



Council Agenda Report

To: Mayor Pierson and Honorable Members of the City Council

Prepared by: Raneika Brooks, Associate Planner

Reviewed by: Richard Mollica, Planning Director

Approved by: Reva Feldman, City Manager

Date prepared: January 28, 2021 Meeting Date: February 8, 2021

Subject: Appeal No. 19-002 and Coastal Development Permit No. 17-043 and Associated Entitlements (29043 Grayfox Street; Owners/Appellants, John and Tatiana Atwill)

RECOMMENDED ACTION: 1) Adopt Resolution 21-02 determining the project is categorically exempt from the California Environmental Quality Act (CEQA), and granting Appeal No. 19-002, approving Coastal Development Permit (CDP) No. 17-043 for demolition of an existing single-family residence and associated development and the construction of a new 5,085 square foot, two-story single-family residence plus a 966 square foot attached garage, a 345 square foot covered loggia on the first floor, a 312 square foot trellised loggia on the second floor, swimming pool, perimeter walls, landscaping, hardscaping and grading, and the installation of a new onsite wastewater treatment system (OWTS), including Demolition Permit (DP) No. 17-013 for the demolition of an existing single-family residence and associated development and Site Plan Review (SPR) No. 17-014 for construction in excess of 18 feet in height up to 28 feet for a pitched roof located in the Rural Residential-One Acre (RR-1) zoning district at 29043 Grayfox Street (Atwill); or 2) Alternatively, the Council may adopt the findings in the staff report, determine the project is categorically exempt from the California Environmental Quality Act (CEQA), and grant Appeal No. 19-002, approving Coastal Development Permit (CDP) No. 17-043 for demolition of an existing single-family residence and associated development and the construction of a new 5,085 square foot, two-story single-family residence plus a 966 square foot attached garage, a 345 square foot covered loggia on the first floor, a 312 square foot trellised loggia on the second floor, swimming pool, perimeter walls, landscaping, hardscaping and grading, and the installation of a new onsite wastewater treatment system (OWTS), including Demolition Permit (DP) No. 17-013 for the demolition of an existing single-family residence and associated development and Site Plan Review (SPR) No. 17-014 for construction in excess of 18 feet in height up to 28 feet for a pitched

roof located in the Rural Residential-One Acre (RR-1) zoning district at 29043 Grayfox Street (Atwill).

FISCAL IMPACT: There is no fiscal impact associated with the recommended action.

WORK PLAN: This item is not included in the Adopted Work Plan for Fiscal Year 2020-2021. Processing this application is part of normal staff operations.

DISCUSSION: Detailed discussion of the appeal was included in the January 25, 2021, staff report to the City Council. Per the Council's direction at that meeting, staff has prepared an updated version of Resolution 21-02, and also has provided an option for the City Council to take action by minute order. If three Councilmembers wish to take the described action to approve the project and grant the appeal, it is recommended that the Council adopt Resolution 21-02. If the action is adopted by less than three Councilmembers the alternative action described above should be taken. Three Councilmembers are needed to adopt a resolution, but action on the appeal and project need not be taken by resolution.

In the event the Council adopts the alternative action described above, this report memorializes the City Council's action on the appeal of the Planning Commission's denial of CDP No. 17-043, SPR No. 17-014, and DP No. 17-013, an application for the construction of a new two-story residence that would replace an existing residence and accessory structures, located on Grayfox Street across from Malibu Elementary School. This agenda report sets forth grounds for granting the appeal and approving the project per staff's recommendation as detailed in the January 25, 2021, agenda report and the staff reports for the August 3, 2020, and September 8, 2020, Planning Commission meetings. The project is consistent with the applicable LCP provisions and environmental review pursuant to CEQA. The complete conformance analysis and required findings for approval of the CDP can be found in the above listed reports for the project.

On February 19, 2019, the Planning Commission denied the proposed project and the property owner filed an appeal to the City Council. On October 14, 2019, the owner's appeal was presented to the City Council. During that hearing the Council discussion focused on the project's compatibility with neighborhood character based on the size of the proposed second floor (3,034 square feet). After the deliberations, the City Council voted to remand the item back to the Planning Commission and allow the applicant the opportunity to redesign the second floor and meet with the surrounding neighbors.

On August 3, 2020, the revised second floor plans were presented to the Planning Commission. Due to continuing opposition by the neighbor, the Planning Commission voted to continue the application to the September 8, 2020 Planning Commission meeting to allow the applicant to meet with Mr. John Stockwell, as had been recommended previously by the City Council.

At the September 8, 2020 Commission meeting, staff informed the Commission of an August 11, 2020 Zoom meeting between Mr. Atwill and Mr. Stockwell where both parties were unable to reach a consensus on the project design. After the deliberations (with Chair Mazza recused), the Commissioners could not reach an agreement on approval or denial of the project. As a result, the Commission voted 4-0 to adopt Planning Commission Resolution No. 20-51, memorializing its inability to make a decision on the project and recommending that the project be referred back to the City Council for a public hearing and final decision.

This agenda report provides an updated discussion of the applicant's appeal of the Commission's prior denial of the application in light of the modified project design intended to address neighborhood character concerns. Staff previously recommended approval of the appeal and approval of the project, and the revised project (which has reduced the size of the second floor, reducing the impact of the Project) does not change Staff's analysis. All of the findings presented to the Council on October 14, 2019, to overturn the denial can still be made. A full analysis of the modified project's conformance with the Local Coastal Program (LCP) and Malibu Municipal Code (MMC), California Environmental Quality Act (CEQA) review, and all of the findings necessary to approve the application are provided in the August 3, 2020, and September 8, 2020, Commission Agenda Reports.

On January 25, 2021, the City Council held a duly noticed public hearing on the subject appeal, reviewed and considered the agenda report, reviewed and considered written reports, public testimony, and other information in the record. Prior to the public hearing, Councilmember Uhring recused himself from the item. At the conclusion of Council consideration, the Council directed staff to bring back: 1) a revised version of Resolution No. 21-02 that addressed Councilmember Silverstein's comments; and 2) language for a minute order granting Appeal No. 19-002 and approving Coastal Development Permit (CDP) No. 17-043 and associated entitlements.

Project Description

The proposed scope of work is as follows:

1. Demolition of:
 - a. The existing square foot single-family residence and associated development, totaling 4,701 square feet of total development square footage (TDSF).
2. Construction of the following:
 - a. Two-story, 28-foot high, single-family residence with 6,396 square feet of TDSF, consisting of:
 - 5,085 square foot residence;
 - 966 square foot attached garage;
 - 345 square foot covered loggia¹ on the first floor;

¹ A loggia is a room, hall, or porch open to the air on one or more sides.

- 312 square foot trellised loggia on the second floor (not included in TDSF)
- b. New swimming pool and pool equipment;
- c. 904 cubic yards of non-exempt grading and 3,072 cubic yards of removal and recompaction;
- d. Replacement of the OWTS, including a 3,634-gallon septic tank;
- e. New landscaping and hardscape, including a driveway with a fire truck turnaround; and
- f. Solid perimeter walls less than six feet in height along the side property lines and a three-foot, six-inch-high solid front wall and auto gate topped with a 2.5-foot-high visually permeable screening.

Discretionary requests:

1. SPR No. 17-014 for height up to 28 feet for a pitched roof; and
2. DP No. 17-013 for the demolition of the existing single-family residence and associated development.

Unresolved Appeal Issue Related to Neighborhood Character

The Planning Commission denied the project after it determined the following findings could not be made:

1. Finding 1 of CDP No. 17-043 stating “that the project does not conform to the LCP;”
2. Finding 2 of SPR No. 17-014 stating “that the project adversely affects neighborhood character.”

The appellant (Schmitz and Associates, Inc.), who is also the applicant, contends that the Planning Commission’s denial is not supported by substantial evidence in the record, that there was a lack of fair or impartial hearing, and that the decision is contrary to law. The appellant’s specific arguments regarding the findings are summarized below in *italics* using phrases taken from the appeal. Following the appellant’s stated appeal argument is a staff summary response.

Appeal Item 1. Neighborhood Character Finding

- *The Planning Commission applied an improper standard, inconsistent with codes, policies, past practices, and the General Plan, in determining that there was an adverse impact on neighborhood character.*
- *The application of the modified “Neighborhood Standards” approach to the project violates the LCP, MMC, and the client’s rights to due process of law and equal protection under the law.*

Staff Response:

Planning Commission Resolution No. 19-03, Finding 1, states:

Finding (A) cannot be made. The project exceeds the 18-foot height limit of LIP Section 3.6(E) without a site plan review and, therefore, does not conform to the LCP. As designed, the proposed project does not meet all applicable residential development standards and policies of the LCP.

Planning Commission Resolution No. 19-03, Finding 2, states:

Finding (2) cannot be made. A site plan review for height above 18 feet may only be granted when a project does not adversely affect neighborhood character. Based on careful review of the materials and all the information in the record, the location and character of the project, including the size, bulk and height of the proposed residence is significantly larger than, and not compatible with, the existing development in the vicinity, and would adversely affect the rural residential neighborhood character. The project is not consistent with the LCP.

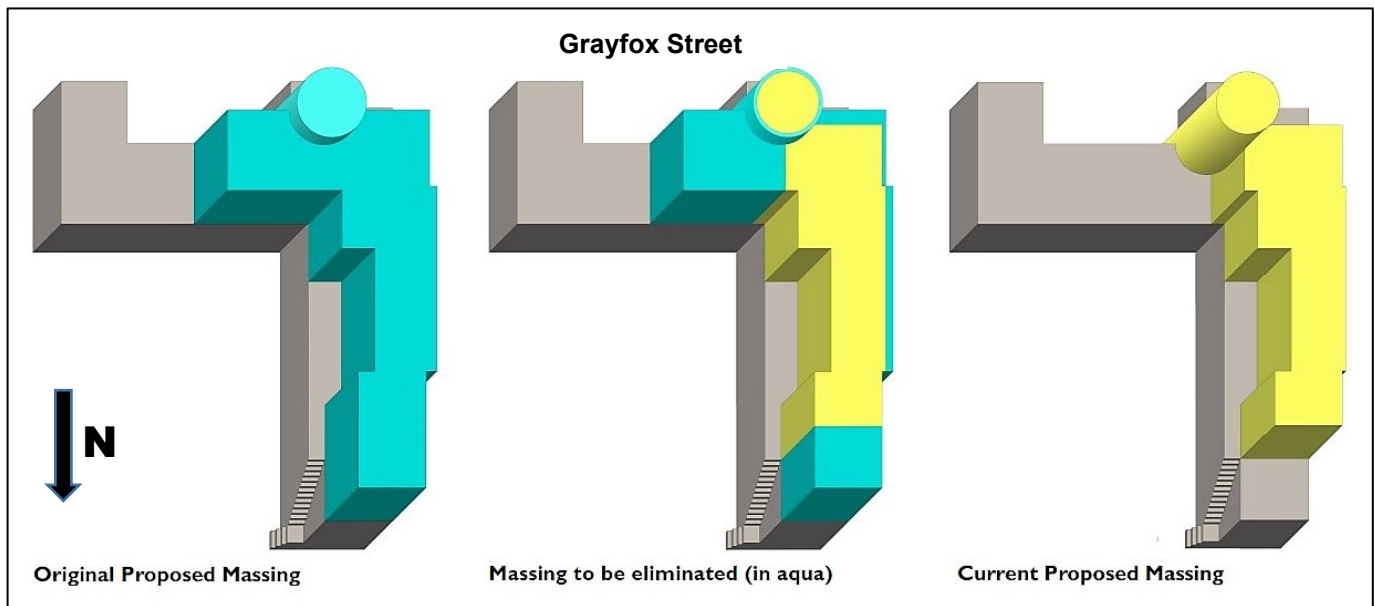
The appellant contends that an improper standard was applied during the Planning Commission's consideration of CDP 17-043 because it analyzed the Los Angeles County Tax Assessor (LACTA) square footage data during its deliberation to determine the project's inconsistency with the neighborhood's character. Staff has determined that the project complies with all applicable development standards of the MMC and LIP and all required findings can be made, including that the project is consistent with neighborhood character.

The subject parcel is an infill lot that is located within an established residential neighborhood consisting of lots of varying sizes. Many homes, some of which include development over 18 feet in height, provide reduced setbacks from Grayfox Street, which increase the visibility of the structures' bulk and massing from Grayfox Street.

The siting and massing of the project have been designed in response to the context of the neighborhood to avoid adverse impacts associated with the proposed height. Based on the submitted correspondence, about one-half of the surrounding residences within 500 feet of the project site are also two stories, and many are sited closer to the street with reduced setbacks from Grayfox Street, which increases their visual prominence. The project minimizes its potential for visual impacts to neighboring residences by providing the full 65-foot front yard setback. Furthermore, the redesigned project reduces the building's visual prominence from the street because the round "tower" feature has been slightly reduced in diameter and the remaining parts of the second floor on the street side are now reduced and stepped back further from the first-floor façade. To reduce the prominence of the proposed residence and break up its massing, the L-shaped building includes landscaping and first and second-floor loggias.

The Volumetric Comparison of the Original and Modified Project (Figure 1), demonstrates compliance with the Two-Thirds Rule² by illustrating in yellow the portion of the structure that will be higher than 18 feet. As demonstrated in Figure 1, the portion of the proposed residence in excess of 18 feet in height nearest the street has been reduced in size and is sited in a north to south configuration. The north to south configuration minimizes the bulk of the second story that is visible from Grayfox Street.

Figure 1 – Volumetric Comparison of the Original and Modified Project

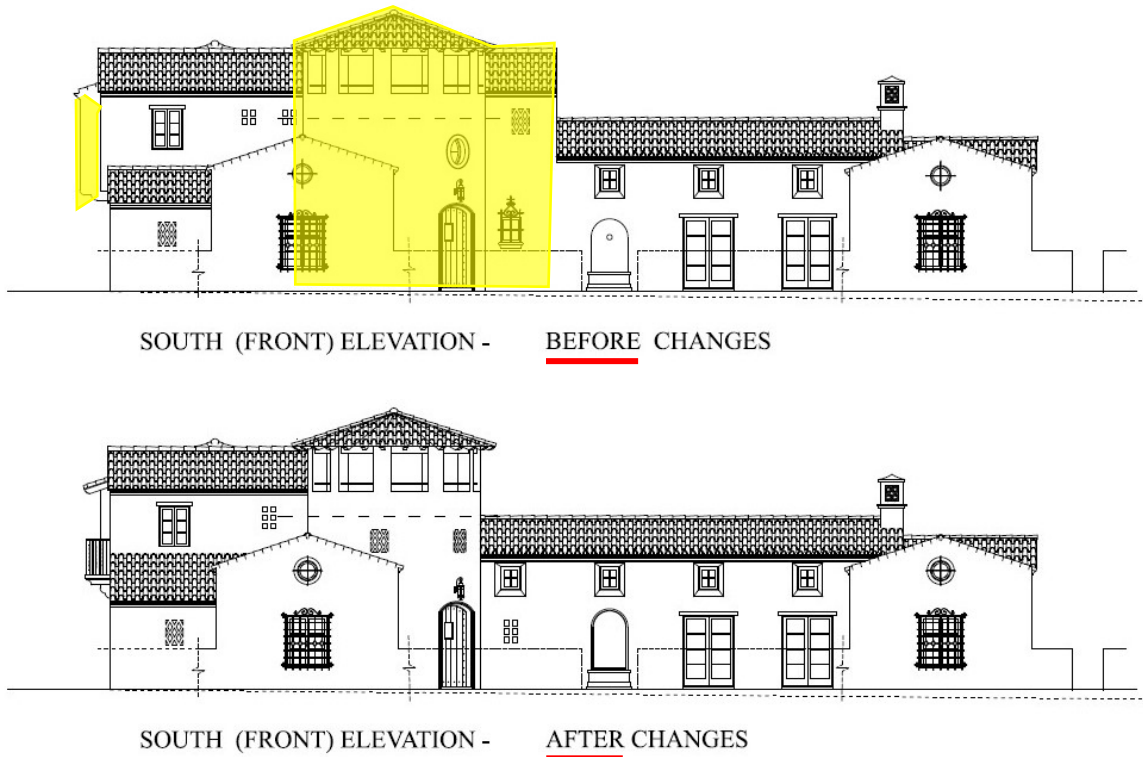


Source: Michael Burch Architects

Figure 2 is the south elevation of the proposed residence that illustrates the articulation of the roofline that breaks up the massing of the building as viewed from Grayfox Street. Figure 2 provided by the applicant further illustrates how the modified project lightly increases the articulation of the façade, decreases boxiness, and slightly reduces the volume and mass of the building that is visible from the street. The areas of change are highlighted.

² Pursuant to LIP Section 3.6(K)(2), the Two-Thirds Rule requires that any portion of the structure above 18 feet in height shall not exceed 2/3rds the first-floor area and shall be oriented so as to minimize view blockage from adjacent properties. The purpose of the Two-Thirds Rule is to add architectural articulation to proposed structures and to avoid a box-like appearance.

Figure 2 – South Facing Elevation of the Original and Modified Project



Source: Michael Burch Architects

Figure 3 – Story Pole Photo



Source: Staff Site Visit July 7, 2020

Figure 4 – Story Pole Photo



Source: Staff Site Visit July 7, 2020

During July 2020 revised story poles were installed to demonstrate the location, bulk, scale, and mass of the redesigned project (see Figures 3 and 4) when standing on the south side of Grayfox Street looking north at the project site. The story poles also demonstrate that the two-story portion of the proposed structure is located along the west

property line which is the largest side yard setback. Given the reduction, orientation, and setback of the second floor in relation to the neighboring properties, the redesigned project, as proposed and conditioned, is not expected to adversely affect neighborhood character.

Based on review of the project plans, the project complies with the standards for TDSF and the two-thirds rule, and there is no evidence of adverse impacts on neighborhood character. The analysis contained herein, together with the August 3, 2020, Planning Commission Agenda Report, demonstrates the project complies with the LCP and supports the finding that the project does not adversely affect the neighborhood.

Appeal Item 2. Lack of a Fair and Impartial Hearing

Staff Response

The appeal application submitted by the appellant identified that there was a lack of a fair and impartial hearing. The appellant has not provided substantial evidence that would show a lack of a fair or impartial hearing. The appellant does not allege the process itself was flawed or that the appellant was denied notice and the opportunity to present and be heard at the hearing. Upon review of the hearings, staff was able to confirm that the Planning Commission conducted the hearings in a manner consistent with the applicable rules of order. In fact, appellant has received multiple hearings on this item from the City Council and Planning Commission that were all properly noticed and conducted. Based on the record, staff was unable to determine that there was a lack of a fair and impartial hearing.

PUBLIC NOTICE: On December 31, 2020, a Notice of City Council Public Hearing was published in a newspaper of general circulation within the City and a public notice was mailed to the owners and occupants of all properties within a radius of 500 feet of the subject property.

SUMMARY: Based on the record as a whole, including but not limited to all written and oral testimony offered in connection with this matter, staff recommends that the City Council adopt the following findings, granting the appeal and approving CDP No. 17-043, SPR No. 17-014, and DP No. 17-013.

ENVIRONMENTAL REVIEW: Pursuant to the authority and criteria contained in CEQA, the City Council analyzed the proposed project. The City Council finds 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 15301 (a) – interior and exterior alterations, 15301(e) – additions to existing structures and 15303(d) – New Construction. The City Council further determines that none of the six exceptions to the use of a categorical exemption apply to this project (CEQA Guidelines Section 15300.2).

Findings for Granting the Appeal.

Based on evidence in the record, including the Council Agenda Reports and the August 3, 2020, and September 8, 2020, Planning Commission Staff Reports for the subject project, the City Council hereby makes the following findings of fact, grants the appeal and approves the project.

A. The LIP and MMC contain specific requirements to which every project requiring a CDP must adhere, including LIP Sections 3.5 and 3.6 and MMC sections 17.40.030 and 17.40.040 which contain the general and residential development standards that relate to structure size, bulk, and massing, including height and setback criteria, a formula to determine the maximum structure size allowed on a property, and the maximum size allowed for the portion of a residence above 18-feet in height. Based on the entirety of the record, which includes submitted reports, project plans, visual analysis, and site investigation, the Project, as proposed and conditioned, conforms to the LCP and MMC in that it meets all applicable residential development standards including maximum TDSF, height (inclusive of the SPR), Two-Thirds Rule, and setbacks.

B. The neighborhood is comprised of single-family residences on lots of varying sizes, with both one- and two-story designs. Many homes, some of which include development over 18 feet in height, provide reduced setbacks from Grayfox Street. . The siting and massing of the project is consistent with the character of the other homes in the neighborhood and its design reduces the impacts associated with the additional height. The residence provides a full 65-foot front yard setback, which reduces the building's visual prominence from the street, and the section facing the street contains two floors on less than half of the facade. The proposed residence is an L-shaped building that also includes landscaping and first and second-floor loggias (roofed hallways and patios that are open on one or more sides) that also break up the building's massing. The project is thus consistent with the development pattern in the neighborhood and will not adversely affect neighborhood character.

C. The application received a fair and impartial hearing in that the public hearing was duly noticed, full disclosures were provided by each Planning Commissioner in its deliberations, and the applicant and the public were given adequate opportunities to provide oral and written comments and evidence, and Appellant exercised this opportunity through the submission of materials and the presentation of evidence to the Planning Commission and City Council.

Coastal Development Permit Findings.

Based on the evidence contained within the record and pursuant to LIP Sections 13.7(B) and 13.9, the City Council adopts and approves the analysis in the Council agenda report and the previous agenda reports for the October 14, 2019 City Council Meeting and the

August 3, 2020, Planning Commission Meeting, incorporated herein, the findings of fact below, approving CDP No. 17-043 for the construction of a new 7,590 square foot, two-story single-family residence with a 966 square foot attached garage, a 345 square foot covered loggia on the first floor, a 293 square foot covered loggia on the second floor, swimming pool, pool equipment, perimeter walls, landscaping, hardscaping and grading, and the installation of a new onsite wastewater treatment system (OWTS), including DP No. 17- 013 for the demolition of an existing single-family residence and associated development and SPR No. 17-014 for construction in excess of 18 feet in height up to 28 feet located in the Rural Residential-One Acre (RR-1) zoning district at 29043 Grayfox Street.

The project is consistent with the LCP's zoning, grading, cultural resources, water quality, and wastewater treatment system standards requirements. With the inclusion of the proposed site plan review, 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 RR-1 residential zoning district, an area designated for residential uses. The project has been reviewed for conformance with the LCP by the Planning Department, City Biologist, City Environmental Health Administrator, City Public Works Department, City geotechnical staff, and LACFD. Based on submitted reports, project plans, visual analysis, and site investigation, the proposed project, as conditioned, conforms to the LCP and MMC in that it meets all applicable residential development standards.

2. Evidence in the record demonstrates that as conditioned, the project will not result in adverse biological or scenic impacts, and an alternative project would not substantially lessen any potential significant adverse impacts of the development on the environment.

B. SPR No. 17-014 for a height greater than 18 feet and not exceeding 28 feet [LIP Section 13.27.5(A)]

1. The project has received LCP conformance review from the Planning Department, City Biologist, City geotechnical staff, City Public Works Department, and City Environmental Health Administrator, and the LACFD. The project is consistent with the policies and provisions of the LCP.

2. While the Planning Commission previously was unable to find that the project would not adversely affect neighborhood character, in particular due to the size and design of the second floor relative to the surrounding area, the redesign has reduced the size and impact of the project such that it will not adversely affect neighborhood character. The homes in the area vary in age, size and front yard setbacks, and the revised Project (1)

proposes a full front yard setback while (2) reducing the second floor by 1,194 square feet so that it is now 1,840 square feet, and (3) from the street less than half of the facade has a second floor element. The second floor falls within the range of second floor square footages identified in the surrounding area, and the redesign introduces more articulation to the front façade in that the round “tower” feature was reduced in diameter and the rest of the second floor is slightly stepped back from the first floor. The topography of the site descends from the street which helps reduce the visual mass of the building from the street. Also, the nearest part of the first floor is 65 feet from the front property line, but the majority of the building is set back 70 to 80 feet. This is a greater setback than the residences on either side of the project. The redesigned project, as proposed and conditioned, is not expected to adversely affect neighborhood character.

3. The project site is not visible from any scenic roads, trails, parkland or beaches. The project provides maximum feasible protection to significant public views as required by the LCP.

4. The proposed project complies with all applicable requirements of State and local law and is conditioned to comply with any relevant approvals, permits, and licenses from the City of Malibu and other related agencies, such as the LACFD. Construction of the proposed improvements will comply with all building code requirements and will incorporate all recommendations from applicable City agencies and project consultants.

5. The project is consistent with the General Plan designation for the site. The goals and policies of the General Plan intend to maintain rural character in this area, and the proposed project is consistent with the development standards set forth to implement this goal. The proposed residence incorporates siting and design measures to minimize visual impacts and landform alteration by proposing development in an area already disturbed by the existing residential development, siting the building away from the front property line to reduce the building’s massing from the street, and minimizing potential impact to natural resources by avoiding development on slopes greater than 4 to 1. As discussed herein, the project is consistent with the LCP.

6. The portion of the project that is in excess of 18 feet in height does not obstruct visually impressive scenes of the Pacific Ocean, off-shore islands, Santa Monica Mountains, canyons, valleys, or ravines from the main viewing area of any affected principal residence as defined in MMC Section 17.40.040(A)(17).

C. Hazards (LIP Chapter 9)

1, 2, 3, 4. The proposed development has been analyzed for the hazards listed in LIP Chapter 9 by the Planning Department, City Biologist, City Environmental Health Administrator, City Public Works Department, City geotechnical staff, and LACFD. The project will not result in potential adverse impacts on site stability or structural integrity. In addition, the record demonstrates that the project as proposed and conditioned will not increase stability of the site or structure integrity from geologic or other hazards. However,

since the entire city limits of Malibu are located within a very high fire hazard area, a condition is included in Section 5 of this resolution

5. No adverse impacts to sensitive resources are expected as the site has already been developed with a single-family residence and accessory development and it is not visible from public viewing areas.

D. Demolition Permit (MMC Chapter 17.70)

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

2. This CDP application is being processed concurrently with DP No. 17-013, and approval of the demolition permit is subject to the approval of CDP No. 17-043.

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 project described herein. The scope of work approved includes:

1. Demolition of:

g. The existing square foot single-family residence and associated development, totaling 4,701 square feet of total development square footage (TDSF).

2. Construction of the following:

h. Two-story, 28-foot high, single-family residence with 6,396 square feet of TDSF, consisting of:

- 5,085 square foot residence;
- 966 square foot attached garage;
- 345 square foot covered loggia³ on the first floor;
- 312 square foot trellised loggia on the second floor (not included in TDSF)

i. New swimming pool and pool equipment;

³ A loggia is a room, hall, or porch open to the air on one or more sides.

- j. 904 cubic yards of non-exempt grading and 3,072 cubic yards of removal and recompaction;
 - k. Replacement of the OWTS, including a 3,634-gallon septic tank;
 - l. New landscaping and hardscape, including a driveway with a fire truck turnaround; and
 - m. Solid perimeter walls less than six feet in height along the side property lines and a three-foot, six-inch-high solid front wall and auto gate topped with a 2.5-foot-high visually permeable screening.
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 architectural plans on file with the Planning Department date stamped **February 28, 2020**, grading plans date stamped **March 30, 2017**, and landscaping plans date stamped **October 3, 2017**. The proposed development shall further comply with all conditions of approval stipulated in this minute order and associated Department Review Sheets. 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 set forth herein. The applicant shall file this form with the Planning Department within 10 working days of this decision and/or prior to issuance of any development permit.
5. The applicant shall digitally submit a 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 August 3, 2020 Planning Commission 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.

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, Los Angeles County Waterworks District No. 29 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 have been exhausted.
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. Initial earth disturbing activities into the first three feet of native soil shall be monitored by a qualified archaeologist or a cultural resources monitor approved by the Planning Director. Should intact deposits be encountered, the archaeologist or cultural resources monitor may halt or redirect grading until the resources are evaluated. If determined by the field archaeologist or monitor in consultation with the Planning Director that the resources are potentially significant, a Phase 2 study shall be required.
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.

Demolition/Solid Waste

15. Prior to demolition activities, the applicant shall receive Planning Department approval for compliance with conditions of approval.

16. 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.
17. 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.
18. 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.
19. 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.
20. 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.
21. 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.
22. Upon completion of demolition activities, the applicant shall request a final inspection by the Building Safety Division.

Geology

23. 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.
24. 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.

Onsite Wastewater Treatment System

25. 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.
26. 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).
27. 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).
28. 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.
29. 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.

30. 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."

31. 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.

32. 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.
33. Proof of ownership of subject property shall be submitted to the City Environmental Health Administrator.
34. 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.
35. 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.
36. 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.
37. The City geotechnical staff final approval shall be submitted to the City Environmental Health Administrator.
38. In accordance with MMC Chapter 15.14, prior to Environmental Health approval, an application shall be made to the Environmental Sustainability Department for an OWTS operating permit.

Grading/Drainage/Hydrology (Geology/ Public Works)

39. The non-exempt grading for the project shall not exceed a total of 1,000 cubic yards, cut and fill.
40. The total grading yardage verification certificate shall be copied onto the coversheet of the Grading Plan. No alternative formats or substitutes will be accepted.
41. 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 prohibits the discharge of any waste, including stormwater runoff, directly into the ASBS. The applicant shall provide a drainage system that accomplishes the following:
 - a. Installation of BMPs that are designed to treat the potential pollutants in the stormwater 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.
 - b. Prohibits the discharge of trash.
 - c. 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).
 - d. Elimination of non-storm water discharges.
42. 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 is 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.

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

44. Prior to the approval of any permits and prior to the submittal of the required construction general permit document to the State Water Quality Control Board, the property owner / applicant shall submit the Public Works Department an Erosion and Sediment Control Plan (ESCP) for review. The ESCP shall contain appropriate site-specific construction site BMPs prepared and certified by a qualified SWPPP developer (QWD). All structural BMPs must be designed by a licensed California civil engineer. The ESCP must address the following elements:
- a. Methods to minimize the footprint of the disturbed area and to prevent soil compaction outside the disturbed area
 - b. Methods used to protect native vegetation and trees
 - c. Sediment / erosion control
 - d. Controls to prevent tracking on- and off-site
 - e. Non-stormwater control
 - f. Material management (delivery and storage)
 - g. Spill prevention and control
 - h. Waste management

- i. Identification of site risk level as identified per the requirements in Appendix 1 of the Construction General Permit
- j. Landowner must sign the following statement on the ESCP:

"I certify that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to ensure that quality personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering the information, to the best of my knowledge and belief, the information submitted is true, accurate and complete. I am aware that submitting false and/or inaccurate information, failing to properly and/or adequately implement the ESCP may result in revocation of grand and/or other permits or other sanctions provided by law."

- 45. 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.
- 46. 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 the 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.
- 47. 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.

- 48. The Building Official may approve grading during the rainy season to remediate hazardous geologic conditions that endanger public health and safety.

49. 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.
50. All cut and fill slopes shall be stabilized with landscaping at the completion of final grading.
51. A Water Quality Mitigation Plan (WQMP) shall be submitted for review and approval of the Public Works Director. The WQMP shall be prepared in accordance with the LIP Section 17.3.3 and all other applicable ordinances and regulations. The WQMP shall be supported by a hydrology and hydraulic study that identifies all areas contributory to the property and an analysis of the predevelopment and post development drainage on the site. The following elements shall be included within the WQMP:
- a. Site Design Best Management Practices (BMPs);
 - b. Source Control BMPs;
 - c. Treatment Control BMPs;
 - d. Drainage improvements;
 - e. Methods for onsite percolation, site re-vegetation and an analysis for off-site project impacts;
 - f. Measures to treat and infiltrate runoff from impervious areas;
 - g. A plan for the maintenance and monitoring of the proposed treatment BMPs for the expected life of the structure;
 - h. A copy of the WQMP shall be filed against the property to provide constructive notice to future property owners of their obligation to maintain the water quality measures installed during construction prior to the issuance of grading or building permits; and
 - i. The WQMP shall be submitted to the Building Safety Division and the fee applicable at the time of submittal for review of the WQMP shall be paid prior to the start of the technical review. Once the plan is approved and stamped by the Public Works Department, the original signed and notarized document shall be recorded with the County Recorder. A certified copy of the WQMP shall be submitted prior to the Public Works Department approval of building plans for the project.
52. The applicant shall obtain encroachment permits from the Public Works Department prior to the commencement of any work within the public right-of-way. The driveway shall be constructed of either six inches of concrete over four inches of aggregate base, or four inches of asphalt concrete over six inches of aggregate base. The driveway shall be flush with the existing grades with no curbs.
53. Several private improvements are located within the public right-of-way, such as (but not limited to) an existing mailbox structure and an existing rock border wall. These improvements are required to be removed as part of this project and must be shown on the plans. The applicant / property owner shall place notes on the development plans for the removal of existing encroachments within the public 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 removal of the private improvements within the public right-of-way.

54. 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.

Lighting

55. Exterior lighting must comply with the Dark Sky Ordinance and shall be minimized, shielded, or concealed and restricted to low intensity features, so that no light source is directly visible from public view. Permitted lighting shall conform to the following standards:
- a. Lighting for walkways shall be limited to fixtures that do not exceed two feet in height and are directed downward, and limited to 850 lumens (equivalent to a 60 watt incandescent bulb);
 - b. Security lighting controlled by motion detectors may be attached to the residence provided it is directed downward and is limited to 850 lumens;
 - c. Driveway lighting shall be limited to the minimum lighting necessary for safe vehicular use. The lighting shall be limited to 850 lumens;
 - d. Lights at entrances as required by the Building Code shall be permitted provided that such lighting does not exceed 850 lumens;
 - e. Site perimeter lighting shall be prohibited; and
 - f. Outdoor decorative lighting for aesthetic purposes is prohibited.
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. High intensity lighting of the shore is prohibited.

Biology/Landscaping

58. Invasive plant species, as determined by the City of Malibu, are prohibited.

59. Vegetation shall be situated on the property so as not to significantly obstruct the primary view from private property at any given time (given consideration of its future growth).
60. The landscape plan shall prohibit the use of building materials treated with toxic compounds such as creosote or copper arsenate.
61. Prior to installation of any landscaping, the applicant shall obtain a plumbing permit for the proposed irrigation system from the Building Safety Division.
62. Prior to a final plan check approval, the property owner /applicant must provide a landscape water use approval from the Los Angeles County Waterworks District No. 29.
63. 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 by the same property owner will result in a requirement to permanently remove the vegetation from the site.
64. Any site preparation activities, including removal of vegetation, between February 1 and September 15 will require nesting bird surveys by a qualified biologist at least five days prior to 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 nesting bird surveys shall be submitted to the City within two business days of completing the surveys.
65. 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 17.53). 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 17.53.
66. The use of pesticides, including insecticides, herbicides, rodenticides or any toxic chemical substance which has the potential to significantly degrade biological resources shall be prohibited throughout the City of Malibu. The eradication of invasive plant species or habitat restoration shall consider first the use of non-chemical methods for prevention and management such as physical, mechanical, cultural, and biological controls. Herbicides may be selected only after all other non-chemical methods have been exhausted. Herbicides shall be restricted to the least toxic product and method, and to the maximum extent feasible, shall be biodegradable, derived from natural sources, and use for a limited time.

Water Service

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

Construction / Framing

68. A construction staging plan shall be reviewed and approved by the Building Official prior to plan check submittal.
69. 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.
70. 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.
71. 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 Best Management Practices (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.
72. 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.

Swimming Pool

73. Onsite noise, including that which emanates from swimming pool and air conditioning equipment, shall be limited as described in MMC Chapter 8.24 (Noise).
74. 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).
75. All swimming pools shall contain double walled construction with drains and leak detection systems capable of sensing a leak of the inner wall.
76. 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.
77. 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.
78. 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.

Fencing and Walls

79. The applicant shall include an elevation of the proposed electronic driveway gate on the architectural plans that are submitted for building plan check. The gate and all fencing along the front property line shall comply with the regulations set forth in LIP Section 3.5.
80. 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.
81. Fencing or walls enclosing more than one-half acre that do not permit the free passage of wildlife shall be prohibited.

82. Prior to or at the time of a Planning Department 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.
83. The applicant shall request a final Planning Department inspection prior to final inspection by the City of Malibu Environmental and Building Safety Division. The final inspection shall include photographs to document the condition of the site. A final approval 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.
84. 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.

Prior to Occupancy

85. Prior to issuing a Certificate of Occupancy, the City Biologist shall inspect the project site and determine that all planning conditions to protect natural resources are in compliance with the approved plans.

Deed Restrictions

86. 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 approval.

Fixed Conditions

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

ATTACHMENT: Resolution No. 21-02

RESOLUTION NO. 21-02

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MALIBU DETERMINING THE PROJECT IS CATEGORICALLY EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, GRANTING APPEAL NO. 19-002 AND APPROVING COASTAL DEVELOPMENT PERMIT NO. 17-043 FOR THE DEMOLITION OF AN EXISTING SINGLE-FAMILY RESIDENCE AND ASSOCIATED DEVELOPMENT AND THE CONSTRUCTION OF A NEW 5,085 SQUARE FOOT, TWO-STORY SINGLE-FAMILY RESIDENCE PLUS A 966 SQUARE FOOT ATTACHED GARAGE, A 345 SQUARE FOOT COVERED LOGGIA ON THE FIRST FLOOR, A 312 SQUARE FOOT TRELLISED LOGGIA ON THE SECOND FLOOR, SWIMMING POOL, PERIMETER WALLS, LANDSCAPING, HARDSCAPING AND GRADING, AND THE INSTALLATION OF A NEW ONSITE WASTEWATER TREATMENT SYSTEM, INCLUDING DEMOLITION PERMIT NO. 17-013 FOR THE DEMOLITION OF AN EXISTING SINGLE-FAMILY RESIDENCE AND ASSOCIATED DEVELOPMENT AND SITE PLAN REVIEW NO. 17-014 FOR CONSTRUCTION IN EXCESS OF 18 FEET IN HEIGHT UP TO 28 FEET FOR A PITCHED ROOF LOCATED IN THE RURAL RESIDENTIAL ONE-ACRE ZONING DISTRICT LOCATED AT 29043 GRAYFOX STREET (ATWILL)

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

SECTION 1. Recitals.

A. On March 30, 2017, an application for Administrative Coastal Development Permit (ACDP) No. 17-043 was submitted to the Planning Department by applicant, Schmitz and Associates, Inc., on behalf of the property owners, John and Tatiana Atwill. The application was routed to City Biologist, City geotechnical staff, City Public Works Department, and City Environmental Health Administrator, and the Los Angeles County Fire Department (LACFD) for review.

B. On April 6, 2018, Planning Department staff determined the application qualified to be processed administratively pursuant to Local Coastal Program (LCP) Local Implementation Plan (LIP) Section 13.13.1.

C. On June 13, 2018, a Notice of Coastal Development Permit Application was posted on the subject property.

D. On June 20, 2018, Planning Department staff conducted a site visit to inspect the installed story poles representing the location, height and bulk of the proposed building.

E. On October 2, 2018, the Planning Director approved ACDP No. 17-043, inclusive of Site Plan Review (SPR) No. 17-014 and Demolition Permit (DP) No. 17-013. The ACDP was reported to the Planning Commission at its October 3, 2018, Adjourned Regular Planning Commission meeting. The Planning Commission voted for the item to be brought back for full public hearing and the application was converted into a full Coastal Development Permit (CDP).

F. On October 11, 2018, 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.

G. On November 5, 2018, the Planning Commission continued the item to the December 3, 2018 Regular Planning Commission meeting.

H. On November 27, 2018, the December 3, 2018 regularly scheduled meeting of the Planning Commission was cancelled due to the Woolsey Fire.

I. On December 20, 2018, 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.

J. On January 10, 2019, the Planning Commission continued the item to the January 22, 2019 regular Planning Commission meeting.

K. On January 22, 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. At the conclusion of the public hearing, the Commission voted 3-2 (Jennings and Uhring dissenting) to direct staff to return with an updated resolution denying the project as it could not make the required findings and the project would adversely affect neighborhood character.

L. On February 19, 2019, the Planning Commission reviewed and adopted Resolution No. 19-03 denying the project.

M. On February 28, 2019, an appeal of the project was timely filed by applicant Schmitz and Associates, Inc.

N. On September 19, 2019, a Notice of City Council Public Hearing was published in a newspaper of general circulation within the City of Malibu for the September 23, 2019 Regular City Council meeting. On September 19, 2019, a Notice of City Council Public Hearing was mailed to all property owners and occupants within a radius of 500 feet from the subject property and all interested parties for the October 14, 2019 Regular City Council meeting.

O. On September 23, 2019, the City Council continued the Public Hearing to the October 14, 2019 Regular City Council meeting.

P. On September 26, 2019, a Notice of City Council Public Hearing was published in a newspaper of general circulation within the City of Malibu to clarify the intended hearing date of October 14, 2019.

Q. On October 14, 2019, the City Council held a duly noticed public hearing on the subject appeal, reviewed and considered the agenda report, reviewed and considered written reports, public testimony, and other information in the record. During its deliberations, the Council discussed whether the second floor was larger than other second floors in the area and upon the Council's consideration of a motion to deny the appeal and the project, the applicant offered to redesign. At that time, the Council remanded the application back to the Planning Commission based on the applicant's representation that portions of the project would be redesigned. The Council also suggested the applicant reach out to the concerned neighbor.

R. On February 28, 2020, the applicant submitted revised plans that included a reduction of the size of the second floor.

S. On July 7, 2020, story poles were reinstalled onsite. Staff visited the site and photo-documented the poles.

T. On July 9, 2020, 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.

U. On August 3, 2020, the Planning Commission held a duly noticed public hearing on the subject application, including the revised plans, reviewed and considered the staff report, reviewed and considered written reports, public testimony, and other information in the record. At the conclusion of the meeting, the Planning Commission directed the applicant to reach out to the neighbor (John Stockwell) as suggested by the City Council, and continued the item to the September 8, 2020 Regular Planning Commission meeting.

V. On August 11, 2020, Planning Department staff attended an online Zoom meeting between the applicant, the property owner and Mr. Stockwell to discuss concerns about the configuration of the second floor area. The concerned parties were unable to reach a consensus on the project design.

W. On September 8, 2020, 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 was unable to adopt a resolution approving or denying the application and voted 4-0 to memorialize its inability to reach a decision on the project and recommended that it be referred back to the City Council for a public hearing and final decision.

X. On December 31, 2020, 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 radius of 500 feet from the subject property and all interested parties.

Y. On January 25, 2021, the City Council held a duly noticed public hearing on the subject appeal, reviewed and considered the agenda report, reviewed and considered written reports including the agenda reports for the October 14, 2019 City Council Meeting and the August 3, 2020, and September 8, 2020, Planning Commission meetings, public testimony, and other information in the record and continued the item to February 8, 2021, directing staff to modify the proposed resolution and also return with an option to take action approving the project by minute order.

Z. On February 8, 2021, the matter came regularly before the City Council who reviewed the entirety of the record and testimony presented.

SECTION 2. Appeal of Action.

Appellant, Schmitz and Associates, Inc., on behalf of property owners, John and Tatiana Atwill, asserts that the Planning Commission's decision denying the project because it could not find that the project would not adversely affect neighborhood character is not supported by substantial evidence in the record, that there was a lack of fair or impartial hearing, and that the decision is contrary to law. Specifically, the Appellant contends that: a) the Planning Commission applied an improper standard, inconsistent with codes, policies, past practices, and

the General Plan, in determining that there was an adverse impact on neighborhood character and b) the application of the modified “Neighborhood Standards” approach to the project violates the LCP, Malibu Municipal Code (MMC), and the client’s rights to due process of law and equal protection under the law.

The Appellant’s claim of a lack of fair or impartial hearing by the Planning Commission is moot, because the City Council conducted a *de novo* hearing on January 25, 2021. In addition, Appellant did not provide evidence of a lack of a fair or impartial hearing,

The proposed project does not include a request, nor does it require, a neighborhood standards analysis pursuant to Section 3.6(L) of the LIP or Section 17.40.040(A)(16) of the MMC, and the City Council has not performed such an analysis in considering the project, nor has it (or the Planning Commission) performed a “modified neighborhood standards” analysis as alleged by Appellant and such an entitlement does not exist. The Project, as modified by Appellant, will not adversely affect neighborhood character as that phrase is used in Section 13.27.5 of the LIP.

SECTION 3. Findings for Granting the Appeal.

Based on evidence in the record, including the Council Agenda Report and the August 3, 2020, and September 8, 2020, Planning Commission staff reports for the subject project, the City Council hereby grants the appeal, makes the following findings of fact based upon a preponderance of the evidence, and approves the project.

A. The LIP and MMC contain specific requirements to which every project requiring a CDP must adhere, including LIP Sections 3.5 and 3.6 and MMC sections 17.40.030 and 17.40.040 which contain the general and residential development standards that relate to structure size, bulk, and massing, including height and setback criteria, a formula to determine the maximum structure size allowed on a property, and the maximum size allowed for the portion of a residence above 18-feet in height. Based on the entirety of the record, which includes submitted reports, project plans, visual analysis, and site investigation, the Project, as proposed and conditioned, conforms to the LCP and MMC in that it meets all applicable residential development standards including maximum TDSF, height (inclusive of the SPR), Two-Thirds Rule, and setbacks.

B. The “neighborhood” for purposes of Section 13.27.5 of the LIP is comprised of, among other things, single-family residences on lots of varying sizes, with both one- and two-story designs. Many homes, some of which include development over 18 feet in height, provide reduced setbacks from Grayfox Street. The residence provides a full 65-foot front yard setback, and the section facing the street contains two floors on less than half of the facade. The proposed residence is an L-shaped building that also includes landscaping and first and second-floor loggias (roofed hallways and patios that are open on one or more sides) that also break up the building’s massing. The project will not adversely affect neighborhood character as that phrase is used in Section 13.27.5 of the LIP.

C. The application received a fair and impartial hearing in that the public hearing was duly noticed, full disclosures were provided by each Planning Commissioner in its deliberations, and the applicant and the public were given adequate opportunities to provide oral

and written comments and evidence, and Appellant exercised this opportunity through the submission of materials and the presentation of evidence to the Planning Commission and City Council. .

SECTION 4. Environmental Review.

Pursuant to the authority and criteria contained in the California Environmental Quality Act (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 and categorically exempt from the provisions of CEQA according to CEQA Guidelines Section 15301(l) – Existing Facilities and 15303 (a) and (e) – New Construction or Conversion of Small Structures. The City Council 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 5. Coastal Development Permit Findings.

Pursuant to LIP Sections 13.7(B) and 13.9, the City Council makes the findings of fact below, approving CDP No. 17-043 for the construction of a new 7,590 square foot, two-story single-family residence with a 966 square foot attached garage, a 345 square foot covered loggia on the first floor, a 293 square foot covered loggia on the second floor, swimming pool, pool equipment, perimeter walls, landscaping, hardscaping and grading, and the installation of a new onsite wastewater treatment system (OWTS), including DP No. 17- 013 for the demolition of an existing single-family residence and associated development and SPR No. 17-014 for construction in excess of 18 feet in height up to 28 feet located in the Rural Residential-One Acre (RR-1) zoning district at 29043 Grayfox Street.

The project is consistent with the LCP's zoning, grading, cultural resources, water quality, and wastewater treatment system standards requirements. With the inclusion of the proposed site plan review, 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 RR-1 residential zoning district, an area designated for residential uses. The project has been reviewed for conformance with the LCP by the Planning Department, City Biologist, City Environmental Health Administrator, City Public Works Department, City geotechnical staff, and LACFD. Based on submitted reports, project plans, visual analysis, and site investigation, the proposed project, as conditioned, conforms to the LCP and MMC in that it meets all applicable residential development standards.

2. As conditioned, the project will not result in adverse biological or scenic impacts, and an alternative project would not substantially lessen any potential significant adverse impacts of the development on the environment.

B. SPR No. 17-014 for a height greater than 18 feet and not exceeding 28 feet [LIP Section 13.27.5(A)]

1. The project has received LCP conformance review from the Planning Department, City Biologist, City geotechnical staff, City Public Works Department, and City Environmental

Health Administrator, and the LACFD. The project is consistent with the policies and provisions of the LCP.

2. While the Planning Commission previously was unable to find that the project would not adversely affect neighborhood character as that phrase is used in Section 13.27.5 of the LIP, in particular due to the size and design of the second floor relative to the surrounding area, the redesign has reduced the size and impact of the project such that it will not adversely affect neighborhood character within the meaning of that phrase of Section 13.27.5 of the LIP. The homes in the area vary in age, size and front yard setbacks, and the revised Project (1) proposes a full front yard setback while (2) reducing the second floor by 1,194 square feet so that it is now 1,840 square feet, and (3) from the street less than half of the facade has a second floor element. The second floor falls within the range of second floor square footages identified in the surrounding area, and the redesign introduces more articulation to the front façade in that the round “tower” feature was reduced in diameter and the rest of the second floor is slightly stepped back from the first floor. The topography of the site descends from the street which helps reduce the visual mass of the building from the street. Also, the nearest part of the first floor is 65 feet from the front property line, but the majority of the building is set back 70 to 80 feet. This is a greater setback than the residences on either side of the project. The redesigned project, as proposed and conditioned, is not expected to adversely affect neighborhood character as that phrase is used in Section 13.27.5 of the LIP.

3. The project site is not visible from any scenic roads, trails, parkland or beaches. The project provides maximum feasible protection to significant public views as required by the LCP.

4. The proposed project complies with all applicable requirements of State and local law identified to the City Council, and the evidence does not show the proposed project would violate any law, and is conditioned to comply with any relevant approvals, permits, and licenses from the City of Malibu and other related agencies, such as the LACFD. Construction of the proposed improvements will comply with all building code requirements and will incorporate all recommendations from applicable City agencies and project consultants.

5. The project is consistent with the General Plan designation for the site. The goals and policies of the General Plan intend to maintain rural character in this area, and the proposed project is consistent with the development standards set forth to implement this goal. The proposed residence incorporates siting and design measures to minimize visual impacts and landform alteration by proposing development mainly in an area already disturbed by the existing residential development, siting the building away from the front property line to reduce the building’s massing from the street, and minimizing potential impact to natural resources by avoiding development on slopes greater than 4 to 1. As discussed herein, the project is consistent with the LCP.

6. The portion of the project that is in excess of 18 feet in height does not obstruct visually impressive scenes of the Pacific Ocean, off-shore islands, Santa Monica Mountains, canyons, valleys, or ravines from the main viewing area of any affected principal residence as defined in MMC Section 17.40.040(A)(17).

C. Hazards (LIP Chapter 9)

1, 2, 3, 4. The proposed development has been analyzed for the hazards listed in LIP Chapter 9 by the Planning Department, City Biologist, City Environmental Health Administrator, City Public Works Department, City geotechnical staff, and LACFD. The project will not result in potential adverse impacts on site stability or structural integrity. In addition, the record demonstrates that the project as proposed and conditioned will not increase stability of the site or structure integrity from geologic or other hazards. However, since the entire city limits of Malibu are located within a very high fire hazard area, a condition is included in Section 5 of this resolution

5. No adverse impacts to sensitive resources are expected as the site has already been developed with a single-family residence and accessory development and it is not visible from public viewing areas.

D. Demolition Permit (MMC Chapter 17.70)

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

2. This CDP application is being processed concurrently with DP No. 17-013, and approval of the demolition permit is subject to the approval of CDP No. 17-043.

SECTION 6. City Council Approval.

Based on the foregoing findings and evidence contained within the record, the City Council hereby grants Appeal No. 19-002 and approves CDP No. 17-043, SPR No. 17-014, and DP No. 17-013, subject to the following conditions.

SECTION 7. 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 project described herein. The scope of work approved includes:
 1. Demolition of:
 - a. The existing square foot single-family residence and associated development, totaling 4,701 square feet of total development square footage (TDSF).
 2. Construction of the following:
 - a. Two-story, 28-foot high, single-family residence with 6,396 square feet of TDSF, consisting of:
 - 5,085 square foot residence;
 - 966 square foot attached garage;

- 345 square foot covered loggia¹ on the first floor;
 - 312 square foot trellised loggia on the second floor (not included in TDSF)
- b. New swimming pool and pool equipment;
 - c. 904 cubic yards of non-exempt grading and 3,072 cubic yards of removal and recompaction;
 - d. Replacement of the OWTS, including a 3,634-gallon septic tank;
 - e. New landscaping and hardscape, including a driveway with a fire truck turnaround; and
 - f. Solid perimeter walls less than six feet in height along the side property lines and a three-foot, six-inch-high solid front wall and auto gate topped with a 2.5-foot-high visually permeable screening.
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 architectural plans on file with the Planning Department date stamped **February 28, 2020**, grading plans date stamped **March 30, 2017**, and landscaping plans date stamped **October 3, 2017**. 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 set forth herein. The applicant shall file this form with the Planning Department within 10 working days of this decision and/or prior to issuance of any development permit.
 5. The applicant shall digitally submit a 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.
 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.

¹ A loggia is a room, hall, or porch open to the air on one or more sides.

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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, Los Angeles County Waterworks District No. 29 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 have been exhausted.
 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. Initial earth disturbing activities into the first three feet of native soil shall be monitored by a qualified archaeologist or a cultural resources monitor approved by the Planning Director. Should intact deposits be encountered, the archaeologist or cultural resources monitor may halt or redirect grading until the resources are evaluated. If determined by the field archaeologist or monitor in consultation with the Planning Director that the resources are potentially significant, a Phase 2 study shall be required.
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.

Demolition/Solid Waste

15. Prior to demolition activities, the applicant shall receive Planning Department approval for compliance with conditions of approval.
16. 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.
17. 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.

18. 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.
19. 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.
20. 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.
21. 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.
22. Upon completion of demolition activities, the applicant shall request a final inspection by the Building Safety Division.

Geology

23. 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.
24. 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.

Onsite Wastewater Treatment System

25. 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.
26. 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).

27. 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).
28. 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.
29. 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

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- 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.
30. 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.”
31. 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.
32. 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.
33. Proof of ownership of subject property shall be submitted to the City Environmental Health Administrator.
34. 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.
35. 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.
36. 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.

37. The City geotechnical staff final approval shall be submitted to the City Environmental Health Administrator.
38. In accordance with MMC Chapter 15.14, prior to Environmental Health approval, an application shall be made to the Environmental Sustainability Department for an OWTS operating permit.

Grading/Drainage/Hydrology (Geology/ Public Works)

39. The non-exempt grading for the project shall not exceed a total of 1,000 cubic yards, cut and fill.
40. The total grading yardage verification certificate shall be copied onto the coversheet of the Grading Plan. No alternative formats or substitutes will be accepted.
41. 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 prohibits the discharge of any waste, including stormwater runoff, directly into the ASBS. The applicant shall provide a drainage system that accomplishes the following:
 - a. Installation of BMPs that are designed to treat the potential pollutants in the stormwater 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.
 - b. Prohibits the discharge of trash.
 - c. 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).
 - d. Elimination of non-storm water discharges.
42. 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 is 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.
43. 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 (BMP) shall be in accordance to the latest version of the California Stormwater Quality Association (CASQA) BMP Handbook. Designated areas for the storage of construction materials, solid waste management, and portable toilets must not disrupt drainage patterns or subject the material to erosion by site runoff.

44. Prior to the approval of any permits and prior to the submittal of the required construction general permit document to the State Water Quality Control Board, the property owner / applicant shall submit the Public Works Department an Erosion and Sediment Control Plan (ESCP) for review. The ESCP shall contain appropriate site-specific construction site BMPs prepared and certified by a qualified SWPPP developer (QWD). All structural BMPs must be designed by a licensed California civil engineer. The ESCP must address the following elements:
- a. Methods to minimize the footprint of the disturbed area and to prevent soil compaction outside the disturbed area
 - b. Methods used to protect native vegetation and trees
 - c. Sediment / erosion control
 - d. Controls to prevent tracking on- and off-site
 - e. Non-stormwater control
 - f. Material management (delivery and storage)
 - g. Spill prevention and control
 - h. Waste management
 - i. Identification of site risk level as identified per the requirements in Appendix 1 of the Construction General Permit

j. Landowner must sign the following statement on the ESCP:

“I certify that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to ensure that quality personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering the information, to the best of my knowledge and belief, the information submitted is true, accurate and complete. I am aware that submitting false and/or inaccurate information, failing to properly and/or adequately implement the ESCP may result in revocation of grand and/or other permits or other sanctions provided by law.”

45. 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.
46. 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 the 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.
47. 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.

48. The Building Official may approve grading during the rainy season to remediate hazardous geologic conditions that endanger public health and safety.
49. 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.
50. All cut and fill slopes shall be stabilized with landscaping at the completion of final grading.
51. A Water Quality Mitigation Plan (WQMP) shall be submitted for review and approval of the Public Works Director. The WQMP shall be prepared in accordance with the LIP Section 17.3.3 and all other applicable ordinances and regulations. The WQMP shall be supported by a hydrology and hydraulic study that identifies all areas contributory to the property and an

analysis of the predevelopment and post development drainage on the site. The following elements shall be included within the WQMP:

- a. Site Design Best Management Practices (BMPs);
 - b. Source Control BMPs;
 - c. Treatment Control BMPs;
 - d. Drainage improvements;
 - e. Methods for onsite percolation, site re-vegetation and an analysis for off-site project impacts;
 - f. Measures to treat and infiltrate runoff from impervious areas;
 - g. A plan for the maintenance and monitoring of the proposed treatment BMPs for the expected life of the structure;
 - h. A copy of the WQMP shall be filed against the property to provide constructive notice to future property owners of their obligation to maintain the water quality measures installed during construction prior to the issuance of grading or building permits; and
 - i. The WQMP shall be submitted to the Building Safety Division and the fee applicable at the time of submittal for review of the WQMP shall be paid prior to the start of the technical review. Once the plan is approved and stamped by the Public Works Department, the original signed and notarized document shall be recorded with the County Recorder. A certified copy of the WQMP shall be submitted prior to the Public Works Department approval of building plans for the project.
52. The applicant shall obtain encroachment permits from the Public Works Department prior to the commencement of any work within the public right-of-way. The driveway shall be constructed of either six inches of concrete over four inches of aggregate base, or four inches of asphalt concrete over six inches of aggregate base. The driveway shall be flush with the existing grades with no curbs.
53. Several private improvements are located within the public right-of-way, such as (but not limited to) an existing mailbox structure and an existing rock border wall. These improvements are required to be removed as part of this project and must be shown on the plans. The applicant / property owner shall place notes on the development plans for the removal of existing encroachments within the public 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 removal of the private improvements within the public right-of-way.
54. 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.

Lighting

55. Exterior lighting must comply with the Dark Sky Ordinance and shall be minimized, shielded, or concealed and restricted to low intensity features, so that no light source is directly visible from public view. Permitted lighting shall conform to the following standards:

- a. Lighting for walkways shall be limited to fixtures that do not exceed two feet in height and are directed downward, and limited to 850 lumens (equivalent to a 60 watt incandescent bulb);
 - b. Security lighting controlled by motion detectors may be attached to the residence provided it is directed downward and is limited to 850 lumens;
 - c. Driveway lighting shall be limited to the minimum lighting necessary for safe vehicular use. The lighting shall be limited to 850 lumens;
 - d. Lights at entrances as required by the Building Code shall be permitted provided that such lighting does not exceed 850 lumens;
 - e. Site perimeter lighting shall be prohibited; and
 - f. Outdoor decorative lighting for aesthetic purposes is prohibited.
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. High intensity lighting of the shore is prohibited.

Biology/Landscaping

58. Invasive plant species, as determined by the City of Malibu, are prohibited.
59. Vegetation shall be situated on the property so as not to significantly obstruct the primary view from private property at any given time (given consideration of its future growth).
60. The landscape plan shall prohibit the use of building materials treated with toxic compounds such as creosote or copper arsenate.
61. Prior to installation of any landscaping, the applicant shall obtain a plumbing permit for the proposed irrigation system from the Building Safety Division.
62. Prior to a final plan check approval, the property owner /applicant must provide a landscape water use approval from the Los Angeles County Waterworks District No. 29.
63. 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 by the same property owner will result in a requirement to permanently remove the vegetation from the site.
64. Any site preparation activities, including removal of vegetation, between February 1 and September 15 will require nesting bird surveys by a qualified biologist at least five days prior to 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 nesting bird surveys shall be submitted to the City within two business days of completing the surveys.

65. 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 17.53). 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 17.53.
66. The use of pesticides, including insecticides, herbicides, rodenticides or any toxic chemical substance which has the potential to significantly degrade biological resources shall be prohibited throughout the City of Malibu. The eradication of invasive plant species or habitat restoration shall consider first the use of non-chemical methods for prevention and management such as physical, mechanical, cultural, and biological controls. Herbicides may be selected only after all other non-chemical methods have been exhausted. Herbicides shall be restricted to the least toxic product and method, and to the maximum extent feasible, shall be biodegradable, derived from natural sources, and use for a limited time.

Water Service

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

Construction / Framing

68. A construction staging plan shall be reviewed and approved by the Building Official prior to plan check submittal.
69. 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.
70. 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.
71. 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 Best Management Practices (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.
- 72. 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.

Swimming Pool

- 73. Onsite noise, including that which emanates from swimming pool and air conditioning equipment, shall be limited as described in MMC Chapter 8.24 (Noise).
- 74. 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).
- 75. All swimming pools shall contain double walled construction with drains and leak detection systems capable of sensing a leak of the inner wall.
- 76. 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.
- 77. 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.
- 78. 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.

Fencing and Walls

- 79. The applicant shall include an elevation of the proposed electronic driveway gate on the architectural plans that are submitted for building plan check. The gate and all fencing along the front property line shall comply with the regulations set forth in LIP Section 3.5.
- 80. 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.
- 81. Fencing or walls enclosing more than one-half acre that do not permit the free passage of wildlife shall be prohibited.

82. Prior to or at the time of a Planning Department 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.
83. The applicant shall request a final Planning Department inspection prior to final inspection by the City of Malibu Environmental and Building Safety Division. The final inspection shall include photographs to document the condition of the site. A final approval 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.
84. 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.

Prior to Occupancy

85. Prior to issuing a Certificate of Occupancy, the City Biologist shall inspect the project site and determine that all planning conditions to protect natural resources are in compliance with the approved plans.

Deed Restrictions

86. 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 approval.

Fixed Conditions

87. This CDP runs with the land and binds all future owners of the property.
88. 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 8. The City Clerk shall certify the adoption of this resolution.

PASSED, APPROVED AND ADOPTED this 25th day of January 2021.

MIKKE PIERSON, Mayor

ATTEST:

HEATHER GLASER, City Clerk
(seal)

APPROVED AS TO FORM:

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

JOHN COTTI, 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.