Commission Agenda Report

To: Chair Jennings and Members of the Planning Commission

Prepared by: Didier Murillo, Assistant Planner

Reviewed: Bonnie Blue, Planning Director

Date prepared: July 9, 2020

Meeting date: July 20, 2020

Subject: Coastal Development Permit No. 14-052, Variance No. 19-006, and Demolition Permit No. 19-006 - An application for an interior and exterior remodel, including additions to the first and second floor, and associated development

Locations: 20048 Pacific Coast Highway, within the appealable coastal zone

APN: 4450-002-047

Owner: Joseph A. Watters and Virginia Watters Revocable Intro Vivos Trust

RECOMMENDED ACTION: Adopt Planning Commission Resolution No. 20-52 (Attachment 1) determining the project is categorically exempt from the California Environmental Quality Act (CEQA), and approving Coastal Development Permit (CDP) No. 14-052 to allow an interior and exterior remodel including the after-the-fact approval of unpermitted additions to the first and second floor, a new proposed second floor addition and deck extension, and associated development including Variance (VAR) No. 19-006 for the after-the-fact approval of the unpermitted additions located within the required east side yard setback and Demolition Permit No. 19-006 for the demolition of exterior walls and an unpermitted first-floor deck built seaward of the existing deck stringline located in the Single-Family Medium (SFM) zoning district at 20048 Pacific Coast Highway (PCH) (Watters).

DISCUSSION: This agenda report provides a project overview, a summary of project setting and surrounding land uses, a description of the project scope, an analysis of the project’s consistency with applicable provisions of the Malibu Local Coastal Program (LCP) and Malibu Municipal Code (MMC), and environmental review pursuant to CEQA. The analysis and findings contained herein demonstrate the project is consistent with the LCP and MMC.
**Project Overview**

The subject parcel is a rectangular shaped beachfront lot, approximately 0.08 acres in size. The parcel is zoned SFM which allows for residential uses subject to beachfront development standards (Figure 1). The parcel is currently developed with a 1,532 square foot, two-story, single-family residence. According to information from the Los Angeles County Tax Assessor records, the existing single-family residence was constructed in 1939.

![Figure 1 – Aerial Photograph](Image)

Source: GovClarity 2020
The property does not currently provide view corridors\(^1\), and is also non-conforming with regards to the east side yard setback and required parking. A view corridor was not required at time of original construction. Since the project proposes a less than 50 percent demolition (42.3 percent\(^2\)) of the exterior walls a view corridor will not be required, and the non-conforming east side yard setback and parking can be retained\(^3\).

Table 1 provides a summary of the proposed demolition of exterior walls pursuant to LCP Policy No. 3 (Remodel Policy). The summary includes the walls that were removed in order to make the as-built additions. The applicant and property owner are aware that the proposed demolition plans do not provide an allowance for additional demolition of exterior walls should issues such as dry rot and/or termite damage be discovered after CDP approval. A Major Remodel Agreement is required to be signed by the property owner acknowledging this prior to permit issuance. Should additional exterior walls require demolition, the project may require a Coastal Development Permit Amendment or a new CDP by the Planning Commission. Demolition of more than 50 percent of exterior walls would result in a replacement (new) structure, and the entire property would have to meet current view corridor requirements, setbacks, and parking requirements. Additionally, the proposed demolition includes the removal of an existing 23 square foot unpermitted first-floor deck built outside of the existing deck stringline. Furthermore, the proposed additions are less than 50 percent of existing single-family residence, therefore Local Implementation Plan (LIP) Section 13.5(E) is not triggered\(^4\).

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\(^1\) Ocean Views. New development on parcels located on the ocean side of public roads, including but not limited to, Pacific Coast Highway, Malibu Road, Broad Beach Road, Birdview Avenue, Cliffside Drive shall protect public ocean views by providing a view corridor.

\(^2\) A concurrent review of the proposed demolition plans by the City's Building Safety Plan Check Consultant was completed to verify compliance with the City of Malibu Remodel Policy (LCP Policy No. 3).

\(^3\) Per LIP Section 6.5(E)(3) Except for replacement of structures destroyed by disaster in accordance with Section 13.4.6 of the Malibu LIP, redevelopment of sites involving substantial remodels (the replacement of 50 percent or more of the structure) or demolition and reconstruction where existing landscaping or development blocks or obscures public views of the ocean or other scenic areas, the existing landscaping or development shall be removed and where appropriate replaced with landscaping and development that is sited and designed to provide maximum views, as required by Section 6.5(E)(1) or Section 6.5(E)(2) of the Malibu LIP, as applicable.

\(^4\) LIP Section 13.5(E) For nonconforming structures located on a blufftop or on the beach that do not comply with the setbacks required for new development on a blufftop or beach, additions that increase the size of the structure by fifty (50) percent or more, including all additions that were undertaken after certification of the LCP, shall not be authorized unless such structures are brought into conformance with the policies and standards of the LCP.
Table 1 – Demolition of Exterior Walls

<table>
<thead>
<tr>
<th>Floor</th>
<th>Existing Linear Footage</th>
<th>Linear Footage to be Removed</th>
<th>Percent Demolition</th>
</tr>
</thead>
<tbody>
<tr>
<td>Second Floor</td>
<td>173 feet 1 inch</td>
<td>67 feet 3 inches</td>
<td>38.9%</td>
</tr>
<tr>
<td>First Floor</td>
<td>143 feet 8 inches</td>
<td>66 feet 9 inches</td>
<td>46.5%</td>
</tr>
<tr>
<td>Total</td>
<td>316 feet 9 inches</td>
<td>134 feet</td>
<td>42.3%</td>
</tr>
</tbody>
</table>

Existing to Remove 42.3%
Existing to Remain 57.7%

The subject application proposes to legalize the emergency underpinning of the existing concrete seawall completed in April 2013 (the work was not completed with the benefit of an emergency CDP), legalizing existing permanent pad footings below the lower level of the residence, installation of new Onsite Wastewater Treatment System (OWTS) components consisting of a treatment tank system. The proposed OWTS will utilize the existing seepage pit. A future 100 percent expansion field is proposed beneath the north side of the structure. Future installation of the expansion will require structural underpinning of existing shallow foundations with pile foundations which is also included under this CDP.

Staff researched building permit records and identified the legally permitted building envelope and identified unpermitted square footage in the first and second floor. The scope of work includes an interior and exterior remodel, after-the-fact approval of an unpermitted 60 square foot first floor addition and 110 square foot second floor addition (built by previous property owners sometime in the 1980s, prior to Cityhood), a new proposed 139 square foot second floor addition, and new 39 square foot second floor deck extension. The total square footage of the single-family residence will be 2,313 square feet (877 square foot first floor and 1,436 square foot second floor). The single-family residence is conforming with respect to building height standards and there are no proposed changes. It should be noted that the two-thirds rule does not apply to beachfront lots. The project plans are included as Attachment 2.

VAR No. 19-006 has been included to allow for the unpermitted additions to the first and second floor to be located within the required 3-foot east side yard setback. The portion of the addition on the second floor is placed directly behind (seaward of) the permitted single-family residence as it was constructed in 1939, which has an existing non-conforming setback. The unpermitted addition is encroaching an additional 4 inches. The remainder of this second floor addition is placed directly behind (seaward of) the permitted single-family residence, as shown in the dark gray highlight in Figure 2. The addition on the first floor is placed directly below the second floor and follows the existing non-conforming side yard setback of the structure as noted above, as shown in the gray highlight in Figure 3.
Figure 2 – Project Plans Unpermitted Second Floor Addition

Figure 3 – Project Plans Unpermitted First Floor Addition
Surrounding Land Uses and Project Setting

As previously shown on Figure 1, the subject property is located in a residential neighborhood on the ocean side of PCH.

Table 2 provides a summary of the lot dimensions and the lot area of the subject parcel.

<table>
<thead>
<tr>
<th>Table 2 - Property Data</th>
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</thead>
<tbody>
<tr>
<td>Lot Depth</td>
</tr>
<tr>
<td>Lot Width</td>
</tr>
<tr>
<td>Gross Lot Area</td>
</tr>
<tr>
<td>Net Lot Area*</td>
</tr>
</tbody>
</table>

*Net Lot Area = Gross Lot Area minus the area of access easements and 1 to 1 slopes.

The project site is located within the appealable jurisdiction of the California Coastal Commission (CCC), as depicted on the Post-LCP Certification and Appeal Jurisdiction Map. The LCP Environmentally Sensitive Habitat Area (ESHA) and Marine Resources Map does not identify any ESHA on the subject property, or any adjacent properties. Furthermore, it has been determined that the project is located within the toe of the active Big Rock Mesa Landslide and falls under the jurisdiction of Section 110.2.3.4 of the Malibu Building Code. The applicant will be required to sign, record at the County of Los Angeles recorder’s office, and submit to City geotechnical staff a certified copy of an “Assumption of Risk and Release” for geotechnical hazards prior to permit issuance.

Project Description

The proposed scope of work is as follows:

1. Demolition of:
   a. Demolition of 42.3 percent of exterior walls (134 linear feet) of the existing single-family residence; and
   b. Demolition of an existing 23 square foot unpermitted first-floor deck built seaward of the existing deck stringline.

2. After-the-fact approval of:
   a. 60 square foot first floor addition;
   b. 110 square foot second floor addition;
   c. Emergency underpinning of existing concrete seawall; and
   d. Existing permanent pad footings.

3. Construction of:
   a. 139 square foot second floor addition;
   b. 39 square foot second floor deck extension; and
c. OWTS components; consisting of a treatment tank system and a future 100 percent expansion field.

Discretionary Requests:
1. VAR No. 19-006 to allow for the after-the-fact approval of the existing unpermitted additions to the first and second floor located within the required east side yard setback; and
2. DP No. 19-006 to allow for the demolition of 42.3 percent of exterior walls (134 linear feet) and demolition of an unpermitted 23 square foot first-floor deck built seaward of the existing deck stringline.

Proposed Total Development Square Footage (TDSF)

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
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</thead>
<tbody>
<tr>
<td>First Floor</td>
<td>877 sq. ft.</td>
</tr>
<tr>
<td>Second Level</td>
<td>1,436 sq. ft.</td>
</tr>
<tr>
<td><strong>Total:</strong></td>
<td><strong>2,313 sq. ft.</strong></td>
</tr>
</tbody>
</table>

LCP Analysis

The LCP consists of the Land Use Plan (LUP) and LIP. The LUP contains programs and policies implementing the Coastal Act in the City of Malibu. The purpose of the LIP is to carry out the policies of the LUP. The LIP contains specific policies and regulations to which every project requiring a coastal development permit must adhere.

There are 14 LIP chapters that potentially apply depending on the nature and location of the proposed project. Of these, five are for conformance review only and contain no findings: 1) Zoning, 2) Grading, 3) Archaeological/Cultural Resources, 4) Water Quality, and 5) OWTS. These chapters are discussed in the LIP Conformance Analysis section. The nine remaining LIP chapters do contain required findings: 1) Coastal Development Permit; 2) ESHA; 3) Native Tree Protection; 4) Scenic, Visual and Hillside Resource Protection; 5) Transfer of Development Credits; 6) Hazards; 7) Shoreline and Bluff Development; 8) Public Access; and 9) Land Division. For the reasons described in this report, including the project site, the scope of work and substantial evidence in the record, only the following chapters and associated findings are applicable to the project: Coastal Development Permit (including the required findings for the VAR), Scenic Visual and Hillside Resource Protection, Hazards, and Shoreline and Bluff Development. These chapters are discussed in the LIP Findings section of this report. The findings required by MMC Section 17.70.060 for the demolition permit are also discussed.

LIP Conformance Analysis

The proposed project has been reviewed by the Planning Department, City Biologist, City Coastal Engineering, City Environmental Health Administrator, City geotechnical staff, City Public Works Department, Los Angeles County Waterworks District No. 29 (WD29), and the Los Angeles County Fire Department (LACFD) (Attachment 3 – Department Review
Sheets). WD29 provided a letter to the applicant stating that WD29 can serve water to the property. The project, as proposed and conditioned, has been found to be consistent with all applicable LCP codes, standards, goals and policies with the inclusion of VAR No. 19-006, and DP No. 19-006.

**Zoning (LIP Chapter 3)**

The project is subject to beachfront development and design standards set forth under LIP Sections 3.5 and 3.6. Table 3 provides a summary and indicates the proposed project meets the beachfront development standards, inclusive of the requested variance and demolition permit.

<table>
<thead>
<tr>
<th>Table 3 – LCP Zoning Conformance</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Development Requirement</strong></td>
</tr>
<tr>
<td><strong>SETBACKS (ft.)</strong></td>
</tr>
<tr>
<td>Front Yard (average of neighbors)</td>
</tr>
<tr>
<td>Rear Yard (stringline) First Floor Addition</td>
</tr>
<tr>
<td>Rear Yard (stringline) (after-the-fact approval) Second Floor Addition</td>
</tr>
<tr>
<td>Rear Yard (stringline) Proposed Second Floor Addition</td>
</tr>
<tr>
<td>Rear Yard (stringline) Second Floor Deck Extension</td>
</tr>
<tr>
<td>East Side Yard (Min.)</td>
</tr>
<tr>
<td>East Side Yard (after-the-fact approval) First Floor Addition</td>
</tr>
<tr>
<td>East Side Yard (after-the-fact approval) Second Floor Addition</td>
</tr>
<tr>
<td>West Side Yard (Max.)</td>
</tr>
<tr>
<td><strong>PARKING</strong></td>
</tr>
<tr>
<td>Enclosed</td>
</tr>
<tr>
<td>Unenclosed</td>
</tr>
<tr>
<td><strong>HEIGHT (ft.)</strong></td>
</tr>
<tr>
<td>Building Height – Ocean Side measured from the lowest</td>
</tr>
</tbody>
</table>
## Table 3 – LCP Zoning Conformance

<table>
<thead>
<tr>
<th>Development Requirement</th>
<th>Allowed/Required</th>
<th>Proposed</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>recommended finish floor elevation</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Building Height – Land side measured from center line of road</td>
<td>28 feet (pitched roof)</td>
<td>13 feet</td>
<td>Complies</td>
</tr>
</tbody>
</table>

Beachfront lots must provide a side yard setback that is 10% of lot width on each side, with a 3 feet minimum and 5 feet maximum.

Archaeological / Cultural Resources (LIP) Chapter 11

LIP Chapter 11 requires certain procedures be followed to determine potential impacts on archaeological resources. The project site has been previously graded to create the building pad and surrounding development, the project will not disturb any archeological resources, and the project is not proposing any excavation.

Nevertheless, a condition of approval has been incorporated into the proposed project which states that in the event that potentially important cultural resources be 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. The project has been conditioned to meet this requirement and complies with LIP Chapter 11.

Wastewater Treatment System Standards (LIP Chapter 18)

LIP Chapter 18 addresses OWTS. LIP Section 18.7 includes specific siting, design, and performance requirements. The project includes installation of new OWTS components consisting of a treatment tank system to serve the residence including a new future expansion field, which has been reviewed by the City Environmental Health Administrator. The system details are included in the Environmental Health approved plot plan in Attachment 3 and were found to meet the minimum requirements of the LCP and MMC. The proposed OWTS will meet all applicable requirements and operating permits will be required. An operation and maintenance contract and recorded covenant covering such must comply with City of Malibu Environmental Health requirements. Conditions of approval have been included in this resolution, which require continued operation, maintenance, and monitoring of onsite facilities.
LIP Findings

A. General Coastal Development Permit (LIP Chapter 13)

LIP Section 13.9 requires that the following four findings be made for all CDPs.

Finding 1. That the project as described in the application and accompanying materials, as modified by any conditions of approval, conforms with the certified City of Malibu Local Coastal Program.

The project is located in the SFM zoning district, an area designated for residential uses. The project is an interior and exterior remodel including the after-the-fact approval of unpermitted additions to the first and second floor, built by previous property owners sometime in the 1980s prior to Cityhood, a new proposed second floor addition, new second floor deck extension, and associated development at an existing single-family residence which is a permitted use. The project has been reviewed for conformance with the LCP by the Planning Department, City Biologist, City Coastal Engineering, City Environmental Health Administrator, City geotechnical staff, City Public Works Department, Los Angeles County WD29, and the LACFD. As discussed herein, based on submitted reports, project plans, visual analysis and site investigations, the proposed project, as conditioned, conforms to the LCP and MMC in that it meets all applicable residential development standards with the inclusive of the requested VAR and DP.

Finding 2. If the project is located between the first public road and the sea, that the project is in conformity to the public access and recreation policies of Chapter 3 of the Coastal Act of 1976 (commencing with Sections 30200 of the Public Resources Code).

The project is located between the first public road and the sea and will not adversely impact public access or recreation because the project includes improvements to an existing single-family residence that do not extend its seaward footprint. In addition, the project site has no trails or recorded access easements on or adjacent to it according to the LCP Park Lands Map or the LCP Public Access Map, but access is available on California’s “wet sand right-of-way.” Therefore, no potential project-related or cumulative impact on public access and/or recreation is anticipated to result from the proposed project. As such, the proposed project conforms to the public access and recreation policies in Chapter 3 of the Coastal Act of 1976 (commencing with Sections 30200 of the Public Resources Code).

Finding 3. The project is the least environmentally damaging alternative.

This analysis assesses whether alternatives to the proposed project would significantly lessen adverse impacts to coastal resources. Based on LCP conformance review, the project as proposed will not result in any adverse impacts. Nevertheless, the following alternatives to the proposed project were considered.
A majority of the proposed work for this project is an interior and exterior remodel, second floor addition, as well as after-the-fact approvals of existing additions. Other components of the project include structural related components to reinforce the existing seawall and foundation. There is no feasibility to expand either east or west due to existing setbacks and an additional floor is not an option. The project applicant and property owner are staying within the existing building footprint.

**Alternative Project** – A replacement structure could be proposed. However, demolition of the existing single-family residence and construction of a new single-family residence would result in greater site disturbance and most likely a 24 to 28 foot high (instead of the existing 13 foot high) structure along PCH, although a view corridor and onsite parking would be gained. The property owner’s objective is to retain the existing non-conforming structure, legalize the unpermitted portions and update the OWTS, without losing square footage to parking and view corridors. As long as at least 50 percent of the exterior walls are maintained and the additions do not increase the structure size by more than 50 percent, the owner has the right to pursue retaining the non-conforming structure.

**Proposed Project** – The project consists of after-the-fact approval of the emergency underpinning of the seawall, after-the-fact approval of the existing permanent pad footings that were installed below the lower level of the residence, and new OWTS components, plus an interior and exterior remodel, after-the-fact approval of as-built additions, and new additions and a deck extension. The project has been carefully reviewed by Planning and Building Safety staff for compliance with the 50 percent rule for remodels of non-conforming structures. All other departments and agencies have reviewed and conditionally approved the project. The project meets the City’s beachfront residential development policies of the LCP and MMC. The project minimizes land disturbance, does not create new visual impacts and improves the site’s onsite wastewater treatment and structural stability. The project is the least environmentally damaging alternative.

*Finding 4. If the project is located in or adjacent to an environmentally sensitive habitat area pursuant to Chapter 4 of the Malibu LIP (ESHA Overlay), that the project conforms with the recommendations of the Environmental Review Board, or if it does not conform with the recommendations, findings explaining why it is not feasible to take the recommended action.*

The subject property is not in a designated ESHA or ESHA buffer, as shown on the LCP ESHA and Marine Resources Map. Therefore, Environmental Review Board review was not required, and this finding does not apply.
B. Variance for the after-the-fact approval of additions located within the required east side yard setback (LIP Section 13.26.5)

LIP Section 13.26 requires that the City make ten findings in consideration and approval of a variance. The application includes a variance request to reduce the eastern side yard setback from 3 feet to 1 foot, 11 inches to allow for the after-the-fact approval of the existing unpermitted additions to the first and second floor that were built by previous property owners sometime in the 1980s prior to Cityhood. Based on evidence in the record, the findings in support of VAR No. 19-006 are made herein.

Finding 1. There are special circumstances or exceptional characteristics applicable to the subject property, including size, shape, topography, location, or surroundings such that strict application of the zoning ordinance deprives such property of privileges enjoyed by other property in the vicinity and under the identical zoning classification.

Special circumstances or exceptional characteristics applicable to the subject parcel consist of the location of the permitted single-family residence constructed in 1939. The original home was constructed with setbacks that do not meet the current MMC and LCP requirements of 3 feet. The additions added to the east side by a previous owner in the 1980s line up closely with the original east side yard setback of the home’s second floor, which is 2 feet, 3 inches, except that on the second floor the addition goes 4 inches further into the setback. The proposed variance to allow a 1 foot, 11-inch east side yard setback will allow the current owner to maintain the existing structure without further modifications to the exterior walls. The as-built additions closely maintain the existing eastern setback, and both the first and second floor after-the-fact additions are built under the existing roofline. A majority of the residences along this portion of PCH were built prior to incorporation of the City, and many of those homes feature non-conforming setbacks, some of which are smaller than those of the subject property. Due to these special circumstances and exceptional characteristics, the strict application of the zoning ordinance would deprive the property of privileges enjoyed by other property in the vicinity and under the identical zoning classification.

Finding 2. The granting of such variance will not be detrimental to the public interest, safety, health or welfare, and will not be detrimental or injurious to the property or improvements in the same vicinity and zone(s) in which the property is located.

Approval of the variance allows the for the existing development to remain and no new encroachments will take place. The additions have been in place since the 1980s and are situated under the existing roofline. As such, the granting of the proposed variance will not be detrimental to the public interest, safety, health or welfare, and will not be detrimental or injurious to the property or improvements in the same vicinity and zone in which the property is located.
Finding 3. The granting of the variance will not constitute a special privilege to the applicant or property owner. The granting of the proposed variance will not constitute a special privilege to the applicant or property owner. The proposed improvements to the existing single-family residence are consistent with the uses permitted in the applicable zoning designation. Furthermore, the single-family residence was constructed in 1939, which has an existing non-conforming setback of 2 feet, 3 inches and is typical of older pre-City structures in the area which feature similar non-conforming narrow side yard setbacks. Therefore, the proposed variance will not constitute a special privilege to the applicant or the property owner.

Finding 4. The granting of such variance will not be contrary to or in conflict with the general purposes and intent of this Chapter, nor to the goals, objectives and policies of the LCP. The granting of the proposed variance will not be contrary to or in conflict with the LCP. The proposed variance will allow the additions that took place to both the first and second floors to be permitted. No new additions would be located within the existing setback. Furthermore, both the first and second floor, after-the-fact additions, are built under the existing roof line. The project was carefully reviewed to ensure that 50 percent of exterior walls are maintained, consistent with LCP standards for repair and maintenance of existing non-conforming structures. Additionally, the Planning Department, City Biologist, City Coastal Engineering, City Environmental Health Administrator, City geotechnical staff, City Public Works Department, Los Angeles County WD29, and the LACFD deemed the proposed project consistent with the LCP and applicable goals and policies.

Finding 5. For variances to environmentally sensitive habitat area buffer standards or other environmentally sensitive habitat area protection standards, that there is no other feasible alternative for siting the structure and that the development does not exceed the limits on allowable development area set forth in Section 4.7 of the Malibu LIP. The requested variance is not associated with ESHA standards. Therefore, this finding does not apply.

Finding 6. For variances to stringline standards, that the project provides maximum feasible protection to public access as required by Chapter 2 of the Malibu LIP. The requested variance is not associated with stringline standards. Therefore, this finding does not apply.

Finding 7. The variance request is consistent with the purpose and intent of the zone(s) in which the site is located. A variance shall not be granted for a use or activity, which is not otherwise expressly authorized by the zone regulation governing the parcel of property.
The proposed uses are consistent with the permitted uses in the applicable SFM zoning district. The proposed variance would not authorize an unpermitted use or activity.

Finding 8. The subject site is physically suitable for the proposed variance.

The subject parcel is physically suitable for the proposed variance because the proposed scope of work is consistent and complementary to the existing residential use onsite. Approval of the variance will allow the owner the ability to maintain additions that were constructed prior to his ownership and City’s incorporation. The granting of the variance will allow a single-family residence that is compatible with the surrounding built environment. The project has been reviewed and approved by applicable agencies. During Building Safety plan check, the project construction drawings will also be reviewed and approved for structural integrity and stability. All final recommendations of the applicant’s structural and coastal engineer, as well as those recommendations of the City Environmental Sustainability Department, the City Biologist, City Environmental Health Administrator, City Public Works Department, City geotechnical staff, City Coastal Engineer, California State Lands Commission, WD29, and LACFD, will be incorporated into the project.

Finding 9. The variance complies with all requirements of state and local law.

The proposed project 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 the LACFD. Construction of the proposed residence will comply with all building code requirements and will incorporate all recommendations from applicable City agencies and project consultants.

Finding 10. A variance shall not be granted that would allow reduction or elimination of public parking for access to the beach, public trails or parklands.

The proposed project does not include or encroach upon public parking. Therefore, this finding does not apply.

C. Environmentally Sensitive Habitat Area Overlay (LIP Chapter 4)

As determined by the City Biologist, the LCP ESHA and Marine Resources Map, the subject parcel does not contain ESHA. Therefore, the findings of LIP Chapter 4 are not applicable.

D. Native Tree Protection (LIP Chapter 5)

There are no protected native trees on or adjacent to the subject parcel. Therefore, the findings contained in LIP Chapter 5 are not applicable.
E. Scenic, Visual and Hillside Resource Protection (LIP Chapter 6)

The Scenic, Visual, and Hillside Resource Protection Chapter governs those coastal development permit applications concerning any parcel of land that is located along, within, provides views to or is visible from any scenic area, scenic road or public viewing area. The project site is visible from PCH and the beach. Therefore, LIP Chapter 6 applies, and the five findings set forth in LIP Section 6.4 are made as follows.

Finding 1. The project, as proposed, will have no significant adverse scenic or visual impacts due to project design, location on the site or other reasons.

The proposed project is an interior and exterior remodel including the after-the-fact approval of unpermitted additions to the first and second floor, built by previous property owners sometime in the 1980s prior to Cityhood, a new proposed second floor addition, new second floor deck extension, and associated development. The proposed work will not result in a replacement or new structure as defined by the LCP and therefore, a view corridor is not required as part of this project. An analysis of the project’s visual impact was conducted through site inspections, architectural plans and review of neighborhood character. The project as proposed maintains a one-story profile along the PCH side and a two-story profile along the seaward side of the residence. While no bluewater views are available from PCH, the lower profile of the existing residence minimizes the massing when viewing from PCH. The beach at this location is narrow, so there are no significant views of mountains from the beach that are affected by the development. Based on a staff site visits and analysis it was determined the proposed development is not expected to have significant adverse scenic or visual impacts as the development will maintain the existing bulk and mass of the existing structure.

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

The project has been designed to avoid any adverse or scenic impacts. The proposed development primarily consists of an interior and exterior remodel including the after-the-fact approval of unpermitted additions to the first and second floor built by previous property owners, and will result in only a negligible change to the building exterior. The project has been conditioned to restrict exterior lighting per the requirements of LIP Section 6.5(G). Therefore, the proposed development will not result in significant adverse scenic visual impacts.

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

As discussed in Section A, the project, as proposed or conditioned, is the least environmentally damaging alternative.
Finding 4. There are no feasible alternatives to development that would avoid or substantially lessen any significant adverse impacts on scenic and visual resources.

The project, as designed and conditioned, is not expected to adversely affect scenic and visual resources and no feasible alternatives would avoid or substantially lessen any significant adverse impacts on scenic and visual resources.

Finding 5. Development in a specific location on the site may have adverse scenic and visual impacts but will eliminate, minimize or otherwise contribute to conformance to sensitive resource protection policies contained in the certified LCP.

As discussed in Findings 1 and 2, the project, as proposed and conditioned, will result in less than significant impacts on scenic and visual resources. The location proposed for development would result in a less than significant visual impact to public views from PCH and will not impact sensitive resources. Therefore, the proposed development, as designed, is sited to minimize or otherwise contribute to conformance to sensitive resources.

F. Transfer of Development Credits (LIP Chapter 7)

The proposed project does not include a land division or multi-family development. Therefore, the findings of LIP Chapter 7 are not applicable.

G. Hazards (LIP Chapter 9)

Pursuant to LIP Section 9.3, written findings of fact, analysis and conclusions addressing geologic, flood and fire hazards, structural integrity or other potential hazards listed in LIP Section 9.2(A) must be included in support of all approvals, denials or conditional approvals of development located on a site or in an area where it is determined that the proposed project has the potential to create adverse impacts upon site stability or structural integrity.

The proposed development has been analyzed for the hazards listed in LIP Chapter 9 and has been reviewed and approved for conformance with all relevant policies and regulations of the LCP and MMC by the Planning Department, City Biologist, City Coastal Engineering, City Environmental Health Administrator, City geotechnical staff, City Public Works Department, Los Angeles County WD29, and the LACFD. The required findings are made as follows:
**Finding 1.** The project, as proposed will neither be subject to nor increase instability of the site or structural integrity from geologic, flood, or fire hazards due to project design, location on the site or other reasons.


It has been determined that the project is located within the toe of the active Big Rock Mesa Landslide and falls under the jurisdiction of Section 110.2.3.4 of the Malibu Building Code. The applicant will be required to sign, record at the County of Los Angeles recorder’s office, and submit to City geotechnical staff a certified copy of an “Assumption of Risk and Release” for geotechnical hazards prior to permit issuance. Based on review of the project plans by City Coastal Engineering, City geotechnical staff, City Public Works Department, and the LACFD, these specialists determined that adverse impacts to the project site related to the proposed development are not expected and the proposed project will not increase the instability of the site or structural integrity from geologic, flood or fire hazards. In summary, the proposed development is suitable for the intended use provided that the certified engineering geologist and/or geotechnical engineer’s recommendations and governing agency’s building codes are followed.

All recommendations of the City geotechnical and coastal engineering staff shall be incorporated into the final design and construction. Final plans shall be reviewed and approved by the City geotechnical and coastal engineering staff.

**Fire Hazard**

The entire city limits of Malibu are within an identified fire hazard zone. The property is currently subject to wildfire, however, the proposed interior and exterior remodel including the after-the-fact approval of unpermitted additions to the first and second floor on the subject property will not increase the site’s susceptibility to wildfire. The scope of work proposed as part of this application is not expected to have an impact on wildfire hazards. The proposed development may actually decrease the site’s susceptibility to wildfire through the use of appropriate building materials during construction.

The City is served by the LACFD, as well as the California Department of Forestry, if needed. In the event of major fires, the County has “mutual aid agreements” with cities and counties throughout the State so that additional personnel and firefighting equipment can augment the LACFD. Conditions of approval have been included in the resolution to require compliance with all LACFD development standards. As such, the proposed project, as designed and conditioned, will not be subject to nor increase the instability of the site or structural integrity involving wildfire hazards.
Finding 2.  The project, as conditioned, will not have significant adverse impacts on site stability or structural integrity from geologic, flood or fire hazards due to required project modifications, landscaping or other conditions.

As stated in Finding 1, the project as designed, conditioned, and approved by the City geotechnical and coastal engineering staff, does not have any significant adverse impacts on site stability or structural integrity from geologic or fire hazards due to the project design.

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

As previously stated in Section A, the project, as proposed and conditioned, is the least environmentally damaging alternative.

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

The proposed development has been analyzed for the hazards listed in LIP Chapter 9 by the Planning Department, City Biologist, City Coastal Engineering, City Environmental Health Administrator, City geotechnical staff, City Public Works Department, Los Angeles County WD29, and the LACFD. These specialists and agency determined that the proposed project does not impact site stability or structural integrity. As previously discussed in Section A, there are no feasible alternatives to the proposed development that would result in less site disturbance.

Finding 5.  Development in a specific location on the site may have adverse impacts but will eliminate, minimize or otherwise contribute to conformance to sensitive resource protection policies contained in the certified Malibu LCP.

As previously discussed in Section A, the proposed project, as designed and conditioned, will not have adverse impacts on sensitive resources.

H.  Shoreline and Bluff Development (LIP Chapter 10)

The project site is located on the ocean side of PCH along the shoreline. In accordance with LIP Section 10.2, the requirements of LIP Chapter 10 are applicable to the project and the required findings are made as follows.

Finding 1.  The project, as proposed, will have no significant adverse impacts on public access, shoreline sand supply or other resources due to project design, location on the site or other reasons.
The project includes legalizing the emergency underpinning of the existing seawall completed in April 2013 and legalizing existing permanent pad footings below the lower level of the residence. The existing seawall and work completed in 2013 took place behind the 10-foot setback from the mean high tide line and did not extend the footprint of development any further seaward. Furthermore, given compliance with the existing stringlines, the location of the proposed additions within existing residence footprint, and deck not touching the sand, the proposed development as designed and conditioned, is not expected to have significant adverse impacts on public access, shoreline sand supply or other resources due to its location on the site.

Finding 2. The project, as conditioned, will not have significant adverse impacts on public access, shoreline sand supply or other resources due to required project modifications or other conditions.

The project, as designed and conditioned, is not expected to have any significant adverse impacts on public access or shoreline sand supply or other resources. Furthermore, construction conditions for shoreline protection are included in the resolution.

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

As previously stated in Section A, the project, as designed and conditioned, is the least environmentally damaging alternative.

Finding 4. There are no alternatives to the proposed development that would avoid or substantially lessen impacts on public access, shoreline sand supply or other resources.

As discussed above, the project, as designed and conditioned, is not expected to have any significant adverse impacts on public access or shoreline sand supply or other resources. Furthermore, the existing seawall protects the OWTS and is also part of the structural foundation of the residence. The residence qualifies under LIP 10.4(K) in that the seawall is necessary to protect the OWTS, which is located as far landward as feasible, the seawall is there to protect the existing structure which was legally constructed prior to the effective date of the Coastal Act and prior to certification of the Malibu LCP.

Finding 5. In addition, if the development includes a shoreline protective device, that it is designed or conditioned to be sited as far landward as feasible, to eliminate or mitigate to the maximum feasible extent adverse impacts on local shoreline sand supply and public access, there are no alternatives that would avoid or lessen impacts on shoreline sand supply, public access or coastal resources and is the least environmentally damaging alternative.
The proposed project includes legalizing the emergency underpinning of the existing seawall completed in April 2013 and legalizing existing permanent pad footings below the lower level of the residence. The existing seawall and work completed in 2013 took place behind the 10 foot setback from the mean high tide line and not on the portion subject to wave action, is not expected to adversely impact local shoreline sand supply and public access because no excavation on the beach is expected as a result of the proposed project. Furthermore, as noted in Finding 4 above the residence qualifies under LIP 10.4(K) and LIP 10.4(M) in that the seawall is located as far landward as feasible.

I. Public Access (LIP Chapter 12)

LIP Section 12.4 requires public access for lateral, bluff-top, and vertical access near the ocean, trails, and recreational access for the following cases:

A. New development on any parcel or location specifically identified in the Land Use Plan or in the LCP zoning districts as appropriate for or containing a historically used or suitable public access trail or pathway.
B. New development between the nearest public roadway and the sea.
C. New development on any site where there is substantial evidence of a public right of access to or along the sea or public tidelands, a blufftop trail or an inland trail acquired through use or a public right of access through legislative authorization.
D. New development on any site where a trail, bluff top access or other recreational access is necessary to mitigate impacts of the development on public access where there is no feasible, less environmentally damaging, project alternative that would avoid impacts to public access.

The LCP Public Access Map indicates that a lateral accessway has not been recorded on the subject property. However, lateral public access exists along the State of California’s “wet sand right-of-way” which allows public use of lands seaward of the mean high tide and provides public access along and parallel to the sea or shoreline. Therefore, adequate public vertical and lateral accessways exist nearby and are not required for the proposed project.

Furthermore, the subject property and project do not meet any of the criteria described above in that no trails are identified on the LCP Park Lands Map on or adjacent to the property. While the project is located between the first public road and the sea, the proposed interior and exterior remodel including the after-the-fact approval of unpermitted additions to the first and second floor, built by previous property owners sometime in the 1980s prior to Cityhood, a new proposed second floor addition, and new second floor deck extension does not result in a replacement or new structure. The requirement for public access of LIP Section 12.4 does not apply and further findings are not required.
J. Land Division (LIP Chapter 15)

This project does not include a land division. Therefore, the findings of LIP Chapter 15 are not applicable.

K. Demolition Permit Findings (MMC Chapter 17.70)

MMC Section 17.70.060 requires that a demolition permit be issued for projects that result in the demolition of any building or structure. The project includes a remodel that will affect exterior walls and demolition of a 23 square foot unpermitted first-floor deck built seaward of the existing deck stringline. Therefore, the findings for DP No. 19-006 are made as follows:

Finding 1. The demolition permit is conditioned to assure that it will be conducted in a manner that will not create significant adverse environmental impacts.

The proposed project includes the demolition of 42.3 percent of exterior walls (134 linear feet) and demolition of a 23 square foot unpermitted first-floor deck built outside the existing deck stringline. Conditions of approval, including the recycling of demolished materials, have been included to ensure that the proposed project will not create significant adverse environmental impacts. Furthermore, a Major Remodel Agreement was submitted indicating that the applicant is aware that the proposed demolition plans do not provide an allowance for additional demolition of exterior walls should issues such as dry rot and/or termite damage be discovered after approval. Should additional exterior walls require demolition, the project may require a Coastal Development Permit Amendment by the Planning Commission to address a new replacement structure.

Finding 2. A development plan has been approved or the requirement waived by the City.

This CDP application is being processed concurrently with DP No. 19-006, and approval of the demolition permit is subject to the approval of CDP No. 14-052.

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 project is categorically exempt from the provisions of CEQA pursuant to Sections 15301(a) and (e) – Existing Facilities. The Planning Department 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).

CORRESPONDENCE: Staff has not received any public correspondence regarding this project.
PUBLIC NOTICE: Staff published a Notice of Public Hearing Notice in a newspaper of general circulation within the City of Malibu on June 25, 2020 and mailed the notice to property owners and occupants within a 500-foot radius of the subject property (Attachment 4).

SUMMARY: The required findings can be made that the project complies with the LCP. 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. 20-52. The project has been reviewed and conditionally approved for conformance with the LCP by Planning Department staff and appropriate City and County departments.

ATTACHMENTS:

1. Planning Commission Resolution No. 20-52
2. Project Plans
3. Department Review Sheets
4. Radius Map
5. Public Hearing Notice

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

SECTION 1. Recitals.

A. On August 14, 2014, an application for Coastal Development Permit (CDP) No. 14-052 was submitted to the Planning Department by applicant, Sharyl Beebe, on behalf of the property owners Joseph A. Watters and Virginia Watters Revocable Intro Vivos Trust. The application was routed to the City Biologist, City geotechnical staff, City Coastal Engineer, City Environmental Health Administrator, City Public Works Department, and the Los Angeles County Fire Department for review.

B. On June 14, 2017, Planning Department staff conducted a site visit to document site conditions, the property and surrounding area.

C. On February 6, 2017, an updated letter of authorization to submit a project was received making Nick Barsocchini the new applicant on behalf of the property owners Joseph A. Watters and Virginia Watters Revocable Intro Vivos Trust.

D. On February 19, 2019, Variance (VAR) No. 19-006 was added for the after-the-fact approval of additions located within the required east side yard setback

E. On April 21, 2020, the project was deemed complete.

F. On June 12, 2020, a Notice of Coastal Development Permit Application was posted on the subject property.

G. 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.
H. 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.

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 Section 15301(a) and (e) - Existing Facilities. 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 including Sections 13.7(B) and 13.9, the Planning Commission adopts the analysis in the agenda report, incorporated herein, the findings of fact below, and approves CDP No. 14-052, VAR No. 19-006 and Demolition Permit (DP) No. 19-006 to allow an interior and exterior remodel including the after-the-fact approval of unpermitted additions to the first and second floor, a new proposed second floor addition, and deck extension, and associated development including VAR No. 19-006 for the after-the-fact approval of the unpermitted additions located within the required east side yard setback and DP No. 19-006 for the demolition of exterior walls and an unpermitted first-floor deck built seaward of the existing deck stringline in the Single-family Medium (SFM) zoning district located at 20048 Pacific Coast Highway (PCH).

The project is consistent with the LCP’s zoning, grading, cultural resources, water quality, and wastewater treatment system standards requirements. With the inclusion of the proposed variance and demolition permit, 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 located in the SFM zoning district, an area designated for residential uses. The project is an interior and exterior remodel including the after-the-fact approval of unpermitted additions to the first and second floor, built by previous property owners sometime in the 1980s prior to Cityhood, a new proposed second floor addition, new second floor deck extension, and associated development at an existing single-family residence which is a permitted use. The project has been reviewed for conformance with the LCP by the Planning Department, City Biologist, City Coastal Engineering, City Environmental Health Administrator, City geotechnical staff, City Public Works Department, Los Angeles County WD29, and the LACFD. As discussed herein, based on submitted reports, project plans, visual analysis and site investigations, the proposed project, as conditioned, conforms to the LCP and MMC in that it meets all applicable residential development standards with the inclusive of the requested VAR and DP.
2. The project is located between the first public road and the sea and will not adversely impact public access or recreation because the project includes improvements to an existing single-family residence that do not extend its seaward footprint. In addition, the project site has no trails or recorded access easements on or adjacent to it according to the LCP Park Lands Map or the LCP Public Access Map, but access is available on California’s “wet sand right-of-way.” Therefore, no potential project-related or cumulative impact on public access and/or recreation is anticipated to result from the proposed project. As such, the proposed project conforms to the public access and recreation policies in Chapter 3 of the Coastal Act of 1976 (commencing with Sections 30200 of the Public Resources Code).

3. Evidence in the record demonstrates that the project as proposed and conditioned, is the least environmentally damaging alternative. There is no evidence that an alternative project would substantially lessen any potential significant adverse impacts of the development on the environment.

B. Variance Findings for the after-the-fact approval of additions located within the required east side yard setback (LIP Section 13.26.5)

1. Special circumstances or exceptional characteristics applicable to the subject parcel consist of the location of the permitted single-family residence constructed in 1939. The original home was constructed with setbacks that do not meet the current MMC and LCP requirements of 3 feet. The additions added to the east side by a previous owner in the 1980s line up closely with the original east side yard setback of the home’s second floor, which is 2 feet, 3 inches, except that on the second floor the addition goes 4 inches further into the setback. The proposed variance to allow a 1 foot, 11-inch east side yard setback will allow the current owner to maintain the existing structure without further modifications to the exterior walls. The as-built additions closely maintain the existing eastern setback, and both the first and second floor after-the-fact additions are built under the existing roof line. A majority of the residences along this portion of PCH were built prior to incorporation of the City, and many of those homes feature non-conforming setbacks, some of which are smaller than those of the subject property. Due to these special circumstances and exceptional characteristics, the strict application of the zoning ordinance would deprive the property of privileges enjoyed by other property in the vicinity and under the identical zoning classification.

2. Approval of the variance allows the for the existing development to remain and no new encroachments will take place. The additions have been in place since the 1980s and are situated under the existing roofline. As such, the granting of the proposed variance will not be detrimental to the public interest, safety, health or welfare, and will not be detrimental or injurious to the property or improvements in the same vicinity and zone in which the property is located.

3. The granting of the proposed variance will not constitute a special privilege to the applicant or property owner. The proposed improvements to the existing single-family residence are consistent with the uses permitted in the applicable zoning designation. Furthermore, the single-family residence was constructed in 1939, which has an existing non-conforming setback of 2 feet, 3 inches and is typical of older pre-City structures in the area which feature similar non-conforming narrow side yard setbacks. Therefore, the proposed variance will not constitute a special privilege to the applicant or the property owner.
4. The granting of the proposed variance will not be contrary to or in conflict with the LCP. The proposed variance will allow the additions that took place to both the first and second floors to be permitted. No new additions would be located within the existing setback. Furthermore, both the first and second floor, after-the-fact additions, are built under the existing roof line. The project was carefully reviewed to ensure that 50 percent of exterior walls are maintained, consistent with LCP standards for repair and maintenance of existing non-conforming structures. Additionally, the Planning Department, City Biologist, City Coastal Engineering, City Environmental Health Administrator, City geotechnical staff, City Public Works Department, Los Angeles County WD29, and the LACFD deemed the proposed project consistent with the LCP and applicable goals and policies.

5. The proposed uses are consistent with the permitted uses in the applicable SFM zoning district. The proposed variance would not authorize an unpermitted use or activity.

6. The subject parcel is physically suitable for the proposed variance because the proposed scope of work is consistent and complementary to the existing residential use onsite. Approval of the variance will allow the owner the ability to maintain additions that were constructed prior to his ownership and City’s incorporation. The granting of the variance will allow a single-family residence that is compatible with the surrounding built environment. The project has been reviewed and approved by applicable agencies. During Building Safety plan check, the project will be reviewed and approved for structural integrity and stability. All final recommendations of the applicant’s structural and coastal engineer, as well as those recommendations of the City Environmental Sustainability Department, the City Biologist, City Environmental Health Administrator, City Public Works Department, City geotechnical staff, City Coastal Engineer, California State Lands Commission, WD29, and LACFD, will be incorporated into the project.

7. The proposed project 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 the LACFD. Construction of the proposed residence will comply with all building code requirements and will incorporate all recommendations from applicable City agencies and project consultants.

E. Scenic, Visual and Hillside resource Protection (LIP Chapter 6)

1. The proposed project is an interior and exterior remodel including the after-the-fact approval of unpermitted additions to the first and second floor, built by previous property owners sometime in the 1980s prior to Cityhood, a new proposed second floor addition, new second floor deck extension, and associated development. The proposed work will not result in a replacement or new structure as defined by the LCP and therefore, a view corridor is not required as part of this project. An analysis of the project’s visual impact was conducted through site inspections, architectural plans and review of neighborhood character. The project as proposed maintains a one-story profile along the PCH side and a two-story profile along the seaward side of the residence. While no bluewater views are available from PCH, the lower profile of the existing residence minimizes the massing when viewing from PCH. The beach at this location is narrow, so there are no significant views of mountains from the beach that are affected by the development. Based on a staff site visits and analysis it was determined the proposed development is not expected to have significant adverse scenic or visual impacts as the development will maintain the existing bulk and mass of the existing structure.
2. The project has been designed to avoid any adverse or scenic impacts. The proposed development primarily consists of an interior and exterior remodel including the after-the-fact approval of unpermitted additions to the first and second floor built by previous property owners, and will result in only a negligible change to the building exterior. The project has been conditioned to restrict exterior lighting per the requirements of LIP Section 6.5(G). Therefore, the proposed development will not result in significant adverse scenic visual impacts.

3. As discussed in Section A, the project, as proposed or conditioned, is the least environmentally damaging alternative.

4. The project, as designed and conditioned, is not expected to adversely affect scenic and visual resources and no feasible alternatives would avoid or substantially lessen any significant adverse impacts on scenic and visual resources.

5. As discussed in Findings 1 and 2, the project, as proposed and conditioned, will result in less than significant impacts on scenic and visual resources. The location proposed for development would result in a less than significant visual impact to public views from PCH and will not impact sensitive resources. Therefore, the proposed development, as designed, is sited to minimize or otherwise contribute to conformance to sensitive resources.

G. Hazards (LIP Chapter 9)

1. Evidence in the record demonstrates that the project will neither be subject to nor increase the instability of the site from geologic, flood, or fire hazards. The proposed development is suitable for the intended use provided that the certified engineering geologist and/or geotechnical engineer’s recommendations and governing agency’s building codes are followed.

2. As stated in Finding 1, the project as designed, conditioned, and approved by the City geotechnical and coastal engineering, does not have any significant adverse impacts on site stability or structural integrity from geologic or fire hazards due to the project design.

3. As previously stated in Section A, the project, as proposed and conditioned, is the least environmentally damaging alternative.

4. The proposed development has been analyzed for the hazards listed in LIP Chapter 9 by the Planning Department, City Biologist, City Coastal Engineering, City Environmental Health Administrator, City geotechnical staff, City Public Works Department, Los Angeles County WD29, and the LACFD. These specialists and agency determined that the proposed project does not impact site stability or structural integrity. As previously discussed in Section A, there are no feasible alternatives to the proposed development that would result in less site disturbance.

5. As previously discussed in Section A, the proposed project, as designed and conditioned, will not have adverse impacts on sensitive resources.
H. Shoreline and Bluff Development (LIP Chapter 10)

1. The project includes legalizing the emergency underpinning of the existing seawall completed in April 2013 and legalizing existing permanent pad footings below the lower level of the residence. The existing seawall and work completed in 2013 took place behind the 10-foot setback from the mean high tide line and did not extend the footprint of development any further seaward. Furthermore, given compliance with the existing stringlines, the location of the proposed additions within existing residence footprint, and deck not touching the sand, the proposed development as designed and conditioned, is not expected to have significant adverse impacts on public access, shoreline sand supply or other resources due to its location on the site.

2. The project, as designed and conditioned, is not expected to have any significant adverse impacts on public access or shoreline sand supply or other resources. Furthermore, construction conditions for shoreline protection are included in the resolution.

3. As previously stated in Section A, the project, as designed and conditioned, is the least environmentally damaging alternative.

4. The project, as designed and conditioned, is not expected to have any significant adverse impacts on public access or shoreline sand supply or other resources. Furthermore, the existing seawall protects the OWTS and is also part of the structural foundation of the residence. The residence qualifies under LIP 10.4(K) in that the seawall is necessary to protect the OWTS, which is located as far landward as feasible, the seawall is there to protect the existing structure which was legally constructed prior to the effective date of the Coastal Act and prior to certification of the Malibu LCP.

5. The proposed project includes legalizing the emergency underpinning of the existing seawall completed in April 2013 and legalizing existing permanent pad footings below the lower level of the residence. The existing seawall and work completed in 2013 took place behind the 10 foot setback from the mean high tide line and not on the portion subject to wave action, is not expected to adversely impact local shoreline sand supply and public access because no excavation on the beach is expected as a result of the proposed project. Furthermore, as noted in Finding 4 above the residence qualifies under LIP 10.4(K) and LIP 10.4(M) in that the seawall is located as far landward as feasible.

K. Demolition Permit Findings (MMC Chapter 17.70)

1. The proposed project includes the demolition of 42.3 percent of exterior walls (134 linear feet) and demolition of a 23 square foot unpermitted first-floor deck built outside the existing deck stringline. Conditions of approval, including the recycling of demolished materials, have been included to ensure that the proposed project will not create significant adverse environmental impacts. Furthermore, a Major Remodel Agreement was submitted indicating that the applicant is aware that the proposed demolition plans do not provide an allowance for additional demolition of exterior walls should issues such as dry rot and/or termite damage be discovered after approval. Should additional exterior walls require demolition, the project may require a Coastal Development Permit Amendment by the Planning Commission.
2. This CDP application is being processed concurrently with DP No. 19-006, and approval of the demolition permit is subject to the approval of CDP No. 14-052.


Based on the foregoing findings and evidence contained within the record, the Planning Commission hereby approves CDP No. 14-052, VAR No. 19-006, and DP No. 19-006, 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 project described herein. The scope of work approved includes:

   a. The demolition of 42.3 percent of exterior walls (134 linear feet) of the existing single-family residence;
   b. The demolition of an existing 23 square foot unpermitted first-floor deck built seaward the existing deck stringline;
   c. The after-the-fact approval of 60 square foot first floor addition;
   d. The after-the-fact approval of 110 square foot second floor addition;
   e. The after-the-fact approval of emergency underpinning of existing concrete seawall;
   f. The after-the-fact approval of existing permanent pad footings;
   g. The construction of 139 square foot second floor addition;
   h. The construction of 39 square foot second floor deck extension;
   i. The construction of OWTS components consisting of a treatment tank system and a future 100 percent expansion field; and
   j. Discretionary Requests:
      i. VAR No. 19-006 to allow for the after-the-fact approval of the existing unpermitted additions to the first and second floor located within the required east side yard setback; and
      j. DP No. 19-006 to allow for the demolition of 42.3 percent of exterior walls (134 linear feet) and demolition of an unpermitted 23 square foot first floor deck built seaward of the existing deck stringline.

3. Except as specifically changed by conditions of approval, the proposed development shall be constructed in substantial conformance with the approved scope of work, as described in Condition No. 2 and depicted on plans on file with the Planning Department date stamped May 11, 2020. The proposed development shall further comply with all conditions of approval stipulated in this resolution and Department Review Sheets attached hereto. In the
event 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 digitally submit a complete set of plans, including the items required in Conditions No. 6 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 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, and the City of Malibu Public Works Department for an encroachment permit (as applicable).

7. The CDP shall expire if the project has not commenced within three (3) years after issuance of the permit, unless a time extension has been granted. 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. In the event of an appeal, the CDP shall expire if the project has not commenced within three years from the date the appeal is decided by the decision-making body or withdrawn by the appellant.

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 Biologist, City Coastal Engineer, City Environmental Health Administrator, City geotechnical staff, City Public Works Department, Los Angeles County Waterworks District No. 29 and LACFD, as applicable. Notwithstanding this review, all required permits shall be secured. 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 Malibu Municipal Code and the Local Coastal Program. Revised plans reflecting the minor changes and additional fees shall be required.

11. Pursuant to LIP Section 13.20, development pursuant to an approved CDP shall not commence until the CDP is effective. The CDP is not effective until all appeals, including those to the California Coastal Commission (CCC), have been exhausted. In the event that the CCC denies the permit or issues the permit on appeal, the coastal development permit approved by the City is void.
12. The applicant must submit payment for any outstanding fees payable to the City prior to issuance of any building permit, including grading or demolition.

**Cultural Resources**

13. 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 MMC Section 17.54.040(D)(4)(b) shall be followed.

14. 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.

**Lighting**

15. 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.

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

17. 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.

18. 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.
19. String lights are allowed in occupied dining and entertainment areas only and must not exceed 3,000 Kelvin.

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

21. 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.

Site-Specific Conditions

22. No exterior lighting is proposed as part of this project; therefore, no new exterior lighting is permitted as part of this project.

23. No new landscaping is proposed with this project; therefore, none is approved. Should the applicant intend to plant any new vegetation with a potential to exceed six feet in height or an area of 2,500 square feet or more, a detailed landscaping plan shall be submitted for review and approval prior to any planting.

Demolition/Solid Waste

24. Prior to demolition activities, the applicant shall receive Planning Department approval for compliance with conditions of approval.

25. The applicant/property owner shall contract with a City approved hauler to facilitate the recycling of all recoverable/recyclable material. Recoverable material shall include but shall not be limited to: asphalt, dirt and earthen material, lumber, concrete, glass, metals, and drywall.

26. Prior to the issuance of a building/demolition permit, an Affidavit and Certification to implement waste reduction and recycling shall be signed by the Owner or Contractor and submitted to the Environmental Sustainability Department. The Affidavit shall indicate the agreement of the applicant to divert at least 65 percent (in accordance with CalGreen) of all construction waste from the landfill.

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

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

29. Any building or demolition permits issued for work commenced or completed without the benefit of required permits are subject to appropriate “Investigation Fees” as required in the Building Code.
30. Fifty percent or more of exterior walls must remain in place during construction. Pursuant to LCP LIP Section 13.4.2, the replacement of 50 percent or more of a single-family residence is not repair and maintenance, but instead constitutes a replacement structure requiring a coastal development permit. A major remodel agreement acknowledging this shall be required prior to issuance of building permits for the project. Contact Planning Department staff to discuss options PRIOR TO DEMOLITION of more than 50 percent of the existing exterior walls, should any questions or issues concerning exterior wall demolition come up during construction. Demolition of exterior walls will be determined based on LCP Policy 3 (Remodels and Additions).

**Construction / Framing**

31. Prior to the commencement of work, the applicant shall submit a copy of their Construction Management Plan. The Construction Management Plan shall include a dedicated parking location for construction workers, not within the public right of way.

32. A construction staging plan shall be reviewed and approved by the Building Official prior to plan check submittal.

33. 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.

34. 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 rinsed prior to leaving the property.

**Colors and Materials**

35. The project is visible from scenic roads or public viewing areas, 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.
**Biology/Landscaping**

36. No new landscaping is proposed with this project; therefore, none is approved. Should the applicant intend to plant any new vegetation with a potential to exceed six feet in height or an area of 2,500 square feet or more, a detailed landscaping plan shall be submitted for review and approval prior to any planting.

37. No mechanized equipment shall be allowed on the beach at any time.

38. No equipment materials shall be stored or staged on the beach.

39. 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.

**Environmental Health**

40. Prior to final Environmental Health approval, a final OWTS plot plan prepared by a City Registered OWTS Designer shall be submitted showing an OWTS design meeting the minimum requirements of the MMC 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 OWTS plot plan shall show essential features of the OWTS 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).

41. A final OWTS design report and large set of construction drawings with system specifications (four sets) shall be submitted to describe the OWTS design basis and all components (i.e., alarm system, pumps, timers, flow equalization devices, backflow devices, etc.) proposed for use in the construction of the proposed OWTS. For all OWTS, final reports must be signed by a City registered OWTS Designer, and the plans stamped by a California Geologist. The final OWTS design report and construction drawings shall be submitted to the City Environmental Health Administrator with the designer’s wet signature, professional registration number and stamp (if applicable).

42. 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 drainage fixture equivalents, and the subsurface effluent dispersal system acceptance rate. The drainage 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. Sewage and effluent pump design calculations (as applicable).
c. 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;

d. 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 OWTS effluent flow, reported in units of gallons per day). The subsurface effluent dispersal system design must take into account the number of bedrooms, fixture units and building occupancy characteristics; and

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

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

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

45. All project architectural plans and grading/drainage plans shall be submitted for Environmental Health review and approval. The floor plans must show all drainage fixtures, including in the kitchen and laundry areas. These plans must be approved by the Building Safety Division prior to receiving Environmental Health final approval.

46. The final OWTS plans shall include the conditions of approval sections of the resolution from the Planning Commission.
47. Prior to final Environmental Health approval, the applicant shall provide engineer’s certification for reduction in setbacks to buildings or structures: All proposed reductions in setback from the OWTS to structures (i.e., setbacks less than those shown in MMC Table 15.42.030(E)) must be supported by a letter from the project structural engineer and a letter from the project soils engineer (i.e., a geotechnical engineer or civil engineer practicing in the area of soils engineering). Both engineers must certify unequivocally that the proposed reduction in setbacks from the treatment tank and effluent dispersal area will not adversely affect the structural integrity of the OWTS, and will not adversely affect the structural integrity of the structures for which the Table 15.42.030(E) setback is reduced. Construction drawings submitted for plan check must show OWTS components in relation to those structures from which the setback is reduced. All proposed reductions in setback from the OWTS to buildings (i.e., setbacks less than those shown in Table 15.42.030(E)) also must be supported by a letter from the project architect, who must certify unequivocally that the proposed reduction in setbacks will not produce a moisture intrusion problem for the proposed building(s). If the building designer is not a California-licensed architect, then the required architect’s certification may be supplied by an engineer who is responsible for the building design with respect to mitigation of potential moisture intrusion from reduced setbacks to the wastewater system. In this case, the engineer must include in his/her letter an explicit statement of responsibility for mitigation of potential moisture intrusion. If any specific construction features are proposed as part of a moisture intrusion mitigation system in connection with the reduced setback, then the architect or engineer must provide associated construction documents for review and approval during Building Safety Division plan check. The wastewater plans and the construction plans must be specifically referenced in all certification letters.

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

49. An operations and maintenance manual specified by the OWTS designer shall be submitted to the property owner and maintenance provider of the proposed OWTS.

50. 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 onsite wastewater disposal system after construction shall be submitted. Please note only original “wet signature” documents are acceptable.

51. Prior to final Environmental Health approval, a covenant running 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 City of Malibu Recorder’s Office. Said covenant shall serve as constructive notice to any future purchaser for value that the onsite wastewater treatment system serving subject property is an advanced method of sewage disposal pursuant to the City of MMC. Said covenant shall be provided by the City of Malibu Environmental Health Administrator.

52. Project geologist/geotechnical consultant final approval of the OWTS plan shall be submitted to the Environmental Health Administrator.
53. City geotechnical staff final approval shall be submitted to the City Environmental Health Administrator.

54. City coastal engineering final approval shall be submitted to the City Environmental Health Administrator.

55. Planning department final approval of OWTS plans shall be obtained.

56. In accordance with MMC Chapter 15.44, prior to Environmental Health approval, an application shall be made to the Environmental Sustainability Department for an OWTS operating permit.

**Geology**

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

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

59. The property owner will be required to sign and submit to City geotechnical staff a notarized “Assumption of Risk and Release” for geotechnical hazards prior to permit issuance. This document shall be reviewed and approved by City geotechnical staff prior to recordation.

**Shoreline Protection**

60. No stockpiling of dirt or construction materials shall occur on the beach.

61. Measures to control erosion, runoff, and siltation shall be implemented at the end of each day’s work.

62. The applicant shall not store any construction materials or waste where it will be or could potentially be subject to wave erosion and dispersion.

63. No machinery shall be placed, stored or otherwise located in the intertidal zone at any time, unless necessary for protection of life and/or property.

64. Construction equipment shall not be cleaned on the beach.

65. 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.
66. The Project Coastal Engineer shall submit a Shore Protection Monitoring Program that is consistent with the City’s requirements. The property owner will be required to record a “Covenant and Agreement Regarding Maintenance of the Shoreline Protection Device and the Use and Transfer of Ownership of Property”, informing any successors-in-interest to the property of these SPD monitoring requirements for the onsite bulkhead seawall. The Shore Protection Monitoring Program shall be attached to the covenant as Exhibit B.

Prior to Occupancy

67. Prior to a final Building inspection, the applicant shall provide a Recycling Summary Report (Summary Report) and obtain the approval from the Environmental Sustainability Department. Applicant must provide haul tickets and diversion information. The final Summary Report shall designate the specific materials that were land filled or recycled and state the facilities where all materials were taken.

68. The applicant shall request a final Planning Department inspection prior to final inspection by the City of Malibu Environmental and Sustainability Department. A final approval shall not be issued until the Planning Department has determined that the project complies with this CDP.

69. 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

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

71. 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.

Deed Restrictions

72. The property owner is required to acknowledge, by recordation of a deed restriction, that the property is subject to wave action, erosion, flooding, landslides, or other hazards associated with development on a beach or bluff, and that the property owner assumes said risks and waives any future claims of damage or liability against the City of Malibu and agrees to indemnify the City of Malibu against any liability, claims, damages or expenses arising from any injury or damage due to such hazards. The property owner shall provide a copy of the recorded document to the Planning Department prior to final Planning Department approval.

73. Prior to final Planning Department approval, the applicant shall be required to execute and record a deed restriction reflecting lighting requirements set forth in Condition Nos. 15-21. The property owner shall provide a copy of the recorded document to the Planning Department prior to final Planning Department approval.
74. The property owner is required to acknowledge, by the recordation of a deed restriction, that no future repair or maintenance, enhancement, reinforcement, or any other activity affecting the shoreline protection structure which extends the seaward footprint of the subject structure shall be undertaken and that he/she expressly waives any right to such activities that may exist under Coastal Act Section 30235. Said deed restriction shall be submitted to the Planning Department for approval prior to recordation. The deed restriction shall also acknowledge that the intended purpose of the shoreline protection structure is solely to protect existing structures located on the site, in their present condition and location, including the septic disposal system and that any future development on the subject site landward of the subject shoreline protection structure including changes to the foundation, major remodels, relocation or upgrade of the septic disposal system, or demolition and construction of a new structure shall be subject to a requirement that a new coastal development permit be obtained for the shoreline protection structure unless the City determines that such activities are minor in nature or otherwise do not affect the need for a shoreline protection structure.

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.
COASTAL COMMISSION APPEAL – An aggrieved person may appeal the Planning Commission’s approval to the Coastal Commission within 10 working days of the issuance of the City’s Notice of Final Action. Appeal forms may be found online at www.coastal.ca.gov or by calling (805) 585-1800. Such an appeal must be filed with the Coastal Commission, not the City.

I CERTIFY THAT THE FOREGOING RESOLUTION NO. 20-52 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
**PROPERTY INFORMATION:**

APN #: 4450-002-047
Address: 20048 Pacific Coast Highway, Malibu, CA 90265

Legal description: See attached Topographic Survey.

Gross Lot area: 3701.27 sq. ft. (0.08 Acres)

**SETBACK & AREA CALCULATIONS**

Front yard length = 54.42’
Rear yard length = 52.35’
Lot depth = 58.11’
Lot width = 53.93’

Gross Lot Area = 3701.27 SQ. FT. (0.08 ACRES)

Easement (utility) Area = 272.1 SQ. FT.
1 to 1 Slope Area = 0.0 SQ. FT.
Net Lot Area = 3429.17 SQ. FT.

**SCOPE OF THE WORK**

- 1. Legalize Existing Permanent Pad Footings.
- 2. Legalize Existing Seawall.
- 3. Legalize Existing Permanent Pad Footings.
- 4. Lower Level Deck Repair. Repair Lower Deck that was destroyed in 2014 to the original footprint. Removal of east corner of deck to meet Strengle requirements.
- 5. Small Deck Expansion on Upper Level Deck. (Within Strengle requirements).
- 6. Proposed Expansion of 139.9’ to Upper Level Dining Area and Kitchen. Also, New Roof Addition over Proposed Expansion. (Remodel is less than 30% area).
- 7. Existing Upper Level Kitchen and Dining Areas to be remodeled. (Interior Remodel Only).
- 8. Existing Lower Level Kitchen, Dining, Living, and Bedroom Areas to be remodeled. (Interior Remodel Only).
- 9. Height Requirements to be maintained. No Proposed Change in Height.
- 10. No Additional Bedrooms, Bathrooms, or Fireplaces Proposed. Total Fire Saftey Unit Count to either match permitted records or even less.
SETBACK & AREA CALCULATIONS

Front yard length = 54.42'
Rear yard length = 52.35'
Lot depth = 69.11'
Lot width = 53.39'

Gross Lot Area = 3701.27 SQ. FT. (0.08 ACRES)
Easement (utility) Area = 272.1 SQ. FT.
1 to 1 Slope Area = 0 SQ. FT.
Net Lot Area = 3429.17 SQ. FT.

Beachfront Setbacks:
Front Yard: Required average 2 immediate neighbors, 1/2 (4'+0")= 2'
(Existing 2' Conforming)
Rear Yard: Structure & Deck String Lines,
(Existing Non Conforming 15 sq. ft. of Building behind Structure String line)
East Side Yard: Required 10% width max 5' (Existing Non Conforming = 2'-3")
West Side Yard: Required min. 5' (Existing Conforming = 5'-9")
Side Yard Cumulative: Required min. 10' (Existing Non Conforming = 8')

Height Limit:
(Existing Conforming 13 ft. from street CL, 21.25 ft. from lowest finish floor)

TOTAL DEVELOPMENT SQUARE FOOTAGE:

Existing:
Upper floor = 1,297 sq.ft.  (1,187 sq.ft. + 110 sq.ft.)
Lower Floor= 877 sq.ft.  (467 sq.ft. + 60 sq.ft.)

Existing Residence Area:  2,174 sq.ft.

Proposed:
Upper floor = 1,575 sq.ft.  (1,297 sq.ft. + 138 sq.ft.)
Lower Floor= 877 sq.ft.  (467 sq.ft. + 60 sq.ft.)

Proposed Residence Area:  2,452 sq.ft.

UNENCLOSED AREA:
Existing Upper Floor Deck= 354 sq.ft.
Existing Lower Floor Deck= 491 sq.ft.

Total existing unenclosed / deck area= 845 sq.ft.

Proposed Upper Floor Deck= (REDUCED) 226 sq.ft. + [N] 39 sq.ft. = 265 sq.ft.
Proposed Lower Floor Deck= (REDUCED) 467 sq.ft.

Total Proposed Unenclosed/Deck Area= 732 sq.ft.
### REMODELS AND ADDITIONS (UPPER FLOOR)

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<th>Demolished Walls</th>
<th>New Walls</th>
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Building linear footprint = 173'-1" = 173.08' Linear Feet
Dome of Building footprint = 67'-2" = 67.33' Linear Feet

### REMODELS AND ADDITIONS (LOWER FLOOR)

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<td>63'-11&quot;</td>
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Building linear footprint = 143'-6" = 143.67' Linear Feet
Dome of Building footprint = 68'-8" = 68.67' Linear Feet

### BUILDING LINEAR FOOTPRINT

- (Lower Floor) 143'-8" = 143.67' Linear Feet
- (Upper Floor) 173'-1" = 173.08' Linear Feet
- Sum = 316.75' Linear Feet

### DEMO BUILDING LINEAR FOOTPRINT

- (Lower Floor) 55'-8" = 66.75' Linear Feet
- (Upper Floor) 67'-3" = 67.25' Linear Feet
- Sum = 134' Linear Feet

- 134' / 316.75' x 100 = 42.30 % Demo

**Note:**

- Existing Walls
- Demolished Walls
- New Walls

**Drawn By:**

- Watters Residence
- 1/1/2013

**Revisions:**

- 8-27-2019
- 9-13-2019
- 12-10-2013

**Scale:** 1/8" = 1'-0"
BIOLOGY REVIEW
REFERRAL SHEET

TO: City of Malibu City Biologist
FROM: City of Malibu Planning Department
DATE: 8/14/2014

PROJECT NUMBER: CDP 14-052
JOB ADDRESS: 20048 PACIFIC COAST HWY
APPLICANT / CONTACT: Sharyl Beebe, Prism Permit Expediting, Inc.
APPLICANT ADDRESS: P.O. Box 283
Malibu, CA 90265
APPLICANT PHONE #: (310) 403-4365
APPLICANT FAX #: sbeebe@prismpermits.com
APPLICANT EMAIL: sbeebe@prismpermits.com
PROJECT DESCRIPTION: NOWTS, new piles, new sea wall, interior remodel, new deck

TO: Malibu Planning Division and/or Applicant
FROM: Dave Crawford, City Biologist

The project review package is INCOMPLETE and CANNOT proceed through Final Planning Review until corrections and conditions from Biological Review are incorporated into the proposed project design (See Attached).

The project is APPROVED, consistent with City Goals & Policies associated with the protection of biological resources and CAN proceed through the Planning process.

The project may have the potential to significantly impact the following resources, either individually or cumulatively: Sensitive Species or Habitat, Watersheds, and/or Shoreline Resources and therefore Requires Review by the Environmental Review Board (ERB).

Additional requirements/conditions may be imposed upon review of plan revisions. Dave Crawford City Biologist, may be contacted on Tuesday between 9:00 am and 11:00 am at the City Hall Public counter, by leaving an e-mail at dcrawford@malibucity.org or by leaving a detailed voice message at (310) 456-2489, extension 277.
BIOLOGICAL REVIEW

Site Address: 20048 Pacific Coast Highway
Applicant/Phone: Sharyl Beebe/ 310.403.4365
Project Type: NOWTS, new piles, new sea wall, interior remodel, new deck
Project Number: CDP 14-052
Project Planner: Jasch Janowicz

REFERENCES: Site survey, site plans

RECOMMENDATIONS:

1. The project is APPROVED with the following conditions:

   A. No new landscaping is proposed with this project. Therefore, none is approved. Should the applicant intend to plant any new vegetation with a potential to exceed six (6) feet in height, or change of 5,000 sq.ft. or more of the existing landscaping, a detailed landscape plan shall be submitted for review and approval prior to any planting.

   B. No mechanized equipment shall be allowed on the beach at any time.

   C. No equipment or materials shall be stored or staged on the beach.

   D. 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. Lighting of the shore is prohibited.

Reviewed By:                      Date: 9/6/14

Dave Crawford, City Biologist
310-456-2489 ext.227 (City of Malibu); e-mail dcrawford@malibucity.org
Available at Planning Counter Tuesdays 9:00 a.m. to 11:00 a.m.
COASTAL ENGINEERING REVIEW
REFERRAL SHEET

TO: City of Malibu Coastal Engineer Staff
FROM: City of Malibu Planning Department

PROJECT NUMBER: CDP 14-052
JOB ADDRESS: 20048 PACIFIC COAST HWY
APPLICANT / CONTACT: Nick Barsocchini, Barsocchini and Associates
APPLICANT ADDRESS: 3502 Coast View Dr.
                      Malibu, CA 90265
APPLICANT PHONE #: (310) 456-3625
APPLICANT FAX #: (310) 456-7175
APPLICANT EMAIL: principal@barsocchini.com
PROJECT DESCRIPTION: NOWTS, new piles, new sea wall, interior remodel, new deck

TO: Malibu Planning Division and/or Applicant
FROM: Coastal Engineering Reviewer

✓ The project is feasible and CAN proceed through the Planning process.

The project CANNOT proceed through the planning process until coastal engineering feasibility is determined. Depending upon the nature of the project, this may require submittal of coastal engineering reports and/or wave run-up studies which evaluate the coastal environment setting, processes, and hazards.

Signature

DATE: 11/7/2017

Determination of Coastal Engineering feasibility is not approval of building and/or grading plans. Plans and/or reports must be submitted for Building Department approval, and may require approval of both the City Geotechnical Engineer, and City Coastal Engineer. Additional requirements/conditions may be imposed at the time of building and/or grading plans are submitted for review. Geotechnical reports may also be required.

City Coastal Engineering Staff may be contacted on Tuesday and Thursday between 8:00 am and 11:00 am at the City Hall Public counter, or by calling (310) 456-2489, extension 269.

* see attached Coastal Engineering Review Sheet for conditions of approval and BPC comments.
**COASTAL ENGINEERING REVIEW SHEET**

### Project Information

| Date: | November 7, 2017 |
| Site Address: | 20048 Pacific Coast Highway |
| Lot/Tract/PM #: | 4450-002-047 |
| Applicant/Contact: | Nick Barsocchini |
| Contact Phone #: | 310-456-3625 Email: principal@barsocchini.com |
| Project Type: | NAOWTS, new piles, underpinning of existing sea wall, interior remodel, new deck |

### Submittal Information

| Consultant(s): | David C. Weiss Structural Engineer & Associates, Inc. (Weiss, SE 1867) |
| Report Date(s): | 04-14-15, 07-21-14 |
| Project Plan(s): | Barsocchini & Associates 9-14-17 (architectural); David C. Weiss Structural Engineer & Associates, 9-12-17 (as-built structural) Emergency Underpinning Photographs (submitted 4-19-17) |
| Previous Reviews: | 11-18-14 |

### Review Findings

**Planning Stage**

- **APPROVED** in PLANNING-stage from a coastal engineering perspective, with conditions. The listed Building Plan-Check Coastal Review Comments shall be addressed prior to Building Plan-Check approval.

- **NOT APPROVED** in PLANNING-stage from a coastal engineering perspective. The listed Planning Stage Coastal Review Comments shall be addressed prior to Planning-stage approval.

**Building Plan-Check Stage**

- Awaiting Building plan check submittal. The listed ‘Building Plan-Check Stage Review Comments’ may be deferred for Planning Stage approval but shall be addressed prior to Building Plan-Check Stage approval.

### Remarks:

The referenced updated architectural and structural plans, including as-built structural drawings for after-the-fact elements of the project, were reviewed by the City from a coastal engineering perspective. The revised project comprises legalizing the emergency underpinning of the existing concrete seawall completed in April 2013, legalizing existing permanent pad footings below the lower level of the residence, installation of new OWTS components consisting of a treatment tank system, remodeling the existing residence that includes converting 139 square feet of decking into a dining room addition, replacement of the damaged 491 square foot lower deck with a 465 square foot deck, and 39 square feet of deck addition to the upper level. We understand, from review of the OWTS submittal documents (Lawrence Young, 2017) that the previously proposed OWTS drainfield beneath the middle of the residence has been eliminated from the project, and that the project intends to utilize the existing seepage pit. A future (100%
expansion) field is now proposed beneath the north side of the structure. Future installation of the expansion field will require structural underpinning of existing shallow foundations with pile foundations, as shown on DCWSE Sheet S-5 (9-14-17).

The foundation of the existing seawall was undermined due to unusually high tides and aggressive wave action in April 2013. Because elements of the existing building were supported by the seawall, the building started settling seaward creating an emergency condition. The seawall was underpinned to a depth of one foot into the site bedrock (between six and seven feet below the bottom of the existing seawall). Based upon the submitted as-built plans, the underpinning did not expand the footprint of the seawall foundations seaward.

**Planning Stage Conditions of Approval:**

1. The property owner shall comply with the requirements for deed restrictions and recorded document in accordance with City of Malibu LCP-LIP Sections 10.6A and 10.6B(1). This item shall be made a planning condition of approval. Templates for these documents are available from coastal engineering staff. Signed and notarized originals shall be submitted to coastal engineering staff for review and approval prior to scheduling a recordation appointment with the City Clerk’s office. All recorded document requirements shall be completed prior to final building plan check approval.

2. The Project Coastal Engineer shall submit a Shore Protection Monitoring Program that is consistent with the City’s requirements. In turn, the property owner will be required to record a “Covenant and Agreement Regarding Maintenance of the Shoreline Protection Device and the Use and Transfer of Ownership of Property”, informing any successors-in-interest to the property of these SPD monitoring requirements for the onsite bulkhead seawall. The Shore Protection Monitoring Program shall be attached to the covenant as Exhibit B.

**Building Plan Check Comments**

1. Submit a set of project plans for review to the City’s Coastal Engineering review staff, along with a Building Plan Check fee for Coastal Engineering review. Project plans shall address all proposed and after-the-fact items in the scope of work.

2. Please provide plans for the proposed eastern return wall described in the project coastal engineer’s response report dated 4-14-15 (response #’s 8 and 9). If it is determined that the wall is not necessary during construction, revised plans may be submitted at that time.

3. The project coastal engineer’s initial report (DCWSE, 7-21-14) indicates the seawall abuts the bulkhead to the west, but the plans do not appear to reflect this. Please clarify this with a detail of the abutment on the seawall plans.

4. When all building plan check review comments and corrections have been resolved, provide two sets of building plans approved by Building Safety and wet-signed and stamped by the Project Coastal Engineering Consultant, for final review and approval.
Please direct questions regarding this review sheet to City Review staff listed below.

Reviewed by:  

Michael B. Phipps, PG 5748, CEG 1832  
Coastal Engineering Review Consultant (x269)

Reviewed by:  

Ali Abdel-Haq, PE 46989, GE 2308  
Coastal Engineering Review Consultant (805) 496-1222

This review sheet was prepared by representatives of Cotton, Shires and Associates, Inc. and GeoDynamics, Inc., contracted through Cotton, Shires and Associates, Inc., as an agent of the City of Malibu.
ENVIRONMENTAL HEALTH REVIEW
REFERRAL SHEET

TO: City of Malibu Environmental Health Administrator DATE: 8/14/2014
FROM: City of Malibu Planning Department

PROJECT NUMBER: CDP 14-052
JOB ADDRESS: 20048 PACIFIC COAST HWY
APPLICANT / CONTACT: Nick Barsocchini, Barsocchini and Associates
APPLICANT ADDRESS: 3502 Coast View Dr.
Malibu, CA 90265
APPLICANT PHONE #: (310) 456-3625
APPLICANT FAX #: (310) 456-7175
APPLICANT EMAIL: principal@barsocchini.com

PROJECT DESCRIPTION: NOWTS, new piles, new sea wall, interior remodel, new deck

TO: Malibu Planning Department and/or Applicant
FROM: City of Malibu Environmental Health Reviewer

Conformance Review Complete for project submittals reviewed with respect to the City of Malibu Local Coastal Plan/Local Implementation Plan (LCP/LIP) and Malibu Plumbing Code (MPC). The Conditions of Planning conformance review and plan check review comments listed on the attached review sheet(s) (or else handwritten below) shall be addressed prior to plan check approval.

Conformance Review Incomplete for the City of Malibu LCP/LIP and MPC. The Planning stage review comments listed on the City of Malibu Environmental Health review sheet(s) shall be addressed prior to conformance review completion.

OWTS Plot Plan: □ NOT REQUIRED
☑ REQUIRED (attached hereto) □ REQUIRED (not attached)

Signature: Melinda Talent
Date: 3-6-18
ENVIRONMENTAL HEALTH REVIEW
REFERRAL SHEET

TO: City of Malibu Environmental Health Administrator DATE: 8/14/2014
FROM: City of Malibu Planning Department

The applicant must submit to the City of Malibu Environmental Health Specialist to determine whether or not an onsite wastewater treatment system (OWTS) Plot Plan approval is required.

The Environmental Health Specialist may be contacted Tuesday and Thursday from 8:00 am to 11:00 am, or by calling (310) 456-2489, extension 364.
## ENVIRONMENTAL HEALTH REVIEW SHEET

### PROJECT INFORMATION

| Applicant: Nick Barsocchini  |
| (name and email address)     |
|  principal@barsocchini.com    |
| Project Address: 20048 Pacific Coast Highway  |
| Malibu, CA 90265             |
| Planning Case No.: CDP 14-052 |
| Project Description: NOWTS, New Piles/footings, New Seawall, Interior Remodel, New Deck |
| Date of Review: March 6, 2018 |
| Reviewer: Melinda Talent     |
| Contact Information: Phone: 310-456-2489 ext. 364 Email: mtalent@malibucity.org |

### SUBMITTAL INFORMATION

<table>
<thead>
<tr>
<th>Architectural Plans: Architectural plans by N. Barsocchini dated 10-1-13, revised plans dated 4-4-17, revised plans dated 9-14-17</th>
</tr>
</thead>
<tbody>
<tr>
<td>Grading Plans: N/A</td>
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<tr>
<td>Geology Report: GeoConcepts (04-29-15, 02-06-15, 07-21-14, 02-06-14), Updated report dated 2-1-18</td>
</tr>
<tr>
<td>Miscellaneous: Weiss (07-21-14), Foundation plans by David Weiss submitted to Planning 2-2-15, revised plans dated 4-26-16, 9-14-17</td>
</tr>
<tr>
<td>Previous Reviews: 4-9-15, 6-29-15, 5-5-17, 10-12-17, 12-13-17</td>
</tr>
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### REVIEW FINDINGS

<table>
<thead>
<tr>
<th>Planning Stage: CONFORMANCE REVIEW COMPLETE for the City of Malibu Local Coastal Program/Local Implementation Plan (LIP) and Malibu Plumbing Code (MPC). The listed conditions of Planning stage conformance review and plan check review comments shall be addressed prior to plan check approval.</th>
</tr>
</thead>
<tbody>
<tr>
<td>OWTS Plot Plan: NOT REQUIRED</td>
</tr>
<tr>
<td>REQUIRED (attached hereto) REQUIRED (not attached)</td>
</tr>
</tbody>
</table>

Based upon the project description and submittal information noted above, a **conformance review** was completed for a new alternative onsite wastewater treatment system (OWTS) proposed to serve the onsite wastewater treatment and disposal needs of the subject property. The proposed OWTS meets the minimum requirements of the City of Malibu Plumbing Code, i.e. Title 28 of the Los Angeles County Code, incorporating the California Plumbing Code, 2016 Edition with City of Malibu local amendments (Malibu Municipal Code Section 15.12; hereinafter MPC), and the City of Malibu Local Coastal Program/Local Implementation Plan (LIP). Please distribute this review sheet to all of the project consultants and, prior...
to final approval, provide a coordinated submittal addressing all conditions for final approval and plan check items.

The conditional conformance findings hereby transmitted complete the Planning stage Environmental Health review of the subject development project. In order to obtain Environmental Health final approval of the project OWTS Plot Plan and associated construction drawings (during Building Safety plan check), all conditions and plan check items listed below must be addressed through submittals to the Environmental Health office.

**Conditions of Planning Conformance Review for Building Plan Check Approval**

1) **Final OWTS Plot Plan:** A final plot plan shall be submitted showing an onsite wastewater treatment system (OWTS) design meeting the minimum requirements of the MPC, and the LCP/LIP, including necessary construction details, the proposed drainage plan for the developed property, the proposed landscape plan for the developed property, and the proposed stormwater detention/dispersal plan. The OWTS Plot Plan shall show essential features of the OWTS, existing improvements, and proposed/new improvements. The plot must fit on an 11” x 17” sheet leaving a 5” left margin clear to provide space for a City-applied legend. If the plan scale 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” x 22” for review by Environmental Health).

2) **Final OWTS Design Report, Plans, and System Specifications:** A final OWTS design report and construction drawings with system specifications (four sets) shall be submitted to describe the OWTS design basis and all components proposed for use in the construction of the OWTS. All plans and reports must be signed by the California-registered Civil Engineer, Registered Environmental Health Specialist, or Professional Geologist who is responsible for the design, and is a registered practitioner with the City of Malibu. The final OWTS design report and construction drawings shall be submitted with the designer’s signature, professional registration number, and stamp (if applicable).

The final OWTS design submittal 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 (gpd), and shall be supported by calculations relating the treatment capacity to the number of bedroom equivalents, plumbing fixture schedule, and the subsurface effluent dispersal system acceptance rate. The drainage 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. Sewage and effluent pump design calculations (as applicable).

   c. 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 the design basis for engineered systems.

   d. 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.
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 (gpd) and gallons per square foot per day (gpsf). Specifications for the subsurface effluent dispersal system shall be shown to accommodate the design hydraulic loading rate (i.e., average and peak OWTS effluent flow, reported in units of gpd). The subsurface effluent dispersal system design must take into account the number of bedrooms, fixture units, and building occupancy characteristics.

e. All OWTS design drawings shall be submitted with the wet signature and typed name of the OWTS designer. If the plan scale is such that more space than is available on the 11” x 17” plot plan is needed to clearly show construction details, larger sheets may also be provided (up to a maximum size of 18” x 22” for review by Environmental Health).

[Note: For OWTS final designs, full-size plans for are also required for review by Building & Safety Planning.]

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

4) Worker Safety Note and Abandonment of Existing OWTS: The following note shall be added to the plan drawings included with the OWTS final design. “Prior to commencing work to abandon, remove, or replace existing Onsite Wastewater Treatment System (OWTS) components an “OWTS Abandonment Permit” shall be obtained from the City of Malibu. All work performed in the OWTS abandonment, removal, or replacement area shall be performed in strict accordance with all applicable federal, state, and local environmental and occupational safety and health regulatory requirements. The obtainment of any such required permits or approvals for this scope of work shall be the responsibility of the applicant and their agents.”

5) Building Plans: All project architectural plans and grading/drainage plans shall be submitted for Environmental Health review and approval. These plans must be approved by the Building Safety Division prior to receiving Environmental Health final approval.

6) Notice of Decision: The final onsite wastewater treatment system plans shall include the Conditions of Approval sections of the Notice of Decision (NOD) from the Planning Department.

7) Architect / Engineer Certification for Reduction in Setbacks to Buildings or Structures: All proposed reductions in setback from the onsite wastewater treatment system to structures (i.e., setbacks less than those shown in Malibu Plumbing Code Table H 101.8) must be supported by a letter from the project Structural Engineer and a letter from the project Soils Engineer (i.e., a Geotechnical Engineer or Civil Engineer practicing in the area of soils engineering). Both engineers must certify unequivocally that the proposed reduction in setbacks from the treatment tank and effluent dispersal area will not adversely affect the structural integrity of the onsite wastewater treatment system, and will not adversely affect the structural integrity of the structures for which the Table H 101.8 setback is reduced.

All proposed reductions in setback from the onsite wastewater treatment system to buildings (i.e., setbacks less than those shown in Table H 101.8) also must be supported by a letter from the project Architect, who must certify unequivocally that the proposed reduction in setbacks will not
produce a moisture intrusion problem for the proposed building(s). If the building designer is not a California licensed architect, then the required Architect's certification may be supplied by an Engineer who is responsible for the building design with respect to mitigation of potential moisture intrusion from reduced setback to the wastewater system; in this case the Engineer must include in his letter an explicit statement of responsibility for mitigation of potential moisture intrusion. If any specific construction features are proposed as part of a moisture intrusion mitigation system in connection with the reduced setback(s), then the Architect (or Engineer) must provide associated construction documents for review and approval during Building Plan Check.

The wastewater plans and the construction plans must be specifically referenced in all certification letters. The construction plans for all structures and/or buildings with reduced setback must be approved by City of Malibu Building and Safety prior to Environmental Health final approval. The architectural and/or structural plans submitted for Building and Safety plan check must detail methods of construction that will compensate for the reduction in setback (e.g., waterproofing, concrete additives, etc.). For complex waterproofing installations, submittal of a separate waterproofing plan may be required. The architectural/structural/waterproofing plans must show the location of onsite wastewater treatment system components in relation to those structures from which the setback is reduced, and the plans must be signed and stamped by the architect, structural engineer, and geotechnical consultants (as applicable).

8) **Proof of Ownership:** Proof of ownership of subject property shall be submitted.

9) **Operations & Maintenance Manual:** An operations and maintenance manual specified by the OWTS designer shall be submitted. This shall be the same operations and maintenance manual proposed for later submission to the owner and/or operator of the proposed alternative onsite wastewater disposal system.

10) **Maintenance Contract:** A maintenance contract executed between the owner of subject property and an entity qualified in the opinion of the City of Malibu to maintain the proposed alternative onsite wastewater disposal system after construction shall be submitted. **Please note only original “wet signature” documents are acceptable.**

11) **OWTS Covenant:** A covenant running 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 City of Malibu Recorder's Office. Said covenant shall serve as constructive notice to any future purchaser for value that the onsite wastewater treatment system serving subject property is an alternative method of sewage disposal pursuant to the City of Malibu Uniform Plumbing Code. Said covenant shall be provided by the City of Malibu Environmental Health Administrator. **Please submit a certified copy issued by the City of Malibu Recorder.**

12) **Project Geologist/Geotechnical Consultant Approval:** Project Geologist/Geotechnical Consultant final approval of the OWTS plan shall be submitted to the Environmental Health Administrator.

13) **City of Malibu Geologist/Geotechnical Approval:** City of Malibu geotechnical staff final approval of the OWTS plan shall be submitted to the Environmental Health Administrator.

14) **City of Malibu Coastal Engineering Approval:** City of Malibu Coastal Engineering final approval of the OWTS plan shall be submitted to the Environmental Health Administrator.
15) **City of Malibu Planning Approval**: City of Malibu Planning Department final approval of the OWTS plan shall be obtained.

16) **Environmental Health Final Review Fee**: A final fee in accordance with the adopted fee schedule at the time of final approval shall be paid to the City of Malibu for Environmental Health review of the OWTS design and system specifications.

17) **Operating Permit Application and Fee**: In accordance with M.M.C. Chapter 15.14, an application shall be made to the Environmental Health office for an OWTS operating permit. An operating permit fee in accordance with the adopted fee schedule at the time of final approval shall be submitted with the application.

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If you have any questions regarding the above requirements, please contact the Environmental Health office at your earliest convenience.

**cc:** Environmental Health file
Planning Department
City Geologist/Coastal Engineer
2-Unit Duplex: 3 Bedrooms/37 Fixture Units (E) to 1-2 Bedrooms/20 Fixture Units (R)

TOTAL: 3 Bedrooms/34 Fixture Units

TANK: 1,500 Gallon Septic Tank poured in place (N) Installed

TREATMENT: Advantex AX25 (N) with UV Disinfection Unit (N)

ACTIVE: 1 - 6' x 35' Drainfield 374 gfd

FUTURE: 6' x 35' Drainfield 2,01 gspfd

DESIGNER: Larry Young REHS #37338


NOTES:

1. This conformance review is for the remodel of an existing 3 bedroom (37 fixture units), two-unit duplex dwelling to 3 bedroom (34 fixture units) two unit duplex and a new alternate onsite wastewater treatment system. The alternative onsite wastewater treatment system conforms to the requirements of the City of Malibu Plumbing Code (MPC) and the Local Coastal Plan (LCP).

2. This review relates only to the minimum requirements of the MPC, and the LCP, and does not include an evaluation of any geological or other potential problems, which may require an alternative method of review treatment.

3. This review is valid for one year, or until MPC, and/or LCP, and/or Administrative Policy changes render it noncomplying.
TO: City of Malibu Geotechnical Staff

FROM: City of Malibu Planning Department

PROJECT NUMBER: CDP 14-052

JOB ADDRESS: 20048 PACIFIC COAST HWY

APPLICANT / CONTACT: Nick Barsocchini, Barsocchini and Associates

APPLICANT ADDRESS: 3502 Coast View Dr. Malibu, CA 90265

APPLICANT PHONE #: (310) 456-3625

APPLICANT FAX #: (310) 456-7175

APPLICANT EMAIL: principal@barsocchini.com

PROJECT DESCRIPTION: NOWTS, new piles, new sea wall, interior remodel, new deck

TO: Malibu Planning Division and/or Applicant

FROM: City Geotechnical Staff

The project is feasible and CAN proceed through the Planning process.*

The project CANNOT proceed through the planning process until geotechnical feasibility is determined. Depending upon the nature of the project, this may require engineering geologic and/or geotechnical engineering (soils) reports which evaluate the site conditions, factor of safety, and potential geologic hazards.

Determination of geotechnical feasibility for planning should not be construed as approval of building and/or grading plans which need to be submitted for Building Department approval. At that time, those plans may require approval by City Geotechnical Staff. Additional requirements/conditions may be imposed at the time building and/or grading plans are submitted for review, including geotechnical reports.

City Geotechnical Staff may be contacted on Tuesday and Thursday between 8:00 am and 11:00 am or by calling (310) 456-2489, extension 306 or 307.

* See attached Geotechnical Review Sheet for conditions of approval and BPC comments

Rev 120910
GEOTECHNICAL REVIEW SHEET

**Project Information**

<table>
<thead>
<tr>
<th>Date:</th>
<th>December 7, 2017</th>
</tr>
</thead>
<tbody>
<tr>
<td>Site Address:</td>
<td>20048 Pacific Coast Highway</td>
</tr>
<tr>
<td>Lot/Tract/PM #:</td>
<td>n/a</td>
</tr>
<tr>
<td>Applicant/Contact:</td>
<td>Nick Barsocchini <a href="mailto:principal@barsocchini.com">principal@barsocchini.com</a></td>
</tr>
<tr>
<td>Contact Phone #:</td>
<td>310-456-3625</td>
</tr>
<tr>
<td>Project Type:</td>
<td>Interior remodel and additions, ATF seawall underpinning, ATF pad footings, replace and add decking; new OWTS components</td>
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<tr>
<td>Review Log #:</td>
<td>3648</td>
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<tr>
<td>BPC/GPC #:</td>
<td>CDP 14-052</td>
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<tr>
<td>Planner:</td>
<td>R. Mollica</td>
</tr>
</tbody>
</table>

**Submittal Information**

<table>
<thead>
<tr>
<th>Consultant(s) / Report</th>
<th>GeoConcepts, Inc. (Walter, GE 2476; Barrett, CEG 2088): 8-17-15, 4-29-15, 4-28-15 (OWTS), 2-6-15, 7-21-14</th>
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<tbody>
<tr>
<td>Date(s):</td>
<td>Mountain Geology, Inc. (Holt, CEG 1200): 11-25-13</td>
</tr>
<tr>
<td>(Current submittal(s) in Bold.)</td>
<td>David C. Weiss Structural Engineer &amp; Associates, Inc. (SE 1867): 9-12-17, (As-Builts for Seawall Underpinning, Lower Floor Foundation Revisions, and Septic Tank: Sheets 1-4; Future Septic Structural Requirements: Sheet 5)</td>
</tr>
<tr>
<td>Previous Reviews:</td>
<td>Building plans prepared by Barsocchini &amp; Associates Designs dated 9-14-17.</td>
</tr>
<tr>
<td></td>
<td>Lawrence Young, 11-15-17 (OWTS Design Report); 11-15-17 (Response to EH Review)</td>
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<tr>
<td></td>
<td>9-18-15, 6-3-15, 3-29-15, 9-19-14, Geotechnical Review Referral Sheet dated 8-14-14</td>
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**Review Findings**

- **Coastal Development Permit Review**
  - The project is **APPROVED** from a geotechnical perspective, with conditions. The listed ‘Planning-Stage Conditions of Approval’ shall be incorporated into project planning-stage approvals. The listed ‘Building Plan-Check Stage Review Comments’

- **Building Plan-Check Stage Review**
  - Awaiting Building plan check submittal. Please respond to the listed ‘Building Plan-Check Stage Review Comments’ and the attached ‘Geotechnical Notes for Building Plan Check’ shall be incorporated into the plans.

**Remarks**

The referenced updated architectural and structural plans, including as-built structural drawings for after-the-fact elements of the project, were reviewed by the City from a geotechnical perspective. The project comprises legalizing the emergency underpinning of the existing concrete seawall completed in April 2013, legalizing existing permanent pad footings below the lower level of the residence, installation of new OWTS components consisting of a treatment tank system, remodeling the existing residence that includes converting...
139 square feet of decking into a dining room addition, replacement of the damaged 491 square foot lower deck with a 465 square foot deck, and 39 square feet of deck addition to the upper level. We understand, from review of the OWTS submittal documents (Lawrence Young, 2017) that the previously proposed OWTS drainfield beneath the middle of the residence has been eliminated from the project, and that the project intends to utilize the existing seepage pit. A future (100% expansion) field is now proposed beneath the north side of the structure. Future installation of the expansion field will require structural underpinning of existing shallow foundations with pile foundations, as shown on DCWS Sheet S-5 (9-14-17).

The site lies within the toe of the active Big Rock Mesa Landslide, and falls under the jurisdiction of Section 110.2.3.4 of the Malibu Building Code. The applicant will be required to sign, record at the County of Los Angeles recorder’s office, and submit to City geotechnical staff a certified copy of an “Assumption of Risk and Release” for geotechnical hazards prior to permit issuance.

Planning Stage Conditions of Approval:

1. The property owner will be required to sign and submit to City geotechnical staff a notarized “Assumption of Risk and Release” for geotechnical hazards prior to permit issuance. This document shall be reviewed and approved by City geotechnical staff prior to recordation. This item shall be made a condition of planning stage approval.

2. The above-referenced OWTS documents (Lawrence Young, 2017) were not submitted to City geotechnical staff. Geotechnical staff were unaware that the previously proposed drainfield and retaining wall underpinning were removed from the project. Prior to Environmental Health Department approvals of the project as currently proposed, the geotechnical consultant shall submit a supporting geology report to demonstrate feasibility of the future (expansion) drainfield. It appears that the required pile foundation system and shoring recommendations for the future drainfield would be designed per the recommendations of the previously submitted and reviewed geotechnical reports; however, the Project Geotechnical Consultant should provide update recommendations if necessary, and comment on the feasibility of the future drainfield location, including the necessity for reduced setbacks.

Building Plan-Check Stage Review Comments:

1. Two sets of final foundation repair/replacement, grading, OWTS, and remodel and addition plans (APPROVED BY BUILDING AND SAFETY) incorporating the Project Geotechnical Consultant’s recommendations and items in this review sheet must be reviewed and wet stamped and manually signed by the Project Engineering Geologist and Project Geotechnical Engineer. City geotechnical staff will review the plans for conformance with the Project Geotechnical Consultants’ recommendations and items in this review sheet over the counter at City Hall. Appointments for final review and approval of the plans may be made by calling or emailing City Geotechnical staff.

Please direct questions regarding this review sheet to City Geotechnical staff listed below.

Engineering Geology Review by: Michael B. Phipps, C.E.G. #1832, Exp.7-31-18  Date 12/7/17
Engineering Geology Reviewer (310-456-2489, x269)
Email: mphipps@malibucity.org

This review sheet was prepared by representatives of Cotton, Shires and Associates, Inc. contracted as an agent of the City of Malibu.
The following standard items should be incorporated into Building Plan-Check submittals, as appropriate:

1. One set of foundation repair/replacement, grading, OWTS, and remodel and addition plans, incorporating the Project Geotechnical Consultant’s recommendations and items in this review sheet, must be submitted to City geotechnical staff for review. Additional review comments may be raised at that time that may require a response.

2. Show the name, address, and phone number of the Project Geotechnical Consultant(s) on the cover sheet of the Building Plans.

3. Include the following note on the Foundation Plans: “All foundation excavations must be observed and approved by the Project Geotechnical Consultant prior to placement of reinforcing steel.”

4. The Foundation Plans for the proposed project shall clearly depict the embedment material and minimum depth of embedment for the foundations in accordance with the Project Geotechnical Consultant’s recommendations.

5. Please contact the Building and Safety Department regarding the submittal requirements for a grading and drainage plan review.

6. A comprehensive Site Drainage Plan, incorporating the Geotechnical Consultant’s recommendations, shall be included in the Plans. Show all area drains, outlets, and non-erosive drainage devices on the Plans. Water shall not be allowed to flow uncontrolled over descending slopes.

**Grading Plans (as Applicable)**

1. Grading Plans shall clearly depict the limits and depths of overexcavation, as applicable.

2. Prior to final approval of the project, an as-built compaction report prepared by the Project Geotechnical Consultant must be submitted to the City for review. The report must include the results of all density tests as well as a map depicting the limits of fill, locations of all density tests, locations and elevations of all removal bottoms, locations and elevations of all keyways and back drains, and locations and elevations of all retaining wall backdrains and outlets. Geologic conditions exposed during grading must be depicted on an as-built geologic map. This comment must be included as a note on the grading plans.

**Retaining Walls (As Applicable)**

1. Show the retaining wall backdrain and backfill design, as recommended by the Project Geotechnical Consultant, on the Plans.

2. Retaining walls separate from a residence require separate permits. Contact the Building and Safety Department for permit information. One set of retaining wall plans shall be submitted to the City for review by City geotechnical staff. Additional concerns may be raised at that time which may require a response by the Project Geotechnical Consultant and applicant.
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.

5/8/17

No Public Works Review Req'd. Lowest horiz. member (17.5') above BFE.
Scope of work on sub. plans:
- Interior remodel
- Add 139 sf to upper floor
Public Notification Study
For
20048 Pacific Coast Highway
Malibu CA 90265
APN 4450-002-047
April 19, 2020
JN 20078
NOTICE OF PUBLIC HEARING

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.

COASTAL DEVELOPMENT PERMIT NO. 14-052, VARIANCE NO. 19-006, AND DEMOLITION PERMIT NO. 19-006 - An application for an interior and exterior remodel including the after-the-fact approval of unpermitted additions to the first and second floor, a new proposed second floor addition, new second floor deck extension and associated development including a variance request for the after-the-fact approval of the unpermitted additions located within the required east side yard setback and a demolition permit for the demolition of exterior walls and demolition of a first floor deck extension.

LOCATION / APN / ZONING: 20048 Pacific Coast Highway / 4450-002-047 / Single-family Medium (SFM)
APPLICANT / OWNER: Barsocchini and Associates / Joseph Watters
APPEALABLE TO: City Council and California Coastal Commission
ENVIRONMENTAL REVIEW: Categorical Exemption CEQA Guidelines Sections 15301(a) and 15301(e)
APPLICATION FILED: August 14, 2014
CASE PLANNER: Didier Murillo, Assistant Planner, dmurillo@malibucity.org (310) 456-2489, ext. 353

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.

COASTAL COMMISSION APPEAL - An aggrieved person may appeal the Planning Commission’s approval directly to the Coastal Commission within 10 working days of the issuance of the City’s Notice of Final Action. More information may be found online at www.coastal.ca.gov or by calling 805-585-1800.

BONNIE BLUE, Planning Director

Date: June 25, 2020