Commission Agenda Report

To: Chair Jennings and Members of the Planning Commission

Prepared by: Jessica Thompson, Associate Planner

Approved by: Bonnie Blue, Planning Director

Date prepared: June 4, 2020 Meeting date: June 15, 2020

Subject: Extension of Coastal Development Permit No. 11-046, Variance No. 16-011, and Site Plan Review Nos. 16-017 and 16-018 – A request to extend the Planning Commission’s approval for the construction of a new two-story single-family residence and associated development

Location: 6050 Murphy Way
APN: 4467-004-039
Owner: C.A. Rasmussen Co., LLC

RECOMMENDED ACTION: Adopt Planning Commission Resolution No. 20-47 (Attachment 1) granting a one-year extension of Coastal Development Permit (CDP) No. 11-046, Variance No. 16-011, and Site Plan Review Nos. 16-017 and 16-018, an application for the construction of a new 10,605 square foot, two-story single-family residence with attached guesthouse and a subterranean garage and associated development located in the Rural Residential-Ten Acre zoning district at 6050 Murphy Way (C.A. Rasmussen Co., LLC).

DISCUSSION: On July 18, 2016, the Planning Commission adopted Resolution No. 16-51, approving the subject application. Pursuant to Local Coastal Program Local Implementation Plan Section 13.21, Condition of Approval No. 7 in Planning Commission Resolution No. 16-51 states that the coastal development permit and associated requests shall expire if the project has not commenced within three years after final City action. Extension of the permit may be granted by the approving authority for due cause. The item before the Commission is an extension request by the applicant. A complete project chronology, including scope of work and approvals, can be found in Planning Commission Resolution No. 20-47.
The applicant submitted grading and erosion control plans to the Building Safety Division on October 5, 2018 which were approved on January 30, 2019. Architectural plans, approving the substantial conformance with the previously approved plans, were approved for Building Plan Check on October 14, 2019. The project is actively pursuing Building Plan Check approval, and submitted corrections and additional information on May 26, 2020. To date, the grading permit has not been issued.

Pursuant to LCP Policy No. 5 (Coastal Development Permit Extensions), the aggregate life of a CDP shall not exceed five years absent extraordinary circumstances. The subject coastal development permit is set to expire on July 18, 2020. On March 13, 2020, the applicant submitted an 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 3. The property owner’s request cites personal health issues as the reason for the delay in commencing the project. Furthermore, the owner also explains the progress that has been made on the project as part of Attachment 3.

CONCLUSION: The project conditions, and the zoning ordinance under which the approval was issued, have not significantly changed. Upon the Planning Commission’s approval of the time extension request, the approval set forth in Planning Commission Resolution No. 16-51 shall remain valid for an additional one-year term. The expiration date of this approval would then be July 18, 2021. All conditions of approval in Planning Commission Resolution No. 16-51 will remain in effect.

ATTACHMENTS:

1. Planning Commission Resolution No. 20-47
2. Planning Commission Resolution No. 16-51
3. Time Extension Request
4. Correspondence submitted by Blue Onyx Design & Engineering, Inc.
5. LCP Policy No. 5 (CDP Extensions)
6. Public Hearing Notice

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

1 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.
CITY OF MALIBU PLANNING COMMISSION
RESOLUTION NO. 20-47


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

SECTION 1. Recitals.

A. On July 18, 2016, the Planning Commission adopted Planning Commission Resolution No. 16-51, approving Coastal Development Permit (CDP) No. 11-046, an application for the construction of a new 10,605 square foot, two-story single-family residence with attached guesthouse and a subterranean garage, with a total development square footage of 10,887, alternative onsite wastewater system, new driveway, restoration of environmentally sensitive habitat area, retaining walls, pool, spa, pool equipment, landscaping, patio with barbeque area, grading, and associated development, including Variance No. 16-011 to reduce the required environmentally sensitive habitat area buffer, Site Plan Review (SPR) No. 16-017 for a roof height of 28 feet, and SPR No. 16-018 to allow for remedial grading.

B. On March 13, 2020, the applicant submitted a their second time extension request.

C. On May 21, 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 1000-foot radius of the subject property.

D. On June 15, 2020, the Planning Commission held a duly noticed public hearing on the request, reviewed and considered the agenda report, reviewed and considered written correspondence, public testimony, and other information in the record.

SECTION 2. Environmental Review.

Pursuant to the authority and criteria contained in the California Environmental Quality Act (CEQA), the Planning Commission previously determined the project to be categorically exempt pursuant to CEQA Guidelines Section 15303(a) - New Construction and 5303(e) - New Construction of Accessory Structure. As such, Categorical Exemption No. 16-075 was filed for CDP No. 11-046, and adopted with the approval of the project.
SECTION 3. Findings of Fact.

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


A. The approvals set forth in Planning Commission Resolution No. 16-51 are hereby extended for an additional one-year term. The approval is now set to expire on July 18, 2021.

B. No other changes to the conditions contained in Planning Commission Resolution No. 16-51 are made and all other findings, terms and/or conditions contained in Planning Commission Resolution No. 16-51 shall remain in full force and effect.

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

PASSED, APPROVED 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 (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. 20-47 was passed and adopted by the Planning Commission of the City of Malibu at the regular meeting thereof held on the 15th day of June, 2020, by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

KATHLEEN STECKO, Recording Secretary
A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MALIBU, DETERMINING THE PROJECT IS CATEGORICALLY EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, AND APPROVING COASTAL DEVELOPMENT PERMIT NO. 11-046, AN APPLICATION FOR THE CONSTRUCTION OF A NEW 10,605 SQUARE FOOT, TWO- STORY SINGLE- FAMILY RESIDENCE WITH ATTACHED GUESTHOUSE AND A SUBTERRANEAN GARAGE, FOR TOTAL DEVELOPMENT SQUARE FOOTAGE FOR THE SITE IS 10,887, ALTERNATIVE ONSITE WASTEWATER SYSTEM, NEW DRIVEWAY, RESTORATION OF UNPERMITTED ENVIRONMENTALLY SENSITIVE HABITAT AREA, RETAINING WALLS, POOL, SPA, POOL EQUIPMENT, LANDSCAPING, PATIO WITH BARBEQUE AREA, GRADING, AND ASSOCIATED DEVELOPMENT, INCLUDING VARIANCE NO. 16-011 TO REDUCE THE REQUIRED ENVIRONMENTALLY SENSITIVE HABITAT AREA BUFFER, SITE PLAN REVIEW NO. 16-017 FOR A ROOF HEIGHT OF 28 FEET, AND SITE PLAN REVIEW NO. 16-018 TO ALLOW FOR REMEDIAL GRADING IN THE RURAL RESIDENTIAL-TEN ACRE ZONING DISTRICT LOCATED AT 6050 MURPHY WAY (C.A. RASMUSSEN CO. LLC)

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

SECTION 1. Recitals.

A. On September 13, 2011, an application for Coastal Development Permit (CDP) No. 11-046, Variance (VAR) No. 16-011, and Site Plan Review (SPR) Nos. 16-017 and 16-018 was submitted to the Planning Department by applicant, Eric Rasmussen, on behalf of the property owner C.A. Rasmussen. The application was routed to the City geotechnical staff, City Environmental Health Administrator, City Biologist, the City Public Works Department, and the Los Angeles County Fire Department (LACFD) for review.

B. On April 12, 2016, a Notice of Coastal Development Permit Application was posted on the subject property.

C. On March 22, 2016, story poles were placed onsite to demonstrate the project mass and bulk.

D. On May 3, 2016, a courtesy notice discussing the proposed project was mailed to all property owners and occupants within a 500-foot radius of the subject property.

E. On May 11, 2016, 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. On June 6, 2016, the Planning Commission continued the item to a date uncertain.
G. On June 20, 2016, 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.

H. On July 18, 2016, 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 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 15303(a) — new construction and 15303(e) — new construction of 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 Sections 13.7(B) and 13.9, the Planning Commission adopts the analysis in the agenda report, incorporated herein, the findings of fact below for CDP No. 11-046 to allow for the construction of a new 10,605 square foot, two-story single-family residence with attached guesthouse and a 1,565 square foot subterranean garage, for total development square footage for the site of 10,887, environmentally sensitive habitat area (ESHA) restoration, alternative onsite wastewater system, new driveway, retaining walls, pool, spa, pool equipment, landscaping, patio with barbeque area, grading, and associated development, including VAR No. 16-011 to reduce the required ESHA buffer, SPR No. 16-017 for a roof height of 28 feet, and SPR No. 16-018 to allow for remedial grading, located in the Rural Residential 10-acre (RR-10) lot size minimum (RR10) zoning district at 6050 Murphy Way.

The project is consistent with the LCP’s zoning, grading, cultural resources, water quality, and onsite wastewater treatment requirements. With the inclusion of the proposed variance and site plan reviews, 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 project is for the construction of a new single-family residence and associated development and has been reviewed for conformance with the LCP by Planning Department staff, the City Biologist, City Environmental Health Administrator, City geotechnical staff, the City Public Works Department and LACFD. As discussed herein, based on submitted reports, project plans, visual analysis and detailed site investigation, the proposed project, as conditioned and with the approval of the variance and the two site plan reviews, conforms to the LCP in that it meets all applicable residential development standards.
2. Evidence in the record demonstrates that as conditioned, the project will not result in biological impacts and has been designed to minimize site disturbance. There is no evidence that an alternative project would substantially lessen any potential significant adverse impacts of the development on the environment.

3. The project site does contain ESHA, and the required fuel modification zones will extend into the required ESHA Buffer. The proposed project was reviewed by the City Biologist and it was determined that the proposed project is exempt from review by the Environmental Review Board (ERB) because pursuant to LIP Section 4.4.4(D), new structures and landscaping proposed within the permitted graded pad or permitted development area if there is no graded pad, authorized in a previously approved coastal development permit do not need to be reviewed by the ERB. The California Coastal Commission (CCC) issued CDP No. 5-90-1068 to allow for the subdivision of the subject parcel into four lots and 16,439 cubic yards of grading to create building pads. The proposed development is taking place in an area previously approved for a building pad.

B. Variance for the reduction in the required Scrub ESHA Buffer (LIP – Section 13.26.5)

1. ESHA vegetation is present on the subject parcel. The applicant has researched various alternatives that would allow development of the subject lot comparable to neighboring properties. The current design places development within a previously approved building pad and utilizes an existing access road which will be improved as part of the subject CDP. Building pads were approved as part of CCC issued CDP No. 5-90-1068. Due to the topography and geological constraints of the subject parcel, it is not possible to locate the development and its associated fuel modification zones in a manner that would meet the required scrub ESHA setback. The proposed siting of the proposed residence creates the least amount of impact to ESHA and the site. If the proposed structure were to be moved to another location on the project site, additional grading for landform alteration would be required to create a new building pad and access driveway. Granting of this variance would allow for development similar to development on other parcels in the area while still minimizing impacts to ESHA.

2. The project will meet all applicable building and engineering safety codes and will not be detrimental to other adjacent properties or improvements. The proposed variance will allow for the construction of a single-family residence and associated development in an area that has been determined to be appropriate for such use, and will not be detrimental to the public’s interest, safety, health or welfare in that all required permits are required to be secured as a condition of this CDP. As stated previously, the proposed project has been reviewed and approved by the LACFD, the City Public Works Department, City Environmental Health Administrator, City Biologist, and the City Geologist. The project, as proposed or conditioned, was found to be consistent with applicable City goals and policies.

3. Granting of the variance will not constitute a special privilege to the applicant or property owner because other properties in the immediate vicinity are developed similarly. Since the applicant is proposing to develop a single-family residence consistent with the use allowed by the zoning district, granting the variance does not constitute a special privilege to the property owner. Neighboring development also abuts the surrounding ESHA and their associated fuel modification zones encroach into ESHA.

4. The granting of the variance is not contrary to or in conflict with the general purposes or intent of the LCP in that granting the variance will allow for construction of a single-family residence in the RR-10 zoning district.
5. Development on the subject parcel will result in development that requires the reduction of scrub ESHA buffer setback; however, the development will be located on a previously approved building pad and only the fuel modification zones encroach into ESHA. The granting of this variance will allow for the approval of a residence, as well as associated grading, landscaping, and an addition to that residence. Additionally, the proposed development does not exceed the allowable 10,000 square foot development envelope. Given that the project will minimize additional site disturbance, the proposed project will have the least amount of impacts to the ESHA.

6. The proposed project includes a single-family residence, which is an allowed use in the RR-10 zoning district in which the project is located. The proposed variance to allow for a reduction in the required scrub ESHA setback does not authorize a use or activity that is not expressly authorized by the zoning regulations for the subject property.

7. The granting of the variance will allow for the construction of a residence that is compatible with the surrounding neighborhood. Furthermore, with the implementation of the geotechnical standards specified by the applicant’s geotechnical consultant, the proposed residence can be constructed in a way that will not result in instability of the site. Given the topography and shape of the subject parcel, the existing building pad that was previously improved provides the best location for development. Therefore, the subject site is physically suitable for the proposed variance.

8. The variance complies with all requirements of state and local law. Construction of the proposed improvements will comply with all building code requirements and will incorporate all recommendations from applicable City departments and agencies. All required permits for the proposed development will be secured.

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

1. The applicant has proposed to build a new two-story single-family residence that will be 28 feet above existing grade at its highest point with a pitched roof. As discussed herein, the project has been reviewed for all relevant policies and provisions of the LCP.

2. The project site is located along the southern side of Murphy Way. Story poles were installed in April 2016 to demonstrate that the project is compatible with the rural nature of the surrounding development. The residences surrounding the subject parcel are developed as two-story residential structures with accessory development. The larger lots share setbacks similar to those proposed in the project, while the smaller lots located to the north of the property feature much smaller setbacks. In addition, the site’s topography descends from Murphy Way. Similar to the neighboring development, the proposed development will be shielded from views by the slope located on the subject property that exists between the building pad and Murphy Way. This will allow structures to the north of the subject property to look over the proposed development towards the ocean to the south. The project complies with all development standards. Therefore, the project is not anticipated to adversely affect neighborhood character.

3. The proposed development is located on a site that descends from Murphy Way and does not meet the definition of a primary or secondary ridgeline. The subject property is 12 acres in size. Because of the slope on the existing property, proposed landscaping, and the characteristics of the surrounding neighborhood, bluewater views will be maintained over the existing development. Furthermore, the site of development has been located downslope and approximately 200 feet away from
Murphy Way to help preserve bluewater views. Due to the location and design of the project and the implementation of standard conditions of approval, the project is expected to have less than significant impacts to scenic vistas and provides the maximum feasible protection to significant public views as required by LIP Chapter 6.

4. The proposed project will comply with all applicable requirements of state and local law and is conditioned to comply with any relevant approvals, permits and licenses from the City of Malibu and other related agencies, such as the LACFD.

5. As discussed previously, the proposed project, with the inclusion of the two site plan reviews and the variance, is consistent with the LCP in that the proposed project is located in an area that has been identified for residential use. The goals and policies of the General Plan are intended to maintain residential character in this area, and the project is consistent with these goals. The proposed project is consistent with the LCP in that it conforms to the residential land use designation and all applicable development standards. In addition, the project resolution contains materials and lighting conditions to which the project must comply with.

6. Based on the visual impact analysis (story pole placement), staff determined that the proposed development will not result in impacts to neighboring residences’ bluewater views. No surrounding property owners have contacted staff since the placement of the story poles or the mailing of the courtesy notice. Based on the visual analysis, as well as site inspections, it is expected that the project will not obstruct visually impressive scenes of the ocean from primary viewing areas of surrounding residences.

D. Site Plan Review for Remedial Grading (LIP Section 13.27)

1. The project includes 1,248 cubic yards of remedial grading and has been reviewed for all relevant policies and provisions of the Malibu LCP. Based on submitted reports, visual impact analysis, and detailed site investigations, the project is consistent with all policies and provisions of the Malibu LCP. Furthermore, the geotechnical reports that recommend remedial grading were reviewed by the City’s geotechnical staff and it was determined that the proposed remedial grading was required and complied with the City’s geotechnical guidelines.

2. The project is compatible with other development in the adjacent area in that the neighborhood is primarily residentially developed. The proposed remedial grading will stabilize onsite soil conditions as well as add to the stability of surrounding properties. In addition, the area of landslide debris will be restored, with no structures being developed in the areas where remedial grading is taking place. It is not expected that the project will adversely affect neighborhood character.

3. This project consists of the construction of a new single-family residence and associated development. As part of the site preparation there is an area on the property that contains landslide debris. The area in which the remedial grading will take place will not be used for development but will be restored with groundcover; and therefore, the remedial grading will not impact public views.

4. The proposed project has received LCP conformance review from the City Biologist, City geotechnical staff, and the City Public Works Department. The project must also be approved by the City of Malibu Building Safety Division, prior to issuance of City building permits. The proposed project complies with all applicable requirements of state and local law.
E. Environmentally Sensitive Habitat Area Overlay (LIP Chapter 4)

1. A Biological Assessment for the project site was completed by Nelson and Associates during November 2014. The Biological Assessment states that there were no special-status plant or wildlife species present on the site. In addition, the Biological Assessment states that the proposed development will be located on a previously approved building pad and area where grading was approved as part of a CCC issued CDP and only the required fuel medication zones will intrude into the mapped ESHA areas. The property contains scrub ESHA and given the topography and geological of the property the site of development is limited and the development restrictions that apply to ESHA would not permit the construction of a residence on this parcel. This is because it is not possible to site any structure on the property without having the necessary fuel modification zones encroach into the onsite ESHA.

2. The proposed single-family residence is consistent with the property’s RR-10 zoning designation. In addition, the proposed structure is outside the required 100-foot ESHA buffer.

3. The proposed project is consistent with all provisions of Malibu’s certified LCP, with the exception of the ESHA setbacks. Section 4.7 of the LIP provides for reasonable, economically viable use of properties that could otherwise not be developed due to ESHA constraints. The proposed new residence is consistent with Sections 4.7.1 of the LIP, which limits development area to a 10,000 square foot development envelope. In addition, conditions requiring mitigation for the ESHA disturbance have been included in this resolution.

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

1. There is no feasible development site location on the proposed project site where development would not have potential to be visible from Debutts Terrace Trail since it looks down on the site. Because of the topography of the area and building pad’s distance from the Escondido Falls Trail (approximately 1,100 feet), the project is not expected to have significant adverse visual impacts on the trail. Given the surrounding topography, there are no views of the beach; views of the coast and are still maintained over the subject property by the proposed development based on review of the story poles. In addition, the subject property is not visible from PCH because of the topography and surrounding development in the project area. Therefore, the project as conditioned will not have significant adverse scenic or visual impacts due to the project design, location or other reasons.

2. The project will not have significant adverse impacts on scenic or visual impacts.

3. The project, as designed, constructed, and conditioned, is the least environmentally damaging alternative.

4. The project is not expected to have any significant adverse impacts on scenic and visual resources, and ESHA impacts have been minimized.

J. Hazards (LIP Chapter 9)

1. City geotechnical staff determined that the proposed project is not anticipated to result in potential adverse impacts on site stability or structural integrity and the Public Works Department determined the project is not in a flood hazard area. The reports conclude that the proposed development is suitable for the site and, if their recommendations are followed, the development will be safe from
geologic hazard. Based on review of the project and associated technical submittals, on September 2, 2015, City geotechnical staff approved the project, subject to conditions. All recommendations of the consulting certified engineering geologist or geotechnical engineer and/or City geotechnical staff shall be incorporated into all final design and construction including foundations, grading, sewage disposal and drainage. Final plans shall be reviewed and approved by City geotechnical staff prior to the issuance of a grading permit.

2. The project as designed, conditioned, and approved by City geotechnical staff and City Public Works Department, does not have any significant adverse impacts on the site stability or structural integrity from geologic, flood or fire hazards due to the project design.

3. The project, as designed, constructed, and conditioned, is the least environmentally damaging alternative.

4. The project as designed, and conditioned, and approved by City geotechnical staff and City Public Works Department does not have any significant adverse impacts on the site stability or structural integrity.

5. The project, as designed, constructed, and conditioned, is not expected to have adverse impacts to sensitive resources.


Based on the foregoing findings and evidence contained within the record, the Planning Commission hereby approves CDP No. 11-046, VAR No. 16-011 and SPR Nos. 16-017 and 16-018, 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 following:

a. Construction of a new 10,887 square foot, two-story, single-family residence
   i. 6,902 square foot first floor;
   ii. 3,093 square foot second floor;
   iii. 1,565 square foot subterranean garage (283 square feet are considered total development square footage (TDSF))
   iv. Covered decks and entry, 852 square feet (included in TDSF)

b. AOWTS;

c. ESHA mitigation;

d. Landscaping;
e. Driveway and hardscape;
f. Planters with landscaping;
g. Swimming Pool;
h. Spa;
i. Mechanical equipment area;
j. Outdoor barbeque area;
k. Retaining walls up to six feet in height;
l. VAR No. 16-011 to reduce the required scrub ESHA buffer;
m. SPR No. 16-017 for construction in excess of 18 feet in height to allow for a pitched roof that is 28 feet in height; and
n. SPR No. 16-018 to allow for 1,248 cubic yards of remedial grading.

3. Subsequent submittals for this project shall be in substantial compliance with plans on-file with the Planning Department, date-stamped March 23, 2016. 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 applicant shall submit three (3) complete sets of plans to the Planning Department for consistency review and approval prior to plan check 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 July 18, 2016, Planning Commission 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 of Malibu Environmental Sustainability Department for plan check.

7. This 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 development shall conform to requirements of the City of Malibu Environmental Sustainability Department, City geotechnical staff, City Biologist, City Public Works Department, LACFD, and City Environmental Health Administrator, 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 MMC 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 CDP approved by the City is void.

**Cultural Resources**

12. 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.

13. 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.

**Geology**

14. All recommendations of the consulting certified engineering geologist or geotechnical engineer and/or the City geotechnical staff 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 Geotechnical staff prior to the issuance of a grading permit.

15. Final plans approved by the City geotechnical staff shall be in substantial conformance with the approved CDP relative to construction, grading, sewage disposal and drainage. Any substantial changes may require amendment of the CDP or a new CDP.

**Grading / Drainage**

16. Grading permits shall not be issued between November 1 and March 31 each year pursuant to LIP Section 17.2.1. Clearing and grading during the rainy season (extending from November 1 to March 31) shall be prohibited for development that is located within or adjacent to ESHA or includes grading on slopes greater than 4 to 1. Approved grading for development that is located within or adjacent to ESHA or on slopes greater than 4 to 1 shall not be undertaken unless there is sufficient time to complete grading operations before the rainy season. If grading operations are not completed before the rainy season begins, grading shall be halted and temporary erosion control measures shall be put into place to minimize erosion until grading resumes after March 31, unless the City determines that completion of grading would be more protective of resources.

17. Exported soil from a site shall be taken to the Los Angeles County Landfill or to a site with an active grading permit and the ability to accept the material in compliance with LIP Section 8.3. A note shall be placed on the plans addressing this condition.
18. 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 with a 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.

19. A digital drawing (AutoCAD) of the project’s private storm drain system, public storm drain system within 250 feet of the property limits, and post-construction best management plans (BMPs) shall be submitted to the Public Works Department prior to the issuance of building permits. The digital drawing shall adequately show all storm drain lines, inlets, outlets, post-construction BMPs and other applicable facilities. The digital drawing shall also show the subject property, public or private streets, and any drainage easements.

20. The ocean between Latigo Point and the West City limits has been established by the State Water Resources Control Board as an Area of Special Biological Significance (ASBS) as part of the California Ocean Plan. This designation allows discharge of storm water only where it is essential for flood control or slope stability, including roof, landscape, road and parking lot drainage, to prevent soil erosion, only occurs during wet weather, and is composed of only storm water runoff. The applicant shall provide a drainage system that accomplishes the following:
   a. Installation of BMPs that are designed to treat the potential pollutants in the storm water runoff so that it does not alter the natural ocean water quality. These pollutants include trash, oil and grease, metals, bacteria, nutrients, pesticides, herbicides and sediment.
   b. Prohibits the discharge of trash.
   c. Only discharges from existing storm drain outfalls are allowed. No new outfalls will be allowed. Any proposed or new storm water discharged shall be routed to existing storm drain outfalls and shall not result in any new contribution of waste to the ASBS (i.e. no additional pollutant loading).
   d. Elimination of non-storm water discharges.
21. A Storm Water Pollution Prevention Plan shall be provided prior to the issuance of the Grading/Building permits for the project. This plan shall include an Erosion and Sediment Control Plan (ESCP) that includes, but not limited to:

<table>
<thead>
<tr>
<th>Erosion Controls</th>
<th>Hydraulic Mulch</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Hydroteening</td>
</tr>
<tr>
<td></td>
<td>Soil Binders</td>
</tr>
<tr>
<td></td>
<td>Straw Mulch</td>
</tr>
<tr>
<td></td>
<td>Geotextiles and Mats</td>
</tr>
<tr>
<td></td>
<td>Wood Mulching</td>
</tr>
<tr>
<td>Sediment Controls</td>
<td>Fiber Rolls</td>
</tr>
<tr>
<td></td>
<td>Gravel Bag Berm</td>
</tr>
<tr>
<td></td>
<td>Street Sweeping and/or Vacuum</td>
</tr>
<tr>
<td></td>
<td>Storm Drain Inlet Protection</td>
</tr>
<tr>
<td></td>
<td>Scheduling</td>
</tr>
<tr>
<td></td>
<td>Check Dam</td>
</tr>
<tr>
<td>Additional Controls</td>
<td>Wind Erosion Controls</td>
</tr>
<tr>
<td></td>
<td>Stabilized Construction Entrance/ Exit</td>
</tr>
<tr>
<td></td>
<td>Stabilized Construction Roadway</td>
</tr>
<tr>
<td></td>
<td>Entrance/ Exit Tire Wash</td>
</tr>
<tr>
<td>Non-Stormwater Management</td>
<td>Vehicle and Equipment Washing</td>
</tr>
<tr>
<td></td>
<td>Vehicle and Equipment Fueling</td>
</tr>
<tr>
<td></td>
<td>Vehicle and Equipment Maintenance</td>
</tr>
<tr>
<td>Waste Management</td>
<td>Material Delivery and Storage</td>
</tr>
<tr>
<td></td>
<td>Spill Prevention and Control</td>
</tr>
</tbody>
</table>

All BMPs shall be in accordance to the latest version of the California Stormwater Quality Association (CASQA) BMP Handbook. Designated areas for the storage of construction materials, solid waste management, and portable toilets must not disrupt drainage patterns or subject the material to erosion by site runoff.

22. 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 BMPs 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.

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.

21. A state construction activity permit is required for this project due to the disturbance of more than one acre of land for development. Provide a copy of the letter from the State Water Quality Control Board containing the WDID number prior to the issuance of grading or building permits.

22. Prior to the approval of any permits and prior to the applicant submitting the required Construction General Permit documents to the State Water Quality Control Board, the applicant shall submit to the Public Works Department for review and approval an Erosion and Sediment Control Plan (ESCP). The ESCP shall contain appropriate site-specific construction site BMPs and shall be developed and certified by a Qualified SWPP Developer (QWD). All structural BMPs must be designed by a licensed California Engineer. The ESCP must address the following elements:

a. Methods to minimize the footprint of the disturbed area and to prevent soil compaction outside the disturbed area.

b. Methods used to protect native vegetation and trees.

c. Sediment/Erosion Control.

d. Controls to prevent tracking on and off the site.

e. Non-storm water controls.

f. Material management (delivery and storage).

g. Spill prevention and control.

h. Waste management.

i. Identification of site Risk Level as identified per the requirements in Appendix 1 of the Construction General Permit.

j. Landowner must sign the following statement on the ESCP:

"I certify that this document and all attachment were prepared under my direction or supervision in accordance with a system designed to ensure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering the information, to the best of my knowledge and belief, the information submitted is true, accurate and complete. I am aware that submitting false and/or inaccurate information, failing to update the ESCP to reflect current conditions, or failing to properly and/or adequately implement the ESCP may result in revocation of grant and/or other permits or other sanctions provided by law."
25. The developer’s consulting engineer shall sign the final plans prior to the issuance of permits.

Construction/Framing

26. A construction staging plan shall be submitted for review and approval by the Planning Department and Building Safety Division prior to permit issuance.

27. 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.

28. 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.

29. 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 the Planning Department for review and sign off on framing.

30. 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.

Lighting

31. Exterior lighting shall be minimized, shielded, or concealed and restricted to low intensity features, so that no light source is directly visible from public view. 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 and are directed downward, and limited to 850 lumens (equivalent to a 60 watt incandescent bulb);
   b. Security lighting controlled by motion detectors may be attached to the residence provided it is directed downward and is limited to 850 lumens;
   c. Driveway lighting shall be limited to the minimum lighting necessary for safe vehicular use. The lighting shall be limited to 850 lumens;
   d. Lights at entrances as required by the Building Code shall be permitted provided that such lighting does not exceed 850 lumens;
   e. Site perimeter lighting shall be prohibited; and
   f. Outdoor decorative lighting for aesthetic purposes is prohibited.

32. Night lighting for sports courts or other private recreational facilities shall be prohibited.
33. 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.

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

Colors and Materials

35. The project is visible from scenic roads or public viewing areas, 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.

36. All driveways shall be a neutral color that blends with the surrounding landforms and vegetation. Retaining walls shall incorporate veneers, texturing and/or colors that blend with the surrounding earth materials or landscape. The color of driveways and retaining walls shall be reviewed and approved by the Planning Director and clearly indicated on all grading, improvement and/or building plans.

Onsite Wastewater Treatment System

37. 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 the AOWTS.

38. 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).

39. 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 final AOWTS design drawings shall be submitted to the City Environmental Health Administrator with the designer’s wet signature, professional registration number and stamp.

40. Any above-ground equipment associated with the installation of the AOWTS shall be screened from view by a solid wall or fence on all four sides. The fence or walls shall not be higher than 42 inches tall.

41. The final 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. 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 AOWTS 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 AOWTS 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 Division). Note: For AOWTS final designs, full-size plans are required for review by the Building Safety Division and/or the Planning Department.
   e. H2O Traffic Rated Slab: Submit plans and structural calculations for review and approval by the Building Safety Division prior to Environmental Health final approval.
42. A covenant running with the land shall be executed by the property owner and recorded with the Los Angeles County Recorder’s Office. Said covenant shall serve as constructive notice to any successors in interest that: 1) the private sewage disposal system serving the development on the property does not have a 100 percent expansion effluent dispersal area (i.e., replacement disposal field(s) or seepage pit(s)), and 2) if the primary effluent dispersal area fails to drain adequately, the City of Malibu may require remedial measures including, but not limited to, limitations on water use enforced through operating permit and/or repairs, upgrades or modifications to the private sewage disposal system. The recorded covenant shall state and acknowledge that future maintenance and/or repair of the private sewage disposal system may necessitate interruption in the use of the private sewage disposal system and, therefore, any building(s) served by the private sewage disposal system may become non-habitable during any required future maintenance and/or repair. Said covenant shall be in a form acceptable to the City Attorney and approved by the Environmental Sustainability Department.

43. Proof of ownership of subject property shall be submitted to the City Environmental Health Administrator.

44. 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.

45. 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.

46. 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 (MPC), Appendix K, Section 10). 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.

47. The City geotechnical staff and Geotechnical Engineer’s final approval shall be submitted to the City Environmental Health Administrator.

48. In accordance with MMC Chapter 15.14, an application shall be made to the Environmental Sustainability Department for an OWTS operating permit.

Biology/Landscaping

49. The Maximum Applied Water Allowance (MAWA) for this project totals 469,970 gallons per year. The Estimated Applied Water Use (EAWU) totals 326,540 gpy, thus meeting the Landscape Water Conservation Ordinance Requirements.
Pursuant to LIP Section 4.8.1, all new development shall include mitigation for unavoidable impacts to ESHA from the removal, conversion, or modification of natural habitat for new development, including required fuel modification and brush clearance. The proposed project will result in 24,000 sf (0.55 acres) of permanent impacts (Development footprint and/or Fuel Modification Zones A and/or B) to ESHA and 72,000 sf (1.65 acres) of partial impacts (Fuel Modification Zone C). One of the following three Habitat Impact Mitigation methods shall be required: 1) habitat restoration; 2) habitat conservation; or 3) in-lieu fee for habitat conservation. The CDP shall include conditions setting forth the requirements for habitat mitigation. Prior to grading permit issuance the applicant shall provide either a detailed restoration plan, a habitat conservation plan, or evidence of payment of in-lieu fees to the Santa Monica Mountains Conservancy.

Prior to Final Plan Check Approval, please provide landscape water use approval from the Los Angeles County Waterworks District No. 29.

Vegetation forming a view impermeable condition (hedge), serving the same function as a fence or wall, occurring within the side or rear yard setback shall be maintained at or below six (6) feet in height. View impermeable hedges occurring within the front yard setback serving the same function as a fence or wall shall be maintained at or below 42 inches in height.

Invasive plant species, as determined by the City of Malibu, are prohibited.

Vegetation shall be situated on the property so as not to obstruct the primary view from private property at any given time (given consideration of its future growth).

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

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

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

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 active 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.

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.

Necessary boundary fencing shall be of an open rail-type design with a wooden rail at the top (instead of wire), be less than 40 inches high, and have a space greater than 14 inches between the
ground and the bottom post or wire. A split rail design that blends with the natural environment is preferred.

61. Prior to issuing a certificate of occupancy, the City Biologist shall inspect the project site and determine that all planning conditions to protect natural resources are in compliance with the approved plans.

**Water Quality/ Water Service**

62. 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.

**Swimming Pool / Spa / Water Feature**

63. On-site noise, including that which emanates from swimming pool and air conditioning equipment, shall be limited as described in MMC Chapter 8.24 (Noise).

64. Pool and air conditioning equipment that will be installed shall be screened from view by a solid wall or fence on all four sides. The fence or walls shall comply with LIP Section 3.5.3(A).

65. All swimming pools shall contain double walled construction with drains and leak detection systems capable of sensing a leak of the inner wall.

66. The discharge of swimming pool, spa and decorative fountain water and filter backwash, including water containing bacteria, detergents, wastes, alagecides or other chemicals is prohibited. Swimming pool, spa, and decorative fountain water may be used as landscape irrigation only if the following items are met:
   a. The discharge water is dechlorinated, debrominated or if the water is disinfected using ozonation;
   b. There are sufficient BMPs in place to prevent soil erosion; and
   c. The discharge does not reach into the MS4 or to the ASBS (including tributaries)

Discharges not meeting the above-mentioned methods must be trucked to a Publicly Owned Wastewater Treatment Works.

67. The applicant shall also provide a construction note on the plans 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 MMC 13.04.060(D)(5).” The new sign shall be posted in the filtration and/or pumping equipment area for the property. Prior to the issuance of any permits, the applicant shall indicate the method of disinfection and the method of discharging.

68. Pursuant to MMC Section 9.20.040(B), all ponds, decorative fountains shall require a water recirculating/recycling system.
Fencing and Walls

69. The applicant shall include an elevation of the proposed electronic driveway gate on the architectural plans that are submitted for building plan check. The gate and all fencing along the front property line shall comply with the regulations set forth in LIP Section 3.5.

70. The height of fences and walls shall comply with LIP Section 3.5.3(A). No retaining wall shall exceed six feet in height or 12 feet in height for a combination of two or more walls.

71. Necessary boundary fencing shall be of an open rail-type design with a wooden rail at the top (instead of wire), be less than 40-inches high, and have a space greater than 14-inches between the ground and the bottom post or wire. A split rail design that blends with the natural environment is preferred.

72. Fencing or walls shall be prohibited within ESHA, except where necessary for public safety or habitat protection or restoration. Fencing or walls that do not permit the free passage of wildlife shall be prohibited in any wildlife corridor.

Deed Restrictions

73. The property owner is required to execute and record a deed restriction which shall indemnify and hold 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.

74. Prior to final planning approval, the applicant shall be required to execute and record a deed restriction reflecting Lighting conditions. The property owner shall provide a copy of the recorded document to Planning Department staff prior to final planning approval for issuance of grading permits.

Site Specific Conditions

75. Prior to the issuance of any development permit, the applicant/property owner shall provide a pre-construction assessment of the existing condition of Winding Way to the subject parcel. A copy of this assessment shall be kept on file with the City. The applicant/property owner shall be responsible for repairs of any damage to the road that may result during the construction phase of the proposed project. Any obvious damage to the road that becomes apparent during the construction phase (including, but not limited to, pot holes, cracks and ripples) shall be immediately repaired by the applicants/property owner. Prior to a Planning Department final inspection, the applicant/property owner shall submit a post-construction assessment of the road to demonstrate compliance with this condition. A photo survey shall be utilized to complete this assessment.
Prior to Occupancy

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

77. The applicant shall request a final planning inspection prior to final inspection by the City's Building Safety Division. A Certificate of Occupancy shall not be issued until the Planning Department has determined that the project complies with this coastal development permit. 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.

78. 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

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

80. 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 18th day of July 2016.

ROOHI STACK, 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. Appeal forms may be found online at www.malibucity.org, in person at City Hall, or by calling (310) 456-2489, ext. 245.
I CERTIFY THAT THE FOREGOING RESOLUTION NO. 16-51 was passed and adopted by the Planning Commission of the City of Malibu at the Regular meeting held on the 18th day of July 2016 by the following vote:

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

KATHLEEN STECKO, Recording Secretary
TIME EXTENSION REQUEST
The City of Malibu will not accept incomplete applications.

To submit a time extension request:

This time extension request must be timely received by the Planning Department either in person or by mail addressed to City of Malibu, Attn: Planning Department, 23825 Stuart Ranch Road, Malibu, CA 90265.

The request letter must be received PRIOR to the expiration date listed in the Notice of Decision or Planning Commission Resolution.

Project No.: CDP 11-046
Site Address: 6050 Murphy Way, Malibu

ALL of the following must be timely filed to perfect a time extension request.

1. Time Extension Checklist
   This form with property owner’s signature

2. Time Extension Request Letter
   A letter setting forth due cause for the Planning Director / Commission to grant the time extension.

3. Time Extension Fee ($506)

4. Property Owner’s /Occupant’s Information
   Has the property owner or commercial occupant changed since the Planning Commission/ Planning Director granted the time extension? □ YES □ NO
   If YES, Change of Property Owner/Occupant Fee applicable.
   Property Owner’s mailing Address: ____________________________________________
   Property Owner’s telephone: ________________________________________________
   Property Owner’s email address: ____________________________________________
AUTHORIZATION TO SUBMIT A PROJECT

KATHLEEN RASMUSEN (print name) is authorized by me/us as the owner(s) of the property located at 6050 Murphy Way, Malibu, to submit an application to and obtain permits from the City of Malibu Planning Department and to act on my/our behalf of the process that applicant. This authorization will be valid until revoked by me/us in writing.

This form must be notarized if not witnessed by City of Malibu staff.

Witnessed by:

Dated: 3/13/2020

Witness Signature (Staff)

I hereby certify that the time extension request submittal contains all of the above items. I understand that if any of the items are missing or subsequently deficient, the time extension shall be deemed to have been withdrawn and the project approval will expire. I acknowledge that the City strongly encourages me to immediately calendar the expiration date of this permit, that it is my responsibility to monitor its status and that the City has no ability to provide relief when a permit has expired.

Property Owner’s Signature

Print Property Owner’s Name

Date 3-13-2020
Ms. Bonnie Blue  
Director of Planning  
Malibu, CA 90265  

March 13, 2020  

RE: 6050 Murphy Way - CC # 18-390  

Dear Bonnie,  

We respectfully request a hearing and the extension of our Coastal Development Permit for 6050 Murphy Way CC # 18-390. It is our understanding at our hearing on October 14, 2019 that our current permit was extended for six months and will expire on July 18, 2020.  

As you know, because of significant health challenges and near death issues over the last three years, Dean has been unable to work on this project. Therefore, we have been working in partnership with Tim Raison and his architect Brian Biglin and have made significant progress in the process of receiving our building and grading permits. Brian and his team have worked closely with your offices and California Code Check. We believe that we are in the home stretch of receiving our permits and have expended significant amounts of time and money in this process.  

In addition and critical is the fact that our grading plan will expire on April 2, 2020 and we wish to get on the calendar so that we may get it extended at least until our CDP expires on July 18, 2020.  

It is our request that we be granted another one year extension which we believe will be more than sufficient to complete the permitting process.  

Thank you for your assistance in the matter,  

Best regards,  

C. Dean Rasmussen  
Kathleen M. Rasmussen  
818-468-7959
May 28, 2020

Richard Mollica
City of Malibu Planning Dept.
rmollica@malibucity.org

Re: 6050 Murphy Way extension request

Dear Richard:

Please see my arguments for a time extension below.

Overview

First, it is relevant to note that the first one year extension was approved three months after the end of the initial time period for starting construction had expired, and that during that three months the City would not process the construction plans, so the one-year extension actually provided only nine additional months to gain approval of the construction plans, obtain building permits and start construction; this is a short time given that the City staff, who must approve the construction plans, are spending much of their time reviewing plans for victims of the Woolsey Fire. I believe this is why the City staff recommended a two-year time extension.

The following information will explain why an additional extension is justified.

Justification #1

In February, after all construction plans for the house had already been completed and submitted for plan check to the City, the County Water Department changed the water hydrant fire flow and the Fire Department required the house to be reduced in size; this process required new structural plans, grading plans, etc., and delayed the project by more than three months.

Detailed explanation:

The original house was approved by the Planning Commission on July 18, 2016, and the owner moved forward with the final construction and grading plans. The building/construction plans for the proposed house were submitted to the City for plan checking by California Code Check within a week after the first extension was granted; the architect lost no time. The plans were checked and sent back to the architect. The architect was working on making the corrections when the Los Angeles County Fire Department said that there had been some issues with the fire flow in the Winding Way and Murphy Way area since the 2016 approval, and the Fire Department wanted the County Water Department to verify the required 1500 gallons per minute for a duration of two hours at 20 psi. The project architect immediately contacted the County Water
Department and requested an update. The County Water Department got back to the project architect stating that they had conducted some flow modeling in the area and that the model showed a flow rate of 1400 GPM instead of 1500 GPM. This change in fire flow would require the size of the house to be reduced from what was approved.

The owner, buyer and architect did not want the house design to be changed, so the architect ordered an actual flow test. On February 20, 2020 the flow test was performed and the news was not good; the flow test could justify only 1400 gallons per minute and the house design would have to be revised to be smaller (see Exhibit A, attached). In fact, the Fire Department required the house to be reduced in size by 1185 ft.² in accord with their house size calculation which is different from the City’s method of calculating house size.

The architect spent more than three months redesigning the home to meet the Fire Department’s requirements for a smaller house and getting the property owner, Mr. Rasmussen, and the buyer to agree to the changes, and then having the structural engineer, the civil engineer, and geologist review the plans and provide addendums to their reports. The owner, Mr. Rasmussen, is 77, and after 17 years of suffering from Parkinson’s disease and two recent back surgeries he is in very poor health, and the COVID-19 shelter-in-place laws have made it difficult for the architect to explain the changes to the house and obtain Mr. Rasmussen’s approval. * It is important to note that the construction plans were completed and submitted for plan check before the fire flow reduction was discovered and the house had to be re-designed; no person could have anticipated this event, and it delayed the processing of the construction plans and building permits by more than three months.

**Justification #2**

After the delays caused by the change in the water flow from the fire hydrant and the resulting required change in the house size, the County, including the City of Malibu was shut down due to the COVID-19 virus pandemic, and this fact substantially delayed the architect’s efforts to obtain a building permit for the redesigned house. For example, before March 16, 2020 I could arrive at the City geologist’s public counter at City Hall at 8 AM on any Tuesday or Thursday and discuss the various options that may resolve the concerns he has expressed about a project in his latest review letter; during our face-to-face meeting we could discuss the various options available to resolve his concerns and he would specify the option he thought was the best alternative, so I could re-submit within a week, and many times get an approval within a week to 10 days. Note: it can now take 4 to 6 weeks to get the same approval. With respect to the Public Works department it does not matter how minor the correction is; when the correction is submitted it goes directly to the back of the queue and could take a month or more to get reviewed, and now with the restrictions caused by the COVID-19 virus the review time periods are all at least double and sometimes triple what they were previously.
The time extension granted by the Planning Commission should be a minimum of the months that have been lost due to the above referenced change in the fire flow, starting in January 2020 and up until four months after City Hall is fully open and architects, engineers, and applicants are free to meet face-to-face with the City's geologist, soils engineer, Health Department, Public Works, etc. i.e. a minimum of one year.

**Justification #3**

At the age of 77 and after 17 years of suffering from Parkinson's disease, Mr. Rasmussen is in the late stages of the disabling disease, which is, in fact, the reason he decided to sell the subject property so that he could live in a house that is closer to a major hospital. Although the fact that Mr. Rasmussen has Parkinson's disease is not new, at this stage of the disease it is very debilitating and requires him more time to make decisions involving numerous options; every time there is a change in the project, similar to the above referenced Fire Department's demand that the house be re-designed to be smaller, it requires the owner to agree, and it requires time for Mr. Rasmussen to speak with his lawyer and other advisers. A decision that I can make in a day may require a week or two for the owner to make.

**Justification #4**

Granting an additional 9 to 12 month extension will save precious City Staff time during a time when the Staff is struggling trying to process Woolsey Fire victim applications and all the other projects that have been delayed due to the COVID-19 virus shutdown. When there have been no changes in Malibu's development standards that would affect the proposed project there is simply no legitimate reason to force the applicant to start the process over again which will require Staff's time and the Planning Commission's time when the City is struggling to process all of the projects that were submitted years ago. The City has important issues to resolve which require serious work; demanding that the subject house be resubmitted is a waste of time for the City staff and is unreasonably punitive to the applicant. I believe saving Staff's time and the Commissions' time when there is no downside to granting the requested extension does qualify as "good cause".

Sincerely,

Norman R. Haynie
Owner's Representative
Hi Brian,

Some additional research was required for all the properties in the Winding Way/Murphy Way pressure zone requesting fire flow documentation, but I am hoping that everything is finalized and I can get our area engineer to sign off on the form this week. Once it’s ready, I will let you know when you can come to our Malibu office to pick up. Please let me know if you have any questions in the meantime.

Thanks,

Nima Parsa
Principal Civil Engineering Assistant
Los Angeles County Public Works
(310) 317-1389
Thank you for the below information.

Attached is a previous approved Fire flow for 1500 GPM. Has something change since then? Could you let me know the hydrant location you are providing information for.

Also, can we have the fire hydrant tested by a third party?

Best Regards,

Brian Biglin | AIA, NCARB
President
Biglin Architectural Group
31312 Via Colinas, Suite 110, Westlake Village, CA 91362 | t. 818.706.2202 x.115| f. 818.706.2211| biglingroup.com

---

From: Nima Parsa <nparsa@dpw.lacounty.gov>
Sent: Monday, January 27, 2020 8:28 AM
To: Brian Biglin <brian@biglingroup.com>
Cc: Roberto Paz <roberto@biglingroup.com>; Fabiola Tejeda <fabiola@biglingroup.com>; Paul Van Suchtelen <pvansuchtelen@dpw.lacounty.gov>
Subject: RE: 6050 Murphy Way FFA Form 195

Hi Brian,

Please see attached for the memo billing invoice for your fire flow request. The form is ready for pickup at our Malibu office upon payment (23533 Civic Center Way). Please note that the fire flow available from the nearest hydrant is 1,400 GPM for 1 hour, which is less than the 1,500 GPM required by the FD. Let me know if you have any questions.

Thanks,

Nima Parsa
Principal Civil Engineering Assistant
Los Angeles County Public Works
(310) 317-1389
Good afternoon Fabiola and Brian,

I will be performing the physical flow test of the fire hydrant closest to this property tomorrow (Thursday 2/20) sometime between 7am-8am. If you would like to be present, please meet me on site. Let me know if you have any questions.

Thanks,

Nima Parsa
Principal Civil Engineering Assistant
Los Angeles County Public Works
(310) 317-1389
Hi Fabiola,

I performed the flow test this morning at 8:30am. The static pressure dropped from 130 PSI (static) to 85 PSI (residual) with a pitot reading of 22 PSI from the 2.5" diameter outlet of the hydrant in question. Based on these readings, it equates to a 1,339 GPM at 20 PSI residual. Although the results are less than the 1,400 GPM flow issued on the fire flow form (based on our hydraulic model), we would honor the 1,400 GPM flow on any new issued forms. Please let me know if you have any questions.

Thanks,

Nima Parsa
Principal Civil Engineering Assistant
Los Angeles County Public Works
(310) 317-1389
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, June 15, 2020, at 6:30 p.m.** on the project identified below via teleconference only in order to reduce the risk of spreading COVID-19, pursuant to the Governor’s Executive Orders N-25-20 and N-29-20 and the County of Los Angeles Public Health Officer’s Safer at Home Order.

**EXTENSION OF COASTAL DEVELOPMENT PERMIT NO. 11-046, VARIANCE NO. 16-011, AND SITE PLAN REVIEW NOS. 16-017 AND 16-018** - A request to extend the Planning Commission’s approval of Coastal Development Permit No. 11-046, an application for the construction of a new 10,605 square foot, two-story single-family residence including an attached guesthouse and subterranean garage, the total development square footage for the site is 10,887, onsite wastewater system, new driveway, of environmentally sensitive habitat area restoration, retaining walls, pool, spa, pool equipment, landscaping, patio with barbeque area, grading, and associated development, including a variance to reduce the required environmentally sensitive habitat area buffer, a site plan review for a roof height of 28 feet, and a site plan review to allow for remedial grading.

**LOCATION / APN / ZONING:**
6050 Murphy Way / 4467-004-028 / Rural Residential-Ten Acre (RR-10)

**APPLICANT / OWNER(S):**
Biglin Architectural Group / C.A. Rasmussen Co LLC

**APPEALABLE TO:**
City Council

**ENVIRONMENTAL REVIEW:**
Categorical Exemption CEQA Guidelines Sections 15303(e) and 15301(e)

**EXTENSION FILED:**
March 13, 2020

**CASE PLANNER:**
Jessica Thompson, Associate Planner, jthompson@malibucity.org
(310) 456-2489, ext. 280

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. 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.

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 contact 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 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.

**BONNIE BLUE,** Planning Director

**Date:** May 21, 2020