Commission Agenda Report

To: Chair Jennings and Members of the Planning Commission

Prepared by: Justine Kendall, Associate Planner

Reviewed: Bonnie Blue, Planning Director

Date prepared: April 9, 2019 Meeting date: April 20, 2020

Subject: Coastal Development Permit No. 19-084 – A follow-up application for the placement of a lifeguard tower on the bluff at El Matador State Beach

Location: El Matador State Beach
32216 Pacific Coast Highway, APN 4473-013-901 within the appealable coastal zone

Owner: State of California Department of Parks and Recreation

RECOMMENDED ACTION: Adopt Planning Commission Resolution No. 20-43 (Attachment A) determining the project is categorically exempt from the California Environmental Quality Act (CEQA), and approving Coastal Development Permit (CDP) No. 19-084 to allow for the creation of a roughly 240 square foot packed earth and aggregate pad and placement of one free-standing approximately 15.5 foot tall steel lifeguard tower and antenna, erosion control materials, and a temporary fence in a previously disturbed area on the bluff, which took place under Emergency Coastal Development Permit (ECDP) No. 19-012, located in the Public Open Space (OS) zoning district at El Matador State Beach (State of California).

DISCUSSION: This agenda report provides a project overview, a summary of project setting and surrounding land uses, a description of the project scope, an analysis of the project’s consistency with applicable provisions of the Malibu Local Coastal Program (LCP) and Malibu Municipal Code (MMC), and environmental review pursuant to CEQA. The analysis and findings contained herein demonstrate the project is consistent with the LCP and MMC.
Project Overview

As shown in Figure 1, the 5.95-acre parcel is one of several which make up El Matador State Beach, which is part of the larger Robert H. Meyer Memorial State Beach. The parcel is zoned OS and contains public amenities for the beach area, including parking and trail to access the beach.

Figure 1 – Aerial Photo

Located between Leo Carrillo and Point Dume State Beaches, Robert H. Meyer Memorial State Beach is comprised of three cove or cliff-foot strands known as "pocket beaches" that are located along the west end of the City, of which El Matador is one. El Matador State Beach is a beach park that is characterized by open, heavily vegetated, flat land, and a tall coastal bluff overlooking the beach (as seen in Figure 2). Owned by State and managed by the California Department of Parks and Recreation, the park is known for its rock formations, coastal stack, small sea caves, and other coastal features. It is very popular for film and photo shoots in addition to traditional beach tourism. In the past several years social media promotion has significantly increased the yearly visitation to the park and therefore increased the need for lifeguards and law/park rule enforcement.

The subject application will permit the work that took place under ECDP No. 19-012, approved in May 2019, which allowed the creation of a roughly 100 square foot packed
earth and aggregate pad and placement of one free-standing 13.75-foot-tall steel lifeguard tower approximately 15-feet from the blufftop edge at El Matador State Beach (Attachment C – Notice of Decision for ECDP No. 19-012). The ECDP approved a smaller lifeguard tower (junior model); however, given the needs of the area, a slightly taller and larger model (senior model) was placed on site. With the exception of an increase in height and footprint of the tower, the project is consistent with the approved ECDP.

**Figure 2 – 3D Satellite View**

Consistent with the approval of the ECDP, the tower was placed on a 240 square foot, approximately one foot tall (maximum) earthen and aggregate pad which has been stabilized on the north side by sandbags and straw waddles. The tower also includes an approximately eight-foot-tall antenna for communication with other State Parks trucks and lifeguard towers, and plastic temporary fencing on three sides of the tower. The sandbags currently being used appear to be made of plastic (see Figure 3). Resolution No. 20-43 includes a condition which prohibits plastic sandbags from being used at any time. Staff
contacted the local State Park Superintendent and notified them that the plastic sandbags need to be replaced. There are no plans to place the tower on a permanent foundation, furthermore the tower does not require fuel modification. No grading, landscaping, or outdoor lighting is proposed or took place. The project plans are included as Attachment B.

The purpose of the lifeguard tower is to increase public safety and further protect the natural resources at El Matador. The lifeguard tower will provide an area for lifeguards to oversee and immediately respond to aquatic rescues, medical aides other incidents on the beach, which are currently handled through emergency services and, as a result, are hindered by delayed response times. Lifeguards working the tower can communicate with park visitors to reduce violations by interpreting the rules and regulations.

**Figure 3 – Existing Conditions**
The lifeguard tower was originally proposed along with a larger parking lot expansion project under review by the CCC as part of the existing Public Works Plan, however due to the extended timeline of that plan, the installation of this tower was requested under a separate application to the City. On April 6, 2019, the Lifeguard Sergeant of California State Parks issued a letter that stated that, due to the increasing amount of visitors to the beach, the need for lifeguards and enforcement has also increased significantly. The proposed pad and free-standing lifeguard tower will “increase public safety and further protect the natural resources at El Matador. … [El Matador] sustains tremendous use and requires updated protection and stewardship to keep up with the demand on the resource.” (Attachment 2 within Attachment C). Based on this document, the creation of the pad and placement of the tower was deemed an emergency to provide these protections before the start of the traditionally busy summer season.

The proposed location was selected for the visual vantage points as well as the least impact for the bluff coastal vegetation. Furthermore, the proposed location is a disturbed area that is located adjacent to the beach access trail and public parking lot. Upon consultation with the California Coastal Commission (CCC) staff about the proposed location, they confirmed that it appeared to be previously disturbed and not likely to incur adverse environmental impacts. As stated by the applicant, the tower will:

1. Provide visitors with a location to report a problem or to gather basic information rather than call emergency services.
2. Provide a shelter to store emergency equipment and provide a base of operation for State Parks staff.
3. Enable California State Parks and allied agencies to provide immediate, increased public safety, enforcement, and better protection of the natural resource.

According to the LCP ESHA and Marine Resources Map, all areas south of the parking lot are considered Environmentally Sensitive Habitat Area (ESHA). The proposed lifeguard tower is within the mapped ESHA. However, the tower was placed in a previously disturbed area immediately adjacent to the public beach access trail. As stated by the applicant’s Environmental Scientist, the location for the lifeguard tower was over 95% compacted earth with a few stressed laurel sumac saplings and giant wild rye plants. No burrows, nesting birds, or other sensitive or regulated natural resources were within the project footprint or would be affected by the project. In addition, the tower does not include any fuel modification, lighting, or a permanent structure. Therefore, a variance from LCP Local Implementation Plan (LIP) Section 4.5.3 is not required. The subject property does not contain an official LCP mapped trail; however, the tower is placed on the eastern side of an existing walking path to get to the beach below the bluff. The entire subject parcel is within the Appeal Jurisdiction as depicted on the Post-LCP Certification Permit and Appeal Jurisdiction Map.
**Surrounding Land Uses**

As outlined in Table 1 below, the surrounding land use consists of parkland and single-family residential homes.

<table>
<thead>
<tr>
<th>Direction</th>
<th>Address / APN</th>
<th>Lot Size</th>
<th>Zoning</th>
<th>Land Use</th>
</tr>
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<tbody>
<tr>
<td>North</td>
<td>32215 Pacific Coast Highway 4473-007-010</td>
<td>3.06 acres</td>
<td>RR-2</td>
<td>Two-story, SFR**</td>
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<tr>
<td>South</td>
<td>Pacific Ocean</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>West</td>
<td>32216 Pacific Coast Highway 4473-013-900</td>
<td>1.02 acres</td>
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<td>32216 Pacific Coast Highway 4473-013-902</td>
<td>4.31 acres</td>
<td>POS</td>
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**RR-2 = Rural Residential – Two Acre; SFR = Single-Family Residential**

**Project Description**

The scope of work is to permit the work which took place under ECDP No. 19-012, approved May 2019. The “junior model” tower was described in the approved ECDP permit; however, it was the “senior” model which was actually placed. As such, the proposed project includes:

- Creation of a flat, packed earth and aggregate pad approximately 240 square feet and one foot tall at its maximum height which has been stabilized on the north side by sandbags and straw waddles;
- Placement of one free-standing 15.5-foot tall steel lifeguard tower with an approximately eight-foot-tall antenna in a previously disturbed area adjacent to the public beach access trail approximately fifteen feet from the blufftop edge; secured with rebar; and
- 42-inch tall plastic temporary fencing on the north, west, and south sides.
- No landscaping, grading, or outdoor lighting is proposed.

**LCP Analysis**

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

There are 14 LIP chapters that potentially apply depending on the nature and location of the proposed project. Of these, five are for conformance review only and contain no findings: 1) Zoning, 2) Grading, 3) Archaeological/Cultural Resources, 4) Water Quality, and 5) OWTS. These chapters are discussed in the *LIP Conformance Analysis* section.
The nine remaining LIP chapters do contain required findings: 1) Coastal Development Permit; 2) ESHA; 3) Native Tree Protection; 4) Scenic, Visual and Hillside Resource Protection; 5) Transfer of Development Credits; 6) Hazards; 7) Shoreline and Bluff Development; 8) Public Access; and 9) Land Division. For the reasons described in this report, including the project site, the scope of work, and substantial evidence in the record, only the following chapters and associated findings apply to the project: Coastal Development Permit, Scenic Visual, and Hillside Resource Protection, and Shoreline and Bluff Development\(^1\). These chapters are discussed in the *LIP Findings* section of this report.

**LIP Conformance Analysis**

The Planning Department and the City Biologist reviewed the proposed project (Attachment D – Department Review Sheets). The project, as proposed and conditioned, has been found to be consistent with all applicable LCP codes, standards, goals, and policies.

**Zoning (LIP Chapter 3)**

The OS zoning designation of the subject parcel specifically allows for the use proposed in this application because the zone provides for publicly owned land, which is dedicated to recreation or preservation of the City’s natural resources, including recreation facilities, educational activities, trails, parklands, and preserves. A lifeguard tower is ancillary and subordinate to the primary OS use. There are no specific development standards applicable to properties in the OS zone; however, the project is subject to general development and design standards set forth under LIP Sections 3.5. The tower does not include any walls or fences, hardscaping, or permanent structures. Given the location of the proposed lifeguard tower, setbacks are not an issue. As proposed, the tower will be located in a disturbed area and has an approximately 240 square foot footprint. The roof of the lifeguard tower will be a maximum of 15 and a half feet above the nearest adjacent grade, which is lower than the maximum 18 foot height limit allowed in the POS zone. Antennae, other that satellite dish antennae, do not count towards a structure’s maximum height. Therefore, the proposed project is consistent with the nature and extent of uses permitted in the OS zone and LIP Chapter 3.

**Grading (LIP Chapter 8)**

The project only proposes landform alteration to create a flat pad with approximately eight cubic feet of imported earth and aggregate for the base of the lifeguard tower and does not propose any grading. As such, the project conforms to the grading requirements as set forth under LIP Chapter 8, which ensures that new development minimizes the visual and resource impacts of grading and landform alteration.

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\(^1\) The ESHA, Native Tree Protection, Transfer of Development Credits, Hazards, Public Access, and Land Division findings are neither applicable nor required for the proposed project.
Archaeological / Cultural Resources (LIP Chapter 11)

LIP Chapter 11 requires certain procedures be followed to determine potential impacts on archaeological resources. Barbara S. Tejada, Associate State Archeologist for the California Department of Parks and Recreation, prepared an archaeological survey report in September of 2014 for the El Matador Drainage Report Project, which included a project area that encompassed the subject project site. No archaeological resources were found during the investigation, and it was determined that no further archaeological review was required. As such, the proposed improvements, which all took place above ground and have already occurred, should have no adverse impacts on known cultural resources.

Water Quality (LIP Chapter 17)

The City Public Works Department has reviewed and approved the project for conformance to LIP Chapter 17 requirements for water quality protection. It was determined that the project conforms to the Water Quality Protection standards of LIP Chapter 17.

Wastewater Treatment System Standards (LIP Chapter 18)

LIP Chapter 18 addresses OWTS. LIP Section 18.7 includes specific siting, design, and performance requirements for OWTS. The project does not include a new OWTS, and no system exists on site. Therefore, no evaluation is required.

LIP Findings

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

The subject parcel is located in the OS zoning district, an area designated for parklands, trails, and recreational facilities. The project is a follow-up application to approve the work that took place under ECDP No. 19-012, which allowed for a lifeguard tower to be placed on an earthen pad and secured with rebar in a previously disturbed area. No permanent foundations were installed, and the tower can be removed at any time. The project has been reviewed for conformance with the LCP by the Planning Department and City Biologist. As discussed herein, based on submitted reports, project plans, visual analysis, and site investigation, the proposed project, as conditioned, conforms to the LCP in that it meets all applicable development standards.
Finding 2. If the project is located between the first public road and the sea, that the project is in conformity to the public access and recreation policies of Chapter 3 of the Coastal Act of 1976 (commencing with Sections 30200 of the Public Resources Code).

The project is located between the first public road and the sea. However, the lifeguard tower is placed adjacent to an existing public beach accessway, and its location has not and will not interrupt the use of the trail by the public. Therefore, no negative potential project-related or cumulative impact on public access is anticipated to result from the project. The proposed project conforms to the public access and recreation policies of Chapter 3 of the Coastal Act of 1976 (commencing with Sections 30200 of the Public Resources Code).

Finding 3. The project is the least environmentally damaging alternative.

The following alternatives to the proposed project were considered.

Alternative Locations – As seen in Figure 3, several alternative locations were considered for the lifeguard tower, including two to the west, along the bluff edge, and another to the east, deeper within the ESHA. In addition, when the emergency permit was submitted, the tower was proposed to be several feet to the east, outside of the previously disturbed area. The purpose of the lifeguard tower is to increase public safety and further protect the natural resources at El Matador by providing a vantage point where lifeguards can see both the beach and sensitive resource areas. It was determined that the locations to the west did not offer enough visibility of the beach, and the location farther to the west
(pictured above) both did not offer enough visibility and increased impacts. The location initially proposed was rejected due to impacts on sensitive habitat, and the proposed location was deemed superior as it provided the desired visibility of the entire beach area and could be placed on previously disturbed ground without plant cover. In addition, the City’s LCP identifies lifeguard towers as permitted development on beaches as they are ancillary to public beach use. The applicant was unable to place the tower on the sand consistent with the LCP because of tidal action and limited visibility for public safety. As such, an alternative project would not provide an environmental advantage and would not meet the project objectives.

Proposed Project – The project consists of the placement of a 15.5 foot tall (total height) steel lifeguard tower on a 240 square foot earthen pad that was previously disturbed to serve the public, which is a permitted use within the OS zoning designation as a support facility for the existing public beach and open space use. On April 1, 2020, staff visited the project site to document the proposed lifeguard tower in its selected location. Photographs are included as Attachment E. Siting the development on the disturbed portion of the property next to the existing public beach accessway reduces environmental impacts, provides the necessary vantage point, and allows the public easy access to staff in the event of an emergency or other need. Additionally, the proposed development does not encroach on existing bluewater views from neighboring properties, although it can be seen from the east-bound lanes of Pacific Coast Highway. The selected location has been reviewed and conditionally approved by the Planning Department and City Biologist and meets the City’s recreational policies of the LCP and MMC. The proposed residence and related driveway are located within a disturbed portion of the subject parcel and will not impact any sensitive habitat area. The proposed development is consistent with that existing in the area and has been determined not to result in adverse biological, scenic, or visual resource impacts, and is the least environmentally damaging feasible alternative.

Finding 4. If the project is located in or adjacent to an environmentally sensitive habitat area pursuant to Chapter 4 of the Malibu LIP (ESHA Overlay), that the project conforms with the recommendations of the Environmental Review Board, or if it does not conform with the recommendations, findings explaining why it is not feasible to take the recommended action.

All development, including the earthen pad and tower secured with rebar is proposed within a previously disturbed area, and no part of the proposed scope of work includes a fuel modification area. It was determined that the area was previously disturbed in that it was comprised of 95 percent compacted earth located adjacent to an existing public beach access trail. Also, no burrows, nesting birds, or other sensitive or regulated natural resources were within the project footprint or would be affected by the project (see correspondence in Attachment 3 of Attachment C). As such, no impacts to ESHA are expected, and an ERB report is not required.
B. Environmentally Sensitive Habitat Area Overlay (LIP Chapter 4)

As stated in Section A, Finding 4, all areas south (oceanside) of the parking lot area on the parcel are considered ESHA according to the LCP ESHA and Marine Resources Map. However, all new development proposed is within a previously disturbed area adjacent to the existing public beach access trail. All elements of the proposed project will comply with the required bluff top setback. None of the proposed work includes any fuel modification area. To place the prefabricated lifeguard tower a forklift was used and did not require the clearance of any brush. On December 17, 2019, the City Biologist approved the proposed project and determined that the project is not expected to result in any adverse impacts to significant biological resources. As conditioned, the proposed project will result in less than significant impacts to sensitive resources, and no significant loss of vegetation or wildlife, or encroachments into an ESHA. Therefore, the findings of LIP Section 4.7.6 are not applicable.

C. Native Tree Protection (LIP Chapter 5)

No protected native trees exist within the project area. Therefore, the findings contained in LIP Chapter 5 do not apply.

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

The Scenic, Visual, and Hillside Resource Protection Chapter governs those coastal development permit 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. On April 3, 2020, staff visited the site to determine potential visual impacts of the proposed project on any scenic area, scenic road, or public viewing area. The project is visible from other areas within the state beach area and from Pacific Coast Highway, which is a scenic highway but is sited behind the view of existing trail signs, parking payment stations, portable restrooms, and trash receptacles. Based on the site analysis, project plans, and photographs taken during the site visit, it was determined that there would be minimal visual impacts as a result of the proposed project. Therefore, LIP Chapter 6 applies, and the five findings set forth in LIP Section 6.4 are made as follows.

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

The project is a support facility for users of the beach, and there is no feasible way to install the lifeguard tower that would not be visible from other areas within the state beach area or the highway while still achieving the applicant’s goals. The project’s purpose is to improve safety for visitors and sensitive environmental resources. The proposed project and its selected location achieve that purpose by being located adjacent to an existing public beach accessway, which provides a strategic vantage point. The design of the proposed lifeguard tower complies with the MMC and LCP height standards and does not include any outdoor lighting. In addition, the lifeguard tower is a typical amenity for beach
use and will be compatible with the existing improvements in the area, which consist of existing trail signs, parking payment stations, portable restrooms, and trash receptacles. The portion of the blue water and sky views from Pacific Coast Highway is minimal. Accordingly, the project, as proposed, will not have significant adverse scenic or visual impacts.

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

The tower is painted a bright blue, which is compatible with the blue water and sky in the background when the tower is viewed from the highway. The tower is more visible when viewed from the beach; however, the purpose of the tower’s increased visibility is to be clearly identifiable to visitors and users of the beaches and trails for safety purposes. Accordingly, the project, as conditioned, will not have significant adverse scenic or visual impacts.

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

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

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

The project, as designed and conditioned, is not expected to affect scenic and visual resources adversely, and no feasible alternatives would avoid or substantially lessen any significant adverse impacts on scenic and visual resources.

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

As discussed in Findings 1 and 2, the project, as proposed and conditioned, will result in less than significant impacts on scenic and visual resources. As shown by the location of the tower, it results in a less than significant visual impacts on public views from the surrounding parkland and highway, and does not impact sensitive resources. Therefore, the proposed development, as designed, is sited to minimize or otherwise contribute to conformance to sensitive resources.

E. Transfer of Development Credits (LIP Chapter 7)

The proposed project does not include a land division or multi-family development. Therefore, the findings of LIP Chapter 7 are not applicable.
F. Hazards (LIP Chapter 9)

With the exception being located within a high wildfire hazard area, the proposed development will not be subject to any of the hazards listed in LIP Chapter 9. The proposed improvements consist of a steel lifeguard tower secured with rebar on an earthen pad. The proposed improvements will not increase the potential for wildfire on or near the subject site, and therefore, the findings of LIP Chapter 9 are not applicable.

G. Shoreline and Bluff Development (LIP Chapter 10)

The proposed project includes development along the top of a coastal bluff. Therefore, in accordance with LIP Section 10.2, the findings required by LIP Chapter 10 are made as follows:

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

The proposed project does not include any construction on the beach, but does place a lifeguard tower on 240 square foot aggregate pad, 15 feet from the bluff top edge in a previously disturbed area. As the lifeguard tower is secured by rebar only and does not include a permanent foundation, the proposed project complies with the development standards detailed in LIP Section 10.4(D)\(^2\). Public access currently exists on the subject property, and the lifeguard tower will not interfere with the public’s ability to use the existing beach access trails, including the one to which it is adjacent. As such, the project will have no significant adverse impacts on public access, shoreline sand supply, or other resources due to project design, location on the site, or any other reason.

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 previously discussed, and discussed further in the following Section, the proposed project is not expected to have an impact on public access, shoreline sand supply, or other resources.

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

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

\(^2\) LIP Section 10.4(D): “Ancillary structures such as decks, patios and walkways that do not require structural foundations may extend into the setback area but in no case shall be sited closer than 15 feet from the bluff edge.”
Finding 4. There are no alternatives to the proposed development that would avoid or substantially lessen impacts on public access, shoreline sand supply, or other resources.

Alternative project designs described in Section A were dismissed because they had increased negative impacts on public access or aesthetic resources, or because they would have been more environmentally damaging. As discussed above, the project is not expected to result in any significant adverse impact on public access, shoreline sand supply, or other resources. Therefore, there are no feasible alternatives to development that would avoid or substantially lessen any significant adverse impacts to public access, 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.

The proposed project does not include a shoreline protective device; therefore, this finding does not apply.

H. Public Access (LIP Chapter 12)

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

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

As described herein, the subject property is located between the nearest public roadway (Pacific Coast Highway) and the sea, and includes a provides open space with both bluff top and beach access to the public. The proposed project is a lifeguard tower, which is a support facility that will improve existing public recreation opportunities by providing an amenity that will increase the safety of park visitors and the ability for staff to protect sensitive environmental resources. The location of the tower was selected to provide a safe, secure vantage point to oversee and patrol the entire beach. As stated earlier, the location of the lifeguard tower, which can be moved, will not interfere with the public's access to the existing beach access trail. The requirement for public access in LIP Section 12.4 does not apply, and further findings are not required.
I. Land Division (LIP Chapter 15)

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

ENVIRONMENTAL REVIEW: Pursuant to the authority and criteria contained in CEQA, the Planning Department has analyzed the proposed project. The Planning Department found that this project is listed among the classes of projects that have been determined not to have a significant adverse effect on the environment. Therefore, the project is categorically exempt from the provisions of CEQA pursuant to Sections 15303 (e) – New Construction and 15311(c) – Accessory Structures. The Planning Department has further determined that none of the six exceptions to the use of a categorical exemption apply to this project (CEQA Guidelines Section 15300.2).

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

PUBLIC NOTICE: On April 9, 2020, staff published a Notice of Public Hearing Notice in a newspaper of general circulation within the City of Malibu and mailed the notice to property owners and occupants within a 500-foot radius of the subject property (Attachment F – Public Hearing Notice).

SUMMARY: The required findings can be made that the project complies with the LCP. Further, the Planning Department’s findings of fact are supported by substantial evidence in the record. Based on the analysis contained in this report and the accompanying resolution, staff recommends approval of this project subject to the conditions of approval contained in Section 5 (Conditions of Approval) of Planning Commission Resolution No. 20-43. The project has been reviewed and conditionally approved for conformance with the LCP by Planning Department and appropriate City departments.

ATTACHMENTS:

A. Planning Commission Resolution No. 20-43
B. Project Plans
C. ECDP No. 19-012
D. Department Review Sheets
E. Site Photographs
F. Public Hearing Notice
The Planning Commission of the City of Malibu does hereby find, order and resolve as follows:

SECTION 1. Recitals.

A. On April 24, 2019, an application for Emergency Coastal Development Permit (ECDP) No. 19-012 was submitted to the Planning Department by applicant, Superintendent D. Lindsey Templeton, on behalf of The California State Department of Parks and Recreation. The application was routed to the City Biologist, City Coastal Engineer, City Environmental Health Administrator, City geotechnical staff, and the City Public Works Department for consideration. With the exception of the City Biologist, the remaining City Departments determined that given the natural of the project a formal review was not required.

B. On May 24, 2019, the City of Malibu issued ECDP No. 19-012, which approved the creation of a packed earth and aggregate pad and placement of one free-standing 13.75-foot-tall lifeguard tower in a previously disturbed area on the bluff. This work has been completed; however, a larger tower, that is 14.5 feet tall and has a 240 square foot base was installed rather than the smaller model initially approved.

C. On December 5, 2019, an application for Coastal Development Permit (CDP) No. 19-084 was submitted to the applicant, Superintendent D. Lindsey Templeton, on behalf of The California State Department of Parks and Recreation. The application was routed to the City Biologist, City Coastal Engineer, City Environmental Health Administrator, City geotechnical staff, and the City Public Works Department for consideration. However, like the ECDP only the City Biologist completed a formal review given the proposed scope of work.

D. On April 3, 2020, Planning Department staff conducted a site visit to document site conditions, the property and surrounding area.

E. On April 3, 2020, a Notice of Coastal Development Permit Application was posted on the subject property.

F. On April 9, 2020, a Notice of Planning Commission Public Hearing was published in a newspaper of general circulation within the City of Malibu and was mailed to all property owners and occupants within a 500-foot radius of the subject property.
G. On April 20, 2020, the Planning Commission held a duly noticed public hearing on the subject application, reviewed and considered the staff report, reviewed and considered written reports, public testimony, and other information in the record.

SECTION 2. Environmental Review.

Pursuant to the authority and criteria contained in the California Environmental Quality Act (CEQA), the Planning Commission has analyzed the proposed project. The Planning Commission found that this project is listed among the classes of projects that have been determined not to have a significant adverse effect on the environment. Therefore, the project is categorically exempt from the provisions of CEQA pursuant to Section 15301(c) - Existing Facilities and 15311(c) – Accessory Structures. The Planning Commission has further determined that none of the six exceptions to the use of a categorical exemption apply to this project (CEQA Guidelines Section 15300.2).

SECTION 3. Coastal Development Permit Findings.

Based on substantial evidence contained within the record and pursuant to LIP including Sections 13.7(B) and 13.9, the Planning Commission adopts the analysis in the agenda report, incorporated herein, the findings of fact below, and approves CDP No. 19-084 to allow for the creation of a roughly 240 square foot packed earth and aggregate pad and placement of one free-standing 15.5 foot tall steel lifeguard tower and antenna, erosion control materials, and a temporary fence in a previously disturbed area on the bluff, which took place under ECDP No. 19-012, located in the Public Open Space (OS) zoning district at El Matador State Beach.

The project is consistent with the LCP’s zoning, grading, cultural resources, water quality, and wastewater treatment system standards requirements. The project, as conditioned, has been determined to be consistent with all applicable LCP codes, standards, goals, and policies. The required findings are made herein.

A. General Coastal Development Permit (LIP Chapter 13)

1. The subject parcel is located in the OS zoning district, an area designated for parklands, trails, and recreational facilities. The project is a follow-up application to approve the work that took place under ECDP No. 19-012, which allowed for a lifeguard tower to be placed on an earthen pad and secured with rebar in a previously disturbed area. No permanent foundations were installed, and the tower can be removed at any time. The project has been reviewed for conformance with the LCP by the Planning Department and City Biologist. As discussed herein, based on submitted reports, project plans, visual analysis, and site investigation, the proposed project, as conditioned, conforms to the LCP in that it meets all applicable development standards.

2. The project is located between the first public road and the sea. However, the lifeguard tower is placed adjacent to an existing public beach accessway, and its location has not and will not interrupt the use of the trail by the public. Therefore, no negative potential project-related or cumulative impact on public access is anticipated to result from the project. The proposed project conforms to the public access and recreation policies of Chapter 3 of the Coastal Act of 1976 (commencing with Sections 30200 of the Public Resources Code).
3. Several alternative locations were considered for the lifeguard tower, including two to the west, along the bluff edge, and another to the east, deeper within the ESHA. In addition, when the emergency permit was submitted, the tower was proposed to be several feet to the east, outside of the previously disturbed area. The purpose of the lifeguard tower is to increase public safety and further protect the natural resources at El Matador by providing a vantage point where lifeguards can see both the beach and sensitive resource areas. It was determined that the locations to the west did not offer enough visibility of the beach, and the location farther to the west (pictured above) both did not offer enough visibility and increased impacts. The location initially proposed was rejected due to impacts on sensitive habitat, and the proposed location was deemed superior as it provided the desired visibility of the entire beach area and could be placed on previously disturbed ground without plant cover. In addition, the City’s LCP identifies lifeguard towers as permitted development on beaches as they are ancillary to public beach use. The applicant was unable to place the tower on the sand consistent with the LCP because of tidal action and limited visibility for public safety. As such, an alternative project would not provide an environmental advantage and would not meet the project objectives.

The project consists of the placement of a 15.5 foot tall (total height) steel lifeguard tower on a 240 square foot earthen pad that was previously disturbed to serve the public, which is a permitted use within the OS zoning designation as a support facility for the existing public beach and open space use. On April 1, 2020, staff visited the project site to document the proposed lifeguard tower in its selected location. Photographs are included as Attachment E. Siting the development on the disturbed portion of the property next to the existing public beach accessway reduces environmental impacts, provides the necessary vantage point, and allows the public easy access to staff in the event of an emergency or other need. Additionally, the proposed development does not encroach on existing bluewater views from neighboring properties, although it can be seen from the east-bound lanes of Pacific Coast Highway. The selected location has been reviewed and conditionally approved by the Planning Department and City Biologist and meets the City’s recreational policies of the LCP and MMC. The proposed residence and related driveway are located within a disturbed portion of the subject parcel and will not impact any sensitive habitat area. The proposed development is consistent with that existing in the area and has been determined not to result in adverse biological, scenic, or visual resource impacts, and is the least environmentally damaging feasible alternative.

4. All development, including the earthen pad and tower secured with rebar is proposed within a previously disturbed area, and no part of the proposed scope of work includes a fuel modification area. It was determined that the area was previously disturbed in that it was comprised of 95 percent compacted earth located adjacent to an existing public beach access trail. Also, no burrows, nesting birds, or other sensitive or regulated natural resources were within the project footprint or would be affected by the project. As such, no impacts to ESHA are expected, and an ERB report is not required.

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

1. The project is a support facility for users of the beach, and there is no feasible way to install the lifeguard tower that would not be visible from other areas within the state beach area or the highway while still achieving the applicant’s goals. The project’s purpose is to improve safety for visitors and sensitive environmental resources. The proposed project and its selected location achieve that purpose by being located adjacent to an existing public beach accessway, which provides a strategic vantage point. The design of the proposed lifeguard tower complies
with the MMC and LCP height standards and does not include any outdoor lighting. In addition, the lifeguard tower is a typical amenity for beach use and will be compatible with the existing improvements in the area, which consist of existing trail signs, parking payment stations, portable restrooms, and trash receptacles. The portion of the blue water and sky views from Pacific Coast Highway is minimal. Accordingly, the project, as proposed, will not have significant adverse scenic or visual impacts.

2. The tower is painted a bright blue, which is compatible with the blue water and sky in the background when the tower is viewed from the highway. The tower is more visible when viewed from the beach; however, the purpose of the tower’s increased visibility is to be clearly identifiable to visitors and users of the beaches and trails for safety purposes. Accordingly, the project, as conditioned, will not have significant adverse scenic or visual impacts.

3. The project, as conditioned, is the least environmentally feasible alternative.

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

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

C. Shoreline and Bluff Development (LIP Chapter 10)

1. The proposed project does not include any construction on the beach but does place a lifeguard tower on 240 square foot aggregate pad 15 feet from the bluff top edge in a previously disturbed area. As the lifeguard tower is secured by rebar only and does not include a permanent foundation, the proposed project complies with the development standards detailed in LIP Section 10.4(D). Public access currently exists on the subject property, and the lifeguard tower will not interfere with the public’s ability to use the existing beach access trails, including the one to which it is adjacent. As such, the project will have no significant adverse impacts on public access, shoreline sand supply, or other resources due to project design, location on the site, or any other reason.

2. The project, as conditions, will not have adverse scenic or visual impacts.

3. The project, as conditioned, is the least environmentally feasible alternative.

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


Based on the foregoing findings and evidence contained within the record, the Planning Commission hereby approves CDP No. 19-084, subject to the following conditions.
SECTION 5. Conditions of Approval.

1. The property owners, and their successors in interest, shall indemnify and defend the City of Malibu and its officers, employees and agents from and against all liability and costs relating to the City's actions concerning this project, including (without limitation) any award of litigation expenses in favor of any person or entity who seeks to challenge the validity of any of the City's actions or decisions in connection with this project. The City shall have the sole right to choose its counsel and property owners shall reimburse the City’s expenses incurred in its defense of any lawsuit challenging the City’s actions concerning this project.

2. Approval of this application is to allow for the project described herein. The scope of work is to permit the work which took place under ECDP No. 19-012, which includes:
   a. Creation of a flat, packed earth and aggregate pad approximately 240 square feet and one foot tall at its maximum height which has been stabilized on the north side by sandbags and straw waddles;
   b. Placement of one free-standing 15.5-foot-tall steel lifeguard tower with an approximately eight-foot-tall antenna in a previously disturbed area adjacent to the public beach access trail approximately fifteen feet from the blufftop edge; secured with rebar;
   c. 42-inch tall plastic temporary fencing on the north, west, and south sides, and
   d. No landscaping, grading, or outdoor lighting is proposed.

3. Except as specifically changed by conditions of approval, the proposed development shall be constructed in substantial conformance with the approved scope of work, as described in Condition No. 2 and depicted on plans on file with the Planning Department date stamped as received on December 5, 2019. The proposed development shall further comply with all conditions of approval stipulated in this resolution and Department Review Sheets attached hereto. In the event project plans conflict with any condition of approval, the condition shall take precedence.

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

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

6. This resolution, signed and notarized Acceptance of Conditions Affidavit and all Department Review 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 for plan check to the State.
7. The CDP shall expire if the project has not commenced within three (3) years after issuance of the permit, unless a time extension has been granted. Extension of the permit may be granted by the approving authority for due cause. Extensions shall be requested in writing by the applicant or authorized agent prior to expiration of the three-year period and shall set forth the reasons for the request. In the event of an appeal, the CDP shall expire if the project has not commenced within three years from the date the appeal is decided by the decision-making body or withdrawn by the appellant. To complete the work approved under this CDP, the applicant shall obtain final approved plans from the City as no further work is permitted.

8. Any questions of intent or interpretation of any condition of approval will be resolved by the Planning Director upon written request of such interpretation.

9. All development shall conform to requirements of the City of Malibu Environmental Sustainability Department, City Biologist, City Coastal Engineer, City Environmental Health Administrator, City geotechnical staff, City Public Works Department, Los Angeles County Waterworks District No. 29 and LACFD, as applicable. Notwithstanding this review, all required permits shall be secured.

10. Minor changes to the approved plans or the conditions of approval may be approved by the Planning Director, provided such changes achieve substantially the same results and the project is still in compliance with the Malibu Municipal Code and the Local Coastal Program. Revised plans reflecting the minor changes and additional fees shall be required.

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

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

Cultural Resources

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

14. If human bone is discovered during site maintenance, 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.
Site-Specific Conditions

15. At no time shall plastic sandbags be used as part of this project. All sandbags must be made of a natural, biodegradable material such as burlap.

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

17. No new landscaping is proposed with this project; therefore, none is approved.

Biology/Landscaping

18. According to the California State Parks Biologist, no new impacts to ESHA will occur under the submitted site plan. Therefore, no new impacts are permitted.

Prior to Final Sign-Off

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

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

Fixed Conditions

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

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

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

PASSED, APPROVED AND ADOPTED this 20\textsuperscript{th} day of April 2020.

__________________________
JEFFREY JENNINGS, Planning Commission Chair

ATTEST:

__________________________
KATHLEEN STECKO, Recording Secretary
LOCAL APPEAL - Pursuant to Local Coastal Program Local Implementation Plan (LIP) Section 13.20.1 (Local Appeals) a decision made by the Planning Commission may be appealed to the City Council by an aggrieved person by written statement setting forth the grounds for appeal. An appeal shall be filed with the City Clerk within 10 days and shall be accompanied by an appeal form and filing fee, as specified by the City Council. Appeals shall be emailed to psalazar@malibucity.org and the filing fee shall be mailed to Malibu Planning Department, attention: Patricia Salazar, 23825 Stuart Ranch Road, Malibu, CA 90265. Payment must be received within 10 days of the appeal deadline. Anyone unable to submit an appeal via email should contact Patricia Salazar at (310) 456-2489, extension 245, at least two business days before the appeal deadline to arrange alternative delivery of the appeal. Appeal forms may be found online at malibucity.org/planningforms, or by calling (310) 456-2489, ext. 245.

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

I CERTIFY THAT THE FOREGOING RESOLUTION NO. 20-43 was passed and adopted by the Planning Commission of the City of Malibu at the Regular meeting held on the 20th day of April 2020 by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

KATHLEEN STECKO, Recording Secretary
El Matador State Beach

Justification for placing tower at El Matador State Beach

- Establish a presence for the Department.
- Provide shade and protection for staff
- Ensure public safety for beach visitors

Figure 1. Proposed tower location
Figure 4. Tower details.

Surveyor
Lifeguard Observation Tower (Column Adapted)
One of two installations at Torrey Pines State Beach, CA. These towers use 6 course stainless steel railings, adjustable ladders and stainless steel support structures.
SURVEYOR SR

Galvanized steel support structure with
10' wide skids, 3 course stainless steel railings,
6' deck height, 30 degree ladder, full width
interior counter-shelf with two cabinets
located below, standard color: Newport White
$30,930.00

OPTIONS

- rescue board locker (accommodates
  25' wide X 12' long board)
  $798.00

- 304 SS support structure,
  16' 6" X 10" wide skids, 6' deck height
  $4,975.00

- reinforced cross members
  $825.00

- front mount 17' ramp, stainless steel
  truss structure, fiberglass runway
  $3,230.00

- ramp pivot adapters (left & right)
  $585.00

- custom full width interior counter-shelf
  with two locking cabinets located below
  $385.00

- roof insulation 1 1/2" urethane foam
  $785.00

- sliding lateral windows (left & right)
  $1,125.00

- rear sliding window assembly
  and vandal resistant shutter
  $1,160.00

- fold-up locking ladder
  $1,275.00
SURVEYOR JR

PRICING / OPTIONS

STANDARD MODEL galvanized steel support structure, stainless steel 30° ladder and rails, standard color: Newport White $10,230.00

FRONT DECK MODEL galvanized steel support structure, stainless steel 30° ladder and rails, standard color: Newport White $12,616.00

OPTIONS
- 304 grade stainless steel support structure $3,235.00
- custom sliding rear window with vandal resistant shutter 1,008.00
- roof insulation 1 1/2" urethane foam 467.00
- ramp: 16 degree angle, 14' long, non-skid fiberglass runway, stainless steel truss structure with pivot adapters 2,992.00
- 30 degree fold-up locking ladder 1,020.00
- pyramid style roof 285.00
- alternate colors quoted per selection

INDUSTRIAL DESIGN RESEARCH
Upper tower location. View to south.

Location of lower tower. View to SE from bluff top.

Figure 5. Site photos
PLANNING DEPARTMENT

EMERGENCY COASTAL DEVELOPMENT PERMIT APPROVAL

Emergency Coastal Development Permit No. 19-012
32216 Pacific Coast Highway (El Matador State Beach)
APN 4473-013-901

NOTICE IS HEREBY GIVEN that the City of Malibu hereby APPROVES an emergency application by the State of California Department of Parks and Recreation, to allow for the creation of a roughly 100 square foot packed earth and aggregate pad and placement of one free-standing 13.75 foot tall wooden lifeguard tower on the bluff at El Matador State Beach. The tower is proposed to be located in an area that does not contain vegetation, as verified by the Applicant’s Environmental Scientist and Archeologist. The proposed location was selected for the visual vantage points as well as the least impact for the bluff coastal vegetation. The tower will be placed on the packed earth and aggregate pad and secured with rebar stakes but will not be placed on a permanent foundation. No grading is proposed.

The project site is within the Appeal Jurisdiction of the California Coastal Commission (CCC) as depicted in the Post-Local Coastal Program (LCP) Certification Permit and Appeal Jurisdiction Map of the City of Malibu. The site is mapped as containing bluff Environmentally Sensitive Habitat Area (ESHA).

Project Background

- Application Date: April 24, 2019
- Date Public Notice Sign Posted: May 1, 2019
- Date of Issuance: May 24, 2019

LIP Findings

The Planning Director has reviewed this permit application and verified the facts, including the existence and nature of the emergency, insofar as time allows. Having reviewed this application and the facts, the Planning Director hereby makes the following findings:

Finding 1. An emergency exists and requires action more quickly than permitted by the procedures for administrative permits or for regular permits administered pursuant to the provisions of the Malibu Local Implementation Plan (LIP) and Public Resources Code Section 30600.5, and the development can and will be completed within 30 days unless otherwise specified by the terms of this permit.

On April 6, 2019, a letter was issued by the Lifeguard Sergeant of California State Parks which stated that, due to the increasing amount of visitors to the beach, the need for lifeguards and enforcement has also increased significantly. The proposed pad and free-standing lifeguard tower will “increase public safety and further protect the natural resources at El Matador. … [El Matador] sustains tremendous use and requires updated protection and stewardship to keep up with the demand on the resource.” Based on this document, the creation of the pad and placement of the tower has been deemed an emergency in order to provide these protections before the start of the traditionally busy summer season which will begin on Memorial Day weekend (May 25, 2019).
Finding 2. Public comment on the proposed emergency action has been reviewed as time permitted.

As stated previously, the memo issued by the applicant documented the risks to both the park visitors as well as the natural resources associated with El Matador State Beach remaining unattended by a lifeguard in this area. The subject property has been posted with a Notice of Application sign in the parking lot at the entrance to the main trail that includes a staff contact number to allow the public to submit questions and comments (Attachment 4). To date, no comments have been received. The required follow-up coastal development permit (CDP) will allow for additional public comment and will require a public hearing.

Finding 3. The work proposed is temporary and consistent with the requirements of the certified Local Coastal Program.

The proposed scope of the work covered by this permit is the most temporary solution feasible in order to relieve the emergency situation. LIP Section 13.14 provides that the Planning Director may issue an ECDP when immediate action is required to prevent or mitigate loss or damage to life, health, property, or essential public services. The proposed pad and free-standing lifeguard tower does not include grading or construction of a permanent foundation, and the creation of the pad and placement of the single lifeguard tower constitutes the minimum amount of work necessary to alleviate the risks to both the visitors and coastal resources associated with leaving El Matador unsupervised by a lifeguard during the busy summer season. In addition, the Applicant’s environmental scientist reviewed the project and conducted a site assessment with park lifeguards in April, 2019 to assess options for location of the lifeguard tower in order to avoid resource impacts and have an ideal vantage point, stating that “We ultimately chose a spot that was over 95% compacted earth with a few stressed laurel sumac saplings and giant wild rye plants. No burrows, nesting birds, or other sensitive or regulated natural resources were within the project footprint, or would be affected by the project” (see correspondence in Attachment 3). Furthermore, the Applicant’s archaeologist conducted an archaeological records search and field survey in 2014 for a proposed trail repair project that includes the footprint of the new lifeguard tower, and no cultural resources were identified at that time. Further review of both biological and cultural/archaeological resources will be conducted as part of the CDP.

Finding 4. The work proposed is the minimum action necessary to address the emergency and, to the maximum extent feasible, is the least environmentally damaging temporary alternative for addressing the emergency.

The California Environmental Quality Act (CEQA) prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect that the activity may have on the environment. Section 15269(c) of the CEQA guidelines specifically exempts projects which are required to prevent or mitigate an emergency. As previously stated in Finding 3, the proposed creation of the pad and placement of a free-standing lifeguard tower is the least environmentally damaging option to the maximum extent feasible because the nature of the emergency is urgent, and no reasonable alternative solutions would be more temporary. The proposed emergency activities constitute the minimum amount of work necessary to prevent the damage and public safety issues.

Finding 5. The permit is not within an area that falls within the provisions of Public Resources Code (PRC) Section 30519(b).

This permit does not fall within the provisions of the California Public Resources Code Section 30519(b). The proposed work will take place on state land however, it will not take place in or on any tidelands, submerged lands, or on public trust lands, whether filled or unfilled, and lying within the coastal zone. The work will not take place on any college lands or ports.
Conditions of Approval

1. The property owners, and their successors in interest, shall indemnify and defend the City of Malibu and its officers, employees and agents from and against all liability and costs relating to the City's actions concerning this project, including (without limitation) any award of litigation expenses in favor of any person or entity who seeks to challenge the validity of any of the City's actions or decisions in connection with this project. The City shall have the sole right to choose its counsel and property owners shall reimburse the City’s expenses incurred in its defense of any lawsuit challenging the City’s actions concerning this project.

2. This approval is to allow the creation of a roughly 100 square foot packed earth and aggregate pad and placement of one free-standing 13.75 foot tall lifeguard station secured with rebar on the bluff at El Matador State Beach. No other improvements are proposed.

3. The free-standing lifeguard tower shall be sited 15 feet or more from the bluff edge per LIP Section 10(D).

4. The permit and rights conferred in this approval shall not be effective until the property owner signs, notarizes and returns the Acceptance of Conditions Affidavit accepting the conditions set forth below. The applicant shall file this form with the Planning Department within 30 days of this decision or prior to issuance of any other permits issued by the City of Malibu.

5. All development or structures constructed pursuant to this permit shall be considered temporary and issuance of this emergency permit shall not constitute an entitlement to the erection of permanent development or structures.

6. The applicant has 90 days from the date of issuance of this emergency permit to file a coastal development permit application. **If the applicant fails to satisfy this requirement all temporary work must be removed pursuant to the LIP Section 13.14(F)(7).**

7. The applicant acknowledges and agrees that, in addition to any and all other consequences of failing to comply with the requirement that a CDP be obtained for the work approved by this emergency permit, no further applications for permits for any development will be accepted by the City of Malibu until such time as the CDP required in Condition No. 4, above, has been obtained.

8. At no time shall any materials or mechanized equipment be located within the tidal zone.
Approval of Emergency Coastal Development Permit

Having made the above findings per LIP Chapter 13, the Planning Director hereby determines that an emergency condition exists and immediate action is required to prevent or mitigate loss or damage to life, health, property or essential public services. Therefore, the Planning Director hereby approve this emergency coastal development permit.

Please contact Justine Kendall in the Planning Department at (310) 456-2489, extension 301, for further information.

Date: May 24, 2019

Prepared by: Justine Kendall  
Assistant Planner

Approved by: Bonnie Blue  
Planning Director

Attachments:

1. Project Plans
2. Letter of Justification for Emergency dated April 6, 2019
3. Correspondence with Applicant Biologist, May 20, 2019
4. Notice of Application Posting Affidavit
ACCEPTANCE OF CONDITIONS AFFIDAVIT

The undersigned property owner(s) acknowledges receipt of the City of Malibu Planning Director’s decision of approval and agrees to abide by all terms and conditions of Emergency Coastal Development Permit No. 19-012 dated May 24, 2019 and submitted plans, dated April 24, 2019 and May 16, 2019, for the project located at 32216 Pacific Coast Highway (APN 4473-014-900). The permit and rights conferred in this approval shall not be effective until the property owner(s) signs and returns this notarized affidavit to the City of Malibu Planning Department within 30 days of the decision or prior to issuance of development permits.

__________________________________  ____________________________________
Date                                      Signature of Property Owner

                                          Print Property Owner’s Name

__________________________________  ____________________________________
Date                                      Signature of Property Owner

                                          Print Property Owner’s Name

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that

STATE OF CALIFORNIA
County of __________________________

On __________________________ before me ___________________________________________________,

(insert name and title of the officer)

personally appeared ____________________________________________

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

__________________________________
(Notary Public’s signature in and for said County and State)   (Seal)
SURVEYOR JR.
A SINGLE OCCUPANT OBSERVATION TOWER

As a result of product research and customer surveys, Industrial Design Research has developed a new, smaller, more cost effective lifeguard observation tower. In areas where applications and budgets do not require the full size “Surveyor” tower, we now offer the “Surveyor Jr.”
Although smaller and less costly, “Surveyor Jr.” still provides the same protection, comfort, and quality construction expected with all of our products.

Specifications and pricing may be changed without notice.

INDUSTRIAL DESIGN RESEARCH
3121 West Central Avenue, Santa Ana CA 92704 / PH (714) 557-4009 / FAX (714) 545-8137 / INDESRE@SBCGLOBAL.NET
SURVEYOR JR. FEATURES

- Molded interior bench seat
- Lockable interior storage box
- 1/4" solar gray tempered glass widows set at 15 degree inclination
- Large roof vent hatch
- Hatches, door, and shutter designed for maximum resistance to vandalism and ease of operation
- Provision for location of binoculars, radio, etc.
- Exterior observation deck
- Polished stainless steel ladder and railings
- Stainless steel latches, hardware and fasteners
- Hot-dipped galvanized steel support structure and skids with zinc plated fasteners
- Sliding window for ventilation and exterior window washing
DESIGN SPECIFICATIONS AND FEATURES

- Molded structural fiberglass components mounted on a modular steel support structure. Galvanized steel standard (304 stainless steel optional). The support structure incorporates skids designed for towing the completely assembled JR to and from designated beach sites.
- The Shelter provides protection from sun, wind and inclement weather.
- Maximum forward visibility throughout a 180 degree field for an observer.
- Entry-egress to the shelter via one door on the left side of the forward-facing shelter.
- Ventilation and interior air flow when the shelter door is closed via sliding window and roof vent hatch.
- Resistance to vandalism is provided by one-piece fiberglass shutters.
- Doors and shutters use hardware designed so that the shelter may be secured with one exterior keyed lock.
- The operation of the doors and shutters are designed so as to require one person at a time, a period of two (2) minutes or less, to open or to secure the station.
- All three windows slope out from the bottom approximately 15 degrees to reflect heat and reduce glare.
- Windows are of 1/4" tempered glass, tinted grey, set with "zip strip" seal for the front and door window. The right window has two sliding sections in an aluminum frame.
- All hinges, latches, fasteners are stainless steel.
- Fiberglass bench seat with lumbar support and foot rest.
- Lockable cabinet with table top area.
- Fiberglass components are finished with the highest quality polyester gel-coat finish.
- Visually exposed backside surfaces of fiberglass panels are flow coated in white gel-coat.
- Floor and deck areas have repairable non-skid surfaces, reinforced with 1/2" thick balsa-core.
- Fiberglass corner structures are reduced to a minimum in order to provide maximum visibility and reinforced with 3/4" round steel tubing.
- 30 degree ladder with diamond plate treads.
- Railings and ladder are polished for maximum corrosion resistance.
**SURVEYOR JR**

**PRICING / OPTIONS**

**STANDARD MODEL** galvanized steel support structure, stainless steel 30° ladder and rails, standard color: Newport White

$10,230.00

**FRONT DECK MODEL** galvanized steel support structure, stainless steel 30° ladder and rails, standard color: Newport White

$12,616.00

**OPTIONS**

- 304 grade stainless steel support structure $3,235.00
- custom sliding rear window with vandal resistant shutter 1,008.00
- roof insulation 1 1/2" urethane foam 467.00
- ramp: 16 degree angle, 14' long, non-skid fiberglass runway, stainless steel truss structure with pivot adapters 2,992.00
- 30 degree fold-up locking ladder 1,020.00
- pyramid style roof 285.00
- alternate colors quoted per selection

**INDUSTRIAL DESIGN RESEARCH**
Date: April 6, 2019

To: Reva Feldman
   Malibu City Manager

From: John Regan
      Lifeguard Sergeant
      California State Parks

Subject: Lifeguard Towers at El Matador State Beach

Dear Ms. Feldman,

California State Parks is requesting an emergency permit from the City of Malibu for placement of Lifeguard Towers at El Matador State Beach. As you are likely aware, El Matador is an extremely high-use beach attracting hundreds of thousands of visitors throughout the year. An emergency permit will authorize California State Parks to place two lifeguard towers at El Matador in the next month. Placing lifeguard towers at El Matador State Beach will do the following:

1. Provide visitors with a location to report a problem or to gather basic information (rather than further tax limited EMS resources).
2. Provide a shelter to store emergency equipment and provide a base of operation for State Parks staff.
3. Enable California State Parks and our allied agencies to provide immediate, increased public safety, enforcement and better protection of the natural resource.

El Matador State Beach continues to have increased yearly visitation due to a strong social media influence and, accordingly, the need for lifeguards and enforcement has increased significantly. California State Parks seeks to place a lifeguard tower on the eastern bluff to provide a safe, secure vantage point to oversee and patrol the entire beach. The tower will be placed a safe distance away from the bluff with a fork lift or similar heavy equipment and safely secured. We request an additional lifeguard tower be placed on the eastern portion of the beach for guards that are actively working the shoreline and caves, where serious aquatic rescues are common. This tower will likely be assembled in place as access with heavy equipment is not feasible. See attached images for specifics.

Placement of lifeguard towers will increase public safety and further protect the natural resources at El Matador. Lifeguard towers will provide an area to for lifeguards to oversee and immediately respond to aquatic rescues, medical aides other incidents on the beach, which currently are handled through EMS and, as a result, are hindered by delayed response times). Lifeguards working the towers can communicate with park visitors to reduce violations by interpreting the rules and regulations including, but not limited to:

Attachment 2
1. Alcohol consumption.
2. Vandalism such as graffiti and defacing of valuable coastal resources.
3. Illegal/unpermitted commercial use

El Matador has become a mainstay tourism attraction in Malibu, drawing international, national and repeat Greater Los Angeles area visitors. It sustains tremendous use and requires updated protection and stewardship to keep up with the demand on the resource. Please consider approving this emergency request to place Lifeguard Towers at El Matador State Beach. California State Parks would like to place the towers at the end of the month in preparation for the upcoming busy summer season. Please contact me directly with any questions or concerns or if I can be of further assistance.

Sincerely,

John Regan
Lifeguard Sergeant
Angeles District / Malibu Sector
Cell 310 699 1734
Hello Justine,

I coordinated with archaeologist Barbara Tejada during project planning as she maintains the database of known cultural resources within District parks, and is very familiar with the site. She communicated that no cultural resources are known or anticipated to be present. No monitoring or other measures were required.

I conducted a site assessment with park lifeguards over the last month to assess options for location of the temporary lifeguard tower in order to avoid resource impacts and have an ideal vantage point. We ultimately chose a spot that was over 95% compacted earth with a few stressed laurel sumac saplings and giant wild rye plants. No burrows, nesting birds, or other sensitive or regulated natural resources were within the project footprint, or would be affected by the project.

We identified that during tower installation the standard DPR Best Management Practices would be implemented to avoid environmental and public impacts:

• All requirements of the Coastal Approval will be implemented.
• General Environmental Protection Measures:
  o Prior to bringing heavy equipment onsite, it will be cleaned to avoid the spread of weeds.
  o Equipment will be stored and staged in developed areas and will avoid blocking public and emergency access to the maximum extent feasible.
  o Standard BMPs shall be used during all work to ensure trash and contaminants do not travel offsite, These include drip pans will be used under equipment staged overnight; onsite spill kits, and use of tarps or other tools to capture debris during demolition.
  o Earth work will not occur during windy periods or within 24-hours of rain.
  o If discolored or scented soils are encountered, work shall be stopped and the District Maintenance Chief consulted to determine if hazardous materials are present, and required measures to be implemented.
• Work occurring during the nesting season requires a preconstruction survey for nesting birds. District approved biologist will survey area within 48 hours of work start to confirm no nesting activities would be adversely affected, or identify required nest buffers to avoid impacts. Work rescheduling may be required if impacts can not be otherwise avoided.
• Small mammal burrows will be avoided. If this is not feasible, coordinate with the District Environmental Scientist to ensure care shall be taken to allow the animal to move out of harm’s way.
• Salvage native plants in project footprint for replanting.

From: Justine Kendall <jkendall@malibucity.org>
Sent: Monday, May 20, 2019 9:11 AM
To: Templeton, Lindsey@Parks <Lindsey.Templeton@parks.ca.gov>
Cc: King, Jamie@Parks <Jamie.King@parks.ca.gov>
Subject: RE: Sent from Snipping Tool
AFFIDAVIT OF POSTING

I, __________________________, hereby certify that on __________________________, the Notice of a Pending Coastal Development Permit on __________________________ was posted at: __________________________.

(property address) 32216 Pacific Coast Hwy, Malibu CA 90265

Application number: CDP 19-012

Photo taken by: Darnell Read-Hoff on: 04/30/19

Name

Date

Darnell Read-Hoff

Print Name

Signature
TO: City of Malibu Biologist
FROM: City of Malibu Planning Department

DATE: 12/5/2019

PROJECT NUMBER: CDP 19-084
JOB ADDRESS: 32216 PACIFIC COAST HWY
APPLICANT / CONTACT: California State Parks, Angeles District
APPLICANT ADDRESS: 1925 Las Virgenes Road
                    Calabasas, CA 91302
APPLICANT PHONE #: 
APPLICANT FAX #:  
APPLICANT EMAIL: lindsey.templeton@parks.ca.gov
PLANNER: To Be Assigned

PROJECT DESCRIPTION: Follow-up CDP for lifeguard tower on bluff

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

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

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

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

Signature  Date

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

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

PROJECT INFORMATION

| Applicant: | California State Parks  
| (name and email address) | Lindsey.templeton@parks.ca.gov |
| Project Address: | 32216 Pacific Coast Highway  
| | Malibu, CA 90265 |
| Planning Case No.: | CDP 19-084 |
| Project Description: | Follow-up CDP for lifeguard tower on bluff |
| Date of Review: | December 17, 2019 |
| Reviewer: | Dave Crawford  
| Contact Information: | Phone: (310) 456-2489 ext. 307  
| | Email: dcrawford@malibucity.org |

SUBMITTAL INFORMATION

| Site Plans: | 12/5/19 |
| Site Survey: |  
| Grading Plans: |  
| OWTS Plan: |  
| Planting Plan |  
| Irrigation/hydrozone/water budget calculations |  
| Bio Assessment: |  
| Bio Inventory: |  
| Native Tree Survey: |  
| Native Tree Protection Plan |  
| Miscellaneous: |  
| Previous Reviews: |  

REVIEW FINDINGS

| Review Status: | ☐ INCOMPLETE  
| Please respond to the listed review comments and provide any additional information requested. |
| ☐ CANNOT BE APPROVED AS SUBMITTED | The submitted project plans are not consistent with the City codes and/or regulations |
| ☑ APPROVED | The proposed project |
| Environmental Review Board: | ☐ This project has the potential to impact ESHA and may require review by the Environmental Review Board |
RECOMMENDATIONS:

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

   A. According to the California State Parks Biologist, no new impacts to ESHA will occur under the submitted site plan. Therefore, no new impacts are permitted.

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

cc: Planning Project file
Planning Department
The Malibu Planning Commission will hold a public hearing on **Monday, April 20, 2020, at 6:30 p.m.** in the Council Chambers, Malibu City Hall, 23825 Stuart Ranch Road, Malibu, CA, for the project identified below.

**COASTAL DEVELOPMENT PERMIT NO. 19-084** - A follow-up application to Emergency Coastal Development Permit No. 19-012 which allowed for the placement of a lifeguard tower adjacent to the public beach accessway at the top of a bluff in a previously disturbed area at El Matador State Beach

**LOCATION / APN / ZONING:** 32216 Pacific Coast Hwy / 4473-013-901 / Open Space (OS)

**APPLICANT / OWNER:** California State Parks, Angeles District

**APPEALABLE TO:** City Council and California Coastal Commission

**ENVIRONMENTAL REVIEW:** Categorical Exemption CEQA Guidelines Sections 15303(e) and 15311(c)

**APPLICATION FILED:** December 5, 2019

**CASE PLANNER:** Justine Kendall, Associate Planner, jkendall@malibucity.org  
(310) 456-2489, ext. 301

A written staff report will be available at or before the hearing for the project, typically 10 days before the hearing in the Agenda Center: [http://www.malibucity.org/agendacenter](http://www.malibucity.org/agendacenter). Related documents are available for review by contacting the Case Planner. 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. To view or sign up to speak during the meeting, visit malibucity.org/virtualmeeting.

**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 emailed to psalazar@malibucity.org within ten days following the date of action and the filing fee shall be mailed to Malibu Planning Department, attention: Patricia Salazar, 23825 Stuart Ranch Road, Malibu, CA 90265. Payment must be received within 10 days of the appeal deadline. Appeal forms may be found online at www.malibucity.org/planningforms. If you are unable to submit your appeal online, please contact Patricia Salazar by calling (310) 456-2489, extension 245, at least two business days before your appeal deadline to arrange alternative delivery of the appeal.

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

BONNIE BLUE, Planning Director  
Date: April 9, 2020