

Staff Report 64

PARTY THAT RECORDED OFFER TO DEDICATE:

Malibu Realty, LLC, a Delaware limited liability company

PARTY TO ACCEPT EASEMENT:

California State Lands Commission

INTERESTED PARTY:

California Coastal Commission

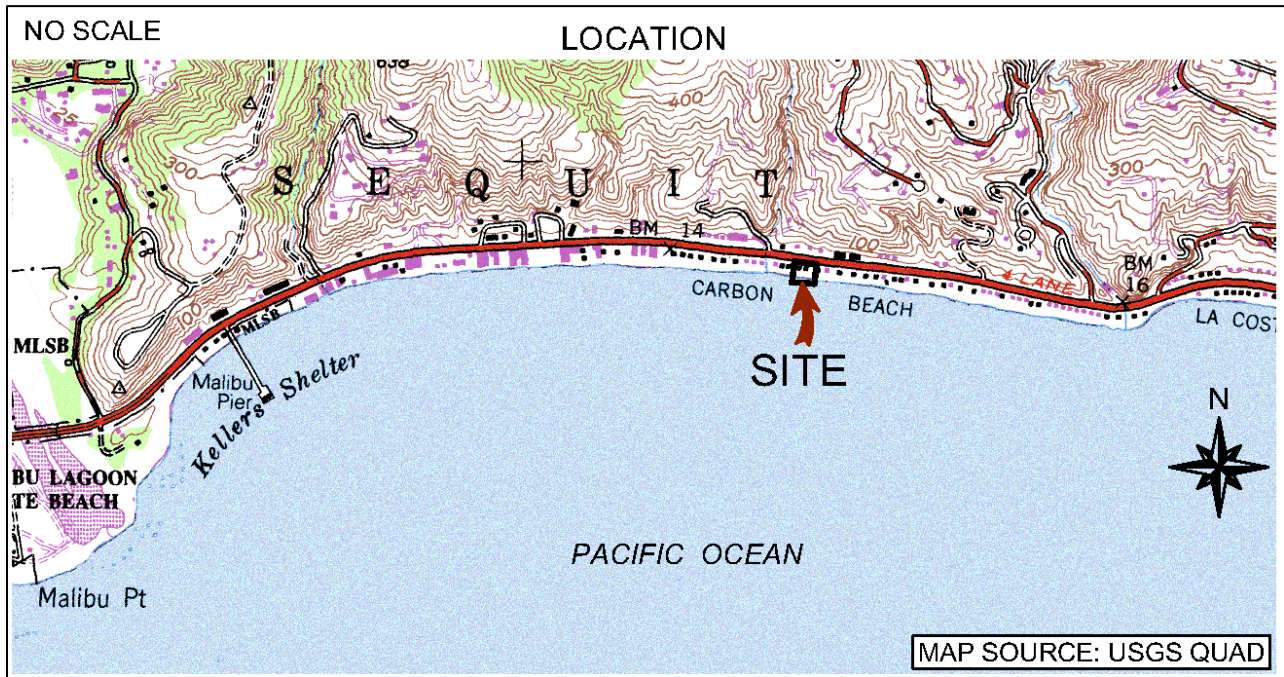
PROPOSED ACTIONS:

- Termination of previously accepted Offers to Dedicate Public Lateral Access Easements.
- Acceptance of an Irrevocable Offer to Dedicate Public Lateral Access Easement.

LOCATION:

22210 Pacific Coast Highway, Malibu, Los Angeles County (as shown in Figure 1, below).

Figure 1. Location



BACKGROUND:

Since the adoption of the Constitution of California of 1879, access to California's Public Trust waterways has been a mandated responsibility of State government. The vast majority of the hundreds of title settlement agreements the Commission has entered into since its inception in 1938 have included the provision of public access to the waterways involved.

In the 1960s, an organization with the acronym COAST (Citizens Organized to Acquire Access to State Tidelands) began a "Save the Coast" campaign that eventually resulted in the adoption of Proposition 20 by the State's voters in 1972.

Since the Legislature's passage of the Coastal Act in 1976, more than 1,500 offers to dedicate (OTDs) public access easements, both vertical and lateral (i.e., to and along the coast), have been made involving California's 1,100-mile coastline.

These OTDs were formally made and recorded by property owners as a condition of approval for permits to develop within the Coastal Zone. These OTDs have a 21-year life from the date of recording and may be subject to expiration if not formally accepted by a public agency within the time period.

The OTDs were required to ensure protection of existing public rights of use and to mitigate and compensate for the impacts to public access caused by

development. In many cases, the location of the boundary between the privately-owned uplands and the publicly owned tidelands is unsettled. Furthermore, the public may have acquired rights of use through the doctrine of implied dedication and have rights of recreational use in any area subject to the public easement in navigable waters. Therefore, these OTDs may describe and include areas already having public rights of use or public ownership. Acceptance by the Commission of the OTDs does not change the nature of the existing rights, but removes any question of the public's right of use of the area described.

The California Coastal Commission (CCC) has requested that the State Lands Commission review and, where appropriate, accept OTDs of lateral access easements involving sandy beach areas lying adjacent to tidelands managed by the Commission. Commission staff is involved in an ongoing process with the CCC to analyze the OTDs and determine which offers the Commission should accept.

The Commission has already authorized the acceptance of more than 280 OTDs along the coast of California since April 2, 1991, the majority of which are located in the Malibu area of Los Angeles County.

The Commission's liability for holding these lateral parcels is limited by section 831.2 of the California Government Code, which provides that a public entity is not liable for injury caused by a natural condition of any unimproved public property. There should be no maintenance and little management required for these easements because of the lack of improvements on the parcels and because the easements simply provide the public with the right to access and use the beach.

OTDs generally involve sandy beach areas lying between the private structure built on the upper beach and the tidelands which are already State-owned and under the Commission's jurisdiction. Therefore, these areas are not only appurtenant to the Commission's existing area of ownership and jurisdiction, but are, for all practical public use purposes, integral to it. Staff has reviewed a copy of the recorded OTD for the subject property, attached as Exhibit A, and recommends that the Commission authorize the Executive Officer to approve and accept the OTD.

STAFF ANALYSIS AND RECOMMENDATION:

AUTHORITY:

Public Resources Code sections 6005, 6216, 6301.

PUBLIC TRUST AND STATE'S BEST INTERESTS:

The proposed action involves acceptance of an OTD to secure a public lateral access easement across a privately held parcel. Public access easements are vital tools for ensuring California's coastline remains open and accessible to the public.

The OTD is a condition of Coastal Development Permit (CDP) No. 12-004 which was conditionally approved by the City of Malibu on July 15, 2019 (Resolution No. 19-30). Pursuant to the requirements of this CDP, Malibu Realty, LLC, a Delaware limited liability company, recorded the Irrevocable Offer to Dedicate Public Lateral Access Easement and Declaration of Restrictions on July 17, 2020, as Document No. 20200916338, Official Records of Los Angeles County. The OTD expires on August 6, 2041.

Staff has reviewed the OTD and has determined that it meets the Commission's criteria for public lateral access easements. The easement is directly adjacent to the upland residence and runs along the entire width of the subject property, extending from the mean high tide line (MHTL) to the dripline of the deck, and will facilitate public pedestrian access and passive recreational use along the shoreline adjacent to the property. Additionally, the OTD ensures that the property owner cannot interfere with public use of the easement nor take any action inconsistent with such use, but does not require the property owner to undertake any supervision or maintenance along the easement. Finally, the OTD shall run with the property and is binding upon all successors or assigns.

The lands covered by the subject OTD have previously been covered by two other OTDs accepted by the Commission ([Item 45, April 5, 2016](#); [Item 46, April 5, 2016](#)). These previous OTDs covered a contiguous area of land spanning three parcels identified by Los Angeles County Assessor's Parcel Numbers (APNs) 4451-006-036, 4451-006-037, and 4451-006-018 (parcels 4451-006-036 and 4451-006-037 were later combined into parcel 4451-006-040, as identified in the attached Exhibit A). Now, these parcels, along with an adjacent parcel (Los Angeles County APN: 4451-006-020), have been merged into a single parcel identified by Los Angeles County APN:

4451-006-041. Pursuant to CDP No. 12-004, a single residence has been constructed on this new parcel.

Termination of the previous easements in this area and acceptance of the subject OTD consolidates the lateral public access easements adjacent to the subject property into a single easement, associates this easement with the newly created APN for the property, and adds additional easement area across the section of the new parcel that was formerly part of Los Angeles County APN: 4451-006-020. As the full area of the previously accepted easements is included in the new easement, termination of the previous easements will have no detrimental effect on public access in the subject location. Furthermore, by adding the additional easement area from the parcel formerly identified by Los Angeles County APN: 4451-006-020, acceptance of the subject OTD protects an even larger public access area.

CONCLUSION:

For all the reasons above, staff believes that termination of the current Offers to Dedicate Public Lateral Access Easements and acceptance of this Offer to Dedicate Public Lateral Access Easement will not substantially interfere with Public Trust needs at this location, at this time, nor for the term of the easement; and is in the best interests of the State.

OTHER PERTINENT INFORMATION:

1. This action is consistent with the "Leading Climate Activism" and "Meeting Evolving Public Trust Needs" Strategic Focus Areas of the Commission's 2021-2025 Strategic Plan.
2. Staff recommends that the Commission find that acceptance of an Offer to Dedicate Public Lateral Access Easement is not a project as defined by the California Environmental Quality Act because it is an administrative action that will not result in direct or indirect physical changes to the environment.

Authority: Public Resources Code section 21065 and California Code of Regulations, title 14, section 15378, subdivision (b)(5).

EXHIBIT:

- A. Irrevocable Offer to Dedicate Public Lateral Access Easement recorded on August 7, 2020, as Document No. 20200916338, Official Records of Los Angeles County

RECOMMENDED ACTION:

It is recommended that the Commission:

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that the termination of previously accepted Offers to Dedicate Public Lateral Access Easements and acceptance of an Irrevocable Offer to Dedicate Public Lateral Access Easement is consistent with the common law Public Trust Doctrine and is in the best interests of the State.

AUTHORIZATION:

1. Authorize termination of the previously accepted Offers to Dedicate Public Lateral Access Easements over Los Angeles County APNs: 4451-006-036, 4451-006-037, and 4451-006-018 (File Reference: AD503; AD658).
2. Approve and authorize acceptance of the Irrevocable Offer to Dedicate Public Lateral Access Easement recorded on August 7, 2020, as Document No. 20200916338, Official Records of Los Angeles County; as a condition of Coastal Development Permit No. 12-004 over Los Angeles County APN: 4451-006-041.
3. Authorize the execution, acknowledgment, and recordation of the acceptance and consent to record on behalf of the California State Lands Commission, in substantially the form of the copy of such document on file in the Sacramento office of the Commission.

Exhibit A

This page is part of your document - DO NOT DISCARD



20200916338



Pages:
0039

Recorded/Filed in Official Records
Recorder's Office, Los Angeles County,
California

08/07/20 AT 02:05PM

FEEs :	0.00
TAXES :	0.00
OTHER :	0.00
PAID :	0.00



LEADSHEET



202008071050069

00018681052



011035685

SEQ:
01

SECURE - Daily - Time Sensitive



THIS FORM IS NOT TO BE DUPLICATED

E634579

E55-20200806655

RECORDING REQUESTED BY:

CITY OF MALIBU

WHEN RECORDED RETURN TO:

CITY OF MALIBU
Attn: City Clerk
23825 Stuart Ranch Road
Malibu, CA 90265

SPACE ABOVE THIS LINE RESERVED FOR RECORDER'S USE

APN(S): 4451-006-018, 4451-006-020, & 4451-006-040

IRREVOCABLE OFFER TO DEDICATE PUBLIC LATERAL ACCESS EASEMENT

AND

DECLARATION OF RESTRICTIONS

THIS IRREVOCABLE OFFER TO DEDICATE PUBLIC LATERAL ACCESS EASEMENT AND DECLARATION OF RESTRICTIONS ("Offer"), is made this 17th day of July, 2020, by Malibu Realty, LLC, a Delaware limited liability company ("Grantor").

I. WHEREAS, Grantor is the legal owner of a fee interest in certain real property located in the City of Malibu, County of Los Angeles, State of California, legally described as set forth in attached EXHIBIT A, hereby incorporated by this reference (the "Property"); and

II. WHEREAS, all of the Property is located within the coastal zone as defined in Section 30103 of the California Public Resources Code ("PRC"), a section of the California Coastal Act of 1976, PRC § 30000 *et seq.* (the "Act"); and

III. WHEREAS, the City of Malibu's Local Coastal Program ("LCP"), certified by the California Coastal Commission ("Commission") on September 13, 2002, requires that any land use permit, subdivision, or other development located in the coastal zone approved by the City of Malibu ("City") must be consistent with the policies of the LCP; and

IV. WHEREAS, pursuant to the LCP, Grantor applied to the City for a Coastal Development Permit to undertake development (as that term is defined in PRC Section 30106 and Section 2.1 of the LCP's Local Implementation Plan) on the Property; and

V. WHEREAS, the Property is a parcel located between the first public road and the shoreline; and

VI. WHEREAS, pursuant to PRC Sections 30210 through 30212, and the public access and recreation policies of the LCP, public access to and along the shoreline is to be maximized; and

VII. WHEREAS, on July 15, 2019, the City conditionally approved Coastal Development Permit No. 12-004 (“Permit”) in accordance with Resolution No. 19-30, attached hereto as EXHIBIT B, and incorporated herein by this reference; which includes the findings adopted by the City in support of its decision, and is subject to Condition No. 103 (the “Condition”) which provides as follows:

In order to effectuate the property owner’s offer to dedicate an easement for lateral public access and passive recreational use along the shoreline, prior to issuance of the permit, the property owner shall execute and record a document, in a form and content acceptable to the Planning Director and CCC, irrevocably offering to dedicate to a public agency or private association approved by the City and CCC, an easement for lateral public access and passive recreational use along the shoreline. The easement shall be located along the entire width of the property from the ambulatory mean high tide line landward to the dripline of the deck. The document shall be recorded free of prior liens and any other encumbrances which the CCC determines may affect the interest being conveyed. The offer shall run with the land in favor of the People of California, binding all successors and assigns, and this offer shall be irrevocable for a period of 21 years, such period running from the date of recording. The recording document shall include a formal legal description and graphic depiction, prepared by a licensed survey, of both the property owner’s entire parcel and the easement area. The document shall provide that the offer of dedication shall not be used or construed to allow anyone, prior to acceptance of the offer, to interfere with any rights of public access acquired through use which may exist on the property.

VIII. WHEREAS, Grantor has elected to comply with the Condition and execute this Offer so as to enable Grantor to undertake the development authorized by the Permit.

NOW AND THEREFORE, in consideration of the granting of the Permit to Grantor by the City, Grantor hereby irrevocably offers to dedicate to the People of the State of California a lateral access easement in gross and in perpetuity over the Property as follows:

1. DESCRIPTION. The easement offered hereby affects that portion of the Property located from the mean high tide line landward to the dripline of the deck and which is specifically described and depicted on EXHIBITS C-1 and C-2 respectively, attached hereto and incorporated herein by this reference.

2. PURPOSE. The easement is for the purpose of allowing public pedestrian lateral access and passive recreational use along the shoreline.

3. DECLARATION OF RESTRICTIONS. This Offer shall not be used or construed to allow anyone, prior to acceptance of the Offer, to interfere with any rights of public access acquired through use which may exist on the Property. After acceptance of the Offer, Grantor shall neither interfere with the public’s

use of the easement nor take any action inconsistent with such use, including, without limitation, constructing or improving the Property in a manner inconsistent with the public's use or enjoyment of the easement area.

Grantor shall retain all normal rights and incidents of ownership of the underlying fee interest in the Property not inconsistent with the easement. Grantor shall not be bound to undertake any supervision or maintenance to provide for the public purposes hereunder.

4. DURATION, ACCEPTANCE AND TRANSFERABILITY. This Offer shall be irrevocable for a period of 21 years running from the date of recordation hereof. This Offer may be accepted by any public agency, a political subdivision of the State of California or a private association acceptable to the Executive Director of the Commission ("Grantee"). Such acceptance shall be effectuated by recordation by the Grantee of an acceptance of this Offer in the form attached hereto as EXHIBIT D. Upon such recordation of acceptance, this Offer and its terms, conditions and restrictions shall have the effect of a grant of lateral access easement in gross and in perpetuity consistent with the above terms that shall run with the land and be binding on the heirs, assigns, and successors of the Grantor. After acceptance, this easement may be transferred to and held by any entity that qualifies as a Grantee under the criteria hereinabove stated. Acceptance of this Offer is subject to a covenant that runs with the land that the Grantee may not abandon the easement unless Grantee effectively transfers said easement to an entity which qualifies as a Grantee under the criteria hereinabove stated.

5. REMEDIES. Any act, conveyance, contract, or authorization by the Grantor, whether written or oral, that uses or would cause to be used, or would permit a use of any portion of the Property that is contrary to the terms of this Offer, will be deemed a violation and a breach hereof. The Grantor, any Grantee of this easement and any offeree of this Offer may pursue any and all available legal and/or equitable remedies to enforce the terms and conditions of the Offer and easement and their respective interest in the Property. In the event of a breach, any forbearance on the part of any such party to enforce the terms and provisions hereof shall not be deemed a waiver of enforcement rights regarding any subsequent breach.

6. TAXES AND ASSESSMENTS. Grantor agrees to pay or cause to be paid all real property taxes and assessments levied or assessed against the entire Property. It is intended that this irrevocable Offer and the use restrictions contained herein shall constitute enforceable restrictions within the meaning of (a) Article XIII, §8 of the California Constitution; and (b) §402.1 of the California Revenue and Taxation Code, or successor statute. Furthermore, this Offer, easement and restrictions shall be deemed to constitute a servitude and burden upon the Property within the meaning of §3712(d) of the California Revenue and Taxation Code, or successor statute, which survives a sale of tax-deeded property.

7. SUCCESSORS AND ASSIGNS. The terms, covenants, conditions, exceptions, obligations, and reservations contained in this Offer shall be deemed to be covenants and restrictions running with the Property and shall be binding upon and inure to the benefit of the successors and assigns of both the Grantor and the Grantee, whether voluntary or involuntary.

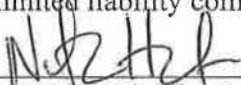
8. SEVERABILITY. If any provision of this Offer is held to be invalid, or for any reason becomes unenforceable, no other provision shall be thereby affected or impaired.

Executed this 17th day of July, 2020, at 101 Ygnacio Valley Road, Suite 320, Walnut Creek, California 94596.

GRANTOR:

Malibu Realty, LLC,
a Delaware limited liability company

By:


Nathan Haratani, Vice President

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document, to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

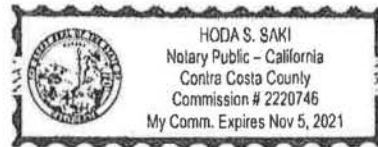
State of California)
) ss
County of Contra Costa)

On July 17, 2020 before me, Hoda S. Saki, Notary Public,
personally appeared Nathan Haratani,

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



[Handwritten Signature]

(Seal)

(Notary Public's signature in and for said County and State)

CERTIFICATION BY THE CITY OF MALIBU

This is to certify that the Irrevocable Offer to Dedicate Public Lateral Access Easement and Declaration of Restrictions (the "Offer to Dedicate") set forth above has been examined by the undersigned officer and has been found to be consistent with all of the terms and conditions of Coastal Development Permit No. 12-004 approved by the City of Malibu on July 15, 2019. The City of Malibu consents to the recordation of the Offer to Dedicate by its duly authorized officer.

Dated: August 6, 2020

CITY OF MALIBU

Bonnie Blue, Planning Director

BBC

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document, to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of Los Angeles

on August 6, 2020 before me, Heather Glass, City Clerk, personally appeared Bonnie Blue, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her authorized capacity, and that by her signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Heather Glass
Heather Glass, City Clerk
(seal)



EXHIBIT A
LEGAL DESCRIPTION

A PARCEL OF LAND IN LOS ANGELES COUNTY, STATE OF CALIFORNIA, BEING A PORTION OF THE RANCHO TOPANGA MALIBU SEQUIT, AS CONFIRMED TO MATTHEW KELLER BY PATENT RECORDED IN BOOK 1 PAGE 407 ET SEQ, OF PATENTS, RECORDS OF SAID COUNTY, PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE SOUTHERLY LINE OF THE 80 FOOT STRIP OF LAND DESCRIBED IN THE DEED FROM T.R. CADWALADER, TRUSTEE, ET AL, TO THE STATE OF CALIFORNIA, RECORDED IN BOOK 15228 PAGE 342, OFFICIAL RECORDS, OF SAID COUNTY, SAID POINT OF BEGINNING BEING IN SAID SOUTHERLY LINE DISTANT SOUTH 83°48'30" EAST 1025.71 FEET, MEASURED ALONG SAID SOUTHERLY LINE FROM A POINT BEARING SOUTH 6°11'30" WEST 40 FEET FROM ENGINEER'S CENTER LINE STATION 989 + 65.17;

THENCE ALONG THE SOUTHERLY LINE SOUTH 83°48'30" EAST 210.00 FEET TO THE EAST LINE OF THE CERTIFICATE OF COMPLIANCE RECORDED FEBRUARY 07, 1989 AS INST. NO. 89-205209, OFFICIAL RECORDS, TO A POINT BEING DISTANT NORTH 83°48'30" WEST 917.54 FEET FROM ENGINEER'S CENTERLINE STATION 1011 + 18.42;

THENCE ALONG THE LAST MENTIONED EAST LINE SOUTH 06°11'30" WEST TO THE AMBULATORY MEAN HIGH TIDE LINE (ORDINARY HIGH TIDE LINE) OF THE PACIFIC OCEAN;

THENCE WESTERLY ALONG SAID TIDE LINE TO THE INTERSECTION OF SAID TIDE LINE AND THAT LINE WHICH BEARS SOUTH 06°11'30" WEST FROM THE POINT OF BEGINNING;

THENCE NORTH 06°11'30" EAST TO SAID POINT OF BEGINNING.

EXCEPT ANY PORTION THEREOF LYING WITH THE FINAL ORDER OF CONDEMNATION RECORDED NOVEMBER 20, 1929 IN BOOK 9434 PAGE 344 OF OFFICIAL RECORDS.

ALSO, EXCEPT ALL LITTORAL RIGHTS WITH FULL AND EXCLUSIVE RIGHTS TO PRESERVE AND PROTECT SAID LITTORAL RIGHTS AS CONTAINED IN THE ABOVE DEEDS.

AND ALSO EXCEPT ANY TIDE AND SUBMERGED LANDS OF THE STATE OF CALIFORNIA LYING BELOW THE ELEVATION OF NATURAL AMBULATORY MEAN HIGH TIDE LINE (ORDINARY HIGH WATER MARK) AND ANY PORTION OF SAID LAND LYING OUTSIDE OF THE PATENT LINES OF THE RANCHO TOPANGA MALIBU SEQUIT, AS SUCH LINES EXISTED AT THE TIME OF THE ISSUANCE OF THE PATENT, WHICH WAS NOT FORMED BY THE DEPOSIT OF ALLUVION FROM NATURAL CAUSES AND BY IMPERCEPTIBLE DEGREES. SAID LAND IS DESCRIBED IN A CERTIFICATE OF COMPLIANCE RECORDED FEBRUARY 07, 1989 AS INSTRUMENT NO. 89-205209, OFFICIAL RECORDS.

CONTAINING AN AREA OF APPROXIMATELY 41,548 SQUARE FEET AND IS SHOWN ON ATTACHED EXHIBIT "B"

APN: 4451-006-018 AND 4451-006-020 AND 4451-006-040

EXHIBIT B

City of Malibu Planning Commission Resolution No. 19-30

(attached)

CITY OF MALIBU PLANNING COMMISSION
RESOLUTION NO. 19-30

This certifies that this document consisting of 23 pages is a true and correct copy of the original on file with the City of Malibu.

Attest this 10 day of August, 2020
By Heather Glaser
Title City Clerk (seal)

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MALIBU, DETERMINING THE PROJECT IS CATEGORICALLY EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, AND APPROVING COASTAL DEVELOPMENT PERMIT NO. 12-004 TO CONSTRUCT A NEW 13,769 SQUARE FOOT, TWO-STORY, SINGLE-FAMILY BEACHFRONT RESIDENCE INCLUDING TWO ATTACHED TWO-CAR GARAGES, PLUS A 1,550 SQUARE FOOT GLASS ROOF CONSERVATORY FOR A TOTAL ENCLOSED SQUARE FOOTAGE OF 15,319, DECKS, EXTERIOR STAIRS TO THE BEACH, LANDSCAPING AND HARDSCAPING, 42-FOOT WIDE VIEW CORRIDOR, INSTALLATION OF A NEW ONSITE WASTEWATER TREATMENT SYSTEM AND SHORELINE PROTECTION DEVICE; INCLUDING STRINGLINE MODIFICATION REVIEW NO. 12-001 FOR THE SINGLE-FAMILY RESIDENCE TO EXTEND 11 FEET BEYOND THE BUILDING STRINGLINE, DEMOLITION PERMIT NOS. 12-002, 19-012, AND 19-013 TO DEMOLISH THREE EXISTING SINGLE-FAMILY BEACHFRONT RESIDENCES AND ASSOCIATED DEVELOPMENT, LOT MERGER NO. 12-001 TO CONSOLIDATE THREE LEGAL LOTS AND OFFER TO DEDICATE NO. 19-001 FOR A LATERAL ACCESS EASEMENT ACROSS THE PROPERTIES LOCATED IN THE SINGLE FAMILY-MEDIUM ZONING DISTRICT AT 22214, 22224, AND 22230 PACIFIC COAST HIGHWAY (CARBONVIEW LIMITED, LLC AND MALIBU REALTY, LLC)

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

SECTION I. Recitals.

A. On January 17, 2012, an application for Coastal Development Permit (CDP) No. 12-004, Stringline Modification No. 12-001, Demolition Permit (DP) Nos. 12-002, 19-012, and 19-013 and Lot Merger (LM) No. 12-001 was submitted to the Planning Department by applicant, DP Planning and Development, Inc., on behalf of the property owners, Carbonview Limited, LLC and Malibu Realty, LLC. The application was routed to the City Biologist, City Coastal Engineer, City Environmental Health Administrator, City geotechnical staff, City Public Works Department, and Los Angeles County Fire Department (LACFD) for review.

B. On January 23, 2019, the CDP application was deemed complete for processing.

C. On March 14, 2019, Demolition Permit (DP) Nos. 19-012, and 19-013 were assigned to the project.

D. On March 19, 2019, Offer to Dedicate (OTD) No. 19-001 was assigned to the project for a lateral public access across the property.

E. On March 25, 2019, a Notice of Coastal Development Permit (CDP) Application was posted on the subject property.

F. On April 4, 2019, Planning Department staff conducted a site visit to document the story poles.

G. On April 11, 2019, a Notice of Planning Commission Public Hearing was published in a newspaper of general circulation within the City of Malibu and was mailed to all property owners and occupants within a 500-foot radius of the subject property.

H. On May 6, 2019, the Planning Commission continued the item to the May 20, 2019 Regular Planning Commission meeting upon approval of the agenda at the request from the applicant.

I. On May 20, 2019, 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 continued the item to the July 15, 2019 Regular Planning Commission meeting upon request from the applicant, to allow time for the applicant to submit revised plans that contain additional parking spaces and an alternative driveway alignment that does not utilize the view corridor for vehicular access.

J. On July 15, 2019, the Planning Commission held a duly noticed public hearing on the subject application, reviewed and considered the staff report, reviewed and considered written reports, public testimony, and other information in the record.

SECTION 2. Environmental Review.

Pursuant to the authority and criteria contained in the California Environmental Quality Act (CEQA), the Planning Commission has analyzed the proposed project. The Planning Commission has found that this project is listed among the classes of projects that have been determined not to have a significant adverse effect on the environment. Therefore, the project is categorically exempt from the provisions of CEQA according to CEQA Guidelines Sections 15301(I) – Existing Facilities, 15303(a) and (e) – New Construction, and 15315 – Minor Land Divisions. The Planning Commission has further determined that none of the six exceptions to the use of a categorical exemption applies to this project (CEQA Guidelines Section 15300.2).

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) Sections 13.7(B) and 13.9 and Malibu Municipal Code (MMC) Section 17.70, the Planning Commission adopts and approves the analysis in the agenda report, incorporated herein, the findings of fact below, and approves CDP No. 12-004 to construct a new 13,769 square foot, two-story, single-family beachfront residence including two attached two-car garages, plus a 1,550 square foot glass roof conservatory for a total enclosed square footage of 15,319, decks, exterior stairs to the beach, landscaping and hardscaping, 42-foot wide view corridor, installation of a new onsite wastewater treatment system (OWTS) and shoreline protection device; including SMR No. 12-001 for the single-family residence to extend 11 feet beyond the building stringline, DP Nos. 12-002, 19-012, and 19-013 to demolish three existing single-family beachfront residences and associated development, LM No. 12-001 to consolidate three legal lots and OTD No. 19-001 for a lateral access easement across the properties in the Single Family – Medium (SFM) zoning district located at 22214, 22224, and 22230 Pacific Coast Highway (PCH).

The project is consistent with the LCP's zoning, grading, cultural resources, water quality, and wastewater treatment requirements. With the inclusion of the proposed stringline modification review, demolition permits and lot merger, 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. The project is located in the SFM zoning district, an area designated for residential uses. The project has been reviewed for conformance with the LCP by the Planning Department, the City Biologist, City Coastal Engineer, City Environmental Health Administrator, City geotechnical staff, City Public Works Department, LACFD, California State Lands, and Los Angeles County Waterworks District No. 29 (WD29). As discussed herein, based on submitted reports, project plans, visual analysis, and detailed site investigation, the proposed project with the inclusion of the stringline modification review, lot merger and demolition permits, as conditioned, conforms to the LCP and MMC in that it meets all applicable residential zone development standards.

2. The project is located between the first public road and the sea. Vertical public access exists approximately 500 feet to the east. Additionally, the property owner has volunteered a lateral public access easement across the three subject properties. Therefore, no potential project-related or cumulative impact on public access and/or recreation is anticipated to result from the proposed project. The proposed project conforms to the public access and recreational policies in Chapter 3 of the Coastal Act.

3. The proposed single-family residence is located on the same site as the three existing single-family residences that will be demolished and replaced with current code compliant development. The new advanced OWTS serves to improve water quality and the 42-foot wide view corridor will provide larger ocean views and bring the property into conformance with LCP Scenic and Visual Resource policies and provisions. The proposed project meets the development policies of the LCP and has been determined to be the least environmentally damaging feasible alternative.

B. Stringline Modification Review for an Alternative Building Stringline Endpoint from the Adjacent Property (LIP Section 13.27.5[B])

SMR No. 12-001 is requested for the building stringline to be measured from the second most adjacent corner of the building on the property to the east (22208 PCH), rather than the most adjacent corner.

1. Evidence in the record demonstrates that the proposed single-family residence would not project seaward of the two adjacent single-family residences.

2. Since the proposed single-family residence will not project seaward of the two adjacent properties, the stringline modification review will not grant the project applicant a privilege not enjoyed by neighboring properties. The stringline modification is requested due to a notch in the adjacent building that results in a landward jog in the stringline that is more restrictive than the prevailing stringline for the area.

3. Strict compliance with the building stringline rule would push the proposed development significantly closer to PCH than the two adjacent properties. Therefore, strict compliance with the building stringline rule would deprive the property owner of a reasonable use which is enjoyed by adjacent structures.

4. The proposed stringline modification review would permit the use of an alternative building corner from the adjacent property to the east. The proposed project complies with the deck and shoreline protection device stringline rule and includes an offer to dedicate a lateral access easement across the property. Therefore, the project will not affect public access pursuant to LIP Chapter 12.

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

1. Due to the location of the lots, there is no feasible alternative building site location where the development would not have the potential to be visible from PCH or the beach, which are public viewing areas. The project, as proposed, complies with the beachfront residential development standards for height and proposes a 42-foot wide view corridor. With the inclusion of the conditions set forth in this resolution, pertaining to permissible exterior colors, materials and lighting restrictions, the project will blend in with the surrounding developed environment. As demonstrated by the story poles, the proposed development will not further impede views of the ocean. With the implementation of the conditions of approval, the project will not have significant adverse scenic or visual impacts.

2. The project will not have significant adverse scenic or visual impacts due to required project modifications, landscaping or other conditions.

3. The proposed project, as designed and conditioned, is the least environmentally damaging alternative.

4. The location proposed for development will be visible from public viewing areas. However, the site consists of infill lots and the project complies with the required view corridor ordinance and will not project further seaward than the adjacent neighboring residences. The proposed development conforms to the deck stringline and shoreline protection device stringline. The project as proposed and conditioned will result in less than significant impacts on scenic and visual resources.

D. Hazards (LIP Chapter 9)

1. Based on review of the project plans, geotechnical reports and wave uprush report, the project engineers concluded the project is feasible from an engineering geologic standpoint, will be free from geologic hazards such as slippage, settlement, and will not have an adverse effect upon the stability of the site or adjacent properties provided their recommendations and those of the project geotechnical engineer are incorporated into the plans and implemented during construction, and the subject property and proposed structures are properly maintained.

2. The proposed project, as designed and conditioned by the applicable departments and agencies, will not have any significant adverse impacts on the site stability or structural integrity from geologic or flood hazards due to site characteristics, project design and conditions. The project, as designed and conditioned, will incorporate all recommendations contained in the geotechnical report and wave uprush report, and the conditions required by the City Coastal Engineer, City geotechnical staff, City Public Works Department and the LACFD. As such, the proposed project will not increase instability of the site or structural integrity from geologic, flood or any other hazards.

3. The proposed project, as designed and conditioned, is the least environmentally damaging alternative.

4. There are no feasible alternatives that would avoid or substantially lessen impacts on site stability or structural integrity.

5. No adverse impacts to sensitive resources are expected.

E. Shoreline and Bluff Development (LIP Chapter 10)

1. The proposed project includes the demolition of the three existing single-family beachfront residences, OWTSs and bulkheads, and the construction of a new residence, OWTS and bulkhead. The location of the proposed OWTS and bulkhead have been reviewed and approved by the City Coastal Engineer and City Environmental Health Administrator and determined to be sited as landward as feasible. The single-family residence has been designed to not require a shoreline protection device. The project site is subject to wave action and according to the wave uprush, the lowest recommended finished floor is +19.8 feet North American Datum 1988. As proposed, the project complies with the deck stringline, shoreline protection device stringline and 10-foot setback from the MHTL and will not impede public beach access across the properties. Therefore, the project is not anticipated to result in significant adverse impacts to on public access, shoreline sand supply or other resources.

2. The project, as proposed and conditioned, will not have any significant adverse impacts on public access or shoreline sand supply or other resources.

3. The proposed project, as designed and conditioned, is the least environmentally damaging alternative.

4. The project is not anticipated to negatively impact public access shoreline sand supplies or other sensitive resources.

5. The proposed project has been review and approved by the City Coastal Engineer and City Environmental Health Administrator. The proposed OWTS and bulkhead have been determined to be sited in the most landward feasible location. Additionally, the property owner is required to acknowledge, by the recordation of deed restriction, that no future repair or maintenance, enhancement, reinforcement, or any other activity affecting the shoreline protection structure which extends the seaward footprint of the subject structure shall be undertaken and that he / she expressly waives any right to such activities that may exist under Coastal Act Section 30235. Therefore, the project, as proposed, is not expected to adversely impact local shoreline sand supply and public access.

F. Land Division (LIP Chapter 15 and MMC Chapter 16.32)

1. All three parcels are under common ownership and the application proposes a voluntary merger that has been initiated by the property owner. The proposed merger is not inconsistent with any policy or standard of the LCP that protects sensitive resources, hillsides and visual resources of the coastal zone.

2. Section 5 below requires the recordation of a legal description as required by the LIP. Upon submittal, the document shall be reviewed and approved by the City Engineer and recorded with the City Clerk's office.

G. Demolition Permit Findings (MMC Chapter 17.70)

1. The demolition permit is conditioned to assure that it will be conducted in a manner that will not create significant adverse environmental impacts. 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 Nos. 12-002, 19-012, and 19-013, approval of the demolition permit is subject to the approval of CDP No. 12-004.

SECTION 4. Planning Commission Action.

Based on the foregoing findings and evidence contained within the record, the Planning Commission hereby approves CDP No. 12-004, SMR No. 12-001, DP Nos. 12-002, 19-012 and 19-013, LM No. 12-001 and OTD No. 19-001 subject to the following conditions.

SECTION 5. Conditions of Approval.

1. The property owners, and their successors in interest, shall indemnify and defend the City of Malibu and its officers, employees and agents from and against all liability and costs relating to the City's actions concerning this project, including (without limitation) any award of litigation expenses in favor of any person or entity who seeks to challenge the validity of any of the City's actions or decisions in connection with this project. The City shall have the sole right to choose its counsel and property owners shall reimburse the City's expenses incurred in its defense of any lawsuit challenging the City's actions concerning this project.
2. Approval of this application is to allow for the following:

Demolition

- a. DP No. 12-002 for demolition of the existing 1,390 square foot single-family residence, OWTS, decks and stairs to the beach on 22230 PCH (Lot A);
- b. DP No. 19-012 for demolition of the existing 1,016 square foot single-family residence OWTS, decks and stairs to the beach on 22224 PCH (Lot B); and
- c. DP No. 19-013 for demolition of the existing 2,239 square foot single-family residence OWTS, decks and stairs to the beach on 22214 PCH (Lot C).

Construction

- a. A new 13,769 square foot, two-story, single-family beachfront residence with two attached two- car garages;
- b. Attached 1,550 square foot glass roof conservatory for a total residence square footage of 15,319 square feet;
- c. Decks and exterior stairs to the beach;
- d. Shoreline protection device (bulkhead);
- e. OWTS;
- f. Landscaping and hardscaping; and
- g. 42 foot, 1 inch view corridor on the east side of the property.

Stringline Modification Review

- a. SMR No. 12-001 for the single-family residence to extend 11 feet beyond the building stringline to the next adjacent corner of 22208 PCH.

Lot Merger

- b. LM No. 12-001 for three parcels (Lot A, Lot B and Lot C) to be merged into one legal lot.

Offer to Dedicate

- a. OTD No. 19-001 for a lateral public access easement across all three lots.
3. Except as specifically changed by conditions of approval, the proposed development shall be constructed in substantial conformance with the approved scope of work, as described in Condition No. 2 and depicted on plans on file with the Planning Department date stamped **June 11, 2019**. The proposed development shall further comply with all conditions of approval stipulated in this resolution and Department Review Sheets attached hereto. In the event project plans conflict with any condition of approval, the condition shall take precedence.
 4. Pursuant to LIP Section 13.18.2, this permit and rights conferred in this approval shall not be effective until the property owner signs, notarizes and returns the Acceptance of Conditions Affidavit accepting the conditions of approval set forth herein. The applicant shall file this form with the Planning Department prior to the issuance of any development permits.
 5. The applicant shall 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 and notarized Acceptance of Conditions Affidavit and all Department Review Sheets attached to the 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, and the City of Malibu Public Works Department for an encroachment permit (as applicable).

7. The CDP shall expire if the project has not commenced within three (3) years after issuance of the permit, unless a time extension has been granted. Extension of the permit may be granted by the approving authority for due cause. Extensions shall be requested in writing by the applicant or authorized agent prior to expiration of the three-year period and shall set forth the reasons for the request. In the event of an appeal, the CDP shall expire if the project has not commenced within three years from the date the appeal is decided by the decision-making body or withdrawn by the appellant. Recordation of the lot merger does not constitute commencement of the project for purposes of this condition.
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 Coastal Engineer, City Environmental Health Administrator, City geotechnical staff, City Public Works Department, WD29, and LACFD, as applicable. 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 Malibu Municipal Code and the Local Coastal Program. 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 property owner must submit payment for all outstanding fees payable to the City prior to issuance of any building permit, including grading or demolition.

Cultural Resources

13. In the event that potentially important cultural resources are found in the course of geologic testing or during construction, work shall immediately cease until a qualified archaeologist can provide an evaluation of the nature and significance of the resources and until the Planning Director can review this information. Thereafter, the procedures contained in LIP Chapter 11 and those in MMC Section 17.54.040(D)(4)(b) shall be followed.
14. If human bone is discovered during geologic testing or during construction, work shall immediately cease and the procedures described in Section 7050.5 of the California Health and Safety Code shall be followed. Section 7050.5 requires 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.

Colors and Materials

15. The project is visible from scenic roads or public viewing areas, therefore, shall incorporate colors and exterior materials that are compatible with the surrounding landscape.
 - a. Acceptable colors shall be limited to colors compatible with the surrounding environment (earth tones) including shades of green, brown and gray, with no white or light shades and no bright tones. Colors shall be reviewed and approved by the Planning Director and clearly indicated on the building plans.
 - b. 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.
 - c. All windows shall be comprised of non-glare glass.

16. All driveways shall be a neutral color that blends with the surrounding landforms and vegetation. Retaining walls shall incorporate veneers, texturing and/or colors that blend with the surrounding earth materials or landscape. The color of driveways and retaining walls shall be reviewed and approved by the Planning Director and clearly indicated on all grading, improvement and/or building plans.

Fencing/Walls/Screening

17. The height of fences and walls shall comply with LIP Section 3.5.3(A).

18. Any above-ground equipment shall be screened from view by a solid wall or fence on all four sides. The fence or walls shall comply with LIP Section 3.5.3(A).

Lighting

19. Exterior lighting must comply with the Dark Sky Ordinance upon its effective date 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.

20. 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.

21. 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.
22. String lights are allowed in occupied dining and entertainment areas only and must not exceed 3,000 Kelvin.
23. Motion sensor lights shall be programmed to extinguish ten minutes after activation.
24. 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.

Lot Merger

25. A lot merger certificate of compliance is required. To effectuate the lot merger, prior to grading or building permit issuance, the applicant must submit to the City a recorded instrument evidencing the merger. The instrument must be reviewed and approved by the City prior to recording. A copy of the recorded instrument shall be provided to the City Clerk's Office by the applicant. Recordation of the lot merger shall not constitute commencement of the project for purposes of Condition No. 7.

Shoreline Protection

26. All construction debris shall be removed from the beach daily and at the completion of development.
27. No stockpiling of dirt or construction materials shall occur on the beach.
28. Measures to control erosion, runoff, and siltation shall be implemented at the end of each day's work.
29. The applicant shall not store any construction materials or waste where it will be or could potentially be subject to wave erosion and dispersion.
30. No machinery shall be placed, stored or otherwise located in the intertidal zone at any time, unless necessary for protection of life and/or property.
31. Construction equipment shall not be cleaned on the beach.
32. Construction debris and sediment shall be properly contained and secured on site with Best Management Practices (BMPs) to prevent the unintended transport of sediment and other debris into coastal waters by wind, rain or tracking.

Site Specific Condition

33. A construction management plan, including a traffic control plan and construction parking plan, shall be submitted for review and approval by the Building Official prior to the issuance of demolition, grading or building permits.

View Corridor

34. Pursuant to LIP Section 6.5(E)(1)(e) and in order to ensure the protection of scenic and visual resources, the project is conditioned as follows:
- a. Structures shall extend no higher than the road grade of PCH adjacent to the project site.
 - b. Fences shall be located away from the road edge and fences or walls shall be no higher than adjacent road grade of PCH, with the exception of fences that are composed of visually permeable design and material.
 - c. The project site shall be landscaped with native vegetation types that have a maximum growth height at maturity and are located such that landscaping will not extend above PCH road grade.
 - d. Existing vegetation shall be removed, or trimmed and maintained in perpetuity so as not to extend above the adjacent road elevation of PCH.
35. No vehicles shall be parked, stored or otherwise located within the View Corridor.

Biology/Landscaping

36. Prior to installation of any landscaping, the applicant shall obtain a plumbing permit for the proposed irrigation system from the Building Safety Division.
37. 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.
38. Prior to a final plan check approval, the property owner /applicant must provide a landscape water use approval from the WD29.
39. 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.
40. Vegetation shall be situated on the property so as not to obstruct the primary view from private property at any given time (given consideration of its future growth).
41. Invasive plant species, as determined by the City of Malibu, are prohibited.
42. The landscape plan shall prohibit the use of building materials treated with toxic compounds such as creosote and copper arsenate.
43. Grading and/or demolition shall be scheduled only during the dry season from April 1 – October 31. If it becomes necessary to conduct grading activities from November 1 – March 31, a comprehensive erosion control plan shall be submitted for approval prior to issuance of a grading permit and implemented prior to initiation of vegetation removal and/or grading activities.

44. Night lighting from exterior and interior sources shall be minimized. All exterior lighting shall be low intensity and shielded so it is directed downward and inward so that there is no offsite glare or lighting of natural habitat areas.
45. Up-lighting of landscaping is prohibited.
46. Lighting of the shore is prohibited.
47. 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.

Coastal Engineering/Geology

48. All recommendations of the consulting certified engineering geologist or geotechnical engineer and/or the City geotechnical staff 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 geotechnical staff prior to the issuance of permits.
49. Final plans approved by the City geotechnical staff shall be in substantial conformance with the approved CDP relative to construction, grading, sewage disposal and drainage. Any substantial changes may require a CDP amendment or a new CDP.
50. The property owner shall comply with the requirements for recorded documents and deed restrictions outlined in LIP Section 10.6(A). Evidence of the completion of this condition shall be submitted to the City Coastal Engineer prior to Building Plan Check approval.
51. The design and modification of the existing shoreline protection devices (SPDs) if required on the adjacent properties on the west and the east of the subject site, including temporary excavation and shoring, shall be performed in accordance with the recommendations of the Project Geotechnical Engineering Consultant and the Coastal Engineering Consultant per Section 6.5 of the City's Coastal Engineering guidelines.
52. The property owner shall record a Covenant and Agreement Regarding Maintenance of the Shoreline Protection Device and the Use and Transfer of Ownership of Property, informing any successors-in-interest to the property of the Shoreline Protection Device monitoring requirements. The Shore Protection Monitoring Program shall be attached to the covenant as Exhibit B.

Environmental Health

53. 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.

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54. 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).
55. 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).
56. 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.
57. 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 bedrooms, fixture units and building occupancy characteristics;
- 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; and
 - e. H2O Traffic Rated Slab: Submit plans and structural calculations for review and approval by the Building Safety Division prior to Environmental Health final approval.
58. Prior to final Environmental Health approval, the construction plans for all structures and/or buildings with reduced setbacks must be approved by the City Building Safety Division. The architectural and/or structural plans submitted to Building Safety plan check must detail methods of construction that will compensate for the reduction in setback (e.g., waterproofing, concrete additives, etc.). For complex waterproofing installations, submittal of a separate waterproofing plan may be required. The architectural/structural/waterproofing plans must show the location of OWTS components in relation to those structures from which the setback is reduced, and the plans must be signed and stamped by the architect, structural engineer, and geotechnical consultants (as applicable).
59. Prior to final Environmental Health approval, the applicant shall provide engineer's certification for reduction in setbacks to buildings or structures: All proposed reductions in setback from the OWTS to structures (i.e., setbacks less than those shown in MMC Table 15.42.030(E)) must be supported by a letter from the project structural engineer and a letter from the project soils engineer (i.e., a geotechnical engineer or civil engineer practicing in the area of soils engineering). Both engineers must certify unequivocally that the proposed reduction in setbacks from the treatment tank and effluent dispersal area will not adversely affect the structural integrity of the OWTS, and will not adversely affect the structural integrity of the structures for which the Table 15.42.030(E) setback is reduced. Construction drawings submitted for plan check must show OWTS components in relation to those structures from which the setback is reduced. All proposed reductions in setback from the OWTS to buildings (i.e., setbacks less than those shown in Table 15.42.030(E)) also must be supported by a letter from the project architect, who must certify unequivocally that the proposed reduction in setbacks will not produce a moisture intrusion problem for the proposed building(s). If the building designer is not a California-licensed architect, then the required architect's certification may be supplied by an engineer who is responsible for the building design with respect to mitigation of potential moisture intrusion from reduced setbacks to the wastewater system. In this case, the engineer must include in his/her letter an explicit statement of responsibility for mitigation of potential moisture intrusion. If any specific construction features are proposed as part of a moisture intrusion mitigation system in connection with the reduced setback, then the architect or engineer must provide associated construction documents for review and approval during Building Safety Division plan check. The wastewater plans and the construction plans must be specifically referenced in all certification letters.

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60. The following note shall be added to the plan drawings included with the OWTS final design: "Prior to commencing work to abandon, remove, or replace the existing Onsite Wastewater Treatment System (OWTS) components, an 'OWTS Abandonment Permit' shall be obtained from the City of Malibu. All work performed in the OWTS abandonment, removal or replacement area shall be performed in strict accordance with all applicable federal, state, and local environmental and occupational safety and health regulatory requirements. The obtainment of any such required permits or approvals for this scope of work shall be the responsibility of the applicant and their agents."
 61. Final plans shall clearly show the locations of all existing OWTS components (serving pre-existing development) to be abandoned and provide procedures for the OWTS' proper abandonment in conformance with the MMC.
 62. A covenant running with the land shall be executed by the property owner and recorded with the Los Angeles County Recorder's Office. Said covenant shall serve as constructive notice to any successors in interest that: 1) the private sewage disposal system serving the development on the property does not have a 100 percent expansion effluent dispersal area (i.e., replacement disposal field(s) or seepage pit(s)), and 2) if the primary effluent dispersal area fails to drain adequately, the City of Malibu may require remedial measures including, but not limited to, limitations on water use enforced through operating permit and/or repairs, upgrades or modifications to the private sewage disposal system. The recorded covenant shall state and acknowledge that future maintenance and/or repair of the private sewage disposal system may necessitate interruption in the use of the private sewage disposal system and, therefore, any building(s) served by the private sewage disposal system may become non-habitable during any required future maintenance and/or repair. Said covenant shall be in a form acceptable to the City Attorney and approved by the City Environmental Sustainability Department.
 63. Proof of ownership of subject property shall be submitted to the City Environmental Health Administrator.
 64. 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.
 65. 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.
 66. 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 City of MMC. Said covenant shall be provided by the City of Malibu Environmental Health Administrator.

67. The City geotechnical staff final approval shall be submitted to the City Environmental Health Administrator.
68. 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.

Public Works

69. The consulting engineer shall sign the final plans prior to the issuance of permits.
70. 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.
71. Prior to the approval of the grading and drainage permit, the lot merger must first be finalized.
72. 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 the issuance of grading or building permits. The digital drawing shall adequately show all storm drain lines, inlets, outlets, post-construction BMPs and other applicable facilities. The digital drawing shall also show the subject property, public or private street, and any drainage easements.

Street Improvements

73. Prior to the City Public Works Department approval of the grading and building permit, the applicant shall obtain encroachment permits from Caltrans for the proposed improvements.
74. Unused curb cuts shall be removed to accommodate on-street parking.
75. Caltrans approval is required any modification to curb cuts along PCH.

Grading/Drainage/Hydrology

76. Clearing and grading during the rainy season (extending from November 1 to March 31) shall be prohibited for development that:
 - a. Is located within or adjacent to ESHA, or
 - b. Includes grading on slopes greater than 4 to 1.

Approved grading for development that is located within or adjacent to ESHA or on slopes greater than 4 to 1 shall not be undertaken unless there is sufficient time to complete grading operations before the rainy season. If grading operations are not completed before the rainy season begins, grading shall be halted and temporary erosion control measures shall be put into place to minimize erosion until grading resumes after March 31, unless the City determines that completion of grading would be more protective of resources.

77. Exported soil from a site shall be taken to the Los Angeles 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.
78. A grading and drainage plan containing the following information shall be approved, and submitted to the Public Works Department, 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 shall be shown on the grading plan (including separate areas for buildings, driveways, walkways, parking, tennis courts and pool decks);
 - c. The limits of land to be disturbed during project development shall be delineated and a total area shall be shown on this plan. Areas disturbed by grading equipment beyond the limits of grading, areas disturbed for the installation of the septic system, and areas disturbed for the installation of the detention system shall be included within the area delineated;
 - d. The grading limits shall include the temporary cuts made for retaining walls, buttresses and over excavations for fill slopes;
 - e. If the property contains rare, endangered or special status species as identified in the Biological Assessment, this plan shall contain a prominent note identifying the areas to be protected (to be left undisturbed). Fencing of these areas shall be delineated on this plan if required by the City Biologist;
 - f. Private storm drain systems shall be shown on this plan. Systems greater than 12 inches in diameter shall also have a plan and profile for the system included with this plan; and
 - g. Public storm drain modifications shown on the grading plan shall be approved by the City Public Works Department prior to the issuance of the grading permit.

Stormwater

79. A Local Storm Water Pollution Prevention Plan shall be provided prior to issuance of grading/building permits. This plan shall include an Erosion and Sediment Control Plan (ESCP) that includes, but not limited to:

Erosion Controls Scheduling	Erosion Controls Scheduling
	Preservation of Existing Vegetation
Sediment Controls Silt Fence	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

80. All BMPs 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.
81. A Water Quality Mitigation Plan (WQMP) is required for this project. The WQMP shall be supported by a hydrology and hydraulic study that identifies all areas contributory to the property and an analysis of the predevelopment and post development drainage of the site. The WAMP shall meet all the requirements of the City's current Municipal Separate Stormwater Sewer System (MS4) permit. The following elements shall be included within the WQMP:
- a. Site Design BMPs;
 - b. Source Control BMPs;
 - c. Treatment Control BMPs that retains on-site the Stormwater Quality Design Volume (SWQDv). Or where it is technically infeasible to retain on-site, the project must biofiltrate 1.5 times the SWQDv that is not retained on-site;
 - d. Drainage Improvements;
 - e. A plan for the maintenance and monitoring of the proposed treatment BMP for the expected life of the structure;
 - f. 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;
 - g. The WQMP shall be submitted to the Public Works Department and the fee applicable at time of submittal for the review of the WQMP shall be paid prior to the start of the technical review. The WQMP shall be approved prior to the Public Works Department's approval of the grading and drainage plan and or building plans. The Public Works Department will tentatively approve the plan and will keep a copy until the completion of the project. Once the project is completed, the applicant shall verify the installation of the BMPs, make any revisions to the WQMP, and resubmit to the Public Works Department for approval. The original signed and notarized document shall be recorded with the County Recorder. A certified copy of the WQMP shall be submitted to the Public Works Department prior to the certificate of occupancy.

FEMA

82. The proposed deck is located within a SFHA, Zone VE 17'. The deck proposed below the Base Flood Elevation (BFE) must be structurally independent of the main building and must not cause an obstruction. The deck must be designed to resist the expected wind and water forces and not adversely affect the building and nearby buildings. The deck should be constructed of flood-resistant materials, and all fasteners should be made of corrosion-resistant materials. A professional engineer must certify that these standards have been satisfied.

Water Service

83. Prior to the issuance of a building permit, the applicant shall submit an updated Will Serve Letter from WD29 indicating the ability of the property to receive adequate water service.

U.S. Army Corps of Engineers

84. The applicant/property shall obtain all required permits, if any, including any necessary permits from the U.S. Army Corps of Engineers, prior to commencement of construction.

Demolition/Solid Waste

85. Prior to demolition activities, the applicant shall receive Planning Department approval for compliance with conditions of approval.
86. The applicant/property owner shall contract with a City approved hauler to facilitate the recycling of all recoverable/recyclable material. Recoverable material shall include but shall not be limited to: asphalt, dirt and earthen material, lumber, concrete, glass, metals, and drywall.
87. Prior to the issuance of a building/demolition permit, an Affidavit and Certification to implement waste reduction and recycling shall be signed by the Owner or Contractor and submitted to the Environmental Sustainability Department. The Affidavit shall indicate the agreement of the applicant to divert at least 65 percent (in accordance with CalGreen) of all construction waste from the landfill.
88. Upon plan check approval of demolition plans, the applicant shall secure a demolition permit from the City. The applicant shall comply with all conditions related to demolition imposed by the Building Official.
89. No demolition permit shall be issued until building permits are approved for issuance. Demolition of the existing structure and initiation of reconstruction must take place within a six month period. Dust control measures must be in place if construction does not commence within 30 days.
90. The project developer shall utilize licensed subcontractors and ensure that all asbestos-containing materials and lead-based paints encountered during demolition activities are removed, transported, and disposed of in full compliance with all applicable federal, state and local regulations.
91. Any building or demolition permits issued for work commenced or completed without the benefit of required permits are subject to appropriate "Investigation Fees" as required in the Building Code.
92. Upon completion of demolition activities, the applicant shall request a final inspection by the Building Safety Division.

Construction / Framing

93. 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.
94. 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 rinsed prior to leaving the property.
95. When framing is complete, a site survey shall be prepared by a licensed civil engineer or architect that states the highest roof member elevation, lowest finish floor elevation and elevation of centerline of Pacific Coast Highway. 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.
96. Construction debris and sediment shall be properly contained and secured on site with BMPs to prevent the unintended transport of sediment and other debris into coastal waters by wind, rain or tracking.
97. A crane will be utilized during construction activities. The crane shall not be placed, stored or otherwise located in the intertidal zone at any time, unless necessary for the protection of life and/or property.
98. All new development, including construction, grading, and landscaping shall be designed to incorporate drainage and erosion control measures prepared by a licensed engineer that incorporate structural and non-structural BMPs to control the volume, velocity and pollutant load of storm water runoff in compliance with all requirements contained in LIP Chapter 17, including:
 - a. Construction shall be phased to the extent feasible and practical to limit the amount of disturbed areas present at a given time;
 - b. Grading activities shall be planned during the Southern California dry season (April through October);
 - c. During construction, contractors shall be required to utilize sandbags and berms to control runoff during on-site watering and periods of rain in order to minimize surface water contamination; and
 - d. Filter fences designed to intercept and detain sediment while decreasing the velocity of runoff shall be employed within the project site.

Deed Restrictions

99. The property owner is required to acknowledge, by recordation of a deed restriction, that the property is subject to wave action, sea level rise (and the affects thereof), erosion, flooding, landslides, or other hazards associated with development on a beach or bluff, and that the property owner assumes said risks and waives any future claims of damage or liability against the City of Malibu and agrees to indemnify the City of Malibu against any

liability, claims, damages or expenses arising from any injury or damage due to such hazards. The property owner shall provide a copy of the recorded document to Planning Department staff prior to final Planning Department approval.

100. The property owner is required to execute and record a deed restriction which shall indemnify and hold harmless the City, its officers, agents, and employees against any and all claims, demands, damages, costs and 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 Department approval.
101. Prior to final Planning Department approval, the applicant shall be required to execute and record a deed restriction reflecting lighting requirements set forth previously under Lighting. The property owner shall provide a copy of the recorded document to Planning Department staff prior to final Planning Department approval.
102. The property owner is required to acknowledge, by the recordation of a deed restriction, that no future repair or maintenance, enhancement, reinforcement, or any other activity affecting the shoreline protection structure which extends the seaward footprint of the subject structure shall be undertaken and that he/she expressly waives any right to such activities that may exist under Coastal Act Section 30235. Said deed restriction shall be submitted to the Planning Department for approval prior to recordation. The deed restriction shall also acknowledge that the intended purpose of the shoreline protection structure is solely to protect the proposed septic disposal system and that any future development on the subject site landward of the subject shoreline protection structure including changes to the foundation, major remodels, relocation or upgrade of the septic disposal system, or demolition and construction of a new residence shall be subject to a requirement that a new coastal development permit be obtained for the shoreline protection structure unless the City determines that such activities are minor.
103. In order to effectuate the property owner's offer to dedicate an easement for lateral public access and passive recreational use along the shoreline, prior to issuance of the permit, the property owner shall execute and record a document, in a form and content acceptable to the Planning Director and CCC, irrevocably offering to dedicate to a public agency or private association approved by the City and CCC, an easement for lateral public access and passive recreational use along the shoreline. The easement shall be located along the entire width of the property from the ambulatory mean high tide line landward to the dripline of the deck. The document shall be recorded free of prior liens and any other encumbrances which the CCC determines may affect the interest being conveyed. The offer shall run with the land in favor of the People of California, binding all successors and assigns, and this offer shall be irrevocable for a period of 21 years, such period running from the date of recording. The recording document shall include a formal legal description and graphic depiction, prepared by a licensed survey, of both the property owner's entire parcel and the easement area. The document shall provide that the offer of dedication shall not be used or construed to allow anyone, prior to acceptance of the offer, to interfere with any rights of public access acquired through use which may exist on the property.

Prior to Occupancy

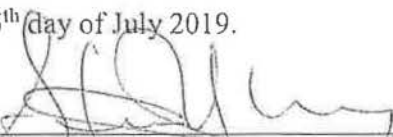
104. Prior to, or at the time of a Planning final inspection, the property owner / applicant shall submit to the Planning Department the plumbing permit for the irrigation system installation signed off by the Building Safety Division.
105. Prior to the issuance of a Certificate of Occupancy, the City Biologist shall inspect the project site and determine that all Planning Department conditions to protect natural resources are in compliance with the approved plans.
106. Prior to a final Building inspection, the applicant shall provide a Recycling Summary Report (Summary Report) and obtain the approval from the Environmental Sustainability Department. Applicant must provide haul tickets and diversion information. The final Summary Report shall designate the specific materials that were land filled or recycled, and state the facilities where all materials were taken.
107. The applicant shall request a final Planning Department inspection prior to final inspection by the City of Malibu Building Safety Division. A Certificate of Occupancy shall not be issued until the Planning Department has determined that the project complies with this coastal development permit. 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.
108. 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.

Fixed Conditions

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

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

PASSED, APPROVED AND ADOPTED this 15th day of July 2019.


STEVE UHRING, Planning Commission Chair

ATTEST:


KATHLEEN STECKO, Recording Secretary

LOCAL APPEAL - Pursuant to Local Coastal Program Local Implementation Plan (LIP) Section 13.20.1 (Local Appeals) a decision made by the Planning Commission may be appealed to the City Council by an aggrieved person by written statement setting forth the grounds for appeal. An appeal shall be filed with the City Clerk within 10 days and shall be accompanied by an appeal form and filing fee, as specified by the City Council. Appeal forms may be found online at www.malibucity.org, in person at City Hall, or by calling (310) 456-2489, ext. 245.

COASTAL COMMISSION APPEAL - An aggrieved person may appeal the Planning Commission's approval to the Coastal Commission within 10 working days of the issuance of the City's Notice of Final Action. Appeal forms may be found online at www.coastal.ca.gov or in person at the Coastal Commission South Central Coast District office located at 89 South California Street in Ventura, or by calling (805) 585-1800. Such an appeal must be filed with the Coastal Commission, not the City.

I CERTIFY THAT THE FOREGOING RESOLUTION NO. 19-30 was passed and adopted by the Planning Commission of the City of Malibu at the regular meeting held on the 15th day of July 2019 by the following vote:

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



KATHLEEN STECKO, Recording Secretary

EXHIBIT C-1
LATERAL PUBLIC ACCESS EASEMENT

A PARCEL OF LAND IN LOS ANGELES COUNTY, STATE OF CALIFORNIA, BEING A PORTION OF THE RANCHO TOPANGA MALIBU SEQUIT, AS CONFIRMED TO MATTHEW KELLER BY PATENT RECORDED IN BOOK 1 PAGE 407 ET SEQ, OF PATENTS, RECORDS OF SAID COUNTY, PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE SOUTHERLY LINE OF THE 80 FOOT STRIP OF LAND DESCRIBED IN THE DEED FROM T.R. CADWALADER, TRUSTEE, ET AL, TO THE STATE OF CALIFORNIA, RECORDED IN BOOK 15228 PAGE 342, OFFICIAL RECORDS, OF SAID COUNTY, SAID POINT OF BEGINNING BEING IN SAID SOUTHERLY LINE DISTANT SOUTH 83°48'30" EAST 1025.71 FEET, MEASURED ALONG SAID SOUTHERLY LINE FROM A POINT BEARING SOUTH 6°11'30" WEST 40 FEET FROM ENGINEER'S CENTER LINE STATION 989 + 65.17;

THENCE ALONG THE SOUTHERLY LINE SOUTH 83°48'30" EAST 211.24 FEET TO A POINT DISTANT NORTH 83°48'30" WEST 917.54 FEET FROM ENGINEER'S CENTERLINE STATION 1011 + 18.42;

THENCE SOUTH 06°11'30" WEST TO THE ORDINARY HIGH TIDE LINE OF THE PACIFIC OCEAN;

THENCE WESTERLY ALONG SAID TIDE LINE TO THE INTERSECTION OF SAID TIDE LINE AND THAT LINE WHICH BEARS SOUTH 06°11'30" WEST FROM THE POINT OF BEGINNING;

THENCE NORTH 06°11'30" EAST TO SAID POINT OF BEGINNING.

EXCEPT ANY PORTION THEREOF LYING WITH THE FINAL ORDER OF CONDEMNATION RECORDED NOVEMBER 20, 1929 IN BOOK 9434 PAGE 344 OF OFFICIAL RECORDS.

EXCEPT THEREFROM ALL MINERALS, OIL, PETROLEUM, ASPHALTUM, GAS, COAL AND OTHER HYDROCARBON SUBSTANCES CONTAINED IN, ON, WITHIN AND UNDER SAID LAND, BUT WITHOUT RIGHT OF ENTRY, AS RESERVED IN DEEDS FROM MARBLEHEAD LAND COMPANY, AS RECORDED NOVEMBER 1, 1939 IN BOOK 16983 PAGE 213, IN DEED RECORDED JUNE 27, 1944 IN BOOK 21063 PAGE 109, IN DEED RECORDED AUGUST 22, 1941 IN BOOK 18521 PAGE 54, IN DEED RECORDED JUNE 27, 1964 IN BOOK 21073 PAGE 62 ALL OF OFFICIAL RECORDS.

ALSO, EXCEPT ALL LITTORAL RIGHTS WITH FULL AND EXCLUSIVE RIGHTS TO PRESERVE AND PROTECT SAID LITTORAL RIGHTS AS CONTAINED IN THE ABOVE DEEDS.

AND ALSO EXCEPT ANY TIDE AND SUBMERGED LANDS OF THE STATE OF CALIFORNIA LYING BELOW THE ELEVATION OF NATURAL ORDINARY HIGH WATER MARK AND ANY PORTION OF SAID LAND LYING OUTSIDE OF THE PATENT LINES OF THE RANCHO TOPANGA MALIBU SEQUIT, AS SUCH LINES EXISTED AT THE TIME OF THE ISSUANCE OF THE PATENT, WHICH WAS NOT FORMED BY THE DEPOSIT OF ALLUVION FROM NATURAL CAUSES AND BY IMPERCEPTIBLE DEGREES. SAID LAND IS DESCRIBED IN A CERTIFICATE OF COMPLIANCE RECORDED FEBRUARY 7, 1989 AS INSTRUMENT NO. 89-205209, OFFICIAL RECORDS.

LYING SOUTHERLY OF THE FOLLOWING DESCRIBED LINE;

BEGINNING AT A POINT IN WESTERLY LINE OF THE ABOVE DESCRIBED PROPERTY BEING SOUTH 06 DEGREES 11MINUTES 30 SECONDS WEST 96.51 FEET FROM THE INTERSECTION OF THE SOUTHERLY RIGHT OF WAY LINE OF PACIFIC COAST HIGHWAY WITH SAID WESTERLY LINE;

THENCE SOUTH 83 DEGREES 42 MINUTES 26 SECONDS EAST 211.24 FEET TO THE EASTERLY LINE OF SAID PROPERTY.

NOTE:

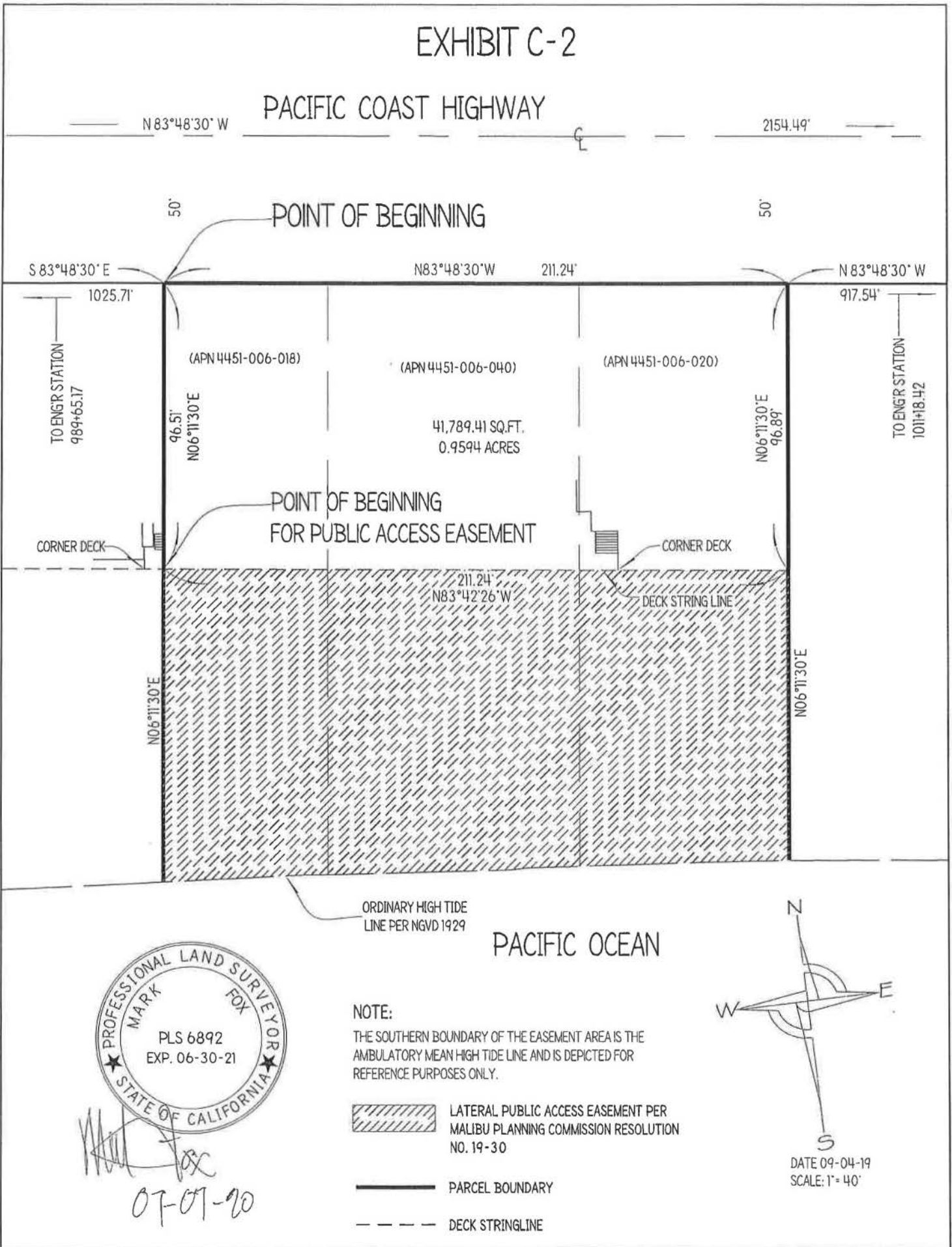
THE SOUTHERN BOUNDARY OF THE EASEMENT AREA IS THE AMBULATORY MEAN HIGH TIDE LINE.



Mark Fox 06-08-20

EXHIBIT C-2

PACIFIC COAST HIGHWAY





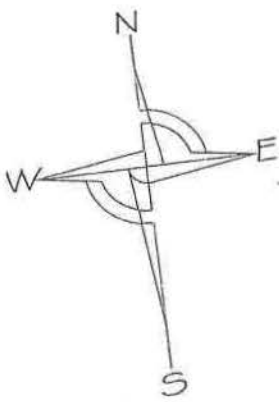
Handwritten signature and date:
07-07-20

ORDINARY HIGH TIDE
LINE PER NGVD 1929

PACIFIC OCEAN

NOTE:
THE SOUTHERN BOUNDARY OF THE EASEMENT AREA IS THE
AMBULATORY MEAN HIGH TIDE LINE AND IS DEPICTED FOR
REFERENCE PURPOSES ONLY.

-  LATERAL PUBLIC ACCESS EASEMENT PER MALIBU PLANNING COMMISSION RESOLUTION NO. 19-30
-  PARCEL BOUNDARY
-  DECK STRINGLINE



DATE 09-04-19
SCALE: 1" = 40'

EXHIBIT D

RECORDING REQUESTED BY AND
WHEN RECORDED RETURN TO:

PERMIT NO. 12-004
ACCEPTANCE CERTIFICATE
PAGE ONE (1) OF _____ ()

CALIFORNIA COASTAL COMMISSION
725 Front Street, Suite 300
Santa Cruz, CA 95060
Attention: Executive Director

APN(s): 4451-006-018, 4451-006-020, & 4451-006-040

CERTIFICATE OF ACCEPTANCE

This is to certify that the interest in real property conveyed by the Irrevocable Offer to Dedicate Public Lateral Access Easement and Declaration of Restrictions executed by Malibu Realty, LLC on _____ and recorded on _____ as Instrument Number _____ in the Official Records of Los Angeles County and attached hereto as Exhibit A and incorporated herein by this reference, is hereby accepted by _____, a public agency/private association on _____, pursuant to authority conferred by resolution of the _____ adopted on _____, and the grantee consents to recordation thereof by its duly authorized officer.

By: _____

For: _____

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document, to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of _____)

On _____ before me, _____, Notary Public,
personally appeared _____,

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

(Notary Public's signature in and for said County and State) (Seal)

**ACKNOWLEDGMENT BY THE CALIFORNIA COASTAL COMMISSION
OF ACCEPTANCE OF OFFER TO DEDICATE**

This is to certify that _____ is a public agency/private association acceptable to the Executive Director of the California Coastal Commission to be Grantee under the Irrevocable Offer to Dedicate Public Lateral Access Easement and Declaration of Restrictions executed by Malibu Realty, LLC on _____, and recorded on _____, in the Official Records of Los Angeles County as Instrument Number _____.

Dated: _____

CALIFORNIA COASTAL COMMISSION

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document, to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of _____)

On _____ before me, _____, Notary Public,
personally appeared _____,

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

(Notary Public's signature in and for said County and State) (Seal)

**ACKNOWLEDGMENT BY THE CITY OF MALIBU
OF ACCEPTANCE OF OFFER TO DEDICATE**

This is to certify that _____ is a public agency/private association acceptable to the City of Malibu to be Grantee under the Irrevocable Offer to Dedicate Public Lateral Access Easement and Declaration of Restrictions executed by Malibu Realty, LLC on _____, and recorded on _____, in the Official Records of Los Angeles County as Instrument Number _____.

Dated: _____

CITY OF MALIBU

(name and title)

State of California
County of _____)

On _____ before me, _____, City Clerk,

personally appeared _____,

who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her authorized capacity, and that by his/her signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

_____, City Clerk

(Seal)