

MINUTES
MALIBU PLANNING COMMISSION
REGULAR MEETING
SEPTEMBER 16, 2008
COUNCIL CHAMBERS
6:30 P.M.

CALL TO ORDER

Chair House called the meeting to order at 6:33 p.m.

ROLL CALL

The following people were recorded in attendance by the Recording Secretary:

PRESENT: Chair Joan House, Vice Chair Ed Gillespie and Commissioners John Mazza, Jeffrey Jennings and Regan Schaar

ABSENT: None.

ALSO PRESENT: Stacey Rice, Planning Manager; Gregg Kovacevich, Assistant City Attorney; Claudio Sanchez, Deputy City Engineer; Dave Crawford, City Biologist; Chris Dean, City Biologist; Richard Mollica, Associate Planner; Joseph Smith, Assistant Planner; Kristen Sterling, Planning Technician; and Jessica Duban, Recording Secretary

FLAG SALUTE

Vice Chair Gillespie led the Pledge of Allegiance.

APPROVAL OF AGENDA

MOTION Commissioner Mazza moved and Chair House seconded a motion to approve the agenda, moving Item 6.B. to the end of the agenda. The motion carried unanimously.

REPORT ON POSTING OF AGENDA

Recording Secretary Duban reported that the agenda for the meeting was properly posted on September 4, 2008.

ITEM 1 CEREMONIAL / PRESENTATIONS

None.

ITEM 2A PUBLIC COMMENTS

None.

ITEM 2B COMMISSION / STAFF COMMENTS

Chair House thanked Vice Chair Gillespie for filling in as Chair while she was absent from the last few meetings.

Planning Manager Rice stated the Commission had previously requested that an item be placed on the agenda for the Commission to formally request that the City Council send a letter to the State of California Department of Transportation regarding the water and infrastructure issues raised by Norm Haynie at a previous meeting. She stated staff had learned that a letter was sent from the City on August 22, 2008.

ITEM 3 CONSENT CALENDAR

MOTION Commissioner Mazza moved and Commissioner Jennings seconded a motion to approve the Consent Calendar. The motion carried unanimously.

The Consent Calendar consisted of the following items:

A. Previously Discussed Items

None.

B. New Items

1. Approval of Minutes

Staff Recommendation: Approve minutes for the July 15, 2008 Regular Planning Commission meeting.

ITEM 4 PLANNING MANAGER REPORTS

A. Report on Administrative Coastal Development Permit No. 08-048 – An application to replace a failed onsite wastewater treatment system and install an alternative onsite wastewater treatment system

Application Date: June 12, 2008
Notice of Application: August 21, 2008
Issue Date: September 8, 2008
Owner: Malibu Manor Investments, L.L.C.
Applicant: Larry Blivas
Location: 20717 Pacific Coast Highway, within the coastal zone
APN: 4450-007-022
Zoning: Rural Residential – Twenty Acres (RR-20)
City Planner: Assistant Planner Edwards, 456-2489, ext. 343

Staff Recommendation: Receive Planning Manager's report on Administrative Coastal Development Permit No. 08-048.

- B. Report on Administrative Coastal Development Permit No. 06-041 – An application for the remodel and addition of 985 net square feet to an existing single-family residence, extension and replacement of an existing retaining wall not to exceed six feet in height and landscaping

Application Date: April 20, 2006
Notice of Application: August 21, 2008
Issue Date: September 8, 2008
Owner: William and Sabra Niles
Applicant: Ed Niles
Location: 34405 Pacific Coast Highway, within the coastal zone
APN: 4473-027-007
Zoning: Rural Residential – Twenty Acres (RR-20)
City Planner: Assistant Planner Smith, 456-2489, ext. 336

Staff Recommendation: Receive Planning Manager's report on Administrative Coastal Development Permit No. 06-041.

Planning Manager Rice stated that Item No. 4.B. had been revised to remove landscaping from the project description. She stated no new landscaping was proposed.

Ed Niles commended Assistant Planner Smith on the preparation of the agenda report and stated he was available for questions.

Commissioner Mazza stated he would like the appeal period for administrative coastal development permits extended to allow as many

days as possible to appeal the project after it is presented to the Planning Commission.

Chair House stated the Commission previously agreed to allow a couple of days after the Planning Commission meeting for appeals to be submitted.

Commissioner Mazza requested that a generous amount of time be given to anyone who would like to appeal.

Planning Manager Rice stated the appeal period would be changed to three days after the reporting of the report.

CONSENSUS

By consensus, the Commission agreed to accept the Planning Manager's Reports.

ITEM 5 CONTINUED PUBLIC HEARINGS

None.

ITEM 6 NEW PUBLIC HEARINGS

- A. Administrative Plan Review No. 08-039, Site Plan Review No. 08-016 and Variance No. 08-024 – An application to reconstruct a warehouse (3,064 square feet) and build a 3,892 square foot primary structure which includes a 1,420 square foot basement to replace various structures destroyed by a wildfire, grading, a site plan review to permit construction above 18 feet in height but less than 24 feet in height and a variance for the construction of debris walls which will be back filled on slopes steeper than 2 ½ to 1 (Malibu Glass)

Application Date:	April 28, 2008
Applicant:	Domicile Design Inc.
Owner:	Gerald Lemonnier
Location:	3547 Winter Canyon Road
APN:	4458-027-034
Zoning:	Rural Residential – One Acre (RR-1)
City Planner:	Associate Planner Mollica, AICP, 456-2489, ext. 346

Staff Recommendation: Adopt Planning Commission Resolution No. 08-66 approving Administrative Plan Review No. 08-039, Site Plan Review No. 08-016 and Variance No. 08-024 - An application to reconstruct a warehouse (3,064 square feet) and build a 3,892 square foot primary structure which includes a 1,420 square foot basement to replace various

structures destroyed by a wildfire, including a site plan review for construction above 18 feet in height but less than 24 feet in height and a variance for the construction of debris walls which will be backfilled on slopes steeper than 2½ to 1.

Associate Planner Mollica presented the staff report.

Commissioner Schaar stated she visited the site.

Commissioner Mazza stated he had visited the site many times.

Chair House stated she visited the site with the property owner.

Vice Chair Gillespie stated he had visited the site.

Commissioner Jennings stated he had nothing to disclose.

In response to Commissioner Jennings, Associate Planner Mollica stated he used the applicant's survey to make his determination that the proposed structure did not interfere with existing easements.

Assistant City Attorney Kovacevich stated the Commission did not need to consider easements in their decision except for utility easements as they could potentially pose a threat to public health and safety.

Commissioner Mazza stated the building elevation showed metal siding which was not allowed per the Local Coastal Program (LCP) and Malibu Municipal Code (M.M.C.). He stated he would like the removal of that siding included in the approval of the project. He discussed issues with legal non-conforming structures. He stated he did not feel the project was a legal non-conforming structure. He questioned how staff determined the use would be legal non-conforming.

Planning Manager Rice read M.M.C. Section 17.40.040 regarding exterior siding permitted within the city. She stated because this was a fire rebuild, LCP standards did not apply.

Darren Domingue stated the metal siding proposed was a prefabricated pre-painted finish. He stated the finish would be matched on the site to the same finish as the trailer and was not a shiny finish.

In response to Commissioner Mazza, Associate Planner Mollica stated he had not found any building permits but that the City did not have complete records from Los Angeles County on this property. He stated no evidence

could be found which would show this would not have been permitted by the County. He stated commercial trailers were permitted by the County but residential trailers were not.

Commissioner Mazza stated the City had never allowed mixed-use buildings in residential or commercial zones. He stated the property was not a mixed-use prior to its destruction by fire. He stated he understood mixed-use buildings were currently banned.

In response to Commissioner Mazza, Associate Planner Mollica stated there were two residences proposed on the project site. He stated the rebuild would end up being the same use as prior to the fire destruction. He stated because this project was governed by the M.M.C., provisions of the LCP were not applicable.

Planning Manager Rice stated basements were not calculated in the floor area ratio or total development square footage.

Mr. Domingue stated the basement was used on the residential component and could be conditioned to be residential storage only.

In response to Commissioner Mazza's question regarding two-story basements, Mr. Domingue stated the basement was one-story. He indicated the section of the basement that had a six foot, eight-inch ceiling was a mechanical area and there was nothing under it.

Commissioner Mazza stated the Commission was required to certify that no more than ten percent of use would be added to fire rebuilds. He stated he had issues with legal non-conforming trailers. He discussed changes in use and stated he had issues with approving the first mixed-use building in Malibu. He discussed issues with health and safety with the residences located above the warehouse.

Planning Manager Rice stated it would be possible to add a condition for annual Planning Manager reviews regarding the use of the warehouse.

In response to Commissioner Schaar, Associate Planner Mollica stated the project was evaluated as a residential project with setbacks and square footages governed by the LCP for fire rebuilds. He stated height and square footage were the only elements taken out of the residential standards. He stated the setbacks and building locations were not proposed to change.

Planning Manager Rice stated the City only had jurisdiction over the ten percent addition of use. She stated if the rebuild was built to the exact original specifications, they would only need to pull building permits and not get approval from planning.

Commissioner Schaar discussed septic capacity.

Associate Planner Mollica stated a new onsite wastewater treatment system would be installed.

In response to Vice Chair Gillespie, Planning Manager Rice stated this was a unique project as it was a legal non-conforming use. She stated the site was analyzed as mixed-use since it was mixed-use before. She stated it was not staff's finding that the proposed project was intensifying or changing the use; and therefore, no precedent was being set. She stated the site had previously been mixed-use in separate buildings, but was now one building.

Associate Planner Mollica stated ten percent was added to the square footage used on the survey and was compliant.

Gerald Lemonnier stated the property was acquired in the late 1980s and was primarily used as a glass warehouse with most of the physical labor done offsite. He stated the intensity of use was no greater than it had been for the last 20 years.

In response to Commissioner Mazza, Mr. Lemonnier stated the trailers were brought in after the purchase of the property. He stated he was unsure if permits were acquired for the trailers.

Mr. Domingue stated he believed the property was rezoned when Malibu incorporated.

In response to Commissioner Mazza's question regarding whether the two buildings could be split between residential and office use, Mr. Domingue stated the owner was trying to use a prefabricated structure to expedite the process of getting the business back up and running. He stated changing the use of the two buildings could slow down this process.

Chair House stated she did not have issues with mixed-use buildings.

Commissioner Mazza stated he did not have any problems with mixed-use buildings, but had problems with the City having never approved one and there being no existing codes or regulations for them.

Planning Manager Rice stated the use was not changing. She stated any future proposed mixed-use under a separate project would necessitate a zoning text amendment.

Commissioner Jennings stated he had always been an advocate of mixed-use buildings. He stated he felt they were simply putting something back together the way it was. He stated he was prepared to support the staff recommendation.

MOTION Commissioner Mazza moved to approve the staff recommendation with the elimination of the square footage of the trailers.

The motion failed due to lack of a second.

MOTION Chair House moved and Commissioner Jennings seconded a motion to adopt Planning Commission Resolution No. 08-66, approving Administrative Plan Review No. 08-039, Site Plan Review No. 08-016 and Variance No. 08-024.

Commissioner Schaar stated there was a lot of ambiguity in the Civic Center Area and that wastewater was being addressed in all future projects in the area. She requested the onsite wastewater treatment system be evaluated on the more conservative side of either commercial or residential. She requested a condition be added stating that.

Associate Planner Mollica stated Environmental Health Administrator Sheldon approved the plans fully aware of the intended use of the buildings.

Planning Manager Rice stated Environmental Health Administrator Sheldon approved the system as is with the current uses as they were and found the current system to be adequate. She stated the applicant was voluntarily upgrading the system to a tertiary treatment, which was not required.

Commissioner Schaar requested staff double-check that the review of Environmental Health Administrator Sheldon was complete and based on a higher intensity.

Commissioner Mazza questioned whether this project would be viewed as a commercial project with regard to new Regional Water Quality Control Board (RWQCB) requirements for commercial onsite wastewater treatment systems.

Planning Manager Rice stated all RWQCB permits as well as others were obtained prior to permit issuance, and rerouting the onsite wastewater treatment system to Environmental Health Administrator Sheldon could be added as a condition of approval.

The motion was amended to include the two added conditions. The question was called and the motion carried 4-1, Commissioner Mazza dissenting.

ITEM 7 OLD BUSINESS

None.

ITEM 8 NEW BUSINESS

None.

ITEM 9 PLANNING COMMISSION ITEMS

A. Amendment of 2008 Calendar of Planning Commission Meetings

Staff Recommendation: Approve the Amended 2008 Calendar of Planning Commission Meetings.

CONSENSUS

By consensus, the Commission approved the Amended 2008 Calendar of Planning Commission Meetings.

B. Civic Center Area Water Supply / Infrastructure

Staff Recommendation: Direct staff to submit a memorandum to the City Council, from the Planning Commission, requesting that the Council address the water supply and infrastructure situation in the Civic Center Area.

Commissioner Mazza stated this put the City in the position of being a real estate agent, which was not apparent in the letter. He suggested amendments to the letter.

Planning Manager Rice stated the letter had already been sent and this item was to report that information to the Commission.

Recording Secretary Duban stated the agenda was published prior to discovering the letter had already been sent.

Commissioner Mazza stated it should be made clear that the City was requesting that the State of California Department of Transportation buy a piece of property from the person who wrote the letter.

Norm Haynie stated there was an impending disaster and if there was a way to correct it, it should be done at this time. He stated if there was an implication that he wanted the State of California Department of Transportation to buy the property that was not a correct assumption. He stated he was interested in fixing the problem and if they must acquire the property to do it then he was prepared for that.

Commissioner Mazza stated the letter did not make it clear who owned the property.

Mr. Haynie stated he had never hidden the fact that he owned the property.

Commissioner Jennings stated the letter had already been sent.

Commissioner Schaar stated she had requested that things be sent to City Council and was told that was not allowed, specifically with regard to the Civic Center Area.

Planning Manager Rice stated Mr. Haynie also spoke to the City Council about this issue. She stated she did not know the entire transgression.

Commissioner Schaar requested support from the other Commissioners to request that a letter be written to the City Council regarding water and septic issues in the Civic Center Area and a specific plan for the Civic Center Area.

Chair House stated the Commission had asked for that previously and there was agreement by staff that the matter would be brought back.

Planning Manager Rice stated Mayor Conley Ulich was meeting with business owners instead of developing a specific plan to come up with goals. She stated an update from City Council could be given.

Commissioner Schaar requested staff provide an update regarding the Civic Center Area Specific Plan.

CONSENSUS

By consensus, the Commission agreed to receive the letter requesting that the Council address the water supply and infrastructure situation in the Civic Center Area.

Commissioner Mazza left the meeting at 7:36.

RECESS At 7:36 p.m., Chair House called a recess. At 7:47 p.m., the meeting reconvened with all Commissioners present, Commissioner Mazza absent.

ITEM 6 NEW PUBLIC HEARINGS (CONTINUED)

B. Coastal Development Permit No. 04-051, Variance Nos. 05-043, 05-045, 07-043 and 07-044, Lot Line Adjustment No. 08-003, Site Plan Review Nos. 05-052 and 05-053, Initial Study No. 07-008 and Negative Declaration No. 07-007 – The project proposes a 28 foot high, two-story, 10,517 square foot, single-family residence with a 398 square foot covered loggia, a 4,090 square foot basement, pool, trellis, walls, tennis court, hardscape, driveway, landscaping, and an alternative onsite wastewater treatment system, including a site plan review for height above 18 feet, up to 28 feet with a pitched roof, and for construction on slopes, variances for construction on slopes exceeding 2½ to 1 and to exceed the permitted wall heights (to widen the access road), a lot line adjustment for the four properties involved and an Initial Study which resulted in a Negative Declaration

Application Date:	November 18, 2004
Applicant:	Lynn Heacox / The Land & Water Co.
Owner:	Diane Breitman, Trustee of the Breitman Residence Trust
Location:	21000 and 21100 Seaboard Road, within the coastal zone
APNs:	4450-022-055, 4450-022-054, 4450-022-057 and 4450-022-056
Zoning:	Rural Residential – Twenty Acres (RR-20)
City Planner:	Associate Planner Mollica, AICP, 456-2489, ext. 346

Staff Recommendation: Adopt Planning Commission Resolution No. 08-65 approving Coastal Development Permit No. 04-051, Lot Line Adjustment No. 08-003, Variance Nos. 05-043, 05-045, 07-043 and 07-044, Site Plan Review Nos. 05-052 and 05-053, Initial Study No. 07-008 and Negative Declaration No. 07-007, for a new, 28 foot high, two-story, 10,517 square foot, single-family residence with a 398 square foot

covered loggia, a 4,090 square foot basement, pool, trellis, walls, tennis court, hardscape, driveway, landscaping, and an alternative onsite wastewater treatment system (AOWTS), including a site plan review for height above 18 feet, up to 28 feet with a pitched roof, and for construction on slopes, variances (to widen the road) for construction on slopes exceeding 2½ to 1 and to exceed the permitted wall heights, a lot line adjustment for the four properties involved and an Initial Study which resulted in a Negative Declaration.

Associate Planner Mollica presented the staff report.

Commissioner Jennings stated he did not have any conversations with anyone about the project and had been to the site previously.

Vice Chair Gillespie stated he visited the site.

Commissioner Schaar stated she was at the last hearing and had walked the property with the previous planner. She stated she had a conversation with Associate Planner Mollica regarding the property.

Chair House stated she walked the property with the previous planner as well. She stated she visited the site with Associate Planner Mollica before the hearing. She mentioned a conversation regarding a fifth parcel.

Associate Planner Mollica stated the Certificates of Compliance were attached to the staff report. He stated assessor's parcel numbers were not indications of the legal description of the property.

Deputy City Engineer Sanchez stated there were four legal lots based on all documents he had seen.

In response to Commissioner Schaar, Deputy City Engineer Sanchez explained the difference between assessor's parcel numbers and certificates of compliance.

Vice Chair Gillespie stated he was concerned with potential liability regarding the condition of Seaboard Road.

Assistant City Attorney Kovacevich stated the City enjoyed broad immunity for all actions under the Government Code.

Commissioner Schaar discussed the road and stated she felt it was the responsibility of the homeowners association to fix the road for safety concerns since it was a private road.

Assistant City Attorney Kovacevich stated the issue was whether the Commission could authorize the construction without liability, which it could. He stated any liability with damage to the road or safety hazards would lie with the party who caused that liability.

Planning Manager Rice stated there were many roads that were private and not maintained by the City.

Lynn Heacox, applicant, stated he supported staff's recommendation. He stated he did not accept Condition Nos. 84 or 85 as they were not applicable. He stated Condition No. 86 was included which required the applicant to indemnify the City for any damages incurred. He described exhibits presented depicting the property. He discussed the existing lot configuration. He discussed grant deeds and Certificates of Compliance for the property. He discussed prior chronology and milestones of the project. He discussed various agency approvals and the current condition of the private portion of Seaboard Road. He discussed retaining walls and the height of each. He discussed a letter from the California Coastal Commission regarding lot legality and vegetation clearance. He presented photographs of aerial views of the property throughout the last forty years regarding environmentally sensitive habitat areas (ESHA) and vegetation.

Planning Manager Rice stated staff recommended keeping Condition No. 85 but would be in support of deleting Condition No. 84.

John Mazza stated the project was piecemeal development. He discussed basements, grading, Fire Department requirements, and environmental impact reports (EIR) and questioned the Calvo exemption.

David Youmans discussed drainage and flooding.

Joseph Vana discussed Big Rock Drive and stated the Breitman property would have to be included in the assessment district. He stated a private road was a common driveway maintained by people who had easements over that roadway.

Mark Herron deferred his time to Lou LaMonte.

Christina Scott deferred her time to Lou LaMonte.

Lou LaMonte, President of the Big Rock Mesa Property Owners Association, stated the roadway was very narrow and the association was concerned about access. He discussed the current and proposed conditions

of the roadway. He stated the association was concerned about increased traffic and large construction trucks accessing the roadway. He provided various conditions he would like added to the approval of this project.

Kim Zanti deferred her time to Kraig Hill.

Rosalie Strickland deferred her time to Kraig Hill.

Hank Corwin deferred his time to Kraig Hill.

Kraig Hill discussed the history of the project as it related to ESHA. He discussed parcel legality. He presented various maps related to ESHA on the property. He discussed Calvo exemptions. He discussed a quitclaim deed regarding an easement over Seaboard Road.

Arlene Broussard deferred her time to Al Broussard.

Nick Turner deferred his time to Al Broussard.

Catherine Scott deferred her time Al Broussard.

Al Broussard discussed engineering, safety and health issues. He discussed the condition of the road. He stated he supported development as long as it was safe and done properly.

Vivian Richman deferred her time to Patt Healy.

Patt Healy requested that an EIR be prepared and circulated for the project. She discussed retaining walls proposed on 1 to 1 slopes. She stated there was a nexus for the trail and that it was used prior to 1972.

Gene Sprouse discussed the roadway and concerns with widening of the road.

Sandra Hollins deferred her time to John Barnes.

John Barnes discussed issues with the roadway and the impact to his property.

David Olen discussed potential liability to the City for approval of the project. He stated his neighborhood was against the project.

Charles Love deferred his time to Holly Love.

Mary Scott deferred her time to Holly Love.

Holly Love (read by Mary Scott) discussed the Big Rock landslide of 1978.

Shea Broussard discussed studying geology from aerial photos. He provided alternative access recommendations from Pacific Coast Highway.

Nancy Corwin discussed trail view impacts.

Walter Zelman deferred his time to Georgia Goldfarb.

Georgia Bofard stated she felt an EIR should have been completed for this project. She discussed water usage, earthquakes, bluff erosion and ESHA.

John Cadarette deferred his time to Deidre Roney.

James Sarantinos deferred his time to Deidre Roney.

Catherine Scott deferred his time to Deidre Roney.

Deidre Roney disagreed with Assistant City Attorney Kovacevich's opinion regarding the City's liability. She discussed the private portion of Seaboard Road. She provided various scenarios which could cause potential litigation. She requested that an EIR be prepared for the project.

Jay Dunitz described a history of problems with Seaboard Road and accessibility.

Peter Monge deferred his time to Michael Harris.

Janet Fulk deferred her time to Michael Harris.

Lyuba Harris deferred her time to Michael Harris.

Michael Harris discussed potential liability for the project. He requested that a condition be added releasing liability from the homeowners for the maintenance and construction of the proposed new portion of private Seaboard Road. He discussed easements surrounding the property and in the area. He requested that an EIR be prepared for the project.

Norm Haynie stated property owners had a right to use property for its zoned use as long as it was done safely. He suggested the Commission

listen to staff in regards to the number of legal parcels. He stated property owners had a right to gain access to their property. He stated the applicant needed to be concerned with the impact on the neighbors regarding the road but it was not the City's concern. He discussed ESHA and stated that was the underlying principle of the LCP.

Mr. Heacox discussed neighboring properties, roads and hazards. He discussed the process of designing a project that would meet the City's requirements. He stated the project conformed to requirements and that the initial study was prepared by staff and reviewed by the City Attorney.

Reid Breitman stated he was trying to build a home for his family. He stated he had been offended and insulted by other members of the public on numerous occasions. He requested the Commission apply the law and rely on experts and staff. He stated he had been working on the project for six years. He requested approval of the staff recommendation.

City Biologist Crawford discussed the biological issues pertaining to the project. He stated accessing the property from Pacific Coast Highway would still result in heavy ESHA disturbance and not necessarily any less impact than the proposed route.

In response to Commissioner Schaar, City Geologist Dean stated that draining devices would be placed underneath the road to handle water flows. He stated hydrology studies and erosion control plans would be required.

In response to Commissioner Schaar, City Biologist Crawford discussed the 10,000 square foot building pads. He stated the proposed pad was greater than 10,000 square feet.

Assistant City Attorney Kovacevich stated the Commission could not deny the project based on assumption of other residences.

In response to Commissioner Jennings, Associate Planner Mollica stated the Breitman property would not be allowed gates on the proposed paved portion of Seaboard Road because of the issue of prescriptive rights for the suggested trail.

In response to Vice Chair Gillespie, Deputy City Engineer Sanchez discussed the 2004 Trails Maps adopted by the City Council. He stated they were preferred paths rather than exclusive easements.

In response to Vice Chair Gillespie, Associate Planner Mollica stated the road would be an extension of Seaboard Road and the property owner would not be allowed to block the road with gates or fences.

In response to Vice Chair Gillespie, Assistant City Attorney Kovacevich stated the assessment district was not within the Commission's purview.

In response to Chair House, Mr. Breitman stated there was a charge on his property tax bills titled as an assessment but he was not sure whether he was included in the discussed assessment district.

In response to Chair House, Deputy City Engineer Sanchez stated he was not sure whether the Breitman properties were in the boundaries of the assessment district.

In response to Commissioner Schaar, Associate Planner Mollica stated a portion of Seaboard Road was a public road. He stated the private portion was essentially a driveway shared by the property owners.

Mr. Sprouse stated the property owners on Seaboard Road had worked out agreements amongst themselves for maintenance of the road. He stated there was no formal agreement, just a mutual benefit system.

In response to Chair House, City Geologist Dean described the paved portion of Seaboard Road. He discussed the geological stability of the road. He stated the road could be widened and stabilized with retaining walls and caissons.

In response to Chair House, Associate Planner Mollica stated the property did not have legal access to Pacific Coast Highway.

In response to Chair House, Associate Planner Mollica stated the CDP for the house was deemed complete prior to October 2004, which allowed the basement to be considered under previous standards.

In response to Chair House, City Biologist Crawford discussed the design of the residence, drainage and the definition of wildlife corridor.

Vice Chair Gillespie discussed legal rights for property access. He expressed concern with the condition of the road. He stated he would like to see the applicant be a good neighbor to the other residents by allowing through traffic during construction.

In response to Vice Chair Gillespie, Mr. Breitman discussed his intention to adhere to a staging plan which requires the dirt from the lot during construction be held in a certain location so as not to impact ESHA and, to the greatest extent possible, keep equipment in one location rather than trucks traveling back and forth on the road constantly. He discussed the use of flagmen during construction.

In response to Vice Chair Gillespie, Mr. Breitman stated he requested that the plan be completed to minimize the number of construction truck traffic. He stated he had not considered providing a shuttle for construction workers. He stated he did not feel any additional contractors would be working on his residence than the other residences in the area recently constructed as fire rebuilds.

Commissioner Schaar discussed cement trucks and the timing of their arrival.

In response to Commissioner Schaar, Planning Manager Rice described in detail the process the project went through in the planning stage and through the CEQA stage.

In response to Chair House, City Biologist Crawford stated impacts to streams were supposed to be avoided. He discussed mitigation that could be done.

Commissioner Schaar stated she would support the project with various conditions regarding the building pad size, basement, conditions of the road, trail dedication, vehicle access and emergency access.

Commissioner Jennings discussed Calvo exemptions. He stated legal access would need to be discussed in a court and stated it was not within the City's power. He stated he did not agree with the 10,000 square foot limitation. He agreed with reviewing the basement at current standards, and requested an amended resolution be brought back with provisions from a recent neighboring project's approval (Smith) and requested that Condition No. 84 be removed and Condition Nos. 85 and 86 remain.

Vice Chair Gillespie stated he agreed with Commissioner Jennings that the basement should conform to current standards.

Assistant City Attorney Kovacevich stated before and after pictures would be required of Mr. Breitman for the condition of the road and that any damage to the road would be resolved through a bond also required of him.

Chair House stated she also wanted the basement to conform to current standards, did not want to limit the location of the other building pads, did not want to widen the current paved private portion of Seaboard Road and supported staging for construction.

Associate Planner Mollica discussed a condition limiting the hours for trucks to drive up Seaboard Road, and a condition establishing a weight limit on construction vehicles, carrying dry cement up to the site, which would cut down a lot of weight on the road.

MOTION Commissioner Schaar moved and Commissioner Jennings seconded a motion to direct staff to bring back a resolution approving the project subject to the additional conditions discussed and directed to staff. The motion carried 3-1-1, Vice Chair Gillespie dissenting and Commissioner Mazza absent.

ADJOURNMENT

MOTION Chair House moved and Commissioner Schaar seconded a motion to adjourn the meeting at 11:14 p.m. The motion carried 4-0-1, Commissioner Mazza absent.

Approved and adopted by the Planning Commission of the City of Malibu on February 3, 2009.



JOAN HOUSE, Planning Commission Chair

ATTEST:



JESSICA BLAIR, Recording Secretary