Subject: Extension of Coastal Development Permit No. 11-019, Variance No. 13-011, and Site Plan Review No. 11-008 – A first request to extend the Planning Commission’s approval for the construction of a new two-story, single-family residence and associated development

Location: 26714 Seagull Way
APN: 4460-022-033
Owner: Armitage Development Group, LLC


DISCUSSION: On February 3, 2014, the Planning Commission adopted Resolution No. 14-11, approving the subject application. On February 12, 2014, the Latigo Cove Property Owners Civic Association appealed the project and the appeal hearing was scheduled to be considered at the June 8, 2015 City Council meeting where the item was continued to a date uncertain. The appeal was noticed again and a hearing was scheduled for the August 24, 2015 City Council meeting, and at that meeting the item was continued to the September 28, 2015 City Council meeting. On September 28, 2015, prior to the City Council meeting, the appellant withdrew the appeal, and the CDP became effective on that date.

Pursuant to Local Coastal Program (LCP) Local Implementation Plan Section 13.21, Condition of Approval No. 7 in Planning Commission Resolution No. 14-11 states that
the coastal development permit and associated requests shall expire if the project has not commenced within three years after final City action. Extension of the permit may be granted by the approving authority for due cause. The item before the Commission is an extension request by the applicant. A complete project chronology, including scope of work and approvals, can be found in Planning Commission Resolution No. 19-01.

The current owner purchased the property in March 2018 and in August filed an application for a substantial conformance determination request. Staff requested additional information at that time, including a new letter of authorization and grant deed reflecting the change in ownership. On September 11, 2018, a letter of authorization, change of ownership form, current grant deed, and an extension request was submitted to the City. The subject coastal development permit was set to expire on September 28, 2018. The new owner submitted the extension request to ensure a valid CDP permit remains in place while the plan check process is completed. The applicant’s basis for due cause is included as Attachment 2.

The applicant requested a two-year time extension which would be consistent with LCP Policy No. 5 (Coastal Development Permit Extensions), dated November 13, 2017 (Attachment 3). The policy, which has been reviewed by and received concurrence from City Council, sets forth guidance for what constitutes due cause and states that absent extraordinary circumstances, the aggregate life of a permit should not exceed five years. The applicant has been working diligently since acquisition of the property to complete plan check and commence the project.

CONCLUSION: The project conditions, and the zoning ordinance under which the approval was issued, have not significantly changed. Upon the Planning Commission’s approval of the time extension request, the approval set forth in Planning Commission Resolution No. 14-11 shall remain valid for an additional one-year term. The expiration date of this approval would then be September 28, 2020. All conditions of approval in Planning Commission Resolution No. 14-11 will remain in effect.

ATTACHMENTS:
1. Planning Commission Resolution No. 19-01
2. Time Extension Request
3. LCP Policy No. 5 (CDP Extensions)
4. Radius Map
5. Public Hearing Notice

All referenced City Council and Planning Commission records are available for review at http://www.malibucity.org/onbase.
CITY OF MALIBU PLANNING COMMISSION
RESOLUTION NO. 19-01


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

SECTION 1. Recitals.

A. On February 3, 2014, the Planning Commission adopted Planning Commission Resolution No. 14-11, approving Coastal Development Permit (CDP) No. 11-019, Variance No. 13-011 and Site Plan Review No. 11-008 - An application for a 5,820 square foot, two-story single-family residence with 499 square foot attached garage, driveway, retaining wall, fire-department turnaround, grading, drainage improvements, landscaping, soldier pile system and an evapotranspiration onsite wastewater treatment system, including a variance for construction on slopes in excess of 2½ to 1 and a site plan review for height in excess of 18 feet (28 feet proposed) located in the Single-Family Medium Density zoning district.

B. On February 12, 2014, the Latigo Cove Property Owners Civic Associated appealed the project and the appeal hearing was scheduled to be considered at the June 8, 2015 City Council meeting where the item was continued to a date uncertain.

C. On August 24, 2015 the City Council continued the item to the September 28, 2015 City Council meeting, at which a withdrawal by the appellant was received and filed by the Council.

D. On September 28, 2015, prior to the Council meeting the appeal was withdrawn and the CDP became effective.

E. On September 11, 2018, the applicant submitted a time extension request.

F. On October 25, 2018, a Notice of Public Hearing was published in a newspaper of general circulation within the City of Malibu and was mailed to all property owners and occupants within a 500-foot radius of the subject property.

G. On November 15, 2018, the November 19, 2018 Planning Commission regular meeting was cancelled due to the Woolsey Fire.

H. On December 20, 2018, a Notice of Public Hearing was published in a newspaper of general circulation within the City of Malibu and was mailed to all property owners and occupants within a 500-foot radius of the subject property.
I. On January 10, 2019, the Planning Commission held a duly noticed public hearing on the request, reviewed and considered the agenda report, reviewed and considered written correspondence, public testimony, and other information in the record.

SECTION 2. Environmental Review.

Pursuant to the authority and criteria contained in the California Environmental Quality Act (CEQA), the Planning Commission previously determined the project to be categorically exempt pursuant to CEQA Guidelines Section 15303 - New Construction. As such, Categorical Exemption No. 13-128 was filed for CDP No. 11-019, and adopted with the approval of the project.

SECTION 3. Findings of Fact.

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


A. The approvals set forth in Planning Commission Resolution No. 14-11 are hereby extended for an additional two-year term. The approval is now set to expire on September 28, 2020.

B. No other changes to the conditions contained in Planning Commission Resolution No. 14-11 are made and all other findings, terms and/or conditions contained in Planning Commission Resolution No. 14-11 shall remain in full force and effect.

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

PASSED, APPROVED AND ADOPTED this 10th day of January, 2019.

STEVE UHRING, Planning Commission Chair

ATTEST:

KATHLEEN STECKO, Recording Secretary
LOCAL APPEAL - A decision of the Planning Commission may be appealed to the City Council by an aggrieved person by written statement setting forth the grounds for appeal. An appeal shall be filed with the City Clerk within 10 days and shall be accompanied by an appeal form and proper appeal fee. The appellant shall pay fees as specified in the Council adopted fee resolution in effect at the time of the appeal. Appeal forms and fee schedule may be found online at www.malibucity.org, in person at City Hall, or by calling (310) 456-2489, extension 245.

I CERTIFY THAT THE FOREGOING RESOLUTION NO. 19-01 was passed and adopted by the Planning Commission of the City of Malibu at the special meeting thereof held on the 10th day of January, 2019, by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

KATHLEEN STECKO, Recording Secretary
September 11, 2018

City of Malibu Planning Department
Attn.: Bonnie Blue, AICP
23825 Stuart Ranch Road
Malibu, CA 90265

Re.: Time Extension Request
CDP 11-019
26714 Seagull Way
Malibu, CA 90265

Bonnie Blue,

The purpose of this letter is to request a 2-year Time Extension of the approvals set forth in Planning Commission Resolution Number 14-11 for Coastal Development Permit Number (CDP) 11-019 at 26714 Seagull Way.

On February 3, 2014 the Planning Commission Approved CDP 11-019. Between February 3, 2014 and the date of Final Action, September 24, 2015, it is my understanding that this project was help up by an Appeal. After multiple confirmations of the September 24, 2018 expiration date by Richard Mollica and Trevor Rusin our client acquired the subject property in March of 2018 with a complete commitment to completing and developing the project entitled by the approval of CDP 11-019.

Evidence of this complete commitment exists in our August 1, 2018 submittal for Substantial Conformance as well as our constant communication with Richard Mollica on the timeline for entering Building Plan Check. Additionally we have met with Building & Safety to calculate the required fees for the Building Plan Check Process and secured funding for this next stage of this project. Having only acquired this property 5 months ago, it was not my client who sat unproductive for the last 31 months, and we hope that our diligence toward the completion of the project as entitled is evident.

Therefore, to keep CDP 11-019 active while completing the permitting process and throughout the construction of the project we are asking for a 2-year time extension.

Please do not hesitate to contact me if you have any questions or comments regarding this matter.

Sincerely,

Joseph Lezama
Burdge & Associates Architects, Inc.

24911 Pacific Coast Highway
Malibu, CA 90265
310-456-5905
LCP Policy 5: Coastal Development Permit Extensions

LIP Section 13.21 provides:

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

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

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

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

The Malibu Planning Commission will hold a public hearing on Thursday, January 10, 2019, at 6:30 p.m. in the Council Chambers, Malibu City Hall, 23825 Stuart Ranch Road, Malibu, CA, for the project identified below.

EXTENSION OF COASTAL DEVELOPMENT PERMIT NO. 11-019, VARIANCE NO. 13-011, AND SITE PLAN REVIEW NO. 11-008 - A request to extend the Planning Commission's approval of an application for the construction of a new two-story, single-family residence and associated development approved in 2014.

LOCATION / APN / ZONING: 26714 Seagull Way / 4460-022-033 / SFM
APPLICANT / OWNER(S): Burdge and Associates Architects, Inc. / Armitage Development Group, LLC
APPEALABLE TO: City Council
ENVIRONMENTAL REVIEW: Categorical Exemption CEQA Guidelines Section 15303
EXTENSION FILED: September 11, 2018
CASE PLANNER: Richard Mollica, Senior Planner, rmollica@malibucity.org (310) 456-2489, ext. 346

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

A written staff report will be available at or before the hearing for the project. Related documents are available for review at City Hall during regular business hours. You will have an opportunity to testify at the public hearing; written comments which shall be considered public record, may be submitted any time prior to the beginning of the public hearing. If the City's action is challenged in court, testimony may be limited to issues raised before or at the public hearing.

LOCAL APPEAL - A decision of the Planning Commission may be appealed to the City Council by an aggrieved person by written statement setting forth the grounds for appeal. An appeal shall be filed with the City Clerk within ten days following the date of action which the appeal is made and shall be accompanied by an appeal form and filing fee, as specified by the City Council. Appeal forms may be found online at www.malibucity.org/planningforms or in person at City Hall, or by calling (310) 456-2489, extension 245.

BONNIE BLUE, Planning Director
Date: December 20, 2018