



# Commission Agenda Report

Planning Commission  
Meeting  
05-01-23

**Item  
3.A.2.**

To: Chair Smith and Members of the Planning Commission

Prepared by: Adrian Fernandez, Assistant Planning Director

Approved by: Richard Mollica, Planning Director

Date prepared: April 20, 2023

Meeting date: May 1, 2023

Subject: Coastal Development Permit No. 05-081, Variance Nos. 09-023 and 16-024, and Site Plan Review No. 06-032 – An application for the construction of a new single-family residence and associated development

Location: 31864 Sea Level Drive, within the appealable coastal zone

APN: 4470-027-020

Owners: Narod Najarian and Garo Bedrossian

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**RECOMMENDED ACTION:** Adopt Planning Commission Resolution No. 23-03 (Attachment 1) determining the project is categorically exempt from the California Environmental Quality Act (CEQA), and approving Coastal Development Permit (CDP) No. 05-081 for the construction of a new 1,799 square foot, two-story single-family residence plus a 398 square foot attached garage and 995 square foot basement, 240 square foot ground floor deck, 349 square foot second floor deck, 125 square foot second floor balcony, permeable driveway and onsite wastewater treatment system (OWTS); including Variance (VAR) No. 09-023 for construction in a stream Environmentally Sensitive Habitat Area (ESHA) buffer, VAR No. 16-024 to allow for the septic system's dispersal field to extend into the required 100-foot setback from the creek, and Site Plan Review (SPR) No. 06-032 for height over 18 feet but not to exceed 26 feet, 2 inches for a pitched roof, in the Single-Family Medium Density (SFM) zoning district located at 31864 Sea Level Drive (Najarian and Bedrossian).

**DISCUSSION:** On the April 17, 2023, the Planning Commission held a duly noticed public hearing on the subject application, reviewed and considered the agenda report, reviewed and considered written reports, public testimony, and other information in the record. The Commission voted to bring back a revised resolution approving the proposed project as a consent item. Per the Commission's direction, Condition No. 12 of *Cultural Resources* has been revised to remove "down to three feet from existing grade" and Condition No. 28 of

*Site Specific Conditions* has been added requiring exterior lighting plan revisions to comply with the Dark Sky Ordinance. The revised resolution is attached for the Commission's consideration.

ATTACHMENT:

1. Planning Commission Resolution No. 23-03

CITY OF MALIBU PLANNING COMMISSION  
RESOLUTION NO. 23-03

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 COASTAL DEVELOPMENT PERMIT NO. 05-081 FOR THE CONSTRUCTION OF A NEW 1,799 SQUARE FOOT, TWO-STORY SINGLE-FAMILY RESIDENCE PLUS A 398 SQUARE FOOT ATTACHED GARAGE AND 995 SQUARE FOOT BASEMENT, 240 SQUARE FOOT GROUND FLOOR DECK, 349 SQUARE FOOT SECOND FLOOR DECK, 125 SQUARE FOOT SECOND FLOOR BALCONY, PERMEABLE DRIVEWAY AND ONSITE WASTEWATER TREATMENT SYSTEM; INCLUDING VARIANCE NO. 09-023 FOR CONSTRUCTION IN A STREAM ENVIRONMENTALLY SENSITIVE HABITAT AREA BUFFER, VARIANCE NO. 16-024 TO ALLOW FOR THE SEPTIC SYSTEM'S DISPERSAL FIELD TO EXTEND INTO THE REQUIRED 100-FOOT SETBACK FROM THE CREEK, AND SITE PLAN REVIEW NO. 06-032 FOR HEIGHT OVER 18 FEET BUT NOT TO EXCEED 26 FEET, 2 INCHES FOR A PITCHED ROOF, IN THE SINGLE-FAMILY MEDIUM DENSITY ZONING DISTRICT LOCATED AT 31864 SEA LEVEL DRIVE (NAJARIAN AND BEDROSSIAN)

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

SECTION 1. Recitals.

A. On April 26, 2005, an application for Coastal Development Permit (CDP) No. 05-081 was submitted to the Planning Department. Variance (VAR) Nos. 09-023 and 16-024, and Site Plan Review (SPR) No. 06-032 were subsequently assigned to the project. The application was routed to the City Biologist, City Environmental Health Administrator, City geotechnical staff, City Public Works Department and Los Angeles County Fire Department (LACFD) for review.

B. On May 12, 2020, a Notice of Coastal Development Permit Application was posted on the subject property.

C. On August 3, 2020, the Environmental Review Board (ERB) reviewed the project and made recommendations to the Planning Commission.

D. On January 18, 2022, Planning Department staff conducted a site visit after story poles representing the location, height and bulk of the proposed residential building were installed.

E. On January 19, 2022, staff deemed the application complete for processing.

F. On January 27, 2022, 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.

G. On February 22, 2022, the Planning Commission continued the subject item to a date uncertain.

H. On November 10, 2022, 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 December 5, 2022, prior to a public hearing, the Planning Commission granted a request from the applicant to continue the subject item to a date uncertain.

J. On January 12, 2023, 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.

K. On February 6, 2023, the Planning Commission held a duly noticed public hearing on the subject application and granted a motion to continue the item to the April 3, 2023 Regular Planning Commission meeting.

L. On April 3, 2023, the subject item was continued to the April 17, 2023 Regular Planning Commission meeting.

M. On April 17, 2023, 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. The Planning Commission directed staff to bring back a resolution approving the project with a new condition to revise the exterior lighting to comply with the Dark Sky Ordinance and a revision to the cultural resource monitoring.

N. On May 1, 2023, 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 exercised its independent judgment and analyzed the proposal as described above. The Planning Commission has 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 Sections 15303(a) and (e) — New Construction or Conversion of Small Structures. 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. Coastal Development Permit Findings.

Based on the evidence contained within the record, including the agenda report for the project and the hearing on April 17, 2023, and pursuant to Local Coastal Program (LCP) Local Implementation Plan (LIP), including Sections 13.7(B) and 13.9, and the Malibu Municipal Code (MMC), the Planning Commission makes the findings of fact below, and approves CDP No. 05-081 for the construction of a new 1,799 square foot, two-story single-family residence plus a 398 square foot attached garage and 995 square foot basement, 240 square foot ground-floor deck, 349 square foot second floor deck, 125 square foot second floor balcony, permeable driveway and onsite wastewater treatment system (OWTS); including VAR No. 09-023 for construction in a stream Environmentally

Sensitive Habitat Area (ESHA) buffer, VAR No. 16-024 for the septic system's dispersal field to extend into the required 100-foot setback from the creek, and SPR No. 06-032 for height over 18 feet but not to exceed 26 feet, 2 inches for a pitched roof, in the Single Family, Medium Density (SFM) zoning district located at 31864 Sea Level Drive.

The project is consistent with the LCP's zoning, grading, cultural resources, water quality, and wastewater treatment system standards requirements. The project, as conditioned, has been determined to be consistent with all applicable LCP codes, standards, goals, and policies. The required findings are made herein.

**A. General Coastal Development Permit (LIP Chapter 13)**

1. Evidence in the record demonstrates that the proposed project, as conditioned, conforms to the LCP and MMC in that it meets all applicable residential development standards inclusive of the variances and SPR.

2. The project is located between the first public road and the sea. However, a public pedestrian easement was previously granted to the Mountains Recreation and Conservation Authority over West Sea Level Drive. The proposed development will not impede or infringe on this easement in any way. The proposed development is entirely within a private property with no direct connection to any recreational or coastal resources and is therefore, in conformity to the public access and recreation policies of Chapter 3 of the Coastal Act of 1976.

3. Evidence in the record demonstrates that the proposed project maximizes the setback from the creek, minimizes the impacts to ESHA to the extent feasible, and does not result in any significant adverse impacts. Therefore, the proposed project can be found to be the least environmentally damaging alternative.

4. The ERB reviewed the proposed project and provided a list of four recommendations. The proposed project either complies or will be conditioned to comply with three of the four recommendations. However, the recommendation that requires the property owners to extend the fuel modification beyond the westerly property line is not feasible since the property owners do not have the right to conduct fuel modification on someone else's property. In any event, the LACFD requires that the neighboring property owner to the west conduct their own fuel modification within 200 feet of any surrounding building. Should the fuel modification not be cleared in compliance with the LACFD requirements, LACFD is then responsible to clear the area and sends a statement for the cost to the property owner where the fuel modification was cleared.

**B. Variance No. 09-023 for New Development within ESHA Buffer (LIP Section 13.26.5)**

VAR No. 09-023 is a request to allow new development to encroach into a stream ESHA buffer.

1. There are special circumstances and exceptional characteristics applicable to the subject parcel, such that strict application of the zoning ordinance deprives the property of privileges enjoyed by other properties in the vicinity, including: the small size parcel and the location of onsite stream ESHA. Based on the size of the parcel as depicted on the site plan, there is no feasible configuration or siting that would place the proposed residence outside the stream ESHA buffer. The properties in the vicinity are primarily developed under the identical zoning classification with similar development limitations related proximity to ESHA. As such, there is no way to site the

proposed residence to avoid encroachment into the buffer. Strict application of the zoning ordinance would deprive the property owners of the same development configuration and siting enjoyed by other properties in the vicinity with the same zoning and constraints.

2. With the incorporation of the recommended conditions of approval, the granting of a variance will not be detrimental to the public interest, safety, health or welfare, and will not be detrimental or injurious to the property or improvements in the same vicinity and SFM zone district in which the property is located. The project is designed to minimize grading and landform alteration by utilizing the flattest area of the property. The project complies with the 1,738 square foot development area required for this variance to minimize impacts to ESHA. Furthermore, the project has been reviewed and approved by the City Biologist, City Environmental Health Administrator, City geotechnical staff and City Public Works Department for conformance with the LCP and determined not to be detrimental to the public interest safety, health or welfare, nor detrimental or injurious to the property.

3. The granting of the variance will not constitute a special privilege to the applicant or property owners in that single-family residences have been developed on properties in the immediate vicinity with reduced setbacks from ESHA similar to the requested variance. In addition, the proposed single-family residence is consistent with the uses permitted in the applicable zoning designation. The neighboring properties to the south and north, which are developed with single-family residences, are also adjacent to ESHA. Therefore, granting of the variance will not constitute a special privilege to the applicant or property owners.

4. The granting of the variance is to allow new development within the stream ESHA buffer. Based on the size of the subject parcel and location of nearby creek, the development of any size will be located within the 100-foot stream ESHA buffer and therefore, the requested variance could not be avoided. However, the proposed project is in line with other neighboring developments and it is in compliance with all applicable ESHA requirements, including the 1,738 square foot development area. The project will not be contrary to or in conflict with the general purposes and intent of the zoning provisions nor contrary to or in conflict with the goals, objectives and policies of the LCP, pursuant to LIP Section 4.6.4(A).

5. The project consists of the construction of a new two-story residence and an attached two-car garage and basement. The granting of the variance is for new development to extend into a stream ESHA buffer. Evidence in the record demonstrates that there is no environmentally superior siting location and the total development area for the proposed project is 1,719 square feet; less than 1,738 square feet, which is the maximum allowable pursuant to LIP Section 4.7.

6. The subject parcel is zoned SFM which allows for residential development. The proposed project includes the construction of a two-story single-family residence which is a permitted use in the subject zone. Approval of the variance would permit the proposed encroachment into the stream ESHA buffer. The use is consistent with the purpose and intent of the SFM Zone.

7. The project will consist of the construction of a single-family residence on the subject parcel. The subject parcel is physically suitable for the proposed residence because with the incorporation of the recommended conditions of approval the stream ESHA shall be protected. Specifically, the subject parcel is physically suitable for the construction of a single-family residence, decks and OWTS with the incorporation of the proposed variance.

8. The variance complies with all requirements of State and local laws.

**C. Variance No. 16-024 for the Septic System's Dispersal Field to Extend into the Required 100-foot Setback from the Creek (LIP Section 13.26.5)**

VAR No. 16-024 is proposed for the septic system's dispersal field to extend into the required 100-foot setback from the creek.

1. Evidence in the record demonstrates that the subject parcel has exceptional physical constraints that limit the location of development such a stream near the parcel's rear lot line and small parcel size. The proposed dispersal system is located between the proposed residence and Sea Level Drive as far from the creek as feasible. However, there is no way to site the dispersal area to avoid encroachment into the stream ESHA buffer. Therefore, the strict application of the code would deprive the property owners of the ability to develop the property which is a privilege enjoyed by other properties in the vicinity.

2. The proposed variance will not be detrimental to the public interest, safety, health, or welfare or injurious to the property or improvements in the same vicinity and zone. The project has been reviewed and approved by the City Biologist, City Environmental Health Administrator, City geotechnical staff and City Public Works Department for conformance with the LCP and determined not to be detrimental to the public interest safety, health or welfare, nor detrimental or injurious to the property.

3. The proposed variance will not constitute a special privilege to the applicant or property owners in that many other properties in the vicinity are developed with single-family residences and include septic systems.

4. Evidence in the record demonstrates that the proposed variance will not be contrary to or in conflict with the LCP.

5. Evidence in the record demonstrates that the subject parcel is physically suitable for the proposed variance.

6. The variance request does not authorize a use or activity that is not expressly authorized by the zoning regulations for the subject parcel.

7. The proposed project has been reviewed and approved by the City geotechnical staff and City Public Works Department as being physically suitable for the proposed variance.

8. The variance complies with all requirements of State and local laws.

**D. Site Plan Review No. 06-032 for Construction in Excess of 18 Feet in Height (LIP Section 13.27)**

SPR No. 06-032 is requested for the construction of a new single-family residence over 18 feet for a maximum of 26 feet, 2 inches in height with a pitched roof.

1. Evidence in the record demonstrates the project is consistent with policies and provisions of the LCP.

2. Based on the surrounding topography and existing development, the proposed project will blend with the surrounding built environment and will not have an adverse effect on neighborhood character.

3. The story pole photos show that given the surrounding topography and existing development, the proposed project will blend with the surrounding built environment and does not have a significant impact on public views.

4. Evidence in the record demonstrates the project complies with all applicable requirements of state and local law.

5. Evidence in the record demonstrates the project is consistent with the City's General Plan and LCP.

6. The proposed residence is not expected to obstruct visually impressive scenes of the Pacific Ocean, off-shore islands, Santa Monica Mountains, canyons, valleys, or ravines from the main viewing areas of any affected principal residence as defined in MMC Section 17.40.040(A)(17).

#### **E. Environmentally Sensitive Habitat Area Overlay (LIP Chapter 4)**

1. Evidence in the record demonstrates that no alternative exists that would avoid encroachment of fuel modification into the stream ESHA buffer and the strict application of the ESHA overlay ordinance would preclude single-family residential development on the subject parcel.

2. The proposed project is consistent with all applicable provisions of the LCP. The proposed development area (1,719 square feet) is less than 25 percent of the lot area, which is consistent with LIP Section 4.7.1. The proposed development area has been reviewed and approved by the City Biologist.

#### **F. Hazards (LIP Chapter 9)**

1. Evidence in the record demonstrates that the project, as conditioned, will not increase instability of the site or structural integrity from geologic, flood, or any other hazards.

2. The proposed project, as designed, conditioned and approved by the applicable departments and agencies, will not have any significant adverse impacts on site stability or structural integrity from geologic, flood or fire hazards due to project modifications, landscaping or other conditions.

3. Evidence in the record demonstrates that the proposed project, as designed and conditioned, is the least environmentally damaging alternative.

4. Evidence in the record demonstrates that there are no feasible alternatives to the proposed development that would avoid or substantially lessen any adverse impacts on site stability or structural integrity as none are expected as a result of the proposed project.



5. Evidence in the record demonstrates that the proposed project, as designed and conditioned, is the least environmentally damaging alternative and no adverse impacts to sensitive resources are anticipated.

#### SECTION 4. Planning Commission Action.

Based on the foregoing findings and evidence contained within the record, the Planning Commission hereby approves CDP No. 05-081, VAR Nos. 09-023 and 16-024, and SPR No. 06-032, subject to the following conditions.

#### 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 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. Approval of this application is to allow for the project described herein. The scope of work approved includes:
  - a. Construction of a new, 1,799 square foot, two-story, single-family residence with an attached 398-square foot garage and 995-square foot basement. The first floor includes 1,003 square feet plus a 398 square foot attached garage. The second floor is 796 square feet. The structure will not exceed 26 feet, 2 inches in height.
  - b. A permeable driveway of approximately 366 square feet;
  - c. Understructure grading of approximately 455 cubic yards and non-exempt grading of approximately 120 cubic yards (Exhibit 2);
  - d. OWTS; and
  - e. Discretionary Requests:
    - i. Variance (VAR) No. 09-023 for construction within a stream ESHA buffer;
    - ii. VAR No. 16-024 for the septic system's dispersal field to extend into the required 100-foot setback from the creek; and
    - iii. Site Plan Review (SPR) No. 06-032 to allow the construction of a single-family residence with a maximum height of 26 feet, 2 inches for a pitched roof.
3. Except as specifically changed by conditions of approval, the proposed development shall be constructed in substantial conformance with the approved scope of work, as described in Condition No. 2 and depicted on plans on file with the Planning Department date stamped **December 1, 2021** for architectural and landscaping plans and **April 24, 2020** for civil plans. The proposed development shall further comply with all conditions of approval stipulated in this resolution and Department Review Sheets attached hereto. In the event project plans conflict with any condition of approval, the condition shall take precedence.
4. Pursuant to LIP Section 13.18.2, this permit and rights conferred in this approval shall not be effective until the property owners sign, notarize and return the Acceptance of Conditions

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Affidavit accepting the conditions of approval set forth herein. The applicant shall file this form with the Planning Department prior to the issuance of any development permits.

5. The applicant shall submit three (3) complete sets of plans to the Planning Department for consistency review and approval prior to plan check and again prior to the issuance of any building or development permits.
6. The CDP shall be expired if the project has not commenced within three (3) years after issuance of the permit, unless a time extension has been granted. Extension of the permit may be granted by the approving authority for due cause. Extensions shall be requested in writing by the applicant or authorized agent prior to expiration of the three-year period and shall set forth the reasons for the request. In the event of an appeal, the CDP shall expire if the project has not commenced within three years from the date the appeal is decided by the decision-making body or withdrawn by the appellant.
7. Any questions of intent or interpretation of any condition of approval will be resolved by the Planning Director upon written request of such interpretation.
8. All development shall conform to requirements of the City of Malibu Environmental Sustainability Department, City Biologist, City Coastal Engineer, City Environmental Health Administrator, City geotechnical staff, City Public Works Department, Los Angeles County Waterworks District No. 29 and LACFD, as applicable. Notwithstanding this review, all required permits shall be secured.
9. Minor changes to the approved plans or the conditions of approval may be approved by the Planning Director, provided such changes achieve substantially the same results and the project is still in compliance with the Malibu Municipal Code and the Local Coastal Program. Revised plans reflecting the minor changes and additional fees shall be required.
10. Pursuant to LIP Section 13.20, development pursuant to an approved CDP shall not commence until the CDP is effective. The CDP is not effective until all appeals, including those to the California Coastal Commission (CCC), have been exhausted. In the event that the CCC denies the permit or issues the permit on appeal, the coastal development permit approved by the City is void.
11. The property owners must submit payment for all outstanding fees payable to the City prior to issuance of any building permit, including grading or demolition.

### **Cultural Resources**

12. A qualified archaeologist must be present at the site to monitor all site excavation. Prior to the issuance of any development permit, the property owners or applicant must provide evidence that an archaeologist has been contracted to perform the required monitoring. After the monitoring is concluded, the qualified archaeologist is required to provide a summary in writing describing the monitoring findings.
13. In the event that potentially important cultural resources are found in the course of geologic testing or during construction, work shall immediately cease until a qualified archaeologist can provide an evaluation of the nature and significance of the resources and until the

Planning Director can review this information. Thereafter, the procedures contained in LIP Chapter 11 and those in MMC Section 1 7.54.040(D)(4)(b) shall be followed.

14. If human bone is discovered during geologic testing or during construction, work shall immediately cease and the procedures described in Section 7050.5 of the California Health and Safety Code shall be followed. Section 7050.5 requires notification of the coroner. If the coroner determines that the remains are those of a Native American, the applicant shall notify the Native American Heritage Commission by phone within 24 hours. Following notification of the Native American Heritage Commission, the procedures described in Section 5097.94 and Section 5097.98 of the California Public Resources Code shall be followed.

### **Lighting**

15. Exterior lighting must comply with the Dark Sky Ordinance and shall be minimized, shielded, or concealed and restricted to low intensity features, so that no light source is directly visible from public view. Permitted lighting shall conform to the following standards:
  - a. Lighting for walkways shall be limited to fixtures that do not exceed two feet in height and are directed downward, and limited to 850 lumens (equivalent to a 60 watt incandescent bulb);
  - b. Security lighting controlled by motion detectors may be attached to the residence provided it is directed downward and is limited to 850 lumens;
  - c. Driveway lighting shall be limited to the minimum lighting necessary for safe vehicular use. The lighting shall be limited to 850 lumens;
  - d. Lights at entrances as required by the Building Code shall be permitted provided that such lighting does not exceed 850 lumens;
  - e. Site perimeter lighting shall be prohibited; and
  - f. Outdoor decorative lighting for aesthetic purposes is prohibited.
16. Night lighting for sports courts or other private recreational facilities shall be prohibited.
17. No permanently installed lighting shall blink, flash, or be of unusually high intensity or brightness. Lighting levels on any nearby property from artificial light sources on the subject property(ies) shall not produce an illumination level greater than one foot candle.
18. Night lighting from exterior and interior sources shall be minimized. All exterior lighting shall be low intensity and shielded directed downward and inward so there is no offsite glare or lighting of natural habitat areas.
19. String lights are allowed in occupied dining and entertainment areas only and must not exceed 3,000 Kelvin.
20. Motion sensor lights shall be programmed to extinguish ten minutes after activation.
21. Three violations of the conditions by the same property owner will result in a requirement to permanently remove the outdoor light fixture(s) from the site.

**Fencing and Walls**

22. The height of fences and walls shall comply with LIP Section 3.5.3(A). No retaining wall shall exceed six feet in height or 12 feet in height for a combination of two or more walls.
23. Necessary boundary fencing shall be of an open rail-type design with a wooden rail at the top (instead of wire), be less than 40-inches high, and have a space greater than 14-inches between the ground and the bottom post or wire. A split rail design that blends with the natural environment is preferred.
24. Fencing or walls shall be prohibited within ESHA, except where necessary for public safety or habitat protection or restoration. Fencing or walls that do not permit the free passage of wildlife shall be prohibited in any wildlife corridor.
25. Development adjacent to, but not within ESHA, may include fencing, if necessary for security, that is limited to the area around the clustered development area.

**Site Specific Conditions**

26. The property owners / applicant shall install sprinklers within the understory of the rear ground-floor deck and residence should such area not be enclosed with concrete or stucco walls on all sides.
27. Prior to the issuance of any development permit, the applicant/property owners shall provide a pre-construction assessment of the existing condition of West Sea Level Drive to the subject parcel. A copy of this assessment shall be kept on file with the City. The applicant/property owners shall be responsible for repairs of any damage to the road that may result during the construction phase of the proposed project. Any obvious damage to the road that becomes apparent during the construction phase (including, but not limited to, potholes, cracks and ripples) shall be immediately repaired by the applicant/property owners. Prior to a Planning Department final inspection, the applicant/property owners shall submit a post-construction assessment of the road to demonstrate compliance with this condition. A photo survey shall be utilized to complete this assessment.
28. Prior to plan check submittal, the applicant / property owner must submit exterior lighting plans must be revised to comply with the Dark Sky Ordinance.

**Building Plan Check****Construction / Framing**

29. Prior to the commencement of work, the applicant shall submit a copy of their Construction Management Plan. The Construction Management Plan shall include a dedicated parking location for construction workers, not within the public right of way.
30. A construction staging plan shall be reviewed and approved by the Planning Director prior to plan check submittal.

31. Construction hours shall be limited to Monday through Friday from 7:00 a.m. to 7:00 p.m. and Saturdays from 8:00 a.m. to 5:00 p.m. No construction activities shall be permitted on Sundays or City-designated holidays.
32. Construction management techniques, including minimizing the amount of equipment used simultaneously and increasing the distance between emission sources, shall be employed as feasible and appropriate. All trucks leaving the construction site shall adhere to the California Vehicle Code. In addition, construction vehicles shall be covered when necessary; and their tires rinsed prior to leaving the property.
33. All new development, including construction, grading, and landscaping shall be designed to incorporate drainage and erosion control measures prepared by a licensed engineer that incorporate structural and non-structural Best Management Practices (BMPs) to control the volume, velocity and pollutant load of storm water runoff in compliance with all requirements contained in LIP Chapter 17, including:
  - a. Construction shall be phased to the extent feasible and practical to limit the amount of disturbed areas present at a given time.
  - b. Grading activities shall be planned during the southern California dry season (April through October).
  - c. During construction, contractors shall be required to utilize sandbags and berms to control runoff during on-site watering and periods of rain in order to minimize surface water contamination.
  - d. Filter fences designed to intercept and detain sediment while decreasing the velocity of runoff shall be employed within the project site.
34. When framing is complete, a site survey shall be prepared by a licensed civil engineer or architect that states the finished ground level elevation and the highest roof member elevation. Prior to the commencement of further construction activities, said document shall be submitted to the assigned Building Inspector and Planning Department for review and sign off on framing.
35. For the transportation of heavy construction equipment and/or material, which requires the use of oversized-transport vehicles on State highways, the applicant / property owners are required to obtain a transportation permit from the California Department of Transportation.

### **Biology / Landscaping**

36. Except as permitted pursuant to the provisions in LUP policies 3.18 and 3.20, throughout the City of Malibu, development that involves the use of pesticides, including insecticides, herbicides, rodenticides or any other similar toxic chemical substances, shall be prohibited in cases where the application of such substances would have the potential to significantly degrade Environmentally Sensitive Habitat Areas or coastal water quality or harm wildlife. Herbicides may be used for the eradication of invasive plant species or habitat restoration, but only if the use of non-chemical methods for prevention and management such as physical, mechanical, cultural, and biological controls are infeasible. Herbicides shall be restricted to the least toxic product and method, and to the maximum extent feasible, shall be biodegradable, derived from natural sources, and used for a limited time.

37. Any site preparation activities, including removal of vegetation, between February 1 and September 15 will require nesting bird surveys by a qualified biologist at least five days prior to initiation of site preparation activities. Should active nests be identified, a buffer area no less than 150 feet (300 feet for raptors) shall be fenced off until it is determined by a qualified biologist that the nest is no longer active. A report discussing the results of nesting bird surveys shall be submitted to the City within two business days of completing the surveys.
38. Prior to final Planning inspection or other final project sign off (as applicable), the applicant shall submit to the Planning Director for review and approval a certificate of completion in accordance with the Landscape Water Conservation Ordinance (MMC Chapter 9.22). The certificate shall include the property owners' signed acceptance of responsibility for maintaining the landscaping and irrigation in accordance with the approved plans and MMC Chapter 9.22.
39. No portion of the project development shall be placed within the protected zone of a protected native tree.
40. Invasive plant species, as determined by the City of Malibu, are prohibited.
41. Vegetation shall be situated on the property so as not to significantly obstruct the primary view from private property at any given time (given consideration of its future growth).
42. The landscape plan shall prohibit the use of building materials treated with toxic compounds such as creosote or copper arsenate.
43. Construction fencing shall be placed within five feet of the southern limits of grading. Construction fencing shall be installed prior to the beginning of any construction and shall be maintained throughout the construction period to protect the site's sensitive habitat areas.
44. Construction fencing shall be installed at the rear property boundary and around the protected zone (5 feet from the dripline or 15 feet from the trunk) of any oak tree prior to the beginning of construction and shall be maintained throughout the construction period to protect the site's sensitive habitat areas – particularly the stream north of the property.
45. The landscape and fuel modification plan has been conditioned to protect natural resources in accordance with the Local Coastal Program. All areas shall be planted and maintained as described in the landscape and fuel modification plan. Failure to comply with the landscape conditions is a violation of the conditions of approval for this project.
46. Native species of the Santa Monica Mountains, characteristic of the local habitat, shall be used on graded slopes or where slope plantings are required for slope stabilization, erosion control, and watershed protection. Plants should be selected to have a variety of rooting depths. A spacing of 15 feet between large woody ( $\geq 10$ -foot canopy) shrubs is recommended by the LACFD. Lawns are prohibited on slopes  $> 5$  percent.
47. Prior to installation of any landscaping, the applicant shall obtain a plumbing permit for the proposed irrigation system from the Building Safety Division.

48. Prior to a final plan check approval, the property owners /applicant must provide a landscape water use approval from the Los Angeles County Waterworks District No. 29.
49. Vegetation forming a view impermeable condition serving the same function as a fence or wall (also known as a hedge) located within the side or rear yard setback shall be maintained at or below a height of six feet. A hedge located within the front yard setback shall be maintained at or below a height of 42 inches. Three violations of this condition will result in a requirement to permanently remove the vegetation from the site.
50. Vegetation in excess of six feet in height shall not obstruct the primary view of existing residences located within a 1,000-foot radius at any given time (given consideration of its future growth).
51. Plantings required for fuel modification, except for within irrigated Zone A nearest to approved residential structures, must be native, drought-tolerant species and shall blend with the existing natural vegetation and natural habitats on the site.
52. The use of wood chips and shredded rubber is prohibited anywhere on the site. Flammable mulch material, including shredded bark, pine needles, and artificial turf, are prohibited between zero and five feet of a structure. Non-continuous use of flammable mulch (excluding wood chips and shredded rubber) is allowed between 5 and 30 feet from the eave/overhang of a structure with limited application areas. Any mulch materials (excluding wood chips and shredded rubber) are allowed 30 feet or more from a structure with no limitation on application area.
53. Other than the approved 710 square feet of turf, no non-native plants are permitted in the rear yard and all plants shall be suitable for adjacent monarch butterfly habitat.

### **Fuel Modification**

54. The project shall receive LACFD approval of a Final Fuel Modification Plan prior to the issuance of final building permits.

### **Public Works**

55. A digital drawing (AutoCAD) of the project's private storm drain system, public storm drain system within 250 feet of the property limits, and post-construction BMPs shall be submitted to the Public Works Department prior to the issuance of grading or building permits. The digital drawing shall adequately show all storm drain lines, inlets, outlets, post-construction BMPs and other applicable facilities. The digital drawing shall also show the subject property, public or private street, and any drainage easements.
56. The applicant shall label all City/County storm drain inlets within 250 feet from each property line per the City of Malibu's standard label template. A note shall be placed on the project plans that address this condition.

**Grading/Drainage/Hydrology**

57. The non-exempt grading for the project shall not exceed a total of 1,000 cubic yards, cut and fill.
58. The total grading yardage verification certificate shall be copied onto the coversheet of the Grading Plan. No alternative formats or substitutes will be accepted.
59. The ocean between Latigo Point and the west City limits has been established by the State Water Resources Control Board as an Area of Special Biological Significance (ASBS) as part of the California Ocean Plan. This designation prohibits the discharge of any waste, including stormwater runoff, directly into the ASBS. The applicant shall provide a drainage system that accomplishes the following:
  - a. Installation of BMPs that are designed to treat the potential pollutants in the stormwater runoff so that it does not alter the natural ocean water quality. These pollutants include trash, oil and grease, metals, bacteria, nutrients, pesticides, herbicides and sediment.
  - b. Prohibits the discharge of trash.
  - c. Only discharges from existing storm drain outfalls are allowed. No new outfalls will be allowed. Any proposed or new storm water discharged shall be routed to existing storm drain outfalls and shall not result in any new contribution of waste to the ASBS (i.e., no additional pollutant loading).
  - d. Elimination of non-storm water discharges.
60. A grading and drainage plan containing the following information shall be approved, and submitted to the Public Works Department, prior to the issuance of grading permits for the project:
  - a. Public Works Department general notes;
  - b. The existing and proposed square footage of impervious coverage on the property shall be shown on the grading plan (including separate areas for buildings, driveways, walkways, parking, tennis courts and pool decks);
  - c. The limits of land to be disturbed during project development shall be delineated and a total area shall be shown on this plan. Areas disturbed by grading equipment beyond the limits of grading, areas disturbed for the installation of the septic system, and areas disturbed for the installation of the detention system shall be included within the area delineated;
  - d. The limits to land to be disturbed during project development shall be delineated and a total area of disturbance should be shown on this plan. Areas disturbed by grading equipment beyond the limits of grading shall be included within the area delineated;
  - e. If the property contains rare, endangered or special status species as identified in the Biological Assessment, this plan shall contain a prominent note identifying the areas to be protected (to be left undisturbed). Fencing of these areas shall be delineated on this plan as required by the City Biologist;
  - f. The grading limits shall include the temporary cuts made for retaining walls, buttresses and over excavations for fill slopes; and
  - g. Private storm drain systems shall be shown on this plan. Systems greater than 12 inches in diameter shall also have a plan and profile for the system included with this plan.



61. A Local Storm Water Pollution Prevention Plan (LSWPPP) shall be provided prior to issuance of grading/building permits. This plan shall include an Erosion and Sediment Control Plan (ESCP) that includes, but is not limited to:

Erosion Controls Scheduling	Erosion Controls Scheduling
	Preservation of Existing Vegetation
Sediment Controls Silt Fence	Sediment Controls Silt Fence
	Sand Bag Barrier
	Stabilized Construction Entrance
Non-Storm Water Management	Water Conservation Practices
	Dewatering Operations
Waste Management	Material Delivery and Storage
	Stockpile Management
	Spill Prevention and Control
	Solid Waste Management
	Concrete Waste Management
	Sanitary/Septic Waste Management

All Best Management Practices (BMP) shall be in accordance to the latest version of the California Stormwater Quality Association (CASQA) BMP Handbook. Designated areas for the storage of construction materials, solid waste management, and portable toilets must not disrupt drainage patterns or subject the material to erosion by site runoff.

62. Storm drainage improvements are required to mitigate increased runoff generated by property development. The applicant shall have the choice of one method specified within LIP Section 17.3.2.B.2.
63. A Storm Water Management Plan (SWMP) shall be submitted for review and approval of the Public Works Director. The SWMP shall be prepared in accordance with the LIP Section 17.3.2 and all other applicable ordinances and regulations. The SWMP shall be supported by a hydrology and hydraulic study that identifies all areas contributory to the property and an analysis of the pre-development and post-development drainage of the site. The SWMP shall identify the site design and source control BMPs that have been implemented in the design of the project. The SWMP shall be reviewed and approved by the Public Works Department prior to the issuance of the grading or building permit for this project.
64. Clearing and grading during the rainy season (extending from November 1 to March 31) shall be prohibited for development that:
- a. Is located within or adjacent to ESHA, or
  - b. Includes grading on slopes greater than 4 to 1.

Approved grading for development that is located within or adjacent to ESHA or on slopes greater than 4 to 1 shall not be undertaken unless there is sufficient time to complete grading operations before the rainy season. If grading operations are not completed before the rainy season begins, grading shall be halted and temporary erosion control measures shall be put into place to minimize erosion until grading resumes after March 31, unless the City determines that completion of grading would be more protective of resources.

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65. The Building Official may approve grading during the rainy season to remediate hazardous geologic conditions that endanger public health and safety.
  66. Exported soil from a site shall be taken to the Los Angeles County Landfill or to a site with an active grading permit and the ability to accept the material in compliance with LIP Section 8.3. A note shall be placed on the on the project that addresses this condition.
  67. All cut and fill slopes shall be stabilized with landscaping at the completion of final grading.
  68. A Water Quality Mitigation Plan (WQMP) shall be submitted for review and approval of the Public Works Director. The WQMP shall be supported by a hydrology and hydraulic study that identifies all areas contributory to the property and an analysis of the predevelopment and post development drainage on the site. The WQMP shall meet all the requirements of the City's current Municipal Separate Stormwater Sewer System (MS4) permit. The following elements shall be included within the WQMP:
    - a. Site Design Best Management Practices (BMPs);
    - b. Source Control BMPs;
    - c. Treatment Control BMPs that retain on-site Stormwater Quality Design Volume (SWQDV). Or where it is technically infeasible to retain on-site, the project must biofiltrate 1.5 times the SWQDV that is not retained on-site;
    - d. Drainage improvements;
    - e. A plan for the maintenance and monitoring of the proposed treatment BMPs for the expected life of the structure;
    - f. Methods of onsite percolation, site re-vegetation and an analysis for off-site project impacts;
    - g. Measures to treat and infiltrate runoff from impervious areas;
    - h. A copy of the WQMP shall be filed against the property to provide constructive notice to future property owners of their obligation to maintain the water quality measure installed during construction prior to the issuance of grading or building permits; and
    - i. The WQMP shall be submitted to the Public Works Department and the fee applicable at the time of submittal for review of the WQMP shall be paid prior to the start of the technical review. The WQMP shall be approved prior to the Public Works Department's approval of the grading and drainage plan and/or building plans. The Public Works Department will tentatively approve the plan and will keep a copy until the completion of the project. Once the project is completed, the applicant shall verify the installation of the BMP's, make any revisions to the WQMP, and resubmit to the Public Works Department for approval. The original signed and notarized document shall be recorded with the Los Angeles County Recorder. A certified copy of the WQMP shall be submitted to the Public Works Department prior to the issuance of the certificate of occupancy.

## **Geology**

69. All recommendations of the consulting certified engineering geologist or geotechnical engineer and/or the City geotechnical staff shall be incorporated into all final design and construction including foundations, grading, sewage disposal, and drainage. Final plans shall be reviewed and approved by the City geotechnical staff prior to the issuance of a grading permit.

70. Final plans approved by the City geotechnical staff shall be in substantial conformance with the approved CDP relative to construction, grading, sewage disposal and drainage. Any substantial changes may require a CDP amendment or a new CDP.

### **Swimming Pool / Spa / Water Feature**

71. Onsite noise, including that which emanates from swimming pool and air conditioning equipment, shall be limited as described in MMC Chapter 8.24 (Noise).
72. Pool and air conditioning equipment that will be installed shall be screened from view by a solid wall or fence on all four sides. The fence or walls shall comply with LIP Section 3.5.3(A).
73. All swimming pools shall contain double walled construction with drains and leak detection systems capable of sensing a leak of the inner wall.
74. The discharge of swimming pool, spa and decorative fountain water and filter backwash, including water containing bacteria, detergents, wastes, algacides, or other chemicals is prohibited. Swimming pool, spa, and decorative fountain water may be used as landscape irrigation only if the following items are met:
- a. The discharge water is dechlorinated, debrominated or if the water is disinfected using ozonation;
  - b. There are sufficient BMPs in place to prevent soil erosion; and
  - c. The discharge does not reach in to the MS4 or to the ASBS (including tributaries).
75. Discharges not meeting the above-mentioned methods must be trucked to a Publicly Owned Wastewater Treatment Works.
76. A sign stating “It is illegal to discharge pool, spa, or water feature waters to a street, drainage course, or storm drain per MMC Section 13.04.060(D)(5)” shall be posted in the filtration and/or pumping equipment area for the property. Prior to the issuance of any permits, the applicant shall indicate the method of disinfection and the method of discharging.
77. Pursuant to MMC Section 9.20.040(B), all ponds, decorative fountains shall require a water recirculating/recycling system.

### **Onsite Wastewater Treatment System**

78. Prior to the issuance of a building permit the applicant shall demonstrate, to the satisfaction of the Building Official, compliance with the City of Malibu’s OWTS regulations including provisions of MMC Chapters 15.40, 15.42, 15.44, and LIP Chapter 18 related to continued operation, maintenance and monitoring of the OWTS.
79. Prior to final Environmental Health approval, a final OWTS plot plan prepared by a City Registered OWTS Designer shall be submitted showing an OWTS design meeting the minimum requirements of the MMC and the LCP, including necessary construction details, the proposed drainage plan for the developed property and the proposed landscape plan for the developed property. The OWTS plot plan shall show essential features of the OWTS and

must fit onto an 11-inch by 17-inch sheet leaving a five-inch margin clear to provide space for a City applied legend. If the scale of the plans is such that more space is needed to clearly show construction details and/or all necessary setbacks, larger sheets may also be provided (up to a maximum size of 18 inches by 22 inches).

80. A final OWTS design report and large set of construction drawings with system specifications (four sets) shall be submitted to describe the OWTS design basis and all components (i.e., alarm system, pumps, timers, flow equalization devices, backflow devices, etc.) proposed for use in the construction of the proposed OWTS. For all OWTS, final reports must be signed by a City registered OWTS Designer, and the plans stamped by a California Geologist. The final OWTS design report and construction drawings shall be submitted to the City Environmental Health Administrator with the designer's wet signature, professional registration number and stamp (if applicable).
81. Any above-ground equipment associated with the installation of the OWTS shall be screened from view by a solid wall or fence on all four sides. The fence or walls shall not be higher than 42 inches tall.
82. The final design report shall contain the following information (in addition to the items listed above).
  - a. Required treatment capacity for wastewater treatment and disinfection systems. The treatment capacity shall be specified in terms of flow rate, gallons per day, and shall be supported by calculations relating the treatment capacity to the number of bedroom equivalents, plumbing fixture equivalents, and/or the subsurface effluent dispersal system acceptance rate. The fixture unit count must be clearly identified in association with the design treatment capacity, even if the design is based on the number of bedrooms. Average and peak rates of hydraulic loading to the treatment system shall be specified in the final design;
  - b. Description of proposed wastewater treatment and/or disinfection system equipment. State the proposed type of treatment system(s) (e.g., aerobic treatment, textile filter ultraviolet disinfection, etc.); major components, manufacturers, and model numbers for "package" systems; and conceptual design for custom engineered systems;
  - c. Specifications, supporting geology information, and percolation test results for the subsurface effluent dispersal portion of the onsite wastewater disposal system. This must include the proposed type of effluent dispersal system (drainfield, trench, seepage pit subsurface drip, etc.) as well as the system's geometric dimensions and basic construction features. Supporting calculations shall be presented that relate the results of soils analysis or percolation/infiltration tests to the projected subsurface effluent acceptance rate, including any unit conversions or safety factors. Average and peak rates of hydraulic loading to the effluent dispersal system shall be specified in the final design. The projected subsurface effluent acceptance rate shall be reported in units of total gallons per day and gallons per square foot per day. Specifications for the subsurface effluent dispersal system shall be shown to accommodate the design hydraulic loading rate (i.e., average and peak OWTS effluent flow, reported in units of gallons per day). The subsurface effluent dispersal system design must take into account the number of bedrooms, fixture units and building occupancy characteristics; and
  - d. All final design drawings shall be submitted with the wet signature and typed name of the OWTS designer. If the scale of the plan is such that more space is needed to

clearly show construction details, larger sheets may also be provided (up to a maximum size of 18 inch by 22 inch, for review by Environmental Health). Note: For OWTS final designs, full-size plans are required for review by the Building Safety Division and/or the Planning Department.

83. All project architectural plans and grading/drainage plans shall be submitted for Environmental Health review and approval. The floor plans must show all drainage fixtures, including in the kitchen and laundry areas. These plans must be approved by the Building Safety Division prior to receiving Environmental Health final approval.
84. A covenant running with the land shall be executed by the property owners and recorded with the Los Angeles County Recorder's Office. Said covenant shall serve as constructive notice to any successors in interest that: 1) the private sewage disposal system serving the development on the property does not have a 100 percent expansion effluent dispersal area (i.e., replacement disposal field(s) or seepage pit(s)), and 2) if the primary effluent dispersal area fails to drain adequately, the City of Malibu may require remedial measures including, but not limited to, limitations on water use enforced through operating permit and/or repairs, upgrades or modifications to the private sewage disposal system. The recorded covenant shall state and acknowledge that future maintenance and/or repair of the private sewage disposal system may necessitate interruption in the use of the private sewage disposal system and, therefore, any building(s) served by the private sewage disposal system may become non-habitable during any required future maintenance and/or repair. Said covenant shall be in a form acceptable to the City Attorney and approved by the City Environmental Sustainability Department.
85. Proof of ownership of subject property shall be submitted to the City Environmental Health Administrator.
86. An operations and maintenance manual specified by the OWTS designer shall be submitted to the property owners and maintenance provider of the proposed OWTS.
87. Prior to final Environmental Health approval, a maintenance contract executed between the owners of the subject property and an entity qualified in the opinion of the City of Malibu to maintain the proposed OWTS after construction shall be submitted. Only original wet signature documents are acceptable and shall be submitted to the City Environmental Health Administrator.
88. Prior to final Environmental Health approval, a covenant running with the land shall be executed between the City of Malibu and the holder of the fee simple absolute as to subject real property and recorded with the City of Malibu Recorder's Office. Said covenant shall serve as constructive notice to any future purchaser for value that the OWTS serving subject property is an advanced method of sewage disposal pursuant to the MMC. Said covenant shall be provided by the City of Malibu Environmental Health Administrator.
89. The City geotechnical staff final approval shall be submitted to the City Environmental Health Administrator.

90. The City Biologist's final approval shall be submitted to the City Environmental Health Administrator. The City Biologist shall review the OWTS design to determine any impact on Environmentally Sensitive Habitat Area if applicable.
91. In accordance with MMC Chapter 15.44, prior to Environmental Health approval, an application shall be made to the Environmental Sustainability Department for an OWTS operating permit.

### **Water Quality / Water Service**

92. Prior to the issuance of a building permit, the applicant shall submit an updated Will Serve Letter from Los Angeles County Waterworks District No. 29 to the Planning Department indicating the ability of the property to receive adequate water service.

### **Prior to Occupancy**

93. Prior to, or at the time of a Planning final inspection, the property owners / applicant shall submit to the Planning Department the plumbing permit for the irrigation system installation signed off by the Building Safety Division.
94. Prior to the issuance of a Certificate of Occupancy, the City Biologist shall inspect the project site and determine that all Planning Department conditions to protect natural resources are in compliance with the approved plans.
95. Prior to a final Building inspection, the applicant shall provide a Recycling Summary Report (Summary Report) and obtain the approval from the Environmental Sustainability Department. Applicant must provide haul tickets and diversion information. The final Summary Report shall designate the specific materials that were land filled or recycled, and state the facilities where all materials were taken.
96. The applicant shall request a final Planning Department inspection prior to final inspection by the City of Malibu Building Safety Division. A Certificate of Occupancy shall not be issued until the Planning Department has determined that the project complies with this coastal development permit. A temporary Certificate of Occupancy may be granted at the discretion of the Planning Director, provided adequate security has been deposited with the City to ensure compliance should the final work not be completed in accordance with this permit.
97. Any construction trailer, storage equipment or similar temporary equipment not permitted as part of the approved scope of work shall be removed prior to final inspection and approval, and if applicable, the issuance of the certificate occupancy.

### **Deed Restrictions**

98. The property owners are required to execute and record a deed restriction which shall indemnify and hold harmless the City, its officers, agents, and employees against any and all claims, demands, damages, costs and expenses of liability arising out of the acquisition, design, construction, operation, maintenance, existence or failure of the permitted project in an area where an extraordinary potential for damage or destruction from wildfire exists as an

inherent risk to life and property. The property owners shall provide a copy of the recorded document to Planning department staff prior to final planning approval.

99. Prior to final Planning Department approval, the applicant shall be required to execute and record a deed restriction reflecting lighting requirements set forth in Condition Nos. 15-21. The property owners shall provide a copy of the recorded document to the Planning Department prior to final Planning Department approval.

**Fixed Conditions**

100. This coastal development permit runs with the land and binds all future owners of the property.
101. Violation of any of the conditions of this approval may be cause for revocation of this permit and termination of all rights granted thereunder.

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

PASSED, APPROVED AND ADOPTED this 1<sup>st</sup> day of May 2023.

\_\_\_\_\_  
DENNIS R. SMITH, Planning Commission Chair

ATTEST:

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REBECCA EVANS, Recording Secretary

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

COASTAL COMMISSION APPEAL – An aggrieved person may appeal the Planning Commission’s approval to the Coastal Commission within 10 working days of the issuance of the City’s Notice of Final Action. Appeal forms may be found online at [www.coastal.ca.gov](http://www.coastal.ca.gov) or in person at the Coastal Commission South Central Coast District office located at 89 South California Street in Ventura, or by calling (805) 585-1800. Such an appeal must be filed with the Coastal Commission, not the City.

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. 23-03 was passed and adopted by the Planning Commission of the City of Malibu at the Regular meeting held on the 1<sup>st</sup> day of May 2023 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

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REBECCA EVANS, Recording Secretary