To: Chair Mazza and Members of the Planning Commission

Prepared by: Lilly Rudolph, Contract Planner

Approved by: Bonnie Blue, Planning Director

Date prepared: August 27, 2020        Meeting date: September 8, 2020

Subject: Extension of Coastal Development Permit No. 16-026, Site Plan Review No. 16-029, and Demolition Permit No. 16-027 - A request to extend the Planning Commission’s approval of an application to allow construction of a new single-family residence and associated development

Location: 29458 Bluewater Road
APN: 4468-005-009
Owner: Kassoy Family Trust

RECOMMENDED ACTION: Adopt Planning Commission Resolution No. 20-54 (Attachment 1), granting a one-year extension of Coastal Development Permit (CDP) No. 16-026 to allow the remodel and roofline modification to an existing second unit, construction of a new 3,801 square foot single-family residence, 504 square foot detached garage, swimming pool, spa, trellis, tennis court, bocce ball court) and landscaping, and replacement of the existing onsite wastewater treatment system (OWTS); including Site Plan Review (SPR) No. 16-029 for construction in excess of 18 feet in height for the primary residence and second unit up to 24 feet and 22 feet, respectively, and Demolition Permit (DP) No. 16-027 for the demolition of an existing 3,488 square foot residence located in the Rural Residential–One Acre (RR-1) zoning district at 29458 Bluewater Road (Kassoy Family Trust).

DISCUSSION: Pursuant to Local Coastal Program Local Implementation Plan Section 13.21, Condition of Approval No. 7 in Planning Commission Resolution No. 17-43 (Attachment 2), which approved the project, states that the CDP and associated discretionary requests shall expire if the project has not commenced within three years after final City action. Extension of a CDP may be granted by the approving authority for due cause. The item before the Commission is the applicant's first time extension request.
The LCP allows the approving authority, the Planning Commission, to grant reasonable extension of time for due cause, but does not define due cause or specify what a reasonable extension of time is. LCP Policy No. 5 (Coastal Development Permit Extensions) was published by staff in November 2017, with the concurrence of City Council, to provide guidance in evaluating extension requests (Attachment 4). The policy states the aggregate life of a CDP shall not exceed five years absent extraordinary circumstances. LCP Policy No. 5 also provides criteria by which to evaluate whether due cause has been demonstrated.

The subject CDP was originally approved on July 24, 2017 and was set to expire on July 24, 2020. On June 18, 2020, the applicant submitted a time extension request to ensure a valid CDP permit remains in place. The applicant’s basis for due cause is included as Attachment 3. Staff has evaluated the project history and all information submitted by the property owner in support of the extension request and determined the request is consistent with LCP Policy No. 5 and the requested time extension can be issued. The applicant is requesting a two-year time extension due to personal matters including temporary unemployment and related financial issues and delays and uncertainty as a consequence of the COVID-19 pandemic. The applicant submitted plans for plan check and was prepared to proceed with building permit issuance when statewide closures went into effect. The applicant intends to proceed with construction of the project, but has experienced delays due to the pandemic and anticipates continued delays.

A chronology of the time extension request can be found in Planning Commission Resolution No. 20-54.

CONCLUSION: The project conditions, and the zoning ordinance under which the approval was issued, have not significantly changed\textsuperscript{1}. Upon the Planning Commission’s approval of the time extension request, the approval set forth in Planning Commission Resolution No. 17-43 shall remain valid for an additional one-year term. The expiration date of this approval would then be July 24, 2021, affording the applicant approximately one year to commence construction. The aggregate life of the permit would be four years. All conditions of approval in Planning Commission Resolution No. 17-43 will remain in effect.

ATTACHMENTS:

1. Planning Commission Resolution No. 20-54
2. Time Extension Request
3. LCP Policy No. 5 (CDP Extensions)
4. Public Hearing Notice

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

\textsuperscript{1} In July 2007, the City Council adopted Ordinance No. 315 which adopted new basement standards. This project was approved after the ordinance took effect; therefore, the project meets current basement standards.
A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MALIBU GRANTING A ONE-YEAR EXTENSION OF COASTAL DEVELOPMENT PERMIT NO. 16-026 TO ALLOW THE REMODEL AND ROOFLINE MODIFICATION TO AN EXISTING SECOND UNIT, CONSTRUCTION OF A NEW 3,801 SQUARE FOOT SINGLE-FAMILY RESIDENCE, 504 SQUARE FOOT DETACHED GARAGE, SWIMMING POOL, SPA, TRELLIS, TENNIS COURT, BOCCE BALL COURT AND LANDSCAPING, AND REPLACEMENT OF THE EXISTING ONSITE WASTEWATER TREATMENT SYSTEM; INCLUDING SITE PLAN REVIEW NO. 16-029 FOR CONSTRUCTION IN EXCESS OF 18 FEET IN HEIGHT FOR THE PRIMARY RESIDENCE AND SECOND UNIT, UP TO 24 FEET AND 22 FEET, RESPECTIVELY, AND DEMOLITION PERMIT NO. 16-027 FOR THE DEMOLITION OF AN EXISTING 3,488 SQUARE FOOT RESIDENCE LOCATED IN THE RURAL RESIDENTIAL-ONE ACRE ZONING DISTRICT AT 29458 BLUEWATER ROAD (KASSOY FAMILY TRUST)

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

SECTION 1. Recitals.

A. On July 24, 2017, the Planning Commission adopted Resolution No. 17-43, approving Coastal Development Permit (CDP) No. 16-026 for the proposed project, including Site Plan Review (SPR) No. 16-029 for construction in excess of 18 feet in height for the primary residence and second unit up to 24 feet and 22 feet, respectively, and Demolition Permit (DP) No. 16-027 for the demolition of an existing 3,488 square foot residence.

B. On June 18, 2020, the applicant, Joseph Lezama, submitted a time extension request to the Planning Department.

A. On August 13, 2020, a Notice of Public Hearing was published in a newspaper of general circulation within the City of Malibu and was mailed to all property owners and occupants within a 500 foot radius of the subject property.

B. On September 8, 2020, the Planning Commission held a duly noticed public hearing on the subject time extension request, reviewed and considered the staff report, reviewed and considered written correspondence, public testimony, and other information in the record.

SECTION 2. Environmental Review.

Pursuant to the authority and criteria contained in the California Environmental Quality Act (CEQA), the Planning Commission previously determined the project to be categorically exempt pursuant to CEQA Guidelines Sections 15301 – Existing Facilities and 15303 - New Construction. As such, Categorical Exemption (CE) No. 17-080 was filed for CDP No. 16-026.

SECTION 3. Findings of Fact.

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


A. The approvals set forth in Planning Commission Resolution No. 17-43 are hereby extended for an additional one-year term. The approval is now set to expire on July 24, 2021.

B. No other changes to the conditions contained in Planning Commission Resolution No. 17-43 are made and all other findings, terms and/or conditions contained in Planning Commission Resolution No. 17-43 shall remain in full force and effect.

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

PASSED, APPROVED AND ADOPTED this 8th day of September, 2020.

JOHN MAZZA, Planning Commission Chair

ATTEST:

KATHLEEN STECKO, Recording Secretary

LOCAL APPEAL - Pursuant to Local Coastal Program Local Implementation Plan Section 13.20.1 (Local Appeals) a decision made by the Planning Commission may be appealed to the City Council by an aggrieved person by written statement setting forth the grounds for appeal. An appeal shall be filed with the City Clerk within 10 days and shall be accompanied by an appeal form and filing fee, as specified by the City Council. Appeals shall be emailed to psalazar@malibucity.org and the filing fee shall be mailed to Malibu Planning Department, attention: Patricia Salazar, 23825 Stuart Ranch Road, Malibu, CA 90265. Payment must be received within 10 days of the appeal deadline. Anyone unable to submit an appeal via email should contact Patricia Salazar at (310) 456-2489, extension 245, at least two business days before the appeal deadline to arrange alternative delivery of the appeal. Appeal forms may be found online at www.malibucity.org/planningforms, or by calling (310) 456-2489, ext. 245.

I CERTIFY THAT THE FOREGOING RESOLUTION NO. 20-54 was passed and adopted by the Planning Commission of the City of Malibu at the regular meeting thereof held on the 8th day of September, 2020, by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

KATHLEEN STECKO, Recording Secretary
To submit a time extension request:

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

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

**Project No.**: CDP 16-026

**Site Address**: 29458 Bluewater Road, Malibu, CA 90265

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

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

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

3. **Time Extension Fee ($506)**

4. **Property Owner's/Occuaptant's Information**
   
   Has the property owner or commercial occupant changed since the Planning Commission/Planning Director granted the time extension?  ☐ YES  ☒ NO

   If YES, Change of Property Owner/Occupant Fee applicable.

   Property Owner’s mailing Address:

   Property Owner's telephone:

   Property Owner’s email address:
Occupant's mailing Address: __________________________________________

______________________________________________________________

Occupant's telephone: ____________________________________________

Occupant's email address: _________________________________________

5. **Applicant's Information**

Has the application representing the owner changed since the Planning Commission's/ Planning Director's approval or since the issuance of the last extension? □ YES □ NO  
If YES, fill out the Authorization to Submit Project section of this form.

Applicant's mailing address: _________________________________________

______________________________________________________________

Applicant's telephone: ____________________________________________

Applicant's email address: _________________________________________

6. **Certified Public Notice Property Owner & Occupant Mailing Address and Radius Map**

Not required for Administrative Plan Review approvals in which a discretionary request (e.g. site plan review) was not included.

- The addresses of the property owners and occupants within the mailing radius shall be provided on a compact disc in a Microsoft Excel spreadsheet. The spreadsheet shall have the following column headers in row one: 1) name, 2) address, 3) city, state & zip code, and 4) parcel (for APN). The owners should be listed first followed by the occupants. The project applicant's mailing address should be added at the end of the list.
- An additional column for "arbitrary number" may be included if the supplied radius map utilizes such numbers for the purpose of correlating the addressee to their map location.
- Printouts of the excel spreadsheet and radius map, certified by the preparer as being accurate, must be provided.
- The radius map (8½" x 11") shall show a 500 foot radius* from the subject property and must show a minimum of 10 developed properties. A digital copy of the map shall be submitted on the same cd as the mailing addresses.
- Properties zoned RR-10, RR-20, or RR-40 require a 1,000-foot radius notification.
- **Note that updated mailing labels may be requested by the project planner prior to deeming the application complete.**

**Indemnification Clause**

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.

William Kassoy  
PROPERTY OWNER SIGNATURE  
DATE 6/12/20

Jennifer Kassoy  
PROPERTY OWNER NAME (PRINT)  
DATE 6/12/20
AUTHORIZATION TO SUBMIT A PROJECT

Joseph Lezama (print name) is authorized by me/us as the owner(s) of the property located at 29458 Bluewater Road, Malibu, CA 90265, to submit an application to and obtain permits from the City of Malibu Planning Department and to act on my/our behalf of the process that applicant. This authorization will be valid until revoked by me/us in writing.

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

Witnessed by:

Dated: See attached form

Witness Signature (Staff)

Print Name

I hereby certify that the time extension request submittal contains all of the above items. I understand that if any of the items are missing or subsequently deficient, the time extension shall be deemed to have been withdrawn and the project approval will expire.

Property Owner’s Signature

Print Property Owner’s Name

Jennifer Kassoy

Date

6/12/20

Jennifer Kassoy

6/12/20
CALIFORNIA ALL-PURPOSE
CERTIFICATE OF ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity
of the individual who signed the document to which this certificate is attached,
and not the truthfulness, accuracy, or validity of that document.

State of California
County of LOS ANGELES

On 6-12-2020 before me, JASMIND D JONES, NOTARY PUBLIC

personally appeared William Kassay & Jennifer Kassay

who proved to me on the basis of satisfactory evidence to be the person(s) whose
name(s) is/are subscribed to the within instrument and acknowledged to me that
he/she/they executed the same in his/her/their authorized capacity(ies), and that by
his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of
which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that
the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Notary Public Signature (Notary Public Seal)

INSTRUCTIONS FOR COMPLETING THIS FORM
This form complies with current California statutes regarding notary wording and,
if needed, should be completed and attached to the document. Acknowledgments
from other states may be completed for documents being sent to that state so long as
the wording does not require the California notary to violate California notary
law.

State and County information must be the State and County where the document
signer(s) personally appeared before the notary public for acknowledgment.

Date of notarization must be the date that the signer(s) personally appeared which
must also be the same date the acknowledgment is completed.

The notary public must print his or her name as it appears within his or her
commission followed by a comma and then your title (notary public).

Print the name(s) of document signer(s) who personally appear at the time of
notarization.

Indicate the correct singular or plural forms by crossing off incorrect forms (i.e.
he/she/they, is are) or circling the correct forms. Failure to correctly indicate this
information may lead to rejection of document recording.

The notary seal impression must be clear and photographically reproducible.
Impression must not cover text or lines. If seal impression smudges, re-seal if a
sufficient area permits, otherwise complete a different acknowledgment form.

Signature of the notary public must match the signature on file with the office of
the county clerk.

Additional information is not required but could help to ensure this
acknowledgment is not missread or attached to a different document.

Indicate title or type of attached document, number of pages and date.

Indicate the capacity claimed by the signer. If the claimed capacity is a
corporate officer, indicate the title (i.e. CEO, CFO, Secretary).

Securely attach this document to the signed document with a staple.
June 11, 2020

Dear Malibu Planning Commission,

We are applying for an Extension of our Coastal Development Permit because we feel that there are circumstances beyond our control that have prevented us from being able to start development on the property 29458 Bluewater Road in Malibu, CA. The purpose of this letter is to give you context for why we are requesting an extension.

There are two circumstances that prevented us from starting construction:
1. Loss of job/income at the end of 2017
2. COVID-19

Background:
We purchased 29458 Bluewater Road in July 2015, with the goal to develop the property, and, once completed, to live there as our primary residence. In 2016, we hired Burdge & Associates as our architect and in 2017 we successfully applied and received our approved Coastal Development Permit.

Loss of Job:
In 2017 my business was going through a downturn. We had multiple layoffs at the company. Given the volatility at work, we held off on immediately acting on the CDP given the costs for construction was going to be a major expense. While we had some savings for construction, I wanted to make sure I also had income coming in to pay for our living expenses. Unfortunately, at the end of 2017, I was also laid off and so we put our plans to develop the property on hold.

My unemployment lasted 15 months. Then late in 2018, the Woolsey fires hit which hit our street on Bluewater Road in Malibu particularly hard.

I gained employment again in March of 2019. But before making any major financial decisions, I wanted to be at the company for 9 months to make sure the employment felt secure before considering starting the Bluewater construction project. As we entered 2020, my wife and I started again to talk again about Bluewater and how we would make that our dream house. We realized that we would need to start soon because the CDP was set to expire in the summer of 2020. But we wanted to go forward! Until...
COVID-19
We were ready to move forward with getting our local building permits back in March, but when the news hit on the Pandemic, it put a halt to everything.

We had discussions about starting some of the outdoor/grading work, however, with COVID-19, and stay-at-home orders, the process of actually pulling the permits became difficult while the city worked through the challenge of how to address the ongoing changes.

This order has made it difficult to meet with our architect and his staff and our contractor in person, so we are adjusting to accomplishing meetings virtually now, which has taken some time to get used to, but seems like it may become our “new normal”—at least for now.

We are hoping that by getting an extension this will allow us sufficient time to allow this health and economic crisis we are all facing to conclude and allow us to continue our project on our home safely in the very near future.

Thank you so much for considering our circumstances,

Sincerely,

William & Jennifer Kassoy
LCP Policy 5: Coastal Development Permit Extensions

LIP Section 13.21 provides:
Unless the permit states otherwise, a coastal development permit shall expire two years from its date of approval if the development has not commenced during that time. The approving authority may grant a reasonable extension of time for due cause. Extensions shall be requested in writing by the applicant or authorized agent prior to the expiration of the two-year period.

Due cause shall generally not exist unless the applicant has demonstrated the following:

- There are extraordinary circumstances beyond the applicant’s control that have prevented the applicant from commencing the development, such as financial hardship due to extreme economic conditions or job loss, inability to obtain a construction loan, personal reason, such as illness, divorce or death, restricted access to the property because of an existing lease or a necessary agency approval has not been obtained despite diligent efforts. Change of project ownership or architect and elective project redesigns do not by themselves constitute due cause; and

- The applicant has exercised due diligence in its efforts to commence the project, such as contracting for and completing necessary studies, reports, drawings and plans to pursue and complete the plan check process.

Absent extraordinary circumstances, the aggregate life of the permit shall not exceed five years.
Notice of Public Hearing

The Malibu Planning Commission will hold a public hearing on TUESDAY, September 8, 2020, at 6:30 p.m., on the project identified below via teleconference only in order to reduce the risk of spreading COVID-19, pursuant to the Governor’s Executive Orders N-25-20 and N-29-20 and the County of Los Angeles Public Health Officer’s Safer at Home Order.

EXTENSION OF COASTAL DEVELOPMENT PERMIT NO. 16-026, SITE PLAN REVIEW NO. 16-029, AND DEMOLITION PERMIT NO. 16-027 - A request to extend the Planning Commission’s approval of an application to allow construction of a new 3,801 square foot single-family residence and 504 square foot detached garage, remodel and roofline modification to an existing second unit, swimming pool, spa, trellis, sports courts (tennis court and bocce ball court), landscaping, and replacement of the existing onsite wastewater treatment system; including a site plan review for construction in excess of 18 feet in height for the primary residence and second unit, up to 24 feet and 22 feet, respectively, and a demolition permit for the demolition of an existing 3,488 square foot residence.

LOCATION / APN / ZONING: 29458 Bluewater Road / 4468-005-009 / Rural Residential-One Acre (RR-1)

APPLICANT / OWNER: Burdge and Associates Architects, Inc. / Kassoy Family Trust

APPEALABLE TO: Planning Commission

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

EXTENSION FILED: June 18, 2020

CASE PLANNER: Lilly Rudolph, Contract Planner, lrudolph@malibucity.org (310) 456-2489, ext. 238

A written staff report will be available at or before the hearing for the project. Related documents are available for review by contacting the Case Planner during regular business hours. You will have an opportunity to testify during 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 during the public hearing.

Extension requests will be presented on consent calendar based on staff’s recommendation but any person wishing to be heard may request at the beginning of the meeting to have the application addressed separately. Please contact the recording secretary before start of the meeting to have an item removed from consent calendar.

LOCAL APPEAL - A decision of the Planning Commission may be appealed to the City Council by an aggrieved person by written statement setting forth the grounds for appeal. An appeal shall be emailed to psalazar@malibucity.org within ten days following the date of action and the filing fee shall be mailed to Malibu Planning Department, attention: Patricia Salazar, 23825 Stuart Ranch Road, Malibu, CA 90265. Payment must be received within 10 days of the appeal deadline. Appeal forms may be found online at www.malibucity.org/planningforms. If you are unable to submit your appeal online, please contact Patricia Salazar by calling (310) 456-2489, extension 245, at least two business days before your appeal deadline to arrange alternative delivery of the appeal.

BONNIE BLUE, Planning Director

Date: August 13, 2020

ATTACHMENT 4