



# Commission Agenda Report

Planning Commission  
Meeting  
04-04-22

## Item 3.B.1.

To: Chair Hill and Members of the Planning Commission

Prepared by: Tyler Eaton, Associate Planner

Approved by: Richard Mollica, Planning Director

Date prepared: March 24, 2022

Meeting date: April 4, 2022

Subject: Extension of Coastal Development Permit No. 14-082 – A request to extend the Planning Commission’s approval of an application for the construction of a new single-family home, guest house, and associated development

Location: 30385 Morning View Drive

APN: 4469-016-006

Owners: Greg and Mica Belzberg

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**RECOMMENDED ACTION:** Adopt Planning Commission Resolution No. 22-33, granting a one-year time extension of Coastal Development Permit (CDP) No. 14-082 for the construction of a new one-story 8,473 square foot single-family residence 18 feet in height plus a basement, detached 891 square foot garage, one-story detached 466 square foot guest house, 466 square foot pool house, swimming pools, spa, tennis court; retaining walls, water feature, hardscape, driveway with a fire truck turnaround, vehicular gates and landscaping, and installation of a new onsite wastewater treatment system (OWTS) located in the Rural Residential-Two Acre (RR-2) zoning district at 30385 Morning View Drive (Belzberg).

**DISCUSSION:** Condition of Approval No. 7 in Planning Commission Resolution No. 18-03, which approved the project, states that the subject 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. 22-33 (Attachment 1).

The subject CDP was originally set to expire on January 16, 2021. On February 16, 2021, the Planning Commission approved a one-year extension of the CDP to January 16, 2022.

On January 10, 2022, the applicant submitted another extension request to ensure a valid CDP permit remains active while the project team prepares to commence construction of the single-family residence and associated development. The applicant is still working through the plan check process with the Building Safety Division but permits for the grading and retaining walls were issued on October 28, 2019. Construction for grading and retaining walls has commenced on the site. The project team experienced delays when unpermitted utilities were found onsite during grading. The team undertook time-consuming efforts with the utility companies to safely remove the utilities and redesign the site utility plan. Additional delays were incurred during the construction of site retaining walls when an error on the survey was discovered causing the applicant to have to redesign their approved site walls and deal with the legal implications with the survey company. Lastly, supply-chain issues related to Covid-19 have caused further delays of construction materials. The applicant's complete analysis for due cause is included as Attachment 2. Per Local Coastal Program (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 January 16, 2023 would be consistent with this policy and should give the applicant sufficient time to commence construction of the single-family residence.

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. 18-03 shall remain valid for an additional one-year term. The expiration date of this approval would then be January 16, 2023. All conditions of approval in Planning Commission Resolution No. 18-03 will remain in effect.

ATTACHMENTS:

1. Planning Commission Resolution No. 22-33
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. 22-33

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

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

SECTION 1. Recitals.

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

B. On February 16, 2021, a one-year time extension was granted by the Planning Commission extending the life of the CDP to January 16, 2022.

C. On January 10, 2022, an additional one-year time extension request was submitted to the Planning Department by the property owner.

D. On March 24, 2022, a Notice of Public Hearing was mailed to all property owners and occupants within a 500 foot radius of the subject property.

E. On April 4, 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 15303(a) - New Construction. As such, Categorical Exemption (CE) No. 17-136 was filed for CDP No. 14-082.

SECTION 3. Findings of Fact.

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

SECTION 4. Planning Commission Action.

A. The approvals set forth in Planning Commission Resolution No. 18-03 are hereby extended for an additional one-year term. The approval is now set to expire on January 16, 2023.

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

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

PASSED, APPROVED AND ADOPTED this 4<sup>th</sup> day of April, 2022.

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KRAIG HILL, Planning Commission Chair

ATTEST:

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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](http://www.malibucity.org), in person at City Hall, or by calling (310) 456-2489, extension 245.

I CERTIFY THAT THE FOREGOING RESOLUTION NO. 22-33 was passed and adopted by the Planning Commission of the City of Malibu at the regular meeting thereof held on the 4<sup>th</sup> day of April, 2022, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

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REBECCA EVANS, Recording Secretary



# City of Malibu

23825 Stuart Ranch Road · Malibu, California · 90265-4861  
Phone (310) 456-2489 · Fax (310) 456-3356 · [www.malibucity.org](http://www.malibucity.org)

## TIME EXTENSION REQUEST

The City of Malibu will not accept incomplete applications.

### Staff use only

Extension No. 22-002

### To submit a time extension request:

This time extension request must be timely received by the Planning Department either in person or by mail addressed to City of Malibu, Attn: Planning Department, 23825 Stuart Ranch Road, Malibu, CA 90265.

The request letter must be received **PRIOR** to the expiration date listed in the Notice of Decision or Planning Commission Resolution.

Project No.: CDP 14-082

Site Address: 30385 Morning View Drive

### *ALL of the following must be timely filed to perfect a time extension request.*

1. **Time Extension Checklist** \_\_\_\_\_

This form with property owner's signature

2. **Time Extension Request Letter** X

A letter setting forth due cause for the Planning Director / Commission to grant the time extension.

3. **Time Extension Fee (\$528)** \_\_\_\_\_

4. **Property Owner's /Occupant's Information** \_\_\_\_\_

Has the property owner or commercial occupant changed since the Planning Commission/ Planning Director granted the time extension?  YES  NO

If **YES**, Change of Property Owner/Occupant Fee applicable.

Property Owner's mailing Address: \_\_\_\_\_

Property Owner's telephone: \_\_\_\_\_

Property Owner's email address: \_\_\_\_\_

Occupant's mailing Address: \_\_\_\_\_  
\_\_\_\_\_

Occupant's telephone: \_\_\_\_\_

Occupant's email address: \_\_\_\_\_

**5. Applicant's Information**

Has the application representing the owner changed since the Planning Commission's/ Planning Director's approval or since the issuance of the last extension?  YES  NO

If **YES**, fill out the Authorization to Submit Project section of this form.

Applicant's mailing address: \_\_\_\_\_  
\_\_\_\_\_

Applicant's telephone: \_\_\_\_\_

Applicant's email address: \_\_\_\_\_

**6. Certified Public Notice Property Owner & Occupant Mailing Address and Radius Map**

X

Not required for Administrative Plan Review approvals in which a discretionary request (e.g. site plan review) was not included.

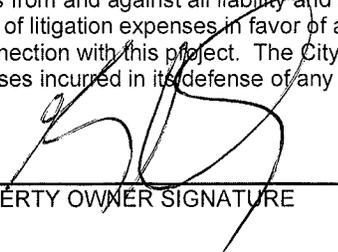
- The addresses of the property owners and occupants within the mailing radius shall be provided on a compact disc in a Microsoft Excel spreadsheet. The spreadsheet shall have the following column headers in row one: 1) name, 2) address, 3) city, state & zip code, and 4) parcel (for APN). The owners should be listed first followed by the occupants. The project applicant's mailing address should be added at the end of the list.
- An additional column for "arbitrary number" may be included if the supplied radius map utilizes such numbers for the purpose of correlating the addressee to their map location.
- Printouts of the excel spreadsheet and radius map, certified by the preparer as being accurate, must be provided.
- The radius map (8½" x 11") shall show a 500 foot radius\* from the subject property and must show a minimum of 10 developed properties. A digital copy of the map shall be submitted on the same cd as the mailing addresses.

\*Properties zoned RR-10, RR-20, or RR-40 require a 1,000-foot radius notification.

\*\*Note that updated mailing labels may be requested by the project planner prior to deeming the application complete.

**Indemnification Clause**

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.

  
\_\_\_\_\_  
PROPERTY OWNER SIGNATURE

GREG BELZBERG  
\_\_\_\_\_  
PROPERTY OWNER NAME (PRINT)

02/08/2022  
\_\_\_\_\_  
DATE

**AUTHORIZATION TO SUBMIT A PROJECT**

\_\_\_\_\_ (print name) is authorized by me/us as the owner(s) of the property located at \_\_\_\_\_, to submit an application to and obtain permits from the City of Malibu Planning Department and to act on my/our behalf of the process that applicant. This authorization will be valid until revoked by me/us in writing.

This form must be notarized if not witnessed by City of Malibu staff.

**Witnessed by:**

**Dated:** \_\_\_\_\_

\_\_\_\_\_  
Witness Signature (Staff)

\_\_\_\_\_  
Print Name

I hereby certify that the time extension request submittal contains all of the above items. I understand that if any of the items are missing or subsequently deficient, the time extension shall be deemed to have been withdrawn and the project approval will expire. I acknowledge that the City strongly encourages me to immediately calendar the expiration date of this permit, that it is my responsibility to monitor its status and that the City has no ability to provide relief when a permit has expired.

\_\_\_\_\_  
Property Owner's Signature

\_\_\_\_\_  
Print Property Owner's Name

\_\_\_\_\_  
Date

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

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

Dear Patricia,

Please accept this permit extension cover letter for CDP 14-082 at 30385 Morning View Drive, Malibu CA, 90265. The CDP was approved on January 16<sup>th</sup>, 2018, with an approved extension on February 16, 2021. It is our position that development has “Commenced” within the meaning of LIP section 13.21 and that the permit has now become vested. However, in an abundance of caution, the applicant seeks, in the alternative, to request that the City Planning Commission grant an extension of its CDP as due cause exists to support the request.

Since the project was approved, we have made significant strides to commence and complete work on the project. On 10/28/19 the Grading and Retaining wall permits were pulled, work commenced and continued through the present. Currently we have graded for the driveway, all the building pads, tennis court, garage, fire turnaround, and water feature; putting us on track to have rough grading signed off in the first quarter of the year. We have also completed roughly 700 linear feet of site walls and are following close behind our grading schedule with a completion date in the first half of the year. Since the project was approved the applicant has made significant strides to commence and complete work on the project.

During the same period of time, between 10/28/19 to 6/9/20, existing unpermitted utilities were found below grade within the driveway easement. We have been working with the necessary utility companies to safely turn off, move, and redesign the utility plan for this site. This process was extremely timely as it was unclear which neighboring homes were affected and required gaining approval from homeowners to commence work. In addition, we received a new approved plan from SCE providing new locations for all electrical underground work that does not interfere with neighboring utilities.

During the completion of this scope of work, we learned an incorrect site survey was performed by our original surveyor who measured from the wrong monument and thus not enough grading was done per our approved plan and the site and site walls were approximately two feet too high. We needed to grade an additional two feet and the site walls needed to be reduced in height by two feet in some locations. From October 2020 through to July 2021 we worked with the surveyor’s insurance company and attorneys to understand the cause of the error and to obtain reimbursement of costs related to the error. We were hesitant to move forward and disturb what was done until the issue was solved. We expected a much quicker resolution after the surveyor admitted fault.

A new Surveyor began identifying remediation points on March 4<sup>th</sup>. The surveyor’s insurance company changed their position on reimbursement, so we went to a mediation in April to try to

resolve the matter. The mediation and negotiations afterwards were unsuccessful. We filed for Arbitration in June and since it now seemed like it would take much longer to resolve, on July 5, 2021 we began work on the remediation as well as new electrical infrastructure work, with most of the remediation completed by October 2021. At that time the grading progressed beyond the remediation work. The claim was settled on 12/3/21.

Additionally, the on-going Covid-19 Pandemic has caused construction materials and labor shortages as well as delays in shipping and receiving of building materials and responses to the site from the utility companies. The hardships and delays we have experienced over the past couple of years have been onerous, unanticipated and very costly for us. That being said, rough grading and installation of the project's utilities and site walls is almost complete and we are nearly ready to pull our building permit to commence development of the residence. We thank the Commission for its consideration of the hardships we have experienced and we respectfully ask that you consider our request for permit extension and thank you very much for your time and consideration. .

Sincerely,

A handwritten signature in black ink, appearing to read "Greg & Mica Belzberg". The signature is fluid and cursive, with a large loop at the end.

Mr. & Mrs. Greg & Mica Belzberg



# City of Malibu

## Planning Department

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November 13, 2017

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

LIP Section 13.21 provides:

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

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

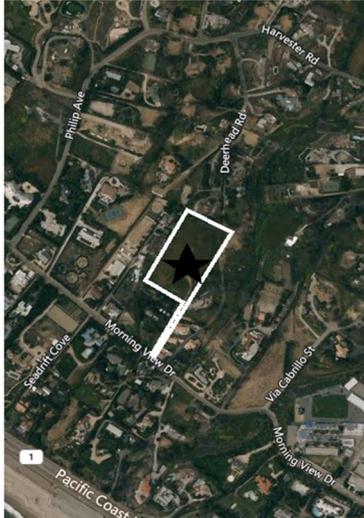
- There are extraordinary circumstances beyond the applicant's control that have prevented the applicant from commencing the development, such as financial hardship due to extreme economic conditions or job loss, inability to obtain a construction loan, personal reason, such as illness, divorce or death,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

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



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, April 4, 2022, at 6:30 p.m.** in the Council Chambers, Malibu City Hall, 23825 Stuart Ranch Road, Malibu, CA, for the project identified below.

**EXTENSION OF COASTAL DEVELOPMENT PERMIT NO. 14-082** - A request to extend the Planning Commission's approval of an application to construct a new one-story single-family residence and associated development

**LOCATION / APN / ZONING:** 30385 Morning View Dr / 4469-016-006 / Rural Residential-Two Acre (RR-2)  
**APPLICANT / OWNERS:** Greg and Mica Belzberg  
**APPEALABLE TO:** City Council  
**ENVIRONMENTAL REVIEW:** Categorical Exemption CEQA Guidelines Section 15303(a)  
**EXTENSION FILED:** February 16, 2022  
**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. Related documents are available for review at City Hall 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.

Extension requests will be presented on consent calendar based on staff's recommendation but any person wishing to be heard may request at the beginning of the meeting to have the application addressed separately. Please see the recording secretary before start of the meeting to have an item removed from consent calendar.

**LOCAL APPEAL** - A decision of the Planning Commission may be appealed to the City Council by an aggrieved person by written statement setting forth the grounds for appeal. An appeal shall be 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](http://www.malibucity.org/planningforms) or in person at City Hall, or by calling (310) 456-2489, extension 245.

RICHARD MOLLICA, Planning Director

Date: March 24, 2022