



# Commission Agenda Report

Planning Commission  
Meeting  
02-16-21  
**Item  
3.B.2.**

To: Chair Jennings and Members of the Planning Commission

Prepared by: Tyler Eaton, Assistant Planner

Approved by: Richard Mollica, Planning Director

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

Subject: Extension of Coastal Development Permit No. 11-019 – A request to extend the Planning Commission's approval of an application for the construction of a new two-story, single-family residence and associated development

Location: 26714 Seagull Way  
APN: 4460-022-033  
Owner: Armitage Development Group, LLC

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**RECOMMENDED ACTION:** Adopt Planning Commission Resolution No. 21-18 (Attachment 1) granting a one-year extension of Coastal Development Permit No. 11-019, Variance No. 13-011, and Site Plan Review No. 11-008 for the construction of a new two-story, single-family residence and associated development located in the Single-Family Medium Density zoning district at 26714 Seagull Way (Armitage Development Group, LLC).

**DISCUSSION:** On February 3, 2014, the Planning Commission adopted Resolution No. 14-11, approving the subject application. On February 12, 2014, the Latigo Cove Property Owners Civic Association file an appeal. On September 28, 2015, prior to the City Council hearing, the appellant withdrew the appeal, and the CDP became effective on that date. On January 10, 2019, the Planning Commission granted a two-year extension. On September 17, 2019, the applicant submitted a subsequent one-year extension request. On April 6, 2020, the Planning Commission received and filed a report stating that there had been a clerical error and that the September 17, 2019 extension request was premature as the project was to expire on September 28, 2020. The applicant correctly filed for a one-year time extension on September 17, 2020. A complete project chronology of the project, including scope of work and approvals, can be found in Planning Commission Resolution Nos. 14-11 and 19-01.

Per LCP Policy No. 5 (Coastal Development Permit Extensions), the aggregate life of a CDP shall not exceed five years absent extraordinary circumstances. A one-year extension to September 28, 2021 would be exceed the limits of policy but there were extraordinary events that led to the delay of the project. The property owner lost his primary home in the 2018 Woolsey Fire. Since then, the owner has been diligently working with the City to obtain permits for the rebuild of his current residence. A planning entitlement was secured on September 19, 2019 for the rebuild of that residence and now that project is in Building Plan Check. Due to the priority of the rebuild over the development for CDP 11-019, staff has concluded that the circumstances are extraordinary and are recommending approval to allow an additional one-year extension.

The subject CDP was to expire on September 28, 2020; however, prior to that date, the applicant filed an extension request to ensure a valid CDP permit remains in place while the project is completing the plan check process. The applicant's most recent plan check submittal was submitted on December 22, 2020. The applicant's basis for due cause is included as Attachment 2 to this report.

CONCLUSION: The project conditions, and the zoning ordinance under which the approval was issued, have not significantly changed<sup>1</sup>. Upon the Planning Commission's approval of the time extension request, the approval set forth in Planning Commission Resolution No. 14-11 shall remain valid for an additional one-year. The expiration date of this approval would then be September 28, 2021. All conditions of approval in Planning Commission Resolution No. 14-11 will remain in effect.

ATTACHMENTS:

1. Planning Commission Resolution No. 21-18
2. Time Extension Request
3. LCP Policy No. 5 (CDP Extensions)
4. Radius Map
5. Public Hearing Notice

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

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<sup>1</sup> 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.

CITY OF MALIBU PLANNING COMMISSION  
RESOLUTION NO. 21-18

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MALIBU GRANTING A ONE-YEAR EXTENSION OF COASTAL DEVELOPMENT PERMIT NO. 11-019, VARIANCE NO. 13-011, AND SITE PLAN REVIEW NO. 11-008 FOR THE CONSTRUCTION OF A NEW TWO-STORY, SINGLE-FAMILY RESIDENCE AND ASSOCIATED DEVELOPMENT LOCATED IN THE SINGLE-FAMILY MEDIUM DENSITY ZONING DISTRICT AT 26714 SEAGULL WAY (ARMITAGE DEVELOPMENT GROUP, LLC)

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

SECTION 1. Recitals.

A. On February 3, 2014, the Planning Commission adopted Planning Commission Resolution No. 14-11, approving Coastal Development Permit (CDP) No. 11-019, Variance No. 13-011 and Site Plan Review No. 11-008 - An application for a 5,820 square foot, two-story single-family residence with 499 square foot attached garage, driveway, retaining wall, fire-department turnaround, grading, drainage improvements, landscaping, soldier pile system and an evapotranspiration onsite wastewater treatment system, including a variance for construction on slopes in excess of 2½ to 1, and a site plan review for height in excess of 18 feet (28 feet proposed), located in the Single-Family Medium Density zoning district.

B. On February 12, 2014, the Latigo Cove Property Owners Civic Association filed an appeal and the appeal hearing was scheduled to be considered at the June 8, 2015 City Council meeting where the item was continued to a date uncertain.

C. On August 24, 2015, the City Council continued the item to the September 28, 2015 City Council meeting, at which time a withdrawal by the appellant was received and filed by the Council.

D. On January 10, 2019, the Planning Commission adopted Resolution No. 19-019 granting a two-year time extension request to September 28, 2020.

E. On September 17, 2019, the applicant submitted a second time extension request.

F. On April 6, 2020, the Planning Commission received and filed a report stating that the extension was not yet due on the project. The issue was due to a clerical error that stated that the original extension granted a one-year extension when in fact, the Planning Commission approved a two-year extension.

G. On September 24, 2020, the applicant correctly filed for a second time extension request.

H. On January 21, 2021, a Notice of Public Hearing was published in a newspaper of general circulation within the City of Malibu and on January 26, 2021, was mailed to all property

owners and occupants within a 500-foot radius of the subject property.

I. On February 16, 2021, the Planning Commission held a duly noticed public hearing on the request, reviewed and considered the agenda 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 Section 15303 - New Construction. As such, Categorical Exemption No. 13-128 was filed for CDP No. 11-019, and adopted with the approval of the project.

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.

SECTION 4. Planning Commission Action.

A. The approvals set forth in Planning Commission Resolution Nos. 14-11 and 19-01 are hereby extended for an additional one-year term. The approval is now set to expire on September 28, 2021.

B. No other changes to the conditions contained in Planning Commission Resolution No. 14-11 are made and all other findings, terms and/or conditions contained in Planning Commission Resolution No. 14-11 shall remain in full force and effect.

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

PASSED, APPROVED AND ADOPTED this 16<sup>th</sup> day of February, 2021.

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JEFFREY JENNINGS, Planning Commission Chair

ATTEST:

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KATHLEEN STECKO, Recording Secretary

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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 filed with the City Clerk within ten days following the date of action (15 days for tentative maps) for which the appeal is made 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](mailto: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. Appeal forms may be found online at [www.malibucity.org/planningforms](http://www.malibucity.org/planningforms). If you are unable to submit your appeal online, please contact Patricia Salazar by calling (310) 456-2489, extension 245, at least two business days before your appeal deadline to arrange alternative delivery of the appeal.

I CERTIFY THAT THE FOREGOING RESOLUTION NO. 21-18 was passed and adopted by the Planning Commission of the City of Malibu at the regular meeting thereof held on the 16<sup>th</sup> day of February, 2021, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

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KATHLEEN STECKO, Recording Secretary

September 18, 2020

City of Malibu Planning Department  
Attn.: Bonnie Blue, AICP  
23825 Stuart Ranch Road  
Malibu, CA 90265

Re.: Time Extension Request  
CDP 11-019  
26714 Seagull Way  
Malibu, CA 90265

Bonnie Blue,

The purpose of this letter is to request a 1-year Time Extension of the approvals set forth in Planning Commission Resolution Number 14-11 for Coastal Development Permit Number (CDP) 11-019 at 26714 Seagull Way. We feel that the following statements demonstrate our client's diligent efforts to commence the project despite extraordinary circumstance beyond his control.

On February 3, 2014, the Planning Commission Approved CDP 11-019. Between February 3, 2014 and the date of Final Action, September 28, 2015, it is my understanding that this project was held up by an Appeal. After multiple confirmations of the September 28, 2015 Approval date by Richard Mollica and Trevor Rusin our client acquired the subject property in March of 2018.

Since March of 2018 our client has diligently pursued the completion of the permitting process with a complete commitment to building the project as entitled by the approval of CDP 11-019. Evidence of this commitment exists in our August 1, 2018 Substantial Conformance Submittal, our January 22, 2019 Substantial Conformance Approval, and our May 29, 2019 Building Plan Check submittal date. At date we are currently working on two final corrections and what is anticipated to be our last Building Plan Check Re-submittal, a response to the corrections received August 12, 2020. These dates stand as evidence of our client's exercised due diligence and effort to commence the project since these processes require the contracting for and the production of the necessary studies, reports, drawings, engineering, and plans required to pursue, advance, and complete the Build Plan Check process.

Unfortunately, our client and the City were severely effected by the Woolsey Fire. Our client lost his home at 29825 Cuthbert Road and understandably Planning's turnaround times have been longer than originally anticipated. The Woolsey Fire was an unfortunate, unexpected, and extraordinary circumstance beyond our client's control that temporarily prevented us from progressing through the development process as efficiently as anticipated. In addition, due to the catastrophic losses incurred not only but our client but the greater Malibu community during the Woolsey Fire, and in relation to the future safety, durability and reasonable insurability of permitted dwellings, our client has since modified the plans submitted as part of the building plan check process with a focus on durable fire-resistant construction, including without limitation steel framing, and non-combustible non-wood materials.

Therefore, to keep CDP 11-019 active while completing the permitting process and throughout the construction of the project we are asking for a 1-year time extension.

ATTACHMENT 2

Please do not hesitate to contact me if you have any questions or comments regarding this matter.

Sincerely,

Jim Zanoni



# City of Malibu

## Planning Department

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November 13, 2017

### **LCP Policy 5: Coastal Development Permit Extensions**

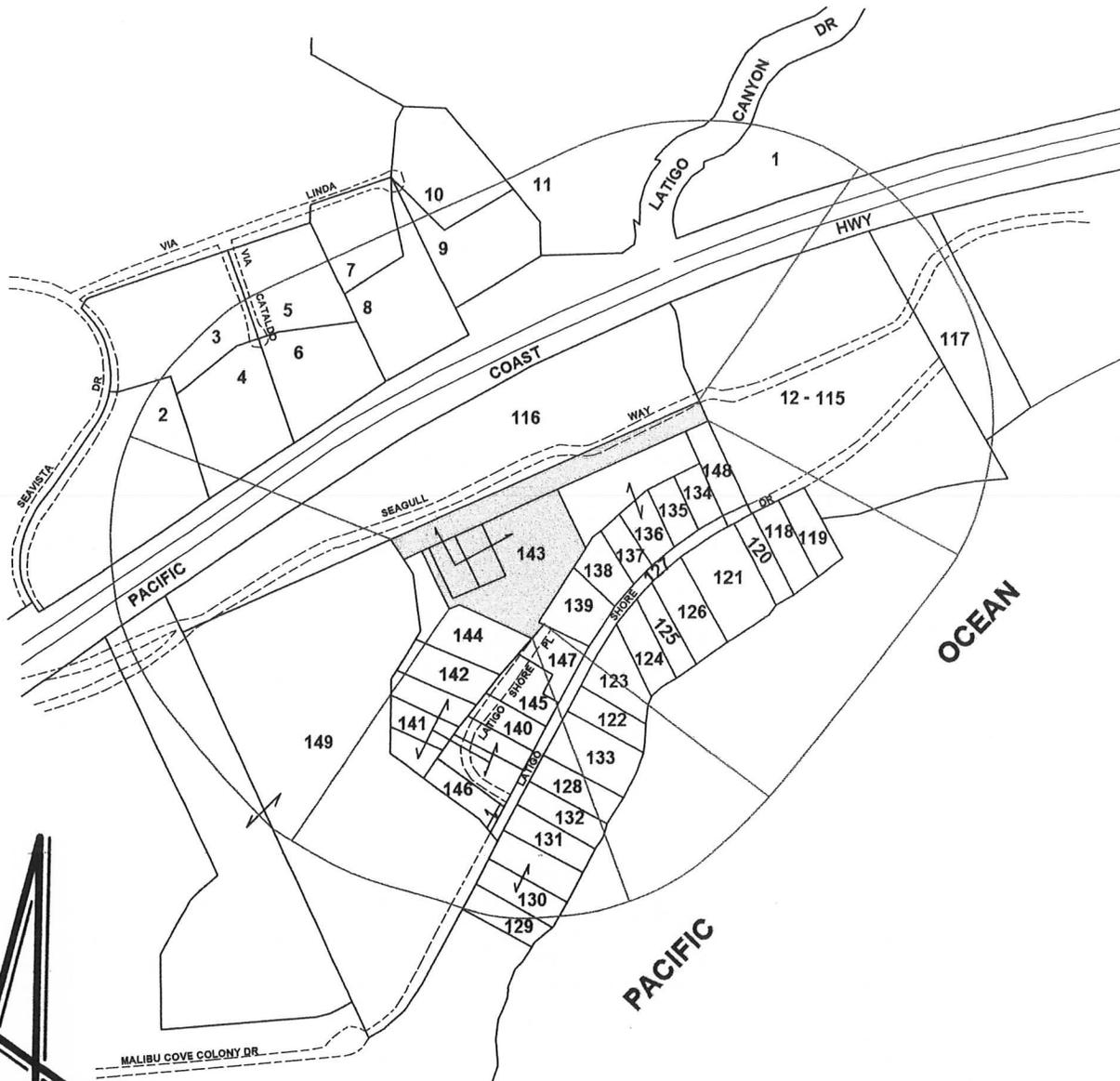
LIP Section 13.21 provides:

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.



1" = 200FT

**500 FOOT RADIUS MAP**

**CONTINENTAL MAPPING SERVICE**

LOCATED AT:  
**6315 VAN NUYS BLVD #208**  
**VAN NUYS CA 91401**  
**(818) 787-1663**

**SUBJECT PROPERTY:**

**26714 SEAGULL WAY**

**DATE: 9-1-2020**  
**CMS 20-7975**



City Of Malibu  
 23825 Stuart Ranch Road  
 Malibu, CA 90265  
 Phone (310) 456-2489  
 www.malibucity.org

**PLANNING DEPARTMENT**  
**NOTICE OF PUBLIC HEARING**



**NOTICE OF PUBLIC HEARING**

The Malibu Planning Commission will hold a public hearing on **TUESDAY, February 16, 2021, at 6:30 p.m.** for 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 & N-29-20 & the County of Los Angeles Public Health Officer's Safer at Home Order

**EXTENSION OF COASTAL DEVELOPMENT PERMIT NO. 11-019, VARIANCE NO. 13-011, AND SITE PLAN REVIEW NO. 11-008** - A request to extend the Planning Commission's approval of an application for the construction of a new two-story, single-family residence and associated development

**LOCATION / APN / ZONING:** 26714 Seagull Way / 4460-022-033 / Single-family Medium (SFM)  
**APPLICANT / OWNER:** Burdge and Associates Architects, Inc. / Armitage Development Group, LLC  
**APPEALABLE TO:** City Council  
**ENVIRONMENTAL REVIEW:** Categorical Exemption CEQA Guidelines Section 15303  
**EXTENSION FILED:** September 18, 2020  
**CASE PLANNER:** Tyler Eaton, Assistant Planner, teaton@malibucity.org (310) 456-2489, ext. 273

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 at the public hearing; written comments which shall be considered public record, may be submitted any time prior to the beginning of the public hearing. If the City's action is challenged in court, testimony may be limited to issues raised before or at the public hearing. To view or sign up to speak during the meeting, visit [www.malibucity.org/virtualmeeting](http://www.malibucity.org/virtualmeeting).

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 see 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](mailto: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](http://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.

RICHARD MOLLICA, Planning Director Date: January 26, 2021