

RESOLUTION NO. 21-45

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MALIBU ADOPTING INITIAL STUDY NO. 21-001, AND MITIGATED NEGATIVE DECLARATION NO. 21-001 PREPARED FOR THE PROJECT PURSUANT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT AND APPROVING COASTAL DEVELOPMENT PERMIT NO. 17-086, CONDITIONAL USE PERMIT NO. 21-001, LOT MERGER NO. 20-002 AND DEMOLITION PERMIT NO. 20-19 TO CHANGE THE LAND USE DESIGNATION OF THE PROPERTIES FROM COMMUNITY COMMERCIAL (CC) TO COMMERCIAL VISITOR SERVING-2 (CV-2), AND A NEW 26,734 SQUARE FOOT, 39-ROOM HOTEL, INVOLVING THE REMODEL OF AN EXISTING FOUR-STORY, 15,392 SQUARE FOOT COMMERCIAL BUILDING AND A 9,500 SQUARE FOOT PARKING LEVEL AT 22741 PACIFIC COAST HIGHWAY AND CONSTRUCTION OF A NEW TWO-STORY, 11,342 SQUARE FOOT ADDITION PLUS A BASEMENT ON AN ADJACENT PARCEL AT 22729 PCH, TO CONSOLIDATE TWO LEGAL LOTS INTO ONE LEGAL PARCEL TOTALING 1.2 ACRES; AND AUTHORIZING THE PLANNING DIRECTOR TO SUBMIT A LETTER OF PUBLIC CONVENIENCE OR NECESSITY FOR THE USE LOCATED IN THE COMMUNITY COMMERCIAL ZONING DISTRICT AT 22741 AND 22729 PACIFIC COAST HIGHWAY (GREY GRANITE, LLC; LAS TUNAS BEACH, LLC; AND SEA VIEW TERRACE, LLC)

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

SECTION 1. Recitals.

A. On November 22, 2016, an application for Local Coastal Program Amendment (LCPA) No. 16-006, General Plan Map Amendment (GPMA) No. 17-002, Zoning Map Amendment (ZMA) No. 17-002 was submitted to the Planning Department by applicant, Norman Haynie, on behalf of Grey Granite, LLC; Las Tunas Beach, LLC; and Sea View Terrace, LLC.

B. On July 15, 2020, Zone Text Amendment (ZTA) No. 20-001 and Lot Merger (LM) No. 20-002 was added to the project.

C. On September 5, 2017, an application for Coastal Development Permit (CDP) No. 17-086 and Variance (VAR) Nos. 17-034, 17-035, and 17-036, Minor Modification (MM) No. 17-016 was submitted to the Planning Department by applicant. The application was routed to the City Geotechnical staff, City Environmental Health Administrator, City Biologist, City Public Works Department, Los Angeles County Fire Department (LACFD), Los Angeles County Waterworks District 29 (WD 29), Los Angeles County Sheriff Department (LACSD) for review.

D. On October 3, 2017, Planning Department staff conducted a site visit to document site conditions, the property and surrounding area.

E. On November 14, 2019, a Notice of Coastal Development Permit Application was posted on the subject property.

F. On April 27, 2020, the City Council directed staff to negotiate Development Agreement terms with the applicant.

G. On August 10, 2020, the City Council provided guidance on public benefits.

H. On September 14, 2020, the City Council approved a Developer Reimbursement Agreement for Rincon to prepare an initial study.

I. On January 27, 2021, Conditional Use Permit (CUP) No. 21-001 was added to the project.

J. On February 4, 2021, a Notice of Intent to Adopt a Mitigated Negative Declaration was published in a newspaper of general circulation within the City of Malibu. The 30-day public review period ran from February 4, 2021 to March 4, 2021. On February 10, 2021, the Governor's Office of Planning and Research distributed the Mitigated Negative Declaration to responsible agencies for a 30-day public review period, from February 10, 2021 to March 11, 2021 (State Clearinghouse No. 2021020208).

K. On March 31, 2021, the Environmental Review Board (ERB) reviewed and considered the subject application, written reports, and provided recommendations to staff regarding the project.

L. On June 14, 2021, staff deemed the application complete.

M. On June 17, 2021, General Plan Amendment (GPA) No. 21-001 was added to the project.

N. On May 13, 2021, 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.

O. On June 30, 2021, the Planning Commission held a duly noticed public hearing on the subject application, reviewed and considered the staff report, reviewed and considered written reports, public testimony, and other information in the record. The Planning Commission adopted Planning Commission Resolution No. 21-47, recommending the City Council approve the proposed project.

P. On July 14, 2021, a Notice of City Council 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.

Q. On August 9, 2021, the City Council held a duly noticed public hearing on the subject application and directed staff to reconvene the hearing for the subject item at the August 19, 2021 Adjourned Regular meeting with a revised resolution to include revisions to several conditions of approval, add a new condition and revise Section 4 of Resolution No. 21-45 and the development agreement to increase the public benefit amount to \$800,000.

R. On August 19, 2021, the City Council reconvened the public hearing for the subject item at the Adjourned Regular City Council meeting and continued to the item to the September 13, 2021 Regular City Council meeting.

S. On September 13, 2021, the City Council held a duly noticed public hearing on the subject application, reviewed and considered the staff report, reviewed and considered written reports, public testimony, and other information in the record.

SECTION 2. Adoption of Mitigated Negative Declaration

Pursuant to the authority and criteria contained in the California Environmental Quality Act (CEQA), the City Council has analyzed the proposed project. The Planning Department prepared an initial study (Initial Study [IS] No. 21-001) pursuant to CEQA Guidelines Section 15305. The initial study analyzed the proposed project and determined that it will not have a significant impact on the environment with implementation of mitigation measures; subsequently, Mitigated Negative Declaration (MND) No. 21-001 was prepared and circulated pursuant to CEQA Guidelines Section 15070.

On February 4, 2021, the City made IS No. 21-001 and MND No. 21-001 available to the public for the required 30-day circulation period, which concluded on March 4, 2021. The State Clearinghouse closed its review period on March 11, 2021. A total of seven pieces of correspondence was received during the public comment period, which is discussed in a Response to Comments (Section 2.0) added to the Final IS/MND.

The City Council has considered IS/MND No. 21-001 together with the comments received during the public review process. IS/MND No. 21-001 reflects the independent judgment of the Planning Commission, and has been completed in compliance with CEQA, and is adequate for this project.

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

The City Council further finds that less than significant impacts on the environment are expected from the project, with implementation of mitigation measures. Based on the record as a whole, there is no substantial evidence that the project, as conditioned, will have a significant effect on the environment.

SECTION 3. Coastal Development Permit Findings.

Based on substantial evidence contained within the record and pursuant to Local Coastal Program (LCP) Local Implementation Plan (LIP), including Sections 13.7(B) and 13.9, the City Council adopts the analysis in the agenda report, incorporated herein, the findings of fact below, and approves CDP No. 17-086 to construct new, 4-story, 26,734-square foot, 39-room hotel with a Floor Area Ratio of 0.52 involving the remodel of an existing four-story, commercial building, comprising 15,392 square feet of floor area with a 9,500 square foot parking level and construction of a new, 2-story, 11,342 square foot addition with a basement on an adjacent parcel. The project includes a restaurant/bar, spa, rooftop deck and swimming pool, new surface parking lot, hardscape and landscaping, grading and retaining wall, lighting and utilities, and an upgrade and expansion of the existing onsite wastewater treatment system, CUP No. 21-001 for the hotel use in the Commercial Visitor Serving zoning district, and alcohol service, LM No. 20-002 to merge the two subject parcels, and DP No. 20-019 to demolish the existing gas station, located in the CC zoning district at 22741 and 22729 Pacific Coast Highway.

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

A. General Coastal Development Permit (LIP Chapter 13)

1. Evidence in the record, including submitted reports, project plans, visual analysis and site investigation, demonstrates that the proposed project, as conditioned, conforms to the LCP and MMC in that it meets all applicable development standards inclusive of the requested discretionary requests. The proposed DA 0.52 Project will conform to the MMC upon approval by the City Council and will conform with the LCP upon CCC certification of the LCPA, for the development agreement and Overlay District. The project has been reviewed for conformance with the LCP by the Planning Department, City Biologist, City Environmental Health Administrator, City geotechnical staff, City Public Works Department, WD29, LACFD and LACSD.

2. IS-MND No. 21-00 was prepared in accordance with CEQA and the CEQA Guidelines Other alternatives were analyzed. This analysis assesses whether alternatives to the proposed project would significantly lessen adverse impacts to coastal resources. Evidence in the record demonstrates an alternative project will not have a significant environmental or visual advantage as the development is sited within the property dimensions of legal lots and the footprint of existing and previously existing development. As a result, the project as proposed and conditioned is the least environmentally damaging alternative.

3. The project and IS/MND No. 21-001 were reviewed by the ERB and it provided recommendations that were all added as conditions of approval.

B. Hazards (LIP Chapter 9)

1. Evidence in the record demonstrates that the project, as conditioned, will incorporate all recommendations contained in the above cited geotechnical report and conditions required by the City geotechnical staff, City Public Works Department, and the LACFD, including foundations, AOWTS, and drainage. As such, the proposed project will not increase instability of the site or structural integrity from geologic, flood, or any other hazards.

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

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

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

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

C. Land Division (LIP Chapter 15 and MMC 16.32.010)

1. (a) Since the proposed use encompasses two parcels, the lot merger is also proposed to combine the two parcels as one, comprising the hotel Project Site. The lot merger is a condition of approval for CUP No. 21-001 and is authorized as a condition of CDP No. 17-086. (b) The subject property is not in a designated ESHA or ESHA buffer as shown on the LCP ESHA and Marine Resources Map. The subject parcel is not located within the first public street and the ocean. The Project will not have an adverse effect either individually or cumulatively on coastal resources.

2. Said instrument is required as a condition of approval in this permit. Upon submittal, the document shall be reviewed by the City Engineer and approved by the Planning Director and recorded at the Los Angeles County Recorder's Office.

D. Conditional Use Permit No. 21-001 – Commercial Expansion, Hotel and Associated Uses, and Alcohol Sales

1. The proposed hotel use is a conditionally permitted use in the CV-2 zoning district. Pursuant to MMC Sections 17.22.040(B) and 17.24.030(A), restaurants and onsite alcohol sales/consumption are conditionally permitted uses in the CV-2 zoning district. Therefore, the proposed project has been conditioned to comply with all applicable provisions of the MMC.

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

3. The subject site is physically suitable for the proposed hotel land use and for providing alcohol service. The existing commercial development can accommodate the proposed visitor-serving commercial use by converting the existing commercial office use to the hotel use with limited physical modifications to the existing commercial development, and the construction of an addition on the immediately adjacent property is readily accommodated. The proposed hotel project with restaurant, bar and recreation area are areas suited for consumption of food or beverages. The proposed alcohol service would occur within areas already designated for consumption of food or beverages.

4. The proposed project can be accommodated by converting the use of the existing commercial development on the property with limited physical modifications, and the construction of an addition on the immediately adjacent property is readily accommodated. The proposed buildings have been sensitively designed and sited to be compatible with the surrounding commercial and residential land uses. The proposed alcohol service, in association with a hotel with restaurant, is a compatible land use. The proposed hotel project with restaurant, bar and

recreation area are areas suited for consumption of food or beverages. The proposed alcohol service would occur within areas already designated for consumption of food or beverages.

5. The proposed use hotel use and alcohol service is compatible with existing and future land uses. The proposed hotel project with restaurant, bar and recreation area are areas suited for consumption of food or beverages. The proposed alcohol service would occur within areas already designated for consumption of food or beverages. The project is also located within the commercial corridor of the city and the surrounding development is comprised of restaurants, motels, and other commercial development. The restaurants in the surrounding zoning district also provide alcohol service.

6. There would be adequate provisions for water, sanitation, and public utilities and services to ensure that the proposed use would not be detrimental to public health and safety. Adequate public services are available to serve the project. Utilities are available to serve the project. Existing utilities serve the project site, and onsite and offsite upgrades are proposed to the OWTS and water service that improve water quality and water service for the area. The AOWTS has been reviewed by the City Environmental Health Administrator and on March 29, 2018, was found to meet the minimum requirements of the Malibu Plumbing Code, the MMC. and the LCP. The subject system will meet all applicable requirements, and operating permits will be required.

7. Adequate public services are available to serve the project. Access to the project is from PCH, an existing public road. The existing vehicle access is from two existing driveways on Pacific Coast Highway. The City Traffic Engineer will decide how the existing driveways will function to ensure the highest level of safety on Pacific Coast Highway and to optimize onsite circulation. The LACFD has reviewed and conditioned the project for conformance with fire safety standards. The project will not have significant effects.

8. The Malibu General Plan is a policy document that contains policy measures. The specific development standards to implement these policy measures are located in the MMC. Hotel uses and alcohol service are conditionally permitted commercial uses in the CV-2 zoning district and, as conditioned, is consistent with the goals, objectives, policies, and general land uses of the General Plan, inclusive of the GPA.

9. The proposed project will comply with all applicable requirements of State and local law and is conditioned to comply with any relevant approvals, permits and licenses from the City of Malibu and other related agencies such as the ABC and the LACSD.

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

11. There is clear and compelling evidence that the project is not located in an area determined by the City to be at risk from earth movement, flooding or liquefaction. With the implementation of the recommendations of the project geotechnical engineer and City geotechnical staff, less than significant impacts on structural integrity from geologic or flood hazards are expected. The proposed project, as conditioned, will not increase instability of the site or structural integrity from geologic, flood, fire or any other hazards. City geotechnical staff has

approved the water tank for conformance with all LCP standards, subject to the incorporation of the project geotechnical consultant's recommendations.

E. Demolition Permit Findings (MMC Chapter 17.70)

1. Conditions of approval, including the recycling of demolished materials, have been included to ensure that the proposed project will not create significant adverse environmental impacts.

2. This CDP application is being processed concurrently with DP No. 20-019, and approval of the demolition permit is subject to the approval of CDP No. 17-086.

SECTION 4. Determination of Public Convenience or Necessity.

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

SECTION 5. City Council Action.

Based on the foregoing findings and evidence contained within the record, the City Council adopts IS/MND No. 21-001 and approves CDP No. 17-086, CUP No. 21-001, LM No. 20-002 and DP No. 20-019, subject to the following conditions.

SECTION 6. Conditions of Approval.

Standard Conditions

1. The property owners, and their successors in interest, shall indemnify and defend the City of Malibu and its officers, employees and agents from and against all liability and costs relating to the City's actions concerning this project, including (without limitation) any award of litigation expenses in favor of any person or entity who seeks to challenge the validity of any of the City's actions or decisions in connection with this project. The City shall have the sole right to choose its counsel and property owners shall reimburse the City's expenses incurred in its defense of any lawsuit challenging the City's actions concerning this project.
2. Approval of this application is to allow for the project described herein. The scope of work approved includes:
 - a. Construction of a new, 4-story, 26,734-square foot, 39-room hotel with a FAR of 0.52 involving the remodel of an existing four-story, office building at 22741 PCH, comprising 15,392 square feet of floor area with a 9,500 square foot parking level;
 - b. New, 2-story, 11,342 square foot addition with a basement on an adjacent parcel at 22729 PCH;

- c. Restaurant/bar;
 - d. Spa;
 - e. Rooftop deck and pool;
 - f. New surface parking lot;
 - g. Hardscape and landscaping;
 - h. Grading and retaining wall;
 - i. Lighting and utilities; and
 - j. Upgrade and expansion of the existing onsite wastewater treatment system,
 - k. Discretionary Requests:
 - i. CUP No. 21-001 for the hotel use in the commercial visitor serving zoning district, and alcohol service
 - ii. LM No. 20-002 to merge the two subject parcels; and
 - iii. DP No. 20-019 to demolish the existing gas station.
3. Except as specifically changed by conditions of approval, the proposed development shall be constructed in substantial compliance with plans on-file with the Planning Department, date-stamped **November 11, 2020**. The proposed development shall further comply with all conditions of approval stipulated in this resolution and Department Review Sheets attached hereto. In the event the project plans conflict with any condition of approval, the condition shall take precedence.
4. Pursuant to LIP Section 13.18.2, this permit and rights conferred in this approval shall not be effective until the property owner signs and returns the Acceptance of Conditions Affidavit accepting the conditions set forth herein. The applicant shall file this form with the Planning Department within 10 days of this decision and/or prior to issuance of any development permits.
5. The applicant shall submit three (3) complete sets of plans, including the items required in Condition No. 6, to the Planning Department for consistency review and approval prior to plan check and again prior to the issuance of any building or development permits.
6. This resolution, signed Acceptance of Conditions Affidavit and all Department Review Sheets attached to the City Council agenda report for this project shall be copied in their entirety and placed directly onto a separate plan sheet behind the cover sheet of the development plans submitted to the City of Malibu Environmental Sustainability Department for plan check.
7. This CDP shall expire if the project has not commenced within three (3) years after issuance of the permit. Extension of the permit may be granted by the approving authority for due cause. Extensions shall be requested in writing by the applicant or authorized agent prior to expiration of the three-year period and shall set forth the reasons for the request. In the event of an appeal, the CDP shall expire if the project has not commenced within three years from the date the appeal is decided by the decision-making body or withdrawn by the appellant.
8. Any questions of intent or interpretation of any condition of approval will be resolved by the Planning Director upon written request of such interpretation.

9. All development shall conform to requirements of the City of Malibu Environmental Sustainability Department, City Biologist, City Environmental Health Administrator, City geotechnical staff, City Public Works Department, Los Angeles County Sheriff's Department, WD 29, and LACFD, as applicable. Notwithstanding this review, all required permits shall be secured. Notwithstanding this review, all required permits shall be secured.
10. Minor changes to the approved plans or the conditions of approval may be approved by the Planning Director, provided such changes achieve substantially the same results and the project is still in compliance with the MMC and the LCP. Revised plans reflecting the minor changes and additional fees shall be required.
11. Pursuant to LIP Section 13.20, development pursuant to an approved CDP shall not commence until the CDP is effective. The CDP is not effective until all appeals, including those to the CCC, have been exhausted. In the event that the CCC denies the permit or issues the permit on appeal, the CDP approved by the City is void.
12. The applicant must submit payment for any outstanding fees payable to the City prior to issuance of any building or grading permit.

Lighting

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

18. Motion sensor lights shall be programmed to extinguish ten minutes after activation.
19. Three sequential violations of the conditions by the same property owner will result in a requirement to permanently remove the outdoor light fixture(s) from the site.

Building Plan Check/Department Conditions

Construction / Framing

20. A construction staging plan shall be reviewed and approved by the Planning Director prior to plan check submittal.
21. Construction hours shall be limited to Monday through Friday from 7:00 a.m. to 7:00 p.m. and Saturdays from 8:00 a.m. to 5:00 p.m. No construction activities shall be permitted on Sundays or City-designated holidays.
22. 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.
23. When framing is complete, a site survey shall be prepared by a licensed civil engineer or architect that states the finished ground level elevation and the highest roof member elevation. Prior to the commencement of further construction activities, said document shall be submitted to the assigned Building Inspector and Planning Department for review and sign off on framing.
24. Prior to issuance of a building/demolition permit, an Affidavit and Certification to implement a Waste Reduction and Recycling Plan (WRRP) shall be signed by the Owner or Contractor and submitted to the Environmental Sustainability Department. The WRRP shall indicate the agreement of the applicant to divert at least 50 percent of all construction generated by the project.
25. For the transportation of heavy construction equipment and/or material, which requires the use of oversized-transport vehicles on State highways, the applicant / property owner is required to obtain a transportation permit from the California Department of Transportation.

Cultural Resources

26. In-lieu of the standard conditions of approval for cultural resources protection, the mitigation measures of the Mitigation Monitoring and Reporting Program (MMRP) shall apply.
27. Archaeological monitoring of all excavation activities shall be performed on the project site. The monitoring team shall consist of one qualified archaeologist and one qualified Chumash cultural resource monitor who shall observe all excavation activities and record, document, and illustrate the excavated area with plans and profiles. Should the presence of

important prehistoric cultural resources or ethnohistoric Chumash cultural resources be found, an evaluation and Phase III mitigation program shall be conducted in consultation with the qualified Chumash Cultural resource monitor. The Planning Director shall review and approve all design/work plans for Phase III mitigation programs and reports which detail the evaluative techniques and results.

28. Prior to the issuance of building permits, the contact information for the retained archaeological monitoring team shall be provided to the Planning Department. A copy of this approval shall be provided to the archaeological monitoring team for reference.
29. If human bone is discovered, the procedures described in Section 7050.5 of the California Health and Safety Code shall be followed. These require notification of the coroner. If the coroner determines that the remains are those of a Native American, the applicant shall notify the Native American Heritage Commission by phone within 24 hours. Following notification of the Native American Heritage Commission, the procedures described in Section 5097.94 and Section 5097.98 of the California Public Resources Code shall be followed.

Site-Specific Conditions

30. Prior to the issuance of a certificate of occupancy or provides a cash bond to the City ensuring completion of the work within two years of the issuance of the certificate of compliance, the applicant or property owner shall complete Spec 29-840 (PC) that includes the installation of a new 20" check valve and 18" spool in the Caltrans right of way along Topanga Canyon Boulevard, pursuant to WD 29 standards and requirements.
31. Future signage plans shall demonstrate that signage does not impair visibility for drivers along PCH.
32. This conditional use permit shall not be effective until all appeals are exhausted and the property owner, applicant and the business operator execute the Affidavit of the Acceptance of Conditions. Said documents shall be recorded with the Los Angeles County Recorder and a certified copy of said recordation shall be filed with the Planning Department within 10 days of the effective date of the approval.
33. The applicant shall coordinate with Metro Bus Operations Control Special Events Coordinator and Metro's Stops and Zones Department no later than 30 days before the start of project construction.
34. Prior to issuance of building permits, the applicant/property owner shall pay a fee of \$110,000 to the City in-lieu of providing lower cost overnight accommodations.
35. A traffic controller shall manage traffic entering and exiting the project site.
36. The Planning Director shall review and approve plans for proposed monument signs, including lighting type determined by safety alternatives and shall be compliant with the City's Dark Sky Ordinance.
37. Prior to plan check, the five far lifts shall be removed from the project plans.

Mitigation Monitoring and Reporting Program

38. The project shall comply with all the mitigation measures included in the MMRP of IS-MND No. 21-001.

Colors and Materials

39. The project is visible from scenic roads or public viewing areas and shall incorporate colors and materials that are compatible with the surrounding landscape.
- Acceptable colors shall be limited to colors compatible with the surrounding environment (earth tones) including shades of green, brown and gray and colors of the existing commercial building at 22741 PCH. Colors shall be reviewed and approved by the Planning Director and clearly indicated on the building plans.
 - The use of highly reflective materials shall be prohibited except for solar energy panels or cells, which shall be placed to minimize significant adverse impacts to public views to the maximum extent feasible.
 - All windows shall be comprised of non-glare glass.
40. Retaining walls visible from beaches or public viewing areas shall incorporate veneers, texturing and/or colors to blend with the surrounding earth materials. The colors shall be reviewed and approved by the Planning Director and clearly indicated on the grading and building plans.
41. All driveways shall be a neutral color that blends with the surrounding landforms and vegetation. The colors shall be reviewed and approved by the Planning Director and clearly indicated on the grading and building plans.

Conditional Use Permit

42. This conditional use permit may be reviewed by the Planning Director (predecessor and/or designee) and/or Planning Commission on an as-needed basis at the discretion of the Planning Director (predecessor and/or designee) or Planning Commission. Should it be determined that a review is required, the applicant shall pay the Planning Department staff site inspection fee in effect at the time of request for a site inspection. A staff planner will conduct a site visit to verify compliance with the provisions set forth in this resolution. If necessary, the Planning Director will determine whether the conditional use permit may be brought back to the Planning Commission for additional conditions to mitigate and/or prevent nuisances that were identified during the site inspection or made aware of by members of the public. Possible mitigation measures can include:
- Modifying the hours of operation;
 - Incorporate noise mitigating measures / devices;
 - Traffic safety measures;
 - Land use intensification or reconfiguration of shared parking that would result in a parking demand greater than approved under this application; or
 - Other measures deemed necessary by the Planning Commission.
43. The property owner / tenant shall not use the parking lot for any use other than the uses and activities explicitly permitted for the subject parcel or as permitted by a temporary use permit or filming permit, except no temporary use permit is required if the occupancy on the property

does not exceed the number of guests at the hotel, up to 90 guests, and (if the restaurant is closed to the public) the occupancy allowed at the restaurant.

44. The property owner and operator must secure an off-site parking area to accommodate vehicles for all events that overlap with other uses that will generate a parking demand in excess of the proposed parking spaces. A shuttle service must be provided between the off-site parking area and the subject property.
45. The conditions under which this conditional use permit may be modified by the City without the consent of the property owner or operator if the Planning Commission finds that the use is creating a nuisance.
46. A conditional use permit that is valid and in effect and was granted pursuant to the provisions of the MMC, shall run with the land and continue to be valid upon change of ownership of the land or any lawfully existing building or structure on the land.
47. This conditional use permit shall no longer be valid and in effect with the demolition of all buildings, including a major remodel constituting new development requiring a new CDP.
48. The conditional use permit may be revoked if the Planning Commission finds that one or more of the following conditions exists:
 - a. The conditional use permit was obtained in a fraudulent manner.
 - b. The use for which the conditional use permit was granted has ceased or was suspended for at least six successive calendar months.
 - c. One or more of the conditions found within this resolution have not been substantially met.
49. The conditional use permit is subject to Planning Commission revocation should the use for which the conditional use permit was granted cease for six successive calendar months, except in the case of a natural disaster.
50. Temporary uses shall be in accordance with LIP Section 13.4.9 and the temporary use permit process contained within Malibu Municipal Code Chapter 17.68.
51. Adequate staff shall be provided to ensure that traffic does not back up onto PCH.
52. All vehicles other than vehicles owned by hotel staff shall be by valet parked.
53. All hotel employees and independent contractors working at the hotel are prohibited to park offsite in Malibu while working at the property.
54. Planning Department staff to conduct a review of hotel operations and compliance with conditions of approval one year and five years after hotel operations commence and shall report the same to the Planning Commission.
55. There shall be no joint parking arrangement or agreement except for seven spaces on the McDonald's lot if legally applied for and approved.

- 56. Planning Director has the authority to approve the relocation of the restaurant from the first level to the fifth level, given that the service area must remain unchanged, and exterior walls must be sound tight.
- 57. Patios attached to hotel rooms may be accessed by registered hotel guests only.
- 58. Off-site sale of alcohol is prohibited. All alcohol purchased onsite shall be consumed or disposed onsite.
- 59. Laundry facilities for linens are prohibited. Linens shall be laundered offsite.

Commercial Development

- 60. 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:
 - a. 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 depressed loading/unloading docks are prohibited.
 - b. 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.
 - c. 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.
 - d. Properly designed Parking lots (5,000 square feet of impervious surface or 25 parking spaces.)
 - i. Minimize impervious surfacing for parking area.
 - ii. Infiltrate runoff before it reaches a storm drain system.
 - iii. Treat to remove oil and petroleum hydrocarbons at parking lots that are heavily used.
 - iv. Ensure adequate operation and maintenance of treatment systems particularly sludge and oil removal system fouling and plugging prevention control.

Restaurants

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

62. This approval is for the operation of a full-service restaurant serving alcohol for onsite consumption. The hours of operation will be 7:00 A.M. to 12:00 A.M., Sunday through Thursday, and 7:00 A.M. to 2:00 A.M. Fridays and Saturdays.
63. The rooftop deck, swimming pool and spa shall be open to registered guests of the hotel only. The restaurant may be open to hotel guests and members of the public.
64. The public restaurant (available to non-registered guests) is limited to 890 square feet of gross floor area used for the consumption of food or beverages, or public recreation areas unless additional parking spaces can be provided at which time a conditional use permit amendment may be requested to expand the restaurant space.

Trash Storage Areas

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

Outdoor Material Storage

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

Alcohol Service

70. This CUP permits the sale and consumption of alcoholic beverages with an approved ABC license. The property owner / tenant shall obtain all necessary approvals from ABC. Once obtained, the applicant is required to provide the Planning Department a copy of the issued ABC license.
71. A copy of the current ABC license shall be kept on the premises of the establishment and be presented to City staff, including the City's Planning Director and Code enforcement staff, law enforcement officers or their duly authorized representatives, upon request.
72. At all times during the conduct of the permitted use, the permittee shall maintain and keep in effect valid licensing approval from ABC. Should such licensing be denied, expire, or lapse at any time in the future, the approval of alcohol sale pursuant to this permit is subject to modification or revocation of this conditional use permit pursuant to MMC Section 17.66.100(C).

73. The property owner / operator shall adhere to a “good neighbor” policy, meaning that the operator and employees must respect the rights of neighboring properties, and to the best of their ability, shall ensure their patrons’ compliance with the City’s noise and smoking regulations and all conditions of approval for the subject use relating to parking, smoking, litter, noise, loitering, etc.
74. Noise emanating from the premises shall not be audible at a distance of five feet of any residential unit between the hours of 10:00 P.M. and 7:00 A.M., as required by MMC Section 8.24.050(L).
75. The property owner / tenant shall comply with the requirements set forth in MMC Chapter 9.28 (Plastic Bag Ban). No retail establishment, restaurant, vendor, or nonprofit vendor shall provide plastic bags or compostable bags to customers. This requirement applies to plastic or compostable bags provided at the point of sale for the purpose of carrying away goods.
76. No restaurant, food packager, retail food vendor, or nonprofit food provider shall provide prepared food to its customers in any food packaging that utilizes expanded polystyrene. “Expanded polystyrene” means and includes blown polystyrene and expanded and extruded foams (sometimes incorrectly called Styrofoam, a Dow Chemical Company trademarked form of polystyrene foam insulation) which are thermoplastic petrochemical materials utilizing a styrene monomer and processed by any number of techniques including, but not limited to, fusion of polymer spheres (expandable bead polystyrene), injection molding, foam molding, and extrusion-blow molding (extruded foam polystyrene). Expanded polystyrene is generally used to make cups, bowls, plates, trays, clamshell containers, meat trays, and egg cartons.
77. The property owner / tenant shall comply with the requirements set forth in MMC Chapter 9.24 (Ban on Plastic Food Packaging and Other Plasticware). No retail establishment, restaurant, vendor or nonprofit shall provide plastic beverage straws, plastic stirrers, or plastic cutlery to customers.
78. Staff shall inspect the property as needed after approval of the CUP to verify compliance with the conditions of approval.
79. The Planning Department shall conduct a review of restaurant operations and compliance with conditions of approval. The report shall be presented to the Planning Commission five years after CUP approval.

Sheriff's Department

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

Water Quality/Water Service

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

Biology/Landscaping

82. The use of pesticides, including insecticides, herbicides, rodenticides or any toxic chemical substance which has the potential to significantly degrade biological resources shall prohibited throughout the City of Malibu. The eradication of invasive plant species or habitat restoration shall consider first the use of non-chemical methods for prevention and management such as physical, mechanical, cultural, and biological controls. Herbicides may be selected only after all other non-chemical methods have been exhausted. Herbicides shall be restricted to the least toxic product and method, and to the maximum extent feasible, shall be biodegradable, derived from natural sources, and use for a limited time.
83. Prior to the initiation of any work between October 1 and March 1, the project limits and a 300-foot buffer shall be monitored by a qualified biologist with knowledge of monarch butterfly migration. The biologist shall determine if any portion of the project limits or buffer area is supporting over-wintering monarch butterflies. The surveying biologist shall confer with the City Biologist to determine if wintering monarchs would be affected by the proposed project. The project may then start after written authorization by the City Biologist.
84. Any site preparation activities scheduled between February 1 and August 30 will require nesting bird surveys by a qualified biologist prior to initiation of grading activities. Surveys shall be completed no more than five days from the proposed initiation of site preparation activities. Should active nests be identified, a buffer area no less than 250 feet (300 feet for raptors) shall be fenced off until it is determined by a qualified biologist that the nest is no longer active. New vegetation shall be situated so as not to obstruct the primary view from private property at any given time, given consideration for future growth.
85. Prior to final Planning inspection or other final project sign off (as applicable), the applicant shall submit to the Planning Director for review and approval a certificate of completion in accordance with the Landscape Water Conservation Ordinance (MMC Chapter 9.22). The certificate shall include the property owner's signed acceptance of responsibility for maintaining the landscaping and irrigation in accordance with the approved plans and MMC Chapter 9.22.
86. Invasive plant species, as determined by the City of Malibu, are prohibited.
87. Vegetation shall be situated on the property so as not to significantly obstruct the primary view from private property at any given time (given consideration of its future growth).
88. The landscape plan shall prohibit the use of building materials treated with toxic compounds such as creosote or copper arsenate.

89. Prior to installation of any landscaping, the applicant shall obtain a plumbing permit for the proposed irrigation system from the Building Safety Division.
90. Prior to a final plan check approval, the property owner /applicant must provide a landscape water use approval from the WD29.
91. Vegetation forming a view impermeable condition serving the same function as a fence or wall (also known as a hedge) located within the side or rear yard setback shall be maintained at or below a height of six feet. A hedge located within the front yard setback shall be maintained at or below a height of 42 inches. Three sequential violations of this condition will result in a requirement to permanently remove the vegetation from the site.
92. Vegetation in excess of six feet in height shall not obstruct the primary view of existing residences located within a 1,000-foot radius at any given time (given consideration of its future growth).
93. Plantings required for fuel modification must be native, drought-tolerant species and shall blend with the existing natural vegetation and natural habitats on the site.
94. Use of wood chips and shredded rubber is prohibited anywhere on the site. Flammable mulch material, including shredded bark, pine needles, and artificial turf, are prohibited between zero and five feet of a structure. Non-continuous use of flammable mulch (excluding wood chips and shredded rubber) is allowed between 5 and 30 feet from the eave/overhang of a structure with limited application areas. Any mulch materials (excluding wood chips and shredded rubber) are allowed 30 feet or more from a structure with no limitation on application area.
95. Prior to the issuance of a demolition permit of structures that may provide habitat for bats, a bat survey should be required to avoid the direct loss of bats.

Environmental Health

96. Prior to the issuance of a building permit the applicant shall demonstrate, to the satisfaction of the Building Official, compliance with the City of Malibu's onsite wastewater treatment regulations including provisions of MMC Chapters 15.40, 15.42, 15.44, and LIP Chapter 18 related to continued operation, maintenance and monitoring of the OWTS.
97. Prior to final Environmental Health approval, a final OWTS plot plan shall be submitted showing an OWTS design meeting the minimum requirements of the MMC and the LCP, including necessary construction details, the proposed drainage plan for the developed property and the proposed landscape plan for the developed property. The OWTS plot plan shall show essential features of the OWTS and must fit onto an 11-inch by 17-inch sheet leaving a five-inch margin clear to provide space for a City applied legend. If the scale of the plans is such that more space is needed to clearly show construction details and/or all necessary setbacks, larger sheets may also be provided (up to a maximum size of 18 inches by 22 inches).
98. A final design and system specifications shall be submitted as to all components (i.e., alarm system, pumps, timers, flow equalization devices, backflow devices, etc.) proposed for use

in the construction of the proposed OWTS. For all OWTS, final design drawings and calculations must be signed by a California registered civil engineer, a registered environmental health specialist or a professional geologist who is responsible for the design. The final OWTS design drawings shall be submitted to the City Environmental Health Administrator with the designer's wet signature, professional registration number and stamp (if applicable).

99. Any above-ground equipment associated with the installation of the OWTS shall be screened from view by a solid wall or fence on all four sides. The fence or walls shall not be higher than 42 inches tall.
100. The final design report shall contain the following information (in addition to the items listed above).
 - a. Required treatment capacity for wastewater treatment and disinfection systems. The treatment capacity shall be specified in terms of flow rate, gallons per day, and shall be supported by calculations relating the treatment capacity to the number of bedroom equivalents, plumbing fixture equivalents, and/or the subsurface effluent dispersal system acceptance rate. The fixture unit count must be clearly identified in association with the design treatment capacity, even if the design is based on the number of bedrooms. Average and peak rates of hydraulic loading to the treatment system shall be specified in the final design;
 - b. Description of proposed wastewater treatment and/or disinfection system equipment. State the proposed type of treatment system(s) (e.g., aerobic treatment, textile filter ultraviolet disinfection, etc.); major components, manufacturers, and model numbers for "package" systems; and conceptual design for custom engineered systems;
 - c. Specifications, supporting geology information, and percolation test results for the subsurface effluent dispersal portion of the onsite wastewater disposal system. This must include the proposed type of effluent dispersal system (drainfield, trench, seepage pit subsurface drip, etc.) as well as the system's geometric dimensions and basic construction features. Supporting calculations shall be presented that relate the results of soils analysis or percolation/infiltration tests to the projected subsurface effluent acceptance rate, including any unit conversions or safety factors. Average and peak rates of hydraulic loading to the effluent dispersal system shall be specified in the final design. The projected subsurface effluent acceptance rate shall be reported in units of total gallons per day and gallons per square foot per day. Specifications for the subsurface effluent dispersal system shall be shown to accommodate the design hydraulic loading rate (i.e., average and peak OWTS effluent flow, reported in units of gallons per day). The subsurface effluent dispersal system design must take into account the number of fixture units and building occupancy characteristics; and
 - d. All final design drawings shall be submitted with the wet signature and typed name of the OWTS designer. If the scale of the plan is such that more space is needed to clearly show construction details, larger sheets may also be provided (up to a maximum size of 18 inch by 22 inch, for review by Environmental Health). Note: For OWTS final designs, full-size plans are required for review by the Building Safety Division and/or the Planning Department.

101. All project architectural plans and grading/drainage plans shall be submitted for Environmental Health review and approval. The floor plans must show all drainage fixtures, including in the kitchen and laundry areas. These plans must be approved by the Building Safety Division prior to receiving Environmental Health final approval.
102. Proof of Ownership: Proof of ownership of subject property shall be submitted to the City Environmental Health Administrator.
103. Operations & Maintenance Manual: An operations and maintenance manual specified by the OWTS designer shall be submitted to the property owner and maintenance provider of the proposed advanced OWTS.
104. Maintenance Contract: Prior to final Environmental Health approval, a maintenance contract executed between the owner of the subject property and an entity qualified in the opinion of the City of Malibu to maintain the proposed OWTS after construction shall be submitted. Only original wet signature documents are acceptable and shall be submitted to the City Environmental Health Administrator.
105. OWTS Covenant: Prior to final Environmental Health approval, a covenant running with the land shall be executed between the City of Malibu and the holder of the fee simple absolute as to subject real property and recorded with the City of Malibu Recorder's Office. Said covenant shall serve as constructive notice to any future purchaser for value that the onsite wastewater treatment system serving subject property is an advanced method of sewage disposal pursuant to the MMC. Said covenant shall be provided by the City of Malibu Environmental Health Administrator.
106. Project Geologist/Geotechnical Consultant Approval: The City geotechnical staff final approval shall be submitted to the City Environmental Health Administrator.
107. The City Biologist's final approval shall be submitted to the City Environmental Health Administrator. The City Biologist shall review the OWTS design to determine any impact on Environmentally Sensitive Habitat Area if applicable.
108. In accordance with MMC Chapter 15.44, prior to Environmental Health approval, an application shall be made to the Environmental Sustainability Department for an OWTS operating permit.
109. Traffic-Rated Slab Plan(s): The final grading plan shall provide measures for protection of all private sewage disposal system components existing beneath the proposed roadway. All project traffic rated slab plans shall be submitted for Environmental Health review and approval. These plans must be approved by the Building Safety Division prior to receiving Environmental Health final approval.
110. Conditional Use Permit: A conditional use permit (CUP) shall be obtained from the City of Malibu Planning Department to hold the two properties as one and allow for the onsite wastewater treatment system at 22741 Pacific Coast Hwy. to service the effluent disposal for 22729 Pacific Coast Hwy. The CUP shall be submitted to the Environmental Health Administrator for review.

111. Waste Discharge Requirements: Submit wastewater plans, and all necessary supporting forms and reports to the Los Angeles Regional Water Quality Control Board (RWQCB), 320 W. 4th St., Los Angeles, CA 90013, (213)576-6600, to assure compliance with the California Water Quality Control Plan, Los Angeles Region (Basin Plan). RWQCB Waste Discharge Requirements shall be obtained and submitted to the City of Malibu Environmental Health Administrator

Geology

112. All recommendations of the consulting certified engineering geologist or geotechnical engineer and/or the City Geologist shall be incorporated into all final design and construction including foundations, grading, sewage disposal, and drainage. Final plans shall be reviewed and approved by the City Geologist prior to the issuance of a grading permit.
113. Final plans approved by the City Geologist shall be in substantial conformance with the approved CDP relative to construction, grading, sewage disposal and drainage. Any substantial changes may require amendment of the CDP or a new CDP.

Public Works

Street Improvements

114. This project proposes to construct a new driveway and other improvements within Caltrans' right-of-way. Prior to the Public Works Department approval of the grading or building permit, the applicant shall obtain encroachment permits from Caltrans for the proposed improvements.

Grading/Drainage

115. Earthmoving shall be scheduled only during the dry season from April 1 through October 31. If it becomes necessary to conduct earthmoving activities from November 1 through March 31, a comprehensive erosion control plan shall be submitted to the City Biologist for approval prior to the issuance of a grading permit and implemented prior to initiation of vegetation removal and/or earthmoving activities. A note shall be placed on the project plans that address this condition.
116. Exported soil from the 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 LIP Section 8.3.
117. A grading and drainage plan containing the following information shall be submitted to the Public Works Department for approval, prior to the issuance of grading permits for the project:
- a. Public Works Department General Notes;
 - b. The existing and proposed square footage of impervious coverage on the property (including separate areas for buildings, driveways, walkways, parking, tennis courts and pool decks, as applicable);
 - c. The limits of land to be disturbed during project development, and a total area, to include areas disturbed by grading equipment beyond the limits of grading, areas

- disturbed for the installation of the septic system, and areas disturbed for installation of the detention system, as applicable;
- d. Grading limits, including the temporary cuts made for retaining walls, buttresses and over-excavations for fill slopes;
 - e. Private storm drain systems, with systems greater than 12 inch diameter to include a plan and profile; and
 - f. Public storm drain modifications.
118. A digital drawing (AutoCAD) of the project's private storm drain system, public storm drain system within 250 feet of the property limits and post-construction BMPs shall be submitted to the Public Works Department prior to grading or building permit issuance. The digital drawing shall adequately show all storm drain lines, inlets, outlet, post-construction BMPs and other applicable facilities. The digital drawing shall also show the subject property, public street and any drainage easements.

Stormwater

119. A Local 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:

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

120. 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.
121. A Water Quality Mitigation Plan (WQMP) shall be submitted for review and approval of the Public Works Director. The WQMP shall be prepared in accordance with the LIP Section 17.3.3 and all other applicable ordinances and regulations. The WQMP shall be supported by a hydrology and hydraulic study that identifies all areas contributory to the property and an analysis of the predevelopment and post development drainage on the site. The following elements shall be included within the WQMP:
- a. Site Design Best Management Practices (BMPs);
 - b. Source Control BMPs;

- c. Treatment Control BMPs;
- d. Drainage improvements;
- e. Methods for onsite percolation, site re-vegetation and an analysis for off-site project impacts;
- f. Measures to treat and infiltrate runoff from impervious areas;
- g. A plan for the maintenance and monitoring of the proposed treatment BMPs for the expected life of the structure;
- h. A copy of the WQMP shall be filed against the property to provide constructive notice to future property owners of their obligation to maintain the water quality measures installed during construction prior to the issuance of grading or building permits; and
- i. The WQMP shall be submitted to the Building Safety Division and the fee applicable at the time of submittal for review of the WQMP shall be paid prior to the start of the technical review. Once the plan is approved and stamped by the Public Works Department, the original signed and notarized document shall be recorded with the County Recorder. A certified copy of the WQMP shall be submitted prior to the Public Works Department approval of building plans for the project.

Sound

- 122. No amplified sound, including a pager system, is permitted which creates a nuisance. All sound emanating from the site shall comply with MMC Chapter 8.24 (Noise Ordinance).
- 123. All speakers shall be down facing and the sound limiter built into the sound system shall be used at all times.
- 124. The Planning Director shall have the ability to lower the approved sound level if verified complaints are received.
- 125. The operator shall cease the use of the amplified music/sound system upon notice by the Planning Director of three sequential violations of the noise conditions.

Deliveries

- 126. Delivery vehicles shall not block the public right-of-way.
- 127. Delivery vehicles or deliveries shall not the two-way left-hand turn lane for parking or staging. All deliveries shall take place onsite.

Miscellaneous

- 128. The developers consulting engineer shall sign the final plans prior to the issuance of permits.
- 129. Prior to the issuance of any grading or building permits, the lot merger must be approved by the City and filed with the City Clerk's office.

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- 130. Prior to the commencement of work, the applicant shall submit a copy of their Construction Management Plan. The Construction Management Plan shall include a dedicated parking location for construction workers, not within the public right of way.
 - 131. The applicant shall label all City/County storm drain inlets within 250 feet of each property lien per the City of Malibu's standard label template. A note shall be placed on the project plans to address this condition.
 - 132. 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.

Swimming Pool

- 133. The discharge of swimming pool, spa and decorative fountain water and filter backwash, including water containing bacteria, detergents, wastes, algaecides or other chemicals is prohibited. Swimming pool, spa, and decorative fountain water may be used as landscape irrigation only if the following items are met:
 - a. The discharge water is dechlorinated, debrominated or if the water is disinfected using ozonation;
 - b. There are sufficient BMPs in place to prevent soil erosion; and
 - c. The discharge does not reach 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.

- 134. 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 to 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 the issuance of any permits; the applicant shall indicate the method of disinfection and the method of discharging.

Prior to Final Sign-Off/Prior to Occupancy

- 135. Prior to the issuance of a Certificate of Occupancy, the City Biologist shall inspect the project site and determine that all planning conditions have been implemented to protect natural resources in compliance with approved plans and this resolution.
- 136. Prior to a final Building inspection, the applicant shall provide the Environmental Sustainability Department a final Waste Reduction and Recycling Summary Report (WRRP Summary Report). The final Summary Report shall designate all material that were land filled or recycled, broken down by material types. The Environmental Sustainability Department shall approve the Final Summary Report.
- 137. Prior to, or at the time of a Planning final inspection, the property owner / applicant shall submit to the Planning Department the plumbing permit for the irrigation system installation signed off by the Building Safety Division.

- 138. The applicant shall request a final Planning Department inspection prior to final inspection by the City of Malibu Environmental and Sustainability Department. A final approval and Certificate of Occupancy shall not be issued until the Planning Department has determined that the project complies with this CDP. A temporary Certificate of Occupancy may be granted at the discretion of the Planning Director, provided adequate security has been deposited with the City to ensure compliance should the final work not be completed in accordance with this permit.
- 139. Any construction trailer, storage equipment or similar temporary equipment not permitted as part of the approved scope of work shall be removed prior to final inspection and approval, and if applicable, the issuance of the certificate of occupancy.

Deed Restrictions

- 140. The property owner(s) are required to execute and record a deed restriction which shall indemnify and hold harmless the City, its officers, agents, and employees against any and all claims, demands, damages, costs and expenses of liability arising out of the acquisition, design, construction, operation, maintenance, existence or failure of the permitted project in an area where an extraordinary potential for damage or destruction from wildfire exists as an inherent risk to life and property. The property owner shall provide a copy of the recorded document to Planning Department staff prior to final Planning approval.
- 141. Prior to final Planning Department approval, the applicant shall be required to execute and record a deed restriction reflecting lighting requirements set forth in this resolution. The property owner shall provide a copy of the recorded document to the Planning Department prior to final Planning Department approval.

Lot Merger

- 142. The applicant shall submit the certificate of compliance for lot merger documents and pay applicable Public Works Department filing fee.
- 143. The proposed lot merger must be approved by the City and filed with the City Clerk's office prior to the approval of any development permit.
- 144. Upon review of the documents provided, the City may require submittal of additional documents or maps, depending upon the completeness of the initial submittal

Fixed Conditions

- 145. This coastal development permit shall run with the land and bind all future owners of the property.
- 146. Violation of any of the conditions of this approval may be cause for revocation of this permit and termination of all rights granted there under.

Mitigation Measures

147. The project shall comply with all the mitigation measures included in the MMRP (Exhibit A) of IS/MND No. 21-001.
148. CR-1: If cultural resources are encountered during ground-disturbing activities, work in the immediate area must halt and a qualified archaeologist meeting the Secretary of the Interior's Professional Qualifications Standards for archaeology (National Park Service 1983) shall be contacted immediately by the construction manager to evaluate the find in consultation with the City's Planning Director. The Planning Director shall consult with appropriate Native American representatives in determining appropriate treatment for unearthed cultural resources if the resources are determined to be prehistoric or Native American in origin. If necessary, the evaluation may require preparation of a treatment plan and archaeological testing for the NRHP and/or CRHR eligibility. If the discovery proves to be eligible for the NRHP and/or CRHR and cannot be avoided by the project, additional work such as data recovery excavation and Native American consultation may be warranted to mitigate any significant impacts. Work shall not resume until authorized by the City and the qualified archaeologist.
149. GEO-1: The proposed project shall be constructed in accordance with the recommendations of the Geotechnical Report, including overexcavation and deepened concrete pile foundations embedded into bedrock to reduce geotechnical risks associated with the project site's liquefiable soils.
150. GEO-2: Prior to the commencement of project construction, a Qualified Paleontologist (i.e., a paleontologist who meets the SVP [2010] standards as a Qualified Professional Paleontologist) shall be retained to design a Paleontological Resources Mitigation and Monitoring Program (PRMMP) for submission to the City prior to the issuance of grading permits. The PRMMP shall outline the procedures and protocol for conducting paleontological monitoring and mitigation. Monitoring shall be conducted during ground-disturbing activities (including, but not limited to site preparation, grading, excavation, and trenching) of intact (i.e., previously undisturbed) Miocene Monterey Formation by a qualified paleontological monitor (i.e., a paleontologist who meets the SVP [2010] standards as a Paleontological Resource Monitor). The PRMMP shall address the following procedures and protocols:
 - Timing and duration of monitoring
 - Procedures for work stoppage and fossil collection
 - The type and extent of data that shall be collected with any recovered fossils
 - Identify an appropriate curatorial institution
 - Identify the minimum qualifications for qualified paleontologists and paleontological monitors
 - Identify the conditions under which modifications to the monitoring schedule can be implemented
 - Details to be included in the final monitoring report.

Prior to issuance of a grading permit, copies of the PRMMP shall be submitted for review to the Department of Planning at the City of Malibu.

Full-time monitoring shall be conducted for all ground-disturbing activities associated with excavations for the basement, and all ground disturbance within project areas underlain by geologic units with high paleontological sensitivity (i.e., Miocene Monterey Formation). These project activities have a high potential of disturbing native (previously undisturbed) paleontologically-sensitive strata. If Miocene Monterey Formation (Tm) is not observed at the full depth of excavations associated with the basement, monitoring can be discontinued. Ground-disturbing activities that impact previously disturbed sediments (i.e., artificial fill) do not require paleontological monitoring.

The duration and timing of the monitoring shall be determined by the Qualified Paleontologist. If the Qualified Paleontologist determines that full-time or part-time monitoring is no longer warranted based on observed geology, he or she may recommend reducing monitoring to periodic spot-checking or may recommend that monitoring cease entirely. Monitoring shall be reinstated if any new ground disturbances of previously undisturbed areas are required, and reduction or suspension shall be reconsidered by the Qualified Paleontologist at that time.

If a paleontological resource is discovered, the monitor shall have the authority to temporarily divert construction equipment around the find until it is assessed for scientific significance and collected. Once salvaged, significant fossils shall be prepared to a curation-ready condition and curated in a scientific institution with a permanent paleontological collection (such as the Natural History Museum of Los Angeles County or UCMP). Curation fees are the responsibility of the project owner.

A final report shall be prepared describing the results of the paleontological monitoring efforts associated with the project. The report shall include a summary of the field and laboratory methods, an overview of the project geology and paleontology, a list of taxa recovered (if any), an analysis of fossils recovered (if any) and their scientific significance, and recommendations. The report shall be submitted to City. If the monitoring efforts produced fossils, a copy of the report shall also be submitted to the designated museum repository.

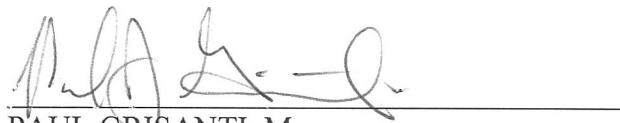
151. TCR-1: The project applicant shall retain the services of a qualified Native American Monitor culturally and traditionally affiliated with the project area during construction-related ground disturbance activities. Ground disturbance is defined as activities that include, but are not limited to, pavement removal, potholing or auguring, grubbing, weed abatement, boring, grading, excavation, drilling, and trenching, within the project area. The monitor(s) shall be present on-site during the construction phases that involve any ground disturbing activities. The Native American Monitor(s) shall complete monitoring logs on a daily basis that provide descriptions of the daily activities, including construction activities, locations, soil, and any cultural materials identified. The on-site monitoring shall end when the construction-related ground disturbance activities are completed, or when the monitor has indicated that the site has a low potential for archeological resources.
152. TCR-2: In the event that a cultural resource of Native American origin is found during project-related ground disturbance, excavation and other construction activity in that area shall cease. If the City of Malibu, in consultation with local Native Americans culturally and traditionally affiliated with the project area and/or that have requested consultation under AB 52, determines that the resource is a tribal cultural resource and thus significant

under CEQA, a mitigation plan shall be prepared and implemented in accordance with state guidelines and in consultation with Native American groups. The mitigation plan may include but would not be limited to avoidance, capping in place, excavation and removal of the resource, interpretive displays, sensitive area signage, or other mutually agreed upon means.

153. TCR-3: The Lead Agency shall, in good faith, consult with the Fernandeño Tataviam Band of Mission Indians on the disposition and treatment of any tribal cultural resources encountered during the project grading.

SECTION 7. The City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

PASSED, APPROVED AND ADOPTED this 13th day of September 2021.



PAUL GRISANTI, Mayor

ATTEST:



KELSEY PETTIJOHN, City Clerk
(seal)

APPROVED AS TO FORM:



JOHN COTTI, Interim City Attorney

COASTAL COMMISSION APPEAL - An aggrieved person may appeal the Planning Commission's approval to the Coastal Commission within 10 working days of the issuance of the City's Notice of Final Action. Appeal forms may be found online at www.coastal.ca.gov or by calling (805) 585-1800. Such an appeal must be filed with the Coastal Commission, not the City.

Any action challenging the final decision of the City made as a result of the public hearing on this application must be filed within the time limits set forth in Section 1.12.010 of the MMC and Code of Civil Procedure. Any person wishing to challenge the above action in Superior Court may be limited to raising only those issues they or someone else raised at the public hearing, or in written correspondence delivered to the City of Malibu at or prior to the public hearing.

I CERTIFY THAT THE FOREGOING RESOLUTION NO. 21-45 was passed and adopted by the City Council of the City of Malibu at the Regular meeting thereof held on the 13th day of September 2021 by the following vote:

AYES: 4 Councilmembers: Farrer, Pierson, Uhring, Grisanti
NOES: 1 Councilmember: Silverstein
ABSTAIN: 0
ABSENT: 0

Kelsey Pettijohn
KELSEY PETTJOHN, City Clerk
(seal)

EXHIBIT A

Mitigation Monitoring and Reporting Program

Mitigation Monitoring and Reporting Program

CEQA requires that a reporting or monitoring program be adopted for the conditions of project approval that are necessary to mitigate or avoid significant effects on the environment (Public Resources Code Section 21081.6). This mitigation monitoring and reporting program is intended to track and ensure compliance with adopted mitigation measures during the project implementation phase. For each mitigation measure required in the Initial Study-Mitigated Negative Declaration (IS-MND), specifications are made herein that identify the action required, the monitoring that must occur, and the agency or department responsible for oversight.

City of Malibu

Sea View Hotel Project

Mitigation Monitoring and Reporting Program

| Mitigation Measure | Action Required | Monitoring Timing | Monitoring Frequency | Responsible Agency | Compliance Verification Initial | Compliance Verification Date | Compliance Verification Comments |
|--|--|---|---|---|---------------------------------|------------------------------|----------------------------------|
| Cultural Resources | | | | | | | |
| CR-1: Unanticipated Discovery of Archaeological Resources | | | | | | | |
| If cultural resources are encountered during ground-disturbing activities, work in the immediate area must halt and a qualified archaeologist meeting the Secretary of the Interior's Professional Qualifications Standards for archaeology (National Park Service 1983) shall be contacted immediately by the construction manager to evaluate the find in consultation with the City's Planning Director. The Planning Director shall consult with appropriate Native American representatives in determining appropriate treatment for unearthed cultural resources if the resources are determined to be prehistoric or Native American in origin. If necessary, the evaluation may require preparation of a treatment plan and archaeological testing for the NRHP and/or CRHR eligibility. If the discovery proves to be eligible for the NRHP and/or CRHR and cannot be avoided by the project, additional work such as data recovery excavation and Native American consultation may be warranted to mitigate any significant impacts. Work shall not resume until authorized by the City and the qualified archaeologist. | A qualified archaeologist shall be contacted immediately in the event of a cultural resources find during ground-disturbing activities. If prehistoric, the find shall also be evaluated by a Native American representative. Perform data recovery excavation and conduct required consultation, if needed. | During ground-disturbing activities if cultural resource(s) is/are found. | Ensure measure is identified on project plans prior to issuance of grading or construction permits. | Planning Department, Construction Contractor, Project Archaeologist | | | |

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| Geology and Soils | | | | | | | |
| GEO-1: Compliance with Recommendations of the Geotechnical Report | | | | | | | |
| The proposed project shall be constructed in accordance with the recommendations of the Geotechnical Report, including overexcavations and deepened concrete pile foundations embedded into bedrock to reduce geotechnical risks associated with the project site's liquefiable soils. | The Project Applicant shall incorporate the geotechnical measures aimed at minimizing impacts from liquefiable soils. | During grading and excavation activities. | Periodically throughout construction activities. | Planning Department, Construction Contractor | | | |
| GEO-2: Paleontological Resources Mitigation and Monitoring Program | | | | | | | |
| Prior to the commencement of project construction, a Qualified Paleontologist (i.e., a paleontologist who meets the Society of Vertebrate Paleontology [SVP] [2010] standards as a Qualified Professional Paleontologist) shall be retained to design a Paleontological Resources Mitigation and Monitoring Program (PRMMP) for submission to the City prior to the issuance of grading permits. The PRMMP shall outline the procedures and protocol for conducting paleontological monitoring and mitigation. Monitoring shall be conducted during ground-disturbing activities (including, but not limited to site preparation, grading, excavation, and trenching) of intact (i.e., previously undisturbed) Miocene Monterey Formation by a qualified paleontological monitor (i.e., a | A qualified paleontological monitor shall conduct paleontological monitoring during ground-disturbing activities. The qualified paleontological monitor shall be supervised by a Qualified Professional Paleontologist. Full-time monitoring shall be conducted for all ground-disturbing activities associated with excavations for the basement, and all ground disturbance within project areas underlain by geologic units with high paleontological sensitivity (i.e., Miocene Monterey Formation). If Miocene Monterey Formation (Tm) is not observed at the full depth of excavations | During ground-disturbing activities associated with excavations for the basement, and all ground disturbance within project areas underlain by geologic units with high paleontological sensitivity (i.e., Miocene Monterey Formation) and as determined necessary by the qualified paleontologist. | Ensure measure is identified on project plans prior to issuance of grading or construction permits. Frequency of monitoring shall be determined by the qualified paleontologist. | Planning Department, Construction Contractor, Paleontological Monitor | | | |

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| <p>paleontologist who meets the SVP [2010] standards as a Paleontological Resource Monitor). The PRMMP shall address the following procedures and protocols:</p> <ul style="list-style-type: none"> ▪ Timing and duration of monitoring ▪ Procedures for work stoppage and fossil collection ▪ The type and extent of data that shall be collected with any recovered fossils ▪ Identify an appropriate curatorial institution ▪ Identify the minimum qualifications for qualified paleontologists and paleontological monitors ▪ Identify the conditions under which modifications to the monitoring schedule can be implemented ▪ Details to be included in the final monitoring report. <p>Prior to issuance of a grading permit, copies of the PRMMP shall be submitted for review to the Department of Planning at the City of Malibu.</p> <p>Full-time monitoring shall be conducted for all ground-disturbing activities associated with excavations for the basement, and all ground disturbance within project areas underlain by geologic units with high paleontological sensitivity (i.e., Miocene Monterey Formation). These project activities have a high potential of disturbing native (previously undisturbed) paleontologically-sensitive strata. If</p> | <p>associated with the basement, monitoring can be discontinued.</p> <p>The paleontological monitor shall have authority to divert construction equipment from a discovered paleontological resource. Significant fossils shall be curated in a scientific institution at the expense of the Project Applicant.</p> <p>A final report describing methodology, project geology and paleontology, taxa and fossils recovered on site, as well as their significance shall be prepared by the paleontological monitor for submittal to the City and designated museum, as applicable.</p> | | | | | | |

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| <p>Miocene Monterey Formation (Tm) is not observed at the full depth of excavations associated with the basement, monitoring can be discontinued. Ground-disturbing activities that impact previously disturbed sediments (i.e., artificial fill) do not require paleontological monitoring.</p> <p>The duration and timing of the monitoring shall be determined by the Qualified Paleontologist. If the Qualified Paleontologist determines that full-time or part-time monitoring is no longer warranted based on observed geology, he or she may recommend reducing monitoring to periodic spot-checking or may recommend that monitoring cease entirely. Monitoring shall be reinstated if any new ground disturbances of previously undisturbed areas are required, and reduction or suspension shall be reconsidered by the Qualified Paleontologist at that time.</p> <p>If a paleontological resource is discovered, the monitor shall have the authority to temporarily divert construction equipment around the find until it is assessed for scientific significance and collected. Once salvaged, significant fossils shall be prepared to a curation-ready condition and curated in a scientific institution with a permanent paleontological collection (such as the Natural History Museum of Los Angeles County or UCMP). Curation fees are the responsibility of the project owner.</p> | | | | | | | |

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| Hazards and Hazardous Materials | | | | | | | |
| HAZ-1: Hazardous Building Materials | | | | | | | |
| Asbestos | Asbestos | During demolition activities. | Ensure measure is identified on project plans prior to issuance of grading or construction permits. | Planning Department, Construction Contractor | | | |
| In the event that any suspect asbestos containing materials (ACMs) are discovered during demolition activities, the materials shall be sampled and analyzed for asbestos content prior to any disturbance. Prior to the issuance of the demolition permit, the applicant shall provide a letter from a qualified asbestos abatement consultant that no ACMs are present in the building. If ACMs are found to be present, all asbestos removal operations shall be performed by a California Occupational Safety and Health Administration (Cal/OSHA) Division of Occupational Safety and Health (DOSH)-registered and California-licensed asbestos contractor. All disturbances of ACMs, | Suspect ACMs are discovered during demolition activities, the materials shall be sampled and analyzed for asbestos content prior to any disturbance. The Project Applicant shall provide a letter from a qualified asbestos abatement consultant that no ACMs are present in the building. Any asbestos removal operations shall be performed by a Cal/OSHA DOSH-registered and California-licensed asbestos contractor and performed under the surveillance of a third-party Cal/OSHA Certified Asbestos Consultant in accordance | | Monitor periodically throughout project demolition activities. | | | | |

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| <p>and/or abatement operations, shall be performed under the surveillance of a third-party Cal/OSHA Certified Asbestos Consultant. All disturbances of ACMs, and/or abatement operations, shall be performed in accordance with the Cal/OSHA requirements set forth in 8 CCR 1529. Asbestos abatement must also be performed in accordance with SCAQMD requirements set forth in Rule 1403 as well as all other applicable state and federal rules and regulations.</p> <p>Lead</p> <p>Any suspect lead-based paint (LBP) shall be sampled prior to any renovations or demolition activities. Prior to the issuance of the demolition permit, the applicant shall provide a letter from a licensed LBP abatement contractor that no LBP is present in the building. Any LBP located within building scheduled for renovation or demolition, or noted to be damaged, shall be abated by a licensed LBP abatement contractor, and disposed of according to all federal, state, and local regulations.</p> <p>All construction work shall be subject to 29 Code of Federal Regulations Part 1926.62 "Lead Exposure in Construction Interim Final Rule," which was adopted and incorporated into California's own standard Title 8 CCR Section 1532.1.</p> <p>HAZ-2: Soil and Groundwater Contamination</p> | <p>with SCAQMD requirements and all other applicable state and federal rules and regulations.</p> <p>Lead</p> <p>Suspect LBP shall be sampled prior to any renovations or demolition activities.</p> <p>The Project Applicant shall provide a letter from a licensed LBP abatement contractor that no LBP is present in the building. Any LBP located within building scheduled for renovation or demolition, or noted to be damaged, shall be abated by a licensed LBP abatement contractor, and disposed of according to all federal, state, and local regulations.</p> | | | | | | |

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| <p>During demolition and construction, the project engineer shall direct crews to monitor excavated soil and/or waters (surface water or groundwater) for stain, odor, or other indicators of impacted media. If, during demolition, construction, or any later phase, stained or odorous soil or waters (surface water or groundwater) are detected, the applicant shall provide the following to the City:</p> <ul style="list-style-type: none"> ▪ Non-emergency notification that stained or odorous soil or water (surface water or groundwater) has been detected ▪ Plan to address the further assessment of the extent of impacted media ▪ Contingency plans to address the possible impacts to site works or the public ▪ Plan for legal profiling, transportation and disposal at an offsite location ▪ Notification of other agencies (e.g., Regional Water Quality Control Board [RWQCB], Los Angeles County Fire Department (LACoFD), Department of Toxic Substances Control, etc.) | <p>Construction workers shall monitor excavated soil and/or waters for stain, odor, or other indicators of impacted media.</p> <p>If detected, the Project Applicant shall provide a notification, a plan to address the impacted media, and contingency plans to the City, as well as notification to other agencies, as needed.</p> | During all construction phases, including demolition. | <p>Ensure measure is identified on project plans prior to issuance of grading or construction permits.</p> <p>Monitor periodically throughout project construction.</p> | Planning Department, Construction Contractor | | | |
| Noise | NOI-1: Construction Noise Reductions | | | | | | |
| The project applicant shall reduce construction noise levels at the adjacent McDonald's drive-thru lane so as not to disrupt speech audibility when customers are ordering at the speaker box through to the following measures: | <p>During construction, temporary sound blankets shall be installed along the shared property line with McDonald's.</p> <p>During construction, place sign at property that includes 24-hour</p> | During all construction phases. | <p>Ensure measure is identified on project plans prior to issuance of grading or</p> | Planning Department, Construction Contractor | | | |

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| <ul style="list-style-type: none"> ▪ Temporary sound blankets shall be installed along the shared property line with McDonald's. The sound blankets shall have a minimum breaking and tear strength of 120 pounds and 30 pounds, respectively. The sound blankets shall have a minimum sound transmission classification of 27 and noise reduction coefficient of 0.70. The sound blankets shall be of sufficient length to extend from the top of the frame and drape on the ground or be sealed at the ground. The sound blankets shall have grommets along the top edge with exterior grade hooks, and loop fasteners along the vertical edges with overlapping seams, with a minimum overlap of 2 inches. ▪ A sign shall be provided at the yard entrance, or other conspicuous location, that includes a 24-hour telephone number for project information, and a procedure where a field engineer/construction manager shall respond to and investigate noise complaints and take corrective action, if necessary, in a timely manner. The sign shall have a minimum dimension of 48 inches wide by 24 inches high. The sign shall be placed 5 feet above ground level. ▪ If a noise complaint(s) is registered, the contractor shall retain a City-approved noise consultant to conduct noise measurements at the use(s) that | project information. Have a procedure in place if noise complaints are received. The contractor shall retain a City-approved noise consultant to conduct noise measurements at the use(s) that registered the complaint. | | construction permits. Monitor periodically throughout project construction. | | | | |

City of Malibu
Sea View Hotel Project
 Mitigation Monitoring and Reporting Program

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| registered the complaint. The noise measurements shall be conducted for a minimum of one hour and shall include one-minute intervals. The consultant shall prepare a letter report summarizing the measurements and potential measures to reduce noise levels to the maximum extent feasible. The letter report shall include all measurement and calculation data used in determining impacts and resolutions. The letter report shall be provided to code enforcement for determining adequacy and recommendations, as well potential revocation of the variance if measures are inadequate. | | | | | | | |
| NOI-2: Rooftop Deck Loudspeaker Noise Abatement | The project applicant shall comply with the City's non-transportation noise at residential receiver noise level standard of 40 dBA Leq during nighttime hours through measures such as, but not limited to: <ul style="list-style-type: none"> ▪ The proposed cantilevered barrier should be constructed of materials that have a minimum of 2 pounds per square foot and block direct line-of-sight from residential receivers. ▪ Speakers shall be installed in the corner of the proposed cantilevered barrier. ▪ The acoustical barrier shall have side walls that partially enclose the area it is covering. The side walls shall extend | The Project Applicant shall comply with the City's non-transportation noise at residential receiver noise level standard of 40 dBA Leq during nighttime hours, and the Contract Contractor shall place acoustical barriers and speakers as required. The sound system shall be tuned by a qualified acoustical consultant to ensure that the sound levels do not increase above a set threshold using a limiter. | Throughout occupancy and operation of the project. | Ensure measure is identified on project plans prior to issuance of grading or construction permits. Periodically throughout project construction. | Planning Department, Construction Contractor, Acoustical Consultant | | |

City of Malibu

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Mitigation Monitoring and Reporting Program

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|--------------------|--|-------------------|----------------------|--------------------|---------------------------------|------------------------------|----------------------------------|
| | <p>completely to the south edge on both sides of the cantilevered portion of the barrier. Side walls can be glass or transparent material of at least 2 pounds per square foot and solid without any openings.</p> <ul style="list-style-type: none">▪ A limiter shall be installed on the rooftop deck audio system that shall not allow the audio system to exceed 65 dBA at the pool deck.▪ After the speakers and barrier have been installed, the sound system shall be tuned to ensure that the sound levels do not increase above a set threshold using a limiter. The limiter shall set a hard cap on the sound levels output by the speakers to maintain the maximum allowable sound levels in the residential community. The exercise to set the limiter level shall be conducted with a qualified acoustical consultant. | | | | | | |