



# Commission Agenda Report

To: Chair Jennings and Members of the Planning Commission

Prepared by: Jessica Thompson, Associate Planner

Reviewed: Richard Mollica, Planning Director

Date prepared: April 8, 2021 Meeting date: April 19, 2021

Subject: Coastal Development Permit No. 17-104, Variance Nos. 19-035, 19-036 and Minor Modification No. 20-012 – An application a new single-family residence and exterior site improvements (Continued from April 5, 2021)

Location: 3620 Noranda Lane  
APN: 4473-026-002  
Owner: 3620 Noranda Lane, LLC

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**RECOMMENDED ACTION:** Adopt Planning Commission Resolution No. 21-32 (Attachment) determining the project is categorically exempt from the California Environmental Quality Act (CEQA), and denying Coastal Development Permit (CDP) No. 17-104, Variance (VAR) No. 19-035, VAR No. 20-036, and Minor Modification (MM) No. 20-012 to allow for a 5,285-square foot single-family residence that includes a 2,594-square foot basement including a subterranean garage, for a total development square footage of 6,082-square feet, a new onsite wastewater treatment system (OWTS), exterior site improvements including a new swimming pool, spa, deck, landscape, a total of 6,330-square feet of impermeable coverage, and 432 cubic yards of non-exempt grading; including a variance to allow for development within the required Environmental Sensitive Habitat Area (ESHA) buffer, a variance to allow for construction on slopes steeper than 2.5 to 1, and a minor modification for the reduction of the required front yard setback by up to 50 percent located in the Rural Residential-Five Acre (RR-5) zoning district at 3620 Noranda Lane (3620 Noranda Lane, LLC).

**DISCUSSION:** On March 15, 2021, the Planning Commission held a duly noticed public hearing on the subject application, reviewed and considered the agenda report, reviewed and considered written reports, public testimony, and other information in the record. The

Planning Commission deliberated on the project and directed staff to return with a resolution denying the project for failure to make the findings for VAR No. 19-035 for construction on steep slopes and for VAR No. 19-036 for encroachment into ESHA. The resolution is attached for the Commission's consideration.

ATTACHMENT: Planning Commission Resolution No. 21-30

CITY OF MALIBU PLANNING COMMISSION  
RESOLUTION NO. 21-30

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MALIBU DETERMINING THE PROJECT IS CATEGORICALLY EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, DENYING COASTAL DEVELOPMENT PERMIT NO. 17-104, VARIANCE NO. 19-035, VARIANCE NO. 20-036, AND MINOR MODIFICATION NO. 20-012 TO ALLOW FOR A 5,285-SQUARE FOOT SINGLE-FAMILY RESIDENCE THAT INCLUDES A 2,594-SQUARE FOOT BASEMENT INCLUDING A SUBTERRANEAN GARAGE, FOR A TOTAL DEVELOPMENT SQUARE FOOTAGE OF 6,082-SQUARE FEET, A NEW ONSITE WASTEWATER TREATMENT SYSTEM, EXTERIOR SITE IMPROVEMENTS INCLUDING A NEW SWIMMING POOL, SPA, DECK, LANDSCAPE, A TOTAL OF 6,330-SQUARE FEET OF IMPERMEABLE COVERAGE, AND 432 CUBIC YARDS OF NON-EXEMPT GRADING; INCLUDING, A VARIANCE TO ALLOW FOR CONSTRUCTION ON SLOPES STEEPER THAN 2.5 TO 1, A VARIANCE TO ALLOW FOR DEVELOPMENT WITHIN ENVIRONMENTAL SENSITIVE HABITAT AREA, AND MINOR MODIFICATION FOR THE REDUCTION OF THE REQUIRED FRONT YARD SETBACK BY UP TO 50 PERCENT LOCATED IN THE RURAL RESIDENTIAL-FIVE ACRE (RR-5) ZONING DISTRICT AT 3620 NORANDA LANE (3620 NORANDA LANE, LLC)

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

SECTION 1. Recitals.

A. On November 8, 2017, an application for a Coastal Development Permit (CDP) No. 17-104 to allow for a new single-family residence and associated development, was submitted to the Planning Department by Vitus Matare. The application was routed to the City Biologist, City Environmental Health Administrator, City geotechnical staff, City Public Works Department, and the Los Angeles County Fire Department for review.

B. On November 19, 2019, the application was deemed complete.

C. On November 27, 2019, a Notice of Coastal Development Permit Application was posted on the subject property.

D. On October 22, 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 properties.

E. On November 16, 2020, the subject item was continued to a date uncertain to allow the applicant to explore re-design options to avoid construction on one to one slopes.

F. On February 18, 2021, 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 properties.

G. On March 15, 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. At the conclusion of the public hearing, the Commission voted 4-1 to direct staff to return with a resolution on the Consent Calendar denying the application and memorializing its findings and decision.

H. On April 19, 2021, the Planning Commission considered the subject resolution.

## 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. Pursuant to CEQA Guidelines Section 15270, CEQA does not apply to projects which a public agency rejects or disapproves.

## SECTION 3. Findings for Denial.

Based on substantial evidence contained within the record and pursuant to LIP Sections 13.7(B) and 13.9, the Planning Commission adopts the analysis in the agenda report, incorporated herein, the findings of fact below, and denies without prejudice CDP No. 17-104, VAR Nos. 19-035, 19-036, and MM No. 20-012 to construct a new single-family residence and associated development, located at 3620 Noranda Lane.

The project, as proposed, is not consistent with the applicable LCP and Malibu Municipal Code (MMC), codes, standards, goals, and policies. A reduction in the size and placement of the proposed structure would lessen impacts to ESHA, construction on steep slopes as well as bring the structure closer to conformance with the MMC and LCP.

### **B. Variance Findings for Construction on Steep Slopes (LIP Section 13.26.5)**

1. The proposed project can be redesigned and reduced in size to minimize construction on steep slopes and limit construction to the existing building pad. Additionally, the swimming pool could be eliminated to avoid further disturbance on steep slopes. The Planning Commission finds that there are no special circumstances or exceptional characteristics applicable to the subject property such that strict application of the zoning ordinance to prevent construction on steep slopes would deprive such property of privileges enjoyed by other properties in the vicinity and under the identical zoning classification, should the proposed project be redesigned to minimize the construction on steep slopes.

2. The Planning Commission has determined that granting of the variance will constitute a special privilege to the applicant or property owner because properties in the vicinity have not been developed with similar sized residences and accessory development such as swimming pools on steep slopes.

3. The Planning Commission determined that the granting of the variance would be in conflict with the general purposes and intent of the LCP, and to the goals, objectives, and policies of the General Plan. The General Plan encourages development consistent with the preservation of the natural topography and does not have provisions for development on slopes of greater than 2 -½: 1.

4. The Planning Commission determined that the subject site is not physically suitable for the proposed variance, and the proposed development could be reduced in size to reduce construction on steep slopes. In addition, there is a previously approved building pad which could accommodate a smaller residence without resulting in as much site disturbance and construction on steep slopes.

**C. Variance Findings for Development in the ESHA buffer and Fuel Modification to Extend into the ESHA (LIP Section 13.26.5)**

1. The Planning Commission finds that the proposed project can be redesigned and reduced in size to minimize impacts to ESHA. With the exception of a previously disturbed building pad, the entire property meets the definition of ESHA. The required 200-foot fuel modification buffer that is required for any building would extend into ESHA. Given that the parcel is mostly mapped as containing ESHA, there are no other feasible alternative sites that exists that would avoid impacts on ESHA, however the structure can be reduced in size to minimize impacts to ESHA.

2. The Planning Commission determined that the granting of the variance would be in conflict with the general purposes and intent of the LCP, and to the goals, objectives, and policies of the General Plan. The General Plan encourages development consistent with the preservation of ESHA and to minimize impacts to environmental resources and it was determined that a smaller residence would result in less impacts to the onsite ESHA.

3. The Planning Commission finds that the subject parcel is not physically suitable for the proposed variance in that there is an option to reduce the size of the proposed structure and accessory development which would reduce the impacts to ESHA.

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

PASSED AND ADOPTED this 19<sup>th</sup> day of April 2021.

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JEFFREY JENNINGS, Planning Commission Chair

ATTEST:

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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 online 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/planningforms, or by calling (310) 456-2489, ext. 245.

I CERTIFY THAT THE FOREGOING RESOLUTION NO. 21-30 was passed and adopted by the Planning Commission of the City of Malibu at the regular meeting thereof held on the 19<sup>th</sup> day of April 2021 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

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KATHLEEN STECKO, Recording Secretary