Commission Agenda Report

To: Chair Mazza and Members of the Planning Commission

Prepared by: Richard Mollica, Assistant Planning Director

Approved by: Bonnie Blue, Planning Director

Date prepared: August 6, 2020 Meeting date: August 17, 2020

Subject: Coastal Development Permit No. 19-061– An application to allow for the repair of an existing rock revetment

Location: 23940 Malibu Road, within the appealable coastal zone

APN: 4458-008-018

Owner: David and Linda Shaheen Trust

RECOMMENDED ACTION: Adopt Planning Commission Resolution No. 20-55 (Attachment 1) determining the project is categorically exempt from the California Environmental Quality Act (CEQA), and approving Coastal Development Permit (CDP) No. 19-061 to allow for the repair of no more than 20 percent of an existing rock revetment, located in the Single-Family Medium (SFM) zoning district at 23940 Malibu Road (David and Linda Shaheen Trust).

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

Project Overview

The subject parcel is located at 23940 Malibu Road and is developed with a single-family residence. The subject parcel was originally two separate parcels (23940 and 23946 Malibu Road) that were merged in 1998 under CDP No. 4-98-329 issued by the California Coastal Commission (CCC). CDP No. 4-98-329 also allowed for the construction of a 1,275-square foot addition to the existing residence that is located on the lot originally
addressed as 23940 Malibu Road. In addition, a separate permit, CDP No. 4-98-040 allowed for the construction of the rock revetment that is the subject of this application. Approval of the subject application will allow for the repair of the existing revetment with poured in place boulders and a portion of the existing concrete landing will be removed as well as concrete stairs that were constructed without the benefit of permits. According to the July 26, 2019 Wave Uprush report that was prepared by the project’s Coastal Engineer, the repairs consist of the manufacture of poured in-place concrete cap stone armor units to replace settled or missing imported natural cap stone units. In addition, the new boulders (cap stone armor units) will be placed and constructed in such a way that they will allow for access to the sand at the rear of the property.

**Surrounding Land Uses and Project Setting**

As shown on Figure 1, the subject property is located along Malibu Road on the ocean side of the road. The parcel as well as neighboring parcels are developed with single-family residences that have similar rock revetments or concrete seawalls.

![Figure 1 – Aerial Map](source: City GIS)

The project site does not contain mapped trails on or adjacent to it according to the LCP Park Lands Map; however, the site does provide a lateral beach access easement.
Additionally, the property is not in a designated Environmentally Sensitive Habitat Area (ESHA) or ESHA buffer as shown on the LCP ESHA and Marine Resources Map.

**Project Description**

The proposed scope of work is as follows:

a. Demolition of the existing unpermitted concrete stairs that are located on the existing revetment;

b. Partial demolition of an existing unpermitted concrete landing to reduce it to the minimum size as required by the building code for a landing (3 feet by 3 feet); and

c. The replacement of no more than 20 percent of the existing rocks that make up the rock revetment; the new rocks will be cast in a way to provide access to the beach at the rear of the property.

Based on LIP Section 13.4.2(B)(1)(c) the project constitutes a repair and not the replacement of the existing rock revetment. While the project is considered a repair, a CDP is required because work will be taking place on an existing shoreline protection device.

No work or mechanical equipment is proposed to be placed on the sand, and it is expected that the work crews will stage in the front yard and on the rear deck of the residence. Concrete will be pumped from the street to the job site at the rear of the house.

**LCP Analysis**

The LCP consists of the Land Use Plan (LUP) and the LIP. The LUP contains programs and policies implementing the Coastal Act in Malibu. The LIP contains provisions to carry out the policies of the LUP 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) Onsite Wastewater Treatment System (OWTS). These chapters are discussed in the LIP Conformance Analysis section.

The nine remaining LIP chapters 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 findings in the following chapters are applicable to the proposed project: Coastal Development Permit, Scenic, Visual and Hillside Resource Protection, Hazards, and...
Shoreline and Bluff Development.¹ These chapters are discussed in the *LIP Findings* section of this report.

**LIP Conformance Analysis**

The proposed project has been reviewed by the Planning Department, City Biologist, City Environmental Health Administrator, City Public Works Department, and City Coastal Engineer (Attachment 3 – Department Review Sheets). The project, as proposed and conditioned, has been found to be consistent with all applicable LCP codes, standards, goals and policies.

**Zoning (LIP Chapter 3)**

Given the scope of the proposed project, the development and design standards set forth under LIP Sections 3.5 and 3.6 are not applicable to the project.

**Grading (LIP Chapter 8)**

LIP Section 8.3 ensures that new development minimizes the visual resource impacts of grading and landform alteration by restricting the amount of non-exempt grading to a maximum of 1,000 cubic yards for a residential parcel. As no grading or landform alteration is proposed, the proposed project complies with grading requirements set forth under LIP Section 8.3.

**Archaeological / Cultural Resources (LIP Chapter 11)**

LIP Chapter 11 requires certain procedures be followed to determine potential impacts on archaeological resources. The City’s Cultural Resources Map indicates that the property has a low potential to contain cultural resources; furthermore, the proposed improvements should have no adverse impacts to known cultural resources.

Nevertheless, a condition of approval is included in the resolution which states that 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.

**Water Quality (LIP Chapter 17)**

The City Public Works Department reviewed and approved the project for conformance to LIP Chapter 17 requirements for water quality protection. Standard conditions of approval require that prior to construction, a wet-weather erosion sediment control plan and storm

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¹ The ESHA, Native Tree Protection, Transfer of Development Credits, Public Access, and Land Division findings are neither applicable nor required for the proposed project.
water pollution prevention plan must be approved by the City Public Works Department. With the implementation of these conditions, the project conforms to the Water Quality Protection standards of LIP Chapter 17.

Onsite Wastewater Treatment Systems (LIP Chapter 18)

LIP Chapter 18 addresses OWTS. LIP Section 18.7 includes specific siting, design, and performance requirements. The project does not propose the modification of the existing OWTS; rather, the project will result in increased protection of the existing. Additionally, no modifications to the existing residence are proposed which would result in the need for the expansion or replacement of the existing OWTS.

LIP Findings

A. Coastal Development Permit (LIP Chapter 13)

LIP Section 13.9 requires that the following four findings be made for all coastal development permits.

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 has been reviewed for conformance with the LCP by Planning Department staff, the City Biologist, City Coastal Engineer, City Environmental Health Administrator, and the City Public Works Department. Subject to the conditions of approval, the project, as conditioned, conforms to the LCP in that it meets all residential beachfront development standards. In addition, the installation of cast-in-place rocks will result in the placement of less than 20 percent of additional material on the existing rock revetment. The repair of the revetment is not considered “New Development” as defined in LIP Chapter 2 because the percentage of new materials added to the revetment does not exceed 20 percent of the existing revetment by volume. While the project has been sited as landward as feasible, a CDP is required because work is taking place on a shoreline protection device. Furthermore, the July 26, 2019 Wave Uprush report that was prepared for the subject property documents the need for the repair.

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. The project site is located on the ocean side of Malibu Road and abuts residentially developed properties to the east and west. Malibu Bluffs Park is located across the street and to the northwest of the subject parcel as shown on the LCP Park Lands Map. The LCP Public Access Map
indicates that a lateral accessway has been recorded on the subject property. The repair work will be located outside of the recorded lateral access that exists along the property. Therefore, the project conforms to the public access and recreation policies of Chapter 3 of the Coastal Act of 1976 (commencing with Section 30200 of the Public Resources Code).

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 MMC an LCP conformance review, the proposed project will not result in any significant adverse impacts. Nevertheless, the following alternatives were evaluated.

Alternate Project(s) – The existing rock revetment could remain; however, it is substandard in its current state due to age and wave action. Furthermore, the issue of the existing concrete stairs that were constructed without the benefit of permit would not be addressed. The rock revetment is necessary to protect the existing residence and associated development such as the OWTS. The project is a repair of 20 percent or less of the existing permitted revetment, and therefore, the applicant is not required to evaluate new development, such as a seawall, as an alternative means of shoreline protection. In conclusion, it is not anticipated that an alternative project would offer any environmental advantages and could lead to environmental damage if the OWTS is not sufficiently protected.

Proposed Project – The proposed project consists of the repair of the existing permitted rock revetment through the construction of new concrete cast-in-place rocks that will be placed landward of the 10 foot setback of the most landward surveyed mean high tide line. No more than 20 percent of the revetment will be affected. In addition, the cast-in-place rocks will fill voids and cavities landward of the mean high tide line. The rock revetment was approved by CCC issued CDP No. 4-98-040. The proposed project complies with the requirements of the LCP. The selected location has been reviewed and conditionally approved by the City Biologist, City Environmental Health Administrator, City Public Works Department, and City Coastal Engineer, and meets the City’s residential development policies of the LCP and MMC. The proposed project as conditioned will comply with all applicable requirements of State and local law. The proposed project has been determined not to result in adverse biological, scenic or visual resource impacts, and is the least environmentally damaging feasible alternative to provide protection to the OWTS and resolve the code violation.

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. Environmentally Sensitive Habitat Area Overlay (LIP Chapter 4)

The project is not located in an ESHA. The application was reviewed by the City Biologist who determined that the project is not expected to impact sensitive resources or result in significant loss of vegetation or wildlife, since none currently exist onsite. Accordingly, the supplemental ESHA findings pursuant to LIP Section 4.7.6(C) are not applicable.

C. Native Tree Protection (LIP Chapter 5)

There are no native trees on or adjacent to the subject parcel. Therefore, the findings of LIP Chapter 5 are not applicable.

D. 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 LUP-identified scenic areas, the beach and Bluffs Park. However, the area of the repair is only visible from the beach and the materials that will be used for the repair will match the existing revetment. As a result, the Scenic, Visual and Hillside Resource Protection Chapter apply and the five findings set forth in LIP Section 6.4 are made below.

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 project proposes the repair of an existing rock revetment through the placement of new cast-in-place concrete rocks which will match the existing rock revetment. Upon completion of the project no view impacts are expected to occur since the repair will be located within the area of the existing revetment. The project will be subject to standard conditions of LIP Chapter 6 pertaining to colors and materials for protection of visual resources. The project will be located on a lot that is residentially developed and as proposed, the project would result in a less than significant visual impact to public views from the beach.

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

Conditions of approval regarding colors and materials permitted for construction visible from scenic areas have been included in this resolution. The proposed repair will utilize
colors and materials that will be compatible with the surrounding natural environment. As described in Finding 1 of this section, the proposed project, as designed and conditioned, is not anticipated to have significant adverse scenic or visual impacts.

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

As discussed in Finding A3, the project as designed, constructed, and 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.

As previously discussed in Finding 1 of this section, the project does not involve significant impacts to scenic or visual resources; therefore, this finding does not apply.

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 previously discussed Finding A3, the proposed project will not result in significant impacts to the physical environment. No significant adverse impacts on scenic and visual resources are anticipated to result from the project; therefore, this finding does not apply.

E. Transfer of Development Credit (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.

F. 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 Sections 9.2(A)(1-7) 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 causes 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 by the Planning Department, City Biologist, City Environmental Health Administrator, City Public Works Department, and City Coastal Engineer. 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.

The applicant submitted a coastal engineering report prepared by Pacific Engineering Group dated July 26, 2019, and that report is on file at City Hall. The report evaluated site-specific conditions and recommendations are provided to address any pertinent issues. Potential hazards analyzed include geologic, seismic and fault rupture, liquefaction, landslide, groundwater, tsunami, and flood and fire hazards. Based on review of the project plans and associated coastal engineering report by City Environmental Health Administrator, City Public Works Department, and City Coastal Engineer, these specialists determined that adverse impacts to the project site related to the proposed development are not expected. The repair of the revetment is required to ensure the continued protection of the existing structure and OWTS from wave action and flooding. It was determined that the existing revetment with the inclusion of the proposed repairs meets current engineering guidelines and requirements for shoreline protection devices. In summary, the proposed development is suitable for the intended use provided that the certified coastal engineer’s recommendations and governing agency’s building codes are followed.

The project, as conditioned, will incorporate all recommendations contained in the above cited coastal engineering report and conditions required by the City Public Works Department, and City Coastal Engineer. As such, the proposed project will not increase instability of the site or structural integrity from geologic, flood, or any other hazards.

Fire Hazard

The entire city limits of Malibu are located within a high fire hazard area; however, the proposed revetment repair will have no impact on the property or area’s fire hazard. The proposed project will not increase the site’s potential from damage due to fire because the materials used in the repair are nonflammable. Nonetheless, a condition of approval has been included in this resolution which requires that the property owner indemnify and hold the City harmless with respect to 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 proposed project, as designed, conditioned and approved by the applicable departments and agencies, will not have any significant adverse impacts on the site stability or structural integrity from geologic or flood hazards due to project modifications, landscaping or other conditions.
Finding 3. The project, as proposed or as conditioned, is the least environmentally damaging alternative.

As previously stated in Section A, Finding 3, the proposed project, as designed 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 Environmental Health Administrator, City Public Works Department, and City Coastal Engineer. The project as designed, constructed, and conditioned, and approved by the City Public Works Department and City Coastal Engineer, does not have any significant adverse impacts on the site stability or structural integrity of the proposed project.

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 discussed in Section A, the proposed project, as designed and conditioned, is the least environmentally damaging alternative and no adverse impacts to sensitive resources are anticipated; therefore, this finding does not apply.

H. Shoreline and Bluff Development (LIP Chapter 10)

The project site is located along the shoreline. The project is sited and designed to minimize risks and ensure stability and structural integrity while neither creating or contributing significantly to erosion or adverse impacts on public access. Therefore, 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 as designed, conditioned, and approved by the City Coastal Engineer, will not have any significant adverse impacts on public access or shoreline sand supply or other resources. The project will allow for a repair to an existing rock revetment. This repair is required to ensure that the revetment will continue to adequately protect existing onsite development. The project was reviewed by the California State Lands Commission on March 10, 2020, who asserted no jurisdictional claim regarding the proposed project. Furthermore, the new rocks will be located outside to the required 10 foot setback from the mean high tide line. Lateral access existing on the subject property, along both the recorded easement and the State of California “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 and shoreline, will remain and no work is proposed in that area. The proposed
development as designed and conditioned is not expected to have significant adverse
impacts on public access, shoreline sand supply or other resources because there is no
seaward change in the footprint of the revetment.

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.

As stated in Finding 1, as designed, conditioned, and approved by the City Coastal
Engineer, the project will not have any significant adverse impacts on public access or
shoreline sand supply or other resources. In addition, a deed restriction for no future
seaward extension or expansion of the revetment per LIP Section 10.6(B) has been
included as a condition of approval in the attached resolution.

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

As discussed in Finding A3, the project, as designed, constructed, and conditioned, is the
least environmentally damaging alternative.

Finding 4. There are not alternatives to the proposed development that would avoid or
substantially lessen impacts on public access, shoreline sand supply or other resources.

As stated in Finding 1, as designed, constructed, and conditioned, the project will not have
any significant adverse impacts on public access or shoreline sand supply or other
resources. The project is a repair of 20 percent or less of the existing permitted revetment,
and therefore, is not “new development” for purposes of public access. The applicant is
not required to evaluate new development, such as a seawall, as an alternative means of
shoreline protection. As discussed in Finding A3, there are no alternative designs that
would result in less impact to public access, sand supply or other resources.

Finding 5. The shoreline protective device 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, and there are no alternatives
that would avoid or lessen impacts on shoreline sand supply, public access or coastal
resources and it is the least environmentally damaging alternative.

The project coastal engineer and the City’s Coastal Engineer have determined that the
repair meets the shoreline protection stringline requirements, and the repair has been
located as far landward as feasible. As discussed in Finding 1, the project coastal
engineer and the City’s Coastal Engineer have determined that the rock revetment is
essential to ensure that the existing development, including the OWTS, remains protected.
The project, as conditioned has been determined to be consistent with all applicable requirements of LIP Chapter 10 by the City’s Coastal Engineer. In addition, a deed restriction for no future seaward extension or expansion of the revetment per LIP Section 10.6(B) has been included as a condition of approval in the attached resolution.

H. 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.

As described herein, the subject property and the proposed project do not meet any of these criteria in that no trails are identified on the LCP Park Lands Map on or adjacent to the property. Furthermore, while the property is located between the first public road there are no recorded onsite vertical access currently provided on the subject parcel, only a recorded lateral access easement. However, the project does qualify for an exemption from the public access requirements contained in LIP Section 12.5. Public access is only required for “new development,” and the project meets the LIP’s definition of a repair, because only 20 percent of the revetment will be repaired and the materials used will be similar to the existing materials that currently make up the rock revetment. Therefore, the findings contained in LIP Section 12.4 are not applicable to the subject application.

I. Land Division (LIP Chapter 15)

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

ENVIRONMENTAL REVIEW: Pursuant to the authority and criteria contained in CEQA, the Planning Director has analyzed the proposed project. The Planning Director found that this project is listed among the classes of projects that have been determined not to have a significant adverse effect on the environment. Therefore, the proposed project is categorically exempt from the provisions of CEQA pursuant to Section 15301(e) – Existing Structures. The Planning Director has further determined that none of the six exceptions
to the use of a categorical exemption apply to this project (CEQA Guidelines Section 15300.2).

**CORRESPONDENCE:** To date no correspondence has been received regarding the subject application.

**PUBLIC NOTICE:** On August 3, 2020, staff published a Notice of Public Hearing in a newspaper of general circulation within the City of Malibu and mailed the notice to all property owners and occupants within a 500-foot radius of the subject property (Attachment 4).

**SUMMARY:** The required findings can be made that the proposed project complies with the LCP and MMC. 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. 20-55. The proposed 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. 20-55
2. Project Plans
3. Department Review Sheets
4. Public Hearing Notice
A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MALIBU, DETERMINING THE PROJECT IS CATEGORICALLY EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, AND APPROVING COASTAL DEVELOPMENT PERMIT NO. 19-061 TO ALLOW FOR THE REPAIR OF NO MORE THAN 20 PERCENT OF AN EXISTING ROCK REVETMENT, LOCATED IN THE SINGLE-FAMILY MEDIUM ZONING DISTRICT AT 23940 MALIBU ROAD (DAVID AND LINDA SHAHEEN TRUST)

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

SECTION 1. Recitals.

A. On August 21, 2019, an application for Coastal Development Permit (CDP) No. 19-061 was submitted to the Planning Department by applicant, Schmitz and Associates, Inc., on behalf of the David and Linda Shaheen Trust. The application was routed to the City Environmental Health Administrator, City Coastal Engineer, City Biologist, and the City Public Works Department for review.

B. On August 6, 2020, a Notice of Coastal Development Permit Application was posted on the subject property.

C. On August 6, 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.

D. On August 17, 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(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. 19-061 to allow for the repair of the existing permitted rock revetment through the construction of new concrete cast-in-place rocks that will be placed landward of the 10 foot setback of the most landward surveyed mean high tide line. No more than 20 percent of the revetment will be affected. In addition, the cast-in-place rocks will fill voids and cavities landward of the mean high tide line in the single-family medium (SFM) zoning district located at 23940 Malibu Road.

ATTACHMENT 1
The project is consistent with the LCP’s zoning, grading, cultural resources, water quality, and wastewater treatment system standards requirements. 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 has been reviewed for conformance with the LCP by Planning Department staff, the City Biologist, City Coastal Engineer, City Environmental Health Administrator, and the City Public Works Department. Subject to the conditions of approval, the project, as conditioned, conforms to the LCP in that it meets all residential beachfront development standards. In addition, the installation of cast-in-place rocks will result in the placement of less than 20 percent of additional material on the existing rock revetment. The repair of the revetment is not considered “New Development” as defined in LIP Chapter 2 because the percentage of new materials added to the revetment does not exceed 20 percent of the existing revetment by volume. While the project has been sited as landward as feasible, a CDP is required because work is taking place on a shoreline protection device. Furthermore, the July 26, 2019 Wave Uprush report that was prepared for the subject property documents the need for the repair.

2. The property currently offers lateral public access and the proposed project does not include any work within that area. The project conforms to the public access in recreation policies of Chapter 3 of the Coastal Act as it will maximize access opportunities to the shore.

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

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

1. The project proposes the repair of an existing rock revetment through the placement of new cast-in-place concrete rocks which will match the existing rock revetment. Upon completion of the project no view impacts are expected to occur since the repair will be located within the area of the existing revetment. The project will be subject to standard conditions of LIP Chapter 6 pertaining to colors and materials for protection of visual resources. The project will be located on a lot that is residentially developed and as proposed, the project would result in a less than significant visual impact to public views from the beach.

2. Conditions of approval regarding colors and materials permitted for construction visible from scenic areas have been included in this resolution. The proposed repair will utilize colors and materials that will be compatible with the surrounding natural environment and therefore, will not have adverse scenic or visual impacts.

3. The project involves repair only, does not adversely affect sensitive resources, and as conditioned, is the least environmentally feasible alternative to ensure continued protection of the onsite wastewater treatment system.
C. **Hazards (LIP Chapter 9)**

1. The applicant submitted a coastal engineering report prepared by Pacific Engineering Group dated July 26, 2019, and that report is on file at City Hall. The report evaluated site-specific conditions and recommendations are provided to address any pertinent issues. Potential hazards analyzed include geologic, seismic and fault rupture, liquefaction, landslide, groundwater, tsunami, and flood and fire hazards. Based on review of the project plans and associated coastal engineering report by City Environmental Health Administrator, City Public Works Department, and City Coastal Engineer, these specialists determined that adverse impacts to the project site related to the proposed development are not expected. The repair of the revetment is required to ensure the continued protection of the existing structure and OWTS from wave action and flooding. It was determined that the existing revetment with the inclusion of the proposed repairs meets current engineering guidelines and requirements for shoreline protection devices. In summary, the proposed development is suitable for the intended use provided that the certified coastal engineer’s recommendations and governing agency’s building codes are followed. However, since the entire city limits of Malibu are located within a high fire hazard area, a condition is included in Section 5 of this resolution that requires the property owner to indemnify the City from any hazards associated with wildfire.

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

3. The project, as 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 Environmental Health Administrator, City Public Works Department, and City Coastal Engineer. The project as designed, constructed, and conditioned, and approved by the City Public Works Department and City Coastal Engineer, does not have any significant adverse impacts on the site stability or structural integrity of the proposed project.

D. **Shoreline and Bluff Development (LIP Chapter 10)**

1. The project as designed, conditioned, and approved by the City Coastal Engineer, will not have any significant adverse impacts on public access or shoreline sand supply or other resources. The project will allow for a repair to an existing rock revetment. This repair is required to ensure that the revetment will continue to adequately protect existing onsite development. The project was reviewed by the California State Lands Commission on March 10, 2020, who asserted no jurisdictional claim regarding the proposed project. Furthermore, the new rocks will be located outside to the required 10-foot setback from the mean high tide line. Lateral access existing on the subject property, along the State of California “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 and shoreline, will remain and no work is proposed in that area. The proposed development as designed and conditioned is not expected to have significant adverse impacts on public access, shoreline sand supply or other resources because there is no seaward change in the footprint of the revetment.
2. The project as designed, conditioned, and approved by the City Coastal Engineer, the project will not have any significant adverse impacts on public access or shoreline sand supply or other resources. In addition, a deed restriction for no future seaward extension or expansion of the revetment per LIP Section 10.6(B) has been included as a condition of approval in this resolution.

3. The project, as conditioned, is the least environmentally damaging alternative. There is no evidence that the proposed repair will result in adverse impacts on coastal resources as the seaward footprint will not change and the OWTS will remain protected.

4. As designed, constructed, and conditioned, the project will not have any significant adverse impacts on public access or shoreline sand supply or other resources. As discussed, there are no alternative designs that would result in less impact to public access, sand supply or other resources.

5. The project coastal engineer and the City’s Coastal Engineer have determined that the repair meets the shoreline protection stringline requirements; and the repair has been located as far landward as feasible. As discussed in Finding 1, the project coastal engineer and the City’s Coastal Engineer have determined that the rock revetment is essential to ensure that the existing development, including the OWTS remains protected. The project, as conditioned has been determined to be consistent with all applicable requirements of LIP Chapter 10 by the City’s Coastal Engineer. In addition, a deed restriction for no future seaward extension or expansion of the revetment per LIP Section 10.6(B) has been included as a condition of approval in the attached resolution.


Based on the foregoing findings and evidence contained within the record, the Planning Commission hereby approves CDP No. 19-061, 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 the repair of 20 percent of an existing previously permitted rock revetment through the addition of new concrete rocks that will be cast-in-place to fill voids and cavities landward of the mean high tide line. In addition, this approval also allows for the partial demolition of an existing unpermitted concrete landing to reduce it to the minimum size as required by the building code for a landing (3 feet by 3 feet); and the new rocks will be cast in a way to provide access to the beach at the rear of the property.
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 August 21, 2019. 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, notarizes and returns the Acceptance of Conditions Affidavit accepting the conditions of approval set forth herein. The applicant shall file this form with the Planning Department prior to the issuance of any development permits.

5. The applicant shall digitally submit a complete set of plans, including the items required in Condition 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 and notarized 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.

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

13. The property owner shall comply with all provisions of the MMC and LIP.

**Cultural Resources**

14. 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.

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

**Construction/ Demo Conditions**

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

17. A construction staging plan shall be reviewed and approved by the Planning Director prior to plan check submittal.

18. 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.

19. 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.
20. All new development, including construction, grading, and landscaping shall be designed to incorporate drainage and erosion control measures prepared by a licensed engineer that incorporate structural and non-structural Best Management Practices (BMPs) to control the volume, velocity and pollutant load of storm water runoff in compliance with all requirements contained in LIP Chapter 17, including:
   a. Construction shall be phased to the extent feasible and practical to limit the amount of disturbed areas present at a given time.
   b. Grading activities shall be planned during the southern California dry season (April through October).
   c. During construction, contractors shall be required to utilize sandbags and berms to control runoff during on-site watering and periods of rain in order to minimize surface water contamination.
   d. Filter fences designed to intercept and detain sediment while decreasing the velocity of runoff shall be employed within the project site.

21. The applicant/property owner shall obtain all required permits, including approval for mechanized equipment to access to the beach, from Beaches and Harbor prior to commencement of construction.

22. The applicant/property owner shall obtain all required permits, if any, including any necessary permits from the U.S. Army Corps of Engineers, prior to commencement of construction.

23. For the transportation of heavy construction equipment and/or material, which requires the use of oversized-transport vehicles on State highways, the applicant / property owner is required to obtain a transportation permit from the California Department of Transportation.

Colors and Materials

24. 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.

Grading/Drainage/Hydrology (Public Works)

25. A Water Quality Mitigation Plan (WQMP) shall be submitted for review and approval of the Public Works Director. The WQMP shall be supported by a hydrology and hydraulic study that identifies all areas contributory to the property and an analysis of the predevelopment and post development drainage on the site. The QQMP shall meet all the requirements of the City’s current Municipal Separate Stormwater Sewer System (MS4) permit. The following elements shall be included within the WQMP:
a. Site Design Best Management Practices (BMPs);
b. Source Control BMPs;
c. Treatment Control BMPs that retain on-site Stormwater Quality Design Volume (SWQDv). Or where it is technically infeasible to retain on-site, the project must biofiltrate 1.5 times the SWQDv that is not retained on-site;
d. Drainage improvements;
e. A plan for the maintenance and monitoring of the proposed treatment BMPs for the expected life of the structure;
f. Methods of onsite percolation, site re-vegetation and an analysis for off-site project impacts;
g. Measures to treat and infiltrate runoff from impervious areas;
h. A copy of the WQMP shall be filed against the property to provide constructive notice to future property owners of their obligation to maintain the water quality measure installed during construction prior to the issuance of grading or building permits; and
i. The WQMP shall be submitted to the Public Works Department and the fee applicable at the time of submittal for review of the WQMP shall be paid prior to the start of the technical review. The WQMP shall be approved prior the Public Works Department’s approval of the grading and drainage plan and/or building plans. The Public Works Department will tentatively approve the plan and will keep a copy until the completion of the project. Once the project is completed, the applicant shall verify the installation of the BMP’s, make any revisions to the WQMP, and resubmit to the Public Works Department for approval. The original signed and notarized document shall be recorded with the Los Angeles County Recorder. A certified copy of the WQMP shall be submitted to the Public Works Department prior to the issuance of the certificate of occupancy.

26. A grading and drainage plan containing the following information shall be approved, and submitted to the Public Works Department, prior to the issuance of grading permits for the project:
   a. Public Works Department general notes;
   b. The existing and proposed square footage of impervious coverage on the property shall be shown on the grading plan (including separate areas for buildings, driveways, walkways, parking, tennis courts and pool decks);
   c. The limits of land to be disturbed during project development shall be delineated and a total area shall be shown on this plan. Areas disturbed by grading equipment beyond the limits of grading, areas disturbed for the installation of the septic system, and areas disturbed for the installation of the detention system shall be included within the area delineated;
   d. The limits to land to be disturbed during project development shall be delineated and a total area of disturbance should be shown on this plan. Areas disturbed by grading equipment beyond the limits of grading shall be included within the area delineated;
   e. If the property contains rare, endangered or special status species as identified in the Biological Assessment, this plan shall contain a prominent note identifying the areas to be protected (to be left undisturbed). Fencing of these areas shall be delineated on this plan is required by the City Biologist;
   f. The grading limits shall include the temporary cuts made for retaining walls, buttresses and over excavations for fill slopes; and
g. Private storm drain systems shall be shown on this plan. Systems greater than 12 inch in diameter shall also have a plan and profile for the system included with this plan.

27. A Local Storm Water Pollution Prevention Plan (LSWPPP) shall be provided prior to issuance of grading/building permits. This plan shall include and Erosion and Sediment Control Plan (ESCP) that includes, but not limited to:

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<thead>
<tr>
<th>Erosion Controls Scheduling</th>
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<tr>
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<td>Preservation of Existing Vegetation</td>
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<td>Stabilized Construction Entrance</td>
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<td>Sanitary/Septic Waste Management</td>
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All Best Management Practices (BMP) shall be in accordance to the latest version of the California Stormwater Quality Association (CASQA) BMP Handbook. Designated areas for the storage of construction materials, solid waste management, and portable toilets must not disrupt drainage patterns or subject the material to erosion by site runoff.

28. Prior to the approval of any permits and prior to the submittal of the required construction general permit document to the State Water Quality Control Board, the property owner / applicant shall submit the Public Works Department an Erosion and Sediment Control Plan (ESCP) for review. The ESCP shall contain appropriate site-specific construction site BMPs prepared and certified by a qualified SWPPP developer (QWD). All structural BMPs must be designed by a licensed California civil engineer. The ESCP must address the following elements:

a. Methods to minimize the footprint of the disturbed area and to prevent soil compaction outside the disturbed area
b. Methods used to protect native vegetation and trees
c. Sediment / erosion control
d. Controls to prevent tracking on- and off-site
e. Non-stormwater control
f. Material management (delivery and storage)
g. Spill prevention and control
h. Waste management
i. Identification of site risk level as identified per the requirements in Appendix 1 of the Construction General Permit
j. Landowner must sign the following statement on the ESCP:
“I certify that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to ensure that quality personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering the information, to the best of my knowledge and belief, the information submitted is true, accurate and complete. I am aware that submitting false and/or inaccurate information, failing to properly and/or adequately implement the ESCP may result in revocation of grand and/or other permits or other sanctions provided by law.”

29. A Storm Water Management Plan (SWMP) shall be submitted for review and approval of the Public Works Director. The SWMP shall be prepared in accordance with the LIP Section 17.3.2 and all other applicable ordinances and regulations. The SWMP shall be supported by a hydrology and hydraulic study that identifies all areas contributory to the property and an analysis of the pre-development and post-development drainage of the site. The SWMP shall identify the site design and source control BMPs that have been implemented in the design of the project. The SWMP shall be reviewed and approved by the Public Works Department prior to the issuance of the grading or building permit for this project.

30. Clearing and grading during the rainy season (extending from November 1 to March 31) shall be prohibited for development that:
   a. Is located within or adjacent to ESHA, or
   b. Includes grading on slopes greater than 4 to 1.

   Approved grading for development that is located within or adjacent to ESHA or on slopes greater than 4 to 1 shall not be undertaken unless there is sufficient time to complete grading operations before the rainy season. If grading operations are not completed before the rainy season begins, grading shall be halted and temporary erosion control measures shall be put into place to minimize erosion until grading resumes after March 31, unless the City determines that completion of grading would be more protective of resources.

**Shoreline Protection (Coastal Engineer)**

31. All construction debris shall be removed from the beach daily and at the completion of development.

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

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

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

35. 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.

36. Construction equipment shall not be cleaned on the beach.
37. 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.

Prior to Occupancy

38. The applicant shall request a final Planning Department inspection prior to final inspection by the City of Malibu Building Safety Division. A Certificate of Occupancy shall not be issued until the Planning Department has determined that the project complies with this coastal development permit. A temporary Certificate of Occupancy may be granted at the discretion of the Planning Director, provided adequate security has been deposited with the City to ensure compliance should the final work not be completed in accordance with this permit.

39. 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

40. 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 2,500 sq. ft. or more of the existing landscaping, a detailed landscape plan shall be submitted for review and approval prior to any planting.

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

42. 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

DEED RESTRICTION - HAZARDS

43. 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.

DEED RESTRICTION - FIRE

44. The property owner is required to execute and record a deed restriction which shall indemnify and hold harmless the City, its officers, agents, and employees against any and all claims, demands, damages, costs and expenses of liability arising out of the acquisition, design, construction, operation, maintenance, existence or failure of the permitted project in an area where an extraordinary potential for damage or destruction from wildfire exists as an inherent risk to life and property. The property owner shall provide a copy of the recorded document to Planning department staff prior to final planning approval.
DEED RESTRICTION – SHORELINE PROTECTION STRUCTURE

45. 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 17th day of August 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. 20-55 was passed and adopted by the Planning Commission of the City of Malibu at the Regular meeting held on the 17th day of August 2020 by the following vote:

AYES:  
NOES:  
ABSTAIN:  
ABSENT:  

KATHLEEN STECKO, Recording Secretary
TO: City of Malibu Biologist
FROM: City of Malibu Planning Department
DATE: 8/21/2019

PROJECT NUMBER: CDP 19-061
JOB ADDRESS: 23940 MALIBU RD
APPLICANT / CONTACT: Chris Deleau, Schmitz and Associates, Inc.
APPLICANT ADDRESS: 28118 Agoura Rd. #103
Agoura Hills, CA 91301
APPLICANT PHONE #: (818) 338-3636
APPLICANT FAX #: cdeleau@schmitzandassociates.net
PLANNER: To Be Assigned
PROJECT DESCRIPTION: Repair of an existing rock revetment sea wall with partial removal of existing stairs and landing.

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

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).

Signature Date

Additional requirements/conditions may be imposed upon review of plan revision

Contact Information:
Dave Crawford, City Biologist, dcrawford@malibucity.org, (310) 456-2489, extension 277

Rev 05/29/2018
### BIOLOGY REVIEW SHEET

#### PROJECT INFORMATION

| Applicant: | Cheis Deleau  
cdeleau@schmitzandassociates.net |
|------------|----------------------------------|
| Project Address: | 23940 Malibu Road  
Malibu, CA 90265 |
| Planning Case No.: | CDP 19-061 |
| Project Description: | Repair of existing rock revetment sea wall with partial removal of existing stairs and landing |
| Date of Review: | September 10, 2019 |
| Reviewer: | Dave Crawford  
dcrawford@malibucity.org |

#### SUBMITTAL INFORMATION

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<td>Planting Plan:</td>
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<td>Irrigation/Hydrozone/ water budget Plan:</td>
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<td>Grading Plans:</td>
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<td>Native Tree Protection Plan</td>
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<td>Other:</td>
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<td>Previous Reviews:</td>
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#### REVIEW FINDINGS

- **Review Status:**  
  - ☑ **INCOMPLETE** Please respond to the listed review comments and provide any additional information requested.
  
- **☑ APPROVED** The proposed project

- **Environmental Review Board:**  
  - This project has the potential to impact ESHA and may require review by the Environmental Review Board

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Page 1 of 2

Recycled Paper
RECOMMENDATIONS:

1. The project is recommended for APPROVAL with the following conditions:

   A. At no time shall any equipment or building materials be staged or stored on the sand beach.

   B. 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 2,500 sq.ft. or more of the existing landscaping, a detailed landscape plan shall be submitted for review and approval prior to any planting.

   -000-

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

   cc: Planning Project file
       Planning Department
City of Malibu
23825 Stuart Ranch Rd., Malibu, California CA 90265-4804
(310) 456-2489  FAX (310) 456-3356

COASTAL ENGINEERING REVIEW
REFERRAL SHEET

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

PROJECT NUMBER: CDP 19-061
JOB ADDRESS: 23940 MALIBU RD
APPLICANT / CONTACT: Chris Deleau, Schmitz and Associates, Inc.
APPLICANT ADDRESS: 28118 Agoura Rd. #103
Agoura Hills, CA 91301
APPLICANT PHONE #: (818) 338-3636
APPLICANT FAX #: cdeleau@schmitzandassociates.net
APPLICANT EMAIL: cdeleau@schmitzandassociates.net
PROJECT DESCRIPTION: Repair of an existing rock revetment sea wall with partial removal of existing stairs and landing.

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

[signature]
DATE: 12/3/2019

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.

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.
City of Malibu
23825 Stuart Ranch Road · Malibu, California · 90265-4861
Phone (310) 456-2489 · Fax (310) 456-3356 · www.malibucity.org

COASTAL ENGINEERING REVIEW SHEET

Project Information

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<td>Chris Deleau</td>
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<tr>
<td>Phone #</td>
<td>818-338-3636</td>
</tr>
<tr>
<td>Email</td>
<td><a href="mailto:cdeleau@schmitzandassociates.net">cdeleau@schmitzandassociates.net</a></td>
</tr>
<tr>
<td>Project Type</td>
<td>Repair of an existing rock revetment sea wall with partial removal of existing stairs and landing</td>
</tr>
</tbody>
</table>

Review Log #: C609
Planning #: CDP 19-061
BPC/GPC #: N/A
Planner: R. Mollica

Submittal Information

<table>
<thead>
<tr>
<th>Consultant(s)</th>
<th>Pacific Engineering Group (R. Browne, RCE 40552)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Report Date(s)</td>
<td>7-26-19</td>
</tr>
<tr>
<td>Project Plan(s)</td>
<td>Pacific Engineering Group, 7-25-19 (repair plan)</td>
</tr>
<tr>
<td>Previous Reviews</td>
<td>None</td>
</tr>
<tr>
<td>FEMA SFHA</td>
<td>VE</td>
</tr>
<tr>
<td>BFE</td>
<td>+17 ft NAVD88 (FEMA 2016)</td>
</tr>
</tbody>
</table>

Review Findings

Planning Stage

☑ APPROVED in PLANNING-stage from a coastal engineering perspective. 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 report and plan were reviewed by the City from a coastal engineering perspective relative to the requirements of the following City codes and guidelines:

- City of Malibu Local Coastal Program – Land Use Plan and Local Implementation Plan (LCP-LUP and LCP-LIP)
- Malibu Municipal Code – Title 15, Buildings and Construction, and
• California Coastal Commission Sea Level Rise Policy Guidance, Final Adopted Science Update, November 7, 2018

The project consists of repair to an existing rock revetment that was originally constructed in 1984, and includes partial removal of existing rock-veneer stairs and landing adjacent to the property line with 23936 Malibu Road. Based upon the submitted plans, the rock revetment repair will occur landward of a 10-foot setback from the February 19, 2012 Mean High Tide Line. It is stated in the report that this MHTL was confirmed as the most landward MHTL by the California State Lands Commission review of the rock revetment repair for the adjacent property at 23936 Malibu Road.

The Project Coastal Engineer (hereafter, Consultant) recommends stabilizing the bottom layer of cap stone and installing manufactured concrete cap rock units (4 tons apiece) to complete the top layer of cap rock units and restore the original rock revetment face back to a 1-1/2:1 (horizontal:vertical) slope. The top of the repaired revetment face is recommended to extend to a minimum elevation of +18.0 ft NAVD88. The proposed repair will utilize less than 20 percent of materials of a different kind (concrete) and does not meet the definition of “NEW DEVELOPMENT” as described in LCP-LIP Section 2.1.

For the wave uprush analysis, the Consultant utilized a design still water level of +8.0 ft MLLW, incorporating 1.75 feet of sea level rise (projected to the year 2070) and 0.25 feet of storm surge on top of a design tide of +6.0 ft MLLW. The Consultant considered a 50-year expected usable life of the rock revetment and structures at the site. According to probabilistic sea-level rise projections for the Santa Monica Tide Gauge and considering a high greenhouse gas emissions scenario (RCP 8.5), a 1.75 foot sea level rise has an approximately 17% probability of being exceeded (83% probability of not being exceeded) by the year 2070 for a low-risk aversion scenario, and an approximately 0.5% probability of being exceeded (99.5% probability of not being exceeded) by around the year 2055 for a medium-high risk aversion scenario. The analysis indicates that the maximum storm wave uprush at the rock revetment face will be produced by the 18-second period 4.2 foot high wave breaking in 8.0 feet of water at the toe of the rock revetment face. This critical wave will have a breaking wave crest at elevation +16.1 ft NAVD88, with the uprush reaching an elevation of +17.6 ft NAVD88.

The rock revetment is located within the Preliminary FEMA (2016) VE Zone with a Base Flood Elevation of +17 feet NAVD88.

**Planning Stage Conditions of Approval**

1. The Project Coastal Engineer shall submit a Shoreline Protection Device Monitoring Plan consistent with the City’s requirements. A copy of the plan requirements is attached.

2. Prior to building permit issuance, the property owner shall sign and record a “Covenant and Agreement Regarding Maintenance of the Shoreline Protection Device and the Use and Transfer of Ownership of Property”. The Shoreline Protection Device Monitoring Program requested in Item 1 above shall be attached to the covenant and agreement as Exhibit B. A template for this covenant is available from the City. The completed/notarized covenant and agreement must be submitted to coastal engineering staff for approval prior to recordation with the City Clerk’s office.

3. The property owner shall complete the requirement for a deed restriction and recorded document in accordance with LCP-LIP Section 10.6.B.1. A template for this document is available from City coastal engineering review staff. The completed/notarized document must be submitted to coastal engineering staff for approval prior to recordation with the City Clerk’s office.
Building Plan Check Stage Comments

1. Upon submittal for Building Plan Check, one set of rock revetment repair plans, incorporating the Coastal Engineering Consultant’s recommendations, must be submitted to City coastal engineering staff for review, along with a Building Plan Check fee of $750. Additional review comments may be raised at that time that may require a response from the Consultant.

Please direct any questions regarding this review to the staff identified below.

Reviewed by: Michael B. Phipps, CEG 1832
Coastal Engineering Review Consultant (x269)

Reviewed by: Lauren J. Doyel, PE 61337, GE 2981
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.
TO: City of Malibu Environmental Health Administrator  DATE:  8/21/2019
FROM: City of Malibu Planning Department

PROJECT NUMBER: CDP 19-061
JOB ADDRESS: 23940 MALIBU RD
APPLICANT / CONTACT: Chris Deleau, Schmitz and Associates, Inc.
APPLICANT ADDRESS: 28118 Agoura Rd. #103
                  Agoura Hills, CA 91301
APPLICANT PHONE #: (818) 338-3636
APPLICANT FAX #: 
APPLICANT EMAIL: cdeleau@schmitzandassociates.net
PROJECT DESCRIPTION: Repair of an existing rock revetment sea wall with partial removal of existing stairs and landing.

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 Municipal Code (MMC). 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 MMC. 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 Talbot
Date: 9-4-19
Project Information

Applicant: Chris Deleau, Schmitz and Associates, Inc.
(name and email address) cdeleau@schmitzandassociates.net

Project Address: 23940 Malibu Rd.
Malibu, California 90265

Planning Case No.: CDP 19-061

Project Description: Repair of an existing rock revetment sea wall with partial removal of existing stairs and landing

Date of Review: September 4, 2019
Reviewer: Melinda Talent
Signature: __________________________ Email: mtalent@malibucity.org

Contact Information: Phone: (310) 456-2489 ext. 364

Submittal Information

Architectural Plans:


Previous Approval:
Previous Reviews:

Review Findings

Planning Stage: ☑ CONFORMANCE REVIEW COMPLETE for the City of Malibu Local Coastal Program/Local Implementation Plan (LIP) and Malibu Municipal Code (MMC). The listed conditions of Planning stage conformance review and plan check review comments shall be addressed prior to plan check approval.

☐ CONFORMANCE REVIEW INCOMPLETE for the City of Malibu LIP and MMC. The listed Planning stage review comments shall be addressed prior to conformance review completion.

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

Environmental Health conformance review has been completed for the development proposal described in the project description provided by the Planning Department and the project plans and reports submitted to this office. 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 project. In order to obtain Environmental Health final approval of the OWTS Plot Plan and project 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) Building Plans: All final project 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.

   Depict the location of the onsite wastewater treatment system on the final project civil plans.

2) Environmental Health Final Review Fee: A 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 Building Plan Check review.

-o0o-

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
PUBLIC WORKS REVIEW
REFERRAL SHEET

TO: Public Works Department
FROM: City of Malibu Planning Department
DATE: 8/20/2019

PROJECT NUMBER: CDP 19-061
JOB ADDRESS: 23940 MALIBU RD
APPLICANT / CONTACT: Chris Deleau, Schmitz and Associates, Inc.
APPLICANT ADDRESS: 28118 Agoura Rd. #103
Agoura Hills, CA 91301
APPLICANT PHONE #: (818) 338-3636
APPLICANT FAX #:
APPLICANT EMAIL: cdeleau@schmitzandassociates.net
PROJECT DESCRIPTION: Repair of an existing rock revetment sea wall with partial removal of existing stairs and landing.

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

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

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

SIGNATURE  10/9/19
DATE
MEMORANDUM

To: Planning Department
From: Public Works Department
   Ryan Lim, Assist. Civil Engineer
Date: October 9, 2019
Re: Proposed Conditions of Approval for 23940 Malibu Road CDP 19-061

The Public Works Department has reviewed the plans submitted for the above referenced project. Based on this review sufficient information has been submitted to confirm that conformance with the Malibu Local Coastal Plan (LCP) and the Malibu Municipal Code (MMC) can be attained. Prior to the issuance of building and grading permits, the applicant shall comply with the following conditions.

STORMWATER

1. A Local Storm Water Pollution Prevention Plan shall be provided prior to the issuance of the Grading/Building permits for the project. This plan shall include an Erosion and Sediment Control Plan (ESCP) that includes, but not limited to:

<table>
<thead>
<tr>
<th>Erosion Controls</th>
<th>Scheduling</th>
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<tbody>
<tr>
<td>Preservation of Existing Vegetation</td>
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<table>
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<tr>
<th>Sediment Controls</th>
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<tbody>
<tr>
<td>Silt Fence</td>
<td>Sand Bag Barrier</td>
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<tr>
<td>Stabilized Construction Entrance</td>
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<thead>
<tr>
<th>Non-Storm Water Management</th>
<th>Water Conservation Practices</th>
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<tr>
<td>Dewatering Operations</td>
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<tr>
<th>Waste Management</th>
<th>Material Delivery and Storage</th>
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<tr>
<td>Stockpile Management</td>
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<td>Spill Prevention and Control</td>
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<td>Solid Waste Management</td>
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<td>Concrete Waste Management</td>
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<tr>
<td>Sanitary/Septic Waste Management</td>
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CITY OF MALIBU

[City Seal]

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

MISCELLANEOUS

2. The developer’s consulting engineer shall sign the final plans prior to the issuance of permits.
The Malibu Planning Commission will hold a public hearing on MONDAY, August 17, 2020, at 6:30 p.m. on the project identified below which will be held 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. 19-061 - An application for a 20 percent repair of an existing rock revetment sea wall, with partial removal of the existing landing and complete demolition of existing unpermitted stairs on a beachfront property with an existing residence

LOCATION / APN / ZONING: 23940 Malibu Rd / 4458-008-018 / Single-family Medium (SFM)
APPLICANT / OWNER(S): Schmitz and Associates, Inc. / David and Linda Shaheen Trust
APPEALABLE TO: City Council and California Coastal Commission
ENVIRONMENTAL REVIEW: Categorical Exemption CEQA Guidelines Section 15301(e)
APPLICATION FILED: August 21, 2019
CASE PLANNER: Richard Mollica, Assistant Planning Director, rmollica@malibucity.org (310) 456-2489, ext. 346

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 during regular business hours. 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.

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: August 6, 2020