
   residing or working in the project
   area?

7. Impair implementation of or
   physically interfere with an adopted
   emergency response plan or
   emergency evacuation plan?

8. Expose people or structures to a
   significant risk of loss, injury or
   death involving wildland fires;
   including where wildlands are
   adjacent to urbanized areas or
   where residences are intermixed
   with wildlands?

Sources: City of Malibu General Plan, Safety and Health Element, November 1995; City
of Malibu Municipal Code, 2001; City of Malibu Local Coastal Program, September 13,
2002

Impact Discussion:

1-6 The proposed site is not listed in any federal, state or local database of known
sites containing any hazardous wastes or subject to other environmental concerns.
No hazardous materials, other than common cleaning supplies common to
restaurant uses, would be used in the development or operation of the proposed project. Additionally, the project sites are not located within two miles of a public airport, and are not included within an airport land use plan. Therefore, no impacts to airport safety hazards are expected as a result of the project. Some hazardous wastes could be generated in the demolition of the existing structures on the site, including asbestos-containing materials or lead-based paints. The potential for exposure of construction workers or the general public to these substances could result in a potentially significant impact. Mitigation for this exposure is discussed below.

7. The proposed project involves the demolition and construction of two restaurants in a commercially zoned area and will not block any public roads. As such, it would not interfere with any emergency response plans or evacuation routes.

8. The City of Malibu is served by the Los Angeles County Fire Department, as well as the California Department of Forestry, if needed. In the event of major fires, the County has “mutual aid agreements” with cities and counties throughout the state so that additional personnel and fire fighting equipment can augment the County Fire Department. As such, the proposed project as conditioned will result in a less than significant exposure of people or structures to a significant risk of loss, injury or death involving wildland fires.

All development projects in the City must conform to the City’s standard conditions of approval and the LCP provisions detailed herein, therefore, the projects proposed will result in a less than significant impact to hazards and hazardous materials and no additional mitigation is required.

Recommended Mitigation Measures:

HAZ 1: 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.

With implementation of the above listed mitigation measure, impacts resulting from disposal of hazardous materials would be reduced to a less-than-significant level. The proposed project will not increase the fire hazard in the project area.

Residual Impacts:
The project will not have significant impacts to Hazards and Hazardous Materials in the project area or in the project vicinity.
## H. HYDROLOGY AND WATER QUALITY

<table>
<thead>
<tr>
<th>Would the project:</th>
<th>Potentially Significant Impact</th>
<th>Less than Significant with Mitigation</th>
<th>Less than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Violate any water quality standards or waste discharge requirements?</td>
<td>✗</td>
<td></td>
<td>□</td>
<td>□</td>
</tr>
<tr>
<td>2. Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of preexisting nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?</td>
<td>✗</td>
<td></td>
<td>□</td>
<td>□</td>
</tr>
<tr>
<td>3. Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on or off site?</td>
<td>✗</td>
<td></td>
<td>□</td>
<td>□</td>
</tr>
<tr>
<td>4. Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner, which would result in substantial erosion or siltation on or off site?</td>
<td>✗</td>
<td></td>
<td>□</td>
<td>□</td>
</tr>
<tr>
<td>5. Create or contribute runoff water, which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff?</td>
<td>✗</td>
<td></td>
<td>□</td>
<td>□</td>
</tr>
<tr>
<td>6. Otherwise substantially degrade water quality?</td>
<td>✗</td>
<td></td>
<td>□</td>
<td>□</td>
</tr>
<tr>
<td>7. Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate</td>
<td>✗</td>
<td></td>
<td>□</td>
<td>□</td>
</tr>
</tbody>
</table>
Map or other flood hazard delineation map?

<p>| | | | | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

8. Place within a 100-year flood hazard area structures, which would impede or redirect flood flows? [x]

<p>| | | | | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

9. Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam? [x]

<p>| | | | | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

10. Inundation by seiche, tsunami, or mudflow? [x]

<p>| | | | | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Sources: City of Malibu General Plan, November 1995; City of Malibu Municipal Code, 2001; City of Malibu Zoning Ordinance; City of Malibu Local Coastal Program, Land Use Plan and Local Implementation Plan, 2002; Robert Newlon Design, Inc. “22716 Pacific Coast Highway, Malibu, CA - Preliminary Hydrology Calculations”, October 2005; and Robert Newlon Design, Inc. “22706 Pacific Coast Highway, Malibu, CA - Preliminary Hydrology Calculations”, October 2005

Impact Discussion:

1-10 Construction of the proposed restaurant projects would result in minimal grading of the site with minimal erosion potential, as the sites are presently two vacant restaurants with paved parking areas, and the proposed uses are two new restaurants. No housing is proposed related to the project, therefore there will be no housing within a 100-year flood hazard area. The proposed structures will not impede or redirect potential flood flows, and the structures are not in the proximity of any levee or dam. Because construction sites can be potential sources of pollution, the implementation of best management practices (BMPs) would reduce the construction site pollution to a less-than-significant level. With standard conditions of approval, there is a less than significant impact related to inundation to tsunami, and related to hydrology and water quality.

A Wet Weather Erosion and Sediment Control plan is required for this project (grading or construction activity is anticipated to occur during the rainy season). The Wet Weather Erosion and Sediment Control plan includes: locations where concentrated runoff will occur; plans for the stabilization of disturbed areas of the property, landscaping, and hardscape, along with the proposed schedule for the installation of protective measures; location and sizing criteria for silt basins, sandbags, barriers, and silt fencing; and a stabilized construction entrance and a monitoring program for the sweeping of material tracked off the site.
A Storm Water Pollution Prevention Plan shall be provided prior to the issuance of the grading permits for the project. The plan includes: dust control plan for the management of fugitive dust extended periods without rain; designated areas for storage of construction materials that do not disrupt drainage patterns or subject material to erosion by site runoff; designated area for the construction of portable toilets that separates them from storm water runoff and limits the potential for upset; and designated areas for disposal and recycling facilities for solid waste separated from the site drainage system to prevent the discharge of runoff through the waste.

A Water Quality Mitigation Plan (WQMP) is required for this project. 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 of the site. The following elements shall be included within the WQMP. Site Design Best Management Practices (BMPs)

The following are a list of BMPs that may be used to minimize or prevent the introduction of pollutants of concern that may result in significant impacts to receiving waters. Other BMPs approved by the City as being equally or more effective in pollutant reduction than comparable BMPs identified below are acceptable. All BMPs must comply with local zoning and building codes and other applicable regulations. The following site design BMPs are incorporated by reference as applicable:

**Site Design BMPs**

**Minimizing Impervious Areas**
- Incorporate landscaped buffer areas between sidewalks and streets.
- Use open space development that incorporates smaller lot sizes.
- Increase building density while decreasing the building footprint.
- Reduce overall imperviousness associated with parking lots by providing compact car spaces, minimizing stall dimensions, incorporating efficient parking lanes, and using pervious materials in spillover parking areas.

**Increase Rainfall Infiltration**
- Use permeable materials for private sidewalks, driveways, parking lots, and interior roadway surfaces (examples: hybrid lots, parking groves, permeable overflow parking, etc.)
- Direct rooftop runoff to pervious areas such as yards, open channels, or vegetated areas, and avoid routing rooftop runoff to the roadway or the urban conveyance system.

**Maximize Rainfall Interception**
- Maximizing canopy interception and water conservation by preserving existing native trees and shrubs, and planting additional native or drought tolerant trees and large shrubs.

**Minimize Directly Connected Impervious Areas (DCIAs)**
- Draining rooftops into adjacent landscaping prior to discharging to the storm drain.
- Draining parking lots into landscape areas co-designed as biofiltration areas.
- Draining roads, sidewalks, and impervious trails into adjacent landscaping.

**Slope and Channel Protection**
Energy dissipaters, such as riprap, at the outlets of new storm drains, culverts, conduits, or channels that enter unlined channels

Maximize Rainfall Interception
- Cisterns
- Foundation planting

Increase Rainfall Infiltration
- Dry wells

Source Control BMPs
- Storm drain system stenciling and signage
- Regular street and parking lot sweeping
- Outdoor material and trash storage area designed to reduce or control rainfall runoff
- Efficient irrigation system

Treatment Control BMPs
- Biofilters
- Grass strip
- Bioretention

Detention Basins
- Extended/dry detention basin with grass lining
- Extended/dry detention basin with impervious lining

Restaurant BMPs
- Pavement cleaning
  - Sweep parking lots and other paved areas periodically to remove debris
  - If outdoor pavement cleaning with detergent is required, collect wash water and dispose of in indoor sinks or drains for discharge to the Onsite Wastewater Treatment System.

Equipment Cleaning
- Discharge all wash water to the OWTS.
  - If outdoor pavement cleaning with detergent is required, collect wash water and dispose of in indoor sinks or drains for discharge to the Onsite Wastewater Treatment System. Never allow any water to flow offsite to curb or catch basin.

Spill Cleanup in Outdoor Areas
- Have spill containment kits ready in case of a spill and store kits in convenient locations.
- Clean up any spills immediately using rags, cat litter, or any other type of absorbent in your spill kit. Be sure to sweep up the absorbent material. If you must mop up a spill, dispose of mop water in indoor sinks for discharge to the OWTS.

Grease Handling and Waste Disposal
- Store grease in separate, covered containers. Recycle grease or dispose of at an appropriate landfill.
- Inspect dumpsters periodically. Repair or replace leaky dumpsters.
- Cover dumpsters and other waste containers to prevent storm water from entering the container. Storage areas with a roof or cover are highly desirable.
- Never dispose of waste products, such as food wastes, to storm drains.
Use all paints, pesticides, cleaners and other products or dispose as hazardous waste.

- Provide an adequate number of trash receptacles for customers and employees.
- Pick up litter and other wastes daily from outside areas including storm drain inlet grooves.

Training
- Train employees regularly on what to do in the event of a spill.
- Designate a person responsible for effective implementation of BMPs.
- Stencil or mark inlets to discourage illegal dumping.

All commercial development shall be designed to control the runoff of pollutants from structures, parking and loading docks. The following measures shall be implemented to minimize the impacts of commercial developments on water quality:

Properly Design Equipment Wash Areas – Self-contained and/or covered wash areas shall be equipped with a clarifier or other pretreatment facility and properly connected to a sanitary system.

Properly designed parking lots (5,000 square feet of impervious surface or 25 parking spaces). – Treat to remove oil and petroleum hydrocarbons at parking lots that are heavily used.

Ensure adequate operation and maintenance of treatment systems particularly sludge and oil removal and system fouling and plugging prevention control.

Restaurants – Properly designed Equipment/Accessory Wash Areas – Install self-contained wash area, equipped with grease trap, and properly connected to Sanitary Sewer. – If the wash area is located outdoors, it must be covered, paved, the area must have secondary containment and it shall be connected to the sanitary sewer.

Trash Storage Areas – Trash container areas must have drainage from adjoining roofs and pavement diverted around the area. Trash container areas must be screened or walled to prevent off-site transport of trash.

The proposed project would use domestic water supplies provided by the City of Malibu and would not discharge any wastewater, except into the on-site wastewater system, which includes a grease interceptor for the proposed restaurant use on the site.

Operation of the project could result in stormwater runoff from the site entering the local storm drain system, and then being discharged into the Pacific Ocean. Because of the proposed uses of the site, stormwater runoff could contain contaminants typical of urban areas including oil, grease, metals, pesticides/herbicides, and entrained dust. As the proposed project is greater than
one acre, it is subject to the requirements of the National Pollutant Discharge Elimination System (Phase II). On January 26, 2000, the Los Angeles Regional Water Quality Control Board adopted a Water Quality Management Plan (WQMP) for use by builders, land developers, engineers, planners, and others to develop post-construction BMPs and urban stormwater runoff mitigation plans for projects that fall into selected categories that may apply to the proposed project. The WQMP requires that the specified projects be designed so as to collect and treat the first 3/4 inch of stormwater runoff from the site, and control peak flow discharge to provide stream channel and overbank flood protection.

As previously mentioned, construction of the projects would involve minimal grading and excavation of the site. If required during construction activities, dewatering could result in the withdrawal of groundwater, but any such withdrawal would be anticipated to be less than significant. Since the project sites currently contain existing structures and hardscape, including restaurants and paved surfaces, the potential for groundwater recharge is not substantial on-site, and impacts to groundwater as a result of the proposed project would be less than significant. Implementation of best management practices during excavation and grading would ensure that impacts to groundwater would remain less than significant.

The proposed project will not perceptibly increase the amount of surface water runoff or drainage into the Pacific Ocean. There are also no drainage channels in the vicinity of the proposed projects.

Pile foundation elements will be required for project development but are not expected to alter the direction or rate of flow of groundwater. The proposed project will not generate any hazardous substances that will leach into the ground causing impacts to groundwater quality that would not be addressed.

The project site was previously used for two restaurants. The Malibu General Plan and LCP have designated these sites for development and its associated use. All development projects in the City of Malibu must conform to the City's standard conditions of approval and the LCP provisions detailed herein. Therefore, the projects as proposed will result in a less than significant impact related to hydrology and water quality. Consequently, the proposed project will consequently not affect the amount of groundwater, drainage or run off.

Recommended Mitigation Measures:

HWQ-1: The design of the proposed project shall comply with the applicable provisions of the Water Quality Management Plan (WQMP), and if required by the WQMP, shall include structural or other measures to collect and treat the first 3/4 inch of stormwater runoff from the site, and control peak flow discharge.

HWQ-2: In order to further reduce potentially significant impacts to surface water quality resulting from implementation of the proposed project, the following mitigation measures are recommended. Implementation of these measures would reduce all project impacts to less than significant levels.
The following mitigation measures deal with temporary construction impacts.

- Construction shall be phased to the extent feasible and practical to limit the amount of disturbed areas present at a given time.
- Grading activities shall be planned during the southern California dry season (April through October).
- 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.
- Filter fences designed to intercept and detain sediment while decreasing the velocity of runoff shall be employed within project sites.

Residual Impacts:
The project will not have significant impacts to Hydrology and Water Quality in the project area or in the project vicinity. As a result, no residual impacts would occur.

I. LAND USE AND PLANNING

<table>
<thead>
<tr>
<th>Would the project:</th>
<th>Potentially Significant Impact</th>
<th>Less than Significant Impact with Mitigation</th>
<th>Less than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Physically divide an established community?</td>
<td>[ ]</td>
<td>[ ]</td>
<td>[ ]</td>
<td>[ ]</td>
</tr>
<tr>
<td>2. Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the Comprehensive Plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?</td>
<td>[ ]</td>
<td>[ ]</td>
<td>[ ]</td>
<td>[ ]</td>
</tr>
<tr>
<td>3. Conflict with any applicable habitat conservation plan or natural community conservation plan?</td>
<td>[ ]</td>
<td>[ ]</td>
<td>[ ]</td>
<td>[ ]</td>
</tr>
</tbody>
</table>

Sources: City of Malibu General Plan, November 1995; City of Malibu Municipal Code, 2001; City of Malibu General Plan - Land Use Element, City of Malibu Zoning Ordinance, City of Malibu Local Coastal Program, Land Use Plan and Local Implementation Plan, 2002
Impact Discussion:

The project sites are zoned for commercial use. The uses proposed are consistent with the zoning designation and are consistent with existing land uses in the vicinity. No agricultural uses or farmlands will be impacted by the proposed development. The proposed development will not divide or disrupt the physical arrangement of an established community. Additionally, there are no known conflicts with habitat conservation plans or policies adopted by agencies for this project site and no impact will occur.

All development projects in the City must conform to the City's standard conditions of approval and the LCP provisions detailed herein, therefore; the projects proposed will result in a less than significant impact to land use and planning and no additional mitigation is required.

Recommended Mitigation Measures:

No mitigation measures are required pertaining to Land Use and Planning.

Residual Impacts:

The project will not have significant impacts to Land Use and Planning in the project area or in the project vicinity. As a result, no residual impacts would occur.

J. MINERAL RESOURCES

<table>
<thead>
<tr>
<th>Would the project:</th>
<th>Potentially Significant Impact</th>
<th>Less than Significant with Mitigation</th>
<th>Less than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☑</td>
</tr>
<tr>
<td>2. Result in the loss of availability of a locally important mineral resource recovery site delineated on a local Comprehensive Plan, specific plan or other land use plan?</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☑</td>
</tr>
</tbody>
</table>

Sources: City of Malibu General Plan, Conservation Element; City of Malibu Municipal Code; City of Malibu General Plan Land Use Element; City of Malibu Zoning Ordinance; City of Malibu Local Coastal Program Land Use Plan and Local Implementation Plan, 2002

Impact Discussion:

The proposed project would not result in any loss of known mineral resources that would be valuable to the region or state. The project would not cause significant impacts on energy and mineral resources because none of those resources were discovered on the
subject property, which is located in a developed coastal area that is not currently subject to mineral exploration or extraction.

All development projects in the City must conform to the City’s standard conditions of approval and the LCP provisions detailed herein, therefore; the projects proposed will result in a lesser than significant impact to mineral resources and no additional mitigation is required.

Recommended Mitigation Measures:

No mitigation measures are required pertaining to Mineral Resources.

Residual Impacts:

The project will not have significant impacts to Mineral Resources in the project area or in the project vicinity. As a result, no residual impacts would occur.

K. NOISE

<table>
<thead>
<tr>
<th>Would the proposed project result in:</th>
<th>Potentially Significant Impact</th>
<th>Less than Significant with Mitigation</th>
<th>Less than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
<td>☐</td>
</tr>
<tr>
<td>2. Exposure of people to excessive ground borne vibration or noise levels?</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
<td>☐</td>
</tr>
<tr>
<td>3. A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
<td>☐</td>
</tr>
<tr>
<td>4. A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?</td>
<td>☐</td>
<td>☒</td>
<td>☐</td>
<td>☐</td>
</tr>
<tr>
<td>5. For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
</tbody>
</table>
6. For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?

Sources: City of Malibu General Plan, Noise Element, November 1995; City of Malibu Municipal Code, 2001; City of Malibu General Plan - Land Use Element; City of Malibu Zoning Ordinance; City of Malibu Local Coastal Program, Land Use Plan and Local Implementation Plan, 2002

Impact Discussion:

The proposed project will create construction noise that will be audible to the closest residents to the project site. It is expected that one or more of the following pieces of equipment may be required: bulldozer, crane, excavator, backhoe, pile driver, flatbed delivery vehicles, concrete mixer, jackhammer, dump truck, generator, compactor, and miscellaneous power and hand tools during the construction phase of the project. A temporary or periodic increase in ambient noise levels is likely to occur during the construction phase of the proposed project. However, the duration of construction activities on the proposed site would be short-term. In addition, the construction activities associated with the development of this project would be carried out in accordance with the City of Malibu’s Noise Ordinance which limits construction activities to normal working hours of 7:00 a.m. to 7:00 p.m. Monday through Friday and 8:00 a.m. to 5:00 p.m. on Saturdays. No construction will occur on Sundays or National Holidays.

By limiting construction hours the corresponding noise will be minimized, thereby reducing any potentially significant impacts to less than significant.

There is concern that restaurants often times have associated entertainment (for weddings, private parties, special events) that may create noise impacts that either exceed the City’s Noise Ordinance parameters or become a nuisance and irritant to the adjacent residences.

Recommended Mitigation Measures:

NOI-1: The proposed project shall not allow live entertainment to be located outside of the interior of the restaurant. Additionally, no outdoor speaker/pager system or amplified music system shall be allowed. Entertainment (such as acoustic performance) shall not be audible at adjacent residential property lines.

Residual Impacts:

The project will not have significant impacts to Noise in the project area or in the project vicinity. As a result, no residual impacts would occur.
L. POPULATION AND HOUSING

Would the project:

<table>
<thead>
<tr>
<th>Potentially Significant Impact</th>
<th>Less than Significant with Mitigation</th>
<th>Less than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through an extension of roads or other infrastructure)?</td>
<td>[ ]</td>
<td>[ ]</td>
<td>[ ]</td>
</tr>
<tr>
<td>2. Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?</td>
<td>[ ]</td>
<td>[ ]</td>
<td>[ ]</td>
</tr>
<tr>
<td>3. Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?</td>
<td>[ ]</td>
<td>[ ]</td>
<td>[ ]</td>
</tr>
</tbody>
</table>

Sources: City of Malibu General Plan, November 1995; City of Malibu Municipal Code, 2001; City of Malibu General Plan - Land Use Element; City of Malibu Zoning Ordinance; City of Malibu Local Coastal Program, Land Use Plan and Local Implementation Plan, 2002

Impact Discussion:

The proposed project will not create any new housing opportunities. The proposed project is intended to provide visitor-serving commercial uses and would not consequently generate or exceed official regional or local population projections, by either inducing substantial growth in an area either directly or indirectly. Nor will the project displace any existing housing. Therefore the proposed project will not displace any existing housing or persons and no impact will result.

All development projects in the City must conform to the City's standard conditions of approval and the LCP provisions detailed herein, therefore; the projects proposed will result in a less than significant impact to population and housing and no additional mitigation is required.

Recommended Mitigation Measures:

No mitigation measures are required pertaining to Population and Housing.
Residual Impacts:
As propose, the project will not have significant impacts to Population and Housing in the project area or in the project vicinity. As a result, no residual impacts would occur.

M. PUBLIC SERVICES

Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:

<table>
<thead>
<tr>
<th>Potential Impact</th>
<th>Less than Significant with Mitigation</th>
<th>Less than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Fire protection?</td>
<td>□</td>
<td>☒</td>
<td>☒</td>
</tr>
<tr>
<td>2. Police protection?</td>
<td>□</td>
<td>☒</td>
<td>☒</td>
</tr>
<tr>
<td>3. Schools?</td>
<td>□</td>
<td>☒</td>
<td>☒</td>
</tr>
<tr>
<td>4. Parks?</td>
<td>□</td>
<td>☒</td>
<td>☒</td>
</tr>
<tr>
<td>5. Other Public Services?</td>
<td>□</td>
<td>☒</td>
<td>☒</td>
</tr>
</tbody>
</table>

Sources: City of Malibu General Plan, November 1995; City of Malibu Municipal Code, 2001; City of Malibu General Plan - Land Use Element, City of Malibu Zoning Ordinance; City of Malibu Local Coastal Program, Land Use Plan and Local Implementation Plan, 2002; and Los Angeles County Fire Department Referral, December 1, 2005

Impact Discussion:

The proposed project is a replacement of two former restaurants. It will not generate a new population of persons at the project site. Consequently, there will not be a significant need for increased police or fire protection services. Since the project is not residential in nature it will not generate the need for schools. The proposed project will not generate any need for the maintenance of public facilities including roads and other governmental services, as the project site and its maintenance are a private facility.

All development projects in the City must conform to the City's standard conditions of approval and the LCP provisions detailed herein, therefore; the projects proposed will result in a less than significant impact to Public Services and no additional mitigation is required.
Recommended Mitigation Measures:

No mitigation measures are required pertaining to Public Services.

Residual Impacts:
As proposed, the project will not have significant impacts to Public Services in the project area or in the project vicinity. As a result, no-residual impacts would occur.

N. RECREATION

<table>
<thead>
<tr>
<th>Impact</th>
<th>Potentially Significant Impact</th>
<th>Less than Significant with Mitigation</th>
<th>Less than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?</td>
<td>✗</td>
<td>✗</td>
<td>✗</td>
<td>✗</td>
</tr>
<tr>
<td>2. Does the project include recreational facilities or require the construction of expansion of recreational facilities, which might have an adverse physical effect on the environment?</td>
<td>✗</td>
<td>✗</td>
<td>✗</td>
<td>✗</td>
</tr>
</tbody>
</table>

Sources: City of Malibu General Plan, November 1995; City of Malibu Municipal Code, 2001; City of Malibu General Plan - Land Use Element; City of Malibu Zoning Ordinance; City of Malibu Local Coastal Program, Land Use Plan and Local Implementation Plan; 2002

Impact Discussion:

The proposed project is a visitor-serving commercial project that would not generate the need for park facilities as it will not generate residents at the site.

All development projects in the City must conform to the City's standard conditions of approval and the LCP provisions detailed herein, therefore; the projects proposed will result in a less than significant impact to recreation and no additional mitigation is required.

Recommended Mitigation Measures:

No mitigation measures are required pertaining to Recreation.
Residual Impacts:
As proposed, the project will not have significant impacts to Recreation in the project area or in the project vicinity. As a result, no residual impacts would occur.

O. TRANSPORTATION/TRAFFIC

<table>
<thead>
<tr>
<th>Would the proposed project:</th>
<th>Potentially Significant Impact</th>
<th>Less than Significant with Mitigation</th>
<th>Less than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Cause an increase in traffic which is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in either the number of vehicle trips, the volume to capacity ratio on roads, or congestion at intersections)?</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
<td>☐</td>
</tr>
<tr>
<td>2. Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways?</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
<td>☐</td>
</tr>
<tr>
<td>3. Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
<td>☐</td>
</tr>
<tr>
<td>4. Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
<td>☒</td>
</tr>
<tr>
<td>5. Result in inadequate emergency access?</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
<td>☐</td>
</tr>
<tr>
<td>6. Result in inadequate parking capacity?</td>
<td>☐</td>
<td>☒</td>
<td>☐</td>
<td>☐</td>
</tr>
<tr>
<td>7. Conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)?</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
<td>☒</td>
</tr>
</tbody>
</table>

Sources: City of Malibu General Plan, Circulation Element, November 1995; City of Malibu Municipal Code, 2001; City of Malibu General Plan - Land Use Element; City of Malibu Zoning Ordinance; City of Malibu Local Coastal Program 2002; Traffic Study for the Malibu Restaurants Project, 22716 and 22706 PCH, Kaku Associates, June, 2006
Impact Discussion:

The proposed project would provide two main driveways on PCH. The project also has a third driveway at the eastern edge of the site. The traffic study notes that it was determined that the proposed site plan provides adequate traffic access and internal circulation.

The proposed project and associated uses will require 131 parking spaces. The project site plan illustrates 135 parking spaces, thereby meeting the parking demand of the proposed project uses.

The traffic and parking study concluded that there would be 1,195 weekday trips associated with the project assuming the projects as new restaurants. The traffic and parking study concluded that the project would not create a significant traffic impact at either of the study intersections (Pacific Coast Highway and Cross Creek Road and Pacific Coast Highway and McDonald's Driveway).

The proposed project would not create any hazards or barriers to pedestrians or bicyclists at the project site.

The proposed project will not conflict with adopted policies supporting alternative transportation, rail, waterborne or air traffic.

Recommended Mitigation Measures:

TRF-1: Valet parking shall be used for all uses associated with the project and during all hours of operation, in order to mitigate against any potential traffic impact related to parking.

Residual Impacts:

The proposed project will provide adequate parking for the proposed uses and will not create a significant impact with regards to intersection capacity. Consequently the proposed project will not create any transportation impacts and no further study is required.
P. UTILITIES AND SERVICE SYSTEMS

<table>
<thead>
<tr>
<th>Would the project:</th>
<th>Potentially Significant Impact</th>
<th>Less than Significant with Mitigation</th>
<th>Less than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>2. Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>3. Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>4. Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>5. Result in a determination by the wastewater treatment provider, which serves or may serve the projects that it has adequate capacity to serve the project’s projected demand in addition to the provider’s existing commitments?</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>6. Be served by a landfill with sufficient permitted capacity to accommodate the project’s solid waste disposal needs?</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>7. Comply with federal, state, and local statutes and regulations related to solid waste?</td>
<td>☐</td>
<td>☒</td>
<td>☐</td>
<td>☐</td>
</tr>
</tbody>
</table>

Sources: City of Malibu General Plan, November 1995; City of Malibu Municipal Code, 2001; City of Malibu General Plan - Land Use Element; City of Malibu Zoning Ordinance; City of Malibu Local Coastal Program, Land Use Plan and Local Implementation Plan, 2002; and City of Malibu Environmental Health Referral, December 30, 2005
Impact Discussion:

1-7: Power, gas, and communication systems are existing facilities at the project site. The proposed project has proposed an advanced tertiary Zenon septic treatment system. The system will utilize a 20,000-gallon septic tank, 35,000-gallon grease interceptor, 10,000-gallon equalization tank, 30,000-gallon treatment tank system and a dosing surge tank. A bulkhead is also proposed as a part of the septic system. The proposed project will not require a new need or supply of water or require storm waste drainage facilities. A lot tie covenant and agreement regarding the use and transfer of ownership of property will be recorded ensuring the onsite wastewater treatment systems will comply with the Local Coastal Program (LCP). The Environmental Health Specialist has reviewed and approved the project for the subject site and has issued an in-concept approval.

All development projects in the City of Malibu must conform to the City's standard conditions of approval and the LCP provisions detailed herein. Therefore, the projects as proposed, will result in a less than significant impact in terms of utilities. With standard conditions of approval the project will comply with federal, state, and local statutes and regulations related to solid waste. Consequently the proposed project is not anticipated to create a significant impact on the environment.

Recommended Mitigation Measures:

UTI-1: All recommendations of the City of Malibu Environmental Health Specialist (including the lot tie covenant and agreement recordation) shall be incorporated into the design plans.

Residual Impacts:
As proposed, the project will not have significant impacts to Utilities and Service Systems in the project area or in the project vicinity. As a result, no residual impacts would occur.

Q. MANDATORY FINDINGS OF SIGNIFICANCE

<table>
<thead>
<tr>
<th>Potential Impact</th>
<th>Less than Significant Impact</th>
<th>Less than Significant Impact with Mitigation</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

1. Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate plant or animal community, reduce the number or restrict the range of rare or endangered
plant or animal or eliminate important examples of the major periods of California history or prehistory?

2. Does the project have impacts that are individually limited, but cumulatively considerable ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?

3. Does the project have environmental effects, which will cause substantial adverse effects on human beings, either directly or indirectly?

Sources: City of Malibu General Plan, November 1995; City of Malibu Municipal Code, 2001; City of Malibu General Plan—Land Use Element; City of Malibu Zoning Ordinance; City of Malibu Local Coastal Program, Land Use Plan and Local Implementation Plan, 2002

Impact Discussion:

Based on the preceding discussion, the proposed project does not have the potential to significantly impact the local environment, nor will it substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory. The project, as proposed, does not have the potential to significantly degrade the quality of the environment, achieve short-term goals at the expense of long-term environmental goals, nor does it have impacts which are individually limited but cumulatively considerable because the nature of the development will remain consistent with the General Plan designation and surrounding land uses. The environmental impacts for this project will occur during the construction stage and are short-term in nature. Lastly, the project will remain consistent with the existing and surrounding land uses and will, therefore, not have environmental effects which will cause significant adverse impacts on human beings—either directly or indirectly.

Discussion:

The proposed project is not anticipated to significantly impact cumulative effects of known, probable, and reasonably foreseeable projects occurring within the City of Malibu and adjacent communities. The proposed project involves the reconstruction of two restaurant facilities. As discussed above, the mitigation measures listed in each resource section of this Initial Study would reduce all of the potential environmental impacts of construction and operation of the proposed new restaurant facilities, to less-than-significant levels.
Aesthetics

The proposed restaurant facilities would be designed to be aesthetically pleasing and integrated into the surrounding residential neighborhood. Therefore, no cumulative impacts to aesthetics would occur.

Agricultural Resources

No farmland exists within the City of Malibu in the surrounding area, and therefore no cumulative impacts would occur.

Air Quality

The South Coast Air Quality Management Districts' (SCAQMD) CEQA Air Quality Handbook identifies possible methods to determine the cumulative significance of land use projects. These methods differ from the methodology used in other cumulative impact analyses, in which all-foreseeable future development within a given service boundary or geographical area is predicted and its impacts measured. The SCAQMD has not identified thresholds to which the total emissions of all cumulative development can be compared. Instead, the SCAQMD's methods are based on performance standards and emission reduction targets necessary to attain the federal and state air quality standards as predicted in the Air Quality Management Plan (AQMP).

The AQMP was prepared to accommodate growth, to reduce the high levels of pollutants within the Basin, to meet State and federal air quality standards; and to minimize the fiscal impact that pollution control measures have on the local economy. According to the CEQA Air Quality Handbook, projects which are consistent with the AQMP performance standards and emission reduction targets should be considered less-than-significant unless there is other pertinent information to the contrary.

Impacts with regard to air quality would not be cumulative considerable if a project shows a one-percent per year reduction in project emissions of CO, VOC, NOx, and PM_{10}. Motor vehicles are the primary source of daily operational emissions. Stationary sources generate very few operational emissions. Therefore, the number of trips or the lengths of the motor vehicle trips would need to be reduced in order to provide a reduction in daily operational emissions. No significant increase in project areas beyond that existing is anticipated as a result of the proposed project. It is expected that there would be only a minimum increase in motor vehicle trips as a result of the proposed project, and operational emissions would remain substantially the same as currently exist. Therefore, the proposed project would make an additional contribution of operational emissions to the air quality within the Los Angeles Basin. However, as there is no increase in square footage, any increase in vehicle trips would be small, and the project's contribution therefore would not be cumulatively considerable.

Biological Resources

Increased landscaping would be included as part of the proposed project. Therefore, no cumulative impacts to biological resources would occur.
Cultural Resources

Cumulative development includes the demolition of the restaurants, but these structures are not old enough to be considered historically significant. The proposed project would not result in the demolition of historic structures or other cultural resources. Grading and excavation of building sites could potentially expose archaeological or paleontological resources. However, the proposed project’s contribution to this potential impact would not be considered cumulatively considerable.

Hazards and Hazardous Materials

Demolition of existing structures could result in exposure of workers and the public to asbestos-containing materials and lead-based paints. Potential building sites could have some form of contamination from historic uses of the site, which could be uncovered during construction activities. However, the proposed project’s contribution to this potential impact would not be considered cumulatively considerable.

Water

Further development in the in the City and the surrounding area could impact hydrology and water quality through an increase in impermeable surfaces and more intensive land uses, thereby increasing the amount of storm water runoff entering the County drain system. Development in the area is subject to the regulations of the City of Malibu (and adjacent cities) and County of Los Angeles with respect to the design and maintenance of drainage facilities. Construction and operation of new development in the area could result in the erosion of soil during construction and introduction of urban storm water contaminants during operation. New development in Los Angeles County is subject to recently adopted requirements of the Los Angeles Regional Water Quality Control Board with respect to minimizing storm water contaminants from the construction and operation of projects. However, the proposed project’s contribution to this potential impact would not be considered cumulatively considerable.

Land Use and Planning

The proposed project would require no demolition of housing units, and represents replacement structures that are visitor-serving in orientation. The proposed project would not affect the available housing supply in the City of Malibu.

Mineral Resources

No mineral resource extraction activities occur within the City of Malibu or the surrounding area, therefore no cumulative impacts would occur.

Noise

Development of the proposed project, combined with development in the City of Malibu and adjacent communities, will result in intermittent construction noise as individual projects are built.
throughout the area. Construction activities could result in significant short-term noise impacts on adjacent sensitive land uses, such as residences. The duration of these localized impacts would be limited to the construction phases of the individual projects and operational phases depending upon the proposed use. All construction activities would be subject to regulation by local ordinances and requirements.

Long-term, cumulative increases in area-wide noise could also result from the development of the area, due primarily to traffic increases. However, growth, with associated noise, would not be anticipated to exceed allowances in the City's General Plan as well as Southern California Association of Governments regional growth projections, and therefore would not be considered cumulatively considerable.

**Population and Housing**

The proposed project would not contribute to increased demand for housing, as the project represents replacement commercial structures, and no population increase is anticipated other than ambient growth. Future development in the City of Malibu and adjacent communities would result in increased housing demand due to additional employment opportunities from retail, commercial, and other proposed land uses. The proposed project would not make a contribution to a cumulative impact on population and housing.

**Public Services**

Development of the proposed project is anticipated to result in a small, insignificant increase in restaurant usage. Therefore, there would be only a minimal contribution of the proposed project to increased demand for additional police and fire protection services, which has been determined to be less-than-significant, and this effect would not be cumulatively considerable.

**Recreation**

No cumulative impacts with regard to recreation would occur.

**Transportation and Traffic**

The traffic study concluded that there would be 1,195 weekday trips associated with the project assuming the project as new restaurants. Lastly the traffic study concluded that the project would not create a significant cumulative traffic impact at either of the study intersections (Pacific Coast Highway and Cross Creek Road and Pacific Coast Highway and McDonald's Driveway). No cumulative impacts with regard to transportation and traffic would occur.

**Utilities**

Development of the proposed project would not contribute to significant additional water consumption, wastewater generation, or solid waste generation. A lot tie covenant and agreement regarding the use and transfer of ownership of property will be drafted ensuring the onsite wastewater treatment systems will comply with the Local Coastal Program (LCP). Therefore, no cumulative impact would occur.
REFERENCES FOR PROJECT A (22716 PCH)


City of Malibu. Local Coastal Program, September 2002.

City of Malibu. Municipal Code

City of Malibu Biological Referral, March 30, 2006

City of Malibu Coastal Engineering Referral, May 15, 2006

City of Malibu Environmental Health Referral, December 30, 2005

City of Malibu Geology Referral, January 17, 2006

City of Malibu Public Works Referral, July 19, 2006 and July 20, 2006

Los Angeles County Fire Department Referral, December 1, 2005


Nelson, Steven G. "Biological Assessment for 22176 Pacific Coast Highway, Malibu, California", October 2004

Wiess, David C. "Coastal Engineering Report for Malibu Cantina – 22716 PCH", November 2005


Earth Systems Southern California (Russell, RGE 2393; LaChapelle, (CEG 1311), November 18, 2005 (Reference July 31, 2002 and April 24, 2002)
REFERENCES FOR PROJECT B (22706 PCH)


City of Malibu. Local Coastal Program, September 2002.


City of Malibu Biological Referral, March 30, 2006

City of Malibu Coastal Engineering Referral, May 15, 2006

City of Malibu Environmental Health Referral, December 30, 2005

City of Malibu Geology Referral, January 17, 2006

City of Malibu Public Works Referral, July 19, 2006 and July 20, 2006

Los Angeles County Fire Department Referral, December 1, 2005


Nelson, Steven G. "Biological Assessment for 22706 Pacific Coast Highway, Malibu, California", October 2004


Earth Systems Southern California (Russell, RGE 2393; LaChapelle, (CEG 1311), November 18, 2005 (Reference July 31, 2002 and April 24, 2002)

Listed references and those previously cited within the text of this Initial Study are intended to provide a list of Supporting Information Sources and/or evidence staff has relied upon in completing this document and in reaching the conclusions contained herein. In addition, the materials that were submitted by the applicant have also been used in completing this document.
If any person or entity reviewing this Initial Study has a question regarding the supporting information source and/or evidence, they may contact the staff planner at the address as listed on page 2 of this initial study.
December 30, 2005

Steven J. Rodriguez
Ensitu Engineering, Inc.
685 Main St., Suite A
Morro Bay, CA 93442

RE: 22716 PACIFIC COAST HWY., MALIBU, CA 90265 (CDP 05-192)

Dear Mr. Rodriguez:

On December 30, 2005, a **Conformance Review** was completed for the alternative onsite wastewater treatment system (AOWTS) proposed to serve the onsite wastewater treatment needs of subject property. The proposed AOWTS meets the minimum requirements of the City of Malibu Plumbing Code, i.e. Title 28 of the Los Angeles County Code, incorporating the California Plumbing Code, 2001 Edition, and the City of Malibu Ordinance No. 242 Amendments (MPC), and the City of Malibu Local Coastal Plan/Local Implementation Plan (LCP/LIP). The following items shall be submitted prior to final approval:

1) **Coastal Development Permit**: Contact the City of Malibu Department of Environmental and Community Development, Planning Division, and obtain a Coastal Development for subject project.

2) **Plot Plan**: A final plot plan shall be submitted showing an alternative onsite wastewater disposal system design meeting the minimum requirements of the MPC, and the LCP/LIP, including necessary construction details, the proposed drainage plan for the developed property, and the proposed landscape plan for the developed property. If inclusion of the above items renders the plot plan difficult to read, then the above items shall be submitted on two or more plot plans. All plot plans shall use the same scale so as to facilitate plot plan comparison. The final design shall show tertiary treatment as defined by the City of Malibu Plumbing Code.

3) **Restaurant Plans**: Complete plans shall be submitted to the Los Angeles County Department of Health Services (DHS), Division of Environmental Health, Food Facilities Plan Check Section, 6053 Bristol Parkway, 2nd Floor, Culver City, CA 90230, (310) 665-8481. DHS is responsible for enforcing the California Uniform Food Facilities Law, California Health and Safety Code, Section 113700-113733. Plans approved by DHS shall then be submitted to the City of Malibu Environmental Health Specialist.
4) **System Specifications:** Complete specifications shall be submitted as to all components (i.e. alarm system, pumps, timers, flow equalization devices, backflow devices, etc.) proposed for use in the construction of the proposed alternative onsite wastewater disposal system.

5) **Operations & Maintenance Manual:** An operations and maintenance manual shall be submitted. This shall be the same operations and maintenance manual proposed for later submission to the owner and/or operator of the proposed alternative onsite wastewater disposal system.

6) **Proof Of Ownership:** Proof of ownership of subject property shall be submitted.

7) **Maintenance Contract:** A maintenance contract executed between the owner of subject property and an entity qualified in the opinion of the City of Malibu to maintain the proposed alternative onsite wastewater disposal system after construction shall be submitted. *Please note only original “wet signature” documents are acceptable.*

8) **Covenant:** A covenant running with the land shall be executed between the City of Malibu and the holder of the fee simple absolute as to subject real property and recorded with the Los Angeles County Recorder’s Office. Said covenant shall serve as constructive notice to any future purchaser for value that the onsite wastewater treatment system serving subject property is an alternative method of onsite wastewater disposal pursuant to the City of Malibu Uniform Plumbing Code, Appendix K, Section 1(i). Said covenant shall be provided by the City of Malibu Environmental Health Specialist. *Please note only original “wet signature” documents are acceptable.*

9) **City of Malibu Geologist/Geotechnical Approval:** City of Malibu Geologist and Geotechnical Engineer final approval shall be submitted.

10) **City of Malibu Biologist Approval:** City of Malibu Biologist final approval shall be submitted. The City of Malibu Biologist shall review the AOWTS design to determine any impact on any Environmentally Sensitive Habitat Area.

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

Sincerely,

L Young

Lawrence Young, REHS

cc:file
This conformance review is for a new restaurant (224 seats). The new alternative onsite wastewater treatment system shown conforms to the City of Malibu Plumbing Code (MPC), and the Local Coastal Plan (LCP).

2. This review only relates to the minimum requirements of the MPC, and the 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 MPC, and/or LCP, and/or Administrative Policy changes render it noncomplying.
City of Malibu
23815 Stuart Ranch Rd., Malibu, California CA 90265-4804
(310) 456-2489   FAX (310) 456-7650

FIRE DEPARTMENT REVIEW
REFERRAL SHEET

TO: Los Angeles County Fire Department
FROM: City of Malibu Planning Department

PROJECT NUMBER: SPR 05-050, VAR 05-039, VAR 05-040, CDP 05-192
JOB ADDRESS: 22716 PACIFIC COAST HWY
APPLICANT / CONTACT: 8547 Melrose Place, Suite 200
APPLICANT ADDRESS: Los Angeles, CA 90069
APPLICANT PHONE #: (323)651-3154
APPLICANT FAX #: (323) 651-3155

TO: Malibu Planning Department and/or Applicant
FROM: Ashgan Shahbodaghloo, Fire Prevention Engineering Assistant

☐ The project DOES require Fire Department Plan Check and Developer Fee.
☐ The project DOES NOT require Fire Department Plan Check.
☐ The project shall provide a 20 foot wide Access Driveway and Safety Vehicle Turn-around.
☐ The project requires Interior Fire Sprinklers (will be determined)
☐ The project requires 1,250 gallons per minute Fire Flow at 20 pounds per square inch for a 2 hour duration.

☐ Fire Department approval of a Final Fuel Modification Plan is required prior to City building permit issuance.

SIGNATURE  DATE 12/1/05

Additional requirements/conditions may be imposed upon review of plan revisions.
The Fire Prevention Engineering Assistant may be contacted by phone at 818-880-0341 or at the Fire Department Counter; Monday - Thursday between 8:00 AM and 12:00 noon
26600 Agoura Road, Suite 110, Calabasas, CA 91302
COASTAL ENGINEERING REVIEW SHEET

**Date:** May 15, 2006  
**Site Address:** 22716 Pacific Coast Highway  
**Lot/Tract/PM #:** n/a  
**Applicant/Contact:** Malibu Cantina, LLC/Scott Mitchell Studio  
Attn: John Millander  
**Contact Phone #:** 323-651-3154  
**Fax #:** 323-651-3155  
**Project Type:** New restaurant, OWTS, and parking  
**Review Log #:** C141  
**Planning #:** CDP 05-192  
**BPC/GPC #:**  
**Planner:** Stacey Rice

**Consultant(s):** David C. Weiss, SE (SE 1867): 11-26-05  
**Previous Reviews:** 2-15-06, 12-13-05 (referral sheet)

**Planning Stage**

- **APPROVED** in PLANNING WITH CONDITIONS from a coastal engineering perspective. The project conforms to the City’s 2002 LCP-LIP
- **NOT APPROVED** in PLANNING-stage from a coastal engineering perspective. The project does not conform to the City’s 2002 LCP-LIP, and the following ‘Review Comments’ must be addressed prior to approval.

**Remarks:**

Based upon the submitted information, the project comprises demolition of an existing restaurant, construction of a new restaurant, with associated parking, and a new onsite wastewater treatment system (OWTS). Based on the coastal engineering evaluation it is possible to site the new OTWS outside the wave uprush zone, however, in order to utilize the parking as proposed, the project may need a shoreline protection device. Revised plans should be submitted that conform to the City’s Local Implementation Plan for the LCP.

The Applicant should note that the State Lands Commission approval is needed for the location of the most landward mean high tide line (MHTL). However, based on review of recently available Army Corps of Engineers Beach profile survey data for 2002 and 2005 (to elevation –25 ft. MLLW), when compared to previous beach profiles, it appears that the beach profile is fairly stable. Therefore it is anticipated that the location of the most landward MHTL would be within the range of those noted on the wave uprush profile included in the coastal engineering report. Based on these 8 MHTL locations, it appears that the project as proposed conforms to the MHTL setback as required by the LCP-LIP.

**Building-Plan Check Stage Review Comments:**

1. **CONDITION:** Prior to final approval, the building should be designed so that the highest breaking wave elevation should pass underneath the patio and not inundate it. The finish floor elevation of the patio should be raised in order to meet the requirements of the LCP-LIP.
1. Prior to building plan check approval, please provide the wave forces on piles for potential lateral pressures.

2. Plot the wave uprush line on the project site plans and show the location of the proposed onsite wastewater treatment system. Previous plans showed a portion of the tanks still within the wave uprush zone.

3. The project is approved as proposed. One set of project plans incorporating the Project Coastal Engineers recommendations as notes and details on the plans, shall be submitted for review by the City Coastal Engineering Review staff. This can be accomplished over the counter on Thursdays between 8:00Am and 12:30PM.

Please direct questions regarding this review sheet to City Review staff listed below.

Coastal Engineering Review
prepared by: Alexis M. Spencer, ETJ 6662 Coastal Engineering Reviewer (x306)

Reviewed by: Lauren J. Doyel, P.E. 61337, Exp. 8-30-07

This review sheet was prepared by City Geotechnical Staff contracted with Fugro as an agent of the City of Malibu.

FUGRO WEST, INC.
4820 McGrath Street, Suite 100 Ventura, California 93003-7778
(805) 650-7000 (Ventura office)
(310) 456-2489 x306 (City of Malibu)
TOTAL GRADING YARDAGE VERIFICATION CERTIFICATE
PLANNING DIVISION REVIEW LEVEL

PLANNING APPLICATION NUMBER: CDP 05-197
PROJECT ADDRESS: 22716 PACIFIC COAST HIGHWAY, MALIBU.

All projects proposing land form alteration which involves more than 100 cubic yards of grading shall complete this form. The completed form must be provided at the time of Planning Division application for grading approval. All applicable cubic yardages shall be completed in the table. All calculations utilized to estimate the cubic yardages indicated shall be attached to this form. This form and the required calculations must be prepared by a State of California Licensed Civil Engineer or a Licensed Surveyor. The form and the calculations shall be stamped and wet signed by the preparing party.

<table>
<thead>
<tr>
<th></th>
<th>Exempt</th>
<th>Non-Exempt</th>
<th>Remedial</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>R&amp;R</td>
<td>Understructure</td>
<td>Safety</td>
<td></td>
</tr>
<tr>
<td>Cut</td>
<td></td>
<td>0</td>
<td>320</td>
<td>320 CY</td>
</tr>
<tr>
<td>Fill</td>
<td></td>
<td>0</td>
<td>290</td>
<td>290 CY</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td>0</td>
<td>610</td>
<td>610</td>
</tr>
<tr>
<td>Import</td>
<td></td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Export</td>
<td></td>
<td>0</td>
<td>30</td>
<td>30 CY</td>
</tr>
</tbody>
</table>

All quantities indicated shall be in Cubic Yards only.
R&R = Removal and Recompaction
Safety Grading is required grading for L.A. County Fire Depart. access approval beyond the fifteen foot minimum access and may include turnouts, hammerheads, turnarounds, and access roadway widening.
Remedial grading is grading recommended by a full site geotechnical or soils report prepared by a licensed geologist or soils engineer which is necessary to correct physical deficiencies on the site for the construction of a primary residential structure or access to the lot.

PREPARED BY: ROBERT NEWLON

DATE: 3-31-06

RECEIVED
MAY 09 2006
PLANNING DEPT.
TO: Public Works Department  
FROM: Planning Division  
DATE: 11/30/200  

<table>
<thead>
<tr>
<th>PROJECT NUMBER:</th>
<th>SPR 05-050, VAR 05-039, VAR 05-040, CDP 05-192</th>
</tr>
</thead>
<tbody>
<tr>
<td>JOB ADDRESS:</td>
<td>22716 PACIFIC COAST HWY</td>
</tr>
<tr>
<td>APPLICANT / CONTACT:</td>
<td></td>
</tr>
<tr>
<td>APPLICANT ADDRESS:</td>
<td>8547 Melrose Place, Suite 200</td>
</tr>
<tr>
<td></td>
<td>Los Angeles, CA 90069</td>
</tr>
<tr>
<td>APPLICANT PHONE #:</td>
<td>(323)651-3154</td>
</tr>
<tr>
<td>APPLICANT FAX #:</td>
<td>(323) 651-3155</td>
</tr>
<tr>
<td>PROJECT DESCRIPTION:</td>
<td>New Restaurant -CDP- CUP</td>
</tr>
</tbody>
</table>

To: Malibu Planning Division  
From: Public Works Department  

The following items described on the attached memorandum shall be addressed and resubmitted.

The project was reviewed and found to be in conformance with the City’s Public Works and LCP policies and CAN proceed through the Planning process.

SIGNATURE: [Signature]  
DATE: 5/10/06
Elroy Kiepke

From: Claudio Sanchez
Sent: Monday, May 15, 2006 7:04 PM
To: Stacey Rice; Stefanie Edmondson
Cc: Mondher Saied; Elizabeth Sobczak; Elroy Kiepke
Subject: RE: Traffic Study for Malibu Restaurants

Below are comments to the latest revision of the traffic study prepared by Kaku for PeirView and Windsail projects. Walter O. requested the comments be forwarded to the consultant.

Elroy will also send a hardcopy to you along with referral sheet for your files. I believe Stefanie E. is handling one and you are handling the other. Is this correct. If so, does planning need two hardcopies.

From: Mondher Saied
Sent: Monday, May 15, 2006 5:42 PM
To: Elizabeth Sobczak; Claudio Sanchez; Elroy Kiepke
Subject: FW: Traffic Study for Malibu Restaurants

FYI

Mondher Saied, P.E. - City of Malibu - Public Works Department - 310-456-2489 ext. 339

From: Walter Okitsu [mailto:WOkitsu@KatzOkitsu.com]
Sent: Monday, May 15, 2006 5:21 PM
To: Mondher Saied
Subject: RE: Traffic Study for Malibu Restaurants

Mondher

They've addressed almost all of my previous comments, but they still one thing they need to fix:

Figures 7 and 8: The eastern entrance driveway will be served by the existing traffic signal. Therefore, traffic volumes for Study Intersection 4 should show left turns into the site. This also means that the level of service calculation for intersection 4 should be re-done, to decrease westbound through movements and increase westbound left turns into the site. The volume-to-capacity ratio will increase. The Level of Service will probably remain at LOS "D", and therefore, result in no significant impact.

Please relay the above information to the environmental consultant.

—Walter Okitsu

From: Mondher Saied [mailto:msaied@ci.malibu.ca.us]
Sent: Monday, May 15, 2006 4:35 PM
To: WOkitsu@KatzOkitsu.com

5/16/2006
Subject: Traffic Study for Malibu Restaurants

Hi Walter,
Enclosed for your review and approval, is a revised draft Traffic Study for the Malibu Restaurants Project 22706 and 22716 PCH.

______________________________
Mondher Saied, P.E. - City of Malibu - Public Works Department - 310-456-2489 ext. 339 -
TO: Public Works Department
FROM: Planning Division

DATE: 11/30/2005

PROJECT NUMBER: SPR 05-050, VAR 05-039, VAR 05-040, CDP 05-192
JOB ADDRESS: 22716 PACIFIC COAST HWY
APPLICANT / CONTACT:
APPLICANT ADDRESS: 8547 Melrose Place, Suite 200
Los Angeles, CA 90069
APPLICANT PHONE #: (323) 651-3154
APPLICANT FAX #: (323) 651-3155
PROJECT DESCRIPTION: New Restaurant -CDP- CUP

To: Malibu Planning Division
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. Subject to the attached conditions.

Signature: [Signature]
Date: [1/29/06]

RECEIVED
CITY OF MALIBU
JAN 12 2006
Public Works Department
City of Malibu
MEMORANDUM

To: Planning Department
From: Public Works Department
Date: January 24, 2006
Re: Proposed Conditions of Approval for CDP 05-192, Var 05-039, Var 05-040, SPR 05-050, 22716 Pacific Coast Highway

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 and the City's Municipal Code can be attained. Prior to the issuance of building and grading permits, the applicant shall comply with the following conditions.

- This project proposes to construct improvements within the Public Street right-of-way. The applicant shall obtain encroachment permits from the Department of Transportation prior to the commencement of any work within the Public right-of-way.

- The project proposes grading. Sections 8.3 of the LIP allows up to 1,000 cubic yards of combined cut and fill per acre on a commercial Development.

- 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 shall be included within the area delineated.
  - 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, if any, shall be approved by the Public Works Department prior to the issuance of the Grading permit.
January 24, 2006

- A Wet Weather Erosion and Sediment control plan is required for this project (grading or construction activity is anticipated to occur during the rainy season). The following elements shall be included:
  - Locations where concentrated runoff will occur.
  - Plans for the stabilization of disturbed areas of the property, landscaping and hardscape, along with the proposed schedule for the installation of protective measures.
  - Location and sizing criteria for silt basins, sandbag barriers, and silt fencing.
  - Stabilized construction entrance and a monitoring program for the sweeping of material tracked off site.

- A Storm Water Pollution Prevention Plan shall be provided prior to the issuance of the Grading permits for the project. This plan shall include:
  - Dust Control Plan for the management of fugitive dust during extended periods without rain.
  - Designated areas for the storage of construction materials that do not disrupt drainage patterns or subject the material to erosion by site runoff.
  - Designated area for the construction portable toilets that separates them from storm water runoff and limits the potential for upset.
  - Designated areas for disposal and recycling facilities for solid waste separated from the site drainage system to prevent the discharge of runoff through the waste.

- A Water Quality Mitigation Plan (WQMP) is required for this project. 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 of the site. The following elements shall be included within the WQMP:
  - Site Design Best Management Practices (BMP’s) Page 283-4 LCP
  - Source Control BMP’s Page 284 LCP
  - Treatment Control BMP’s Page 294-5 LCP
  - Drainage Improvements
  - Measures to treat and infiltrate runoff from impervious areas.
  - A plan for the maintenance and monitoring of the proposed treatment BMP’s for the expected life of the structure.
  - 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 measures installed during construction prior to the issuance of grading or building permits.

- A State Construction activity permit maybe required for this project due to the disturbance of more than one acre of land for development. Provide a copy of the letter from the State Water Quality Control Board containing the WDID number prior to the issuance of grading or building permits.

- A preliminary Elevation Certificate is required for all developments located within Special Flood Hazard Areas. A final Elevation Certificate, based on actual Construction, will be required prior to receiving final approval of the construction.
July 20, 2006

- Geology and Geotechnical reports shall be submitted with all applications for plan review to the Public Works Department. Approval by Geology and Geotechnical Engineering shall be provided prior to the issuance of any permit for the project. The Developers Consulting Engineer shall sign the final plans prior to the issuance of permits.

**COMMERCIAL DEVELOPMENT**

All commercial developments shall be designed to control the runoff of pollutants from structures, parking and loading docks. The following measures shall be implemented to minimize the impacts of commercial developments on water quality:

- **Properly Design Equipment Wash Areas**
  - Self-contained and/or covered wash areas shall be equipped with a clarifier or other pretreatment facility and properly connected to a Sanitary system.

- **Properly designed Parking lots (5,000 square feet of impervious surface or 25 parking spaces)**
  - Treat to remove oil and petroleum hydrocarbons at parking lots that are heavily used.
  - Ensure adequate operation and maintenance of treatment systems particularly sludge and oil removal and system fouling and plugging prevention control.

- **RESTAURANTS – Properly design Equipment/accessory wash areas**
  - Install self-contained wash area, equipped with grease trap, and properly connected to Sanitary Sewer.
  - If the Wash area is located outdoors, it must be covered, paved, the area must have secondary containment and it shall be connected to the sanitary sewer.

- **TRASH STORAGE AREAS**
  - Trash container areas must have drainage from adjoining roofs and pavement diverted around the area.
  - Trash container areas must be screened or walled to prevent off-site transport of trash.

**WASTE MANAGEMENT FOR CONSTRUCTION SITES**

The City of Malibu is required by AB 939 to reduce the flow of wastes to the landfills of Los Angeles and Ventura Counties by 50%. The following projects shall comply with the following conditions:

1. All new construction (residential and nonresidential)
2. Demolition (non-residential and apartment houses with 3 or more units)
3. Addition/Alteration with construction valuation of $50,000 or more.

- 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. Prior to the issuance of a building/demolition permit, a Waste reduction and
January 24, 2006

Recycling Plan (WRRP) shall be submitted to the Public Works Department for review and approval. The WRRP shall indicate means and measures for a minimum of 50% diversion Goal.

- Prior to the issuance of the Certificate of Occupancy, the applicant shall provide the Public Works Department with a Final WRRP. The Final WRRP shall designate all material that were land filled or recycled, broken down by material types. The Public Works Department shall approve the final WRRP.

PUBLIC WORKS DEPARTMENT GENERAL NOTES

1. All work within public streets or public easements shown on these plans shall be constructed in accordance with the current Edition of the Standard Specifications for Public Works Construction (SSPWC) “Green Book.”

2. Contractors shall comply with all applicable Division of Industrial Regulations (Cal-OSHA) safety standards. If requested by the Inspector, the Contractor shall provide proof of a permit from said division.

3. Contractor shall call the Public Works Inspector at (310) 456-2489, ext. 235 for Pre-Construction Meeting prior to the commencement of any construction or grading operations. Contractor shall notify the City Public Works Inspector 48 hours prior to commencing any construction and 24 hours in advance of specific inspection needs during the course of the work.

4. Storage of any construction materials, construction trailer, and/or parking and any work within the City public right of way shall require a City Encroachment Permit. Call the Public Works Inspector at (310) 456-2489, ext. 235 to apply for a permit.

5. Storage of any construction materials, construction trailer, and/or parking and any work within the Caltrans public right of way shall require a Caltrans Encroachment Permit. Submit a copy of the Caltrans Encroachment Permit to the Public Works Department.

6. All work shall be performed during City working hours and in compliance with these plans.

7. Contractor shall verify all conditions and dimensions and shall report any discrepancies to the Engineer prior to the commencement of any work.

8. Contractor shall locate, protect, and save any and all survey monuments that will be or may be damaged or destroyed by their operations. Once found, the Contractor shall then notify both the developer’s supervising Civil Engineer and the Public Works Inspector. The supervising Civil Engineer shall reset all said monuments per the requirements of the Professional Land Surveyor’s Act.

9. The Contractor shall be responsible for protecting all public and private property insofar as it may be affected by these operations.
January 24, 2006

10. Existing traffic signs are not to be removed without prior notification and approval of the City Engineer. As a minimum, construction work zone traffic signs and striping shall be furnished, installed, and maintained in accordance with the “Work Area Traffic Control Handbook” (the "WATCH Manual"), published by BNI Building News, Inc. The City may require a Traffic Control Plan, prepared by the developer.

11. Dust control shall be maintained at all times.

12. Erosion Control Plans shall be provided for all projects. Grading and clearing is prohibited from November 1 to March 31 for all developments within or adjacent to ESHA and/or including grading on slopes greater than 4:1.

13. All underground utilities and service laterals shall be installed prior to construction of curbs, gutters, sidewalks, and paving unless otherwise permitted by the City Engineer.

14. The Developer shall comply with NPDES requirements. The Storm Water Pollution Prevention Plan (SWPPP) shall be available at the construction site at all times and shall be kept updated.

15. All recommendations made by the Geotechnical/Soils Engineer (and Engineering Geologist, where employed), and contained in the reports referenced hereon, as approved or conditioned by the City, shall be considered a part of the Grading Plan.

16. All storm drain pipe within the public right-of-way and easements shall be reinforced concrete pipe (RCP).

17. Terrace drains, interceptor drains, and down drains shall be constructed of 3” P.C.C. reinforced with 6”x6” x #10 W.W.M. and shall be either semicircular or triangular cross section. Concrete color shall be “Omaha Tan” or approved equivalent.

18. Grading Quantities:
   Cut _______ cu.yd. Fill _______ cu.yd.
   Export _____ cu.yd. Import _____ cu.yd.

19. Total Disturbed Area _______ acres
   (including grading, clearing, and landscaping area)
   Total Existing Impervious Surface Area _______ sq. ft.
   Total Proposed Impervious Surface Area _______ sq. ft.
   Flood Zone on FIRM: _______ Base Flood Elevation: _____ ft.

20. All slopes on private property adjoining streets, drainage channels, or other public facilities shall be graded not steeper than 2:1 for cut and fill unless specifically approved by the City Engineer on recommendation of the project’s geotechnical/soils consultant.

21. All catch basins and drainage inlets shall be stenciled with the City of Malibu storm
January 24, 2006

drain logo.
City of Malibu
23815 Stuart Ranch Rd., Malibu, California CA 90265-4861
(310) 456-2489  FAX (310) 456-7650

PUBLIC WORKS REVIEW
REFERRAL SHEET

TO:   Public Works Department
FROM: Planning Division

| PROJECT NUMBER: | SPR 05-050, VAR 05-039, VAR 05-040, CDP 05-192 |
| JOB ADDRESS:    | 22716 PACIFIC COAST HWY |
| APPLICANT / CONTACT: | 8547 Melrose Place, Suite 200 Los Angles, CA 90069 |
| APPLICANT ADDRESS: | 8547 Melrose Place, Suite 200 Los Angles, CA 90069 |
| APPLICANT PHONE #: | (323)651-3154 |
| APPLICANT FAX #: | (323) 651-3155 |
| PROJECT DESCRIPTION: | New Restaurant -CDP- CUP |

To: Malibu Planning Division
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. Subject to Conditions

Signature: [Signature]
Date: 7/19/06
City of Malibu

ERB RECOMMENDATION

To: CJ Amstrup, AICP, Planning Manager
   Environmental Review Board

Prepared by: Stacey Rice, Ph.D., AICP, Senior Planner
             Stefanie Edmondson, AICP, Associate Planner

Reviewed by: Dave Crawford, City Biologist

Subject: Coastal Development Permit Nos. 05-192 and 05-193
         22706 and 22716 Pacific Coast Highway
         Former Windsail and Pierview Restaurant Sites


At its August 23, 2006 meeting, the above-referenced project was considered by the Environmental Review Board (ERB). The recommendations are enumerated below.

Recommendation:

1. Susan Goode recommended that native trees be considered instead of the Australian Tea Tree and the Canary Island Date Palm.

2. Don Kowalesky made the following comments:

   - Earthquakes may result in liquefaction and lateral spreading. A foundation consisting of friction piles should be designed to resist lateral loads from lateral spread and should be designed to support structure from both static and seismic loads by friction along the seawalls of the boring and not by point loads from the bottom of the pile. It is generally not feasible to clean the bottom of a hole drilled through saturated beach sands of all debris, therefore the bottom is not capable of providing the vertical support recommended by the project consultants.

   - As noted in the geotechnical reports, wave action may significantly damage site improvements that are supported by either beach sand or earth fill. (Parking lot, landscaping, utilities, etc). Insurance may be the only feasible mitigation measure.

   - Site drainage, especially from the parking lot, needs to be properly filtered before being discharged onto the beach.
Elizabeth Sobczak

From: Claudio Sanchez
Sent: Monday, June 19, 2006 9:59 AM
To: 'WOkitsu@KatzOkitsu.com'
Cc: Stacey Rice; Stefanie Edmondson; Elizabeth Sobczak
Subject: RE: Review of Windsails restaurant site traffic study

No need to send back the report.

Stacey/ Stef. - here are comments from Walter.

-----Original Message-----
From: Walter Okitsu [mailto:WOkitsu@KatzOkitsu.com]
Sent: Tuesday, June 13, 2006 9:12 PM
To: Claudio Sanchez; Elizabeth Sobczak
Subject: Review of Windsails restaurant site traffic study

Claudio, Elizabeth:

I've reviewed the traffic study for the restaurants at 22706 PCH and 22716 PCH, the former Windsails/Pier View site, date-stamped June 1, 2006. My only comment: Figure 7 shows some left turns into the easternmost driveway, but the project site plan shows that the only entrance will be on the westernmost driveway. Figure 7 needs to be revised. The rest of the report is acceptable.

Let me know if you'd like the report mailed back to you. Otherwise, I'll hold onto it.

--Walter Okitsu
Katz, Okitsu & Associates
(323) 260-4703 x3121
# City of Malibu

23815 Stuart Ranch Road • Malibu, California 90265-4861  
(310) 456-2489 • Fax (310) 456-7650 • www.ci.malibu.ca.us

## GEOTECHNICAL REVIEW SHEET

<table>
<thead>
<tr>
<th>Project Information</th>
<th>Review Log #:</th>
<th>2633</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date:</td>
<td>January 17, 2006</td>
<td></td>
</tr>
<tr>
<td>Site Address:</td>
<td>22716 Pacific Coast Highway</td>
<td></td>
</tr>
<tr>
<td>Lot/Tract/PM #:</td>
<td>n/a</td>
<td></td>
</tr>
<tr>
<td>Applicant/Contact:</td>
<td>Scott Mitchell</td>
<td></td>
</tr>
<tr>
<td>Contact Phone #:</td>
<td>323-651-3154</td>
<td></td>
</tr>
<tr>
<td>Fax #:</td>
<td>323-651-3155</td>
<td></td>
</tr>
<tr>
<td>Planner:</td>
<td>Stacey Rice</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Submittal Information</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Consultant(s)/Report Date(s):</td>
<td>Earth Systems Southern California (Russell, RGE 2393; LaChapelle, CEG 1311): 11-18-05; Ref: 7-31-02, 4-24-02</td>
</tr>
<tr>
<td>Previous Reviews:</td>
<td>None; Ref: 8-15-02, 6-21-02 (old log # 2140, for 22706 PCH)</td>
</tr>
</tbody>
</table>

## Review Findings

### Coastal Development Review
- **APPROVED** from a geotechnical perspective.
- **NOT APPROVED** from a geotechnical perspective. The listed ‘Review Comments’ shall be addressed prior to approval.

### Building Plan-Check Stage
- **Awaiting Building plan check submittal**. Please respond to the listed ‘Building Plan-Check Stage Review Comments’ AND review and incorporate the attached ‘Geotechnical Notes for Building Plan Check’ into the plans.
- **APPROVED** from a geotechnical perspective. Please review the attached ‘Geotechnical Notes for Building Plan Check’ and incorporate into Building Plan-Check submittals.
- **NOT APPROVED** from a geotechnical perspective. The listed ‘Building Plan-Check Stage Review Comments’ shall be addressed prior to Building Plan-Check Stage approval.

### Remarks
The referenced reports and plans were reviewed by the City from a geotechnical perspective. Based upon the submitted information, the project comprises demolishing the existing two-story Malibu Cantina Restaurant (8,003 square feet) and constructing a new 7,514 square foot two-story restaurant with 73 parking spaces, decks, tide pool, grading (320 yards cut, 290 yards fill, 30 yards export), and a private onsite wastewater treatment system.

### Review Comments:
1. None.
Building Plan-Check Stage Review Comments:

1. "If, after City geotechnical staff approves the proposed development project in the planning stage, the applicant relocates structures on the property to accommodate geotechnical setbacks recommended by the applicant's geotechnical consultants, the applicant shall provide updated plans depicting these revisions to the Planning Department for review and approval prior to submitting to building plan check. Changes in structure locations on a property could alter building heights and view corridors, and may be inconsistent with planning approvals."

2. Please clearly depict the limits and depths of overexcavation of the building areas on the grading plans as recommended by the Project Geotechnical Consultant, as well as overexcavation yardages for each structure.

3. Please include on the plans as notes or details, mitigation measures for construction in areas of shallow groundwater, such as for pile installation, overexcavation, and temporary excavations for retaining walls, as necessary.

4. Please include the following note on the foundation and grading plans: “Additional expansion index tests shall be performed during rough grading to determine the expansion characteristics of the new subgrade soils. Additional recommendations for slabs and foundations will be provided, and revisions in designs will be submitted to the City for approval, as necessary.”

5. It is unclear whether driven piles or CIDH piles will be used to support the proposed structure. The geotechnical consultant should indicate the preferred foundation type.

6. Are the recommended pile design values provided on page 12 of the report ultimate or allowable values? If they are allowable, please indicate what factor of safety was used.

7. If CIDH friction piles are used and constructed in a wet condition, please justify the use of end bearing for seismic loading.

8. The consultant should anticipate that construction of CIDH piles will require casing and/or drilling fluids to prevent caving. The geotechnical consultant may wish to provide a more definitive discussion regarding this issue and provide additional recommendations to reduce the potential for caving problems during construction. In addition, if drilling fluids are used, the geotechnical consultant should consider the presence of seawater when evaluating the type of drilling fluid to be used.

9. Please provide a set of structural calculations for the proposed pile foundation elements for all proposed structures to City geotechnical staff for review. Additional comments may be raised that may require a response by the Project Geotechnical Consultant and applicant.

10. Is a seawall proposed? Specific foundation recommendations shall be provided, as appropriate.

11. Two sets of final grading, retaining wall, tide pool, and foundation plans for the proposed restaurant (APPROVED BY BUILDING AND SAFETY) 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 on Mondays or Thursdays between 8 AM and 12 noon.
Please direct questions regarding this review sheet to City Geotechnical staff listed below.

Engineering Geology Review by: Christopher Dean, C.E.G. #1751, Exp. 9-30-06
Geotechnical Engineering Review by: Greg Denlinger, G.E. # 2249, Exp. 3-31-06

This review sheet was prepared by City Geotechnical Staff contracted with Fugro as an agent of the City of Malibu.

FUGRO WEST, INC.
4820 McGrath Street, Suite 100
Ventura, California 93003-7778
(805) 650-7000 (Ventura office)
(310) 456-2489, x306 (City of Malibu)
NOTES FOR BUILDING PLAN-CHECK

The following standard items should be incorporated into Building Plan-Check submittals, as appropriate:

1. One set of grading, retaining wall, tide pool, and restaurant plans, incorporating the 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 Geotechnical Consultant(s) on the cover sheet of the Building Plans.

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

4. 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 Geotechnical Consultant's recommendations.

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

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

7. A comprehensive Site Drainage Plan, incorporating the 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.

Swimming Pools (as Applicable)

1. If City of Malibu Standard Swimming Pool Plans are utilized, indicate which details on 96-12 detail sheet will be used by placing an "X" through details which are NOT applicable to the project.

Guidelines for geotechnical reports (dated February 2002) are available on the City of Malibu web site:


Fugro Project #: 3399.001
City of Malibu
23815 Stuart Ranch Road, Malibu, California 90265
(310) 456-2489 Fax (310) 456-7650

Planning Department

BIOLOGICAL REVIEW

Site Address: 22716 Pacific Coast Highway
Applicant/Phone: Scott Mitchell Studio/ 323.651.3154
Project Type: New Restaurant
Project Number: CDP 05-192
Project Planner: Stacey Rice

RECOMMENDATIONS:

1. The project is APPROVED with the following conditions:

   A. All plantings shall be permanently and regularly maintained free of debris and in conformity with the accepted practices for landscape maintenance.

   B. Required landscaping shall be irrigated with greywater, where feasible.

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

   D. 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).

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

   F. The landscape and fuel modification plan is conditioned to protect natural resources in accordance with the Local Coastal Program. All areas shall be planted and maintained as described in the final approved landscape and fuel modification plan. Failure to comply with the landscape conditions is a violation of the conditions of approval for this project.

   G. 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. High intensity lighting of the shore is prohibited.
2. PRIOR TO ISSUING A CERTIFICATE OF OCCUPANCY, 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.
The proposed project consists of a request to replace an existing 8,003 square foot vacant restaurant building (former Malibu Cantina) with a new 7,100 square foot building to be occupied with a new restaurant on the property located at 22716 Pacific Coast Highway. This building is to be styled as a traditional beach house. The restaurant will have a wrap around covered patio allowing the users to enjoy the ocean view. There will be two stories. The first story will house the kitchen, dining rooms, bar and primary restrooms. The second floor will have a secondary kitchen, staff facilities, a lounge area, two small dining patios and a small bar. This restaurant will be connected to the proposed restaurant at 22706 PCH with a landscaped outdoor deck.

Existing at Pierview

- Gross Lot Area: 50,990 SF
- Building Square Footage: 8,003 SF
- Floor Area Ratio: 0.16
- Maximum Height Structure: 28' 00"
- Percentage of Landscaping: 35%
- Percentage of Open Space: 55%
- Number of Parking Spaces: 61

Proposed New Design of 22716

- Gross Lot Area: 50,000 SF
- Building Footprint: 9,850 SF
- Floor Square Footage: 7,100 SF
- Floor Area Ratio: 0.14
- Actual Height Structure: 28' 00"
- Landscape Area: 7,160 SF (+/- 14% variance x too low)
- Open Space Area: 17,830 SF (+/- 36% variance, setbacks)
- Parking Area: 19,000 SF (+/- 30% variance, setbacks)
- Number of Parking Spaces: 70
NOTICE OF PUBLIC HEARING
CITY OF MALIBU
PLANNING COMMISSION

The Malibu Planning Commission will hold a public hearing on Tuesday, January 16, 2007, at 6:30 p.m., in the Council Chambers, Malibu City Hall, 23815 Stuart Ranch Road, Malibu, CA, for the project identified below.

COASTAL DEVELOPMENT PERMIT NO. 05-192, VARIANCE NOS. 05-039 AND 05-040, CONDITIONAL USE PERMIT NO. 06-010, DEMOLITION PERMIT NO. 06-020, INITIAL STUDY NO. 06-007 AND MITIGATED NEGATIVE DECLARATION NO. 06-008 - An application to permit the demolition of an existing 8,003 square foot vacant restaurant building (formerly Pierview / Malibu Cantina) and the construction of a new, 7,514 square foot, two story restaurant, variances for the reduction in the amount of required landscaping/open space from 65 percent to 20 percent and to allow parking within the front yard setback, and the adoption of Initial Study No. 06-007 and Mitigated Negative Declaration No. 06-008.

APPLICATION NUMBER: Coastal Development Permit No. 05-192
Variance Nos. 05-039 and 05-040
Conditional Use Permit No. 06-010
Demolition Permit No. 06-020
Initial Study No. 06-007
Mitigated Negative Declaration No. 06-008

APPLICATION FILING DATE: November 30, 2005
APPLICANT: Scott Mitchell Studio, LLC
OWNER: Malibu Cantina, LLC
LOCATION: 22716 Pacific Coast Highway, within the coastal zone
APN: 4452-004-037
ZONING: Commercial Visitor Serving-1 (CV-1)
CITY PLANNER: Stacey Rice, 310-456-2489, ext. 265

Pursuant to the authority and criteria contained in the California Environmental Quality Act ("CEQA"), the Planning Division has analyzed the proposal as described above. The Planning Division has found that the project is not exempt from CEQA. Accordingly, an initial study was prepared pursuant to CEQA Guidelines Section 15300.2 (c). The initial study determined that the project would not have a significant impact on the environment; subsequently, a mitigated negative declaration was prepared pursuant to CEQA Guidelines Section 15070.

A written staff report will be available at or before the hearing. Following an oral staff report at the beginning of the hearing, the applicant may be given up to 15 minutes to make a presentation. Any amount of that time may be saved for rebuttal. All other persons wishing to address the Commission will be provided up to three minutes to address the Commission. These time limits may be changed at the discretion of the Commission. At the conclusion of the testimony, the Commission will deliberate and its decision will be memorialized in a written resolution.

Copies of all related documents are available for review at City Hall during regular business hours. Written comments may be presented to the Planning Commission at any time prior to the close of the public hearing.
LOCAL APPEAL – Pursuant to Local Coastal Program Local Implementation Plan (LIP) Section 13.20.1 (Local Appeals), a decision of the Planning Commission may be appealed to the City Council by an aggrieved person by a written statement setting forth the grounds for appeal. An appeal shall be filed with the City Clerk within 10 days of the Planning Commission’s decision and shall be accompanied by an appeal form and the filing fee of $655.00, as specified by the City Council. Appeal forms may be found online at www.ci.malibu.ca.us or in person at City Hall, or by calling 310-456-2489, ext. 245 or ext. 256.

COASTAL COMMISSION APPEAL – An aggrieved person may appeal the Planning Commission’s decision 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.

IF YOU CHALLENGE THE CITY’S ACTION IN COURT, YOU MAY BE LIMITED TO RAISING ONLY THOSE ISSUES YOU OR SOMEONE ELSE RAISED AT THE PUBLIC HEARING DESCRIBED IN THIS NOTICE, OR IN WRITTEN CORRESPONDENCE DELIVERED TO THE CITY, AT OR PRIOR TO THE PUBLIC HEARING.

If there are any questions regarding this notice, please contact Stacey Rice, Senior Planner, at 310-456-2489, ext. 265.

VIC PETERSON
Community Development Director

Publish Date: December 21, 2006
Notice of Public Hearing

City of Malibu
23815 Stuart Ranch Road
Malibu, CA 90265

Planning Division

Notice Continued...

impact on the environment; subsequently, a mitigated negative declaration was prepared pursuant to CEQA Guidelines Section 15070.

A written staff report will be available at or before the hearing. Following an oral staff report at the beginning of the hearing, the applicant may be given up to 15 minutes to make a presentation. Any amount of that time may be saved for rebuttal. All other persons wishing to address the Commission will be provided up to three minutes to address the Commission. These time limits may be changed at the discretion of the Commission. At the conclusion of the testimony, the Commission will deliberate and its decision will be memorialized in a written resolution.

Copies of all related documents are available for review at City Hall during regular business hours. Written comments may be presented to the Planning Commission at any time prior to the close of the public hearing.

Local Appeal - Pursuant to Local Coastal Program Local Implementation (LIP) Section 13.20.1 (Local Appeals), a decision of the Planning Commission may be appealed to the City Council by an aggrieved person by written statement setting forth the grounds for appeal. An appeal shall be filed with the City Clerk within 10 days and shall be accompanied by an appeal form and filing fee of $655.00, as specified by the City Council. Appeal forms may be found online at www.ci.malibu.ca.us or in person at City Hall, or by calling (310) 456-2489 ext. 245 or ext. 256.

COASTAL COMMISSION APPEAL - An aggrieved person may appeal the Planning Commission's decision to the California 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 805-685-1800. Such an appeal must be filed with the Coastal Commission, not the City.

IF YOU CHALLENGE THE CITY’S ACTION IN COURT, YOU MAY BE LIMITED TO RAISING ONLY THOSE ISSUES YOU OR SOMEONE ELSE RAISED AT THE PUBLIC HEARING DESCRIBED IN THIS NOTICE, OR IN WRITTEN CORRESPONDENCE DELIVERED TO THE CITY, AT OR PRIOR TO THE PUBLIC HEARING.

If there are any questions regarding this notice, please contact Stacey Rice, Senior Planner, at (310) 456-2489, ext. 265, srice@ci.malibu.ca.us

Date: December 21, 2006