



# Supplemental Council Agenda Report

To: Mayor Stewart and Honorable Members of the City Council

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Date prepared: April 18, 2025

Meeting date: April 28, 2025

Subject: Appeals of Planning Commission Resolution No. 24-021 regarding Coastal Development Permit No. 23-019 and Site Plan Review No. 23-024 – An application to construct a new single-family residence, second unit and associated development (30053 Harvester Road, Owner, Steven Kent; Appellants, Dawn N. Ericson, Paul E Philipson, and Andrea Slosberg-Philipson)

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**RECOMMENDED ACTION:** Adopt Resolution No. 25-17 determining the project is categorically exempt from the California Environmental Quality Act (CEQA), denying Appeal No. 24-004 and Appeal No. 24-005, and approving Coastal Development Permit (CDP) No. 23-019 to construct a new 4,270 square foot, two-story, single-family residence with a 970 square foot basement plus a 750 square foot attached three-car garage, 900 square foot detached second unit, 500 square foot detached garage, 432 square foot detached yoga studio, swimming pool, grading, landscaping, hardscape, and onsite wastewater treatment system (OWTS); including Site Plan Review (SPR) No. 23-024 to construct the residence in excess of 18 feet in height, up to 24 feet for a flat roof, located in the Rural Residential, Two-Acre (RR-2) zoning district at 30053 Harvester Road (Kent).

**DISCUSSION:** The original staff report for this item was published on Friday, April 18, 2025. The staff report stated a supplemental report providing Exhibit A, Resolution No. 25-17, will be provided under separate cover. Exhibit A, Resolution No. 25-17 is attached to this supplemental report.

**EXHIBIT:**

A. Resolution No. 25-17

## RESOLUTION NO. 25-17

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MALIBU, DETERMINING THE PROJECT IS CATEGORICALLY EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, DENYING APPEAL NO. 24-004 AND APPEAL NO. 24-005 AND APPROVING COASTAL DEVELOPMENT PERMIT NO. 23-019 TO CONSTRUCT A NEW 4,270 SQUARE FOOT, TWO-STORY, SINGLE-FAMILY RESIDENCE WITH A 970 SQUARE FOOT BASEMENT PLUS A 750 SQUARE FOOT ATTACHED THREE-CAR GARAGE, 900 SQUARE FOOT DETACHED SECOND UNIT, 500 SQUARE FOOT DETACHED GARAGE, 432 SQUARE FOOT DETACHED YOGA STUDIO, SWIMMING POOL, GRADING, LANDSCAPING, HARDSCAPE, AND ONSITE WASTEWATER TREATMENT SYSTEM, INCLUDING SITE PLAN REVIEW NO. 23-024 TO CONSTRUCT THE RESIDENCE IN EXCESS OF 18 FEET IN HEIGHT UP TO 24 FEET FOR A FLAT ROOF, LOCATED IN THE RURAL RESIDENTIAL, TWO-ACRE ZONING DISTRICT AT 30053 HARVESTER ROAD (KENT)

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

### SECTION 1. Recitals.

A. On March 15, 2023, an application for Coastal Development Permit (CDP) No. 23-019, Site Plan Review (SPR) No. 23-024 to construct the residence in excess of 18 feet in height, up to 24 feet with a flat roof was submitted to the City for review. The application was routed to the City geotechnical consultant reviewers, City Environmental Health Administrator, City Biologist, City Public Works Department, Los Angeles County Waterworks District No. 29 (WD29) and the Los Angeles County Fire Department (LACFD) for review.

B. On November 1, 2023, a Notice of CDP Application was posted on the subject property.

C. On March 4, 2024, staff conducted a site visit to inspect the installation of story poles.

D. On November 30, 2023, the CDP application was deemed complete for processing.

E. On February 22, 2024, 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.

F. On March 18, 2024, 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 April 15, 2024 meeting so that staff could further evaluate issues raised at the meeting.

G. On April 15, 2024, 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 found

the project to be exempt from the California Environmental Quality Act (CEQA) and approved CDP No. 23-019 and SPR No. 23-024.

H. On April 25, 2024, Appeal No. 24-004 and Appeal No. 24-005 were filed by the two immediate neighbors on either side, east and west, of the subject property.

I. On April 3, 2025, a Notice of City Council Public Hearing was published in a newspaper of general circulation within the City of Malibu and was mailed to all property owners and occupants within a 500-foot radius of the subject property.

J. On April 28, 2025, the City Council held a duly noticed public hearing on the subject application, reviewed and considered the staff report, reviewed and considered written reports, public testimony, and other information in the record.

## SECTION 2. Environmental Review.

Pursuant to the authority and criteria contained in CEQA, the City Council has analyzed the proposed project. The City Council 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 pursuant to Sections 15303(a) and (e) - New Construction. The City Council has further determined that none of the six exceptions to the use of a categorical exemption apply to this project (CEQA Guidelines Section 15300.2).

## SECTION 3. Appeal of Action.

The appellants contend that the Planning Commission's decision is based on the findings or conditions not supported by evidence, or the decision is not supported by the findings, lack of a fair or impartial hearing, and the decision was contrary to law. Based on the evidence in the record, as detailed below, in the agenda report, and at the hearing on the matter, the City Council has determined that the project does conform to the Malibu Local Coastal Program (LCP) and Malibu Municipal Code (MMC), denying the appeals and approving the project. The Council find that the evidence supports the findings and is consistent with the City's past application of the applicable provisions of the LIP.

The project site does not contain mapped Environmentally Sensitive Habitat Area (ESHA) pursuant to the LCP's ESHA maps. The closest LCP mapped stream is 900 feet away on either side of the subject property. The applicant submitted a biological inventory prepared by Edith Read and Associates, Inc. which concluded that no ESHA, including a stream, exists on or adjacent to the property. The applicant has fulfilled the ESHA (Local Implementation Plan Chapter 4) requirements of the LCP by submitting a site-specific biological study which found no evidence of LCP defined ESHA within the area. The City Biologist concurred with the findings of the biological study and confirmed via multiple visits to the property. The City Council vetted all the evidence in the record including that of the appellant team and determined that no ESHA exists on the subject property.

Evidence in the record including the numerous staff reports, public hearings, and technical documents submitted by the applicant have shown that this project qualifies for the categorical exemptions from CEQA, Sections 15303(a) and (e) - New Construction.

The entire project is proposed within a two-acre convex development area as required by the LCP and MMC. There is no requirement and no ESHA on the property to perpetuate further clustering of the development as to what has been proposed. Requiring the development to be clustered in the middle of the property would depart from the pattern of development enjoyed by many of the immediate neighbors who have located their homes near the edge of their lots to maximize views or enjoy other benefits.

A Primary View Determination (PVD) cannot be used to prevent development that is 18 feet tall or less, it only applies to obstructions located above 18 feet from the ground. MMC section 17.40.040(A)(17) specifically provides: “The primary view corridor shall exclude the first 18 feet of the proposed building height as measured from the existing natural grade or finish grade whichever results in a lower building height.” The portions of the project that block views of the Santa Monica Mountains are not protected under their PVD since the portions of the development that impact views of the Santa Monica Mountains are less than 18 feet in height.

The applicant’s neighborhood character analysis studied the size, number of structures, and shape of the proposed development compared to other homes in the neighborhood. The analysis found that within a 500-foot radius of the project site, at least four properties have a Total Development Square Footage larger than the proposed development and one is of a similar size, within 150 square feet. The proposed project is not expected to be an outlier within the neighborhood as the project consists of multiple smaller elongated buildings, rather than one large structure. Neighboring parcels share similar size, number, and look of buildings. As designed, the proposed project does not have an imposing appearance from any public viewing areas and is within the character of the surrounding neighborhood.

The standard for “bias” is “an unacceptable probability of actual bias” proven by “concrete facts,” not implied from the circumstances. The constitutional threshold is reached when such “probability of bias” is “too high to be constitutionally tolerable.” While issues of concern were raised by the appellants, concrete facts are required. The appellants were granted a fair hearing and were provided notice and an opportunity to be heard. In addition, the City Council’s review of the proposed project is de novo and no deference is owed to the decision and actions of the Planning Commission. As a result, any concerns raised by the appeal are cured by the action of the City Council on the appeal.

The project complies with the requirements of the LCP and MMC. Based on the information provided within the agenda reports and this resolution, the City Council has found that the findings or conditions are supported by evidence and that the decision is supported by the findings, that there was a fair or impartial hearing, and that the decision was not contrary to law. Thus the Council finds to deny the appeals and approve the project.

#### SECTION 4. Coastal Development Permit Findings.

Based on evidence contained within the record, including the agenda report for the project and the hearing on April 28, 2025, and pursuant to the Local Coastal Program (LCP) Local

Implementation Plan (LIP) including Sections 13.7(B) and 13.9 and Malibu Municipal Code (MMC), the City Council adopts the findings of fact below, denies Appeal No. 24-004 and Appeal No. 24-005, approving CDP No. 23-019 to construct a new 4,270 square foot, two-story, single-family residence with a 970 square foot basement plus a 750 square foot attached three-car garage, 900 square foot detached second unit, 500 square foot detached garage, 432 square foot detached yoga studio, swimming pool, grading, landscaping, hardscape, and onsite wastewater treatment system (OWTS), including Site Plan Review (SPR) No. 23-024 to construct the residence in excess of 18 feet in height, up to 24 feet for a flat roof, located in the Rural Residential located in the Rural Residential, Two-Acre (RR-2) zoning district at 30053 Harvester Road.

The project is consistent with the zoning, grading, cultural resources, water quality, and onsite wastewater treatment system (OWTS) requirements of the LCP. The project, as conditioned, has been determined to be consistent with all applicable LCP codes, standards, goals, and policies, inclusive of the requested site plan review. The required findings are made herein.

**A. General Coastal Development Permit (LIP Chapter 13)**

1. The project is located in the RR-2 residential zoning district, an area designated for residential uses. The Planning Department, City Biologist, City Environmental Health Administrator, City Public Works Department, City geotechnical consultant reviewers, WD29, and LACFD reviewed the project for conformance with the LCP. As discussed herein, based on submitted reports, project plans, visual analysis and site investigation, the proposed project, as designed and conditioned, conforms to the LCP in that it meets all applicable residential development standards, inclusive of the requested discretionary request.

2. The proposed development is consistent with existing development in the area and has been determined not to result in adverse impacts. Therefore, there are no project alternatives that would provide a significant benefit to the environment compared to the proposed project. Alternatives were studied by the staff, the Planning Commission, and the City Council. There is no ESHA on the property and the project is expected to blend in with the surrounding environment. The proposed project meets the development policies of the LCP and MMC, with the inclusion of the SPR and is the least environmentally damaging alternative.

3. The subject property is not in a designated ESHA or ESHA buffer as shown on the LCP ESHA and Marine Resources Map and verified through site-specific biological studies and onsite investigation from the City's Biologist. Thus, review by the Environmental Review Board was not required.

**B. Site Plan Review Findings to Allow for Construction in Excess of 18 feet in Height (LIP Section 13.27)**

SPR No. 23-024 allows construction of a new single-family residence in excess of the 18 feet in height limit established by LIP Section 3.6(E), with a maximum height of 24 feet for a flat roof.

1. The project has been reviewed, conditioned and approved for conformance with the LCP by all applicable City and County departments and was found to be consistent with the LCP, inclusive of the subject site plan review.

2. In February 2024, the applicant installed story poles and photo documented the story poles. Staff evaluated the project for conformance with City codes. Properties in the vicinity of the subject property are developed with a mix of one and two-story single-family residences and accessory structures. As demonstrated with story poles, due to the size, shape and topography of the lot, the location of the proposed development will not be visible from any scenic road or located within protected primary views of neighboring properties. Based on the existing development within the surrounding neighborhood, the proposed project is expected to blend with the surrounding built environment. Therefore, the project, and in particular the portions of the structure exceed 18 feet in height, are not anticipated to adversely affect neighborhood character.

3. The existing size and shape of the subject property limits visibility of the proposed development from Pacific Coast Highway or any scenic area as described in the LCP. The evidence also demonstrates that Primary View Determinations within the area will not be impacted by the proposed development, and the portions of the project taller than 18 feet in height will not be visible from such locations.

4. The proposed project, as designed and conditioned, complies with all applicable requirements of state and local law. The proposed project has received LCP conformance review from all applicable City departments and the LACFD and WD29. Construction of the proposed improvements will comply with all building code requirements and will incorporate all recommendations from applicable City and County departments.

5. The proposed project, as designed and conditioned, is consistent with the LCP in that it is consistent with the applicable residential land use designation and is consistent with all applicable development and design standards of the LCP and General Plan, inclusive of the associated discretionary request. The proposed residence incorporates siting and design measures to minimize visual impacts and landform alteration.

6. Story poles were placed on the site in February 2024 to demonstrate the location, height and bulk of the proposed development and to aid the visual analysis of potential private and public view impacts. The portions of the proposed development above 18 feet in height will not significantly impede any protected private visually impressive views of the Pacific Ocean or other scenic areas indicated in the LCP or MMC.

#### **D. Hazards (LIP Chapter 9)**

1. Evidence in the record demonstrates that the project will neither be subject to nor increase the instability of the site from geologic, flood, or fire hazards. The proposed development is suitable for the intended use provided that the certified engineering geologist and/or geotechnical engineer's recommendations and governing agency's building codes are followed.

2. The proposed project, as designed, conditioned and approved 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 project modifications, landscaping or other conditions.

3. The proposed project, as designed and conditioned, is the least environmentally damaging alternative. There are no hazards imposed by the project with the inclusion of the conditions of approval and project recommendations from the technical experts. There are not alternatives that would substantially lessen hazards. The proposed project has received LCP conformance review from all applicable City departments and the Los Angeles County Fire Department and Los Angeles County Waterworks District No. 29. Construction of the proposed improvements will comply with all building code requirements and will incorporate all recommendations from applicable City and County departments.

4. There are no feasible alternatives that would avoid or substantially lessen impacts on site stability or structural integrity. The proposed project has received LCP conformance approval from all applicable City departments and the Los Angeles County Fire Department and Los Angeles County Waterworks District No. 29. With the inclusion of all recommendations from the technical experts and by following the conditions of approval, the project will meet all requirements of applicable law.

5. Evidence in the record demonstrates that the project is not expected to have adverse impacts on sensitive resources. There is no LCP designated ESHA on the property and the project has been designed to be in full compliance with State and local law as it applies to safety and impacts to sensitive resources.

#### SECTION 5. City Council Action.

Based on the foregoing findings and evidence contained within the record, the City Council hereby denies Appeal No. 24-004, Appeal No. 24-005, and approves CDP No. 23-019 and SPR No. 23-024 subject to the following conditions.

#### SECTION 6. Conditions of Approval.

##### **Standard Conditions**

1. The property owners, and their successors in interest, shall indemnify and defend the City of Malibu and its officers, employees, and agents from and against all liability and costs relating to the City's actions concerning this project, including (without limitation) any award of litigation expenses in favor of any person or entity who seeks to challenge the validity of any of the City's actions or decisions in connection with this project. The City shall have the sole right to choose its counsel and property owners shall reimburse the City's expenses incurred in its defense of any lawsuit challenging the City's actions concerning this project.
2. Approval of this application is to allow for the following:
  - a. 4,270 square foot, two-story, single-family residence with a 970 square foot basement, plus a 750 square foot attached three-car garage;
  - b. 900 square foot detached second unit;
  - c. 500 square foot detached accessory garage;
  - d. 432 square foot yoga studio
  - e. Permeable driveway;
  - f. Swimming pool;

- g. New landscaping; and;
  - h. OWTS;
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 **April 2, 2024**. 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 digitally submit a complete set of plans 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. 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.
  7. Any questions of intent or interpretation of any condition of approval will be resolved by the Planning Director upon written request of such interpretation.
  8. 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, Los Angeles County Waterworks District No. 29 and LACFD, as applicable. Notwithstanding this review, all required permits shall be secured.
  9. Minor changes to the approved plans or the conditions of approval may be approved by the Planning Director, provided such changes achieve substantially the same results and the project is still in compliance with the MMC and LCP. Revised plans reflecting the minor changes and additional fees shall be required.
  10. 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 California Coastal Commission (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.

11. 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**

12. 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.
13. 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.

### **Geology**

14. 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 a grading permit.
15. 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.

### **Environmental Health**

16. 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.
17. Final OWTS Plot Plan: Prior to final Environmental Health approval, a final OWTS plot plan prepared by a City Registered OWTS Designer 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).

18. Final OWTS Design Report, Plans, and System Specifications: If the OWTS design and/or bedroom/drainage fixture unit counts are modified in any way subsequent to the Planning-stage review, then a final OWTS design report and large set of construction drawings with system specifications (four sets) shall be submitted to describe the OWTS design basis and 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 reports must be signed by a City registered OWTS Designer, and the plans stamped by a California Geologist. The final OWTS design report and construction drawings shall be submitted to the City Environmental Health Administrator with the designer's wet signature, professional registration number and stamp (if applicable).
19. 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.
20. The final design report shall contain the following information (in addition to the items listed above).
  - a. The Whitson Engineers grading plans depict a new fill slope in the vicinity of the future leach trenches. Please discuss impact of the proposed grading on the OWTS design and provide mitigation measures, as appropriate.
  - b. 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 drainage fixture equivalents, and the subsurface effluent dispersal system acceptance rate. The drainage 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;
  - c. Sewage and effluent pump design calculations (as applicable).
  - c. 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;
  - d. 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; and

- e. 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.
21. 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 Environmental Sustainability Department.
  22. Proof of ownership of subject property shall be submitted to the City Environmental Health Administrator.
  23. An operations and maintenance manual specified by the OWTS designer shall be submitted to the City Environmental Health Administrator. This shall be the same operations and maintenance manual submitted to the owner and/or operator of the proposed OWTS following installation.
  24. 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 AOWTS after construction shall be submitted. Only original wet signature documents are acceptable and shall be submitted to the City Environmental Health Administrator.
  25. The City geotechnical consultant reviewers final approval shall be submitted to the City Environmental Health Administrator.
  26. The City Biologist's final approval shall be submitted to the City Environmental Health Administrator. The City Biologist shall review the OWTS design to determine any impact on ESHA, if applicable.

27. Operating Permit Application and Fee: In accordance with MMC, an application shall be made to the Environmental Health office for an Onsite Wastewater Treatment System operating permit. An operating permit fee in accordance with the adopted fee schedule at the time of final approval shall be submitted with the application.

### **Street Improvements**

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

### **Grading / Drainage / Hydrology**

29. The non-exempt grading for the project shall not exceed a total of 1,000 cubic yards, cut and fill.
30. The total grading yardage verification certificate shall be copied onto the coversheet of the Grading Plan. No alternative formats or substitutes will be accepted.
31. 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 limits to land to be disturbed during project development shall be delineated and a total area of disturbance should be shown on this plan. Areas disturbed by grading equipment beyond the limits of grading shall be included within the area delineated;
  - 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 as required by the City Biologist;
  - f. The grading limits shall include the temporary cuts made for retaining walls, buttresses and over excavations for fill slopes; and
  - g. Private storm drain systems shall be shown on this plan. Systems greater than 12-inch in diameter shall also have a plan and profile for the system included with this plan.

32. 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, outlet, post-construction BMP's and other applicable facilities. The digital drawing shall also show the subject property, public or private street, and any drainage easements.
33. The applicant shall label all City/County storm drain inlets within 250 feet from each property line per the City of Malibu's standard label template. A note shall be placed on the project plans that address this condition.
34. The ocean between Latigo Point and the West City limits has been established by the State Water Resources Control Board as an Area of Special Biological Significance (ASBS) as part of the California Ocean Plan. This designation allows discharge of storm water only where it is essential for flood control or slope stability, including roof, landscape, road and parking lot drainage, to prevent soil erosion, only occurs during wet weather, and is composed of only storm water runoff. The applicant shall provide a drainage system that accomplishes the following:
- Installation of BMPs that are designed to treat the potential pollutants in the storm water runoff so that it does not alter the natural ocean water quality. These pollutants include trash, oil and grease, metals, bacteria, nutrients, pesticides, herbicides and sediment.
  - Prohibits the discharge of trash.
  - Only discharges from existing storm drain outfalls are allowed. No new outfalls will be allowed. Any proposed or new storm water discharged shall be routed to existing storm drain outfalls and shall not result in any new contribution of waste to the ASBS (i.e. no additional pollutant loading).
  - Elimination of non-storm water discharges.
35. A Local Storm Water Pollution Prevention Plan (LSWPPP) shall be provided prior to issuance of grading/building permits. This plan shall include and 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

All Best Management Practices (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.

36. Storm drainage improvements are required to mitigate increased runoff generated by property development. The applicant shall have the choice of one method specified within LIP Section 17.3.2.B.2.
37. A Storm Water Management Plan (SWMP) shall be submitted for review and approval of the Public Works Director. The SWMP shall be prepared in accordance with LIP Section 17.3.2 and all other applicable ordinances and regulations. The SWMP shall be supported by a hydrology and hydraulic study that identifies all areas contributory to the property and an analysis of the pre-development and post-development drainage of the site. The SWMP shall identify the site design and source control BMPs that have been implemented in the design of the project. The SWMP shall be reviewed and approved by the Public Works Department prior to the issuance of the grading or building permit for this project.
38. 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.

39. The Building Official may approve grading during the rainy season to remediate hazardous geologic conditions that endanger public health and safety.
40. 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.
41. All cut and fill slopes shall be stabilized with landscaping at the completion of final grading.
42. The developer's consulting engineer shall sign the final plans prior to the issuance of permits.
43. The discharge of swimming pool, spa and decorative fountain water and filter backwash, including water containing bacteria, detergents, wastes, algaecides or other chemicals is prohibited. Swimming pool, spa, and decorative fountain water may be used as landscape irrigation only if the following items are met:

- a. The discharge water is dechlorinated, debrominated or if the water is disinfected using ozonation;
  - b. There are sufficient BMPs in place to prevent soil erosion; and
  - c. The discharge does not reach into the MS4 or to the ASBS (including tributaries)
  - d. Discharges not meeting the above-mentioned methods must be trucked to a Publicly Owned Wastewater Treatment Works.
44. A Water Quality Mitigation Plan (WQMP) shall be submitted for review and approval of the Public Works Director. The WQMP shall be prepared in accordance with LIP Section 17.3.3 and all other applicable ordinances and regulations. The WQMP shall be supported by a hydrology and hydraulic study that identifies all areas contributory to the property and an analysis of the predevelopment and post development drainage on the site. The following elements shall be included within the WQMP:
- a. Site Design BMPs;
  - b. Source Control BMPs;
  - c. Treatment Control BMPs;
  - d. Drainage improvements;
  - e. Methods for onsite percolation, site re-vegetation and an analysis for off-site project impacts;
  - f. Measures to treat and infiltrate runoff from impervious areas;
  - g. A plan for the maintenance and monitoring of the proposed treatment BMPs for the expected life of the structure;
  - h. A copy of the WQMP shall be filed against the property to provide constructive notice to future property owners of their obligation to maintain the water quality measures installed during construction prior to the issuance of grading or building permits; and
  - i. The WQMP shall be submitted to the Building Safety Division and the fee applicable at the time of submittal for review of the WQMP shall be paid prior to the start of the technical review. Once the plan is approved and stamped by the Public Works Department, the original signed and notarized document shall be recorded with the County Recorder. A certified copy of the WQMP shall be submitted prior to the Public Works Department approval of building plans for the project.

#### **Water Quality / Water Service**

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

#### **Fire Department**

46. The project will require fire flow of 1,250 gallons per minute at 20 psi (pounds per square inch) for a one-hour duration.
47. The project is required to have an interior automatic fire sprinkler system.

#### **Construction / Framing**

48. A construction staging plan shall be reviewed and approved by the Planning Director prior to plan check approval.
49. 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.
50. 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.
51. 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.
  - d. Filter fences designed to intercept and detain sediment while decreasing the velocity of runoff shall be employed within the project site.
52. When framing is complete, a site survey shall be prepared by a licensed civil engineer or architect that states the finished ground level elevation and the highest roof member elevation. Prior to the commencement of further construction activities, said document shall be submitted to the assigned Building Inspector and Planning Department for review and sign off on framing.

### **Colors and Materials**

53. 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.

**Lighting**

54. Exterior lighting 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.
55. Night lighting for sports courts or other private recreational facilities shall be prohibited.
56. 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.
57. 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.
58. Up-lighting of landscaping is prohibited.

**Biology/Landscaping**

59. Prior to installation of any landscaping, the applicant shall obtain a plumbing permit for the proposed irrigation system from the Building Safety Division.
60. Prior to or at the time of Planning Final inspection, the property owner/applicant shall submit to the case planner a copy of the plumbing permit for the irrigation system installation that has been signed off by the Building Safety Division.
61. 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 Section 17.53.030). 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 Section 17.53.030. (form attached)
62. Prior to final plan check approval, if your property is serviced by the Los Angeles County Waterworks District No. 29, please provide landscape water use approval from that department.

63. Vegetation forming a view impermeable condition (hedge), serving the same function as a fence or wall, occurring within the side or rear yard setback shall be maintained at or below six (6) feet in height. View impermeable hedges occurring within the front yard setback serving the same function as a fence or wall shall be maintained at or below 42 inches in height. Three sequential violations of this condition will result in a requirement to permanently remove the vegetation from the site.
64. 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).
65. Invasive plant species, as determined by the City of Malibu, are prohibited.
66. No non-native plant species shall be approved greater than 50 feet from the residential structure.
67. The landscape plan shall prohibit the use of building materials treated with toxic compounds such as copper arsenate.
68. Grading/ Grading/excavation/vegetation removal scheduled between February 1 - September 15 will require nesting bird surveys by a qualified biologist prior to initiation of such activities. Surveys shall be completed no more than five days from proposed initiation of site preparation activities. Should active nests be identified, a buffer area no less than 150 feet (300 feet for raptors) shall be fenced off until it is determined by a qualified biologist that the nest is no longer active. A report discussing the results of the surveys shall be turned in to the City within two business days of completion of surveys.
69. 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. Up-lighting of landscaping is prohibited.
70. Necessary boundary fencing of any single area exceeding ½ acre shall be of an open rail-type design with a wooden rail at the top (instead of wire), be less than 40 inches high, and have a space greater than 14 inches between the ground and the bottom post or wire. A split rail design that blends with the natural environment is preferred.

### **Swimming Pool / Spa / Water Feature**

71. On-site noise, including that which emanates from swimming pool and air conditioning equipment, shall be limited as described in MMC Chapter 8.24 (Noise).
72. Pool and air conditioning equipment that will be installed 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).
73. All swimming pools shall contain double walled construction with drains and leak detection systems capable of sensing a leak of the inner wall.

74. Pursuant to the Clean Water Act and the Malibu Water Quality Ordinance, discharge of water from a pool / spa is prohibited. Provide information on the plans regarding the type of sanitation proposed for pool.
- a. Ozonization systems are an acceptable alternative to chlorine. The discharge of clear water from ozonization systems is not permitted to the street;
  - b. Salt water sanitation is an acceptable alternative to chlorine. The discharge of salt water is not permitted to the street; and
  - c. Chlorinated water from pools or spas shall be trucked to a publicly-owned treatment works facility for discharge.
75. The discharge of chlorinated and non-chlorinated pool / spa water into streets, storm drains, creeks, canyons, drainage channels, or other locations where it could enter receiving waters is prohibited.
76. A sign stating “It is illegal to discharge pool, spa, or water feature waters to a street, drainage course, or storm drain per MMC Section 13.04.060(D)(5)” shall be posted in the filtration and/or pumping equipment area for the property.
77. Pursuant to MMC Section 9.20.040(B), all ponds, decorative fountains shall require a water recirculating/recycling system.

### **Fencing and Walls**

78. The height of fences and walls shall comply with LIP Section 3.5.3(A). No retaining wall shall exceed six feet in height or 12 feet in height for a combination of two or more walls.
79. Necessary boundary fencing of a single area exceeding 0.5-acre shall be of an open rail-type design with a wooden rail at the top (instead of wire), be less than 40-inches high, and have a space greater than 14-inches between the ground and the bottom post or wire. A split rail design that blends with the natural environment is preferred.
80. Fencing or walls shall be prohibited within ESHA, except where necessary for public safety or habitat protection or restoration. Fencing or walls that do not permit the free passage of wildlife shall be prohibited in any wildlife corridor. The applicant/owner must submit a detailed fence plan prior to final Planning approval to ensure wildlife friendly fencing requirements have been met.
81. Construction fencing shall be installed within five feet of the limits of grading prior to the beginning of construction and shall be maintained throughout the construction period (or until the fire protection wall is constructed) to protect the site’s sensitive habitat area.

### **Prior to Occupancy**

82. 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.

83. 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.
84. Prior to a final Building inspection, the applicant shall provide a final Waste Reduction and Recycling Summary Report (Summary Report) and obtain the approval from the Environmental Sustainability Department. The final Summary Report shall designate all materials that were land filled or recycled, broken down by material types.
85. The applicant shall request a final Planning Department inspection prior to a final inspection by the Environmental Sustainability Department. 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.
86. Any construction trailer, storage equipment or similar temporary equipment not permitted as part of the approved scope of work shall be removed prior to final inspection and approval, and if applicable, the issuance of the certificate of occupancy.

#### **Deed Restrictions**

87. 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.
88. Prior to final Planning Department approval, the applicant shall be required to execute and record a deed restriction reflecting lighting requirements set forth in Condition Nos. 55-59. The property owner shall provide a copy of the recorded document to the Planning Department prior to final Planning Department approval.

#### **Fixed Conditions**

89. This coastal development permit runs with the land and binds all future owners of the property.
90. Violation of any of the conditions of this approval may be cause for revocation of this permit and termination of all rights granted thereunder.

SECTION 7. The City Council shall certify the adoption of this Resolution.

PASSED, APPROVED AND ADOPTED this 28<sup>th</sup> day of April, 2025.

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DOUG STEWART, Mayor

ATTEST:

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KELSEY PETTIJOHN, City Clerk  
(seal)

APPROVED AS TO FORM:

THIS DOCUMENT HAS BEEN REVIEWED  
BY THE CITY ATTORNEY'S OFFICE

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TREVOR RUSIN, Interim City Attorney

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