



Commission Agenda Report

Planning Commission
Special Meeting
01-11-22

Item

1.A.

To: Chair Hill and Members of the Planning Commission

Prepared by: Adrian Fernandez, Assistant Planning Director

Approved by: Richard Mollica, Planning Director

Date prepared: December 23, 2021 Meeting date: January 11, 2022

Subject: Conditional Use Permit Amendment No 13-006 and Joint Use Parking Agreement No. 14-001 – An application to amend Conditional Use Permit No. 09-009 and Joint Use Parking Agreement No. 10-001 to reduce the restaurant service area in order to accommodate for the creation of a new retail tenant space, and decrease the number of required off-site parking spaces (Aviation Nation) (Continued from December 6, 2021)

Location: 22969 Pacific Coast Highway
APN: 4452-019-004
Owner: SKA Group, LLC
Tenant: Aviation Nation Dreamland/Aviation Nation

RECOMMENDED ACTION: Adopt Planning Commission Resolution No. 22-01 (Attachment 1) determining the project is categorically exempt from the California Environmental Quality Act (CEQA), and approving Conditional Use Permit Amendment (CUPA) No. 13-006 and Joint Use Parking Agreement (JUPA) No. 14-001 amending Conditional Use Permit (CUP) No. 09-009 and JUPA No. 10-001 to allow the reduction of the restaurant service area in order to accommodate the permanent expansion of existing retail tenant space, and decrease the number of required off-site parking spaces in the JUPA to reflect the new number of required offsite parking spaces at an existing restaurant (Aviation Nation Dreamland) located in the Commercial Visitor Serving-1 (CV-1) zoning district at 22969 Pacific Coast Highway (PCH) (SKA Group, LLC).

DISCUSSION: This agenda report provides a project overview, project description, summary of surrounding land uses and project setting, and analysis of the recommended project's consistency with the applicable provisions of the Malibu Municipal Code (MMC), and environmental review pursuant to CEQA. The analysis and

findings contained herein demonstrate the recommended project is consistent with the MMC.

The item was originally scheduled for the August 26, 2021 Special Planning Commission meeting. Prior to the opening of any public hearings, the item has been continued several times up to the January 11, 2022 Special Planning Commission meeting. No notable changes to this agenda report have been made since September 8, 2021.

Project Overview

The property at 22969 PCH is developed with a commercial building which is currently occupied by a restaurant, Aviation Nation Dreamland (formally Casa Escobar and Malibu Inn). Fifty parking spaces are required for the existing use, thirty-one of them are located offsite at 22959 PCH pursuant to a JUPA.

On December 11, 2013, the applicant submitted a request pursuant to Malibu Municipal Code (MMC) Chapter 17.66 to amend CUP No. 09-009 in conjunction with an interior tenant remodel that will subdivide the single tenant building into two separate and independent tenant spaces. The existing restaurant that has been approved to occupy almost the entirety of the building will be permanently reduced in size to allow for the increase of the retail space 565 square feet to 1,636 square feet. As a result, the 2,474 square feet of restaurant service area is being reduced to 1,935 square feet, and the existing retail store with a gross floor area of 1,636 square feet will continue to remain (Attachment 2 – As-Built Plan). The total required parking for the restaurant and retail use is 46 parking spaces. There are 22 onsite parking spaces, and 24 offsite parking spaces proposed.

The change of use alters the required parking for the site because the MMC parking requirements for a restaurant use are different, and less than, that required for a retail use. The parking requirement for restaurants is based upon service area, with one space required for every 50 square feet of service area. Retail has a lower parking requirement, with one space required for every 225 square feet of gross floor area.

The existing restaurant service area of 2,474 square feet required 50 parking spaces and the retail space of 565 square feet required 3 parking spaces. The 1,935 square feet of proposed service area reduces the required restaurant parking to 39 parking spaces. The number of parking spaces required for the 1,636 square feet of proposed of retail area is 7 spaces. The overall required parking is decreased from 53 spaces to 46 spaces with the proposed project.

As a result of the reduction in the overall number of required parking spaces the existing JUPA will be amended. The JUPA currently allows for 31 offsite spaces and that number will now be reduced to 24. The 24 offsite spaces when combined with the existing 22 onsite spaces satisfy the City's requirement for the proposed onsite uses.

Background and Existing Approvals

On September 7, 2010, the Planning Commission adopted Resolution No. 10-59 (Attachment 3), approving CUP No. 09-009 and JUPA No. 10-001 to permit a restaurant use (the Malibu Inn restaurant) with live entertainment which serves liquor. The approval allowed the use to operate between the hours of 7:00 a.m. and 2:00 a.m., with a maximum dining seating capacity of 94 patrons and a maximum event capacity of 340 patrons for entertainment events, plus 565 square feet of retail space at the existing 8,960 square foot commercial building. The approval allowed for eight small events and two large events per month. JUPA No. 10-001 allows the vacant adjacent parcel to the east (22959 PCH, APN 4452-019-005) to subsidize the 31 additional required parking for the subject property's use.

On September 16, 2010, an appeal of the Planning Commission's approval was filed by property owners of residences located across PCH and south of the subject property.

On November 22, 2010, the City Council denied the appeal and approved CUP No. 09-009 and JUPA No. 10-001. The eight small events and two large events allowed did not change; however, the Council revised the permitted hours of operation and alcohol sales. City Council Resolution No. 10-59 indicates that the approved hours of operation for the Malibu Inn are from 7:00 a.m. to 12:00 a.m. on Sundays, Mondays, Tuesdays, and Wednesdays and from 7:00 a.m. to 2:00 a.m. on Thursdays, Fridays, and Saturdays, with the exception that the use may be open until 2:00 a.m. only on those Sundays when the following Monday is a federal holiday. Furthermore, the approved hours of alcohol sales are from 7:00 a.m. to 11:00 p.m. on Sundays, Mondays, Tuesdays, and Wednesdays and from 7:00 a.m. to 1:00 a.m. on Thursdays, Fridays, and Saturdays, with the exception that alcohol may be served until 1:00 a.m. only on those Sundays when the following Monday is a federal holiday.

On February 22, 2011, the City of Malibu approved Over-the-Counter (OC) Permit No. 11-019 to allow parking lot restriping of the 22 spaces (20 standard size parking spaces plus two Americans with Disabilities (ADA) accessible parking spaces) which involved no change in the number of parking spaces from CUP No. 09-009, a site wall, and ADA upgrades.

On September 8, 2010, the Planning Commission adopted Resolution No. 10-59 approving CUPA No. 11-001 amending City Council Resolution No. 10-59 to allow the hours of operation from 7:00 a.m. to 2:00 a.m. daily. Regulation of alcohol service during hours of operation was deferred to the authority of the California Department of Alcoholic Beverage Control (ABC) requirements.

December 19, 2018, a CUPA request to amend CUP No. 09-009 was submitted to the Planning Department to add outdoor live entertainment on the exterior patio and to convert three of the currently allowed small events into large events for a total of five

large events per month. The application was withdrawn a year later. At that time, Casa Escobar operated the restaurant and Aviation Nation operated the retail space.

The property owner of the adjacent property to the east (22959 PCH) has submitted a separate application, Coastal Development Permit (CDP) No. 09-067 and associated requests, to fully develop the property into a motel. CDP No. 09-067 is scheduled before the Planning Commission on the same hearing date as the subject application. The future development at 22959 PCH would continue to provide 24 required parking spaces for the subject restaurant and retail uses.

Project Description

The applicant is seeking to amend the existing CUP No. 09-009 and JUPA No. 10-001 to allow the reduction of the restaurant service area, to accommodate the creation of a new retail tenant space, and decrease the number of required off-site parking spaces in the JUPA to reflect the new number of required offsite parking spaces at an existing restaurant.

The existing and proposed uses, and associated required parking are represented in Tables 1 and 2 below.

Table 1 – Existing and Proposed Uses

Uses	Existing	Proposed
Restaurant (Service Area Sq.Ft.)	2,474 sq. ft.	1,935 sq.ft.
Interior	1,184 sq.ft.	1184 sq.ft.
Outdoor Patio	751 sq.ft.	751 sq.ft.
Banquet Room	539 sq.ft.	None
Retail (Gross Floor Area Sq.Ft.)	565	1,636 sq.ft.

Table 2 – Required Parking

Uses	Parking Requirement	Proposed	Required
Restaurant	one space for each 50 square feet of service area	1,935 sq. ft. service area / 50 sq. ft.	39 spaces
General Retail Store	one space for each 225 square feet of gross floor area	1,636 sq. ft. of gross floor area / 225 sq. ft.	7 spaces
Total	Onsite: 22 spaces Offsite: 24 spaces		46 spaces

Parking

The existing required onsite parking is comprised of 20 regular and compact parking spaces plus two ADA accessible parking spaces. There are four driveway curb cuts

which provide access to the property off of PCH. There is a traffic signal and cross walk immediately south of the property, which provides safe access across PCH to the Malibu Pier and its adjacent public parking lot. The farthest curb cut to the east will be shared with the motel project to east. The next onsite curb cut to the east is conditioned to be removed for safety reasons. Per the JUPA, the adjacent 22959 PCH lot to the east provides 31 additional donor parking spaces at all times during the permitted operating hours. The JUPA is being amended to reduce the number of required donor spaces from 31 to 24, to reflect the reduction in the number of required parking spaces, and provide the number of offsite parking spaces required for the project in conformance with the MMC parking requirements.

All other conditions of approval of City Council Resolution No. 10-59 and Planning Commission Resolution No. 11-72 (Attachment 4), and associated amendments remain in effect, unless modified herein.

Hours of Operation

The proposed hours of operation would remain the same at seven days a week from 7:00 am to 2:00 a.m.

Daily Operations

The daily operations would remain the same.

The restaurant will maintain a full menu that is served during all hours of operation, including breakfast, brunch, lunch and dinner offerings. On days featuring live music, dinner will continue to be served as normal and the kitchen will be open until 2:00 a.m.

Deliveries are planned for Mondays, Wednesdays and Fridays every week. All deliveries are scheduled between 8:00 a.m. and 11:00 a.m. on those days.

Liquor and Entertainment Licenses

The current liquor and entertainment licenses approved under CUP No. 09-009 will remain in effect. The applicant has an ABC Type 47 license which permits the sale of beer, wine and distilled spirits for consumption on the licensed premises. The license holder must operate and maintain the premises as a bona fide eating place. They must maintain suitable kitchen facilities, and must make actual and substantial sales of meals for consumption on the premises. Minors are allowed on premises that hold this type of license.

In addition, the applicant has an entertainment license from the Los Angeles County Sheriff's Department (LACSD) to permit dancing and live entertainment.

Signs

No change to the existing signage is proposed. Any future proposed changes to the existing signs would require review for the requirements set forth in MMC Chapter 17.52 (Signs).

Surrounding Land Use and Setting

The subject property is located on the inland side of PCH, north of the Pacific Ocean and Malibu Pier. The vacant adjacent easterly lot at 22959 PCH is also zoned CV-1, and has an application for a motel project submitted to the City. That lot currently contains a surface parking lot providing the 31 donor spaces under the current JUPA. Another CV-1 property is located to the west and is occupied by a fast-food restaurant (Jack in the Box). A steep parcel zoned Rural Residential - One Acre (RR-1) is located adjacent to the north property line. Both Single-Family Medium (SFM) and Public Open Space zoned properties (Malibu Pier and public parking) exist to the south of the subject site. In addition, there is a small grouping of six beachfront residences located adjacent to the Pier, across PCH to the southwest.

Figure 1 shows the subject property location and the vicinity.

Figure 1 – Aerial Photograph



Source: GovClarity 2019

The subject property is approximately 30,108 square feet in size and is rectangular in shape. The site contains an existing 8,960 square foot building that is one-story in height, with the exception of a small 220 square foot dressing room and restroom located above the first floor restroom area. Refer to Attachments 5 and 2 for site photos and the as-built floor plan. The building currently has five restrooms, two which serve the main service area; one is located on the upper level in the dressing room and two are located adjacent to the retail space. The space also includes a large bar, a stage and dance floor area and a billiards room that is current used as an employee lounge.

MMC ANALYSIS

Pursuant to MMC Sections 17.26.020(A) and (B), and 17.26.030(A) permitted and conditionally permitted uses in the CV-1 zone include all permitted and conditionally permitted uses in the Community Commercial (CC) zone, and retail stores selling recreational equipment and clothes, and souvenirs and jewelry. In the CC zone, subject to the approval of a CUP, MMC Section 17.24.030 (B-D) allows for: 1) restaurants, exceeding a maximum interior occupancy of 125; 2) bars; and 3) live entertainment. The existing restaurant use is a conditionally permitted use, while the proposed retail use is a permitted use that does not otherwise require a use permit.

Onsite Wastewater Treatment System

The proposed amendment would not require any modifications to the existing Onsite Wastewater Treatment System (OWTS). The application was routed to the City Environmental Health Administrator who indicated that no review was required for the subject application because the proposed amendment does not represent an expansion, modification or change in the type or intensity of the use that would affect the design of the existing OWTS. All OWTS conditions of approval in City Council Resolution No. 10-59 and Planning Commission Resolution No. 11-72, and associated amendments, remain in effect.

MMC Findings

A. Conditional Use Permit Findings (MMC Section 17.66.080)

CUPA No. 13-008 is requested to amend CUP No. 08-008 to allow the reduction of the restaurant service area in order to accommodate the permanent expansion of the existing retail tenant space. The Planning Commission may approve, deny and/or modify an amendment to a CUPA in whole or in part, with or without conditions, provided that it makes all of the findings of fact required by MMC Section 17.66.080. The CUPA can be supported based on the findings below:

Finding 1. The proposed use is one that is conditionally permitted within the subject zone and complies with the intent of all of the applicable provisions of Title 17 of the Malibu Municipal Code.

The proposed amendment will not affect the finding previously made by the Planning Commission in that the proposed use remains consistent with the provisions of MMC Title 17 and is still a conditionally permitted use within the zone. A restaurant with an interior capacity in excess of 125 people, nightclub, and bar are all conditionally permitted uses in the CV-1 zoning district. The square footages and service areas of the use as originally permitted are being reduced by the amendment. Therefore, the proposed project has been conditioned to comply with all applicable provisions of the MMC.

Finding 2. The proposed use would not impair the integrity and character of the zoning district in which it is located.

The proposed amendment would not impair the integrity and character of the zoning district in which it is located, and is compatible with the existing land uses on the site and surrounding neighborhood, as the amended use is still a commercial use on commercially zoned property. The restaurant use has occupied the subject property for several decades and has been operating for eleven years under the approved CUP No. 09-009, and associated amendments. The property is located within a long strip of CV-1 zoned properties located on the landward side of PCH that extends east of the Malibu Pier. The existing restaurant has ABC liquor and entertainment licenses and is operated as a restaurant that already has an interior and exterior bar and interior live entertainment. The restaurant will now provide a reduced service area, with no other change to operations. The project has been conditioned to comply with all applicable provisions of the MMC and will continue to provide the necessary parking consistent with past operational practices on the adjacent property via the amendment to JUPA No. 14-001. All other conditions of approval of City Council Resolution No. 10-59 and Planning Commission Resolution No. 11-72, and associated amendments remain in effect, unless modified herein. For these reasons, the amendment is not anticipated to result in a change from the existing conditions within the zoning district.

Finding 3. The subject site is physically suitable for the type of land use being proposed.

The proposed amendment will not physically alter the size or footprint of the existing building, or the existing paved parking. The proposed tenant improvements involve permanently converting restaurant service area into retail and expand the existing retail space from 565 square feet to 1,636 square feet. The business has operated on the subject property since the 1950s and the existing restaurant use has been operating for eleven years under the approved CUP No. 09-009. A total of 46 parking spaces are required for the proposed uses, which reflects a reduction of 7 required parking spaces. All other conditions of approval of City Council Resolution No. 10-59 and Planning Commission Resolution No. 11-72, and associated amendments remain in effect, unless modified herein. Therefore, the site is physically suitable for the use being proposed.

Finding 4. The proposed use is compatible with the land uses presently on the subject property and in the surrounding neighborhood.

The proposed amendment will not affect the use's compatibility with the land uses presently on the subject property and in the surrounding neighborhood. The restaurant has operated at the subject property since the 1950s and the existing restaurant has been operating for eleven years under the approved CUP No. 09-009. The property is surrounded by both commercial and residential uses. There is a mix of commercial, office and retail uses in the immediate vicinity of the site. The proposed retail use expansion is similarly an allowed commercial use in the zone. All other conditions of approval of City Council Resolution No. 10-59, and Planning Commission Resolution No. 11-72, and associated amendments, remain in effect, unless modified herein. Therefore, this proposed use is compatible with the land uses in the surrounding neighborhood.

Finding 5. The proposed use would be compatible with existing and future land uses within the zoning district and the general area in which the proposed use is to be located.

The proposed amendment will not affect the compatibility of the existing use. The use is compatible with existing and future land uses within the zoning district and the general area in which the proposed use is to be located in that the surrounding land uses are comprised of a wide range of commercial uses including restaurants, retail uses, medical and professional offices, as well as public open space, and residential uses to the south.

Finding 6. There would be adequate provisions for water, sanitation, and public utilities and services to ensure that the proposed use would not be detrimental to public health and safety and the project does not affect solar access or adversely impact existing public and private views, as defined by the staff.

The proposed amendment will not alter the existing utilities. Existing utilities will continue to serve the existing site. The LACFD and LACSD reviewed the original CUP No. 09-009 and indicated that the amendment did not require additional review. In addition, the City Environmental Health Administrator reviewed the CUPA and determined that the existing OWTS is adequate for the proposed use.

The proposed project will not create any shade or shadow impacts that would impede solar access. The existing commercial structure at 22969 PCH will not change under this amendment and therefore, will not adversely impact existing public and private views.

Finding 7. There would be adequate provisions for public access to serve the subject proposal.

As discussed in Finding 3, the existing use has adequate parking for public access and will not obstruct public traffic circulation. The number of required parking spaces is reduced from 53 to 46, and all parking will be maintained onsite, and offsite on the adjacent property pursuant to JUPA No. 14-001. The existing traffic circulation will remain unmodified.

Finding 8. The proposed use is consistent with the goals, objectives, policies, and general land uses of the General Plan.

The proposed amendment will not change the nature of the existing conditionally permitted use. The restaurant and bar use are conditionally permitted in the CV-1 zoning district and provides live entertainment as an ancillary use. The General Plan defines the CV zone as providing for visitor serving uses which serve visitors and residents such as hotels and restaurants which respect the rural character and natural environmental setting. Visitor serving uses shall protect the surrounding properties, shall ensure safe traffic circulation and shall promote economically viable visitor serving areas of the City.

The proposed project meets the goals of the following land use policies of the General Plan:

LU Policy 3.1.1: The City shall ensure visitor serving and recreational uses are compatible with the natural resources and aesthetic values of the area.

LU Policy 3.2.1: The City shall permit the development of commercial recreational and visitor servicing facilities at suitable locations which provide convenient public access, adequate infrastructure, convenient parking and, when feasible, are located where existing low cost recreational uses will be enhanced.

LU Policy 4.4.1: The City shall encourage establishment and continued operation of small neighborhood and community serving businesses.

The proposed project, as conditioned, is consistent with goals, objectives and policies of the General Plan because the proposed amendment, as conditioned, will continue to provide for visitor and resident serving uses in a manner compatible with the surrounding area, with safe traffic circulation and parking.

Finding 9. The proposed project complies with all applicable requirements of state and local law.

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 such as the ABC and the LACSD.

Finding 10. The proposed use would not be detrimental to the public interest, health, safety, convenience or welfare.

The proposed amendment is a reduction in service area of the existing restaurant, and will not otherwise affect the existing restaurant and bar, which are a conditionally permitted use in a commercial zone. Conditions of City Council Resolution No. 10-59

which required that the property owner notify the LACSD no less than three days prior to a large entertainment event will remain in effect. Finally, as demonstrated through an ABC license query the property owner maintains a valid ABC license and has not been subject to any disciplinary infractions in the past with regard to a liquor license. All other conditions of approval of City Council Resolution No. 10-59 and Planning Commission Resolution No. 11-72, and associated amendments remain in effect, unless modified herein, including those that prohibit noise impacts and facilitate traffic and parking safety. As conditioned, the proposed use will not be detrimental to the public interest, health, safety, convenience or welfare.

Finding 11. If the project is located in an area determined by the City to be at risk from earth movement, flooding or liquefaction, there is clear and compelling evidence that the proposed development is not at risk from these hazards.

The project will not be at risk from earth movement and flood hazards since the application only involves an amendment to the service area of an existing restaurant use within the existing commercial structure. The existing building will not change; therefore, there is no new impact related to earth movement, flooding or liquefaction.

B. Joint Use Parking Agreement Amendment No. 18-001 (MMC Section 17.48.040)

JUPA No. 14-001 is requested to decrease the number of required off-site parking spaces in to reflect the new number of required offsite parking spaces for the uses at 22969 PCH. A total of 53 parking spaces were required and now 46 parking spaces are required for the proposed use. There are 22 parking spaces onsite, and JUPA No. 14-001 provides for 31 spaces to be located on the adjacent property. JUPA No. 14-001 will reduce the required number of donor parking spaces from 31 to 24, which is sufficient to meet the required number of spaces for the proposed restaurant and retail use on the property. A deed restriction shall be recorded on the title of each property reflecting the permanent reciprocal parking agreement. All other conditions of approval of City Council Resolution No. 10-59 and Planning Commission Resolution No. 11-72, and associated amendments remain in effect, unless modified herein.

A. Up to one-half of the parking facilities required for a primarily daytime use may be used to meet the requirements of a primarily nighttime use and up to one-half of the parking facilities required for a primarily nighttime use may be used to meet the requirements of a primarily daytime use; provided, that such reciprocal parking arrangement shall comply with subsection C of this section.

The hours of operation for the restaurant will remain 7 to 2 a.m. No additional parking is required for the proposed reduction in the restaurant service area.

B. The planning commission may reduce parking requirements for common parking facilities by up to 25 percent in shopping centers or other commercial areas where a parking lot with common access and joint use is provided.

The property owner has not requested to reduce the required parking spaces. The reciprocal parking agreement will provide additional parking spaces in excess of what is required for the existing use.

C. The parties concerned shall show that there is no substantial conflict in the principal operating hours of the building or uses for which the joint use is proposed and shall evidence agreement for such use by a proper legal instrument, to which the city is a party.

The existing restaurant will continue to operate from 7:00 a.m. to 2:00 a.m. daily, with live entertainment events primarily being held in the evenings. There will be no substantial conflict in the principal operating hours for the two properties. Prior to the approval of any project on the adjacent lot, all code required parking will need to be provided, and the required parking for proposed JUPA amendment will be included. A legal agreement between the City and the property owner is required as a condition of approval. The agreement will contain requirements for an annual review by the Planning Director with authority to modify the agreement as necessary to maintain onsite parking arrangements.

ENVIRONMENTAL REVIEW: Pursuant to the authority and criteria contained in CEQA, the Planning Director has analyzed the proposed project. The Planning Director 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 pursuant to Section 15301 - Existing Facilities. The Planning Director has further determined that none of the six exceptions to the use of a categorical exemption apply to this project (CEQA Guidelines Section 15300.2).

CORRESPONDENCE: Staff received four records of public correspondence regarding the subject agenda item (Attachment 7). Three of the four records provided comments that only pertain to the Malibu Inn Motel thereby are not addressed herein. On August 26, 2021, staff received an email from Ms. Patt Healy regarding this project. Ms. Healy states that the parking was incorrectly calculated in terms of service area and employees, and that the amendment to the JUPA should only be considered if the hotel is constructed as proposed.

The Malibu Inn consists of two uses (restaurant and retail). The parking for restaurant is based on service area and retail is based on gross square footage. Pursuant to both the LCP and MMC, the number of employees is not used in the parking regulations for either of these two uses. Service area for restaurants is not defined in the code and has been a topic of debate over the years. In the case of the Malibu Inn, the CUP issued in 2010 excluded all walkways and only included the areas around the tables and chairs, and bar

areas. As this method of calculating the service area for the Malibu Inn was established using the same code language as it exists today, staff did not request the applicant to modify this method. The service area (besides the banquet hall) is not requested to be significantly modified as part of this application. Most service areas for Aviation Nation Dreamland are well depicted on slightly elevated platforms.

The request to amend the JUPA is directly related to the proposed motel on the adjacent lot. The Planning Commission may agree to add a condition to the requested CUPA that the amendment to the JUPA be subject to the construction of the adjacent motel. This, of course, provides the property owner with the most flexibility in the future to expand the restaurant service area into the banquet hall space should they choose to.

PUBLIC NOTICE: Staff published a Notice of Public Hearing in a newspaper of general circulation within the City of Malibu on August 5, 2021 and mailed the notice to all property owners and occupants within a 500-foot radius of the subject property (Attachment 8).

SUMMARY: The required CUPA findings can be made. Further, the Planning Department's findings of fact are supported by substantial evidence in the record. Based on the analysis contained in this report, staff is recommending approval of this project subject to the conditions of approval contained in Section 6 (Conditions of Approval) of Planning Commission Resolution No. 22-01. The project has been reviewed and conditionally approved for conformance with the MMC.

ATTACHMENTS:

1. Planning Commission Resolution No. 22-01
2. As-Built Floor Plan
3. City Council Resolution No. 10-59
4. Planning Commission Resolution No. 11-72
5. Site Photos
6. Environmental Health Department Review
7. Public Correspondence
8. Public Hearing Notice

CITY OF MALIBU PLANNING COMMISSION
RESOLUTION NO. 22-01

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 CONDITIONAL USE PERMIT AMENDMENT NO. 13-006 AND JOINT USE PARKING AGREEMENT NO. 14-001 AMENDING CONDITIONAL USE PERMIT NO. 09-009 AND JOINT USE PARKING AGREEMENT NO. 10-001 TO REDUCE THE RESTAURANT SERVICE AREA IN ORDER TO ACCOMMODATE THE PERMANENT EXPANSION OF EXISTING RETAIL TENANT SPACE, AND DECREASE THE NUMBER OF REQUIRED OFF-SITE PARKING SPACES CONSISTENT WITH THE NEW REQUIRED PARKING AT AN EXISTING RESTAURANT (AVIATION NATION DREAMLAND) IN THE COMMERCIAL VISITOR SERVING-1 ZONING DISTRICT LOCATED AT 22969 PACIFIC COAST HIGHWAY (SKA GROUP, LLC)

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

SECTION 1. Recitals.

A. On December 3, 2009, Conditional Use Permit (CUP) No. 09-009 and Joint Use Parking Agreement (JUPA) No. 10-001 were submitted to the Planning Department.

B. On September 7, 2010, the Planning Commission held a duly noticed public hearing on the subject application, reviewed and considered the agenda report, public testimony and all related information. At the conclusion of the hearing, the Planning Commission adopted Resolution No. 10-59 approving CUP No. 09-009 and JUPA No. 10-001.

C. On September 16, 2010, Appeal No. 10-002 was filed by Klaus Obermeyer (property owner at 23006 Pacific Coast Highway) and Robert J. Allan (property owner at 23018 Pacific Coast Highway).

D. On November 22, 2010, the City Council held a duly noticed public hearing on the subject appeal, reviewed and considered the staff report, reviewed and considered written reports, public testimony, and other information in the record, and denied the appeal and approved the applications. The approval allowed for eight small live entertainment events, two large events, set hours for operation and alcohol sales, and prohibited live entertainment on the outdoor patio. Low level amplified music on the patio was allowed from 7:00 a.m. to 10:00 p.m. daily.

E. On February 22, 2011, the City of Malibu approved Over-the-Counter (OC) Permit No. 11-019 to allow parking lot restriping of the 22 spaces (20 standard size parking spaces plus two Americans with Disabilities (ADA) accessible parking spaces) which involved no change in the number of parking spaces from CUP No. 09-009, a site wall, and ADA upgrades.

F. On August 2, 2011, the Planning Commission adopted Planning Commission Resolution No. 11-72 to extend the hours of operation to 7 to 2 a.m. daily.

ATTACHMENT 1

G. On December 11, 2013, an application for CUPA No. 13-006 and JUPA No. 14-001 was submitted to the Planning Department, on behalf of the property owner, SKA Group, LLC to reduce the restaurant service area, to allow for the creation of a new retail tenant space, and decrease the number of required off-site parking spaces consistent with the new required parking at an existing restaurant. The application was routed the City Environmental Health Administrator for review.

H. On July 8, 2021, the application was deemed complete.

I. On August 5, 2021, a Notice of Public Hearing was published in a newspaper of general circulation within the City of Malibu and was mailed to all property owners and occupants within a 500-foot radius of the subject property.

J. On August 26, 2021, a Notice of Adjournment was issued adjourning the August 26, 2021 Special Planning Commission meeting to the September 8, 2021 Adjourned Regular Planning Commission meeting to allow staff additional time to gather additional information.

K. On September 8, 2021, the Planning Commission continued the item to the November 1, 2021 Regular Planning Commission meeting.

L. On November 1, 2021, the Planning Commission continued the item to the December 6, 2021 Regular Planning Commission meeting.

M. On December 6, 2021, the Planning Commission continued the item to the January 11, 2022 Special Planning Commission meeting.

N. On January 11, 2022, 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.

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 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 pursuant to Section 15301 - Existing Facilities. The Planning Commission has further determined that none of the six exceptions to the use of a categorical exemption apply to this project (CEQA Guidelines Section 15300.2).

SECTION 3. Amendment of Conditional Use Permit Findings of Fact.

Pursuant to Malibu Municipal Code (MMC) Section 17.66.020, a CUP may be amended upon submittal of an application by the permittee. On November 22, 2010, the Planning Commission made all required findings for the approval of CUP No. 09-009 to permit a restaurant use (the Malibu Inn restaurant) with live entertainment which serves liquor, and approved by the City Council on November 22, 2010. All other findings and conditions of approval set forth in City

Council Resolution No. 10-59, and Planning Commission Resolution No. 11-72, and associated amendments are hereby incorporated by reference and remain in full force and effect. Based on the findings of fact, the Planning Commission hereby approves CUPA No. 13-006, amending CUP No. 09-009 and JUPA No. 10-001 to allow the reduction of the restaurant service area in order to accommodate the permanent expansion of existing retail tenant space, and decrease the number of required off-site parking spaces in the JUPA to reflect the new number of required offsite parking spaces at an existing restaurant (Aviation Nation Dreamland) in the Commercial Visitor-Serving-1 (CV-1) zoning district located at 22969 Pacific Coast Highway (PCH).

MMC Findings

A. Conditional Use Permit Findings (MMC Section 17.66.080)

1. The proposed amendment will not affect the finding previously made and the use is still a conditionally permitted use. A restaurant with an interior capacity in excess of 125 people, a nightclub and a bar are all conditionally permitted uses in the CV-1 zoning district. The project has been conditioned to comply with all applicable provisions of the MMC and conditions of approval of City Council Resolution No. 10-59, and Planning Commission Resolution No. 11-72, and associated amendments, are incorporated herein by reference.

2. The proposed amendment will not affect the use as it is still a commercial use on commercially zoned property and therefore, would not impair the integrity and character of the CV-1 zoning district. A restaurant has occupied the subject property since the 1950s and the existing restaurant has been operating for eleven years under the approved CUP No. 09-009. Furthermore, the proposed amendment project is not anticipated to result in a change from the existing conditions within the zoning district. Finally, the existing restaurant has an ABC liquor and entertainment licenses and operated as a restaurant with a bar and live entertainment.

3. The proposed amendment will not physically alter the size or footprint of the existing building, or the existing paved parking. The proposed tenant improvements involve permanently converting restaurant service area into retail and expand the existing retail space from 565 square feet to 1,636 square feet. The restaurant service area is being reduced, and can continue to use and occupy the existing space. The business has operated on the subject property since the 1950s and the existing restaurant has been operating for eleven years under the approved CUP No. 09-009. A total of 46 parking spaces are required for the proposed uses, which reflects a reduction of seven required parking spaces. All other conditions of approval of City Council Resolution No. 10-59 and Planning Commission Resolution No. 11-72, and associated amendments remain in effect, unless modified herein. Therefore, the site is physically suitable for the use being proposed.

4. The proposed amendment will not affect the compatibility with the land uses presently on the subject property and in the surrounding neighborhood. The property is surrounded by both commercial and residential uses. There is a mix of commercial, office and retail uses in the immediate vicinity of the site. The proposed retail use expansion is similarly an allowed commercial use in the zone. All other conditions of approval of City Council Resolution No. 10-59, and Planning Commission Resolution No. 11-72, and associated amendments, remain in effect, unless modified herein.

5. The proposed amendment will not affect the compatibility of the existing use. The use is compatible with existing and future land uses within the zoning district and the general area in which the proposed use is to be located in that the surrounding land uses are comprised of a wide range of commercial uses including restaurants, retail uses, medical and professional offices, as well as public open space and residential uses to the south.

6. The proposed amendment will not alter the existing utilities. Existing utilities will continue to serve the existing site. The LACFD and LACSD reviewed the original CUP No. 09-009 and indicated that the amendment did not require additional review. In addition, the City Environmental Health Administrator reviewed the CUPA and determined that the existing OWTS is adequate for the proposed use. No changes to the exterior of the existing structure are proposed, so no impacts to solar access or public or private views will occur.

The proposed project will not create any shade or shadow impacts that would impede solar access. The existing commercial structure at 22969 PCH will not change under this amendment, and therefore, will not adversely impact existing public and private views.

7. The existing use will have adequate parking for public access and will not obstruct public traffic circulation. The number of required parking spaces is reduced from 53 to 46.

8. The proposed amendment will not change the nature of the existing conditionally permit use. The use is a conditionally permitted commercial use in the CV-1 zoning district. The General Plan defines the CV zone as providing for visitor serving uses which serve visitors and residents such as hotels and restaurants which respect the rural character and natural environmental setting. Visitor serving uses shall be consistent with compatible accessory uses, shall protect the surrounding properties, shall ensure safe traffic circulation and shall promote economically viable visitor serving areas of the City.

9. 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 such as the ABC and the LACSD.

10. The proposed amendment will not affect the existing restaurant and bar, which are a conditionally permitted use in a commercial zone. Conditions of City Council Resolution No. 10-59 which required that the property owner notify the LACSD no less than three days prior to a large entertainment event will remain in effect. Finally, as demonstrated through an ABC license query the property owner maintains a valid ABC license and has not been subject to any disciplinary infractions in the past with regard to a liquor license. All other conditions of approval of City Council Resolution No. 10-59 and Planning Commission Resolution No. 11-72, and associated amendments remain in effect, unless modified herein, including those that prohibit noise impacts and facilitate traffic and parking safety.

11. The project will not be at risk from earth movement and flood hazards since the application only involves an amendment of conditions of approval to a previously existing use within the existing commercial structure. The building will not change; therefore, there is no new impact related to earth movement, flooding or liquefaction.

SECTION 4. Joint Use Parking Agreement Amendment Approval

JUPA No. 14-001 is requested to decrease the number of required off-site parking spaces in to reflect the new number of required offsite parking spaces for the uses at 22969 PCH. A total of 53 parking spaces were required and now 46 parking spaces are required for the proposed use. There are 22 parking spaces onsite, and JUPA No. 14-001 provides for 31 spaces to be located on the adjacent property. JUPA No. 14-001 will reduce the required number of donor parking spaces from 31 to 24, which is sufficient to meet the required number of spaces for the proposed restaurant and retail use on the property. A deed restriction shall be recorded on the title of each property reflecting the permanent reciprocal parking agreement. All other conditions of approval of City Council Resolution No. 10-59 and Planning Commission Resolution No. 11-72, and associated amendments remain in effect, unless modified herein.

A. Up to one-half of the parking facilities required for a primarily daytime use may be used to meet the requirements of a primarily nighttime use and up to one-half of the parking facilities required for a primarily nighttime use may be used to meet the requirements of a primarily daytime use; provided, that such reciprocal parking arrangement shall comply with subsection C of this section.

The hours of operation for the restaurant will remain 7 to 2:00 a.m. No additional parking is required for the proposed reduction in the restaurant service area.

B. The planning commission may reduce parking requirements for common parking facilities by up to 25 percent in shopping centers or other commercial areas where a parking lot with common access and joint use is provided.

The property owner has not requested to reduce the required parking spaces. The reciprocal parking agreement will provide additional parking spaces in excess of what is required for the existing use.

C. The parties concerned shall show that there is no substantial conflict in the principal operating hours of the building or uses for which the joint use is proposed and shall evidence agreement for such use by a proper legal instrument, to which the city is a party.

The existing restaurant will continue to operate from 7:00 a.m. to 2:00 a.m. daily, with live entertainment events primarily being held in the evenings. There will be no substantial conflict in the principal operating hours for the two properties. Prior to the approval of any project on the adjacent lot, all code required parking will need to be provided, and the required parking for proposed JUPA amendment will be included. A legal agreement between the City and the property owner is required as a condition of approval. The agreement will contain requirements for an annual review by the Planning Director with authority to modify the agreement as necessary to maintain onsite parking arrangements.

SECTION 5. Planning Commission Approval.

Based on the foregoing findings and evidence contained within the record, the Planning Commission hereby approves CUPA No. 13-006 and JUPA No. 14-001, subject to the following

conditions. No other changes to the conditions contained in City Council Resolution No. 10-59, and Planning Commission Resolution No. 11-72, and associated amendments, are made by this amendment and all other applicable findings, terms, and/or conditions remain in full force and effect.

SECTION 6. 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. This approval is to allow the reduction of the restaurant service area in order to accommodate the creation of a new retail tenant space, and decrease the number of required off-site parking spaces in JUPA No. 14-001, to reflect the new number of required offsite parking spaces for the uses onsite.
3. This conditional use permit amendment shall not be effective until all appeals are exhausted and the property owner, applicant and the business operator execute the Affidavit of the Acceptance of Conditions. Said documents shall be recorded with the Los Angeles County Recorder and a certified copy of said recordation shall be filed with the Planning Department within 10 days of the effective date of the approval.
4. A review of the proposed amendment and compliance with the conditions of approval shall be conducted by Planning Department staff and reported to the Planning Commission within one year, and again within five years, of commencement of operations. Staff will report whether the amendment is operating in compliance with the Planning Commission's findings and all approved conditions, and whether it recommends initiating proceedings to modify or revoke the permit.
5. The third driveway curb cut from west to east must be removed.

Joint Use Parking Agreement

6. The number of required parking spaces required to be provided for the restaurant service area will be reduced to 24 parking spaces to reflect a restaurant service area of 1,935 square feet.

Operations

7. The restaurant service area is 1,935 square feet, and allocated as follows:
 - a. Interior service area: 1,184 square feet; and
 - b. Outdoor patio: 751 square feet.

8. The retail space area is 1,636 square feet.
9. The total number of seats shall not exceed 92 and the total number of patrons for large events is limited to 300.
10. Dining or drink service is not permitted within the employee lounge area.

Fixed Conditions

11. If it has cause to believe that grounds for revocation or modification may exist, the Planning Commission shall hold a public hearing upon the question of modification or revocation of this conditional use permit pursuant to MMC Section 17.66.100(C). The conditional use permit may be revoked if the Planning Commission finds that one or more of the following conditions exists:
 - a. The conditional use permit was obtained in a fraudulent manner.
 - b. The use for which the conditional use permit was granted has ceased or was suspended for at least six successive calendar months.
 - c. One or more of the conditions found within this resolution have not been substantially met.
12. Prior to the approval of any project on the adjacent lot, all code required parking will need to be provided. A legal agreement between the City and the property owner is required as a condition of approval. The agreement will contain requirements for an annual review by the Planning Manager with authority to modify the agreement as necessary to maintain onsite parking arrangements.
13. A deed restriction shall be recorded on the title of each property reflecting the permanent reciprocal parking agreement (JUPA).
14. All other conditions of City Council Resolution No. 10-59, and Planning Commission Resolution No. 11-72, and associated amendments are hereby incorporated by reference and remain in full force and effect.

SECTION 7. The Planning Commission shall certify the adoption of this Resolution.

PASSED, APPROVED AND ADOPTED this 11th day of January, 2022.

KRAIG HILL, Planning Commission Chair

ATTEST:

REBECCA EVANS, Recording Secretary

LOCAL APPEAL - Pursuant to Malibu Municipal Code Section 17.04.220 (Appeal of Action), 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 10 days and shall be accompanied by an appeal form and filing fee, as specified by the City Council. Appeal forms and fee schedule may be found online at www.malibucity.org/planningforms, in person, or by calling (310) 456-2489, extension 245.

I CERTIFY THAT THE FOREGOING RESOLUTION NO. 22-01 was passed and adopted by the Planning Commission of the City of Malibu at the special meeting held on the 11th day of January, 2022 by the following vote:

AYES:

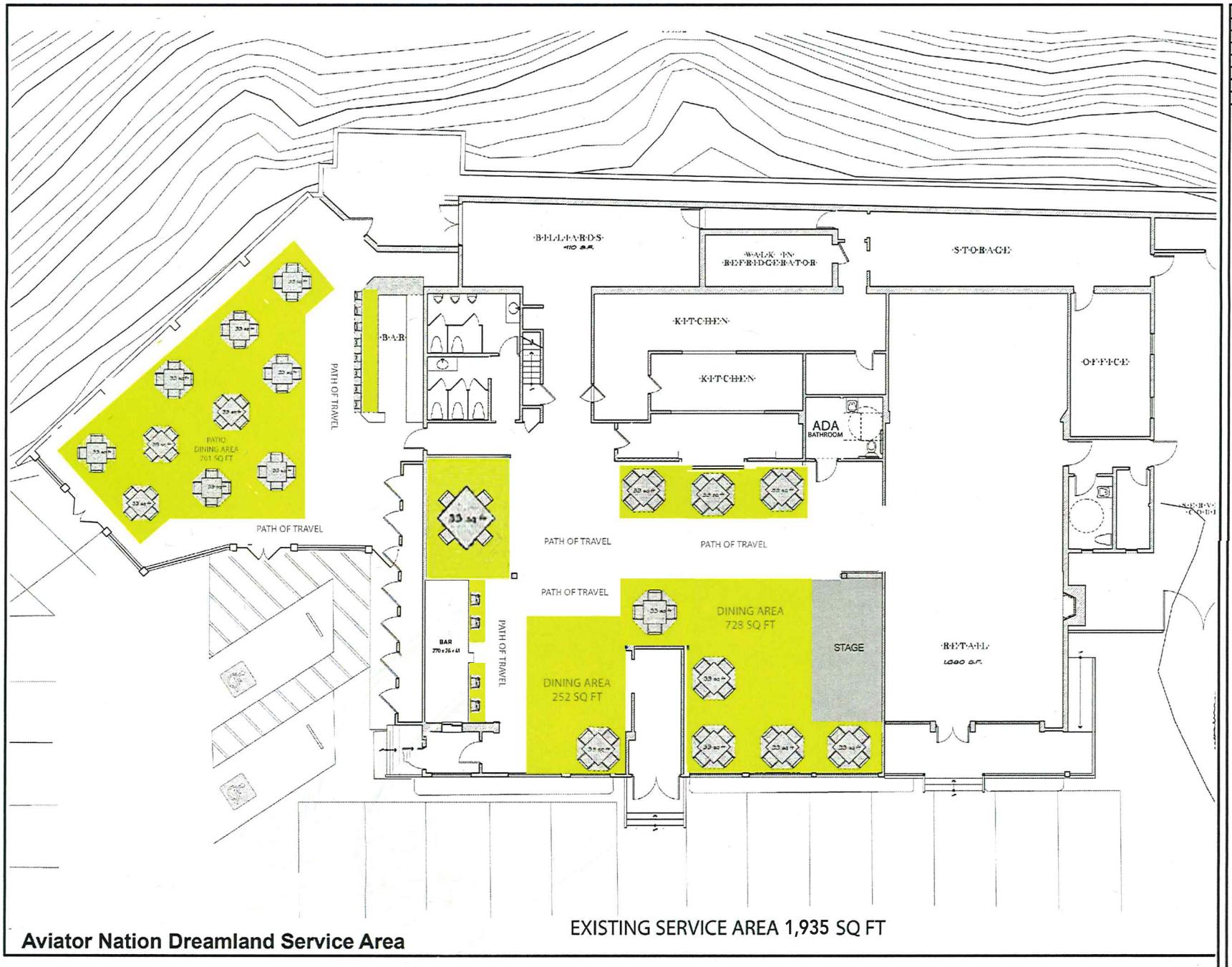
NOES:

ABSTAIN:

ABSENT:

REBECCA EVANS, Recording Secretary

ATTACHMENT 2



RESOLUTION NO. 10-59

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MALIBU DENYING APPEAL NO. 10-002, APPROVING CONDITIONAL USE PERMIT NO. 09-009 AND JOINT USE PARKING AGREEMENT NO. 10-001 TO PERMIT THE MALIBU INN RESTAURANT WITH LIVE ENTERTAINMENT WHICH WILL SERVE LIQUOR, OPERATE BETWEEN THE HOURS OF 7:00 A.M. AND 2:00 A.M., AND HAVE A MAXIMUM RESTAURANT SEATING CAPACITY OF 94 PATRONS, A MAXIMUM CAPACITY OF 340 PATRONS FOR ENTERTAINMENT EVENTS AND 565 SQUARE FEET OF RETAIL SPACE AT THE 8,960 SQUARE FOOT COMMERCIAL BUILDING; INCLUDING A JOINT USE PARKING AGREEMENT FOR REQUIRED PARKING SPACES TO BE LOCATED ON THE ADJACENT PROPERTY IN THE COMMERCIAL VISITOR SERVING-1 ZONING DISTRICT LOCATED AT 22969 PACIFIC COAST HIGHWAY (HAKIM)

THE CITY COUNCIL OF THE CITY OF MALIBU DOES HEREBY FIND, ORDER AND RESOLVE AS FOLLOWS:

Section 1. Recitals.

A. The building which houses the Malibu Inn was constructed in 1950 and the adjacent lot has historically provided parking. The use has operated under multiple owners for more than 50 years at the current location.

B. On June 3, 2008, Over the Counter Permit (OC) No. 08-102 was issued to re-open the 565 square foot retail space for the tenant Sabotage.

C. Due to a change in ownership of the subject property, the business closed in December 2008 and the restaurant and entertainment venue use ceased.

D. On May 26, 2009, breakfast and lunch service at the restaurant resumed. Currently, the Malibu Inn typically closes around mid-afternoon / early evening, after patrons have finished lunch.

E. On December 3, 2009, Conditional Use Permit (CUP) No. 09-009 and Joint Use Parking Agreement (JUPA) No. 10-001 was submitted to the Planning Division by Elizabeth Peterson. The application was routed to the City Environmental Health Administrator, the Los Angeles County Fire Department (LACFD) and the Los Angeles County Sheriff's Department (LACSD) for review.

F. On January 12, 2010, a Courtesy Notice of Proposed Project was mailed to all property owners and occupants within a 500 foot radius of the subject property.

G. On May 26, 2010, the application was deemed complete for processing.

H. On July 8, 2010, 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.

I. On August 3, 2010, at the request of the applicant, the public hearing was continued to the September 7, 2010 Regular Planning Commission meeting.

J. On September 7, 2010, the Planning Commission held a duly noticed public hearing on the subject application, reviewed and considered the agenda report, public testimony and all related information. At the conclusion of the hearing, the Planning Commission adopted Resolution No. 10-79 approving CUP No. 09-009 and JUPA No. 10-001.

K. On September 16, 2010, Appeal No. 10-002 was filed by Klaus Obermeyer (property owner at 23006 Pacific Coast Highway) and Robert J. Allan (property owner at 23018 Pacific Coast Highway).

L. On September 27, 2010, in accordance with Malibu Municipal Code (M.M.C.) Section 17.04.220(C), the appellants submitted additional information related to the appeal before the 10 day deadline.

M. On October 12, 2010, the appeal was deemed complete by staff.

N. On October 28, 2010, a Notice of City Council Public Hearing was published in a newspaper of general circulation within the City of Malibu and was mailed to all interested parties, regional, state and federal agencies, local libraries and media, and the California Coastal Commission (CCC).

O. On November 22, 2010, the City Council held a duly noticed public hearing on the subject appeal, reviewed and considered the staff report, reviewed and considered written reports, public testimony, and other information in the record.

Section 2. Appeal of Action.

The appellants appealed Planning Commission Resolution No. 10-79, contending that the proposed conditional use permit is not consistent with various sections of the M.M.C. as well as the General Plan. Additional information submitted with the appeal includes numerous statements in support of the appeal. Planning Division staff prepared an extensive agenda report responding to each of the appellant's contentions. The City Council concurs with the findings and conclusions of staff as set forth in the report and adopts staff's analysis, findings, and conclusions as though fully set forth herein.

Section 3. Conditional Use Permit Approval and Findings.

Pursuant to M.M.C. Section 17.66.080, the City Council may approve, deny and/or modify an

application for a CUP in whole or in part, with or without conditions, provided that it makes all of the following findings of fact. The City Council hereby makes the following findings of fact to approve CUP No. 09-009.

CUP Finding 1. The proposed use is one that is conditionally permitted within the subject zone and complies with the intent of all of the applicable provisions of Title 17 of the Malibu Municipal Code.

A restaurant with an interior capacity in excess of 125 people, a nightclub and a bar are all conditionally permitted uses in the Commercial Visitor Serving-1 (CV-1) zoning district. The existing commercial structure includes a total interior square footage of 8,960 square feet, with a service area that totals 2,474 square feet (comprised of 1,184 square foot interior service area which includes the bar, a 751 square foot service area on the outdoor patio which includes a bar and a 539 square foot service area in the banquet room). The project has been conditioned to comply with all applicable provisions of the M.M.C.

CUP Finding 2. The proposed use would not impair the integrity and character of the zoning district in which it is located.

The proposed use is a commercial use on commercially zoned property and therefore, would not impair the integrity and character of the CV-1 zoning district. The Malibu Inn has occupied the subject property for several decades and is located within a long strip of commercial properties located on the landward side of Pacific Coast Highway, east of the Pier. Furthermore, the proposed project will conditionally permit the previously operating restaurant and therefore is not anticipated to result in a change from the existing conditions within the zoning district. Finally, the use previously had a California Department of Alcohol Beverage Control (ABC) Liquor Licenses and operated as a restaurant with a bar and live entertainment.

CUP Finding 3. The subject site is physically suitable for the type of land use being proposed.

The project site contains existing commercial development. The proposed tenant improvements consist of a minor interior remodel only and no exterior changes are included in the project scope. The business has operated on the subject property since the 1950s. A total of 53 parking spaces are required for the proposed use. There are 22 parking spaces that exist onsite and the property owner has agreed to a joint use parking agreement to provide for the remaining 31 spaces to be located on the adjacent property that he also owns. The parking spaces will be provided for the use of the patrons and employees of the Malibu Inn. Therefore, the site is physically suitable for the use being proposed.

CUP Finding 4. The proposed use is compatible with the land uses presently on the subject property and in the surrounding neighborhood.

The Malibu Inn has operated at the subject property since the 1950s. It closed briefly at the end of 2008 due to the sale of the property. The property is surrounded by both commercial, open space and

residential uses. There is a mix of commercial, office and retail uses in the immediate vicinity of the site. There are very few residences located within close proximity to the subject property.

The property owner has agreed to a condition of approval which will prohibit live entertainment on the exterior patio. In addition, further conditions of approval which limit noise from the patio have been included for this project in compliance with the M.M.C. Noise Ordinance. Furthermore, conditions of approval have been included to require that the property owner notify the City Code Enforcement Officer and the Los Angeles County Sheriff's Department no less than three days prior to a large entertainment event (defined as any event with 100 or more persons in attendance) and to provide security personnel onsite seven days a week from 9:00 p.m. to closing to ensure that noisy and rowdy patrons leaving the establishment will not adversely affect the welfare of neighborhood residents.

A Security Plan which was submitted to the Planning Commission on September 7, 2010 details a listing of goals which include:

- Creation of a safe and secure environment within the Malibu Inn for all patrons;
- Provision of a level of control and safety for all arriving and departing guests;
- Mitigation of any noise or inappropriate conduct directed at the immediate neighbors and leaseholds by patrons upon entry or departure; and
- Diffusion of all situations as they occur.

The Security Plan demonstrates an understanding of neighbor concerns and strives to address these concerns through the following actions:

- Full disclosure and cooperation with law enforcement personnel and other City officials;
- Requirement that security personnel wear easily identifiable uniforms and identification badges at all times;
- Provision of one security guard per 50 patrons, with security staff being present at all times the venue is hosting dancing or live entertainment;
- Includes a detailed listing of responsibilities that each security guard will have – including stationary, roving and patio guards;
- Security guards will take part in the following training programs: 1) Licensee Education on Alcohol and Drugs (L.E.A.D) which is put on by the Department of Alcoholic Beverage Control; 2) proper cueing to lessen the impact of foot traffic and traffic flow for motor vehicles; 3) emergency preparedness including all safety devices present onsite and emergency escape routes; and 4) Standard First Aid provided through the Red Cross.

Finally, the Planning Commission, at its September 7, 2010 meeting, added an additional condition of approval which set a limit on live entertainment events not to exceed two large events and eight small events per month. The provisions included in the Security Plan are specifically intended to allow the proposed use to be compatible with adjacent neighbors. With the incorporation of all the aforementioned conditions of approval, this proposed use is compatible with the land uses in the surrounding neighborhood.

CUP Finding 5. The proposed use would be compatible with existing and future land uses within the zoning district and the general area in which the proposed use is to be located.

The proposed use is compatible with existing and future land uses within the zoning district and the general area in which the proposed use is to be located in that the surrounding land uses are comprised of a wide range of commercial uses including restaurants, retail uses, medical and professional offices, as well as public open space to the south. The only vacant property in the immediate vicinity (22959 Pacific Coast Highway) is owned by the subject property owner and is zoned for commercial development.

CUP Finding 6. There would be adequate provisions for water, sanitation, and public utilities and services to ensure that the proposed use would not be detrimental to public health and safety and the project does not affect solar access or adversely impact existing public and private views, as defined by the staff.

Existing utilities will serve the proposed project. The LACFD reviewed the CUP and issued a conditional approval on February 18, 2010. Some of the conditions require that applicant test existing fire hydrants and submit plans to the Fire Prevention Engineering Department.

In order to confirm conformance with percolation test requirements as outlined in the Malibu Plumbing Code (MPC), Ensitu Engineering Inc. oversaw flow testing at the subject property. The testing required isolation of the front, east and west leachfields prior to beginning the test. On the first day of the test, a licensed soils engineer introduced 6,497 gallons of water to the three dispersal fields in order to pre-soak the leachfields prior to performing water absorption measurements on the three following consecutive days. On each of the following three consecutive days, the soils engineer introduced an additional 6,497 gallons of water to the three fields. A final additional test was performed on the fifth day. Using the allocations of restaurant / retail and entertainment flows outlined in the MPC, the water was metered according to the proportion of total absorption area contributed by each leachfield.

After a five day testing period, Ensitu determined the following: 1) the existing grease interceptor capacity is sized to accommodate a full day's flow, rather than the code required minimum; 2) the site is currently served by two 3,000 gallon septic tanks (providing storage for 6,000 gallons total), which meet the required septic tank capacity of 5,998 gallons; and 3) the absorption area of the existing leachfields is 3,360 square feet and the existing seepage pits will be abandoned. The existing leachfield size exceeds the minimum required effective absorption area which is 3,187 square feet. As a result of the testing, Ensitu concluded that the OWTS is acceptable for the use proposed. The City Environmental Health Administrator reviewed the CUP and Ensitu's report and determined that the existing onsite wastewater treatment system (OWTS) is adequate for the proposed use.

As conditioned, the proposed conditional use permit would limit the hours of operation from 7:00 a.m. to 2:00 a.m. daily. No changes to the exterior of the existing structure are proposed, so no

impacts to solar access or public or private views will occur. The existing commercial structure at 22969 Pacific Coast Highway will not change under this application, and therefore, will not adversely impact existing public and private views.

CUP Finding 7. There would be adequate provisions for public access to serve the subject proposal.

No change to the site or circulation plan for the existing commercial property is proposed by this CUP. Upon completion of the construction of the commercial building on the adjacent parcel to the east, parking will be accommodated in accordance with the joint use parking agreement. The proposed use will have adequate parking for public access and will not obstruct public traffic circulation. It is anticipated that the reopening of the previously existing use would not substantially impact public access or circulation.

CUP Finding 8. The proposed use is consistent with the goals, objectives, policies, and general land uses of the General Plan.

The use is a conditionally permitted commercial use in the CV-1 zoning district. The General Plan defines the CV zone as providing for visitor serving uses which serve visitors and residents such as hotels and restaurants which respect the rural character and natural environmental setting. Visitor serving uses shall be consistent with compatible accessory uses, shall protect the surrounding properties, shall ensure safe traffic circulation and shall promote economically viable visitor serving areas of the City. The proposed project meets the goals of the following land use policies of the General Plan:

Land Use Policy 3.1.1: The City shall ensure visitor serving and recreational uses are compatible with the natural resources and aesthetic values of the area.

Land Use Policy 3.2.1: The City shall permit the development of commercial recreational and visitor servicing facilities at suitable locations which provide convenient public access, adequate infrastructure, convenient parking and, when feasible, are located where existing low cost recreational uses will be enhanced.

Land Use Policy 4.4.1: The City shall encourage establishment and continued operation of small neighborhood and community serving businesses.

As such, the proposed project, as conditioned, is consistent with goals, objectives and policies of the General Plan.

CUP Finding 9. The proposed project complies with all applicable requirements of state and local law.

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 such as the ABC and the Los Angeles County Sheriff's Department.

CUP Finding 10. The proposed use would not be detrimental to the public interest, health, safety, convenience or welfare.

The proposed project will reopen a previously existing restaurant and bar that provides live entertainment, which is a conditionally permitted use in a commercial zone. As stated in Finding 6, the LACFD has conditionally approved the CUP and set maximum occupancy for both dining and live entertainment events. In addition, the Los Angeles County Sheriff's Department issued a conditional approval of the CUP on May 13, 2010, specifically requiring that the property owner notify the department of all planned entertainment events. A condition is included in Section 7 of this resolution which requires that the property owner notify the City Code Enforcement Officer and the Los Angeles County Sheriff's Department no less than three days prior to a large entertainment event (defined as any event with 100 or more persons in attendance).

Furthermore, specific conditions have been included in Section 7 of this resolution which require: 1) training for bartenders and servers through the TIPS program (Training for Intervention Procedures) which is designed to prevent intoxication, underage drinking and drunk driving; 2) training for security personnel through the Licensee Education on Alcohol and Drugs (L.E.A.D) program which is put on by the Department of Alcoholic Beverage Control; 3) extensive conditions limiting noise during hours of operation; and 4) the provision of a detailed security plan to monitor patrons both within and outside of the Malibu Inn. All of these requirements are intended to maintain public health, safety and welfare.

Finally, the report generated in conjunction with the ABC application indicates that the current property owner has not been subject to any disciplinary infractions in the past with regard to a liquor license. As conditioned, the proposed use will not be detrimental to the public interest, health, safety, convenience or welfare.

CUP Finding 11. If the project is located in an area determined by the City to be at risk from earth movement, flooding or liquefaction, there is clear and compelling evidence that the proposed development is not at risk from these hazards.

The project will not be at risk from earth movement and flood hazards since the application only involves reopening a previously existing use within the existing commercial structure. The building footprint and envelope will not change; therefore, there is no new impact related to earth movement, flooding or liquefaction.

Section 4. Joint Use Parking Agreement Approval.

As stated in M.M.C. Section 17.48.050(A)(1), the decision making body may approve parking on a separate lot, via a Joint Use Parking Agreement, under the following conditions (which are set forth in M.M.C. Section 17.48.040). The agreement will be between 22959 Pacific Coast Highway and 22969 Pacific Coast Highway, which are under common ownership. A deed restriction shall be recorded on the title of each property reflecting the permanent reciprocal parking agreement. The City Council finds that the evidence in the record supports the three following conditions.

JUPA Condition A. Up to one-half of the parking facilities required for a primarily daytime use may be used to meet the requirements of a primarily nighttime use and up to one-half of the parking facilities required for a primarily nighttime use may be used to meet the requirements of a primarily daytime use; provided, that such reciprocal parking arrangement shall comply with subsection C of this section.

The proposed hours of operation for the subject use are from 7:00 a.m. to 2:00 a.m. The adjacent property at 22959 Pacific Coast Highway is undeveloped with the exception of the parking lot historically used to provide parking for the Malibu Inn. However, an application (CDP No. 09-67) for a commercial building for that site has been submitted to the Planning Division. The new commercial building design will incorporate the required parking for any proposed office / retail use as well as maintain the required parking for the Malibu Inn pursuant to the joint use parking agreement.

Although the commercial building is not expected to be approved in the near future, staff has anticipated parking impacts during the course of construction and provided conditions of approval to maintain required parking. Parking displaced during construction would be temporarily relocated to the commercial / office building located at 22761 Pacific Coast Highway since it is also owned by the same owner as the Malibu Inn.

Historically, the heaviest parking demand at the Malibu Inn is primarily evenings and weekends. Commercial development on the adjacent parcel is anticipated to be either office or retail with primarily daytime operating hours. In addition, the 31 spaces required for the Malibu Inn will be supplementary to the parking spaces required for the new commercial development, so the uses will not be in conflict. Therefore, the reciprocal parking arrangement will comply with JUPA Condition C.

JUPA Condition B. The planning commission may reduce parking requirements for common parking facilities by up to 25 percent in shopping centers or other commercial areas where a parking lot with common access and joint use is provided.

The property owner has not requested to reduce the required parking spaces. The reciprocal parking agreement will provide additional parking spaces in excess of what is required for the proposed use.

JUPA Condition C. The parties concerned shall show that there is no substantial conflict in the principal operating hours of the building or uses for which the joint use is proposed and shall evidence agreement for such use by a proper legal instrument, to which the city is a party.

The subject property owner owns the subject property and the other commercial property involved in the joint use parking agreement. The subject property will operate from 7:00 a.m. to 2:00 a.m. daily, with live entertainment events primarily being held in the evenings. The other property is proposed to be office / retail uses with principal operating hours during the daytime. There will be no substantial conflict in the principal operating hours for the two properties. Prior to the approval of any project on the adjacent lot, all code required parking will need to be provided. A legal agreement between the City and the property owner is required as a condition of approval. The agreement will contain requirements for an annual review by the Planning Manager with authority to modify the agreement as necessary to maintain onsite parking arrangements.

Section 5. City Council Action.

Based on the record as a whole, including but not limited to all written and oral testimony offered in connection with this matter, the City Council hereby denies Appeal No. 10-002 and approves Conditional Use Permit No. 09-009 and Joint Use Parking Agreement No. 10-001 to permit the operation of the Malibu Inn at 22969 Pacific Coast Highway, subject to the conditions set forth herein.

Section 6. Conditions of Approval.

Standard Conditions

1. The applicants and 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. This approval is to allow for the following:
 - a. Operation of a restaurant with live entertainment;
 - b. Maximum dining seating capacity of 94 patrons and maximum event capacity of 340 patrons;
 - c. Service of distilled liquor;
 - d. Interior improvements including:
 - i. Replacing existing flooring,
 - ii. Refinishing the bars,

- iii. Upgrading televisions,
 - iv. Changing furniture and lighting fixtures, and
 - v. Replacing windows with double pane soundproof glass; and
 - e. Joint use parking agreement between properties addressed as 22959 Pacific Coast Highway and 22969 Pacific Coast Highway.
3. Subsequent submittals for this project shall be in substantial compliance with plans on-file with the Planning Division. In the event the project plans conflict with any condition of approval, the condition shall take precedence.
 4. This permit and rights conferred in this approval shall not be effective until the property owner signs and returns the Acceptance of Conditions Affidavit accepting the conditions set forth herein. The applicant shall file this form with the Planning Division within 10 days of this decision and prior to issuance of any development permits.
 5. This conditional use permit shall be reviewed on a semi-annual basis for the first year, and then on an annual basis thereafter, starting on November 22, 2010. At this time, the property owner shall provide evidence that the joint use parking agreement is still in effect. At least two weeks prior to the review date, the applicant shall pay the Planning Division staff site inspection fee in effect at the time of request for site inspection. A staff planner will conduct a site visit to verify compliance with the provisions set forth in this resolution. If necessary, the conditional use permit may be brought back to the Planning Commission for additional conditions to mitigate and/or prevent nuisances that were identified. Possible mitigation measures can include:
 - a. Modifying the hours of operation;
 - b. Restricting alcohol service;
 - c. Hiring additional security personnel;
 - d. Prohibiting music;
 - e. Installing noise mitigating measures / devices; or
 - f. Other measures deemed necessary by the Planning Commission.
 6. Any questions of intent or interpretation of any condition of approval will be resolved by the Planning Manager upon written request of such interpretation.
 7. All interior tenant improvements shall conform to requirements of the City of Malibu Environmental and Building Safety Division, City Environmental Health Administrator and City Public Works Department, as applicable. Notwithstanding this review, all required permits shall be secured.
 8. Minor changes to the approved plans or the conditions of approval may be approved by the Planning Manager, provided such changes achieve substantially the same results and the project is still in compliance with the M.M.C. Revised plans reflecting the minor changes and additional fees shall be required.

Site Specific Conditions

Fire Department

9. All applicable requirements of the Los Angeles County Fire Department Land Development Unit – Fire Prevention Division set forth in the review sheet dated February 18, 2010 shall apply.

Environmental Health

10. Except as specifically required by the conditions of approval, no renovation of the septic tank and drainfield system is required. The City Environmental Health Administrator's approval dated May 13, 2010, does not represent an expansion, modification or change in the type or intensity of use of the existing onsite wastewater treatment system.
11. The piping connections between the grease interceptor, septic tanks and distribution boxes shall be brought into conformance with the Malibu Plumbing Code (MPC). Prior to the authorization to operate the restaurant during dinner and/or nightclub hours, a piping plan shall be submitted for review and approval, and a final construction permit shall be submitted to the Environmental Health Administrator.
12. The subject Environmental Health approval pertains only to the use of the premises not to exceed 94 restaurant seats, 340 nightclub patrons and 565 square feet of retail space.

Sheriff's Department

13. The property owner shall be required to notify the Sheriff's Department (Malibu / Lost Hills Station) and the City of Malibu of any live entertainment event (including DJs) scheduled to take place within the Malibu Inn, especially pertaining to live bands, no less than three days prior to the event. If the property owner books a larger event (in excess of 100 attendees), the property owner shall discuss potential requirements for contracting for a law enforcement presence to handle any crowd and traffic control with the Sheriff's Department. Additionally, the plan shall include a contact phone number of an individual who will be available during entertainment events to address complaints.

Joint Use Parking Agreement

14. The property at 22959 Pacific Coast Highway shall serve as a donor site for no less than 31 parking spaces for the subject property at 22969 Pacific Coast Highway. A legal agreement (Joint Use and Common Parking Facilities Agreement) between the City and the property shall be required. The agreement shall be submitted to the City prior to the commencement of alcohol service and shall contain requirements for an annual review by the City Planning Manager with authority to modify the agreement as necessary to maintain onsite parking

arrangements. A deed restriction shall be recorded on the title of each property reflecting the permanent reciprocal parking agreement. Should the 31 offsite parking spaces at any point be provided elsewhere, the legal agreement shall be amended to reflect the new offsite parking location. The 31 parking spaces at 22959 Pacific Coast Highway may be reallocated to any future development on this site.

15. An amendment to the conditions set forth in the CUP shall be required if there is a proposed change to the joint use parking agreement.

Operations

16. The approved hours of operation are from 7:00 a.m. to 12:00 a.m. on Sundays, Mondays, Tuesdays and Wednesdays and from 7:00 a.m. to 2:00 a.m. on Thursdays, Fridays and Saturdays, with the exception that the use may be open until 2:00 a.m. only on those Sundays when the following Monday is a federal holiday. Closure must be complete and all employees must vacate the premises no more than one hour after closing, daily. No after hours operation shall be permitted.
17. The approved hours for alcohol sales are from 7:00 a.m. to 11:00 p.m. on Sundays, Mondays, Tuesdays and Wednesdays and from 7:00 a.m. to 1:00 a.m. on Thursdays, Fridays and Saturdays, with the exception that alcohol may be served until 1:00 a.m. only on those Sundays when the following Monday is a federal holiday.
18. A maximum of 94 seats for dining are approved under this permit. The maximum interior and exterior occupancy for entertainment events is 340 patrons.
19. Live entertainment events shall be limited to a maximum of two large events (defined as events with 100 or more attendees) and eight small events (events with less than 100 attendees) per month.
20. Valet parking must be provided for all events with 100 or more attendees.
21. No exterior activity such as trash disposal, recycling pickup, delivery trucks or exterior maintenance is permitted onsite between the hours of 10:00 p.m. and 7:00 a.m. Additionally, bottles and glass containers shall not be emptied into outdoor trash or recycling bins between 10:00 p.m. and 7:00 a.m.
22. This CUP permits the sale of distilled spirits as well as beer and wine with a Type 47 License. The property owner / operator shall obtain all necessary approvals from the California Department of Alcohol Beverage Control. Once obtained, the applicant is required to provide to the Planning Division a copy of the ABC issued On-Premise Consumption License.

23. Prior to the start of employment, employees that serve alcohol shall undergo an alcohol training program such as TIPS (Training for Intervention Procedures), designed to prevent intoxication, underage drinking and drunk driving. Evidence of completion of this training shall be submitted to the Planning Division.
24. This CUP permits live entertainment and dancing. Once obtained, the applicant is required to provide to the Planning Division a copy of the Los Angeles County Sheriff's Department Entertainment License.
25. No live entertainment is permitted on the exterior patio at any time. Low level amplified music is permitted on the patio during the hours of 7:00 a.m. to 10:00 p.m., daily. Unnecessary and boisterous noise from the patio between the hours of 10:00 p.m. and 2:00 a.m. shall be prohibited.
26. Prior to the commencement of alcohol service, the property owner / operator shall install small signs in the interior of the business on or near the exit doors requesting that patrons not loiter outside and be courteous and quiet when leaving the building and parking areas.
27. All exterior doors shall remain closed when not being used for ingress/egress purposes. The property owner shall install self-closing door mechanisms on all exterior doors.
28. Noise emanating from the premises shall not be plainly audible at a distance of five feet of any residential dwelling unit between 10:00 p.m. and 7:00 a.m., as required by M.M.C. Section 8.24.050(L).
29. The property owner / operator (or designated representative) shall monitor the noise levels adjacent to nearby residences to check compliance with City noise regulations (i.e. the noise should not be plainly audible within five feet of any residential dwelling unit). If the property owner / operator (or designated representative) determines that the noise level exceeds City noise regulations, they shall immediately notify the musicians to reduce noise levels in compliance with City noise regulations.
30. The property owner / operator shall adhere to a "good neighbor" policy, meaning that the operator and employees must respect the rights of neighboring properties and, to the best of their ability, shall ensure their patrons' compliance with the City's noise and smoking regulations and any applicable conditions of approval for the subject use relating to parking, smoking, litter, noise, loitering, etc.
31. Pursuant to M.M.C. Section 9.34.020, smoking is prohibited in all outdoor dining areas located on private or public property, including the public right-of-way. Smoking is also prohibited within 20 feet of an outdoor dining area, except while actively passing by on the way to another destination.

32. Per M.M.C. Section 9.34.030, the property owner shall post and maintain “no smoking” signs in conspicuous locations within the outdoor dining area. All such signs shall: 1) be no greater than one square foot in size; 2) be prominently displayed; 3) clearly state “no smoking” and/or use the international “no smoking” symbol; and 4) reference M.M.C. Section 9.34.020.
33. Prior to commencement of alcohol service, a final security plan shall be submitted to the City Environmental and Community Development Department and the Los Angeles County Sheriff’s Department for review and approval. The plan shall address both physical and operational security issues and shall be no less stringent than the plan submitted to the City on September 7, 2010. Additionally, the plan shall include a contact phone number of an individual who will be available during entertainment events to address complaints. Evidence of the Sheriff’s Department approval of the plan shall be provided to the City.
34. The property owner / operator (or designated representative) shall regularly monitor the area outside of the restaurant to ensure peace and quiet. Security personnel shall be provided seven days a week from 9:00 p.m. to closing to ensure that noisy patrons leaving the establishment will not adversely affect the welfare of neighborhood residents.
35. At the close of business each day, the property owner / operator shall clean up any litter or any other items that were likely to have been left by patrons of the subject establishment found on the subject property or along the public right-of-way.
36. No sign shall be illuminated after 11:30 p.m., or close of business, whichever occurs last.
37. Any proposed structural changes to the existing signs shall require review for the requirements set forth in M.M.C. Chapter 17.52 (Signs).
38. Window or other signage visible from the public right-of-way that advertises beer or alcohol shall not be permitted.
39. No restaurant, food packager, retail food vendor, vendor or nonprofit food provider shall provide prepared food to its customers in any food packaging that utilizes expanded polystyrene. “Expanded polystyrene” means and includes blown polystyrene and expanded and extruded foams (sometimes incorrectly called Styrofoam®, a Dow Chemical Company trademarked form of polystyrene foam insulation) which are thermoplastic petrochemical materials utilizing a styrene monomer and processed by any number of techniques including, but not limited to, fusion of polymer spheres (expandable bead polystyrene), injection molding, foam molding, and extrusion-blown molding (extruded foam polystyrene). Expanded polystyrene is generally used to make cups, bowls, plates, trays, clamshell containers, meat trays and egg cartons.
40. The property owner / tenant shall comply with the requirements set forth in M.M.C. Chapter

9.28 (Ban on Plastic Shopping Bags). No retail establishment, restaurant, vendor or nonprofit vendor shall provide plastic bags or compostable bags to customers. This requirement applies to plastic or compostable bags provided at the point of sale for the purpose of carrying away goods.

41. A copy of the conditions of approval must be kept on the premises and presented to the Los Angeles County Sheriff's Department upon request.
42. Parking displaced during any future construction on 22959 Pacific Coast Highway shall be temporarily relocated to the commercial / office building located at 22761 Pacific Coast Highway since it is owned by the same property owner (Kambiz Hakim) as the Malibu Inn. If this situation changes, alternate offsite parking arrangements will need to be coordinated with the Planning Manager prior to building permit issuance for development at 22959 Pacific Coast Highway.
43. Within 60 days of the issuance of the conditional use permit, an after-the-fact building permit shall be obtained for the retaining wall along the hillside at the rear of the property (as identified in Building Permit No. 02-0233), which creates the area for the planter.

Fixed Conditions

44. The conditions under which this conditional use permit was approved may be modified by the City of Malibu without the consent of the property owner or operator if the Planning Commission finds that the use is creating a nuisance.
45. A conditional use permit that is valid and in effect, and was granted pursuant to the provisions of the Malibu Municipal Code shall run with the land and continue to be valid upon change of ownership of the land or any lawfully existing building or structure on the land.
46. Violation of any of the conditions of approval shall be cause for revocation of the conditional use permit and termination of all rights contained therein.
47. This conditional use permit shall become null and void with the demolition of the building.
48. The conditional use permit shall be reviewed by the Planning Manager for compliance with the conditions of approval and a report shall be presented to the Planning Commission no earlier than three months from the date of issuance.
49. If it has cause to believe that grounds for revocation or modification may exist, the Planning Commission shall hold a public hearing upon the question or modification or revocation of this conditional use permit granted under or pursuant to the provisions of M.M.C. Section 17.66.100(C). If a hearing is required, the City shall notify the property owner / operator

more of the following conditions exists:

- a. The conditional use permit was obtained in a fraudulent manner.
- b. The use for which the conditional use permit was granted has ceased or was suspended for at least six successive calendar months.
- c. One or more of the conditions found within this resolution have not been substantially met.

Section 7. Certification.

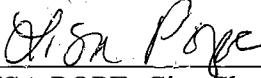
The City Clerk shall certify the adoption of this Resolution.

PASSED, APPROVED AND ADOPTED this 22nd day of November 2010.



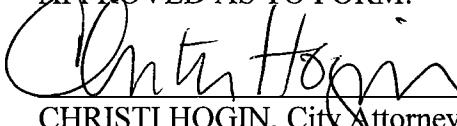
JEFFERSON WAGNER, Mayor

ATTEST:



LISA POPE, City Clerk
(seal)

APPROVED AS TO FORM:

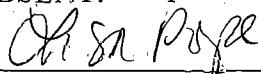


CHRISTI HOGIN, City Attorney

Any action challenging the final decision of the City made as a result of the public hearing on this application must be filed within the time limits set forth in Section 1.12.010 of the M.M.C. and Code of Civil Procedure. Any person wishing to challenge the above action in Superior Court may be limited to raising only those issues they or someone else raised at the public hearing, or in written correspondence delivered to the City of Malibu at or prior to the public hearing.

I CERTIFY THAT THE FOREGOING RESOLUTION NO. 10-59 was passed and adopted by the City Council of the City of Malibu at the regular meeting thereof held on the 22nd day of November, 2010, by the following vote:

AYES:	4	Councilmembers:	Conley Ulich, La Monte, Rosenthal, Sibert
NOES:	0		
ABSTAIN:	0		
ABSENT:	1	Councilmember:	Wagner



LISA POPE, City Clerk
(seal)

**CITY OF MALIBU PLANNING COMMISSION
RESOLUTION NO. 11-72**

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MALIBU APPROVING CONDITIONAL USE PERMIT AMENDMENT NO. 11-001 TO AMEND CITY COUNCIL RESOLUTION NO. 10-59 (CONDITIONAL USE PERMIT NO. 09-009) TO CHANGE THE MALIBU INN'S HOURS OF OPERATION FROM WHAT WAS APPROVED (7:00 A.M. TO 12:00 A.M. ON SUNDAYS THROUGH WEDNESDAYS AND 7:00 A.M. TO 2:00 A.M. ON THURSDAYS, FRIDAYS AND SATURDAYS, WITH THE EXCEPTION THAT THE USE MAY BE OPEN UNTIL 2:00 A.M. ONLY ON THOSE SUNDAYS WHEN THE FOLLOWING MONDAY IS A FEDERAL HOLIDAY) TO OPERATE BETWEEN THE HOURS OF 7:00 A.M. AND 2:00 A.M. DAILY AT 22969 PACIFIC COAST HIGHWAY (SKA GROUP LLC)

THE PLANNING COMMISSION OF THE CITY OF MALIBU DOES HEREBY FIND, ORDER AND RESOLVE AS FOLLOWS:

Section 1. Recitals.

A. On December 3, 2009, an application for Conditional Use Permit (CUP) No. 09-009 and Joint Use Parking Agreement (JUPA) No. 10-001 was submitted to the Planning Division to permit the operation of the Malibu Inn Restaurant at 22969 Pacific Coast Highway. The application was routed to the City Environmental Health Administrator, Los Angeles County Sheriff's Department (LACSD) and Los Angeles County Fire Department (LACFD) for Malibu Municipal Code (M.M.C.) conformance review.

B. On September 7, 2010, the Planning Commission held a duly noticed public hearing on the subject application to permit the Malibu Inn with live entertainment which will serve liquor, operate between the hours of 7:00 a.m. and 2:00 a.m., and have a maximum restaurant seating capacity of 94 patrons, a maximum capacity of 340 patrons for entertainment events and 565 square feet of retail space. At the conclusion of the hearing, the Planning Commission adopted Planning Commission Resolution No. 10-79 approving CUP No. 09-009 and JUPA No. 10-001.

C. On September 16, 2010, an appeal (Appeal No. 10-002) of the Planning Commission's approval was filed by Klaus Obermeyer and Robert J. Allan, who are both owners of residences located across Pacific Coast Highway and south of the subject property.

D. On November 22, 2010, the City Council held a duly noticed public hearing on the subject appeal, reviewed and considered the staff report, reviewed and considered written reports, public testimony, and other information in the record. At that meeting, the City Council denied the appeal and approved CUP No. 09-009; however, the Council revised the permitted hours of operation and alcohol sales.

E. City Council Resolution No. 10-59 indicates that the approved hours of operation for the Malibu Inn are from 7:00 a.m. to 12:00 a.m. on Sundays, Mondays, Tuesdays and Wednesdays and from 7:00 a.m. to 2:00 a.m. on Thursdays, Fridays and Saturdays, with the exception that the use may be open until 2:00 a.m. only on those Sundays when the following Monday is a federal holiday. Furthermore, the approved hours for alcohol sales are from 7:00 a.m. to 11:00 p.m. on Sundays, Mondays, Tuesdays and Wednesdays and from 7:00 a.m. to 1:00 a.m. on Thursdays, Fridays and Saturdays, with the exception that alcohol may be served until 1:00 a.m. only on those Sundays when the following Monday is a federal holiday.

F. During the City Council hearing, it was determined that no sooner than three months after the CUP had gone into effect, the applicant could return to the Planning Commission to petition for a change in the hours of operation and liquor sales. The CUP went into effect on April 13, 2011, as designed by the Malibu Inn's re-opening for events, setting the earliest potential follow-up date for a hearing at the Planning Commission for July 13, 2011.

G. On June 16, 2011, the property owners submitted an application for Conditional Use Permit Amendment (CUPA) No. 11-001 to extend the hours of operation to match what was originally approved by the Planning Commission in Planning Commission Resolution No. 10-79.

H. On June 23, 2011, a Notice of Public Hearing for July 19, 2011 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.

I. On June 28, 2011, the CUPA application was deemed complete.

J. The July 19, 2011 Planning Commission meeting was canceled due to a lack of quorum.

K. On August 2, 2011, the Planning Commission held a duly noticed public hearing on the subject amendment application, 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 has previously analyzed the proposal as described above. A CATEGORICAL EXEMPTION (CE No. 10-068) was previously prepared for CUP No. 09-009 pursuant to CEQA Guidelines Section 15301 – Existing Facilities.

The Planning Commission has found that the proposed amendment is listed among the classes of projects that have been determined not to have a significant adverse effect on the environment, and therefore, is exempt from the provisions of CEQA. Accordingly, a CATEGORICAL EXEMPTION will be prepared and issued for the amendment pursuant to CEQA Guidelines Section 15301 – Existing Facilities. 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. Findings of Fact.

1. Pursuant to Malibu Municipal Code (M.M.C.) Section 17.66.020, a CUP may be amended upon submittal of an application by the permittee. CUP No. 09-009 was approved by the Planning Commission on September 1, 2009. The decision of the Planning Commission was appealed and on November 22, 2010, the City Council denied the appeal and approved CUP No. 09-009 with limited hours of operation.

2. The LACSD and City of Malibu Code Enforcement have confirmed that since the re-opening of the Malibu Inn for entertainment, neither has received complaints from the public regarding its operations.

3. Staff completed a site inspection on June 24, 2011, and confirmed that all conditions of approval set forth in City Council Resolution No. 10-59 have been completed.

4. The proposed amendment will extend the hours of operation from 7:00 a.m. to 2:00 a.m. daily.

5. The proposed amendment does not affect any of the required M.M.C. findings for a conditional use permit. All findings and conditions for CUP No. 09-009 remain in effect and are incorporated herein by reference.

Section 4. Amendment of Conditional Use Permit.

Based on the record as a whole, including but not limited to all written and oral testimony offered in connection with this matter, and pursuant to M.M.C. Section 17.66.060, the Planning Commission approves CUPA No. 11-001, amending CUP No. 09-009, to change the Malibu Inn's hours of operation from what was approved (7:00 a.m. to 12:00 a.m. on Sundays through Wednesdays and 7:00 a.m. to 2:00 a.m. on Thursdays, Fridays and Saturdays, with the exception that the use may be open until 2:00 a.m. only on those Sundays when the following Monday is a federal holiday) to operate between the hours of 7:00 a.m. and 2:00 a.m. daily.

No other changes to the conditions contained in City Council Resolution No. 10-59 are made by this amendment and all other findings, terms and / or conditions contained in City Council Resolution No. 10-59 shall remain in full force and effect.

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 arising from the City's actions in connection with this resolution, 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 resolution. 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 resolution.

2. The approved hours of operation are from 7:00 a.m. to 2:00 a.m. daily. Alcohol service during hours of operation shall be regulated by California Department of Alcoholic Beverage Control (ABC) requirements. Closure must be complete and all employees must vacate the premises no more than one hour after closing, daily. No after hours operation shall be permitted.
3. All other conditions of City Council Resolution No. 10-59 are incorporated herein by reference.

Section 6. Certification.

The Planning Commission shall certify the adoption of this Resolution.

PASSED, APPROVED AND ADOPTED this 19th day of July 2011.


JEFFREY D. JENNINGS, Planning Commission Chair

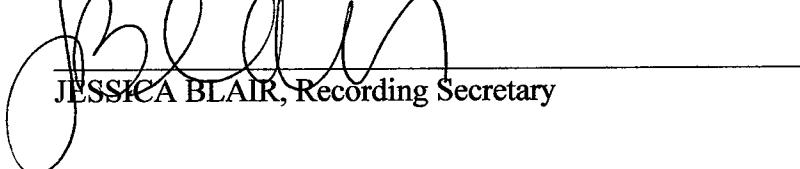
ATTEST:


JESSICA BLAIR, Recording Secretary

LOCAL APPEAL - Pursuant to Malibu Municipal Code Section 17.04.220 (Appeal of Action), 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 10 days and shall be accompanied by an appeal form and proper appeal fee. The appellant shall pay fees as specified in the Council adopted fee resolution in effect at the time of the appeal. Appeal forms and fee schedule may be found online at www.malibucity.org, in person at City Hall, or by calling (310) 456-2489, extension 245.

I CERTIFY THAT THE FOREGOING RESOLUTION NO. 11-72 was passed and adopted by the Planning Commission of the City of Malibu at the regular meeting thereof held on the 19th day of July 2011, by the following vote:

AYES: COMMISSIONERS: HOUSE, TOLEDO AND JENNINGS
NOES: COMMISSIONERS: MAZZA
ABSTAIN:
ABSENT: COMMISSIONERS: STACK

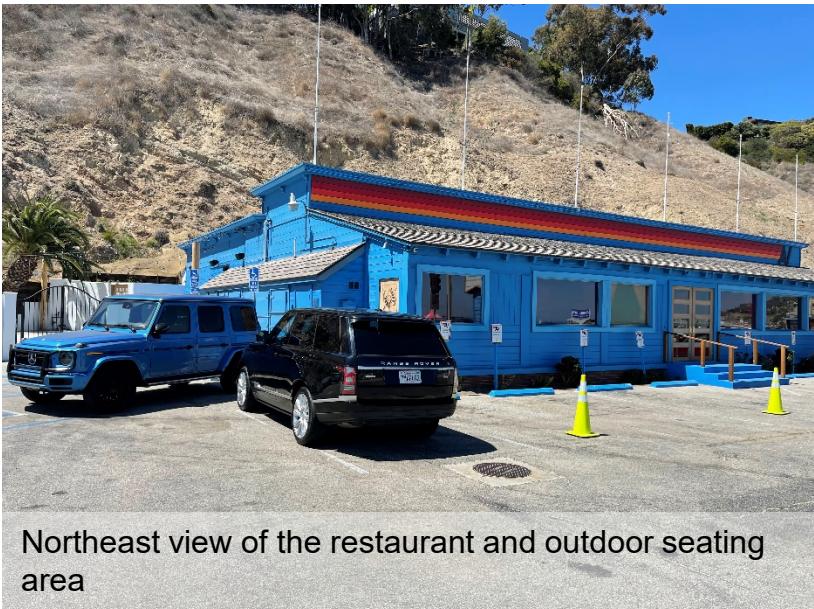

JESSICA BLAIR, Recording Secretary

Site

Photographs



Northeast view of the Malibu Inn, including existing restaurant and retail space



Northeast view of the restaurant and outdoor seating area

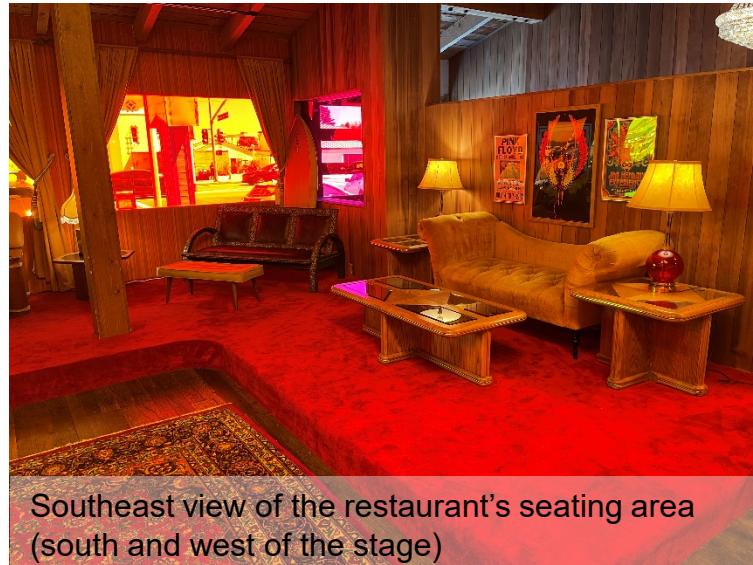


North view of the easterly side yard and retail space

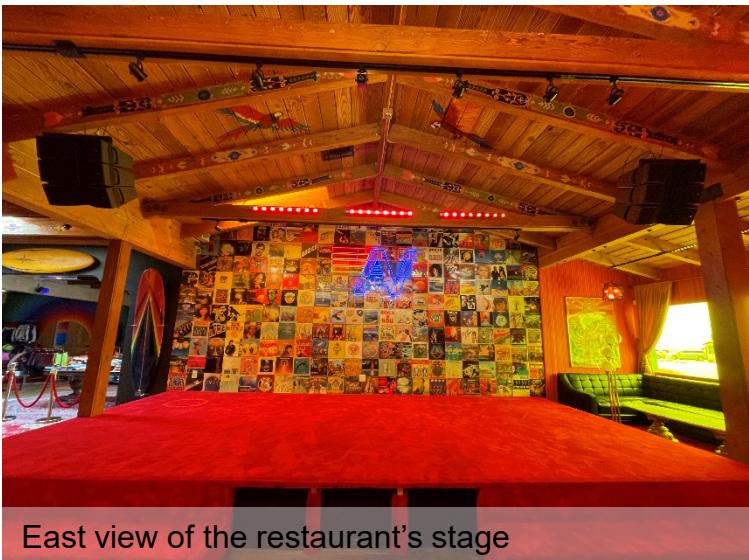
Site Photographs



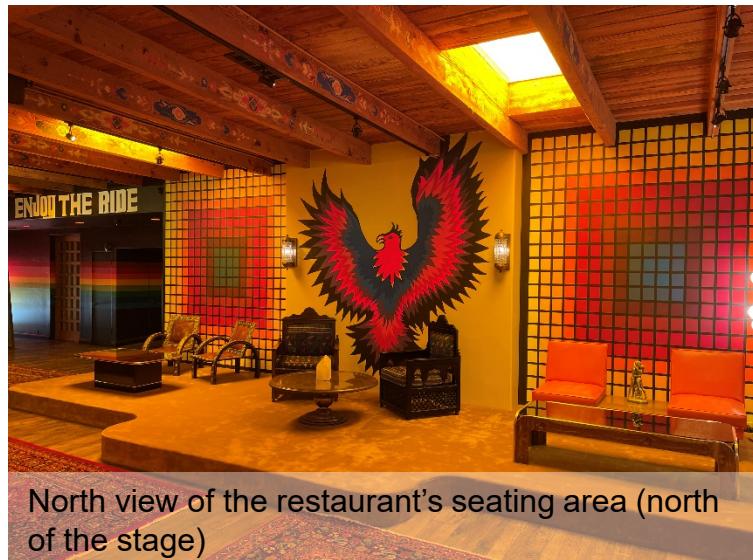
Southeast view of the restaurant's seating area
(south of the stage)



Southeast view of the restaurant's seating area
(south and west of the stage)



East view of the restaurant's stage



North view of the restaurant's seating area (north
of the stage)

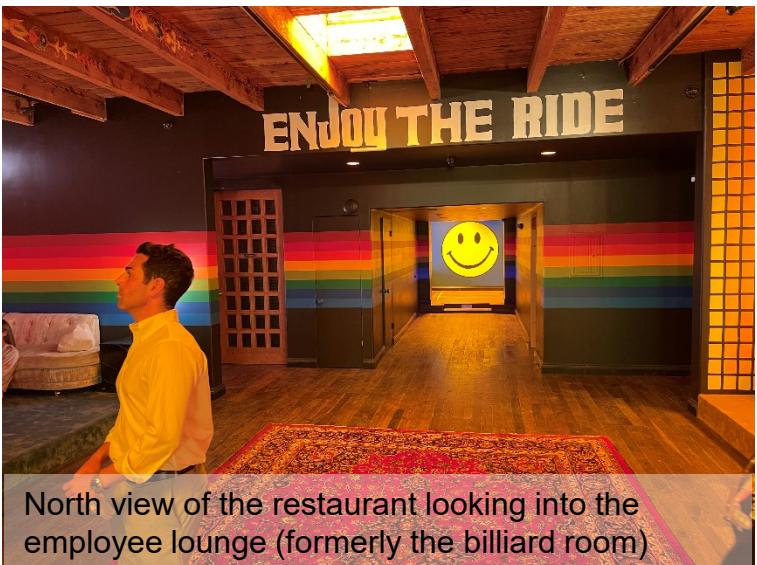
Site Photographs



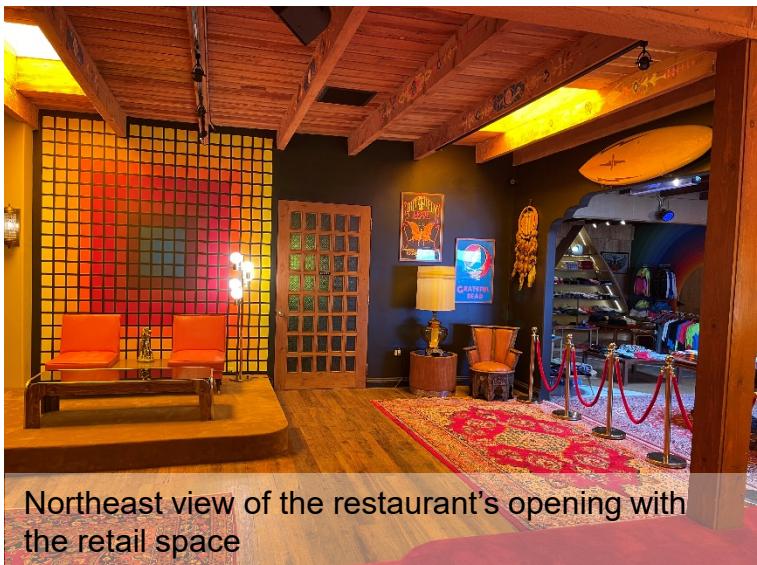
South view of the restaurant's seating area (just north of the entrance)



South view of the restaurant's seating area (southeast of the interior bar)



North view of the restaurant looking into the employee lounge (formerly the billiard room)



Northeast view of the restaurant's opening with the retail space

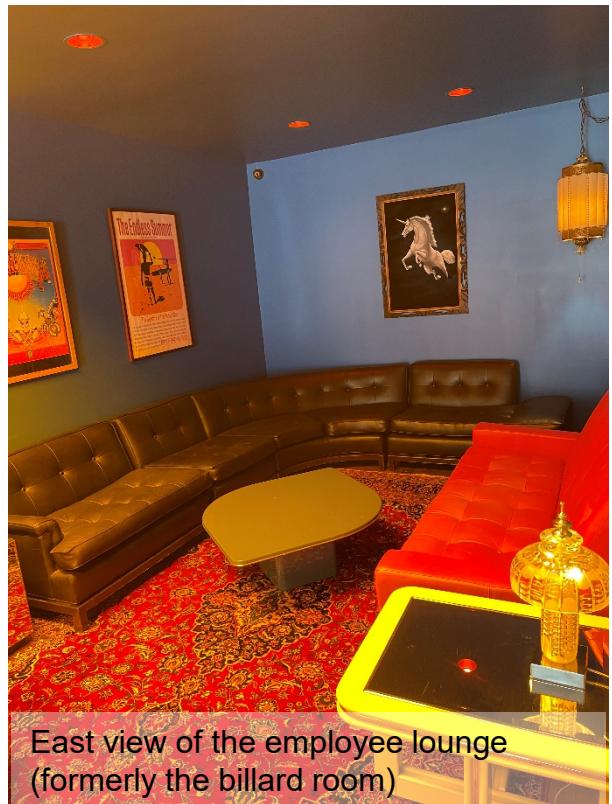
Site Photographs



North view hallway into the employee lounge (formerly the billiard room)



West view of the employee lounge
(formerly the billiard room)



East view of the employee lounge
(formerly the billiard room)



City of Malibu

23825 Stuart Ranch Rd., Malibu, California CA 90265-4861
(310) 456-2489 FAX (310) 317-1950

75

ENVIRONMENTAL HEALTH REVIEW REFERRAL SHEET

TO: City of Malibu Environmental Health Administrator DATE: 12/16/2013
FROM: City of Malibu Planning Department

PROJECT NUMBER: OC 13-250
JOB ADDRESS: 22969 PACIFIC COAST HWY
APPLICANT / CONTACT: Jose Iujvidin
APPLICANT ADDRESS: 2420 Sirius St
Thousand Oaks, CA 91360
APPLICANT PHONE #: (310)418-0766
APPLICANT FAX #: (310) 867-8582
APPLICANT EMAIL: jose@joseconsults.com
PROJECT DESCRIPTION: T.I.

TO: Malibu Planning Department and/or Applicant
FROM: Andrew Sheldon, City Environmental Health Administrator

An Onsite Wastewater Treatment System (OWTS) Plot Plan approval IS NOT REQUIRED for the project.

An OWTS Plot Plan approval IS REQUIRED for the project. DO NOT grant your approval until an approved Plot Plan is received. See conditions of approval below

A. Sheldon
SIGNATURE

DATE

12-18-2013

The applicant must submit to the City of Malibu Environmental Health Specialist to determine whether or not a Private Sewage Disposal System Plot Plan approval is required.

Andrew Sheldon, Environmental Health Administrator may be contacted Tuesday and Thursday from 8:00 am to 11:00 am, or by calling (310) 456-2489, extension 364.

CONDITIONS OF APPROVAL In addition to the conditions shown on the attached OWTS plot plan, the following conditions also shall apply: (1) Environmental Health final approval is required; (2) prior to Environmental Health final approval the applicant must submit a seating plan showing the distribution of a maximum of 92 restaurant seats in an alternative configuration that includes patio dining; (3) plans submitted for Building Plan Check and final Planning Department approval must show elimination of the banquet room in coordination with work being done under a separate permit (OC 13-230).

22969 PACIFIC COAST HIGHWAY
MALIBU, CA 90265

(OC 13-230 and 13-250)

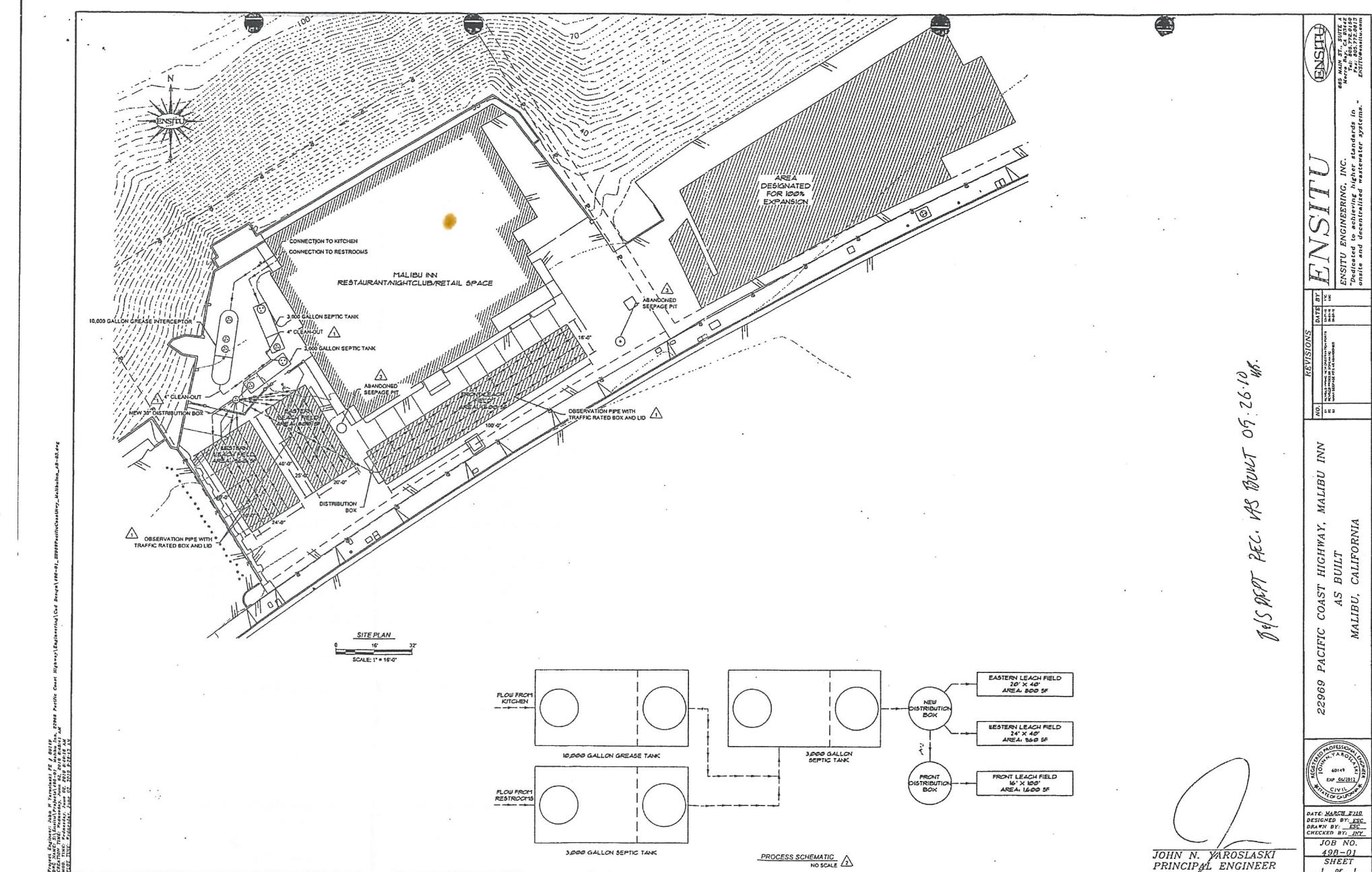
RESTURANT:	94 Seats - 92 Seats (R)
NIGHTCLUB:	340 Patrons - 300 Patrons (R)
RETAIL:	565 Sq Ft - 1636 Sq Ft
GREASE INTERCEPTOR:	1 - 10000 Gallon (E)
SEPTIC TANK:	1 - 3000 Gallon (E)
	1 - 3000 Gallon (E)
ACTIVE:	1 - 16' x 100' Drainfield (E)
	1 - 24' x 40' Drainfield (E)
	1 - 20' x 40' Drainfield (E)
FUTURE:	100% (Covenant to use adjacent property)
PERC RATE:	1.94 gpsf (Tested)
REFERENCE:	Ensitu Engineering: Existing OWTS evaluation reports dated 4-28-2010 and 12-6-2013

NOTES :

1. This conformance review is for a conditional use permit to operate a restaurant and nightclub. Except as required by the conditions shown below, no renovation of the septic tank and drainfield system is required. This work does not represent an expansion, modification or change in the type or intensity of use of the existing onsite wastewater treatment system.
 2. This review relates only to the minimum requirements of the City of Malibu Plumbing Code (MPC) and the Local Coastal Program (LCP), and does not include an evaluation of any geological or other potential problems, which may require an alternative method of wastewater treatment.
 3. This review is valid for one year, or until MPC, and/or LCP, and/or Administrative Policy changes render it noncomplying.

CONDITION OF APPROVAL:

1. The Planning Department shall review the existing Conditional Use Permit for the restaurant space to determine consistency with this Environmental Health approval.



8/26/21

From: Jason Ernst
To: Jason Ernst
Subject: FW: Comment Item # 1B - 1C
Date: Thursday, August 26, 2021 12:15:35 PM
Attachments: Screen Shot 2021-03-17 at 11.33.23 AM.png

Planning Dept.

From: [REDACTED]
Sent: Thursday, August 26, 2021 11:36 AM

To: Adrian Fernandez <afernandez@malibucity.org>; Patricia Salazar <psalazar@malibucity.org>
Subject: Comment Item # 1B - 1C

Please add this to Malibu Inn Hotel EIR Comments.

COMMENT ON MALIBU INN HOTEL.

Unfortunately, once again, our city has been presented with a staff report dismissing and understating the impacts of new development on Malibu. This project needs an EIR to study noise, traffic, and the impact of a combination of two venues next to each other. A nightclub next to a potential new hotel.

The Malibu Inn Hotel project is proposed at one of the busiest and most dangerous sections of PCH in Malibu. Across from the heavily populated pier, filled Surfrider Beach, the only fast-food spots in Malibu, close proximity to crowded Nobu, Soho House, Malibu Beach Inn, and busy public parking lots. The staff report states that this hotel will hold large events every weekend at the new rooftop bar. These will undoubtedly include weddings, parties, conventions which will bring in hundreds of new cars and yet - staff states only 14 AM and 16 PM new additional daily car trips. This claim flies in the face of the most basic logic and accuracy.

The proposed Project also includes a rooftop bar and pool area, with potential for noise generation, particularly during evening hours. During summer months, events held on the rooftop would be anticipated to occur more frequently, potentially with events or larger gatherings occurring almost every weekend. During winter months, it is anticipated that outdoor events would be less frequent. Any increased permanent noise during the operation of the Project would be controlled by the noise regulations contained in the MMC (Chapter 8.24). Ambient noise associated from the site would continue to be subordinate to noise levels in the existing environment, where ambient noise is dominated by traffic along PCH and nearby commercial areas, and the existing 40-space parking lot that generates ongoing user noise. The project site

Heavy haul trucks will need to run at least 600 - 875 loads to evacuate mounds of dirt on an already overrun PCH.

Approximately 394 cy of the excavated soil would be used as fill material onsite, while the remaining material (approximately 12,255 cy) would be exported from the project site via roughly 600 to 875 heavy haul trucks, depending on the size of trucks utilized (see Section J, below). The total area of ground disturbance would be 0.77 acre, or approximately 33,541 sf. As detailed in

While scaled-down hotels can have advantages, this project at this intersection could not possibly be proposed at a more disruptive location. There is no possible way that this new hotel, in this area, will not greatly impact and cause more disturbance on PCH for visitors and residents. And yet this staff claims this project "**would not result in any cumulative impacts**". This is a clear example of truth being understated and buried to serve developers, rather than data that protects the city and visitors on PCH.

Please unbury the truth and conduct a proper EIR. Protect this fragile city and Malibu's already overloaded infrastructure. Malibu must demand that a full and accurate traffic study is conducted that includes ingress and egress **of all uses** within a mile of this location including traffic from the pier, Nobu, Malibu Beach Inn,

public parking lot, Surfrider Beach, Jack In The Box, Serra entrance, etc.

Thank you for listening, please do the job of planning correctly.

Thank you,

Jae Flora-Katz

Date Received 8/26/2021 Time 11:36am
Planning Commission meeting of 8/26/21
Agenda Item No. 1B/1C
Total No. of Pages 2

Received

8/25/21

To: Planning Commission

Planning Dept.

From: Malibu Coalition for Slow Growth (MCSG) by Patt Healy

Re: item 1B Aviator Nation /Malibu Inn Motel Joint Use Agreement

Date 8-26-21

According to our count, the CUP incorrectly calculates the parking requirements for the restaurant and undercounts both seating area and the number of employees.

In addition, it only makes sense to enter into a new Joint Use Agreement only if the Motel is approved. Otherwise, there is no need to modify the Agreement to reduce the number of parking spaces at this time.

Any approval for reduced parking spaces should be contingent on the motel being constructed as proposed in the next agenda Item 1C.

Date Received 8/25/21 Time 11:12am

Planning Commission meeting of 8/26/21

Agenda Item No. 1B

Total No. of Pages 1

CC: Planning Commission, PD,

Recording Secretary, File

Aaron Gribben

Subject: FW: Correspondence: Malibu Inn and Malibu Inn Motel
Attachments: 22959 Traffic Referral 6.16.20.pdf; COA 22959 Pacific Coast Hwy_CDP 09-067 PW.pdf; CC101122 _Item4A.pdf; CC101122_Item 4A_Staff Presentation.pdf; 10-59.pdf; CC101122_Item 4A_Staff Presentation.pdf

Received

From: Adrian Fernandez <afernandez@malibucity.org>
Sent: Wednesday, August 25, 2021 10:59 AM
To: Planning Commissioners <planningcommissioners@malibucity.org>
Subject: Malibu Inn and Malibu Inn Motel

8/25/21

Planning Dept.

Hello Planning Commissioners,

So far there have been questions about adequate noticing and requests for additional information from some of you. Please note that the project was adequately noticed based on code requirements for both the CEQA document review and the public hearing. This project does not require a separate half page add in the newspaper because it is not requesting any amendments to the code unlike the Sea View Hotel and Malibu Country Inn.

Attached are the staff report, resolution and PowerPoint presentation for the original CUP granted for the Malibu Inn. Also, attached are the Public Works Department Review Sheets for the Malibu Inn Motel project. The review sheets were made available to the public using the same link in the agenda report for the initial study but for an unknown reason the Public Works Department Review Sheet attached to the report was corrupted and unreadable.

Link to Department Review Sheets and Initial Study:

<https://www.malibucity.org/810/Malibu-Inn-Motel>

Below are links to the Table 4-zz list and policy memo referenced in the report and initial study:

<https://www.malibucity.org/DocumentCenter/View/320/Projects-with-Entitlements?bidId=>

<https://www.malibucity.org/DocumentCenter/View/310/Environmental-Health-Review-for-Projects-within-the-Civic-Center-Prohibition-Area?bidId=>

Adrian Fernandez
Assistant Planning Director

Planning Department
City of Malibu
23825 Stuart Ranch Road
Malibu, CA 90265
(310) 456-2489, extension 482
Fax: (310) 456-7650
www.malibucity.org

Date Received 8/25/21 Time 10:59am
Planning Commission meeting of 8/26/21
Agenda Item No. 1B1C
Total No. of Pages 267

CC: Planning Commission, PD,
Recording Secretary, File

Connect with the City of Malibu!



Received

Aaron Gribben

9/6/21

Subject: Item 4D hotel and parking lot

Planning Dept.

From: Mark Wallace [REDACTED]

Sent: Monday, September 6, 2021 2:14 PM

To: Patricia Salazar <psalazar@malibicity.org>

Subject: Item 4D hotel and parking lot

I am disgusted that this project is being considered after the developers ignored the prerequisite of representative story poles to allow residents and interested parties to observe the impact of this proposed development. For the planning commission to allow this project to be considered without effective public observation is unconscionable and absolutely unacceptable. It's also unfair to residential builders and rebuilders that are required to place truly representative story poles and public notices.... Especially in such a critical location!!! The planning commission should be ashamed to allow this project to proceed after this suspicious and dubious beginning. It smacks of corruption and conspiracy. Please delay this projects progress until such time as the developers show proper respect and good faith to our community as is required by normal families that seek permits. To do otherwise is proof that the planning commission is merely a corrupt tool of wealthy commercial developers. Mark Wallace and family.

Realtor, Developer,
LA City Fire Captain
And Lifelong Malibu Resident

Date Received 9/6/21 Time 2:14PM
Planning Commission meeting of 9/8/21
Agenda Item No. 4C
Total No. of Pages 1

CC: Planning Commission, PD,
Recording Secretary, File

Aaron Gribben

Subject: Item 4D "motel" and 4C change in Malibu Inn Parking Received
9/7/21
From: Ali Mills [REDACTED]
Sent: Monday, September 6, 2021 10:26 PM Planning Dept.
To: Patricia Salazar <psalazar@malibicity.org>
Subject: Item 4D "motel" and 4C change in Malibu Inn Parking

This message is in response to the proposed hotel on PCH and the changes it will inflict on an already overcrowded, hazardous stretch of Malibu. I am opposed to this project and all related projects involving the construction of a motel on PCH.

The story poles that have gone up don't even represent a 1/4 of the developers own rendering of the property. Stop allowing developers to lie and cheat their way into extorting big money from our city.

Malibu's infrastructure cannot handle another influx of tourists in what is an already crammed, central Malibu bottleneck. The vehicle traffic and pedestrian traffic alone makes one wonder how much longer this city will even last in its current shape.

We have so many other problems on our plate as a city, please redirect resources that focus on our own citizens first, before worrying about where to house vacationers!

Sincerely,
Allison Mills

Date Received 9/6/21 Time 10:26pm
Planning Commission meeting of 9/8/21
Agenda Item No. 4C
Total No. of Pages 1

CC: Planning Commission, PD,
Recording Secretary, File

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Sincerely,
Allison Mills

Date Received 9/6/21 Time 10:26pm
Planning Commission meeting of 9/8/21
Agenda Item No. 4C
Total No. of Pages 1

CC: Planning Commission, PD,
Recording Secretary, File

Received

Aaron Gribben

9/6/21

Subject: Item 4D hotel and parking lot

Planning Dept.

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Sent: Monday, September 6, 2021 2:14 PM

To: Patricia Salazar <psalazar@malibicity.org>

Subject: Item 4D hotel and parking lot

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Realtor, Developer,
LA City Fire Captain
And Lifelong Malibu Resident

Date Received 9/6/21 Time 2:14PM
Planning Commission meeting of 9/8/21
Agenda Item No. 4C
Total No. of Pages 1

CC: Planning Commission, PD,
Recording Secretary, File

12/6/21

Planning Commission**Planning Dept.**

From: Mari Stanley [REDACTED]
Sent: Monday, December 6, 2021 3:23 PM
To: Planning Commission
Subject: Plng Comm mtg 12/6/21 - Item 4D & 4E RECUSAL OF JENNINGS FROM VOTING ON MATTERS

Hello,

I request that Chair Jennings make a disclosure this evening as to the firm he has hired to rebuild his Woolsey impacted home to ascertain if there could be a relationship issue that can be seen as improper or beholden to this project in the expected vote.

Burdge and Associates is a large firm that is handling many of the Woolsey fire rebuilds, I do believe this disclosure is necessary on all development proposals that come before the Planning Commission but in this case I flat out demand a transparent disclosure to insure that the community is assured of full transparency and adherence to the laws. We've already suffered the piss poor - sorry but that is exactly what went down and the applicant deserves no mincing about the disrespect shown by their lack of actions to present a true representation of the project - behavior of the applicant in past meetings and it has not been pretty nor has it advanced the reputation of the applicant's intentions for the community. I am leery and know that many others are as well.

Please exercise the utmost transparency in this project on all matters going forward, not simply this evening. Should never, ever have taken so much to get the story poles in compliance and for that alone I remain distrustful of both staff and applicant for so many other areas of concern - not the least being the separation of the excavations of the retaining wall and the underground area of the motel itself - combine those two to present the true excavation of the site that is involved in both agenda items this evening.

Thank you,
Mari Stanley
Zumirez Dr., Malibu, CA

CC: Planning Commission, PD,

Recording Secretary, File

Date Received 12/6/21 Time 3:23 PM
Planning Commission meeting of 12/6/21
Agenda Item No. 4D/4E
Total No. of Pages 1



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

PLANNING DEPARTMENT
NOTICE OF PUBLIC HEARING

22969 PCH



22959 PCH



NOTICE OF PUBLIC HEARING

The Malibu Planning Commission will hold a public hearing on **THURSDAY, August 26, 2021, at 6:30 p.m.** on the project identified below via teleconference only in order to reduce the risk of spreading COVID-19, pursuant to the Governor's Executive Orders N-25-20 & N-29-20 & the County of Los Angeles' Public Health Officer's Safer at Home Order.

CONDITIONAL USE PERMIT AMENDMENT NO. 13-006 AND JOINT USE PARKING AGREEMENT NO. 14-001 - An application to amend Conditional Use Permit No. 09-009 and Joint Use Parking Agreement (JUPA) No. 10-001 to allow the reduction of the restaurant service area in order to accommodate the creation of a new retail tenant space, and decrease the number of required off-site parking spaces in the JUPA to reflect the new number of required offsite parking spaces at an existing restaurant (Aviation Nation Dreamland)

LOCATION / APN / ZONING:

22969 Pacific Coast Highway / 4452-019-004/Commercial Visitor-Serving-One (CV-1)

APPLICANT / OWNER:

Steven Hakim

APPEALABLE TO:

City Council

ENVIRONMENTAL REVIEW:

Categorical Exemption CEQA Guidelines Section 15301

APPLICATION FILED:

December 11, 2013

For the project listed above with a categorical exemption for environmental review, pursuant to the authority and criteria contained in the California Environmental Quality Act (CEQA), the Planning Director has analyzed this proposed project and found that it 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. The Planning Director has further determined that none of the six exceptions to the use of a categorical exemption apply to this project (CEQA Guidelines Section 15300.2).

COASTAL DEVELOPMENT PERMIT NO. 09-067, CONDITIONAL USE PERMIT NO. 18-002, JOINT USE PARKING AGREEMENT NO. 18-001, INITIAL STUDY NO. 20-003, MITIGATED NEGATIVE DECLARATION NO. 20-003, VARIANCE NOS. 18-029, 18-030, 18-031 AND 20-035, AND SITE PLAN REVIEW NO. 20-025 - An application for the construction of a new 7,893 square foot, 20-room motel above a new subterranean parking garage, surface parking lot, rooftop deck with swimming pool, spa and bar area, grading, retaining walls, landscaping, a new onsite wastewater treatment system and authorization for the Planning Director to submit a letter of public convenience or necessity for the sale of alcohol; including a conditional use permit for a motel in the Commercial Visitor-Serving-One zoning district and sale of alcohol, a variance for non-exempt grading in excess of 1,000 cubic yards per acre of commercial development, a variance for construction on slopes steeper than 3 to 1, a variance for a retaining wall that is an integral part of the building in excess of 12 feet in height, a variance for surface parking within the required front yard setback, a site plan review for a building height in excess of 18 feet, not to exceed 24 feet for a flat roof, and a joint use parking agreement to share the parking spaces with the adjacent lot to the east (22969 Pacific Coast Highway – Malibu Inn)

LOCATION / APN / ZONING:

22959 Pacific Coast Highway / 4452-019-005 / Commercial Visitor-Serving-One (CV-1)

APPLICANT / OWNER:

Burdge and Associates Architects, Inc. / Surfrider Plaza, LLC

APPEALABLE TO:

City Council and California Coastal Commission

ENVIRONMENTAL REVIEW:

Initial Study/Mitigated Negative Declaration (SCH No. 2021020396) CEQA Guidelines 15164

APPLICATION FILED:

June 11, 2018

For the project listed above with an initial study for environmental review, pursuant to CEQA, the City adopted an initial study and mitigated negative declaration finding that the project would have no significant adverse effects on the environment (CEQA Guidelines Section 15070).

STAFF CONTACT CASE PLANNER: Adrian Fernandez, Assistant Planning Director, afernandez@malibucity.org (310) 456-2489, ext. 482

A written staff report will be available at or before the hearing for the project, typically 10 days before the hearing in the Agenda Center: <http://www.malibucity.org/agendacenter>. 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.

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. Appeal forms may be found online at www.malibucity.org/planningforms, in person, or by calling (310) 456-2489, ext. 245.

COASTAL COMMISSION APPEAL - For the project appealable to the Coastal Commission, an aggrieved person may appeal the Planning Commission's approval directly to the Coastal Commission within 10 working days of the issuance of the City's Notice of Final Action. More information may be found online at www.coastal.ca.gov or by calling 805-585-1800.

RICHARD MOLICA, Planning Director

Date: August 5, 2021

ATTACHMENT 8