

CITY OF MALIBU PLANNING COMMISSION
RESOLUTION NO. 20-17

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MALIBU CONSIDERING ADDENDUM NO. 2 TO THE CERTIFIED LA PAZ RANCH DEVELOPMENT AGREEMENT PROJECT FINAL ENVIRONMENTAL IMPACT REPORT AND MAKING FINDINGS IN SUPPORT THEREOF, AND APPROVING COASTAL DEVELOPMENT PERMIT AMENDMENT NO. 17-009 AND CONDITIONAL USE PERMIT AMENDMENT NO. 17-010, AMENDING COASTAL DEVELOPMENT PERMIT NO. 05-107 TO MAKE CHANGES TO THE APPROVED DEVELOPMENT ON PARCELS A AND B OF THE LA PAZ DEVELOPMENT AGREEMENT (.20 FAR) PROJECT INVOLVING BUILDING LAYOUT, ARCHITECTURE AND CIRCULATION, AND REMOVAL OF CONDITION NO. 41, WITH NO INCREASE IN THE APPROVED 112,058 SQUARE FEET OF GROSS FLOOR AREA FOR PARCELS A AND B, INCLUDING AMENDMENT TO CUP NO. 05-004 LOCATED AT 23465 CIVIC CENTER WAY (FORMERLY 3700 LA PAZ LANE), IN THE COMMUNITY COMMERCIAL ZONING DISTRICT AND IN THE TOWN CENTER OVERLAY (MALIBU DEVELOPMENT COMPANY, LLC).

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

SECTION 1. Recitals.

A. On November 10, 2008, the City Council approved two development entitlements on the project site including Coastal Development Permit (CDP) No. 05-107 for a 0.20 floor area ratio (FAR) commercial project (approved project), including a Local Coastal Program Amendment (LCPA), Development Agreement, Zoning Amendment, Lot Line Adjustment and Conditional Use Permit (CUP). In addition, the Council certified the Final La Paz Development Agreement Project Environmental Impact Report (2008 EIR) and adopted a Statement of Overriding Considerations and a Mitigation Monitoring and Reporting Program.

B. On March 10, 2010, the California Coastal Commission conditionally approved the LCPA, Development Agreement, and Zoning Amendment with suggested modifications.

C. On April 12, 2010, the City Council approved the modifications to the LCPA, Development Agreement, and Zoning Amendment approved by the California Coastal Commission.

D. On March 10, 2010, the California Coastal Commission certified the City's approval of the LCPA, Development Agreement, and Zoning Amendment.

E. On June 15, 2015, the Planning Commission approved CDP No. 14-036 for the construction of roadway improvements at Pacific Coast Highway (PCH) and Cross Creek Road in order to fulfill Mitigation Measure K-2 of the 2008 EIR. In approving the CDP, the Planning Commission also considered and approved Addendum No. 1 to the 2008 EIR.

F. On September 26, 2017, the applicant submitted Coastal Development Permit Amendment (CDPA) No. 17-009 to amend the approved project (CDP No. 05-107). The application for the revised project was routed to the City Geotechnical Staff, the City Biologist,

City Public Works Department, and the Los Angeles County Fire Department (LACFD) for review.

- G. On February 6, 2019, a Notice of CDPA was posted on the subject property.
- H. On September 24, 2019, the application was deemed complete for processing.
- I. In early November 2019, story poles for the revised project were installed on the site.
- J. On December 10, 2019, Planning Department Staff conducted a site visit to photograph the story poles.
- K. On December 24, 2019, Addendum No. 2 to the 2008 EIR was prepared by the City and published.
- L. On December 26, 2019, 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.
- M. During the week of January 13, 2020, updated noticing via email, newspaper and regular was conducted to alert the public that the item would be heard as part of the Regular meeting on January 21, 2020.
- N. On January 21, 2020, due to lack of a quorum for the 4:00 p.m. Special Meeting, the meeting was adjourned to the 6:30 p.m. Regular Meeting, and a notice of the adjournment was posted on the door of the Council Chambers indicating the same.
- O. On January 21, 2020, at 6:30 p.m., the Planning Commission held a duly noticed public hearing on the subject application, reviewed and considered the agenda report, reviewed and considered written reports, public testimony, and other information in the record, including the certified 2008 EIR for the La Paz Development Agreement Project and Addendum No. 2 thereto. The Planning Commission adopted the subject resolution, with amendments to the conditions of approval and mitigation measures, which are reflected herein.

SECTION 2. Environmental Review.

Pursuant to the authority and criteria contained in California Environmental Quality Act (CEQA), the Planning Commission has exercised its independent judgment and analyzed the revised project. The Planning Commission finds that the revised project will not create any new significant impacts or increase the severity of impacts as compared to those that were identified in the Final La Paz Development Agreement Project EIR, which was certified by the City of Malibu on November 10, 2008; and that none of the conditions described in CEQA Guidelines Sections 15162 have occurred. The revised project would not cause new significant impacts not identified in the certified 2008 EIR or result in a substantial increase in the severity of previously identified significant impacts. No substantial changes have occurred with respect to the circumstances under which the approved project is undertaken which would require major revisions of the 2008 EIR due to the involvement of new significant environmental effects or a increase in severity of identified effects. There is no new information that shows that the revised project would cause new

significant environmental impacts that were not already analyzed in the certified 2008 EIR. Therefore, pursuant to CEQA Guidelines Section 15164, an addendum to the 2008 EIR (Addendum No. 2) was prepared and no supplemental environmental review is required beyond this Addendum. The certified 2008 EIR and Addendum No. 2 were considered prior to approval of the project. Together they are determined to adequately satisfy all the requirements of CEQA.

SECTION 3. Coastal Development Permit Findings.

Based on substantial evidence in the record and pursuant to LCP Local Implementation Plan (LIP) 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 approved CDPA No. 17-009 for the revised project which makes changes to the approved development on Parcels A and B of the La Paz Development Agreement (.20 FAR) Project (approved project) involving building layout, architecture and onsite circulation, and removes Condition No. 41 (from City Council Resolution No. 08-52), with no increase in the approved 112,058 square feet of gross floor area for Parcels A and B, located at 23465 Civic Center Way (formerly 3700 La Paz Lane) in the Community Commercial zoning district in the Town Center Overlay (Malibu Development Company, LLC).

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

A. General Coastal Development Permit (LIP Chapter 13)

1. The revised project has been reviewed for conformance with the LCP and MMC by the Planning Department, the City Geotechnical staff, the City Biologist, the City Public Works Department, and the LACFD. The revised project meets all development regulations of the Town Center Overlay District and would not exceed the maximum floor area limit of the approved La Paz Development Agreement project. The changes to the building layouts on Parcel B would eliminate the need for Condition No. 41 calling for a gate and after-hours key system for tenant only use. The revised project conforms with the LCP.

2. The revised project would maintain the floor area and scope of the original approved project but with modifications to the building layout, architecture and onsite circulation, all of which comply with the Town Center Overlay development standards established for the approved project. The 2008 EIR was prepared in accordance with CEQA and the CEQA Guidelines. Pursuant to CEQA Guidelines Section 15126.6, the EIR described a range of reasonable alternatives to 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 evaluated the comparative merits of the alternatives. The approved 0.20 FAR project was determined to have similar impacts to the 0.15 FAR preferred alternative with the additional public benefit that land and improvements on Parcel C would be dedicated for City use. Addendum No. 2 to the 2008 EIR and the analysis herein demonstrate that the revised project does not deviate from the approved project in any substantive way with respect to environmental impacts. The revised project can be found to be the least environmentally damaging alternative.

3. The project site is not located in or adjacent to an ESHA and thus the revised project was not reviewed by the ERB. Although not required, the original La Paz Ranch project was reviewed by the ERB in 2006. ERB recommendations were incorporated into the approved project and would remain in effect for the revised project.

B. Native Tree Protection (LIP Chapter 5)

1. Six sycamore trees are located in the proposed development area of Parcel A. Given the site dimensions, LCP and other requirements, including but not limited to, setbacks, open space, landscaping, fire department requirements and circulation, it is not feasible to site the development and roads and structures to allow the retention of the trees. Any development would be expected to utilize the area of the site supporting these trees given all the constraints of siting development. In addition, the required onsite grading and re-compaction of the site for geological requirements make it infeasible to site development that avoids encroaching upon and requiring the removal of the sycamore trees. Mitigation for tree removal requires the replacement of the sycamore trees at a 10 to 1 ratio onsite. Pursuant to LIP Section 5.5.1, a tree replacement plan has been submitted and reviewed by the City Biologist and is incorporated into the landscape plans for the revised project. The revised approved landscape plans illustrate more than 60 sycamore trees will be planted as part of the landscape plan, thus meeting the LCP requirement for the replacement of six native sycamore trees at a 10:1 ratio.

2. As discussed in Section B, Finding 1 above, the adverse impact of tree removal cannot be avoided because there is no feasible alternative. The removal is being properly mitigated.

3. The Mitigation Monitoring Program of the 2008 EIR includes Mitigation Measures A-1 and C-1 which require the planting and maintenance of California sycamore trees onsite at a ratio of 10:1. These measures will apply to the subject revised project as well.

C. Scenic Visual and Hillside Resource Protection Ordinance (LIP Chapter 6)

1. Story poles were placed on the site in November 2019 to demonstrate how the revised project will change the site's visual properties. Staff visited the site to determine if any public views would be blocked and found that like the approved project, no scenic views will be blocked by the revised project.

The revised project has been designed in accordance with the TCO district height standards and like the approved project, would have no significant adverse scenic or visual impacts. The revised project would introduce development to a site that is currently vacant. The project would be visible from portions of City streets (e.g. Civic Center Way, Cross Creek Road and Malibu Canyon Road) as well as from various residential and/or commercial land uses located along these streets. Visibility of the site from designated scenic routes, including PCH and Malibu Canyon Road, is highly limited and obscured by topography, vegetation and existing commercial development in the Civic Center Area. The site is visible from PCH through Legacy Park but development on the site would not result in the obstruction of any significant public scenic views (e.g. ocean, coastline, Santa Monica Mountains).

LUP Policy 6.20 and LIP Section 6.4.E.5 state, “New commercial development within the Civic Center shall be sited and designed to minimize obstructions to the maximum feasible extent of public views of the ridgelines and natural features of the Santa Monica Mountains through measures such as clustering development, and restricting height and bulk of structures.”

Like the approved project, the revised project meets the goals of this policy by focusing development in the center of the irregularly shaped site and away from hillside areas to the north. In addition, as compared to the approved project, the revised project would have one less building, and two buildings which were 32 feet in height would be lowered to 28 feet. Three buildings would stay the same and five buildings would increase to between 26 and 28 feet. These limits in height would continue to minimize obstructions to natural features. Like the approved project, the revised project includes extensive landscaping, is consistent with, or lower than, development in the surrounding area and does not obstruct public views of any significant ridgeline or the Santa Monica Mountains. The revised project will have no significant adverse visual impacts.

2. As discussed in Section C, Finding 1 above, the revised project is not anticipated to have significant scenic or visual impacts.

3. As discussed in Section A, Finding 3, the revised project would have similar impacts to the 0.15 FAR preferred project with an added public benefit. Since there are no significant adverse visual impacts, there are no alternatives to the project that would reduce significant visual impacts.

4. As discussed herein, as the revised project is not expected to have significant adverse visual impacts, there are no feasible alternatives that would avoid or lessen significant adverse visual impacts.

5. As discussed herein, as the revised project is not expected to have significant adverse visual impacts.

D. Hazards (LIP Chapter 9)

1. The revised project would involve approximately 25,591 cubic yards of grading on Parcels A and B. The majority of the grading would be for three subterranean parking structures which would also require shoring and dewatering during the construction process. In addition, substantial remedial grading would be required to address ground settlement and flood hazards. Appropriate design-build recommendations have been incorporated into the project to ensure it would be constructed in accordance with acceptable geotechnical standards. In addition, the 2008 EIR included Mitigation Measures E-1 through E-8 which required the incorporation of various geotechnical techniques as well as documentation and development in accordance with acceptable geologic standards. Implementation of these mitigation measures as well as all conditions of approval pertaining to flood levels and LACFD requirements will ensure that impacts related to grading and geotechnical hazards would be less than significant.

2. The revised project as designed, conditioned, and approved by the City geotechnical staff, City Public Works Department and the LACFD, will have no significant adverse impacts on the site stability or structural integrity.

3. As discussed Section A, Finding 3, the revised project is the least damaging alternative given the public benefit.

4. The project site is partially located within the floodplain and affected by various geologic issues, as detailed in the agenda report. The revised project has been designed to meet all development regulations of the Town Center Overlay District and is subject to the conditions of approval imposed by City geotechnical staff, Public Works and the LACFD. As such, there are no alternatives that would avoid or substantially lessen impacts on site stability or structural integrity.

5. As outlined in the agenda report, the revised project as designed, conditioned, and approved by the City geotechnical staff, City Public Works Department and the LACFD, will have no significant adverse impacts on the site stability or structural integrity. Therefore, no adverse impacts are anticipated to result from hazards or conflict with sensitive resource protection policies contained in the LCP.

SECTION 4. Conditional Use Permit Amendment Findings.

E. CUPA No. 17-010 for Restaurant Use (MMC Section 17.66.080)

1. The proposed restaurants are conditionally permitted uses in the underlying CC zoning district as well as the Town Center Overlay District. The revised project has been conditioned to comply with all applicable provisions of the MMC.

2. The restaurant uses are consistent with the uses envisioned in a commercial shopping center and approved as part of the original project. The revised project will allow siting flexibility within Parcel A and allowing earlier opening times. These changes would not impair the CC zone or the Town Center Overlay.

3. The CUPA will allow siting flexibility and an earlier opening time. The suitability of the site for the revised project will not change compared to the approved project.

4. The approved project including 10,000 square feet of restaurant use within Parcel A was found to be compatible with the uses in the surrounding neighborhood. The 10,000 square feet of restaurant use is approximately 9 percent of the overall 112,058 square feet of development proposed for Parcels A and B. The CUPA would allow restaurants to be sited anywhere within Parcel A, and coffee and juice establishments to open at 6:00 a.m., while breakfast establishments would open at 7:00 a.m. and the remainder of restaurant uses would open at 8:00 a.m., seven days per week. All restaurants would close at 12:00 a.m., Sunday through Thursday, and at 1:00 a.m., Friday through Sunday. Like the original project, the revised project has been designed to be sensitive to the existing residential development by its siting (respecting privacy through vegetative screening, shielding lighting to eliminate glow and night lighting) and overall site landscaping to soften the visual impact of new development and change of use at the site. The revised project will remain compatible with the surrounding neighborhood.

5. As conditioned, the proposed restaurant uses will have limited hours of operation. In accordance with existing CUP conditions, no live entertainment or amplified sound will be permitted unless authorized in a CUP. The proposed uses are not anticipated to generate any impacts that would be incompatible with uses permitted by the General Plan, LCP or MMC, or any uses in the vicinity.

6. The adequacy of public utilities and services has been analyzed in the 2008 EIR, Section I, Public Utilities and Section J, Public Services. The approved project was conditioned to ensure it would not be detrimental to the public health and safety by requiring approval for water service by Waterworks District 29. The property is included in the Assessment District and is served by the Civic Center Water Treatment Facility, which was designed to accommodate wastewater flows from Parcels A, B and C including 10,000 square feet of restaurant space. The CUPA to add siting flexibility and earlier opening hours to the restaurants does not affect the determination made for the approved project that there will be adequate provisions for utilities and services, and no adverse effects on solar access or views.

7. The CUPA to make restaurant siting flexible within Parcel A buildings and allow earlier opening hours has no bearing on the adequacy of public access as determined for the approved project. The revised project continues to provide adequate onsite parking and circulation.

8. The restaurant uses are consistent with the uses envisioned in a commercial shopping center and approved as part of the original project. The revised project will allow siting flexibility within Parcel A and allowing earlier opening times. Like the approved project, the revised project is consistent with the General Plan.

9. The revised 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 Alcoholic Beverage Control.

10. The approved project included 10,000 square feet of restaurant use within Parcel A, which is the same amount proposed in the revised project. All the other conditions of approval of the approved CUP will remain in place. The proposed CUPA to provide siting flexibility within Parcel A and earlier opening hours will not be detrimental to the public interest, health, safety, convenience or welfare.

11. The project site is affected by hazards. The approved project is subject to conditions of approval and mitigation measures that ensure the development is not at risk from hazards. The revised project is subject to the same conditions and mitigation measures as the approved project, which was found not to be at risk. The CUPA does not create new risk from these hazards.

SECTION 5. Planning Commission Action.

Based on the foregoing findings and evidence contained within the record, the Planning Commission hereby approves CDPA No. 17-009 and CUPA No. 17-010 subject to the conditions listed below. All conditions contained in City Council Resolution No. 08-51 (including 2008 EIR Mitigation Monitoring Program) which certified the EIR and Resolution No. 08-52 which approved CDP No. 05-107 and CUP No. 05-004 are incorporated by reference and remain in full force and effect, except as changed by this resolution, and as detailed in the technical corrections to the Mitigation Monitoring Program as presented to the Planning Commission and detailed herein.

SECTION 6. Conditions of Approval.

1. The property owners, and their successors in interest, shall indemnify and defend the City of Malibu and its officers, employees and agents from and against all liability and costs relating to the City's actions concerning this project, including (without limitation) any award of litigation expenses in favor of any person or entity who seeks to challenge the validity of any of the City's actions or decisions in connection with this project. The City shall have the sole right to choose its counsel and property owners shall reimburse the City's expenses incurred in its defense of any lawsuit challenging the City's actions concerning this project.
2. Condition No. 2 of City Council Resolution No. 08-52 shall be modified to read:

The project is to construct a 112,058 square foot shopping center and office park development and 20,000 square feet of municipal uses (to be determined by the City) on Parcels A, B and C as depicted on the project plans and contains the following:

- a. Fuel Modification plan for wildlife hazard reduction
- b. Connection to the Civic Center Wastewater Treatment Facility
- c. Grading shall be consistent with TCO standards
- d. Driveway and safety access improvements
- e. Lot Line Adjustment to adjust property boundaries
- f. Development Agreement No. 07-001
- g. Local Coastal Program Amendment No. 06-003
- h. Conditional Use Permit for up to 10,000 square feet of restaurant use.

No grading or building permits shall be issued until the applicant has supplied proof that the lot line adjustment has been recorded by Los Angeles County and proof that the recorded lot line adjustment has been provided to the Los Angeles County Assessor's Office.

Subsequent submittals for this project shall be in substantial compliance with the comprehensive project plan set on file with the Planning Department labeled "For January 21, 2020 PC meeting" and the Landscape Plans approved by the City Biologist on October 29, 2019. The project shall comply with all conditions of approval stipulated in the department review sheets attached to the agenda report for this project. In the event the project plans conflict with any condition of approval, the condition shall take precedence.

3. Pursuant to LIP Section 13.20, development pursuant to an approved CDPA shall not commence until the CDPA is effective. The CDPA is not effective until all appeals have been exhausted.
4. The property owner must submit payment for all outstanding fees payable to the City prior to issuance of any grading or building permit.
5. Condition No. 41 (after hours gate for tenants) of City Council Resolution No. 08-52 shall be deleted.

6. Condition No. 50 of City Council Resolution No. 08-52 shall be modified to read:

The proposed hours of operation are limited to 6:00 a.m. for coffee and juice establishments and 7:00 a.m. for dining establishments serving breakfast to midnight Sunday through Thursday and to 1:00 a.m. on Friday through Sunday. For any amount of time that a coffee and juice establishment or establishment serving breakfast chooses to open before 8:00 a.m., such establishment must close that amount time earlier than otherwise allowed. For all restaurants, no outdoor restaurant service is allowed after 11:00 p.m.

7. Restaurant use shall not exceed a total of 10,000 square feet of service area, whether inside or outside. No more than 4,000 square feet in the aggregate can be outdoor dining. No more than 40% of the seating for any individual restaurant shall be outdoors. Outdoor dining area shall include the entire area contained within the exterior perimeter of the seating area. Individual CUPs must be obtained for all restaurants which shall detail any outdoor seating area and all service areas.

Public Works

Street Improvements / Easements

8. Prior to the issuance of the grading or building permits, the applicant shall adjust the configuration of the parcel of land to be conveyed in fee to the City, referred to as Parcel C, to include that portion of land lying north of the existing Civic Center Way right of way line and south of the line shown as Proposed R/W Line Per C.S.B B-2022 on the Site Survey for La Paz Ranch dated 9/22/2017. The applicant may alternatively grant to the City an easement agreement for the aforementioned.

9. Condition No. 17 of City Council Resolution No. 08-52 shall be modified to read:

This project proposes to construct improvements within the City's right-of-way. Prior to the Public Works Department's approval of the grading or building permit, the applicant shall obtain encroachment permits from the Public Works Department for the proposed work within the City's right-of-way.

10. This project proposes to construct a new driveway within the City's right-of-way. Prior to the Public Works Department's approval of the grading or building permit, the applicant shall obtain encroachment permits from the Public Works Department for the proposed driveway. The driveway shall be constructed of either 6-inches of concrete over 4-inch of aggregate base, or 4-inches of asphalt concrete over 6-inches of aggregate base. The driveway shall be flush with the existing grades with no curbs.

11. Prior to the issuance of any building permits, the applicant shall improve the adjacent streets identified on Caltrans encroachment permit 716-6MC-2504 and Planning Commission Resolution No. 15-37 (CDP No. 14-036 for Mitigation Measure K-2 street improvements). The new curb and gutter on Webb Way shall be coordinated with the City's Civic Center Way improvements project. New street sections shall be a minimum of 4-inches of asphalt concrete, C2-PG 64-10, and a minimum of 6-inches of processed miscellaneous base. The final street section shall be designed and submitted to the Public Works Department for review and approval. A traffic index of 9 shall be used for the final

pavement design. The design and construction shall include a transition to join the existing street improvements. All concrete shall be colored concrete, Davis Colors Yosemite Brown.

12. Any activities related to this project that will be impacting or taking place in the public right of way will require an encroachment permit

Grading and Drainage

13. Condition No. 19 of City Council Resolution No. 08-52 shall be modified to read:

Exported soil from a site shall be taken to the County Landfill or to a site with an active grading permit and the ability to accept the material in compliance with the City's LIP Section 8.3. A note shall be placed on the project that addresses this condition.

14. The grading and drainage plan shall be approved containing the following information prior to the issuance of grading permits for the project.
 - Public Works Department General Notes
 - The existing and proposed square footage of impervious coverage on the property shall be shown on the grading plan (including separate areas for buildings, driveways, walkways, parking, tennis courts and pool decks).
 - The limits of land to be disturbed during project development shall be delineated on the grading plan and a total area shall be shown on the plan. Areas disturbed by grading equipment beyond the limits of grading, areas disturbed for wastewater improvements and areas disturbed for the installation of the detention system shall be included within the area delineated
 - The grading limits shall include the temporary cuts made for retaining walls, buttresses, and over excavations for fill slopes and shall be shown on the grading plan
 - If the property contains trees that are to be protected they shall be highlighted on the grading plan.
 - If the property contains rare and endangered species as identified in the resources study the grading plan shall contain a prominent note identifying areas to be protected (to be left undisturbed). Fencing of these areas shall be delineated on the grading plan if required by the City Biologist.
 - Private storm drain systems shall be shown on the grading plan. Systems greater than 12-inch diameter shall also have a plan and profile for the system included with the grading plan.
 - Public storm drain modifications shown on the grading plan shall be approved by the Public Works Department prior to the issuance of the grading permit.
15. A digital drawing (AutoCAD) of the project's private storm drain system, public storm drain system within 250 feet of the property limits, and post-construction BMP's shall be submitted to the Public Works Department prior to the issuance of grading or building permits. The digital drawing shall adequately show all storm drain lines, inlets, outlet, post-construction BMP's and other applicable facilities. The digital drawing shall also show the subject property, public or private street, and any drainage easements.

16. The applicant shall label all City/County storm drain inlets within 250 feet from each property line per the City of Malibu’s standard label template. A note shall be placed on the project plans that address this condition.

Stormwater

17. A Storm Water Pollution Prevention Plan shall be provided prior to the issuance of the Grading/Building permits for the project. This plan shall include an Erosion and Sediment Control Plan (ESCP) that includes, but not limited to:

Erosion Controls	Hydraulic Mulch
	Hydroseeding
	Soil Binders
	Straw Mulch
	Geotextiles and Mats
	Wood Mulching
Sediment Controls	Fiber Rolls
	Gravel Bag Berm
	Street Sweeping and/or Vacuum
	Storm Drain Inlet Protection
	Scheduling
	Check Dam
Additional Controls	Wind Erosion Controls
	Stabilized Construction Entrance/Exit
	Stabilized Construction Roadway
	Entrance/Exit Tire Wash
Non-Stormwater Management	Vehicle and Equipment Washing
	Vehicle and Equipment Fueling
	Vehicle and Equipment Maintenance
Waste Management	Material Delivery and Storage
	Spill Prevention and Control

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

18. Condition No. 22 of City Council Resolution No. 08-52 shall be replaced with:

Prior to the approval of any permits and prior to the applicant submitting the required Construction General Permit documents to the State Water Quality Control Board, the applicant shall submit to the Public Works Department for review and approval an Erosion and Sediment Control Plan (ESCP). The ESCP shall contain appropriate site-specific construction site BMPs and developed and certified by a Qualified SWPPP Developer (QWD). All structural BMPs must be designed by a licensed California Engineer. The ESCP must address the following elements:

- Methods to minimize the footprint of the disturbed area and to prevent soil compaction outside the disturbed area.
- Methods used to protect native vegetation and trees.
- Sediment/Erosion Control.
- Controls to prevent tracking on and off the site.
- Non-storm water controls.
- Material management (delivery and storage).
- Spill Prevention and Control.
- Waste Management
- Identification of site Risk Level as identified per the requirements in Appendix 1 of the Construction General Permit.
- Landowner must sign the following statement on the ESCP.
“I certify that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to ensure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering the information, to the best of my knowledge and belief, the information submitted is true, accurate and complete. I am aware that submitting false and/or inaccurate information, failing to update the ESCP to reflect current conditions, or failing to properly and/or adequately implement the ESCP may result in revocation of grading and/or other permits or other sanctions provided by law.”

19. Condition No. 24 of City Council Resolution No. 08-52 shall be replaced with:

A Storm Water Management Plan (SWMP) is required for this project. Storm drainage improvements are required to mitigate increased runoff generated by property development. The applicant shall have the choice of one method specified within the City’s Local Implementation Plan Section 17.3.2.B.2. The SWMP shall be supported by a hydrology and hydraulic study that identifies all areas contributory to the property and an analysis of the predevelopment and post development drainage of the site. The SWMP shall identify the Site design and Source control Best Management Practices (BMP’s) that have been implemented in the design of the project (See LIP Chapter 17 Appendix A). The SWMP shall be reviewed and approved by the Public Works Department prior to the issuance of the grading/building permits for this project.

20. Condition No. 25 of City Council Resolution No. 08-52 shall be replaced with:

A Water Quality Mitigation Plan (WQMP) is required for this project. The WQMP shall be supported by a hydrology and hydraulic study that identifies all areas contributory to the property and an analysis of the predevelopment and post development drainage of the site. The WQMP shall meet all the requirements of the City’s current Municipal Separate Stormwater Sewer System (MS4) permit. The following elements shall be included within the WQMP:

- Site Design Best Management Practices (BMP’s)
- Source Control BMP’s
- Treatment Control BMP’s that retains on-site the Stormwater Quality Design Volume (SWQDv). Or where it is technically infeasible to retain on-site, the project

must biofiltrate 1.5 times the SWQDv that is not retained on-site.

- Drainage Improvements
- A plan for the maintenance and monitoring of the proposed treatment BMP's for the expected life of the structure.
- A copy of the WQMP shall be filed against the property to provide constructive notice to future property owners of their obligation to maintain the water quality measures installed during construction prior to the issuance of grading or building permits.
- The WQMP shall be submitted to Public Works and the fee applicable at the time of submittal for the review of the WQMP shall be paid prior to the start of the technical review. The WQMP shall be approved prior to the Public Works Department's approval of the grading and drainage plan and/or building plans. The Public Works Department will tentatively approve the plan and will keep a copy until the completion of the project. Once the project is completed, the applicant shall verify the installation of the BMP's, make any revisions to the WQMP, and resubmit to the Public Works Department for approval. The original signed and notarized document shall be recorded with the County Recorder. A certified copy of the WQMP shall be submitted to the Public Works Department prior to the certificate of occupancy.
- The project appears to incorporate many water quality BMPs. It is suggested that the applicant consider seeking recognition under LEED through the US Green Building Council.

Traffic

21. The applicant shall prepare a Traffic Impact Analysis (TIA) per the City of Malibu TIA Guidelines. The TIA shall be reviewed and approved by the Public Works Department prior to the issuance of grading or building permits. The applicant is required to construct the applicable mitigation measures recommended in the TIA and approved by the Public Works Director. The traffic mitigation measures shall be constructed prior to occupancy of the first building.
22. Large truck deliveries to the onsite tenant shall not occur between 10:00 p.m. and 7:00 a.m. and not between 4:00 and 5:00 p.m. No trash or recycling pickup is permitted between the hours of 10:00 p.m. and 8:00 a.m.
23. The property owner, applicant or their successor shall prohibit all delivery trucks from loading and/or unloading any goods on any portion of Civic Center Way at all times. The property owner or property owner's agent shall incorporate this restriction into all tenant lease agreements and shall provide the City Planning Department a copy of the relevant portions of the executed lease agreement containing this restriction prior to the final inspection and tenant occupancy.

Commercial Development

24. All commercial developments shall be designed to control the runoff of pollutants from structures, parking and loading docks. The following minimum measures shall be implemented to minimize the impacts of commercial developments on water quality:

- Proper design of loading and unloading docks.
 - i. Cover loading/unloading dock areas or design drainage to minimize run-on and runoff of storm water.
 - ii. Direct connections to storm drains from depresses loading/unloading docks are prohibited.

- Properly Design Repair/Maintenance Bays
 - i. Repair/maintenance bays must be indoors or designed to prohibit storm water runoff or contact with storm water runoff.
 - ii. Repair/maintenance bays shall be designed to capture all wash water, leaks, and spills. Connect drains to a sump for collection and disposal. Direct connection of the repair/maintenance bays to the storm drain is prohibited. Obtain an Industrial waste discharge permit if required.

- Properly Design Vehicle/Equipment Wash Areas
 - i. Self-contained and/or covered wash areas shall be equipped with a clarifier or other pretreatment facility and properly connected to a sanitary sewer.

- Properly Designed Parking lots (5,000 square feet of impervious surface or 25 parking spaces.)
 - Minimize impervious surfacing for parking areas.
 - Infiltrate runoff before it enters a storm drain system.
 - Treat to remove oil and petroleum hydrocarbons at parking lots that are heavily used.
 - Ensure adequate operation and maintenance of treatment systems particularly sludge and oil removal and system fouling and plugging prevention control.

- RESTAURANTS – Properly design Equipment/accessory wash areas.
 - Install self-contained wash area, equipped with grease trap, and properly connected to Sanitary Sewer.
 - If the Wash area is located outdoors, it must be covered, paved, the area must have secondary containment and it shall be connected to the sanitary sewer.

- TRASH STORAGE AREAS
 - Trash container areas must have drainage from adjoining roofs and pavement diverted around the area.
 - Trash container areas must be screened or walled to prevent off-site transport of trash.
 - Trash containers shall be covered and locked to prevent trash overflow.

- OUTDOOR MATERIAL STORAGE
 - 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, kikes or curbs.
 - The storage areas must be paved and sufficiently impervious to contain leaks and spills.
 - The storage area must have a roof or awning to minimize collection of storm water within the secondary containment area.

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25. The project shall comply with the parking lot safety standards ordinance of MMC Section 17.48.070.
 26. During construction, the applicant shall place a minimum of two changeable message boards on Pacific Coast Highway at least one week prior to construction. Wording for the changeable message boards shall be coordinated with the City Public Works Department and Caltrans.
 27. Prior to the approval of the grading or building permits, the configuration of the utilities serving the property and adjacent properties shall be coordinated with the Public Works Department. The applicant shall be responsible for the installation, maintenance, and repair of the following utilities to be installed within a width of 39' at the eastern property line: 6" water line for the City's "Parcel C", 6" water line for the neighboring "Sandstone" parcel, 42" common storm drain, 10" common sanitary sewer main, 12" common fire water main, 4" common recycled water main, 2" common gas line, and common dry utility trench and pull boxes for electrical, telephone, and CATV. The applicant shall ensure to the City for future use a minimum width of 7' of open space within the 39' width along the entire eastern property line. The applicant shall grant the City unlimited use of the utility infrastructure at no cost. The final location and size of the utility infrastructure shall be approved by the Public Works Director.
 28. The applicant shall grant to the City an easement agreement for the shared utilities discussed above.
 29. The project is required to comply with the allocated wastewater flow and organic load per the Civic Center Wastewater Treatment Facility and Assessment District, as directed by the Public Works Director.
 30. Prior to approval of the grading permit, the applicant shall submit a copy of the dewatering permit from the Regional Water Quality Control Board. The project cannot discharge the groundwater in a manner that will be conveyed to the City's storm water treatment facility on Civic Center Way or to Legacy Park.
 31. Applicant shall submit a video recording of the street project limits prior to dewatering operations or commencement of any work.
 32. Prior to commencement of any work, the applicant shall submit a Construction Management plan that shows construction related activities, haul routes, traffic control plan, pedestrian detours, staging areas, work hours, etc.
 33. Applicant shall provide a bond to cover construction activities that will have any potential impacts to the existing pavement within the right of way. Repairs to the pavement shall be curb to curb. The bond amount will be determined by the Public Works Director.
 34. Prior to the approval of any grading and drainage permit, the applicant shall submit a PDF of the final plans. If there are further modifications to the plans, the applicant shall provide the City with an updated PDF.

35. Prior to final Planning inspection of the project, the applicant shall submit an as-built survey depicting the dimensions and square footages of all buildings with a break-down by tenant space and building.

Miscellaneous

36. The developer's consulting engineer shall sign the final plans prior to the issuance of permits.
37. The discharge of swimming pool, spa and decorative fountain water and filter backwash, including water containing bacteria, detergents, wastes, algacides or other chemicals is prohibited. Swimming pool, spa and decorative fountain water may be used as landscape irrigation only if the following items are met:
- The discharge water is dechlorinated, dibrominated or if the water is disinfected using ozonation;
 - There are sufficient BMPs in place to prevent soil erosion; and
 - The discharge does not reach into the MS4 or to the ASBS (including tributaries).

Discharges not meeting the above-mentioned methods must be trucked to a Publicly Owned Wastewater Treatment Works.

The applicant shall also provide a construction note on the plans that directs the contractor to install a new sign stating "It is illegal to discharge pool, spa or water feature waters into a street, drainage course or storm drain per MMC 13.04.060(D)(5)." The new sign shall be posted in the filtration and/or pumping equipment area for the property. Prior to issuance of any permits, the applicant shall indicate the method of disinfection and the method of discharging.

Biology

38. This review is for revised landscaping that was previously approved by Biology in October 2017. All previously identified conditions of approval remain in effect. In the event of conflicting conditions, the more restrictive shall apply.
39. Prior to installation of any landscaping, the applicant shall obtain plumbing permit for the proposed irrigation system from the Building Safety Division.
40. Prior to or at the time of a Planning final inspection, the property owner/applicant shall submit to the case planner a copy of the plumbing permit for the irrigation system installation that has been signed off by the Building Safety Division.
41. Vegetation forming a view impermeable condition (hedge), serving the same function as a fence or wall, occurring within the side or rear yard setback shall be maintained at or below six (6) feet in height. View impermeable hedges occurring within the front yard setback serving the same function as a fence or wall shall be maintained at or below 42 inches in height.
42. Vegetation shall be situated on the property so as not to obstruct the primary view from private property at any given time (given consideration of its future growth).

43. Condition No. 45 of City Council Resolution No. 08-52 shall be replaced with:

Grading/excavation/vegetation removal scheduled between February 1 and September 15 will require nesting bird surveys by a qualified biologist prior to initiation of such activities. Surveys shall be completed no more than 5 days from proposed initiation of site preparation activities. Should active nests be identified, a buffer area no less than 150 feet (300 feet for raptors) shall be fenced off until it is determined by a qualified biologist that the nest is no longer active. A report discussing the results of the surveys shall be turned in to the City within 2 business days of completion of the surveys.

44. Night lighting from exterior and interior sources shall be minimized. All exterior lighting shall be low intensity and shielded so it is directed downward and inward so that there is no offsite glare or any lighting of natural habitat areas.
45. The use of pesticides, including insecticides, herbicides, rodenticides or any toxic chemical substance which has the potential to significantly degrade biological resources shall be prohibited on the project site. The applicant shall submit an Integrated Pest Management Plan for review and approval by the City Biologist prior to completion of the final site inspection.

Deed Restrictions

46. As a condition of approval of new development within or adjacent to an area subject to flooding, land or mudslide, or other high geologic hazard, prior to issuance of the Coastal Development Permit, the property owner shall be required to execute and record a deed restriction which acknowledges and assumes said risks and waives any future claims of damage or liability against the City and agrees to indemnify the City against any liability, claims, damages, or expenses arising from any injury or damage due to such hazards.
47. The property owner is 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 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 the Planning Department prior to final Planning Department approval of the project plans.

Additional Conditions

48. Condition No. 60 of City Council Resolution No. 08-52 shall be revised to read:

An evacuation plan for the La Paz project shall incorporate the use of the facility for emergency use by the surrounding property owners as well as emergency responders. As part of the evacuation plan, and prior to the first Certificate of Occupancy, the applicant shall seek approval from the City for, and shall construct at its own expense, an emergency access driveway connecting the property and the Park at Cross Creek at the northeast corner of Parcel A and an emergency access driveway connecting the property and the County

property to the west across Parcel C if approved by the City. The gates shall include a manual override to allow opening during a power loss. The evacuation plan shall be prepared in conjunction with the City Public Safety Manager.

49. Construction management techniques, including minimizing the amount of equipment used simultaneously and increasing the distance between emission sources, shall be employed as feasible and appropriate. All trucks leaving the construction site shall adhere to the California Vehicle Code. In addition, construction vehicles shall be covered when necessary; and their tires will be rinsed off prior to leaving the property.
50. Fire pits on the property are prohibited.
51. A qualified Native American resources monitor or archaeologist shall be present during all excavation.
52. Submit a plan for the Planning Director's approval addressing proper disposal of water used for cleaning the garage.
53. Any monument sign facing north shall be unlit.
54. All subterranean areas are limited to parking, equipment room or storage.

Updates to Mitigation Monitoring Program

55. (E-1) shall be revised to read:
The proposed project shall be constructed in accordance with the geotechnical engineering recommendations as presented in the following geotechnical engineering reports prepared by Byer Geotechnical, Inc.:
 1. Geotechnical Engineering Report (9/26/2017)
 2. Addendum (1/17/2018)
 3. Addendum (6/27/2018)
 4. Addendum (8/3/2018)
 5. Addendum (10/3/2019)

56. (E-4) shall be revised to read:

As recommended by the Project Geotechnical Engineer, in the project geotechnical engineering reports and addendums, all structures shall sit on compact fill as detailed below:

- Building 1 – Over excavate and re-compact 7 ft of existing soil and place 2.5 ft of new compacted fill for a total depth of compacted fill of approximately 10 ft.
- Building 2 - Over excavate and re-compact 7 ft of existing soil and place 2.5 ft of new compacted fill for a total depth of compacted fill of approximately 10 ft.
- Subterranean Garage (Buildings 3-8) - Over excavate and re-compact 6 ft below the bottom of the subterranean garage mat foundation.
Buildings 9 & 10 - Over excavate and re-compact 5 ft of existing soil and place 1 - 4 ft of new compacted fill for a total depth of compacted fill of 6 - 10 ft
Building 11 - Over excavate and re-compact 5 ft of existing soil and place 3 ft of new

compacted fill for a total depth of compacted fill of 8 ft

- At Buildings 2, 9, a10 and the Subterranean Garage Tensar Geo Fabric will be used to reinforce the compacted fill blankets and will be installed in accordance with manufacturer recommendations as noted in the 8-3-18 geotechnical report addendum.

57. (E-6) shall be revised to read:

The proposed structures should be constructed utilizing foundation systems and slabs-on-grade that are designed in accordance with the recommendations in the project geotechnical reports and geotechnical report addendums and as designed by the project structural engineer.

58. (F-3) shall be revised to read:

The proposed project shall conform to its WQMP as reviewed by the City of Malibu Public Works Department and comply with the BMPs in the design by Psomas, the civil engineer of record.

59. (I-6) shall be deleted.

60. (I-9) shall be revised to read:

Exterior walls shall be finished with non-reflective building materials and high-emissivity characteristics to reduce cooling loads.

61. (J-11) shall be revised to read:

A 6-foot high wrought iron fence or similar shall be constructed along the northern perimeter of the property sufficient to prevent or discourage pedestrians from accessing the Malibu Knolls neighborhood on foot via the hillside.

SECTION 7. The Planning Commission shall certify the adoption of this resolution.

PASSED, APPROVED AND ADOPTED this 21st day of January, 2020.



JEFFREY JENNINGS, Planning Commission Chair

ATTEST:



KATHLEEN STECKO, Recording Secretary

LOCAL APPEAL – 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. 245.

I CERTIFY THAT THE FOREGOING RESOLUTION NO. 20-17 was passed and adopted by the Planning Commission of the City of Malibu at the regular meeting held on the 21st day of January, 2020 by the following vote:

AYES:	5	Commissioners:	Hill, Marx, Uhring, Mazza, Jennings
NOES:	0		
ABSTAIN:	0		
ABSENT:	0		


KATHLEEN STECKO, Recording Secretary