



Commission Agenda Report

Planning Commission
Meeting
02-21-23
**Item
3.B.2.**

To: Chair Smith and Members of the Planning Commission

Prepared by: Tyler Eaton, Senior Planner

Approved by: Richard Mollica, Planning Director

Date prepared: February 9, 2023 Meeting date: February 21, 2023

Subject: Extension of Coastal Development Permit No. 17-040, Variance Nos. 17-004, 17-005, 17-053 and 18-035, and Site Plan Review No. 17-015 – A request to extend the Planning Commission’s approval for construction of a new two-story, single-family residence and associated development

Location: 5180 Horizon Drive, partially within the appealable coastal zone

APN: 4469-005-019

Owner: 5180 Horizon LLC

RECOMMENDED ACTION: Adopt Planning Commission Resolution No. 23-07 (Attachment 1) granting a one-year time extension of Coastal Development Permit (CDP) No. 17-040 for the construction of a new 3,560 square foot, two-story, single-family residence, attached two-car carport, swimming pool, spa, decks, landscaping, hardscape, new onsite wastewater treatment system, and offsite private street improvements proposed adjacent to 5243 and 5246 Horizon Drive; including Variance (VAR) No. 17-004 to reduce the Environmentally Sensitive Habitat Area buffer, VAR No. 17-005 for a greater than 50 percent reduction of the front yard setback, VAR No. 17-035 for construction on slopes steeper than 2.5 to 1, VAR No. 18-035 for a reduction in the parkland setback and Site Plan Review No. 17-015 for construction up to 28 feet in height with pitched roofs for the residence located in the Rural Residential-Two Acre zoning district at 5180 Horizon Drive (5180 Horizon LLC).

DISCUSSION: On January 6, 2020, the Planning Commission adopted Resolution No. 20-05, approving the subject application. Pursuant to Local Coastal Program Local Implementation Plan Section 13.21, Condition of Approval No. 7 in Planning Commission Resolution No. 20-05 states that the CDP and associated requests shall expire if the project has not commenced within three years after final City action. Extension of the

permit 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 of the project, including scope of work and approvals, can be found in Planning Commission Resolution No. 23-07.

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 would be consistent with this policy. The subject CDP was set to expire on January 6, 2023. On January 4, 2023, the applicant submitted an extension request to ensure a valid CDP permit remains in place while the project is going through building plan check review. The Planning Commission approved the project two months prior to the beginning of the COVID-19 pandemic, and according to the applicant, the fields of development (engineering and construction) were impacted. Preparation and submittal of required plans and documents were delayed due to slower turnaround times. The project is currently in the second round of corrections of building plan check review and the applicant would like to commence construction after obtaining permits. The applicant's basis for due cause is included as Attachment 2.

CONCLUSION: The project conditions, and the zoning ordinance under which the approval was issued, have not significantly changed¹. Upon the Planning Commission's approval of the time extension request, the approval set forth in Planning Commission Resolution No. 20-05 shall remain valid for an additional one-year term. The Planning Commission approved Resolution The expiration date of this approval would then be January 6, 2024. All conditions of approval in Planning Commission Resolution No. 20-05 will remain in effect.

ATTACHMENTS:

1. Planning Commission Resolution No. 23-07
2. Time Extension Request
3. LCP Policy No. 5 (CDP Extensions)
4. Public Hearing Notice

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

¹ In July 2007, the City Council adopted Ordinance No. 315 which adopted new basement standards. This project was approved after the ordinance took effect; therefore, the project meets current basement standards.

CITY OF MALIBU PLANNING COMMISSION
RESOLUTION NO. 23-07

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MALIBU GRANTING A ONE-YEAR TIME EXTENSION OF COASTAL DEVELOPMENT PERMIT NO. 17-040 FOR THE CONSTRUCTION OF A NEW 3,560 SQUARE FOOT, TWO-STORY, SINGLE-FAMILY RESIDENCE, ATTACHED TWO-CAR CARPORT, SWIMMING POOL, SPA, DECKS, LANDSCAPING, HARDSCAPE, NEW ONSITE WASTEWATER TREATMENT SYSTEM, AND OFFSITE PRIVATE STREET IMPROVEMENTS PROPOSED ADJACENT TO 5243 AND 5246 HORIZON DRIVE; INCLUDING VARIANCE NO. 17-004 TO REDUCE THE ENVIRONMENTALLY SENSITIVE HABITAT AREA BUFFER, VARIANCE NO. 17-005 FOR A GREATER THAN 50 PERCENT REDUCTION OF THE FRONT YARD SETBACK, VARIANCE NO. 17-035 FOR CONSTRUCTION ON SLOPES STEEPER THAN 2.5 TO 1, VARIANCE NO. 18-035 FOR A REDUCTION IN THE PARKLAND SETBACK AND SITE PLAN REVIEW NO. 17-015 FOR CONSTRUCTION UP TO 28 FEET IN HEIGHT WITH PITCHED ROOFS FOR THE RESIDENCE LOCATED IN THE RURAL RESIDENTIAL-TWO ACRE ZONING DISTRICT AT 5180 HORIZON DRIVE (5180 HORIZON LLC)

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

SECTION 1. Recitals.

A. On January 6, 2020, the Planning Commission adopted Planning Commission Resolution No. 20-05, approving Coastal Development Permit No. 17-040, for the construction of a new 3,560 square foot, two-story, single-family residence, attached two-car carport, swimming pool, spa, decks, landscaping, hardscape, new onsite wastewater treatment system, and offsite private street improvements proposed adjacent to 5243 and 5246 Horizon Drive; including Variance (VAR) No. 17-004 to reduce the Environmentally Sensitive Habitat Area buffer, VAR No. 17-005 for a greater than 50 percent reduction of the front yard setback, VAR No. 17-035 for construction on slopes steeper than 2.5 to 1, VAR No. 18-035 for a reduction in the parkland setback and Site Plan Review No. 17-015 for construction up to 28 feet in height with pitched roofs.

B. On January 4, 2023, the applicant submitted a time extension request.

C. On January 26, 2023, 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.

D. On February 21, 2023, the Planning Commission held a duly noticed public hearing on the request, reviewed and considered the agenda 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) and 15303(e) - New Construction.

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. 20-05 are hereby extended for an additional one-year term. The approval is now set to expire on January 6, 2024.

B. No other changes to the conditions contained in Planning Commission Resolution No. 20-05 are made and all other findings, terms and/or conditions contained in Planning Commission Resolution No. 20-05 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 February, 2023.

DENNIS R. SMITH, 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.

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 MMC 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. 23-07 was passed and adopted by the Planning Commission of the City of Malibu at the regular meeting thereof held on the 21st day of February, 2023, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

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

SCANNED
JAN 06 2023

RECEIVED
JAN 04 2023
PLANNING DEPT.

TIME EXTENSION REQUEST

The City of Malibu will not accept incomplete applications.

Staff use only

Extension No. 23-001

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 17-040

Site Address: 5180 HORIZON DR. MALIBU, CA 90265

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** _____
A letter setting forth due cause for the Planning Director / Commission to grant the time extension.
3. **Time Extension Fee (\$567)** _____
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

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

5180 HORIZON LLC
KARNIG DUKMAJIAN
PROPERTY OWNER NAME (PRINT)

1/4/23
DATE

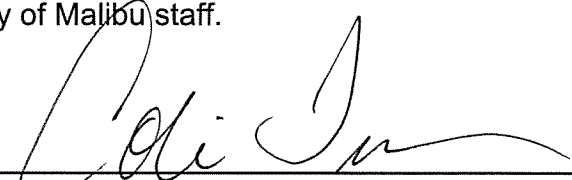
AUTHORIZATION TO SUBMIT A PROJECT

KARNIG DUKMAJIAN (print name) is authorized by me/us as the owner(s) of the property located at 5180 HORIZON DR., 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: 1/4/23




Witness Signature (Staff)

Coli Turner

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

5180 HORIZON LLC
KARNIG DUKMAJIAN

Print Property Owner's Name

1/4/23

Date

5180 Horizon LLC
[REDACTED]

January 4, 2023

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

Re: Time Extension Request for Coastal Development Permit (CDP) No. 17-040, for the project at 5180 Horizon Dr.

To Whom It May Concern:

The purpose of this letter is to request a time extension for the commencement of the project at 5180 Horizon Dr. Malibu, CA 90265, under Coastal Development Permit (CDP) No. 17-040.

The original City of Malibu Planning Commission Resolution approving the project was passed on January 6, 2020, just two months before the start of the worldwide COVID-19 pandemic which disrupted almost all aspects of everyday life. The fields of development, engineering, and construction were particularly affected, as most services were drastically slowed down, if not stopped completely. The preparation and submittal of the required plans and documents to move the project along were therefore delayed due to slower turnaround times from all parties involved.

Further, the property owner changed in September of 2021. The resulting due diligence, document reviews, and hiring of consultants to get the project back on track resulted in significant lost time.

We believe the reasons stated above provide due cause for the Planning Director or Commission to grant the time extension for this project. Permit applications for the project were submitted in August 2021 and the second round of corrections are almost complete. With the granted extension, we expect the project to therefore commence within several weeks.

Thank you and we look forward to hearing from the Planning Department.

Sincerely,


Karnig Dukmajian
President

Enclosure



City of Malibu

Planning Department

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 public hearings on **TUESDAY, February 21, 2023, at 6:30 p.m.** on the projects identified below. This meeting will be held via teleconference only in order to reduce the risk of spreading COVID-19 and pursuant to AB 361 and the County of Los Angeles Public Health Officer's Safer at Home Order. All votes taken during this teleconference meeting will be by roll call vote, and the vote will be publicly reported.

EXTENSION OF COASTAL DEVELOPMENT PERMIT NO. 17-040, VARIANCE NOS. 17-004, 17-005, 17-053 AND 18-035, AND SITE PLAN REVIEW NO. 17-015 - A request to extend the Planning Commission's approval of an application for construction of a new 3,560 square foot, two-story, single-family residence, attached two-car carport, swimming pool, spa, decks, landscaping, hardscape, new onsite wastewater treatment system, and offsite private street improvements proposed adjacent to 5243 and 5246 Horizon Drive; including variances to reduce the Environmentally Sensitive Habitat Area buffer, for a greater than 50 percent reduction of the front yard setback, for construction on slopes steeper than 2.5 to 1, for a reduction in the parkland setback; and a site plan review for construction up to 28 feet in height with pitched roofs

LOCATION / APN / ZONING: 5180 Horizon Dr / 4469-005-019 / Rural Residential-Two Acre (RR-2)
APPLICANT / OWNER: 5180 HORIZON LLC
APPEALABLE TO: City Council
ENVIRONMENTAL REVIEW: Categorical Exemption CEQA Guidelines Sections 15303(a) and 15303(e)
EXTENSION FILED: January 4, 2023
CASE PLANNER: Tyler Eaton, Senior 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 or in person at City Hall, or by calling (310) 456-2489, extension 245.

RICHARD MOLLICA, Planning Director

Date: January 26, 2023