To: Chair Jennings and Members of the Planning Commission

Prepared by: Lilly Rudolph, Contract Planner

Approved by: Bonnie Blue, Planning Director

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

Subject: Extension of Coastal Development Permit (CDP) No. 13-047 and CDP Amendment No. 15-007 (Continued from April 6, 2020)

Location: 24840 Pacific Coast Highway
APN: 4458-015-019
Owner: Johnson Family Trust

RECOMMENDED ACTION: Adopt Planning Commission Resolution No. 20-25 (Attachment 1), granting a one and a half-year extension of Coastal Development Permit (CDP) No. 13-047, Site Plan Review No. 13-045, Minor Modification Nos. 13-016 and 13-017, Demolition Permit No. 13-022, and CDP Amendment No. 15-007 to allow the demolition of an existing 7,316 square foot single-family residence, and the construction of a new 6,843 square foot two-story single-family residence with a 791 square foot basement, a 979 square foot detached subterranean garage, a 468 square foot pool cabana, a 348 square foot gym, a 48 square foot guard station, 89 square foot seating room, an alternative onsite wastewater treatment system, and other ancillary improvements, Site Plan Review No. 13-045 for height in excess of 18 feet in height (up to 24 feet for a flat roof), Minor Modification No. 13-016 for a 20 percent reduction in the cumulative side yard setback, and Minor Modification No. 13-017 for a 50 percent reduction in the front yard setback located in the Rural Residential-Two Acre zoning district at 24840 Pacific Coast Highway (Johnson Family Trust).

DISCUSSION: Pursuant to Local Coastal Program Local Implementation Plan Section 13.21, Condition of Approval No. 7 in Planning Commission Resolution No. 15-68, which approved the project, states that the CDP and associated requests shall expire if the project has not commenced within three years after final City action. Extension of a CDP may be granted by the approving authority for due cause.

The item before the Commission is a second extension request by the applicant.
The subject CDP was originally approved on August 3, 2015 and was set to expire on August 3, 2018.

On October 19, 2015, the Planning Commission adopted Resolution No. 15-92, approving CDP Amendment No. 15-007, modifying Condition No. 71 of Planning Commission Resolution No. 15-68 pertaining to acceptable colors for the exterior of the residence to allow white and light tones since development will be below the road grade of Pacific Coast Highway.

On September 17, 2018, the Planning Commission adopted Resolution No. 18-56, granting a one-year time extension due to a personal family matter, thereby setting the new expiration date to August 3, 2019. A complete project chronology of the project, including scope of work and approvals, can be found in Planning Commission Resolution Nos. 15-68 and 15-92.

On July 25, 2019, the applicant submitted a second time extension request to ensure a valid CDP permit remains in place while the project is under construction. The applicant’s basis for due cause is included as Attachment 2. The applicant submitted a subsequent letter dated November 8, 2019 (Attachment 3), supplementing his basis for due cause.

The LCP allows the approving authority, the Planning Commission, to grant reasonable extension of time for due cause, but does not define due cause or specify what a reasonable extension of time is. LCP Policy No. 5 (Coastal Development Permit Extensions) was published by staff in November 2017, with the concurrence of City Council, to provide guidance in evaluating extension requests (Attachment 4). The policy states the aggregate life of a CDP shall not exceed five years absent extraordinary circumstances. LCP Policy No. 5 also provides criteria by which to evaluate whether due cause has been demonstrated. This is a policy. It is not codified.

Staff has evaluated the project history and all information submitted by the property owner in support of this second extension request. The second one-year extension is also based on the private personal family matter that has since been resolved. The applicant also states that it has invested time and money to produce plans, studies, etc. over the past five years.

City records indicate that on April 12, 2017, building permits were issued for site retaining walls, demolition of existing residence and ancillary structures, and grading; and an excavation permit was issued on July 1, 2018. Building Safety issued the maximum number of extensions allowed for the building permits. The permits eventually expired as the applicant temporarily suspended proceeding with the project to address private personal matters.
The applicant has indicated his intention to attend the Planning Commission meeting in order to provide additional information should the Commission request it.

A one-year extension would allow about five months from the date approval to commence work under the CDP. Given that the applicant must update the building construction documents and obtain plan check approval before a grading permit may be issued,\(^1\) staff is recommending granting a 1.5 year extension to allow sufficient time to update plans and commence construction. The applicant would then have approximately 11 months from the date of the extension approval to update the plans and actually commence construction.

**CONCLUSION:** The project conditions, and the zoning ordinance under which the approval was issued, have not significantly changed.\(^2\) Upon the Planning Commission’s approval of the second time extension request, the approval set forth in Planning Commission Resolution Nos. 15-68 and 15-92 shall remain valid for an additional 18 months. The expiration date of this approval would then be February 3, 2021.

The aggregate life of the permit would be approximately five and a half years. Absent extraordinary circumstances, staff would not recommend approval of any future extension requests. All conditions of approval in Planning Commission Resolution No. 15-68 and 15-92 will remain in effect.

**ATTACHMENTS:**

1. Planning Commission Resolution No. 20-25
2. Time Extension Request
3. November 8, 2019 Letter from Applicant with supplemental information
4. LCP Policy No. 5 (CDP Extensions)
5. Public Hearing Notice

All referenced City Council and Planning Commission records are available for review at [http://www.malibucity.org/onbase](http://www.malibucity.org/onbase).

\(^1\) LCP Local Implementation Plan (LIP) Section 8.3(F) states that grading plans shall be submitted with building plans and that no grading permits shall be issued until a building permit is approved.

\(^2\) In July 2007, the City Council adopted Ordinance No. 315 which adopted new basement standards. This project was approved after the ordinance took effect; therefore, the project meets current basement standards.
The Planning Commission of the City of Malibu does hereby find, order and resolve as follows:

SECTION 1. Recitals.

A. August 3, 2015, the Planning Commission adopted Resolution No. 15-68, approving Coastal Development Permit (CDP) No. 13-047, Site Plan Review No. 13-045, Minor Modification Nos. 13-016 and 13-017, and Demolition Permit (DP) No. 13-022 to allow the demolition of an existing 7,316 square foot single-family residence, and the construction of a new 6,843 square foot two-story single-family residence with a 791 square foot basement, a 979 square foot detached subterranean garage, a 468 square foot pool cabana, a 348 square foot gym, a 48 square foot guard station, 89 square foot seating room, an alternative onsite wastewater treatment system, and other ancillary improvements, Site Plan Review No. 13-045 for height in excess of 18 feet in height (up to 24 feet for a flat roof), Minor Modification No. 13-016 for a 20 percent reduction in the cumulative side yard setback, and Minor Modification No. 13-017 for a 50 percent reduction in the front yard setback.

B. On October 19, 2015, the Planning Commission adopted Resolution No. 15-92, approving CDP Amendment No. 15-007, modifying Condition No. 71 of Planning Commission Resolution No. 15-68 pertaining to allowable colors for the development.

C. On April 12, 2017, building permits were issued for site retaining walls, demolition of existing residence and ancillary structures, and grading under CDP No. 13-047 and CDPA No. 15-007.
D. On July 1, 2018, an excavation permit was issued for excavation work under CDP No. 13-047 and CDPA No. 15-007.

E. On September 17, 2018, the Planning Commission adopted Resolution No. 18-56, granting a one-year time extension of CDP No. 13-047 and CDPA No. 15-007.

F. On July 25, 2019, Knickerbocker & Associates, on behalf of the Johnson Family Trust, submitted a second time extension request.

G. On February 20, 2020, 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.

H. On February 27, 2020, a revised Notice of Public Hearing was published in a newspaper of general circulation within the City of Malibu due to an error in the previously published notice. The mailed notices were accurate, and therefore were not resent.

I. On March 16, 2020, the Regular Planning Commission meeting of March 16, 2020 was adjourned to April 6, 2020.

J. On April 6, 2020, the item was continued to the April 20, 2020 Regular Planning Commission meeting.

K. On April 20, 2020, the Planning Commission held a duly noticed public hearing on the request, and reviewed and considered the agenda report, 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 Sections 15301- Existing Facilities and 15303 - New Construction. As such, Categorical Exemption (CE) No. 15-082 was filed for CDP No. 13-047 and CE 15-166 was filed for CDPA 15-007.

SECTION 3. Findings of Fact.

Pursuant to Local Coastal Program Local Implementation Plan Section 13.21, the Planning Commission, having considered the staff report and 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 Nos. 15-68, 15-92, and 18-56 are hereby extended for an additional 18 months. The approval is now set to expire on February 3, 2020.

B. No other changes to the conditions contained in Planning Commission Resolution Nos. 15-68, 15-92, and 18-56 are made, and all other findings, terms and/or conditions contained in Planning Commission Resolution Nos. 15-68, 15-92, and 18-56 shall remain in full force and effect.

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

PASSED, APPROVED AND ADOPTED this 20th 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.

I CERTIFY THAT THE FOREGOING RESOLUTION NO. 20-25 was passed and adopted by the Planning Commission of the City of Malibu at the regular meeting thereof held on the 20th day of April 2020, by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

KATHLEEN STECKO, Recording Secretary
July 17, 2019

City of Malibu
23825 Stuart Ranch Road
Malibu, CA 90265

Re: CDP 13-047 and CDPA 15-007
Time Extension Request

Dear Planning Director / Commission:

I respectfully request a time extension to my new home project located at 24840 Pacific Coast Highway, City of Malibu. We diligently worked with architects, engineers and most importantly the City of Malibu for more than four long years to design and obtain Planning approvals, Building & Safety approvals and permits. Most sadly and unfortunately, just as we obtained our permits, a devastating family crisis fell upon us that I would prefer not to put into the public record via this request. Unfortunately, our family crisis has taken much longer to clear up than projected and anticipated. Please, I respectfully request one more extension in order to be in a position to finally build our new home and not lose the many precious years and dollars spent that we can never get back.

Thank you so much for your consideration and I look forward to hearing back from you soon.

Respectfully,

Mari Snyder Johnson
November 8, 2019
City of Malibu
23825 Stuart Ranch Road
Malibu, CA 90265

Re: 24840 Pacific Coast Highway_CDP 013-047 and CDPA 15-007
Time Extension Request – Supplemental Information

Dear Planning Director / Commission:

My name is Craig Knickerbocker of Knickerbocker & Associates and I am the Owner Representative for Mari Snyder-Johnson in regard to her home re-construction project located 24840 Pacific Coast Hwy.

I respectfully would like to request one final extension on the coastal permit as referenced above. This past couple of years has been an extreme hardship on our client, Mari Snyder-Johnson in that she has been through several substantial personal and business hurdles that have substantially upended her life and made it impossible to start her new home project. However, the problems have recently resolved themselves and she would really like to proceed with this project that has been a dream and labor of love in the making for many years now. Ms. Snyder-Johnson has made a tremendous time and money investment into this project over the past several years and I would like to provide you with additional information regarding the steps and huge expenses she has taken towards the construction process, prior to the devastating personal issues. Below is partial list:

- Paid Grading Cash Bond of $124,178.20
- Obtained Demo Permit CC15-0190
- Obtained Grading/Drainage Permits CC15-0191 & CC17-0060
- Obtained Site Retaining Wall Permit CC15-0192
- Paid over $1M in architectural fees
- Paid $1.1M in other structural, civil and other engineering and city fees

Thank you so much for considering her request and please do not hesitate to contact me if you need anything further in order to arrive at an informed and thoughtful decision.

Sincerely,

Craig Knickerbocker

Cc: Mari Snyder-Johnson
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.
The Malibu Planning Commission will hold a public hearing on Monday, March 16, 2020, 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. 13-047, SITE PLAN REVIEW NO. 13-045, MINOR MODIFICATION NOS. 13-016 AND 13-017, AND DEMOLITION PERMIT NO. 13-022 - A request to extend the Planning Commission's approval of an application for a Coastal Development Permit (CDP) No. 13-047, CDP Amendment No. 15-007, and Demolition Permit No. 13-022 to allow the demolition of an existing 7,316 square foot single-family residence, and the construction of a new 6,843 square foot two-story single-family residence with a 791 square foot basement, a 979 square foot detached subterranean garage, a 468 square foot pool cabana, a 348 square foot gym, a 48 square foot guard station, 89 square foot seating room, an alternative onsite wastewater treatment system, and other ancillary improvements. Site Plan Review No. 13-045 for height in excess of 18 feet in height (up to 24 feet for a flat roof), Minor Modification No. 13-016 for a 20 percent reduction in the cumulative side yard setback, and Minor Modification No. 13-017 for a 50 percent reduction in the front yard setback.

LOCATION / APN / ZONING: 24840 Pacific Coast Hwy / 4458-015-019 / Rural Residential-Two Acre (RR-2)
APPLICANT / OWNER(S): Knickerbocker and Associates / Johnson Family Trust
ENVIRONMENTAL REVIEW: Categorical Exemption CEQA Guidelines Sections 15301 and 15303
EXTENSION FILED: July 25, 2019
CASE PLANNER: Lilly Rudolph, Contract Planner, lrudolph@malibucity.org (310) 456-2489, ext. 239

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.

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.

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 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: February 20, 2020