The following meeting was held pursuant to the Governor's Executive Orders N-25-20 and N-29-20 and fully teleconferenced from various locations during the coronavirus disease (COVID-19) pandemic.

CALL TO ORDER

Chair Jennings called the meeting to order at 6:30 p.m.

ROLL CALL

The following persons were recorded in attendance via teleconference by the Recording Secretary:

PRESENT: Chair Jeffrey Jennings, Vice Chair David Weil, and Commissioners Kraig Hill, John Mazza, and Dennis Robert Smith

ALSO PRESENT: Patrick Donegan, Assistant City Attorney; Richard Mollica, Planning Director; Raneika Brooks, Associate Planner; Adrian Fernandez, Assistant Planning Director; Justine Kendall, Associate Planner; and Kathleen Stecko, Administrative Assistant

APPROVAL OF AGENDA

MOTION Commissioner Mazza moved and Chair Jennings seconded a motion to approve the agenda, continuing Item No. 3.B.2. to a date uncertain.

The question was called, and the motion carried unanimously.

REPORT ON POSTING OF AGENDA

Administrative Assistant Stecko reported that the agenda for the meeting was properly posted on July 23, 2021.

ITEM 1 CEREMONIAL/PRESENTATIONS

None.

ITEM 2.A. PUBLIC COMMENTS

None.
ITEM 2.B. COMMISSION / STAFF COMMENT

In response to Commissioner Hill, Planning Director Mollica stated the City had no established binder policy and that he would consult with the City Manager whether City resources and staff could be allocated toward providing tabs in the Planning Commission meeting materials binders. He stated that the City was working on a survey on what wireless sites have battery backup and that formation of a Telecommunications Commission would be pursued should the City Council provide that direction.

Planning Director Mollica announced, following months of recruitment efforts, Adrian Fernandez had been appointed Assistant Planning Director. In response to Commissioner Mazza he stated a recruitment would be conducted to fill the Principal Planner position vacated by Assistant Planning Director Fernandez.

In response to Commissioner Hill, Assistant City Attorney Donegan stated Senate Bill 83, the Sea Level Rise Revolving Loan Program, was working its way through the legislature.

Vice Chair Weil stated there was a fire near Las Virgenes Road and Highway 101 earlier in the day.

ITEM 3 CONSENT CALENDAR

Commissioner Hill pulled Item No. 3.B.4. from the Consent Calendar.

MOTION Commissioner Mazza moved, and Chair Jennings seconded a motion to approve the balance of the Consent Calendar. The question was called, and the motion carried unanimously.

The Consent Calendar consisted of the following items:

A. Previously Discussed Items

1. Coastal Development Permit No. 17-075, Variance Nos. 17-024, 18-022 and 20-042, and Offer-to-Dedicate No. 20-002 — An application for a new two-story single-family residence with attached two-car garage and associated development (Continued from July 19, 2021)
   Location: 18868 Pacific Coast Highway, within the appealable coastal zone
   APN: 4449-001-023
   Owner: Farshid Etaat
   Case Planner: Contract Planner Rudolph, 456-2489, ext. 250
   Recommended Action: Adopt Planning Commission Resolution No. 21-02 determining the he California Environmental Quality Act does not apply to the project and denying Coastal Development Permit No. 17-075 for the construction of a new 3,778 square foot, two-story, single-family beachfront residence with attached garage, decks, retractable beach stairs, onsite wastewater treatment system, grading, retaining walls, hardscape, and seawall; including Variance (VAR) No. 17-024 for the single-family
residence to extend seaward of the building stringline, VAR No. 18-022 for
the first and second floor decks to extend seaward of the deck stringline,
and VAR No. 20-042 for a greater than 50 percent reduction of the front	yard setback, and Offer-to-Dedicate No. 21-002 for a lateral access
easement across the property located in the Single-Family Medium Density
zoning district at 18868 Pacific Coast Highway (Etaat).

B. New Items

1. Approval of Minutes
   Recommended Action: Approve the minutes for the June 21, 2021 Regular
   Planning Commission meeting.

2. De Minimis Waiver No. 21-005—An application for a new onsite
   wastewater treatment system for a Woolsey Fire affected parcel
   Location: 6603 Dume Drive, not within the appealable coastal zone
   APN: 4468-009-012
   Case Planner: Contract Planner Shah, 456-2489, ext. 385
   Recommended Action: Receive Planning Director’s report on De Minimis
   Waiver No. 21-005 for a new onsite wastewater treatment system for a
   Woolsey affected parcel.

   This item was continued to a date uncertain upon approval of the agenda.

3. De Minimis Waiver No. 20-032—An application for a new onsite
   wastewater treatment system for a Woolsey Fire affected parcel
   Location: 31113 Bailard Road, not within the appealable coastal zone
   APN: 4470-011-038
   Case Planner: Associate Planner Murillo, 456-2489, ext. 353
   Recommended Action: Receive Planning Director’s report on De Minimis
   Waiver No. 20-032 for a new onsite wastewater treatment system for a
   Woolsey affected parcel.

   The following item was removed from the Consent Calendar for individual consideration:

4. De Minimis Waiver No. 20-024—An application for a new onsite
   wastewater treatment system for a Woolsey Fire affected parcel
   Location: 29257 Bluewater Road, not within the appealable coastal
   zone
   APN: 4468-007-013
   Case Planner: Planning Technician Carr, 456-2489, ext. 295
   Recommended Action: Receive Planning Director’s report on De Minimis
   Waiver No. 20-024 for a new onsite wastewater treatment system for a
   Woolsey affected parcel.

   The Commission directed questions to staff.

CONSENSUS

By consensus, the Commission received the Planning Director’s report on De
Minimis Waiver No. 20-024 for a new onsite wastewater treatment system for a
Woolsey affected parcel.
ITEM 4   CONTINUED PUBLIC HEARINGS

A. Malibu Country Inn and Restaurant Project - Coastal Development Permit No. 17-089, General Plan Map Amendment No. 21-002, Local Coastal Program Amendment No. 17-004, Zoning Map Amendment No. 17-005, Lot Line Adjustment No. 17-002, Conditional Use Permit No. 17-011, Variance Nos. 18-038, 20-034 and 21-010, Site Plan Review No. 19-008, Minor Modification No. 19-007, Demolition Permit No. 20-026, and Code Violation No. 17-011 – An application to replace the existing restaurant, lot line adjustment to expand the lot into the adjacent mobile home park and after-the-fact consideration of unpermitted restaurant expansion and ground-floor decking (Continued from June 21, 2021)

Locations: 6506 Westward Beach Road, 29500 Heathercliff Road and various addresses in the Point Dume Club mobile home park, within the appealable coastal zone

APNs: 4468-013-012, 4468-013-011 and various APNs in the Point Dume Club mobile home park

Owners: Malibu Country Inn, Corp and Corp. and Point Dume, LTD

Case Planner: Principal Planner Fernandez 456-2489, ext. 482

Recommended Action: Adopt Planning Commission Resolution No. 21-54 recommending the City Council find that the project and proposed map amendments are exempt from the California Environmental Quality Act and approves Coastal Development Permit No. 17-089, Lot Line Adjustment No. 17-002, Demolition Permit No. 20-026, General Plan Map Amendment No. 21-002, Zone Map Amendment No. 17-011 and Local Coastal Program Amendment 17-004 to increase the lot area of the Malibu Country Inn lot with land from the Point Dume Club mobile home park, change the General Plan land use designation, Zoning Map and Local Coastal Program maps from Commercial Visitor Serving—one to Commercial Visitor Serving—two (CV-2) and the increased Malibu Country Inn lot area from Mobilehome Residential to CV-2, replace the existing restaurant, after-the-fact approval of a deck attached to the restaurant and replace a 200 square foot unpermitted storage shed with a 100 square foot storage shed; including Conditional Use Permit No. 17-011 for the hotel and restaurant uses and sale of alcohol for room service and restaurant; Variance (VAR) No. 18-038 for construction of Fire Department stairs on slope steeper than 2.5 to 1; VAR No. 20-034 for legal, non-conforming parking spaces in terms of size, number and aisle width to remain; VAR No. 21-010 from the City’s geotechnical standards for factor of safety; Site Plan Review No. 19-008 for the reconstruction of the restaurant in excess of 18 feet; and Minor Modification No. 19-007 for the replacement restaurant to provide a 50 percent reduction of the required front yard setback, located at 6506 Westward Beach Road and 29500 Heathercliff Road (Malibu Country Inn, Corp and Corp, and Point Dume, LTD).

Assistant Planning Director Fernandez presented the staff report.

Disclosures: Commissioners Hill, Mazza, and Smith and Vice Chair Weil, and Chair Jennings.

As there were no questions for staff Chair Jennings opened the public comment section of the public hearing.
Speakers: Lynn Heacox, Jo Drummond, Salvatore Fish, Rosemarie Ihde, Georgia Goldfarb, and Patt Healy.

As there were no other speakers present, Chair Jennings closed the public comment portion of the public hearing and returned the matter to the table for discussion.

The Commission directed questions to staff.

**MOTION** Commissioner Smith moved and Vice Chair Weil seconded a motion to adopt Planning Commission Resolution No. 21-54, as amended: 1) recommending the City Council find that the project and proposed map amendments are exempt from the California Environmental Quality Act and approves Coastal Development Permit No. 17-089, Lot Line Adjustment No. 17-002, Demolition Permit No. 20-026, General Plan Map Amendment No. 21-002, Zone Map Amendment No. 17-011 and Local Coastal Program Amendment 17-004 to increase the lot area of the Malibu Country Inn lot with land from the Point Dume Club mobile home park, change the General Plan land use designation, Zoning Map and Local Coastal Program maps from Commercial Visitor Serving—one to Commercial Visitor Serving—two (CV-2) and the increased Malibu Country Inn lot area from Mobilehome Residential to CV-2, replace the existing restaurant, after-the-fact approval of a deck attached to the restaurant and replace a 200 square foot unpermitted storage shed with a 100 square foot storage shed; including Conditional Use Permit No. 17-011 for the hotel and restaurant uses and sale of alcohol for room service and restaurant; Variance (VAR) No. 18-038 for construction of Fire Department stairs on slope steeper than 2.5 to 1; VAR No. 20-034 for legal, non-conforming parking spaces in terms of size, number and aisle width to remain; VAR No. 21-010 from the City’s geotechnical standards for factor of safety; Site Plan Review No. 19-008 for the reconstruction of the restaurant in excess of 18 feet; and Minor Modification No. 19-007 for the replacement restaurant to provide a 50 percent reduction of the required front yard setback, located at 6506 Westward Beach Road and 29500 Heathercliff Road (Malibu Country Inn, Corp and Corp. and Point Dume, LTD); 2) adding Condition 34 which states, “No amplified sound may be used unless otherwise permitted with a temporary use permit;” and 3) adding Condition 35 which states, “The swimming pool may only be used by hotel guests unless otherwise permitted with a temporary use permit.”

The Commission discussed the motion.

The question was called and the motion carried 3-2, Commissioners Hill and Mazza dissenting.
ITEM 5  NEW PUBLIC HEARINGS

A. Coastal Development Permit No. 18-035, Variance No. 19-062, and Demolition Permit No. 19-003—An application to demolish an existing single-family residence and associated development and construct a new single-family residence and associated development

Location: 23325 Malibu Colony Drive, within the appealable coastal zone
APN: 4452-010-017
Owner: Axel 23324, LLC
Case Planner: Associate Planner Brooks, 456-2489, ext. 276

Recommended Action: Adopt Planning Commission Resolution No. 21-53 determining the project is categorically exempt from the California Environmental Quality Act and approving Coastal Development Permit No. 18-035 for the demolition of a one-story, single-family residence and associated development, totaling 2,963 square feet, and construction of a new 5,146 square foot, two-story single-family residence, swimming pool, decks, permeable driveway, and other associated development, and replacement of the onsite wastewater treatment system; including Variance No. 19-062 for the reduction of the required 100-foot buffer from an Environmentally Sensitive Habitat Area (Malibu Lagoon) and Demolition Permit No. 18-010 for the demolition of the existing residence and associated development located in the Single Family, Medium Density zoning district within the Malibu Colony Overlay District at 23325 Malibu Colony Drive (Axel 23324, LLC).

Associate Planner Brooks presented the staff report.

Disclosures: Commissioners Hill, Mazza, and Smith, and Vice Chair Weil.

The Commission directed questions to staff.

As there were no further questions for staff Chair Jennings opened the public comment section of the public hearing.

Speakers: Victor de la Cruz and Carl Lisberger.

Additional Disclosure: Commissioner Mazza.

Speakers: Monica Breseno and Judith Israel.

Mr. de la Cruz provided rebuttal to public comment.

As there were no other speakers present, Chair Jennings closed the public comment portion of the public hearing and returned the matter to the table for discussion.

The Commission directed questions to staff, David Weiss, and Mary Randall.
MOTION  Commissioner Smith moved and Vice Chair Weil seconded a motion to adopt Planning Commission Resolution No. 21-53; as amended: 1) determining the project is categorically exempt from the California Environmental Quality Act and approving Coastal Development Permit No. 18-035 for the demolition of a one-story, single-family residence and associated development, totaling 2,963 square feet, and construction of a new 5,146 square foot, two-story single-family residence, swimming pool, decks, permeable driveway, and other associated development, and replacement of the onsite wastewater treatment system; including Variance No. 19-062 for the reduction of the required 100-foot buffer from an Environmentally Sensitive Habitat Area (Malibu Lagoon) and Demolition Permit No. 18-010 for the demolition of the existing residence and associated development located in the Single Family, Medium Density zoning district within the Malibu Colony Overlay District at 23325 Malibu Colony Drive (Axel 23324, LLC; 2) correcting Finding 1 of Shoreline and Bluff Development Findings to state, “The proposed single-family residence and associated development, including the onsite wastewater treatment system, have been designed to not require a shoreline protection device in that the residence will not be subject to lateral force of wave impact;” 3) adding Condition 101 which states “The property owner is required to record a deed restriction (1) ensuring no shoreline protection structure shall be proposed or constructed to protect the development approved and (2) waiving any future right to construct such devices that may exist pursuant to Public Resources Code Section 30235.”

The Commission discussed the motion.

AMENDMENT  Chair Jennings moved and Vice Chair Weil seconded to amend the motion to add Condition 18 which states, “Prior to submittal to plan check, the applicant must provide evidence of preliminary approval from the California Department Fish and Wildlife or a determination by the Planning Director that the preliminary approval is unnecessary.”

The Commission discussed the amendment.

The question was called and the amendment carried 3-2, Commissioners Mazza and Smith dissenting.

The Commission directed questions to staff.

AMENDMENT  Commissioner Hill moved and Commissioner Mazza seconded to amend the motion to require an archeologist be present during excavation.

The Commission discussed the amendment.

The question was called and the amendment failed 2-3, Commissioner Smith, Vice Chair Weil, and Chair Jennings dissenting.

The Commission directed questions to staff and Ms. Randall.
The question was called and the amended motion carried 3-2, Commissioners Hill and Mazza dissenting.

B. Coastal Development Permit No. 16-008, Code Violation No. 16-002, and Demolition Permit No. 20-012 – An application for the demolition of work conducted without the benefit of permits, construction of a new swimming pool and landscaping, relocation of the existing onsite wastewater treatment system and restoration of Environmentally Sensitive Habitat Area and related buffer

Location: 28305 Via Acero Street; within the appealable coastal zone
APN: 4467-033-009
Owners: Joseph and Pamela Bouganim
Case Planner: Associate Planner Kendall, 456-2489, ext. 301

Recommended Action: Adopt Planning Commission Resolution No. 21-59 determining the project is categorically exempt from the California Environmental Quality Act, and approving Coastal Development Permit No. 16-008 for a slope restoration and revegetation, removal of unpermitted fill, and demolition of a retaining wall constructed without the benefit of permits within an Environmentally Sensitive Habitat Area buffer, after-the-fact planting of a ficus tree hedge, relocation of the existing onsite wastewater treatment system, and a new swimming pool, spa, and pool equipment; including Demolition Permit No. 20-012 for the removal of the development constructed without the benefit of permits at an existing single-family residence located in the Rural Residential-Five Acre zoning district at 28305 Via Acero Street (Bouganim).

Associate Planner Kendall presented the staff report.

Disclosures: Commissioners Hill, Mazza, and Smith, Vice Chair Weil, and Chair Jennings.

The Commission directed questions to staff.

As there were no further questions for staff Chair Jennings opened the public comment section of the public hearing.

Speaker(s): None.

As there were no speakers present, Chair Jennings closed the public comment portion of the public hearing and returned the matter to the table for discussion.

The Commission directed questions to staff.

MOTION Commissioner Mazza moved and Vice Chair Weil seconded a motion to adopt Planning Commission Resolution No. 21-59; as amended: 1) determining the project is categorically exempt from the California Environmental Quality Act, and approving Coastal Development Permit No. 16-008 for a slope restoration and revegetation, removal of unpermitted fill, and demolition of a retaining wall constructed without the benefit of permits within an Environmentally Sensitive Habitat Area buffer, after-the-fact planting of a ficus tree hedge, relocation of the existing onsite wastewater treatment system, and a new swimming pool, spa, and
pool equipment; including Demolition Permit No. 20-012 for the removal of the development constructed without the benefit of permits at an existing single-family residence located in the Rural Residential—Five Acre zoning district at 28305 Via Acero Street (Bouganim); 2) amending Condition 2.c. to state, “Grading to remove unpermitted fill behind the retaining wall;” 3) adding Condition 30 which states, “No development, including landscaping, is permitted within the recorded fifteen-foot-wide private access easement along the northernmost property boundary; and 4) adding Condition 31 which states, “All landscaping which does not conform to the landscape plan approved by the City of Malibu on December 5, 2005, and which does not meet the standards of Ordinance No. 461 (Fire-Resistant Landscaping Ordinance) must be removed” (Associate Planner Kendell).

The Commission discussed the motion.

FRIENDLY AMENDMENT
Commissioner Hill amended the motion to add to Condition 7 “The CDP shall expire if the project has not commenced to the satisfaction of City Code Enforcement staff within six months after issuance of the permit, unless a time extension has been granted;”

The amendment was accepted by the maker and the seconder.

The question was called and the amended motion carried unanimously.

ITEM 6 OLD BUSINESS
None.

ITEM 7 NEW BUSINESS
None.

ITEM 8 PLANNING COMMISSION ITEMS
None.

ADJOURNMENT

MOTION At 10:47 p.m., Commissioner Mazza moved and Vice Chair Weil seconded a motion to adjourn the meeting. The question was called, and the motion carried unanimously.
Approved and adopted by the Planning Commission of the City of Malibu on August 16, 2021.

DAVID WEIL, Vice Chair

ATTEST:

KATHLEEN STECKO, Administrative Assistant