



Planning Commission
Meeting
02-16-21

**Item
3.B.7.**

Commission Agenda Report

To: Chair Jennings and Members of the Planning Commission

Prepared by: Lilly Rudolph, Contract Planner

Approved by: Richard Mollica, Planning Director

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

Subject: Extension of Coastal Development Permit No. 14-082 – A request to extend the Planning Commission’s approval of an application to construct a new one-story single-family residence and associated development

Location: 30385 Morning View Drive
APN: 4469-016-006
Owners: Greg and Mica Belzberg

RECOMMENDED ACTION: Adopt Planning Commission Resolution No. 21-13 (Attachment 1), granting a one-year extension of Coastal Development Permit (CDP) No. 14-082 to allow construction of a new one-story 8,473 square foot single-family residence 18 feet in height that includes a basement, detached 891 square foot garage, one-story detached, 466 square foot guest house and 466 square foot pool house, swimming pools and spa, installation of a new onsite wastewater treatment system (OWTS), tennis court; site development including retaining walls, water feature, hardscape, a driveway with a fire truck turnaround, two auto gates, and new landscaping, located in the Rural Residential-Two Acre (RR-2) zoning district at 30385 Morning View Drive (Belzberg).

DISCUSSION: Pursuant to Local Coastal Program Local Implementation Plan Section 13.21, Condition of Approval No. 7 in Planning Commission Resolution No. 18-03, which approved the project, states that the CDP and associated requests shall expire if the development 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 first extension request by the applicant.

The subject CDP was originally approved by the Planning Commission on January 16, 2018 and was set to expire three years later, on January 16, 2021. On December 15, 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 2. A complete project chronology of the project, including scope of work and approvals, can be found in Planning Commission Resolution No. 21-13.

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 3). 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.

Staff has evaluated the project history and all information submitted by the property owner in support of the extension request. Three building permits have been issued: building (retaining walls), grading, and electrical (temporary power pole). The applicant states that permitted construction activity has commenced yet seeks a time extension out of "abundance of caution" after discovering unpermitted underground utilities and various regulatory approval delays resulting from COVID-19 pandemic disruptions.

CONCLUSION: The project conditions, and the zoning ordinance under which the approval was issued, have not significantly changed¹. Upon the Planning Commission's approval of the time extension request, the approval set forth in Planning Commission Resolution No. 18-03 for CDP No. 14-082 shall remain valid for an additional one-year term. The expiration date of this approval would then be January 16, 2022, affording the applicant approximately one year to commence construction. The aggregate life of the permit would be four years, with an allowance for an additional one-year time extension before reaching the aggregate permit limit of five-years. All conditions of approval in Planning Commission Resolution No. 18-03 for CDP No. 14-082 will remain in effect.

ATTACHMENTS:

1. Planning Commission Resolution No. 21-13
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>.

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.

CITY OF MALIBU PLANNING COMMISSION
RESOLUTION NO. 21-13

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MALIBU GRANTING A ONE-YEAR EXTENSION OF COASTAL DEVELOPMENT PERMIT (CDP) NO. 14-082 TO ALLOW CONSTRUCTION OF A NEW ONE-STORY 8,473 SQUARE FOOT SINGLE-FAMILY RESIDENCE 18 FEET IN HEIGHT THAT INCLUDES A BASEMENT, DETACHED 891 SQUARE FOOT GARAGE, ONE-STORY DETACHED 466 SQUARE FOOT GUEST HOUSE AND 466 SQUARE FOOT POOL HOUSE, SWIMMING POOLS AND SPA, INSTALLATION OF A NEW ALTERNATIVE ONSITE WASTEWATER TREATMENT SYSTEM (AOWTS), TENNIS COURT; SITE DEVELOPMENT INCLUDING RETAINING WALLS, WATER FEATURE, HARDSCAPE, A DRIVEWAY WITH A FIRE TRUCK TURNAROUND, TWO AUTO GATES, AND NEW LANDSCAPING, LOCATED IN THE RURAL RESIDENTIAL-TWO ACRE (RR-2) ZONING DISTRICT AT 30385 MORNING VIEW DRIVE (BELZBERG).

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

SECTION 1. Recitals.

A. January 16, 2018, the Planning Commission adopted Resolution No. 18-03, approving Coastal Development Permit (CDP) No. 14-082 to allow construction of a new one-story 8,473 square foot single-family residence 18 feet in height that includes a basement, detached 891 square foot garage, one-story detached, 466 square foot guest house and 466 square foot pool house, swimming pools and spa, installation of a new alternative onsite wastewater treatment system (AOWTS), tennis court; site development including retaining walls, water feature, hardscape, a driveway with a fire truck turnaround, two auto gates, and new landscaping, located in the Rural Residential-Two Acre (RR-2) zoning district at 30385 Morning View Drive (Belzberg).

B. On December 15, 2020, an extension request was submitted to the Planning Department by applicant, Greg Belzberg.

C. 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.

D. On February 16, 2021, 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. 17-136 was filed for CDP No. 14-082.

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 No. 18-03 are hereby extended for an additional one-year term. The approval is now set to expire on January 16, 2021.

B. No other changes to the conditions contained in Planning Commission Resolution No. 18-03 are made and all other findings, terms and/or conditions contained in Planning Commission Resolution No. 18-03 are shall remain in full force and effect.

SECTION 5. 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. 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 malibucity.org/369/Applications-Forms-Fees, or by calling (310) 456-2489, ext. 245.

I CERTIFY THAT THE FOREGOING RESOLUTION NO. 21-13 was passed and adopted by the Planning Commission of the City of Malibu at the regular meeting thereof held on the 16th day of February, 2021, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

KATHLEEN STECKO, Recording Secretary

City of Malibu
Planning Department
Attn: Patricia Salazar Senior Administrative Analyst
Planning Department
23815 Stuart Ranch Rd.
Malibu, CA 90265

RE: 30385 Morning View Dr. Malibu CA, 90265. CDP Extension Request for CDP No. 14-082

Dear Patricia,

Please accept this permit extension cover letter for CDP 14-082 at 30385 Morning View Drive, Malibu CA, 90265. The CDP was approved on June 19th, 2019, with an expiration date of January 16th, 2021. It is the applicant's position that development has "Commenced" within the meaning of LIP section 13.21 and that the permit has now become vested. However, in an abundance of caution, the applicant seeks, in the alternative, to request that the City Planning Commission grant an extension of its CDP as due cause exists to support the request.

Since the project was approved the applicant has made significant strides to commence and complete work on the project. On 10/28/19 the Grading and Retaining wall permits were pulled, work commenced and continued through the last site inspection on 6/9/20. Currently we have graded for all the building pads, tennis court, garage port, fire turnaround, and water feature; putting us on track to have rough grading signed off in the first quarter of the year. We have also completed roughly 700 linear feet of site walls and are following close behind our grading schedule with a completion date in the first half of the year. Since the project was approved the applicant has made significant strides to commence and complete work on the project. During the completion of this scope of work, an incorrect site survey was performed by Land and Air Survey. Since then our team and Contractors have been actively working on the correct survey to remedy the already completed scope of work.

During the same period of time, between 10/28/19 to 6/9/20, existing unpermitted utilities were found below grade in the driveway easement. We have been working with the necessary utility companies to safely turn off, move, and redesign the utility plan for this site. This process was extremely timely as it was unclear which neighboring homes were affected and gaining approval from home owners to commence work. In addition, we received a new approved plan from SCE on March 26th, 2020, providing new locations for all electrical underground work that does not interfere with neighboring utilities. Due to Covid-19 verifying these utilities with SCE, Los Angeles County Water District, and Socal Gas were severely delayed. Start work dates for these utilities, as well as a fire line to an approved hydrant location are still pending.

Thank you very much for your time and consideration of our request for permit extension.

Sincerely,

Zach Errico
Owners Representative for Greg Belzberg



City of Malibu

Planning Department

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.



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. 14-082 - A request to extend the Planning Commission's approval of an application to construct a new one-story single-family residence and associated development

LOCATION / APN / ZONING: 30385 Morning View Drive / 4469-016-006 / Rural Residential-Two Acre (RR-2)
APPLICANT / OWNER(S): Schmitz and Associates, Inc. / Greg and Mica Belzberg
APPEALABLE TO: City Council
ENVIRONMENTAL REVIEW: Categorical Exemption CEQA Guidelines Section 15303(a)
EXTENSION FILED: December 15, 2020
CASE PLANNER: Lilly Rudolph, Contract Planner, lrudolph@malibucity.org (310) 456-2489, ext. 250

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.

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 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.

RICHARD MOLLICA, Planning Director

Date: January 26, 2021