



Commission Agenda Report

To: Chair Hill and Members of the Planning Commission

Prepared by: Adrian Fernandez, Assistant Planning Director

Approved by: Richard Mollica, Planning Director

Date prepared: December 7, 2023 Meeting date: December 18, 2023

Subject: The Nobu Ryokan Motel and Malibu Tidepool Health Club Project – Coastal Development Permit No. 23-046, Local Coastal Program Amendment No. 16-001, General Plan Map Amendment No. 16-001, Zoning Map Amendment No. 15-001, Conditional Use Permit No. 16-007, Lot Tie No. 21-001, Initial Study No. 17-002, and Negative Declaration No. 19-002 – An application to rezone and change the land use designation of the properties from Community Commercial to Community Visitor-Serving-Two for the existing Nobu Ryokan Motel and Malibu Tidepool Health Club lots and conversion of the existing non-conforming use motel and adjacent private gym and pool to a bed and breakfast inn and the sale of alcohol for onsite consumption, a lot tie for the two lots to operate conjunctively and conversion of office space in the Tide Pool building into a new guest suite (Continued from November 6, 2023)

Locations: 22752 and 22762 Pacific Coast Highway, within the appealable coastal zone

APNs: 4452-004-034 and 4452-004-035

Owners: North Broadway Ventures, LLC and Wavebreak, LLC

RECOMMENDED ACTION: Adopt Planning Commission Resolution No. 23-46 (Attachment 1) recommending to the City Council adopt Initial Study No. 17-002 and Negative Declaration No. 19-002 (IS/ND) prepared for the project pursuant to the California Environmental Quality Act (CEQA) (Attachment 5) and approve Coastal Development Permit (CDP) No. 13-046 for the change in use from motel and gym to bed and breakfast inn, conversion of office space in the Malibu Tidepool Health Club building into a new guest suite and authorization to the Planning Director to submit a letter of public convenience or necessity for the sale of alcohol; including General Plan Map Amendment (GPMA) No. 16-001, Local Coastal Program Amendment (LCPA) No. 16-001, Zoning Map

Amendment (ZMA) No. 15-001 to rezone and change the land use designation from Community Commercial (CC) to Commercial Visitor Serving-Two (CV-2) for the existing Nobu Ryokan Motel lot (APN 4452-004-035) and rezone from CC to CV-2 for the existing Malibu Tidepool Health Club lot (APN 4452-004-034), Conditional Use Permit (CUP) No. 16-007 to permit the conversion of an existing legal non-conforming motel (Nobu Ryokan Motel) and adjacent private health club (Malibu Tidepool Health Club) into a conjunctive bed and breakfast inn and the sale of alcohol for onsite consumption, and Lot Tie (LT) No. 21-001 to hold the two lots as one for the conjunctive use of the properties as a bed and breakfast inn, located in the CC zoning district at 22752 and 22762 Pacific Coast Highway (PCH) (North Broadway Ventures LLC and Wavebreak, LLC).

DISCUSSION: On November 6, 2023, the Planning Commission held a hearing on the subject item and continued the item to permit the applicant and staff additional time to address several comments summarized as follows: 1) history of the Tide Pool site since 2015; 2) capacity of the existing onsite wastewater treatment system (OWTS); 3) whether the proposed change in occupancy results in a change in Water District approval; 4) history of the Ryokan Motel Alcoholic Beverage Control (ABC) license; 5) history of CC zoning designation; 6) whether the swimming pool is a permitted use; and 7) whether the hotel use is more appropriate. The applicant provided a response to these comments (Attachment 3). Staff responses to these comments are provided below.

Tide Pool History

On December 17, 2013, the CDP 13-066 application was submitted to include tenant improvements to remodel the existing building into a day spa and health club, an upgrade to the OWTS, and a deck extension. On November 12, 2014, the applicant modified the application to abandon the day spa and health club use and remodel, and pursue only the OWTS, seawall, pool and deck construction. At the time, the applicant stated that there was no intention to use the property as amenities that would intensify the use of non-conforming adjacent motel.

Research of permits on-file with the City showed that prior to the previous CDP application, the building was permitted as a sales office related to commercial businesses (e.g., furniture, appliances, and boats) but did not indicate that any residential use was approved for the building. However, there is an indication of an onsite residential use on the plan for the renovation of the existing OWTS approved by the City in 1996 and those plans identified a two-bedroom apartment on the second floor, and commercial area on the first floor. In 2011, a building permit was issued for tenant improvements to the building with no exterior modifications; however, there was the inclusion of an interior remodel of the first floor to include the kitchen that exists today and the second story was shown as “open space” with interior walls between rooms removed.

Based on permit history, no commercial food sales have been permitted. A grease interceptor tank was included as part of the OWTS upgrade. CDP No. 13-066 allowed for onsite staff to consume the food prepared in the kitchen and the kitchen was to be used for non-commercial purposes related to the property owner's private chef preparing food for the property owner's guests staying at other properties. To ensure compliance with the statements above, CDP No. 13-066 was approved with the condition of approval, as follows:

28. No commercial food sales are permitted. Although a grease interceptor tank is included as part of the wastewater system upgrade, the project scope submitted does not include a commercial kitchen for food sales to the public. The scope of this conformance review does not include consideration of the adequacy of the AOWTS for a commercial kitchen for public food service. Food preparation for offsite consumption in association with a commercial use is not allowed without prior approval by the City Environmental Health Administrator and the Los Angeles County Health Department.

OWTS

An OWTS report, dated April 15, 2018, for the proposed bed and breakfast inn use including a cooking facility serving 17 guest rooms, 34 total guests was submitted in consideration of the proposed project. On October 17, 2018, the City Environmental Health Administrator approved a revised site plan, which included the capacity of the cooking facility, bed and breakfast inn use, swimming pool, gym, spa, and mini bar.

On September 27, 2016, the Planning Director approved Administrative Plan Review (APR) No. 16-037 for an interior/exterior remodel, parking lot restriping, and fencing and walls at the Tide Pool site. The APR application also authorized the use of a commercial-scale kitchen, conversion of the upstairs apartment to office and removal of office from the garage. It was calculated that the required parking spaces for the uses at the site were eight and the restriping added a total of 10 parking spaces including one Americans with Disability Act (ADA) parking space. Planning staff recently conducted a final inspection and found the site in compliance with the approved plans, with the exception of the front yard fence which was approved with the portion over 42 inches in height to be open, view permeable and the existing fencing does not comply with this condition. Staff informed the applicant to address the front yard fence and gate and they agreed to revise the front yard fence and gate to comply with approved plans prior to a City Council hearing in consideration of the proposed application.

Water District

Staff contacted the Los Angeles County Waterworks District No. 29 and confirmed that the proposed application does not require its approval.

ABC License

On June 23, 2016, ABC granted two licenses: Type 66 (Controlled Access Cabinet Permit) and Type 70 (On-Sale General Restrictive Service). According to the ABC provisions, some applications require that a determination of Public Convenience or Necessity (PCN) is established. Based on an ABC determination, if the premise is located in a high crime area based on local crime statistics and/or if the number of similar license types exceeds the limit set forth by State law (over-concentration) then a PCN is required. After the review of the application, ABC would notify the applicant if a PCN is required based on these criteria. Staff did not find any record that the City issued a PCN for this property. While a bar is a conditionally permitted use, mini-bars are not listed in the permitted use table. In any event, the subject application includes a conditional use permit for the consideration of the bed and breakfast inn and sales of alcoholic beverages for onsite consumption.

Community Commercial Zoning District

The Commission requested that staff research the history of why the property was zoned CC instead of CV-1 or CV-2 for consistency with the motel use that existing at the time. Staff looked into the material and could not find any information regarding the specific lots. It is unclear whether City Council intentionally decided to zone the property CC which would eventually require the motel use to be removed or it was simply an oversight. Immediately after the General Plan was adopted, there were at least six amendments to the Land Use Map. Some of the amendments included multiple properties. The Tide Pool lot also contains a discrepancy between the General Plan land use designation (CV) and the zoning map (CC) even though the two maps were adopted within a year from each other. Based on all the changes that follow the General Plan and the maps' internal inconsistencies, it would appear that an oversight for the zoning for the subject lots likely occurred.

Swimming Pool

The Planning Commission approved CDP No. 13-066 with the condition of approval, as follows:

3. Use of the pool is restricted to the occupants of the existing office building. Use of the pool by any other person or for any other purpose is thus strictly prohibited unless or until any necessary approvals are obtained from the City that would allow use of the pool by individuals other than the occupants of the office building.

The condition authorized the construction of the swimming pool and its use by the onsite commercial occupants. The swimming pool was not conditioned to only be available to the general public. In fact, it restricts the public from using it.

The code is not clear on whether pools can be permitted on commercial zoned properties. The issue has been deliberated in past Commission hearings on other projects and swimming pools have been approved by the Planning Commission for the Malibu Inn Motel and Sea View Hotel. While the Sea View Hotel included an Overlay District that granted more flexibility on the types of uses it can authorize, swimming pools were not addressed in the permitted table for Sea View Hotel and therefore, the same land use provisions would apply to the Sea View Hotel as any other commercial zone property.

The Malibu Municipal Code (MMC) does not mention whether pools are permitted, conditionally permitted or accessory to any primary use other than for residences. The LIP is similar but identifies pools for recreational facilities as a conditionally permitted use. Both the MMC and LIP permit health clubs and conditionally permit motels, which are known to include swimming pools. As a potential incidental use to a commercial development, it may not have been necessary to list it as its own separate land use. Staff has been seeking direction about whether the Commission finds pools to be permitted, conditionally permitted or not a permitted use. If the Commission decides that the swimming pool is not a permitted or conditionally permitted use, it may direct staff to amend the resolution to recommend that the pool not be used.

Bed and Breakfast Inn Use

Pursuant to the MMC and LIP, the definitions for “bed and breakfast inn”, “motel”, and “hotel” are provided in bullet points below. The proposed use includes transient lodging on four separate buildings, gym, swimming pool, commercial kitchen to provide meals to the guests only and minibars. All of the rooms have separate entrances leading directly from the outside of the building to the parking lot. None of the definitions mention gyms, swimming pools, or minibars. The proposed use also does not include restaurants and meeting rooms that would be open to the general public. The definition for hotel states it provides “additional services”. If determined that the proposed gym, swimming pool and minibar qualify as additional services stipulated in the hotel definition then it may qualify as a hotel. However, these amenities may also be construed as services that can be customary to a bed and breakfast inn.

- “Bed and breakfast inn” means a facility offering transient lodging accommodations to the public and providing kitchen facilities adequate to provide meals to the guests of the facility only and not otherwise open to the public.
- “Motel” means a facility offering transient lodging accommodations to the public in a group of attached or detached buildings containing guest rooms, some or all of which have a separate entrance leading directly from the outside of the building to automobile parking space conveniently located on the lot or parcel of land, does not provide accessory uses such as restaurants or meeting rooms, and not otherwise open to the public.

- “Hotel” means a facility offering transient lodging accommodations to the general public and providing additional services, such as restaurants and meeting rooms.

The parking requirement for hotels is much more stringent compared to motels. This is due to the presumption that hotels, which would have amenities open to the public, would generate additional parking demand due to these “additional services”. It would seem that a gym, swimming pool and minibar would not generate the demand for additional parking spaces. It should also be stated that the existing use and site conditions are considered as legal, non-conforming. In the past, when a restaurant occupies a legal, non-conforming site due to parking, a CUP is processed for the use but a variance has not been traditionally required to bring the site into conformance, except in cases where a change is requested that generates additional parking spaces. The proposed changes do not result in an increase in parking demand compared to the previously permitted uses.

ATTACHMENTS:

1. Planning Commission Resolution No. 23-46
2. Supplemental Commission Agenda Report, Dated November 6, 2023
3. Applicant Response to Planning Commission
4. Public Correspondence

CITY OF MALIBU PLANNING COMMISSION
RESOLUTION NO. 23-46

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MALIBU RECOMMENDING TO THE CITY COUNCIL THE ADOPTION OF INITIAL STUDY NO. 17-002 AND NEGATIVE DECLARATION NO. 19-002 PREPARED FOR THE PROJECT PURSUANT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT AND APPROVAL OF COASTAL DEVELOPMENT PERMIT NO. 13-046 FOR THE CHANGE IN USE FROM MOTEL AND GYM TO BED AND BREAKFAST INN, CONVERSION OF OFFICE SPACE IN THE MALIBU TIDEPOOL HEALTH CLUB BUILDING INTO A NEW GUEST SUITE AND AUTHORIZATION THE PLANNING DIRECTOR TO SUBMIT A LETTER OF PUBLIC CONVENIENCE OR NECESSITY FOR THE SALE OF ALCOHOL; INCLUDING GENERAL PLAN MAP AMENDMENT NO. 16-001, LOCAL COASTAL PROGRAM AMENDMENT NO. 16-001, ZONING MAP AMENDMENT NO. 15-001 TO REZONE AND CHANGE THE LAND USE DESIGNATION FROM COMMUNITY COMMERCIAL TO COMMERCIAL VISITOR SERVING-TWO FOR THE EXISTING NOBU RYOKAN MOTEL LOT (APN 4452-004-035) AND REZONE FROM COMMUNITY COMMERCIAL TO COMMERCIAL VISITOR SERVING-TWO FOR THE EXISTING MALIBU TIDEPOOL HEALTH CLUB LOT (APN 4452-004-034), CONDITIONAL USE PERMIT NO. 16-007 TO PERMIT THE CONVERSION OF AN EXISTING LEGAL NON-CONFORMING MOTEL (NOBU RYOKAN MOTEL) AND ADJACENT PRIVATE HEALTH CLUB (MALIBU TIDEPOOL HEALTH CLUB) INTO A CONJUNCTIVE BED AND BREAKFAST INN AND THE SALE OF ALCOHOL FOR ONSITE CONSUMPTION, AND LOT TIE NO. 21-001 TO HOLD THE TWO LOTS AS ONE FOR THE CONJUNCTIVE USE OF THE PROPERTIES AS A BED AND BREAKFAST INN, LOCATED IN THE COMMUNITY COMMERCIAL ZONING DISTRICT AT 22752 AND 22762 PACIFIC COAST HIGHWAY (NORTH BROADWAY VENTURES LLC AND WAVEBREAK, LLC)

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

SECTION 1. Recitals.

A. On November 2, 2015, an application for Zoning Map Amendment (ZMA) No. 15-001, Local Coastal Program Amendment (LCPA) No. 16-001 and General Plan Map Amendment (GPMA) No. 16-001 was submitted to the Planning Department by applicant, Patrick Perry and Allen Matkins, on behalf of North Broadway Ventures and LLC and Wavebreak, LLC. The application was routed to the City Environmental Health Administrator, City Public Works Department, and Los Angeles County Sheriff's Department (LACSD) for review. Coastal Development Permit (CDP) No. 23-046 was later added to the project for the change in use from motel and gym to bed and breakfast inn.

B. On December 17, 2016, Conditional Use Permit (CUP) No. 16-007 was added to the project.

- C. On March 10, 2021, Lot Tie (LT) No. 21-001 was added to the project.
- D. On December 2, 2021, a Notice of Intent to Adopt an Initial Study and Negative Declaration was published in a newspaper of general circulation within the City of Malibu. The 30-day public review period began on December 2, 2021 and ended on January 3, 2022. The State Clearinghouse public review period for agencies began on December 8, 2021 and ended on January 6, 2022 (SCH# 2021120124). Staff did not receive public comments on the project.
- E. On January 26, 2022, the proposed project was presented to the Environmental Review Board (ERB). The ERB did not have any recommendations regarding the proposed project.
- F. On March 9, 2022, the CDP application was deemed complete for processing.
- G. On July 26, 2023, Planning Department staff conducted a site visit to document site condition and surrounding area.
- H. On October 4, 2023, the applicant posted a Notice of Application for CDP on both parcels.
- I. On October 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.
- J. On November 6, 2023, the Planning Commission opened the public hearing on the subject application and continued the item to the December 18, 2023 Planning Commission meeting to address additional comments.
- K. On December 18, 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. Adoption of Negative Declaration

Pursuant to the authority and criteria contained in the California Environmental Quality Act (CEQA), the Planning Commission has analyzed the proposed project. The Planning Department prepared an initial study (Initial Study [IS] No. 17-002) pursuant to CEQA Guidelines Section 15305. The initial study analyzed the proposed project and determined that it will not have a significant impact on the environment; subsequently, Negative Declaration (ND) No. 19-002 was prepared and circulated pursuant to CEQA Guidelines Section 15070.

On December 2, 2021, the City made IS No. 17-002 and ND No. 19-002 available to the public for the required 30-day circulation period, which concluded on January 3, 2022. The State Clearinghouse closed its review period on January 6, 2022.

The Planning Commission has considered IS No. 17-002 and ND No. 19-002. IS No. 17-002 and ND No. 19-002 reflect the independent judgment of the Planning Commission, and has been completed in compliance with CEQA, and is adequate for this project.

The Planning Commission finds that the proposed project does not have the potential to significantly degrade the quality of the environment, nor does it have impacts which are individually limited but cumulatively considerable.

The Planning Commission further finds that less than significant impacts on the environment are expected from the project. Based on the record as a whole, there is no substantial evidence that the project, as conditioned, will have a significant effect on the environment.

SECTION 3. Findings.

Based on the evidence contained within the record, including the agenda report for the project and the hearing on November 6, 2023, and pursuant to Local Coastal Program (LCP) Local Implementation Plan (LIP), including Sections 13.7(B) and 13.9, the Planning Commission adopts and approves the analysis in the agenda report, incorporated herein, the findings of fact below, and approves CDP No. 13-046 for the change in use from motel and gym to bed and breakfast inn, interior remodel of the Malibu Tidepool Health Club building to convert interior space into a new guest suite and reconfigure the existing gym and kitchen and authorization the Planning Director to submit a letter of public convenience or necessity for the sale of alcohol; including GPMA No. 16-001, LCPA No. 16-001, ZMA No. 15-001 to rezone and change the land use designation from Community Commercial (CC) to Commercial Visitor Serving-Two (CV-2) for the existing Nobu Ryokan Motel lot (APN 4452-004-035) and rezone from CC to CV-2 for the existing Malibu Tidepool Health Club lot (APN 4452-004-034), CUP No. 16-007 to permit the conversion of an existing legal non-conforming motel (Nobu Ryokan Motel) and adjacent private health club (Malibu Tidepool Health Club) into a conjunctive bed and breakfast inn and the sale of alcohol for onsite consumption, and LT No. 21-001 to hold the two lots as one for the conjunctive use of the properties as a bed and breakfast inn, located in the CC zoning district at 22752 and 22762 Pacific Coast Highway (PCH).

The project is consistent with the LCP's zoning, grading, cultural resources, water quality, and wastewater treatment system standards requirements. With the inclusion of the proposed discretionary requests, 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. Coastal Development Permit (LIP Chapter 13)

LIP Section 13.9 requires that the following four findings be made for all coastal development permits.

1. The proposed bed and breakfast inn use is conditionally permitted in the CV-2 zoning district. With the approval and adoption of the proposed changes to the zoning and land use designation, the proposed use is one that is conditionally permitted within the proposed CV-2 zone and complies with the intent of the zoning provisions set forth in the MMC and the LCP. The project will conform to the MMC upon approval by the City Council and will conform with the LCP upon CCC certification of the LCPA.

2. The project is located between the first public road and the sea. The project site is located along a public road and immediately east of an existing public vertical access way. According to the LCP Park Land Maps, an existing lateral access easement has been recorded for the subject property and the neighboring contiguous properties to the east (22716, 22706, and

22664). The property owner has already offered to dedicate lateral easements from the most seaward building projection to the ambulatory mean high tide line. Therefore, the project is in conformity to the public access and recreation policies of Chapter 3 of the Coastal Act.

3. An IS-ND was prepared in accordance with CEQA guidelines. CEQA guidelines require that a range of reasonable alternatives to the project be described, or to the location of the project, which would feasibly attain most of the basic objectives of the Project but would avoid or substantially lessen any of the significant effects of the project and evaluate the comparative merits of the alternatives. Based on LCP conformance review, the project as proposed will not result in any significant adverse impacts.

4. The project, IS No. 17-002 and ND-19-002 were reviewed by the ERB and no recommendations were provided.

C. Conditional Use Permit No. 16-007 for the Operation of a Bed and Breakfast Inn and Associated Uses and Alcohol Sales (MMC Chapter 17.66)

1. The proposed bed and breakfast inn project is a conditionally permitted use in the CV land use designation and CV-2 zoning district. Pursuant to MMC Section 17.24.030(A), onsite alcohol sales/consumption is a conditionally permitted use in the CV-2 zoning district. With the approval and adoption of the proposed General Plan land use amendment from CC to CV and the zone change from CC to CV-2, the proposed use is one that is conditionally permitted within the subject zone and complies with the intent of the Zoning provisions of the MMC and the LCP. The proposed project will conform to the MMC upon approval by the City Council and will conform with the LCP upon CCC certification of the LCPA.

2. The project is located within the commercial corridor of the city and the surrounding development is comprised of restaurants, motels, and other commercial development, as well as multi-family residential development. The intensity and density of the proposed use is commensurate with that of the surrounding development. The project as designed and conditioned, will not have significant adverse visual impacts and will not impair the integrity and character of the zoning district.

3. The subject site is physically suitable for the proposed bed and breakfast inn and for providing alcohol service. The existing commercial development can accommodate the proposed visitor-serving commercial through the conversion of the existing motel use at 22752 PCH (Ryokan Motel) and the expansion into the private health club at the adjacent 22762 PCH (Tide Pool) to be operated conjunctively as a bed and breakfast inn. The proposed project is located within the commercial corridor of the City and the surrounding development is comprised of restaurants, motels, and other commercial development, as well as multi-family residential development. The intensity and density of the proposed use is commensurate with that of the surrounding development. The proposed bed and breakfast inn project is suitable for providing alcohol services.

4. The proposed use is compatible with the land uses presently on the subject property and in the surrounding neighborhood. The project is located within the commercial corridor of the City and the surrounding development is comprised of restaurants, motels, and other commercial development, as well as multi-family residential development. The intensity and density of the proposed use is commensurate with that of the surrounding development. Providing alcohol

service in association with a bed and breakfast inn is a compatible land use. The proposed hotel bed and breakfast inn project is suitable for the consumption of alcoholic beverages.

5. The proposed bed and breakfast inn is a conditionally permitted use in the CV land use designation and CV-2 zoning district. With the approval and adoption of the proposed changes to the zoning and land use designation, the proposed use is one that is conditionally permitted within the proposed CV-2 zone and complies with the intent of the zoning provision of the MMC. The proposed project is located within the commercial corridor and the surrounding development is comprised of restaurants, motels, and other commercial development, as well as multi-family residential development. Providing alcohol service is compatible with existing and future land uses. The proposed bed and breakfast inn is suitable for the consumption of alcoholic beverages. The proposed project is also located within the commercial corridor of the City and the surrounding development is comprised of restaurants, motels, and other commercial development. The restaurants in the surrounding zoning district also provide alcohol service. The intensity and density of the proposed use is commensurate with that of the surrounding development.

6. There would be adequate provisions for water, sanitation, and public utilities and services to ensure that the proposed use would not be detrimental to public health and safety. Adequate public services and utilities are available to serve the project. Utilities are available to serve the proposed project. Existing utilities already serve the existing motel and private health club on the project site. On December 14, 2017, the City Environmental Health Administrator reviewed the project and found it to meet the minimum requirements of the Malibu Plumbing Code, MMC and LCP. The subject system will meet all applicable requirements, and operating permits will be required. The proposed project does not affect solar access or adversely impact existing public and private views. The project can be accommodated by converting the use of the existing commercial development on the property with limited physical modifications. The proposed bed and breakfast inn is located within a commercial corridor and the surrounding development is comprised of restaurants, motels, and other commercial development, as well as multi-family residential development. The intensity and density of the proposed use is commensurate with that of the surrounding development.

7. Adequate public services are available to serve the project. Access to the proposed project is from PCH, an existing public highway. The existing vehicle access from two existing driveways on PCH will remain as is. A driveway on the east is used to access 15 parking spaces on an at grade parking area at 22752 PCH (Ryokan Motel lot). A driveway on the west is used to access 10 parking spaces on an at grade parking area at 22762 PCH (Tide Pool lot).

8. The General Plan land use of the property is currently CV for the Tide Pool parcel and CC for the existing motel site. The project includes an amendment to change the land use designation of the motel site to CV, consistent with the Tide Pool parcel. The request for a conditionally permitted bed and breakfast inn with the sale of alcohol for onsite consumption on the subject property is consistent with the goals, objectives, policies, and general land uses of the Malibu General Plan and with the CV land use designation. The proposed visitor-serving bed and breakfast inn supports the General Plan's objective to permit the development of commercial visitor-serving facilities at suitable locations [LU Goal 3: LU Objective 3.2]. The bed and breakfast inn, including the sale of alcohol for onsite-consumption, would contribute to the visitor-serving areas for use by tourists. The property will not be physically altered by the conditionally permitted bed and breakfast inn use. Therefore, the proposed bed and breakfast inn, including the sale of alcoholic beverages for onsite consumption use is in alignment with the General Plan's objective

for visitor-serving facilities in suitable locations and to limit development impacts on the City's natural and environmental resources.

9. Bed and breakfast inns and alcohol service are conditionally permitted uses in the CV-2 zoning district. As conditioned, the proposed use complies with all applicable requirements of State and local law. The proposed project will comply with all applicable requirements of State and local law and is conditioned to comply with any relevant approvals, permits and licenses from the City of Malibu and other related agencies such as the ABC and the LACSD.

10. Bed and breakfast inns and alcohol service are conditionally permitted uses in the CV-2 zoning district. The proposed project will comply with all applicable requirements of State and local law and is conditioned to comply with any relevant approvals, permits and licenses from the City of Malibu and other related agencies such as the ABC and the LACSD. As conditioned, the proposed use will not be detrimental to the public interest, health, safety, convenience or welfare.

11. The proposed project is not located in an area determined by the City to be at risk from earth movement, flooding or liquefaction. Therefore, the proposed project is not at risk from earth movement, flooding, liquefaction, or other potential hazards.

SECTION 4. Local Coastal Program Amendment No. 16-001 Findings

LCP Amendment (LCPA No. 16-001) to amend Appendix 2 (Maps).

Based on the evidence in the whole record, the Planning Commission hereby finds as follows:

1. The proposed bed and breakfast inn use is conditionally permitted in the CV-2 zoning district. With the approval and adoption of the proposed changes to the zoning and land use designation, the proposed bed and breakfast use is one that is conditionally permitted within the proposed CV-2 zone and complies with the intent of the zoning provisions of the LCP. Additionally, the project will conform to the LCP upon CCC certification of the LCPA.

Chapter 3 of the Coastal Act states that any new development must not impede or adversely impact public access to the beach, must protect marine resources and scenic views, and must not significantly disrupt environmentally sensitive habitat areas. LUP Chapter 2 incorporates the public access policies set forth in the Coastal Act, including Public Resources Code Section 30210.

The proposed LCPA, does not impede public access to the beach, impact coastal resources, impact scenic views, or disrupt environmentally sensitive habitat areas as the proposed project does not involve any new construction or improvements outside of the existing building footprint and is not designated as ESHA. Therefore, the overall text amendment is consistent with Chapter 3 of the Coastal Act.

The proposed amendment also furthers the following relevant LUP policies and sections:

The relevant Coastal Act Policies regarding New Development are provided in LUP Chapter 5. The following LUP policies and sections apply and provide in pertinent part as follows:

- a. A.2. Visitor serving commercial uses shall be allowed in all commercial zones in the City and shall be given priority over other non-coastal dependent development.
- b. 5.11 Recreational development and commercial visitor-serving facilities shall have priority over non-coastal dependent uses. All uses shall be consistent with protection of public access and ESHA.

The relevant Coastal Act Policies regarding Public Access and Recreation, and visitor serving recreational facilities and commercial uses such as hotels and motels are provided in LUP Chapter 2. The following LUP policies and sections apply and provide as follows:

- a. 30222 The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry.
- b. 2.33 Priority shall be given to the development of visitor-serving and commercial recreational facilities designed to enhance public opportunities for coastal recreation. On land designated for visitor-serving commercial and/or recreational facilities, priority shall be given to such use over private residential or general commercial development. New visitor-serving uses shall not displace existing low-cost visitor-serving uses unless an equivalent replacement is provided.
- c. 2.37 Priority shall be given to the development of visitor-serving commercial and/or recreational uses that complement public recreation areas or supply recreational opportunities not currently available in public parks or beaches. Visitor-serving commercial and/or recreational uses may be located near public park and recreation areas only if the scale and intensity of the visitor-serving commercial recreational uses is compatible with the character of the nearby parkland and all applicable provisions of the LCP.

SECTION 5. General Plan Map Amendment No. 16-001 Findings

GPMA No. 16-001 will change the land use designation of the motel site from CC to CV-2.

Based on the evidence in the whole record, the Planning Commission hereby finds as follows:

1. The GPMA will make the land use designation for the project site consistent with the LCP and the zoning designation for the property.
2. The General Plan land use designations in the area surrounding the project site are primarily commercial, with some residential. The Ryokan Motel land use designation is CC, which is intended to provide resident serving needs on land that is suitable for concentrated commercial activity but does not allow for the proposed bed and breakfast inn. The Tide Pool land use designation is CV, which is intended general commercial uses as well as for hotels, motels and bed and breakfast inns. Therefore, the GPMA is proposed to change the land use designation of the Ryokan Motel to CV, a land use designation that allows for bed and breakfast inns.
3. The project is located within the commercial corridor of the City and the surrounding development is comprised of restaurants, motels, and other commercial development, as well as multi-family residential development. The intensity and density of the proposed use is commensurate with that of the surrounding development.

4. The GPMA is consistent with the objectives, policies, general land uses and program specified in the General Plan.

LU OBJECTIVE 4.4 of the General Plan provides for successful businesses appropriate for to Malibu. To fulfil this LU Policy 4.4.3 provides: “The City shall regulate design of new bed and breakfast inns to foster “country-inn type” establishments and regulate the size and design of other hotel development to ensure development compatible with a rural residential community and discourage convention hotel developments by limiting on the same site ancillary uses such as banquet and meeting rooms and limiting restaurants to a capacity necessary to serve guests of the hotel only.”

5. The existing commercial development can accommodate the proposed visitor-serving commercial use through the conversion of the existing motel use at 22752 PCH (Ryokan Motel) and the expansion into the private health club at the adjacent 22762 PCH (Tide Pool) to be operated conjunctively as a bed and breakfast inn. The proposed use is compatible with the land uses presently on the subject property and in the surrounding neighborhood.

SECTION 6. Zoning Map Amendment No. 15-001 Findings

The proposed Zoning Map Amendment No. 15-001 will change the zoning from CC to CV-2.

Based on the evidence in the whole record, the Planning Commission hereby finds as follows:

1. The zoning map amendment is consistent with the objectives, policies and general land uses in the General Plan, as amended by the LCP amendment.
2. The zoning map amendment will allow the MMC to be amended and be consistent with the amended LCP zoning map, and is only a corollary of that action.
3. The zoning map amendment is necessary for the proposed LCP amendment and will only be approved if the LCP amendment is approved, and on the condition that the zoning map amendment only takes effect if the LCP amendment is certified by the CCC.

SECTION 7. Determination of Public Convenience or Necessity.

According to the State Department of Alcoholic Beverage Control, the project site is located within a census tract that has an over-concentration of licenses; therefore, a Letter of Public Convenience or Necessity is required. Based on CUP findings in Section 3 of this resolution, the Planning Commission finds that the proposed use will not be detrimental to the public health, safety, or general welfare and is compatible with the land uses presently on the subject property and in the surrounding neighborhood. The Planning Commission hereby recommends that the City Council authorizes the Planning Director to prepare and submit a Letter of Public Convenience or Necessity for the proposed use to the State Alcoholic Beverage Control Department.

SECTION 8. Planning Commission Action.

Based on the foregoing findings and evidence contained within the record, the Planning Commission hereby recommends to the City Council the adoption of IS 17-002 and ND No. 19-

002 and approval of CDP No. 23-046, CUP No. 16-007, GPMA No. 16-001, ZMA No. 15-001, and LCPA No. 16-007, subject to the following conditions.

SECTION 9. Conditions of Approval.

Standard Conditions

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. The conversion of a legal nonconforming motel (Nobu Ryokan Motel) and adjacent private health club (Tidepool Health Club) to be operated conjunctively as a bed and breakfast inn with a total of 17 guestrooms with kitchen facilities, a 300 square foot gym; and a 600 square foot swimming pool;
 - b. The sale of alcoholic beverages for onsite consumption by guests only; and
 - c. Discretionary Request:
 - i. GPMA No. 16-001 to change the land use designation for the Ryokan Motel lot from CC to CV;
 - ii. ZMA No. 15-001 to change to zoning for both lots from CC to CV-2;
 - iii. LCPA No. 16-007 to change the land use designation for both lots from CC to CV-2 ; and
 - iv. CUP No. 16-007 for the operation of a bed and breakfast inn use in the commercial visitor serving zoning district and alcohol service.
3. Except as specifically changed by conditions of approval, the proposed use must be operated 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 **August 24, 2023**. 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 owner signs, notarizes and returns the Acceptance of Conditions 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 digitally submit a complete set 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 expire 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 Environmental Health Administrator, City Public Works Department, and LACSD, 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 have been exhausted.
11. The property owner must submit payment for all outstanding fees payable to the City prior to issuance of any building permit, including grading or demolition.
12. Condition No. 3 of CDP No. 13-066 is hereby amended to read as follows:

“Use of the existing pool is restricted to guests of the proposed bed and breakfast inn. Use of the pool by any other person or for any other purpose is not authorized under this approval.”

Site-Specific Conditions

13. No off-site sale of alcohol shall be permitted. Alcohol shall only be served for room service and within the deck for motel guests.
14. This CUP permits the sale and consumption of alcoholic beverages. The property owner / motel operator shall obtain all necessary approvals from ABC. Once obtained, the applicant is required to provide the Planning Department a copy of the issued ABC license.
15. A copy of the current ABC license shall be kept on the premises of the establishment and be presented to City staff, including the City’s Planning Director and Code Enforcement staff, law enforcement officers or their duly authorized representatives, upon request.

16. At all times during the conduct of the permitted use, the permittee shall maintain and keep in effect valid licensing approval from ABC. Should such licensing be denied, expire or lapse at any time in the future, the approval of alcohol sale pursuant to this permit is subject to modification or revocation of this conditional use permit pursuant to MMC Section 17.66.100(C).
17. The approved hours of operation for the sale or serving of alcoholic beverages are limited to 10:00 a.m. to 10:00 p.m., Sunday through Thursday, and 10:00 a.m. to 11:00 p.m., Friday and Saturday.
18. No live entertainment is permitted on the property except in compliance with an approved temporary use permit provided it can be demonstrated that the noise generated from the event would be in compliance with Condition No. 20 and off-street parking spaces can be secured to accommodate the number of people expected in the event. Amplified sound may be permitted provide it is consistent with Condition Nos. 20 and 45.
19. The property owner / operator shall adhere to a “good neighbor” policy, meaning that the operator and employees must respect the rights of neighboring properties and, to the best of their ability, shall ensure their patrons’ compliance with the City’s noise and smoking regulations and all conditions of approval for the subject use relating to parking, smoking, litter, noise, loitering, etc.
20. Noise emanating from the premises shall not be plainly audible at a distance of five feet of any residential unit between the hours of 10:00 p.m. and 7:00 a.m., as required by MMC Section 8.24.050(L).
21. The onsite kitchen may only serve food and beverages to motel guests.
22. The motel operator must adhere to all laws related to the sale of alcohol. Violations of such laws may be cause for modification or revocation of this conditional use permit pursuant to MMC Section 17.66.100(C).
23. No other new signage is permitted under this application; a sign permit shall be submitted and approved by the Planning Department prior to installation of any new sign.
24. The landscaping plan must be revised to include a detail depicting a barrier encircling root balls to be used for all the California Sycamore trees in order to minimize potential root damage to the sidewalk and parking lot. The planting of the California Sycamore trees must be in compliance with this detail.
25. The swimming pool may only be used by hotel guests no later than 10 pm. All pool lights must be turned off for the night no later than 10 pm.
26. Special events involving non-guests shall require a temporary use permit.
27. Prior to the effective date of the coastal development permit, the property owner must pay the lower cost overnight accommodations in lieu fee in compliance with LIP Section 12.10 for the proposed increase of one room.

Conditional Use Permit

28. This conditional use permit may be reviewed by the Planning Director (predecessor and/or designee) and/or Planning Commission on an as-needed basis at the discretion of the Planning Director (predecessor and/or designee) or Planning Commission. Should it be determined that a review is required, the applicant shall pay the Planning Department staff site inspection fee in effect at the time of request for a site inspection. A staff planner will conduct a site visit to verify compliance with the provisions set forth in this resolution. If necessary, the Planning Director will determine whether the conditional use permit may be brought back to the Planning Commission for additional conditions to mitigate and/or prevent nuisances that were identified during the site inspection or made aware of by members of the public. Possible mitigation measures can include:
 - a. Modifying the hours of operation;
 - b. Incorporate noise mitigating measures / devices;
 - c. Traffic safety measures;
 - d. Land use intensification or reconfiguration of shared parking that would result in a parking demand greater than approved under this application; or
 - e. Other measures deemed necessary by the Planning Commission.
29. The property owner tenant shall not use the parking lot for any use other than the uses and activities explicitly permitted for the subject parcel or as permitted by a temporary use permit or filming permit.
30. The property owner and operator must secure an off-site parking area to accommodate vehicles for all events that overlap with other uses that will generate a parking demand in excess of the proposed parking spaces. A shuttle service must be provided between the off-site parking area and the subject property.
31. The conditions under which this conditional use permit may be modified by the City without the consent of the property owner or operator if the Planning Commission finds that the use is creating a nuisance.
32. A conditional use permit that is valid and in effect and was granted pursuant to the provisions of the MMC, shall run with the land and continue to be valid upon change of ownership of the land or any lawfully existing building or structure on the land.
33. This conditional use permit shall no longer be valid and in effect with the demolition of all buildings, including a major remodel constituting new development requiring a new CDP.
34. The conditional use permit may be revoked if the Planning Commission finds that one or more of the following conditions exists:
 - a. The conditional use permit was obtained in a fraudulent manner.
 - b. The use for which the conditional use permit was granted has ceased or was suspended for at least six successive calendar months.
 - c. One or more of the conditions found within this resolution have not been substantially met.

35. The conditional use permit is subject to Planning Commission revocation should the use for which the conditional use permit was granted cease for six successive calendar months, except in the case of a natural disaster.

Trash Storage Areas

36. Trash container areas must have drainage from adjoining roofs and pavement diverted around the area.
37. Trash container areas must be screened or walled to prevent off-site transport of trash.

Outdoor Material Storage

38. Materials with the potential to contaminate storm water must be: (1) placed in an enclosure such as a cabinet shed or similar structure that prevents contact with runoff or spillage to the storm water conveyance system; or (2) protected by secondary containment structures such as berms, dikes or curbs.
39. The storage areas must be paved and sufficiently impervious to contain leaks and spills.
40. The storage area must have a roof or awning to minimize collection of storm water within the secondary containment area.

Alcohol Services

41. This CUP permits the sale and consumption of alcoholic beverages with an approved ABC license. The property owner/tenant shall obtain all necessary approvals from ABC. Once obtained, the applicant is required to provide the Planning Department a copy of the issued ABC license.
42. A copy of the current ABC license shall be kept on the premises of the establishment and be presented to City staff, including the City's Planning Director and Code enforcement staff, law enforcement officers or their duly authorized representatives, upon request.
43. At all times during the conduct of the permitted use, the permittee shall maintain and keep in effect valid licensing approval from ABC. Should such licensing be denied, expire, or lapse at any time in the future, the approval of alcohol sale pursuant to this permit is subject to modification or revocation of this conditional use permit pursuant to MMC Section 17.66.100(C).
44. The property owner/operator shall adhere to a "good neighbor" policy, meaning that the operator and employees must respect the rights of neighboring properties, and to the best of their ability, shall ensure their patrons' compliance with the City's noise and smoking regulations and all conditions of approval for the subject use relating to parking, smoking, litter, noise, loitering, etc.
45. Noise emanating from the premises shall not be audible at a distance of five feet of any residential unit between the hours of 10:00 P.M. and 7:00 A.M., as required by MMC Section 8.24.050(L).

46. Amplified sound outdoors is prohibited, except that ambient music is allowed in the swimming pool and deck areas, as long as it is not audible within five feet of any neighboring building, and the applicant prepares a noise study.
47. The property owner/tenant shall comply with the requirements set forth in MMC Chapter 9.28 (Plastic Bag Ban). No retail establishment, restaurant, vendor, or nonprofit vendor shall provide plastic bags or compostable bags to customers. This requirement applies to plastic or compostable bags provided at the point of sale for the purpose of carrying away goods.
48. No restaurant, food packager, retail food vendor, or nonprofit food provider shall provide prepared food to its customers in any food packaging that utilizes expanded polystyrene. "Expanded polystyrene" means and includes blown polystyrene and expanded and extruded foams (sometimes incorrectly called Styrofoam, a Dow Chemical Company trademarked form of polystyrene foam insulation) which are thermoplastic petrochemical materials utilizing a styrene monomer and processed by any number of techniques including, but not limited to, fusion of polymer spheres (expandable bead polystyrene), injection molding, foam molding, and extrusion-blow molding (extruded foam polystyrene). Expanded polystyrene is generally used to make cups, bowls, plates, trays, clamshell containers, meat trays, and egg cartons.
49. The property owner / tenant shall comply with the requirements set forth in MMC Chapter 9.24 (Ban on Plastic Food Packaging and Other Plasticware). No retail establishment, restaurant, vendor or nonprofit shall provide plastic beverage straws, plastic stirrers, or plastic cutlery to customers.
50. Staff shall inspect the property as needed after approval of the CUP to verify compliance with the conditions of approval.
51. The Planning Department shall conduct a review of bed and breakfast inn operations and compliance with conditions of approval. The report shall be presented to the Planning Commission five years after CUP approval.

Sheriff's Department

52. The tenant must adhere to all laws related to the sale of alcohol. Violations of such laws may be cause for modification or revocation of this conditional use permit pursuant to MMC Section 17.66.100(C).

Deed Restrictions

53. The property owner(s) 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 owner shall provide a copy of the recorded document to Planning Department staff prior to final Planning approval.

Lot Tie Agreement

54. The property owner(s) are required to execute and record a covenant and agreement to hold the subject properties identified as 22752 and 22762 PCH as one parcel to guarantee that no portion of the bed and breakfast inn or the private health club shall be sold separately for the life of the use. The property owner shall provide a copy of the recorded document to Planning Department staff prior to final Planning approval and effective date of the use.

Fixed Conditions

55. This conditional use permit shall run with the land and bind all future owners of the property.
56. Violation of any of the conditions of this approval may be cause for revocation of this permit and termination of all rights granted there under.

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

PASSED, APPROVED AND ADOPTED this 18th day of December 2023.

KRAIG HILL, Planning Commission Chair

ATTEST:

REBECCA EVANS, Recording Secretary

LOCAL APPEAL Pursuant to Local Coastal Program Local Implementation Plan (LIP) Section 13.20.1 (Local Appeals) a decision made by the Planning Commission may be appealed to the City Council by an aggrieved person by written statement setting forth the grounds for appeal. An appeal shall be filed with the City Clerk within 10 days and shall be accompanied by an appeal form and filing fee, as specified by the City Council. Appeal forms may be found online at www.malibucity.org, in person at City Hall, or by calling (310) 456-2489, ext. 246.

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 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. 23-46 was passed and adopted by the Planning Commission of the City of Malibu at the Regular meeting held on the 18th day of December 2023 by the following vote:

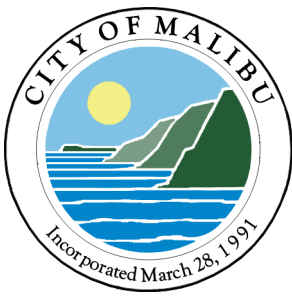
AYES:

NOES:

ABSTAIN:

ABSENT:

REBECCA EVANS, Recording Secretary



Supplemental Commission Agenda Report

Planning Commission
Meeting
11-06-23

Item 5.A.

To: Chair Peak and Members of the Planning Commission

Prepared by: Adrian Fernandez, Assistant Planning Director

Approved by: Richard Mollica, Planning Director

Date prepared: November 1, 2023

Meeting date: November 6, 2023

Subject: The Nobu Ryokan Motel and Malibu Tidepool Health Club Project – Coastal Development Permit No. 23-046, Local Coastal Program Amendment No. 16-001, General Plan Map Amendment No. 16-001, Zoning Map Amendment No. 15-001, Conditional Use Permit No. 16-007, Lot Tie No. 21-001, Initial Study No. 17-002, and Negative Declaration No. 19-002 – An application to rezone and change the land use designation of the properties from Community Commercial to Community Visitor-Serving-Two for the existing Nobu Ryokan Motel and Malibu Tidepool Health Club lots and conversion of the existing non-conforming use motel and adjacent private gym and pool to a bed and breakfast inn and the sale of alcohol for onsite consumption, a lot tie for the two lots to operate conjunctively and conversion of office space in the Tide Pool building into a new guest suite

Locations: 22752 and 22762 Pacific Coast Highway, within the appealable coastal zone

APNs: 4452-004-034 and 4452-004-035

Owners: North Broadway Ventures, LLC and Wavebreak, LLC

RECOMMENDED ACTION: Adopt Planning Commission Resolution No. 23-46 (Attachment 1) recommending to the City Council adopt Initial Study No. 17-002 and Negative Declaration No. 19-002 (IS/ND) prepared for the project pursuant to the California Environmental Quality Act (CEQA) (Attachment 5) and approve Coastal Development Permit (CDP) No. 13-046 for the change in use from motel and gym to bed and breakfast inn, conversion of office space in the Malibu Tidepool Health Club building into a new guest suite and authorization to the Planning Director to submit a letter of public convenience or necessity for the sale of alcohol; including General Plan Map

Amendment (GPMA) No. 16-001, Local Coastal Program Amendment (LCPA) No. 16-001, Zoning Map Amendment (ZMA) No. 15-001 to rezone and change the land use designation from Community Commercial (CC) to Commercial Visitor Serving-Two (CV-2) for the existing Nobu Ryokan Motel lot (APN 4452-004-035) and rezone from CC to CV-2 for the existing Malibu Tidepool Health Club lot (APN 4452-004-034), Conditional Use Permit (CUP) No. 16-007 to permit the conversion of an existing legal non-conforming motel (Nobu Ryokan Motel) and adjacent private health club (Malibu Tidepool Health Club) into a conjunctive bed and breakfast inn and the sale of alcohol for onsite consumption, and Lot Tie (LT) No. 21-001 to hold the two lots as one for the conjunctive use of the properties as a bed and breakfast inn, located in the CC zoning district at 22752 and 22762 Pacific Coast Highway (PCH) (North Broadway Ventures LLC and Wavebreak, LLC).

DISCUSSION: This agenda report provides a project overview and summary of the surrounding land uses and project setting, description of the proposed project, an analysis of the proposed project's consistency with Malibu Local Coastal Program (LCP) and Malibu Municipal Code (MMC) provisions and General Plan policies, and environmental review pursuant to CEQA. The analysis and findings contained herein reflect the proposed project is consistent with the LCP and MMC.

Project Overview

The proposed project involves the conversion of the existing motel use at 22752 PCH and expansion into the adjacent private health club to be operated conjunctively as a bed and breakfast inn (Attachment 2 – Project Plans). The resulting combined development and uses would include transient lodging accommodations (17 guestrooms) with kitchen facilities, a 300 square foot gym, a 600 square foot swimming pool and the sale of alcohol beverages for consumption by guests of the facility only. The project also involves an interior remodel of the Malibu Tidepool Health Club building to convert interior space into a guest suite and reconfigure the existing gym and kitchen. Upon approval of the project, the existing private health club would cease operating, and the facility would not offer any services to non-facility guests. A lot tie would be recorded for the adjacent commercial developed parcels, located at 22752 and 22762 PCH, to allow the two lots to function as one project while maintaining separate ownership and preserving lot boundaries.

Background

Existing Nobu Ryokan Motel Lot: On May 6, 2013, the Planning Commission adopted Resolution No. 13-32, approving CDP No. 13-004, Minor Modification (MM) No. 13-001, Demolition Permit (DP) No. 13-005, and Offer to Dedicate (OTD) No. 13- 001 for the remodel of an existing, legal nonconforming motel, an upgrade to the existing onsite wastewater treatment system (OWTS), repair and maintenance of the existing bulkhead and pile foundation, replacement of hardscape, new trellises, water features,

landscaping, and associated development at 22752 PCH. On July 21, 2014, the Planning Commission adopted Resolution No. 14-65 approving Extension of Amortization Schedule No. 14-001 to extend the amortization period for the legal nonconforming motel use in order to provide sufficient time to process a ZMA and LCPA to change the zoning designation of the property from CC to CV-1 and to process a CUP for a motel use in the CV-1 zone.

Existing Malibu Tidepool Health Club Lot: On September 21, 2015, the Planning Commission adopted Resolution No. 15-64 approving CDP No. 13-066, OTD No. 15-003, and Variance (VAR) No. 15-014 for the removal of an existing 800 square foot deck and shoreline protection device, and construction of a 2,290 square foot deck with a 600 square foot swimming pool on 17 piles, a seawall with 10 piles, landscaping, OWTS, and repair of a seawall return at 22762 PCH. All work pursuant to both CDPs has been completed and the motel was re-opened in March 2017.

Surrounding Land Uses and Project Setting

The subject property is comprised of two commercially developed beachfront legal lots, which both take access from PCH, which borders the property to the north. The Pacific Ocean borders the property to the south. A driveway on the east is used to access 15 parking spaces on an at-grade parking area at 22752 PCH. A driveway on the west is used to access 10 parking spaces on an at-grade parking area at 22762 PCH. There is no internal access between the two parking areas.

As shown in Figure 1, the existing development is located on the north side of the lots, along PCH and landward of the beach. The south side of the parcels is undeveloped and comprised of sandy beach. The two lots are developed as follows:

- 22762 PCH, occupied by Malibu Tidepool Health Club (Tide Pool), is approximately 0.30 acre and is developed with a 2,157 square foot, two-story building and attached 392 square foot one-story garage originally built in 1951, with an at-grade parking lot containing 10 parking spaces. The property was previously occupied by the Tidepool Gallery, a former art house. The property was remodeled in 2015 pursuant to CDP No. 13-066, which included construction of a swimming pool, and is currently occupied by the Malibu Tidepool Health Club. The Tide Pool amenities include a gym, swimming pool, and a kitchen to provide food/drink services to members. The health club use is a conforming use because it is a permitted use pursuant to the current land use designation and zoning.
- 22752 PCH, occupied by Nobu Ryokan Motel (Ryokan Motel), is approximately 0.67 acre and is developed with 9,030 square feet of total floor area, comprised of a two-story building, and two one-story bungalows, originally built in 1950, with an at grade parking lot containing 15 parking spaces. The property has historically been used as a motel and was previously occupied by the Casa Malibu Inn providing 22 guest

rooms. The property was remodeled in 2016 pursuant to CDP No. 13-004, to maintain the motel use, and the guest rooms total was reduced to 16. The existing development and motel use are legal, non-conforming because the use does not conform with the current land use designation and zoning, which does not allow for transient lodging accommodations (i.e., bed and breakfast inn, motel or hotel), and the development does not conform to current design and development standards.

Figure 1 – Aerial Map



Source: City GIS

Existing and Proposed Zoning/Land Use Designation

The City's land use and zoning maps (General Plan Land Use Map, MMC Zoning Map, LCP Land Use Map and LCP Zoning Map) designate the allowable land use, including type, maximum density, floor area ratio (FAR), and intensity, for each parcel. Land use types include local commercial, visitor serving commercial, residential, institutional, recreational, and open space. The General Plan, Zoning Code and LCP also describe the allowable uses in each category.

The City's land use is CC for the Ryokan Hotel and CV for the Tide Pool, and zoning maps designate both lots as CC. Upon the City's adoption of the General Plan and MMC, the pre-existing motel use located at 22752 PCH became a legal non-conforming use, as transient lodging accommodations including motels, bed and breakfast inns, and hotel uses are not listed as a permitted or conditional permitted use within the CC land

use designation or zoning district. The proposed project includes GPMA No. 16-001, LCPA No. 16-001, and ZMA No. 15-001 to redesignate the Ryokan Hotel lot's land use designation to CV and rezone both lots to the CV-2 zoning classification, land use and zoning designations in which bed and breakfast inn uses are conditionally permitted.

Table 1 - Existing and proposed Zoning and Land Use Designation			
	Existing	Proposed	Comments
Ryokan Motel			
General Plan Land Use	CC	CV	GPMA 16-001
City Zoning	CC	CV-2	ZMA 15-001
LCP Land Use/ Zoning	CC	CV-2	LCPA 16-001
Tide Pool			
General Plan Land Use	CV	CV	No Change
City Zoning	CC	CV-2	ZMA 15-001
LCP Land Use/ Zoning	CC	CV-2	LCPA 16-001

Existing: The existing motel use located at 22752 PCH is a legal nonconforming use because the use does not conform with current land use designation and zoning, which does not allow for transient lodging accommodations (i.e., bed and breakfast inn, motel or hotel). The existing health club located at 22762 PCH is a conforming use pursuant to the current land use designation and zoning.

The CC land use and zoning designation is intended to provide the resident-serving needs of the community, including uses such as restaurants, banks, offices, and retail. Specifically,

COMMUNITY COMMERCIAL (CC): The CC designation is intended to provide for the resident serving needs of the community similar to the CN designation, but on parcels of land more suitable for concentrated commercial activity. The community commercial category plans for centers that offer a greater depth and range of merchandise in shopping and specialty goods than the neighborhood center although this category may include some of the uses also found in a neighborhood center. Often a supermarket or variety store functions as the anchor tenant. The maximum FAR is 0.15. The FAR may be increased to a maximum of 0.20 where public benefits and amenities are provided as part of the project. Uses that are permitted and/or conditionally permitted include the following: all permitted uses within the CN designation, financial institutions, medical clinics, restaurants, service stations, health care facilities, offices, and public open space and recreation.

Proposed: The bed and breakfast inn use is allowed as a conditionally permitted use in the Commercial Visitor Service (CV) designation, as provided for in the General Plan. The MMC and LCP also specifically provide that a bed and breakfast inn is allowed as a conditionally permitted use in the CV-1 and CV-2 zoning districts.

Specifically,

COMMERCIAL VISITOR SERVING (CV): The CV designation provides for visitor serving uses such as hotels and restaurants that are designed to be consistent with the rural character and natural environmental setting, as well as public open space and recreation uses. Uses allowed in the other commercial categories (Commercial Neighborhood, Community Commercial, and Commercial General) may be permitted as part of projects approved on parcels designated Commercial Visitor Serving, so long as at least 50 percent of the overall floor area of any individual project is devoted to visitor serving uses. The maximum FAR is 0.15. The FAR may be increased to a maximum of 0.25 where public benefits and amenities are provided as part of the project. CV designations are divided into two levels of density. Hotels are only permitted in CV-2 designations, the highest density designation. Motels and bed and breakfast inns are allowed in the CV-1 designation.

Conditional Use Permit

The proposed project includes CUP No. 16-007 to permit the conversion of the existing, legal non-conforming motel and adjacent private health club into a conjunctive bed and breakfast inn and to allow sales of alcoholic beverages for on-site consumption (alcohol service) by guests only, pursuant to a California Department of Alcoholic Beverage Control (ABC) license.

Requested Hotel Operation Parameters

- Bed and Breakfast Inn and Lobby: The bed and breakfast will serve overnight guests seven days per week and will provide concierge, bellman, housekeeping, engineering and mini-bar services to guests from 6 am to 11 pm daily. It is anticipated that one overnight bellman and one contracted security guard will be on duty from 10:30 pm to 7 am daily.
- Gym: The gym would be open between 6 am and 10 pm and available to guests of the facility only.
- Deck and Pool: Gross floor area used for consumption of alcoholic beverages, or recreation is approximately 19,030 square feet, which consists of both building and outdoor area. The deck and pool would be open from 7 am to 10 pm, available to guests of the facility only.

- Bed and Breakfast Inn Back of House: 24 hours. Employees and security personnel only.

ABC License

The application includes a CUP to allow a full alcohol license for the bed and breakfast inn. The applicant is requesting the Type 70 ABC licenses to reflect this use. The California Liquor License Type 70 (On-Sale General – Restrictive Service) authorizes the sale or furnishing of beer, wine and distilled spirits for consumption on the premises to the establishment's overnight transient occupancy guests or their invitees. This license is normally issued to "suite-type" hotels and motels, which exercise the license privileges for guests' "complimentary" happy hour. Minors are allowed on the premises.

The applicant intends to submit an application to ABC to permit the sale of beer, wine and distilled spirits for on-site consumption. ABC will not issue the license until the proposed CUP is approved. Therefore, a condition of approval has been included stating that the tenant must submit a copy of the ABC license to the Planning Department prior to alcohol sales. The proposed alcohol service area is approximately 19,030 square feet. The alcohol may be consumed within the building or outdoor deck. Specific conditions of approval have been included in the resolution requiring that this use remain ancillary to the bed and breakfast inn and not become the primary use, like a "bar or cocktail lounge."

A Letter of Public Convenience or Necessity may also be required. It is not always obvious whether a Letter of Convenience or Necessity will be required during the Planning stage, but this approval would authorize the Planning Director to issue one should it be requested.

The Planning Department, City Environmental Health Administrator, City Public Works Department, and the Los Angeles County Sheriff's Department (LACSD) reviewed the subject application and determined it is consistent with applicable local and State provisions.

Lot Tie

LT No. 21-001 is not an entitlement but rather a method used by the Planning Department to document and track the proposed lot tie. The proposed lot tie would hold the two lots as one for the conjunctive use of the properties as a bed and breakfast inn. Lot ties are commonly used in other jurisdictions for similar purposes.

The applicant is proposing to enter into a covenant and agreement to hold the subject properties identified as 22752 and 22762 PCH as one parcel to guarantee that no portion shall be sold separately. Both properties are under shared ownership pursuant to two separate LLCs. The agreement is executed for the purpose of creating a legally

unified building site for the proposed project. The agreement runs with the land and is binding and will continue in effect until released by the City.

Environmental Review Board

Pursuant to LCP Local Implementation Plan (LIP) Sections 4.4.4(C) and (D), the proposed project is exempt from Environmental Review Board (ERB) review because the project site is currently developed with commercial buildings, hardscaping, and ornamental landscaping developed with approved permits, will not expand the existing required fuel modification area, and is not located in a mapped environmentally sensitive habitat area (ESHA), an ESHA buffer zone or adjacent to any streams as designated in the LCP. Nevertheless, staff forwarded the project for ERB review because an IS-ND was prepared for the project, and projects subject to CEQA review have typically been reviewed by the ERB.

On January 26, 2022, the ERB considered the above-referenced project and had no recommendations for the proposed project.

Project Setting and Surrounding Land Uses

The proposed project site is located within the Appeal Jurisdiction of the California Coastal Commission (CCC) as depicted on the Post-LCP Certification Permit and Appeal Jurisdiction Map, so the project is appealable to the CCC. The project site has no trails on or adjacent to it according to the LCP Park Lands Map and is not in a designated ESHA or ESHA buffer as shown on the LCP ESHA and Marine Resources Map. However, the California Coast Trail is presumed to be sited parallel to and all along the coast. As beachfront lots, the California Coast Trail would traverse across the rear portion of the subject property. Offer-to-Dedication (OTD) No. 13-001 for 22752 PCH (Ryokan Motel) and OTD No. 15-003 for 22762 PCH (Tide Pool) were recorded to offer lateral easements from the most seaward building projection to the ambulatory mean high tide line.

The project site is located south of PCH in a commercial area of the City, approximately one-third mile east of the Malibu Pier and Civic Center Area. Properties immediately adjacent to the project site are zoned CC and are developed with commercial structures and uses. Areas further east of the project site are developed with CV-1 and Multi-Family (MF) residential uses, and primarily MF uses further west.

Table 2 summarizes the surrounded land uses.

Table 2 – Surrounding Land Uses				
Direction	Address	Lot Size	Zoning	Land Use
North	22761 PCH	64,033 sq. ft. / 1.47 acres	CC	Commercial/Office
	22775 PCH	10,454 sq. ft. / 0.24 acre	CC	Commercial/ Office
	22809 PCH	60,984 sq. ft. / 1.40 acres	CC	Commercial/ Office
West	22766 PCH	12,632 sq. ft. / 0.29 acre	CC	Multi-Family Residential
	22772 PCH	13,939 sq. ft. / 0.32 acre	CC	Multi-Family Residential
	22800 PCH	13,939 sq. ft. / 0.32 acre	CV-1	Retail/Multi-Family Residential
East	22806 PCH	9583 sq. ft. / 0.22 acre	MF	Multi-Family Residential
	22716 PCH	45,738 sq. ft. / 1.05 acres	CC	Restaurant/Soho House
	22706 PCH	13,939 sq. ft. / 0.22 acre	CV-1	Restaurant/Nobu
	22664 PCH	25,264 sq. ft. / 0.58 acre	MF	Multi-Family Residential

Source: City GIS

Project Description

The proposed project involves the conversion of the existing motel use at 22752 PCH (Ryokan Motel) and expansion into the private health club at the adjacent 22762 PCH (Tide Pool) to be operated conjunctively as a bed and breakfast inn. The proposed lot tie will permit the two lots to function as one project while maintaining separate ownership and preserving lot boundaries. The resulting combined development and uses would include transient lodging accommodations (17 guestrooms), with kitchen facilities adequate to provide meals to the guests of the facility only, a 300 square foot gym, and 600 square foot swimming pool for guests of the facility only. Upon approval of the project, the existing private health club will cease operating, and the facility will not offer any services to non-facility guests.

Vehicular access to the two sites will continue to be provided via two existing driveways on PCH. The subject property currently has 25 total parking spaces, which is sufficient to provide one parking space per guestroom (17) and one parking space for the maximum per shift number of employees (8). Provided parking spaces include one Americans with Disability Act (ADA) parking space, one compact parking space and eight standard parking spaces.

The project also involves an interior remodel of the Tide Pool lot to convert interior space into a guest suite. The existing gym and kitchen will also be reconfigured. No other new development or changes to the existing buildings or parking lots are proposed.

The entitlements associated with the development and operation of the project include:

- CUP No. 16-007 to permit the conversion of the existing, legal nonconforming motel and adjacent private health club into a conjunctive bed and breakfast inn and the sale of alcoholic beverages for onsite consumption by guests only.

The entitlements associated with the rezoning to allow the bed and breakfast inn use.

- GPMA No. 16-001 to change the land use designation for the Ryokan Motel lot from CC to CV;
- ZMA No. 15-001 to rezone the properties from CC to CV-2; and
- LCPA No. 16-001 to rezone the properties from CC to CV-2.

CEQA documentation required for the project include:

- Initial Study (IS No. 17-002) for the preparation of an Initial Study; and
- Negative Declaration (ND No. 19-002) for adoption of a Negative Declaration. The IS and ND was circulated for a 30-day review period which ended on January 3, 2022. The State Clearinghouse closed its review period on January 6, 2022.

LCP Analysis

The LCP consists of the Land Use Plan (LUP) and the LIP. The LUP contains programs and policies implementing the Coastal Act in Malibu. The LIP contains provisions to carry out the policies of the LUP to which every project requiring a coastal development permit must adhere.

There are 14 LIP chapters that potentially apply depending on the nature and location of the proposed project. Of these, five are for conformance review only and contain no findings: 1) Zoning, 2) Grading, 3) Archaeological/Cultural Resources, 4) Water Quality, and 5) OWTS. These chapters are discussed in the *LIP Conformance Analysis* section.

The nine remaining LIP chapters contain required findings: 1) Coastal Development Permit; 2) ESHA; 3) Native Tree Protection; 4) Scenic, Visual and Hillside Resource Protection; 5) Transfer of Development Credits; 6) Hazards; 7) Shoreline and Bluff Development; 8) Public Access; and 9) Land Division. For the reasons described in this report, only the CDP findings are applicable to the proposed project.¹ This chapter is discussed in the *LIP Findings* section of this report.

LIP Conformance Analysis

The proposed project has been reviewed by the Planning Department, City Environmental Health Administrator, City Public Works Department, and LACSD

¹ The Scenic, Visual and Hillside Resource, ESHA, Native Tree Protection, Transfer of Development Credits, Public Access, Hazards, Shoreline and Bluff Development, and Land Division findings are neither applicable nor required for the proposed project.

(Attachment 3 – Department Review Sheets). The project, as proposed and conditioned, has been found to be consistent with all applicable LCP codes, standards, goals, and policies, with the inclusion of all the discretionary requirements, and the project will conform to all development criteria established by the proposed rezoning.

Zoning (LIP Chapter 3)

The proposed project is subject to development and design standards set forth under LIP Sections 3.5 and 3.6. No new construction is proposed, and all existing development on the subject properties have been approved pursuant to CDP Nos. 13-066 and 13-004.

The allowed FAR for CC and CV parcels is 0.15. The CC zoning may permit an increase in FAR to a maximum of 0.20 where public benefits and amenities are provided as part of the project. Meanwhile, the CV zoning may permit the FAR to be increased to a maximum of 0.25 where public benefits and amenities are provided as part of the project. The approval of the rezoning by the City Council would increase the maximum allowable FAR by 0.05. No physical changes to the parcels are proposed with the subject application. All legal, non-conformities such as setbacks and FAR will remain. However, the subject application would permit the conversion of a non-conforming motel to a conforming bed and breakfast inn and would permit the operation of both parcels as one for the conjunctive use of the properties as a bed and breakfast inn. The lot tie will not permanently eliminate the lot line separating the two parcels and any future development would have to account as if the lot tie does not exist. The proposed project complies with the development standards of the CV-2 zoning district.

Grading (LIP Chapter 8)

LIP Section 8.3(B) ensures that new development minimizes the visual resource impacts of grading and landform alteration by restricting the amount of non-exempt grading to a maximum of 1,000 cubic yards for a commercial development. The project site is currently developed with existing structures including amenities, swimming pool, and surface parking spaces and the proposed project is an amendment to existing zoning and land use designation from CC to CV and CV-2 and would not involve new construction that would alter the existing buildings nor introduce new ground-disturbance or grading. Therefore, the implementation of the project would result in no impact.

Archaeological / Cultural Resources (LIP Chapter 11)

LIP Chapter 11 requires certain procedures be followed to determine potential impacts on archaeological resources. The project site is currently developed with existing structures including amenities, swimming pool, and surface parking spaces. The proposed project is an amendment to existing zoning and land use designation from CC to CV-2 and would not involve new construction that would alter the existing onsite

buildings, nor introduce new ground-disturbance. As such, the project would not affect historical or archaeological resources or disturb human remains. The subject property has been developed and used for commercial and visitor-serving uses since the 1950's and there is no evidence of cultural resources present at the property. Therefore, implementation of the project would result in no impact.

Water Quality (LIP Chapter 17)

The project site is entirely developed, and the proposed project would not increase impermeable surface on the site. The project is an amendment to existing zoning and land use designation from CC to CV and CV-2. The site has been developed and used for commercial and visitor-serving transient lodging accommodations since the 1950s, and is consistent with the development and uses in the vicinity. Because the project involves no change to the existing uses or ground-disturbing construction activity, there would be no changes to hydrologic/hydraulic processes or water quality. Therefore, the proposed project would not be anticipated to increase existing stormwater flows off the site or otherwise affect water quality.

Wastewater Treatment System Standards (LIP Chapter 18)

LIP Chapter 18 addresses OWTS. LIP Chapter 18.7 includes specific siting, design, and performance requirements. The project does not include the replacement or modification of the existing onsite wastewater treatment system. The proposed project can be supported by the existing OWTS. Any future development of new OWTS will be reviewed by the Environmental Health Administrator.

LIP Findings

A. Coastal Development Permit (LIP Chapter 13)

LIP Section 13.9 required that the following four findings be made for all coastal development permits.

Finding 1. That the project as described in the application and accompanying materials, as modified by and conditions of approval, conforms with the Certified City of Malibu Local Coastal Program.

The proposed bed and breakfast inn use is conditionally permitted in the CV-2 zoning district. With the approval and adoption of the proposed changes to the zoning and land use designation, the proposed use is one that is conditionally permitted within the proposed CV-2 zone and complies with the intent of the zoning provisions set forth in the MMC and the LCP. The project will conform to the MMC upon approval by the City Council and will conform with the LCP upon CCC certification of the LCPA.

Finding 2. If the project is located between the first public road and the sea, that the project is in conformity to the public access and recreation policies of Chapter 3 of the Coastal Act of 1976 (commencing with Sections 30200 of the Public Resources Code).

The project is located between the first public road and the sea. The project site is located along a public road and immediately east of an existing public vertical access way. According to the LCP Park Land Maps, an existing lateral access easement has been recorded for the subject property and the neighboring contiguous properties to the east (22716, 22706, and 22664). The property owner has agreed to dedicate lateral easements from the most seaward building projection to the ambulatory mean high tide line. Therefore, the project is in conformity to the public access and recreation policies of Chapter 3 of the Coastal Act.

Finding 3. The project is the least environmentally damaging alternative.

An IS-ND was prepared in accordance with CEQA guidelines. CEQA guidelines require that a range of reasonable alternatives to the project be described, or to the location of the project, which would feasibly attain most of the basic objectives of the Project but would avoid or substantially lessen any of the significant effects of the project and evaluate the comparative merits of the alternatives. The discussion of alternatives, however, need not be exhaustive, but rather it must consider a reasonable range of potentially feasible alternatives that will foster informed decision-making and public participation.

This analysis assesses whether alternatives to the Project would significantly lessen adverse impacts to coastal resources. Based on LCP conformance review, the Project as proposed will not result in any significant adverse impacts. Nevertheless, the following alternatives were considered.

No Project – The no project alternatives would avoid any changes to the existing health club and legal nonconforming motel uses and zoning designations of the subject site. The no project alternative would not accomplish any of the project objectives, including the conjunctive operation of a bed and breakfast inn and associated discretionary requests to change existing zoning and land use designations and provide alcohol service. Furthermore, the existing legal motel use located at 22752 PCH would continue as a legal nonconforming use.

Proposed Project – The proposed project is an amendment to existing zoning and land use designation from CC to CV-2 and the conversion of the existing motel use at 22752 PCH and expansion into the adjacent private health club (22762 PCH) to be operated conjunctively as a bed and breakfast inn. A lot tie would be recorded for the adjacent commercial developed parcels, located at 22752 and 22762 PCH, to allow the two lots to function as one project while maintaining separate ownership and preserving lot boundaries. The project also involves an interior remodel of the Malibu Tidepool Health

Club building to convert interior space into a guest suite and reconfiguration of the existing gym and kitchen, however all improvements will occur within the footprint of existing structures onsite, and no expansion of the building footprint is proposed. Therefore, the proposed project is not expected to have a significant adverse effect on the environment. The proposed project as conditioned will comply with all applicable requirements of State and local law. The project has been determined not to result in adverse biological, scenic or visual resource impacts, and is the least environmentally damaging feasible alternative.

Finding 4. If the project is located in or adjacent to an environmentally sensitive habitat area pursuant to Chapter 4 of the Malibu LIP (ESHA Overlay), that the project conforms with the recommendations of the Environmental Review Board, or if it does not conform with the recommendations, findings explaining why it is not feasible to take the recommended action.

The subject property is not located in a designated ESHA or ESHA buffer as shown on the LCP ESHA and Marine Resources Map and the proposed project is exempt from ERB review because the existing site contains commercial buildings, hardscaping, and ornamental landscaping developed with approved permits. Additionally, the proposed project does not involve the expansion of the existing building footprint nor the expansion of the required fuel modification area. Nevertheless, staff forwarded the project for ERB review because an IS-ND was prepared for the project, and projects subject to CEQA review have typically been reviewed by the ERB. On January 26, 2022, the ERB considered the proposed project and had no recommendations for the proposed project.

B. Environmentally Sensitive Habitat Area Overlay (LIP Chapter 4)

The subject property is not in a designated ESHA or ESHA buffer as shown on the LCP ESHA and Marine Resources Map. Therefore, the findings of LIP Section 4.7.6 do not apply. However, due to the scope of the project and preparation of an Initial Study and Negative Declaration the project was reviewed by the ERB on January 26, 2022.

C. Native Tree Protection (LIP Chapter 5)

The proposed project does not involve the removal of, or encroachment into the protected zone of any protected native trees. Therefore, the findings of LIP Chapter 5 are not applicable.

D. Scenic, Visual and Hillside Resource Protection (LIP Chapter 6)

The Scenic, Visual, and Hillside Resource Protection Chapter governs those coastal development permit applications concerning any parcel of land that is located along, within, provides views to or is visible from any scenic area, scenic road or public viewing area. The proposed project does not include a Coastal Development Permit.

Furthermore, because no exterior physical changes are proposed, the project does not have the potential to cause adverse impacts upon Scenic Areas from or along Scenic Roads or Public Viewing Areas. Therefore, the findings of LIP Chapter 6 are not applicable.

E. Transfer of Development Credit (LIP Chapter 7)

The proposed project does not include a land division or multi-family development. Therefore, the findings of LIP Chapter 7 do not apply.

F. Hazards (LIP Chapter 9)

Pursuant to LIP Section 9.3, written findings of fact, analysis and conclusions addressing geologic, flood and fire hazards, structural integrity or other potential hazards listed in LIP Sections 9.2(A)(1-7) must be included in support of all approvals, denials or conditional approvals of development located on a site or in an area where it is determined that the project causes the potential to create adverse impacts upon site stability or structural integrity.

The project is an amendment to existing zoning and land use designation from CC to CV and CV-2 that will not involve new construction or increase exposure to geologic hazards. The subject property has been developed and is used for commercial and visitor-serving uses since the 1950s, and the density and intensity of the use is consistent with the development in the surrounding area. There are no specifications pertaining to geologic processes, conditions, and building standards that differ between zoning and land use designations under CC, CV or CV-2. Implementation of the project would not alter the existing seismic or geologic conditions present at the site, nor would it expose people or structures to potential substantial adverse effects due to seismic related ground failure or landslides. The project will neither be subject to nor increase the instability of the site from geologic, flood, or fire hazards. Therefore, the findings in LIP Section 9.2(A) are not applicable.

G. Shoreline and Bluff Development (LIP Chapter 10)

The Shoreline and Bluff Development Chapter governs those coastal development permit applications that include development on a lot located on a bluff or along the shoreline as defined by the LCP. The proposed project is located on a beachfront parcel, however, the proposed project does not include a Coastal Development Permit; and the proposed project does not involve new development. No changes to the southern, beach-fronting side of the existing building are proposed, and the project extends no further seaward than the existing footprint. Therefore, the findings of LIP Chapter 10 are not applicable.

H. Public Access (LIP Chapter 12)

LIP Section 12.4 requires public access for lateral, bluff-top, and vertical access near the ocean, trails, and recreational access for the following cases:

- A. New development on any parcel or location specifically identified in the Land Use Plan or in the LCP zoning districts as appropriate for or containing a historically used or suitable public access trail or pathway.
- B. New development between the nearest public roadway and the sea.
- C. New development on any site where there is substantial evidence of a public right of access to or along the sea or public tidelands, a blufftop trail or an inland trail acquired through use or a public right of access through legislative authorization.
- D. New development on any site where a trail, bluff top access or other recreational access is necessary to mitigate impacts of the development on public access where there is no feasible, less environmentally damaging, project alternative that would avoid impacts to public access.

Although the project does not include any improvements to the existing buildings, the project is still considered a new development pursuant to LCP definition. The project site is located along PCH and immediately east of an existing public vertical access way. According to the LCP Park Land Maps, existing lateral access easements (OTD Nos. 13-001 and 15-003) have been recorded for the subject property and the neighboring contiguous properties to the east (22716, 22706, and 22664) also have lateral easements. With the recorded offers to dedicate lateral access easements (OTD Nos. 13-001 and 15-003), the project site contains provides access and passive recreational use along the shoreline. Therefore, the project meets the requirement for public access of LIP Section 12.4.

I. Land Division (LIP Chapter 15)

This project does not include a land division. Therefore, the findings of LIP Chapter 15 do not apply.

J. Conditional Use Permit No. 16-007 for the Operation of a Bed and Breakfast Inn and Associated Uses and Alcohol Sales (MMC Chapter 17.66)

The Planning Commission may approve, deny and/or modify an amendment to a CUP in whole or in part, with or without conditions, provided that it makes all of the findings of fact required by MMC Section 17.66.080. Staff is recommending that the Planning Commission recommends approval of CUP No. 21-001 to allow the operation of a bed and breakfast inn and associated uses and alcohol sales. The CUP can be supported based on the findings below:

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

The proposed bed and breakfast inn project is a conditionally permitted use in the CV land use designation and CV-2 zoning district. Pursuant to MMC Section 17.24.030(A), onsite alcohol sales/consumption is a conditionally permitted use in the CV-2 zoning district. With the approval and adoption of the proposed General Plan land use amendment from CC to CV and the zone change from CC to CV-2, the proposed use is one that is conditionally permitted within the subject zone and complies with the intent of the Zoning provisions of the MMC and the LCP. The proposed project will conform to the MMC upon approval by the City Council and will conform with the LCP upon CCC certification of the LCPA.

The proposed project has been conditioned and has been reviewed for conformance with the LCP by the Planning Department, City Environmental Health Administrator, City Public Works Department, and LACSD. As discussed herein, based on submitted reports, project plans, visual analysis and site investigation, the proposed project, as conditioned, comply with all applicable provisions of the MMC and the LCP, and conforms to the MMC and the LCP in that it meets all proposed LCPA and ZTA development standards.

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

The project is located within the commercial corridor of the city, on PCH, and the surrounding development is comprised of restaurants, motels, and other commercial development, as well as multi-family residential development. The intensity and density of the proposed use is commensurate with that of the surrounding development. The project as designed and conditioned, will not have significant adverse visual impacts and will not impair the integrity and character of the zoning district.

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

The proposed project is located within the commercial corridor of the City, on PCH, and the surrounding development is comprised of restaurants, motels, and other commercial development, as well as multi-family residential development. The intensity and density of the proposed use is commensurate with that of the surrounding development. The bed and breakfast inn is suitable for providing alcohol services. The subject site is physically suitable for the proposed bed and breakfast inn land use and for providing alcohol service. The existing commercial development can accommodate the proposed visitor-serving commercial use through the conversion of the existing motel use at 22752 PCH (Ryokan Motel) and the expansion into the private health club at the adjacent 22762

PCH (Tide Pool) to be operated conjunctively as a bed and breakfast inn. The site contains adequate parking for the proposed use.

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

The proposed use is compatible with the land uses presently on the subject property and in the surrounding neighborhood. The project is located within the commercial corridor of the City and the surrounding development is comprised of restaurants, motels, and other commercial development, as well as multi-family residential development. The intensity and density of the proposed use is commensurate with that of the surrounding development.

Providing alcohol service, in association with a bed and breakfast inn is a compatible land use. The proposed bed and breakfast inn is suitable for the consumption of alcoholic beverages.

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

The proposed bed and breakfast inn is a conditionally permitted use in the CV land use designation and CV-2 zoning district. With the approval and adoption of the proposed changes to the zoning and land use designation, the proposed use is one that is conditionally permitted within the proposed CV-2 zone and complies with the intent of the zoning provision of the MMC. The proposed project is located within the commercial corridor and the surrounding development is comprised of restaurants, motels, and other commercial development, as well as multi-family residential development. Providing alcohol service is compatible with existing and future land uses. The proposed bed and breakfast inn is suitable for the consumption of alcoholic beverages. The proposed project is also located within the commercial corridor of the City and the surrounding development is comprised of restaurants, motels, and other commercial development. The restaurants in the surrounding zoning district also provide alcohol service. The intensity and density of the proposed use is commensurate with that of the surrounding development.

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

There would be adequate provisions for water, sanitation, and public utilities and services to ensure that the proposed use would not be detrimental to public health and safety. Adequate public services and utilities are available to serve the project. Existing utilities already serve the existing motel and private health club on the project site. On

December 14, 2017, the City Environmental Health Administrator reviewed the project and found it to meet the minimum requirements of the Malibu Plumbing Code, MMC and LCP. The subject system will meet all applicable requirements, and operating permits will be required.

The proposed project does not affect solar access or adversely impact existing public and private views. The project can be accommodated by converting the use of the existing commercial development on the property with limited physical modifications. The proposed bed and breakfast inn is located within a commercial corridor and the surrounding development is comprised of restaurants, motels, and other commercial development, as well as multi-family residential development. The project does not involve any exterior changes to the existing buildings. Therefore, the project will not adversely impact existing public and private views.

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

Adequate public services are available to serve the project. Access to the proposed project is from PCH, an existing public highway. The existing vehicle access from two existing driveways on PCH will remain as is. A driveway on the east is used to access 15 parking spaces on an at grade parking area at 22752 PCH (Ryokan Motel lot). A driveway on the west is used to access 10 parking spaces on an at grade parking area at 22762 PCH (Tide Pool lot).

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

The General Plan land use of the property is currently CV for the Tide Pool parcel and CC for the existing motel site. The project includes an amendment to change the land use designation of the motel site to CV, consistent with the Tide Pool parcel. The request for a conditionally permitted bed and breakfast inn with the sale of alcohol for onsite consumption on the subject property is consistent with the goals, objectives, policies, and general land uses of the Malibu General Plan and with the CV land use designation. The proposed visitor-serving bed and breakfast inn supports the General Plan's objective to permit the development of commercial visitor-serving facilities at suitable locations [LU Goal 3: LU Objective 3.2]. The bed and breakfast inn, including the sale of alcohol for onsite-consumption, would contribute to the visitor-serving areas for use by tourists. The property will not be physically altered by the conditionally permitted bed and breakfast inn use. Therefore, the proposed bed and breakfast inn, including the sale of alcoholic beverages for onsite consumption use is in alignment with the General Plan's objective for visitor-serving facilities in suitable locations and to limit development impacts on the City's natural and environmental resources.

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

Bed and breakfast inns and alcohol service are conditionally permitted uses in the CV-2 zoning district. As conditioned, the proposed use complies with all applicable requirements of State and local law. The proposed project will comply with all applicable requirements of State and local law and is conditioned to comply with any relevant approvals, permits and licenses from the City of Malibu and other related agencies such as the ABC and the LACSD.

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

Bed and breakfast inns and alcohol service are conditionally permitted uses in the CV-2 zoning district. The proposed project will comply with all applicable requirements of State and local law and is conditioned to comply with any relevant approvals, permits and licenses from the City of Malibu and other related agencies such as the ABC and the LACSD. As conditioned, the proposed use will not be detrimental to the public interest, health, safety, convenience or welfare.

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

The proposed project is not located in an area determined by the City to be at risk from earth movement, flooding or liquefaction. Therefore, the proposed project is not at risk from earth movement, flooding, liquefaction, or other potential hazards.

K. Local Coastal Program Amendment (LIP Section 19.6)

LCPA No. 16-001 includes an amendment to the certified LIP, and the corollary amendments to the Zoning Code. Specifically, the amendment consists of a map amendment to rezone the properties from CC to CV-2. In order to amend the LCP, the finding listed below must be made:

Finding 1. The proposed amendments meet the requirements of, and are in conformance with, the LCP and the policies of Chapter 3 the California Coastal Act.

As discussed in Section A, Finding 1, the proposed bed and breakfast inn use is conditionally permitted in the CV-2 zoning district. With the approval and adoption of the proposed changes to the zoning and land use designation, the proposed bed and breakfast use is one that is conditionally permitted within the proposed CV-2 zone and complies with the intent of the zoning provisions of the LCP. Additionally, the project will conform to the LCP upon CCC certification of the LCPA.

Chapter 3 of the Coastal Act states that any new development must not impede or adversely impact public access to the beach, must protect marine resources and scenic views, and must not significantly disrupt environmentally sensitive habitat areas. LUP Chapter 2 incorporates the public access policies set forth in the Coastal Act, including Public Resources Code Section 30210.

The proposed LCPA, does not impede public access to the beach, impact coastal resources, impact scenic views, or disrupt environmentally sensitive habitat areas as the proposed project does not involve any new construction or improvements outside of the existing building footprint and is not designated as ESHA. Therefore, the overall text amendment is consistent with Chapter 3 of the Coastal Act.

The proposed amendment also furthers the following relevant LUP policies and sections:

The relevant Coastal Act Policies regarding New Development are provided in LUP Chapter 5. The following LUP policies and sections apply and provide in pertinent part as follows:

- A.2. Visitor serving commercial uses shall be allowed in all commercial zones in the City and shall be given priority over other non-coastal dependent development.
- 5.11 Recreational development and commercial visitor-serving facilities shall have priority over non-coastal dependent uses. All uses shall be consistent with protection of public access and ESHA.

The relevant Coastal Act Policies regarding Public Access and Recreation, and visitor serving recreational facilities and commercial uses such as hotels and motels are provided in LUP Chapter 2. The following LUP policies and sections apply and provide as follows:

- 30222 The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry.
- 2.33 Priority shall be given to the development of visitor-serving and commercial recreational facilities designed to enhance public opportunities for coastal recreation. On land designated for visitor-serving commercial and/or recreational facilities, priority shall be given to such use over private residential or general commercial development. New visitor-serving uses shall not displace existing low-cost visitor-serving uses unless an equivalent replacement is provided.
- 2.37 Priority shall be given to the development of visitor-serving commercial and/or recreational uses that complement public recreation areas or supply recreational opportunities not currently available in public parks or beaches. Visitor-serving

commercial and/or recreational uses may be located near public park and recreation areas only if the scale and intensity of the visitor-serving commercial recreational uses is compatible with the character of the nearby parkland and all applicable provisions of the LCP.

L. General Plan Map Amendment No. 16-001 (MMC Section 17.74.030)

GPMA No. 16-001 will change the land use designation from CC to CV.

The GPMA will make the land use designation for the Ryokan Motel consistent with the LCP and the zoning designation for the property; and the GPMA is consistent with the objectives, policies, general land uses and program specified in the General Plan. The General Plan land use designations in the area surrounding the project site are primarily commercial, with some residential. The Ryokan Motel land use designation is CC, which is intended to provide resident serving needs on land that is suitable for concentrated commercial activity but does not allow for the proposed bed and breakfast inn. The Tide Pool land use designation is CV, which is intended general commercial uses as well as for hotels, motels and bed and breakfast inns. Therefore, the GPMA is proposed to change the land use designation of the Ryokan Motel to CV, a land use designation that allows for bed and breakfast inns.

The GPMA is consistent with General Plan objectives and policies. General Plan Land Use (LU) OBJECTIVE 4.4 provides for successful businesses appropriate to Malibu. To fulfill this policy, 4.4.3 provides: "The City shall regulate design of new bed and breakfast inns to foster "country-inn type" establishments and regulate the size and design of other hotel development to ensure development compatible with a rural residential community and discourage convention hotel developments by limiting on the same site ancillary uses such as banquet and meeting rooms and limiting restaurants to a capacity necessary to serve guests of the hotel only." The project is located within the commercial corridor of the City and the surrounding development is comprised of restaurants, motels, and other commercial development, as well as multi-family residential development. The intensity and density of the proposed use is commensurate with that of the surrounding development.

In addition, the request for the GPMA to change the Ryokan Motel land use designation that allows for a bed and breakfast inn supports the General Plan's objective to permit the development of commercial visitor-serving facilities at suitable locations [LU Goal 3: LU Objective 3.2]. The bed and breakfast inn, including the sale of alcohol for onsite consumption, would contribute to the visitor-serving areas for use by visitors.

The existing commercial development can accommodate the proposed visitor-serving commercial use through the conversion of the existing motel use at 22752 PCH (Ryokan Motel) and the expansion into the private health club at the adjacent 22762 PCH (Tide Pool) to be operated conjunctively as a bed and breakfast inn. The proposed use is

compatible with the land uses presently on the subject property and in the surrounding neighborhood.

M. Zoning Map Amendment (MMC Section 17.74.050)

ZMA No. 15-001 is a request to change the zoning from CC to CV-2. The ZMA is consistent with the objectives, policies and general land uses in the General Plan, as amended by the LCP amendment. The ZMA will allow the MMC to be amended and be consistent with the amended LCP zoning map and is only a corollary of that action. The ZMA is necessary for the proposed LCPA and will only be approved if the LCPA is approved, and on the condition that the ZMA only take effect if the LCPA is certified by the CCC. The amendment is consistent with the following General Plan policies:

LU Objective 3.2: The City shall permit the development of commercial recreational and visitor servicing facilities at suitable locations which provide convenient public access, adequate infrastructure, convenient parking and, when feasible, are located where existing low cost recreational uses will be enhanced.

LU Policy 6.1.1: The City shall use development standards and procedures that protect the property owners' reasonable use of their land consistent with the goals and policies of this General Plan.

LU Policy 6.1.2: The City shall allow a parcel legally created and existing as of March 26, 1993, regardless of size, to be used for any purpose permitted by right or, if permits obtained, any conditionally permitted use, in the zone district in which the parcel is situated, provided that such use or any new construction complies with the requirements of the zoning ordinance.

The City previously granted coastal development permits for the existing Motel and Tide Pool establishments. The project involves the interior remodel of the existing structure on the Tide Pool lot to convert interior space into a guest suite and reconfiguration of an existing gym and kitchen, however, all improvements will occur within the existing building footprint, and no expansion of the existing buildings is proposed. The proposed zoning map amendment would protect the property owners' reasonable use of their land consistent with the goals and policies of the General Plan.

ENVIRONMENTAL REVIEW: The Planning Department prepared an Initial Study (IS No. 17-002) pursuant to CEQA Guidelines Section 15300.2(c). The initial study prepared analyzed the project and determined that the project will not have a significant impact on the environment; subsequently, ND No. 19-002 was prepared and circulated pursuant to CEQA Guidelines Section 15070. On December 2, 2021, the Planning Department issued a Notice of Intent to Adopt a Negative Declaration and Initial Study and the Draft Initial Study and Negative Declaration as made available for review by the public for the required 30-day circulation period pursuant to the authority and criteria contained in the

CEQA. The public comment period for the project was from December 2, 2021 through January 3, 2022. The State Clearinghouse public review period for agencies began on December 8, 2021 and ended on January 6, 2022. (State Clearinghouse No. 2021120124)

CORRESPONDENCE: As of the date of this report, staff only heard from one of the neighbors via a phone conversation. The neighbor was concerned about the use of the deck and pool particularly about noise. Conditions of approval included in the resolution restrict the use of the pool and deck to guests only unless with a temporary use permit which are limited to six a year. The conditions further restrict the hours of operation for the sale or serving of alcoholic beverages and do not permit live entertainment or amplified sound except with a temporary use permit when demonstrated it will not be audible within five feet of any residential unit after 10 pm and 7 am. With the recommended conditions of approval, the proposed bed and breakfast inn is not expected to have a significant noise impact on surrounding neighbors.

PUBLIC NOTICE: On October 12, 2023, staff published a Notice of Public Hearing in a newspaper of general circulation within the City of Malibu and mailed to owners and occupants within 500 feet of the subject properties on October 13, 2023. In addition, on October 16, 2023, a Notice of Availability of LCP Amendments and Public Hearing was mailed to owners and occupants within 500 feet of the subject properties and this notice was published on October 19, 2023 in a newspaper of general circulation within the City of Malibu. (Attachment 4).

SUMMARY: The required findings can be made that the proposed project complies with the LCP and MMC. Further, the Planning Department's findings of fact are supported by substantial evidence in the record. Based on the analysis contained in this report and the accompanying resolution, staff recommends approval of this project, subject to the conditions of approval contained in Section 9 (Conditions of Approval) of Planning Commission Resolution No. 23-46. The proposed project has been reviewed and conditionally approved for conformance with the LCP by Planning Department staff and appropriate City and County departments.

ATTACHMENTS:

1. Planning Commission Resolution No. 23-46
2. Project Plans
3. Department Review Sheets
4. Public Hearing Notices
5. Initial Study and Negative Declaration

CITY OF MALIBU PLANNING COMMISSION
RESOLUTION NO. 23-46

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MALIBU RECOMMENDING TO THE CITY COUNCIL THE ADOPTION OF INITIAL STUDY NO. 17-002 AND NEGATIVE DECLARATION NO. 19-002 PREPARED FOR THE PROJECT PURSUANT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT AND APPROVAL OF COASTAL DEVELOPMENT PERMIT NO. 13-046 FOR THE CHANGE IN USE FROM MOTEL AND GYM TO BED AND BREAKFAST INN, CONVERSION OF OFFICE SPACE IN THE MALIBU TIDEPOOL HEALTH CLUB BUILDING INTO A NEW GUEST SUITE AND AUTHORIZATION THE PLANNING DIRECTOR TO SUBMIT A LETTER OF PUBLIC CONVENIENCE OR NECESSITY FOR THE SALE OF ALCOHOL; INCLUDING GENERAL PLAN MAP AMENDMENT NO. 16-001, LOCAL COASTAL PROGRAM AMENDMENT NO. 16-001, ZONING MAP AMENDMENT NO. 15-001 TO REZONE AND CHANGE THE LAND USE DESIGNATION FROM COMMUNITY COMMERCIAL TO COMMERCIAL VISITOR SERVING-TWO FOR THE EXISTING NOBU RYOKAN MOTEL LOT (APN 4452-004-035) AND REZONE FROM COMMUNITY COMMERCIAL TO COMMERCIAL VISITOR SERVING-TWO FOR THE EXISTING MALIBU TIDEPOOL HEALTH CLUB LOT (APN 4452-004-034), CONDITIONAL USE PERMIT NO. 16-007 TO PERMIT THE CONVERSION OF AN EXISTING LEGAL NON-CONFORMING MOTEL (NOBU RYOKAN MOTEL) AND ADJACENT PRIVATE HEALTH CLUB (MALIBU TIDEPOOL HEALTH CLUB) INTO A CONJUNCTIVE BED AND BREAKFAST INN AND THE SALE OF ALCOHOL FOR ONSITE CONSUMPTION, AND LOT TIE NO. 21-001 TO HOLD THE TWO LOTS AS ONE FOR THE CONJUNCTIVE USE OF THE PROPERTIES AS A BED AND BREAKFAST INN, LOCATED IN THE COMMUNITY COMMERCIAL ZONING DISTRICT AT 22752 AND 22762 PACIFIC COAST HIGHWAY (NORTH BROADWAY VENTURES LLC AND WAVEBREAK, LLC)

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

SECTION 1. Recitals.

A. On November 2, 2015, an application for Zoning Map Amendment (ZMA) No. 15-001, Local Coastal Program Amendment (LCPA) No. 16-001 and General Plan Map Amendment (GPMA) No. 16-001 was submitted to the Planning Department by applicant, Patrick Perry and Allen Matkins, on behalf of North Broadway Ventures and LLC and Wavebreak, LLC. The application was routed to the City Environmental Health Administrator, City Public Works Department, and Los Angeles County Sheriff's Department (LACSD) for review. Coastal Development Permit (CDP) No. 23-046 was later added to the project for the change in use from motel and gym to bed and breakfast inn.

B. On December 17, 2016, Conditional Use Permit (CUP) No. 16-007 was added to the project.

- C. On March 10, 2021, Lot Tie (LT) No. 21-001 was added to the project.
- D. On December 2, 2021, a Notice of Intent to Adopt an Initial Study and Negative Declaration was published in a newspaper of general circulation within the City of Malibu. The 30-day public review period began on December 2, 2021 and ended on January 3, 2022. The State Clearinghouse public review period for agencies began on December 8, 2021 and ended on January 6, 2022 (SCH# 2021120124). Staff did not receive public comments on the project.
- E. On January 26, 2022, the proposed project was presented to the Environmental Review Board (ERB). The ERB did not have any recommendations regarding the proposed project.
- F. On March 9, 2022, the CDP application was deemed complete for processing.
- G. On July 26, 2023, Planning Department staff conducted a site visit to document site condition and surrounding area.
- H. On October 4, 2023, the applicant posted a Notice of Application for CDP on both parcel.
- I. On October 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.
- J. On October 16, 2023, a Notice of Availability of LCP Amendments and Public Hearing was mailed to owners and occupants within 500 feet of the subject properties.
- K. On October 19, 2023, the Notice of Availability of LCP Amendments and Public Hearing was published in a newspaper of general circulation within the City of Malibu.
- L. On November 6, 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. Adoption of Negative Declaration

Pursuant to the authority and criteria contained in the California Environmental Quality Act (CEQA), the Planning Commission has analyzed the proposed project. The Planning Department prepared an initial study (Initial Study [IS] No. 17-002) pursuant to CEQA Guidelines Section 15305. The initial study analyzed the proposed project and determined that it will not have a significant impact on the environment; subsequently, Negative Declaration (ND) No. 19-002 was prepared and circulated pursuant to CEQA Guidelines Section 15070.

On December 2, 2021, the City made IS No. 17-002 and ND No. 19-002 available to the public for the required 30-day circulation period, which concluded on January 3, 2022. The State Clearinghouse closed its review period on January 6, 2022.

The Planning Commission has considered IS No. 17-002 and ND No. 19-002. IS No. 17-002 and ND No. 19-002 reflect the independent judgment of the Planning Commission, and has been completed in compliance with CEQA, and is adequate for this project.

The Planning Commission finds that the proposed project does not have the potential to significantly degrade the quality of the environment, nor does it have impacts which are individually limited but cumulatively considerable.

The Planning Commission further finds that less than significant impacts on the environment are expected from the project. Based on the record as a whole, there is no substantial evidence that the project, as conditioned, will have a significant effect on the environment.

SECTION 3. Findings.

Based on the evidence contained within the record, including the agenda report for the project and the hearing on November 6, 2023, and pursuant to Local Coastal Program (LCP) Local Implementation Plan (LIP), including Sections 13.7(B) and 13.9, the Planning Commission adopts and approves the analysis in the agenda report, incorporated herein, the findings of fact below, and approves CDP No. 13-046 for the change in use from motel and gym to bed and breakfast inn, interior remodel of the Malibu Tidepool Health Club building to convert interior space into a new guest suite and reconfigure the existing gym and kitchen and authorization the Planning Director to submit a letter of public convenience or necessity for the sale of alcohol; including GPMA No. 16-001, LCPA No. 16-001, ZMA No. 15-001 to rezone and change the land use designation from Community Commercial (CC) to Commercial Visitor Serving-Two (CV-2) for the existing Nobu Ryokan Motel lot (APN 4452-004-035) and rezone from CC to CV-2 for the existing Malibu Tidepool Health Club lot (APN 4452-004-034), CUP No. 16-007 to permit the conversion of an existing legal non-conforming motel (Nobu Ryokan Motel) and adjacent private health club (Malibu Tidepool Health Club) into a conjunctive bed and breakfast inn and the sale of alcohol for onsite consumption, and LT No. 21-001 to hold the two lots as one for the conjunctive use of the properties as a bed and breakfast inn, located in the CC zoning district at 22752 and 22762 Pacific Coast Highway (PCH).

The project is consistent with the LCP's zoning, grading, cultural resources, water quality, and wastewater treatment system standards requirements. With the inclusion of the proposed discretionary requests, 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. Coastal Development Permit (LIP Chapter 13)

LIP Section 13.9 requires that the following four findings be made for all coastal development permits.

1. The proposed bed and breakfast inn use is conditionally permitted in the CV-2 zoning district. With the approval and adoption of the proposed changes to the zoning and land use designation, the proposed use is one that is conditionally permitted within the proposed CV-2 zone and complies with the intent of the zoning provisions set forth in the MMC and the LCP. The project will conform to the MMC upon approval by the City Council and will conform with the LCP upon CCC certification of the LCPA.

2. The project is located between the first public road and the sea. The project site is located along a public road and immediately east of an existing public vertical access way. According to the LCP Park Land Maps, an existing lateral access easement has been recorded for the subject property and the neighboring contiguous properties to the east (22716, 22706, and 22664). The property owner has already offered to dedicate lateral easements from the most seaward building projection to the ambulatory mean high tide line. Therefore, the project is in conformity to the public access and recreation policies of Chapter 3 of the Coastal Act.

3. An IS-ND was prepared in accordance with CEQA guidelines. CEQA guidelines require that a range of reasonable alternatives to the project be described, or to the location of the project, which would feasibly attain most of the basic objectives of the Project but would avoid or substantially lessen any of the significant effects of the project and evaluate the comparative merits of the alternatives. Based on LCP conformance review, the project as proposed will not result in any significant adverse impacts.

4. The project, IS No. 17-002 and ND-19-002 were reviewed by the ERB and no recommendations were provided.

C. Conditional Use Permit No. 16-007 for the Operation of a Bed and Breakfast Inn and Associated Uses and Alcohol Sales (MMC Chapter 17.66)

1. The proposed bed and breakfast inn project is a conditionally permitted use in the CV land use designation and CV-2 zoning district. Pursuant to MMC Section 17.24.030(A), onsite alcohol sales/consumption is a conditionally permitted use in the CV-2 zoning district. With the approval and adoption of the proposed General Plan land use amendment from CC to CV and the zone change from CC to CV-2, the proposed use is one that is conditionally permitted within the subject zone and complies with the intent of the Zoning provisions of the MMC and the LCP. The proposed project will conform to the MMC upon approval by the City Council and will conform with the LCP upon CCC certification of the LCPA.

2. The project is located within the commercial corridor of the city and the surrounding development is comprised of restaurants, motels, and other commercial development, as well as multi-family residential development. The intensity and density of the proposed use is commensurate with that of the surrounding development. The project as designed and conditioned, will not have significant adverse visual impacts and will not impair the integrity and character of the zoning district.

3. The subject site is physically suitable for the proposed bed and breakfast inn and for providing alcohol service. The existing commercial development can accommodate the proposed visitor-serving commercial through the conversion of the existing motel use at 22752 PCH (Ryokan Motel) and the expansion into the private health club at the adjacent 22762 PCH (Tide Pool) to be operated conjunctively as a bed and breakfast inn. The proposed project is located within the commercial corridor of the City and the surrounding development is comprised of restaurants, motels, and other commercial development, as well as multi-family residential development. The intensity and density of the proposed use is commensurate with that of the surrounding development. The proposed bed and breakfast inn project is suitable for providing alcohol services.

4. The proposed use is compatible with the land uses presently on the subject property and in the surrounding neighborhood. The project is located within the commercial corridor of the City and the surrounding development is comprised of restaurants, motels, and other commercial development, as well as multi-family residential development. The intensity and density of the proposed use is commensurate with that of the surrounding development. Providing alcohol service in association with a bed and breakfast inn is a compatible land use. The proposed hotel bed and breakfast inn project is suitable for the consumption of alcoholic beverages.

5. The proposed bed and breakfast inn is a conditionally permitted use in the CV land use designation and CV-2 zoning district. With the approval and adoption of the proposed changes to the zoning and land use designation, the proposed use is one that is conditionally permitted within the proposed CV-2 zone and complies with the intent of the zoning provision of the MMC. The proposed project is located within the commercial corridor and the surrounding development is comprised of restaurants, motels, and other commercial development, as well as multi-family residential development. Providing alcohol service is compatible with existing and future land uses. The proposed bed and breakfast inn is suitable for the consumption of alcoholic beverages. The proposed project is also located within the commercial corridor of the City and the surrounding development is comprised of restaurants, motels, and other commercial development. The restaurants in the surrounding zoning district also provide alcohol service. The intensity and density of the proposed use is commensurate with that of the surrounding development.

6. There would be adequate provisions for water, sanitation, and public utilities and services to ensure that the proposed use would not be detrimental to public health and safety. Adequate public services and utilities are available to serve the project. Utilities are available to serve the proposed project. Existing utilities already serve the existing motel and private health club on the project site. On December 14, 2017, the City Environmental Health Administrator reviewed the project and found it to meet the minimum requirements of the Malibu Plumbing Code, MMC and LCP. The subject system will meet all applicable requirements, and operating permits will be required. The proposed project does not affect solar access or adversely impact existing public and private views. The project can be accommodated by converting the use of the existing commercial development on the property with limited physical modifications. The proposed bed and breakfast inn is located within a commercial corridor and the surrounding development is comprised of restaurants, motels, and other commercial development, as well as multi-family residential development. The intensity and density of the proposed use is commensurate with that of the surrounding development.

7. Adequate public services are available to serve the project. Access to the proposed project is from PCH, an existing public highway. The existing vehicle access from two existing driveways on PCH will remain as is. A driveway on the east is used to access 15 parking spaces on an at grade parking area at 22752 PCH (Ryokan Motel lot). A driveway on the west is used to access 10 parking spaces on an at grade parking area at 22762 PCH (Tide Pool lot).

8. The General Plan land use of the property is currently CV for the Tide Pool parcel and CC for the existing motel site. The project includes an amendment to change the land use designation of the motel site to CV, consistent with the Tide Pool parcel. The request for a conditionally permitted bed and breakfast inn with the sale of alcohol for onsite consumption on the subject property is consistent with the goals, objectives, policies, and general land uses of the Malibu General Plan and with the CV land use designation. The proposed visitor-serving bed and breakfast inn supports the General Plan's objective to permit the development of commercial

visitor-serving facilities at suitable locations [LU Goal 3: LU Objective 3.2]. The bed and breakfast inn, including the sale of alcohol for onsite-consumption, would contribute to the visitor-serving areas for use by tourists. The property will not be physically altered by the conditionally permitted bed and breakfast inn use. Therefore, the proposed bed and breakfast inn, including the sale of alcoholic beverages for onsite consumption use is in alignment with the General Plan's objective for visitor-serving facilities in suitable locations and to limit development impacts on the City's natural and environmental resources.

9. Bed and breakfast inns and alcohol service are conditionally permitted uses in the CV-2 zoning district. As conditioned, the proposed use complies with all applicable requirements of State and local law. The proposed project will comply with all applicable requirements of State and local law and is conditioned to comply with any relevant approvals, permits and licenses from the City of Malibu and other related agencies such as the ABC and the LACSD.

10. Bed and breakfast inns and alcohol service are conditionally permitted uses in the CV-2 zoning district. The proposed project will comply with all applicable requirements of State and local law and is conditioned to comply with any relevant approvals, permits and licenses from the City of Malibu and other related agencies such as the ABC and the LACSD. As conditioned, the proposed use will not be detrimental to the public interest, health, safety, convenience or welfare.

11. The proposed project is not located in an area determined by the City to be at risk from earth movement, flooding or liquefaction. Therefore, the proposed project is not at risk from earth movement, flooding, liquefaction, or other potential hazards.

SECTION 4. Local Coastal Program Amendment No. 16-001 Findings

LCP Amendment (LCPA No. 16-001) to amend Appendix 2 (Maps).

Based on the evidence in the whole record, the Planning Commission hereby finds as follows:

1. The proposed bed and breakfast inn use is conditionally permitted in the CV-2 zoning district. With the approval and adoption of the proposed changes to the zoning and land use designation, the proposed bed and breakfast use is one that is conditionally permitted within the proposed CV-2 zone and complies with the intent of the zoning provisions of the LCP. Additionally, the project will conform to the LCP upon CCC certification of the LCPA.

Chapter 3 of the Coastal Act states that any new development must not impede or adversely impact public access to the beach, must protect marine resources and scenic views, and must not significantly disrupt environmentally sensitive habitat areas. LUP Chapter 2 incorporates the public access policies set forth in the Coastal Act, including Public Resources Code Section 30210.

The proposed LCPA, does not impede public access to the beach, impact coastal resources, impact scenic views, or disrupt environmentally sensitive habitat areas as the proposed project does not involve any new construction or improvements outside of the existing building footprint and is not designated as ESHA. Therefore, the overall text amendment is consistent with Chapter 3 of the Coastal Act.

The proposed amendment also furthers the following relevant LUP policies and sections:

The relevant Coastal Act Policies regarding New Development are provided in LUP Chapter 5. The following LUP policies and sections apply and provide in pertinent part as follows:

- a. A.2. Visitor serving commercial uses shall be allowed in all commercial zones in the City and shall be given priority over other non-coastal dependent development.
- b. 5.11 Recreational development and commercial visitor-serving facilities shall have priority over non-coastal dependent uses. All uses shall be consistent with protection of public access and ESHA.

The relevant Coastal Act Policies regarding Public Access and Recreation, and visitor serving recreational facilities and commercial uses such as hotels and motels are provided in LUP Chapter 2. The following LUP policies and sections apply and provide as follows:

- a. 30222 The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry.
- b. 2.33 Priority shall be given to the development of visitor-serving and commercial recreational facilities designed to enhance public opportunities for coastal recreation. On land designated for visitor-serving commercial and/or recreational facilities, priority shall be given to such use over private residential or general commercial development. New visitor-serving uses shall not displace existing low-cost visitor-serving uses unless an equivalent replacement is provided.
- c. 2.37 Priority shall be given to the development of visitor-serving commercial and/or recreational uses that complement public recreation areas or supply recreational opportunities not currently available in public parks or beaches. Visitor-serving commercial and/or recreational uses may be located near public park and recreation areas only if the scale and intensity of the visitor-serving commercial recreational uses is compatible with the character of the nearby parkland and all applicable provisions of the LCP.

SECTION 5. General Plan Map Amendment No. 16-001 Findings

GPMA No. 16-001 will change the land use designation of the motel site from CC to CV-2.

Based on the evidence in the whole record, the Planning Commission hereby finds as follows:

1. The GPMA will make the land use designation for the project site consistent with the LCP and the zoning designation for the property.
2. The General Plan land use designations in the area surrounding the project site are primarily commercial, with some residential. The Ryokan Motel land use designation is CC, which is intended to provide resident serving needs on land that is suitable for concentrated commercial activity but does not allow for the proposed bed and breakfast inn. The Tide Pool land use designation is CV, which is intended general commercial uses as well as for hotels, motels and bed and breakfast inns. Therefore, the GPMA is proposed to change the land use designation of the Ryokan Motel to CV, a land use designation that allows for bed and breakfast inns.

3. The project is located within the commercial corridor of the City and the surrounding development is comprised of restaurants, motels, and other commercial development, as well as multi-family residential development. The intensity and density of the proposed use is commensurate with that of the surrounding development.

4. The GPMA is consistent with the objectives, policies, general land uses and program specified in the General Plan.

LU OBJECTIVE 4.4 of the General Plan provides for successful businesses appropriate for to Malibu. To fulfil this LU Policy 4.4.3 provides: “The City shall regulate design of new bed and breakfast inns to foster “country-inn type” establishments and regulate the size and design of other hotel development to ensure development compatible with a rural residential community and discourage convention hotel developments by limiting on the same site ancillary uses such as banquet and meeting rooms and limiting restaurants to a capacity necessary to serve guests of the hotel only.”

5. The existing commercial development can accommodate the proposed visitor-serving commercial use through the conversion of the existing motel use at 22752 PCH (Ryokan Motel) and the expansion into the private health club at the adjacent 22762 PCH (Tide Pool) to be operated conjunctively as a bed and breakfast inn. The proposed use is compatible with the land uses presently on the subject property and in the surrounding neighborhood.

SECTION 6. Zoning Map Amendment No. 15-001 Findings

The proposed Zoning Map Amendment No. 15-001 will change the zoning from CC to CV-2.

Based on the evidence in the whole record, the Planning Commission hereby finds as follows:

1. The zoning map amendment is consistent with the objectives, policies and general land uses in the General Plan, as amended by the LCP amendment.

2. The zoning map amendment will allow the MMC to be amended and be consistent with the amended LCP zoning map, and is only a corollary of that action.

3. The zoning map amendment is necessary for the proposed LCP amendment and will only be approved if the LCP amendment is approved, and on the condition that the zoning map amendment only takes effect if the LCP amendment is certified by the CCC.

SECTION 7. Determination of Public Convenience or Necessity.

According to the State Department of Alcoholic Beverage Control, the project site is located within a census tract that has an over-concentration of licenses; therefore, a Letter of Public Convenience or Necessity is required. Based on CUP findings in Section 3 of this resolution, the Planning Commission finds that the proposed use will not be detrimental to the public health, safety, or general welfare and is compatible with the land uses presently on the subject property and in the surrounding neighborhood. The Planning Commission hereby recommends that the City Council authorizes the Planning Director to prepare and submit a Letter of Public Convenience or Necessity for the proposed use to the State Alcoholic Beverage Control Department.

SECTION 8. Planning Commission Action.

Based on the foregoing findings and evidence contained within the record, the Planning Commission hereby recommends to the City Council the adoption of IS 17-002 and ND No. 19-002 and approval of CDP No. 23-046, CUP No. 16-007, GPMA No. 16-001, ZMA No. 15-001, and LCPA No. 16-007, subject to the following conditions.

SECTION 9. Conditions of Approval.

Standard Conditions

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. The conversion of a legal nonconforming motel (Nobu Ryokan Motel) and adjacent private health club (Tidepool Health Club) to be operated conjunctively as a bed and breakfast inn with a total of 17 guestrooms with kitchen facilities, a 300 square foot gym; and a 600 square foot swimming pool;
 - b. The sale of alcoholic beverages for onsite consumption by guests only; and
 - c. Discretionary Request:
 - i. GPMA No. 16-001 to change the land use designation for the Ryokan Motel lot from CC to CV;
 - ii. ZMA No. 15-001 to change to zoning for both lots from CC to CV-2;
 - iii. LCPA No. 16-007 to change the land use designation for both lots from CC to CV-2 ; and
 - iv. CUP No. 16-007 for the operation of a bed and breakfast inn use in the commercial visitor serving zoning district and alcohol service.
3. Except as specifically changed by conditions of approval, the proposed use must be operated 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 **August 24, 2023**. 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 owner signs, notarizes and returns the Acceptance of Conditions 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 digitally submit a complete set 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 expire 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 Environmental Health Administrator, City Public Works Department, and LACSD, 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 have been exhausted.
11. The property owner must submit payment for all outstanding fees payable to the City prior to issuance of any building permit, including grading or demolition.
12. Condition No. 3 of CDP No. 13-066 is hereby amended to read as follows:

“Use of the existing pool is restricted to guests of the proposed bed and breakfast inn. Use of the pool by any other person or for any other purpose is not authorized under this approval.”

Site-Specific Conditions

13. No off-site sale of alcohol shall be permitted. Alcohol shall only be served for room service and within the deck for motel guests.
14. This CUP permits the sale and consumption of alcoholic beverages. The property owner / motel operator shall obtain all necessary approvals from ABC. Once obtained, the applicant is required to provide the Planning Department a copy of the issued ABC license.

15. A copy of the current ABC license shall be kept on the premises of the establishment and be presented to City staff, including the City's Planning Director and Code Enforcement staff, law enforcement officers or their duly authorized representatives, upon request.
16. At all times during the conduct of the permitted use, the permittee shall maintain and keep in effect valid licensing approval from ABC. Should such licensing be denied, expire or lapse at any time in the future, the approval of alcohol sale pursuant to this permit is subject to modification or revocation of this conditional use permit pursuant to MMC Section 17.66.100(C).
17. The approved hours of operation for the sale or serving of alcoholic beverages are limited to 10:00 a.m. to 10:00 p.m., Sunday through Thursday, and 10:00 a.m. to 11:00 p.m., Friday and Saturday.
18. No live entertainment is permitted on the property except in compliance with an approved temporary use permit provided it can be demonstrated that the noise generated from the event would be in compliance with Condition No. 20 and off-street parking spaces can be secured to accommodate the number of people expected in the event. Amplified sound may be permitted provide it is consistent with Condition Nos. 20 and 45.
19. The property owner / operator shall adhere to a "good neighbor" policy, meaning that the operator and employees must respect the rights of neighboring properties and, to the best of their ability, shall ensure their patrons' compliance with the City's noise and smoking regulations and all conditions of approval for the subject use relating to parking, smoking, litter, noise, loitering, etc.
20. Noise emanating from the premises shall not be plainly audible at a distance of five feet of any residential unit between the hours of 10:00 p.m. and 7:00 a.m., as required by MMC Section 8.24.050(L).
21. The onsite kitchen may only serve food and beverages to motel guests.
22. The motel operator must adhere to all laws related to the sale of alcohol. Violations of such laws may be cause for modification or revocation of this conditional use permit pursuant to MMC Section 17.66.100(C).
23. No other new signage is permitted under this application; a sign permit shall be submitted and approved by the Planning Department prior to installation of any new sign.
24. The landscaping plan must be revised to include a detail depicting a barrier encircling root balls to be used for all the California Sycamore trees in order to minimize potential root damage to the sidewalk and parking lot. The planting of the California Sycamore trees must be in compliance with this detail.
25. The swimming pool may only be used by hotel guests no later than 10 pm. All pool lights must be turned off for the night no later than 10 pm.
26. Special events involving non-guests shall require a temporary use permit.

Conditional Use Permit

27. This conditional use permit may be reviewed by the Planning Director (predecessor and/or designee) and/or Planning Commission on an as-needed basis at the discretion of the Planning Director (predecessor and/or designee) or Planning Commission. Should it be determined that a review is required, the applicant shall pay the Planning Department staff site inspection fee in effect at the time of request for a site inspection. A staff planner will conduct a site visit to verify compliance with the provisions set forth in this resolution. If necessary, the Planning Director will determine whether the conditional use permit may be brought back to the Planning Commission for additional conditions to mitigate and/or prevent nuisances that were identified during the site inspection or made aware of by members of the public. Possible mitigation measures can include:
 - a. Modifying the hours of operation;
 - b. Incorporate noise mitigating measures / devices;
 - c. Traffic safety measures;
 - d. Land use intensification or reconfiguration of shared parking that would result in a parking demand greater than approved under this application; or
 - e. Other measures deemed necessary by the Planning Commission.
28. The property owner tenant shall not use the parking lot for any use other than the uses and activities explicitly permitted for the subject parcel or as permitted by a temporary use permit or filming permit.
29. The property owner and operator must secure an off-site parking area to accommodate vehicles for all events that overlap with other uses that will generate a parking demand in excess of the proposed parking spaces. A shuttle service must be provided between the off-site parking area and the subject property.
30. The conditions under which this conditional use permit may be modified by the City without the consent of the property owner or operator if the Planning Commission finds that the use is creating a nuisance.
31. A conditional use permit that is valid and in effect and was granted pursuant to the provisions of the MMC, shall run with the land and continue to be valid upon change of ownership of the land or any lawfully existing building or structure on the land.
32. This conditional use permit shall no longer be valid and in effect with the demolition of all buildings, including a major remodel constituting new development requiring a new CDP.
33. The conditional use permit may be revoked if the Planning Commission finds that one or more of the following conditions exists:
 - a. The conditional use permit was obtained in a fraudulent manner.
 - b. The use for which the conditional use permit was granted has ceased or was suspended for at least six successive calendar months.
 - c. One or more of the conditions found within this resolution have not been substantially met.

34. The conditional use permit is subject to Planning Commission revocation should the use for which the conditional use permit was granted cease for six successive calendar months, except in the case of a natural disaster.

Trash Storage Areas

35. Trash container areas must have drainage from adjoining roofs and pavement diverted around the area.
36. Trash container areas must be screened or walled to prevent off-site transport of trash.

Outdoor Material Storage

37. Materials with the potential to contaminate storm water must be: (1) placed in an enclosure such as a cabinet shed or similar structure that prevents contact with runoff or spillage to the storm water conveyance system; or (2) protected by secondary containment structures such as berms, dikes or curbs.
38. The storage areas must be paved and sufficiently impervious to contain leaks and spills.
39. The storage area must have a roof or awning to minimize collection of storm water within the secondary containment area.

Alcohol Services

40. This CUP permits the sale and consumption of alcoholic beverages with an approved ABC license. The property owner/tenant shall obtain all necessary approvals from ABC. Once obtained, the applicant is required to provide the Planning Department a copy of the issued ABC license.
41. A copy of the current ABC license shall be kept on the premises of the establishment and be presented to City staff, including the City's Planning Director and Code enforcement staff, law enforcement officers or their duly authorized representatives, upon request.
42. At all times during the conduct of the permitted use, the permittee shall maintain and keep in effect valid licensing approval from ABC. Should such licensing be denied, expire, or lapse at any time in the future, the approval of alcohol sale pursuant to this permit is subject to modification or revocation of this conditional use permit pursuant to MMC Section 17.66.100(C).
43. The property owner/operator shall adhere to a "good neighbor" policy, meaning that the operator and employees must respect the rights of neighboring properties, and to the best of their ability, shall ensure their patrons' compliance with the City's noise and smoking regulations and all conditions of approval for the subject use relating to parking, smoking, litter, noise, loitering, etc.

-
44. Noise emanating from the premises shall not be audible at a distance of five feet of any residential unit between the hours of 10:00 P.M. and 7:00 A.M., as required by MMC Section 8.24.050(L).
 45. Amplified sound outdoors is prohibited, except that ambient music is allowed in the swimming pool and deck areas, as long as it is not audible within five feet of any neighboring building, and the applicant prepares a noise study.
 46. The property owner/tenant shall comply with the requirements set forth in MMC Chapter 9.28 (Plastic Bag Ban). No retail establishment, restaurant, vendor, or nonprofit vendor shall provide plastic bags or compostable bags to customers. This requirement applies to plastic or compostable bags provided at the point of sale for the purpose of carrying away goods.
 47. No restaurant, food packager, retail food vendor, or nonprofit food provider shall provide prepared food to its customers in any food packaging that utilizes expanded polystyrene. "Expanded polystyrene" means and includes blown polystyrene and expanded and extruded foams (sometimes incorrectly called Styrofoam, a Dow Chemical Company trademarked form of polystyrene foam insulation) which are thermoplastic petrochemical materials utilizing a styrene monomer and processed by any number of techniques including, but not limited to, fusion of polymer spheres (expandable bead polystyrene), injection molding, foam molding, and extrusion-blow molding (extruded foam polystyrene). Expanded polystyrene is generally used to make cups, bowls, plates, trays, clamshell containers, meat trays, and egg cartons.
 48. The property owner / tenant shall comply with the requirements set forth in MMC Chapter 9.24 (Ban on Plastic Food Packaging and Other Plasticware). No retail establishment, restaurant, vendor or nonprofit shall provide plastic beverage straws, plastic stirrers, or plastic cutlery to customers.
 49. Staff shall inspect the property as needed after approval of the CUP to verify compliance with the conditions of approval.
 50. The Planning Department shall conduct a review of restaurant operations and compliance with conditions of approval. The report shall be presented to the Planning Commission five years after CUP approval.

Sheriff's Department

51. The tenant must adhere to all laws related to the sale of alcohol. Violations of such laws may be cause for modification or revocation of this conditional use permit pursuant to MMC Section 17.66.100(C).

Deed Restrictions

52. The property owner(s) 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 owner shall provide a copy of the recorded document to Planning Department staff prior to final Planning approval.

Lot Tie Agreement

53. The property owner(s) are required to execute and record a covenant and agreement to hold the subject properties identified as 22752 and 22762 PCH as one parcel to guarantee that no portion of the bed and breakfast inn or the private health club shall be sold separately for the life of the use. The property owner shall provide a copy of the recorded document to Planning Department staff prior to final Planning approval and effective date of the use.

Fixed Conditions

54. This conditional use permit shall run with the land and bind all future owners of the property.
55. Violation of any of the conditions of this approval may be cause for revocation of this permit and termination of all rights granted there under.

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

PASSED, APPROVED AND ADOPTED this 6th day of November 2023.

SKYLER PEAK, Planning Commission Chair

ATTEST:

REBECCA EVANS, Recording Secretary

I CERTIFY THAT THE FOREGOING RESOLUTION NO. 23-46 was passed and adopted by the Planning Commission of the City of Malibu at the Regular meeting held on the 6th day of November 2023 by the following vote:

AYES:

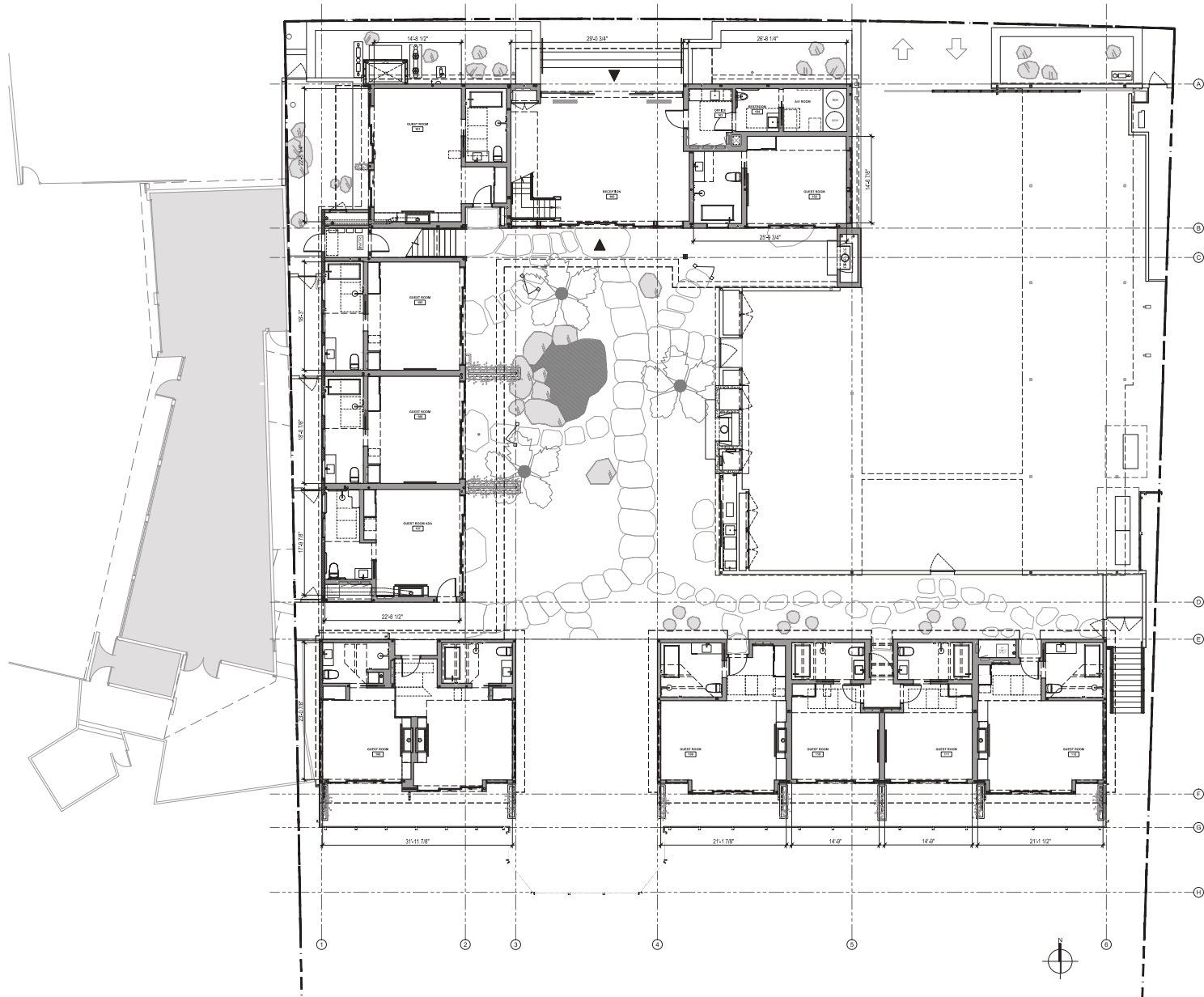
NOES:

ABSTAIN:

ABSENT:

REBECCA EVANS, Recording Secretary



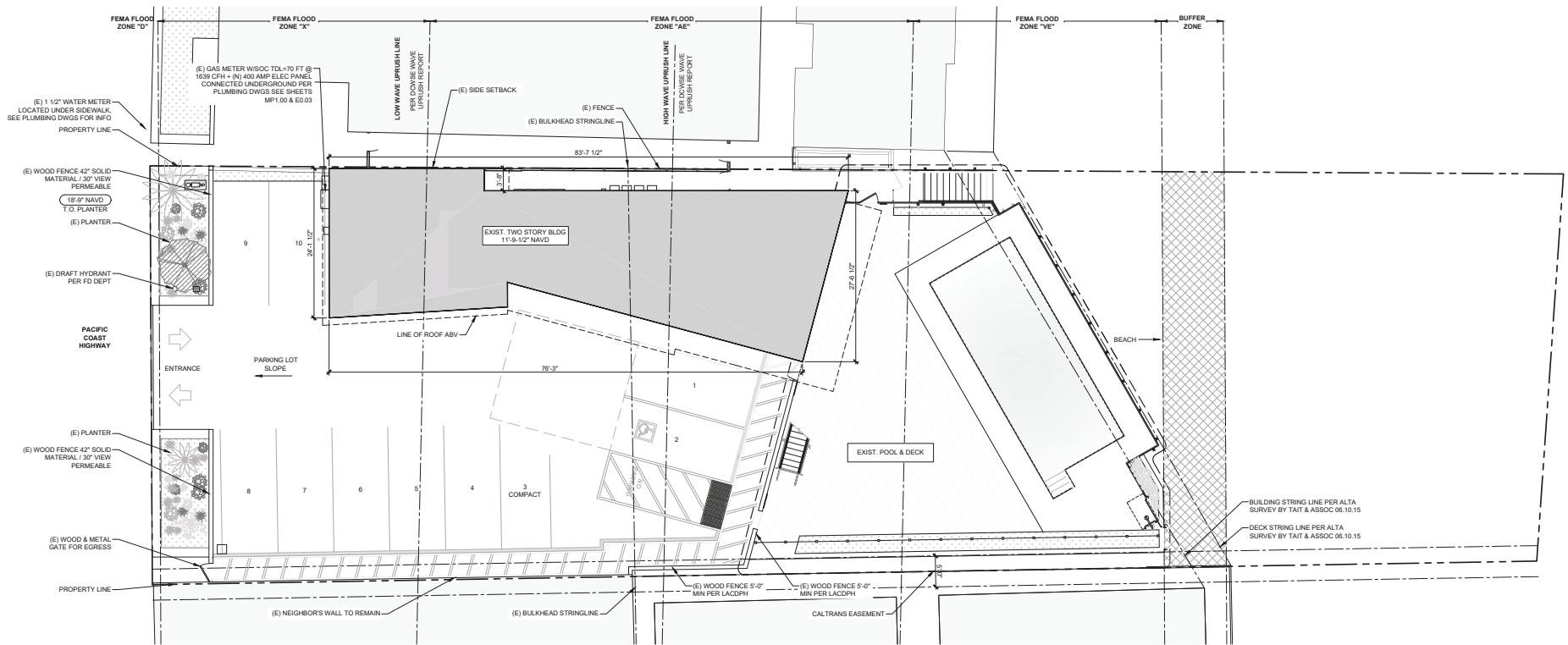


22752 PCH_ 1st FLOORPLAN

SCALE 1/8" = 1'-00"
STUDIO PCH - 07.03.17

Architectural floor plan of a three-story building. The plan shows a central corridor connecting various rooms including bedrooms, bathrooms, a kitchen, and a living area. There are multiple balconies and a central staircase. Dimensions are provided for various sections. A north arrow is located in the bottom right corner.

SCALE 1/8" = 1'-00"
STUDIO PCH - 07.03.17



SITE PLAN LEGEND

- PROPERTY LINE
- SETBACK LINE
- FENCE



SITE PLAN 1
SCALE: 1/8"=1'-0"

OWNER
WAVEBREAK, LLC
101 YGNACIO VALLEY RD. #320
WALNUT CREEK, CA 94596
925.627.2618

PROJECT ADDRESS
AS-BUILT PLANS
22762 Pacific Coast Hwy
Malibu, CA 90265

A.P.N. 4451-004-034

ISSUANCE
DATE REVISIONS NO

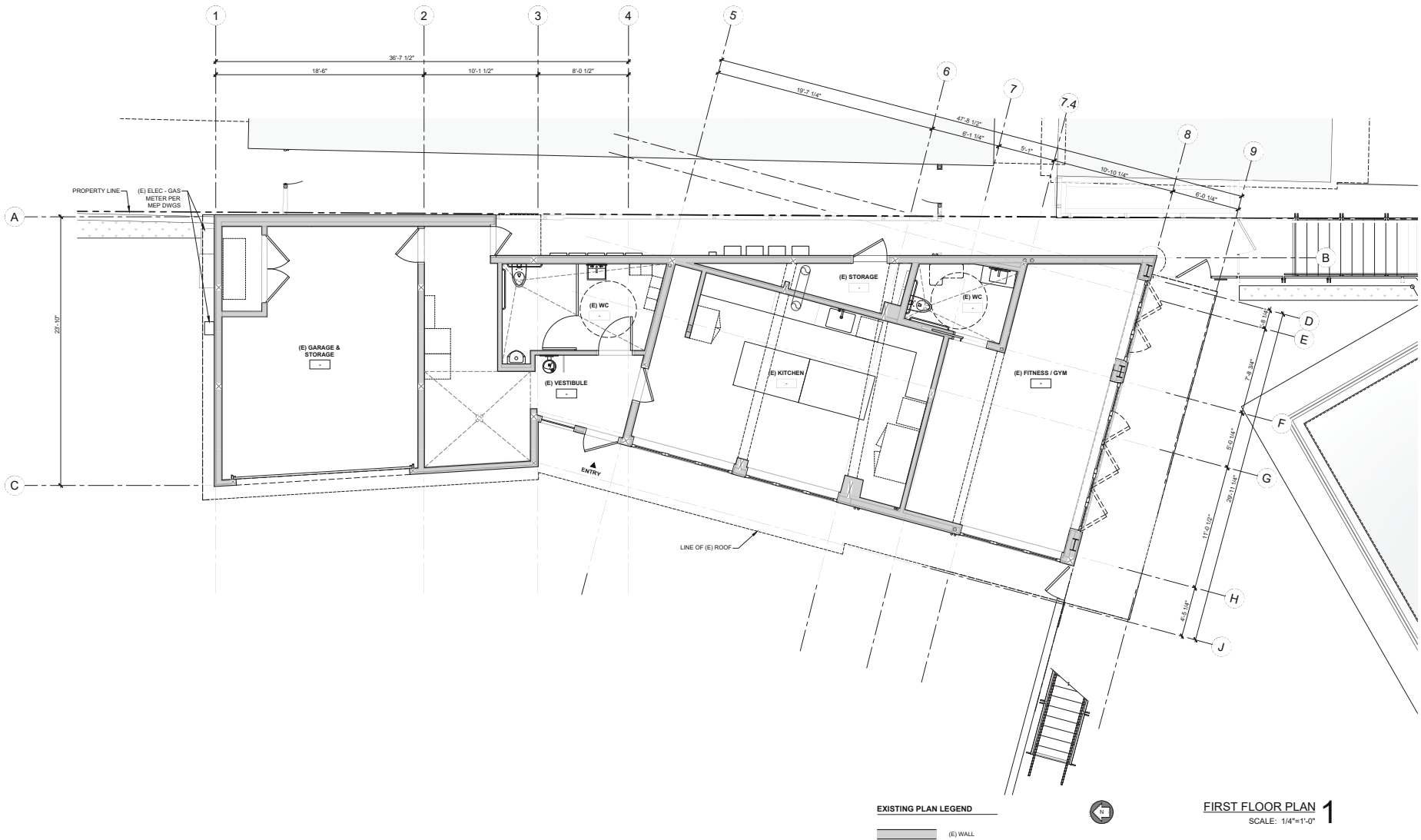
SCALE
1/8" = 1'-0"
DRAW TO SCALE ONLY WHEN PRINTED ON 24"X36" SHEET
SHEET TITLE

SITE PLAN

SHEET NUMBER

A1.00

PROJECT CODE
22762
This drawing has been created by Studio PDR LLC, which retains all copyright to this document. No drawing may be used for reproduction, distribution, or sale, without the express written consent of the Designer.



OWNER
WAVEBREAK, LLC
101 YONACIO VALLEY RD. #320
WALNUT CREEK, CA 94596
925.627.2618

PROJECT ADDRESS:
AS-BUILT PLANS
22762 Pacific Coast Hwy
Malibu, CA 90265

A.P.N. 4451-004-034

ISSUANCE
DATE REVISIONS NO

SCALE

1/4" = 1'-0"

END TO SCALE ONLY WHEN PRINTED ON A "TOM" SHEET

SHEET TITLE

FIRST FLOOR PLAN

SHEET NUMBER

A1.11

PROJECT CODE

22762

This drawing has been created by Studio PCH, LLC, which makes all representations in this document. The drawings are not to be used for any other purpose, without the express written consent of the Designer.



City of Malibu

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

ENVIRONMENTAL HEALTH REVIEW REFERRAL SHEET

TO: City of Malibu Environmental Health Administrator
FROM: City of Malibu Planning Department

12/5/17
6/2/2017 @

PROJECT NUMBER: CUP 17-007
JOB ADDRESS: 22752 PACIFIC COAST HWY, Common Area
APPLICANT / CONTACT: Patrick A. Perry, Allen Matkins
APPLICANT ADDRESS: 515 S. Figueroa
Los Angeles, CA 90071
APPLICANT PHONE #: (213) 955-5504
APPLICANT FAX #: (213) 620-8816
APPLICANT EMAIL: pperry@allenmatkins.com
PROJECT DESCRIPTION: CUP for proposed motel use

TO: Malibu Planning Department and/or Applicant
FROM: City of Malibu Environmental Health Reviewer

☒ **Conformance Review Complete** for project submittals reviewed with respect to the City of Malibu Local Coastal Plan/Local Implementation Plan (LCP/LIP) and Malibu Plumbing Code (MPC). The Conditions of Planning conformance review and plan check review comments listed on the attached review sheet(s) (or else handwritten below) shall be addressed prior to plan check approval.

☐ **Conformance Review Incomplete** for the City of Malibu LCP/LIP and MPC. The Planning stage review comments listed on the City of Malibu Environmental Health review sheet(s) shall be addressed prior to conformance review completion.

OWTS Plot Plan: ☒ NOT REQUIRED
☐ REQUIRED (attached hereto) ☐ REQUIRED (not attached)

Melinda Tolent
Signature

12-14-17
Date

The applicant must submit to the City of Malibu Environmental Health Specialist to determine whether or not an onsite wastewater treatment system (OWTS) Plot Plan approval is required.

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



City of Malibu

Environmental Health • Environmental Sustainability Department
23825 Stuart Ranch Road • Malibu, California • 90265-4861
Phone (310) 456-2489 • Fax (310) 317-1950 • www.malibucity.org

ENVIRONMENTAL HEALTH REVIEW SHEET

PROJECT INFORMATION

Applicant : (name and email address)	Patrick Perry pperry@allenmatkins.com	
Project Address:	22752 Pacific Coast Hwy Malibu, CA 90265	
Planning Case No.:	CUP 17-007	
Project Description:	CUP for proposed motel use	
Date of Review:	December 14, 2017	
Reviewer:	Melinda Talent	Signature: <i>Melinda Talent</i>
Contact Information:	Phone: 310-456-2489 ext. 364	Email: mtalent@malibucity.org

SUBMITTAL INFORMATION

Architectural Plans:	Site plan by Studio PCH submitted to Planning on June 7, 2017
Miscellaneous:	Operating Permit issued 6-21-17. Letter from Patrick Perry dated 8-14-17. City of Malibu Planning Department Uniform Application, Attachment A, Attachment A-1, Attachment A-2, revision submitted to Planning on 12-5-17
Previous Reviews:	6-16-17, 8-28-17

REVIEW FINDINGS

Planning Stage:	☒ CONFORMANCE REVIEW COMPLETE for the City of Malibu Local Coastal Program/Local Implementation Plan (LIP) and Malibu Plumbing Code (MPC). The listed conditions of Planning stage conformance review and plan check review comments shall be addressed prior to plan check approval.
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	☐ REQUIRED (attached hereto) ☐ REQUIRED (not attached)

Environmental Health **conformance review** has been completed for the development proposal described in the project description provided by the Planning Department and the project plans and reports submitted to this office. Please distribute this review sheet to all of the project consultants and, prior to final approval, provide a coordinated submittal addressing all conditions for final approval and plan check items.

The conditional conformance findings hereby transmitted complete the Planning stage Environmental Health review of the project. In order to obtain Environmental Health final approval of the OWTS Plot Plan and project construction drawings (during Building Safety plan check), all conditions and plan check items listed below must be addressed through submittals to the Environmental Health office.

Conditions of Planning Conformance Review

No conditions are required by Environmental Health.

-o0o-

If you have any questions regarding the above requirements, please contact the Environmental Health office at your earliest convenience.

cc: Environmental Health file
Planning Department





City of Malibu

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(310) 456-2489 FAX (310) 317-1950 www.malibucity.org

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ENVIRONMENTAL HEALTH REVIEW SHEET

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OWTS Plot Plan:	☒ NOT REQUIRED
	☐ REQUIRED (attached hereto) ☐ REQUIRED (not attached)

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If you have any questions regarding the above requirements, please contact the Environmental Health office at your earliest convenience.

cc: Environmental Health file
Planning Department





City of Malibu

23825 Stuart Ranch Rd., Malibu, California CA 90265-4804
(310) 456-2489 FAX (310) 456-7650

www.malibucity.org

CONDITIONAL USE PERMIT REFERRAL SHEET

TO: Los Angeles County Sheriff - Malibu Lost Hills Station

FROM: City of Malibu Planning Department

REVISED DATE 01/11/2022

This Approval Form (including detailed project description and plans) will be forwarded to:

Deputy ~~John Peek~~ BRIAN KNOTT
27050 Agoura Road, Calabasas, CA 91302
(818) 878-1808 Fax (818) 880-5209
Hours: Monday - Thursday 9:00 a.m. - 5:00 p.m.

Planning Staff to send review packet to BKNOTT ar@lasd.org.

Separate applications and fees may be required by the Sheriff's Department. A CUP will not be issued until this form, signed by an authorized member of this agency, has been returned to the City of Malibu. Any conditions imposed by this agency will be included in the CUP.

☒ Approved ☐ Denied (reasons below) Conditions imposed: ☐ No ☐ Yes (see below)

FOR CUP 17-007

22752 PCH, 22762 PCH, MALIBU

Deputy BRIAN KNOTT 3/9/22

NAME

DATE

BKnot

DS6

SIGNATURE

TITLE

**NOTICE OF PUBLIC HEARING
CITY OF MALIBU
PLANNING COMMISSION**

**NOTICE OF AVAILABILITY
OF LCP AMENDMENT MATERIALS**

The Malibu Planning Commission will hold a public hearing on **MONDAY, November 6, 2023, at 6:30 p.m.** on the project identified below in Council Chambers at Malibu City Hall, 23825 Stuart Ranch Road and via teleconference.

How to View and Participate in the Meeting: Members of the public are encouraged to submit email correspondence to planningcommission@malibucity.org at least three days prior to the meeting to provide adequate time for Commissioner consideration. Correspondence will continue to be processed until thirty minutes prior to the start of the meeting or as practical.

To view and participate during the public hearing, please review the meeting agenda posted at MalibuCity.org/AgendaCenter and follow the directions for public participation. Only those members of the public who are present in person at Malibu City Hall will have the opportunity to defer time to another in-person speaker.

NOBU RYOKAN MOTEL AND MALIBU TIDEPOOL HEALTH CLUB

LOCAL COASTAL PROGRAM AMENDMENT NO. 16-001, GENERAL PLAN MAP AMENDMENT NO. 16-001, ZONING MAP AMENDMENT NO. 15-001, COASTAL DEVELOPMENT PERMIT NO. 23-046, CONDITIONAL USE PERMIT NO. 16-007, AND LOT TIE NO. 21-001 – An application to rezone and change the land use designation of the properties from Community Commercial to Community Visitor-Serving-Two for the existing Nobu Ryokan Motel and Malibu Tidepool Health Club lots and conversion of the existing non-conforming use motel and adjacent private gym and pool to a bed and breakfast inn, the sale of alcohol for onsite consumption, a lot tie for the two lots to operate conjunctively and conversion of office space in the Tidepool building into a new guest suite

Locations:	22752 and 22762 Pacific Coast Highway
APNs:	4452-004-035 and 4452-004-034
Applicant:	Latham & Watkins LLP
Owners:	North Broadway Ventures, LLC and Wavebreak, LLC
Environmental Review:	Initial Study No. 17-002 and Negative Declaration No. 19-002
Applications Filed:	June 2, 2017; November 2, 2015
Case Planner:	Adrian Fernandez, Assistant Planning Director (310) 456-2489, extension 482 afernandez@malibucity.org

Pursuant to the authority and criteria contained in CEQA, the Planning Director has analyzed the proposed project and prepared an Initial Study pursuant to CEQA Guidelines Section 15300.2(c). The Initial Study analyzed the project and determined that with standard conditions of approval, the proposed project will not have a significant impact on the environment; subsequently, a Negative Declaration was prepared and circulated pursuant to CEQA Guidelines Section 15070 (State Clearinghouse No. 2021120124).

A written staff report will be available at or before the hearing for the project. All persons wishing to address the Commission regarding these matters will be afforded an opportunity in

accordance with the Commission's procedures. Oral and written comments may be presented to the Planning Commission on, or before, the date of the meeting.

The Planning Commission's recommendation to the City Council will be memorialized in a written resolution. The amendments must be approved by the City Council and the LCP amendment requires certification by the California Coastal Commission before it takes effect.

Copies of all documents relating to the proposed LCP Amendment are available for review at City Hall, Malibu Public Library, and the Coastal Commission District office during regular business hours. All other documents can be reviewed by any interested person at City Hall during regular business hours.

COASTAL COMMISSION APPEAL – For projects appealable to the Coastal Commission, 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 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.

IF YOU CHALLENGE THE CITY'S ACTION IN COURT, YOU MAY BE LIMITED TO RAISING ONLY THOSE ISSUES YOU OR SOMEONE ELSE RAISED AT THE PUBLIC HEARING DESCRIBED IN THIS NOTICE, OR IN WRITTEN CORRESPONDENCE DELIVERED TO THE CITY, AT OR PRIOR TO THE PUBLIC HEARING.

Richard Mollica, Planning Director

Publish Date: October 19, 2023



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

PLANNING DEPARTMENT

NOTICE OF AVAILABILITY OF LCP AMENDMENT MATERIALS & PUBLIC HEARING



NOTICE OF AVAILABILITY OF LOCAL COASTAL PROGRAM AMENDMENT MATERIALS & PUBLIC HEARING

The Malibu Planning Commission will hold a public hearing on **Monday, November 6, 2023, at 6:30 p.m.** on the project identified below in Council Chambers at Malibu City Hall, 23825 Stuart Ranch Road and via teleconference.

NOBU RYOKAN MOTEL AND MALIBU TIDEPOL HEALTH CLUB

LOCAL COASTAL PROGRAM AMENDMENT NO. 16-001, GENERAL PLAN MAP AMENDMENT NO. 16-001, ZONING MAP AMENDMENT NO. 15-001, COASTAL DEVELOPMENT PERMIT NO. 23-046, CONDITIONAL USE PERMIT NO. 16-007, AND LOT TIE NO. 21-001 - An application to rezone and change the land use designation of the properties from Community Commercial to Community Visitor-Serving-Two for the existing Nobu Ryokan Motel and Malibu Tidepool Health Club lots and conversion of the existing non-conforming use motel and adjacent private gym and pool to a bed and breakfast inn, the sale of alcohol for onsite consumption, a lot tie for the two lots to operate conjunctively and conversion of office space in the Tidepool building into a new guest suite

LOCATIONS:

APNs:

APPLICANT / OWNERS:

APPEALABLE TO:

ENVIRONMENTAL REVIEW:

APPLICATION FILED:

CASE PLANNER:

22752 and 22762 Pacific Coast Hwy

4452-004-035 and 4452-004-034

Latham & Watkins LLP / North Broadway Ventures, LLC and Wavebreak, LLC

City Council and California Coastal Commission

Initial Study No. 17-002 and Negative Declaration No. 19-002

June 2, 2017: November 2, 2015

Adrian Fernandez, Assistant Planning Director

(310) 456-2489, extension 482, afernandez@malibucity.org

A written staff report will be available at or before the hearing for the project. All persons wishing to address the Commission regarding these matters will be afforded an opportunity in accordance with the Commission's procedures. Oral and written comments may be presented to the Planning Commission on, or before, the date of the meeting. The Planning Commission's recommendation to the City Council will be memorialized in a written resolution. The amendments must be approved by the City Council and the LCP amendment requires certification by the California Coastal Commission before it takes effect. Copies of all documents relating to the proposed LCP Amendment are available for review at City Hall, Malibu Public Library, and the Coastal Commission District office during regular business hours. All other documents can be reviewed by any interested person at City Hall during regular business hours.

COASTAL COMMISSION APPEAL- For projects appealable to the Coastal Commission, 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 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.

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RICHARD MOLLICA, Planning Director

Date: October 16, 2023



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

PLANNING DEPARTMENT

NOTICE OF AVAILABILITY OF LCP AMENDMENT MATERIALS & PUBLIC HEARING



NOTICE OF AVAILABILITY OF LOCAL COASTAL PROGRAM AMENDMENT MATERIALS & PUBLIC HEARING

The Malibu Planning Commission will hold a public hearing on **Monday, November 6, 2023, at 6:30 p.m.** on the project identified below in Council Chambers at Malibu City Hall, 23825 Stuart Ranch Road and via teleconference.

NOBU RYOKAN MOTEL AND MALIBU TIDEPOL HEALTH CLUB

LOCAL COASTAL PROGRAM AMENDMENT NO. 16-002, GENERAL PLAN MAP AMENDMENT NO. 16-001, ZONING MAP AMENDMENT NO. 15-001, COASTAL DEVELOPMENT PERMIT NO. 23-046, CONDITIONAL USE PERMIT NO. 17-007, AND LOT TIE NO. 21-001 - An application to rezone and change the land use designation of the properties from Community Commercial to Community Visitor-Serving-Two for the existing Nobu Ryokan Motel and Malibu Tidepool Health Club lots and conversion of the existing non-conforming use motel and adjacent private gym and pool to a bed and breakfast inn, the sale of alcohol for onsite consumption, a lot tie for the two lots to operate conjunctively and conversion of office space in the Tidepool building into a new guest suite

LOCATIONS:	22752 and 22762 Pacific Coast Hwy
APNs:	4452-004-035 and 4452-004-034
APPLICANT / OWNERS:	Malibu Development Co / North Broadway Ventures, LLC and Wavebreak, LLC
APPEALABLE TO:	City Council and California Coastal Commission
ENVIRONMENTAL REVIEW:	Initial Study No. 17-002 and Negative Declaration No. 19-002
APPLICATION FILED:	June 2, 2017; November 2, 2015
CASE PLANNER:	Adrian Fernandez, Assistant Planning Director (310) 456-2489, extension 482, afernandez@malibucity.org

A written staff report will be available at or before the hearing for the project. All persons wishing to address the Commission regarding these matters will be afforded an opportunity in accordance with the Commission's procedures. Oral and written comments may be presented to the Planning Commission on, or before, the date of the meeting. The Planning Commission's recommendation to the City Council will be memorialized in a written resolution. The amendments must be approved by the City Council and the LCP amendment requires certification by the California Coastal Commission before it takes effect. Copies of all documents relating to the proposed LCP Amendment are available for review at City Hall, Malibu Public Library, and the Coastal Commission District office during regular business hours. All other documents can be reviewed by any interested person at City Hall during regular business hours.

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RICHARD MOLLICA, Planning Director

Date: October 13, 2023

**NOTICE OF PUBLIC HEARING
CITY OF MALIBU
PLANNING COMMISSION**

The Malibu Planning Commission will hold a public hearing on **MONDAY, November 6, 2023, at 6:30 p.m.** on the project identified below in Council Chambers at Malibu City Hall, 23825 Stuart Ranch Road and via teleconference.

How to View and Participate in the Meeting: Members of the public are encouraged to submit email correspondence to planningcommission@malibucity.org at least three days prior to the meeting to provide adequate time for Commissioner consideration. Correspondence will continue to be processed until thirty minutes prior to the start of the meeting or as practical.

To view and participate during the public hearing, please review the meeting agenda posted at MalibuCity.org/AgendaCenter and follow the directions for public participation. Only those members of the public who are present in person at Malibu City Hall will have the opportunity to defer time to another in-person speaker.

COASTAL DEVELOPMENT PERMIT NO. 23-046, CONDITIONAL USE PERMIT NO. 17-007, GENERAL PLAN MAP AMENDMENT NO. 16-001, ZONING MAP AMENDMENT NO. 15-001, LOCAL COASTAL PROGRAM AMENDMENT NO. 16-002, AND LOT TIE NO. 21-001 – An application for General Plan, Zoning Map and Local Coastal Program mapping amendments from Community Commercial to Community Visitor-Serving-Two for the existing Nobu Ryokan Motel and Malibu Tidepool Health Club lots and conversion of the existing non-conforming use motel and adjacent private gym and pool to a bed and breakfast inn and the sale of alcohol for onsite consumption, a lot tie for the two lots to operate conjunctively and conversion of office space in the Tide Pool building into a new guest suite

Locations:	22752 and 22762 Pacific Coast Highway
APNs:	4452-004-035 and 4452-004-034
Applicant:	Malibu Development Co
Owners:	North Broadway Ventures, LLC and Wavebreak, LLC
Appealable to:	City Council and California Coastal Commission
Environmental Review:	Initial Study No. 17-002 and Negative Declaration No. 19-002
Applications Filed:	June 2, 2017; November 2, 2015
Case Planner:	Adrian Fernandez, Assistant Planning Director (310) 456-2489, extension 482 afernandez@malibucity.org

Pursuant to the authority and criteria contained in CEQA, the Planning Director has analyzed the proposed project. The Planning Department prepared an Initial Study pursuant to CEQA Guidelines Section 15300.2(c). The Initial Study analyzed the proposed Ryokan Project and determined that with standard conditions of approval, the proposed project will not have a significant impact on the environment; subsequently, a Negative Declaration was prepared and circulated pursuant to CEQA Guidelines Section 15070 (State Clearinghouse No. 2021120124).

A written staff report will be available at or before the hearing for the projects. All persons wishing to address the Commission regarding these matters will be afforded an opportunity in accordance with the Commission's procedures.

Copies of all related documents can be reviewed by any interested person at City Hall during regular business hours. Oral and written comments may be presented to the Planning Commission on, or before, the date of the meeting.

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 (15 days for tentative maps) for 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 246.

COASTAL COMMISSION APPEAL – For projects appealable to the Coastal Commission, 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 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.

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Richard Mollica, Planning Director

Publish Date: October 12, 2023



22762 and 22752 Pacific Coast Highway
General Plan Land Use Map, Local Coastal
Program Land Use Map, Zoning Map
Amendments and Conditional use Permits

Administrative Draft Initial Study – Negative Declaration

prepared by

City of Malibu

Planning Department
23825 Stuart Ranch Road
Malibu, California 90265

November 2021

22762 and 22752 Pacific Coast Highway
General Plan Land Use Map, Zoning Map,
and Local Coastal Program Land Use Map
Amendments and Conditional Use Permits

Administrative Draft Initial Study –Negative Declaration

prepared by

City of Malibu

Planning Department
23825 Stuart Ranch Road
Malibu, California 90265

August 2021

This report prepared on 50% recycled paper with 50% post-consumer content.

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Initial Study

1. Project Title

22762 and 22752 Pacific Coast Highway General Plan Land Use Map, Zoning Map, and Local Coastal Program Land Use Map Amendments and Conditional Use Permits.

2. Lead Agency Name and Address

City of Malibu
Planning Department
23825 Stuart Ranch Road
Malibu, California 90265-4861

3. Contact Person and Phone Number

Adrian Fernandez, Assistant Planning Director
(310) 456-2489, extension 482
afernandez@malibucity.org

4. Project Location

As shown in Figure 1, *Regional Location*, the Project Site is located in the southeastern portion of the City of Malibu (City) along Pacific Coast Highway (PCH), approximately 0.4 miles east of Malibu Pier.

As shown in Figure 2, *Project Vicinity*, the Project Site is comprised of two immediately adjacent beachfront parcels situated on the south side of PCH, between PCH and the Pacific Ocean, located at 22762 (known as Tide Pool) and 22752 PCH (known as Ryokan Hotel) (Project Site), assessor parcel numbers (APN) 4452-004-34 and 4452-004-35, respectively,

5. Project Sponsor's Name and Address

Applicant

Patrick Perry
Allens Matkins
515 S. Figueroa, 9th Floor
Los Angeles, Ca 90071

Owners

22752 PCH
North Broadway Ventures, LLC

22762 PCH
Wavebreak, LLC

City of Malibu

22762 and 22752 Pacific Coast Highway General Plan Land Use Map, Zoning Map, and Local Coastal Program Land Use Map Amendments and Conditional Use Permits

101 Ygnacio Valley Road, #320
Walnut Creek, California 94596

101 Ygnacio Valley Road, #320
Walnut Creek, California 94596

Figure 1 Regional Location



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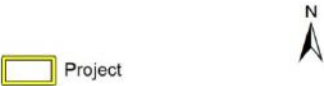


Fig 1 Regional Location

Figure 2 Project Vicinity



6. Existing Setting

The City is a rural beach community with a population of approximately 12,960 people. The City maintains primarily residential development, with clusters of small neighborhoods and single-family residences scattered in the hills to the north and in enclaves along the south side of PCH. The more intensive land uses, such as commercial neighborhood and visitor-serving businesses, and multi-family developments, are primarily located on or adjacent to PCH. Development in the City is subject to rural hazards, such as fire, landslides, tsunamis, and sea level rise, and development is further constrained by the presence of environmentally sensitive resources.

PCH travels the length of the City along the coastline and serves as the City's main thoroughfare to the west and east. It is the primary access into, and out of, the City for locals and visitors alike. PCH is also a designated scenic highway pursuant to Malibu Local Coastal Program (LCP) and provides access to the City's beaches and public open spaces.

Site Access

The Project Site is accessed from PCH, which borders the property on the north. A driveway on the east accesses 15 parking spaces on an at grade parking area at 22752 PCH. A driveway on the west accesses 10 parking spaces on an at grade parking area at 22762 PCH. There is no internal access between the two parking areas.

Existing Site Conditions

The Project Site is comprised of two commercially developed beachfront parcels. The existing development is located on the north side of the parcels, along PCH and above the beach. The south side of the parcels is undeveloped and comprised of sandy beach. Figure 2 provides an aerial image

of the site's existing condition and Table 1, Characteristics of Existing Conditions, provides a summary of the approximate lot size, square footages of existing buildings and parking spaces available at the Project Site.

22762 PCH is approximately 0.30 acre and is developed with a 2,157 square foot, two-story building and attached 392 square foot one-story garage originally built in 1951, with an at grade parking lot containing 10 parking spaces. The property was previously occupied by the Tidepool Gallery, a former art house. The property was remodeled in 2015 pursuant to Coastal Development Permit No. 13-066, which included construction of a swimming pool, and is currently occupied by Malibu Tidepool Health Club.

The Tidepool Health Club amenities include a gym, swimming pool, and a kitchen to provide food/drink services to members. As discussed in detail in Sections 7 and 8 below, the health club use is a conforming use because it is a permitted use pursuant to the current land use designation and zoning.

22752 PCH is approximately 0.67 acre and is developed with 9,030 square feet of total floor area, comprised of a two-story building, and two one-story bungalows, originally built in 1950, with an at grade parking lot containing 15 parking spaces. The property has historically been used as a motel and was previously occupied by the Casa Malibu Inn providing 22 guest rooms. The property was remodeled in 2016 pursuant to Coastal Development Permit (CDP) No. 13-004, to maintain the motel use, and the guest rooms total was reduced to 16.

The property is currently occupied by Nobu Ryokan Motel (Ryokan Motel), providing 16 guest rooms. As discussed in detail in Sections 7 and 8 below, the existing development and motel use is legal nonconforming because it does not conform with the current land use designation and zoning, which does not allow for transient lodging accommodations (i.e., bed and breakfast inn, motel or hotel).

Table 1 Existing Conditions

Building	Lot Size	Building Height	Approximate Floor Area/FAR	Parking Spaces
22752 PCH (Ryokan)	0.67 acre (29,185 sq.ft.)		9,030 square feet/0.31	15
Existing 2-Story Bldg. (Bldg. 1)		23.5 feet		
Existing 1-Story Bungalows (Bldg. 2 and Bldg. 3)		13 feet, 11 inches		
22762 PCH (Tidepool)	0.30 acre (12,632 sq.ft.)		2,157 square feet/0.17	10
Existing 2-story Bldg.		21.5 feet	2,157	
Existing 1-Story Attached Garage		10 feet	392	
Deck + Swimming Pool (600 sq ft)		Ground level		

7. General Plan Designation and Zoning District

The Project Site is designated “Community Commercial” (CC) in the Malibu General Plan. The CC land use designation is intended to provide for resident-serving needs on land that is suitable for concentrated commercial activity. The CC land use designation plans for centers that offer a greater depth and range of consumer goods than those found in neighborhood centers, which typically contain an anchor tenant such as a supermarket. Allowed uses typically include financial institutions, restaurants, and health care facilities.

The General Plan land use designations in the area surrounding the Project Site are primarily commercial, with some residential, as shown in Figure 3, Existing General Plan Land Use Designations.

Consistent with the General Plan, the Malibu Municipal Code (MCC) Zoning Map designates the Project Site as CC, and also provides that the CC zoning district is intended to provide for the resident serving needs of the community on parcels of land more suitable for concentrated commercial activity. Permitted and/or conditionally permitted uses within the CC zoning district include health clubs and dance studios, medical clinics and offices, bakeries, beauty salons and bookstores, financial institutions, nurse schools and day care facilities, professional offices, public open space and recreation, small retail stores, and restaurants. The MMC defines a “health club” to include, but not be limited to “gymnasiums (except public), private clubs (athletic, health or recreational), with full-service facilities including, but not limited to, showers, lockers, pools and saunas.

The Zoning districts in the area surrounding the Project Site are primarily CC to the north and east and “Multi-Family Residential” (MF) to the west and east; there are areas of “Commercial Visitor Serving 1” (CV-1) to the west, northwest, east and northeast, and “Commercial Visitor Serving 2” (CV-2) to the west, as shown in Figure 4, Existing Zoning Districts.

Upon the City’s adoption of the General Plan and MMC and the designation of the property within the CC land use designation and zoning district, the pre-existing motel use at 22752 PCH became a legal non-conforming use. Transient lodging accommodations, i.e., motel, bed and breakfast inn and hotel uses, are not listed as a permitted or conditionally permitted use within the CC land use designation or zoning district, and are therefore not a permitted use. Recognizing that the City’s new land use regulations would result in the existing uses on some properties being rendered nonconforming, the MMC included an amortization provision (MMC Section 17.60.040). The amortization period for the property’s legal non-conforming status would have expired in 2013. In 2014, the City approved an extension of the amortization schedule (EAS No. 14-001) to allow the time to process an LCP amendment, a change of zoning designation, and a Conditional Use Permit (CUP) to permit a transient lodging accommodation use. In July 2019, the City granted an additional extension of the amortization period (EAS No. 19-001) to allow the time to process the LCP amendment, change of land use designation and zoning district from CC to CV and CV-2, respectively, obtain the other necessary entitlements to continue operating transient lodging accommodations, and to process an application for a CUP to establish the transient lodging accommodation use in the CV-2 zone. EAS No. 19-001 extended the amortization period to the shorter of five years or the time required to process the LCP amendment and zone change.

8. Malibu Local Coastal Program Zoning Designation

The Malibu Local Coastal Program (LCP), which consists of a Land Use Plan (LUP) and Local Implementation Plan (LIP), designates the Project Site as CC-2. Similar to the General Plan and MMC, the LCP provides that: the CC district is intended to provide for resident serving needs of the community, but on parcels of land more suitable for concentrated commercial activity. Transient lodging accommodations, i.e., motels, bed and breakfast inns and hotel uses, is not allowed.

The LCP Land Use designations surrounding the project site are primarily commercial with CC areas to the north and east, MF to the west and east, CV-1 west and northwest, and east and northeast, and CV-2 to the west, as shown in Figure 5, Existing Local Coastal Program Designations.

Figure 3 Existing General Plan Land Use Designations

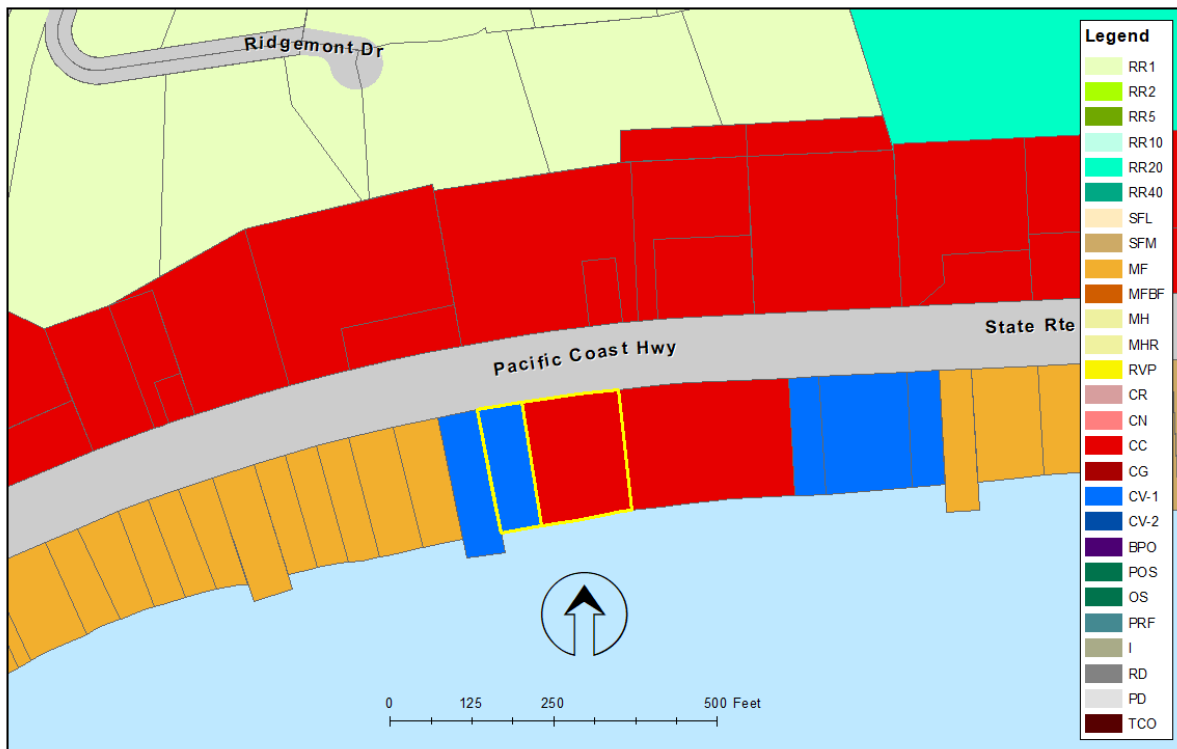


Figure 4 Existing MMC Zoning Districts

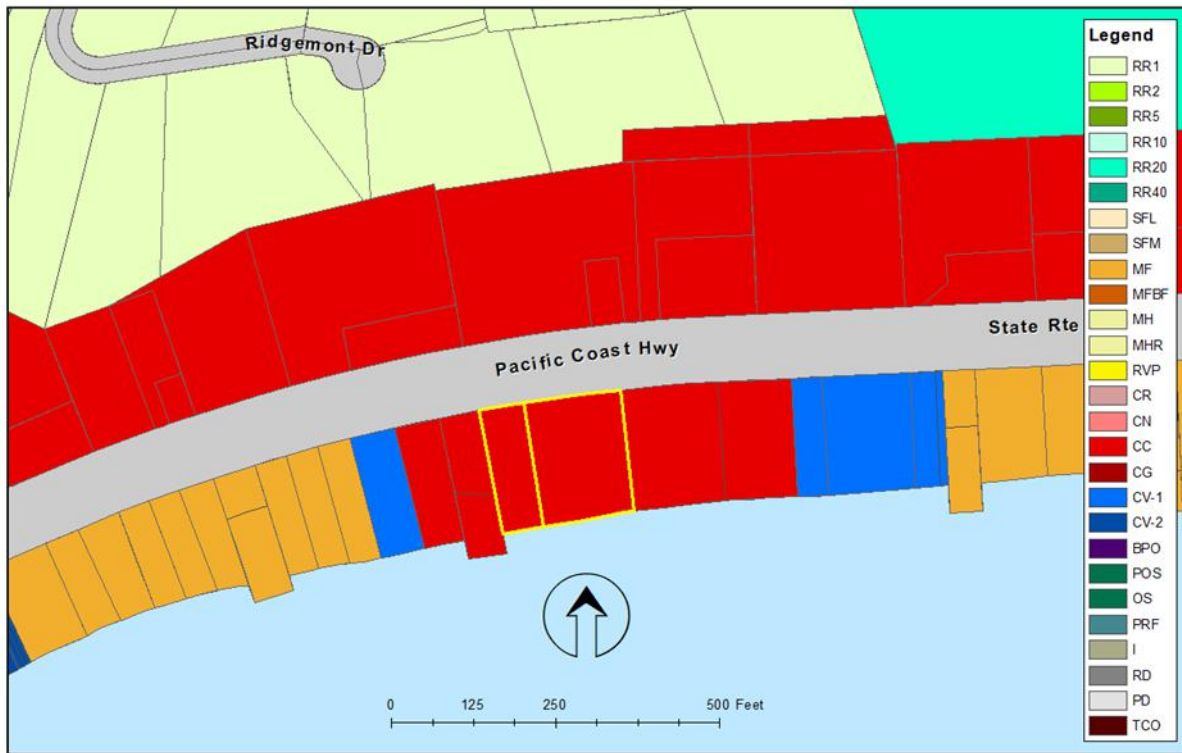
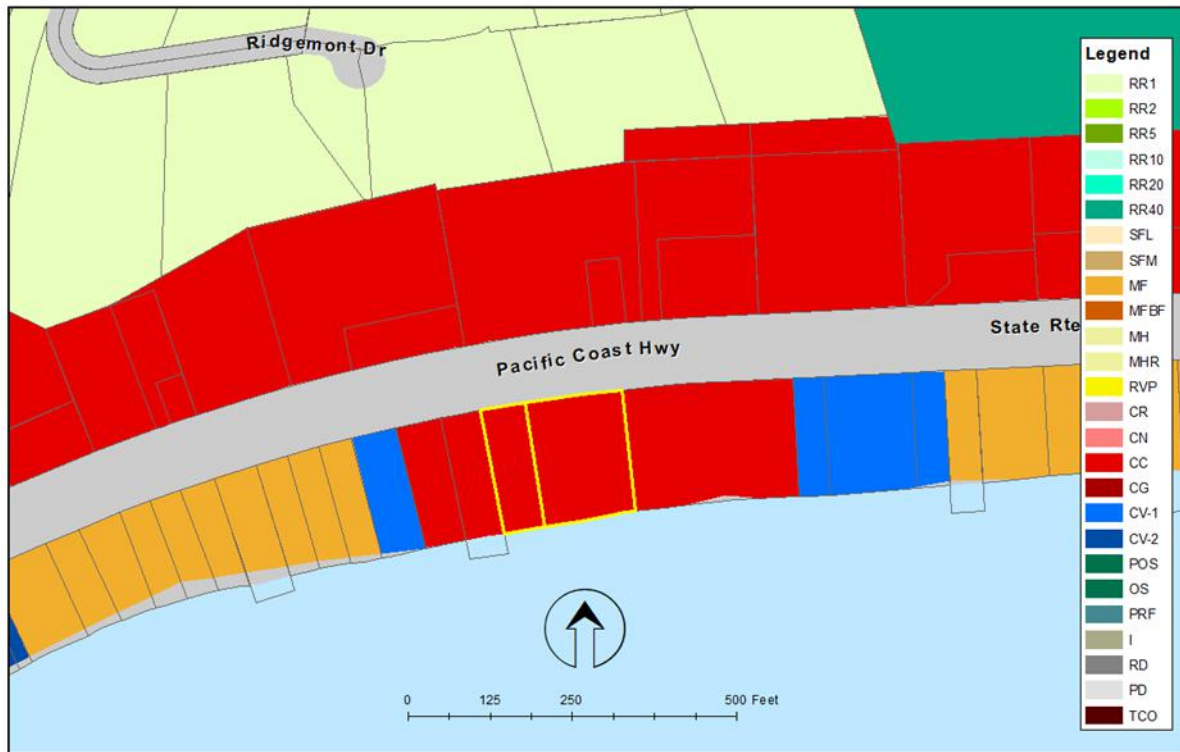


Figure 5 Existing Local Coastal Program Land Use Designation and Zoning District

9. Description of Project

The Proposed Project involves permitting the existing motel use at 22752 PCH (Ryokan Motel) and tying the development to operate in conjunction with the existing building at 22762 PCH (Malibu Tidepool Health Club), resulting in a combined facility, operated conjunctively as a bed and breakfast inn, that encompasses the two parcels, but functions as one project. The resulting combined development and uses would include transient lodging accommodations (17 guestrooms), with kitchen facilities adequate to provide meals to the guests of the facility only, and a small gym (approximately 300 sf) and swimming pool (600 sf) for guests of the facility only. Upon approval of the Proposed Project, the existing health club will cease operating and the facility will not offer any services to non-facility guests.

There are no proposed structural alterations or additions to either of the existing buildings' floor area. The Project Site currently has 25 total parking spaces, which is sufficient to provide one parking space per guestroom (17) and one parking space for the maximum per shift number of employees (8).

The proposed use meets the definition of a Bed and Breakfast Inn (Inn) as defined in the LCP and MMC. However, an Inn, like a motel, is not an allowed use in the CC zoning district, the current zoning for the Project Site. Transient lodging accommodations are not allowed in the CC zoning district.

A motel and Inn are an allowed type of use in the Commercial Visitor Serving (CV) land use designation, as provided for in the General Plan:

22762 and 22752 Pacific Coast Highway General Plan Land Use Map, Zoning Map, and Local Coastal Program Land Use Map Amendments and Conditional Use Permits

The CV designation provides for visitor serving uses which serve visitors and residents such as hotels and restaurants which respect the rural character and natural environmental setting. Floor-to-Area Ratio (FAR) shall range from a maximum of 0.15 to 0.25. CV designations are divided into two levels of density. Hotels are only permitted in CV-2 designations, the highest density designation. Visitor serving uses such as Motels and hotels shall be consistent with compatible accessory uses, shall protect the surrounding properties, shall ensure safe traffic circulation and shall promote economically viable visitor serving areas of the City.

The MMC and LCP also specifically provide that a motel and an Inn are allowed as a conditionally permitted use in the CV-1 and CV-2 zoning districts. Permitting the uses to operate requires the approval of a CUP.

In order for the Project Site to be permitted for the proposed Inn use, a General Plan Land Use Map amendment (GPMA), a Zoning Map amendment (ZMA), and a Local Coastal Program Land Use Map amendment (LCPA) must be approved to redesignate the Project Site's land use designation and zoning district from CC to CV and CV-1 or CV-2, respectively.

The Proposed Project involves redesignating the Project Site's land use designation and zoning district from CC to CV and CV-2, respectively. Concurrently, the Proposed Project seeks a CUP to permit the conjunctive operation of the two buildings on the Project Site as an Inn use in the CV-2 zone. Since the proposed use of the Project Site as an Inn encompasses two parcels, the Property Owners will be required to record a lot tie covenant to hold the two parcels as one as a condition of approval for the CUP. No new development or changes to the existing buildings or parking are proposed.

The Proposed Project includes the following amendments and entitlements to allow for the Proposed Project on the Project Site (Table 2). With the approval of these amendments and entitlements, the existing and proposed land use would conform to the MMC and LCP.

- GPMAs to change from the "Community Commercial" (CC) land use designation to "Commercial Visitor Serving" (CV) land use designation (Figure 6, Proposed General Plan Land Use Designations)
- ZMAs to change from the "Community Commercial" (CC) zoning district to the "Commercial Visitor Serving" (CV-2) zoning district (Figure 7, Proposed Zoning Districts)
- LCPAs to change from the "Community Commercial" (CC) land use designation and zoning district to the "Commercial Visitor Serving" (CV-2) land use designation and zoning district (Figure 8, Proposed Local Coastal Program Land Use Designation and Zoning District)
- CUP to permit a bed and breakfast inn at the Project Site and the sale of alcoholic beverages for on-site consumption at the Project Site by guests of the Inn only (alcohol service).
- Lot Tie (LT) to hold the two parcels as one for the conjunctive use of the properties as a bed and breakfast inn.

Table 2 Amendment and Entitlement Application Numbers

	22762 PCH	22752 PCH	Existing Designation	Proposed Designation
GPMA	GPA 16-001	GPA 16-002	CC	CV
LCPA	LCPA 16-001	LCPA 16-002	CC	CV-2

ZMA	ZMA 15-001	ZMA 15-002	CC	CV-2
CUP (Alcohol Service, and Bed and Breakfast inn)	CUP 16-007	CUP 16-007		
LT	LT 21-001	LT 21-001		

Figure 6 Proposed General Plan Land Use Designations

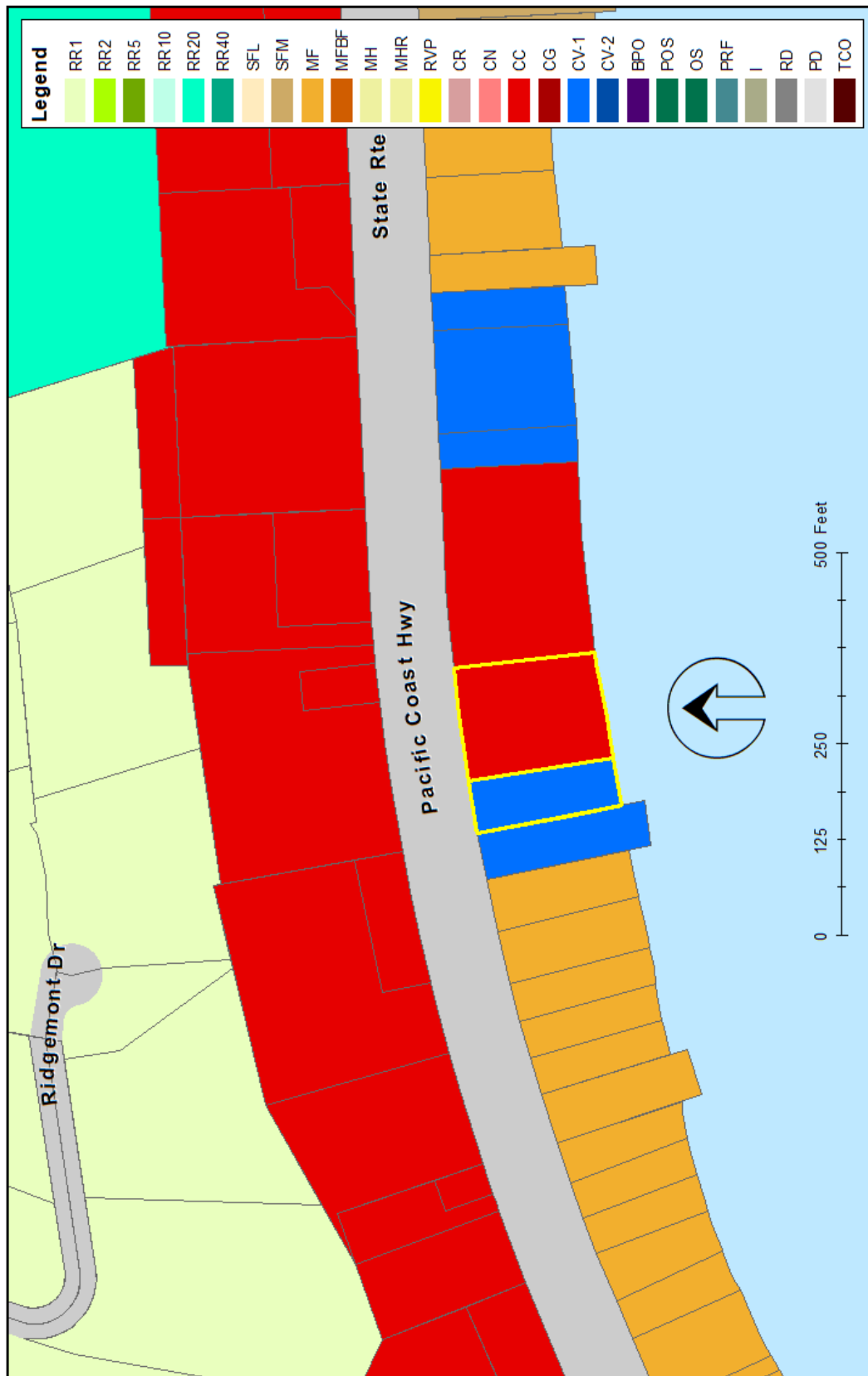


Figure 7 Proposed MMC Zoning Districts

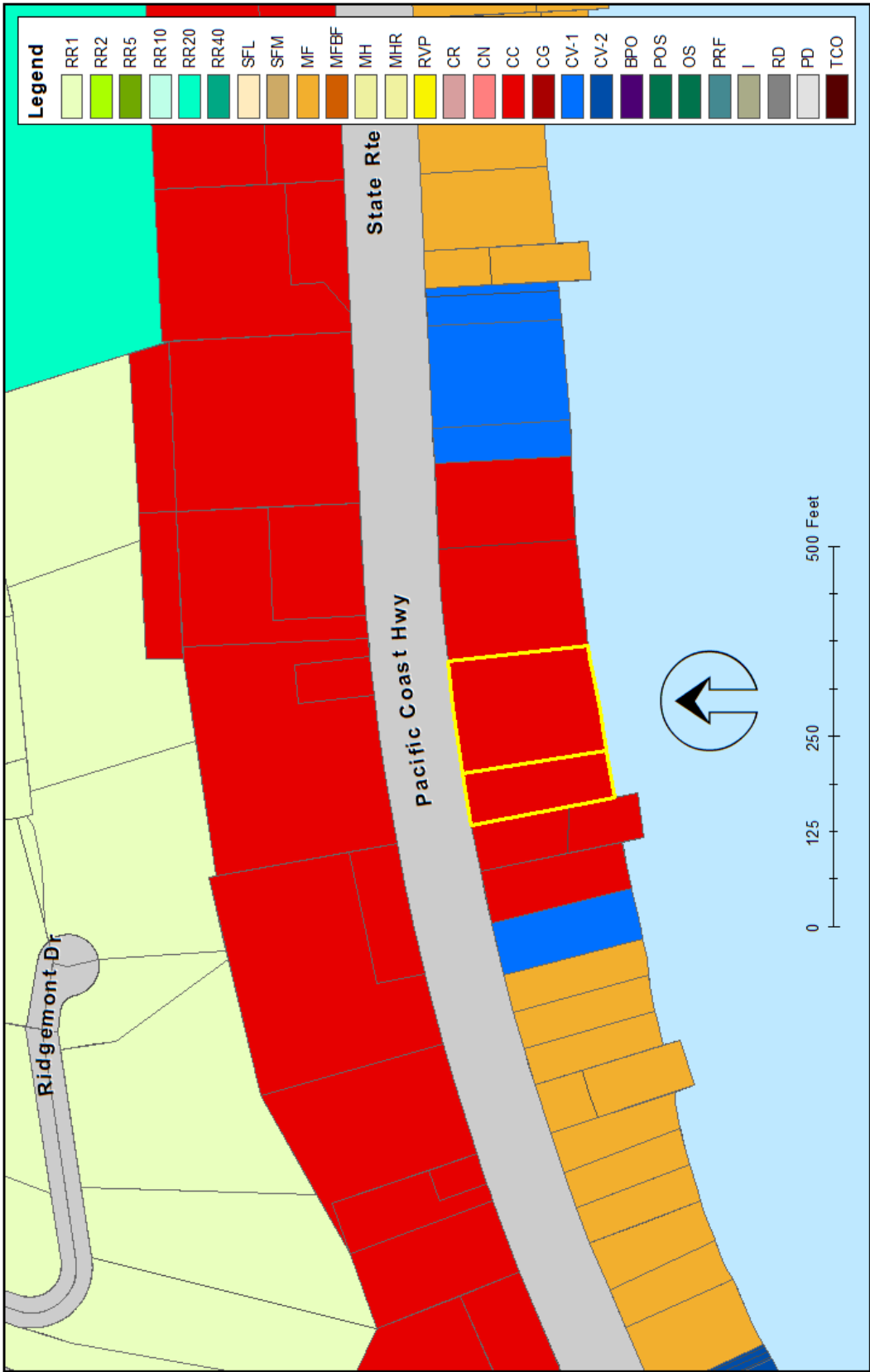
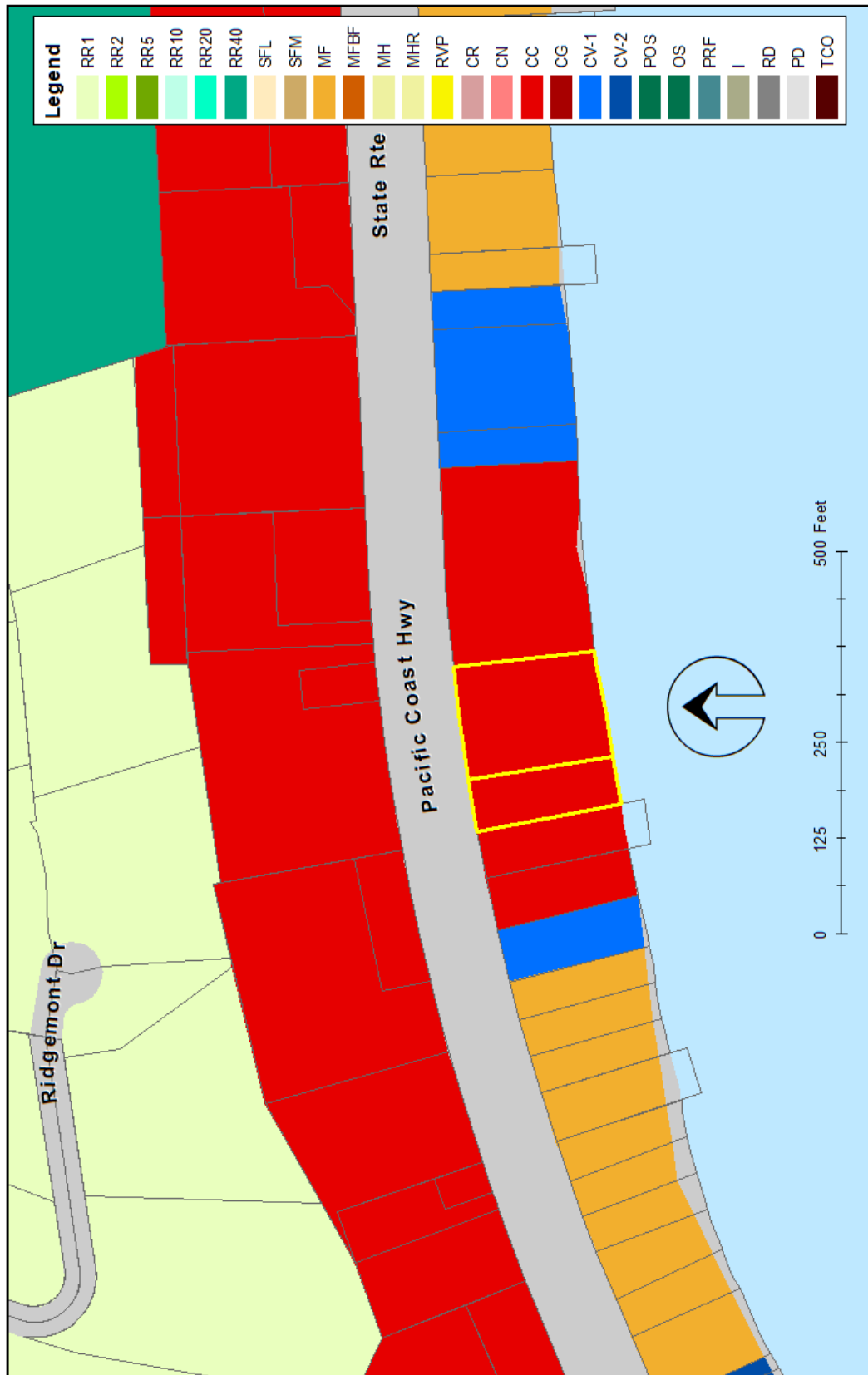


Figure 8 Proposed Local Coastal Program Land Use Designations and Zoning Districts



10. Required Project Approvals

The Proposed Project requires the following City of Malibu approvals:

- General Plan Map Amendment
- Local Coastal Program Amendment
- Zoning Map Amendment
- Conditional Use Permit
- Lot Tie

The California Coastal Commission (CCC) must also approve the Local Coastal Program Amendment subsequent to its approval by the City of Malibu. An amendment to the LCP does not become effective after City Council adoption until the amendment is submitted pursuant to the requirements of Section 13551 et seq. of the California Code of Regulations and certified by the CCC pursuant to Chapter 6, Article 2, of the California Coastal Act.

11. Surrounding Land Uses and Setting

The Project Site is located on the ocean side of PCH, along the beach, approximately one-third mile east of the Malibu Pier. Properties in the immediate vicinity are zoned CC. In the span between Malibu Beach and 22445 PCH (approximately 1 mile to east area) there are currently 20 properties zoned CV-1 and one property zoned CV-2. The only other area containing CV-2 parcels is a cluster of parcels located on the northeast corner of Malibu Canyon Road and PCH, including 2400 Civic Center Way and 24111 PCH.

The zoning and uses, including pending applications related to change in zoning and uses, in the immediate vicinity of the Project Site are as follows:

Address	Zoning District	Use	Year Built
WEST			
22766 PCH	CC	Multi-Family Residential	1962
22772 PCH	CC	Multi-Family Residential	1962
22800 PCH	CV-1	Retail/Multi-Family Residential	1954
22806 PCH	MF	Multi-Family Residential	1954
EAST			
22716 PCH	CC	Restaurant/Soho House	2012
22706 PCH	CV-1	Restaurant/Nobu	2012
22664	MF	Multi-Family Residential	1983
NORTH			
22809 PCH	CC	Commercial/Office	1985
22775 PCH	CC	Commercial/Office	1960
22761 PCH	CC (pending application for change to CV-2)	Commercial/Office (pending hotel application)	1980

22751 PCH	CC	Restaurant (Malibu Country Kitchen)	1972
22741 PCH	CC (pending application for change to CV-2)	Commercial/Office (pending hotel application)	2006
22729 PCH	CC (pending application for change to CV-2)	Car Wash/Former Gas Station (pending hotel application)	1984

12. Other Public Agencies Whose Approval is Required

The City of Malibu is the lead agency with responsibility for approving the Proposed Project. The CCC will be required to review and approve the proposed LCPA request.

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Environmental Factors Potentially Affected

This project would potentially affect the environmental factors checked below, involving at least one impact that is “Potentially Significant” or “Potentially Significant Unless Mitigation Incorporated” as indicated by the checklist on the following pages.

- | | | |
|--|---|---|
| ☐ Aesthetics | ☐ Agriculture and Forest Resources | ☐ Air Quality |
| ☐ Biological Resources | ☐ Cultural Resources | ☐ Energy |
| ☐ Geology and Soils | ☐ Greenhouse Gas Emissions | ☐ Hazards and Hazardous Materials |
| ☐ Land Use/Planning | ☐ Mineral Resources | ☐ Hydrology/Water Quality |
| ☐ Population/Housing | ☐ Public Services | ☐ Noise |
| ☐ Transportation/Traffic | ☐ Tribal Cultural Resources | ☐ Recreation |
| ☐ Utilities/Service Systems | ☐ Wildfire | ☐ Mandatory Findings of Significance |

Determination

Based on this initial evaluation:

- I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.
- ☐ I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions to the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.
- ☐ I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.
- ☐ I find that the proposed project MAY have a “potentially significant impact” or “potentially significant unless mitigated” impact on the environment, but at least one effect (1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and (2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.

- ☐ I find that although the proposed project could have a significant effect on the environment, because all potential significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.

Signature

Adrian Fernandez

Printed Name

November 17, 2021

Date

Assistant Planning Director

Title

Environmental Checklist

1 Aesthetics

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
a. Have a substantial adverse effect on a scenic vista?	☐	☐	☐	☒
b. Substantially damage scenic resources, including but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?	☐	☐	☐	☒
c. Substantially degrade the existing visual character or quality of public views of the site and its surroundings? (Public views are those that are experienced from a publicly accessible vantage point). If the project is in an urbanized area, would the project conflict with applicable zoning and other regulations governing scenic quality?	☐	☐	☐	☒
d. Create a new source of substantial light or glare that would adversely affect daytime or nighttime views in the area?	☐	☐	☐	☒

a. *Would the project have a substantial adverse effect on a scenic vista?*

According to the LUP, PCH is identified as a Scenic Highway. However, LUP Chapter 6, Section C.1.6.4 provides, "Scenic Areas do not include...existing commercial development...along Pacific Coast Highway east of Malibu Canyon Road." The Project Site is on PCH approximately two miles east of Malibu Canyon Road. The parcels are in a highly developed area adjacent to neighborhood and visitor serving commercial uses, and therefore, the Project Site is excluded from the Scenic Area designation.

The Project Site is most prominently visible from vehicles traveling along PCH, the eastern shoreline edge of Malibu Lagoon State Beach and the Malibu Pier (approximately 0.4 mile west of the Project Site), along the shoreline of Carbon Beach with access points at Zonker Harris Accessway (east edge of 22706 PCH) and the west edge of 22126 PCH, as well as other public viewing areas along the ridgelines of eastern Malibu hills and Tuna Canyon. Building height and mass of existing renovated

structures at the Project Site have not been significantly altered from previously approved building height and mass. Any new development shall comply with the commercial development standards consistent with the land use and zoning designation. As such, the existing visual character and aesthetics of the Project Site and vicinity would be primarily unchanged. Therefore, implementation of the Proposed Project would result in no impact to the existing scenic vista.

NO IMPACT

- b. Would the project substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?*

The Project Site is located on and visible from PCH, which the Malibu General Plan identifies as a scenic Highway. Implementation of the Proposed Project would not alter the existing scenic resources at the Project Site since no new construction is proposed and there would be no alteration to views of or through the Project Site. Rather, the CV-2 land use and zoning designation ensures that visitor and neighborhood serving commercial activities would be promoted and implemented with respect to the existing rural character and natural environmental setting (City of Malibu, 1995). Therefore, implementation of the Proposed Project would result in no impact to the existing scenic resources.

NO IMPACT

- c. Would the project substantially degrade the existing visual character or quality of the site and its surroundings?*

Implementation of the Proposed Project would not alter the existing visual character or quality of the Project Site since it utilizes the existing buildings. Because the site is presently developed, there would be no substantial degradation of the existing visual character of the Project Site or its surroundings. The CV-2 land use and zoning designation ensures that visitor and neighborhood serving commercial activities would be implemented with respect to the existing rural character and natural environmental setting (City of Malibu, 1995), which is also developed with structures for visitor and neighborhood serving commercial activities. Therefore, implementation of the Proposed Project would result in no impact to visual character.

NO IMPACT

- d. Would the project create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?*

The Proposed Project would not create a new source of substantial light or glare since the proposed uses are already operating on the Project Site, the proposed uses are allowed pursuant the CV-2 land use and zoning designations, and no new structures or other source of light or glare are proposed. Any renovations to existing buildings would be required to be consistent with the lighting standards set forth in the MMC and the LIP (City of Malibu, 2002) upon a finding that day or nighttime views in the area would not be adversely affected. Therefore, implementation of the Proposed Project would result in no impact to daytime or nighttime views due to light or glare.

NO IMPACT

2 Agriculture and Forestry Resources

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
a. Convert Prime Farmland, Unique Farmland, Farmland of Statewide Importance (Farmland), as shown on maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?	☐	☐	☐	☒
b. Conflict with existing zoning for agricultural use or a Williamson Act contract?	☐	☐	☐	☒
c. Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code Section 12220(g)); timberland (as defined by Public Resources Code Section 4526); or timberland zoned Timberland Production (as defined by Government Code Section 51104(g))?	☐	☐	☐	☒
d. Result in the loss of forest land or conversion of forest land to non-forest use?	☐	☐	☐	☒
e. Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland to non-agricultural use or conversion of forest land to non-forest use?	☐	☐	☐	☒

- a. *Would the project convert Prime Farmland, Unique Farmland, Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?*
- b. *Would the project conflict with existing zoning for agricultural use, or a Williamson Act contract?*
- c. *Would the project conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code Section 12220(g)), timberland (as defined by Public Resources Code Section 4526), or timberland zoned Timberland Production (as defined by Government Code Section 51104(g))?*
- d. *Would the project result in the loss of forest land or conversion of forest land to non-forest use?*

- e. Would the project involve other changes in the existing environment, which, due to their location or nature, could result in conversion of Farmland to non-agricultural use?*

The Proposed Project would not result in the conversion of farm or forest land to nonagricultural or forestry uses. There is no land designated as Prime Farmland, Unique Farmland or Farmland of Statewide Importance within the City of Malibu. In addition, there are no lands under a Williamson Act contract, forest land (as defined by Public Resources Code Section 4526), or timberland zoned Timberland Production (as defined by Government Code Section 51104(g)) located on or near the project site. Therefore, the proposed project would not have any impacts to agriculture and forestry resources.

NO IMPACT

3 Air Quality

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
a. Conflict with or obstruct implementation of the applicable air quality plan?	☐	☐	☐	☒
b. Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?	☐	☐	☐	☒
c. Expose sensitive receptors to substantial pollutant concentrations?	☐	☐	☐	☒
d. Create objectionable odors affecting a substantial number of people?	☐	☐	☐	☒

The Project Site is located in the South Coast Air Basin (Basin), which is under the jurisdiction of the South Coast Air Quality Management District (SCAQMD). As the local air quality management agency, the SCAQMD is required to monitor air pollutant levels to ensure that state and federal air quality standards are met and, if they are not met, to develop strategies to meet the standards.

The SCAQMD recommends the use of the following quantitative thresholds to determine the significance of temporary construction-related pollutant emissions and project operations:

- 75 pounds per day reactive organic gases (ROG) for construction; 55 pounds per day for operation
- 100 pounds per day nitric oxide (NOx) for construction; 55 pounds per day for operation
- 550 pounds per day carbon monoxide (CO)
- 150 pounds per day sulfur oxides (SOx)
- 150 pounds per day PM10
- 55 pounds per day PM2.5

There is no construction proposed as part of the Proposed Project. There would be no impact.

a. Would the project conflict with or obstruct implementation of the applicable air quality plan?

The primary purpose of an AQMP is to bring the area into compliance with federal and state air quality standards. The current plan is the 2016 AQMP. The AQMP is based on SCAG land use assumptions, which in turn are based on city and county general plan and zoning designations.

Projects that are consistent with the underlying General Plan and Zoning designations are generally considered to be consistent with the AQMP. The Proposed Project involves a land use designation zoning change within the Commercial category. The proposed change involves converting a CC designation to a CV designation. The change in designation captures and rectifies an inconsistency between the existing legal non-conforming, uses that currently exist on the property with the current designation. The zoning and land use designation amendments would not result in any increase in population or intensification of use and, therefore, would not contribute to any exceedance of any population growth forecasts. Consequently, implementation of the Proposed Project would not conflict or obstruct implementation of the SCAQMD AQMP. There would be no impact.

NO IMPACT

- b. Would the project violate any air quality standard or contribute substantially to an existing or projected air quality violation?*
- c. Would the project result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions that exceed quantitative thresholds for ozone precursors)?*
- d. Would the project expose sensitive receptors to substantial pollutant concentrations?*

The Project Site is currently developed with commercial land uses. The Proposed Project involves changing the current commercial land use and zoning designation to be consistent with the existing legal non-conforming and conforming commercial land uses operating on the Project Site. Implementation of the Project would allow the continuance of the existing land uses currently on the Project Site. The Project would not involve any substantial construction activities or operation of any diesel construction equipment.

The Proposed Project would allow the continued operation of the existing neighborhood and visitor serving commercial land uses currently operating on the Project Site. Therefore, operational emissions associated with the project would not increase emissions beyond those generated by the current land use. Implementation of the Proposed Project would not result in any increased operational emissions.

The Proposed Project would not violate any air quality standards and would not result in a cumulatively considerable increase in any criteria pollutants. Therefore, implementation of the Proposed Project would result in no impact.

NO IMPACT

- e. Would the project create objectionable odors affecting a substantial number of people?*

Odors are typically associated with industrial projects involving the use of chemicals, solvents, petroleum products, and other strong-smelling elements used in manufacturing processes, as well as sewage treatment facilities and landfills. Neighborhood and visitor serving commercial land uses (such as the existing facility offering transient lodging accommodations to the public with an ancillary health club, kitchen for onsite food/drink services and a swimming pool) typically do not create objectionable odors. Therefore, implementation of the Proposed Project would result in no impact.

NO IMPACT

4 Biological Resources

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
a. Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service?	☐	☐	☐	☒
b. Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service?	☐	☐	☐	☒
c. Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	☐	☐	☐	☒
d. Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?	☐	☐	☐	☒
e. Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	☐	☐	☐	☒
f. Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?	☐	☐	☐	☒

- a. *Would the project have a substantial adverse effect, either directly or through habitat modifications, on any species identified as candidate, sensitive, or special status in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife or the U.S. Fish and Wildlife Service?*

The Project Site and surrounding area are developed. The Project Site is currently occupied by a neighborhood and visitor serving commercial use with relatively little landscape vegetation. As a result, the Project Site maintains little to no native vegetation. The Project Site provides no habitat for vertebrate species typically found in commercial areas in Southern California due to the developed character of the site and surrounding area. On-site trees may provide nesting sites for some common bird species. However, no candidate, sensitive, or special status species are known or suspected to be located on the site or in the immediate vicinity. The Project Site is adjacent to the beach and Pacific Ocean. There is no development proposed on the beach. Therefore, implementation of the Proposed Project would result in no adverse impact.

NO IMPACT

- b. *Would the project have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service?*

The Project Site and surrounding properties in the area are developed with commercial and multi-family development. The Proposed Project site does not contain any riparian areas or natural communities. The Project Site is adjacent to the beach and Pacific Ocean. There is no development proposed on the beach. Therefore, implementation of the Proposed Project would result in no impact.

NO IMPACT

- c. *Would the project have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?*

The Project Site and surrounding properties in the area are developed with commercial and multi-family development. The Project Site is not located in an Environmentally Sensitive Habitat Area (ESHA) according to the Malibu LCP LUP, no wetlands are present at the Project Site. Therefore, implementation of the Proposed Project would result in no impact.

NO IMPACT

- d. *Would the project interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?*

The Project Site and surrounding properties in the area are developed with commercial and multi-family development. Limited ornamental and aesthetic vegetation are located on the Project Site, and in the immediate vicinity. The existing vegetation does not serve as a habitat for migratory birds or other species. Moreover, the Project would not involve new construction and would continue the currently existing and historic use of the Project Site. Therefore, implementation of the Proposed Project would result in no impact.

NO IMPACT

22762 and 22752 Pacific Coast Highway General Plan Land Use Map, Zoning Map, and Local Coastal Program Land Use Map Amendments and Conditional Use Permits

- e. *Would the project conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?*
- f. *Would the project conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?*

No Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan applies to the Project Site. Chapter 4 of the Malibu LCP LIP identifies areas of the City that support ESHA and sets specific development standards for ESHAs. The Project Site is not mapped as an ESHA site in the Malibu LIP. Therefore, the implementation of the Proposed Project would have no impact on ESHA.

NO IMPACT

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5 Cultural Resources

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
a. Cause a substantial adverse change in the significance of a historical resource as defined in §15064.5?	☐	☐	☐	☒
b. Cause a substantial adverse change in the significance of an archaeological resource as defined in §15064.5?	☐	☐	☐	☒
c. Disturb any human remains, including those interred outside of formal cemeteries?	☐	☐	☐	☒

- a. *Would the project cause a substantial adverse change in the significance of a historical resource as defined in §15064.5?*
- b. *Would the project cause a substantial adverse change in the significance of an archaeological resource as defined in §15064.5?*
- c. *Would the project directly or indirectly destroy a unique paleontological resource or site or unique geological feature?*
- d. *Would the project disturb any human remains, including those interred outside of formal cemeteries?*

The Proposed Project is an amendment to existing zoning and land use designations from CC to CV and CV-2, and would not involve new construction that would alter the existing on-site buildings, nor introduce new ground disturbance. As such, the Proposed Project would not affect historical or archaeological resources or disturb human remains. The Project Site has been developed and used for commercial and visitor serving uses since the 1950's and there is no evidence of unique paleontological or geologic features present at the Project Site. Therefore, implementation of the Proposed Project would result in no impact.

NO IMPACT

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6 Energy

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
d. Result in a potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources, during project construction or operation?	☐	☐	☐	☒
e. Conflict with or obstruct a state or local plan for renewable energy or energy efficiency?	☐	☐	☐	☒

- a. *Would the project result in a potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources, during project construction or operation?*

The proposed project is a change in the land use designation and does not involve demolition or construction of the existing buildings. The existing buildings and their current operation are not being affected.

Construction Energy Demand

No use of resources and no project construction is proposed.

Operational Energy Demand

Operation of the project would contribute to area energy demand by consuming electricity, natural gas, and transportation fuels. Natural gas and electricity would be used for heating and cooling systems, lighting, appliances, water use, and overall operation of the project. Gasoline and diesel fuel consumption would be attributed to the trips generated by visitors, employees, and deliveries. Since the operational characteristics of the existing building and uses are not changed or impacted by the proposed project, there are no anticipated operational energy consumption changes for the proposed project

NO IMPACT

- b. *Would the project conflict with or obstruct a state or local plan for renewable energy or energy efficiency?*

The City of Malibu has not adopted any local energy conservation or climate action plans. However, the General Plan Conservation Element contains Conservation Goal 3, *Energy Conserved*, with the objective of increasing the use of innovative, energy efficient techniques and systems within the City. Goal 3 includes the following policies related to energy efficiency:

Policy 3.1.1. The City shall educate the community regarding the importance of and techniques for energy conservation.

Policy 3.1.2. The City shall encourage state-of-the-art energy efficiency standards for all new construction design.

Policy 3.1.3. The City shall protect solar access.

Policy 3.1.4. The City shall encourage uses of solar and other nonpolluting, renewable energy sources.

The energy efficiency policies contained in the Conservation Element are geared towards City government action, such as City outreach to local businesses and residents to encourage sustainable practices and the adoption of local guidance and policies to reduce energy consumption. Therefore, the Conservation Element policies related to energy conservation are limited in their application to the proposed project. The operational characteristics of the existing building and uses are not changed or impacted by the proposed project, therefore, no impact would occur.

NO IMPACT

7 Geology and Soils

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
a. Directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving:				
1. Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault?	☐	☐	☐	☒
2. Strong seismic ground shaking?	☐	☐	☐	☒
3. Seismic-related ground failure, including liquefaction?	☐	☐	☐	☒
4. Landslides?	☐	☐	☐	☒
b. Result in substantial soil erosion or the loss of topsoil?	☐	☐	☐	☒
c. Be located on a geologic unit or soil that is made unstable as a result of the project, and potentially result in on or offsite landslide, lateral spreading, subsidence, liquefaction, or collapse?	☐	☐	☐	☒
d. Be located on expansive soil, as defined in Table 1-B of the Uniform Building Code (1994), creating substantial risks to life or property?	☐	☐	☐	☒
e. Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?	☐	☐	☐	☒

- a.1. Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault?*
- a.2. Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving strong seismic ground shaking?*
- a.3. Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving seismic-related ground failure, including liquefaction?*
- a.4. Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving landslides?*

Any development in Southern California has the potential of exposing people and/or structures to potentially substantial adverse effects involving the rupture of known earthquake faults, strong seismic ground shaking, other seismic-related ground failure (including liquefaction), or landslides.

The Proposed Project is an amendment to existing zoning and land use designations from CC to CV and CV-2 that would not involve new construction or increase exposure to geologic hazards. As such, implementation of the Proposed Project would not alter any of the aforementioned conditions. The Project Site has been developed and used for commercial and commercial neighborhood and visitor serving uses since the 1950s, and the density and intensity of the use is consistent with the development in the surrounding area. There are no specifications pertaining to geologic processes, conditions, and building standards that differ between zoning and land use designations under CC, CV or CV-2.

The City of Malibu General Plan Figures S-2 (Local Onshore Fault Map) and S-3 (Offshore Fault Map) identify several regional and local earthquake faults located in the general vicinity of the City. There are no known, or mapped, active faults that pass through the Project Site. The Project Site does not fall within a currently designated California Department of Conservation, Division of Mines and Geology (CDMG) Alquist-Priolo Earthquake Zone. As noted in the Malibu General Plan, Safety and Health Element, “there are numerous faults surrounding and traversing the Malibu Area” (City of Malibu, 1995). The Malibu Coast Fault runs in an east-west orientation parallel to much of the Malibu coastline and the Project Site. Likewise, the Las Flores Canyon Thrust Fault and the Dark Canyon fault run east-west within the Santa Monica Mountains while the Santa Monica Fault runs parallel to the shoreline near the shelf edge offshore (California Department of Conservation, 2001).

Implementation of the Proposed Project would not alter the existing seismic or geologic conditions present at the Project Site, nor would it expose people or structures to potential substantial adverse effects due to seismic-related ground failure or landslides. Therefore, implementation of the Proposed Project would result in no impact.

NO IMPACT

- b. Would the project result in substantial soil erosion or the loss of topsoil?*
- c. Would the project be located on a geologic unit or soil that is made unstable as a result of the project, and potentially result in on or offsite landslide, lateral spreading, subsidence, liquefaction, or collapse?*
- d. Would the project be located on expansive soil, as defined in Table 1-B of the Uniform Building Code (1994), creating substantial risks to life or property?*
- e. Would the project have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?*

The Proposed Project does not entail the physical movement or grading of soil that would result in soil erosion; geologic instability that would lead to landslides, subsidence or liquefaction; create substantial risks to life or property; or the inability to adequately support septic tanks or wastewater disposal systems as there are no specifications pertaining to the formation of such potential changes due to the differences in permitted uses and activities between zoning and land use designations CC, CV or CV-2.

Implementation of the Proposed Project would not alter the existing geologic conditions present at the Project Site, nor would it expose people or structures to potential substantial adverse effects due to seismic-related ground failure or landslides. Therefore, implementation of the Proposed Project would result in no impact.

NO IMPACT

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8 Greenhouse Gas Emissions

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
a. Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?	☐	☐	☐	☒
b. Conflict with any applicable plan, policy, or regulation adopted for the purposes of reducing the emissions of greenhouse gases?	☐	☐	☐	☒

Climate change is the observed increase in the average temperature of the earth's atmosphere and oceans along with other substantial changes in climate (such as wind patterns, precipitation, and storms) over an extended period. Climate change is the result of numerous, cumulative sources of greenhouse gases (GHG) that contribute to the "greenhouse effect," a natural occurrence that helps regulate the temperature of the planet. The majority of radiation from the sun hits the earth's surface and warms it. The surface in turn radiates heat back towards the atmosphere, known as infrared radiation. Gases and clouds in the atmosphere trap and prevent some of this heat from escaping into space and re-radiate it in all directions. This process is essential to support life on Earth because it warms the planet by approximately 60° Fahrenheit. Emissions from human activities since the beginning of the industrial revolution (approximately 250 years ago) are adding to the natural greenhouse effect by increasing the gases in the atmosphere that trap heat and contribute to an average increase in Earth's temperature.

GHGs occur naturally and from human activities. Human activities that produce GHGs include fossil fuel burning (coal, oil, and natural gas for heating and electricity, gasoline and diesel for transportation); methane generated by landfill wastes and raising livestock; deforestation activities; and some agricultural practices. GHGs produced by human activities include carbon dioxide (CO₂), methane (CH₄), nitrous oxide (N₂O), hydrofluorocarbons (HFC), perfluorocarbons (PFC), and sulfur hexafluoride (SF₆). Since 1750, estimated concentrations of CO₂, CH₄, and N₂O in the atmosphere have increased over by 36 percent, 148 percent, and 18 percent respectively, primarily due to human activity. Emissions of GHGs affect the atmosphere directly by changing its chemical composition. Changes to the land surface indirectly affect the atmosphere by changing the way in the Earth absorbs gases from the atmosphere. Potential impacts in California of global warming may include loss of snowpack, sea level rise, more extreme heat days per year, more high ozone days, more large forest fires, and more drought years (California Energy Commission [CEC] 2009).

The CEQA Guidelines provide regulatory direction for the analysis and mitigation of GHG emissions appearing in CEQA documents, while giving lead agencies the discretion to set quantitative or qualitative thresholds for the assessment and mitigation of GHGs and climate change impacts. The 2008 SCAQMD threshold considers emissions of over 10,000 metric tons of carbon dioxide equivalent (CO₂e) per year from industrial development projects to be significant (SCAQMD, 2009).

However, the SCAQMD's threshold applies only to stationary sources and is expressly intended to apply only when the SCAQMD is the CEQA lead agency. Although not formally adopted, the SCAQMD has a recommended Tier 3 screening level quantitative threshold of 3,000 metric tons for all land use types CO₂e /year (SCAQMD, 2010).

- a. Would the project generate GHG emissions, either directly or indirectly, that may have a significant impact on the environment?*

The Project Site is currently developed with commercial and visitor serving uses. The Proposed Project involves zoning and land use changes to make the existing land use legal and conforming to City of Malibu zoning and land use designations. Implementation of the Proposed Project would not involve any construction activity or operation of any diesel construction equipment. Therefore, implementation of the Proposed Project would not result in substantial temporary GHG emissions.

The Proposed Project would allow the continued operation of the existing visitor serving commercial land use currently existing on the Project Site. Any future change would be evaluated by the City. Operation of the proposed bed and breakfast inn would not increase vehicle trips to and from the Project Site compared to existing conditions, nor would it increase energy or water consumption or solid waste generation. Therefore, GHG emissions associated with operation of the Proposed Project would be similar or less than what are currently generated on-site.

Based on the above, implementation of the Proposed Project would not generate GHG emissions and there would be no impact.

NO IMPACT

- b. Would the project conflict with any applicable plan, policy, or regulation adopted for the purpose of reducing the emissions of greenhouse gases?*

As discussed above, the project would change the City of Malibu' zoning and land use designations from CC to CV and CV-2 for the Project Site to remedy the conflict between the historical and existing uses on the Project Site with the current zoning and land use designation. No changes to the existing operations are proposed. Implementation of the Proposed Project would not introduce any new land uses to the Project Site or increase the intensity of on-site development. As such, continued operation of the existing neighborhood and visitor serving commercial use on the Project Site would not result in any conflict with any applicable plan, policy, or regulation adopted for the purpose of reducing the emissions of GHGs. Therefore, implementation of the Proposed Project would result in no impact.

NO IMPACT

9 Hazards and Hazardous Materials

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
a. Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	☐	☐	☐	☒
b. Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	☐	☐	☐	☒
c. Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within 0.25 mile of an existing or proposed school?	☐	☐	☐	☒
d. Be located on a site that is included on a list of hazardous material sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?	☐	☐	☐	☒
e. For a project located in an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?	☐	☐	☐	☒
f. Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	☐	☐	☐	☒
g. Expose people or structures, either directly or indirectly, to a significant risk of loss, injury, or death involving wildland fires?	☐	☐	☐	☒

- a. *Would the project create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?*
- b. *Would the project create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?*
- c. *Would the project emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within 0.25 mile of an existing or proposed school?*

No hazardous materials, other than cleaning supplies common to kitchen, bed and breakfast inn, motel, and health club facility would be used in the operation of the Proposed Project. The Project Site is not located within 0.25 mile of a school. Therefore, implementation of the Proposed Project would result in no impact with respect to the release of hazardous materials.

NO IMPACT

- d. *Would the project be located on a site included on a list of hazardous material sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?*

The Department of Toxic Substances Control (DTSC) - Envirostor online database and the State Water Resources Control Board - Geotracker online database were reviewed for potential hazardous material sites and contamination at the Project Site. No listed hazardous material sites/facilities or active clean ups were identified, and no listed Federal Superfund sites were identified on the Project Site (DTSC 2018, SWRCB 2018). The Proposed Project would involve the continued operation of the historical and existing visitor and neighborhood serving commercial use at the Project Site. Hazardous materials stored or used on-site would be limited to cleaning supplies common to kitchen, motel, and health club uses.

NO IMPACT

- e. *For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?*
- f. *For a project near a private airstrip, would it result in a safety hazard for people residing or working in the project area?*

The Project Site is not located within two miles of a public airport and is not within an airport land use plan. Therefore, the Proposed Project would have no impact related to airport safety.

NO IMPACT

- g. *Would the project impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?*

The proposed project would not involve the development of structures that could potentially impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan. The design of access points would be reviewed and approved by the Los Angeles County Fire Department (LACFD) to ensure that emergency access meets City standards. Therefore, implementation of the Proposed Project would result in no impact.

NO IMPACT

- h. *Would the project expose people or structures to a significant risk of loss, injury, or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?*

The City of Malibu is served by the LACFD, as well as the California Department of Forestry if needed. In the event of major fires, the LACFD has “mutual aid agreements” with cities and counties throughout the state and so that additional personnel and firefighting equipment can augment the LACFD. Implementation of the Proposed Project would not alter wildfire conditions present at the Project Site, nor would it expose people or structures to potential substantial risk of loss, injury or death as a result of wildfire events compared to existing conditions. Therefore, implementation of the Proposed Project would result in no impact.

NO IMPACT

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10 Hydrology and Water Quality

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
a. Violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or ground water quality?	☐	☐	☐	☒
b. Substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin?				
c. Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would:	☐	☐	☐	☒
(i) Result in substantial erosion or siltation;	☐	☐	☐	☒
(ii) Substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site;	☐	☐	☐	☒
(iii) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff; or	☐	☐	☐	☒
d. In flood hazard, tsunami, or seiche zones, risk release of pollutants due to project inundation?	☐	☐	☐	☒
e. Conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan?	☐	☐	☐	☒

- a. *Would the project violate any water quality standards or waste discharge requirements?*
- b. *Would the project substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering or the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level that would not support existing land uses or planned uses for which permits have been granted)?*
- c. *Would the project substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner that would result in substantial erosion or siltation on- or off-site?*
- d. *Would the project substantially alter the existing drainage pattern of the site or area, including the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner that would result in flooding on- or off-site?*
- e. *Would the project create or contribute runoff water that would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?*
- f. *Would the project otherwise substantially degrade water quality?*
- g. *Would the project place housing in a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary, Flood Insurance Rate Map, or other flood hazard delineation map?*
- h. *Would the project place structures in a 100-year flood hazard area that would impede or redirect flood flows?*
- i. *Would the project expose people or structures to a significant risk of loss, injury, or death involving flooding, including that occurring as a result of the failure of a levee or dam?*
- j. *Would the project result in inundation by seiche, tsunami, or mudflow?*

The project site is entirely developed, and the proposed project would not increase impermeable surface on the site. The Proposed Project is an amendment to existing zoning and land use designations from CC to CV and CV-2. As such, implementation of the Proposed Project would not alter any of the aforementioned conditions since the site has been developed and used for commercial and visitor serving transient lodging accommodations since the 1950s, and is consistent with the development and uses in the vicinity. Because the Proposed Project involves no change in/to the existing uses or ground disturbing construction activity, there would be no changes to hydrologic/hydraulic processes or water quality. Therefore, the proposed project would not be anticipated to increase existing stormwater flows off the site or otherwise affect water quality.

The Project Site does not overlie groundwater supplies and is not in the vicinity of open streams or rivers, or levees or dams that may pose a risk to people or structures in the event of failure. The Project Site is located adjacent to the beach. The Proposed Project would not contribute to excess stormwater discharge or substantially alter the existing drainage pattern of the Project Site since the site is currently developed and no new development is proposed. The Proposed Project would have no new impacts on hydrology, water quality, or sea level rise. Therefore, implementation of the Proposed Project would result in no impact with respect to these issues.

NO IMPACT

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11 Land Use and Planning

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
a. Physically divide an established community?	☐	☐	☐	☒
b. Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?	☐	☐	☐	☒
c. Conflict with an applicable habitat conservation plan or natural community conservation plan?	☐	☐	☐	☒

a. Would the project physically divide an established community?

The Proposed Project would not involve a road or other facility that would physically disrupt or divide an established community. There would be no changes or divisions to existing property lines or parcels as a result of the Proposed Project. A lot tie is proposed since the proposed use and Proposed Project encompass two parcels. The historical and existing land uses on the Project Site would remain consistent with commercial and visitor-serving transient lodging accommodation uses that have existed on the Project Site since the 1950s, and remains consistent with the development and uses in the vicinity of the Project Site. Therefore, the Proposed Project would result in no impact related to physically divide an established community.

NO IMPACT

b. Would the project conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?

Land Use Regulations – Permitted Uses

The Project Site is currently designated CC in the General Plan, MMC, and the LCP. The CC land use designation accommodates resident serving commercial needs of the community on parcels of land suitable for concentrated commercial activity. Transient lodging accommodations, i.e., motel, bed and breakfast inn and hotel uses are not listed as a permitted or conditionally permitted use in the CC zone; therefore, they are prohibited.

22762 and 22752 Pacific Coast Highway General Plan Land Use Map, Zoning Map, and Local Coastal Program Land Use Map Amendments and Conditional Use Permits

22752 PCH was originally developed in 1950 for use as a motel, prior to the City's incorporation and adoption of the General Plan, MMC and LUP. The motel use on the subject property has been in continuous operation since the 1950s. However, upon adoption of the General Plan and MMC, the motel use at 22752 PCH became a legal non-conforming use because the property was designated as CC which does not allow transient lodging accommodations.

The General Plan Land Use Map amendment would change the land use designation from CC to CV. The proposed Zoning Map and LCP amendment would change the land use and zoning designations from CC to CV-2. The CV land use designation accommodates visitor and neighborhood serving, including transient lodging accommodation uses such as hotels, motels and bed and breakfast inns, and restaurants, while ensuring respect to the rural character and natural environmental setting of the Project Site. Only the CV-2 zoning designation permits hotels. Applying the CV-2 land use and zoning designations to the Proposed Project would allow for the opportunity to obtain a CUP for the continued use of the visitor serving transient lodging accommodations and proposed ancillary uses (kitchen, swimming pool and health club).

Table 3, Permitted Uses, lists the land use changes that would occur as part of the Proposed Project.

Table 3 LCP Permitted Uses

Use	CC	CV-2
Agricultural/Animal-Related		
Equestrian riding and training facilities and activities including boarding of horses and domestic animals, tournaments, shows and contests (including accessory uses such as club house with food and beverage service, pro shop, tack shop, riding rings, boarding/training/show facilities, barns, parking lots, sports courts, and living accommodations for members, their guests, participants, employees and persons required for the operation and maintenance of such facilities)	CUP	•
Retail		
Convenience stores	•	CUP
Visitor-oriented goods such as recreational equipment and clothing, souvenirs, local arts/crafts, and similar uses	•	P
Dining, Drinking, and Entertainment		
Amphitheatre	•	P
Movie theaters	•	CUP
Refreshment stands, ice cream stands, and other fixed location outdoor food vending stands	•	CUP
Automotive Related Uses		
Vehicle washing/detailing	CUP ¹	
Recreation and Leisure		
Hotels	•	CUP
Motels, bed and breakfast Inns	•	CUP
Recreation facilities (neighborhood - for use by surrounding residents and operated by a non-profit corporation or neighborhood association for non-commercial purposes)	CUP	•
Public, Quasi-Public, or Non-Profit Uses		
Wastewater storage and hauling	•	CUP ²
Construction/Light Industrial Uses		
Construction services (neighborhood-serving)	CUP	•
Self-storage	CUP	•

In addition to a coastal development permit, the following permits are required:

P Permitted Use

CUP Conditional Use Permit

• Not Permitted (Prohibited)

¹ By hand only

² This use is conditionally permitted in the Civic Center Wastewater Treatment Facility Institutional Overlay District and only when associated with the existing wastewater treatment facility or with the Civic Center Wastewater Treatment Facility.

Source: Adapted from Table B Permitted Uses, City of Malibu LCP Local Implementation Plan, 2002

Agricultural/Animal-Related

Equestrian riding and training facilities, and related activities require a CUP under CC zones, but would be prohibited under CV-2. Implementation of the Proposed Project would result in no impact since there are no equestrian uses present or proposed at the Project Site. The site is located adjacent to a major highway (PCH), and is located above the beach which could trigger water quality

issues. The Project Site characteristics and location are not conducive to an equestrian facility. It is not anticipated that an equestrian use would be viable at the Project Site. The Project Site is located in a highly commercial developed area, adjacent to restaurants and residential uses. It is not anticipated that an equestrian use would be desirable at this location or that the conditional use permit findings regarding compatibility with the existing and proposed uses in the area could be made.

Retail

Convenience stores and visitor-oriented retail stores are not permitted in the CC zone. They would be allowed within the CV-2 zone. A convenience store would require a CUP, and would undergo the City's project review process to assess project-specific impacts and compatibility, while the visitor-orientated retail store would be a permitted use. Visitor-oriented retail activities are a visitor serving use, intended to serve transient visitors, similar to a bed and breakfast inn. The Project Site is conducive to a CV-2 designation as it is located along a major highway (PCH) that serves the City, and is in an area developed with existing visitor-serving uses, including restaurants and motels. It is anticipated that a convenience store or a visitor-oriented retail store would be desirable at the Project Site and that the conditional use permit findings regarding compatibility with the existing and proposed uses in the area could be made.

Dining, Drinking, and Entertainment

Three uses classified as Dining, Drinking, and Entertainment land uses, currently not permitted under the CC zoning designation, would be permitted under CV-2 zoning designation: amphitheaters, movie theaters, and fixed location outdoor food vending stands. The Project Site is conducive to a CV-2 designation as it is located along a major highway (PCH) that serves the City, and is in an area developed with existing visitor-serving uses, including restaurants and motels. Movie theaters and food vending stands would require a CUP and would be required to undergo the City's project review process to assess project-specific impacts. The City could make a determination at that time as to whether or not the Project Site is conducive to the use and what conditions may be required to operate the use in a way that is compatible with the surrounding area. Amphitheaters would be permitted in CV-2 zones. An amphitheater is an open air seating venue area used for gathering and entertainment. The size of an amphitheater would be limited in size by the site constraints and required parking. The use would be consistent with the character and natural environmental setting of the Project Site and vicinity. It is anticipated that an amphitheater, movie theater, or a fixed location outdoor food vending stand would be desirable at the Project Site and that the conditional use permit findings regarding compatibility with the existing and proposed uses in the area could be made.

Recreation and Leisure – Hotels, Motels, and Bed and Breakfast Inns

Hotels, motels, and bed and breakfast inns are not permitted under the CC zoning designation. The existing motel has been in operation since the early 1950's and constitutes a legal nonconforming use. The CV-2 and CV-1 LCP land use designations allow motels and bed and breakfast inns as a conditionally permitted use because the CV zones are intended to provide visitor serving needs. CV-2 is the only land use and zoning designation that conditionally permits hotels.

The Project Site contains a motel, that has been in operation since the early 1950s, which would continue to be in use, and the existing health club with pool and kitchen would also continue to be

in use. The two uses would be combined into one use, and function as one, thus changing the use to a bed and breakfast inn as defined by the MMC and LCP.

The proposed CV-2 designation creates an entitlement path so that a conditional use permit can be requested. The CV-2 designation will allow visitor serving commercial activities to be provided at the Project Site and ensures that the existing visitor serving uses would continue to be maintained. The Project does not involve physical changes, but rather would allow the continuation of the long-standing visitor serving use at the Project Site. Therefore, the Proposed Project would result in no impact.

Recreation and Leisure – Recreational Facilities

Recreational facilities for neighborhood and non-commercial uses are permitted under the CC designation. This specific use would not be permitted under CV-2, which allows visitor serving uses. Uses for the Proposed Project entail the continued operation of transient lodging accommodations with a kitchen (a bed and breakfast inn as defined by the MMC and LCP), with ancillary health club and swimming pool, which is consistent with the intended visitor serving purposes of the CV-2 zone. No impact would occur.

Public, Quasi-Public, or Non-Profit Uses

Wastewater storage and hauling uses would be permitted under CV-2 whereas, under CC, those uses are not allowed. However, these land uses are limited to the Civic Center Wastewater Treatment Facility Institutional Overlay District (24000 Civic Center Way / APNs 4458-028-006 and 4458-028-020; (City of Malibu, 2016)). Other public/quasi-public uses for the CV districts are required to provide 50 percent visitor-serving square footage. The Project Site is outside of the aforementioned overlay district. Therefore, the Proposed Project would result in no impact.

Construction/Light Industrial Uses

The Proposed Project entails the operation of a bed and breakfast inn with a health club, swimming pool and kitchen, which would be consistent with the intended visitor serving purposes of the CV-2 zone. Therefore, the Proposed Project would result in no impact.

Parking Regulations

The provision of parking spaces is contingent upon specific land uses and adherence to the parking standards as outlined in MMC §17.48.030. The Proposed Project entails the operation of a bed and breakfast inn, which is consistent with the intended visitor serving purposes of the CV-2 zone. Because the Proposed Project is not increasing the number of guest rooms or visitors, there is no additional demand for parking no change to the existing parking is proposed. The applicable parking requirements for a bed and breakfast inn are the same as for a motel, as they are a similar use pursuant to the MMC and LCP use category “Motels, bed and breakfast inns.”

Development Standards

The allowed floor area ratio (FAR) for CC and CV parcels is 0.15. The CC zone allows the FAR to be increased to a maximum of 0.20 with approval by the City Council, where public benefits and amenities are provided as part of the project. The CV designation allows the FAR to be increased to a maximum of 0.25 with approval by the City Council, where public benefits and amenities are provided as part of the project. The rezoning would increase the maximum allowable FAR by 0.05.

22762 and 22752 Pacific Coast Highway General Plan Land Use Map, Zoning Map, and Local Coastal Program Land Use Map Amendments and Conditional Use Permits

The existing FAR at the Project Site is 0.25, which does not exceed the maximum allowable for the CV Zone.

The commercial development standards applicable to commercial development on a CC or CV-2 parcel are the same. The rezoning would not change the commercial development standards, including building height, yards and setbacks. The Proposed Project is seeking to harmonize existing nonconforming uses with proper land use and zoning designations in order to maintain and ensure that the continued future uses provide for visitor serving needs.

NO IMPACT

- c. *Would the project conflict with an applicable habitat conservation plan or natural community conservation plan?*

The Project Site is not located within a designated ESHA as shown on the Malibu LCP ESHA resources map and does not fall within any habitat conservation or natural community conservation plan. As such, there would be no impact to applicable conservation plans.

NO IMPACT

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12 Mineral Resources

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
a. Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?	☐	☐	☐	☒
b. Result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan?	☐	☐	☐	☒

- a. *Would the project result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?*
- b. *Would the project result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan?*

The Project Site is developed with structures and impermeable surfaces (hardscape such as pavement and parking areas), except for the beach portions of the properties. There are no mineral extraction activities occurring at the Project Site. The Proposed Project would not entail construction of structures or facilities for the purposes of extraction or exploration of mineral resources. The Project Site is not located in a locally important mineral resource recovery site as delineated in the Malibu General Plan, or the LCP. Therefore, the Proposed Project would result in no impact or loss of a mineral resource recovery site as designated in existing City planning documents.

NO IMPACT

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13 Noise

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project result in:				
a. Generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	☐	☐	☐	☒
b. Generation of excessive ground-borne vibration or ground-borne noise levels?	☐	☐	☐	☒
c. For a project located within the vicinity of a private airstrip or an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?	☐	☐	☐	☒

- a. *Would the project result in exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?*
- b. *Would the project result in exposure of persons to or generation of excessive ground-borne vibration or ground-borne noise levels?*
- c. *Would the project result in a substantial permanent increase in ambient noise levels above levels existing without the project?*
- d. *Would the project result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?*
- e. *For a project located in an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?*
- f. *For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise?*

The Proposed Project would not alter the existing noise conditions at the Project Site, nor would it increase the exposure of people or structures to ground-borne vibration or noise, a substantial

permanent increase in ambient noise levels, or substantial temporary increase in ambient noise levels because the site is already developed for commercial and visitor serving uses and would continue similar operations. Furthermore, the Project Site is not located within two miles of a public airport or subject to an airport land use plan. Therefore, the Proposed Project would result in no impact related to noise.

NO IMPACT

14 Population and Housing

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
a. Induce substantial population growth in an area, either directly (e.g., by proposing new homes and businesses) or indirectly (e.g., through extension of roads or other infrastructure)?	☐	☐	☐	☒
b. Displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere?	☐	☐	☐	☒

- a. *Would the project induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?*

The Southern California Association of Governments (SCAG) produces forecasts of regional population, which form the basis for growth projection in SCAG's 2016 Regional Transportation Plan /Sustainable Communities Strategies (RTP-SCS). SCAG's growth forecast for the City of Malibu projects a population of 14,100 in 2040; an increase of 1,400 from the 2012 estimated population of 12,700 (Southern California Association of Governments, 2016). As discussed in the Malibu General Plan (Section 1.3.1), the buildout figures for residential and commercial development represent maximum theoretical buildout, which is based on vacant acreage (City of Malibu, 1995).

The proposed land use and zoning designation amendments would not allow for new residential development. The Proposed Project is intended to allow for the continued operation of a transient lodging accommodations. The existing, legal non-conforming motel would be reclassified as a bed and breakfast inn, consistent with the MMC and LCP definition, with an associated health club, kitchen and swimming pool. Because these buildings, and related jobs, currently exist, it is not anticipated that a significant increase in population would occur. Therefore, the Proposed Project would not induce substantial population growth either directly or indirectly and would result in no impact.

NO IMPACT

- b. *Would the project displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?*
- c. *Would the project displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?*

The proposed project would not involve the demolition of any residential structures or displace housing units or people as a result. As such, the Proposed Project would not necessitate the

construction of replacement housing. Therefore, implementation of the Proposed Project would result in no impact.

NO IMPACT

15 Public Services

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
a. Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, or the need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:				
1 Fire protection?	☐	☐	☐	☒
2 Police protection?	☐	☐	☐	☒
3 Schools?	☐	☐	☐	☒
4 Parks?	☐	☐	☐	☒
5 Other public facilities?	☐	☐	☐	☒

a.1. Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered fire protection facilities, or the need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives?

The Project Site is within the service area of LACFD. The nearest fire station to the project site is Station No. 70 located at 3970 Carbon Canyon Road, in the City of Malibu, approximately 1.2 miles (driving distance) east of the project site with access via PCH. The Proposed Project maintains the existing uses on the Project Site, and involves amendments to existing zoning and land use designations from CC to CV and CV-2 to allow the existing uses to be combined to provide a unified use as a bed and breakfast inn. The Proposed Project would not increase demand for fire protection service or require the construction of new or expanded fire protection facilities and therefore, would result in no impact.

NO IMPACT

a.2. Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered police protection facilities, or the need for new or physically altered police protection facilities, the construction of which could cause significant environmental

impacts, in order to maintain acceptable service ratios, response times or other performance objectives?

The Los Angeles County Sheriff's Department (LACSD) provides police protection service for the City of Malibu, including the Project Site. The nearest LACSD station is the Malibu/Lost Hills Sheriff's Station located at 27050 Agoura Road in the City of Agoura, approximately 11.1 miles north of the Project Site. The Station serves the cities of Agoura Hills, Calabasas, Hidden Hills, Malibu, and Westlake Village, as well as the surrounding communities of Chatsworth Lake Manor, Malibu Lake, Topanga, and West Hills (LACSD 2016). Because the proposed project is an amendment to existing zoning and land use designations from CC to CV and CV-2, the Proposed Project would not increase demand for police protection service and would not adversely affect the Station's resources and operations or create the need for new or expanded facilities. Therefore, the Proposed Project would result in no impact.

NO IMPACT

- a.3. Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered schools, or the need for new or physically altered schools, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives?*
- a.4. Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered parks, or the need for new or physically altered parks, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios or other performance objectives?*
- a.5. Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, or the need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for other public facilities?*

The Proposed Project is an amendment to existing zoning and land use designations from CC to CV and CV-2. As such, the Proposed Project would not alter any of the aforementioned governmental or school facilities, parks, or public facilities. The Proposed Project would not generate additional need for the maintenance of public facilities (including roads and other governmental services), as the Project Site contains privately-owned facilities. Therefore, the Proposed Project would result in no impact.

NO IMPACT

16 Recreation

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
a. Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?	☐	☐	☐	☒
b. Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?	☐	☐	☐	☒

- a. *Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?*
- b. *Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?*

The Proposed Project is an amendment to existing zoning and land use designations from CC to CV and CV-2. The Project Site would continue to be used for neighborhood and visitor serving commercial activities and transient lodging accommodations. The Proposed Project would not generate new residents who would increase the need for additional parkland or recreational facilities, and as such, new or expanded recreational facilities would not be required. Therefore, the Proposed Project would result in no impact.

NO IMPACT

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17 Transportation/Traffic

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
a. Conflict with a program, plan, ordinance or policy addressing the circulation system, including transit, roadway, bicycle and pedestrian facilities?	☐	☐	☐	☒
b. Conflict or be inconsistent with CEQA Guidelines section 15064.3, subdivision (b)?	☐	☐	☐	☒
c. Substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible use (e.g., farm equipment)?	☐	☐	☐	☒
d. Result in inadequate emergency access?	☐	☐	☐	☒

- a. *Would the project conflict with an applicable plan, ordinance or policy establishing a measure of effectiveness for the performance of the circulation system, taking into account all modes of transportation, including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways, and freeways, pedestrian and bicycle paths, and mass transit?*
- b. *Would the project conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways?*
- c. *Would the project result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?*
- d. *Would the project substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible use (e.g., farm equipment)?*
- e. *Would the project result in inadequate emergency access?*
- f. *Would the project conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise substantially decrease the performance or safety of such facilities?*

The Proposed Project is an amendment to existing zoning and land use designations from CC to CV and CV-2. The Project Site has been developed and used for commercial uses, and neighborhood and visitor-serving transient lodging accommodations since the 1950s. The motel has been in continuous operations since the 1950s, operating in a compatible manner with surrounding uses. The Proposed Project would not increase the intensity of development at the Site. The Proposed Project does not entail the alteration or construction of any additional roads, nor would it create any hazards or barriers to pedestrians or bicyclists. Therefore, implementation of the Proposed Project would result in no impact.

NO IMPACT

18 Tribal Cultural Resources

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project cause a substantial adverse change in the significance of a tribal cultural resource, defined in a Public Resources Code section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:				
a. Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code section 5020.1(k), or	☐	☐	☐	☒
b. A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 2024.1. In applying the criteria set forth in subdivision (c) of Public Resources Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.	☐	☐	☐	☒

As of July 1, 2015, California Assembly Bill 52 of 2014 (AB 52) was enacted and expands CEQA by defining a new resource category, "tribal cultural resources." AB 52 establishes that "A project with an effect that may cause a substantial adverse change in the significance of a tribal cultural resource is a project that may have a significant effect on the environment" (PRC Section 21084.2). It further states that the lead agency shall establish measures to avoid impacts that would alter the significant characteristics of a tribal cultural resource, when feasible (PRC Section 21084.3).

PRC Section 21074 (a)(1)(A) and (B) defines tribal cultural resources as "sites, features, places, cultural landscapes, sacred places, and objects with cultural value to a California Native American tribe" and is:

1. Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code section 5020.1(k), or
2. A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1. In applying these criteria, the lead agency shall consider the significance of the resource to a California Native American tribe.

AB 52 also establishes a formal consultation process for California tribes regarding those resources. The consultation process must be completed before a CEQA document can be certified. Under AB

52, lead agencies are required to “begin consultation with a California Native American tribe that is traditionally and culturally affiliated with the geographic area of the proposed project.” Native American tribes to be included in the process are those that have requested notice of projects proposed within the jurisdiction of the lead agency.

- a. Would the project cause a substantial adverse change in the significance of a tribal cultural resource as defined in Public Resources Code 21074 that is listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code section 5020.1(k)?*
- b. Would the project cause a substantial adverse change in the significance of a tribal cultural resource as defined in Public Resources Code 21074 that is a resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 2024.1?*

The Proposed Project is an amendment to existing zoning and land use designations from CC to CV and CV-2. The Project Site has been developed and used for commercial uses, and neighborhood and visitor-serving transient lodging accommodations since the 1950s. The Proposed Project would not increase the intensity of development and does not entail new development nor subterranean work with the potential to cause substantial adverse impacts to historic or tribal cultural resources. The OWTS will be installed at 22762 PCH pursuant to a previously approved CDP. The potential for resources was previously evaluated, and project was conditioned to address the discovery of potential resources. Therefore, the Proposed Project would result in no impact.

NO IMPACT

19 Utilities and Service Systems

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
a. Require or result in the relocation or construction of new or expanded water, wastewater treatment or storm water drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects?	☐	☐	☐	☒
b. Have sufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry and multiple dry years?	☐	☐	☐	☒
c. Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	☐	☐	☐	☒
d. Generate solid waste in excess of State or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals?	☐	☐	☐	☒
e. Comply with federal, state, and local management and reduction statutes and regulations related to solid waste?	☐	☐	☐	☒

- a. *Would the project exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?*
- b. *Would the project require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?*
- c. *Would the project require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?*

- d. Would the project have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?*
- e. Would the project result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?*
- f. Would the project be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?*
- g. Would the project comply with federal, state, and local statutes and regulations related to solid waste?*

The Proposed Project is an amendment to existing zoning and land use designations from CC to CV and CV-2. Power, gas, and communication systems already service the Project Site. Implementation of the Proposed Project would not affect any of the aforementioned utilities and service systems since it would not increase land use intensity beyond current conditions. The Project Site has been developed and used for commercial uses, and neighborhood and visitor-serving transient lodging accommodations since the 1950s. The Proposed Project would not increase the intensity of development at the Project Site. The continued use of the Project Site as a bed and breakfast inn is consistent with and similar to historical visitor-serving uses on the Project Site and in the vicinity. Therefore, the Proposed Project would result in no impact.

20 Wildfire

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
If located in or near state responsibility areas or lands classified as very high fire hazard severity zones, would the project:				
f. Substantially impair an adopted emergency response plan or emergency evacuation plan?	☐	☐	☐	☒
g. Due to slope, prevailing winds, and other factors, exacerbate wildfire risks and thereby expose project occupants to pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire?	☐	☐	☐	☒
h. Require the installation or maintenance of associated infrastructure (such as roads, fuel breaks, emergency water sources, power lines or other utilities) that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment?	☐	☐	☐	☒
i. Expose people or structures to significant risks, including downslopes or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes?	☐	☐	☐	☒

- a. *If located in or near state responsibility areas or lands classified as very high fire hazard severity zones, would the project substantially impair an adopted emergency response plan or emergency evacuation plan?*

The project site is in a commercial area of the City of Malibu and is not within a state responsibility area (SRA). The nearest SRA is approximately 0.5 miles from the project site. Undeveloped hillside areas are located north the project site between the project site and developed residential areas. According to CalFIRE, the project site is located in Very High Fire Hazard Severity Zone (VHFHSZ) for wildland fires (CalFIRE 2020).

As discussed in Section 15, *Public Services*, the LACFD would provide fire prevention, fire protection, and emergency response for the proposed project. The LACFD would review the bed and breakfast inn to regulate the maximum occupancy and ensure that required fire protection safety features, including building sprinklers and emergency access, are implemented. In addition, the proposed

project would comply with applicable policies and ordinances for fire prevention, protection, and safety as required by the LACFD, which include provision of fire alarms and detection systems, and automatic fire sprinklers. The bed and breakfast inn use would also be required to clearly post evacuation routes and access points within the buildings to direct guests on emergency evacuations in the event of a fire. Emergency access to the site would be maintained from PCH. No construction is proposed. The project would not impede traffic on PCH. Therefore, there are no impacts related to emergency response plans and emergency evacuation plans during project operation.

NO IMPACT

- b. If located in or near state responsibility areas or lands classified as very high fire hazard severity zones, would the project, due to slope, prevailing winds, and other factors, exacerbate wildfire risks and thereby expose project occupants to pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire?*
- d. If located in or near state responsibility areas or lands classified as very high fire hazard severity zones, would the project expose people or structures to significant risks, including downslopes or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes?*

The majority of land within the City of Malibu, including the project site, is classified as being in a VHFHSZ (CalFIRE 2020). The project site is located in a commercial area of the City and is located along PCH on the north side, and the ocean on the south side. Operation of the bed and breakfast inn would not involve activities known to cause or exacerbate wildfires.

NO IMPACT

- c. If located in or near state responsibility areas or lands classified as very high fire hazard severity zones, would the project require the installation or maintenance of associated infrastructure (such as roads, fuel breaks, emergency water sources, power lines or other utilities) that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment?*

The project site is in an urbanized area and is classified as a VHFHSZ. The project site is located approximately 0.5 mile from the nearest state responsibility area (CalFIRE 2020). The project site is developed and consists of existing commercial buildings and associated infrastructure. The project would be served by existing roads and utilities and would not require the installation or maintenance of associated infrastructure that may exacerbate fire risk. Therefore, the project would not require additional roads, fuel breaks, emergency water sources, power lines or other utilities that would exacerbate fire risk and cause temporary or ongoing impacts to the environment.

NO IMPACT

21 Mandatory Findings of Significance

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Does the project:				
a. Have the potential to substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?	☐	☐	☐	☒
b. Have impacts that are individually limited, but cumulatively considerable? (“Cumulatively considerable” means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?	☐	☐	☐	☒
c. Have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?	☐	☐	☐	☒

- a. *Does the project have the potential to substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?*
- b. *Does the project have impacts that are individually limited, but cumulatively considerable? (“Cumulatively considerable” means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?*
- c. *Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?*

As discussed in items 4, Biological Resources, and 5, Cultural Resources, the Proposed Project would not adversely affect biological or cultural resources. The Proposed Project would not increase the intensity of historical and existing onsite development. Therefore, it would not contribute to any cumulative effects associated with known, probable, and reasonably foreseeable projects in Malibu

and adjacent communities. The Proposed Project entails an amendment to existing zoning and land use designations from CC to CV and CV-2 at a Project Site that has been developed and used for commercial uses, and neighborhood and visitor-serving transient lodging accommodations since the 1950s. As discussed throughout this Initial Study, the Proposed Project would not result in impacts related to such issues as air quality, hazards, noise, or transportation; therefore, it would not adversely affect human beings.

NO IMPACT

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Responses to Planning Commission Questions
Proposed Ryokan Bed and Breakfast Inn

Overview

On November 6, 2023, the Planning Commission considered North Broadway Venture, LLC's and Wavebreak, LLC's application to rezone and change the land use designation of the existing Ryokan Motel and Malibu Tidepool Health Club lots from Community Commercial (CC) to Community Visitor-Serving-Two (CV-2) and for conversion of the existing non-conforming use motel and adjacent private gym and pool to a conjunctively operated bed and breakfast inn. The Planning Commission continued the item to its December 18, 2023, meeting. In connection with the continuance, the Planning Commission requested the following information:

- an explanation of the prior planning approvals for the Malibu Tidepool Health Club lot and its use history since 2015;
- an explanation of the onsite wastewater treatment system (OWTS) capacity on the two properties and the City Environmental Health Administrator's prior review of the systems;
- whether any Los Angeles County Waterworks District No. 29 (Waterworks District No. 29) approvals are needed for the bed and breakfast inn;
- the history of the Ryokan's existing California Department of Alcoholic Beverage Control (ABC) licenses;
- any background on the past decision to zone the Ryokan Motel lot CC, including whether it implied some expectation of specific future land uses;
- additional information regarding the Malibu Local Coastal Program's (LCP) treatment of swimming pools offered at bed and breakfast inns in CV-2 zones; and
- additional information regarding the categorization of the proposed Ryokan/Tidepool conjunctive use as a "bed and breakfast inn" under the Malibu Municipal Code (MMC) and LCP.

Detailed responses to these inquiries are presented below.

1. Planning Approvals for the Tidepool Health Club Lot and Use History Since 2015

The Planning Commission requested additional information regarding planning approvals for the Tidepool lot (22762 PCH) and the history of use at the site since 2015. As discussed below, the property owner (Wavebreak) completed a City-approved remodel of the existing building on the lot in April 2017, and the Malibu Tidepool Health Club has been operating since then as a private, membership-based club. Operation of a health club at the Tidepool property is a permitted use under the property's current land use designation and zoning.

Pool and Deck Approval

On December 17, 2013, Wavebreak submitted an application to the Planning Department for Coastal Development Permit No. 13-066, Variance No. 15-014, and Offer to Dedicate 15-003 to undertake a number of exterior upgrades at the property. On September 21, 2015, the Planning Commission adopted Resolution No. 15-64 approving these entitlements. Among other things, the

Planning Commission approval provided for the removal of a then-existing 800 square-foot deck and shoreline protection device and construction of a 2,290 square-foot deck with a 600 square-foot swimming pool, landscaping, and a new alternative onsite wastewater treatment system.

Use and Remodel Approvals

Prior to opening the health club, the Tidepool property served as an office building. On May 13, 2016, Wavebreak submitted a “Planning Clearance Application” to the Planning Department requesting a change of use to permit a health club at the Tidepool property. The City approved the Planning Clearance on May 26, 2016.¹

Separately, on September 27, 2016, the City approved Administrative Plan Review No. 16-037, Coastal Development Permit Exemption No. 16-037, and Categorical Exemption 16-086 for an interior and exterior remodel of the Tidepool property. The approved scope of work included:

- an interior and exterior remodel; and
- striping of the parking lot to include 10 parking spaces.

Administrative Plan Review No. 16-037 also permitted the installation of new front yard gates and fencing and front yard planter boxes. On February 16, 2017, the Planning Department approved construction drawings for the remodel. The City then issued building permits, and construction on the Tidepool property was completed in April 2017. The Malibu Tidepool Health Club opened on May 1, 2017.

Pool Use at the Malibu Tidepool Health Club Post-Opening

When the Malibu Tidepool Health Club opened in May 2017, the Ryokan Motel obtained a corporate membership that gave Ryokan guests access to the Club and its services.

On June 19, 2017, the City sent a Notice of Violation/Cease and Desist Order informing Wavebreak that the City had an open code enforcement case related to “[a]llowing hotel guests to use the swimming pool and amenities on [the Tidepool] property....” On June 21, 2017, Wavebreak, through its counsel (Patrick Perry of Allen Matkins), responded to the Notice of Violation/Cease and Desist Order. In the letter, Wavebreak informed the City that the Tidepool site was operating as a health club, which is a permitted use within the CC zone, and that the adjoining Ryokan motel purchased memberships for motel guests during their stay. That letter also stated that “Wavebreak has obtained a building permit for improvements to the Property for use as a health club and has expended significant resources with respect to those improvements in reliance on the building permit. Wavebreak accordingly has a vested right to continue the health club use on the Property, including the sale of temporary guest memberships to occupants of the adjoining motel. (See *Avco Community Developers, Inc. v. South Coast Regional Commission* (1976) 17 Cal.3d 785).”

¹ Planning Clearance No. 16-008.

On July 13, 2017, Mr. Perry submitted a letter to the Planning Commission, again explaining that the May 26, 2016, Planning Clearance provided all necessary approvals for the use of the Tidepool Property as a health club, and again making clear that Ryokan motel guests are guest members of the health club, and that the Planning Department was aware of this arrangement when it issued the Planning Clearance.

On July 13, 2017, City Planner Jessica Colvard sent a letter to Mr. Perry stating that “[o]n September 22, 2016, the planning clearance [PC No. 16-008] . . . was rescinded due to an inability for the site to provide the required parking for the health club, swimming pool, associated offices and kitchen space.” It stated the “rescission was confirmed via a phone call with the applicant, Severine Tantangelo, on September 22, 2016.” That letter added that the Planning Clearance had not anticipated employees for operation of the health club or swimming pool.

On July 20, 2017, Mr. Perry submitted a letter to the Planning Commission responding to Ms. Colvard’s July 13, 2017, letter, stating that Wavebreak “disputes the assertion in Ms. Colvard’s letter that the Planning Clearance approval in connection with the change of use of the Tidepool Property from office to health club was effectively rescinded” and that “the use of the Tidepool Property, including the pool and deck, as a health club is legally permitted.” Mr. Perry also informed the Planning Commission that “Wavebreak voluntarily suspended use of the pool and deck pending resolution of this issue although it is under no legal obligation to do so.”

Thereafter, Mr. Perry had further discussions with Planning staff and the City Attorney’s office and those discussions confirmed that the operation of a health club in the Community Commercial zone is a permitted use. However, due to the City’s position that the Tidepool property did not have sufficient onsite parking for operation of a health club with a swimming pool, Wavebreak voluntarily continued to prohibit use of the pool. The pool has not been used since July 2017.

Current Status

Wavebreak currently operates the Malibu Tidepool Health Club as a health club without using the pool. The Ryokan motel has a corporate membership in the Malibu Tidepool Health Club, which gives Ryokan guests access to the health club and its services (i.e., the small fitness room and the kitchen but not the pool). As previously summarized in the November 1, 2023, Supplemental Commission Agenda Report for the November 6, 2023, Planning Commission hearing, “[t]he health club use is a conforming use because it is a permitted use pursuant to the current land use designation and zoning.”²

² November 1, 2023, Supplemental Commission Agenda Report for Item 5.A, p. 3; *see also* the 22762 and 22752 Pacific Coast Highway General Plan Land Use Map, Zoning Map, and Local Coastal Program Land Use Map Amendments and Conditional Use Permits, Administrative Draft Initial Study – Negative Declaration, p. 6 (“Permitted and/or conditionally permitted uses within the CC zoning district include health clubs and dance studios . . . The MMC defines a ‘health club’ to include, but not be limited to ‘gymnasiums (except public), private clubs (athletic, health or recreational), with full-service facilities including, but not limited to, showers, lockers, pools and saunas.”).

2. Existing OWTS Capacity and City Environmental Health Administrator Approval

The Planning Commission requested additional information regarding the capacity of the existing onsite wastewater treatment systems on the Ryokan and Tidepool properties. As discussed below, each property has an alternative onsite wastewater treatment system (AOWTS) that has been carefully designed and approved by the City Environmental Health Administrator to handle the flow (with a substantial margin of safety) from the Ryokan and Tidepool buildings.

Ryokan AOWTS (22752 PCH)

On May 6, 2013, the Planning Commission approved Resolution No. 13-32, permitting the remodel of the Casa Malibu Inn and the upgrade of the existing onsite wastewater treatment system to an AOWTS.

Following the Planning Commission's approval of Resolution No. 13-32, North Broadway Ventures' wastewater design engineer, Ensitu Engineering, prepared a report providing the engineering design for the AOWTS to replace the existing system.

The City Environmental Health Administrator approved the design on July 26, 2013.³ The approved AOWTS utilizes a 4,000-gallon equalization tank with approximately 3.5 days of hydraulic retention time. It also employs primary settling, aerobic treatment, final clarification, effluent storage, and disinfection using a gravity-flow ultraviolet disinfection unit. The engineer's report estimated an average flow of 764 gallons per day (gpd) from the Ryokan. The approved design basis is 1,270 gpd, providing a margin of safety of around 500 gpd.

Following installation of the AOWTS, the design engineer, maintenance contractor, and licensed installation contractor certified that the AOWTS was installed in conformance with the City-approved design and functioned per the design intent.⁴

The Ryokan currently discharges pursuant to a City-issued Onsite Wastewater Treatment System Operating Permit. In connection with the proposed bed and breakfast inn use, there are no proposed changes to bed count or operations at the Ryokan property. The Ryokan will continue to operate 16 guestrooms, which are accounted for in the City-approved AOWTS design.

Tidepool AOWTS (22762 PCH)

As summarized above, on September 21, 2015, the Planning Commission adopted Resolution No. 15-64, permitting the installation of the pool and a new AOWTS.⁵ Prior to the upgrade, the existing building on the Tidepool property discharged to a conventional wastewater treatment system.

³ Ensitu Engineering OWTS Design Plan for 22752 Pacific Coast Highway, City of Malibu Environmental Sustainability Dept. Environmental Health approval (July 26, 2013).

⁴ See Advanced Onsite Wastewater Treatment System Statement of Completion & Acceptance, 22752 Pacific Coast Highway (2017).

⁵ Planning Commission Resolution No. 15-64 (Sept. 21, 2015).

Following the Planning Commission's approval of Resolution No. 15-64, Wavebreak's wastewater design engineer, Ensitu Engineering, prepared a report providing the engineering design for the proposed AOWTS to replace the Tidepool's existing conventional system.

The City Environmental Health Administrator approved the AOWTS design on October 30, 2018.⁶ The system utilizes a 7,540-gallon treatment tank that employs primary settling, aerobic treatment, final clarification, effluent storage, and disinfection using a gravity-flow ultraviolet disinfection unit. The system also includes a grease and oils separator. Under the assumption that the property would operate conjunctively with the Ryokan Motel, the engineer's report estimated an expected average flow of 1,206 gpd from the Tidepool property. The final City-approved design capacity (1,808 gpd) provides a margin of safety of over 600 gpd. The wastewater flow and strength calculations in the approved, installed AOWTS consider the following uses at the Tidepool:

- Bed and breakfast inn room;
- Cooking for bed and breakfast inn guests;
- Pool use;
- Gym use; and
- Motel operations (employees, staff).

Following installation, the AOWTS design engineer, maintenance contractor, and licensed installation contractor certified that the Tidepool AOWTS was installed in conformance with the City-approved designed and functioning per the design intent.⁷

The Tidepool currently discharges pursuant to an Onsite Wastewater Treatment System Operating Permit issued by the City. In connection with the proposed bed and breakfast inn use, Wavebreak does not propose any new uses at the Tidepool property beyond those contemplated in the City-approved design which contemplates that the Tidepool (when operating conjunctively with the Ryokan) will include a single bed and breakfast inn room, food preparation for bed and breakfast inn guests only, pool and gym use by bed and breakfast inn guests only, and bed and breakfast operations.

3. Prior Waterworks District No. 29 Approvals and Required Approvals

The Planning Commission requested additional information regarding whether the proposed bed and breakfast inn use required additional approvals from Los Angeles County Waterworks District No. 29 for water supply. As discussed below, the proposed bed and breakfast inn does not require any additional Waterworks District No. 29 approvals because both properties previously received "Will Serve" letters from Waterworks District No. 29, the proposed bed and breakfast inn use will not require larger water meters or greater fire protection capability, and no new construction is proposed.

⁶ Ensitu Engineering OOWTS Design Plan for 22762 Pacific Coast Highway, City of Malibu Environmental Sustainability Dept. Environmental Health approval (October 17, 2018).

⁷ See Advanced Onsite Wastewater Treatment System Statement of Completion & Acceptance, 22762 Pacific Coast Highway (2018).

The Ryokan and Tidepool Each Received Will Serve Letters

As discussed above, on May 6, 2013, the Planning Commission adopted Resolution No. 13-32 for the remodel of the Casa Malibu Inn. The approvals required North Broadway Ventures to obtain a Will Serve letter from Waterworks District No. 29. Waterworks District No. 29 issued North Broadway Ventures a Will Serve letter for the Ryokan. In connection with the Casa Malibu Inn remodel, North Broadway Ventures paid \$220,845 for the “[f]inancial share of the cost for the design and construction of future Sweetwater water storage reservoir and appurtenances.”

As discussed above, on September 21, 2015, the Planning Commission adopted Resolution No. 15-64 approving the Tidepool’s new deck and pool. The approvals required Wavebreak to obtain a Will Serve letter from Waterworks District No. 29. Waterworks District No. 29 issued Wavebreak a Will Serve letter. In connection with the pool installation, Wavebreak invested tens of thousands of dollars to install a pool draft hydrant.

The Proposed Bed and Breakfast Inn Does Not Require Additional Waterworks Approvals

The City’s Coastal Development Permit Checklist only requires a Will Serve letter for “new construction, including additions and swimming pools.” There is no new construction or additions (no increase in FAR) proposed in connection with the project. As summarized in the Utilities and Service Systems section of the Administrative Draft Initial Study – Negative Declaration for the project, the proposed conjunctive use would not increase the intensity of development, including for water drainage and supplies, and there would be no impact to these utilities and service systems.⁸ The Ryokan and Tidepool properties are both serviced by Waterworks District No. 29, and neither is requesting, nor requires, larger metered services. Further, the proposed conjunctive use will utilize existing facilities and will not increase demand for fire protection service nor require the construction of new or expanded fire protection facilities.⁹ Accordingly, the City does not require the applicants to provide new Will Serve letters in connection with the current applications.

4. Ryokan Motel ABC License History

The Planning Commission requested additional information regarding when the Ryokan received its Type 66 and Type 70 alcohol licenses from the ABC and the City’s role in that process. As discussed below, North Broadway Ventures worked with the City in late 2014 and early 2015, and confirmed that no CUP was required for the proposed alcohol service at the motel. The Ryokan received its ABC licenses prior to its reopening in 2017.

Background

⁸ See 22762 and 22752 Pacific Coast Highway General Plan Land Use Map, Zoning Map, and Local Coastal Program Land Use Map Amendments and Conditional Use Permits, Administrative Draft Initial Study – Negative Declaration, p. 69.

⁹ See *id.*, p. 60.

Beginning in the 1950s, Casa Malibu Inn operated at 22752 Pacific Coast Highway as a motel. On May 6, 2013, the Planning Commission approved North Broadway Ventures' application to remodel the Casa Malibu Inn, and North Broadway Ventures closed the Inn to undertake the approved renovations in late 2013. The Casa Malibu Inn reopened as the Ryokan in April 2017.

In December 2014, over two years prior to reopening the Casa Malibu Inn as the Ryokan, North Broadway Ventures' former counsel, Patrick Perry of Allen Matkins, sent a letter to then Planning Director Joyce Parker-Bozylinski to inform the City of the owner's plans to apply for a license from the ABC for "private in-room mini-bars and in connection with complimentary happy hours and similar circumstances." Mr. Perry's letter to the Planning Director also informed the City that North Broadway Ventures did not believe a conditional use permit for the requested alcohol service was required "because the type of alcohol service proposed is incidental to the existing motel use and does not constitute an intensification of the existing use."

The letter further informed the Planning Director that the prior operator of the Casa Malibu Inn provided incidental limited alcohol service as an accommodation to guests, and Wavebreak sought the ABC licenses in an effort to formalize the pre-existing practice common to lodging establishments.

The MMC Does Not Specifically Regulate Alcohol Service at Motels

The MMC does not contain any requirements regulating the service of alcohol by motels under the conditions described above (in-room mini bars, complimentary happy hours, etc.). The MMC specifically requires a conditional use permit for service of alcohol by restaurants, bars, and liquor stores,¹⁰ and the Ryokan has no restaurant, bar, or liquor store. Restaurants and bars are open to the general public, and liquor stores are licensed to sell alcoholic beverages for off-site consumption. The service of alcoholic beverages at the Ryokan is restricted by the ABC licenses to motel guests for on-site consumption.

City Concurrence That The Ryokan Did Not Require a CUP and ABC License Issuance

We understand that, in December 2014, Planning Director Parker-Bozylinski informed Mr. Perry that she was leaving the Planning Department and that she had provided the information in Mr. Perry's December 2014 letter to Bonnie Blue. We understand that Mr. Perry and Ms. Blue communicated regarding the issue in late December 2014 and early January 2015. We further understand that, in early January 2015, Ms. Blue concluded that a CUP was not required. Following this conclusion, in mid-January 2015, the Ryokan operator, Jozu Hospitality, submitted an application to the ABC for liquor licenses. The application listed Ms. Blue as the "Name of Planner Contacted at Planning Department." In February 2015, North Broadway Ventures posted the property with a "Public Notice of Application to Sell Alcoholic Beverages."

The Ryokan received its ABC licenses prior to its reopening in April 2017.

Communications with the City Following the ABC's Issuance of the License

¹⁰ MMC, Chapter 17, Appendix 1 Permitted Uses Table (restaurants, bars, and liquor stores permitted with a CUP).

In connection with the current application for the bed and breakfast inn use, Mr. Perry confirmed in an April 2019 letter to Associate Planner Jessica Colvard that the proposed sale of alcoholic beverages at the adjacent Tidepool property would be conducted in accordance with the existing licenses at the Ryokan. Specifically, he wrote:

- “This letter confirms that the proposed sale and consumption of alcoholic beverages pursuant to the above-referenced conditional use permit (“CUP”) for the property located at 22762 Pacific Coast Highway (the “22762 Property”) will be conducted in accordance with existing Type 66 and Type 70 licenses issued by the California Department of Alcoholic Beverage Control for the property located at 22752 Pacific Coast Highway (the “22752 Property”). Approval of the CUP will allow for the service area of the Type 66 and Type 70 licenses to be extended to include the 22762 Property, which is proposed to be operated as a bed and breakfast inn in conjunction with the 22752 Property pursuant to Conditional Use Permit Nos. 17-007 and 17-008.”

Current ABC Licenses

As communicated at the Planning Commission hearing, the Ryokan continues to maintain Type 66 and Type 70 ABC licenses.

5. Ryokan Motel CC Zoning and Amortization Extension Approvals

The Planning Commission asked about the Ryokan property’s CC zoning, given that the property housed the Casa Malibu Inn at the time of the zoning. We could not locate any legislative history explaining why the City zoned the Ryokan lot CC following incorporation. As previously reported to the Commission in the 2013 Staff Report for the Casa Malibu Inn remodel, “[s]ince the use was established long before the City of Malibu incorporated, it is unknown how the property came to be zoned CC, rather than CV-1 or CV-2, which are the only City zoning districts that allow motels, and LCP policies specifically call for encouraging and protecting existing visitor serving commercial uses, including accommodations.”¹¹

We also searched both properties’ title reports and confirmed that there is nothing recorded on title that would limit future land uses or zone changes.

The proposed CV-2 zoning would bring the property into conformance with its visitor-serving use. Under the MMC, CC districts are “intended to provide for the resident serving needs of the community similar to the CN district, but on parcels of land more suitable for concentrated commercial activity.”¹² CV-2 districts are “intended to provide for visitor serving uses, including hotels, which serve visitors and residents which respect the rural character and natural environmental setting.”¹³ Based on these definitions, the Ryokan property, which, again, was home to Casa Malibu Inn since the 1950s, fits more appropriately into the CV-2 zoning district as a visitor-serving use.

¹¹ Commission Agenda Report for April 1, 2013, Planning Commission Meeting Item 6.E (March 21, 2013).

¹² MMC, § 17.24.010.

¹³ MMC, § 17.28.010.

The now-pending proposed zone change to bring the property into conformance has been contemplated by the Planning Commission since 2014. Specifically, on July 21, 2014, the Planning Commission adopted Resolution No. 14-65, approving Amortization Schedule No. 14-001 to extend the amortization schedule for the legal nonconforming motel use of the Casa Malibu Inn. The Planning Commission included the following findings in Resolution No. 14-65:

- “The Casa Malibu Inn has been operated as a visitor-serving use on the subject property since the 1950s. The property owner cannot comply with the requirement to obtain a conditional use permit until such time as the property zoning and land use is changed to allow for motel use. However, on May 6, 2013, the City approved Coastal Development Permit No. 13-004 to allow a remodel of the legal nonconforming use. The property owner has obtained building permits and begun work, spending a considerable amount of money in reliance on the City-approved coastal development permit. To deny the extension of amortization would require the property owner to cease the motel use on the property, which the approved coastal development permit facilitates.”
- “The LCP prioritizes visitor-serving uses. One of the findings made in support of the coastal development permit approval for the remodel of the legal nonconforming motel use/structure was that the use is consistent with the intent of the LCP to maintain existing visitor-serving uses.”

On June 17, 2019, the Planning Commission adopted Resolution No. 19-43 “approving Extension of Amortization Schedule No. 19-001 to extend the amortization schedule for the legal nonconforming visitor-serving use of the Nobu Ryokan Malibu property (previously the Casa Malibu Inn) to allow time to process a zone change and [an] [LCP] amendment to change the zoning designation from Community Commercial to Commercial Visitor Serving-Two (CV-2) and process an application for a conditional use permit to establish a bed and breakfast use in the CV-2 zone, located at 22752 Pacific Coast Highway (North Broadway [V]entures, LLC).”

The Planning Commission again made similar findings in Resolution No. 19-43, including:

- “The property has been operated as a visitor-serving motel use since the 1950s. The property owner cannot comply with the requirement to obtain a conditional use permit until such time as the property zoning and land use is changed to allow a visitor-serving use. However, on May 6, 2013, the City approved Coastal Development Permit No. 13-004 to allow a remodel of the legal nonconforming motel use. The property owner has obtained all required building permits and completed construction to the satisfaction of the Deputy Building Official. The applicant has submitted the necessary applications to request the use be changed from a legal nonconforming motel use to a conditionally permitted bed and breakfast use. Furthermore, to deny the extension of amortization would require the property owner to cease the visitor-serving use on the property, which the approved coastal development permit and EAS No. 14-001 facilitates.”
- “The LCP prioritizes visitor-serving uses. One of the findings made in support of the coastal development permit approval for the remodel of the legal nonconforming motel

use/structure was that the use is consistent with the intent of the LCP to maintain existing visitor-serving uses.”

The Ryokan/Tidepool conjunctive use application now pending before the Planning Commission is consistent with Resolution No. 19-43.

6. Swimming Pools at Overnight Transient Accommodations in CV-1 and CV-2 Zones

The Planning Commission raised a question about whether a variance would be required to use the swimming pool. Local Implementation Plan (LIP) Appendix 1, Table B (Permitted Uses), includes the following “Use” under the “Recreation and Leisure” use types: “Recreation facilities (swimming pools, sandboxes, slides, swings, lawn bowling, volleyball courts, tennis courts and similar uses).” Recreation facilities are permitted with a CUP in the CV-1 and CV-2 zone “if available to general public.” As explained below, a variance is not required to use the swimming pool because the bed and breakfast inn is not a “recreation facility.”

North Broadway Ventures and Wavebreak are not proposing to construct or operate a “recreation facility.” They have requested a CUP to operate a bed and breakfast inn, which is a separate use type under the “Recreation and Leisure” use category. The existing pool at the Tidepool property will be offered as an amenity for bed and breakfast inn guests. The pool is a component of the bed and breakfast inn, not an independent, stand-alone use. As a bed and breakfast inn is a permitted use with a CUP in the CV-1 and CV-2 zones, so are its associated features. Accordingly, the LIP’s reference to “Recreation facilities (*swimming pools*, sandboxes, slides, swings, lawn bowling, volleyball courts, tennis courts and similar uses)” is not applicable to this application.

Precedent Supports Permitting a Bed and Breakfast Inn with a Pool

On July 17, 2023, the Planning Commission adopted Resolution No. 23-24, approving the “Malibu Inn Motel”, a proposed 20-room motel with a rooftop deck and swimming pool at 22959 PCH (approximately 0.3 miles west of the Ryokan/Tidepool properties). As recognized by former Planning Commissioner Jeff Jennings in connection with the approval, pools are within the definition of a motel.¹⁴ Commissioner Smith also noted that “motels have pools,” and Chair Peak advised that motels in Malibu have pools. Planning Commission Resolution No. 23-24 limited the proposed pool use to the guests of the motel.

On September 13, 2021, the City Council adopted Resolution No. 21-45, approving a pool at the proposed Sea View hotel project (22729 and 22741 PCH). The approval expressly prohibited non-guests from using the pool, providing that “[t]he rooftop deck, swimming pool and spa shall be open to registered guests of the hotel only. The restaurant may be open to hotel guests and members of the public.”

7. Why the Proposed Bed and Breakfast Inn is Not a “Hotel”

¹⁴ May 31, 2023, Planning Commission Meeting, starting at approximately 2:51:00, available here: <https://www.youtube.com/watch?v=oQiDBabRIzE>. Bed and breakfast inns are in the same LCP use category at “motels.” LCP Appendix 1, Table B.

The Planning Commission requested additional information regarding why the Ryokan/Tidepool proposed conjunctive use is characterized as a “bed and breakfast inn” rather than a “hotel” under the MMC and LCP. As discussed below, the proposed use is properly characterized as a bed and breakfast use because, unlike hotels, it will not provide any additional services for non-guests.

Background

The MMC¹⁵ and LCP¹⁶ define a bed and breakfast inn and hotel as follows:

- “‘Bed and breakfast inn’ means a facility offering transient lodging accommodations to the public and providing kitchen facilities adequate to provide meals to the guests of the facility only and not otherwise open to the public.”
- “‘Hotel’ means a facility offering transient lodging accommodations to the general public and providing additional services, such as restaurants and meeting rooms.”

Bed and breakfast inns are in the same LCP use category at “motels.”¹⁷ The MMC¹⁸ and LCP¹⁹ define motel as follows:

- “‘Motel’ means a facility offering transient lodging accommodations to the public in a group of attached or detached buildings containing guest rooms, some or all of which have a separate entrance leading directly from the outside of the building to automobile parking space(s) conveniently located on the lot or parcel of land, does not provide accessory uses such as restaurants or meeting rooms, and not otherwise open to the public.”

Based on a review of existing overnight accommodations in the City, and Planning Commission and City Council recent approvals of new facilities, the distinguishing feature between hotels and motels/bed and breakfast inns is whether the facility provides additional services to non-guests.

The Ryokan Will Not Provide Services to Non-Guests

The proposed conjunctive use will not provide any additional services on either the Ryokan or Tidepool properties for non-bed and breakfast inn guests. The Tidepool will provide dedicated kitchen facilities adequate to provide meals to the guests of the Ryokan only. The Ryokan will not contain any meeting rooms. Upon approval of the conjunctive use, the existing health club will cease operation, and only registered Ryokan guests will have access to the existing small fitness room and pool.

Planning Commission Precedent Confirms That the Proposed Conjunctive Use Is Not a Hotel

¹⁵ MMC, § 17.020.060.

¹⁶ LCP LIP, § 2.1

¹⁷ LCP Appendix 1, Table B.

¹⁸ MMC, § 17.020.060.

¹⁹ LCP LIP, § 2.1.

Bed and breakfast inns are in the same LCP use category at “motels.”²⁰ The Planning Commission has recently approved “motel” projects that currently or will offer similar amenities for motel guests as the Ryokan proposes for its bed and breakfast guests, demonstrating that the City does not interpret these types of amenities to convert a motel or bed and breakfast inn to a hotel.

For example, in April 2016 and October 2017, the Planning Commission approved the Surfrider Malibu (23033 PCH) as a motel with a “bar area” and a kitchen.²¹ During the October 2, 2017, hearing, Commissioners asked questions regarding the Surfrider’s use of a kitchen to prepare food for overnight guests.²² Staff reported that allowing the motel to use the kitchen for limited food preparation, service of pre-packaged food, or to offer food delivered from local restaurants to the overnight guests only did not constitute a restaurant use. The proposed food service for Surfrider Malibu-guests only was determined not to be in conflict the MMC definition of motel and did not trigger additional parking requirements.

In July 2023, the Planning Commission approved the proposed Malibu Inn Motel (22959 PCH) as a motel.²³ The Malibu Inn Motel project includes a pool and an “onsite kitchen” permitted to “serve food and beverages to motel guests.” The Planning Commission confirmed that these amenities – pool and kitchen – did not convert the proposed motel into a hotel.

The Planning Commission approvals of the Surfrider and Malibu Inn can be contrasted with the City Council’s recent approval of the Sea View Hotel (22729 and 22741 PCH) and with the existing Malibu Beach Inn (22878 PCH).

The City Council approved the Sea View project as a hotel.²⁴ The Sea View includes a restaurant and bar that will be open and available to non-guests of the hotel. The Malibu Beach Inn, a hotel, has a restaurant/bar open to non-hotel guests.²⁵

The chart below summarizes existing and approved overnight transient accommodations in central Malibu.

²⁰ See LCP Appendix 1, Table B.

²¹ CDP No. 15-12 (April 4, 2016) and Planning Commission Resolution No. 17-68 (October 2, 2017).

²² The Commissioners’ questions were reported in the Commission Agenda Report, Item 6.A. Conditional Use Permit Amendment No. 17-003 for the One-Year Compliance Review of the Surfrider Beach Club Motel.

²³ Planning Commission Resolution No. 23-24.

²⁴ City Council Resolution No. 21-45.

²⁵ See <https://www.malibubeachinn.com/dining>.

Project (City Approval)	Categorization	Food Service	Alcohol Service	Pool
Proposed Ryokan Bed and Breakfast Inn	Bed and Breakfast Inn	Food service for guests only	No bar; alcohol service for guests only	Yes, available for guests only
Malibu Inn Motel (P.C. 23-24)	Motel	Food service for guests only	Rooftop bar area for guests only	Yes, available for guests only
Sea View Hotel (C.C. 21-45)	Hotel	Restaurant open to public	Restaurant/bar open to public	Yes, available for guests only (as conditioned by the City Council)
The Surfrider Malibu (CDP No. 15-12, PC 17-68)	Motel	Food service for guests only	Bar on rooftop deck for guests only	No
Malibu Beach Inn (N/A)	Hotel	Restaurant open to public	Restaurant/bar open to public	No

Received

11/06/23

Planning Dept.

Planning Commission

From: Bill Sampson [REDACTED]
Sent: Saturday, November 4, 2023 3:53 PM
To: Planning Commission
Subject: Item 5A, November 6, 2023 meeting

Follow Up Flag: Follow up
Flag Status: Flagged

Commissioners:

The "Tide Pool" scam, and that is what it is, is simply an attempt to add a swimming pool to a motel - or do they want to call it a hotel. The staff report makes it clear that the applicant(s) simply want to have a private swimming pool without calling the new entity a hotel. There is inadequate parking provided. They are already operating illegally - why rubber stamp approval of that illegality? Health club? - completely bogus. They are combining properties without following the actual steps required in order to build a hotel which barely (if at all) meets the requirements for a motel. This area is Malibu's poster-child for ignoring our codes. Don't participate in that intentional ignorance.

Turn down this ill-conceived and illegal project.

Bill Sampson

ATTACHMENT 4

CC: Planning Commission, PD,
Recording Secretary, File

Received

11/06/23

Planning Dept.

Planning Commission

From: Charlotte Frieze [REDACTED]
Sent: Monday, November 6, 2023 12:30 PM
To: Planning Commission; Kraig Hill; John Mazza
Cc: Rebecca Evans; Jo Drummond; [REDACTED]
Subject: 2023-11-6 Planning Commission Meeting Item 5A: Nobu Ryokan LCP amendment 16-001, 15-001, CUP 16-007
Attachments: 2023-11-6 Nobu Ryokan.docx .

Please distribute this letter and include it in the meeting minutes. Thank you very much,
Charlotte

--

Charlotte M. Frieze
Malibu, CA

[REDACTED]

CC: Planning Commission, PD,

Recording Secretary, File

Date Received 11/06/23 Time 12:30 p.m.
Planning Commission meeting of 11/06/23
Agenda Item No. 5.A.
Total No. of Pages 4

MALIBU OPEN SPACE ALLIANCE

Planning Commission
Malibu, CA 90265

RE: Nobu Ryokan LCP amendment 16-001, 15-001, CUP 16-007

SENT VIA EMAIL

November 6, 2023

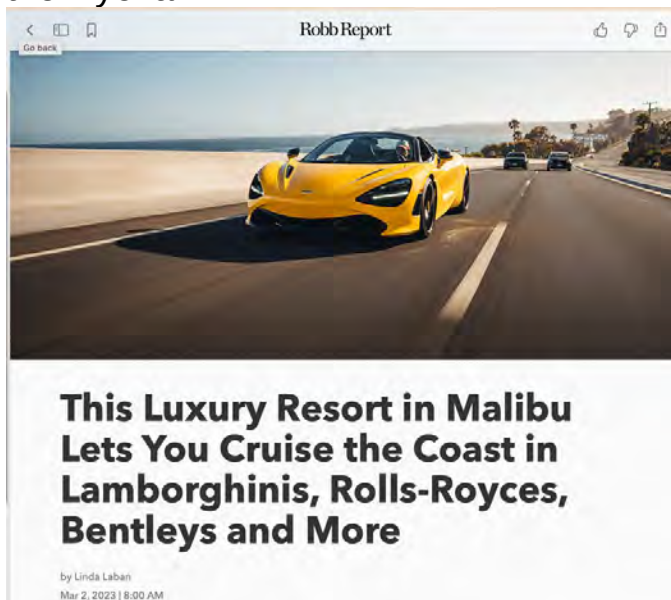
Honorable Commissioners:

I write concerning the Proposal for the Nobu Ryokan.

First of all, this area is NOT zoned for HOTEL USE.
An LCP Amendment is required.

At a time when traffic, speeding and parking on PCH are at the top of everyone's mind, it is imperative that these changes to the Ryokan Hotel not proceed.

After the tragic recent deaths of four college students, Malibu is trying to discourage car rallies and speeding on PCH. Nevertheless, the Ryokan Hotel PR promotes it as a driving destination as in the Robb Report that suggests renting a flashy sports car for up to \$1199 per day for the drive to the Ryokan.



It is especially important that the Planning Commission follow the Malibu LCP codes for the application.

Malibu parking requirements for hotels is two spaces per room and 1 per employee. The Negative Declaration states that there will be 8 per shift employees so that means the hotel is at least 17 parking spaces short.

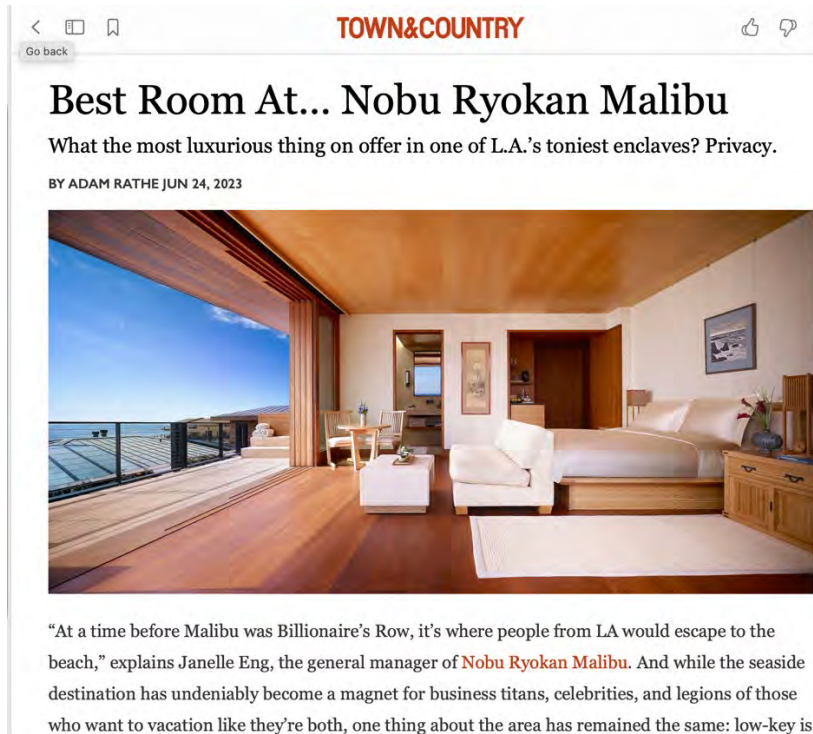
The driveways to the east and west of this property will only provide 25 spaces, nowhere near the number required for this project.

This proposal is unconscionably under parked and will unquestionably cause further traffic and parking problems along PCH.

We are all familiar with the blocked lanes around Nobu in the summer, weekends, and holidays. Remember it is close to Surfing, Legacy Park, and Bluffs Park. There is high pedestrian traffic. During the summer, these high use public parks are already affected by the parking back up at Nobu. This additional lack of parking and valet parking can only lead to more accidents and possibly deaths.

A traffic study is definitely required. Especially a traffic study that considers evacuation during emergencies and all the additional driveways in this section of PCH. Valet parking is a nightmare for those trying to evacuate.

See: 17.48.030 Specific parking requirements. https://library.qcode.us/lib/malibu_ca/pub/municipal_code/item/title_17-chapter_17_48-17_48_030



The PR for Nobu boasts a pool and in room soaking tubs. A septic review is necessary. Soaking tubs should not be allowed.

The Malibu Tidepool Health Club does not exist online. You might investigate if this is due to no permits.

With rates that exceed \$2,000 per night, it goes without saying that the Nobu Ryokan development does not make a consideration for low-income accommodations as required by the Coastal Commission Section 30212. Further study is required.

Please deny this application until expert studies can be completed and scrupulously evaluated.

Thank you for your consideration,

Charlotte M Frieze
Founding Member

11/06/23

Planning Dept.

Planning Commission

From: Jo Drummond [REDACTED]
Sent: Sunday, November 5, 2023 12:56 PM
To: Planning Commission; Kraig Hill; John Mazza
Cc: Rebecca Evans; R N; Patt Healy
Subject: Nobu Ryokan LCP amendment 16-001, 15-001, CUP 16-007

Follow Up Flag: Follow up
Flag Status: Flagged

Planning Commission:

The applicants' whole proposal is entirely supported on a plethora of variances that would be required.

The planning department needs to follow the MALIBU LCP codes for the above application or request all these variances. See below:

Pool

Any swimming pools in both CV-1 and CV-2 MUST be open to the public – see p 329 on at this link - <https://www.coastal.ca.gov/ventura/malibu-lip-final.pdf> - they both have a specific footnote #9 that states “pool uses permitted only if available to the general public”. Best case a variance could possibly be granted for a “hotel” not a motel/inn.

USE	RR	SF	MF	MFBE	MHR	CR	BPO	CN	CC	CV-1	CV-2	CG	OS	I	PRF
Mixed use (commercial and residential)	*	*	*	*	*	*	*	*	*	*	*	CUP	*	*	*

Notes

1. Subject to Residential Development Standards (Section 3.6)
2. Subject to Home Occupations Standards [(Section 3.6(O))]
3. Use Prohibited in Environmentally Sensitive Habitat Areas
4. This commercial use may be permitted only if at least 50% of the total floor area of the project is devoted to visitor serving commercial use
5. CUP for veterinary hospitals
6. Maximum interior occupancy of 125 persons
7. If exceeding interior occupancy of 125 persons
8. By hand only
9. Use permitted only if available to general public
10. Charitable, philanthropic, or educational non-profit activities shall be limited to permanent uses that occur within an enclosed building

CC: Planning Commission, PD,

Recording Secretary, File

USE	RR	S
Towing and automobile storage	•	
RECREATION AND LEISURE		
Camping	•	
Guest Cabins		
Community stage theaters	CUP	
Cultural and artistic uses (such as museums, galleries, performing arts venues)	•	
Dance studios	•	
Golf driving ranges	•	
Health clubs	•	
Hotels	•	
Motels, bed and breakfast inns	•	
Parks, beaches, and playgrounds	CUP	C
Public Beach Accessway	P	
Recreation facilities (swimming pools, sandboxes, slides, swings, lawn bowling, volleyball courts, tennis courts and similar uses)	•	

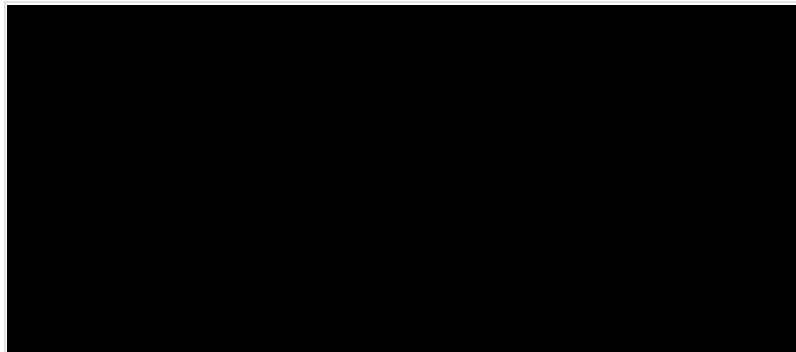
Parking requirements for Hotel

Hotels require two parking spots per room and 1 per employee. So a minimum of 36 spaces with just two employees. With the pool, kitchen and health club there would need at least 4 more employees. The Negative Declaration states that there will be 8 per shift employees so that means they are at least 17 parking spaces short. The driveways to the east and west of this property only provide only 25 spots - they are grossly under parked and will cause even further traffic and parking problems along PCH such as caused by Nobu. More accidents and deaths will happen here. See:

17.48.030 Specific parking

requirements. https://library.qcode.us/lib/malibu_ca/pub/municipal_code/item/title_17-chapter_17_48-17_48_030

It is a hotel not a motel/inn because the parking spots are not directly outside the room doors and has accessory uses such as all day dining, alcohol service, massages, gym, etc. Please see this review from the NY Times and the attached - [The Anxiety of the \\$2,300-a-Night Hotel Room \(Published 2019\)](#)



The Anxiety of the \$2,300-a-Night Hotel Room (Published 2019)

Spending the equivalent of a down payment on a car for one night at the Japanese-inspired Nobu Ryokan in Malibu,...

Because it is not zoned for hotel use an LCP Amendment needs to be completed.

Parking is not allowed anywhere further than 300 ft from the property as was ruled in the Malibu Beach Inn's application for change in parking and a pool that was denied a few years ago.

Valet parking is a detriment to the city's evacuation plan. It's an emergency preparedness deficit. And this hotel can only function with this kind of parking and is nowhere noted in the staff report or ND.

Traffic Study Required

The intensity of the use is increasing with the change from a motel to a hotel with restaurant and bar service. Especially with the lack of parking required for this zoning change which will increase the number of cars into the driveways, etc. and likely cause more accidents in the area.

The Negative Declaration traffic analysis doesn't reflect the reality of the traffic problem on this part of PCH. Realistically, there is traffic gridlock and severe traffic backup on a regular and continuing basis during rush hour, on weekends and in the summer and it is significant and not mitigable. This project will create additional car trips which should not be allowed making the traffic situation incrementally worse in this already jammed and under parked area.

During rush hour westbound traffic is often backed up all the way to Carbon Canyon. On a good day traffic is backed up during rush hour from Nobu to Cross Creek Rd. Often, it is backed up going eastbound also. The fire at Soho House last year caused terrible traffic backup during evacuation and emergency vehicles could not even enter the driveway and this right-turn only set up will cause even worse delays and risk to patrons.

Affordable Accommodations Not Met

Adjustments for low-income accommodations must be made according to the Coastal Commission.

The proposed hotel development does not meet section 30212 of the Coastal Act to provide lower-cost visitor facilities when feasible. In fact, there is nothing in the record here that speaks of the infeasibility of providing a lower-cost project instead of this proposed high-cost development. An analysis is required in order to fully address the project's consistency with the policies and provisions of the Malibu Land Use Plan and Chapter 12 (Public Access Ordinance) of the Local Implementation Plan. The applicant shall be required to provide lower cost overnight accommodations consisting of 15 percent of the number of luxury overnight accommodations that are approved. The average night of a hotel room here is between \$2k & \$4k per night as was stated in the above article also. NOT affordable in any way. The payment of an in-lieu fee based on a 17-luxury room hotel into a fund to subsidize the construction of lower-cost overnight facilities per required unit plus inflation is drastically insufficient to realistically supplant the option

to provide lower-cost visitor accommodations on-site or off-site in Malibu, one of the highest priced California coastal real estate areas. None of the above is in the conditions of approval where the applicant must pay an in-lieu fee.

No soaking tubs should be allowed

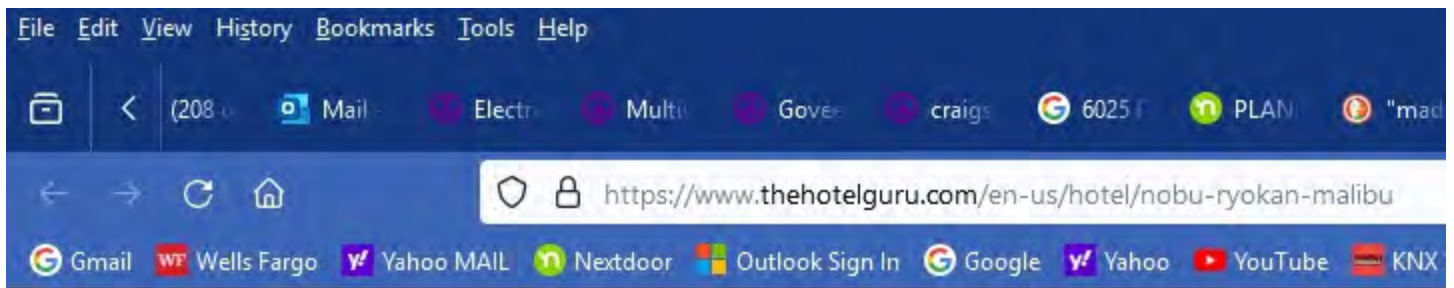
With the addition of one new room no additional fixtures have been applied for which should happen. Also soaking tubs use much more water all at the same time in this use (i.e. in the mornings) and must be affecting the septic use. If the septic system was reconfigured for a hotel use they would likely be out of compliance.

Malibu Tidepool Health Club?

Also the Malibu Tidepool Health Club does not exist actually from all online searches so not sure how any conversion of this property can be considered given it does not exist nor have any existing permits or use.

This is only a few items that need to be addressed before this can be approved. Please deny this application until this can be rectified. Thank you,

Jo Drummond
President - Malibu Township Council



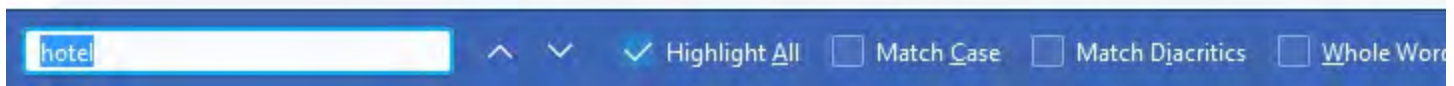
"This Japanese-style inn is located on the coast of Malibu, California. The custom-designed ensuite fireplace; book a Beachfront Room for sea views. Sample Japanese-Peruvian fusion breakfast."

HOTEL REVIEW

Located in a remodelled 1950s motel, this uber-exclusive Japanese-style beach hideaway has made Discretion and privacy are a premium on the VIP stretch of the Malibu coastline, and this **hotel** give that the **hotel** complex takes its inspiration from traditional Japanese hospitality; soaking tubs, serene relaxation experience for guests. Visitors can request beachfront rooms that offer direct beach access and a private terrace. Interiors boast a painstaking attention to detail with luxury materials throughout; and features, too, like a switch beside the bed to operate black-out blinds and fireplace controls on an infinity garden to create an atmosphere of serenity throughout. The **hotel** has recently seen the addition of offering Japanese-Peruvian fusion food. Breakfast is delivered to guests in a Bento box in the morning. Decide to head out to the beach. An impossibly stylish beach bolt-hole.



Written by [HG Staff](#)



Received

11/06/23

Planning Dept.

Lauren Williams

From: John.Heintz@lw.com <John.Heintz@lw.com>

Sent: Monday, November 6, 2023 1:22 PM

To: Adrian Fernandez <afernandez@malibucity.org>

Cc: JAMES.ARNONE@lw.com

Subject: Ryokan Bed and Breakfast: November 6 Planning Commission Item 5.A

Hi, Adrian.

Please see the attached correspondence.

Of course, please let us know if you have any questions.

Very best,

John

John C. Heintz

LATHAM & WATKINS LLP

355 South Grand Avenue, Suite 100

Los Angeles, CA 90071-1560

Direct Dial: +1.213.891.7395

Email: john.heintz@lw.com

Bio: [Attorney Profile](#)

<https://www.lw.com>

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CC: Planning Commission, PD,

Recording Secretary, File

Date Received 11/06/23 Time 1:22 p.m.
Planning Commission meeting of 11/06/23
Agenda Item No. 5.A.
Total No. of Pages 3

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November 6, 2023

Mr. Adrian Fernandez
Assistant Planning Director
City of Malibu
23815 Stuart Ranch Road
Malibu, CA 90265

Re: Ryokan Bed and Breakfast: November 6 Planning Commission Item 5.A.

Dear Mr. Fernandez:

On behalf of our clients, North Broadway Ventures, LLC and Wavebreak LLC, we provide the following information in response to questions raised after the publishing of the Agenda Report.

Luxury Overnight Accommodations In-Lieu Fees

In a letter dated November 3, 2023, California Coastal Commission staff asked about the status of the new luxury overnight accommodations in-lieu fees from the 2013 Planning Commission's approval of the Ryokan remodel.¹ In connection with the Planning Commission's approval of the 2013 remodel, the owner (North Broadway Ventures) volunteered to pay new luxury overnight accommodations in-lieu fees in accordance with Section 12.10 of Malibu's Local Implementation Plan.² North Broadway Ventures made this payment to the City in August 2013.

Our clients once again volunteer to pay the luxury overnight accommodations in-lieu fee set forth in LIP Section 12.10 for the additional room proposed as part of the current application. Accordingly, we volunteer that the following condition be added:

Prior to the issuance of a development permit, the property owner must pay the in-lieu fee for the lower cost overnight accommodations in compliance with LIP Section 12.10.

¹ See City of Malibu Planning Commission Resolution No. 13-32, approving Coastal Development Permit 13-004.

² See *id.*, at p. 13 ("Nevertheless, to ensure the project supports lower cost visitor-serving policies, the applicant has elected to add to the project description a voluntary payment consistent with the provisions found in LIP Section 12.10 which call for providing lower cost accommodations for 15 percent of the luxury accommodations that are approved ...").

Department of Alcoholic Beverage Board Licenses

The Ryokan (22752 PCH) currently provides alcohol service for motel guests pursuant to Type 66 and Type 70 licenses issued by California Department of Alcoholic Beverage Control. There is no alcohol service at the Tidepool property (22762 PCH). The approval of Conditional Use Permit No. 16-007 will permit the expansion of the licensed service areas to the Tidepool property (including the pool/deck area and the proposed guest room).³

Existing Health Club at the Tidepool Property

The Malibu Tidepool Health Club currently operates at the Tidepool property. As noted in the November 1, 2023, Agenda Report, the operation of a health club at the Tidepool property is a permitted use under the property's current land use designation and zoning. The Malibu Tidepool Health Club has been operating at the property since 2017. It is a private, membership-based club.

Prior to opening the health club, the Tidepool property served as an office building. In May 2016, Wavebreak's representative submitted a "Planning Clearance Application" to request a change of use to permit a health club at the Tidepool property. Planning staff approved the application. Following that approval, Planning staff raised concerns about the use of the swimming pool at the health club.

From late-2016 to mid-2017, there were letters and communications between Wavebreak's representatives and the City related to the health club and the use of the pool by Ryokan guests. While Wavebreak did not believe it was required to do so, it agreed to suspend use of the pool in July 2017, thereafter operating the health club without using the pool pending the City's consideration of the conjunctive use application that is currently pending.

The Ryokan motel has a corporate membership in the Malibu Tidepool Health Club that gives its guests access to the club and its services (i.e., the small fitness room and the kitchen). This is similar to other overnight accommodations providers that support their guests' desire for wellness during their stays through arrangements with nearby fitness facilities.

We appreciate Staff's time and effort on this project, and we look forward to the Planning Commission's consideration this evening.

Very truly yours,



John C. Heintz

of LATHAM & WATKINS LLP

³ Extension of the service area will still require California Department of Alcoholic Beverage Control approval following the City's approval of Conditional Use Permit No. 16-007.

Received

11/06/23

Planning Dept.

Planning Commission

From: R Y A N [REDACTED]
Sent: Monday, November 6, 2023 1:52 PM
To: Charlotte Frieze; Planning Commission; Kraig Hill; John Mazza
Cc: Rebecca Evans; Jo Drummond; [REDACTED]
Subject: Re: 2023-11-6 Planning Commission Meeting Item 5A: Nobu Ryokan LCP amendment 16-001, 15-001, CUP 16-007

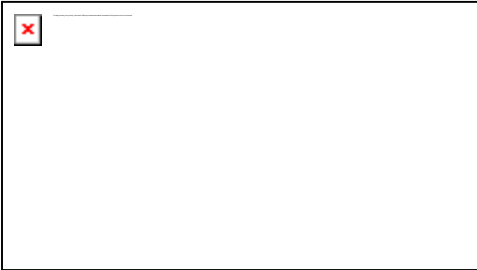
Follow Up Flag: Follow up
Flag Status: Flagged

I decided not to raise the issue, but Charlotte has:

The destination location has a history of hosting commercial Special Events and attracting the media, paparazzi, and star-gazing tourists. The June 4, 2018, United States debut of PORSCHE's first all-electric concept vehicle occurred there, and I took a photo of it myself as I was impacted by the event. I attach that photo.

Later, I found the promotional video, which exists on multiple YouTube account platforms (below) and for which the Sheriff blocked all PCH traffic so that the vehicle could exit onto Pacific Coast Highway without getting hit:

<https://www.youtube.com/watch?v=ZBADJfA5Bo4&pp=ygUdbWlzc2lvbiBlIGNvbmNlcHQgZmlyc3Qgdm9sZWs%3D>



CC: Planning Commission, PD,

Recording Secretary, File

Date Received 11/06/23 Time 1:52 p.m.
Planning Commission meeting of 11/06/23
Agenda Item No. 5.A.
Total No. of Pages 4



Driven! The Porsche Mission E Taycan Cross Turismo Concept Electric Vehicle

The all-electric Porsche Mission E Cross Turismo Concept gets driven in the wild for the first time! It's production name will be Taycan Cross Turismo. Tom Voelk gets behind the wheel and drives the twisty roads above Malibu, California. This is a very deep dive into what Porsche has coming in 2019 as it readies it's first all-electric ...

www.youtube.com

I previously sent this photo I took to then-councilmember Peak in 2018 on June 15, 2018, after the video came out and I listed it with a link.



Ryan

From: Charlotte Frieze [REDACTED]
Sent: Monday, November 6, 2023 12:30 PM
To: Planning Commission <planningcommission@malibucity.org>; Kraig [REDACTED] John Mazza [REDACTED]
Cc: Rebecca Evans <revans@malibucity.org>; Jo Drummond [REDACTED]
Subject: 2023-11-6 Planning Commission Meeting Item 5A: Nobu Ryokan LCP amendment 16-001, 15-001, CUP 16-007

Please distribute this letter and include it in the meeting minutes. Thank you very much,
Charlotte

--
Charlotte M. Frieze
Malibu, CA

[REDACTED]