



Commission Agenda Report

Planning Commission
Meeting
02-16-21

**Item
3.A.1.**

To: Chair Jennings and Members of the Planning Commission

Prepared by: Didier Murillo, Associate Planner

Approved by: Richard Mollica, Planning Director

Date prepared: February 4, 2021 Meeting date: February 16, 2021

Subject: Coastal Development Permit No. 17-001, Variance No. 19-004, and Site Plan Review No. 17-005 – An application for the construction of a new single-family residence and associated development (Continued from February 1, 2021)

Location: 5924 Zumirez Drive, within the appealable coastal zone
APN: 4467-008-034
Owner: Izad Family Trust

RECOMMENDED ACTION: Adopt Planning Commission Resolution No. 21-12 (Attachment 1) determining the project is categorically exempt from the California Environmental Quality Act (CEQA), and approving Coastal Development Permit (CDP) No. 17-001 to construct a new 6,697 square foot, two-story, single-family residence including a 1,647 square foot subterranean garage, swimming pool, spa, pool decks, landscaping, hardscape, retaining walls, fire department turnaround, driveway improvements, and new onsite wastewater treatment system (OWTS); including Variance (VAR) No. 19-004 for construction on slopes steeper than 2.5 to 1 and Site Plan Review (SPR) No. 17-005 for construction up to 24 feet tall for a flat roof located in the Rural Residential-Five Acre (RR-5) zoning district at 5924 Zumirez Drive (Izad Family Trust).

DISCUSSION: On February 1, 2021, the Planning Commission voted to bring back as a consent item a revised resolution with a revised scope of work and resolution to remove the elevator from reaching the roof, rooftop railing, rooftop garden, and rooftop deck. Condition Nos. 26 and 27 have been added to the revised resolution. The revised resolution is attached for the Commission's consideration.

ATTACHMENT: Planning Commission Resolution No. 21-12

CITY OF MALIBU PLANNING COMMISSION
RESOLUTION NO. 21-12

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. 17-001 TO CONSTRUCT A NEW 6,697 SQUARE FOOT, TWO-STORY, SINGLE-FAMILY RESIDENCE WITH A 1,647 SQUARE FOOT SUBTERRANEAN GARAGE, SWIMMING POOL, SPA, DECKS, LANDSCAPING, HARDSCAPE, RETAINING WALLS, FIRE DEPARTMENT TURNAROUND, DRIVEWAY IMPROVEMENTS, AND NEW ONSITE WASTEWATER TREATMENT SYSTEM, INCLUDING VARIANCE NO. 19-004 FOR CONSTRUCTION ON SLOPES STEEPER THAN 2.5 TO 1 AND SITE PLAN REVIEW NO. 17-005 FOR CONSTRUCTION UP TO 24 FEET IN HEIGHT WITH FLAT ROOF FOR THE SINGLE-FAMILY RESIDENCE LOCATED IN THE RURAL RESIDENTIAL-FIVE ACRE ZONING DISTRICT AT 5924 ZUMIREZ DRIVE (IZAD FAMILY TRUST)

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

SECTION 1. Recitals.

A. On January 3, 2017, an application for Coastal Development Permit (CDP) No. 17-001 and Site Plan Review (SPR) No. 17-005 was submitted to the Planning Department by the applicant, Wayne Chevalier (the previous applicant was Jose Iujvidin), on behalf of the property owner, Izad Family Trust. The application was routed to the City Biologist, City Environmental Health Administrator, City geotechnical staff, City Public Works Department, and Los Angeles County Fire Department (LACFD) for review.

B. On May 29, 2018, Planning Department staff conducted a site visit to document site conditions, the property and surrounding area.

C. On December 27, 2018, the applicant submitted a variance request (VAR No. 19-004) for construction on slopes steeper than 2.5 to 1.

D. On February 12, 2019, a Notice of Coastal Development Permit (CDP) Application was posted on the subject property.

E. On March 26, 2019, Planning Department staff conducted a site visit to document the story poles.

F. On July 25, 2019, 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. The subject application was originally scheduled for the August 19, 2019 Planning Commission hearing.

G. On August 7, 2019, the CDP application was deemed complete for processing.

ATTACHMENT

H. On August 19, 2019, the Planning Commission held a duly noticed public hearing and continued the item to a date uncertain to allow time to renote the item to include a variance for fuel modification to extend into Environmentally Sensitive Habitat Area (ESHA).

I. On December 3, 2019, the applicant submitted revised plans to the Planning Department that relocated the proposed development further from ESHA. The revised plans were routed to the City Environmental Health Administrator and City geotechnical staff, for review.

J. On February 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.

K. On March 2, 2020, the Planning Commission held a duly noticed public hearing and continued the item to a date uncertain to allow the applicant time to consider redesigning the project to consider redesigning the project and address concerns. Concerns included the size of the proposed structure and the possible negative impacts (i.e., lighting and sound) that may arise from the proposed rooftop deck, on the surrounding properties.)

L. On August 11, 2020, the applicant submitted revised plans to the Planning Department that reduced the projects Total Development Square Footage (TDSF) by 1,062 square feet.

M. On August 28, 2020, the a letter of authorization to submit a project was submitted by Arfakhashad Munaim of Schmitz & Associates, Inc., to represent the property owner.

N. On September 16, 2020, the CDP application was deemed complete for processing.

O. On October 8, 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.

P. On November 2, 2020, the Planning Commission held a duly noticed public hearing and continued the item to the December 7, 2020, public hearing at the applicants request.

Q. On December 7, 2020, the Planning Commission held a duly noticed public hearing and continued the item to the February 1, 2021, public hearing at the applicants request.

R. On February 1, 2021, 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. The Planning Commission voted to bring back as a consent item a revised resolution with a revised scope of work for the removal of: the elevator leading to the roof, rooftop railing, rooftop garden, and rooftop deck. Including a condition of approval to the effect that there shall be no internal access to the rooftop besides the required mechanical and maintancance access.

S. On February 16, 2021, the resolution approving the project with a revised scope of work and added condition to came back before the Planning Commission as a consent item.

SECTION 2. Environmental Review.

Pursuant to the authority and criteria contained in the California Environmental Quality Act (CEQA), the Planning Commission has analyzed the proposed project. The Planning Commission has found that this project is listed among the classes of projects that have been determined not to have a significant adverse effect on the environment. Therefore, the project is categorically exempt from the provisions of CEQA according to CEQA Guidelines Sections 15303(a) and (e) – New Construction and 15304(b) – Minor Alterations to Land. The Planning Commission has further determined that none of the six exceptions to the use of a categorical exemption applies to this project (CEQA Guidelines Section 15300.2).

SECTION 3. Coastal Development Permit Findings.

Based on substantial evidence contained within the record and pursuant to Local Coastal Program (LCP) Local Implementation Plan (LIP) Sections 13.7(B) and 13.9 and Malibu Municipal Code (MMC) Chapter 17.70, the Planning Commission adopts and approves the analysis in the agenda report, incorporated herein, the findings of fact below, and approves CDP No. 17-001 to construct a new 6,697 square foot, two-story, single-family residence with a 1,647 square foot subterranean garage, swimming pool, spa, decks, landscaping, hardscape, retaining walls, fire department turnaround, driveway improvements, and new onsite wastewater treatment system (OWTS); including VAR No. 19-004 for construction on slopes steeper than 2.5 to 1 and SPR No. 17-005 for construction up to 24 feet with flat roof for the single-family residence located in the Rural Residential-Five Acre (RR-5) zoning district at 5924 Zumirez Drive.

The project is consistent with the LCP's zoning, grading, cultural resources, water quality, and wastewater treatment requirements. With the inclusion of the proposed variances and site plan review, the project, as conditioned, has been determined to be consistent with all applicable LCP codes, standards, goals, and policies. The required findings are made herein.

A. General Coastal Development Permit (LIP Chapter 13)

1. The project is located in the RR-5 zoning district, an area designated for residential uses. The project has been reviewed for conformance with the LCP by the Planning Department, the City Biologist, City Environmental Health Administrator, City geotechnical staff, City Public Works Department, and LACFD. As discussed herein, based on submitted reports, project plans, visual analysis, and detailed site investigation, the proposed project with the inclusion of the variances and site plan reviews, as conditioned, conforms to the LCP and MMC in that it meets all applicable residential development standards.

2. The proposed project meets the development policies of the LCP and MMC, with the inclusion of the variance and site plan review and has been determined to be the least environmentally damaging feasible alternative. The proposed development has been sited on the existing graded pad, limiting environmental impacts to steep slopes located on the property. Therefore, the proposed project has been determined to be the least environmentally damaging feasible alternative.

B. Variance for Construction on Slopes Steeper than 2.5 to 1 (LIP Section 13.26)

VAR No. 19-004 from the development standards in LIP Section 3.6(J) will allow for development on slopes steeper than 2.5 to 1 for construction of the required fire department turnaround and ingress and egress to the property.

1. Exceptional characteristics exist on the subject property that limit the size and location of the proposed development pad. The northern and southern portion of the property contains steep slopes. The proposed development is situated on a graded flat pad in the center of the property. The required fire department turnaround and driveway cannot be constructed on the property without encroaching onto slopes steeper than 2.5 to 1. Therefore, strict application of the code would deprive the property owner of the ability to develop the property in a manner similar to neighboring properties.

2. The proposed variance will allow for the construction of the required fire department turnaround and driveway improvements on slopes steeper than 2.5 to 1. The granting of the proposed variance will substantially improve the safety and welfare of the subject property owners and other surrounding homeowners as the proposed construction is designed to provide fire department access. Therefore, the project, as designed and conditioned, will not be detrimental to the public interest, safety, health or welfare, nor detrimental or injurious to the property.

3. The proposed project consists of a single-family residence and associated development similar to development on neighboring properties. Approval of the variance will grant relief from a technical development standard, which if strictly applied, would limit single-family development on the subject properties. Therefore, the granting of the variance will not constitute a special privilege to the applicant or the property owner.

4. The project is consistent with the LCP and other applicable regulations. The granting of the variance will not be contrary to or in conflict with the general purposes and intent of LIP Chapter 13, nor the goals, objectives, and policies of the LCP.

5. The variance request does not authorize a use or activity that is not expressly authorized by the zoning regulations for the subject property.

6. The proposed project has been reviewed and approved by the City geotechnical staff and City Public Works Department as being physically suitable for the proposed variance.

7. The variance complies with all requirements of state and local laws.

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

SPR No. 17-005 from the development standards contained in LIP Section 13.27 will allow construction over 18 feet in height for flat roofs up to 24 feet for the proposed single-family residence.

1. The project has been reviewed for conformance with all relevant policies and provisions of the LCP. Based on submitted reports, visual impact analysis, and a detailed site investigation, the project is consistent with all policies and provisions of the LCP and MMC.

2. Story poles were installed in March 2019, and demonstrate that the project is compatible with the surrounding development. Surrounding properties are developed with one- and two-story residential structures with mature landscaping. As demonstrated by the story poles, the proposed development will not be visible from a public viewing area and will not block blue water views from neighboring properties. Therefore, the project and will not be more impactful than the surrounding development with regards to neighborhood character and is not anticipated to adversely affect neighborhood character.

3. The proposed development is sited in a location that will not have significant impacts to public views from Zumirez Drive due to the size, shape, topography and existing mature landscaping on the subject property.

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

5. The proposed project is consistent with the LCP in that the property is located in an area that has been identified and zoned for residential use. The proposed project is consistent with the LCP in that it conforms to the residential land use designation and all applicable development standards.

6. The size and shape of the subject property limit visibility of the proposed development. The proposed development will not obstruct visually impressive scenes from private property.

D. Hazards (LIP Chapter 9)

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

2. The project, as designed, conditioned, and approved by the City geotechnical staff and the City Public Works Department, does not have any significant adverse impacts on the site stability or structural integrity from geologic 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 City Biologist, City Environmental Health Administrator, City geotechnical staff, City Public Works Department, and LACFD. These specialists and agency determined that the proposed project does not impact site stability or structural integrity. There are no feasible alternatives to the proposed development that would result in less site disturbance.

5. The proposed project, as designed and conditioned, will not have adverse impacts on sensitive resources.

SECTION 4. Planning Commission Action.

Based on the foregoing findings and evidence contained within the record, the Planning Commission hereby approves CDP No. 17-001, VAR No. 19-004 and SPR No. 17-005 subject to the following conditions.

SECTION 5. Conditions of Approval.

1. The property owners, and their successors in interest, shall indemnify and defend the City of Malibu and its officers, employees and agents from and against all liability and costs relating to the City's actions concerning this project, including (without limitation) any award of litigation expenses in favor of any person or entity who seeks to challenge the validity of any of the City's actions or decisions in connection with this project. The City shall have the sole right to choose its counsel and property owners shall reimburse the City's expenses incurred in its defense of any lawsuit challenging the City's actions concerning this project.
2. Approval of this application is to allow for the project described herein. The scope of work approved includes:
 - a. A new 6,697 square foot, two-story, single-family residence with the following improvements;
 - i. 1,647 square foot subterranean garage;
 - b. Swimming pool, spa, decks;
 - c. Landscaping and hardscape;
 - d. Fire department turnaround and driveway improvements;
 - e. Retaining walls; and
 - f. OWTS.
 - g. Discretionary Requests
 - i. VAR No. 19-004 for construction on slopes steeper than 2.5 to 1; and
 - ii. SPR No. 17-005 for construction up to 24 feet in height for a flat roof.
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 **September 29, 2020**. The proposed development shall further comply with all conditions of approval stipulated in this resolution and Department Review Sheets attached hereto. In the event project plans conflict with any condition of approval, the condition shall take precedence.
4. Pursuant to LIP Section 13.18.2, this permit and rights conferred in this approval shall not be effective until the property owner signs, 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, major remodel policy and signed agreement (if applicable) 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 have been exhausted.
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.

Cultural Resources

13. In the event that potentially important cultural resources are found in the course of geologic testing or during construction, work shall immediately cease until a qualified archaeologist can provide an evaluation of the nature and significance of the resources and until the Planning Director can review this information. Thereafter, the procedures contained in LIP Chapter 11 and those in MMC Section 17.54.040(D)(4)(b) shall be followed.
14. If human bone is discovered during geologic testing or during construction, work shall immediately cease and the procedures described in Section 7050.5 of the California Health and Safety Code shall be followed. Section 7050.5 requires notification of the coroner. If the coroner determines that the remains are those of a Native American, the applicant shall notify the Native American Heritage Commission by phone within 24 hours. Following notification of the Native American Heritage Commission, the procedures described in

Section 5097.94 and Section 5097.98 of the California Public Resources Code shall be followed.

Lighting

15. Exterior lighting must comply with the Dark Sky Ordinance and shall be minimized, shielded, or concealed and restricted to low intensity features, so that no light source is directly visible from public view. Permitted lighting shall conform to the following standards:
 - a. Lighting for walkways shall be limited to fixtures that do not exceed two feet in height and are directed downward, and limited to 850 lumens (equivalent to a 60 watt incandescent bulb);
 - b. Security lighting controlled by motion detectors may be attached to the residence provided it is directed downward and is limited to 850 lumens;
 - c. Driveway lighting shall be limited to the minimum lighting necessary for safe vehicular use. The lighting shall be limited to 850 lumens;
 - d. Lights at entrances as required by the Building Code shall be permitted provided that such lighting does not exceed 850 lumens;
 - e. Site perimeter lighting shall be prohibited; and
 - f. Outdoor decorative lighting for aesthetic purposes is prohibited.
16. Night lighting for sports courts or other private recreational facilities shall be prohibited.
17. No permanently installed lighting shall blink, flash, or be of unusually high intensity or brightness. Lighting levels on any nearby property from artificial light sources on the subject property(ies) shall not produce an illumination level greater than one foot candle.
18. Night lighting from exterior and interior sources shall be minimized. All exterior lighting shall be low intensity and shielded directed downward and inward so there is no offsite glare or lighting of natural habitat areas. High intensity lighting of the shore is prohibited.
19. String lights are allowed in occupied dining and entertainment areas only and must not exceed 3,000 Kelvin.
20. Motion sensor lights shall be programmed to extinguish ten minutes after activation.
21. Three violations of the conditions by the same property owner will result in a requirement to permanently remove the outdoor light fixture(s) from the site.

Fencing/Walls/Screening

22. The applicant shall include an elevation of the proposed electronic driveway gate on the architectural plans that are submitted for building plan check. The gate and all fencing along the front property line shall comply with the regulations set forth in LIP Section 3.5.
23. The height of proposed fences shall comply with LIP Section 3.5.3(A) and shall not exceed six feet in height.
24. Existing retaining walls adjacent to the previously approved drainage devices shall be maintained.

25. Any above-ground equipment shall be screened from view by a solid wall or fence on all four sides. The fence or walls shall comply with LIP Section 3.5.3(A).

Site Specific Conditions

26. There shall be no internal access to the rooftop besides the required mechanical and maintenance access. The elevator shall not reach the roof.
27. The second floor roof shall not be used as a deck or garden.

Construction / Framing

28. Prior to the commencement of work, the applicant shall submit a copy of their Construction Management Plan. The Construction Management Plan shall include a dedicated parking location for construction workers, not within the public right of way.
29. 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.
30. 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.
31. When framing is complete, a site survey shall be prepared by a licensed civil engineer or architect that states the highest roof member elevation, lowest finish floor elevation and elevation of centerline of Malibu Road. Prior to the commencement of further construction activities, said document shall be submitted to the assigned Building Inspector and Planning Department for review and sign off on framing.
32. 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.
33. A construction management plan, including a traffic control plan and construction parking plan, shall be submitted for review and approval by the Building Official prior to the issuance of a demolition, grading or building permits.
34. 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; and
- d. Filter fences designed to intercept and detain sediment while decreasing the velocity of runoff shall be employed within the project site.

Color and Materials

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

Biology/Landscaping

36. Prior to installation of any landscaping, the applicant shall obtain a plumbing permit for the proposed irrigation system from the Building Safety Division.
37. Prior to, or at the time of a Planning final inspection, the property owner / applicant shall submit to the Planning Department the plumbing permit for the irrigation system installation signed off by the Building Safety Division.
38. Prior to a final plan check approval, the property owner /applicant must provide a landscape water use approval from the WD29.
39. Vegetation forming a view impermeable condition serving the same function as a fence or wall (also known as a hedge) located within the side or rear yard setback shall be maintained at or below a height of six feet. A hedge located within the front yard setback shall be maintained at or below a height of 42 inches. Three violations of this condition will result in a requirement to permanently remove the vegetation from the site.
40. Vegetation shall be situated on the property so as not to obstruct the primary view from private property at any given time (given consideration of its future growth).
41. Invasive plant species, as determined by the City of Malibu, are prohibited.
42. No non-native plant species shall be approved greater than 50 feet from the residential structure.
43. The landscape plan shall prohibit the use of building materials treated with toxic compounds such as creosote and copper arsenate.
44. Grading should be scheduled only during the dry season from April 1 and October 31. If it becomes necessary to conduct grading activities from November 1 and March 31, a comprehensive erosion control plan shall be submitted for approval prior to issuance of a grading permit and implemented prior to initiation of vegetation removal and/or grading activities.

45. Grading, excavation and vegetation removal scheduled between February 1 and September 15 will require nesting bird surveys by a qualified biologist prior to initiation of grading activities. Surveys shall be completed no more than five days from proposed initiation of site preparation activities. Should active nests be identified, a buffer area no less than 150 feet (300 feet for raptors) shall be fenced off until it is determined by a qualified biologist that the nest is no longer active. A report discussing the results of the surveys shall be turned in to the City within two business days of completion of surveys.
46. Up-lighting of landscaping is prohibited.
47. Necessary boundary fencing of any single area exceeding half acre shall be of an open rail-type design with a wooden rail at the top (instead of wire), be less than 40 inches high, and have a space greater than 14 inches between the ground and the bottom post or wire. A split rail design that blends with the natural environment is preferred.
48. Prior to final Planning inspection or other final project sign off (as applicable), the applicant shall submit to the Planning Director for review and approval a certificate of completion in accordance with the Landscape Water Conservation Ordinance (MMC Chapter 9.22). The certificate shall include the property owner's signed acceptance of responsibility for maintaining the landscaping and irrigation in accordance with the approved plans and MMC Chapter 9.22.

Fuel Modification

49. The project shall receive LACFD approval of a Final Fuel Modification Plan prior to the issuance of final building permits.

Public Works

50. The consulting engineer shall sign the final plans prior to the issuance of permits.
51. 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.

52. Exported soil from a site shall be taken to the Los Angeles County Landfill or to a site with an active grading permit and the ability to accept the material in compliance with LIP Section 8.3.

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53. 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 grading limits shall include the temporary cuts made for retaining walls, buttresses and over excavations for fill slopes;
 - 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 if required by the City Biologist;
 - f. Private storm drain systems shall be shown on this plan. Systems greater than 12 inches in diameter shall also have a plan and profile for the system included with this plan; and
 - g. Public storm drain modifications shown on the grading plan shall be approved by the City Public Works Department prior to the issuance of the grading permit.
54. A digital drawing (AutoCAD) of the project's private storm drain system, public storm drain system within 250 feet of the property lines and post-construction BMP's shall be submitted to the Public Works Department prior to the issuance of grading or building permits. The digital drawing shall adequately show all storm drain lines, inlets, outlet, post-construction BMP's and other applicable facilities. The digital drawing shall also show the subject property, public and private street, and any drainage easements.
55. The ocean between Latigo Point and the West City limits has been established by the State Water Resources Control Board as an Area of Special Biological Significance (ASBS) as part of the California Ocean Plan. This designation allows discharge of storm water only where it is essential for flood control or slope stability, including roof, landscape, road and parking lot drainage, to prevent soil erosion, only occurs during wet weather, and is composed of only storm water runoff. The applicant shall provide a drainage system that accomplishes the following:
- a. Installation of BMPs that are designed to treat the potential pollutants in the storm water runoff so that it does not alter the natural ocean water quality. These pollutants include trash, oil and grease, metals, bacteria, nutrients, pesticides, herbicides and sediment.
 - b. Prohibits the discharge of trash.
 - c. Only discharges from existing storm drain outfalls are allowed. No new outfalls will be allowed. Any proposed or new storm water discharged shall be routed to existing storm drain outfalls and shall not result in any new contribution of waste to the ASBS (i.e. no additional pollutant loading).
 - h. Elimination of non-storm water discharges.

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

Erosion Controls Scheduling	Erosion Controls Scheduling
	Preservation of Existing Vegetation
Sediment Controls Silt Fence	Sediment Controls Silt Fence
	Sand Bag Barrier
	Stabilized Construction Entrance
Non-Storm Water Management	Water Conservation Practices
	Dewatering Operations
Waste Management	Material Delivery and Storage
	Stockpile Management
	Spill Prevention and Control
	Solid Waste Management
	Concrete Waste Management
	Sanitary/Septic Waste Management

57. 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.
58. 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.
59. A Water Quality Mitigation Plan (WQMP) is required for this project. The WQMP shall be supported by a hydrology and hydraulic study that identifies all areas contributory to the property and an analysis of the predevelopment and post development drainage of the site. The WAMP shall meet all the requirements of the City’s current Municipal Separate Stormwater Sewer System (MS4) permit. The following elements shall be included within the WQMP:
- a. Site Design BMPs;
 - b. Source Control BMPs;
 - c. Treatment Control BMPs that retains on-site the Stormwater Quality Design Volume (SWQDv). Or where it is 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 BMP for the expected life of the structure;
 - f. A copy of the WQMP shall be filed against the property to provide constructive notice to future property owners of their obligation to maintain the water quality

measures installed during construction prior to the issuance of grading or building permits;

- g. The WQMP shall be submitted to the Public Works Department and the fee applicable at time of submittal for the review of the WQMP shall be paid prior to the start of the technical review. The WQMP shall be approved prior to the Public Works Department's approval of the grading and drainage plan and or building plans. The Public Works Department will tentatively approve the plan and will keep a copy until the completion of the project. Once the project is completed, the applicant shall verify the installation of the BMPs, make any revisions to the WQMP, and resubmit to the Public Works Department for approval. The original signed and notarized document shall be recorded with the County Recorder. A certified copy of the WQMP shall be submitted to the Public Works Department prior to the certificate of occupancy.

Geology

60. All recommendations of the consulting certified engineering geologist or geotechnical engineer and/or the City geotechnical staff shall be incorporated into all final design and construction including foundations, grading, sewage disposal, and drainage. Final plans shall be reviewed and approved by the City geotechnical staff prior to the issuance of permits.
61. Final plans approved by the City geotechnical staff shall be in substantial conformance with the approved CDP relative to construction, grading, sewage disposal and drainage. Any substantial changes may require a CDP amendment or a new CDP.

Swimming Pool / Spa / Mechanical Equipment

62. Onsite noise, including that which emanates from swimming pool and air conditioning equipment, shall be limited as described in MMC Chapter 8.24 (Noise).
63. Pool and air conditioning equipment that will be installed shall be screened from view by a solid wall or fence on all four sides. The fence or walls shall comply with LIP Section 3.5.3(A).
64. All swimming pools shall contain double walled construction with drains and leak detection systems capable of sensing a leak of the inner wall.
65. The discharge of swimming pool, spa and decorative fountain water and filter backwash, including water containing bacteria, detergents, wastes, algaecides, or other chemicals is prohibited. Swimming pool, spa, and decorative fountain water may be used as landscape irrigation only if the following items are met:
 - a. The discharge water is dechlorinated, debrominated or if the water is disinfected using ozonation;
 - b. There are sufficient BMPs in place to prevent soil erosion; and
 - c. The discharge does not reach in to the MS4 or to the ASBS (including tributaries).
66. Discharges not meeting the above-mentioned methods must be trucked to a Publicly Owned Wastewater Treatment Works.

67. A sign stating “It is illegal to discharge pool, spa, or water feature waters to a street, drainage course, or storm drain per MMC Section 13.04.060(D)(5)” shall be posted in the filtration and/or pumping equipment area for the property. Prior to the issuance of any permits, the applicant shall indicate the method of disinfection and the method of discharging.

Environmental Health

68. Prior to the issuance of a building permit the applicant shall demonstrate, to the satisfaction of the Building Official, compliance with the City of Malibu’s onsite wastewater treatment regulations including provisions of MMC Chapters 15.40, 15.42, 15.44, and LIP Chapter 18 related to continued operation, maintenance and monitoring of the OWTS.
69. Prior to final Environmental Health approval, a final OWTS plot plan shall be submitted showing an OWTS design meeting the minimum requirements of the MMC and the LCP, including necessary construction details, the proposed drainage plan for the developed property and the proposed landscape plan for the developed property. The OWTS plot plan shall show essential features of the OWTS and must fit onto an 11 inch by 17 inch sheet leaving a five inch margin clear to provide space for a City applied legend. If the scale of the plans is such that more space is needed to clearly show construction details and/or all necessary setbacks, larger sheets may also be provided (up to a maximum size of 18 inches by 22 inches).
70. A final design and system specifications shall be submitted as to all components (i.e., alarm system, pumps, timers, flow equalization devices, backflow devices, etc.) proposed for use in the construction of the proposed OWTS. For all OWTS, final design drawings and calculations must be signed by a California registered civil engineer, a registered environmental health specialist or a professional geologist who is responsible for the design. The final OWTS design drawings shall be submitted to the City Environmental Health Administrator with the designer’s wet signature, professional registration number and stamp (if applicable).
71. Any above-ground equipment associated with the installation of the OWTS shall be screened from view by a solid wall or fence on all four sides. The fence or walls shall not be higher than 42 inches tall.
72. The final design report shall contain the following information (in addition to the items listed above).
 - a. Required treatment capacity for wastewater treatment and disinfection systems. The treatment capacity shall be specified in terms of flow rate, gallons per day, and shall be supported by calculations relating the treatment capacity to the number of bedroom equivalents, plumbing fixture equivalents, and/or the subsurface effluent dispersal system acceptance rate. The fixture unit count must be clearly identified in association with the design treatment capacity, even if the design is based on the number of bedrooms. Average and peak rates of hydraulic loading to the treatment system shall be specified in the final design;
 - b. Description of proposed wastewater treatment and/or disinfection system equipment. State the proposed type of treatment system(s) (e.g., aerobic treatment, textile filter ultraviolet disinfection, etc.); major components, manufacturers, and

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- model numbers for "package" systems; and conceptual design for custom engineered systems;
- c. Specifications, supporting geology information, and percolation test results for the subsurface effluent dispersal portion of the onsite wastewater disposal system. This must include the proposed type of effluent dispersal system (drainfield, trench, seepage pit subsurface drip, etc.) as well as the system's geometric dimensions and basic construction features. Supporting calculations shall be presented that relate the results of soils analysis or percolation/infiltration tests to the projected subsurface effluent acceptance rate, including any unit conversions or safety factors. Average and peak rates of hydraulic loading to the effluent dispersal system shall be specified in the final design. The projected subsurface effluent acceptance rate shall be reported in units of total gallons per day and gallons per square foot per day. Specifications for the subsurface effluent dispersal system shall be shown to accommodate the design hydraulic loading rate (i.e., average and peak OWTS effluent flow, reported in units of gallons per day). The subsurface effluent dispersal system design must take into account the number of bedrooms, fixture units and building occupancy characteristics;
 - d. All final design drawings shall be submitted with the wet signature and typed name of the OWTS designer. If the scale of the plan is such that more space is needed to clearly show construction details, larger sheets may also be provided (up to a maximum size of 18 inch by 22 inch, for review by Environmental Health). Note: For OWTS final designs, full-size plans are required for review by the Building Safety Division and/or the Planning Department; and
 - e. H2O Traffic Rated Slab: Submit plans and structural calculations for review and approval by the Building Safety Division prior to Environmental Health final approval.
73. Prior to final Environmental Health approval, the construction plans for all structures and/or buildings with reduced setbacks must be approved by the City Building Safety Division. The architectural and/or structural plans submitted to Building and Safety plan check must detail methods of construction that will compensate for the reduction in setback (e.g., waterproofing, concrete additives, etc.). For complex waterproofing installations, submittal of a separate waterproofing plan may be required. The architectural/structural/waterproofing plans must show the location of OWTS components in relation to those structures from which the setback is reduced, and the plans must be signed and stamped by the architect, structural engineer, and geotechnical consultants (as applicable).
74. Prior to final Environmental Health approval, the applicant shall provide engineer's certification for reduction in setbacks to buildings or structures: All proposed reductions in setback from the OWTS to structures (i.e., setbacks less than those shown in MMC Table 15.42.030(E)) must be supported by a letter from the project structural engineer and a letter from the project soils engineer (i.e., a geotechnical engineer or civil engineer practicing in the area of soils engineering). Both engineers must certify unequivocally that the proposed reduction in setbacks from the treatment tank and effluent dispersal area will not adversely affect the structural integrity of the OWTS, and will not adversely affect the structural integrity of the structures for which the Table 15.42.030(E) setback is reduced. Construction drawings submitted for plan check must show OWTS components in relation to those structures from which the setback is reduced. All proposed reductions in setback from the OWTS to buildings (i.e., setbacks less than those shown in Table 15.42.030(E)) also must be supported by a letter from the project architect, who must

certify unequivocally that the proposed reduction in setbacks will not produce a moisture intrusion problem for the proposed building(s). If the building designer is not a California-licensed architect, then the required architect's certification may be supplied by an engineer who is responsible for the building design with respect to mitigation of potential moisture intrusion from reduced setbacks to the wastewater system. In this case, the engineer must include in his/her letter an explicit statement of responsibility for mitigation of potential moisture intrusion. If any specific construction features are proposed as part of a moisture intrusion mitigation system in connection with the reduced setback, then the architect or engineer must provide associated construction documents for review and approval during Building Safety Division plan check. The wastewater plans and the construction plans must be specifically referenced in all certification letters.

75. The following note shall be added to the plan drawings included with the OWTS final design: "Prior to commencing work to abandon, remove, or replace the existing Onsite Wastewater Treatment System (OWTS) components, an 'OWTS Abandonment Permit' shall be obtained from the City of Malibu. All work performed in the OWTS abandonment, removal or replacement area shall be performed in strict accordance with all applicable federal, state, and local environmental and occupational safety and health regulatory requirements. The obtainment of any such required permits or approvals for this scope of work shall be the responsibility of the applicant and their agents."
76. Final plans shall clearly show the locations of all existing OWTS components (serving pre-existing development) to be abandoned and provide procedures for the OWTS' proper abandonment in conformance with the MMC.
77. A covenant running with the land shall be executed by the property owner and recorded with the Los Angeles County Recorder's Office. Said covenant shall serve as constructive notice to any successors in interest that: 1) the private sewage disposal system serving the development on the property does not have a 100 percent expansion effluent dispersal area (i.e., replacement disposal field(s) or seepage pit(s)), and 2) if the primary effluent dispersal area fails to drain adequately, the City of Malibu may require remedial measures including, but not limited to, limitations on water use enforced through operating permit and/or repairs, upgrades or modifications to the private sewage disposal system. The recorded covenant shall state and acknowledge that future maintenance and/or repair of the private sewage disposal system may necessitate interruption in the use of the private sewage disposal system and, therefore, any building(s) served by the private sewage disposal system may become non-habitable during any required future maintenance and/or repair. Said covenant shall be in a form acceptable to the City Attorney and approved by the City Environmental Sustainability Department.
78. Proof of ownership of subject property shall be submitted to the City Environmental Health Administrator.
79. An operations and maintenance manual specified by the OWTS designer shall be submitted to the property owner and maintenance provider of the proposed advanced OWTS.

80. Prior to final Environmental Health approval, a maintenance contract executed between the owner of the subject property and an entity qualified in the opinion of the City of Malibu to maintain the proposed OWTS after construction shall be submitted. Only original wet signature documents are acceptable and shall be submitted to the City Environmental Health Administrator.
81. Prior to final Environmental Health approval, a covenant running with the land shall be executed between the City of Malibu and the holder of the fee simple absolute as to subject real property and recorded with the City of Malibu Recorder's Office. Said covenant shall serve as constructive notice to any future purchaser for value that the onsite wastewater treatment system serving subject property is an advanced method of sewage disposal pursuant to the City of MMC. Said covenant shall be provided by the City of Malibu Environmental Health Administrator.
82. The City geotechnical staff final approval shall be submitted to the City Environmental Health Administrator.
83. In accordance with MMC Chapter 15.44, prior to Environmental Health approval, an application shall be made to the Environmental Sustainability Department for an OWTS operating permit.

Water Service

84. Prior to the issuance of a building permit, the applicant shall submit an updated Will Serve Letter from Los Angeles County Waterworks District No. 29 to the Planning Department indicating the ability of the property to receive adequate water service.

Prior to Occupancy

85. Prior to, or at the time of a Planning final inspection, the property owner / applicant shall submit to the Planning Department the plumbing permit for the irrigation system installation signed off by the Building Safety Division.
86. Prior to the issuance of a Certificate of Occupancy, the City Biologist shall inspect the project site and determine that all Planning Department conditions to protect natural resources are in compliance with the approved plans.
87. Prior to a final Building inspection, the applicant shall provide a Recycling Summary Report (Summary Report) and obtain the approval from the Environmental Sustainability Department. Applicant must provide haul tickets and diversion information. The final Summary Report shall designate the specific materials that were land filled or recycled, and state the facilities where all materials were taken.
88. 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.

89. 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

90. This coastal development permit shall run with the land and bind all future owners of the property.
91. 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

92. 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 Department approval.
93. Prior to final Planning Department approval, the property owner shall be required to execute and record a deed restriction reflecting lighting requirements set forth in Condition Nos. 15-21. The property owner shall provide a copy of the recorded document to the Planning Department prior to final Planning Department approval.
94. The property owner is required to record a against the property a deed restriction requiring any modifficaitons to the secod floor roof to be processed as a amendment or a new coastal development permit.

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

PASSED, APPROVED AND ADOPTED this 16th day of February, 2021.

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. 21-12 was passed and adopted by the Planning Commission of the City of Malibu at the regular meeting held on the 16th day of February 2021 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

KATHLEEN STECKO, Recording Secretary