Commission Agenda Report

To: Chair Jennings and Members of the Planning Commission

Prepared by: Lilly Rudolph, Contract Planner

Approved by: Bonnie Blue, Planning Director

Date prepared: July 9, 2020  Meeting date: July 20, 2020

Subject: Conditional Use Permit No. 20-002 – An application to allow the onsite sale and consumption of beer and wine (ABC License Type 41) to patrons of a bona fide eating place (The Real Coconut)

Location: 23401 Civic Center Way, Unit 1A, not within the appealable coastal zone
APN: 4458-022-030
Owner: The Park at Cross Creek, LLC
Tenant: The Real Coconut/TRC Restaurant – Malibu LLC

RECOMMENDED ACTION: Adopt Planning Commission Resolution No. 20-48 (Attachment 1) determining the project is categorically exempt from the California Environmental Quality Act (CEQA), and approving Conditional Use Permit (CUP) No. 20-002 to allow a California Department of Alcoholic Beverage Control (ABC) License Type 41 (On-Sale Beer and Wine for Bona Fide Public Eating Place) to allow the onsite service of beer and wine, and authorizing the Planning Director to submit a letter of public convenience or necessity for the use located in the Commercial Visitor Serving-One (CV-1) zoning district and the Civic Center Northeast Specific Plan (CC-NE-SP) area at 23401 Civic Center Way (The Park at Cross Creek, LLC).

DISCUSSION: This agenda report provides a project overview, a summary of the surrounding land uses and project setting, description of the proposed project, staff’s analysis of the proposed project’s consistency with Malibu Municipal Code (MMC) and CC-NE-SP provisions, and environmental review pursuant to CEQA. The analysis and findings contained herein demonstrate the proposed project is consistent with the MMC and CC-NE-SP.
Project Overview

The proposed restaurant is located in the Park at Cross Creek shopping center and is subject to the development standards and permit procedures in the CC-NE-SP. The proposed project is to allow the onsite sale and consumption of beer and wine to patrons of an approved restaurant, The Real Coconut. A Planning Clearance was approved for the restaurant on June 3, 2019, and tenant improvements and a sign permit were also approved. The establishment is not considered formula retail.

Based on Planning Commission direction on similar CUP applications for onsite service of alcohol, staff added a condition of approval that requires the Planning Department to conduct a review of restaurant operations and compliance with conditions of approval to be presented to the Planning Commission five years after CUP approval.

Surrounding Land Uses and Project Setting

As shown in Figure 1, the subject property is located at 23401 Civic Center Way, at the northwest corner of the intersection of Civic Center Way and Cross Creek Road in the Civic Center area. Adjacent uses include a vacant parcel to the west (La Paz commercial site); commercial uses to the east (Anawalt Malibu Hardware and Supply, general commercial and office space, and the Southern California Edison building); an equestrian facility (Sycamore Farm) to the north, and a commercial office and retail center to the south (Malibu Country Mart). A building housing a stormwater treatment system operated by the City of Malibu adjoins the project site along its southern boundary. Located further to the north along Cross Creek Road is the neighborhood known as Serra Canyon, a community of 96 single-family residential properties. In addition, the Malibu Knolls neighborhood consists of 65 residential parcels situated on a crescent-shaped area above and surrounding the Civic Center Area. The average elevation of the neighborhood is 200 feet above the flat land below, and as such, is susceptible to noise from the commercial area below.
Table 1 below describes land uses adjacent to the subject property.

<table>
<thead>
<tr>
<th>Direction</th>
<th>Address</th>
<th>Lot Size</th>
<th>Zoning</th>
<th>Land Use</th>
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<tbody>
<tr>
<td>North</td>
<td>3661 Cross Creek Rd.</td>
<td>3.25 acres</td>
<td>CG</td>
<td>Equestrian facility</td>
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<tr>
<td></td>
<td>4458-022-024</td>
<td>8.6 acres</td>
<td>CC</td>
<td>Vacant (La Paz Ranch)</td>
</tr>
<tr>
<td>South (beyond Civic Center Way)</td>
<td>23410 Civic Center Way</td>
<td>2 acres</td>
<td>CV-1</td>
<td>Commercial (Malibu Country Mart)</td>
</tr>
<tr>
<td>West</td>
<td>4458-022-023</td>
<td>5.8 acres</td>
<td>TCO</td>
<td>Vacant (La Paz Ranch)</td>
</tr>
<tr>
<td>East</td>
<td>4458-022-029</td>
<td>0.8 acre</td>
<td>CV-1</td>
<td>Former Utility</td>
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<tr>
<td>East (beyond Cross Creek Rd.)</td>
<td>3738 Cross Creek Rd.</td>
<td>7.5 acres</td>
<td>CG</td>
<td>Commercial</td>
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An approved restaurant, The Real Coconut, will be located at the south end unit in Building 1 of the shopping center, in the eastern portion of the site, as shown in Figure 2.

**Figure 2 – Project Site**

Source: The Park at Cross Creek
**Project Description**

The proposed project is to allow the onsite sale and consumption of beer and wine to patrons of an approved restaurant. The restaurant will be located in Building 1, Suite 1A, and includes 2,120 square feet of indoor space with an 840 square foot service area to accommodate 42 patrons, and a 660 square foot outdoor patio with seating for 35 persons (Attachment 2 – Project Plans). The outdoor patio will be open to the public. The project plans include renderings of signage to be posted in the patio to clarify that it is a common use area.

Food service occurs Monday through Thursday from 7:00 a.m. to 9:00 p.m., Friday from 7:00 a.m. to 10:00 p.m., Saturday from 8:00 a.m. to 10:00 p.m., and Sunday from 8:00 a.m. to 9:00 p.m. Onsite alcohol service would be limited to Sunday through Thursday from 12:00 noon to 9:00 p.m., and Friday and Saturday from 12:00 noon to 10:00 p.m. Alcohol service will be for the consumption of beer and wine on the premises only, including the outdoor patio. Off-site sales of alcohol associated with to-go orders would not be allowed. As conditioned, the restaurant does not include amplified or live music. The application does not propose any new development or other operational modifications that would intensify or otherwise change the development or use in the adopted Specific Plan, including parking requirements. Circulation, infrastructure, lighting, and landscaping will be provided according to the CC-NE-SP.

Table 2 provides a summary of the proposed project.

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<th>Table 2 – The Real Coconut Restaurant</th>
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<tr>
<td><strong>Total Area</strong></td>
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<td><strong>Service Area</strong></td>
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<td>Interior</td>
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<td>Exterior</td>
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<td><strong>Seating Capacity</strong></td>
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<td>Interior</td>
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<tr>
<td>Exterior</td>
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<td><strong>Hours of Operation</strong></td>
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<td><strong>Food Service</strong></td>
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<td><strong>Alcohol Service</strong></td>
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<td><strong>Alcohol Sales Type</strong></td>
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<td><strong>Noise</strong></td>
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1 Condition No. 14 within City Council Resolution No. 15-43 prohibits amplified music on the project site, unless authorized by a TUP. The CC-NE-SP states that live entertainment requires a CUP.
Parking

Parking spaces for the previously approved restaurant will be provided in the common parking area for the Park at Cross Creek. The shopping center is designed to provide parking for all tenants, including all outdoor seating areas, pursuant to Malibu LIP requirements for a shopping center and further analyzed in the Traffic Impact Analysis dated January 2015 prepared by Overland Traffic Consultants, Inc., prepared for the entire site. To qualify for the shopping center criteria, a well-balanced mixture of uses within the center must be demonstrated. For the purposes of the subject site, a maximum of 4,000 square feet of restaurant space and 4,800 square feet of outdoor seating (both of which are high intensity uses) have been allowed and considered well-balanced. Currently, 3,666 square feet of the shopping center is leased for food service area, and 4,800 square feet is used for outdoor seating. While 217 parking spaces are required for the overall site, the Park at Cross Creek exceeds this requirement and accommodates 220 vehicle parking spaces, including seven electric vehicle parking spaces, plus 16 bicycle spaces, 4 golf cart spaces, and 4 hitching posts for equestrian use. As such, existing parking is adequate to serve the restaurant and outdoor seating area. Adding sales of beer and wine would not affect parking demand for the shopping center.

ABC License

The applicant submitted an application to ABC to permit the sale of beer and wine for onsite consumption (Attachment 3 – Pending ABC License). ABC will not issue the license until the proposed CUP is approved. Therefore, a condition of approval has been included stating that the tenant must submit a copy of the ABC license to the Planning Department prior to alcohol sales. A Letter of Public Convenience or Necessity will also be required.

Analysis

Staff has completed a review of the subject application and determined that the proposed CUP is in compliance with the Civic Center Northeast Specific Plan and MMC.

The following conditions that pertain to onsite alcohol have been included in the attached Resolution No. 20-48.

2. This approval is for the onsite sale and consumption of alcoholic beverages as ancillary to an approved restaurant use (The Real Coconut).

8. The alcohol service is secondary to the meal service and food shall be available for purchase in these areas when alcohol is served. No portion of the restaurant service area may serve as a separate bar-only establishment where food is not available.
9. The tenant shall maintain suitable kitchen facilities and operate and maintain the premises as a bona fide eating place. Full food service shall be provided during all hours of operation of the establishment.

10. No off-site sale of alcohol shall be permitted. Alcohol shall only be served within the approved services areas, as demonstrated on the project floor plan dated April 17, 2020.

11. This CUP permits the sale and consumption of alcoholic beverages with an ABC Type 41 license. The property owner / tenant shall obtain all necessary approvals from ABC. Once obtained, the applicant is required to provide the Planning Department a copy of the issued ABC license.

12. A copy of the current ABC license shall be kept on the premises of the establishment and be presented to City staff, including the City’s Planning Director and Code Enforcement staff, law enforcement officers, or their duly authorized representatives, upon request.

13. At all times during the conduct of the permitted use, the permittee shall maintain and keep in effect valid licensing approval from ABC. Should such licensing be denied, expire or lapse at any time in the future, the approval of alcohol sale pursuant to this permit is subject to modification of revocation of this conditional use permit pursuant to MMC Section 17.66.100(C).

14. Prior to the commencement of alcohol service, the property owner / operator shall install small signs, as depicted in the project plans, requesting that patrons be courteous and quiet when occupying outdoor areas and stating that alcohol may only be consumed in compliance with the restaurant’s Department of Alcoholic Beverage Control license.

15. The sale of alcoholic beverages shall be limited to restaurant patrons only.

16. The sale of alcoholic beverages for offsite consumption is prohibited.

17. Violation of any of the conditions of approval shall be cause for revocation of the conditional use permit and termination of all rights contained therein.

18. The approved hours of operation for the sale of alcoholic beverages are limited to 12:00 p.m. to 9:00 p.m., Sunday through Thursday, and 12:00 p.m. to 10:00 p.m. Friday and Saturday.

19. No amplified sound is permitted on the property except in compliance with an approved temporary use permit per Condition No. 14 of City Council Resolution No. 15-43 or a CUP per the CC-NE-SP.
20. The property owner/operator shall adhere to a “good neighbor” policy, meaning that the operator and employees must respect the rights of neighboring properties and, to the best of their ability, shall ensure their patrons’ compliance with the City’s noise and smoking regulations and all conditions of approval for the subject use relating to parking, smoking, litter, noise, loitering, etc.

21. Noise emanating from the premises shall not be audible at a distance of five feet of any residential unit between the hours of 10:00 p.m. and 7:00 a.m., as required by MMC Section 8.24.050(L).

25. Staff shall inspect the property as needed after approval of the CUP to verify compliance with the conditions of approval.

26. The Planning Department shall conduct a review of restaurant operations and compliance with conditions of approval. The report shall be presented to the Planning Commission within five years after CUP approval.

27. The tenant must adhere to all laws related to the sale of alcohol. Violations of such laws may be cause for modification or revocation of this conditional use permit pursuant to MMC Section 17.66.100(C).

Conditions have also been included in Resolution No. 20-48 to enforce the City’s regulations regarding plastic bags, polystyrene, and single-use plastic and bioplastic straws, stirrers, and cutlery and the City’s Dark Sky ordinance.

**Conditional Use Permit Findings**

The proposed CUP will allow the onsite sale and consumption of alcohol at an approved restaurant (The Real Coconut). The Planning Commission may approve, deny, and/or modify a CUP in whole or in part, with or without conditions, provided that it makes all of the findings of fact required by MMC Section 17.66.080. All of the CUP findings are provided below.

**Finding 1.** The proposed use is one that is conditionally permitted within the subject zone and complies with the intent of all of the applicable provisions of Title 17 of the Malibu Municipal Code.

The subject application will permit the onsite sale and consumption of alcoholic beverages at a previously approved restaurant, The Real Coconut, in the CV-1 zoning district. The CV-1 District is intended to provide for visitor serving uses, including motels and bed and breakfast inns, which serve visitors and residents that are designed to be consistent with the rural character and natural environmental setting. The sale of alcoholic beverages in association with the ABC License Type 41 will be for restaurant patrons only. The project, as proposed and conditioned, is consistent with the CC-NE-SP, which allows a restaurant
with onsite alcohol sales and consumption with a CUP. In addition, the project will be conditioned accordingly to meet the intent of the CV-1 zone by providing a visitor serving use with appropriate noise restrictions and limited hours of operations in a vacant commercial tenant space in a developed shopping center. Therefore, the proposed use complies with the intent of all of the applicable provisions of Title 17 of the MMC.

**Finding 2. The proposed use would not impair the integrity and character of the zoning district in which it is located.**

The approved restaurant is a commercial use in the CV-1 zoning district. The restaurant use is consistent with the surrounding land uses and subject to compliance with the CC-NE-SP and the shopping center’s approved CDP. The sale of beer and wine for onsite consumption by restaurant patrons pursuant to a new ABC License Type 41 is incidental to the operation of the restaurant and, as such, will not impair the integrity and character of the CV-1 zone.

**Finding 3. The subject site is physically suitable for the type of land use being proposed.**

The subject shopping center has a mix of retail, personal service, and eating establishments. The addition of alcohol sales to the approved restaurant use would be suitable for the project site. The subject application does not propose any changes to the structure or generate a greater demand for parking than the shopping center is designed to accommodate. Therefore, the subject site is physically suitable for the proposed project.

**Finding 4. The proposed use is compatible with the land uses presently on the subject property and in the surrounding neighborhood.**

The proposed addition of alcohol sales to the approved restaurant use would be compatible with other approved uses in the shopping center. The surrounding neighborhood consists of a mix of commercial development, vacant land, and equestrian uses, and nearby residential. The onsite sale and consumption of alcoholic beverages pursuant to a new ABC License Type 41 at the restaurant is compatible with the visitor and resident-serving land uses approved on the site. Uses immediately to the south include restaurants, several of which offer alcohol sales. In addition, conditions of approval have been added to restrict live music and amplified sound on the property in accordance with Condition No. 14 of City Council Resolution No. 15-43 and the CC-NE-SP.

**Finding 5. The proposed use would be compatible with existing and future land uses within the zoning district and the general area in which the proposed use is to be located.**

The proposed addition of the onsite sale and consumption of alcoholic beverages to the approved restaurant use is compatible with existing and future land uses allowed in the CV-1 zone. The zone allows for visitor serving commercial businesses. The proposed use is compatible with other business operations surrounding the site.
Finding 6.  There would be adequate provisions for water, sanitation, and public utilities and services to ensure that the proposed use would not be detrimental to public health and safety and the project does not affect solar access or adversely impact existing public and private views, as defined by staff.

The proposed sale of alcoholic beverages has been determined to not adversely affect public utilities, water, or sanitation services because the use would not generate a greater demand for service than what was anticipated by the Specific Plan. The proposed sale of alcoholic beverages on the premises will not affect solar access or adversely impact existing public or private views as no new development is proposed.

Finding 7.  There would be adequate provisions for public access to serve the subject proposal.

No changes to the site’s access or circulation for pedestrians or vehicles, are proposed. The onsite sale and consumption of alcoholic beverages pursuant to a new ABC License Type 41 is limited to restaurant patrons only and will not negatively affect parking demand as the service area and patio of the restaurant were accounted for in the shopping center parking calculations.

Finding 8.  The proposed use is consistent with the goals, objectives, policies, and general land uses of the General Plan.

The subject property is designated Commercial Visitor Serving (CV) in the General Plan. The General Plan states that the CV designation, “provides for visitor serving uses which serve visitors and residents such as hotels and restaurants which respect the rural character and natural environmental setting.” The subject CUP will be consistent with the goals, objectives, and policies of the General Plan. Furthermore, the proposed use is consistent with the CC-NE-SP.

Finding 9.  The proposed project complies with all applicable requirements of state and local law.

The proposed use complies 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 ABC and the Los Angeles County Sheriff’s Department. Conditions of approval have been added to require the approved restaurant to comply with all state licensing regulations and to maintain a valid ABC License Type 41 for the onsite sale and consumption of alcoholic beverages.
Finding 10. The proposed use would not be detrimental to the public interest, health, safety, convenience, or welfare.

The approved restaurant, The Real Coconut, is a permitted use in the CV-1 zoning district, and the proposed ancillary use to sell and consume alcoholic beverages onsite, pursuant to a new ABC License Type 41, would not be detrimental to the public interest, health, safety, convenience, or welfare because the use complies with applicable requirements of state and local law. A Letter of Public Convenience or Necessity will be provided to the ABC.

Finding 11. If the project is located in an area determined by the City to be at risk from earth movement, flooding or liquefaction, there is clear and compelling evidence that the proposed development is not at risk from these hazards.

The subject CUP will allow for the onsite sale and consumption of alcoholic beverages pursuant to a new ABC License Type 41 at an approved restaurant, The Real Coconut. No new development or changes to the existing building footprint are proposed. Therefore, there is no new impact related to earth movement, flooding, or liquefaction.

ENVIRONMENTAL REVIEW: Pursuant to the authority and criteria contained in CEQA, the Planning Department has analyzed the proposed project. The Planning Department found that this project is listed among the classes of projects that have been determined not to have a significant adverse effect on the environment. Therefore, the proposed project is categorically exempt from the provisions of CEQA pursuant to Section 15301 – Existing Facilities. The Planning Director 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).

COASTAL DEVELOPMENT PERMIT EXEMPTION: Pursuant to Malibu Local Coastal Program (LCP) Local Implementation Plan (LIP) Section 13.4.3 – Other Improvements, a coastal development permit (CDP) exemption may be granted for improvements to an existing structure other than a single-family residence or a public works facility. The proposed project does not involve a risk of adverse environmental effect, adversely affect public access, or involve a change in use contrary to the policies of the LIP. Therefore, CUP No. 20-002 is exempt from the requirement to obtain a CDP.

CORRESPONDENCE: To date, staff has not received correspondence regarding this application.

PUBLIC NOTICE: On June 25, 2020, staff published a Notice of Public Hearing in a newspaper of general circulation within the City of Malibu and mailed the notice to all property owners and occupants within a 500-foot radius of the subject property (Attachment 5).
SUMMARY: The required CUP findings can be made. Further, the Planning Department’s findings of fact are supported by substantial evidence in the record. Based on the analysis contained in this report, and the accompanying resolution, staff recommends approval of this project, subject to the conditions of approval contained in Section 5 (Conditions of Approval) of Planning Commission Resolution No. 20-48. The proposed project has been reviewed and conditionally approved for conformance with the MMC.

ATTACHMENTS:

1. Planning Commission Resolution No. 20-48
2. Project Plans
3. Pending ABC License
4. Sheriff’s Department Referral
5. Public Hearing Notice
CITY OF MALIBU PLANNING COMMISSION
RESOLUTION NO. 20-48

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 CONDITIONAL USE PERMIT NO. 20-002 TO ALLOW A CALIFORNIA DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL LICENSE TYPE 41 (ON-SALE BEER AND WINE FOR BONA FIDE PUBLIC EATING PLACE) TO ALLOW THE ONSITE SERVICE OF BEER AND WINE, AND AUTHORIZING THE PLANNING DIRECTOR TO SUBMIT A LETTER OF PUBLIC CONVENIENCE OR NECESSITY FOR THE USE IN THE COMMERCIAL VISITOR SERVING-ONE ZONING DISTRICT LOCATED AT 23401 CIVIC CENTER WAY (THE PARK AT CROSS CREEK, LLC)

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

SECTION 1. Recitals.

A. On July 20, 2015, the City Council passed and adopted Resolution 15-43, approving Coastal Development Permit (CDP) No. 10-022 for a new shopping center in the Commercial Visitor Serving-One (CV-1) zoning district. The Council also adopted Resolution 15-41 certifying the Final Environmental Impact Report, Resolution 15-42 to approve a General Plan Amendment, Resolutions 15-44 and 45 to hold a special election for the Civic Center Northeast Specific Plan (CC-NE-SP), Ordinance 394 approving a zoning map amendment, and Ordinance 395 approving the CC-NE-SP.

B. On March 4, 2020, an application for Conditional Use Permit (CUP) No. 20-002 to permit the onsite sale and consumption of alcoholic beverages including a California Department of Alcoholic Beverage Control (ABC) License Type 41 was submitted to the Planning Department, on behalf of the property owner, The Park at Cross Creek, LLC. The application was routed to the Public Works Department and the Los Angeles County Sheriff’s Department for review.

C. On June 11, 2020, the application was deemed complete.

D. On June 25, 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.

E. On July 20, 2020, the Planning Commission held a duly noticed public hearing on the subject application, reviewed and considered the staff report, reviewed and considered written reports, public testimony, and other information in the record.

ATTACHMENT 1
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 has 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 exempt from the provisions of CEQA according to CEQA Guidelines Section 15301 – Existing Facilities. The Planning Commission has further determined that none of the six exceptions to the use of a categorical exemption applies to this project (CEQA Guidelines Section 15300.2).

SECTION 3. Conditional Use Permit Findings of Fact.

Pursuant to Malibu Municipal Code (MMC) Section 17.66.080, a CUP may be approved if the Planning Commission makes all of the required findings. CUP No. 20-002 is to allow onsite sale and consumption of alcoholic beverages to restaurant patrons as ancillary to the approved restaurant use. The Planning Commission hereby approves CUP No. 20-002 based on the findings of fact as follows:

A. Conditional Use Permit Findings (MMC Chapter 17.66)

1. The subject application will permit the onsite sale and consumption of alcoholic beverages at the approved restaurant in the CV-1 zoning district. The CV-1 District is intended to provide for visitor serving uses, including motels and bed and breakfast inns, which serve visitors and residents that are designed to be consistent with the rural character and natural environmental setting. The sale of alcoholic beverages in association with the ABC License Type 41 will be for restaurant patrons only. The project, as proposed and conditioned, is consistent with the CC-NE-SP, which allows a restaurant with onsite alcohol sales and consumption with a CUP. In addition, the project will be conditioned accordingly to meet the intent of the CV-1 zone by providing a visitor serving use with appropriate noise restrictions and limited hours of operations in a vacant commercial tenant space in a developed shopping center. Therefore, the proposed use complies with the intent of all of the applicable provisions of Title 17 of the MMC.

2. The approved restaurant is a commercial use in the CV-1 zoning district. The restaurant use is consistent with the surrounding land uses subject to compliance with the CC-NE-SP and approved CDP. The sale of beer and wine for onsite consumption by restaurant patrons pursuant to a new ABC License Type 41 is incidental to the operation of the restaurant and, as such, will not impair the integrity and character of the CV-1 zone.

3. The subject shopping center has a mix of retail, personal service, and eating establishments. The restaurant with proposed onsite alcohol sales would be suitable for the project site. The subject application does not propose any changes to the structure or generate a greater demand for parking than the shopping center is designed to accommodate. Therefore, the subject site is physically suitable for the proposed project.

4. The restaurant with proposed alcohol sales would be compatible with the other approved uses in the shopping center. The surrounding neighborhood consists of a mix of commercial development, vacant land, and equestrian uses, and nearby residential. The onsite sale and consumption of alcoholic beverages pursuant to a new ABC License Type 41 is compatible with the visitor and resident-serving land uses approved on the site. Uses immediately to the south
include restaurants, several of which offer onsite alcohol sales. In addition, conditions of approval have been added to restrict live music and amplified sound on the property in accordance with City Council Resolution 15-43 and Ordinance 395.

5. The restaurant with proposed onsite sale and consumption of alcoholic beverages is compatible with existing and future land uses allowed in the CV-1 zone. The zone allows for visitor serving commercial businesses. The proposed use is compatible with other business operations surrounding the site.

6. The proposed onsite service of alcohol at the restaurant has been determined to not adversely affect public utilities, water, or sanitation services because the use would not generate a greater demand for services than what was anticipated. The proposed sale of alcoholic beverages on the premises will not affect solar access or adversely impact existing public or private views as no new development is proposed.

7. No changes to the site’s access or circulation, for pedestrians or vehicles, are proposed. The onsite sale and consumption of alcoholic beverages pursuant to a new ABC License Type 41 is limited to restaurant patrons only and will, therefore, not negatively affect the parking demand as the service area and patio of the restaurant were accounted for in the shopping center parking calculations.

8. The subject property is designed Commercial Visitor Serving (CV) in the General Plan. The General Plan states that the CV designation “provides for visitor serving uses which serve visitors and residents such as hotels and restaurants which respect the rural character and natural environmental setting.” The subject CUP will allow the onsite sale and consumption of alcoholic beverages at an approved restaurant in an existing retail shopping center. Subject to conditions, the CUP will be consistent with the goals, objectives, and policies of the General Plan. Furthermore, the proposed use is consistent with the CC-NE-SP.

9. The proposed use complies 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 ABC, and the Los Angeles County Sheriff’s Department. Conditions of approval have been added to require the restaurant to comply with all state licensing regulations and to maintain a valid ABC License Type 41 for the onsite sale and consumption of alcoholic beverages.

10. The approved restaurant use is a permitted use in the CV-1 zoning district and the proposed ancillary use to sell and consume alcoholic beverages onsite pursuant to a new ABC License Type 41, would not be detrimental to the public interest, health, safety, convenience, or welfare because the use complies with applicable requirements of state and local law.

11. The restaurant tenant space, is currently under construction. The subject CUP will allow for the onsite sale and consumption of alcoholic beverages pursuant to a new ABC License Type 41 at the approved restaurant. There are no changes to the existing building footprint. Therefore, there is no new impact related to earth movement, flooding or liquefaction.
SECTION 4. Determination of Public Convenience or Necessity.

According to the State Department of Alcoholic Beverage Control, the project site is located within a census tract that has an over-concentration of licenses; therefore, a Letter of Public Convenience or Necessity is required. Based on CUP findings in Section 3 of this resolution, the Planning Commission finds that the proposed use will not be detrimental to the public health, safety, or general welfare and is compatible with the land uses presently on the subject property and in the surrounding neighborhood. The Planning Commission hereby authorizes the Planning Director to prepare and submit a Letter of Public Convenience or Necessity for the proposed use to the State Alcoholic Beverage Control Department.

SECTION 5. Planning Commission Approval.

Based on the foregoing findings and evidence contained within the record, the Planning Commission hereby approves Conditional Use Permit No. 20-002, subject to the following conditions.

SECTION 6. Conditions of Approval.

Standard Conditions

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

2. This approval is for the onsite sale and consumption of alcoholic beverages as ancillary to an approved restaurant use.

3. This conditional use permit shall not be effective until all appeals are exhausted and the property owner, applicant and the business operator execute the Affidavit of the Acceptance of Conditions. Said documents shall be recorded with the Los Angeles County Recorder and a certified copy of said recordation shall be filed with the Planning Department within 10 days of the effective date of the approval.

4. Subsequent submittals for this project shall be in substantial compliance with plans on-file with the Planning Department associated with CUP No. 20-002, dated April 17, 2020. In the event the project plans conflict with any condition of approval, the condition shall take precedence.

5. Any questions of intent or interpretation of any condition of approval will be resolved by the Planning Director upon written request of such interpretation.
6. 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.

7. The property owner shall comply with all provisions of the MMC and CC-NE-SP.

**Operations**

8. The alcohol service is secondary to the meal service and food shall be available for purchase in these areas when alcohol is served. No portion of the restaurant service area may serve as a separate bar only establishment where food is not available.

9. The tenant shall maintain suitable kitchen facilities and operate and maintain the premises as a bona fide eating place. Full food service shall be provided during all hours of operation of the establishment.

10. No off-site sale of alcohol shall be permitted. Alcohol shall only be served within the approved service areas, as demonstrated on the project floor plan dated **April 17, 2020**.

11. This CUP permits the sale and consumption of alcoholic beverages with an ABC Type 41 license. The property owner / tenant shall obtain all necessary approvals from ABC. Once obtained, the applicant is required to provide the Planning Department a copy of the issued ABC license.

12. A copy of the current ABC license shall be kept on the premises of the establishment and be presented to City staff, including the City’s Planning Director and Code Enforcement staff, law enforcement officers or their duly authorized representatives, upon request.

13. At all times during the conduct of the permitted use, the permittee shall maintain and keep in effect valid licensing approval from ABC. Should such licensing be denied, expire or lapse at any time in the future, the approval of alcohol sale pursuant to this permit is subject to modification or revocation of this conditional use permit pursuant to MMC Section 17.66.100(C).

14. Prior to the commencement of alcohol service, the property owner / operator shall install small signs in the interior of the business, as depicted on the project plans, requesting that patrons be courteous and quiet when occupying outdoor areas and stating that alcohol may only be consumed in compliance with the restaurant’s Department of Alcoholic Beverage Control license.

15. The sale of alcoholic beverages shall be limited to restaurant patrons only.

16. The sale of alcoholic beverages for off-site consumption is prohibited.

17. Violation of any of the conditions of approval shall be cause for revocation of the conditional use permit and termination of all rights contained therein.
18. The approved hours of operation for the sale of alcoholic beverages are limited to 12:00 p.m. to 9:00 p.m., Sunday through Thursday, and 12:00 p.m. to 10:00 p.m., Friday and Saturday.

19. No live entertainment or amplified sound is permitted on the property except in compliance with an approved temporary use permit per Condition No. 14 of City Council Resolution No. 15-43 or a CUP per the CC-NE-SP.

20. The property owner/operator shall adhere to a “good neighbor” policy, meaning that the operator and employees must respect the rights of neighboring properties and, to the best of their ability, shall ensure their patrons’ compliance with the City’s noise and smoking regulations and all conditions of approval for the subject use relating to parking, smoking, litter, noise, loitering, etc.

21. Noise emanating from the premises shall not be audible at a distance of five feet of any residential unit between the hours of 10:00 p.m. and 7:00 a.m., as required by MMC Section 8.24.050(L).

22. The property owner/tenant shall comply with the requirements set forth in MMC Chapter 9.28 (Plastic Bag Ban). No retail establishment, restaurant, vendor or nonprofit vendor shall provide plastic bags or compostable bags to customers. This requirement applies to plastic or compostable bags provided at the point of sale for the purpose of carrying away goods.

23. No restaurant, food packager, retail food vendor, vendor or nonprofit food provider shall provide prepared food to its customers in any food packaging that utilizes expanded polystyrene. “Expanded polystyrene” means and includes blown polystyrene and expanded and extruded foams (sometimes incorrectly called Styrofoam, a Dow Chemical Company trademarked form of polystyrene foam insulation) which are thermoplastic petrochemical materials utilizing a styrene monomer and processed by any number of techniques including, but not limited to, fusion of polymer spheres (expandable bead polystyrene), injection molding, foam molding, and extrusion-blow molding (extruded foam polystyrene). Expanded polystyrene is generally used to make cups, bowls, plates, trays, clamshell containers, meat trays and egg cartons.

24. The property owner/tenant shall comply with the requirements set forth in MMC Chapter 9.24 (Ban on Plastic Food Packaging and Other Plasticware). No retail establishment, restaurant, vendor or nonprofit vendor shall provide plastic beverage straws, plastic stirrers, or plastic cutlery to customers.

25. Staff shall inspect the property as needed after approval of the CUP to verify compliance with the conditions of approval.

26. The Planning Department shall conduct a review of restaurant operations and compliance with conditions of approval. The report shall be presented to the Planning Commission five years after CUP approval.
Lighting

27. Exterior lighting must comply with the Dark Sky Ordinance and 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.

28. 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(ies) shall not produce an illumination level greater than one foot candle.

29. 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. High intensity lighting of the shore is prohibited.

30. String lights are allowed in occupied dining and entertainment areas only and must not exceed 3,000 Kelvin.

31. Motion sensor lights shall be programmed to extinguish ten minutes after activation.

32. Three violations of the conditions by the same property owner will result in a requirement to permanently remove the outdoor light fixture(s) from the site.

Sheriff’s Department

33. The tenant must adhere to all laws related to the sale of alcohol. Violations of such laws may be cause for modification or revocation of this conditional use permit pursuant to MMC Section 17.66.100(C).

Signs

34. The applicant shall post signage in a location that substantially conforms with the location(s) of the outdoor dining area entrances shown on the project floor plan that state that the outdoor patio is open to the public.

35. No other new signage is permitted under this application; a sign permit shall be submitted and approved by the Planning Department prior to installation of any new sign.
Fixed Conditions

36. The conditions under which this conditional use permit was approved may be modified by the City without the consent of the property owner, tenant or operator if the Planning Commission finds that the use is creating a nuisance.

37. A conditional use permit that is valid and in effect, and was granted pursuant to the provisions of the MMC, shall run with the land and continue to be valid upon change of ownership of the land or lawfully existing structure.

38. Violation of any of the conditions of approval shall be cause for revocation of the conditional use permit and termination of all rights contained therein.

39. This conditional use permit shall become subject to revocation should the use for which the conditional use permit was granted cease for six successive calendar months after the start of operations, except in the case of natural disaster.

40. If it has cause to believe that grounds for modification or revocation may exist, the Planning Commission shall hold a public hearing upon the question of modification or revocation of this conditional use permit pursuant to MMC Section 17.66.100(C). The conditional use permit may be revoked if the Planning Commission finds that one or more of the following conditions exists:

   a. The conditional use permit was obtained in a fraudulent manner.
   b. The use for which the conditional use permit was granted has ceased or was suspended for at least six successive calendar months.
   c. One or more of the conditions found within this resolution have not been substantially met.

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

PASSED, APPROVED AND ADOPTED this 20th day of July 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. 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.

I CERTIFY THAT THE FOREGOING RESOLUTION NO. 20-48 was passed and adopted by the Planning Commission of the City of Malibu at the regular meeting held on the 20th day of July 2020 by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

KATHLEEN STECKO, Recording Secretary
PLEASE BE COURTEOUS AND QUIET WHEN OCCUPYING OUTDOOR AREAS.

OUTDOOR PATIO IS OPEN TO THE PUBLIC.

NO ALCOHOLIC BEVERAGES BEYOND THIS POINT.

SOUTH OR SIDE ELEVATION 3

PARTIAL WEST OR FRONT ELEVATION 1

23401 CIVIC CENTER WAY
Report Date: Thursday, June 11, 2020

LICENSE INFORMATION
License Number: 617013 Primary Owner: TRC RESTAURANT MALIBU LLC
Office of Application: 05 - VAN NUYS

BUSINESS NAME
REAL COCONUT

BUSINESS ADDRESS
23401 CIVIC CENTER WAY STE 1A, MALIBU, CA, 90265
County: LOS ANGELES Census Tract: 8005.04

LICENSEE INFORMATION
Licensee: TRC RESTAURANT MALIBU LLC

Company Information
OFFICER: HUNTER, DANIELLA (MANAGER)
MEMBER: REAL COCONUT RESTAURANT CO LLC

LICENSE TYPES
41 - ON-SAILE BEER AND WINE - EATING PLACE
License Type Status: PENDING  
Status Date: 28-MAY-2020  
Term: 12 Month(s)

Original Issue Date:  
Expiration Date:  
Master: Y  
Duplicate:  
Fee Code: P0  
Transfers:

OPERATING RESTRICTIONS:
No Operating Restrictions found

DISCIPLINARY ACTION:
No Active Disciplinary Action found

DISCIPLINARY HISTORY:
No Disciplinary History found.

HOLDS:
Hold Type: FORM 220  
Hold Date: 28-MAY-2020

ESCROWS:
No Escrow found
TO: Public Works Department
FROM: City of Malibu Planning Department

PROJECT NUMBER: CUP 20-002
JOB ADDRESS: 23401 CIVIC CENTER WAY, 1A
APPLICANT / CONTACT: Marny Randall
APPLICANT ADDRESS: 909 Euclid Street, Suite #6
Santa Monica, CA 90403
APPLICANT PHONE #: (310)386-5521
APPLICANT FAX #: 
APPLICANT EMAIL: marnyrandall@gmail.com
PROJECT DESCRIPTION: CUP for alcohol service in approved restaurant space.

TO: Malibu Planning Department and/or Applicant
FROM: Public Works Department

The following items described on the attached memorandum shall be addressed and resubmitted.

The project was reviewed and found to be in conformance with the City's Public Works and LCP policies and CAN proceed through the Planning process.

SIGNATURE

DATE 3/11/2020

NO PLAN REVIEW REQUIRED.
City of Malibu

23825 Stuart Ranch Rd., Malibu, California CA 90265-4804
(310) 456-2489  FAX (310) 456-7650
www.malibucity.org

CONDITIONAL USE PERMIT
REFERRAL SHEET

TO: Los Angeles County Sheriff - Malibu Lost Hills Station  DATE: 3/4/2020
FROM: City of Malibu Planning Department

PROJECT NUMBER: CUP 20-002
JOB ADDRESS: 23401 CIVIC CENTER WAY, 1A
APPLICANT / CONTACT: Marny Randall
APPLICANT ADDRESS: 909 Euclid Street, Suite #6
Santa Monica, CA 90403
APPLICANT PHONE #: (310)386-5521
APPLICANT FAX #:

PROJECT DESCRIPTION: Conditional Use Permit (CUP) for alcohol service
in approved restaurant space

This Approval Form (including detailed project description and plans) will be forwarded to:

Deputy John-Peck
27050 Agoura Road, Calabasas, CA 91302
(818) 878-1808  Fax (818) 880-5209
Hours: Monday – Thursday 9:00 a.m. – 5:00 p.m.

Planning Staff to send review packet to mrwoodar@lasd.org.

Separate applications and fees may be required by the Sheriff’s Department. A CUP will not be
issued until this form, signed by an authorized member of this agency, has been returned to the
City of Malibu. Any conditions imposed by this agency will be included in the CUP.

☑ Approved  □ Denied (reasons below)  Conditions imposed:  □ No  □ Yes (see below)

__________________________________________________________

Deputy Brian Knott  3/15/20

NAME

DATE  DEPUTY

SIGNATURE  TITLE

487215
The Malibu Planning Commission will hold a public hearing on Monday, July 20, 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.

CONDITIONAL USE PERMIT NO. 20-002 - A conditional use permit application to allow for a California Department of Alcoholic Beverage Control License Type 41 for the onsite service of beer and wine, and authorizing the Planning Director to submit a letter of public convenience or necessity for the use

LOCATION / APN / ZONING: 23401 Civic Center Way, 1a / 4458-022-030 / Commercial Visitor-Serving-One (CV-1)
APPLICANT / OWNER: Marny Randall / The Park at Cross Creek, LLC
TENANT: Real Coconut
APPEALABLE TO: City Council
ENVIRONMENTAL REVIEW: Categorical Exemption CEQA Guidelines Section 15301(e)
APPLICATION FILED: March 4, 2020
CASE PLANNER: Lilly Rudolph, Contract Planner, lrudolph@malibucity.org (310) 456-2489, ext. 238

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.

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: June 25, 2020

ATTACHMENT 5