RECOMMENDED ACTION: Adopt Planning Commission Resolution No. 20-46 (Attachment) determining the California Environmental Quality Act does not apply, and denying Coastal Development Permit No. 19-005 to allow for a new single-family residence with attached garage, a secondary dwelling unit, swimming pool/spa, and a new onsite wastewater treatment system, including Site Plan Review (SPR) No. 19-072 for construction of the residence above 18 feet in height, SPR No. 20-013 for construction of the second residential unit above 18 feet in height, and Minor Modification No. 19-010 for a 13 percent reduction of the required rear yard setback to replace a home destroyed in the 2018 Woolsey Fire, located in the Rural Residential-Two Acre zoning district at 29623 Cuthbert Road (Colby Family Trust).

DISCUSSION: The attached resolution has been modified to include specific LIP code sections and General Plan Land Use Policies that were identified during the June 1, 2020 Planning Commission meeting.

ATTACHMENT: Planning Commission Resolution No. 20-46

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

SECTION 1. Recitals.

A. On August 12, 2019, an application for an Administrative Coastal Development Permit (ACDP) No. 19-005, Site Plan Review (SPR) No. 19-072, SPR No. 20-013 and Minor Modification (MM) No. 19-010 to allow for the construction of a single-family residence and associated development on a Woolsey Fire affected parcel was submitted to the Planning Department by Daniela Rechtszasd. The application was routed to the City Biologist, City Environmental Administrator, City geotechnical staff, City Public Works Department, Los Angeles County Fire Department, and Los Angeles County Waterworks District 29 for review.

B. On October 3, 2019, a Notice of Coastal Development Permit Application was posted on the subject property.

C. On January 3, 2020, the application was deemed complete.

D. On March 6, 2020, staff visited the site to view the story poles.

E. 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.

F. At the April 20, 2020, Regular Planning Commission meeting, the Planning Director reported approval of the ACDP to the Planning Commission. The Planning Commission voted in favor to bring back the item as a full coastal development permit (CDP) with a full public hearing.

G. On May 7, 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 properties.
H. On June 1, 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. At the conclusion of the public hearing, the Commission voted 3-2 (Jennings and Weil dissenting) to direct staff to return with a resolution on the Consent Calendar denying the application and memorializing its findings and decision.

I. On June 15, 2020, the Planning Commission considered the subject resolution.

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. Pursuant to CEQA Guidelines Section 15270, CEQA does not apply to projects which a public agency rejects or disapproves.

SECTION 3. Coastal Development Permit Findings for Denial.

Based on evidence in the record for the subject project presented at the June 1, 2020, Planning Commission meeting, the Planning Commission hereby makes the following findings denying the application:

1. The project fails to comply with the Local Coastal Program or Malibu Municipal Code (MMC). Specifically, the architectural plans do not comply with the two-thirds rule (Local Implementation Plan (LIP) Section 3.6(K)(2) or MMC Section 17.40.040(A)(13)(b) and the required rear yard setback (MMC Section 17.40.040(A)(6)(c). Furthermore, the proposed development is not consistent with LIP Sections 3.6(F)(6)(a), 3.6(F)(6)(b), 3.6(F)(6)(c) or MMC Section 17.40.040(A)(6)(f) because the 100-foot setback from the parkland containing Environmentally Sensitive Habitat Area to the north has not been provided. In addition, the size of the proposed house is inconsistent with the character of the neighborhood and is not consistent with Malibu's General Plan, Land Use Objective 2.3, “Development of Appropriate Scale and Context” and more specifically Land Use Policy 2.3.1 which states that, “The City shall protect and preserve the unique character of Malibu’s many distinct neighborhoods.” Lastly the Planning Commission determined that the proposed residence is not consistent with MMC section 17.04.080 which states, “an application approved by any review body must be found consistent with the objectives, policies, general land uses, and goals of the Malibu general plan. Before it is adopted, all decisions are subject to the requirements of Government Code Section 65360.”

2. All of the required findings to grant the site plan review cannot be made. Specifically, the project will adversely affect neighborhood character due to the amount of building square footage proposed which is significantly greater than that of the surrounding properties.

3. All of the required findings to grant the minor modification to reduce the rear yard setback cannot be made. Specifically, given the size of the parcel, alternative building pad locations are available that do not require a reduced rear yard setback.
SECTION 4. The Planning Commission shall certify the adoption of this resolution.

PASSED AND ADOPTED this 15th day of June 2020.

JEFFREY JENNINGS, Planning Commission Chair

ATTEST:

KATHLEEN STECKO, Recording Secretary

LOCAL APPEAL - Pursuant to Local Coastal Program Local Implementation Plan 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. 20-46 was passed and adopted by the Planning Commission of the City of Malibu at the regular meeting held on the 15th day of June 2020 by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

KATHLEEN STECKO, Recording Secretary