

Commission Agenda Report

To: Chair Hill and Members of the Planning Commission

Prepared by: Tyler Eaton, Associate Planner

Approved by: Richard Mollica, Planning Director

Date prepared: March 10, 2022

Meeting date: March 21, 2022

Subject: Extension of Coastal Development Permit No. 15-057 – A request to extend the Planning Commission’s approval of an application for the construction of an underground soldier pile wall

Location: 25000 Pacific Coast Highway / APN 4458-015-009
25040 Pacific Coast Highway / APN 4458-015-007

Owners: 25000 PCH LLC and Malibu 2018 PCH LP

RECOMMENDED ACTION: Adopt Planning Commission Resolution No. 22-20 (Attachment 1) granting a one-year extension of Coastal Development Permit No. 15-057 to extend the Planning Commission’s approval to construct an underground soldier pile wall across two properties to stabilize a bluff slope and protect an existing single-family residence and surrounding downslope residentially developed properties, located in the Rural Residential-Two Acre zoning district at 25000 and 25040 Pacific Coast Highway (25000 PCH LLC and Malibu 2018 PCH LP).

DISCUSSION: Condition of Approval No. 7 in Planning Commission Resolution No. 18-81, which approved the project, states that the Coastal Development Permit (CDP) and associated requests shall expire if the project has not commenced within three years after final City action. Extension of a CDP may be granted by the approving authority for due cause. The item before the Commission is an extension request by the applicant. A complete project chronology, including the scope of work and approvals, is listed in Planning Commission Resolution No. 22-20.

The subject CDP was set to expire on December 17, 2021. On November 11, 2021, the applicant submitted an extension request to ensure a valid CDP permit remains active while the project team prepares to commence construction. The applicant has completed plan check with the Building Safety Division and permits for the work were issued on November 6, 2020. The project involves construction of a soldier pile wall between two

properties. Negotiations between the two owners over access has contributed to delays on the project. The two owners have since reached an agreement and have a plan to conduct the work which will commence once the extension is granted. The applicant's basis for due cause is included as Attachment 2. Per LCP Policy No. 5 (Coastal Development Permit Extensions), the aggregate life of a CDP shall not exceed five years absent extraordinary circumstances. A one-year extension to December 17, 2022 would be consistent with this policy and should give the applicant sufficient time to commence construction.

CONCLUSION: The project conditions, and the zoning ordinance under which the approval was issued, have not significantly changed. Upon the Planning Commission's approval of the time extension request, the approval set forth in Planning Commission Resolution No. 22-20 shall remain valid for an additional one-year term. The expiration date of this approval would then be December 17, 2022. All conditions of approval in Planning Commission Resolution No. 18-81 will remain in effect.

ATTACHMENTS:

1. Planning Commission Resolution No. 22-20
2. Time Extension Request
3. LCP Policy No. 5 (CDP Extensions)
4. Public Hearing Notice

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

CITY OF MALIBU PLANNING COMMISSION
RESOLUTION NO. 22-20

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MALIBU GRANTING A ONE-YEAR EXTENSION OF COASTAL DEVELOPMENT PERMIT NO. 15-057 TO EXTEND THE PLANNING COMMISSION'S APPROVAL TO CONSTRUCT AN UNDERGROUND SOLDIER PILE WALL ACROSS TWO PROPERTIES TO STABILIZE A BLUFF SLOPE AND PROTECT AN EXISTING SINGLE-FAMILY RESIDENCE AND SURROUNDING DOWNSLOPE RESIDENTIALLY DEVELOPED PROPERTIES, LOCATED IN THE RURAL RESIDENTIAL-TWO ACRE ZONING DISTRICT AT 25000 AND 25040 PACIFIC COAST HIGHWAY (25000 PCH LLC AND MALIBU 2018 PCH LP)

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

SECTION 1. Recitals.

A. On December 17, 2018, the Planning Commission adopted Resolution No. 18-81, determining the project categorically exempt from the California Environmental Quality Act and approving Coastal Development Permit No. 15-057.

B. On November 11, 2021, a time extension request was submitted to the Planning Department by Prism Permit Expediting for a one-year extension.

C. On February 24, 2022, a Notice of Public Hearing was mailed to all property owners and occupants within a 500-foot radius of the subject property. However, the notice was not published in a newspaper of general circulation and as such, the application was not properly noticed.

D. On March 7, 2022, due to an error in the noticing, the Planning Commission continued the hearing to the March 21, 2022 Regular Planning Commission meeting.

E. On March 10, 2022, a Notice of Planning Commission Public Hearing was published in a newspaper of general circulation and mailed to all property owners and occupants within a 500-foot radius of the property.

F. On March 21, 2022, the Planning Commission held a duly noticed public hearing on the subject time extension request, reviewed and considered the staff report, reviewed and considered written correspondence, public testimony, and other information in the record.

SECTION 2. Environmental Review.

Pursuant to the authority and criteria contained in the California Environmental Quality Act (CEQA), the Planning Commission previously determined the project to be categorically exempt pursuant to CEQA Guidelines Section 15304 (Minor Alterations to Land). As such, Categorical Exemption No. 17-162 was filed for Coastal Development Permit No. 15-057.

SECTION 3. Findings of Fact.

Pursuant to Local Coastal Program Local Implementation Plan Section 13.21, the Planning Commission, having considered the staff report, all written correspondence and oral testimony presented at the public hearing, hereby finds that the applicant has demonstrated due cause for the necessity of a time extension of the approval of the coastal development permit and associated requests.

SECTION 4. Planning Commission Action.

A. The approvals set forth in Planning Commission Resolution No. 18-81 are hereby extended for an additional one-year term. The approval is now set to expire on December 17, 2022.

B. No other changes to the conditions contained in Planning Commission Resolution No. 18-81 are made and all other findings, terms and/or conditions contained in Planning Commission Resolution No. 18-81 shall remain in full force and effect.

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

PASSED, APPROVED AND ADOPTED this 21st day of March, 2022.

KRAIG HILL, Planning Commission Chair

ATTEST:

REBECCA EVANS, Recording Secretary

LOCAL APPEAL - A decision of the Planning Commission may be appealed to the City Council by an aggrieved person by written statement setting forth the grounds for appeal. An appeal shall be filed with the City Clerk within 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. 22-20 was passed and adopted by the Planning Commission of the City of Malibu at the regular meeting thereof held on the 21st day of March, 2022, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

REBECCA EVANS, Recording Secretary

Prism Permit Expediting

PO Box 283, Malibu CA 90265
Email: sbeebe@prismpermits.com

Phone: 310-403-4365

November 5, 2021

Adrian Fernandez
Planning Department
City of Malibu
23825 Stuart Ranch Road
Malibu, CA 90265

Dear Adrian:

We are requesting an extension for CDP 15-057. The project involves slope protection measures that straddle the property line between 25000 and 25040 Pacific Coast Highway as you know given you are the project planner. The parties have been discussing and negotiating access to the site from one or the other property, which has been difficult and taken longer than expected. This has been exacerbated by the Pandemic. However, we now have a concrete plan to start this work in January or February 2022 weather permitting. We expect the work to take no longer than two weeks to one month.

There have been no changes in ownership since we got the CDP approved, and pulled the building permits (two because the project straddles both properties, so under building safety we had to pull two separate ones whereas the CDP was covered under one as the projects are both part of one). Ownership of the property at 25040 is now Mr. Katz, but I did provide you that when the ownership changed from Mr. Rappaport. Mr. Rappaport continues to maintain an interest in this property and project as well.

Please see enclosed Radius Maps update and reach out to me with any questions you may have regarding this matter. I may be reached at sbeebe@prismpermits.com or 310-403-4365.

Thank you for your time and consideration in this matter.

Sincerely,



Sharyl R. Beebe AICP, CERT



City of Malibu

Planning Department

November 13, 2017

LCP Policy 5: Coastal Development Permit Extensions

LIP Section 13.21 provides:

Unless the permit states otherwise, a coastal development permit shall expire two years from its date of approval if the development has not commenced during that time. The approving authority may grant a reasonable extension of time for due cause. Extensions shall be requested in writing by the applicant or authorized agent prior to the expiration of the two-year period.

Due cause shall generally not exist unless the applicant has demonstrated the following:

- There are extraordinary circumstances beyond the applicant's control that have prevented the applicant from commencing the development, such as financial hardship due to extreme economic conditions or job loss, inability to obtain a construction loan, personal reason, such as illness, divorce or death, restricted access to the property because of an existing lease or a necessary agency approval has not been obtained despite diligent efforts. Change of project ownership or architect and elective project redesigns do not by themselves constitute due cause; and
- The applicant has exercised due diligence in its efforts to commence the project, such as contracting for and completing necessary studies, reports, drawings and plans to pursue and complete the plan check process.

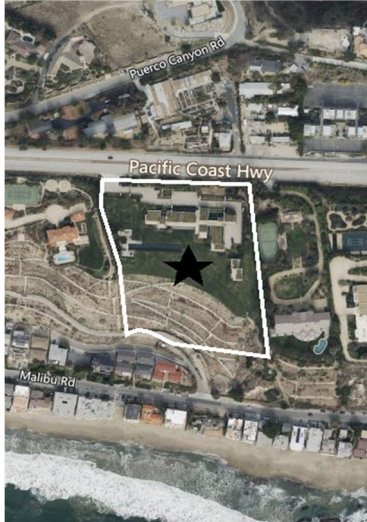
Absent extraordinary circumstances, the aggregate life of the permit shall not exceed five years.

ATTACHMENT 3



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

PLANNING DEPARTMENT
NOTICE OF PUBLIC HEARING



NOTICE OF PUBLIC HEARING

The Malibu Planning Commission will hold a public hearing on **Monday, March 21 2022, at 6:30 p.m.** for the project identified below which will be held via teleconference only in order to reduce the risk of spreading COVID-19 pursuant to AB 361 and the County of Los Angeles Public Health Officer's Safer at Home Order.

EXTENSION OF COASTAL DEVELOPMENT PERMIT NO. 15-057 - A request to extend the Planning Commission's approval of Coastal Development Permit No. 15-057, an application to construct an underground soldier pile wall across two properties

LOCATION / APN: 25040 and 25000 Pacific Coast Hwy / 4458-015-007 and 4458-015-009
ZONING: Rural Residential-Two Acre (RR-2)
APPLICANT / OWNER: Prism Permit Expediting, Inc. / Malibu 2018 PCH LP and 25000 PCH LLC
APPEALABLE TO: City Council
ENVIRONMENTAL REVIEW: Categorical Exemption CEQA Guidelines Section 15304
EXTENSION FILED: November 15, 2021
CASE PLANNER: Tyler Eaton, Associate Planner, teaton@malibucity.org
(310) 456-2489, ext. 273

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 at City Hall or by contacting the Case Planner. 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 - A decision of the Planning Commission may be appealed to the City Council by an aggrieved person by written statement setting forth the grounds for appeal. An appeal shall be filed with the City Clerk within ten days following the date of action which the appeal is made 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 or in person at City Hall, or by calling (310) 456-2489, extension 245.

RICHARD MOLLICA, Planning Director

Date: March 10, 2022