CITY OF MALIBU PLANNING COMMISSION
RESOLUTION NO. 15-68


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

Section 1. Recitals.

A. On September 24, 2013, the applicant submitted the subject application, Coastal Development Permit (CDP) No. 13-047, Demolition Permit (DP) No. 13-022, Site Plan Review (SPR) No. 13-045, and Minor Modification (MM) Nos. 13-016 and 13-017. The CDP application was routed to the City Biologist, City Environmental Health Administrator, City Geologist, City Public Works Department and the Los Angeles County Fire Department (LACFD) for review.

B. On May 30, 2014, the Planning Department staff conducted a site visit and took photographs to document the condition of the site.

C. On October 1, 2014, a Notice of CDP Application for CDP No. 13-047 was posted on the subject property.

D. On June 17, 2014, a Courtesy Notice of Proposed Project was mailed to all property owners and occupants within a 500-foot radius of the subject property.

E. On October 1, 2014, the project was deemed complete for processing.
F. On June 11, 2015, a Notice of Public Hearing was published in a newspaper of general circulation within the City of Malibu and was mailed to all property owners and occupants within a 500-foot radius of the subject property.

G. On June 30, 2015 the Planning Department staff conducted a site visit to inspect and photograph story poles, which were installed in April 2015 and certified by the licensed surveyor on June 29, 2015.

H. On July 6, 2015, the Planning Commission continued to the item to the August 3, 2015 Regular Planning Commission Meeting.

I. On August 3, 2015, the Planning Commission held a duly noticed public hearing on the subject application, reviewed and considered the agenda report, reviewed and considered written reports, public testimony, and other information in the record.

Section 2. Environmental Review.

Pursuant to the authority and criteria contained in California Environmental Quality Act (CEQA), the Planning Commission has analyzed the proposal as described above. The Planning Commission has found that this project is listed among the classes of projects determined to have less than significant adverse effect on the environment. Therefore, the project is categorically exempt from the provisions of CEQA pursuant to CEQA Guidelines 15301 – Existing Facilities and 15303 – New Construction. The Planning Commission further determined 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 Sections 13.7(B) and 13.9 of the Malibu Local Coastal Program (LCP) Local Implementation Plan (LIP), the Planning Commission adopts the analysis in the agenda report, incorporated herein, the findings of fact below for CDP No. 13-047, DP No. 13-022, SPR No. 13-045, MM No. 13-016, and MM No. 13-017, for 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 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 (AOWTS), and other ancillary improvements located at 24840 Pacific Coast Highway (PCH).

The project has been reviewed for conformance with the LCP by Planning Department staff, the City Biologist, City Geologist, City Environmental Health, City Public Works Department, and LACFD. Subject to the conditions of approval, the project is consistent with all applicable LCP codes, standards, goals and policies. The required findings are made herein.
A. General Coastal Development Permit (LIP Chapter 13)

1. The project consists of the construction of a new two-story single-family residence and associated accessory structures, landscaping, walls, a new entry gate, and an AOWTS. Evidence in the record demonstrates that the project conforms to the certified Malibu LCP.

2. The project conforms to the public access and recreation policies of Chapter 3 of the Coastal Act of 1976 (commencing with Section 30200 of the Public Resources Code) as it would not impede access opportunities to the shore.

3. Evidence in the record demonstrates that as conditioned, the project will not result in environmental impacts and has been designed to minimize grading. There is no evidence that an alternative project would substantially lessen any potential significant adverse impacts of the development on the environment.

4. Evidence in the record demonstrates that the project site does not contain ESHA and Environmental Review Board review is not required.

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

Based on the evidence contained in the record, the Planning Commission makes the required findings for SPR No. 13-045 as follows:

1. The project is consistent with policies and provisions of the Malibu LCP.

2. The project does not adversely affect neighborhood character.

3. The project provides maximum feasible protection to significant public views as required by Chapter 6 of the Malibu LIP by providing a view permeable gate and new views of the ocean from PCH over the site driveway within a 22.5 foot wide view corridor.

4. The proposed project will comply with all applicable requirements of state and local law. The project has been reviewed and conditionally approved by the City Biologist, City Environmental Health Administrator, City Geologist, City Public Works Department, LACFD and it meets the City’s residential development policies. The project must also be approved by the Los Angeles County Waterworks District No. 29, appropriate City agencies and the City Building Safety Division, as applicable, prior to the issuance of building permits.

5. The project is consistent with the City’s General Plan, LCP, Malibu Municipal Code (M.M.C) and City’s standards in that the project is located in an area designated for residential use and is designed and conditioned in compliance with these regulations.

6. The project does not obstruct visually impressive scenes of the Pacific Ocean, offshore islands, Santa Monica Mountains, canyons, valleys, or ravines from the main viewing area of any affected principal residence as defined in M.M.C. Section 17.40.040(A)(17) due to existing mature side and rear yard vegetation and project siting upslope from Malibu Road residences.
C. Minor Modification for 50 Percent Reduction of the Front Yard Setback and a 20 Percent Reduction in the Cumulative Side Yard Setback (LIP Section 13.27)

Based on the evidence contained within the record, the required findings for MM Nos. 13-016 and 13-017 are made as follows:

1. The project is consistent with policies and provisions of the Malibu LCP.

2. The project does not adversely affect neighborhood character in that the size, design and siting of the project are similar to other nearby residences.

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

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

1. The project consists of site grading and the construction of a two-story residential structure and associated accessory structures, landscaping, walls, a new entry gate, and an AOWTS within established building pads and below the elevation of PCH. With the inclusion of the conditions set forth in Section 5 of this resolution, the structures will blend with the surrounding environment. New ocean views of the property will be provided through the new view permeable gate and view corridor. With the implementation of said conditions, the project will not have significant adverse scenic or visual impacts.

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

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

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

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

E. Hazards (LIP Chapter 9)

1. Based on the evidence contained within the record, it has been determined that the project site is not located within a liquefaction/seismically induced settlement hazard zone; the project site is not located in a tsunami inundation zone; no landslides are present on or near the site nor are any shown on regional geologic maps; the development site is not located in a Federal Emergency Management Agency (FEMA) identified flood hazard area; and the project site is located within an extreme fire hazard area.

2. The project, as conditioned, will not have significant adverse impacts on site stability or structural integrity from geologic, flood or fire hazards due to required project
modifications, landscaping or other conditions.

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

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

5. The proposed project as designed and conditioned, will have no significant adverse impacts on site stability, structural integrity or sensitive resources. Therefore, no adverse impacts are anticipated to result from hazards or conflict with sensitive resource protection policies contained in the LCP.

E. Shoreline and Bluff Development (LIP Chapter 10)

1. The proposed residential structure is located at least 50 feet away from the top of the bluff slope. The proposed onsite grading and structural design has been reviewed and approved by the City's Geotechnical Engineer. The required onsite grading and proposed building design would achieve a soil condition determined to be sufficiently stable, as the improvements are proposed within areas with an average slope of 5:1 or flatter. No improvements are proposed that would impede access to PCH or Malibu Road. Furthermore, the existing bluff face has been modified and compacted as part of a previously approved slope repair effort and no improvements to the bluff face are proposed. Therefore, the record demonstrates that the project will have no significant adverse impact on shoreline sand supply or public access.

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.

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

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.

5. The project does not include a shoreline protective device.

Section 4. Planning Commission Action.

Based on the foregoing findings and evidence contained within the record, the Planning Commission hereby approves Coastal Development Permit No. 13-047, Demolition Permit No. 13-022, Site Plan Review No. 13-045, and Minor Modification Nos. 13-016 and 13-017, subject to the following conditions. 
Section 5. Conditions of Approval.

Standard Conditions

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

2. Approval of this application is to allow for the project described herein. The scope of work approved includes:
   a. Demolition of the existing 7,316 square foot residence and ancillary structures;
   b. Removal of existing septic system;
   c. Construction of a:
      i. 6,843 square foot, two-story residence;
      ii. a 791 square foot basement and a 979 square foot detached subterranean three-car garage
      iii. a 468 square foot pool cabana
      iv. a 348 square foot gym
      v. a 48 square foot guard station
      vi. a new pervious driveway with three unenclosed parking spaces
      vii. Pool and pool equipment
      viii. Landscaping, hardscape, view permeable entry gates, view permeable tennis court fencing and walls
      ix. Installation of a new AOWTS
      x. Site grading
      xi. A 51.5 foot view permeable gate and 22.5 foot wide view corridor

3. Subsequent submittals for this project shall be in substantial compliance with the plans on file, dated April 3, 2015 with the Planning Department. The project shall comply with all conditions of approval stipulated in the referral sheets attached to the agenda report for this project. In the event the project plans conflict with any condition of approval, the condition shall take precedence.

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

5. The property owner/applicant or their successor shall submit three (3) complete sets of plans, including items in No. 6 to the Planning Department for consistency review and
approval prior plan check submittal and again prior to the issuance of any building or development permits.

6. This resolution, signed Acceptance of Conditions Affidavit and all Department Review Sheets attached to the agenda report for this project shall be copied in their entirety and placed directly onto a separate plan sheet behind the cover sheet of the development plans submitted to the City Environmental Sustainability Department for plan check, and the City Public Works Department for an encroachment permit (as applicable).

7. The CDP shall expire if the project has not commenced within three (3) years after issuance of the permit. Extension of the permit may be granted by the approving authority for due cause. Extensions shall be requested in writing by the applicant or authorized agent prior to expiration of the three-year period and shall set forth the reasons for the request.

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 structures shall conform to requirements of the City of Malibu Environmental Sustainability Department, City Geologist, City Environmental Health Administrator, City Public Works Department, Los Angeles County Waterworks District No. 29 and the 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 M.M.C. and the LCP. Revised plans reflecting the minor changes and additional fees shall be required.

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

12. The property owner/applicant or their successor must submit payment for all outstanding fees payable to the City prior to issuance of any building permit, including grading or demolition.

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

14. The developer’s consulting engineer shall sign the final plans prior to the issuance permits.

Cultural Resources

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

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

**Construction and Demolition**

17. The property owners and/or their successors in interest shall contract with a City approved hauler to facilitate the recycling of all recoverable/recyclable material. Recoverable material shall include but shall not be limited to: asphalt, dirt and earthen material, lumber, concrete, glass, metals and drywall.

18. Prior to approval of the final plans, an Affidavit and Certification to implement a Waste Reduction and Recycling Plan (WRRP) signed by the Owner or Contractor shall be submitted to the Environmental and Sustainability Department for review and approval. The WRRP shall indicate the agreement of the applicant to divert at least 50 percent of all construction waste generated by the project. Prior to final building inspection, the applicant shall provide the Public Works Department with a Final Waste Reduction and Recycling Summary Report (Summary Report). The Final Summary Report shall designate all materials that were landfilled or recycled and these materials shall broken-down by material types. The Public Works Department shall approve the final Summary Report.

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

20. Upon plan check approval of demolition plans, the applicant shall secure a demolition permit from the City. The applicant shall comply with all conditions related to demolition imposed by the Deputy Building Official.

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

22. Any building or demolition permits issued for work commenced or completed without the benefit of required permits are subject to appropriate "Investigation Fees" as required in the Building Code.
23. Upon completion of demolition activities, the applicant shall request a final inspection by the City Building Safety Division.

Construction / Framing

24. Construction hours shall be limited to Monday through Friday from 7:00 a.m. to 7:00 p.m. and Saturdays from 8:00 a.m. to 5:00 p.m. No construction activities shall be permitted on Sundays or City-designated holidays.

25. Construction management techniques, including minimizing the amount of equipment used simultaneously and increasing the distance between emission sources, shall be employed as feasible and appropriate. All trucks leaving the construction site shall adhere to the California Vehicle Code. In addition, construction vehicles shall be covered when necessary; and their tires will be rinsed off prior to leaving the property.

26. Construction debris and sediment shall be properly contained and secured on site with BMPs to prevent the unintended transport of sediment and other debris into coastal waters by wind, rain or tracking.

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

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

Street Improvements

29. Prior to Public Works Department's approval of the grading or building permit, the applicant shall obtain encroachment permits from the Public Works Department for the proposed work within the City's right-of-way.

30. Replace the existing RC Junction Chamber adjacent to Malibu Road with a new storm drain
The manhole per APWA Standard Plan 321-1. The manhole frame and cover shall be located a minimum of 12 inch above existing grade.

**Geology**

31. All recommendations of the consulting certified engineering geologist or geotechnical engineer and/or the City Geologist shall be incorporated into all final design and construction including foundations, grading, sewage disposal, and drainage. Final plans shall be reviewed and approved by the City Geologist prior to the issuance of a grading permit.

**Onsite Wastewater Treatment System**

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

35. Prior to final Environmental Health approval, a final AOWTS plot plan shall be submitted showing an AOWTS design meeting the minimum requirements of the Malibu Plumbing Code (MPC) and the LCP, including necessary construction details, the proposed drainage plan for the developed property and the proposed landscape plan for the developed property. The AOWTS plot plan shall show essential features of the AOWTS and must fit onto an 11 inch by 17 inch sheet leaving a five inch margin clear to provide space for a City applied legend. If the scale of the plans is such that more space is needed to clearly show construction details and/or all necessary setbacks, larger sheets may also be provided (up to a maximum size of 18 inches by 22 inches).

36. A final design and system specifications shall be submitted as to all components (i.e. alarm system, pumps, timers, flow equalization devices, backflow devices, etc.) proposed for use in the construction of the proposed AOWTS. For all AOWTS, final design drawings and calculations must be signed by a California registered civil engineer, a registered environmental health specialist or a professional geologist who is responsible for the design. The designer must also be a registered OWTS designer with the City of Malibu. The final AOWTS design report and drawings shall be submitted to the City Environmental Health Administrator with the designer’s wet signature, professional registration number and stamp (if applicable).

37. The final AOWTS design report shall contain the following information (in addition to the items listed above).

a. Required treatment capacity for wastewater treatment and disinfection systems. The treatment capacity shall be specified in terms of flow rate, gallons per day, and shall be supported by calculations relating the treatment capacity to the number of bedroom equivalents, plumbing fixture equivalents, and/or the subsurface effluent dispersal system acceptance rate. The fixture unit count must be clearly identified in association with the design treatment capacity, even if the design is based on the number of
bedrooms. Average and peak rates of hydraulic loading to the treatment system shall be specified in the final design;

b. Description of proposed wastewater treatment and/or disinfection system equipment. State the proposed type of treatment system(s) (e.g., aerobic treatment, textile filter ultraviolet disinfection, etc.); major components, manufacturers, and model numbers for "package" systems; and conceptual design for custom engineered systems;

c. Specifications, supporting geology information, and percolation test results for the subsurface effluent dispersal portion of the onsite wastewater disposal system. This must include the proposed type of effluent dispersal system (drainfield, trench, seepage pit subsurface drip, etc.) as well as the system's geometric dimensions and basic construction features. Provide seepage pit cap depth relative to original and finished grades. Supporting calculations shall be presented that relate the results of soils analysis or percolation/infiltration tests to the projected subsurface effluent acceptance rate, including any unit conversions or safety factors. Average and peak rates of hydraulic loading to the effluent dispersal system shall be specified in the final design. The projected subsurface effluent acceptance rate shall be reported in units of total gallons per day and gallons per square foot per day. Specifications for the subsurface effluent dispersal system shall be shown to accommodate the design hydraulic loading rate (i.e., average and peak OWTS effluent flow, reported in units of gallons per day). The subsurface effluent dispersal system design must take into account the number of bedrooms, fixture units and building occupancy characteristics; and

d. All final design drawings shall be submitted with the wet signature and typed name of the OWTS designer. If the scale of the plan is such that more space is needed to clearly show construction details, larger sheets may also be provided (up to a maximum size of 18 inch by 22 inch, for review by the Environmental Health Administrator). Note: For OWTS final designs, full-size plans are required for review by the Building Safety Division and/or the Planning Department.

38. Final plans shall clearly show the locations of all existing OWTS components (serving pre-existing development) to be abandoned and provide procedures for the OWTS’ proper abandonment in conformance with the MPC.

39. The following note shall be added to the plan drawings included in the OWTS final design. “Prior to commencing work to abandon, remove, or replace existing onsite wastewater treatment system (OWTS) components an ‘OWTS Abandonment Permit’ shall be obtained from the City of Malibu. All work performed in the OWTS abandonment, removal or replacement area shall be performed in strict accordance with all applicable federal, state, and local environmental and occupational safety and health requirements. The obtainment of any such required permits or approvals for this scope of work shall be the responsibility of the applicant and their agents.”

40. Proof of ownership of subject property shall be submitted to the City Environmental Health Administrator.
41. An operations and maintenance manual specified by the AOWTS designer shall be submitted to the City Environmental Health Administrator. This shall be the same operations and maintenance manual submitted to the owner and/or operator of the proposed AOWTS following installation.

42. Prior to final Environmental Health approval, a maintenance contract executed between the owner of the subject property and an entity qualified in the opinion of the City of Malibu to maintain the proposed AOWTS after construction shall be submitted. Only original wet signature documents are acceptable and shall be submitted to the City Environmental Health Administrator.

43. Prior to final Environmental Health approval, a covenant which runs with the land shall be executed between the City of Malibu and the holder of the fee simple absolute as to subject real property and recorded with the Los Angeles County Recorder's Office. Said covenant shall serve as constructive, notice to any future purchaser for value that the AOWTS serving subject property is an alternative method of onsite wastewater disposal pursuant to the City of Malibu Plumbing Code, Appendix K, Section 1(i). Said covenant shall be provided by the City of Malibu Environmental Health Administrator and shall be submitted to the City of Malibu with proof of recordation by the Los Angeles County Recorder.

44. Final approval by the City Geologist and Geotechnical Engineer, and City Planning Department shall be submitted to the City Environmental Health Administrator.

45. A final planning approval shall be submitted to the City Environmental Health Administrator.

46. In accordance with M.M.C. Chapter 15.14, an application shall be made to the Environmental and Building Safety Division for an OWTS operating permit. An operating permit fee shall be submitted with the application and a final fee shall be paid for Environmental Health review of the OWTS design and system specifications.

**Grading / Drainage / Hydrology**

47. Grading permits shall not be issued between November 1 and March 31 each year per LIP Section 8.4. Projects approved for grading permit shall not receive grading permits unless the project can be rough graded before November 1. A note shall be placed on the project that addresses this condition.

48. Exported soil from a site shall be taken to the County Landfill or to a site with an active grading permit and the ability to accept the material in compliance with the City's LIP, Section 8.3. A note shall be placed on the project that addresses this condition.

49. A Grading and Drainage plan shall be approved containing the following information prior to the issuance of grading permits for the project.
   a. Public Works Department General Notes
b. The existing and proposed square footage of impervious coverage on the property shall be shown on the grading plan (including separate areas for buildings, driveways, walkways, parking, tennis courts and pool decks).

c. The limits of land to be disturbed during project development shall be delineated on the Grading plan and a total area shall be shown on the plan. Areas disturbed by grading equipment beyond the limits of grading, Areas disturb for the installation of the septic system, and areas disturbed for the installation of the detention system shall be included within the area delineated.

d. The grading limits shall include the temporary cuts made for retaining walls, buttresses, and over excavations for fill slopes and shall be shown on the grading plan.

e. If the property contains trees that are to be protected they shall be highlighted on the grading plan.

f. If the property contains rare and endangered species as identified in the Resources study the grading plan shall contain a prominent note identifying the areas to be protected (to be left undisturbed). Fencing of these areas shall be delineated on the grading plan if required by the City Biologist.

g. Private storm drain systems shall be shown on the Grading plan. Systems greater than 12-inch diameter shall also have a plan and profile for the system included with the grading plan.

h. Public Storm drain modifications shown on the Grading plan shall be approved by the Public Works Department prior to the issuance of the Grading permit.

50. The applicant shall label all City/County storm drain inlets within 250 feet from each property line per the City of Malibu’s standard label template. A note shall be placed on the project plans that address this condition.

51. A Local Storm Water Pollution Prevention Plan shall be provided prior to the issuance of the Grading/Building permits for the project. This plan shall include, but not limited to:

a. Designated areas for the storage of construction materials that do not disrupt drainage patterns or subject the material to erosion by site runoff.

b. Designated area for the construction of portable toilets that separates them from storm water runoff and limits the potential for upset.

c. Designated areas for disposal and recycling facilities for solid waste separated from the site drainage system to prevent discharge of runoff through the waste.

d. Specific BMP’s to prevent erosion and BMPs for sediment control prior to discharge from the property.

52. A Water Quality Mitigation Plan (WQMP) is required for this project. The WQMP shall be supported by a hydrology and hydraulic study that identifies all areas contributory to the property and an analysis of the predevelopment and post development drainage of the site. The WQMP shall meet all the requirements of the City’s current Municipal Separate Stormwater Sewer System (MS4) permit. The following elements shall be included within the WQMP:

a. Site Design BMPs;

b. Source Control BMPs;

c. Treatment Control BMPs that retains on-site the Stormwater Quality Design Volume (SWQDV). Or where it is technical infeasible to retain on-site, the project must biofiltrate 1.5 times the SWQDV that is not retained on-site;
d. Drainage Improvements;

e. A plan for the maintenance and monitoring of the proposed treatment BMP’s for the expected life of the structure;

f. A copy of the WQMP shall be filed against the property to provide constructive notice to future property owners of their obligation to maintain the water quality measures installed during construction prior to the issuance of grading or building permits; and

g. The WQMP shall be submitted to Public Works and the fee applicable at time of submittal for the review of the WQMP shall be paid prior to the start of the technical review. The WQMP shall be approved prior to the Public Works Department’s approval of the grading and drainage plan and or building plans. The Public Works Department will tentatively approve the plan and will keep a copy until the completion of the project. Once the project is completed, the applicant shall verify the installation of the BMP’s, make any revisions to the WQMP, and resubmit to the Public Works Department for approval. The original signed and notarized document shall be recorded with the County Recorder. A certified copy of the WQMP shall be submitted to the Public Works Department prior to the certificate of occupancy.

53. The discharge of the water contained in a pool, spa and decorative water feature such as a fountain or fish pond is an illegal discharge unless it is discharged to a sanitary sewer system. Malibu has limited sewers available so it is likely that this property cannot legally discharge the contents of the proposed pool or spa to the street without violating the Clean Water Act or the Malibu Water Quality Ordinance. The plans shall include the following information and or construction notes:

a. Provide information on the plans regarding the type of sanitation that you propose to use for this installation. Ozonization systems are an acceptable alternative to Chlorine. The release of clear water from this system is permitted to either landscaping or sanitary sewer. Salt water sanitation is an acceptable alternative, but the discharge of the salt water is prohibited to both sewer systems and landscape. Highly chlorinated water from pools or spas shall be discharged to a public sewer or may be trucked to a POTW for discharge; and

b. Provide a construction note that directs the contractor to install a new sign stating “It is illegal to discharge pool, spa or water feature waters to a street, drainage course or storm drain per M.M.C. Section 13.04.060(D)(5).” The new sign shall be posted in the filtration and/or pumping equipment area for the property.

Water Service

54. Prior to the issuance of a building permit, the applicant shall submit an updated Will Serve letter from Los Angeles County Waterworks District No. 29 to the Planning Department indicating the ability of the property to receive adequate water service.

Biology / Landscaping

55. Night lighting from exterior and interior sources shall be minimized to that necessary for public safety.

56. Prior to issuance of building permits, approval of landscape water use by Los Angeles County Waterworks District No. 29 shall be provided to the City.
57. Vegetation shall be situated on the property so as to not obstruct the primary view from private property at any given time (given consideration of its future growth).

58. No non-native plants shall be approved greater than 50 feet from the residential structure.

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

60. Grading should be scheduled only during the dry season from April 1-October 31. If it becomes necessary to conduct grading activities from November 1 – March 31, a comprehensive erosion control plan shall be submitted for approval prior to issuance of a grading permit and implemented prior to initial of vegetation removal and/or grading activities.

61. Grading scheduled between February 1 and September 15 will require nesting bird surveys by a qualified biologist prior to initiation of grading activities. Surveys shall be completed no more than 5 days from proposed initiation of site preparation activities. Should nests be identified, a buffer area no less than 150 feet (300 feet for raptors) shall be fenced off until it is determined by a qualified biologist that the nest is no longer active.

**Lighting**

65. Night lighting from exterior and interior sources shall be minimized. All exterior lighting shall be low intensity and shielded so it is directed downward and inward so that there is no offsite glare or lighting of natural habitat areas.

66. Exterior lighting shall be minimized and restricted to low intensity features, shielded, and concealed so that no light source is directly visible from public viewing areas. Permitted lighting shall conform to the following standards:
   a. Lighting for walkways shall be limited to fixtures that do not exceed two feet in height that are directed downward, and use bulbs that do not exceed 60 watts or the equivalent;
   b. Security lighting controlled by motion detectors may be attached to the residence provided it is directed downward and is limited to 60 watts or the equivalent;
   c. Driveway lighting shall be limited to the minimum lighting necessary for safe vehicular use. The lighting shall be limited to 60 watts or the equivalent;
   d. Lights at entrances in accordance with Building Codes shall be permitted provided that such lighting does not exceed 60 watts or the equivalent;
   e. Site perimeter lighting shall be prohibited;
   f. Outdoor decorative lighting for aesthetic purposes is prohibited;
   g. Night lighting for sports courts or other private recreational facilities in scenic areas designated for residential use shall be prohibited;

67. No permanently installed lighting shall blink, flash, or be of unusually high intensity or brightness. Lighting levels on any nearby property from artificial light sources on the subject property shall not produce an illumination level greater than one foot candle.
68. Up-lighting of landscaping is prohibited.

69. All lighting fixtures shall be rated dark skies compliant. Prior to issuance of a Building Permit, the applicant shall submit a photometric plan for review and approval by the Planning Director. The photometric plan shall also demonstrate compliance with any dark skies ordinance or any other applicable lighting standards adopted by the City prior to issuance of a building permit for any structure on the site.

**Site Specific Conditions**

70. A view corridor totaling 20 percent of the site's PCH frontage (22.5 feet) shall be created by constructing a 41.5 ft. wide view permeable entry gate. The 22.5 ft. wide view corridor shall be kept free of all landscaping, vehicle parking, or structures that obscure or block bluewater views. To maintain bluewater views to the maximum extent feasible, the landscaping plan shall be revised to include removal or relocation of the six existing eucalyptus trees located along the eastern edge of the proposed driveway entrance. The proposed entry landscaping planter shall also be shifted approximately 3 feet to the east to keep the view corridor free of vegetation. Final landscaping plans reflecting the above-described landscape plan modifications shall be reviewed and approved by the Planning Director prior to issuance of building permits.

71. The project is visible from a scenic area, and therefore, shall incorporate colors and exterior materials that are compatible with the surrounding landscape.
   a. Acceptable colors shall be limited to colors compatible with the surrounding environment (earth tones) including shades of green, brown and gray, with no white or light shades and no bright tones. Colors shall be reviewed and approved by the Planning Director and clearly indicated on the building plans.
   b. The use of highly reflective materials shall be prohibited except for solar energy panels or cells, which shall be placed to minimize significant adverse impacts to public views to the maximum extent feasible.
   c. All windows shall be comprised of non-glare glass.

**Prior to Occupancy**

72. Prior to the final building inspection, the applicant shall provide the City Environmental Sustainability Department a Final Waste Reduction and Recycling Summary Report ("Summary Report"). The Summary Report shall designate all materials that were land filled or recycled, broken down by material types. The City Environmental Sustainability Department shall approve the Summary Report.

73. The applicant shall request a final planning inspection prior to final building inspection by the City Environmental Sustainability Department. A Certificate of Occupancy shall not be issued until the Planning Department has determined that the project complies with the approved CDP. A temporary Certificate of Occupancy may be granted at the discretion of the Planning Director, provided adequate security has been deposited with the City to ensure compliance should the final work not be completed in accordance with this permit.
74. Any construction trailer, storage equipment, portable restroom or similar temporary equipment / structures 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.

Deed Restrictions

75. Prior to final Planning approval: the property owner shall execute and record a deed restriction indemnifying and holding harmless the City, its officers, agents, and employees against any and all claims, demands, damages, costs and expenses of liability arising out of the acquisition, design, construction, operation, maintenance, existence or failure of the permitted project in an area where an extraordinary potential for damage or destruction from wildfire exists as an inherent risk to life and property. The property owner shall provide a copy of the recorded document to Planning Department staff prior to final planning approval.

76. Prior to final planning approval, the applicant shall be required to execute and record a deed restriction reflecting lighting requirements set forth in Condition Nos. 65 - 69. The property owner shall provide a copy of the recorded document to Planning Department staff prior to final planning approval.

Fixed Conditions

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

78. 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. Certification.

The Planning Commission shall certify the adoption of this Resolution.

PASSED, APPROVED AND ADOPTED this 3rd day of August 2015.

DAVID BROTMAN, Planning Commission Chair

ATTEST:

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

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

I CERTIFY THAT THE FOREGOING RESOLUTION NO. 15-68 was passed and adopted by the Planning Commission of the City of Malibu at the meeting thereof held on the 3rd day of August 2015, by the following vote:

AYES: 4 Commissioners: Brotman, Jennings, Pierson, Stack
NOES: 1 Commissioner: Mazza
ABSTAIN: 0
ABSENT: 0

KATHLEEN STECKO, Recording Secretary